

THE BACHELET REPORT: AN EVICTION NOTICE TO THE REGIME

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The purpose of the *Bachelet Report*, issued on July 4th, 2019 was to display an “overview of the human rights situation” in Venezuela from January 2018 to May 2019,¹ stressing what it called “*patterns of violations directly and indirectly affecting all human rights – civil, political, economic, social and cultural*” (§2); in other words, every right of all Venezuelans, affecting also all the population.

The *Report* is, in itself, an eviction notice to the regime: namely, a formal notice to dispossess the power in Venezuela and soon, moreover, “immediately”.

To that effect, the *Report* explains and documents thoroughly all those violations, after it evaluated “the credibility and reliability of all sources and crosschecked the information gathered to confirm its validity” (§8). It reveals not only an unbearable picture of horror, which affects every aspect of human dignity, but above all, that *the regime of the totalitarian State is the only culprit and responsible of this*, which has been led by a government that acts as some kind of an evil and irresponsible “gang” that raided the power as soon as 1999, first, in order to destroy, annihilate and persecute all that could exist as institutions and principles of the country, and second, in order to subdue an unarmed population to their own will; all of which has been ensured through an incompetent and amorphous bureaucracy, in many cases in association with all sort of criminal groups in order to keep on controlling the reins of power for their own benefit.

Therefore, after reading the *Report*, the only conclusion that can be drawn of it, when adequately interpreted, is that apart from demonstrating in broad terms the horror that the country is living, which as a matter of fact, are

¹ See “Report of the United Nations High Commissioner for Human Rights on the situation of Human rights in the Bolivarian Republic of Venezuela” of July 4th, 2019, at https://www.ohchr.org/EN/HRBodies/HRC/RegularSessions/Session41/Documents/A_HRC_41_18_SP.docx. The “Comments by the State” (“Statements on factual errors in the United Nations High Commissioner’s Report on the human rights situation of the Bolivarian Republic of Venezuela”), can be found at https://www.ohchr.org/EN/HRBodies/HRC/RegularSessions/Session41/Documents/A_HRC_41_18_Add.1.docx

“notorious media facts”, well known by everyone, and thus not requiring much evidence to disclose, what raises –particularly in its recommendations– is a set of measures that could only be applied and executed by a different government than the one that has caused and is causing all the horrifying acts denounced. It would require a democratic government, democratically elected, and operating within the Rule of Law parameters.

In other words, it is simply impossible for the government that rules Venezuela since 1999 to apply the recommendations contained in the *Report*, and Mrs. Bachelet is aware of this. This is the reason why, it should be seen as an authorized denounce referring to the systemic violations of all human rights in the country, and as a “direct message” to the predator regime, that it must evict the power, that “they have to go, the usurpation must cease and the democratic order restored. And nothing else”.²

In my opinion, this is how we must assess the *Report*, so it does not become another report of the many others that have been drawn regarding human rights violations in so many countries and that, Venezuelans and all the democratic governments that have supported the transition process towards democracy lead by the National Assembly, can continue to work in ceasing the usurpation and restoring the Rule of law and the mechanisms to protect human rights in the country.

I. THE HIGH COMMISSIONER’S ACKNOWLEDGEMENT OF THE DISMANTLING PROCESS OF DEMOCRATIC INSTITUTIONS.

In fact, the *Report* proves, as we have been denouncing since 1999, that the regime has dismantled all democratic institution and eradicated any thought of separation of powers, provoking the disappearance of all the checks and balances on the functioning of the State; with the consequence that currently in Venezuela there is an uncontrolled State, managed by an irresponsible group of leaders with an oppressing inclination.

1. The disappearance of the separation of powers

As a matter of fact, the *Report* gives an account of how:

“Over at least a decade, the Government and government-controlled institutions enforced laws and policies that have accelerated the *erosion of the rule of law and the dismantlement of democratic institutions*, including the National Assembly” (§30).

With regards to the National Assembly, the *Bachelet Report* was emphatic in stating, in footnote (26), that:

“[The National Constituent Assembly] [e]stablished in August 2017 after an electoral process that lacked political inclusivity and was marred with irregularities. [...] assumed *de facto* the constitutional responsibilities of the National Assembly”.

² @arbrewercarias.Tweet of July 6,2019

Moreover, the *Report* asserts in another footnote (23):

“The “*Tascón List*” was an early marker of discrimination and persecution on political grounds. A database of over 3 million Venezuelans who supported a referendum to revoke the mandate of the then President Hugo Chávez in 2003-2004, the list was used to massively dismiss civil servants” (§30).

“These measures are aimed at neutralizing, repressing and criminalizing political opponents and people critical of the Government” (§30).

“This trend has accelerated since 2016, after the opposition won the majority of National Assembly seats, resulting in *increased repression targeting the political opposition, and steadily reducing the already limited democratic space*” (§30).

