



# General Assembly

Distr.: General  
28 September 2020

English only

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## Human Rights Council

### Forty-fifth session

14 September–2 October 2020

Agenda item 5

### Human rights bodies and mechanisms

## Written statement\* submitted by United Nations Watch, a non-governmental organization in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[20 August 2020]


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\* Issued as received, in the language(s) of submission only.

GE.20-12618(E)



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## **New United Nations Human Rights Council (UNHRC) member Bolivarian Republic of Venezuela is in non-compliance with resolution 60/251**

The Bolivarian Republic of Venezuela (“Venezuela”) took its new seat on the Human Rights Council in January, elected less than one month after being “strongly condemned” by the Council, in resolution 42/25, for the government’s severe human rights abuses including “targeted repression and persecution on political grounds,” “excessive use of force during security operations,” as well as for “arbitrary detention, torture, ill-treatment, extrajudicial executions and enforced disappearances.”

Though one often hears the argument that it is normal for the United Nations to include all manner of countries on its Human Rights Council, even those who commit gross and systematic human rights abuses, the truth is that the presence of abusers on the Council undermines the Council’s legitimacy and contradicts its own charter.

According to UN General Assembly (GA) Resolution 60/251, which established the Council in 2006, General Assembly members are obliged to elect states to the Council by considering “the candidates’ contribution to the promotion and protection of human rights and their voluntary pledges and commitments made thereto.” The resolution further provides that consideration ought to be given to whether the candidate can meet membership obligations (a) “to uphold the highest standards in the promotion and protection of human rights” and (b) to “fully cooperate with the Council.”

More than half of the current members of the Council (24 out of 47 members) fail to meet the basic standards for democracy according to Freedom House.<sup>1</sup> These include some of the world’s worst human rights abusers: Eritrea, Mauritania and Qatar. These countries use their membership in the Council as a false badge of legitimacy in the international arena.

One such example is Venezuela, an authoritarian country ruled by President Nicolás Maduro who was reelected to a second six-year term in May 2018 in elections that were not considered free and fair.<sup>2</sup> Originally scheduled for December, the pro-government National Constituent Assembly moved up the date so as to prevent the opposition from organizing in time. A number of opposition parties were banned from participating. In addition, major opposition figures such as Leopoldo López and Henrique Capriles were disqualified from competing.<sup>3</sup> The flawed elections were widely criticized by the international community. In January 2019, as Maduro commenced his second term, opposition leader Juan Guaidó, President of the National Assembly, declared himself interim-president until free and fair elections could be held.<sup>4</sup>

There are no independent government institutions to act as a check on Maduro’s power.<sup>5</sup> In the last few years, President Maduro has taken steps to erode democracy in the country. After the opposition won a majority in the country’s legislature—the National Assembly—in 2015, the Maduro-controlled Supreme Tribunal of Justice repeatedly nullified legislation adopted by that body. Then, in 2017, Maduro effectively replaced the National Assembly with the National Constituent Assembly, a new body comprised of government supporters elected through an undemocratic process.<sup>6</sup> The opposition boycotted the elections to this new body which were criticized as unconstitutional.

<sup>1</sup> Freedom in the World 2019, Freedom House, <https://freedomhouse.org/report/countries-world-freedom-2019>.

<sup>2</sup> Freedom in the World 2019: Venezuela, Freedom House (2019), <https://freedomhouse.org/report/freedom-world/2019/venezuela>.

<sup>3</sup> Id.

<sup>4</sup> Joe Parkin Daniels, Venezuela: who is Juan Guaido, the man who declared himself president? The Guardian (January 23, 2019), <https://www.theguardian.com/world/2019/jan/15/juan-guaido-venezuelan-opposition-leader-challenging-maduros-rule>.

<sup>5</sup> Venezuela: Events of 2018, Human Rights Watch (2019) [Hereinafter “Human Rights Watch Venezuela 2019”], <https://www.hrw.org/world-report/2019/country-chapters/venezuela>.

