


UNIVERSAL PERIODIC REVIEW SUBMISSION FOR VENEZUELA

NGO SUBMISSION



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Human Rights Foundation

The Human Rights Foundation (HRF) is a nonpartisan nonprofit organization that promotes and protects human rights globally, with a focus on closed societies. HRF unites people in the common cause of defending human rights and promoting liberal democracy. Our mission is to ensure that freedom is both preserved and promoted around the world.

We focus our work on the founding principles of the human rights movement, those which are enshrined in the 1948 Universal Declaration of Human Rights and the 1976 International Covenant on Civil and Political Rights.

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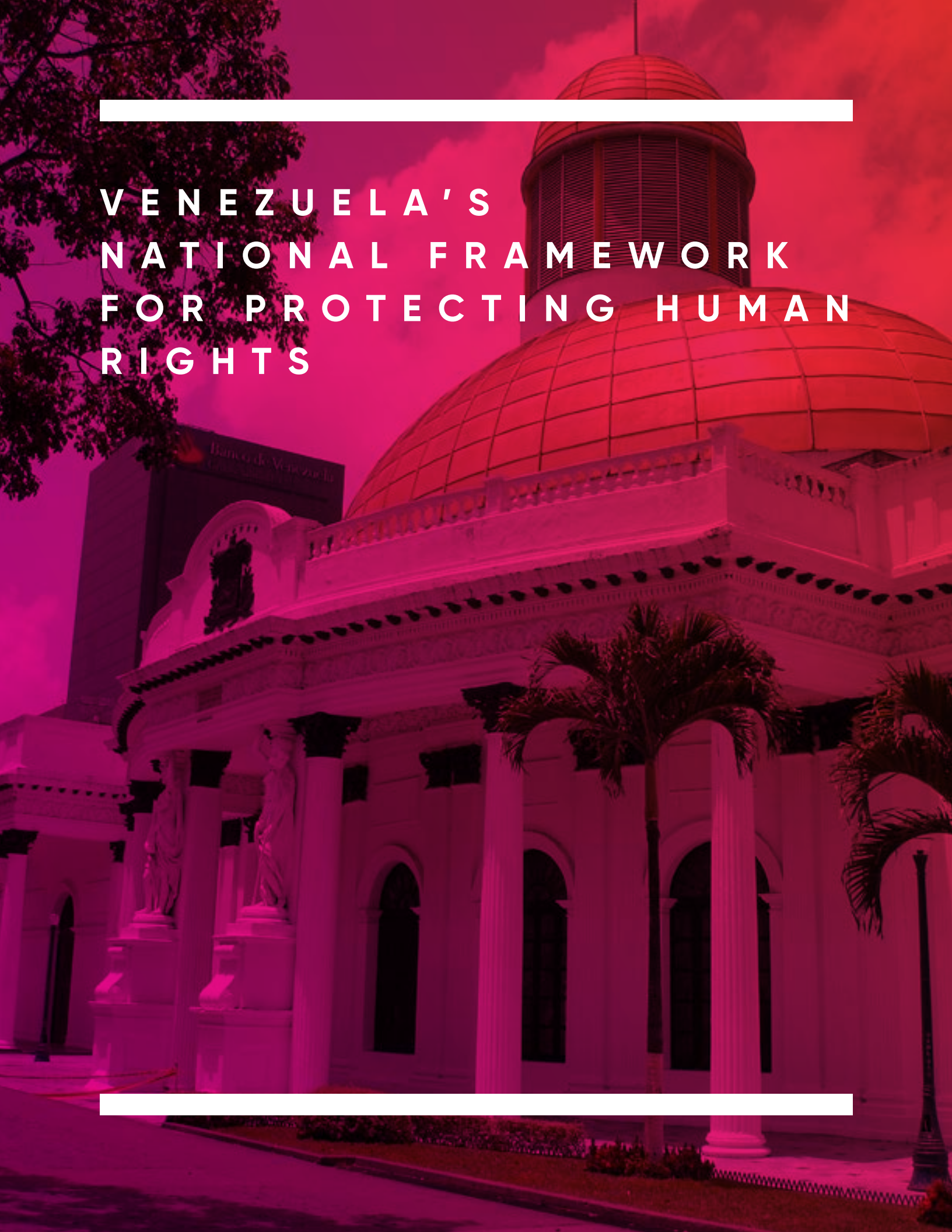
Introduction

This submission was prepared by HRF for the Universal Periodic Review (UPR) of Venezuela. In this submission, HRF evaluates Venezuela's implementation of recommendations made in the previous UPR, as it relates to the human rights situation in the country, which is characterized by systematic, gross, and widespread human rights abuses that, in recent years, have amounted to crimes against humanity.

