



**Cour
Pénale
Internationale**

**International
Criminal
Court**

Le Bureau du Procureur
The Office of the Prosecutor

**SITUATION IN THE
PLURINATIONAL STATE OF BOLIVIA**

FINAL REPORT

14 February 2022

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LIST OF ABBREVIATIONS

COB	Bolivian Workers' Central (" <i>Central Obrera Boliviana</i> ")
COD	Departmental Workers' Central (" <i>Central Obrera Departamental</i> ")
CNMCIQB-BS	National Confederation of Indigenous Peasant Women Originating from Bolivia 'Bartolina Sisa' (" <i>Confederación Nacional de Mujeres Campesinas Indígenas Originarias de Bolivia "Bartolina Sisa"</i> ")
CSCIOB	Unions Confederation of Originating Intercultural Communities (" <i>Confederación Sindical de Comunidades Interculturales Originarias de Bolivia</i> ")
CSUTCB	Confederation of Bolivian Peasants (" <i>Confederación Sindical Única de Trabajadores Campesinos de Bolivia</i> ")
EU	European Union
IACHR	Inter-American Commission on Human Rights
ICC	International Criminal Court
ICTY	International Criminal Tribunal for the former Yugoslavia
MAS	Movement to Socialism (" <i>Movimiento al Socialismo</i> ")
MoD	Ministry of Defence
OAS	Organisation of American States
OHCHR	Office of the High Commissioner for Human Rights
OTP	Office of the Prosecutor
PdU	Pact of Unity (" <i>Pacto de Unidad</i> ")
PTC	Pre-Trial Chamber
SEDES	Departmental Health Service (" <i>Servicio Departamental de Salud</i> ")
Sirmes	Union of Public Health Medical Branches (" <i>Sindicato de Ramas Médicas de Salud Pública</i> ")
TC	Trial Chamber
TSE	Supreme Electoral Tribunal (" <i>Tribunal Supremo Electoral</i> ")
UN	United Nations

I. EXECUTIVE SUMMARY

1. On 4 September 2020, the Office of the Prosecutor (“Office”) received a referral from the Government of Plurinational State of Bolivia (“Bolivia”) with respect to alleged crimes potentially falling within the ICC’s jurisdiction committed in its territory in August 2020 (“Referral”). On 9 September 2020, the Office announced the opening of a preliminary examination into the situation in Bolivia. The present report summarises the Office’s subject-matter assessment on whether any of the crimes listed under article 5 of the Statute were committed in the territory of Bolivia during the nationwide road blockade demonstrations held in August 2020, in context of the public health emergency of the Covid-19 pandemic. Following a thorough analysis, the Prosecutor has concluded that the information available does not provide a reasonable basis to believe that the crimes allegedly committed in this situation fall within the Court’s jurisdiction.
2. In October 2019, the then-President of Bolivia Evo Morales was re-elected in a highly contested general election. Amid subsequent widespread protests and unrest, Morales resigned, although he and his supporters maintained that he had been ousted in a coup and rejected the claims of electoral fraud. With the resignation of President Morales, Second Vice-President of the Senate and member of the opposition, Jeanine Áñez, proclaimed herself Interim President. In accordance with the Bolivian constitution, new elections were to be held within 90 days. However, while elections had been scheduled to be held on 3 May 2020, the election date was repeatedly rescheduled due to concerns related to the Covid-19 pandemic situation, with a final date being set for 18 October 2020.
3. This final postponement was met with criticism from Morales’ political party *Movimiento al Socialismo* (“MAS”) as well as closely affiliated organisations and groups, which had sought an earlier date of 6 September 2020 for the elections. These organisations accused the interim government of taking advantage of the Covid-19 crisis in order to hold on to power, while repressing political opponents. Ultimately, amidst these tensions, on and around 28 July, groups such as the *Central Obrera Boliviana* (“COB”) and the *Pacto de Unidad* (“PdU”), among others, gave the Supreme Electoral Tribunal (“*Tribunal Supremo Electoral*” or “TSE”) a 72-hour ultimatum to rescind the latest postponement of the election and hold elections on 6 September, or they would mobilise road blockades in protest starting from 3 August 2020. When their demand was not met, numerous road blockades were set up throughout the country (ultimately between around 70 and 140 during the course of the campaign), obstructing primary transportation routes, particularly those between major cities such as La Paz, El Alto, Cochabamba, and Santa Cruz. Reportedly, several thousand people participated in the blockades.

4. Immediately after the blockades were announced and throughout their duration, Bolivian government officials and other actors accused the blockaders of causing severe damage to the country's ability to respond to the Covid-19 crisis and harming the public, including causing deaths, by preventing the passage of tankers transporting medical oxygen and ambulances transporting medication. Blockade leaders and participants rejected these claims and accused the interim government of attempting to blame the protesters for the public health crisis, which they instead claimed was caused by the government's handling of the situation.
5. Ultimately following negotiations, on 14 August, the COB and PdU leaders, having accepted the new proposed election date of 18 October 2020, announced that they would temporarily suspend the blockades until that date and called for the demobilisation of their bases.
6. These events occurred in the midst of the Covid-19 pandemic crisis. The first Covid-19 cases in Bolivia were confirmed on 10 March 2020. Later that month, Interim President Áñez's government declared a state of emergency, closing international borders, restricting internal movements and establishing a national quarantine. By early summer 2020, Bolivia's healthcare system was reportedly reaching a state of collapse.
7. In the course of the preliminary examination process, the Office has conducted a thorough factual and legal assessment of all the information available, including conventional media reports, social media, and the supporting materials and documentation accompanying the Referral. The sources of information appear to be highly polarized, reflecting opposing political claims. Consistent with standard practice, the Office has subjected the information and sources available to a rigorous source evaluation, including in terms of their reliability and credibility. The Office has also taken steps to corroborate the information available through multiple sources. Overall, the information available is sufficient in volume and quality to enable a determination on the reasonable basis standard.
8. In the Referral, it is alleged that the conduct of the organisers and participants of the August 2020 road blockades entailed the commission of crimes against humanity under article 7 of the Statute. It is alleged that over 40 individuals, in need of medical oxygen and/or access to hospital care due to Covid-19, died as a result of the August 2020 blockades' prevention of oxygen and ambulances from reaching hospitals, and that such deaths under the circumstances constitute murder under article 7(1)(a). Additionally, according to Referral, in impeding the Bolivian population's access to public health supplies and services through the blockades, the protesters deliberately inflicted other serious harm amounting to other inhumane acts under article 7(1)(k) of the Statute. It is further alleged that overall, the organisers and participants in the

blockade - through their acts – deliberately targeted the Bolivian population – particularly the urban populations – with the purpose of inflicting death, intimidation and suffering in order to achieve their political demands. In this regard, the Referral appears to characterise the blockades – and particularly therein, the protesters’ alleged deliberate efforts to prevent the population from accessing public health supplies and services – as an overall “systematic and organized” attack against the civilian population.

9. The information available, however, does not provide a reasonable basis to believe that crimes against humanity under article 7 of the Statute were committed in Bolivia in the connection to the road blockades carried out in locations throughout the country between 3 and 14 August 2020.
10. For the reasons set out in this report, the information available at this stage does not support the conclusion that the acts of the protesters during the August 2020 road blockades constitute any relevant underlying acts under article 7(1) of the Statute. Even if *arguendo* the protesters’ conduct could have been considered to amount to murder and/or other inhumane acts, the information available does not demonstrate the existence of an ‘attack’ and ‘policy’ within the meaning and scope of article 7(2)(a) of the Statute.
11. While some groups of protesters may have acted with reckless disregard for the health and well-being of those in need of timely access to vital medical treatment, the overall conduct of protesters does not reveal a clear pattern of behaviour as to suggest the blockades themselves – or relevant acts committed in their course – formed part of a deliberate campaign directed against the Bolivian population, or specifically against those particularly affected or at risk as a result of the pandemic.
12. Notably, those participating in the blockades across the country did not uniformly or consistently prevent the passage of vital medical supplies and transports. Rather, on some occasions, such goods and transports were allowed to pass through the blockades. Moreover, the leadership of the key groups mobilising and directing the blockades repeatedly urged their bases and participants in the blockades to allow the passage of ambulances and convoys transporting medical supplies.
13. The road blockades held from 3 to 14 August 2020 were conducted as a form of political demonstration, carried out by the participating groups and individuals to demonstrate their disagreement with the conduct and decisions of the interim government and TSE, particularly as related to the postponement of the elections, with the goal of pressuring the government to meet their demand for the date for the national elections be moved forward as well as, for some, the aim of seeking the resignation of Interim President Áñez. Relevantly, the information available does not

substantiate the claim that to achieve such ends, the blockades – by deliberate design or implementation – also entailed attacking the population through the commission of the alleged acts.

14. It is further noted that the blockades themselves were ultimately carried out for a relatively limited duration (around 12 days), and following negotiations, were generally suspended even though the protesters' demand for an earlier date for the elections was not met.
15. Overall, the deaths of patients that occurred and any physical and mental harm inflicted among the broader population in connection to the blockades appear to represent an aggregate of random – in the sense of incidental and unplanned – acts, as opposed to a series of connected events, such as that ensuing from any particular 'course of conduct' pursued by those involved in the blockades.
16. Further, setting aside the issue of whether those involved in organising (and participating in) the blockades indeed can qualify as an "organisation" for the purposes of article 7, the information available further does not show any policy on the part of the groups, or their leadership, involved in organising and carrying out the blockades to attack the population. There is no information indicating that the organisers of the blockade demonstrations planned, directed or actively promoted attacking the population. To the contrary, as referenced above, the leadership of the groups that mobilised the blockade campaign instructed the safe passage of medical supplies on multiple occasions. Additionally, in line with this, participants involved in directing or leading activities on the ground at particular blockade points also at times assisted in negotiating the passage of convoys transporting such medical supplies and medical personnel through the barricades.
17. Beyond the conduct of some protesters in blocking the passage of public health supplies and services, there were a few reported incidents in which certain protesters physically assaulted persons who attempted to counter, document, or simply cross the blockades, such as healthcare workers, journalists, and activists. While such conduct may have resulted in serious harm to the affected persons, the information available does not show that such type of conduct reflected a course of conduct attributable to those participating in the blockades as a whole. Such acts appear to have been limited in number and do not suggest a clear and consistent pattern of behaviour across the blockades held in August 2020. Rather, such acts by particular protesters appear to be more sporadic, isolated incidents, targeting a more limited number of individuals. Further, such acts appear to have been perpetrated by more uncoordinated individuals acting on their own (i.e., the unconnected crimes of diverse individuals), as opposed to having been actively encouraged or promoted by those

responsible for mobilising the blockade demonstrations such as to suggest the existence of any policy to attack the civilian population through such acts.

18. Consequently, overall, the information available does not provide a reasonable basis to believe that the alleged acts attributed to those involved in the road blockades constitute a course of conduct against the civilian population pursuant to or in furtherance of an organisational policy, as to qualify as an “attack” within the meaning of article 7 of the Statute.
19. Moreover, the information available does not provide a reasonable basis to believe that the acts allegedly committed by protesters in the context of the August 2020 road blockades constitute any relevant underlying acts under article 7(1) of the Statute.
20. First, with respect to most of the alleged deaths, the information available does not provide a basis to establish the requisite causal link between such deaths and the acts of the protesters, in terms of their blocking of medical transports and the delivery of oxygen and other vital medical supplies during the road blockades. There is some information available potentially suggesting that the conduct of the protesters in blocking and/or delaying the transport of oxygen or other necessary medical supplies may have contributed substantially to the deaths of nine persons. However, even for such deaths, the information presently available, on its face, does not support the conclusion that the protesters acted with the requisite intent for murder under article 7(1)(a). Although the protesters may have foreseen the possibility or risk that deaths might occur as a result of the blockades (and even accepted this risk), this is not sufficient to satisfy the required elements of the crime under article 7(1)(a) of the Statute.
21. With respect to the alleged infliction of serious physical and mental suffering, the various types of harm alleged either cannot be sufficiently attributed to the acts of the protesters or do not appear to entail a sufficient degree of severity as to meet the requirements of the crime of other inhumane acts under article 7(1)(k). Further, the information available at this stage does not necessarily show that the protesters acted with the requisite intent for the crime under article 7(1)(k). In addition, taking into account all of the factual circumstances (and even considering the special circumstances of the pandemic), the alleged conduct of the protesters, in general, is not of a character similar to other acts under article 7(1). Accordingly, the alleged acts do not qualify as an ‘other inhumane act’ within the meaning of article 7(1)(k) of the Statute.
22. Finally, while there were limited reported incidents of physical violence by protesters during confrontations at blockade points that could entail the commission of other

inhumane acts, such acts do not appear to have formed part of any identifiable attack directed against the civilian population, as concluded above.

23. Overall, the information available does not provide a reasonable basis to believe that the alleged acts attributed to the persons involved in mobilising and participating the August 2020 road blockades constitute any relevant offences under article 7(1), nor in any event qualify as an “attack against a civilian population”, as required for the application of article 7 of the Statute.
24. Following the analysis of all information available regarding the road blockades carried out in August 2020 and the conduct of the participants therein, the Office has concluded that there is no reasonable basis to believe that the acts considered in this report constitute crimes over which the Court may exercise jurisdiction. Accordingly, there is no reasonable basis to proceed with an investigation and this preliminary examination has been brought to a close. The Office’s findings are without prejudice to a State’s duty to provide any effective remedy that may be warranted under the circumstances to affected persons under national or international law more generally.

II. PROCEDURAL HISTORY

25. On 4 September 2020, the Office of the Prosecutor of the ICC received from the Government of Bolivia a referral pursuant to article 14(1) of the Rome Statute regarding the situation in its own territory.¹ In its Referral, the Government of Bolivia alleged that crimes potentially falling within the jurisdiction of the Court were committed in the territory of Bolivia in August 2020.² In this regard, the government requested the Prosecutor to initiate an investigation with the view to determining whether one or more persons should be charged with the commission of such crimes.³ The Referral is accompanied by supporting documents with further details about the relevant circumstances under which the crimes are alleged to have occurred as well as a letter of accreditation from the then-Interim President of the State, H.E. Mrs. Jeanine Áñez Chávez.

¹ Plurinational State of Bolivia, Referral under Article 14 of the Rome Statute (titled ‘*Escrito de Denuncia por Ataque sistemático contra el pueblo Boliviano*’), 4 September 2020 (English version), see ICC Presidency, Annex I to the Decision assigning the situation in the Plurinational State of Bolivia to Pre-Trial Chamber III, [ICC-02/20-1-AnxI](#), 15 September 2020.

² Referral, para. 18-21, 41.

³ *Ibid.* at para. 121.

26. On 9 September 2020, in accordance with Regulation 45 of the Regulations of the Court, the Office notified the ICC Presidency of the receipt of the Referral. On 15 September 2020, the Presidency assigned the situation to Pre-Trial Chamber III.⁴
27. On 9 September 2020, the Prosecutor also issued a statement informing the public of the Referral and announcing the opening of a preliminary examination into the situation in Bolivia.⁵
28. The Office has not received any further communications pursuant to article 15 of the Statute in relation to the particular situation referred by the Bolivian authorities at this stage.

III. CONTEXTUAL BACKGROUND

29. Bolivia, situated in central-western Latin America, is divided into 9 departments and has a multi-ethnic population of around 11 million people. Its administrative capital is the city of La Paz.⁶
30. In October 2019 Bolivia experienced a political crisis which set the stage for the August 2020 events alleged in the Referral. On 20 October 2019 Bolivia held its general elections.⁷ These elections were marred in controversy from the start, owing to a decision by the TSE in December 2018, confirming a 2017 ruling of the Constitutional Tribunal removing presidential terms limits and thus allowing then-President Evo Morales to seek re-election for a fourth term in 2019.⁸ When elections were held in October 2019, Morales, leader of the MAS, was declared the winner by the TSE, even though initial counts had indicated the likely need for a run-off between Morales and opposition candidate Carlos Mesa. Morales' victory and related subsequent events triggered allegations of electoral fraud and protests which reportedly left hundreds injured and over 30 people dead, including MAS supporters, by 27 November 2019.⁹

⁴ ICC Presidency, Decision assigning the situation in the Plurinational State of Bolivia to Pre-Trial Chamber III, [ICC-02/20-1](#), 15 September 2020.

⁵ ICC-OTP, [Statement of the Prosecutor of the International Criminal Court, Mrs Fatou Bensouda, on the referral by Bolivia regarding the situation in its own territory](#), 9 September 2020.

⁶ BBC, [Bolivia country profile](#), 12 November 2020; Nationsonline.org, [Administrative Map of Bolivia](#), undated.

⁷ TelesurTV, [Elecciones en Bolivia transcurrieron en normalidad](#), 20 October 2019.

⁸ Freedom House, [Bolivia - Key Developments in 2018](#), undated; BBC, [Bolivia court allows President Evo Morales to seek fourth term](#), 29 November 2017. Morales had sought to abolish the limit on presidential terms in a failed constitutional referendum in 2016. The Guardian, [Bolivian referendum goes against Evo Morales as voters reject fourth term](#), 24 February 2016.

⁹ BBC, [Bolivia election: Protests as Evo Morales officially declared winner](#), 25 October 2019; BBC, [Elecciones en Bolivia: el TSE confirma la victoria de Evo Morales sin necesidad de segunda vuelta y está abierto a una auditoría sobre el recuento](#), 25 October 2019; Freedom House, [Bolivia - Key Developments in 2019](#), undated; France 24, [Cronología de la crisis política en Bolivia a un mes de las elecciones](#), 18 September 2020.

31. The Organization of American States (“OAS”) conducted an audit of the election results, concluding that major errors and irregularities in favour of Morales’ victory had occurred.¹⁰ Following weeks of unrest, on 10 November 2019, Morales’ newly established government collapsed and the army reportedly urged Morales to step down so that peace could be reinstated.¹¹ On 12 November, Morales left Bolivia,¹² although he and his supporters maintained that no electoral fraud had occurred.¹³ On 12 November 2019, upon Morales’ resignation and departure and amid ongoing protests and violence, Second Vice-President of the Senate and member of the opposition, Jeanine Áñez, proclaimed herself Interim President.¹⁴ Morales, in a Tweet, called Áñez’s ascent to power a “coup”.¹⁵ Áñez rejected this accusation and committed to holding elections as soon as possible.¹⁶
32. The Bolivian Constitution requires that an interim government resulting from the resignation or definitive absence of the President, Vice-President, and President of the Senate, as was the case in November 2019, should not last longer than 90 days and elections should be held within this time limit in order for a formally elected government to be established in its stead.¹⁷ On 24 November 2019, amid the ongoing protests, Áñez signed a law calling for elections to be held on 3 May 2020.¹⁸ This date

¹⁰ OAS, [Análisis de Integridad Electoral Elecciones Generales en el Estado Plurinacional de Bolivia 20 de octubre de 2019](#), 2019; BBC, [Evo Morales: Overwhelming evidence of election fraud in Bolivia, monitors say](#), 6 December 2019. For a similar report by the EU, see Unión Europea Misión de Expertos Electorales, [Bolivia 2019 Informe Final Elecciones Generales 20 de Octubre de 2019](#), undated. Notably, later analysis of the elections instead claimed that no fraud had occurred. The Washington Post, [Did Evo Morales win?](#), 27 February 2020; The Guardian, [‘No evidence of fraud’ in Morales poll victory, say US researchers](#), 1 March 2020.

¹¹ Reuters, [Former Bolivian president Morales heads to Mexico for asylum](#), 12 November 2019; BBC, [Renuncia de Evo Morales en Bolivia: 4 motivos que lo llevaron a dejar la presidencia](#), 12 November 2019.

¹² Evo Morales Ayma, [Tweet “Hermanas y hermanos, parto rumbo a México, agradecido por el desprendimiento del gobierno de ese pueblo hermano que nos brindó asilo para cuidar nuestra vida. Me duele abandonar el país por razones políticas, pero siempre estaré pendiente. Pronto volveré con más fuerza y energía.”](#), 12 November 2019.

¹³ International Crisis Group, [Bolivia Faces New Polls in Shadow of Fraud Row](#), 31 July 2020; BBC, [Renuncia de Evo Morales en Bolivia: 4 motivos que lo llevaron a dejar la presidencia](#), 12 November 2019; Voz de América, [Tweet “Bolivianos afines al Movimiento al Socialismo rechazan acusaciones de fraude electoral en protesta en Plaza San Francisco. #Bolivia”](#), 13 November 2019.

¹⁴ France 24, [Bolivia: Jeanine Áñez se proclama presidenta del país por sucesión constitucional](#), 13 November 2019; DW, [Jeanine Áñez asume presidencia interina de Bolivia](#), 13 November 2019.

¹⁵ Evo Morales Ayma, [Tweet “Se ha consumado el golpe más artero y nefasto de la historia. Una senadora de derecha golpista se autoproclama presidenta del senado y luego presidenta interina de Bolivia sin quórum legislativo, rodeada de un grupo de cómplices y apañada por FFAA y Policía que reprimen al pueblo”](#), 13 November 2019.

¹⁶ CNN, [Jeanine Áñez promete llamar a elecciones y afirma que no hay golpe de Estado](#), 13 November 2019.

¹⁷ Article 169 (1) of the Bolivian Constitution states: “In the event of an impediment or definitive absence of the President, he or she shall be replaced by the Vice President and, in the absence of the latter, by the President of the Senate, and in his or her absence by the President of the Chamber of Deputies. In this last case, new elections shall be called within a maximum period of ninety days”. Plurinational State of Bolivia, Constitution, 2009 ([ENG](#), [SPA](#)).

¹⁸ France 24, [Cronología de la crisis política en Bolivia a un mes de las elecciones](#), 18 September 2020.

was confirmed by the TSE in January 2020.¹⁹ However, due to the worsening Covid-19 pandemic situation and the related restrictions on movement that had been imposed by the government, on 21 March 2020, the TSE postponed the date of the elections to an undetermined future date, later confirmed to a date between 28 June and 27 September.²⁰ This move was reportedly approved by all political parties except for the MAS.²¹

33. On 30 April 2020, the *Asamblea Legislativa Plurinacional* (Plurinational Legislative Assembly), led by the MAS, in turn passed a law on the postponement of the elections (*Ley de Postergación de las Elecciones Generales 2020*) according to which elections were to be held within 90 days from the proposed date of 3 May.²² As a result of this law, initially a date was set for the elections to be held on 2 August 2020; although, it was later postponed by the TSE, seemingly in agreement with several political parties, to 6 September 2020.²³ The new election date of 6 September 2020 was criticized by Interim President Áñez insofar as it pushed forward the date of the elections disregarding the risks posed to population by the ongoing public health emergency arising from the pandemic.²⁴ Morales accused the government of rejecting the election's postponement to 6 September in order to prolong their mandate illegitimately, while also being incapable of handling the pandemic crisis.²⁵ Eventually, on 21 June 2020, Áñez promulgated the law setting the date of the elections for 6 September 2020, but called on presidential candidates Carlos Mesa, of the party *Comunidad Ciudadana*, and Luis Arce, of the MAS, as well as Morales, to take responsibility for forcing an election in the midst of the pandemic.²⁶ Áñez also stated

¹⁹ Infobae, [El Tribunal Electoral de Bolivia fijó para el domingo 3 de mayo las elecciones generales](#), 3 January 2020.

²⁰ El País, [Bolivia aplaza las elecciones presidenciales de mayo por la epidemia](#), 21 March 2020; ABC International, [Bolivia aplaza sin fecha las elecciones del 3 de mayo por el coronavirus](#), 21 March 2020; Los Tiempos, [TSE propone que las elecciones se realicen entre el 28 de junio y el 27 de septiembre](#), 24 April 2020; Noticia Fides, [TSE ratifica rango de fechas entre junio y septiembre para realización de las elecciones](#), 29 April 2020.

²¹ El País, [Bolivia aplaza las elecciones presidenciales de mayo por la epidemia](#), 21 March 2020; ABC International, [Bolivia aplaza sin fecha las elecciones del 3 de mayo por el coronavirus](#), 21 March 2020.

²² Bolivia, [Ley N° 1297 - Ley de Postergación de las Elecciones Generales 2020](#), 30 April 2020.

²³ La Razón, [El TSE anuncia elecciones hasta el 6 de septiembre y garantiza seguridad sanitaria](#), 2 June 2020; Europa Press, [El Tribunal Electoral de Bolivia confirma el 6 de septiembre como fecha de las elecciones](#), 26 June 2020.

²⁴ Jeanine Áñez Chavez, [Tweet "En defensa de la vida y la salud de los bolivianos, rechazo las elecciones que ha convocado el MAS. Hay que hacer elecciones cuando no sean un riesgo de salud. La salud es primero."](#), 1 May 2020; Jeanine Áñez Chavez, [Tweet "Acabo de enviar esta carta a la Senadora Copa sobre la fecha de elecciones y la necesidad de cuidar la salud de las familias bolivianas."](#), 21 June 2020.

²⁵ Evo Morales Ayma, [Tweet "El gobierno de facto incurre en contradicciones: dice que ganará las elecciones sin importar la fecha, pero presenta recursos para impedir los comicios en 90 días, como mandan la ley electoral y la CPE. Lo único claro es su intención de prorrogarse sin legalidad ni legitimidad."](#), 19 May 2020; Evo Morales Ayma, [Tweet "Rechazan la realización de las elecciones, son incapaces de atender las consecuencias de la pandemia y solo quieren prorrogarse. La grave crisis solo puede ser resuelta con autoridades elegidas. La defensa de la democracia es una de nuestras tareas más importantes."](#), 13 June 2020.

