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In this report to the UN Human Rights Committee, Amnesty International presents its concerns related to the worsening human rights crisis in Venezuela from 2014 onwards, including the intensification of repressive patterns and the consolidation of a state policy to silence dissent, consisting mainly of politically motivated arbitrary detentions, torture and cruel, inhumane and degrading treatment, short-term enforced disappearances, extrajudicial executions and political persecution. These incidents have been part of systematic and widespread attacks on the civilian population and could therefore be classified as crimes against humanity.

1. INTRODUCTION

Amnesty International has documented the worsening human rights crisis in Venezuela from 2014 onwards and verified the intensification of repressive patterns and the consolidation of a state policy to silence dissent, consisting mainly of politically motivated arbitrary detentions, torture and cruel, inhumane and degrading treatment, short-term enforced disappearances, extrajudicial executions and political persecution. These incidents have been part of systematic and widespread attacks on the civilian population and could therefore be classified as crimes against humanity.

In recent years, the Human Rights Council has played a fundamental role in overseeing the human rights situation in Venezuela, issuing various successive and concurrent mandates to the Office of the United Nations High Commissioner for Human Rights and for the creation of the Independent International Fact-Finding Mission with the aim of seeking accountability for the serious human rights violations occurring in the country.

Amnesty International examined the list of issues established by the Committee as priorities for the review of Venezuela's compliance with its obligations under the International Covenant on Civil and Political Rights and analyzed the information provided by the state in its May 2023 written response to the list of issues.

Amnesty International will comment on this information and offer recommendations.

2. CONSTITUTIONAL AND LEGAL FRAMEWORK FOR THE APPLICATION OF THE COVENANT (ARTICLE 2)

Venezuela has yet to publish its National Human Rights Action Plan and make available to civil society and human rights organizations the indicators it has submitted to the Committee in the current review process. Since the previous review in 2015, Amnesty International has highlighted the importance of the National Human Rights Plan being publicly available and widely disseminated and having specific indicators that are open to scrutiny by civil society organizations.

The Venezuelan Ombudsperson's Office continues to be questioned for its lack of independence from other public authorities. Amnesty International is concerned that the role of reporting and promoting human rights in Venezuela is not being led by the Ombudsperson's Office.

With respect to the institutional framework, Amnesty International is concerned by the authorities' closure of civil society spaces and attacks, stigmatization and criminalization of human rights defenders, and the population in general, for political gain.

Many people are arbitrarily detained for political reasons and brought before courts with special jurisdiction over terrorism, where the Organic Law against the Financing of Terrorism is applied. This law has a wide margin of discretion and extremely severe penalties.

Additionally, various legal initiatives have been introduced in the National Assembly with the aim of supervising and controlling civil society organizations. Amnesty International is particularly concerned about the potential approval of the Law on International Cooperation and the Law on the Regularization and Control of Civil Society (see below), which would put organizations defending and promoting human rights and humanitarian work, human rights defenders, and victims and survivors of human rights violations at grave risk.¹

Amnesty International recognizes the reform of the Code of Military Justice published in September 2021 as an achievement of the period under review. This reform recognizes the principle of natural judge and excludes civilians from the military jurisdiction.²

¹ Amnesty International, Urgent Action: Venezuela: NGOs in Venezuela at risk, 25 January 2023 (AMR 53/6379/20203), <https://www.amnesty.org/en/documents/amr53/6379/2023/en/>

² Servicio Autónomo de Imprenta Nacional y Gaceta Oficial, Gaceta Oficial número 6.646 Extraordinaria [Official Gazette 6.646 Special], 17 September 2021, Ley Orgánica de Código de Justicia Militar [Organic Law on the Code of Military Justice], http://spgoin.imprentanacional.gob.ve/cgi-win/be_alex.cgi?Documento=T028700036801/0&Nombrebd=spgoin&CodAsocDoc=2650&t04=1&t05=png&Sesion=1363484759 (Spanish only)

Amnesty International makes the following recommendations to the Venezuelan state:

- Publish the National Human Rights Action Plan as soon as possible and establish indicators together with civil society regarding its implementation and enforcement.
- Guarantee the independence and impartiality of the Ombudsperson's Office.
- End and dismantle the policy of repression orchestrated by various public authorities and led by the executive, the judiciary and the legislature.
- Limit to the fullest extent possible the interpretation and enforcement of the Organic Law against the Financing of Terrorism and clearly define, through the legal channels provided for this purpose, the allocation of powers on this matter.
- Refrain from initiating or continuing discussions in the legislature on draft legislation that would continue to undermine the defence of human rights and the right to freedom of association.

3. NON-DISCRIMINATION (ARTICLE 26)

During the period under review, vulnerable populations or groups in which discrimination is suspected continued to be the target of differential treatment that impacted their access to human rights.

3.1 LGBTQI+ PEOPLE

Amnesty International recognizes the Supreme Court's annulment of a discriminatory paragraph of the Code of Military Justice, which removed the sanction against members of the military who have same-sex relationships.³ However, on 23 July 2023, 33 gay men were arbitrarily detained in a sauna in the city of Valencia, in Carabobo state.⁴ Amnesty International is particularly concerned by the criminal charges of indecency, criminal association and sound pollution. The case was dismissed weeks later.

3.2 INDIGENOUS PEOPLES

During the period under review, illegal mining in the Arco Minero del Orinoco zone⁵ seriously impacted human rights in the state of Bolívar, in particular Indigenous Peoples' rights to self-determination and a healthy environment. The United Nations Independent International Fact-Finding Mission (FFM) documented the grave abuses and violations of human rights that were being committed in the Arco and noted collusion between some state authorities and criminal groups operating in – and at times controlling – the mining areas, as well as failure to investigate and punish the individuals responsible for such actions.

As a result of the high levels of conflict in the south of the country and in indigenous territories, deaths of Indigenous Peoples have been recorded, such as for example in the events of Parima B in 2022, where four indigenous people were killed, and others were injured.⁶

In June 2022, the indigenous leader and defender of territory, land and environment Virgilio Trujillo was murdered in Puerto Ayacucho, the capital of the state of Amazonas.⁷ No progress is known to have been made in the investigation into his death.

Amnesty International makes the following recommendations to the Venezuelan state:

³ Tribunal Supremo de Justicia, Jurisprudencia del Tribunal Supremo de Justicia, Nulidad del aparte único Art 565 Cod. Org. Justicia Militar 2021 [Supreme Court of Justice, Case Law of the Supreme Court, Invalidity of the sole paragraph of Art 565 Organic Code of Military Law 2021], 16 March 2023, <http://www.tsj.gob.ve/-/tribunal-supremo-de-justicia-declara-nulidad-de-norma-preconstitucional-del-codigo-organico-de-justicia-militar> (Spanish only)

⁴ WOLA, Justicia para los 33 en Venezuela: ser LGBTQI+ no es delito [Justice for the 33 in Venezuela: being LGBTQI+ is not a crime], 3 August 2023, <https://www.wola.org/es/2023/08/justicia-para-los-33-en-venezuela-ser-lgbtqi-no-es-delito/> (Spanish only)

⁵ "In 2016, the current leader, Nicolás Maduro, established the 'National Strategic Development Zone Arco Minero del Orinoco,' which covers 111,843.70 square kilometers (an area greater than Austria) through Decree 2.248. The government anticipated extracting and selling the gold, diamond, iron, bauxite, coltan, copper, kaolin and dolomite deposits." DW, El Arco Minero venezolano: una política depredadora [The Venezuelan Arco Minero: a predatory policy], 25 May 2022, <https://www.dw.com/es/el-arco-minero-venezolano-una-pol%C3%ADtica-depredadora/a-61934013> (Spanish only)

⁶ Amnesty International, Venezuela: Paradero e integridad de indígenas yanomami debe esclarecerse de inmediato y garantizarse [Whereabouts and integrity of Yanomami indigenous youth must be clarified immediately and guaranteed], 6 April (AMR 53/5454/2022), https://www.amnesty.org/es/documents/amr53/5454/2022/es/?utm_source=annual_report&utm_medium=epub&utm_campaign=2021 (Spanish only)

⁷ Centro para los Defensores y la Justicia, *Situación de las Personas Defensoras de Derechos Humanos en Venezuela* [Centre for Defenders and Justice, State of Human Rights Defenders in Venezuela], September 2022, <https://centrodefensores.org.ve/wp-content/uploads/2022/07/CDJReportePrimerSemestre2022.pdf> (Spanish only), p. 9. (Spanish only)

- Refrain from discriminating against marginalized populations and guarantee equality before the law for all people.
- Refrain from arbitrarily criminalizing members of the LGBTQI+ community.
- Guarantee and uphold the rights of Indigenous Peoples to their lands, territory and the environment.
- Carry out a prompt, comprehensive and impartial investigation into the deaths of Indigenous Peoples and human rights defenders in the context of the Arco Minero del Orinoco.
- Guarantee the rights of Indigenous Peoples in accordance with the obligation to free, prior and informed consent regarding mining in protected and Indigenous territories.

4. VIOLENCE AGAINST WOMEN (ARTICLE 2)

Changes to the Organic Law on Women's Right to a Life Free from Violence do not seem to comprehensively address the situation of women who are victims of gender-based violence in Venezuela.

