INDEX TO DOCUMENTARY EVIDENCE OF COUNTRY CONDITIONS REGARDING PERSECUTION OF HIV-POSITIVE INDIVIDUALS IN VENEZUELA

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- “NGOs reported records for detainees were not properly maintained and often contained incomplete information. The former regime restricted information regarding deaths in prisons from tuberculosis, HIV/AIDS, and other diseases, or from lack of medical care. A study by the NGO Solidarity Action found prison rules resulted in the isolation of those with HIV/AIDS in ‘inadequate spaces without food and medical attention.’ The OVP reported a generalized lack of medical care, drugs,
Tab #1
EXECUTIVE SUMMARY

Venezuela is legally a multiparty, constitutional republic, but for more than a decade, political power has been concentrated in a single party with an authoritarian executive exercising significant control over the judicial, citizens’ power (which includes the prosecutor general and ombudsman), and electoral branches of government, and standing up a parallel, illegitimate legislative body alongside the existing elected one. On January 10, the term of former president Nicolas Maduro ended. He sought to remain in power based on his claimed “victory” in the 2018 presidential elections widely condemned as neither free nor fair, a claim not accepted by the democratically elected National Assembly (AN). On January 23, Juan Guaido, as president of the National Assembly, assumed the role of interim president pursuant to the provisions of the constitution related to vacancies. Former president Maduro, with the backing of hundreds of Cuban security force members, refused to cede control over the instruments of state power, preventing interim president Guaido from exercising authority within the country. In the 2015 legislative elections, opposition political parties gained supermajority (two-thirds) control of the AN. The former Maduro regime, however, used its control over the Supreme Court (TSJ) to create the illegitimate Constituent National Assembly (ANC) that placed the AN in contempt, usurped its constitutional role to legislate, and weakened the constitution’s separation of powers principle.

Civilian authorities’ control over the security forces declined and was deeply politicized. The National Guard (GNB)--a branch of the military that reports to both the Ministry of Defense and the Ministry of Interior, Justice, and Peace--is responsible for maintaining public order, guarding the exterior of key government installations and prisons, conducting counternarcotics operations, monitoring borders, and providing law enforcement in remote areas. The Ministry of Interior, Justice, and Peace controls the National Scientific Criminal and Investigative Corps (CICPC), which conducts most criminal investigations, and the Bolivarian National Intelligence Service (SEBIN), which collects intelligence within the country and abroad and is responsible for investigating cases of corruption, subversion, and arms trafficking. Police include municipal, state, and national police forces. Mayors and governors oversee municipal and state police forces. The Venezuelan National Police (PNB) reports to the Ministry of Interior, Justice, and Peace. According to its website, the PNB largely focused on policing Caracas’s Libertador municipality; patrolling Caracas-area highways, railways, and
metro system; and protecting diplomatic missions. The PNB maintained a minimal presence in seven of the country’s 23 states.

Significant human rights issues included: unlawful or arbitrary killings, including extrajudicial killings by security forces of the former Maduro regime, including colectivos (regime-sponsored armed groups); forced disappearances; torture by security forces; arbitrary detention by security forces; harsh and life-threatening prison conditions; political prisoners; unlawful interference with privacy; and lack of judicial independence. The former Maduro regime restricted free expression and the press by routinely blocking signals and interfering with the operations of, or shutting down, privately owned television, radio, and other media outlets. Libel, incitement, and inaccurate reporting were subject to criminal charges. The former Maduro regime used violence to repress peaceful demonstrations and repressed freedom of assembly. Other issues included: intimidation, harassment, and abuse of AN members, including denial of due process and parliamentary immunity; pervasive corruption and impunity among all Maduro-aligned security forces and in other national and state regime offices, including at the highest levels; trafficking in persons; violence against indigenous persons; and the worst forms of child labor, which the former regime made minimal efforts to eliminate.

There were continued reports of police abuse and involvement in crime, particularly in the activities of illegally armed groups, including illegal and arbitrary detentions, extrajudicial killings, kidnappings, and the excessive use of force, but the former regime at the national, state, and local levels took no effective action to investigate officials who committed human rights abuses, and there was impunity for such abuses. The Office of the Human Rights Ombudsman did not provide information regarding alleged human rights violations committed by police and military personnel. Nongovernmental organizations (NGOs) noted that many victims did not report violent crimes to police or other regime authorities due to fear of retribution or lack of confidence in police. The former Maduro regime backed by Cuban security force members refused to cede power, preventing the interim government from taking action.

Section 1. Respect for the Integrity of the Person, Including Freedom from:

a. Arbitrary Deprivation of Life and Other Unlawful or Politically Motivated Killings

Although the former Maduro regime did not release statistics on extrajudicial killings, NGOs reported national, state, and municipal police entities, as well as the
armed forces and regime-supported colectivos, carried out such killings during the year.

There was also no official information available on the number of public officials prosecuted or sentenced to prison for involvement in extrajudicial killings, which, in the case of killings committed by police, were often classified as “resistance to authority.”

The UN’s Office of the High Commissioner for Human Rights (OHCHR) reported in July that security forces committed 1,569 killings between January and May and an additional 5,287 killings in 2018, many of which “may constitute extrajudicial killings.” The OHCHR called for the dissolution of one of the deadliest regime security units, the Special Actions Force (FAES), a specialized PNB unit created by former president Maduro in 2017 to quash large-scale countrywide protests. Between January and June, FAES committed 70 percent of homicides by Maduro-aligned security forces, according to NGO Monitor of Victims. FAES tactics implemented the former regime’s nationwide anticrime strategy begun in 2015, called the Operation for the Liberation and Protection of the People, which was characterized by large-scale neighborhood raids conducted by hundreds of security agents.

NGO Venezuelan Observatory of Social Conflict reported at least six extrajudicial killings during arrests of protestors in the first six months of the year. Jhonny Godoy was killed on January 25 when approximately 20 armed members of the PNB and FAES raided his home in Caracas to arrest him. Godoy had published a video that went viral on social media in which he denounced Maduro amid the large-scale protests that took place on January 23. According to statements from witnesses, upon entering Godoy’s home, regime security forces threatened and locked his family in a room before beating Godoy. Security agents subsequently brought him outside and shot and killed him. NGOs and human rights groups called Godoy’s death a targeted killing by FAES.

The former Maduro regime reported that 388 members of FAES were under investigation for murder and other crimes committed since 2017. An OHCHR investigation, however, found that investigations were hampered by a refusal to cooperate, tampering with evidence, judicial delays, and harassment of relatives of victims. According to NGOs, prosecutors occasionally brought cases against perpetrators of extrajudicial killings, but prosecutions often resulted in light sentences, and convictions were often overturned on appeal. In many cases the regime appeared to be scapegoating low-level functionaries while allowing the
high-level officials who issued the illegal orders to continue in their positions.

**b. Disappearance**

An investigation published by the OHCHR in July found that, of 135 persons determined to have been arbitrarily deprived of their liberty since 2014, some cases constituted enforced disappearances. An October 2018 study by NGO Espacio Publico and Andres Bello Catholic University documented 19 alleged cases of disappearances for days or weeks until the former Maduro regime revealed the whereabouts of detainees.

On April 26, SEBIN agents detained AN deputy Gilber Caro. Caro was not brought before a judge within 48 hours of his detention, as required by law, making his arrest an enforced disappearance, according to the United Nations. On May 31, the regime disclosed that Caro was detained at SEBIN headquarters in Caracas, although his lawyers were prevented from seeing him. Caro was released on June 17 without a public explanation of the basis for his detention.

**c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment**

Although the constitution and law prohibit such practices, there were credible reports that Maduro-aligned security forces tortured and abused detainees. There were no reports of any regime officials being charged under the law.

The regime-aligned Office of the Human Rights Ombudsman did not publish statistics regarding allegations of torture by police during the year. Several NGOs detailed cases of widespread torture and “cruel, inhuman, and degrading treatment.” Human rights groups reported the former regime continued to influence the attorney general and public defenders to conduct investigations selectively and subjectively. No official data was available on investigations, prosecutions, or convictions in cases of alleged torture. The NGO Foro Penal maintained that hundreds of cases were not reported to government institutions because victims feared reprisal.

Press and NGO reports of beatings and humiliating treatment of suspects during arrests were common and involved various law enforcement agencies and the military of the former Maduro regime. Torture and other cruel, inhuman, or degrading treatment or punishment of prisoners were reported during the year. Regime-aligned authorities reportedly subjected detainees to asphyxiation, electric
shock, broken bones, being hung by their limbs, and being forced to spend hours on their knees. Detainees reported regime-aligned security forces moved them from detention centers to houses and other clandestine locations where abuse took place. Cruel treatment frequently involved former regime authorities denying prisoners medical care and holding them for long periods in solitary confinement. The latter practice was most prevalent with political prisoners. NGOs detailed reports from detainees whom regime-aligned authorities allegedly sexually abused.

Foro Penal reported multiple instances of political prisoners denied adequate medical treatment while in regime custody. Foro Penal noted instances in which regime authorities transferred detainees to a medical facility, where instead of receiving treatment, detainees were interrogated by security officials. The executive director of the Casla Institute for the Study of Latin America, Tamara Suju, noted an increase in the use of torture during the year, with 72 new cases of torture and the detention of five relatives of military deserters as of July.

On June 21, the Directorate General of Military Counterintelligence (DGCIM) arrested retired naval captain Rafael Acosta Arevalo for allegedly plotting to overthrow Maduro. The former Maduro regime withheld his whereabouts for a week before bringing Acosta before a military tribunal. At a June 28 hearing, Acosta appeared in a wheelchair, unable to speak or stand, and showed clear signs of having been tortured, according to his lawyer. Authorities transferred Acosta to a military hospital, where he died shortly thereafter. An autopsy showed Acosta suffered multiple broken bones, burns, and other wounds. On September 24, two low-ranking GNB officers were sentenced to imprisonment of six years and eight months for intentional homicide, although the law against torture calls for 15 to 25 years’ imprisonment. On October 1, the Inter-American Commission on Human Rights (IACHR) granted precautionary measures of protection to Acosta’s family, due to alleged intimidation and harassment by the former Maduro regime.

**Prison and Detention Center Conditions**

Most prison conditions were harsh and life threatening due to gross overcrowding, food shortages, inadequate sanitary conditions and medical care, systemic violence, and poor infrastructure. Armed gangs de facto controlled some prisons in which they were incarcerated. Conditions were most acute in pretrial detention facilities such as police station jails.

**Physical Conditions:** According to the NGO A Window to Liberty (UVL), the capacity was approximately 19,000 inmates for penitentiaries and 5,000 for police
station jails. Overcrowding was 172 percent for penitentiaries and 415 percent for police station jails on average, although the NGO Venezuelan Observatory for Prisons (OVP) noted that in some jails the overcrowding ranged from 800 to 1,200 percent.

There were two women’s prisons, one each in Miranda and Zulia States. The law stipulates women in mixed prisons must be held in annexes or separate women’s blocks. A local NGO reported that male and female prisoners intermingled. Former Maduro regime security forces and law enforcement authorities often held minors together with adults, although separate facilities existed. Because institutions were filled beyond capacity, hundreds of children accused of infractions were confined in juvenile detention centers, where they were reportedly crowded into small, unsanitary cells.

The CICPC detention facility, police station jails, and detention centers also were overcrowded, causing many police station offices to be converted into makeshift prison cells. Prisoners reportedly took turns sleeping on floors and in office chairs, and sanitation facilities were inadequate or nonexistent. A 2019 UVL study of 203 facilities holding pretrial detainees revealed 509 percent overcrowding. A 2017 UVL study found that more than 80 percent of facilities provided no medical services, recreational areas, designated visiting areas, or laundry facilities; more than 60 percent did not have potable water; and more than 50 percent did not have regular trash collection or proper restrooms.

The GNB and the Ministry of Interior, Justice, and Peace have responsibility for prisons’ exterior and interior security, respectively. The former Maduro regime failed to provide adequate prison security. The OVP estimated a staffing gap of 90 percent for prison security personnel, with only one guard for every 100 inmates, instead of one for every 10 as recommended by international standards. UVL reported 305 prisoner deaths in 2018, of which more than one-half were the result of violence, including riots, fights, and attempted escapes. UVL also reported inmate deaths due to generally unsanitary and unsafe conditions prevalent in prisons, with 38 percent the result of tuberculosis. The OVP reported that due to inadequate nutrition plans and lack of potable water, stomach illnesses were common among inmates.

During the year prison and detention center riots resulted in inmate deaths and injuries. For example, on May 24, a confrontation between prisoners and FAES at a police station in Portuguesa State left 30 prisoners dead and 19 police officers injured. Media reported detainees petitioned for improved conditions and visiting
privileges at the jail, which held more than 500 prisoners in a space designed for 60. Regime-aligned officials described the event as an attempted escape and fight between rival gangs, while NGOs called it a massacre.

A 2016 law limiting cell phone and internet availability inside prisons to prevent inmates from using the technology to engage in criminal activity remained unimplemented.

A UVL study found that nearly one-half the detention centers required family members to provide food, water, and medicine for prisoners due to inadequate provisioning of food by the prison administration, and in 21 percent of the centers, guards charged for family visits.

NGOs reported records for detainees were not properly maintained and often contained incomplete information. The former regime restricted information regarding deaths in prisons from tuberculosis, HIV/AIDS, and other diseases, or from lack of medical care. A study by the NGO Solidarity Action found prison rules resulted in the isolation of those with HIV/AIDS in “inadequate spaces without food and medical attention.” The OVP reported a generalized lack of medical care, drugs, equipment, and physicians for prisoners. Inmates often received the same pills regardless of their symptoms, and pregnant women lacked adequate facilities for their medical attention.

Administration: The Ministry of Penitentiary Services did not respond to requests from the OVP, UVL, other human rights organizations, inmates, or families regarding inmates or investigations of the harsh conditions that led to hunger strikes, violent uprisings, and massacres.

Prisoners and detainees generally had access to visitors, including some with overnight privileges, but in some cases prison officials harassed or abused visitors. For political prisoners, prison officials imposed significant restrictions on visits by family and legal representation. When allowed access, visitors were at times subjected to strip searches.

Independent Monitoring: Human rights observers continued to experience lengthy delays and restrictions in gaining access to prisons and detention centers. More than 300 lay members from the Venezuelan Episcopal Conference of the Roman Catholic Church volunteered in 40 prisons. Although prohibited from formally entering prisons, Catholic layity visited prisoners on family visitation days. In March the International Committee of the Red Cross visited two civilian and
military prisons in Caracas, the organization’s first visit since 2012. Between March and September, the OHCHR conducted six visits of detention centers.

d. Arbitrary Arrest or Detention

The constitution prohibits the arrest or detention of an individual without a judicial order and provides for the accused to remain free while being tried, but judges and prosecutors often disregarded these provisions. The law provides for the right of persons to challenge the lawfulness of their arrest or detention in court, but the former Maduro regime generally did not observe this requirement. While NGOs such as Foro Penal, the Committee for the Families of Victims of February-March 1989, the Institute for Press and Society, Espacio Publico, and the Venezuelan Program for Education and Action on Human Rights (PROVEA) noted at least 2,000 open cases of arbitrary detentions, former Maduro regime authorities rarely granted them formal means to present their petitions. Regime authorities arbitrarily detained individuals, including foreign citizens, for extended periods without criminal charges.

Arrest Procedures and Treatment of Detainees

While a warrant is required for an arrest, detention is permitted without an arrest warrant when an individual is apprehended in the act of committing a crime or to secure a suspect or witness during an investigation. Police often detained individuals without a warrant. The law mandates that detainees be brought before a prosecutor within 12 hours and before a judge within 48 hours to determine the legality of the detention; the law also requires that detainees be informed promptly of the charges against them. The former regime routinely ignored these requirements.

Although the law provides for bail, it is not available for certain crimes. Bail also may be denied if a person is apprehended in the act of committing a crime or if a judge determines the accused may flee or impede the investigation. The law allows detainees access to counsel and family members, but that requirement was often not met, particularly for political prisoners. The constitution also provides any detained individual the right to immediate communication with family members and lawyers who, in turn, have the right to know a detainee’s whereabouts. A person accused of a crime may not be detained for longer than the possible minimum sentence for that crime or for longer than two years, whichever is shorter, except in certain circumstances, such as when the defendant is responsible for the delay in the proceedings. The former regime routinely ignored
these requirements.

**Arbitrary Arrest:** Foro Penal reported 2,169 cases of arbitrary detention between January 1 and August 31, the majority of whom were detained during protests.

On March 21, SEBIN agents arrested Interim President Juan Guaido’s chief of staff, Roberto Marrero; his bodyguard, Luis Alberto Paez; and his driver, Luis Aguilar. Media reported contradictory and conflicting evidence submitted by prosecutors, who charged Marrero with conspiracy, treason, and weapons smuggling. If convicted, Marrero faced up to 30 years in prison. The case remained pending at year’s end. Many international entities, including the Lima Group and the EU, condemned Marrero’s arbitrary arrest as politically motivated.

**Pretrial Detention:** Pretrial detention remained an egregious problem. According to UVL, approximately 70 percent of the prison population was in pretrial detention. The NGO Citizen Observatory of the Penal Justice System attributed trial delays to the shortage of prosecutors and penal judges.

Despite constitutional protections that provide for timely trials, judges reportedly scheduled initial hearings months after the events that led to the detention. Proceedings were often deferred or suspended when an officer of the court, such as the prosecutor, public defender, or judge, failed to attend. Prisoners reported to NGOs that a lack of transportation and disorganization in the prison system reduced their access to the courts and contributed to trial delays.

**Detainee’s Ability to Challenge Lawfulness of Detention before a Court:** Detained individuals may challenge the grounds for their detention, but proceedings were often delayed and hearings postponed, stretching trials for years. Courts frequently disregarded defendants’ presumption of innocence. Authorities often failed to allow detainees to consult with counsel or access their case records when filing challenges. Some detainees remained on probation or under house arrest indefinitely.

**e. Denial of Fair Public Trial**

The constitution provides for an independent judiciary, but the former Maduro regime judiciary lacked independence and generally judged in favor of the former regime at all levels. There were credible allegations of corruption and political influence throughout the judiciary. According to reports from the International Commission of Jurists, as many as 85 percent of all judges had provisional
appointments and were subject to removal at will by the TSJ Judicial Committee. Provisional and temporary judges, who legally have the same rights and authorities as permanent judges, allegedly were subjected to political influence to make proregime determinations. In January Ediluh Guedez Ochoa, a juvenile court judge in the state of Yaracuy, filed a complaint stating she had been pressured to sentence 11 adolescents for participating in a protest. When she moved to dismiss the charges, the president of the circuit court pressured her to proceed with the sentencing, and she later received death threats. Authorities subsequently removed her from her position.

There was a general lack of transparency and stability in the assignments of district attorneys to cases and a lack of technical criteria for assigning district attorneys to criminal investigations. These deficiencies hindered the possibility of bringing offenders to justice and resulted in a 90 percent rate of impunity for common crimes and a higher percentage of impunity for cases of alleged human rights violations.

**Trial Procedures**

The law provides for the right to a fair and public trial with oral proceedings for all individuals. By law defendants are considered innocent until proven guilty. The law requires that detainees be informed promptly of the charges against them, but the requirement was often ignored and, even when respected, involved dubious allegations, according to human rights organizations. Defendants have the right to consult with an attorney. According to the Office of the Human Rights Ombudsman, there were approximately 1,300 public defenders, but indigent defendants’ right to free counsel was often not respected because of attorney shortages. Free interpretation was often not available to defendants. Some NGOs provided pro bono counsel to defendants.

Defendants may request no fewer than 30 days and no more than 45 days to prepare their defense. Defendants have the right to question adverse witnesses and present their own witnesses. By law defendants may not be compelled to testify or confess guilt. Defendants and plaintiffs have the right of appeal.

Trial delays were common. Trials in absentia are permitted in certain circumstances, although opponents of the procedure claimed the constitution prohibits such trials. The law also states that, in the absence of the defense attorney, a trial may proceed with a public defender that the court designates. The law gives judges the discretion to hold trials behind closed doors if a public trial
could “disturb the normal development of the trial.”

On July 4, the former Maduro regime stated Judge Maria Lourdes Afiuni was to receive a full unconditional release, although her release was pending at year’s end. In 2009 authorities arrested Afiuni on charges of corruption and abuse of authority for her decision to release a businessman who had been held in pretrial detention beyond the maximum time prescribed by law. Following her release to house arrest in 2011, regime-aligned authorities limited her movements and ability to speak to the press. On March 26, a court sentenced Afiuni to another five years in jail, which the UN special rapporteur on independence of judges and lawyers said was “an act of reprisal against her.”

The law mandates that municipal courts handle “less serious” crimes, i.e., those carrying maximum penalties of imprisonment of less than eight years. Municipal courts may levy penalties that include three to eight months of community service. Besides diverting some “less serious” crimes to the municipal courts, this diversion also permits individuals accused of “lesser crimes” to ask the courts to suspend their trials conditionally in exchange for their admission of responsibility, commitment to provide restitution “in a material or symbolic form,” community service, or any other condition imposed by the court.

The law provides that trials for military personnel charged with human rights abuses after 1999 be held in civilian rather than military courts. In addition, under the Organic Code of Military Justice, an individual may be tried in the military justice system for “insulting, offending, or disparaging the national armed forces or any related entities.” NGOs and the IACHR expressed concern with the former regime’s practice of trying civilians under the military justice system for protests and other actions not under military jurisdiction. According to Foro Penal, since 2014 military courts processed 848 civilians.

**Political Prisoners and Detainees**

The former Maduro regime used the judiciary to intimidate and prosecute individuals critical of regime policies or actions. Foro Penal reported 399 political prisoners in regime custody as of November 11, up from 286 political prisoners at the end of 2018. The regime routinely held political prisoners in SEBIN installations or the Ramo Verde military prison without an explanation of why they were not being held in civilian detention facilities.

On February 23, the GNB detained Elwin Mendoza, an opposition party activist in
Zulia State, for protesting in favor of the entry of humanitarian aid into the country. According to media reports, the military tribunal handling Mendoza’s case refused requests by his family and lawyers for medical examinations due to his deteriorating health. On March 25, Mendoza died of respiratory failure stemming from tuberculosis and pneumonia.

As of December 18, National Assembly (AN) deputy Juan Requesens remained in prison. After two postponements, his trial began on December 12. International observers criticized irregularities in Requesens’s trial, including a lack of transparency and due legal process. In August 2018 authorities had arrested Requesens for his alleged involvement in an attempted assassination of Maduro. Videos released shortly after his arrest showed a visibly weak Requesens in unsanitary conditions.

Following two years of house arrest, jailed opposition party leader Leopoldo Lopez escaped during mass demonstrations on April 30 and sought refuge at the Spanish embassy, where he remained. On May 2, the former Maduro regime issued a warrant for his arrest.

**Politically Motivated Reprisal Against Individuals Located Outside the Country**

There were credible reports that the former Maduro regime attempted to misuse international law enforcement tools for politically motivated purposes as a reprisal against specific individuals located outside the country.

**Civil Judicial Procedures and Remedies**

While there are separate civil courts that permit citizens to bring lawsuits seeking damages, there are no procedures for individuals or organizations to seek civil remedies for human rights.

**f. Arbitrary or Unlawful Interference with Privacy, Family, Home, or Correspondence**

The constitution provides for the inviolability of the home and personal privacy, but the former regime generally did not respect these prohibitions. In many cases, particularly regarding the political opposition, regime-aligned authorities searched homes without judicial or other appropriate authorization, seized property without due process, or interfered in personal communications. FAES and other security
forces regularly conducted indiscriminate household raids. Media reports documented raids by security forces on the homes of at least 10 opposition party politicians during the year.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Expression, Including for the Press

The law provides for freedom of expression, including for the press, but the combination of laws and regulations governing libel and media content as well as legal harassment, physical intimidation of individuals and media, and executive influence on the judiciary resulted in significant repression of these freedoms. National and international groups, such as the IACHR, Human Rights Watch, Freedom House, Inter American Press Association, Reporters without Borders, and Committee to Protect Journalists, condemned former regime efforts throughout the year to restrict press freedom and create a climate of fear and self-censorship.

Freedom of Expression: The law makes insulting the president punishable by six to 30 months in prison without bail, with lesser penalties for insulting lower-ranking officials. In 2017 the illegitimate ANC gave final approval to the Constitutional Law against Hate, for Political Coexistence and Tolerance, which stipulates prison sentences of up to 20 years. While the former regime stated the purpose of the law was to “promote peace and tolerance,” NGOs observed the vaguely written law could be used to silence political parties, activists, and civil society leaders as well as media outlets and journalists. Comments exposing another person to public contempt or hatred are punishable by prison sentences of one to three years and fines. In April Espacio Publico reported 24 persons were arrested in 2018 for online criticism of the regime.

On June 1, members of the DGCIM arrested Karen Palacios Perez, a clarinetist, for “instigating hate.” Palacios posted tweets critical of the regime after losing her position with the National Philharmonic Orchestra for signing a petition in opposition to Maduro. On July 16, Palacios was released from prison, one month after a judge ordered her immediate release.

Press and Media, Including Online Media: The law provides that inaccurate reporting that disturbs the public peace is punishable by prison terms of two to five years. The requirement that media disseminate only “true” information was undefined and open to politically motivated interpretation.
The law prohibits all media from disseminating messages that incite or promote hate or intolerance for religious, political, gender-related, racial, or xenophobic reasons; incite, promote, or condone criminal acts; constitute war propaganda; foment anxiety in the population or affect public order; do not recognize legitimate government authorities; incite homicide; or incite or promote disobedience of the established legal order. Penalties range from fines to the revocation of licenses. The threat of nonrenewal of operating licenses systematically led to self-censorship on the part of several media outlets.

Despite such laws, Maduro and the regime-aligned United Socialist Party (PSUV) used the nearly 600 former regime-owned or -controlled media outlets to insult and intimidate the political opposition throughout the year. ANC president Diosdado Cabello continued to use his weekly television program to denounce individual journalists and media outlets.

The law declares telecommunications a “public interest service,” thereby giving the government authority to regulate the content and structure of radio, television, and audiovisual production sectors. The law provides that the government may suspend or revoke licenses when it judges such actions necessary in the interests of the nation, public order, or security. The law empowers the government to impose heavy fines and cancel broadcasts for violations of its norms; the National Telecommunications Commission (CONATEL) oversees the law’s application.

The former Maduro regime continued legal actions against high-profile independent media outlets Tal Cual, El Nacional, El Nuevo Pais, La Patilla, El Pitazo, and Globovision. In June the TSJ ordered La Patilla to pay 30 billion bolivares ($1.4 million) to ANC president Cabello for “moral damage and injury” for reprinting an article by the Spanish newspaper ABC that indicated Cabello was under investigation in the United States for drug trafficking.

Espacio Publico reported 522 violations of freedom of expression between January and April, a 314 percent increase compared with the same period in 2018 and the second highest figure since the organization began tracking cases in 2002. The most common violations were aggressions against journalists and censorship. The former Maduro regime-owned and -influenced media provided almost continuous proregime programming. In addition, private and public radio and television stations were required to transmit mandatory nationwide broadcasts (cadenas) throughout the year, including a daily 15-minute news broadcast that provided reports and summaries of former regime activities. Media reported the GNB regularly barred journalists from accessing the AN to cover the legislative body’s
debates and activities. NGOs noted that state regime-owned internet service provider CANTV also routinely blocked commercial streaming and web searches during Interim President Guaido’s speeches and during weekly AN sessions.

The former regime detained 39 journalists in the first three months of the year, up from 22 detentions during all of 2018, according to NGO Institute for Press and Society (IPYS). On March 11, SEBIN agents detained journalist Luis Carlos Diaz and confiscated equipment, following his reporting on nationwide blackouts that struck the country in early March, according to media reports. On his weekly television program, ANC president Cabello accused Diaz of being involved in a conspiracy to sabotage the country’s electrical system. After being charged with “instigating crimes,” Diaz was released, although he was prohibited from leaving the country or making public statements.

The law requires practicing journalists to have journalism degrees and be members of the National College of Journalists, and it prescribes jail terms of three to six months for those practicing the profession illegally. These requirements are waived for foreigners and opinion columnists.

**Violence and Harassment:** Senior national and state leaders of the former Maduro regime continued to harass and intimidate privately owned and opposition-oriented television stations, media outlets, and journalists by using threats, property seizures, administrative and criminal investigations, and prosecutions. The national journalists’ union reported 244 attacks on journalists from January to June. Former president Maduro and regime-aligned officials used regime-controlled media outlets to accuse private media owners, directors, and reporters of fomenting antiregime destabilization campaigns and coup attempts. Former Maduro regime officials also harassed foreign journalists working in the country.

**Censorship or Content Restrictions:** NGOs noted the former Maduro regime’s preference for using legal proceedings, financial sanctions, and administrative actions against unfavorable news outlets instead of shutting them down outright. Members of the independent media stated they regularly engaged in self-censorship due to fear of regime reprisals. This resulted in many journalists posting articles to their personal blogs and websites instead of publishing them in traditional media.

The former regime also exercised control over content through licensing and broadcasting requirements. CONATEL acted selectively on applications from private radio and television broadcasters for renewal of their broadcast frequencies.
According to Nelson Belfort, former president of the Venezuelan Radio Chamber, and NGO reports, approximately 80 percent of radio stations were in “illegal” status throughout the country due to CONATEL’s not having renewed licenses for most radio stations since 2007.

According to the local journalists’ union (SNTP), print news outlets closed due to the former Maduro regime’s economic policies, which made it difficult for independent newspapers to access foreign currency, preventing many from purchasing critical supplies and equipment necessary for day-to-day business operations. National and regional newspapers went out of print for lack of supplies, especially newsprint, including national newspaper *El Nacional*, *El Regional* of Zulia, *El Aragueno* of Aragua, *El Luchador* of Bolivar, and *Panorama* of Zulia.

The former Maduro regime controlled a large portion of the country’s businesses and paid for advertising only with regime-owned or regime-friendly media.

**Libel/Slander Laws:** Regime-aligned officials engaged in reprisals against individuals who publicly expressed criticism of Maduro or regime policy. Maduro did not act on his 2017 announcement that he would use slander law to “defend his honor” in court against opposition leaders’ allegations that he was responsible for protest-related deaths.

**National Security:** The law allows the government to suspend or revoke licenses when it determines such actions necessary in the interests of public order or security. The former Maduro regime exercised control over the press through a public entity, the Strategic Center for Security and Protection of the Homeland (CESPPA), established in 2013, which is similar to the governmental entity Center for National Situational Studies (CESNA) established in 2010. CESNA and CESPPA have similar mandates and are responsible for “compiling, processing, analyzing, and classifying” both regime-released and other public information with the objective of “protecting the interests and objectives of the state.”

During the year former President Maduro renewed four times the “state of exception” he first invoked in 2016, citing a continuing economic emergency, and granted himself the power to restrict rights otherwise provided for in the constitution. The 60-day emergency decree, which by law is renewable only once and requires AN endorsement to be effective, allows the president to block any action he deems could “undermine national security” or could “obstruct the continuity of the implementation of economic measures for the urgent reactivation
of the national economy.” The AN continued systematically to refuse to ratify each renewal, and the Supreme Court annulled each refusal, reasoning that the assembly’s “contempt” status made its failure to endorse the renewal “unconstitutional.” According to Human Rights Watch, the “state of exception” negatively affected the rights to freedom of association and expression.

**Nongovernmental Impact:** Widespread violence in the country made it difficult to determine whether attacks on journalists resulted from common criminal activity or whether criminals or others targeted media members.

**Internet Freedom**

The former Maduro regime restricted or disrupted access to the internet and censored online content. The former regime exercised broad control over the internet through the state-run CONATEL. Free Access, an NGO focused on freedom of expression and social justice, reported that CONATEL supported monitoring of private communications and repression of internet users who expressed dissenting opinions online. According to media reports, users of social networks accused CONATEL of monitoring their online activity and passing identifying information to regime intelligence agencies, such as SEBIN. According to Free Access, CONATEL provided information to SEBIN, including internet protocol addresses, which assisted former Maduro regime authorities in locating users.

The law puts the burden of filtering prohibited electronic messages on service providers, and it allows CONATEL to order service providers to block access to websites that violate these norms and sanctions service providers with fines for distributing prohibited messages. IPYS reported that in the first six months of the year, private and regime-controlled internet providers following CONATEL orders blocked access to 48 webpages. Seventy percent of the censored domains during this period belonged to social media platforms and news outlets, including NTN24, VIVOplay, *El Pitazo*, VPtv, *El Nacional*, *Aporrea*, and *Noticia al dia*.

CONATEL’s director, Jorge Elieser Marquez Monsalve, reiterated the claims of his predecessors that CONATEL’s role is to enforce the law and prevent dissemination of illegal information or material unsuitable for children and adolescents. Nevertheless, the former Maduro regime continued to block internet sites that posted dollar- and euro-to-bolivar currency exchange rates differing from the former regime’s official rate. The former regime-owned internet service provider CANTV facilitated blockages. According to IPYS, the regime blocked
According to Reporters Without Borders, on January 21, shortly after an attempted uprising by a military unit in Zulia State that was widely covered on social networks and by online media outlets, there were several internet cuts in the region, affecting YouTube and Google Search users in particular, combined with restrictions on access to Twitter and Instagram. Facebook, Instagram, YouTube, and Periscope services were all temporarily blocked, according to NetBlocks.

Regime-aligned intelligence agencies, which lacked independent oversight, conducted surveillance for political purposes. Courts relied on evidence obtained from anonymous patriotas cooperantes (cooperating patriots) to harass perceived opponents of the former regime, and senior former Maduro regime-aligned officials used personal information gathered by patriotas cooperantes to intimidate regime critics and human rights defenders. Users were arrested and criminally accused for actions such as tweeting information publicly available on webpages.

In February proregime Twitter accounts published a database of opposition sympathizers’ personal data, which was the result of a former regime-linked phishing operation.

**Academic Freedom and Cultural Events**

There were no substantiated reports of former Maduro regime restrictions on cultural events, but the former regime imposed restrictions on academic freedom. Aula Abierta (Open Classroom), a local human rights NGO focused on academic freedom, reported the former regime retaliated against opposition-oriented autonomous universities by providing insufficient funding and failing to adjust budgetary allocations to inflation. According to media reports, universities ran deep deficits, receiving less than 10 percent of the funds they budgeted to cover operating costs. In 2017 the National University Council, the government’s regulating body for university education, relinquished its functions to the ANC, disregarding the law requiring university autonomy.

The former Maduro regime continued to increase its control over local universities, including the admissions process.

In August the TSJ ordered the Central University of Venezuela to hold university elections in six months. The ruling, which applied to eight other public and private universities as well, stipulates that the elected candidate must win in at least three of the five electoral sectors (teachers, students, graduates, administrative staff, and
laborers) and must receive an absolute majority of votes. Students and university leaders called the ruling an attack on university autonomy, in violation of the constitution, and said it would lead to the installation of regime-aligned sympathizers at the heads of universities.

The former regime continued its practice, announced in 2018, of educational financial incentives for holders of the *carnet de la patria* (homeland card), a regime-issued social benefits card provided primarily to regime supporters (see section 3, Political Parties and Political Participation).

b. Freedoms of Peaceful Assembly and Association

**Freedom of Peaceful Assembly**

The constitution provides for this right, but the former Maduro regime generally repressed or suspended it. The law regulates the right to assembly. Human rights groups continued to criticize the law as enabling the former regime to charge protesters with serious crimes for participating in peaceful demonstrations. Ambiguous language in the law also allowed the former regime to criminalize organizations that were critical of it. Protests and marches require authorization from the former regime in advance and are forbidden within designated “security zones.” Citizens organized sporadic and often spontaneous small-scale protests throughout the year to demand basic goods and services such as water, gasoline, and electricity. The political opposition and civil society organized marches to support Interim President Juan Guaido and demand a transitional government and new presidential elections. The Venezuelan Observatory of Social Conflict documented 10,477 protests in the first six months of the year, more than double the number in the same period of 2018. According to the OHCHR, between January and May, a total of 66 persons died during protests; some of these incidents were marked by an alleged excessive use of force by FAES, the GNB, PNB, and armed colectivos. Security forces detained more than 1,300 persons during protests between January and May, according to Foro Penal.

During a July 2 protest in Tachira State, 16-year-old Rufo Chacon was blinded after police forces fired 52 rubber pellets at his face. According to media reports, a police investigation found that security forces moved to repress the protest without warning when they fired rubber bullets into the crowd. Former Maduro regime attorney general Tarek William Saab announced that authorities charged two police officers with cruel treatment in the case.
Freedom of Association

The constitution provides for freedom of association and freedom from political discrimination, but the former Maduro regime did not respect these rights. Although professional and academic associations generally operated without interference, a number of associations complained that the TSJ and the National Electoral Council (CNE), which is responsible for convoking all elections and establishing electoral dates and procedures, repeatedly interfered with their attempts to hold internal elections.

A 2016 presidential decree called on the Foreign Ministry to suspend international funding to NGOs when “it is presumed” that the funding is used with “political purposes or for destabilization.”

c. Freedom of Religion

See the Department of State’s International Religious Freedom Report at https://www.state.gov/international-religious-freedom-reports/.

d. Freedom of Movement

The constitution provides for freedom of internal movement, foreign travel, emigration, and repatriation; however, the former Maduro regime did not respect these rights.

On February 22, the former regime closed its borders with Aruba, Brazil, and Colombia to prevent the entry of international aid. Media reported the borders with Aruba and Brazil were reopened on May 10 and partially reopened with Colombia one month later.

In July the former Maduro regime announced the deployment of a special migration police unit in Tachira State, on the border with Colombia. Although some NGOs expressed concern the former regime would use the unit to restrict international travel of select individuals, the former regime asserted the force would essentially be customs and border patrol units. The former regime declared the migration police would provide citizen security at migration points and established 72 points of control to monitor the border situation and dispel what it called myths regarding a supposed in-country migration crisis.

Security forces often used excessive force to control residents in states along the
border with Colombia, with particular violence perpetrated by colectivos against Tachira State citizens in late February.

While no official statistics were available, a women’s shelter reported recurring problems with gender-based violence and trafficking of refugee women. NGOs reported Venezuelans crossing through informal border crossings controlled by armed groups faced significant protection risks, including gender-based violence. Individuals were often forced to pay a form of taxation at the informal border crossing or be indebted to those controlling them, exposing them to risks of exploitation, harassment, and sexual violence, as well as recruitment into drug trafficking and other armed groups.

See the Department of State’s annual *Trafficking in Persons Report* at [https://www.state.gov/traffic](https://www.state.gov/traffic)-ing-in-persons-report/.

**In-country Movement:** The former regime restricted the movement of certain opposition leaders, preventing them from traveling on former regime-controlled airlines and refusing to allow them to board some domestic flights.

**Foreign Travel:** Obtaining a passport became increasingly difficult during the year. Prospective applicants waited overnight in lines and often did not receive passports after years of delays. Some applicants reportedly paid several thousands of U.S. dollars to obtain a passport. The former regime repeatedly seized passports from journalists, members of the opposition, and AN deputies at ports of entry without explanation as they attempted to depart the country.

**Exile:** In contrast with 2018, there were no cases of citizens denied the right to return.

**e. Internally Displaced Persons**

Not applicable.

**f. Protection of Refugees**

**Abuse of Migrants, Refugees, and Stateless Persons:** With the refugee status determination process centralized at the National Refugee Commission (CONARE) headquarters in Caracas, asylum seekers often waited for years to obtain a final decision. During this period they had to continue renewing their documentation every three months to stay in the country and avoid arrest and
deportation. While traveling to the commission, particularly vulnerable groups, such as women with young children, the elderly, and persons with disabilities, faced increased personal risks, such as arrest and deportation, extortion, exploitation, and sexual abuse by authorities at checkpoints and other locations.

The former regime did not cooperate with the Office of the UN High Commissioner for Refugees (UNHCR) and other humanitarian organizations in providing protection and assistance to refugees, asylum seekers, and other persons of concern.

**Access to Asylum**: The law provides for the granting of asylum or refugee status, and the government has a system for providing protection to refugees. According to UNHCR, the vast majority of asylum seekers came from Colombia. The majority of such persons remained without any protection. Most of the Colombians had not accessed procedures for refugee status determination due to the inefficiency of the process. UNHCR reported that few persons in need of international protection were legally recognized as refugees.

**Access to Basic Services**: Colombian asylum seekers without legal residency permits had limited access to the job market, education, and health systems. The lack of documentation created significant difficulties to achieving sufficient protection and long-term integration. Former regime authorities permitted Colombian children to attend school but inconsistently granted them diplomas or certificates of completion without residency documentation, resulting in high dropout rates for Colombian children. In June CONARE announced the creation of a new border migration control card for refugees present in the country, similar to the carnet de la patria.

g. **Stateless Persons**

Not applicable.

**Section 3. Freedom to Participate in the Political Process**

The 1999 constitution, the country’s 26th since independence in 1811, provides citizens the ability to change their government through free and fair elections, but regime interference, electoral irregularities, and manipulation of voters and candidates restricted the exercise of this right in the 2018 presidential and municipal elections.
Elections and Political Participation

Recent Elections: In May 2018 the CNE oversaw deeply flawed presidential elections condemned by the political opposition and international observers as fraudulent and constitutionally invalid. In December 2018 the CNE oversaw deeply flawed municipal elections, which featured very low turnout due to voter apathy.

Nicolas Maduro’s illegitimate second term as president began on January 10, in what the opposition called a “usurpation of power.” On January 23, National Assembly (AN) president Juan Guaido invoked Article 233 of the constitution, which calls on the AN president to assume the role of interim president in the event of presidential vacancy. Opposition parties backed Guaido throughout the year, and in September they endorsed him to remain as AN head in 2020 and as interim president until the former regime’s usurpation of power ends.

Political Parties and Political Participation: Opposition political parties and PSUV dissidents operated in an increasingly restrictive atmosphere characterized by intimidation, the threat of prosecution or administrative sanction on questionable charges, and very limited mainstream media access.

The former Maduro regime regularly targeted the AN and other opposition politicians through violence or threats of violence, arbitrary arrest, politically motivated prosecution, violation of privacy, and restrictions on movement. On October 17, the body of opposition councilman Edmundo Rada was found shot in the neck and partially burned, recalling a similar killing of opposition former Cojedes governor Jhonny Yanez Rangel, whom the CICPC found shot in the face in his burned-out car on September 24. Throughout the year GNB forces denied or limited access by AN members to the federal legislative palace during regularly scheduled parliamentary sessions. As of September the regime-controlled TSJ had removed the parliamentary immunity of 24 deputies, prompting many to go into hiding or exile to avoid arbitrary arrest.

On May 8, SEBIN agents detained AN first vice president Edgar Zambrano, towing the lawmaker’s car with him inside to SEBIN headquarters. During his detention Zambrano engaged in a 10-day hunger strike to protest for humane conditions, visitation rights, and the release of four detained staff members. Following months of judicial delays, the former regime released Zambrano on September 18, although his support staff remain imprisoned. Zambrano remained subject to unspecified “precautionary measures,” including the requirement that he
appear before a judge every 30 days and not leave the country.

During the year the former Maduro regime expanded the carnet de la patria program, introduced in 2017 as a multipurpose identification card, as a requirement to access former regime-funded social services. Cardholders were reportedly granted financial bonuses and exclusive access to educational scholarships, subsidized food and gasoline, and other government support. According to the former Maduro regime, as of September more than 18.5 million of an estimated 28.5 million residents had registered for the card. To qualify for the card, applicants must provide proof of political affiliation and respond to questions regarding the social service benefits they receive. Opponents of Maduro asserted the card amounted to social control, a tool to leverage access to scarce subsidized consumer products in return for political loyalty.

**Participation of Women and Minorities:** No law limits participation of women or members of minorities in the political process, and they did participate. The former regime had high-level female politicians and ministers, while the opposition lacked high-level female and minority representation.

**Section 4. Corruption and Lack of Transparency in Government**

The law provides criminal penalties for corruption by officials, but the former Maduro regime did not implement the law effectively. Some officials explicitly acknowledged corruption as a major problem. The former regime frequently investigated, prosecuted, and detained political opponents on corruption charges to harass, intimidate, or imprison them. According to Transparency International, among the main reasons for the country’s widespread corruption were impunity, weak institutions, and a lack of transparency in the management of government resources.

**Corruption:** According to former Maduro regime attorney general Tarek William Saab, 915 persons had been convicted of corruption-related charges since 2018. The regime, however, did not provide information regarding the alleged cases or persons convicted.

Corruption was a major problem in all security and armed forces, whose members were generally poorly paid and minimally trained. There was no information publicly available about the number of cases involving police and military officials during the year, although the Public Ministry publicized several individual cases against police officers for soliciting bribes and other corrupt activities.
Financial Disclosure: The law requires public officials, as well as all directors and members of the boards of private companies, to submit sworn financial disclosure statements. By law the Public Ministry and competent criminal courts may require such statements from any other persons when circumstantial evidence arises during an investigation.

Section 5. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Abuses of Human Rights

A variety of independent domestic and international human rights groups generally operated with restrictions from the former Maduro regime. Major domestic human rights NGOs conducted investigations and published their findings on human rights cases. Former regime officials were rarely cooperative or responsive to their requests. Domestic NGOs reported fear that the former regime would use the 2017 Law against Hate to justify widespread repression of their activities, jailing of the participants and organizers, and threats against family members. Some domestic NGOs reported threats against and harassment of their leaders, staff, and organizations, in addition to raids and detentions, but they were able to publish dozens of reports during the year. Some human rights activists reported former regime authorities barred them from traveling abroad or that they feared not being able to return to the country if they traveled. NGOs played a significant role in informing citizens and the international community about alleged violations and key human rights cases.

NGOs noted the former Maduro regime created a dangerous atmosphere for them to operate. The PSUV first vice president and ANC president, Diosdado Cabello, used his weekly talk show to intimidate NGO staff from Espacio Publico, PROVEA, and Foro Penal. Several organizations, such as the OVP, PROVEA, Foro Penal, and Citizen Control, reported their staffs received both electronic and in-person threats. Human rights organizations claimed they were subject to frequent internet hacking attacks and attempts to violate their email privacy.

The law prohibits domestic NGOs from receiving funds from abroad if they have a “political intent,” defined as the intent to “promote, disseminate, inform, or defend the full exercise of the political rights of citizens” or to “defend political rights.” The former Maduro regime threatened NGOs with criminal investigations for allegedly illegally accepting foreign funds. Various former regime officials accused human rights organizations on national television and other media of breaking the law by receiving funding from international donors. NGOs also
reported the former regime refused to grant them legal registration, preventing NGOs from receiving international funding.

For violations the law stipulates monetary penalties, a potential five- to eight-year disqualification from running for political office, or both. The law defines political organizations as those involved in promoting citizen participation, exercising control over public offices, or promoting candidates for public office. Although there was no formal application or enforcement of the law, it created a climate of fear among human rights NGOs and a hesitancy to seek international assistance.

In addition to the restrictions placed on fund raising, domestic NGOs also faced regulatory limitations on their ability to perform their missions. The law includes provisions eliminating the right of human rights NGOs to represent victims of human rights abuses in legal proceedings. The law provides that only the public defender and private individuals may file complaints in court or represent victims of alleged human rights abuses committed by public employees or members of security forces.

The United Nations or Other International Bodies: The former Maduro regime was generally hostile toward international human rights bodies and continued to refuse to permit a visit by the IACHR, which last visited the country in 2002. The OHCHR conducted a visit in June to investigate the human rights situation, presided by High Commissioner Michelle Bachelet, who met with members of both the opposition and the former regime. In September the regime and the OHCHR signed a memorandum of understanding that provides for the presence of two UN human rights officers for one year. On September 27, the UN Human Rights Council adopted a resolution to establish immediately a one-year fact-finding mission to investigate “extrajudicial executions, enforced disappearances, arbitrary arrests, torture, and other cruel, inhumane, or degrading treatment committed in Venezuela since 2014.” According to media reports, the regime-aligned envoy to the United Nations in Geneva rejected the resolution and stated the former regime had no intention of cooperating.

Government Human Rights Bodies: Throughout the year the former regime gave its 2016-19 human rights plan minimal attention, with no announcements to renew or update the plan.

The TSJ continued to hold the AN in “contempt” status, which diminished the purview and operational effectiveness of the assembly’s subcommission on human rights.
Section 6. Discrimination, Societal Abuses, and Trafficking in Persons

Women

Rape and Domestic Violence: The law criminalizes rape of men or women, including spousal rape, making it punishable by a prison term of eight to 14 years. A man may legally avoid punishment by marrying (before he is sentenced) the person he raped. The law allows authorities to consider alternative forms of punishment, including work release, for those convicted of various crimes, including rape, if they have completed three-quarters of their sentence.

The law criminalizes physical, sexual, and psychological violence in the home or community and at work. The law punishes perpetrators of domestic violence with penalties ranging from six to 27 months in prison. The law requires police to report domestic violence to judicial authorities and obligates hospital personnel to notify authorities when admitting patients who are victims of domestic abuse. Police generally were reluctant to intervene to prevent domestic violence and were not properly trained to handle such cases. The law also establishes women’s bureaus at local police headquarters and tribunals specializing in gender-based violence, and two-thirds of states had specialized courts. The Public Ministry’s Women’s Defense Department employed a team of lawyers, psychiatrists, and other experts who dealt exclusively with cases of femicide, gender-related violence, and other crimes against women.

Many advocates observed there was a lack of public awareness among women regarding resources and support available to prevent and combat domestic violence. The former regime offered some shelter and services for victims of domestic and other violence, but NGOs provided the majority of domestic abuse support services.

Sexual Harassment: Sexual harassment is illegal and punishable by fines and a prison sentence of one to three years. Although allegedly common in the workplace, sexual harassment cases were rarely reported.

Coercion in Population Control: There were no reports of coerced abortion or involuntary sterilization.

Discrimination: Women enjoy the same legal status and rights as men under the constitution. Women and men are legally equal in marriage, and the law provides
for gender equality in exercising the right to work. The law specifies that employers must not discriminate against women with regard to pay or working conditions. According to the Ministry of Labor and the Confederation of Workers, regulations protecting women’s labor rights were enforced in the formal sector, although according to the World Economic Forum, women earned 36 percent less on average than men doing comparable jobs.

The law provides women with property rights equal to those of men.

**Children**

**Birth Registration:** Citizenship is derived by birth within the country’s territory. According to UNICEF, 81 percent of children younger than five were registered at birth, based on 2011 statistics provided by the government.

**Child Abuse:** According to UNICEF and NGOs working with children and women, child abuse, including incest, occurred but was rarely reported. The former regime made efforts to detain and prosecute some perpetrators of child abuse. Although the judicial system acted to remove children from abusive households, the press reported public facilities for such children were inadequate. According to NGOs, in many cases children were returned to their homes without proper reintegration measures or follow-up.

**Early and Forced Marriage:** The legal minimum age for marriage is 18 for women and men, but with parental consent the minimum age is 16.

**Sexual Exploitation of Children:** By law sexual relations with a minor younger than 13, with an “especially vulnerable” person, or with a minor younger than 16 when the perpetrator is a relative or guardian, are punishable with a mandatory sentence of 15 to 20 years’ imprisonment. The law prohibits the forced prostitution and corruption of minors. Penalties range from 15 to 20 years’ imprisonment in cases of forced labor and some forms of sex trafficking of women and girls. The law requires a demonstration of force, fraud, or coercion to constitute child sex trafficking. The law prohibits the production and sale of child pornography and establishes penalties of 16 to 20 years’ imprisonment.

**Displaced Children:** Children’s rights advocates and media reported an increase in the number of abandoned children living on the street. Children’s rights NGO Cecodap estimated that as many as 800,000 minors had been left behind with family members as their parents fled the country’s economic crisis, many of whom
also struggled with the country’s economic downturn. These children resided in limbo, since their parents who left were unable legally to transfer guardianship to a third party.

State-run facilities, already filled to capacity, were unable to support the influx of children in need. Private institutions denounced the former regime’s refusal to provide subsidized food benefits to support their population. NGOs noted young girls made up close to one-half of the children living on the streets. The significant shift posed particular challenges for shelters, which historically managed predominantly male populations. With institutions filled to capacity, hundreds of children accused of infractions, such as curfew violations, were confined in inadequate juvenile detention centers.


**Anti-Semitism**

There were reports of societal abuses or discrimination based on religious affiliation, belief, or practice, including anti-Semitism.

The Confederation of Israeliite Associations in Venezuela estimated there were 9,000 Jews in the country. Jewish community leaders expressed concern about anti-Semitic statements made by high-level regime-aligned officials and anti-Semitic pieces in proregime media outlets. They said regime-owned or -associated media and supporters of the former regime promoted Zionist conspiracy theories and denied or trivialized the Holocaust. The community leaders noted many other anti-Semitic incidents occurred during the year.

**Trafficking in Persons**

See the Department of State’s *Trafficking in Persons Report* at [https://www.state.gov/trafficking-in-persons-report/](https://www.state.gov/trafficking-in-persons-report/).

**Persons with Disabilities**

The law prohibits discrimination against persons with physical and mental
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Disabilities, but the regime did not make a significant effort to implement the law, inform the public of it, or combat societal prejudice against persons with disabilities. The law requires that all newly constructed or renovated public parks and buildings provide access, but persons with disabilities had minimal access to public transportation, and ramps were almost nonexistent. Many persons with disabilities expressed concerns that public transportation workers often were unwilling to transport them and forced them to find taxis, which were often out of their financial reach and frequently not equipped to support patrons with disabilities. Parents of children with disabilities also complained they were forced to wait in long lines for services rather than provided preference in line as is afforded by law. Online resources and access to information were generally available to persons with disabilities, although access to closed-captioned or audio-described online videos for persons with sight and hearing disabilities was limited. Separately, leading advocates for persons with hearing disabilities lamented difficult access to public services due to a lack of regime-funded interpreters in public courts, health-care facilities, and legal services, as well as a lack of other public accommodations.

The National Commission for Persons with Disabilities, an independent agency affiliated with the Ministry for Participation and Social Development, advocated for the rights of persons with disabilities and provided medical, legal, occupational, and cultural programs. According to the commission, fewer than 20 percent of persons with disabilities who registered with regime health programs were fully employed.

**National/Racial/Ethnic Minorities**

The constitution prohibits discrimination based on race. The law prohibits all forms of racial discrimination and provides for a maximum of three years’ imprisonment for acts of racial discrimination. As mandated by law, signage existed outside commercial and recreational establishments announcing the prohibition against acts of racial discrimination. Beyond signage the regime did little to enforce the laws against discrimination or prosecute cases of discrimination.

**Indigenous People**

The law prohibits discrimination based on ethnic origin. The constitution provides for three seats in the AN for deputies of indigenous origin to “protect indigenous communities and their progressive incorporation into the life of the nation,” but
some indigenous communities have been without representation in the national legislature since the TSJ annulled the 2015 election of Amazonas State’s indigenous representatives.

NGOs and the press reported local political authorities seldom took account of indigenous interests when making decisions affecting indigenous lands, cultures, traditions, or allocation of natural resources. Indigenous groups continued to call for faster implementation of the demarcation process.

Indigenous groups and NGOs expressed concern regarding mining in the expanding “Arco Minero,” an area that extends between the states of Bolivar and Amazonas. Indigenous communities reported the former Maduro regime developed and expanded mining zones without consulting those native to the region, resulting in a rise in environmental degradation, water contamination, and malaria. Armed groups, including Colombian guerrillas and former rebels, had a considerable presence in the area, increasing the level of violence and insecurity in the communities. There was also an unprecedented influx of disease, drugs, prostitution, forced labor, and other illegal activities in the mining areas, putting indigenous communities at risk.

Indigenous groups alleged violent encounters with security forces during the year. On February 22-23, seven persons were killed in Bolivar State in a confrontation between members of the Pemon community and soldiers during an attempt to deliver international aid at the border with Brazil. The OHCHR documented excessive use of force, indiscriminate shooting at close range by GNB soldiers, and attacks on a hospital, as well as the detention and mistreatment of 63 persons. Indigenous leaders reported the displacement of more than 1,300 members of the community as a result of this incident.

In December the OHCHR raised concern over continued high levels of violence in Bolivar State, including the presence of irregular armed groups involved in illegal exploitation of natural resources. The OHCHR provided the example of a November 22-23 massacre of eight individuals in the indigenous community of Ikaburu and noted some members of the community had fled, fearing more violence.

Indigenous groups regularly reported violent conflicts with miners and cattle ranchers over land rights. There were reports of harassment, attacks, and forced evictions against indigenous persons living in areas included as part of former regime mining concessions.
Border disputes with Colombia affected indigenous groups living in border regions. There were many reported cases in which movements of indigenous groups were restricted, including from border closures in February.

**Acts of Violence, Discrimination, and Other Abuses Based on Sexual Orientation and Gender Identity**

The constitution provides for equality before the law of all persons and prohibits discrimination based on “sex or social condition,” but it does not explicitly prohibit discrimination based on sexual orientation or gender identity. According to a TSJ ruling, no individual may be subjected to discrimination because of sexual orientation, but the ruling was rarely enforced.

Credible NGOs reported incidents of bias-motivated violence against lesbian, gay, bisexual, transgender, and intersex (LGBTI) persons. Reported incidents were most prevalent against transgender individuals. Leading advocates noted that law enforcement authorities often did not properly investigate to determine whether crimes were bias motivated.

Local police and private security forces allegedly prevented LGBTI persons from entering malls, public parks, and recreational areas. NGOs reported the former Maduro regime systematically denied legal recognition to transgender and intersex persons by preventing them from obtaining identity documents required for accessing education, employment, housing, and health care. This vulnerability often led transgender and intersex persons to become victims of human trafficking or prostitution.

**HIV and AIDS Social Stigma**

The law provides for the equal rights of persons with HIV/AIDS and their families. Nevertheless, leading advocates alleged discrimination against such persons. Local NGO Solidarity Action reported five cases during the year of denied employment or forced resignation due to HIV status.

**Section 7. Worker Rights**

**a. Freedom of Association and the Right to Collective Bargaining**

The law provides that all private- and public-sector workers (except members of
the armed forces) have the right to form and join unions of their choice, and it provides for collective bargaining and the right to strike. The law, however, places several restrictions on these rights, and the former Maduro regime deployed a variety of mechanisms to undercut the rights of independent workers and unions. Minimum membership requirements for unions differ based on the type of union. Forming a company union requires a minimum of 20 workers; forming a professional, industrial, or sectoral union in one jurisdiction requires 40 workers in the same field; and forming a regional or national union requires 150 workers. Ten persons may form an employee association, a parallel type of representation the former regime endorsed and openly supported.

The law prohibits “any act of discrimination or interference contrary to the exercise” of workers’ right to unionize. The law requires all unions to provide the Ministry of Labor a membership roster that includes the full name, home address, telephone number, and national identification number for each union member. The ministry reviews the registration and determines whether the union fulfilled all requirements. Unions must submit their registration application by December 31 of the year the union forms; if not received by the ministry or if the ministry considers the registration unsatisfactory, the union is denied the ability to exist legally. The law also requires the presence of labor inspectors to witness and legitimize unions’ decisions before the Ministry of Labor. The International Labor Organization (ILO) raised concerns about the ministry’s refusal to register trade union organizations.

By law employers may negotiate a collective contract only with the union that represents the majority of its workers. Minority organizations may not jointly negotiate in cases where no union represents an absolute majority. The law also restricts unions’ ability to administer their activities. For example, the CNE has the authority to administer internal elections of labor unions, federations, and confederations. By law elections must be held at least every three years. If CNE-administered and -certified elections are not held within this period, the law prohibits union leaders from representing workers in negotiations or engaging in anything beyond administrative tasks. The ILO repeatedly found cases of interference by the CNE in trade union elections, and since 1999 it has called for delinking the CNE from the union election process.

The law recognizes the right of all public- and private-sector workers to strike, subject to conditions established by law. By law workers participating in legal strikes receive immunity from prosecution, and their time in service may not be reduced by the time engaged in a strike. The law requires that employers
reincorporate striking workers and provides for prison terms sufficient to deter violations for employers who fail to do so. Replacement workers are not permitted during legal strikes. The law prohibits striking workers from paralyzing the production or provision of essential public goods and services, but it defines “essential services” more broadly than ILO standards. The ILO called on the government to amend the law to exclude from the definition of “essential services” activities “that are not essential in the strict sense of the term…so that in no event may criminal sanctions be imposed in cases of peaceful strikes.”

The minister of labor may order public- or private-sector strikers back to work and submit their disputes to arbitration if a strike “puts in immediate danger the lives or security of all or part of the population.” Other legal provisions establish criminal penalties for exercising the right to strike in certain circumstances. For example, the law prohibits specified actions and makes punishable with five to 10 years in prison anyone who “organizes, supports, or instigates the realization of activities within security zones that are intended to disturb or affect the organization and functioning of military installations, public services, industries and basic [i.e., mining] enterprises, or the socioeconomic life of the country.” The law also provides for prison terms sufficient to deter violations for those who restrict the distribution of goods and for “those…who develop or carry out actions or omissions that impede, either directly or indirectly, the production, manufacture, import, storing, transport, distribution, and commercialization of goods.” There was no information on whether penalties were sufficient to deter violations.

The former Maduro regime restricted the freedom of association and the right to collective bargaining through administrative and legal mechanisms. The former regime did not effectively enforce the law.

The ILO raised concerns about violence against trade union members and intimidation by the former regime of the Associations of Commerce and Production of Venezuela. In 2018 ILO member countries voted to establish an ILO Commission of Inquiry against Venezuela to investigate longstanding complaints first lodged in 2015 of labor rights violations of ILO Conventions No. 26, 87, and 144, which pertain to minimum-wage fixing, freedom of association and protection of the right to organize, and tripartite consultation, respectively. In October the commission issued its report to the director general, noting that the former regime had repeatedly committed violations of international conventions on minimum wage, freedom of association and the right to organize, and labor standards. It also called for “the immediate release of any employer or trade unionist who may be in prison as a result of carrying out the legitimate activities of
their workers’ or employers’ organization.”

Organized labor activists continued to report that the annual requirement to provide the Ministry of Labor a membership roster was onerous and infringed on freedom of association. They alleged the ministry removed member names from the rosters for political purposes, particularly if members were not registered to vote with the CNE. Labor leaders also criticized the laborious and costly administrative process of requesting CNE approval for elections and subsequent delays in the CNE’s recognition of such union processes. In addition, there reportedly was a high turnover of Ministry of Labor contractors, resulting in a lack of timely follow-through on union processes. Labor unions in both the private and public sectors noted long delays in obtaining CNE concurrence to hold elections and in receiving certification of the election results, which hindered unions’ ability to bargain collectively.

The former Maduro regime continued to support many “parallel” unions, which sought to dilute the membership and effectiveness of traditional independent unions. The former regime excluded from consideration other, independent union federations, including the Confederation of Venezuelan Workers, General Confederation of Venezuelan Workers, Confederation of Autonomous Unions of Venezuela, and National Union of Workers.

The former regime continued to refuse to adjudicate or otherwise resolve the cases of 19,000 employees of the state oil company (PDVSA) who were fired during and after the 2002-03 strike. The Ministry of Labor continued to deny registration to the National Union of Oil, Gas, Petrochemical, and Refinery Workers.

The concept of striking, demonized since the 2002 national security law, was used periodically as a political tool to accuse regime opponents of coup plotting or other destabilizing activities. Some companies, especially in the public sector, had multiple unions with varying degrees of allegiance to the ruling party’s version of the “socialist revolution,” which could trigger interunion conflict and strife.

NGOs reported the former regime continued harassment of unions by prosecuting union members in military courts. Ruben Gonzalez, secretary general of miners’ union Sintraferrominera, was arrested in November 2018 after participating in a protest for collective bargaining rights and salary increases. In August a military tribunal sentenced Gonzalez to five years and nine months in prison for “outrage” to the armed forces and the GNB. Union leaders described Gonzalez’s arrest as part of the former regime’s efforts to eliminate the union and install a more pliant,
parallel union while a new collective agreement is negotiated.

b. Prohibition of Forced or Compulsory Labor

The law prohibits some forms of forced or compulsory labor but does not provide criminal penalties for certain forms of forced labor. The law prohibits human trafficking by organized crime groups through its law on organized crime, which prescribes penalties sufficient to deter violations for the human trafficking of adults carried out by a member of an organized-crime group of three or more individuals. The organized-crime law, however, fails to prohibit trafficking by any individual not affiliated with such a group. Prosecutors may employ other statutes to prosecute such individuals. The law increases penalties for child trafficking with the purpose of forced labor. There was no comprehensive information available regarding the former regime’s enforcement of the law. The labor group Autonomous Front in Defense of Employment, Wages, and Unions (FADESS) reported that public-sector worker agreements included provisions requiring service in the armed forces’ reserves.

There were reports of children and adults subjected to human trafficking with the purpose of forced labor, particularly in the informal economic sector and in domestic servitude (see section 7.c.). According to FADESS, more than 60,000 Cubans worked in the former Maduro regime social programs (such as the Mission Inside the Barrio) in exchange for the regime’s provision of oil resources to the Cuban government. FADESS noted Cubans worked in the Ministries of Education, Registrar, Notary, Telecommunications, and Security. FADESS also cited that the G-2 Cuban security unit was present in the armed forces and in state enterprises. Some Cuban medical personnel who participated in the social program Mission Inside the Barrio described indicators of forced labor, including underpayment of wages, mandatory long hours, limitations on movement, forced political indoctrination, and threats of retaliatory actions against workers and their families if they left the program. The Cuban government acknowledged that it withheld the passports of Cuban medical personnel in the country.

The law does not sufficiently prohibit the trafficking of boys and requires proof of the use of deception, coercion, force, violence, threats, abduction, or other fraudulent means to carry out the offense of trafficking of girls, including for commercial sexual exploitation.

Also see the Department of State’s Trafficking in Persons Report at https://www.state.gov/trafficking-in-persons-report/.
c. Prohibition of Child Labor and Minimum Age for Employment

The law prohibits all the worst forms of child labor. The law sets the minimum employment age at 14. Children younger than 14 may work only if granted special permission by the National Institute for Minors or the Ministry of Labor. Such permission may not be granted to minors who are younger than the legal age for work in hazardous occupations that risk their life or health or could damage their intellectual or moral development. According to the ILO, the former Maduro regime had not made publicly available the list of specific types of work considered hazardous. Children ages 14 to 18 may not work without permission of their legal guardians or in occupations expressly prohibited by law, and they may work no more than six hours per day or 30 hours per week. Minors younger than 18 may not work outside the normal workday.

Anyone employing children younger than eight is subject to a prison term that is sufficient to deter violations. Employers must notify authorities if they hire a minor as a domestic worker. The former regime did not effectively enforce the law.

No information was available on whether or how many employers were sanctioned for violations. The former regime continued to provide services to vulnerable children, including street children, working children, and children at risk of working. There was no independent accounting of the effectiveness of these and other former regime-supported programs.

Most child laborers worked in the agricultural sector, street vending, domestic service, or in small and medium-size businesses, most frequently in family-run operations. There continued to be isolated reports of children exploited in domestic servitude, mining, forced begging, and commercial sexual exploitation (see section 6), many of whom could be victims of trafficking. A study by Cecodap found that child laborers composed up to 45 percent of those working in mines.

Some doctors participating in Cuba’s overseas medical program showed indicators of forced labor. These indicators included withholding of doctors’ travel documents and pay; restricting participants’ movement; using “minders” to conduct surveillance of participants outside of work; threatening to revoke medical licenses; and retaliating against family members by imposing criminal penalties, exile, and family separation if participants left the program or did not return to
Cuba as directed by government supervisors. Authorities did not investigate allegations of forced labor in the program. Additionally, doctors who deserted the program reported Cuban “minders” coerced them to indoctrinate the population into supporting the former Maduro regime and falsify records to bolster the number of individuals assisted.

d. Discrimination with Respect to Employment and Occupation

The constitution prohibits employment discrimination of every citizen. The law prohibits discrimination based on age, race, sex, social condition, creed, marital status, union affiliation, political views, nationality, disability, or any condition that could be used to lessen the principle of equality before the law. No law specifically prohibits employment discrimination based on sexual orientation, gender identity, or HIV/AIDS status. Media and NGOs, such as PROVEA and the Human Rights Center at the Andres Bello Catholic University, reported the regime had a very limited capacity to address complaints and enforce the law in some cases and lacked political will in some cases of active discrimination based on political motivations.

NGOs reported public employees faced discrimination for their political beliefs or activities. According to Aula Abierta, 4,876 public servants were dismissed from their jobs for political reasons in 2018. In April SEBIN detained two employees of the Central Bank of Venezuela for participating in a meeting of public workers with Interim President Guaido, according to PROVEA.

e. Acceptable Conditions of Work

The former Maduro regime raised the national minimum wage, but it remained below the poverty line. Labor experts noted the unilateral nature of the decision contravened ILO Convention No. 26 requiring the government to consult with employers and workers prior to enacting wage increases. Legislators noted the decree violated the law, since it supplanted collective bargaining agreements. Union leaders from the petroleum, health, telecommunications, and electricity sectors highlighted that the wage-raise decree did not include wage adjustments to keep up with hyperinflation and thus remained insufficient to afford the basic food basket. It also violated the law by nullifying previously signed collective bargaining agreements, including wage tables that scaled salaries to account for seniority and merit pay.

The trade union of the industrial sector (CONINDUSTRIA) stated that only 2,500
The law sets the workweek at 40 hours (35 hours for a night shift). The law establishes separate limits for “shift workers,” who may not work more than an average of 42 hours per week during an eight-week period, with overtime capped at 100 hours annually. Managers are prohibited from obligating employees to work additional time, and workers have the right to two consecutive days off each week. Overtime is paid at a 50 percent surcharge if a labor inspector approves the overtime in advance and at a 100 percent surcharge if an inspector does not give advance permission. The law establishes that, after completing one year with an employer, a worker has a right to 15 days of paid vacation annually. A worker has the right to an additional day for every additional year of service, for a maximum of 15 additional days annually.

The law provides for secure, hygienic, and adequate working conditions. Workplaces must maintain “protection for the health and life of the workers against all dangerous working conditions.” The law obligates employers to pay workers specified amounts for workplace injuries or occupational illnesses, ranging from two times the daily salary for missed workdays to several years’ salary for permanent injuries. Workers may remove themselves from situations that endanger health or safety without jeopardy to their employment. Penalties for violations of wage and hour and occupational safety and health laws were not sufficient to deter violations.

The law covers all workers, including temporary, occasional, and domestic workers. There was reportedly some enforcement by the Ministry of Labor of minimum wage rates and hours of work provisions in the formal sector, but 40 percent of the population worked in the informal sector, where labor law and protections generally were not enforced. The former regime did not enforce legal protections on safety in the public sector. According to PROVEA, while the National Institute for Prevention, Health, and Labor Security required many private businesses to correct dangerous labor conditions, the former regime did not enforce such standards in a similar manner in state enterprises and entities. There was no publicly available information regarding the number of inspectors or the frequency of inspections to implement health and safety, minimum wage, or hours of work provisions. Ministry inspectors seldom closed unsafe job sites. There was no information on whether penalties were sufficient to deter violations.

Official statistics regarding workplace deaths and injuries were not publicly available.
Tab #2
VENEZUELA 2018 HUMAN RIGHTS REPORT

EXECUTIVE SUMMARY

Venezuela is formally a multiparty, constitutional republic, but for more than a decade, political power has been concentrated in a single party with an increasingly authoritarian executive exercising significant control over the legislative, judicial, citizens’ power (which includes the prosecutor general and ombudsman), and electoral branches of government. On May 20, the government organized snap presidential elections that were neither free nor fair for the 2019-25 presidential term. Nicolas Maduro was re-elected through this deeply flawed political process, which much of the opposition boycotted and the international community condemned. His illegitimate next term was scheduled to begin on January 10, 2019. The opposition gained supermajority (two-thirds) control of the National Assembly in the 2015 legislative elections. The executive branch, however, used its control over the Supreme Court (TSJ) to weaken the National Assembly’s constitutional role to legislate, ignore the separation of powers, and enable the president to govern through a series of emergency decrees.

Civilian authorities maintained effective, although politicized, control over the security forces.

Human rights issues included extrajudicial killings by security forces, including colectivos (government-sponsored armed groups); torture by security forces; harsh and life-threatening prison conditions; and political prisoners. The government restricted free expression and the press by routinely blocking signals, and interfering with the operations of, or shutting down, privately owned television, radio, and other media outlets. Libel, incitement, and inaccurate reporting were subject to criminal sanctions. The government used violence to repress peaceful demonstrations. Other issues included restrictions on political participation in the form of presidential elections in May that were not free or fair; pervasive corruption and impunity among all security forces and in other national and state government offices, including at the highest levels; trafficking in persons; and the worst forms of child labor, which the government made minimal efforts to eliminate.

The government took no effective action to investigate officials who committed human rights abuses, and there was impunity for such abuses.

Section 1. Respect for the Integrity of the Person, Including Freedom from:
a. Arbitrary Deprivation of Life and Other Unlawful or Politically Motivated Killings

Although the government did not release statistics on extrajudicial killings, nongovernmental organizations (NGOs) reported national, state, and municipal police entities, as well as the armed forces and government-supported colectivos, carried out such killings during the year.

There was also no official information available on the number of public officials prosecuted or sentenced to prison for involvement in extrajudicial killings, which, in the case of killings committed by police, were often classified as “resistance to authority.” The NGO Committee for the Families of Victims of February-March 1989 (COFAVIC) continued to report there was no publicly accessible national registry of reported cases of extrajudicial killings.

On January 15, approximately 400 government security forces, including the National Guard (GNB), Special Actions Force (FAES), Venezuelan National Police (PNB), National Antiextortion and Kidnapping Command, and Directorate General of Military Counterintelligence (DGCIM), raided a home in El Junquito, a residential community less than an hour from the nation’s capital, and killed seven persons, including Oscar Perez, a former officer in the National Police Scientific, Penal, and Criminal Investigative Corps (CICPC). Perez, according to government reports, had stolen a military airplane and dropped four hand grenades at a government building in July without causing structural damage or injury.

According to information presented in the UN’s Office of the High Commissioner on Human Rights (OHCHR) June report on human rights violations in the country, “[a]lthough the group had initiated negotiations with commanders of the GNB to surrender, officers received counterorders from the Strategic Operational Command to use lethal force and execute all members of the group once they had been subdued.” Perez had released a series of videos on social media during the siege in which the group’s negotiations with security forces could be heard. Death certificates revealed all seven individuals were shot in the head and killed. Many local NGOs termed the raid a massacre.

According to investigative journalists, 147 individuals younger than age 20 were killed in the Caracas metropolitan area between January and August. Of those deaths, 65 were committed by police. FAES, a specialized CICPC unit created by President Maduro in 2017 to quash “terrorist gangs” participating in large-scale countrywide protests, continued to be one of the deadliest. Between May and
November 2017, FAES committed 31 percent of homicides by security forces. FAES tactics resembled the government’s nationwide anticrime strategy begun in 2015, the Operation for the Liberation and Protection of the People (OLP), which was characterized by large-scale raids conducted by hundreds of government security agents in neighborhoods allegedly harboring criminals. NGOs reported that during OLP operations, officials committed grave human rights violations, including extrajudicial killings, arbitrary detentions, blackmail, torture, and destruction of property.

There were no developments in the cases of protesters killed in 2017. Government and NGO sources estimated at least 125 persons were killed in protests from April through July 2017. The Public Ministry reported 65 percent were victims of government repression. The NGO Foro Penal put the number at 75 percent, with colectivos responsible for half the deaths and the remainder divided between PNB and GNB forces. The NGO Venezuelan Program for Human Rights Action and Education (PROVEA) estimated that 83 percent of regime victims died from gunshot wounds. On numerous occasions security forces also used nonlethal ammunition at close range, severely injuring and in some cases killing protesters. Following the four months of antiregime protests, in September 2017 the government appointed a new attorney general, Tarek William Saab, who reopened investigations conducted during his predecessor’s tenure to undo the previous findings that held government security forces and colectivos responsible for widespread, violent repression.

According to NGOs, prosecutors occasionally brought cases against perpetrators of extrajudicial killings, but prosecutions often resulted in light sentences, and convictions were often overturned on appeal.

b. Disappearance

There were no reports of disappearances by or on behalf of government authorities.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment

Although the constitution prohibits such practices, there were credible reports that security forces tortured and abused detainees. There were no reports of any government officials being charged under the law.

The Office of the Human Rights Ombudsman did not publish statistics regarding
allegations of torture by police during the year. Several NGOs detailed cases of widespread torture and “cruel, inhuman, and degrading treatment.” Human rights groups reported the government continued to influence the attorney general and public defenders to conduct investigations selectively and subjectively. No data was available on investigations, prosecutions, or convictions in cases of alleged torture. Foro Penal maintained that hundreds of cases were not reported to government institutions because victims feared reprisal.

Press and NGO reports of beatings and humiliating treatment of suspects during arrests were common and involved various law enforcement agencies and the military. Torture and other cruel, inhuman, or degrading treatment or punishment of prisoners were reported during the year. Cruel treatment frequently involved authorities denying prisoners medical care and holding them for long periods in solitary confinement. The latter practice was most prevalent with political prisoners. NGOs also published reports that authorities generally mistreated, sexually abused, and threatened to kill detainees.

NGOs detailed reports from detainees whom authorities allegedly sexually abused, threatened with death, and forced to spend hours on their knees in detention centers. Foro Penal reported multiple instances of political prisoners denied adequate medical treatment while in government custody. Foro Penal noted instances in which authorities transferred detainees to a medical facility, where instead of receiving treatment, detainees were interrogated by security officials. The executive director of the Casla Institute for the Study of Latin America, Tamara Suju, and human rights lawyer Juan Carlos Gutierrez denounced 357 cases of physical abuse, alleged torture, and violence by security forces against political prisoners before the International Criminal Court. Among the 357 cases, there were 190 allegations of rape or sexual abuse.

Prison and Detention Center Conditions

Most prison conditions were harsh and life threatening due to gross overcrowding, food shortages, inadequate sanitary conditions and medical care, systemic violence, and poor infrastructure. Armed gangs effectively controlled some prisons in which they were incarcerated. Conditions were most acute in pretrial detention facilities such as police station jails.

Physical Conditions: The Ministry of Penitentiary Services reported there were 51,693 inmates in the country’s 41 prisons and penitentiaries and an estimated 33,000 inmates in police station jails in 2017. NGOs reported records for detainees
were not properly maintained and often contained incomplete information. According to the NGO A Window to Liberty (UVL), the capacity was approximately 19,000 inmates for penitentiaries and 5,000 for police station jails. Overcrowding was 172 percent for penitentiaries and 415 percent for police station jails on average, although the NGO Venezuelan Observatory for Prisons (OVP) noted that in some jails the overcrowding ranged from 800 to 1,200 percent.

There were two women’s prisons, one in Miranda State and the other in Zulia State. The law stipulates women in mixed prisons must be held in annexes or separate women’s blocks. A local NGO reported that in practice male and female prisoners intermingled. Security forces and law enforcement authorities often held minors together with adults, even though separate facilities existed. Because institutions were filled beyond capacity, hundreds of children accused of infractions were confined in juvenile detention centers, where they were reportedly crowded into small, unsanitary cells.

The CICPC and police station jails and detention centers also were overcrowded, causing many police station offices to be converted into makeshift prison cells. Prisoners reportedly took turns sleeping on floors and in office chairs, and sanitation facilities were inadequate or nonexistent. A 2017 UVL study of 89 facilities holding pretrial detainees revealed 432 percent overcrowding. According to the study, more than 80 percent of facilities provided no medical services, recreational areas, designated visiting areas, or laundry facilities. More than 60 percent did not have potable water, and more than 50 percent did not have regular trash collection or proper restrooms.

The GNB and the Ministry of Interior, Justice, and Peace have responsibility for prisons’ exterior and interior security, respectively. The government failed to provide adequate prison security. The OVP estimated a staffing gap of 90 percent for prison security personnel, with only one guard for every 100 inmates, instead of one for every 10 as recommended by international standards. The OVP reported 173 prisoner deaths and 268 serious injuries in 2016, the most recent year for which information was available. The OVP assessed that 90 percent of prison deaths were violent, resulting from prisoner-on-prisoner altercations, riots, and fires. The OVP reported some inmates also succumbed to the generally unsanitary and unsafe conditions prevalent in prisons. During the March 2017 renovation of Guarico State’s central prison, the construction team discovered 14 bodies in a shallow grave. The case remained under investigation at year’s end but highlighted uncertainty over the true number of annual prison deaths.
During the year prison and detention center riots resulted in inmate deaths and injuries. For example, on March 28, a fire erupted in an overcrowded police station in Valencia, Carabobo State, killing 66 male prisoners and two female visitors; more than 100 persons received burns in the fire. Media reported that after an argument with a guard, a group of prisoners lit their bed linens on fire. Many NGOs called the fire a massacre, noting some prisoners died from the fire itself, while others died of physical trauma or gunshot wounds.

A 2016 law limiting cell phone and internet availability inside prisons to prevent inmates from using the technology to engage in criminal activity remained unimplemented. Minister of Penitentiary Affairs Iris Varela admitted communicating with inmates by cell phone immediately before and during the 2017 Puente Ayala prison riot. There were credible reports that Varela may have had a hand in directing the violence, including her own admission to that effect during a media interview.

The UVL reported authorities required family members to provide food for prisoners at police station jails throughout the country due to inadequate provisioning of food by the prison administration. According to a UVL report, in 2017 at least 28 inmates died from complications associated with malnutrition and preventable disease such as tuberculosis. The OVP reported that due to inadequate nutrition plans and lack of potable water, stomach illnesses were common among inmates.

On February 24, Vista Hermosa prison inmate Alejandro Manuel Mago Coraspe was admitted into a local Bolivar state hospital after he fell ill, apparently from eating poisoned rodents. Vista Hermosa prisoners customarily ate wild birds and rodents to survive, according to Mago Coraspe. After undergoing surgery, he explained to journalists that he customarily killed and cooked rats but had most recently eaten rats he found in the prison garbage that were potentially poisoned. According to reports from Mago Coraspe’s family, prison guards beat him severely upon his return to the prison, allegedly for having spoken to media members. According to media reports, a judge ordered Mago Coraspe to serve out the remainder of his sentence under house arrest. Prison authorities disregarded the order, and Mago Coraspe died in prison on April 24.

The government restricted information regarding deaths in prisons from tuberculosis, HIV/AIDS, and other diseases or from lack of medical care. A study by the NGO Solidarity Action found prison rules regarding the classification of inmates resulted in the isolation of those with HIV/AIDS in “inadequate spaces
without food and medical attention.” The OVP reported a generalized lack of medical care, drugs, equipment, and physicians for prisoners. Inmates often received the same pills regardless of their symptoms, and pregnant women lacked adequate facilities for their medical attention.

**Administration:** The Ministry of Penitentiary Services did not respond to requests from the OVP, UVL, other human rights organizations, inmates, or families regarding inmates or investigations of the harsh conditions that led to hunger strikes or violent uprisings.

Prisoners and detainees generally had access to visitors, including some with overnight privileges, but in some cases prison officials harassed or abused visitors. Prison officials imposed significant restrictions on visits to political prisoners. When allowed access, visitors were at times subjected to strip searches.

**Independent Monitoring:** Human rights observers continued to experience lengthy delays and restrictions in gaining access to prisons and detention centers. Authorities had not approved requests by the International Committee of the Red Cross (ICRC) to visit penitentiary centers and interview inmates in confidentiality since 2013. More than 300 lay members from the Venezuelan Episcopal Conference of the Roman Catholic Church volunteered in 40 prisons. Although prohibited from formally entering prisons, Catholic laity visited prisoners on family visitation days.

d. **Arbitrary Arrest or Detention**

The constitution prohibits the arrest or detention of an individual without a judicial order and provides for the accused to remain free while being tried, but judges and prosecutors often disregarded these provisions. The law provides for the right of persons to challenge the lawfulness of their arrest or detention in court, but the government generally did not observe this requirement. While NGOs such as Foro Penal, COFAVIC, the Institute for Press and Society, Espacio Publico, and PROVEA noted at least 2,000 open cases of arbitrary detentions, authorities rarely granted them formal means to present their petitions. Authorities arbitrarily detained individuals, including foreign citizens, for extended periods without criminal charges.

**Role of the Police and Security Apparatus**

The GNB--a branch of the military that reports to both the Ministry of Defense and
the Ministry of Interior, Justice, and Peace--is responsible for maintaining public order, guarding the exterior of key government installations and prisons, conducting counternarcotics operations, monitoring borders, and providing law enforcement in remote areas. The Ministry of Interior, Justice, and Peace controls the CICPC, which conducts most criminal investigations, and the Bolivarian National Intelligence Service (SEBIN), which collects intelligence within the country and abroad, and is responsible for investigating cases of corruption, subversion, and arms trafficking. SEBIN maintained its own detention facilities separate from those of the Ministry of Penitentiary Services. Police include municipal, state, and national police forces. Mayors and governors oversee municipal and state police forces. The PNB reports to the Ministry of Interior, Justice, and Peace. According to its website, the PNB largely focused on policing Caracas’s Libertador municipality; patrolling Caracas-area highways, railways, and metro system; and protecting diplomatic missions. The PNB maintained a minimal presence in seven of the country’s 23 states.

Corruption, inadequate police training and equipment, and insufficient central government funding, particularly for police forces in states and municipalities governed by opposition officials, reduced the effectiveness of the security forces. There were continued reports of police abuse and involvement in crime, including illegal and arbitrary detentions, extrajudicial killings, kidnappings, and the excessive use of force.

Impunity remained a serious problem in the security forces. The Public Ministry is responsible for initiating judicial investigations of security force abuses. The Office of Fundamental Rights in the Public Ministry is responsible for investigating cases involving crimes committed by public officials, particularly security officials.

According to the Public Ministry’s 2016 annual report (the most recent one available), the Office of Fundamental Rights cited 13,343 specific actions taken to “process claims” against police authorities for human rights abuses and charged 320 with violations. Neither the Attorney General’s Office nor the Office of the Human Rights Ombudsman provided information regarding alleged human rights violations committed by police and military personnel.

State and municipal governments also investigated their respective police forces. By law the national, state, and municipal police forces have a police corps disciplinary council that takes action against security officials who commit abuses. The National Assembly also may investigate security force abuses.
The government at both the local and national levels took few actions to sanction officers involved in abuses. According to the NGO Network of Support for Justice and Peace, the lack of sufficient prosecutors made it difficult to prosecute police and military officials allegedly involved in human rights abuses. In addition NGOs reported the following problems contributed to an ineffective judicial system: long procedural delays, poor court administration and organization, lack of transparency in investigations, and impunity of government officials. In June 2017 Human Rights Watch reported the then attorney general Luisa Ortega Diaz had opened investigations in more than 600 cases of injury caused during the protests that began in April 2017. In at least 10 cases, her office charged security forces with unlawful killings of demonstrators or bystanders. After her removal, her successor did not pursue the cases.

NGOs and police noted that many victims did not report violent crimes to police or other authorities due to fear of retribution or lack of confidence in the police and that the actual occurrence was likely far higher than what was reported.

**Arrest Procedures and Treatment of Detainees**

While a warrant is required for an arrest, detention is permitted without an arrest warrant when an individual is apprehended in the act of committing a crime or to secure a suspect or witness during an investigation. Police often detained individuals without a warrant. The law mandates that detainees be brought before a prosecutor within 12 hours and before a judge within 48 hours to determine the legality of the detention; the law also requires that detainees be informed promptly of the charges against them. Authorities routinely ignored these requirements.

Although the law provides for bail, it is not available for certain crimes. Bail also may be denied if a person is apprehended in the act of committing a crime or if a judge determines the accused may flee or impede the investigation. The law allows detainees access to counsel and family members, but that requirement was often not met, particularly for political prisoners. The constitution also provides any detained individual the right to immediate communication with family members and lawyers who, in turn, have the right to know a detainee’s whereabouts. A person accused of a crime may not be detained for longer than the possible minimum sentence for that crime or for longer than two years, whichever is shorter, except in certain circumstances, such as when the defendant is responsible for the delay in the proceedings.
Arbitrary Arrest: Foro Penal reported 498 cases of arbitrary detention between January 1 and November 15, compared with 5,462 protest-related cases of arbitrary detention from April through December 2017. Opposition politicians and human rights NGOs attributed the reduction largely to a significant decrease in large-scale protests following National Constituent Assembly (ANC) elections in July 2017.

Caracas municipal councilmember Fernando Alban died on October 8 while in SEBIN custody. SEBIN officials had arrested Alban upon his return from a foreign trip on October 5 and held him in detention as a suspect in the August 4 drone attack believed to have been a presidential assassination attempt. Attorney General Tarek William Saab reported via social media and press statements that Alban jumped from a 10th-floor bathroom window, while Minister of Interior Nestor Reverol stated Alban jumped from a 10th-floor waiting room. NGOs and members of the opposition denounced these conflicting stories and alleged Alban was murdered.

Pretrial Detention: Pretrial detention remained an egregious problem. According to the OVP, approximately 79 percent of the prison population was in pretrial detention. According to the Public Ministry, in 2016 only 21 percent of trials concluded or reached sentencing. The NGO Citizen Observatory of the Penal Justice System attributed trial delays to the shortage of prosecutors and penal judges (4.7 penal judges per 100,000 inhabitants in 2010, the latest date for which information was available).

Despite constitutional protections that provide for timely trials, judges reportedly scheduled initial hearings months after the events giving rise to the cause of action. An automated scheduling system was ineffective at streamlining case logistics. Proceedings were often deferred or suspended when an officer of the court, such as the prosecutor, public defender, or judge, failed to attend.

According to the Public Ministry’s 2015 annual report (the most recent available), the ministry pressed charges in 9.7 percent of the 556,000 cases involving common crimes. The ministry reported the closure of the remainder of the complaints but did not indicate final outcomes. Prisoners reported to NGOs that a lack of transportation and disorganization in the prison system reduced their access to the courts and contributed to trial delays.

Detainee’s Ability to Challenge Lawfulness of Detention before a Court: Detained individuals may challenge the grounds for their detention, but proceedings were often delayed and hearings postponed, stretching trials for years. Courts frequently
disregarded defendants’ presumption of innocence. Authorities often failed to allow detainees to consult with counsel or access their case records when filing challenges. Some detainees remained on probation or under house arrest indefinitely.

e. Denial of Fair Public Trial

The constitution provides for an independent judiciary, but the judiciary lacked independence and generally judged in favor of the government at all levels. There were credible allegations of corruption and political influence throughout the judiciary. According to reports from the International Commission of Jurists, 66 to 80 percent of all judges had provisional appointments and were subject to removal at will by the TSJ Judicial Committee. Provisional and temporary judges, who legally have the same rights and authorities as permanent judges, allegedly were subjected to political influence from various ministries and the newly appointed attorney general to make progovernment determinations. There was a general lack of transparency and stability in the assignments of district attorneys to cases and a lack of technical criteria for assigning district attorneys to criminal investigations. These deficiencies hindered the possibility of bringing offenders to justice and resulted in a 90 percent rate of impunity for common crimes and a higher percentage of impunity for cases of alleged human rights violations.

Trial Procedures

The law provides for the right to a fair and public trial with oral proceedings for all individuals. By law defendants are considered innocent until proven guilty. The law requires that detainees be informed promptly of the charges against them, but the requirement was often ignored and, even when respected, involved dubious allegations, according to human rights organizations. Defendants have the right to consult with an attorney. According to the Office of the Human Rights Ombudsman, there were approximately 1,500 public defenders in 2017, but indigent defendants’ right to free counsel was often not respected because of attorney shortages. Free interpretation was often not available to defendants. Some NGOs provided pro bono counsel to defendants.

Defendants may request no fewer than 30 days and no more than 45 days to prepare their defense. Defendants have the right to question adverse witnesses and present their own witnesses. By law defendants may not be compelled to testify or confess guilt. Defendants and plaintiffs have the right of appeal.
Trial delays were common. Trials “in absentia” are permitted in certain circumstances, although opponents of the procedure claimed the constitution prohibits such trials. The law also states that, in the absence of the defense attorney, a trial may proceed with a public defender that the court designates. The law gives judges the discretion to hold trials behind closed doors if a public trial could “disturb the normal development of the trial.”

At the January 31 hearing of Judge Maria Lourdes Afiuni, the judge did not set a date for the next phase of her trial, when it was expected a verdict would be announced. Afiuni was accused of corruption and abuse of authority for her 2009 decision conditionally to release a businessman who had been held in pretrial detention beyond the maximum time prescribed by law. Afiuni continued to be subjected to protective measures in place since her release to house arrest in 2011 that mandate she may not leave the country, talk to media, or use social media, although the law states such measures may not last more than two years.

The law mandates that municipal courts handle “less serious” crimes, i.e., those carrying maximum penalties of imprisonment of less than eight years. Municipal courts may levy penalties that include three to eight months of community service. Besides diverting some “less serious” crimes to the municipal courts, this diversion also permits individuals accused of “lesser crimes” to ask the courts to suspend their trials conditionally in exchange for their admission of responsibility, commitment to provide restitution “in a material or symbolic form,” community service, or any other condition imposed by the court.

The law provides that trials for military personnel charged with human rights abuses after 1999 be held in civilian rather than military courts. In addition, under the Organic Code of Military Justice, an individual may be tried in the military justice system for “insulting, offending, or disparaging the national armed forces or any related entities.” NGOs and the Inter-American Commission on Human Rights (IACHR) expressed concern with the government’s practice of trying civilians under the military justice system for protests and other actions not under military jurisdiction. According to Foro Penal, military courts processed at least 35 civilians between January 1 and August 1.

**Political Prisoners and Detainees**

The government used the judiciary to intimidate and selectively prosecute individuals critical of government policies or actions. The regime reportedly continued the policy it began in 2012 of denying the ICRC access to prisons. Foro
Penal reported 286 political prisoners in government custody as of November 18, down from 676 political prisoners reported at the height of 2017’s wave of political protests but well above averages recorded in 2015 and 2016. The government routinely held political prisoners in SEBIN installations or the Ramo Verde military prison without an explanation of why they were not being held in civilian detention facilities.

On June 2, the government provisionally released opposition coalition leader Roberto Picon and former San Cristobal mayor Daniel Ceballos. The two, like many others released immediately following the May 20 elections, were prohibited from leaving the country or speaking to media, and they were required to appear before a judge on a monthly basis. Ceballos was released from the Ramo Verde military detention facility, where prison authorities routinely held him in solitary confinement and denied him visitation. Picon was released from house arrest, which the government granted in December 2017, as part of a larger “good will” pardon. According to media reports and NGO representatives, SEBIN arrested Picon in June 2017 without an arrest warrant. At a military hearing on charges of rebellion and theft of items belonging to the military, NGO representatives claimed the prosecution entered evidence that included a paperweight and a reference to the Inter-American Democratic Charter.

The government increased its attack against civil liberties after an alleged failed presidential assassination attempt on August 4. On August 7, masked men abducted National Assembly Deputy Juan Requesens from his home during a nationally televised presidential address in which Maduro accused Requesens of involvement in the alleged August 4 attack. On August 9, the government released a video of a disheveled Requesens admitting he had information on one of the assassination plotters. On August 10, a second video appeared on social media showing Requesens, visibly weak and naked aside from his notably soiled underwear. Despite daily requests from his lawyer and family members, government authorities granted Requesens only two visits--September 21 and October 7--following his detention on August 7. According to reports, Requesens was held in solitary confinement for 23 hours a day. As of December 6, his detention conditions had improved slightly under new SEBIN leadership. Nevertheless, Requesens was not receiving medical attention in a timely fashion, and due process had yet to be afforded in his case.

As of October 1, jailed opposition party leader and former Chacao municipality mayor Leopoldo Lopez remained under house arrest and barred from communicating with individuals outside his home.
Civil Judicial Procedures and Remedies

While there are separate civil courts that permit citizens to bring lawsuits seeking damages, there are no procedures for individuals or organizations to seek civil remedies for human rights violations.

f. Arbitrary or Unlawful Interference with Privacy, Family, Home, or Correspondence

The constitution provides for the inviolability of the home and personal privacy, but the government generally did not respect these prohibitions. In some cases government authorities searched homes without judicial or other appropriate authorization, seized property without due process, or interfered in personal communications. FAES and other security forces regularly conducted indiscriminate household raids.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Expression, Including for the Press

The law provides for freedom of expression, including for the press, but the combination of laws and regulations governing libel and media content as well as legal harassment, physical intimidation of individuals and media, and executive influence on the judiciary resulted in significant repression of these freedoms. National and international groups, such as the IACHR, Human Rights Watch, Freedom House, the Inter American Press Association, Reporters without Borders, and the Committee to Protect Journalists, condemned government efforts throughout the year to restrict press freedom and create a climate of fear and self-censorship.

Freedom of Expression: The law makes insulting the president punishable by six to 30 months in prison without bail, with lesser penalties for insulting lower-ranking officials. In November 2017, however, the ANC gave final approval to the Constitutional Law against Hate, for Political Coexistence and Tolerance, which stipulates prison sentences of up to 20 years. While the government stated the purpose of the law was to “promote peace and tolerance,” NGOs observed the vaguely written law could be used to silence political parties, activists, and civil society leaders as well as media outlets and journalists. Comments exposing another person to public contempt or hatred are punishable by prison sentences of
one to three years and fines.

On September 16, DGCIM officers detained Merida state firefighters Ricardo Prieto Parra and Carlos Varon Garcia on charges of “instigating hate” after a satirical video they produced of a donkey depicted as President Maduro received wide publicity on social media. Prieto Parra and Varon Garcia faced up to 20 years in prison for the alleged crime.

Hospital worker Lenny Josefina Martinez Gonzalez remained in prison as of October 8, awaiting trial after SEBIN arrested her in October 2017 for photographing women giving birth in a hospital waiting room. The photographs, captured in Lara State, illustrated the country’s medical crisis and were widely viewed on social media.

Press and Media Freedom: The law provides that inaccurate reporting that disturbs the public peace is punishable by prison terms of two to five years. The requirement that media disseminate only “true” information was undefined and open to politically motivated interpretation. Human Rights NGO Espacio Publico counted 92 acts of censorship between January and June, as well as 73 attacks on journalists and reporters. Meanwhile, the local journalists’ union (SNTP) counted 26 “closures, sanctions, and blockings” of outlets and 87 attacks on journalists during the same period.

The law prohibits all media from disseminating messages that incite or promote hate or intolerance for religious, political, gender-related, racial, or xenophobic reasons; incite, promote, or condone criminal acts; constitute war propaganda; foment anxiety in the population or affect public order; do not recognize legitimate government authorities; incite homicide; or incite or promote disobedience to the established legal order. Penalties range from fines to the revocation of licenses. The threat of nonrenewal of operating licenses systematically led to self-censorship on the part of several media outlets.

Despite such laws President Maduro and the ruling United Socialist Party (PSUV) used the nearly 600 government-owned or -controlled media outlets to insult and intimidate the political opposition throughout the year. ANC president Diosdado Cabello continued to use his weekly television program to denounce individual journalists and media outlets, according to observers.

The law declares telecommunications a “public interest service,” thereby giving the government authority to regulate the content and structure of the radio,
television, and audiovisual production sectors. The law provides that the government may suspend or revoke licenses when it judges such actions necessary in the interests of the nation, public order, or security. The law empowers the government to impose heavy fines and cancel broadcasts for violations of its norms; the National Telecommunications Commission (CONATEL) oversees the law’s application.

The government continued legal actions against high-profile independent media outlets *Tal Cual, El Nacional, El Nuevo Pais, La Patilla, El Pitazo,* and Globovision. In May a court found *El Nacional,* the nation’s largest independent daily newspaper, guilty of “moral damage” against Cabello for republishing a critical article from the Spanish newspaper *ABC* and ordered the newspaper to pay a fine of one billion bolivares fuertes ($10,400).

The NGO Espacio Publico reported 219 violations of freedom of expression between January and June. This represented a 72 percent decline from the historically high numbers of 2017, but an 11 percent increase over the 2013-16 averages. The most common violations were aggressions against journalists and censorship. State-owned and -influenced media provided almost continuous progovernment programming. In addition private and public radio and television stations were required to transmit mandatory nationwide broadcasts (*cadenas*) throughout the year, including a daily 15-minute news broadcast that provided reports and summaries of government achievements. Both Maduro and other ruling-party officials utilized mandatory broadcast time to campaign for progovernment candidates. Opposition candidates generally did not have access to media broadcast time.

The law requires practicing journalists to have journalism degrees and be members of the National College of Journalists, and it prescribes jail terms of three to six months for those practicing the profession illegally. These requirements are waived for foreigners and opinion columnists.

**Violence and Harassment:** Senior national and state government leaders continued to harass and intimidate privately owned and opposition-oriented television stations, media outlets, and journalists by using threats, property seizures, administrative and criminal investigations, and prosecutions. Government officials, including the president, used government-controlled media outlets to accuse private media owners, directors, and reporters of fomenting antigovernment destabilization campaigns and coup attempts.
Government officials also harassed foreign journalists working in the country. No charges were filed against GNB officers who allegedly attacked Elyangelica Gonzalez, a reporter for Univision Noticias and the Colombian-based station Caracol Radio, while she reported outside the Supreme Court in March 2017.

Censorship or Content Restrictions: In its 2016 report, the Venezuelan Institute of Press and Society (IPYS) noted the government’s preference for using legal proceedings, financial sanctions, and administrative actions against unfavorable news outlets instead of shutting them down outright. Members of the independent media stated they regularly engaged in self-censorship due to fear of government reprisals. This resulted in many journalists posting articles to their personal blogs and websites instead of publishing them in traditional media.

The government also exercised control over content through licensing and broadcasting requirements. CONATEL acted selectively on applications from private radio and television broadcasters for renewal of their broadcast frequencies. According to Nelson Belfort, former president of the Venezuelan Radio Chamber, and NGO reports, approximately 80 percent of radio stations were in “illegal” status throughout the country due to CONATEL’s not having renewed licenses for most radio stations since 2007.

According to the SNTP, during the year 25 print news outlets closed due to the government’s economic policies, which made it difficult for independent newspapers to access foreign currency, preventing many from purchasing critical supplies and equipment necessary for day-to-day business operations. During the first half of the year, five regional newspapers went out of print for lack of supplies, especially newsprint: Diario El Tiempo in Anzoategui State, El Impulso in Lara, El Oriental in Monagas, La Prensa de Barinas in Barinas, and La Region del Oriente in Sucre.

The government controlled a large portion of the country’s businesses and paid for advertising only with government-owned or government-friendly media.

Libel/Slander Laws: Government officials engaged in reprisals against individuals who publicly expressed criticism of the president or government policy. As of October 1, President Maduro had not acted on his June 2017 announcement that he would use slander laws to “defend his honor” in court against opposition leaders’ allegations that he was responsible for protest-related deaths.

National Security: The law allows the government to suspend or revoke licenses
when it determines such actions necessary in the interests of public order or
security. The government exercised control over the press through a public entity,
the Strategic Center for Security and Protection of the Homeland (CESPPA),
established in 2013, which is similar to the governmental entity Center for National
Situational Studies (CESNA) established in 2010. CESNA and CESPPA have
similar mandates and are responsible for “compiling, processing, analyzing, and
classifying” both government-released and other public information with the
objective of “protecting the interests and objectives of the state.”

During the year President Maduro renewed three times the “state of exception” he
first invoked in 2016, citing a continuing economic emergency, and granted
himself the power to restrict rights otherwise provided for in the constitution. The
60-day emergency decree, which by law is renewable only once and requires
National Assembly endorsement to be effective, allows the president to block any
action he deems could “undermine national security” or could “obstruct the
continuity of the implementation of economic measures for the urgent reactivation
of the national economy.” The National Assembly continued systematically to
refuse to ratify each renewal, and the Supreme Court annulled each refusal,
reasoning that the assembly’s “contempt” status made its failure to endorse the
renewal “unconstitutional.” According to Human Rights Watch, the “state of
exception” negatively affected the rights to freedom of association and expression.

Nongovernmental Impact: Widespread violence in the country made it difficult to
determine whether attacks on journalists resulted from common criminal activity
or whether criminals or others targeted media members.

Internet Freedom

The government restricted or disrupted access to the internet and censored online
content. The executive branch exercised broad control over the internet through
the state-run CONATEL. Free Access, an NGO focused on freedom of expression
and social justice, reported that CONATEL supported monitoring of private
communications and repression of internet users who expressed dissenting
opinions online. According to media reports, users of social networks accused
CONATEL of monitoring their online activity and passing identifying information
to intelligence agencies, such as SEBIN. According to Free Access, CONATEL
provided information to SEBIN, including internet protocol addresses, which
assisted authorities in locating the users.

The law puts the burden of filtering prohibited electronic messages on service

providers, and it allows CONATEL to order service providers to block access to
websites that violate these norms and sanctions them with fines for distributing
prohibited messages. IPYS reported that from 2017 to November, local internet
providers following CONATEL orders blocked access to eight online outlets,
including *El Nacional*, *La Patilla*, *Runrunes*, *Cronica Uno*, *Armando.Info*, and *El
Pitazo*. 

CONATEL’s director, Jorge Elieser Marquez Monsalve, reiterated the claims of
his predecessors that CONATEL’s role is to enforce the law and prevent
dissemination of illegal information or material unsuitable for children and
adolescents. Nevertheless, the government continued to block internet sites that
posted dollar- and euro-to-bolivar currency exchange rates differing from the
government’s official rate. The government-owned internet service provider
CANTV facilitated blockages.

Intelligence agencies, which lacked independent oversight, conducted surveillance
for political purposes. Courts relied on evidence obtained from anonymous
*patriotas cooperantes* (cooperating patriots) to harass perceived opponents of the
government, and senior government officials used personal information gathered
by patriotas cooperantes to intimidate government critics and human rights
defenders.

According to the International Telecommunication Union, 64 percent of the
population used the internet in 2017.

**Academic Freedom and Cultural Events**

There were no substantive reports of government restrictions on cultural events,
but there were some government restrictions on academic freedom. Aula Abierta
(Open Classroom), a local human rights NGO focused on academic freedoms,
reported the government retaliated against opposition-oriented autonomous
universities by providing insufficient funding and failing to adjust budgetary
allocations to inflation. According to some university leaders, the 2018 budget
allocation would not take them through the first semester. In September 2017 the
National University Council, the government regulating body for university
education, relinquished its functions to the ANC, disregarding the law requiring
university autonomy. The government continued gradually increasing its control
over local universities, including the admissions process. In 2015 the Ministry of
Education began selecting at least 70 percent of those offered university seats
using criteria based 50 percent on academic achievement, 30 percent on
socioeconomic conditions, 15 percent on residency, and 5 percent on involvement in social service activities. University leaders complained the student selection process unfairly advantaged ruling-party supporters and usurped authority from the universities.

In May the Ministry of Higher Education, Science, and Technology announced a nationwide university scholarship program that would reportedly benefit more than 50,000 university students. According to the ministry, students must have a *carnet de la patria* (homeland card, a government-issued social benefits card provided primarily to government supporters; see section 3, Political Parties and Political Participation) to qualify. In June the government similarly announced a financial incentive called the “student bonus” for cardholders with school-age children.

**b. Freedoms of Peaceful Assembly and Association**

**Freedom of Peaceful Assembly**

The constitution provides for this right, but the government generally repressed or suspended it. The law regulates the right to assembly. Human rights groups continued to criticize the law as enabling the government to charge protesters with serious crimes for participating in peaceful demonstrations. Ambiguous language in the law also allowed the government to criminalize organizations that were critical of the government. Protests and marches require government authorization in advance and are forbidden within designated “security zones.”

Citizens organized sporadic and often spontaneous small-scale protests throughout the year to demand basic services such as water and electricity. The government generally refrained from using the widespread, violent, and in some cases fatal responses they used to quash the 2017 protests, but NGOs reported cases of arbitrary detention and heavy-handed police tactics to quell protests.

**Freedom of Association**

The constitution provides for freedom of association and freedom from political discrimination, but the government did not respect these rights. Although professional and academic associations generally operated without interference, a number of associations complained that the TSJ and the National Electoral Council (CNE), which is responsible for convoking all elections and establishing electoral dates and procedures, repeatedly interfered with their attempts to hold internal elections.
A 2016 presidential decree called on the Foreign Ministry to suspend international funding to NGOs when “it is presumed” that the funding is used with “political purposes or for destabilization.” There were no reports the government implemented the decree during the year.

c. Freedom of Religion

See the Department of State’s International Religious Freedom Report at [www.state.gov/religiousfreedomreport/](http://www.state.gov/religiousfreedomreport/).

d. Freedom of Movement

The constitution provides for freedom of internal movement, foreign travel, emigration, and repatriation; however, the government did not respect these rights.

On October 5, the government announced the creation of a special migration police unit. Although some NGOs expressed concern the government would use the unit to restrict international travel of select individuals, the government asserted the force would essentially be customs and border patrol units. The government declared the migration police would provide citizen security at migration points and established 72 points of control to monitor the border situation and dispel what it called myths regarding a supposed Venezuelan migratory crisis.

The government did not cooperate with the Office of the UN High Commissioner for Refugees (UNHCR) and other humanitarian organizations in providing protection and assistance to refugees, asylum seekers, and other persons of concern.

**Abuse of Migrants, Refugees, and Stateless Persons:** With the refugee status determination process centralized at the National Refugee Commission (CONARE) headquarters in Caracas, asylum seekers often waited for years to obtain a final decision. During this period they had to continue renewing their documentation every three months to stay in the country and avoid arrest and deportation. While traveling to the commission, particularly vulnerable groups, such as women with young children, the elderly, and persons with disabilities, faced increased personal risks, such as arrest and deportation, extortion, exploitation, and sexual abuse by authorities at checkpoints and other locations.

On September 24, CONARE announced it would approve refugee applications for
54 Colombians who were awaiting approval. CONARE president Juan Carlos Aleman remarked the commission had more than 1,100 active requests for refugee status and that CONARE would respond to all of the requests in the next few months.

Arbitrary detentions continued but were reduced during the year. Security forces often used excessive force to control residents in states along the border with Colombia.

While no official statistics were available, a women’s shelter reported recurring problems with gender-based violence and trafficking of refugee women.

Also see the Department of State’s annual Trafficking in Persons Report at www.state.gov/j/tip/rls/tiprpt/.

In-country Movement: The government restricted the movement of certain opposition leaders, preventing them from traveling on government-controlled airlines and refusing to allow them to board some domestic flights.

Foreign Travel: Obtaining a passport became increasingly difficult during the year. Prospective applicants waited overnight in lines and often did not receive passports even after years of delays. Some applicants reportedly paid several thousands of U.S. dollars to obtain a passport. The government repeatedly seized passports from journalists, members of the opposition, and National Assembly deputies at ports of entry without explanation as they attempted to depart the country.

Exile: There were new cases of citizens denied the right to return during the year. For example, the government released jailed University of Los Andes student leader Villca Fernandez on June 14, requiring that he leave the country as a condition of his release. SEBIN officials had arrested Fernandez in 2016 after he sent a tweet defending himself after then PSUV first vice president Diosdado Cabello threatened Fernandez on his weekly televised show. SEBIN officials reportedly tortured Fernandez, refused him medical attention, and kept him in solitary confinement, releasing him for less than 15 minutes at a time to use the bathroom.

Protection of Refugees

Access to Asylum: The law provides for the granting of asylum or refugee status,
and the government has established a system for providing protection to refugees. According to UNHCR, the vast majority of asylum seekers came from Colombia. UNHCR estimated there were 7,860 recognized refugees and 173,000 persons in need of international protection in the country in 2017. The majority of such persons remained without any protection. Despite the increased migration of Venezuelans to neighboring countries, NGOs supporting displaced Colombians noted many chose to remain in Venezuela despite the economic crisis, citing a cost of living comparatively lower than in Colombia, fear of violence, or the ease with which they could travel between the two nations without relocating. Most of the Colombians had not accessed procedures for refugee status determination due to the inefficiency of the process. UNHCR reported that few persons in need of international protection were legally recognized as refugees.

**Access to Basic Services:** Colombian asylum seekers without legal residency permits had limited access to the job market, education, and health systems. The lack of documentation created significant challenges to achieving sufficient protection and long-term integration. Authorities permitted Colombian children to attend school but inconsistently granted them diplomas or certificates of completion without residency documentation, resulting in high dropout rates for Colombian children.

**Section 3. Freedom to Participate in the Political Process**

The 1999 constitution, the country’s 26th since independence in 1811, provides citizens the ability to change their government through free and fair elections, but government interference, electoral irregularities, and manipulation of voters and candidates restricted the exercise of this right in the May 20 presidential elections.

**Elections and Political Participation**

**Recent Elections:** The CNE executed deeply flawed presidential elections on May 20 that elicited historically low participation and undermined public faith in the democratic process. The elections took place on a remarkably short timeline--announced on February 7, they were originally scheduled for April 22, less than 75 days later--effectively preventing a nationwide opposition campaign. The CNE banned the leading opposition parties, using the ad hoc explanation that they had given up their stature by boycotting December 2017 municipal elections. Furthermore, leading opposition politicians were prohibited from running, including Henrique Capriles (Primero Justicia) and Leopoldo Lopez (Voluntad Popular).
In September the CNE extended its ban to the oldest surviving opposition party, Accion Democratica (AD), declaring it would be prohibited from running candidates in municipal council elections scheduled for December. The ostensible reason the CNE gave for the ban was AD’s decision not to participate in a “recertification” process called abruptly in August. AD leaders noted they had successfully completed a similar process in January and no legal basis existed for the new requirement.

During the May 20 presidential elections, national media noted various irregularities, including financial benefits offered to PSUV voters, government vehicles used to transport PSUV voters to voting centers, opposition party observers blocked from polling centers, media blocked from covering events at polling centers, and distribution of food coupons to progovernment voters. There were no reports the government forced government workers or benefit recipients to vote, as had been customary in the most recent national elections.

Even though there had been no referendum to approve efforts for constitutional reform, in July 2017 at the president’s direction, the CNE held fraudulent and violently protested elections to choose representatives for the ANC that would reportedly rewrite the constitution. Observers claimed the CNE was used to usurp the authority of the National Assembly and legitimize unconstitutional acts of the regime.

Political Parties and Political Participation: Opposition political parties operated in a restrictive atmosphere characterized by intimidation, the threat of prosecution or administrative sanction on questionable charges, and very limited mainstream media access.

During the year the government expanded the carnet de la patria program, introduced in 2017 as a multipurpose identification card, so that it was required to access government-funded social services. In September the government announced gasoline, largely subsidized by the government, would be sold only at higher international prices to those without a carnet de la patria. Cardholders were reportedly also granted exclusive access to educational scholarships, subsidized food, and other government support. The government set up carnet de la patria check-in points outside of voting centers during national elections and urged cardholders to “register” their votes. According to the government, as of October more than 17 million of the 30 million residents had registered for the card. To qualify for the card, applicants must provide proof of political affiliation and
respond to a number of questions regarding the social service benefits they receive. Government opponents asserted the card amounted to social control, a tool to leverage access to scarce subsidized consumer products in return for political loyalty.

**Participation of Women and Minorities:** No laws limit participation of women or members of minorities in the political process, and they did participate. The ruling party had a number of high-level female politicians and ministers, while the opposition lacked female and minority representation.

**Section 4. Corruption and Lack of Transparency in Government**

The law provides criminal penalties for corruption by officials, but the government did not implement the law effectively. Some officials explicitly acknowledged corruption as a major problem. The government frequently investigated, prosecuted, and detained political opponents on corruption charges to harass, intimidate, or imprison them. According to Transparency International, among the main reasons for the country’s widespread corruption were impunity, weak institutions, and a lack of transparency in the management of government resources.

**Corruption:** On August 4, Attorney General Tarek William Saab announced the Public Ministry’s reportedly successful efforts to fight corruption during his first year in office. According to Saab, 616 persons were convicted of corruption-related charges; however, the government did not provide information regarding the alleged cases or persons convicted.

Corruption was a major problem in all police forces, whose members were generally poorly paid and minimally trained. There was no information publicly available about the number of cases involving police and military officials during the year, although the Public Ministry publicized several individual cases against police officers for soliciting bribes and other corrupt activities.

**Financial Disclosure:** The law requires public officials, as well as all directors and members of the boards of private companies, to submit sworn financial disclosure statements. By law the Public Ministry and competent criminal courts may require such statements from any other persons when circumstantial evidence arises during an investigation.

**Section 5. Governmental Attitude Regarding International and**
Nongovernmental Investigation of Alleged Abuses of Human Rights

A variety of independent domestic and international human rights groups generally operated with some government restrictions. Major domestic human rights NGOs conducted investigations and published their findings on human rights cases. Government officials were rarely cooperative or responsive to their requests. Domestic NGOs reported fear the government would use the 2017 Law against Hate to justify widespread repression of their activities, jailing of the participants and organizers, and threats against family members. Some domestic NGOs reported government threats and harassment against their leaders, staff, and organizations, in addition to government raids and detentions, but they were able to publish dozens of reports during the year. Some human rights activists reported authorities barred them from traveling abroad or that they feared not being able to return to the country if they traveled. NGOs played a significant role in informing citizens and the international community about alleged violations and key human rights cases.

NGOs asserted the government created a dangerous atmosphere for them to operate. The PSUV first vice president and ANC president, Diosdado Cabello, used his weekly talk show to intimidate NGO staff from Espacio Publico, PROVEA, and Foro Penal. Several organizations, such as the OVP, PROVEA, Foro Penal, and Citizen Control, reported their staffs received both electronic and in-person threats. Human rights organizations claimed they were subject to frequent internet hacking attacks and attempts to violate their email privacy.

The law prohibits domestic NGOs from receiving funds from abroad if they have a “political intent”—defined as the intent to “promote, disseminate, inform, or defend the full exercise of the political rights of citizens” or to “defend political rights.” The government threatened NGOs with criminal investigations for allegedly illegally accepting foreign funds. Various government officials accused human rights organizations on national television and media of breaking the law by receiving funding from international donors.

For violations the law stipulates monetary penalties, a potential five- to eight-year disqualification from running for political office, or both. The law defines political organizations as those involved in promoting citizen participation, exercising control over public offices, and promoting candidates for public office. Although there was no formal application or enforcement of the law, it created a climate of fear among human rights NGOs and a hesitancy to seek international assistance.
In addition to the restrictions placed on fund raising, domestic NGOs also faced regulatory limitations on their ability to perform their missions. The law includes provisions eliminating the right of human rights NGOs to represent victims of human rights abuses in legal proceedings. The law provides that only the public defender and private individuals may file complaints in court or represent victims of alleged human rights abuses committed by public employees or members of security forces.

The United Nations or Other International Bodies: The government was generally hostile toward international human rights bodies and continued to refuse to permit a visit by the IACHR, which last visited the country in 2002. The government also repeatedly refused to grant access to the OHCHR to investigate the human rights situation.

Government Human Rights Bodies: Throughout the year the government gave its 2016 human rights plan minimal attention.

The TSJ continued to hold the National Assembly in “contempt” status, which diminished the purview and operational effectiveness of the assembly’s subcommission on human rights.

Section 6. Discrimination, Societal Abuses, and Trafficking in Persons

Women

Rape and Domestic Violence: The law criminalizes rape of men or women, including spousal rape, making it punishable by a prison term of eight to 14 years. A man legally may avoid punishment by marrying (before he is sentenced) the person he raped. The law allows authorities to consider alternative forms of punishment, including work release, for those convicted of various crimes, including rape, if they have completed three-quarters of their sentence.

The law criminalizes physical, sexual, and psychological violence in the home or community and at work. The law punishes perpetrators of domestic violence with penalties ranging from six to 27 months in prison. The law requires police to report domestic violence to judicial authorities and obligates hospital personnel to notify authorities when admitting patients who are victims of domestic abuse. Police generally were reluctant to intervene to prevent domestic violence and were not properly trained to handle such cases. The law also establishes women’s bureaus at local police headquarters and tribunals specializing in gender-based
violence, and two-thirds of states had specialized courts. The Public Ministry’s Women’s Defense Department employed a team of lawyers, psychiatrists, and other experts who dealt exclusively with cases of femicide, gender-related violence, and other crimes against women.

Many advocates observed there was a lack of public awareness among women regarding resources and support available to prevent and combat domestic violence. The government offered some shelter and services for victims of domestic and other violence, but NGOs provided the majority of domestic abuse support services.

**Sexual Harassment:** Sexual harassment is illegal and punishable by fines and a prison sentence of one to three years. Although allegedly common in the workplace, sexual harassment cases were rarely reported.

**Coercion in Population Control:** There were no reports of coerced abortion or involuntary sterilization.

**Discrimination:** Women enjoy the same legal status and rights as men under the constitution. Women and men are legally equal in marriage, and the law provides for gender equality in exercising the right to work. The law specifies that employers must not discriminate against women with regard to pay or working conditions. According to the Ministry of Labor and the Confederation of Workers, regulations protecting women’s labor rights were enforced in the formal sector, although according to the World Economic Forum, women earned 36 percent less on average than men doing comparable jobs.

The law provides women with property rights equal to those of men.

**Children**

**Birth Registration:** Citizenship is derived by birth within the country’s territory. According to UNICEF, 81 percent of children younger than age five were registered at birth, based on 2011 statistics provided by the government.

**Child Abuse:** According to UNICEF and NGOs working with children and women, child abuse, including incest, occurred but was rarely reported. The government made efforts to detain and prosecute some perpetrators of child abuse. Although the judicial system acted to remove children from abusive households, the press reported public facilities for such children were inadequate. According to
NGOs, in many cases children were returned to their homes without proper reintegration measures or follow-up.

**Early and Forced Marriage:** The legal minimum age for marriage is 18 for women and men, but with parental consent, the minimum age is 16.

**Sexual Exploitation of Children:** By law sexual relations with a minor younger than age 13, with an “especially vulnerable” person, or with a minor younger than age 16 when the perpetrator is a relative or guardian, are punishable with a mandatory sentence of 15 to 20 years’ imprisonment. The law prohibits the forced prostitution and corruption of minors. Penalties range from 15 to 20 years’ imprisonment in the case of sex trafficking of girls, although the law requires force, fraud, or coercion in its definition of sex trafficking of children. The law prohibits the production and sale of child pornography and establishes penalties of 16 to 20 years’ imprisonment.

**Displaced Children:** Children’s rights advocates noted an increase of up to 40 percent in the number of children living on the street, compared with 2017, when leading advocates and the press estimated 10,000 children lived on the streets. As parents fled the country’s economic crisis, many left their children behind with family members, many of whom also struggled with the country’s economic downturn. State-run facilities already filled to capacity were unable to support the influx of children in need. The government did not provide additional resources to support these centers, and at least four centers closed in the first quarter of the year due to a lack of resources. Private institutions denounced the government’s refusal to provide subsidized food benefits to support their population. NGOs noted young girls made up close to half of the children living on the streets, a significant increase. The significant shift posed particular challenges for shelters, which historically managed predominantly male populations. With institutions filled to capacity, hundreds of children accused of infractions, such as curfew violations, were confined in inadequate juvenile detention centers.


**Anti-Semitism**
There were reports of societal abuses or discrimination based on religious affiliation, belief, or practice, including anti-Semitism.

The Confederation of Israeli Associations in Venezuela estimated there were 9,000 Jews in the country. Jewish community leaders expressed concern about anti-Semitic statements made by high-level government officials and anti-Semitic pieces in pro-government media outlets. They said government-owned or -associated media and government supporters again denied or trivialized the Holocaust, citing media reports of President Maduro’s comparing migrant Venezuelans to Jews persecuted by Hitler. The community leaders noted many other anti-Semitic incidents occurred during the year.

**Trafficking in Persons**

See the Department of State’s *Trafficking in Persons Report* at [www.state.gov/j/tip/rls/tiprpt/](http://www.state.gov/j/tip/rls/tiprpt/).

**Persons with Disabilities**

The law prohibits discrimination against persons with physical and mental disabilities, but the government did not make a significant effort to implement the law, inform the public of it, or combat societal prejudice against persons with disabilities. The law requires that all newly constructed or renovated public parks and buildings provide access, but persons with disabilities had minimal access to public transportation, and ramps were almost nonexistent. Many persons with disabilities expressed concerns that public transportation workers often were unwilling to transport them and forced them to find taxis, which were often out of their financial reach and also frequently not equipped to support patrons with disabilities. Parents of children with disabilities also complained they were forced to wait in long lines for services rather than provided preference in line as is afforded by law. Online resources and access to information were generally available to persons with disabilities, although access to closed-captioned or audio-described online videos for persons with sight and hearing disabilities was limited. Separately, leading advocates for persons with hearing disabilities lamented difficult access to public services due to a lack of government-funded interpreters in public courts, health-care facilities, and legal services, as well as a lack of other public accommodations.

The National Commission for Persons with Disabilities, an independent agency affiliated with the Ministry for Participation and Social Development, advocated
for the rights of persons with disabilities and provided medical, legal, occupational, and cultural programs. According to the commission, less than 20 percent of persons with disabilities who registered with government health programs were fully employed.

National/Racial/Ethnic Minorities

The constitution prohibits discrimination based on race. The law prohibits all forms of racial discrimination and provides for a maximum of three years’ imprisonment for acts of racial discrimination. As mandated by law, signage existed outside commercial and recreational establishments announcing the prohibition against acts of racial discrimination. Beyond signage the government did little to enforce the laws against discrimination or prosecute cases of discrimination.

There were no reports the government arrested or prosecuted suspects regarding 2017 attacks by demonstrators that killed two Afro-Venezuelan men, despite videos of the attacks circulating widely on social media.

Indigenous People

The law prohibits discrimination based on ethnic origin. The constitution provides for three seats in the National Assembly for deputies of indigenous origin to “protect indigenous communities and their progressive incorporation into the life of the nation,” but some indigenous communities had been without representation in the national legislature since the TSJ annulled the 2015 election of Amazonas State’s indigenous representative.

NGOs and the press reported local political authorities seldom took account of indigenous interests when making decisions affecting indigenous lands, cultures, traditions, or allocation of natural resources. Indigenous groups continued to call for faster implementation of the demarcation process.

