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Human rights situations that require the Council's attention

Detailed findings of the independent international fact-finding mission on the Bolivarian Republic of Venezuela:

The human rights situation in the Arco Minero del Orinoco region and other areas of the Bolívar state

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Table of acronyms

ABRAE	Áreas bajo Régimen de Administración Especial (Areas under Special Administration Regime)
ADI	Áreas de Defensa Integral (Integrated Defence Areas)
ALUNASA	Aluminios Nacionales S.A.
Aretauka	Arekuna, taurepan and kamarakoto (Pemon indigenous security corps)
BCV	Banco Central de Venezuela (Central Bank of Venezuela)
CAMIMPEG	Compañía Anónima Militar para las Industrias Mineras, Petrolíferas y de Gas S.A. (Military Joint Stock Company for Mining, Oil and Gas Industries)
CARBOTURVEN	Sociedad Anónima Carbones de Turquía y Venezuela S.A.
CCGPP	Consejo de Caciques Generales del Pueblo Pemón (Council of General Chiefs of the Pemon People)
CECODAP	Centro Comunitario de Aprendizaje (Community Learning Centre)
CEDAW	United Nations Committee on the Elimination of Discrimination against Women
CEOFANB	Comando Estratégico Operacional (Strategic Operational Command)
ICSID	International Centre for Settlement of Investment Disputes
CICPC	Cuerpo de Investigaciones Científicas, Penales y Criminalísticas (Scientific, Criminal and Criminalistic Investigations Corps)
IACHR	Inter-American Commission on Human Rights
CLAP	Comité Local de Abastecimiento y Producción (Local Supply and Production Committee)
CNE	Consejo Nacional Electoral (National Electoral Council)
CODEHCIU	Comisión para los Derechos Humanos y la Ciudadanía (Commission on Human Rights and Citizenship)
CORPOELEC	Corporación Eléctrica Nacional S.A. (National Electric Corporation)
CVM	Corporación Venezolana de Minería (Venezuelan Mining Corporation)
CVG	Corporación Venezolana de Guayana (Venezuelan Guyana Corporation)
DGCIM	Dirección de Contrainteligencia Militar (Directorate of Military Counter-intelligence)
EDELCA	Electrificación del Caroní C.A. (Electric Company of Caroní)
ELN	Ejército de Liberación Nacional (National Liberation Army)
EMASPROFORN	Empresa Militar para el Aprovechamiento Sustentable de Productos Forestales y Recursos Naturales S.A. (Military Company for the Sustainable Use of Forest Products and Natural Resources S.A.)
EMILTR	A Empresa Militar de Transporte de la Fuerza Armada Bolivariana (Military Transport Company of the Bolivarian Armed Force)
FANB	Fuerza Armada Bolivariana (Bolivarian Armed Force)
FARC	Fuerzas Armadas Revolucionarias de Colombia (Revolutionary Armed Forces of Colombia)

FMO	Ferrominera del Orinoco C.A. (Iron Mining Company of the Orinoco)
FRP	Frente Revolucionario del Perú (Revolutionary Front of Peru)
GNB	Guardia Nacional Bolívariana (Bolívarian National Guard)
HIV	Human Immunodeficiency Virus
ICCPR	International Covenant on Civil and Political Rights
ILO	International Labour Organization
INAC	Instituto Nacional de Aeronáutica Civil (National Institute of Civil Aeronautics)
IUCN	International Union for Conservation of Nature
INGEOMIN	Instituto Nacional de Geología y Minería (National Institute of Geology and Mining)
IPP	Independientes por el Progreso (Independents for Progress)
LGBTI	Lesbian, Gay, Bisexual, Transgender, Transexual and Intersex
MAVETUR	Maderas de Venezuela y Turquía (Timber from Venezuela and Turkey)
MIBITURVEN	Sociedad Anónima Minería Binacional Turquía-Venezuela S.A. (Joint Stock Company Binational Mining Turkey-Venezuela S.A.)
MINERVEN	Corporación Venezolana de Guayana Minerven C.A.
MNB	Milicia Nacional Bolívariana (Bolívarian National Militia)
NGO	Non-Governmental Organisation
OECD	Organisation for Economic Co-operation and Development
OHCHR	Office of the United Nations High Commissioner for Human Rights
OOV	Observatorio Venezolano de Violencia (Venezuelan Violence Observatory)
PDVSA	Petróleos de Venezuela S.A. (Oil Company of Venezuela)
PEB	Policía del Estado Bolívar (Bolívar State Police)
PNB	Policía Nacional Bolívariana (Bolívarian National Police)
PEP	Politically exposed persons
RAISG	Red Amazónica de Información Socioambiental Georreferenciada (Amazonian Geo-referenced Socio-environmental Information Network)
RECIM	Regiones de Contrainteligencia Militar (Military Counterintelligence Regions)
REDI	Regiones Estratégicas de Defensa Integral (Strategic Regions of Integral Defence)
REDIN	Regiones Estratégicas de Inteligencia (Strategic Intelligence Regions)
REDIP	Región Estratégica de Investigación Penal (Strategic Criminal Investigation Region)
SEBIN	Servicio Bolívariano de Inteligencia Nacional (Bolívarian National Intelligence Service)
SENAMECF	Servicio Nacional de Medicina y Ciencias Forenses (National Service of Medicine and Forensic Science)
STD	Sexually Transmitted Diseases
TSJ	Tribunal Supremo de Justicia (Supreme Court of Justice)

UCAB	Universidad Católica Andrés Bello (Andrés Bello Catholic University)
UNESCO	United Nations Educational, Scientific and Cultural Organisation
UNFPA	United Nations Population Fund
VENALUM	Venezolana de Aluminios S.A. (Aluminium Company of Venezuela)
WGIA	Working Group on Indigenous Affairs
WHO	World Health Organisation
ZEEMEF	Zona Económica Militar Especial de Desarrollo Forestal (Special Military Economic Zone for Forestry Development)
ZOCIM	Zonas de Contrainteligencia Militar (Military Counterintelligence Zones)
ZODI	Zonas Operativas de Defensa Integral (Operational Zones of Integral Defence)

I. Introduction

A. Mandate

1. On 27 September 2019, through resolution 42/25, the Human Rights Council established an independent international fact-finding Mission on the Bolivarian Republic of Venezuela (hereinafter “the Mission”). On 6 October 2020, the Human Rights Council extended the Mission’s mandate for two additional years, until September 2022, through resolution 45/20.

2. Resolution 45/20 allowed the Mission to continue investigating serious human rights violations, including extrajudicial executions, enforced disappearances, arbitrary detention, torture and other cruel, inhumane and degrading treatment, including those involving sexual and gender-based violence since 2014. At the time of writing this report, the expert members of the Mission were Marta Valiñas, from Portugal (Chairperson),¹ Francisco Cox, from Chile² and Patricia Tappatá, from Argentina.³ The experts carried out their work *ad honorem*.

3. The Human Rights Council requested the Mission to prepare a report to present its findings to the Council during an interactive dialogue at its fifty-first session.⁴ The Mission has prepared three documents: (1) the mandated report presented to the Human Rights Council (A/HRC/51/43); (2) a first conference room paper on the role of State’s intelligence services, in enabling, promoting and committing human rights violations and crimes, and (3) the current conference room paper, which contains an investigation focused on human rights violations and crimes committed in the region of the Arco Minero del Orinoco (hereinafter “Arco Minero”) and other mining areas in Bolívar state.

4. In its 2020 report, the Mission indicated that time and resource constraints had prevented it from analysing all contexts involving human rights violations that could fall within the Mission’s mandate.⁵ Among these scenarios, the Mission had already identified human rights violations within the Arco Minero region, along with violations committed against indigenous peoples.⁶

5. The human rights situation in the Arco Minero region has been subject to growing concern by international and regional human rights bodies.⁷ In its resolution 45/20, the Human Rights Council expressed “deep concern at the human rights and environmental situation” in the region, including with regard to the exploitation of miners, child labour, human trafficking and forced prostitution, and expressed “particular concern about the violations of the rights of indigenous peoples” in the region.⁸

6. This report focuses on the human rights violations and crimes in the Arco Minero del Orinoco region and surrounding areas within Bolívar state under the Mission’s mandate

¹ Appointed by the Human Rights Council on 2 December 2019.

² Appointed by the Human Rights Council on 2 December 2019.

³ Appointed by the Human Rights Council on 1 September 2021.

⁴ A/HRC/RES/20/45, para. 15.

⁵ A/HRC/45/CRP, para. 16.

⁶ *Ibid.*

⁷ In 2020, the Office of the High Commissioner for Human Rights (OHCHR) presented a report to the Human Rights Council that focused, inter alia, on the labour exploitation and high levels of violence committed by criminal groups that control mining in the area (A/HRC/44/54). In 2016, the Inter-American Commission on Human Rights (IACHR) held a thematic hearing on “Human rights in the context of the Arco Minero del Orinoco project” (available at: https://www.youtube.com/watch?v=_9dt2rjLsCM&vq=hd1080), and has addressed the situation in the region in several thematic and country reports.

⁸ A/HRC/RES/45/20, para. 9.

to investigate “gross violations of human rights.”⁹ Such violations and crimes frequently occur in connection with illegal mining of gold and other strategic minerals.

7. These violations and crimes are perpetrated both by State agents, particularly the military in charge of security in the mining region, as well as by non-State actors. These non-State actors include criminal groups (known as *sindicatos* and *pranatos*) and guerrilla groups from neighbouring Colombia. The investigation focuses, although not exclusively, on the period after 2016, the date when the Arco Minero del Orinoco region was formally established.¹⁰

8. Due to time and resource constraints, the Mission has not been able to analyse the situation in the states of Amazonas and Delta Amacuro, which also fall within the Arco Minero region, despite having indications that these states share similar dynamics and patterns of violations and crimes related to illegal mining.¹¹ In particular, the Mission expresses its concern about the serious human rights situation in the state of Amazonas.¹² Of particular concern are the violations of the individual and collective rights of indigenous communities, which represent almost 45% of the population of Amazonas. Among others, the Mission has recorded several allegations of labour and sexual exploitation, including cases of sexual slavery.¹³

B. Methodology and standard of proof

9. The Mission continued to follow established methodologies and best practices for human rights fact-finding, as developed by the United Nations. The Mission conducted its work in accordance with the principles of independence, impartiality, objectivity, transparency, and integrity.