According to several local organizations, at least 572 femicides were recorded in Venezuela between 2021 and 2022, in a context of widespread institutional and infrastructure deficiencies, lack of transparency, and an absence of state-reported figures that would allow for an improved approach to the problem, and deep-rooted obstacles to women's access to protection and justice from the authorities.⁸

4.1 VOLUNTARY TERMINATION OF PREGNANCY AND REPRODUCTIVE RIGHTS

In Venezuela, terminating a pregnancy is punishable by law in the majority of circumstances except when the woman's life is at risk. This prohibition undermines women's access to health services, as there are no medical protocols for these cases.

The Venezuelan state does not provide information on the status of abortion data or figures on pregnancy among girls and adolescents, which is indicative of the lack of transparency and of adequate measures to guarantee the lives and health of women and girls.

In recent years and in the context of the complex humanitarian emergency, access to contraceptives, anti-retroviral drugs and sexual and reproductive health services has been seriously disrupted.⁹

Amnesty International makes the following recommendations to the Venezuelan state:

- Urgently and comprehensively implement reforms to the Organic Law on Women's Right to a Life Free from Violence as a whole, including the allocation and use of resources in a manner that is transparent and subject to scrutiny by civil society in order to prevent, eradicate and punish all forms of gender-based violence.
- Regularly and consistently publish data on the different forms of gender-based violence, including the number of femicides recorded in the country and the measures being taken to investigate them, the prosecution and punishing of those responsible, and comprehensive reparation measures for victims of gender-based violence.
- Repeal the abortion ban and approve access to pregnancy termination at least when the life and health of the pregnant person are endangered, in pregnancies resulting from rape, and in cases where the foetus cannot survive outside the womb.
- Approve and implement sexual and reproductive health care protocols that take into account pregnancy termination where the woman's health and life are at risk.
- Collect and regularly publish data on unsafe abortions, pregnancies among girls and adolescents, and maternal deaths to inform public policies on the matter.
- Guarantee free and universal access to contraceptives and other methods of family planning, medications, and sexual and reproductive health services.

⁸ Metropolitan University's Human Rights Centre, CEPAZ and others, *Informe sobre el acceso a la justicia, violencia basada en género y afectación diferenciada de víctimas secundarias mujeres en Venezuela, presentado al Comité CEDAW con arreglo a lo dispuesto en el Artículo 18 de la Convención* [Report on access to justice, gender-based violence and differentiated impact on women who are secondary victims, submitted to the CEDAW Committee pursuant to Article 18 of the Convention], April 2023, https://cepaz.org/wp-content/uploads/2023/05/CEDAW_Justicia.VBG_.pdf (Spanish only)

⁹ Amnesty International, Annual Report, State of Human Rights in Venezuela, 2022-2023 (POL10/5670/2023), <https://www.amnesty.org/en/documents/pol10/5670/2023/en/>

5. RIGHT TO LIFE (ARTICLES 2 AND 6)

The Venezuelan state has not complied with its international obligations to uphold and guarantee the right to life as established in the Covenant and other instruments.

5.1 EXTRAJUDICIAL EXECUTIONS DURING SECURITY OPERATIONS

Amnesty International has condemned the extrajudicial executions carried out by Venezuelan security forces during the period under review. These human rights violations have also been a cause of concern for the Office of the United Nations High Commissioner for Human Rights (OHCHR) and for the FFM.

According to the documentation obtained by Amnesty International, state security operations in Venezuela, previously in the form of the Operation for People's Liberation (*Operación de Liberación del Pueblo*) and later in joint operations between various security forces led by the Special Action Forces (*Fuerzas de Acciones Especiales*, FAES) of the Bolivarian National Police (PNB), have a regular modus operandi of intentionally using lethal force, largely against young men living in poverty, resulting in extrajudicial executions. Amnesty International has also documented that security forces simulate a confrontation with the victims to justify their actions.¹⁰

In 2019 the OHCHR reported that, out of a total of 5,287 incidents classified as violent deaths by the Venezuelan government during security operations in 2018, many of them could constitute extrajudicial executions. Meanwhile, civil society organizations reported more than 7,000 extrajudicial executions. According to the same report from the OHCHR, the government reported 1,569 deaths due to “resistance to authority” during the first five months of 2019.¹¹

In 2020, the FFM determined that there was “a policy to combat crime, including by eliminating individuals perceived as ‘criminals’ through extrajudicial execution” in Venezuela.¹²

While the Venezuelan state has taken care not to release figures on violations of the right to life by the security forces, classifying deaths as “confrontation” or “resistance to authority” is a highly concerning indication of the standards for the use of force and points to the deliberate nature of these deaths. Amnesty International is highly concerned that there is a policy of controlling citizens through the illegal use of force by security agents.

Although the OHCHR and the FFM have issued detailed recommendations on putting a stop to extrajudicial executions as part of security operations, it is not yet known whether these have been complied with. An example is the lack of transparency regarding the adoption of the recommendation issued by the OHCHR of dissolving the Special Action Forces of the Bolivarian National Police,¹³ the implementation of which is unknown.

The operations carried out by the PNB Special Action Forces have continued despite this recommendation. For example, Amnesty International documented at least 14 alleged extrajudicial executions between 6 and 9 January 2021 in the La Vega parish, in a security operation that left the population in fear.¹⁴ To date, it remains unknown whether there have been any independent investigations into those responsible for these incidents.

5.2 EXTRAJUDICIAL EXECUTIONS AND POLITICALLY MOTIVATED DEATHS

In 2019, the policy of repression against dissent included politically motivated extrajudicial executions in a context of social unrest that sparked mass protests across the country.

¹⁰ Amnesty International, *This is no way to live: Public security and right to life in Venezuela* (AMR 53/8975/2018, 20 September 2023, <https://www.amnesty.org/en/documents/amr53/8975/2018/en/>, p. 34 and foll.

¹¹ OHCHR, *Human rights in the Bolivarian Republic of Venezuela: Report of the United Nations High Commissioner for Human Rights*, 9 October 2019, UN Doc. A/HRC/41/18, <https://digitallibrary.un.org/record/3858655>, para. 50.

¹² United Nations Independent International Fact-Finding Mission on the Bolivarian Republic of Venezuela (FFM), *Detailed findings of the independent international fact-finding mission on the Bolivarian Republic of Venezuela*, 15 September 2020, UN Doc. A/HRC/45/CRP.11 https://www.ohchr.org/sites/default/files/Documents/HRBodies/HRCouncil/FFMV/A_HRC_45_CRP.11.pdf, para. 2088 (b).

¹³ OHCHR, *Human rights in the Bolivarian Republic of Venezuela Report of the United Nations High Commissioner for Human Rights*, 9 October 2019, UN Doc. A/HRC/41/18, <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G19/301/92/PDF/G1930192.pdf?OpenElement>, para. 81.

¹⁴ Amnesty International, *Venezuela: Impunity in the face of lethal policy of social control*, 18 February 2021, (AMR 53/3632/2021), <https://www.amnesty.org/en/documents/amr53/3632/2021/en/>

Amnesty International documented six politically motivated extrajudicial executions that took place in this context. Although the security forces involved in these incidents used methods similar to those applied in public security operations, in this context it was clear that the incidents were politically motivated and aimed at sending a message of deterrence to the rest of the population.¹⁵

Additionally, the excessive use of force to control protests has been a constant in Venezuela during the period under review (see below under “Excessive Use of Force”).

5.3 IMPUNITY FOR VIOLATIONS OF THE RIGHT TO LIFE

The Venezuelan state does provide information on investigations of officials in connection with enforced disappearances between 2015 and 2022, with a total of five public officials convicted for this crime. However it does not provide information on the number of government officials investigated, prosecuted and sanctioned for excessive use of force resulting in the death of another person, nor for alleged cases of extrajudicial executions.

The OHCHR and the FFM have revealed a failure to investigate the majority of these cases, and how impunity has been perpetuated with respect to violations of the right to life and other serious human rights violations.¹⁶

In the majority of cases documented by Amnesty International, progress on the investigations was minimal. In the case of Rafael Acosta Arévalo, the resulting conviction did not include a recognition of the serious and systematic nature of the events (see below under “Torture”).¹⁷

5.4 DEATHS OF PEOPLE IN STATE CUSTODY

During the period under review, the deaths of people deprived of their liberty and under state custody have continued. Conditions of imprisonment in Venezuela continue to cause widespread concern among human rights organizations in the country (see below). In addition to the precarious conditions of imprisonment, deaths in Venezuelan state custody are often not subject to prompt, effective and impartial investigations.

An example of this were the deaths of 46 people in the Los Llanos Penitentiary Centre in the city of Guanare, Portuguesa state, in May 2020.¹⁸ Additionally, Foro Penal has documented that 11 political detainees had died while being held in state custody as of 2021.¹⁹ The Venezuelan state only provides statistics between 2015 and 2019,²⁰ and therefore the state-reported improvement in detainee deaths cannot be relied upon.