²⁶ El Deber, [Áñez promulga ley que establece el 6 de septiembre como la fecha de las elecciones y pide a Mesa, Arce y Evo asumir las consecuencias](#), 21 June 2020.

that the *Asamblea Legislativa Plurinacional* had approved the law for holding the elections of 6 September 2020²⁷ and that she had received pressure from the MAS and other politicians to support the law, though nevertheless objected to this date and preferred to delay the elections by a further one to two months due to the pandemic.²⁸ On 14 July, Morales tweeted that not supporting the law establishing the elections on 6 September would amount to “an act of sedition”.²⁹

34. On 23 July, the TSE announced the postponement of the elections to 18 October 2020, a decision which the TSE reportedly reached with due consideration to “scientific, legal and socio-political” factors and because of the ongoing pandemic.³⁰ In this respect, the TSE also stressed that it was taking this decision on the basis of its full, independent powers, without the need for approval by the *Asamblea Legislativa Plurinacional*, after two past attempts to reach a consensus among all political parties to fix another date for the election.³¹ While several political parties reportedly agreed with the postponement, the MAS stated that they would not, and Morales publicly accused the government of not wanting to hold elections on 6 September 2020 in order to “gain time” and to continue their “persecution” of the MAS.³²
35. In response to this new postponement of the elections, on and around 28 July, groups such as the COB and the PdU, among others, gave the TSE a 72-hour ultimatum to rescind the new postponement and hold elections on 6 September, stating that should their request not be met, they would hold road blockades in protest starting from 3 August 2020.³³ The TSE disregarded this ultimatum,³⁴ and blockades began on 3

²⁷ Jeanine Añez Chavez, [Tweet “La Asamblea Legislativa, controlada por el MAS, ha aprobado la ley para elecciones el 6 de septiembre. He recibido presiones del MAS, de Carlos Mesa y otros políticos para ir a elecciones.”](#), 22 June 2020.

²⁸ AP, [Bolivia: Añez promulgará ley para elecciones en septiembre](#), 22 June 2020; La Razón, [Mesa fustiga a Añez y le recuerda que es responsable de los comicios y no solo una ‘espectadora’](#), 22 June 2020.

²⁹ Evo Morales Ayma, [Tweet “No acatar la ley de convocatoria a las elecciones de septiembre es un acto de sedición, se constituirá en un nuevo golpe de Estado contra la democracia y en un atentado contra el derecho del pueblo a elegir a sus autoridades nacionales.”](#), 14 July 2020.

³⁰ France 24, [Cronología de la crisis política en Bolivia a un mes de las elecciones](#), 18 September 2020.

³¹ Fuente Directa, [El TSE posterga las elecciones generales hasta el 18 de octubre en apego a sus atribuciones constitucionales](#), 23 July 2020; Los Tiempos, [TSE posterga las elecciones hasta el 18 de octubre](#), 23 July 2020; TeleSur, [TSE de Bolivia posterga elecciones generales para 18 de octubre](#), 23 July 2020.

³² Los Tiempos, [TSE posterga las elecciones hasta el 18 de octubre](#), 23 July 2020.

³³ Descifrando la Guerra, [Tweet “La Central Obrera Boliviana da 72 horas al Tribunal Supremo Electoral para que rectifique su decisión y celebre elecciones el 6 de septiembre. Sino comenzarán una huelga indefinida y bloqueos por todos los departamentos del país.”](#), 28 July 2020. A similar ultimatum was issued on 24 July 2020 by other groups. Descifrando la Guerra, [Tweet “La Coordinadora de las 6 Federaciones del Trópico de Cochabamba hace público un comunicado en que exige al Tribunal Supremo Electoral que “cumpla los acuerdos y celebre elecciones el 6 de septiembre” y dan un plazo de 72 horas para que “se retracte” o “iniciarán movilizaciones”](#), 24 July 2020; Los Tiempos, [Bolivia se acerca al 6 de agosto entre colapso, pico de casos y bloqueos](#), 30 July 2020; La Voz de San Justo, [Bolivianos se movilizan en rechazo al aplazo del llamado a elecciones](#), 25 July 2020; Página 12, [La Central Obrera Boliviana dio 72 horas para que las elecciones vuelvan al 6 de septiembre](#), 25 July 2020.

³⁴ AA, [Tribunal electoral boliviano reiteró que 'el 18 de octubre es la fecha definitiva de las elecciones'](#), 28 July 2020.

August, lasting until 14 August 2020.³⁵ During this period, multiple discussions and negotiations were held between these groups, the TSE and government actors. On 6 August, the TSE met with members of the blockading groups to discuss the date of the elections but the TSE concluded that 18 October would remain the date set for the elections, which the blockading groups instead rejected.³⁶ On or around 12 of August, the COB and PdU gave the TSE and the *Asamblea Legislativa Plurinacional* a 24-hour ultimatum to accept a newly proposed election date of 11 October 2020, stating that should this date be accepted they would demobilize the blockades.³⁷ On 13 August, however, the TSE confirmed that the final date for the elections would be the 18 October.³⁸ On the same day, Interim President Áñez signed the law confirming this date for the elections, a move which was also approved by the Senate.³⁹ On 14 August, the COB and PdU leaders, having accepted the new proposed election date of 18 October 2020, announced that they would temporarily suspend the blockades until that date and called for the demobilisation of their bases.⁴⁰ This decision was welcomed by international actors such as the United Nations (“UN”) Secretary General’s Personal Envoy for Bolivia and the UN High Commissioner for Human Rights.⁴¹

36. Elections were ultimately held on 18 October 2020, with the MAS winning a majority of the votes (55%) and its candidate, Luis Arce, elected to the presidency.⁴² This

³⁵ CNN Español, [El TSE de Bolivia anuncia el 18 de octubre como fecha definitiva de las elecciones generales](#), 13 August 2020; Fides, [Doce días de bloqueos en Bolivia deja un daño económico al Estado de Bs 10.2 millones](#), 17 August 2020; Viceministerio de Comunicación de Bolivia, [12 días de bloqueos provocaron un daño económico al Estado de Bs 10.2 millones](#), 17 August 2020; Ministerio de la Presidencia de Bolivia, [Bolivia con carreteras expeditas y Gobierno exige que los responsables de los bloqueos se sometan a la justicia](#), 17 August 2020.

³⁶ France 24, [Órgano electoral de Bolivia ratifica fecha de elecciones para octubre y sindicatos la rechazan](#), 6 August 2020.

³⁷ TelesurTV, [COB y Pacto de Unidad condicionan fin de bloqueos a que se celebren las elecciones el 11 de octubre en Bolivia](#), 12 August 2020; Los Tiempos, [COB y Pacto de Unidad piden que comicios sean el 11 de octubre para levantar bloqueos](#), 12 August 2020.

³⁸ CNN Español, [El TSE de Bolivia anuncia el 18 de octubre como fecha definitiva de las elecciones generales](#), 13 August 2020.

³⁹ Voz de America, [Bolivia aprueba ley que fija el 18 de octubre como tope para las elecciones](#), 13 August 2020; Europapress, [El Senado de Bolivia aprueba la ley que fija hasta el 18 de octubre la celebración de las elecciones](#), 13 August 2020.

⁴⁰ France 24, [Bolivia: Central Obrera anunció pausa en las protestas pero grupos indígenas seguirán con bloqueos](#), 14 August 2020; DW, [Central Obrera Boliviana anuncia tregua hasta elecciones](#), 14 August 2020; Radio Kawsachun Coca, [Tweet “La COB determina cuarto intermedio hasta el 18 de octubre, porque están seguros que después de las elecciones el régimen no va acceder a la transmisión de mando. La pacificación del Estado se da por decisión de la COB y el Pacto de unidad, no del régimen, informo el dirigente”](#), 14 August 2020.

⁴¹ UN, [Statement of the Secretary-General’s Personal Envoy for Bolivia](#), 14 August 2020; OHCHR, [Bolivia: UN Human Rights Chief urges structural changes to prevent crises](#), 24 August 2020.

⁴² Freedom House, [Bolivia - Key Developments in 2020](#), undated; BBC, [Luis Arce, ganador de las elecciones en Bolivia, a la BBC: “Si Evo Morales quiere ayudarnos será muy bienvenido pero eso no quiere decir que él estará en el gobierno”](#), 20 October 2020; France 24, [Luis Arce, virtual ganador de las presidenciales bolivianas según encuestadoras](#), 18 October 2020.

outcome was accepted by Interim President Áñez and opposition presidential candidate Mesa.⁴³

37. On 12 March 2021, former Interim President Áñez was arrested and accused of “terrorism, sedition and conspiracy”, for planning the November 2019 “coup” that resulted in the collapse of Morales’ then-newly elected government. Áñez called this an act “of abuse and persecution” carried out by the MAS.⁴⁴ State Minister Eduardo del Castillo del Carpio declared that Áñez had been arrested as part of a case it opened in December 2020 to address the issue of the November 2019 “coup”.⁴⁵ On 10 October 2021, it was announced that Áñez’s provisional detention would be extended for another five months.⁴⁶
38. The above-described political crisis occurred in the midst of the on-going Covid-19 pandemic. The first Covid-19 cases in Bolivia were confirmed on 10 March 2020.⁴⁷ Later in the month, Áñez’s government declared a state of emergency, closing international borders and restricting internal movements,⁴⁸ and established a “national quarantine”.⁴⁹ By early summer 2020, open sources reported that Bolivia’s healthcare system was reaching a state of collapse,⁵⁰ with multiple sources also reporting a lack of oxygen, which worsened the Bolivian healthcare system’s ability to tackle the pandemic.⁵¹ An increase of Covid-19 cases was reportedly observed between from May to August 2020, including thus during the period coinciding with the August 2020 blockades.⁵² On 27 August 2020, the government issued a Supreme Decree to start a transition to a “post-quarantine” phase on 1 September 2020 and the

⁴³ Reuters, [Socialista Arce gana elección en Bolivia en primera vuelta](#), 19 October 2020.

⁴⁴ BBC, [Detienen a Jeanine Áñez en Bolivia por el “caso golpe de Estado” contra Evo Morales](#), 13 March 2021, Jeanine Áñez Chavez, [Tweet “Denuncio ante Bolivia y el mundo, que en un acto de abuso y persecución política el gobierno del MAS me ha mandado arrestar. Me acusa de haber participado en un golpe de estado que nunca ocurrió. Mis oraciones por Bolivia y por todos los bolivianos.”](#), 13 March 2020.

⁴⁵ El Tiempo, [La expresidenta interina de Bolivia es trasladada a la Fiscalía](#), 13 March 2021.

⁴⁶ CNN, [Tribunal de Bolivia extiende por 5 meses la prisión preventiva contra la expresidenta interina Jeanine Áñez](#), 3 October 2021.

⁴⁷ El Deber, [Confirman dos casos de coronavirus y accionan medidas de contención](#), 11 March 2020; BBC, [Coronavirus: Bolivia confirma sus primeros dos casos de Covid-19](#), 11 March 2020.

⁴⁸ El Deber, [Gobierno dicta estado de emergencia sanitaria en Bolivia hasta el 15 de abril](#), 25 March 2020.

⁴⁹ See Estado Plurinacional de Bolivia, [Decreto Supremo N°4179](#), 12 March 2020 (health emergency declaration); Estado Plurinacional de Bolivia, [Decreto Supremo N°4196](#), 17 March 2020 (partial quarantine declaration); Estado Plurinacional de Bolivia, [Decreto Supremo N°4199](#), 21 March 2020 (total quarantine declaration).

⁵⁰ Infobae, [Colapsó el sistema sanitario de Bolivia por el coronavirus: se registraron al menos seis muertes en las calles](#), 16 June 2020; La Vanguardia, [El colapso sanitario en Bolivia por la Covid deja al menos seis muertos en plena calle](#), 16 June 2020; EFE, [El Covid-19 pone contra las cuerdas al sistema sanitario de Bolivia](#), 7 July 2020; Agenda Pública, [Bolivia, entre el colapso sanitario y las elecciones presidenciales](#), 13 July 2020.

⁵¹ See, e.g., Al Jazeera, [‘No coffins or oxygen’: Bolivia struggling amid coronavirus surge](#), 24 July 2020; Opinión, [Escasean y encarecen tanques de oxígeno medicinal en Cochabamba](#), 14 July 2020; Los Tiempos, [El oxígeno medicinal se busca como oro en tres regiones del país](#), 23 July 2020; TeleSUR, [Denuncia el MAS-Ipsp carencia de oxígeno medicinal en Bolivia](#), 23 July 2020; Defensoría del Pueblo del Estado Plurinacional de Bolivia, [Informe Defensorial “Salud, Derechos Humanos y Covid-19 en Bolivia”](#), 28 December 2020, pp. 308-309.

⁵² See <https://ourworldindata.org/coronavirus/country/bolivia?country=~BOL>.

easing of restrictions.⁵³ This measure apparently coincided with a decrease in number of Covid-19 cases recorded in Bolivia.⁵⁴

39. The events surrounding the August 2020 blockades were condemned by a number of international stakeholders. On 6 August, the OAS issued a statement in which, echoing the views of the Inter-American Commission on Human Rights (“IACHR”), it expressed “its extreme concern about the situation in Bolivia where groups of protesters block the passage of trucks with health supplies to combat Covid-19, at a time when the pandemic has reached its peak highest in the South American country” and calling “on all sectors of Bolivian society to preserve public order”.⁵⁵ On 12 August the UN Secretary General, speaking through his spokesperson, urged that transparent and credible elections be held as well as called for restraint and for the protest organisers to ensure the safe passage of ambulances and medicines and allow the delivery of essential goods and services.⁵⁶ The events of October-November 2019 and related alleged human rights violations had also previously been the subject of attention and concern for bodies such as the Inter-American Commission on Human Rights and the UN Office of the High Commissioner for Human Rights (“OHCHR”).⁵⁷

IV. EXAMINATION OF THE INFORMATION AVAILABLE

40. In the course of the preliminary examination process, the Office has conducted a thorough factual and legal assessment of all the information available at this stage from various sources. The information assessed included material accompanying the Referral submitted by the Bolivian authorities, open source information available from official governmental institutions, international and local media articles, social media, as well as reports and statements of relevant international and regional organizations. The alleged conduct and related events were also reported by the opposition, including sources originating from the alleged perpetrator groups.
41. The goal of the preliminary examination is to reach a determination on whether there is a reasonable basis to proceed with an investigation. The “reasonable basis” standard has been interpreted by Pre-Trial Chambers to require that there exists a sensible or reasonable justification for a belief that a crime falling within the jurisdiction of the

⁵³ Estado Plurinacional de Bolivia, [Decreto Supremo N°4314](#), 27 August 2020.

⁵⁴ See <https://ourworldindata.org/coronavirus/country/bolivia?country=~BOL>.

⁵⁵ OAS, [Secretaría General de la OEA condena bloqueos de camiones con material médico en Bolivia](#), 6 August 2020.

⁵⁶ UN, [News in Brief 12 August 2020](#), 12 August 2020.

⁵⁷ OAS, [The IACHR presents its preliminary observations following its visit to Bolivia and requests an urgent international investigation take place into the serious human rights violations that have occurred in the country since the October 2019 elections](#), 10 December 2019; OHCHR, [Bolivia: UN Human Rights Chief urges structural changes to prevent crises](#), 24 August 2020.

Court has been or is being committed.⁵⁸ At the same time, Chambers of the Court have held “it does not follow that an investigation should not be opened where facts or accounts are difficult to establish, unclear, or conflicting. Such circumstances in fact call for an investigation to be opened, provided that the relevant requirements have been met”.⁵⁹ It should be recalled that the Office does not enjoy investigative powers at the preliminary examination stage. Its findings are therefore preliminary in nature and may be reconsidered in the light of new facts or relevant information.

42. The information submitted by the Government of Bolivia contained a limited set of allegations relating to purported Rome Statute crimes, namely: over 40 deaths of Covid-19 patients or other infirm persons in need of timely medical treatment (alleged to amount to murder) and the infliction of physical and/or mental harm on the broader population (alleged to amount to other inhumane acts), resulting from lack of availability of sufficient oxygen and other vital medical supplies and services caused by road blockades set up by several unions and political organizations affiliated or otherwise close to the MAS.⁶⁰ In support of these allegations, over 250 items were annexed to the Referral. Of this supporting material, a proportion directly concerned the crimes and conduct alleged in the Referral, while another part related to the political electoral crisis that led to the August 2020 blockades and related events, the reactions of the Bolivian government to the blockades as well as the groups and individuals involved in the blockades.
43. Beyond the supporting materials accompanying the Referral, verification was sought through the collection of open source material from multiple sources. Such review of open source information showed that the relevant events of August 2020 were widely reported upon, both at the time of the events and to a more limited extent in the months subsequent. In addition, the Office collected open source information from media and other sources which presented the contrasting perspectives of the government and the blockading groups. The Office undertook a number of routine steps in its source evaluation in order to identify any potential biases and any resulting need for corroboration of the sources from which these competing narratives emerged.
44. Despite the relatively extensive coverage of the August 2020 Bolivian blockades and related events in particular by national and international media, no prominent international human rights organisation published any detailed report or documented

⁵⁸ See, e.g., *Philippines* Article 15 Decision, [ICC-01/21-12](#), para. 12; *Kenya* Article 15 Decision, [ICC-01/09-19-Corr](#), para. 35.

⁵⁹ *Philippines* Article 15 Decision, [ICC-01/21-12](#), para.12, recalling *Burundi* Article 15 Decision, [ICC-01/17-9-Red](#), para. 30, referring to Pre-Trial Chamber I, *Situation on the Registered Vessels of the Union of the Comoros, the Hellenic Republic and the Kingdom of Cambodia*, Decision on the request of the Union of the Comoros to review the Prosecutor’s decision not to initiate an investigation, 16 July 2015, [ICC-01/13-34](#), para. 13.

⁶⁰ Referral, para. 37, 40 *et seq.*

specific incidents relating to the particular situation – unlike was the case for example for the 2019 electoral violence⁶¹ – even though calls for accountability for human rights violations in Bolivia were issued after the August 2020 events by for example OHCHR.⁶² Various international, regional and domestic actors, including the national *Defensoría del Pueblo* (People’s Ombudsman, a government entity equivalent to the Office of the Ombudsman dedicated to the protection of human rights), the IACHR and the OAS, provided some information on the August 2020 events through press releases or reports on other issues, such as the Bolivian Covid-19 crisis generally, but did not publish any detail reports or findings on the August 2020 events in particular.

45. In the absence of public reports from non-governmental and inter-governmental organisations or an independent fact-finding mission or international inquiry relating to the situation at hand, the Office reviewed media and social media sources, in particular those directly reflecting the respective views and actions of the groups involved in the blockades, victims and their families, individuals involved in the healthcare sector and counter-blockading efforts, the population at large, and the government, including interviews, tweets, videos, audios and photographs. This information, often stemming from primary sources, was found to be credible and was therefore capable of being relied upon.
46. Overall, despite the limitations noted above, the information available to the Office is considered sufficient in volume and quality to enable a determination on the reasonable basis standard.

V. PRECONDITIONS TO JURISDICTION

47. Bolivia deposited its instrument of ratification to the Statute on 27 June 2002. The ICC may exercise jurisdiction over Rome Statute crimes committed on the territory of Bolivia or by its nationals from 1 September 2002 onwards.⁶³

VI. SUBJECT-MATTER JURISDICTION

48. There is no information suggesting the existence of an armed conflict in the Bolivia or the commission of genocide during the relevant period, nor the crime of aggression within the jurisdiction of the Court. Accordingly, the Office’s analysis focused on whether the crimes allegedly committed by the organisers and participants of the

⁶¹ OHCHR, [Bolivia: UN Human Rights Chief urges structural changes to prevent crises](#), 24 August 2020; OAS, [The IACHR presents its preliminary observations following its visit to Bolivia and requests an urgent international investigation take place into the serious human rights violations that have occurred in the country since the October 2019 elections](#), 10 December 2019.

⁶² OHCHR, [Bolivia: UN Human Rights Chief urges structural changes to prevent crises](#), 24 August 2020.

⁶³ Rome Statute, article 126(1). Bolivia ratified the amendments to the Rome Statute on the crime of aggression on 10 December 2020; therefore, the crime of aggression will enter into force for Bolivia on 10 December 2021.

August 2020 road blockades may amount to crimes against humanity under article 7 of the Statute.

49. Following a thorough, independent analysis, the Office has concluded that the information available does not provide a reasonable basis to believe that crimes against humanity under article 7 of the Statute have been committed in Bolivia in connection to the August 2020 road blockade campaign.

A. FACTUAL ALLEGATIONS

1. Overview of Allegations in the Referral

50. In its Referral, the Bolivian Government alleged that on 3 August 2020 and for the subsequent nine days, 70-100 road blockades were organised by the MAS and affiliated organisations, such as the COB and PdU, along the main highways connecting different regions and cities across Bolivia, thus preventing the passage and circulation of goods and services, such as medical oxygen, ambulances and food supplies.⁶⁴ In this regard, according to the Referral, on 3 August 2020, leaders of the MAS allegedly “summoned and organized their followers and other organisations [...] to block the roads [...] and impede the normal supply of food, services and especially medicines and medical supplies that in those days were of vital necessity given that the public health system was on the verge of collapse with the large number of patients.”⁶⁵
51. Overall, it is alleged that in carrying out such blockades, the participating organisations engaged in a course of conduct – involving the commission of murder and other inhumane acts – pursuant to an organisational policy to attack the Bolivian population. The Referral further alleges that the organisers and participants of the blockades deliberately sought to cause “serious suffering in the physical integrity and physical mental health of the population, as a means to force a serious social upheaval that would induce the authorities to take a decision [...] setting the date of suffrage for the presidential elections.”⁶⁶ According to the Referral, against the backdrop of the Covid-19 pandemic, the blockades, among other things, aimed “to prevent them [the civilian population in those cities] from accessing public health supplies and services with the direct consequence of causing the death of several people and anxiety in the rest of the population due to the possibility of dying without being able to be treated in public hospitals, or in conditions that allow them to access to medical supplies, treatments and, above all, medical oxygen”.⁶⁷

⁶⁴ Referral, para. 15, 37, 47-48, 71, 116.

⁶⁵ Referral, para. 12.

⁶⁶ Referral, para. 49.

⁶⁷ Referral, para. 43.

2. Summary of Relevant Events and Alleged Conduct Based on Information Available

a) Overview of the road blockade demonstrations

(i) Groups and key figures involved the blockades

52. The information provided with the Referral as well as other information available indicates that the August 2020 blockades were called and organised by the union associations and political organisations COB,⁶⁸ led by Juan Carlos Huarachi, and PdU,⁶⁹ led by Leonardo Loza, with the support of the political party MAS,⁷⁰ led by Evo Morales. It also appears that various other organisations with different degrees of affiliation to and connection with the COB, PdU and MAS also participated in the blockades, such as the *Seis Federaciones del Trópico de Cochabamba* (Six Federations of the Cochabamba Tropic), the *Federación Única de Trabajadores de La Paz “Tupac Katari”* (Single Departmental Federation of Peasant Workers of La Paz “Tupac Katari”), and the *Ponchos Rojos* (Red Ponchos).⁷¹

⁶⁸ The COB is a Bolivian national unions organisation founded in 1952, whose self-described objectives include the defence of worker’s rights and interests, representing “the proletariat, peasants and nationalities, employees, manual workers, students, intellectuals, people’s organisations and cooperatives” established in Bolivia, as well as the improvements of the life and work conditions. Central Obrera Boliviana, [Historia](#), undated; Central Obrera Boliviana, [Estatuto Orgánico de la Central Obrera Boliviana](#), 2006, Articles 1-3; Central Obrera Boliviana, [Misión y visión](#), undated.

⁶⁹ The PdU is an alliance of five national social organisations closely affiliated with the MAS: the *Confederación Única de Trabajadores Campesinos de Bolivia*, the *Confederación Sindical de Comunidades Interculturales Originarias de Bolivia* (“CSCIOB”, Unions Confederation of Originating Intercultural Communities), the *Confederación Nacional de Mujeres Campesinas Indígenas Originarias de Bolivia “Bartolina Sisa”* (“CNMCIQB-BS”, National Confederation of Indigenous Peasant Women Originating from Bolivia ‘Bartolina Sisa’), the *Consejo Nacional de Ayllus y Markas del Qullasuyu* (“CONAMAQ”, National Council of Ayllus and Markas from Qullasuyu), National Council of Ayllus and Makas from Qullasuyo), and the *Confederación de Pueblos Indígenas de Bolivia* (“CIDOB”, Confederation of Bolivian Indigenous Peoples). Página Siete, [Pacto de Unidad se declara en emergencia ante protestas de la “derecha”](#), 28 October 2020; Revista de Frente, [“Pacto de Unidad y la COB: La voz de los MMSS bolivianos en la lucha por recuperar la democracia”](#), 12 August 2020. It is designed to be a meeting point of indigenous initiatives with the aim of defending agrarian and indigenous rights. Fernando Garcés, [El Pacto de Unidad y el Proceso de Construcción de una Propuesta de Constitución Política del Estado](#), 2010, Presentación. See also Equipo Nizkor, [Varias organizaciones sociales suscriben un documento anunciando que han conformado un Pacto de Unidad a nivel nacional](#), 11 November 2004. It is also part of the *Coordinadora Nacional por el Cambio* (“CONALCAM”, National Coordination for Change), a pro-MAS government organisation. Revista de Frente, [“Pacto de Unidad y la COB: La voz de los MMSS bolivianos en la lucha por recuperar la democracia”](#), 12 August 2020.

⁷⁰ The MAS is a Bolivian political party founded in 1987 by the CSUTCB, the CSCIOB, and CNMCIQB-BS. MAS-IPSP, [Estatuto Orgánico](#), 2012, Article 18(b). Over the years, six additional organisations joined the MAS, namely: the *Confederación Nacional de Maestros Rurales* (National Confederation of Rural Teachers), the *Confederación Nacional de Ríos y Jubilados* (National Confederation of Rentiers and Retirees), the *Confederación Nacional de la Micro y Pequeña Empresa* (National Confederation of the Micro and Small Enterprise), the *Federación Nacional de Cooperativas Mineras* (National Federation of Mining Cooperatives), and the *Centro Regional de Trabajadores de El Alto* (El Alto Regional Workers’ Centre). EcuRed, [Movimiento al Socialismo](#), undated.

