

[ICC] RESTRICTED

Annex I  
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## Introduction

1. The Article 18(2) victim consultation process (“Article 18(2) process”) in the Situation in the Bolivarian Republic of Venezuela I (“Situation” and “Venezuela”, respectively) was carried out by the Victims Participation and Reparations Section (“VPRS”) of the Registry following Pre-Trial Chamber I’s order <sup>1</sup> (“Chamber” and “Order”, respectively) to that effect of 18 November 2022. In the Order, the Chamber instructed the VPRS to: (a) collect victims’ views and concerns on the Prosecutor’s request to resume the investigation into the Situation <sup>2</sup> (“OTP” and “OTP Request”, respectively); and (b) to transmit these views and concerns to the Chamber, together with a report thereon, by 21 March 2023 at the latest. In light of the unprecedented number of victims’ views and concerns received by the deadline set for victims to make their submissions (i.e. 7 March 2023),<sup>3</sup> the VPRS requested<sup>4</sup> and was granted an extension of time until 20 April 2023 to submit its final consolidated report on the victims’ views and concerns received.<sup>5</sup>
2. Following victims’ overwhelming engagement with the ICC on the present consultation process, by 7 March 2023,<sup>6</sup> the VPRS had received 1,875<sup>7</sup>

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<sup>1</sup> Pre-Trial Chamber I, “Order inviting observations and views and concerns of victims”, 18 November 2022, ICC-02/18-21.

<sup>2</sup> Office of the Prosecutor, “Prosecution request to resume the investigation into the situation in the Bolivarian Republic of Venezuela I pursuant to article 18(2)”, dated 1 November 2022 and notified on 4 November 2022, ICC-02/18-18.

<sup>3</sup> As previously done in other situations where victims were invited to exercise their right to participate in Articles 15(3) and 18(2) consultations, the VPRS estimated that it would need two weeks to process (ie, register and assess) the latest views and concerns received and to prepare its final consolidated report.

<sup>4</sup> Email from the VPRs to Pre-Trial Chamber, 9 March 2023, 17:49h.

<sup>5</sup> Email from Pre-Trial Chamber I to VPRS, 10 March 2023, 15:24h.

<sup>6</sup> The VPRS considered all victim submissions of their views and concerns under Article 18(2) of the Statute (“Article 18(2) forms”) sent to it by midnight Venezuela time.

<sup>7</sup> This figure excludes 401 duplicate forms / communications received by the VPRS and 2 forms which were withdrawn. 401 Article 18(2) forms received were assessed as duplicates: the same Article 18(2)

submissions of views and concerns on the OTP Request; these were expressed on 1,746 standard forms previously disseminated by the VPRS,<sup>8</sup> 5 videos and 124 emails or other written documents (altogether “Article 18(2) forms”).<sup>9</sup> Videos were also received in support of views and concerns already expressed in a written format. On 14 April 2023, the VPRS also received a submission by the Office of Public Counsel for Victims (“OPCV” and “OPCV Submission”, respectively),<sup>10</sup> summarising views and concerns of victims that had also been in direct contact with them.<sup>11</sup> These submissions have been incorporated into the present report and are referenced accordingly.

3. By way of a general observation based on the material received, victims overwhelmingly support the OTP Request. They maintain that the Venezuelan Government is unwilling to genuinely investigate and prosecute the crimes against humanity committed in Venezuela, with total impunity, by State authorities, security forces, and the ‘*colectivos*’ – armed groups allegedly supported and shielded by state authorities.<sup>12</sup>

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forms (i.e. introduced by/on behalf of the same victim(s) alleging the same events and containing the same/similar views) were sent to the VPRS twice or more times, in most cases as a result of the technical reasons mentioned in para. 14 (vi) below.

<sup>8</sup> See on the VPRS standard form and relevant accompanying material *infra*, footnote 20.

<sup>9</sup> After the 7 March 2023 deadline, the VPRS received 46 Article 18(2) forms. Given the very short time the VPRS had at its disposal to process the large number of forms received within the deadline, it was not able to also process the forms received after 7 March 2023, midnight Venezuela time. These forms were not transmitted to the Chamber. They are safely stored in the VPRS database. The VPRS stands ready to transmit them to the Chamber if the Chamber so orders. This transmission would not be accompanied by any report since these forms have not been assessed by the VPRS.

<sup>10</sup> See for more details “OPCV Request to Submit Observations on the Prosecutor’s Request to Resume the Investigation under Article 18(2) of the Statute”, 3 November 2022, ICC-02/18-19, which was however denied by the Chamber in its Order.

<sup>11</sup> 12 forms were transmitted to the VPRS by the OPCV. Two of the 12 forms were also sent by the victims directly to the VPRS. In addition, the OPCV provided the VPRS with a table of altogether 86 Article 18(2) forms received by the OPCV, 74 of which had also been received by the VPRS directly.

<sup>12</sup> The *colectivos* are para-police or paramilitary forces loyal to President Maduro that are reportedly used as an unofficial, parallel force against protestors and Government opponents. It is widely reported that the *colectivos* are extremely feared, even more so than police, and have been used for intimidating, harassing, or forcibly mobilising their communities when necessary. See, *inter alia*, see Justicia, Encuentro y Perdón, “Linea de impunidad de los asesinatos por motivos políticos en Venezuela, nueve años de injusticia y revictimización”, March 2023; The Independent International Fact-Finding Mission

4. The present report consists of three parts. The first part offers an overview of the Article 18(2) process and it also outlines the methodology used and the challenges encountered. The second part provides details of the victims' Article 18(2) forms transmitted in terms of type, numbers and content. The third part is based on quotes extracted from the forms, videos and other written documents received and it displays the victims' views and concerns as they were communicated to the Registry in the present process.

## I. Overview of the Article 18(2) victim consultation process

### A. Security situation

5. From the outset of the Article 18(2) process, the VPRS was in contact with a large number of [Redacted]. This was done in order to best assist victims in exercising their right to participate in the present Article 18(2) exercise. The VPRS conducted open source research and received extensive information about the volatile security situation in Venezuela. In line with its usual practice, the VPRS also liaised with relevant sections of the Registry.<sup>13</sup> Security assessments were carried out in order to determine the risks that might arise for all of those involved in the process, [Redacted].
6. [Redacted].<sup>14 15</sup>
7. [Redacted].

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on Venezuela ("FFMV"), "Detailed findings of the independent international fact-finding Mission on the Bolivarian Republic of Venezuela", 20 September 2022, <https://view.officeapps.live.com/op/view.aspx?src=https%3A%2F%2Fwww.ohchr.org%2Fsites%2Fdefault%2Ffiles%2Fdocuments%2Fhrbodies%2Fhrcouncil%2Fffmv%2F2022-09-20%2FFFMV-CRP-3-English.docx&wdOrigin=BROWSELINK>, ("2022 FFMV Report"), paras. 51-52; Provea, "Marino Alvarado: Colectivos paramilitares se afianzan con un marco jurídico que les ampara" 18 April 2019.

<sup>13</sup> [Redacted].

<sup>14</sup>[Redacted]. See Government of the Netherlands, "General Country of Origin Information Report Venezuela", June 2020, <https://www.government.nl/documents/directives/2020/06/11/general-country-of-origin-information-report-venezuela-june-2020>, ("The Netherlands Report"). [Redacted]. See 2022 FFMV Report.

<sup>15</sup> [Redacted]– see, *inter alia*, The Netherlands Report and 2022 FFMV Report.

## B. Approach implemented

8. [Redacted].
9. In line with its established practice, when deciding on its approach for the present victim consultation process, the VPRS led consultations with [Redacted] relevant sections of the Registry, as well as with the OPCV and the four Venezuelan lawyers.<sup>16</sup> In particular, the VPRS took into account the following aspects: *i)* the security situation in Venezuela; *ii)* the scale of the Situation and the large number of victims affected by the alleged crimes; *iii)* the logistical challenges (i.e. victims' lack of access to resources, inexistent or poor internet connection, power shortages, etc.);<sup>17</sup> *iv)* the time available for the present Article 18(2) exercise; *v)* the absence of a Registry field presence; *vi)* the overarching objective of reaching out to as many victims linked to the Situation as possible within the timeframe of the Order without endangering anybody related to the process; *vii)* the considerable number of victims who fled the country and are now part of the Venezuelan diaspora worldwide; and *viii)* the Registry's human and financial limitations.<sup>18</sup>
10. As previously done in other victim consultation processes,<sup>19</sup> the VPRS implemented simultaneously an open approach<sup>20</sup> [Redacted]<sup>21</sup> in order to

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<sup>16</sup> This entails consultations as per para. 11 of the Order.

<sup>17</sup> See below, para. 14 (vi).

<sup>18</sup> UNHCR reported in January 2023 that, according to government figures, there are over 7.13 million refugees and migrants from Venezuela worldwide and people continue to leave Venezuela to escape violence, insecurity and threats as well as lack of food, medicine and essential services. See, <https://www.unhcr.org/venezuela-emergency.html>.

<sup>19</sup> Most recently, the *Situations in Afghanistan, Bangladesh/Myanmar and Philippines*.

<sup>20</sup> The open approach consisted in making available on the ICC website information materials and relevant tools (i.e. forms, guidelines and key messages) in English and Spanish. The Article 18(2) victims' consultation form was made available on the website, in English and Spanish, in three formats: *i)* a flat PDF that could be downloaded, printed, filled in by hand and sent to VPRS by email or post; *ii)* a fillable PDF that could be downloaded, filled in electronically and sent to VPRS by email; and, [Redacted], *iii)* an online form that could be filled in directly on the ICC website, without being downloaded and which could be sent without any trace at the user's end.

<sup>21</sup> [Redacted]. The [Redacted] was key in ensuring that a meaningful sample of views and concerns was collected and that a significant number of victims were able to participate in the Court's proceedings within the timelines given by the Chamber.

facilitate the right of Venezuelan victims to bring their views and concerns forward to the ICC Judges.

11. Between November 2022 and 7 March 2023, the VPRS organized remote informative sessions [Redacted]. The VPRS also met with [Redacted]. Furthermore, the VPRS attended various events organized by victim groups, community-based and regional/international human rights organizations. Since the start of the process, the VPRS has responded and continues to respond to a large number of information requests [Redacted].
12. The main objectives of the informative sessions were to: (i) provide general information about the ICC and the Article 18(2) process; (ii) solicit views on best ways to conduct the victims' consultation; (iii) [Redacted]; (iv) offer guidance on how to participate in the process and fill in the Article 18(2) form; (v) address rumours, doubts, difficulties and challenges arising from the consultation process; and (vi) [Redacted].

### **C. Information gathered through meetings with interlocutors**

13. Victims and representatives of civil society organizations supporting them strongly welcomed the invitation for victims to exercise their right to express views and concerns on the OTP Request. They insisted that the Venezuelan legal system is unwilling to conduct authentic investigations into the alleged crimes against humanity committed in the country and they consider the ICC investigation to be a unique opportunity to obtain justice. All VPRS interlocutors that were met during the Article 18(2) process confirmed the victims' strong hope that the ICC investigation in the Situation will be resumed and justice will finally be rendered. [Redacted]. Similar views are reported in the OPCV Submission.
14. In addition to the victims' views and concerns collected, the VPRS gathered information from the majority of the interlocutors met during the Article 18(2) process as to the main challenges, obstacles and concerns encountered throughout the consultation:



- (i) *The challenging security situation.* [Redacted] victim groups' representatives, human rights defenders, representatives of civil society organizations, journalists, etc. are closely monitored, harassed and persecuted by the Venezuelan authorities,<sup>22</sup> [Redacted]. As previously reported,<sup>23</sup> on 24 January 2023, a draft law seeking to control, restrict, sanction and dissolve NGOs operating in Venezuela was put up for discussion and adopted at the first reading in the Venezuelan National Assembly.<sup>24</sup> The draft law is considered to be another effort to obstruct and control civil society in Venezuela.<sup>25</sup>
- (ii) *Fear of retaliation.* VPRS interlocutors reported that many victims of crimes under the ICC jurisdiction who whole-heartedly support an investigation by the OTP, did not submit their views and concerns out of fear that their forms will be intercepted by the Government which would lead to further political persecution and abuses at the hand of their

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<sup>22</sup> See Espacio Público, "Situación general del derecho a la libertad de expresión en Venezuela enero – diciembre 2022", January 2023, <https://espaciopublico.org/situacion-general-del-derecho-a-la-libertad-de-expresion-en-venezuela-enero-diciembre-2022-informe-preliminar/>. See also, FIDH, "Venezuela 'Enemigos Internos'. La defensa de Derechos Humanos Bajo Ataque", March 2023, [https://www.fidh.org/IMG/pdf/venezuela\\_informe\\_2020.03\\_informe\\_completo.pdf](https://www.fidh.org/IMG/pdf/venezuela_informe_2020.03_informe_completo.pdf). Attacks and violence against journalists is a particular item underlined in the OPCV Submission.

<sup>23</sup> Registry, "Second Registry Report on Article 18(2) Victims' Views and Concerns Pursuant to Pre-Trial Chamber's Order ICC-02/18-21", 20 February 2023, ICC-02/18-27, para. 14.

<sup>24</sup> See United Nations Human Rights Office of the High Commissioner, "Venezuela: Draft NGO law, reaching a point of no return in the closure of the civic space", [Venezuela: Draft NGO law, reaching a point of no return in the closure of the civic space | OHCHR](#); Amnesty International, "Venezuela: NGOs at risk", [Venezuela: NGOs at Risk | Amnesty International UK](#).

<sup>25</sup> Should the law pass, all Venezuelan NGOs will have to comply with what are perceived as abusive measures (i.e. disclosing information on their funding, staff, and governance,) or face fines up to 200 Petros (USD 12,000) or criminal prosecution. Moreover, the Venezuelan Organic Law against Organized Crime and the Financing of Terrorism would also be applicable to NGOs and their members. See, *inter alia*, Prodavinci, "Asamblea Nacional oficialista aprueba en primera discusión proyecto de ley para fiscalizar las ONG", 25 January 2023, <https://prodavinci.com/asamblea-nacional-oficialista-aprueba-en-primera-discusion-proyecto-de-ley-para-fiscalizar-las-ong/> and FIDH, "Venezuela: Restrictions on the freedom of association persist", 20 May 2021, <https://www.fidh.org/en/issues/human-rights-defenders/venezuela-restrictions-on-the-freedom-of-association-persist>. National and international actors have condemned the draft law; some 400 NGOs have issued a joint statement rejecting the bill stressing that it is "profoundly abusive" of the right to freedom of association and would "put stranglehold on civil society" and "kill the last functioning remnant of the country's democracy" – see The Guardian, "Venezuela: fears new bill will put stranglehold on civil society", 30 January 2023, <https://www.theguardian.com/global-development/2023/jan/30/venezuela-ngos-civil-society-new-legislation>.