Indigenous groups and NGOs expressed concern regarding mining in the growing “Arco Minero,” an area that extends between the states of Bolivar and Amazonas. Indigenous communities reported the government developed and expanded mining zones without consulting those native to the region. Armed groups, including Colombian guerrillas, had a considerable presence in the area, increasing the level of violence and insecurity in the communities. There was also an unprecedented influx of diseases, as well as prostitution and other illegal activities, in the mining
areas, putting indigenous communities at risk.

Indigenous groups regularly reported violent conflicts with miners and cattle ranchers over land rights. There were reports of harassment, attacks, and forced evictions against indigenous persons living in areas included as part of government mining concessions.

Border disputes with Colombia affected indigenous groups living in border regions. While the president proclaimed indigenous persons on the border could cross freely, there were many reported cases in which movements of indigenous groups were restricted.

**Acts of Violence, Discrimination, and Other Abuses Based on Sexual Orientation and Gender Identity**

The constitution provides for equality before the law of all persons and prohibits discrimination based on “sex or social condition,” but it does not explicitly prohibit discrimination based on sexual orientation or gender identity. According to a TSJ ruling, no individual may be subjected to discrimination because of sexual orientation, but the ruling was rarely enforced.

Credible NGOs reported incidents of bias-motivated violence against lesbian, gay, bisexual, transgender, and intersex (LGBTI) persons. Reported incidents were most prevalent against transgender individuals. Leading advocates noted that law enforcement authorities often did not properly investigate to determine whether crimes were bias-motivated.

Local police and private security forces allegedly prevented LGBTI persons from entering malls, public parks, and recreational areas. NGOs reported the government systematically denied legal recognition to transgender and intersex persons by preventing them from obtaining identity documents required for accessing education, employment, housing, and health care. This vulnerability often led transgender and intersex persons to become victims of human trafficking or prostitution.

**HIV and AIDS Social Stigma**

The law provides for the equal rights of persons with HIV/AIDS and their families. Nevertheless, leading advocates alleged discrimination against such persons.
Section 7. Worker Rights

a. Freedom of Association and the Right to Collective Bargaining

The law provides that all private- and public-sector workers (except members of the armed forces) have the right to form and join unions of their choice, and it provides for collective bargaining and the right to strike. The law, however, places several restrictions on these rights, and the government deployed a variety of mechanisms to undercut the rights of independent workers and unions. Minimum membership requirements for unions differ based on the type of union. Forming a company union requires a minimum of 20 workers; forming a professional, industrial, or sectoral union in one jurisdiction requires 40 workers in the same field; and forming a regional or national union requires 150 workers. Ten persons may form an employees association, a parallel type of representation the government endorsed and openly supported.

The law prohibits “any act of discrimination or interference contrary to the exercise” of workers’ right to unionize. The law requires all unions to provide the Ministry of Labor a membership roster that includes the full name, home address, telephone number, and national identification number for each union member. The ministry reviews the registration and determines whether the union fulfilled all requirements. Unions must submit their registration application by December 31 of the year the union forms; if not received by the ministry or if the ministry considers the registration unsatisfactory, the union is denied the ability to exist legally. The law also requires the presence of labor inspectors to witness and legitimize unions’ decisions before the Ministry of Labor. The International Labor Organization (ILO) raised concerns about the ministry’s refusal to register trade union organizations.

By law employers may negotiate a collective contract only with the union that represents the majority of its workers. Minority organizations may not jointly negotiate in cases where no union represents an absolute majority. The law also places a number of restrictions on unions’ ability to administer their activities. For example, the CNE has the authority to administer internal elections of labor unions, federations, and confederations. By law elections must be held at least every three years. If CNE-administered and -certified elections are not held within this period, the law prohibits union leaders from representing workers in negotiations or engaging in anything beyond administrative tasks. The ILO repeatedly found cases of interference by the CNE in trade union elections, and in 1999 it began calling for the CNE to be delinked from the union election process.
The law recognizes the right of all public- and private-sector workers to strike, subject to conditions established by law. By law workers participating in legal strikes receive immunity from prosecution, and their time in service may not be reduced by the time engaged in a strike. The law requires that employers reincorporate striking workers and provides for prison terms of six to 15 months for employers who fail to do so. Replacement workers are not permitted during legal strikes. The law prohibits striking workers from paralyzing the production or provision of essential public goods and services, but it defines “essential services” more broadly than ILO standards. The ILO called on the government to amend the law to exclude from the definition of “essential services” activities “that are not essential in the strict sense of the term…so that in no event may criminal sanctions be imposed in cases of peaceful strikes.”

The minister of labor may order public- or private-sector strikers back to work and submit their disputes to arbitration if a strike “puts in immediate danger the lives or security of all or part of the population.” Other legal provisions establish criminal penalties for exercising the right to strike in certain circumstances. For example, the law prohibits specified actions and makes punishable with five to 10 years in prison anyone who “organizes, supports, or instigates the realization of activities within security zones that are intended to disturb or affect the organization and functioning of military installations, public services, industries and basic [mining] enterprises, or the socioeconomic life of the country.” The law also provides for prison terms of two to six years and six to 10 years, respectively, for those who restrict the distribution of goods and for “those…who develop or carry out actions or omissions that impede, either directly or indirectly, the production, manufacture, import, storing, transport, distribution, and commercialization of goods.” There was no information on whether penalties were sufficient to deter violations.

The government restricted the freedom of association and the right to collective bargaining through administrative and legal mechanisms.

The ILO raised concerns about violence against trade union members and government intimidation of the Associations of Commerce and Production of Venezuela. ILO member countries voted to establish an ILO Commission of Inquiry against Venezuela to investigate longstanding complaints first lodged in 2015 of labor rights violations of ILO Conventions No. 26, 87, and 144, which pertain to minimum-wage fixing, freedom of association and protection of the right to organize, and tripartite consultation, respectively. The ILO had recommended that the government allow a tripartite delegation to provide technical assistance to
mediate unresolved complaints between the government, employers, and workers. The government continued to refuse access to the ILO High-Level Tripartite delegation to address complaints of labor rights violations.

Organized labor activists continued to report that the annual requirement to provide the Ministry of Labor a membership roster was onerous and infringed on freedom of association. They alleged the ministry removed member names from the rosters for political purposes, particularly if members were not registered to vote with the CNE. Labor leaders also criticized the laborious and costly administrative process of requesting CNE approval for elections and subsequent delays in the CNE’s recognition of such union processes. In addition there reportedly was a high turnover of Ministry of Labor contractors, resulting in a lack of timely follow-through on union processes. Labor unions in both the private and public sectors noted long delays in obtaining CNE concurrence to hold elections and in receiving certification of the election results, which hindered unions’ ability to bargain collectively.

The government continued to support many “parallel” unions, which sought to dilute the membership and effectiveness of traditional independent unions. In October, Labor Minister Eduardo Pinate announced the expansion of the ministry’s Youth Worker Program (Chamba Juvenil), which independent union leaders claimed was a government mechanism to displace independent workers with government-aligned workers and also to suppress wages, since youth are paid less than experienced workers. In general these government-supported unions were not subject to the same government scrutiny and requirements regarding leadership elections. The government excluded from consideration other, independent union federations, including the Confederation of Venezuelan Workers, General Confederation of Venezuelan Workers, Confederation of Autonomous Unions of Venezuela, and National Union of Workers.

The government continued to refuse to adjudicate or otherwise resolve the cases of 19,000 employees of the state oil company (PDVSA) who were fired during and after the 2002-03 strike. The Ministry of Labor continued to deny registration to the National Union of Oil, Gas, Petrochemical, and Refinery Workers.

The concept of striking, demonized since the 2002 national security law, was used periodically as a political tool to accuse government opponents of coup plotting or other destabilizing activities. Some companies, especially in the public sector, had multiple unions with varying degrees of allegiance to the ruling party’s version of the “socialist revolution,” which could trigger interunion conflict and strife. In
August striking regional union leaders of Corpoelec (a state-owned electricity operator) complained national union leaders failed to negotiate in good faith on behalf of striking workers demanding wage increases. Corpoelec regional union leaders alleged national union leaders were progovernment “chavistas” and therefore beholden to the government for political reasons.

In June Maduro provisionally released former University of Carabobo professor Rolman Rojas, former president of the Carabobo College of Nurses Julio Garcia, former president of Fetracarabobo Omar Escalante, and former secretary general of the National Federation of Retirees and Pensioners Omar Vasquez Lagonel but required weekly reports to a judge as a condition of their release. SEBIN detained the group in August 2017 for their participation in the national labor strike against the ANC election.

b. Prohibition of Forced or Compulsory Labor

The law prohibits some forms of forced or compulsory labor but does not provide criminal penalties for certain forms of forced labor. The law prohibits human trafficking by organized crime groups through its law on organized crime, which prescribes 20 to 25 years’ imprisonment for the human trafficking of adults carried out by a member of an organized-crime group of three or more individuals. The organized-crime law, however, fails to prohibit trafficking by any individual not affiliated with such a group. Prosecutors may employ other statutes to prosecute such individuals. The law increases penalties from 25 to 30 years for child trafficking with the purpose of forced labor. There was no comprehensive information available regarding the government’s enforcement of the law. The labor group Autonomous Front in Defense of Employment, Wages, and Unions (FADESS) reported that public-sector worker agreements included provisions requiring service in the armed forces’ reserves.

There were reports of children and adults subjected to human trafficking with the purpose of forced labor, particularly in the informal economic sector and in domestic servitude (see section 7.c.). According to FADESS, more than 60,000 Cubans worked in government social programs (such as the Mission Inside the Barrio) in exchange for the government’s provision of oil resources to the Cuban government. FADESS noted Cubans worked in the Ministries of Education, Registrar, Notary, Telecommunications, and Security. FADESS also cited that the G-2 Cuban security unit was present in the armed forces and in state enterprises. Indicators of forced labor reported by some Cubans included chronic underpayment of wages, mandatory long hours, limitations on movement, and
threats of retaliatory actions against workers and their families if they left the program. According to the Global Slavery Index, the estimated absolute number of victims in the country was 174,000.

The law does not sufficiently prohibit the trafficking of boys and requires proof of the use of deception, coercion, force, violence, threats, abduction, or other fraudulent means to carry out the offense of trafficking of girls, including for commercial sexual exploitation.

Also see the Department of State’s *Trafficking in Persons Report* at [www.state.gov/j/tip/rls/tiprpt/](http://www.state.gov/j/tip/rls/tiprpt/).

c. Prohibition of Child Labor and Minimum Age for Employment

The law sets the minimum employment age at 14. Children younger than 14 may work only if granted special permission by the National Institute for Minors or the Ministry of Labor. Such permission may not be granted to minors who are younger than the legal age for work in hazardous occupations that risk their life or health or could damage their intellectual or moral development. According to the ILO, the government had not made publicly available the list of specific types of work considered hazardous. Children ages 14 to 18 may not work without permission of their legal guardians or in occupations expressly prohibited by law, and they may work no more than six hours per day or 30 hours per week. Minors younger than age 18 may not work outside the normal workday.

Anyone employing children younger than age eight is subject to a prison term of between one and three years. Employers must notify authorities if they hire a minor as a domestic worker.

No information was available on whether or how many employers were sanctioned for violations. The government continued to provide services to vulnerable children, including street children, working children, and children at risk of working. There was no independent accounting of the effectiveness of these and other government-supported programs.

Most child laborers worked in the agricultural sector, street vending, domestic service, or in small and medium-size businesses, most frequently in family-run operations. There continued to be isolated reports of children exploited in domestic servitude, mining, forced begging, and commercial sexual exploitation (see section 6).
Also see the Department of Labor’s *Findings on the Worst Forms of Child Labor* at [www.dol.gov/ilab/reports/child-labor/findings/](http://www.dol.gov/ilab/reports/child-labor/findings/).

**d. Discrimination with Respect to Employment and Occupation**

The constitution prohibits employment discrimination for every citizen. The law prohibits discrimination based on age, race, sex, social condition, creed, marital status, union affiliation, political views, nationality, disability, or any condition that could be used to lessen the principle of equality before the law. No law specifically prohibits employment discrimination based on sexual orientation, gender identity, or HIV/AIDS status. Media and NGOs, such as PROVEA and the Human Rights Center at the Andres Bello Catholic University, reported the government had a very limited capacity to address complaints and enforce the law in some cases and lacked political will in some cases of active discrimination based on political motivations.

**e. Acceptable Conditions of Work**

Nominal wages increased 43,273 percent through the first nine months of the year, but accumulated inflation over the same period reached 81,043 percent, according to a monthly study conducted by the National Assembly Finance Committee, which conducted its work without official Central Bank data.

In January workers in the health, petroleum, transportation, and electricity began holding protests, work stoppages, and strikes denouncing “hunger salaries”—wages insufficient to afford the basic food basket and unable to keep pace with hyperinflation. Additionally, they decried the lack of adequate equipment, supplies, and safe working conditions. Emblematic was the nurses’ strike, which began in June and continued as of October. Nurses demanded a salary increase on par with those of military officials: Nurses earned 2.2 million, compared with military officials earning 240 million bolivares, a 100-fold salary disparity. Striking nurses also demanded hospital supplies and medicines to counteract severe shortages, rendering them unable to provide adequate patient care. In response President Maduro unilaterally issued a decree in August raising the national minimum wage to 1,800 bolivares soberanos ($11), a 60-fold increase from the previous minimum wage. Labor experts noted the unilateral nature of the decision countered ILO Convention No. 26 requiring the government to consult with employers and workers prior to enacting wage increases. Legislators noted the decree violated the law, since it supplanted collective bargaining agreements.
Union leaders from the petroleum, health, telecommunications, and electricity sectors highlighted that the decree did not include wage adjustments to keep up with hyperinflation and thus remained insufficient to afford the basic food basket. It also violated the law by nullifying previously signed collective bargaining agreements, including wage tables that scaled salaries accounting for seniority and merit pay.

The president of CONINDUSTRIA, the trade union of the industrial sector, stated that of the 15,000 industries existing in 2000, only 3,500 remained as of October.

The law sets the workweek at 40 hours (35 hours for a night shift). The law establishes separate limits for “shift workers,” who may not work more than an average of 42 hours per week during an eight-week period, with overtime capped at 100 hours annually. Managers are prohibited from obligating employees to work additional time, and workers have the right to two consecutive days off each week. Overtime is paid at a 50 percent surcharge if a labor inspector approves the overtime in advance and at a 100 percent surcharge if an inspector does not give advance permission. The law establishes that, after completing one year with an employer, a worker has a right to 15 days of paid vacation annually. A worker has the right to an additional day for every additional year of service, for a maximum of 15 additional days annually.

The law provides for secure, hygienic, and adequate working conditions. Workplaces must maintain “protection for the health and life of the workers against all dangerous working conditions.” The law obligates employers to pay workers specified amounts for workplace injuries or occupational illnesses, ranging from two times the daily salary for missed workdays to several years’ salary for permanent injuries. Workers may remove themselves from situations that endanger health or safety without jeopardy to their employment.

The law covers all workers, including temporary, occasional, and domestic workers. There was reportedly some enforcement by the Ministry of Labor of minimum wage rates and hours of work provisions in the formal sector, but 40 percent of the population worked in the informal sector, where labor laws and protections generally were not enforced. The government did not enforce legal protections on safety in the public sector. According to PROVEA, while the National Institute for Prevention, Health, and Labor Security required many private businesses to correct dangerous labor conditions, the government did not enforce such standards in a similar manner in state enterprises and entities. There was no publicly available information regarding the number of inspectors or the frequency
of inspections to implement health and safety, minimum wage, or hours of work provisions. Ministry inspectors seldom closed unsafe job sites. There was no information on whether penalties were sufficient to deter violations.

Official statistics regarding workplace deaths and injuries were not publicly available.
Tab #3
EXECUTIVE SUMMARY

Venezuela is formally a multiparty, constitutional republic, but for more than a decade, political power has been concentrated in a single party with an increasingly authoritarian executive exercising significant control over the legislative, judicial, citizens’, and electoral branches of government. The Supreme Court determined Nicolas Maduro to have won the 2013 presidential elections amid allegations of pre- and postelection fraud, including government interference, the use of state resources by the ruling party, and voter manipulation. The opposition gained super majority two-thirds control of the National Assembly in the 2015 legislative elections. The executive branch, however, used its control over the Supreme Court (TSJ) to weaken the National Assembly’s constitutional role to legislate, ignore the separation of powers, and enable the president to govern through a series of emergency decrees.

Civilian authorities maintained effective, although politicized, control over the security forces.

Democratic governance and human rights deteriorated dramatically during the year as the result of a campaign of the Maduro administration to consolidate its power. On March 30, the TSJ annulled the National Assembly’s constitutional functions, threatened to abolish parliamentary immunity, and assumed significant control over social, economic, legal, civil, and military policies. The TSJ’s actions triggered large-scale street protests through the spring and summer in which approximately 125 persons died. Security forces and armed progovernment paramilitary groups known as “colectivos” at times used excessive force against protesters. Credible nongovernmental organizations (NGOs) reported indiscriminate household raids, arbitrary arrests, and the use of torture to deter protesters. The government arrested thousands of individuals, tried hundreds of civilians in military tribunals, and sentenced approximately 12 opposition mayors to 15-month prison terms for alleged failure to control protests in their jurisdictions.

On May 1, President Maduro announced plans to rewrite the 1999 constitution, and on July 30, the government held fraudulent elections, boycotted by the opposition, to select representatives to a National Constituent Assembly (ANC). On August 4, the ANC adopted a “coexistence decree” that effectively neutralized other branches of government. Throughout the year the government arbitrarily stripped the civil
rights of opposition leaders to not allow them to run for public office. On October 15, the government held gubernatorial elections overdue since December 2016. The ruling United Socialist Party (PSUV) maintained it won 17 of the 23 governors’ seats, although the election was fraught with deficiencies, including a lack of independent, credible international observers, last-minute changes to polling station locations with limited public notice, manipulation of ballot layouts, limited voting locations in opposition neighborhoods, and a lack of technical audit for the National Electoral Council’s (CNE) tabulation. The regime then called for mayoral elections on December 10, with numerous irregularities favoring government candidates.

The most significant human rights issues included extrajudicial killings by security forces, including government sponsored “colectivos”; torture by security forces; harsh and life-threatening prison conditions; widespread arbitrary detentions; and political prisoners. The government unlawfully interfered with privacy rights, used military courts to try civilians, and ignored judicial orders to release prisoners. The government routinely blocked signals, interfered with the operations, or shut down privately owned television, radio, and other media outlets. The law criminalized criticism of the government, and the government threatened violence and detained journalists critical of the government, used violence to repress peaceful demonstrations, and placed legal restrictions on the ability of NGOs to receive foreign funding. Other issues included interference with freedom of movement; establishment of illegitimate institutions to replace democratically elected representatives; pervasive corruption and impunity among all security forces and in other national and state government offices, including at the highest levels; violence against women, including lethal violence; trafficking in persons; and the worst forms of child labor, which the government made minimal efforts to eliminate.

The government took no effective action to combat impunity that pervaded all levels of the civilian bureaucracy and the security forces.

Section 1. Respect for the Integrity of the Person, Including Freedom from:

a. Arbitrary Deprivation of Life and Other Unlawful or Politically Motivated Killings

Although the government did not release statistics on extrajudicial killings, NGOs reported that national, state, and municipal police entities, as well as the armed forces and government-supported “colectivos,” carried out such killings during the
year.

There was also no official information available on the number of public officials prosecuted or sentenced to prison for involvement in extrajudicial killings, which, in the case of killings committed by police, were often classified as “resistance to authority.” The government described antigovernment protesters as terrorists, and the president granted security forces emergency powers to control demonstrations. The NGO Committee for the Families of Victims of February-March 1989 (COFAVIC) continued to report there was no publicly accessible national registry of reported cases of extrajudicial killings.

The National Police Scientific, Penal, and Criminal Investigative Corps (CICPC) reportedly committed 30 percent of extrajudicial killings, with others committed by regional and municipal police. According to NGOs, prosecutors occasionally brought cases against such perpetrators, but prosecutions often resulted in light sentences, and convictions were often overturned on appeal. Before her August 5 dismissal, then attorney general Luisa Ortega Diaz denounced the government’s failure to pursue officers suspected of committing human rights abuses. Ortega and her husband fled the country on August 17.

Government and NGO sources estimated at least 125 persons were killed in antiregime protests from April 1 to July 31. The Public Ministry reported 65 percent were victims of government repression. The NGO Foro Penal put the number at 75 percent, with “colectivos” responsible for half the deaths and the remainder divided between the Venezuelan National Police (PNB) and National Guard (GNB) forces. The Venezuelan Program for Human Rights Action and Education (PROVEA) estimated that 83 percent of regime victims died from gunshot wounds. On numerous occasions, security forces also used nonlethal ammunition at close range, severely injuring and in some cases killing protesters.

According to a Public Ministry investigation, in April a GNB officer shot and killed Juan Pablo Pernalete with a tear gas canister fired at point-blank range. Government and security officials rejected then attorney general Luisa Ortega’s findings and refused to apprehend potential suspects. On September 7, the newly appointed attorney general, Tarek William Saab, stated that this and other cases implicating government forces would be reopened. Saab’s appointment and subsequent decision to reopen investigations conducted during his predecessor’s tenure were widely criticized by local and international NGOs.

Protesters were also responsible for some deaths that occurred during and on the
margins of demonstrations. On April 19, a protester in an apartment building threw a frozen water bottle at security forces but missed and killed a passerby.

The government continued its nationwide anticrime strategy begun in 2015, the Operation for the Liberation and Protection of the People (OLP), which was characterized by large-scale raids conducted by hundreds of government security agents in neighborhoods allegedly harboring criminals. NGOs documented a number of operations that were carried out without court orders. OLP operations often resulted in civilian deaths; NGOs reported that at least 560 persons were killed as a result of OLP exercises between July 2015 and June, with illegal raids and violent attacks on homes becoming more widespread and far reaching. The Public Ministry reported that security forces killed 241 citizens during OLP exercises in 2016. The victims were largely considered to have been “resisting authority,” and only 17 security officials were formally charged for their involvement. The Public Ministry reported that authorities detained 2,310 persons during OLP operations between July and February 2016. Based on victim testimony, NGOs reported OLP operations were characterized by grave human rights violations, including extrajudicial killings, arbitrary detention, torture, blackmail, and destruction of personal property.

The Public Ministry continued to investigate the killings of 331 individuals during the 1989 “Caracazo.” In October 2016 the TSJ ruled that the 1988 El Amparo massacre case, in which government security forces allegedly killed 14 persons, would be reopened and tried before a military tribunal. NGOs appealed to the TSJ to hear the case in civilian court, but the TSJ denied their appeal, and the case remained open in military court.

**b. Disappearance**

There were no reports of disappearances by or on behalf of government authorities.

**c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment**

Although the constitution prohibits such practices, there were credible reports security forces tortured and abused detainees.

There were no reports of any government officials being charged under the law that states an agent or public official who inflicts pain or suffering--whether physical or mental--on another individual to obtain information or a confession or
seeks to punish an individual for an act the individual has committed, may be imprisoned for a maximum of 25 years, dismissed from office, and barred from holding public office for a maximum of 25 years. Prison and detention center officials who commit torture may face a maximum of five years in prison and a maximum fine of 90.6 million bolivars ($34,300 at the Dicom exchange rate). The law also includes mechanisms for reparations to victims and their families and creates a special National Commission for Torture Prevention composed of several government ministries.

The Office of the Human Rights Ombudsman did not publish statistics regarding allegations of torture by police during the year. Several NGOs detailed cases of widespread torture and “cruel, inhuman, and degrading treatment.” Human rights groups reported that the government continued to influence the attorney general and public defenders to conduct investigations selectively and subjectively. No data was available on investigations, prosecutions, or convictions in cases of alleged torture. Foro Penal maintained that hundreds of cases were not reported to government institutions because victims feared reprisal.

Press and NGO reports of beatings and humiliating treatment of suspects during arrests were common and involved various law enforcement agencies and the military. Torture and other cruel, inhuman, or degrading treatment or punishment of prisoners were reported during the year. Cruel treatment frequently involved authorities denying prisoners medical care and holding them for long periods in solitary confinement. The latter practice was most prevalent with political prisoners. NGOs also published reports that authorities generally mistreated, sexually abused, and threatened to kill detainees.

On July 27, GNB officers arrested protester and musician Wuilly Moises Arteaga during antiregime protests in Caracas. GNB officers repeatedly beat Arteaga, a frequent target for playing the violin, on the head with their helmets, causing him to lose hearing in one ear. They also burned his hair with lighters. An 18-year-old viola player, Armando Canizales, a graduate of the Simon Bolivar Musical Foundation, was shot in the neck at a May 3 protest and died from the wound.

NGOs detailed reports from detainees whom authorities allegedly sexually abused, threatened with death, and forced to spend hours on their knees in detention centers. Foro Penal reported multiple instances of political prisoners denied adequate medical treatment while in government custody. Foro Penal noted instances where authorities transferred detainees to a medical facility, where instead of receiving treatment, detainees were interrogated by security officials.
On November 4, Bolivarian National Intelligence Service (SEBIN) officials released jailed opposition leader Yon Goicoechea 11 months after a judge ordered his release in October 2016 due to insufficient evidence. In April Goicoechea reported being tortured while in SEBIN custody. Goicoechea said he was held in solitary confinement without a toilet or proper ventilation and that the cell was covered in maggots and excrement from previous prisoners. He also reported officials used electric shock and other forms of torture against him.

**Prison and Detention Center Conditions**

Most prison conditions were harsh and life threatening. Armed gangs effectively controlled some prisons in which they were incarcerated. Conditions were most acute in pretrial detention facilities such as police station jails.

**Physical Conditions:** The government had not updated prison statistics since 2015, and NGOs reported records for detainees were not properly maintained and often contained incomplete information. The Ministry of Penitentiary Services reported there were 50,791 inmates in the country’s 59 prisons and penitentiaries and an estimated 33,000 inmates in police station jails. According to the NGO Venezuelan Observatory for Prisons (OVP), the capacity was 22,459 inmates for penitentiaries and 5,000 for police station jails. Overcrowding was 154 percent for penitentiaries and 415 percent for police station jails on average, although the OVP noted that in some jails the overcrowding ranged from 800 to 1,200 percent.

There were two women’s prisons, one in Miranda State, with a 150-detainee capacity, and the other in Zulia State, designed for 450. The law stipulates women in mixed prisons must be held in annexes or separate women’s blocks. A local NGO reported that in practice male and female prisoners intermingled. Security forces and law enforcement authorities often held minors together with adults, even though separate facilities existed. Because institutions were filled to capacity, hundreds of children accused of infractions were confined in juvenile detention centers, where they were reportedly crowded into small, unsanitary cells.

The CICPC and police station jails and detention centers also were overcrowded, causing many police station offices to be converted into makeshift prison cells. Prisoners reportedly took turns sleeping on floors and in office chairs, and sanitation facilities were inadequate or nonexistent. A study by the NGO A Window to Liberty (UVL) of 89 facilities housing pretrial detainees revealed 432 percent overcrowding. According to the study, more than 80 percent of facilities
provided no medical services, recreational areas, designated visiting areas, or laundry facilities. More than 60 percent did not have potable water, and more than 50 percent did not have regular trash collection or proper restrooms.

The GNB and the Ministry of Interior, Justice, and Peace have responsibility for prisons’ exterior and interior security, respectively. The government failed to provide adequate prison security. The OVP estimated a staffing gap of 90 percent for prison security personnel, with only one guard for every 100 inmates, instead of one for every 10 as recommended by international standards. The OVP reported 173 prisoner deaths and 268 serious injuries in 2016, the most recent year that information was available. The OVP assessed that 90 percent of prison deaths were violent, resulting from prisoner-on-prisoner altercations, riots, and fires. The OVP reported some inmates also succumbed to the generally unsanitary and unsafe conditions prevalent in prisons. During the March renovation of Guarico State’s central prison, the construction team discovered 14 bodies in a shallow grave. The case remained under investigation but highlighted uncertainty over the true number of annual prison deaths.

During the year prison riots resulted in inmate deaths and injuries. On April 25, at least 14 persons were killed and 15 injured during a riot in Jose Antonio Prison, better known as Puente Ayala, in Anzoategui State. NGOs attributed the prisoner-on-prisoner clash to a gang turf war. There were credible reports that high-ranking government officials may have had a hand in directing the violence.

A 2016 law limiting cellphone and internet availability inside prisons to prevent inmates from using the technology to engage in criminal activity remained unimplemented. A high-level government official admitted communicating with inmates immediately before and during the Puente Ayala riot.

The UVL reported that authorities required family members to provide food for prisoners at police station jails throughout the country due to inadequate provisioning of food by the prison administration. At least eight prisoners died during the year from complications associated with malnutrition. The OVP reported that due to inadequate nutrition plans and lack of potable water, stomach illnesses were common among inmates.

The government restricted information regarding deaths in prisons from tuberculosis, HIV/AIDS, and other diseases or due to lack of medical care. A study by the NGO Solidarity Action found prison rules regarding the classification of inmates resulted in the isolation of those with HIV/AIDS in “inadequate spaces
without food and medical attention.” The OVP reported a generalized lack of medical care, drugs, equipment, and physicians for prisoners. Inmates often received the same pills regardless of their symptoms, and pregnant women lacked adequate facilities for their medical attention.

Administration: The Ministry of Penitentiary Services did not respond to requests from the OVP, UVL, other human rights organizations, inmates, or families regarding inmates or investigations of the harsh conditions that led to hunger strikes or violent uprisings.

Prisoners and detainees generally had access to visitors, including some with overnight privileges, but in some cases prison officials harassed or abused visitors. Prison officials imposed significant restrictions on visits to political prisoners. When allowed access, visitors were at times subjected to strip searches.

Independent Monitoring: Human rights observers continued to experience lengthy delays and restrictions in accessing prisons and detention centers. Authorities have rejected requests by the International Committee of the Red Cross (ICRC) to visit penitentiary centers and interview inmates in confidentiality since 2013. More than 300 lay members from the Venezuelan Episcopal Conference of the Roman Catholic Church volunteered in 40 prisons. Although prohibited from formally entering prisons, Catholic laity visited prisoners on family visitation days.

d. Arbitrary Arrest or Detention

The constitution prohibits the arrest or detention of an individual without a judicial order and provides for the accused to remain free while being tried, but individual judges and prosecutors often disregarded these provisions. The law provides for the right of persons to challenge the lawfulness of their arrest or detention in court, but the government generally did not observe this requirement. While NGOs such as Foro Penal, COFAVIC, the Institute for Press and Society, Public Space, and PROVEA noted at least 2,000 open cases of arbitrary detentions, authorities rarely granted them formal platforms to present their petitions. Authorities arbitrarily detained individuals, including foreign citizens, for extended periods without criminal charges.

Role of the Police and Security Apparatus

The GNB--a branch of the military that reports to both the Ministry of Defense and the Ministry of Interior, Justice, and Peace--is responsible for maintaining public
order, guarding the exterior of key government installations and prisons, conducting counternarcotics operations, monitoring borders, and providing law enforcement in remote areas. The Ministry of Interior, Justice, and Peace controls the CICPC, which conducts most criminal investigations, and SEBIN, which collects intelligence within the country and abroad, and is responsible for investigating cases of corruption, subversion, and arms trafficking. SEBIN maintained its own detention facilities separate from those of the Ministry of Penitentiary Services. Police include municipal, state, and national police forces. Mayors and governors oversee municipal and state police forces. The PNB reports to the Ministry of Interior, Justice, and Peace. According to its website, the PNB largely focused on policing Caracas’s Libertador municipality; patrolling Caracas-area highways, railways, and metro system; and protecting diplomatic missions. The PNB maintained a minimal presence in seven of the country’s 23 states. The PNB, in coordination with the GNB, took a leading role in repressing antigovernment protests between April 1 and July 31.

Corruption, inadequate police training and equipment, and insufficient central government funding, particularly for police forces in states and municipalities governed by opposition officials, reduced the effectiveness of the security forces. There were continued reports of police abuse and involvement in crime, including illegal and arbitrary detentions, extrajudicial killings, kidnappings, and the excessive use of force.

Impunity remained a serious problem in the security forces. The Public Ministry is responsible for initiating judicial investigations of security force abuses. The Office of Fundamental Rights in the Public Ministry is responsible for investigating cases involving crimes committed by public officials, particularly security officials.

According to the Public Ministry’s 2016 annual report, the Office of Fundamental Rights cited 13,343 specific actions taken to “process claims” against police authorities for human rights abuses and charged 320 with violations. The Office of the Human Rights Ombudsman did not provide information regarding alleged human rights violations committed by police and military personnel, nor did the Attorney General’s Office release data.

State and municipal governments also investigated their respective police forces. By law, the national, state, and municipal police forces have a police corps disciplinary council that takes action against security officials who commit abuses. The National Assembly also may investigate security force abuses.
During the year the government at both the local and national levels took few actions to sanction officers involved in abuses. According to the NGO Network of Support for Justice and Peace, the lack of sufficient prosecutors made it difficult to prosecute police and military officials allegedly involved in human rights abuses. In addition, NGOs reported the following problems contributed to an ineffective judicial system: long procedural delays, poor court administration and organization, lack of transparency in investigations, and impunity of government officials. On June 15, Human Rights Watch reported that then attorney general Luisa Ortega Diaz had opened investigations in more than 600 cases of injury caused during the protests that began in April. In at least 10 cases, her office charged security forces with unlawful killings of demonstrators or bystanders. After her removal, her successor did not pursue the cases.

The National Experimental University for Security (UNES), tasked with professionalizing law enforcement training for the PNB and other state and municipal personnel, had centers in Caracas and five other cities. UNES requires human rights training as part of the curriculum for all new officers joining the PNB, state, and municipal police forces. Members of the PNB and state and municipal police also enrolled for continuing education and higher-learning opportunities as part of the Special Plan of Police Professionalization at UNES.

Societal violence was high and continued to increase. In the absence of official data, media outlets compiled violent death statistics using information from hospitals and morgues. According to media reports, there were at least 5,486 homicides in the first quarter of the year. The NGO Venezuelan Observatory of Violence (OVV) reported approximately 28,479 homicides, a rate of 91.8 per 100,000 residents in 2016, while the Public Ministry cited 21,752 violent deaths. NGOs and police noted that many victims did not report kidnappings to police or other authorities due to fear of retribution or lack of confidence in the police and that the actual occurrence was likely far higher.

**Arrest Procedures and Treatment of Detainees**

While a warrant is required for an arrest, detention is permitted without an arrest warrant when an individual is caught in the act of committing a crime or to secure a suspect or witness during an investigation. Police often detained individuals without a warrant. The law mandates that detainees be brought before a prosecutor within 12 hours and before a judge within 48 hours to determine the legality of the detention; the law also requires detainees be informed promptly of the charges
against them. Authorities routinely ignored these requirements.

Although the law provides for bail, it is not available for certain crimes. Bail also may be denied if a person is apprehended in the act of committing a crime or if a judge determines the accused may flee or impede the investigation. The law allows detainees access to counsel and family members, but that requirement was often not met, particularly for political prisoners. The constitution also provides any detained individual the right to immediate communication with family members and lawyers who, in turn, have the right to know a detainee’s whereabouts. A person accused of a crime may not be detained for longer than the possible minimum sentence for that crime or for longer than two years, whichever is shorter, except in certain circumstances, such as when the defendant is responsible for the delay in the proceedings.

**Arbitrary Arrest:** Foro Penal reported 5,462 protest-related cases of arbitrary detention between April 1 and December 31.

Several cases remained pending related to a series of arbitrary detentions the government carried out against opposition activists in the weeks before a planned opposition rally in September 2016. On May 24, authorities released independent journalist Braulio Jatar to house arrest after he had served eight months in SEBIN custody for reporting on an impromptu protest against President Maduro; a date for his next hearing had not been set by year’s end.

**Pretrial Detention:** Pretrial detention remained an egregious problem. According to the OVP, approximately 79 percent of the prison population was in pretrial detention. According to the Public Ministry, in 2016 only 21 percent of trials concluded or reached sentencing. The NGO Citizen Observatory of the Penal Justice System attributed trial delays to the shortage of prosecutors and penal judges (4.7 penal judges per 100,000 inhabitants in 2010, the latest date for which information was available).

Despite constitutional protections guaranteeing timely trials, judges reportedly scheduled initial hearings months after the events giving rise to the cause of action. An automated scheduling system was ineffective at streamlining case logistics. Proceedings were often deferred or suspended when an officer of the court, such as the prosecutor, public defender, or judge, failed to attend.

According to the Public Ministry’s 2015 annual report, the ministry pressed charges in 9.7 percent of the 556,000 cases involving common crimes. The
ministry reported the closure of the remainder of the complaints but did not indicate final outcomes. Prisoners reported to NGOs that a lack of transportation and disorganization in the prison system reduced their access to the courts and contributed to trial delays.

**Detainee’s Ability to Challenge Lawfulness of Detention before a Court:** Detained individuals may challenge the grounds for their detention, but proceedings were often delayed, and hearings were postponed, stretching trials for years. Courts frequently disregarded defendants’ presumption of innocence. Authorities often failed to allow detainees to consult with counsel or to access their case records when filing challenges. Some detainees remained on probation or under house arrest indefinitely.

e. **Denial of Fair Public Trial**

The constitution provides for an independent judiciary, but the judiciary lacked independence and generally judged in favor of the government at all levels. There were credible allegations of corruption and political influence throughout the judiciary. According to reports from the International Commission of Jurists, between 66 and 80 percent of all judges had provisional appointments and were subject to removal at will by the TSJ Judicial Committee. Provisional and temporary judges, who legally have the same rights and authorities as permanent judges, allegedly were subject to political influence from various ministries and the newly appointed attorney general to make progovernment determinations. There was a general lack of transparency and stability in the assignments of district attorneys to cases and a lack of technical criteria for assigning district attorneys to criminal investigations. These deficiencies hindered the possibility of bringing offenders to justice and resulted in a 90 percent rate of impunity for common crimes and a higher percentage of impunity for cases of alleged human rights violations.

**Trial Procedures**

The law provides for the right to a fair and public trial with oral proceedings for all individuals. Defendants are considered innocent until proven guilty. The law requires that detainees be informed promptly of the charges against them, but the requirement was often ignored and, even when respected, involved dubious allegations, according to human rights sources. Defendants have the right to consult with an attorney. According to the Office of the Human Rights Ombudsman, there were approximately 1,500 public defenders, but indigent
defendants’ right to free counsel was often not respected because of attorney shortages. Free interpretation was often not available to defendants. COFAVIC and Foro Penal noted that, in trials related to the 2014 student protests, the government pressured defendants into using public defenders instead of private defense attorneys with the promise of receiving more-favorable sentences. Several NGOs provided pro bono counsel to defendants.

Defendants may request no fewer than 30 days and no more than 45 days to prepare their defense. Defendants have the right to question adverse witnesses and present their own witnesses. By law, defendants may not be compelled to testify or confess guilt. Defendants and plaintiffs have the right of appeal.

Trial delays were common. Trials “in absentia” are permitted in certain circumstances, although opponents of the procedure claimed the constitution prohibits such trials. The law also states that, in the absence of the defense attorney, a trial may proceed with a public defender that the court designates. The law gives judges the discretion to hold trials behind closed doors if a public trial could “disturb the normal development of the trial.”

At the April 7 hearing of Judge Maria Lourdes Afiuni, the five remaining witnesses refused to appear for the prosecution. Afiuni was accused of corruption and abuse of authority for her 2009 decision to conditionally release a businessman who had been held in pretrial detention beyond the maximum time prescribed by law. Afiuni continued to be subject to protective measures in place since her release to house arrest in 2011 that mandate she may not leave the country, talk to the media, or use social media, although the law states that such measures may not last more than two years.

The law mandates that municipal courts handle “less serious” crimes, i.e., those carrying maximum penalties of imprisonment for less than eight years. Municipal courts may levy penalties that include three to eight months of community service. Besides diverting some “less serious” crimes to the municipal courts, this diversion also permits individuals accused of “lesser crimes” to ask the courts to suspend their trials conditionally in exchange for their admission of responsibility, commitment to provide restitution “in a material or symbolic form,” community service, or any other condition imposed by the court.

The law provides that trials for military personnel charged with human rights abuses after 1999 be held in civilian rather than military courts. In addition, under the Organic Code of Military Justice, an individual may be tried in the military
justice system for “insulting, offending, or disparaging the national armed forces or any related entities.” NGOs expressed concern with the government’s practice of trying civilians under the military justice system for protests and other actions not under military jurisdiction. During nationwide spring and summer protests, NGOs estimated at least 500 civilians were tried before military tribunals.

**Political Prisoners and Detainees**

The government used the judiciary to intimidate and selectively prosecute individuals critical of government policies or actions. The regime reportedly continued the policy it began in 2012 of denying the International Committee of the Red Cross access to Venezuelan prisons. The number of political prisoners skyrocketed compared with 2016. Foro Penal reported 213 political prisoners were incarcerated as of December 31, down from 676 prisoners in late summer but well above the number at the beginning of the year. Many of those were detained for participating in protests, with the government deliberately engaging in a campaign to “catch and release” individuals. In some cases, political prisoners were held in SEBIN installations or the Ramo Verde military prison without an explanation of why they were not being held in traditional facilities. On December 24, the government said it would release 80 political prisoners as a “good will” gesture, releasing 44 individuals as of December 26, although many of those released were still under house arrest.

On June 22, SEBIN arrested opposition coalition leader Roberto Picon. Media reports and NGO contacts claimed SEBIN operated without an arrest warrant. At a military hearing on charges of rebellion and theft of items belonging to the military, NGO sources claimed the prosecution entered evidence that included a paperweight and a reference to the Inter-American Democratic Charter. Picon remained in custody at year’s end.

On July 8, the Attorney General’s Office called for the immediate release of former San Cristobal mayor Daniel Ceballos, but the government failed to comply. On October 20, his lawyer reported that Ceballos had been held in solitary confinement for 14 days.

On August 1, SEBIN detained former metropolitan Caracas mayor Antonio Ledezma in his home, where he was under house arrest, and returned him to Ramo Verde military prison. Ledezma’s return to prison occurred after he released a video calling on citizens to support antiregime protests. On August 4, SEBIN officials returned Ledezma to house arrest. On November 17, Ledezma escaped
from house arrest and fled to Spain.

On August 1, SEBIN returned opposition party leader and former Caracas Chacao municipality mayor Leopoldo Lopez to prison for allegedly violating his house arrest conditions by posting a video in support of antigovernment protests. The TSJ had released him on July 8 to house arrest, allegedly due to health concerns. On August 5, SEBIN officials returned Lopez to house arrest, and the TSJ ordered him to cease outside communications.

Civil Judicial Procedures and Remedies

While there are separate civil courts that permit citizens to bring lawsuits seeking damages, there are no procedures for individuals or organizations to seek civil remedies for human rights violations.

f. Arbitrary or Unlawful Interference with Privacy, Family, Home, or Correspondence

The constitution provides for the inviolability of the home and personal privacy, but the government generally did not respect these prohibitions. In some cases, government authorities searched homes without judicial or other appropriate authorization, seized property without due process, or interfered in personal communications. From April to October, government-sponsored raids on private property increasingly targeted opposition-controlled areas.

On May 22, more than 100 security officers invaded an apartment complex in Miranda State, allegedly in search of terrorists. Residents reported that masked officers using tear gas, rubber bullets, and other weapons destroyed the building’s security cameras and went door to door, threatening to kill anyone who did not grant them access. The officers interrogated residents about protest activity, stole valuables, damaged vehicles, and physically assaulted several residents.

The 60-day “states of exception” first declared by President Maduro in 2015 continued in 23 municipalities bordering Colombia in Zulia, Tachira, Apure, and Amazonas States, thereby suspending the constitutional requirement for authorities to obtain a court order prior to entering a private residence or violating the secrecy of a person’s private communications, among other constitutional rights.

Section 2. Respect for Civil Liberties, Including:
a. Freedom of Expression, Including for the Press

The law provides for freedom of expression, including for the press, but the combination of laws and regulations governing libel and media content as well as legal harassment, physical intimidation of individuals and the media, and executive influence on the judiciary resulted in significant repression of these freedoms. National and international groups, such as the Inter-American Commission on Human Rights (IACHR), the UN Human Rights Committee, Human Rights Watch, Freedom House, the Inter-American Press Association, Reporters without Borders, and the Committee to Protect Journalists, condemned government efforts throughout the year to restrict press freedom and create a climate of fear and self-censorship.

Freedom of Expression: The law makes insulting the president punishable by six to 30 months in prison without bail, with lesser penalties for insulting lower-ranking officials. Comments exposing another person to public contempt or hatred are punishable by prison sentences of one to three years and fines. PSUV officials threatened violence against opposition figures and supporters, in particular during the four months of antiregime protests that began on April 1. On October 2, SEBIN arrested Lenny Josefina Martinez Gonzalez, a worker at Pastor Oropeza hospital in the city of Barquisimeto in Lara State, who, according to the local human rights group Funpaz, photographed women giving birth while in the hospital waiting room. The photographs—indications of the medical crisis—were widely viewed on social media. As of year’s end, authorities had not charged her with crimes.

Press and Media Freedom: The law provides that inaccurate reporting that disturbs the public peace is punishable by prison terms of two to five years. The requirement that the media disseminate only “true” information was undefined and open to politically motivated interpretation. An August report issued by the Office of the UN High Commissioner for Human Rights (OHCHR) highlighted that the National Telecommunications Commission (CONATEL) shut down 24 radio stations and ordered internet service providers to block certain digital outlets during the April-July protests.

The law prohibits all media from disseminating messages that incite or promote hate or intolerance for religious, political, gender-related, racial, or xenophobic reasons; incite, promote, or condone criminal acts; constitute war propaganda; foment anxiety in the population or affect public order; do not recognize legitimate government authorities; incite homicide; or incite or promote disobedience to the
established legal order. Penalties range from fines to the revocation of licenses. The threat of nonrenewal of operating licenses systematically led to self-censorship on the part of several media outlets.

Despite such laws, President Maduro and the ruling PSUV used the nearly 600 government-owned or controlled media outlets to insult and intimidate the political opposition throughout the year. Maduro regularly referred to Miranda state governor Henrique Capriles as insane on live television, while PSUV first vice president and ANC member Diosdado Cabello continued to use his weekly television program to bully journalists and media outlets.

The law declares telecommunications a “public interest service,” thereby giving the government greater authority to regulate the content and structure of the radio, television, and audiovisual production sectors. The law provides that the government may suspend or revoke licenses when it judges such actions necessary in the interests of the nation, public order, or security. The law empowers the government to impose heavy fines and cancel broadcasts for violations of its norms; CONATEL oversees the law’s application. Minister of Communications and Information Ernesto Villegas highlighted this power during an August 30 interview, declaring that “operating licenses are not a right” and that the government may elect to deny them without providing justification.

The government continued legal actions against high-profile independent media outlets *Tal Cual, El Nacional, El Nuevo Pais, La Patilla*, and Globovision. A court found the online newsource *La Patilla* responsible for moral damage and ordered it to pay the equivalent of $500,000 in bolivars to Diosdado Cabello. The remaining outlets were awaiting trial at the end of the year.

The government’s economic policies made it difficult for newspapers to access foreign currency, preventing many newspapers from purchasing critical supplies and equipment necessary for day-to-day business operations. *Ultima Hora*, a regional news outlet, and *Tal Cual*, a national newspaper, stopped printing in August and November, respectively, the latest nongovernment-owned media outlets to cease production due to lack of access to dollars to purchase newsprint from the government. Other sources, such as regional newspaper *La Prensa*, opted to print fewer pages or to print weekly rather than daily publications. The National Press Workers Union (SNTP) estimated that, of 115 print news outlets that operated in the country in 2013, 93 remained in operation.

The NGO Public Space reported 887 cases of violations of freedom of expression
between January and September—a nearly three-fold increase over 2016. The most common violations were aggressions against journalists and censorship. State-owned and state-influenced media provided almost continuous progovernment programming. In addition, private and public radio and television stations were required to transmit mandatory nationwide broadcasts (“cadenas”) throughout the year, including a daily 15-minute news broadcast that provided reports and summaries of government achievements. According to the online tracking program Citizens Monitoring, run by the civil society network Legislative Monitor, between January and October the government implemented more than 160 hours of national cadenas featuring President Maduro, interrupting regular broadcasts. Both Maduro and other ruling-party officials utilized mandatory broadcast time to campaign for progovernment candidates. Opposition candidates generally did not have access to media broadcast time.

The law requires practicing journalists to have journalism degrees and be members of the National College of Journalists, and it prescribes jail terms of three to six months for those practicing the profession illegally. These requirements are waived for foreigners and opinion columnists.

Violence and Harassment: Senior national and state government leaders continued to harass and intimidate privately owned and opposition-oriented television stations, media outlets, and journalists by using threats, property seizures, administrative and criminal investigations, and prosecutions. Government officials, including the president, used government-controlled media outlets to accuse private media owners, directors, and reporters of fomenting antigovernment destabilization campaigns and coup attempts.

The Venezuelan Institute of Press and Society (IPYS) reported 539 violations and assaults on media offices, press equipment and tools, journalists, and media employees from January to August. The report also stated that IPYS recorded at least 280 cases of journalists affected by state-sponsored violence from January to August. On February 25, the Public Ministry charged Santiago Guevara, a University of Carabobo professor, with “betrayal of the homeland” after he published a series of editorials on the nation’s economic crisis.

According to IPYS, during the four months of antiregime protests, journalists reported 108 assaults against journalists by security forces, 40 injuries due to tear gas canisters, and 11 gunshot injuries. The August OHCHR report on the protests noted that authorities arrested an estimated 60 journalists, deleting their video footage before releasing them within a few hours, and conducted a smear campaign...
against journalists, including death threats, that caused a number of them to leave the country.

Government officials also harassed foreign journalists working in the country. On March 31, GNB officers attacked Elyangelaica Gonzalez, a reporter for Univision Noticias and the Colombian-based station Caracol Radio, while she reported outside the Supreme Court.

Censorship or Content Restrictions: In its 2016 report, IPYS noted the government’s preference for using legal proceedings, financial sanctions, and administrative actions against unfavorable news outlets instead of shutting them down outright. Members of the independent media stated they regularly engaged in self-censorship due to fear of government reprisals. This resulted in many journalists posting articles to their personal blogs and websites instead of publishing them in traditional media. The NGO Public Space reported 50 cases involving censorship as of September.

The government also exercised control over content through licensing and broadcasting requirements. CONATEL acted selectively on applications from private radio and television broadcasters for renewal of their broadcast frequencies. According to Nelson Belfort, former president of the Venezuelan Radio Chamber, and NGO reports, approximately 80 percent of radio stations were in “illegal” status throughout the country due to CONATEL having not renewed licenses for most radio stations since 2007.

On February 17, CONATEL banned the international news network CNN En Espanol, labeling its coverage “war propaganda” after the station broadcast a story about Venezuelan visa fraud allegations. On August 23, CONATEL forced two Colombian television stations, Caracol TV and RCN, off the air after they reported on former attorney general Luisa Ortega Diaz’s corruption allegations against President Maduro. On August 25, CONATEL shut the nationally broadcast radio stations 92.9 Tu FM and Magica 99.1 FM, immediately replacing them with progovernment outlets. According to SNTP statistics, using this method CONATEL closed 49 radio stations and six television stations through August.

The government controlled a large portion of the country’s businesses and paid for advertising only with government-owned or government-friendly media.

Libel/Slander Laws: Government officials engaged in reprisals against individuals who publicly expressed criticism of the president or government policy. In June
President Maduro announced he would use slander laws to “defend his honor” in court against opposition leaders’ allegations he was responsible for protest-related deaths. As of December Maduro had not acted on these threats.

**National Security:** The law allows the government to suspend or revoke licenses when it determines such actions to be necessary in the interests of public order or security. The government exercised control over the press through the public entity known as the Strategic Center for Security and Protection of the Homeland (CESPPA), established in 2013, which is similar to the government entity Center for National Situational Studies (CESNA), established in 2010. CESNA and CESPPA have similar mandates and are responsible for “compiling, processing, analyzing, and classifying” both government-released and other public information with the objective of “protecting the interests and objectives of the state.”

During the year President Maduro renewed 11 times the “state of exception” he first invoked in January 2016, citing a continuing economic emergency, and granted himself the power to restrict rights otherwise guaranteed in the constitution. The 60-day emergency decree, which by law is renewable only once and requires National Assembly endorsement to be effective, allows the president to block any action he deems could “undermine national security” or could “obstruct the continuity of the implementation of economic measures for the urgent reactivation of the national economy.” The National Assembly continued systematically to refuse to ratify each renewal, and the Supreme Court annulled each refusal, reasoning that the assembly’s “contempt” status made its failure to endorse the renewal “unconstitutional.” According to Human Rights Watch, the “state of exception” negatively affected the right to freedom of association and expression.

**Nongovernmental Impact:** Widespread violence in the country made it difficult to determine whether attacks on journalists resulted from common criminal activity or whether criminals or others targeted members of the media.

**Internet Freedom**

The government restricted or disrupted access to the internet and censored online content. The executive branch exercised broad control over the internet through the state-run CONATEL. Free Access reported that CONATEL supported monitoring of private communications and persecution of internet users who expressed dissenting opinions online. According to media reports, users of social networks accused CONATEL of monitoring their online activity and passing
identifying information to intelligence agencies, such as SEBIN. According to Free Access, CONATEL provided information to SEBIN, including internet protocol addresses, which assisted authorities in locating the users. Free Access cited arrests of Twitter users during the April-July protests.

The law puts the burden of filtering prohibited electronic messages on service providers and it allows CONATEL to order service providers to block access to websites that violate these norms and sanctions them with fines for distributing prohibited messages. In 2016 IPYS reported that local internet providers following CONATEL orders blocked at least 42 internet domains.

CONATEL’s director, Andres Eloy Mendez, appointed in October 2016, repeatedly declared in press statements that the government did not block websites, although officials ordered internet service providers to block certain digital outlets. Mendez reiterated the claims of his predecessor that CONATEL’s role was to enforce the law and prevent dissemination of illegal information or material unsuitable for children and adolescents. Nevertheless, the government continued to block internet sites that posted dollar- and euro-to-bolivar currency exchange rates differing from the government’s official rate. The government-owned internet service provider CANTV facilitated blockages. The government used Twitter hashtags to attain “trending” status for official propaganda and employed hundreds of employees to manage and disseminate official government accounts. At least 65 official government accounts used Twitter to promote the ruling PSUV party.

Intelligence agencies, which lacked independent oversight, conducted surveillance for political purposes. Courts relied on evidence obtained from anonymous “patriotas cooperantes” (cooperating patriots) to harass perceived opponents of the government, and senior government officials used personal information gathered by cooperating patriots to intimidate government critics and human rights defenders.

According to the International Telecommunication Union, 60 percent of the population used the internet in 2016, the latest figure available.

**Academic Freedom and Cultural Events**

There were some government restrictions on academic freedom and cultural events. University leaders and students alleged the government retaliated against opposition-oriented autonomous universities by providing government subsidies
significantly below the annual inflation rate to those universities. Autonomous universities, which are partially funded by the government, received considerably less than the amounts they requested. Furthermore, budgetary allocations were based on figures not adequately adjusted for inflation and covered expenses only through March. On September 26, the National University Council, the government regulating body for university education, relinquished its functions to the ANC, disregarding the law requiring university autonomy.

On August 9, University Education Minister Hugbel Roa announced that the “carnet de la patria,” a new government-issued social benefits card provided primarily to government supporters, would be required for enrollment in public universities, affecting approximately 305,000 students.

b. Freedoms of Peaceful Assembly and Association

Freedom of Peaceful Assembly

The constitution provides for this right, but the government generally repressed or suspended it. The Law on Political Parties, Public Gatherings, and Manifestations and the Organic Law for Police Service and National Bolivarian Police Corps regulate the right to assembly. Human rights groups continued to criticize such laws that enable the government to charge protesters with serious crimes for participating in peaceful demonstrations. Ambiguous language in the laws also allowed the government to criminalize organizations that were critical of the government. Protests and marches require government authorization in advance and are forbidden within designated “security zones.”

As part of the “states of exception” in place throughout the year in municipalities bordering Colombia and imposed via an economic emergency decree, the government ordered the suspension of the constitutional right to meet publicly or privately without obtaining permission in advance as well as the right to demonstrate peacefully and without weapons.

The political opposition organized frequent nationwide protests from April 1 to July 31 demanding elections, respect for constitutional norms, freedom for political prisoners, and effective government action to relieve severe economic and humanitarian crises. Demonstrations, which involved marches, sit-ins, and at times coordinated blockages of the country’s infrastructure, frequently attracted thousands of participants. According to Foro Penal, security forces arrested more than 5,000 persons during protests between April 1 and July 31; of those detained,
1,381 remained in custody at the end of December.

Violent security force repression, often coordinated with armed “colectivos,” resulted in thousands of injuries and more than 125 deaths. On April 5, GNB officers attacked student protesters at the University of Carabobo in Carabobo State and injured dozens of students, including one who was shot in the back.

The government blamed the protest violence and deaths on opposition “terrorists.” On July 30, several PNB officers were injured when a pyrotechnic/gasoline device detonated in Caracas. The device appeared placed and timed to ignite while a column of PNB on motorcycles was passing. Video of the explosion was similar to that of a July 10 pyrotechnic explosion that also targeted security forces. The opposition did not denounce the attack.

**Freedom of Association**

The constitution provides for freedom of association and freedom from political discrimination, but the government did not respect these rights. Although professional and academic associations generally operated without interference, a number of associations complained that the TSJ and the National Electoral Council (CNE), which is responsible for convoking all elections and establishing electoral dates and procedures, repeatedly interfered with their attempts to hold internal elections. In February the TSJ suspended all elections at the Central University of Venezuela (UCV), citing a complaint submitted to them by four students and their attorney. According to credible sources, the students were regime supporters seeking to halt processes that were almost certain to elect students politically inclined toward the country’s opposition. On February 17, UCV student leaders nonetheless held elections, electing vocal opposition supporter Rafaela Requesens as head of the student government.

The president’s 2016 “state of exception” decree called on the Foreign Ministry to suspend international funding to NGOs when “it is presumed” that the funding is used with “political purposes or for destabilization.” There were no reports that the government implemented the decree.

c. **Freedom of Religion**

See the Department of State’s *International Religious Freedom Report* at [www.state.gov/religiousfreedomreport/](http://www.state.gov/religiousfreedomreport/).
d. Freedom of Movement

The constitution provides for freedom of internal movement, foreign travel, emigration, and repatriation; however, the government did not respect these rights.

The government did not comply with the Office of the UN High Commissioner for Refugees (UNHCR) and other humanitarian organizations in providing protection and assistance to refugees, asylum seekers, and other persons of concern.

Abuse of Migrants, Refugees, and Stateless Persons: With the refugee status determination process centralized at the National Refugee Commission (CONARE) headquarters in Caracas, asylum seekers often waited for years to obtain a final decision. During this period they had to continue renewing their documentation every three months to stay in the country and avoid arrest and deportation. While travelling to the commission, particularly vulnerable groups, such as women with young children, the elderly, and persons with disabilities, faced increased personal risks, such as arrest and deportation, extortion, exploitation, and sexual abuse by authorities at checkpoints and other locations.

In addition to arbitrary deportations, Colombians expelled from the country complained of abuses by security forces. The IACHR reported that many deported Colombians alleged Venezuelan security forces used excessive force to evict them from their homes, which were subsequently destroyed, and that security agents subjected them to physical abuse and forceful separation from their families. The government implemented OLP security measures and increased the presence of security forces in Tachira State on the Colombian border.

While no official statistics were available, a women’s shelter reported recurring problems with gender-based violence and trafficking of refugee women.

Also see the Department of State’s annual Trafficking in Persons Report at www.state.gov/j/tip/rls/tiprpt/.

In-country Movement: The government systematically deployed thousands of security forces and crowd control vehicles to hinder movement and restrict access to designated protest rally points in Caracas during spring and summer protests. The government also restricted the movement of certain opposition leaders from moving around the country and traveling internationally. Others were effectively forced into self-exile.
Protection of Refugees

Access to Asylum: The law provides for the granting of asylum or refugee status, and the government has established a system for providing protection to refugees. According to UNHCR, the vast majority of asylum seekers came from Colombia. UNHCR estimated there were approximately 7,860 recognized refugees and 173,000 persons in need of international protection in the country. The majority of such persons remained without any protection. Most of the Colombians had not accessed procedures for refugee status determination due to the inefficiency of the process. UNHCR reported that few persons in need of international protection were legally recognized as refugees.

Access to Basic Services: Colombian asylum seekers without legal residency permits had limited access to the job market, education, and health systems. The lack of documentation created significant challenges to achieving sufficient protection and long-term integration. Authorities permitted Colombian children to attend school but did not grant them diplomas or certificates of completion without residency documentation, resulting in high dropout rates for Colombian children. According to the Hebrew Immigrant Aid Society, an NGO dedicated to providing assistance to refugees, Colombian asylum seekers said nationwide antigovernment, antiregime protests further hindered their access to basic services and movement to and from service centers.

Section 3. Freedom to Participate in the Political Process

The 1999 constitution, the country’s 26th since independence, provides citizens the ability to change their government through free and fair elections, but government interference, electoral irregularities, and manipulation of voters and candidates restricted the exercise of this right in the July 30 ANC elections, the October 15 gubernatorial elections, and the December 10 mayoral elections.

Elections and Political Participation

Recent Elections: Even though there had been no referendum to approve efforts for constitutional reform, the president directed, and on July 30 the CNE held, fraudulent and violently-protested elections to choose representatives for the ANC that would rewrite the constitution.

The ANC was composed of 500 government-aligned representatives chosen in a bifurcated process, with 200 to 250 chosen by “classes” of workers, indigenous
persons and persons with disabilities, and farmers through direct votes in factories and offices. The other half was composed of “community leaders” chosen by direct, anonymous vote at the municipal level. President Maduro announced his intention, among other things, to use the ANC to incorporate government social welfare programs into the fabric of the constitution. During its first three weeks in office, the ANC dismantled the Attorney General’s Office, granted itself unchecked governing powers, moved up elections for governors, usurped legislative power, and stripped a parliamentarian of his immunity.

On August 5, the ANC unanimously voted to dismiss Attorney General and Chief Prosecutor Luisa Ortega Diaz. Ortega, formerly a Maduro government insider, began dissenting from the administration in March after the TSJ took formal measures to usurp the opposition-controlled National Assembly’s powers. She publicly described the TSJ’s decision as a “rupture of the constitutional order.” During the four months of antigovernment protests between April and July, Ortega also vocally denounced and investigated alleged human rights violations committed by government security officials. The International Commission of Jurists called for Ortega’s immediate reinstatement, describing the ANC’s decision “politically motivated.” Tarek William Saab, former human rights ombudsman and a government supporter, replaced Ortega and immediately moved to reopen cases investigated under his predecessor and remove all evidence of the investigations from the Public Ministry’s official website and social media accounts.

In the period preceding the ANC elections, PROVEA reportedly received 212 complaints from public workers whose employers threatened to fire them if they did not participate in the July 30 polling. The government reportedly fired a number of civil servants for failing to vote.

During the December 10 municipal elections, national media noted various irregularities, including: financial benefits offered to PSUV voters, government vehicles used to transport PSUV voters to voting centers, opposition party observers blocked from polling centers, media blocked from covering events at polling centers, forced mobilization of government workers and benefit recipients, and distribution of food coupons to progovernment voters.

Political Parties and Political Participation: Opposition political parties operated in a restrictive atmosphere characterized by intimidation, the threat of prosecution or administrative sanction on questionable charges, and very limited mainstream media access. On November 9, the ANC gave final approval to the “Constitutional
Law against Hate, for Political Coexistence and Tolerance.” While the government stated that the purpose of the law was to “promote peace and tolerance,” media observed that the vaguely written law could be used to silence political parties, activists, and civil society leaders as well as media outlets and journalists.

On August 12, the newly elected ANC usurped the CNE’s role and called for gubernatorial elections, overdue since December 2016, to be held October 15. Opposition candidates decried several electoral irregularities, including: a short period for candidate registration, campaigning, and coordination of election monitoring; a reduction in the number of voting machines in opposition neighborhoods; manipulation of ballot layouts, leading to a large number of invalid votes; a lack of official international election observers; the use of state resources to promote ruling party candidates; and a lack of a technical audit for CNE tabulation. The opposition won five of the 23 gubernatorial races. President Maduro demanded that opposition candidates submit to ANC authority by being sworn in before the body or be disqualified. The opposition governors-elect initially refused to recognize the ANC as constitutional, but on October 23, four of the governors were sworn in before the ANC president. The fifth candidate, Juan Pablo Guanipa, was disqualified, and on November 2, the CNE announced a new round of gubernatorial elections would be held in Zulia State on December 10.

In January the government began issuing a new, multipurpose identification card, the “carnet de la patria” (homeland card), required to access government-funded social services. Many applicants reported being required to provide proof of PSUV affiliation during the registration process to obtain the critical document. Government opponents said the card amounted to social control, a tool to leverage access to scarce subsidized consumer products in return for political loyalty.

Beginning on March 4, according to a new CNE mandatory registration process, political parties that won less than 0.5 percent of the 2015 legislative vote were required to participate in the CNE recertification process in order to participate in future elections. The CNE assigned each party a two-day period to register its supporters using biometric voting machines in a handful of locations across the country. Both opposition and progovernment parties described the process as punitive and biased against smaller political parties.

Participation of Women and Minorities: No laws limit the participation of women and/or members of minorities in the political process, and they did participate.
Section 4. Corruption and Lack of Transparency in Government

The law provides criminal penalties for corruption by officials, but the government did not implement the law effectively. Some officials explicitly acknowledged corruption as a major problem. The government frequently investigated, prosecuted, and detained political opponents on corruption charges to harass, intimidate, or imprison them.

Corruption: In July then attorney general Luisa Ortega released a Public Ministry investigation report that at least a dozen high-ranking officials and their relatives received bribes in exchange for contracts with the Brazilian construction company Odebrecht. Ortega said the government paid approximately 30 billion dollars for 20 infrastructure projects that were never finished. Ortega also claimed that Odebrecht provided campaign funding to politicians. On September 7, the newly appointed attorney general, Tarek William Saab, announced that the Public Ministry would not pursue investigations into Odebrecht infrastructure projects, including allegations that President Maduro was involved.

According to Transparency International, the main reasons for the country’s widespread corruption were the government’s anticorruption program, impunity, weak institutions, and lack of transparency in the management of government resources.

Corruption was a major problem in all police forces, whose members were generally poorly paid and minimally trained. There was no information publicly available about the number of cases involving police and military officials during the year, although the Public Ministry publicized several individual cases against police officers for soliciting bribes and other corrupt activities.

Financial Disclosure: The law requires public officials, as well as all directors and members of the boards of private companies, to submit sworn financial disclosure statements. By law, the Public Ministry and competent criminal courts may require such statements from any other persons when circumstantial evidence arises during an investigation.

Section 5. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Abuses of Human Rights

A variety of independent domestic and international human rights groups generally operated with some government restrictions. Major domestic human rights NGOs
conducted investigations and published their findings on human rights cases. Government officials generally were not cooperative or responsive to their requests. Some domestic NGOs reported government threats and harassment against their leaders, staff, and organizations, in addition to government raids and detentions, but were able to publish dozens of reports during the year. Some human rights activists reported that authorities barred them from traveling abroad or that they feared not being able to return to the country if they traveled. NGOs played a significant role in informing citizens and the international community about alleged violations and key human rights cases.

NGOs asserted the government created a dangerous atmosphere for them to operate. PSUV first vice president and ANC member Diosdado Cabello used his weekly talk show to intimidate NGO staff from Public Space, PROVEA, and Foro Penal. Several organizations, such as OVP, PROVEA, Foro Penal, and Citizen Control, reported that their staff received both electronic and in-person threats. Human rights organizations claimed they were subject to frequent internet hacking attacks and attempts to violate their email privacy.

The law prohibits domestic NGOs from receiving funds from abroad if they have a “political intent”--defined as the intent to “promote, disseminate, inform, or defend the full exercise of the political rights of citizens”--or that seek to “defend political rights.” The government threatened NGOs with criminal investigations for allegedly illegally accepting foreign funds. Various government officials accused human rights organizations on national television and media of breaking the law by receiving funding from international donors.

For violations, the law stipulates monetary penalties, a potential five- to eight-year disqualification from running for political office, or both. The law defines political organizations as those involved in promoting citizen participation, exercising control over public offices, and promoting candidates for public office. Although there was no formal application or enforcement of the law, it created a climate of fear among human rights NGOs and a hesitancy to seek international assistance.

In addition to the restrictions placed on fund raising, domestic NGOs also faced regulatory limitations on their ability to perform their missions. The law includes provisions eliminating the right of human rights NGOs to represent victims of human rights abuses in legal proceedings. The law provides that only the public defender and private individuals may file complaints in court or represent victims of alleged human rights abuses committed by public employees or members of the security forces.
The United Nations or Other International Bodies: The government was generally hostile toward international human rights bodies and continued to refuse to permit a visit by the IACHR, which last visited the country in 2002. The Organization of American States (OAS) openly urged President Maduro to adopt reforms to avoid a humanitarian crisis in the country, and OAS secretary general Luis Almagro wrote a series of statements highly critical of President Maduro and his government’s actions on elections and political protests. Almagro also drafted several reports on the political crisis, including abuses by the government.

The OAS held a series of briefings by the country’s civil society leaders, activists, and former government officials to determine whether alleged government abuses should be referred to the International Criminal Court. On April 27, the Ministry of Foreign Affairs announced that it would initiate the two-year process to withdraw from the OAS. On August 5, MERCOSUR (Southern Common Market) determined that there was a breakdown in democratic order in the country and suspended its membership in the organization. The government withdrew from the Inter-American Convention on Human Rights in 2013, but the IACHR continued to receive complaints from citizens and civil society. The government also refused to grant access to the OHCHR to investigate the human rights situation. In August and September, the UN’s high commissioner for human rights warned that, as a result of “systematically using excessive force to deter demonstrations,” the government may have committed crimes against humanity.

Government Human Rights Bodies: Throughout the year the government gave its 2016 human rights plan minimal attention.

The TSJ’s continuing to hold the National Assembly in “contempt” status diminished the purview and operational effectiveness of the Assembly’s subcommission on human rights, which suspended its regular meetings in order to attend to more pressing matters, most notably restoring the National Assembly’s status.

Section 6. Discrimination, Societal Abuses, and Trafficking in Persons

Women

Rape and Domestic Violence: The law criminalizes rape of men or women, including spousal rape, making it punishable by a prison term of eight to 14 years. A man legally may avoid punishment by marrying (before he is sentenced) the
person he raped. The law allows authorities to consider alternative forms of punishment, including work release, for those convicted of various crimes, including rape, if they have completed three-quarters of their sentence.

The law criminalizes physical, sexual, and psychological violence in the home or community and at work. The law punishes perpetrators of domestic violence with penalties ranging from six to 27 months in prison. The law requires police to report domestic violence to judicial authorities and obligates hospital personnel to notify authorities when admitting patients who are victims of domestic abuse. Police generally were reluctant to intervene to prevent domestic violence and were not properly trained to handle such cases. The law also establishes women’s bureaus at local police headquarters and tribunals specializing in gender-based violence, and two-thirds of states had specialized courts. The Public Ministry’s Women’s Defense Department employed a team of lawyers, psychiatrists, and other experts who dealt exclusively with cases of femicide, gender-related violence, and other crimes against women.

Some 108 individuals were charged and 50 convicted for 122 femicides and 57 attempted femicides.

Many advocates observed there was a lack of public awareness among women regarding resources and support available to prevent and combat domestic violence. The government offered some shelter and services for victims of domestic and other violence, but NGOs provided the majority of domestic abuse support services.

**Sexual Harassment:** Sexual harassment is illegal and punishable by a prison sentence of one to three years. The law establishes a fine between 5,400 bolivars ($2.04 at the Dicom exchange rate) and 10,800 bolivars ($4.09 at the Dicom rate) for employers convicted of sexual harassment. Although allegedly common in the workplace, sexual harassment cases were rarely reported.

**Coercion in Population Control:** There were no reports of coerced abortion, involuntary sterilization, or other coercive population control methods. Estimates on maternal mortality and contraceptive prevalence are available at: [www.who.int/reproductivehealth/publications/monitoring/maternal-mortality-2015/en/](http://www.who.int/reproductivehealth/publications/monitoring/maternal-mortality-2015/en/).

**Discrimination:** Women enjoy the same legal status and rights as men under the constitution. Women and men are legally equal in marriage, and the law provides
for gender equality in exercising the right to work. The law specifies that employers must not discriminate against women with regard to pay or working conditions. According to the Ministry of Labor and the Confederation of Workers, regulations protecting women’s labor rights were enforced in the formal sector, although according to the World Economic Forum, women earned 36 percent less on average than men doing comparable jobs.

The law provides women with property rights equal to those of men.

**Children**

**Birth Registration:** Citizenship is derived by birth within the country’s territory. According to UNICEF, 81 percent of children under the age of five were registered at birth.

**Child Abuse:** According to UNICEF and NGOs working with children and women, child abuse, including incest, occurred but was rarely reported. According to a National Institute for Statistics survey, 5 percent of victims of sexual abuse were children. Although the judicial system acted to remove children from abusive households, the press reported that public facilities for such children were inadequate.

**Early and Forced Marriage:** The legal minimum age for marriage is 18 for women and men, but with parental consent the minimum age is 16.

**Sexual Exploitation of Children:** By law sexual relations with a minor under the age of 13, with an “especially vulnerable” person, or with a minor under the age of 16 when the perpetrator is a relative or guardian, are punishable with a mandatory sentence of 15 to 20 years’ imprisonment. The law prohibits the forced prostitution and corruption of minors. Penalties range from 15 to 20 years’ imprisonment in the case of sex trafficking of girls, although the law requires force, fraud, or coercion in its definition of sex trafficking of children. The law prohibits the production and sale of child pornography and establishes penalties of 16 to 20 years’ imprisonment.

**Displaced Children:** Leading advocates and the press estimated that 10,000 children lived on the streets. With institutions filled to capacity, hundreds of children accused of infractions, such as curfew violations, were confined in inadequate juvenile detention centers.
On March 19, 12 children, ranging in age from six to 15, robbed two soldiers in civilian clothing. The soldiers chased the boys, who in turn attacked them and stabbed them to death. The case received widespread media attention and raised concerns regarding Caracas’s influx of street children.

**International Child Abductions:** The country is a party to the 1980 Hague Convention on the Civil Aspects of International Child Abduction. See the Department of State’s *Annual Report on International Parental Child Abduction* at [travel.state.gov/content/childabduction/en/legal/compliance.html](travel.state.gov/content/childabduction/en/legal/compliance.html).

**Anti-Semitism**

There were reports of societal abuses or discrimination based on religious affiliation, belief, or practice, including anti-Semitism.

The Confederation of Jewish Associations in Venezuela estimated there were 7,000 Jews in the country. Jewish community leaders expressed concern about anti-Semitic statements made by high-level government officials and anti-Semitic pieces in progovernment media outlets. The community leaders noted that many other anti-Semitic incidents occurred during the year.

**Trafficking in Persons**

See the Department of State’s *Trafficking in Persons Report* at [www.state.gov/j/tip/rls/tiprpt/](www.state.gov/j/tip/rls/tiprpt/).

**Persons with Disabilities**

The law prohibits discrimination against persons with physical and mental disabilities, but the government did not make a significant effort to implement the law, inform the public of it, or combat societal prejudice against persons with disabilities. The law requires that all newly constructed or renovated public parks and buildings provide access, but persons with disabilities had minimal access to public transportation, and ramps were almost nonexistent. Online resources and access to information were generally available to persons with disabilities, although access to closed-captioned or audio-described online videos for persons with sight and hearing disabilities was limited. Separately, leading advocates for persons with hearing disabilities lamented difficult access to public services due to a lack of government-funded interpreters in public courts, health-care facilities, and legal services, as well as a lack of other public accommodations.
The National Commission for Persons with Disabilities (CONAPDIS), an independent agency affiliated with the Ministry for Participation and Social Development, advocated for the rights of persons with disabilities and provided medical, legal, occupational, and cultural programs. According to CONAPDIS, fewer than 20 percent of persons with disabilities who registered with government health programs were fully employed. Beginning in May monthly subsidies of 70,000 bolivars ($26.50 at the Dicom exchange rate) were provided by Mission Hogares de la Patria, a government social service program, to heads of households for each child or adult with disabilities they supported.

**National/Racial/Ethnic Minorities**

The constitution prohibits discrimination based on race. The law prohibits all forms of racial discrimination and provides for a maximum of three years’ imprisonment for acts of racial discrimination. As mandated by law, signage existed outside commercial and recreational establishments announcing the prohibition against acts of racial discrimination.

On May 18, demonstrators in a neighborhood in Caracas known as a rally point for antiregime activities surrounded Afro-Venezuelan Jose Rafael Noguera and his sister, accusing them of being government sympathizers based on their race. They beat Noguera, doused him with gasoline, and set him ablaze, causing severe burns over much of his body. In a similar incident later that month, demonstrators set on fire another Afro-Venezuelan man who was also accused of being “chavista” based on his race; the man died two weeks later.

**Indigenous People**

The law prohibits discrimination based on ethnic origin. The constitution provides for three seats in the National Assembly for deputies of indigenous origin to “protect indigenous communities and their progressive incorporation into the life of the nation,” but some indigenous communities had been without representation in the national legislature since the TSJ annulled the 2015 election of Amazonas State’s indigenous representative.

On May 7, the governor of Amazonas, Liboro Guarulla, stated the government had administratively barred him from political participation for 15 years, allegedly for corrupt practices. Guarulla stated that the disqualification was in response to his accusations of fraud in previous regional elections.
NGOs and the press reported that local political authorities seldom took account of indigenous interests when making decisions affecting indigenous lands, cultures, traditions, or allocation of natural resources. Indigenous groups continued to call for faster implementation of the demarcation process.

Indigenous groups regularly reported violent conflicts with miners and cattle ranchers over land rights. There were reports of harassment, attacks, and forced evictions against indigenous persons living in areas included as part of government mining concessions.

Border disputes with Colombia affected indigenous groups living in border regions. While the president proclaimed indigenous persons on the border could cross freely, there were many reported cases in which indigenous groups were restricted.

**Acts of Violence, Discrimination, and Other Abuses Based on Sexual Orientation and Gender Identity**

The constitution provides for equality before the law of all persons and prohibits discrimination based on “sex or social condition,” but it does not explicitly prohibit discrimination based on sexual orientation or gender identity. According to a TSJ ruling, no individual may be subject to discrimination because of sexual orientation, but the ruling was rarely enforced. On January 5, the TSJ ruled that children born of same-sex couples should be granted full rights of citizenship under the law as children of heterosexual parents.

Media and leading advocates for the rights of lesbian, gay, bisexual, transgender, and intersex (LGBTI) persons noted that since the law does not define a hate crime, official law enforcement statistics do not reflect LGBTI-related violence. Incidents of violence were most prevalent against members of the transgender community. Leading advocates noted that law enforcement authorities did not properly investigate to determine the motives for such crimes.

Local police and private security forces allegedly prevented LGBTI persons from entering malls, public parks, and recreational areas. NGOs reported the government systematically denied legal recognition to transgender and intersex persons by preventing them from obtaining identity documents required for accessing education, employment, housing, and health care. This vulnerability often led transgender and intersex persons to become victims of human trafficking.
or prostitution.

**HIV and AIDS Social Stigma**

The law provides for the equal rights of persons with HIV/AIDS and their families. Nevertheless, leading advocates alleged discrimination against persons with HIV/AIDS.

**Section 7. Worker Rights**

**a. Freedom of Association and the Right to Collective Bargaining**

The law provides that all private- and public-sector workers (except armed forces’ members) have the right to form and join unions of their choice, and it provides for collective bargaining and the right to strike. The law, however, places several restrictions on these rights, and the government deployed a variety of mechanisms to undercut the rights of independent workers and unions. Minimum membership requirements for unions differ based on the type of union. Forming a company union requires a minimum of 20 workers; forming a professional, industrial, or sectoral union in one jurisdiction requires 40 workers in the same field; and forming a regional or national union requires 150 workers. Ten persons may form an employees association, a parallel type of representation the government endorsed and openly supported.

The law prohibits “any act of discrimination or interference contrary to the exercise” of workers’ right to unionize. The law requires that all unions must provide the Ministry of Labor a membership roster that includes the full name, home address, telephone number, and national identification number for each union member. The ministry reviews the registration and determines whether the union fulfilled all requirements. Unions must submit their registration application by December 31 of the year the union forms; if not received by the ministry or if the ministry considers the registration unsatisfactory, the union is denied the ability to exist legally. The law also requires the presence of labor inspectors to witness and legitimize unions’ decisions before the Ministry of Labor. The International Labor Organization (ILO) raised concerns about the ministry’s refusal to register trade union organizations.

Under the law, employers may negotiate a collective contract only with the union that represents the majority of their workers. Minority organizations may not jointly negotiate in cases where no union represents an absolute majority. The law
also places a number of restrictions on unions’ ability to administer their activities. For example, the CNE has the authority to administer internal elections of labor unions, federations, and confederations. By law, elections must be held at least every three years. If CNE-administered and certified elections are not held within this period, the law prohibits union leaders from representing workers in negotiations or engaging in anything beyond administrative tasks. The ILO repeatedly found cases of interference by the CNE in trade union elections, and in 1999 it began calling for the CNE to be delinked from the union election process.

The law recognizes the right of all public- and private-sector workers to strike, subject to conditions established by law. By law, workers participating in legal strikes receive immunity from prosecution, and their time in service may not be reduced by the time engaged in a strike. The law requires that employers reincorporate striking workers and provides for prison terms of six to 15 months for employers who fail to do so. Replacement workers are not permitted during legal strikes. The law prohibits striking workers from paralyzing the production or provision of essential public goods and services, but it defines “essential services” more broadly than ILO standards. The ILO called on the government to amend the law to exclude from the definition of “essential services” activities “that are not essential in the strict sense of the term…so that in no event may criminal sanctions be imposed in cases of peaceful strikes.”

The minister of labor may order public- or private-sector strikers back to work and submit their disputes to arbitration if a strike “puts in immediate danger the lives or security of all or part of the population.” Other laws establish criminal penalties for the exercise of the right to strike in certain circumstances. For example, the law prohibits and punishes with a five- to 10-year prison sentence anyone who “organizes, supports, or instigates the realization of activities within security zones that are intended to disturb or affect the organization and functioning of military installations, public services, industries and basic [mining] enterprises, or the socioeconomic life of the country.” In addition, the law provides for prison terms of two to six years and six to 10 years, respectively, for those who restrict the distribution of goods and for “those…who develop or carry out actions or omissions that impede, either directly or indirectly, the production, manufacture, import, storing, transport, distribution, and commercialization of goods.”

The government restricted the freedom of association and the right to collective bargaining through administrative and legal mechanisms. Organized labor activists reported that the annual requirement to provide the Ministry of Labor a membership roster was onerous and infringed on freedom of association; they
alleged the ministry removed member names from the rosters for political purposes, particularly if members were not registered to vote with the CNE. Labor leaders also criticized the laborious and costly administrative process of requesting CNE approval for elections and subsequent delays in the CNE’s recognition of such union processes. In addition, there reportedly was a high turnover of Ministry of Labor contractors, resulting in a lack of timely follow-through on union processes. Labor unions in both the private and public sectors noted long delays in obtaining CNE concurrence to hold elections and in receiving certification of the election results, which hindered unions’ ability to bargain collectively.

The government continued to support many “parallel” unions, which sought to dilute the membership and effectiveness of traditional independent unions. In general these government-supported unions were not subject to the same government scrutiny and requirements regarding leadership elections. The government excluded from consideration other, independent union federations, including the Confederation of Venezuelan Workers, the General Confederation of Venezuelan Workers, the Confederation of Autonomous Unions of Venezuela, and the National Union of Workers (UNETE). The ILO expressed continuing concern that the government did not consult with representative worker organizations or accredit their members to the ILO. In contrast, the Labor and Trade Union Action Unit, an independent organization of labor federations and other labor groups and movements, was able to meet freely to coordinate interventions for the July meeting, analyze conclusions from the meeting, and discuss follow-up actions.

According to the labor group Autonomous Front in Defense of Employment, Wages, and Unions (FADESS), the ministry did not send labor inspectors to opposition-leaning union meetings to witness and legitimize unions’ decisions, as required by law, thus rendering moot decisions by many unions.

In March the ILO urged the government without success to establish a tripartite roundtable with labor unions, FEDECAMARAS (business and producers association), and ILO experts.

Workers were systematically threatened, dismissed, or arrested based on their political affiliations. As a condition of employment, the government required that federal employees attend political rallies in support of the regime. Several public workers received threats or were dismissed for abstaining from the July 30 ANC election or for participating in the opposition’s July 16 ANC straw poll.

The government continued to refuse to adjudicate or otherwise resolve the cases of
19,000 employees of the state oil company, PDVSA, who were fired during and after the 2002-03 strike. The Ministry of Labor continued to deny registration to the National Union of Oil, Gas, Petrochemical, and Refinery Workers (UNAPETROL), a union composed of these workers.

Union leaders were also subjected to harassment and verbal attacks. The ILO raised concerns about violence against trade union members and government intimidation of the Associations of Commerce and Production of Venezuela (FEDECAMARAS).

In practice the concept of striking had been demonized since 2002 and periodically used as a political tool to accuse government opponents of coup plotting or other destabilizing activities. Legal provisions on the right to strike were used to target company management as well as labor leaders. Some companies, especially in the public sector, had multiple unions with varying degrees of allegiance to the ruling party’s version of the “socialist revolution,” which could trigger interunion conflict and strife.

In July the Central Federation of Petroleum Workers and the National Union of Workers (UNETE) led a 72-hour general strike against the July 30 ANC election. The Confederation of Workers of Venezuela, the National Union of Workers, the General Confederation of Labor, and the Confederation of Autonomous Trade Unions also participated. According to UNETE, 85 percent of the nation’s transportation, oil, commercial, health, food, education, and electricity sector workers participated in the strike. Following elections, the ANC agreed to uphold President Maduro’s threats to fire workers who abstained from voting in the July 30 ANC elections.

In August SEBIN officials arrested Rolman Rojas, a professor at University Carabobo (Aragua) and Voluntad Popular regional coordinator for Aragua State; Julio Garcia, president of the Nurses College (Carabobo State); Omar Escalante, president of Fetracarabobo; Rosemary Di Pietro, president of the College of Accountants; and Omar Vasquez Lagonel, secretary general of the National Federation of Retirees and Pensioners, for their participation in the national labor strike against the ANC election. Their cases were heard before military tribunals, and the government charged each with instigating rebellion, transporting illicit arms, and/or disobeying authority. As of December 8, Roman Rojas and Omar Escalante remained in custody; no trial date had been set.

**b. Prohibition of Forced or Compulsory Labor**
The law prohibits some forms of forced or compulsory labor but does not provide criminal penalties for certain forms of forced labor. The law prohibits human trafficking by organized criminal groups through its law on organized crime, which prescribes 20 to 25 years’ imprisonment for the human trafficking of adults carried out by a member of an organized criminal group of three or more individuals. The organized crime law, however, fails to prohibit trafficking by any individual not affiliated with an organized criminal group. Prosecutors could employ other statutes to prosecute such individuals. The law increases penalties from 25 to 30 years for child trafficking with the purpose of forced labor. There was no comprehensive information available regarding the government’s enforcement of the law. FADESS reported that public-sector worker agreements included provisions requiring serving in the armed forces’ reserves.

In July 2016 the Ministry of Labor published Resolution 9855 requiring public- and private-sector businesses to provide male and female workers for 60 to 120 days in order to increase agricultural production. Amnesty International criticized the resolution as effectively amounting to forced labor. The resolution noted that the government would pay workers their normal salary while they participated in the program and that workers would not be fired from their ordinary jobs. The government did not implement the resolution during the year.

There were isolated reports of children and adults subjected to human trafficking with the purpose of forced labor, particularly in the informal economic sector and in domestic servitude (see section 7.c.). There were also reports of Cubans working in government social programs (such as the Mission inside the Barrio) in exchange for the government’s provision of oil resources to the Cuban government. Indicators of forced labor reported by some Cubans included chronic underpayment of wages, mandatory long hours, limitations on movement, and threats of retaliatory actions against workers and their families if they left the program.

The law does not sufficiently prohibit the trafficking of boys and requires proof of the use of deception, coercion, force, violence, threats, abduction, or other fraudulent means to carry out the offense of trafficking of girls, including for commercial sexual exploitation.

Also see the Department of State’s Trafficking in Persons Report at www.state.gov/j/tip/rls/tiprpt/.
c. Prohibition of Child Labor and Minimum Age for Employment

The law sets the minimum employment age at 14. Children younger than 14 may work only if granted special permission by the National Institute for Minors or the Ministry of Labor. Such permission may not be granted to minors under the legal age for work in hazardous occupations that risk their life or health or could damage their intellectual or moral development. According to the ILO, the government had not made publicly available the list of specific types of work considered hazardous. Children who are 14 to 18 years of age may not work without permission of their legal guardians or in occupations expressly prohibited by the law, and they may work no more than six hours per day or 30 hours per week. Minors under 18 may not work outside the normal workday.

The law establishes fines on employers between 6,420 bolivars ($2.43 at the Dicom exchange rate) and 12,840 bolivars ($4.86 at the Dicom rate) for each child employed under the age of 12 or for adolescents between the ages of 12 and 14 employed without proper authorization. Anyone employing children under the age of eight is subject to a prison term of between one and three years. Employers must notify authorities if they hire a minor as a domestic worker.

The Ministry of Labor and the National Institute for Minors enforced child labor laws effectively in the formal sector of the economy but less so in the informal sector. In 2015 the governmental statistics agency estimated that 41 percent of persons who were employed worked in the informal sector and 59 percent in the formal sector.

No information was available on whether or how many employers were sanctioned for violations. The government continued to provide services to vulnerable children, including street children, working children, and children at risk of working. There was no independent accounting of the effectiveness of these and other government-supported programs.

Most child laborers worked in the agricultural sector, street vending, domestic service, or in small and medium-size businesses, most frequently in family-run operations. There continued to be isolated reports of children exploited in domestic servitude, mining, forced begging, and commercial sexual exploitation of children (see section 6).

Also see the Department of Labor’s Findings on the Worst Forms of Child Labor at www.dol.gov/ilab/reports/child-labor/findings/.
d. Discrimination with Respect to Employment and Occupation

The constitution prohibits employment discrimination for every citizen. Labor law prohibits discrimination based on age, race, sex, social condition, creed, marital status, union affiliation, political views, nationality, disability, or any condition that could be used to lessen the principle of equality before the law. No law specifically prohibits employment discrimination on the basis of sexual orientation, gender identity, or HIV/AIDS status. The media and NGOs, such as PROVEA and the Human Rights Center at the Andres Bello Catholic University, reported the government had a very limited capacity to address complaints and enforce the law in some cases and lacked political will in some cases of active discrimination based on political motivations.

On January 3, President Maduro signed a presidential decree to protect government workers and shield them against arbitrary dismissals until 2018. Nevertheless, there were numerous reports that public workers who voted in the opposition’s July 16 “national consultation” were dismissed for their participation. Reports also surfaced that employees were fired for abstaining from the July 30 ANC elections. PROVEA reported that many public-sector employers forced their employees to recruit voters and to take photographs of themselves at voting centers as proof of their participation.

e. Acceptable Conditions of Work

In September President Maduro raised the monthly minimum wage by 40 percent to 136,544 bolivars ($51.70 at the Dicom exchange rate) and the food ticket benefit by 25 percent to 89,000 bolivars ($71.60 at the Dicom rate). The simultaneous increases--the fourth for the year--brought the combined minimum monthly income to 325,544 bolivars ($123 at the Dicom rate, or less than $15 per month when calculated at the widely referenced “parallel rate” quoted in December). According to the NGO Workers’ Center for Documentation and Analysis, the monthly food basket for a family of five for July cost 2,043,083 bolivars ($773.90 at the Dicom rate), or 14.9 times the minimum wage.

Nominal wages increased 212 percent through the first eight months of the year, but accumulated inflation over the same period reached 366 percent, according to a monthly study conducted by the National Assembly Finance Committee, which conducted its work without official Central Bank data.
According to FADESS, serial minimum wage increases affected company margins and drove the private sector to adjust by reducing worker hours or cutting employees. FADESS estimated 1,500,000 jobs were lost due to scarcity of investment capital to revitalize the manufacturing and agricultural sectors, as the executive government allocated most investment capital to buying imports to supply the country’s food program known by the Spanish acronym CLAP.

The law sets the workweek at 40 hours (35 hours for a night shift). The law establishes separate limits for “shift workers,” who may not work more than an average of 42 hours per week during an eight-week period, with overtime capped at 100 hours annually. Managers are prohibited from obligating employees to work additional time, and workers have the right to two consecutive days off each week. Overtime is paid at a 50 percent surcharge if a labor inspector approves the overtime in advance and at a 100 percent surcharge if an inspector does not give advance permission. The law establishes that, after completing one year with an employer, a worker has a right to 15 days of paid vacation annually. A worker has the right to an additional day for every additional year of service, for a maximum of 15 additional days annually.

The law provides for secure, hygienic, and adequate working conditions. Workplaces must maintain “protection for the health and life of the workers against all dangerous working conditions.” The law obligates employers to pay workers specified amounts for workplace injuries or occupational illnesses, ranging from two times the daily salary for missed workdays to several years’ salary for permanent injuries. Workers may remove themselves from situations that endanger health or safety without jeopardy to their employment.

The law covers all workers, including temporary, occasional, and domestic workers. There was reportedly some enforcement by the Ministry of Labor of minimum wage rates and hours of work provisions in the formal sector, but 40 percent of the population worked in the informal sector, where labor laws and protections generally were not enforced. The government did not enforce legal protections on safety in the public sector. According to PROVEA, while the National Institute for Prevention, Health, and Labor Security required many private businesses to correct dangerous labor conditions, the government did not enforce such standards in a similar manner in state enterprises and entities. There was no publicly available information regarding the number of inspectors or the frequency of inspections to implement health and safety, minimum wage, or hours of work provisions. Ministry inspectors seldom closed unsafe job sites. Employers may be fined between 12,840 bolivars ($4.86 at the Dicom rate) and 38,520 bolivars
($14.59 at the Dicom rate) for failing to pay the minimum wage or provide legally required vacation time. Employers are required to report work-related accidents within 24 hours or face fines between 8,132 bolivars ($3.08 at the Dicom rate) and 10,700 bolivars ($4.05 at the Dicom rate). There was no information on whether penalties were sufficient to deter violations.

Official statistics regarding workplace deaths and injuries were not publicly available.
Tab #4
VENEZUELA 2015 HUMAN RIGHTS REPORT

EXECUTIVE SUMMARY

Venezuela is formally a multiparty, constitutional republic, but for more than a decade, political power has been concentrated in a single party with an increasingly authoritarian executive exercising significant control over the legislative, judicial, citizen, and electoral branches of government. Nicolas Maduro won the presidency in 2013 by a 1.5 percent margin amid allegations of pre- and post-election fraud, including government interference, the use of state resources by the ruling party, and voter manipulation. The executive-controlled electoral and judicial bodies rejected the opposition’s claims and refused to conduct a full audit of the electoral process. These bodies, however, accepted the results of the December 6 election in which a coalition of opposition parties won two-thirds of the seats in the Legislative Assembly, ending the governing party’s control of that body. Civilian authorities maintained effective control over the security forces.

Principal human rights abuses reported during the year included use of the judiciary to intimidate and selectively prosecute government critics; indiscriminate police action against civilians leading to widespread arbitrary detentions and unlawful deprivation of life; and government actions to impede freedom of expression and restrict freedom of the press. The government arrested and imprisoned opposition figures and did not respect judicial independence or permit judges to act according to the law without fear of retaliation. The government blocked media outlets, and harassed and intimidated privately owned television stations, other media outlets, and journalists throughout the year using threats, fines, property seizures, arrests, criminal investigations, and prosecutions.

Nongovernmental organizations (NGOs), the media, and government agencies reported extrajudicial killings by police and security forces; torture and other cruel, inhuman, or degrading treatment; harsh and life-threatening prison conditions and lack of due process rights that contributed to widespread violence, riots, injuries, and deaths in prisons; inadequate juvenile detention centers; corruption and impunity in the police; arbitrary arrests and detentions; abuse of political prisoners; interference with privacy rights; lack of government respect for freedom of assembly; lack of protection for Colombian migrants; corruption at all levels of government; threats against domestic NGOs; violence against women; anti-Semitic statements by senior government officials; trafficking in persons; violence based on sexual orientation and gender identity; and restrictions on workers’ right of association.
The government sometimes took steps to punish lower-ranking government officials who committed abuses, but there were few investigations or prosecutions of senior government officials. Impunity remained a serious concern in the security forces.

**Section 1. Respect for the Integrity of the Person, Including Freedom from:**

**a. Arbitrary or Unlawful Deprivation of Life**

Although the government did not release statistics on extrajudicial killings, NGOs reported that national, state, and municipal police entities, as well as the armed forces and government-supported paramilitary groups, known as colectivos, carried out such killings during the year.

There was also no official information available on the number of public officials prosecuted or sentenced to prison for involvement in extrajudicial killings, which, in the case of killings committed by police, were classified as “resistance to authority.” The NGO Committee for the Families of Victims of February-March 1989 (COFAVIC) continued to report there was no publicly accessible national registry of reported cases of extrajudicial killings.

COFAVIC reported that in 2014 there were 1,018 alleged extrajudicial killings committed by members of the national police agency Scientific, Penal, and Criminal Investigative Corps (CICPC), as well as by regional and municipal police. According to NGOs, prosecutors occasionally brought cases against such perpetrators, but prosecutions often resulted in light sentences, and convictions often were overturned on appeal.

COFAVIC reported cases in all 23 states and the national capital district of what it defined as extrajudicial killings committed by elements within local and state police forces. COFAVIC reported these elements systematically and arbitrarily detained and killed individuals (mainly young individuals from lower social classes) without any recourse to proper investigation by the government.

In July the government initiated a new nationwide anticrime strategy, the Operation for the Liberation and Protection of the People (OLP), characterized by large-scale raids conducted by as many as hundreds of government security agents in neighborhoods allegedly harboring criminals. These operations often resulted in widespread deaths of suspected criminals. The NGO Venezuela Program for
Education/Action on Human Rights (PROVEA) noted that in the Cota 905 neighborhood of Caracas alone, 43 people were killed during multiple OLP-branded security exercises between July and September. PROVEA reported that a September 15 OLP involving 400 security officers resulted in the deaths of five residents of the Maracaibo neighborhood of Santa Rosa de Agua.

The government continued to prosecute individuals connected with the 1989 killings in Caracas known as the “Caracazo,” in which the Public Ministry estimated 331 individuals died, and the 1988 El Amparo massacre, in which government security forces allegedly killed 14 persons.

b. Disappearance

There were no substantiated reports of politically motivated disappearances.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment

Although the constitution states no person shall be subjected to cruel, inhuman, or degrading punishment, there were credible reports security forces tortured and abused detainees.

There were no reports of any government officials being charged under the law that states an agent or public official who inflicts pain or suffering--whether physical or mental--on another individual to obtain information or a confession, or seeks to punish an individual for an act the individual has committed, may be imprisoned for a maximum of 25 years, dismissed from office, and barred from holding public office for a maximum of 25 years. Prison and detention center officials who commit torture may face a maximum of five years in prison and a maximum fine of 53.5 million bolivars (Bs) ($8.5 million at the official rate). The law also includes mechanisms for reparations to victims and their families and creates a special National Commission for Torture Prevention composed of several government ministries.

The Office of the Human Rights Ombudsman and the Public Ministry did not publish statistics regarding allegations of torture by police during the year. Several NGOs detailed cases of widespread torture and “cruel, inhumane, and degrading treatment.” The Venezuelan NGO Foro Penal documented more than 138 cases of torture in the country between February 2014 and May 2015. Foro Penal maintained that hundreds of cases were not reported to government institutions
because of victims’ fear of reprisal. NGOs detailed reports from detainees whom authorities allegedly sexually abused, threatened with death, and forced to spend hours on their knees in detention centers.

In September authorities released student-protester Marco Coello, who then fled the country. CICPC authorities had detained Coello in February 2014 for participating in protests, and reportedly beat and threatened to kill him while he was in their custody. A government official publicly rejected his accusations of torture.

Human rights groups continued to question the commitment of the prosecutor general and the public defender to conduct impartial investigations. No data was available on investigations, prosecutions, or convictions in cases of alleged torture.

Press and NGO reports of beatings and humiliating treatment of suspects during arrests were common and involved various law enforcement agencies and the military. Torture and other cruel, inhuman, or degrading treatment or punishment of prisoners were reported during the year. Two common methods of cruel treatment were the denial of medical care by prison authorities and the remanding of prisoners to long periods in solitary confinement. In the case of opposition leader Leopoldo Lopez, family members stated he was in solitary confinement for much of his imprisonment and prison authorities denied him permission to see his doctor during a 30-day hunger strike in June.

The NGO Foro Penal reported multiple instances of political prisoners denied adequate medical treatment while in government custody. Foro Penal noted instances where detainees were transferred to a medical facility, where instead of receiving treatment, they were interrogated by security officials.

**Prison and Detention Center Conditions**

Prison conditions were harsh and life threatening due to poorly trained and allegedly corrupt prison staff; violence and alleged extortion by guards and inmates, some of which was gang related and fueled by trafficking in arms and drugs; severe overcrowding in most prisons; lack of adequate medical care; and shortages of food and potable water. NGOs, human rights lawyers, and the press frequently claimed prison gang leaders, rather than government authorities, controlled the penitentiaries and were able to lead organized crime networks based outside the prison system.
Physical Conditions: The Ministry of Penitentiary Services reported there were 51,256 inmates in the country’s 51 prisons and penitentiaries, 170 percent more than their capacity as estimated by the NGO Venezuelan Observatory for Prisons (OVP).

According to OVP reports, pretrial detainees (31,860) and convicted prisoners (18,316) were held in the same facilities. Authorities assigned another 590 individuals to work detachment programs, and held 490 individuals in police station facilities not fit to serve as detention centers. Women and men generally were held in separate prison facilities. The OVP stated women’s detention centers were generally less violent than those for men. There was only one penitentiary exclusively for women, and female prisoners in other detention centers were held in annexes or separate women’s departments in otherwise male-only prisons. Security forces and law enforcement authorities often held minors together with adults, even though separate facilities existed. Because reform institutions were filled to capacity, hundreds of children accused of infractions were confined in juvenile detention centers where they were reportedly crowded into small, unsanitary cells.

The CICPC and police station jails and detention centers also were overcrowded, causing police station offices to be converted into makeshift prison cells. Prisoners slept on floors and office chairs. In Caracas seven jails and detention centers with an estimated capacity of 197 held more than 300 detainees awaiting transport to prisons.

The National Guard and the Ministry of Interior, Justice, and Peace have responsibility for prisons’ exterior and interior security, respectively. The government failed to provide adequate prison security. The OVP reported 309 prisoner deaths and 1,709 serious injuries in 2014. Most deaths and injuries resulted from prisoner-on-prisoner violence, riots, fires, and generally unsanitary and unsafe conditions. In late December 2014, a National Assembly deputies’ ad hoc commission confirmed 45 inmates died and 250 were injured at David Viloria Penitentiary in Lara State following accidental overdoses from expired medicines provided by the prison’s pharmacy. In August a total of 18 prisoners and visiting family members died and 10 individuals were severely injured in a fire in Tocuyito Penitentiary in Carabobo State.

During the year numerous prison riots resulted in inmate deaths and injuries. On April 26, the media reported 40 prisoners took two prison guards hostage at the National Bolivarian Police Headquarters in Caracas, resulting in one inmate dead.
and several injured. The incident occurred after inmates used two firearms and several improvised knives to subdue the guards. The inmates demanded that Minister of Penitentiary Services Iris Varela personally respond to their complaints of overcrowding in the center and requested that she personally order their transfer to other facilities. Following resolution of the hostage situation, government authorities appointed a Caracas district attorney to investigate the case, and 25 inmates were moved to Puente Ayala penitentiary in Anzoategui State.

There was not sufficient information regarding deaths from tuberculosis, HIV/AIDS, and other diseases, or lack of medical care in prisons. A study by the NGO Solidarity Action found prison rules regarding the classification of inmates resulted in the isolation of those with HIV/AIDS in “inadequate spaces without food and medical attention.” The OVP reported a generalized lack of medical care, drugs, equipment, and physicians for prisoners; and reportedly inmates often received the same pills regardless of their symptoms. The OVP reported that due to inadequate nutrition plans and lack of potable water, stomach illnesses were common among inmates.

**Administration:** The government’s recordkeeping on prisoners was inadequate. Prison authorities did not maintain accurate counts of inmates. In 2013 Minister Varela acknowledged the Ministry of Penitentiary Services controlled only 14 of the country’s prisons, while criminal gangs controlled 35. According to press reports, the most recent accurate daily counts at the General Penitentiary of Venezuela and the La Planta Penitentiary occurred in 2009 and 2010, respectively.

The NGO Una Ventana a la Libertad (UVL) reported that prisoners’ dietary needs at the Fenix, Rodeo I, Rodeo II, Rodeo III, Yare III, and National Institute of Feminine Orientation (INOF) penitentiaries were provided by family members due to the inadequacy of food supplied by the prison administration. Authorities asked family members to bring nonperishable food items for inmates, and in cases where this was not possible, UVL reported authorities provided a single bowl of rice a day to prisoners, which resulted in cases of malnutrition. UVL released video footage of prisoners in Yare III cooking stray cats for lack of any other food. Subsequently, Minister Varela accused UVL Executive Director Carlos Nieto Palma of forging the video to undermine the ministry’s work.

Prisoners conducted hunger strikes and violent uprisings to protest administrative delays and harsh prison conditions. The government did not respond to most requests from independent organizations to investigate these conditions. The Ministry of Penitentiary Services did not respond to any of the requests regarding
inmates it received from the OVP, UVL, or other human rights organizations. According to OVP and press reports, Minister Varela did not respond to demands of inmates and relatives to meet to discuss prison conditions.

Prisoners and detainees had access to visitors, but in some cases prison officials allegedly harassed or abused visitors. Prison officials imposed significant restrictions on visits to political prisoners. In June Patricia Gutierrez de Ceballos denounced the Bolivarian Intelligence Service (SEBIN) officers who denied her and her children permission over a 90-day period to visit her husband, jailed Popular Will leader and former mayor of San Cristobal, Daniel Ceballos. Authorities refused to allow family members and the attorney of Laided Salazar, an air force captain accused of conspiracy to overthrow President Maduro, to visit her for two months from May to July. On February 12, Ingrid Diaz, mother of imprisoned political activist Rosmit Mantilla, stated that her son was kept in isolation in SEBIN headquarters and was not able to receive visits from family members or his attorney.

**Independent Monitoring:** Human rights observers continued to experience lengthy delays and restrictions in accessing prisons and detention centers. Requests by the International Committee of the Red Cross (ICRC) to visit penitentiary centers and interview inmates in confidentiality have been rejected since 2013. More than 300 lay members from the Venezuelan Episcopal Conference of the Roman Catholic Church volunteered in 40 prisons. Although prohibited from formally entering prisons, Catholic laity visited prisoners on family visitation days.

**Improvements:** On April 6, the Ministry of Penitentiary Services announced the temporary closure of Yare I workshop and Yare II prison facilities in Miranda State to curb violence and provide a safer environment for inmates. A total of 583 prisoners were moved to other government penitentiaries while renovation continued. The ministry implemented educational programs for inmates, although reports from an NGO claimed enrollment was low.

d. *Arbitrary Arrest or Detention*

The constitution prohibits the arrest or detention of an individual without a judicial order and provides for the accused to remain free while being tried, but individual judges and prosecutors often disregarded these provisions. While NGOs such as Foro Penal, COFAVIC, the Institute for Press and Society (IPYS), Public Space, and PROVEA maintained at least 2,000 open cases of arbitrary detentions, authorities rarely granted them formal platforms to present their charges.
In the first deployment of the government’s OLP strategy (see section 1.a.) into the Caracas neighborhood of Cota 905 on July 13, security forces killed a reported 14 suspected criminals and detained 100 others. According to PROVEA, authorities detained more individuals during the first six weeks of OLP activity than during all of the 2014 antigovernment protests. PROVEA reported that in the first month of OLP-related activity, 90 percent of the reported detentions were illegal or arbitrary.

The government continued to harass private-sector businesses, in some instances detaining executives for vaguely defined economic crimes. In February authorities detained two senior executives from the major pharmacy chain Farmatodo on charges of sabotage and destabilization due to the presence of long lines at many of the company’s locations. On February 2, police arrested Morales Ordosgiotti, director of supermarket chain Dia Dia, and the company’s external counsel, Tadeo Arriech, on charges of “boycotting and destabilizing the economy” and detained them at SEBIN headquarters. On March 25, a judge formally charged them with violations of the Law of Just Prices. In late July, SEBIN officers detained Fray Roa, head of the Venezuelan Liquor Federation, after Roa told the press that due to the extreme scarcity of raw materials, the beer industry would soon have to suspend beer production. Officials charged Roa with “causing public anxiety or panic” under a provision of law.

Since April there were 13 hearings in the case of Judge Maria Lourdes Afiuni, who was accused of corruption and abuse of authority for her 2009 decision to release imprisoned banker Eligio Cedeno. According to defense counsel, there has been no evidence to show Afiuni committed a crime in issuing her decision. Six years have elapsed since Afiuni’s arrest, and she has never been convicted or sentenced. She continued to be subjected to protective measures that mandate she may not leave the country, talk to the media, or use social media, although the law states that such measures may not last more than two years.

On October 15, authorities arrested opposition politician and former Maracaibo mayor Manuel Rosales upon his return to the country following a six-year exile. The state prosecutor’s office said it would resume Rosales’ trial on charges of corruption, charges Rosales considered politically motivated.

On November 17, a judge delayed for the ninth time the trial of Metropolitan Caracas Mayor Antonio Ledezma, who has remained under house arrest since April 24 following surgery (see also section 1.e., Political Prisoners and Detainees).
Role of the Police and Security Apparatus

The Bolivarian National Guard (GNB), a branch of the military that reports to both the Ministry of Defense and the Ministry of Interior, Justice, and Peace, is responsible for maintaining public order, guarding the exterior of key government installations and prisons, conducting counternarcotics operations, monitoring borders, and providing law enforcement in remote areas. The Ministry of Interior, Justice, and Peace controls the CICPC, which conducts most criminal investigations, and SEBIN, which collects intelligence within the country and is responsible for investigating cases of corruption, subversion, and arms trafficking. Police include municipal, state, and national police forces. Mayors and governors oversee municipal and state police forces. The Bolivarian National Police (PNB) reports to the Ministry of Interior, Justice, and Peace and had a reported 16,000 officers. The PNB largely focused on policing one Caracas municipality; patrolled Caracas-area highways, railways, metro system, and diplomatic missions; and had a minimal presence in eight of the country’s 23 states.

Corruption, inadequate police training and equipment, and insufficient central government funding, particularly for police forces in states and municipalities governed by opposition officials, reduced the effectiveness of the security forces. There were continued reports of police abuse and involvement in crime, including illegal and arbitrary detentions, extrajudicial killings, kidnappings, and the excessive use of force.

Impunity remained a serious problem in the security forces. The Public Ministry is responsible for initiating judicial investigations of security force abuses. The Office of Fundamental Rights in the Public Ministry is responsible for investigating cases involving crimes committed by public officials, particularly security officials.

According to the Public Ministry’s annual report for 2014, the Office of Fundamental Rights cited 11,317 specific actions taken to “process claims” against police authorities, but it disclosed only 105 judgments against security officials and did not indicate the types of crimes or security body against which the cases were filed. The Office of the Human Rights Ombudsman did not provide information regarding human rights violations committed by police and military personnel, nor has the Attorney General’s Office released data.
State and municipal governments also investigated their respective police forces. By law national, state, and municipal police forces have a police corps disciplinary council, which takes action against security officials who commit abuses. The National Assembly also may investigate security force abuses.

During the year the government at both the local and national levels took few actions to sanction officers involved in abuses. According to the NGO Network of Support for Justice and Peace, the lack of sufficient prosecutors made it difficult to prosecute police and military officials allegedly involved in human rights abuses. In addition NGOs reported the following problems contributed to an ineffective judicial system: long procedural delays, poor court administration and organization, lack of transparency in investigations, and impunity of government officials.

The National Experimental University for Security (UNES), tasked with professionalizing law enforcement training for the PNB and other state and municipal personnel, has centers in Caracas and five other cities. UNES requires human rights training as part of the curriculum for all new officers joining the PNB, state, and municipal police forces. Members of the PNB and state and municipal police also enrolled for continuing education and higher-learning opportunities as part of the Special Plan of Police Professionalization at UNES.

Societal violence remained high and continued to increase. The NGO Venezuelan Observatory of Violence (OVV) reported 24,980 homicides in 2014, a rate of 82 per 100,000 residents. Criminal kidnappings for ransom were widespread in both urban centers and rural areas. Kidnappings included both “express kidnappings,” in which victims were held for several hours and then released, and traditional kidnappings. The Public Ministry reported 599 cases of kidnapping or extortion in 2014. NGOs and police noted many victims did not report kidnappings to police or other authorities due to fear of retribution, and that the actual occurrence was likely far higher.

**Arrest Procedures and Treatment of Detainees**

While a warrant is required for an arrest, detention is permitted without an arrest warrant when an individual is caught in the act of committing a crime or to secure a suspect or witness during an investigation. Police often detained individuals without a warrant. The law mandates that detainees be brought before a prosecutor within 12 hours and before a judge within 48 hours to determine the legality of the
detention; the law also requires detainees be informed promptly of the charges against them. Authorities routinely ignored these requirements.

Although there is a functioning system of bail, it is not available for certain crimes. Bail also may be denied if a person is apprehended in the act of committing a crime or if a judge determines there is a danger the accused may flee or impede the investigation. The law allows detainees access to counsel and family members, but that requirement was often not met, particularly for political prisoners. The constitution also provides any detained individual the right to immediate communication with family members and lawyers who, in turn, have the right to know a detainee’s whereabouts. A person accused of a crime may not be detained for longer than the possible minimum sentence for that crime or for longer than two years, whichever is shorter, except in certain circumstances, such as when the defendant is responsible for the delay in the proceedings.

**Arbitrary Arrest:** PROVEA reported that more than 3,400 cases of arbitrary detention occurred nationwide during the first six weeks of the government’s OLP campaign. Detainees claimed security personnel subjected them to inhuman and degrading treatment and in some cases torture. Foro Penal reported that 76 of the individuals arrested during 2014 protests remained in detention as of October.

**Pretrial Detention:** Pretrial detention was a serious problem. According to the OVP, approximately 68 percent of the prison population was in pretrial detention. According to the Supreme Court of Justice (TSJ), only 17 percent of trials concluded or reached sentencing. The NGO Citizen Observatory of the Penal Justice System attributed trial delays to the shortage of prosecutors and penal judges (4.7 penal judges per 100,000 inhabitants in 2010). The Public Ministry’s 2014 annual report stated it had 724 prosecutors who processed more than 573,000 criminal cases during that year (approximately 790 cases per prosecutor).

Cases were often deferred or suspended when pertinent parties, such as the prosecutor, public defender, or judge, were absent. An automated scheduling calendar in use since 2013, which selected dates based on the availability of all pertinent parties and prohibited judges from scheduling more than 10 hearings per day, did not reduce the backlog. In some instances judges scheduled hearings six months from the start of the case.

According to the Public Ministry’s 2014 annual report, the ministry took action in approximately 11.7 percent of its 348,000 cases involving common crimes. The ministry reported the closure of the remainder of the complaints but did not
indicate final outcomes. Prisoners reported to NGOs that a lack of transportation and disorganization in the prison system reduced their access to the courts and contributed to trial delays.

e. Denial of Fair Public Trial

While the constitution provides for an independent judiciary, there was significant evidence the judiciary lacked independence. There were credible allegations of corruption and political influence throughout the judiciary. According to reports from the International Commission of Jurists (ICJ), between 66 and 80 percent of all judges had provisional appointments, and the TSJ Judicial Committee could remove them from office at will. Provisional and temporary judges, who legally have the same rights and authorities as permanent judges, allegedly were subject to political influence from the Ministry of Interior, Justice, and Peace and the attorney general to make progovernment determinations. The ICJ reported a lack of transparency and stability in the assignments of district attorneys to cases and the lack of technical criteria to assign district attorneys to criminal investigations. These deficiencies hindered the possibility of bringing offenders to justice and resulted in a 90-percent rate of impunity for common crimes and a higher percentage of impunity for human rights violation cases.

An investigation conducted in 2014 by attorneys Antonio Canova, Luis Alfonso Herrera, Rosa Rodriguez, and Giussepe Graterol established that between 2005 and 2013 the TSJ Administrative, Constitutional, and Electoral chambers with jurisdiction over governmental acts favored the government in nearly all of the 45,474 sentences analyzed.

Trial Procedures

Defendants are considered innocent until proven guilty. The law requires that detainees be informed promptly of the charges against them, and the requirement was generally respected. The law provides for open, public, and fair trials with oral proceedings for all individuals. In 2012 reformed criminal procedure eliminated trial by jury. Defendants have the right to consult with an attorney. Public defenders are provided for indigent defendants, but there continued to be a shortage of such attorneys. According to the Office of the Human Rights Ombudsman, there were approximately 1,500 public defenders. COFAVIC and Foro Penal noted that the government pressured defendants in trials related to the 2014 student protests into utilizing public defenders instead of private defense
attorneys with the promise of receiving more favorable sentences. Additionally, several NGOs provide pro bono counsel to defendants.

While defendants and their attorneys have the right to access government-held evidence, access often was not allowed; in some instances, particularly in politically motivated cases, the court or prosecution did not allow defendants or their attorneys to access such information. Defendants may request no fewer than 30 days and no more than 45 days to prepare their defense. Defendants have the right to question adverse witnesses and present their own witnesses. By law defendants may not be compelled to testify or confess guilt. Defendants and plaintiffs have the right of appeal.

Trial delays were common. Trials “in absentia” are permitted in certain circumstances, although opponents of them claimed the constitution prohibits such trials. The law also states a trial may proceed in the absence of the defense attorney, with a public defender that the court designates. The law gives judges the discretion to hold trials behind closed doors if a public trial could “disturb the normal development of the trial.”

The law mandates municipal courts to handle “less serious” crimes, i.e., those carrying maximum penalties of imprisonment for less than eight years. Municipal courts may levy penalties that include three to eight months of community service. Besides diverting some “less serious” crimes to the municipal courts, this diversion also permits individuals accused of “lesser crimes” to ask the courts to suspend their trials conditionally in exchange for their admission of responsibility, commitment to provide restitution “in a material or symbolic form,” community service, and any other condition imposed by the court.

The law provides that trials for military personnel charged with human rights abuses after 1999 be held in civilian rather than military courts. In addition under the Organic Code of Military Justice, an individual may be tried in the military justice system for “insulting, offending, or disparaging the national armed forces or any related entities.” NGOs expressed concern with the government’s practice of trying citizens under the military justice system for protests and other actions not under military jurisdiction.

**Political Prisoners and Detainees**

At year’s end the NGO Foro Penal reported that 76 political prisoners remained incarcerated, 15 of whom were initially detained during the year. An additional
2,057 individuals who participated in the 2014 protests were still subject to either restricted movement or precautionary measures. The government used the judiciary to intimidate and selectively prosecute individuals critical of government policies or actions. The UN Human Rights Council Working Group on Arbitrary Detentions issued a resolution in support of 317 persons arbitrarily detained during the 2014 protests.

In some cases political prisoners were held in SEBIN installations and the Ramo Verde military prison without a specific rationale behind the locale decisions. Authorities have denied the ICRC access to these prisoners since 2013.

On February 19, without presenting a court order, SEBIN arrested Metropolitan Caracas Mayor Antonio Ledezma for alleged conspiracy to topple the government. President Maduro later stated on national television that Ledezma was arrested on the orders of the prosecutor general. On June 9, authorities released Ledezma to his home under precautionary measures for humanitarian reasons while he awaited trial.

On March 4, a court sentenced Raul Emilio Baduel (son of former army general Raul Baduel, released from prison in August) and Alexander Tirado to eight years in prison for conspiracy, incitement to crime, and public intimidation. They were arrested in March 2014 in San Jacinto, Aragua, where they were participating in what they maintained was a peaceful protest. Subsequently, the comptroller general declared them ineligible to run for public office.

On September 10, Judge Susana Barreiros found Popular Will party leader and former Caracas Chacao municipality mayor Leopoldo Lopez guilty on all four counts of public incitement, damage to property, fire damage, and association for conspiracy, in a trial that began in July 2014. The judge issued the maximum sentence of 13 years and nine months in prison. She also found codefendant Christian Holdack guilty of organizing delinquency, arson, and property damage and sentenced him to 10 years and six months; she found Demian Martin and Angel Gonzalez guilty of public incitement and sentenced them each to four years and six months in prison. Codefendant Marco Coello failed to appear for the final hearing (see section 1.c, Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment); the judge separated his case from the others and did not conclude it. Barreiros issued the formal sentencing document on October 2. President Maduro appointed Barreiros as the Venezuelan government’s Public Defender in December.
Throughout the 14-month trial, Barreiros refused defense lawyers’ requests to allow the media to cover the proceedings and denied admission to international observers. She accepted more than 100 witnesses for the prosecution and rejected all but two for the defense. On February 13, armed masked men ransacked Lopez’s cell, destroyed his books and personal trial preparation materials, violently removed him from his cell, and put him in a small isolation cell that had no toilet or running water. Approximately a week later, an estimated 30 heavily armed, masked military personnel again raided Lopez’s isolation cell. They reportedly struggled with Lopez, pointed a gun at him, and removed him from his cell, which they searched for seven hours.

In February, Daniel Ceballos concluded an 11-month sentence on charges he failed to take down barricades in San Cristobal in February 2014. As of September there were 19 hearings in the trial, which began in September 2014, for a second pending charge of civil rebellion. Conviction for rebellion may result in a maximum sentence of 25 years. Ceballos carried out a hunger strike in May and June to demand that the government release political prisoners and set a date for legislative elections. On June 3, the UN high commissioner for human rights publicly requested that the government provide medical attention to and release Daniel Ceballos, as well as political prisoners Leopoldo Lopez, Raul Emilio Baduel, and Alexander Tirado who were also on a hunger strike. On August 11, authorities released Ceballos to house arrest.

The case of former San Diego opposition mayor Enzo Scarano, arrested in March 2014, remained pending at the end of the year. The TSJ originally sentenced him to 10 months and 15 days in prison for allegedly failing to comply with a court order to take down barricades in San Diego, in Carabobo State. In October 2014 the government further charged Scarano with verbally assaulting several women during the 2013 presidential elections. According to Foro Penal, if convicted, Scarano could be sentenced to six to 18 months’ imprisonment, plus disqualification from running for office for the same amount of time as the conviction. On January 16, authorities moved Scarano to his house under “liberty with restrictions” due to health reasons.

Civil Judicial Procedures and Remedies

While there are separate civil courts that permit citizens to bring lawsuits seeking damages, there are no procedures for individuals or organizations to seek civil remedies for human rights violations.
f. Arbitrary Interference with Privacy, Family, Home, or Correspondence

The constitution provides for the inviolability of the home and personal privacy, but the government generally did not respect these prohibitions. In some cases government authorities infringed on citizens’ privacy rights by searching homes without judicial authorization, seizing property without due process, or interfering in personal communications.

Beginning in August, President Maduro declared 60-day “states of exception” in 23 municipalities bordering Colombia in Zulia, Tachira, Apure, and Amazonas states, thereby suspending the constitutional requirement for authorities to obtain a court order prior to entering a private residence or violating the secrecy of a person’s private communications, among other constitutional rights. The government extended the state of exception for an additional 60 days in Tachira on October 20 and in three municipalities in Zulia on November 20.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press

The law provides for freedom of speech and press, but the combination of laws and regulations governing libel and media content, as well as legal harassment and physical intimidation of individuals and the media, resulted in practical limitations on these freedoms. National and international groups, such as the Inter-American Commission on Human Rights, the UN Human Rights Committee, Freedom House, the Inter American Press Association, Reporters without Borders, and the Committee to Protect Journalists, condemned or expressed concern over government efforts throughout the year to restrict press freedom and create a climate of fear and self-censorship.

On September 11, the Supreme Court declared nonbinding a September 8 ruling of the Inter-American Court of Human Rights that criticized the government’s refusal to grant a broadcasting license to the nation’s oldest television channel, Radio Caracas Television (RCTV), on grounds it backed a 2002 coup against then-president Chavez. Lawyers for RCTV argued the government’s refusal was a political move based on RCTV’s criticisms of the government. The Inter-American Court ordered the government, which was signatory to the American Convention on Human Rights at the time of the offense, to reinstate RCTV’s license. The Supreme Court argued RCTV had not exhausted its case in domestic
courts and that, as a company rather than an individual, RCTV was not entitled to the protection of human rights.

**Freedom of Speech and Expression:** The law makes insulting the president punishable by six to 30 months in prison without bail, with lesser penalties for insulting lower-ranking officials. Comments exposing another person to public contempt or hatred are punishable by prison sentences of one to three years and fines starting at Bs 55 ($8.74).

**Press and Media Freedoms:** The law provides that inaccurate reporting that disturbs the public peace is punishable by prison terms of two to five years. The requirement that the media disseminate only “true” information was undefined and open to politically motivated interpretation. The NGO IPYS reported that from January 1 through September 25, the government violated freedom of expression in 294 instances, affecting 324 journalists, editors, and human rights activists, as well as 143 media companies, including *El Nacional*, *Tal Cual*, and *La Patilla*.