⁷¹ Nodal, [Bolivia inicia la semana con huelga general indefinida y bloqueo de caminos](#), 3 August 2020; Radio Kawsachun Coca, [Tweet “Las Seis Federaciones del Trópico acatarán la determinación de la COB y el Pacto De Unidad”](#),

53. According to information available, a number of *auto-convocados* (self-convened groups), i.e. groups that are seemingly self-organised and not necessarily affiliated with any organisation, also took part in the blockades. This includes *grupos sociales* (social groups), *Asambleas del Pueblo* (people's assemblies), *juntas vecinales* (neighbourhood committees) and simply *pobladores* (citizens), *campesinos* (peasants) and *jóvenes* (youths), who also joined the blockade demonstrations but did so as apparently independently from the COB, PdU and others, with their own demands but also supporting the demands of the COB and PdU.⁷² Some information indicates that some armed groups also participated in the blockades.⁷³

(ii) *Purpose of blockades and warnings regarding impact*

54. According to sources seemingly representing the views of the blockades organisers, the motivation for calling the blockades was political and aimed at obtaining the an earlier date for the national elections than that set by the TSE.⁷⁴ In one statement issued by Huarachi, leader of the COB, for example, he stated that the blockades were the result of a "national struggle and mobilization against the de facto government and the TSE for violating the constitutional rights of the people and attacking democracy".⁷⁵ Other similar statements issued by the groups participating in the blockades likewise confirm that the goal of the blockades was to achieve the

[declaran cuarto intermedio y vigilia hasta la realización de las elecciones generales, piden unidad a todas las confederaciones nacionales de Bolivia](#)", 14 August 2020.

⁷² Los Tiempos, [Huayllani en Sacaba y Quillacollo son bloqueados por autoconvocados](#), 3 August 2020; Radio Kawsachun Coca, [Tweet "Se masifica bloqueo de Bulo Bulo en el Trópico de Cochabamba, pobladores de este Municipio marcharon hasta el punto de bloqueo para masificar la protesta en el puente Ichilo, límite entre los departamentos de Cochabamba y Santa Cruz."](#), 4 August 2020; Radio Kawsachun Coca, [Tweet "Jóvenes autoconvocados de la ciudad de La Paz protestan frente al #TSE, demandando la realización de las elecciones para la fecha prevista."](#), 5 August 2020; Radio Kawsachun Coca, [Tweet "Asamblea del pueblo Guarani, de los departamentos de Tarija, Santa Cruz y Chuquisaca, determinó sumarse a las Movilizaciones convocadas por la #COB, demandando la realización de las elecciones generales."](#), 5 August 2020; Radio Kawsachun Coca, [Tweet "Los #PonchosRojos se suman al #BloqueoNacional, en la carretera de #Peñas del departamento de La Paz, en demanda de la recuperación de la #democracia mediante la realización de las #EleccionesGenerales."](#), 4 August 2020; Radio Kawsachun Coca, [Tweet "Juventudes "Waris" de Warisata del departamento de La Paz, se suman a los bloqueos acompañando a las organizaciones sociales que piden respeto a la democracia y renuncia de Añez."](#), 10 August 2020; Radio Kawsachun Coca, [Tweet "Federación Única de Trabajadores Campesinos de #Pando, determinaron sumarse al Bloqueo Nacional."](#), 10 August 2020; Radio Kawsachun Coca, [Tweet "El punto de bloqueo de Arani es reforzado por jóvenes que se suman a la movilización campesina en demanda del restablecimiento democrático en el Estado Plurinacional de Bolivia."](#), 10 August 2020; Radio Kawsachun Coca, [Tweet "Campesinos del Distrito 3 del Municipio de #Poroma instalan un punto de bloqueo en la ciudad de #Sucre en el barrio Alegría, al arribar a la ciudad fueron recibidos por juntas vecinales de la zona quienes se unieron al bloqueo desde el lunes 10 de agosto."](#), 11 August 2020; Radio Kawsachun Coca, [Tweet "Mas organizaciones sociales se suman a la movilización nacional por la recuperación de la democracia en Patacamaya, carretera de La Paz-Oruro, quienes ahora también piden la renuncia de #Añez."](#), 11 August 2020.

⁷³ Opinión, [Aparecen videos de grupos armados que amenazan a Añez; el Gobierno pide tranquilidad](#), 11 August 2020.

⁷⁴ La Nación, [Coronavirus: los bloqueos se agudizan en Bolivia y amenazan con agravar la crisis sanitaria](#), 12 August 2020; Los Tiempos, [Bolivia se acerca al 6 de agosto entre colapso, pico de casos y bloqueos](#), 30 July 2020. Proposition also supported by the material submitted with the Referral. See also above para. 52-53 (and references cited therein).

⁷⁵ Los Tiempos, [Bolivia se acerca al 6 de agosto entre colapso, pico de casos y bloqueos](#), 30 July 2020. Proposition also supported by the material submitted with the Referral.

participants' political demands for the rescheduling of elections as well as the resignation of sitting interim President Áñez.⁷⁶

55. Bolivian authorities, however, repeatedly accused the leaders of the blockades of seeking to deliberately to cause harm to the civilian population. In one instance, Interim President Jeanine Áñez stated: "We ask the leaders of the COB (Central Obrera Boliviana) to think about the damage that their measures are causing. I ask you once again to stop blocking and take care of our people."⁷⁷ Defence Minister Fernando López also called on MAS leaders "to make them aware that we are trying to save lives, do not campaign with death (...) Stop doing politics of fear and terror, this is an attempt against the lives of Bolivians. They are hurting their own families, their own brothers".⁷⁸ Similar calls were repeatedly issued by state authorities, medical staff and families of patients in need of oxygen and victims.⁷⁹
56. The blockades leaders repeatedly denied the government's accusation. For example, in the context of his call to the blockaders to let ambulances and medical supplies pass, Huarachi stated: "Our fight is for health and we cannot harm hospitals".⁸⁰ Evo Morales also claimed that oxygen and medicines were already scarce prior to the blockades and that the government was instrumentalising the blockades, accusing the protesters of causing a medical crisis, for which it was instead responsible.⁸¹ In a Tweet issued on 11 August 2020, Morales also alleged that the government was choosing to use roads to transport oxygen rather than other means as a "provocation".⁸² Leonardo Loza also stated that the Covid-19 situation had been a "total disaster" irrespective of the plan of the blockaders to hold protests and that the government had not worked on preparedness and had instead politicised the pandemic.⁸³ Repeatedly, individuals and groups engaged in the blockades accused the government and the TSE of causing harm to the population, by bringing about conditions that led these groups to have no

⁷⁶ See also above para. 52-53 (and references cited therein).

⁷⁷ El País, [Campesinos bolivianos vuelven a tomar las calles para exigir elecciones](#), 5 August 2020.

⁷⁸ Ahora El Pueblo, [Gobierno envía 20.4 toneladas de oxígeno para cuatro ciudades afectadas por los bloqueos](#), 4 August 2020.

⁷⁹ See for example below para. 71, 85, 90-91, 96.

⁸⁰ El País, [Campesinos bolivianos vuelven a tomar las calles para exigir elecciones](#), 5 August 2020; Erbol, [COB y organizaciones intensificarán movilización, pero instruyen dejar pasar ambulancias, oxígeno y medicamentos](#), 4 August 2020. Proposition also supported by the material submitted with the Referral.

⁸¹ Evo Morales Ayma, [Tweet "El desabastecimiento de oxígeno en #Bolivia se debe a que gobierno de facto no tomó provisiones en 8 meses gob. y 5 de cuarentena, como muestra la prensa. Recién el 31 de julio aprobó D.S. 4304 que autoriza importación. La negligencia e insensibilidad es de Áñez no del MAS-IPSP"](#), 8 August 2020; BBC News Mundo, [Coronavirus en Bolivia "En 20 minutos los bebés pueden fallecer": la dramática crisis de oxígeno en medio del coronavirus en el país sudamericano](#), 8 August 2020; El Deber, [Ponchos Rojos piden la renuncia de Áñez y de todos sus ministros y amenazan con cercar La Paz](#), 6 August 2020. Proposition also supported by the material submitted with the Referral.

⁸² Evo Morales Ayma, [Tweet "Decisión del gobierno de facto de llevar convoy con oxígeno de Santa Cruz a La Paz por una carretera donde hay bloqueos, cuando se puede por otras vías, es provocación que busca violencia. Recuerda acción de Sánchez de Lozada que derivó en guerra del gas. Diálogo es la solución."](#), 11 August 2020.

⁸³ Proposition supported by the material submitted with the Referral.

other option but protest and by not being prepared to manage the pandemic.⁸⁴ A number of videos provided with the Referral include interviews with blockade participants stating that the reason for the protests was their call for elections at an earlier date than that proposed by the TSE, and that they believed that the government, not the protesters, ought to be considered at fault for the medical emergency prevailing in Bolivia at the time.⁸⁵

57. At the same time, however, statements by blockade leaders suggest they were aware – at least generally – that the blockades would negatively impact the civilian population. On 4 August, for example, the leader of the *Confederación Sindical Única de Trabajadores Campesinos de Bolivia* (Confederation of Bolivian Peasants) (“CSUTCB”) stated: “We want to apologize to the Bolivian population for the mobilization required by the decision of the TSE and the national government” and for the damage caused by the blockades.⁸⁶ Similarly, COB leader Huarachi reportedly stated: “Excuse us if we are hurting you, but there is a reality that the Bolivian people have to know, we are not crazy to call marches, mobilizations, councils, it is that there is a need: day by day our compatriots are dying.”⁸⁷

(iii) *Mobilisation of the blockades*

58. The information available indicates that the COB, along with the PdU and other groups operating on the ground, organised and coordinated road blockades from 3 to 14 August 2020, particularly in areas where these groups had a particularly strong presence, such as the central and strategic area of Cochabamba.⁸⁸ Reportedly, on 28 July 2020, the COB decided in a meeting in El Alto that national and departmental blockades would be carried out as of 3 August, after giving a – later unmet – ultimatum to the TSE to agree to schedule elections for 6 September 2020.⁸⁹ In a

⁸⁴ Erbol, [COB y organizaciones intensificarán movilización, pero instruyen dejar pasar ambulancias, oxígeno y medicamentos](#), 4 August 2020. Proposition also supported by the material submitted with the Referral.

⁸⁵ Proposition supported by the material submitted with the Referral.

⁸⁶ Erbol, [COB y organizaciones intensificarán movilización, pero instruyen dejar pasar ambulancias, oxígeno y medicamentos](#), 4 August 2020.

⁸⁷ Erbol, [COB y organizaciones intensificarán movilización, pero instruyen dejar pasar ambulancias, oxígeno y medicamentos](#), 4 August 2020.

⁸⁸ Los Tiempos, [Bolivia se acerca al 6 de agosto entre colapso, pico de casos y bloqueos](#), 30 July 2020; La Razón, [Organizaciones abren paso a cisternas de oxígeno en vías a Cochabamba y La Paz](#), 6 August 2020; La Nación, [Coronavirus: los bloqueos se agudizan en Bolivia y amenazan con agravar la crisis sanitaria](#), 12 August 2020; Cabildeo Digital, [Huarachi ¡Fuera de la COB! Las bases están molestas](#), 17 August 2020; Fides, [Doce días de bloqueos en Bolivia deja un daño económico al Estado de Bs 10.2 millones](#), 17 August 2020; Viceministerio de Comunicación de Bolivia, [12 días de bloqueos provocaron un daño económico al Estado de Bs 10.2 millones](#), 17 August 2020; Ministerio de la Presidencia de Bolivia, [Bolivia con carreteras expeditas y Gobierno exige que los responsables de los bloqueos se sometan a la justicia](#), 17 August 2020. The Referral instead alleges that the blockades only lasted 9 days. Referral, para. 15.

⁸⁹ Descifrando la Guerra, [Tweet “La Central Obrera Boliviana da 72 horas al Tribunal Supremo Electoral para que rectifique su decisión y celebre elecciones el 6 de septiembre. Sino comenzarán una huelga indefinida y bloqueos por todos los departamentos del país.”](#), 28 July 2020. A similar ultimatum was issued on the 24 July. Descifrando la Guerra,

statement, the leader of the COB Huarachi announced: "The Confederations and Federations, as well as the Departmental and Regional Workers' Confederations must organize the national and departmental blockade of roads and the mobilized and indefinite general strike, starting at 00:00 hours on Monday, August 3, 2020".⁹⁰ In a video provided with the Referral, during a speech, Huarachi announces the blockade, states that the COB are already organising themselves with worker's unions to find strategic points where to place the blockades, and indicates that while they are still willing to negotiate, the population should stock themselves up with necessities.⁹¹ The PdU also called for an indefinite national strike with road blockades at the same time as the COB, and the leadership of the *Seis Federaciones del Trópico de Cochabamba* also confirmed their approval of the proposed measures and similarly asked the population to stock up on food ahead of the blockades.⁹² On or around 28 July 2020, the *Ponchos Rojos* also confirmed their participation in the protests.⁹³

59. Information available indicates that during the subsequent course of the blockades, the leaders of these groups were able, to a large extent, to direct the conduct of the blockades. For example, on or around 5 August, Huarachi indicated that the blockades would intensify until the TSE and the interim government agreed to hold earlier elections, stating: "We are doing the respective monitoring of the general strike, and it has been evidenced that almost the entire country is being blocked of roads; we will continue to increase the blocking points until we achieve our objective".⁹⁴ A similar statement was issued by the leader of the CSUTCB, Jacinto Vega, who announced that the blockading organisations had decided to "continue adding" to the "protests and not back down."⁹⁵ The blockades continued unabated in the days subsequent to these announcements.⁹⁶ Additionally, a number of self-convened (*auto-convocados*) social groups joined the blockades over time, apparently upon their own initiative but also possibly in response to the calls of the COB, PdU and other organising groups.⁹⁷
60. Based on the information available, it does not appear that Morales, as leader of the MAS, in particular necessarily played an operational role in directing the blockade

[Tweet "La Coordinadora de las 6 Federaciones del Trópico de Cochabamba hace público un comunicado en que exige al Tribunal Supremo Electoral que "cumpla los acuerdos y celebre elecciones el 6 de septiembre" y dan un plazo de 72 horas para que "se retracte" o "iniciarán movilizaciones", 24 July 2020.](#)

⁹⁰ Los Tiempos, [Bolivia se acerca al 6 de agosto entre colapso, pico de casos y bloqueos](#), 30 July 2020.

⁹¹ Proposition supported by the material submitted with the Referral.

⁹² Los Tiempos, [Bolivia se acerca al 6 de agosto entre colapso, pico de casos y bloqueos](#), 30 July 2020. Proposition also supported by the material submitted with the Referral.

⁹³ Eju!, [Marchas, bloqueos y desacato al distanciamiento en una jornada de protestas](#), 28 July 2020.

⁹⁴ Xinhua, [COB y movimientos sociales anuncian radicalización de huelga y bloqueos en Bolivia](#), 5 August 2020.

⁹⁵ Xinhua, [COB y movimientos sociales anuncian radicalización de huelga y bloqueos en Bolivia](#), 5 August 2020.

⁹⁶ See, e.g., Radio Kawsachun Coca, [Tweet "Los bloqueos se van masificando en diferentes puntos del país, las organizaciones sociales cumplen con lo emanado en el ampliado en la ciudad de El Alto, el pasado martes en demanda al derecho de la #Democracia"](#), 3 August 2020.

⁹⁷ See also above para. 53.

campaign, the operational leadership of which instead appeared to rest primarily with the COB and PdU leadership. Nevertheless, Morales voiced his support for the blockade campaign and issued a number of related public statements during their course, including at times directed at the participants. On 6 August 2020, for example, Morales publicly expressed his “respect and admiration” for the social movements peacefully demonstrating “in order to recover democracy”.⁹⁸ On 7 August 2020, Morales criticised the government’s possible forcible intervention against the blockades, saying that it would cause a massacre that the “regime” will not mind.⁹⁹ On 11 August 2020, Morales called on the people participating in the blockades to not “give in to the provocations [of the government] that want to cause violence”.¹⁰⁰ Finally, in a Tweet issued on 12 August 2020, he appeared to support the call of the European Union, the UN and of the *Conferencia Episcopal Boliviana* (Bolivian Episcopal Conference) for the blockaders to demobilise.¹⁰¹

(iv) *Duration, number, locations and nature of the blockades*

61. Media sources reported that the blockades lasted for around 12 days,¹⁰² starting from the 3 August 2020,¹⁰³ though the groups involved had begun organising them already in late July 2020.¹⁰⁴
62. According to information available, during the relevant period, the number of blockades varied between 70 and over 140. For example, media sources reporting in the early days of the blockades reported that as of 5 August 2020, around 70 blocking points had been set up.¹⁰⁵ On 5 and 6 August, other media sources, citing the groups

⁹⁸ Evo Morales Ayma, [Tweet “Mi respeto y admiración a los movimientos sociales que rinden homenaje a #Bolivia, movilizados pacíficamente para recuperar la democracia. Quiero decirle al pueblo que volveremos millones y devolveremos la dignidad y la libertad a la patria.”](#), 6 August 2020.

⁹⁹ Evo Morales Ayma, [Tweet “El gobierno de facto tiene listo proyecto de D.S. para la intervención de las FF.AA. y de la Policía en los bloqueos de caminos de la COB y del Pacto de Unidad que protestan por la tercera suspensión de elecciones. Uso de fuerza provocará una masacre pero al régimen no le importa](#), 7 August 2020.

¹⁰⁰ Evo Morales Ayma, [Tweet “No debemos caer en las provocaciones que nos quieren llevar a la violencia. Solo con el pueblo en el poder democrática y pacíficamente podremos resolver las crisis y eso significa elecciones ya, con fecha definitiva e inamovible”](#), 11 August 2020.

¹⁰¹ Evo Morales Ayma, [Tweet “El pueblo boliviano no ha tenido un ambiente pacífico y democrático estos nueve meses por lo que apoyamos el llamado de UE, ONU y Conferencia Episcopal Boliviana para un diálogo por la vigencia plena de un Estado de Derecho, demanda que provoca hoy las protestas sociales.”](#), 12 August 2020.

¹⁰² Cabildeo Digital, [Huarachi ;Fuera de la COB! Las bases están molestas](#), 17 August 2020; Fides, [Doce días de bloqueos en Bolivia deja un daño económico al Estado de Bs 10.2 millones](#), 17 August 2020; Viceministerio de Comunicación de Bolivia, [12 días de bloqueos provocaron un daño económico al Estado de Bs 10.2 millones](#), 17 August 2020; Ministerio de la Presidencia de Bolivia, [Bolivia con carreteras expeditas y Gobierno exige que los responsables de los bloqueos se sometan a la justicia](#), 17 August 2020.

¹⁰³ La Nación, [Coronavirus: los bloqueos se agudizan en Bolivia y amenazan con agravar la crisis sanitaria](#), 12 August 2020.

¹⁰⁴ Los Tiempos, [Bolivia se acerca al 6 de agosto entre colapso, pico de casos y bloqueos](#), 30 July 2020; La Razón, [Organizaciones abren paso a cisternas de oxígeno en vías a Cochabamba y La Paz](#), 6 August 2020.

¹⁰⁵ El País, [Campesinos bolivianos vuelven a tomar las calles para exigir elecciones](#), 5 August 2020; Nodal, [Bolivia: represión en El Alto y bloqueos en todo el país en el comienzo del paro indefinido por postergación](#)

behind the blockades, reported that 128 blocking points had been set up in 6 districts, including Cochabamba, La Paz, Oruro, Potosí, Santa Cruz y Beni.¹⁰⁶ Ten days into the blockades, the Minister of Interior, Javier Issa, announced that 142 blockades were in place.¹⁰⁷ By 14 August, by the time that the blockades were brought to an end, government sources reported that of the 100 blocking points that had been set up, only 50% remained active at that stage.¹⁰⁸

63. According to government and other sources, the blockades were placed in a number of locations in all 9 districts of the country with a prevalence of blockades between the most important cities, such as La Paz and El Alto (West), Cochabamba (Centre) and Santa Cruz (East).¹⁰⁹ Open sources reported that the blockades affected at least 24 municipalities and in particular the central area of the country.¹¹⁰
64. Blocking points were reportedly initially set up on the first day (3 August 2020) in Cochabamba, La Paz y Santa Cruz, followed the next day (4 August 2020) by those in Oruro, Potosí and Beni, with miners from the Huanuni area (near Oruro) and others from rural areas joining the blockades on the third day (5 August 2020).¹¹¹ According to information available, of 128 blocking points set up by 6 August 2020 (three days into the protests) across 6 districts, 39 points were located in the district of Cochabamba on the routes going both east and west; 32 points in the district of La Paz, including in El Alto, on the highway between La Paz and Oruro and on the roads leading to the provinces; 22 points in Santa Cruz on the highways towards Cochabamba and Beni; 7 in the district of Potosí; and 2 in the district of Beni. While the blockades continued across the country, it was reported on 11 August that they

[de elecciones](#), 4 August 2020; OEA, [CIDH llama al Estado de Bolivia a reforzar sus esfuerzos para establecer un diálogo nacional y para prevenir la escalada de violencia en el contexto de recientes manifestaciones](#), 7 August 2020.

¹⁰⁶ La Nación, [Organizaciones abren paso a cisternas de oxígeno en vías a Cochabamba y La Paz](#), 6 August 2020; La Razón, [Hay 128 puntos de bloqueos y los mineros de Huanuni se suman a las protestas](#), 5 August 2020.

¹⁰⁷ La Nación, [Coronavirus: los bloqueos se agudizan en Bolivia y amenazan con agravar la crisis sanitaria](#), 12 August 2020.

¹⁰⁸ El Periódico, [Bloqueos de carreteras en Bolivia provocan muertes por falta de oxígeno medicinal](#), 14 August 2020.

¹⁰⁹ La Nación, [Coronavirus: los bloqueos se agudizan en Bolivia y amenazan con agravar la crisis sanitaria](#), 12 August 2020; RTVE, [Bolivia cumple ocho días de protestas contra el aplazamiento de las elecciones que asfixian a hospitales](#), 11 August 2020; Nodal, [Bolivia: represión en El Alto y bloqueos en todo el país en el comienzo del paro indefinido por postergación de elecciones](#), 4 August 2020.

¹¹⁰ Los Tiempos, [Continúa el despliegue aéreo para abastecer de oxígeno a hospitales afectados por bloqueos](#), 8 August 2020. *See also* La Razón, [Hay 128 puntos de bloqueos y los mineros de Huanuni se suman a las protestas](#), 5 August 2020 (including a map from the PdU showing the location of the August 2020 blockades).

¹¹¹ La Razón, [Hay 128 puntos de bloqueos y los mineros de Huanuni se suman a las protestas](#), 5 August 2020. *See also* Nodal, [Bolivia: represión en El Alto y bloqueos en todo el país en el comienzo del paro indefinido por postergación de elecciones](#), 4 August 2020.

concentrated in particular around strategic locations such as La Paz and Cochabamba.¹¹²

65. Open source video and photographic material available shows that in some locations, the blockades consisted of significant numbers of large rocks, tires, trees, fires and other objects being strewn across long stretches of road with crowds of individuals also contributing to creating a barricade to traffic.¹¹³ In terms of numbers, according to government sources cited in the media, overall up to 10,000 people took part in the blockades.¹¹⁴ Reportedly, some of the blockades were manned by armed individuals.¹¹⁵ In a few reported cases, the passage of vehicles was prevented by forest fires and, at one blocking site, even dynamite explosions.¹¹⁶ In a statement issued by the Ministry of Health, Minister Eidy Roca indicated that some oxygen supplying companies had received threats from groups of protesters threatening to blow up their oxygen production plants.¹¹⁷ Some sources reported that ambulances and doctors attempting to transit were also attacked by the protesters.¹¹⁸ Several sources indicate that the blockades at times were marred by clashes between government forces and

¹¹² RTVE, [Bolivia cumple ocho días de protestas contra el aplazamiento de las elecciones que asfixian a hospitales](#), 11 August 2020.

¹¹³ RTVE, [Bolivia cumple ocho días de protestas contra el aplazamiento de las elecciones que asfixian a hospitales](#), 11 August 2020; La Nación, [Organizaciones abren paso a cisternas de oxígeno en vías a Cochabamba y La Paz](#), 6 August 2020; Nodal, [Bolivia: represión en El Alto y bloqueos en todo el país en el comienzo del paro indefinido por postergación de elecciones](#), 4 August 2020; CNN Español, [La súplica de un hombre boliviano antes de morir: "Dejen de pasar el oxígeno"](#), 14 August 2020; Infobae, [Protestas en Bolivia: la OEA condenó el bloqueo de camiones con insumos médicos para combatir el coronavirus provocado por simpatizantes de Evo Morales](#), 7 August 2020; El Comercio, [Manifestaciones y bloqueos de carreteras en Bolivia contra la nueva fecha de las elecciones | FOTOS](#), 3 August 2020; Los Tiempos, [Bolivia se acerca al 6 de agosto entre colapso, pico de casos y bloqueos](#), 30 July 2020; La Razón, [Más de 75 puntos de bloqueo en seis departamentos contra la postergación de las elecciones](#), 4 August 2020; Página Siete, [Bloqueos violentos frenan el tránsito de insumos sanitarios](#), 5 August 2020. Proposition also supported by the material submitted with the Referral.

¹¹⁴ El Periódico, [Bloqueos de carreteras en Bolivia provocan muertes por falta de oxígeno medicinal](#), 14 August 2020.

¹¹⁵ La Nación, [Coronavirus: los bloqueos se agudizan en Bolivia y amenazan con agravar la crisis sanitaria](#), 12 August 2020; Opinión, [Aparecen videos de grupos armados que amenazan a Añez; el Gobierno pide tranquilidad](#), 11 August 2020. See also CNN Español, [La súplica de un hombre boliviano antes de morir: "Dejen pasar el oxígeno"](#), 14 August 2020 (min. 2:20-2:25).