Government. This is confirmed by the OPCV Submission. Other victims, who also fear for their safety, eventually submitted forms, but it took them a long time to decide to do so. A number of interlocutors explained that the fear of retaliation paralyzing victims is deeply rooted in the different ‘tools of repression’ reportedly used during the *Chávez* and *Maduro* regimes.<sup>26</sup>

(iii) [Redacted].<sup>27</sup>

(iv) *Perceived short time period allowed for the present Article 18(2) process.* Interlocutors pointed out that, considering the scale of the Situation, the security context and all the other challenges listed throughout this report, a large number of victims supporting the ICC investigation did not get the chance to bring their views and concerns forward in time. Interlocutors also highlighted that the limited number of forms submitted during the present consultation when compared to the total number of victims of alleged crimes falling under the ICC jurisdiction, is not the result of a lack of interest or eagerness from victims to engage with the Court, but the consequence of all the challenges and obstacles listed.

(v) *Limited information about the Article 18(2) consultation process.*[Redacted], the challenges of disseminating complete and accurate information to a very large population with limited connectivity [Redacted].<sup>28</sup>

(vi) *Logistical challenges.* This included victims’ lack of access to resources, (phones, internet, electricity, gas, fuel supply, medicine, purchase of goods, banking, transportation, etc.), inexistent or poor internet

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<sup>26</sup> See below, paras. 53-55. See also Alerta Venezuela, “El Estado venezolano dirige ataques contra la CPI”, 3 March 2023, <https://alertavenezuela.org/blog/2023/03/03/el-estado-venezolano-dirige-ataques-contra-la-cpi/> and Foro Penal, “Reporte sobre la represión política en Venezuela, año 2022”, 12 February 2023, <https://foropenal.com/reporte-sobre-la-represion-en-venezuela-ano-2022/>.

<sup>27</sup> [Redacted].

<sup>28</sup> See Espacio Público, “Situación general del derecho a la libertad de expresión en Venezuela enero – diciembre 2022”, January 2023, <https://espaciopublico.org/situacion-general-del-derecho-a-la-libertad-de-expresion-en-venezuela-enero-diciembre-2022-informe-preliminar/>.

connection throughout Venezuela, frequent power outages, etc. Interlocutors reported that in many areas of Venezuela there was no - or extremely poor - internet connectivity which made it impossible for victims to fill in the online form [Redacted].<sup>29</sup>

(vii) *The complexity of the Situation and the different patterns of violence.*

Interlocutors pointed out that the OTP Request does not reflect all the nuances of the protracted violence used by the Government to persecute real or perceived political opponents.<sup>30</sup> They insisted that it is crucial for the OTP investigation to focus on all the crimes against humanity committed in Venezuela and that murder/extra judicial killings<sup>31</sup> and forced displacement should also be specifically mentioned as crimes against humanity under investigation. With regards to the temporal jurisdiction of the Situation, [Redacted] highlighted how important it is to look at all the crimes committed in Venezuela, some suggesting even as far back as 1 July 2002, the date when the Rome Statute entered into force for Venezuela.<sup>32</sup> Both the temporal and subject-matter scope of the situation were also key elements of victims' views in the OPCV Submission.

(viii) [Redacted].<sup>33</sup>

(ix) *Coordination efforts between the different organizations supporting the Article 18(2) process in order to avoid duplication of the victims represented.*

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<sup>29</sup> See *infra*, para. 15.

<sup>30</sup> See, *inter alia*, CEPAZ, "Political persecution as a crime against humanity in Venezuela", <https://cepaz.org/articulos/la-persecucion-politica-como-crimen-de-lesa-humanidad-en-venezuela-ii/>: "These patterns include: (a) criminalization of dissent through the use of the criminal justice system; (b) smear campaigns and intimidation through the State media; (c) irregular raids and attacks on property; (d) removal from public office; (e) political disqualification; (f) acquiescence and tolerance of violent acts committed by third parties against political opponents; (g) waiver of parliamentary immunity; (h) usurpation of public functions; (i) cancellation of passports; (j) attacks on family members of opposition political leaders; (k) use of military courts to try political opponents, among others."

<sup>31</sup> [Redacted] The OPCV Submission entails a number of sources confirming the large figure of extrajudicial executions and killings – see also *infra*, para. 40-41.

<sup>32</sup> Some interlocutors suggested that the ICC Prosecutor should ask the Chamber's authorization, under Article 15(3) of the Rome Statute, to expand the temporal scope of the investigation in order to include all crimes committed since 1 July 2002.

<sup>33</sup> [Redacted].

Discussions between the VPRS and interlocutors addressed the best ways to group victims for the purpose of the present consultation process (i.e. by families, by type of harm suffered, etc.), while ensuring, as well, the duty of care and the respect of best practices during victims' interviews to avoid re-traumatisation. [Redacted].

## **II. Details of the Article 18(2) views and concerns received**

### **A. Number, format, means of receipt and language of all Article 18(2) forms received**

15. Out of the 1,875 Article 18(2) views and concerns received,<sup>34</sup> 688 Article 18(2) forms were received via the online form<sup>35</sup>, 796 by email, 388 via ShareFile, 1 via WhatsApp, 2 via postal mail.<sup>36</sup>
16. 1,342 Article 18(2) forms were submitted in Spanish, 531 in English, and 2 in French.<sup>37</sup>

### **B. VPRS legal assessment**

17. The VPRS conducted an assessment of the 1,875 Article 18(2) forms received in order to assess whether the individual(s), family(ies), group(s) or institutions/organization(s) submitting views and concerns on the OTP Request fall within the definition of victims under rule 85 of the Rules of Procedure and Evidence ("Rules"). Considering the purpose of the Article 18(2) exercise and given the concrete scope of these proceedings, the conditions set out in rule 85 of the Rules were assessed on the basis of the intrinsic coherence of the information given by the victim(s). A detailed

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<sup>34</sup> See *supra*, para. 2 and footnote 7 for explanation of numbers and format of the views and concerns received.

<sup>35</sup> See *supra*, footnote 20.

<sup>36</sup> [Redacted].

<sup>37</sup> The VPRS applied its Spanish-speaking capacity to conduct the legal assessment of the Spanish Article 18(2) forms received; therefore all views and concerns received by the deadline of 7 March have been analysed. However, not all Article 18(2) forms transmitted to the Chamber contain an English translation due to the high number of forms received and the reporting deadline. 22 videos were translated and subtitled by the VPRS.

explanation of the assessment criteria applied by the Registry is provided in Annex III.

18. Following its legal assessment, the VPRS transmitted to the Chamber, *via* three transmission filings, a total of 1,819 Article 18(2) standard forms and other written documents. Moreover, the VPRS is transmitting to the Chamber, via a HPRM container, 5 videos containing victims' views and concerns. All Article 18(2) forms transmitted were assessed by the VPRS as falling inside the scope of the Situation pursuant to the above standard ("Transmitted Forms").
19. 24 forms assessed as not meeting the conditions set out in Rule 85 and 13 forms assessed as incomplete have not been transmitted to the Chamber. [Redacted].<sup>38</sup>
20. All information and quotes provided in this report are based on the information contained in the Transmitted Forms.

### C. Types of views and concerns

21. Out of the 1,824 Transmitted Forms,<sup>39</sup> 507 were assessed as individual and 1,317 as collective. The forms assessed as individual were either submitted by direct victims who exclusively referred to the harm they suffered personally as a result of crimes against humanity allegedly committed in the Situation, or by a lawyer or an organization on behalf of only one victim.
22. The VPRS assessed as collective those forms which include either i) a number or a list of victims in the answer provided to questions 1<sup>40</sup> and 2<sup>41</sup> of the form; or ii) information, contained anywhere in the form, that other individuals connected to the person(s) who submitted the form have also suffered harm as a result of crimes within the jurisdiction of the Court as described above. When the information provided was insufficient to assess

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<sup>38</sup> [Redacted]

<sup>39</sup> 1,819 standard forms and other documents and 5 videos, see *supra* para. 18.

<sup>40</sup> Question 1 reads as follows: "Please complete the table below with the personal information of the victim(s) who wish to participate in the consultation process."

<sup>41</sup> Question 2 reads as follows: "How many victims are submitting this form?"

with certainty the number of individuals who suffered harm, the VPRS assessed the forms as introduced by one or more family(ies).

#### **D. Number of victims represented**

23. The Transmitted Forms were introduced on behalf of approximately 8,900 individuals, 2 institutions or organizations and approximately 630 families.<sup>42</sup>

#### **E. Crimes and types of harms reported**

24. The VPRS received submissions from victims addressing all crimes against humanity listed in the States Parties Referral of the Venezuela Situation and beyond;<sup>43</sup> notably, the crimes of murder, imprisonment or other severe deprivation of physical liberty, torture, other inhumane acts, rape and/or other forms of sexual violence, enforced disappearance, forced displacement, persecution on political grounds and other human rights violations. Family members, including wives, husbands, partners, parents, grandparents, children, and siblings, as well as guardians and caregivers brought forward their views and concerns before the ICC Judges. The victims also include human rights defenders; social and environmental activists; humanitarian workers and volunteers; health professionals; judges, prosecutors, defence lawyers and other civil servants in the judiciary; university students, professors and supporting staff; former police and military personnel; [Redacted]; [Redacted]; a large variety of civil servants; workers in both the public and private sector; retirees; journalists, media outlets, bloggers and social media users; land, farm and business owners; [Redacted].

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<sup>42</sup> Due to the large number of Article 18(2) forms received and the short amount of time the VPRS had at its disposal to process them, statistical data and graphs are not included in the present report. However, the VPRS notes that the Transmitted Forms were submitted by individuals *i*) identifying as men, women or outside the binary gender spectrum; *ii*) of all ages, including children, teenagers, young adults and elderly people; *iii*) of different ethnic and national origins; *iv*) of different religions; *v*) with certain health conditions or impairments; *vi*) from a full spectrum of social and economic backgrounds; etc.

<sup>43</sup> States Parties Referral of a situation to the ICC Prosecutor, 26 September 2018, [https://www.icc-cpi.int/sites/default/files/itemsDocuments/180925-otp-referral-venezuela\\_ENG.pdf](https://www.icc-cpi.int/sites/default/files/itemsDocuments/180925-otp-referral-venezuela_ENG.pdf), page 3.

25. In their observations, the victims reported to have suffered, and in many cases continue to suffer, physical, psychological, material and social harm, as well as substantial impairment of fundamental rights. The crimes and types of harm alleged in the Transmitted Forms are detailed in the VPRS preliminary legal assessment contained in Annex II.

### III. Victims' views and concerns

26. This third section of the present report is not intended to replace the original views and concerns submitted by victims, which were transmitted under separate cover for the Chamber's consideration. Rather, the objective of this section is to provide an overview which draws out the themes mentioned by the victims in their forms and submissions.

#### A. Views and concerns on the OTP Request

27. The VPRS notes that altogether 1,824 Transmitted Forms indicated that the victims want the ICC Prosecutor to continue his investigation into the crimes committed in the Situation.<sup>44</sup> The main motivating factors invoked are listed below, supported by a sample of relevant quotes.<sup>45</sup>

**(i) Urgent investigation by an impartial international court is needed because the domestic proceedings are not genuine**

28. The perceived lack of judicial independence and impartiality of the Venezuelan judiciary is referred to at length by victims in their forms, and supported by observations of both international and domestic reports.<sup>46</sup>

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<sup>44</sup> The 4 Article 18(2) forms in which the victims stated they do not want the investigation to be resumed by the ICC Prosecutor invoked security concerns as the motivating factor.

<sup>45</sup> Quotes that were originally in Spanish have been translated by the VPRS in light of LSS' limited capacity; therefore they are not the result of an official translation.

<sup>46</sup> See, *inter alia*, International Commission of Jurists, The Supreme Court of Justice of Venezuela: An Instrument of the Executive Branch, September 12, 2017, page 51, <https://www.icj.org/wp-content/uploads/2017/09/Venezuela-Suprem-Court-Publications-Reports-Thematic-reports-2017-ENG.pdf>: "the judiciary, as the result of judgments that advanced the political interests of the executive

29. The OPCV Submission reports victims' grave concerns about the willingness of Venezuela to genuinely investigate and prosecute relevant crimes. The Submission outlines a "significant fragmentation and a substantial delay in undertaking some scarce proceedings at national level." Cases reported by victims show "a considerable and unjustified delay between the commission of the alleged crime and the opening of the investigation, or between the latter and the adoption of investigative measures. In this context, a large number of Victims who communicated with the OPCV reported that criminal proceedings have largely been inactive until 2021 or 2022, or were initiated around this time, coinciding with the Prosecution's requests for information. These protracted delays in investigating support the conclusion that they were in fact conducted only to shield the individual concerned from criminal responsibility and prevent the ICC intervention." Some victims indicated that their cases have been summarily dismissed without being properly investigated. Other victims reported that "their cases were dismissed on the basis that the conduct of the perpetrators was not found to be criminal in nature or that the facts themselves were not showing any element of criminality." In turn,

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branch, has lost its essential and characteristic attributes, such as autonomy, independence, and legitimacy. The executive branch has blatantly used the judiciary, through the Supreme Court, to suppress the [National Assembly] and the [Attorney General's Office] by means of a clear power struggle between these branches of the State. [...] The Supreme Court has been co-opted by the ruling party, becoming an appendage of the executive branch, and has ceased to exercise its constitutional function as the guarantor of the rule of law, human rights, and fundamental freedoms."; IACHR, "Annual Report 2020", Chapter IV.B -Venezuela, <https://www.oas.org/en/iachr/reports/ia.asp?Year=2020>: "the lack of independence of the judicial branch in Venezuela has contributed to an institutional crisis that shows no sign of slowing. Rather than serving as a guarantor of the conventionality, constitutionality, and legality of the actions of the other branches of government, the judicial branch has created new obstacles to overcoming the crisis facing the country;" Acceso a la Justicia, "Recommendations on judicial independence in Venezuela under the UPR 2017-2021", 1 August 2022, <https://accesoalajusticia.org/recomendaciones-sobre-la-independencia-judicial-en-venezuela-en-el-marco-del-epu-2017-2021/>; Acceso a la Justicia, "The lack of independence of the Venezuelan justice system and its repressive role", <https://accesoalajusticia.org/wp-content/uploads/2020/09/The-lack-of-independence-of-the-Venezuelan-justice-system-and-its-repressive-role-AJ.pdf>; International Commission of Jurists, "Judges on the Tightrope Report on the Independence and Impartiality of the Judiciary in Venezuela", page 51.



perpetrators of – reportedly endemic – unlawful killings<sup>47</sup> “have not been prosecuted, whereas the indirect victims of the murders have been unattended and even threatened by the authorities, and thereby often forced to leave Venezuela. Where the perpetrators have been prosecuted, the trials have shielded them from responsibility, and their responsible superiors still enjoy impunity.”