Follow-Up on the Previous Review

1. The most recent UPR of Venezuela by the United Nations Human Rights Council took place on November 1, 2016. The Human Rights Council considered and adopted the outcome of the country's review during its 34th Session, on March 16, 2017. A total of 274 recommendations were made to Venezuela, with the government accepting 193 recommendations and noting 81.¹
2. Although Venezuela accepted many of the recommendations which covered a range of issues, it has not made significant progress in implementing them.
3. One of the most common recommendations among UN Member States was that Venezuela should ratify particular international conventions, including:
 - a. The Optional Protocol of the Convention Against Torture; and
 - b. The Convention on the Protection of All Persons from Enforced Disappearances.
4. As a Member State of the United Nations, Venezuela has committed to protect, promote, and respect the individual rights and fundamental freedoms laid out in the Universal Declaration of Human Rights (UDHR). Notably, Venezuela has also ratified the International Covenant on Civil and Political Rights (ICCPR).²
5. Domestically, Venezuela's Constitution formally guarantees the protection of many fundamental human rights. However, despite these constitutional guarantees, in practice, individuals are routinely subjected to severe human rights violations.

VENEZUELA'S
NATIONAL FRAMEWORK
FOR PROTECTING HUMAN
RIGHTS



Venezuela's National Framework for Protecting Human Rights

6. In relation to the fundamental rights of physical integrity and liberty, Venezuela's Constitution³ provides that:

Article 43

The right to life is inviolable. No law shall provide for the death penalty and no authority shall apply the same. The State shall protect the life of persons who are deprived of liberty....

Article 44

Personal liberty is inviolable, therefore:

1. *No person shall be arrested or detained except by virtue of a court order, unless such person is caught in fraganti. In the latter case, such person must be brought before a judge within forty-eight hours of his or her arrest....*

Article 45

The public authorities [...] are prohibited from effecting, permitting or tolerating the forced disappearance of persons. An officer receiving an order or instruction to carry it out, has the obligation not to obey, and to report the order or instruction to the competent authorities. The intellectual and physical perpetrators, accomplices and concealers of the crimes of forced disappearance of a person, as well as any attempt to commit such offense, shall be punished in accordance with law.

Article 46

Everyone is entitled to respect for his or her physical, mental and moral integrity, therefore:

1. *No person shall be subjected to penalties, tortures, cruelty, inhuman or degrading treatment. Every victim of torture or cruel, inhumane or degrading treatment effected or tolerated by agents of the State has the right to rehabilitation.*
2. *Any person deprived of liberty shall be treated with respect due to the inherent dignity of the human being.*

[...]

4. *Any public official who, by reason of his official position, inflicts mistreatment or physical or mental suffering on any person or instigates or tolerates such treatment, shall be punished in accordance with law.*
7. *In relation to respecting international human rights obligations, the Constitution provides that:*

Article 23

The treaties [...] relating human rights which have been executed and ratified by Venezuela have a constitutional rank, and prevail over internal legislation, insofar as they contain provisions concerning the enjoyment and exercise of such rights that are more favorable than those established by this Constitution and the laws of the Republic, and shall be immediately and directly applied by the courts and other organs of the Public Power.

Article 29

The State is obliged to investigate and legally punish offenses against human rights committed by its authorities...

