



VENEZUELA: REGIME, REPRESSIONE, DETENUTI POLITICI

Il Venezuela è oggi, e da anni, un inferno economico, sociale, umanitario, politico. Nel Paese latinoamericano, un tempo faro di democrazia e sviluppo economico, il regime di Nicolas Maduro continua la persecuzione contro attivisti politici, sindacalisti, studenti, utilizzando ogni strumento di repressione per mantenere il potere violando sistematicamente i diritti umani fondamentali della popolazione dilaniata da una annosa, sistemica crisi economica aggravata ulteriormente dalla pandemia.

Negli anni, nella morsa della brutale politica di repressione condotta sotto varie forme, si trovano migliaia e migliaia di venezuelane e venezuelani arrestati arbitrariamente, torturati, sottoposti a procedimenti clandestini, sparizioni forzate, misure di restrizione della libertà. Un numero incalcolabile di persone hanno trovato nell'esilio l'unica via di salvezza dalla persecuzione per ragioni politiche. Coloro che rimangono, lo fanno a rischio quotidiano di cadere vittime di feroci atti di intimidazione, di repressione e violenza –anche mortale- per mano degli apparati di intelligence politica. È prassi da anni in Venezuela assistere ad esecuzioni extragiudiziali per ragioni politiche: l'ultimo report dell'Alto Commissario per i Diritti Umani delle Nazioni Unite, Michelle Bachelet, così come le risultanze della Missione Indipendente dell'ONU di verifica dei fatti in Venezuela hanno inchiodato il regime alle sue responsabilità, riconoscendo come la cupola di Miraflores e i vertici degli apparati repressivi siano direttamente colpevoli di innumerevoli uccisioni negli ultimi 7 anni.

Il fenomeno delle detenzioni per motivi politici è l'altro braccio con cui opera la crudele persecuzione da parte del regime. Dal 2014, si calcola che siano stati imprigionati per ragioni politiche più di 15700 venezuelane e venezuelani, di ogni età, estrazione sociale, professione, genere e tendenza politica, in spregio a ogni standard di legalità interna ed internazionale. Chiunque venga anche lontanamente individuato -con o senza fondamento- come un rischio per la stabilità e gli interessi politici, economici o criminali del regime, può finire nel vortice disumano delle esecuzioni extragiudiziali, della detenzione o della sparizione forzata, o cadere intrappolato in procedimenti giudiziari totalmente illegali, contrari alle norme costituzionali e penalistiche interne, nonché alle norme internazionali cui il Venezuela è sottoposto ai sensi del sistema delle convenzioni internazionali di tutela e protezione dei diritti umani. Ogni cittadino venezuelano sottoposto a questo genere di procedimenti paragiurisdizionali, a restrizioni arbitrarie della libertà, a trattamenti degradanti, a sparizioni forzate è un venezuelano i cui diritti umani più elementari vengono sistematicamente violati, spesso per anni.

Attualmente, secondo i dati aggiornati dalle principali ONG venezuelane che operano sul campo, circa 9000 venezuelane e venezuelani sono sottoposti a dure forme di restrizione della libertà, per motivi politici, mentre i detenuti politici sono 318, di cui 24 donne, 2 minori, 193 civili, decine di membri delle popolazioni indigene della vasta area amazzonica venezuelana. Tra questi 318, 4 sono venezuelani con doppia cittadinanza, venezuelana e italiana. **Hugo Marino Salas, Juan Carlos Marrufo Capozzi, Juan Planchart Marquez e Oreste Alfredo Schiavo** sono cittadini italiani, e su di loro e sulle loro vite è caduta la scure della macchina di repressione e violazione dei diritti umani che il regime di Maduro utilizza come strumento di terrore e perpetuazione del potere dittatoriale.



Questo è quanto si è in grado di ricostruire, ad oggi, sia con fonti formali che extra-ufficiali sui 4 italo venezuelani:

Hugo Marino Salas: noto investigatore di incidenti aerei e marittimi, scoprì la posizione dei relitti degli aerei in cui morirono, in circostanze mai chiarite, alcuni turisti italiani di Treviso e Brescia nel 2008 e la famiglia Missoni nel 2013 (voli da/per l'arcipelago di Los Roques). Il 20 aprile 2019, appena atterrato a Caracas, sarebbe stato prelevato dal controspionaggio militare senza accuse formali. Da allora, semplicemente, non si hanno notizie di nessun tipo. E' tecnicamente desaparecido. Nonostante contatti bilaterali tra Roma e le autorità di Caracas, la famiglia vive da più di due anni nell'indicibile dramma di non sapere nemmeno se Hugo sia ancora in vita o meno.