2. *The absence of Justice: the disappearance of a reliable Judicial Power and of its autonomy and independence*

Specially within this framework, with regards to the massive violations of human rights denounced in the *Report*—that are impossible to control due to the total erosion of State institutions needed for it—the dire situation of the Judiciary and of the rest of the State’s control organisms is analyzed in detail.

A. Lack of autonomy and independence

With regards to the Judiciary, to justice and to the rights for citizens to access it, the *Report* states the following:

“For over a decade, Venezuela has adopted and implemented a series of laws, policies and practices, which *have restricted the democratic space, weakened public institutions, and affected the independence of the judiciary*” (§76).

“The *lack of independence of, and corruption within the judiciary* are also major obstacles faced by victims in their search for justice and reparation” (§56).

Justice as such, aside from being innocuous for the protection of human rights, has become the instrument by excellence to persecute the dissident, as it is highlighted by the *Report* when mentioning that:

“[In] 2019, 22 deputies of the National Assembly, including its President, have been stripped of their parliamentary immunity by the Supreme Court of Justice. Many of them have been charged with treason, conspiracy, incitement to insurrection, civil rebellion, [...]” (§37).

B. Violation of the judicial guarantees and the absence of the right to access justice and judicial protection

The *Report* notes that “The Government has recognized that a problem exists regarding access to justice for all people” (§53), illustrating for instance that the people that have claimed for those “killed during the mass protests of 2017 continue to face pervasive obstacles to their rights to truth, justice, and reparation” (§55).

It also asserts that:

“The majority of victims of human rights violations highlighted in this report have had no effective access to justice and remedies” (§54).

“According to interviewees, few people file complaints for fear of reprisals and lack of trust in the justice system. When they do, authorities do not investigate or do not conduct prompt, effective, thorough, independent, impartial and transparent investigations” (§54).

“judicial authorities have often reversed the burden of proof refusing to open investigations if the victims did not identify perpetrators” (§43).

C. The overall situation of impunity

The absence of justice and to the right to access it, causes an overall situation of impunity that characterizes the situation in the country, regarding which the *Report* states that:

“The State has systematically denied victims of human rights violations their rights to truth, justice, and reparation. Impunity has enabled the recurrence of human rights violations, emboldened perpetrators, and side-lined victims” (§80).

“Impunity factors identified in 2018 remain, including the lack of cooperation of security and armed forces with investigations, the tampering with crime scenes and evidence by security forces, undue delays in judicial proceedings, high turnover of prosecutors and judges, and de facto immunity of senior officials” (§56).

3. The disappearance of other control functions and of the autonomy and independence of the Citizen Power.

The dismantling of democratic institutions and of the separation of powers principle, abovementioned, has not only affected the Legislative Power and who is in charge of executing it, that is, the National Assembly, but also, in the field of protection of human rights, it has affected the organs of Citizen Power, to which the *Report* expressed that:

“Institutions responsible for the protection of human rights, such as the Attorney-General’s Office, the courts and the Ombudsperson, usually *do not conduct prompt, effective, thorough, independent, impartial and transparent investigations* into human rights violations and other crimes committed by State actors, *bring perpetrators to justice, and protect victims and witnesses*. Such *inaction contributes to impunity and the recurrence of violations*” (§33).

“*The authorities have failed to conduct prompt, effective, thorough, independent, impartial and transparent investigations into credible allegations of torture and ill-treatment, including SGBV, to bring the alleged perpetrators to justice and to provide reparation to the victims*” (§43).

“The Attorney-General’s Office has regularly failed to comply with its obligation to investigate and prosecute perpetrators, and the

Ombudsperson *has remained silent vis-à-vis human rights violations*” (§57).

“Neither of these institutions, nor the Government or the police provide protection to victims and witnesses of human rights violations” (§57).

“Further, the Attorney-General *has contributed to public rhetoric stigmatizing and discrediting the opposition and those critical of the Government, in violation of the principle of presumption of innocence*” (§57).

4. Recommendations:

Among the recommendations, on all this situation of destruction of the democratic institutions and the eradication of separation of power principle, the *Report* calls on the regime, “to immediately:”

“(j) Take effective measures to restore the independence of the justice system and ensure the impartiality of the Attorney-General’s Office and the Ombudsman” (§81).

It is evident that in order to implement this recommendation it is crucial that the power assailants are evicted, and to establish a democratic regime functioning under the Rule of law, which would be the only one that would allow to reestablish the independence and autonomy of all the branches of government.