30. The OPCV Submission further reports cases where “the authorities have knowingly detained and/or prosecuted victims for crimes they did not commit. Victims suffered arbitrary arrest and detention in dreadful conditions, torture and other cruel, inhuman or degrading treatment or punishment, and unlawful deprivation of liberty.<sup>48</sup> Even lawyers have been subject to the same crimes for defending the victims.<sup>49</sup> Some victims have forcibly left Venezuela in fear of being unlawfully detained.” As for access to national justice mechanisms, the OPCV Submission refers to victims reporting that “family members and lawyers of the victims, despite multiple requests, were constantly denied access to case files and relevant information. Evidence remains undisclosed, hindering the victims’ right to know the truth about the events they suffered and to obtain justice. Moreover, national authorities threatened victims with harsh consequences if they insisted on their seek for justice, often forcing them to leave Venezuela.”

31. In the submissions to the VPRS, victims were unequivocal that in Venezuela there is no prospect for genuine proceedings carried out by an impartial judiciary:

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<sup>47</sup> See for further details below under the heading ‘Murder’.

<sup>48</sup> See also Human Rights Council, Human rights situations that require the Council’s attention, “Detailed findings of the independent international fact-finding mission on the Bolivarian Republic of Venezuela”, 16 September 2021, No. A/HRC/48/CRP.5, [Redacted].

<sup>49</sup> See Human Rights Council, Human rights situations that require the Council’s attention, “Detailed findings of the independent international fact-finding mission on the Bolivarian Republic of Venezuela”, 15 September 2020, No. A/HRC/45/CRP.11, [Redacted]. See also, Human Rights Council, Working Group on Arbitrary Detention, “Opinion No.[Redacted].

- a. *"[The ICC] is the only independent judicial mechanism that the Government cannot influence";*<sup>50</sup>
- b. *"There is no rule of law, no independent or impartial justice, it is why we turn to the international criminal justice. There are thousands of cases of young people injured, tortured, and whose lives, wherever they are, are still marked by the horror."*<sup>51</sup>
- c. *"Justice in Venezuela currently does not exist, there is no guarantee, not even of [the right to] life, we think that the only option is that the Prosecutor of the ICC resumes the investigation and stops all the damage they have caused us."*<sup>52</sup>
- d. *"[H]ere in Venezuela human rights, fundamental rights are violated and there is no one to defend us because all the powers are managed by the government of the day. We want justice."*<sup>53</sup>
- e. *"In Venezuela there is no guarantee that the facts denounced will be impartially investigated, as Venezuela lacks an independent judicial system, the judges are appointed by the executive power and obey their instructions."*<sup>54</sup>
- f. *"Due to the lack of separation of powers, there is impunity, influence peddling, excessive corruption in the State institutions, delays in criminal proceedings, the constant violation of fundamental rights of Venezuelan society, the abuse of power, the uncontrolled abuse of ordinary citizens by the regime's security forces."*<sup>55</sup>
- g. *"If the [ICC] investigation is not resumed as soon as possible, our cases will not be investigated for arbitrary detention and torture, they will be investigated for murder in State custody."*<sup>56</sup>
- h. *"The Venezuelan justice system does not work autonomously, it only obeys orders from a regime that tortures and violates human rights, so much so that they lend themselves to convict innocent people when they know they are not responsible for such acts. If there is no international presence, the Venezuelan government will not feel any type of pressure to stop doing what it is doing, on the contrary, it is possible that repression and violations of human rights will increase."*<sup>57</sup>

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<sup>50</sup> r/65008/22.

<sup>51</sup> r/20272/23.

<sup>52</sup> r/20368/23.

<sup>53</sup> r/20431/23.

<sup>54</sup> r/65020/22.

<sup>55</sup> r/20750/23.

<sup>56</sup> r/20374/23.

<sup>57</sup> r/20199/23.

- i. “[Redacted] I have never imagined distortion of the judiciary to such levels. The Venezuelan Supreme Court of Justice is not only the enforcement arm of Nicolás Maduro’s dictatorship. It is the most lethal weapon the Maduro regime has, because it exercises absolute control over the administration of justice at all levels, they control the decisions of the judges [...]. Judges at all levels will never be able to deliver fair and impartial justice. It is all overlaid with corruption and subjugation, given the persecution you can be subjected to if you disobey the instructions [...]. There can never be any reparations for any victim under the current regime. The judiciary creates its own victims out of all those who try to denounce or raise their voice.”<sup>58</sup>
- j. “Between April and August 2017, the Venezuelans took to the streets to demonstrate against the collapse of constitutional order. [...] But far from having their demands heard and being allowed to exercise their rights, they were injured and killed. [...] We, the parents and relatives, indirect victims of the murders and serious bodily injuries, have also become direct victims of the State, that denied us justice and obstructed due process to protect the perpetrators, creating a false sense of justice before international bodies, lying shamelessly about our cases, not recognising their attack against the civilian population, failing to look for those responsible, but only making propaganda of a justice system that allegedly works, when this could not be further away from reality”.<sup>59</sup>

**(ii) Judicial reform measures adopted in Venezuela are limited and fail to address the lack of genuine proceedings**

32. According to the findings of a 2023 report [Redacted]: “the so-called judicial reform, that was enacted in haste, without appropriate due diligence, drafting expertise and consultation with the stakeholders and members of the National Assembly as required by the Constitution of Venezuela, is largely cosmetic in nature, in a number of instances includes amendments blatantly in violation of the Constitution and fails to: i) reinforce the capacity of the existing judicial system to investigate and prosecute alleged perpetrators, ii) create effective and viable accountability mechanisms to bring alleged perpetrators to justice, and iii) establish appropriate remedies

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<sup>58</sup> r/21339/23.

<sup>59</sup> r/21400/23.

for victims, demonstrating the lack of genuine political will to address accountability at all levels within the State. When considered in its totality, the institutional reform also fails to effectively prevent the further commission of crimes by 'Venezuela's military and civilian State intelligence agencies (that) function as well-coordinated and effective structures in the implementation of a plan orchestrated at the highest levels of the government to repress dissent through crimes against humanity' [...]."<sup>60</sup>

33. These findings are confirmed by many victims in their Article 18(2) forms:

- a. *"[Throughout the domestic proceedings] we have felt that we were fighting against a system that does not work, that there was no credibility for any of the actions taken during [the investigation and trial conducted in Venezuela]. [...] In the last five years, ten or twelve prosecutors came and went in the case, without any explanations and any concern for the delay in proceedings. To date, the case is still ongoing, without a final decision. We don't know the truth [about what happened to my son] beyond what witnesses told us the day my son died. In fact, I believe that when a diligent prosecutor who wanted to do his job was appointed to the case, the government took him out. All investigative measures taken to date were not genuine and are insufficient [...]. We are not allowed to obtain copies of any of the documents in the file. As for the courts, I was only summoned to one hearing, the rest were held without me being notified. I am not given sufficient protection, [...] they see me as an enemy for fighting for justice. Being in court waiting for a hearing is terrible, to the point that I chose not to go anymore, because I felt humiliated, mocked, mistreated, while I see that the accused feel calm, confident that they will not be convicted. The legal reforms that were adopted have not helped to speed up the process and I see no progress or willingness to have my rights as a victim recognized. [...] Financially, we do not have the capacity to pay for the whole criminal process. In fact, we could not afford a private lawyer to represent us in the process. We apologize to [our son]: "Son, it is not that we don't want to do anything, it is not that we don't want to seek justice, but we do not have the possibility. They have made it impossible to seek justice, it makes me feel bad to leave this half done [...]."*<sup>61</sup>

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<sup>60</sup> [Redacted].

<sup>61</sup> r/21402/23.

- b. *“The trials are not being carried out within the deadlines imposed by the law, [it is] the case of my [Redacted] and many deprived of their liberty. [The victim]’s trial was postponed [Redacted] times, both in the military and civil jurisdictions. [He has been] deprived of liberty without a trial for five years and a few months, in violation of Article 230 of the Code of criminal procedure, which establishes that pre-trial detention cannot be longer than 2 years or 3 [years] in exceptional cases. This is arbitrary detention.”*<sup>62</sup>
- c. *“[The victim] was detained in 2017, and he has not had a trial yet, hence he is detained without any legal justification. He was never sentenced by a military or civil court. Between [Redacted], when his case was before the military courts, no sentence was issued. During those [Redacted] years, there was one preliminary hearing, [...] one year after he was detained, but no trial was opened until [Redacted] before a military judge. However, there were no hearings and the case was repeatedly deferred. Finally [Redacted], [the victim] was transferred from the military court to the civil one. [...] However, the start of his trial before the civil courts continues to be postponed. The opening hearing has been deferred approximately 30 times only in 2022.”*<sup>63</sup>
- d. *“[The victim] was sentenced, [Redacted], after four years of detention, as part of the case [Redacted]. That week the hearings were starting [Redacted]. [The victim] was sentenced [Redacted], four years after his detention. Under Venezuelan law, it is illegal to be detained without a trial for more than two years. The conviction decision has not been published, so his family was not able to exercise the right to appeal. [...] There was never any investigation regarding the acts of torture that [the victim] was subjected to [Redacted], despite him and his lawyer informing the judges and district attorneys of these facts during the hearings. These facts do not appear in writing in any judicial record nor any other [Redacted] official record from the government. [Redacted].”*<sup>64</sup>
- e. *In March 2020 the pandemic arrived; we were ready to plead guilty, convinced that there is no rule of law and desperate to leave and to see our families. But because of the pandemic the process was paralyzed one more year [Redacted].<sup>65</sup> We were transferred to the court at 17:00 and we appeared before the judge at 03:00 am, without legal representation. The judge told us to plead guilty because four years had already passed and four or five more years*

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<sup>62</sup> r/20369/23.

<sup>63</sup> r/20281/23.

<sup>64</sup> r/20274/23.

<sup>65</sup> [Redacted].

could pass [before the trial ends]. [Redacted] I agreed to plead guilty to be able to return quickly to my family. [...] I should have been released on probation [but I was not]. Today, March 2023, I have [Redacted] left to serve my full sentence [...] and I still don't have the certainty that they will release me [...]."<sup>66</sup>

- f. "As in the other cases, [the victims'] lawyers have serious difficulties in exercising their defence. The lawyers are denied access to the case file and are denied copies of the minutes. They can only speak to their clients for a few minutes before each hearing and are never allowed to talk in private. The complaints that have been made to the different bodies (prosecutor, ombudsman, courts) on the tortures and irregularities in the process, have not led to concrete results."<sup>67</sup>
- g. "[The victim's] initial legal representation was so poor that he ultimately decided he needed to fire his public attorney. He hired [new lawyers] to represent him, but the Court did not approve this representation until the same day as the preliminary hearing. [The new lawyers] were told they needed to read his entire case file one hour before the hearing or else [the victim] would be assigned a public defender again. Based on his experience, [the victim] has no confidence that the Venezuelan State would be willing or able to carry out investigations or prosecutions regarding the criminal acts indicated in this form."<sup>68</sup>
- h. "Unfortunately, the justice system in Venezuela does not have the capacity, due to the structural flaws it presents, to provide victims with what they want, which is for impunity to end in Venezuela."<sup>69</sup>

**(iii) The ICC must bring perpetrators to justice since in Venezuela those most responsible for the commission of crimes are being shielded from criminal responsibility**

34. The [Redacted] concluded that "the institutional reforms presented by the State of Venezuela to satisfy the complementarity assessment of the ICC actively shields those most responsible perpetrators from domestic and ultimately international accountability and entrenches impunity for high

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<sup>66</sup> r/21964/23.

<sup>67</sup> r/20864/23.

<sup>68</sup> r/21042/23.

<sup>69</sup> r/20746/23.

level perpetrators, demonstrating a clear and systematic lack of genuine political will to seek accountability for crimes against humanity under the ICC jurisdiction allegedly committed by State perpetrators, in particular for high-level perpetrators.”<sup>70</sup>

35. In the OPCV Submission, victims also underline that “protracted delays in investigating support the conclusion that they were in fact conducted only to shield the individual concerned from criminal responsibility and prevent the ICC intervention.”

36. This is fully supported by the victims’ submissions to the Registry:

- a. *“Except for a few scapegoats, those most responsible have never been investigated, tried and punished, among other reasons, because official sectors are involved in the cover-up and, often, those responsible for the killings are also responsible for the investigation (an institutional design flaw).”<sup>71</sup>*
- b. *“Nicolás Maduro and his accomplices cannot remain unpunished for all the crimes they have committed against millions of Venezuelans opposing the criminal and corrupted regime.”<sup>72</sup>*
- c. *“There is no possibility of justice from the Venezuelan justice system considering that its employees are accomplices and participate in such crimes; they are not going to judge themselves. It should be understood that in Venezuela the judicial system executes the crimes that are ordered by the national executive.”<sup>73</sup>*
- d. *“No one is punishing the real perpetrators, that are the high commanders. And they keep harming. There is no justice in Venezuela.”<sup>74</sup>*
- e. *“[We want the ICC Prosecutor to resume the investigation] because justice must be done in relation to all the people who have abused their power in Venezuela and who are not investigated, because there is no for rule of law in the country. It is for this reason that it is necessary to come before international courts[...].”<sup>75</sup>*

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<sup>70</sup> See supra, footnote 59.

<sup>71</sup> r/20741/23.

<sup>72</sup> r/20148/23.

<sup>73</sup> r/20333/23.

<sup>74</sup>r/65015/22.