In other cases, deaths in custody have led to reports of cases of torture and other ill-treatment. The most prominent examples have been the death of Rafael Acosta Arévalo in the court where his arraignment was to be held,²¹ the death of Fernando Albán at the headquarters of the Bolivarian National Intelligence Service (*Servicio Bolivariano de Inteligencia Nacional*, SEBIN) during interrogations following his detention,²² and the death of Raúl Isaías Baduel at the SEBIN El Helicoide headquarters, the circumstances of which have not yet been clarified by the authorities.²³

¹⁵ Amnesty International, *Hunger for justice: Crimes against humanity in Venezuela* (AMR 53/0222/2019), 14 May 2019, <https://www.amnesty.org/en/documents/amr53/0222/2019/en/>, p. 16

¹⁶ FFM, *Detailed findings of the independent international factfinding mission on the Bolivarian Republic of Venezuela*, 16 September 2021, UN Doc. A/HRC/48/CRP.5, https://www.ohchr.org/sites/default/files/Documents/HRBodies/HRCouncil/FFMV/A-HRC-48-CRP.5_EN.pdf

OHCHR, *Independence of the justice system and access to justice in the Bolivarian Republic of Venezuela, including for violations of economic and social rights, and the situation of human rights in the Arco Minero del Orinoco region*, Report of the United Nations High Commissioner for Human Rights, 29 September 2020, UN Doc. A/HRC/44/54, <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G20/242/31/PDF/G2024231.pdf?OpenElement>

¹⁷ Amnesty International, *Venezuela: Dying before a judge: the arbitrary detention, enforced disappearance, torture and death of Rafael Acosta Arévalo* (AMR 53/2909/2020), 4 September 2020, <https://www.amnesty.org/en/documents/amr53/2909/2020/en/>

¹⁸ Amnesty International, “Venezuela: ‘Massacre at Guanare detention centre must not go unpunished,’” 2 May 2020, <https://www.amnesty.org/en/latest/news/2020/05/venezuela-masacre-centro-detencion-guanare-no-debe-quedar-impune/>

¹⁹ Foro Penal, *Reporte sobre la represión en Venezuela* [Report on repression in Venezuela]. 2021, 13 January 2022, <https://foropenal.com/reportesobre-la-represion-en-venezuela-ano-2021/>, p. 4.

²⁰ Informe del Estado venezolano a la lista de cuestiones del Comité de Derechos Humanos [Report from the Venezuelan state regarding the Human Rights Committee’s list of issues] para. 74.

²¹ Amnesty International, *Venezuela: Dying before a judge: the arbitrary detention, enforced disappearance, torture and death of Rafael Acosta Arévalo* (AMR 53/2909/2020), 4 September 2020, <https://www.amnesty.org/en/documents/amr53/2909/2020/en/>

²² FFM, *Detailed findings of the independent international factfinding mission on the Bolivarian Republic of Venezuela*, 16 September 2021, UN doc. A/HRC/48/CRP.5, https://www.ohchr.org/sites/default/files/Documents/HRBodies/HRCouncil/FFMV/A-HRC-48-CRP.5_EN.pdf, para. 412-423.

²³ FFM, “Death in Custody of General Baduel – Statement of the Independent International Fact-Finding Missions on the Bolivarian Republic of Venezuela,” 14 October 2021, <https://www.ohchr.org/SP/HRBodies/HRC/Pages/NewsDetail.aspx?NewsID=27659&LangID=S>

Amnesty International makes the following recommendations to the Venezuelan state:

- Immediately stop the policy of social control through excessive and illegal use of force, including extrajudicial executions, by Venezuelan security forces.
- Report in a clear, transparent and specific manner the number of deaths in police operations, and refrain from using ambiguous or broad categories to classify violent deaths. Additionally, guarantee access to information regarding police operations and the use of force.
- Report in a clear, transparent and specific manner the number of violent deaths in Venezuela.
- Implement fully and completely the recommendations of the international mechanisms for upholding and guaranteeing the right to life, especially those issued by the High Commissioner for Human Rights and the United Nations Independent International Fact-Finding Mission.
- Make information public and guarantee the right to information regarding security forces that are currently operating in Venezuela, their chains of command, their territorial and material jurisdictions and other aspects of public interest in order to guarantee the accountability of these agencies.
- Investigate promptly, thoroughly and impartially the deaths in state custody, in particular those where torture or other ill-treatment is reported, including the chains of command and the systematic and widespread nature of these incidents.
- Provide adequate and comprehensive reparations to the victims of extrajudicial executions and other violations of human rights in Venezuela.

6. BAN ON TORTURE AND ENFORCED DISAPPEARANCES (ARTICLES 2, 7 AND 10)

6.1 TORTURE IN THE CONTEXT OF POLITICALLY MOTIVATED ARBITRARY DETENTIONS

Torture and cruel, inhumane and degrading treatment have been part of the policy of repression implemented by Nicolás Maduro's government. Amnesty International, the FFM, the OHCHR and other national and international organizations have documented the use of torture in politically motivated detentions for various reasons, such as eliciting confessions or incriminating third parties, and retaliating against individuals critical of the government or who were perceived as such.

The FFM has classified the torture used by Venezuelan intelligence agencies as crimes under international law and as part of a widespread and systematic attack against the civilian population, and as such these acts could constitute crimes against humanity.²⁴

Amnesty International made public the documentation on the case of Rafael Acosta Arévalo, a retired military officer who was arbitrarily detained, forcibly disappeared and tortured, and who died in front of the judge before the arraignment hearing in which he was to be charged and the legality of his detention determined was held. This case, which has also been documented by other international organizations such as the FFM, provides an account of the methods of torture used by the Directorate General of Military Counterintelligence (DGCIM).²⁵ In the case of Rafael Acosta Arévalo, examination of his body carried out by the Scientific, Criminal and Forensic Investigation Unit (*Cuerpo de Investigaciones Científicas, Penales y Criminalísticas*, CICPC) documents most of his bodily injuries, such as abrasions, bruises and burns in at least 50 different places on his body.²⁶

Likewise, Emirlendris Benítez, arbitrarily detained for political reasons in 2018, has described the various forms of torture to which she was subjected, including beatings, choking, restraint of her

²⁴ United Nations Independent International Fact-Finding Mission on the Bolivarian Republic of Venezuela (FFM), *Detailed findings of the independent international fact-finding mission on the Bolivarian Republic of Venezuela*, 15 September 2020, UN Doc. A/HRC/45/CRP.11, https://www.ohchr.org/sites/default/files/Documents/HRBodies/HRCouncil/FFMV/A_HRC_45_CRP.11.pdf, para. 2088 (b).

²⁵ FFM, *Detailed findings of the independent international fact-finding mission on the Bolivarian Republic of Venezuela*, 16 September 2021, UN Doc. A/HRC/48/CRP.5, https://www.ohchr.org/sites/default/files/Documents/HRBodies/HRCouncil/FFMV/A-HRC-48-CRP.5_EN.pdf, para. 424 and foll.

²⁶ Amnesty International, *Venezuela: Dying before a judge: the arbitrary detention, enforced disappearance, torture and death of Rafael Acosta Arévalo* (AMR 53/2909/2020), 4 September 2020, <https://www.amnesty.org/en/documents/amr53/2909/2020/en/>, p. 23.

hands and feet and blunt blows to her stomach despite informing the officials who detained her that she was pregnant.²⁷

6.2 POLITICALLY MOTIVATED ENFORCED DISAPPEARANCES

The Committee has included in its list of issues for the Venezuelan state the question of how to prevent enforced disappearances and how to investigate incidents related to them, and has requested information on the political motivation behind these actions.

Amnesty International has documented a pattern of short-term enforced disappearances that occur after politically motivated arbitrary detentions in Venezuela and as part of a policy of repression implemented by Nicolás Maduro's government. In its most recent report, Amnesty International described how the arbitrary detention of eight people was followed by a period of enforced disappearance.²⁸

Additionally, in 2020 the organization condemned the arbitrary detention, enforced disappearance, torture and death of Rafael Acosta Arévalo at the hands of alleged officials of the Directorate General of Military Counterintelligence (DGCIM) in 2019. Although this case has received some attention from the authorities, it has not been criminally investigated as enforced disappearance, nor is there clarity on the chain of command that would have been involved in the events.²⁹

In 2020, the FFM expressed its concern for those detained by the state intelligence agencies and then subjected to a period of enforced disappearance in unofficial detention centres known as "safe houses."³⁰ The case of Rafael Acosta Arévalo (see under "Torture") is an example of this practice, which is part of the policy of repression implemented by the government.

The Venezuelan authorities have informed the Committee on the progress of criminal investigations. Although Amnesty International is not privy to the specific content of those reports, it must be noted that authorities deny any political motivation behind these incidents. However, Amnesty International and other actors have consistently documented the political motivation behind such acts and how these relatively short periods of enforced disappearance facilitate and are conducive to the use of methods of torture to extract information from detainees.

Venezuela has still not ratified the International Convention for the Protection of All Persons from Enforced Disappearance, which was signed on 21 October 2008.

6.3 CRIMINAL INVESTIGATIONS AND ACCESS TO JUSTICE

The Venezuelan authorities have reported that 1,486 officials have been investigated for torture, 993 officials charged, and 108 officials convicted between 2017 and 2022.³¹

However, Amnesty International has documented numerous cases of torture that have not been thoroughly investigated, despite the fact that the victims have appeared in court with obvious signs of torture that have subsequently been reported by the victims' legal defence teams.