The law prohibits all media from disseminating messages that incite or promote hate or intolerance for religious, political, gender-related, racial, or xenophobic reasons; incite, promote, or condone criminal acts; constitute war propaganda; foment anxiety in the population or affect public order; do not recognize legitimate government authorities; incite homicide; or incite or promote disobedience to the established legal order. Penalties range from fines to the revocation of licenses.

The law declares telecommunications a “public interest service,” thereby giving the government greater authority to regulate the content and structure of the radio, television, and audiovisual production sectors. The law provides that the government may suspend or revoke licenses when it judges such actions necessary in the interests of the nation, public order, or security. The law empowers the government to impose heavy fines and cancel broadcasts for violations of its norms; the National Telecommunications Commission (CONATEL) oversees the law’s application. According to IPYS, CONATEL violated freedom of speech eight times from January 1 through September 25, by opening punitive administrative cases against CNN and private cable company Supercable, ordering two regional radio stations off the air, and suspending three radio programs in Barinas.

The government’s economic policies made it difficult for newspapers to access foreign currency, preventing many newspapers from purchasing critical supplies and equipment necessary for day-to-day business operations. Items that must be
imported included ink, printing plates, camera equipment, and especially newsprint. As the government prevented newspapers from purchasing foreign currency, media companies were forced to buy newsprint from the government-run Alfredo Maneiro Editorial Complex, the only company allowed by the government to import it. Consequently, nearly every newspaper in the country reduced pages and news content in an attempt to conserve paper. The IPYS registered 22 cases in which the government restricted access to paper for those outlets considered critical of the government. For instance, *Tal Cual* ceased daily publication in February and limited its print edition to once a week, citing financial troubles and lack of raw materials due to government restrictions. Newspapers *Notidiario* in Delta Amacuro, *El Propio* in Caracas, and *Nuevo Guayanes* in Bolivar ended circulation during the year due to lack of newsprint.

As of August 31, the NGO Public Space reported 187 cases of violations of freedom of expression, defined as the “obstruction, impediment, or criminalization of the search, receipt, and distribution of information by the media,” noting an increasing trend. The most common violations were aggressions against journalists and censorship. State-owned and state-influenced media provided almost continuous progovernment programming. In addition private and public radio and television stations were required to transmit mandatory nationwide broadcasts throughout the year. According to the online tracker run by the *Citizen's Monitor*, between January 1 and September 11, the government imposed 113 hours and 17 minutes of mandatory broadcast time for presidential “cadenas” or regular broadcasts. The president used his airtime in the second half of the year to campaign for National Assembly candidates from his party, skirting rules that limit campaigning to two weeks before the December 6 election and mandate equal broadcast time for all political parties. Opposition candidates generally did not have access to media broadcast time.

The law requires practicing journalists to have journalism degrees and be members of the National College of Journalists, and it prescribes jail terms of three to six months for those practicing the profession illegally. These requirements are waived for foreigners and opinion columnists.

**Violence and Harassment:** Senior national and state government leaders continued to harass and intimidate privately owned and opposition-oriented television stations, media outlets, and journalists by using threats, property seizures, administrative and criminal investigations, and prosecutions. Government officials, including the president, used government-controlled media outlets to
accuse private media owners, directors, and reporters of fomenting antigovernment destabilization campaigns and coup attempts.

The NGO Public Space recorded nine cases of journalists detained while covering supermarket lines or police and military activity. On June 19, military officials detained journalist Gabrielda Di Giancaterino of the *Diario La Nacion* for taking a photograph with her cell phone of anticontraband operations near the border with Colombia. Authorities detained Di Giancaterino without access to legal representation for more than an hour and warned her that her work would bring her “legal consequences.” On July 29, a GNB member pointed a gun at journalist Nazareth Montilla of *Diario El Norte* and subsequently detained her to pressure her to erase a recording she took of officials shooting pellets or plastic bullets into a crowd protesting long supermarket lines.

**Censorship or Content Restrictions:** In its 2015 report, the IPYS asserted that legal proceedings, financial sanctions, and administrative actions against news outlets incurred lower political costs for the government than shutting down news outlets directly. Members of the independent media stated they regularly engaged in self-censorship due to fear of government reprisals. This resulted in many journalists posting articles to their personal blogs and websites. Public Space reported that between January and August 31, there were 35 cases involving censorship.

The government also exercised control over content through licensing and broadcasting requirements. CONATEL acted selectively on applications from private radio and television broadcasters for renewal of their broadcast frequencies. According to Nelson Belfort, former president of the Venezuelan Radio Chamber, approximately 2,000 radio stations were in “illegal” status throughout the country. According to local NGOs, CONATEL has not renewed licenses for most radio stations since 2007.

The government controlled a large portion of the country’s businesses and paid for advertising only with government-owned or government-friendly media. The brother of the vice president and the husband of a United Socialist Party of Venezuela (PSUV) National Assembly deputy run the main government-contracting advertising agency, Advertising Scope.

**Libel/Slander Laws:** Government officials took reprisals against individuals who publicly expressed criticism of the president or government policy. On April 21, National Assembly President Diosdado Cabello lodged a civil suit against 22 editors and board directors of opposition media outlets *El Nacional*, *Tal Cual*, and
La Patilla for reprinting news stories linking Cabello to a drug cartel. The charges of “aggravated defamation” are punishable by two to four years in jail. The judge in the civil suit enacted measures normally limited to criminal cases and prohibited the defendants from leaving the country. The IPYS said the case was emblematic of the increased pressure on media outlets critical of the government.

National Security: The law provides that the government may suspend or revoke licenses when it judges such actions necessary in the interests of public order or security. The government exercised control over the press through the government entity known as the Strategic Center for Security and Protection of the Homeland (CESPPA), established in 2013, which is similar to the government entity Center for National Situational Studies (CESNA), established in 2010. CESNA and CESPPA have similar mandates and are responsible for “compiling, processing, analyzing, and classifying” both government-released and other public information with the objective of “protecting the interests and objectives of the state.”

Nongovernmental Impact: Widespread violence in the country made it difficult to determine whether attacks on journalists resulted from common criminal activity or whether criminals or others targeted members of the media.

Internet Freedom

The law puts the burden of filtering prohibited electronic messages on service providers, and it allows CONATEL to order service providers to block access to websites that violate these norms and sanctions them with fines for distributing prohibited messages.

CONATEL blocked 1,008 websites during the year, according to testimony by CONATEL’s director, William Castillo, before the UN Human Rights Council. The government continued to block seven internet sites that post dollar- and euro-to-Bolivar currency exchange rates differing from the government’s official rate. The government used Twitter hashtags to attain “trending” status for official propaganda and employed hundreds of employees to manage and disseminate official government accounts. At least 65 official government accounts used Twitter to promote the PSUV, the ruling party. The NGO Public Space reported that on August 18 police detained Colonel Jose Martin Raga Garavito for more than a month for expressing an opinion critical of the government on Twitter and subsequently to a Newsweek journalist. Upon his release authorities relieved Raga of his duties.
Some NGOs, members of the opposition, and government critics expressed concern the government monitored e-mails and web searches without appropriate legal authority. Public Space reported that it suspected the government hacked social networking sites, e-mails, and websites of political figures, civil society activists, writers, journalists, and newspapers during the year, but it did not give specifics. According to the NGO, social network identities were usurped and personal communications and messages were broadly disseminated, some in government-controlled media.

CONATEL reported 51 percent of the population used the internet during the year and estimated that 16.2 million citizens connected to the internet five to seven days per week. Most access to the internet was through computers (75 percent) and mobile telephones (17 percent).

**Academic Freedom and Cultural Events**

There were some government restrictions on academic freedom and cultural events. University leaders and students alleged the government retaliated against opposition-oriented autonomous universities by allocating government subsidies for those universities significantly below the annual inflation rate. Autonomous universities, which receive partial funding from the government, received approximately 40 percent of the total budgets they requested, although calculations were based on figures not adequately adjusted for inflation and only covered expenses through July.

Unlike in 2014, there were no reported government-sponsored attacks on universities.

**b. Freedom of Peaceful Assembly and Association**

**Freedom of Assembly**

The constitution provides for freedom of assembly, but the government did not respect this right. Human rights groups continued to criticize the law for its strict penalties for some forms of peaceful demonstration.

As part of the “States of Exception” in municipalities bordering Colombia, the government ordered the suspension of the constitutional right to meet publicly or privately without obtaining permission in advance, as well as the right to demonstrate peacefully and without weapons.
On January 29, the Ministry of Defense published new regulations that authorized crowd-control measures up to and including lethal force against peaceful protesters. In August private polling firm Datanalisis released a report that indicated citizens, in a reversal of 2014 sentiment, were reluctant to protest, in part because of fear of government reprisals. The Venezuelan Observatory of Social Conflict (OVCS) reported that in the first half of the year, 2,836 protests occurred. The government continued repressing protesters and their leaders.

In February the Inter-American Commission on Human Rights (IACHR) expressed deep concern about the alleged use of criminal proceedings to punish peaceful protesters and government critics. In March, six UN special rapporteurs asked the government to clarify allegations of arbitrary detention and excessive use of force and violence against protesters. Allegations continued of arbitrary detention of protesters (some in military facilities), torture, and denial of legal assistance.

Nine human rights NGOs reported that since the conclusion of the protests in May 2014, the government continued to suppress protests in Tachira State. On February 24, a National Police officer shot and killed 14-year-old Kluiverth Roa Nunez while he was participating in a San Cristobal antigovernment protest. NGO reports indicated that security forces in Tachira frequently conducted raids on houses and patrolled emergency rooms for protesters seeking medical care for injuries sustained from “nonlethal” weapons used by police.

**Freedom of Association**

While the constitution provides for freedom of association and freedom from political discrimination, the government did not respect these rights. Although professional and academic associations generally operated without interference, a number of associations complained the National Electoral Council (CNE), which is responsible for convoking all elections and establishing electoral dates and procedures, and the Supreme Court repeatedly interfered with their attempts to hold internal elections. On August 5, the TSJ ruled in favor of a dissident splinter group of the opposition Social Christian Party (known as COPEI), which had filed suit against COPEI leadership for failing to include the party in key decisions. The TSJ dissolved COPEI’s executive board and installed the plaintiffs as the new COPEI leadership, effectively selecting the opposition party’s political leadership.

c. **Freedom of Religion**

The constitution provides for freedom of internal movement, foreign travel, emigration, and repatriation, and the government generally respected these rights. As part of the 60-day “States of Exception” along the Colombian border, the government suspended the constitutional right of free transit through the national territory, including across international borders.

The government generally cooperated with the Office of the UN High Commissioner for Refugees (UNHCR) and other humanitarian organizations in providing protection and assistance to refugees, asylum seekers, and other persons of concern.

Protection of Refugees

Access to Asylum: UNHCR estimated there were approximately 200,000 persons in need of international protection in the country, mostly Colombian citizens. Most of them, however, had not accessed procedures for refugee status determination, mainly due to the inefficiency of the process. UNHCR reported only 5,052 persons were legally recognized as refugees. The influx of individuals seeking international protection continued through the different border areas until August 21, when the government began closing key border crossings between Tachira and Zulia states and Colombia as part of the “States of Exception” and the OLPs. The vast majority of such persons remained without any protection.

The government launched its OLP strategy on July 13 to fight crime, smuggling, and terrorism. As part of these operations, authorities deported more than 1,714 Colombians, including 241 minors. In addition more than 22,000 Colombians fled the country as of September 23, according to the UN Office for the Coordination of Humanitarian Affairs. NGOs working in the border regions reported that among those deported were 120 persons needing international protection and a number of registered refugees. NGOs and the United Nations, however, also reported the government, through its office of immigration and the National Refugee Commission (NRC), made efforts to verify the migratory status of individuals before carrying out deportations. UNHCR Colombia investigated the cases of 350 potential returned refugees or people who were seeking asylum in Venezuela. The
International Organization for Migration, Refugee Education Trust, Norwegian Refugee Council, the Roman Catholic charity Caritas, and Hebrew Immigrant Aid Society worked closely with UNHCR and the government to respect migrants’ rights and meet basic needs.

Following allegations of physical beatings, destruction of property, and other abuses by government authorities, NGOs, foreign leaders, and opposition parties called for the government to respect the human rights of migrants in the country and to allow family reunification, deportees to recover their property, and individuals with educational and medical needs to cross through humanitarian corridors on the border.

At the beginning of the August border crisis, the NRC stopped accepting new applications for asylum and discontinued the renewal of asylum seekers’ identification papers, resulting in a de facto threat of deportation for many potential asylum seekers whose papers were out of date.

With the refugee status determination process centralized at the NRC in Caracas, asylum seekers could wait as long as three years to obtain a final decision. During this period they had to continue renewing their documentation every three months to stay in the country and avoid arrest and deportation. While travelling to the commission, particularly vulnerable groups, such as women with young children, the elderly, and persons with disabilities, faced increased protection risks, such as arrest and deportation, extortion, exploitation, and sexual abuse by authorities at checkpoints and other locations.

Refugee Abuse: While no official statistics were available, a women’s shelter reported recurring problems with gender-based violence and trafficking of refugee women.

Also see the Department of State’s annual Trafficking in Persons Report at www.state.gov/j/tip/rls/tiprpt/.

Access to Basic Services: Colombian asylum seekers without legal residency permits had limited access to the job market, education, and health systems. The lack of documentation created significant challenges to achieving sufficient protection and long-term integration.

Section 3. Freedom to Participate in the Political Process
The constitution provides citizens the ability to change their government through free and fair elections, but a failure to investigate and resolve electoral irregularities, government interference, and manipulation of voters restricted the exercise of this right. In December 2014, after the political opposition prevented the PSUV from appointing its chosen candidates, the PSUV-dominated National Assembly ceded to the TSJ the authority pursuant to law to choose rectors of the CNE when, by law, the decision should have been debated in the National Assembly.

Elections and Political Participation

Recent Elections: On December 6, nationwide legislative elections took place largely peacefully, and the government accepted the results. Opposition candidates won 112 seats in the 167-seat National Assembly, while ruling-party candidates took 55 seats, despite a process that heavily favored the ruling party. On December 30, the TSJ blocked three opposition and one socialist deputies-elect from taking office, after the ruling party challenged the election results. The government rejected international election observation by the Organization of American States but permitted an “accompaniment” mission by the Union of South American Nations. Domestic observers reported voting machine failures, ruling party tents illegally close to the entrance of the polls, improper use of public resources (state oil company vehicles with campaign slogans and government buses near housing projects transporting people to vote), and press intimidation. On November 27, gunmen shot and killed opposition figure Luis Manuel Diaz at a campaign rally.

Political Parties and Political Participation: Opposition political parties operated in a restrictive atmosphere characterized by intimidation, the threat of prosecution or administrative sanction on questionable charges, and very limited mainstream media access. The ruling-party-dominated CNE made decisions that affected the political opposition adversely, including affirming the comptroller general’s administrative disqualification of at least five candidates for the December 6 National Assembly elections and the sudden proclamation of a new rule requiring political parties to field at least 40 percent female candidates after the political opposition had already chosen its candidates. Citing its constitutional power to make such decisions, the CNE did not investigate complaints by the affected individuals. Some political organizations reported their main activists and leaders were victims of harassment and violence by the government and progovernment groups.
Section 4. Corruption and Lack of Transparency in Government

The law provides criminal penalties for corruption by government officials, but the government did not implement the law effectively, and the press reported officials sometimes engaged in corrupt practices with impunity. The government frequently investigated and prosecuted its political opponents selectively on corruption charges to harass, intimidate, or imprison them. In July the Comptroller General’s Office declared several opposition-aligned politicians ineligible to hold public office based on allegations of corruption but did not levy bans against government-aligned politicians in similar circumstances. There were numerous reports of government corruption during the year. The Public Ministry cited numerous examples of investigations, stemming largely from improprieties in the distribution and sale of price-controlled items and government currency allocations.

Corruption: The government continued a campaign to tackle corruption through fast-track authority and executive powers, but critics contended the government’s efforts focused only on low- to mid-level public officials while targeting high-level opposition politicians. The campaign includes enforcement against smuggling of goods carried out by private citizens as part of what the government calls the fight against the “economic war” waged by the political opposition and foreign governments. According to the NGO Transparency Venezuela, weak government institutions and a lack of transparency allowed public officials at all levels to participate in corrupt activity with impunity.

On April 1, the Public Ministry filed charges against a judge in the 20th Judicial Circuit of Caracas for corruption on the grounds that the judge issued “too lenient” a sentence in a high-profile narcotics trafficking case.

The Public Ministry and the Office of the Human Rights Ombudsman also investigate abuses by police and military officials. Corruption was a major problem in all police forces, whose members were generally poorly paid and minimally trained. Some government officials explicitly acknowledged impunity for corruption as a major problem. There was no information publicly available about the number of cases involving police and military officials during the year, although the Public Ministry publicized several individual cases against police officers for soliciting bribes and other monetary corruption. In one instance the ministry cited the arrest and investigation of four Aragua State police officers for allegedly soliciting a bribe to drop charges against a person suspected of trafficking in narcotics.
On May 15, Attorney General Luisa Ortega Diaz reported that 277 individuals had been convicted on charges of corruption stemming from misuse of the government’s Foreign Exchange Administration Commission and that an additional 7,000 companies were under investigation for potential violations. Ortega stated that low-level government officials were prosecuted and convicted of crimes related to foreign-exchange adjudications, but disclosed no specific numbers.

On September 24, the Public Ministry reported the arrest and conviction of Jose Gregorio Velasquez Lozada, director of health economy at the Ministry of Health in Aragua State, on allegations of fraud and embezzlement stemming from the alleged misappropriation of 531,000 units of medical supplies.

Transparency Venezuela criticized the widespread practice of nepotism in the government in a September 21 announcement, citing the example of Minister of Housing, Habitat, and Eco-socialism Ricardo Molina, who appointed his wife, children, and other family members to serve in positions within the ministry. The NGO noted that nepotism of this type was not specifically illegal, which undercut effective oversight of improper benefits.

Financial Disclosure: The law requires public officials, as well as all directors and members of the boards of private companies, to submit sworn financial disclosure statements. The entities responsible for ensuring compliance with this requirement are the Central Bank; the comptroller general of the republic; the comptroller general of the armed forces; and the comptrollers of states, districts, metropolitan districts, and municipalities. By law the Public Ministry and competent criminal courts may require statements from any other persons when circumstantial evidence arises during an investigation. In 2014 (the most recent data available), the Public Ministry cited 12,319 complaints or grievances of corruption, leading to charges against 2,326 individuals.

Public Access to Information: Although the law provides for public access to government information, human rights groups reported the government routinely ignored this requirement. The law requires a government agency to respond to a petition within 20 days of filing. The agency must also notify the applicant within five days of any missing information needed to process the request. Government agencies are subject to sanctions if they do not respond to a request. If the agency rejects the petition, an individual may file another petition or appeal to a higher level within the government agency. The agency must respond to the appeal within 15 days. In a June presentation to the UN Human Rights Council, the Pro
Access Coalition, composed of NGOs advocating for the right to access public information, denounced difficulties in accessing public information. According to a 2013 study by the coalition, the government ignored 94 percent of citizen petitions for information, a trend cited as continuing during the year.

Section 5. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

A variety of independent domestic and international human rights groups generally operated with some government restrictions. Major domestic human rights NGOs conducted investigations and published their findings on human rights cases. Government officials were generally not cooperative or responsive to their requests. Some domestic NGOs reported government threats and harassment against their leaders, staff, and organizations, in addition to government raids and detentions. NGOs reported heightened scrutiny of their work but were still able to publish dozens of reports during the year. NGOs played a significant role in informing citizens and the international community about alleged violations and key human rights cases.

The law prohibits domestic NGOs from receiving funds from abroad if they have a “political intent”—defined as those that “promote, disseminate, inform, or defend the full exercise of the political rights of citizens”—or that seek to “defend political rights.” The government threatened NGOs with criminal investigations for allegedly illegally accepting foreign funds. Various government officials accused human rights organizations on national television and media of breaking the law by receiving funding from international donors.

For violations the law stipulates monetary penalties, a potential five- to eight-year disqualification from running for political office, or both. The law defines political organizations as those involved in promoting citizen participation, exercising control over public offices, and promoting candidates for public office. The law also prohibits foreign citizens sponsored by Venezuelan individuals or political organizations from “issuing opinions that offend the institutions of the state and its high officials or go against the exercise of sovereignty.” Although there was no formal application or enforcement of the law, it created a climate of fear among human rights NGOs and a hesitancy to seek international assistance.

In addition to the restrictions placed on fund raising, domestic NGOs also faced regulatory limitations on their ability to perform their missions. The law includes provisions eliminating the right of human rights NGOs to represent victims of
human rights abuses in legal proceedings. The law provides that only the public defender and private individuals may file complaints in court or represent victims of alleged human rights abuses committed by public employees or members of the security forces.

NGOs asserted the government created a dangerous atmosphere for them to operate. National Assembly President Cabello used his weekly talk show to accuse Marino Alvarado Betancourt, director of the NGO PROVEA, of supporting Colombian paramilitary groups because of Alvarado Betancourt’s denunciation of police abuses in a nationwide anticrime program. Cabello also accused Alvarado Betancourt on national television and radio of receiving foreign funds to destabilize the country. Several organizations, such as the OVP, PROVEA, Foro Penal, and Citizen Control, reported threats to their staff, conducted electronically or sometimes in person. Human rights organizations claimed they were subject to frequent internet hacking attacks and attempts to violate their e-mail privacy.

The United Nations or Other International Bodies: The government was generally hostile toward international human rights bodies and continued to refuse to permit a visit by the IACHR, which has not visited the country since 2002. The government withdrew from the Inter-American Convention on Human Rights in 2013, but the IACHR may receive complaints from Venezuelan NGOs and citizens.

Government Human Rights Bodies: The Office of the Human Rights Ombudsman, also called the Public Defender, intervened to negotiate reduced sentences in several cases monitored by human rights NGOs, according to several NGOs, including the August transferal to house arrest of noted political prisoner Daniel Ceballos (see section 1.e., Political Prisoners and Detainees). The government announced a draft national Human Rights Plan in July and opened a six-month period of public consultation. In September the government reported receiving 100,000 proposals from the public. NGOs Foro Penal and PROVEA criticized the plan for not addressing the lack of independence among the branches of government, political oppression, or arbitrary detention, and pointed out the plan called for collaboration with international organizations that provided protection mechanisms for victims of human rights abuses.

The National Assembly’s subcommission on human rights played an insignificant role in human rights debates.

Section 6. Discrimination, Societal Abuses, and Trafficking in Persons
The law prohibits discrimination based on race, gender, sexual orientation, disability, language, or social status; nonetheless, discrimination occurred against women; persons with disabilities; members of the lesbian, gay, bisexual, transgender, and intersex (LGBTI) community; and indigenous persons.

Women

Rape and Domestic Violence: The law criminalizes rape, including spousal rape, making it punishable by a prison term of eight to 14 years. Cases often were not reported to police due to fear of social stigma and retribution, particularly in light of widespread impunity. There were no reliable statistics on the incidence of rape, prosecutions, or convictions. A man may avoid punishment by marrying (before he is sentenced) the person he raped. Women faced substantial institutional and societal prejudice with respect to reporting rape and domestic violence. The law allows authorities to consider alternative forms of punishment, including work release, for those convicted of various crimes, including rape, if they have completed three-quarters of their sentence.

The law criminalizes physical, sexual, and psychological violence in the home or community and at work. The law punishes perpetrators of domestic violence with penalties ranging from six to 27 months in prison. The law requires police to report domestic violence to judicial authorities and obligates hospital personnel to notify authorities when admitting patients who are victims of domestic abuse. Police generally were reluctant to intervene to prevent domestic violence or were not properly trained to handle such cases. Reportedly, police systematically sent battered women to the Public Ministry without receiving victims’ complaints in cases where extreme physical violence was not visible. The law also establishes women’s bureaus at local police headquarters and tribunals specializing in gender-based violence, and two-thirds of states had specialized courts. According to a Public Ministry official, 69 prosecutors were exclusively responsible for dealing with crimes against women, and an additional 27 prosecutors could process domestic violence crimes in addition to other kinds of crimes.

Violence against women continued to be a serious and underreported problem. The attorney general announced that 59,211 domestic violence complaints were filed from January to September 10, while for the period ending June 15, a Public Ministry official, citing TSJ data, stated that of those complaints, only 1,138 domestic violence charges were filed. In the same period, 510 sexual violence and rape charges were filed.
From January to June, 96 femicides were recorded out of 516 women killed, but only 17 femicide charges were filed through September 15.

Many advocates observed there was a lack of public awareness among women regarding resources and support available to prevent and combat domestic violence. In March the Public Ministry implemented a 24-hour hotline in Caracas capable of receiving domestic violence complaints. The government offered some shelter and services for victims of domestic and other violence, but NGOs provided the majority of domestic abuse support services.

**Sexual Harassment:** Sexual harassment is illegal and punishable by a prison sentence of one to three years. The law establishes a fine between Bs 3,210 ($510) and Bs 6,420 ($1,020) for employers convicted of sexual harassment. Although allegedly common in the workplace, sexual harassment cases were rarely reported.

**Reproductive Rights:** Couples and individuals have the right to decide the number, spacing, and timing of their children; to manage their reproductive health; and to have access to the information and means to do so, free from discrimination, coercion, and violence. Access to information on contraception and skilled attendance at delivery and in postpartum care were widely available. Multiple women’s rights NGOs stated women could not always find birth control pills due to scarcity, but pills were affordable when available. On the other hand, condoms were both scarce and prohibitively expensive when available.

**Discrimination:** Women enjoy the same legal status and rights as men under the constitution. In June the CNE announced a new regulation that required political parties to put forth gender-balanced slates of candidates for legislative elections.

Women and men are legally equal in marriage, and the law provides for gender equality in exercising the right to work. The law specifies that employers must not discriminate against women with regard to pay or working conditions. The law also prohibits the requirement of a pregnancy test to qualify for a job and provides six weeks of maternity leave prior to birth and a 20-week period of maternity leave after birth or an adoption, and prohibits an employer from firing either parent for two years after a birth or adoption. According to the Ministry of Labor and the Confederation of Workers, regulations protecting women’s labor rights were enforced in the formal sector, although according to the World Economic Forum, women earned 36 percent less on average than men doing comparable jobs.
The law provides women with property rights equal to those of men, but women frequently waived these rights by signing over the equivalent of powers of attorney to their husbands.

**Children**

**Birth Registration:** Citizenship is derived by birth within the country’s territory. According to the UN Children’s Fund (UNICEF), 92 percent of children under five were registered at birth.

**Child Abuse:** According to UNICEF and NGOs working with children and women, child abuse, including incest, occurred but was rarely reported. According to a National Institute for Statistics survey, 5 percent of victims of sexual abuse were children. According to the Public Ministry, 67 specialized prosecutors were assigned to handle cases involving the protection of children. Although the judicial system acted to remove children from abusive households, the press reported public facilities for such children were inadequate.

**Early and Forced Marriage:** The legal minimum age for marriage is 18 for women and men, but with parental consent it is 14 for women and 16 for men.

**Sexual Exploitation of Children:** By law sexual relations with a minor under age 13 or an “especially vulnerable” person, or with a minor under age 16 when the perpetrator is a relative or guardian, are punishable with a mandatory sentence of 15 to 20 years’ imprisonment. The law prohibits the forced prostitution and corruption of minors. Penalties range from three to 30 years’ imprisonment in the case of sex trafficking of girls.

The law prohibits the production and sale of child pornography and establishes penalties of 16 to 20 years’ imprisonment. There was no publicly available information regarding the number of investigations or prosecutions of cases involving the commercial sexual exploitation of minors or child pornography.

**Displaced Children:** Leading advocates and the press estimated that 10,000 children lived on the streets. Authorities in Caracas and several other jurisdictions imposed curfews on unsupervised minors to attempt to cope with this problem, but with institutions filled to capacity, hundreds of children accused of infractions, such as curfew violations, were confined in inadequate juvenile detention centers.
International Child Abductions: The country is a party to the 1980 Hague Convention on the Civil Aspects of International Child Abduction. For information see the Department of State’s report on compliance at travel.state.gov/content/childabduction/en/legal/compliance.html and country-specific information at travel.state.gov/content/childabduction/english/country/venezuela.html.

Anti-Semitism

There were reports of societal abuses or discrimination based on religious affiliation, belief, or practice, including anti-Semitism.

There were an estimated 9,000 Jews in the country. There were no confirmed reports of anti-Semitic acts by the government, but Jewish community leaders expressed concern about anti-Semitic statements made by high-level government officials, and they assessed that many other anti-Semitic incidents occurred from January to May. The government-sponsored website Aporrea.org often published editorials asserting Venezuelan Zionists were conspiring against the government. On October 8, National Assembly President Cabello stated that El Hatillo Mayor David Smolansky carried out a Zionist political project against the government; on October 19, Cabello asserted Ricardo Haussman, a professor at a foreign university, was a lobbyist for financial Zionism, which was waging an “economic war” against Venezuela.

Trafficking in Persons

See the Department of State’s Trafficking in Persons Report at www.state.gov/j/tip/rls/tiprpt/.

Persons with Disabilities

The law prohibits discrimination against persons with physical and mental disabilities in education, employment, health care, air travel and other transportation, and the provision of other state services, but the government did not make a significant effort to implement the law, inform the public of it, or combat societal prejudice against persons with disabilities. The law requires that all newly constructed or renovated public parks and buildings provide access, but persons with disabilities had minimal access to public transportation, and ramps were almost nonexistent. Online resources and access to information were generally available to persons with disabilities, although access to closed-captioned or audio-
described online videos for persons with sight and hearing disabilities was limited. Separately, leading advocates for persons with hearing disabilities lamented difficult access to public services due to a lack of government-funded interpreters in public courts, health care facilities, and legal services, as well as a lack of other public accommodations.

The National Commission for Persons with Disabilities (CONAPDIS), an independent agency affiliated with the Ministry for Participation and Social Development, advocated for the rights of persons with disabilities and provided medical, legal, occupational, and cultural programs. The government developed a series of employment fairs to increase the number of persons with disabilities in formal employment sectors, an initiative to help companies meet the legal requirement for 5 percent of employees to be persons with disabilities. According to CONAPDIS fewer than 20 percent of persons with disabilities who registered with government health programs were fully employed. The state-run Mission for the Children of Venezuela provided monthly subsidies of Bs 600 ($95) to heads of households for each child or adult with disabilities they supported.

There were several NGOs dedicated to assisting persons with disabilities with employment, education, and quality of life. The University of Monteavila hosted a research institute focused on the education of persons with disabilities.

National/Racial/Ethnic Minorities

The constitution prohibits discrimination based on race. The law prohibits all forms of racial discrimination and provides for a maximum of three years’ imprisonment for acts of racial discrimination. As mandated by law, signage may be observed outside commercial and recreational establishments announcing the prohibition against acts of racial discrimination. The National Institute against Racial Discrimination worked under the Interior Ministry but did not have its own website or public information portal.

Indigenous People

The law prohibits discrimination based on ethnic origin, and senior government officials repeatedly stated support for indigenous rights. The constitution provides for three seats in the National Assembly for deputies of indigenous origin to “protect indigenous communities and their progressive incorporation into the life of the nation.” A member of the Wayuu indigenous group headed the Ministry for
Indigenous Peoples, and the governor of Amazonas State was a member of the indigenous group Baniva.

Many of the country’s approximately 800,000 indigenous persons were isolated from urban areas; lacked access to basic health, housing, and educational facilities; and suffered from high rates of disease. The government included indigenous persons in its literacy campaigns, in some cases teaching them to read and write in their native language(s) as well as in Spanish.

NGOs and the press reported local political authorities seldom took account of indigenous interests when making decisions affecting indigenous lands, cultures, or traditions, or the allocation of natural resources. Indigenous persons called on the government to recognize lands they traditionally inhabited as territories belonging to each respective indigenous group. The National Land Demarcation Commission, charged with implementing a land demarcation agreement reached after a violent 2008 land invasion, continued to provide land titles in several communities, but indigenous groups continued to call for faster implementation of the demarcation process.

Indigenous groups regularly reported violent conflicts with miners and cattle ranchers over land rights.

According to indigenous groups, the armed forces reportedly harassed, injured, and killed indigenous persons in multiple isolated incidents, often related to land demarcation disputes. On August 14, a court sentenced five individuals to seven years in the 2013 killing of Yukpa leader Sabina Romero in Zulia State. Romero was a high-profile advocate for the demarcation of indigenous lands in the Perija Mountains.

The country’s border disputes with Colombia affected indigenous groups living in the border regions. The government insisted the border closures were necessary to eradicate contraband and violence in the region. One media outlet estimated 600,000 Wayuu families lived on both sides of the border. While the president proclaimed indigenous persons on the border could cross freely, there were many reported cases in which indigenous groups were restricted. According to local media, in one case Bolivarian National Guard members shot two Wayuu men who were returning via motorcycle to Colombia from a funeral in Venezuela. One died at the scene and the other died at the Maicao hospital where he was taken for treatment.
Acts of Violence, Discrimination, and Other Abuses Based on Sexual Orientation and Gender Identity

The constitution provides for equality before the law of all persons and prohibits discrimination based on “sex or social condition,” but it does not explicitly prohibit discrimination based on sexual orientation or gender identity. According to a TSJ ruling, no individual may be discriminated against because of sexual orientation, but the ruling was rarely enforced. The media and leading advocates for the rights of LGBTI persons noted that victims of hate crimes based on sexual orientation or sexual identity frequently did not report incidents and were often subjected to threats or extortion if they filed official complaints.

Since the law has no definition of a hate crime, no official law enforcement statistics reflected LGBTI-related violence. Rather, most crimes against LGBTI persons were classified as “crimes of passion,” not crimes of hate. The NGO Stop VIH (HIV) denounced the September 17 stabbing death of a Margarita Island man as a hate crime motivated by the victim’s sexual orientation, and cited national statistics indicating that 47 such crimes were registered between May 2013 and May 2015. Incidents of violence were most prevalent in the transgender community. Leading advocates noted that the media underreported most cases of LGBTI-related crime and law enforcement authorities did not properly investigate to determine the motives for such crimes. LGBTI experts also noted an estimated 6,000 same-gender families, with and without children, lacked legal protection.

Local police and private security forces allegedly prevented LGBTI persons from entering malls, public parks, and recreational areas. NGOs reported the government systematically denied legal recognition to transgender and transsexual persons by preventing them from obtaining identity documents required for accessing education, employment, housing, and health care. This vulnerability often led transgender and transsexual persons to become victims of human trafficking or prostitution.

Psychological, verbal, and physical abuses towards the LGBTI community were common practice in schools and universities, according to leading advocates. No laws or policies protect LGBTI persons against bullying. As a result, according to NGOs, LGBTI students had a higher dropout rate than heterosexual students.

HIV and AIDS Social Stigma
Leading advocates lamented discrimination against persons with HIV/AIDS, although no new studies were available. In August 2014 the National Assembly passed a law to protect the equal rights of persons with HIV/AIDS and their families.

Section 7. Worker Rights

a. Freedom of Association and the Right to Collective Bargaining

The law provides that all private- and public-sector workers (except armed forces members) have the right to form and join unions of their choice, and it provides for collective bargaining and the right to strike. The law, however, places several restrictions on these rights. Minimum membership requirements for unions differ based on the type of union. Forming a company union requires a minimum of 20 workers; forming a professional, industrial, or sectoral union in one jurisdiction requires 40 workers in the same field; and forming a regional or national union requires 150 workers. Ten persons may form an employees association, a parallel type of representation the government endorses and openly supports.

The law prohibits “any act of discrimination or interference contrary to the exercise” of workers’ right to unionize. The law requires that all unions must provide the Ministry of Labor a full membership roster that includes the full name, home address, telephone number, and national identification number for each union member. The ministry reviews the registration and determines whether the union fulfilled all requirements. Unions must submit their registration by December 31 of the year the union forms; if not received by the ministry or if the ministry considers the registration unsatisfactory, the union is denied the ability legally to exist. The law also requires the presence of labor inspectors to witness and legitimize unions’ decisions before the Ministry of Labor.

Under the law employers may negotiate a collective contract only with the union that represents the majority of their workers. Minority organizations may not jointly negotiate in cases where no union represents an absolute majority. The law also places a number of restrictions on unions’ ability to administer their activities. For example, the CNE has the authority to administer internal elections of labor unions, federations, and confederations. By law elections must be held at least every three years. If CNE-administered and -certified elections are not held within this period, the law prohibits union leaders from representing workers in negotiations or engaging in anything beyond administrative tasks. The International Labor Organization (ILO) has repeatedly found cases of interference
by the CNE in trade union elections and has called since 1999 to delink the CNE from the union election process.

The law recognizes the right of all public- and private-sector workers to strike, subject to conditions established by law. By law workers participating in legal strikes receive immunity from prosecution, and their time-in-service may not be reduced by the time engaged in a strike. The law requires that employers re-incorporate striking workers and provides for prison terms of six to 15 months for employers who fail to do so. Replacement workers are not permitted during legal strikes. The law prohibits striking workers from paralyzing the production or provision of essential public goods and services, but defines “essential services” more broadly than ILO standards. The ILO has called on the government to amend the law to exclude from the definition of “essential services” activities “that are not essential in the strict sense of the term…so that in no event may criminal sanctions be imposed in cases of peaceful strikes.”

The minister of labor and social security may order public- or private-sector strikers back to work and submit their disputes to arbitration if the strike “puts in immediate danger the lives or security of all or part of the population.” Other laws establish criminal penalties for the exercise of the right to strike in certain circumstances. For example, the law prohibits and punishes with a five- to 10-year prison sentence anyone who “organizes, supports, or instigates the realization of activities within security zones that are intended to disturb or affect the organization and functioning of military installations, public services, industries and basic [mining] enterprises, or the social-economic life of the country.” In addition the law provides for prison terms of two to six years and six to 10 years, respectively, for those who restrict the distribution of goods and for “those…who develop or carry out actions or omissions that impede, either directly or indirectly, the production, manufacture, import, storing, transport, distribution, and commercialization of goods.”

The government restricted the freedom of association and the right to collective bargaining through administrative and legal mechanisms. Organized labor activists reported that the annual requirement to provide the Ministry of Labor a membership roster was onerous and infringed on freedom of association; they alleged the ministry removed member names from the rosters for political purposes, particularly if members were not registered to vote with the CNE. Labor leaders also criticized the laborious and costly administrative process of requesting CNE approval for elections and subsequent delays in the CNE’s recognition of such union processes. Additionally, there was reportedly a high turnover of
Ministry of Labor contractors resulting in a lack of timely follow-through on union processes.

Labor unions in both the private and public sectors noted long delays in obtaining CNE concurrence to hold elections and in receiving certification of the election results, which hindered unions’ ability to bargain collectively. The National Union of Public, Professional, and Administrative Health-Sector Workers was able to hold elections on February 10, almost a year after its March 2014 request to the CNE. The Ministry of Labor recognized the elections, but as of early December the CNE had not issued a certification of their validity. The CNE had required 16 notarized legal documents and three copies of each set for each of 300 electoral tables, leading to significant, costly delays.

According to PROVEA, “large sectors of national, state, and municipal public administrations and an important number of state enterprises continued to refuse to discuss collective agreements.” According to the Autonomous Front in Defense of Employment, Wages, and Unions (FADESS), there were more than 300 expired public-sector union contracts nationwide. Labor leaders reported the majority of unions that failed to negotiate collective agreements were in the public sector. The Model Contract for Public Administration, which covers approximately three million public workers, was last negotiated in 2004. President Maduro promised it would be finalized in 2013, but no further progress was made during the year. The government did not respond by year’s end to at least two formal ILO requests for information about reports that the majority of collective bargaining agreements in the public sector had expired but continued to be applied, with the right to collective bargaining denied by authorities due to “overdue elections” (not convoking or concluding the electoral process).

The government continued to support many “parallel” unions, which sought to dilute the membership and effectiveness of traditional independent unions. In general these government-supported unions were not subject to the same government scrutiny and requirements regarding leadership elections. For example, the Socialist Bolivarian Workers’ Central has not held elections since 2011, yet it has been regularly accredited to participate in ILO meetings, including for the ILO International Labor Conference in Geneva in July. The government excluded from consideration other, independent union federations, including the Confederation of Venezuelan Workers, the General Confederation of Venezuelan Workers, the Confederation of Autonomous Unions of Venezuela, and the National Union of Workers (UNETE). The ILO expressed continuing concern that the government did not consult with representative worker organizations or
accredit their members to the ILO Conference. In contrast, the Labor and Trade Union Action Unit, a newly formed independent organization of labor federations and other labor groups and movements, was able to meet freely to coordinate interventions for the July meeting, analyze conclusions from the meeting, and discuss follow-up actions.

According to the labor group FADESS, the ministry did not send labor inspectors to opposition-leaning union meetings to witness and legitimize unions’ decisions, as required by law, thus rendering decisions by many unions moot.

The government continued to refuse to adjudicate or otherwise resolve the cases of 19,000 employees of the state oil company, Venezuelan Petroleum, who were fired during and after the 2002-03 strike. The Ministry of Labor continued to deny registration to the National Union of Oil, Gas, Petrochemical, and Refinery Workers (UNAPETROL), a union composed of these workers. Union elections in the state steel conglomerate’s workers’ trade union were suspended in 2014, and the TSJ upheld the suspension on January 14.

Union leaders were subject to violent attacks–some of which resulted in killings. The lack of effective investigations made determining the motives for such attacks difficult. According to the Venezuelan Observatory of Social Conflict (OVCS) and PROVEA, the government did not make arrests or prosecute anyone for most violent crimes, including those committed between and against union workers, and few were solved.

On April 16, Ramon Jimenez, secretary general of the Barinas Construction Union, was killed. He had allegedly been threatened after denouncing a contract breach and extortion by “construction mafias.” Two other union leaders, Jose Salazar from UNETE and William Lizardo from Fetraconstruccion, were also injured in the attack. PROVEA reported that fewer than 5 percent of the cases were investigated. The ILO has requested the government establish a national tripartite committee on situations of violence and provide information on the findings of the investigations carried out by the national prosecutor appointed to investigate all cases of violence against trade union leaders and members.

Union leaders were also subjected to harassment and verbal attacks. For instance, on his weekly television show, the National Assembly president made accusations against leaders from FADESS and the National Association of Autonomous Workers, Entrepreneurs, and Small Business Persons.
The OVCS reported that during the first six months of the year, there were labor rights-related protests related to increased pay and benefits, the need for collective bargaining agreements, and outsourcing and the integration of contract workers. According to media reports, the government blacklisted and punished union leaders and workers for peaceful protests demanding wage increases and better conditions at work. Labor leaders reported the alleged beating and nonfatal stabbing of Secretary General Mauro Zambrano of the Union of Workers in University Hospitals. Union organizer Julia Lugo was also beaten, and her nose was fractured. Zambrano and Lugo were requesting a meeting with the new hospital director to raise worker-rights issues when 20 hospital workers allegedly attacked them. SEBIN detained and interrogated Carlos Rosales, president of the Association of Clinics and Hospitals of Venezuela, in Maracay on February 6 following his statements about the scarcity of medicines in the country.

In practice the concept of striking has been demonized since 2002 and has been periodically used as a political tool to accuse government opponents of coup plotting or other destabilizing activities. Legal provisions on the right to strike have been used to target company management as well as labor leaders. Labor activists have been charged under legal provisions on impeding the production, manufacture, import, storing, transport, distribution, and commercialization of goods, as well as under provisions for “instigation to commit a crime,” “blocking public access,” and restriction of the “right to work.” According to some business managers, some union leaders have extraordinary power to cause the arrest and prosecution of business managers for actions that could be considered normal aspects of their jobs. Some companies, especially in the public sector, have multiple unions with varying degrees of allegiance to the ruling party’s version of the “socialist revolution,” which can trigger interunion conflict and strife. The ILO again called on the government to respond to its concerns regarding complaints by the president of the Federation of Chambers and Associations of Commerce and Production of Venezuela, Jorge Roig, that he was being followed and harassed, that senior government figures were increasingly attacking the federation in the media, and that 50 legislative decrees on economic and production-related issues were adopted in November 2014 without consulting the federation.

The law passed in 2012 set a three-year deadline, concluding on May 7, for the incorporation of all contract workers in both the public and private sectors into the companies for which they worked. (The largest number of contract workers is in the public sector.) The media reported concerns that this deadline was not met and that the status of a large percentage of workers was not regularized. While there
were no official statistics, media sources estimated that 40 percent of the contractor force has been transitioned into formal positions.

b. Prohibition of Forced or Compulsory Labor

The law prohibits all forms of forced or compulsory labor but does not provide criminal penalties for certain forms of forced labor. The law prescribes penalties of between 20 and 30 years’ imprisonment for most forms of forced labor; these criminal penalties under the Organic Law against Organized Crime applied to the forced labor of women and girls, as well as the forced labor of men and boys, when carried out by an organized criminal group of three or more individuals. Criminal penalties for forced labor of men and boys carried out by individuals who are not members of an organized criminal group are not prescribed under the law; nonetheless, prosecutors could employ other statutes to prosecute such individuals. The law includes harsher penalties for imposing forced labor on minors. There was no comprehensive information available regarding the government’s enforcement of the law.

There were isolated reports of children and adults subjected to forced labor, particularly in the informal economic sector, in domestic servitude (see section 7.c.), and in government social programs by Cubans working in exchange for the government’s provision of resources to the Cuban government. Indicators of forced labor reported by some Cubans included chronic underpayment of wages, mandatory long hours, and threats of retaliatory actions to the workers and their families if they should leave the program.

Also see the Department of State’s Trafficking in Persons Report at www.state.gov/j/tip/rls/tiprpt/.

c. Prohibition of Child Labor and Minimum Age for Employment

The law sets the minimum employment age at 14 years. Children younger than 14 may work only if granted special permission by the National Institute for Minors or the Ministry of Labor. Such permission may not be granted to minors under the age for work in hazardous occupations that risk their life or health or could damage their intellectual or moral development, but according to the ILO, the government has not listed specific types of work considered hazardous. Children ages 14 to 18 may not work without permission of their legal guardians or in occupations expressly prohibited by the law, and they may work no more than six hours per day
or 30 hours per week. Minors under age 18 may not work outside the normal workday.

The law establishes fines on employers between Bs 6,420 ($1,020) and Bs 12,840 ($2,040) for each child employed under age 12 or for adolescents between ages 12 and 14 employed without proper authorization. Anyone employing children under age eight is subject to a prison term between one and three years. Employers must notify authorities if they hire a minor as a domestic worker.

The Ministry of Labor and the National Institute for Minors enforced child labor policies effectively in the formal sector of the economy but less so in the informal sector. No information was available on whether or how many employers were sanctioned for violations. The government also continued to provide services to vulnerable children, including street children, working children, and children at risk of working. There was no independent accounting of the effectiveness of these and other government-supported programs.

Most child laborers worked in the agricultural sector, street vending, domestic service, or in small- to medium-size businesses, most frequently in family-run operations. There continued to be isolated reports of children exploited in domestic servitude, mining, forced begging, and commercial sexual exploitation of children (see section 6).

Also see the Department of Labor’s Findings on the Worst Forms of Child Labor at www.dol.gov/ilab/reports/child-labor/findings/.

d. Discrimination with Respect to Employment and Occupation

The constitution prohibits employment discrimination for every citizen. Labor law prohibits discrimination based on age, race, sex, social condition, creed, marital status, union affiliation, political views, nationality, disability, or any condition that could be used to lessen the principle of equality before the law. No law specifically prohibits employment discrimination on the basis of sexual orientation, gender identity, or HIV/AIDS status. The media and NGOs, such as PROVEA and the Human Rights Center at the Andres Bello Catholic University, reported that the government had a very limited capacity to address complaints and enforce the law in some cases and lacked political will in some cases of active discrimination based on political motivations.

e. Acceptable Conditions of Work
Effective May 1, the government raised the monthly minimum wage by 30 percent, with 20 percent implemented as of May 1 and an additional 10 percent as of July 1, bringing it to a total of Bs 7,422 ($1,180). According to the NGO Workers’ Center for Documentation and Analysis, the monthly food basket for September cost Bs 50,625 ($8,040), or 6.8 times the minimum wage.

The law sets the workweek at 40 hours (35 hours for a night shift). The law establishes separate limits for “shift workers,” who may not work more than an average of 42 hours per week during an eight-week period, with overtime capped at 100 hours annually. Managers are prohibited from obligating employees to work additional time, and workers have the right to two consecutive days off each week. Overtime is paid at a 50 percent surcharge if a labor inspector approves the overtime in advance and at a 100 percent surcharge if an inspector does not give advance permission. The law establishes that after completing one year with an employer, the worker has a right to 15 days of paid vacation annually. In subsequent years the worker has the right to an additional day for every additional year of service, for a maximum of 15 additional days annually.

The law provides for secure, hygienic, and adequate working conditions. Workplaces must maintain “protection for the health and life of the workers against all dangerous working conditions.” The law obligates employers to pay workers specified amounts for workplace injuries or occupational illnesses, ranging from two times the daily salary for missed workdays to several years’ salary for permanent injuries. Workers may remove themselves from situations that endanger health or safety without jeopardy to their employment.

The law covers all workers, including temporary, occasional, and domestic workers. Reportedly, the Ministry of Labor effectively enforced minimum wage rates and hours of work provisions in the formal sector, but 40 percent of the population worked in the informal sector, where labor laws and protections generally were not enforced. The government did not enforce legal protections in the public sector. According to PROVEA, while the National Institute for Prevention, Health, and Labor Security required many private businesses to correct dangerous labor conditions, the government did not enforce such standards in a similar manner in state enterprises and entities. There was no publicly available information regarding the number of inspectors or the frequency of inspections to implement health and safety, minimum wage, or hours of work provisions. Ministry inspectors seldom closed unsafe job sites. Employers may be fined between Bs 12,840 ($2,040) and Bs 38,520 ($6,110) for failing to pay the
minimum wage or provide legally required vacation time. Employers are required to report work-related accidents within 24 hours or face fines between Bs 8,132 ($1,290) and Bs 10,700 ($1,700). There was no information on whether penalties were sufficient to deter violations.

Official statistics regarding workplace deaths and injuries were not publicly available.
Tab #5
Summary

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

1. In its resolution 39/1, the Human Rights Council requested the High Commissioner for Human Rights to “prepare a comprehensive written report on the human rights situation in the Bolivarian Republic of Venezuela” (Venezuela) to be presented at its forty-first session.1

2. The present report focuses on the situation of human rights in Venezuela since 2018, while also analysing pertinent developments that took place beforehand. It highlights patterns of violations directly and indirectly affecting all human rights – civil, political, economic, social and cultural. The report includes a gender-based approach, highlighting the specific experiences of women and girls.

3. The report is based on information collected and analysed by the Office of the High Commissioner for Human Rights (OHCHR), including through missions. From 11 to 22 March 2019, OHCHR visited Venezuela where it met with a wide range of state and other stakeholders in Caracas, Barquisimeto, Valencia and Ciudad Guayana. Additionally, between September 2018 and April 2019, OHCHR conducted nine visits to interview Venezuelan refugees and migrants in Argentina, Brazil, Chile, Colombia, Ecuador, Mexico, Peru and Spain. OHCHR is grateful to the respective Governments for facilitating these visits.

4. The High Commissioner visited Venezuela from 19 to 21 June 2019. She met with many stakeholders, including President Nicolás Maduro, the Vice-president, the Minister of Foreign Affairs, high-level officials from 17 ministries, the President of the National Assembly, and opposition parliamentarians. She also met with the President of the National Constituent Assembly, the Attorney-General, the President of the Supreme Court of Justice and the Ombudsperson. She held meetings with representatives of the Catholic Church, the business sector, universities, students, trade unions, and human rights organizations, approximately 200 victims, the diplomatic community and the United Nations Country Team.

5. In addition to accepting an OHCHR presence, the Government made several commitments and identified areas of cooperation. OHCHR will support the assessment of the main obstacles concerning access to justice and of the National Commission for the Prevention of Torture and other Cruel, Inhumane or Degrading Treatment. The Government has also agreed that OHCHR will be granted full access to detention centres to monitor conditions of detention and speak to detainees. The Government will adopt a calendar of ten visits of Special Procedures in the next two years. In six months, OHCHR and the Government will evaluate the possibility of enhancing OHCHR’s presence and establishing a country office.

6. OHCHR conducted 558 interviews with victims and witnesses of human rights violations, and other sources, including lawyers, health and media professionals, human rights defenders, and ex-military and security officers.3 It also held 159 meetings with a broad range of state and other stakeholders.4 As per its methodology, OHCHR sought informed consent from the sources it interviewed before using any information they provided, ensuring confidentiality when appropriate. It took all appropriate measures to protect the identity of its sources and notes that many expressed fear of reprisals.

7. The report also reflects the analysis of numerous documents, which OHCHR gathered and examined, including official Government documents, open source reports, legislation and legal documents, medical and forensic reports, media (including social media), videos, and photographs. Wherever possible, OHCHR refers to official information and data, but notes access to such material is limited as official publications, including statistics, have been scarce and completely lacking in some areas, since at least 2015.

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1 A/HRC/RES/39/1.
2 Including Interior, Defence, Health, Economy and Education.
3 460 interviews were conducted in Argentina, Brazil, Chile, Colombia, Ecuador, Mexico, Peru and Spain, and 98 remotely.
4 In Argentina, Brazil, Chile, Colombia, Ecuador, Mexico, Peru, Spain, Switzerland and Venezuela.
8. In line with its methodology on human rights monitoring, OHCHR exercised due diligence to assess the credibility and reliability of all sources and crosschecked the information gathered to confirm its validity. OHCHR was able to gather, analyse, and verify a substantial body of information that provide reasonable grounds to believe patterns described in the report constitute human rights violations.

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

II. Economic and social rights

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

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

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

A. Right to food

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

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

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

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6 Information provided by the Government.
B. Right to health

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

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

18. There is a lack of access to all types of contraceptives, with several cities facing a 100 percent shortage.10 This increases risk of contracting HIV and other sexually transmitted diseases, and of unwanted and adolescent pregnancies. The rate of adolescent pregnancies has increased by 65 percent since 2015.11 This impacts girls’ right to education, with pregnancy being the primary reason girls drop out of school. Due to restrictive legislation on abortion, some women and girls must resort to unsafe abortions. This has contributed to an increase in preventable maternal mortality, with an estimated 20 percent of maternal deaths reportedly linked to unsafe abortions.12 Lack of skilled birth attendants, medical supplies and hospital conditions has driven many women to give birth abroad.

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

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

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11 Information provided by UNFPA; also see: www.unfpa.org/maternal-health.
restrictions on access to sexual and reproductive health. Moreover, the failure of the Government to publish comprehensive data on public health, essential for the development and implementation of an adequate response to the health crisis is a violation of the right to health.

C. Social programmes and policies

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

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

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

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

D. Unilateral coercive measures

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

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15 Presidential decree No.2323.
16 The community councils were created in 2006 so that people would directly manage public policies and social projects.
17 Information provided by the Government.
18 Canada, Colombia, Mexico, Panama, the United States of America, Switzerland, and the European Union.
19 Executive Order 13808. Further sectoral sanctions were imposed on 19 March 2018 (Executive Order 13827), 1 November 2018 (Executive Order 13850), and 21 May 2018 (Executive Order 13835).
20 Executive Order 13857.
26. The Government has assigned blame for the economic crisis on sanctions imposed on Venezuela, arguing that due to over-compliance, banking transactions have been delayed or rejected, and assets frozen, which hinders the State’s ability to import food and medicines.

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

III. Civil and political rights

A. Freedom of opinion and expression

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

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

B. Targeted repression and persecution on political grounds

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

I. Security measures and institutions

31. On 13 May 2016, the President of the Republic declared a “state of exception,” which has since been renewed every 60 days. The decree grants wide, vague and discretionary

21 www.bcv.org.ve
23 The “Tascón List” was an early marker of discrimination and persecution on political grounds. A database of over 3 million Venezuelans who supported a referendum to revoke the mandate of then President Hugo Chávez in 2003-2004, the list was used to massively dismiss civil servants.
24 Presidential decree No.2323.
powers to the Executive with the declared purpose of, inter alia, preserving the internal order. In 2017, the President activated the Plan Zamora, a civil-military strategic security plan for the joint operation of armed forces, militias and civilians. These policies involve the increased militarization of State institutions. They also extend the use of the population in intelligence gathering and defence tasks, through local structures such as community councils, UBChs, CLAPs and “Redes de Articulación y Acción Sociopolítica”.

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

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

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

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

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

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

25 Part of the armed forces.
26 Established in August 2017 after an electoral process that lacked political inclusivity and was marred with irregularities. The NCA assumed de facto the constitutional responsibilities of the National Assembly.
27 “Constitutional Law against Hatred, for Peaceful Coexistence and Tolerance”, adopted by the National Constituent Assembly on 8 November 2017, the “Law against Organized Crime and Funding of Terrorism” of 31 January 2012, and the reform of the Criminal Procedure Code, adopted by ministerial decree on 15 June 2012.
gender-based violence, and public humiliation. The targeted repression of opposition members and social leaders instils fear by demonstrating the possible consequences of opposing or merely criticizing the Government or expressing dissent.

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

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

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

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

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

4. Arbitrary detentions, torture and ill-treatment

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

28 The Vice-president of the National Assembly, Edgar Zambrano, is detained since 8 May 2019, and Deputy Juan Requesens is detained since 7 August 2018.
29 Information provided by the Government.
31 OHCHR received conflicting information from the Government regarding the number of deaths.
33 Information provided by Foro Penal Venezolano.
34 Idem.
fear of being arrested again. OHCHR considers that the Government has used arbitrary detentions as one of the principal means to intimidate and repress the political opposition and any real or perceived expression of dissent since at least 2014.

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

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

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

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

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

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

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

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

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

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

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

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

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38 The NGO PROVEA reported 275 killings in the first quarter of 2019. The NGO Monitor de Víctimas reported 256 killings only in Caracas in 2018. The NGO COFAVIC reported 3,684 killings in 2017-2018, of which 28 percent could be attributable to FAES/PNB.
39 Information provided by the Government.
41 Information provided by the Government.
42 Information provided by Observatorio Venezolano de la Violencia.
IV. Access to effective justice and adequate reparation for victims

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

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

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

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

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

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

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

44 The NCA established the Commission on Truth, Justice, Peace and Public Tranquillity on 8 August 2017, to examine and report on the “political violence” from 1999 to 2017, including related human rights violations. As observed by OHCHR, the Commission does not meet international standards related to truth commissions.
29 May 2019, 193 persons detained for their participation in protests, have been conditionally released based on recommendations of the Commission.45

V. Groups at risk

A. Indigenous peoples

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

61. The economic and social rights of many indigenous peoples have been disproportionately affected by the humanitarian situation, particularly their rights to an adequate standard of living, including their rights to food, and their rights to health. The closure of Venezuela’s borders47 in February 2019 had dire consequences for indigenous groups whose traditional territories span the border, such as the Wayuu.

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

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

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

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

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

45 Information provided by the Government.
47 Venezuela’s borders were closed on 22 February 2019. The borders with Aruba and Brazil were re-opened on 10 May 2019 and the Colombian border was partially re-opened on 10 June 2019.
statements suggesting many more people may have been killed. It is also concerned with reports of a possible mass grave, which warrants further investigation. The State has yet to undertake an independent, impartial investigation into the incidents.

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

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

B. Migrants and refugees

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

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

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

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

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

48 Information provided by Foro Penal Venezolano.
49 https://r4v.info/en/situations/platform
migration, and immigration; 196 officials are being investigated, 87 were charged and 34 condemned for corruption.

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

VI. Conclusions

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

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

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

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

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

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

\textsuperscript{51} Information provided by the Government.
VII. Recommendations

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

(a) Take all necessary measures to ensure availability and accessibility of food, water, essential medicines and healthcare services, including comprehensive preventative healthcare programmes with particular attention to children’s and maternal services, including sexual and reproductive healthcare;

(b) Take immediate measures to halt, remedy and prevent human rights violations, in particular gross violations such as torture and extrajudicial executions;

(c) Conduct prompt, effective, thorough, independent, impartial, and transparent investigations into human rights violations, including killings of indigenous peoples, and bring perpetrators to justice;

(d) Release all persons arbitrarily deprived of their liberty;

(e) Halt, publicly condemn, punish and prevent all acts of persecution and targeted repression based on political grounds, including stigmatizing rhetoric and smear campaigns;

(f) Adopt effective measures to protect human rights defenders, and media professionals;

(g) Cease any intimidation and attacks against indigenous peoples, including leaders, and ensure their protection and take all necessary measures to protect their individual and collective rights, including their right to land;

(h) Cease and prevent excessive use of force during demonstrations;

(i) Dissolve FAES and establish an impartial and independent national mechanism, with the support of the international community, to investigate extrajudicial executions during security operations, ensure accountability of perpetrators and redress for victims;

(j) Take effective measures to restore the independence of the justice system and ensure the impartiality of the Attorney-General’s Office and the Ombudsman;

(k) Ensure the right to a remedy and reparation for victims, with a gender-sensitive approach, as well as guarantee their protection from intimidation and retaliation;

(l) Ensure the right to identity and documentation to all persons, including children;

(m) Accept and facilitate the establishment of a permanent OHCHR country office.

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

(a) Regularly publish comprehensive health and nutritional data, disaggregated by sex, age, ethnicity, and location that may be used inter alia, to develop and implement a full-scale humanitarian response to the crisis;

(b) Allocate the maximum available resources towards the progressive realization of economic and social rights in a transparent and accountable manner that allows the assessment of expenditures;

(c) Allow access to information of public interest;

(d) Ensure provision of all social programmes in a transparent, non-politicized, and non-discriminatory manner, including effective oversight and accountability measures;

(e) Increase vaccination coverage for preventable diseases and take adequate measures to control outbreaks of communicable diseases;
(f) Prioritize measures to decrease early pregnancies, and ensure that all plans regarding sexual and reproductive rights include measurable indicators and monitoring mechanisms;

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

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

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

(j) Ratify the Optional Protocol to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment and the Convention for the Protection of All Persons from Enforced Disappearance.

83. The Human Rights Council could:

Request OHCHR to focus on ensuring accountability for human rights violations and abuses in Venezuela, including by enhancing its monitoring, documentation, analysis, and public reporting on the human rights situation.
Tab #6
CHAPTER IV.B
VENEZUELA

I. INTRODUCTION

1. In 2018, the Inter-American Commission on Human Rights (hereinafter “the Commission” or “the IACHR”) has continued monitoring the general human rights situation in Venezuela and has observed the persistence of structural situations that have had a detrimental impact on the human rights of Venezuelans, resulting in a serious political, social, and economic crisis. The aggravation of this critical situation, as it reported in this Chapter, resulted in the absence of the rule of law.

2. In Venezuela there is a serious failure to observe the principle of the separation of powers, evidenced in the lack of judicial independence and the constant meddling of the Executive, the Superior Court of Justice, and the National Constituent Assembly in matters that pertain to the National Assembly, whose work has been significantly hampered as a result. In addition, the Executive continues to exercise extraordinary powers under the economic emergency with the extension of the State of Emergency, which was not approved by the National Assembly, as required by the Constitution. This is happening in a structural context of repression and persecution of dissidents through the militarization of public security, in the context of an economic and social crisis that provokes serious undersupply and the scarcity of basic goods.

3. In the presidential elections held in May 2018, in which President Maduro was reelected, there was serious meddling by the National Constituent Assembly in the National Electoral Council, the highest-ranking authority for electoral matters, which posed real obstacles to the effective participation of the opposition forces and had a negative impact on the pluralism necessary for considering the elections to be compatible with a democratic society.

4. The Commission has also observed the persistent deterioration of political rights and participation in public life, which is closely related to the negative impact on the freedom of expression. The following phenomena have continued: deaths in the context of social protests; arbitrary detentions and imprisonment of opposition figures and persons who publicly voice their dissent; repression and undue restrictions on protest; dismissals of and threats against public employees as punishment for their dissent; campaigns to stigmatize and harass journalists, political opposition figures, human rights defenders, and citizens in general; the use of the criminal law and other state controls to punish or inhibit the work of political opponents and critical press outlets; and the obstruction of the right of access to information. Particularly serious are the attacks on and persecution and imprisonment of members of the National Assembly. At the same time, the number of dissident political parties continues to shrink in the wake of decisions on electoral matters that impose new requirements for their participation in the elections.

5. The independence of the courts continues to be seriously affected by the fact that many hold their positions on a provisional basis or have been appointed without respecting the procedures set out by the laws and regulations of the State. Another especially worrisome situation has to do with the growing prosecution of civilians in the military criminal jurisdiction, using criminal statutes such as “treason” (“traición a la patria”) and “rebellion” (“rebelión”), in the context of demonstrations and dissident acts.

6. As a result of the militarization of citizen security there continue to be extrajudicial executions, security force operations characterized by the excessive use of force, as well as searches without judicial orders and attacks on private homes, provoking serious violations of the rights to life, humane treatment, property, and due process, which is especially serious in the context of protests against the State.

7. The Commission observes the persistence of a worsening situation when it comes to access to economic, social, and cultural rights (hereinafter “ESC rights”). The situation of undersupply and scarcity of food, drugs, water, and energy has generated a serious crisis, triggering outbreaks of diseases and other
negative health impacts. In this context, the response has been deficient and, in some situations, has entailed a lack of access to necessary medical care, which has had a severe impact on children, the sick, pregnant women, persons with disabilities, and older persons, among other groups. In this context, together with the political context, there were increased public protests, which in turn have been repressed by security agents through the use of force.

8. The humanitarian crisis that is impacting the country, the scarcity of food, medicines, and medical treatments, the rising indices of violence and insecurity, and persecution based on political opinion have all provoked the massive displacement of migrants and refugees from Venezuela. As of June 2018 it was estimated that 2.3 million Venezuelans have left their country.

9. In addition, in the face of this crisis scenario the Commission continues monitoring, with concern, the specific violations of the rights of persons, groups, and communities facing historic discrimination and exclusion, such as children and adolescents; persons deprived of liberty; and migrants, refugees, and persons with international protection, among others.

10. Based on its observation and evaluation of the human rights situation in Venezuela, the IACHR decided to include Venezuela in this Chapter, in keeping with Article 59(6)(a)(i), 6(b), 6(d)(i), and 6(d)(iii) of the Rules of Procedure of the IACHR, which establish, as a criterion for inclusion of a member state in this chapter, the existence of:

   a. a serious breach of the core requirements and institutions of representative democracy mentioned in the Inter-American Democratic Charter, which are essential means of achieving human rights, including:

      i. there is discriminatory access to or abusive exercise of power that undermines or denies the rule of law, such as systematic infringement of the independence of the judiciary or lack of subordination of State institutions to the legally constituted civilian authority....

   b. The free exercise of the rights guaranteed in the American Declaration or the American Convention has been unlawfully suspended, totally or partially, by virtue of the imposition of exceptional measures such as a declaration of a state of emergency, state of siege, suspension of constitutional guarantees, or exceptional security measures.

   d. The presence of other structural situations that seriously affect the use and enjoyment of fundamental rights recognized in the American Declaration, the American Convention or other applicable instruments. Factors to be considered shall include the following, among others:

      i. serious institutional crises that infringe the enjoyment of human rights;

      iii. serious omissions in the adoption of the necessary measures to make fundamental rights effective, or in complying with the decisions of the Commission and the Inter-American Court....

11. On January 16th, 2019, in accordance with its Rules of Procedure, the IACHR transmitted to the State a copy of the preliminary draft and requested it to submit its observations. On February 16th, 2019, the State presented its remarks, which were incorporated in the present final version approved by the Commission on March 14th, 2019.

12. In its observations on the draft of this report, the State pointed out that "this chapter presents a selective and highly biased view of the real human rights situation in the Bolivarian Republic of Venezuela,...."
which contradicts the principles that should govern the treatment of human rights issues”. The State considered that "to a large extent, this distorted vision of Chapter IV.B is the result of substantial inadequacies in the methodology used to draw it up” and that "this project over-emphasizes sources lacking in objectivity and excludes almost all official information, despite all the documentation and elements provided by the State to the Commission during 2018, through the numerous available mechanisms”. 2 In this regard, in the same sense as expressed in Venezuela’s Country Report of December 31, 2017, the Commission regrets that a lack of access to official sources of information persists, which have constituted an obstacle for the elaboration of the IACHR’s reports and for the visibility of the human rights situation in Venezuela. In spite of this, the articulation of different tools for monitoring, promoting, and defending human rights of the Commission allows it to count on recent, reliable, and convincing information obtained from the sources authorized by Article 59.5 of its Rules of Procedure.

13. The State also ratified its disposition to “sustain a constructive dialogue with the IACHR under the objective to continue advancing in regard of the compliance of its international obligations on the basis of strict respect for the principles that should govern the treatment of human rights issues, including the principles of universality, objectivity, impartiality and non-selectivity”³.

14. In its observations on the draft of this report, the State considered that "in accordance with Article 59 of the IACHR’s Rules of Procedure, when the Commission prepares a country report on a particular State, it must follow up on compliance with the recommendations contained in that document, through Chapter V of its Annual Report”⁴ and given that the IACHR published a Country Report on February 12th, 2018 “what is legally appropriate is to follow up on this Country Report in Chapter V of the Annual Report and not to include it in Chapter IV.B”⁵. Likewise, the State considered that "the required conditions stipulated by the Inter-American normative for Venezuela to be included in the Chapter IV.B of the Annual Report are not preceded”⁶ and “that the criteria expressly provided in the Regulations is not enough to ensure that the Chapter IV.B of the Annual Report would not constitute an illegitimate and unacceptable mechanism of pressure or punishment against certain States, for reasons unrelated to the fulfilment of their human rights obligations. The analysis of these criteria needs to be formulated with an approach based on the aforementioned principles of universality, objectivity, impartiality and non-selectivity”.⁷

15. In this regard, the Commission considers that, in accordance with the provisions of Article 59.7, the decision on the specific countries to include in Chapter IV.B shall be adopted by the Commission each year, in accordance with the special quorum set forth in Article 18 of the present Rules of Procedure. As previously stated, based on the monitoring carried out and in light of the above criteria, the IACHR decided to incorporate Venezuela into Chapter IV.B., and in its observation the State did not extend an invitation to an on-site visit. In this sense, the Commission confirms his decision.

16. Similarly, in its comments on the draft of this report, the State stated that "the Bolivarian Republic of Venezuela is committed to a set of unilateral coercive measures imposed by the Government of the United States of America”. It also recorded the negative impact of such measures on the enjoyment of human

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rights by the population. In addition, it recovered general positions of United Nations bodies regarding the impact of coercive measures consisting of economic sanctions on human rights”. 8

17. In its observations, the State also pointed out that there is no humanitarian crisis in Venezuela and referred to statements by the Executive Secretary of the Economic Commission for Latin America and the Caribbean (ECLAC) and the United Nations independent expert on the promotion of a democratic and equitable international order, Alfred-Maurice de Zayas9. In this regard, the Commission takes note that none of those allegations are from the 2018 year which this Report analyses. Furthermore, the IACHR reiterates its concern expressed at the end of the 170th Period of Sessions regarding the serious human rights situation in Venezuela, given that, among others, the constitutional order was altered, the principle of separation of powers is unknown, there is a lack of independence of institutions and a socio-economic crisis that has worsened alarmingly in recent years.10

18. The IACHR has based its analysis on monitoring the general human rights situation throughout 2018, drawing on information collected during its hearings – which included the active participation of the State –information from the mechanism of petitions, cases, and precautionary measures, information provided in the State’s responses to requests for information from the IACHR on various human rights issues under the power established in Article 18 of the Commission’s Statute, the information provided by civil society and other international organizations, and the information available from other public sources; all as per the methodology set out in Article 59 of the IACHR’s Rules of Procedure.

19. During this year the Commission has continued following up on the precautionary measures in force. The State has continued providing information in this respect. By a communication of June 15, 2018, the State reported that four persons who are beneficiaries of precautionary measures in force were benefitted by “alternatives to the deprivation of liberty,” which is said to have allowed the beneficiaries, Daniel Omar Ceballos, Raúl Emilio Baduel, Alexander Tirado, and Ángel Omar Vivas, to regain their liberty.11

20. This year the IACHR granted six new precautionary measures in which it asked the State of Venezuela to protect the following persons: the children who are nephrology patients at the Hospital José Manuel de los Ríos, due to the lack of adequate medical treatment due to undersupply; Juan Carlos Caguaripano, Luis Humberto de la Sotta Quiroga, and Pedro Patricio Jaime Criollo, who were deprived of liberty without access to adequate medical care; Juan Carlos Requesens Martinez, also deprived of liberty and at risk of being subjected to violent acts; and C.L. and 42 other persons at risk due to the failure to delivery antiretroviral medicines for adequately treating the human immunodeficiency virus (HIV) or acquired immunodeficiency syndrome (AIDS).12 The Commission also issued a precautionary measure asking the State of Panama to refrain from deporting M.B.B.P., a Venezuelan citizen with HIV/AIDS, given the risk that would be entailed for her health in the context of the scarcities and lack of access to medical care in Venezuela.13

21. To date in 2018 the IACHR has issued seven press releases about Venezuela and three about Venezuelan migrants. The State replied one third out of six requests for information sent by the Commission based on Article 18 of the IACHR’s Statute. Furthermore, on December 5th, 2018, the IACHR examined the received information by the State of Venezuela regarding the alternative measure of freedom in favor of Kamel

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10 CIDH, Comunicado de Prensa “CIDH culmina su 170 periodo de sesiones”. 18 de diciembre de 2018.
11 Note sent to the State by the IACHR dated June 15, 2018.
12 IACHR, Resolution 8/1 - PM 1039/17 - Child Patients in the Nephrology Area at José Manuel de los Ríos Hospital, Venezuela; Resolution 42/18 - PM 298/17 - Juan Carlos Caguaripano, Venezuela; Resolution 75/18 - PM 862/18 - Luis Humberto de la Sotta Quiroga, Venezuela; Resolution 78/18 - PM 688/18 - Pedro Patricio Jaime Criollo, Venezuela; Resolution 79/18 - PM 1039/18 - Juan Carlos Requesens Martinez, Venezuela; Resolution 76/18 - PM 145/18- C.L. and others, Venezuela.
13 IACHR, Resolution 81/18 - PM 490/18 – M.B.B.P., Panama.
Salame Ajami, beneficiary of precautionary measures granted by the IACHR to protect his life and integrity in view of his detention conditions and health situation.14

22. The Commission values that the State has attended the hearings that were convened this year and the response to the request for information sent by the IACHR. It also values certain human rights gains that have occurred in Venezuela this year. It is noted that pursuant to the recommendations of the National Commission for Truth, Justice, Attention to Victims and Peace, non-custodial measures were ordered for 192 persons, which are said to have left the detention centers where they were being held.15

23. The Commission also views in a positive light the gains made as regards recognition of the rights of the Afro-descendent population. The Decree of the International Decade for People of African Descent embraces promoting the human rights of persons of African descent in what represents a major step forward in legal recognition of the rights of this group. Along the same lines, the Commission celebrates the adoption of the Integral Prevention Plan called "The Route of the Drum" ("La Ruta del Tambor"), which seeks to eradicate patterns of discrimination and to promote Afro-Venezuelan traditions.

24. The Commission also recognizes and salutes the gains made by the State in adopting concrete measures to ensure electoral accessibility for persons with disabilities. Accordingly, the Commission recognizes the efforts to adapt the polling places, recognition by the Organic Electoral Law of the right of persons with disabilities to exercise their right to vote supported by the person of their choice, as well as the issuance by the National Electoral Council of the Directive for Attention and Support for Persons with any Disability in Elections.

25. This chapter of the Annual Report is divided into the following seven sections: (I) introduction; (II) the position of the State vis-à-vis the inter-American system; (III) the general human rights situation, which in turn includes: (A) democratic institutional framework; (B) the administration of justice and judicial independence; (C) the situation of political rights and participation in public life; and (D) violence and citizen security; (IV) poverty and economic, social, cultural, and environmental rights; (V) social protest and freedom of expression; (VI) groups in vulnerable situations, which in turn includes: (A) women; (B) human rights defenders; (C) persons deprived of liberty; (D) migrants, asylum-seekers, refugees, beneficiaries of supplemental protection, internally displaced persons, and victims of human trafficking; (E) lesbian, gay, trans, bisexual, and intersex persons; (F) indigenous peoples; (G) children and adolescents; (H) persons of African descent; (I) persons with disabilities; (J) older persons; (K) memory, truth, and justice; as well as (VII) the conclusions and (VIII) the recommendations that the Commission makes to the Venezuelan State.

II. POSITION OF THE STATE VIS-À-VIS THE INTER-AMERICAN SYSTEM

26. The IACHR made its last visit to Venezuela in May 2002 and approved the country report in 2003.17 Since that visit, the Commission has taken a series of steps to ask the State to consent to an onsite visit to the country. To date, the State has not agreed to such a visit.

27. Venezuela first appeared in Chapter IV of the Annual Report in 2002, where it has remained until 2017, with the exception of 2004, when it was included in Chapter V, on follow-up to the recommendations in the country report published the previous year. In 2009, the IACHR issued a country report without making a visit. In 2017, the Commission decided to issue a second country report without visiting, and to include Venezuela in Chapter IV.B of its Annual Report. The decision to prepare that report had to do with the serious deterioration in the observance of human rights and the serious political, economic, and social crisis Venezuela
is experiencing. The country report "Democratic Institutions, the Rule of Law and Human Rights in Venezuela" was published on February 12, 2018.18

28. The IACHR has already issued pronouncements on other occasions regarding the serious backsliding and weakening of international protection that Venezuela's denunciation of the American Convention on Human Rights represents; the denunciation of the American Convention came into force on September 10, 2013.19 The Commission also remarked that as a member state of the OAS Venezuela continues to be subject to the jurisdiction of the Commission and to the obligations imposed on it by the OAS Charter and the American Declaration of the Rights and Duties of Man, both signed by the State in 1948. Venezuela submitted its denunciation of the OAS Charter on April 28, 2017. This decision without precedent in the inter-American system, which the IACHR has deplored, causes profound concern for its impact on Venezuelans' access to inter-American mechanisms for the protection of human rights, in the worrying context that the Commission has persistently reported. The effectiveness and validity of that denunciation is the subject of various discussions. The Commission further notes that Venezuela has not denounced several inter-American human rights instruments that grant mandates to the IACHR. The Commission will therefore assess in great detail all aspects of that denunciation and take a stand on its consequences concerning the IACHR's continued mandate for the promotion and protection of human rights in Venezuela. The IACHR stresses its call on the State to revoke its decision to withdraw from the OAS and asks Venezuela to sign and comply once again with its commitments under the American Convention and the contentious jurisdiction of the Inter-American Court.20

29. In addition, Venezuela has set a grave precedent by not substantially complying with the judgments issued by the I/A Court HR and its judicial bodies have even declared the non-enforceability of such judgments, considering them contrary to the Constitution. The Commission reiterates that the position adopted by Venezuela of not accepting or complying with the decisions and recommendations of international human rights bodies, and in particular the organs of the inter-American system, based on the argument that they are at odds with national sovereignty, seriously contradicts the applicable principles of international law.21

III. GENERAL HUMAN RIGHTS SITUATION

A. Democratic institutions

30. In the “Report on the Situation of Human Rights in Venezuela,” the IACHR noted a gradual deterioration in democratic institutions and the human rights situation in Venezuela that has deepened and intensified significantly as of 2015, continuing in 2018. The lack of separation of powers, which has its roots in the meddling of the Executive in the other branches of government, continues.22

31. As the Commission has indicated, the aggravation of the institutional crisis in Venezuela is closely related to a series of decisions made by the Supreme Court of Justice, which represented interference with the National Assembly and negatively affected the principle of separation of powers. This situation was aggravated in 2017 to the point of bringing about an alteration in the constitutional order, with Judgments Nos. 155 and 156 handed down by the Supreme Court on March 28 and 29, respectively, in which it lifted the legislative immunities of the members of the National Assembly, established that their acts constituted “treason,” granted the Executive broad discretional powers, and assumed competences of the Legislative

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As the IACHR indicated in due course, those measures constituted a usurpation of the functions of the Legislative branch by the Judicial and Executive branches, as well as a *de facto* annulment of the popular vote by which the legislators were elected. Such acts continued in 2018. Civil society has calculated that to date the Supreme Court of Venezuela has adopted 74 decisions that impair rights of the members of the National Assembly or encroach on the competences of the legislature. Among these, one notes that the Supreme Court lifted the legislative immunities of legislators Requesens, who was arrested, and Borges, in respect of whomever weighs the catch warrant, both were detained and are beneficiaries of precautionary measures issued by the Commission.

In the observations of the present report, the State appointed that the IACHR "continues ignoring that, from the beginning of 2016, in Venezuela exists a constitutional order conflict between Public Powers, originated by the decision of the National Assembly of disregard and fail to comply the verdicts of the Supreme Court of Justice and to repeatedly assault the Constitution of the Bolivarian Republic of Venezuela." In this regard, the Commission recalls that, as mentioned in the Country Report, results vital in a Rule of Law, that judicial decisions are complied, the disregard as utilized by the SCJ results incompatible with the democratic principles, since it is disproportionate and violates the principles of separation and independence of powers, as it prevents a branch of the National Public Power from legitimately exercising its functions.

Nevertheless, the IACHR observes that during 2018 the already serious deficiencies as regards to the democratic institutional framework of the country were exacerbated. The lack of independence of the Judicial branch is an element with a determinant impact in the interference of the Executive branch in the Judicial branch, and of the Judicial branch in the Legislative branch. In that context President Nicolás Maduro convened a National Constituent Assembly (ANC: Asamblea Nacional Constituyente), criticized for its origins and its composition, as well as for the measures it adopted once installed, which exceeded its nature and violated the principle of separation of powers. In addition to authorizing the prosecution of legislators, during 2018 this legislative body has issued other decisions that are within the purview of the National Assembly, such as supporting the designation of the president of the Central Bank by the Executive, or approving the Constitutional Law on Productive Foreign Investment, which establishes a special tax income regime. With respect to the activity of the National Assembly, the Commission noted that while some of those measures issued by the Supreme Court were subsequently revoked, to date serious interference in the Legislative branch continues and it faces obstacles to the exercise of its constitutional functions, such as continuing to consider the lawmakers to be in contempt (*desacato*); the continued characterization of the actions by the legislators in the National Assembly as “treason”; and maintaining the authority of the President of the Republic to form mixed enterprises without legislative authorization, and to amend laws. At the same time, the freezing of the budget has been denounced, and likewise discretion in granting the financial resources of the National Assembly. In addition, the Supreme Court sworn in by the National Assembly in July 2017, which operates from exile, has issued a series of judgments. Among these, it convicted President Maduro and sentenced him to 18 years and 3 months in prison for the crimes of corruption (*corrupción propia*) and asset laundering.

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25 Transparencia Venezuela, request for a hearing with the IACHR with a view to the 170th period of sessions, pages 1 and 38; the same information was presented by the same organization in the hearing “Arbitrary detention and situation of political rights in Venezuela,” held during the 170th period of sessions of the IACHR.
27 IACHR, *“Democratic institutions, rule of law and human rights in Venezuela”*, 2018, par. 100.
28 Official Gazette No. 41,422 of June 19, 2018; Official Gazette No. 41,456 of August 8, 2018; Official Gazette No. 41,310 of December 29, 2017. Transparencia Venezuela, request for a hearing with the IACHR with a view to the 170th period of sessions, p. 27.
30 Transparencia Venezuela, Request for hearing before the IACHR with a view to the 170th period of sessions, p. 25.
The Commission indicated that the Venezuelan Constitution and the applicable legislation establish that the National Constituent Assembly is governed by certain limits set by values and principles of the republican history of Venezuela, and by compliance with the international treaties, agreements, and commitments validly signed by the Republic. In view of this, and the fundamental principles enshrined in the Inter-American Democratic Charter, the Commission reiterates the call to undo the measures that are beyond the authority of a constituent body and that have a detrimental impact on the separation of powers and representative democracy; and to refrain from adopting decisions that reach beyond the scope of such authority.

The way in which the elections of May 20, 2018 unfolded deepened the institutional crisis. According to the information available, the electoral process was decreed by the National Constituent Assembly of Venezuela on the basis of powers that exceed the scope of authority of a constituent body, bringing forward the traditional time frames. The electoral calendar was clearly managed without impartiality or objectivity.

On January 23, 2018, the ANC approved a Constitutional Decree “of Actions in Defense of Peace, Democracy, Sovereignty, and the Independence of the Bolivarian Republic of Venezuela,” in which elections were called for some time in the first four months of 2018. On February 7, 2018, the National Electoral Council (CNE: Consejo Nacional Electoral) convened those elections for April 22, 2018. Then, on March 1, 2018, the ANC agreed to convene, for May 2018, the elections for the state legislative councils, and to reschedule the presidential elections. The CNE abided by the decisions of the ANC and convened the elections, originally for the month of April; it later pushed them back to May 20, 2018. Accordingly, the schedule was managed unforeseeably; it was not arranged by consensus with the opposition forces.

The presidential elections saw evidence of obstacles to the free participation of political parties and candidates. In effect, the ANC ordered the non-validation of the political parties that had not participated in the “immediately previous elections” (“elecciones inmediatamente anteriores”), which had a negative impact on the democratic pluralism that should govern such processes. By mandate of the ANC, the CNE organized a new period for validation that stipulated only four days (28 hours) during which only one party – the Acción Democrática party – was able to validate its participation.

Moreover, information was collected on disqualifications for holding public office affecting members of the opposition who are potential candidates for elective office, with the aim of permanently impeding their political participation. These disqualifications have significantly reduced the participation of several candidates in these and other elections, while effectively limiting the possibility of the population having substantive options for the position of president, such as those that the opposition had announced. In addition, according to the information available, the CNE ordered excessively short deadlines and requirements

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31 Europapress, El TSJ de Venezuela en el exilio condena a Maduro a 18 años y 3 meses de cárcel por corrupción, August 16, 2018.
35 Constituent Decree for participation in electoral processes, Official Gazette 41,308 of December 27, 2017; Information provided by civil society organizations in the context of the hearing “Electoral process and its impact on the general human rights situation in Venezuela,” held during the 168th period of sessions of the IACHR.
36 Information provided by civil society organizations in the context of the hearing “Electoral process and its impact on the general human rights situation in Venezuela,” held during the 168th period of sessions of the IACHR.
37 El Mundo, Venezuela inhabilita para ejercer cargos públicos al opositor Henrique Capriles durante 15 años, April 8, 2017; El Nuevo Herald, Capriles se despide de los cargos públicos pero no de la política venezolana, October 11, 2017.
that effectively kept potential candidates from exercising their right to register and participate in the election process. 39

39. The rushed calling of elections and the handling of the electoral timeline referred to above had a serious negative impact on the guarantee of universal ballot and access to the vote by new voters and Venezuelans abroad. According to figures that were received by the Commission, more than 800,000 new voters were included in the voter rolls, yet at least 1,900,000 potential young voters did not register to vote given the short deadlines and lack of materials and public information. The electoral process apparently did not facilitate the timely registration of the large number of Venezuelans who have been forced to leave Venezuela as a result of human rights violations, violence and insecurity, persecution on grounds of political opinions, and the effects of the economic crisis.

40. Prior to the May elections the IACHR had issued pronouncements on the suspension of the referendum to recall the President of the Republic; the imposition of obstacles to the participation of opposition candidates and parties; the prolonged suspension of municipal and regional elections; and the rushed call for elections not in keeping with the timelines provided for by law; as well as the serious questioning and allegations of fraud in the July 30, 2017 elections for the ANC and the regional elections of October 15, 2017. It is a standard accepted by the international community that to ensure free elections there must be an electoral body with guarantees of autonomy, independence, and impartiality. 40

41. The IACHR reiterated its concern over the lack of independence and impartiality of Venezuela’s National Electoral Council, insofar as it continues to be made up mostly of persons who are trusted by the Government, and its decisions have evidenced its bias in favor of the party in power. 41 And this in addition to the lack of independence and its inappropriate exercise of the essential functions of constitutional oversight organs, such as the Attorney General’s Office (Ministerio Público) and the Office of the Human Rights Ombudsperson (Defensoría del Pueblo). 42 The Commission considers it fundamental to adopt decisive actions to ensure that these bodies perform their work without undue political interference or influence, and that they properly carry out their constitutional mandate, which is crucial for ensuring the democratic rule of law in Venezuela.

42. The Commission considers that the elections convened for May 20 did not meet the minimal conditions necessary for holding free, fair, and reliable elections in Venezuela, with an independent electoral system and the guarantees of the principle of universality and electoral plurality, and it urged the State to adopt the measures necessary for holding another genuine electoral process, ensuring the effective exercise of the right to vote freely. 43

43. President Maduro was proclaimed the winner by the National Electoral Council, with 67.7% of the votes, according to official figures.

44. At the same time, the IACHR notes that the validation procedures put in place by the CNE have significantly reduced the electoral offer. According to the information received, after the last process of validation the Venezuelan political system was made up of 21 national political parties. 44 The Commission notes that in all 67 political parties participated in the 2016 elections.

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39 Information provided by civil society organizations in the context of the hearing “Electoral process and its impact on the general human rights situation in Venezuela,” held during the 168th period of sessions of the IACHR.


45. The election has been characterized by the OAS as lacking legitimacy as it failed to include the participation of all of Venezuela’s political actors and was not carried out with the guarantees necessary for a free, fair, transparent, and democratic. The European Union also issued a press release noting that the guarantees needed for a democratic election were not in place and requesting that new elections be held in keeping with international standards and the Venezuelan constitutional order. The UN High Commissioner for Human Rights also questioned the legitimacy of the elections, as did several countries that are part of the G-20 and the Lima Group.

46. Last September 11, Decree No. 3,610 was published in the Official Gazette. In that decree President Nicolás Maduro extended for 60 days the economic emergency and state of emergency. The decree authorizes the Executive to continue exercising extraordinary powers to adopt urgent, effective, exceptional, and necessary measures to ensure, among other things, the internal order, and timely access to goods, services, food and medicines. The State of Emergency authorizes restrictions on guarantees when necessary for the better exercise of the rights enshrined in the Constitution.

47. That extension was not approved by the National Assembly, nor does it clarify the nature and scope of the restrictions, or the specific measures that the Executive will adopt during the period covered. The Executive is empowered to authorize public credit operations, without any control by other branches of government. The Executive can also carry out special plans for public security and decide to suspend temporarily and on an exceptional basis the enforcement of political sanctions against the maximum government authorities, measures with respect to which the IACHR has also expressed concern. It also authorizes the Executive to impose, in a generalized manner, the requirement of the ID cards known as “Carnet de la Patria.” Civil society groups warned about the possible use of this card as a new mechanism for controlling the population. The State has not given notice of the adoption of the extraordinary regime to the states that are signatories to the International Covenant on Civil and Political Rights or to the OAS. In this sense, within its observations on the draft of this report, the State indicated that Venezuela "ceased to be a State party to the American Convention on Human Rights, for which reason the obligation established in article 27 of that instrument is not applicable to it. Venezuela has no legal obligation to notify the OAS of the adoption of states of emergency.”

48. The Commission emphatically reiterates that the adoption of states of emergency should be reasonably in line with the needs of the situation to be addressed, without the measures going beyond what is strictly necessary, so as to avoid prolongations in time, disproportionality, and abuse of authority, for their arbitrary use might affect democracy and impose limits on the rights established in the American Declaration. The Commission recalls the importance of maintaining the rule of law and the constitutional provisions when invoking states of emergency. Similarly, it warns of the implications of using broad and ambiguous concepts in

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47 BBC mundo, La oficina del Alto Comisionado de la ONU para los Derechos Humanos insiste en pedir investigar al gobierno de Venezuela por posibles “asesinatos extrajudiciales,” March 7, 2018.
48 INFOBAE, Desde el G20, seis países repudian las elecciones de Venezuela y exigieron sanciones, May 21, 2018; CNN, Grupo de Lima desconoce elecciones en Venezuela y llama a consultas a sus embajadores, May 21, 2018.
50 Decree 3,610, Article 2.
51 The requirement of approval by the National Assembly for extending the State of Exception and State of Emergency stems from Articles 337, 338, and 339 of the Constitution of the Bolivarian Republic of Venezuela.
52 Decree 3,610, Article 2(3).
53 Decree 3,610, Article 2(32).
56 International Covenant on Civil and Political Rights, Article 4(3).
normative instruments, including in emergency decrees, as this may impose limitations on the exercise of human rights.\footnote{IACHR, \textit{Situation of Human Rights in Venezuela – “Democratic Institutions, the Rule of Law and Human Rights in Venezuela,”} 2018, para. 384.}

49. Venezuela has a 2016-2019 National Plan for Human Rights that involves several organs of the State, whose implementation is entrusted to the National Human Rights Council. The programmatic actions include strengthening the capabilities of the Office of the Human Rights Ombudsperson (Defensoría del Pueblo de la Nación) so as to uphold human rights. At present, the Human Rights Ombudsperson holds the position on an interim basis. The IACHR continues receiving information about the lack of independence of said agency, which has a direct negative impact on its work.\footnote{Information provided by civil society groups to the IACHR in the context of the hearing “Situation of persons deprived of liberty in the context of the political crisis in Venezuela,” held during the 169\textsuperscript{th} period of sessions of the IACHR.}

50. The Human Rights Committee of the United Nations already recommended that the State take the actions needed for ensuring that the Office of the Human Rights Ombudsperson can carry out its mandate independently, in keeping with the Paris Principles.\footnote{Human Rights Committee, \textit{Concluding observations on the fourth periodic report of the Bolivarian Republic of Venezuela}, July 21, 2015, para. 6.} The Commission reiterates to the State its duty to adopt the measures necessary to ensure that the Office of the Human Rights Ombudsperson can do its work without undue political interference or influence and can carry out the task assigned to it by the Constitution, i.e. to effectively protect the human rights of the population. Among the measures that the State should adopt are those that make it possible to ensure independence and pluralism in the appointment and removal of the Human Rights Ombudsperson.\footnote{IACHR, \textit{Situation of Human Rights in Venezuela – “Democratic Institutions, the Rule of Law and Human Rights in Venezuela,”} 2018, recommendation 14.}

51. Finally, the IACHR notes that the allegations of high levels of corruption in Venezuela further undermine the weak institutional structures of the State. As of February 2018, Venezuela ranks 169\textsuperscript{th} of 180 countries on the Corruption Perceptions Index maintained by Transparency International, the lowest ranking in the region.\footnote{Transparency International, \textit{Corruption Perceptions Index 2017}, February 21, 2018.} The IACHR reiterates that the states have the duty to adopt legislative, administrative, and any other measures to ensure the exercise of human rights in the face of the violations and restrictions brought about by the phenomenon of corruption.\footnote{IACHR, \textit{Resolution Corruption and Human Rights}, March 2018.} The IACHR also recalls that impunity furthers and perpetuates acts of corruption, and that one must ensure that the acts denounced are investigated independently and impartially, without delay and without influences or discrimination based on belonging to certain political parties or based on the positions held by the persons investigated. It is also necessary to adopt preventive measures, which include governing based on the principles of publicity, transparency, and effective public accountability.\footnote{IACHR, \textit{Situation of Human Rights in Venezuela – “Democratic Institutions, the Rule of Law and Human Rights in Venezuela,”} 2018, para. 17.}

\textbf{B. Administration of Justice and Judicial Independence}

52. The IACHR has already drawn attention to the inadequate elections and lack of guarantees for the judges of the Supreme Court to remain in office, which constitutes a major factor in the lack of judicial independence, redounding to the detriment of the population’s access to justice. In 2018, the Commission continued receiving information that indicates that many judges are still chosen without any public competitive hiring process, which makes them susceptible to undue pressures.\footnote{Information provided by civil society groups in the context of the hearing on “Citizen Security and institutional framework in Venezuela,” held during the 167\textsuperscript{th} period of sessions of the IACHR; and hearing “Reports of human rights violations by the military justice system of Venezuela,” held during the 168\textsuperscript{th} period of sessions of the IACHR.}
In this regard, it is relevant to mention the case of the judge María Lourdes Afoumi, who was detained in 2009 due to an independence exercise of her position by releasing a businessman who was held three years on pre-trial detention. In this opportunity, the Commission draws attention to the delays and postponements that stand in the way of securing a decision with regard to the accusations leveled against Judge María Lourdes Afoumi. The Commission already held that it is an emblematic case of harassment and undue pressures suffered by judges, with the aim of limiting their judicial independence. According to the information received, from the beginning of this year the judge in charge of the matter ordered that a hearing be held to receive testimony from more witnesses before handing down a judgment, as the prosecutor had requested. Nonetheless, the hearing has not happened, and, according to the available information, the court is at a virtual standstill.

The Commission has already indicated that the provisional status of judges affects their independence, and reiterates that it is necessary to adopt measures to avoid risks to judicial independence in the selection, appointment, and permanence of the members of the highest judicial body in Venezuela, and the need to ensure that the appointment processes include prior dissemination of the announcements, time periods, and procedures; the guarantee of equal and inclusive access of candidates; the broad participation of civil society; and scoring based on merit and professional capacities, and not political affiliations. The State should adopt urgent and decisive measures to significantly increase the number of full judges and to ensure that judges, even if provisional, are not removed other than by disciplinary proceeding or administrative act, strictly respectful of due process guarantees, especially the duty to be properly motivated and access to judicial review.

Moreover, the Commission is especially concerned about the information received on civilians facing proceedings or being prosecuted in the military criminal jurisdiction in the wake of their detention in the context of demonstrations, dissident acts, or common crimes. According to information from civil society groups, that situation intensified after the protests of April-June 2017; since then, approximately 757 civilians have been brought before military courts.

Information was also received concerning the violation of the legal procedures for appointing the members of the military courts. The IACHR also received information about the use of criminal statutes such as “treason” (“trayción a la patria”), rebellion (“rebelión”), and “attack on the sentinel” (“ataque al centinela”) to prosecute civilians, including demonstrators, and even an opposition member of the National Assembly who was said to have been held without being brought before a judge for months, and other due process violations that could constitute a denial of justice. The State reported that the application of military justice answers to the nature of the act challenged, and not the person.

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69 Information presented by the International Bar Association’s Human Rights Institute to the Executive Secretariat of the IACHR on December 10, 2018. Venezuela Awareness, Tribunal de la Juez Afoumi lleva más de 6 meses cerrado por miedo a dictar sentencia, June 9, 2018.
72 IACHR, Annual Report, Chapter IV.B. “Venezuela,” para. 15.
73 At the hearing “Citizen Security and institutional framework in Venezuela,” held during the 167th period of sessions of the IACHR, information was provided on the case of legislator Gilbert Caro, who was detained for 17 months accused of treason. See INFOBE, El momento en que el diputado opositor Gilber Caro recuperó la libertad: “Me querían matar,” June 3, 2018.
74 Information provided by Acceso a la Justicia to the IACHR in its request for a hearing for the 167th period of sessions, p. 2.
75 Information provided by civil society in the context of the hearing “Reports of human rights violations by the military justice system in Venezuela,” held during the 168th period of sessions of the IACHR. See also HRW, Venezuelan Authorities Should Pay for their Crimes, January 23, 2018.
76 Information provided by the State in the context of the hearing “Reports of human rights violations by the military justice system in Venezuela,” held during the 168th period of sessions of the IACHR.
57. At the same time, the Commission reiterates that the use of the military criminal jurisdiction for trying civilians under the criminal statutes detailed herein entails the violation of a series of rights, such as the right to a pre-existing court with jurisdiction, who is independent and impartial, and it violates the principle of legality. Priority should be assigned to taking the measures necessary, including legislative ones, so that civilians are not investigated or prosecuted by the military criminal jurisdiction and removing, as the case may be, ongoing proceedings to the regular jurisdiction.77

C. Situation of political rights and participation in public life

58. In 2018 information continued to be received on serious acts of repression, persecution, and criminalization against political parties, opponents, activists and social leaders, human rights defenders, and demonstrators that have a serious negative impact on political rights and participation in public life.78 The context of institutional weakness has been propitious for such acts.

59. The IACHR drew attention to the serious events of April-June 2017, when thousands of persons demonstrated in several cities of the country to voice their rejection of the administration of President Maduro and the decisions of the Supreme Court, and also to demand improved living conditions vis-à-vis the alarming scarcity of food, medicines, and other essential goods. The Commission identified serious restrictions and state acts that gravely impacted the exercise of the right to social protest and freedom of expression, as well as the excessive use of firearms against demonstrators and the indiscriminate use of tear-gas bombs.79

60. At that time that IACHR appealed to the State to cease obstructing the legitimate exercise of the right to protest and to halt the use of force against the demonstrators; to institute training in the use of force for those officers in charge of security tasks; to refrain from involving any security force other than the police in these activities; and to adopt measures to rule out the use of firearms in social protests. It should be noted that the events that unfolded in the context of the protests from April to June 2017 are being examined by the Office of the Prosecutor of the International Criminal Court for the purposes of determining whether there is a reasonable basis for considering them to constitute crimes within the jurisdiction of the ICC.80

61. During 2018, the IACHR continues receiving information about episodes of repression and criminalization, with fatal results, in the context of pressing social grievances.81 As of November 2018, the Observatorio Venezolano de Conflictividad Social (OVCS) counted 10,773 protests, most of them aimed at demanding guarantees for economic and social rights in the health, university, electricity and telecommunications sectors; protests over the collapse of basic services such as drinking water, electricity, and domestic gas; demands for access to food and medicines; and protests over the payment of pensions or for


78 Information provided by civil society groups in the context of the hearings “Citizen Security and institutional framework in Venezuela,” held in the 167th period of sessions of the IACHR, and “Arbitrary detention and situation of political rights in Venezuela,” held in the 170th period of sessions of the IACHR.

79 IACHR, Annual Report, Chapter IV.B “Venezuela,” para. 22.


81 Information provided to the IACHR by Red venezolana de Organizaciones de la Sociedad Civil, Sinergia, Acceso a la Justicia, Instituto Prensa y Sociedad (IPYS), Centro de Justicia y Paz (GePaz), Programa Venezolano de Educación Acción (Provea), Movimiento Ciudadano Dale Letra, Prepara Familia, and Asociación Médicos Unidos de Venezuela, in the request for a hearing for the 170th period of sessions. They mentioned, among others, the following episodes: (a) on May 10, 2018, when armed civilians were said to have burst into the Hospital José María Vargas in Caracas where physicians and nurses were protesting over the crisis and undersupply suffered at that hospital. The same day a group of persons on motorcycles lashed out against the physicians who were protesting in the street and handing out pamphlets at the Concepción Palacios Maternity Hospital. (b) On May 14, members of the Bolivarian Police from the state of Zulia were said to have repressed a protest against the lack of medical supplies and critical hospital conditions, staged by family members and staff members of the health team at the Hospital Adolfo Pons in the city of Maracaibo. (c) On August 16 officers of state security forces impeded the advance of the march organized by health staff and patients, who had left the José Manuel de los Ríos Children’s Hospital, in Caracas, headed for the Miraflores Palace, the headquarters of the National Executive. That same day, members of the Bolivarian National Police halted the march of the health sector organized in Barquisimeto, state of Lara. The municipality indicated that the mobilization could not continue as the organizers did not have a permit.
better wages.82 In the first nine months of the year, the Observatorio Venezolano de Conflictividad Social reported that 14 persons had died in the context of protests; the victims have included women and children. Most of the deaths have been caused by the use of firearms. In many cases it has been reported that members of the security forces were involved.83 Such is the case of Evelio José Rodríguez, 12 years old, who is said to have died from a gunshot wound during a nighttime protest staged by residents of the San José de Chirica sector to demand drinking water and to protest the power outages. According to the information provided, four members of the police from the state of Bolívar have been detained for this incident.84 The Commission reiterates its forceful appeal to the Venezuelan State to bring a halt to all acts of repression against peaceful demonstrations, to adopt immediately appropriate measures to protect the population, including women, children and adolescents, and older persons, from all forms of violence.85

62. The Commission reiterates that the use of force in public demonstrations should be very exceptional and should be limited to circumstances in which it is strictly necessary, in keeping with internationally recognized principles. The Commission has repeatedly indicated to the Venezuelan State that firearms should not be carried by the units involved in controlling social protests. Prohibiting those officers who may come into contact with demonstrators from carrying firearms and lead munitions has proven to be the best measure for preventing lethal violence and deaths in contexts of social protest. In addition, it is crucial that reports of the disproportionate use of force not remain in impunity and that urgent measures be taken to prevent this practice by security agents with the greatest rigor.86

63. The Commission emphasizes that the obligation of the states to avoid the excessive use of force by public agents in protest marches and demonstrations should be borne in mind especially in the case of children and adolescents. The IACHR recalls that the criminalization of legitimate mobilization and social protest through direct repression of demonstrators is incompatible with a democratic society, for the legitimate exercise of the right to peacefully express one’s opinion is not a citizen security issue. The State should publicly recognize and protect the right to peaceful assembly and freedom of expression without discrimination on grounds of public opinion and should exclude the participation of members of the military and civilian groups from operations for handling public demonstrations, among other measures.87

64. The organization Foro Penal Venezolano (FPV) reported that from January 1 to October 31, 2018, the total number of citizens arbitrarily arrested in Venezuela came to 492, and that 183 persons were still being detained. According to the FPV, as of December 2018 there were 288 political prisoners.88 It also reported that 35 citizens were being tried unconstitutionally in the military jurisdiction from January to October 2018.89

65. The IACHR has already spoken out about the existence of arrests without any judicial warrant, by the SEBIN, the prosecution of activists for military offenses, and the imposition of pretrial detention without

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83 Observatorio de Conflictividad Social, Conflictividad social en Venezuela durante octubre de 2018, November 13, 2018. The same information has been provided by civil society organizations in the hearing “Humanitarian situation and mechanisms of social control in Venezuela,” held during the 169th period of sessions of the IACHR. It also appears from the request for a hearing submitted by the Red venezolana de Organizaciones de la Sociedad Civil, Sinergia, Acceso a la Justicia, Instituto Prensa y Sociedad (IPYS), Centro de Justicia y Paz (Cepaz), Programa Venezolano de Educación Acción (Provea), Movimiento Ciudadano Dale Letra, Prepara Familia, and the Asociación Médicos Unidos de Venezuela, for the 170th period of sessions. The same information about deaths in the context of protest in 2018 is provided by Sinergia, Los Derechos de Asociación y Participación en un contexto de adversidad: caso Venezuela, December 2018.
84 Information available at the website of the Observatorio Venezolano de Conflictividad Social.
88 Information provided by Foro Penal Venezolano in the context of the hearing “Arbitrary detention and situation of political rights in Venezuela,” held during the 170th period of sessions of the IACHR.
justification, among other measures. The IACHR reiterates that a detention is arbitrary and illegal when it is carried out without the grounds and formalities established by law, when it is carried out without observing statutory requirements, and when there has been an abuse of the power to arrest, i.e. when it is carried out for purposes other than those provided for and required by law. In addition, an arrest for improper aims is, in itself, a form of punishment without trial, or of extralegal punishment, that violates the guarantee of a trial prior to any punishment and renders the term “arbitrary” synonymous with irregular, abusive, and illegal. Therefore, the Commission urges the State to refrain from engaging in mass, collective, or indiscriminate detentions, and to comply with all the requirements imposed by domestic laws and international standards in detentions effectuated by the security forces in contexts of social protest, particularly to ensure that the persons detained and their family members receive specific information on the reasons for the detention and where their family member is being held.

66. As already noted, the “Constitutional Statute against hate, for peaceful coexistence and tolerance,” of November 8, 2017, approved by the ANC, provides for penalties of up to 20 years in prison, the shutdown of media outlets including broadcast media, and the blocking of websites. The IACHR continued receiving information about its possible application against persons engaged in peaceful protest (including through social networks), as well as against state workers who denounce the critical conditions of public services. The IACHR recalls that criminalization by investigations and/or judicial proceedings based on an ambiguous offense is contrary to the principles of a democratic society, in which persons have the right to express their opinions peacefully, without fear of any reprisal.

67. The IACHR reiterates that the State should guarantee the full exercise of political rights for all persons, independent of their positions regarding government policies, and cease all actions that impede the right of persons to freely choose their representatives and to monitor their performance.

68. Particularly grave are the serious allegations of violations of the human rights of members of the National Assembly and opposition activists. On August 4, 2018, two drones with explosives blew up near President Maduro as he was giving a speech. The facts were characterized by the government as an attack on the head of state and senior members of his government.

69. National Assembly legislator Juan Carlos Requesens, the leader of the opposition political party "Primero Justicia," was arrested on August 7, 2018 for his alleged participation in these events. After his arrest a video was made public in which Requesens was shown in his underwear and in denigrating conditions. The IACHR recalled that states should adopt measures necessary to ensure that persons deprived of liberty enjoy conditions compatible with human dignity. Similarly, the IACHR noted that so as to not impair the right to the presumption to innocence, states should avoid presenting persons who are detained and who are being investigated in any informational medium that could become public.

70. The IACHR granted precautionary measures for Requesens, asking Venezuela to adopt the measures necessary to protect his rights to health, life, and integrity, ensuring that he is not subjected to acts of violence. The IACHR took into account the seriousness of the allegations presented by the applicants, which

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92 Information provided by civil society groups in the hearings "Citizen security and institutional framework in Venezuela," held during the 167th period of sessions of the IACHR; "Reports of harassment of human rights defenders, journalists, and media outlets in Venezuela," held during the 168th period of sessions of the IACHR, and "Arbitrary detention and the situation of political rights in Venezuela," held during the 170th period of sessions of the IACHR.
93 IACHR, Annual Report, Chapter IV.B. "Venezuela," paras. 24 and 25.
involved purported torture, the administration of drugs or toxic substances, and allegedly degrading treatment in the context of his deprivation of liberty. 97

71. The Supreme Court also issued an arrest warrant for legislator Julio Borges on charges of continuous public instigation, treason, and attempted homicide (homicidio intencional calificado en grado de frustración) against President Nicolás Maduro. 98 Borges is a beneficiary of precautionary measures issued by the IACHR with the objective of preserving his life and integrity, and so that he can exercise his political rights as a member of the National Assembly without threats, harassment, or acts of violence. 99

72. It was learned that on October 5, 2018, council member Fernando Albán – who was active in the political party Primero Justicia – was detained by the Bolivarian Intelligence Service (SEBIN) at the Maiquetía airport when returning to Venezuela from a visit to the United States. Some 20 hours after he was detained, his legal representative and family members were said to have been informed of his whereabouts and the charges against him: terrorism, treason, conspiracy to engage in criminal conduct, and attempted murder (magnicidio en grado de frustración), presumably in the wake of the events of August 4, 2018.

73. According to information that is a matter of public knowledge, former speaker of the National Assembly Julio Borges denounced that Fernando Albán was detained at the facilities of the SEBIN, where he was exposed to cruel and inhuman treatment; that report was filed one day after his detention. 48 hours later, the Government reported his suicide in the SEBIN waiting room, where Albán was awaiting his transfer to the courts. In the context of the 170th period of sessions, Fernando Albán’s widow asked the Commission to urge the State to transfer her husband’s corpse, so that she could bury him in the United States. She also asked that an independent and autonomous commission be constituted to investigate the human rights violations of which her husband was a victim. 100

74. The IACHR asked the State for information on the current status of the investigation into the death of council member Fernando Albán, in particular with respect to the principal lines of investigation, types of expert evidence sought, witness statements obtained, and results of the autopsy performed after this death. In December 28, the State reported that a specialized human rights unit of the Attorney General’s Office (Ministerio Público) was in charge of conducting the investigation and corresponding expert examinations, after which the hypothesis of suicide was confirmed. It also reported that two officials of the SEBIN had been tried for breach of the obligations to keep custody over a person under their charge. The State added that the National General Prosecutor released information to the press about the course of investigation and its results. Furthermore, it reported that relatives and lawyers of Fernando Albán had access to the files. 101

75. The Commission appeals to the State to carry out the actions required for Mr. Fernando Albán’s family members to have his remains; and to adopt all relevant measures to conduct an conclude an independent investigation of the circumstances of his death while in state custody.

76. The IACHR also granted precautionary measures, asking the State to preserve the health, life, and integrity of Pedro Patricio Jaimes Criollo 102 and Juan Carlos Caguaripano 103, detained at SEBIN facilities, and Luis Humberto de la Sotta Quiroga, detained at the offices of the General Military Counterintelligence Bureau (DGCM: Dirección General de Contrainteligencia Militar), who is being tried on charges of committing

97 Resolution 79/18 - PM 1039/18 - Juan Carlos Requesens Martínez, Venezuela.
98 EFE, El Supremo de Venezuela ordena detener a opositor Borges por el atentado a Maduro, August 8, 2018.
100 Information provided by the State in the context of the hearing “Arbitrary detention and situation of political rights in Venezuela,” held in the 170th period of sessions of the IACHR.
101 Note directed by the State to the IACHR, December 28, 2018.
102 Resolution 78/18 - PM 688/18 - Pedro Patricio Jaimes Criollo, Venezuela.
103 Resolution 42/18 - PM 798/17 - Juan Carlos Caguaripano, Venezuela.
the crimes of “instigation to military rebellion” (“instigación a la rebelión militar”), rioting (“motín”), treason, and “acting against military decorum” (“contra el decoro militar”).

77. As regards Jaimes Criollo, the applicants indicated that at the time of his detention at the offices of the General Military Counterintelligence Bureau:

“... they covered his head with bags, they asphyxiated him on the floor and turned with his arms up, they beat him with cushioned sticks and bats. He also suffered electrical discharges, ‘give him more volts’ the SEBIN agents said, and presumably trying to get him to tell them personal passwords.”

78. The IACHR reiterates its appeal to the State to adopt the measures necessary for ensuring the political rights of mayors, governors, legislators, and any other authority, as well as political leaders, so that they can perform their functions without being subjected to harassment, threats, and violence.

79. On May 16, more than 300 persons detained at the prison known as “El Helicoide,” of the Bolivarian National Intelligence Services (SEBIN), rioted to protest alleged violations of their human rights, such as torture and mistreatment; the detention of adolescents; the existence of prisoners with release orders who continue to be detained; in addition to due process violations. One of the persons detained there is Juan Pedro Lares, who is said to have spent more than a year without his case being brought before the courts. Lares was subsequently released. The IACHR has received information about allegations of torture of persons held in that facility. During the riot the State announced that a commission would be constituted to look into the claims. According to the information received, the authorities transferred detainees to another prison as a result of those events. Nonetheless, there is no official information in this regard.

80. The State informed the IACHR that the Commission of Truth, Justice, Peace and Public Tranquility of the Justice System recommended evaluating the application of non-custodial measures for persons detained or convicted for their alleged or proven participation in episodes of violence for political reasons in recent years. Based on these recommendations, 123 persons are said to have received non-custodial measures and so are free on the condition that they must present themselves periodically to the corresponding court. The State reported that 10 persons are beneficiaries of precautionary measures handed down by the IACHR.

81. The IACHR analyzed the information provided by the State and took the opportunity to ask the State for information about the failure to carry out a series of release orders issued by the judiciary in favor of persons who are still being detained, based on information provided by civil society organizations. In particular, details were requested concerning 58 persons of Colombian nationality and two of the 14 police agents known as “polichacaos” deprived of liberty due to their alleged ties to a crime, Fred Mavares and Reggie Jackson Andrade. As of this writing no response has been forthcoming.

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104 Resolution 75/18 - PM 862/18 - Luis Humberto de la Sotta Quiroga, Venezuela.
105 Resolution 78/18 - PM 688/18 - Pedro Patricio Jaimes Criollo, Venezuela, para. 6.
107 Information provided by Defiende Venezuela to the IACHR, May 16, 2018.
108 Provea, Entrevista Provea “Me rociaron con gasolina y me decían que iban a prenderla si no les decía dónde estaba mi padre,” June 15, 2018.
109 Written information provided by the organization Defiende Venezuela to the Commission in the context of the 170th period of sessions. See also Amnesty International, Gregory Sanabria requiere atención médica urgente, May 25, 2018.
110 El Pais, Motín en la cárcel de Caracas que encierra a los presos políticos más emblemáticos, May 18, 2018.
111 IACHR, request for information to the State, July 16, 2018, Note CIDH/SE/Art.18/07-2018/37.
112 Information provided by civil society in the context of the hearing “Citizen security and institutional framework in Venezuela,” held during the 167th period of sessions of the IACHR.
82. On May 29, the Panel of International Independent Experts of the OAS issued its report on the possible commission of crimes against humanity in Venezuela.\(^{114}\) It concluded that there are sufficient grounds for considering that the acts to which the civilian population of Venezuela has been subjected, including the crimes of murder, incarceration, torture, rape and other forms of sexual violence, persecution, and forced disappearance, which date back to at least February 12, 2014, constitute crimes against humanity as per the Rome Statute.\(^{115}\) In addition to pointing to abundant evidence, the Panel noted that the IACHR contributed to the process by submitting a report on Venezuela’s judicial system.\(^{116}\)

83. The Panel recommended to the Secretary General of the OAS that this Report and the evidence compiled by the OAS General Secretariat be forwarded to the Office of the Prosecutor of the International Criminal Court (ICC), and that the Secretary General should invite the states party to the Rome Statute to refer the situation of Venezuela to the Office of the Prosecutor of the ICC, and ask the Prosecutor to open an investigation into the crimes against humanity described in this Report, in keeping with Article 14 of the Rome Statute.\(^{117}\) In December 2018, the Office of the Prosecutor of the ICC reported that the investigation with respect to whether there is a reasonable basis for considering the alleged crimes to fall within the jurisdiction of the Court is open, and that it would continue to receive evidence.\(^{118}\)

84. In June 2018, the Office of the United Nations High Commissioner for Human Rights (OHCHR) issued its report “Human rights violations and abuses in the context of protests in the Bolivarian Republic of Venezuela from 1 April to 31 July 2017.”\(^{119}\) That report describes an ever more critical human rights situation from the beginning of the protests, evidencing an escalation in repression of the political opposition by the security forces and an increase in the stigmatization and persecution of persons perceived as opposing the Government. The OHCHR found that agents of the security forces made systematic use of excessive force, including arbitrary detentions of demonstrators, patterns of mistreatment, which on occasion could constitute torture, and the violation of the rights to enjoy the highest possible level of health and an adequate diet. The report was prepared without access to Venezuelan territory due to the lack of consent and was rejected by the Government.\(^{120}\)

D. Violence and Citizen Security

85. The IACHR indicated in earlier years that the high levels of violence and crime, and the context of militarization of citizen security and involvement of civilians in security tasks had contributed to a sustained increase in extrajudicial executions.\(^{121}\)

86. In June the Scientific, Criminal, and Criminological Investigation Corps (CICPC: Cuerpo de Investigaciones Científicas, Penales y Criminalísticas) reported that the figures for homicides in Venezuela diminished in the first half of 2018, compared to the same period the previous year. It noted that there was a 26% reduction in the incidence of this crime as compared to 2017, with a total of 5,762 deaths due to homicide


\(^{117}\) The report by the Panel indicates: “All of the activities carried out under this process were done without prejudice to the competence and authorities of the Inter-American Commission on Human Rights. With the mandate of the IACHR focused on human rights violations carried out at the state level, the IACHR contributed to the process with the submission of a report on the judicial system in Venezuela,” Report Panel of Experts Venezuela, p. 14.


\(^{119}\) OHCHR, Human rights violations and abuses in the context of protests in the Bolivarian Republic of Venezuela from 1 April to 31 July 2017, August 2017.

\(^{120}\) Ministry of People’s Power for Foreign Relations, Venezuela, Contundente respuesta de Venezuela al falaz informe del Alto Comisionado para los DDHH, August 22, 2018.

\(^{121}\) IACHR, Annual Report, Chapter IV.B. “Venezuela,” para. 28.
as of June 2018. At the same time, public officials reported that as of October 2018 there was a 35.4% reduction in homicides compared to the previous year. Nonetheless, the State has not produced disaggregated information regarding the causes, victims, and victimizers of these deaths. Specifically, there is no known official data on the number of deaths caused by confrontations, excessive use of force by the security forces, or extrajudicial executions.

87. The Observatorio Venezolano de Violencia (OVV), for its part, reported having recorded 23,047 violent deaths during 2018. Of these, 10,422 represent homicides. According to that information, the participation of the security forces in homicides continues to be high. They counted 7,523 deaths caused by resisting the authorities and 5,102 cases of deaths that are still being legally processed. The rate of violent deaths was 81.4 per 100,000 population. From January to September 2018, in the city of Caracas, 481 homicides were counted caused by putting up “resistance to the authorities,” for a 13% increase with respect to the previous year.

88. In addition, information has continued to be received about security force operations in areas with high rates of violence, characterized by the excessive use of force. The Monitor de Víctimas reported that as of October 2018 the National Bolivarian Police (including the Special Actions Force) and the CICPC are the two security institutions that account for the largest number of homicides, 57% and 35% respectively. Concern has been expressed about the failure to investigate the public servants implicated in violent deaths. The State announced that 89 members of the Special Actions Force were under administrative and criminal investigation, and that 23 police officers are deprived of liberty as a result of reports of abuses perpetrated in the context of the program “Denounce Police who Commit Violations” ("Denuncia al Policía Transgresor").

89. In January 2018, in a joint action by the state security forces, Operation "Gedeón" was carried out in the area known as El Junquito, in Caracas. On January 16, the Minister of Internal Relations, Justice and Peace reported that after an armed confrontation, a self-styled rebel group in opposition to the government, led by Óscar Pérez, former inspector of the CICPC, had been dismantled. The members of the group were sought for their participation in the 2017 attack on the Supreme Court, and for having issued an appeal for civil disobedience.

90. According to reliable information, the operation included the participation of some 400 agents of the security forces belonging to the Bolivarian National Guard, the Bolivarian National Police, the National Anti-Extortion Command, and the General Military Counterintelligence Bureau. It was announced that as a result of the military operation known as “Gedeón” at least nine persons, including Óscar Pérez, six members of his group, and two police agents had lost their lives, and that eight security agents suffered bullet wounds. The official information indicated that the members of the rebel group shot at officers of the security forces, who took action to respond to the attack, following defined protocols.

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125 See Observatorio Venezolano de Violencia, 85% de los delitos más graves en octubre fueron homicidios, November 2018; Observatorio Venezolano de Violencia, ¿Es real la supuesta reducción de los homicidios en la capital de Venezuela?, November 7, 2018; Monitor de Víctimas, Informe Mensual, October 2018.
127 Monitor de Víctimas, Reporte Mensual, October 2018.
129 El Nacional, El grupo paramilitar liderado por Óscar Pérez fue disuelto por el Ministerio Público, December 11, 2018.
130 BBC, Un helicóptero del CICPC dispara contra el ministerio del Interior y el Tribunal Supremo de Venezuela en lo que el gobierno denuncia como “escalada golpista,” June 28, 2017.
131 OHCHR, Violaciones humanitarias en la República Bolivariana de Venezuela: a downward spiral with no end in sight, June 2018.
91. Videos were disseminated in which Pérez and members of his group report on the negotiations that were initiated with the authorities for their surrender, as well as their calls for a ceasefire, given the presence of women and children in the place. Those videos record shots while the members of the group announce their surrender. According to information received, the seven members died from gunshot wounds to the head. The home that was the scene of these events was demolished. It was also reported that the family members of Óscar Pérez and his group faced a series of obstacles when it came to being allowed to identify the bodies; and that they were not allowed to decide on the details of their burials. The Commission sent a request to the State, asking for information on the state agents and authorities who were in charge of the operation and who participated in it; the persons who were wounded or killed in Operation Gedeón; the status of the investigations initiated in relation to this context and their findings; how the official removal of the bodies was conducted; which authorities or independent experts participated in these processes; the kind of assistance that was given to the persons who were wounded; how the burials of the persons killed took place and whether they were in keeping with the decisions, beliefs, and customs of the family members; and what family members of the deceased were present. As of this writing the State has not provided the information requested.

92. The Commission also received information that describes the violent deaths of at least eight persons in the residential zone of Fuerte Tiuna, in a sector known as “Los Rusos.” The incident was said to have occurred in the context of an operation carried out on September 9 by agents of the Special Actions Force of the Bolivarian National Police (FAES). At the same time, information was received on searches conducted without a judicial warrant and attacks on private homes in the context of protests against the State. According to the information received, the searches were conducted violently, breaking fences and gates, with the use of small tanks and armored vehicles, and with indiscriminate shots fired into homes. It was denounced that once in the homes the officials demanded to be told where the youths were who were protesting, without showing any arrest warrant. The State reported that the demonstrations that have taken place in Venezuela have been violent and that it has made legal use of force to bring them under control. Such events occur in the context of the extension of the state of emergency by decree issued by the Executive branch.

93. The Commission considers it essential to reiterate the call to end the involvement of the armed forces in citizen security activities that are within the purview of the police bodies, as well as ending the involvement of civilians in internal security strategies. In particular, the Commission reiterates to the State the request for information on the circumstances around Operation Gedeón and urges the State to determine the possible responsibilities of those state officials who participated in it. The IACHR reiterates that it is also fundamental to adopt a human rights perspective in addressing citizen security; such an approach is based on looking at people as citizens to be protected rather than enemies who must be combated.