II. THE REGIME AND THE STATE AS THE RESPONSIBLE FOR THE MASSIVE VIOLATION OF ECONOMIC AND SOCIAL RIGHTS

In that state of dismantlement of the democratic principles and institutions, the uncontrolled State, managed by an insatiable bureaucracy, is directly responsible through actions, errors or omissions of the violations of social rights, especially the right to food and the right to health, on which the *Report* dedicates the first observations mentioning that:

“OHCHR considers there are reasonable grounds to believe that grave violations of economic and social rights, including the rights to food and health, have been committed in Venezuela” (§75).

The *Report* also acknowledge that “the Government refused to acknowledge the scale of the crisis and failed to adopt appropriate measures” (§75); stressing that “The Government has assigned blame for the economic crisis on sanctions imposed on Venezuela” (§26).

On this regard, the *Report* was emphatic when precisising that “The economy of Venezuela, particularly its oil industry and food production systems, were already in crisis before any sectoral sanctions were imposed” (§27), although it granted that “Recent economic sanctions are exacerbating the economic crisis” (§75).

In all events, the truth is that the crisis and the massive violation of fundamental rights to food and health were due to the existence or lack of governmental policies, on which the *Report* stressed that:

“Misallocation of resources, corruption, lack of maintenance of public infrastructure, and severe underinvestment has resulted in violations to the right to an adequate standard of living related to the collapse of public services such as public transportation, access to electricity, water, and natural gas” (§12).

1. Regarding the violation to the right to food and the State obligation to ensure the population is free from hunger.

Particularly, in terms of the “violations of the right to food, *including the State’s obligation to ensure the population is free from hunger*” (§13), the *Report* clearly states that:

“The Government has not demonstrated that it has used all resources at its disposal to ensure the progressive realization of the right to food, nor that it has unsuccessfully sought international assistance to address gaps” (§13).

“[The] economic and social policies adopted over the past decade have undermined food production and distribution systems, increasing the number of people that rely on food assistance programs” (§15.)

“Lack of access to food has a particularly adverse impact on women [...] Local sources reported some women being compelled to exchange sex for food” (§14).

2. Regarding the violation to the right of health.

As it is accounted for in the *Report* “The situation regarding the right to health in Venezuela is dire” (§16), being:

“Violations of the right to health resulted from the Government’s failure to fulfil its core obligations, which are non-derogable, even for economic reasons” (§20).

“Violations of core obligations were linked to the widespread lack of availability of, and access to, essential medicines and treatment, the deterioration of conditions in hospitals, clinics, and maternity clinics, insufficient provision of underlying determinants of health, including water and adequate nutrition, deterioration of immunization and preventative health programs, and restrictions on access to sexual and reproductive health” (§20).

Also, with regards to health matters, the *Report* stresses that: “Blackouts have caused irreparable harm, as evidenced by reports that indicate that 40 patients died as a result of the March 2019 power outages” (§19).

The *Report* adds that:

“Moreover, the failure of the Government to publish comprehensive data on public health, essential for the development and implementation

of an adequate response to the health crisis is a violation of the right to health” (§20).

All this has caused, as it is confirmed in the *Report*, not only “an exodus of doctors and nurses” (§16), but also “severe shortages in basic medical equipment, supplies and medicines” and “60 to 100 percent of essential drugs” (§16) to the point that “patients have to provide all necessities” (§16), and as a result “people died due to lack of supplies in hospitals” (§19); but also “previously controlled and eliminated diseases, including vaccine-preventable diseases such as measles and diphtheria, have re-emerged” (§17).

Adding to the latter the “risk of contracting HIV and other sexually transmitted diseases, and of unwanted and adolescent pregnancies” (§18) and the increase of “maternal mortality” due to the “[l]ack of skilled birth attendants, medical supplies and hospital conditions has driven many women to give birth abroad” (§18).

3. Regarding the political discrimination imposed on food and health programs.

The widespread destruction of the institutions in the country, progressively caused that the “*Misiones Bolivarianas*,” which were economic and social programs aimed at fighting poverty and social exclusion” (§21) would become gradually in instruments for domination since, as the *Report* stresses “*Venezuelans are increasingly relying on social programs to access to minimum levels of income and food*” (§21).

As the *Report* stressed, this implied, among other serious consequences, that:

“As the economic crisis deepened, the authorities began using social programs in a discriminatory manner, based on political grounds, and as an instrument of social control” (§75).

The *Report* gives broad account of this, when it refers for example to the “Local Committees for Supply and Food Distribution (CLAP)” and the local structure of “Community Councils” which “along with military and security forces” had as a mission “to distribute food assistance,” but it did not reach to many “people, who despite not having adequate access to food, were not included in the distribution lists of the CLAP boxes because they were not Government supporters” (§22).

The *Report* makes a similar reference to the program “*Carnet de la Patria*”, noting that this is:

“a card through which all social programs would now be delivered, including a new system of direct financial transfers to families. The list of beneficiaries of these programs is managed by the local structures of the governing parties, as opposed to Government institutions. Interviewees reported that members of these local structures monitor beneficiaries’ political activity” (§23).

