



Human Rights Council
Working Group on Arbitrary Detention**Opinions adopted by the Working Group on Arbitrary Detention at its ninety-seventh session, 28 August–1 September 2023****Opinion No. 33/2023 concerning Ayben Huaranca Murillo (Plurinational State of Bolivia)**

1. The Working Group on Arbitrary Detention was established in resolution 1991/42 of the Commission on Human Rights. In its resolution 1997/50, the Commission extended and clarified the mandate of the Working Group. Pursuant to General Assembly resolution 60/251 and Human Rights Council decision 1/102, the Council assumed the mandate of the Commission. The Council most recently extended the mandate of the Working Group for a three-year period in its resolution 51/8.

2. In accordance with its methods of work,¹ on 3 December 2021 the Working Group transmitted to the Government of the Plurinational State of Bolivia a communication concerning Ayben Huaranca Murillo. The Government replied to the communication on 3 March 2022. The State is a party to the International Covenant on Civil and Political Rights.

3. The Working Group regards deprivation of liberty as arbitrary in the following cases:

(a) When it is clearly impossible to invoke any legal basis justifying the deprivation of liberty (as when a person is kept in detention after the completion of his or her sentence or despite an amnesty law applicable to him or her) (category I);

(b) When the deprivation of liberty results from the exercise of the rights or freedoms guaranteed by articles 7, 13, 14, 18, 19, 20 and 21 of the Universal Declaration of Human Rights and, insofar as States parties are concerned, by articles 12, 18, 19, 21, 22, 25, 26 and 27 of the Covenant (category II);

(c) When the total or partial non-observance of the international norms relating to the right to a fair trial, established in the Universal Declaration of Human Rights and in the relevant international instruments accepted by the States concerned, is of such gravity as to give the deprivation of liberty an arbitrary character (category III);

(d) When asylum-seekers, immigrants or refugees are subjected to prolonged administrative custody without the possibility of administrative or judicial review or remedy (category IV);

(e) When the deprivation of liberty constitutes a violation of international law on the grounds of discrimination based on birth, national, ethnic or social origin, language, religion, economic condition, political or other opinion, gender, sexual orientation, disability,

¹ [A/HRC/36/38](#).



or any other status, that aims towards or can result in ignoring the equality of human beings (category V).

1. Submissions

(a) Communication from the source

4. Ayben Huaranca Murillo is a national of the Plurinational State of Bolivia, a nurse by profession and is habitually resident in La Paz. From October 2016 until his arrest in November 2019, he worked at the Mother-Child Hospital of the National Health Fund in La Paz.

(i) Context

5. The source explains that the complaint is set against the backdrop of the political and social crisis that began in October 2019, during the presidential elections, in which Evo Morales Ayma was running for his third term as President of the Plurinational State of Bolivia, which had been authorized at final instance by the Electoral Court.

6. On 20 October 2019, the presidential elections took place and, on 26 October, it was announced that Mr. Morales Ayma had won the first round of the election. This announcement was followed by numerous violent protests and controversial statements by political leaders.

7. On 10 November 2019, the Electoral Observation Mission of the Organization of American States recommended that the elections be held again because it had found strong evidence of fraud. That same morning, the President, Evo Morales Ayma, made a public pronouncement in which he agreed to hold new elections. Subsequently, the Commander in Chief of the Armed Forces suggested to the President that he tender his resignation. That same evening, the President resigned. Subsequently, the Vice-President, the Presidents of the Chamber of Senators and the President of the Chamber of Deputies also resigned. Thus, the second Vice-President of the Senate, Jeanine Áñez Chávez, took over as interim President.

8. The inauguration of the interim President sparked additional demonstrations and protests, which were violently repressed by the police and the armed forces. Reports indicate that approximately 36 people died, more than 800 people were injured and at least 624 people were arrested as a result of these events.

9. On 15 November 2019, the interim President issued Supreme Decree No. 4.078, which attracted strong criticism at home and abroad and led to a surge in protests and exacerbated social polarization. On 19 November 2019, during another social protest, a massacre occurred in Senkata, a town in district 8 of the city of El Alto, in which 11 people were killed and others were injured and arrested.

(ii) Arrest and detention

10. On 19 November 2019, Mr. Huaranca Murillo left his home to go to work at around 10 a.m. His route to work involved passing the plant of the Bolivian State-run oil company (Yacimientos Petrolíferos Fiscales Bolivianos) in Senkata. As he approached the plant, he saw a large crowd of people fleeing the premises as soldiers sprayed tear gas and opened fire from helicopters. He heard people screaming that people had been injured. As he was a nurse, Mr. Huaranca Murillo immediately went to offer his assistance. One injured person had a gunshot wound to the chest and was bleeding heavily. Mr. Huaranca Murillo performed several manoeuvres in an attempt to save the injured man and called for help, but he died 15 minutes later. This incident was filmed and the video was uploaded to social networks.

11. Meanwhile, the soldiers again used tear gas against the demonstrators. Mr. Huaranca Murillo begged the police officers to call for an ambulance, but they refused and threatened to arrest him. Mr. Huaranca Murillo formally identified himself as a nurse, at which time an ambulance arrived and took the body away.

12. The source reports that they made heavy use of tear gas and that the number of injured persons increased. As he was unable to help everyone, Mr. Huaranca Murillo asked for a white cloth to use as a flag, went to the place where the soldiers were and asked them to stop

the violence. They threatened him, saying that if he did not get out of the way, he would die. Mr. Huaranca Murillo turned around and, when he was approximately 10m away, he heard a bang. A bullet had struck a young man in front of him, who died immediately.

13. In these circumstances, Mr. Huaranca Murillo tried to help the wounded by setting up a make-shift medical care area with other volunteers, and remained at the scene until around 6.30 p.m.

14. When he arrived home, his family warned him that the police had publicly stated that he had impersonated a police officer and a soldier. In addition, some government authorities, including the Minister of Defence, claimed that the Senkata protesters were terrorists and criminals. The following day, as part of a smear campaign, television media outlets interviewed doctors who accused Mr. Huaranca Murillo of having faked resuscitation manoeuvres. In addition, a video was circulated in which he allegedly appeared dressed as a police officer, even though the person in the video has his entire face covered except for his eyes, making it impossible to identify him.

15. On account of this complex and confusing situation, the following day, on 20 November 2019, Mr. Huaranca Murillo decided to make a public statement regarding the accusations and, to this end, approached the Ombudsman's Office and the Legislative Assembly. However, he was told that they could not help him, and that the events had been politicized. He also attempted to appear before the media.