An example of this is the case of Emirlendris Benítez (see above), whose detention has been classified as arbitrary by the United Nations Working Group on Arbitrary Detention. Moreover, the torture she underwent during the first few days of her detention – a period during which she was subjected to enforced disappearance – has been documented and has left her with severe health problems and reduced mobility. Emirlendris Benítez was pregnant when she was detained and yet was physically tortured despite the officials knowing of her condition. The evidence indicates that weeks later she

²⁷ Amnesty International, Venezuela: *Life detained: Politically-motivated arbitrary detentions continue in Venezuela*, 29 August 2023, (AMR 53/7077/2023), <https://www.amnesty.org/en/documents/amr53/7077/2023/en/>, p. 15.

²⁸ Amnesty International, Venezuela: *Life detained: Politically-motivated arbitrary detentions continue in Venezuela*, 29 August 2023, (AMR 53/7077/2023), <https://www.amnesty.org/en/documents/amr53/3632/2021/en/>.

²⁹ Amnesty International, Venezuela: *Dying before a judge: the arbitrary detention, enforced disappearance, torture and death of Rafael Acosta Arévalo* (AMR 53/2909/2020), 4 September 2020, <https://www.amnesty.org/en/documents/amr53/2909/2020/en/>.

³⁰ FFM, *Detailed findings of the independent international fact-finding mission on the Bolivarian Republic of Venezuela*, 16 September 2021, UN doc. A/HRC/48/CRP.5, https://www.ohchr.org/sites/default/files/Documents/HRBodies/HRCouncil/FFMV/A-HRC-48-CRP.5_EN.pdf, para. 250.

³¹ Informe del Estado venezolano a la lista de cuestiones del Comité de Derechos Humanos [Report from the Venezuelan state regarding the Human Rights Committee's list of issues] para. 75.

was the victim of a forced abortion in the facilities of the Carlos Arvelo Military Hospital.³² There has been no investigation into these incidents, nor is it known whether any kind of responsibility has been determined.

Another example is the case of Rafael Acosta Arévalo (see under “Torture”), where, despite the evident serious physical condition in which he was brought before the court, the judge in the case did not immediately open an investigation and the authorities claimed that Acosta died in a hospital hours later. The authorities launched an investigation for involuntary homicide (*homicidio preterintencional*) that did not align with the facts nor mention torture. Although this ruling was overturned and a new investigation did include torture in the facts of the case, there have been no investigations into the superior officers of the alleged perpetrators or the judicial officials who sought to cover up the torture to which he was subjected.

Amnesty International therefore demands that the Venezuelan authorities:

- Cease practices of torture and all other forms of cruel, inhumane or degrading treatment of all detained persons.
- Dismantle the policy of repression that includes the use of torture in interrogations by state intelligence agencies or other security agencies.
- Dismantle the operation of temporary unofficial detention centres known as “safe houses.”
- End the practice of enforced disappearance during the initial hours of a person’s detention, complying with legal deadlines and protocols for bringing the detainee before a regular civilian court that can determine the legality of the detention and the condition of the detainee.
- Ratify promptly the International Convention for the Protection of All Persons from Enforced Disappearance without reservation and recognize the jurisdiction of the Committee on Enforced Disappearances to receive and consider requests made by victims or their families or next of kin and other participating states.
- Investigate promptly, thoroughly and impartially all reports of torture, cruel, inhumane and degrading treatment and enforced disappearances, including the chains of command and their systematic and widespread nature.

7. PERSONS DEPRIVED OF LIBERTY AND CONDITIONS OF DETENTION (ARTICLES 7 AND 9)

The situation of persons deprived of their liberty in Venezuela continues to be one of the primary concerns in terms of compliance with the Covenant.

7.1 INHUMANE PRISON CONDITIONS

Detention centres in Venezuela are characterized by serious structural, health and security deficiencies for persons deprived of liberty. For one, the Venezuelan Observatory of Prisons (*Observatorio Venezolano de Prisiones*) estimates overcrowding at an average of 164%, meaning that prison centres in Venezuela hold more than double their installed capacity, which is a serious indicator of other health and security conditions.³³

Additionally, families of persons deprived of liberty have consistently described to Amnesty International the lack of access to basic services such as water and food, as well as medical care and treatment, for persons deprived of their liberty. It is a well-known fact that, in the majority of prison facilities in Venezuela, authorities do not fulfil the basic requirements for food and access to drinking

³² Amnesty International, Venezuela: *Life detained: Politically-motivated arbitrary detentions continue in Venezuela*, 29 August 2023, (AMR 53/7077/2023), <https://www.amnesty.org/en/documents/amr53/7077/2023/en/>, p. 15.

³³ Observatorio Venezolano de Prisiones, “En 2022, 55 presos murieron por hambre y falta de atención médica en las cárceles” [In 2022, 55 prisoners died of hunger and lack of medical attention in the jails], 23 March 2023, <https://oveprisiones.com/en-2022-55-presos-murieron-por-hambre-y-falta-de-atencion-medica-en-las-carceles/> (Spanish only)

water, and therefore the families of detained persons must provide food, water and basic hygiene products on a weekly basis.

7.2 PROLONGED IMPRISONMENT IN UNAUTHORIZED CENTRES

Pre-trial detentions, often exceeding legal deadlines, have also been characterized in recent years by the use of police holding cells throughout the country. In 2022, the Venezuelan organization *Una Ventana a la Libertad* estimated that around 16,778 people were being held in 335 police cells.³⁴

Amnesty International is particularly concerned about the conditions of women in prisons such as the National Institute for Female Orientation (*Instituto Nacional de Orientación Femenina*, INOF), and the situation of Indigenous Peoples deprived of their liberty without consideration for the cultural relevance of the measures taken.

The foregoing, and the precariousness of the situation of detention mean that persons deprived of liberty are at high risk of suffering health impacts and not receiving timely medical care or treatment. Amnesty International has intervened in various cases with the same pattern of denial or prolonged delay of medical care for seriously ill persons deprived of their liberty, such as those of Emirlendris Benítez and Guillermo Zárraga.³⁵

7.3 POLITICALLY MOTIVATED ARBITRARY DETENTIONS

Amnesty International and other national and international organizations have extensively documented the use of arbitrary detentions as a method within the policy of political repression implemented by Nicolás Maduro's government to silence dissidents, or those perceived as dissidents, and for other political reasons.³⁶

The most recurrent patterns are arbitrary detentions without a warrant, interference by public authorities in judicial decisions, lack of judicial independence, the application of vague or ambiguous criminal laws, the use of incommunicado detention and solitary confinement, the use of anonymous witnesses, non-compliance with court orders by security agencies, torture and inhumane treatment during detention, and so on.

Human rights organizations in Venezuela have documented that there have been around 15,700 politically motivated arbitrary detentions between 2014 and 2023,³⁷ and that around 300 people are currently still deprived of their liberty in such conditions.³⁸

Likewise, the Office of the Prosecutor of the International Criminal Court has opened an investigation into crimes against humanity in Venezuela, specifically into the alleged crimes against humanity of arbitrary detention, torture, gender-based violence and persecution.³⁹

Furthermore, in 2017 Amnesty International also condemned the use of detention centres for pre-trial detention that were not legally authorised for such use. This occurred at the headquarters of the

³⁴ El Diario, Una Ventana a la Libertad: El hacinamiento en calabozos de Venezuela fue de 334 % en 2022 [Venezuelan holding cells were overcrowded by 334% in 2022], 13 April 2023, <https://eldiario.com/2023/04/13/una-ventana-a-la-libertad-el-hacinamiento-en-calabozos-de-venezuela-fue-de-334-en-2022/> (Spanish only)

³⁵ Amnesty International, Urgent Action: Venezuela: Woman detainee needs vital health care, 11 April 2023 (AMR 53/6668/2023), <https://www.amnesty.org/en/documents/amr53/6668/2023/en/>. Amnesty International, Urgent Action: Venezuela: Arbitrary detainee dying from neglect, 31 May 2023, (AMR 53/6845/2023), <https://www.amnesty.org/en/documents/amr53/6845/2023/en/>

³⁶ Amnesty International, *Silenced by Force: Politically-Motivated Arbitrary Detentions in Venezuela* (AMR 53/6014/2017), 26 April 2017, <https://www.amnesty.org/en/documents/amr53/6014/2017/en/>, p. 8. Amnesty International, *Hunger for Justice: Crimes against humanity in Venezuela* (AMR 53/0222/2019), 14 May 2019, <https://www.amnesty.org/en/documents/amr53/0222/2019/en/>, p. 48-49. United Nations Independent International Fact-Finding Mission on Venezuela (FFM), *Detailed findings of the independent international fact-finding mission on the Bolivarian Republic of Venezuela*, 15 September 2020, UN Doc. A/HRC/45/CRP.11.

³⁷ Foro Penal, Reporte sobre la Represión Política en Venezuela, marzo 2023 [Report on repression in Venezuela, March 2023], <https://foropenal.com/reporte-sobre-la-represion-en-venezuela-marzo-2023/>, p. 3. (Spanish only)

³⁸ Foro Penal, Reporte sobre la Represión Política en Venezuela, marzo 2023 [Report on repression in Venezuela, March 2023], <https://foropenal.com/reporte-sobre-la-represion-en-venezuela-marzo-2023/>, p. 3. (Spanish only)

Justicia, Encuentro y Perdón, Indicadores: Presos políticos, junio 2023 [Indicators: Political prisoners, June 2023], <https://www.jepvenezuela.com/indicadores/presos-politicos/> (Spanish only)

³⁹ International Criminal Court (ICC), Office of the Prosecutor, Prosecution request to resume the investigation into the situation in the Bolivarian Republic of Venezuela I pursuant to article 18(2), ICC document number ICC-02/18, 1 November 2022, https://www.icc-cpi.int/sites/default/files/CourtRecords/CR2022_06554.PDF, para. 102.