Juan Carlos Marrufo Capozzi: arrestato dal controspionaggio militare (DGCIM) assieme alla moglie (Maria Auxiliadora Delgado de Marrufo, doppia cittadina Venezuelana e Spagnola) nel marzo 2019. Militare, accusato (senza prove formali, e con elementi fabbricati ad hoc) di finanziamento al terrorismo. Versa in grave, precario stato di salute, soffrendo da tempo di varie patologie anche croniche (noduli alla gola, ipertensione e depressione; ha contratto COVID). Da due anni detenuto, senza alcun giudizio incardinato formalmente.

Juan Planchart Marquez: detenuto arbitrariamente dall'intelligence venezuelana (SEBIN) nel marzo 2019, senza ordine di arresto e senza prove di alcun delitto, si trova da pochi mesi agli arresti domiciliari sotto strettissima sorveglianza degli apparati di repressione del regime. Juan è sottoposto a procedimento penale arbitrario, contrario a ogni standard di legalità interna e internazionale, per cospirazione, finanziamento al terrorismo e associazione a delinquere. Era imprigionato nell'"Helicoide", macabra struttura detentiva e di tortura del SEBIN tristemente nota per essere centro di violazione massiva di diritti umani e crimini contro l'umanità tra i più efferati. Il suo stato di salute è severamente precario: nel settembre 2019, gli venne diagnosticato un tumore gelatinoso di 6 cm al collo, che non venne curato.

Oreste Alfredo Schiavo: detenuto per presunti legami a operazioni di insorgenza antiregime nel corso del 2020. Non si hanno altre informazioni.

Diversi membri del Parlamento italiano si sono impegnati, anche recentemente, per cercare di attivare i canali diplomatici utili ad ottenere informazioni sulle condizioni di detenzione e privazione della libertà di alcuni di questi concittadini italiani, anche per dare delle risposte alle famiglie che vivono una tragedia quotidiana, in un limbo di terrore, di abbandono e impotenza da parte delle istituzioni internazionali.

La Commissione Esteri della Camera dei Deputati con la risoluzione 8-00101 (depositata e approvata trasversalmente da tutti i partiti lo scorso 10 marzo) ha tra l'altro impegnato il governo chiedere l'immediata scarcerazione delle centinaia di prigionieri politici detenuti nelle strutture di polizia e di



intelligence venezuelane, tra i quali figurano anche alcuni venezuelani con cittadinanza italiana e ad assicurare il pieno rispetto dei diritti umani e politici nell'intero Paese.¹

Anche l'ufficio dell'Alto Rappresentante EU per la Politica Estera Josef Borrell è stato interessato della questione in oggetto, ed ha fornito informazioni tuttavia insufficienti ad ottenere la liberazione dei quattro italo-venezuelani, ribadendo tuttavia come spetti "allo Stato membro dell'UE di cui i prigionieri politici hanno la cittadinanza provvedere al follow-up con le autorità venezuelane".²

Considerando che è preciso dovere delle istituzioni governative italiane adoperarsi per la cura e la tutela della vita e dei diritti umani dei cittadini italiani ovunque siano, e che è dovere del governo italiano dare corpo ad ogni utile azione politico-diplomatica per ottenere la cessazione delle gravi violazioni cui i cittadini italiani all'estero sono sottoposti, il Comitato Globale per lo Stato di Diritto "Marco Pannella" lancia un appello alle istituzioni italiane affinché, con ogni mezzo politico e diplomatico, si possa ottenere informazioni certe e comprovate sulla condizione dei connazionali sottoposti in Venezuela a detenzione e persecuzione paragiudiziaria arbitrarie, nonché la loro immediata liberazione a tutela dei loro diritti umani fondamentali, della loro integrità psico-fisica gravemente messa a repentaglio da torture, negazione di cure mediche urgenti e ogni altro genere di trattamenti inumani e degradanti cui gli apparati repressevi venezuelani spesso sottopongono i detenuti politici. Il Comitato Globale "Marco Pannella" ribadisce inoltre come debba essere somma priorità politico-diplomatica per la Repubblica Italiana la richiesta della liberazione immediata di TUTTI i detenuti politici, in Venezuela così come nei tanti, troppi altri Paesi al mondo in cui quotidianamente, facendo strage dei diritti fondamentali e dello stato di diritto, si compie strage di vite, di persone e di popoli.