16. Also on 20 November 2019, after having attempted to clarify the situation, Mr. Huaranca Murillo went to work at the hospital. At around 1.20 p.m., two plain-clothed police officers asked him to accompany them to testify about the events of the previous day. He was not shown an arrest warrant or any other official document. He was taken in a taxi, paid for by the police officers, to the offices of the Crime Squad. When he saw him, a colonel asked the police officers why "this terrorist" was not handcuffed and ordered the police officers to make him talk. According to the preventive police action report of 20 November 2019, drawn up by officers of the La Paz security battalion, they allegedly became aware of the case after videos in which Mr. Huaranca Murillo was seen inciting criminal activity had been disseminated on social networks. This is why they went to his place of work.

17. The officers reportedly took Mr. Huaranca Murillo to a corridor inside the police facility and handcuffed him to an iron pipe. Several plain-clothed police officers, different to those who had arrested him but who were wearing their police badges, arrived. He was not allowed to look up and make eye contact with them. At that moment a violent interrogation began, during which they demanded that he confess who had paid him to be in Senkata on 19 November and admit that he was a member of the Movimiento al Socialismo party. Mr. Huaranca Murillo repeatedly replied that he had only tended to the wounded. They threatened him in order to make him confess because, otherwise, "things would be worse for him". They showed him some photos and demanded that he identify the leaders appearing in them. Again, Mr. Huaranca Murillo told them that he had only tended to the wounded because he was a nurse. They started to beat him, kicking him hard, punching him in the face and threatening to kill him.

18. According to the source, they shouted at Mr. Huaranca Murillo saying that he was a fake doctor, a fake soldier and fake police officer, and demanded that he admit that he had been paid by the Movimiento al Socialismo party. He was punched and kicked in the ribs. This situation of alleged torture lasted between two and three hours, until someone came in and said that journalists had arrived. They took him out in handcuffs and told him not to say anything because, if he spoke, they would beat him when he returned. He walked out with four plain-clothed police officers.

19. Still on 20 November 2019, at around 5 p.m. Mr. Huaranca Murillo was reportedly transported, along with the plain-clothed police officers, to the home of the on-duty prosecutor before they all travelled to Mr. Huaranca Murillo's place of work. They asked him to go to his locker, undress completely in front of them and struck him on the chest. The prosecutor allegedly saw everything that happened and even laughed. The police officers opened his locker and found work clothes and some prescriptions. They allowed him to get dressed and handcuffed him again. At that point, he still did not know why he was being

detained and he was not allowed to communicate with his family or his lawyer. He was subjected to threats throughout.

20. After leaving the hospital, they allegedly returned to the offices of the Crime Squad and resumed the interrogation, during which they told him that they would release him if he identified the leaders in the photos. He repeatedly replied that he did not know anything. Another police officer entered and immediately beat him and told him that, as he did not wish to talk, “he was a dead man”. Officials from the Forensic Investigation Institute took samples from his hands and threatened him with a scalpel blade to make him talk or else they would cut off his hands. According to the information received, the physical and psychological torture was so intense that, at one point, Mr. Huaranca Murillo asked the officials to kill him.

21. They took him to have his fingerprints taken, still without informing him why he was being detained, and continued to threaten him with death if he did not talk and confess. At night they put him in an empty cell where he slept on the cement, without food, water, a bed or a blanket. In addition, he was not allowed to call his family or a lawyer. Lastly, the following day, at around 7 a.m. – about 18 hours after his arrest at the hospital – he was allowed to communicate with his lawyer.

22. The next day he was subjected to another interrogation. Again, two police officers told him that he had impersonated a soldier, showed him photos and forced him to say who the leaders were. When he did not respond, he was punched in the face. The beating was so severe that one of his teeth was knocked out. As he was unresponsive, they kept striking him until another tooth came out. They even began to threaten to persecute his family.

23. In the meantime, Mr. Huaranca Murillo’s relatives had learned on the night of 20 November 2019 that he had been arrested because the story had been picked up by several media outlets. At 8 a.m. on 21 November, they went to the offices of the Crime Squad and Mr. Huaranca Murillo was able to meet with his family. The police told Mr. Huaranca Murillo that he was to testify at 8.30 a.m., even though they did not yet have an arrest warrant and he had not yet met with a lawyer in person. They pressured him into testifying and told him that, if he did not have a lawyer, they would provide him with a court-appointed one. At 10 a.m., he went to testify accompanied by a lawyer that his family had managed to find. Before he gave his testimony, when the police saw that he had a lawyer, they threatened him to prevent him from talking about the beatings.

(iii) *Trial proceedings*

24. The source reports that, at around 10.30 a.m. on 21 November 2019, 21 hours after his arrest, the Public Prosecution Service charged Mr. Huaranca Murillo with public incitement to commit a crime, sedition and terrorism, for:

“Acting and using social media publicly to incite the population to commit crimes in order to capitalize on the social unrest in the country and for acting maliciously by causing disturbances through seditious messages linked to the crime of terrorism.”

Apparently, this was the only ground adduced for the charges; no facts were provided and the terrorist group to which he supposedly belonged, the videos that he allegedly made and what he reportedly said in those videos, or any other important event for that matter, were not specified.

25. The source alleges that the reported grounds for the charges brought against Mr. Huaranca Murillo do not disclose any concrete fact or piece of evidence that might give rise to criminal liability, rather mention is made only of the three crimes imputed to him. The Public Prosecution Service also failed to identify the videos on the basis of which it had brought the charges. The videos circulating on social networks do not contain any conduct that sheds light on the nature of the alleged crimes.

26. On 13 December 2019, the prosecutor assigned to the case made a formal request to the Supreme Electoral Court for information as to whether Mr. Huaranca Murillo belonged to any political party. She did this even though he had already been formally charged with the crime of terrorism, which required him to be “associated” with a terrorist organization. However, at no time did the prosecutor’s office name this alleged terrorist organization.

27. The source claims that the criminal case is an act of manipulation and a judicial persecution because Mr. Huaranca Murillo helped injured people, was a witness to the Senkata massacre and publicly denounced this type of violence, which police officers and soldiers have continued to carry out against people who speak out against the Government. The repeated efforts to link the victim to a political party reflect the authorities' use of the case for political ends and their quest to undermine and silence a witness to the grave human rights violations that occurred in Senkata.

28. The three criminal offences invoked are those established in articles 130 (public incitement to commit a crime), 123 (sedition) and 133 (terrorism) of the Criminal Code and the Code of Criminal Procedure of the Plurinational State of Bolivia.