Bolivarian National Intelligence Service (SEBIN) in El Helicoide, Caracas, and the headquarters of the General Directorate of Military Counterintelligence (DGCIM) in Boleíta, Caracas.⁴⁰

Despite the fact that Venezuelan authorities report that the SEBIN and DGCIM headquarters are now under the administration of the Ministry of Penitentiary Affairs (*Ministerio de Asuntos Penitenciarios*), they fail to report that these detention centres typically hold individuals detained for political reasons and that on numerous occasions there have been reports of torture, cruel, inhumane or degrading treatment, incommunicado detention and solitary confinement in these detention centres (see above).

Politically motivated arbitrary detentions have also been characterized by the use of special courts or jurisdictions, thus infringing the guarantee of a natural judge. Between 2017 and 2021, military tribunals and the Military Code of Justice were used to criminally try civilian dissidents of Nicolás Maduro's government.⁴¹

Additionally, Amnesty International has recently documented the existence of at least nine cases of persons deprived of liberty for political reasons between 2018 and 2022 who are being tried by special courts with jurisdiction over "terrorism".⁴²

In these cases, Amnesty International is especially concerned about the use of these exceptional courts to implement a policy of repression via the criminalization of dissent, due to the possible application of an extremely wide range of criminal offences and reduced possibilities of exercising the right to defence. The organization is also concerned about the widespread lack of judicial independence, which becomes even more evident in these courts, as will be explained in the section on judicial independence.

Additionally, Amnesty International statistically analyzed repressive patterns in Venezuela and concluded that there is a high correlation between the stigmatization of human rights defenders by pro-government propaganda media and the arbitrary detentions endorsed by courts with special jurisdiction over "terrorism".⁴³

Amnesty International believes that Nicolás Maduro's government is using the special jurisdiction over "terrorism" as a tool to carry out politically motivated arbitrary detentions and to persecute those who hold different views from the authorities or who are perceived as doing so.

7.4 ABUSE OF PRE-TRIAL DETENTION

Amnesty International has identified various factors that indicate how the Venezuelan authorities have made illegal and discretionary use of pre-trial detention, both in cases where individuals are criminalized for political reasons and in other cases.

In general, pre-trial detention is used to an excessive extent in Venezuela. Firstly, the Organic Code of Criminal Procedure (*Código Orgánico Procesal Penal*, COPP) established a legal presumption of risk of absconding in cases with sentences exceeding 10 years in prison, and therefore in many cases pre-trial detention was automatically ordered, contradicting the exceptional nature of pre-trial detention. Amnesty International welcomes the removal of this provision in the most recent reform of the Code.

Secondly, due to the precarious situation of the legal system in Venezuela, jurisdictional bodies rarely comply with the deadlines set out in the COPP for investigating, charging and trying those being prosecuted. Therefore, in many cases, once detention has been ordered, the maximum legal deadline for bringing the prosecution is not respected (45 days if the individual is deprived of liberty), which would lead to a lapse in the investigation and an obligation for the judge to close the case,⁴⁴ or, in the

⁴⁰ Amnesty International, *Silenced by Force: Politically-Motivated Arbitrary Detentions in Venezuela* (Index Number: AMR 53/6014/2017), 26 April 2017, <https://www.amnesty.org/en/documents/amr53/6014/2017/en/>

⁴¹ Amnesty International, *Silenced by Force: Politically-Motivated Arbitrary Detentions in Venezuela* (Index Number: AMR 53/6014/2017), 26 April 2017, <https://www.amnesty.org/en/documents/amr53/6014/2017/en/>, p. 13.

⁴² The special courts with jurisdiction over terrorism were created after the Organic Law against Organized Crime and the Financing of Terrorism (Ley Orgánica contra la Delincuencia Organizada y Financiamiento al Terrorismo) was adopted by the Supreme Court in January 2012. Amnesty International, *Venezuela: Life detained: Politically-motivated arbitrary detentions continue in Venezuela*, 29 August 2023, (Index Number: AMR 53/7077/2023), <https://www.amnesty.org/en/documents/amr53/7077/2023/en/>

⁴³ Amnesty International, *Venezuela: Calculated Repression: Correlation Between Stigmatization and Politically Motivated Arbitrary Detentions* (Index: AMR 53/5133/2022), 10 February 2022, <https://www.amnesty.org/es/documents/amr53/5133/2022/en/>, p. 35.

⁴⁴ Organic Code of Criminal Procedure, Article 295.

event of prosecution, the maximum deadline of two years for the investigation, or two years for the trial phase, are not respected.⁴⁵

Amnesty International has monitored a number of cases where persons deprived of liberty are subjected to multiple delays for which neither they, nor their defence, are responsible. Reasons include lack of transfers from prisons for hearings, absence of witnesses and unjustified court closures, which leads to uncertainty in the conduct of trials and access to the right to a defence.

This is the situation in the proceedings against Robert Franco and Darío Estrada, where reversal of the special jurisdiction over “terrorism” to an ordinary court caused the trial to restart despite the fact that they were awaiting a decision after more than two years of pre-trial detention.⁴⁶

7.5 ARBITRARINESS AND DISREGARD OF RELEASE DOCUMENTS

Amnesty International has been able to document how state security agencies and the Ministry of Penitentiary Affairs ignore orders issued by judicial authorities.

Although there are reports of this occurring in different types of cases, Amnesty International has documented situations involving politically motivated arbitrary detentions where release orders issued by the judges in the case are ignored, as well as situations where the courts reportedly ordered transfers to medical facilities which are also not complied with by the authorities holding the individual in custody.

This arbitrariness has been extensively documented by the FFM, and is evidence of the lack of rule of law and independence of the judiciary in Venezuela.

Amnesty International calls on the Venezuelan authorities to:

- Guarantee the safety, health and lives of persons deprived of their liberty in accordance with international standards, the United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules)⁴⁷ and the international obligations assumed by the state.
- Guarantee access to health, food, drinking water and other basic goods for persons deprived of their liberty.
- Refrain from using police holding cells or other inadequate facilities for prolonged periods of detention.
- Refrain from using arbitrary detentions to silence political dissidents or those perceived as such.
- Immediately and unconditionally release all persons arbitrarily detained.
- Refrain from using jurisdictions or courts with special jurisdictions to criminally prosecute dissidents or for political reasons.
- Comply with legal deadlines and requirements and justify pre-trial detention by recognizing its exceptional nature.
- Ensure that security agencies holding individuals in their custody and authorities comply with judicial orders for release and transfer of detained persons.

8. ACCESS TO JUSTICE, INDEPENDENCE OF THE JUDICIARY AND ADMINISTRATION OF JUSTICE (ARTICLES 2 AND 26)

Access to justice and the independence of the judiciary are not currently guaranteed by the Venezuelan authorities, in violation of the International Covenant on Civil and Political Rights and other international obligations.

⁴⁵ Organic Code of Criminal Procedure, Article 229.

⁴⁶ Amnesty International, Venezuela: *Life detained: Politically-motivated arbitrary detentions continue in Venezuela*, 29 August 2023, (AMR 53/7077/2023), <https://www.amnesty.org/en/documents/amr53/7077/2023/en/>, p. 19 and foll.

⁴⁷ General Assembly of the United Nations, *United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules)*, 8 January 2016, United Nations Document A/RES/70/175, <https://documents-dds-ny.un.org/doc/UNDOC/GEN/N15/443/41/PDF/N1544341.pdf?OpenElement>

8.1 LACK OF INDEPENDENCE AND INTERFERENCE OF OTHER PUBLIC AUTHORITIES IN THE ADMINISTRATION OF JUSTICE

Regarding the lack of independence of those who operate the justice system – such as judicial officials, prosecutors and public defenders –, there is evidence of interference in their work by officials from other public authorities, or from within the judiciary itself.

Amnesty International has reported the lack of independence of numerous judges and prosecutors and the correlation between politically motivated arbitrary detentions and media attacks stigmatizing human rights defenders, revealing that there is no judicial independence and that judicial bodies act in coordination with other repressive mechanisms.⁴⁸ Moreover, the organization has reported how, as part of the pattern of politically motivated arbitrary detentions, the authorities make public statements regarding cases that have not yet been tried, thus seriously undermining the principle of presumption of innocence. In many cases, the families of detention victims reportedly find out about the detention via these public statements in the mass media, even when other officials may have denied the detention.⁴⁹

The FFM has not only widely documented the lack of judicial independence or dereliction of duty in the administration of justice in Venezuela, but has also identified the fundamental role that judges, prosecutors and other judicial officials have played in the repression of those perceived as opponents of Nicolás Maduro's government.⁵⁰

In March 2023, it was revealed that the judge who was appointed to the Fourth Special Court with jurisdictional control over matters of terrorism has been detained since March 2023. This judge is being investigated for alleged acts of corruption in the administration of justice, linked to an alleged case of misappropriation of millions of dollars at Petróleos de Venezuela (PDVSA), the state-owned oil company.⁵¹ This case serves as an example of interference in the judiciary, highlighting concerns regarding the independence with which this court of control has acted, if the corruption charges for which the judge is being investigated are proven.