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¹<http://documenti.camera.it/leg18/resoconti/commissioni/bollettini/pdf/2021/03/10/leg.18.bol0545.data20210310.com03.pdf>

²https://www.europarl.europa.eu/doceo/document/E-9-2020-006256-ASW_IT.pdf



Estratto del Report Annuale dell'Alto Commissario ONU per i Diritti Umani, Michelle Bachelet sul Venezuela: "Outcomes of the investigation into allegations of possible human right violations of the human rights to life, liberty and physical and moral integrity in the Bolivarian Republic of Venezuela"

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B. Right to liberty

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

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

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

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

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

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

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

47. OHCHR documented that access to individuals held in DGCIM or SEBIN detention centres was particularly challenging. When lawyers were granted access to their client, they were not allowed adequate time nor confidentiality. Courts repeatedly rejected legal filings of defence lawyers at key hearings challenging jurisdiction, witnesses or other evidence without clear reasoning or without any response. In 14 cases documented by OHCHR, lawyers did not have access to the case files of their client, and in many cases, access was only granted immediately before the presentation hearing. The case files would generally contain very little evidence and lacked most of the fundamental legal documents, such as the indictment. In many cases, the only incriminatory evidence on the file was a report by the agency that conducted the investigation and the arrest. In some cases, especially those involving alleged terrorist acts, the prosecutors reportedly did not allow access to the files, invoking the confidentiality of the investigation.

48. In all the 110 documented cases, there were undue delays at all stages of the judicial proceedings. According to the Criminal Procedure Code, following the presentation hearing, the prosecution should finalize the investigation and formally indict the person within 45 days so the preliminary hearing can take place without delay. However, judicial hearings at all stages of the proceedings were constantly suspended or postponed for multiple reasons, including the



absence of judges or prosecutors, or the failure to transfer the detainee to the tribunal. During the reporting period, OHCHR identified that out of the 110 cases documented, 41 individuals had exceeded two years in pre-trial detention, raising concerns of compliance with international standards prohibiting arbitrary detention.

49. After their presentation hearing, individuals charged with crimes related to treason, rebellion or conspiracy remained at the DGCIM headquarters, and some were held incommunicado for up to 40 days. At the closing of this report, the authorities had not officially informed the place of detention of opposition parliamentarian Gilber Caro, who was arrested on 20 December 2019. At least 33 military and civilians, arrested between 20 April and May 2020, reportedly involved in the incursion known as Operation Gedeón, of 3- 4 May, have been held incommunicado in either SEBIN or DGCIM premises in Caracas.

50. OHCHR documented cases of individuals benefiting from precautionary measures whom intelligence services arrested again without a revocation of the measures by a tribunal. OHCHR also identified three cases of individuals detained despite having served their sentence. Detention beyond the length of a sentence and in defiance of a judicial order is manifestly arbitrary and unlawful under international law.

51. OHCHR found that during the period covered by the report, some people have been conditionally released with precautionary measures ordered at the pre-trial stage, such as weekly appearances before authorities, and the prohibition of leaving the country, commenting publicly on their case, or participating in political activities. These measures have been imposed for months or years due to delays in judicial proceedings. In the case of journalists, these restrictions can considerably affect their ability to work, as illustrated by the case of Luis Carlos Díaz, who was detained on 11 March 2019 for public incitement, and released with precautionary measures the day after. At the closing of this report, his preliminary hearing had not taken place and he had not been able to leave Venezuela or to comment on his case publicly, seriously affecting his professional and personal life. C. Right to physical and moral integrity 1. Torture and ill-treatment

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

53. According to the Government, by May 2020, the Attorney General carried out 361 investigations for torture and 9,951 investigations for ill-treatment. These investigations have resulted in 517 State agents charged, 401 indicted, 167 deprived of their liberty and 26 convicted with torture and ill-treatment.³³ 2. Conditions of detention

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

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

56. The Ministry informed that it distributes food to 41 penitentiary centres reaching 39,723 inmates (37,482 men and 2,241 women) on a monthly basis. While the Ministry reported ensuring three meals per day to inmates, OHCHR observed that access to food was limited in the centres it visited. The Ministry reported 1,328 cases of malnutrition of inmates in 2019. OHCHR also observed that access to water in the centres was limited, and sanitation precarious. The Ministry argued that the difficulties related to health and clean water, among others, were related to the impact of sanctions.