10. As discussed below, the investigation leading to the present report faced a series of limitations, derived particularly from lack of access to the region and victims’ fear of reprisals (see *infra*). Due to these limitations, in certain cases, the Mission had to rely on an analysis of secondary information to investigate relevant aspects of underlying facts. In those cases, the Mission has identified the need to conduct further inquiries and has refrained from making factual determinations.

1. Geographic focus

11. The report focuses on the mining areas in Bolívar state, starting south of the Orinoco river and extending down until the border with Brazil. This comprises most of gold mining areas which fall within the Arco Minero del Orinoco region as the formally designated “national strategic development zone” established by presidential decree in February 2016.¹⁴ The report uses the terms “Arco Minero del Orinoco” or “Arco Minero” flexibly to

⁹ A/HRC/45/20, para. 15.

¹⁰ Decree creating the “Arco Minero del Orinoco” National Strategic Development Zone: Presidential Decree No. 2248, *Official Gazette* No. 40,855 of 24 February 2016 [hereinafter “2016 Arco Minero Decree”].

¹¹ Interview PPIV006; Interview NNIV026; Interview GGIV004; Interview JJIV005; Interview PPIV009; Interview NNIV025.

¹² Interview JJIV005.

¹³ Interview GGIV004; Interview JJIV005; Interview PPIV009; Interview NNIV025. The human rights and environmental crisis in the state of Amazonas has been documented by some non-governmental entities. See for example, SOS Orinoco “Minería, guerrilla y enfermedades. El legado de la revolución a los indígenas de la Reserva de Biosfera Alto Orinoco-Casiquiare, Amazonas Venezolano”, 20 August 2020; SOS Orinoco, “La Minería Aurífera en el Parque Nacional Yapacana, Amazonas Venezolano. Un caso de extrema urgencia ambiental y geopolítica, nacional e internacional”, 30 April 2020; Centro para la Reflexión y la Acción Social (CERLAS) and Plataforma contra el Arco Minero del Orinoco, “Informe sobre la situación de derechos humanos en el Arco Minero y el territorio venezolano ubicado al sur del río Orinoco” (Report on the human rights situation in the Arco Minero and the Venezuelan territory south of the Orinoco river), August 2019 [hereinafter “Report on the human rights situation in the Arco Minero of 2019”], p. 5.

¹⁴ 2016 Arco Minero Decree.

refer to the mining areas in Bolívar state even beyond the formal demarcations of the Arco Minero, as mining activity often takes place beyond these boundaries.

2. Standard of proof

12. In line with its previous practice, the Mission has used “reasonable grounds to believe” as its standard of proof. The reasonable grounds standard is met when enough factual information has been collected to satisfy an objective and ordinarily prudent observer that the incident has occurred as described, with a reasonable degree of certainty.

13. This standard of proof is lower than that required in criminal proceedings for a criminal conviction (certainty beyond a reasonable doubt) as well as that required to substantiate an indictment. It is also lower than the balance of probability test in civil matters (meaning that something is more likely than not to have happened). However, it is sufficiently high to indicate that further investigations are warranted.¹⁵

14. The main human rights incidents described in the following chapters are based on multiple eyewitness and victim accounts. The Mission conducted a thorough investigation of these incidents and a detailed reconstruction of the events. The individual cases in the report are based on at least one credible primary source, which was independently verified by at least one other credible source. When the report describes patterns of behaviour, they are based on the common elements established by the cases investigated, corroborated by other credible data collected.

15. The Mission considered the following to be primary sources of information, when the sources were reliable and credible:

- (a) Interviews with victims, relatives and witnesses with direct knowledge of the incidents;
- (b) Verified legal case files and other confidential documents;
- (c) Interviews with former government and military officials and others with direct knowledge of specific cases or the internal workings of specific institutions (“insiders”);
- (d) Verified digital information (particularly videos, audio files, satellite images or social media content) containing direct information about an incident;
- (e) Public statements or relevant information issued by government institutions and representatives (including televised statements or statements published on social media); and
- (f) Laws, policies, and regulations of the Venezuelan Government.

3. Information gathering methods

16. The Mission was able to collect information primarily through the following methods: confidential interviews, conducted both in-person during field missions and remotely, via secure telephone or video connections; review of confidential documents obtained from individuals and organizations, including legal case files; and analysis of documentary evidence, including open-source information.

(a) Field missions

17. In preparation for the present report and given the lack of authorisation to carry out investigations in the territory of Bolivarian Republic of Venezuela, the Mission’s technical secretariat conducted two missions to areas near the border with the country. The three experts of the Mission visited a border area from 18 to 22 July 2022.¹⁶

¹⁵ A/HRC/45/CRP.11, paras. 11 and 1977.

¹⁶ OHCHR, “Fact-Finding Mission on Venezuela concludes field visit near the border with Venezuela”, press release, 25 July 2022.

18. During these missions, the Mission conducted 71 interviews with victims and victim's relatives, insiders, witnesses, human rights defenders, humanitarian workers, and indigenous and community representatives. Some of these people have fled the Bolivarian Republic of Venezuela as refugees. The Mission is grateful for their cooperation, as well as the support of host country authorities, United Nations agencies, non-governmental organizations (NGOs) and individuals who supported the field missions.

(b) Remote interviews

19. Given the continued lack of access to the country and the lack of cooperation of the Venezuelan authorities, the Mission's investigations continued to rely heavily on remote interviews. These interviews were conducted in accordance with the Mission's security protocols.

20. In preparation for the present report, the Mission conducted 84 remote interviews (with 39 men and 45 women) via secure telephone or video connection. Persons interviewed included former members of the Venezuelan army, police, and the judiciary, as well as former local authorities.

(c) Documentary evidence

21. The Mission relied on credible and well-sourced media articles, NGO and intergovernmental reports, which have documented the human rights situation in Bolívar state, mining operations in the Arco Minero del Orinoco region and the interest of Venezuelan "politically exposed persons" (PEPs) in these activities, as well as underlying documents obtained in the context of these investigations. These include the following:

(a) Laws, policies and rulings from the Venezuelan Government as well as official records and databases, such as those published by the Venezuelan Ministry of Mining (Ministerio del Poder Popular para el Desarrollo Minero Ecológico). The Mission notes a significant decrease in public transparency regarding mining operations since 2019.

(b) Corporate records through official corporate registries (including in Colombia, Panama, Peru, Spain and the United States of America), open-source registries, leaked databases published on credible platforms,¹⁷ and private subscription databases.¹⁸ Information on Venezuelan companies derived mostly from the Bolivarian Republic of Venezuela's public procurement registry (Registro Nacional de Contratistas),¹⁹ as well as searches in the Official Gazette (Gaceta Oficial)²⁰ (for State-owned companies and joint ventures).

(c) Trade data with information on gold shipments to and from the Bolivarian Republic of Venezuela and neighbouring countries, as well as shipments of other relevant gold mining inputs, like mercury, cyanide and explosives.²¹

4. Quantitative analysis of violent incidents

22. The Mission developed an incident matrix, which has compiled 182 potential incidents²² of alleged human rights violations and/or crimes in Bolívar state from 2014 to

¹⁷ The Mission consulted the following platforms containing leaked databases: the International Consortium of Investigative Journalism (ICIJ), available at: <https://www.icij.org/>, and the Organized Crime and Corruption Reporting Project (OCCRP), available at: <https://www.occrp.org/en>.

¹⁸ The Mission had access to the following private subscription databases: Orbis, PeopleMap, Pipl, Sayari, LexisNexis, and Westlaw.

¹⁹ Available at: <http://www.snc.gob.ve/rnc>

²⁰ Available at: <http://www.tsj.gob.ve/gaceta-oficial>

²¹ The Mission used S&P's Panjiva for this purpose. Trade data generally, and specifically for the Bolivarian Republic of Venezuela, has important limitations; shipment records may be incomplete or have naming errors, and shipments are often wrongly invoiced. We acknowledge that gold is transported using a variety of methods, not only sea transport.

²² An incident is an event or occurrence committed by the same perpetrator, or group of perpetrators acting in concert, at the same time and place, which could involve one or more victims.

the present. The Mission identified these incidents through open-source monitoring and interviews. The Mission recorded a total of 1,914 possible victims of human rights violations and crimes related to these incidents.

23. Of the 182 recorded incidents, 87 were cases of human rights violations allegedly committed by State agents (47.8 % of the total number of incidents). And 81 recorded incidents corresponded to criminal acts allegedly committed by non-State actors (44.5%). There are 14 reported incidents (7.7 % of the total) in which the Mission could neither identify nor confirm the type of perpetrators.

24. From 2014 to the present, the Mission recorded 832 possible violent deaths, of which 237 were alleged arbitrary deprivations of life by State agents. The Mission also identified 96 possible disappearances of persons, 107 alleged violations involving torture or cruel, inhuman, or degrading treatment, 142 alleged arbitrary detentions by State agents, and 729 alleged crimes against personal freedom committed by non-State actors.

25. The Mission recorded a significant increase in violence in Bolívar state from 2016 onwards, with 35 possible incidents recorded in 2016, a figure that decreased in 2017, with 25 possible incidents. The figure increased again in 2018, with 28 possible violent incidents recorded, a trend that continued in 2019, with 37 possible violent incidents recorded. And from 2020 and 2021, a progressive reduction of possible violent incidents was again recorded, with 24 and 22 possible violent incidents recorded, respectively.

26. In line with findings from other sources, the Mission documented the highest number of possible incidents within the geographic area covered by the Arco Minero region, where 155 possible incidents were recorded, representing 85% of the total. The majority of these, 108, occurred in the municipalities of El Callao, Sifontes, Piar and Roscio, all located in the northeast of Bolívar state and within Area 4 of the Arco Minero region.²³ The Mission also identified 27 possible incidents in Gran Sabana municipality, located in the southern region of the state, bordering Brazil, where the Ikabarú area, an additional block of the Arco Minero region, is also located.²⁴ The possible incidents in Gran Sabana municipality represent almost 15% of the total number of possible incidents recorded.