The *Report* makes an extensive analysis about the discriminatory impact that government social programs had on women, noting that while they are

the ones “who carry the burden of household tasks and child rearing, [they] are the majority of beneficiaries of social programs related to health, food, and housing” (§24), and they also constitute, according to information provided by the government “72 percent of the membership of local community councils” (§24), however:

“*discrimination based on political grounds and social control through “carnets” has had a direct impact on their ability to exercise their rights*” (§24).

The *Report* gives an account of cases in which women, even local leaders “have been targeted due to their activism” due to their participation in “anti-government protests”, and how they were:

“*threatened by community leaders and pro-government civilian armed groups (armed “colectivos”) and excluded from social programs. Women reported not exercising their rights, including not speaking out against the Government, for fear of reprisals*” (§24).

4. One of the consequences of the violations of economic and social rights: the exodus of Venezuelans.

The *Report* concluded that the violations “of the rights to food and health are the primary drivers” (§70), that:

“The number of people compelled to leave Venezuela *has increased dramatically* since 2018 and reached over four million as at 6 June 2019 (<https://r4v.info/en/situations/platform>)” (§69).

Among the factors that motivated this exodus, the *Report* lists the fact that “[m]any seek *protection of their right to life with dignity*” (§70); “Other drivers are violence and insecurity, the collapse of basic services, and the deterioration of the education system” (§70); another factor is the “*lack of access to pre and post-natal care, and insufficient protection mechanisms from domestic violence*” (§70). All in all “*persecution on political grounds* is also forcing many Venezuelans” to leave e country (§70).

Also, the *Report* stresses that:

“The violations of economic and social rights that drive migration also affect the conditions in which people leave the country, the way people move, and the situations of vulnerability they face during migration” (§71).

5. Recommendations:

Among the recommendations in the *Report*, regarding all these violations to economic and social rights, the *Report* calls on the regime, “*to immediately:*”

“(a) Take all necessary measures to ensure *availability and accessibility of food, water, essential medicines and healthcare services*, including comprehensive preventative healthcare programs with particular attention to children’s and maternal services, including sexual and reproductive healthcare” (§81).

In addition, it calls on the regime to:

“(b) *Allocate the maximum available resources towards the progressive realization of economic and social rights in a transparent and accountable manner that allows the assessment of expenditures;*

(c) Allow *access to information* of public interest;

(d) Ensure provision of all social programs in a *transparent, non-politicized, and non-discriminatory* manner, including effective oversight and accountability measures;

(e) Increase *vaccination* coverage for preventable diseases and take adequate measures to control outbreaks of communicable diseases;

(f) Prioritize measures to *decrease early pregnancies, and ensure that all plans* regarding sexual and reproductive rights include measurable indicators and monitoring mechanisms” (§82).

Naturally, in order to implement these recommendations, it is essential evicting the assailants of power, and establishing a democratic regime in the country, functioning in a State under the Rule of law, which can be the only one that could impose an economic and social policy change, in order to guarantee the enjoyment of human rights.

III. THE REGIME AND THE STATE AS THE RESPONSIBLE FOR THE MASSIVE VIOLATION OF CIVIL AND POLITICAL RIGHTS.

In that global situation of dismantlement of the democratic principles and institutions that the *Report* accounts for, the same uncontrolled State, managed by the same insatiable and corrupted bureaucracy, is directly responsible through actions, errors or omissions for the violations of civil and political rights, specially the right of freedom of speech, right to security and individual freedom, to which the second observations of the *Report* are focused on.

1. Regarding the violations to the freedom of expression and opinion

Regarding the violations to the freedom of expression and opinion, the *Bachelet Report* explains how, over the past years:

“the Government has attempted to *impose a communicational hegemony* by enforcing its own version of events and creating an environment that *curtails independent media*” (§28).

As it is stressed in the *Report*, “this situation has continued to worsen in 2018-2019” (§28), providing an account of how:

“*Dozens of print media closed, and the Government shut down* radio stations and banned television channels” (§28).

“*Detention of journalists* increased, including of foreign journalists who were *expelled or left the country* immediately after having been released. Hundreds of Venezuelan journalists now live in exile” (§28).

In view of this general situation, in addition to documenting that this situation has led to “*arbitrary detention of people for expressing opinions on social media*” (§29), the *Report* also observes that:

“The Internet and social media have become the main means of communication and information for the population, *further limiting access to independent information* for those who do not have Internet access” (§28).

However, regarding this, according to the *Report* the reality is that:

“Internet speed is also steadily decreasing, even because of lack of investment in infrastructure” (§28).

“Additionally, in recent years, the Government *has blocked independent news websites* and regularly blocked the main social media platforms” (§28).