8.2 PROVISIONALITY OF JUDGES DESPITE JUDICIAL REFORMS

Amnesty International believes that the judicial career and the Code of Ethics of the Venezuelan Judge have not been implemented in accordance with the recommendations of international organizations. In fact, the vast majority of judges in Venezuela are not permanently appointed to their posts, nor do they become appointed through competitive exams, which have not been held since the year 2000. Rather, they are discretionally appointed and, as such, there is no guarantee they will administer justice impartially and independently.⁵²

8.3 ARBITRARINESS IN THE DISTRIBUTION OF JURISDICTIONS AND CASES

The discretionary manner in which judges are appointed also applies to the distribution of both special jurisdictions and cases. One example of this was the withdrawal of special jurisdiction over terrorism from the Third Trial Court with national jurisdiction in July 2023, which has left a number of persons in a situation of undue delay of process and, ultimately, of arbitrary interference that curtails their right to a fair trial.⁵³ This reallocation of the jurisdiction over terrorism was effected without any known administrative resolution for such action, and coincides with the fact that a number of cases involving persons arbitrarily

⁴⁸ Amnesty International, *Venezuela: Calculated Repression: Correlation Between Stigmatization and Politically Motivated Arbitrary Detentions* (AMR 53/5133/2022), 10 February 2022, <https://www.amnesty.org/en/documents/amr53/5133/2022/en/>

⁴⁹ Amnesty International, *Venezuela: Life detained: Politically-motivated arbitrary detentions continue in Venezuela*, 29 August 2023, (AMR 53/7077/2023), <https://www.amnesty.org/en/documents/amr53/7077/2023/en/>, p. 15.

⁵⁰ FFM, *Detailed findings of the independent international fact-finding mission on the Bolivarian Republic of Venezuela*, 16 September 2021, United Nations Document Number A/HRC/48/CRP.5, https://www.ohchr.org/sites/default/files/Documents/HRBodies/HRCouncil/FFMV/A-HRC-48-CRP.5_EN.pdf, para. 474.

⁵¹ Efecto Cocuyo, "Perfil José Mascimino Márquez el juez tras las rejas que condenó a presos políticos" [Profile of José Mascimino Márquez, the judge behind bars who sentenced political prisoners], 21 March 2023, <https://efectococuyo.com/politica/perfil-jose-mascimino-marquez-el-juez-tras-las-rejas-que-condeno-a-presos-politicos/> (Spanish only)

⁵² Acceso a la justicia, "The Criminal Justice in Venezuela, May 2022," p. 45. <https://accesoalajusticia.org/wp-content/uploads/2022/05/The-Criminal-Justice-in-Venezuela.pdf>

⁵³ Transparencia Venezuela, TSJ despoja a juzgado penal de caracas de competencias sobre terrorismo [Supreme Court Strips the Caracas Criminal Court of Jurisdiction over Terrorism], 18 July 2023, <https://transparenciave.org/tsj-despoja-juzgado-penal-de-competencias-terrorismo/> (Spanish only)

detained for political reasons were under the jurisdiction of this court, among them Roland Carreño, Javier Tarazona, Darío Estrada, Robert Franco and Guillermo Zárraga.⁵⁴

8.4 ACCESS TO LEGAL ASSISTANCE OF CHOICE

With regard to ensuring that detained persons can have an adequate and trusted legal defence of their choice, the authorities report on the work of the Public Defenders' Office and provide statistics on the cases represented by this body. However, based on documentation obtained by Amnesty International, it appears that persons arbitrarily detained for political reasons are very often prevented from choosing their own legal representation. The organization has received consistent reports of judicial officials coercing individuals to assign public defenders or exclude certain lawyers from their representation. This undermines access to justice and an individual's right to be assisted by a lawyer of their choice.

Amnesty International acknowledges that the Code of Military Justice has been modified to exclude civilians from its jurisdiction. However, non-active or retired military personnel are still being prosecuted under this jurisdiction, even for non-military crimes, which is typically used in cases of politically motivated arbitrary detentions.⁵⁵

Amnesty International demands that the Venezuelan authorities:

- Implement a judicial reform that remedies the provisional status of judicial officials, prioritizes judicial careers and contains guarantees to promote the independence and impartiality of judicial officials.
- Ensure that public authorities refrain from interfering in the administration of justice and that any practice aimed at interference from other public authorities is sanctioned.
- Ensure that legal precepts regarding the process for the allocation of special jurisdictions, such as the special jurisdiction over terrorism, are strictly adhered to.
- Guarantee that defendants will in all cases have access to counsel that they can trust without harassment or without being forced to choose another option.

9. FREEDOM OF EXPRESSION (ARTICLE 19)

9.1 LAW AGAINST HATRED

In 2017, the National Constituent Assembly passed the Constitutional Law against Hatred, for Peaceful Coexistence and Tolerance. This legislation has been used by courts and prosecutors to criminalize dissent, by imposing crimes of incitement to hatred as contained in Article 6 of the law. Despite the fact that this law has been widely challenged for violating the principle of legality, as it was enacted by a body lacking the constitutional powers to do so, the authorities have arbitrarily detained many individuals for political reasons under this precept. Furthermore, the provision in question is at odds with the right to freedom of expression protected by the International Covenant on Civil and Political Rights, as it allows the undue restriction and criminalization of a wide range of expressions.

9.2 ACCESS TO PUBLIC INFORMATION AND TRANSPARENCY

The Venezuelan state does not have standardized mechanisms for freedom of information requests nor for access to information, despite the fact that in 2021 a law on transparency and access to communication was passed.

In the last decade, the Venezuelan state has not only denied access to public information by omission, failing to respond to the majority of requests or doing so inadequately,⁵⁶ but has also ceased to publish

⁵⁴ Amnesty International, Venezuela: *Life detained: Politically-motivated arbitrary detentions continue in Venezuela*, 29 August 2023, (Index Number: AMR 53/7077/2023), <https://www.amnesty.org/en/documents/amr53/7077/2023/en/>, pp. 26-27.

⁵⁵ Acceso a la Justicia, "Ley de Reforma Parcial del Código Orgánico de Justicia Militar" [Law for Partial Reform of the Organic Code of Military Justice], 4 October 2021, <https://accesoalajusticia.org/ley-de-reforma-parcial-del-codigo-organico-de-justicia-militar/>. Amnesty International, Report 2021/22 Amnesty International: The State of the World's Human Rights, 29 March 2022, (POL 10/4870/2022),

⁵⁶ Espacio Público, Informe anual 2022: Un año de la ley de transparencia y acceso a la información de interés público [Annual report 2022: One year of the law on transparency and access to information of public interest], 3 May 2023, <https://espaciopublico.org/un-ano-de-la-ley-de-transparencia-y-acceso-a-la-informacion-de-interes-publico/> (Spanish only)

statistical data for most areas of government. In Venezuela there are no reliable and transparent indicators with public methodologies that substantiate government plans. Additionally, no national budget has been published since 2017, despite the existence of a constitutional mandate to do so, and there is a widespread lack of transparency regarding government actions.⁵⁷

9.3 WEBSITE BLOCKING AND OTHER CENSORSHIP MEASURES

In the period under review, the Venezuelan state has imposed multiple barriers to internet access, and in particular has blocked websites directly or indirectly.

In 2022, a report from the internet service provider Telefónica was made public and revealed that 27 websites had been blocked at the request of telecommunications authorities without judicial orders.⁵⁸ In 2022 alone, at least 74 web pages were reported to have been blocked in Venezuela.⁵⁹

9.4 CENSORSHIP AND CLOSURE OF MEDIA OUTLETS

The authorities have shut down dozens of media outlets in an arbitrary and undue use of criminal law. For example, authorities have alleged that certain media outlets do not comply with administrative requirements.⁶⁰

Espacio Público, a local organization defending freedom of expression in Venezuela, has documented that between 2003 and 2022 at least 285 radio broadcasters were shut down nationwide, with 81 of these shutdowns occurring in 2022 alone.⁶¹

In 2021 a court imposed a sanction on the media outlet El Nacional, as a consequence of a defamation and libel lawsuit. The court in the case imposed a monetary sanction amounting to USD 13 million,⁶² which effectively became a forfeiture penalty.

9.5 ATTACKS ON JOURNALISTS AND IMPUNITY

Amnesty International and human rights organizations working in Venezuela are also concerned by attacks on journalists and the harassment and criminalization they experience, as well as their stigmatization in media outlets with links to the Venezuelan state.

While the Venezuelan state claims to recognize and protect the work of journalists, there have been a number of cases where journalists have been deprived of their liberty, harassed by media outlets and high-ranking government authorities, and attacked en masse on social media for having reported facts or opinions critical of the government. In many cases, journalists have had to resort to exile for fear of retaliation.