VENEZUELA'S POLITICAL BACKGROUND



Venezuela's Political Background

8. HRF considers Venezuela to be a fully authoritarian regime. The ruling party, Partido Socialista Unido de Venezuela (PSUV), and the country's President, Nicolás Maduro, have virtually complete control over all branches of government. Although the country holds regular elections, they are not considered free or fair, as the electoral authority is almost completely aligned with the PSUV, and as Maduro is accused of overseeing a fixed vote. The judicial system is also entirely subservient to the interests of the ruling party, and the Supreme Tribunal of Justice (TSJ) often annuls almost all legislation from opposition parties at the National Assembly. Members of the opposition are constantly harassed or imprisoned.
9. In 2017, the Maduro-aligned TSJ took over the legislative powers of the opposition-led National Assembly and stripped opposition legislators of their parliamentary immunity. New elections that were widely seen as a facade to push the opposition out of power were held the following year, resulting in a constitutional crisis. The opposition, led by Juan Guaidó, then formed a parallel government in exile in 2019.⁴ Over 50 countries recognized Guaidó as the legitimate president of Venezuela, with several others only supporting the Assembly that was democratically elected in 2015.
10. The most recent parliamentary elections, held in December 2020, did not meet the basic conditions to be considered free or fair,⁵ leading international observers to refuse to participate in the process and widespread boycotting on behalf of the opposition parties.⁶ While many democratic countries refused to recognize the results,⁷ the recognition of Juan Guaidó as the legitimate president of Venezuela has also been withdrawn by several governments, most notably the European Union.⁸

ARBITRARY ARRESTS,
DETENTIONS, AND
VIOLATIONS OF DUE
PROCESS

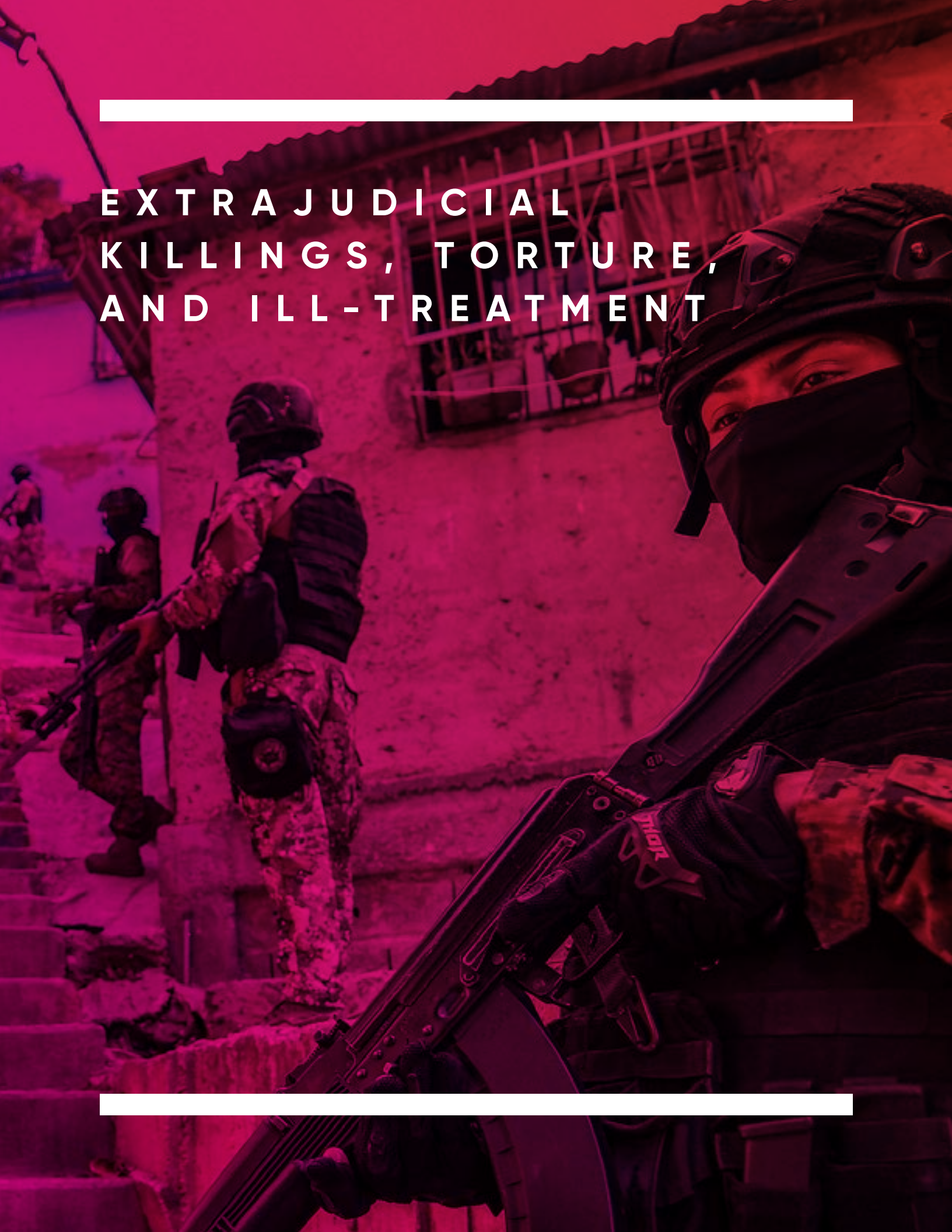
Arbitrary Arrests, Detentions, and Violations of Due Process