29. According to the source, on 22 November 2019, at 8.30 a.m., Mr. Huaranca Murillo's precautionary measures hearing took place, during which he demonstrated that he was settled in the country, worked there, had his residence there and raised his family there and could therefore fight the charges against him at liberty, and that he did not represent a flight risk. At the hearing, the Ministry of Communication, as the complainant, showed a compact disc that allegedly contained evidence of his criminal liability although, up until that moment, Mr. Huaranca Murillo had not had access to such evidence. For its part, the prosecutor's office did not submit a single piece of evidence regarding his criminal liability, rather it showed only original documents belonging to Mr. Huaranca Murillo, including documents related to his profession, arguing that they were forged without providing a justification for such an allegation. Mr. Huaranca Murillo's defence counsel stated that, under national law, all evidence should be submitted to the judge 12 hours before and not at the hearing itself.

30. Although there was no legal basis to justify it, the judge ordered the pretrial detention of Mr. Huaranca Murillo in San Pedro prison. His defence counsel appealed the decision. On 22 November, several media outlets were present, to which Mr. Huaranca Murillo reiterated that he was innocent. However, the media outlets that disseminated information about his case continued to refer to him as "the fake doctor", even though none of the charges had been proven and no conviction had been handed down.

31. At 7 a.m. on 23 November, Mr. Huaranca Murillo was transferred from the judicial cells to the wing of San Pedro prison called Posta, where he was beaten by fellow prisoners. On the orders of the senior police officers in charge of the prison, he was placed inside a mattress and made to walk through the middle of the prisoners so that they could beat him. He was taken to a room where he was kicked in the chest. They forced him to do exercises and, when he could not, they kicked him repeatedly. He fell to the floor, still inside the mattress. He was badly injured by the beatings. He was then taken to a punishment cell called "la muralla". He was crammed inside a small cell with no air or natural light and without any sanitary facilities. Due to all the ill-treatment that he had suffered, Mr. Huaranca Murillo contemplated suicide.

32. Following a request filed by Mr. Huaranca Murillo's defence counsel, on 11 December 2019, the Second Criminal Chamber of the Departmental Court of Justice agreed to grant house arrest. The judge ordered that a police escort detail should be stationed at his home, that he should register his biometric signature on Mondays and Fridays and that two guarantors should be appointed. He also ordered him to stay away from the Senkata area and his place of work, among other restrictions.

33. The end-of-year court recess took place between 11 December 2019 and 6 January 2020, with the result that the hearing for the modification of the alternative measures did not take place until January 2020. On 6 January 2020, by decision No. 4/2020, the judge ordered that an official letter be sent to the governor of the prison where Mr. Huaranca Murillo was being held requesting him to provide two police officers to guard the home where he would be held under house arrest. On 16 January, the external security officer of San Pedro prison submitted a report on the checks carried out on Mr. Huaranca Murillo's home. The report states that the home "does not comply with the minimum security requirements for the police guard", since the 2m perimeter wall of his house was not high enough and it had no security cameras or burglar alarm system. These requirements are not usually requested for persons who are to be placed under house arrest. Based on this report, on 23 January, the judge ordered that, within 24 hours, Mr. Huaranca Murillo's family should prepare a room in their

house for the guards to live in. Thus, his family was being required to comply with the requirements laid down in the report within an unrealistic time frame.

34. On 28 January 2020, in a hearing to consider whether to modify the alternative measures before Criminal Investigation Court No. 5, Mr. Huaranca Murillo's defence counsel explained that the family did not have the means necessary to make all the modifications required by the report and, therefore, requested that he be allowed to remain under house arrest without a police escort detail.

35. The judge at Criminal Investigation Court No. 5, by decision No. 31/2020 of 28 January 2020, refused to modify the measure of house arrest to house arrest without a police escort detail. According to the judge, the defence counsel was unable to explain the reasons why the family could not make the modifications and purchases required by the report. Mr. Huaranca Murillo's lawyers appealed this decision.

36. On 2 April 2020, a petition of habeas corpus was filed against the departmental unit of the police and the governor of San Pedro prison, both of which come under the authority of the Ministry of the Interior, calling for Mr. Huaranca Murillo to be placed under house arrest. The Second Constitutional Chamber of the Departmental Court of La Paz, by a ruling of 9 April 2020, ordered San Pedro prison to submit the internal regulations and/or protocol or rules laying down the requirements established in the report of 16 January 2020.

37. In view of this, the departmental unit and the prison governor ordered the deployment of guards to supervise the house arrest of Mr. Huaranca Murillo, without any structural changes having been made to his home, and he was placed under house arrest on 17 April 2020. This suggests that the alleged protocol did not exist and that the requirement to modify his home was simply a delaying tactic, meaning that Mr. Huaranca Murillo was arbitrarily and unlawfully detained in a prison for more than four months. Since Mr. Huaranca Murillo was placed under house arrest on 17 April 2020, it has been impossible for him to work and generate an income. From 22 March to 13 July 2020, owing to the coronavirus disease (COVID-19) pandemic, a mandatory quarantine was imposed in the Plurinational State of Bolivia, with the result that the courts received only petitions for habeas corpus and precautionary measures.

38. Mr. Huaranca Murillo has not worked or received a salary to support his family since 20 November 2019. To request the relaxation or lifting of a measure of house arrest in order to allow the person subject to the measure to work, an employment contract is required, which, in the present case, was impossible to obtain as he could not leave his home. In addition, he was prohibited from working at the hospital where he had previously worked as a nurse. The source indicates that the criminal case against Mr. Huaranca Murillo has had very serious emotional and financial consequences for him and his family.

39. Mr. Huaranca Murillo was released from house arrest on 16 August 2021, as the Public Prosecution Service had requested the charges to be withdrawn on account of there being insufficient evidence, which entailed the dismissal of the case.

40. The source argues that, for wishing to help the people injured in the massacre and for denouncing the violations that he witnessed, Mr. Huaranca Murillo ended up being charged with crimes in an unlawful and arbitrary manner and still does not enjoy the protection of the State in his current situation. He was also held in pretrial detention for several months for no reason, as he was free to stand trial, in violation of the principle of presumption of innocence. His case is arguably an example of the way in which the authorities persecute, intimidate and silence persons who represent a political threat, particularly those who denounce serious human rights violations.