27. Of the 182 possible incidents recorded in the Mission's matrix, the Mission selected 67 incidents that were preliminarily investigated. Among them, the Mission prioritised 29 incidents with a total of 244 victims (20 women; 224 men) for further investigation. In selecting these incidents, the Mission took into account access to primary sources, the availability of linkage information, the gravity of the violations, the profiles of the victims and the representativeness of the patterns, among other criteria. In the case studies included in Chapters III and IV of this report, the Mission presents an analysis of four cases for which, in accordance with its established standard of proof, the Mission reached factual determinations.

5. Gender perspective and impact analysis

28. In accordance with best practices in gender mainstreaming, throughout its investigation the Mission devoted specific attention to gender issues and gendered impacts of violations and strove to apply a gender approach to the investigation, using gender-sensitive methodologies and tools to collect, organize, analyse and reflect the information in this report. In addition, the Mission analysed specific patterns of sexual and gender-based violence.²⁵

6. Security considerations and protection against reprisals

29. The Mission ensured it had the informed consent from each person it interviewed before using any information provided. It has anonymized the identities of sources,

²³ See *infra* chap. III.

²⁴ See *infra* chap. IV.

²⁵ See *infra* chap. V.

witnesses and victims, where revealing these could place the individual and/or their family members at risk of reprisals. While preserving the confidentiality of any contact between victims and witnesses and the Mission, the latter maintains a full database of information and evidence upon which it bases the analysis and conclusions contained in the present report. This information is stored on safe platforms, with strict and controlled access, applying best practices in terms of digital security and permanent control. Access will only be granted to the extent that witnesses or the originators of other sources of information have given their informed consent, and protection concerns have been addressed.

30. In the interest of protecting witnesses, some names of individuals have not been included in this report or have been reflected in a coding system developed by the Mission. These names are kept strictly confidential by the Mission.

7. Identification of persons in this report

31. The Mission has concluded, on reasonable grounds to believe, that certain individuals addressed in the present report may be responsible for crimes and violations and should therefore be investigated. The Mission reiterates that it is an investigative body, not a judicial body. Any determination of criminal responsibility with respect to the individuals mentioned in this report must be made by the appropriate judicial authorities acting with full respect for due process guarantees and fair trial standards. The Mission has chosen to name some individuals when it was able to investigate their contributions to crimes and violations. It has done so in compliance with the guidelines issued by the Office of the High Commissioner for Human Rights (OHCHR) on this matter,²⁶ and in order to completely and thoroughly fulfil its mandate to contribute to ensuring full accountability for perpetrators and publish its findings.

32. The Mission considers that this approach upholds the value of the public nature of the work of fact-finding bodies and carries the potential to act as a deterrent to further violations. The Mission has carefully considered all possible implications and conducted risk-assessments. In light of particular security concerns, including the risk of reprisals against victims, family members, and others, the Mission has decided to anonymize certain individuals whose contributions to crimes and violations it investigated. This was done in part to minimize the risk of possible “scapegoating” of more vulnerable suspects, and/or of individuals associated with them. The Mission has removed names and other identifying information in these cases but retained all such information in its own records. Moreover, it has chosen to anonymize all sources of information pertaining to the responsibility of particular individuals.²⁷ Furthermore, it has chosen to withhold the name of other individuals who were said to be involved in violations but whom the Mission was not able to investigate in depth.²⁸

33. The Mission has taken the right to reply of the individuals named in this report seriously. It has actively sought to gather the views of implicated individuals and to provide them with an opportunity to reply to the allegations made against them.²⁹ In parallel, the

²⁶ Who’s Responsible? Attributing Individual Responsibility for Violations of International Human Rights and Humanitarian Law in United Nations Commissions of Inquiry, Fact-Finding Missions and Other Investigations (United Nations publication, 2018), p. 85.

²⁷ The Mission has opted to be particularly cautious in not revealing any information which could lead to the identification of these sources. Interviews and documents are referred to by codes. To ensure anonymity, more than one code is often used to refer to the same interview. However, all of these sources are appropriately registered in the Mission’s records.

²⁸ These names are registered in the Mission’s records.

²⁹ The Mission sent letters to the Public Prosecutor’s Office, the Military Prosecutor, the President of the Supreme Court and to President Maduro requesting information regarding the existence and status of any investigations conducted by the justice system with respect to the incidents investigated by the Mission. The Mission, whenever possible, also sent letters to several individuals including the individuals in question.

Mission publicly invited interested individuals to submit information and/or documents relevant to its mandate. For this purpose, the Mission published an online form.³⁰

C. Government cooperation

34. In its resolution 45/20, the Human Rights Council urged the authorities of the Bolivarian Republic of Venezuela to cooperate fully with the Mission, to grant it immediate, full and unfettered access to the entire country, and to provide it with all the information necessary to fulfil its mandate.³¹ The Mission regrets that three years into its mandate, the Government of the Bolivarian Republic of Venezuela still has not permitted its members or its Secretariat staff to visit the country in order to undertake investigations there.

35. In addition, the Mission sent four letters to the Government of the Bolivarian Republic of Venezuela requesting information regarding the existence and, if applicable, the stage of the proceedings conducted against identified officials or former officials relevant to their potential participation in the commission of violations and crimes under the Mission's mandate. In particular, the Mission requested access to evidence and information in the files related to any such criminal proceedings, including any type of "exculpatory evidence".³² At the time of writing, the Mission has yet to receive a response.

36. The Mission regrets not having received any response or additional information from the relevant individuals, nor from the Government, despite its attempts to contact them and its publicly announced availability to receive information from any individual. Its factual determinations are therefore based on a rigorous analysis of the information it was able to gather through the methods described above. The Mission considers that these determinations should prompt thorough criminal investigations and the adjudication of cases in line with the applicable international standards.

D. Limitations of the research

37. The Mission's investigations in relation to the Arco Minero del Orinoco region met with several limitations. Due to the temporary nature of the Mission's mandate and the unstable working conditions, the Mission's secretariat team experienced a high staff turnover. Between September 2021 and September 2022, all senior staff positions, except for one, had to be refilled. The investigation team was not fully operational until the end of January 2022, when more than one third of the amount of time available for investigations had already passed. Due to these limitations, the Mission could not fully investigate and report on all situations involving violations falling within its mandate.

38. In addition to the intrinsic constraints due to a limited timeframe and resources, the Mission's investigations faced a particularly complex situation in the mining regions in Bolívar state. The mining regions cover a large geographic area which is difficult to access and lacks reliable communication infrastructure. Physical mobility is limited by the scarcity and high prices of oil, which drives up transportation costs within the region.³³

39. Telecommunications networks, including both mobile phone and internet, are weak and often faulty.³⁴ Power outages happen almost daily in the major urban centres, while the power grid is almost inexistent in remote mining areas. These factors posed particular challenges for the Mission's remote interviews within the framework of its security protocols.

³⁰ "Call for submissions", available at: <https://www.ohchr.org/es/hr-bodies/hrc/ffmv/call>.

³¹ A/HRC/RES/45/20, para. 16.

³² FFMV/CG/2022-003-6.

³³ Interview NNIV041.

³⁴ Interview NNIV033.

40. However, the most important constraint affecting the Mission's investigations on the Arco Minero region relates to the widespread fear that prevails in the region, stemming from the high levels of violence perpetrated by both State and non-State actors. Many victims and witnesses interviewed by the Mission expressed fear about cooperating with the Mission, explaining that "the mafia kills."³⁵ Publicly denouncing State authorities or armed groups is considered "extremely dangerous."³⁶ Examples of threats and deadly attacks against journalists are common in Bolívar state.³⁷ This could have led to a decrease of press and media coverage of violence and human rights violations in the region in recent years,³⁸ although the Mission is not able to draw conclusions about this lack of coverage. There are significant challenges to gathering information on the living and working conditions in illegal mines, typically controlled by armed groups, since external observers, such as journalists or NGOs, have very limited access to these areas.³⁹

41. Generalized fear is further exacerbated by widespread impunity and lack of response by Venezuelan authorities to allegations of human rights violations and crimes. Impunity seems to be based on the unwillingness or inability of military and police authorities to investigate and of the justice system to prosecute crimes committed by armed groups, in a context marked by allegations of collusion between State and criminal actors. According to a former police official, police investigations are often obstructed, and information gaps in official reports may indicate police attempts at concealment.⁴⁰

42. Despite these limitations, the Mission was able to gather the information necessary to establish the facts documented in this report and reach conclusions in accordance with its mandate. The Mission identified specific incidents and patterns that establish reasonable grounds to believe that violations of international human rights law and international criminal law have been committed. The Mission has indicated throughout this report where further investigations may be necessary.

II. Context

A. Geographic context

1. Bolívar state

43. The Arco Minero del Orinoco region is a special economic zone ("national strategic development zone") comprising an area spanning 111,843 km² south of the Orinoco river.⁴¹ The Arco Minero region ranges across the northern part of Bolívar state, with small enclaves in the neighbouring states of Amazonas and Delta Amacuro. The three states make up the Venezuelan Guayana region, which is considered an integral part of the Amazonian biotope.

44. Bolívar is the biggest state in the Bolívarian Republic of Venezuela, comprising a vast area of 240,528 km², and scarcely populated in most areas.⁴² Social, cultural, and

³⁵ Interview GGIV004.

³⁶ Interview NNIV033.

³⁷ Ibid.

³⁸ Interview PPIV013.

³⁹ Interview NNIV041.

⁴⁰ Interview OOIV20.

⁴¹ 2016 Arco Minero Decree.

⁴² According to the most recent census, which took place in 2011, the population in Bolívar state was 1,413,115 people, with a population density of 5,8 inhabitants per km² (compared to the countrywide density of 32 per km²). According to official data, 3,9% of the population (54,686 people) identifies as indigenous. See República Bolivariana de Venezuela, *XIV Censo Nacional de Población y Vivienda, Resultados Básicos, Total Nacional y Entidades Federales* (Caracas, 2011), available at: http://www.ine.gov.ve/documentos/Demografia/CensodePoblacionyVivienda/pdf/Censo%202011_Resultados_Basicos.pdf; *Censo Nacional de Población y Vivienda 2011. Empadronamiento de la población indígena* (Caracas, 2015), available at: <http://www.ine.gov.ve/documentos/Demografia/Censo2011/pdf/EmpadronamientoIndigena.pdf>

economic dynamics in Bolívar state are marked by its distinct geographical location, extension, and remote access. It shares borders with Brazil, Colombia, and Guyana (Guayana Esequiba⁴³), making it a major route for Venezuelans crossing the borders for work, access to health, or fleeing the country from criminal or political violence. For the same reason, Bolívar state is a hub for illicit trade, ranging from gold and other strategic minerals such as diamonds and coltan, or mercury (widely used in artisanal gold mining), to fuel, arms, and drugs.⁴⁴

Map 1

Map of the Bolivarian Republic of Venezuela, highlighting Bolívar state



Source: Prepared by the Mission using Open Street Map. © OpenStreetMap contributors. The boundaries and names shown and the designations used on this map do not imply official endorsement or acceptance by the United Nations.