¹¹⁶ La Razón, [Hay 128 puntos de bloqueos y los mineros de Huanuni se suman a las protestas](#), 5 August 2020; Defensoría del pueblo, [Defensoría del pueblo condena el bloqueo de vehículos con insumos médicos y pide al TSE convoque a reiniciar el diálogo](#), 5 August 2020.

¹¹⁷ Estado Plurinacional de Bolivia - Ministerio de Salud y Deportes, [Ministerio de Salud denuncia amedrentamiento a empresas y transportistas que proveen oxígeno medicinal a hospitales](#), 9 August 2020.

¹¹⁸ El Deber, [Caja Petrolera en La Paz pide ayuda urgente; el oxígeno solo alcanza para una hora](#), 10 August 2020. Proposition also supported by the material submitted with the Referral.

protesters,¹¹⁹ while other sources, including some videos published by media sources, also suggest that participation in the blockades was in other cases peaceful.¹²⁰

(v) *Obstruction of transportation of goods and medical supplies*

66. The blockades reportedly created a prolonged obstruction to the passage lorries carrying food and medical supplies. The information available indicates that the blockading of oxygen and medical transports, in particular, occurred repeatedly between 3-14 August 2020, for example:

- On 4 August 2020, hundreds of vehicles transporting oxygen and medical supplies were reportedly blocked on the road that connects La Paz and Oruro with Cochabamba. A delegation of the *Defensoría del Pueblo* tried to negotiate with blockaders at Japo K'asa, a location on the road Cochabamba-Oruro, to grant the passage of oxygen tankers through the blockade point. These negotiations were unsuccessful and the transports in question were not allowed to pass. In a separate instance on the same route, the oxygen supplier Praxair reported that a truck transporting 100 oxygen cylinders could not cross the blockade point at Vinto, a location on the way from Cochabamba to Oruro and La Paz.¹²¹
- Government sources reported that on 5 August, at least 5000 vehicles transporting food, medical supplies and oxygen were blocked on the roads.¹²²
- On or before 6 August 2020, an ambulance from *Centro San Benito* carrying Covid-19 sample for testing to the local *Servicios Departamentales de Salud* ("SEDES"), i.e. the Departmental Health Service, reportedly was not let through the blockade point on the road San Benito-Cochabamba. As a consequence, the healthcare workers in the ambulance reportedly had to carry the samples by foot.¹²³
- On 8 August 2020, the secretary of the *Sindicato de Ramas Médicas de Salud Pública de La Paz* ("Sirmes"), the Union of Public Health Medical Branches, stated that he was informed that medical personnel from rural areas were prevented that day

¹¹⁹ OEA, [CIDH llama al Estado de Bolivia a reforzar sus esfuerzos para establecer un diálogo nacional y para prevenir la escalada de violencia en el contexto de recientes manifestaciones](#), 7 August 2020; Defensoría del pueblo, [Defensoría del pueblo condena la violencia durante los bloqueos y exhorta al TSE, COB y al Pacto de Unidad a retomar el diálogo](#), 4 August 2020; Defensoría del pueblo, [Defensoría del pueblo condena el bloqueo de vehículos con insumos médicos y pide al TSE convoque a reiniciar el diálogo](#), 5 August 2020.

¹²⁰ La Razón, [Organizaciones abren paso a cisternas de oxígeno en vías a Cochabamba y La Paz](#), 6 August 2020; TeleSur, [Claves para entender los bloqueos de carreteras en Bolivia](#), 10 August 2020.

¹²¹ La Razón, [Un bloqueo en Japo K'asa impide el paso de un camión cisterna de oxígeno](#), 4 August 2020.

¹²² La Razón, [Hay 128 puntos de bloqueos y los mineros de Huanuni se suman a las protestas](#), 5 August 2020.

¹²³ Proposition supported by the material submitted with the Referral.

from passing with ambulances carrying oxygen and medication, due to the blockades and the “aggression” of the protesters associated with the MAS.¹²⁴

- On or around 9 August 2020, three tankers of the company Praxair were blocked on their way to Santa Cruz, where they were headed in order to refill with medical oxygen. They had left the day prior and were escorted by a group of representatives from the SEDES, the Government and the Red Cross and travelling with the guarantee that the blockaders would let them pass as ordered by the COB in order to guarantee the supply to hospitals with patients suffering from Covid-19. The tankers were stopped at the blockade in Tiraque, which comprised many large rocks strewn on the road, around 70 km from Cochabamba. Although they had taken an alternative route to avoid the blockade, they found themselves blocked nonetheless.¹²⁵ Two of the tankers’ drivers reportedly fled the scene, while one took refuge in the Red Cross ambulance.¹²⁶ Five more tankers from the same company were also reportedly stuck in Santa Cruz de la Sierra waiting for the roads to La Paz and Cochabamba to open up.¹²⁷
- On or around 10 August 2020, four oxygen tankers belonging to Praxair, destined for Santa Cruz to recharge with medical oxygen, had to return to their origin, Cochabamba, due to the blockades in the area of Tirani. They travelled escorted by SEDES, local government authorities and the Red Cross. The convoy similarly had assurances that they would be let through the blockade points on their way to Santa Cruz, in coordination with the Bolivian Road Administration. As in the above-mentioned case, they were set to follow the route with the least blockade points, but nevertheless were blocked at Tirani and forced to return to Cochabamba.¹²⁸
- On 10 August 2020, a truck driver reported that he was stuck due to the blockades in a desertic area in Desagüadero along with 11 others. He reported that they were running out of food and water and that one colleague had become sick.¹²⁹

¹²⁴ Erbol, [Sirmes-La Paz repliega a médicos rurales de los puntos de bloqueo, denuncia que la violencia va escalando](#), 8 August 2020.

¹²⁵ Los Tiempos, [Tres cisternas y una ambulancia no pueden pasar bloqueo en Tiraque](#), 9 August 2020; El Diario, [Cisternas con oxígeno medicinal inmovilizadas en puntos de bloqueo](#), 10 August 2020. *See also* El Deber, [Caja Petrolera en La Paz pide ayuda urgente; el oxígeno solo alcanza para una hora](#), 10 August 2020.

¹²⁶ Los Tiempos, [Tres cisternas y una ambulancia no pueden pasar bloqueo en Tiraque](#), 9 August 2020; El Diario, [Cisternas con oxígeno medicinal inmovilizadas en puntos de bloqueo](#), 10 August 2020. *See also* El Deber, [Caja Petrolera en La Paz pide ayuda urgente; el oxígeno solo alcanza para una hora](#), 10 August 2020.

¹²⁷ El Diario, [Cisternas con oxígeno medicinal inmovilizadas en puntos de bloqueo](#), 10 August 2020.

¹²⁸ Los Tiempos, [Cisternas de Oxígeno que se dirigían a Santa Cruz para reabastecerse retornaron por bloqueos](#), 10 August 2020.

¹²⁹ Proposition supported by the material submitted with the Referral.

- On or around 10 August 2020, a convoy transporting 66 tons of oxygen from Santa Cruz to La Paz, Oruro and Cochabamba, was reportedly delayed for more than 24 hours before it managed to reach Cochabamba as a result of the blockades. Once it reached Cochabamba, the convoy was forced to take an alternative route through Sucre to La Paz, given the threats of dynamite attacks against medical transports reportedly made by some of the protesters.¹³⁰ As a result of the blockades, the government expected that the convoy would reach La Paz only five days after its departure. It is possible, though not fully clear, that this is the same convoy that according to some sources, departed on 10 August towards Cochabamba, Oruro and La Paz, and that was initially blocked in the municipality of Santa Fe because of the blockade on the Yapacaní bridge (just north of Santa Cruz), which had been reinforced with barbed wire. In relation to this event, Defence Minister Fernando López issued a plea to the blockaders, stating: “We ask you to let the oxygen trucks pass and the Red Cross, allow the passage to save lives. We need the population to help us and allow the passage of this caravan. If they do not facilitate the passage, unfortunately many people will die in La Paz, Oruro and Cochabamba”. Reportedly, through negotiations with the blockaders, the tankers, which were escorted by a Red Cross ambulance, were eventually allowed to pass and reach their respective destinations, Cochabamba, Oruro and La Paz.¹³¹
- On 11 August 2020, it was reported that 120 trucks, carrying medicine among other cargo, had been stuck in the mountainous area of La Cumbre since 3 August 2020. One of the blocked drivers reported general scarcity of food, water, natural gas, and medicines which was affecting the truckers, including some with pre-existing conditions and others that had fallen sick due to the cold weather.¹³²
- On or around 12-13 August 2020, an ambulance sent to collect medical supplies, including half a ton of medication, Covid-19 testing material and laboratory equipment, from Sucre were prevented from passing a blockade point in Betanzos, on the road between Sucre and Potosí. The medical supplies to be collected had been sent by the Ministry of Mines and Metallurgy to the town of Sucre via air for use in the town of Potosí. As a result of the blockade, the ambulance was initially unable to collect the medication as planned and was

¹³⁰ Correo del Sur, [Por bloqueos, Gobierno prevé que cisternas con oxígeno lleguen a La Paz el viernes](#), 13 August 2020; Correo del Sur, [Por bloqueos, Gobierno prevé que cisternas con oxígeno lleguen a La Paz el viernes](#), 13 August 2020; El Potosí, [Cisternas que partieron de Santa Cruz con 66 toneladas de oxígeno se encuentran varadas en Santa Fe](#), 10 August 2020; Ministerio de Defensa, [Sale caravana con 66 toneladas de oxígeno desde Santa Cruz a La Paz](#), 10 August 2020.

¹³¹ Los Tiempos, [Informan que cisternas de oxígeno que se dirigen a Cochabamba fueron retenidas por 10 horas en Yapacaní](#), 11 August 2020.

¹³² Proposition supported by the material submitted with the Referral.

forced to return to Potosí. The ambulance was sent again the day after with a delegation escorting it, in order to negotiate with the blockaders to let it pass.¹³³

67. At the same time, available information indicates that as early as 3 and 4 August 2020, the groups organising the blockades issued directives instructing the protesters to allow the safe passage of medical transports, including oxygen tankers and ambulances, and medical and paramedical staff, staff.¹³⁴ In particular, the *Comité Ejecutivo Nacional* (National Executive Committee) of the COB issued such a directive on 3 August 2020, after communicating the same message orally in the context of COB meetings, while the PdU issued a similar directive on 4 August 2020.¹³⁵ These instructions were reiterated on social media and the regular media. For example, the two directives were published on Twitter on 7 August 2020 by Luis Arce Catacora, the then-MAS presidential candidate, with the message: “The Central Obrera Boliviana and the Pacto de Unidad instructed all mobilized organizations to give way to ambulances, medicines, oxygen and other supplies to combat the pandemic. The peacefully mobilized people are committed to health and life.”¹³⁶ In another instance on or prior to 7 August 2020, another representative (*corresponsal*) of the blockades was quoted as stating, “we must clarify that all blockades have an instruction to let ambulances and trucks with oxygen pass”.¹³⁷ In yet another instance, it was reported that the vice-president of the coca growers federation *Seis Federaciones del Trópico de Cochabamba* and Senator Andrónico Rodríguez, also involved in the blockades, instructed the demonstrators to allow the passage of ambulances and tankers transporting oxygen and indicated that they themselves would escort them so that they could pass without issues.¹³⁸ In a statement issued in a public press campaign and posted on social media on 11 August, a leader of this group stressed the “total authorization” to the blockaders “in the geographic area of the tropic [of

¹³³ El Potosí, [Reactivos para Potosí no pudieron pasar el bloqueo de Betanzos](#), 13 August 2020.

¹³⁴ La Razón, [Hay 128 puntos de bloqueos y los mineros de Huanuni se suman a las protestas](#), 5 August 2020; El País, [Campesinos bolivianos vuelven a tomar las calles para exigir elecciones](#), 5 August 2020; Erbol, [COB y organizaciones intensificarán movilización, pero instruyen dejar pasar ambulancias, oxígeno y medicamentos](#), 4 August 2020.

¹³⁵ The two directives were published on the Twitter page of Luis Alberto Arce Catacora (Lucho Arce), see [Tweet “\[HILO\] La Central Obrera Boliviana y el Pacto de Unidad instruyeron a todas las organizaciones movilizadas ceder el paso a ambulancias, medicamentos, oxígeno y otros insumos para combatir la pandemia. El pueblo movilizado pacíficamente está comprometido con la salud y la vida”](#), 7 August 2020. See also La Razón, [La COB pide dejar pasar insumos médicos](#), 5 August 2020; Central Obrera Boliviana, [Instructiva para tomar muy en cuenta y evitar malas intenciones de desprestigio a la movilización del pueblo](#), 4 August 2020.

¹³⁶ Luis Alberto Arce Catacora (Lucho Arce) Twitter Page, [Tweet “\[HILO\] La Central Obrera Boliviana y el Pacto de Unidad instruyeron a todas las organizaciones movilizadas ceder el paso a ambulancias, medicamentos, oxígeno y otros insumos para combatir la pandemia. El pueblo movilizado pacíficamente está comprometido con la salud y la vida”](#), 7 August 2020.

¹³⁷ AnRed, [Bolivia: el Gobierno amenaza con reprimir los bloqueos](#), 7 August 2020.

¹³⁸ Correo del Sur, [Bloqueadores permiten el paso de cisternas con oxígeno en Yapacaní](#), 10 August 2020.

Cochabamba]” to let any medical vehicles, including ambulances or oxygen tankers, pass without obstruction.¹³⁹

68. Information available indeed suggests that the passage of goods was granted on some occasions in some locations, including at times upon negotiation with the blockade organisers. For example:

- On 5 August 2020, at the blockade point in Puente Viloma, in Cochabamba, trucks transporting medical supplies and oxygen were reportedly given free passage. In a video published by local media, a truck with several oxygen cylinders is seen passing the blockade and a woman apparently participating in the blockades denies that blockaders are stopping oxygen and medical supplies.¹⁴⁰
- On 5 August 2020, at the blockade point of Los Troncos, near Santa Cruz, in a video published by local media, it was reported that that two ambulances and other medical transports reportedly went through the blockade without problems. The video also includes an interview with a doctor carrying 15 oxygen tanks who states that he was just allowed to pass and thanks the blockaders for their understanding of the situation.¹⁴¹
- On 6 August 2020, it was reported that the demonstrators allowed the passage of lorries carrying medical oxygen on the road between Cochabamba and La Paz as well as on the road between Santa Cruz and Cochabamba.¹⁴²
- On 7 August 2020, reportedly, tankers with enough oxygen supply for the local health department for up to 72 hours arrived in Cochabamba. The director of the local SEDES, Yercin Mamani, said that the local authorities had to negotiate with the protesters in order to secure free passage for these tankers through the blockade points. The negotiations reportedly took three days, as stated by

¹³⁹ Radio Kawsachun Coca, [Tweet “Las Federaciones del Trópico de Cochabamba alertan que el Gobierno tiene un plan para hacer quedar mal a los movilizados por lo que se instruye a bloqueadores dar paso al oxígeno”](#), 11 August 2020.

¹⁴⁰ La Resistencia, [Médicos confirman que ambulancias y oxígeno sí pueden pasar por bloqueos](#), 06 August 2020 (first video embedded in article).

¹⁴¹ La Resistencia, [Médicos confirman que ambulancias y oxígeno sí pueden pasar por bloqueos](#), 6 August 2020 (second video embedded in article).

¹⁴² La Nación, [Organizaciones abren paso a cisternas de oxígeno en vías a Cochabamba y La Paz](#), 6 August 2020 (also including video purportedly showing the moment when lorries were allowed to pass on the road between Cochabamba and Santa Cruz). *See also* La Razón, [Organizaciones abren paso a cisternas de oxígeno en vías a Cochabamba y La Paz](#), 6 August 2020.

regional representative María Javier Yucra. Through these negotiations, it was agreed that they could go through “as many times as it is necessary”.¹⁴³

- On 9 August, Franklin Flores, MAS deputy, announced that “thanks to the dialogue and cooperation of the social organizations of La Paz, it was possible to guarantee the arrival of five tons of oxygen from the *Todo Oxígeno* company from the plant located in the Palcoco sector”, with the oxygen set to arrive in the city of El Alto at 8h00 that morning. Flores published a video of himself taking part in a caravan escorting medical oxygen tankers traveling from the Pucarani municipality towards El Alto and La Paz and indicated that the agreement was reached for the passage of oxygen tankers “every day”.¹⁴⁴
- On 10 August 2020, in the Santa Fe area, three tankers carrying 66 tons of medical oxygen were allowed to pass after several hours of negotiation with the demonstrators. The tankers had departed from Santa Cruz and were carrying medical oxygen to treat Covid-19 patients in Cochabamba, La Paz and Oruro.¹⁴⁵
- On 8 August 2020, two oxygen tankers passed through the blockades to reach the cities of La Paz and Cochabamba, bringing oxygen supplies worth a few hours. According to the El Alto municipal Director of Health José Luis Ríos, “A cistern passed the blockade at midnight (Thursday) and partially recharged the Dutch Hospital tank”, giving it “a small margin of time to attend to patients”.¹⁴⁶
- On 12 August 2020, oxygen tankers arrived in Cochabamba, after 30 hours of travel and after passing through 21 blocking points reportedly controlled by MAS affiliates.¹⁴⁷
- On or around 13-14 August 2020, the *Defensoría del Pueblo* delegation from Potosí reportedly obtained the safe passage of medical convoys, following negotiations with the blockaders and obtaining their assistance at 10 blocking points on the motorway Potosí-Sucre-Potosí, as to allow medications to reach the *Hospital Daniel Bracamonte*.¹⁴⁸ On 13 August, the same *Defensoría del Pueblo* delegation also

¹⁴³ Opinión, [Oxígeno que llegó a Cochabamba solo alcanza para 72 horas; cisternas deben pasar puntos de bloqueo otra vez](#), 7 August 2020; Reporte Chaco, [Camiones circulan apenas y la gente peregrina por oxígeno](#), 8 August 2020.

¹⁴⁴ La Razón, [Interviene el jefe de las FFAA, acusa a un grupo reducido por los bloqueos en el país](#), 10 August 2020; Noticias Bolivia - Youtube, [Bolivia Diputado Franklin Flores confirma que camiones de Oxígeno pasan con normalidad los Bloqueos](#), 10 August 2020; El Deber, [Camiones cisternas que transportan oxígeno medicinal están varados en puntos de bloqueo](#), 9 August 2020.

¹⁴⁵ Correo del Sur, [Bloqueadores permiten el paso de cisternas con oxígeno en Yapacaní](#), 10 August 2020.

¹⁴⁶ Reporte Chaco, [Camiones circulan apenas y la gente peregrina por oxígeno](#), 8 August 2020.

¹⁴⁷ Estado Plurinacional de Bolivia - Viceministerio de Comunicación, [El Gobierno traza nueva ruta para que lleguen las cisternas con oxígeno al occidente](#), 12 August 2020.

¹⁴⁸ Nadia Alejandra Cruz Tarifa, [Tweet “La Delegación Defensorial de #Potosí, desde ayer hasta este viernes, se movilizó por 10 puntos de bloqueo en el tramo carretero Potosí-#Sucre-Potosí, para apoyar en el traslado](#)

announced that they were in negotiation with the blockaders on the road to La Paz known as *Carretera Diagonal Jaime Mendoza*, to obtain the passage of oxygen supplies destined for the capital city.¹⁴⁹

69. However, according to some sources, the call for safe passage was generally not heeded by all protesters. For example, one producer of medical oxygen in the area of La Paz stated that blockades continued to impede the normal deliveries of their company and that the call for safe passage was not being heeded.¹⁵⁰ Similarly, a representative of the business organisation *Cámara de Industria, Comercio, Servicios y Turismo* (Industry, Commerce, Services and Tourism Chamber) in Chuquisaca expressed doubts about the effectiveness of the instructions given by the leaders of the blockades to let ambulances and medical supplies through.¹⁵¹ A spokesperson of the Bolivian police also stated, “We demand they allow the free pass of medical oxygen. Regrettably, there are many persons that are dying because of this insensitivity”.¹⁵² Further, as noted above, indeed, there were numerous reported instances in which oxygen tankers and other medical transports were blocked for extended periods of time.
70. Notably, blockades similar to the ones carried out in August 2020 and subject of the Referral appear to be a regular occurrence in Bolivia. For example, in November 2019, MAS affiliates carried out blockades in order to demand the resignation of then Interim President Jeanine Áñez.¹⁵³ It is also noted that, even though the August 2020 blockades affected the supply of oxygen across Bolivia, reportedly oxygen supplies had already been scarce prior to the August 2020 blockades.¹⁵⁴ Overall, information available generally indicate that oxygen supplies in Bolivia had regularly been low

[de medicamentos, para atender pacientes en el Hospital Daniel Bracamonte y los centros #COVID 19](#), 15 August 2020.

¹⁴⁹ Nadia Alejandra Cruz Tarifa, [Tweet “La Delegación Defensorial de #Potosí y la Coordinación Regional de #Llallagua, dialogan con líderes de sectores movilizados de puntos de bloqueo de la carretera Diagonal #JaimeMendoza para posibilitar el paso de cisternas que transportan 48 toneladas de oxígeno medicinal a #LaPaz”](#), 13 August 2020.

¹⁵⁰ El País, [Campesinos bolivianos vuelven a tomar las calles para exigir elecciones](#), 5 August 2020. See also El Deber, [Caja Petrolera en La Paz pide ayuda urgente; el oxígeno solo alcanza para una hora](#), 10 August 2020.

¹⁵¹ Proposition supported by the material submitted with the Referral.

¹⁵² Proposition supported by the material submitted with the Referral.

¹⁵³ Los Tiempos, [Más de 70 bloqueos persisten y cierran paso a seis departamentos](#), 19 November 2019; Los Tiempos, [Más de 130 puntos de bloqueo se hallan en pasos estratégicos](#), 3 November 2019; France 24, [Bolivia entró en su segunda semana de protestas con bloqueos y heridos](#), 29 October 2019. See also generally Grupo Interdisciplinario de Expertos Independientes, [Informe sobre los hechos de violencia y vulneración de los derechos humanos ocurridos entre el 1 de septiembre y el 31 de diciembre de 2019](#), pp. 325-332; Los Tiempos, [Bolivia, ¿un país adicto a los bloqueos?](#), 27 August 2020.

¹⁵⁴ BBC News Mundo, [Coronavirus en Bolivia “En 20 minutos los bebés pueden fallecer”: la dramática crisis de oxígeno en medio del coronavirus en el país sudamericano](#), 8 August 2020.

during the pandemic, with sources reporting a struggling health system both before and after the August 2020 blockades.¹⁵⁵

b) Reaction and responses to the blockades

71. Immediately after the blockades were announced, the Bolivian government accused the blockaders of causing severe damage to the country's ability to respond to the Covid-19 crisis and harming the public.¹⁵⁶ On 3 August, on the eve of the blockades, the Bolivian Ministry of Health issued a communiqué stating that the health of the Bolivian people was under attack as a result of blockades set up along the main roads of the country, which were preventing the entry and exit from major cities and the passage of tankers transporting medical oxygen and ambulances transporting medications, and calling on the organisers to stop the blockades immediately.¹⁵⁷ On 4 August 2020, the *Ministerio de la Presidencia* (Ministry of the Presidency) issued a statement reporting the death of 2 patients as a result of the situation and that tens more were known to be at risk. The statement quoted the Minister of the Presidency, Yerko Núñez, denouncing that elements affiliated with the MAS had surrounded the main cities of the country preventing the passage of food and were calling for blockades to prevent the passage of oxygen and medical supplies. The Minister also exhorted the organizers of the blockades to desist and stated that "all deaths" occurring as a consequence of the situation would be considered the sole responsibility of the leaders of the MAS.¹⁵⁸ On 5 August 2020, interim President Jeanine Áñez tweeted: "We ask the leaders of the COB to think about the damage that their measures are causing to the health of the Bolivian people. A lot of people are suffering (...) I ask you once again to stop blocking and take care of our people".¹⁵⁹ Similar statements continued to be issued by national and local authorities throughout the duration of the blockades.¹⁶⁰

¹⁵⁵ Página Siete, [Hospitales no cuentan con central de oxígeno para Covid](#), 15 June 2020; Nodal, [Bolivia: médicos alertan que al menos 20 de 34 hospitales están colapsados y sin personal](#), 30 June 2020; Opinión, [Escasean y encarecen tanques de oxígeno medicinal en Cochabamba](#), 14 July 2020; TeleSurTV, [Denuncia el MAS-Ipsp carencia de oxígeno medicinal en Bolivia](#), 23 July 2020; Los Tiempos, [El oxígeno medicinal se busca como oro en tres regiones del país](#), 23 July 2020; SwissInfo, [Falta de oxígeno y saturación de hospitales asfixian a dos urbes bolivianas](#), 27 May 2021; RFI, [En Cochabamba, 'los pacientes se están muriendo por falta de oxígeno'](#), 28 May 2021. Agencia Fides, [AMERICA/BOLIVIA - Tragedia de la falta de oxígeno para pacientes Covid; Mons. Gualberti: "¡en nombre de Dios, salvemos vidas!"](#), 1 June 2021.

¹⁵⁶ Proposition supported by the material submitted with the Referral.

¹⁵⁷ Gobierno del Estado Plurinacional de Bolivia, Ministerio de la Salud, [Comunicado](#), 3 August 2020.

¹⁵⁸ Gobierno del Estado Plurinacional de Bolivia, Ministerio de la Presidencia, [Bloqueos políticos del MAS causan muertes por falta de suministro de oxígeno a enfermos de COVID-19](#), 4 August 2020.

¹⁵⁹ Jeanine Áñez Chavez Twitter Page, [Tweet](#), 5 August 2020. See also El País, [Campesinos bolivianos vuelven a tomar las calles para exigir elecciones](#), 5 August 2020.