(iv) *Legal analysis*

41. According to the source, Mr. Huaranca Murillo was arbitrarily detained and his case falls under categories I, II, III and V of the Working Group.

a. Categories I and V

42. The source recalls that there is a link between arbitrary detention and torture and ill-treatment, and that torture is frequently used to extract confessions for use in trials.² Thus, the source insists that confessions extracted through torture or ill-treatment, and subsequently admitted as evidence, have led to arbitrary detentions, as this entails the denial of a fair trial.³ Extracting confessions through torture constitutes a violation of article 15 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

43. The source indicates that, although Mr. Huaranca Murillo was not part of the demonstration of 19 November 2019, by performing his duty as a nurse to assist injured persons in that context, he was exercising his rights to freedom of peaceful assembly and freedom of expression. In fact, he was arrested because of a video in which he asks for medical assistance and denounces, in his capacity as a witness, the unfolding massacre.

44. Mr. Huaranca Murillo was arrested on 20 November 2019 at his place of work by persons wearing civilian clothing who were not in possession of a warrant; he was not brought before a judge immediately to have his detention reviewed and did not have immediate access to his lawyer. He was taken to the offices of the Crime Squad, where he was secretly detained for more than 20 hours, without being informed of the reasons for his arrest. He was physically and psychologically tortured on three different occasions, and accused throughout of being an activist in the Movimiento al Socialismo party. The entire interrogation was focused on torturing him into confessing false facts, which formed the basis of the criminal proceedings. Then, when he finally had access to a lawyer, the police threatened him to prevent him from revealing that he had been tortured. Therefore, the source considers Mr. Huaranca Murillo's detention to be arbitrary also under category V.

45. The source reiterates the extreme seriousness of the fact that, despite the judge's having ordered on 11 December 2019 that Mr. Huaranca Murillo be placed under house arrest, the officials in charge of providing a police escort detail for his home did not allow it. Moreover, the protocol under which the police kept him in pretrial detention for more than four months was never submitted.

46. In addition to his unlawful and arbitrary arrest and detention since 20 November 2019, Mr. Huaranca Murillo was unlawfully detained in a prison from 11 December 2019 until 17 April 2020. His pretrial detention was intrinsically unlawful on account of his being unjustifiably charged with three crimes, the pretrial detention measure being imposed without a legal basis and the fact that, once the judge had already lawfully ordered that he should be placed under house arrest, he was not allowed to modify the measure.

47. The source recalls that the principle of legality "requires that laws be formulated with sufficient precision so that the individual can access and understand the law and regulate his or her conduct accordingly".⁴ Furthermore, "vague and imprecisely worded laws jeopardize the fundamental rights of those who wish to exercise their right to hold an opinion or exercise their freedoms of expression, of the press, of assembly and of religion, as well as to defend human rights, and that such laws are likely to result in arbitrary deprivation of liberty".⁵

48. Mr. Huaranca Murillo was placed in pretrial detention and charged with sedition, public incitement to commit a crime and terrorism without the Public Prosecution Service having clarified the specific acts or activities justifying his being charged with these crimes. Conspicuously absent from the formal indictment was a basic description of the facts allegedly giving rise to his criminal liability; it is clear that the prosecutor merely tried to include in the reasons for the indictment language related to the crime, such as "incited to commit a crime", "sedition" or "terrorist", without providing further clarification. Moreover, the crimes of "sedition" and "terrorism" are so vague and broad that they do not have a specific legal basis and give rise to open interpretations and unpredictable charges, as has

² A/HRC/39/45, para. 59.

³ Ibid., para. 62.

⁴ Opinion No. 62/2018, para. 57.

⁵ Ibid., para. 58.

occurred in the present case. The indictment of the Public Prosecution Service never indicates to which terrorist organization Mr. Huaranca Murillo allegedly belongs.

49. The Office of the Special Rapporteur for Freedom of Expression of the Inter-American Commission on Human Rights has stated that:

“The criminalization of speech relating to terrorism should be restricted to instances of intentional incitement to terrorism, understood as a direct call to engage in terrorism which is directly responsible for increasing the likelihood of a terrorist act occurring, or to actual participation in terrorist acts (for example by directing them).”⁶

50. The Office of the Special Rapporteur for Freedom of Expression has also drawn attention to the concept of “instigation to commit crimes”. It has stated that “this concept has been used to criminalize social leaders on the grounds that they organized protests for which, since they were not present, they could not be prosecuted as direct perpetrators”.⁷

51. In addition, the source alleges that the principle of innocence has been violated on account of the statements of high-ranking officials in which the persons who attended the march and were present at the Senkata massacre were described as “terrorists”.

52. The source concludes by requesting the Working Group to find that Mr. Huaranca Murillo’s detention was arbitrary and, consequently, to request the State to provide appropriate reparation.

b. Category II

53. Social protest is a core method of petitioning the authorities, one of the most effective collective forms of expression and a channel for complaints of human rights violations. The right to social protest and to participate in public demonstrations flows from the recognition of a set of other rights enshrined in several international treaties.

54. According to the Office of the Special Rapporteur for Freedom of Expression of the Inter-American Commission on Human Rights, the inter-American system “acknowledged the relationship between political rights, freedom of expression, freedom of assembly, and freedom of association, and that these rights, taken together, make the democratic process possible”.⁸ Similarly, the Inter-American Commission on Human Rights has stated that “States are obliged to guarantee and facilitate the exercise of the human rights at stake during demonstrations and protests, and to implement measures and mechanisms to ensure that those rights can be exercised in practice, rather than hindered”.⁹

55. The Senkata massacre took place in the midst of an anti-government protest. Although Mr. Huaranca Murillo was not directly involved in the protest, he was present to provide medical assistance to the injured. In addition, in the midst of the intense violence, he took to social networks to ask for help and to denounce what he was seeing as a witness to the massacre. The criminal indictment made reference to a video uploaded to social networks, although the prosecutor’s office does not mention its content at any time. This is the video in which Mr. Huaranca Murillo asks for help and denounces the violence. The use of social networks to denounce what was happening in real time at the massacre was the reason for the criminal charges brought.

56. Therefore, the source considers that Mr. Huaranca Murillo’s detention was arbitrary under category II, having been imposed as a form of repression and punishment for his having exercised his rights to freedom of expression and freedom of assembly.

⁶ “Annual Report of the Inter-American Commission on Human Rights 2013, Annual Report of the Office of the Special Rapporteur for Freedom of Expression,” OEA/SER.L/V/II.149. Doc.50, 31 December 2013, para. 391.

⁷ “Protest and Human Rights: Standards on the rights involved in social protest and the obligations to guide the response of the State,” OEA/SER.L/V/II, CIDH/RELE/INF.22/19, September 2019, para. 212.

⁸ *Ibid.*, para. 17.