<sup>75</sup> r/20003/23.

f. *"Due to the lack of response from the authorities and the way in which the State security forces murder with complete impunity, we ask for justice at the highest possible level."*<sup>76</sup>

**(iv) ICC investigation is seen as a unique opportunity for victims' voices to be heard, to find out the truth about what happened to the victims, to end impunity and to prevent future crimes**

a. *"Due to the lack of effective justice by the Venezuelan State, the victims consider that the Court is the only means to achieve reparations or compensation for the harm suffered, to obtain true justice and to [hold] accountable the State agents who are accomplices of the armed groups (colectivos) that act in favour of the national Government and are protected by military and police agents."*<sup>77</sup>

b. *"The Venezuelan regime will accept no truce nor will it rest while there are people out there who raise their voices in favour of the immense majority of Venezuelans who are claiming justice, democracy and freedom for our country. [...] For this reason I ask the Prosecutor of the ICC to resume the investigation in Venezuela, as we are hundreds of thousands of Venezuelans who must survive in exile, fearing coming back to live in this tyranny and dictatorship."*<sup>78</sup>

c. *"It is extremely important that the situation in Venezuela is dealt with. There is a lot of violence, violations of human rights, [Venezuela] is a difficult and very complex situation. Living in constant anxiety and having to [protect ourselves from] all the State authorities is not good; [the authorities] are supposed to ensure that everything works and [to guarantee] the security and physical integrity of the population, but unfortunately we are in a complete state of helplessness. It is not easy to live in Venezuela with so much injustice."*<sup>79</sup>

d. *"[P]lease listen directly to the victims and get the testimonies of the witnesses of the events, who many times are coerced or frightened so that they don't talk."*<sup>80</sup>

e. *"We Venezuelans urgently need all the help that can be given from outside to end the suffering, since within Venezuela it is impossible to achieve that justice and that peace that*

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<sup>76</sup> r/20776/23.

<sup>77</sup> r/21915/23.

<sup>78</sup> r/20028/23.

<sup>79</sup> r/20040/23.

<sup>80</sup> r/20122/23.



*we have longed for so long. Without justice there can be no peace and without peace a nation cannot prosper.”<sup>81</sup>*

- f. *“[The victim wants the ICC Prosecutor to resume the investigation] to determine [who is responsible] for the above mentioned facts, so they do not happen again to anyone.”<sup>82</sup>*
- g. *“Honourable magistrates, although I understand perfectly well that this investigation takes time, you already know when you have a criminal in front of you. The country cries out for justice and only you can give that calm to hundreds of families victims of the continued violation of human rights and killings by these criminals.”<sup>83</sup>*
- h. *“[W]e need justice and cease of impunity. We need, in the name of thousands of victims of massive crimes and repression [perpetrated] as a policy by the government of Venezuela, to encourage you to continue your laudable effort and fight to bring the [truth] and justice to my people, it is the basis condition to find the peace and heal the wounds and rebuild the country”.<sup>84</sup>*
- i. *“[I]f there is no justice, there is impunity, torture, theft and enforced disappearances; you cannot live in a country where there are no rights, there is no private property, [where] you eat badly, you sleep badly, sometimes you see the repressive bodies in the streets looking for people to imprison, kidnap, steal from, torture, expropriate their property. [They] use the laws and the Supreme Court to harm the citizens. [...] [They] should speed up the ICC processes to see these people serving some jail time before they reach old age or harm more citizens.”<sup>85</sup>*
- j. *“As I write, I get excited to tell my story and reveal what happened to me, my family and friends, for once I forget that I have not eaten and that I am very hungry, I do not wish this on anyone, death is preferable to our current situation.”<sup>86</sup>*
- k. *“There must be enough pressure so that no family has to go through what this enforced disappearance has made us suffer. This experience of living not knowing what happened and living with the fear of never knowing the truth. Enforced disappearance is like torture, like a spine that always pricks you, you never overcome the uncertainty of the “not knowing”. [...] For me it is very important to know what happened to my father. I do not*

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<sup>81</sup> r/20131/23.

<sup>82</sup> r/20506/23.

<sup>83</sup> r/65014/22.

<sup>84</sup> r/20466/23.

<sup>85</sup> r/20050/23.

<sup>86</sup> r/20819/23.

*expect him to still be alive, I lost that hope some time ago, but I do want them to tell us what happened to him and, if he is dead, to tell us where his remains are and why they killed him. I would like to know the truth about what happened and I would like to have a place to bring him flowers to.”<sup>87</sup>*

## **B. Views and concerns on the scope of the Situation in Venezuela I**

37. The Transmitted Forms reflect the complexity of the Venezuela I Situation. [Redacted] provides a comprehensive explanation of the mechanics of the violence allegedly used by the Venezuelan Government – the relevant quote is included below. With respect to the scope of the Venezuela I Situation, in addition to the crimes specifically mentioned in the OTP Request (i.e. imprisonment or other severe deprivation of physical liberty, torture, rape and/or other forms of sexual violence, enforced disappearance and persecution on political grounds), the vast majority of the Transmitted Forms also report the crimes against humanity of murder and forced displacement. A large number of forms also refer to crimes against humanity committed against specific categories of victims, including indigenous groups, oil and mining workers and retired individuals. The OPCV Submission also details victims’ submissions on alleged crimes that go beyond the OTP’s temporal and subject-matter focus as per the OTP Request, and mentions specific targeted groups.<sup>88</sup>

38. The VPRS dedicates the present sub-section to quotes referring to these crimes and to groups not specifically mentioned in the OTP Request.

### **i) The mechanics of the violence**

*“Crimes against humanity are being committed in Venezuela for more than two decades, starting with 2002. These are continuous crimes that have been committed during two distinct phases of execution, each phase lasting ten years: an ‘installation’ phase and a ‘consolidation’*

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<sup>87</sup> r/21416/23.

<sup>88</sup> These are in particular journalists and media workers; and university students and professors.

phase. The authors, co-authors, collaborators and accomplices of these crimes are the same, with the exception of those who passed away, notably Hugo Chávez and deputy Luis Tascón. The State policies aimed at eliminating a part of the Venezuela population called the 'political opposition' are also the same ones. [...]

[Phase I] The attacks against the civilian population started in 2002, under the regime of Hugo Chávez, with the use of extreme violence in the 'massacre in Plaza Altamira,' in which at least 22 people died [...] and hundreds were injured by gun shots. The goal was to gain control over the Venezuelan oil company, the largest income generator in the country. [Redacted]. Political persecution through illegal arrests, violent attacks and [Redacted] in order to prevent them from being hired by other companies, created a climate of violence and coercion against this group and led to their forced displacement to other countries, from where they could never come back to Venezuela. The suicide rate amongst the members of this group also increased.

The persecution of other dissident groups was launched at the same time. These groups included: members of opposition political parties, journalists, owners of media groups and anyone who had different views than those of the Government. Assassinations, illegal detentions, torture, rapes and sexual violence, inhuman treatment and persecution of thousands of Venezuelans were committed. The recall referendum of 2004 against Hugo Chávez was used to identify 2,400,000 Venezuelans opposing the Chávez Government. These people signed in support of the removal of President Chávez. The so-called Tascón list was established [...]. This list was used to politically persecute the opponents by denying their fundamental rights to work, health, as well as any social benefits. The armed forces and paramilitary groups called círculos bolivarianos (Bolivarian Circles) were used in the attacks and in the large number of expropriations of agricultural and livestock farms. At the same time, the [independence of the] judiciary started being destroyed by the appointment of obedient prosecutors and temporary judges who guaranteed the control of the judiciary by following the orders of the executive power. [...] This first phase ended with the death of Hugo Chávez in December 2012. [...]

[Phase 2] The second decade, that of Nicolás Maduro Moros, started in 2013 and continues to date. The phase is defined by two clear trends in the crimes committed against the civilian population: (i) mechanisms of social control through extermination and forced displacement; and (ii) excessive use of force to repress the opposition. [The first trend is defined by the following]: a) the countryside is ruined, through agricultural and livestock expropriations, which leads to a serious food crisis; b) the Government starts importing food and distributes it based on political affiliation criteria, imposing a model of social control. Local Committees for

*Supply and Production ("CLAPS") are created [...] and CLAP food boxes are distributed only to those citizens who have the carnet de la patria, a key instrument to materialize the gradual extermination of a part of the population; [...] c) the food crisis resulted in a terrible health crisis that affects millions of Venezuelans. The population starts to get ill as a result of the inordinate deficiencies in their nutrition. Medicine is not available, or, the drugs that do exist are only distributed to those who have the carnet de la patria. By orders of the executive power, the transplant programs are cut off and the supplies of treatment for chronic diseases (cancer, HIV, kidney dialysis) are discontinued. The argument provided by the Government is: "they are going to die anyway, it is not worth making these expenses"; d) in 2016, the payment of retirement pensions is suspended. Senior citizens who had fled Venezuela to seek better living conditions in other places, are now subjected to a situation of gradual extermination by the intentional deprivation of food and medicine which they can no longer access [...].*

*[The second trend - excessive use of force to repress the opposition with absolute impunity] The demonstrations that took place from February to March 2014 were repressed by the armed forces and paramilitary groups with lethal weapons, causing 38 deaths, 550 injuries, more than 2000 illegal arrests, detention of 77 people in new torture centres, as well as sexual violence, persecution and forced displacements. Between April and August 2017 new demonstrations took place. These demonstrations were also repressed with fire weapons, at the express order of Nicolás Maduro, who also decides to put in place the Plan Zamora, that allows for violent acts to be committed by the armed forces. According to reports there were 135 deaths, at least 2000 severe injuries, 5,092 illegal arrests, as well as a large number of tortures, sexual violence and persecution. During this second phase, according to UNHCR, around 7.5 million people, the equivalent of 25% of the population of Venezuela, were victims of forced displacement in an unprecedented exodus in the history of the American continent. [...] [Assassinations publicly committed since 2018] were strong messages sent [by the Government] to potential dissidents in the armed forces, police forces, political parties, as to the fate they could face in case they will oppose the Government. [...] ”<sup>89</sup>*

## **ii) The crime of murder**

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<sup>89</sup> r/21979/23.

39. A large number of cases of murder<sup>90</sup> was reported in the Article 18(2) victim forms received.<sup>91</sup> The reported murders can be largely grouped into three distinct categories: i) killings in the context of anti-Government demonstrations/protests; ii) extrajudicial killings, especially of young men from poor backgrounds, after planting or manipulating evidence to falsely frame them; and iii) killings in the context of detention resulting, most often, from excessive torture, the conditions of detention or denial of medical treatment. The VPRS also notes that the indirect victims - relatives of persons killed – reported that they were victims of threats or other types of harassment to dissuade them from seeking justice for the loss of their loved ones.
40. The OPCV Submission refers to victims’ reports that “since 2014, numerous individuals have been unlawfully killed by the Guardia Nacional Bolivariana (GNB), the Policía Nacional Bolivariana (PNB) and/or the Fuerzas de Acciones Especiales (FAES) officers during demonstrations not only for civil and political rights, but also for social and economic rights.<sup>92</sup> Killings have also taken place as reprisals for participating in demonstrations, as well as for supporting the political opposition in elections. Armed groups supported and shielded by State authorities (*colectivos*) have also murdered demonstrators. These extrajudicial

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<sup>90</sup> Reference is made to the definition of the act of murder under art. 7(1) (a) of the Statute, namely that “[t]he perpetrator killed one or more persons” (footnote omitted), in the Elements of Crimes, at page 4.

<sup>91</sup> The VPRS notes that, in 2020, the FFMV found that the rate of killings carried out by Venezuela State agents is among the highest in Latin America; see FFMV, “Detailed findings of the independent international fact-finding Mission on the Bolivarian Republic of Venezuela”, 15 September 2020, [https://www.ohchr.org/sites/default/files/Documents/HRBodies/HRCouncil/FFMV/A\\_HRC\\_45\\_CRP.1\\_1.pdf](https://www.ohchr.org/sites/default/files/Documents/HRBodies/HRCouncil/FFMV/A_HRC_45_CRP.1_1.pdf). See also Defiende Venezuela, “Transforma: Miradas de la Memoria”, 6 July 2022, <https://www.youtube.com/watch?v=kMjUWvLLUWU>.

<sup>92</sup> See Human Rights Council, Human rights situations that require the Council’s attention, “Detailed findings of the independent international fact-finding mission on the Bolivarian Republic of Venezuela”, 15 September 2020, No. A/HRC/45/CRP.11, footnotes 2839, 2872, 2883, paras. 1811-1827; 16 September 2021, No. A/HRC/48/CRP.5, para. [Redacted].

executions are mostly perpetrated against young men in a situation of poverty during protests.<sup>93</sup>

41. The OPCV Submission also refers to reports of victims killed in the context of peaceful protests in five different municipalities of the state of Mérida between April and July 2017.<sup>94</sup> It is further submitted that “[i]n addition, 8,292 extrajudicial executions have been recorded between 2015 and June 2017.<sup>95</sup> Those were often the result of unlawful and violent home raids of State security forces and/or their paramilitary collaborators - where false confrontations are usually staged to cover up the killings.<sup>96</sup> [...] Moreover, [a civil society organisation] reported numerous killings classified by Venezuela as resulting from “resistance to authority” – 7,523 deaths in 2018 and 2,124 from January to May 2019.<sup>97</sup> The OHCHR also found that most of these deaths are likely to be extrajudicial killings.<sup>98</sup>”

42. A sample of quotes relevant to the crime against humanity of murder are included below:

- a. *“[U]pon resuming the investigation, the International Criminal Court [should] include other crimes committed in Venezuela, such as the murders committed in the context of demonstrations as crimes against humanity, since these were perpetrated by State officials under the orders of their superiors, in order to put a stop to the great wave of protests that*

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<sup>93</sup> See the Inter-American Commission on Human Rights, Annual Report 2021, Chapter IV.B. Venezuela, para. 69.

<sup>94</sup> Observatorio de Derechos Humanos de la Universidad de Los Andes (2018), “Mérida asalto a los Derechos Humanos 2017”, Informe anual del ODH-ULA. Informe general, 5 January 2018, pages 9-10.

<sup>95</sup> See OAS, “Report of the General Secretariat of the Organization of American States and the Panel of Independent International Experts on the possible commission of Crimes Against Humanity in Venezuela”, Washington D.C., 29 May 2018 Second Edition, March 2021, page 283.

<sup>96</sup> *Idem*, page XI.

<sup>97</sup> See Observatorio Venezolano de Violencia, “Informe Anual de Violencia 2018”, 30 December 2018, page 2.

<sup>98</sup> See Michelle Bachelet, “UN Human Rights Council: Report of the United Nations High Commissioner for Human Rights on the Situation of Human Rights in the Bolivarian Republic of Venezuela”, U.N. Doc. A/HRC/41/18, 5 July 2019, para. 50. See also OAS, “Fostering Impunity: the impact of the failure of the Prosecutor of the International Criminal Court to open an investigation into the possible commission of Crimes Against Humanity in Venezuela - Follow-up to the Report of the GSOAS and Panel of Independent International Experts on the Possible Commission of Crimes Against Humanity in Venezuela”, Washington D.C., 2 December 2020, page 41.