¹⁶⁰ Proposition supported by the material submitted with the Referral. See also Fides, [Revilla pide levantar bloqueos y advierte que dotación de oxígeno solo alcanza para dos días](#), 6 August 2020; BBC News Mundo, [Coronavirus en Bolivia "En 20 minutos los bebés pueden fallecer": la dramática crisis de oxígeno en medio del coronavirus en el país sudamericano](#), 8 August 2020; La Razón, [Interviene el jefe de las FFAA, acusa a un](#)

72. In response to the accusations by government officials regarding damage caused by the blockades, the blockade group leaders issued directives apparently aimed at limiting some of the impacts of the blockades. For example, as noted above, Huarachi and other blockade leaders issued official statements as well as media statements calling for the blockaders to let ambulances and convoys transporting medical supplies through the blockades.¹⁶¹ Blockade leaders and participants also repeatedly claimed that contrary to the allegations, ambulances and medical supplies were allowed to pass.¹⁶²
73. On 4 August, government sources reported that in order to counter the effects of the blockades, the Ministry of Defence (“MoD”) ordered the establishment of air corridors (*punte aéreo*) in order allow for the transfer of oxygen supplies across the country.¹⁶³ Open sources confirm that through the use of the government air corridors, substantial amounts of oxygen supplies were successfully transported to the affected areas in the days following the beginning of the blockades. For example, on 4 August the government transported 20,4 tons of oxygen via air to La Paz, El Alto, Cochabamba and Oruro,¹⁶⁴ and on 9 August 2020 the Ministry of Health stated that through the use of air corridors, more than 50 tons of oxygen tanks had been delivered to the most affected areas.¹⁶⁵ Overall, the Bolivian MoD reported that between 5 and 13 August 2020, the Bolivian Air Force conducted 41 missions, carrying by air a total of 158 tons of full oxygen tanks, 112 tons of empty cylinders to be refilled, and 12 tons of medicines to the cities of La Paz, Oruro and Cochabamba as part of Operation Saving Lives (*Salvando Vidas*).¹⁶⁶

[grupo reducido por los bloqueos en el país](#), 10 August 2020; OAS, [2020 Aug 7. Virtual Meeting of the Permanent Council P.M. Meeting](#), 7 August 2020, at min. 27:42-42:39; El Deber, [Cisternas con oxígeno se encuentran varadas en Santa Fe](#), 10 August 2020.

¹⁶¹ See Luis Alberto Arce Catacora (Lucho Arce) Twitter Page, [Tweet “\[HILO\] La Central Obrera Boliviana y el Pacto de Unidad instruyeron a todas las organizaciones movilizadas ceder el paso a ambulancias, medicamentos, oxígeno y otros insumos para combatir la pandemia. El pueblo movilizado pacíficamente está comprometido con la salud y la vida”](#), 7 August 2020. See also La Razón, [La COB pide dejar pasar insumos médicos](#), 5 August 2020; Central Obrera Boliviana, [Instructiva para tomar muy en cuenta y evitar malas intenciones de desprestigio a la movilización del pueblo](#), 4 August 2020. See also La Razón, [Hay 128 puntos de bloqueos y los mineros de Huanuni se suman a las protestas](#), 5 August 2020; El País, [Campesinos bolivianos vuelven a tomar las calles para exigir elecciones](#), 5 August 2020; Erbol, [COB y organizaciones intensificarán movilización, pero instruyen dejar pasar ambulancias, oxígeno y medicamentos](#), 4 August 2020.

¹⁶² Proposition supported by the material submitted with the Referral.

¹⁶³ Gobierno del Estado Plurinacional de Bolivia - Ministerio de la Presidencia, [Bloqueos políticos del MAS causan muertes por falta de suministro de oxígeno a enfermos de COVID-19](#), 4 August 2020;

¹⁶⁴ Ahora El Pueblo, [Gobierno envía 20.4 toneladas de oxígeno para cuatro ciudades afectadas por los bloqueos](#), 4 August 2020.

¹⁶⁵ Estado Plurinacional de Bolivia - Ministerio de Salud y Deportes, [Ministerio de Salud denuncia amedrentamiento a empresas y transportistas que proveen oxígeno medicinal a hospitales](#), 9 August 2020.

¹⁶⁶ Estado Plurinacional de Bolivia - Ministerio de Defensa, [Fuerza Aérea Boliviana transportó 158 toneladas de tanques con oxígeno medicinal con el Plan Salvando Vidas](#), 18 August 2020.

74. In addition to air corridors, the government also set up other mechanisms¹⁶⁷ and alternative means to transport medical supplies by road. For example, according to the Bolivian MoD, the government transported 66 tons of liquid oxygen in a caravan of three tankers to the cities of La Paz, Cochabamba and Oruro.¹⁶⁸ Such convoys were escorted by the police, the army and International Red Cross ambulances.¹⁶⁹ Another measure taken by the government was to change transport routes so that tankers could travel more safely (e.g. in response to intelligence which suggested that some protesters were planning to detonate dynamite to prevent the passage of the tankers in certain locations).¹⁷⁰ Despite these efforts, sources consistently reported that the supplies transported by the government via these alternative routes were not enough to meet the demand of the affected areas and hospitals.¹⁷¹
75. In terms of the handling of the blockades themselves, some media sources reported instances of alleged police repression of the blockades, such as on 3 August with respect to the blockades set up on the route between Potosí and Oruro.¹⁷² According to the IACHR, as of 7 August in the context of the blockades and related protests, at least 7 individuals were arrested, including apparently a minor, one act of “police violence” was recorded against an individual in Cochabamba, and tear gas was used against the protesters. The IACHR and the *Defensoría del Pueblo* also registered one incident in which a police officer reportedly suffered eye injuries in the context of a violent confrontation at a blockade.¹⁷³ Incidents of clashes between government forces,

¹⁶⁷ See for example the statement by State Minister Arturo Murillo on the different measures taken by the government to address the situation in CNN Español, [La súplica de un hombre boliviano antes de morir: "Dejen pasar el oxígeno"](#), 14 August 2020 (min. 2:05-2:18).

¹⁶⁸ Estado Plurinacional de Bolivia - Ministerio de Defensa, [Fuerza Aérea Boliviana transportó 158 toneladas de tanques con oxígeno medicinal con el Plan Salvando Vidas](#), 18 August 2020.

¹⁶⁹ RTVE, [Bolivia cumple ocho días de protestas contra el aplazamiento de las elecciones que asfixian a hospitales](#), 11 August 2020; Página Siete, [Evo dice que convoy con oxígeno a La Paz es una “provocación que busca violencia”](#), 10 August 2020; Agencia EFE, [Bolivia despliega militares para escoltar personal de salud ante protestas](#), 10 August 2020; Fides, [Hospital del Niño: “Si un niño no tiene oxígeno, muere por asfixia y es una muerte espantosa”](#), 10 August 2020; El Comercio, [“No sean malditos, por favor, dejen pasar a los carros cisternas”: las súplicas de un anciano que murió en busca de oxígeno en Bolivia](#), 14 August 2020.

¹⁷⁰ Estado Plurinacional de Bolivia - Viceministerio de Comunicación, [El Gobierno traza nueva ruta para que lleguen las cisternas con oxígeno al occidente](#), 12 August 2020.

¹⁷¹ See for example Estado Plurinacional de Bolivia - Ministerio de Salud y Deportes, [Ministerio de Salud denuncia amedrentamiento a empresas y transportistas que proveen oxígeno medicinal a hospitales](#), 9 August 2020; RTVE, [Bolivia cumple ocho días de protestas contra el aplazamiento de las elecciones que asfixian a hospitales](#), 11 August 2020; Los Tiempos, [Continúa el despliegue aéreo para abastecer de oxígeno a hospitales afectados por bloqueos](#), 8 August 2020; Opinión, [Oxígeno que llegó a Cochabamba solo alcanza para 72 horas; cisternas deben pasar puntos de bloqueo otra vez](#), 7 August 2020.

¹⁷² AnRed Twitter Account, [#Ahora #Bolivia Policía reprime bloqueo de la ruta Oruro- Potosí](#), 3 August 2020.

¹⁷³ OEA, [CIDH llama al Estado de Bolivia a reforzar sus esfuerzos para establecer un diálogo nacional y para prevenir la escalada de violencia en el contexto de recientes manifestaciones](#), 7 August 2020; Defensoría del pueblo, [Defensoría del pueblo condena la violencia durante los bloqueos y exhorta al TSE, COB y al Pacto de Unidad a retomar el diálogo](#), 4 August 2020; Defensoría del pueblo, [Defensoría del pueblo condena el bloqueo de vehículos con insumos médicos y pide al TSE convoque a reiniciar el diálogo](#), 5 August 2020; El Deber, [Camiones cisternas que transportan oxígeno medicinal están varados en puntos de bloqueo](#), 9 August 2020.

citizens and the protesters were also recorded in a number of locations by the *Defensoría del Pueblo* as well as incidents of arson and damage to public property.¹⁷⁴ Alleged police abuses against blockaders, such as “hits”, “use of anti-riot gas”, and “intimidation against women”, were also reported by news agencies.¹⁷⁵

76. Some media more generally reported on the intention of government forces to use ‘harsher measures’ to suppress the blockades once the route of dialogue was exhausted.¹⁷⁶ The *Defensoría del Pueblo*, while acknowledging the clashes between government forces and protesters, also issued calls requesting the security forces not to make use of excessive and disproportionate force in order to avoid triggering violence during the demonstrations.¹⁷⁷ On their part, army sources, quoted by the media, publicly stressed the need for dialogue to solve the situation while confirming the possibility of the army’s intervention alongside the police if warranted and authorized.¹⁷⁸ Some information available also indicated a preference on the part of the police for dialogue as well as a reluctance to intervene, in order to avoid “playing the blockaders’ game”.¹⁷⁹ Relatedly, the available information indicates that government entities, including local governments along with the police and the army, in a number of instances successfully negotiated the safe passage of tankers and convoys with the blockade organisers on the ground.¹⁸⁰
77. In addition, as part of the measures used to counter the blockades, the government filed a complaint with the Oruro and Cochabamba prosecutors against the executive secretary of the COB, Juan Carlos Huarachi, and the coca growers leader (*dirigente cocalero*) of Cochabamba, Leonardo Loza, for the blockades which were alleged to “have not allowed ambulances to pass, have destroyed vehicles, and have not allow oxygen or food to pass.” The complaint accused Huarachi and Loza of the crimes of “public instigation to commit a crime, public endorsement of a crime, criminal association and crimes against public health”.¹⁸¹ This criminal complaint was

¹⁷⁴ Defensoría del Pueblo, [Defensoría del pueblo condena la violencia durante los bloqueos y exhorta al TSE, COB y al Pacto de Unidad a retomar el diálogo](#), 4 August 2020; Defensoría del Pueblo, [Defensoría del pueblo condena el bloqueo de vehículos con insumos médicos y pide al TSE convoque a reiniciar el diálogo](#), 5 August 2020. Proposition also supported by the material submitted with the Referral.

¹⁷⁵ Nodal, [Bolivia: represión en El Alto y bloqueos en todo el país en el comienzo del paro indefinido por postergación de elecciones](#), 4 August 2020; Nodal, [Bolivia: represión y nueva denuncia contra dirigentes del MAS por “alentar los bloqueos”](#), 11 August 2020.

¹⁷⁶ AnRed, [Bolivia: el Gobierno amenaza con reprimir los bloqueos](#), 7 August 2020.

¹⁷⁷ Defensoría del pueblo, [Defensoría del pueblo condena el bloqueo de vehículos con insumos médicos y pide al TSE convoque a reiniciar el diálogo](#), 5 August 2020.

¹⁷⁸ La Razón, [Interviene el jefe de las FFAA, acusa a un grupo reducido por los bloqueos en el país](#), 10 August 2020.

¹⁷⁹ Proposition supported by the material submitted with the Referral.

¹⁸⁰ See above para. 68.

¹⁸¹ Notimérica, [Bolivia.- Bolivia demandará a dos dirigentes sociales por los bloqueos en las protestas de los sectores afines al MAS](#), 5 August 2020. See also El País, [Campesinos bolivianos vuelven a tomar las calles para exigir elecciones](#), 5 August 2020.

presented on 10 August 2020 and included other COB and MAS leaders than those originally listed, such as Luís Arce and David Choquehuanca, both MAS candidates in the upcoming elections for president and vice-president, respectively, as well as Evo Morales, among others.¹⁸² On 19 August 2020, arrest warrants were issued against Juan Carlos Huarachi, Leonardo Loza, and Andrónico Rodríguez.¹⁸³ The case however was later dismissed by the prosecutor on 29 October 2020 reportedly due to insufficient evidence.¹⁸⁴

78. In addition, private citizens' organisations also filed lawsuits against the blockade organisers. For example, the *Asociación de Familiares de Víctimas del Bloqueo* (Association of Relatives of Victims of the Blockade), led by Iván Díaz collected information in order to file a complaint with the *Ministerio Público* (Public Prosecutor's Office) against the organisers of the blockades, including Juan Carlos Huarachi, Orlando Gutiérrez, Luis Arce, David Choquehuanca, and Leonardo Loza. Similarly, on 21 August 2020, the Sirmes of La Paz filed a criminal complaint against leaders of the COB and the PdU, including Carlos Huarachi, Jacinto Herrera, Juan Villca, Henry Nina and Segundina Flores, accusing them of the death of 27 people in La Paz.¹⁸⁵ Reportedly, other organisations also presented "*acciones populares*", a form of legal action in the Bolivian jurisdiction by which a member of the public can bring legal action in the interest of collective rights,¹⁸⁶ or announced their intention to do so. For instance, a representative of the heavy transportation sector indicated they would take legal action against Juan Carlos Huarachi before the TSE,¹⁸⁷ while the CSUTCB presented a complaint against COB directors and others involved in the blockades before the Plurinational Constitutional Tribunal.¹⁸⁸

c) Suspension of the blockade campaign

79. On or around 12 of August 2020, the COB and PdU gave the TSE and the *Asamblea Legislativa Plurinacional* a 24-hour ultimatum to accept their newly proposed election date of 11 October 2020. The leaders of the COB and PdU indicated that if the

¹⁸² France24, [Gobierno de Ñez presenta nuevas denuncias contra Evo Morales y otros políticos del MAS](#), 11 August 2020.

¹⁸³ Fides, [Ordenan aprehensión de Loza, Rodríguez y Huarachi por el bloqueo de carreteras](#), 19 August 2020.

¹⁸⁴ Los Tiempos, [Fiscalía rechaza denuncia contra Evo, Huarachi y otros dirigentes por los bloqueos de agosto](#), 4 November 2020; Erbol, [Fiscalía rechaza denuncia contra Evo, Huarachi y otros dirigentes por los bloqueos de agosto](#), 4 November 2020; Fides, [Rechazan denuncia contra Arce, Choquehuanca y Evo por bloqueo a camiones de oxígeno](#), 5 November 2020.

¹⁸⁵ Opinión, [Muertes por falta de oxígeno: dos organizaciones formalizan querellas penales contra promotores de los conflictos pasados](#), 24 August 2020; La Patria, [Familiares de víctimas por bloqueo de oxígeno alistan demandas penales contra responsables](#), 18 August 2020.

¹⁸⁶ Estado Plurinacional de Bolivia, [Nueva Constitución Política del Estado](#), Articles 136 and 137.

¹⁸⁷ Nómada, [Transporte pesado presentará acción popular contra Huarachi por promover bloqueos y atentar contra la salud](#), 3 August 2020.

¹⁸⁸ Bolivia Nueva, [CSUTCB presenta acción popular ante la Justicia en contra de la COB y dirigentes por bloqueos](#), 14 August 2020.

government agreed to hold elections on 11 October 2020 (one week prior to the proposed date of 18 October 2020), they would call off the blockades.¹⁸⁹ Huarachi, for example, stated “If this request is fulfilled, we will immediately demobilize”.¹⁹⁰

80. Following negotiations, on 14 August, the leaders of the COB and PdU ultimately agreed to pause the blockades until the newly agreed upon date for the national elections of 18 October 2020.¹⁹¹ Other groups involved in the blockades, such as the *Seis Federaciones del Trópico de Cochabamba*, the *Federación Departamental Única de Trabajadores Campesinos de La Paz “Tupac Katari”*, the *Federación de Trabajadores Gremiales, Artesanos, Comerciantes Minoristas y Vivanderos de la ciudad de El Alto* (Federation of Guild Workers, Artisans, Retail Traders and Vivandiers of the city of El Alto), also agreed to follow suit.¹⁹² These organisations similarly decided to suspend the blockades until 18 October 2020 but also to remain in a state of alert (“*vigilia permanente*” or “*constante estado de emergencia*”).¹⁹³ Some reports also indicate that some local groups decided to continue the blockades independently, rejecting the proposed election date of 18 October 2020 and calling the COB and PdU “traitors” for recalling the blockades and accepting the conditions proposed for the elections.¹⁹⁴

¹⁸⁹ Telesur TV, [COB y Pacto de Unidad condicionan fin de bloqueos a que se celebren las elecciones el 11 de octubre en Bolivia](#), 12 August 2020.

¹⁹⁰ TelesurTV, [COB y Pacto de Unidad condicionan fin de bloqueos a que se celebren las elecciones el 11 de octubre en Bolivia](#), 12 August 2020. Proposition also supported by the material submitted with the Referral.

¹⁹¹ Radio Kawsachun Coca, [Tweet “Instructivo de la COB determinando el cuarto intermedio”](#), 14 August 2020; Radio Kawsachun Coca, [Tweet “La COB determina cuarto intermedio hasta el 18 de octubre, porque están seguros que después de las elecciones el régimen no va acceder a la transmisión de mando. La pacificación del Estado se da por decisión de la COB y el Pacto de unidad, no del régimen, informo el dirigente”](#), 14 August 2020; France 24, [Bolivia: Central Obrera anunció pausa en las protestas pero grupos indígenas seguirán con bloqueos](#), 14 August 2020.

¹⁹² Los Tiempos, [Las seis federaciones del trópico de Cochabamba dictan cuarto intermedio en movilizaciones hasta el 18 de octubre](#), 14 August 2020; Radio Kawsachun Coca, [Tweet “Las Seis Federaciones del Trópico acatarán la determinación de la COB y el Pacto De Unidad, declaran cuarto intermedio y vigilia hasta la realización de las elecciones generales, piden unidad a todas las confederaciones nacionales de Bolivia”](#), 14 August 2020; Descifrando la Guerra, [Tweet “La Federación de trabajadores gremiales, artesanos, comerciantes, minoristas y vivanderos de la ciudad de El Alto decide declarar “cuarto intermedio” y parar las protestas hasta las elecciones el 18 de octubre, pero manteniéndose alerta”](#), 16 August 2020; Descifrando la Guerra, [Tweet “La Federación Departamental Única de Trabajadores Campesinos de La Paz “Tupac Katari” también declara “cuarto intermedio” y levanta los bloqueos hasta el 18 de octubre, pero manteniendo un “constante Estado de Emergencia”](#), 16 August 2020.

¹⁹³ Radio Kawsachun Coca, [Tweet “Instructivo de la COB determinando el cuarto intermedio”](#), 14 August 2020; ATB, [Cocaleros levantan bloqueos pero se mantienen en vigilia permanente](#), 14 August 2020; Radio Kawsachun Coca, [Tweet](#), 14 August 2020; Descifrando la Guerra, [Tweet “La Federación de trabajadores gremiales, artesanos, comerciantes, minoristas y vivanderos de la ciudad de El Alto decide declarar “cuarto intermedio” y parar las protestas hasta las elecciones el 18 de octubre, pero manteniéndose alerta”](#), 16 August 2020; Descifrando la Guerra, [Tweet “La Federación Departamental Única de Trabajadores Campesinos de La Paz “Tupac Katari” también declara “cuarto intermedio” y levanta los bloqueos hasta el 18 de octubre, pero manteniendo un “constante Estado de Emergencia”](#), 16 August 2020.

¹⁹⁴ Descifrando la Guerra, [Tweet “El Comité Cívico Pro Santa Cruz rechaza la fecha del 18 de octubre para las elecciones”](#), 14 August 2020; Descifrando la Guerra, [Tweet “El Cabildo de El Alto sin embargo ha decidido continuar las movilizaciones hasta la renuncia de Jeanine Añez. Rechazan la fecha electoral del 18 de octubre”](#)

81. The protests were therefore formally called off by the CoB and PdU on 14 August 2020.¹⁹⁵ The actual suspension of the blockades reportedly took place a few hours after the legislature passed on 13 August 2020 the Law on the postponement of the 2020 general elections (*Ley de Postergación de las Elecciones Generales 2020*) setting the date for the next elections on 18 October 2020.¹⁹⁶ Nonetheless, as of 14 August 2020, some blockades persisted in La Paz, Oruro, Cochabamba, and Santa Cruz.¹⁹⁷ On the other hand, images published by local media on 14 August reportedly showed protesters removing large rocks from the roads and lines of lorries seemingly passing through.¹⁹⁸ In particular, the Bolivian Transit Authority reported on 14 August 2020 the decrease in the number of blockade points from 170 to 82, while the *Administración Boliviana de Carreteras* (Bolivian Roads Administration) reported on the same day that it had begun working to clear the roads.¹⁹⁹

d) Impact and consequences of the blockades

(i) Reported Deaths

82. In the Referral, it is alleged that over 40 individuals,²⁰⁰ including 40 alone in the city of La Paz,²⁰¹ who were in need of medical oxygen and/or in need of accessing hospital care due to Covid-19, died as a result of the blockades preventing oxygen and ambulances from reaching hospitals.²⁰²
83. Data published by the Bolivian Ministry of Health on 7 August 2020 – five days into the blockades – indicates that as of that day, more than 30 Covid-19 patients had

[y califican a la Central Obrera Boliviana y al Pacto de Unidad de “traidores” por decretar la desmovilización”,](#) 14 August 2020; Radio Kawsachun Coca, [Tweet “Campesinos de la regional #RaqaYpampa y #TintinAguada continúan movilizad@s, por la dejadez del régimen en materia de salud, educación y economía en el Estado Boliviano, ellos piden la renuncia de #Añez y la garantía para la realización de elecciones generales”,](#) 13 August 2020; El Deber, [Movilización muestra fisuras y campesinos no levantarán el bloqueo,](#) 12 August 2020; El Deber, [Cabildo de El Alto desconoce a la COB y al Pacto de Unidad; ahora quiere seguir con los bloqueos,](#) 14 August 2020; France 24, [Bolivia: Central Obrera anunció pausa en las protestas pero grupos indígenas seguirán con bloqueos,](#) 14 August 2020. See also Nadia Alejandra Cruz Tarifa, [Tweet “La @DPBoliviaOf saluda la declaratoria de cuarto intermedio en el bloqueo de caminos, determinada por la #COB. Y hace un llamado a los sectores “autoconvocados” y al ex dirigente campesino Felipe Quispe a sumarse a esta determinación, que permitirá dar un alivio a la población.”,](#) 14 August 2020.

¹⁹⁵ France 24, [Bolivia: Central Obrera anunció pausa en las protestas pero grupos indígenas seguirán con bloqueos,](#) 14 August 2020.

¹⁹⁶ France 24, [Bolivia: Central Obrera anunció pausa en las protestas pero grupos indígenas seguirán con bloqueos,](#) 14 August 2020. See Estado Plurinacional de Bolivia, [Ley N°1315,](#) 13 August 2020.

¹⁹⁷ Infobae, [Bolivia da como inamovible el 18 de octubre para elecciones y persisten protestas,](#) 13 August 2020; Infobae, [Central sindical de Bolivia anuncia pausa en protestas y cortes de rutas hasta elecciones,](#) 14 August 2020.

¹⁹⁸ Página Siete Twitter Page, [Levantán los bloqueos en la carretera antigua Cochabamba - Santa Cruz en el sector de Pocona,](#) 14 August 2020.

¹⁹⁹ Los Tiempos, [Tránsito reporta el levantamiento gradual de puntos de bloqueo en el país,](#) 14 August 2020.

²⁰⁰ Referral, para. 15.

²⁰¹ Referral, para. 50.

²⁰² Referral, para. 15, 37, 43, 56.

reportedly died as a result of the interruption of the supply of medical oxygen to hospitals in various locations, including 23 in the capital city La Paz, 3 in Cochabamba and 5 in Oruro.²⁰³ According to information collected by a victims association formed by their families in reaction to the blockades, the *Asociación de Familiares de Víctimas del Bloqueo*, at least 40-45 individuals died as a result of the blockades in the department of Oruro and other regions, while *Sirmes* indicated that in the department of La Paz 27 individuals died as a result of the lack of oxygen caused by the blockades.²⁰⁴

84. Following the suspension of the blockades on 14 August 2020, the Ministry of Health and the Public Prosecutor requested SEDES to compile a full and detailed list of those individuals who died as a result of a lack of oxygen supply and other medications during the blockades. According to open sources, as of the 21 August 2020, 10 names were submitted, six concerning cases from Oruro and four cases from La Paz.²⁰⁵ It is unclear whether a full list was compiled by SEDES and/or provided to the government, and such a list was not provided to the Office with the Referral. Some sources also suggest a possible discrepancy between the various figures provided by government health officials, local SEDES and local departmental health officials regarding the number of deaths purportedly attributable to the oxygen scarcity caused by the blockades.²⁰⁶
85. The Office does not possess information on and was not able to corroborate each of the over 40 deaths alleged in the Referral. However, open sources provide some information about a number of the individuals deaths recorded as a result of shortages of oxygen (or medication) and the blockades, namely:
- One patient, Nelson Crispín Achacollo, a director of the Oruro *Central Obrera Departamental* (“COD”), i.e. a director of a departmental/regional COB’s branch, and former director of the *Federación Sindical de Trabajadores Mineros de Bolivia* (Unions Federation of Bolivian Miners), died in the Hospital Obrero in Oruro on 4 August 2020. The hospital had reportedly signalled to the authorities that its

²⁰³ Estado Plurinacional de Bolivia – Ministerio de Salud y Deportes, [COVID-19: Bolivia denuncia ante la OEA que bloqueo de carreteras causó más de 30 fallecidos por la falta de oxígeno](#), 7 August 2020; Noticias Fides, [Drama: 11 bebés en riesgo de perder la vida por falta de oxígeno medicinal en el Hospital de la Mujer](#), 7 August 2020; Estado Plurinacional de Bolivia – Ministerio de Salud y Deportes, [Boletín Informativo Semana 17](#), 10 August 2020. *See also* Página Siete, [Bolivia reporta ante la OEA que hay 31 muertes por falta de oxígeno debido a bloqueos](#), 7 August 2020.