⁹ *Ibid.*, para. 28.

c. Category III

57. The source cannot but express serious concern about the fact that Mr. Huaranca Murillo was detained in a prison for more than four months, despite his having been granted house arrest, and that this was due to a non-existent protocol under which he was prevented from availing himself of this less restrictive modality. This clearly shows that it was and continues to be the State's intention to keep him in pretrial detention and to intimidate him. However, thanks to the pressure exerted by Mr. Huaranca Murillo's lawyers, he was placed under house arrest without having to make costly and arbitrary modifications to his home.

58. Therefore, the source considers that, although Mr. Huaranca Murillo's detention situation is different to that of persons in pretrial detention, as he has been kept under house arrest, that fact does not make it any less arbitrary. The detention has already had enormous repercussions for him and his family.

(b) Response from the Government

59. The Working Group transmitted the source's allegations to the Government on 3 December 2021, and requested it to provide detailed information on the case of Mr. Huaranca Murillo by 1 February 2022. The Government requested an extension of the time limit for its response, which was granted. The Working Group received the Government's response on 3 March 2022, within the established deadline.

60. In its response, the Government describes the political context in which Mr. Huaranca Murillo was arrested. After a period of social, economic and political progress for the historically excluded population, presidential elections took place on 20 October 2019. The Supreme Electoral Court published the official election results, according to which the Movimiento al Socialismo-Instrumento Político por la Soberanía de los Pueblos party of Evo Morales Ayma had won. At that time, an atmosphere of conflict prevailed in the Plurinational State of Bolivia, which, fuelled by the media, had a tendency to spiral out of control.

61. In this context, sinister acts, intimidation and widespread and premeditated violence by civilians and paramilitary groups took place, which sparked a breakdown in the constitutional order that would lead to the coup d'état. Thus, on 10 November 2019, Evo Morales resigned from his position as constitutional President, which caused vulnerable sectors of the population to come out in protest.

62. The de facto Government installed by Jeanine Áñez ordered the preparation of a plan consisting of joint political-military operations to repress the protesting sectors. Thus, on 19 November 2019, these joint forces travelled to Senkata and began an operation to supply fuel to the city of La Paz. According to testimonies gathered by the Ombudsman's Office, although the residents of Senkata were present at the protest, not all of them took part, and the joint forces took indiscriminate action to repress the protest while ignoring the fact that many people were just passing through. It is against this backdrop that the events involving Mr. Huaranca Murillo occurred: he was at the scene of the conflict and, in view of the circumstances and the fact that he was a professional nurse, provided assistance to the wounded.

63. The Government adds what the United Nations High Commissioner for Human Rights said about the events in Senkata: "I condemn these killings. This is an extremely dangerous development as, far from quelling the violence, it is likely to make it much worse". She also stated that: "while the earlier deaths were mostly the result of violent confrontations between rival protesters, the most recent ones appear to be the result of unnecessary or disproportionate use of force by the police and army".¹⁰

64. The Government states that the above is evidence that the de facto Government of Jeanine Áñez was characterized as repressive owing to the disproportionate and discretionary use of force and for using a stigmatizing discourse against the protesters, which promoted the

¹⁰ See <https://www.ohchr.org/en/press-releases/2019/11/bachelet-says-repression-well-unnecessary-and-disproportionate-use-force?LangID=E&NewsID=25305>.

political persecution of the Movimiento al Socialismo-Instrumento Político por la Soberanía de los Pueblos party and the leaders of social organizations.

65. The Government informs the Working Group that a review of Mr. Huaranca Murillo's detention shows that the case was initiated ex officio by the Departmental Prosecutor's Office of La Paz, and that he was accused of committing the crimes of sedition, public incitement to commit a crime and terrorism. However, the Government states that, although there was no evidence that he had committed the crimes imputed to him, the prosecutor's office still charged Mr. Huaranca Murillo and requested the judge to place him in pretrial detention owing to his posing a flight risk. Similarly, the Fifth Investigating Criminal Judge, on 22 November 2019, ordered his pretrial detention in San Pedro prison in La Paz.

66. Mr. Huaranca Murillo appealed the decision and, on 11 December 2019, the Second Criminal Chamber of the Departmental Court of Justice and Peace admitted the appeal and ordered measures as an alternative to pretrial detention, consisting of: (a) house arrest with a police escort detail; (b) obligation to register at the immigration office; (c) obligation to register his biometric signature on Mondays and Fridays; (d) obligation to appoint two persons as guarantors; (e) an order to stay away from the place of the events in Senkata and his place of work, where he has been the subject of an investigation; and (f) an order to appear for all procedural formalities at the request of the prosecutorial authorities or the courts.

67. Mr. Huaranca Murillo requested to modify the measure on three occasions, submitting his last request on 17 January 2020. His request was refused on all three occasions.

68. By an official letter dated 21 September 2020, the Public Prosecution Service submitted a final request for dismissal of proceedings in relation to the crime of terrorism and the formal charges against Mr. Huaranca Murillo for sedition and public incitement to commit a crime.

69. On 4 November 2020, the criminal proceedings were moved by the Public Prosecution Service to Criminal Trial Court No. 11 of La Paz.

70. The Government states that the Plurinational State of Bolivia, through the Ombudsman's Office, addressed the complaint filed on 22 November 2019 by a relative of Mr. Huaranca Murillo. The Ombudsman's Office opened case No. DP/SSP/LPZ/2743/2019 in order to provide assistance during and to monitor the proceedings initiated against Mr. Huaranca Murillo.

71. The Government claims that, according to the information provided by the Ombudsman's Office, Mr. Huaranca Murillo received financial support from the Plurinational Public Defence Service, an institution that guarantees the inviolability of the right to a defence and access to pluralistic, prompt, timely and free justice.

72. Similarly, the Ministry for Institutional Transparency, through the then Service for the Prevention of Torture, conducted a scheduled visit to San Pedro prison accompanied by United Nations personnel, during which Mr. Huaranca Murillo was interviewed and, on that basis, underwent a psychological evaluation. The evaluation consisted of six sessions conducted by employees of the Service for the Prevention of Torture, in addition to a medical assessment.

73. The Government reports that, after the elections of 18 October 2020 and the taking of office by the Government of Luis Arce Catacora on 8 November 2020, the Government committed to investigating the human rights violations that occurred while the de facto Government was in power and to punishing those responsible. The Government facilitated the work of the Interdisciplinary Group of Independent Experts. In this context, Mr. Huaranca Murillo again requested the modification of the precautionary measure and, by decision No. 60/2020 of 16 November 2020, Criminal Trial Court No. 11 agreed to the requested modification and ordered the measure of house arrest without a police escort detail, under which he was permitted to go to work between 6 a.m. and 8 p.m.