<sup>6</sup> Freedom in the World 2019: Venezuela, supra note 2.

The government routinely targets opposition leaders, including by imprisoning them and preventing them from participating in elections. According to a Council report published in July 2019, since 2016, the Venezuelan government has implemented a strategy “aimed at neutralizing, repressing and criminalizing political opponents and people critical of the Government.”<sup>7</sup> Opposition leader Leopoldo López spent three years in prison and is still under house arrest. In March 2018, his home was raided after the New York Times published an article based on secret interviews with López.<sup>8</sup>

On June 29, 2019, retired navy Captain Rafael Acosta Arévalo died in custody, one day after he was brought before a military tribunal in a wheelchair and unable to speak showing visible signs of torture. Prior to that, he had been detained by armed men and held incommunicado for seven days.<sup>9</sup> UN High Commissioner for Human Rights Michelle Bachelet said she was shocked by the alleged torture and urged authorities to investigate the death.<sup>10</sup> Two opposition leaders were arrested in 2018 on suspicion of being involved in an assassination attempt on Maduro. One of them—Caracas councilman Fernando Albán—was arrested on his return from an advocacy trip to the UN in New York and died in custody.<sup>11</sup> Both are believed to have been tortured.<sup>12</sup>

In 2017, the government fired Attorney General Luisa Ortega Díaz who had been investigating allegations of human rights violations by government officials. She immediately fled the country fearing for her life.<sup>13</sup>

According to the non-governmental organization Foro Penal, as of April 2019 there were more than 900 political prisoners across Venezuela.<sup>14</sup> Due process violations are commonplace, including arbitrary detention for extended periods without criminal charges. Furthermore, the judiciary lacks independence, generally rules in favour of the government and is plagued by corruption.<sup>15</sup>

Various laws are used to stifle free speech, including the vaguely-worded Constitutional Law against Hate for Political Coexistence and Tolerance which carries penalties of up to 20 years in prison, and a law prohibiting inaccurate reporting that disturbs the public peace.<sup>16</sup> Independent journalists in the Venezuela suffer from intimidation, harassment, assault, and arrest.<sup>17</sup> Human rights activists also are subjected to harassments and threats.

Freedom of association is not respected. After Guaidó declared himself interim-president, Venezuelans took to the streets in a series of mass protests between January and May 2019. The government responded violently. In one week in January alone, more than 1000 people

<sup>7</sup> <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=24788&LangID=E>.

<sup>8</sup> Freedom in the World 2019: Venezuela, *supra* note 2.

<sup>9</sup> UN Human Rights report on Venezuela urges immediate measures to halt and remedy grave rights violations, Office of the UN High Commissioner for Human Rights (OHCHR) (July 4, 2019), <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=24770&LangID=E>.

<sup>10</sup> *Id.*

<sup>11</sup> 2018 Country Reports on Human Rights Practices: Venezuela, United States of America Department of State (March 13, 2019) [Hereinafter “State Department Report Venezuela 2019”], <https://www.state.gov/reports/2018-country-reports-on-human-rights-practices/venezuela/>.

<sup>12</sup> Freedom in the World 2019: Venezuela, *supra* note 2.

<sup>13</sup> Hugh Bronstein and Julia Symmes Cobb, Venezuela faces outrage after new assembly takes legislative power, Reuters (August 18, 2017), <https://www.reuters.com/article/us-venezuela-politics/venezuela-faces-outrage-after-new-assembly-takes-legislative-power-idUSKCN1AY1VM>.

<sup>14</sup> Arelis R. Hernandez and Mariana Zuniga, Political detentions climbing amid worsening Venezuela crisis, Washington Post (April 12, 2019), [https://www.washingtonpost.com/world/political-detentions-climbing-amid-worsening-venezuela-crisis/2019/04/12/f52e0b7a-5cc8-11e9-98d4-844088d135f2\\_story.html](https://www.washingtonpost.com/world/political-detentions-climbing-amid-worsening-venezuela-crisis/2019/04/12/f52e0b7a-5cc8-11e9-98d4-844088d135f2_story.html).