²⁰⁴ Opinión, [Muertes por falta de oxígeno: dos organizaciones formalizan querellas penales contra promotores de los conflictos pasados](#), 24 August 2020; La Patria, [Familiares de víctimas por bloqueo de oxígeno alistan demandas penales contra responsables](#), 18 August 2020. *See also* Página Siete, [Familiares de víctimas por escasez de oxígeno anuncian procesos contra los responsables](#), 18 August 2020.

²⁰⁵ Opinión, [Salud y Fiscalía piden a los SEDES dar lista de fallecidos por falta de oxígeno durante los bloqueos](#), 21 August 2020; Los Tiempos, [Solicitan a Sedes emitir la lista de fallecidos por falta de oxígeno medicinal](#), 21 August 2020.

²⁰⁶ Página Siete, [Don Mario, Ana, Carmen y otras víctimas del bloqueo de oxígeno](#), 14 August 2020. *See also* Defensoría del Pueblo del Estado Plurinacional de Bolivia, [Informe Defensorial “Salud, Derechos Humanos y Covid-19 en Bolivia](#), 28 December 2020, pp. 111-112.

oxygen supplies were depleted as a result of the blockade of three lorries transporting oxygen on the Oruro-Cochabamba highway the night before Achacollo's death. Achacollo had been transferred to the hospital during the night as a patient in need of oxygen but died apparently as a result of the hospital's lack of oxygen.²⁰⁷ In the same hospital, and along with the COB's director, three other persons (names unknown) died due to the lack of oxygen in subsequent hours. According to José Verduguez, administrator of the *Caja Nacional de Salud* (National Health Fund), the public non-profit institution in charge of managing and providing the short term component of Social Security (sickness, maternity, and occupation hazards), these deaths occurred due to the lack of oxygen caused by the blockades and, particularly, the blockade point in the road Oruro-Cochabamba. Later, in the afternoon of the same day, a doctor, Alberto Ortuño, died in the similar circumstances in the same hospital.²⁰⁸

- One 27-year-old female patient reportedly died at the *Hospital Boliviano Holandés* in the town of El Alto during the afternoon of 6 August 2020. Michael Eduardo Kessler, chief of the Intensive Care Unit where the woman was being treated, reported that the hospital had been expecting a delivery of oxygen the morning prior to the woman's death but due to the blockades the delivery still had not reached the hospital the night of 6 August 2020. Dr Michael Eduardo Kessler stated, "We monitor the oxygen saturation in some monitors, the saturation of these patients should be between 85 and 90%, in the best of cases. Her oxygen saturation started to get to the critical levels of 40 and 30% and then there were alterations of her cardiac rhythm".²⁰⁹ The patient's oxygen level became critical during the course of the day and since the hospital's oxygen supplies had been empty since the morning and no new supply was received, the woman, who was attached to a ventilator, reportedly died of a cardiac-respiratory arrest.²¹⁰ Notably, the doctor treating the woman connected her death directly to the lack of medical oxygen at the hospital.²¹¹ The woman was reportedly the first Covid-19 patient to die at the *Hospital Boliviano Holandés* of El Alto as a result of the lack of oxygen caused by the blockades.²¹² One source reported that the woman who died on the

²⁰⁷ La Patria, [Dirigente de la COD fallece por falta de oxígeno en el Hospital Obrero](#), 4 August 2020; El Deber, [Un dirigente de la COD fallece por falta de oxígeno en el Hospital Obrero en Oruro](#), 4 August 2020; Erbol, [Dirigente de la COD-Oruro muere por falta de oxígeno](#), reporta la CNS, 4 August 2020; Página Siete, [Cinco pacientes del Hospital Obrero de Oruro mueren por falta de oxígeno](#), 4 August 2020.

²⁰⁸ El Deber, [Un dirigente de la COD fallece por falta de oxígeno en el Hospital Obrero en Oruro](#), 4 August 2020; Página Siete, [Cinco pacientes del Hospital Obrero de Oruro mueren por falta de oxígeno](#), 4 August 2020.

²⁰⁹ Correo del Sur, [A falta de oxígeno, muere una joven en el Hospital Holandés de El Alto](#), 6 August 2020.

²¹⁰ Erbol, [Muere una paciente de 27 años por falta de oxígeno en el Hospital Holandés](#), 6 August 2020; Los Tiempos, [Fallece una joven por la falta de oxígeno en el Hospital Holandés de El Alto](#), 6 August 2020 (see radio interview with Dr Michael Eduardo Kessler on the death of the patient and oxygen scarcity at the hospital).

²¹¹ ANF, [Reportan que una joven falleció por falta de oxígeno en el hospital Holandés de El Alto](#), 6 August 2020.

²¹² Correo del Sur, [A falta de oxígeno, muere una joven en el Hospital Holandés de El Alto](#), 6 August 2020.

6 August at the *Hospital Boliviano Holandés* of El Alto had given birth the same day at the same hospital a few hours prior to dying.²¹³

- On the morning of 10 August 2020, a 51-year-old man (name unknown) reportedly died from lack of oxygen in a hospital of the *Caja Petrolera* in Obrajes. His doctor reported that the patient died at a time when oxygen was lacking after his illness developed into pneumonia. The doctor indicated that oxygen scarcity may have been a factor in the patient's death, but that it was difficult to establish this with certainty.²¹⁴ Notably, on 7 August the hospital warned that they would only have enough oxygen until the morning of 8 August and it was necessary to recharge the tanks at least every two days.²¹⁵ On 8 August, the hospital reported that its oxygen tanks were nearly depleted. A representative of the hospital stated: "Unfortunately the oxygen has not arrived. The company that supplies us, Praxair, called us yesterday at six in the afternoon, to tell us that due to the blockages they cannot supply us". The hospital asked the government to put pressure on the blockaders to let the supplies pass, stating that they feared that otherwise any of the 108 patients could die in the following hours without oxygen.²¹⁶ On 11 August, a representative from the same hospital confirmed that since 7 August the hospital had been experiencing oxygen scarcity due to the blockades and that as of the 11 August they had run out of oxygen.²¹⁷
- A 65-year-old man, Mario Limachi, died on or around 11 August 2020 as a result of respiratory complications and asphyxiation, likely in relation to Covid-19. Reportedly Limachi died at his house in La Paz assisted by a family doctor, as he could not be transported to hospital due to lack of available space. Limachi reportedly waited for oxygen for over 12 hours, but the doctors who were assisting him could not find any,. According to the doctor who was treating him, they "called all the companies that provide the service but none had oxygen. One even sent me photos of their trucks stopped at the blockade". Prior to his death Limachi recorded a video, calling for the end of the blockades and urging their organizers to let the oxygen supplies through.²¹⁸ Dr Liliana Gonzales, a doctor of

²¹³ Página Siete, [Don Mario, Ana, Carmen y otras víctimas del bloqueo de oxígeno](#), 14 August 2020.

²¹⁴ Página Siete, [Evo dice que convoy con oxígeno a La Paz es una "provocación que busca violencia"](#), 10 August 2020. Proposition also supported by the material submitted with the Referral.

²¹⁵ El Deber, [La Caja Petrolera de Salud en La Paz tiene oxígeno hasta mañana y 90 pacientes están riesgo](#), 7 August 2020.

²¹⁶ Página Siete, [El oxígeno se acaba en el hospital de la Caja Petrolera y la vida de 108 pacientes corre riesgo](#), 8 August 2020.

²¹⁷ Urgente, [Se acaba el oxígeno en la CPS y advierten un desenlace fatal para pacientes internados](#), 11 Agosto 2020.

²¹⁸ Página Siete, [Don Mario murió unas horas después de clamar que dejen pasar oxígeno](#), 13 August 2020; El Comercio, ["No sean malditos, por favor, dejen pasar a los carros cisternas": las súplicas de un anciano que murió en busca de oxígeno en Bolivia | VIDEO](#), 14 August 2020; CNN Español, [La súplica de un hombre boliviano antes de morir: "Dejen pasar el oxígeno"](#), 14 August 2020 (see video); El Popular, [Bolivia: anciano fallece tras clamar a bloqueadores que dejen](#)

the *Hospital La Portada* who tried to help Limachi, on 14 August 2020 stated: “I contacted Mr Mario on Monday night and then he could not even talk. It was obvious that he needed oxygen and hospital care, probably in an intensive care unit. [...] But the oxygen cylinders run out quickly and they do not get to those patients who are at home. We called all companies that give that service [recharging oxygen cylinders] but none had any oxygen left. One of them even sent me pictures of their trucks stopped at a blockade. He [Mr Mario] was in a very poor state but he insisted to record a video. [...] I hope his last words serve for saving other lives”.²¹⁹

- A 65-year-old woman, listed by the name of Carmen, affected by Covid-19, reportedly died at the *Hospital Bracamonte* of Potosí prior to 14 August 2020 (exact date unclear) while waiting for an anticoagulant drug which reportedly did not arrive due to the blockades. According to her family she got a cold which suddenly got worse. The family could not find any medication or anti-coagulants in Potosí, in their view, due to the blockades, so they made a trip to Sucre on foot trying to avoid roadblocks. This journey took them three times as long as it would normally. Some medication reached the patient at 18h00, seemingly on the day when she died, but the woman died in any case. According to a family member “there wasn’t much the doctors could do” and the woman “could have been saved if only they had let [the family] pass through the blockades”.²²⁰

86. In addition to the deaths above for which information available indicates that some individuals may have died as a result of shortages caused by the blockades, open sources reported about a number of other cases in which it is unclear at this stage whether the relevant persons died under the similar circumstances, namely as a result of the lack of availability of oxygen, medicines or other medical treatment *caused by* the blockades. This includes: one death at the *Hospital del Norte* on 4 August 2020 (name of apparent Covid-19 patient unknown but mentioned as the “husband of Mrs Maria”);²²¹ one death at the at the *Hospital de Clínicas* in La Paz on/or around 7 August 2020 (name unclear);²²² two deaths on 10 August at the Hospital of La Portada (names

[ingresar oxígeno](#), 14 August 2020; Twitter, [Page of Fernando Eid](#), 13 August 2020 (see 2 Part videos from “La revista al día” interviewing Doctor Erika Pérez who treated Limachi).

²¹⁹ Página Siete, [Don Mario, Ana, Carmen y otras víctimas del bloqueo de oxígeno](#), 14 August 2020.

²²⁰ Página Siete, [Don Mario, Ana, Carmen y otras víctimas del bloqueo de oxígeno](#), 14 August 2020.

²²¹ Proposition supported by the material submitted with the Referral.

²²² Noticias Fides, [Drama: 11 bebés en riesgo de perder la vida por falta de oxígeno medicinal en el Hospital de la Mujer](#), 7 August 2020. It is possible that the patient may be the man named by a media source as “uncle of Claudia”, a professor of 35 years, who had shown Covid-19 symptoms in early August 2020, and who reportedly died in the evening of 7 August. The family said that as soon as he manifested symptoms, they immediately became concerned about the risks posed to him by the shortage of oxygen. BBC, [Coronavirus en Bolivia "En 20 minutos los bebés pueden fallecer": la dramática crisis de oxígeno en medio del coronavirus en el país sudamericano](#), 8 August 2020.

unknown);²²³ one death on or around 10 August (patient's name unknown) at the *Caja Petrolera de Salud* of Obrajes;²²⁴ and two deaths (names unknown) in San Buenaventura prior to 14 August 2020.²²⁵ For all these deaths, certain information reported could suggest that some may have resulted from oxygen and medicine shortages caused by the blockades. However, at this stage, the information available is insufficient to verify the possible nexus between these deaths and the blockades.

87. Overall, it appears that at least some of the deaths recorded were potentially connected to the blockades' obstruction of the passage of convoys transporting large amounts of vital medical supplies, including oxygen, preventing their timely delivery. Namely, as noted above, in a number of cases doctors treating patients in need of oxygen or other supplies indicated that the patient died because the expected delivery of oxygen or other medications had not arrived (in time or at all).²²⁶ In at least one instance a patient based at home reportedly died as no oxygen could be found to treat him.²²⁷ This suggests that at least some of the deaths that occurred in Bolivia during the 3-14 August 2020 period could be linked to the blockades' prevention of delivery of medical and oxygen supplies.
88. At the same time, an analysis of the number of Covid-19 deaths recorded in Bolivia between 3 and 14 August 2020 shows that the number of Covid-19 deaths that occurred during the period of the blockades is generally consistent with the trends observed prior and after this period; though, for example, on the second day of the blockades 4 August 2020, the number of new deaths rose to 92 individuals, compared to the 75 deaths recorded the day prior. The number of deaths recorded already decreased from 5 August 2020 onwards,²²⁸ suggesting that even if the blockades had an impact on the oxygen supplies and that may have contributed to a certain number of deaths, the number of deaths recorded was not disproportionate compared to those observed in general during the previous and subsequent periods.²²⁹

(ii) *Harm and risks posed to public health*

²²³ ANF, [Hospital del Niño: "Si un niño no tiene oxígeno, muere por asfixia y es una muerte espantosa"](#), 10 August 2020; Página Siete, [Evo dice que convoy con oxígeno a La Paz es una "provocación que busca violencia"](#), 10 August 2020; Página Siete, [Don Mario, Ana, Carmen y otras víctimas del bloqueo de oxígeno](#), 14 August 2020.

²²⁴ El Deber, [Caja Petrolera en La Paz pide ayuda urgente; el oxígeno solo alcanza para una hora](#), 10 August 2020.

²²⁵ Página Siete, [Don Mario, Ana, Carmen y otras víctimas del bloqueo de oxígeno](#), 14 August 2020.

²²⁶ See above para. 85.

²²⁷ See above para. 85.

²²⁸ See data available at <https://ourworldindata.org/covid-deaths>.

²²⁹ On this point, see also information indicating that Covid-19 cases had increased during periods prior to the blockades, as well as right after. See, e.g., Opinión, [SEDES: Poca información y falta de asistencia, causa de varias muertes por COVID-19 en Entre Ríos](#), 2 June 2020; Los Tiempos, [Tras bloqueos, Sedes alerta de aumento de casos Covid-19 en cuatro regiones](#), 18 August 2020.

89. According to the Referral, the blockades “caused serious material and nonmaterial damage”, including “damage to public health”.²³⁰ The information available indicates that in addition to a number of reported deaths that allegedly occurred as a result of the blockades, the prolonged or repeated shortages of oxygen and medical supplies caused or otherwise exacerbated by the blockades posed a heightened risk to the life and well-being of a much larger number of patients, such as hundreds of Covid-19 and other patients in need of oxygen, including some in intensive therapy and children. Reports of such impact emerged from a number of hospitals, which reported having tens of patients at risk suffering from different illnesses and short self-sufficiency windows, including, *inter alia*, the *Hospital de Clínicas*, the *Hospital de la Mujer de Miraflores*, the *Hospital del Niño*, the *Caja Petrolera de Salud*, and the *Hospital Obrero N°1* in the city of La Paz; the *Hospital del Norte*, the *Hospital Boliviano Holandés* and the *Hospital del Sur* in El Alto; the hospital in La Portada; the *Hospital Obrero* in Oruro.²³¹
90. The information available indicates that hospital and medical staff across the affected locations reported, and publicly denounced, the emergency caused by the lack of oxygen at their facilities on numerous occasions, urging authorities and the organisers of the blockades to address the situation and linking a number of the deaths recorded and the risk of further deaths and/or other types of harm directly to the lack of oxygen supplies caused by the blockades.²³² For example:
- On or around 6 August, Dr Corina Rocha, Doctor at the *Hospital Boliviano Holandés* of El Alto, stated: “We are in a critical situation at the *Hospital Boliviano Holandés*

²³⁰ Referral, para. 38.

²³¹ Noticias Fides, [Drama: 11 bebés en riesgo de perder la vida por falta de oxígeno medicinal en el Hospital de la Mujer](#), 7 August 2020; ANF, [Hospital del Niño: "Si un niño no tiene oxígeno, muere por asfixia y es una muerte espantosa"](#), 10 August 2020; Erbol, [Muere una paciente de 27 años por falta de oxígeno en el Hospital Holandés](#), 6 August 2020; La Patria, [Dirigente de la COD fallece por falta de oxígeno en el Hospital Obrero](#), 4 August 2020; Opinión, [Hospital del Sur se declara en emergencia por falta de oxígeno](#), 6 August 2020; Página Siete, [El oxígeno se acaba en el hospital de la Caja Petrolera y la vida de 108 pacientes corre riesgo](#), 8 August 2020. *See also* UNITAS, [Letter Ref.- Solicitud de Medidas Cautelares a favor de pacientes del Hospital Holandés y del Hospital de la Mujer](#), 8 August 2020.

²³² La Patria, [Dirigente de la COD fallece por falta de oxígeno en el Hospital Obrero](#), 4 August 2020; Correo del Sur, [A falta de oxígeno, muere una joven en el Hospital Holandés de El Alto](#), 6 August 2020; ANF, [Reportan que una joven falleció por falta de oxígeno en el hospital Holandés de El Alto](#), 6 August 2020; Estado Plurinacional de Bolivia – Ministerio del Salud y Deportes, [COVID-19: Bolivia denuncia ante la OEA que bloqueo de carreteras causó más de 30 fallecidos por la falta de oxígeno](#), 7 August 2020; Página Siete, [Bolivia reporta ante la OEA que hay 31 muertes por falta de oxígeno debido a bloqueos](#), 7 August 2020; Noticias Fides, [Drama: 11 bebés en riesgo de perder la vida por falta de oxígeno medicinal en el Hospital de la Mujer](#), 7 August 2020; BBC News Mundo, [Coronavirus en Bolivia "En 20 minutos los bebés pueden fallecer": la dramática crisis de oxígeno en medio del coronavirus en el país sudamericano](#), 8 August 2020; Opinión, [Hospital del Sur se declara en emergencia por falta de oxígeno](#), 6 August 2020; CNN Español, [En medio de lágrimas, una médica describe el drama que viven por la falta de oxígeno para pacientes de covid-19 en Bolivia](#), 12 August 2020; Página Siete, [Don Mario, Ana, Carmen y otras víctimas del bloqueo de oxígeno](#), 14 August 2020. *See also* UNITAS, [Letter Ref.- Solicitud de Medidas Cautelares a favor de pacientes del Hospital Holandés y del Hospital de la Mujer](#), 8 August 2020; Erbol, [Sirmes-La Paz repliega a médicos rurales de los puntos de bloqueo, denuncia que la violencia va escalando](#), 8 August 2020. The same sources also reported a widespread feeling of despair and anxiety among medical staff, who were repeatedly put in the situation of having to ration their supplies, as a result of the situation.

because we have run out of oxygen in our hospital. The supply of new oxygen is very scarce because the oxygen company cannot go through the blockades in Senkata to provide us with this vital element".²³³

- On 7 August, Dr Óscar Oliden, the executive secretary of the doctors of the *Caja Petrolera de Salud* of La Paz, criticised that the delivery of oxygen to this hospital had been prevented by the blockades. He stated: "(The blockers) [should] put their hands on their chests. It may be their relatives who need oxygen. Please let the trucks pass, human lives are at risk."²³⁴
- On or around 10 August, Dr Liliana Gonzales, Doctor at the *Hospital La Portada*, stated: "Sadly, our situation is bad because from 18:00 we will be lacking oxygen today. Two have died today. Our oxygen ran out at 6:00 and two patients decompensated and, unfortunately, they died. Our situation is critical because we have no oxygen [starts crying at this point] and any of these 34 patients we have will decompensate. Patients' relatives know this and many of them offered themselves to bring oxygen for their loved ones and to share with other patients that do not have the economic means to have oxygen. What is happening in the Hospital La Portada is regrettable because that happiness we had in the past of being able to cure patients is gone, and these patients are now at a life risk. I call blockaders to reflect and see that these patients are not at fault in the political situation of this country".²³⁵ In a separate instance, on 12 August 2020, Dr Gonzales, also stated: "Our situation is critical because we do not have oxygen. Let the oxygen pass, let the medicines, the medical supplies pass, because here there are patients who need them".²³⁶
- On or around 12 August 2020, Dr Johann Maldonado, Director of the *Hospital Obrero de La Paz*, stated: "This is the last oxygen supplies that I have [showing oxygen cylinders] for the next few hours. The situation is becoming more dramatic. The pandemic alone made the situation critical but now with the blockades it is unsustainable. If this political problem is not solved soon, this agony is going to become in death".²³⁷ In a separate instance on the same day Dr Maldonado reportedly also stated: "In the last few days we have received the news that there are more than 140 deaths among doctors. Here we have five [referring to doctors admitted in his hospital, while showing the intensive care

²³³ Correo del Sur, [A falta de oxígeno, muere una joven en el Hospital Holandés de El Alto](#), 6 August 2020.

²³⁴ El Deber, [La Caja Petrolera de Salud en La Paz tiene oxígeno hasta mañana y 90 pacientes están riesgo](#), 7 August 2020.

²³⁵ Proposition supported by the material submitted with the Referral.

²³⁶ CNN Español, [En medio de lágrimas, una médica describe el drama que viven por la falta de oxígeno para pacientes de covid-19 en Bolivia](#), 12 August 2020.

²³⁷ CNN Español, [En medio de lágrimas, una médica describe el drama que viven por la falta de oxígeno para pacientes de covid-19 en Bolivia](#), 12 August 2020.

unit] who depend on oxygen to survive. Let's stop these criminals acts please. It is not only the general population but also doctors who are suffering".²³⁸

91. The information available also suggests the shortages caused or worsened by the blockades potentially also affected or put at risk in particular infants being treated in hospitals. According to multiple sources, the reduced amount of oxygen supplies heavily affected maternity wards, with doctors at the *Hospital de la Mujer de Miraflores* (Women's Hospital) in La Paz, for example, lamenting the risk of having to ration or delay the administering of oxygen to prematurely born babies and thus risking causing them permanent brain damage or loss of life.²³⁹ Children at the Hospital del Niño (children's hospital) of La Paz, including at least six who were also Covid-19 patients, were also deemed at risk by doctors because of the reduction in oxygen supply due to the blockades.²⁴⁰ Hugo Tejerina, director of the neonatal ward of *Hospital de la Mujer* of La Paz, on or around 8 August 2020, reported: "[...] These babies [new-borns] need continuous oxygen, and if you take it away just two or three minutes their brain is going to suffer. In 20 minutes they may die".²⁴¹ Yuri Pérez, director of the *Hospital de la Mujer* of La Paz, on or around 8 August 2020 similarly stated: "We have new-borns that were born prematurely and are dependent on oxygen. Due to the current events oxygen tankers have not obtained free pass and the risk is big that these children may die. It would be a great tragedy. We work day and night to keep everything working but without oxygen the children will not receive the ventilation necessary to survive. We are feeling powerless, and just imagine how the parents are feeling".²⁴²
92. Based on open sources, it is unclear whether any children or babies died or were otherwise harmed as a result of a reduction of oxygen supply experienced during the blockades. Nonetheless, open sources indicate that the lives of many children were put at serious risk as a result of the blockades. One media source, for example, published on 14 August 2020, quoted Hugo Tejerina, the director of the neonatal ward of *Hospital de la Mujer* of La Paz as saying that while "they did not lose any of the

²³⁸ CNN Español, [En medio de lágrimas, una médica describe el drama que viven por la falta de oxígeno para pacientes de covid-19 en Bolivia](#), 12 August 2020.

²³⁹ BBC News, [Coronavirus en Bolivia "En 20 minutos los bebés pueden fallecer": la dramática crisis de oxígeno en medio del coronavirus en el país sudamericano](#), 8 August 2020; Telemundo 33, [Desesperación en un hospital: doce bebés están al borde de la muerte por falta de oxígeno](#), 10 August 2020; Noticias Fides, [Drama: 11 bebés en riesgo de perder la vida por falta de oxígeno medicinal en el Hospital de la Mujer](#), 7 August 2020; Aleteia, [COVID-19: La crisis del oxígeno tiene rostro de bebé en Bolivia](#), 9 August 2020. See also UNITAS, [Letter Ref.- Solicitud de Medidas Cautelares a favor de pacientes del Hospital Holandés y del Hospital de la Mujer](#), 8 August 2020, p. 3, 5-6.

²⁴⁰ ANF, [Hospital del Niño: "Si un niño no tiene oxígeno, muere por asfixia y es una muerte espantosa"](#), 10 August 2020.

²⁴¹ BBC News Mundo, [Coronavirus en Bolivia "En 20 minutos los bebés pueden fallecer": la dramática crisis de oxígeno en medio del coronavirus en el país sudamericano](#), 8 August 2020.