94. In addition, the Commission recalls that the State is under the inescapable obligation to adopt all measures necessary to protect the life and integrity of the persons under its jurisdiction; which implies taking the measures needed to ensure that the use of lethal force occurs strictly within the principles of

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134 Information provided to the Commission by Defiende Venezuela.
135 Information provided by civil society groups in the hearing “Citizen Security and institutional framework in Venezuela,” held during the 167th period of sessions of the IACHR.
136 Information provided by Amnesty International in the hearing “Citizen Security and institutional framework in Venezuela,” held during the 167th period of sessions of the IACHR.
exceptionality, legality, necessity, proportionality, non-discrimination, and accountability.\textsuperscript{140} In addition, the State is under the duty to prevent, investigate, prosecute, and punish violent acts.\textsuperscript{141}

IV. **POVERTY AND ECONOMIC, SOCIAL, CULTURAL AND ENVIRONMENTAL RIGHTS**

95. The Rapporteurship on Economic, Social, Cultural and Environmental Rights continued monitoring the situation in Venezuela, with great concern, throughout 2018. Antiretrovirals continued to be in short supply for persons with HIV or AIDS, as were medicines for insulin-dependent diabetes and hypertension. Associated with the effects of the health crisis, information is on record regarding the deaths of minor children due to infections caused by deficient hygiene in the hospitals. At the same time, deaths associated with pregnancy and childbirth care due to deteriorating public health services, malnutrition, and epidemics. In particular, projections with regard to child deaths due to malnutrition are alarming. With respect to the right to education, attacks have continued on institutional university autonomy and academic freedom, which led the National Assembly of Venezuela to declare a complex humanitarian emergency in education, which has been ratified by university councils of Venezuela’s leading universities. Finally, it is noted that problems persist stemming from pollution, deforestation, violence, and the increase in organized crime activities in what is called the Orinoco Mining Arc.

96. The Commission takes note on the observations of the State made to the project of the present report in which they note that “during 2018, Venezuela reached the sum of 2.500.00 constructed housing built and delivered to the population, with special preference for the sectors in conditions of social vulnerability; all of the aforementioned as part of the “Great Housing Mission of Venezuela”\textsuperscript{142}.

A. **Health**

97. The crisis in Venezuela’s health system has several aspects associated with different factors; it has taken a particular toll on the country’s most vulnerable populations. For example, from January to July the scarcity of medicines for insulin-dependent diabetes and hypertension persisted; these are causes of morbidity in older persons, fluctuating from 89.8% to 78.4% for insulin-dependent diabetes, and from 89.5% to 74.2% for hypertension. These figures are higher for acute respiratory infections and diarrhea, with maximum peaks of up to 97.2% and 92.4%, respectively.\textsuperscript{143} There are reports of deaths in older persons due to lack of access to medicines. This is supplemented by the general panorama, as widespread undersupply persists (greater than 79%). This means that more than half of all patients will not get medicines to treat the leading morbidities, whose worsening diminishes quality of life and life expectancy, while these diseases are perfectly treatable in a context in which public policies and investments in health are focused on the well-being of the population.\textsuperscript{144}

98. Venezuela has a deficit of medical personnel. According to the 2017 National Survey of Physicians and Medical Students more than 40% of all these professionals who have graduated in the last decade decided to migrate to other countries; and of those who are still in the country, 75% intend to emigrate due to the precarious conditions for health professionals. The playing out of these intentions makes it all the more difficult to provide health services to older persons in Venezuela.


\textsuperscript{143}United Nation High Commissioner, *International experts concerned at the decay of older persons’ right to health in Venezuela,* 2018.

\textsuperscript{144}United Nation High Commissioner, *International experts concerned at the decay of older persons’ right to health in Venezuela,* 2018.
In response to this situation, in October 2018, the Special Rapporteur for Economic, Social, Cultural and Environmental Rights of the IACHR, along with the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health of the United Nations, will issue a joint statement expressing their concern over the detriment to the right to health of older persons in Venezuela. In the document both mandates urged the State to guarantee the right to enjoy the highest attainable standard of health for older persons in Venezuela, recalled the forwarding to the Venezuelan State of a request for a joint visit, and reiterated their utmost interest, and offered to provide technical assistance for protecting the right to health.

In addition, other international organizations have taken actions to address the crisis in Venezuela. For example, the regional office of the Pan American Health Organization (PAHO), drew up the Master plan for strengthening the HIV, tuberculosis and malaria response, in June 2018, which included the participation of the directors of the programs of the Ministry of People’s Power of Health (MPPS: Ministerio del Poder Popular de la Salud), representatives of civil society, and experts from PAHO and UNAIDS. The Master Plan contains the activities needed for responding to these three health problems, as well as the detail of the needs and costs of medicines, laboratory reagents, equipment, and prevention materials. The Global Fund to Fight AIDS has already earmarked financial resources for purchasing antiretroviral medicines through the PAHO Strategic Fund and we believe we are making progress in addressing the needs for these three diseases, supplementing the efforts of the MPPS and guaranteeing their availability during 2019.145

Nonetheless, these efforts are diminished if one notes that there is a generalized supply crisis in Venezuela. For example, it is estimated that at least 60% of the medical care available in 2011 was lost from 2012 to 2017; it was provided by public health services to 82% of the user population. With respect to care, it is noted that from 2012 to 2015 the proportion of beds occupied in the public hospitals fell 40%, and from 2014 to 2015 the number of persons served daily in consultations, emergencies, and childbirths fell 58%, according to the latest statistics published by the Ministry of Health in its Memory and Account (Memoria y Cuenta). Moreover, according to 2017 Survey of Living Conditions, population centers such as Barrio Adentro lost 96% of their beneficiaries from 2015 to 2017; and the only public hospital in the state of Amazonas was closed on technical grounds.146

Accordingly, the Commission finds it alarming that at this time the risk of dying in a public hospital is quite high, causing the extreme vulnerability of persons due to the precarious conditions of care. Most public health establishments have shortcomings in their structure, operating capacity, and logistics, and in some cases a lack of basic hygienic conditions. These inadequate sanitary conditions foster intrahospital infections and 50% of the hospitals with complex services do not have bacteriology laboratories.147

As regards the health of children, information was received on at least 16 children under 5 years of age who have died at the Hospital Universitario de Pediatría Dr. Zubillaga (Dr. Zubillaga Pediatric University Hospital) in the state of Lara as of this writing in 2018, due to infections caused by deficient hygiene. In 2017 and 2018, 12 children and adolescents died who received dialysis at the J.M. de los Ríos Children’s Hospital due to bacterial infection in the water tanks and filters in the units. In one year the number of child deaths at this hospital doubled, from 79 to 160; the three leading causes were septic shock, pneumonia, and malnutrition. Similarly, from December 2017 to February 2018, the death of 112 newborns was reported in the Santa Ana Maternity Hospital of Caracas, due to the bacterium Klebsiella pneumoniae.148

In 66%, the number of maternal deaths increased, while child deaths climbed 30% from 2015 to 2016. Both have continued to rise into 2018, with the aggravating factors of malnutrition and epidemics.

Deaths associated with pregnancy and childbirth care have escalated in Venezuela due to the decline in public health services, malnutrition, and epidemics. The rate of adolescent pregnancy, at 95 per 1,000, is the second highest in Latin America. From 2015 to 2016, maternal deaths grew 66%, reaching mortality of 140 pregnant women per 100,000 live births, and continued to climb during 2017 and 2018. Child deaths, more than 60% of them neonatal deaths, saw a 30% increase (from 8,812 to 11,466) with a rate of 19.0 deaths per 10,000 live births. In the 2017 Survey of Living Conditions, 25,000 pregnant females never received a prenatal checkup and 15,000 only as of the eighth month. In 2017, 117 pregnant females from the state of Bolívar lost their lives due to malaria complications; en 2018, 10 pregnant females also died, of a total of 690 indigenous women with malaria in the state of Amazonas.

The number of persons receiving care at public psychiatric institutions fell from 23,000 to 3,500, and those in such institutions do not have food or medicines. Mental health policies have historically been weak in Venezuela. Persons with some mental health condition (schizophrenia, dementia, depression, and bipolar, anxiety, personality, or attention deficit disorders, intellectual disability, or autism) receive attention in only 11 hospitals of the Ministry of Health and 68 cases in rest homes operated by the social security institute. From 2009 to 2013, the number of beds fell off 42%, and from 2013 to 2015, the number of persons served fell from 23,000 to 5,500, due to serious problems with infrastructure, limited budget, and lack of medicines.

As regards the lack of access to medicines and medical treatments in Venezuela, the IACHR learned that 85% of the pharmacies in the Venezuelan capital had no medicine for treating opportunistic infections that attack persons living with HIV or AIDS; and that 95% to 100% of the hospitals do not have a supply of antiretrovirals. This has meant that some patients have gone up to six continuous months without receiving the treatment indicated, resulting in approximately five persons a day dying due to causes related to that disease. In that same context, local scientific organizations have observed the serious deterioration of the blood banks in Venezuela, with serious shortcomings in the reception of reagents and inputs for discarding the possibility of diseases in blood donations, surgery and transfusion in kidney, hematology, and cancer patients, among others. That context is aggravated by a worrisome increase in diseases such as malaria, zika, and diphtheria, which has generated alerts due to their gradual spread since 2015.

In 2016, the scarcity of psychotropic medicines reached 85%, generating a high probability of disability and mortality. According to the Survey of Living Conditions for 2016, 63% of the persons with these persons did not get medicines at pharmacies. Psychiatrists say they have gone back to practices that had become a thing of the past such as tying down a patient or isolating the patient in a room without clothing to avoid self-inflicted injuries. In 2018, 3,500 persons had to leave the centers due to severe malnutrition and psychotic episodes, for insulin, and due to the undersupply of anti-malaria medicine.

Finally, some precautionary measures have been granted to provide immediate protection of the right to health. In Precautionary Measure PM No. 1039/17, the measure was granted in favor of child nephrology patients at the Hospital José Manuel de los Ríos. It argued that the proposed beneficiaries are at serious risk due to their health and the lack of adequate medical treatment, due to an alleged crisis of undersupply and other structural shortcomings. The Commission asked Venezuela to take the measures necessary to guarantee the life, integrity, and health of the children. Similarly, the IACHR granted Precautionary Measure (PM) No. 145/18 with respect to persons who have the HIV virus who are said to be at risk due to the failure to ensure a steady supply of antiretroviral medicines. In particular, the Commission asked Venezuela to adopt the measures necessary to safeguard the life and integrity of the 43 beneficiaries by immediately

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150 Provea: Informe Anual 2016, Chapter on Health.
adopting measures that make possible adequate medical treatment, as well as the diagnoses and medical exams that make it possible to regularly evaluate their health conditions.\footnote{The Commission also granted precautionary measures 1039, 862, and 798 of 2018 on behalf of persons deprived of liberty who were at serious risk due to their conditions of detention and due to the lack of adequate medical care, which was distinct for each person. In the various measures the Commission asked the government of Venezuela to take the steps necessary to guarantee the health, life, and integrity of persons deprived of liberty.}

109. The Commission urges the State to make the adjustments needed in its public policies and budgets to respect and guarantee the rights to food and health, based on a differentiated and gender-sensitive approach that gives special consideration to the rights of older persons and children. In particular, it should make a change to its comprehensive health policy so as to address basic needs such as the lack of medicines and hospital care, diminishing the quality and availability of health care for the inhabitants of Venezuela.

110. The Commission recalls that the American Declaration, at Article XI, indicates that every person has the right to his or her health being preserved by sanitary and social measures relating to food, clothing, housing and medical care, to the extent permitted by public and community resources. This right should be satisfied such that it is available, accessible, acceptable, and of quality.\footnote{Committee on Economic, Social and Cultural Rights General Comment No. 14, The right to the highest attainable standard of health, E/C.12/2000.4, August 11, 2000, para. 12.} Along these lines, in the face of alarming figures, it is a duty of the Venezuelan State to make every possible effort to eradicate the scarcity of medicines and the lack of personnel at the health centers.

B. Food

111. The most recent report on food and nutrition security by the United Nations Food and Agriculture Organization in collaboration with the Pan American Health Organization, has verified an increase of 1.3 million persons who have been underfed in Venezuela from 2014 to 2016, i.e. 3.9% more than in the previous three-year period. That estimate corresponds to the number of persons in the population who do not meet the minimal nutritional requirements for leading a healthy and active life. Accordingly, the repeated reports on the risk thousands of children in Venezuela face of losing their lives due to malnutrition this year. According to the information received, in 2017 five to six children died weekly due to lack of food, and at least 33% of the child population is showing signs of stunted growth. In addition, an average of 4.5 million persons are eating only once a day, and on occasion only every other day, resulting in 11.4% of the child population already suffering malnutrition.\footnote{IACHR, Press Release No. 016/2018, February 1, 2018.}

112. In addition, the scarcity of food products and the rising prices of the few protein products or nutritional supplements available in the country threaten to drive up child malnutrition to 25%, to reduce the number of meals per day, and to meals having less and less animal protein, leafy greens, fruits, and vegetables. This has particular and serious effects on children, older adults, and those persons who suffer diseases such as pneumonia, hepatitis, tuberculosis, or HIV/AIDS, who moreover report that they have not received their medicines for months, nor had access to food appropriate for their survival.\footnote{IACHR, Press Release No. 016/2018, February 1, 2018.}

113. In 2017, according to reliable research in the locality of Miranda, older persons lost 1.3 kilograms monthly, which deteriorated their health and adequate levels of nutrition. The situation was worse for those who tend to be alone, without emotional and economic support, since their family members are forced to emigrate from the country to survive. Similarly, some data indicate that there has been a shift in the diet of inhabitants of Venezuela. According to information sent by civil society groups, the foods that many have stopped buying because of their cost or scarcity are animal proteins: chicken (21.3% attribute it to scarcity, 18.6% to cost), beef (19.8% due to scarcity, 20.3% because of cost), and fish (10.4% because of scarcity, 12.3% because of cost).\footnote{Commission for Human Rights of the state of Zulia (CODHEZ), Report on quality of food 2018.} As a result, approximately 76.8% of households reported that at some time in the last three
months, because of lack of money or other resources, the adults ceased having a healthy diet – due to not including foods in the quantity and quality needed for healthy and balanced meals.  

114. At the same time, it was reported that 6 newborns died at the Hospital Menca in Leoni, and 3 other babies died due to malnutrition at the Children’s Hospital in Maracaibo, figures that are in addition to several deaths recorded in different parts of the country as the result of the lack of guarantees for the rights to health and food. According to civil society organizations, it is likely at least 280,000 children could die of malnutrition. While for 2017, these same organizations were able to provide care to more than 3,000 children with malnutrition, this year the inventories of nutritional supplement are depleted in several parts of the country. As of August 2018, 48% of pregnant females in poor parishes had some degree of malnutrition; 21% had severe malnutrition. 

115. Finally, it is worth noting that in its comments on the draft of this report, the State referred to the Local Supply and Production Committees (CLAP) program, under which it "supplies, directly and on a monthly basis, 19 food products at subsidized prices to 6 million families in the country", and assured that "it reaches coverage of more than 24 million people." 

116. The Commission reminds the State that under Article XI of the American Declaration, every person has the right to the preservation of his health by measures relating to food. Similarly, Article VII of the same instrument indicates that all women, during pregnancy and the nursing period, as well as every child enjoy the right to special protection, care, and aid. In addition, the Committee on Economic, Social and Cultural Rights, at its General Comment 12, indicates that the core content of the right to food implies "the availability of food in a quantity and quality sufficient to satisfy the dietary needs of individuals, free from adverse substances, and acceptable within a given culture" and "the accessibility of such food in ways that are sustainable and that do not interfere with the enjoyment of other human rights." 

117. It is urgent that the State adopt a new public policy focused on eradicating chronic malnutrition, especially in the most vulnerable sectors of society. Within that strategy, adjustments should be made in monetary policy so as to ensure access to the basic market basket for the poorest and most vulnerable sectors of Venezuela. 

C. Education 

118. As regards the right to education, it is noted with concern that on November 21, 2018, the President of the Republic, in the context of the day of the university student, on a nationwide radio and television broadcast, asked the students to create “University Militia” to defend “the revolution” and support their government “with weapons in hand.” In addition, from 2010 to 2018 at least 50 judicial decisions have been issued that violate the institutional autonomy of the universities, and consequently academic freedom, on avoiding holding elections of university authorities, having suspended the competitive hiring processes for university professors, having forced the autonomous universities to accept the impositions of places for new students by outside actors, and even with intervention in the graduations when it comes to giving out university degrees.
degrees. Similarly, on November 27, 2018, the Electoral Chamber of the Supreme Court handed down judgment No. 102, which violates university autonomy on failing to recognize the results of the student elections held November 14, 2018, at the Universidad de Carabobo, instead imposing a student government.

Along these lines, one observes the recurrent suspension of elections and of the internal rules of political participation at the autonomous universities. Based on Article 34 of the Organic Law on Education, the Electoral Chamber of the Supreme Court has not allowed the renewal of authorities (rectors, deans, and co-governing bodies). The elections scheduled at the public universities of Venezuela have been suspended since 2011. The universities have pursued remedies before the Supreme Court, seeking the annulment of the effects of this article; no favorable decision has been forthcoming to date.

Observing this general situation, the National Assembly of Venezuela, on September 25, 2018 agreed to declare a complex humanitarian emergency in the education sector in Venezuela, pointing to the violations of academic freedom and university autonomy as well as the budgetary asphyxia at the universities caused by the Ministry of People’s Power for University Education, Science and Technology, the searches of university facilities, and the criminalization of the university protests, among other situations. This declaration has been ratified autonomously by the various university councils at the country’s leading universities.

The Commission expresses its concern over the reports regarding interference with university autonomy. The Commission reiterates that it is the duty of the State to respect university autonomy, as it is a fundamental pillar of the right to education, especially for the free development of the students and as a leading pillar of a strong democratic state. Academic debate not only enriches the internal discussion of the universities, but is also useful for fostering public debate, which strengthens democratic institutions.

While it is not mentioned expressly in the American Declaration, the IACHR recalls that university autonomy is an essential requirement for academic freedom, which in turn is necessary for full enjoyment of the right to education, which is recognized in Article XII of the American Declaration. In that regard, the Commission urges the State to review and modify, as relevant, any acts that may diminish the autonomy of the universities. In addition, the Commission expresses its condemnation of the reports of arbitrary expulsions of and reprisals against students motivated by political considerations. The IACHR urges the State to refrain from carrying out such acts, and to investigate and, as the case may be, punish them.

D. Healthy Environment

Serious reports have been lodged regarding pollution, deforestation, violence, and an increase in organized criminal activities in the Orinoco Mining Arc, which was created in 2016 by supreme decree for the extraction of bauxite, coltan, diamonds, gold, iron, copper, kaolin, and dolomite all along the southern bank of the Orinoco River, encompassing an area of approximately 112,000 km². Among these, some 33 places have been identified where mining is taking place within or adjacent to the Canaima park. That information, together with that which the Rapporteurship for ESCE rights has pulled together, indicates that members of indigenous communities are participating in mines in the following locations: the middle stretch of the Caura river basin, the Paragua river basin, and the Caroni river basin.

In addition, the sector is especially rich in protected areas; and has the largest number of areas under a special regime in Venezuela, among them the three million hectares of the Canaima national park, the 7.5 million hectares of the Caura national park – formalized in 2016, after the serious of stinging criticisms of
government mining policy – and the five million hectares of the Imataca forest reserve. The concern has to do primarily with the fact that the ecosystem has very fine soils that are very difficult to restore. In that sense, the forests of the Guyana shield serves as a protective shield for almost 2,000 endemic plant species.

125. One of the leading concerns is the excessive use of mercury to separate the metal from the minerals. It has been determined that exposure to mercury is causing neurological and kidney disorders, and dermatological harm. Moreover, according to a study conducted by the Sociedad Peruana de Derecho Ambiental (Peruvian Environmental Law Society), it was found that only 32% of the children analyzed in clinical studies showed mercury levels below the safety limit. Worse still, more than 90% of the persons who work in the processing centers had mercury levels above the warning level.

126. The United Nations independent expert for a healthy environmental has indicated that the states must comply with substantive and procedural obligations to prevent and safeguard the environment. The states have the obligation to apply legal frameworks for protection from environmental harm that may violate the enjoyment of human rights. Similarly, the states have the duty to comply with procedural obligations that are necessary for safeguarding the substantive aspects of the environment, and carry out Principle 10 of the Declaration of Rio de Janeiro on environment and development, which indicates that one should guarantee the right of access to information, justice, and participation in environmental matters.

127. The IACHR calls on the State of Venezuela to evaluate urgently the environmental, sociocultural, and human rights impact of the creation of the Orinoco Mining Arc National Strategic Development Zone. That evaluation should be done ensuring access to information and the effective participation of the indigenous communities, as well as prior consultation in relation to the decisions that affect them.

V. SOCIAL PROTEST AND FREEDOM OF EXPRESSION

128. In 2018 the situation of freedom of expression in Venezuela deteriorated significantly due to the initiation of criminal proceedings against journalists who investigate acts of corruption, arbitrary arrests of journalists who cover protests and the detentions of opposition leaders and citizens who express criticisms or dissent from the government via social networks. The so-called Law against Hatred was applied to demonstrators and citizens, and to apply sanctions and warnings to media outlets. The IACHR and its Office of the Special Rapporteur for Freedom of Expression were also informed of the violence brought to bear against journalists and media workers by members of the security forces while covering protests; many were forced by the agents to destroy recorded material or were kept from approaching to cover incidents. The practice of detaining foreign correspondents and visiting journalists persisted. At the same time, the government is deploying new strategies to attempt to control messages on the Internet by blocking websites and surveilling citizens’ communications on social networks. The situation of the supply of newsprint by the state company that monopolizes this input also worsened. As a result, 35 newspapers saw their issues, runs, and the number of pages decline. Several stopped circulating in paper versions.

A. Journalism and the Freedom of Press

129. The IACHR observes with concern the restrictive environment for the free exercise of journalism in Venezuela, considering that journalists are constantly at risk of becoming the target of attacks,

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175 Pulitzer Center on Crisis Reporting, “Digging into the Mining Arc.”
176 Pulitzer Center on Crisis Reporting, “Digging into the Mining Arc.”
intimidation, and various forms of harassment for doing their work in different contexts. In addition, the IACHR received information about a continuing practice of arbitrarily detaining journalists while they are doing their work of reporting. Reporters are held temporarily and impeded from doing their work under unjustified pretexts, such as being in areas of public access without authorization. The information received points to several cases in which reporters were kept from approaching certain areas where there were protests or episodes of major public interest, and from taking statements from the persons involved or taking photographs. At the same time, the IACHR learned of several attacks on media facilities and harm to infrastructure and equipment.

130. The IACHR recalls that in keeping with Principle 9 of the Declaration of Principles on Freedom of Expression: “The murder, kidnapping, intimidation of and/or threats to social communicators, as well as the material destruction of communications media violate the fundamental rights of individuals and strongly restrict freedom of expression. It is the duty of the state to prevent and investigate such occurrences, to punish their perpetrators and to ensure that victims receive due compensation.”

2. Stigmatizing statements

131. In 2018, the IACHR and its Office of the Special Rapporteur for Freedom of Expression learned of stigmatizing statements by public authorities speaking against the work media outlets and journalists. The IACHR was informed of accusations by public authorities against the organization Transparencia Venezuela. On April 18, the website of the Ministry of People’s Power of the Office of the Presidency and Follow-up of Government Action is said to have published an article in the state-owned daily newspaper Correo del Orinoco, on occasion of the Summit of the Americas, in which it said that Transparencia Venezuela is “subversive” and one of the most dangerous organizations in the country. In November 2017, President Nicolás Maduro had said, during an interview with a Spanish press outlet, that the organization was financed by the United States and that one should not rely on it. In addition, on September 10, President Nicolás Maduro said in a nationwide television and radio broadcast that his administration is the victim of a campaign of “worldwide defamation, of worldwide slander against Venezuela” (“difamación mundial, de injuria mundial contra Venezuela”), and that he had given assurances that there is “a great worldwide media operation to position a matrix of supposed humanitarian crisis to justify the crazy plans that those sectors are preparing for a military intervention in Venezuela.”

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have suffered intermittent interruptions.

Of these, 26 are said to have ceased circulating permanently, and nine are said to have suffered intermittent interruptions. According to information available, approximately 35 print media outlets have seen their circulation impacted in 2018 due to the scarcity of newsprint or economic difficulties acquiring plates and ink for printing. Of these, 26 are said to have ceased circulating permanently, and nine are said to have suffered intermittent interruptions.

3. Indirect restrictions

According to the information received by the IACHR, the lack of supply and government control of newsprint continued to impair the free functioning of the written press in 2018. Several media outlets were forced to reduce the number of pages, reduce circulation or frequency, or have had to indefinitely interrupt their paper edition. According to information available, approximately 35 print media outlets have seen their circulation impacted in 2018 due to the scarcity of newsprint or economic difficulties acquiring plates and ink for printing. Of these, 26 are said to have ceased circulating permanently, and nine are said to have suffered intermittent interruptions.

The IACHR also received information that the National Telecommunications Commission (Conatel: Comisión Nacional de Telecomunicaciones) made warnings and initiated administrative proceedings regarding media outlets and journalists in the wake of expressions that the agency considered violent, disturbing, or questioning of the official discourse.

The IACHR recalls that Article 13(3) of the American Convention establishes: “The right of expression may not be restricted by indirect methods or means, such as the abuse of government or private controls over newsprint, radio broadcasting frequencies, or equipment used in the dissemination of information, or by any other means tending to impede the communication and circulation of ideas and opinions.”

Subsequent liability and criminalization of the freedom of expression

During 2018 the IACHR and its Office of Special Rapporteur for Freedom of Expression continued receiving information on the initiation of criminal proceedings aimed at having a chilling effect on criticism of the state authorities and critical discourse regarding matters of public interest. In this context, the IACHR was informed of the investigation begun into four reporters and editors of the investigative journalism website Armando.info in the wake of a complaint by Colombian businessman Alex Saab for the offenses of defamation and slander. After the justice system accepted the request to open an investigation, journalists

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137. The IACHR received information about the decision of the Third Court of First Instance for Civil, Commercial, Traffic and Banking Matters of Caracas to find admissible the legal action filed by the speaker of the Constituent Assembly, Diosdado Cabello, against the daily newspaper El Nacional in 2015 in the wake of the publication of an investigation by the Spanish newspaper ABC in which Cabello was linked to drug-trafficking and illicit businesses. Judge Gustavo Hidalgo ruled that the journalist did moral harm to him and ordered him to pay a fine of 1 billion bolivars (some US$ 12,500 at the official rate).

In addition, the IACHR and its Office of the Special Rapporteur were informed that the courts had admitted the action filed by Cabello against the digital media outlet La Patilla, also for reproducing the investigation by the daily newspaper ABC. On September 26, on his program on state television VTV Cabello is said to have read fragments of the court judgment that ruled favorably on his claim, of which La Patilla has yet to have received notice.

138. In addition, the IACHR was informed of several episodes in which it was warned that the "law against hatred" was being applied. In addition, it was reported that the owner of a website that puts out information about the exchange rate was arrested for disseminating information considered "false"; and the Civil, Commercial, Traffic and Banking Matters of Caracas to find admissible the legal action filed by the speaker of the Constituent Assembly, Diosdado Cabello, against the daily newspaper El Nacional in 2015 in the wake of the publication of an investigation by the Spanish newspaper ABC in which Cabello was linked to drug-trafficking and illicit businesses.

139. In another episode, the IACHR was informed that on May 10 officers of the Bolivarian National Intelligence Service (SEBIN) detained twitterer Pedro Patricio Jaimes Criollo, administrator of the account @AereoMeteo, after he published information about the route of the presidential airplane that transported Nicolás Maduro to the state of Aragua. Jaimes Criollo was accused of attacking national security and was reportedly subjected to pretrial detention. For one month family members and human rights organizations had no information as to his whereabouts and the State had refused to provide any information about his detention. On June 15, after he had been detained for 33 days, Jaimes Criollo communicated by telephone with his family and told them that he was being held at the SEBIN facility known as El Helicoide and that he had been the victim of mistreatment and beatings. On October 4, the IACHR granted a precautionary measure on behalf of Jaimes Criollo, considering that his situation meets prima facie the requirements of seriousness, urgency, and irreparability contained in Article 25 of the Rules of Procedure. The Commission asked the State of Venezuela to adopt the measures necessary for guaranteeing the rights to health, life, and personal integrity of Jaimes Criollo.


Criollo, he be provided adequate medical care, and that it be assured that his conditions of detention are compatible with international standards.197

140. On August 29, graphic journalist with the digital media outlet Dolar Today, Jesús Medina Ezaine, was reportedly detained while reporting on the situation in a Caracas hospital along with a team of international journalists.198 Two days later the 13th Court of Control of Caracas was said to have issued a measure ordering his pretrial detention for purported crimes of asset laundering (legitimación de capitales), conspiracy to engage in criminal conduct, illegal profiting from administrative acts, and instigating hatred. Medina was held at the Ramo Verde military prison.199 He had already been detained in November 2017, after having received threats for taking photographs of the Aragua prison. He was held for three days and was said to have been beaten and threatened. He was released along a highway partially naked with signs of violence. He does not know who was responsible for his detention.200

141. The IACHR was informed of the detention of firemen Carlos Varón and Ricardo Prieto, on September 12, for producing a satirical video in which they compared President Nicolás Maduro with a donkey.201 The firemen were accused of the crimes set forth in Articles 20 and 21 of the “law against hatred,” but these were later changed to the crimes of offending the President and public instigation of hatred, established in Articles 147 and 285 of the Criminal Code, and which could draw a sentence of up to nine years in prison. On October 31, both were released on probation; they must report every 30 days and are prohibited on leaving the state of Mérida.202

142. Billy Six, a journalist of German nationality, was reportedly arrested November 17 in Paraguáná, state of Falcón. According to the information received, intelligence officers took him, without a judicial order, to the SEBIN facility El Helicoide, in the city of Caracas. In addition, he was accused before a military tribunal on charges of espionage (“espionaje”), rebellion (“rebelión”) and violation of security zones (“violación de zonas de seguridad”).203

143. Principle 11 of the Declaration of Principles on Freedom of Expression of the IACHR establishes: “Public officials are subject to greater scrutiny by society. Laws that penalize offensive expressions directed at public officials, generally known as ‘desacato laws,’ restrict freedom of expression and the right to information.” In addition, the IACHR has held repeatedly that the application of the criminal law to punish expression referring to public officials is disproportionate when involving protected speech, such as information or expression about matters of public interest, and violates the right of freedom to expression.204

5. Social protest and public demonstrations

144. As indicated at section III.C. of this report, the IACHR received information about various demonstrations that continued to take place in various parts of Venezuela, in general protesting the situations

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of undersupply and the economic difficulties the population faces. According to the information received by the IACHR, in this context of continuing protests and critical expressions against the Government, demonstrators and journalists have been arbitrarily arrested by the security forces. The IACHR is concerned about the climate of restriction in Venezuela and the possible reprisals against public servants who participate in the demonstrations, disseminate critical information, or speak out against the Government. In this context, the IACHR received information about episodes in which reporters were kept from approaching certain areas where protests take place and from taking statements from the persons involved, or taking photographs. According to the organization Espacio Público, from January to October 2018, at least 55 persons from the public sector were persecuted, threatened, or detained for protesting or denouncing critical situations in their workplaces.

145. The IACHR has reiterated that social protest is a fundamental tool for the work of defending human rights and is essential for critical political and social expression regarding the activities of the authorities. The Commission has stated that “in principle, criminalization per se of demonstrations in public thoroughfares is inadmissible when they are carried out in exercise of the rights to freedom of expression and to freedom of assembly” and that “the exercise of the right of assembly through social protest must not be subject to authorization on the part of the authorities or to excessive requirements that make such protests difficult to carry out.”

6. Access to public information and restrictions on journalistic coverage, public spaces

146. The IACHR observes a persistent failure by the state agencies to clearly inform the population about the situation at health centers and the scarcity of medicines that is affecting the response of the health system. At the same time, the IACHR received information about obstacles to journalists when it comes to accessing sites that should be places of public access, such as polling places or sessions of the National Assembly. In addition, journalists from throughout the country have reported delays in being delivered press credentials from the National Electoral Council (CNE: Consejo Nacional Electoral). According to monitoring by the organization Espacio Público, 63% of the media outlets consulted did not obtain the accreditation on time for entering the polling places and 25% of those who were accredited received incomplete accreditations.214

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206 Knight Center for Journalism in the Americas. September 26, 2018. Periodistas venezolanos sufre detenciones arbitrarias y prohibiciones para salir del país.


7. Internet and freedom of expression

147. According to a study by IPYS Venezuela and the Internet MLAB data lab, Venezuelans’ quality of access to Internet deteriorated in the last two years. Average navigation in January and February 2018 was 1.6 megabytes per second (Mbps). This datum reflects a worsening in conditions compared with 2016, when citizens had an average velocity of 1.9 Mbps. Another research study by IPYS Venezuela in August 2018 revealed the existence of intermittent blockages by the public and private Internet providers –CANTV, Movinet, Movistar, and Digitel – of certain websites, especially news sites. For four days IPYS Venezuela entered 53 websites almost 700 times. The results shows that on average it was only possible to access the content less than half of the times attempted due to some type of intermittent blockage. The pages studied worked intermittently in all the regions, though the greatest frequency was in Táchira, Mérida, Monagas, and Caracas.

148. According to a report prepared by the legislators who are members of the Permanent Committee for Peoples Power and Communication Media of the National Assembly of Venezuela, which analyzes the difficulties in accessing certain news media that maintain an editorial line independent of the Government, the regulator National Telecommunications Commission “refrained from initiating investigations into the practice of blockages [of websites] despite being required to do so.” In addition, several media outlets are said to have been victims of cyberattacks in 2018, both their websites and their social network accounts. In addition, access to some media was blocked for the users of the internet service provided by the state company.

VI. VULNERABLE GROUPS

A. Women

149. Regarding the rights of women, the Commission observes that the deficiencies in the legal framework on gender-based violence and structural shortcomings of State institutions continue to prevent women from having their right to a life free of violence guaranteed a situation that is made worse by the
country’s institutional and humanitarian crisis. Despite the existence of a Femicide Law and a Law on the Right of Women to a Life Free of Violence, Venezuela still does not have regulations to harmonize the procedures for providing care to women and handling their cases, nor does it have adequate interagency coordination, which makes fully implementing these laws and making them operational difficult. According to the information provided by the Venezuelan State, since 2017, the Ministry of the People’s Power for Women and Gender Equality started drafting the regulations for the Law on Women’s Right to a Life Free of Violence by forming a High Level Committee, regulations that have yet to be approved.

150. Among the obstacles that remain to applying the legal framework for protecting the rights of women, the IACHR underscores the lack of official data for planning and programming public policies aimed at preventing and eradicating gender-based violence against women. Despite the lack of updated official statistics, a group of media organizations estimates that between May 2017 and February 28, 2018, 64 women were murdered in the greater Caracas area alone, and that between January and October 2018, a total of 375 women were murdered in Venezuela.

151. The Commission observes that the lack of communication and absence of public data that is consolidated, up to date, and properly disaggregated prevents a comprehensive analysis of the phenomenon of gender-based violence against women in the country, obscuring additional factors involved in the violations such as ethnic-racial origin, sexual orientation, or gender identity, which contributes to perpetuating impunity for these crimes. Likewise, the Commission recalls that the Convention of Belém do Pará establishes in its Article 8(h) the State obligation to take measures aimed at “ensuring research and the gathering of statistics and other relevant information relating to the causes, consequences and frequency of violence against women, in order to assess the effectiveness of measures to prevent, punish and eradicate violence against women and to formulate and implement the necessary changes.” Likewise, the IACHR has stated that, with regard to the information that the State collects and produces, the right to access to information includes a State obligation to collect information on issues such as violence and discrimination against women, as well as the obligation to produce and disseminate statistical information on these issues.

152. In addition, the IACHR has expressed its concern at the differentiated and aggravated impact that the country’s economic crisis has had on the rights of women, particularly with regard to their rights to health and maternal health, and their sexual and reproductive rights. According to the information received by the Commission, public healthcare centers have completely run out of reagents for specialized exams for detecting HIV and Highly Active Antiretroviral Therapy (HAART). Pregnant and lactating women who are HIV-positive also do not have access to HAART to prevent transmission to their children, and neither do they have access to formula to substitute for their milk. According to publicly-available information, 5,900 cases of breast cancer are detected in Venezuela every year, but the equipment and drugs needed to treat it have practically disappeared, both in private healthcare centers and pharmacies and in those operated by the State. The Commission notes with concern that although there are no official up-to-date figures available on the issue,

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223 COTEJO, Entre enero y octubre asesinaron a 375 mujeres en Venezuela, November 12, 2018.
224 AVESA, Mujeres en Línea, CEPAZ, FREYA, Mujeres al Límite: el peso de la emergencia humanitaria y vulneración de los derechos de las mujeres en Venezuela, November 2017.
226 Committee on the Elimination of Discrimination against Women (CEDAW), Concluding observations on the combined seventh and eighth periodic reports of the Bolivarian Republic of Venezuela: Information provided by Venezuela in follow-up to the concluding observations, CEDAW/C/VEN/CO/7-8/Add.1, January 11, 2018. Para. 3.
227 Committee on the Elimination of Discrimination against Women (CEDAW), Concluding observations on the combined seventh and eighth periodic reports of the Bolivarian Republic of Venezuela: Information provided by Venezuela in follow-up to the concluding observations, CEDAW/C/VEN/CO/7-8/Add.1, January 11, 2018. Para. 3.
the Venezuelan Anticancer Society found that 2,300 women died of this type of cancer in 2017, or six deaths per day, in cases that were largely treatable, curable, and preventable.\textsuperscript{229}

153. Regarding the maternal health of women in Venezuela, the Commission observes that since the beginning of 2017, the State has not published updated medical bulletins and takes note of the increase in maternal mortality between 2015 and 2017 in the context of the country's health system crisis.\textsuperscript{230} Lack of anticoagulant medication, healing ointments, analgesics, antibiotics, or antiseptics; lack of basic medical inputs and supplies, such as scalpels, needles, or gloves; and an ever-shrinking supply of medical staff have led pregnant Venezuelan women to migrate to give birth to neighboring countries.\textsuperscript{231} In Colombia, the Erasmo Meoz hospital reports providing maternity services to more than 2,100 women in 2017, with three times as many pregnant Venezuelan women receiving services in that hospital compared to the previous year.\textsuperscript{232} According to Colombia's official figures on migration, 8,200 pregnant Venezuelan women entered the country during the first half of 2018.\textsuperscript{233} The maternity ward in Boa Vista recorded 571 births to Venezuelan women in the first half of the year, surpassing the total number of births recorded there in 2017.\textsuperscript{234} The IACHR expresses concern at the situation of vulnerability facing pregnant women who migrate to other countries, both because of their gender status, which exposes them to multiple forms of violence and discrimination; and because of their status as pregnant women needing specific care and attention.

154. With regard to this situation, the IACHR recognizes the efforts made by the Venezuelan State to protect pregnant women in Venezuela.\textsuperscript{235} Thus, since 2017, the State has conducted a campaign on Humanized Birth that provides resources for executing the “Humanized Birth Plan in Venezuela,” coordinated by the Ministry of Women, the National Institute of the Woman (Inamujer), and the Ministry of Health.\textsuperscript{236} The State reported that the Constitutional Decree for the Promotion and Protection of Humanized was approved on March 21, 2018. According to the information provided by the State, the decree contains provisions aimed at improving the gestation and birth process in the framework of a comprehensive policy to guarantee sexual and reproductive rights in the country, thereby addressing the maternal mortality issue.\textsuperscript{237} The Commission calls on the State to take the measures necessary to implement the policy to protect humanized birth by providing adequate resources, proper coordination, and accountability in order to effectively protect the rights of women in the country.

155. Likewise, the IACHR observes with concern that the country's almost total lack of contraceptives and family-planning methods has a negative impact on women's exercise of their sexual and reproductive rights in the country.\textsuperscript{238} The scarcity of contraceptives includes the most common forms, such as oral contraceptives and condoms. Although there are no official statistics on the issue, reports issued by the Federación Farmacéutica Venezolana indicate national scarcity levels of these contraceptives of 88%.\textsuperscript{239} The Commission observes with concern the consequences that this situation has for the lives of women and their enjoyment of their sexual and reproductive rights, those being an increase in unwanted pregnancies, including

\textsuperscript{229} Efecto Cocuyo, Cáncer de mama en Venezuela: cada vez es mayor el riesgo de morir sin tratamiento, October 19, 2018.
\textsuperscript{231} Amnesty International, Fleeing the country to give birth: the exodus of pregnant Venezuelan women, May 6, 2018.
\textsuperscript{233} El Espectador, ¿Qué pasa en Colombia con las venezolanas embarazadas?, July 21, 2018.
\textsuperscript{234} El Comercio, Las venezolanas embarazadas que van a Brasil a dar a luz, August 22, 2018.
\textsuperscript{235} PAHO, Venezuela afina estrategias para reducir morbilidad grave, mortalidad materna y perinatal desde un enfoque de curso de vida, November 23, 2017.
\textsuperscript{236} TELESUR, Plan Parto Humanizado protege a las embarazadas en Venezuela, November 16, 2018.
\textsuperscript{237} BOLIVARIAN REPUBLIC OF VENEZUELA, communication to the IACHR, AGEV/2018-0069, correspondence of April 18, 2018.
\textsuperscript{239} Mujeres en Línea, AVESA, FREYA, CEPAZ, Equivalencias en Acción, Women's Link Worldwide, Situation of sexual and reproductive rights of women, adolescents, and girls in Venezuela, request for thematic hearing for the 170th Period of Sessions of the IACHR, September 25, 2018.
among adolescents; an increase in unsafe abortions that could have obstetric complications and result in maternal deaths; and the migration of pregnant women to access health services in other countries.

156. In this context, the Commission has paid particularly close attention to the implementation of the National Surgical Plan and the information received on surgical sterilizations of women that have been conducted regularly, in a coordinated fashion, free of charge, and at the national level.\(^{240}\) However, according to information received by the Commission, these procedures are not always preceded by the provision of complete information on their scope. Some of them are not being adequately documented in the patients’ medical records, and there have been cases of procedures performed on adolescent women, disabled women, indigenous women, and women in situations of poverty, among other groups of women in especially vulnerable situations.\(^{241}\) Also, in the context of the collapse of the healthcare system and the lack of medical supplies and materials, the IACHR has been informed of a lack of proper medical follow-up following the procedures. In this regard, the IACHR recalls that States must adopt effective measures to ensure the availability, accessibility, acceptability, and quality of the information, goods, and services for contraceptive methods and practices and emphasizes that surgical sterilization should be only one part of a broad array of safe, effective, affordable, and acceptable contraceptive methods and practices. These methods and practices must be available in adequate quantities so that women may opt for and effectively access the practice or method that best fits their needs, interests, preferences, or health requirements.\(^{242}\)

157. Additionally, Venezuela’s humanitarian crisis has led to migration that is without precedent in the region and has put women, girls, and adolescents in a particular situation of risk. Desperate to leave Venezuela for reasons of health and to obtain work in other countries to support their families, migrant women find themselves at grave risk of falling victim to human trafficking networks. Despite the lack of official figures on the migration’s impact on women, countries including Colombia,\(^{243}\) Spain,\(^{244}\) and Mexico,\(^{245}\) as well as civil society organizations, have sounded the alarm regarding the concerning increase of cases of sexual exploitation of Venezuelan women and the existence of trafficking networks that aim to sexually exploit women of Venezuelan origin.\(^{246}\) According to the District Committee of Bogotá (Colombia), in the fight against human trafficking, in 2018 30% of the victims of sexual exploitation were Venezuelan women and girls. According to information issued by the Fundación Ideas para la Paz (FIP), the sexual trafficking of Venezuelan migrants is particularly extensive along the northern border of Colombia, where criminal gangs and guerrilla groups operate, particularly affecting women, girls, and adolescents.\(^{247}\) The Commission has thus become aware of reports of women and girls forced to prostitute themselves during their trip from Venezuela to Colombia\(^{248}\) and of women who have been the victims of sexual violence while crossing the border between the two countries,\(^{249}\) as well as reports on sexual trafficking and exploitation.\(^{250}\) The Commission observes with concern that their status as women migrants makes it difficult for them to access healthcare services, protection, and justice, in Venezuela as well as in their destination countries.

\(^{240}\) IACHR, Request for information from the Venezuelan State, December 6, 2018.
\(^{243}\) Office of the Public Prosecutor of Colombia, Sexual slavery scheme discovered in Cartagena that uses Venezuelan and Colombian women, August 20, 2018.
\(^{244}\) CNN, Aumentan un 50% las mujeres venezolanas víctimas de trata en España, September 28, 2018.
\(^{245}\) El Universal, Mafias colombianas enganchan a venezolanas y lastraan a México, May 8, 2018.
\(^{246}\) Corporación Anne Frank, “Situation of migrant and displaced Venezuelan women in situations and/or contexts of prostitution and extreme vulnerability in Latin America,” Request for thematic hearing for the 170th Periods of Sessions of the IACHR, September 23, 2018.
\(^{247}\) Reuters, Mujeres y niños migrantes de Venezuela están más expuestos a explotación sexual y laboral, August 30, 2018.
\(^{248}\) Reuters, Mujeres y niños migrantes de Venezuela están más expuestos a explotación sexual y laboral, August 30, 2018.
\(^{249}\) El Tiempo, Una lupa sobre las mujeres venezolanas migrantes, December 9, 2018.
\(^{250}\) El Tiempo, Una lupa sobre las mujeres venezolanas migrantes, December 9, 2018.
B. Human Rights Defenders

158. The IACHR observes that during 2018, the situation of human rights defenders in Venezuela continued to be characterized by an environment of intense stigmatization and harassment for their work.

159. In recent years, the IACHR has repeatedly called on the State of Venezuela to adopt measures regarding the intense campaigns of stigmatization and harassment aimed at people who defend human rights in the country. In its 2017 annual report, the Commission rejected the multiple acts of harassment and criminalization aimed at those who denounce the human rights situation in Venezuela, as well as at those who represent individuals detained because of their political stances or participation in demonstrations. Likewise, in its report Human Rights Situation in Venezuela, the Commission indicated its concern at the existence of acts of harassment that involved both state authorities and private individuals entering the homes of human rights defenders.

160. In 2018, the Commission has found that these campaigns by State authorities and private parties to discredit, stigmatize, and harass have continued. For example, among other cases, the Commission received information indicating that on September 10, 2018, the executive director for Transparencia Venezuela participated in a meeting with the United Nations Security Council to present information on the situation of Venezuela. After the meeting, government officials made threatening and stigmatizing statements against those who participated in the meeting with the Council. That same day, the president of the Bolivarian Republic announced during a national broadcast that his government would take measures to address an "international smear campaign against Venezuela." According to this information, the president stated that the international campaign was being led by human rights defenders and foreign governments to justify a military intervention or a terrorist attack in the country.

161. Days later, on September 12, 2018, a blog aligned with the State published an article describing Transparencia Venezuela as an organization funded and supported by the governments of the United States, the European Union, and financial fund KKR, claiming the latter had sent financial resources and weapons to DAESH in Syria and had ties to the CIA. The IACHR observes that this is not the first time that Transparencia Venezuela or its executive director has been direct or indirect target of senior officials of the Venezuelan government. The organization has documented at least 12 attacks between 2017 and 2018, especially related to its cooperation with international organizations and human rights protection mechanisms.

162. The Commission also received information on the smear campaign against Lisa Henrito, an environmental defender who in 2018 was accused in the national media by an officer of the Armed Forces of being "a traitor to the homeland" and promoting the secession in Venezuela. Specifically, Lisa Henrito has been subjected to constant stigmatization over her work as an activist with the Pemón community, her demands that ancestral territories be demilitarized, and her demand that a prior consultation be conducted to secure the community’s consent for mining projects.

163. For its part, the OHCHR stated it had evidence of a series of attacks against social activists, students, university professors, and human rights defenders in which senior authorities had publicly accused these individuals of being involved in acts of terrorism, treason, and other serious crimes. The victims interviewed by the OHCHR said they had been harassed, stigmatized, and intimidated by representatives of government authorities, including security forces and other members of pro-government groups.

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253 Front Line Defenders, Threats from government officials against Transparencia Venezuela, September 20, 2018.
255 Front Line Defenders, Threats from government officials against Transparencia Venezuela, September 20, 2018.
164. In this context, the Commission underscores that public officials must refrain from making statements that stigmatize human rights defenders or suggesting that organizations are acting improperly or illegally simply by doing their work to promote and defend human rights. The IACHR finds that stigmatizing statements against human rights defenders can damage both the right to humane treatment, the right to honor and dignity, and the principle of presumption of innocence. In this regard, the Commission has found that when authorities give statements or issue communications that publicly accuse a human rights defender for facts that have not been proven in a court of law, it threatens their dignity and honor by delegitimizing their work to society, thereby affecting their work in the defense of human rights. The IACHR also notes that stigmatizing statements issued by public officials to publicly accuse human rights defenders for alleged crimes that have not been declared by a court of law can violate the principle of presumption of innocence, as they presume the human rights defenders are guilty without the corresponding judicial decision.

165. In addition, the Commission has found that the repetition of stigmatizing statements can contribute to exacerbating a climate of hostility and intolerance among different sectors of the population, which could put at risk the lives and personal integrity of human rights defenders and increase their vulnerability. This is due to the fact that government authorities or sectors of society could interpret these stigmatizing statements as instructions, instigation, authorization, or support for the commission of acts that endanger their lives, personal security, or other rights.

166. Regarding the situation of harassment, the IACHR was informed, among other things, that in January of this year, a search was conducted without a search warrant by SEBIN officials in the residence of Gregory Hinds, general director of the NGO Embajadores Comunitarios. He later voluntarily submitted to an interview with SEBIN, where he was detained and held incommunicado. The Commission notes that on the day following the detention of Gregory Hinds, Geraldine Chacón—director of programs for Embajadores Comunitarios—was also detained. The Commission notes that the case was submitted to the United Nations Working Group on Arbitrary Detention.

167. The Commission also received information indicating that on June 29, 2018, the website of human rights organization Transparencia Venezuela was subjected to its fourth cyber-attack in less than 12 months. The attack changed the content of a statement by civil society association Alianza por la Libertad de Expresión entitled “Venezuela: la información en libertad condicional,” published on the website of Transparencia Venezuela. According to the organization, this was the fourth cyber-attack on Transparencia Venezuela in less than a year.

168. The IACHR notes that the Observatorio Venezolano de Conflictividad Social has indicated that the environment of stigmatization and harassment of human rights defenders could be aggravated with the implementation of the Sociopolitical Coordination and Action Network, a government initiative that would implement mechanisms so any public or private individual could provide information on the activities of citizens who make social demands, defend human rights, or criticize the government. The organization notes that the strategy is based on the doctrine of national security, and that its purpose is to encourage viewing human rights defenders and political dissidents as domestic enemies.

169. Regarding this, the Commission emphasizes that human rights can be defended freely only when the individuals involved are not the victims of threats or subjected to any kind of physical, psychological, or moral attacks or any other type of harassment. The Commission notes that when human rights defenders operate in a climate of hostility, the important issues on which they work can become secondary, and it can

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258 PROVEA, Comunicado de la organización Embajadores Comunitarios ante la detención de dos de sus miembros, February 5, 2018.
260 Front Line Defenders, Transparencia Venezuela subject to cyber attacks, July 9, 2018.
261 Observatorio venezolano de conflictividad social, Aumenta el control social, discriminación y represión en Venezuela: Red de Articulación y Acción Socio Política (Raas), March 29, 2018.
have a chilling effect on other human rights defenders. In this regard, the State of Venezuela must not only establish an adequate and effective legal framework, but also must guarantee on-the-ground conditions in which those who defend human rights can carry out their important work.

170. Based on this information, the Inter-American Commission concludes that the situation of human rights defenders in Venezuela has not changed substantially from what was reported in the 2017 Annual Report. Human rights defenders in Venezuela continue to face an environment of intense stigmatization and harassment for their work. It is therefore essential for the State to adopt measures to guarantee and respect the rights of human rights defenders and, specifically, to take all measures necessary to ensure that individuals who defend human rights are not subjected to smear campaigns or harassment, as well as provide effective measures for their protection.

C. Persons Deprived of Liberty

171. The Commission has repeatedly issued statements through a variety of mechanisms on the critical situation facing individuals deprived of liberty in Venezuela, which constitutes one of the most grave in the region. The situation includes overcrowding; excessive use of pretrial detention; deplorable detention conditions; high rates of violence; lack of effective State control; and corruption. Regarding this, the IACHR has indicated that these patterns have worsened in the context of Venezuela's political, economic, and social crisis, as well as due to citizen security strategies.262

1. Overcrowding and pretrial detention

172. The high rates of overcrowding represent one of the main concerns regarding Venezuela's penitentiary system. According to information provided by the State, at end of 2017, total of 53,344 people were deprived of liberty in Venezuela's penitentiaries.263 For its part, civil society reports there are 57,096 detained individuals,264 7% higher than official figures. The IACHR observes that in terms of the number of beds available in the penitentiary system, there is a notable difference between the figures provided by the State and the information collected by civil society. Thus, according to official numbers, and as a result of completing more than 38 infrastructure works throughout the country, housing capacity has reached 82,376 beds.265 Meanwhile, civil society has found that capacity stands at only 19,000 beds. This would mean that the penitentiary is overfilled by 200%.266

173. Regarding the use of pretrial detention and according to the latest available figures, of the 57,096 individuals deprived of liberty in 2017, a total of 38,898 are in pretrial detention.267 This is equivalent to 68% of the total prison population. Regarding this, the IACHR notes that the fact that more than 60% of the total prison population is under pretrial detention is manifestly an indication that the measure is not used exceptionally, as required for pretrial detention.

174. Considering that overcrowding itself constitutes a violation of the right to humane treatment,268 and that excessive use of pretrial detention is one of the clearest indications of a justice system's...

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263 Bolivarian Republic of Venezuela, Ministry of the People's Power for Foreign Relations, Note AGEV/2017-000300, comments on the draft country report, December 21, 2017, para. 73.
265 Bolivarian Republic of Venezuela, Ministry of the People’s Power for Foreign Relations, Note AGEV/2017-000300, comments on the draft country report, December 21, 2017, para. 73.
266 Observatorio Venezolano de Prisiones, Annual Report, Caracas, 2017, p. 15.
268 Regarding this, the IACHR has found that overcrowding increases violence among detainees; makes it difficult to access basic services; facilitates the spread of illnesses; creates an environment in which health and hygiene conditions are deplorable; constitutes in itself a risk factor in emergency situations; restricts inmate access to productive activities; and fosters corruption. IACHR, Report on the Use of Pretrial Detention in the Americas, OEA/Ser.L/V/II., Doc. 46/13, December 30, 2013, para. 288.
failure to guarantee the right to presumption of innocence, the Commission urges the State to immediately take actions to ensure that imprisonment is used reasonably. Among these measures, the IACHR underscores the use of conditional release, alternatives to pretrial detention, and the application of pretrial detention in keeping with its exceptional nature and the principles governing its application, those being legality, reasonableness, necessity, and proportionality.

2. **Detention conditions**

175. The Commission is particularly concerned over the deplorable detention conditions in Venezuelan prisons, as they pose a risk to the lives and integrity of the individuals deprived of liberty. Specifically, the IACHR has information indicating that in addition to overcrowding, the penitentiary infrastructure is deficient, and the people being processed are not separated from those who have been convicted. Likewise, the food provided is inadequate as far as its amount and nutritional value, access to drinking water is inadequate, facilities for personal hygiene are insufficient, there is a lack of social re-insertion programs, and penitentiary authorities are corrupt and do not control the facilities.

176. Specifically with regard to medical care, the IACHR has been informed of a lack of medical treatment, lack of medications, and obstacles to accessing health centers under the conditions ordered by courts. Specifically, the Commission is concerned that even though authorities are not able to provide medical treatment, relatives are prevented from bringing in medication they purchase themselves. Likewise, the deplorable situation faced by individuals deprived of liberty and the lack of adequate mechanisms for addressing those complaints has led to strikes among the prison population to demand better conditions. In this context, the IACHR recalls that the State is a guarantor of the rights of the individuals held in its custody. The fact that the individuals in its custody are in a special situation of vulnerability, plus the lack of adequate public policies to address that vulnerability, compounds into a systemic violation of their human rights.

177. Regarding the incidence of corruption in the penitentiary service and the lack of oversight by structures of the central government, one especially concerning aspect is the charging of so-called “vaccinations” (payments made to individuals deprived of liberty to guarantee safety in detention centers). Specifically, information available to the Commission indicates that five prisons—Tocorón, in Aragua; Tocuyito, in Carabobo; Puente Ayala, in Anzoátegui; La Pica, in Monagas; and Vista Hermosa, in Bolívar—have been declared independent territories, where leaders or “pranes” manage their business without interference from the authorities. In this regard, the IACHR recalls that lack of effective control by authorities of what happens in penitentiaries can lead to certain detained individuals having power over fundamental aspects of the lives of others, with disproportionate effects for individuals in particularly at-risk situations.

3. **Incidents of violence**

178. In recent years, the IACHR has received information on high rates of violence in the penitentiary system, resulting from overpopulation, deplorable detention conditions, lack of sufficient personnel to harmoniously address conflicts taking place within the prisons, and impunity for criminal acts.

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that take place within the prison. Although the total number of detained individuals who died during 2018 is not known, civil society reports that from July 2011 through the first half of June 2018, a total of 2,140 violent deaths were recorded within Venezuelan prisons. Likewise, 2,792 people have been injured. Of the cases identified in 2018, the Commission highlights the 11 individuals who lost their lives during a riot in the Fénix Penitentiary Community, in the state of Lara. In this context, the Commission reiterates that a fundamental measure for preventing prison violence and deaths is the investigation, processing, and punishment of those responsible. The IACHR reiterates that when acts of this nature remain in impunity, it sends a message to the population that such acts can be committed without serious legal consequences, leading to a climate of impunity.

4. Pretrial detention centers

179. As a result of the lack of the formal penitentiary system, the IACHR observes that the so-called pretrial detention centers—intended for temporary detentions—are increasingly being used as permanent prison facilities. In this regard, civil society reports that outside the formal penitentiary system, such centers house approximately 45,000 people.

180. According to information available to the Commission, the centers tend to be overpopulated, with deplorable detention conditions and inadequate infrastructure. In addition, police officers are not trained to properly guard the detained individuals. In this respect, regarding high rates of overcrowding—based on the 93 pretrial detention centers in 12 states analyzed by the organization Una Ventana a la Libertad—it is reported that Falcón is the state with the highest overcrowding rate, at 704%. In this regard, the organization reports that with installed capacity for only 199 inmates, a total of 1,402 people are detained there. Likewise, it reports that 65% of the pretrial detention centers lack drinking water, 96% do not have a medical service area, and 93% do not provide recreation or sports areas. Additionally, the pretrial detention centers do not have enough resources to provide a proper diet, so detained individuals depend on the financial conditions of their relatives and the opportunities they can provide.

181. The IACHR also notes that the detention conditions in these types of centers are so poor that they have come to affect the detained individuals’ right to life. In this regard, according to information provided by civil society, more than 163 deaths were recorded during the first half of the year. Of those, 71 were the results of riots, 34 from tuberculosis, 11 from fights, 15 from confrontations following escapes, 6 from attempted escapes, 5 due to malnutrition, 5 due to a lack of medical care, 2 from suicide, and 4 whose causes were unknown. The most high-profile case took place on March 28 in a jail in Carabobo, in the north of Venezuela, when at least 68 people lost their lives in a riot. Regarding these events, the IACHR urged the State to, with all due diligence, investigate, identify, and punish those responsible, as well as take the measures necessary to prevent the repetition of similar facts.

182. In this context, the Commission recalls that using these places as permanent detention centers is a violation of international standards on deprivation of liberty. This is because such centers are overcrowded

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277 Observatorio Venezolano de Prisiones. OVP responde a la Ministra: Siete años de colapso penitenciario. August 18, 2018.
278 Efecto Cocuyo, "Iris Varela confirmó que motín en cárceles de Lara dejó 11 fallecidos", May 18, 2018; El País, "Once muertos y 28 heridos en un nuevo motín en una cárcel venezolana" May 19, 2018.
281 Una Ventana a la Libertad, Informe de la Situación de los Derechos Humanos de los Privados de Libertad en Centros de Detención Preventiva en Venezuela durante el Primer Semestre de 2018 (Enero-Junio).
282 Una Ventana a la Libertad, Informe de la Situación de los Derechos Humanos de los Privados de Libertad en Centros de Detención Preventiva en Venezuela durante el Primer Semestre de 2018 (Enero-Junio), pg. 5.
and lack the infrastructure and basic services to ensure dignified detention conditions in the long term. Likewise, they do not have the means of ensuring the social reintegration of detainees, and the police officers who run them do not have the training necessary to ensure the safety of the individuals in their custody. In this regard, the State must take urgent and necessary measures to stop using police jails as permanent prisons.

D. Migrants, asylum applicants, refugees, beneficiaries of complementary protection, internally displaced people, and victims of human trafficking.

183. The forced migration of Venezuelans that has taken place represents one of the greatest challenges in the history of the region as far as migration and asylum. In this regard, the IACHR has expressed its concern at the large number of Venezuelans who have been forced to migrate to other countries in the region in recent years for multiple reasons, including forced migration as a mechanism for survival as a consequence of the severe humanitarian crisis affecting the country, particularly in response to the effects of shortages of food, medicine, and medical treatment; violence and insecurity; and persecution based on political opinion.

184. In order to provide technical assistance to States on how to respond to the mass arrival of Venezuelans, the Commission issued Resolution No. 2/18 on the Forced Migration of Venezuelans and the Joint Statement for the development of a regional response to the massive arrival of Venezuelans to the Americas, together with the United Nations Committee on the Protection of the Rights of All Migrant Workers and Members of their Families (CMW); the United Nations Committee on the Rights of the Child (CRC); the Regional Office for South America of the United Nations High Commissioner of Human Rights (UNHCHR); and, Mr. Felipe González, United Nations Special Rapporteur on the Human Rights of Migrants.

185. The IACHR has monitored the situation resulting from Venezuela closing its border with Colombia in August 2015 and with Brazil in December 2016 under the declaration of a state of emergency for the border area. The Commission is concerned that this situation could lead to the violation of the right to seek and receive asylum, as it obstructs the right of all individuals wishing to leave Venezuelan territory and wishing to seek and receive asylum, complementary protection, or other protection.

186. According to a study conducted in Colombia, 72.3% of these individuals decided to migrate due to insecurity; 79.08% due to desperation at what was happening in the country; 63.1% due to hunger; 62.9% due to high levels of stress; 58.8% due to uncertainty; and 56.3% due to a lack of medicine for medical treatments. Regarding the profile of the Venezuelans who have decided to leave their country, it has been found that 49.67% of them in Colombia are women, with 50.24% being men and 0.075% being transgender. This study also found 118,709 children and adolescents, 26,572 indigenous people, and 6,150 Afro-descendants. The leading places of origin for these individuals were the states of Zulia (32.72%), Carabobo

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285 IACHR, Annual Report - Chapter IV(B) - Venezuela, 2016, para. 207.
289 IACHR, Resolution 2/18 Forced Migration of Venezuelans.
294 Servicio Jesuita a Refugiados, UCAT, Universidad Simón Bolívar, Entreculturas, Migración Colombia. Informe sobre la Movilidad Humana Venezolana, Realidades y perspectivas de quienes emigran, April 9 to May 6, 2018.
295 RAMV, Informe final. Registro Administrativo de Migrantes Venezolanos en Colombia 2018, Decree 542
In Brazil, it has been documented that 41% of the migrants are women and 58% are men, with high education levels: 51% having graduated high school and 26% having higher education.

According to figures from the United Nations High Commissioner for Refugees, as of November 8, there were a total of 3 million Venezuelan migrants and refugees, a number that is expected to grow to 3.6 million in 2019. Also, as of December 31, 2018, 365,565 request for asylum from Venezuelans were recorded, while 958,965 Venezuelans had opted for other forms of legal migration, traveling mainly to Colombia, Chile, Peru, Ecuador, Argentina, the United States, and other countries in the world.

Prepared by the IACHR with information from the UNHCR, Global Trends, 2015-2017

Regarding this, Article 22(1) of the American Convention on Human Rights establishes that "Every person lawfully in the territory of a State Party has the right to move about in it, and to reside in it subject to the provisions of the law." The Inter-American Court has found that this provision protects the right to not be forcibly displaced within a State and not be expelled from the territory of a State in which one is residing legally. Thus, guarantees must be provided to ensure that individuals can move about and reside freely in their places of origin.

One of the main difficulties that the Commission has been observing in recent years has to do with the obstacles facing Venezuelan people to accessing official identification documents, such as passports, identification cards, and civil registry certificates, as well as criminal records. Regarding this, the Commission observes that making it impossible to access government documents violates the rights to juridical personality and identity, along with related rights. The IACHR has observed that lack of access to documents make it hard for people to enter other States legally, thus violating the right to movement and residency. Regarding this, the Inter-American Court has established that the right to identity can be conceptualized as a collection of attributes and characteristics that enable an individual to be identified. It has also established that the direct consequence of the right to juridical personality is the recognition of any individual as a subject of rights and obligations, as it entails the capacity to be the bearer of said rights (capacity and enjoyment). Therefore, the

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296 RAMV, Informe final. Registro Administrativo de Migrantes Venezolanos en Colombia 2018, Decree 542
297 OIM, DTM – Brazil, n. 1, Matrix de Monitoramento do Fluxo Migratório Venezuelano, 2018.
298 UNHCR, 3 millones de refugiados y migrantes venezolanos, November 13, 2018.
299 UN News, La ONU incluye por primera vez a Venezuela en el plan anual de ayuda humanitaria, December 4, 2018.
violation of this recognition is an absolute failure to acknowledge a person’s capacity to have rights.\textsuperscript{303} This situation has become an obstacle to Venezuelans who choose to migrate to do so legally to some countries in the region, such as Ecuador and Peru, which require the presentation of an official passport to enter their territory, a requirement that violates the provisions of Resolution 2/18 on Forced Migration of Venezuelans\textsuperscript{304} and are currently being litigated.

190. The most important challenges raised by the forced migration of Venezuelans are the lack of international protection, requirements of documentation that people cannot obtain, discrimination and xenophobia,\textsuperscript{305} physical safety, sexual and gender-based violence, abuse and exploitation, and the lack of access to basic rights and services.\textsuperscript{306} Likewise, the situation of vulnerability facing migrants could result in them becoming victims of human trafficking for sexual, labor, or other types of exploitation. Additionally, indigenous communities are affected by having had to flee their territories of origin. They need special care, as well as a humanitarian response and differentiated and specific protection.\textsuperscript{307}

191. The Commission observes that currently, there are protection gaps in different countries in the region when it comes to the forced migration crisis facing Venezuelans. However, the Commission recognizes that several countries of the region have reacted by providing protection to Venezuelan migrants. Measures worth highlighting include the Administrative Registry of Venezuelan Migrants in Colombia and the Special Residency Permit in Colombia;\textsuperscript{308} the Temporary Residency Permit in Peru;\textsuperscript{309} the granting of refugee status based on the Cartagena Declaration in Mexico;\textsuperscript{310} the Mercosur visa in Argentina and Uruguay;\textsuperscript{311} the options for legalization and receiving a UNASUR visa in Ecuador;\textsuperscript{312} and the granting of temporary residency in Brazil.\textsuperscript{313}

192. The Commission also values the different measures adopted by the different actors regarding the situation of forced Venezuelan migration and observes the need to unify those measures to secure a regional human rights-based response. The measures include the Declaration of Quito on Human Mobility of Venezuelan Citizens in the Region,\textsuperscript{314} the appointment of Eduardo Stain as special representative of the UNHCR and the IOM,\textsuperscript{315} the Joint Statement of National Human Rights Institutions on the Protection of the Rights of Venezuelans regarding Human Mobility;\textsuperscript{316} and the action plan prepared by civil society organizations on Venezuelans needing national and international protection.\textsuperscript{317}

193. Regarding internal displacement, the Commission received information on the effects caused by large mining operations, especially in the states of Bolívar and Amazonas, where indigenous communities have seen their way of life affected and reported that prior, free, and informed consultations have not been

\textsuperscript{304} IACHR. Resolution 2/18 Forced Migration of Venezuelans.
\textsuperscript{305} Civil society action plan for Venezuelans who need national and international protection, November 16, 2018, p. 17.
\textsuperscript{306} UNHCR. El aumento de las solicitudes de asilo de venezolanos lleva a ACNUR a reforzar su respuesta, July 14, 2017.
\textsuperscript{307} UNHCR. El aumento de las solicitudes de asilo de venezolanos lleva a ACNUR a reforzar su respuesta, July 14, 2017.
\textsuperscript{308} Administrative Department of the Presidency of the Republic, Decree number 1288, July 25, 2018.
\textsuperscript{309} Peru, Supreme Decree No. 002-2017-IN, January 3, 2017.
\textsuperscript{310} See: Ríos, Jorge, La COMAR reconoce violaciones a derechos humanos en Venezuela, September 1, 2016, Sin Embargo.
\textsuperscript{311} IACHR, Public hearing: Human rights situation of Venezuelan migrants, asylum applicants, and refugees in the countries of the Americas, 163rd Period of Sessions, July 7, 2017.
\textsuperscript{312} IACHR, Public hearing: Human rights situation of Venezuelan migrants, asylum applicants, and refugees in the countries of the Americas, 163rd Period of Sessions, July 7, 2017.
\textsuperscript{313} Official Newspaper of the Union, Regulatory Resolution No. 216, of March 2, 2017, Brazil.
\textsuperscript{314} Declaration of Quito on Human Mobility of Venezuelan Citizens in the Region, September 3 and 4, 2018.
\textsuperscript{315} UN News, ACNUR y OIM nombran un representante especial para los refugiados y migrantes venezolanos, September 19, 2018.
\textsuperscript{316} Joint Statement of National Human Rights Institutions on the Protection of the Rights of Venezuelans regarding Human Mobility, September 18, 2018.
\textsuperscript{317} Civil society action plan for Venezuelans who need national and international protection, November 16, 2018.
conducted. The presence of the military and large enterprises has caused the displacement of some indigenous persons.318

194. With regard to the victims and survivors of human trafficking, the Commission observes that the crime of human trafficking is defined in the Organic Law on women’s right to a life free of violence (2007)319 and in the Organic Law against organized crime (2005),320 which only defines human trafficking as an act of organized crime.

195. The IACHR observes that these provisions do not fully comply with international and regional law and standards on the matter. For the Commission, it is extremely concerning that the definition of human trafficking is found in the Organic Law on the right of women to a life free of violence (2007),321 which, in its Article 56, only bans the trafficking of women, girls, and adolescents, leaving out the other modalities of human trafficking of men and boys. Additionally, the law requires force, fraud, or coercion for all forms of trafficking for sexual purposes, including for girls, which is contrary to Article 3(c) of the Protocol, which specifies that the capture, transportation, transfer, acceptance, or reception of a child for the purposes of exploitation is considered "human trafficking," including in the absence of any of the measures set forth in the section of that article.

E. Lesbian, gay, transsexual, bisexual, and intersex (LGBTI) persons

196. The situation of the rights of LGBTI persons in Venezuela remains weak due to the context of the political situation affecting the country. The Commission is aware that many LGBTI persons who live with HIV are migrating to other countries in the region due to shortages of the specific drugs needed to treat HIV/AIDS-related infections. At the same time, the people staying behind are turning to the unregulated market in order to be able to continue with their treatments.322

197. The IACHR also learned of an increase in the number of crimes against trans persons in Venezuela, which increased from five in 2017 to six in 2018. The Inter-American Commission takes note of the murder of Malvina Paiva—a trans woman—in Caracas, allegedly carried out by police officers and which is the first time a death has been classified as a hate crime.323

198. It is concerning to the Commission that information on Venezuela’s LGBTI population is scarce, with no official information in its existence or on human rights violations carried out against these individuals. The situation causes consternation at the lack of visibility of the human rights situation of LGBTI persons in the country. The Commission reminds the State of Venezuela of its obligation to guarantee protection of LGBTI persons, as well as to produce official data on its efforts and allocate sufficient resources to systematically collect and analyze disaggregated statistics on the prevalence and nature of the violence and discrimination, as well as on the effective and proper inclusion of LGBTI persons via the laws and public policies implemented.

F. Indigenous peoples

199. Due to the humanitarian crisis in Venezuela, the structural problems that affect indigenous peoples have worsened.

318 Semana Sostenible, El crecimiento del Arco Minero de Venezuela aniquila a los pueblos indígenas, January 24, 2018.
322 El Nacional, Alertan de riesgo de epidemia de VIH por falta de tratamiento en Venezuela, July 1, 2018; Caribe Afirmativo, Crisis humanitaria de venezolanos LGBT en el Caribe, August 27, 2018; El Espectador, El drama de ser migrante venezolano y LGBT, August 28, 2018.
323 Fundación reflejos de Venezuela, Aseinan a mujer trans en Caracas, March 9, 2018; Transrespeto versus Transfobia en el Mundo (TvT), Press Release Trans Day of Remembrance (TDoR) 2018.
200. According to the latest census—from 2011—Venezuela's indigenous population is calculated at 725,128 people, or 2.5% of the total national population. Although 36.76% of the population lives on traditional territories (rural), the majority of the indigenous are moving to cities, increasing poverty in peripheral areas.

201. According to information provided to the IACHR by Amnesty International Venezuela's economic, social, cultural, and environmental rights program, the complex health situation affecting the indigenous population in Venezuela is, among other things, related to the difficulties it faces in accessing aid services. These geographical barriers require them to seek medical care in far-off areas, and they therefore require very well coordinated transportation logistics. The lack of communication between service providers and indigenous communities and their failure to understand indigenous peoples' realities is another significant barrier.324

202. The lack of epidemiological information is another problem noted, as the public health system does not include a variable for ethnicity. This means data must be sought from other types of entities, such as indigenous organizations and their allies. That is, there is a very significant underreporting of epidemiological information in territories that are difficult to access and where the healthcare system has very little coverage.325

203. In addition to this, the IACHR has been able to confirm the existence of illegal mining taking place in indigenous territories in Venezuela.

204. In addition to violence for territorial control, this activity produces a largely rootless population that becomes ill in the mines and infects the local indigenous population. Malaria, flu, and measles, as well as other infectious diseases, have reached communities such as the Warao in Delta Amacuro State and the Yanomami along the border with Brazil. The inaccessibility of aid centers in these cases presents a mortal risk.

205. In 2018, the IACHR received information on the serious health situation currently affecting the Yanomami indigenous people. According to the information provided by the State of Venezuela to the Commission in the framework of Friendly Settlement Agreement No. 32/12, health plans were drawn up to address the situation. However, measures adopted have not been sufficient to eradicate the illness.

206. Regarding the situation of indigenous human rights defenders and leaders in Venezuela, the situation of Lisa Henrito, an activist with the Pemón people, has drawn attention from a number of international bodies.326 The human rights defender has stated that her participation in the Pemón people's security committee has brought her to the attention of State and non-State armed groups.

207. The IACHR has also received information regarding the call for attention made by the indigenous communities and the General Chiefs of the Pemón people. In a press release, they have asked the authorities to address the "true tragedy facing the indigenous residents and communities of El Dorado," asking them to deal with the organized crime groups that afflict this population.327

208. Along with this, on December 9 of this year, the Commission took note of the situation of the Canaima National Park in Bolívar, where officials of the General Directorate of Military Counterintelligence (DGCIM) allegedly murdered a member of the Pemón people and injured another two indigenous people, upon which the National Civilian Aeronautics Institute suspended all flights to and from Santa Elena de

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324 Amnesty International said this year that "thousands of indigenous people from the Venezuelan Amazon travel daily to large cities in the country or outside it with one goal: to recover their health. From sleeping in the street to begging for food at the doors of a variety of State institutions, their severe need causes pain as well as illnesses and complications. Their stories show the most severe and least visible consequences of the human rights crisis facing Venezuela and the dismantling of public policies for providing care and protection to indigenous peoples," Amnesty International, Salud indígena devastada por la crisis humanitaria, April 6, 2018.

325 Civilis, Derechos Humanos, Amnistía Internacional celebró el Foro la salud en emergencia humana, November 13, 2017.


Uairén and Canaima. Due to a lack of effective judicial oversight of the deployment of security forces, severe abuses and violence have taken place against the individuals inhabiting the territory, the majority of which are members of the Canaima indigenous community. Along with this, the militarization of the territory that includes the Canaima National Park continues, and air traffic was prohibited until December 14, leaving the families who lived there isolated.

209. Lastly, the context of the crisis in Venezuela has also included the forced displacement of indigenous peoples. This year, in the public hearing held by the IACHR during the 168th and 169th periods of sessions, the requesting organizations expressed their concern regarding the grave situation affecting migrant and refugee indigenous persons.

210. In the context of the displacement, indigenous peoples such as the Warao and Wayúu have had to abandon their lands to seek protection because of shortages of food and medicine. As the situation worsens, an increasing number of indigenous people seek humanitarian assistance and protection in Brazil and Colombia.

211. The IACHR urges the State of Venezuela to execute the recommendations contained in this chapter, as well as in the current body of law on indigenous rights. Pursuant to the American Convention, States must guarantee, under equal conditions, the full exercise and enjoyment of the rights of the individuals subject to their jurisdiction. To effectively guarantee those rights in the case of indigenous peoples, when interpreting and applying their domestic law, States must take into consideration the specific characteristics that differentiate members of these collectives from those of the general population, in consideration of their cultural identity. In keeping with this, they must intensify their efforts to ensure that all their institutions, as well as their legislative and administrative measures adopted, comply with international human rights standards.

G. Children and adolescents

212. Regarding children and adolescents, the IACHR observes that the context of Venezuela’s economic, social, and political crisis has also affected the full exercise and enjoyment of human rights by children and adolescents. The affectation of these rights is particularly intense because this group is in a special situation of vulnerability and is often invisible when demanding its rights.

213. On one hand, shortages of food products has increased child malnutrition rates, causing retardation in the growth of Venezuelan children, at times even causing their deaths. In a press release, the IACHR urged the State to adopt the measures necessary to guarantee and respect the rights to food and health, as, according to information received by the Commission, during 2017, between five and six children died every week from lack of food; 33% of children suffered retardation in their growth; and 11.4% were experiencing malnutrition. The IACHR recalls that the State must adopt whatever measures may be necessary to ensure the right to adequate and sufficient food for all children and adolescents.

214. On one hand, the shortage of medicines prevents children and adolescents from receiving proper medical treatment, gravely violating their rights to life, humane treatment, and health, and in extreme cases, putting at risk the lives of those who suffer from serious illnesses. According to the information received

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328 Versión Final, Suspendidos vuelos a Santa Elena de Uairén y Canaima hasta el 14-D, December 13, 2018.
333 IACHR, Press Release No. 16/18, IACHR and its Special Rapporteurship on Economic, Social, Cultural, and Environmental Rights Urge the State of Venezuela to Protect and Respect the Rights to Food and Health, February 1, 2018.
by the Commission, so far in 2018, at least 16 children under the age of five lost their lives at the Hospital Universitario de Pediatría Dr. Zubillaga due to infections caused by poor hygiene; other children died at a number of hospitals because of malnutrition, severe respiratory infections, and severe diarrhea, among other ailments. This urgent context led to another press release in which the IACHR expressed its concern at the crisis facing Venezuela's healthcare system. The Commission reminds the State that both the right to health and the right to food are indispensable for the exercise of other human rights, such as the right to life, the right to humane treatment, and, especially in the case of children, the right to education.

215. On February 21 of this year, the IACHR granted precautionary measures to the benefit of the children who were patients in the nephrology area of the Hospital José Manuel de los Ríos in Caracas, who were in a grave situation of risk due to their delicate health (suffering from chronic renal insufficiency) and the lack of adequate medical treatment as a result of shortages of medications and inputs, deficient facilities, and unsanitary conditions in the hospital. In this context, the IACHR asked the State of Venezuela to adopt the measures necessary to guarantee their rights to life, humane treatment, and health, underscoring the importance of authorities providing medical treatment that was adequate to their needs and access to the necessary medications and procedures, as well as meeting their nutritional needs and ensuring the hygienic and safety conditions in the nephrology area.

216. Likewise, according to information provided to the IACHR by civil society organizations, there is a concerning increase in the number of children and adolescents living in the street because of food shortages, hyperinflation, abandonment and overpopulation in shelters, and the death of parents from the violence. In the first half of 2018, there was a 40% increase in this population. The street children are also victims of stigmatization, abuse, and violence by police and shopping center security staff. There are reports of extreme cases in which they have lost their lives from remaining at length in this situation of vulnerability, abandonment, and hunger. The Commission underscores that children have a right to a living standard that is adequate for their full development, a right that is enshrined in Article 27 of the Convention on the Rights of the Child (CRC). Pursuant to this article, the State has the duty to adopt measures to support families and/or those responsible for caring for children with the aim of preventing children from ending up on the street and of enhancing caretakers' capacities through programs that support them as they exercise their parental duties as a function of their need to comply with their caretaker obligations.

217. In addition, food shortages have led to situations of violence, criminality, and citizen insecurity that have negatively impacted the growth and development of children and adolescents, subjecting them to serious situations that have put their personal integrity and lives at risk. According to a report issued by the Observatorio Venezolano de Violencia (OVV), 6.2% of the fatal victims of violence in 2017 were adolescents between the ages of 12 and 17 years old. The IACHR reiterates that, due to their status as individuals who are developing and growing, the State has an obligation to adopt specially-adapted and strengthened measures to protect children in order to prevent them from being subjected to any form of violence, abuse, or mistreatment. The State must adopt all appropriate measures to protect and preserve the right to life and humane treatment of all individuals under its jurisdiction.

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335 IACHR, Venezuela: Human rights experts say health system in crisis, October 1, 2018.
336 IACHR, Press Release No. 16/18, IACHR and its Special Rapporteurship on Economic, Social, Cultural, and Environmental Rights Urge the State of Venezuela to Protect and Respect the Rights to Food and Health, February 1, 2018.
337 IACHR, RES. 8/2018, Precautionary Measure No. 1039-17, Child Patients in the Nephrology Area at José Manuel de los Ríos Hospital, Venezuela, February 21, 2018.
339 The Asociación Civil Red de Casas Don Bosco is a civil society organization that focuses on caring for street children and protecting their human rights.
218. The IACHR continues to observe with concern the increased migration of the Venezuelan population as it seeks protection, security, and better living conditions. For Venezuelan children, this involves the loss of their right to grow up in the place where they belong, or even to grow up within a family, as in some cases, not all members of the family have the chance to migrate, while in others, the children lose their families on the way. It also means exposure to the risk of falling victim to kidnappers, forced recruitment by armed groups, trafficking, and sexual and labor exploitation. This outlook is especially serious for unaccompanied minor children, who are also exposed to enhanced risk of becoming victims, mainly of abuse, violence, human trafficking, and sexual exploitation. The IACHR underscores that children have the right to enjoy family life; that measures of protection should be adopted for them, especially to address any potential situation of violence, exploitation, or trafficking; and that the risks to which migrant children are exposed be identified, and that the children be provided with international protection.

H. Afro-descendants

219. The Commission welcomes the progress made by the government toward recognizing the rights of the Afro-descendant population, including the issuing of a decree on the International Decade for People of African Descent, with which it aims to promote the human rights of Afro-descendant persons through their recognition, justice, and development. Likewise, the IACHR recognizes the interest Venezuela has taken in Afro-descendant peoples and highlights its holding of the World Day on the Rights of Peoples of African Descent, “Reparations: From resistance to action,” which was held in the Bolivarian Republic of Venezuela and where officials recognized the importance of reparations as a type of reclamation in response to slavery.

220. The Commission also celebrated the planning and execution of the Comprehensive Prevention Plan called “The Route of the Drum,” through which the National Institute against Racial Discrimination (INCODIR) seeks to promote Afro-Venezuelan traditions and a life of peace. The “Route of the Drum” will take place locally and involve educators in order to promote Afro-Venezuelan knowledge and practices, as well as continue to promote these peoples’ popular and ancestral cultures. The Commission recognizes that the Venezuelan State is making efforts to raise awareness among the population on the cultural contributions of Afro-Venezuelans, with the aim of bringing a stop to acts of discrimination against people of African descent, indigenous peoples, and immigrants.

221. However, the IACHR notes with concern that people of African descent and their communities have been particularly affected by Venezuela's economic crisis, which is worsening their historical and structural situational vulnerability. Likewise, the Commission notes with concern the obstacles facing Afro-Venezuelans to exercising their economic and social rights, including the rights to health, security, and mobility. Lastly, the IACHR is concerned at the lack of discussion over the rights of people of African descent in the framework of the Constitutional Reform being carried out by the National Constituent Assembly.

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348 Bolivarian Government of Venezuela Reparations for Peoples of African Descent to be referred to international fora,” May 10, 2018.

349 Correo del Orinoco, Ruta del Tambor” sembrará valores en niños y niñas de las comunidades de Venezuela, November 28, 2018.

350 Ministry of the People’s Power for Transportation, The Ministry of the People’s Power for Transportation opens its doors to the National Counsel for the Development of Communities of African Descent in Venezuela, April 12, 2018.

351 Movimientos, Venezuela: Afrodescendientes tomaron hoy la ANC para exigir sus derechos, August 2, 2018.
I. People with Disabilities

222. At the request of the State of Venezuela, the Commission held a hearing on the Human Rights Situation of People with Disabilities in Venezuela during its 168th Period of Sessions. According to information provided by representatives of the State, the 2011 national population and housing Census found there were 1,720,311 people with some kind of disability living in Venezuela, with visual disabilities being the most common. The State representatives underscored the recognition of people with disabilities as subjects endowed with rights under the Constitution, as well as the Constitution’s recognition of the right to communicate and express oneself in Venezuelan sign language. Regarding access to health and social protection, the State underscored the existence of the carnet de la patria system as a mechanism that benefits people with disabilities by providing economic assistance and streamlining processes for receiving benefits through government social policies. In its observations to the project of the present report, the State manifested that with the carnet system, “it has implemented a set of cash allocations for social protection that directly benefits more than 18 million people registered in this mechanism, and this is to say that approximately 80% of the adult population in the country”.

223. Additionally, in the renowned hearing, the State recognized that the crisis in Venezuela over shortages of medications disproportionally affects people with disabilities.

224. For their part, although they highlighted legal progress, civil society representatives pointed to the persistence of a series of challenges that have become more serious due to the country’s humanitarian crisis. First, they argued that people with disabilities were undercounted, estimating the real figure at between 3 million and 4 million people with some type of disability, of which they estimate that 80% are living in poverty. They also alleged that the State authorities themselves discriminate against people with disabilities by failing to follow the law on the rights of people with disabilities. The civil society representatives alleged that the carnet de la patria system, which is managed by the ruling party, is used to discriminate and block access to medications when people with disabilities do not have the carnet. Regarding the right to health, the civil society representatives reported a lack of accessibility at hospitals, as well as shortages of medications and inputs for performing the medical procedures needed by people with disabilities.

225. Additionally, the IACHR requested information from the State on the exercise of the right to vote by people with disabilities. Both during the hearing and in its written response to the request for information, the State provided information on the adoption of measures including: (i) adjustments to make the voting stations accessible; (ii) the incorporation of assisted voting; (iii) the preparation of an instruction manual on providing assistance and support to people with disabilities during elections.

226. The State also communicated that its Political Constitution enshrines that people with disabilities have “the right to full and autonomous exercise of their capacities and to family and community integration.” However, the Commission takes note with regard to the Organic Law on Electoral Processes that it is legally impossible for people under interdiction regimes to exercise their right to vote, and that under Venezuela’s Civil Code, people subject to interdiction processes include those with “intellectual deficiencies.”

352 Hearing on the “Situation of people with disabilities in Venezuela”, 168th Period of Sessions, May 10, 2018. The representatives of the State reported on the progress made by Venezuela regarding education, access to information, work, sports, culture, and political rights for people with disabilities.


355 Information provided by civil society at the hearing on the “Situation of people with disabilities in Venezuela”, 168th Period of Sessions, May 10, 2018.

356 Also see: 8,000 personas con sordera no tienen acceso a medicamentos, June 18, 2018; Pacientes con esclerosis no reciben medicamentos desde hace dos años, July 24, 2018.

357 Ministry of the People’s Power on Foreign Relations, Venezuela, note AGEV/2018-0197 of November 19, 2018, received by the Executive Secretariat of the IACHR.

358 Venezuelan Civil Code. Title X, Chapter I, Art. 393.
227. The Commission appreciates the legal progress made by the State of Venezuela in recent years regarding its population of people with disabilities and urges it to continue working to fully include people with disabilities in the country’s social and political life. However, the Commission reminds the State of Venezuela that it must adjust its legal regimen to the postulates of the “social model” on disability enshrined in the Inter-American Convention on the Elimination of all Forms of Discrimination against Persons with Disabilities and the UN Convention on the Rights of Persons with Disabilities. This especially applies to the inability of people under interdiction regimens to vote.

228. Likewise, the Commission observes with concern how Venezuela’s economic and social crisis has disproportionately affected people with disabilities, a group that was already historically in a position of greater vulnerability, such that, with the difficulty accessing medications and food, their enjoyment of their human rights has been diminished and obstructed.

J. Elderly

229. During its 169th Period of Sessions, the Commission held a hearing on the situation of this group. Venezuela has a population of approximately 2,976,079 elderly people, according to the figures of the National Statistics Institute, or 9.71% of its total population. The State has reported that in the framework of its process to withdraw from the OAS, it will not ratify the Inter-American Convention on Protecting the Human Rights of Older Persons.

230. Civil society organizations alerted to an upward trend in homicides and suicides of the elderly. However, the State said the homicide rate for the elderly had declined, in line with an overall decline. The Commission is concerned over the lack of disaggregated statistics available to the public on the violent deaths of elderly individuals, something that prevents going into more depth on the causes and designing public programs aimed at addressing this phenomenon.

231. Information was also received on the failure to adopt plans to address the population’s rapid aging. According to civil society, the main problems facing elderly people in Venezuela include shortages of medication and food, the outbreak of illnesses such as malaria, and the suspension of healthcare services, a situation addressed in the section on the right to health (Section IV of this report). In particular, they emphasize the particularly acute impact of shortages of medications for diabetes and hypertension, two of the main causes of morbidity in this group.

232. During the hearing, the State said pensions coverage had reached 100% at the historically large figure of 4,095,023 pensions for elderly people. However, civil society has questioned the lack of disaggregated information on the pensions list in question. It has also questioned the program and criteria used to grant pensions.

233. The Commission appreciates the information provided by the State on the universality of pension coverage. However, it reiterates its request for the State to publicly and transparently make information available on the administration of State agencies, along with official figures broken down by age that would make it possible to evaluate whether human rights are effectively respected in Venezuela.

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359 Inter-American Court, Furlan and relatives v. Argentina, August 31, 2012, para. 134.
360 Information provided by civil society during the hearing “Political crisis in Venezuela and its effects on the elderly and the LGBTI community,” held during the 169th Period of Sessions of the IACHR.
361 According to information from the organizations who participated in the hearing, in 2017, 321 murders were recorded, a 50% increase compared to the 213 elderly people murdered in 2016. They underscored that these figures could be undercounting the phenomenon, as the report only includes information on violent incidents collected from websites. Regarding suicides, they stated that according to the information gleaned from digital media sources, they increased from 15 suicides in 2016 in 10 states to 25 suicides in 2017 in only four states. They stated that the trend in 2018 appears to be worsening, given that as of May, 26 suicides were reported in the state of Trujillo, nine of which were elderly persons. For its part, the State indicated that between January and September 2017, there were 406 murders of elderly people, while from January to September 2018, the figure had declined to 272, or a 33% reduction. Also see El Nacional, En lo que va de año han asesinado a un adulto mayor cada mes, July 14, 2018.
362 National Institute of Statistics, Venezuela, Venezuela reaches 100% of pensioners, April 18, 2018.
it reiterates the inter-American standard that elderly people have a right to enhanced protection, which should be provided through differentiated measures.

K. Memory, Truth, and Justice

234. Through a variety of measures and mechanisms, the inter-American human rights system has found that truth, justice, reparation, and guarantees of non-repetition contribute to achieving two intermediate or medium-term objectives (providing recognition to the victims and fostering trust), as well as two final objectives (contributing to reconciliation and enhancing the rule of law).363 Given that these pillars are complementary but have their own content and scope, "the truth cannot be a substitute for justice, reparation, or guarantees of non-repetition."364 In this regard, the Commission urges the Venezuelan State to redouble its efforts, particularly in terms of justice, reparations, and guarantees of non-repetition with regard to the violations of human rights that have taken place both historically and in the recent past, as well as to procure the highest respect for the rule of law and the separation of powers and greater involvement of victims in the process of memory, truth, and justice.

235. Regarding the mass human rights violations that took place over the last century in Venezuela, the IACHR appreciated State efforts to establish historic truth and memory through a Justice and Truth Commission Report, which took note of and identified 10,071 victims of human rights violations.365 The IACHR is not aware of any measures taken in 2018 to move forward judicially to complement the Truth Commission.

236. Regarding this situation, the Commission recalls that, without prejudice to the importance of having a truth commission to establish the facts related to the most serious violations, its functions, although relevant, cannot be considered a proper substitute for a judicial process. The value of truth commissions is that their establishment is not based on the premise that there will be no trials. Rather, they represent a step toward restoring truth and, eventually, justice.366 The message sent emphatically by the inter-American human rights system through its various mechanisms has been that the State has an obligation to combat impunity and provide reparations to the victims of grave human rights violations through the justice system.367

237. Thus ruled the Inter-American Court in the case of El Amparo v. Venezuela, where it accepted the State’s recognition of responsibility while establishing that acknowledging the truth and paying reparations is not sufficient if investigation and punishment of those responsible is not guaranteed.368

238. Regarding this specific case, the IACHR notes that during 2018, no progress was made toward trying those responsible for the events in Venezuelan courts, in compliance with the judgment of the Inter-American Court.369 Regarding this, the IACHR recalls that the State of Venezuela is required to pursue the investigations into the facts in question in this case and punish those found responsible, as well as fully comply with the Court’s judgment.

239. Regarding human rights violations that took place subsequent to 1998, the IACHR takes note of the creation of the Commission on Public Truth, Justice, Peace, and Tranquility by the National Constitutional Assembly and its activities carried out in relation to providing reparations to victims and releasing individuals processed over the incidents of political violence within the scope of its competence. Regarding the victims, the State reported that as of June 2018, more than 681 people had received the necessary support from the State delegation. Regarding the releases, after the initial release in September 2017, others were released over the course of 2018.

240. Regarding this, the IACHR and civil society organizations have reacted with concern at the creation of the Commission for Public Truth, Justice, Peace, and Tranquility, stating that "in the end, what is being proposed is the installation and intensification of mechanisms for persecuting dissidents, not addressing the real and specific needs of the population.”

241. The IACHR reiterates the importance of a transitional justice program aimed at securing a lasting peace and respect for democratic institutions. It is for this reason that the transitional justice framework must be applied as a system of incentives aimed at revealing the truth, identifying and punishing those responsible, and providing reparations to victims, with a high degree of legitimacy among the affected population, not as a mechanism for political persecution or violation of the constitutional order.

242. Likewise, the IACHR reiterates the same criticisms with regard to the Commission for Justice and Truth as far as the State obligation to support the search for truth and provide reparations by guaranteeing that justice is done. In this regard, the Victims Committee supported the government's measure, although it noted that little progress has been made on justice, as out of 43 deaths and 850 injuries, only one case has been resolved: the case in which Johnny Bolivar was implicated.

VII. CONCLUSIONS

244. Based on this analysis, the Commission observes that in 2018, the persistent structural situations that affect the human rights of the Venezuelan population have worsened and led to a severe political, social, economic, and humanitarian crisis, resulting in the absence of the rule of law. The presidential elections and the extension of the state of emergency further worsen the already critical institutional situation, characterized by the lack of effective separation, independence, and balance of State powers, with the lack of an independent and impartial judiciary being one of its main causes. The deterioration of political rights and the right to participate in public life led to new and serious episodes of attacks, persecution, and imprisonment of opposition politicians, dissidents, journalists, demonstrators, public employees, human rights defenders, and members of the general public. Deaths during social protests continued in a context of the militarization of security, which continues to affect the lives, safety, and property of Venezuelans. At the same time, Venezuela's severe economic and social crisis, characterized by shortages and scarcity, directly affects access to economic, social, and cultural rights, particularly of the most vulnerable groups, and has led to mass displacement of migrants and refugees from the country. All of this has negatively impacted the rule of law in Venezuela.

VIII. RECOMMENDATIONS

A. Position of the State toward the Inter-American System

1. Reverse the decision to withdraw from the OAS.


3. Fully comply with the recommendations of the inter-American human rights system in accordance with the obligations under the OAS Charter, pursuant to its Article 143.

B. Overall Human Rights Situation

• Democratic Institutionality

4. Reestablish constitutional order by guaranteeing (i) the independence and balance of powers, (ii) the political participation of the entire population without discrimination, and (iii) citizen control over the actions of the different State powers.

5. Ensure that the procedures for selecting and appointing the magistrates of the Superior Tribunal of Justice include the prior dissemination of the announcement of the process, terms, and procedures; guarantees of equal and inclusive access for the candidate; the participation of civil society; and selection based on merit and professional capacity.

6. Adopt decisive measures to guarantee the separation of powers and the proper exercise of the constitutionally established functions of the National Assembly, with respect for due process where parliamentary immunity must be lifted.

7. Promote spaces for permanent citizen oversight of electoral processes: Specifically, by conducting electoral audits in the presence of representatives from political parties and members of civil society without discrimination.

8. With regard to the National Constitutional Assembly, reverse the measures that exceed the competencies of a constitutional body and affect the separation of powers and representative democracy, and abstain from adopting decisions that overstep those competencies.

9. With regard to the National Electoral Council, take the measures necessary to ensure its independence by selecting its members based on the requirements established in the
Constitution, as well as ensuring that its decisions protect the political rights of the Venezuelan population, without undue interference.

10. Ensure that the provisions related to the state of emergency are used in situations of extreme gravity and real emergency, and adhere strictly and reasonably to the needs of the situation in question, without going beyond what is strictly necessary, extending excessively over time, disproportionality, deviation, or abuse of power.

11. Adopt the measures necessary for the Office of the Ombudsman to fully comply with its mandate under the Constitution and contribute to effectively protecting human rights in Venezuela, including by adopting legal measures to guarantee that the appointment and removal of the Ombudsman is done independently and pluralistically.

**Administration of Justice and Judicial Independence**

12. Urgently adopt measures to (i) significantly reduce the number of acting judges and increase the number of permanent judges; (ii) ensure that even acting judges can only be removed through a disciplinary process or administrative act that is strictly respectful of due process guarantees, especially the duty to provide proper grounds; and (iii) guarantee the stability of the position.

13. Adopt urgent measures to conclude the judicial actions pending and issue judgments in the shortest time possible and in keeping with international standards on due process.

14. Take the measures necessary—including legislative measures—to ensure civilians are not investigated, processed, and/or brought to trial by criminal military jurisdiction, and, where necessary, retry them in civilian courts.

**Political Rights and Right to Participate in Public Life**

15. Guarantee the full exercise of political rights for all people, independently of their stance toward government policies, and cease all actions that impede people's exercise of their right to freely elect their representatives and hold them accountable for their performance.

16. Refrain from making illegal or arbitrary detentions, and when a person is deprived of liberty, ensure that the measure is exceptional and complies with all guarantees for restricting this right, including the requirement to be brought immediately before a judge.

17. Refrain from retaliation or using the punitive power of the State to intimidate or punish people based on their political opinions.

18. Adopt the measures necessary to guarantee the political rights of mayors, governors, deputies, and any other authority—including political leaders—so they can exercise their activities without being subject to harassment, threats, and violence. These measures must include withdrawal of measures declaring these authorities in contempt and/or disqualifying them for office, and the State must refrain from taking new measures without due process guarantees.

19. Guarantee that orders of the Judicial Branch to release detained individuals or apply measures other than deprivation of liberty are fully executed within the shortest amount of time possible.

20. Remove all legal obstacles to the legitimate exercise of the right to protest, specifically by eliminating the legal requirement of prior authorization to hold demonstrations.
21. Guarantee that at social mobilizations carried out in exercise of the right of assembly and peaceful demonstration, the rights to life, humane treatment, and personal liberty of everyone demonstrating are protected.

22. Adopt all necessary and appropriate measures to protect the right to life and humane treatment of children and adolescents during social protests. This includes establishing protocols for the actions of security forces and on the use of force, specifically regarding the treatment of children and adolescents to ensure their rights.

23. Take a variety of measures, including legal measures, to ensure that firearms are not used to control social protests, as well as establish guidelines to ensure the use of less lethal weapons, in keeping with human rights standards.

24. Immediately conduct the corresponding investigations into deaths that take place during demonstrations, and do so diligently, effectively, and independently in a way that results in the trial and punishment of those responsible, as well as the corresponding measures of reparation for the victims and their relatives.

25. Stop all acts of repression against peaceful demonstrations, immediately adopting the appropriate measures to protect the population from all forms of violence, with particular attention to women, adolescents, children, and the elderly.

26. Release all individuals who have been detained and/or processed for the sole fact of having exercised the right to social protest.

27. Refrain from any acts of torture; treatment or punishment that is cruel, inhumane, or degrading; and any type of sexual violence against detainees or during the detention; and investigate reports of such acts with due diligence, punishing those responsible and providing reparations to the victims.

**Violence and Citizen Security**

28. Reform the policies and practices of security forces related to citizen control operations to bring them into a framework of respect for human rights.

29. Produce disaggregated State information that is accessible to the public on the causes, victims, and perpetrators of violent deaths.

30. Train public servants in charge of public order work on the protection and respect for human rights, particularly regarding the principles that govern the use of force.

31. Ensure that force is used in strict compliance with the principles of exceptionality, legality, necessity, proportionality, nondiscrimination, and accountability; and launch, ex officio and without delay, a serious, impartial, and effective investigation that is open to public scrutiny into facts related to the potentially excessive use of force.

32. Immediately and decisively adopt measures to exclude the military and armed forces from performing citizen security work. In exceptional cases in which members of the military participate in public order operations, which are the responsibility of the police, they must be placed under civilian authority.

33. Conduct an independent and impartial investigation into the circumstances surrounding the deaths and injuries during the so-called “Operation Gedeón,” to eventually assign responsibilities to the security forces officials who participated in it.
34. Cease including civilians in security work, and specifically, prevent civilians with military training from being part of domestic defense strategies.

35. Refrain from providing any type of support to civilian collectives, prevent them from acting in coordination with or with the acquiescence of the State; and when the State is aware or should be aware of acts of violence between private parties, it should take reasonable measures to prevent, investigate, and punish those actions.

C. **Poverty and economic, Social, Cultural, and Environmental Rights.**

36. Take new measures to ensure the availability and quality of healthcare services, ensuring that the facilities have sufficient medications and medical equipment.

37. Monitor the availability of medicines and healthcare services and the population’s access to them, along with their consequences, and gather information on this for regular and detailed publication, including epidemiological bulletins, mortality statistics, inventories and acquisition of medicines, supplies, and equipment, and other public documents on the situation of healthcare services at the national level.

38. Refrain from any action or conduct that could limit the autonomy of universities, investigating and, where necessary, punishing attacks on that autonomy, as well as reviewing and amending all legislation or practices that reduce it.

39. Take urgent action to eradicate chronic malnutrition in vulnerable sections of the country, especially among children and adolescents and women. This includes providing the resources necessary to strengthen public food programs for children and the guarantees necessary for private aid programs to be able to operate without problems.

40. Conduct an environmental and social impact evaluation for the entire Orinoco Mining Crescent and set up a program for regular soil and water quality monitoring.

41. Establish an environmental reparations program with a social component to address the many needs of the sector’s inhabitants affected by the constant mining activities in order to stimulate the area’s economy.

D. **Social Protest and Freedom of Expression**

42. Grant journalists the highest level of protection to ensure they are not detained, threatened, or attacked for exercising their profession, especially during a public demonstration. Their work materials and tools must not be destroyed or confiscated. The State must guarantee national and foreign media the ability to broadcast live during demonstrations and public events and not adopt measures to regulate or limit the free circulation of information;

43. Refrain from exerting direct or indirect pressure aimed at silencing journalists, in accordance with Principle 13 of the Declaration of Principles on Freedom of Expression. In particular, remove all disproportionate or discriminatory restrictions that prevent media outlets of all formats, from effectively completing their commercial, social, or public missions;

44. Change ambiguous or imprecise criminal laws that disproportionately limit freedom of expression, such as laws intended to protect the honor of ideas or institutions or that seek to protect national security or public peace, in order to prevent the use of criminal proceedings to inhibit free democratic debate on matters of public interest and the full exercise of political rights. Also, move to repeal desacato laws, no matter what form they take, as these laws violate
Inter-American standards and restrict public debate, which is an essential element for the functioning of democracy;

45. Ensure that crimes against freedom of expression are subject to independent, quick, and effective investigations and judicial proceedings. In addition to criminal investigations, disciplinary proceedings should be launched when there is evidence that public officials have violated freedom of expression in the course of their professional conduct. As has been noted on other occasions, the failure to punish the perpetrators and masterminds of murders, attacks, and threats related to the exercise of journalism activity fosters the commission of new crimes and generates notable chilling effect, which severely impacts the possibility of having a truly open, uninhibited, and democratic debate;

46. Adopt legislation on access to public information in keeping with inter-American standards in order to provide all people with tools for effectively monitoring State operations, supervising public administration, and controlling corruption, all of which are essential for democracy. The IACHR and its Office of the Special Rapporteur also call on Venezuela’s judicial authorities to guarantee this right and ensure their rulings comply with international standards on the subject at all times.

47. Refrain from limiting the functioning of webpages, blogs, apps, or other systems for disseminating information over the Internet, electronically, or otherwise, including support systems such as ISPs or search engines. These limitations are permissible only when they are compatible with the conditions governing the limitation of freedom of expression.

E. Women

48. Regularly produce complete statistics on violence and discrimination against women, disaggregated at least by gender, age, race, ethnicity, socioeconomic status, disability, sexual orientation, and gender identity, as well as the location of the incidents, with the aim of building an accurate picture of the specific ways in which violence and discrimination affect women.

49. Diligently publish and disseminate the statistical information produced.

50. Enhance efforts to reduce maternal mortality by adopting a comprehensive strategy that includes the effective application of the current protocol for prenatal care and emergency obstetric care.

51. Take the measures necessary to implement the policy to protect humanized birth by providing adequate resources, proper coordination, and accountability.

52. Take necessary and urgent measures to make available a varied, accessible, and acceptable array of contraceptive and family-planning methods, both male and female, throughout the country for women, men, and adolescents.

F. Human Rights Defenders

53. Urge State authorities to refrain from making public statements that stigmatize human rights defenders and from using State media to conduct public campaigns that may incite violence against human rights defenders based on their work to defend human rights;

54. Provide human rights defenders with adequate resources when they are subject to stigmatizing statements that could affect their reputations, compromise their personal integrity, or lead to or facilitate their criminalization;
55. Adopt positive measures to enable human rights defenders to conduct activities freely by fostering a human rights culture and an environment free of violence and threats. Do this by, among other things, training public officials; educating the public as a whole; recognizing the value and importance of the work of human rights defenders; and conducting serious and effective investigations into any violation of the human rights of people who defend human rights.

G. Persons Deprived of Liberty

56. In order to make reasonable use of imprisonment, the State must promote the use of measures alternative to deprivation of liberty and use of pretrial detention that is in keeping with its exceptional nature and limited by the principles of legality, presumption of innocence, necessity, and proportionality.381

57. Regarding deaths that take place within prisons, the IACHR asks the State to prepare a detailed report covering 2015 through the present day that includes the following information at a minimum: (a) date and place of death; (b) cause of death; and (c) where applicable, the status of the investigation into the individual’s death. Likewise, the Commission reiterates the State’s duty to investigate, process, and punish those responsible, as well as its duty to adopt measures to prevent death resulting from incidents of violence within detention centers.

58. Guarantee that people in State custody are treated with dignity. Specifically, ensure that detained individuals have the medical care they need for their specific health conditions, receive sufficient food with high nutritional value, and have hygienic living conditions. The Venezuelan State also must adopt the measures necessary to guarantee that individuals deprived of liberty are transferred from police detention centers to prison facilities with the minimum conditions needed to guarantee the rights of individuals deprived of liberty.

H. Migrants, Asylum Applicants, Refugees, Beneficiaries of Complementary Protection, Internally Displaced People, and Victims of Human Trafficking

59. Adopt measures to address the humanitarian crisis by preventing situations of deprivation or denial of rights—in particular the rights to health, right to food, right to work, right to decent housing, and other economic, social, and cultural rights—that may be factors behind the forced migration of people from Venezuela.

60. Guarantee access to and provision of unobstructed humanitarian aid for the Venezuelan population that may need it, all of which should be provided in keeping with principles of humanity and impartiality and without any discrimination.

61. Eliminate all measures that hinder the right of all individuals wishing to leave Venezuelan territory and wishing to seek and receive asylum, complementary protection, or other protection.

62. Ensure the rights to juridical personality and identity by issuing identity documents in a timely fashion, including passports, ID cards, civil registry certificates, and criminal background records.

63. Properly define the crime of human trafficking pursuant to regional and international human rights regulations and standards, and execute a coordinated and comprehensive response to

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prevent, address, and provide reparations to victims, as well as investigate, process, and punish the crime.

I. Lesbian, gay, Transsexual, Bisexual, and Intersex (LGBTI) Persons

64. Take the measures necessary—including legislative, public policy, and State programs—to address the underlying causes of violence against trans and genderqueer persons. Among other things, these measures must ensure that people have access without discrimination to formal employment, education, healthcare, and housing;

65. Conduct exhaustive and impartial investigations into cases of violence against LGBTI persons and take effective measures to try, punish, and provide reparations for the violence suffered by these individuals;

66. Develop measures to gather data to study and evaluate the scope of and trends in prejudicial violence against LGBTI persons.

67. Implement measures to prevent violence against LGBTI persons, including procedures for effectively and independently reporting the violations suffered. Likewise, offer training courses to raise awareness among State officials, especially justice and security officials and health and education professionals.

J. Indigenous Peoples

68. Immediately adopt measures to safeguard the security of indigenous human rights defenders, leaders, and communities, and carry out exhaustive, independent, and impartial investigations to establish the motives and circumstances of violations against them and identify, process, and punish the perpetrators and masterminds. These investigations should take into consideration the context of the defense of the right to territory;

69. Guarantee the exercise of the participatory rights belonging to indigenous peoples. The State specifically has a duty to conduct free, prior, and informed consultations on all legislative and administrative matters that may directly or indirectly affect indigenous peoples. The State is reminded that these consultations must be conducted in order to reach mutual agreement or consent. Likewise, the consultation initiatives carried out by indigenous organizations themselves must be recognized and strengthened in the framework of the State’s duty to conduct consultations;

70. Adopt urgent measures to eradicate illegal mining activities.

71. Ensure full respect and guarantee for the rights of indigenous peoples in voluntary isolation or initial contact in the Amazon—especially self-determination—by establishing effective mechanisms for protecting their territory and prohibiting the intrusion of outsiders.

72. Adopt sanitary measures to address the outbreak of measles and other uncontrolled illnesses that are affecting indigenous peoples and provide them with urgent medical care. The State is reminded that the health measures must take an inter-cultural approach.

73. Adopt measures aimed at respecting, protecting, and guaranteeing the rights of indigenous peoples in Venezuela with the aim of ending the forced displacement that has been taking place and that impacts their cultural survival.
K. **Children and Adolescents**

74. Implement nutrition programs that prioritize providing adequate and sufficient food for children and adolescents, especially taking into consideration their stage of growth and development.

75. Adopt the measures necessary to ensure that children have access to quality healthcare services, including the provision of medications, especially considering the situation of children suffering from grave illnesses.

76. Expand the capacities of shelters to ensure that all Venezuelan children have a safe place to live.

77. Provide material aid to families exposed to poverty, with the aim of ensuring acceptable and dignified living conditions for children and their families.

78. Adopt all necessary special measures to protect children from the risks of becoming victims of any form of violence, abuse, trafficking, sexual exploitation, or labor exploitation, as well as implement programs to prevent those risks.

L. **Afro-Descendants**

79. Adopt an ethno-racial approach in social policies for combating poverty to address the specific situation of people of African descent, particularly women and children.

80. Adopt affirmative action measures to prioritize the inclusion of the Afro-descendant population at all levels of the labor market and educational spaces, both public and private.

81. Modify school curriculums to include the contribution of people of African descent in the various countries of the region, thus promoting a more inclusive education, eradicating racial prejudices, and establishing national cultures to promote the real equality of persons in day-to-day life.

82. Incorporate a gender approach and address the cultural nature and various dimensions of the poverty facing women, particularly women of African descent, pregnant adolescents, migrants, human rights defenders, and those who live in rural areas.

M. **People with Disabilities**

83. Conduct a systemic evaluation of national legislation to adjust it to comply with international principles on the rights of people with disabilities. In particular, review the concepts of caretaking and custody currently in force in the Venezuelan Civil Code in view of the right to equal protection of people with disabilities.

84. Conduct a census on living, health, work, and educational conditions for people with disabilities in Venezuela in order to draft action plans for reducing the disproportionate impact that Venezuela's economic and social crisis has had on people with disabilities.

85. Refrain from placing obstacles to people with disabilities’ access to the healthcare system that are based on their political opinions.
N. Elderly

86. Develop a comprehensive plan for protecting the rights of the elderly in keeping with the precepts of the 1982 Vienna International Plan of Action on Ageing and of the Inter-American Convention on Protecting the Human Rights of Older Persons.

87. Generate disaggregated statistics that are accessible to the public on the violent deaths of the elderly, their causes, and actions taken by the State to reduce such deaths.

88. Make it a priority to address the needs of the elderly with regard to medications, healthcare, and food, and develop specific programs and policies targeting that group.

89. Generate disaggregated information that is accessible to the public regarding the list of pensions granted, programs developed, and criteria used for granting them.

O. Memory, Truth, and Justice

90. Guarantee the effectiveness of the recommendations presented by the Commission for Justice and Truth in its final report, specifically by following up by investigating grave human rights violations, launching a search for the remains of the disappeared, guaranteeing that those responsible will be punished, and providing comprehensive reparations to the victims.

91. Take measures to guarantee that the Commission on Public Truth, Justice, Peace, and Tranquility aims to establish the truth, identify and punish those responsible, and provide reparations to victims, while avoiding mechanisms to increase political persecution or violation of the constitutional order.
Tab #7
REGIONAL REFUGEE AND MIGRANT RESPONSE PLAN
for Refugees and Migrants from Venezuela
January - December 2019
Cover Picture:
Rumichaca, border of Colombia with Ecuador. Laila Dailia Leon, three years old sitting on the shoulders of her father Jose Ramon Leon. Jose is a fisherman from Venezuela, now travelling with his wife and two daughters to Quito.
© UNICEF/Santiago Arcos
includes the need for free access to reproductive health, nutrition, family planning, and mental health services.

An increasing number of arrivals of families with children, unaccompanied and separated children (UASC), but also elderly and people with disabilities, is expected to continue next year. Recent monitoring activities reveal a worrying increase in the vulnerability of refugees and migrants, affecting in particular children and women on the move, including single or young mothers, and pregnant women, some of them teenagers. There are inadequate shelters or private spaces at the entry points and along the route for resting, showering, changing and breastfeeding. In addition, pregnant and lactating women have limited or no access to nutritional supplements, and quality pre- and post-natal care. Children and youth on the move, are particularly at risk of being recruited by armed groups or criminal elements near the border or along the route.

Furthermore, as of 2018, an estimated 7,700 refugees and migrants from Venezuela living with human immunodeficiency virus (HIV) are in need of life-saving antiretroviral treatment in host countries. They also require consistent access to targeted HIV prevention information, education and communication, voluntary counselling, testing and condoms.

Successful socio-economic and cultural integration is beneficial not only for refugees and migrants from Venezuela, but also for those communities hosting them. Providing support to members of host communities in these processes decreases social tensions and establishes constructive engagement between communities. This includes activities and campaigns geared towards mitigating rising discrimination, xenophobia and negative perceptions towards the presence of refugees and migrants. These activities will go hand-in-hand with establishing constructive engagement and interactions within receiving communities.

Furthermore, refugees and migrants without a regular status that would ensure access to rights and services, are often obliged to take irregular routes to access safety. They are particularly vulnerable to exploitation, including labour exploitation, as well as violence, human trafficking, sexual abuse, resorting to survival sex and recruitment by non-state armed groups, often in insecure border areas rife with criminal and armed groups. Increasing incidents of GBV and human trafficking are among the key protection concerns, primarily impacting women and girls but also men and boys, and vulnerable minorities such as lesbian, gay, bisexual, transgender and intersex (LGBTI) persons. Women engaging in survival sex, sexually exploited, and trafficked are reported as key concerns in most of the countries, especially in the Caribbean and in border areas with Venezuela. More efforts will be exerted to identify, prevent, and respond to instances of GBV. The specific situation of indigenous communities
Tab #8
Human rights violations in the Bolivarian Republic of Venezuela: a downward spiral with no end in sight
Office of the United High Commissioner for Human Rights (OHCHR), June 2018 (original: English).

Cover art: “Rostros de Resistencia” (Faces of Resistance)

Cover art credit: © Antonio Montes de Oca, Venezuelan plastic artist
Human Rights Violations in the Bolivarian Republic of Venezuela: a downward spiral with no end in sight

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

June 2018
Executive summary

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

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

Access to justice for protest-related killings

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

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

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

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

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

**Arbitrary detentions and violations of due process guarantees**

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

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

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

**Torture, ill-treatment and conditions of detention**

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

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

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

**Attacks and restrictions on democratic space**

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

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

**Violations of the right to health and food**

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

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

OHCHR also observed that the Government refused to release information required to assess the dimension and consequences of the health crisis, such as the weekly epidemiology bulletins and the yearbook on mortality. The Government responded instead by threatening,
and even in some cases arbitrarily arresting, medical doctors, patients and media workers denouncing the situation. Health professionals complained about the presence of members of the Bolivarian National Guard, militias and armed *colectivos* inside the hospitals to prevent journalists and other persons from gathering evidence of the dire conditions.

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

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

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

**Recommendations**

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

OHCHR continues to request full and unfettered access to the Bolivarian Republic of Venezuela to conduct a comprehensive assessment of the human rights situation and stands ready to engage in dialogue with the Government, including on technical cooperation.
<table>
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<tr>
<th>Acronyms</th>
<th>Description</th>
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<tr>
<td>CICPC</td>
<td>Bureau for Scientific, Criminal, and Forensic Investigations</td>
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<td>CLAP</td>
<td>Local Supply and Production Committee</td>
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<td>CNE</td>
<td>National Electoral Council</td>
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<td>CONAS</td>
<td>National Anti-Extortion and Kidnapping Command</td>
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<td>DGCIM</td>
<td>Directorate General of Military Counterintelligence</td>
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<td>ENCOVI</td>
<td>National Survey on Living Conditions</td>
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<td>FAES</td>
<td>Special Action Forces of the National Bolivarian Police</td>
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<tr>
<td>FAO</td>
<td>Food and Agriculture Organization of the United Nations</td>
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<td>GNB</td>
<td>Bolivarian National Guard</td>
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<td>IACHR</td>
<td>Inter-American Commission on Human Rights</td>
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<td>ICC</td>
<td>International Criminal Court</td>
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<td>MUD</td>
<td>Democratic Unity Roundtable</td>
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<tr>
<td>NGO</td>
<td>Non-governmental organisation</td>
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<td>OAS</td>
<td>Organization of American States</td>
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<tr>
<td>OLP</td>
<td>Operation for the Liberation of the People</td>
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<tr>
<td>OHCHR</td>
<td>Office of the United Nations High Commissioner for Human Rights</td>
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<tr>
<td>PDVSA</td>
<td>Petróleos de Venezuela S.A. (national state-owned oil company)</td>
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<td>PNB</td>
<td>Bolivarian National Police</td>
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<td>PSUV</td>
<td>United Socialist Party of Venezuela</td>
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<td>SCJ</td>
<td>Supreme Court of Justice</td>
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<td>SEBIN</td>
<td>Bolivarian National Intelligence Service</td>
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<td>UNICEF</td>
<td>United Nations Children’s Fund</td>
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<td>UNHCR</td>
<td>United Nations High Commissioner for Refugees</td>
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<td>WHO</td>
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I. Introduction and methodology

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

This report provides an update on the main human rights violations documented in the report “Human rights violations and abuses in the context of protests in the Bolivarian Republic of Venezuela from 1 April to 31 July 2017” published by the Office of the United Nations High Commissioner for Human Rights (OHCHR) in August 2017.¹ Its scope extends beyond the human rights violations committed in the context of the 2017 wave of mass protests, in order to provide a more comprehensive overview of the human rights situation in the Bolivarian Republic of Venezuela.

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

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

Methodology

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

¹ On 30 August 2017, OHCHR published the report “Human rights violations and abuses in the context of protests in the Bolivarian Republic of Venezuela from 1 April to 31 July 2017” (available at: http://www.ohchr.org/Documents/Countries/VE/HCRreportVenezuela_1April-31July2017_EN.pdf). The report documented extensive and serious human rights violations committed in the context of anti-government protests in the country and pointed to the existence of a policy to systematically repress political dissent and instil fear in the population. The report also included a number of recommendations aimed at preventing the further deterioration of the human rights situation.
OHCHR also examined a large number of documents and reviewed information on the incidents monitored, including through official information, legal documents, medical and forensic reports, videos, photos, traditional media and social media material, as well as reports from national and international non-governmental organisations (NGOs) and international organisations, including United Nations agencies. Figures related to incidents documented by NGOs were used when OHCHR assessed them as reliable and corroborated them with first-hand information.

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

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

**Legal framework**

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

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

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

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

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

Economic and social crisis

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

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

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

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7 Economic Commission for Latin America and the Caribbean, “Updated growth projections for Latin America and the Caribbean in 2018”, April 2018, available at: https://www.cepal.org/en/pressreleases/eclac-
8 International Monetary Fund, World Economic Outlook: Cyclical Upswing Structural Change, op. cit.
9 The ENCOVI is a study conducted by three major Venezuelan universities, Universidad Simón Bolívar, Universidad Central de Venezuela and Universidad Católica Andrés Bello. The 2017 ENCOVI study is available at: https://www.ucab.edu.ve/investigacion/centros-e-institutos-de-investigacion/encovi-2017/.
10 ENCOVI 2017, op. cit. The ENCOVI also indicates that multidimensional poverty, measured by the level of deprivation of basic rights and used to reflect structural causes of poverty, increased from 41.3 per cent in 2015 to 51.1 per cent in 2017.
11 Oil production plunged from 2,213 million barrels per day in 2016 to 1,468 million barrels per day in 2018 (see: The Economist Intelligence Unit, "Country Forecast: Venezuela", available at: http://country.eiu.com/venezuela).
12 At the end of 2017, the parallel exchange rate was 23,418.4 Bolivars for 1 US Dollar (see: The Economist Intelligence Unit, op.cit.).
15 Ibid.
elderly, youth and people with disability, have increased, channelled through the *carnet de la patria* system (see chapter I below).

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

*Political and institutional crisis*

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

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


20 Ibid.

21 For instance, during 2016 and 2017, the NGO Espacio Público presented 122 demands for information to a number of State bodies and institutions, only one of which was replied to in a satisfactory manner (see: Espacio Público, “Informe sobre faltas de garantías del Acceso a la Información Pública como instrumento para ejercer el derecho a la salud y alimentación”, available at: http://espaciopublico.org/).
the 98th position out of 102 countries, attributing a value of zero reflecting that the public had not received any information on budget.22

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

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

Migration crisis

The ever growing number of Venezuelans fleeing their country is the starkest reflection of the deterioration of the human rights and socio-economic situation in the Bolivarian Republic of Venezuela. In March 2018, UNHCR reported that, based on information provided by host countries, over 1.5 million people had left the country and asylum applications lodged in 18 countries had increased by 2,000 per cent since 2014.26 By May 2018, over 185,000 asylum requests from Venezuelans had been registered.27 UNHCR considers that, while not all Venezuelans leaving the country do so for reasons that could qualify them as refugees, “a significant number are indeed in need of international protection.”28 According to UNCHR, the main reasons pushing Venezuelans to leave were: specific threats from armed groups; fear of being targeted for one’s political opinions; threats and extortion; high crime rates; domestic violence; food insecurity; as well as lack of access to adequate health care, medicines and basic services. Over 510,000 Venezuelans were able to regularize their status through other

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

**Response of the international community**

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

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

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

\textsuperscript{29} Ibid.

\textsuperscript{30} Integrated by 14 countries form the Americas.


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

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

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III. Main findings

A. Violations of the right to freedom of peaceful assembly

“Demonstrations are still frequent due to the fact that the Government is not responding to the crisis.”

NGO representative

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

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

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

40 Interviewed on 15 March 2018.
46 OHCHR identified the deaths of: Argenis Serrano (33 years old) allegedly killed by Navy Police officers on 28 February in the state of Sucre; Antonio Hidalgo (18 years old) allegedly killed by state police officers on 4 March in the state of Barinas; Carlos Rafael Garimata (48 years old) allegedly killed by Bolivar municipal police officers on 8 March in the state of Anzoátegui; and Anderson Luis Oliveros Nuñez (15 years old) allegedly killed by the member of an armed group on 23 April in the state of Zulia.
the Plan Zamora.\textsuperscript{47} Laws and regulations criminalizing protests and imposing undue restrictions on the right of freedom of assembly remained in place. As such, the applicable legal framework continues to subject protests to prior authorization, prohibit demonstrations in extended security areas, and criminalize the obstruction of public roads.\textsuperscript{48} In 2017, the Constitutional Chamber of the SCJ issued over 40 decisions ordering mayors to prevent meetings in public areas that might restrict freedom of movement and to remove barricades. Five mayors were later sentenced to prison terms for failing to comply with the decisions (see chapter F below). The adoption of the law against hatred by the National Constituent Assembly established further limitations to the right of peaceful assembly (see chapter G below).

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

"While this Government remains in power, justice will not come for the victims."

Mother of a protestor killed during a demonstration\textsuperscript{49}

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

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

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

\textsuperscript{47} The Plan Zamora is a civil-military strategic plan to guarantee the functioning of the country, its security, internal order and social integration through the joint operation of armed forces, militias and peoples' forces (see OHCHR 2017 report, p. 8).

\textsuperscript{48} OHCHR 2017 report, p.25.

\textsuperscript{49} Interviewed on 20 February 2018.