45. The capital of the state is Ciudad Bolívar, located on the banks of the Orinoco river. Located 120 kilometres downstream on the Orinoco river, Ciudad Guayana, a planned mining city founded in the 1970s, is the industrial and financial centre of the state and of the wider Guayana region. The city is home to the Corporación Venezolana de Guayana

⁴³ The border area between the Bolivarian Republic of Venezuela and Guyana, known as “Guayana Esequiba” is subject to a long-standing territorial dispute and is still formally claimed by the Bolivarian Republic of Venezuela. In November 2020, the International Court of Justice (ICJ) declared that it had jurisdiction to rule over the legal validity and binding effect of the Award regarding the Boundary between the Colony of British Guiana and the United States of Venezuela of 3 October 1899. See *Arbitral Award of 3 October 1899 (Guyana v. Venezuela) Jurisdiction of the Court, Judgments, I.C.J. Reports 2020*, p. 30. The ICJ’s admissibility decision was heavily contested by both the Venezuelan Government and the opposition, and President Maduro announced that the Venezuelan State would not formally participate in proceedings. See Letter of President Maduro to the United Nations Secretary General, 7 January 2022.

⁴⁴ Transparencia Venezuela, “Economías ilícitas al amparo de la corrupción”, June 2020.

(CVG), once a booming conglomerate of State-owned enterprises (SOEs) mostly focused on the mining and metallurgical sector.⁴⁵ However, many of its operations have felt in decline in recent years.⁴⁶

46. Ciudad Guayana is the starting point of the Troncal 10 highway, a key transport route that crosses Bolívar state from north to south and reaches the Brazilian border at the town of Santa Elena de Uairén. Despite its decrepit state in some areas, Troncal 10 continues to serve as a major centre of the mining activity in the state, as the main mining communities were originally built around this road. It is central to the transit of both people and goods in the region, including the fuel supply.

47. The Troncal 10 and other roads within the mining areas are lined with numerous checkpoints (known as *alcabalas*), controlled by the armed forces – and occasionally by armed criminal groups – where the charging of bribes and other kinds of abuse are commonplace.⁴⁷

48. Due to fuel shortages, transport has become extremely challenging in Bolívar state, even in urban centres. Much of the region, including mining sites, is difficult to access, and transport to these areas can be extremely expensive.⁴⁸ Telecommunications are equally difficult throughout the state, and power cuts have become routine.⁴⁹

49. Like other parts of the Guayana region, Bolívar state is characterised by its rich biodiversity and natural heritage.⁵⁰ Bolívar state is home to several protected natural areas, including national parks, natural monuments and ecological reserves that are part of Venezuela's ABRAEs (Areas under Special Administration Regimes), which cover approximately 70% of the territory of Bolívar state.⁵¹ Among the protected areas are the Imataca Forest Reserve and the Caura and Canaima national parks, respectively the first and second largest protected areas in the country, and among the largest in the world.⁵² Since 1994, the Canaima National Park has been included on the World Heritage List of the United Nations Educational, Scientific and Cultural Organization (UNESCO).⁵³ In alleged violation of Venezuelan environmental legislation, the Arco Minero region was created on or adjacent to areas that had been declared national parks or ecological reserves for the conservation of natural resources since 1961.⁵⁴

50. Bolívar state comprises the traditional territories of 16 indigenous peoples, organized around some 414 communities.⁵⁵ The four original areas of the Arco Minero region partially overlap with the traditional territories of at least six distinct indigenous groups, which include at least 197 indigenous communities.⁵⁶ Most of these territories lack formal demarcation and title deeds, despite the provisions of the 1999 Venezuelan

⁴⁵ The CVG was established by Presidential Decree No. 430, *Official Gazette* No. 26,445 of 29 December 1960.

⁴⁶ Eccio León R., "El colapso de Guayana Venezuela", *El Universal*, 21 October 2020; Cira Pascual Marquina, "The Crisis in a Venezuelan Steel Mill: A Conversation with César Soto", *Venezuelanalysis.com*, 19 March 2021.

⁴⁷ See *infra* chap. IV.

⁴⁸ Interview NNIV029.

⁴⁹ Interview JJIV005.

⁵⁰ Interview MMIV045; Interview MMIV044.

⁵¹ Instituto Nacional de Estadística, "Estado Bolívar. Áreas bajo régimen de administración especial" (ABRAE), 2011.

⁵² *Ibid.*

⁵³ United Nations Educational, Scientific and Cultural Organization (UNESCO) World Heritage List, "Canaima National Park".

⁵⁴ National Assembly, Acuerdo sobre el Decreto de Creación de la Zona de Desarrollo Estratégico Nacional (Agreement on the Decree for the creation of the National Strategic Development Zone), 14 June 2016.

⁵⁵ Prensa Minera (Ministerio del Poder Popular de Desarrollo Minero Ecológico) (Ministry of Popular Power for Ecological Mining Development), "Dirigente Aray: Arco Minero es garantía de futuro para pueblos indígenas del Orinoco", 20 June 2018.

⁵⁶ CERLAS and Plataforma contra el Arco Minero del Orinoco, "Report on the human rights situation in the Arco Minero of 2019", p. 5.

Constitution stating that “the demarcation the indigenous habitat...shall be carried out within two years of the entry into force” of the Constitution.⁵⁷ The Arco Minero also includes the “special area” of Ikabarú, which overlaps with one of the eight sectors (Pemon *Sector VII*) into which the traditional territory of the Pemon indigenous people is divided, which was granted a collective land deed in 2013.⁵⁸ Many illegal mining sites, including within the Canaima National Park and other protected areas, also fall within Pemon territory.⁵⁹

51. Indigenous peoples have been particularly affected by the social and environmental impacts of the interrelated phenomena of illegal mining and violence, and their rights over their lands and territories, and to consultation and participation, have been systematically ignored.⁶⁰

2. The areas of the Arco Minero region

52. The Arco Minero del Orinoco region comprises four main areas, located along the southern bank of the Orinoco river in northern Bolívar state.⁶¹ The Ikabarú area, located further south near the border with Brazil, in Gran Sabana municipality, was announced as a fifth, non-adjacent area of the Arco Minero region, although it was never legally declared.⁶²

53. While the original extension of the Arco Minero region comprises 111,843 square kilometers, the incorporation of the Ikabarú area added an extra 1,754 square kilometers.⁶³ The total surface of the Arco Minero region amounts roughly to half of Bolívar state (12,4% of the Venezuelan territory).

54. The areas of the Arco Minero region, named after Venezuelan historical female figures, are divided according to the different minerals present in each area:

- Area 1, known as “Juana La Avanzadora” is primarily rich in bauxite, coltan, and diamonds;
- Area 2 known as “Manuelita Sáenz” is rich in iron and gold;
- Area 3 known as “Negra Hipólita” is rich in bauxite, gold and iron; and,
- Area 4 known as “Josefa Camejo” is rich in gold, bauxite, copper, kaolin, and dolomite.⁶⁴

55. The fifth area, the special area of Ikabarú, is rich in diamonds and gold.⁶⁵

⁵⁷ Constitution of the Bolivarian Republic of Venezuela, *Official Gazette* (Extraordinary) No. 36,860 of 30 December 1999 [hereinafter “1999 Constitution”], art. 12.

⁵⁸ Official statement of the Pemón authorities in relation to the Ikabarú massacre, 1 December 2019, available at: <http://www.revistic.gumilla.org/2019/comunicado-oficial-de-las-autoridades-Pemón-ante-la-masacre-de-ikabaru/>

⁵⁹ Statement of the Pemón Indigenous People on the deployment of Corporación Venezolana de Minería in its territory, 31 August 2020, available at: <https://provea.org/actualidad/pronunciamiento-del-pueblo-indigena-Pemón-sobre-imposicion-de-corporacion-venezolana-de-mineria-en-su-territorio/>. See also María Ramírez Cabello, “La devastación de la minería de oro bajo los ojos del Tepuy de Roraima”, *El Correo del Caroní* and Pulitzer Center, 5 June 2020; SOS Orinoco, “Situación actual de la minería de oro en 2020 en el Parque Nacional Canaima. Patrimonio de la Humanidad en Venezuela: Actualización del informe de 2018 presentado a la UNESCO” (Current Gold Mining Situation in 2020 in Canaima National Park. A World Heritage Site in Venezuela: Update to the 2018 Report Submitted to UNESCO), March 2020 [hereinafter “Current Gold Mining Situation in 2020 in Canaima National Park”].

⁶⁰ See *infra* chap. IV.

⁶¹ 2016 Arco Minero Decree.

⁶² Petróleos de Venezuela S.A. (PDVSA), “Firmado Decreto para desarrollar plan de certificación de reservas del Arco Minero del Orinoco”, 24 February 2016.

⁶³ *Ibid.*

⁶⁴ See SOS Orinoco, “Mapa: Arco Minero del Orinoco, 2020”; Environmental Justice Atlas, “Las Luchas contra el mega-proyecto del Arco Minero del Orinoco, Venezuela”, 17 October 2016.

⁶⁵ *Ibid.*

56. These areas are subject to a special financial, fiscal and security regime, as regulated by Presidential Decree No. 2248, establishing the Arco Minero region as a “National Strategic Development Zone”, and subsequent legislation (see *infra*).

57. Gold deposits are concentrated in various mining zones located within Area 4 and Ikabarú, roughly corresponding with the municipalities of Roscio, El Callao, Sifontes and Gran Sabana.⁶⁶ These also correspond to the areas where most of the documented incidents of human rights violations and crimes have taken place since 2016. El Callao, Sifontes and Roscio rank among the most violent municipalities in the country.⁶⁷

3. The expansion of mining areas

58. Even though the establishment of the Arco Minero region in 2016 was as an attempt by the Government to streamline mineral extraction and control illegal mining, it actually resulted in an expansion of illegal mining both within and beyond the formal perimeters of the Arco Minero region.