2. Regarding the violations to individual security and freedom, selective repression and persecution for political reasons

A. The violations instrument: the massive development of security forces and measures

The *Report* describes in detail the massive violations to civil and political rights and shows a picture of true horror. All this has been made possible by the deliberate development of an institution framework and security measures aimed to repress any dissidence, according to a repressive policy defined by the State.

The *Report* stresses that since 2016, in addition to having had “a “state of exception,” which has since been renewed every 60 days,” the government has:

“activated the Plan Zamora, a civil-military strategic security plan for the joint operation of armed forces, militias and civilians” (§31).

“These policies involve the *increased militarization of State institutions*” (§31).

“They also extend the use of the population in intelligence gathering and defense tasks, through local structures such as Community Councils, the *Unidades de Batalla Bolívar y Chávez* (UBChs), the *Comités Locales de Abastecimiento y Producción* (CLAPs) and the *Redes de Articulación y Acción Sociopolítica* (RAAS)” (§31).

The *Report* also stressed that:

“Although these measures have been adopted with the declared aim of preserving public order and national security against alleged internal and external threats, they have *increased the militarization of State institutions and the use of the civilian population in intelligence gathering and defense tasks*” (§76).

In terms of the security apparatus structured by the government, as the *Report* describes it, this includes:

“the Bolivarian National Guard (GNB), the Bolivarian National Police (PNB) and its Special Action Forces (FAES), the Bureau for Scientific, Criminal and Forensic Investigations (CICPC), the Bolivarian

National Intelligence Service (SEBIN), and the Directorate General of Military Counterintelligence (DGCIM)” (§32).

Regarding such forces, the *Report* elaborates regarding the Bolivarian National Guard (GNB) –part of the Armed Forces– and the Bolivarian National Police (PNB), that they:

“have been responsible for the *excessive use of force in demonstrations* since at least 2014” (§32).

Regarding the Special Action Forces (FAES) and the Bureau for Scientific, Criminal and Forensic Investigations (CICPC), the *Report* underscores that although it was:

“a rapid-response unit created in 2017 to combat organized crime, [it] *has allegedly been responsible for numerous extrajudicial executions* in security operations, as well as the CICPC” (§32).

Regarding the Bolivarian National Intelligence Service (SEBIN) and the Directorate General of Military Counterintelligence (DGCIM), the *Report* points that they:

“have been *responsible for arbitrary detentions, ill-treatment and torture of political opponents and their relatives*” (§32).

Lastly, regarding the “Armed *colectivos*”, the *Report* underlines that they:

“contribute to this system by exercising social control in local communities, and *supporting security forces in repressing demonstrations* and dissent” (§32).

B. The persecution policy against the opposition and dissidents.

One of the conclusions of the *Report* is that all this apparatus “has *enabled the Government to commit numerous human rights violations,*” specially mentioning that:

“The authorities have *particularly targeted certain individuals and groups, including members of the political opposition* and those perceived as threats to the Government due to their capacity to articulate critical positions and to mobilize others. This *targeted repression manifests itself in a multitude of human rights violations*, which may amount to *persecution on political grounds*” (§77).

Thus, the *Report* gives account of the development and usage of the security forces to persecute and repress:

“accompanied by a *public rhetoric*, including by high-level authorities, that constantly *discredits and attacks those who criticize or oppose the Government*” (§34).

“The *political opposition*, human rights activists and journalists, among others, are frequently the *targets of discourse labelling them as “traitors” and “destabilizing agents”*” (§34).

“This rhetoric is widely *disseminated through pro-government media*, such as the weekly TV program “*Con el Mazo Dando,*” presented by the President of the National Constituent Assembly (NCA)” (§34).

Additionally, the *Report* underscores that:

“laws and reforms have facilitated the *criminalization of the opposition and of anyone critical of the Government* through vague provisions, increased sanctions for acts that are guaranteed by the right of freedom of peaceful assembly, the *use of military jurisdiction* for civilians, and restrictions on NGOs to represent victims of human rights violations” (§35).

C. The persecution policy against workers, employees, civil servants and dissidents and their families for political reasons.

With reference to persecution in the labor field, for political reasons, the *Report* realized that:

“In 2018-2019, *various trade union leaders and many workers were fired or detained* after protesting for decent salaries and working conditions” (§36).

“Dozens of *health professionals* who denounced the state of healthcare *were dismissed and/or threatened*” (§36).

“*University staff critical of the Government was threatened with non-payment of salaries*, prevented from accessing their workplace and travelling abroad, and arbitrarily detained” (§36).

“*Human rights defenders were victims of defamation campaigns* in pro-government media, and *subjected to surveillance, intimidation, harassment, threats and arbitrary detention*” (§36).

“Attacks have also targeted *supporters of former President Hugo Chávez and military dissidents* as well as civil servants” (§36).

Regarding dissident women, the *Report* indicates that they:

“have faced gendered attacks such as sexist comments, *online gender-based violence, and public humiliation*” (§36).