²⁴² BBC News Mundo, [Coronavirus en Bolivia "En 20 minutos los bebés pueden fallecer": la dramática crisis de oxígeno en medio del coronavirus en el país sudamericano](#), 8 August 2020.

babies, they got close” and that they “relied on the generosity of the population who donated oxygen canisters”.²⁴³ However, Iván Díaz, the director of an association dedicated to collecting information about the ‘victims of the blockades’, stated that “there are new-born children with irreparable damage”.²⁴⁴

(iii) *Mental harm suffered by the broader population*

93. According to the Referral, apart from causing the death of several people, the blockades had “the direct consequence of causing (...) anxiety in the rest of the population due to the possibility of dying without being able to be treated in public hospitals, or in conditions that allow them to access to medical supplies, treatments and, above all, medical oxygen”.²⁴⁵ Such impact, which the referral considers as amounting to “causing great suffering or seriously threatening physical integrity or mental or physical health”,²⁴⁶ is alleged to have resulted from the awareness and deep-seated fear existing among the population that death by suffocation could be a possible outcome of Covid-19 and that this could be made more likely in the absence of oxygen supplies.²⁴⁷
94. Some information available suggests that members of the broader population in Bolivia may have suffered some mental harm as a result of the blockades and ensuing situation. According to Fernando Garitano, a psychiatrist, the protests were a form of “psychological terrorism”, which, along with the feelings of fear derived from the Covid-19 pandemic, caused further psychological pressure and terror in vulnerable persons, possibly leading to health problems, heart attacks and suicidal conducts. Particularly, he reported the population is going more to psychiatric appointments “because the people are more and more afraid of being infected with Covid-19. This fear is incremented because there is no more space in hospitals. This is further aggravated with the fact that the sickness generates much uncertainty and debate, because there is no concrete treatment”. This pre-existing fear, according to Mr Garitano, made the announcements of the MAS (concerning the blockades) “a threat, which is making people become worse” because “they are exerting psychological pressure, blackmail and threats on people that in this moment live defenceless. The act in itself generates fear and terror in vulnerable persons, it is an attack against mental public health”.²⁴⁸ Similarly, the OAS also claimed that the blockaders and the

²⁴³ Página Siete, [Don Mario, Ana, Carmen y otras víctimas del bloqueo de oxígeno](#), 14 August 2020.

²⁴⁴ La Patria, [Familiares de víctimas por bloqueo de oxígeno alistan demandas penales contra responsables](#), 18 August 2020.

²⁴⁵ Referral, para. 43.

²⁴⁶ Referral, para. 119.

²⁴⁷ Referral, para. 119.

²⁴⁸ El Deber, [Expertos creen que el MAS comete terrorismo psicológico al buscar el poder ‘a como dé lugar’](#), 1 August 2020.

organisations behind them are trying to “obtain political benefits from the people’s suffering”.²⁴⁹

95. The available information shows that to different degrees, the impact of the blockades in terms of mental harm, was varied and affected different types of individuals. According to the Referral, evidence of “suffering (...) within the population” was “evident”, for example, from “videos of people begging the blockers to allow the passage of oxygen”.²⁵⁰ One such instance, widely reported on in the media, concerned the video statement recorded by Mario Limachi a few hours prior to dying on or around 11 August 2020 and published by his doctor, in order to show the impact of the blockades. This video depicts that prior to his death, Limachi was in an apparent state of prolonged anxiety, knowing that without oxygen he would likely die, as he then did shortly. In his video statement, which he uttered while struggling to breathe, he stated: “Please, I beg you, make the oxygen tanker trucks pass through. I ask you from the bottom of my heart. Do not be bad, do not be so damned. Please, let the tanker trucks through” (“*Por favor, les rogaría hagan pasar a los carros cisternas con oxígeno. Les pido de todo corazón. No sean malos, no sean tan malditos. Por favor, dejen pasar a los carros con cisterna*”).²⁵¹
96. Relatives of patients seemingly at risk due to the prevailing circumstances also reported being mentally affected by the events surrounding the blockades. For example:
- One woman, whose husband died on 4 August 2020 reportedly as a result of the lack of oxygen caused by the blockades, stated in an interview that she was deeply affected by these events and in particular because the blockades impeded the work of funeral workers and her husband’s body could not be picked up and was therefore lying in a pressed cardboard box.²⁵²
 - On or around 6 August 2020, a relative of a patient at the *Hospital del Norte* of El Alto, stated: “Medicines, medicines of intensive care that we cannot find in pharmacies, oxygen... And sadly we are losing our relatives”.²⁵³

²⁴⁹ OAS, [Secretaría General de la OEA condena bloqueos de camiones con material médico en Bolivia](#), 6 August 2020.

²⁵⁰ Referral, para. 16.

²⁵¹ CNN Español, [La súplica de un hombre boliviano antes de morir: "Dejen pasar el oxígeno"](#), 14 August 2020.

²⁵² Proposition supported by the material submitted with the Referral.

²⁵³ Proposition supported by the material submitted with the Referral.

- On or around 6 August 2020, a relative of a patient at the *Hospital del Norte* of El Alto, stated: “Please, I want them [the blockaders] to think of their families. Do not be so selfish”.²⁵⁴
- On or around 6 August 2020, Roger Bustillos, the relative of a patient at the *Hospital Boliviano Holandés* of El Alto, stated: “My brother has been 15 days here, he is a police officer. Unfortunately, the hospital has received us and we are thankful, but today we had the surprise that oxygen is running out. We know that this is not the hospital’s fault, but of the persons that are blockading and we clamorously ask president Áñez to make oxygen supply viable”.²⁵⁵
- On or around 6 August 2020, in an audio interview, Covid-19 patient and Minister of Public Works, Iván Arias, clearly out of breath, begs people not to be politicised by the blockaders, stating that people are suffering and dying and that oxygen and medicines are missing. In particular, he stated: “They are dying, the people are suffering. There is no oxygen, there are no medicines, they want them to lack [unintelligible], and they ask me: ‘[unintelligible], why are we so bad? Why [unintelligible] Why is the MAS so bad?’ And I answer them: ‘It is not the MAS the bad one, it is a group of people, that does not even belong to the MAS, a group of traffickers, a group of drug dealers that in the name of the MAS has appropriated the social movements. [...] Let’s not let them, please, let’s not let them manipulate your lives. I ask you from the bottom of my heart, first life, and then we will resolve our political problems [...]”.²⁵⁶
- On or around 14 August 2020, the family member of a patient in need of oxygen stated: “I am looking for an oxygen cylinder for my dad but it is almost impossible to find it”.²⁵⁷
- On or around 14 August 2020, the niece of Carmen, a person affected by Covid-19 in Potosí, stated: “She had a sudden cold and then she got worse. We could not find medicines and anticoagulants in Potosí, so we had to travel to Sucre, avoiding difficulties, walking. [...] There was not much that the doctors could do, as there were no anticoagulants or antibiotics. Carmen was great and [losing her] was painful because we could have saved her life if they had let us through the blockades”.²⁵⁸

(iv) Reported violence by protesters at the blockades and related other harm

²⁵⁴ Proposition supported by the material submitted with the Referral.

²⁵⁵ Correo del Sur, [A falta de oxígeno, muere una joven en el Hospital Holandés de El Alto](#), 6 August 2020.

²⁵⁶ Proposition supported by the material submitted with the Referral.

²⁵⁷ Página Siete, [Don Mario, Ana, Carmen y otras víctimas del bloqueo de oxígeno](#), 14 August 2020.

²⁵⁸ Página Siete, [Don Mario, Ana, Carmen y otras víctimas del bloqueo de oxígeno](#), 14 August 2020.

97. According to the Referral, one the consequences of the blockades included “physical injuries from the confrontations”.²⁵⁹ As noted above, several sources reported incidents of police violence against individuals taking part in the blockades.²⁶⁰ In addition individuals participating in counter-blockade efforts also reported sustaining some degree of physical harm either directly perpetrated by the blockaders or resulting from the conditions brought about by the blockades. For example, some sources reported that truck drivers in transit stuck at high altitudes due to blockades for prolonged periods suffered from lack of food and water and some fell ill due to the low-temperatures.²⁶¹
98. One activist, Kitita Roca, reported being held and mistreated, along with several others, for several hours by the blockaders, an experience which resulted in requiring her to seek long-term mental-health support. In particular, she indicated that she suffered mental harm as a result of being held by more than 300 blockaders in the area of Tiquipaya while on her way to Samaipata, where she was going to help hospitals and negotiate the end of the blockades.²⁶² According to Roca, she and seven others were held because the blockaders accused them of travelling there to film the blockades and commit arson, which would then be blamed on the blockaders. Roca alleged that during the 10 hours in which she was held, she and the others were mistreated and forced to record videos demanding Áñez’s resignation.²⁶³ Roca reported that as a consequence of the mistreatment, she sustained contusions all over her body, a joint injury in one of her knees, injuries in her fingers and arms from being tied up, and harm in one of her ears due to a 3 hours haemorrhage.²⁶⁴ Roca stated that after these events she tried to get better, but she required therapy to get over the experience.²⁶⁵ In addition, Roca and the others were reportedly made to walk on their knees on a rocky terrain, and one of the victim’s lawyers generally reported that they suffered “grave harm” and “attempted murder”, as a result of a “traumatic cranial injury” suffered.²⁶⁶ Other individuals, such as traders whose goods were in the process of being transported during the blockades, expressed their fear of being assaulted by blockaders and persons participating in marches.²⁶⁷

²⁵⁹ Referral, para.38.

²⁶⁰ See above para. 75.

²⁶¹ See for example Opinión, [Transporte pesado reporta 7.000 camiones varados y pérdidas diarias de más de \\$US 2 millones](#), 11 August 2020. Proposition also supported by the material submitted with the Referral.

²⁶² El Correo del Sur, [Bloqueadores secuestran y maltratan a ocho personas que viajaban a Samaipata](#), 8 August 2020.

²⁶³ Erbol, [Bloqueadores liberan a activistas tras humillaciones en medio del conflicto](#), 9 August 2020.

²⁶⁴ Proposition supported by the material submitted with the Referral.

²⁶⁵ Proposition supported by the material submitted with the Referral.

²⁶⁶ Erbol, [Bloqueadores liberan a activistas tras humillaciones en medio del conflicto](#), 9 August 2020. Proposition also supported by the material submitted with the Referral.

²⁶⁷ Telepaís, [Bloqueadores agredieron a comerciantes y chóferes](#), 11 August 2020; El Potosí, [Denuncia que bloqueadores secuestran y maltratan a ocho personas que iban a Samaipata](#), 8 August 2020; EJU!, [Comité cívico](#)

99. A number of doctors and health care workers trying to cross the blockades with ambulances or other medical transports also reported being attacked by the blockaders. For instance, on 8 August 2020, a representative of the Sirmes of La Paz announced the withdrawal of doctors from rural blockade points, due to the intensity of the threats and violence directed against healthcare workers.²⁶⁸ On 9 August 2020, Dr Sonia Escobar, director of the *Hospital Arbieta* (Arbieta), and her brother were reportedly attacked at a blockade point in K'ara K'ara. Escobar was going to work at the hospital when the blockaders reportedly stopped them and proceeded to insult them and attack her brother. She then intervened and was attacked as well, reportedly because, according to the attacking blockaders in question, they were part of groups favouring interim President Áñez. Escobar stated that they justified their attack in that “the coronavirus does not exist” and that “they carried the disease”. She described that the blockaders pulled her hair, pushed her, hit her in the legs, kicked her and broke her glasses. They also took her mobile phone, purportedly to check that the acts were not recorded. Her brother was “hit in different parts of his body”, and was then limping as a result. The attackers were reportedly mostly men and some of them were drunk and not wearing masks. They also punctured their motorcycle’s tires.²⁶⁹

(v) *Economic impact*

100. According to the Referral, the blockades resulted in “serious material and nonmaterial damage”, including “serious economic losses”.²⁷⁰ In this regard, information available confirms that the transportation and delivery of food supplies and other goods were also hindered by the blockades.²⁷¹ According to media sources, agricultural produce, such as of grains, milk, and meat, in transit spoiled and did not reach areas where they were needed as a result of convoys being stopped and/or significantly delayed by the blockades.²⁷² Large losses were recorded as a result in the agricultural and industrial sectors. For example, according to the *Confederación de Organizaciones de Productores Familiares del Mercosur Ampliado* (Confederation of Family Producers Organizations of the Expanded Mercosur), an organisation spanning 7 countries in

[cruceño denuncia el secuestro de ocho personas en Tiquipaya y Jorochito](#), 8 August 2020; El Deber, [Ocho personas son retenidas y maltratadas por bloqueadores y el Comité Cívico apunta al masismo](#), 8 August 2020; El Deber, [Policía logra que bloqueadores liberen a ocho personas retenidas y maltratadas en Tiquipaya](#), 9 August 2020.

²⁶⁸ Erbol, [Sirmes-La Paz repliega a médicos rurales de los puntos de bloqueo, denuncia que la violencia va escalando](#), 8 August 2020. Proposition also supported by the material submitted with the Referral.

²⁶⁹ Opinión, [Directora del hospital de Arbieta denuncia agresiones de vecinos en K'ara K'ara](#), 10 August 2020; Erbol, [Golpearon a la directora del hospital de Arbieta en bloqueo](#), 11 August 2020. Proposition also supported by the material submitted with the Referral.

²⁷⁰ Referral, para. 38.

²⁷¹ La Nación, [Coronavirus: los bloqueos se agudizan en Bolivia y amenazan con agravar la crisis sanitaria](#), 12 August 2020.

²⁷² RTVE, [Bolivia cumple ocho días de protestas contra el aplazamiento de las elecciones que asfixian a hospitales](#), 11 August 2020. See also COPROFAM, [Agriculture loses USD 13 million per day due to blockades](#), 11 August 2020.

Latin America, including Bolivia, the Bolivian agricultural sector lost approximately USD 13 million per day during the first 10 days of the blockades, with producers in the eastern part of the country being the most affected with a loss of USD 8 million per day.²⁷³ The blockades also reportedly caused a risk of loss of employment for over 130,000 workers across the agricultural, industrial and other sectors.²⁷⁴ As a result of the blockades, prices of food and medical supplies also rose in some areas where supplies could not be transported, such as in La Paz where prices reportedly rose by one hundred percent;²⁷⁵ while in other areas, such as in Santa Cruz, prices reportedly plummeted because supplies could instead not be transported outside of the department.²⁷⁶

101. Notably, while some workers affiliated with the COB, PdU, MAS and other related organisations apparently supported and participated in the blockades,²⁷⁷ some workers from other sectors, such as the agricultural, industrial and informal sectors, instead opposed and criticised the blockades and called on the blockade organisers and the local authorities to halt them and allow normal activities resume.²⁷⁸ In one instance, for example, it was reported that the milk producers of Cochabamba threw away many litres of milk in front of local government and union buildings in protest against the blockade organisers, including the Cochabamba's COD and the local governor (affiliated with the MAS) for allowing the protests to take place.²⁷⁹ It was also reported that members of different farmer organisations filed petitions against the leaders of the MAS and other organisers to stop the blockades.²⁸⁰

B. LEGAL QUALIFICATION

102. The information available does not provide a reasonable basis to believe that crimes against humanity under article 7 of the Statute were committed in Bolivia in the connection to the road blockades carried out in locations throughout the country between 3 and 14 August 2020.

²⁷³ COPROFAM, [Agriculture loses USD 13 million per day due to blockades](#), 11 August 2011.

²⁷⁴ COPROFAM, [Agriculture loses USD 13 million per day due to blockades](#), 11 August 2011.

²⁷⁵ Opinión, [Muertes por falta de oxígeno: dos organizaciones formalizan querellas penales contra promotores de los conflictos pasados](#), 24 August 2020; Página Siete, [Bloqueos: precios suben hasta 100% en mercados de La Paz](#), 11 August 2020. Proposition also supported by the material submitted with the Referral.

²⁷⁶ Proposition supported by the material submitted with the Referral.

²⁷⁷ See above para. 52.

²⁷⁸ COPROFAM, [Agriculture loses USD 13 million per day due to blockades](#), 11 August 2011; RTVE, [Bolivia cumple ocho días de protestas contra el aplazamiento de las elecciones que asfixian a hospitales](#), 11 August 2020.

²⁷⁹ RTVE, [Bolivia cumple ocho días de protestas contra el aplazamiento de las elecciones que asfixian a hospitales](#), 11 August 2020.

²⁸⁰ See above para. 78; Cabildeo Digital, [Huarachi ¡Fuera de la COB! Las bases están molestas](#), 16 August 2020.

1. Contextual Elements

103. For the reasons set out below, the information available does not support the conclusion that the acts of the protesters during the August 2020 road blockades constitute any relevant underlying acts under article 7(1) of the Statute. Even if *arguendo* the protesters' conduct could have been considered to amount to murder and/or other inhumane acts, the information available does not provide a reasonable basis to believe that such acts would qualify as an 'attack directed against the civilian population' within the meaning and scope of article 7(2)(a) of the Statute.
104. The contextual elements serve to distinguish crimes against humanity from ordinary crimes over which the Court has no jurisdiction. The Elements of Crimes emphasise that the provisions of article 7 must be "strictly construed", taking into account that crimes against humanity are "among the most serious crimes of concern to the international community as a whole".²⁸¹
105. The chapeau of article 7(1) of the Statute sets out the contextual elements of crimes against humanity as "a widespread or systematic attack directed against any civilian population".²⁸² Article 7(2)(a) further defines an 'attack directed against any civilian population' as "a course of conduct" involving the multiple commission of the acts referred to in article 7(1) of the Statute against a civilian population, pursuant to or in furtherance of a State or organizational policy to commit such attack.²⁸³ The term attack is not restricted to a military attack,²⁸⁴ but instead refers to a campaign or operation carried out against the civilian population.²⁸⁵
106. Article 7(2)(a) requires the "multiple commission of acts", which means "more than a few isolated incidents or acts as referred to in article 7(1) of the Statute have occurred."²⁸⁶ As held by ICC Chambers, the expression "course of conduct" describes a series or overall flow of events, as opposed to a mere aggregate of random or isolated

²⁸¹ ICC Elements of Crimes, article 7, Introduction, para. 1.

²⁸² Rome Statute, article 7(1).

²⁸³ Rome Statute, article 7(2)(a). *See also, e.g.*, ICC Elements of Crimes, article 7, Introduction, para. 2-3 ; *Ntaganda* Appeal Judgment, [ICC-01/04-02/06-2666-Red](#), para. 416. In addition, the contextual elements require the perpetrator's knowledge of the attack and that his or her acts form part of it. However, in light of the nature of the preliminary examination stage, Pre-Trial Chambers have recognised the last requirement cannot be adequately addressed at this stage, given that "the individual perpetrators will only be definitely identified if an investigation is authorised". *Côte d'Ivoire* Article 15 Decision, [ICC-02/11-14-Corr](#), para. 29; *Kenya* Article 15 Decision, [ICC-01/09-19-Corr](#), para. 79.

²⁸⁴ ICC Elements of Crimes, article 7, Introduction, para. 3. *See also* *Bemba* Trial Judgment, [ICC-01/05-01/08-3343](#), para. 149; *Katanga* Trial Judgment, [ICC-01/04-01/07-3436-tENG](#), para. 1101.

²⁸⁵ *Bemba* Trial Judgment, [ICC-01/05-01/08-3343](#), para. 149; *Katanga* Trial Judgment, [ICC-01/04-01/07-3436-tENG](#), para. 1097, 1101; *Gbagbo* Confirmation of Charges Decision, [ICC-02/11-01/11-656-Red](#), para. 209; *Kenya* Article 15 Decision, [ICC-01/09-19-Corr](#), para. 80. *See also* *Gbagbo* Arrest Warrant Decision, [ICC-02/11-01/11-9-Red](#), para. 30; *Bemba* Confirmation of Charges Decision, [ICC-01/05-01/08-424](#), para. 75; *Ruto et al.* Confirmation of Charges Decision, [ICC-01/09-01/11-373](#), para. 164.

²⁸⁶ *Katanga* Trial Judgment, [ICC-01/04-01/07-3436-tENG](#), para. 1101; *Bemba* Confirmation of Charges Decision, [ICC-01/05-01/08-424](#), para. 81. *See also* *Bemba* Trial Judgment, [ICC-01/05-01/08-3343](#), para. 150.

acts.²⁸⁷ PTC I has further explained that “while a course of conduct must involve multiple acts, the occurrence of those acts is not the only evidence that may be relevant to prove its existence”.²⁸⁸ Rather, since the course of conduct requires “a certain ‘pattern’ of behaviour, evidence relevant to proving the degree of planning, direction or organisation by a group or organisation is also relevant to assessing the links and commonality of features between individual acts that demonstrate the existence of a ‘course of conduct’ within the meaning of article 7(2)(a) of the Statute.”²⁸⁹

107. The course of conduct must be directed against a civilian population.²⁹⁰ In this regard, the attack must be directed against the civilian population as a whole and not merely against a limited and randomly selected group of individuals.²⁹¹ Nevertheless, the target of the attack does not have to be the entire civilian population of the geographical area in question.²⁹²
108. In addition, in accordance with article 7(2)(a) of the Statute, the course of conduct involving the multiple commission of acts under article 7(1) must be carried out “pursuant to or in furtherance of a State or organisational policy to commit such attack”.²⁹³ A “policy to commit such attack” requires that the State or organisation actively promote or encourage the attack against a civilian population.²⁹⁴ The policy element under article 7(2)(a) in essence requires that the course of conduct reflect a “link” to the State or organizational policy, as to exclude “acts which are perpetrated by isolated and uncoordinated individuals acting randomly on their own” (that is,

²⁸⁷ *Ntaganda* Appeal Judgment, [ICC-01/04-02/06-2666-Red](#), para. 430; *Bemba* Trial Judgment, [ICC-01/05-01/08-3343](#), para. 149; *Gbagbo* Confirmation of Charges Decision, [ICC-02/11-01/11-656-Red](#), para. 209.

²⁸⁸ *Gbagbo* Confirmation of Charges Decision, [ICC-02/11-01/11-656-Red](#), para. 210.

²⁸⁹ *Gbagbo* Confirmation of Charges Decision, [ICC-02/11-01/11-656-Red](#), para. 210. With respect to common features, Pre-Trial Chambers have taken into account the characteristics, nature, and aims of the acts, the population that was targeted, the identity of the alleged perpetrators, and chronology of the relevant events to determine whether the multiple acts identified, viewed collectively, express a “course of conduct” within the meaning of article 7(2)(a) of the Statute. *Ongwen* Confirmation of Charges Decision, [ICC-02/04-01/15-422-red](#), para. 63; *Gbagbo* Confirmation of Charges Decision, [ICC-02/11-01/11-656-Red](#), para. 211-212.

²⁹⁰ *Bemba* Trial Judgment, [ICC-01/05-01/08-3343](#), para. 152. *See also* *Ntaganda* Appeal Judgment, [ICC-01/04-02/06-2666-Red](#), para. 424.

²⁹¹ *Katanga* Trial Judgment, [ICC-01/04-01/07-3436-tENG](#), para. 1105; *Côte D’Ivoire* Article 15 Decision, [ICC-02/11-14-Corr](#), para. 32; *Bemba* Confirmation of Charges Decision, [ICC-01/05-01/08-424](#), para. 77. *See also* *Bemba* Trial Judgment, [ICC-01/05-01/08-3343](#), para. 152 (noting that the “term ‘civilian population’ denotes a collective, as opposed to individual ‘civilians’”), 154.

²⁹² *Bemba* Trial Judgment, [ICC-01/05-01/08-3343](#), para. 154; *Katanga* Trial Judgment, [ICC-01/04-01/07-3436-tENG](#), para. 1105; *Côte D’Ivoire* Article 15 Decision, [ICC-02/11-14-Corr](#), para. 33; *Bemba* Confirmation of Charges Decision, [ICC-01/05-01/08-424](#), para. 77. The Appeals Chamber has also clarified that while the attack must target the civilian population, there is no “requirement that the *main* aim or object of the relevant acts was to attack civilians” and that “[a]n attack directed against the civilian population may also serve other objectives or motives.” *Ntaganda* Appeal Judgment, [ICC-01/04-02/06-2666-Red](#), para. 424.

²⁹³ Rome Statute, article 7(2)(a). *See also* *Bemba* Trial Judgment, [ICC-01/05-01/08-3343](#), para. 157; *Katanga* Trial Judgment, [ICC-01/04-01/07-3436-tENG](#), para. 1114-1115.

²⁹⁴ ICC Elements of Crimes, article 7, Introduction, para. 3. *See also* *Bemba* Trial Judgment, [ICC-01/05-01/08-3343](#), para. 159; *Gbagbo* Confirmation of Charges Decision, [ICC-02/11-01/11-656-Red](#), para. 214.

unconnected crimes committed by diverse individuals).²⁹⁵ An attack which is planned, directed or organised – as opposed to spontaneous or isolated acts of violence – will satisfy the policy criterion.²⁹⁶

109. In the Referral, it is alleged that by impeding the Bolivian population's access to vital medical supplies and services through the road blockades, the protesters deliberately caused the deaths of over 40 individuals in need of medical oxygen and/or access to hospital care due to Covid-19, which amount to murder under article 7(1)(a), and inflicted other serious harm amounting to other inhumane acts under article 7(1)(k) of the Statute.²⁹⁷ It is further alleged that overall, the organisers and participants in the blockades - through their acts – deliberately targeted the Bolivian population – particularly the urban populations – with the purpose of inflicting death, intimidation and suffering in order to achieve their political demands. In this regard, the Referral appears to characterise the blockades – and particularly therein, the protesters' alleged deliberate efforts to prevent the population from accessing public health supplies and services – as overall an “systematic and organized” attack against the civilian population.²⁹⁸
110. The information available, however, does not provide a reasonable basis to believe that the alleged acts of the organisers and participants during the blockades – *even if established* – would amount to a campaign directed against the civilian population of Bolivia, as to qualify as an attack within the meaning of article 7 of the Statute.
111. The alleged acts (murders and other inhumane acts) all occurred in a common context, namely during the road blockades carried out in the course or against the background of a public health emergency, the Covid-19 pandemic. However, the sole fact that the such acts were incidentally connected to the demonstrations, in itself, is not sufficient to show that the acts were necessarily interlinked as to form part of an attack carried out against the civilian population.
112. While some groups of protesters may have acted with reckless disregard for health and well-being of those in need of timely access to vital medical treatment, the overall conduct of protesters does not reveal a clear pattern of behaviour as to suggest the

²⁹⁵ *Bemba* Trial Judgment, [ICC-01/05-01/08-3343](#), para. 161. Trial Chamber III (“TC III”) has held that this requirement “is satisfied where a perpetrator deliberately acts to further the policy, but may also be satisfied by a perpetrator engaging in conduct envisaged by the policy, and with knowledge thereof.” *Ibid.* TC III, however, noted that “there is no requirement that the perpetrators necessarily be motivated by the policy, or that they themselves be members of the State or organization.” *Ibid.* See also *Katanga* Trial Judgment, [ICC-01/04-01/07-3436-tENG](#), para. 1115.