*had been generated throughout the country against the presidency of Nicolás Maduro, that is, to silence those who were perceived as opponents to the Government [...].”<sup>99</sup>*

- b. *“My son was murdered in the context of a peaceful demonstration, as a result of excessive repression by the police [...], who considered them opponents and consequently enemies and shot unarmed and defenceless people. My son was shot in his back. [...] In addition, the governor’s office ordered the clinic not to treat any person wounded in the demonstration, which resulted in the death of my son. The prosecution has not investigated the case as part of a State policy, on the contrary, it tried to minimize the seriousness [of the crime] by portraying it as an isolated event, which does not correspond to the reality.”<sup>100</sup>*
- c. *“State agents (...) acting under a hard line security policy that led to mixing actual police shootings with staged or fabricated confrontations through which executed victims were tailed as positive indicators of police action. This criminal pattern is similar to that used, for example, in the Philippines and Colombia, where extrajudicial killing are disguised as legitimate deaths in combat. [...] The extrajudicial killing that continue to occur in Venezuela are crimes against humanity perpetrated as a consequence of the implementation of a public policy purported to lead to citizen security, which has become a tool of social and political control of people living in poor neighbourhoods. The situation in Venezuela I must also address the extrajudicial killings, given that the deaths respond to a similar logic of population control and persecution that frame other gross crimes in Venezuela. [...] Justice has not been served for our relatives and for hundreds if not thousands of victims who died in similar circumstance. [...] The office of the Prosecutor of the International Criminal Court should not only resume the investigation of the situation of Venezuela I, but should extend it to extrajudicial killings. [...]”<sup>101</sup>*
- d. *“[W]ithin the framework of the [Redacted], about [Redacted] members of the State security forces assigned to the Bolivarian National Police, specifically to the Special Action Forces (“FAES”) broke into the home of my [Redacted] [...] intimidating her and threatening her with violence to open the door and let them into her home. The FAES officers did not carry any ID or visible names and they never presented any search or arrest warrant. Later, they took my [Redacted] out of her house telling her that she would be interviewed [...]. Once she was out of the house, the officers woke up my [Redacted], took him out to [Redacted],*

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<sup>99</sup> r/21412/23.

<sup>100</sup> r/21402/23.

<sup>101</sup> r/20741/23.

*and killed him by shooting him three times at close range. [...] Afterwards, they simulated a confrontation to justify their actions, placing a firearm in my [Redacted] In addition, they stole and looted valuables and non-perishable food from my [Redacted] house. The officers took my [Redacted] body to the hospital, and pretended they were trying to save him, when in fact, they had already executed him. [...] [T]he proceedings do not show that the prosecutor's office wants to find the truth and bring justice for the crimes committed by FAES. FAES is an organization that feigns punishable acts to justify the murder of young people, claiming they are fighting crime, but the reality is that they are executing people extrajudicially. "*<sup>102</sup>

- e. *"[The two boys] witnessed the murder of their father, which occurred inside their home. These acts of violence have emotionally affected the family nucleus and have caused psychological trauma. In 2022, [one of the boys], who is 8 years old, verbalized ideas associated with the possibility of ending his life on repeated occasions, trying on two occasions to harm himself. These verbalizations and behaviours are manifested, according to what he explained to his grandmother, in order to 'meet his dad again'."*<sup>103</sup>
- f. *"In 2016, [the victim] was deprived of his liberty. He was in the detention centre [...], suffering from severe health complications and [Redacted], as a result of the abuses he endured during his detention and due to his advanced age. The Venezuelan government frustrated each and every effort his family made to guarantee [the victim's] right to health, up until his death on [Redacted] 2019."*<sup>104</sup>
- g. *"[W]hile in pre-trial detention for over 7 years without any proceedings, [the victim] suffered from cancer [...] [Although they knew about his medical condition], he was continuously denied his right to medical care and treatment [...] For several years, [the victim's wife] made complaints before all entities, including the Ministry of Popular Power for the Penitentiary System, but she never obtained a response or a positive outcome. Her husband was practically murdered. He died on [Redacted] 2022 in the hands of the [Redacted], in Venezuela."*<sup>105</sup>
- h. *"After my daughter's death I felt my life was ending. I sought psychological and family help. I publicly denounced what happened to me in the media. But nothing happened, I*

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<sup>102</sup> r/21410/23.

<sup>103</sup> r/21927/23.

<sup>104</sup> r/21667/23.

<sup>105</sup> r/21683/23.



*never got an answer as to the negligence and the doctors' failures, etc. I did not make a complaint because I do not trust the justice system, nothing ever happens.*"<sup>106</sup>

- i. *"[T]hose responsible should stand trial and the hospitals crisis should be addressed and solved by the Venezuelan State. Additionally, the judiciary should conduct a correct and adequate investigation into the cases of children who have died in hospitals due to negligence."*<sup>107</sup>

### **iii) Political persecution and forced displacement**

43. The crime against humanity of forced displacement was reported in a large number of Article 18(2) victim forms. The main reasons invoked by victims for having had to flee Venezuela were the humanitarian crisis and the political persecution – which, in many cases, resulted in: *i)* victims being fired and not being able to exercise their profession, effectively losing their livelihood (i.e. oil workers, judicial and auxiliary personnel, public servants, military personnel, journalists, university professors, former politicians, health personnel and any other individuals who refused to follow orders and were therefore perceived as dissidents etc.); *ii)* victims being unlawfully detained and placed under precautionary measures after detention; *iii)* victims being stripped of their citizenship and/or identity documents; *iv)* victims being evicted from their homes; *v)* victims being denied access to social benefits, medical treatment, etc.
44. The OPCV Submission points to reports of arrests of young people in the context of demonstrations or "*guarimbas*", in 2014 and 2017 ("*Guarimba cases*") – arbitrary detention as a means of political persecution. "The pattern features arbitrary detention of young men, accused without evidence - or often with the use of false witnesses - of murdering supporters of the Maduro regime. These young men were then held in preventive detention for 3 to 6 years, during which they were tortured and subjected to cruel

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<sup>106</sup> r/22096/23.

<sup>107</sup> r/22095/23. On the issue of health, see Codevida/Provea, "Informe sobre la situación del Derecho a la Salud de la población venezolana en el marco de una Emergencia Humanitaria Compleja", 13 September 2018, <https://www.codevida.org/informes/informe-sobre-la-situacion-del-derecho-a-la-salud-de-la-poblacion-venezolana-en-el-marco-de-una-emergencia-humanitaria-compleja>.

treatment. Although all the defendants ended up being found not guilty, they obtained no justice or redress. From January 2014 to December 2022, 15 777 cases of detention on political basis were reported. Most of the concerned individuals were arrested and kept in detention centres without knowing the formal basis of their accusation and with no access to a lawyer [...].”<sup>108</sup>

45. Some representative victim quotes received by the VPRS on forced displacement are:

- a. *“[T]he Court should take a close look at the crime of forced displacement because, in [the victim’s] opinion, the State used it as a matter of policy to remove from the country young people who wanted a change of Government in the country - and there are thousands who are now wandering around the world.”*<sup>109</sup>
- b. *“The victim asks the [ICC] Judges to take a closer look at the situation in Venezuela since the 2014 and 2017 protests and consider the number of victims who have had to change their way of life by migrating to different countries to avoid further government attacks.”*<sup>110</sup>
- c. *“[Redacted] [...]. I was brutally persecuted and my home was raided without a warrant. I had to ask for protection from the Government of [Redacted] which granted me diplomatic asylum. I lost my properties in Venezuela, my wife abandoned me and because the Venezuelan government denied me to travel to [Redacted] by air, I had to escape to Colombia via the land border with several fellow asylum seekers. [...].”*<sup>111</sup>
- d. *“In 2014 I was one of the [Redacted] [...]. I started receiving threats from the armed groups sent by the government (Tupamaros). I never let myself be intimidated by their threats to such an extent that I was always persecuted, intimidated with firearms and repeatedly robbed. I never allowed myself to abandon my struggle since my [Redacted] was diabetic and by then the medicines began to be scarce. [...] My [Redacted] died. [...] They began to*

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<sup>108</sup> The OPCV Submission also points to numerous State operations by the Dirección General de Contrainteligencia Militar (DGCMI) and/or FAES officers since 2017 (Operation David - Paramacay), 2018 (Drone attack case), 2019 (Operation Constitution), (Operation Checkmate), and 2020 (Operation Europe) (Operation Gedeón)<sup>13</sup> (Operation American Spy), (Operation Boycott) – for all of which victims reported arbitrary arrest and detention, enforced disappearance and torture.

<sup>109</sup> r/21458/23. On forced displacement see also Un Mundo Sin Mordaza, “Observatorio de Juventudes Venezuela y Observatorio de la Diáspora Venezuela, Migración y refugio 2020”, 2020, <https://sinmordaza.org/wp-content/uploads/2020/07/INFORMEMIGRACION2020.3.pdf>.

<sup>110</sup> r/21441/23.

<sup>111</sup> r/20711/23.

- intimidate my [Redacted] to the point of chasing him anywhere he went; one day [...] several armed individuals arrived and without uttering any word they murdered [him]. After that they cornered me again [Redacted] giving me the final message that they had murdered my [Redacted] and that the next one would be me if I continue participating in demonstrations. [...] As a result of all these I have developed depression and anxiety. I emigrated to [Redacted] but I had to return to Venezuela because I was discriminated against on many occasions. I was very afraid to remain in [Redacted]. I felt terrified and returned Venezuela. As soon as my plane landed, I was approached by the national guards who stripped me of my identity documents when leaving the airport, they threatened again to kill me. In a couple of months I had to leave Venezuela as I felt very vulnerable. I was intimidated on several occasions and had to leave to [Redacted] where I currently reside.”<sup>112</sup>*
- e. *“I was part of the national armed forces of my country and the Maduro regime threatened me with imprisonment and death, for refusing to take part in their corrupt policies. [...] Nicolás Maduro gives direct orders to his trusted military [men] to harass us, the militaries who do not agree [with the policies]. [M]y wife and I were considered traitors to the homeland, or escuálidos, the term they use to refer to the people who do not agree with the ideology of the dictatorship. This is the reason why I lost my military career and why I was forced to run away from my country in order to save my life and that of my wife.”<sup>113</sup>*
- f. *“[Redacted]. As a consequence, I received death threats on many occasions, either by phone or in letters they left in front of my house. [...] The threats materialized on [Redacted], in the early hours of the morning, when my family and I were fired at more than 13 shots by the colectivos bolivarianos with the clear intention to kill us. This is the reason why we had to leave the country, to save our lives, and we are now living in [Redacted], under temporal protection status.”<sup>114</sup>*
- g. *“[The victim], who was a minor at the time of the events, was arrested by DGCIM [...] due to his alleged links to terrorists acts [...]. [He was detained] in a juvenile detention center, in isolation and prevented from receiving any visits. [He suffered] physical and psychological damage caused by being held incommunicado [and] after his release, he fled to [Redacted] [...] where he lived on the street and without any identity documents. [The victim] wants to return to Venezuela [...] but he cannot do so because of the legal*

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<sup>112</sup> r/20430/23.

<sup>113</sup> r/20378/23.

<sup>114</sup> r/20434/23.

*proceedings against him that have no legal justification. Genuine justice is needed for him to have the confidence to return to his country.”<sup>115</sup>*

- h. “I have been under a weekly presentation regime since [Redacted] with prohibition of leaving Spain, stripped from every means of identification, without decent labour opportunities, with an economic situation extremely precarious, with my bank accounts frozen, with big difficulties to fulfil my social and tax obligations. All this made worse by the stalking and constant threats, causing in my life an emotional and psychological crisis, needing to take medication during all those years to avoid a collapse of my nervous system, causing a terrifying uncertainty that, at any moment, once the extradition is ordered, I will be sent to Venezuela, where my life and personal security would be at stake.”<sup>116</sup>*
- i. “I was a victim of the regime. I was a prisoner in [Redacted] 2015, simply for taking a photo of a queue in front of a supermarket to buy food, due to the shortage, the queues were very long, I took a photo to show it to a relative living abroad. After this, I was released, but the persecution against me and my family continued, I lived in constant fear and trauma [...]. I have been living for the last 5 years in [Redacted]. I could say that I re-built my life and with a lot of effort and work I was able to bring my family here; but I feel that the persecution is still going on [...]. I am currently trying to obtain citizenship, which by right and time [spent in [Redacted]] I can apply for, but I have been blocked for more than 2 years because I have some kind of record in Venezuela where I was arrested for what I said before, so I feel like a prisoner in this country as well and I aspire to improve or rebuild my life, [but] in reality this is a nightmare.”<sup>117</sup>*
- j. “[A]s a consequence of the illegal closure of borders ordered by President Maduro on 19 August 2015 and the measures adopted by the State exemption decree, around 24,000 Colombians were deported or forcibly displaced, in violation of national laws and international treaties [...].”<sup>118</sup>*
- k. “I am afraid of returning to Venezuela and being detained again because of my political ideology and that they will take reprisals against my family who is still there.”<sup>119</sup>*

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<sup>115</sup> r/21653/23.

<sup>116</sup> r/65020/22.

<sup>117</sup> r/20388/23.

<sup>118</sup> r/20468/23.

<sup>119</sup> r/20297/23.

- l. *"The cruelest harm suffered was having to separate from my son. To leave my marriage, my son, my family, my father, my brother because if I stayed in Venezuela, every day the threats of the colectivos were becoming more dangerous."*<sup>120</sup>
- m. *"I would like to live the rest of my life in my country and in dignified conditions. I would like to be with my family and loved ones before I die."*<sup>121</sup>

**iv) Targeted group: indigenous people**

46. A number of Article 18(2) forms received call on the ICC Prosecutor to also look into crimes against humanity committed by the Venezuelan State against indigenous people:

- a. *'[Redacted] <sup>122</sup>. [...] The right to special indigenous jurisdiction was violated, which establishes that when committed in indigenous territories these [crimes] should be judged in indigenous territory and with their legitimate authorities, respecting their customs and traditions, setting the place of detention more than 1,200km from their community to the place of detention. [...] If it's not investigated by the ICC, the investigation is not going to happen.'*<sup>123</sup>
- b. *"There are many cases of violation of the human rights of indigenous people ranging from physical violence, torture, prisons, murders [...] the forced displacement of indigenous peoples and racial discrimination."*<sup>124</sup>
- c. *"[In 2021] [Redacted] they arrested me without an arrest warrant, took away my telephone and held me incommunicado without knowing anything about my family. [...]"*<sup>125</sup>

**v) Targeted group: oil industry workers**

47. A large number of victims call on the ICC Prosecutor to also investigate the continuous crime of political persecution, as well as other crimes committed against [Redacted], including forced displacement and other inhumane acts, that continue to the present day. Whilst they acknowledge that the crimes committed during the protests and their initial dismissal [Redacted] fall outside the temporal scope of the Venezuela I situation, as it was referred by

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<sup>120</sup> r/20825/23.