<sup>15</sup> State Department Report Venezuela 2019, *supra* note 11.

<sup>16</sup> *Id.*

<sup>17</sup> John Otis, Venezuela’s intimidation tactics include arbitrary arrests, deportation, Committee to Protect Journalists (March 29, 2019), <https://cpj.org/blog/2019/03/venezuela-crisis-detained-journalist-weddle-maduro.php>.

were arbitrarily detained and at least 26 people were killed.<sup>18</sup> According to government figures 1569 people were killed between January and May 2019 for “resistance to authority,” during government security operations.<sup>19</sup> Observers have called this the worst crackdown in twenty years.<sup>20</sup>

It follows the government’s brutal crackdown on protesters in May 2017 which resulted in 136 deaths and 1900 injured.<sup>21</sup> In the wake of those protests, Maduro created a special division of the criminal police to quash those participating in the protests. Between May and November 2017, this special unit committed 31% of the police killings.<sup>22</sup> According to Human Rights Watch, more than 12500 people have been arrested since 2014 in connection with anti-government protests, and many were prosecuted in military court in violation of international law.<sup>23</sup>

In addition to these violations of civil and political rights, Venezuelans are suffering from a major economic crisis characterized by mass hunger, epidemics and shortages of basic food and medicine. As of March 2018, it was estimated that 17% of children under five were suffering moderate to severe malnutrition.<sup>24</sup> According to the UN High Commissioner for Refugees, the number of Venezuelans leaving the country had topped four million by mid-2019.<sup>25</sup> The UN Office of Coordination of Humanitarian Affairs estimates that seven million Venezuelans need humanitarian assistance.<sup>26</sup>

For all of these reasons, Venezuela does not satisfy the criteria for membership on the Human Rights Council.

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<sup>18</sup> Venezuela: UN experts condemn widespread rights violations reported during protests, OHCHR (March 21, 2019), <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=24386&LangID=E>.

<sup>19</sup> Nick Cumming-Bruce, Venezuela Forces Killed Thousands Then Covered it Up, U.N. Says, *New York Times* (July 4, 2019), <https://www.nytimes.com/2019/07/04/world/americas/venezuela-police-abuses.html>.

<sup>20</sup> Arelis R. Hernandez and Mariana Zuniga, Political detentions climbing amid worsening Venezuela crisis, *Washington Post* (April 12, 2019), [https://www.washingtonpost.com/world/political-detentions-climbing-amid-worsening-venezuela-crisis/2019/04/12/f52e0b7a-5cc8-11e9-98d4-844088d135f2\\_story.html](https://www.washingtonpost.com/world/political-detentions-climbing-amid-worsening-venezuela-crisis/2019/04/12/f52e0b7a-5cc8-11e9-98d4-844088d135f2_story.html).

<sup>21</sup> Freedom in the World 2019: Venezuela, *supra* note 2.

<sup>22</sup> Oral Update on the Human Rights Situation in the Bolivarian Republic of Venezuela, OHCHR (September 9, 2019), <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=24958&LangID=E>.

<sup>23</sup> Human Rights Watch Venezuela 2019, *supra* note 5.

<sup>24</sup> *Id.*

<sup>25</sup> Refugees and migrants from Venezuela top 4 million: UNHCR and IOM, Office of the UN High Commissioner for Refugees (June 7, 2019), <https://www.unhcr.org/news/press/2019/6/5cfa2a4a4/refugees-migrants-venezuela-top-4-million-unhcr-iom.html>.

<sup>26</sup> Enhanced Interactive dialogue on the situation of human rights in the Bolivarian Republic of Venezuela, OHCHR (July 5, 2019), <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=24795&LangID=E>.