59. In 2020, the Ministry of Popular Power for Ecological Mining Development adopted a resolution authorising gold and diamond dredge mining in the beds of six rivers (the Auro, Caura, Caroní, Cuchutero, Cuyuní, and Yuruari), five of which are major tributaries of the Orinoco river, and all of which are located within the four main Arco Minero areas.⁶⁸ The authorization to open up these rivers to mining has been criticized due to the potentially harmful impact over entire ecosystems, and has given rise to social conflicts with local populations.⁶⁹ As with the decree establishing the Arco Minero region, the Ministry’s resolution was declared null and void by the opposition-controlled National Assembly.⁷⁰

60. However, mining is not restricted to the areas formally declared by the Government for that purpose. Since the establishment of the Arco Minero region, illegal mining has spread exponentially beyond designated mining areas across the states of Bolívar, Amazonas, and beyond. In particular, illegal mining has extended into protected areas, including the above-mentioned Canaima and Caura national parks, with devastating environmental and sociocultural impacts.⁷¹ Illegal mining has also intensified the encroachment of miners and armed groups into indigenous peoples’ traditional territories, as well as the militarization of these territories.⁷²

61. In the absence of official monitoring, the scope of illegal mining in Bolívar state and in the wider Guayana region is impossible to ascertain. In 2018, a report of the Amazonian Network of Georeferenced Socio-environmental Information (RAISG in its Spanish

⁶⁶ See, for example, maps from the Ministerio del Poder Popular de Desarrollo Minero Ecológico, available at: <http://www.desarrollominero.gob.ve/documentacion/>. See also documents aimed at foreign investors, such as: Ministerio de Desarrollo Minero Ecológico, “Minería responsable en Venezuela: oportunidades de inversión en el sector minero” (Responsible mining in Venezuela: Investment opportunities in the mining sector), January 2018, available at: http://www.desarrollominero.gob.ve/wp-content/uploads/2018/01/Minerals_Catalog_2018.pdf.

⁶⁷ SOS Orinoco, “Presencia, actividad e influencia de los grupos armados organizados en la actividad minera al sur del río Orinoco” (Presence, activity and influence of organized armed groups in mining operations south of the Orinoco river), 29 March 2022 [hereinafter “Presence, Activity and Influence of Organized Armed Groups”], p. 21.

⁶⁸ Resolution No. 0010 of the Ministry of the Popular Power of Ecologic Mining Development, 7 April 2020, *Official Gazette* (Extraordinary) No. 6,521, art. 5.

⁶⁹ CERLAS and Plataforma contra el Arco Minero del Orinoco, “Report on the human rights situation in the Arco Minero of 2019”, pp. 20-22.

⁷⁰ National Assembly, Acuerdo de nulidad absoluta de la resolución No 0010 del Ministerio del Poder Popular de Desarrollo Minero Ecológico del 7 de abril del 2020, *Official Gazette* No. 6,526 of 8 April 2020.

⁷¹ SOS Orinoco, “Current Gold Mining Situation in 2020 in Canaima National Park”;

Tony Frangie Mawad, “El Arco Minero está destruyendo el Caura”, *Cinco8*, 9 December 2020.

⁷² See *infra* chap. IV.

acronym) concluded that 82% of the illegal mining sites in the Amazon region were found within Venezuelan territory.⁷³ Since then, illegal mining has grown exponentially.⁷⁴

B. The creation of the Arco Minero del Orinoco region and its consequences

1. Mining before 2016

62. Commercial mining south of the Orinoco has been reportedly ongoing since the late 19th century. Artisanal alluvial mining has been historically practised in and around the rivers south of the Orinoco by indigenous and other local communities. It coexisted with industrial mining, which was typically operated by transnational companies under a mining concession system.⁷⁵

63. It was only recently that the State decided to streamline and intensify mineral resource extraction as a matter of national priority. Starting with President Chávez, the Government tried to regulate and profit from the mining of gold and other strategic minerals, including illegal small-scale mining.⁷⁶ Shortly after taking office, in 1999, President Chávez approved a new Mining Law.⁷⁷ The new law sought to increase State control over mining concessions, and authorised artisanal and small-scale mining only under certain circumstances.⁷⁸

(a) The nationalisation of the gold industry

64. On 23 August 2011, President Chávez decreed the nationalisation of the gold industry. By virtue of Decree No. 8413 (“Nationalisation Decree”), all primary operations related to gold and other strategic minerals were reserved for the State.⁷⁹ According to the Decree, this decision was intended to “reverse the serious effects of the capitalist mining model” including “environmental degradation” and “attacks against the dignity and health of miners and inhabitants of mining communities.”⁸⁰

65. The Nationalisation Decree revoked existing gold mining concessions, including for small-scale mining⁸¹, and limited all primary and ancillary activities linked to the exploitation of gold and other strategic minerals to the State.⁸² The decree also declared all goods and works related to gold mining to be of “public utility and social interest”⁸³, and all gold deposits in the national territory as goods of public domain, inalienable, imprescriptible and devoid of commercial nature due to being non-renewable and exhaustible resources.⁸⁴ The decree established a regime under which activities related to

⁷³ Red Amazónica de Información Socioambiental Georreferenciada (RAISG), “Looted Amazon”, 2018.

⁷⁴ CERLAS and Plataforma contra el Arco Minero del Orinoco, “Report on the human rights situation in the Arco Minero of 2019”, pp. 23.

⁷⁵ Jeanfreddy Gutiérrez Torres, “La minería del oro en Venezuela: una “tormenta perfecta” de ilegalidad, deforestación y mafias”, Mongabay, 4 January 2016; SOS Orinoco, “El rol de las plantas de cianuración en el negocio del oro del Arco Minero del Orinoco” (The Role of Cyanidation Plants in the Gold Business in the Arco Minero del Orinoco), 4 May 2022 [hereinafter, “The Role of Cyanidation Plants”], p. 2.

⁷⁶ Provea, Grupo de Trabajo sobre Asuntos Indígenas (GTAI) and Laboratorio de Paz, “Posición y solicitud ante el proyecto ‘Zona de Desarrollo Estratégico Nacional Arco Minero del Orinoco’”, 2 December 2016.

⁷⁷ Presidential Decree No. 295, *Official Gazette* (Extraordinary) No. 5,382 of 28 September 1999, [hereinafter “1999 Mining Law”], art. 2; 1999 Constitution, art. 12.

⁷⁸ 1999 Mining Law, art. 7.

⁷⁹ Presidential Decree No. 8413, *Official Gazette* No. 39,759 of 11 October 2011 [hereinafter “2011 Nationalization Decree”], art. 2.

⁸⁰ *Ibid.*, art. 1.

⁸¹ *Ibid.*, art. 14.

⁸² *Ibid.*, art. 2.

⁸³ *Ibid.*, art. 4.

⁸⁴ *Ibid.*, arts. 2-3.

the exploitation of gold were reserved to (a) SOEs or their affiliates; or (b) public-private joint ventures (*compañías mixtas*) where the State retained 55% ownership.⁸⁵

66. The Nationalisation Decree further declared gold reserves and gold mining areas as strategic for the nation, with the purpose of creating “security zones” in accordance with the Organic Law of National Security.⁸⁶ This was the first of a series of legal reforms that linked the gold industry to a special security regime, while signalling the increasing involvement of the National Bolivarian Armed Force (FANB in its Spanish acronym) in the gold industry.⁸⁷

67. The nationalisation of the mining industry did not, however, bring the economic and social benefits foreseen by the Government. Nationalisation led to various international investment disputes, resulting in the Government having to make large compensation payments.⁸⁸ Amidst a lack of legal certainty and overall insecurity, the Government failed to attract the foreign capital and know-how needed to revamp the mining sector on a modern scale.⁸⁹ This had a cascading effect on the other State-controlled industries in Bolívar state, such as steelworks and aluminium production, which gradually went into decay.⁹⁰

68. The establishment of the Arco Minero del Orinoco region is inextricably linked to the nationalisation of the mining industry. In August 2011, when announcing the adoption of the new mining law, President Chávez first referred to the idea of creating an “Arco Minero de Guayana” or “Arco Minero del Orinoco” zone.⁹¹

69. The establishment of the Arco Minero region was preceded by reforms to the mining legislation. These reforms moderated some of the requirements introduced by the Nationalisation Decree, allowing for so-called “strategic alliances” (*alianzas estratégicas*) in addition to SOEs and joint ventures (*empresas mixtas*). Presidential Decree No. 1395 (2014) defined *alianzas estratégicas* as a mechanism whereby private entities can “share productive processes, necessary to perform primary and related activities for gold exploitation.”⁹² This legal formula has been used both for agreements with organized small-scale miners (*brigadas mineras*) and for operating agreements with private entities. Decree-Law No. 2165 (2015) introduced the requirement that all mined gold should be sold and delivered to the Central Bank of Venezuela (BCV in its Spanish acronym).⁹³

(b) Attempts to curtail illegal mining

70. The 1990s saw the expansion of illegal mining resulting from the influx of *garimpeiros* (illegal gold miners) from neighbouring Brazil, resulting in criminal structures gradually increasing their presence in the sector.⁹⁴

71. Starting in 2003, the Government began to implement various initiatives in Bolívar state purportedly aimed at curbing the advance of informal mining, controlling illegal flows

⁸⁵ Ibid., art. 5.

⁸⁶ Ibid., art. 27. Organic Law of National Security, *Official Gazette* No. 37,594 of 18 December 2002, art. 47.

⁸⁷ See *infra* chap. IV.

⁸⁸ See, for example, *Rusoro Mining Ltd. vs. The Bolivarian Republic of Venezuela*, International Centre for Settlement of Investment Disputes (ICSID) Case No. ARB(AF)/12/5, Award of 22 August 2016.

⁸⁹ InSight Crime, “Maduro’s El Dorado: Gangs, Guerrillas and Gold in Venezuela”, 17 November 2021 [hereinafter “Maduro’s El Dorado”], p. 26.

⁹⁰ Interview MMIV031.

⁹¹ Misión Chávez Candanga (@misionchavezcandanga), “Presidente Chávez anuncia que nacionalizará explotación del oro”, YouTube video, 17 August 2011, available at: <https://www.youtube.com/watch?v=haNjyGUB22M>.