11. The government regularly uses arbitrary detentions as a means to intimidate and repress political opponents and dissidents.⁹ Between 2014 and 2019, at least 135 people were arbitrarily detained.¹⁰ Some of these cases constituted enforced disappearances until the authorities revealed the whereabouts of the individuals days or weeks after their arrest.¹¹ In most cases, people were detained for exercising their freedom of opinion, expression, association, and peaceful assembly.¹²
12. According to human rights groups, as of March 2021, the number of political prisoners in the country amounted to 328 individuals, with nearly three-quarters of them still awaiting trial.¹³ Venezuelan laws dictate that individuals shall not be held in pre-trial detention for more than two years,¹⁴ but at least 49 of the 323 have been held for longer than that. Furthermore, nearly three quarters of them are being held without a trial having even been started.¹⁵
13. Human rights defenders and activists are constantly harassed, and the Venezuelan government often accuses groups who are critical of its leadership of being foreign agents conspiring against the state.¹⁶ Activists and non-governmental organizations (NGOs) also face legal repercussions for their work, and some have even been physically attacked for it.¹⁷
14. According to the OHCHR, Juan Carlos Requensens Martinez, a 29 year old Venezuelan politician was arbitrarily detained in August of 2018. His family filed a complaint before the Superior Prosecutor's Office of the Metropolitan Area of Caracas, but his case has not been addressed and is now labelled as a forced disappearance.¹⁸
15. Throughout March to September of 2020, 5 people were assassinated and 442 were detained due to their engagement in peaceful political protests.

At least 159 people were arbitrarily detained, including journalists, politicians, and doctors who tried to question and bring attention to the government's response to Covid-19. Three organizations are responsible for these arbitrary detentions, including the National Bolivariana Guard (34 cases), The Special Action Forces (17 cases), and the General Division for Military Counterintelligence (17 cases).¹⁹

16. On January 12, 2021, five members of Azul Positivo, an NGO that focuses on HIV prevention in the state of Zulia, were arrested by military police.²⁰ Although they were released a month later, they have been formally charged with "money laundering," "fraudulent use of cards," and "criminal association," in what the UN has called a "pattern of increasing criminalisation of civil society organisations in Venezuela."²¹
17. On July 3, 2021, four members of the NGO FundaRedes, an organization that documents the abuses of armed groups in the Venezuela-Colombia border, were arbitrarily arrested by state security forces. The arrests took place days after they held a press conference denouncing links between paramilitary groups from Colombia and the Venezuelan government.²² The activists who were arrested were Javier Tarazona, director of FundaREDES, his brother, Jose Rafael Tarazona, Omar de Dios Garcia, and Yhonny Romero. Romero was released hours later, but the other three men were denied legal representation of their choice by the judge and were charged with "instigation of hatred, treason and terrorism."²³

EXTRAJUDICIAL
KILLINGS, TORTURE,
AND ILL-TREATMENT



Extrajudicial Killings, Torture and Ill-Treatment

18. Special Action Forces of the Bolivarian National Police commit extrajudicial killings in the context of security operations, and subsequently manipulate the crime scene and evidence.²⁴ The government classifies these killings that result from “security operations” as “resistance to authority”.²⁵ Between January 1 and May 19, 2019, the Government reported 1,569 such killings.²⁶ However, according to Human Rights Watch, security forces killed nearly 7,000 people in incidents they claimed were cases of “resistance to authority” in 2018 and the first five months of 2019 alone.²⁷ Furthermore, the OHCHR has documented the cases of six men that were executed by the Special Action Forces in reprisal for their role in anti-government protests in 2019.²⁸ A culture of impunity among Maduro and his regime is therefore commonplace and encourages Maduro’s cronies to continue to perpetrate egregious human rights abuses.²⁹
19. According to Amnesty International, the extrajudicial killings that were due to the use of excessive force, as well as the arbitrary and mass detentions in January 2019, form part of a systematic and widespread strategy to attack dissidents. These attacks constitute crimes against humanity.³⁰
20. Between January 21-25, 2019, Amnesty International documented six extrajudicial executions by the Fuerzas de Acciones Especiales (“FAES”).³¹ The victims had some link to the preceding days’ anti-government protests and, notably, many of their criticisms against Maduro’s regime had gone viral on social media.³² The authorities presented them as criminals who were killed in confrontations with the FAES, and claimed that they had criminal records in order to justify the executions. However, they all died as a result of gunshot wounds to the upper chest area, suggesting that they were deliberately targeted in that body section so that the wounds would likely be fatal.³³ In all six cases, the security forces tampered with the evidence and had taken several of the bodies to the hospital to impede proper investigations.³⁴ None of the victims’