Overall, it was found that:

“The *targeted repression of opposition members and social leaders instils fear* by demonstrating the possible consequences of opposing or merely criticizing the Government or expressing dissent.” (§36).

Regarding the families of the persecuted, the *report* showed that “Attacks against relatives of political opponents are part of the *targeted repression*” (§38); having documented “an increasing number of *arbitrary detention of relatives, particularly women, of alleged political opponents*” (§38).

3. Repression against the right to demonstrate and the violation of the right to individual security and to life.

The *Report* emphasizes in particular the repression that has taken place against the citizen’s political right to demonstrate, where the trait has been the excessive use of force and deaths in demonstrations against the government, that go unpunished.

In fact, the *Report* confirmed that in certain political protests or demonstrations against the government that had “increased in number and intensity since 2014,” the security forces:

“GNB, PNB, FAES and some state and municipal police forces, allegedly *used excessive force deliberately, to instill fear and discourage further demonstrations*” (§39).

In addition to the latter:

“Armed “*colectivos*” also resorted to violence against demonstrators, often in coordination with security forces. In many cases, these actions resulted in deaths and serious injuries” (§39).

Overall, the *Report* noted that “security forces also conducted *illegal house-raids targeting demonstrators*” (§40); that a large group of people were detained “for political reasons” “in the context of the demonstrations” (§41) and that specifically with reference to women protestors, they “were *arbitrarily detained and ill-treated or tortured*” (§40).

4. The violation of the right to physical integrity: arbitrary detentions, enforced disappearance, tortures and ill-treatments

The *Report* placed special emphasis in the arbitrary deprivation of liberty of hundreds of people, for political reasons, underlining that:

“the Government has used *arbitrary detentions* as one of the principal means to intimidate and repress the political opposition and any real or perceived expression of dissent since at least 2014” (§41).

Stressing that:

“In most cases, people were *detained* for exercising their fundamental rights, particularly *freedom of opinion, expression, association and peaceful assembly*” (§42).

The *Report* also mentioned cases of:

“...*enforced disappearances* until the authorities revealed the whereabouts of the individuals, days or weeks after their arrests.” (§42)

The *Report*, mentioned additionally in connection with the detentions for political reasons that:

“conditions of detention of a significant number of persons deprived of their liberty *do not meet basic international standards* for the humane treatment of detainees, and often constitute ill-treatment” (§45).

“Detention centers, especially preventive detention centers, are often *overcrowded and insalubrious*” (§45).

“Detainees have *limited access to food, water, sanitation, sunlight, and recreation facilities*. Their access to essential healthcare is restricted or even denied” (§45).

Another aspect stressed in the *Report* is regarding *torture and ill-treatments* to the detainees, noting that:

“In most cases, women and men *were subjected to one or more forms of torture or cruel, inhuman or degrading treatment or punishment, including electric shocks, suffocation with plastic bags, water boarding, beatings, sexual violence, water and food deprivation, stress positions and exposure to extreme temperatures*” (§43).

“Security forces and intelligence services, particularly SEBIN and DGCIM, *routinely resort to such practices to extract information and confessions, intimidate, and punish the detainees*” (§43).

Specially regarding women, the *Report* states:

“documented cases of SGBV against women and girls in detention, particularly by SEBIN and DGCIM elements and officers of GNB” (§44).

“*physical assaults, such as being dragged by the hair and inappropriate touching, threats of rape, forced nudity and gendered and sexist insults*, aiming at humiliating and punishing them, as well as extracting confessions” (§44).

5. Security operations, excessive use of force and contempt for life.

When referring to the security operations, the *Report* referred to “the FAES as a “death squad” or “extermination group”” (§47), considered in NGO’s reports as the “responsible for hundreds of killings” (§47).

Based on the received testimonies, the *Report* found that in order to perpetrate the abuses and atrocities, the FAES used a similar “*modus operandi*,” as:

“FAES would arrive in black pickup trucks without license plates and block access points in the area. They were dressed in black, without any personal identification, with balaclavas covering their faces. They would also carry long weapons” (§48).

The *Report* notes that following that procedure, the FAES:

“*breaking into their houses, taking their belongings, and exercising gender-based violence against women and girls, including forced nudity*” (§48).

“They would separate young men from other family members before shooting them. According to their relatives, *almost all of the victims had one or more shots in the chest.*” (§48)

6. Concealment as a State policy

With regards to the proceedings of FAES in those operations, the *Report* stresses:

“how FAES *manipulated the crime scene and evidence. They would plant arms and drugs and fire their weapons against the walls or in the air to suggest a confrontation* and to show the victim had “resisted authority”” (§49).

“In many cases, FAES *brought the victims to hospital even though they were already dead, apparently with the intention of manipulating the bodies and modifying the crime scene*” (§49).