74. Subsequently, by decision No. 120/2021 of 2 July 2021, an order to open a trial against Mr. Huaranca Murillo was issued.

75. Due to the lack of evidence to support the formal indictment, on 2 August 2021, the prosecutor requested the Departmental Prosecutor of La Paz to withdraw the charges.

76. Thus, Criminal Trial Court No. 11, on 16 August 2021, decided to terminate the proceedings and to lift the precautionary measures that had been imposed on Mr. Huaranca Murillo. The parties did not appeal, meaning that the decision became final, which terminated the proceedings initiated by the Public Prosecution Service against Mr. Huaranca Murillo.

77. The Government states that, once the Interdisciplinary Group of Independent Experts submitted its report on the investigation of the acts of violence and human rights violations that occurred in the Plurinational State of Bolivia between 1 September and 31 December 2019,¹¹ the Plurinational State of Bolivia committed to implementing the recommendations contained in the report, including the census of victims and a victim reparations plan.

78. The Government reports that, by Decree No. 4100 of 5 December 2019, it ordered the payment of compensation to the relatives of the deceased persons and the provision of medical care for those who were injured between 21 October and 24 November 2019; moreover, the Ministry of Economic Affairs and Public Finance was allocated the necessary resources from the National Treasury, and subsequently received a greater amount than that earmarked to cover the cost of the reparations granted to the victims.

79. The Government states that an inter-institutional standing committee has been established to design and implement comprehensive reparation plans for the victims of serious human rights violations.

80. In accordance with the powers granted to the Service for the Prevention of Torture, on 29 November 2021, a complaint was filed with the Departmental Prosecutor's Office of La Paz against several individuals for the crimes of humiliation and torture, sexual abuse, enforced disappearance, discrimination and serious and minor injuries, in which 54 persons, including Mr. Huaranca Murillo, were named as victims. Moreover, at the request of the Attorney General's Office, a special review committee was set up to implement the recommendations of the Interdisciplinary Group of Independent Experts.

81. The Government states that it does not dispute the facts relating to the detention of Mr. Huaranca Murillo, which occurred during the de facto regime of Jeanine Áñez, a period of repression against the Bolivian people characterized by social protests, political persecution and arbitrary detentions. However, the Government claims that remedial action was taken by the current Government, which has also adopted comprehensive reparation measures, including financial compensation, restitution of rights, satisfaction and non-repetition.

(c) Additional comments from the source

82. The Working Group transmitted the Government's response to the source on 7 March 2022 and requested any additional comments and observations, which were received on 1 April 2022.

83. In their additional comments, the source emphasizes that the Government has acknowledged the arbitrary acts committed against Mr. Huaranca Murillo. However, it notes that, although the Government insists that Mr. Huaranca Murillo's situation has been remedied, it is the action taken by his family that has allowed some progress to be made. The source also insists that no financial reparation has been provided, since the Government adopted a law providing financial reparation only to those victims who had been injured or to the relatives of those who had died. Mr. Huaranca Murillo does not fall into either of these categories.

84. The source asks the Working Group to request the Government to adopt the following reparation measures:

(a) Conduct a diligent criminal and administrative investigation within a reasonable period of time in respect of all public officials responsible for the unlawful and

¹¹ The recommendations call on the country to, inter alia, "Investigate – in a serious, effective, thorough and diligent manner, ensuring full respect for due process and the rights of the victims and of the persons accused and prosecuted – try and, if appropriate, impose sanctions on those responsible for the acts documented in this report and other similar acts". See https://gieibolivia.org/wp-content/uploads/2021/08/informe_GIEI_BOLIVIA_final.pdf.

arbitrary detention, torture and criminal proceedings to which Mr. Huaranca Murillo was subjected. The source argues that the investigation opened in respect of the alleged perpetrators has been marred by serious irregularities;

(b) Reinstatement Mr. Huaranca Murillo to his former job, ensuring that he receives all the same benefits and has the seniority that he enjoyed before his detention;

(c) Provide Mr. Huaranca Murillo with financial compensation;

(d) Draft, in agreement with the victims, a comprehensive reparation law for the restitution of rights.

2. Discussion

85. The Working Group thanks the source and the Government for their submissions.

86. As a preliminary matter, the Working Group notes that Mr. Huaranca Murillo was released on 16 August 2021 and is therefore no longer in detention. The Working Group welcomes the fact that the Government has provided information on some of the reparation measures adopted and that the source has sent their comments on the subject. However, there is no provision in the Working Group's methods of work that precludes consideration of a case in such circumstances.¹² Indeed, the Working Group considers it necessary to render an opinion, given the serious allegations relating to Mr. Huaranca Murillo's deprivation of liberty.¹³

87. In determining whether Mr. Huaranca Murillo's deprivation of liberty is arbitrary, the Working Group has regard to the principles established in its jurisprudence to deal with evidentiary issues. If the source has established a *prima facie* case for breach of international human rights law constituting arbitrary detention, the burden of proof should be understood to rest upon the Government if it wishes to refute the allegations.¹⁴

(a) Category I

88. The source states that Mr. Huaranca Murillo was arrested on 20 November 2019 at his place of work by plain-clothed police officers, without being shown a warrant and without being informed of the reasons for his arrest. In its response, the Government states that it does not dispute the facts relating to Mr. Huaranca Murillo's detention.

89. Detained persons have the right to be promptly informed of the charges against them. This is inherent in article 9 of the Universal Declaration of Human Rights and principles 2 and 10 of the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment. These provisions also require that the procedures for carrying out legally authorized deprivation of liberty should be established by law and that States parties should ensure compliance with them, including by specifying when an arrest warrant is required.¹⁵ If these procedures are not respected, a detention is arbitrary and seriously undermines the ability to conduct a proper legal defence.

90. The Working Group has also stated that, in order for a deprivation of liberty to have a legal basis, it is not sufficient for there to be a law authorizing the arrest. The authorities must invoke that legal basis and apply it to the circumstances of the case. This is typically¹⁶ done through an arrest warrant or a court order, or an equivalent document.¹⁷ The reasons for arrest must be provided immediately upon arrest and must include not only the general legal basis of the arrest, but also enough factual details to indicate the substance of the complaint, such as the wrongful act and the identity of an alleged victim.¹⁸

¹² [A/HRC/36/38](#), para. 17.