families knew whether an investigation had been initiated and none of them were informed of the results of the autopsies.³⁵ The authorities subsequently raided several nearby homes and threatened neighbors to deter them from testifying.³⁶ As a result, none of the members of the security forces have been prosecuted or held to account for their crimes.³⁷

21. One of the six cases identified by Amnesty International, is the case of Jhonny José Godoy Buitrago who was from a low-income area in Caracas, called La Vega.³⁸ On January 23, 2019, he recorded a video shouting slogans against Nicolás Maduro while wearing the Venezuelan flag as a cape and taking part in the mass protest.³⁹ His video went viral on social media.⁴⁰ On January 25, 2019, roughly 20 FAES and PNB officials entered his house and forcibly dragged him into a neighboring house.⁴¹ The officials threatened his relatives and locked them in a room.⁴² According to witnesses, the officials gagged Buitrago who was screaming, and beat him for more than 30 minutes before they shot him in his leg and chest.⁴³ Although he died immediately, the officials took him to the hospital to tamper with the evidence and to disrupt proper investigations from taking place.⁴⁴ Furthermore, they fired gunshots at the wall of one of the houses and raided other nearby houses to prevent neighbors from witnessing what they were doing.⁴⁵
22. On June 21, 2019, Rafael Acosta Arévalo, a retired captain in the Venezuelan Navy, disappeared in the town of Guatire. On June 26, 2019, the authorities announced that he had actually been detained.⁴⁶ The circumstances of his arrest, the location of his detention, and his health condition at the time of his arrest are still unclear.⁴⁷ On June 28, 2019, two Guardia Nacional Bolivariana (GNB) officials took him in a wheelchair to the Military Court where he soon lost consciousness.⁴⁸ He was declared dead upon arrival at the hospital. His death was the result of multiple injuries including severe bruising of the nasal passage and lower lip, and sustained abrasions on the shoulder and wrists that compromised his lungs to the point of causing severe cerebral oedema.⁴⁹ Two DGCIM officials were subsequently convicted of homicide, but their precise conduct and torture leading to the murder of Acosta Arévalo's was not investigated.⁵⁰

23. In 2020, the Casla Institute (CI) received 25 testimonies alleging torture, and a total of 141 testimonials between 2014 - 2020 (27 victims in 2014; 3 victims in 2015; 58 victims in 2017; 24 victims in 2018; 14 victims in 2019; and 15 victims in 2020.)⁵¹
24. According to the complaints received by the CI, every victim was beaten and kicked while in detention, showing a pattern of systemic violence.⁵² The beatings were carried out with helmets, breeches of weapons, tubes, baseball bats, and wooden sticks, among other things.⁵³ The victims were beaten and kicked in the face, ribs, chest, back, genitals, and head, among other places, and were often left with bleeding wounds.⁵⁴ Two people were hit directly in the ears and four were beaten heavily on the soles and heels of their feet.⁵⁵ At least six victims sustained injuries to the head and face which were bleeding.⁵⁶ Other injuries included the fracture of several fingers, the loss of toenails, the dislocation of shoulders, and fainting after forceful kicks to the genitals.⁵⁷
25. According to the CI, in eight of the incidents, 25 people were hung by their arms, either from a column or a pulley, while being hit with blunt objects and given electric shocks. They were also suffocated using plastic bags.⁵⁸ Several victims were hooded during these acts, increasing their sense of helplessness.⁵⁹ Furthermore, 21 victims were hung with their hands behind them which caused some of them to dislocate one or both shoulders.⁶⁰
26. The CI identified that 44 people were victims of electric shocks that were administered in different parts of their bodies including their elbows, knees, ribs, neck, and genitals.⁶¹ In addition, at least 20 people were doused with cold water prior to being tortured with electrical shocks.⁶²
27. Furthermore, 36 people experienced different methods of drowning.⁶³ For example, 35 people had their heads submerged in a container of water, or were left in storage tanks full of liquid.⁶⁴ Wet clothes were placed on some of the victims' faces while they were immobilized and while more water was poured on the cloth.⁶⁵ Two victims were forced to drink water in such large quantities that they eventually threw up.⁶⁶ Some victims were given electric shocks so that they regained consciousness after fainting, enabling the torture to continue.⁶⁷