<sup>121</sup> r/20012/23.

<sup>122</sup> [Redacted].

<sup>123</sup> r/20868/23.

<sup>124</sup> r/20541/23.

<sup>125</sup> r/20561/23.

the group of State Parties to the Rome Statute,<sup>126</sup> they note that the crimes do not fall outside the temporal jurisdiction of the ICC with respect to crimes committed in Venezuela (i.e. since 1 July 2002).<sup>127</sup>

- a. *"Include in the investigation the human rights violations committed against [Redacted] workers dismissed in [Redacted]."*<sup>128</sup>
- b. *"This is a continuous crime, which has been prolonged in time, with the same authors, co-authors, collaborators and accomplices. The time and material framework [of the ICC investigation] should be extended to at least July 2002 and all crimes committed that fall within the jurisdiction of the ICC should be investigated."*<sup>129</sup>
- c. *"In [Redacted] I was unlawfully fired from my job [Redacted] for claiming my labour rights and social freedoms. [...] They did not give me the money I was entitled to as social benefits, violating the economic and social rights established in the constitution of Venezuela. From that day, the government of Hugo Chávez began to persecute us and many of my co-workers were forced to leave the country as a result of threats to jail and torture them. We were prohibited to demonstrate and companies that gave us employment were sanctioned. The human rights of my family were breached by the limitations imposed on the possibilities to generate income to support our children, who during those first years starting with [Redacted] were minors. In my case I had to separate from my family and look for work abroad to be able to support my children. All this [persecution] has happened from [Redacted] and continues to date (February 2023). It has been 20 years of dictatorial government and violation of human rights."*<sup>130</sup>
- d. *"I was not allowed to work for any other oil company because there was a database with our names in it. [...] [We were never] paid social benefits, we lost wages and other benefits that we are entitled to by law. [We were not able] to work in any oil company in the country.*

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<sup>126</sup> State Parties Referral, 26 September 2018, [https://www.icc-cpi.int/sites/default/files/itemsDocuments/180925-otp-referral-venezuela\\_ENG.pdf](https://www.icc-cpi.int/sites/default/files/itemsDocuments/180925-otp-referral-venezuela_ENG.pdf).

<sup>127</sup> See also footnote 32 above. [Redacted] suggested that the ICC Prosecutor should also make a request, under Article 15(3) of the Rome Statute, to expand the temporal scope of the Venezuela I Situation in order for the investigation to cover all crimes against humanity committed in Venezuela since 1 July 2002.

<sup>128</sup> r/20165/23.

<sup>129</sup> r/20978/23.

<sup>130</sup> r/20461/23.

*Former workers were politically persecuted. [We cannot] enjoy the medical benefits to which we are entitled by law.”<sup>131</sup>*

- e. *“[Redacted] [I was registered as] deceased in all public organizations, which prevents me from accessing social security [and my other rights as a citizen].”<sup>132</sup>*
- f. *“The collapse of the oil industry, because of the persecution against me and against the oil workers, as well as the repeal of the Full Oil Sovereignty Policy, together with a manifest incapacity to manage the affairs of the State, has caused the debacle of the national economy and the institutional framework. [...] The victims directly suffer the violence and persecution against the oil workers [Redacted]. Thousands have been persecuted and left the country. Hundreds are imprisoned with no rights, suffering cruelty, inhumane treatment, and public disqualification. The most notorious case is the one of [Redacted] who died in jail because the prosecutor and judge denied medical assistance. This is a pattern of conduct against the oil workers and the Chavistas dissidents.”<sup>133</sup>*
- g. *“I worked recently as [Redacted] installations and I got to see how if you were not supportive of the United Socialist Party of Venezuela (“PSUV”) or the presidents Nicolas Maduro or Chávez, you could either not work for the company or sometimes not even with contractors . The workers at [Redacted] are often forced to attend pro-government marches and rallies, and if they do not attend, their jobs could be at risk, or some of the “social benefits” provided by the government such as the CLAP food boxes can be taken away from them.”<sup>134</sup>*

## **vi) Targeted group: mine workers**

48. Crimes against humanity committed against people working in mines were also reported.<sup>135</sup>

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<sup>131</sup> r/20441/23.

<sup>132</sup> r/22027/23.

<sup>133</sup> r/20466/23.

<sup>134</sup> r/21340/23.

<sup>135</sup> See, *inter alia*, International Transparency, “Organized Crime and Corruption in Venezuela: A problem of State”, June 2020, pages 11 – 12, <https://transparenciave.org/wp-content/uploads/2020/11/Organised-Crime-in-Venezuela-Collusion-between-Crime-and-Government.pdf>.

a. "Thousands of mine workers were assassinated and displaced from their communities in order for mineral resources to be exploited by groups close to the Government."<sup>136</sup>

**vii) OPCV Submission on two targeted groups: (i) journalists and media workers; and (viii) university students and professors**

49. The OPCV Submission indicates victim reports that "since 2013, the regime has been showing a pattern of violent attacks against press and media workers, particularly against those documenting national electoral processes. Preventing access voting centres, physical and verbal attacks, harassment and arbitrary arrests,<sup>137</sup> are some of the recurrent practices. [...] Censorship has been imposed to silence the press, hinder access to information for Venezuelan citizens and punish those who go against the narratives of the regime. [...] Only in the last year, the total number of journalists and media workers who suffered aggression, illegal arrest and detention [rose] up to 98."<sup>138</sup>

50. The OPCV Submission further reports that Mérida, along with the Universidad de Los Andes, was at the centre of student protests "that were excessively repressed by the Venezuela state forces - highlighting patterns of killings, arbitrary arrests, torture and other cruel treatments, and violent attacks against residential areas." It is further reported that from February to July 2014, 33 arbitrary detentions against demonstrators and 4 murders have been registered in the context of protests in the city of Mérida.<sup>139</sup> Furthermore, "[f]rom January to October 2015, the [Observatorio de Derechos Humanos] reported 42 students injured by state and parastatal

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<sup>136</sup> r/21361/23.

<sup>137</sup> See IPYS Venezuela, *Alerta IPYSve, Prensa limitada por el Plan República durante elecciones en Barinas*, 11 January 2022.

<sup>138</sup> See, *inter alia*, the case of Ramón Centeno: Runrunes "CNP denuncia que se cumple un año de la detención arbitraria del periodista Ramón Centeno", 2 February 2023. See Infobae: "Comenzó el juicio contra el periodista venezolano Roland Carreño tras un año y medio detenido", 10 May 2022. See also, Moleiro, A.: "Vuelve al punto de partida el juicio al periodista venezolano Roland Carreño, después de dos años preso", 1 November 2022.

<sup>139</sup> See Observatorio de Derechos Humanos: "Violaciones de los Derechos Humanos en Mérida. Febrero-julio 2014. Informe temático", 8 September 2015, pages 51 *et seq.*



repressive forces in the context of peaceful demonstrations throughout the country, and 14 murders in the context of protests on university campuses by the Bolivarian National Guard and the Bolivarian National Police.<sup>140</sup> The OPCV Submission also refers to “several attacks against students in 2016: 13 people were injured and 18 arrested in the context of 12 university protests. The students from the Universidad de Los Andes detained after the protest on 14 March 2016, all reported being beaten during detention and forced to sign or stamp their fingerprints on blank sheets of paper.”<sup>141</sup>

#### **ix) Pensions**

51. A large number of victims claim that Venezuela’s refusal to pay retirement pensions to real or perceived Government opponents currently residing in and outside Venezuela, as well as the derisory sums paid to the rest of the retired population, amounts to crimes against humanity that victims want the ICC Prosecutor to investigate.

- a. *“In the Venezuela I situation, only crimes related to the severe deprivation of physical liberty, torture, rape and/or other forms of sexual violence and persecution have been [mentioned by the ICC Prosecutor]. However, the [Venezuelan Institute of Social Security (IVSS)] pensioners are victims of the crime against humanity mentioned in Article 7(1)(b) of the Rome -extermination. The refusal to pay retirement pensions resulted in food and medicine deprivation, a conduct assumed by the Maduro Government intentionally and with full knowledge of the consequences. It is worth noting that Nicolás Maduro Moros, [...] in 2017 and 2019, publicly acknowledged the situation in interviews with the Spanish journalist Jordi Evole, which were widely disseminated on the YouTube. [...] We therefore request the [ICC Judges] to order the Prosecutor to extend the investigation in the Venezuela I situation to also cover the crime of extermination.”<sup>142</sup>*
- b. *“In January 2016, without prior notification, the Venezuelan government intentionally cancelled the payments and bank transfers for the retirement pensions of all Venezuelan*

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<sup>140</sup> See Observatorio de Derechos Humanos de la Universidad de Los Andes, Boletín Nro. 1 : “Situación de inseguridad en las Universidades venezolanas. Ataques contra la vida e integridad personal y contra los bienes de las universidades”.

<sup>141</sup> The OPCV Submission also informs that attempts by victims to bring cases forward in the national judicial system led to “no due investigation or a single conviction”.

<sup>142</sup> r/20517/23.

*Social Security Institute's beneficiaries residing in Spain as part of a systematic and generalized regime policy. Such an indefinite termination that continues today (February 2023) has seriously deteriorated the pensioners' living conditions because it prevented them from buying food and getting health care support, causing them terrible personal economic vulnerability. Simultaneously with the State retirement pensions' payment suspension, the Venezuelan government has drastically reduced the pensions' purchasing power available only to those pensioners living in Venezuela to levels well below the UN standards for extreme poverty worldwide. The Venezuelan government abandoned its retired seniors to their fate and turned them into social pariahs. Such an aberrational and criminal policy has led them to live in the most miserable extreme poverty levels, minimizing their living conditions by downgrading them from living with dignity to surviving on human charity. Their lack of income forced them to become beggars, severely harming their physical and psychological health. [...]"<sup>143</sup>*

- c. *"The victims are retired persons entitled to receive retirement pension from the Venezuelan [Redacted] [...]. When [the victims] retired as an integral part of what is now called [Redacted], they decided to change their places of residence, due to multiple and different factors, but in the vast majority of cases, to protect their families from the political persecution they were subjected to as a result of their pro-democracy ideology. They continued to receive the payment of their retirement pensions in their new countries of residence through direct transfers that the IPSFA made to their bank accounts [...]. However, after February 2014, the Maduro regime began to restrict the possibility of accessing and using our retirement pensions in our places of residence outside Venezuela, through illogical, incongruous and even unmotivated administrative acts aimed to delay their payment, cut the amounts, deny applications, until closing the link on the CENCOEX website and thus removing all possibility of use and enjoyment of our pensions in our places of residence. On the other hand, there was an evident, growing and continuous destruction of the Venezuelan military social security system, as well as of the social security system in general [...]. In addition, the serious and unprecedented deterioration of the value of the Bolivar as a national currency, with its almost disappearance has placed the amount of the monthly pension between US \$ 40 and US \$ 50 x Bolivar, for example, for the [Redacted].*

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<sup>143</sup> r/20266/23.

*[...] [T]he indices of extreme poverty were accentuated, and [...] this low income determined the quality of life of the people and the length of their lives [...].”<sup>144</sup>*

## **C. Views and concerns on the security situation**

### **(i) Fear of retaliation**

52. The VPRS notes that the overwhelming majority of the forms received raised security concerns for either the victim(s) filling in the forms, their family members, the individuals or organizations assisting victims, the lawyers, etc., irrespective of whether they currently reside in Venezuela or elsewhere.<sup>145</sup> Fear of retaliation was consistently mentioned by the victims:

- a. *“It is known that Venezuela has managed blacklists that have condemned to exile, prison and even death, people who had merely put their signatures down to ask for change. I am afraid of not being able to go back after submitting this complaint.”<sup>146</sup>*
- b. *“Every time a complaint is made before State institutions, we suffer persecution and harassment”<sup>147</sup>*
- c. *“[I fear retaliation] because that criminal regime has influence and tentacles everywhere in the world, and even though I am outside of Venezuela, I could be in danger of attacks to my physical integrity or that of my family.”<sup>148</sup>*
- d. *“This initiative that we are now taking can result in our persecution, of all of us who are filling in these forms.”<sup>149</sup>*
- e. *“Regimes like these do not hesitate to use force to repress, torture, or make people disappear or organisations, entities, NGOs, political parties, etc., in order to keep the power at all cost and no matter what”.<sup>150</sup>*
- f. *“I fear that this form and my fight for justice have negative repercussions and can harm my parents and brother who still live in Venezuela.”<sup>151</sup>*

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<sup>144</sup> r/20427/23.

<sup>145</sup> The OPCV Submission reports similar indications from victims, *ie* “ security concerns related to their situation and the one of their relatives in Venezuela”.

<sup>146</sup> r/20012/23.

<sup>147</sup> r/20119/23.

<sup>148</sup> r/20131/23.

<sup>149</sup> r/20169/23.

<sup>150</sup> r/20318/23.

<sup>151</sup> r/20390/23.

- g. *"It is [proven] that the Maduro regime does not skimp on silencing those who [have] evidence, those who denounce or give information about the true situation in Venezuela. I am always worried about what may happen to me or my family, but I do not consider that keeping quiet about everything that happened to me is an option, I will never stop seeking justice."*<sup>152</sup>
- h. *"The families of political prisoners are constantly persecuted, harassed and mistreated. So are our lawyers and defenders."*<sup>153</sup>
- i. *"The State has been characterised by a policy of reprisals against those who raise their voices and interact with international organisations denouncing the situation in Venezuela, which is why we are afraid that they will act against us and our families."*<sup>154</sup>
- j. *"In Venezuela, the practice of repression and retaliation by the regime is a serious and persistent problem, which manifests itself in various forms. Firstly, citizens who denounce human rights violations are the target of direct threats, persecution, harassment and arbitrary detentions. These actions, often accompanied by torture and cruel, inhuman and degrading treatment, are aimed at instilling fear and silencing those of us who dare to speak out. Secondly, the Venezuelan regime has used the figure of justice to persecute and criminalise human rights defenders. Judicial proceedings have been opened against citizens who dare to denounce violations committed by the State, accusing us of unfounded crimes and depriving many of their freedom without due process or fair trials (...) Thirdly, the regime has deployed an intelligence and surveillance apparatus that controls and monitors citizens, especially human rights defenders, as I have been doing for more than 30 years. The information gathered by this apparatus is used to harass and persecute those who dare to denounce violations committed by the State."*<sup>155</sup>

**(ii) Tools of repression**

a) Culture of blacklisting/publishing personal information

53. A large number of forms refer to the practice of blacklisting and publishing personal details of real or perceived opponents, which was systematically used as a tool of political persecution and intimidation of the population throughout the Chávez and Maduro regimes. Most notorious examples of

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<sup>152</sup> r/20505/23.