¹³ Opinions No. 50/2017, para. 53 (c); and No. 55/2018, para. 59.

¹⁴ [A/HRC/19/57](#), para. 68.

¹⁵ Human Rights Committee, general comment No. 35 (2014), para. 23.

¹⁶ Opinions No. 88/2017, para. 27; No. 3/2018, para. 43; and No. 30/2018, para. 39.

¹⁷ Opinions No. 30/2017, paras. 58 and 59; and No. 18/2023, para. 93.

¹⁸ Opinion No. 85/2021, para. 69.

91. The Working Group, taking into account the fact that the Government does not dispute the facts as reported by the source, considers that the detention of Mr. Huaranca Murillo was carried out in violation of article 9 (1) of the Covenant, due to the lack of proper procedures, and article 9 (2) since, at the time, Mr. Huaranca Murillo was not informed of the reasons for his arrest.

92. The source states that, on 22 November 2019, the Fifth Investigating Criminal Judge, despite there being no legal basis to justify it, ordered the pretrial detention of Mr. Huaranca Murillo in San Pedro prison. Following a request by Mr. Huaranca Murillo's defence counsel, on 11 December 2019, the Second Criminal Chamber of the Departmental Court of Justice agreed to grant house arrest. However, this did not become effective until 17 April 2020 (four months later). In its response, the Government agrees with the source that, although there was no evidence that Mr. Huaranca Murillo had committed the crimes of which he was accused, he was placed in pretrial detention.

93. According to article 9 (3) of the Covenant, pretrial detention must be the exception and not the rule and should be ordered for as short a time as possible.¹⁹ It must be based on an individualized determination that it is reasonable and necessary for such purposes as to prevent flight, interference with evidence or the recurrence of crime.²⁰ Courts must consider whether alternatives to pretrial detention, such as bail, would render detention unnecessary.²¹ In determining whether the conditions governing pretrial detention have been met, the Working Group examines whether the national courts have taken into account the particular circumstances of the person concerned but does not check whether there are risks that would make pretrial detention necessary.²²

94. The Working Group notes that the pretrial detention of Mr. Huaranca Murillo was not duly justified. In addition, when he was granted house arrest, the measure did not become effective until four months later. The Working Group therefore finds a violation of article 9 (3) of the Covenant.

95. On the basis of the foregoing, the Working Group finds that the detention of Mr. Huaranca Murillo is arbitrary under category I.

(b) Category II

96. The source argues that the Senkata massacre took place in the midst of an anti-government protest. Although Mr. Huaranca Murillo was not directly involved in the protest, he was present to provide medical assistance to the injured. In addition, in the midst of the intense violence, he took to social networks to ask for help and to denounce what he was seeing as a witness to the massacre. The criminal indictment shed light on a video uploaded to social networks in which he asks for help and denounces the violence. According to the source, the use of social networks to denounce what was happening in real time at the massacre was the reason for the criminal charges brought. The source adds that Mr. Huaranca Murillo was charged with sedition, public incitement to commit a crime and terrorism, which, in his opinion, are vague and broad and give rise to open interpretations and unpredictable charges, as occurred in the case of Mr. Huaranca Murillo. In its response, the Government does not contradict these assertions.

97. The Working Group firstly points out that freedom of opinion and freedom of expression, which are enshrined in article 19 of the Covenant, are indispensable conditions for the full development of the person; they are essential for any society and in fact constitute the foundation stone for every free and democratic society.²³

98. Freedom of expression includes the right to seek, receive and impart information and ideas of all kinds, regardless of frontiers, and this right includes the expression and receipt of communications of every form of idea and opinion capable of transmission to others,

¹⁹ Opinion No. 64/2020, para. 58; and A/HRC/19/57, paras. 48–58.

²⁰ Human Rights Committee, general comment No. 35 (2014), para. 38.

²¹ Ibid.

²² Opinion No. 15/2022, para. 66.

²³ Human Rights Committee, general comment No. 34 (2011), para. 2.

including political opinions.²⁴ Moreover, the permitted restrictions to this right may relate either to respect for the rights or reputations of others or to the protection of national security, public order or public health or morals. As the Human Rights Committee has stipulated, restrictions are not allowed on grounds not specified in paragraph 3, even if such grounds would justify restrictions to other rights protected under the Covenant. Restrictions must be applied only for those purposes for which they were prescribed and must be directly related to the specific need on which they are predicated.²⁵

99. In the present case, the Government, in its response, does not invoke any of the permitted restrictions on the right to freedom of expression. The Working Group is convinced, based on the information submitted by the source, which has not been refuted by the Government, that Mr. Huaranca Murillo was detained as a result of his exercising his freedom of expression and that, therefore, his detention was contrary to article 19 of the Universal Declaration of Human Rights and article 19 of the Covenant.

100. The Working Group notes the source's assertion that the crimes for which Mr. Huaranca Murillo was charged (sedition, public incitement to commit a crime and terrorism) are vague and broad and were used in a capricious manner to incriminate him. The Working Group recalls that international human rights law requires that such penal laws are drafted with precision, so that individuals can understand them and adapt their behaviour accordingly, and so that law enforcement officials, when they are implementing these laws, cannot have uncontrolled, extensive and discretionary interpretation over them.²⁶ Laws drafted in a vague and overly broad manner have a deterrent effect on the exercise of the rights to freedom of opinion and expression, as they have the potential for abuse, including the arbitrary deprivation of liberty.²⁷

101. On the basis of the foregoing, the Working Group finds that the detention of Mr. Huaranca Murillo was arbitrary under category II.

(c) Category III

102. The source argues that Mr. Huaranca Murillo did not have immediate access to a lawyer after his arrest and was taken to the offices of the Crime Squad, where he was secretly detained for more than 20 hours, without being informed of the reasons for his arrest. He was physically and psychologically tortured on three different occasions and accused throughout of being an activist in the Movimiento al Socialismo party. The entire interrogation focused on torturing him into confessing false facts. When he finally had access to a lawyer (20 hours after his arrest), the police threatened him and told him not to reveal that he had been tortured. In its response, the Government does not dispute these facts.

103. The Working Group recalls that access to counsel is a right enshrined under article 14 (3) of the Covenant and principles 11 (2), 17 and 18 of the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment. Article 14 (3) (b) of the Covenant enshrines the right to have adequate time and facilities to prepare a defence and to communicate with a lawyer of one's own choosing. Furthermore, the Human Rights Committee has noted that all persons deprived of their liberty have the right to legal assistance by counsel of their choice throughout their detention, including immediately after their arrest, and that such access must be provided without delay.²⁸ The United Nations Basic Principles and Guidelines on Remedies and Procedures on the Right of Anyone Deprived of Their Liberty to Bring Proceedings Before a Court provide that access must be provided without delay to legal counsel immediately after the moment of deprivation of liberty and at the latest prior to any questioning by an authority.²⁹ The right to legal assistance is an essential element of the right to a fair trial, as it serves to ensure that the

²⁴ *Ibid.*, para. 11.