28. Furthermore, at least 94 of the 141 total victims were subjected to some kind of suffocation.⁶⁸ The suffocation methods included: (1) the use of toxic gases that were funnelled directly into cells which were overcrowded and had poor ventilation, causing the victims to faint and vomit (45 people); (2) suffocation with plastic bags and toxic gases (55 people); (3) suffocation with plastic bags full of feces (28 people); (4) suffocation with direct toxic dust in the nose and mouth (1 person) and; (5) suffocation using a hand (1 person).⁶⁹ Most of the victims were repeatedly suffocated for hours and days, resulting in their ongoing loss of consciousness.⁷⁰
29. According to the CI, 33 victims were forced to remain in painful and uncomfortable positions for hours or days while handcuffed.⁷¹ The most common torture position was where detainees were forced to squat without moving.⁷² Detainees also frequently had one of their arms handcuffed to a bar of the cell, and their other arm handcuffed to their ankles, forcing them to remain standing.⁷³
30. Every complaint received by the CI in 2020 contained testimonies of psychological abuse.⁷⁴ In 16 cases, the victims received death threats against themselves and their relatives.⁷⁵ In 12 cases, the victims were deprived of sleep or rest.⁷⁶ Furthermore, several were forced to chant pro-government slogans.⁷⁷
31. Moreover, 18 cases alleged that 40 people were isolated in small cells with no bathroom, light or ventilation.⁷⁸ The victims lost their perception of time and developed an extreme sense of disorientation, as well as panic attacks, depression, and insomnia.⁷⁹ After their arrest, some were kept in these small cells while they were tied and hooded, and were not allowed to wash themselves or access containers or bags to relieve themselves.⁸⁰ In the first few days following their arrest, detainees reported that food was scarce and some reported that they did not receive food at all.⁸¹ Furthermore, several victims were forced to eat on the ground like animals while they remained handcuffed.⁸²
32. In 2020, the CI received reports that detailed new forms of torture.⁸³ In March and April 2020, for example, detainees allegedly heard the use of

sharp sounds throughout the night and day, causing them to experience insomnia and anxiety.⁸⁴ An extremely small punishment cell in basement 3 of the DGCIM headquarters in Boleíta was also allegedly used to punish detainees.⁸⁵ The cell's measurements are 60 cm x 60 cm x 2.75 meters, causing detainees in the cell to be immobilized and experience suffocation and fainting.⁸⁶ Notably, the cell does not have ventilation or light.⁸⁷ According to some victims, they had been kept in this "doll box" for three nights and four days in a row.⁸⁸

33. Another form of torture that was brought to the attention of the CI is the use of freezing, where political prisoners who are detained by the DGCIM are forced to lie on ice pans or bathe in icy water until they are hypothermic.⁸⁹
34. Furthermore, 11 victims reported that they were hooded and handcuffed while they were transferred from their place of detention—usually clandestine centers or headquarters of security agencies—to other faraway places.⁹⁰ While on their knees, the officials put a gun to their head, threatening to execute them.⁹¹ Sometimes, officials fired several gunshots into the air, causing temporary deafness, disorientation, and shock.⁹²
35. In 2020, the CI identified three clandestine torture centers: (1) a house transformed into a torture center in the Los Naranjos neighborhood, Baruta Municipality, Capital District; (2) a center in San Bernardino neighborhood, northwest of Caracas, used by the FAES Group and collectives; and (3) FAES Headquarters, west of Caracas, which is called "The House of Dreams III" and has twelve cells of about 2 x 3 meters with black walls, no natural light, no ventilation, and no bathroom.⁹³
36. The Venezuelan security force, GNB, was the most frequent perpetrator of torture in 2020, followed by the DGCIM and SEBIN.⁹⁴ Based on victims' direct testimonies in 2020, the CI has listed 20 officers of the intelligence agencies and FANB by name who have reportedly engaged in torture.⁹⁵
37. The government of Venezuela claims that by May 2020, the Attorney General carried out 361 investigations for torture and 9,951 investigations for ill-treatment. These investigations resulted in 517 State agents being