<sup>153</sup> r/20368/23.

<sup>154</sup> r/20830/23.

<sup>155</sup> r/21840/23.

the practice are i) the blacklisting for future employment in the oil sector [Redacted];<sup>156</sup> ii) the *Tascón list* compiled and published online in the aftermath of a 2004 recall referendum against President Chávez.<sup>157</sup> The list consists of the names of millions of individuals who signed the referendum petition and it was allegedly used by public authorities and public companies to target perceived government opponents who were reportedly blacklisted from government jobs and services, including social benefits,<sup>158</sup> threatened with retaliation, denied access to universities, etc. In April 2005, after winning the referendum, President Chávez reportedly said that it was time to “bury the list” but its use – and other forms of political discrimination – reportedly continue to date; iii) another more recent example dates back to August 2016 when President Maduro reportedly set a deadline for five public ministries to dismiss staff members who requested a recall referendum against him,<sup>159</sup> as a result of which hundreds of public workers were reportedly dismissed.

- a. *“Furthermore, for having supported and signed in favour of the revocatory referendum against Hugo Chávez, which was a constitutional right, I was included in what was later called the Tascón list and what we called the ‘Venezuelan apartheid’, which resulted in the total exclusion of all signatories from economic and social aid packages, as well as the loss of our right to work in the public administration, which was the greatest source of employment at the time. This consequently affected our other fundamental rights.”<sup>160</sup>*

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<sup>156</sup> Human Rights Watch, “A Decade Under Chávez: Political Intolerance and Lost Opportunities for Advancing Human Rights In Venezuela”, September 2008, <https://www.hrw.org/reports/2008/venezuela0908/>. See also para. 47 above.

<sup>157</sup> See, *inter alia*, Human Rights Watch, “Human Rights Watch Concerns and Recommendations on Venezuela”, July 2014, <https://www.refworld.org/pdfid/559e3fc74.pdf>.

<sup>158</sup> Civil society and a number of States have made various references as to how the list was used to obstruct access to social benefits but few details are given as to what social benefits could not be accessed and the consequences. See Government of the Netherlands, “General Country of Origin Information Report Venezuela”, June 2020, <https://www.government.nl/documents/directives/2020/06/11/general-country-of-origin-information-report-venezuela-june-2020>. There are also reports of civilians being denied medicine as their names were on the *Tascón list*. See also footnote 156 above.

<sup>159</sup> Reuters, “Venezuela president orders public worker sackings over referendum call”, 23 August 2016, <https://www.reuters.com/article/us-venezuela-politics-idUSKCN10Y05L>.

<sup>160</sup> r/22112/23.

- b. *“I was fired from the national public administration. Although this form is individual; this is also the story of thousands of people who, as me, were fired from our public administration positions as a result of having signed the petition requesting the recall referendum of the presidential mandate of Nicolás Maduro Moros in 2016. [The recall referendum] is a constitutional mechanism included in our current constitution. [...] we were labelled as traitors to the homeland and stripped of our rights to work, to retire, to enjoy social benefits, health insurance and hospitalisation and were included in a black list as enemies of the revolution. [...] I am [Redacted] years old and should already be retired [...]; however, as a consequence of this abuse, I lost all my years of service in the public administration, and at this moment I only have the old-age pension from IVSS in the amount of 130 bolivars monthly, the equivalent today of 5,30 dollars monthly. Given this situation, despite my academic and professional background [...] as the majority of Venezuelans, I live in extreme poverty.”<sup>161</sup>*
- c. *“Both testimonies confirmed the validity of the use of the Tascón list as a tool of discrimination and persecution based on political reasons or ideas. Today, March 7, 2023, [this list] is still in force. Last month, the [Redacted] gathered a large number of workers dismissed from de [Redacted] for appearing on the Tascón list.”<sup>162</sup>*
- d. *“Once this form arrives in the hands of the ICC, surely the representatives of the Venezuelan regime will have access to it, and as in other famous cases (the Tascón list [Redacted], we will be persecuted, it won't even matter that we are in other countries, since this regime already counts on international support”.<sup>163</sup>*
- e. *“[O]ur work as human rights defenders has not gone under the radar, we continue to be attacked [...] and recently a new bill has been approved in first discussion before the National Assembly that seeks to give a facade of legality to the persecution against non-governmental organizations. We have seen before this type of action and we know the consequences. At the moment there are several human rights defenders in prison, this type of persecution continues today. [Redacted].”<sup>164</sup>*

## b) Surveillance and monitoring

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<sup>161</sup> r/20504/23.

<sup>162</sup> r/21510/23.

<sup>163</sup> r/20938/23.

<sup>164</sup> r/21486/23.

54. Many forms reported the constant surveillance and monitoring of the population by the Government. [Redacted] *carnet de la patria* or “homeland card”,<sup>165</sup> introduced by the Maduro Government in January 2017. The card contains a QR code which identifies citizens who receive social assistance from the Government.<sup>166</sup> To use the *carnet de la patria*, Venezuelans need to download and install a mobile app. To download the app, users must allow access to their real-time geolocation and phone camera, and the app can reportedly modify users’ calendars, alter or delete content on SD cards, record audio from device microphones and send emails from users’ accounts without their knowledge.”<sup>167</sup> Moreover, to request access to public benefits, citizens must scan their *carnet de la patria*’s QR code and activate their cell phone’s global positioning system (GPS), potentially allowing the Government to track both their personal data and their location.<sup>168</sup> The app’s database reportedly stores details [such] as birthdays, family information, employment and income, property owned, medical history, State benefits received, presence on social media, membership to a political party and voting history.<sup>169</sup> It is reported that only those citizens who have the *carnet de la patria* can request aid and other services offered by the Government and that the Government is depriving citizens who do not have the *carnet de la patria* of food boxes, medicines, etc. It was also reported that only

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<sup>165</sup> According to the Government, the identity document is aimed at tracking the socioeconomic status of the population and streamline the government’s social assistance programs (locally called missions). See <https://www.vtv.gob.ve/venezuela-celebra-creacion-carnet-patria/>. According to the information available, collection of data on the card is frequently updated, and its scope continues to expand and develop. See <https://www.vtv.gob.ve/patria-realiza-jornada-actualizacion-datos-adultos/>.

<sup>166</sup> [https://twitter.com/NicolasMaduro/status/1616424300424085505?ref\\_src=twsrc%5Etfw%7Ctwcamp%5Etweetembed%7Ctwterm%5E1616424300424085505%7Ctwgr%5E607f62260c38ece102300dab4409c5fbc79d131d%7Ctwcon%5Es1\\_&ref\\_url=https%3A%2F%2Fwww.vtv.gob.ve%2Fcarnet-patria-arriba-6anos-protegiendo-pueblo%2F](https://twitter.com/NicolasMaduro/status/1616424300424085505?ref_src=twsrc%5Etfw%7Ctwcamp%5Etweetembed%7Ctwterm%5E1616424300424085505%7Ctwgr%5E607f62260c38ece102300dab4409c5fbc79d131d%7Ctwcon%5Es1_&ref_url=https%3A%2F%2Fwww.vtv.gob.ve%2Fcarnet-patria-arriba-6anos-protegiendo-pueblo%2F)

<sup>167</sup> Freedom House, “Freedom on the net 2022- Venezuela”, <https://freedomhouse.org/country/venezuela/freedom-net/2022>

<sup>168</sup> Id.

<sup>169</sup> <https://www.reuters.com/investigates/special-report/venezuela-zte/>

Venezuelans in possession of the card were able to receive the Covid19 vaccine.<sup>170</sup>

- a. *“Those in power have developed a system of eavesdropping, espionage and intelligence, in conjunction with foreign intelligence services, that has permeated even the family nucleus of every inhabitant of the country”.*<sup>171</sup>
- b. *“All identification, registration and immigration systems are integrated, which makes those of us who do not agree with their political ideology subject to permanent surveillance.”*<sup>172</sup>
- c. *“[...] The silent extermination of thousands of people by their intentional deprivation of food and medicine, which are only distributed to those who have the carnet de la patria, must be investigated. [...] The ways in which the Tascón list was used to persecute and discriminate against political opponents, violating their fundamental rights of access to food and medicine and access to jobs [must be investigated].”*<sup>173</sup>
- d. *“For any of those [individuals whose name are included] on the lists of [workers] dismissed from the oil industry, submitting or claiming their rights against the criminal regime in Venezuela is a reason for fear [for] our physical safety [...]. [In addition to] the harassment and terror that we live [under] in Venezuela for being part of the list of unemployed marked by this government, we have to deal with the carnet de la patria depriving the rights of those who do not possess it, an instrument with which the government aspires to ensure the obedience of the citizens.”*<sup>174</sup>

### c) Stripping down individuals of citizenship and identity documents

- a. *“During the anti-government protests of 2017, the actions of the State security forces and armed groups affiliated with the government followed a pattern of behaviour that was repeated in each of their actions in different parts of the country. Everything was aimed at creating terror among the citizens, for which they were allowed to rob, beat, cause material damage and even kill. I was a victim of persecution for refusing [Redacted]. [...] I was*

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<sup>170</sup> Center for Strategic and International Studies, “The internet: Venezuela’s Lifeline”, 4 December 2019, <https://www.csis.org/analysis/internet-venezuelas-lifeline>. See also Provea, “Derecho a la Seguridad Social, Informe 2021, Situación de los Derechos Humanos en Venezuela”, pages 18-20.

<sup>171</sup> r/20928/23.

<sup>172</sup> r/21544/23.

<sup>173</sup> r/20977/23.

<sup>174</sup> r/20947/23.



*dismissed without any payment, a criminal investigation was opened, my passport was blocked and a permanent ban on leaving the country was placed.*"<sup>175</sup>

- b. *"I was imprisoned for three months [Redacted] because I participated in the demonstrations. Two of my colleagues were murdered in cold blood and I was threatened that if I made any complaint I would be the third dead; for [the ICC] it is very easy to ask us to be the ones to denounce them, but if we do they will tear our heads off. [...] I cannot even apply for a new identity card since the [National Electoral Council (CNE)] raised an objection to me so that the SAIME would not give me the right to apply for the national identity card and passport, and I have lodged countless complaints, bringing birth certificates and so on, which have been rejected for unknown reasons."*<sup>176</sup>
- c. *"I am a Colombian citizen by birth and Venezuelan by naturalization. [...] [D]uring the last [Redacted] years I have lived permanently in Venezuela and I have only traveled to Bogotá three times to visit family. [...] On 5 [Redacted], after meeting all the legal requirements [...] I obtained Venezuelan nationality. [...] In 2017 constituent assembly elections were held in Venezuela. [Redacted]. For this reason the national government decided to annul my national identity document and to prevent me from participating in other electoral events. I was also not allowed to renew my national identity document or my Venezuelan passport.[...] I was told that I do not exist in [Venezuela], that I should return to Colombia.[...] [M]y country is Venezuela since here I have lived, have had an honest job and have complied with all the laws of this country. Here I made my life. I have [Redacted]. Here are my economic assets that are not many but that are the fruit of my work of all my life. [...] There are many relatives and acquaintances in this same situation, who arbitrarily had their Venezuelan citizenship annulled. [...]"*<sup>177</sup>

#### d) Extortion and expropriation

55. A large number of forms report extortion by State authorities, and *colectivos*. Extortion in detention facilities is recurrently mentioned in the forms; victims who were or continue to be detained report having to pay, in most cases exorbitant amounts, for beds, water, food, medicine, visits, etc. Victims who tried to access domestic justice also report having to pay excessive sums

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<sup>175</sup> r/20425/23.

<sup>176</sup> r/20444/23.

<sup>177</sup> r/20798/23.

of money in order to access the records of their cases, to make copies, to have a hearing, etc. Expropriations of houses, land, business, etc. have also been reported by victims.

- a. *“My husband, [...] was arrested [...] without a warrant and was locked up in a police cell in inhuman conditions of detention, without access to food, and without the right to talk to a lawyer or to his family. He was transferred to [a prison] and five months later he had the preliminary hearing. He could not afford to pay the exorbitant amount of dollars asked by the judge, therefore he was thrown back in the dungeon. [...] [The victim] was [Redacted] years old when he was locked up and throughout the year he was in the dungeon he was denied access to food, water, visits and legal assistance. [...] The food that was sent to [the victim] by his family members was stolen by the authorities of the [Scientific, Criminal and Criminalistic Investigation Service Corps, “CICPC”] and they asked for money, in US dollars, in exchange for any basic right such as water, food, cleaning, and food. [He] died of starvation and tuberculosis in the [cell] on [Redacted] 2019, one year after he was unlawfully detained.”<sup>178</sup>*
- b. *“ [I spent] 6 months in a dungeon of 2m by 2m, without seeing the sunlight; 4 months without receiving any type of visits, without knowing about [the fate of] my kids and family; being subjected to inhumane treatment, sleeping on the floor in overcrowded rooms with limited space; having to pay 1500\$ to be able to stay [in the prison] I am currently held, on top of the quotas I am charged permanently.”<sup>179</sup>*
- c. *“There are many innocent prisoners and to [set them free] they are asking for money, even though they have all the papers ready to issue the release ticket. There are too many cases of corruption against innocents.”<sup>180</sup>*
- d. *“Since 2015 I have been persecuted by the Government’s henchmen because I think differently, I always organized my neighbourhood and my people to go out and protest against the Government. Since 2019 the situation became harder because people from the CICPC arrived at my home looking for me and because they could not find me, they took one of my cars and a motorcycle, and I had to leave the country because they issued an arrest*

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<sup>178</sup> r/20429/23.

<sup>179</sup> r/20319/23.

<sup>180</sup> r/21195/23.