²⁵ *Ibid.*, para. 22.

²⁶ Opinions No. 41/2017, paras. 98–101; and No. 45/2018, para. 54.

²⁷ Opinion No. 82/2020, paras. 50 and 59.

²⁸ General comment No. 35 (2014), para. 35; [A/HRC/48/55](#), para. 56; [A/HRC/45/16](#), paras. 50–55; [A/HRC/30/37](#), annex, principle 9 and guideline 8; and [A/HRC/27/47](#), para. 13.

²⁹ [A/HRC/30/37](#), annex, guideline 8.

principle of equality of arms is duly observed. Since Mr. Huaranca Murillo was deprived of this right, the Working Group considers that this also violated his rights.

104. The Working Group has previously stated that giving prompt and regular access to family members, as well as lawyers, is an essential and necessary safeguard for the prevention of torture and protection against arbitrary detention and infringement of personal security.³⁰ In this regard, the Committee against Torture has made it clear that incommunicado detention creates conditions that lead to violations of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, and the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment has consistently argued that the use of incommunicado detention is unlawful.³¹ The Working Group considers that those violations substantially undermined and compromised Mr. Huaranca Murillo's capacity to defend himself in any judicial proceedings.

105. Mr. Huaranca Murillo was interrogated in the absence of his lawyer and his interrogation focused on torturing him into confessing false facts. As the Working Group has stated before, confessions made in the absence of legal representation are not admissible as evidence in criminal proceedings.³² The admission into evidence of a statement allegedly obtained through torture or ill-treatment renders the entire proceedings unfair, regardless of whether other evidence is available to support the verdict.³³

106. The Working Group is concerned about the allegations of torture made by the source in relation to Mr. Huaranca Murillo. The Government has not denied the source's assertions in this regard and, on the contrary, stated in its response that the Service for the Prevention of Torture conducted a visit to San Pedro prison, accompanied by United Nations personnel, during which Mr. Huaranca Murillo was interviewed and on that basis proceeded to conduct a psychological evaluation, consisting of six sessions, and a medical assessment. In the Working Group's view, not only is torture a grave violation of human rights per se, but it also undermines the ability of persons to defend themselves and hinders their exercise of the right to a fair trial, especially in the light of the right to be presumed innocent under article 14 (2) of the Covenant and the right not to be compelled to confess guilt under article 14 (3) (g) of the Covenant. In this context, the Working Group shall refer the present case to the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment for further consideration.

107. Given the above, the Working Group concludes that the violations of the right to a fair trial and due process are of such gravity as to give Mr. Huaranca Murillo's deprivation of liberty an arbitrary character, falling within category III.

3. Disposition

108. In the light of the foregoing, the Working Group renders the following opinion:

The deprivation of liberty of Ayben Huaranca Murillo, being in contravention of articles 9, 10 and 19 of the Universal Declaration of Human Rights and articles 9, 14 and 19 of the International Covenant on Civil and Political Rights, is arbitrary and falls within categories I, II, and III.

109. The Working Group requests the Government of the Plurinational State of Bolivia to take the steps necessary to remedy the situation of Mr. Huaranca Murillo without delay and bring it into conformity with the relevant international norms, including those set out in the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights.

³⁰ Opinions No. 43/2012, para. 51; No. 34/2015, para. 28; No. 52/2018, para. 79 (i); No. 32/2019, para. 43; No. 59/2019, para. 70; and No. 73/2019, para. 91.

³¹ A/54/426, para. 42; and A/HRC/13/39/Add.5, para. 156.

³² A/HRC/45/16, para. 53. See also opinions No. 1/2014, para. 22; No. 14/2019, para. 71; No. 59/2019, para. 70 and No. 73/2019, para. 91; and E/CN.4/2003/68, para. 26 (e).

³³ Opinions No. 43/2012, para. 51; No. 34/2015, para. 28; No. 52/2018, para. 79 (i); No. 32/2019, para. 43; No. 59/2019, para. 70; and No. 73/2019, para. 91.

110. The Working Group considers that, taking into account all the circumstances of the case, the appropriate remedy would be to accord Mr. Huaranca Murillo an enforceable right to compensation and other reparations, in accordance with international law.

111. The Working Group urges the Government to ensure a full and independent investigation of the circumstances surrounding the arbitrary deprivation of liberty of Mr. Huaranca Murillo and to take appropriate measures against those responsible for the violation of his rights.

112. In accordance with paragraph 33 (a) of its methods of work, the Working Group refers the present case to the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, for appropriate action.

113. The Working Group requests the Government to disseminate the present opinion through all available means and as widely as possible.

4. Follow-up procedure

114. In accordance with paragraph 20 of its methods of work, the Working Group requests the source and the Government to provide it with information on action taken in follow-up to the recommendations made in the present opinion, including:

(a) Whether compensation or other reparations have been made to Mr. Huaranca Murillo;

(b) Whether an investigation has been conducted into the violation of Mr. Huaranca Murillo's rights and, if so, the outcome of the investigation;

(c) Whether any legislative amendments or changes in practice have been made to harmonize the laws and practices of the Plurinational State of Bolivia with its international obligations in line with the present opinion;

(d) Whether any other action has been taken to implement the present opinion.

115. The Government is invited to inform the Working Group of any difficulties it may have encountered in implementing the recommendations made in the present opinion and whether further technical assistance is required, for example through a visit by the Working Group.

116. The Working Group requests the source and the Government to provide the above-mentioned information within six months of the date of transmission of the present opinion. However, the Working Group reserves the right to take its own action in follow-up to the opinion if new concerns in relation to the case are brought to its attention. Such action would enable the Working Group to inform the Human Rights Council of progress made in implementing its recommendations, as well as of any failure to take action.

117. The Working Group recalls that the Human Rights Council has encouraged all States to cooperate with the Working Group and has requested them to take account of its views and, where necessary, to take appropriate steps to remedy the situation of persons arbitrarily deprived of their liberty, and to inform the Working Group of the steps they have taken.³⁴

[Adopted on 28 August 2023]

³⁴ Human Rights Council resolution 51/8, paras. 6 and 9.