\textsuperscript{50} OHCHR 2017 report identified the deaths of 124 persons in the context of the protests. OHCHR found evidence indicating that 46 protestors had likely been killed by members of the security forces and that 27 had reportedly been killed by members of armed colectivos. The information available did not allow OHCHR to indicate responsibility for the deaths of the other 51 victims.

\textsuperscript{51} Ministry of Communication and Information, "Víctimas fatales de la violencia política en Venezuela, abril-agosto 2017", available at: http://minci.gob.ve/wp-content/uploads/2017/08/Investigaci%C3%B3n-Period%C3%A1stica-V%C3%ADctimas-Fatales-de-la-Violencia-Pol%C3%ADtica-ABRIL-AGOSTO-2017-Actualizado-04-08-17.pdf.
of prosecutors.\textsuperscript{52} In some cases, prosecutors were dismissed or removed from cases. The prosecutor investigating the death of Ruben González, killed by a gunshot allegedly fired by the GNB on 10 July 2017 in the state of Valencia, was removed from the case as she was about to interrogate the GNB officers allegedly involved.\textsuperscript{53}

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

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

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

\textsuperscript{52} Interviews with sources on 6 and 27 February 2018.
\textsuperscript{53} Interview with source on 22 February 2018.
\textsuperscript{54} Interview with source on 28 March 2018.
\textsuperscript{55} Interview with source on 7 March 2018.
\textsuperscript{56} Interview with source on 26 February 2018.
operations in Caracas during the entire month of April, without specifying those who had participated in the security operation that had taken place at the time and location of his death.\textit{57}

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

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

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

\textit{57} Interview with source on 21 February 2018.  
\textit{58} Interview with source on 27 February 2018.  
\textit{59} Interview with source on 22 February 2018.  
\textit{60} Interview with source on 16 February 2018.  
\textit{61} Interview with source on 28 February 2018.  
\textit{62} Interview with source on 27 March 2018.  
\textit{63} Interview with source on 20 February 2018.  
\textit{64} Interview with source on 7 June 2018.  
\textit{65} Interview with source on 19 February 2018.
because of the absence of judges.\textsuperscript{66} After a judge was assigned to the tribunal, the preliminary court hearing was postponed on six occasions due to the administrative negligence of the court.

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

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

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

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

\textsuperscript{66} Interview with source on 26 February 2018.
\textsuperscript{67} Report given to OHCHR by the former Attorney-General entitled “Informe sobre vulneraciones de Derechos Humanos en Venezuela durante los sucesos violentos desde abril de 2017”, 2017.
\textsuperscript{68} Article 68 of the Constitution of the Bolivarian Republic of Venezuela prohibits the use of firearms during demonstration-control operations. In addition, Article 21 of the “rules of operation of police forces during public demonstrations”, adopted by the Ministry of Interior, Justice and Peace on 18 April 2011, establishes that security forces should not carry or use firearms during demonstration-control operations (see Official Gazette No. 39.658).
\textsuperscript{69} Supreme Cour of Justice, Decision of 4 July 2017 in Exp. 17-0711, available at https://www.civilisac.org/civilis/wp-content/uploads/Sentencia-528-Sala-Constiucional-3-7-17-Nulidad-de-citacion-de-Antonio-Jos%C3%A9-Benavides-Torres-por-MP.pdf.
\textsuperscript{70} Interviewed by OHCHR on 7 February 2018.
\textsuperscript{71} Interviewed by OHCHR on 5 February 2018.
reported that his office had been ransacked and that all the files, both printed and electronic, related to his son’s case had disappeared. SEBIN officers tried to arrest the brother of another late protestor on two occasions. He had to go into hiding for several months.

**Commission on Truth, Justice, Peace and Public Tranquillity**

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

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

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

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

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72 Interviewed by OHCHR on 16 February 2018.
73 Interview with source on 6 February 2018.
75 See video available at: https://www.youtube.com/watch?v=__1umhQVoRE.
76 Interviewed by OHCHR on 20 February 2018.
77 Interviewed by OHCHR on 26 and 28 February 2018.
78 Interviewed by OHCHR on 5 June 2018.
consultative process. The Commission’s criteria for its work lack transparency. For instance, the Commission did not publish the criteria applied in order to select the cases under its review and invite victims to its hearings, or the methodology used to assess each case..

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

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

“The [security forces] killed my son to say to the press that they got a criminal.”
Father of a 16 year-old boy killed in Caracas\(^\text{82}\)

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

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


\(^{81}\) As the authorities have not published the names of the 80 detainees, it was not possible to verify if all of them had been released.

\(^{82}\) Interviewed by OHCHR on 23 February 2018.

\(^{83}\) Observatorio Venezolano de Violencia, “Informe de Violencia 2017”, available at: [https://observatorioviolencia.org.ve/informe-ovv-de-violencia-2017/](https://observatorioviolencia.org.ve/informe-ovv-de-violencia-2017/). The Attorney-General had reported 21,752 violent deaths during 2016, a ratio of 70.1 killings per 100,000 inhabitants (see: [http://www.mp.gob.ve/c/document_library/get_file?uuid=caa5a53d-7e70-4716-958e-0986b593b266&groupId=10136](http://www.mp.gob.ve/c/document_library/get_file?uuid=caa5a53d-7e70-4716-958e-0986b593b266&groupId=10136)). With a ratio of 57.1 of intentional killings per 100,000 inhabitants in 2015, the country had the third highest rate in worldwide statistics gathered by the United Nations Office on Drugs and Crime (see: [https://data.unodc.org](https://data.unodc.org)).

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

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

\textit{Operations for the Liberation of the People}

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

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

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

Mother of a 27 year-old man killed during an OLP interviewed on 21 February 2018
\end{quote}

\textsuperscript{85} Article 20 of the Organic Law on National Security adopted on 28 November 2002 establishes that, in addition to the responsibility of guaranteeing the independence and sovereignty of the nation and safeguard the integrity of the national territory, the National Armed Forces should cooperate in maintaining domestic law and order.

\textsuperscript{86} At the time of writing, the Minister of Interior, the director of the PNB, the director of the SEBIN and the director of the CICIPG were high-ranked military officials.


\textsuperscript{88} Complaint presented to the ICC on 16 November 2015 by Luisa Ortega Diaz, former Attorney-General of the Bolivarian Republic of Venezuela.

\textsuperscript{89} According to the Official Gazette of the state of Carabobo, the main objective of the OLPs were “to provide protection to the different sectors of the population, including in the state of Carabobo, from crime and paramilitary groups led by the fascist Venezuelan and international far-right” (Official Gazette No. 0045-2015 of 21 July 2015, available at: http://sgg.carabobo.gob.ve/gaceta/GACETANro5372.pdf).

\textsuperscript{90} See for example press conference of 22 September 2015, available at: https://www.youtube.com/watch?v=7vj2QsO6AqY; and video available at: https://www.youtube.com/watch?v=aNFI8zJA8Hs.
National Bolivarian Police (FAES), the SEBIN, the CICPC and local police forces) and military forces (the GNB, the National Anti-extortion and Kidnappings Command (CONAS), and the Directorate General of Military Counterintelligence (DGCIM)). Enormous power was generally displayed, including the use of armoured vehicles, tanks, drones, heavy weapons, and the deployment of an average of 500 members of the police and the military in each operation. Using military tactics, OLPs took over entire neighbourhoods for several hours, during which multiple house raids were conducted to arrest alleged criminals and seize alleged drugs and weapons. Each security force had a specific function. For example, local police usually blocked the main entrances to the neighbourhood, the SEBIN provided the intelligence used to identify the houses of alleged criminals, the GNB conducted the majority of the arrests, and the CICPC and the FAES conducted the house raids. The operations were conducted without the presence of representatives of the Attorney-General’s Office. OLPs generally started at dawn and lasted until the afternoon and took place in the poor neighbourhoods showing the highest crime rates. The Ministry of Interior, Justice and Peace, which was coordinating the OLPs, usually released a press statement highlighting alleged achievements in fighting criminal groups at the end of each operation. According to a database established by investigative journalists, at least 44 OLPs were conducted from July 2015 to June 2017 in 20 Venezuelan states.

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

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

Father of a 16 year-old man killed during an OLP interviewed on 23 February 2018

92 See for instance: https://www.youtube.com/watch?v=aNFf8zJA8Hs.
The killings took place in 19 states of the country, half were perpetrated by security forces in the state of Carabobo and the metropolitan area of Caracas.

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

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

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

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

97 Ibid.
98 Human Rights Watch and PROVEA registered three deaths of security officers in OLPs between July 2015 and April 2016 (see: “Unchecked Power: Police and Military Raids in Low-Income and Immigrant Communities in Venezuela”, op., cit.).
July 2015 to April 2016, only 213 firearms, less than 7 kilograms of cocaine and 12 kilograms of marihuana were seized. The Attorney-General’s Office also identified that in many cases the victims were poor young men who were not linked to any criminal structure or did not have any criminal record. Of 1,050 people arrested during OLPs, 33 per cent were subsequently formally deprived of their liberty, the rest of them were released shortly after their arrest, either conditionally pending investigation or fully without any charges having been brought against them.

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

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

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

Grandmother of 23 year-old man killed during a security operation interviewed on 22 March 2018

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

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

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

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

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

**Killing of 39 detainees in the Judicial Detention Centre of Amazonas**

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

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104 See video available at: https://www.youtube.com/watch?v=p_mhU9Uq-Ko.
106 Interview with source on 8 March 2018.
following an outbreak of violence among the detainees, who since 2012 had established a system of self-government within the centre.108

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

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

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

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

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110 Ibid.
111 See video at: https://www.youtube.com/watch?v=Bo-LnjfKBo.
and witnesses gathered by OHCHR pointed to the fact that security forces were responsible for the killings as they had used firearms before having first used less lethal weapons and had not allowed detainees to surrender.\textsuperscript{112} States have positive obligations towards persons deprived of liberty as they are particularly vulnerable because of their status. This implies, inter alia, the obligation to respect and actively protect their rights to life and physical integrity.\textsuperscript{113}

\textbf{Killings in El Junquito, Caracas}

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

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

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

\textsuperscript{112} Observatorio Venezolano de Prisiones, “Ni olvido, ni impunidad: Masacre con premeditación y alevosía en el Centro de Detención Judicial de Amazonas”, op. cit.
\textsuperscript{113} Human Rights Committee, General Comment No. 21, HRI/GEN/1/Rev.9 (Vol. I).
\textsuperscript{114} Press conference of 16 January 2018, available at: https://www.youtube.com/watch?v=A4Y4wpOV1zKk.
\textsuperscript{115} Oscar Alberto Pérez, Daniel Soto Torres, Abraham Lugo Ramos, Jairo Lugo Ramos, Abraham Israel Agostin, José Alejandro Díaz Pimentel and Lisbeth Ramírez Montilla. According to information received by OHCHR, the two PNB officers, Heyker Leovaldo Vázquez Ferrera and Nelson Antonio Chirinos Cruz, were actually members of a armed colectivo that operates in that sector. They were given PNB uniforms to participate in the operation. Both of them had had shot in the back.
\textsuperscript{116} According to the Organic Law of the Armed Forces (Decree No 1.439), the Strategic Operational Command is the main body for the coordination, direction and supervision of joint military operations in times of peace and internal unrest. The Strategic Operational Command reports directly to the President, as Commander in Chief of the Armed Forces.
According to the information received, the Attorney-General’s Office has not yet initiated any investigation into the alleged extrajudicial executions. Instead, the Military Attorney-General was from the beginning in charge of the investigation on Oscar Pérez and the group and of securing evidence at the scene. Yet, the house was destroyed shortly after the events without preserving key evidence, in violation of established forensic procedures and the chain of custody. For example, the deceased’s clothes were incinerated and photographs documenting the autopsies were removed from the archives. Members of the GNB would have also prevented a commission of inquiry of the National Assembly from accessing the scene and relevant information on the case. Victims’ families reported that they had been allowed to see the bodies only after three days, that the location of burial had been imposed by authorities, and that security forces had restricted attendance to the funerals to a few family members only. The authorities also arrested at least 35 people, prior to and after the incident, for their alleged links to members of the group.

**General considerations**

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

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

**D. Arbitrary detentions and violations of due process**

> “Talking about criminal proceedings is illusory because there are absolutely no legal guarantees.”

Lawyer from Carabobo state

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

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117 Interview with source on 30 May 2018.
118 Report given to OHCHR by representatives of the National Assembly, “Masacre en el sector “El Junquito”: Comisión Especial de la Asamblea Nacional para Investigar los hechos ocurridos”.
119 Interview with source on 2 April 2018.
122 Ibid, p.4.
123 Interviewed on 16 February 2018.
opposition or any person perceived as a threat to the Government for expressing dissent or discontent, albeit in a more selective manner than during the period of mass protests.

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

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

Use of military justice

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

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

* OHCHR 2017 report, p. 23
** Ibid

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

124 Interviewed on 29 March 2018.
125 Interviewed on 6 November 2017.
126 OHCHR 2017 report, p. iii.
lawyers were facing more difficulties to access military courts, their clients’ case files and other important information to prepare an adequate defense. Arresting officers rarely presented judicial warrants and did not inform the persons of the reason for their arrest. Detainees were consistently kept incommunicado until they were brought before a judge, often done beyond the 48 hour-limit set under domestic law. Arresting officers also failed to promptly inform the detainees of the charges against him or her.

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

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

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127 As highlighted by the UN Working Group on Enforced or Involuntary Disappearances “there is no time limit, no matter how short, for an enforced disappearance to occur” (see: A/HRC/30/38, para. 102).
128 Interviews with victims on 13 February, 16 February and 6 June 2018.
129 Interviewed on 6 June 2018.
130 Interview of witnesses and sources on 13 and 16 February 2018.
131 Human Rights Committee, General Comment No. 35, CCPR/C/GC/35, paras. 35 and 56.
OHCHR found that prompt access to a lawyer has been heavily restricted in numerous cases, significantly jeopardizing detainees’ right to an adequate defence. In most cases, lawyers were granted access to their clients only a few minutes before their hearings, which meant that they did not have sufficient time and access to adequate material to prepare the defence. Lawyers’ visits to detentions centres were also arbitrarily restricted or suspended. It was particularly challenging for lawyers to gain access to military tribunals and prisons. In some cases, defendants were denied a lawyer of their choice and imposed a public defender. In one case, the public defender imposed on a defendant was changed five times in three months.132

Defendants and their families were also pressured not to choose lawyers linked to human rights organisations. OHCHR also documented cases where lawyers were threatened or arrested for discharging their professional duties.

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

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132 Interview with witness on 17 April 2018.
Further, OHCHR has documented a worrying number of persons who remained deprived of their liberty for months despite a valid release order in their favour. For instance, Fred Mavares and Reggie Andrade, police officers from the municipality of Chacao arrested on 20 June 2016 and detained at the SEBIN Helicoide, have had a release order since 8 August 2016 but remain deprived of their liberty. These situations of continued confinement in defiance of judicial orders do not only constitute arbitrary and unlawful detentions, they also show utter contempt for the judicial authority.

**59 Colombians unlawfully detained**

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

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

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

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

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

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

133 Interviewed on 26 February 2018.
134 Derogatory expression used to refer to anti-Government protestors.
his house and be recognized by the security officers who had ill-treated him during his detention.\footnote{Interviewed on 26 February 2018.}

**Consequences on detainees’ families**

A human rights defender told OHCHR that “having a relative in jail costs a lot for the families”, explaining that families have to pay for food, water, basic commodities, privileges and protection.\footnote{The IACHR also expressed alarm at continued unlawful and arbitrary detentions in the Bolivarian Republic of Venezuela, especially at the high figures observed in 2017 (see: IACHR, *Situation of Human Rights in Venezuela: Democratic Institutions, the Rule of Law and Human Rights in Venezuela*, op.cit., para. 237).} In some cases, relatives have to pay to be able to visit or leave food and other basic goods. Transport to centres of detention and/or tribunals could be very difficult, particularly when the detainee is held far from his or her place of residence. The negative consequences on the family are worse when the person deprived of liberty is the family’s breadwinner. “It is not only the detainee who is affected but the family too,” said the father of a young man arbitrarily deprived of his liberty for more than two years.\footnote{List provided by Foro Penal Venezolano.} Some relatives are monitored and their phones tapped, others are threatened, some have to quit their jobs to dedicate themselves to find food and basic necessities for the family member deprived of liberty.

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

From January 2014 to April 2018, *Foro Penal Venezolano* recorded at least 12,320 arbitrary detentions of political opponents or persons perceived as either opposed, or posing a threat, to the Government.\footnote{See opinions of the Working Group on Arbitrary Detention: A/HRC/WGAD/2014/26; A/HRC/WGAD/2014/29; A/HRC/WGAD/2014/30; A/HRC/WGAD/2014/51; A/HRC/WGAD/2015/1; A/HRC/WGAD/2015/7; A/HRC/WGAD/2015/26; A/HRC/WGAD/2015/27; A/HRC/WGAD/2017/18; A/HRC/WGAD/2017/37; A/HRC/WGAD/2017/52; A/HRC/WGAD/2017/84; and A/HRC/WGAD/2017/87.} Individuals were sometimes perceived as such for the mere exercise of their human rights, including participating in a protest or publicly expressing their dissent. Of those 12,320, more than 7,000 were released on the condition that they abide by a number of measures restricting their freedom, such as regularly reporting to a tribunal, not leaving the country, and/or not discussing their cases publicly. They still face lengthy criminal trials, including in some cases before military tribunals. Many are living in fear of being re-arrested and some have left the country.

According to *Foro Penal Venezolano*, at 3 June, there were at least 316 persons arbitrarily deprived of their liberty for their political opinions or for having exercised their human rights,\footnote{Interviewed on 26 February 2018.} including opposition figures such as Leopoldo López, Lorent Saleh, and Vilica Fernández.

Since 2014, the Working Group on Arbitrary Detention has issued 13 opinions concerning 333 individuals arbitrarily detained in the Bolivarian Republic of Venezuela.\footnote{Interviewed on 26 February 2018.} It recently noted that the “multiple arbitrary detentions of persons who are member of the political opposition to the Government, or for having exercised their rights to freedom of opinion, expression, association, assembly, and political participation” constitute “an attack or systematic practice on the part of the Government to deprive political opponents, particularly those who are
perceived as opponents of the regime, of their liberty, in contravention of fundamental norms of international law.”

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

E. Torture and ill-treatment

“*I’m not the only one – there are many more [victims] throughout Venezuela.*”

Man arrested and raped by security forces in August 2017

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

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

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

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

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140 For instance, between January 2014 and December 2017, the NGO PROVEA has recorded at least 30’861 possible violations of the right to personal liberty (PROVEA Annual Reports 2014, 2015, 2016 and 2017, available at: https://www.derechos.org.ve/).
141 Interviewed on 16 February 2018.
142 Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.
A university student detained for more than six months told OHCHR\textsuperscript{143} he had received electric shocks and was beaten, suffocated with a plastic bag and drenched in cold water while interrogated by military intelligence officers on his relations with opposition leaders. A lawyer explained that, in addition to having been subjected to electric shocks, including on his genitals, his client had been stripped naked by the guards, tied to a vehicle and dragged on a stone path over a hundred meters.\textsuperscript{144} A journalist detained in a military detention centre said that he was left without water for three days as punishment.\textsuperscript{145} Other reported punishments included forced physical exercise, the use of small isolation cells, long-term solitary confinement, the prohibition of family visits, and the confiscation of the detainees’ personal belongings.

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

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

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

\textsuperscript{143} Interviewed on 12 December 2017.
\textsuperscript{144} Interviewed on 21 March 2018.
\textsuperscript{145} Interviewed on 4 May 2018.
\textsuperscript{146} Interviewed on 16 February 2018.
\textsuperscript{147} Interviewed on 13 February 2018.
\textsuperscript{148} Interviewed on 6 June 2018.
Conditions of detention

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

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

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

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149 Interview with witness on 28 March 2018.
150 Interviewed on 17 February 2018.
time he could visit his son in detention, he had a wound on his scalp that had been infected with worms and was spitting blood.\(^{151}\) He did not have access to medical care and his family had to bring him medication.

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

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

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

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\(^{151}\) Interviewed on 23 February 2018.

\(^{152}\) Interviews with witness and source on 15 February and 13 March 2018.

\(^{153}\) Interview with witness on 27 December 2017.


\(^{156}\) Interview with witness on 18 February 2018.


\(^{158}\) Tocorón, Tocuyito, Puente Ayala, Guanare, La Pica, Uribana and Coro (see: Observatorio Venezolano de Prisiones, "Informe 2017", op. cit.).
crisis.\textsuperscript{159} The IACHR also qualified conditions of detention in the country as one of the worst in the Hemisphere.\textsuperscript{160}

\textit{Impunity}

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

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

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

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

\textsuperscript{161} Interviewed on 12 January 2018.
\textsuperscript{162} Interview with victim on 20 December 2017.
\textsuperscript{163} Interviewed on 26 February 2018.
\textsuperscript{164} Interviewed on 23 February 2018.
\textsuperscript{165} Interviewed on 21 March 2018.
\textsuperscript{166} Interviewed on 16 February 2018.
ill-treatment to which they had been subjected, which also included beatings, was formally denounced to the judge who did not address it. Impunity for acts of torture or ill-treatment will only lead to more violations of the right to personal integrity as perpetrators know they can act without consequences.

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

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

“The regime has a file with my name on it.”

Political activist from the state of Lara168

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

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


168 Interviewed on 23 February 2018.

169 The Chamber’s decisions targeted municipalities in which demonstrations were particularly frequent and important and ignored the fact that municipal authorities did not have competence over the control of demonstrations.

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

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

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

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

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\(^{172}\) Transparencia Venezuela, “Aumenta a 51% las alcaldías de oposición que han sido atacadas por el Gobierno”, available at: https://transparencia.org.ve/aumenta-51-las-alcaldias-oposicion-atacadas-gobierno/.


\(^{174}\) Ibid, p. 28.


\(^{176}\) Interviewed on 20 December 2017.

\(^{177}\) Interviewed on 20 December 2017.

\(^{178}\) Interviewed on 21 February 2018.
According to the NGO *Aula Abierta*, at least 17 professors were arbitrarily detained in 2017 for expressing dissenting opinions or participating in peaceful protests, seven of them were brought before military tribunals.\(^{179}\) The persecution of student leaders and professors formed part of an ensemble of repressive actions by security forces to prohibit and dissolve protests and meetings taking place on university premises, often using excessive and unnecessary force and resorting to arbitrary arrests. In addition to violating the rights to freedom of opinion, expression, peaceful assembly, and association, these actions, which have continued in 2018, have jeopardized students’ right to education.\(^{180}\) OHCHR documented the case of Professor Santiago Guevara who was arbitrarily arrested on 21 February after having published an article critical of government policies. He was brought before a military tribunal and was conditionally released on 23 December 2017 after 10 months of detention at the headquarters of the DGCIM. At the time of writing, one professor remained under house arrest, 13 had been conditionally released but were facing criminal proceedings, while three others had been released without having been brought before a tribunal.\(^{181}\)

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

**The situation of human rights defenders**

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

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\(^{180}\) See for instance website of Aula Abierta, http://aulaabiertavenezuela.org/.

\(^{181}\) *Aula Abierta*, "Informe preliminar: ataques y represalias contra profesores y estudiantes universitarios en Venezuela (Febrero-Octubre 2017)", op. cit.

\(^{182}\) See for instance testimony of the mother of a student, referred to in chapter D above.

\(^{183}\) Witnesses and sources interviewed on 13 and 16 February 2018.
In keeping with the Declaration on Human Rights Defenders, States shall take all necessary measures to ensure the protection of everyone, individually and in association with others, against any violence, threats, retaliation, de facto or de jure adverse discrimination, pressure or any other arbitrary action as a consequence of his or her legitimate exercise of human rights.\textsuperscript{184}

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

\textbf{Persecution of the Fundación Embajadores Comunitarios*}

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

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

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

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

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

\textsuperscript{184} Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms, article 12.
\textsuperscript{185} Interviewed on 8 November 2017.
\textsuperscript{186} Interviewed on 13 December 2018.
The socio-economic situation of the country and high rates of insecurity have also had a negative impact on the functioning of civil society organisations. Besides, a number of laws and decrees have affected NGOs and their work, including by restricting their registration, limiting sources of funding, or allowing the monitoring of suspicious activities.

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

“You watch yourself, but there is fear.”
Journalist from Caracas

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

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

OHCHR also recorded the detention of foreign journalists who were subsequently released.

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

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

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187 Interviewed on 4 May 2018.
189 Ibid.
191 Interviewed on 28 February 2018.
192 Interviewed on 13 February 2018.
193 Interview with victims on 14 February and 28 February 2018.
194 Interviewed on 9 January 2018.
making declarations to the media. Villca Fernández, a student leader and political activist from the state of Mérida, has been arbitrarily detained since January 2016 following the publication of a tweet in which he had replied to the Vice-President of the PSUV, accusing him of conspiring against the government in his television programme, that he was not afraid. His case moved to trial on 9 April 2018 and he was accused of incitement to hatred and spreading false information.\footnote{Interview with witness on 27 December 2017.}

OHCHR also documented how restrictive administrative measures, including regarding the distribution of printing paper, had targeted certain media outlets based on their alleged anti-government editorial lines and their coverage of certain topics, including demonstrations, limiting the diversity of information to which Venezuelans have access, in particular for those who have limited or no access to the internet. According to the National Press Workers Union,\footnote{National Press Workers Union (SNTP), press release at the occasion of World Press Freedom Day, 3 May 2018, available at: https://drive.google.com/file/d/1UH37fMyiMi9v-nOy6v8Wg06oA-bdVXj/view.} over the course of 2017, eight television channels and 54 radio stations have gone off the air and 17 printed media have stopped circulating, six of them indefinitely, and between January and April 2018, at least an additional seven printed media have reportedly stopped circulating for lack of paper.\footnote{The State-controlled Complejo Editorial Alfredo Maneiro has had a monopoly on the supply of paper in the country since 2013; with the hyperinflation, paper has become too expensive to import at the parallel USD exchange rate and a government authorization is needed to benefit from the preferential exchange rate.} The rights to freedom of opinion and expression generate an obligation for the State to guarantee the rights to seek, receive and impart information and ideas of all kinds.\footnote{Human Rights Committee, General Comment No. 34, CCPR/C/GC/34, para. 11.}
A new instrument to criminalize dissent: the law against hatred

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

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

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

* Official Gazette, no. 41.274, 8 November 2017
** Among other, it does not define what constitutes hate speech or incitement to hatred.

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

“There are a lot of patients dying that we could save if we just had sufficient resources.”

Medical doctor from the state of Zulia

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

199 Interviewed on 6 April 2018.
This has been a long process caused by multiple factors. According to the World Health Organization (WHO), the percentage of health expenditures in relation to the country's GDP went from 5 percent in 2007 to 3 percent in 2015.\textsuperscript{201} Taking hyperinflation into consideration, the budget allocations to the Ministry of Health also regressed over the last two years.\textsuperscript{202}

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

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

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

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\textsuperscript{202} According to Transparencia Venezuela although the Government increased the budget allocated to the Ministry of Health by 350 per cent from 2015 to 2017, if one takes into account the level of inflation in real terms the 2017 budget suffered a 75 per cent decrease in relation to 2016 (see: https://transparencia.org.ve/project/analisis-del-presupuesto-nacional-2017/).

\textsuperscript{203} ENCOVI, 2017, op. cit. While the objective and scope of Mission Barrio Adentro seems in line with recommendations of the Committee on Economic, Social and Cultural Rights, operational constraints have diverted from achieving them.

\textsuperscript{204} ENCOVI, 2017, op. cit.

\textsuperscript{205} Committee on Economic Social and Cultural Rights, General Comment No. 14, E/C/2000/4.

\textsuperscript{206} Interview with source on 20 April 2018.

\textsuperscript{207} At the time of writing, a resident medical doctor earned around 4 USD a month.

\textsuperscript{208} In 2018, the Venezuelan Federation of Doctors considered that 22,000 doctors had emigrated, while the School of Professional nurses reported that 3,000 nurses had left the country, available at: http://runrun.es/nacional/341772/federacion-medica-venezolana-22-mil-medicos-se-han-ido-al-exterior.html; and http://cronica.uno/mas-de-3000-profesionales-enfermeria-se-fueron-venezuela-no-tienen-con-que-comer/.
been gradually dismantled over the last five years. The survey reported 88 per cent of shortages in medicines and 79 per cent of shortages of surgical supplies in 2018. Doctors told OHCHR that patients were required to buy the medicines and supplies necessary for their treatment outside the hospital, including syringes and medical gloves. “If patients cannot find or afford to buy these supplies, they simply cannot be treated” a doctor told OHCHR. Hospitals in general had run out of common analgesics and, as palliative medicine was hard to acquire, terminal patients were dying in pain. The National Survey also highlighted that only 7 per cent of emergency units and 8.4 percent of operating rooms were functional and that 70 per cent of emergency units and 76 per cent of operating rooms had reported intermittent failures. Doctors in the state of Zulia said that due to the energy shutdowns, water shortages and operating rooms contamination, they could only do a few surgeries a week, resulting in a waiting list for surgeries of around six months. Doctors in the state of Lara reported that hospitals had ran out of reagents to conduct laboratory examinations and that there was no functioning tomography equipment in the whole state. According to General Comment No. 14 of the Committee on Economic, Social and Cultural Rights, one of the essential elements of the right to health is the availability of health care facilities, goods and services in sufficient quantity and quality. States must ensure access to preventive, curative and rehabilitative health services.

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

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

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209 The National Survey of Hospitals 2018 was conducted by a network of resident medical doctors in 104 hospitals covering 22 states. It has been conducted annually for the last five years and its results were shared with OHCHR.

210 Interviewed on 6 April 2018.

211 Interviewed on 6 April 2018.

212 Interviewed on 5 April 2018.

213 Committee on Economic Social and Cultural Rights, General Comment No. 14, op. cit. paras. 12 and 17.

214 Interview with source on 7 March 2018.

215 Interviewed on 26 February 2018.

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

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

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

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

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

\textsuperscript{217} Committee on Economic Social and Cultural Rights, General Comment No. 14, op. cit. para. 12.
\textsuperscript{218} Given to OHCHR by CODEVIDA and PROVEA and presented to the IACHR in February 2018.
\textsuperscript{219} Interview with source on 12 April 2018.
\textsuperscript{220} CODEVIDA and PROVEA, op cit.
\textsuperscript{221} Ibid.
\textsuperscript{223} Interview with source on 16 April 2018. According to \textit{Senosalud}, an average of six women die daily due to breast cancer in the country (see: http://www.el-nacional.com/noticias/historico/senosalud-quotdiariamente-registran-diagnosticos-cancer-mama-fallecimientosquot_40641).
\textsuperscript{224} Interviewed on 2 February 2018.
\textsuperscript{225} Interview with source on 10 April 2018.
Mothers of children receiving treatment at that hospital informed OHCHR about the systematic shortages of equipment for the dialysis, and the lack of medicines, food and doctors to supervise the treatment.\textsuperscript{226} The majority of the children had been infected with different bacteria, and had not had access to adequate antibiotics. Between May and December 2017, 10 children had reportedly died as a consequence of unsanitary conditions. At the time of writing, despite the precautionary measures granted by the IAHRC to the patients of the hospital's nephrology unit, representatives of the Ministry of Health had not yet met with the petitioners to discuss how to implement the measures.\textsuperscript{227}

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

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

\textit{“My child is 11 years old. She has kidney failure level V and needs to be dialysed three times a week. Two years ago, the hospital started having serious problems. Now we don’t have dialysis kits and our kids are using adult catheters. They do not received the vitamins or supplementary food for their treatment. The hospital has many problems with water. My girl has been infected twice and the hospital does not have antibiotics. We need to buy them outside and if we do, then we do not have money to buy food. We are fighting for the life of our children. My girl has seen how some of her friends here have died because of infections.”}

Mother of a girl with kidney failure treated at the Hospital J.M. de los Rios interviewed on 12 April 2018

\textsuperscript{226} Interviewed on 12 April 2018.
\textsuperscript{228} CODEVIdA and PROVEA, op. cit.
\textsuperscript{229} The WHO had certified that Venezuela had eliminated malaria in 1961.
\textsuperscript{232} WHO, “Malaria – Country Profile: Venezuela (Bolivarian Republic of)”, op. cit.
February 2018. On 6 April 2018, WHO also reported 1,006 cases of measles recorded in eight states. In April 2018, the Ministry of Health announced the launch of a national vaccination plan against diphtheria, measles and yellow fever.

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

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

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

238 Ibid.
240 Committee on Economic Social and Cultural Rights, General Comment No. 14, op. cit. para. 21, and General Comment No. 22, E/C.12/GC/22.
242 Committee on Economic Social and Cultural Rights, General Comment No. 14, op. cit. para. 44.
OHCHR received first-hand accounts of measures implemented by the Government to prevent the public exposure of health facilities’ conditions. Health professionals denounced the presence of GNB officers and members of militias (milicianos) and armed colectivos in hospitals to prevent journalists or other persons from taking pictures of the facilities, recording videos, and interviewing doctors, nurses and patients. Hospital directors have threatened and sanctioned doctors and nurses for having made statements to the press on the inadequate conditions of hospitals. Security forces have also used force to repress protests led by health professionals. On 15 May, in the state of Zulia, local police officers arrested and beat two doctors that were leading a protest outside their hospital.

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

I. Violations of the right to adequate food

“When I was a kid, my family used to eat an arepa with the three meals every day. Now it is hard to get an arepa, and when you get it, you don’t have anything to fill it with.”

24-year-old man living in Barquisimeto, state of Lara

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

State policies that have affected the right to food

Deep economic recession, hyperinflation and the loss of purchasing power, together with the dismantlement of the domestic food production system and the dependency on food imports, have created a vicious circle that has affected the right to food for most Venezuelans. According to experts interviewed by OHCHR, this crisis situation was caused by a combination of economic and social policies implemented by the Government over the last decade, including State control over food prices and foreign currency exchange, the mismanagement
of confiscated arable land, State monopoly on agricultural supplies, the militarization of food distribution, and the implementation of social programmes without clear nutritional objectives.

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

During a decade of high oil prices (2004-2014), the Government increased the countries’ dependency on food imports. As a result, in 2013, 65 per cent of the necessary caloric intake was covered through food imports.²⁴⁹ With the fall in oil prices and the reduction of PDVSA’s extractive capacity, food imports drastically dropped, yet the Government was unable to reactivate domestic food production to fill the gap.²⁵⁰ In addition, the food price control policy in place since 2011 hampered the productive capacity of the domestic food industry.²⁵¹ The establishment of food quotas to be commercialized at prices unilaterally fixed by the Government, which were generally below production costs, increased food scarcity as profits were not sufficient for maintaining levels of production. In 2018, the food industry reported to be producing at only a 30 per cent of the capacity it had in 2012.²⁵² Moreover, in October 2016, the Government issued a decree forcing food companies to sell 50 per cent of their production to the Government at fixed prices for social programmes like the Local Supply and Production Committees (CLAPs).²⁵³ At the end of 2017, this quota was even set at 70 per cent of the production. This policy drastically reduced the levels of food availability on the market.

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

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

²⁴⁸ Interview with source on 20 April 2018.
²⁴⁹ Interview with source on 19 April 2018.
²⁵¹ In 2011, the Organic Law on Fair Costs and Prices was approved. Since then, price controls have intensified and expanded.
²⁵² Interview with source on 20 April 2018.
²⁵⁵ CEPAZ, AVESA and FREYA, “Mujeres al límite”, op cit., p. 10.
needed to earn 57 times the minimum wage to buy the monthly basic food basket.\textsuperscript{256} At the moment of writing this report, a monthly minimum wage could barely buy a carton of eggs or a kilogram of meat.\textsuperscript{257} According to the 2017 ENCOVI, 89 per cent of Venezuelans considered that their income was not sufficient to buy the food they needed.\textsuperscript{258}

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

\textit{Impacts on the right to food}

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

“\textit{My sister has two children. One of them has a disability. For a while now my sister and her family have only eaten yucca and bananas. When she had a job, she only earned the minimum salary and could not afford the medicines needed for her son. She decided to migrate to Colombia to see if she can find a job and send money to her two kids.}”

31-year-old man living in Caracas interviewed on 5 May 2018

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

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

\textsuperscript{256} The basic basket covers basic needs relating to food, housing, clothing, transportation and health for a family of five.

\textsuperscript{257} Interview with source on 2 May 2018.

\textsuperscript{258} ENCOVI 2017, op. cit.

\textsuperscript{259} In 2017, the country imported 78.3 USD of food per inhabitant, while in 2013 food imports per inhabitant amounted to 337.2 USD (see: Inter-American Network of Academics of Sciences, “Food and Nutritional Security in Venezuela, the Agrifood Abduction of a Country: Vision and Commitment”, op. cit.).

\textsuperscript{260} Interview with source on 20 April 2018.

\textsuperscript{261} ENCOVI 2017, op. cit.

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

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

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

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

Mother of a baby in a nutritional centre in the state of Lara interviewed on 3 May 2018

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264 Ibid.
265 Ibid.
266 Ibid.
269 Caritas Venezuela, op. cit.
270 Interview with source on 17 April 2018.
reported high numbers of children having died from malnutrition in some states.\textsuperscript{271} It is, however, almost impossible to know the exact number of children who have died from malnutrition, as doctors usually do not mention malnutrition as the cause of death.

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

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

**Government response to the food crisis**

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

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


\textsuperscript{273} CEPAZ, AVESA and FREYA, “Mujeres al límite”, op cit., p. 15.

\textsuperscript{274} Ibid, p. 11.

\textsuperscript{275} Observatorio Venezolano de Conflictividad Social, “Emergencia Humanitaria en Venezuela: Conflictividad Social – Primer Trimestre del 2018”, op. cit.

\textsuperscript{276} CESCR, General Comment 12, op. cit., parr. 28.

\textsuperscript{277} Ibid, para. 17.
from small-scale farmers and a programme to promote urban agriculture. However, the scarcity of agricultural supplies, such as fertilizers, seeds, and pesticides, and water limited the development and impact of these programmes. In addition, the President declared a state of exception and economic emergency, which, inter alia, militarized food distribution and commercialization, in response to allegations of food speculation and hoarding portrayed by the Government as an “economic war.”

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

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

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

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

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277 Official Gazette No. 6.227 of 13 May 2016.
278 The usual content of a clap box is 2 kilos of cornflour, 2 kilos of rice, 1 kilo of pasta, 1 kilo of sugar, 1 kilo beans and 1 litre of oil.
279 Statement of the Minister of Agriculture and Food before the National Constituent Assembly on 5 January 2018 (see video: https://www.youtube.com/watch?v=nZioy0QuJFI).
280 See PROVEA, Anual Report; Right to food, 2017, op. cit.
281 See also: Transparencia Venezuela, “Vecinos de cinco comunidades denuncian disparidad en cobros y entregas de cajas CLAP”, available at: https://transparencia.org.ve/project/vecinos-cinco-comunidades-
The programme has been used as a tool for political propaganda and social control. CLAPs maintain strong links with the governing party PSUV, not just with the Government. They operate through the party’s local organisational structures in each neighbourhood. An official CLAP magazine has been used to support the PSUV in recent elections as well as to condemn political opponents. The face of President Maduro was printed on the boxes during the electoral process. The critical food crisis, combined with high levels of arbitrariness in the operations of the programme, have given the governing party great power over the recipients of the CLAP boxes. OHCHR received accounts from people who had been threatened by CLAP members who said that they would stop receiving CLAP boxes if they did not vote for the PSUV or because they had allegedly participated in anti-government protests. Addressing the National Constituent Assembly in January 2018, the director of the CLAP programme and member of the PSUV’s executive board stated that the programme had been instrumental to winning elections for mayors (municipal), governors (regional), and the National Constituent Assembly.285

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

denuncian-disparidad-cobros-entregas-cajas-clap/. See also survey conducted by the National Assembly in February 2018.
285 Statement of the Minister of Agriculture and Food before the National Constituent Assembly on 5 January 2018, op. cit.
286 The Latinobarómetro has shown that only 45 per cent of Venezuelans believe their vote is secret (see: Report 2017. available at: http://www.latinobarometro.org/latNewsShow.jsp.
287 See for instance: statement in a rally in Caracas on 7 May 2018, available at: https://www.youtube.com/watch?v=0zjGLzVBLMM.
IV. Recommendations

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

**Human Rights Council**

- Member States of the Human Rights Council should monitor developments in the Bolivarian Republic of Venezuela and consider taking appropriate measures to prevent the further deterioration of the human rights situation;

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

**Government and other authorities of the Bolivarian Republic of Venezuela**

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

**Excessive use of force and killings**

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

**Arbitrary detentions and due process**

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

Torture, ill-treatment and conditions of detention

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

Attacks and restrictions on democratic space

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

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

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

- Authorities should conduct a new selection process to appoint the Attorney-General and the Ombudsperson, in line with the Constitution and laws of the Bolivarian Republic of Venezuela and international standards;
- The Government, in particular the Ministry of Interior, Justice and Peace, should reformulate the policies meant to address the high level of criminality in the country, adopting a human rights-based approach;
- The Government, in particular the Ministries of Interior, Justice and Peace and Defence, should adopt a plan with a clear timeline to end the participation of military forces in public security functions and to demilitarize civil law enforcement agencies;
- The Government should refrain from interfering in the independence of the judiciary; they should take measures to restore the independence of the justice system; inter alia, judges should be selected following international standards, their tenure should be guaranteed, and they should be protected against restrictions, improper influences, threats or interferences, direct or indirect, from any quarter or for any reason;
- The Government should establish a multidisciplinary commission of national and international experts to conduct a detailed assessment of the criminal justice system, in order to propose measures to address pervasive violations of due process and the right to a fair trial and to advise the Attorney-General's Office, law enforcement forces and the judiciary on investigations of human rights violations, including alleged extrajudicial killings, committed during security operations and protests, in compliance with the State's international obligations. The commission should look into the possible responsibility of senior officials. The members of the commission should be selected through a broad participatory process, including civil society.
Tab #9
CHAPTER IV.B

VENEZUELA

1. The Inter-American Commission on Human Rights (hereinafter "Inter-American Commission", the "Commission" or "IACHR") decided to include Venezuela in Chapter IVB of its 2017 Annual Report, pursuant to Article 59 of its Rules of Procedure. The Commission considers that the situation in Venezuela falls within paragraphs 6.ai; 6.a.ii; 6.b; and 6.d.i of that article.

2. Since the Commission has adopted its report Democratic Institutions, the Rule of Law, and Human Rights in Venezuela, the executive summary of that report is included below.

3. The Inter-American Commission on Human Rights hereby presents its Country Report entitled Democratic Institutions, the Rule of Law, and Human Rights in Venezuela, its third report on the human rights situation in the Bolivarian Republic of Venezuela (Venezuela). The decision to produce this report stems from the marked deterioration in the country with respect to the exercise of human rights, and the grave political, economic, and social crisis in Venezuela over the past two years and, especially, in 2017.

4. In this report, the Inter-American Commission addresses the human rights situation in Venezuela by analyzing the impact on them of the dismantling of much of democratic institutional system and the alarming increase in repression, violence, and citizen insecurity. Against that backdrop, it examines the situation with respect to political rights, freedom of expression, social protest, and economic, social, cultural, and environmental rights. The IACHR analyzes, across the board, the specific harm done to individuals, groups, and communities that are at greater risk and/or are victims of historical discrimination and exclusion, such as women; children and adolescents; older persons; human rights defenders; persons deprived of liberty; migrants, refugees, and persons in a similar situation; and others. Based on that analysis, it makes recommendation to the State on how to improve protection and safeguards for human rights.

5. The Commission's analysis of the situation of human rights in Venezuela is based on information received through its various protection mechanisms over the past two years, particularly in 2017. In addition, while preparing its report, the IACHR requested information from both civil society organizations and the State, which are fundamental sources for this report. That information was basic for this report. It afforded insight into the human rights situation, which was then analyzed in light of international obligations applicable to Venezuela. This report has four main focuses, which correspond to the Commission's core concerns with regard to Venezuela: (i) democratic institutions (both individually and as a system); (ii) social protest and freedom of expression; (iii) violence and citizen security and (iv) economic, social, cultural, and environmental rights (ESCER).

6. This report reflects the interdependence and indivisibility that exists between the infringements in Venezuela of civil, political, economic, social, cultural, and environmental rights. Together those rights constitute an indissoluble whole, which is why -- even though the ESCER are addressed separately in this report, -- the IACHR stresses that the effective exercise of democracy in any State necessarily presupposes the full exercise of all its inhabitants' rights and fundamental freedoms.

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1 Specifically, the Commission bases its analysis on the obligations contained in the American Declaration of the Rights and Duties of Man and the Charter of the Organization of American States. Where relevant, it likewise takes into account other inter-American human rights treaties, such as the Inter-American Convention to Prevent and Punish Torture, the Inter-American Convention on the Prevention, Punishment and Eradication of Violence against Women or Belém Do Pará Convention; the Inter-American Convention on Forced Disappearance of Persons; and the Inter-American Convention on the Elimination of All Forms of Discrimination against Persons with Disabilities. Consideration is also given to the Inter-American Democratic Charter.
7. This year, the IACHR decided to include Venezuela in Chapter IVB of its 2017 Annual Report, pursuant to Article 59 of its Rules of Procedure. In accordance with the foregoing, the Commission finds that the situation in Venezuela falls within paragraphs 6.ai; 6.a.ii; 6.b; and 6.d.i of that article, which establishes the following criteria:

a. a serious breach of the core requirements and institutions of representative democracy mentioned in the Inter-American Democratic Charter, which are essential means of achieving human rights, including:

   i. there is discriminatory access to or abusive exercise of power that undermines or denies the rule of law, such as systematic infringement of the independence of the judiciary or lack of subordination of State institutions to the legally constituted civilian authority;

   ii. there has been an unconstitutional alteration of the constitutional regime that seriously impairs the democratic order; [...] 

b. The free exercise of the rights guaranteed in the American Declaration or the American Convention has been unlawfully suspended, totally or partially, by virtue of the imposition of exceptional measures such as a declaration of a state of emergency, state of siege, suspension of constitutional guarantees, or exceptional security measures. [...] The presence of other structural situations that seriously affect the use and enjoyment of fundamental rights recognized in the American Declaration, the American Convention or other applicable instruments. This criterion includes, for example: serious situations of violence that hinder the proper functioning of the Rule of Law; serious institutional crises; processes of institutional reform with serious negative consequences for human rights; or serious omissions in the adoption of necessary provisions to give effect to fundamental rights.

d. The presence of other structural situations that seriously affect the use and enjoyment of fundamental rights recognized in the American Declaration, the American Convention or other applicable instruments. Factors to be considered shall include the following, among others:

   i. serious institutional crises that infringe the enjoyment of human rights; [...] 

8. On November 21, 2017, the IACHR sent the State a draft copy of this report pursuant to Article 60 section (a) of its Rules of Procedure and asked it to submit comments by the non-extendable deadline of one month. The IACHR also informed the State of its inclusion in the executive summary of the report in Chapter IV.B of the 2017 Annual Report, approved by the IACHR pursuant to articles 59.7 and 59.10 of its Rules of Procedure.

9. The State submitted its response on December 21, 2017, saying that "the draft Country Report presents a selective and highly biased view of the true human rights situation of the Bolivarian Republic of Venezuela, violating the principles that should apply to the treatment of human rights matters." In the State's view, "to a large extent, this distorted view of the draft Report is the result of significant weaknesses in the methodology used to prepare it," and "the draft report gives excessive weight to nonobjective sources while the official information provided by the State is excluded almost entirely, despite all the documentation and elements the State provided to the Commission in 2017 through the different mechanisms available."
10. For its part, the State considers that "the conditions set forth in inter-American law for including Venezuela in Chapter IV.B of the Annual Report of the IACHR have not been met. The Venezuelan Government therefore rejects its inclusion in this chapter and takes note of the Commission's offer [to conduct a country visit], but emphasizes that it is not possible to accept any mechanism that would involve the Venezuelan State's acceptance of its arbitrary inclusion in Chapter IV.B of the 2017 Annual Report." Moreover, the State indicated its "willingness to have a constructive dialogue with the IACHR toward moving forward in compliance with its international obligations, based on the strict respect for the principles that must govern treatment of human rights matters, including principles of universality, objectivity, impartiality, and non-selectivity."  

11. The State concludes by highlighting that:

The Bolivarian Republic of Venezuela is a democratic and social constitutional State based on the rule of law and justice, with participatory and protagonist democracy that takes respect for and guarantee of human rights as a fundamental value. Like the other countries in the region, on issues of human rights, Venezuela has strengths as well as weaknesses. However, no objective and nondiscriminatory analysis would lead to the conclusion that the human rights situation in the Bolivarian Republic of Venezuela deserves treatment by the Organization of American States different from what it gives to other States. 

12. The State's comments have been included in this chapter where pertinent. The Commission approved this report on December 31, 2017. 

**Democratic institutions**

13. For several years now, the IACHR has been observing a gradual deterioration in the democratic institutional system and the human rights situation in Venezuela that has become significantly more intense and widespread since 2015. As the IACHR discusses in this report, there is complex set of issues rooted in interference by the Executive in the other branches of government. This breach of the principle of the separation of powers is most seriously manifested in the alarming behavior of the Judiciary, especially in the past two years. Indeed, the exacerbation of the recent crisis in Venezuela is closely linked to a series of decisions taken by the Supreme Court of Justice (TSJ) that amounted to interference with the National Assembly (AN) and violated the principle of the separation of powers. This situation worsened in 2017 to a point at which Judgments No. 155 and 156 handed down by the TSJ on March 28 and 29, respectively, produced an alteration of the constitutional order. In those judgments, the TSJ did away with the parliamentary immunity of deputies to the AN, established that their acts constituted "treason", granted the Executive broad discretionary authority, and arrogated to itself powers rightfully pertaining to the Legislature. As the IACHR pointed out at the time, those measures represented usurpation by the Judiciary and the Executive of powers constitutionally granted to parliament, as well as a de facto annulment of the popular vote, via which those deputies had been elected. 

14. The alteration of the constitutional order in Venezuela was possible due to a series of factors that mean that, in general, the country's democratic institutional system is seriously flawed. In the Commission's opinion, the lack of independence of the Judiciary has a decisive impact on both the Executive's...
interference in the Judiciary and on the Judiciary’s interference in the Legislature. A key factor in that lack of independence is, in turn, as we observe in this report, the inappropriate nature of the process for electing TSJ judges and the lack of guarantees of their permanence in that position (tenure). That is why the Commission considers it necessary that measures be adopted to avoid risks to judicial independence in the election, appointment, and tenure of members of the highest court in Venezuela. In particular, care needs to be taken to ensure that in appointment processes notices of vacancy are disseminated in advance along with the deadlines and procedures to be followed; equal and inclusive access of candidates must be guaranteed, as well as ample civil society participation. Candidates must be assessed on their merits and professional abilities, not their political leanings or connections.

15. Another reason that, in the Commission’s view, generally explains the lack of judicial independence in Venezuela is the highly provisional nature of judges’ terms. There, the State needs to adopt urgent and decisive measures to significantly increase the number of regular, accredited judges and ensure that, even when they are provisional, judges are only removed via a disciplinary process or administrative act that rigorously respects guarantees of due process and, in particular, the requirement to substantiate the grounds for removal from office and access to a judicial review of the decision. Furthermore, given complaints of acts of harassments and threats against judges designed to exert improper pressure on them and influence their decisions, the Commission calls upon the State to refrain from any act of harassment or intimidation, or any action that might imply a threat or direct or indirect pressure on a judge’s exercise of his or her judicial function. The IACHR further reiterates the duty of the State to investigate, try, and punish those responsible for such acts.

16. As for the AN, the Commission notes that, even though some of the aforementioned measures adopted by the TSJ were subsequently revoked, there are still serious instances of interference with the Legislature and obstacles to the exercise of its constitutional functions, such as the ongoing claim that members of the AN are in contempt of court and the labeling of their actions as “treason”, as well as the ongoing authority of the President of the Republic to amend laws and to constitute mixed (public-private) enterprises without the authorization of Parliament. Accordingly, the Commission calls upon the State to adopt immediate and resolute measures to restore the constitutional order, and guarantee the separation of powers and appropriate exercise of the constitutionally established functions of the AN, including the lifting of the measures referred to above.

17. In that context, President Nicolás Maduro convened a Constituent National Assembly (ANC), which was criticized in respect of its origin and composition as well as for the measures it adopted once it was installed, which exceeded the nature of such an assembly and violated the principle of the separation of powers. Here the Commission considers it important to recall that, as this report points out, Venezuela’s own Constitution and applicable law establish that the way said Assembly functions is governed by certain limits set in accordance with the values and principles enshrined in the history of Venezuela as a republic and by compliance with international treaties, agreements, and commitments duly underwritten by the Republic. In light of that and the fundamental principles set forth in the Inter-American Democratic Charter, the Commission calls for a revocation of the measures that exceed the powers of a constituent body and impair the separation of powers and representative democracy and for a commitment to refrain from adopting decisions that exceed those powers.

18. The interferences of the Judiciary and the Executive in the Legislature have been accompanied by a lack of independence and inadequate exercise of the functions of constitutional bodies that are vital for democracy, such as the National Electoral Council (CNE), the Public Prosecutors’ Office (Ministerio Público -MP), and the Ombudsperson’s Office (Defensoría del Pueblo - DP). That being so, the Commission considers it essential to take decisive steps to ensure that these bodies function without interference or improper political pressures and comply fully with their constitutional mandate, which is vital for the democratic rule of law in Venezuela.

19. The IACHR points out that the complaints about high levels of corruption in the country further undermine already weak government institutions, Given that impunity encourages and perpetuates acts of corruption, steps need to be taken to ensure that acts reported are investigated independently,
impartially, and promptly, without pressures or discrimination based on membership of certain political parties or on the positions held by those under investigation. Preventive measures are also needed. They include governance imbued with the principles of openness, transparency, and effective public accountability.

20. The problems associated with the weakness of democratic institutions referred to earlier have resulted in widespread impunity and have had a profound impact on the exercise of rights that are fundamental for democracy, such as political rights. The IACHR is particularly concerned about the situation of these rights in Venezuela. Their exercise has been severely curtailed by a series of obstacles. Among the most recent are: the suspension of the Presidential recall referendum process; the putting off for a long time of municipal and regional elections; and serious recent allegations of unfair advantages and fraud in the regional election of October 15, 2017.

21. In Venezuela those who dissent from the Government are victims of serious reprisals, as seen in the frequent detention and destitution of mayors, governors, members of parliament, and opposition figures in general. As emblematic cases, the IACHR points to the worrying acts committed against Henrique Capriles, Antonio Ledezma, and Leopoldo López. In light of the above, the Commission reiterates the need to guarantee, as a matter of priority, full exercise of the political rights of every authority and inhabitant of Venezuela, irrespective of their political sympathies; and the need to refrain from any act of harassment, intimidation, or criminalization of political dissent.

**Social protest and freedom of expression**

22. As a consequence of the political, economic, and social crisis in Venezuela, thousands of people took to the streets, especially between April 1 and July 31, 2017, in several cities to repudiate the Government of President Maduro and the rulings of the TSJ, as well as to demand better living conditions, given the alarming shortages of food, medicine, and other essentials. In that context, the Commission identified major restrictions and state acts that severely constrained exercise of the right to social protest and freedom of expression, which led it to assert that the effective exercise of those rights had been seriously impaired.

23. With regard to social protest, the IACHR notes the persistence of a regulatory framework that is incompatible with inter-American standards in that it still requires prior authorization for demonstrations and establishes outright bans on the exercise of that right. Also noted is excessive direct use of firearms against demonstrators, along with indiscriminate use of tear gas. Those repression tactics disproportionately impacted children and adolescents, women, and older adults. Furthermore, members of the armed forces were also engaged in demonstration control, even though, as the IACHR has already pointed out to Venezuela, in a democratic system it is vital to establish a clear and precise distinction between domestic security as a police function and national defense as a function assigned to the armed forces, given that they are two, very different institutions in respect of the purposes for which they were created and in terms of their training and preparation. That being so, the State must stop obstructing the legitimate exercise of the right to protest and curtail the use of force against demonstrators; train security officers in the proper use of force; refrain from involving security forces other than the police in said activities; and adopt regulations precluding the use of firearms at demonstrations.

24. The IACHR finds the number of persons killed or detained in connection with arbitrary operations to suppress them unacceptable. Thousands have been detained for taking part in public demonstrations. Most such detentions were made without a warrant, without flagrante delicto, when those detained were on their way to, or at, or after a demonstration, or even when they did not take part in the demonstration because they were deemed to be opposition supporters. The Commission finds it alarming that detainees have been tortured, maltreated, and in some cases sexually abused. The State must with all due diligence and guarantees of due process conduct serious investigations to determine responsibilities within a reasonable period of time and, where applicable, impose the corresponding punishments.

25. Also worrisome is the adoption of measures designed to discourage participation in protests and to punish those that do participate. Even at the highest levels of government statements have been made
stigmatizing and harassing those who take part in demonstrations, opposition leaders, and even human rights defenders. Those who legitimately get together and take part in social protests have also been treated like criminals and have seen investigations and/or judicial proceedings initiated against them for poorly defined offenses, a practice incompatible with a democratic society in which people have the right to voice their opinion peacefully, without fear of any kind of reprisal.

26. The IACHR is particularly concerned that dozens of civilians detained in connection with demonstrations are reportedly being tried and/or sentenced by military courts that do not meet the requirement for independence and impartiality. Contravening the principle of no crime or punishment without prior law (principio de legalidad), people are allegedly being randomly charged with "treason," "insurrection," (rebelión) and "assaulting guards" (ataque al centinela). As a matter of priority, necessary (including legislative) measures must be measures must be adopted to ensure that civilians are not investigated, tried and/or sentenced by military courts and to bring any such cases already under way back to ordinary law courts.

27. As regards freedom of expression, severe curtailments to that right have been documented, including censorship and the closing down of media, attacks on journalists, and, in general, harassment and criminalization of those who express political views or dissemination that the State does not approve of. Such measures are not part of any regulatory framework compatible with Venezuela's international obligations in this regard and, in practice, they are geared to silencing critics of the current Government. The harm they are doing to Venezuelan democracy is obvious and requires priority attention.

**Violence and citizen insecurity**

28. Violence and crime have increased in recent years, thereby impairing the day-to-day life of the population as a whole, but especially that of individuals, groups, and communities that have traditionally have been victims of discrimination or at greater risk of rights violations, such as women, children and adolescents, and older adults. It worries the IACHR that the State's response has largely been to militarize citizen security and to co-opt civilians for security force tasks, especially through the Liberation of the People Operation (OLP) and the Zamora Plan (PZ). According to the information received, this has resulted in a steady increase in the number of extrajudicial executions, with 2015 seeing 37% more cases than 2014; and 2016 seeing 70% more cases than the previous year. Another source estimated that in 2017 Venezuela registered 89 violent deaths per 100,000 inhabitants and a total of 26,616 death persons in the whole national territory. On the other hand, according to official statistics, in 2016 there were 21,752 intentional homicides, or a rate of 70.1 violent deaths per 100,000 residents.

29. The Commission considers it essential to give priority to eliminating the participation of the armed forces in citizen security activities for which the police are responsible. Likewise, steps need to be taken to ensure that lethal force is use in rigorous compliance with the principles of exceptional circumstances, legality, necessity, proportionality, nondiscrimination, and accountability. It is also vital, in the IACHR's opinion, to incorporate a gender perspective in citizen security, based on the premise that citizens are to be protected, not treated as enemies to combat.

30. Contrary to what the Venezuelan State has done, the Commission reiterates that citizens must not be used for any kind of domestic security strategy. Nor should the role of society vis-à-vis national security be distorted. The State needs to comply with the above, bearing in mind its duty to act with due diligence to prevent human rights violations. Likewise, it must investigate and, where applicable punish and make reparation for any violent acts they may have committed.

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Poverty and Economic, Social, Cultural, and Environmental Rights

31. Venezuela is currently in the grip not just of a political crisis, but of a profound economic and social crisis as well, characterized by widespread shortages of food; medicine; and medical treatment, materials and inputs, to name but a few. In 2015 prices rose by 180.9 percent and by April 2016, 80 percent of the population was suffering food shortages.\(^\text{12}\) This situation has triggered alarming poverty and extreme poverty indices, along with serious impediments to the enjoyment of the population's economic, social, cultural and environmental rights, such as the rights to food, health, education, and housing. Hardest hit are groups that are traditionally marginalized and discriminated against, such as children and adolescents, women, older adults, and indigenous peoples.

32. To deal with this situation, the State has issued a series of decrees declaring a "state of exception"(estado de excepción) and economic emergency." These states of emergency have successively been extended, meaning that in practice the measures they provide for are indefinite. The decrees have also contained measures broadening the powers of the Executive. One of the more worrying measures of this kind has been the militarization of such activities as food distribution. In this area, the Commission urges the State to step up measures designed to reduce poverty and extreme poverty and to take all necessary steps to ensure that available resources are used, as a matter of priority, to avoid deterioration of the population's enjoyment of ESCER and to ensure the entire population's access to those rights, without discrimination.

33. As a consequence of the grave economic and social crisis, disease outbreaks and other impacts on health have taken place, in the context of which the scarcity of medications, materials, inputs, and medical treatment is concerning, particularly due to their impact on pregnant women, children and adolescents, the elderly, and people living with severe illnesses, chronic conditions, or the human immunodeficiency virus (HIV) and/or Acquired Immune Deficiency Syndrome (AIDS). Infant and maternal mortality rates have increased, as has the number of epidemics. By and large, in this scenario, the State has failed to provide the necessary access to health care. The Commission reiterates the need for the State to guarantee the availability and quality of health care by ensuring the provision of qualified medical personnel, medicines, and appropriate hospital equipment. In particular, steps need to be taken to combat the high maternal mortality rates.

34. As regards the right to food, shortages and, in some cases, a complete lack of supply has reached critical levels. For many, this situation has led to excessive weight loss and malnutrition issues and even death, not just the lack of adequate access to food. To deal with this situation, the State has taken some steps such as setting up Local Supply and Production Committee, which the Commission welcomes. However, according to the information received by the Commission, these programs do not accord priority to groups that have traditionally been excluded and discriminated against and there have also been complaints of the application of politically motivate discrimination criteria. The State must guarantee exercise of the right to food based on objective criteria and with a particular emphasis on persons and communities traditionally excluded or discriminated against, such as children and adolescents, persons with disabilities, and older adults.

35. Exercise of the right to education has also been impaired by the crisis in the country, especially in the case of children and adolescents. Dropout rates have increased due to problems with access to food, transportation, and citizen security. Other issues that have impacted the enjoyment of this right have had to do with water and electricity supply problems. Here, the IACHR stresses that the State must allocate the resources needed to ensure high quality, universal, cost-free, and accessible education, tailored to needs, and ensure that it be imparted in safe settings, free from violence and discrimination.

36. Finally, the Commission observes that, while the establishment of social programs may have had a positive impact for some segments of the population on their exercise of the right to housing, there have been serious complaints that mitigate that progress, such as failure to formalize title deeds and numerous

\(^{12}\) Analítica, Escasez de alimentos básicos en el país supera el 80%, según Datanálisis, May 27, 2016.
complaints of homes being raided, destroyed and even burnt down in connection with the OLP movement. In light of the above, the State needs to adopt resolute measures to guarantee legal certainty for home tenure and to refrain from interfering, in any way, with the right to housing in connection with OLP or other operations.

37. Overall, the IACHR calls upon the State to step up measures to mitigate the situation of poverty and extreme poverty and avoid impairment of the exercise of ESCER, and to ensure that such measures focus on guaranteeing the full enjoyment of those rights without discrimination, thereby generating the conditions required for genuine equality. In particular, the State must refrain from any act involving differential treatment based on political view in respect of the exercise of those rights and it must conduct serious investigations into the allegations that have been made in that regard. It is likewise essential that the resources available be used, as a top priority, in favor of persons, groups, and communities that suffer discrimination or are excluded from society.

**Historically excluded persons, groups, and communities at greatest risk**

38. Bearing in mind the economic and social crisis that the country is undergoing, the Commission conducts, across the board and throughout the report, an analysis of its particular impact on the human rights of persons, groups, and communities at greatest risk and traditionally subject to discrimination and exclusion. With regard to women, the IACHR voices its concern at the high levels of gender violence and trafficking in persons (Chapter IV.A); the specific impact on women of the Government’s citizen security plans (Chapter IV.B.1) and the putting down (repression) of social protest (Chapter III.A.2 and 4); and the different and more serious impact on women of the economic crisis, particularly as regards food shortages, access to health care, and sexual and reproductive rights (Chapter V.B and C).

39. With regard to children and adolescents, the IACHR addresses the particular impact on them of violence and citizen insecurity (Chapter IV.A), as well as impairments to the right to life and integrity stemming from security plans (Chapter IV.B) and the putting down of social protest (Chapter III.A.2). The IACHR likewise expresses its concern at regulations regarding children and adolescents at odds with (criminal) law (Chapter IV.C) and the impact of the economic crisis on enjoyment of the rights to food, health, and education (Chapter V.B, C and D). The IACHR also refers to the impact on older adults of citizen insecurity (Chapter IV.A), of the use of force to put down social protest (Chapter III.A.2), and of the food shortages the country is experiencing (Chapter V.B). The Commission also looks at the impact of the crisis on indigenous peoples, especially in terms of malnutrition and access to food indices (Chapter V.B).

40. As regards persons deprived of liberty, the Commission voices its alarm at complaints of arbitrary detentions in connection with citizen security strategies (Chapter IV.B.1 and 2); at complaints of arbitrary arrests of demonstrators and their subsequent subjection to torture and cruel, inhuman, and degrading treatment, including rape (Chapter III.A.4); and, in particular, at the violence occurring in detention centers and the deterioration of prison conditions, which are characterized by overcrowding, lack of food, and lack of medical care (Chapter IV.C, V.B and C).

41. With respect to the situation of human rights defenders, the IACHR repudiates the numerous threats and acts of harassment and criminalization to which they are subjected for denouncing the human rights situation in Venezuela, and for defending or representing persons detained on account of their political views or for having taken part in demonstrations (Chapter III.A.3 and 4). Likewise, the Commission voices its concern at the harassment and persecution of political opposition figures in Venezuela (Chapter II.B.2).

42. Regarding migrants, refugees, and others in a similar situation to refugees, the IACHR reiterates its concern at the large number of Venezuelans who have been forced to migrate to other countries in the region in recent years for numerous reasons, especially forced migration as a survival mechanism given the grave crisis in Venezuela and the effects of its sequel of shortages of food, medicines, and medical treatment (Chapter V), violence and lack of security (Chapter IV.A). The IACHR also recognizes the efforts by some countries in the region to provide protection for Venezuelan migrants.
43. The Inter-American Commission reiterates its offer to work with the State, and with Venezuelan society as a whole, to ensure effective compliance with the recommendations put forward in this report, thereby contributing to more robust defense and protection of human rights in a democratic context in Venezuela. The IACHR in turn reiterates its interest and willingness to visit the country.
Tab #10
Situation of Human Rights in Venezuela
INTER-AMERICAN COMMISSION ON HUMAN RIGHTS

Democratic Institutions, the Rule of Law and Human Rights in Venezuela
COUNTRY REPORT

2017
iachr.org
31. As a consequence of the grave economic and social crisis, disease outbreaks and other impacts on health have taken place, in the context of which the scarcity of medications, materials, inputs, and medical treatment is concerning, particularly due to their impact on pregnant women, children and adolescents, the elderly, and people living with severe illnesses, chronic conditions, or the human immunodeficiency virus (HIV) and/or Acquired Immune Deficiency Syndrome (AIDS). Infant and maternal mortality rates have increased, as has the number of epidemics. By and large, in this scenario, the State has failed to provide the necessary access to health care. The Commission reiterates the need for the State to guarantee the availability and quality of health care by ensuring the provision of qualified medical personnel, medicines, and appropriate hospital equipment. In particular, steps need to be taken to combat the high maternal mortality rates.

32. As regards the right to food, shortages and, in some cases, a complete lack of supply has reached critical levels. For many, this situation has led to excessive weight loss and malnutrition issues and even death, not just the lack of adequate access to food. To deal with this situation, the State has taken some steps such as setting up Local Supply and Production Committee, which the Commission welcomes. However, according to the information received by the Commission, these programs do not accord priority to groups that have traditionally been excluded and discriminated against and there have also been complaints of the application of politically motivate discrimination criteria. The State must guarantee exercise of the right to food based on objective criteria and with a particular emphasis on persons and communities traditionally excluded or discriminated against, such as children and adolescents, persons with disabilities, and older adults.

33. Exercise of the right to education has also been impaired by the crisis in the country, especially in the case of children and adolescents. Dropout rates have increased due to problems with access to food, transportation, and citizen security. Other issues that have impacted the enjoyment of this right have had to do with water and electricity supply problems. Here, the IACHR stresses that the State must allocate the resources needed to ensure high quality, universal, cost-free, and accessible education, tailored to needs, and ensure that it be imparted in safe settings, free from violence and discrimination.

34. Finally, the Commission observes that, while the establishment of social programs may have had a positive impact for some segments of the population on their exercise of the right to housing, there have been serious complaints that mitigate that progress, such as failure to formalize title deeds and numerous complaints of homes being raided, destroyed and
statements by the Vice President, Tareck El Aissami, on September 7, 2017, free access to the National Vaccination Plan—which has 15,319 vaccination points in all the country’s states—requires the presentation of *carnet de la patria* (an ID card).  

Information available to the IACHR indicates that holders of this document are people who are close to or agree with the ruling party. In response to this allegation, the State indicated that more than 16 million people have obtained their Carnet de la Patria, equivalent to 83.49% of the Venezuelan population older than 15. In that regard, the IACHR notes that Articles 83 and 84 of the Venezuelan Constitution recognize free and unfettered access to health care. The IACHR also condemns the use of citizenship control mechanisms that discriminate on the basis of political opinion to restrict access to healthcare and food services.

445. The Commission reiterates its concern at the shortage of medical drugs, supplies, material, and treatments. In that connection, it recalls that the American declaration provides that every person has the right to the preservation of his health “through sanitary and social measures relating to food, clothing, housing and medical aid to the extent permitted by public and community resources.” Furthermore, availability, accessibility, acceptability, and quality are essential elements of that right. The dire shortage of medical drugs, inputs, and materials in Venezuela impairs the availability dimension of that right. At the same time, the collapse of hospital infrastructure and the precarious conditions in which hospitals reportedly operate affect the quality dimension of that right. Finally, allegations such as those concerning the CLAP requirement to access health care affect the dimension of accessibility without discrimination.

446. The Commission has also received information on and expressed particular concern over the situation of people who live with HIV or AIDS in

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1095 Vice President Tareck El Aissami stated: “[...] If you have not yet been vaccinated, you can take your sons, daughters, or any family member to any of these vaccination points, where we will provide you with the necessary vaccination free of charge with a *carnet de la patria* [...]” [Youtube Video, *Gobierno suministrará vacunas gratuitas con el carnet de la patria*, Diario 2001, September 6, 2017].

1096 This allegation was made by General García Plaza during the hearings at the OAS on September 15, 2017 [Youtube video, *Public hearings before OAS regarding Venezuela*, September 15, 2017]. In addition, it was reported that on the first day of registration to obtain a *carnet de la patria*, people were asked which party they supported [Diario Las Americas, *El chavismo recurre al “Carnet de la Patria” para someter a venezolanos*, January 27, 2017]. It was also said that preference was given to members of community councils, CLAPs, and government workers in issuing the document [Tal Cual, *Carnet de la Patria: Otra forma de discriminación*, February 11, 2017].

1097 Bolivarian Republic of Venezuela, Ministry of the People’s Power for Foreign Relations, Note AGEV/2017-000300, comments on the draft country report, December 21, 2017, para. 95.


Venezuela. Their quality of life is being especially affected by failure to regularly or periodically receive antiretroviral medications to treat their illnesses. Also, they are not receiving the necessary regular medical exams or coverage of the expenses for them. This problem is estimated to affect the health of 77,000 people registered to receive treatment through the public health system. Consequently, the IACHR recalls judgment 487 of April 6, 2001, casefile 00-1343, admitting a motion of constitutional protection seeking provision of the medications necessary to treat HIV/AIDS and ordering the State to guarantee the right to health and life of people with HIV and to mobilize the resources necessary and available for this, including international aid.

447. Finally, it learned with profound concern of the recent alleged failure to provide medical attention to Carlos García, an opposition councilor detained at the SEBIN since December 2016, following an accident in which he sustained a head trauma. The TSJ responded to the allegations with a communiqué in which it said that García had died from complications caused by a presumed immunodeficient infectious disease. The allegation is not an isolated case, given that in 2016 the IACHR granted four applications for precautionary measures to persons deprived of their liberty in Venezuela who claimed a lack of proper medical care, and it has continued to receive requests for precautionary measures on similar grounds.

448. In that regard, the Commission recalls that persons deprived of liberty should have access to appropriate treatment and medicines free of charge. Therefore, it urges the State to investigate the facts surrounding

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1101 El Nacional, PJ denunciará al gobierno ante la ONU por muerte de Carlos García, September 18, 2017; El Horizonte; El Horizonte, Opositores acusan al gobierno de Nicolás Maduro por muerte de concejal, September 18, 2017; Efecto Cocuyo, OEA y Foro Penal responsabilizan al gobierno por muerte de Carlos Andrés García, September 18, 2017.

1102 TSJ, COMMUNIQUÉ, Facebook, September 18, 2017; El Nacional, TSJ informó que concejal Carlos García recibió atención médica en agosto, September 18, 2017; El Universal, TSJ: Muerte de Carlos García fue por presunta enfermedad inmunodeficiente, September 18, 2017. In that regard, Un mundo Sin Mordaza and Defiende Venezuela denounced that on August 4, 2017, Councilor García reportedly had an accident but was not taken to hospital or given medical attention because the security staff said that he was simulating the medical condition afflicting him. He was only taken to hospital on August 18, 2017 [Un Mundo Sin Mordaza y Defiende Venezuela, Communication to the IACHR, Llamamiento urgente – muerte, Víctima: Carlos Andrés García, Estado: Venezuela, September 2017, p. 2].


1104 Application presented on behalf of dismissed mayor Alfredo Ramos, who suffered a hypertensive crisis while deprived of liberty at the SEBIN.

1105 Principles and Best Practices on the Protection of Persons Deprived of Liberty in the Americas, Principle X.
Tab #11
The full benefits of HIV treatment are realized when people living with HIV are given the support and care required for optimal adherence. About 86% of adults remain on treatment 12 months after initiation. While some people may move from one clinic to another, recent evidence suggests that, in southern Africa, approximately 30% of patients lost to treatment follow-up have died (21).

Gender-based inequalities

Women represent 50% of all adults living with HIV globally. However in the most affected region, sub-Saharan Africa, 59% of adults living with HIV are women. Almost 1000 young women are newly infected with HIV every day. Infection rates among young women are twice as high as among young men in sub-Saharan Africa.

Some women living with HIV also experience forms of institutional violence, including forced sterilization and forced abortion and the denial of voluntary sterilization or safe abortion services (22). Involuntary and coerced sterilization and abortion among women living with HIV occur in many countries. These practices have been reported in Bangladesh, Cambodia, Chile, the Dominican Republic, India, Indonesia, Kenya, Mexico, Namibia, Nepal, South Africa, the Bolivarian Republic of Venezuela, Viet Nam and Zambia, among others (23–27).

Criminalization and social exclusion

People who are socially marginalized or criminalized carry a higher burden of HIV than the general population:

- Gay men and other men who have sex with men are 19 times more likely to be living with HIV than the general population (28).
- People who inject drugs bear 28 times higher HIV prevalence than the general population (29).
- HIV prevalence among sex workers is 12 times greater than among the general population (30).
- Transgender women are 49 times more likely to be living with HIV than other adults of reproductive age (31).

The double stigma and discrimination of living with HIV and being a member of a marginalized population creates barriers to accessing services, including antiretroviral therapy, and to protecting human rights. Furthermore, politicians are not inclined to support programmes for marginalized and criminalized communities, especially during times of constrained national spending and competing public service needs.
| Tab #12 |
Report for the Committee against Torture during its revision of the combined 3rd and 4th periodic reports submitted by the Bolivarian Republic of Venezuela (53rd period of sessions, November 3-28, 2014)

Coalition of non-governmental organisations, academic institutions and organised civil society

October, 2014
Presentation:

This shadow report was jointly written by the Civil Association Foundation for Justice, Solidarity and Peace (Asociación Civil Fundación Justicia, Solidaridad y Paz - Funpaz); the Civil Association for a Diverse Venezuela (Asociación Civil Venezuela Diversa); the Human Rights Program and the RedDes Project at the Lisandro Alvarado University; the Centre for Human Rights at the University of Margarita; the Human Rights Centre at the Metropolitan University; the “Padre Luis María Olaso” Centre for Peace and Human Rights (Centro para la Paz y los Derechos Humanos “Padre Luis María Olaso”) at the Central University of Venezuela; the Inter-Institutional Human Rights Commission in the Faculty of Law and Political Science at the University of Zulia, the School of Law at the Rafael Urdaneta University and the Human Rights Commission of the Zulia Bar Association; the Committee of Relatives of the Victims of the Events of February-March 1989 (Comité de Familiares de las Victimas de los Sucesos de Febrero-Marzo de 1989 - COFAVIC), Nueva Esparta in Motion (Nueva Esparta en Movimiento); the Venezuelan Observatory for the Human Rights of Women (Observatorio Venezolano de los Derechos Humanos de las Mujeres); and the Human Rights Vicariate of the Archdiocese of Caracas (Vicaría de Derechos Humanos de la Arquidiócesis de Caracas); with the support and cooperation of the World Organisation Against Torture (OMCT). The report aims to provide additional information to the United Nations Committee against Torture on the implementation of Articles 1-16 of the Convention against Torture and Other Cruel, Inhuman and Degrading Treatment and Punishment in the Bolivarian Republic of Venezuela.

Despite the long list of recommendations addressed to the Venezuelan government¹, this report describes the ways in which torture continues to be committed by the security forces and perpetuated due to a lack of action on the part of the national authorities.

The OMCT would like to thank the financial support of the European commission for this report. The content of the report is the sole responsibility of its authors and in no way represents the opinion of the institutions who gave financial support for its writing.
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I. Normative context (Arts. 1, 2 and 4 of the Convention against Torture)

1. Constitutional and normative framework

Article 46 of the Constitution of the Bolivarian Republic of Venezuela (hereinafter CBRV) enshrines the right of every person to have his or her physical, mental and moral integrity respected, and consequently prohibits torture and cruel, inhuman or degrading treatment; it also establishes the duty to respect the dignity and proper treatment of all persons deprived of liberty, whether convicted or under prosecution, and imposes the obligation to punish public officials who by virtue of their office, mistreat or cause physical or mental suffering, or instigate or tolerate this treatment.

Article 337 of the CBRV also “prohibits torture or incommunicado detention” during states of emergency, and obliges the State in insert 4.1, to approve legislation sanctioning torture within the first year from the date of installation of the National Assembly in Venezuela. This law eventually materialized 12 years after the fact in 2013 with the approval of the Special Law to Prevent and Punish Torture and other Cruel, Inhuman or Degrading Treatment (hereinafter the Law Against Torture”).

The Venezuelan State ratified the Convention against Torture, Cruel, Inhuman and Degrading Treatment (hereinafter “the Convention” or “Convention against Torture”) in 1991 and also recognised the competence of the Committee against Torture under articles 21 and 22 of the Convention, however although the State did sign the Optional Protocol to the Convention in July 2011 during the Universal Periodic Review of Venezuela in the Human Rights Council, it has not complied with its declared “determined political will” to ratify said Protocol. The Venezuelan State’s ratification of the Convention gives it constitutional status, with direct and immediate application by national courts and other public law institutions as required by Article 23 of the CBRV.

The Special Law to Prevent and Punish Torture and Other Cruel, Inhuman or Degrading Treatment, was enacted on July 22, 2013, with the aim of regulating the prevention, criminalization and punishment of the crime of torture and other cruel, inhuman or degrading treatment, and of repairing damages caused to people who have been the victims of such acts.

The Law Against Torture defines the crime of torture in Article 17 as a deliberate offence committed when physical, mental or moral harm is caused to a person under the custody of a public official, however, the crime of torture does not apply if the person is not being held in custody; moreover, criminal liability depends on the total completion of the action. The law
identifies three crimes defined as ill-treatment with different punishments: the crime of cruel treatment, the crime of inhuman and degrading treatment, and physical and verbal abuse.

a) Norms which regulate the use of force to control demonstrations and public order

In accordance with Article 68 of the CBRV, “Citizens have the right to demonstrate, peacefully and without weapons, subject to such requirements as may be established by law” ⁵. This provision is further developed in the Law on Political Parties, Public Meetings and Demonstrations (hereinafter the Law on Political Parties)⁶ in Articles 43⁷, 47⁸ and 49⁹. Nevertheless, the Constitutional Chamber of the Venezuelan Supreme Court of Justice has recently made a regressive judgment with regards to the right to demonstrate, by conditioning this right on the prior existence of State authorization, as follows: “any assembly, demonstration or public meeting without the prior endorsement of an authorization by the respective competent authority, may result in the police and security forces, in order to maintain public order to ensure the right of transit and other constitutional rights [...] dispersing these concentrations with the use of the most appropriate mechanism to do so, under the provisions of the Constitution and national law”¹⁰.

Article 68 of the Constitution also enshrines the prohibition of the “use of firearms and toxic substances to control peaceful demonstrations”, which was later established as a general provision of the Organic Law on Police Service and the National Police Force (hereinafter the National Police Law)¹¹ and was also outlined in Resolution 113 of the Ministry of Popular Power for Interior Relations and Justice (hereinafter the Ministry of Interior and Justice) on April 15, 2011¹², directed at the National Police¹³ the decentralised agency for public safety at the national level; and the State Police bodies¹⁴, in charge of prevention and crime control activities throughout the country.

Resolution 113 is further developed in the Manual on the actions of police forces to ensure public order, social peace and peaceful coexistence in public meetings and demonstrations¹⁵, which underpins the actions of police forces in relation to human life and dignity, stating that force must only be used as a last resort when all means of negotiation and persuasion have been exhausted and applied using the principles of legality, necessity and proportionality.

Furthermore, this provision is applicable to any security body which carries out police functions, in accordance with the provisions of Article 65 of the Law on National Police (Article 1 of Resolution 113). In this regard, Article 4.7 of the Organic Law of the Bolivarian National Armed Forces (hereinafter the Armed Forces Law)¹⁶ states that the Armed Forces are responsible for “helping to preserve or restore internal order, in the face of serious social disruption”. In the
specific case of the National Guard, Article 329 of the CBRV and 4.7 of the Law on the Armed Forces state that this body may lead military operations required for the defence and maintenance of the internal order of the country via specific, joint or combined operations, and that for this reason, its functions include carrying out activities using police measures in specific and routine tasks. Indeed, Venezuela’s armed forces carry out public safety duties as part of the special measures taken by the National Executive to reduce the high rate of violence.

This creates concern among the organisations who are the authors of this report because, according to Article 332 of the CBRV: “Public security organs are civilian in nature”, and so the involvement of military forces in public security actions should be exceptional, limited and subject to the strictest controls\(^\text{17}\). Indeed, warnings have been made at the regional level about the dangers of such action, as “(...) States must restrict to the maximum extent the use of armed forces to control domestic disturbances, since they are trained to fight against enemies and not to protect and control civilians, a task that is typical of police forces”\(^\text{18}\), and so it is “advisable to avoid the intervention of the armed forces in internal security matters because it carries the risk of human rights violations”\(^\text{19}\).

**Recommendations:**

- **Ratify the Optional Protocol to the United Nations Convention against Torture, Cruel, Inhuman or Degrading Treatment or Punishment**
- **Amend the Law Against Torture so that it complies fully with international standards**
- **Guarantee the right to freedom of assembly without linking the peaceful enjoyment of this right to the need for prior authorization (...)**
- **Guarantee that the law enforcement bodies and related agencies working on public safety have a strictly civilian and professional character at all levels, with a clear institutional and conceptual differentiation between crime prevention, criminal investigation and national defence.**
II. Investigation of the crimes of torture, cruel, inhuman and degrading treatment and the fight against impunity. Sanctions and remedies (Articles 12, 13 and 14 of the Convention against Torture)

1. Statistical references to impunity. Analysis of official data

In Venezuela crimes against human rights including extrajudicial executions, torture and other inhuman and degrading treatment have increased steadily and significantly, as shown by figures from non-governmental organisations and the few official public reports in existence. Since 2009 the format for most official reports from human rights bodies was modified, which has limited public information available on the subject and has increased the lack of institutional transparency, preventing effective access to information from key bodies, such as the Public Prosecution, the Ombudsman and the Office of Scientific, Penal and Criminal Investigations (Cuerpo de Investigaciones Científicas, Penales y Criminalísticas - CICPC); this is the reason why there are no updated official figures and individual records on the commission of these crimes in recent years.

This lack of information also affects access to figures about all cases of torture and ill-treatment in Venezuela, added to the fact that most cases are not reported due to the lack of credibility afforded to the victims by the competent institutions and the fear of further reprisals. The Public Prosecutor’s Office does not keep a publicly available national registry of reported cases of torture, inhuman, cruel and degrading treatment, and in existing reports, cases are not counted as torture, but instead as “injuries” or “abuse of authority”.

The serious impunity situation in Venezuela is revealed in the limited information available via the annual reports of institutions responsible for receiving complaints of human rights violations committed by State officials. As an example, during 2006-2010 thirty thousand (30,000) cases of alleged human rights violations were recorded, 93% of them ended with a stay of proceedings, or were dismissed or archived. Only 7% ended with a formal indictment and of this 7%, only 4% led to convictions, which is a violation of the right to a prompt and impartial response from the authorities and the right of victims to be guaranteed fair and adequate reparation.

During 2011, the annual report of the Public Prosecutor’s Office to the National Assembly, stated that they had received eight thousand eight hundred and thirteen (8,813) cases of alleged human rights violations, of which ninety-seven (97%) were dismissed or archived and a formal charge was made in only three percent (3%) of these cases. This pattern of impunity continued throughout 2012 and 2013, when eight thousand two hundred and twenty-seven (8,227) and eight thousand one hundred and ninety-six (8,196) new cases were recorded by the
Department for the Protection of Fundamental Rights (Dirección de Protección de Derechos Fundamentales). By 2013, there were sixty (60) prosecutors in the Public Prosecutor’s Office assigned with carrying out criminal investigations related to human rights violations29.

With regard to cases of torture and cruel, inhuman and degrading treatment which allegedly occurred during student protests taking place between February and June 2014, the Public Prosecution Service stated in a special report30 that the Department for the Protection of Fundamental Rights had initiated one hundred and eighty-nine (189) investigations of rights infringement, of which two (2) cases are currently being investigated for murder, two (2) for torture and one hundred and eighty-five (185) for cruel treatment31. The report also mentioned that eight hundred and seventy-three (873) people had been injured; namely five hundred and ninety-five (595) civilians and two hundred and seventy-eight (278) public officials; in addition to forty-two (42) people killed; namely thirty-two (32) civilians and ten (10) public officials.

In terms of investigation, it was reported that thirty (30) final decisions had been made relating to one hundred and eighty nine (189) open investigations. Of the final decisions, twenty-two (22) were dismissals, six (6) led to formal charges and two (2) cases were archived, which means that in eighty-two percent (82%) of cases, the investigation process was not continued32.

Despite the fact that the Public Prosecutor’s Office acknowledged the existence of forty-two (42) people who had been killed, they only reported two (2) open investigations for murder without specifying the procedural status of the case and without determining whether the remaining forty (40) cases involved the commission of a criminal offence or a violation of the right to life committed by officials from State security bodies.

According to a special report from the Public Prosecutor’s Office, thirteen (13) officers were imprisoned pending trial for these offences, five (5) officials were granted bail and required to present themselves every 30 days in court and two (2) cases are pending arrest warrants33.

The investigation initiated for the one hundred and eighty-five (185) cases of cruel treatment led to five (5) individual charges for ten (10) officials, twenty-two (22) case dismissals and two (2) archived cases. There is no official information on the two torture cases under investigation. The publicly available information shows that investigations are being conducted within the ordinary criminal justice system.
2. **Application of the Istanbul Protocol**

According to publicly-available information and declarations from the competent authorities responsible for criminal investigation, it is believed that to date, the authorities have not implemented the Istanbul Protocol in any of the cases in this report, for the documentation of alleged torture, cruel, inhuman and degrading treatment.

In many cases, forensic medical examinations to document wounds and injuries suffered by the victims were performed several days or even weeks after the events. Some of the statements from the alleged victims, which are purported to have been extracted while under torture, were included in criminal proceedings without the objection of the Public Prosecutor’s Office or the judicial bodies acting in these cases.

When receiving complaints, the bodies responsible for criminal investigation did not ensure the confidentiality and independence of the reporting system, or the protection of the victim from possible retaliations. In a landmark case in which sexual violation with a rifle was reported, the head of the Public Prosecutor’s Office addressed the issue using the following terms: “It is not true that a rifle was inserted into the anus (...) It is not true that this event occurred, according to the medical-legal examination. After all the tests were carried out it is proven that the statement is not true”

“Do you think that a person who has been raped, that is, has had the tip of a rifle inserted into their anus could sit in this hearing during this presentation? It is disagreeable to talk about this, but we must do it, because much of what is said about Venezuela internationally is false (...) and that is how the Venezuelan State has been attacked at the national and international level”

The lack of implementation of the standards established in the Protocol and other instruments leads to the improper documentation of cases, a lack of registration and identification of attacks, physical and psychological effects, and a real inability to effectively investigate and punish those held to be allegedly responsible, making victims’ access to justice and reparations unfeasible, and making the victims invisible.

The following emblematic case which occurred in Miranda State highlights delays in medical attention:

**The case of Luis Alberto Gutiérrez Prieto, Miranda State, Venezuela**

On 19-02-2014, at approximately 7:00pm, young Gutierrez was taking some pictures during a demonstration in the city of Teques in Miranda State. The National Guard was allegedly using tear gas and had started chasing demonstrators, so Luis Alberto Gutiérrez ran for shelter but was intercepted by an unidentified armed civilian group who prevented him from continuing, and he
was arrested along with 43 people by presumed members of the National Guard. He reported that while in custody he was physically and psychologically abused. He states that he was kicked in the face with a regulation uniform boot by alleged members of the National Guard, which caused him severe fractures to the face in the region of his forehead, on the left side of his nose and eye socket. In addition to this injury, Luis Pietro reports having received a sharp blow to the neck.

He was held at the Maria Ochoa Pedro Morales (PMON) Military Academy in Teques, until the early hours of the next day 20-02-2014, when he was taken at approximately 3:00am by soldiers to the Victorino Santaella City Hospital in Teques, Miranda State, to receive attention for his injuries. Once in the hospital grounds, the soldiers allegedly threatened the medical staff ordering them not to contact the relatives of the wounded young man. After this he was meant to be transferred to the Miguel Pérez Carreño Hospital in Caracas, but this was not respected by the troops and they transferred him back to the PMON allegedly under death threat. Despite being seriously wounded he was allegedly left outside for several hours before being transferred to the “El paso” Clinic in Miranda State, where he was treated by medical staff from the institution and given an emergency operation, while being heavily guarded by at least 6 soldiers with rifles.

3. Patterns of impunity in investigations

The Venezuelan State has a duty to investigate allegations of torture and cruel, inhuman or degrading treatment. The obligation to investigate is mandatory and “cannot be disregarded or conditioned by domestic acts or legal provisions of any nature.”

The Attorney General of the Bolivarian Republic of Venezuela addressed the issue of impunity in 2009, stating that the underlying cause as to why human rights violations remain unpunished “lies in the fact that investigations are being conducted by the police agencies themselves.”

The Public Prosecutor has stated that when we are faced with events that involve the infringement of fundamental rights, those responsible for the investigation are often officials from different state security bodies who, in many cases, are investigators with vast experience in detecting, locating and collecting items leading to a conviction. Such a situation “is an obstacle to the investigation conducted by the Public Prosecutor”, as it facilitates the obstruction of the proceedings and protects those responsible.

Among the mechanisms of impunity that often occur simultaneously and systematically in most cases of human rights violations, the following should be mentioned by way of example: i) in the police force: the existence of “elite groups”, impunity in cases of corruption, criminalization of the victim, tendency to view violations as “isolated cases”; ii) in the Office of Scientific, Penal and Criminal Investigations (Cuerpo de Investigaciones Científicas, Penales y Criminalísticas - CICPC), the criminal investigation body: cooperation with officials allegedly involved,
modification of police records, lack of resources leading to delays in investigations; discrepancies between the contents of the forensic medical examination and the versions of family members; iii) in the Judiciary: persistence in Venezuela’s justice administration of a high number of temporary judges and prosecutors, a situation that has a negative impact on the rights of victims in criminal proceedings related to human rights violations.

Added to this are new practices and mechanisms of impunity related to the expansion of so-called death squads and the participation of armed civilian groups. Among the new practices are: i) changes to the crime scene where the incident occurred, moving the victim to a different place with subsequent stripping of clothes and accessories; placing weapons and psychotropic substances in the place where the crime took place or at the victim’s home; ii) the use of elements to conceal the identity of the officer, and in some cases the use of unmarked vehicles or taxis; iii) threats and harassment of relatives and witnesses after they have made complaints. All of these hinder, or even prevent prosecutors’ investigation work.

The case of the Barrios family in Aragua State is an emblematic case of retaliations reported by victims, families and witnesses of human rights violations. This family has continued to be harassed after suffering the violent death of ten members since 1998.

**Recommendations:**

- Include in legislation and policing protocols the application of investigation mechanisms and guidelines for cases of alleged torture, cruel, inhuman and degrading treatment and extralegal arbitrary or summary killings.

- Guarantee prompt, thorough and impartial investigations into all cases where it is alleged that torture, cruel, inhuman or degrading treatment occurred, leading to the identification, prosecution and punishment of those responsible. Ensure the adequate protection of victims and the suspension of the officers involved from their duties according to domestic and international law.

- Remove barriers that facilitate impunity including the concealment of the identity of law enforcement officers, the criminalization and trivialization of victims and the modification of police reports.

- Adopt and ensure that the remedies and the right to fair and adequate compensation, including comprehensive care programs aimed at promoting comprehensive rehabilitation, bringing the legal framework and institutional practice in line with the standards established in Article 14 of the Convention against Torture and in line with General Comment No. 3 of the Committee against Torture.
III. Torture and cruel, inhuman and degrading treatment as a pattern in the conduct of the State security forces (Articles 10, 11, 16 of the Convention against Torture)

1. In cases of alleged extrajudicial killings by State security forces

According to figures from the National Statistics Institute (Instituto Nacional de Estadística - INE), in 2009, nineteen thousand one hundred and thirty-three (19,133) murders were recorded in Venezuela, placing the country’s homicide rate at seventy-five (75) per 100,000 inhabitants. Of all the homicides registered, 79.48% were committed with firearms, 81.13% of those killed were male and 18.87% female; and 44.12% were aged between 25 and 44 years. The INE document adds that most of the victims belonged to the poorest sectors of society.

The National Government, through the “Great Venezuelan Mission to all Life!” (Gran Misión ¡A toda Vida! Venezuela), reported that the murder rate in 2011 stood at 50 per 100,000 inhabitants and on March 1, 2013, the Minister of Interior and Justice reported that in 2012 16,000 people had been killed in the country. In contrast, monitoring activities conducted by civil society indicate a progressive increase in figures related to violence. According to the Venezuelan Observatory on Violence (Observatorio Venezolano de Violencia), 2013 closed with an estimated 24,763 violent deaths in the country, representing a rate of 79 deaths per 100,000, one of the highest rates in the world. According to this study, violent deaths in Venezuela represent 12% of overall mortality rates, with young men the main victims, creating a demographic distortion in the country. In Venezuela, 53% more men are dying than women; young men of working age.

The Ministry of Home Affairs, Justice and Peace reported that out of every 100 homicides occurring in Venezuela, seventy-six (76) are the result of gang wars and clashes between gangs and security forces. The United Nations Office on Drugs and Crime Global Study on Homicide, published in 2013, ranked Venezuela as the second country in the region with the highest murder rate after Honduras with the rate for 2012 standing at 53.7 per 100,000 inhabitants, while Caracas, the capital, was particularly highlighted with a homicide rate of 122 per 100,000 inhabitants. Venezuela is the only country in the region whose murder rate has steadily risen since 1995 while the general trend has been for the rate to be maintained or to decrease.

The Human Rights Ombudsman has stated that extrajudicial killings are committed “as a police mechanism to ensure security [...] via which the death penalty has been unofficially established through the use by police agencies, of mechanisms of violence that violate the fundamental right to life and the principles of justice, solidarity and respect for the human being.”
In 2008, the Ombudsman noted that a total of one hundred and thirty four (134) complaints were made concerning the arbitrary deprivation of life, all following a pattern of extrajudicial killing. According to the Ombudsman, the organs allegedly most responsible were the State police forces in different regions, which had a total of sixty-five (65) complaints against them (representing 48.51% of the total, or almost half); followed by the Office of Scientific, Penal and Criminal Investigations (CICPC) with thirty-two (32) complaints (23.88%) and the municipal police forces, with seventeen (17) complaints (12.69%).

In 2009, the Attorney General stated that crimes against human rights “are in the majority attributed to police officers”. Between 2000 and 2008, the Public Prosecution had in its files 8,350 cases of extrajudicial executions committed by this sector, with an average of 1,044 cases per year. The sheer scale of these figures, coupled with lobbying undertaken by the victims’ families organized into committees, as well as advocacy carried out by Venezuelan human rights NGOs at the national and international level (OAS/UN), has led to various State agencies increasingly recognizing the problem. However, this public recognition has not translated into a significant reduction in the impunity which has prevailed in these cases during the past 10 years. It is believed that the three elements that favour the existence of a pattern of impunity identified in 2001 by the Ombudsman, still apply today: i) the police discourse that these crimes occurred during attacks is accepted, even by citizens themselves; ii) the media treatment of these practices as “an effective tool to combat high crime rates”; and iii) society’s lack of knowledge of their rights and guarantees as well as the means to defend them.

Between January to December 2013, COFAVIC documented eight hundred and two (802) cases of alleged violations of the right to life in 23 states. The figure reached five hundred and forty-one (541) cases between January to June 2014. The first six months already account for more than half of the cases which occurred last year, and we must add to this data describing an increase in political violence, shown dramatically by the substantial increase in the criminalization of public protest.

2. As a way of repressing social protest

In the social protests that have occurred in the country, it has been found that the police and / or military forces have consistently used repressive practices incompatible with legislation on human rights and the proportional and differential use of force; establishing a widespread pattern used to repress social protest that can be described as torture, cruel, inhuman or degrading treatment.
In February 2014, social protests took place in a number of cities across the country, which were mostly peaceful, and where repressive actions were used by the police, the military and even civilian armed groups who allegedly acted with the acquiescence of State institutions.

The use of excessive force by security forces in charge of public order and the use of prohibited weapons and ammunition against people peacefully demonstrating, has also been a constant in several cities in Venezuela. This pattern has been used: 1) to suppress mass protest demonstrations, 2) To make arrests or apprehensions and 3) during detention or imprisonment.

a) Excessive use of force and arbitrary detentions during social protest

Complaints have been made about alleged arbitrary detentions and indiscriminate use of force by state security forces. For example, in February 2014, multiple complaints were received from people who claimed to have been victims of illegitimate detention, without an arrest warrant and without the formal requirements related to the *flagrante delicto* commission of a crime.

The victims of these events reported that they had been arrested were near to the scene of the protests, and in some cases that the arrest was made after an illegal raid on their home from where they were arbitrarily and violently taken without the requirements established by law having been met.

One recurring pattern in the arrests was shown by the use of a similar discourse by the authorities to justify detentions. Testimonies of victims or their lawyers concluded that various records relating to different students who were arrested on various dates and in different parts of the city contained very similar wording, as if it were some kind of pattern, a kind of fabricated record.

**CANTV Case, Barquisimeto, Lara State**

*It has been reported that people who had no responsibility in the events, were linked to alleged damages to the facilities of National Venezuelan Telephone Company (Compania Anonima Telefonos de Venezuela Nacional - CANTV), premises in Avenida Lara and Avenida Venezuela in Barquisimeto, Lara State. Particularly in the case of the Avenida Venezuela CANTV, Mr. Moisés Ríos, Jesús Escalante and Wilson Vásquez were deprived of liberty on February 21, 2014, although their responsibility in burning vehicles within CANTV facilities was not proven. In this case there is evidence, videos and photographs, confirmed by Funpaz in which it can be verified that all these people were arrested at three locations by police officers and then taken to the headquarters of the Avenida Venezuela CANTV to incriminate them for the damages. These three people were detained for over 45 days at the military installations of the 354 Military Police***
Brigade at Fort Terepaima in Barquisimeto, where after pressure from civil society in Lara State, the student movement in the area, various NGOs and a number of political actors (Members of the Legislative Council of Lara State) they were released on probation and ordered to report to the police every 30 days before the trial stage began. Currently these three (3) citizens are waiting for the dismissal of the case at the request of the Public Prosecutor’s Office.72

Moreover, most of the arrests were made by members of the National Guard73 and regional police forces from the states involved. However, when carrying out the arrests, the officials did not properly identify themselves, nor were the detainees able to verify their name or rank as the bulletproof jackets used by these officials covered their identification insignia. Venezuelan Law requires every official carrying out police functions to bear the official uniform of the security body to which they belong during the exercise of their duties, with insignia, equipment and identification documents visibly proving them to be officials and to properly identify themselves at the request of citizens74.

The victims of arbitrary detention reported that after being apprehended they were moved from one place to another in civilian vehicles for several hours, “and then left in some military or police facility”75. Another irregularity relating to arrest consisted of failure to provide information on the reasons for the detention and denial of the right of detainees to communicate with their families, lawyers or trusted friends. In many cases, information about their arrest and place of detention was denied to relatives and lawyers during the first 8-14 hours after the fact. Similarly, during the time spent in detention, before being brought before the court, they were denied access to lawyers to prove their status, conditions of detention and to read the police reports to enable them to know the reasons for their arrest76.

Regularly, detainees were brought before the preliminary proceedings courts within 48 hours as required by Article 44.1 of the Venezuelan Constitution, but the hearings were held late in the afternoon or even at night and in the early morning, so that people were often detained for 48 hours or more77. In cases where bail was required as a precautionary measure to replace a custodial sentence, the detention could be extended for several days78.

In many cases, attorneys only had access to the detainees once they were brought before the preliminary proceedings courts at the onset of their hearing79. Added to this, given the nature of the facilities in these courts, lawyers were unable to hold private conversations with each of their clients before the hearing80. These circumstances allow us to infer that the detainees and their lawyers had neither the time nor the adequate physical space for the proper exercise of the right to defence.
Regarding the crimes, in most cases detainees were charged with three to four different types of crimes, regardless, in some cases, that the facts of their arrest clearly demonstrated that they could not have committed any of the offences they were charged with. The offences included: Public Incitement (Article 285 of the Penal Code), Resisting the Authorities (Article 296 of the Penal Code), Conspiracy (Article 286 of the Penal Code), Obstruction of a National Public Road (Article 357 of the Penal Code), Criminal Association (Article 37 of the Law against Organized Crime and Terrorist Financing) Violent Damage to Property (Article 474 of the Penal Code). The Law against Organized Crime and Terrorist Financing was also applied, as in the case of Hotel Venetur in Nueva Esparta State.

There have been recurrent and systematic reports of alleged acts of torture, cruel, inhuman or degrading treatment by both the National Guard and the Police Forces at the time of arrest, during transport and at the detention centre itself. Lawyers and human rights defenders who assisted victims requested on repeated occasions that the injuries and mistreatment of the detainees be recorded. Nevertheless, the trial judges often refused. They also repeatedly reported that the courts did not allow or agree to detainees being transferred for medical examination. Another irregularity used was subjecting guarantors for bail to verification by the courts, who often refused offers of bail, thereby delaying for several days the release of some detainees suffering from injury, with the result that after 3, 4 or 5 days, physical evidence of abuse was lost.

In general, the excessive use of police force and repression used by the security forces in Venezuela during student protests in 2014 and in April 2013, violated not only the right to demonstrate, but also constitutional rights to physical, mental and moral integrity, inviolability of the home, and even property as the destruction of belongings such as cell phones, jewellery and money belonging to people in detention was a common practice used by the security bodies in cities across the country.

The authors of this report are also highly concerned about numerous testimonies, reports and complaints we have received about the improper and indiscriminate use of rubber bullets, tear gas and water cannons, at short range or in enclosed or residential spaces, allegedly with the aim not only of dispersing demonstrations, avoiding closing roads or as punishment to lift barricades, but for the purpose of causing physical harm to the protesters, without first negotiating or engaging in dialogue with them.

Another pattern that characterized the conduct of the security forces in Venezuela, especially during the protests in 2014, was the excessive use of police force in certain areas, mostly residential, with unprecedented cases of raids on residences and residential complexes in...
Venezuela, accompanied in many cases by the destruction of property\textsuperscript{90}. The Interagency Commission on Human Rights in Zulia State reported serious cases such as that of the Torres de El Saladillo in Maracaibo, Zulia State\textsuperscript{91}.

Testimonial, photographic and audiovisual evidence related to the above raids shows attacks on people, widespread arrests, excessive and illegal use of weapons against people in their homes, widespread attacks against residents’ property and infrastructure areas in residential complexes, especially to parked cars, and also the presence of unidentified civilians working alongside Venezuelan State security officials\textsuperscript{92}.

The following case is an example of the criminalization of protest with alleged use of arbitrary arrest:

\begin{quote}
\textbf{The case of Johnny Alvarado, Valencia, Miranda State}

Mr. Alvarado was allegedly attacked simultaneously by at least six members of the National Guard, who shot him multiple times at close range in his left hand and elbow, causing the loss of muscle tissue. He also was hit in the back by a projectile shot at close range causing a deep wound with tissue loss; his treating physicians at the time found the remains of a rubber bullet fired from a shotgun. The trigger for the assault, according to the testimony of the victim’s mother, was that the young man had been identified as a participant in demonstrations being held in the State against the National Electoral Council\textsuperscript{93}.
\end{quote}

Moreover, the authors of this report are concerned about a recurring pattern in different cities, the use of tear gas up to twelve (12) years out of date, and the indiscriminate use at short distance of tear gas and rubber bullets\textsuperscript{94}. The security forces have failed to present accountability reports on the methods of control used in each of the demonstrations they suppressed, or on the officers and troops acting in these events, as required under the general principle of accountability and access to public information established in Articles 141 and 143 of the CBRV\textsuperscript{95} and provisions 25 and 26 of the Rules on the performance of the police in public meetings and demonstrations\textsuperscript{96}.

\textbf{b) Civilian Armed Groups}

The participation of plainclothes individuals used to repress actions against demonstrators was an equally evident pattern in cities across the country. These individuals were unidentified and travelled mostly on bikes or in vans, acting with the alleged acquiescence of the police officers and military personnel present\textsuperscript{97}.
It is important to establish a strong position in relation to the alleged involvement of armed civilian groups in some of the violence in cities across the country, which further aggravates the complexity of the current situation. We express our deep concern about the use of restricted ammunition by armed civilian groups, since only the Venezuelan State may possess and use weapons of war as established by Article 324 of the Constitution.

Recommendations:

• Conduct a comprehensive review of current practices used to maintain law and order, including the training and deployment of officials in charge of law enforcement operations for crowd control and rules on the use of force and firearms, so that these practices fall in line with requirements to respect and protect human rights; adopting measures to control the actions of all members of the security forces to prevent abuses from occurring due to the overuse and misuse of force and firearms; and applying the appropriate criminal and disciplinary regime.

• Design and implement effective strategies for disarmament and control by the State of any irregular armed group as a necessary condition for social cohesion and the fight against insecurity in the country.

3. Effects on Specific Groups

a) Women

Venezuelan organisations and institutions working on human rights have repeatedly expressed concern about the significant rise in human rights violations. Some of these crimes correspond to a worsening of general violence in Venezuela, which is increasingly affecting women and girls.

Violence against Women

In practice, there is no access to justice for Venezuelan women for certain kinds of human rights violations and breaches of the law, which keeps them in a state of emotional and physical vulnerability and puts them at risk of continuing to be victims of all forms of violence. One example of this is the poor implementation of protection and security measures when women report crimes against them, due to a lack of training of officials who receive these reports, persistent cultural prejudices against women who denounce crime and scarce resources to enforce these measures. Another factor is the persistent use of mediation processes to settle disputes even though the use of these processes has been abolished; or the filing of psychological reports on victims when receiving their complaints. Likewise, there is no regulation or legal protocol to unify the procedures used to care for the victims and manage
their case, nor has a National Plan for Prevention of and Attention to Violence Against Women been developed, with the active participation of independent NGOs\textsuperscript{101}.

Impunity prevails in ninety-six percent (96\%) of cases filed before the Public Prosecutor’s Office; according to the Alternative Report on Violence against Women in Venezuela, produced by the Venezuelan Observatory for the Human Rights of Women (\textit{Observatorio Venezolano de los Derechos Humanos de las Mujeres}) in 2010, of “\textit{58,421 cases handled in 2008 alone, just two thousand one hundred and sixty-five (2,165) were taken before the competent courts}”\textsuperscript{102}, which means that long delays in procedural times continue, both in the investigative stage and during the administrative proceedings, which leads to a high percentage of cases being dismissed. There has also been a progressive increase in femicide, the ultimate expression of violence against women, since 2009, rising from 1.5 to 2.5 percentage points, according to COFAVIC\textsuperscript{103}. More recently, the same NGO conducted an investigation in 18 states into the murders of women between January and October 2013. As part of this study, four hundred and fifty-two (452) cases were reported of deaths presumed to have occurred due to general violence and gender-based violence; of which, sixty-two percent (62\%) were caused by firearms and fifteen percent (15\%) by knives; four (4) out of every ten (10) cases took place in the street and three (3) inside the person’s residence. The results of the study indicate that sixty-four percent (64\%) of the victims were between 18 and 40 years old and a significant number of fourteen percent (14\%) were females (64 cases).

The annual report of the Public Prosecutor in 2013 indicated that a total of seventy-one thousand eight hundred and twelve (71,812) crimes of gender-based violence against women have been filed, representing thirty-three percent (0.33\%) of the overall figures from the Prosecutor’s Office. Sixty-seven (67) of these cases were under criminal investigation, eight thousand and eighty-three (8,083) were being indicted by the courts, two thousand three hundred and thirty-three (2,333) were being indicted by prosecutors, five hundred and seventeen (517) were under trial, and four fifty-four (454) had led to arrest warrants.

During the first half of 2014, the Public Prosecutor has confirmed that it has processed sixty (60) cases of femicide, of which forty-two (42) are under investigation, fourteen (14) are at the intermediate stage of the proceedings and only four (4) are under trial. As reported by the Deputy-Director for the Defence of Women in the Attorney General’s Office, there are sixty-seven (67) specialized prosecutors to handle cases of violence against women across the country. In Caracas, two prosecutors specialise in the intermediate phase and trial stage of criminal cases and a further two have national jurisdiction to deal with more complex cases of gender-based violence.
On August 14, 2014, Femicide was incorporated into the Organic Law on the Right of Women to a Life Free from Violence. Also incorporated were the aggravating circumstances that constitute this violence, the recognition of private medical certificates and the possibility of bringing one’s own case when the Prosecutor’s Office fails to do so in the legally required time frame. However, this reform has not yet entered into force; it has not been enacted by the National Executive and published in Official Gazette.

Another factor that limits the possibility of developing public policies for the care and prevention of violence against women is the lack of accurate and reliable statistics on the prevalence and incidence of violence against women in the country. Even though the law provides for the establishment of at least one women’s refuge in each state, there are currently only three in existence, situated in Aragua, Miranda and the capital.

The crime of trafficking in women and girls and their exploitation through prostitution

According to reports by the Venezuelan Observatory for the Human Rights of Women, there is no systematic and reliable information compiled by the State on trafficking and prostitution of women and girls; nor public policies for their prevention and attention.

The Ministry of Health continues to identify female sex workers with a “pink card” in order to “control prostitution” thereby discriminating against this group of people. The Association of Women for Wellbeing and Mutual Assistance (Asociación de Mujeres por el Bienestar y Asistencia Recíproca Amber) has been requesting since 1995 that this practice be eliminated without obtaining a positive response.

The Office for Crime Prevention in the Ministry of the Interior, Justice and Peace produced a National Action Plan to Prevent, Suppress and Punish Trafficking in Persons, which was presented in 2007 as a Bill before the National Assembly and has yet to be approved. For its part, the Office of Scientific, Penal and Criminal Investigations (Cuerpo de Investigaciones Científicas Penales y Criminalísticas - CICPC) opened an Office on Trafficking in Persons, designating prosecutors from the Public Prosecutor’s Office with national jurisdiction in this matter. However, their activities and data are unknown because these are not provided to civil society or private investigators. There are no campaigns in the country for the prevention and care of victims of trafficking; nor are any actions being taken to reduce the demand for prostitution.

Torture, inhuman and degrading treatment against women during arrests in the first half of 2014 and the April 2013 protests
During the repression of social protests in the April 2013 post-electoral context and the first half of 2014, women were affected by alleged acts of violence showing different patterns from the repression used against men, in some cases specifically related to their gender. In particular, it was reported that women officers and soldiers from the Venezuelan National Guard assaulted female protesters. Patterns of abuse related to gender can also be identified in some cases in which women were not arrested but suffered abuse during public demonstrations, either because they were participating in them or because they happened to be passing by.

The recurrent use of death threats was documented, as was the use of guns as a means of intimidation. Practices included firing rubber bullets at point blank or close range, throwing protesters against the pavement or counting bullets in front of detainees as if to refer that they were going to be shot. Cases were also documented in which detainees were not separated by gender, and in which women shared cells with people arrested for criminal offences who hurled insults at them, including expressions of a sexual nature.

In one alleged case, a female soldier, after having neutralized the detainee, bit her on the arm and insulted her womanhood, hitting her severely about the head and pulling her hair, while another officer pointed a rifle at her head.

Female detainees were regularly held in small spaces, and had their physiological needs neglected by being denied supplies for washing, toilet paper and sanitary pads, regardless of their gender-specific needs. In relation to the neglect of specific needs during detention, the International Committee of the Red Cross has established that the State must ensure that sanitary conditions (in detention centres) are adequate to maintain the health and hygiene of prisoners, allowing them regular access to toilets and allowing them to bathe and wash their clothes regularly.

The women’s testimonies collected by the non-governmental organisations who have written this report, include recurring reports that the women were threatened with rape and with being obliged to perform oral sex on officers who were holding them in custody. In other cases women reported having been subjected to forced nudity while officers referred to their physical form or body shape. In cases from Lara State, it was reported that members of the National Guard randomly and violently cut detainees’ hair then cleaned their boots with the off cuts.

We would also like to highlight our concern in cases where it is alleged that officers carried out vaginal and anal inspections with their fingers, practices which constitute sexual violation as established by the Inter-American Commission and the Court of Human Rights, and which in turn constitute torture because of the effects on the victim. Thus, in many cases finger vaginal
examinations were performed under the excuse of searching detainees, in the course of which obscene expressions were used, in treatment that violated the detainees’ personal dignity\textsuperscript{115}.

When women prisoners made reference to their family, officials allegedly threatened them that they would be killed and that their children would grow up on their own or face needs that they could not help them with, causing severe psychological and emotional distress\textsuperscript{116}.

\textbf{b) Children and adolescents}

Figures from the non-governmental organisation CECODAP\textsuperscript{117} highlight the impact of violence on children and adolescents which has increased sixfold since 1992, and note that the majority of deaths among adolescents aged 12 to 17 years were due to violent causes. According to the NGO, seventy-five (75\%) of violent deaths of boys occur in urban areas and are caused by firearms\textsuperscript{118}.

Young people in urban neighbourhoods are most affected by police repression and by the actions of so-called vigilantes. This is confirmed by information provided by the Venezuelan State in its report to the independent expert of the United Nations Secretariat in May 2005, which stated that according to statistics from the Human Rights Ombudsman’s Office, “41\% of victims of extrajudicial killings associated with control of public safety (crime) are between 15 and 20 years old”\textsuperscript{119}. In 2008, the Ombudsman said that: “Most of the victims were in the 18-28 age group (42.54\% of the total); followed by victims between 12 and 17 years old (19.40\%)”\textsuperscript{120}.

During the demonstrations in Venezuela, specifically in February 2014, violence and violations of the human rights of children and adolescents were also reported. During these events, the authorities reacted by carrying out mass arrests, with excessive use of force contrary to national legislation and the UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officials. The Centre for Human Rights at the Universidad Metropolitana is currently working on 15 juvenile cases and all of them are related to violations of their personal integrity while under arrest. These violations consisted of children being beaten, both at the time of the arrest itself and during transfer to detention centres, with the officers’ helmets, with their regulation truncheons and with bare hands; also, threats and insults to minors were reported in all cases.

To date there is no information about the initiation or possible outcomes of investigations or sanctions on the officials responsible for these violations.
c) Lesbian, Gay, Bisexual, Trans and Intersex Persons

The definition of torture includes the prohibition of “discrimination of any kind” including discrimination based on sexual orientation\(^{121}\), or gender identity and expression\(^{122}\). In Venezuela Lesbian, Gay, Bisexual, Trans and Intersex persons are dehumanized by cruel, inhuman and degrading treatment, which is generally not reflected in official statistics kept by State institutions. There is no precise data available due to the lack of complaints made by victims, caused by fears of being re-victimized and mistrust in the justice system.

i) *Hate crimes and acts of discrimination (LGBTI)*

Police officers and members of the National Guard have been systematically identified by victims as perpetrators of violence against LGBTI persons, including through disproportionate use of force and violation of the physical, mental and moral integrity of LGBTI persons who work within the security forces, those who attempt to use police services or those being held in detention.

There are an increasing number of reports of arbitrary arrests and illegal raids, with the aim of arresting LGBTI groups, who are treated with excessive violence by the State security forces, including threats and demeaning and discriminatory language. For example, in October 2009, officers of the Caracas Police during a joint procedure with officials from the National Guard and the Ministry of Popular Power for the Interior and Justice arrested 19 gays and lesbians in Villaflor Street in the El Recreo district of the capital city Caracas; 11 of these people were teenagers. Most were stripped of their belongings, cell phones and IDs, subjected to inhuman and degrading verbal abuse related to their sexual orientation, and physically beaten\(^{123}\).

The case of Avenida Libertador, Caracas.

In October 2012, officers from the Office of Scientific, Penal and Criminal Investigations (CICPC) arbitrarily detained 23 Trans women in Libertador Avenue, Caracas, using excessive force and intimidation with firearms, and transferred them to the CICPC facilities in Paraíso allegedly to question them in relation to the murder of a man which occurred in early September. Four of the detainees: Dixon Hidalgo (Alejandra), Daniel Díaz (Danielis), Juan Basanta (Barbara) and Ender Veliz were subjected to electric shock torture, suffered physical abuse to different parts of the body and face, and verbal abuse related to their sexual orientation and gender identity, when they refused to provide information about the case to CICPC officials and protested in the facilities about the way in which the rest of their companions were being treated at the police station. To date there has been no official response as to whether investigations have been initiated\(^{124}\).
In May 2013, members of the National Guard attacked a group of trans women in Libertador Avenue resulting in one woman suffering a bullet wound to her foot.

In response to this pattern of attacks against LGBTI people which are prohibited by the Convention against Torture and other standards, the State security agencies have not included specific training programs on sexual orientation, gender identity and expression to eradicate such conduct, the perpetrators are not punished, and there is no reparation for the victims.

The Venezuela Diversa civil association has registered from 2008 to 2013, 17 murders of trans people and gay people in the city of Caracas and in the states of Vargas and Miranda, all in degrading conditions with signs of torture, the victims having been subjected to multiple stab wounds, blows with blunt instruments to the head and bullet wounds in different parts of the body.

Such cases have gone unpunished due to the failure of justice administrators and criminal investigation bodies, who have dismissed these cases considering the victims to be people who violate decency and good manners because of their lifestyle, the type of work they do, their socioeconomic status, and because they pose a threat to family life and the stability of children.

_Degrading treatment in health centres, schools and prisons_

In healthcare establishments, LGBTI people are subjected to psychological abuse, distress, humiliation and discrimination when they require healthcare in general and especially when they go for treatment and prevention of HIV and AIDS.

In public and private education at all levels, people who define themselves as LGBTI or those who are perceived as such, are often the victims of teasing, harassment, physical punishment and degrading treatment by other students and even teachers, situations which lead to students dropping out of school due to a lack of plans, programs and actions aimed to punish and eradicate such acts.

In October 2012, in the municipality of Francisco Linares Alcántara in Aragua State, Angello Alfredo Prado Perdomo, an 18 year-old gay man, was doused with gasoline and set on fire, causing third-degree burns to thirty percent (30%) of his body, which occurred after he was bullied and harassed at secondary school where he was studying for his final exams.
In prisons, LGBTI individuals and groups are subjected to psychological, physical and sexual attack, while held together with the general Venezuelan prison population. They also suffer poor prison conditions and lack of provision of basic services, the use of excessive force by security forces and prison guards, high rates of prison violence and a lack of effective control by the authorities.

Imprisoning trans women with men disregards their identities and causes a high level of emotional distress and acute anxiety, which may amount to torture. As for gay and bisexual men, they suffer from macho and sexist stereotyping in which they are regarded as weak (effeminate) and willing to consent to any sexual contact with other men. In the case of lesbian and bisexual women, the risk of sexual violence and abuse originates from prison officials themselves or other women detainees.

**d) Human rights defenders**

During the period from January 2010 to September 2014, conditions for the work of human rights defenders in Venezuela deteriorated significantly. The Venezuelan State has breached its obligations by failing to provide the necessary means for human rights defenders to conduct their activities freely; by failing to protect them when they are threatened in order to prevent attacks on their life and integrity; by imposing obstacles to their work and by failing to seriously and effectively investigate violations committed against them and thereby fighting impunity\(^\text{129}\).

In 2004, one of the moments in which political polarization in Venezuelan society reached its peak, the attitude of the Venezuelan State changed with respect to NGOs and human rights defenders. It changed from neutralizing the human rights sector by adopting a defensive strategy against criticism, to the adoption of a clear policy of confrontation and public discrediting, which has had serious consequences. There is clear and public evidence of this shift, as the highest State authorities have not only denied responsibility for violations of human rights during their tenure, as did other governments in the past, but have also made serious public allegations against both NGOs and human rights defenders, most notably that of “treason” for receiving finance from international cooperation, specifically from the United States. Also, for the first time in Venezuela’s democratic history, there have been assassinations and extrajudicial executions of human rights defenders\(^\text{130}\).

Figures between 2010 and March 2014 show 208 cases of attacks on human rights defenders, including several violations of defenders’ rights. Seventy-one (71) cases involved NGOs, human rights defenders and members of victims’ committees; one hundred and seventeen (117) involved labour rights advocates, and twenty (20) were carried out against defenders of land rights.
State officials are held responsible for a high percentage of assaults and obstacles faced by human rights defenders, even though the State has the primary responsibility to ensure their protection. The rest of the attacks are the responsibility of individuals who identify themselves as supporters of the national government. We note with grave concern the prevailing impunity in most cases, even though the authorities have full knowledge of the facts.

Human rights defenders working on the promotion and enforcement of the rights of LGBTI people in Venezuela are subjected to threats, harassment, arbitrary detention, abuse and - in extreme cases - physical violence by State officials and/or social groups who support the government, and by other individuals.\(^{131}\)

One emblematic case showing the vulnerability of human rights defenders is that of Mijaíl Martínez in Barquisimeto, Lara State\(^{132}\).

**Recommendations**

- **Adopt legislative, administrative, judicial or other measures to strengthen the prohibition of torture practices related to gender, sexual orientation, gender identity and expression, in health services, public and private schools, prisons and in public life.**

- **Establish mechanisms for the statistical recording of violence against specific groups with public data disaggregated by age, gender, number of complaints received, investigations conducted, protection mechanisms applied, suspects and sanctions applied.**

- **Provide protection to human rights defenders, promoting legislation that favours freedom of association and guarantees the work of human rights defenders and non-governmental organisations, as well as conducting investigations to prosecute and punish those responsible for actions that violate their human rights because of their work in defence of human rights.**

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7 Ley de Partidos Políticos, Reuniones Públicas y Manifestaciones

8 Ley de Partidos Políticos, Reuniones Públicas y Manifestaciones

9 Ley de Partidos Políticos, Reuniones Públicas y Manifestaciones


13 The Bolivarian National Police force is a “public safety agency, with administrative and functional dependency on the Ministry of Popular Power responsible for public safety”. Ley Orgánica del Servicio de Policía y del Cuerpo de Policía Nacional Bolivariana. Article 35.

14 “The State police forces are public safety agencies or bodies responsible for undertaking the Police Service in their territorial area and whose remit is primarily oriented toward preventive activities and crime control, with strict adherence to the principles and guidelines established in this Law, its regulations and the guidelines and directives issued by the police governing body”. Ley Orgánica del Servicio de Policía y del Cuerpo de Policía Nacional Bolivariana. Article 42.


17 IACtHR, Case of Montero Aranguren and others (Retén de Catia) vs. Venezuela. Sentence of July 5, 2006, Series C No. 150, para 78.

18 Ibid.


22 Stay of Proceedings (Sobreseimiento) is a Concluding Act of the Preparatory Phase of criminal proceedings. It is appropriate when the events did not take place or cannot be attributed to the accused, the events were not typical or criminal action has been exhausted. Article 300 of the Criminal Procedure Code.

23 Dismissal (Desestimación) is appropriate if the act is not of a criminal nature or the case is clearly closed, or there is a legal impediment to the development of the proceedings. Article 283 of the Criminal Procedure Code.
Archiving cases is a Concluding Act in the Preparatory Phase of the criminal process. It is appropriate when the outcome of the investigation is insufficient to indict. Article 297 of the Criminal Procedure Code.