⁹² Presidential Decree No. 1395, *Official Gazette* (Extraordinary) No. 6,150 of 18 November 2014 [hereinafter “2014 Gold Mining Law”], art. 24.

⁹³ Decree-Law No. 2165, *Official Gazette* (Extraordinary) No. 6,210 of 30 December 2015 [hereinafter “2015 Gold Mining Organic Law”], art. 31.

⁹⁴ Interview PPIV009.

of diamonds and gold, and reversing environmental damage.⁹⁵ These included the following:

- Piar Mission (*Misión Piar*) (2003), with the objective of “[o]rganizing and strengthening community associations of miners and indigenous people working in small-scale mining” to improve their productivity.⁹⁶
- The Mining Reconversion Plan (*Reconversión Minera*) (2006), aimed at facilitating the relocation of informal miners into other sectors, such as tourism and agriculture.⁹⁷
- The Caura Plan (*Plan Caura*) (2010), a plan involving the FANB to expel illegal miners from Caura National Park.⁹⁸

72. None of these approaches achieved the desired results. This has been publicly acknowledged by the Government. According to a senior official of the Ministry of Popular Power for Ecological Mining Development, “everyone in Guayana knows that a miner will be a miner all his life. Before, we tried to pull them out of mining areas to engage them in other activities, but it didn’t work.”⁹⁹

73. The 1999 Mining Law attempted to introduce some level of control over small-scale and artisanal mining and mining cooperatives (*mancomunidades mineras*).¹⁰⁰ However, the rise of international gold prices, coupled with the lack of effective control by Government bodies, facilitated an unfettered expansion of informal mining beyond the reach of the law, including in protected areas.¹⁰¹

74. The 2011 Nationalisation Decree, which put an end to the mining concession system, also affected small-scale miners, who were forced to sign new agreements with the State. The refusal to enter into such agreements, coupled with the ending of existing mining concessions, left most of the mining population in a situation of illegality and created a situation of “anarchy” in the sector.¹⁰² As a result, illegal mining in Bolívar state reached a new peak between 2012 and 2013.¹⁰³ In the years to follow, the Venezuelan economic and humanitarian crisis, as well as the steady rise of international gold prices, led to the influx of tens of thousands of Venezuelans to the mining sectors in Bolívar state and other areas of the wider Guayana region (see *infra*).

(c) Gold as a source of government revenue

75. Since its inception, the Arco Minero region was conceived as “mining megaproject” which would serve as an additional source of government revenue in the context of Venezuela’s failing economy.¹⁰⁴ In this regard, the Arco Minero region was an integral part of the Government’s economic push to overcome the country’s dependency on oil exports – the so-called “*rentista* model” – within which oil accounted for 97% of the country’s foreign exchange earnings.¹⁰⁵

⁹⁵ SOS Orinoco, “Presence, Activity and Influence of Organized Armed Groups”, p. 8.

⁹⁶ Prensa Minera (Ministry of Popular Power for Ecological Mining Development), “Misión Piar”, undated, available in Spanish at: <http://www.desarrollominero.gob.ve/mision-piar/>.

⁹⁷ Transparencia Internacional, “Oro Mortal: Entre el crimen organizado, el ecocidio y la corrupción” (Deadly Gold: Between Organised Crime, Ecocide and Corruption), December 2019 [hereinafter “Oro Mortal”].

⁹⁸ Provea, “Pronunciamiento conjunto en apoyo a los esfuerzos de los pobladores del Caura por proteger sus derechos contra la minería depredadora”, 2014.

⁹⁹ Prensa Minera (Ministry of Popular Power for Ecological Mining Development), “Arco Minero representa una esperanza para frenar la destrucción al sur del Orinoco”, 24 October 2018.

¹⁰⁰ 1999 Mining Law, arts. 64 ff.

¹⁰¹ SOS Orinoco, “Presence, Activity and Influence of Organized Armed Groups”, p. 7.

¹⁰² *Ibid.*, p. 8

¹⁰³ Interview MMIV031.

¹⁰⁴ Interview HHIV044.

¹⁰⁵ Ángel Bermúdez, “Crisis en Venezuela: qué hay detrás de la estrepitosa caída de las exportaciones de petróleo”, *BBC News Mundo*, 7 October 2019 [hereinafter “Crisis in Venezuela”].

76. In 2015, oil revenues had hit a historical low as a result of the fall in international prices, and Petroleos de Venezuela S.A. (PDVSA), the State-owned oil company, reported a 41% drop in revenues.¹⁰⁶ In the following years, fluctuations in international market prices, coupled with the impact of international sanctions and failing oil production, led to an unprecedented crisis in the country's oil revenues. According to government sources, between 2014 and 2019, the Bolivarian Republic of Venezuela lost 99% of the country's foreign exchange earnings.¹⁰⁷

77. The establishment of the Arco Minero region represented a nation-wide policy to revamp the country's mining sector as a source of public revenue¹⁰⁸. Adopted in 2013, the second national development plan ("Plan de la Patria 2013-2019") included the strategic objective to "[d]evelop the national mining potential to diversify sources of employment, income and forms of social property,"¹⁰⁹ including the "sustainable development of the Arco Minero region, with sovereign and hegemonic State control."¹¹⁰

78. The Arco Minero region became a driving force of the so-called "Mining Engine," one of the 11 prioritised economic sectors or "engines" to increase the country's productivity as part of the Government's "Bolivarian economic agenda."¹¹¹ It also featured prominently in the third "Plan de la Patria 2019-2025".¹¹²

79. The Government's estimated revenue from the Arco Minero region has varied over time. In 2011, when President Chavez first introduced the idea of the Arco Minero region, he described it as "one of the world's biggest [gold] reserves," with an estimated value of US\$12-13 billion.¹¹³ In 2016, the Minister of Mining, Eulogio del Pino, estimated that the country's gold reserves were valued at US\$280 billion.¹¹⁴

2. The establishment of the Arco Minero del Orinoco region

80. In February 2016, the Government created the Arco Minero del Orinoco National Strategic Development Zone, via Presidential Decree No. 2248, establishing an exclusive State administrative regime within the declared area. In December 2017, via Presidential Decree No. 3188, 23 mining zones were identified within the original Arco Minero region, all of which are located within Bolívar state.¹¹⁵

81. Following the establishment of the Arco Minero region, President Maduro claimed that 150 mining companies from 35 countries had expressed interest in investing in the Arco Minero region.¹¹⁶ Subsequently, President Maduro announced that the Government had secured investments and operating agreements with foreign companies to enhance gold

¹⁰⁶ Agencia EFE, "La estatal venezolana PDVSA registra una caída de más del 41% en los ingresos de 2015", 3 July 2016.

¹⁰⁷ France 24, "Venezuela sufre caída del 99% de ingresos petroleros entre 2014 y 2019, dice Maduro", 30 September 2020.

¹⁰⁸ Ángel Bermúdez, "Crisis en Venezuela".

¹⁰⁹ "Segundo Plan Socialista de Desarrollo Económico y Social de la Nación, 2013-2019 presentado a la Asamblea Nacional por el Ciudadano Nicolás Maduro Moros, Presidente de la República Bolivariana de Venezuela", 28 September 2013, p. 80, Strategic Objective 3.1.16.

¹¹⁰ Ibid., p. 94, Strategic Objective 3.4.1.8.

¹¹¹ Prensa Minera (Ministry of Popular Power for Ecological Mining Development), "Motor minero. Motor de motores para la transformación nacional", April 2018.

¹¹² Tercer Plan Socialista de Desarrollo Económico y Social de la Nación 2019-2025, *Official Gazette* (Extraordinary) No. 6,446 of 8 April 2019.

¹¹³ Misión Chávez Candanga (@misionchavezcandanga), "Presidente Chávez anuncia que nacionalizará explotación del oro", YouTube video, 17 August 2011, available at: <https://www.youtube.com/watch?v=haNjyGUB22M>.

¹¹⁴ PDVA, "Ministro del Pino: Arco Minero del Orinoco seguirá sumando empresas a sus 40 bloques", 25 February 2016.

¹¹⁵ Presidential Decree No. 3188, *Official Gazette* No. 41,294 of 5 December 2017.

¹¹⁶ Partido Socialista Unificado de Venezuela (PSUV), "Maduro: Que 150 empresas de 35 países inviertan en Venezuela es una demostración de confianza" 24 February 2016.

production in the Arco Minero region, with an estimated value of US\$5.5 billion.¹¹⁷ However, only a limited number of contracts eventually materialised.¹¹⁸

82. Since its announcement, the Arco Minero region faced harsh opposition, both at home and abroad. In May 2016, a platform of concerned citizens filed a constitutional challenge before the Venezuelan Supreme Court of Justice (TSJ) for alleged violations of the 1999 Constitution and environmental legislation.¹¹⁹ To date, the petition, which was formally admitted by the TSJ, remains unanswered.¹²⁰

83. In June 2016, the opposition-led National Assembly adopted a resolution formally annulling the Arco Minero decree.¹²¹ In the resolution, the National Assembly contended that the Decree violated the Bolivarian Republic of Venezuela's constitutional and legal provisions and international commitments in relation to environmental protection, including in protected areas and ecologically fragile riverbeds.¹²² This resolution was ignored by the Government.

3. The implementation of the Arco Minero project

(a) 2016-2018: New legal and institutional framework

84. The decree establishing the Arco Minero region was part of wider legal and institutional reforms aiming at revamping the national mining industry. Between 2016 and 2018, a new legislative, administrative and corporate framework was created within which the goals of the Arco Minero (principally, to wrest control of mining, and gold mining in particular, from irregular actors) could be realised.