*warrant against me. They took my home from me after so much sacrifice and they left me without nothing.*"<sup>181</sup>

**(iii) Extreme violence, including sexual and gender based crimes**

56. The use of an extreme level of physical and psychological violence by the Venezuelan authorities in the context of demonstrations,<sup>182</sup> inside detention facilities<sup>183</sup> and in illegal raids was reported in a large number of forms. Many forms also denounced violence used in public settings as a deterrent, in order to scare the population into submission. Furthermore, a number of forms referred to the 'emblematic cases' of repression by the Government against critics with high public profiles or people who achieved prominence or represented a perceived threat owing to their actions; these mainly include social activists and political leaders at the forefront of protests, opposition politicians, police and military dissidents accused of rebellion, plotting coups or other conspiracies, judges, prosecutors, defence lawyers, selected civil servants, human rights defenders, journalists, bloggers and social media users. Organizations suspected to provide funding to opposition movements or that received international funding were also reportedly targeted.
57. The OPCV Submission reports of one victim "being tortured and sexually assaulted while in detention. She was pregnant at the time of the events, and the violence caused a miscarriage. Although she bravely denounced the crimes she suffered, no investigative steps were ever taken by the national

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<sup>181</sup> r/22138/23.

<sup>182</sup> The VPRS notes that, according to many forms and reports, protests have been consistently been met with violent raids, brutal beatings and point-blank range shootings.

<sup>183</sup> The VPRS also notes the many stories of political opponents arrested by SEBIN and DGCIM, and detained incommunicado for long periods of time under harsh conditions of detention. Both SEBIN and DGCIM are reported to use torture and sexual violence to humiliate their detainees; see also, FFMV, "Detailed findings of the independent international fact-finding Mission on the Bolivarian Republic of Venezuela", 20 September 2022, <https://view.officeapps.live.com/op/view.aspx?src=https%3A%2F%2Fwww.ohchr.org%2Fsites%2Fdefault%2Ffiles%2Fdocuments%2Fhrbodies%2Fhrcouncil%2Fffmv%2F2022-09-20%2FFFMV-CRP-3-English.docx&wdOrigin=BROWSELINK>.

authorities.<sup>184</sup> Another victim reported being identified by State security forces as a gender-diverse person and, as a consequence, being sexually tortured and exposed as a rapist to other prisoners, who sexually abused of the victim.”

58. Some further examples of the important number of reports of torture and gender-based violence are:

- a. *“[The victim] was kidnapped [by] a large number of SEBIN officials who tied his hands and feet, tied him to a SEBIN car and dragged him for more than a kilometre on the streets before taking him to the [Redacted] where he was tortured for 24 days. [...] The tortures were literally macabre; they tore out his fingernails and toenails with pliers; suffocated him by covering his head with plastic bags containing insecticides, which significantly damaged his lungs; applied electric shocks to his genitals and intimate parts; hit his entire body with wet towels; made him bath at all times in urine and excrements [...].”<sup>185</sup>*
- b. *“When they found out about my non-binary gender identity, after looking through my cell phone, they subjected me to humiliations. They put me in a tigrito or dungeon of 2x2 meters, they handcuffed my hands behind my back to a hook on the floor in the middle of the tigrito, leaving me like that for what I think was two or three days, sitting in that place. They did not give me water, they did not give me food, they did not allow me to do my physiological needs so I had to do them on myself. They let me out on the second or third day, weak, almost dragging myself because I could not stand, with numb legs. They stripped me naked, hung my hands up, and threw buckets of water at me that most of the times landed on my face. They let me go and made me rinse my clothes only with water. On one occasion, they took me to a room where there was only an old metal desk fixed to a wall and an old metal chair in the middle of the room. They handcuffed my hands to the chair with two sets of handcuffs, took an electric stick that is used for cattle and connected it with a long cable to a plug in the wall. They placed it several times on my chest, threw water on my pants, precisely on my genitals, and they discharged electricity on my testicles, so I could not contain my bladder and urinated particularly strongly from the shock. I still have on my body the scars of the current burns. They falsified a court document in which they claimed that I was sentenced to death and they took me to a room and made me stand on a plastic bench, they*

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<sup>184</sup> [Redacted].

<sup>185</sup> r/20829/23.

*hung me around my neck, hit me in the stomach several times while they asked me questions that I could not answer. The beatings were so hard that one of the legs of the bench broke, so I was hung and lost consciousness, I still have the scars on my neck. They moved me to an area with other prisoners and they told the detainees that I was a rapist, so they took me, beat me and abused me forcing me to perform oral sex. [...] [M]y disease, [Redacted] in terminal state, for not having received treatment or medical attention, and which I still do not receive because I am deprived of my liberty. [Redacted].”<sup>186</sup>*

- c. *“He was transferred to [Redacted], where he was subjected to physical and psychological torture for 26 months, he was then transferred [Redacted], where he stayed for 19 months. During all this time, I was very afraid that something might even happen to my [Redacted], [he] even attempted suicide on two occasions, [Redacted], because they had him, as the expression says, in a place without seeing the sun, without natural air, with white light on 24 hours a day, without him knowing when it was day or night, and that caused him much anguish and suffering, and he begged to be released.”<sup>187</sup>*
- d. *“I am a political activist in opposition to the Nicolás Maduro regime [...]. My arrest took place on [Redacted] [...]. In the prison of [Redacted], my humans rights were not rights, but mere reward systems that were instrumentalized in the most perverse way possible. When family visits and visits from my lawyers were more constant, this was not because it was part of a right; for the military it was considered practically a prize and as such they could take it away from me at will, like someone who takes away a bone from a dog. [...] Another particular way in which the uniformed officers exercised torture and cruel, inhuman, and degrading treatment against me was of a vicarious nature, i.e. they mistreated my family to make me suffer. My wife [...] was constantly sexually abused, under the threat that if she did not tolerate it, they would not let her see me [...]. In this way, many times they forced her to undress, they opened her inner thighs, they made indecent touching (sexual violence), and on one occasion they even forced her to take off her menstrual pad to ‘check that she did not have any hidden object’, which was tremendously humiliating and offensive for her [...]. [T]here was one occasion when it was even worse because they forced our children to witness how they undressed their mother and grandmother and they wanted to undress my children.”<sup>188</sup>*

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<sup>186</sup> r/20532/23.

<sup>187</sup> r/20621.23.

<sup>188</sup> r/20988/23.

- e. *“He was stripped naked and a Rottweiler dog was ordered to bite his testicles.”*<sup>189</sup>
- f. *“[Redacted] were murdered [...] in a violent and disproportionate repressive operation. The Government deployed more than a [Redacted] security forces [...] with heavy weaponry, including armoured vehicles, rocket launchers and bazookas. [Redacted] were murdered after they had surrendered. [Through this operation] a message was sent to members of the armed forces or dissident groups, to consider the possible consequences they would have to face and to think twice [before rebelling] against the regime. [...] [Redacted].”*<sup>190</sup>
- g. *“I couldn’t go out alone, if I saw a [CICPC] car I felt like I was going to have a heart attack. All the damage they did to me was not enough, they also subjected me to public scorn. [...] I felt I wanted to die, what else could they do to me, kill me? [...] Every day I felt worse, I felt afraid, I had more terrible dreams. I was diagnosed with post-traumatic stress [...]. I tried to commit suicide several times, the first time with sleeping pills. [...] I tried to commit suicide for the second time, but this time with rat poison my lips turned white after a few hours, I vomited, but what I wanted so much, to die, never happened. [...] I thought about committing suicide for the third time and I thought about cutting my wrists, but did not have the strength to do it because I thought about my mother [...]. But I thought when, when will this end, why do I have to hide like a criminal? [...] It saddens me to think that I had to stop living, to go out, just because I thought differently, because I wanted to fight for my country [...]. My life was never the same again, everything I lived marked me forever, and therefore, I very respectfully request that what I lived, as well as the deaths, rapes, mistreatment, threats suffered by so many people in my country do not go unpunished.”*<sup>191</sup>
- h. *“[U]nknown individuals rang the bell of my house, I did not open the door, so they broke into my house. They were a group of men from the SEBIN, they hit me, spat on me, pulled my hair, told me they would rape me, hit me with a gun and threatened to kill my family because I was ‘a damned fascist of the oligarchy.’ Then they tied me up and stole the money and the supplies [Redacted]. Following these disgusting events one of them pulled down his pants and threatened to rape me, he peed on me and told me to tell [our leader] that she was a fascist terrorist, and that if we continued conspiring against the revolution they would kill us all; that the oligarchy would never take power. Later my husband arrived with my kids, and they found me in such a terrifying state. I cannot forget the face of my oldest son*

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<sup>189</sup> r/20808/23.

<sup>190</sup> r/21979/23.

<sup>191</sup> r/21342/23.

*and the panic attack he had from seeing me like that. I thought I would never see my family again. Many things happened to me in my life, but this one marked my life.*"<sup>192</sup>

- i. *" [The victim] tried to escape but she did not make it, they caught her and brought her inside the [Redacted], they took a plastic black trash bag, sprayed it with insecticide and they covered her head with it trying to asphyxiate her [...]. She was brutally beaten by these men, to the point that she fell to the ground, and when two workers from the [Redacted] tried to intervene to help her, they were killed on the spot, with rifles, to stop them from helping [the victim]. [...] She continued to be beaten by these men, who also burned her hand, dragged her out of the house, took her to one of the stables where she was savagely raped by [Redacted] men, who continued to brutally beat her; they thought she had been killed by the beatings so they threw her [Redacted]. It should be noted that throughout these violent acts, the men insisted and repeated to [the victim] that everything that was happening to her was her fault for not withdrawing her complaint, and the perpetrators were talking in code between themselves, the lingo used by public officials. [...] [The victim] had to undergo surgery because of the serious genital tears caused by the rapes, part of her jaw and teeth were detached because of the brutal hitting, and she had hip fractures and spine issues. Currently, she must walk with canes, she has kidney issues, and has had to undergo several surgeries, she is receiving psychiatric treatment [Redacted] and is medicated, since she could not sleep and was excessively aggressive. Until this day, she experiences constant nightmares, she wakes up screaming, she has gained 30 kilos due to the anxiety, and, only recently, she started speaking again. Additionally, she lost a significant amount of money as a result of the fraud 'sponsored' by State officials. [the victim] has information from her neighbours that [Redacted]. She lost all her businesses and sources of work in Venezuela."*<sup>193</sup>

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<sup>192</sup> r/22122/23.

<sup>193</sup> r/21476/23. On the issue of violence against women, see also COFAVIC, "Violencia contra las Venezolanas", 2022, [https://cofavic.org/wp-content/uploads/2022/04/Informe\\_FEM21-Vs8-ABRIL2022.pdf](https://cofavic.org/wp-content/uploads/2022/04/Informe_FEM21-Vs8-ABRIL2022.pdf), page 32: "In the process of documenting cases of human rights violations, we have been able to verify not only the existence of patterns associated with the way citizen security operations are carried out, but also those associated with the treatment of women in these contexts. In this sense, during the execution of the operations we have documented that the security forces violently break into the houses, in which women and children are usually found, and then identify the victims and subdue them. Faced with the intervention of the mothers, sisters, wives and other female figures relatives of the victims, the alleged officials point to them as responsible for "raising criminals" or covering up their alleged criminal activities. Women who identify themselves as partners of young detainees are singled out in a derogatory manner for being partners of criminals. The treatment of women meets patterns of

#### D. Views and concerns about the ICC proceedings

59. Finally, the VPRS extracted from the forms received a sample of quotes displaying the most frequent victims' requests: for keeping their identity confidential; for expeditious and transparent proceedings; for outreach and regular communications with victims in Spanish, including in face-to-face meetings; for opening of an ICC office in Caracas; and for genuine victim participation in potential future judicial proceedings, including reparations.
- a. *"My family lives in Venezuela, I want that the information in this form to be kept confidential."*<sup>194</sup>
  - b. *"In Venezuela, they do not communicate any procedural developments, they do not give us any news [...]. We hope that there will be a greater involvement/participation of victims in the ICC proceedings, including through the opening of an ICC office in Venezuela where victims, including those who live outside Caracas, can receive information and assistance in Spanish."*<sup>195</sup>
  - c. *"As a victim of human rights violations in Venezuela, I would like that victims have more opportunities to meet with ICC representatives in order to be able to share our experiences [...]. One proposal would be to have ICC officials visiting the different states of Venezuela to give victims who do not have logistical or economic resources the opportunity to attend face-to-face meetings where they can narrate the events that resulted in violations of their human rights."*<sup>196</sup>
  - d. *"[The ICC] investigations must be more inclusive and transparent with the victims and the society in general. [The ICC should also be] more assertive in communicating the progress of the investigation."*<sup>197</sup>
  - e. *"[I wish] that the case file and other documentation are available both in Spanish and English, and that the [investigation] is resumed as soon as possible."*<sup>198</sup>

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misogyny, discrimination because of their economic status, and there are even derogatory accusations of a sexual nature." See also, Civilis Derechos Humanos, "Odevida Capítulo Venezuela: mujeres y lideresas sociales y políticas, víctimas de violencia y represión", 17 April 2023, <https://www.civilisac.org/informes/odevida-capitulo-venezuela-mujeres-y-lideresas-sociales-y-politicas-victimas-de-violencia-y-represion>.

<sup>194</sup> r/20759/23.

<sup>195</sup> r/21402/23.

<sup>196</sup> r/21634/23.

<sup>197</sup> r/21657/23.

<sup>198</sup> r/20563/23.



- f. *"I hope that [the ICC] investigation will continue its course in a swift, transparent manner and with the [full inclusion] of the victims [...]."*<sup>199</sup>
- g. *"[W]e consider it essential that, alongside the rights of the accused, special relevance is given to victims' rights throughout the ICC proceedings, which we ask to be as expeditious as possible, because we want to see justice in our lifetime. In addition, from now on, we need ICC protection."*<sup>200</sup>
- h. *[The ICC is the only avenue] for the victim to obtain reparations for the harm he suffered [...]. The ICC is the only possibility because of the lack of effective justice [in Venezuela], which does not guarantee the [victims'] right [to reparations]."*<sup>201</sup>
- i. *"As Venezuelans we need to obtain justice, and all the people involved in these crimes against humanity need to be punished and that all the victims of these human rights violators should obtain reparations."*<sup>202</sup>
- j. *"For the person reading this form, do not forget us, keep doing the great work you are doing that has given so much hope to those who remain imprisoned and the survivors. Many of our colleagues have lost their lives, and without the ICC there will never be justice."*<sup>203</sup>

## Conclusion

60. In conclusion, victims overwhelmingly support the resumption of the investigation by the ICC Prosecutor, including beyond the presently envisaged scope, into all crimes against humanity allegedly committed in the context and full temporal scope of the Venezuela I Situation, including murder, imprisonment or other severe deprivation of physical liberty, enforced disappearance, torture, rape and/or other forms of sexual violence, forced displacement and persecution.

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<sup>199</sup> r/21678/23.

<sup>200</sup> r/21400/23.

<sup>201</sup> r/21921/23.

<sup>202</sup> r/20783/23.

<sup>203</sup> r/21597/23.