Indictment is a Concluding Act of the Preparatory Phase of the criminal process. It applies when the Public Prosecutor’s Office believes that research provides serious grounds for the public prosecution of the accused. Article 308 of the Criminal Procedure Code.


Ibid.


Ibid.

Ibid.

Ibid.

Ibid.


Agencia Venezolana de Noticias. Fiscalía determinó que no hubo caso de violación en Carabobo. http://www.avn.info.ve/contenido/fiscal%C3%ADa-determin%C3%B3-que-no-hubo-caso-violaci%C3%B3n-carabobo


Ibid.


Protesting: Rights Violations in Venezuela’s Streets, Detention Centres, and Justice System. Pp. 27 and 35. 
http://www.hrw.org/reports/2014/05/05/punished-protesting-0. See also: IACHR. Case of Uzcátegui and others vs. Venezuela. Merits and Reparations. Sentence of September 3, 2012 Series C No. 249, para 78. 
http://www.corteidh.or.cr/docs/casos/articulos/seriec_249_ing.pdf.


46 Ibid.


49 Ibid

50 Libro de la Gran Misión ¡A Toda Vida! Venezuela. P. 27. Available online at: 

51 Ibid.

52 Amnesty International. Press Release: Ten members of a family killed in Venezuela while the authorities fail to investigate 
Address by the Minister of Interior and Justice, Nestor Reverol in the speech made at the first national meeting of the “Gran Misión A Toda Vida Venezuela” (according to its website, the “Gran Misión A Toda Vida Venezuela” is a “comprehensive State policy, which aims to reduce crime related situations, road accidents, disasters or emergencies, so that all Venezuelan people can enjoy their rights in peace”, see: http://www.misionatodavidavenezuela.gob.ve/guiones-somos - in Spanish) quoted in: Últimas Noticias. “Venezuela registró 16.000 homicidios en 2012, según Reverol!”. March 1, 2013, available at: 

53 Venezuelan Observatory on Violence. Annual Report 2013. Summary Available online: 

54 Ibid.


57 Ibid.

http://historico.notitarde.com/2001/10/16/valencia/valencia1.html - in Spanish


60 Ibid.

61 Revista del Ministerio Público Año II, No. III, La lucha contra la Impunidad como garantía de Justicia y la Paz para los Pueblos de Iberoamérica. Artículo “Unidades criminalísticas investigarán a funcionarios que vulneren derechos humanos”, P 31. Available online at: 

62 Ombudsman, Annual Report 2001. Chapter 7. Section 7.1.3. Available online: 

The Venezuelan Observatory on Social Conflict recorded in the first half of 2014 at least 6,369 protests. An average of 35 took place daily across the country. [http://www.observatoriodeconflictos.org.ve/tendencias-de-la-conflictividad/conflictividad-social-en-venezuela-en-el-primer-semestre-de-2014](http://www.observatoriodeconflictos.org.ve/tendencias-de-la-conflictividad/conflictividad-social-en-venezuela-en-el-primer-semestre-de-2014) - in Spanish


International Crisis Group Latin America Bulletin No. 38: Violence and Politics in Venezuela, August 17, 2011. See also: Preliminary Report on the Situation of Human Rights in the context of the protest. February 12 - 12 April 2014. Page 142. Maracaibo Zulia (Venezuela), Inter-Institutional Commission on Human Rights of the Faculty of Legal Policy at the University of Zulia, School of Law, Universidad Rafael Urdaneta and Commission on Human Rights of the Zulia Bar. Available online at: [https://docs.google.com/folderview?id=0B8r6TL2ePMjnMmZybhhNZIBQNTg&usp=gmail](https://docs.google.com/folderview?id=0B8r6TL2ePMjnMmZybhhNZIBQNTg&usp=gmail) – in Spanish


In accordance with Article 328 of the Constitution of the Bolivarian Republic of Venezuela, the National Guard, along with the Army, Navy and Air Force, make up the National Armed Forces.

The case of the protest near the Hotel Venetur in Nueva Esparta State is emblematic of the criminalization of protest, where the Organic Law against Organized Crime and Terrorist Financing was applied as a tool to intimidate and restrict the right to express dissent - accusing seven people of instigating the public, resisting arrest, conspiracy and incitement to crime – in addition mistreatment was reported (beatings, insults, assaults) of citizens who were arrested, tried and sent to an extremely dangerous prison located in Anzoategui State called Puente Ayala Prison. Information provided by the organization Nueva Esparta en Movimiento. See also: Periódico El Universal, 04/02/14 “Envían a prisión a ciudadanos que protestaron el domingo contra equipo cubano de béisbol en Margarita”. http://www.eluniversal.com/nacional-y-politica/140204/por-presunta-agresion-a-delegacion-cubana-de-beisbol-hay-siete-detenido. See also YouTube Video testimonies of victims of arrests compiled by Nueva Esparta en Movimiento http://www.youtube.com/watch?v=pNxqZbs-yIc.


91 Inter-Institutional Commission on Human Rights of the Faculty of Legal Policy at the University of Zulia, School of Law, Universidad Rafael Urdaneta and Commission on Human Rights of the Zulia Bar. Preliminary Report on the Situation of Human Rights in the context of the protest. February 12th - April 12th 2014. Maracaibo Zulia (Venezuela). P. 51. Available online at: https://docs.google.com/folderview?id=0B8r6TL2ePMjnMmZybnhNzIBQNTg&usp=gmail – in Spanish


94 Inter-Institutional Commission on Human Rights of the Faculty of Legal Policy at the University of Zulia, School of Law, Universidad Rafael Urdaneta and Commission on Human Rights of the Zulia Bar. Preliminary Report on the Situation of Human Rights in the context of the protest. February 12th - April 12th 2014. Maracaibo Zulia (Venezuela). Available online at: https://docs.google.com/folderview?id=0B8r6TL2ePMjnMmZybnhNzIBQNTg&usp=gmail – in Spanish.

95 Citizens have the right to be informed in a timely and truthful manner by the Public Administration on the status of its actions in matters in which they have a direct interest, and to know the final decisions to be taken on these matters. They must also have access to administrative files and records, subject to the limits acceptable in a democratic society in matters relating to internal and external security, criminal investigation and the intimacy of private life, in accordance with the law regulating the classification of confidential or secret documents. No censorship shall be permitted to public officials or public servants to report on matters under their responsibility.


99 Article 324 of the Constitution establishes that: “Only government can own and use weapons of war, those which exist, are manufactured or imported into the country, will become the property of the Republic without compensation or proceedings. The National Armed Forces shall be the competent institution to regulate and control, according to the respective law the manufacture, import, export, storage, transit, registration, monitoring, inspection, trade, possession and use of other weapons, ammunition and explosives”.

100 Venezuelan Observatory for the Human Rights of Women. Alternative report on the list of issues and questions raised by the CEDAW committee with regards to the combined seventh and eighth periodic reports of the Bolivarian Republic Of Venezuela (CEDAW/C/VEN/7-8). http://observatorioddhhmujeres.org/documentos/informe%20alternativo.htm – in Spanish


102 Ibid.


32


110 Ibid.


116 Ibid.

117 CECODAP is a Venezuelan organization that since 1984, works to promote and defend the human rights of children and adolescents with a special emphasis on building peaceful coexistence via the public participation of children and adolescents, families, schools and society.


125 Information provided by the Asociación Civil Venezuela Diversa.

126 Ibid.

127 Ibid.

128 Coalición Venezolana de Organizaciones LGBTI. PRESS RELEASE AGAINST ACTS OF HOMOPHOBIA IN THE CITY OF FRANCISCO LINARES ALCÁNTARA ARAGUA STATE. Available online: http://venezueladiversaac.blogspot.com/2012/11/coalicion-venezolana-de-organizaciones.html - in Spanish

129 Information provided by the Vicaría de Derechos Humanos de la Arquidiócesis de Caracas.

130 Ibid.

131 Information provided by the Asociación Civil Venezuela Diversa.

Tab #13
VENEZUELA’S HUMANITARIAN EMERGENCY
Large-Scale UN Response Needed to Address Health and Food Crises
Venezuela’s Humanitarian Emergency
Large-Scale UN Response Needed to Address
Health and Food Crises
Venezuela’s Humanitarian Emergency
Large-Scale UN Response Needed to Address Health and Food Crises

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Summary

In January 2019, hundreds of thousands of Venezuelans took to the streets, following an appeal by National Assembly president Juan Guaidó, who asked the Venezuelan people to mobilize in support of restoring constitutional order in the country. During a massive protest on January 23, Guaidó claimed that he was taking power as interim president of Venezuela and said he would call for free and fair elections. More than 50 governments have since recognized him as Venezuela’s interim president, but Nicolás Maduro continues to exercise firm control over all Venezuelan institutions, except for the opposition-controlled National Assembly.

While this political power struggle unfolds, one of the major underlying concerns for the Venezuelan people is the dramatic humanitarian crisis they are facing. In one of his first public speeches since becoming the National Assembly president on January 5, Guaidó said Venezuela was facing a humanitarian emergency and asked the international community for aid to address it.

It is impossible to know yet the full extent of the health and food crises in Venezuela. This is largely because the Venezuelan authorities have failed to publish health and nutrition data and retaliated against those who did.

To assess the current state of the humanitarian crisis in Venezuela, and the impact of the crisis on the human rights of Venezuela’s population and on neighboring countries, Human Rights Watch partnered with the Center for Humanitarian Health and the Center for Public Health and Human Rights at the Johns Hopkins Bloomberg School of Public Health. This report is based on interviews with more than 150 health care professionals, Venezuelans seeking or in need of medical care who recently arrived in Colombia and Brazil, representatives from international and nongovernmental humanitarian organizations, United Nations (UN) officials, and Brazilian and Colombian government officials. In addition, researchers analyzed data on the situation inside Venezuela from official sources, hospitals, international and national organizations, and civil society organizations.
We found a health system in utter collapse with increased levels of maternal and infant mortality; the spread of vaccine-preventable diseases, such as measles and diphtheria; and increases in numbers of infectious diseases such as malaria and tuberculosis (TB). Although the government stopped publishing official data on nutrition in 2007, research by Venezuelan organizations and universities documents high levels of food insecurity and child malnutrition, and available data shows high hospital admissions of malnourished children.

A massive exodus of Venezuelans—more than 3.4 million in recent years, according to the UN—is straining health systems in receiving countries.

Acknowledging the problem and asking for help is a crucial first step, but the UN’s leadership is essential to the success of any large-scale humanitarian assistance plan in Venezuela. The combination of medicine shortages and food shortages, together with the spread of diseases across Venezuela’s borders, amounts to a complex humanitarian emergency that requires a full-fledged response by UN humanitarian actors.¹

International humanitarian aid to Venezuela increased in 2018, after a shift in the government’s discourse from entirely denying the humanitarian crisis to recognizing an economic one. The government, however, blamed the shortages on US imposed sanctions, even though the humanitarian crisis preceded sanctions on the oil sector that could potentially have an impact on the importation of food and medicines. Humanitarian actors from international and non-governmental organizations have consistently reported that aid to Venezuela is not enough to cover the population’s urgent needs.

To protect the rights to health and food of the Venezuelan people, UN Secretary-General António Guterres should lead efforts to develop a comprehensive humanitarian response

¹ The UN Office of Coordination of Humanitarian Affairs (OCHA) defines a “complex emergency” as “a humanitarian crisis in a country, region or society where there is total or considerable breakdown of authority resulting from internal or external conflict and which requires an international response that goes beyond the mandate or capacity of any single agency and/or the ongoing UN country program.” OCHA, “Orientation Handbook on Complex Emergencies,” August 1999, https://reliefweb.int/sites/reliefweb.int/files/resources/3D153DA3069B32A2AC1256C30002A9C24-ochacockbook_on_complex_emergency.html (accessed February 8, 2019); The UN Inter-Agency Standing Committee, “Definition of Complex Emergencies,” November 30, 1994, https://interagencystandingcommittee.org/system/files/legacy_files/WG16_4.pdf (accessed February 8, 2019).
plan for the situation both inside and outside of the country. The plan should respect the principles of humanity, neutrality, independence, and impartiality in the provision of assistance. It should also include an independent assessment of the extent of the crisis, prioritization of the crisis by the UN Office of Coordination of Humanitarian Affairs (OCHA), and ensure access to import necessary food, medicines, and medical supplies.

Furthermore, a concerted and comprehensive plan to assist displaced Venezuelans outside of the country, which recognizes that such displacement tends to be protracted, needs to be created and implemented.

Health Crisis

Venezuela’s health system has been in decline since 2012, with conditions worsening drastically since 2017. A nation-wide blackout in March that lasted more than a day, and intermittent blackouts since then, have further undermined the ability of public hospitals to adequately respond to the medical needs of Venezuelans.

Venezuela is now routinely experiencing outbreaks of vaccine-preventable diseases that had once been eliminated in the country. These outbreaks suggest a serious decline in vaccination coverage. The Pan American Health Organization (PAHO) reports:

- Between 2008 and 2015, only a single case of measles was recorded (in 2012). Since June 2017, more than 9,300 cases of measles have been reported, of which more than 6,200 have been confirmed.
- Venezuela did not experience a single case of diphtheria between 2006 and 2015, but more than 2,500 suspected cases have been reported since July 2016, including more than 1,500 confirmed cases.

The World Health Organization (WHO) reports that confirmed malaria cases in Venezuela have consistently increased in recent years—from fewer than 36,000 in 2009 to more than 414,000 in 2017. An official document co-authored by the Venezuelan Health Ministry shows that malaria is now endemic in Venezuela. Health experts attribute this to reductions in mosquito-control activities, shortages in medication to treat the disease, and illegal mining activities that promote mosquito breeding by creating pools of water.
The number of reported TB cases in Venezuela increased from 6,000 in 2014 to 7,800 in 2016, and preliminary reports indicate more than 13,000 cases in 2017. The TB incidence rate has increased constantly since 2014, reaching 42 per 100,000 in 2017—the highest seen in Venezuela in 40 years.

It is difficult to estimate recent HIV trends in Venezuela: HIV testing has been greatly reduced because of a lack of test kits, and no surveillance data on new HIV diagnoses has been published since 2016. Similarly, statistics on HIV-related mortality are not available after 2015. However, according to the last data available, both new HIV infections and HIV-related deaths have been sharply increasing.

Venezuela is the only country in the world where large numbers of individuals living with HIV have been forced to discontinue their treatment as a result of the lack of availability of antiretroviral (ARV) medicines. A 2018 PAHO report estimated that nearly nine of ten Venezuelans living with HIV registered by the government (69,308 of 79,467 people, or 87 percent) were not receiving ARV treatment, though the actual number of people who need ARVs is unknown.

The latest official statistics available from the Venezuelan Ministry of Health indicate that in 2016, maternal mortality rose 65 percent and infant mortality rose 30 percent in just one year. While infant mortality has risen throughout the region, Venezuela is the only country in South America that has risen back to infant mortality rate levels of the 1990s. The health minister who made these statistics public in early 2017 was fired a few days later, and the Ministry of Health has not released any epidemiological data since then.

**Nutrition Crisis**

Hunger, malnutrition, and severe shortages of food are widespread. Many of the dozens of Venezuelans whom the Human Rights Watch and Johns Hopkins team interviewed at the border said they had lost weight and were eating one or two meals a day back home. For some, a meal consisted solely of yuca or tinned sardines.

The Venezuelan government has not published nationwide nutrition data since 2007, but available evidence suggests malnutrition is high:
• In 2018, the UN’s Food and Agriculture Organization (FAO) indicated that between 2015 and 2017, 11.7 percent of Venezuela’s population—3.7 million people—was undernourished, up from less than 5 percent between 2008 and 2013.

• In February 2019, a spokesperson for WHO confirmed that “Venezuela had indeed experienced an increase in the number of undernourished persons,” based on a joint report by FAO, PAHO, UN Children’s Emergency Fund (UNICEF), and the World Food Programme (WFP).

• A nationally representative survey by three prestigious universities in Venezuela concluded that 80 percent of Venezuelan households are food insecure, meaning they do not have a reliable source of food, and that nearly two-thirds of people surveyed had lost weight (on average 11 kilograms or nearly 25 pounds) in 2017.

• Cáritas Venezuela, a Catholic humanitarian organization that monitors nutrition and provides nutritional aid to children in low-income communities in Caracas and several states, reported that moderate acute malnutrition (MAM) and severe acute malnutrition (SAM) among children under age 5 increased from 10 percent in February 2017 to 17 percent in March 2018—a level indicative of a crisis, based on WHO standards. Subsequent reports found that the overall rate in those states had decreased to 13.5 percent in July and 9.6 percent in September, but rates increased in the same period from 11.6 to 13.4 percent in Miranda state, and from 6 to 11.8 percent in Sucre state.

• A September 2018 Cáritas Venezuela survey found that 21 percent of pregnant women in low-income communities had moderate or severe acute malnutrition.

• Several hospitals across the country are reporting increases in the number of children admitted with moderate or severe acute malnutrition, as well as deaths of children with acute malnutrition, according to information provided by Venezuelan health professionals to Human Rights Watch and Johns Hopkins University.

Impact Across Venezuela’s Borders
The massive exodus of Venezuelans—many of whom fled their country in search of medicines, medical supplies, health providers, and basic health services—is straining services across Venezuela’s borders. Available data from Colombian and Brazilian
authorities on Venezuelan patients gives a glimpse of the deteriorating conditions that Venezuelan authorities are failing to adequately report.²

In Colombia—the country that has received the largest influx of Venezuelans—the North Santander border area has seen a sharp rise in the number of reported cases of Venezuelans seeking medical care, from 182 in 2015 to 5,094 in 2018.³ Venezuelans have sought care for acute, chronic, and infectious diseases, as well as access to reproductive health and prenatal and maternal care.

According to a 2018 report by the Colombian government, more than 8,000 pregnant Venezuelan women who had entered Colombia were expected to give birth in the country; the majority of this population did not have access to any type of prenatal care in Venezuela. Declines in maternal and infant health, health professionals said, reflected the lack of availability of care in Venezuela. Forty-five Venezuelan women experienced serious illness tied to pregnancy or childbirth, and seven died in 2018 on the Colombian side of the border. Low birth weight and perinatal and neonatal mortality among Venezuelan infants have risen drastically in Colombia with 211 newborn deaths in 2018.

Colombian health officials have had to address increasing cases of SAM among Venezuelan children under age 5 as well, with the number of cases rising from zero in 2015 to two in 2016, 13 in 2017, and 360 in 2018. Health officials have also seen the first deaths of Venezuelan patients from acute malnutrition ever reported in 2017, with three deaths. In 2018, 11 Venezuelans died from acute malnutrition.

Brazil experienced its first cases of measles in early 2018, after no confirmed cases since 2015. More than 10,000 cases have since been confirmed, as of January 2019. The strain of the measles virus (D8) in Brazil is identical to the strain causing the outbreak in

² This report focuses on the health and food crises within Venezuela, and uses information gathered in Colombia and Brazil to expose the situation inside Venezuela. For additional information on the situation of Venezuelans fleeing their country, see Human Rights Watch, “The Venezuelan Exodus: The Need for a Regional Response to an Unprecedented Migration Crisis,” September 3, 2018, https://www.hrw.org/report/2018/09/03/venezuelan-exodus/need-regional-response-unprecedented-migration-crisis#.

³ While specific rates are unavailable, the increasing number of cases listed here and elsewhere adds a strain on existing health systems.
Venezuela. The majority (61 percent) of cases in Roraima state, the main Brazilian port of entry from Venezuela, have occurred among Venezuelans.

Malaria has also surged in Roraima, where the number of cases among Venezuelans increased from 1260 in 2015 to 2470 in 2016 and 4402 in 2018. They have continued to rise since. Physicians told us that Venezuelans were more likely to arrive at the hospital very sick, and their management was often complicated by malnutrition.

Brazilian health officials are also seeing increasing cases of TB and HIV. Between January and December of 2018, 60 Venezuelans with TB had been identified by the health authorities in Roraima. This was more than the total number of TB cases among Venezuelans in the preceding five years (2013 to 2017), when a total of 32 cases were reported among Venezuelans in Roraima.

At the Specialty Clinic Colonel Mota, which is the primary source of outpatient HIV care in Roraima, 171 Venezuelan patients were receiving ARV therapy for HIV in August 2018. Among them, almost 70 percent (117) arrived at the clinic seeking care in 2018 alone. Physicians at the clinic reported to the Human Rights Watch and Johns Hopkins University team that Venezuelans living with HIV presented for care often malnourished and already very sick with life-threatening opportunistic infections due to the lack of available ARVs in Venezuela.

The Maduro Government’s Responsibility

Despite overwhelming evidence that Venezuela is facing a humanitarian crisis, the Maduro government continues to publicly minimize it and to suppress information about it, and has done far too little to alleviate it.

Venezuelan authorities under Maduro have concealed the crisis by ending the once-regular publication of official health information. They have harassed and retaliated against those who collect data or speak out about food and medicine shortages. These actions, together with the government’s failure to acknowledge the full scope of the problem, have rendered a comprehensive diagnosis of the crisis impossible. Such a diagnosis is critical to creating an effective humanitarian response.
The Venezuelan government’s failure to report public health information, its suppression of those speaking out about health conditions within the country, all while the country’s health facilities continue to deteriorate, represent a violation of Venezuela’s obligations to respect, protect, and fulfill the right to health guaranteed under both the Venezuelan Constitution and the International Covenant on Economic, Social and Cultural Rights (ICESCR). The ICESCR, which Venezuela has ratified, guarantees everyone the right to “the enjoyment of the highest attainable standard of physical and mental health,” as well as the right to an adequate “standard of living” that includes “adequate food.”

While more international aid started to enter the country in 2018, interviews with humanitarian workers from international and nongovernmental organizations operating in Venezuela clearly state that the aid is not sufficient to meet the population’s urgent needs. At the same time, the government has not only failed to acknowledge the extent of the country’s needs and request the scale of assistance the crisis demands, but has in many cases imposed barriers on the activities of international humanitarian organizations.

The Maduro government is largely to blame for the lack of a coordinated international response to Venezuela’s crisis. By failing to acknowledge the full scope of the crisis and invite key UN agencies to independently assess the situation and coordinate an effective response to it, Venezuelan authorities are contributing to the suffering of the Venezuelan people. Instead of threatening and harassing concerned Venezuelans who call attention to the country’s problems, they should make every effort to collect and publicize data about the health and food security crises. While Venezuelan authorities are within their rights to reject particular offers of assistance, doing so only heightens their responsibility to work towards alternatives that can fully address the urgency of the country’s needs. Efforts undertaken by Venezuelan authorities during the presidency of Nicolás Maduro have failed to do so.
Recommendations

The UN should prioritize addressing Venezuela’s quickly deteriorating humanitarian situation. The UN’s senior leadership and all relevant UN bodies should engage in proactive diplomacy to press Venezuelan authorities to allow UN agencies to lead and implement a large-scale humanitarian response that will ensure the Venezuelan population receives necessary humanitarian assistance to address its urgent needs.

The UN Secretary-General António Guterres should:

- Publicly acknowledge that Venezuela is facing a complex humanitarian crisis and prioritize the adoption by UN bodies and UN agencies involved in humanitarian assistance of measures to address it, including those recommended in this report;
- Make clear to Venezuela’s leadership that it is responsible for ensuring that the UN can implement a humanitarian response commensurate with the gravity of the crisis;
- Designate the UN Emergency Relief Coordinator (ERC), who is also the head of OCHA and is responsible for coordinating humanitarian action to respond to emergencies, to negotiate with competent Venezuelan authorities to:
  - Grant UN staff and humanitarian non-government organizations (NGOs) full access to official disease, epidemiological, food security, and nutrition data so they can carry out an independent and comprehensive humanitarian needs assessment of the full scope of the crisis, as well as permission to conduct their own independent assessments;
  - Ensure the implementation of a UN-led large scale humanitarian response in Venezuela;
  - Ensure the UN Country Team has the express mandate to deal with the serious humanitarian crisis that Venezuela is facing and that it is fully mobilized and equipped to do so;
  - Ensure that the UN humanitarian response has the necessary staffing and resources on the ground to address the crisis;
  - Eliminate obstacles to implementing a large-scale humanitarian operation, including legal permits for humanitarian staff to stay in the country and for organizations to import food, medicines, and medical supplies;
o Advocate for OCHA, UNICEF, WFP, UNHCR, WHO, and other UN and NGOs to scale up their presence to facilitate coordination and implementation of a large-scale response; and

o Ensure that in keeping with the principles of Human Rights Up Front, all UN staff inside and outside Venezuela ensure that the human rights of the Venezuelan people are given priority when it comes to deciding on how to address the humanitarian crisis.4

The Inter-Agency Standing Committee should:

• Implement the process to decide upon a humanitarian System-Wide Scale-Up Activation to address Venezuela’s humanitarian crisis; and

• Ensure its members collaborate in the implementation of the system-wide scale activation in Venezuela.

The UN Security Council should:

• Regularly meet to address Venezuela’s humanitarian crisis and its impact across Venezuela’s borders;

• Request regular reports from the Secretary-General and UN ERC on the humanitarian crisis and the response to it; and

• Request and discuss all reports, resolutions, and other documents from the High Commissioner for Human Rights and the Human Rights Council.

In her upcoming report on the situation in Venezuela, to be presented before the UN Human Rights Council in July, the UN High Commissioner for Human Rights should:

• Document the violations to the rights to health and food in Venezuela;

• Urge Venezuelan authorities to release disease, epidemiological, food security, and nutrition data that would enable UN humanitarian agencies to conduct a comprehensive needs-based assessment of the humanitarian situation in Venezuela; and

• Recommend that the Human Rights Council create an International Commission of Inquiry that would look not only into abuses committed by Venezuelan authorities during their crackdown on dissent, but also into violations of the rights to health and food.

The UN Human Rights Council should:
• Continue to monitor closely the humanitarian situation in Venezuela and address it during its upcoming sessions; and
• Adopt a resolution to create an International Commission of Inquiry to investigate violations of the rights to health and food, in addition to the crackdown on dissent since 2014, as follow-up to the UN High Commissioner for Human Rights’ upcoming report on Venezuela.

The Executive Director of the World Health Organization (WHO) should:
• Collaborate with the UN in the implementation of large-scale response to address Venezuela’s humanitarian emergency led by the UN; and
• Ensure that Venezuela is fully reporting data in accordance with its obligations under the International Health Regulations (IHR) and agreements with PAHO/WHO and other UN agencies.

Lima Group members, the United States, and European governments should:
• Organize a high-level meeting, inviting representatives from key UN humanitarian organizations and Venezuelan civil society groups working in-country, to develop a humanitarian assistance plan that could increase levels of humanitarian assistance into Venezuela in the short term, including by providing additional support to civil society groups already operating in the country;
• Channel humanitarian assistance into Venezuela through the UN, ensuring it respects the principles of humanity, neutrality, independence, and impartiality in the provision of assistance;
• Continue to impose and enforce targeted sanctions against key Venezuelan officials implicated in human rights violations and ensure that any other sanctions on Venezuela include exceptions that allow for the importation of food, medicine, and medical supplies; and
• Ensure that targeted sanctions against specific Venezuelan individuals involved in human rights abuses are carefully enforced.

Venezuelan authorities should:
• Release all available epidemiological data so OCHA can coordinate an independent, comprehensive assessment of the full scope of the crisis; and
• Grant UN humanitarian agencies and NGOs full access to the country so they can implement a large-scale humanitarian response to address the crisis.

The governments of Colombia and Brazil should:
• Continue to make efforts to ensure Venezuelans in their territories have access to adequate health services, in accordance with the international obligation to protect the right to health of migrants and refugees;
• Continue to monitor surveillance data to identify health priority needs among Venezuelan migrants and refugees, and collaborate with national and local public health authorities, as well as PAHO, to respond to increases in infectious diseases and poor maternal and neonatal outcomes;
• Maintain political will and facilitate access to transit permits, border mobility cards, and/or temporary residency status, as applicable;
• Invest in health services to support dramatic rises in healthcare utilization;
• Continue to promote integration to improve the housing situation and economic opportunities for Venezuelans abroad, and to minimize resentment among local populations in remote and underserved areas at the Venezuelan border; and
• Continue to work with UN humanitarian agencies, other Latin American governments, NGOs and the international community to create, fund, and implement a concerted and comprehensive plan to assist displaced Venezuelans outside of the country, which recognizes that such displacement tends to be protracted.
Methodology

This report is based on 156 interviews with health care professionals, Venezuelans seeking or in need of care for an array of illnesses who had recently arrived in Colombia and Brazil, representatives from international and nongovernmental humanitarian organizations, UN officials, and Brazilian and Colombian government officials. The interviews were conducted primarily during research missions to the Venezuelan border with Colombia (Cúcuta) and with Brazil (Boa Vista and Pacaraima) in July and August 2018. Some of the interviews—including all of the interviews with doctors or other health professionals in various locations in Venezuela—were conducted via telephone, email, or online platform before and after the research trips. We did not conduct in-person research in Venezuela for this report out of security considerations for our staff and the people we would be interviewing.

Human Rights Watch and Johns Hopkins researchers visited seven public hospitals or health centers in Colombia and Brazil. We interviewed 13 health professionals working there, as well as 11 representatives from UN agencies and more than 14 government officials responding to the influx of Venezuelans. We also interviewed 71 Venezuelans who had crossed the border into Colombia or Brazil, including many who were hospitalized at the time of the interview.

Researchers conducted 25 interviews with doctors or nutritionists working in Venezuela, and seven other interviews with an epidemiologist and representatives of medical associations in several states. The interviewees worked in Caracas and 15 states: Anzoátegui, Apure, Barinas, Bolívar, Carabobo, Delta Amacuo, Lara, Mérida, Miranda, Nueva Esparta, Sucre, Táchira, Vargas, Yaracuy, and Zulia. We also interviewed more than a dozen humanitarian workers from international and nongovernmental organizations, including some based in Venezuela.

Interviews were conducted by Human Rights Watch and/or Johns Hopkins University staff in Spanish. Interviewees were informed of how the information gathered would be used, and informed that they could decline the interview or terminate it at any point. In some interviews, we paid reimbursement for transportation. One focus group was carried out in
Colombia; the rest were key informant, individual interviews. The names of some sources have been replaced with pseudonyms, and the names of some health care professionals have been withheld for security concerns, as indicated in relevant citations.

Health information is also drawn from reports by WHO, PAHO, and other UN offices, as well as from a thorough analysis of information published by Venezuelan organizations monitoring the situation on the ground, and information provided to us by Venezuelan health professionals working throughout the country. We requested information from UN agencies working on humanitarian crises worldwide on their response in Venezuela, and their responses are included in this publication.

To obtain the official position, in February 2019, we sent a letter to Jorge Arreaza, Venezuela’s foreign minister, requesting information Venezuelan authorities’ views regarding the extent of the crisis and the policies it was implementing to address it. We had not received a response at the time of writing. We reviewed public statements made by high-level Venezuelan authorities, as well as the limited available information produced by the Health Ministry. We also conducted an extensive review of official documents, news accounts in state media outlets, Twitter feeds of government officials, and other official sources to evaluate the Venezuelan authorities’ position and assessment of the humanitarian crisis that Venezuela is facing, as well as their response to the shortages.

This report covers events and data as of March 17, 2019, when it went to print.
Health Crisis

Healthcare Infrastructure

During the initial years of Hugo Chávez’s presidency, progress in the provision of healthcare was “rapid and initial results were promising.”\(^5\) In fact, national health indicators showed an overall improvement in health care during the early 2000s,\(^6\) with increases in life expectancy (from 71.8 to 74.1 years) and declining infant mortality (from 26.7 to 14.6 deaths per 1000 live births) between 1998 and 2013, the period of Chavez’s rule.\(^7\)

But Venezuela’s health system has been in decline since 2012, with conditions worsening drastically since 2017.\(^8\)

The health system has suffered from severe shortages of medicines and health supplies, hospitals without regular access to utilities, health workers emigrating from Venezuela, and a deterioration in emergency services and the capacity to respond to disease outbreaks.\(^9\) A November 2018 nationwide survey by Doctors for Health (Médicos por la Salud), a network of residents working in public hospitals, found that of the 40 hospitals included in the survey from 24 states, 76 percent had reported a lapse in laboratory testing and 70 percent a lapse in radiology services. Thirty-three percent of hospital beds were not available for patients. Many hospitals also reported shortages in basic necessities for the provision of medical care: 67 percent had seen electricity shortages and 70 percent had seen shortages in water. A previous survey in 104 public hospitals and 33 private hospitals

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nationwide indicated that, as of March 2018, 88 percent of hospitals had reported shortages in medications and 79 percent had shortages in surgical supplies.¹⁰

People seeking care have been asked to bring in their own medical supplies like syringes and scalpels, as well as food for family members in the hospitals.¹¹ Due to inflation and shortage of medicines, people have turned to the black market to find needed medications, despite lack of quality guarantees, though many still cannot afford them.¹²

Health care workers have been leaving the country, further exacerbating worsening health system conditions. PAHO reported in July 2018 that 22,000, or about a third, of 66,138 registered physicians in 2014 had already left Venezuela.¹³ Many others have left since then as the crisis deepened.¹⁴

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Mortality

The Venezuelan Ministry of Health stopped releasing official data on maternal and child mortality in 2015. In early 2017, the health minister published data for 2016, which indicated that infant deaths rose by 30.1 percent and maternal deaths by 65.8 percent in 2016.\(^{15}\) As described in the chapter below on the Venezuelan government’s responsibility, the minister was promptly fired, and no statistics have been published since then. In January 2019, *The Lancet* published an article based on government statistics indicating that infant mortality had increased 40 percent between 2008 and 2016. While infant mortality has risen throughout the region, in Venezuela, the increase has been sharper, with rates returning to levels last seen in the 1990s.\(^{16}\)

Other data also indicates that maternal and infant mortality is a big concern in Venezuela. UNICEF data shows a near doubling of infant mortality rates over the past five years, increasing by 76 percent, from 14.6 deaths per 1,000 live births in 2012 to 25.7 deaths per 1,000 live births in 2017.\(^{17}\)

Data from a hospital in a border state in Venezuela shows a quickly deteriorating situation; from 2016 to 2018, neonatal deaths increased by 54 percent at the hospital, and the number of infant deaths overall doubled. The hospital also reported significant increases in admissions of patients with malaria and diarrhea, as well as cases of measles and diphtheria, all of which can cause maternal and infant mortality.\(^{18}\)


\(^{18}\) Information provided by health professionals to Human Rights Watch and Johns Hopkins University (copy on file at Human Rights Watch).
Source: Data provided to Human Rights Watch and Johns Hopkins University by hospital staff.
Mortality rates for the Venezuelan population as a whole also appear to be increasing, though data is less recent and pre-dates the crisis. From 2004 to 2014, the number of deaths per 100,000 population annually increased by almost 20 percent, from 450 to 537, which is in contrast to other countries in the region that have reported slow but consistent declines in mortality in recent decades.\(^9\) It is likely that declines in access to quality

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health services and medicines have exacerbated this trend in the past several years, but recent national mortality statistics are not available.

In addition, there are widespread shortages of basic contraception. Condoms, birth control pills, and intrauterine devices have not been available at public hospitals since 2015. Pharmacy shortages have led to a contraception black market where a month supply of birth control pills, for example, can cost 14 times the minimum monthly income. Venezuela had among the highest teenage pregnancy rates in Latin America prior to the economic collapse, and maternal mortality in 2015 was 40 percent higher than the regional average. According to the director of Venezuela's largest network of family planning clinics, the number of patients presenting with complications from clandestine abortions has increased, as have the number of women seeking permanent sterilization.\(^{20}\)

Vaccine-Preventable Diseases

Vaccine-preventable diseases have seen a resurgence in Venezuela. These outbreaks suggest that vaccination coverage in Venezuela is insufficient.

From July 2016 through early January 2019, 2,512 suspected cases of diphtheria (1,559 confirmed cases) appeared in Venezuela, 270 of them fatal. Cases have been seen in several states throughout the country with children under age 15 having the highest incidence rate.\(^{21}\) By contrast, between 2006 and 2015 not a single case of the disease was reported in Venezuela.\(^{22}\)

No cases of measles were recorded in Venezuela between 2008 and 2015, except for a single case in 2012.\(^{23}\) Measles reemerged in June 2017.\(^{24}\) By February 2019, 9,399 people


\(^{23}\) Ibid.

were suspected to have measles (6,242 confirmed) and 76 had died. In 2018, there were 508 confirmed measles cases among indigenous populations; 62 deaths were reported.\textsuperscript{25} Other countries—Brazil, Colombia, Ecuador, Peru, and Argentina—have all seen imported cases of measles from Venezuela. As of November 30, 2018, these countries had 10,140 confirmed cases of measles, a drastic increase from just four cases in these five countries in 2016 and 2017. There were other cases reported in the United States, Canada, Mexico, Chile, Antigua and Barbuda, and Guatemala.\textsuperscript{26}

As of March, both diphtheria and measles outbreaks were ongoing in Venezuela, according to PAHO.

**Malaria**

The number of confirmed malaria cases in Venezuela has consistently increased in recent years—from nearly 36,000 in 2009 to more than 414,000 in 2017, according to WHO.\textsuperscript{27}

Venezuela saw a 69 percent increase in malaria from 2016 to 2017, the fastest growth rate in the world.\textsuperscript{28} Nine states had reached epidemic levels, with Anzoátegui state seeing a 1,341 percent increase from 2016 to 2017.\textsuperscript{29}


In 2017, Venezuela reported its highest number of malaria cases since 1988. Studies have attributed this to severe shortage of medications and vector-control activities, and the propagation of illegal mining activities, where standing water from mining operation promotes mosquito breeding.

The increase in malaria within Venezuela has threatened progress towards malaria control within the country and region.

**HIV**

It is difficult to estimate recent HIV trends in Venezuela: HIV testing has been greatly reduced because of a lack of test kits and no surveillance data on new HIV diagnoses has been published since 2016. Similarly, statistics on HIV-related mortality are not available after 2015. However, according to the last data available, both new HIV infections and HIV-related deaths have been sharply increasing, and Venezuela is the only country in the world where large numbers of individuals living with HIV have been forced to discontinue their treatment as a result of the lack of availability of ARV medicines.

In 2016, the Venezuelan Ministry of Health estimated that 120,000 Venezuelans were living with HIV. In 2016, the government reported 6,500 new HIV cases, an increase of 24

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percent compared to 2010. However, this number is widely believed to be artificially low because of the shortage of testing kits for HIV.\textsuperscript{34} HIV transmission may also be occurring as a result of blood transfusions.

HIV-related morbidity has also increased as a result of delayed diagnosis and poor clinical management of HIV, including lack of access to HIV medicines.\textsuperscript{35} A 2018 PAHO report estimated that nearly nine of ten Venezuelans living with HIV registered by the government (69,308 of 79,467 people, or 87 percent) were not receiving ARV treatment, though the actual number of people who need ARVs is unknown.\textsuperscript{36} Despite improvements in HIV medicines over the last decade, allowing one dose “triple therapy” regimes with significantly fewer side effects than early HIV drugs first discovered 30 years ago, the death rate among Venezuelans living with HIV was 38 percent higher in 2015 compared to nine years earlier, in 2006.\textsuperscript{37} While the UN’s Joint Programme on HIV/AIDS (UNAIDS) has called for “zero AIDS deaths” by 2030, the lack of HIV medicines and laboratory tests to monitor viral load suggest that, without intervention, individuals living with HIV will die at rates far above those in neighboring countries.\textsuperscript{38} None of the 339 blood banks in Venezuela had the supplies to test for HIV.\textsuperscript{39}

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Tuberculosis

The number of Venezuelans with TB increased from 6,000 in 2014 to 7,800 in 2016, and preliminary reports indicate that there were more than 13,000 people with TB in 2017. In 2017 TB incidence rate (42 per 100,000) was the highest in Venezuela in 40 years. In addition, the number of individuals with drug resistant TB, which is very difficult to treat and has a high mortality rate, nearly doubled between 2014 and 2017.

The deteriorating health system and lack of medical supplies has curtailed the ability to test for TB. Physicians have stated that patients are unable to receive treatment in regional health centers, and instead must travel to large urban centers in order to be treated. According to WHO, Venezuela’s national TB program had only 14 percent of its budget funded for 2018.

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Confirmed Cases in Venezuela

Nutrition Crisis

The Venezuelan government stopped releasing official data on nutrition in 2007.\(^{45}\) However, other sources, including information gathered by Venezuelan health professionals and nongovernmental groups, indicate worrying increases in levels of malnutrition.

In 2018, FAO indicated that between 2015 and 2017, 11.7 percent of Venezuela’s population—3.7 million people—was undernourished, up from less than 5 percent between 2008 and 2013.\(^{46}\) In February 2019, a spokesperson for WHO confirmed that “Venezuela had indeed experienced an increase in the number of undernourished persons,” based on a joint report by FAO, PAHO, UNICEF, and WFP.\(^{47}\)

Declining Food Security

The majority of Venezuelan households are now food insecure, meaning they lack sufficient access to safe and nutritious foods, according to the most recent available data.\(^{48}\) The 2017 National Living Conditions Survey, carried out by three prestigious Venezuelan organizations, found that 80 percent of households were food insecure and 87 percent were living in poverty, up from 48 percent in 2014. The survey also showed 89 percent of households reporting they had insufficient income to buy food, and 61 percent

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\(^{45}\) Human Rights Watch interview with Venezuelan health professional (name withheld for security reasons), October 22, 2018.


of those interviewed reporting going to bed hungry. Additionally, respondents reported a decline in the quality of food they were able to afford, opting for cheaper, but less nutritious foods. Subsequently, in the 2018 National Living Conditions Survey, the researchers found a 48 percent increase in the number of poor households during 2018.

Many factors explain this. First, Venezuela, which imports more than 70 percent of its food, has seen a 67 percent drop in food imports from the start of 2016 to the end of 2017. Secondly, hyperinflation makes it impossible for many Venezuelans to purchase food in the regular markets. They therefore rely on boxes with food items subject to government set prices, but these do not reach all Venezuelans who need them, provision of boxes is intermittent, and receipt is often linked to political support of the government.

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50 Ibid.


Increasing Prevalence of Acute Malnutrition

It is difficult to know the full extent of acute malnutrition in Venezuela as the government has not made data available and the prospect of government retaliation makes hospital workers afraid to record accurate data on malnutrition. However, two NGOs in the country have been monitoring acute malnutrition and are able to provide some insight into the scope of the nutrition problem.

Caritas, a non-governmental organization supported by the Catholic Church, has been collecting data on malnutrition in children under age 5 in seven states throughout the country. For each state that Caritas observed, four to seven vulnerable sites were surveyed, with 725 to 1445 samples taken at each site. The assessment found an increase in childhood acute malnutrition from 2016 to early 2018 followed by a decline in some states surveyed.

Cáritas reported that MAM and SAM among children under age 5 increased from 10 percent in February 2017 to 17 percent in March 2018—a level indicative of a crisis, based on WHO standards. Subsequent reports found that the overall rate in those states had decreased to 13.5 percent in July and 9.6 percent in September, but rates increased in the same period from 11.6 to 13.4 percent in Miranda state, and from 6 to 11.8 percent in Sucre state.

The non-profit Bengoa Foundation also found evidence of deteriorating nutritional conditions amongst children. Their study observed preschool children enrolled in school feeding programs in 10 different schools around the country. Three of the schools that Bengoa surveyed saw acute malnutrition rise from 3.3-3.4 percent in the 2014/2015 school year, to 15.5 percent in 2017. Several schools surveyed in the state of Anzoátegui had

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acute malnutrition rates of 16.7 percent. Similar to areas assessed by Caritas, acute malnutrition prevalence in sites assessed by the Bengoa foundation surpassed crisis levels established by WHO.

The Caritas and Bengoa Foundation studies were of select populations within Venezuela and cannot be considered representative of the country as a whole. However, their data indicate high levels of acute malnutrition in at least some vulnerable communities.

Further data also shows malnutrition occurring in adults, particularly in pregnant women. Twenty-one percent of pregnant women in low-income communities were found to have acute malnutrition in a July-September 2018 Caritas survey. Additionally, the 2017 National Living Conditions Survey reported that 64.3 percent of the survey population had lost weight in the previous year, with an average weight loss of 11.4 kilograms (nearly 25 pounds) in adults.

**Increasing Hospital Admissions with Acute Malnutrition**

Venezuelan hospitals reported an increase in the number of children admitted for acute malnutrition, as well as an increase in consultations regarding acute malnutrition in 2018. The proportion of children being admitted to hospitals who were acutely malnourished in early 2018 was alarmingly high, ranging from 18 to 40 percent, in five different locations around the country.

In mid-2018, The Venezuelan Society of Childcare and Pediatrics reported that 72 percent of children who sought emergency care at hospitals showed some level of poor nutrition as

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58 Caritas, “Monitoring and Nutritional Assistance System” (Sistema de Alerta, Monitoreo y Asistencia a la Nutrición, SAMAN) July – September 2018.
60 Information provided by health professionals in five hospitals in Caracas and the states of Apure, Táchira, Lara, and Delta Amacuro states in Venezuela (copies on file at Human Rights Watch).
The group also reported a rapid increase in children at the hospitals with diet-related illnesses such as wasting and pellagra. Wasting, or extreme thinness, is a form of acute malnutrition that results from insufficient caloric intake, whereas pellagra is caused by a vitamin deficiency. Both can be fatal if untreated.

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62 Ibid.
A pediatric hospital in Venezuela indicated that in 2014 and 2015 around 30 children were admitted annually with severe acute malnutrition. This number jumped to more than 95 admissions annually in both 2016 and 2017. The proportion of children admitted for severe acute malnutrition in that hospital, compared to the total number of children who visited the hospital for the first time, rose from 5.4 in 2014 to 15.8 in 2016 and to 20 percent in 2017.63

In one Venezuelan state, another hospital recorded between 180 and 220 children admitted annually with acute malnutrition between 2011 to 2013. Admissions rose to over 300 in 2014 before reaching over 600 children admitted with acute malnutrition in 2017—about a threefold increase in three years.64

Admission data shared with Human Rights Watch and Johns Hopkins University by health professionals from other hospitals around Venezuela shows high rates of acute malnutrition in children, with many of them dying of it. However, actual numbers are likely underreported due to healthcare workers’ fear to report the diagnosis of malnutrition; some hospitals even prohibit the diagnosis.65

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64 Information provided to Human Rights Watch by health professional working in the hospital, July 2018 (copy on file at Human Rights Watch).
Impact Across Venezuela’s Borders

Impact in Colombia

The unavailability of medicines, supplies, health providers, and basic health services are becoming a primary driver of migration from Venezuela to Colombia. Nearly 1,200,000 Venezuelans have fled to Colombia in recent years.66

Over the past two years, the Colombian Department of North Santander, which borders Venezuela, saw a sharp rise in “public health events” reported via surveillance systems among Venezuelans: from 182 in 2015 to 5,094 in 2018.67 Colombia’s Epidemiological Surveillance System (Sivigila) reported that from January through August 2018, 2,398 public health events had occurred in patients from abroad, an almost threefold increase compared to the same period in 2017 (863 cases). The events reported among Venezuelans include malaria (36.8 percent), gender violence (12.6 percent), acute malnutrition in children under age 5 (6.6 percent), HIV/AIDS (6.2 percent) and TB (4 percent). The departments with the highest notification of Venezuelan patients were North Santander (30.1 percent), Guainia (17.2 percent), La Guajira (12.8 percent), Arauca (4.9 percent) and Vichada (4.3 percent).68

Infectious Disease

The most frequently reported infectious diseases among Venezuelans on the Colombian side of the border in 2018 were malaria, dengue, TB, HIV/AIDS, and Hepatitis A, all of which had increased since 2015. Vaccine-preventable diseases also increased greatly,

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67 Departmental Health Institute of North Santander, “Public health surveillance system event reporting on events of Venezuelan origin,” January 10, 2019 (copy on file at Human Rights Watch).
from 1-4 events annually in 2015-2017 to more than 200 in 2018; the majority of the 2018 cases were whooping cough and measles.\(^6^9\)

The increasing infectious disease caseload is likely due to both growing numbers of arrivals and deterioration of population health within Venezuela. One of the efforts to combat the border health crisis is the provision of vaccinations by Colombian authorities;

\(^{69}\) Departmental Health Institute of North Santander, “Public health surveillance system event reporting on events of Venezuelan origin,” 2015-July 15, 2018; Departmental Health Institute of North Santander, “Public health surveillance system event reporting on events of Venezuelan origin,” January 10, 2019 (copies on file at Human Rights Watch).
they provided 58,580 and 789,292 in 2017 and 2018, respectively, at three border crossings in North Santander (in addition to lower numbers elsewhere) to vulnerable populations, the majority of whom are Venezuelan. This means there was a 1,274 percent increase during this period.

**Women’s Health and Gender-Based Violence**

There are at least 454,000 Venezuelan women migrants in Colombia. Many of them face challenges accessing health care as well as threats of sexual exploitation and abuse, trafficking, and sexual and reproductive rights violations. Over 12 percent of reported public health events in 2018 were categorized as gender-based violence, and some evidence suggests indigenous women face even greater threats.

**Maternal and Infant Health**

According to a 2018 report by the government of Colombia, more than 8,000 pregnant Venezuelan women had entered Colombia who were expected to give birth in the country; the majority of this population did not have any type of prenatal care in Venezuela. Among all pregnancies recorded in 2018, 673 were among children aged 13-17, 57 of them members of indigenous groups.

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70 North Santander Health Department Institute, “Health Sector Response to the Migration Phenomenon,” January 1, 2019 (copy on file at Human Rights Watch).


The number of children and pregnant mothers from Venezuela provided care at the Colombian Institute of Family Welfare (Instituto Colombiano de Bienestar Familiar) rose from 22,113 in 2017 to almost 55,544 between January and September 2018 in all its programs.75

Health surveillance in North Santander demonstrates an increasing number of maternal and peri-/neonatal health events among Venezuelans (Figure 2). Forty-five Venezuelan women experienced serious illness tied to pregnancy or childbirth and seven died in 2018, whereas prior to the crisis in 2015, only two cases of extreme maternal morbidity and no cases of maternal mortality were reported in North Santander.76

Similarly, low birth weight and peri-/neonatal mortality among Venezuelan infants have risen drastically; four newborns died in 2015 compared to 211 in 2018.77 Declines in maternal and infant health most likely reflect the unavailability of care in Venezuela with Colombian physicians describing a surge in demand for prenatal care and increased numbers of deliveries among women reporting insufficient prenatal care.78 Erasmo Meoz University hospital in Cúcuta, the only tertiary hospital in North Santander, reports delivering 2,944 Venezuelans in 2018.79

Migration Burden on the Health System

According to the Departmental Health Institute, in 2017 and 2018 in North Santander, emergency medical services treated 34,492 Venezuelans in public facilities and an additional 12,144 cases at mobile clinics.80 In 2018, mobile health units were scaled up

75 Ibid, p. 57.
77 Departmental Health Institute of North Santander, “Public health surveillance system event reporting on events of Venezuelan origin,” 2015-July 15, 2018; Departmental Health Institute of North Santander, “Public health surveillance system event reporting on events of Venezuelan origin,” January 10, 2019 (copy on file at Human Rights Watch).
78 Human Rights Watch and Johns Hopkins University interview with Dr. Andrés Eloy Galvis Jaimes, head of emergency care at Erasmo Meoz Hospital, Cúcuta, July 27, 2018.
79 Hospital Universitario Erasmo Meoz, Cúcuta, North Santander, Hospital operations statistics, January-May 2018 (copy on file at Human Rights Watch); Information provided by Erasmo Meoz Hospital staff, to Human Rights Watch, February 2019.
80 Departmental Health Institute of North Santander, “Health statistics on treatment of patients of Venezuelan origin, as of mid-2018” (copy on file at Human Rights Watch); Information provided by Erasmo Meoz staff, to Human Rights Watch, February 2019.
with the aim of reducing the burden at health facilities. While the government has the capacity to address Venezuelan health needs, sustainability is a concern; both WHO and UNHCR are currently providing support to public facilities, but the Colombian government bears most of the cost.

In July 2018, Colombian officials said the government had provided Venezuelan immigrants 2,200 million Colombian pesos (about US$730,660) in non-emergency care owing to judicial rulings entitling the Venezuelans such care, and that does not include vaccinations, which are offered free to all comers.\(^1\) The Colombian government is also supporting additional care in selected individual cases, to the extent that resources allow, on a humanitarian basis through special permission; for example, this is being done with some cases of childhood cancer.

Erasmo Meoz University Hospital, the only tertiary hospital in North Santander, treated 14,953 Venezuelan patients in 2018.\(^2\) Demand for medical attention, meanwhile, has increased among both Venezuelans and Colombians who lived in Venezuela for a long time and returned to Colombia (the so-called “returnees”). However, official figures underestimate the extent of the burden because returnees are reported as Colombian. The increased caseload has translated to longer wait times, capacity concerns, and increased costs for Colombian health facilities. Space in intensive care units is limited as are referral options for Venezuelans because most lack Colombian insurance. Specialty hospitals, usually in major cities, are often unreachable because of cost, or they may not have access depending on their migration status.\(^3\)

**Nutrition**

In an April 2018 survey conducted by the International Rescue Committee (IRC), food was the priority need for those living in Venezuela and the second most-often reported need for

\(^{1}\) Human Rights Watch interview with Dr. Eusebio González and other officials from the Departmental Health Institute of North Santander, Cúcuta, July 27, 2018.

\(^{2}\) Information provided to Human Rights Watch by Erasmo Meoz staff, February 6, 2019.

\(^{3}\) Even though Venezuelans could pay for insurance, most will likely not be able to afford it. Human Rights Watch and Johns Hopkins University interview with Dr. Andrés Eloy Galvis Jaimes, head of emergency care at Erasmo Meoz hospital, and other hospital officials, Cúcuta, July 27, 2018.
Venezuelans in Cúcuta (80 percent); as of April 2018, an estimated 611,000 food insecure Venezuelans and returnees were in Colombia.\textsuperscript{84} Cases of severe acute malnutrition (SAM) among Venezuelan children under age 5, according to Colombian official data, increased since 2015 when no cases were reported to 2, 13, and 360 in 2016, 2017, and 2018, respectively. Three Venezuelans died due to malnutrition in 2017, and 11 did so in 2018.\textsuperscript{85}

The Red Cross has initiated screening at several health posts, and shelters and community kitchens also have nurses that offer screening, but programs are not widespread and follow-up presents a challenge because populations are mobile. We did not have access to Red Cross data, but one communal kitchen told us it had identified ten children with acute malnutrition who were receiving supplementary food.\textsuperscript{86}

The Human Rights Watch and Johns Hopkins team conducted a rapid screening of 115 children 6-59 months of age at a communal kitchen near the Cúcuta border, and found no cases of severe or moderate acute malnutrition. However, the team found that eight children (7 percent of the total) were at risk of acute malnutrition.\textsuperscript{87} In North Santander more generally, children identified as malnourished are provided supplementary foods by the Colombian government in coordination with WFP, but it is difficult to assess if coverage is adequate given the lack of available data on prevalence of acute malnutrition and challenges estimating population size.


\textsuperscript{85} Departmental Health Institute of North Santander, “Public health surveillance system event reporting on events of Venezuelan origin,” January 10, 2019 (copy on file at Human Rights Watch).

\textsuperscript{86} Human Rights Watch and Johns Hopkins University interview with staff from the Divina Misericordia soup kitchen, Cúcuta, July 28, 2018.

\textsuperscript{87} Mid-upper arm circumference cutoffs used to define acute malnutrition status were as follows: severe <115mm, moderate 115-124mm, and at risk 125-134mm. Children age 6-59 months are especially vulnerable to acute malnutrition, and those families depending on communal kitchens are likely to be highly food insecure.
Impact in Brazil

Nearly 100,000 Venezuelans have fled to Brazil in recent years.\(^8\) Most of them entered the country through Roraima state, which borders Venezuela, and have stayed there given that it is a remote state with limited connections to the rest of Brazil, let alone to other parts of the region. Brazilian and UN authorities have relocated over 5,250 Venezuelans to other parts of the country.\(^9\)

Many Venezuelans crossed the border to seek medical care, while others have sought care once living in Roraima. In February 2019, Roraima’s governor signed a decree declaring that the state’s public health system had reached a “state of calamity” as a consequence of the increased influx of Venezuelans. This declaration should help the state in obtaining emergency medicines and supplies.\(^9\)

Infectious Diseases

The impact of the Venezuelan crisis on transnational public health is dramatically evident in Roraima.

An outbreak of measles, a vaccine-preventable infection, that started in Venezuela in 2017 due to lapses in vaccination coverage, has now crossed the border to Brazil. The last confirmed cases of measles in Brazil had occurred in 2015. In February of 2018, the first new cases were reported in Roraima, followed by cases in Amazonas, which has the

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largest number of confirmed cases as of February 2019 (9,804). As of February 2019, a total of 10,394 cases had been confirmed in Brazil, including 12 deaths.

The strain of the measles virus (D8) in Brazil is identical to the strain causing the outbreak in Venezuela. As of February 2019, the majority (61 percent) of confirmed cases in Roraima had occurred among Venezuelans, particularly among indigenous people, but the rapid spread among Brazilians highlights gaps in vaccination coverage, especially in Boa Vista.

To control the outbreak, public health authorities conducted a three-day vaccination campaign in August 2018, where 38,744 doses of measles vaccine were administered among children under age 5 in Roraima. Measles vaccination coverage in Boa Vista improved from 66.8 percent to 95.3 percent following the campaign. As of February 2019, four people—three Venezuelans and one Brazilian—had died from measles associated with this outbreak in Roraima.

Malaria has also surged in Roraima following the dramatic rise of malaria in Venezuela, particularly in Bolivar, the Venezuelan state bordering Roraima. The number of cases of malaria among Venezuelans increased from 1,260 in 2015 to 2,470 in 2016 and 4,402 in 2018, and has continued to rise since. Physicians told us that compared to Brazilians,
Venezuelans were more likely to die from malaria, were more likely to arrive to the hospital very sick, and their management was often complicated by malnutrition.  

Cases of TB and HIV have also been increasing among Venezuelans in Roraima. Between January and December of 2018, 60 new cases of TB among Venezuelans had been identified by the Roraima health authorities. This was more than the total number of TB cases in 2017.

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98 Human Rights Watch and Johns Hopkins University interview with Dr. Marcilene Moura, General Hospital of Roraima, Boa Vista, August 24, 2018; Human Rights Watch and Johns Hopkins University interview with Dr. Luis Bermejo, Hospital Colonel Mota, Boa Vista, August 28, 2018; Human Rights Watch and Johns Hopkins University interview with Dr. Moelma Farias, Maternity Hospital, Boa Vista, August 27, 2018.
cases among Venezuelans in the preceding five years (2013 to 2017), when there was a total of 32 TB cases reported among Venezuelans in Roraima.\textsuperscript{99} The number of cases in 2018 represents an almost seven-fold increase compared to the same period in 2017. This increase strains the Brazilian health system, since TB treatment is complicated and labor intensive.

According to Roraima’s Department of Health Surveillance, there were 56 new cases of HIV among Venezuelans in 2018.\textsuperscript{100} This represented more than a three-fold increase from 2017. At the Specialty Clinic Colonel Mota, which is the primary source of outpatient HIV care in Roraima, 171 Venezuelans were receiving ARV therapy for HIV as of August 2018.\textsuperscript{101} Physicians at the clinic told us that Venezuelan patients presented to care very sick and often malnourished or with life-threatening opportunistic infections. More than half of the patients at the Roraima General Hospital infectious disease ward in August 2018 were Venezuelans being treated for AIDS symptoms. Four patients reported that ARV therapy had been unavailable in Venezuela for at least seven months, and prior to that ARV medication shortages were frequent. They were forced, therefore, to interrupt life-saving medications or take inadequate therapy, which can lead to HIV-drug resistance and limits future options for therapy.

\textit{Migration Burden on the Healthcare System}

The influx of Venezuelans to Roraima has severely strained the state’s healthcare system. The largest hospitals in Roraima— the General Hospital of Roraima (306 beds) and the Maternity Hospital (266 beds), both in Boa Vista—experienced dramatic increases in utilization in the first half of 2018. At the General Hospital of Roraima, the number of Venezuelans hospitalized more than doubled compared to the same period in 2017, and urgent care and emergency room visits almost quadrupled. During the first quarter of 2018, deliveries among Venezuelan women at the Maternity Hospital were 2.5 times higher than


\textsuperscript{100} Ibid.

\textsuperscript{101} Human Rights Watch and Johns Hopkins interview with Dr. Luis Bermejo, Hospital Colonel Mota, Boa Vista, August 28, 2018.
during the same period in 2017, and doctors projected the numbers would to continue to rise.\textsuperscript{102}

Markedly increased patient volume at these two hospitals was straining resources. Hospital directors reported shortages of basic medications and supplies, including antibiotics, cardiac medications, intravenous fluids, syringes, and EKG leads.\textsuperscript{103}

\begin{itemize}
  \item \textsuperscript{103} Human Rights Watch and Johns Hopkins University interview with Dr. Marcilene Moura, General Hospital of Roraima, Boa Vista, August 24, 2018; Human Rights Watch and Johns Hopkins University interview with Dr. Moelma Farias, Maternity Hospital, Boa Vista, August 27, 2018.
\end{itemize}
In addition to increased volume, the healthcare system has been strained by the severity of illness among Venezuelan patients, which reflects the scarcity of care and medications in Venezuela. Unsurprisingly, health problems are most severe among the poorest migrants. Venezuelans living in shelters and in the street reported to Human Rights Watch and Johns Hopkins University staff significant health needs: 35 percent of the people interviewed said they needed care for a chronic condition (asthma, diabetes, cardiovascular disease, HIV, TB, or seizure disorder), and 60 percent reported weight loss of over 10 pounds prior to arrival in Brazil. More than 80 percent of Venezuelan women
reported food insecurity during pregnancy.\textsuperscript{104} Malnutrition and untreated chronic conditions resulted in complications and difficulty to treat cases. At the General Hospital of Roraima, for example, more than half the patients admitted to the oncology ward were Venezuelans with metastatic malignancies, many without option for cure.\textsuperscript{105} At the Maternity Hospital, a housing complex for mothers with newborns in the neonatal intensive care unit was primarily occupied by Venezuelans and the hospital had to borrow additional incubators to care for a growing number of infants born prematurely. The

\textsuperscript{104} Human Rights Watch and Johns Hopkins interviews with 37 Venezuelans living in shelters and on the streets in Roraima state, August 24-27, 2019.

\textsuperscript{105} Personal observation by Dr. Kathleen Page, Johns Hopkins University, during visit to General Hospital of Roraima in August 2018.
hospital director reported that Venezuelan women had a much higher risk of complications due to lack of prenatal care, malnutrition, anemia, and malaria during pregnancy.\textsuperscript{106}

To alleviate the burden on hospitals, basic healthcare in Brazil is provided as part of the federal government’s Welcome Operation (\textit{Operação Acolhida}). The Armed Forces have deployed physicians, pharmacists, nurses, and public health officials to Roraima to provide care to Venezuelans.\textsuperscript{107} Healthcare teams visit each shelter two to three times a week, where they care for common conditions such as diarrheal illnesses, intestinal parasites, respiratory infections, skin infections, and malnutrition. In addition, physicians have been deployed to the border town of Pacaraima where they staff a screening and vaccination post at the immigration point of entry.

As of August 2018, Venezuelans who apply for asylum or residency in Pacaraima (but not in Boa Vista) were being vaccinated against measles, mumps, rubella, tetanus, whooping cough, and yellow fever unless they refused or produced documentation of adequate vaccination. Between March 24, 2018 and August 30, 2018, 4,455 Venezuelans received medical services at this site. In addition, a military-style healthcare facility was inaugurated in June 2018 with private rooms for clinical examination and phlebotomy, a pharmacy stocked with commonly used medications, and a room with hospital beds for observation and capacity for simple procedures. In September 2018, the federal government started providing vaccination for applicants in Boa Vista.\textsuperscript{108}

\begin{flushleft}
\textsuperscript{106} Human Rights Watch and Johns Hopkins interview with Dr. Moelma Farias, Maternity Hospital, Boa Vista, August 27, 2018.
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\begin{flushleft}
\textsuperscript{107} Human Rights Watch interview with Commander Dr. Fredson Fonseca, health coordinator of Operação Acolhida, and other members of the Brazilian Armed Forces stationed in Roraima, Pacaraima, August 25, 2018.
\end{flushleft}

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\end{flushleft}
The Venezuelan Government’s Responsibility

The humanitarian crisis in Venezuela is related to a broader collapse of the country’s economy. Many analysts have argued that the government’s own policies have played a role in causing the economic crisis or allowing it to persist.109 Regardless of the situation’s underlying causes, the government is obligated to make every effort to use the resources at its disposal to meet its minimum obligations under international law and reverse the erosion in Venezuelans’ access to adequate health services and food. However, under the presidency of Nicolás Maduro, the Venezuelan government has denied the crisis, hidden health statistics and data, harassed health professionals who speak out about the reality on the ground, and made it harder for sufficient humanitarian assistance to reach the Venezuelan people. Through these policies and practices, authorities have contributed to the worsening humanitarian crisis documented in this report.

The Rights to Health and Food

The ICESCR—ratified by Venezuela in 1978—guarantees everyone the right to “the enjoyment of the highest attainable standard of physical and mental health,” as well as the right to an adequate “standard of living” that includes “adequate food.”110 The right to health is also provided for in the Venezuelan Constitution.111

Venezuela’s government is obliged to work toward the progressive realization of these rights over time “by all appropriate means” and “to the maximum of its available resources.”112 The Committee on Economic, Social and Cultural Rights, which provides


111 Venezuelan Constitution, arts. 83-86.

authortative guidance on states’ implementation of the ICESCR, has affirmed that states also have an absolute and immediate obligation to ensure “minimum essential levels” of all covenant rights, “including essential primary health care.”

In 2013, the UN special rapporteur on the highest attainable standard of physical and mental health noted that, “[w]hile several aspects of the right to health are understood to be progressively realizable, certain core obligations cast immediate obligations on States, including the provision of essential medicines to all persons in a non-discriminatory manner.” These essential medicines, according to the rapporteur, include painkillers, anti-infectives, anti-bacterials, antituberculars, anti-retrovirals, blood products, cardiovascular medicines, vaccines, and vitamins. The UN Human Rights Council, for its part, has repeatedly stressed that states should maintain essential medicines that are affordable, safe, effective, and of good quality.

Under the Convention on the Rights of the Child, ratified by Venezuela in 1990, states should guarantee “the right of the child to the enjoyment of the highest attainable standard of health and to facilities for the treatment of illness and rehabilitation of health.” The Convention specifically states that states parties should take appropriate measures “to diminish infant and child mortality, “to combat disease and malnutrition,” and “to ensure appropriate pre-natal and post-natal health care for mothers.”

The Committee on Economic, Social and Cultural Rights has noted that the right to adequate food “is realized when every man, woman and child, alone or in community with others, has the physical and economic access at all times to adequate food or means for its procurement.” The right to adequate food implies that it is available “in a quantity and

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quality sufficient to satisfy the needs of individuals” and that it is accessible in ways that “do not interfere with the enjoyment of other human rights.” The Office of the High Commissioner for Human Rights (OHCHR) has emphasized that:

The right to food is not a right to be fed, but primarily the right to feed oneself in dignity. Individuals are expected to meet their own needs, through their own efforts and using their own resources. To be able to do this, a person must live in conditions that allow him or her either to produce food or to buy it.... The right to food requires States to provide an enabling environment in which people can use their full potential to produce or procure adequate food for themselves and their families.

Similarly, the UN special rapporteur on the right to food has interpreted that right as requiring “regular, permanent and unrestricted access, either directly or by means of financial purchases, to quantitatively and qualitatively adequate and sufficient food.”

The ICESCR requires states parties not only to make individual efforts, but to work “through international assistance and cooperation” to ensure the realization and protection of all covenant rights globally.” This speaks primarily to the principle that relatively wealthy states should provide assistance and cooperation to states that need it. However, it also implies that states have at least some degree of responsibility to seek international assistance and cooperation when they lack the independent means to fulfill their obligations under the ICESCR.

121 The Committee on Economic, Social and Cultural Rights has asserted that, “the phrase ‘to the maximum extent of its available resources’ was intended by the drafters of the Covenant to refer both the resources existing within a state and those available from the international community through international cooperation and assistance.” CESC, General Comment 3, para. 13. https://www.refworld.org/pdfid/4538838e10.pdf (accessed February 28, 2019)
Venezuela’s government may have valid reasons for eschewing particular sources or types of assistance, but it should endeavor to identify appropriate sources of external support to the extent necessary to address the country’s health crisis and shortages of food.

Denial of the Crisis

The public denial of Venezuela’s humanitarian crisis has been a continuous government policy for several years. In addition, high-level authorities have publicly provided misleading or false information on the extent of the crisis.

On May 16, 2018, President Maduro said that “everything [that has been said] about measles and diphtheria is a lie, we vaccinate the whole community for free” and that “with regards to food, Venezuela has unique policies, which have enabled us to carry on with a program allowing us to maintain levels of food that are necessary for the people.”

Days later, the undersecretary of health, Indhriana Parada, gave a speech at WHO highlighting the “achievements” of the Venezuelan health system. She claimed that “in Venezuela there is no humanitarian crisis” and that “Venezuela guarantees access to basic medicines to the most vulnerable groups through distribution policies.”

In the case of malaria, she claimed government measures had “reduced incidence by 50 percent.”

Similar statements have been made in recently by other high-level officials.


\[124\] Ibid.

\[125\] In November 2017, Delcy Rodríguez, currently Venezuela’s vice-president, denied the country was facing a humanitarian crisis: “I deny once again that there is a humanitarian situation in Venezuela,” she said, claiming that “eight million children receive everyday breakfast, lunch and snack in their schools.” See “Delcy Rodríguez: ‘This is a strange dictatorship in which Venezuelans go to vote’” (Delcy Rodríguez: “Esta es una extraña dictadura en la que los venezolanos asistimos a votar”), November 12, 2017, video clip, YouTube, https://www.youtube.com/watch?time_continue=1566&v=KxMog_zwL30 (minute 23 through 26) (accessed February 12, 2019). In December 2017, then Health Minister Luis López said the government would not “kneel before the empire, and much less allow the right to impose the so-called humanitarian aid,” claiming that all needs are being met by President Maduro. See “Venezuela will not allow entry of humanitarian aid for health” (Venezuela no permitirá ingreso de ayuda humanitaria en salud), Deutsche Welle, December 12, 2017, http://www.dw.com/es/venezuela-no-permitira-ingreso-de-ayuda-humanitaria-en-salud/a-41629347 (accessed February 12, 2019). In February 2018, Foreign Minister Jorge Arreaza asserted before the UN Human Rights Council that there is “an attempt to make the world
To the extent the government of Venezuela has acknowledged the existence of shortages, it has done so without recognizing the full extent of the problem nor all the factors that contribute to them, including its own policies and practices.

For example, a July 2018 report by PAHO, UNAIDS, and the Venezuelan Health Ministry acknowledges shortages of the materials needed to test and prevent HIV, malaria, and TB. It blames lack of financing, insufficient pharmaceutical producers in Venezuela, and the black market for medicines, among other reasons.\textsuperscript{126}

In September 2018, Foreign Affairs Minister Jorge Arreaza stated before the UN Human Rights Council that “there is no humanitarian crisis in Venezuela,” but instead an “economic crisis,” which he claims is caused by sanctions imposed by the US and the European Union, which he called “coercive unilateral measures” that were making it “difficult for Venezuela to receive and import the basic needs to provide nutrition and health to our people.”\textsuperscript{127}

Most sanctions—including some imposed by the United States, Canada, the European Union, and several Latin American governments—are limited to canceling visas and freezing assets of key officials implicated in abuses and corruption.\textsuperscript{128} They in no way target the Venezuelan economy.

\textsuperscript{126} PAHO, WHO, UNAIDS, Venezuelan Health Ministry, Master Plan for strengthening the response to HIV, tuberculosis and malaria in the Bolivarian Republic of Venezuela from a public health perspective, July 2018, page 5.


In 2017, the United States also imposed financial sanctions, including a ban on dealings in new stocks and bonds issued by the government and its state oil company.129 They do include an exception for transactions to purchase food and medicines. On January 28, 2019, the United States expanded sanctions to include the Central Bank of Venezuela and the state-owned oil firm PDVSA.130 To the extent that these latest sanctions have an impact on the Venezuelan authorities’ ability to import medicines and food, they could worsen the current humanitarian crisis. However, it is impossible to argue that these sanctions have caused the crisis because as this report shows, the crisis precedes them.

Hiding Health Statistics and Information

The Venezuelan government has tried to conceal the crisis by failing to produce official health information on a regular basis. Most notably, the government, after publishing weekly epidemiological bulletins since 1938 with information about more than 72 reportable illnesses, stopped publishing them in 2015.131

After nearly two years in which Venezuela’s Health Ministry did not publish these monthly bulletins, it suddenly released, in May 2017, epidemiological bulletins for half of 2015 and all of 2016. The bulletin corresponding to the last week of 2016 was especially noteworthy as it showed a 30 percent increase in infant mortality, a 65 percent increase in maternal mortality, a resurgence of diphtheria, and increases in the incidence of malaria, Zika, TB, and Hepatitis A.132

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Following the publication of this information, President Maduro fired then Health Minister Antonieta Caporale and replaced her with a staunch supporter, Luis Lopez.\footnote{Marilia Brocchetto, “Venezuela health minister fired after revealing data showing 66% rise in maternal deaths,” CWN, May 12, 2017, https://www.cnn.com/2017/05/12/health/venezuela-health-minister-fired/index.html (accessed February 12, 2019); Tweet by Tareck El Aissami, May 11, 2017, https://twitter.com/TareckPSUV/status/862849873275752452 (accessed February 12, 2019); Luis López’s Twitter bio, https://twitter.com/LuisLopezPSUV (accessed February 12, 2019).} The epidemiological bulletins were promptly taken down from the Health Ministry’s official website and have not been posted again. Since then, no additional bulletins have been published, nor have authorities published any other official health data regarding the topics that were covered in seven decades of epidemiological bulletins. Accordingly, no official information on these health issues in Venezuela is publicly available for 2017 and 2018.


The lack of official information does not mean the government lacks the data or the ability to collect it. In fact, the Venezuelan government regularly provides information to PAHO, which then includes the official data conveyed by Venezuelan authorities in its own reports. For example, the epidemiological updates on diphtheria, measles, and other illnesses published by PAHO include information that, as indicated in the updates...
themselves, is “data from the Venezuelan Ministry of Popular Power for Health and reproduced by PAHO/WHO.”\textsuperscript{136}

Several doctors interviewed by Human Rights Watch in various parts of the country said they continue to gather and systematize data, and report it to national health authorities, but it is not made public by the government. This is the case, for example, of a doctor in Caracas, who explained that he works in a “sentinel” hospital, which is part of the government’s food and nutritional surveillance system (SISVAN) that evaluates the nutritional status of Venezuelans. The doctor explained that health authorities “come every month and ask for the data [on malnutrition]. That is why I know that they have the data, month by month, at least from our hospital. It is not that I bring it to them, it is that they come to request it. They have it but fail to publish it.”\textsuperscript{137} Another doctor in the interior of the country told us they report data but “the numbers don’t appear anywhere.”\textsuperscript{138}

One doctor interviewed by Human Rights Watch provided us with statistics on child malnutrition for one of the Western states of the country, which she had obtained from a colleague at the National Institute for Nutrition.\textsuperscript{139} Another doctor provided Human Rights Watch data that the hospital where he works systematically gathered and analyzed in 2016, 2017, and 2018 on births, maternal mortality, mortality rates, as well as cases of malaria and diphtheria, among other illnesses. The doctor said the information had been shared with authorities.\textsuperscript{140} And a group of doctors provided Human Rights Watch with a

\begin{itemize}
\item \textsuperscript{137} Human Rights Watch interview with Venezuelan doctor (identity withheld for security reasons), April 25, 2018.
\item \textsuperscript{138} Human Rights Watch interview Venezuelan doctor (identity withheld for security reasons), April 30, 2018.
\item \textsuperscript{139} Human Rights Watch interview with Venezuelan health professional (identity withheld for security reasons), May 2, 2018.
\item \textsuperscript{140} Documents on file at Human Rights Watch.
\end{itemize}
copy of a document that contained information on child mortality, malnutrition, and malaria incidence in one Venezuelan state that they had given to state health authorities, the ombudsman, and the Attorney General’s Office. The document claims that the response was “epidemiological silence and a denial of reality” from authorities.143

Harassment and Retaliation Against Health Professionals Reporting on the Crisis

In January 2018, President Maduro called those who drew attention to the humanitarian crisis “bandits” and “traitors to the fatherland.”142 In a country with no judicial independence, where critics have been arbitrarily jailed and subjected to abuse, and where hunger and access to social services, including health, has been used as a mechanism of social and political control, these words serve as threats that need to be taken seriously.143

In October 2016, Human Rights Watch released a report that documented instances of retaliation against medical personnel who spoke out against the crisis.144 During research in 2018 for this new publication, we found that government and hospital authorities have continued to harass and retaliate against health professionals, but now not only for protesting the shortages, but also for reporting on statistics and the real reasons why patients are being hospitalized or die.

141 Document on file at Human Rights Watch.

142 See “Maduro “Denies Humanitarian Crisis” in Venezuela and attacks Italian television” (Maduro “Niega Crisis Humanitaria” en Venezuela y arremete contra la televisión italiana), January 9, 2018, videoclip, YouTube, https://www.youtube.com/watch?v=XLMDiK6XGNY [minute 0:00 to 1:00] (accessed February 12, 2019).


Independent media outlets in Venezuela and the local group Espacio Público, which monitors free speech in the country, have reported several instances in which health professionals suffered retaliation or harassment for speaking out about the crisis in 2018.

In February 2018, members of the Bolivarian National Intelligence Service (SEBIN) reportedly threatened Dr. Feder Álvarez with detention after he spoke publicly about the death of six children at a hospital due to food poisoning after eating food not fit for human consumption.145

Also in February, the Venezuelan Society of Puericulture and Pediatrics said that hospital staff allegedly threatened to fire doctors from a hospital in Nueva Esparta state after they demonstrated to call attention to the crisis, and that members of the Bolivarian National Guard did not allow doctors in another hospital to demonstrate, calling them “guarimberos”—a term Venezuelan authorities use to describe government opponents.146

In July, seven pediatricians from a hospital in Cojedes state were fired months before their contract ended and after participating in a demonstration about the health crisis, according to Espacio Público. One of the doctors allegedly said hospital authorities had accused them weeks earlier of being “guarimberos.”147

In October, members of Venezuela’s investigative police (CICPC) reportedly detained five nurses as they participated in a demonstration on medicine shortages in Anzoátegui state, and held them for two days.148


In February 2019, a nurse working at the main children’s hospital in Caracas said security guards and military personnel forced her into a room where they threatened her with their firearms while asking why she was providing food and taking pictures of patients, according to news reports. She was allegedly held for 40 minutes and forced to sign a piece of paper she could not read, she said.\(^\text{149}\)

Also in February 2019, Venezuelan officials raided the Mavid Foundation, an organization that has been supporting access to medicines for people living with HIV. HIV activists connected to the Mavid Foundation, Jonathan Mendoza, Wilmer Alvarez, and Manuel Armas Jhas, were detained in a raid, according to the Global Network of People Living with HIV.\(^\text{150}\)

The OHCHR has also reported that the government has been threatening, and in some cases arbitrarily arresting, doctors and patients speaking out about the health situation.\(^\text{151}\)

For example, local media reported that in May 2018, security forces violently dispersed a demonstration by doctors from the Adolfo Pons Hospital in Zulia state, who were protesting the scarcity of medicines and medical supplies. State police officers allegedly beat several doctors and detained two; one of them had several cuts on his face and a broken nose, according to Venezuelan press accounts.\(^\text{152}\) In March 2019, members of security forces and armed pro-government groups allegedly threatened parents of children

\(^{149}\) “Human rights defender was detained for hours for giving food to children at the JM de los Ríos” (Detuvieron por horas a defensora de los DDHH por entregar comida a niños del J.M. de los Ríos), NTN24, February 7, 2019, http://www.ntn24america.com/america-latina/venezuela/detuvieron-por-horas-defensora-de-los-dd-hh-por-entregar-comida-ninos-del-j (accessed February 11, 2019).


being treated in the main pediatric hospital in Caracas with rape and detention if they continued to “spread [their] vicious lies” about what was happening inside the hospital.\textsuperscript{153}

Each of the 25 doctors and medical personnel interviewed by Human Rights Watch nationwide who work in public hospitals in Venezuela or represent networks of doctors who do, touched on the issue of censorship of health information. They said that hospital authorities forbade them from providing statistical information to people outside of the hospital, from talking about the health crisis in public or to hospital administrators, or from including specific details of diagnoses in patients’ records.\textsuperscript{154}

Two doctors explained that hospital administrators in public hospitals had imposed restrictions on what can be included in patients’ medical records, specifically related to child malnutrition. They said they had received an “implicit” or “verbal order” not to include “malnutrition” as a diagnosis in the medical histories or records of patients.\textsuperscript{155}

A doctor who teaches residents in a graduate program in a public hospital said residents are threatened with being expelled from the program or their hospital if they include a malnutrition diagnosis in medical records, so they do not list it at the top of such records.\textsuperscript{156} Another doctor said that any reference to the patient being malnourished can only be added at the very end of the medical history or report, after several other illnesses and conditions are listed. That way, a doctor said, when the cause of hospitalization or death is reported, it does not mention malnutrition.\textsuperscript{157} As a consequence of this practice,


\textsuperscript{154} Human Rights Watch interviews with several doctors in Venezuela who requested anonymity, April to October, 2018.


\textsuperscript{156} Human Rights Watch interview with Venezuelan health professional (identity withheld for security reasons), April 24, 2018.

\textsuperscript{157} Human Rights Watch interview with Venezuelan health professional (identity withheld for security reasons), April 30, 2018.
doctors said, any available statistics will not show the real degree of malnutrition in patients because it is being purposely hidden and under-reported.\(^\text{158}\)

Many doctors continue to gather data on malnutrition and child mortality, but do so on the sly for fear of retaliation.\(^\text{159}\) Some have come up with alternative ways to gather data without raising suspicions by hospital administrators, such as having residents pretend that the data will be used for a personal academic project on which they are working.\(^\text{160}\)

One of them took hand-written notes from medical records and hid them to share with us for this publication, and shared official data from the hospital under the condition that sources and hospitals would not be identified in this publication.\(^\text{161}\)

Nearly all doctors and medical personnel interviewed by Human Rights Watch insisted on remaining anonymous for fear of retaliation. For example, a doctor from a pediatric hospital who provided us with information on malnutrition and on shortages of basic medicine and medical supplies at the hospital told us:

\begin{quote}
I wish to be working here, even in these horrible conditions, so that I can help, so that I can see the situation and share the information. I share information with reporters, and with organizations like yours. This is why I don’t want you to mention me. Because I want to stay here. If not, who will tell these stories? I cannot risk being fired.\(^\text{162}\)
\end{quote}

Several doctors told us hospital authorities have continued to harass and retaliate against medical professionals who speak out about the crisis. In some cases, doctors interviewed by Human Rights Watch said that the retaliation included suspending the person from work, sending her on “forced holidays,” forcing her to retire, or transferring her to a

\(^{158}\) Human Rights Watch interview with Venezuelan doctor (identity withheld for security reasons), April 12, 2018.

\(^{159}\) Human Rights Watch interviews with several doctors in Venezuela who requested anonymity, April to October, 2018.

\(^{160}\) Human Rights Watch interview with Venezuelan doctor (identity withheld for security reasons), April 30, 2018 (documents on file at Human Rights Watch).

\(^{161}\) Human Rights Watch interview with Venezuelan doctor (identity withheld for security reasons), April 30, 2018.

\(^{162}\) Human Rights Watch interview with Venezuelan doctor (identity withheld for security reasons), April 25, 2018.
location where she would be downgraded in her assignments.163 Another form of pressure has been the presence of security forces and armed pro-government gangs inside hospitals.164

The ability to obtain limited data from doctors in Venezuela, despite the courage many continue to show, is becoming more difficult given the large numbers of medical professionals who have left the country. The OHCHR has reported that in recent years, according to local sources, many medical doctors and nurses emigrated to other countries in the region, “mainly due to low wages and the lack of conditions to provide adequate health services.”165

Insufficient Assistance Reaching Venezuela

The Venezuelan government has sought some assistance from key UN agencies, but according to humanitarian actors, UN agencies, and the Venezuelan health ministry itself, the help requested is insufficient to meet the urgent needs of the population. All humanitarian actors interviewed by Human Rights Watch and Johns Hopkins University have said that they are willing and able to provide additional assistance to Venezuela, which is much needed, and that the lack of an adequate and comprehensive assessment of the full extent of the crisis, due to the government’s suppression of information about it, makes it impossible to plan an adequate response to the current situation and to prevent further deterioration of Venezuelans’ health.


UN Agencies

According to publicly available information and information provided by UN agencies to Human Rights Watch and Johns Hopkins University, the Venezuelan government has sought some humanitarian aid, in particular from UNICEF and PAHO. In February 2019, a spokesperson for WHO said PAHO was providing medicines and vaccines to Venezuelan hospitals, as well as supporting the maintenance of services in high-complexity priority hospitals, which included training of health personnel and the prevention of infectious diseases. On March 1, 2019, OCHA said that “within the framework of existing agreements with the Government, UN agencies were working to respond to the humanitarian needs of the population.”

In response to an information request submitted by Human Rights Watch, UNICEF said in April 2018 that the Venezuelan government was “expanding the cooperation with the UN System in critical areas such as health and nutrition,” mentioning, among other initiatives, that UNICEF was supporting a measles immunization campaign, a program to provide nutritional assistance, anti-malaria treatment, anti-retroviral treatment, and HIV tests and diphtheria antitoxin. By the end of 2018, UNICEF had provided measles vaccinations to 990,000 children age 5 and under. UNICEF has also distributed 100 tons of nutritional supplements for 150,000 children in Venezuela.

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168 UNICEF’s programs reached 2,200 children with nutritional assistance and has provided anti-malaria treatment for 45,201 children in 2017, 6 months of pediatric antiretroviral treatment for 2,324 children, 15,000 HIV tests, 200 doses of diphtheria antitoxin, and one year of special formula for all children with metabolic disorders. Letter from María Cristina Perceval, UNICEF regional director for Latin America and the Caribbean, to Joe Saunders, Deputy Program director at Human Rights Watch, April 26, 2018 (copy on file at Human Rights Watch).


In June 2018, after a visit to the country, PAHO reported that it had increased its activities in Venezuela and in neighboring countries, deploying more than 60 staff members and establishing six field offices (five in Colombia and one in Brazil).171 This is in addition to the PAHO center in Caracas.172 It said it was providing support to Venezuela’s Health Ministry to implement a national plan to stop the outbreaks of measles and diphtheria, including by vaccinating children and indigenous populations, and purchasing lab supplies to diagnose diphtheria and measles. It also provided quick tests to diagnose malaria and said it would provide 150,000 treatments for different types of malaria in 2017 and 2018. PAHO also provided the Venezuelan government with support to design and implement a vaccination campaign launched in April 2018 to immunize nine million people.173 By June 2018, PAHO had trained more than 8,000 medical personnel, including 3,500 vaccinators.174

The July 2018 report by PAHO, UNAIDS, and the Venezuelan Health Ministry said that UNICEF, UNAIDS, and humanitarian nongovernmental groups had donated ARV treatment for children and adults, as well as HIV tests and medicines to treat malaria and TB.175 In

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173 The aim was to vaccinate indiscriminately more than 4 million children between 6 months and 15 years against measles and rubella, 2.3 million children between 7 and 15 years against diphtheria, to immunize 89,600 pregnant women to prevent neonatal tetanus and more than 1 million adults from 15 to 39 years against tetanus and diphtheria. PAHO, “Venezuela launches vaccination campaign to stop the circulation of measles virus” (Venezuela lanza campaña de vacunación para interrumpir la circulación del virus del sarampión), April 7, 2018, https://www.paho.org/ven/index.php?option=com_content&view=article&id=418:venezuela-lanza-campana-de-vacunacion-para-interrumpir-la-circulacion-del-virus-del-sarampion&Itemid=0 (accessed February 12, 2019).


September 2018, the Global Fund to Fight AIDS, TB and Malaria, with the support of UNAIDS, PAHO, and civil society groups, approved a US$ 5 million allocation to coordinate support to combat HIV, TB, and malaria in Venezuela.176

While the provision of this assistance is a welcome step, information provided by UN agencies and interviews with key informants, including health professionals and humanitarian actors working in Venezuela, show that humanitarian assistance reaching people in Venezuela is still inadequate to address the urgent needs of the population.

The July report in which the Venezuelan government, PAHO, and UNAIDS participated states that ARV treatment that the ministry is obtaining through the PAHO Rotary Funds and purchases from Indian pharmaceutical companies, together with donations from PAHO, UNAIDS, and UNICEF “are insufficient to cover required needs.” The report estimated that available “limited” medication would cover only one or two months of treatment of some people living with HIV.177 The report lays out a three-year plan that would cost more than $122 million to address all needs in this area.178

The UNICEF letter to Human Rights Watch notes that “more needs to be done by all to reach everyone affected by the crisis.”179 Similarly, Grant Leaity, UNICEF deputy emergencies director, told Human Rights Watch in February 2018 that “the government ha[d] taken measures, but they are not sufficient [nor] adequate” and that UNICEF was not supplying the government “in any significant quantity.”180

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178 Ibid., pp. 66
179 Letter from María Cristina Perceval, UNICEF regional director for Latin America and the Caribbean, to Joe Saunders, Deputy Program director at Human Rights Watch, April 26, 2018 (copy on file at Human Rights Watch).
180 Human Rights Watch interview with Grant Leaity, Deputy Emergencies Director, March 2, 2018.
PAHO, for its part, has reported that “immediate action is required to address short-term priorities, to reduce the impact of health workforce migration, rationalize existing resources while mobilizing additional resources, with the purpose of addressing disease outbreaks and increasing capacity of the system to provide comprehensive care for priority conditions.” For instance, as of June 2018, PAHO had provided standard emergency medical kits, each of which provides medicines and medical supplies for 10,000 people, to 11 Venezuelan hospitals, and it was planning to distribute an additional 40 kits in 21 priority hospitals. The distribution of these kits continued in 2019. In addition, in October, as a part of its Safe Hospitals Initiative, PAHO distributed more than 3,000 boxes of medicines and supplies across 18 hospitals, 13 comprehensive community health areas, and eight health institutions. However, Venezuela is home to more than 200 hospitals and these kits are not reaching many patients who need them.

Although no comprehensive, official data to assess the success of the vaccination plan exists, local experts have said that it does not cover the needs of the population. The Venezuelan Puericulture and Pediatrics Society’s president said that 2.9 million children

182 Venezuela has purchased 1,15 million doses of the pentavalent vaccine, which had already in Venezuela, eight million doses of dT vaccine, of which only half had arrived in Venezuela, 1,000 doses of the diphtheria antitoxin, and three million doses of the vaccine against measles, mumps and rubella.

In 2017, 130,000 treatment for P.vivax, 800 treatments for P. falciparum, 300 treatments for serious malaria cases and 300,000 quick tests to diagnose malaria. In 2018, it provided 52 kits to treat serious malaria cases and 25 kits to treat non-serious malaria cases for a total of 10,000 treatments, in addition to 20,000 quick tests to diagnose malaria.

PAHO, “PAHO’s Response to Maintain an Effective Agenda of Technical Cooperation in Venezuela and Neighboring State Members” (Respuesta de la OPS para mantener una agenda eficaz de cooperación técnica en Venezuela y en los Estados Miembros vecinos), June 20, 2018 (copy on file at Human Rights Watch).

183 PAHO Venezuela, “Central Hospital of San Cristóbal received nearly two tons of medication and surgical material” (Hospital Central de San Cristóbal recibió cerca de dos toneladas de medicamentos y material quirúrgico), February 28, 2019, https://www.paho.org/ven/index.php?option=com_content&view=article&id=504:hospital-central-de-san-cristobal-recibio-cerca-de-dos-toneladas-de-medicamentos-y-material-quirurgico&Itemid=0 (accessed March 5, 2019).
were excluded from the program, as it covered only 70 percent of the demand. He added that “the 89,660 doses of biological material bought by the ministry through the PAHO Rotary Fund excludes approximately 411,000 women, out of the 550,000 who become pregnant every year.” Félix Oletta, a former health minister and member of the Venezuelan Public Health Society, said in September that the vaccination rate for members of vulnerable communities, mostly from indigenous groups, is under 20 percent. Similarly, the non-governmental organization United Doctors Venezuela warned that 3.5 million diphtheria-tetanus vaccines for people between the ages of 19 and 39 [were announced by WHO/PAHO], but the National Institute of Statistics, found more than five times that many Venezuelans (17.3 million) within that age range.

Regarding food shortages, in April 2018, a representative of WFP told Human Rights Watch that WFP can only work in countries where a specific request by the government is in place, “which has not been the case with Venezuela.” Even though David Beasley, WFP director, has said the situation in Venezuela is “catastrophic,” as of January 2019, WFP had no operations in the country because it lacks authorization from the Venezuelan government.
At time of writing, FAO had not responded to an information request regarding its activities in Venezuela. In March 2018, José Graziano da Silva, FAO’s director, stated that hunger “continued to grow” in Venezuela in 2017. On January 15, 2019, UNICEF, FAO, and the Venezuelan government signed an agreement to support a project to feed children in schools. Even though FAO’s January – March 2019 “Early Warning Early Action report on food security and agriculture” report recognizes there has been a “dramatic increase in food insecurity” in Venezuela, it attributes it to an economic crisis and includes Venezuela in the list of countries and regions they consider “on watch.”

In November 2018, the UN announced the first emergency funding for Venezuela under Maduro, a total of $9.2 million in health and nutrition assistance. These funds have been allocated to UN agencies working on Venezuela, including UNICEF, UNFPA, WHO, UNCHCR, and International Organization on Migration. No additional funds have been allocated to Venezuela by the Central Emergency Response Fund (CERF) since.

In May 2018, CERF also provided $6.2 million in assistance to Venezuelan migrants in need of “life-saving assistance.” The focus of this emergency relief is to “help the countries

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neighboring Venezuela deal with the consequences of large numbers of Venezuelans leaving the country.\textsuperscript{199}

Meanwhile, UN agencies have provided humanitarian assistance to Venezuelans outside of the country.

OCHA’s 2019 Global Humanitarian Overview report includes a Regional Refugee and Migrant Response Plan to address the flow of Venezuelans into neighboring Latin American and Caribbean countries.\textsuperscript{200} This plan, in which 17 UN agencies, 14 non-governmental organizations, five donors, and two financial institutions participate, is geared towards addressing the needs of Venezuelans who have recently left the country.\textsuperscript{201} WFP has provided assistance to more than 100,000 Venezuelans in Colombia and Ecuador.\textsuperscript{202} At the Brazilian border with Venezuela, UNHCR has established 13 shelters that house more than 6,850 Venezuelans who receive shelter, medical care, and food.\textsuperscript{203}


International Organization for Migration (IOM) is also active in the region. In Ecuador, WFP and UNICEF contribute to a government initiative to provide food and blankets to Venezuelans. The European Union has announced that it would provide €35 million in humanitarian and development assistance for Venezuelans in and outside of Venezuela. Germany alone, since the beginning of the crisis, has provided €14.6 million to Venezuela’s neighboring countries via WFP and UNHCR.

Non-governmental Groups

Human Rights Watch conducted more than a dozen confidential interviews with staff from international and Venezuelan organizations that attempted to provide humanitarian assistance in Venezuela. They all reported difficulties when trying to establish operations in the country, and those who were able to start operations said they faced an array of government-imposed obstacles to provide assistance to Venezuela’s population in need. The obstacles include delays in official approvals for operations or for releasing aid supplies from customs; orders by higher-level hospital or government authorities to suspend implementation of ongoing aid initiatives; and limits on getting donated supplies into public hospitals.

Two doctors interviewed by Human Rights Watch also mentioned that hospital administrators had prohibited them from receiving donations, generally of baby formula or

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208 The information in this section is based on Human Rights Watch interviews with over a dozen humanitarian workers who requested anonymity. They were carried out between April and December 2018.
food, for patients. In November 2018, the University Hospital in Caracas rejected a donation of medicines and medical supplies from the international humanitarian group, Doctors Without Borders. A document that appears to be a press release signed by hospital authorities and circulated on social media says the medicines offered by Doctors Without Borders do not comply with local regulations, and that “Venezuela has enough resources to obtain all the medicines that the Venezuelan people need to reestablish their health, and is not susceptible to misery that undermines its dignity.”

All the humanitarian workers interviewed by Human Rights Watch said that their agencies would be able to provide much more aid and support to Venezuelans in need if the government did not deny the crisis and instead sought additional help. Given the barriers the government has put up to their own work, these groups have been looking for local counterparts to implement their projects, putting greater strain on the work of already overstretched Venezuelan organizations.

Meanwhile, local Venezuelan organizations can obtain private donations of medicine or food in the country through door-to-door courier services, but they are expensive and only allow shipping small quantities of aid. For example, Acción Solidaria, a non-governmental group that has received donations from 17 countries since May 2016, has provided an increasing number of medicines to patients seeking aid—750 ARV doses for HIV and 3,217 for other conditions in 2016; 1,050 ARV treatments for HIV and 21,100 treatments for other conditions in 2017; and 1,300 ARV treatments and 19,000 for other conditions up until September 2018. However, the total number of people seeking aid at their offices has consistently increased from 250 to more than 1,500 a month between 2016 and 2018. Acción Solidaria has limited capacity to process requests for medication and has, on average, been able to cover only half of the needs it registers.

209 Human Rights Interview with two Venezuelan health professionals (identities withheld for security reasons), April 25, 2018.
210 Letter from Dr. Pablo Castillo, deputy director of the University Hospital in Caracas, to Dr. Gustavo Benitez, head of the surgery department of the University Hospital of Caracas, November 5, 2018 (copy on file at Human Rights Watch).
212 Information on file at Human Rights Watch.
The vast majority of humanitarian workers interviewed by Human Rights Watch said they did not want to be identified in this report, fearing they would not be able to continue working in the country if they did.

**Other Offers of Aid**

The International Committee of the Red Cross has more than doubled its budget to operate in Venezuela from five to 13 million dollars, according to an interview to a high Red Cross official published by an Argentine outlet.213

The Lima Group, composed of Canada and 13 Latin American governments, has repeatedly offered humanitarian aid to Venezuela.214 Some of its member states—for example, Colombia and Brazil—did so separately as well. Canada is channeling aid through various UN agencies, and has contributed about $2.21 million total to the humanitarian needs resulting from the Venezuela crisis.215 The United States has offered aid through its State Department and USAID agency.216 And it announced another $48 million for the regional humanitarian crisis in September 2018, and an additional 20 million in January 2019.217

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The United Kingdom’s Department for International Development (DFID) allocated £6.5 million in February from its reserve to support humanitarian agencies across the region. Due to the “Maduro regime’s denial of a humanitarian crisis,” the UK opted not to disclose the organizations they are supporting.\(^\text{218}\)

The European Union has been providing emergency aid to Venezuela since 2016, and, as noted above, recently announced it will contribute an additional €35 million in humanitarian and development assistance to Venezuela and the surrounding affected countries.\(^\text{219}\) In the 2019 EU Humanitarian Aid budget, €13.5 million was allocated for humanitarian aid and food assistance in Central American nations, Colombia, and Venezuela.\(^\text{220}\) In February 2019, 25 countries gathered at the OAS-hosted Conference on Humanitarian Assistance in Support of Venezuela pledged a total of $100 million.\(^\text{221}\)

Several Latin American presidents have explicitly asked Maduro to accept help from their countries’ governments and from the international community by opening a “humanitarian channel” to receive aid.\(^\text{222}\)


A September 2018 UN Human Rights Council resolution—adopted by 27 states worldwide including nine Latin American states—said the Venezuelan government should open its doors to humanitarian assistance to address “scarcity of food and medicine, the rise of malnutrition” and “the outbreak of diseases that had been previously eradicated or kept under control in South America.”

In 2019, after the United States, Canada, the European Union, and some Latin American governments decided to send humanitarian aid to Venezuela’s borders, Venezuelan authorities refused to allow it into the country and used excessive force to disperse demonstrations supporting the opposition-led effort to bring aid into Venezuela. Maduro stated that Venezuela was not a “country of beggars” and that the “humanitarian crisis does not exist.” Diosdado Cabello, a powerful Chavista politician, claimed that the aid was a “military intervention” in disguise, while Delcy Rodríguez, vice president, stated that it was a way of getting “biological weapons” into the country. While Venezuelan authorities are within their rights to reject particular offers of assistance, doing so only heightens their responsibility to work towards alternatives that can fully address the urgency of the country’s needs. Efforts undertaken by Venezuelan authorities during Maduro’s presidency have failed to do so.

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Human Rights Watch is also deeply grateful to the Venezuelans who shared their testimonies with us after fleeing their country in search of medical treatment and food. Many of them expressed the hope that, by telling their stories, they could help prevent others from undergoing the same suffering that pushed them to leave home.
Venezuela’s health system is in utter collapse. The combination of medicine and food shortages, together with the spread of diseases across Venezuela’s borders, amounts to a complex humanitarian emergency that requires a full-scale response by UN humanitarian actors.

Venezuela’s Humanitarian Emergency is a joint project by Human Rights Watch and the Center for Humanitarian Health and the Center for Public Health and Human Rights at the Johns Hopkins Bloomberg School of Public Health.

Our research shows increased levels of maternal and infant mortality; the spread of vaccine preventable diseases, such as measles and diphtheria; and increases in numbers of infectious diseases such as malaria and tuberculosis. Although the government stopped publishing official data on nutrition in 2007, research by Venezuelan organizations and universities document high levels of food insecurity and child malnutrition, and available data indicates high hospital admissions of malnourished children.

A massive exodus of Venezuelans – more than 3.4 million in recent years – is straining health systems in receiving countries. Despite overwhelming evidence that Venezuela is facing a humanitarian crisis, Venezuelan authorities continue to publicly minimize it and suppress information about it, harass and retaliate against those who collect data or speak about shortages, and have done far too little to alleviate it. This violates Venezuela’s obligations to respect, protect, and fulfill the rights to health and food.

The United Nations’ leadership is essential to the success of any large-scale assistance plan in Venezuela. UN Secretary-General António Guterres should lead efforts to develop a comprehensive humanitarian response plan for the situation inside and outside of the country that should respect the principles of humanity, neutrality, independence, and impartiality in the provision of assistance. It should also include an independent assessment of the extent of the crisis, prioritization of the crisis by the UN Office of Coordination of Humanitarian Affairs (OCHA), and ensure access to import necessary food, medicines, and medical supplies.
Tab #14
Overview:

Venezuela’s democratic institutions have deteriorated since 1999, but conditions have grown sharply worse in recent years due to the continued concentration of power in the executive, and harsher crackdowns on the opposition. Following a strong performance by the opposition in 2015 legislative elections, the powers of the National Assembly were curtailed by a politicized judiciary, and in 2017 the body was supplanted by a new National Constituent Assembly that serves the executive’s interests. Government corruption is pervasive, and law enforcement has proven unable to halt violent crime. The authorities have closed off virtually all channels for political dissent, restricting civil liberties and prosecuting perceived opponents without regard for due process. The country’s severe economic crisis has left millions struggling to meet basic needs, and driven mass emigration.
Key Developments:

KEY DEVELOPMENTS IN 2018:

- President Nicolás Maduro was reelected in May, in a poll that failed to meet minimum international standards and was widely condemned as illegitimate. The election was held on an accelerated schedule designed to advantage Maduro, most prominent opposition parties and candidates were banned from participating, and record-low turnout reflected widespread dissatisfaction with the process.

- Authorities increasingly required citizens to use a special identity card to access social services and subsidized food. The Maduro administration urged voters to display these cards at special booths near polling stations, prompting a widespread perception that authorities were using the cards to monitor voting patterns.

- Venezuelans suffered from a worsening humanitarian and financial crisis characterized by acute food and medicine shortages, historically high hyperinflation, and rampant crime. The United Nations in November announced that over 3 million Venezuelans have fled the country due to the crisis.

- The Maduro administration continued its brazen crackdown on the political opposition, employing frequent arrests, torture, and temporary disappearances to quash dissent.

Political Rights and Civil Liberties:

POLITICAL RIGHTS: 3 / 40 (–5)

A. ELECTORAL PROCESS: 0 / 12 (–2)

A1. Was the current head of government or other chief national authority elected through free and fair elections? 0 / 4 (–2)

The president serves six-year terms. Since 2009, neither the president nor other elected officials have been subject to term limits.
Incumbent president Nicolás Maduro won the 2018 snap presidential election with 67.9 percent of the vote, defeating Henri Falcón of the Progressive Advance party, who took 20.9 percent, and independent candidate Javier Bertucci, who took 10.8 percent. The election saw record-low turnout, with only 46 percent of voters participating, a sharp decline from the nearly 80 percent who participated in the last presidential election in 2013.

The poll was initially planned for December, but was moved up to April and then ultimately to May by the National Constituent Assembly, the progovernment body that in 2017 controversially supplanted the opposition-controlled National Assembly elected two years before. The decision to hold the poll early was widely criticized as a move to benefit Maduro by leaving a crippled and divided opposition little time to coalesce around a unity candidate, and by holding it before increasingly dire economic conditions became even worse. Leading opposition figures, including Leopoldo López and Henrique Capriles, were barred from competing. Maduro sought to intimidate voters by insisting that they present the so-called Fatherland ID card—the special identity card required to receive subsidized food and other services—at government-run booths near polling places. This drove a perception that those who did not vote could see aid revoked.

By most international accounts, the election lacked even a veneer of competitiveness. The Organization of American States (OAS) called it a “farce,” while the Lima Group—comprised of mostly Latin American governments seeking address the crisis in Venezuela—deemed it illegitimate. The European Union said it did not comply with “minimum international standards for a credible process.”

Score Change: The score declined from 2 to 0 because prominent opposition political parties and candidates were banned from participating in the presidential election, which was marked by voter intimidation and was held on an accelerated schedule designed to advantage the incumbent.

A2. Were the current national legislative representatives elected through free and fair elections? 0 / 4

The unicameral, 167-seat National Assembly is popularly elected for five-year terms, using a mix of majoritarian and proportional-representation voting. Three seats are reserved for indigenous representatives. In the 2015 elections, the opposition Democratic Unity Roundtable (MUD) coalition won 109 seats, while the United Socialist Party of Venezuela (PSUV) took 55. Subsequent government challenges against certain opposition victories—and notably the decision by the Supreme Tribunal of Justice (TSJ) to block the swearing-in of four representatives, three of whom were members of the opposition—deprived the MUD of a two-thirds majority.
The TSJ repeatedly nullified legislation passed by the National Assembly during 2016, and in 2017 the Maduro administration effectively replaced it with the National Constituent Assembly, a new body elected through an undemocratic process and comprised entirely of regime loyalists. Elections to the new assembly did not give voters the option to reject its establishment, were widely derided as unconstitutional, and were dismissed by the opposition, which boycotted the vote. Throughout 2018, the National Constituent Assembly functioned as a legislative body, solidifying its de facto replacement of the legitimate National Assembly. It is reportedly drafting a new constitution.

A3. Are the electoral laws and framework fair, and are they implemented impartially by the relevant election management bodies? 0 / 4

Venezuela's electoral system is heavily influenced by political manipulation and institutional interference in favor of the ruling party. The National Electoral Council (CNE) consists of five members, four of whom are openly aligned with the PSUV. The CNE rarely finds the ruling party has violated any rules, leading to a system in which the opposition is heavily regulated, while the government is unconstrained. After the National Constituent Assembly was created in 2017, it assumed the National Assembly's constitutional role of selecting and confirming members of the CNE. In addition, the National Constituent Assembly has taken over certain CNE functions, including setting election dates—a move that prompted significant controversy in 2018.

Recent elections, including the 2018 presidential election, have been characterized by disqualifications of prominent opposition candidates, government abuse of public resources, uneven access to the state-dominated media, the diminished presence of international observers, and intimidation of state employees.

B. POLITICAL PLURALISM AND PARTICIPATION: 3 / 16 (–3)

B1. Do the people have the right to organize in different political parties or other competitive political groupings of their choice, and is the system free of undue obstacles to the rise and fall of these competing parties or groupings? 0 / 4 (–1)

Opposition leaders are harassed, attacked, imprisoned, and otherwise impeded from participating in political processes or leading political parties in peaceful activities. Leopoldo López, founder of two opposition parties, remains under house arrest after spending more than three years in prison on spurious charges. Intelligence officials raided his home in March 2018 after the New York Times published an article based on dozens of interviews he had secretly given to one of its journalists.
Dozens of other political leaders have been subjected to harassment or arrest, and an apparent assassination attempt against President Maduro in August prompted a major crackdown. Opposition lawmaker Juan Requesens and Caracas councilman Fernando Albán were among those arrested for alleged involvement in the incident. After more than two days in which Requesens’ whereabouts were unknown, videos surfaced in which he appeared to have been physically abused and likely tortured by state officials. Alban was arrested in October upon returning from an advocacy trip to the United Nations in New York. He was held by intelligence services for several days until his death was reported by officials as a suicide. Many opposition leaders and several foreign governments believe he was tortured and murdered by state officials; the United Nations has called for an investigation into his death. A number of other opposition figures have fled the country.

In 2018, the government increasingly adopted what human rights groups termed a “revolving door” approach to repress critics, employing more frequent detentions but for shorter periods of time. In many cases, detained individuals disappear for multiple days before any information is provided about their whereabouts. The effect has been to broaden the government’s campaign to stifle protest and dissent while roughly maintaining the total number of political prisoners at a given time. A May report published by the OAS detailed the widespread use of torture to persecute government opponents. There have been over 12,800 arbitrary detentions since 2014 and there were 288 political prisoners at the end of 2018.

Score Change: The score declined from 1 to 0 due to sustained state-sanctioned violence and attacks against opposition leaders, including arbitrary arrests, forced disappearances, and torture.

B2. Is there a realistic opportunity for the opposition to increase its support or gain power through elections? 0 / 4 (−1)

While discontent with the Maduro administration continues to grow, the government has cut off virtually all avenues for political change. After pushing through the de facto replacement of the National Assembly with the National Constituent Assembly in 2017, Maduro went further in 2018 by ensuring that no publicly known opposition figure would be able to challenge him in the 2018 election. Opposition parties that had boycotted the 2017 municipal elections due to the unjust conditions were banned by the National Constituent Assembly from competing under their names in the presidential election, prompting the opposition MUD coalition to declare a boycott of the process. Opposition parties also boycotted the December 2018 municipal elections, in which, as a sign of widespread dissatisfaction, only 27 percent of voters participated.
Both López and Henrique Capriles, a prominent opposition figure and former governor of Miranda State, are banned from holding public office.

Score Change: The score declined from 1 to 0 because major opposition political parties and candidates were denied the ability to compete in presidential elections.

B3. Are the people's political choices free from domination by the military, foreign powers, religious hierarchies, economic oligarchies, or any other powerful group that is not democratically accountable? 1 / 4

State-affiliated colectivos routinely commit acts of violence against civilians with impunity, particularly at antigovernment protests, and carry out government efforts to intimidate voters.

The government’s 2017 deployment of the Fatherland ID card—which is necessary to access subsidized food, subsidized oil medical procedures, and other services—has enabled authorities to institutionalize a form of political discrimination. In the lead-up to the 2018 presidential election, the government directed aid recipients to display their identification cards at government-run booths near polling stations. This fueled a widespread perception that those who failed to vote would see food aid withdrawn. Moreover, the government has also effectively bought votes by offering prizes of food to ID holders who vote. There were additionally reports of state employees being pressured to send photographs of themselves voting to their managers. The Reuters news agency, in a 2018 story on the Fatherland ID card, reported on the existence of a Justice Ministry list of state employees who had failed to vote.

B4. Do various segments of the population (including ethnic, religious, gender, LGBT, and other relevant groups) have full political rights and electoral opportunities? 2 / 4 (–1)

While several women hold senior positions in government, the general underrepresentation of women in politics contributes to a lack of policy discussions about issues that primarily affect women, such as gender-based violence. Discrimination against LGBT (lesbian, gay, bisexual, and transgender) Venezuelans impacts their ability to fully engage in political and electoral processes. The government has professed support for the rights of indigenous people, but in practice they too lack meaningful political representation. Three indigenous legislators were prevented from taking office after their victories in 2015 elections to the National Assembly in order to deny the opposition a two-thirds majority. Some indigenous leaders have been impeded from running for office and others have been targeted by government stigmatization campaigns.
to ensure political representation for indigenous and other groups. Members of these groups now have little opportunity to advance any interests that fall outside of the body’s agenda.

Score Change: The score declined from 3 to 2 because authorities’ drive to quash dissent has left women, indigenous populations, and LGBT people with fewer opportunities to advocate for their interests.

C. FUNCTIONING OF GOVERNMENT: 0 / 12

C1. Do the freely elected head of government and national legislative representatives determine the policies of the government? 0 / 4

Venezuela does not function as a representative democracy. The opposition-controlled legislature has had no practical ability to carry out its constitutional mandate since the 2015 elections, and since August 2017 has been supplanted by a body packed with regime loyalists who were elected under undemocratic conditions. While the National Assembly was never formally dissolved, the new National Constituent Assembly granted itself sweeping legislative powers, essentially leaving the old assembly with no functional role.

Military officials, many of them in active service, occupy a number of top positions in government ministries and state-level administrations, and the armed forces perform routine government duties, blurring the lines between civilian and military functions. The unpopular Maduro administration relies heavily on support from the military to maintain power. In 2018, a growing number of military officers were arrested, as the administration became increasingly concerned about divisions within the ranks.

C2. Are safeguards against official corruption strong and effective? 0 / 4

Corruption is rampant in Venezuela. The government’s economic policies—particularly its currency and price controls—have greatly increased opportunities for black-market activity and collusion between public officials and organized crime networks, while exacerbating the effects of the economic crisis for poor and middle-class Venezuelans. The scale of Venezuelan corruption is exemplified by Alejandro Andrade, former head of Venezuela’s treasury, who was sentenced by a US court to 10 years in prison after pleading guilty to taking over $1 billion in bribes, in exchange for helping a network of elites purchase dollars at fixed exchange rates and resell them on the black market for a massive markup.

C3. Does the government operate with openness and transparency? 0 / 4


There is little transparency regarding government spending. The government has consistently failed to publish vital economic data, including monthly inflation statistics. In 2017, President Maduro fired the health minister after the ministry published data confirming a dramatic rise in maternal and infant mortality.

**CIVIL LIBERTIES: 16 / 60 (-2)**

**D. FREEDOM OF EXPRESSION AND BELIEF: 7 / 16 (-1)**

**D1. Are there free and independent media? 1 / 4**

Venezuela’s independent journalists operate within a highly restrictive regulatory and legal environment, and risk arrest and physical violence in connection with their work. Most independent newspapers have shut down or moved to a digital format.

The Maduro government maintains a state communications infrastructure, bolstered by a broad legal framework, which is used to propagate its political and ideological program. Critical media face various forms of harassment. A series of private news outlets have changed ownership under financial pressure in recent years, and their coverage subsequently grew more favorable to the authorities.

In November 2017, the National Constituent Assembly passed a hate-speech law mandating fines and up to 20 years’ imprisonment for anyone who disseminates information deemed “intolerant” via traditional or social media. In September 2018, two men were arrested by military counterintelligence officers under the law for posting a video that compared President Maduro to a donkey. They were held for several weeks before being “freed with restrictions.”

Obstruction, intimidation, physical attacks, confiscations of equipment, and detentions and arrests of media workers continued in 2018. Venezuela’s Press and Society Institute (IPYS) reported that there were 25 arbitrary detentions of journalists in the first nine months of 2018, and that two journalists had been prohibited from leaving the country as punishment for their reporting. A German freelance writer was detained in a military detention facility in mid-November on charges of spying and “violating security zones,” and remained there at year’s end, though authorities have not provided any evidence to support the charges.

In September, the National Telecommunications Commission (CONATEL) ordered internet service providers in Venezuela not to allow an investigative journalism website, Armando.info, to publish a report about Alex Saab, a Colombian businessman responsible for importing staple foods for the government food-distribution program.
Constitutional guarantees of religious freedom are generally respected, though tensions between the government and the Roman Catholic Church remain high. Government relations with the small Jewish community have also been strained at times.

D3. **Is there academic freedom, and is the educational system free from extensive political indoctrination?** 2 / 4

Academic freedom came under mounting pressure during Chávez’s tenure, and a school curriculum developed by his government emphasizes socialist concepts. More recently, budget cuts and other funding problems have undermined universities’ autonomy and prompted an exodus of academics from the country.

The OAS and Venezuelan civil society organizations have noted growing government efforts to stifle political speech by university students. In late 2017, the Inter-American Commission on Human Rights (CIDH), an OAS body, released a report expressing concern over the detention of more than 300 university students involved in a 2017 protest movement calling for political reforms. The report added that 21 students had been murdered amid the movement, and that 92 demonstrations called by university students or lecturers have been repressed.

D4. **Are individuals free to express their personal views on political or other sensitive topics without fear of surveillance or retribution?** 1 / 4 (–1)

Authorities’ monitoring of citizens’ behavior via their use of the Fatherland ID card and through scrutiny of content posted on social media platforms has created a climate of fear. Social media users have been subject to arrest in response to comments posted online, with at least 17 individuals detained since 2014 for opinions expressed on Twitter alone. In May 2018, Pedro Jaimes Criollo, a private citizen, was detained for tweeting information about the flight route of an aircraft carrying President Maduro. The incident was considered by many human rights groups to be a forced disappearance, given that after he was detained his whereabouts were unknown for more than a month. He was reportedly tortured while in custody.

The government has also employed the Fatherland ID system to monitor citizens’ activities. With guidance from Chinese company ZTE, authorities have reportedly developed a sophisticated monitoring system that not only allows them to withhold food aid and other services from political opponents, but also enables them to gather
Score Change: The score declined from 2 to 1 due to arrests of social media users for online comments, and the Maduro administration’s use of the Fatherland ID card to monitor citizens’ activities.

E. ASSOCIATIONAL AND ORGANIZATIONAL RIGHTS: 2 / 12

E1. Is there freedom of assembly? 0 / 4

Freedom of assembly is guaranteed in the constitution, but is not protected in practice. Widespread antigovernment protests in 2017 gave way to violent clashes with security forces, leading more than 1,900 injuries and 136 deaths, at least 102 of whom were apparently killed directly by security forces or state-affiliated colectivos.

There were fewer mass protests in 2018, likely due in part to the government’s brutal crackdown on demonstrations the previous year. Most focused on discontent with the country’s economic and social conditions, rather than the political situation. A growing number of professionals in the health sector, as well as transportation workers and grocery store owners, protested food and medicine shortages and criticized government policies. A peaceful march by 400 doctors and nurses in August was broken up by police.

E2. Is there freedom for nongovernmental organizations, particularly those that are engaged in human rights- and governance-related work? 1 / 4

Activists and nongovernmental organizations (NGOs) are routinely harassed, threatened, and subject to legal and administrative sanctions for their work. Dozens of civil society activists have been physically attacked in recent years. In 2017 and 2018, the government has focused mainly on attempting to delegitimize these organizations by accusing them of conspiring with foreign governments.

E3. Is there freedom for trade unions and similar professional or labor organizations? 1 / 4

Workers are legally entitled to form unions, bargain collectively, and strike, with some restrictions on public-sector workers’ ability to strike. Control of unions has shifted from traditional opposition-allied labor leaders to new workers’ organizations that are often aligned with the government. The competition has contributed to a substantial increase in labor violence as well as confusion and delays during industry-wide collective bargaining.
government reforms that failed to stem hyperinflation.

F. RULE OF LAW: 1 / 16

F1. Is there an independent judiciary? 0 / 4

Politicization of the judicial branch increased dramatically under Chávez and has progressed further under Maduro. High courts generally do not rule against the government. In late 2015, the outgoing PSUV-controlled legislature stacked the TSJ with its own appointees before the opposition-controlled National Assembly took office. The progovernment National Constituent Assembly has since installed over a dozen regime loyalists on the TSJ, solidifying the judiciary’s alignment with the executive branch. In opposition to these developments, a group of former “justices-in-exile” has been working internationally to bring largely symbolic charges against Maduro and other government officials.

F2. Does due process prevail in civil and criminal matters? 0 / 4

Opponents of the government and ruling party are routinely detained and prosecuted without regard for due process. In recent years, the Bolivarian National Intelligence Service (SEBIN) has increasingly carried out policing functions and arrested opposition politicians and journalists without informing the Public Ministry or presenting official charges. The military has also assumed roles previously reserved for civilian law enforcement institutions, and foreign governments allege that the military has adopted a permissive attitude toward drug trafficking. According to Venezuelan human rights groups, at least 800 civilians have been tried in military court proceedings since 2017.

In 2017, the National Constituent Assembly dismissed prosecutor general Luisa Ortega, who has been critical of Maduro. She then fled the country, saying she feared for her life.

F3. Is there protection from the illegitimate use of physical force and freedom from war and insurgencies? 0 / 4

Venezuela’s violent crime rates rank among the highest in the world. A 2018 report by Insight Crime cited a homicide rate of 89 per 100,000 people—which would make Venezuela the most dangerous country in Latin America—and called the country a "mafia state" due to the degree of infiltration by organized crime into state institutions. Venezuela also ranked last of all 142 countries surveyed in Gallup’s latest
The police and military have been prone to corruption, torture, and extrajudicial killings. Prison conditions in Venezuela remain among the worst in the Americas. Pranes, or gang leaders who operate from prisons, are able to coordinate criminal networks throughout Venezuela.

**F4. Do laws, policies, and practices guarantee equal treatment of various segments of the population? 1 / 4**

The rights of indigenous people, who make up about 2 percent of the population, are upheld by the constitution but poorly protected by local authorities. Although discrimination based on sexual orientation is barred, LGBT Venezuelans face widespread intolerance and are occasionally subjected to violence.

Despite legal protections, women suffer from violence and discrimination in practice, including earning lower salaries than men doing similar work.

Segments of the population that were already disadvantaged or marginalized appear to have suffered disproportionately from Venezuela’s economic and health crises. Maternal mortality has increased in recent years. People living with HIV/AIDS—most of whom are gay men and transgender people—have suffered due to the government’s decision to stop subsidizing antiretroviral drugs.

**G. PERSONAL AUTONOMY AND INDIVIDUAL RIGHTS: 6 / 16 (–1)**

**G1. Do individuals enjoy freedom of movement, including the ability to change their place of residence, employment, or education? 2 / 4**

The country’s currency controls and other economic policies, combined with an enormous decline in the number of flights to and from Venezuela, and periodic border closures, have made it extremely difficult for Venezuelans to travel abroad. Venezuelans of all social classes nevertheless fled the country in massive numbers in 2018, even as neighboring countries imposed more rigorous passport and visa controls in an effort to slow the influx.

**G2. Are individuals able to exercise the right to own property and establish private businesses without undue interference from state or nonstate actors? 1 / 4**

Property rights have been affected by years of price controls, nationalizations, overregulation, and corruption. Accusations of mismanagement, underinvestment, graft, and politicized hiring practices within state-owned enterprises are common.
G3. Do individuals enjoy personal social freedoms, including choice of marriage partner and size of family, protection from domestic violence, and control over appearance? 3 / 4

The government generally does not restrict social freedoms. A 2007 law was designed to combat violence against women, but domestic violence and rape remain common and are rarely punished in practice.

G4. Do individuals enjoy equality of opportunity and freedom from economic exploitation? 0 / 4 (-1)

Venezuelan women and children are increasingly vulnerable to sex trafficking within Venezuela and in neighboring countries, as well as in Europe, with the problem exacerbated by worsening economic conditions. Migrants to Venezuela have also been subjected to forced labor and sex trafficking. The government has reportedly done little to combat human trafficking.

With job opportunities growing scarce and wages not keeping up with hyperinflation, more citizens have turned to jobs in the informal economy, where they are more exposed to dangerous or exploitative working conditions. Meanwhile, the United Nations estimated in December 2018 that roughly 5,500 Venezuelans were leaving the country each day due to a lack of employment opportunities, food shortages, and violence.

Score Change: The score declined from 1 to 0 due to the severe economic crisis, which has prompted mass emigration, and increases in sex trafficking and sexual exploitation, trafficking of children, forced child labor, and dangerous working conditions.
Tab #15
HIV and AIDS in Latin America the Caribbean regional overview

**KEY POINTS**

- Impressive progress has been made in Latin America in increasing the number of people who know their HIV status and receive treatment.
- Latin America has shown strong commitment to funding its HIV response, yet many services for high-risk groups are being funded by donors.
- The Caribbean has the second highest HIV prevalence after sub-Saharan Africa.
- The percentage of people in the Caribbean with suppressed viral loads is well below the global average.
- Of the Caribbean countries, 11 out of 16 rely heavily on external funding.
- Barriers to progress include violence and stigma towards key affected populations and
those living with HIV in Latin America and the Caribbean.

Explore this page to find out more about the people most affected by HIV in Latin America and Caribbean, testing and counselling, prevention programmes, antiretroviral treatment availability, barriers to the response, funding and the future of HIV in Latin America and Caribbean.

An estimated 2.2 million people were living with HIV in Latin America and the Caribbean in 2018 (1.9 million in Latin America and 340,000 in the Caribbean). This equates to an HIV prevalence of 0.4% in Latin America and 1.2% in the Caribbean. In the same year, there were 100,000 new infections in Latin America and 16,000 in the Caribbean, and 41,700 people died from AIDS-related illnesses (35,000 in Latin America and 6,700 in the Caribbean).