85. Soon after the establishment of the Arco Minero region, the new Ministry of Popular Power for Ecological Mining Development (hereinafter "Ministry of Mining") was established, taking over the responsibilities previously belonging to the Ministry of Popular Power for Oil and Mining.¹²³ The Ministry of Mining is responsible for the functions set out in the 2015 Organic Law.¹²⁴ The Ministry further administers the two main mining SOEs, Corporación Venezolana de Guayana Minerven C.A. (MINERVEN) and the Corporación Venezolana de Minería, as well as the National Institute of Geology and Mining (Instituto Nacional de Geología y Minería, or INGEOMIN).¹²⁵

86. The creation of the Arco Minero region also centralised the role of the Central Bank of Venezuela (Banco Central de Venezuela, or BCV) in the country's gold trade. In December 2015, the Government decreed that all strategic minerals mined in Venezuelan territory – including gold – must be sold to the BCV.¹²⁶ Since 2017, the Government has introduced legislation giving the BCV an exclusive mandate over the purchasing of gold from the Arco Minero region, effectively turning it into the country's only legal gold

¹¹⁷ Reuters, "Venezuela firma acuerdos por más de 5.500 mln dlr para proyectos mineros", 26 August 2016.

¹¹⁸ International Crisis Group (ICG), "Gold and Grief in Venezuela's Violent South", Latin America Report No. 73, 28 February 2019, [hereinafter "Gold and Grief"], p. 12; Human Rights Watch (HRW), "Venezuela: Violent Abuses in Illegal Gold Mines: Credible Allegations of Government Involvement, Acquiescence", 4 February 2020 [hereinafter "Violent Abuses in Illegal Gold Mines"], p. 8.

¹¹⁹ Demanda de nulidad y solicitud de amparo cautelar contra el acto administrativo contenido en el Decreto No. 2.248, 21 August 2016, available at: https://issuu.com/soberania.org/docs/nulidad_arco_minero_del_orinoco

¹²⁰ CERLAS and Plataforma contra el Arco Minero del Orinoco, "Report on the human rights situation in the Arco Minero of 2019", p. 144.

¹²¹ 2016 Agreement on the National Strategic Development Zone.

¹²² *Ibid.*, art. 1.

¹²³ Decree No. 2350, *Official Gazette* No. 40 of 9 June 2016.

¹²⁴ *Ibid.*, art. 2.

¹²⁵ *Ibid.*, art. 6.

¹²⁶ Presidential Decree No. 6201, *Official Gazette (Extraordinary)* No. 6,210 of 30 December 2015.

exporter.¹²⁷ However, the BCV's role in the gold trade has diminished in the face of sanctions imposed by the United States of America starting in 2018 (see *infra*).

87. In 2016, the State began promoting private and foreign investment in mining operations and gold processing facilities. This was done initially through joint venture partnerships (*empresas mixtas*) and so-called "strategic alliances" (*alianzas estratégicas*), a framework established in 2014 that underpinned production agreements between State and non-State entities.

(i) *State-owned enterprises (SOEs)*

88. Through 2016 and 2017, Corporación Venezolana de Minería (CVM) took over sizable mining assets (becoming the parent company of eight SOEs operating in the mining sector and 23 mining areas across Bolívar state), and as a result was the State's main representative in the largest *empresas mixtas* and *alianzas estratégicas*.¹²⁸ Between 2016 and 2018, CVM was part of at least five *empresas mixtas* to exploit gold and coltan, and close to 70 *alianzas estratégicas* to operate processing plants.¹²⁹

89. MINERVEN was first established in 1970 as an SOE in the gold industry. MINERVEN held dozens of mining concessions across Bolívar state, which it obtained after the nationalisation of the gold mining industry in 2011. It underwent structural changes between 2014 and 2018 as the Government ostensibly attempted to tighten its control over the company in the wake of public corruption scandals. In October 2016, ownership of MINERVEN was transferred from the Central Bank and state-owned oil company PDVSA to CVM. In November 2017, oversight of MINERVEN was transferred to the office of the Vice President, then Tareck El-Aissami, who would go on to exert administrative control over the company until 2021, when oversight was transferred back to the Ministry of Mining.¹³⁰

(ii) *Mechanisms for private investment in mining*

90. Since 2016, the Government expanded its system of *alianzas estratégicas* to engage small-scale miners, who represented the majority of the country's mining sector. The Venezuelan State is represented in these alliances by three SOEs, MINERVEN, Compañía Anónima Militar para las Industrias Mineras, Petrolíferas y de Gas S.A. (CAMIMPEG) and CVM, the latter being the most active (see *infra*). By November 2018, over 500 *alianzas estratégicas* with small-scale miners were established with the stated aim of transferring gold to the Central Bank.¹³¹ Following international sanctions, *alianzas estratégicas* have replaced *empresas mixtas* as the main format for public-private partnerships in mining activities.

(b) **2017 to 2019: The centralization of gold production and Operation Metal Hands**

91. Starting in 2018, the Government made concerted efforts to centralise and expand its gold mining and processing capacities. These efforts occurred in the context of a steady decline in State-controlled gold production since 2011, the entrenchment of illegal armed groups, and the continued prevalence of irregular, small-scale mining.

92. Recognising the continued presence of illegal armed groups in the mining sector, the State launched a military offensive against irregular actors in 2018, essentially clearing the way for new, tightly controlled administrative and corporate structures to oversee gold

¹²⁷ Ley Constitucional del Régimen Tributario para el Desarrollo Soberano del Arco Minero, *Official Gazette* No. 41,310 of 29 December 2017.

¹²⁸ Modificación del Acta Constitutiva Estatutaria de Corporación Venezolana de Minería (CVM), *Official Gazette* No. 41,006 of 10 October 2016.

¹²⁹ Document LLDD002.

¹³⁰ *Ibid.*; Decree No. 3467, *Official Gazette* (Extraordinary) No. 6,382 of 15 June 2018; Decree No. 4568, *Official Gazette* No. 42,194 of 19 August 2021.

¹³¹ Karina Depablos, "Operativas 7 plantas auríferas con tecnología de bajo impacto en el Arco del Orinoco", *Prensa Minera*, 27 November 2018.

mining in the Arco Minero region. In June 2018, then Vice-President Tareck El-Aissami announced Operation Metal Hands (Manos de Metal), to dismantle “gangs” involved in gold smuggling networks.¹³²

93. Operation Metal Hands increased military presence in and around El Callao municipality, an important gold hub and the epicentre of so-called “cleansing operations” (military operations allegedly aiming at taking control over mining areas under the control of irregular groups). The military efforts were coupled with institutional reforms, as the Government reconstituted the Ministry of Popular Power for Industry and National Production, and appointed Vice-President Tareck El-Aissami as its minister.¹³³ The reformed Ministry took administrative control of 104 SOEs, among them MINERVEN.

94. In October 2018, MINERVEN entered a joint venture (*empresa mixta*) with a newly incorporated private company controlled by Alex Nain Saab Morán, a Colombian businessman later charged with money laundering.¹³⁴ The resulting *empresa mixta*, Sociedad Anónima Minería Binacional Turquía -Venezuela S.A. (MIBITURVEN)¹³⁵, took over MINERVEN’s sizeable mining assets, and as a result emerged as a central player in gold production in El Callao.

(c) 2019 to 2021: The impact of international sanctions and the reconfiguration of the gold industry

95. Since 2019, the Venezuelan State has sought alternative strategies to exploit and commercialise gold in response to international sanctions and other internal and external pressures. A consolidation of *alianzas estratégicas* with private companies is evident in the gold mining sector, as is the re-emergence of military figures in key SOEs.

96. CVM, headed by a key ally of President Maduro, General Carlos Álvaro Osorio,¹³⁶ remains the principal State representative in *alianzas estratégicas* in gold production. By allocating mining rights, CVM has led the “formalisation” of hitherto artisanal and small-scale miners. Separately, there are examples of *alianzas estratégicas* between CVM and purportedly private companies controlled by members of the Venezuelan political and military elite with corporate networks outside of the Bolivarian Republic of Venezuela. Most private companies in *alianzas estratégicas* are represented by frontmen or fiduciaries, a manifestation of a broader lack of transparency in the gold mining sector.¹³⁷

97. In 2018 and 2019, the United States of America imposed a series of sanctions on the BCV and associated individuals and entities, leading to a sharp reduction in the Bank’s role in commercialising Venezuelan minerals.¹³⁸ As mentioned above, the State had in 2015 designated the BCV as the sole legal exporter of gold from the Bolivarian Republic of

¹³² El Pitazo, “El Aissami anunció el inicio de la Operación ‘Manos de Metal’”, YouTube video, 8 June 2018, available at: https://www.youtube.com/watch?v=gHb_rbulapw.

¹³³ Presidential Decree No. 3467, *Official Gazette* (Extraordinary) No. 6,382 of 15 June 2018; Presidential Decree No. 3464, *Official Gazette* 41,419 of 14 June 2018.

¹³⁴ InSight Crime, “Maduro’s El Dorado”, p. 9.

¹³⁵ President Maduro approved the creation of the company through Presidential Decree No. 3598, *Official Gazette* No. 41,472 of 31 August 2018.

¹³⁶ Presidential Decree No. 3047, *Official Gazette* No. 41,233 of 28 August 2011.

¹³⁷ CVM has reportedly awarded mining concessions in El Perú and Nacupay, El Callao municipality, to entities controlled or effectively owned by officer of the National Bolivarian Armed Force (FANB for its Spanish acronym) and members of law enforcement, although the named representatives of the concession holders are typically frontmen (Interview NNIV029). Moreover, it is not uncommon for active or retired military officers in the Bolivarian Republic of Venezuela to have corporate affiliations and actively participate in companies. See Transparency Venezuela, “Presencia militar en el estado venezolano”, November 2021; OCCRP, “How Venezuela Bought Military Loyalty”, 10 April 2020.

¹³⁸ US Presidential Executive Order 13850, Blocking Property of Additional Persons Contributing to the Situation in Venezuela, 1 November 2018; U.S. Department of the Treasury, “Treasury Sanctions Venezuela’s State Gold Mining Company and Its President for Propping Up Illegitimate Maduro Regime”, 19 March 2019; U.S. Department of the Treasury, “Treasury Sanctions Central Bank of Venezuela and Director of the Central Bank of Venezuela”, 17 April 2019.

Venezuela. The sanctions have led to an increase in alleged efforts to export gold illicitly, including through undeclared and concealed mineral shipments to nearby countries for onward delivery through intermediaries (albeit without alleging a role of the BCV in such efforts).¹³⁹ These flows of gold rarely leave a paper trail and are difficult to trace.