Examples of this were the politically motivated arbitrary detentions of Luis Carlos Díaz in 2019, after the authorities linked him to an alleged power outage in the country,⁶³ of Darvinson Rojas in April 2020 for reporting on the measures that Nicolás Maduro's government was implementing to address the Covid-19 pandemic,⁶⁴ or of Roland Carreño, who, in addition to being a journalist, is also a political activist with the *Voluntad Popular* party, which opposes Nicolás Maduro.⁶⁵

⁵⁷ Transparencia Venezuela, ¿Cuánto y cómo se va a gastar el dinero público este año? [How much public money will be spent this year and how?], January 2022, https://transparenciave.org/wp-content/uploads/2022/01/Nuestro-Presupuesto-2022_a.pdf, p. 4. (Spanish only)

⁵⁸ Telefónica, Report on Transparency in Communications 2021, N.D., <https://www.telefonica.com/en/wp-content/uploads/sites/5/2021/08/Report-on-Transparency-in-Communications-2021.pdf>, p. 52.

⁵⁹ Espacio Público, Informe anual 2022: Situación del derecho a la libertad de expresión e información en Venezuela [Annual report 2022: State of the right to freedom of expression and information in Venezuela], May 2023, <https://espaciopublico.org/informe-2022-situacion-del-derecho-a-la-libertad-de-expresion-e-informacion-en-venezuela/> (Spanish only)

⁶⁰ Espacio Público, Informe 2020: Situación del derecho a la libertad de expresión e información en Venezuela [Report 2020: General state of the right to freedom of expression in Venezuela], 3 May 2021, <https://espaciopublico.org/informe-2022-situacion-del-derecho-a-la-libertad-de-expresion-e-informacion-en-venezuela/> (Spanish only)

⁶¹ Espacio Público, Informe anual 2022: Situación del derecho a la libertad de expresión e información en Venezuela [Annual report 2022: State of the right to freedom of expression and information in Venezuela], May 2023, <https://espaciopublico.org/informe-2022-situacion-del-derecho-a-la-libertad-de-expresion-e-informacion-en-venezuela/> (Spanish only)

⁶² El Nacional, “El régimen ordena a El Nacional pago de aproximadamente 13 millones de dólares por indemnización a Diosdado Cabello por daño moral” [The regime orders El Nacional to pay approximately 13 million dollars in compensation to Diosdado Cabello for moral damages], 16 April 2021, <https://www.elnacional.com/venezuela/el-regimen-ordena-a-el-nacional-pago-de-aproximadamente-13-millones-de-dolares-por-indemnizacion-a-diosdado-cabello-por-dano-moral/> (Spanish only)

⁶³ Amnesty International, “Venezuela: Authorities must free Luis Carlos Díaz immediately,” 12 March 2019, <https://www.amnesty.org/en/latest/press-release/2019/03/venezuela-authorities-must-free-luis-carlos-diaz-immediately/>

⁶⁴ Amnesty International, Urgent Action: Venezuela: Journalist reporting on COVID-19 jailed: Darvinson Rojas, 23 March 2020 (AMR 53/2019/2020), <https://www.amnesty.org/en/documents/amr53/2019/2020/en/>

⁶⁵ Amnesty International, Venezuela: *Life detained: Politically-motivated arbitrary detentions continue in Venezuela*, 29 August 2023, (AMR 53/7077/2023), <https://www.amnesty.org/en/documents/amr53/7077/2023/en/>

Andrés Eloy Zacarías Nieves and Víctor Manuel Torres, both journalists, were killed in the state of Zulia in an incident that possibly constitutes an extrajudicial execution by the Special Action Forces (FAES) of the PNB.⁶⁶

While these have been the most serious cases, the hostile, stigmatizing and high-risk environment in which journalists carry out their work in Venezuela is also deeply concerning, and many have left Venezuela to seek international protection. One example of this is Roberto Déniz, a member of the reporting outlet Armando.Info, who uncovered details regarding possible money laundering and corruption in the country. He has been the victim of campaigns on social media and in media outlets linked to the state, and a search order was issued against him for alleged incitement to hatred, all of which has led him to flee the country.⁶⁷

Amnesty International makes the following recommendations to the Venezuelan state:

- Repeal the Constitutional Law against Hatred, for Peaceful Coexistence and Tolerance and refrain from criminalizing freedom of expression through similar legislation.
- Implement a rapid, transparent and effective mechanism to ensure access to public information in all state agencies and publish information from previous years to allow for accountability in public management.
- Refrain from blocking web pages and websites directly or through coercion of internet service providers.
- Ensure freedom of expression in all information media and refrain from imposing discretionary and arbitrary sanctions on media outlets without following due process.
- Investigate all state and individual actions that unduly restrict journalistic work and freedom of expression, including physical and virtual harassment and threats against these individuals.
- Immediately and unconditionally release all persons detained solely for having exercised their right to freedom of expression and refrain from criminalizing individuals engaged in journalism or who exercise their freedom of expression.

10. RIGHTS TO FREEDOM OF PEACEFUL ASSEMBLY AND ASSOCIATION (ARTICLES 7, 21 AND 22)

10.1 EXCESSIVE USE OF FORCE AND REPRESSION OF PEACEFUL PROTESTS

Amnesty International and other international organizations have widely documented the excessive and illegal use of force in the context of peaceful protests in Venezuela. In particular, during periods of increased popular mobilization around political demands in 2017 and 2019, the Venezuelan state used unnecessary, excessive and illegal force to repress protest.

Since this Committee's evaluation of Venezuela in 2015, patterns of unnecessary and excessive use of force have continued, and even intensified. During mass protests in 2017, at least 124 people died, according to figures published by the Venezuelan Office of the Public Prosecutor, at least 46 of whom were reportedly protestors who lost their lives at the hands of state security forces.⁶⁸

Despite families, victims and survivors speaking out and fighting for justice and reparations, in 2019 the modus operandi of using firearms against peaceful protestors was used once again, causing deaths and serious injuries among protestors.⁶⁹

⁶⁶ Ministerio del Poder Popular para la Cultura, Fiscalía libró 9 órdenes de aprehensión contra funcionarios del FAES por caso de comunicadores asesinados en Cabimas (+Video) [Ministry of the People's Power for Culture, Prosecutor's Office issued 9 arrest warrants for FAES officers in the case of the murdered journalists in Cabimas (+Video)], 25 August 2020, <https://albacidad.org/2020/08/fiscalia-libro-9-ordenes-de-aprehension-contra-funcionarios-del-faes-por-caso-de-comunicadores-asesinados-en-cabimas-video/> (Spanish only)

⁶⁷ Committee to Protect Journalists, "Venezuelan authorities issue arrest warrant for journalist Roberto Deniz, raid family home", 2 October 2021, <https://cpj.org/2021/10/venezuelan-authorities-issue-arrest-warrant-for-journalist-roberto-deniz-raid-family-home/>

⁶⁸ Inter-American Commission on Human Rights, Situation of Human Rights in Venezuela, 31 December 2017, OAS Document Number 209, <https://www.oas.org/en/iachr/reports/pdfs/Venezuela2018-en.pdf>, para. 210.

⁶⁹ Amnesty International, Venezuela: Hunger for justice: Crimes against humanity in Venezuela, (AMR 53/0222/2019), 14 May 2019, <https://www.amnesty.org/en/documents/amr53/0222/2019/en/>, p. 26.

Amnesty International believes that these attacks against those who participated in the protests could be classified as crimes against humanity, and they should therefore be investigated as such. Although the Venezuelan state has informed the Committee that it has received technical support from the Office of the High Commissioner for Human Rights, there is no evidence of investigations and sanctions against the police and military officials responsible for these incidents in most cases. Furthermore, the state has not taken action to ensure that authorities act in compliance with the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials in the event of future peaceful mass protests in Venezuela.

Additionally, in the small number of cases investigated, hierarchical superiors have not been investigated, nor have the facts been investigated from the perspective of having been part of a policy of repression and widespread and systematic attacks against the population, and therefore it cannot be understood that the investigations comply with the principles of truth, justice and reparation for the victims.⁷⁰

Moreover, the social and economic situation in Venezuela continues to deteriorate despite the narrative around a supposed improvement in the country's economic capacity. The Venezuelan Observatory of Social Conflict states that, as of August 2023, 86% of protests nationwide demanded goods and services such as electricity, access to water and fuel, pensions for the elderly and access to health services, among others.⁷¹ While these protests are not massive, they occur frequently throughout the country. In the first half of 2023 alone, 14 protestors were detained and eight people were injured.⁷²

The critical economic and social situation that persists in Venezuela is also reflected in the figure of 7.3 million people who have left the country seeking protection.⁷³ These 7.3 million people represent approximately 25% of the total population, and reflect an increase of more than one million people leaving the country between May 2022 and May 2023, which in turn demonstrates the persistence of the profound human rights crisis in the country.

The severity of the social situation is such that popular discontent demands changes in government policies, and this in turn leads to further repression. The impossibility for people to enjoy their rights to freedom of expression, peaceful assembly, political participation and the defence of human rights is an attack on human dignity and a continuous and unceasing violation of the Venezuelan people's basic rights.

10.2 RIGHT TO FREEDOM OF ASSOCIATION

The Venezuelan state has hindered the exercise of the right to freedom of association in the period under review.

In recent years, attacks against civil society have increased, including through harassment of members of civil associations, stigmatization, criminalization, arbitrary detentions and judicial interventions, among others.