Antiretroviral treatment (ART) coverage has been relatively high and AIDS-related deaths relatively low in Latin America for many years. However, little progress has been made on slowing the rate of new infections in the last decade, which overall have fallen by just 1% between 2007 and 2017, and new infections among young people within key populations are on the rise. However, AIDS-related deaths over the same period have fallen by 12%.

In 2018, 80% of people living with HIV in Latin America were aware of their HIV status. Of those who were aware, 62% were accessing antiretroviral treatment (ART). Of those on treatment, 55% were virally suppressed.

There has been moderate progress made on both prevention and treatment in the Caribbean. The annual number of new HIV infections among adults in the Caribbean declined by 18% between 2010 and 2017, and deaths from AIDS-related illness fell by 23%. In this part of the region, there was a large gap in awareness of HIV status at the start of the HIV testing and treatment cascade.

In 2018, 72% of people living with HIV in the Caribbean were aware of their HIV status. Of those who were aware, 77% were accessing antiretroviral treatment (ART). Of those on treatment, 74% were virally suppressed.

Nearly 90% of new infections in the Caribbean in 2017 occurred in four countries - Cuba, Dominican Republic, Haiti and Jamaica - while 87% of deaths from AIDS-related illness occurred in the Dominican Republic, Haiti and Jamaica. Haiti alone accounts for nearly half of annual new HIV infections and AIDS-related deaths.
Despite its small population size, the Caribbean has a high HIV prevalence globally at 1.2% (West and Central Africa stands at 1.5% and the highest prevalence global is in East and Southern Africa at 7%).

Latin America and the Caribbean has a concentrated epidemic, which means HIV prevalence is low among the general population but among certain groups such as men who have sex with men and transgender women, prevalence is particularly high. Young people are also disproportionately affected by HIV in the region.

In 2017, gay men and other men who have sex with men accounted for 41% of HIV infections in Latin America, and key populations and their sexual partners represented more than three quarters of new infections overall. In the Caribbean, gay men and other men who have sex with men accounted for nearly a quarter of new infections in 2017. In total, key populations and their sexual partners represented two thirds of new infections.

Brazil has played a key leadership role in the reinvigoration of HIV prevention in Latin America. However, the election of Jair Bolsonaro of the Social Liberal Party (PSL) as president in October 2018 could significantly reverse the progress made on HIV in Brazil and possibly the wider region, as well as deny human rights for many vulnerable populations. Bolsonaro has described himself as a ‘proud homophobe’ and is opposed to state-funded treatment for people living with HIV. Many in Brazil’s LGBTI community say they experienced an increase in violence and threats during the election campaign and there were record numbers of murders of LGBTI Brazilians between 2016 and 2018.
Men who have sex with men (MSM) (sometimes referred to as MSM) are the group most affected by HIV in Latin America and the Caribbean.

In the Caribbean, HIV prevalence among gay men and other men who have sex with men is particularly high in Trinidad and Tobago (32%), Bahamas (25%) and Haiti (13%). The lowest prevalence percentages are still high at 5% in Guyana and around 6% in Suriname and Cuba.

In Latin America, HIV prevalence among this population is lowest in Guatemala and El Salvador at around 7%. Most other countries have prevalence ranging between 11% and 17%, although Bolivia, Mexico and Paraguay all report prevalence above 20% (25%, 21% and 21%, respectively).

There are many reasons for high levels of HIV transmission among this group. In 2014, only 51% of men who have sex with men were reported to have access to HIV services, a level that has remained unchanged for several years. Moreover, access to HIV testing among men who have sex with men varies enormously from country to country, ranging from 5% to 70%.

Homophobia and the ‘machismo’ (or aggressively masculine) culture are common throughout the region and sex between men is highly stigmatised. Large numbers of men who have sex with men also have sex with women, forming a ‘bridge’ population.

As one civil society worker explains, men who have sex with men are often hesitant to reveal how they became infected with HIV. Many are mistakenly classed as heterosexual:
Unless he’s a total queen, a man will always be [counted as] heterosexual. Plus, people don’t want to be recognised [as homosexual].

- Ruben Mayorga, civil society worker, Guatemala City 17

**Transgender people**

Transgender women are highly affected by HIV in Latin America and the Caribbean. HIV prevalence among this group is thought to be 49 times higher than among the general population.18

In countries where data is collected on this key population, transgender women experience some of the highest HIV prevalence. In Latin America, recorded prevalence is lowest in El Salvador at 7.4% and highest in Ecuador at 35%. It is over 20% in Colombia, Costa Rica, Guatemala, Panama and Paraguay. In the Caribbean, data on transgender people is scarce, with only Guyana and Cuba reporting HIV prevalence, which stands at 8% and 20%, respectively.19

Research has shown that between 44% and 70% of transgender women have felt the need to leave, or were thrown out of their homes.20 One study from Mexico indicated that 11% of transgender women living with HIV were excluded from family activities.21

Transgender people in the region have fewer educational and social opportunities, often resorting to sex work for an income.22 Country-level data collected between 2011 and 2015 also shows much higher HIV prevalence among transgender women sex workers compared to other sex workers.23 Transgender people also face high rates of violence. According to the Observatory of Murdered Trans People, 2,016 transgender people were reported as murdered between 2008 and 2015 across the world, 1,573 (78%) of them were in Latin America and the Caribbean.24 The highest number of these murders occurred in Brazil, where 938 were reported.25

Such high levels of stigma and violence remain significant barriers to transgender people accessing HIV services.

**Sex workers**

HIV also disproportionately affects sex workers, although there are variations between country situations and genders. In Latin America, around 1% of sex workers in Chile, Colombia, Costa Rica, Guatemala, Paraguay, Peru and Uruguay were living with HIV in 2017, compared to around 5% in Bolivia, Brazil and Panama. In the Caribbean, where reported, prevalence ranges from between 2% in Jamaica to 6% in Guyana.26

Male and transgender sex workers tend to be more affected by HIV than cis-female sex workers. For example, 69% of male sex workers in Suriname were estimated to be living with HIV in 2014, compared to 4% of female sex workers.27

Testing coverage among sex workers is higher among female sex workers (ranging from 39% to 98%) than male sex workers (ranging from 17% to 70%). Condom use during last transactional sex ranges
from 57% in Belize to greater than 95% in Panama and Antigua and Barbuda.28

Across the region, particularly in the Caribbean, sex workers experience a range of human rights violations and social injustices, including the denial of access to healthcare, poor working conditions, violence and harassment by law enforcement. Sex workers are also frequently marginalised by social and religious institutions and subject to discrimination. For these reasons, many people who engage in sex work do so covertly.

One study of female sex workers in Argentina reported that 24.1% had experienced sexual abuse; 34.7% reported rejection; 21.9% reported having been beaten; while 45.4% reported having been arrested because of their sex work activity. Higher levels of inconsistent condom use were also reported among those who experienced sexual abuse, rejection and police detention.29

All these factors act as significant barriers to sex workers accessing effective HIV prevention and treatment services.

People who inject drugs (PWID)

An estimated 1.9 million people inject drugs Latin America and the Caribbean. A wide-ranging evidence review, published in 2017, found 51% of people who inject drugs (sometimes referred to as PWID) are aged 25 and under, a higher proportion than any other region in the world.30

Reliable HIV-related data on people who inject drugs is extremely limited. The 2017 evidence review mentioned above estimates prevalence at 35.7% in Latin America and 13.5% in the Caribbean. However, this is based on the only data available, which came from just five Latin American countries, and one Caribbean territory (Puerto Rico).31 The only country reporting prevalence among people who inject drugs to UNAIDS in 2017 was Mexico, which estimated it to be 2.5%.32

This lack of data affects the planning and development of effective, targeted responses for people who inject drugs.

UNAIDS estimates that 2% of all new HIV infections in Latin America and 1% in the Caribbean were the result of unsafe injecting practices in 2017,33 levels that are disproportionately high, considering only 0.5% of people in Latin America and 0.4% in the Caribbean are thought to inject drugs.34

In Puerto Rico, where poor access to sterile injecting material has been identified as a significant contributor to the HIV epidemic, 51% of people who died while living with HIV between 1981 and 2013 acquired the infection via unsafe injection practices.35

Young people

Young people in Latin America and the Caribbean, especially those who are from key populations, are disproportionately at risk of HIV infection. One factor contributing to this are the barriers to accessing prevention services.

In many countries minors require parental or guardian consent to test for HIV. In Mexico and Panama, adolescents have to be accompanied by a parent, a legal guardian or another state-recognised person in order to receive their test results. In Paraguay, health staff can request authorisation to conduct an HIV test in the absence of parents or guardians.

However, a few countries in the Caribbean have developed policies allowing minors to access HIV
testing without parental consent, either allowing it at any age (such as in Guyana) or above the age of 14 (as in Trinidad and Tobago).36

In the Caribbean, the cultural norm of young women (aged 15-24) having sexual relationships with older men increases their risk of HIV infection. In Haiti, for example, HIV prevalence among young women is more than double that among young men.37 Between 9% and 24% of young women in the region reported having sex with a man at least 10 years older than themselves within the last 12 months. Other risk factors, such as multiple sexual partners and inconsistent condom use, compound the risk of age mixing in these countries.38

In Latin America, high prevalence among gay and other men who have sex with men results in young men being significantly more likely to be living with HIV than young women.39
HIV testing and counselling (HTC) in Latin America and the Caribbean

In 2017, 77% of people living with HIV in Latin America and 73% of people living with HIV in the Caribbean were aware of their status.40

Different approaches to testing are being taken in the region to increase the number of people who are aware of their status. Around a third (62%) of LAC countries that offer testing services within flexible hours, are generally provided by civil society organisations (CSOs).41

HIV self-tests are available in the Bahamas, Brazil, El Salvador, Jamaica, Peru, and Trinidad and Tobago. However, as of 2017, most governments were yet to document their use, provide them at subsidised cost, or use this method to expand testing to people from key populations, whose need is significantly greater due to the concentrated nature of the epidemic.42

An exception is Brazil, which introduced self-testing kits in 2015. These kits were made available free of charge from pharmacies, medication distribution centres, health services and government health programmes, as well as through the mail. The oral self-testing kits feature clear instructions and a telephone helpline.43

Just under two-thirds of countries in the region (68%) offer testing in community centres. Argentina, Dominica, Guatemala, Jamaica, Mexico and Paraguay allow HIV testing to be done by trained individuals who are not health professionals.44

Late HIV diagnosis is a serious issue in Latin America and the Caribbean. In at least half the countries in the region, one in three people had a CD4 count under 200 when tested for the first time.45 46

Barriers to testing are numerous. For example, in the majority of the countries, testing centres are concentrated in large cities, creating problems for people living in non-urban communities. Although 92% of countries provide sensitivity training for healthworkers involved in HIV screening for key populations, civil society organisations in 12 countries that participated in national consultations on HIV prevention reported a lack of sensitivity among these professionals. Furthermore, many countries do not collect data on testing for transgender women or female sex workers, which obstructs initiatives to increase testing among these key populations.47

HIV prevention programmes in Latin America and the Caribbean

In 2017, there were 100,000 new infections in Latin America and 15,000 in the Caribbean.48 Brazil, which has 35% of the total population of people living with HIV in Latin America and 47% of new infections in 2017, has been at the forefront of renewed HIV prevention efforts in Latin America.49 However, the election of President Bolsonaro of the far-right PSL party in October 2018 has the potential to reverse progress.

In the Caribbean, renewed commitment to combination prevention that is tailored to key populations is needed to accelerate reductions in new HIV infections.50
Condom availability and use

Although limited in scope, the latest available data from Latin America and the Caribbean indicates that condom use varies widely.

Men engaging in sex with a non-regular partner are more likely than women to use condoms. The lowest rates of condom use at last high-risk sex among women range from 20% in Barbados and Guatemala to 76% in Cuba. Among men, the lowest reported rates are in Barbados (42%) and Chile (49%), and highest in Cuba (80%) and Colombia (71%).

In the Caribbean, levels of condom use among young people (aged 15-24 years) who are having sex with non-regular partners ranged from 67% in Belize to 79% in Jamaica among young men and 49% in the Dominican Republic to 57% in Jamaica among young women.

The regional median for condom use among men who have sex with men in their most recent sexual encounter is 63%; among female sex workers 80%; and among transgender women 88%.

All countries provide free condoms to key populations and young people but levels are often inadequate. Only one third procure condoms using domestic resources. It is essential to increase the availability, access, affordability and use of condoms (and compatible lubricants) among key populations through targeted distribution schemes.

HIV awareness, education and approach to sex education

Most countries in the Caribbean provide comprehensive sexuality education (CSE) in primary and secondary schools, which includes topics beyond the reproductive system to include HIV, sexually transmitted infections, sexuality, gender identity and gender equality.

Knowledge about HIV among young people (aged 15-24 years) in the Caribbean is highest in Cuba where 76% of young women and 80% of young men are aware of HIV and how to prevent it. In the rest of the Caribbean, it is much lower at around 40 to 50%.

An exception to this is Haiti, where CSE is not available. As a result, just 37% of 15 to 24-year-olds in Haiti have good knowledge about HIV prevention. In Latin America, implementation of CSE has slowed down in most countries due to a lack of agency within education ministries. Some countries, such as Brazil and Chile, are moving youth-friendly CSE services into schools. Venezuela has one of the highest teenage pregnancy rates in Latin America yet comprehensive sexuality education in schools is not mandatory.

As a result, in most Latin American countries, only around 30% of young people are aware of HIV and how to prevent it, with the exception of Peru where 75% of young women are aware of HIV prevention.

Preventing mother-to-child transmission (PMTCT)

Mother-to-child transmission of HIV in Latin America stood at 11.4% in 2017, down from 16.2% in 2010. This largely reflects the strength of programmes in Brazil and Mexico - two countries that are home to 62% of people living with HIV in the region. Almost 75% of pregnant women living with HIV in 2017 received antiretrovirals to prevent vertical transmission of HIV and protect their own health. In addition, almost half (46%) the infants exposed to HIV received early infant diagnosis, a crucial
intervention for early initiation of treatment.59

Seven countries and island states in the Caribbean have been validated as having eliminated mother-to-child transmission of HIV: Anguilla, Antigua and Barbuda, Bermuda, the Cayman Islands, Cuba, Montserrat, and Saint Kitts and Nevis. The rate of mother-to-child transmission (including breastfeeding) in the Caribbean in 2017 was 13.3%. This is significantly lower than the 18.7% rate in 2010. PMTCT treatment coverage was 75% in 2017, and almost half (48%) of HIV-exposed infants received an early infant diagnosis before eight weeks of age.60

As a result, new HIV infections among children (aged 0-14 years) have declined across Latin American and the Caribbean, down from an estimated 4,700 in 2010 to 3,500 in 2017. Progress was greatest in the Caribbean, where new infections among children fell from an estimated 2,300 in 2010, to 1100 in 2017.61 62
However some countries continue to lag behind. PMTCT coverage is 21% in Guatemala, and 49% in Mexico. Difficulties in reaching those belonging to key affected populations, such as indigenous people, sex workers and young women, contribute to these low coverage rates.

Pre-exposure prophylaxis (PrEP)

Brazil is the only country in Latin America where pre-exposure prophylaxis (PrEP) is available through the public sector. The country’s Ministry of Health aims to provide PrEP to more than 50,000 sex workers, gay men and other men who have sex with men, and transgender people between 2018 and 2023. In Chile, Costa Rica, Guatemala, Mexico and Uruguay, PrEP can be obtained through private healthcare providers, the internet or research projects.

Harm reduction

Access to harm reduction programmes across Latin America and the Caribbean is extremely limited.

Only eight countries provide needle and syringe programmes (NSPs): Argentina, Brazil, Colombia, Dominican Republic, Mexico, Paraguay, Puerto Rico and Uruguay. In some cases, coverage of NSP services is believed to have declined due the reduction in the number of people who inject drugs, such as in Argentina, Brazil and Uruguay.

In 2016, the proportion of people using sterile injecting equipment the last time they injected drugs stood at 54% in Brazil, 71% in Mexico and 92% in Paraguay. No other countries in the region reported
official data on this or any other indicator relating to drug use, further highlighting the severe lack of information about this key population.68

The close of Global Fund support has had a big impact on NSP provision in Mexico. NGOs in Tijuana and Cd. Juarez report that distribution of needles and syringes per person who injects drugs fell by between 60% and 90%.69

As of 2016, opioid substitution therapy (OST) services were only available in Argentina, Brazil, Colombia, Mexico and Puerto Rico.70

Antiretroviral treatment availability in Latin America and the Caribbean

Access to antiretroviral treatment (ART) across Latin America and the Caribbean is uneven and far behind many other regions. Treatment coverage was 61% of all people living with HIV in Latin America in 2017 and 57% in the Caribbean.71 72

By 2017, 45% of countries in the region had adopted a ‘treat all’ policy whereby anyone testing positive for HIV is offered treatment, regardless of the level of viral progression.73 However, coverage varies hugely between countries: from 36% in Bolivia to 67% in Peru (in Latin America) and from 31% in Belize to 66% in Cuba (in the Caribbean).74 75

The success of treatment also varies, indicated by differing levels of viral suppression among people living with HIV. Viral suppression is achieved when the level of HIV in someone’s blood is so low the virus becomes undetectable, meaning they will not be able to transmit HIV on to others and should be in good health. Data is limited, although UNAIDS reports overall viral suppression to be 52% in Latin America and 40% in the Caribbean. Again, suppression varies widely between countries. In Latin America it ranges from 21% of people on treatment in Panama to 59% in Brazil. In the Caribbean it ranges from 17% of people on treatment in Jamaica to 43% in Cuba, Dominican Republic and Suriname.76

In 2018, a study into adherence to ART in Latin America and the Caribbean found the average adherence rate to be 70% (it is estimated that to achieve viral suppression an adherence rate of 95% is needed). Factors that contribute to poorer levels of adherence include substance misuse, stigma, depressive symptoms and high pill burden.77

Key populations and young people often face barriers to accessing treatment. For example, research from Puerto Rico found that people who inject drugs constitute the highest percentage of people living with HIV who did not have access to treatment (between 41% and 53%). This was despite the fact they had the highest retention rate once they initiated treatment.78

A study among 13 to 17-year-olds living with HIV in Peru found most barriers to adherence centred on a lack of family or caregiver support, a history of declining health due to previous poor adherence, side effects from ART, and misinformation about treatment.79

Drug resistance

HIV-transmitted drug resistance (HIVTDR) remains at a moderate level in Latin America and the Caribbean at 7.7%. However, a wide-ranging evidence review published in 2016 found it to be
increasing, rising more rapidly in the Caribbean than in Latin America.80

**HELP US HELP OTHERS**

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We provide all this for FREE, but it takes time and money to keep Avert.org going.

*Can you support us and protect our future?*

Every contribution helps, no matter how small.

**PLEASE DONATE NOW**

Civil society’s role and HIV in Latin America and the Caribbean

There is a strong presence of civil society organisations (CSOs) and community-led networks in Latin America and the Caribbean, with civil society instrumental in both the region’s HIV response and human rights activism, particularly in Latin America. For example, Latin America is now recognised as a major leader in the global LGBTI movement.

This victory is much more than just the legal challenge and constitutional reforms. It is a rallying cry for the LGBT community and our allies to stand up and be counted! This represents the first moment in the history of the English speaking Caribbean that we have become truly visible and in a populist and meaningful manner. Yes, there was pushback but we are pushing forward in ways never seen before. This is the Rosa Parks moment for LGBT people of the Caribbean and we shall NEVER sit in the back of the bus again.

- LGBT activist Jason Jones after winning a legal case against the government of Trinidad and Tobago, challenging the legality of a law prohibiting same-sex relationships.81

In 2016, Civicus reported that civil society in Latin America and the Caribbean is coming under increasing pressure. According to the report, much of the danger for civil society results from webs of corruption that mesh the interests of politicians and other public officials with those of large private
entities and, in some cases, organised crime.82

**HIV and tuberculosis (TB) in Latin America and the Caribbean**

While tuberculosis (TB) is far less of a severe public health issue than in parts of Africa and Asia, it remains a significant problem in some countries in the region, and particularly affects people living with HIV.

Although some countries are now moving towards eliminating TB, eight are still experiencing significant TB epidemics. In 2016, more than half of people newly infected with HIV were concentrated in four countries: Brazil, Peru, Mexico and Haiti. Among those newly infected with TB in the region, 13% were living with HIV.83 In 2015, around 6,000 people living with HIV died from TB.84

Health system weaknesses continue to undermine TB diagnoses in the region. In the Americas, according to PAHO/WHO data, 50,000 people with tuberculosis were not diagnosed in 2015. Early detection and effective treatment are essential to prevent TB-related deaths, especially among people living with HIV.85

Inadequate linkages to care after diagnosis, poor follow-up, failure to reach the people most at risk of disease - particularly marginalised populations, including people who use drugs, prisoners and migrant workers - and poor treatment outcomes contribute to the lack of progress.86

**Barriers to the HIV response in Latin America and the Caribbean**

**Legal, cultural and socio-economic barriers**

Discrimination against key populations and HIV-related stigma continue to proliferate through many societies in the region, and discriminatory practices are widespread in health and other social services.

Key populations and women living with HIV are subject to practices such as forced sterilisation and denial of health services. Discriminatory and punitive laws and policies further limit access to services.87

Some Latin American countries have passed national drug policy reforms in recent years, shifting away from a punitive approach. Despite this progress, across the region large numbers of people who use drugs are still imprisoned. Around one in five prisoners in the region are detained due to drug-related offences and their numbers have been rising.88

Latin America offers a contradictory narrative when it comes to men who have sex with men, and LGBTI people. Some countries have made significant progress in recognising LGBTI rights. For example, Argentina, Brazil, Chile, Colombia, Costa Rica, Ecuador, Mexico and Uruguay allow marriage or civil unions between people of the same sex.89

However, the region has the highest rate of violence against LGBTI people in the world. Transgender people, in particular, face very high levels of transphobia. Furthermore, the arbitrary detention of transgender women, including torture and inhumane treatment, is not investigated and prosecuted. Transphobia is reported to be widespread among police forces in Guatemala and Honduras.90
Discriminatory laws against sex between men exist in the majority of Caribbean countries. While seldom enforced, existing legislation has the impact of institutionalising discrimination against men who have sex with men. However, in 2018 a legal case against the government of Trinidad and Tobago challenging the legality of a law prohibiting same-sex relationships suggests things might be changing. Although the government has appealed the decision, the move forward is seen as a significant step for LGBTI rights in the Caribbean.

The region’s culture of ‘machismo’ and gender inequality drives all forms of gender-based violence and gender inequality. Cis-boys and men are expected to be manly and have an exaggerated masculine pride. Cis-women are expected to be submissive to their husbands. People who do not fit into these accepted norms of masculine and feminine behaviours face stigma, rejection, discrimination, harassment and violence.

Intimate partner violence is a major issue in a number of countries. In Colombia and Nicaragua, more than one in three women reported being physically or sexually assaulted by a partner in the previous 12 months, compared with around one in six women in Dominican Republic and Haiti, one in seven in Cuba and one in 10 women in Guatemala, Mexico and Peru.

The majority of countries in Latin America and the Caribbean have no restrictions on entry, stay and residence for people living with HIV. Nicaragua and Paraguay have restrictions on the permanent stay of people living with HIV who have been in the country longer than three months. In both countries, resident permits are withdrawn in the case of a positive HIV test.

Social protection for people affected by HIV

HIV can push people and families into poverty by reducing household capacity and increasing medical costs. In response to this, some countries in Latin America have introduced social protection measures to mitigate against the negative impacts suffered by those affected by HIV.

In Uruguay, the ‘Social Card’ is a social protection programme aimed primarily at transgender women. Cardholders receive US $30 a month to buy food and cleaning products. The initiative reaches 1,000 people, the majority of whom belong to the transgender community.

Structural and resource barriers

The cost of antiretroviral medicines (ARVs) remain an issue. Many countries in the region are classified as middle-income, and do not benefit from access to the price reductions available to low-income countries. In Venezuela, the economic crisis makes it difficult to procure and distribute medical commodities, including for HIV testing and treatment. Shortages of antiretroviral medicines, opportunistic infection treatment and condoms are common.

Stock-outs of ARVs are another major structural obstacle. While efforts have been made to decrease the likelihood of this happening, 10 countries reported at least one stock-out in the previous 12 months when an analysis took place in 2012.

In the Caribbean, efforts to reach men and boys, and particularly gay men and other men who have
sex with men, are constrained by health services insufficiently tailored to their needs and limited community-based services.\textsuperscript{100 101}

**Stigma and discrimination**

Many people remain ignorant and fearful of HIV and AIDS, and myths about HIV and how it’s transmitted persist. UNAIDS reports that in several Latin American countries, at least one third of people said they would not buy vegetables from a person who is living with HIV. Discrimination towards people living with HIV by healthcare workers is common to varying degrees. In Paraguay, 17\% of people living with HIV said they had been denied healthcare services because of their HIV status within the last 12 months, and 20\% said that healthcare professionals had revealed their HIV status to others without consent. In Nicaragua, discrimination was less frequent, reported at 4\% and 8\% respectively.\textsuperscript{102 103}

Larger numbers of people in the Caribbean stigmatise and discriminate in similar ways. For example, in Jamaica, 71\% of people said they would not buy vegetables from a vendor who is living with HIV, as did 58\% of people in Haiti and 49\% of people in Dominican Republic.\textsuperscript{104}

A number of Caribbean countries are showing progress in addressing the stigma and discrimination experienced by key populations. A regional transgender advocacy coalition works on issues relating to human rights, social justice and HIV. In Cuba reports are encouraging: less than 1\% of gay men and other men who have sex with men and about 2\% of female sex workers said they had avoided taking an HIV test in the previous 12 months due to stigma and discrimination.\textsuperscript{105}

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[His family] fed him in the same plate ever, and like that, he had his own cup, glass, fork, knife, spoon, you get the idea, he was isolated by his own family. His razors where always trashed, and his tooth brush too, also, no one was ever taking care of his pills... One week before he died, in the middle of a discussion because of having AIDS he was thrown out of his house by his older sister... he died alone.

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\textit{- Lover of an HIV-positive man in Honduras }\textsuperscript{106}

**Data issues**

A lack of data is a major issue in the region. Data is particularly lacking on people who inject drugs and transgender people, as well as on a number of key indicators such as treatment adherence and viral suppression.
Funding for HIV in Latin America and the Caribbean

The total funding available for the HIV response has nearly doubled over the last decade, with more than 95% coming from domestic resources. Between 2006 and 2017 domestic resources increased by 189%, and international resources decreased by 11.6%. It is estimated than an additional US$ 293 million, a 9.3% increase, is needed to reach the 2020 funding target.107 108

Funding for the Caribbean's HIV response in particular has been declining since 2012, mostly because international support has been gradually withdrawn. In 2017, the United States President’s Emergency Plan for AIDS Relief provided 57% of all HIV resources in the Caribbean and the Global Fund to Fight AIDS, Tuberculosis and Malaria provided 8%.109 110

In 2017, approximately US$ 315 million was available for HIV programmes in the Caribbean, half of what is needed to reach the UNAIDS 90-90-90 targets by 2020. Domestic funding for prevention programmes is also low.111 112

In Haiti, which has the largest epidemic in the region, the HIV response is more than 90% externally funded and reliant on external support. 113 114

The future of HIV in Latin America and the Caribbean

While some countries in Latin America and the Caribbean have made significant progress, particularly in terms of treatment availability, it has been patchy. Even where treatment is available, a number of cultural and legal barriers prevent many groups from accessing the services they need. For example, homophobic crimes, which need to be addressed by laws and policies that protect the rights of all people.

Prevention programming needs to focus on key populations and although regional prevention targets have been endorsed by country stakeholders, and by prominent civil society organisations, financial investment in prevention is lacking.115 116

Brazil has played a major part in advancing Latin America’s HIV response and improving rights for LGBTI people and other marginalised communities. The success of the far-right is seen as a severe threat to progress in Brazil, with unwelcome consequences for Latin America as a whole.

In the Caribbean, early diagnosis and linking to care, retention in treatment and adherence need special attention. In addition, focusing on the knowledge and service access gaps facing young people and key populations is necessary.117 118

In both sub-regions, implementing sensitisation programmes that target national uniformed personnel, aimed at reducing stigma and discrimination towards key affected populations and people living with HIV, are needed in order to reduce hate crimes and improve access to HIV, health and other essential services.

There is also a pressing need for better quality data on a number of key populations and for national strategic information systems to be strengthened to make sure that progress is effectively monitored.119
1. UNAIDS ‘AIDSinfo’ (accessed August 2019)
2. UNAIDS ‘AIDSinfo’ (accessed October 2018)
3. UNAIDS ‘AIDSinfo’ (accessed August 2019)
4. UNAIDS ‘AIDSinfo’ (accessed October 2018)
5. UNAIDS ‘AIDSinfo’ (accessed August 2019)
6. UNAIDS ‘AIDSinfo’ (accessed October 2018)
7. UNAIDS ‘AIDSinfo’ (accessed August 2019)
8. UNAIDS ‘AIDSinfo’ (accessed October 2018)
9. UNAIDS ‘AIDSinfo’ (accessed October 2018)
11. UNAIDS ‘AIDSinfo’ (accessed October 2018)
12. UNAIDS ‘AIDSinfo’ (accessed October 2018)
19. UNAIDS ‘AIDSinfo’ (accessed October 2018)
26. UNAIDS 'AIDSinfo' (accessed October 2018)
30. University of New South Wales/National Drug and Alcohol Research Centre (December 2017) ‘A global picture of injecting drug use, HIV and anti-HCV prevalence among people who inject
drugs, and coverage of harm reduction interventions’

31. ibid

32. UNAIDS 'AIDSinfo' (accessed October 2018)

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41. PAHO/UNAIDS (2017) ‘HIV Prevention in the Spotlight: An Analysis from the Perspective of the Health Sector in Latin America and the Caribbean’ [pdf]

42. PAHO/UNAIDS (2017) ‘HIV Prevention in the Spotlight: An Analysis from the Perspective of the Health Sector in Latin America and the Caribbean’ [pdf]


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47. PAHO/UNAIDS (2017) ‘HIV Prevention in the Spotlight: An Analysis from the Perspective of the Health Sector in Latin America and the Caribbean’ [pdf]

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50. UNAIDS 'AIDSinfo' (accessed October 2018)

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56. UNAIDS 'AIDSinfo' (accessed October 2018)


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65. UNAIDS 'AIDSinfo' (accessed October 2018)
68. UNAIDS ‘AIDSinfo’ (accessed October 2018)
72. UNAIDS ‘AIDSinfo’ (accessed October 2018)
73. PAHO/UNAIDS (2017) ‘HIV Prevention in the Spotlight: An Analysis from the Perspective of the Health Sector in Latin America and the Caribbean’ [pdf]
75. UNAIDS 'AIDSinfo' (accessed October 2018)
76. UNAIDS 'AIDSinfo' (accessed October 2018)
77. AVERT (16 February, 2018) ‘People in poorer countries in Latin America and the Caribbean adhere better to HIV treatment’ (accessed November 2018)
81. The International HIV/AIDS Alliance (20 April, 2018) ‘Alliance salutes landmark LGBT rights case against Trinidad & Tobago’ (accessed November 2018)
82. Civicus (14 December, 2016) ‘Civil society in Latin America and the Caribbean under threat’ (accessed November 2018)
84. UNAIDS Caribbean (24 March, 2017) ‘Latin America and the Caribbean can end Tuberculosis’ (accessed November 2018)
85. UNAIDS Caribbean (24 March, 2017) ‘Latin America and the Caribbean can end Tuberculosis’ (accessed November 2018)
86. UNAIDS Caribbean (24 March, 2017) ‘Latin America and the Caribbean can end Tuberculosis’ (accessed November 2018)
92. The International HIV/AIDS Alliance (20 April, 2018) ‘Alliance salutes landmark LGBT rights case against Trinidad & Tobago’ (accessed November 2018)
98. UNAIDS ‘AIDSinfo’ (accessed October 2018)
101. UNAIDS ‘AIDSinfo’ (accessed October 2018)
103. UNAIDS ‘AIDSinfo’ (accessed October 2018)
105. ibid
106. An Avert personal story
108. UNAIDS ‘AIDSinfo’ (accessed October 2018)
110. UNAIDS ‘AIDSinfo’ (accessed October 2018)
112. UNAIDS ‘AIDSinfo’ (accessed October 2018)
114. UNAIDS ‘AIDSinfo’ p.218 (accessed October 2018)
116. UNAIDS ‘AIDSinfo’ (accessed October 2018)
118. UNAIDS ‘AIDSinfo’ (accessed October 2018)

Last full review: 23 November 2018
Next full review:
Tab #16
EXIGIMOS APERTURA DEL CANAL HUMANITARIO PARA VENEZUELA

Organizaciones de la Sociedad Civil, Ciudadanas y Ciudadanos abajo firmantes, alertamos que la crisis del VIH amenaza y causa daños irreparables en las vidas y la salud de todas las personas en Venezuela, sin que las altas autoridades del Ministerio de Salud ni ninguna otra institución del Estado venezolano reaccionen y ofrezcan urgentes y adecuadas respuestas a las necesidades y exigencias en la prevención, atención y tratamientos en VIH.

La crisis del VIH en Venezuela es un reflejo de la inestabilidad económica y política, las debilidades y la indiferencia de las instituciones públicas que no garantizan el derecho a la salud por la pérdida del Estado democrático y social de Derecho y de Justicia, que se niega a privilegiar los derechos humanos, lo que incumple los valores superiores consagrados en la Constitución de la República Bolivariana de Venezuela.

El Estado venezolano no puede ocultar que:

- El número de muertes relacionadas con el SIDA en Venezuela ha subido casi 75% desde el 2011. Las personas están falleciendo por la ausencia del 85% de las medicinas básicas y la debida atención médica de las complicaciones causadas por padecer el SIDA junto con otras enfermedades crónicas como el cáncer, hemofilia, trasplantes, cardiovasculares, infecciones respiratorias agudas, hipertensión arterial, diabetes, entre otras. Las personas con VIH y SIDA también están falleciendo por desnutrición severa.

- Diariamente más de 18 personas contraen el VIH debido al desconocimiento que genera la falta de campañas informativas para la prevención del virus, y por no tener acceso a los condones femeninos y masculinos. La mayoría son jóvenes de 18 a 24 años de edad.

- Más del 70% de las personas con VIH no han recibido sus tratamientos antirretrovirales de forma constante por el desabastecimiento en las farmacias del Ministerio del Poder Popular para la Salud, según el monitoreo de la Red Venezuelan de Gente Positiva (RVG+).

3 E.Colina (2017). Resultados del monitoreo de los ARVs en Venezuela por la RVG+ presentados en reunión de la RVG+ el 17.11.17.
De los 27 tipos de medicamentos antirretrovirales prescriptos por médicos especialistas e ingeridos por 77 mil personas con VIH, tan sólo cinco (05) antirretrovirales están disponibles para los adultos con VIH en los depósitos del Sumed Sefar del Ministerio de Salud. Estos son Atazanavir, Abacavir de de 300 mg, combinado de Atazanavir + Ritonavir de 300 mg/100 mg, Darunavir de 600 mg, y Nevirapine de 200 mg.

Más de 800 personas con VIH superan los seis (6) meses sin tomar el antirretroviral Complera.

1.600 niñas y niños con VIH de hasta 12 años solo cuentan con los antirretrovirales Zidovudine solución oral y Efavirenz que fueron donados por razones humanitarias por UNICEF para un periodo de seis meses. Venezuela cuenta con pocas cantidades de los antirretrovirales Abacavir de 20 mg x 240 ml solución oral, Lamivudine de 10 mg x 240 ml solución oral, y el combinado Lopinavir + Ritonavir de 80/20 mg x 160 viales, y Zidovudine de 50 mg x 240 solución oral, que no cubrirán el primer trimestre del año 2018.

Las farmacias públicas tienen más de dos años que no entregan fórmulas lácteas a las niñas y niños con VIH y aquellos expuestos al VIH de 0 a 12 meses de edad en situación de pobreza. Es por ello que las madres con VIH de estos niños, ambos víctimas del hambre, se ven obligadas a alimentarlos con agua de pasta, arroz o de verduras, y leche de cabra.

63,64% de los servicios pediátricos de los hospitales de 38 ciudades venezolanas no contaba con fórmulas lácteas para 2016.

Algunas embarazadas con VIH no reciben sus antirretrovirales con regularidad y no les practican las pruebas de carga viral, situación que hace desconocer los niveles de VIH en sangre y la efectividad de la terapia antirretroviral, que las coloca en un alto riesgo las vidas tanto a ellas como a los bebés que están por nacer.

El desconocimiento de la carga viral en la culminación del embarazo, ocasiona que la modalidad de parto se realice por cesárea, exponiendo a las embarazadas a mayor riesgo de infecciones, con el agravante que no hay antibióticos en las instituciones sanitarias públicas ni para la profilaxis cuando se realiza la cesárea, ni para el tratamiento de las infecciones, si ocurre una infección de la herida operatoria.

Muchas mujeres se podrían beneficiar de parto vaginal, si su carga viral de VIH se mantiene por debajo de 1000 copias o indetectable (menos de 50 copias), sin embargo esta modalidad de parto en la mayoría de las veces no puede realizarse, porque el sistema público de salud no dispone de reactivos de la prueba de carga viral de VIH.

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Muchas embarazadas con VIH en el momento del parto son obligadas a parir sin la implementación de medidas para prevenir la transmisión del virus a sus bebés, aunado a la negativa de la atención médica, la discriminación que reciben en algunos servicios públicos de salud, y la no dotación de los implementos recomendados en las precauciones estándar.

Las personas no tienen acceso a los reactivos para las pruebas de diagnóstico y seguimiento al VIH (anticuerpos contra el VIH, Western Blot — confirmatoria-, conteo de CD4/CD8, carga viral y genotipo) en la red de laboratorios del Ministerio de Salud. Tampoco cuentan con reactivos para la sífilis y otras infecciones de transmisión sexual.

Sólo un 7% del total de personas con VIH que toman antirretrovirales ha logrado suprimir la carga viral.

La comunidad indígena Warao está en riesgo de desaparecer en el mediano plazo por la epidemia de VIH que están viviendo, y que fue detectada en 2011. De las 25 mil personas que conforman la etnia, el 10% adquirió el VIH. Las iniciativas oficiales han sido deficientes para ofrecerles la debida atención médica y tratamientos para el VIH y otras condiciones de salud.

No existen datos epidemiológicos confiables que evidencien el comportamiento del VIH, lo que impide la toma de decisiones políticas para responder adecuadamente a la epidemia.

En Venezuela no existen estudios de prevalencia del VIH en poblaciones clave y vulnerables, por tanto las poblaciones de hombres que tienen sexo con hombres, los hombres homosexuales y las personas trans más afectadas por la epidemia del VIH/SIDA son inexistentes para el Estado venezolano.

Muchos trabajadores de salud trabajan en condiciones inadecuadas y sin los requerimientos mínimos de protección para cumplir las precauciones estándar universales, recomendadas para el debido abordaje de todas las personas que ingresan a los centros de salud, a quienes se les realizan procedimientos invasivos.

Todo lo antes expuesto es conocido por el Ministro del Poder Popular para la Salud y Presidente del Instituto Venezolano de los Seguros Sociales Luis López, y aún así se ha negado a firmar las órdenes de compra de medicamentos antirretrovirales, reactivos y fórmulas lácteas al Fondo Estratégico de Medicamentos de la Organización Panamericana de la Salud (OPS) con una inversión de 22 millones de dólares americanos.

Se observa un auge de hechos de discriminación por VIH en Venezuela, debido a la inacción de la Defensoría del Pueblo que no cumple ni hace cumplir la Ley para la promoción y protección del Derecho a la Igualdad de las Personas con VIH o SIDA y sus Familiares, que establece la

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10 Carballo, M (2017). Situación de los Waraos y VIH. Jornadas “Sociedad civil entre la crisis, la transición y la sostenibilidad de la respuesta al VIH, TB y malaria en Venezuela”.
protección del derecho a la igualdad de todas las personas con VIH y SIDA, “a los fines de asegurar que disfruten y ejerzan todos sus derechos, garantías, deberes y responsabilidades, sin discriminación alguna, entre ellas, las derivadas de su condición de salud.”

Las Organizaciones de la Sociedad Civil venezolanas independientes y la Academia continuamos trabajando con recursos mínimos para responder al impacto que produce la crisis del VIH en las personas afectadas directa e indirectamente por el virus, especialmente las más vulnerables como son las personas en situación de pobreza, las y los jóvenes excluidos socialmente, las personas trans, hombres que tienen sexo con hombres (HSH), las embarazadas, las trabajadoras sexuales, y las mujeres víctimas de violencia de género.

En virtud de lo anterior, las Organizaciones de la Sociedad Civil, Ciudadanas y Ciudadanos abajo firmantes:

Expresamos:
• Nuestra solidaridad con las niñas, niños, adolescentes, jóvenes, mujeres y hombres con VIH y SIDA, sus parejas y sus familiares por la evidente y constante desprotección y discriminación a la que son injustamente sometidos en Venezuela, y al mismo tiempo, les instamos ejercer fielmente sus derechos ciudadanos, tal como lo establece la Constitución de la República Bolivariana de Venezuela.

Exigimos:
• Al Estado venezolano:
  o Garantice las vidas y la salud como derechos humanos contemplados en la Constitución de la República Bolivariana de Venezuela, así como los tratados, pactos y convenios relativos a derechos humanos suscritos y ratificados por la Nación.
  o Autorice la inmediata APERTURA DEL CANAL HUMANITARIO que ofrece la cooperación internacional para responder a la EMERGENCIA HUMANITARIA COMPLEJA, que se traduce en aumento de muertes, desnutrición, escasez de alimentos y medicinas, entre otros.

• Al Ministerio del Poder Popular para la Salud, acate la orden del Mandato Constitucional12 del Tribunal Supremo de Justicia, de fecha 15 de julio de 1999, quien dictamina su obligación de garantizar las vidas y salud de las personas con VIH con la entrega permanente e ininterrumpida de los tratamientos en VIH y toda la atención integral que requieran. Este Mandato también ordena al Ministerio de Salud su obligación de establecer mecanismos para la procura de los recursos suficientes para la compra de todos los requerimientos en tratamientos en VIH y atención integral para las personas con VIH.

• A la Defensoría del Pueblo, ejerza “todas las acciones en los procesos judiciales y administrativos dirigidos a proteger la igualdad de las personas con VIH/SIDA, y hacer efectiva las responsabilidades derivadas de su violación”, tal como lo establece la Ley para la promoción y protección del Derecho a la Igualdad de las Personas con VIH o SIDA y sus Familiares”.

También hacemos un llamado a los organismos de cooperación internacional y otras organizaciones como el Banco Mundial, el Fondo Mundial de lucha contra el SIDA, la tuberculosis y la malaria, donantes bilaterales, fundaciones privadas y sector privado para que:

- Ofrezcan recursos técnicos y financieros a las distintas organizaciones de la sociedad civil, organizaciones basadas en la fe y entes académicos que estamos listos para recibir y distribuir ayuda a la población venezolana, documentar la crisis y realizar investigación epidemiológica, especialmente en poblaciones clave y vulnerables, como hombres que tienen sexo con hombres (HSH), embarazadas y poblaciones indígenas, entre otras.

- Donen alimentos, fórmulas lácteas, medicamentos, pruebas médicas, inyectadoras y otros productos esenciales para ser distribuidos en las personas más afectadas por la crisis.

- Aporten recursos a la Organización Panamericana de la Salud (OPS) y ONUSIDA para que adquieran y envíen los medicamentos y productos necesarios al país.

A UNICEF y otras organizaciones que trabajan con mujeres embarazadas y niños, les solicitamos:

- Enviar de manera urgente fórmulas lácteas a las madres y mujeres embarazadas con VIH.

- Apoyar con dotación de pruebas rápidas para el diagnóstico del VIH y de la sífilis a los centros públicos de salud para ser utilizadas en todas las embarazadas.

A ONUSIDA y las organizaciones de la sociedad civil internacional y regional:

- Movilizarse para identificar maneras prácticas para apoyar a la sociedad civil y a las redes venezolanas, a través de la ayuda e incidencia política.

Nos suscribimos:

Por las Organizaciones de la Sociedad Civil, Ciudadanas y Ciudadanos de Venezuela:

1. Red Venezolana de Gente Positiva (RVG+)\(^{13}\), por el Consejo Directivo:

<table>
<thead>
<tr>
<th>Cargo</th>
<th>Contacto</th>
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<tbody>
<tr>
<td>Estevan Colina, RVG+ Secretario General</td>
<td>Ana Carvajal, RVG+ Punto Focal Amazonas, Mildred Bolívar y Ricardo Rojas</td>
</tr>
<tr>
<td>Pablo Montilla, RVG+ Punto Focal Apure</td>
<td>Norah Blanco y Luis Figueroa, Yannys Navarro y Mauro Olivares</td>
</tr>
<tr>
<td>Eduardo Franco y Coralia Olivares, RVG+ Punto Focales Carabobo</td>
<td>Ángela Delgado, RVG+ Punto Focal Dtto. Capital, Arcadio Bracho</td>
</tr>
</tbody>
</table>

\(^{13}\) RVG+ es la red nacional de personas con VIH, más información en [www.rvg.org.ve](http://www.rvg.org.ve)
2. Acceso a la Justicia
3. Acción Ecuménica
4. Acción Solidaria
5. Acción Zuliana por la Vida (Azul Positivo), estado Zulia
6. ACCSI Acción Ciudadana Contra el SIDA
7. ACIVA Asociación Civil Impulso Vital Aragua, estado Aragua
8. ADHAM Asociación de Derechos Humanos Amigos de Margarita, estado Nueva Esparta
9. AID FOR AIDS Venezuela, estado Miranda
10. Aliyoner Rodríguez de Martínez, C.I. V-12.369.659,
11. AMAVIDA, Asociación Civil Manantial de Vida Pro Defensa de los Derechos Humanos, estado Zulia
12. Amigos de la Vida
13. Anzoátegui Sin SIDA
14. ARTGNOSIS Asociación Civil
15. Asociación Civil Mujeres en Línea
16. Asociación civil Mujeres por la Vida (ASOMUVI), estado Portuguesa
17. Asociación Mujeres en Positivo por Venezuela
18. Asociación Civil Mujeres Unidas por la Salud (MUSAS)
19. Asociación de Mujeres por el Bienestar y Asistencia Recíproca AMBAR
20. Asociación por la Vida (ASOVIDA), estado Mérida
21. Asociación Venezolana para la Hemofilia
22. AVESA, Asociación Venezolana para una Educación Sexual Alternativa
23. Cátedra de Derechos Humanos de la Universidad Centrooccidental Lisandro Alvarado
24. Cátedra de la Paz / Universidad de Los Andes, estado Mérida
25. CECODAP Centro Comunitario de Aprendizaje
26. Centro de Acción y Defensa por los Derechos Humanos (CADEF)
27. Centro de Atención para Personas con Enfermedades Infectocontagiosas CAPEI de la Universidad Central de Venezuela
28. Centro de Derechos Humanos de la Universidad Católica Andrés Bello (CDH-UCAB)
29. Centro Justicia y Paz  CEPAZ
30. Centro para la Paz y los Derechos Humanos de la Universidad Central de Venezuela
31. CIVILIS Derechos Humanos
32. Coalición Lima 21
33. COFAVIC Comité de Familiares de las Víctimas de los sucesos ocurridos entre el 27 de febrero
34. Comisión de Derechos Humanos de la Federación de Colegios de Abogados de Venezuela del Estado Táchira
35. Conciencia por la Vida, estado Lara
36. Convite AC
37. Diana Irazabal, defensora de los derechos de las personas con VIH
38. Diverlex Diversidad e Igualdad a través de la Ley
39. Dr. Alejandro Ríquez P., C.I. V-5.533.504
40. Dr. José Félix Oletta López, C.I. 2.978.834, médico y ex Ministro de Salud de Venezuela
41. Dr. Rafael Napoleón Guevara P., médico con más de 20 años trabajando en el área del VIH y ex presidente de la Sociedad Venezolana de Infectología
42. Dra. Ana Carvajal, médico especialista en Infectología del Servicio de Enfermedades Infecciosas del Hospital Clínico Universitario de Caracas, con experiencia en embarazadas con VIH
43. Eduardo Franco, C.I. V-6.258.577, activista defensor de los derechos de las personas VIH
44. Espacio Público
45. FAVID Fundación Arcoíris por la Vida, estado Miranda
46. Fundación Aгуaclarа
47. Fundación Gran Familia de la Salud, estado Bolívar
48. Fundación Humanitaria por la Vida, estado Zulia
49. Fundación Manos Amiga por la Vida (MAVID), estado Carabobo
50. Fundación Niños en Positivo, estado Mérida
51. Fundación Sida Región Táchira (Fundasidarta), estado Táchira
52. FUNDAMUJER Fundación para la Prevención de la Violencia Doméstica hacia la Mujer
53. Humano Derecho Radio Estación
54. Laboratorio de Paz
55. Liga Merideña de Lucha contra el VIH
56. Monitor Social AC
57. Movimiento SOMOS, estado Mérida
58. Observatorio Venezolano de la Salud
59. Octavio Arce
60. Organización STOP VIH, estado Nueva Esparta
61. Padres Organizados de Venezuela
62. Prepara Familia
63. Proinclusión VP
64. Promoción, Educación y Defensa en DDHH (PROMEDEHUM)
65. PROVEA Programa Venezolano de Educación-Acción en Derechos Humanos
66. Proyecto de Vida, estado Portuguesa
67. Red LGBTI de Venezuela
68. RedMETSIDA Red Metropolitana de ONGs con Servicios en VIH y SIDA, Caracas
69. Redes Ayuda
70. Renate Kock, defensora de los derechos humanos de las personas VIH y miembro de la Junta Directiva de ACCSI Acción Ciudadana Contra el SIDA
71. Sociedad Hominis Iura (SOHI)
72. Sociedad Wills Wilde, estado Mérida
73. Susana Raffalli, nutricionista especializada en gestión de la seguridad alimentaria, en emergencias humanitarias y riesgo de desastres
74. Tamara Adrian, diputada de la Asamblea Nacional, abogada y defensora de los derechos de las personas LGBTI
75. Transparencia Venezuela
76. Unión Afirmativa de Venezuela
77. Venezuela Diversa AC
78. Ybrahim Cordero Rojas, C.I. 6179343, líder comunitario y defensor de los derechos de las personas con discapacidad

Por las Organizaciones de la Sociedad Civil y activistas del ámbito internacional:
1. International Council of AIDS Service Organizations (ICASO)
2. LACCASO Consejo Latinoamericano y del Caribe de Organizaciones No Gubernamentales con Servicios en VIH/SIDA
3. Acción Internacional para la Salud, Perú
4. Corresponsales Clave, Perú
5. IDH Instituto de Desarrollo Humano, Bolivia
6. International Treatment Preparedness Coalition Latin American and Caribbean ITPC-LATCA
7. Movimiento de Personas con VIH del Perú
8. Movimiento Latinoamericano y del Caribe de Mujeres con VIH/SIDA
9. Network Salud, Perú
10. Pablo Anamaria, activista peruano y defensor de los derechos de las personas VIH
11. Red Latinoamericana de Personas con VIH
Civil Society Organizations

Pronouncement in Front of the HIV Crisis in Venezuela

Civil Society Organizations and citizens signing this document hereby warn that the HIV crisis threatens and causes irreparable damage to the lives and health of all people in Venezuela, without the high authorities of the Ministry of Health or any other institution of the Venezuelan State reacting and offering urgent and adequate responses to the needs and demands in the prevention, care, and treatment of HIV.

The HIV crisis in Venezuela is a reflection of the economic and political instability, the weaknesses and the indifference of public institutions that do not guarantee the right to health due to the loss of the democratic and social State of Law and Justice, which violates the superior values enshrined in the Constitution of the Bolivarian Republic of Venezuela.

The Venezuelan State cannot deny that:

- The number of AIDS-related deaths in Venezuela has gone up by almost 75% since 2011. People are dying from the absence of 85% of basic medicines and due medical care for the complications caused by having AIDS along with other Chronic diseases such as cancer, hemophilia, transplants, cardiovascular diseases, acute respiratory infections, high blood pressure, diabetes, among others. People with HIV and AIDS are also dying from severe malnutrition.
- Every day more than 18 people get HIV due to the lack of knowledge generated by the lack of information campaigns for the prevention of the virus, and because they do not have access to female and male condoms. The majority are young people, between 18 and 24 years old.
- More than 70% of people with HIV have not received their antiretroviral treatments in a constant manner due to shortages in the pharmacies of the Ministry of the Popular Power for Health, according to the monitoring of the Venezuelan Network of Positive People (RVG +).
- Of the 27 types of antiretroviral drugs prescribed by medical specialists and ingested by 77,000 people with HIV, only **five (05) antiretrovirals are available for adults with HIV**.
- More than 800 people with HIV exceed six (6) months without taking the antiretroviral Complera.
- 1,600 girls and boys with HIV up to 12 years old only have the antiretroviral Zidovudine oral solution and Efavirenz which were donated for humanitarian reasons and for a period of six month by UNICEF. Venezuela has low amounts of the antiretroviral Abacavir 20 mg x 240 ml oral solution, Lamivudine 10 mg x 240 ml oral solution, and the combined Lopinavir + Ritonavir 80/20 mg x 160 vials, and Zidovudine 50 mg x 240 oral solution, which will not cover the first quarter of the year 2018.
- Public pharmacies have not delivered milk formulas to children with HIV and those exposed to HIV from 0 to 12 months of age in poverty, for more than two years. That is
why mothers with HIV of these children, both victims of hunger, are forced to feed them
with pasta, rice, or vegetable water, and goat's milk.
• 63.64% of the pediatric services of hospitals in 38 Venezuelan cities did not have milk
formulas for 2016.
• Some pregnant women with HIV do not receive their antiretrovirals regularly, and are not
subject to viral load tests, which makes them unaware of HIV blood levels and the
antiretroviral therapy effectiveness, placing both the mothers and the newborns at high
risks.
• Because of the lack of knowledge of viral load at the end of pregnancy, the primary mode
of delivery for pregnant women is Cesarean section, thus exposing pregnant women to
increased risk of infection, with the aggravating factor that there are no antibiotics in public
health institutions or for prophylaxis when Cesarean section is performed, nor for the
treatment of infections, if an infection of the operative wound occurs.
• Many women may benefit from vaginal delivery, if their viral load of HIV is below 1000
copies or undetectable (less than 50 copies), however this mode of delivery is usually not
possible, because public health system do not have viral load test’s reagents
• Many pregnant women with HIV at the time of delivery are forced to give birth without
the implementation of measures to prevent the transmission of the virus to their newborns,
coupled with the refusal of medical attention, the discrimination they receive in some
public health services, and the lack of provision of the recommended implements in the
standard precautions.
• People do not have access to reagents for HIV diagnostic and monitoring tests (antibodies
against HIV, Western Blot - confirmatory -, CD4 / CD8 count, viral load and genotype). They also do not have reagents for syphilis and other sexually transmitted
infections.
• Only 7% of all people with HIV who take antiretrovirals have managed to suppress viral
load.
• The Warao indigenous community is at risk of disappearing in the medium term due to the
HIV epidemic they are experiencing, which was detected in 2011. Of the 25 thousand
people that make up the ethnic group, 10% acquired HIV. Official initiatives have been
deficient to offer them proper medical care and treatments for HIV and other health
conditions.
• There are no reliable epidemiological data that evidence the behavior of HIV, which
prevents to adopt political decisions to respond adequately to the epidemic.
• In Venezuela, there are no studies of HIV prevalence among key and vulnerable
populations. Therefore, men who have sex with men, homosexual men, and transgenders—
most affected by the HIV / AIDS epidemic—are considered nonexistent for the Venezuelan
State.
• Many health workers work in inadequate conditions and without the minimum
requirements of protection to comply with the universal standard precautions,
recommended for the proper approach of all the people who enter the health centers, to
whom invasive procedures are performed.

Venezuelan Health Minister and President of the Venezuelan Institute of Social Security (IVSS)
Luis López is aware of the country’s HIV/AIDS crisis, but has refused to sign orders to purchase
antiretroviral drugs, reagents, and milk formulas to address the issues.
There is a rise in incidents of HIV discrimination in Venezuela, due to the inaction of the Ombudsman's Office that does not comply with or enforce the Law for the Promotion and Protection of the Right to Equality of People with HIV or AIDS and their Relative, which establishes the protection of the right to equality of all persons with HIV and AIDS, "for the purpose of ensuring that they enjoy and exercise all their rights, guarantees, duties and responsibilities, without any discrimination, including that derived from his health condition."

The Civil Society Organizations and the Academy continue to work with minimal resources to respond to the impact of the HIV crisis on people directly and indirectly affected by the virus, especially the most vulnerable, such as those living in poverty, socially excluded youth, transgender people, men who have sex with men (MSM), pregnant women, sex workers, and women victims of gender violence…

[Civil Society Organizations’ list of demands for the Venezuelan Government Omitted]
CERTIFICATE OF TRANSLATION

I, Milton Gutcovsky, am competent to translate from Spanish into English, and certify that the translation of Civil Society Organizations, *Pronouncement in Front of the HIV Crisis in Venezuela* (Tab No. 16 of the Venezuela’s Country Conditions Report) is true and accurate to the best of my abilities.

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La discriminación y la impunidad no son iguales ante la ley

Situación de los Derechos Humanos de las Lesbianas, Gays, Bisexuales, Trans e Intersexuales en Venezuela

Presentada ante la Comisión Interamericana de Derechos Humanos por la Red de lesbianas, gais, bisexuales, trans e intersex de Venezuela.

2015
La discriminación y la impunidad no son iguales ante la ley
Situación de los Derechos Humanos de las Lesbianas, Gays, Bisexuales, Trans e Intersexuales en Venezuela

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INTRODUCCIÓN

La orientación sexual, la identidad de género y expresión de género no son delitos en Venezuela. La Constitución de la República Bolivariana de Venezuela establece en su artículo 21 numeral primero que “No se permitirá discriminaciones fundadas en la raza, el sexo, el credo, la condición social o aquellas que, en general, tengan por objeto o por resultado anular o menoscabar el reconocimiento, goce o ejercicio en condiciones de igualdad, de los derechos y libertades de toda persona”¹. Aunque no se menciona de manera explícita la no discriminación por razones de orientación sexual, ésta fue aclarada en la Resolución No. 190 de la Sala Constitucional del Tribunal Supremo de Justicia en el año 2008, como respuesta a una solicitud de interpretación de dicho artículo realizada por la Asociación Civil Unión Afirmativa de Venezuela:

“...esta Sala Constitucional del Tribunal Supremo de Justicia, administrando justicia en nombre de la República por autoridad de la Ley, INTERPRETA, en los términos que fueron expuestos, el artículo 21 de la Constitución, en el sentido de que no es posible, dentro del marco constitucional venezolano, la discriminación individual en razón de la orientación sexual de la persona, y asimismo DECLARA que no existe colisión alguna, también en lo que se refiere a los términos de esta solicitud de interpretación, entre el artículo 21 y el artículo 77 de la Constitución de 1999.”²

El numeral segundo del mismo artículo 21 de la Constitución venezolana establece que:

“...la ley garantizará las condiciones jurídicas y administrativas para que la igualdad ante la ley sea real y efectiva; adoptará medidas positivas a favor de personas o grupos que puedan ser discriminados, marginados o vulnerables; (...) y sancionará los abusos o maltratos que contra ellas se cometan.”

Sin embargo, las lesbianas, gays, bisexuales, trans e intersexuales han sufrido y sufren discriminaciones e impunidad, que les coloca como un grupo vulnerable para la tortura y malos tratos, lo que incluye: asesinatos, agresiones físicas y verbales, chantaje, extorsión, persecución, detenciones arbitrarias, especialmente de cuerpos de seguridad del Estado.


4
Además, el impacto de la lesbo-homo-bi-transfobia son vías seguras para la proliferación del VIH/SIDA y para obstaculizar los esfuerzos para su control y erradicación mediante el cumplimiento de las políticas públicas en materia de VIH/SIDA, desde la mirada de los derechos humanos.

La Carta Magna establece la jerarquía constitucional de todos los tratados y acuerdos internacionales que el país haya suscrito o no; en tanto y cuando estos sean más favorables y deben ser de inmediata ejecución. En este sentido, Venezuela ha firmado y ratificado todas las resoluciones, acuerdos y tratados internacionales tanto en la ONU como en la OEA, especialmente la Sexta Resolución AG/RES. 2807 (XLIII-O/13) Derechos Humanos, Orientación Sexual e Identidad y Expresión de Género, y dos convenciones como son la Convención Interamericana contra el Racismo, la Discriminación Racial y formas Conexas de Intolerancia, y la Convención Interamericana contra toda forma de Discriminación e Intolerancia.

De igual modo, Venezuela asumió compromisos con organismos regionales como Mercosur, CELAC y ALBA para aplicar lo establecido en la legislación internacional con el objetivo de garantizar la protección de derechos humanos de las personas LGBTI; entre ellos los Principios de Yogyakarta. No obstante, estas leyes no se ponen en práctica.

En el presente informe mostramos la situación real que viven las personas lesbianas, gays, bisexuales, trans e intersexuales (LGBTI) en Venezuela.

**AUSENCIA DE MARCO LEGISLATIVO Y JURÍDICO Y POLÍTICAS PÚBLICAS DE PROTECCIÓN A PERSONAS LGBTI CONTRA LA DISCRIMINACIÓN POR RAZONES DE ORIENTACIÓN SEXUAL, IDENTIDAD Y EXPRESIÓN DE GÉNERO**

Venezuela no cuenta con una ley específica que obligue al Estado a garantizar y proteger el derecho a la igualdad y no discriminación de las lesbianas, gays, bisexuales, trans e intersexuales. Solo tiene pocos instrumentos legales que mencionan la no discriminación por motivo de la orientación sexual en algunas áreas específicas, a saber: Artículo 4 de la Ley Orgánica del Poder Popular (2010), Artículo 173 de la Ley de Instituciones del sector Bancario (2010), Resolución 185, Artículo 3 Normas y Garantías relativas a los Derechos de las Mujeres y la Sexodiversidad a la Igualdad y Equidad de Género en los Cuerpos de Policía Nacional Bolivariana y demás cuerpos de Policía Estadales y Municipales (2010), Art. 5 de la Ley de regulación y control de Arrendamientos de Viviendas (2011), Artículo 21 de la Ley Orgánica del Trabajo, de las Trabajadoras y Trabajadores (2012). Además que estas leyes carecen de mecanismos que permitan implementar estrategias reales y efectivas para evitar la discriminación y la desigualdad, de tal manera que en la realidad son leyes vacas, inoicas e inútiles.

Venezuela no cuenta con planes estratégicos (políticas), programas y servicios públicos orientados a responder a las necesidades y exigencias de las personas LGBTI. Se identifica que la especificidad o equidad en la distribución de los recursos para la implementación de políticas públicas no existe para la
comunidad LGBTI, quienes continúan invisibles en las estadísticas demográficas, de población y otros estudios, lo que se traduce en exclusión para el ejercicio de los derechos fundamentales desde la perspectiva de su orientación sexual, identidad o expresión de género. Lo que constituye un trato desigual, que genera a su vez tratos crueles inhumanos y degradantes.

Se reconoce que el Poder Legislativo venezolano ha hecho esfuerzos en la protección de grupos históricamente discriminados como las mujeres, indígenas, niñas, niños y adolescentes, jóvenes, afrodescendientes, e inclusive los animales, pero las lesbianas, gays, bisexuales, trans e intersexuales no aparecen en las poblaciones prioritarias, tal como se ha evidenciado en su agenda política de los últimos años.

La Defensoría del Pueblo es el organismo del Estado responsable de velar los derechos humanos en Venezuela, y el Ministerio Público es el responsable de garantizar en los procesos judiciales el respeto a los derechos y garantías constitucionales, así como a los tratados, convenios y acuerdos internacionales suscritos por la República. Pero la Defensoría del Pueblo ha realizado algunas pocas acciones en materia de diversidad sexual, sin logros ni impacto relevante que vele por los derechos humanos de las personas LGBTI en el país. En cuanto al Ministerio Público, ésta institución pública carece de respuestas que garanticen los procesos judiciales el respeto de los derechos y garantías consagradas en la Constitución de la República Bolivariana de Venezuela.

En Venezuela no existen avances realizados en materia legislativa y de políticas y prácticas para investigar y procesar judicialmente los actos de violencia contra lesbianas, gays, personas trans, bisexuales y/o intersex, o contra aquellas personas percibidas como tales.

Se desconoce información sobre reparaciones otorgadas a las personas LGBTI víctimas de violencia (por ejemplo, indemnización, rehabilitación, compensación, garantías de no repetición, satisfacción).

Las instituciones públicas del Estado venezolano se niegan a suministrar informaciones y datos relativos a las personas LGBTI, suponemos que se debe a la ausencia de estadísticas vinculadas con este grupo poblacional.

AUSENCIA DE PROTECCIÓN LEGAL DE PAREJAS Y FAMILIAS CONFORMADAS POR PERSONAS DEL MISMO SEXO

La Resolución No. 190 del Tribunal Supremo de Justicia del año 2008, arriba mencionada, señaló que es a la Asamblea Nacional a quien le corresponde legislar sobre la protección de las parejas del mismo sexo. Esto, sin embargo, no ha ocurrido. No ha habido dentro de la Asamblea Nacional iniciativa alguna por parte de ningún diputado y diputada para legislar en este respecto. A pesar de que las ONG con trabajo en diversidad sexual han entregado varias solicitudes ante el Poder Legislativo.
El 22 de febrero de 2011, la Red LGBTI de Venezuela, apoyada por una marcha multitudinaria, entregó a la Asamblea Nacional un documento contentivo con una propuesta de agenda legislativa\(^3\) con las necesidades de las personas LGBTI\(^4\)\(^5\), a continuación:

1) “Que se establezcan disposiciones claras y precisas, que incluyan órganos de protección específicos y sanciones severas, en caso de discriminación por razón de orientación sexual o identidad de género en todas las actividades humanas, incluyendo sin limitación: educación, salud, seguridad social, vivienda, deportes, trabajo y otras, así como la tipificación de los crímenes de odio como agravante genérica de todos los delitos. Todo ello en concordancia con el principio de no discriminación establecido en la sentencia de la Sala Constitucional del Tribunal Supremo de Justicia del 28 de febrero de 2008 (caso Unión Afirmativa de Venezuela) y en el artículo 4 de la Ley Orgánica del Poder Popular. Más adelante se detallan las principales disposiciones a considerar.

2) Que se reconozcan los derechos patrimoniales de las parejas del mismo sexo en condiciones de igualdad y no discriminación con las parejas de distinto sexo, tal y como lo ha determinado la Oficina del Alto Comisionado de los Derechos Humanos de la ONU en diferentes resoluciones, y en concordancia con las declaraciones voluntarias de protección de las personas por razón de orientación sexual, por medio de la modificación de tres artículos de la Ley Orgánica de Registro Civil, tal y como se señala más adelante, siguiendo criterios y pautas ampliamente aceptados en la ley o la jurisprudencia de la región.

3) Que se reconozca el derecho de las personas al reconocimiento de su identidad de género físico-psico-social autopercibida por medio de un procedimiento administrativo expedito, claro, no patologizante, privado y que preserve la igualdad de oportunidades a través de la reserva de la identidad anterior, como acontece en el caso de la adopción, siguiendo los lineamientos de las declaraciones voluntarias de protección de derechos humanos de las personas transexuales, transgénero e intersexuales asumidas por Venezuela en concordancia con los principios de protección de derechos humanos derivados de declaraciones, recomendaciones y opiniones derivadas de los órganos internacionales de protección de derechos humanos. Esto incluye el cambio de nombre y sexo en toda la documentación de la persona sin necesidad de reasignación genital. La falta de identidad legal de las personas transexuales les condena a la marginación, marginalidad y a la casi imposibilidad de acceder a la salud, educación, trabajo, vivienda y otras prestaciones básicas en condiciones de igualdad y no discriminación efectiva. Para superar esta


situación basta la reforma de dos artículos de la Ley Orgánica de Registro Civil tal y como se señala más adelante, siguiendo los criterios incorporados en leyes o decisiones judiciales ampliamente aceptados en la región.”

El 17 de mayo de 2011, los movimientos sociales que defienden los derechos humanos de las personas LGBTI llevan a cabo una concentración en las adyacencias de la Asamblea Nacional para reiterar la solicitud de declaración del 17 de mayo como “Día Nacional contra la Homofobia y la transfobia”.

El 15 de septiembre de 2011, representantes de la Red LGBTI de Venezuela se reunieron con el Presidente de la Asamblea Nacional, Diputado Soto Rojas, para solicitar respuesta del Poder Legislativo sobre demandas realizadas en febrero del mismo año\(^6\). “Ustedes deben educar a la sociedad, nosotros los escuchamos pero no emprenderemos ninguna acción legal en este respecto” fue la respuesta del Diputado.

El 19 de septiembre de 2011, luego del fracaso de la reunión con el Diputado Rojas, se hace entrega a quien fungía como presidenta de la Comisión de Política Interior de la Asamblea Nacional, Diputada Cilia Flores y quien es la actual Primera Dama de la República de Venezuela, de una carta exigiendo atención a las citadas demandas realizadas en febrero.

Posteriormente, el 22 de mayo de 2013, la ONG Unión Afirmativa de Venezuela solicita un derecho de palabra en la Comisión de Política Interior de la Asamblea Nacional para pedir se considere en la reforma del artículo 44 del Código Civil de Venezuela para permitir así la ampliación del matrimonio a personas del mismo sexo. A continuación el artículo que impide legalmente la protección de las familias conformadas por personas del mismo sexo por el Estado:

“El matrimonio no puede contraerse sino entre un solo hombre y una sola mujer. La Ley no reconoce otro matrimonio contraído en Venezuela sino el que se reglamenta por el presente Título, siendo el único que producirá efectos legales, tanto respecto de las personas como respecto de los bienes.”

Igualmente, Unión Afirmativa de Venezuela informó a esta Comisión que entregaría un proyecto de ley de modificación parcial del Código Civil. De forma verbal, los Diputados de la Comisión expresaron su disposición a recibir y discutir cualquier proyecto emanado del Poder Popular.

Finalmente, el 31 de enero de 2014 la ONG Venezuela Igualitaria junto con ONG, movimientos sociales y grupos LGBTI de todas las tendencias políticas hacen entrega a la Asamblea Nacional del proyecto de Matrimonio Civil Igualitario\(^7\) que contempla la referida modificación parcial del Código Civil, respaldado

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\(^7\) Disponible en [https://es.scribd.com/doc/194454348/Proyecto-de-Ley-de-Matrimonio-Civil-Igualitario-Venezuela](https://es.scribd.com/doc/194454348/Proyecto-de-Ley-de-Matrimonio-Civil-Igualitario-Venezuela)
por más de 21 mil firmas de ciudadanos y ciudadanas, y más de 47 organizaciones de la Sociedad Civil con trabajo en Derechos Humanos. Las y los Diputados de la Asamblea Nacional Elvis Amoroso, Odalis Monzón y Alejandra Benítez del partido de gobierno PSUV junto con diputados de la oposición recibieron en sus manos este proyecto⁸.

Las personas LGBTI asistieron masivamente a una concentración pública en las puertas del Parlamento venezolano⁹ ¹⁰ ¹¹ en señal de respaldo a este importante proyecto.

Las firmas fueron recolectadas en un proceso voluntario de amplia participación ciudadana en todas las regiones del país durante siete meses, desde junio de 2013 hasta enero de 2014.

El 17 de julio de 2014 el vicepresidente de la Comisión de Política Interior de la Asamblea Nacional, José Javier Morales, designó al diputado Modesto Ruíz como presidente de la subcomisión para tratar el proyecto de Ley de Matrimonio Civil Igualitario. Esta decisión es el resultado del derecho de palabra concedido a miembros de la Asociación Civil Venezuela Igualitaria y Ejército Emancipador del Gran Polo Patriótico, partido afecto al gobierno, en el Parlamento venezolano, donde expusieron las demandas fundamentales que esperan sean debatidas por el Poder Legislativo, a fin de garantizar la ciudadanía plena de las personas LGBTI en Venezuela¹² ¹³. Medios de comunicación reseñaron que “El diputado Ruíz estimó para finales de julio la preparación de una agenda de foros y conversatorios que les permita a los distintos colectivos exponer los fundamentos de esta lucha y así poder abordar el tema con el conocimiento necesario para tomar decisiones”. Se desconoce si se realizaron estas actividades.

Particular atención merecen las razones esgrimidas por algunos Diputados y Diputadas de ambas fracciones políticas representadas en la Asamblea Nacional para no abordar este tema, puesto que en varias de sus manifestaciones públicas prevalecen alegatos vinculados con sus distintas creencias religiosas. Este argumento contradice y viola lo establecido en el artículo 59 de la Constitución de la República Bolivariana de Venezuela donde se establece que “nadie podrá invocar creencias religiosas para eludir el cumplimiento de la ley”.

¹¹ Video disponible en http://www.youtube.com/watch?v=G-evM50-3fs&feature=share
¹² AVN (17 de julio 2014). “Asamblea Nacional designó subcomisión para tratar proyecto Ley de Matrimonio Civil Igualitario”. Disponible en http://www.avn.info.ve/contenido/asamblea-design%C3%B3-subcomision%C3%B3n-para-tratar-proyecto-ley-matrimonio-civil-igualitario Consultado el día 21 de octubre de 2014.
Este no reconocimiento y por ende falta de protección legal de las familias de personas del mismo sexo con nacionalidad venezolana les acarrea graves consecuencias en su cotidianidad. Tal es el caso de parejas que han decidido contraer matrimonio en países como Argentina o España, quienes al llegar a nuestro país pierden ese estatus civil, dado que su unión no es reconocida por el Estado venezolano.

Por ejemplo, el Consejo Nacional Electoral (CNE) a través de la Resolución Nº CRCE/2012-02, declaró sin lugar el recurso ejercido por el venezolano Jesús Ravelo contra el acto administrativo contenido en el oficio número ONRC/035/2011 dictado por la Oficina Nacional de Registro Civil de fecha de 25 de enero 2011, mediante el cual se niega la inserción en los libros de Registro Civil de la República Bolivariana de Venezuela, del acta de matrimonio que contrajo en Holanda el referido ciudadano con un nacional de dicha nación, ciudadano Oliver Schnider.\(^\text{14}\)

Un caso similar lo constituye el de Ginyveth Soto Quintana y Migdely Miranda, quienes el lunes 16 de diciembre de 2013 acudieron a la Oficina Principal del Registro Civil del Municipio Libertador de Caracas, para insertar el acta del matrimonio celebrado formalmente ante las autoridades de la República de Argentina, de acuerdo a lo establecido en la Ley Orgánica de Registro Civil (LORC), específicamente los artículos 115 y 116. Ante dicha solicitud, representantes de ese organismo respondieron que con base en el Artículo 77 de la Constitución de la República Bolivariana de Venezuela y el Artículo 44 del Código Civil, dicho procedimiento no podría ser realizado, por lo establecido en los artículos 6 y 8 de la LORC se les solicitó que dieran respuesta formal por escrito y se espera la misma para finales de la próxima semana.\(^\text{15}\)

De igual manera, existen casos de parejas de mujeres venezolanas que han optado por acudir a métodos de concepción a través de la reproducción asistida, bien sea con el uso de óvulos de ambas madres, a través de la donación de embriones o por concepción in vitro, con el objeto de concebir los hijos de ambas.

Tales son los casos de dos parejas de mujeres Nancy Aguilera y Patricia Arenas, Ginyveth Soto y Migdely Miranda, y una pareja de hombres venezolanos Jhonnie García y Antonio Torrealba. El de Nancy Aguilera y Patricia Arenas “Es el primer caso de una pareja de lesbianas en Venezuela que concibe un hijo por fecundación asistida, al menos públicamente.”\(^\text{16}\) El caso de Ginyveth Soto y Migdely Miranda, antes mencionado, sucedió luego de su matrimonio en Argentina. “A su regreso a Venezuela, ella aportó un


óvulo para que fuera insemínado artificialmente y colocado en el vientre de su esposa, a fin de crear un vínculo mayor entre ambas y el bebé.” La pareja ha manifestado que “Analizamos la opción del autoexilio, pensamos irnos a Argentina a tenerlo si aquí no se legaliza nuestro matrimonio. Queremos que tenga el apellido de ambas”, dado que “Ante la ausencia del matrimonio igualitario y de regulaciones a la maternidad asistida en Venezuela, la única que sería reconocida como madre de su hijo sería su pareja, porque es la que llevará el embarazo a término.”

Finalmente, el caso de Jhonnie García y Antonio Torrealba, quienes se convirtieron en padres el pasado mes de diciembre de 2013 en Venezuela. Sus trillizos nacieron a través de vientre subrogado. La pareja cuenta que “A pesar de haber sido víctimas de discriminación y homofobia por tomar la decisión de ser padres, han recibido el apoyo incondicional de sus familiares y amigos.” El pasado mes de junio de 2014 se casaron en Nueva York “formalizando su compromiso, el cual no pudieron concretar en Venezuela por falta de leyes que protejan a las familias homoafectivas y esperan que la Asamblea Nacional discuta y apruebe el proyecto de ley de Matrimonio Civil Igualitario para poder hacerlo algún día en su país.”

Todas estas parejas una vez casadas y luego regresar a Venezuela pierden todo sus derechos civiles derivados del matrimonio realizado en el extranjero. Igualmente, sus hijos, al nacer, o inclusive aquellos que son adoptados/as, vienen al mundo o a un nuevo hogar en un limbo legal pues se reconoce la maternidad o paternidad de uno de los miembros de la pareja no de ambos.

**IMPOSIIBILIDAD A DESARROLLAR LA PROPIA PERSONALIDAD**

El Informe “El Derecho a la No Discriminación por VIH en Venezuela” (2011) publicado por Acción Solidaria señala que “La Constitución venezolana sólo reconoce el derecho a una identidad civil basada en el sexo biológico, en el sentido siguiente: ‘toda persona tiene derecho a ser inscrita gratuitamente en el registro civil después de su nacimiento y a obtener documentos públicos que comprueben su identidad biológica’.”

El citado informe indica que “Ello limita el ejercicio de los derechos de las personas que no se identifiquen con sus condiciones biológicas, y restringe el derecho a la nacionalidad venezolana, consagrado en la Constitución, la cual se adquiere automáticamente por haber nacido en territorio

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venezolano y de la cual ninguna persona nacida en el país puede ser privada, así como el derecho a la ciudadanía, la cual ejercen todos los venezolanos no sujetos a inhabilitación política o interdicción civil. El que se obligue a una persona a llevar una identidad biológica que no comparte, para ejercer su nacionalidad y ciudadanía en Venezuela, violenta su derecho a la protección de su vida privada, intimidad, propia imagen y confidencialidad, así como sus libertades para desarrollar la propia personalidad, autodefinirse y expresarse de acuerdo con su conciencia, ideas y opinión. Imponer la aceptación de una identidad biológica ajena a la persona—a través de la cual se adquiere el reconocimiento de la nacionalidad y la ciudadanía—, la coloca en un marco fuera de toda protección y la condena a ser invisible como ciudadana.”

ACSL en su informe también indica que “En Venezuela, la Ley Orgánica de Registro Civil no permite que una persona del colectivo LGBTTI pueda llevar a cabo trámites legales como pedir un crédito, legalizar uniones y heredar bienes de la pareja a su fallecimiento. Aunque esta ley permite el cambio de nombre, ello no se les ha permitido a personas LGBTI que lo han solicitado. Asimismo, muy pocas normas se refieren a la no discriminación por orientación sexual o por identidad y expresión de género, por lo que la legislación venezolana, en general, no reconoce plenamente la existencia de las personas LGBTTI, a pesar de que ya muchos países han realizado grandes avances en su protección jurídica. De esta manera, se les impone que vivan sometidas, en contextos discriminatorios en los que se las excluye de derechos y en los que se propicia la violencia, la homo, lesbo y transfobia, así como los entornos y los crímenes de odio.”

“No obstante, en Venezuela no ha procedido hasta ahora iniciativa alguna dirigida al cambio del estatus legal de las personas LGBTTI. En un reciente Proyecto de Ley Orgánica de Igualdad y Equidad de Género, se eliminaron todas las menciones sobre orientación sexual e identidad de género. En las reformas de la Ley Orgánica de Registro Civil no se han aceptado propuestas para reconocer el derecho a la identidad de las personas LGBTTI y los derechos de pareja. En la Ley de Subsistema de Salud del Sistema de Seguridad Social se excluyó expresamente la cobertura pública del cambio de sexo; en la Ley Orgánica de Protección de Niños, Niñas y Adolescentes se limitó la adopción a parejas heterosexuales; y en Ley Orgánica de Educación se suprimieron las referencias en el Proyecto original acerca de la educación contra la discriminación por orientación sexual e identidad de género.”

**DISCRIMINACIÓN, VIOLENCIA E IMPUNIDAD CONTRA LGBTI EN VENEZUELA**

Las personas LGBTI se encuentran en un total estado de indefensión, abandono y absolutamente desprotegidas por el Estado venezolano. Existe un alto grado de impunidad de los casos denunciados por las personas LGBTI sobre discriminación, agresiones, violencia, maltratos, torturas y hasta asesinatos por razón de orientación sexual, identidad y expresión de género. Estas situaciones son motivadas a la inacción y omisión de las instituciones públicas en la administración de justicia frente a los casos vinculados con la diversidad sexual.
La situación de la homofobia ha llegado a niveles extraordinarios que el Comité de Tortura de la Organización de las Naciones Unidas (ONU) en su 29º período de sesiones, noviembre de 2002, expresó como uno de los motivos de su preocupación “las denuncias sobre amenazas y ataques contra las minorías sexuales” en la República Bolivariana de Venezuela, luego de haber examinado el informe presentado por nuestro país, en virtud del Artículo 19 de la Convención contra la Tortura y otros Tratos o Penas Crueles, Inhumanos o Degradantes.

Estas realidades han sido denunciadas por importantes ONG que trabajan en este campo como es Venezuela Diversa, Unión Afirmativa de Venezuela (UNAF), Red LGBTI de Venezuela, y Reflejos de Venezuela. También han sido visibilizadas a través de informes producidos por varias organizaciones de la sociedad civil.

En el año 2003, Acción Ciudadana Contra el SIDA (ACCSI) publicó el Informe sobre Impunidad en la violación de los Derechos Humanos Comunidad GLBT, donde muestra los resultados de un estudio realizado en Caracas con una muestra poblacional de 76 (100%) personas encuestadas, desglosada en 63% de hombres gay, 14% lesbianas, 9% bisexuales y 13% transgéneros.

El 68% de la muestra total afirmó haber tenido experiencias negativas con la policía vinculados a su sexodiversidad, el 100% de las personas transgéneros expresó que tuvo interacciones negativas con la policía y el 36% de las lesbianas informan una menor ocurrencia de estas experiencias negativas. El informe señala que “Las lesbianas tuvieron la mejor opinión de la policía, calificándolas en 1,7. Irónicamente, los transgéneros también calificaron su opinión de la policía más alto que el promedio, en 1,0, a pesar de que todos han tenido experiencias negativas.”

El equipo de investigadores de ACCSI señaló que “Es abrumador que con tan alta incidencia de experiencias negativas (que incluyen ‘matraqueo’ o extorsión, allanamiento, amenazas y privación de libertad, agresión física y verbal y violación, entre otros), encontramos muy bajos niveles de denuncio: por la población entera de la encuesta, solamente el 13% denunciaron sus experiencias negativas. Entre los transgéneros y las lesbianas, no encontramos denuncia alguna.”

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21 [www.accsi.org.ve](http://www.accsi.org.ve)
23 Según Pablo Fernández Blanco, es un término con el que se define en Venezuela a la manera de sobornar o extorsionar a la población aplicada por funcionarios policiales o militares, quitándoles a las personas dinero u objetos por razones de toda índole y afectando a ciudadanos comunes y en condición de vulnerabilidad. Esta práctica, si bien la sufren muchos países, cobra en Venezuela formas que la hacen prácticamente una característica cultural en el ámbito policial y el militar vinculado a la seguridad ciudadana. Ver [http://www.eluniversal.com/opinion/131202/matraqueo-y-reforma-policial](http://www.eluniversal.com/opinion/131202/matraqueo-y-reforma-policial)
En cuanto a la impunidad y sus mecanismos en la comunidad LGBTI, se identifican algunos elementos a ser considerados: “Discriminación, prejuicios, odio y desprecio hacia la orientación sexual o identidad LGBTI; Vergüenza o baja autoestima de las víctimas y sus familiares; Falsas creencias en relación a la condición LGBTI como delito; Falsa creencia en relación a la condición LGBTI como dañina para la sociedad; Criminalización del entorno LGBTI; Prácticas de extorsión (matraqueo) dirigidas a poblaciones vulnerables como jóvenes, trabajadores sexuales, hombres gay y transgéneros; Cotidianidad de la violencia y agresión, particularmente en el caso de los transgéneros, que causa una desensibilización a violaciones como acoso sexual, matraqueo, y privación de libertad.”

El mismo informe expresa:

“...para que la impunidad en las violaciones a los DDHH de las personas LGBT opere y se enrique, debe existir una sociedad altamente discriminatoria, que mira prejuiciosamente y con odio a los miembros de esa comunidad, quienes son todas aquellas personas que por su condición de identidad u orientación sexual son consideradas como dañinas para la sociedad, lo que en los mecanismos psicológicos de la impunidad justifica crímenes y agresiones. Por lo general estos delitos y violaciones a los derechos humanos se comenten en la creencia de que se está haciendo un servicio a la sociedad. Un mecanismo para la impunidad como lo es el abuso de la autoridad, muy frecuente en la comunidad LGBT, igualmente perpetúa esa creencia.”

En el 2008, ACCSI publica el Segundo Informe sobre Homofobia, Violencia e Impunidad contra la Comunidad de Lesbianas, Gays, Transexuales y Bisexuales en la República Bolivariana de Venezuela24, el cual muestra los resultados de un estudio efectuado en Caracas, Mérida y Maracaibo, ciudades donde se aplicaron encuestas a 742 (100%) personas de la diversidad sexual, distribuidos en: 465 (63%) hombres gays, 107 (14%) bisexuales, 103 (14%) lesbianas y 67 (9%) transgéneros.

El 50% de las personas encuestadas afirmaron haber tenido experiencias negativas con los cuerpos policiales: agresión verbal (36%), matraqueo (20%), agresión física (12%), y privación de libertad (11%). “La población transexual continúa siendo la más afectada por la violencia policial y particular, y por la situación de impunidad; aparece como la población que tiene el más alto porcentaje de denuncias comparado con los gays y las lesbianas.” “Se ha mantenido la desconfianza en el sistema de justicia, el miedo y la vergüenza como las principales causas para la impunidad. Las lesbianas son las que menos denuncian las violaciones y los atropellos (un 92%), seguidas por los Gays (90%), Bisexuales (87%) y Trans

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El porcentaje de casos resueltos sobre el total denunciado es del 15%. Del total de personas encuestadas, el 61% reportaron haber sufrido agresiones provenientes de particulares. El 79% de estas personas no denunciaron las mismas.”

Para ese entonces, el informe 2008 de ACCSI afirmaba: “Aún la comunidad LGBT en Venezuela está muy estigmatizada y discriminada socialmente. Esto se debe a las fobias a la diversidad sexual y el transgenerismo, así como a los prejuicios y animadversiones generados desde las iglesias, partidos políticos, sindicatos, medios de comunicación social, sistema educativo, sector salud, gremios y comunidades en general, lo que incluye con frecuencia a las mismas personas afectadas y su entorno familiar.”

En el 2012 la ONG DIVERLEX publicó el reporte final de la encuesta “Situción de discriminación y violencia contra la población LGBT en Venezuela”

En el año 2013 ACCSI publica el Informe Venezuela 2013 sobre Crímenes de odio por Orientación sexual, Identidad de género y Expresión de género, con los resultados de un estudio hemerográfico realizado en 13 entidades federales venezolanas, donde ocurrieron 99 crímenes de odio por la...
orientación sexual, identidad de género y expresión de género entre enero de 2009 a agosto de 2013, desglosado en 46 asesinatos (degollamientos, impactos de balas, quemaduras, lanzados al vacío, arrollamientos, ahogamiento, golpes con objetos contundentes) y 53 agresiones de todo tipo (tortura, tratos crueles, inhumanos y degradantes, detenciones arbitrarias, agresiones verbales, físicas y psicológicas, amenazas, embate policial, abuso de poder, entre otras), debido a la orientación sexual, identidad de género y expresión de género de las víctimas.

Lo anterior fue reseñado por algunos medios de comunicación y denuncias de organizaciones de la sociedad civil que trabajan con la comunidad de lesbianas, gays, bisexuales, transgéneros, transexuales, travestis e intersexuales.

Analizando las notas informativas y denuncias de las Organizaciones de la Sociedad Civil, se determina que las víctimas LGBTTI son irrespectadas en su dignidad humana producto de la lesbofobia, homofobia, bifobia y transfobia que impera en la sociedad venezolana, con el agravante que las personas sexo diversas se encuentran desprotegidas y desamparadas por las instituciones públicas. Una clara demostración es el incremento del 55,56% de los asesinatos motivados por la orientación sexual, identidad de género y expresión de género en lo transcurrido del año 2013 (entre enero a agosto de 2013) en relación al año anterior.

<table>
<thead>
<tr>
<th>Tabla 1:</th>
<th>Asesinatos contra personas de la diversidad sexual ocurridos entre enero 2009 a agosto 2013</th>
</tr>
</thead>
<tbody>
<tr>
<td>Año</td>
<td>No. de asesinatos cometidos contra LGBTTI / año</td>
</tr>
<tr>
<td>2009</td>
<td>5</td>
</tr>
<tr>
<td>2010</td>
<td>5</td>
</tr>
<tr>
<td>2011</td>
<td>13</td>
</tr>
<tr>
<td>2012</td>
<td>9</td>
</tr>
<tr>
<td>2013 (enero a agosto)</td>
<td>14</td>
</tr>
<tr>
<td>Total</td>
<td>46</td>
</tr>
</tbody>
</table>

La mayoría de las personas asesinadas son jóvenes (56,5%) entre 17 a 30 años de edad, seguido por adultos (24%) con edades entre 31 y 49 años; el 19,5% de los casos reseñados por las fuentes informativas no señalan las edades de las víctimas. El 34,8% de las personas asesinadas son hombres, el 15,2% (7) son trans y el 2,2% (1) es mujer; el restante de los casos con un 47,8%, las fuentes informativas no identificaron el sexo de las víctimas. Las fuentes indican que 33 (71,7%) transgéneros fueron la mayoría de las personas de la diversidad sexual asesinadas, seguido por 10 (21,7%) personas masculinas golpes hasta llegar al asesinato. Para Letra S estos crímenes comunican un mensaje amenazante al resto de los integrantes de esos grupos, comunidades o minorías.
y una (2,2%) femenina. La mayoría de las reseñas (91,3%) no reportan las orientaciones sexuales de las personas asesinadas, en cambio señalan que 3 personas eran gays (6,5%) y una (2,2%) era lesbiana.

Diez y ocho (39,1%) personas que ejercían el trabajo sexual fueron asesinadas ocupando el primer lugar, seguidas por 6 (13,0%) personas que laboraban en el área de servicios de belleza. Se destaca una activista trans defensora de los derechos humanos de la diversidad sexual, dos prestamistas, un vigilante y un artista fono mímico entre las personas de la diversidad sexual asesinadas. Quince de los casos publicados por las fuentes informativas no indicaron el oficio/ocupación de las víctimas asesinadas.

Destaca el “carácter desechable” como elemento común en los casos de los asesinatos de las personas de la diversidad sexual reportados por las fuentes informativas consultadas. En este sentido, las avenidas, calles y autopistas son los lugares donde ocurrieron la mayoría (76%) de los asesinatos de personas de la diversidad sexual y/o donde se localizaron sus cadáveres. También se presentan otros lugares como zonas para botar desechos (basurero de un edificio invadido, río de aguas negras y matorrales) y sitios poco transitados (cementerio, obra en construcción y paraje solitario).

En los asesinatos se evidencian la saña, odio y desprecio de las victimarias contra las personas con orientación sexual, identidad de género y expresión de género distinta a la heterosexual. El 54,3% de las personas de la diversidad sexual asesinadas aparecieron con impactos de balas, seguidas por el 10,9% de los asesinatos con apuñalamiento. Se observa que el 6,5% de los casos reseñados por las fuentes informativas no indican cómo aparecieron los cuerpos. El resto de los asesinatos a personas LGBTTTI presentan una amplia variedad: degollamientos, torturas, ahogamiento, golpizas con objetos, entre otras, ver Tabla 2.

**Tabla 2:**

*Estado de los cuerpos de las personas de la diversidad sexual asesinadas*

<table>
<thead>
<tr>
<th>Estado del cuerpo</th>
<th>Frecuencia</th>
<th>%</th>
</tr>
</thead>
<tbody>
<tr>
<td>Impactos de balas</td>
<td>25</td>
<td>54,3</td>
</tr>
<tr>
<td>Apuñalamiento</td>
<td>5</td>
<td>10,9</td>
</tr>
<tr>
<td>Golpiza, apuñalamiento e impactos de balas</td>
<td>3</td>
<td>6,5</td>
</tr>
<tr>
<td>No indica</td>
<td>3</td>
<td>6,5</td>
</tr>
<tr>
<td>Tortura (golpes en la cara, pérdida parcial del cuero cabelludo, entre otros)</td>
<td>2</td>
<td>4,3</td>
</tr>
<tr>
<td>Ahogada en el Río Guaire de Caracas</td>
<td>1</td>
<td>2,2</td>
</tr>
<tr>
<td>Lanzado al vacío desde un piso 9 y estrellado en el concreto</td>
<td>1</td>
<td>2,2</td>
</tr>
<tr>
<td>Arrollamiento o arrojado desde un carro en marcha</td>
<td>1</td>
<td>2,2</td>
</tr>
<tr>
<td>Degollado y apuñalado</td>
<td>1</td>
<td>2,2</td>
</tr>
<tr>
<td>Golpeado salvajemente con un bloque hasta hundir su cráneo</td>
<td>1</td>
<td>2,2</td>
</tr>
<tr>
<td>Impactos de bala, degollado y lanzado en una fosa del cementerio</td>
<td>1</td>
<td>2,2</td>
</tr>
<tr>
<td>Impactos de bala, degollado y quemado</td>
<td>1</td>
<td>2,2</td>
</tr>
<tr>
<td>Golpeados con llave de cruz (herramienta para cambiar cauchos de carro)</td>
<td>1</td>
<td>2,2</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>46</strong></td>
<td><strong>100,0</strong></td>
</tr>
</tbody>
</table>
En el 76,1% de los asesinatos de personas de la diversidad sexual reportados por las fuentes informativas no indicaron los motivos que originaron estos delitos. En el 8,7% se desconoce el móvil de los homicidios de personas LGBTTTTI. El resto de los casos varían desde cobro de deudas por drogas, robo, venganza hasta secuestro, entre otros. Uno de los casos corresponde al asesinato de una lesbiana cuyo móvil fue negarse a ser manoseada por un hombre.

Se desconoce el estatus del 91,3% de los casos de las denuncias por asesinatos de personas LGBTI en Venezuela. Al respecto, las fuentes informativas consultadas aseguran que 4 (8,7%) casos fueron resueltos (4 personas imputadas), pero no mencionan si los 42 (91,3%) casos restantes culminaron con éxito, ver Tabla 11 del citado informe. Señalan que 21 (45,7%) de los casos fueron denunciados ante los órganos de justicia y 26 (56,5%) se encontraban en proceso de investigación. También mencionan que entre enero de 2009 a agosto de 2013 los órganos de justicia capturaron a 10 personas por el supuesto asesinato de ocho (8) personas de la diversidad sexual, cuyos motivos se vinculan con la orientación sexual, identidad de género y expresión de género de las víctimas, ver Tabla 12 del citado informe.

Un total de 53 amenazas y ataques contra personas de la diversidad sexual ocurrieron en Venezuela entre enero de 2009 a agosto de 2013, según algunos medios de comunicación social y organizaciones de la sociedad civil, ver Tabla 3. Destacamos que el año 2011 no se consiguieron noticias sobre agresiones, en cambio para el año 2012 se identificaron el mayor número de casos con 33 ataques.

**TABLA 3:**

**Ataques y amenazas contra LGBTI ocurridos entre enero de 2009 a agosto de 2013**

<table>
<thead>
<tr>
<th>Año</th>
<th>No. de amenazas y ataques contra LGBTTTTI / año</th>
<th>Variación con respecto al año anterior</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>No.</td>
<td>%</td>
</tr>
<tr>
<td>2009</td>
<td>1</td>
<td>-</td>
</tr>
<tr>
<td>2010</td>
<td>8</td>
<td>7</td>
</tr>
<tr>
<td>2011</td>
<td>No hay registro</td>
<td>-</td>
</tr>
<tr>
<td>2012</td>
<td>35</td>
<td>27</td>
</tr>
<tr>
<td>2013 (enero a agosto)</td>
<td>9</td>
<td>-18</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>53</strong></td>
<td></td>
</tr>
</tbody>
</table>

De los 53 casos identificados, solo dos casos de agresiones se identifican las edades de las víctimas, uno de 18 años y el otro de 19 años, lo que representa el 3,9% de la totalidad de los casos. La Gran Caracas ocupa el primer lugar en Venezuela con mayor frecuencia de ataques y amenazas vinculadas con la

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orientación sexual, identidad de género y expresión de género. El segundo lugar lo ocupan Zulia y Aragua. Destacan las ataques verbales provenientes de actores clave de la sociedad venezolana con impacto nacional corresponde al 24,5% del total. La mayoría de los ataques y amenazas ocurrieron en la vía pública con un 66,0% de los casos, siendo en muchos de los casos el lugar de trabajo de algunas de las víctimas. El 7,5% de las ataques fueron declaraciones de actores clave ofrecidas a los medios de comunicación. El 18,8 no indica el lugar. Destaca un (1,9%) ataque verbal de un diputado de la Asamblea Nacional quien desde el Hemiciclo expresó públicamente su homofobia.

El 47,2% de los casos presentan ataques verbales, físicos y psicológicos (incluye extorsión, torturas con electricidad); le sigue el 18,9% con ataques verbales (tales como: burlas, lenguaje denigrante, insultos, amenazas, instigación al estigma, discriminación, persecución, violencia y odio); el tercer lugar corresponde a ataques verbales y abuso de poder con el 11,3%; continua con ataques mixtos (instigaciones al odio, escrita, verbal y abuso de poder) con el 7,5%. Ver Tabla 4.

Destaca el abuso de poder de algunas altas autoridades del Estado y funcionarios policiales, quienes cometieron insultos, trato denigrante, hostigamiento, amenazas, incitación a prácticas estigmatizantes, discriminatorias, violentas y al odio social, uso desproporcionado de la fuerza policial, detenciones arbitrarias, privaciones de libertad no justificadas. También algunos agresores usaron armas de fuego para amenazar y ocasionaron heridas con el arma y con balas, según las fuentes informativas.

**TABLA 4: Formas de los ataques y amenazas contra las personas LGBTI**

<table>
<thead>
<tr>
<th>Forma de las agresiones</th>
<th>Frecuencia</th>
<th>Porcentaje</th>
</tr>
</thead>
<tbody>
<tr>
<td>Verbal, física y psicológica</td>
<td>25</td>
<td>47,2</td>
</tr>
<tr>
<td>Verbal</td>
<td>10</td>
<td>18,9</td>
</tr>
<tr>
<td>Verbal y abuso de poder</td>
<td>6</td>
<td>11,3</td>
</tr>
<tr>
<td>Instigación al odio, acoso, difamación, agresión escrita/verbal, abuso de poder</td>
<td>4</td>
<td>7,5</td>
</tr>
<tr>
<td>Impactos de bala</td>
<td>3</td>
<td>5,7</td>
</tr>
<tr>
<td>Instigación al odio y persecución</td>
<td>3</td>
<td>5,7</td>
</tr>
<tr>
<td>Golpeada con una llave de cruz (herramienta para desmontar cauchos)</td>
<td>1</td>
<td>1,9</td>
</tr>
<tr>
<td>Quemaduras del 30% en el cuerpo</td>
<td>1</td>
<td>1,9</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>53</strong></td>
<td><strong>100,0</strong></td>
</tr>
</tbody>
</table>
Algunos ataques ocurridos entre septiembre de 2012 y febrero de 2013


**Una lesbiana asesinada y otra herida por exigir respeto:** Una pareja de jóvenes lesbianas fueron heridas por balas, porque una de ellas se negó a ser manoseada por un hombre. Una de las víctimas recibió el impacto en un brazo y la otra joven en la cabeza, quien a las pocas semanas falleció. Se desconoce el estatus de estos dos casos. Más información en [http://venezueladiversaac.blogspot.com/2012/11/jovenes-lesbianas-resultan-heridas-por.html](http://venezueladiversaac.blogspot.com/2012/11/jovenes-lesbianas-resultan-heridas-por.html)

Se desconoce estatus del 98% de las agresiones contra LGBTI en Venezuela. Las fuentes consultadas no indican el estatus del 98,1% de los casos de las agresiones contra las personas LGBTI, es decir si fueron o no denunciados a los órganos administradores de justicia, ver Tabla 18 del informe ACCSI año 2013. Se identifican entre los agresores a altos representantes del Estado venezolano (Presidente de la República, Ministros, Diputados de la Asamblea Nacional), representantes de partidos políticos afectos al actual gobierno como de la oposición, representantes de medios de comunicación social, altos personeros de las distintas iglesias (cristiana católica, cristiana evangélica, adventista, testigos de Jehová, entre otras).

En el año 2014 ACCSI publica el **Informe Diversidad Sexual: Derechos, discriminación y violencia Encuesta Marcha del Orgullo Venezuela 2013**31, donde se muestran los resultados de una encuesta aplicada a 650 personas LGBTI asistentes a tres marchas del Orgullo realizadas en el año 2013 y en tres ciudades venezolanas como son Caracas32, Valencia33 y Maracaibo34, para conocer su percepción sobre la discriminación y la violencia que les afecta, y sobre la acción de las instituciones públicas frente a estas situaciones.

La mayoría de este grupo poblacional LGBTI encuestado son jóvenes, es decir nos referimos a que el 42,6% tienen edades entre 18 y 24 años, y el 28,6% con edades entre 24 y 30 años. En cuanto al nivel educativo, el 33,7% manifestó tener un nivel universitario completo, el 29,2% con un nivel universitario

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32 Capital de Venezuela.

33 Primordial ciudad industrial de Venezuela.

34 Considerada la segunda capital de Venezuela, es la principal ciudad de la región occidental donde se localiza la industria petrolera del país.
incompleto y el 26,8% un nivel secundario completo. Sobre su estatus laboral, un 59,1% dijo estar empleado en contraste con un 20,5% que expresó tener un trabajo informal y un 19,7% manifestó estar en situación de desempleo.

Entre los resultados del informe, se identifica que la relación existente con los cuerpos de seguridad del Estado venezolano fue mal calificada por la mayoría de las personas LGBTI encuestadas en las tres Marchas del Orgullo 2013. En tal sentido, las calificaciones obtenidas fueron: 251 personas encuestadas (38,6%) calificaron de “Muy negativo”, y 92 personas (14,2%) consideraron “Negativa”. Lo que contrasta con 15 personas (2,3%) que la consideraron de “Muy positiva” y 13 LGBTI (2,0%) calificaron de “Positiva”.

Otro dato importante surgió como es que la mayoría de las personas LGBTI encuestadas, es decir 471 personas (72,5%) reconocieron no haber tenido alguna experiencia negativa con los cuerpos de seguridad por su orientación sexual, identidad de género y expresión de género; pero esta opinión contrasta con 172 personas (26,5%) quienes aseveraron haber tenido experiencias negativas. Estas 172 personas (100%) manifestaron haber sido víctimas de los cuerpos de seguridad del Estado venezolano, pero tan sólo 36 personas (20,9%) decidieron denunciar las experiencias negativas ocasionadas por los citados cuerpos de seguridad ante las autoridades competentes.

A estas personas se les preguntó ante qué organismo presentaron sus denuncias, quienes afirmaron que éstas fueron presentadas en su mayoría a la Fiscalía General de la República, conocido como Ministerio Público, (11,1%) y al Cuerpo de Investigaciones, Científicas, Penales y Criminalísticas CICPC (11,1%). Llama la atención dos situaciones: a) Solo 1 persona (2,8%) presentó su denuncia a la Defensoría del Pueblo; y b) 14 personas LGBTI (38,9%) no suministraron el nombre de la institución donde supuestamente formularon sus denuncias.

De los casos denunciados, el 44,40% dijeron que sus casos no fueron resueltos mientras que un 13,90% fueron rechazados y tan solo el 19,40 fueron resueltos. En cuanto al grupo de personas LGBTI que expresaron no haber realizado la denuncia, manifestaron que tomaron sus decisiones basadas en “no tener confianza en el sistema de administración de justicia” (45,6%), “miedo y vergüenza” (19,9%), frustración con el proceso (19,99%), falta de documentación/no había caso (22,8%).

Las 172 personas LGBTI encuestadas (100%) tuvieron la oportunidad de ofrecer respuestas múltiples cuando se les consultó sobre el tipo de experiencias negativas experimentadas. En tal sentido, 79 personas (45,9%) refirieron agresiones verbales por la orientación sexual, identidad de género y expresión de género; seguida por 39 LGBTI (22,7%) que afirmaron haber sido víctimas de extorsiones; y 34 personas (19,8%) denunciaron haber sido agredidas físicamente. Otro tipo de experiencias negativas con los cuerpos de seguridad del Estado venezolano fueron manifestadas, tales como lesiones con armas y violación sexual, cada una con un 4,7%. Llama la atención dos situaciones: la primera es que el sexo oral se identifica en la lista de experiencias negativas cometidas por algunos miembros que integran los
cuerpos de seguridad del Estado venezolano; y la segunda, es que 37 personas (21,5%) LGBTI decidieron no contestar este ítem de la encuesta.

Los principales cuerpos de seguridad de Venezuela fueron mencionados como los perpetradores de las experiencias negativas contra las personas LGBTI. En las respuestas múltiples de las personas encuestadas, la Policía Nacional Bolivariana ocupó el primer lugar porque apareció con 46 experiencias negativas contra las LGBTI (27,10%), seguido por la Guardia Nacional (uno de los brazos de las Fuerzas Armadas Bolivarianas) con 38 agresiones (22,40%), y el Cuerpo de Investigaciones Científicas, Penales y Criminalísticas (CICPC) con 10 experiencias negativas (5,90%). Varias Policias Regionales y Municipales como también la Guardia Patrimonial y Fiscal de Tránsito fueron mencionados por las personas encuestadas.

Estos datos evidencian que lamentablemente estos graves hechos vienen ocurriendo sin control contra la comunidad LGBTI desde hace muchos años en Venezuela, quedando la mayoría de los casos en situación de impunidad, debido a que el Estado venezolano no ha logrado cumplir con sus obligaciones como es prevenir y averiguar los delitos e impartir justicia a los culpables de los crímenes de odio por la orientación sexual, identidad de género y expresión de género.

De forma reiterada, tanto las Organizaciones de la Sociedad Civil como los movimientos de la comunidad LGBTI pertenecientes a los partidos políticos (unos a favor del gobierno y otros a la oposición), han venido denunciando y alertando estas anormalidades, han presentado a distintos órganos del Estado importantes propuestas y recomendaciones de leyes y políticas públicas para la efectiva garantía y restitución de los derechos de las personas de la diversidad sexual y tipificar como delito los crímenes de odio en el Código Orgánico Procesal Penal. Pero nada de esto ha ocurrido.

Es por ello que la mayoría de las lesbianas, gays, bisexuales, e intersexuales encuestadas en las Tres Marchas del Orgullo 2013 rechazan la homofobia y la transfobia institucionalizada por el Estado. Esto se evidencia claramente en las respuestas ofrecidas a las preguntas sobre su percepción sobre el desempeño de las cuatro principales instituciones públicas del Estado de la República Bolivariana de Venezuela (Presidencia de la República, Asamblea Nacional, Fiscalía General de la República y Defensoría del Pueblo) en materia de orientación sexual, identidad de género y expresión de género, que aparecen en el citado informe de ACCSI.

Las personas LGBTI encuestadas consideran “Muy negativa” el desempeño de las cuatro principales instituciones públicas de Venezuela en materia de orientación sexual, identidad de género y expresión de género. Lo anterior significa que de las 650 (100%) personas LGBTI encuestadas en las tres Marchas del Orgullo 2013 realizadas en Caracas, Valencia y Maracaibo:
• Un 31,4% evaluaron de “Muy negativa” y un 17,5% consideraron de “Negativa” el desempeño de la Presidencia de la República Bolivariana de Venezuela en materia de orientación sexual, identidad de género y expresión de género.

• Un 34,2% evaluaron de “Muy negativa” y un 20,5% consideraron de “Negativa” el desempeño de la Asamblea Nacional en materia de orientación sexual, identidad de género y expresión de género.

• Un 33,7% evaluaron de “Muy negativa” y un 20% consideraron de “Negativa” el desempeño del Ministerio Público o Fiscalía General de la República en materia de orientación sexual, identidad de género y expresión de género.

• Un 27,8% evaluaron de “Muy negativa” y un 21,1% consideraron de “Negativa” el desempeño de la Defensoría del Pueblo en materia de orientación sexual, identidad de género y expresión de género.

DISCRIMINACIÓN EN LOS ÁMBITOS DE SALUD, TRABAJO, EDUCACIÓN, ESPACIOS PÚBLICOS Y PRIVADOS, Y EN MEDIOS DE COMUNICACIÓN

En el ámbito de la salud: En los bancos de sangre adscritos al sistema público de salud venezolano, persiste en la práctica la prohibición de donación de sangre de personas LGBTI en los centros de salud públicos y/o privados. Un ejemplo de ello es lo publicado en la página Web del Banco Municipal de Sangre, el cual establece como requisito para ser donantes (cita textual) “No pertenecer a grupos de conducta de alto riesgo para el SIDA”\(^35\), en clara alusión a las personas de orientación sexual, identidad de género y expresión de género.

Los servicios ginecológicos no están preparados para la atención de mujeres lesbianas, siguiendo el mismo protocolo de atención utilizado en mujeres heterosexuales. También ocurre en los casos de los hombres gays y bisexuales que son atendidos con los mismos protocolos de los hombres heterosexuales.

Un estudio realizado por Acción Solidaria\(^36\) en el 2011 donde participaron 298 personas (100%), afirma que estas personas experimentaron situaciones de discriminación o violencia por tener el VIH. “Entre los participantes, los mayores porcentajes de discriminación se registraron en los estados Portuguesa, Aragua, Bolívar y Distrito Capital/Miranda.”

“Del total de personas discriminadas, 61,8% corresponde a los hombres con VIH. “En estos últimos, los homosexuales (54,9%) han experimentado más situaciones de discriminación que el resto de los hombres. La vivencia de prácticas discriminatorias se concentra en las personas de 26 a 35 años (32,1%); le siguen las del grupo de 36 a 45 años (30,7%), repitiéndose el mismo patrón en hombres y en mujeres. Sin embargo, de todos los grupos de edad, los hombres homosexuales entre 18 y 25 años son quienes

\(^35\) Banco Municipal de Sangre. Disponible en http://www.bms-fundasangre.org/donacion.html

\(^36\) ACSOL (2011), página 132.
presentan el más alto porcentaje de personas que han pasado por situaciones de discriminación por tener el VIH (65,5%).” “35,3% de las prácticas discriminatorias experimentadas por estas personas ocurrió en centros de salud y 31% en la casa.”

**Personas Trans sin servicios de salud especializados:** El estudio realizado por la ONG Acción Ecuménica denominado “Situación de derechos y acceso a los servicios de salud de Personas HSH, Bi, Gay y Trans” señala lo siguiente:

“Cuando se trata de la población de la Diversidad Sexual, se encontró que los HSH-Bi y Gays no tienen mayores problemas al acceder a los Servicios de Salud, siempre y cuando mantengan oculta su orientación sexual. Esta práctica dificulta el acompañamiento a estas poblaciones con políticas adecuadas a su identidad, ya que se les asume heterosexuales. En opinión de los encuestados, reconocerse como homosexual en servicios de Salud generalmente significa ser estigmatizado con señalamientos que van más hacia estereotipos que hacia conductas reales (se les trata como promiscuos, irresponsables, potenciales infectados con VIH, etc.).

Algunas personas entrevistadas explicaron que prefieren acceder a servicios de Salud conexos a ONGs, donde se sienten libres de presentarse desde su identidad de género y pueden manifestar sus preocupaciones o dudas específicas en la práctica de sexo con hombres.

En los Servicios donde se entrega la Prueba de VIH, muchas veces no hay la Consejería Pre y Post, y los ambientes para entrega de resultados no son los más adecuados, porque fallan en privacidad y en calidez.”

“La Población Trans no cuenta con Servicios especializados para acompañar su proceso de reasignación de género, lo cual deriva en prácticas altamente riesgosas producto de automedicación y por acceder a procedimientos estéticos clandestinos. Las entrevistas y los grupos focales permitieron identificar diversas barreras que existen para el Acceso a los Servicios de Salud por parte de la Población Trans:

- **Barrera Psicológica:** dificultad de la persona que se identifica como trans para comprender su proceso de identidad de género, y condicionantes culturales introyectados que dificultan su propia aceptación (al igual que en el resto de las personas de la Diversidad Sexual)
- **Barrera Familiar:** negación del apoyo por parte de la familia en comprender la situación de la persona. En algunos casos maltrato, humillación y tortura con terapias “curativas”, expulsión del hogar o ruptura de relaciones con miembros del hogar (al igual que en el resto de las personas de la Diversidad Sexual)

• **Barrera Institucional**: discriminación en el acceso a los servicios de Salud, ausencia de servicios especializados para atender un diagnóstico de este tipo, discriminación por parte del personal médico.

• **Barrera Económica**: el protocolo para la reasignación de género es largo, complejo y costoso. Frente a la ausencia de respuesta en los servicios públicos, la persona Trans debe acudir a servicios privados, que son costosos, razón por la cual muchas veces esta persona hace su proceso sin el debido acompañamiento profesional.

• **Barrera Social**: son pocas las organizaciones que trabajan en el acompañamiento de personas Trans, y las opciones que tienen para la inserción educativa y laboral se restringen por ser personas discriminadas.

Estas personas son el grupo más vulnerable de la Diversidad Sexual. Por todas estas barreras, las personas Trans sólo tienen conocimiento indirecto de los temas de Salud, a través de otras personas Trans o, quienes tienen los recursos, acceden a Servicios de Salud privados. Pero sus pares generalmente manejan información inadecuada para hacerles acompañamiento y la discriminación laboral las obliga a solventar sus necesidades económicas ejerciendo trabajos tradicionales para su género (servicios de Cosmetología, Peluquería, Estética, etc.) o en otras opciones altamente riesgosas como el comercio sexual.

En declaraciones de algunas personas Prestadoras de Servicios especializados en esta población, se reconoce la necesidad de facilitar el acceso a los servicios para atender la reasignación de género de las personas Trans, a través de: la aprobación de protocolo gratuito, y la creación de Unidades de Servicios Especializadas.”

**Desabastecimiento de medicamentos para tratar el VIH y de reactivos para exámenes de diagnóstico, control y seguimiento al VIH:** Desde el año 2009 hasta el 2014 han existido episodios de desabastecimiento de los medicamentos antirretrovirales, especialmente en el año 2013 ocurrieron hasta 10 episodios de desabastecimiento de estas medicinas, afectando en su mayoría a las personas LGBTI que viven con VIH y SIDA en Venezuela. Estas personas dependen de estas medicinas para poder vivir y tener una calidad de vida con dignidad. Esta grave situación ha sido denunciada por la Red Venezolana de Gente Positiva (RVG+) y ACCSI ante el Ministerio de Salud, también evidenciada en varios informes publicados por ambas ONG. Los esfuerzos de ente rector de la salud pública no son suficientes, ya que los problemas de desabastecimiento de antirretrovirales persisten, al no llegar estas medicinas a los estómagos de las personas con VIH.

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38 Los datos epidemiológicos oficiales afirman que la población más afectada por el VIH y el SIDA en Venezuela son los homosexuales y los hombres que tienen sexo con hombres.

Se destaca que la negativa de entregar estas medicinas, es un claro desacato al Mandato Constitucional del Tribunal Supremo de Justicia emanado en fecha del 15 de julio de 1999\textsuperscript{40}, quien ordena al Ministerio de Salud a suministrar de forma permanente y sin costo alguno los medicamentos antirretrovirales, los fármacos para el tratamiento de las infecciones asociadas al SIDA, realizar los exámenes de laboratorio y toda la atención integral a las personas con VIH y SIDA en Venezuela. El TSJ señala que cualquier desacato a este Mandato puede generar sanciones administrativas y penales.

Esta situación fue conocida fuera de nuestras fronteras. Dos informes con resultados de estudios realizados y publicados por la Organización Panamericana de la Salud afirman que por dos años consecutivos, Venezuela ocupa el primer lugar de la lista de países de América Latina con mayor número de episodios de desabastecimiento de antirretrovirales en los años 2012\textsuperscript{41} y 2011\textsuperscript{42}.

\textbf{En el ámbito de trabajo:} A pesar de que el Artículo 21 de la Ley Orgánica del Trabajo, las Trabajadoras y los Trabajadores aparece de manera explícita la prohibición de discriminación por orientación sexual, en el lugar de trabajo son frecuentes las situaciones de discriminación y violencia contra las personas LGBTI, siendo víctimas de atropellos, despidos injustificados, vulnerando así todos sus derechos y beneficios laborales establecidos en el marco legal vigente.

No obstante, no hay registros de casos, esto debido a que no existen mecanismos que sancionen estos delitos. Quienes son discriminados no se sienten protegidos y temen exponer su caso por miedo a mayores y peores consecuencias, como el riesgo de perder su empleo y en el peor de los casos a agresiones físicas.

\textbf{En el ámbito de la educación:} En Venezuela no existe una cátedra de educación sexual a ningún nivel; los casos de abuso escolar no son documentados por las escuelas y muchas maestras, maestros y autoridades no saben cómo abordar la situación en casos de orientación sexual, identidad y expresión de género.

Las pocas informaciones que se manejan sobre acoso escolar provienen del trabajo realizado por las ONG CECODAP y Reflejos de Venezuela, evidencian que a las niñas, niños, adolescentes y jóvenes se les viola el principio de no discriminación e igualdad establecido en el artículo 3 de la Ley para la Protección del Niño, Niña y Adolescente (LOPNA). Los niños, niñas y adolescentes “No estudian con tranquilidad. Sienten presión y tristeza porque siempre se burlan de ellos: son blanco de acoso escolar por su orientación sexual”. “El rechazo por la orientación sexual en planteles es un fenómeno silente. Todavía


un asunto relegado a cuchicheos de pasillo. No ocurre lo mismo con otras formas de violencia escolar, de las cuales sí se conversa con franqueza.”

CECODAP afirma que “En los Consejos de Protección de los municipios Baruta y Chacao no se han recibido denuncias por esta forma de acoso escolar, pero sí por las demás. El año pasado CECODAP visitó 19 estados del país para dictar talleres sobre violencia en centros educativos. La metodología utilizada consistió en el abordaje de situaciones concretas de agresividad que se hayan presenciado en los planteles, para luego perfilar soluciones.” “En 100% de las instituciones visitadas se observó la presencia de discriminación por orientación sexual, refiere Oscar Misle, director de la ONG.” “Es un tema que no sale en las conferencias para tratarlo abiertamente. A uno le llegan comentarios después, en los pasillos, que hay un muchacho raro, o una chica rara”. “El rechazo no sólo lo impulsan los compañeros de clases, sino que, a veces, también lo practican los docentes, quienes intentan en ocasiones apoyar a las víctimas para que cambien su forma de ser.” Este tipo de situaciones la vivió Alfonso quien afirma que “…su maestra llamó a la mamá para que lo llevaran a un psicólogo porque parecía “raro”. Lo cambió de puesto para que jugara más con los niños.” Por esas actuaciones de los docentes, concuerdan los especialistas, los afectados terminan sintiendo que ellos se buscaron el rechazo.

**En los espacios públicos y privados:** Parques, museos, restaurantes, centros comerciales, entre otros, son lugares que se han experimentado situaciones de estigma y discriminación contra las personas LGBTI por parte de funcionarios policiales, de vigilancia o de orden público. En el caso de espacios privados como restaurantes la situación es muy similar. Las expresiones de afecto, tales como caminar tomadas de la mano o abrazadas, besos o cualquier otra expresión que normalmente son llevadas a cabo por dos personas de sexo distinto, en el caso de dos personas del mismo sexo son objeto de censura.

A través de la red social Twitter se denunció el caso de una pareja de hombres que fueron discriminados por darse un beso en las instalaciones de un bar restaurante “Cielo Restobar” ubicado en la ciudad de Mérida, estado Mérida. El gerente de ese lugar les exigió desalojar el local de forma agresiva. Posteriormente hubo un pronunciamiento público del restaurante en donde se expresaba “no comulgamos con ningún tipo de discriminación ni apoyamos acciones que van en contra de la moral ciudadana”, pero no se disculparon con la pareja. Se desconoce si se produjo alguna denuncia ante las instituciones públicas, al igual que si hubo algún reacción oficial.

**En los medios de comunicación social:** No es raro ver en la televisión y particularmente en programas de humor la presencia de personajes homosexuales masculinos que son estereotipados, ridiculizados y utilizados como fuente de burla.

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En diciembre de 2011, el Observatorio Revolucionario de Medios por la Diversidad Sexual y de Género presentó ante la Comisión Nacional de Telecomunicaciones (CONATEL) una denuncia en contra del programa “¡A que te ríes!”, transmitido por el canal privado de televisión Venevisión. Según la denuncia en dicho programa se utiliza "un lenguaje de doble sentido, machista, sexista, clasista, homofóbico y xenfóbico". 45

Las denuncias realizadas por las ONG no reciben ningún tipo de respuesta. Adicionalmente, no se aplican sanciones ni multas ni penas de ningún tipo contra personas o instituciones que se expresen de manera discriminatoria contra la población LGBTI, a pesar de estar contempladas en varias leyes como la Ley de Responsabilidad Social en Radio, Televisión y Medios Electrónicos46 (2010) en el Artículo 3 que estipula “Promover el efectivo ejercicio y respeto de los derechos humanos, en particular, los que conciernen a la protección del honor, vida privada, intimidad, propia imagen, confidencialidad y reputación…”.

DECLARACIONES Y EXPRESIONES QUE INCITAN LA HOMOFOBIA EN VENEZUELA

“La lucha contra la homofobia es parte esencial de la batalla más amplia de los derechos humanos para todos”, expresó el Secretario General de la ONU, Ban Ki-moon47 en el Foro Internacional sobre el Día Internacional contra la Homofobia y la Transfobia.

En el mismo foro, la Alta Comisionada de la Organización de las Naciones Unidas para los Derechos Humanos, Navi Pillay, afirmó que “La homofobia y la transfobia no son distintas del sexismo, la misoginia, el racismo o la xenofobia. Estas últimas formas de prejuicios son universalmente condenadas por los gobiernos. Sin embargo, la homofobia y las transfobia a menudo son pasadas por alto por las autoridades”. Entre los aspectos de mayor preocupación para la ONU, “figuran los crímenes de odio, que van desde el acoso y la tortura hasta el secuestro y asesinato; la penalización de la homosexualidad; y la discriminación que sufren estas personas por falta de legislaciones nacionales que los protejan.”48

El caso venezolano pudiera ser uno de los motivos de gran preocupación para la ONU, puesto que las expresiones homofóbicas procedentes de altos funcionarios del Estado venezolano (Presidente de la República, Ministros y Diputados), de algunos miembros de los cuerpos policiales, de renombrados dirigentes de varios partidos políticos y de altos representantes de las distintas iglesias estuvieron presentes en el periodo 2009 a 2013. Pero entre 2011-2013 llegaron a niveles alarmantes, por la

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45 ALBATV. (15 de diciembre de 2011) Disponible en http://www.albatv.org/Denuncian-a-canal-privado-por.html Consultado el 21-102014
47 En su discurso para el Foro Internacional sobre el Día Internacional contra la Homofobia y la Transfobia (IDAHO), realizado en La haya, Holanda, el 17 de mayo de 2013, ver http://acnudh.org/2013/05/onu(destaca-los-derechos-humanos-de-las-personas-lgbt-en-el-dia-internacional-contra-la-homofobia/
48 Ibid.
utilización de la homofobia como arma para ofender y denigrar al adversario político en el contexto de la contienda electoral (presidenciales y gobernadores), y la polarización que vive Venezuela. Como era de esperarse, la comunidad LGBTI y la opinión pública reaccionaron.

De acuerdo al Informe Venezuela 2013 sobre crímenes de odio por orientación sexual, identidad de género y expresión de género realizado por ACCSI, el primer lugar es ocupado con un 56,9% de los ataques y amenazas provienen de funcionarios de los cuerpos policiales; y el segundo lugar con el 19,6% de las agresiones de altos funcionarios tomando de decisiones del Estado venezolano y dirigentes políticos (Presidente de la República, Ministros y Ministras, Diputado de la Asamblea Nacional, altos representantes de los partidos de gobierno y de oposición), ver Tabla 5.