charged, 401 indicted, 167 deprived of their liberty and 26 convicted of torture and ill-treatment.⁹⁶ However, in light of the government's history of lying and cover-ups, it is fair to ask whether these charges, indictments, and convictions actually took place.

38. According to human rights group PROVEA, state security forces are suspected of having carried out up to 472 extrajudicial executions in the first quarter of 2021 alone.⁹⁷
39. Furthermore, the government shuts down radio stations and blocks television channels, independent news websites and the main social media platforms to prevent civil society from accessing information.⁹⁸ Many people have been arbitrarily arrested, detained, and criminally charged for their social media posts,⁹⁹ and extrajudicial executions of journalists have also taken place in the past year. On August 17, 2020, for example, FAES agents raided the home of journalist and political leader José Carmelo Bislick Acosta in the city of Guiria, killing him in the process.¹⁰⁰ Days later, on August 20, FAES also raided the home of journalists Andrés Eloy Nieves Zacarías and Víctor Torres, in the state of Zulia. The operation ended with both journalists being killed. Venezuelan authorities have yet to clarify the circumstances under which the operations took place, but human rights groups such as Reporters Without Borders strongly suspect that the killings were premeditated and in retribution for their journalistic work.¹⁰¹

RECOMMENDATIONS



Recommendations

40. HRF calls on Venezuela's government to:

- a. Abolish its draconian laws and eradicate its violent practices so that the State is in compliance with its international and domestic legal obligations.
- b. Prioritize the human rights situation in Venezuela by taking a human rights-based approach to promote the rights to freedom of expression and freedom of association. Opposition groups, journalists, and members of civil society must be able to operate in a climate without fear of reprisal, including through state-sanctioned violence.
- c. Allow independent experts to enter the country and report on the human rights situation on the ground, including investigating arbitrary detention, prison conditions, extrajudicial killings, and torture.
- d. Guarantee judicial independence in order to safeguard the rule of law and democracy. To end the regime's culture of corruption and impunity, the judiciary must be able to properly hold the perpetrators of gross human rights abuses to account.
- e. Ensure that elections are free and fair. The Venezuelan government must guarantee the independence of the electoral body, allow international and independent observers to participate in future electoral processes, and cease all forms of harassment and intimidation against political opponents, journalists, and members of civil society.
- f. Engage in constructive national dialogue with all political and social groups – particularly opposition groups – in Venezuela, in order to engage in conflict-analysis and progress towards peace and sustainability.

A person wearing a black balaclava and a high-visibility orange and black safety vest is holding a flag on a yellow pole. The flag has a blue top section with white stars and a red bottom section. The background is a blurred city street at night with some lights.

ENDNOTES

Endnotes

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- 36 *Id.*
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- 38 *Supra* note 30, at 25.
- 39 *Id.*
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61 *Supra* note 51, at 27-28.

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64 *Id.*

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79 *Id.*

80 *Id.*

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82 *Id.*

83 *Supra* note 51, at 17

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98 *Supra* note 9, at 28.

99 *Id.* at 29.

100 *El brutal asesinato de un dirigente chavista que denunció el negocio del combustible y las drogas: qué hicieron la policía y los funcionarios*, Infobae (Aug. 26, 2020), <https://www.infobae.com/america/venezuela/2020/08/26/el-brutal-asesinato-de-un-dirigente-chavista-que-denuncio-el-negocio-del-combustible-y-las-drogas-que-hicieron-la-policia-y-los-funcionarios/>.

101 *Asesinados los periodistas Andrés Eloy Nieves Zacarías y José Carmelo Bislick en apenas una semana*, Reporteros Sin Fronteras (Aug. 25, 2020), <https://www.rsf-es.org/venezuela-asesinados-los-periodistas-andres-eloy-nieves-zacarías-y-josé-carmelo-bislick-en- apenas-una-semana/>.