“The authorities classify the killings resulting from security operations as “resistance to authority”” (§50).

“Information analyzed by OHCHR suggests *many of these killings may constitute extrajudicial executions*” (§50).

The *Report* highlights the case of:

“...*young men executed by FAES in reprisal of their role in anti-government protests in 2019*” (§52); and that:

“These *extrajudicial executions took place during illegal house-raids after demonstrations had ended and followed the same modus operandi* described above” (§52).

As a result, the *Report’s* conclusions indicated that:

“Thousands of people, mainly young men, *have been killed in alleged confrontations* with state forces during the past years” (§78).

“There are reasonable grounds to believe that *many of these killings constitute extrajudicial executions* committed by the security forces, particularly FAES” (§78).

“OHCHR is concerned that the authorities may be using FAES, and possibly other security forces, as part of a *policy of social control.*” (§78).

7. Recommendations:

Among the recommendations of the *Report*, regarding all those violations to *civil and political rights*, it calls on the regime “*to immediately:*”

(b) Take immediate measures to halt, remedy and prevent human rights violations, in particular, gross violations such as torture and extrajudicial executions;

(c) Conduct prompt, effective, thorough, independent, impartial, and transparent investigations into human rights violations, including killings of indigenous peoples, and bring perpetrators to justice;

(d) Release all persons arbitrarily deprived of their liberty;

(e) Halt, publicly condemn, punish and prevent all acts of persecution and targeted repression based on political grounds, including stigmatizing rhetoric and smear campaigns;

(f) Adopt effective measures to protect human rights defenders, and media professionals;

(g) Cease any intimidation and attacks against indigenous peoples, including leaders, and ensure their protection and take all necessary

measures to protect their individual and collective rights, including their right to land;

(h) Cease and prevent excessive use of force during demonstrations;

(i) Dissolve FAES and establish an impartial and independent national mechanism, with the support of the international community, to investigate extrajudicial executions during security operations, ensure accountability of perpetrators and redress for victims;

(k) Ensure the right to a remedy and reparation for victims, with a gender-sensitive approach, as well as guarantee their protection from intimidation and retaliation;" (§81)

In addition, that:

"(g) Reverse closures of media outlets, and cease other measures of censorship against media; guarantee access to Internet and social media, including to news websites, and impartiality of governing bodies in the allocation of radio spectrum frequencies;

(h) Disarm and dismantle pro-government armed civilian groups (armed "colectivos") and ensure investigations into their crimes;

(i) Protect persons, including those on the move, from abuses, corruption, and extortion by state agents;" (§82)

Of course, in order to implement all these recommendations it is also indispensable to evict from power its assailants, and to establish a democratic regime, that must function according to the rule of law, which is the only way through which is possible to guaranty human rights.

IV. THE REGIME AND THE STATE AS THE RESPONSIBLE FOR THE VIOLATION OF THE RIGHTS OF INDIGENOUS PEOPLE.

With regards to the overall situation of human rights reviewed in the *Report*, according to its own wording, particularly "[t]he economic and social rights of many indigenous peoples have been disproportionately affected" (§61).

About this, the *Report* elaborates that:

"*There are violations of indigenous peoples' collective rights to their traditional lands, territories, and resources*" (§62), and that:

"They have lost control of their land, including from militarization by State actors. Their presence has led to *violence and insecurity* in their territories in recent years, in addition to the presence of organized criminal gangs, and armed groups" (§62).

In particular, it addressed the toxic effects of:

"*Mining*, particularly in Amazonas and Bolivar [States], including in the "*Arco Minero del Orinoco*" region, has resulted in *violations of various collective rights*, including rights to maintain customs, traditional ways of life, and a spiritual relationship with their land" (§63).

“Mining also has *grave environmental and health impacts*, such as increased malaria, and contamination of waterway.” (§63).

The *Report* addresses specially the “*Pemon* communities who oppose the Government,” (§64), elaborating that:

“On 22 February *soldiers open-fired on members of the Pemon community* of Kumaracapay, killing three and wounding 12 others” (§66).

Among the recommendations of the *Report*, regarding all these violations to the rights of indigenous people, there was a special emphasis in the death of indigenous people by security forces, and calls on the regime “to *immediately*.”

“(c) Conduct prompt, effective, thorough, *independent, impartial, and transparent investigations* into human rights violations, including killings of indigenous peoples, and bring perpetrators to justice;” (§81)

Once again, and of course, in order to implement these recommendations, it is equally essential evicting the assailants of power, and establishing a democratic regime in the country, functioning in a State under the Rule of law, which would be the only one that could guarantee the enjoyment of human rights.