**TABLA 5:**
**Autores/as de los ataques y amenazas contra las personas LGBTI**

<table>
<thead>
<tr>
<th>Autores/as de los ataques y amenazas</th>
<th>Frecuencia</th>
<th>Porcentaje</th>
</tr>
</thead>
<tbody>
<tr>
<td>Funcionarios de Cuerpos de Seguridad (Guardia Nacional, Policía de Chacao, CICPC)</td>
<td>29</td>
<td>54,7</td>
</tr>
<tr>
<td>Políticos (Presidente de la República, Canciller, Ministra de Asuntos Penitenciarios, Presidente de la Comisión de Contraloría de la Asamblea Nacional, Vocero de partido político, Diputado, Ex candidatos para Diputados de la AN, Secretario de partido político de oposición)</td>
<td>12</td>
<td>22,6</td>
</tr>
<tr>
<td>Religiosos de distintas iglesias</td>
<td>3</td>
<td>5,6</td>
</tr>
<tr>
<td>Medios de comunicación social</td>
<td>2</td>
<td>3,8</td>
</tr>
<tr>
<td>Activista de DDHH del Colectivo Diverso Sexual de Venezuela</td>
<td>1</td>
<td>1,9</td>
</tr>
<tr>
<td>Presidente de la Organización Miss Venezuela</td>
<td>1</td>
<td>1,9</td>
</tr>
<tr>
<td>Estudiante</td>
<td>1</td>
<td>1,9</td>
</tr>
<tr>
<td>No Indica</td>
<td>4</td>
<td>7,6</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>53</strong></td>
<td><strong>100,0</strong></td>
</tr>
</tbody>
</table>

El 90,6% de las personas autoras de los ataques y amenazas estaban vinculadas con las víctimas personas de la diversidad sexual, puesto que en el momento de las agresiones, los agresores laboraban en alguna institución u “organismo que desempeña una función de interés público”49, tales como entes del Estado, medios de comunicación, iglesias y organización social. Por tanto existe una relación entre institución y ciudadanía.

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49 Según el Diccionario de la Real Academia Española. También señala que Institución es “Cada una de las organizaciones fundamentales de un Estado, nación o sociedad”, disponible en [http://lema.rae.es/drae/?val=instituci%C3%B3n](http://lema.rae.es/drae/?val=instituci%C3%B3n)
ALGUNOS CASOS EMBLEMÁTICOS DE LA HOMOFOBIA DE ESTADO

"Yo si tengo mujer oyeron, me gustan las mujeres y aquí la tengo" "Que bueno es el beso de una mujer o de un ser que uno ama"50

Presidente Encargado de la República Bolivariana de Venezuela Nicolás Maduro en el momento de la inscripción de su candidatura a la Presidencia de la República ante el Consejo Nacional Electoral (11 de marzo de 2013) y en clara alusión a su principal adversario político Henrique Capriles quien es un joven soltero de 40 años.

Al respecto, sucedió una movilización de calle de integrantes del Frente por la Inclusión y el Respeto de la Diversidad Sexual (Firedisex), quienes acudieron a la sede del Consejo Nacional Electoral (CNE) para exigir que se prohibieran las alusiones homofóbicas en los discursos de los candidatos. Un medio de comunicación tituló su reseña “Comunidad de diversidad sexual exige al Consejo Nacional Electoral prohibir alusiones homofóbicas”51 tituló un medio de comunicación a una reseña de una movilización de calle Voceros de la ONG señalaron que el frente se originó “a partir del gran malestar que causaron en toda la comunidad de LGBTI del país, las declaraciones homofóbicas del candidato Nicolás Maduro y Presidente Encargado de la República Bolivariana de Venezuela, durante la inscripción de su candidatura”. Dijeron haber realizado una caminata el pasado domingo en rechazo al uso de la homosexualidad como “arma política”. “Nuestra Constitución prohíbe la discriminación de todo tipo, inclusive por orientación sexual”, indicó José Ramón Merentes, un activista de la ONG Unión Afirmativa de Venezuela.

También colocaron como ejemplo el caso de Ecuador donde se multo al presidente por una alusión homofóbica. Además, en el documento consignado al CNE recuerdan al ente que su deber es incluir a todos. “Es una deuda que mantiene la Oficina Nacional de Registro Civil con la población trans, que mantiene vulnerado su derecho a la identidad”, puntualizó Merentes.

Cabe destacar que el Consejo Nacional Electoral nunca se pronunció al respecto.

“…así será la calaña de estos sifrinitos, mariconzones y fascistas que pretenden las elecciones al pueblo de Venezuela...”52

Ministro de Relaciones Exteriores de Venezuela Sr. Nicolás Maduro en abril de 2012 y actual Presidente de la República de Venezuela, en un acto público realizado frente a la Embajada de Cuba en Caracas. Esta expresión homofóbica del ExCanciller obtuvo las risas y aplausos en señal de

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50 Video disponible en https://www.youtube.com/watch?v=Z4ONBI0vPG0
52 Disponible en http://www.youtube.com/watch?v=gVLol-FSZDI Estas declaraciones fueron transmitidas por Venezolana de Televisión, el principal canal de TV del Estado venezolano.
Ante las declaraciones del exCanciller Nicolás Maduro, las distintas ONG LGBTI y la opinión pública se pronunciaron en señal de rechazo. La ONG Venezuela Diversa publicó un comunicado donde expresó que “Este tipo de declaraciones se convierten en un problema institucional a ser tomado en cuenta cuanto antes, porque quienes mandan este tipo de mensajes a la sociedad son los actores políticos acrecentando el ciclo de violencia, ataques y odio de unos contra otros, justamente ahora que están en campaña electoral, lo que puede conducir a sus seguidores a intensificar las situaciones de odio, fanatismo, hostigamiento y conflicto, por un lado por la deshumanización y descalificación del adversario político y por el otro por el hecho de justificar moralmente acciones homofóbicas contra las personas y grupos LGBTI debido a la vinculación directa de las distintas orientaciones sexuales e identidades de género con dicha contienda política partidista.”

“Responde homosexual, acepta el reto maricón, acepta el reto. Hay que ser serio”, “Eso es problema suyo lo que hagan con su culo (sic), pero tienen que ser serios.”

Diputado del partido de gobierno PSUV durante una sesión en la Asamblea Nacional Pedro Carreño (agosto 2013).

Miembros de la comunidad LGBTI reaccionaron y realizaron acciones de protesta en las puertas del Parlamento para rechazar el ataque homofóbico del citado diputado y el empleo de términos ofensivos y discriminatorios que incitaron al odio hacia las personas de la diversidad sexual.

“Estamos ante un Estado homofóbico y transfóbico denunciaron varios defensores de derechos humanos LGBTI, al referirse al comportamiento de quienes toman las decisiones políticas desde la alta esfera del poder en Venezuela. Señalaron que "La homofobia de Estado es un conjunto de acciones y omisiones que tienden a negar igualdades de derechos a las personas por su orientación sexual o de su identidad de género. Un Estado es homofóbico cuando ataca directamente a las personas por leyes, con la policía, insultos u otro medio de agresión verbal y física y la no legislación por la igualdad de derechos. Denunciamos al PSUV, a la Asamblea Nacional, al Tribunal Supremo de Justicia, al Ministerio Público y a

53 Actualmente es la esposa del Presidente Nicolás Maduro y la Primera Dama de la República Bolivariana de Venezuela.
todos los organismos del Ejecutivo como violadores de Derechos Humanos y particularmente como un Estado homofóbico y transfóbico.\(^5^7\)

“Durante años el gobierno ha dicho defender a la comunidad LGBTI, mientras en la práctica vemos como diputados que se identifican con el partido de gobierno nos atacan”, “Venezuela está en mora con una legislación que proteja los derechos de la comunidad LGBTI. En gran parte de los países de América Latina, se han dado importantes avances en esta dirección”, dijeron.\(^5^8\)

Un dirigente del partido político Movimiento al Socialismo señaló que "...el diputado Pedro Carreño con sus afirmaciones homofóbicas, decimonónicas y escatológicas plantea un patrón que se conoce como homofobia de Estado o transfóbia de Estado, caracterizada por las acciones u omisiones que tienden a negar igualdades de derecho a las personas por su orientación sexual o su identidad de género"\(^5^9\). Alertó que esta conducta no sólo ha sido de Carreño, sino también del propio presidente Nicolás Maduro "quien asumió una posición similar en el pasado cuando se refirió en forma despectiva a los homosexuales, produciendo una reacción inmediata muy contundente de los grupos civiles que se afilian a este sector, obligando a Maduro a retractarse públicamente".\(^6^0\)

“Ese comportamiento ahora expresado en la Asamblea Nacional, se denomina homofobia de Estado y esto ha sido reiterativo por personajes del oficialismo. Estos mensajes deshumanizan la condición de las personas homosexuales y de los transgéneros”\(^6^1\), expresó un vocero del partido político de oposición Voluntad Popular.


\(^5^7\) Ibid.
\(^6^0\) Ibid.
OTROS ATAQUES VERBALES DE PERSONEROS PÚBLICOS QUE FOMENTARON LA HOMOFOBIA EN VENEZUELA ENTRE 2009 A 2013

“...no es conveniente pasarse a la acera de enfrente y exaltar las virtudes de la homosexualidad y del lesbianismo”, “Ese es un tema que no se debe nombrar, ni para exaltarlo, ni para criticarlo. Quienes sean lesbianas u homosexuales, allá ellos...”


“El Cardenal Jorge Urosa Sabino relató a los medios nacionales que los matrimonios gays son una “corriente negativa que se ha dado en los últimos años en muchas partes del mundo, mal se le pudiera llamar matrimonio a una unión entre un hombre y otro hombre o entre una mujer y otra mujer, porque este tiene que ver con la familia, la procreación de los hijos y la misma realidad sexual y física de los seres humanos”. En cuanto a que las parejas homosexuales pudieran adoptar niños, el Cardenal Urosa Sabino dijo que eso va en contra de las mismas normas naturales. En su opinión, “esto podría causarle grandes sufrimientos a los niños en la escuela, porque sus compañeros pudieran burlarse de ellos al saber que sus papás son del mismo sexo.”


“Los transexuales pueden competir con otros transexuales. Yo, personalmente, considero que sería un irrespeto ponerle a la mujer venezolana un transexual al lado que compita con ella, entonces también tendríamos que meter a una mujer en el Mister Venezuela a competir con un hombre”.


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62 La Organización Miss Venezuela pertenece a la Organización Cisneros integrado por empresas privadas de medios de comunicación, entretenimiento, medios digitales, inversiones inmobiliarias, desarrollos turísticos y productos de consumo en el mundo, ofrecen marcas y servicios a 550 millones de consumidores de habla hispana y portuguesa en las Américas y Europa, y vende programación televisiva y otros contenidos mediáticos en cinco continentes y en más de 90 países.”
INSTITUCIONALIZADA LA EXCLUSIÓN A LGBTI

El 17 de mayo de 2014 se realizó en Caracas la 3era. Caminata contra la Homofobia y la Transfobia organizada por Venezuela Diversa y Positivos en Colectivo, con una movilización desde la Plaza Altamira hasta la Plaza Brión de Chacaíto, Municipio Chacao, donde las personas asistentes hicieron un llamado al gobierno a proteger los derechos de LGBTI.

Representantes de esa ONG denunciaron que la Alcaldía Bolivariana del Municipio Libertador les prohibió la realización de la caminata al haberles negado el permiso para su desarrollo; de igual modo el Ministerio de la Mujer les negó el apoyo logístico para la tarima y sonido. También que funcionarios del Ministerio manifestaron de forma verbal que “no apoyamos a ONG golpistas y de derecha”. La Alcaldía informó a la ONG a través de una comunicación escrita que sus solicitud no era procedente por coincidir en la fecha y lugar solicitado con otra actividad requerida con antelación.

La Defensora del Pueblo Gabriela del Mar Ramírez anunció públicamente en dos ocasiones, primero en el año 2010 y luego en el año 2013 la creación de una Defensoría Especial para la atención de las personas LGBTI, pero aún no ha sido creada ni informado las razones de esta situación.

Se reconoce el trabajo y empeño de la Defensoría del Pueblo en el trabajo emprendido junto a las Organizaciones de la Sociedad Civil para la creación de la “Ley para la promoción y protección del Derecho a la Igualdad de las Personas con VIH/SIDA y sus Familiares”. No obstante, en el proyecto original presentado por las ONG y presentado por la Defensoría del Pueblo en la Asamblea Nacional, se mencionaba a lo largo de todo el instrumento legal la protección a personas por su “orientación sexual” no heterosexual y la necesaria protección a personas por su “identidad y expresión de género”. El texto aprobado por la Asamblea Nacional elimina toda mención de estos dos aspectos con excepción que les ubica en “Grupos vulnerables” y los denomina “comunidades de sexo diverso”. Esto demuestra el rechazo que existe hacia toda mención que haga referencia a las personas LGBTI.

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64 Venezuela Diversa (2014). Disponible en http://venezueladiversac.blogspot.com/2014/05/alcaldes-de-libertador-y-chacao-violan.html
Otro caso de exclusión institucional se presentó en los datos y estadísticas que debieron haber surgido del Censo Nacional de Población y Vivienda realizado en el año 2011. A partir de una solicitud de la Asociación Civil Unión Afirmativa de Venezuela ante este organismo, se eliminó la regla de inconsistencia que impedía el registro censal de las parejas del mismo sexo.

El Instituto Nacional de Estadística (INE) dejó únicamente en manos de la Asociación Civil Unión Afirmativa de Venezuela la labor de difusión de la información y ellos se encargaron del entrenamiento a sus empadronadores. A finales del año 2012, el Presidente del Instituto Nacional de Estadísticas Elias Eljuri anunció unas cifras preliminares que mencionaban la existencia de entre 4 y 6 mil parejas del mismo sexo en el país. En agosto de 2014, estas cifras desaparecieron del informe final entregado y aprobado por la Asamblea Nacional. La respuesta de funcionarios del Instituto Nacional de Estadísticas a activistas de UNAF es que los datos finales fueron muy inferiores e inconsistentes y, como consecuencia, insuficientes para ser incluidos en las cifras oficiales.

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RECOMENDACIONES
1. Garantizar la No discriminación contemplada en la Constitución de la República Bolivariana de Venezuela.
2. Desarrollar políticas públicas de atención y servicios con equidad, que traten la especificidad de la casuística de tortura y otros tratos o penas crueles, inhumanos o degradantes en la comunidad LGBTI, especialmente de las víctimas LGBTI, sus parejas y familiares.
3. Implementar estrategias comunicacionales para el fortalecimiento de la prevención y la denuncia de las personas responsables de los asesinatos, torturas, ataques, amenazas y malos tratos contra las personas de la diversidad sexual.
4. Garantizar la aplicación del marco legal nacional e internacional que permita mejorar los procesos técnicos y administrativos para la formación en derechos humanos, registro de casos, denuncias, monitoreo y evaluación, investigaciones, enjuiciamiento y condenas de los autores de los asesinatos, torturas, ataques, amenazas y malos tratos contra las personas de la diversidad sexual.
5. Visibilizar la problemática de la tortura y malos tratos que sufre la comunidad LGBTI, en las estadísticas y datos nacionales sobre violencia e impunidad.
6. Fortalecer los mecanismos de coordinación entre sector gobierno y sociedad civil para mejorar la denuncia y disminuir la impunidad.
7. Fortalecer a las Organizaciones de la sociedad civil con trabajo en la diversidad sexual.
8. Permitir el acceso de personas LGBTI en los cuerpos policiales y de seguridad del Estado venezolano.
9. Implementar estrategias de formación y capacitación en derechos humanos y diversidad sexual a los miembros de los cuerpos policiales, de la Defensoría del Pueblo, del Poder Judicial y del Ministerio Público.
10. Aprobar leyes vinculadas con los derechos humanos y la diversidad sexual por la Asamblea Nacional, tales como: proyecto de Ley del Matrimonio Civil Igualitario; reconocimiento de la identidad de género; cambio de nombre de personas transexuales en el Consejo Nacional Electoral; Ley para la promoción y protección del derecho a la igualdad y no discriminación de las personas con VIH/SIDA, sus parejas y familiares, entre otras.
11. Cumplir la Resolución No. 286 del Ministerio de Relaciones Interiores y Justicia que se refiere a la Normas y garantías relativas a los derechos de las mujeres y a la Igualdad y Equidad de Género en los Cuerpos de Policía Nacional Bolivariana y demás cuerpos de policía.
12. Cumplir fielmente el Mandato Constitucional del Tribunal Supremo de Justicia de fecha 15 de julio de 1999 y el Plan Estratégico Nacional 2012-2016 sobre VIH, SIDA y otras ITS para garantizar el acceso a los tratamientos antirretrovirales a las personas con VIH y SIDA.
13. Monitorear los programas de televisión, radio y otros medios de comunicación a fin de verificar la presencia de personajes que representen personas LGBTI no estereotipados donde se les dé un trato de respeto y dignidad.
14. Implementar talleres de capacitación dirigidos a funcionarias y funcionarios públicos con el propósito de brindar un trato no discriminatorio a las personas LGBTI.
15.- Implementar cátedras de educación sexual en todos los niveles educativos a nivel nacional enmarcado en la laicidad, perspectiva de género y científico.
FUENTES CONSULTADAS

• Código Civil de Venezuela
La orientación sexual, la identidad de género y expresión de género no son delitos en Venezuela. La Constitución de la República Bolivariana de Venezuela establece en su artículo 21 numeral primero que "No se permitirá discriminaciones fundadas en la raza, el sexo, el credo, la condición social o aquellas que, en general, tengan por objeto o por resultado anular o menoscabar el reconocimiento, goce o ejercicio en condiciones de igualdad, de los derechos y libertades de toda persona". Aunque no se menciona de manera explícita la no discriminación por razones de orientación sexual, ésta fue aclarada en la Resolución No. 190 de la Sala Constitucional del Tribunal Supremo de Justicia en el año 2008, como respuesta a una solicitud de interpretación de dicho artículo realizada por la Asociación Civil Unión Afirmativa de Venezuela:

HIV treatment drugs, and reagents for the diagnosis, control, and monitoring of the ailment are in shortage: From 2009 to 2014, there was a shortage of antiretroviral drugs. In 2013, in particular, there were ten episodes of drugs shortages affecting mainly LGBTI individuals with HIV in Venezuela.
CERTIFICATE OF TRANSLATION

I, Milton Gutcovsky, am competent to translate from Spanish into English, and certify that the translation of the relevant excerpts from Red LGBTI of Venezuela, Discrimination and Impunity are not equals before the law, *Human Rights Situation of Lesbians, Gays, Bisexuals, Trans and Intersexual People in Venezuela* (Tab No. 17 of the Venezuela’s Country Conditions Report) is true and accurate to the best of my abilities.

Signature

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Tab #18
Leave or die. The choice confronting HIV-positive Venezuelans

‘I am going to die because of the Venezuelan state’

CARACAS

He could die from his country’s shortage of the antiretroviral drugs that keep HIV-positive people alive. Or he could be killed by paramilitaries for denouncing his government for failing to provide the life-saving medication.

Instead, Marco fled his home in Venezuela two years ago, eventually landing up in New York City. He is among more than 8,000 people with the human immunodeficiency virus (HIV) forced to migrate from the crisis-ridden Latin American country in order to survive, according to a March...
with the drugs is a death sentence: patients develop the acquired immune deficiency syndrome (AIDS) and die of opportunistic infections caused by the disease, according to the medical charity Médecins Sans Frontières.

"I was forced to leave," Marco, a 39-year-old paralegal, said in a telephone interview, asking that he not be identified by his full name for fear of repercussions. "I'd rather be in my country, my home, but I was deeply afraid."

Marco was diagnosed with HIV in 2003, after a routine blood test. Back then, he was enrolled in Venezuela's National AIDS Program and quickly started receiving free treatment.

But in 2007 he was prescribed with an incorrect antiretroviral regimen. He spent 21 days in the emergency room of the Andes University Hospital Autonomous Institute in the northwestern city of Merida. There, he said he saw 20 people die because of improperly prescribed ARVs. That's when he became an activist, volunteering with the NGO Asovidá, whose report on the deaths led the health ministry to make changes at the hospital.

In 2016, Asovidá reported a 90 percent shortage of antiretrovirals in Venezuela.

"After we publicly denounced the situation, paramilitaries started threatening us systematically," Marco said. "They followed me home, threatened me with guns. I had to move three times, I couldn't take it anymore."

24 HIV-positive Venezuelans die daily in 2018

In the decade and a half that he has lived with his HIV diagnosis, Marco has seen the collapse of his country's public health system and the explosion of a humanitarian emergency that has forced the migration of more than four million Venezuelans – one tenth of the population – mainly to countries in Latin America and the Caribbean.

"The debacle started in 2009, but it reached its worst peaks during 2017 and 2018," said lawyer and human rights defender Natasha Saturno of Acción Solidaria, a local NGO that offers legal, psychological, and medical assistance for people living with HIV.

In 2017, the health system reached an all-time low when no national hospital had any ARV drugs and 85 percent of pharmacies ran out of medication for opportunistic infections. Acción Ciudadana contra el SIDA (Citizens' Action Against AIDS) reported that at least 58,000 Venezuelans were left without treatment.

That year, Acción Solidaria estimated that 3,200 people died from HIV-related illnesses – that's eight or nine people a day. In 2018, it went up to 24 to 25 deaths a day, the organisation reported. There are no published figures yet for 2019.

"I am going to die because of the Venezuelan state!" read a poster carried by one man at a 2018 rally where protesters pasted the names of thousands of HIV-positive people whose deaths they blame on the government onto the walls of the Pan American Health Organization (PAHO) office in the Venezuelan capital, Caracas.

"People with HIV can’t miss their treatment even once," explained Saturno. "It’s a virus that easily develops resistance. Intermittent treatment could result in the mutation of the virus, and could quickly worsen patients’ health."
Venezuela's public health system began offering free ARV treatment in 1999, but it has long failed to work in practice. Describing the system since 2016, Darwin, an unemployed 22-year-old nurse, said it was hostile, with acute shortages, poor medical attention, discrimination, and exposure.

"Some people don't want to get treatment because they are afraid to be mistreated or to be seen picking up the antiretrovirals," he said. Men fear being ostracised as gay, and women that they will be mistaken for sex workers.

In 2018, a new response plan was drafted by the health ministry, UNAIDS, PAHO, La Red Venezolana de Gente Positiva, and the Venezuelan Society of Infectious Diseases. The Global Fund to Fight AIDS, Tuberculosis and Malaria gave $5 million for antiretrovirals during 2019, which helped to reduce the shortage of treatment to 65 percent for the past 10 months.

But the Venezuelan government has not kept to its commitment to contribute $28 million to fund the rest of the programme. Raul Leonett Cubillán, coordinator of the Ministry of Health's AIDS programme, declined to comment on the delay when asked by The New Humanitarian.

Today, HIV patients in Venezuela have three options: go untreated, buy the medication abroad or on the black market for large sums, or leave the country.

Death threats, killings, suicide

Treatment is not the only issue. There are other obstacles: public health policies – from prevention to diagnostic campaigns – have been paralysed since 2015, and antidiscrimination laws in medical and work environments are hardly ever enforced.

"This year we've seen a considerable rise in the reports of labour discrimination," said Juan Manuel Rodrigues, a human rights defender from Acción Solidaria. "HIV tests for workers have been illegal for more than 20 years. Still, many workers are tested against their will and fired when the results are positive."

Rodrigues described the case of a 62-year-old office cleaner who was recently illegally tested, fired without compensation, and humiliated by his superiors in front of his colleagues.

Condoms, a powerful tool to prevent the transmission of AIDS, disappeared from the market in 2014. Pharmacies began restocking in 2016, but a box of three condoms now costs more than the monthly minimum wage.

Unsurprisingly, HIV-positive Venezuelans often feel desperate and depressed. While there are no available blood tests and medications, there is plenty of stigma, discrimination, family neglect, and rejection in work environments. "They have little choices to survive here, so many choose to leave the country," said Saturno.

A photojournalist who spoke to TNH on condition of anonymity decided to leave Venezuela when he was forced to sell his camera to buy ARVs. "Our office was raided by police forces. We got death threats," he said of regular police harassment of journalists.

"My brother was murdered and my partner killed himself after he was diagnosed with HIV. But I chose to leave the day I had to pay $100 for [a month's worth of] antiretrovirals. It was just too
75,000 who depend on the state’s free supply of ARVs to survive. But UNAIDS put the number of HIV-positive Venezuelans at 300,000, including possible undiagnosed people.

“My brother was murdered and my partner killed himself after he was diagnosed. But I chose to leave the day I had to pay $100 for antiretrovirals.”

The shortage of HIV tests forces doctors to interpret general symptoms to enrol new patients in the National AIDS Program. The only way to get an HIV test is through private laboratories that – based on the minimum wage of $7.50 a month – charge a year’s salary.

**Forced migration ‘a fight for life’**

The photojournalist was diagnosed in 2015 and fled two years later to Mexico, where he was given asylum and gets free ARVs under Plan Santuario, a Mexican government medical service for migrants and repatriated people with HIV.

Colombia and Peru are also favoured destinations for HIV-positive Venezuelans because they offer free ARV treatment. Colombia’s health system reports treating 1,800 Venezuelans with HIV since 2016, and Peru’s 1,554 – half of whom did not know they were HIV-positive until they crossed the border and were tested.

The UNAIDS report says the forced migration of HIV-positive Venezuelans “could be defined as a fight for life”. And it warns that the migration may “affect the course of the epidemic in the region” because of the high numbers of migrants, including those who are untreated or not diagnosed.

The agency reported 16 avoidable deaths of migrant Venezuelans with HIV in Peru, and said that 30 percent of new HIV infections in Chile have been transmitted by untreated migrants. Its report said some national health systems are being overwhelmed, with the Dominican Republic spending $1.5 million on foreign HIV patients since 2016, most from Venezuela and Haiti.

This prevents a timely response to the most urgent cases – those people who have been going the longest without treatment and have been exposed to malnutrition and sickness during their migration.

Such is the case in Valledupar in Colombia, where 80 Venezuelans with HIV arrived in 2019, according to local health official Alba Ustariz. She said the municipality does not have the capacity to provide ARVs to the migrants, who must then go to other cities in Colombia in search of treatment.

“A displaced person with HIV has to face huge obstacles,” said Luis Sáenz of the Colombian League Against AIDS. “If they have an ID, they have access to humanitarian attention for 24 hours in urgent cases. But there are many who cross borders illegally and can’t access treatment or information. So many Venezuelan migrants with HIV may be dying without our knowledge.”

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Tab #19
Venezuela’s HIV Crisis Crosses the Border

Unable to get care in a devastated health care system, desperate Venezuelans flow into Colombia.

BY PATRICK AMMERMAN | AUGUST 28, 2019, 1:38 PM

ÚCUTA, Colombia—Once a month, Marisol Ramírez travels 43 miles by car and then on foot to cross one of the most dangerous borders in the world. She joins the estimated 30,000 people daily who travel across the Simón Bolívar International Bridge to enter Colombia from Venezuela. As the economic and political crisis in Venezuela has intensified over the past few years, this bridge has become one of the main ways to access affordable food and goods for thousands of Venezuelans.

Like many with chronic health conditions, Ramírez knows her health depends on reaching Colombia.

“If during the bridge crossing, they don’t even give us the chance of at least getting to the hospital, we are going to go die,” she said in an interview over the summer.

Ramírez, 56, has lived the past 20 years of her life with HIV/AIDS. Until recently, she had been able to get treatment to keep the virus in check in her home in Cordero, Venezuela, where she would receive antiretroviral
therapy that helps control the number of copies of the virus in her body. She was doing fine with her medication until the health care system of Venezuela stopped purchasing the medicine she needs.

“Almost eight months ago I changed [where I receive antiretroviral] therapy, because since 2017 in Venezuela, they stopped buying [antiretroviral] drugs,” Ramírez said. “What little has arrived are from donations, because the government hasn’t [been] buying the treatment.”

Venezuela’s health care system is collapsing—another victim of the nation’s economic and political turmoil. In 1998, Hugo Chávez was elected president promising that he would provide free health care to all Venezuelans. But the oil-rich country’s economy has struggled since global oil prices began to fall in 2008. Since current President Nicolás Maduro, a protege of the late Chávez, came to power in 2013, the situation has gone from bad to worse. Under Maduro, government corruption has flourished, and runaway hyperinflation of the Venezuelan currency has made the Venezuelan bolívar nearly worthless. As a result, the country’s medical system is severely under-resourced. Government funding for medical care has been slashed, more than half the country’s doctors have fled Venezuela, and drastic shortages in medical equipment have hampered the ability of hospitals to provide even basic treatment for their patients.

Conditions have severely worsened since the economic and political crisis in 2017. According to a report by Human Rights Watch, the infant mortality rate in Venezuela nearly doubled from 2012 to 2017. The report also found that vaccine-preventable diseases such as measles and diphtheria, which had once been eliminated in the country, are now frighteningly on the rise.

Venezuela is also the only country in the world where large numbers of HIV patients have been forced to discontinue treatment for lack of antiretroviral medication, Human Rights Watch reports. As of 2018, 15 of the 25 antiretroviral drugs procured by the government were completely out of stock in Venezuela. For patients like Ramírez, the only option is to go outside of the country for treatment.
The trip to the border city of Cúcuta is not easy—increasingly, shortages of gasoline and the dangers of crossing the border have added obstacles to the journey. The Simón Bolívar International Bridge is packed all day with people coming and going, carrying large packages of food, drinks, household supplies, and materials back with them to Venezuela. The climate is sweltering hot and humid, much hotter than Ramírez is accustomed to.

Buying gasoline to drive to Cúcuta from Cordero or paying the price of a bus ticket were once affordable, but due to the hyperinflation of Venezuela’s currency, it is increasingly expensive to make the journey. And the crisis may be getting worse before it gets better.

“Just last month, they gave me enough [anti-retroviral drugs] for three months, because due to the situation in the country, we can’t be going up and down to get here. The price of [bus] tickets are incredibly high, and we can’t be coming down here every month,” Ramírez said.

Antiretroviral therapy is recommended for everyone who has HIV. It can reduce the number of HIV viruses to undetectable amounts. Reducing the amount of the HIV virus not only helps people live longer and improves their health, but it also reduces the risk of transmitting the virus to others.

When treatment options disappeared in Venezuela, Ramírez found a nongovernmental organization that could help her receive the treatment she needs. But that NGO only has an office in Cúcuta, on the Colombian side of the border.

Ramírez began crossing the border monthly so that she would never have a break in receiving treatment for her HIV, but the trip is exhausting for her. It is also one of many ways her life has been complicated by the Venezuelan crisis.
Ramírez is also caring for her mother, who has cancer. Her mother should be receiving chemotherapy, but that is another treatment widely unavailable in Venezuelan hospitals. Ramírez must provide everything her mother will need if she takes her to the public hospital in her hometown. Patients in Venezuela have to bring all their own supplies to hospitals in order to receive treatment, including buying their own water, gloves, and syringes.

“It’s a bad situation for many, because if we have enough to eat, we don’t have enough to come here to get medication, and if we come and get medication, we don’t have enough to eat,” Ramírez said.

Even the most basic things like vitamins are hard to access in her country.

“A lot of time, my friends get sent vitamins from the U.S., and they share with me,” she said. “Otherwise, we couldn’t take them, because medication is too expensive.”

Just a few miles away, on the other side of the city of Cúcuta, Pedro González Díaz looks through the bars of a metal fence at Fundación Hoasis, a shelter that he’s come to call home. He has lived in the shelter for over a year now. In Venezuela, González Díaz had a family, a house, and a 15-year career as a police officer. Now he is a refugee here in Colombia.

“Suddenly I was left with basically nothing. Quitting after 15 years of work, leaving my sister, my dad, my home. ... It was hard,” he said.

González Díaz lives with HIV/AIDS as well. When he arrived in Colombia, his health was failing. Coming from a different part of Venezuela than Ramírez, who lives relatively close to the border, he had been unable to access
retroviral therapy in Venezuela for two years. His viral count was high, and he was badly ill.

As a police officer, González Díaz had never disclosed that he was living with HIV/AIDS, fearing that he would face the stigma many have toward those with the disease. When he left, he was charged with treason for abandoning his country. Nevertheless, he had nowhere to turn for medicine inside Venezuela. In the end, he fled to Colombia looking for any kind of help.

“I thought [about] Bogotá, since it was the capital, the biggest city, I thought they could help me there,” González Díaz said. “But it was the opposite—they sent me back to Cúcuta.”

Cúcuta has become the center for NGOs working on the Venezuelan crisis. Although Venezuelans have migrated throughout Colombia, González Díaz found his only option was to return to the border city.

González Díaz arrived in Colombia without a work permit. He also cannot receive treatment from Colombia’s public hospitals without a work permit or a special permission called Salvoconducto, which allows some Venezuelans in Colombia to access health care for children and to enroll in public schools. However, he can receive help from an NGO that works specifically with Venezuelans living with HIV.

González Díaz now receives monthly treatment from the same NGO where Ramírez receives her medicine, the AIDS Healthcare Foundation. Upon returning to Cúcuta, he ended up in the shelter run by Fundación Hoasis, where he stayed during his recovery. When he arrived, he was very ill.

“Some people come here with one or two years without having taken [antiretroviral drugs]. So they arrive already in critical states. The virus has wrought disasters like that,” said Ricardo Villamizar, the head of Fundación Hoasis. The foundation provides both shelter and accompaniment for residents when they go to receive their treatment.
“Being here, in part I am happy, because I came with a purpose, and that was my treatment,” González Díaz said. “But in another way, I’m a little sad, and it’s because I’m not working. It’s difficult because of my health ... if I get sick ... it’s something I’m afraid of.”

While his health has improved since starting to receive treatment again, González Díaz found himself caught in legal limbo and confined to Fundación Hoasis. He cannot receive treatment in a public hospital unless his condition is deemed an emergency. He is also afraid that he could be deported by Colombian police, since he does not have the proper documentation to stay in the country.

Because González Díaz was charged with abandoning his country, he and Villamizar believe he would be arrested if he were to go back to Venezuela. It is a possibility he does his best to avoid.

“Whenever I have a consult or appointment, I have to pay for a taxi,” González Díaz said. “[Otherwise] I fear that immigration will grab me and throw me back into Venezuela.”

“Right now, Pedro is sick and he needs medical attention and he cannot get it,” Villamizar. “He can’t leave because he is illegal. He doesn’t have a permit of permanence. His passport expired, and he cannot renew the passport, because as soon as he crosses the bridge they would capture him.”

Other than going out for his monthly treatment, González Díaz stays inside the walls of Fundación Hoasis. He has not been able to see his family in over a year.
Fundación Hoasis occupies two buildings with a handful of beds in the outskirts of Cúcuta. The foundation works with Venezuelans and Colombians alike, although in recent years its focus has increasingly shifted to serving the Venezuelan population in Cúcuta. It operates without support from the government and mostly relies on donations from friends and neighbors. There have always been many with HIV here, but the need is growing.

“Before, we would attend to 75 or 80 people in the two houses,” Villamizar said. “Now it is 130 or 150.”

To date, about 7,700 Venezuelans living with HIV/AIDS have left the country in order to seek treatment elsewhere.

While the Venezuelan government has acknowledged that there are medical shortages, political leaders have maintained that the country is not experiencing any humanitarian crisis and that it guarantees its citizens access to basic medicines. There are few signs that they will take serious action to address these shortages anytime soon.

Ramírez helps run a civic organization that tries to advocate for those in the region around Cordero who have the disease. She is most concerned about what the situation will mean for newborns and children in her community.

The risks of going without HIV medication are heightened for mothers. Even if they get through a pregnancy without transmitting the virus to their child, Ramírez explained, concerns endure that “she starts breastfeeding and that’s when the HIV explodes, and the baby is infected.”

The economic and political crisis in Venezuela has shown no signs of slowing. As of 2016, the last year Venezuela released data from its HIV/AIDS program, 90 percent of HIV patients registered for antiretroviral treatment in
Venezuela were not receiving it. Today, there is even a lack of HIV test kits in Venezuela, making it difficult to know just how many people have been infected since the beginning of the crisis.

“As more days go by, it’s going to be worse for us as people,” González Díaz said. “and I’m not saying this for my condition with HIV but for all people with illnesses. We really need medication.”

Patrick Ammerman is a 2019 Pulitzer Center Student Fellow from the University of Pennsylvania.

TAGS: COLOMBIA, HIV, VENEZUELA
Tab #20
Venezuela ocupa tercer puesto en Latinoamérica con nuevos casos de VIH

Marisol, nombre ficticio para resguardar su identidad, vive en Maracaibo y hace 10 años fue diagnosticada con VIH. En el transcurso de sus 42 años, le tocó “pasar por todo”, desde el rechazo de su familia, hasta ser golpeada salvajemente por su pareja al negarse a tener relaciones sexuales sin preservativos. De las cenizas se levantó, ahora, al igual que más de 120 mil personas entre adultos y niños.
45 mil mujeres son portadoras de VIH de acuerdo a ONGs y la ONU, y su vida está en riesgo, entre otros factores, debido a la escasez de antirretrovirales que supera el 90 por ciento.

El informe sobre el VIH de Venezuela elaborado en 2015, reflejó que más de 63 mil personas recibían tratamiento del estado. 47.969 eran hombres y 15.359 mujeres. Las cifras dan cuenta que más de la mitad de las féminas del país son marginadas, pese a que el Ministerio de Salud insiste en que más de 77 mil personas reciben tratamiento sin costo. En cualquiera de los casos, los números están desfasados y el ejecutivo se niega a firmar las órdenes de compra desde junio del año pasado, decisión que sentencia de muerte a más de 70 mil almas y arrecia una problemática que arrastra la nación desde 2012.

Sin derecho a vivir

La muerte toca la puerta de las personas que viven con VIH-SIDA en el país con facilidad y los registros de defunciones oficiales, cuestionados con frecuencia, reflejan la hecatombe. Los decenarios de mujeres a causas de enfermedades por el Virus de la Inmunodeficiencia Humana, aumentaron más de 186 por ciento entre 1998 y 2013, año en que por última vez el Gobierno Nacional publicó los Anuarios de Mortalidad, y mientras “globalmente las muertes de féminas con VIH disminuyen, en Venezuela aumentan debido al difícil acceso a servicios de salud sexual, reproductiva y el desabastecimiento de medicinas”, aseguró Magdymar León, coordinadora ejecutiva de la ONG Avesa.
Las cifras tienden al alza y La Red Venezolana de Gente Positiva (RVG+) y Acción Ciudadana Contra el Sida (Accsi), denunciaron a finales de 2017 que las muertes por Sida aumentaron 75 por ciento desde 2011, debido a la falta de antirretrovirales. Según el Programa Conjunto de las Naciones Unidas para el Sida (ONUSIDA), 19 mil menores de 17 años al menos, han quedado huérfanos en Venezuela a consecuencia de la epidemia. La mortalidad por complicaciones asociadas al SIDA aumentaron alrededor de 70 por ciento entre 1999 y 2013 y el Ministerio para la Salud estima que en el país 11 mil personas contraen el virus cada año.

El promedio de edad de hombres con VIH se ubica entre 20 y 35 años, mientras que en mujeres oscila entre los 25 y 34 años, además, la nación, es el tercer país en América Latina con más nuevos contagios entre adolescentes y adultos.

**No tan rosa**

Cualquiera que sea su destino final, el camino de niñas y mujeres con VIH/SIDA en Venezuela está “repleto de espinas”. José Bravo, defensor de los derechos humanos con más de 10 años de experiencia en el tema, explicó que las féminas son discriminadas al momento de querer ser madre, incluso algunas fueron sometidas a esterilizaciones forzosas, les niegan oportunidades de empleo, compañeros de trabajo o familiares las apartan y a sus hijos le niegan el derecho a estudiar. “Existen casos en los que tienen que hacer sus necesidades biológicas en el patio o en otro sitio, porque no les permiten utilizar el baño”.

Con frecuencia tienden a aislarse, su pareja las abandona y en muchos casos, a las que no tienen la infección, su esposo o novio seropositivo les exige tener relaciones sexuales sin preservativos en contra de su voluntad, bajo amenazas o maltratos físicos. Se retraen y son más calladas en público que los hombres, sin embargo, cuando van a consultas hablan entre ellas sobre sus hijos y las dificultades que enfrentan, caso contrario a sus pares.
Morir una, dos y tres veces…

Enterarse que sus hijos fueron discriminados por su condición de salud las “mata” y las causas del origen de su enfermedad varían en el pensamiento y palabra de quienes la conocen “de acuerdo al comportamiento que tiene en el entorno en el que hacen vida”.

Estefanía Mendoza, Coordinadora de Planicación de la ONG Mulier, comenta que el estigma de la enfermedad continúa siendo un impedimento para tener una vida normal. A estos flagelos, se suman elementos de la crisis que atraviesa Venezuela como la escasez y encarecimiento de alimentos, preservativos, pruebas serológicas para la detección del virus, reactivos para sus pruebas y chequeos, alto riesgo de contagio vertical de madre a hijo a través de la lactancia, escasez de fórmulas lácteas para sustituir la leche materna (el gobierno de Venezuela incumple con la entrega a las mujeres con VIH con bebés recién nacidos desde enero de 2014) y obstáculos para llevar una dieta balanceada.

El estado es el principal responsable de violar sus derechos humanos, y el de todos los pacientes, y es su obligación prestarles atención. Las mujeres con VIH/SIDA no deben amamantar, pero ante la crisis, prefieren hacerlo que dejar morir de hambre a sus pequeños, acota Mendoza, que añade que, “ninguna madre debería tener que enfrentar esa decisión, en especial cuando es perfectamente prevenible”.

No implementar políticas públicas que eduquen a la población sobre la enfermedad y permitan disminuir la discriminación, es otro de los reclamos que hacen los especialistas al ejecutivo, para referirse a uno de los puntos medulares para erradicar la epidemia.

**Una tierra sin ley**

Pese a que en Venezuela existe una legislación que contempla sus derechos, garantías, deberes y responsabilidades, como la Constitución de la Republica o la Ley para la Promoción y Protección
General de la Comisión para los Derechos Humanos del Estado Zulia (CODHEZ), expone que muchos de los casos de discriminación ocurren por desconocimiento y se asume que el VIH/SIDA lo tienen solo los promiscuos. “El estado no considera como prioridad a estas personas. El sistema de salud no cuenta con insumos para atenderlos y algunos médicos se niegan a prestarles atención alegando esto”.

“La aplicación de la política pública no consiste solo en crear una ley, entre otras cosas, deben de estar acompañadas de recursos para su promoción y diligencia. Lo que se está haciendo no es suficiente”.

En la actualidad, el cumplimiento del ejecutivo ante su obligación de proveer educación sexual de calidad y acceso a métodos anticonceptivos que permitan prevenir embarazos y contagios de enfermedades de transmisión sexual “es nulo”. El informe del Fondo de Población de la ONU del 2017 reflejó que las mujeres entre 15 y 24 años constituyen el 60 por ciento del total de jóvenes que viven con VIH y el 58 por ciento de los nuevos contagios, “lo que indica que estas cifras son consecuencia de la falta de acceso a medicamentos anticonceptivos”.

**A contracorriente**

Son “pocas” las mujeres en Venezuela que han visto un preservativo femenino y cuando lo conocieron, fue en una charla. No está disponible en farmacias y el estado no lo distribuye gratuitamente. Además, aun está mal visto que la mujer controle los aspectos de su sexualidad y tenga preservativos a la mano al momento de un encuentro amoroso.

Algunas de las personas que conviven en vecindad con mujeres que tienen VIH/SIDA y están al tanto de su situación de salud, se solidarizan con ellas y sus hijos; otros replican las conductas discriminatorias, prejuicios, estigmas y estereotipos, lo que alimenta el círculo vicioso.
Cada caso es distinto, pero existen reportes de auto discriminación y reproches a sí misma. Su círculo de amigos tiende a cerrarse y se deprimen con mayor frecuencia que los hombres. Lo más difícil para ellas, según algunas entrevistadas, es decirle a su pareja o hijos que son portadoras de VIH. Iniciar una nueva relación es una “odisea”.

En las consultas son más abiertas y expresivas que los hombres. Enfrentan con mayor fuerza y entereza el diagnosticó; lo aceptan con mayor facilidad. Recordar a sus hijos las impulsa a continuar, las animan a luchar.

**Carrera para subsistir**

Para tratar de sobrevivir, los pacientes con VIH/SIDA no descartan cualquier opción, desde intentar comprar medicamentos revendidos de dudosa procedencia en el interior del país o en el exterior, hasta emprender una epopeya de cuatro mil kilómetros a países vecinos como Perú, en busca de empleo y salud.

En el presente, como en épocas no tan lejanas, “volvimos al tiempo que ser mujer y tener VIH es sinónimo de muerte”, debido a las precarias condiciones que persisten en el territorio nacional y su organismo, como el del resto de los pacientes, envejece 10 años más rápido que el resto de las personas.

La situación no pasa inadvertida en el resto del mundo y la Comisión Interamericana de Derechos Humanos (CIDH) en un informe recientemente publicado sobre la grave situación de los derechos humanos en Venezuela recuerda, entre otras cosas, la sentencia número 487 de 6 abril del 2001 que dio lugar al amparo constitucional para la provisión de medicamentos necesarios para el tratamiento de VIDH/SIDA y exhorta al Estado a garantizar el derecho a la salud y la vida de las personas con VIH, movilizando los recursos necesarios y disponibles para ello, incluyendo los de cooperación internacional.
Esteban Colina, director de la Asociación Civil Manantial de Vida (Amavida), señala que la falta de empoderamiento femenino es uno de los problemas y muchas veces, las damas son víctimas de sus parejas que tienen encuentros sexuales ocasionales con otras personas. “El VIH es un problema de mecanismos de protección. Vivir con el virus para las mujeres es mucho más complejo y cuando quedan embarazadas no tienen como enfrentar la enfermedad. La salud no es un regalo del Estado, su obligación es garantizar a todas las personas el derecho a la salud, educación y bienestar y en la actualidad ni siquiera les garantiza el derecho a la vida. Las mujeres zulianas les dan a sus hijos de comer alimentos que no los nutren como chicha de topocho, de espagueti y de arroz”.

A Marisol le toca continuar. No es la única, en Venezuela miles de mujeres con VIH/SIDA salen todos los días a la calle con la intención de luchar y sacar adelante una vida que, en muchos casos, factores internos y externos amenazan con apagar.

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Until 2013, a woman died every 17 hours in the country due to HIV diseases

Marisol, a fictitious name to protect her identity, lives in Maracaibo and was diagnosed with HIV 10 years ago. In the course of her 42 years, she had to ‘go through everything,’ from the rejection of her family, to being beaten savagely by her partner for refusing to have sex without condoms. From ashes she stood up and now, together with more than 120 thousand people including adults and children according to UNAIDS estimates, she has to try to survive in a context as the Venezuela’s, in which being a woman with HIV/AIDS is ‘a sin.’”

The seropositive women face multiple problems in the personal, family, community, work and educational areas, in addition to the obstacles at health centers, as well as suffer forced sterilizations. In Venezuela, an estimated 37 and 45 thousand women are carriers of HIV according to NGOs and the UN. Their lives are at risk due to, among other factors, the shortage of antiretrovirals that exceeds 90 percent.

The report on HIV in Venezuela prepared in 2015, reflected that more than 63 thousand people received treatment from the state. 47,969 were men and 15,359 women. The figures show that more than half of the country's women are marginalized, despite the Ministry of Health insisting that more than 77 thousand people receive treatment at no cost. In any case, the numbers are out of date and the executive has refused to sign the purchase orders since June last year, a decision that sentenced more than 70,000 souls to death and intensified a problem that has dragged the nation since 2012.

No right to live

Death knocks on the door of people living with HIV-AIDS in the country with ease, and official death records, frequently questioned, reflect the catastrophe. The deaths of women due to diseases of the Human Immunodeficiency Virus increased more than 186 percent between 1998 and 2013, the year in which the National Government published the Mortality Yearbooks for the last time, and while “deaths globally of women with HIV decrease, in Venezuela they increase due to the difficult access to sexual and reproductive health services and the shortage of medicines,” said Magdymar León, executive coordinator of the NGO Avesa.

The figures tend to rise and the Venezuelan Positive People Network (RVG +) and Acción Ciudadana Contra el Sida (Accsi), denounced in late 2017 that AIDS deaths increased 75 percent since 2011, due to the lack of antiretrovirals. According to the Joint United Nations AIDS Program (UNAIDS), 19,000 children under the age of 17 at least have been orphaned in Venezuela as a result of the epidemic. Mortality from complications associated with AIDS
increased around 70 percent between 1999 and 2013 and the Ministry for Health estimates that 11,000 people in the country contract the virus each year.

The average age of men with HIV is between 20 and 35 years, while in women it ranges between 25 and 34 years, in addition, the nation is the third country in Latin America with the most new infections among adolescents and adults.

**Not so pink**

“Wherever their final destination, the path of girls and women with HIV/AIDS in Venezuela is ‘full of thorns.’ José Bravo, a human rights defender with more than 10 years of experience in the subject explained, he said that females are discriminated when they want to be a mother. Some are even subjected to forced sterilization; some are denied employment opportunities. Co-workers or relatives isolate them while their children are denied the right to study. ‘Sometimes they have to handle their biological needs in the yards or somewhere else, because they are not allowed to use the bathroom.’”

Often they tend to isolate themselves, their partner abandons them, and in many cases, those who do not have the infection, their HIV-positive husband or boyfriend forces them to have sex without condoms against their will, under threats or physical abuse. They withdraw, and are quieter in public than men, however, when they go to consultations they talk to each other about their children and the difficulties they face, contrary to their peers.

**Die once, twice and three times ...**

Finding out that their children were discriminated against because of their health condition ‘kills’ the HIV patients. Gossip runs rampant, as the causes of their illness vary in the thinking and words of those who know them according to their behavior in the environment in which they live.

Estefanía Mendoza, Planning Coordinator of the NGO Mulier, comments that the stigma of the disease continues to be an impediment to having a normal life. Added to these scourges are elements of the crisis that Venezuela is going through, such as food shortages and increases in price of condoms, serological tests for virus detection, reagents for tests and check-ups, high risk of mother-to-child vertical transmission through breastfeeding, shortage of milk formulas to substitute breast milk (the Venezuelan government has failed to deliver HIV-positive women with newborn babies since January 2014), and obstacles to eating a balanced diet.

The state is main responsible for violating their human rights, and the human rights of all patients, and it is its obligation to pay attention to them. Women with HIV/AIDS should not breastfeed, but in the face of the crisis, they prefer to breastfeed than to starve their little ones, says Mendoza, adding that “no mother should have to face that decision, especially when it is perfectly preventable.”
Failure to implement public policies that educate the population about the disease and allow discrimination to be reduced is another of the claims that specialists make to the executive branch, to refer to one of the central points to eradicate the epidemic.

**A land without law**

Although there are Venezuelan legislations that contemplate the HIV patients’ rights, guarantees, duties and responsibilities, such as the Venezuelan Constitution or the Law for the Promotion and Protection of the Right to Equality of People with HIV or AIDS and their Families—Article 29 of which specifically refers to the protection of women—they are, in fact, dead letter.

The Mulier Planning Coordinator notes that ‘the laws, without the effective diligence of the state to apply them, remain merely as declarations of intent.’ General Director of the Commission for Human Rights of the State of Zulia (CODHEZ), Daniela Guerra, states that many of the cases of discrimination occur due to ignorance and it is assumed that HIV/AIDS involves only promiscuous cases. ‘The state does not consider these people a priority. The health system does not have supplies to take care of them and some doctors refuse to pay attention to them.

“The application of public policy does not only consist of creating a law, among other things, they must be accompanied by resources for their promotion and diligence. What is being done is not enough.”

Currently, the executive's compliance with its obligation to provide quality sex education and access to contraceptive methods to prevent pregnancy and transmission of sexually transmitted diseases "is nil." The 2017 UN Population Fund report reflected that women between 15 and 24 years old constitute 60 percent of all young people living with HIV and 58 percent of new infections, "indicating that these figures they are a consequence of the lack of access to contraceptive medications ".

**Counterflow**

There are "few" women in Venezuela who have seen a female condom and when they first see it, it was in a public talk. It is not available in pharmacies and is not freely distributed by the state. In addition, it is still frowned upon that the woman controls the aspects of her sexuality and has condoms on hand at the time of a love encounter.

Some of the people who live in the neighborhood with women who have HIV/AIDS and are aware of their health situation, show solidarity with them and their children; Others replicate discriminatory behaviors, prejudices, stigmas and stereotypes, which fuels the vicious circle.

Each case is different, but there are reports of self-discrimination and self-reproach. Their circle of friends tends to close and they become more depressed than men. The most difficult thing for them, according to some interviewees, is to tell their partner or children that they are HIV positive. Starting a new relationship is an "odyssey."
In consultations they are more open and expressive than men. They face the diagnosis with greater force and integrity; they accept it more easily. Remembering their children encourages them to continue, encourages them to fight.

**Race to subsist**

To try to survive, HIV/AIDS patients do not rule out any option, from trying to buy resold medicines of dubious origin in the interior of the country or abroad, to undertaking a four thousand kilometer epic to neighboring countries such as Peru, in search of employment and health.

Presently, as in not so distant times, "we returned at the time where being a woman and having HIV is synonymous with death", due to the precarious conditions that persist in the national territory, and her body, like the rest of the patients, age 10 years faster than other people.

The situation does not go unnoticed in the rest of the world and the Inter-American Commission on Human Rights (IACHR) in a recently published report on the serious situation of human rights in Venezuela recalls, among other things, judgment number 487 of April 6, 2001 that gave rise to the constitutional protection for the provision of medicines necessary for the treatment of HIV / AIDS and urges the State to guarantee the right to health and life of people with HIV, mobilizing the necessary and available resources, including those of international cooperation.

Esteban Colina, director of the Manantial de Vida Civil Association (Amavida), points out that lack of female empowerment is one of the problems and many times, women are victims of their partners who have occasional sexual encounters with other people. “HIV is a problem of protection mechanisms. Living with the virus for women is much more complex and when they get pregnant they have no way to cope with the disease. Health is not a gift from the State, its obligation is to guarantee everyone the right to health, education and well-being, and at present it does not even guarantee the right to life. Zulia women give their children to eat foods that do not nourish them, such as chicha de topocho, spaghetti and rice. ”

Marisol has to continue. It is not the only one, in Venezuela thousands of women with HIV/AIDS go out every day to the streets with the intention of fighting and moving forward with a life that, in many cases, internal and external factors threaten to extinguish.
CERTIFICATE OF TRANSLATION

I, Milton Gutcovsky, am competent to translate from Spanish into English, and certify that the translation of “Venezuela ranks third in Latin America with new cases of HIV” TalCual (Tab No. 20 of the Venezuela’s Country Conditions Report) is true and accurate to the best of my abilities.

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Tab #21
Police in Venezuela raided the offices of HIV and AIDS services organization on Friday (15 February).

The International Council for AIDS Service Organizations [ICASO] confirmed that the authorities had forcibly entered the group's offices in the city of Valencia in Carabobo state.

The police reportedly seized infant formula and medications for HIV and AIDS treatment,
The Washington Blade reports.

Early reports said that three activists were arrested during the raid.

In an ICASO press release, Alberto Nieves, executive director of Acción Ciudadana Contra el SIDA, said: ‘We are scared for the safety of our activists and call upon the global community to help us — not just us, but the people of Venezuela living with HIV.’
A very serious situation

People diagnosed with HIV and AIDS have been greatly affected by the political and economic crisis which continues to engulf Venezuela.

300,000 bottles of antiretroviral drug Tenofovir, Lamivudine and Dolutegravir (TLD) were shipped to the country by the Pan-American Health Organization Strategic Fund between December and January. However, HIV and AIDS advocacy groups have said that the life-saving medication has not left the military warehouse where it is being stored in.

HIV and AIDS support group Fundación Mavid has written to the Venezuelan government demanding an explanation, adding that 'millions and millions of pills of antiretroviral drugs are stored and withheld without justification'.

President of Fundación Mavid, Eduardo Franco said that the advocacy groups were caught in ‘a very serious situation’.

Deepening political and economic crisis

The country’s political and economic problems do not show any signs of abating.

President Nicolás Maduro has faced international condemnation for his handling of the crisis. Last month, National Assembly President Juan Guaidó declared himself as president, gaining the support of a number of countries, including the US.

In recent years, millions of Venezuelans have migrated to neighboring Columbia to escape the crisis in their home country.

People with HIV and AIDS in Venezuela are facing serious threats due to lack of available antiretroviral drugs, The Washington Blade reported earlier this week.

In some cases, this has led to the deaths of those who were unable to access the necessary medication to treat their condition.

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Tab #22
For Venezuela HIV patients, lack of medicine 'a death sentence'

Venezuela's economic crisis has left the country's health system on the verge of collapse. Amid a shortage of medication, HIV patients are succumbing to secondary infections, despite doctors' best efforts.

Alejandro Ortega's body is covered with round, dark spots. The 21-year-old's hands, arms, feet and even his face appear as though they are marked with scars that have not properly healed. "Don't worry, it's not contagious," he said, extending his arm to shake hands.

Alejandro Ortega's doctor at the Venezuelan Central University clinic in Caracas explained that the spots have been caused by a fungal infection transmitted through pigeons.

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Alejandro's doctor at the Venezuelan Central University clinic in Caracas explained that the spots have been caused by a fungal infection transmitted through pigeons.
With his emaciated body, pale face and skin covered in lesions, Alejandro is suffering as many patients afflicted with the human immunodeficiency virus (HIV) that causes AIDS did in the 1980s, before antiretroviral medication was introduced. The dark patches look like Kaposi’s sarcoma, a cancer that occurs mainly in connection with HIV/AIDS and was very common among the first people infected with the virus when the global epidemic began nearly four decades ago.

"It looks the same, but what Alejandro has is, in fact, only a skin infection," said the doctor, who prefers to remain anonymous in order to avoid any problems with the government.

Read more: Colombia tightens border amidst wave of Venezuela refugees

Alejandro is one of about two dozen HIV patients who are being treated at Venezuela’s largest center for the virus. Nearly all are suffering from the same problem: They have caught secondary infections because they can no longer take the drug cocktail known as highly active antiretroviral therapy (HAART). This breakthrough treatment was introduced in 2000 and prevents HIV from developing into AIDS.

The likelihood of the virus being transmitted from a mother to her newborn child can also be significantly reduced by the use of antiretroviral medication. But currently in Venezuela, such treatment is almost impossible.

"The situation that most patients are in is similar, or perhaps even worse, than it was 30 or 35 years ago," said Martin Carballo, the clinic’s director.

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'This is a tragedy'

Roughly two years ago, when rapidly falling oil prices transformed Venezuela’s economic crisis into a humanitarian catastrophe, the government began importing fewer medicines. At first, only simple drugs were affected, then it was antibiotics and even anti-inflammatory drugs. For the last year, patients afflicted with chronic illnesses that require expensive medication have been suffering under the government’s reduced medicine import scheme.

The lack of medication to treat HIV first became a problem at the end of 2016. But the situation turned critical last year, Carballo explained.

"This is a tragedy," he said. "Not being able to take the right drugs is like a death sentence for many people. We’ve been missing the medications in the clinic for over four months, some of them we haven’t had in six months."

The doctors at the Caracas University hospital are facing an ethical dilemma. Some argue that the clinic should not accept any new seriously-ill HIV patients, because they cannot be treated. It is not just antiretroviral medication that is lacking, it’s everything: From gloves and syringes, to antibiotics and painkillers.
"We have reached our limits, and we can't even help people here to die with dignity," said Maria Eugenia Landaeta, head of infectious diseases at the clinic. "We can't offer anything to the sick except the will to help and our medical expertise. We even have to ask the patients to bring drinking water from home."

The Venezuelan health system has practically collapsed amid the country's economic crisis.

**Nothing to work with**

Another patient, named Jorge, has stopped speaking. Most of the time, his eyes are fixed on a point in the room where the sun is shining on the wall. He is covered by a thin scarf and his emaciated legs are visible, as is the adult diaper he is wearing. Jorge's face is deathly pale; his dry mouth hangs open.

"He's dying, it's all over. They've killed him," said his sister Sol Reys.

It is the third time Jorge has been hospitalized in the last eight months. When ingredients for the anti-AIDS drug cocktail became scarce, Jorge's condition rapidly deteriorated.

"He's been ill for many years and has had relapses. But now the situation is really hopeless," Sol Reys said, as she swatted away a mosquito trying to land on her brother's forehead. "Cleaning products, diapers, painkillers, food — my God, even water — I have brought in everything that Jorge has here."

The situation that Jorge and Alejandro are facing is not unique in Venezuela. Even contraceptives have practically disappeared from the shelves, or become so expensive that the average Venezuelan can no longer afford them. In 2016, the government stopped distributing condoms among the population, and the price of buying them in the pharmacy has reached 20-30 percent of the monthly minimum income.

"This is a very serious problem, there is simply no more birth control," said Nubia Laguna from Nina Madre (Mother Girl), a nongovernmental organization that supports young mothers. "We do not know at the moment how widespread sexually transmitted diseases are in the country, because there have been no official figures on the part of the state for more than two years."
Unused medical equipment in a corridor of Caracas Teaching Hospital

'I'm still young, I want to live.'

There are dozens of people, sometimes over 100, queuing in front of the Caracas University hospital's outpatient clinic every day.

"Previously, there were five to 10 patients with suspected HIV," said Landaeta. "Today there are twice as many. Everyday."

A further difficulty is that the hospital lacks the means to carry out HIV tests.

"Hardly any Venezuelan can nowadays find out whether he or she is HIV-positive under the public health system. You have to pay extra for a test," said Davi Flora, who also works at the university hospital. "And if we don't even know whether the patient is HIV-positive and if so, how much of the virus has spread to him, we can't start treatment."

Alejandro knows he's running out of time. Without the proper medication, there's not much the doctors can do for him.

"I'm afraid of getting to a point where there's no cure," he said. This has happened in recent weeks with other patients. "I see people dying here. But I'm still young, I want to live and I know I can, with the right medication."

On his bad days, waiting for the drugs and struggling against the infection, Alejandro finds comfort in reading the Bible. His favorite verse is Jeremiah 33:6: "Nevertheless, I will bring health and healing to it; I will heal my people and will let them enjoy abundant peace and security."
Tab #23
Ricardo Querales, an HIV-positive gay man, is afraid he doesn’t have much time left, as the Trump administration plans to deport him back to a country where he is unlikely to obtain life-saving medications.

“You are sending me to my death!” Querales, 43, told immigration officials when they informed him that he would have to return to Venezuela. “This is anti human rights. In Venezuela, there is no medicine and every day someone with AIDS disappears.”
The country is undergoing a catastrophic shortage of food and medicine (https://www.hrw.org/report/2016/10/24/venezuelas-humanitarian-crisis/severe-medical-and-food-shortages-inadequate-and), while the government denies there is any crisis whatsoever and goes after protesters and dissidents with alarming severity.

Health organizations are reporting an increase in HIV patients dying due to a lack of antiretroviral drugs in Venezuela.

**A deadly situation**

Health organizations are reporting an increase in HIV patients dying due to a lack of antiretroviral drugs in Venezuela.

“There is a very serious crisis in Venezuela, and if he has HIV and there are no drugs there, he should ask that they not take him out of the country for humanitarian reasons,” advised immigration lawyer Marcial De Sautu.
Meanwhile, while the government offers some few protections for the LGBTQ community (https://www.equaldex.com/region/venezuela), progress has been slow and inconsistent, with refugees reporting that they had no choice but to flee (https://www.nbcnews.com/feature/nbc-out/some-lgbtq-venezuelans-fleeing-home-was-their-only-option-n757431) for their own safety.

Querales arrived in the United States in 2003, escaping political persecution and insecurity (https://www.miamiherald.com/news/nation-world/world/americas/venezuela/article198235939.html), reports the Miami Herald. His request for asylum was granted a year later. He was diagnosed as HIV-positive in 2006. Sadly, he was part of a growing trend. Between the year he was diagnosed and 2015, HIV diagnoses in Miami-Dade County among Latino men increased by a whopping 70 percent.

According to the CDC (https://www.cdc.gov/hiv/statistics/overview/geographicdistribution.html), the problem is hardly relegated to Florida. In 2016, the South accounted for 53 percent of the new AIDS diagnoses in the United States, followed distantly by the West at the Northeast, both coming in at 17 percent, and then the Midwest at 13 percent.

**Depression, drugs, and arrest**

Querales sunk into a depression upon diagnosis, coupled with the loneliness he was feeling being in a new country, and began self-medicating with drug use.

He first got into trouble with law enforcement after a friend borrowed his car and then died of an overdose. When police arrived at Querales’s house, they discovered methamphetamine and drug paraphernalia. He was convicted in 2009 and served 30 days in jail for the offense.

He was then arrested a second time during a raid at a house he was visiting, and while he was not charged with any crime, he was handed over to immigration officials. He spent six months in detention, and it was at that point that his asylum status was revoked.
An immigration judge then signed his deportation order in 2011, but it was stayed as a result of the crisis in his country of origin.

He will stay and fight

“I am a reformed citizen, a decent worker who made mistakes in the past and I am no longer on drugs,” Querales said. He reports that he has been clean for five years.

“They told me they would not deport me because there are no medicines for my treatment in Venezuela,” he added.

His next appointment with Immigration and Customs Enforcement (ICE) is scheduled for February 22.

“My plan is to stay here, fight to the end,” he pledged.

A Spanish language report follows that includes an interview with Querales.

“No es justo que me quiten mi residencia y me manden directamente a morir”: Ricardo Querales, venezolano con VIH que sería deportado from NTN24 on Vimeo.

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California to consider bill that aims to lower rates of STD diagnoses (https://www.lgbtqnation.com/2020/01/california-consider-bill-plan-curb-std-diagnoses/)

IMPORTANT SAFETY INFORMATION

Important Facts

HIV-1.

Do not take DESCOVY for PrEP unless you are confirmed to be HIV-1 negative.

DESCOVY does not prevent other sexually transmitted infections (STIs).

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- HIV-1
- Other sexually transmitted infections (STIs)

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Tab #24
Doctors and other health care personnel hold a protest march in Caracas, Venezuela, on May 22, 2017. They are demonstrating against the shortage in medicine and to reject the government of President Nicolas Maduro.

Luis Robayo / AFP/Getty Images

By Dimitri O'Donnell

Eduardo Franco has lost count of the number of funerals he's been to this year. The last one was just a month ago in his home state of Carabobo in Venezuela. His friend Roberto, 25, died after succumbing to the effects of HIV.

"It was hard watching him in so much pain," Franco told NBC News. "He suffered a lot psychologically and physically," he recalled, struggling to get his words out. "I felt powerless, because there was no medicine for him."
Eduardo Franco (center) at an event providing information about his HIV/AIDS organization, MAVID, which is based in Carabobo, Venezuela.

Roberto was bisexual and contracted HIV after having unprotected sex with a man. He is one casualty out of thousands of HIV/AIDS patients in Venezuela who are dying every year because of a major shortage of antiretroviral HIV medications that can help treat and slow down the virus and fight infection.

Since 2015, there have been sporadic shortages of these vital medicines all over Venezuela. But deliveries that were slow to arrive two years ago have now ground to a halt. Public hospitals have given up testing for HIV, and condom supplies have run out. Venezuela’s health system appears to be on the brink of collapse.

"Over the past week in Carabobo there’s no medicines arriving at all. If you have cancer or are recovering from an operation or have an infection you can’t get any antibiotics. There’s empty shelves in every clinic and pharmacy," Franco, who serves as a spokesperson for the HIV/AIDS foundation MAVID in Carabobo, explained.

There are 8,500 people with HIV in the coastal state of Carabobo in northern Venezuela, according to MAVID. In 2012, there were 2,100 HIV-related deaths nationwide in Venezuela. So far this year, at least 1,600 patients have died in Carabobo alone, a state that accounts for around 7 percent of the total population.

Carabobo, according to MAVID, has the third highest death rate for people with HIV and AIDS in Venezuela. Advocates say children, young mothers and teenagers are among those needlessly dying because they haven’t been taking their medicines.

"I was diagnosed with HIV in 1998 when Venezuela had an AIDS program that was modern, well funded, with the best doctors in South America," Franco said.

But that once-renowned program is now just a distant memory for AIDS patients. "Eighty percent of people with HIV in Carabobo are not receiving treatment because of the shortage of antiretroviral medicine," Franco said. "The lack of medicine is worrying, but there’s also food shortages. People are dying from hunger because they can’t afford to feed themselves."

"There’s no hope left in Venezuela; it’s getting harder and harder every day."
One in every five people diagnosed with HIV in Carabobo are women, according to MAVID. Franco said 400 of them are mothers, and they haven't been able to find any formula to feed their children. Infant formula is crucial to avoid passing the virus on to their babies in breast milk.

"What do they do?" Franco asked. "They either risk giving them the virus in breast milk or let them starve. We’ve lost three HIV-positive babies this year because their mothers had no formula. They were so malnourished."

Venezuela's HIV foundations and UNAIDS estimate that in 2012 more than 200,000 Venezuelans had HIV/AIDS. In 2015, according to UNAIDS, 63,000 of those were on antiretroviral medication. Since the political crisis escalated, the vast majority of these patients have not received any medical attention in more two years, according to advocates on the ground.

In Venezuela's capital, Caracas, the situation is just as bleak as it is in Carabobo. AIDS organizations in the city say 68 people with HIV have died between April and June.

"They hadn't been seen by any doctors and died because of a lack of medicine, infections and starvation," Mauricio Gutierrez, an LGBTQ advocate and social worker based in Caracas, told NBC News.

The Venezuelan non-governmental organization Positivos en Colectivo (Positive Together) works closely with HIV and AIDS patients throughout Caracas. According to the charity, 85 percent of pharmacies in the capital have run out of medication. The organization claims between 95 and 100 percent of hospitals in the city have no medicines at all in stock.

"If you're sick and go to a hospital in Caracas, all you'll get – if you're lucky – is a bed and some saline solution," Gutierrez said following one of his regular visits to a hospital. "There's no hope left in Venezuela; it's getting harder and harder every day."

The United Nations Children's Fund (UNICEF) told NBC News that some medication – albeit not enough – is still arriving in Venezuela. A spokesperson said a batch of antiretroviral medication to treat children with HIV was sent in July. "These pediatric drugs will be administered to 1,600 children up to 12 years old for the next six months."

"It’s got nothing to do with politics; it’s a matter of life and death. We’re being persecuted and fighting for our human rights, our lives and our health."

Gutierrez, who is HIV positive, spent last week comforting the family of a deceased 16-year-old boy.

"He had HIV and was so weak when he arrived at the hospital. He was vomiting and bleeding a lot, very emaciated because he hadn’t eaten anything nutritious in weeks. They carried out no tests and just left him to die without any treatment," Gutierrez said.

Despite the mounting death toll, HIV advocates have praised Venezuela’s doctors and nurses who are trying to carry on as normal in third-world conditions.
"It's not their fault, because they can't do anything without proper medication and supplies," Gutierrez said. Protesters and health advocates blame Venezuelan President Nicolas Maduro, whose administration has refused offers of international aid and denies there’s a crisis.

"Last year, we asked them to open a humanitarian corridor to allow essential medicines and basic food supplies through, but they refused, so we hold them responsible," Gutierrez added.

With no immediate help likely to come from the state, advocates are pleading with the international community to deliver aid. They’ve warned the lives of tens of thousands are at risk due to illness and starvation.

"It’s got nothing to do with politics; it’s a matter of life and death. We’re being persecuted and fighting for our human rights, our lives and our health," Gutierrez said.

Eduardo Franco recently counted how many friends he has lost over the past two years. "Twenty-five gone," he said with a deep sigh during a Skype chat from his home in Carabobo.

For the past few months, Franco helped take care of his friend Roberto when he got really sick. He died in a small, rented room in Carabobo with just two friends by his side. No family members, not even his ex-girlfriend and their 6-year-old daughter came to visit him.

Roberto hadn’t been to hospital in more than a year and was afraid he would die in the streets because he couldn’t afford to pay his rent. He got no medical treatment at a time when he needed it the most.

"Before he died, Roberto asked me to keep raising awareness about safe sex," Franco said. "He wanted young people to know the risks of having unprotected sex. He told me his life should mean something and to not forget about him."

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Dimitri O'Donnell
Tab #25
In Venezuela, a once-leading AIDS program lies in ruins

More than a decade ago, the country was lauded for its treatment program. Now, Venezuela is years into a political and economic crisis.

Juan Coronel had HIV for years, he told me, but by the time he was sick enough to need anti-retrovirals, Venezuela’s HIV/AIDS program was chronically short of medications. He died on June 19.

ALEJANDRO CEGARRA/THE GLOBE AND MAIL

This article was published more than 2 years ago. Some information in it may no longer be current.
Juan Coronel was so thin that his kneecaps jutted out like tent poles in his sweatpants. He was 39 when I met him a few weeks ago, with reddish-brown hair that clung to his scalp like a baby's and deep hollows below his cheekbones. His

TOP STORIES

Escaping sex trafficking often takes years, new research shows

FEbruary 18

Africa at its height more than a decade ago. In fact, there is nowhere in the world today where people are dying of AIDS at the pace and in the sheer numbers that they are in Venezuela: Even the poorest African countries today have HIV treatment programs. They still don't reach everyone, and people are still dying, or getting treatment only after they become very ill – they may come to look as Mr. Coronel did when I met him. But in other countries, they are the exception. Today, in Venezuela, his case is the rule.

Back when I was covering the African epidemic, Venezuela was invoked with admiration: This country has had free, public treatment for HIV since 1999. Its AIDS program was a model for countries throughout the developing world. Venezuela's socialist government imported affordable generic drugs from India, challenged the patent monopolies of Western pharmaceutical companies and targeted marginalized communities, including sex workers, gay men and transgender people for free condom distribution – while most other countries were still grappling with the shame of HIV.

Read more: While the people of Venezuela suffer, its president paints a rosy picture

But Venezuela is now years into a political and economic crisis that began under that same socialist government, implemented by Hugo Chavez. Nationalizations, price and currency controls mean there are chronic shortages, and the once-leading AIDS program is in ruins.

If and when this crisis begins to be resolved, thousands of people will have died needlessly, and this country will once again have an out-of-control HIV epidemic, as it did 30 years ago. Today, there are no HIV tests available in the public system, people are unwittingly spreading the virus to sex partners and pregnant women are passing the virus on to their babies.

The national program is chronically short of drugs, which means that people living with the virus not only aren't getting treated, they are developing drug-resistant strains of HIV.

Hospitals lack even the most basic drugs to treat the infections that plague patients who can't get anti-retrovirals. People such as Mr. Coronel are dying from a lack of drugs that cost just pennies a dose.

There are no publicly available condoms, and they are wildly expensive in private pharmacies.

There is no infant formula for HIV-positive women to give their babies to avoid transmitting the virus in breast milk.

I have been reporting on Venezuela's deepening crisis for four years, and I knew about the state of the health system. But the reality of this AIDS program, which I knew from its excellent reputation, brought home the scale of how far this country has deteriorated. Feliciano Reyna, a veteran activist who founded one of Venezuela's oldest HIV organizations, Accion Solidaria, recognized my shock. "If you're not here and you don't see it, it's very hard for anyone to believe that any of this is true," he said.

I met Mr. Coronel and his mother, Matilde Munoz, in a ward of Caracas' Central University Hospital, once this country's leading public medical institution. The ward had patients with cancer, tuberculosis and gastroenteritis; for at least half of them, HIV was the underlying cause of their illness. Ms. Munoz brought her son to the hospital when days of uncontrolled fever and diarrhea left him so weak she feared for his life. But the hospital had no antibiotics, or even rehydrating fluid to run into the IV that someone optimistically inserted into his arm. This has been the state of Venezuela's public health
system for some time now, and I had to ask Mr. Coronel, whose suffering was so evident and who was getting no relief at all: why come? Before he could answer me, the young doctor who was meant to be treating him interrupted: "I ask myself the

released health statistics in recent years, and doctors dispute their accuracy. The last reliable UNAIDS figures said 150,000 people in Venezuela had HIV/AIDS in 2012, with another 11,000 people, approximately, being diagnosed each year – that puts the current figure near 200,000, but it doesn’t take into account that the rate of death from AIDS, and of new infections, have both accelerated.

As of 2015, 63,000 of those people were taking anti-retroviral medication to control the virus, according to UNAIDS. But today the drugs show up in the Caracas outpatient clinics for a month, then disappear for two or three; they are not available in any but the large urban centres, Mr. Reyna said.

The hospitals in Caracas reminded me of Zimbabwe in 2002, but they transport AIDS activists I met here even further back in time: to the early 1980s. "In Venezuela now we have deaths like you had in the first years of the epidemic," said Mauricio Gutierrez, who heads an activist organization called Positivos en Colectivo. "Except that people don't die with the same level of care that they had back then."
Mr. Gutierrez has been making hospital visits to people with AIDS since the crisis set in. Three or four years ago, he started needing to bring sheets and soap, things that could be scarce in hospitals. Now he just tries to find drugs. Each patient gives

It's all incredibly stressful, Mr. Reyna said, knowing you need the drugs, not knowing if you'll find them, and knowing what the end will look like if it comes. "Health is not only physical – it's your mental health too, and now there is a lot of distress," he said. "People who come to us very severely affected in terms of how they feel and how they see the future."

Occasional drug shortages began back in 2012, Mr. Reyna said; over the next two years, supplies often ran short, until the government reached a sourcing agreement through the Pan American Health Organization (PAHO) that helps countries in the region (the rest of them are officially poorer than Venezuela) to buy drugs at a collectively negotiated price. "We got everyone back on treatment and they should have been tested for resistance, but already there were no tests like that available," he said.

Mr. Gutierrez said condoms disappeared from the AIDS program in 2015, and basic HIV tests stopped being available a year ago. People on ARV treatment are supposed to have regular tests of their viral load (how much HIV is in their bloodstream) and their CD4 count, a measure of immunity, to confirm the drugs are working. The reagents needed to perform those were last available in September, 2016, in the capital, he said; the national laboratory that did the tests has been closed for six months.

Maria Eugenia Landaeta, the chief of infectious disease at the teaching hospital who oversees the HIV program for 5,600 patients, told me that the small group of AIDS physicians had been scrambling to hold it together for years. "The HIV and TB programs were the last to deteriorate," she said. "We have tried to defend the program in all possible ways."

Mr. Coronel, who worked in a cement factory until the shortage of raw materials caused his company to shut down, never got drugs from the national program. He had had HIV for years, he told me, but by the time he was sick enough to need ARVs, the program was chronically short of medications. While I was talking to his doctor, in a small office on the medical floor, a nurse came up to ask a question about a procedure for another patient. The doctor reminded her the man also had HIV, and the nurse reacted with surprise and distress; the doctor asked what was wrong. The nurse replied, "Because we're reusing all the tubes! But if we know a patient has HIV, we don't do it for them."

Today, the only HIV screening in the public system is at the blood banks, which, for now, still have tests. The lack of testing in antenatal care means that doctors there don't know if women are at risk of passing the virus to their babies when they come to deliver, Dr. Landaeta said, but then, most of the time, there are no drugs available to prevent transmission in any case. And when children turn up with the symptoms of AIDS, they can't treat those either. "We know we're having big problems with the control of the epidemic – but we have no access to tests," Dr. Landaeta said.

The only thing her program has to offer now is doctors, bed frames and gauze, she said. But even staffing presents a problem: She once had 12 infectious disease specialists to run the AIDS program but six have emigrated and two more will
retire this year, worn out with trying to work with no supplies. She trains a new crop of residents each year, she said, and they promptly take their new skills out of the country.

Why, I asked her, are you still there? "It's stubbornness – nothing else. Because no person in their right mind would keep doing it," she said fiercely. "But my patients don't have anywhere else to go."

In 2016, a coalition of Venezuelans living with HIV asked the Global Fund to Fight AIDS, Tuberculosis and Malaria for help; in January, its director replied that because Venezuela remains a high-income non-OECD country, the fund would not help. (Venezuela has the world's largest oil reserves, and continues to export petroleum.) Those activists are continuing to push – although it is not clear if the Maduro government, which denies there is a humanitarian crisis in the country, would agree to accept the help, or how it might work. There is no other effort under way, from other countries or multilateral bodies, to get medicines into the country.

"When we're able to get some of these systems back, then we will probably find that we have been set back," Mr. Reyna said. "In not being able to prevent new infections, in reaching a lot of young people who could have benefited from prevention programs – we will find many were infected who could have been protected."

For now, small miracles come in the form of donations of drugs abroad, which Mr. Reyna and his activist friends haul back to Caracas in their luggage. A few days after I met him, Mr. Coronel got access to a month's worth of ARVs. Almost immediately, he began to get better – the Lazarus effect, they call it in the world of HIV. In the first draft I wrote of this article, he was recovering, but with a rapidly dwindling stash of pills.

But then, after I left Caracas, came a text message from his doctor. "I just wanted you to know Juan died this morning," it said. "The diarrhea started again and we didn't have fluids to hydrate him."
Tab #26
Politicianed backlash against LGBT rights and tolerance was one of the biggest stories in Latin America this year. Politicianed backlash is a special type of backlash. The struggle for LGBT rights everywhere in the world typically produces some sort of counter-reaction: conservative citizens come together to criticize and resist these changes, often claiming the threat to traditional values. The LGBT community and the struggle for LGBT rights is accustomed to this reactionary backlash.

But politicianed backlash is different: it is less routine, and it is more insidious. It occurs when societal resistance to LGBT rights gets mobilized politically, forming coalitions with leading political actors and organizations, with the aim of taking advantage of democratic institutions to effectively block or undo change.

While politicianed backlash has always existed in the region, it reached new heights this year. First, political pushback to LGBT rights expanded its institutional scope, where large sections of important political parties and congresses have become increasingly captured by these conservative forces mobilized against tolerance and the extension of LGBT rights. Second, it expanded its regional scope. More countries now see conservative forces pushing for the roll back of LGBT rights as part of the mainstream political debate, including in Brazil, Colombia, Mexico, and many Central American and Caribbean countries. And third, the reactionary forces this year scored important political victories. These reactionary forces also gained greater political traction in the United States, where more than 200 anti-gay bills have been introduced in a number of state legislatures since the Supreme Court ruled in 2015 in favor of gay marriage, with the state of North Carolina leading the way by passing a bill that forces transgender people to use the bathroom that corresponds to the sex listed in birth certificates.
And yet, despite this heightened politicized backlash, the region scored enormous achievements in the struggle for LGBT+ rights. It held the gayest Olympic games in history, produced the first gay-inclusive peace agreement in the world, continued to lead the Global South in creating LGBT chambers of commerce, saw lesbian and transgender people running for office, and witnessed episodes in which the rights of non-traditional queer communities received some recognition. 

For these reasons, the top story of 2016 is not the unprecedented politicized backlash but rather the persistence of progress even in the face of these growing challenges. Don’t get me wrong, the politicization of the reaction against LGBT rights was a huge story. It’s just not the top one. Here’s my review of the top 10 LGBT stories from Latin America and the Caribbean in 2016:

10. **Hurts so good**: FIFA, the international soccer governing body, [issued fines](https://www.foxsports.com/football/gallery/629962/hurts-so-good) to seven countries in response to soccer fans using homophobic chants during games. Six of the seven countries were Latin American: Chile, Paraguay, Peru, Mexico, El Salvador, and Honduras. Croatia was the seventh country. The fines were welcomed by LGBT advocates because they prompted discussion across non-traditional audiences on the unacceptability of public homophobia. Others argued that stricter fines will still be needed to make a real dent.

9. **Olympic Gold**: Rio managed to host the gayest Olympic games in the history of the world. At least 56 openly LGBT athletes competed, more than doubling the London 2012 number, in an environment that was deemed admirably safe. The games featured the first ever same-sex couple competing, Kate Richardson-Walsh and Helen Richardson-Walsh. In addition, Brazil’s delegation at the opening ceremony was led by a transgender woman, Lea T., also the first time ever that any delegation was led by a trans person. And Brazil’s first gold medalist at the games, Judo athlete and community-activist Rafaela Silva, caused a sensation across the world when she came out publicly after her win.

8. **Finally, some progress**: Two countries not known for strong LGBT rights, Belize and Venezuela, made some progress. In Belize, the Supreme Court declared unconstitutional a colonial-era anti-sodomy law that is common elsewhere in the English-speaking Caribbean. The decision strikes down Section 53 of the Criminal Code, which banned “carnal intercourse against the order of nature.” In Venezuela there were two LGBT milestones. Bowing to opposition pressure, the government [released political prisoner and LGBT rights activist Rosmit Mantilla](https://www.networkforlgbtpeople.org/in-the-news/adancing-human-rights-diplomacy). In addition, the constitutional wing of the Supreme Court ruled that [children from non-heterosexual couples](https://www.networkforlgbtpeople.org/in-the-news/adancing-human-rights-diplomacy) ought to be treated with equal rights as children from heterosexual couples.
7. **A new AIDS crisis in Venezuela:** Venezuela’s food and medicine crisis is taking a lethal toll on HIV patients. With the country’s economic crash, imports of food and medicine have collapsed to crisis levels. The national federation of pharmacies reported that only 15 percent of the medicines needed were available. The national health system, which used to provide antiretroviral drugs, has pretty much discontinued providing them. The stoppage is affecting approximately 4,000 HIV patients, who now face life-threatening conditions.

6. **Violence, yet again:** The region’s violence against LGBTQ individuals continues to make headlines. In Brazil, one LGBTQ person is killed in a hate-motivated crime each day, and 40 percent of murder victims are transgender women. In Venezuela, a report concluded that 98 transgender people have been assassinated in the last eight years. In Haiti, the threat of violence (together with widespread opposition), prompted the government to cancel an LGBT festival in Port-au-Prince. In Mexico, in what came to be known as the country’s very own Orlando Pulse massacre, seven people were killed and 12 injured when gunmen entered the gay club La Madame, in Veracruz and opened fire into a crowd of about 180 people.

5. **Gay business is good business is Latin business:** LGBT chambers of commerce were established in Chile, the Dominican Republic and Peru, solidifying the very Latin American trend of progressive LGBT social movements working closely with the private sector to create a friendlier environment for LGBT customers, employees, and investors. Similar chambers had already been created in Uruguay, Argentina and Colombia.

4. **Trans victories with a +:** Transgender rights continue to expand, as well as the rights of other less traditional queer communities. In Brazil, before being impeached, president Dilma Rousseff issued a decree authorizing individuals to use their so-called social name (*nome social*) in any public agency such as a ministry, a social program or university, which was seen as a victory for defenders of sexual and gender diversity. (You paying attention North Carolina?) Argentina, which celebrated the fourth anniversary of its progressive gender identity law, reported that at least 10,000 people have changed their names and sex in official government ID documents. In Peru, a country not known for progressive court rulings, the Supreme Court surprised the nation by ruling that “biology” is not the only element determining sex assignment; the latter is also a “construct.” In Ecuador, transgender woman Diane Rodríguez and lesbian activist Pamela Troya announced their candidacy for congress in 2017. In Panama, the first trans person ever was permitted to change name and sex assignment in national ID documents. And in Brazil and Chile, the year brought victories for other queers: in the former, a few more “polylove or polyamorous” relationships (with more than two partners) were legally recognized, and in the former, the Ministry of Health ordered the medical community not to conduct genitalia-altering surgeries on intersex minors until the person is old enough to make a gender decision on their own, a victory
for the intersex community. Intersex individuals are those born with both male and female anatomical features.

3. Presidential evolution and retrogression: The presidents of Chile and Mexico, Michelle Bachelet and Enrique Peña Nieto, publicly expressed their commitment to enacting marriage equality, and in Bolivia, President Evo Morales successfully promoted a progressive transgender law. These are examples of presidential evolution. None was a major LGBT rights champion before, and in the case of Morales, he had a history of making embarrassing homophobic comments. In contrast, Ecuadorean President Rafael Correa showed more signs of continued backsliding. He issued a partial veto to a progressive gender identity law approved by the Ecuadorean Congress, making the law far more restrictive than was approved by Congress.

2. Politicized backlash: In a number of countries, a coalition of conservative voters, religious leaders and professional politicians organized massive public relations campaigns and even protests against gay rights, with some success. A common theme is their opposition to “gender ideology,” a term they use to describe and dismiss efforts to promote tolerance toward sexual diversity and gender fluidity. For these groups, not recognizing the gender associated with anatomical features is anti-Biblical, and efforts to teach sexuality tolerance at schools violates the rights of parents to teach their own values. In Brazil, these groups played a role in the impeaching president Rousseff and, as in Chile, helped elect a number of mayors in municipal elections. In Puerto Rico, they helped elect a new governor who had promised evangelicals that he would ban gender ideology in education reforms. In Mexico they organized massive protests against gay adoptions and succeeded in persuading the Mexican Congress to defeat a marriage-equality law. In the Dominican Republic, they sustained a campaign against openly gay U.S. ambassador, James Brewster, urging President Danilo Medina to declare him persona non grata. In Colombia, where the Supreme Court essentially legalized gay marriage, conservatives responded on a number of fronts: mobilizing massive protests against an effort by the Ministry of Education to distributed pamphlets raising awareness about bullying, organizing opposition to a plebiscite to approve the peace agreement, and currently leading a campaign to call for a referendum against adoptions by non-heterosexual couples. This is a trend that is very advanced in the United States, where conservative evangelical groups work closely with leaders of the Republican Party to advance laws, regulations, and even candidates for office with an openly homophobic agenda. The United States’ politicized backlash has gone global, with many of the conservative/religious groups teaming up with similar groups abroad; they played a major role in helping organize the anti-LGBT marches in Mexico this year.

1. A gay peace: Colombia produced the first-ever peace agreement in the world mentioning the need for reparations for LGBT-victims of a civil conflict. The peace agreement was signed between the Colombian government and the FARC, one of the oldest and most vicious insurgent guerrillas in Latin America. Despite major societal opposition to its provisions (see above), the signatories of the agreement stood firm in recognizing some of the demands stemming from
Colombia’s LGBT community. The agreement calls for investigating cases of hate crimes against LGBT people during the conflict and offering reparations. Despite its imperfections, this peace agreement is likely to become a standard in international law on how to think about LGBT issues in the settlement of civil wars.

On the whole, the region has advanced. Regression never deserves to be the lead story, especially in a region that has made so many unprecedented advances in progressively re-defining gender and identify, the rights of gay parents, hate speech, marriage equality, and tolerance—and even building LGBT rights into a historic peace agreement. Nevertheless, the emergence and growth of politicized backlash, not just south of the Rio Grande but in the United States as well, should give all of us a reason to remain vigilant and aware of the risks in 2017.
Enter your comment here...
Tab #27
A ciegas contra el VIH en Venezuela

Falta de reactivos, discriminación, desinformación y estadísticas poco fiables hacen que el país no consiga detener la enfermedad

JOSÉ ALEJANDRO ADAMUZ HORTELANO

Caracas 29 MAR 2016 - 07:45 CEST

“Cuando las personas nos llaman preguntando por las pruebas ya no sé qué decirles”. Carlos Quintero Sáez de Arregui, que asesora a usuarios de Acción Solidaria y hace 23 años que es VIH positivo, se refiere a las pruebas de carga viral necesarias para conocer el comportamiento del virus en el organismo y la efectividad o no del tratamiento antirretroviral. “La complejidad del VIH en Venezuela es muy seria. Yo siempre digo que se puede vivir con VIH, pero no es lo mismo serlo aquí que en Europa o EE UU o Australia. En Venezuela, por la situación económica, vivimos en lucha por nuestra salud”.

Carlos Quintero explica que no hay reactivos para hacer las evaluaciones anuales ni las pruebas de detección. “Ahora mismo no hay forma de efectuar ningún control sobre la situación de VIH a nivel público. Las cargas virales no se realizan, y eso es necesario antes de iniciar el tratamiento. Una persona recién diagnosticada no sabe cómo están sus valores para indicarle el tratamiento correspondiente. Se aplica un único esquema común de tratamiento para todos los enfermos”.

MÁS INFORMACIÓN

Un año clave en la lucha para el fin del sida

El 57% de las personas con VIH en el mundo aún no reciben tratamiento

El sida no se cura sin un buen sistema sanitario
Mauricio Gutiérrez, de Red Positivos en Colectivo, confirma que desde octubre del año pasado el Instituto Nacional de Higiene, uno de los cinco únicos laboratorios en todo el país que procesa la carga viral para VIH, dejó de tener reactivos. "Hoy en día, el Instituto no entrega citas porque no tiene reactivos ni para carga viral ni recuento de linfocitos", explica. Andrés, un usuario de Acción Solidaria que prefiere no revelar su apellido, relata su historia: “En diciembre del año pasado no me pude hacer mis pruebas de carga viral porque desde octubre que no hay reactivos. Me pagué el CD4, que es una alternativa que cuesta 1.500 bolívares, pero no todo el mundo puede pagarse esa prueba [en el cambio del mercado negro, que es el que suele utilizar la población del país, son algo menos de dos euros. El salario mínimo está en 11.758 bolívares, menos de 15 euros]. Tú entras en un estado de angustia, pero aprendes a convivir con esto, a no caer en la incertidumbre”.

Características del VIH en Venezuela

El informe del programa de Naciones Unidas para el sida (Onusida) titulado Cómo el Sida lo cambió todo anunciaba en 2015 que se había conseguido detener la enfermedad con reducciones de nuevas infecciones por VIH en un 35%, de las muertes relacionadas con la enfermedad en un 41%, y también la reducción de casos en niños en un 58%. Incluso indicaba que la epidemia se estaba controlando en algunos de los países más afectados, como Kenia, Mozambique, Sudáfrica y Zimbaue.

Pero las características del VIH en Venezuela son diferentes. La organización StopVIH denunció, tomando como fuente los anuarios publicados por parte del Ministerio del Poder Popular para la Salud, que en los últimos 15 años la mortalidad por sida ha aumentado en el país, con un crecimiento de más del 90% por complicaciones asociadas al sida, entre el año 1999 y 2011. Por otro lado, Ana Carvajal, infectóloga e integrante de la Comisión de VIH y Sida de la Sociedad Venezolana de Infectología, informó que “para el año 2013, el número de niños menores de un año infectados con VHI en Venezuela fue de 343 casos con, probablemente, existencia de subregistro”. Y en cuanto a las nuevas infecciones, Feliciano Reyna,
Mauricio Gutiérrez se espera lo peor. "Dentro de dos o tres años será cuando comenzaremos a conocer la situación real de la infección por VIH. Habrá un momento que veremos a personas con infecciones recurrentes que llamará la atención a alguien, que ojalá sean médicos, y ahí podremos comenzar a detener la epidemia como lo ha hecho el resto del mundo. Venezuela no está dentro de los avances en las metas del milenio. Vamos en un retroceso que tendrá consecuencias nefastas para el país".

**Alta infección vertical**

En Venezuela el año 2013, según estimaciones del Programa Spectrum de Onusida, el acceso a tratamiento de antirretrovirales de las embarazadas con VIH fue de apenas un 27,5%, con un 21,8% de tasa de transmisión vertical de VIH. “Son indicadores que sin duda tienen que mejorar”, opina Ana Carvajal. “La eliminación del VIH de la madre al feto en Venezuela es una tarea impostergable”. A nivel mundial las muertes de mujeres con VIH han disminuido, pero en Venezuela han aumentado. Oficialmente se reconoce que en el país nacen al menos 600 niños con VIH al año. “El acceso de la mujer embarazada a los servicios de salud reproductiva se ha agravado en los últimos años, donde la crisis del sector sanitario ha tenido un impacto negativo”. Además, continúa Ana Carvajal, “uno de los problemas principales en el control del VIH en las embarazadas en Venezuela, tiene que ver con fallas en el control prenatal; por otro lado un 30% de los embarazos son en adolescentes, las cuales muchas veces carecen de los conocimientos relacionados con la prevención del VIH, hay serias limitaciones en el accesos a los anticonceptivos orales y al preservativo”.

**Baile de estadísticas**

El Ministerio del Poder Popular para la Salud reconocía en el Informe Nacional de Avances en la Implementación de la Declaración de Compromisos sobre VIH/SIDA presentado en marzo del 2014, que hasta diciembre de 2013 se habían notificado 135.332 casos de VIH; pero en la Declaración Nacional de la República Bolivariana de Venezuela pronunciada por el doctor Alexis Guilarte en la Asamblea General Sobre VIH/SIDA de Naciones Unidas en junio de 2011, se hablaba de 161.510 casos y que el programa de acceso universal aseguraba el tratamiento a 37.827 personas que estaban accediendo a los retrovirales. Finalmente, según estimaciones de Onusida a finales del 2014, el número de personas que viven con el VIH en Venezuela sería de unas 110.000.

Para Mauricio Gutiérrez, “una persona con VIH es una víctima real de las circunstancias generales que se están viviendo en el país”. Y ese parece ser el resumen de todo, el desabastecimiento que vive Venezuela ha llegado, también, a los enfermos con VIH. Ya no sólo son las colas a la hora de comprar harina para arepas, las colas ya están en las farmacias, en los hospitales, y el desabastecimiento lo están sufriendo los enfermos. Todo tipo de enfermos.

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(AS.COM)

10 Famosos que tienen el Síndrome de Asperger

(TIKITAKAS)
"When people call us asking for tests, I do not know what to tell them anymore." Carlos Quintero Sáez de Arregui, who advises users of Acción Solidaria and has been HIV positive for 23 years, refers to the viral load tests as necessary to study the virus’ behavior in the body and the potential effectiveness of antiretroviral treatment. “The complexity of HIV in Venezuela is very serious. I always say that you can live with HIV, but it is not the same being here as in Europe, the US, or Australia. In Venezuela, because of the economic situation, we live in struggle for our health.”

Carlos Quintero explains that there are no reagents to perform the annual evaluations or screening tests. "Right now there is no way to address the HIV situation at the public level. Viral loads are unavailable, and they are necessary before starting treatments. A newly diagnosed person does not know how his results warrant a particular treatment. Instead, a single common treatment scheme is applied for all patients."

Mauricio Gutiérrez, from Red Positivos en Colectivo, confirms that since last October, the National Institute of Hygiene, one of the only five laboratories in the country that process HIV viral load, has run out of reagents. "Today, the Institute no longer makes appointments because it has no reactive or viral load or lymphocyte count." Andres, a user of Acción Solidaria who prefers not to reveal his name, tells his story: "In December of last year I could not do my viral load tests because since October there have been no reagents. I paid for CD4, which is an alternative that costs 1,500 bolivars, but not everyone can afford that.

[Sections “Characteristics of HIV in Venezuela”, “High vertical infection”, and “Inconsistent statistics” omitted]

**HIV discrimination**

Although Venezuela has had a law to protect HIV/AIDS patients and their relatives since December 30, 2014, there are still many who speak of discrimination. “It exists in hospitals. But many times due to the poor state of public health, patients don’t have much choice...” Mauricio Gutiérrez explains that he has evidence of cases in which patients with HIV have not been operated on. “But their names and family cannot be revealed, as it would damage the families’ reputation. The stigma of having the disease transcends the individual,” he says.

“There is still discrimination,” explains Carlos Quintero of Acción Solidaria. “Many patients report that they have performed the tests secretly [and asked for test results] when applying for jobs, something that is prohibited by law. People take advantage of these pre-occupation tests to get tested for HIV, but nobody complains, as they are afraid that the government may cancel its provision of AIDS treatment, which is the only thing the State currently provides. There is a huge fear that the State considers you an enemy.”

For Mauricio Gutiérrez, “a person with HIV is a real victim of the general circumstances that are being experienced in the country.” This sums up the situation: a general shortage in Venezuela that has struck even the patients with HIV. Not only are there queues when buying flour for arepas, but the queues are also at pharmacies and hospitals; the shortage is being suffered by all kinds of patients.
CERTIFICATE OF TRANSLATION

I, Milton Gutcovsky, am competent to translate from Spanish into English, and certify that the translation of José Alejandro Adamuz Hortelano, “Blindly Against HIV in Venezuela. Lack of reagents, discrimination, disinformation and unreliable statistics cause the country’s failure to stop the disease.” El País (Tab No. 27 of the Venezuela’s Country Conditions Report) is true and accurate to the best of my abilities.

Signature

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Tab #28
César Gómez (nombre ficticio porque prefirió mantener el anonimato) es un profesional en su área. Vive en Los Teques y este año aplicó para varios trabajos en Caracas con la finalidad de conseguir algún puesto cuyo salario le permitiera estar un poco más cómodo. Finalmente lo logró en el Hotel Alba Caracas de la red pública, Venetur. Sin embargo, al poco tiempo, fue obligado a retirarse. ¿La razón?, según denuncia él, es por su condición: VIH positivo.

Luego de presentarse a la entrevista laboral y aprobarla satisfactoriamente, César empezó a trabajar en el hotel e incluso su actitud fue reconocida favorablemente por sus jefes. Le
realizará un examen de sangre para evaluar su salud y aunque legalmente no se permite que las empresas pidan examen de VIH como requerimiento para el ingreso, él ya se temía lo peor porque conocía su padecimiento.

En diciembre de 2014 en Venezuela entró en vigencia la Ley para la Promoción y Protección del Derecho a la Igualdad de las Personas con VIH/Sida y sus familiares, con el objeto de prevenir y erradicar cualquier forma de discriminación; prohibir y sancionar actos y conductas de discriminación; y restituir el goce y ejercicio de los derechos de las personas con esa condición y sus allegados cuando hayan sido vulnerados o afectados.

El artículo 24 de dicha norma establece que está prohibido exigir o practicar exámenes diagnósticos de VIH y que además “no podrá considerarse la condición de una persona con VIH como impedimento para contratar ni como causal para la terminación de la relación laboral”.

Pero esta práctica se replica en varias empresas, según indica Francisco Montero, abogado de la ONG Acción Solidaria (Acsol). En el Alba Caracas nunca le comentaron a César que el examen de sangre era para ese diagnóstico, pero cuando llegaron los resultados lo citaron aparte y le dijeron que debía poner su cargo a la orden.
La persona fue respetuosa. No sabía cómo darme la noticia y yo me le adelanté. Sabía lo que iba a decirme y luego ella me indicó que evaluarían la situación”, comentó con pesar. Aguantándose las lágrimas, César aceptó su salida y en seguida se movió porque no podía darse el lujo de perder su trabajo. Entonces, pidió ayuda en Acsol, donde le dijeron que efectivamente se encontraba frente a la violación de sus derechos laborales y que había una Ley que velaba por su bienestar.

Uno de los puntos que están incluidos allí (Art. 39) es la exclusión de la representación legal por parte de ONGs y otro tipo de organizaciones, dejándole la responsabilidad únicamente a la Defensoría del Pueblo, la Fiscalía, a las mismas personas con VIH y a sus familiares. Eso quiere decir que cuando Francisco Martínez, como abogado de la organización, tomó el caso, solo pudo asesorarlo para que fuera al ente correspondiente: la Defensoría del Pueblo.

Al asistir por primera vez, un funcionario le indicó que su denuncia no procedía. “Váyase al ministerio del trabajo”, le dijo Felipe González, quien ni siquiera redactó un informe. Sin embargo, Martínez advierte que la ley establece que ese es el ente encargado de llevar los casos de discriminación de personas con VIH.

“Una de las disposiciones es que la Defensoría se encargaría, por el lapso de un año, de acompañar al proceso de adecuación de las empresas sobre la ley y de crear los mecanismos para que éstas se acoplen”, comenta el abogado, e informa que desde la institución pública han convocado a distintos foros y actividades para promocionar la nueva legislación. De hecho, Acción Solidaria ha reconocido el trabajo. Sin embargo, Martínez es claro: no ha sido suficiente, indica.

Desde la aprobación de la ley, Acsol ha recibido 29 denuncias por violación del derecho al trabajo de personas con VIH y 4 de ellas de empresas públicas. “Cerca de un 95% de todos los denunciantes prefieren no continuar con los procesos ni realizar acciones por dos razones: la
empresas, saldrán perdiendo, podrían criminalizarlos y esto podría ser peor cuando vayan a buscar un nuevo trabajo", dice el especialista.
De todos los casos que reportaron hasta el momento, solo tres se animaron a continuar las acciones y dos de ellos lograron negociar directamente con las empresas. El tercero es la denuncia de César que sigue abierta. “Fui una segunda oportunidad a la Defensoría, donde la Directora General me reiteró que no estaban en competencia de procesar la denuncia", añade González.
Martínez precisa que el número de denuncias no es siquiera simbólico. Existe un margen muy por encima de acciones de discriminación pero las personas, ya sea por desconocimiento o miedo, prefieren callar. Es allí donde radica la importancia las labores de las ONGs y de la Defensoría del Pueblo en cuanto a la promoción de la ley.

Empresas privadas en líos
Acción Ciudadana Contra el Sida (Accsi), es otra asociación civil que busca promover y condenar la discriminación de personas con VIH y este año uno de los casos más emblemáticos que llevó fue el de Cecilio Pérez (nombre ficticio porque prefirió mantener el anonimato), un ingeniero que fue despedido luego de que sus empleadores conocieran su condición.<
El 27 de agosto de 2014, sin darle razón alguna el gerente de ingeniería Gustavo Araujo y el supervisor Pedro Giménez de la empresa Inversiones Curimagua C.A. (Grupo Fernández) fueron a la obra en la que laboraba Pérez y le informan de su despido. Meses antes, mediante la realización de los exámenes preoperatorios a los que tuvo acceso personal de la empresa, él había sido diagnosticado VIH positivo. Esta coincidencia hizo pensar al ingeniero que el conocimiento de su condición influyó en la
Delegada del estado Carabobo, asistencia jurídica en agosto de este 2015 en relación con su caso, pero hasta el momento no ha recibido.

Nieves relata que son muchos los afectados y coincide con Francisco Martínez en aclarar que el universo de denuncias es corto por los miedos que están vinculados a la estigmatización. El desconocimiento de la norma por parte de las instituciones públicas que deberían manejarla, preocupa a ambos expertos en la materia, quienes señalan que lo que allí se establece bien representa un avance en cuanto a los derechos de las personas con VIH, pero la no aplicación de la norma, lo frena.

Si quieres saber más sobre este tema, lee también:
Maria Laura Chang

“Labor discrimination by HIV even in public companies and without support from the Ombudsman's Office”

César Gómez (fictitious name because he preferred to remain anonymous) is a professional in his area. He lives in Los Teques and this year he applied for several jobs in Caracas to get a position that would provide him with a more comfortable living. Finally, he started working at Hotel Alba Caracas, run by the government-backed group Venetur. But after a short time, he was forced to retire. The reason, he notes, had to do with his condition: HIV positive.

After successfully passing the job interview, César started working at the hotel, where his work ethics were viewed favorably by his bosses. They even offered him a room to stay in the capital. But a few weeks after entering, he was asked to take a blood test for a health checkup. Although companies are not legally allowed to ask for an HIV test as a requirement for work, he feared the worst because he was aware of his condition.

In December 2014, in Venezuela, the Law for the Promotion and Protection of the Right to Equality of People with HIV / AIDS and their families came into force, with the aim of preventing and eradicating any form of discrimination, as well as restoring the enjoyment and exercise of the rights of HIV patients and their relatives if they are violated.

Article 24 establishes that it is forbidden to demand or carry out HIV diagnostic tests and that "the condition of a person with HIV cannot be considered as an impediment to contract or as a cause for termination of the employment relationship".

But this practice is prevalent in several companies, according to Francisco Montero, lawyer of the NGO Acción Solidaria (Acsol). At Alba Caracas they never told César that the blood test was for diagnosing HIV/AIDS, but when the results arrived they called him in separately and told him to pack his things.

"The person was respectful, though I did not know how things would exactly play out. I knew what he was going to tell me…” he commented regretfully. Holding his tears, César accepted his exit. Then, he asked for help in Acsol, where he was told that he was indeed facing the violation of his labor rights and that there was an applicable law that protected him.

One of the points included in the law (Art. 39) is the exclusion of legal representation by NGOs and other organizations regarding the matter, thus leaving the responsibility only to the Ombudsman's Office, the Prosecutor's Office, and to the HIV patients and their families. This meant that when Francisco Martínez, as Acsol’s lawyer, took the case, he could only advise César to go to the corresponding body: the Ombudsman's Office.

Private companies in trouble

Citizen Action Against AIDS (Accsi) is another civil association that publicly condemns the
discrimination of HIV patients. This year, one of the most emblematic cases that it led was that of Cecilio Pérez (fake name because he preferred to keep anonymity), an engineer who was fired after his employers learned of his condition. On August 27, 2014, without proper cause, the engineering manager Gustavo Araujo and supervisor Pedro Giménez at Inversiones Curimagua CA (Grupo Fernández) abruptly informed Pérez of his dismissal. Months before, by taking the pre-occupation health examination—the results of which his company gained access to—Pérez had been diagnosed HIV positive. This coincidence made the engineer think that the knowledge of his condition influenced the decision of his superiors. The 41-year-old father of two minor children whom he supports, asked the Delegate Ombudsman of Carabobo state for legal assistance in August 2015, but so far has not received any assistance.

[Last paragraph omitted]
CERTIFICATE OF TRANSLATION

I, Milton Gutcovsky, am competent to translate from Spanish into English, and certify that the translation of the relevant excerpts from Maria Laura Chang, “Labor discrimination by HIV even in public companies and without support from the Ombudsman's Office” Efecto Cocuyo (Tab No. 28 of the Venezuela’s Country Conditions Report) is true and accurate to the best of my abilities.

Signature

Milton Gutcovsky
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New York, NY 10018-1405
T +1 212 841 1179
equipment, and physicians for prisoners. Inmates often received the same pills regardless of their symptoms, and pregnant women lacked adequate facilities for their medical attention.” (p. 7)


- “The law provides for the equal rights of persons with HIV/AIDS and their families. Nevertheless, leading advocates alleged discrimination against such persons.” (p. 32)
- “The government restricted information regarding deaths in prisons from tuberculosis, HIV/AIDS, and other diseases, or lack of medical care. A study by the NGO Solidarity Action found prison rules regarding the classification of inmates resulted in the isolation of those with HIV/AIDS in ‘inadequate spaces without food and medical attention.’ The OVP reported a generalized lack of medical care, drugs, equipment, and physicians for prisoners, and reportedly inmates often received the same pills regardless of their symptoms.” (p. 6-7)


- “The law provides for the equal rights of persons with HIV/AIDS and their families. Nevertheless, leading advocates alleged discrimination against persons with HIV/AIDS.” (p. 36)
- “The government restricted information regarding deaths in prisons from tuberculosis, HIV/AIDS, and other diseases or due to lack of medical care. A study by the NGO Solidarity Action found prison rules regarding the classification of inmates resulted in the isolation of those with HIV/AIDS in ‘inadequate spaces without food and medical attention.’ The OVP reported a generalized lack of medical care, drugs, equipment, and physicians for prisoners. Inmates often received the same pills regardless of their symptoms, and pregnant women lacked adequate facilities for their medical attention.” (p. 7-8)


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equipment, and physicians for prisoners, and reportedly inmates often received the same pills regardless of their symptoms.” (p. 6)

**INTER-GOVERNMENTAL SOURCES**

   https://www.ohchr.org/EN/Countries/LACRegion/Pages/VEReportsOHCHR.aspx
   - “There is a lack of access to all types of contraceptives, with several cities facing a 100 percent shortage. This increases risk of contracting HIV and other sexually transmitted diseases, and of unwanted and adolescent pregnancies.” (p. 4)

   - “According to the information received by the Commission, public healthcare centers have completely run out of reagents for specialized exams for detecting HIV and Highly Active Antiretroviral Therapy (HAART).” (p. 481)
   - “As regards the lack of access to medicines and medical treatments in Venezuela, the IACHR learned that 85% of the pharmacies in the Venezuelan capital had no medicine for treating opportunistic infections that attack persons living with HIV or AIDS; and that 95% to 100% of the hospitals do not have a supply of antiretrovirals.” (p. 470)
   - “The Rapporteurship on Economic, Social, Cultural and Environmental Rights continued monitoring the situation in Venezuela, with great concern, throughout 2018. Antiretrovirals continued to be in short supply for persons with HIV or AIDS…” (p. 468)
   - “This year the IACHR granted six new precautionary measures in which it asked the State of Venezuela to protect the following persons:…C.L. and 42 other persons at risk due to the failure to delivery antiretroviral medicines for adequately treating the human immunodeficiency virus (HIV) or acquired immunodeficiency syndrome (AIDS).” (p. 451)

   https://data2.unhcr.org/es/documents/download/67282
   - “… as of 2018, an estimated 7,700 refugees and migrants from Venezuela living with human immunodeficiency virus (HIV) are in need of life-saving antiretroviral treatment in host countries. They also require consistent access to targeted HIV prevention information, education and communication, voluntary counselling, testing and condom.” (p. 18)
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- “Many detainees suffered from a range of illnesses and ailments, such as gastric problems, ulcers, hypertension, scabies and other skin infections, tuberculosis and other respiratory infections, malaria and HIV/AIDS, and yet most of the time they were not provided with adequate medical attention and medicines, putting their physical integrity, sometimes their lives, at risk.” (p. 30)  
- “As an example, almost 77 per cent of the 77,000 people living with HIV/AIDS did not have access to adequate treatment throughout 2017. There were also no reagents to test the level of antibodies in their blood. At the end of 2017, the Institute only had four out of a list of 26 antiretroviral drugs in stock. OHCHR also received reports indicating that pregnant women with HIV/AIDS had been giving birth without adequate measures and treatment to prevent infecting their babies.” (p. 42) |
- “As a consequence of the grave economic and social crisis, disease outbreaks and other impacts on health have taken place, in the context of which the scarcity of medications, materials, inputs, and medical treatment is concerning, particularly due to their impact on pregnant women, children and adolescents, the elderly, and people living with severe illnesses, chronic conditions, or the human immunodeficiency virus (HIV) and/or Acquired Immune Deficiency Syndrome (AIDS).” (p. 669) |
- “As a consequence of the grave economic and social crisis, disease outbreaks and other impacts on health have taken place, in the context of which the scarcity of medications, materials, inputs, and medical treatment is concerning, particularly due to their impact on pregnant women, children and adolescents, the elderly, and people living with severe illnesses, chronic conditions, or the human immunodeficiency virus (HIV) and/or Acquired Immune Deficiency Syndrome (AIDS)” (p. 23)  
- “The Commission has also received information on and expressed particular concern over the situation of people who live with HIV or AIDS in Venezuela. Their quality of life is being especially affected by failure to regularly or periodically receive antiretroviral medications to treat their illnesses. Also, they are not receiving the necessary regular medical exams or coverage of the expenses for them. This
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<td>problem is estimated to affect the health of 77,000 people registered to receive treatment through the public health system.” (p. 232-233)</td>
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   - “Some women living with HIV also experience forms of institutional violence, including forced sterilization and forced abortion and the denial of voluntary sterilization or safe abortion services. Involuntary and coerced sterilization and abortion among women living with HIV occur in many countries. These practices have been reported in…the Bolivarian Republic of Venezuela…among others.” (p. 127).

   - “In healthcare establishments, LGBTI people are subjected to psychological abuse, distress, humiliation and discrimination when they require healthcare in general and especially when they go for treatment and prevention of HIV and AIDS.” (p. 24)

**NON-GOVERNMENTAL SOURCES**

   - “Venezuela is the only country in the world where large numbers of individuals living with HIV have been forced to discontinue their treatment as a result of the lack of availability of antiretroviral (ARV) medicines.” (p. 4)
   - “Also in February 2019, Venezuelan officials raided the Mavid Foundation, an organization that has been supporting access to medicines for people living with HIV. HIV activists connected to the Mavid Foundation, Jonathan Mendoza, Wilmer Alvarez, and Manuel Armas Jhas, were detained in a raid, according to the Global Network of People Living with HIV.” (p. 56)
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   - “People living with HIV/AIDS—most of whom are gay men and transgender people—have suffered due to the government’s decision to stop subsidizing antiretroviral drugs.” (p. 12) |
   - “Discrimination against key populations and HIV stigma continue to proliferate through many societies in the region [Latin America] and discriminatory practices are widespread in health and other social services.” (p. 14)  
   - “Key populations and women living with HIV are subject to practices such as forced sterilisation and denial of health services. Discriminatory and punitive laws and policies further limit access to services.” (p. 14)  
   - “The cost of antiretroviral medicines (ARVs) remain an issue. Many countries in the region are classified as middle-income, and do not benefit from access to the price reductions available to low-income countries. In Venezuela, the economic crisis makes it difficult to procure and distribute medical commodities, including for HIV testing and treatment. Shortages of antiretroviral medicines, opportunistic infection treatment and condoms are common” (p. 15)  
   - “Many people remain ignorant and fearful of HIV and AIDS, and myths about HIV and how it’s transmitted persist. UNAIDS reports that in several Latin American countries, at least one third of people said they would not buy vegetables from a person who is living with HIV. Discrimination towards people living with HIV by healthcare workers is common to varying degrees.” (p. 16) |
   - “In Venezuela, there are no studies of HIV prevalence among key and vulnerable populations. Therefore, men who have sex with men, homosexual men, and transgender—most affected by the HIV / AIDS epidemic—are considered nonexistent for the Venezuelan State.” (p. 2 of translation)  
   - “Many pregnant women with HIV at the time of delivery are forced to give birth without the implementation of measures to prevent the transmission of the virus to their newborns, coupled with the refusal of medical attention, the discrimination they receive in some public health services, and the lack of provision of the recommended implements in the standard precautions.” (p. 2 of translation)  
   - “Venezuelan Health Minister and President of the Venezuelan Institute of Social Security (IVSS) Luis López is aware of the country’s HIV/AIDS crisis, but has
refused to sign orders to purchase antiretroviral drugs, reagents, and milk formulas to address the issues.” (p. 2 of translation)

- “There is a rise in incidents of HIV discrimination in Venezuela, due to the inaction of the Ombudsman's Office that does not comply with or enforce the Law for the Promotion and Protection of the Right to Equality of People with HIV or AIDS and their Relative…” (p. 2 of translation)

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<td>HIV treatment drugs, and reagents for the diagnosis, control, and monitoring of the ailment are in shortage: From 2009 to 2014, there was a shortage of antiretroviral drugs. In 2013, in particular, there were ten episodes of drug shortages affecting mainly LGBTI individuals with HIV in Venezuela. (p. 1 of translation)</td>
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<td>“[Interviewee:] He could die from his country's shortage of the antiretroviral drugs that keep HIV-positive people alive. Or he could be killed by paramilitaries for denouncing his government for failing to provide the life-saving medication.” (p. 1)</td>
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<td>“Some people don’t want to get treatment because they are afraid to be mistreated or to be seen picking up the antiretrovirals.” (p. 3)</td>
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<td>“The UNAIDS report says the forced migration of HIV-positive Venezuelans ‘could be defined as a fight for life’.” (p. 4)</td>
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<td>“‘This year we’ve seen a considerable rise in the reports of labour discrimination,’ said Juan Manuel Rodrigues, a human rights defender from Acción Solidaria. ‘…many workers are tested against their will and fired when the results are positive.’” (p. 3)</td>
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<td>“Unsurprisingly, HIV-positive Venezuelans often feel desperate and depressed. While there are no available blood tests and medications, there is plenty of stigma, discrimination, family neglect, and rejection in work environments.” (p. 3)</td>
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• “Finding out that their children were discriminated against because of their health condition ‘kills’ the HIV patients. Gossip runs rampant, as the causes of their illness vary in the thinking and words of those who know them ‘according to their behavior in the environment in which they live.”” (p. 2 of translation)

• “Although there are Venezuelan legislations that contemplate the HIV patients’ rights, guarantees, duties and responsibilities, such as the Venezuelan Constitution or the Law for the Promotion and Protection of the Right to Equality of People with HIV or AIDS and their Families—Article 29 of which specifically refers to the protection of women—they are, in fact, dead letter.” (p. 2 of translation)

• “The Mulier Planning Coordinator notes that ‘the laws, without the effective diligence of the state to apply them, remain merely as declarations of intent.’ General Director of the Commission for Human Rights of the State of Zulia (CODHEZ), Daniela Guerra, states that many of the cases of discrimination occur due to ignorance and it is assumed that HIV/AIDS involves only promiscuous cases. ‘The state does not consider these people a priority. The health system does not have supplies to take care of them and some doctors refuse to pay attention to them.’” (p. 2 of translation)

• “The application of public policy does not only consist of creating a law, among other things, they must be accompanied by resources for their promotion and diligence. What is being done is not enough.”” (p. 2 of translation)


• “Early reports said that three activists were arrested during the raid.” (p. 1)

• “The police reportedly seized infant formula and medications for HIV and AIDS treatment, The Washington Blade reports.” (p. 1)

• “The International Council for AIDS Service Organizations [ICASO] confirmed that the authorities had forcibly entered the group’s offices in the city of Valencia in Carabobo state.” (p. 1)


• “The lack of medication to treat HIV first became a problem at the end of 2016. But the situation turned critical last year, Carballo explained…‘This is a tragedy,’ he said. ‘Not being able to take the right drugs is like a death sentence for many people. We’ve been missing the medications in the clinic for over four months, some of them we haven't had in six months.’” (p. 2)
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<td>• “‘You are sending me to my death!’ Querales, 43, told immigration officials when they informed him that he would have to return to Venezuela. ‘This is anti-human rights. In Venezuela, there is no medicine and every day someone with AIDS disappears.’” (p. 1)</td>
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<td>• “Health organizations are reporting an increase in HIV patients dying due to a lack of antiretroviral drugs in Venezuela.” (p. 2)</td>
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<td>• “‘There is a very serious crisis in Venezuela, and if he has HIV and there are no drugs there, he should ask that they not take him out of the country for humanitarian reasons,’” advised immigration lawyer Marcial De Sautu.” (p. 2)</td>
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<td>• “Eduardo Franco has lost count of the number of funerals he’s been to this year. The last one was just a month ago in his home state of Carabobo in Venezuela. His friend Roberto, 25, died after succumbing to the effects of HIV.” (p. 1)</td>
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<td>• “‘If you’re sick and go to a hospital in Caracas, all you’ll get — if you’re lucky — is a bed and some saline solution,’ Gutierrez said following one of his regular visits to a hospital. ‘There’s no hope left in Venezuela; it’s getting harder and harder every day.’” (p. 3)</td>
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<td>• “The doctor reminded her the man also had HIV, and the nurse reacted with surprise and distress; the doctor asked what was wrong. The nurse replied, ‘Because we’re reusing all the tubes! But if we know a patient has HIV, we don’t do it for them.’” (p. 4)</td>
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<td>• “The national program is chronically short of drugs, which means that people living with the virus not only aren’t getting treated, they are developing drug-resistant strains of HIV.” (p. 2)</td>
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<td>• “Hospitals lack even the most basic drugs to treat the infections that plague patients who can’t get anti-retrovirals. People such as Mr. Coronel are dying from a lack of drugs that cost just pennies a dose.” (p. 2)</td>
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<td>“There is no infant formula for HIV-positive women to give their babies to avoid transmitting the virus in breast milk.”  (p. 2)</td>
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<td>“I had not seen a person who looked like Mr. Coronel – a person dying of untreated AIDS – since I covered the pandemic in Africa at its height more than a decade ago. In fact, there is nowhere in the world today where people are dying of AIDS at the pace and in the sheer numbers that they are in Venezuela: Even the poorest African countries today have HIV treatment programs. They still don’t reach everyone, and people are still dying, or getting treatment only after they become very ill – they may come to look as Mr. Coronel did when I met him. But in other countries, they are the exception. Today, in Venezuela, his case is the rule.”  (p. 2)</td>
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<td>“If and when this crisis begins to be resolved, thousands of people will have died needlessly, and this country will once again have an out-of-control HIV epidemic, as it did 30 years ago. Today, there are no HIV tests available in the public system, people are unwittingly spreading the virus to sex partners and pregnant women are passing the virus on to their babies.”  (p. 2)</td>
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<td>“It's all incredibly stressful,’ Mr. Reyna said, ‘knowing you need the drugs, not knowing if you’ll find them, and knowing what the end will look like if it comes. ‘Health is not only physical – it’s your mental health too, and now there is a lot of distress,’ he said. ‘ People who come to us very severely affected in terms of how they feel and how they see the future.’”  (p. 4)</td>
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<td><strong>Javier Corrales,</strong> <em>The 2016 top 10 LGBT stories from Latin America and the Caribbean</em>” Global Americans (Jan. 3, 2017), available at: <a href="https://theglobalamericans.org/2017/01/2016-top-10-lgbt-stories-latin-america-caribbean/">https://theglobalamericans.org/2017/01/2016-top-10-lgbt-stories-latin-america-caribbean/</a>&lt;br&gt;• “Venezuela’s food and medicine crisis is taking a lethal toll on HIV patients. With the country’s economic crash, imports of food and medicine have collapsed to crisis levels. The national federation of pharmacies reported that only 15 percent of the medicines needed were available. The national health system, which used to provide antiretroviral drugs, has pretty much discontinued providing them. The stoppage is affecting approximately 4,000 HIV patients, who now face life-threatening conditions.” (p. 3)</td>
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<td><strong>José Alejandro Adamuz Hortelano,</strong> <em>Blindly Against HIV in Venezuela. Lack of reagents, discrimination, disinformation and unreliable statistics cause the country’s failure to stop the disease.</em>” El Pais (Mar. 29, 2016), (with translation) available at: <a href="https://elpais.com/elpais/2016/03/24/planeta_futuro/1458836137_474815.html">https://elpais.com/elpais/2016/03/24/planeta_futuro/1458836137_474815.html</a>&lt;br&gt;• “…Mauricio Gutiérrez explains that he has evidence of cases in which patients with HIV have not been operated on. “But their names and family cannot be revealed, as it would damage the families’ reputation. The stigma of having the disease transcends the individual,” he says.” (p. 1 of translation)</td>
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- “After successfully passing the job interview, César started working at the hotel, where his work ethics were viewed favorably by his bosses. They even offered him a room to stay in the capital. But a few weeks after entering, he was asked to take a blood test for a health checkup. Although companies are not legally allowed to ask for an HIV test as a requirement for work, he feared the worst because he was aware of his condition.” (p. 1 of translation)

- “But this practice is prevalent in several companies, according to Francisco Montero, lawyer of the NGO Acción Solidaria (Acsol). At Alba Caracas they never told César that the blood test was for diagnosing HIV/AIDS, but when the results arrived they called him in separately and told him to pack his things.” (p. 1 of translation)

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Dated: [DATE]
[CITY, STATE]

Respectfully submitted,

[FIRM]
_Pro Bono_ Counsel for Respondent__________

By: _______________________
[NAME]
[FIRM]
[ADDRESS]
[PHONE NUMBER]
[FAX NUMBER]