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

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

59. The Ministry informed that 62 per cent of its detainees were indicted (24,577) and 38 per cent (15,146) convicted. OHCHR documented cases of inmates who met the criteria to benefit from alternative measures to detention, including inmates over 70 years of age or qualifying for conditional release for health reasons, but who remained detained due to lack of response of the judicial system to requests for granting benefits. To address these delays in the judicial system,



the Ministry reported that in 2019, through the Plan Cayapa, 378,143 legal counselling measures were provided, and between 2019 and 2020, 4,320 alternative measures to serving sentences were granted. In response to COVID-19, the Ministry granted more than 800 alternative measures to detention to ensure security and health of detainees.

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

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

62. OHCHR regrets it did not have access to preventive detention centres administered by the Ministry of Interior, State governments and municipal police, but received information about overcrowding (above 200 per cent country-wide), high levels of violence, and lack of access to food, water and healthcare.

63. In a penitentiary administered by the Ministry of Defence for military personnel, OHCHR observed the presence of civilian detainees, undue judicial delays, a lack of adequate facilities for women detainees and the use of punishment cells with inadequate hygienic conditions. OHCHR received information of excessive use of force during inspections conducted by DGCIM. The military jurisdiction reported that in the context of the COVID19 pandemic, 72 alternative measures to deprivation of liberty were granted to detainees in military penitentiaries who were convicted for minor offences.

64. OHCHR received numerous allegations of inadequate conditions of detention at DGCIM and SEBIN headquarters, to which it had no access. These facilities are not official detention centres and lack minimum requirements, including sufficient space to guarantee the rights of detainees. The DGCIM facilities, which were originally built as offices, have been remodelled to increase detention capacity in the basement.

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

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

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

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

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



Estratto del Report della Missione Indipendente ONU di Verifica dei Fatti in Venezuela (presentato il giorno 25 settembre 2020, 45° sessione del Consiglio Diritti Umani dell'ONU; https://www.ohchr.org/Documents/HRBodies/HRCouncil/FFMV/A_HRC_45_CRP.11.pdf, versione breve <https://undocs.org/en/A/HRC/45/33>,

A. Targeted political repression

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

1. Victim profiles

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

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

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

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

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

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

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

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

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

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

32. Beginning in 2018, civilians linked to the military targets, such as family, friends and associates, also increasingly became victims of repression, including those who might know the whereabouts of the accused and relatives of military members. 33. On 31 August 2020, President Maduro pardoned 110 people, mainly members of the political opposition, who had been accused of committing criminal acts.



2. Violations

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

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

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

(a) Bolivarian National Intelligence Service

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

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

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

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

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

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

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

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

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

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

47. The mission found reasonable grounds to believe that Bolivarian National Intelligence Service agents tortured or subjected detainees to cruel, inhuman and degrading treatment. The torture and ill-treatment were usually carried out within the first few days of detention, prior to initial court appearances, while detainees remained incommunicado. Many former detainees also witnessed the torture of other, non-political detainees in the Bolivarian National Intelligence Service's facilities.

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

49. Cases reviewed by the mission occurred primarily between 2014 and 2018. The torture techniques documented by the mission included stress positions; asphyxiation with plastic bags, chemical substances or water; beatings; electric



shocks; death threats; rape threats against either the victim and/or relatives; psychological torture, including sensorial deprivation, constant lighting and extreme cold; and forced nudity.

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

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

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

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

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

(b) Directorate General of Military Counter-intelligence

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

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

57. The mission has also reviewed information received from Foro Penal about 339 arrests of military personnel and associated civilians. Of these, 187 continue to be detained, two having served their sentences fully; 61 have substitute measures; and 41 have been released. The status of the remainder varies.

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

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

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

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

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

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



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

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

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

67. In three cases investigated by the mission, the Directorate General of Military Counter-intelligence perpetrated acts of sexual or gender-based violence against military detainees during interrogation in order to degrade, humiliate or punish them. Female and male officials of the Directorate General of Military Counter-intelligence subjected individuals to forced nudity, sometimes for days. Male custodians threatened to rape male detainees with pointed objects, mainly sticks and bats, and in one case raped a detainee. Electric shocks and blows were administered, including to the testicles.

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

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

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

(c) Justice system

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

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

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

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

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

76. The mission found that processes for the distribution of cases were often circumvented in order to ensure that cases were assigned to specific prosecutors and judges. Judges and prosecutors have also said that they have been improperly pressured. Franklin Nieves, the public prosecutor in the case of Leopoldo López, later described the trial as a sham, and indicated that he remained silent because of fear, owing to pressure exerted by his superiors.

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



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