In early 2021, the government detained five members of a humanitarian association and deprived them of their liberty for 28 days on allegations of fraudulent handling of a smart card, criminal association and asset laundering.⁷⁴

On 2 July 2021, Javier Tarazona was arbitrarily detained by officials from the Bolivarian National Intelligence Service (SEBIN). Javier Tarazona is the founder and director of the non-governmental organization FundaRedes, which operates in the state of Táchira, on the border with Colombia, and has condemned the actions of irregular armed groups in this area.⁷⁵

⁷⁰ United Nations Independent International Fact-Finding Mission on Venezuela (FFM), *Detailed findings of the independent international fact-finding mission on the Bolivarian Republic of Venezuela*, 16 September 2021, UN Document A/HRC/48/CRP.5.

https://www.ohchr.org/sites/default/files/Documents/HRBodies/HRCouncil/FFMV/A-HRC-48-CRP.5_EN.pdf, para. 445 and foll.

⁷¹ Venezuelan Observatory of Social Conflict, *Conflictividad durante el primer semestre de 2023* [Social conflict in the first half of 2023], 22 October 2022 (sic) <https://www.observatoriodeconflictos.org.ve/tendencias-de-la-conflictividad/conflictividad-durante-el-primer-semestre-de-2023> (Spanish only)

⁷² Venezuelan Observatory of Social Conflict, *Conflictividad durante el primer semestre de 2023* [Social conflict in the first half of 2023], 22 October 2022 (sic) <https://www.observatoriodeconflictos.org.ve/tendencias-de-la-conflictividad/conflictividad-durante-el-primer-semestre-de-2023> (Spanish only)

⁷³ Interagency Coordination Platform for Refugees and Migrants from Venezuela, *Key Figures*, 28 March 2023, <https://www.r4v.info/en>

⁷⁴ Amnesty International, "Venezuela: Amnesty International names five members of humanitarian NGO Azul Positivo prisoners of conscience," 19 January 2021, <https://www.amnesty.org/en/latest/press-release/2021/01/venezuela-ammnistia-internacional-nombra-presos-de-conciencia/>

⁷⁵ Infobae, "El régimen venezolano detuvo a Javier Tarazona: 'Así actúa Maduro contra los que denuncian sus atrocidades'" [Venezuelan regime arrests Javier Tarazona: "This is how Maduro acts against those who denounce his atrocities,"] 2 July 2021, <https://www.infobae.com/america/venezuela/2021/07/02/el-regimen-venezolano-detuvo-a-javier-tarazona-asi-actua-maduro-contra-los-que-denuncian-sus-atrocidades/> (Spanish only)

The authorities have also judicially intervened political parties opposed to the government of Nicolás Maduro.⁷⁶

In 2023, the judicial authorities also unduly intervened in the board of directors of the Venezuelan Red Cross, appointing its members and thus infringing on the association's right to freely determine its members and objectives.⁷⁷

Moreover, the legal initiatives that have been promoted over the last several years by members of the executive or governing party (United Socialist Party of Venezuela) to restrict the right to freedom of association are deeply concerning. The Law on International Cooperation aims to prohibit international cooperation and the financing of civil society organizations, including humanitarian aid agencies. The second initiative is the proposed Law on the Regularization and Control of Civil Society. Although the content of this legislative initiative has not been officially made public, Amnesty International and other human rights organizations fear that it will be used to obstruct human rights and humanitarian work in the country.⁷⁸

For years, the administrative regulatory bodies for civil associations in Venezuela have imposed arbitrary procedures and requirements that have gravely hindered the ability of civil society organizations to operate with legal security and stability.⁷⁹ The possible approval of new regularization and oversight mechanisms for civil society organizations represents a serious risk for the members, boards of directors and workers of any civil association in Venezuela, including human rights organizations, universities, humanitarian associations and political parties, among others.

Amnesty International makes the following recommendations to the Venezuelan state:

- Respect and guarantee the right to peaceful protest, as well as the right to personal integrity, life and liberty in the context of peaceful demonstrations.
- Guarantee that security forces policing protests use force in accordance with the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials.
- Uphold and guarantee the work of human rights defenders and in general refrain from undue interference in the work and operations of civil society organizations.
- Refrain from passing laws that seek to control and restrict human rights and humanitarian aid work.
- Ensure the functioning of civil society organizations by simplifying and standardizing administrative processes for the registration and oversight of these bodies, including guarantees to ensure that civil society organizations can seek and use international resources without restriction.

11. RIGHT TO PARTICIPATE IN PUBLIC AFFAIRS (ARTICLE 25)

Amnesty International believes that one of the main objectives of the policy of repression implemented by Nicolás Maduro's government is to obstruct the political participation of those perceived by the government as opposition.

⁷⁶ Venezuelan Electoral Observatory, “Boletín 44 | Decisiones del TSJ impactan el sistema de partidos y la oferta” [Supreme Court decisions impact party system and choices], 15 June 2020, <https://oevenezolano.org/2020/06/boletin-44-decisiones-del-tsj-impactan-el-sistema-de-partidos-y-la-oferta-electoral/> (Spanish only)

⁷⁷ Acceso a la Justicia and others, “Con la intervención judicial de la Sociedad Venezolana de la Cruz Roja se agrava el patrón de violaciones contra la libertad de asociación en Venezuela” [With the judicial intervention of the Venezuelan Red Cross Society, the pattern of violations against freedom of association in Venezuela is worsening], 10 August 2023, <https://accesoalajusticia.org/con-intervencion-judicial-sociedad-venezolana-cruz-roja-agrava-patron-violaciones-contra-libertad-asociacion-venezuela/> (Spanish only)

⁷⁸ Amnesty International, Urgent Action: Venezuela: NGOs in Venezuela at risk, 25 January 2023 (AMR 53/6379/20203), <https://www.amnesty.org/en/documents/amr53/6379/2023/en/>

⁷⁹ Acceso a la Justicia, “Una avalancha de registros, declaraciones y trámites” [An avalanche of registrations, declarations and procedures: the strategy to annihilate organized civil society in Venezuela], 1 February 2023, <https://accesoalajusticia.org/avalancha-registros-declaraciones-tramites-estrategia-aniquilar-sociedad-civil-organizada-venezuela/> (Spanish only)

Human rights organizations in Venezuela have warned that repressive crackdowns on the rights to freedom of expression, association and peaceful protest have been directly linked to pre-electoral and electoral periods, in particular through political disqualification to prevent those perceived by the authorities as political opponents from running for elected office.⁸⁰ This has severely affected people's rights to participate effectively in public affairs and has limited the ability of the population as a whole to directly influence the issues that affect them.

According to the European Union Election Observation Mission, in the run-up to the 2021 elections the Comptroller General's Office administratively disqualified 27 individuals from the political opposition who had shown an interest in running for office.⁸¹ In June of 2023, the authorities publicly announced the disqualification of María Corina Machado,⁸² who had publicly stated her interest in participating in the 2024 presidential election.

Given this context, the European Union Election Observation Mission has recommended “[t]o abolish the Comptroller General prerogative to strip citizens of their fundamental right to stand for election through an administrative procedure and without a timely notification, which negatively impacts on the right to defence.”⁸³

Amnesty International observes with concern the way in which the Venezuelan authorities have used administrative disqualification mechanisms in a discriminatory manner against those perceived to be political opponents. The organization believes that the disqualification of opposition candidates undermines the right to participate in public affairs and directly impacts the rights to freedom of expression and association.

Amnesty International makes the following recommendations to the Venezuelan state:

- Remove all legal and de facto obstacles to guarantee the effective political participation of all people without discrimination, including on the basis political opinion.
- Refrain from using administrative disqualifications in a discriminatory manner against persons running for elected office.
- End the use of mechanisms of persecution and/or criminalization against individuals perceived as political opponents who have the aim of participating in public affairs in the country.

⁸⁰ CEPAZ, Las inhabilitaciones políticas obstaculizan el camino hacia unas elecciones auténticas y democráticas [Political disqualifications are standing in the way of genuine and democratic elections], 11 July 2023, <https://cepaz.org/articulos/las-inhabilitaciones-politicas-obstaculizan-el-camino-hacia-unas-elecciones-autenticas-y-democraticas/> (Spanish only)

⁸¹ EU Election Observation Mission to Venezuela Regional and municipal elections 21 November 2021, Final Report, 21 November 2021, https://www.eeas.europa.eu/sites/default/files/eu_eom_ven_2021_fr_en.pdf, p. 22.

⁸² BBC, “Inhabilitan para ocupar cargos públicos por 15 años a María Corina Machado, una de las precandidatas presidenciales más populares de Venezuela” [María Corina Machado, one of the most popular presidential pre-candidates in Venezuela, is disqualified from holding public office for 15 years], 30 June 2023, <https://www.bbc.com/mundo/articulos/cw5g464g3xwo#:~:text=Es%20una%20de%20las%20%ADderes,un%20plazo%20de%2015%20a%C3%B1os> (Spanish only)

⁸³ EU Election Observation Mission to Venezuela Regional and municipal elections 21 November 2021, Final Report, 21 November 2021, https://www.eeas.europa.eu/sites/default/files/eu_eom_ven_2021_fr_en.pdf.

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