FINAL COMMENT

As we indicated at the beginning, after the picture of horror exposed by United Nations High Commissioner for Human Rights, Michelle Bachelet, following her visit to Venezuela in June 20 – 22, 2019, when in the “Recommendations” of the *Report* she “*calls on the Government of Venezuela to immediately*” to cease every action and omission of the Government bodies, which have provoked, for a couple of decades, the heinous violations to human rights depicted in the *Report*, such recommendations cannot be understood in other way than as a firm request to such government to abandon power, and immediately.

All the Recommendation presented in the *Report*, and Mrs. Bachelet is aware of this, can only be executed and implemented by a *democratic regime in the country, functioning in a State under the Rule of law*. That is why, since the current regime is not a democratic government, the recommendations are a call on the government to step away from power “immediately” so the transition to democracy, cease of usurpation and the implementation of free elections can occur, which are the only way that it can be guarantee the execution of the Recommendations of the *Report*.

And to verify this, one only must mention that while Mrs. Bachelet was staying in Caracas, precisely on June 21st, 2019, during the meetings she held, as the *Report* mentioned, with “President Nicolás Maduro, the Vice-president, the Minister of Foreign Affairs, high-level officials from 17 ministries (Including Interior, Defense, Health, Economy and Education)” (§4), officers of the Bolivarian Intelligence Service and the General Direction of Military Counterintelligence, were at that precise moment arresting Frigate-

Commander of the Venezuelan Navy Rafael Acosta Arevalo,³ along with other officers at a coffee shop in Caracas, who would die just a few days after the visit of Mrs. Bachelet concluded and before the *Report* was submitted on June 29th, as a consequence of the tortures he was subjected to.⁴ The last time he was seen alive, the day before, was in a wheelchair before a judge, where the only thing he could utter to his lawyer was “help.”⁵

It is certainly impossible to conceive a bigger mockery to what was to be one of the Recommendation of the *Bachelet Report*, that the government “*take immediate measures to halt, remedy and prevent human rights violations, in particular gross violations such as torture and extrajudicial executions.*”

Similarly, days before Mrs. Bachelet submitted her *Report*, in a brutal repression led by members of the Bolivarian National Police (PNB) against a peaceful demonstration of neighbors that were denouncing the lack of domestic gas services in *Táchira* State, a teenager was shot point-blank with pellets that left him blind.⁶

Similarly, it is certainly impossible to conceive a bigger mockery as well to what is to be one of the Recommendation of the *Bachelet Report*, that the government immediately “*Cease and prevent excessive use of force during demonstrations.*”

As Mary Anastacia O’Brady assessed “The findings put into the U.N. record what the humanitarian groups have been documenting for years: Venezuela is a pit of state-sponsored brutality.”⁷ So that only by changing the

³ See article by Sandra Guerrero “El cadáver del capitán Acosta Arévalo lleva ocho días en la morgue” published in *El Nacional*, July 6th, 2019 in http://www.el-nacional.com/noticias/sucesos/cadaver-del-capitan-acosta-arevalo-lleva-ocho-dias-morgue_287620

⁴ See article: “Venezuela: Denuncian que militar detenido fue torturado hasta morir. El capitán de corbeta Rafael Acosta Arévalo estaba detenido desde la semana pasada. La fiscalía de Venezuela lo investigaba por un supuesto plan para derrocar y asesinar a Nicolás Maduro. La activista Tamara Suju denunció que fue torturado hasta morir,” published in *El Comercio* on June 29th, 2019 at <https://elcomercio.pe/mundo/venezuela/venezuela-rafael-acosta-arevalo-capitan-corbeta-murio-torturado-agentes-direccion-general-contrainteligencia-militar-dgcim-denuncia-tamara-suju-noticia-650701>.

⁵ See article: “Comunidad internacional pide investigación por muerte de Rafael Acosta Arévalo por presuntas torturas,” published in *CNN Español* on July 3rd, 2019 at <https://cnnespanol.cnn.com/2019/07/03/comunidad-internacional-pide-investigacion-muerte-por-presuntas-torturas-contramilitar-venezolano/>

⁶ See article: “La brutal represión de Maduro dejó ciego a un adolescente de 16 años. Rufo Chacón había ido a reclamar por la falta de gas junto con su madre en el estado de Táchira cuando le dispararon directamente al rostro. Lo van a operar, pero los médicos ya confirmaron que no podrá volver a ver.” Published in *Infobae* on July 2nd, 2019 at <https://www.infobae.com/america/Venezuela/2019/07/02/un-adolescente-de-16-anos-perdio-sus-ojos-por-la-brutal-represion-del-regimen-de-nicolas-maduro-durante-una-protesta-en-venezuela/>.

⁷ See Mary Anastacia O’Brady’s article “Life and Death in Caracas” published in *The Wall Street Journal* on July 8th, 2019. Page A15.

regime that mandates that State, is that such well could be cleaned and disinfected.

New York, July 8th, 2019.