²⁹⁶ *Gbagbo* Confirmation of Charges Decision, [ICC-02/11-01/11-656-Red](#), para. 215; *Ruto et al.* Confirmation of Charges Decision, [ICC-01/09-01/11-373](#), para. 210; *Kenya* Article 15 Decision, [ICC-01/09-19-Corr](#), para. 85-86; *Bemba* Confirmation of Charges Decision, [ICC-01/05-01/08-424](#), para. 81; *Côte d’Ivoire* Article 15 Decision, [ICC-02/11-14-Corr](#), para. 43.

²⁹⁷ Referral, para. 15, 19, 37-39, 43, 56, 112, 119-120.

²⁹⁸ See, e.g., Referral, para. 13-14, 17, 43, 112.

blockades themselves – or relevant acts committed in their course – formed part of a deliberate campaign directed against the Bolivian population, or specifically against those particularly affected or at risk as a result of the pandemic.

113. Notably, those participating in the blockades across the country did not uniformly or consistently prevent the passage of vital medical supplies and transports. Rather, on some occasions, such goods and transports were allowed to pass through the blockades.²⁹⁹ Moreover, the leadership of the key groups mobilising and directing the blockades repeatedly urged their bases and participants in the blockades to allow the passage of ambulances and convoys transporting medical supplies.³⁰⁰
114. In this context, it is also recalled that the road blockades held from 3 to 14 August 2020 were conducted as a form of political demonstration,³⁰¹ carried out by the participating groups and individuals to demonstrate their disagreement with the conduct and decisions of the interim government and TSE, particularly as related to the postponement of the elections, with the goal of pressuring the government to meet their demand for the date of the national elections to be moved forward as well as, for some, the aim of seeking the resignation of Interim President Áñez.³⁰² Relevantly in this regard, the information available does not substantiate the claim that to achieve such ends, the blockades – by deliberate design or implementation – also entailed attacking the population through the commission of the alleged acts.
115. It is further noted that the blockades themselves were ultimately carried out for a relatively limited duration (around 12 days), and following negotiations, were generally suspended even though the protesters’ demand for an earlier date for the elections was not met.³⁰³
116. Overall, the deaths of patients that occurred and any physical and mental harm inflicted among the broader population in connection to the blockades appear to represent an aggregate of random – in the sense of incidental and unplanned – acts, as opposed to a series of connected events, such as that ensuing from any particular ‘course of conduct’ pursued by those involved in the blockades.

²⁹⁹ See above para. 68.

³⁰⁰ See above para. 67, 72.

³⁰¹ In this respect, it is also briefly noted that the blockading of primary transportation routes is not a new tactic, such as that uniquely employed in the circumstances of the events in August 2020. Instead, it is a common form of political protest in Bolivia that has been used by groups on previous occasions in various different contexts to collectively express dissatisfaction with the policies and acts of the government and public institutions and to put pressure such entities to address to the demonstrators’ concerns and bring about the changes demanded. See for example Carwil Bjork-James, “[Blockade: The Power of Interruption](#)”, LIMN, Issue 10, April 2018; New York Times, [Bolivia Under Blockade as Protesters Choke Access to Cities](#), 7 August 2020.

³⁰² See above para. 54, 56, 58.

³⁰³ See above para. 61, 79-81.

117. Further, setting aside the issue of whether those involved in organising (and participating in) the blockades indeed can qualify as an “organisation” for the purposes of article 7, the information available further does not show any policy on the part of the groups, or their leadership, involved in organising and carrying out the blockades to attack the population. There is no information indicating that the organisers of the blockade demonstrations planned, directed or actively promoted attacking the population. To the contrary, as referenced above, the leadership of the groups that mobilised the blockade campaign instructed the safe passage of medical supplies on multiple occasions.³⁰⁴ Additionally, in line with this, participants involved in directing or leading activities on the ground at particular blockade points also at times assisted in negotiating the passage of convoys transporting such medical supplies and medical personnel through the barricades.³⁰⁵
118. Finally, beyond the conduct of some protesters in blocking the passage of public health supplies and services, there were a few reported incidents in which certain protesters physically assaulted persons who attempted to counter, document, or simply cross the blockades, such as healthcare workers, journalists, and activists.³⁰⁶ While such conduct may have resulted in serious harm to the affected persons, the information available does not show that such type of conduct reflected a course of conduct attributable to those participating in the blockades as a whole. Such acts appear to have been limited in number and do not suggest a clear and consistent pattern of behaviour across the blockades held in August 2020. Rather, such acts by particular protesters appear to be more sporadic, isolated incidents, targeting a more limited number of individuals.³⁰⁷ Further, such acts appear to have been perpetrated by more uncoordinated individuals acting on their own (i.e., unconnected crimes of diverse individuals), as opposed to having been actively encouraged or promoted by those responsible for mobilising the blockade demonstrations such as to suggest the existence of any policy to attack the civilian population through such acts.³⁰⁸
119. Consequently, overall, the information available does not provide a reasonable basis to believe that the alleged acts attributed to those involved in the road blockades constitute a course of conduct against the civilian population pursuant to or in furtherance of an organisational policy, as to qualify as an “attack” within the meaning of article 7 of the Statute.³⁰⁹

³⁰⁴ See above para. 67, 72.

³⁰⁵ See above para. 68.

³⁰⁶ See above para. 98-99.

³⁰⁷ See above para. 98-99.

³⁰⁸ See above para. 98-99.

³⁰⁹ See *Gbagbo* Confirmation of Charges Decision, [ICC-02/11-01/11-656-Red](#), para. 209-210.

120. Because the requirement of an attack directed against a civilian population is not met in this situation, it is unnecessary to further analyse whether the other contextual elements of crimes against humanity are met.

2. Underlying Acts

121. In addition to the Office's assessment of the contextual elements for crimes against humanity, the information available also does not provide a reasonable basis to believe that the acts allegedly committed by protesters in the context of the August 2020 road blockades constitute any relevant underlying acts under article 7(1) of the Statute.

a) Murder

122. The crime of murder requires that a person is killed as a result of the perpetrator's act or omission.³¹⁰ The requirement that the death must have occurred as a result of the perpetrator's act or omission does not require this act or omission to be the sole cause for the victim's death; it is sufficient that the perpetrator's conduct contributed substantially to the death of the person.³¹¹ The requisite causal link between the act or omission and the victim's death can be shown or inferred from a number of factors, such as location of the alleged murder, its approximate date, the means by which the act is committed with enough precision, the circumstances of the incident and the perpetrator's link to the crime.³¹²

123. As the Statute and the Elements of Crimes do not provide a particular mental element for the crime under article 7(1)(a), article 30 applies, and the material elements must be committed with intent and knowledge. In this regard, it is noted that ICC Chambers have interpreted article 30 relatively narrowly as requiring *dolus directus*, in the first or second degree (meaning to cause the consequence or acting with knowledge of a virtually certain consequence), excluding *dolus eventualis*.³¹³ It must therefore be shown that the perpetrator intended to cause the death of the victim, or was aware

³¹⁰ Rome Statute, article 7(1)(a); ICC Elements of Crimes, fn. 7. See also *Ongwen* Trial Judgment, [ICC-02/04-01/15-1762-Red](#), para. 2696; *Katanga and Ngudjolo* Confirmation Decision, [ICC-01/04-01/07-717](#), para. 421; *Bemba* Confirmation Decision, [ICC-01/05-01/08-424](#), para. 132; *Bemba* Trial Judgment, [ICC-01/05-01/08-3343](#), para. 87-90.

³¹¹ *Katanga and Ngudjolo* Confirmation Decision, [ICC-01/04-01/07-717](#), para. 296; *Karadžić* Trial Judgment, para. 446; *Martić* Trial Judgment, para. 58; *Orić* Trial Judgment, para. 347; *Kvočka et al.* Appeal Judgment, para. 261; *Galić* Appeal Judgment, para. 149; *Mucić et al.* Trial Judgment, para. 424; *Dorđević* Trial Judgment, para. 1708; *Popović et al.* Trial Judgment, para. 788; *Šainović et al.* Trial Judgment, para. 137; *Kupreškić et al.* Trial Judgment, para. 560.

³¹² *Bemba* Confirmation Decision, [ICC-01/05-01/08-424](#), para. 133.

³¹³ See *Lubanga* Appeal Judgment, [ICC-01/04-01/06-3121-Red](#), para. 444, 447, 449; *Katanga* Trial Judgment, [ICC-01/04-01/07-3436-tENG](#), para. 775-777; *Bemba* Confirmation of Charges Decision, [ICC-01/05-01/08-424](#), para. 362-363; *Ongwen* Trial Judgment, [ICC-02/04-01/15-1762-Red](#), para. 2695.

that the death would occur in the ordinary course of events as a result of his or her conduct.³¹⁴

124. In the Referral, it is alleged that over 40 individuals, in need of medical oxygen and/or access to medical care due to Covid-19, died as a result of the August 2020 blockades' prevention of oxygen and ambulances from reaching hospitals.³¹⁵ Certain information available from a few other sources similarly indicates that a generally comparable number of persons died allegedly as a result of or in connection to the blockades' obstruction of the passage/delivery of vital medical supplies.³¹⁶ However, no complete or detailed list of those individuals who died allegedly as a result of a lack of access to oxygen or related medical supplies and care stemming from the blockades appears to be available at this stage.
125. Beyond the identity of the individual alleged victims, likewise, there is limited to no information available on other key details necessary to determine whether (and if so, to what extent) the generally reported deaths can indeed be legally attributed to the alleged conduct of the protesters, as alleged. For example, except for a few of the reported deaths, there is no information on the date and location of each incident, the precise cause of death (or factors contributing to it) and relevant circumstances in which it occurred, such as whether the death resulted – at least in part – from the unavailability or lack of access to oxygen, medical supplies or medical attention that was caused specifically by the blockades' obstruction of transportation routes, as opposed to other reasons.
126. Even before the blockades, reportedly, there were significant shortages of medical oxygen and other necessary medical supplies and medicines, and in general the Bolivian healthcare system was overwhelmed in the face of the Covid-19 pandemic.³¹⁷ Information available also indicates that trucks carrying medical oxygen and other supplies as well as medical transports and personnel were allowed by protesters to pass the blockades on some occasions in some locations during the relevant period. Given such circumstances, among others, it cannot be presupposed that all of the relevant reported deaths necessarily have a connection to the acts of the protesters.³¹⁸
127. Overall, for most of the alleged deaths, the information available does not provide a basis to establish the requisite causal link between such deaths and the acts of the

³¹⁴ The phrase “ordinary course of events” refers to the situation where the person is aware that the consequence will occur, barring an extraordinary circumstance.

³¹⁵ Referral, para. 15, 37, 43, 56.

³¹⁶ See above para. 83.

³¹⁷ See above para. 38, 70.

³¹⁸ In this context, it is also noted that according to the information available, the number of Covid-19 deaths that occurred during the period of the blockades is generally consistent with the trends observed prior to and after this period. See above para. 88.

protesters, in terms of their blocking of medical transports and the delivery of oxygen and other vital medical supplies during the road blockades. Accordingly, the information presently available does not provide a reasonable basis to believe that the conduct of the protesters substantially contributed to the majority of the alleged deaths in question. Under these circumstances, the Office cannot conclude that such deaths could amount to murder under article 7(1)(a).

128. However, for nine of the deaths that reportedly occurred during the relevant period, some information available suggests that the conduct of the protesters in blocking and/or delaying the transport of oxygen or other necessary medical supplies may have indeed contributed substantially to the deaths of the victims.³¹⁹
129. Nonetheless, even for such deaths, the information presently available, on its face, does not support the conclusion that the protesters acted with the requisite intent for murder under article 7(1)(a).
130. On the one hand, at the outset of and throughout the blockades, Bolivian officials, various organisations, medical staff and families of patients publicly emphasised and denounced the dire consequences of and risks posed by the protesters' conduct on the health and treatment of – among others – Covid-19 patients, including at times explicitly linking deaths to shortages caused by the blockades, and calling upon the protesters to stop their blockading of the roads.³²⁰ Such statements appear to have been known to those involved in organising the blockades given their public responses – such as to the news media or as disseminated via social media – to the criticisms and claims regarding the purported damage being caused by the blockades in this regard.³²¹ In at least a few cases, leaders of some of the main organisations involved in organising the blockades even publicly apologised in a general sense for any damage or inconvenience being caused by their political protest to the Bolivian population.³²² Accordingly, while it appears that the protesters likely were generally aware that the blockades were potentially causing harm to the population, many protesters nevertheless continued to carry out the blockades and in particular to impede the timely passage of medical transports and trucks carrying oxygen and other vital medical supplies in many reported instances.³²³
131. However, on the other hand, there are number of additional or related considerations which, particularly when viewed collectively, tend to undermine any conclusion that the protesters acted with the requisite *mens rea* for the crime of murder under article

³¹⁹ See above para. 85.

³²⁰ See above para. 55, 71, 85, 90-91, 96.

³²¹ See above para. 57.

³²² See above para. 57.

³²³ See above para. 66, 69.

7(1)(a). For instance, in response to accusations that the blockades were exacerbating the Covid-19 crisis, the main organisers of the blockades apparently took measures to try to limit the impact of the blockades by issuing statements on a number of occasions instructing and/or calling upon their bases to grant the free passage of medical transports, personnel and supplies (such as oxygen) through the blockades.³²⁴ While such efforts suggest their awareness of possible negative consequences of the blockades on the health and treatment of patients, they also appear to be inconsistent with any intent to cause the death of (or otherwise harm) the patients in question. Thereafter, although such instructions were apparently not followed by all those participating in the blockades, protesters on some occasions indeed allowed the passage of medical transports and supplies through the blockades.³²⁵

132. In addition, the Office draws attention to the fact that the day after the start of the blockades, the government publicised measures being undertaken to ensure the transfer of necessary oxygen and other medical supplies despite the blockades, such as the establishment and use of air corridors, and the successful use of such alternative measures on some occasions was publicly reported in the local media while the blockades were ongoing.³²⁶ Such announcements – to the extent known to the protesters – may have affected their awareness or appreciation of the likelihood of negative consequences of their actions on the health or treatment of Covid-19 patients.
133. More generally, it also noted that the relevant events occurred in the context of severe political polarisation in Bolivia as well as alleged politicisation of the pandemic by both sides. Information available suggests that there was significant distrust among the opposition towards the interim government given among other things the relevant course of events leading to its assuming control over the country as well as accusations that the interim administration was taking advantage of the Covid-19 crisis in order to hold on to and consolidate power, while repressing political opponents.³²⁷ Representatives of the MAS – including Morales – and affiliate organisations at times also specifically accused the interim administration of trying to shift the blame for the extent of the health crisis facing the country onto the opposition and protesters, arguing that oxygen and medicine were already scarce prior to the blockades and that it was the government’s handling of the crisis that was instead the cause of the harm being suffered by the population.³²⁸ Against this background, it is subject to question

³²⁴ See above para. 67, 72.

³²⁵ See above para. 68.

³²⁶ See above para. 73-74.

³²⁷ See, e.g., NPR, [‘We Can’t Stand It Anymore’: Bolivian Protesters Demand Quick Elections](#), 11 August 2020; New York Times, [Bolivia Under Blockade as Protesters Choke Access to Cities](#), 7 August 2020; Center for Economic and Policy Research, [How Bolivia’s de Facto Regime Has Taken Advantage of COVID-19 to Consolidate Its Power and Repress Political Rivals](#), 3 June 2020; The Economist, [Bolivia needs an election, but covid-19 makes that hard](#), 16 May 2020.

³²⁸ See above para. 56, 72.

whether the statements by government officials and others about the lethal consequences and risk of harm posed by the blockades to Covid-19 patients would have been afforded much weight (or taken seriously) by the protesters. Thus, it is unclear whether such statements would have effectively put the protesters on notice of the virtually certain consequences of their conduct.

134. On balance, overall, the information available at this stage does not provide a sufficient basis upon which to conclude that the relevant protesters acted with necessary intent for murder under article 7(1)(a). While in the Referral it alleged that the organisers of the blockades were motivated by a plan or purpose “to cause death in the population”,³²⁹ the information available at this stage does not appear to substantiate this claim. Additionally, although the protesters may have foreseen the possibility or risk that deaths might occur as a result of the blockades (and even accepted this risk), this is not sufficient to satisfy the mental element of the crime under article 7(1)(a) of the Statute.³³⁰
135. Even if it were considered, in the alternative, that the *mens rea* for the underlying act under 7(1)(a) was met for some of the deaths potentially attributable to protesters’ conduct,³³¹ the requisite contextual elements of crimes against humanity are not met, in any event, as concluded previously above.³³²
136. The Office therefore concludes that the information available does not provide a reasonable basis to believe that the alleged conduct constitutes murder as a crime against humanity under article 7(1)(a) of the Statute.

b) Other inhumane acts

137. The crime of other inhumane acts requires that: (i) the perpetrator, either by act or omission, inflicted great suffering, or serious injury to body or to mental or physical health, by means of an inhumane act, (ii) such act was of a character³³³ similar to any other act referred to in article 7(1) of the Statute, and (iii) the perpetrator was aware of the factual circumstances that established the character of the act.³³⁴ ICC Chambers have held that this crime “must be interpreted conservatively” in order to not “expand uncritically the scope of crimes against humanity.”³³⁵

³²⁹ Referral, para. 14. *See also ibid.*, para. 13.

³³⁰ *See, e.g., Katanga Trial Judgment*, [ICC-01/04-01/07-3436-tENG](#), para. 775.

³³¹ *See above* para. 85, 128.

³³² *See above* para. 110-119.

³³³ The term “character” refers to the nature and gravity of the act. ICC Elements of Crimes, article 7(1)(k), fn. 30.

³³⁴ ICC Elements of Crimes, article 7(1)(k).

³³⁵ *Ongwen Trial Judgment*, [ICC-02/04-01/15-1762-Red](#), para. 2741; *Muthaura et al. Confirmation of Charges Decision*, [ICC-01/09-02/11-382-Red](#), para. 269.

138. Regarding the requisite mental element, pursuant to article 30, the perpetrator must have intended to inflict great suffering, or serious injury to body or to mental or physical health, or have been aware that such consequence would occur in the ordinary course of events as a result of his or her conduct.
139. In the Referral, it is alleged that the conduct of the protesters in impeding the Bolivian population's access to public health supplies and services through the road blockades also caused other serious harm which amounts to other inhumane acts under article 7(1)(k) of the Statute.³³⁶ In this regard, it is alleged that such harm was inflicted in particular on: (i) (the previously referenced) Covid-19 patients who died as a result of lack of timely access to oxygen given the nature of the suffering entailed in death by suffocation,³³⁷ and (ii) the rest of Bolivian population more generally given the "anxiety" caused by "the possibility of dying without being able to be treated in public hospitals, or in conditions that allow them to access to medical supplies, treatments and, above all, medical oxygen."³³⁸ According to the Referral, the protesters purposefully inflicted such harm.³³⁹
140. Regarding the alleged harm inflicted on those who died, the Office recalls its conclusion above that on the basis of the information currently available, the requisite causal link between most of the alleged deaths and the acts of the protesters cannot be established.³⁴⁰ Likewise, any harm suffered by the same persons through or in connection to the particular manner of their death (i.e., suffocation) thus cannot be sufficiently attributed to the acts of the protesters.
141. Even for the limited number of cases where it could be considered that the protesters substantially contributed to the deaths, there is insufficient information available regarding the individual circumstances of the respective affected persons, such as in the relevant period up to their deaths. It is therefore not possible to assess the nature of seriousness of any physical and/or mental harm in fact suffered by such persons, in order to confirm that such suffering or injury inflicted was of a sufficient degree of severity to meet the requirements of the other inhumane acts under article 7(1)(k).³⁴¹ Further, for the same reasons previously outlined in the context of alleged murder, the information available does not necessarily show that the protesters acted with the

³³⁶ Referral, para. 38-39, 43, 112, 119-120.

³³⁷ Referral, para. 19.

³³⁸ Referral, para. 43. *See also ibid.*, para. 119 ("Death due to lack of oxygen is one of the complications of COVID 19 most feared by the population and by any natural perception of human life.").

³³⁹ Referral, para. 13, 17.

³⁴⁰ *See above* para. 124-127.

³⁴¹ *See for example Katanga and Ngudjolo Confirmation of Charges Decision*, [ICC-01/04-01/07-717](#), para. 453-454 (referring to ICTY jurisprudence that, *inter alia*, the victim must have suffered serious bodily or mental harm and the degree of severity must be assessed on a case-by-case basis with due regard for individual circumstances).

requisite intent for the crime under article 7(1)(k).³⁴² Although it appears that protesters were aware that the blockades' would to a certain extent negatively impact the Bolivian population and cause disruptions in their daily lives,³⁴³ the information available at this stage does not show that they were aware that *great* suffering in particular would necessarily be caused by the conduct of the blockaders, much less intended to cause such degree of suffering.

142. With respect to the alleged anxiety triggered by the conduct of the protesters in the context of the pandemic, it is difficult to assess this allegation given, among other things, the generalised nature of the harm alleged to have been suffered by the Bolivian population at large. Nevertheless, the Office takes note of information available regarding the variously reported general feelings of despair, anxiety, and anger among, for example, medical staff who had to ration their supplies as well as Covid-19 patients, other infirm persons and their loved ones who were unable to find timely, adequate medical treatment due to the shortages of vital medicines and supplies that were exacerbated by the blockades carried out by protesters.³⁴⁴
143. However, the information available does not show that such anxiety and similar feelings (as well as any related physical ailments) thereby allegedly caused, under the circumstances, would have entailed a sufficient degree of harm as to qualify as "great suffering, or serious injury to body or to mental or physical health" within the scope of article 7(1)(k). This conclusion is not meant to trivialise or minimise the anxiety, fear and anguish that may have been experienced by Bolivians during the blockades, including but not limited to those persons suffering from Covid-19 infections, their families as well as those particularly at risk during the pandemic. Instead, it reflects the relatively high threshold of harm required to trigger the applicability of the crime under article 7(1)(k) of the Statute.
144. In addition to the above alleged types of harm inflicted, the Office also takes note of information available, as previously outlined, indicating that the reduced availability of medical oxygen, medicines and other supplies also posed heightened risks to the life and health of a number of patients generally, including Covid-19 patients as well as other types of patients in need of oxygen, such as prematurely born babies.³⁴⁵ However, while the risks posed to such groups of persons by the blockades were publicly highlighted by various hospital personnel and others, there appears to be no information available at this stage on specific incidents in which such risks materialised into concrete (physical or mental) harm inflicted. While one association also indicated that some infants indeed suffered irreparable damage as a result of

³⁴² See above para. 130-134.

³⁴³ See *for example* above para. 57.

³⁴⁴ See above para. 90-91, 94-96.

³⁴⁵ See above para. 89-92.

being deprived sufficient oxygen, at this stage, the Office has no further information on such referenced cases.

145. In addition to the above considerations, the Office is also of the view that, taking into account all of the factual circumstances (and even considering the special circumstances of the pandemic), the alleged conduct of the protesters, in general, is not of a character similar to other acts under article 7(1). In particular, the conduct in question does not appear to be factually comparable in its gravity to acts under article 7(1)(a)-(j).³⁴⁶ Accordingly, in any case, the alleged acts of the perpetrators do not qualify as an 'other inhumane act' within the meaning of article 7(1)(k) of the Statute.
146. Even if it were considered, in the alternative, that the requisite elements of the act under 7(1)(k) were made out in relation to some or any of the above-mentioned different types of harm allegedly inflicted by the protesters, the required contextual elements of crimes against humanity are not met, in any event, as concluded previously above.³⁴⁷
147. Finally, the Office recalls that there were some limited reported incidents of violent confrontations in which protesters allegedly physically assaulted and mistreated individuals who attempted to engage in efforts to counter or document the blockades or cross the barricades.³⁴⁸ At this stage, the Office only possesses detailed information on a few of such incidents.³⁴⁹ Nonetheless, based on such information available, it appears that the conduct of the protesters in those few incidents could potentially amount to other inhumane acts under article 7(1)(k). However, such acts do not appear to have formed part of any identifiable attack directed against the civilian population, as concluded above.³⁵⁰
148. The Office therefore concludes that the information available does not provide a reasonable basis to believe that any of the alleged conduct of protesters amounts to other inhumane acts as a crime under article 7(1)(k) of the Statute.

VII. CONCLUSION

149. Having completed an assessment of all of the information available, and for the reasons set out in this report, the Prosecutor has concluded that there is no a

³⁴⁶ In this respect, it is recalled that the great suffering or serious injury must have been inflicted *by means of* an "inhumane act". Accordingly, in addition to the showing of a sufficient degree of harm to the victim(s), the perpetrator's conduct must be similar in character (i.e. nature and gravity) to other article 7(1) acts. ICC Elements of Crimes, article 7(1)(k), para. 1-2.

³⁴⁷ See above para. 110-119.

³⁴⁸ See above para. 98-99.

³⁴⁹ See above para. 98-99.

³⁵⁰ See above para. 118.

reasonable basis to believe that any crimes falling within the subject-matter jurisdiction of the Court have been committed within the scope of the referred situation in Bolivia. Accordingly, there is no reasonable basis to proceed with an investigation and this preliminary examination has been brought to a close.³⁵¹

150. The Office's findings are without prejudice to a State's duty to provide any effective remedy that may be warranted under the circumstances to affected persons under national or international law more generally.

³⁵¹ As set out in article 53(4), the Prosecutor may, at any time, reconsider this decision based on new facts or information. The referring State Party may further request the Pre-Trial Chamber to review the Prosecutor's decision not to proceed with an investigation, pursuant to article 53(3)(a) within 90 days following notification of this decision. *See also* ICC Rules of Procedure and Evidence, rules 105, 107, 108.