98. The BCV's gold reserves were in decline already before 2019, after which no public data is available.¹⁴⁰ Since September 2020, the BCV has allowed individual private exporters to operate in the country, who are obliged to pay a tariff on all profits from gold exports.¹⁴¹ Available trade data, however, do not reflect any significant private exportation of gold from the Bolivarian Republic of Venezuela since 2018.¹⁴² There are also indications that the Venezuelan Government and the BCV have unsuccessfully attempted to price gold trades in a cryptocurrency since at least 2018.¹⁴³

99. The increased reliance on private actors in the gold mining sector has been accompanied by a shift in control of key State and corporate structures. Tareck El-Aissami took up office as the Minister of Popular Power for Petroleum in April 2020.¹⁴⁴ Beginning in August 2021, active or retired military officers were placed in charge of the Ministry of Mining,¹⁴⁵ MINERVEN, and MIBITURVEN.¹⁴⁶

100. Since late 2021, CVM, which controls MINERVEN since October 2016, appears to have also taken over the operations of MIBITURVEN mines in and around El Callao – cementing its position as the key SOE in the gold mining sector.

C. The Arco Minero security framework

1. The legal framework governing State security forces in Arco Minero and other mining areas

101. Since 2011, the Venezuelan Government has formalised the FANB's increasingly prominent role in the country's southern mining regions, through a series of legal reforms. The Nationalisation Decree, issued on 23 August 2011 by former President Hugo Chávez, declared the Bolivarian Republic of Venezuela's gold mining regions to be "security zones" in the national interest, as defined under the National Organic Security Law of 2002.¹⁴⁷ The Decree sets out a broad range of FANB responsibilities in the mining regions, including to maintain "security and order", to combat "illicit groups" involved in the gold mining industry, and to confront other threats against the "sovereignty and independence of the nation".¹⁴⁸ The FANB's role in providing security in mining areas was subsequently confirmed by Presidential Decree No. 1395 (2014) and Decree-Law No. 2165 (2015).¹⁴⁹

102. Presidential Decree No. 2248 of 2016, which formally established the Arco Minero del Orinoco region, granted special powers to the FANB to "safeguard, protect, and maintain the harmonious continuity of the operations and activities of the Strategic

¹³⁹ Organisation for Economic Co-operation and Development (OECD), *Gold Flows from Venezuela: Supporting due diligence on the production and trade of gold in Venezuela*, 8 September 2021 [hereinafter "*Gold Flows from Venezuela*"].

¹⁴⁰ World Gold Council, "Statistics on global central bank gold holdings", 28 July 2022.

¹⁴¹ BCV Resolution No. 20-08-01, *Official Gazette* No. 41,958 of 4 September 2020.

¹⁴² Document LLDD003. According to the Mission's research in open sources and subscription databases, the only definitive shipment found is a delivery of 0.89 kg of semi-finished gold to Colombia in August 2019 by Inversiones Alejandrita CA.

¹⁴³ Presidential Decree No. 3353, *Official Gazette* (Extraordinary) No 6,371 of 9 April 2018; InSight Crime, "Bitcoin Cryptocurrency Adds to Venezuela Money Laundering Risk", 7 April 2021.

¹⁴⁴ Presidential Decree No. 4190, *Official Gazette* (Extraordinary) No. 6,531 of 27 April 2020.

¹⁴⁵ The Minister of Mining is Admiral William Miguel Serantes Pinto. See Presidential Decree No. 4565, *Official Gazette* (Extraordinary) No. 6638 of 19 August 2021.

¹⁴⁶ Corporación Venezolana de Guayana Minerven C.A. (MINERVEN) is headed by Admiral William Miguel Serantes. Presidential Decree No. 4597, *Official Gazette* No. 42,229 of 7 October 2021.

¹⁴⁷ 2011 Nationalization Decree, art. 27.

¹⁴⁸ *Ibid.*

¹⁴⁹ 2014 Gold Mining Law, art. 40; 2015 Gold Mining Organic Law, art. 38.

Industries”,¹⁵⁰ and ordered state security agencies to “[carry] out all necessary immediate actions” to ensure the smooth conduct of mining activities”.¹⁵¹

103. Since the establishment of the Arco Minero region, the FANB’s role has been further formalised and expanded in the region. Presidential Decree No. 3188 from December 2017, for example, designated 23 new mining zones in the Arco Minero region and authorized the Ministry of Defence to coordinate security and combat illegal mining in these areas.¹⁵²

2. Structure and presence of State security forces in the Arco Minero region

(a) FANB

104. The Commander in Chief of the FANB is the President.¹⁵³ The President exercises his command directly or through the Strategic Operational Command of the FANB (CEO FANB for its Spanish acronym) and has the power to issue direct instructions and transmit orders through the Minister of Defence.¹⁵⁴ Vladimir Padrino López has been the Minister of Defence since October 2014. Under the 1999 Constitution, the FANB is composed of the Army, the Navy, the Air Force and the Bolivarian National Guard (GNB).¹⁵⁵

105. At the operational level, the FANB is organized into Strategic Regions of Integral Defence (REDI for its Spanish acronym), which are subdivided into Operational Zones of Integral Defence (ZODI for its Spanish acronym) and Areas of Integral Defence (ADI for its Spanish acronym). The Arco Minero region falls within the REDI Guayana, which extends over the states of Bolívar, Amazonas, and Delta Amacuro. Each of these states corresponds to a different ZODI (ZODI 62, ZODI 63 and ZODI 61, respectively).

106. Various forts and military bases are located throughout Bolívar state. A key example is the FANB 512 Brigade, based at Fort Tarabay, in Tumeremo, Sifontes municipality. It was previously commanded by now deceased Lieutenant Colonel Ernesto Solís, who was murdered in April 2020 allegedly by an enemy *sindicato*.¹⁵⁶ Another key military facility is the FANB 5101 Cavalry Squad, popularly known as “El Escamote”, located in Santa Elena de Uairén, Gran Sabana municipality, which was a central location in several of the cases investigated by the Mission.¹⁵⁷

(b) GNB

107. The GNB previously belonged to the police but has been part of the FANB since 1999. It has specific functions in the areas of security and public order, traffic security, border security, rural security, port and airport security, penitentiary security, operations against extortion, kidnapping, drugs, and others.¹⁵⁸ Under the 2020 FANB Constitutional Law, the GNB has also been tasked with anti-terrorism responsibilities and may conduct military operations.¹⁵⁹

¹⁵⁰ 2016 Arco Minero Decree, art. 13.

¹⁵¹ *Ibid.*, art. 25.

¹⁵² Presidential Decree No. 3188, *Official Gazette* No. 41,294 of 5 December 2017.

¹⁵³ Ley Constitucional de la Fuerza Armada Nacional Bolivariana (Constitutional Law of the National Bolivarian Armed Force), *Official Gazette* (Extraordinary) No. 6.508 of 30 January 2020 [hereinafter “2020 FANB Constitutional Law”], art. 23.

¹⁵⁴ *Ibid.*, art. 26.

¹⁵⁵ 1999 Constitution, art. 328. In the 2008 reforms to the Constitution, the armed forces were rebranded as “Bolivarian”.

¹⁵⁶ Nueva Prensa Digital, “Fiscalía investiga a comandante del Fuerte Tarabay”, 4 December 2019; Tal Cual Digital, “Americo de Grazia denunció massacre del ELN en mina de Tumeremo, 15 September 2019.

¹⁵⁷ See *infra* chap. IV.

¹⁵⁸ 2020 FANB Constitutional Law, art. 73.

¹⁵⁹ *Ibid.*

108. The GNB is divided into regional Command Zones, headed by a one-star Major General or Brigadier General. Bolívar state falls within GNB Command Zone 62, headquartered in Puerto Ordaz,¹⁶⁰ which is subdivided into at least 10 detachments spread throughout the state.¹⁶¹ Additional GNB units in Bolívar state include specialised units dedicated to the coast guard, anti-extortion and kidnapping, anti-drug trafficking, rapid response, and forensic investigations.¹⁶²

(c) State intelligence services

109. The State's military and civilian intelligence agencies, respectively the General Directorate of Military Counter-Intelligence (DGCIM for its Spanish acronym) and Bolivarian National Intelligence Service (SEBIN for its Spanish acronym), also have a presence in Bolívar state.¹⁶³

110. DGCIM is an organ of the FANB that is headquartered in Caracas but subdivided regionally into eight Military Counter-Intelligence Regions (Regiones de Contrainteligencia Militar, or RECIM). "RECIM 6 Guayana" covers the states of Bolívar, Amazonas, and Delta Amacuro, and is divided into Military Counter-Intelligence Zones (Zonas de Contrainteligencia Militar, or ZOCIM) in each state. DGCIM also has several smaller headquarters in different municipalities.¹⁶⁴

111. DGCIM has played a leading role in security operations in the region, including in Operation Metal Hands launched by the Government in 2018 to combat illegal armed groups. The Mission has also received information that DGCIM provides security to various State-led mining operations. These include the Complejo Industrial Domingo Sifontes, a State-run gold mining complex, and the Isidora mine managed by the SOE Corporación Venezolana de Minería (CVM), both in El Callao municipality.¹⁶⁵

112. SEBIN is headquartered in Caracas but is subdivided into Strategic Intelligence Regions (Regiones Estratégicas de Inteligencia, or REDIN) throughout the Bolivarian Republic of Venezuela.¹⁶⁶ It has a presence in Bolívar state and its agents have on occasion taken part in operations against alleged illegal armed groups in the context of mining, such as in the aftermath of the so-called "Tumeremo Massacre".¹⁶⁷

(d) Police structures

113. The National Bolivarian Police (PNB for its Spanish acronym) is the main civil security force at the national level. It reports to the Ministry of the Interior and its director is appointed by the minister.¹⁶⁸ The PNB Directorate of the Guayana Region has jurisdiction over the Arco Minero region.¹⁶⁹ The Regional Office is composed of a "Jefatura" (Directorate) and a "División de Operaciones del Cuerpo de Policía Nacional Bolivariana" (PNB Operations Division).¹⁷⁰ The Scientific, Criminal and Criminological Investigator Corps (CICPC for its Spanish acronym) is the country's largest national police

¹⁶⁰ Official twitter account of the GNB Command Zone No. 62 of Bolívar state, available at: https://twitter.com/gnb_czbolivar.

¹⁶¹ Infodefensa, "La Guardia Nacional de Venezuela activa dos unidades en Bolívar", 29 January 2020.

¹⁶² Ibid.; Infodefensa, "Venezuela activa un nuevo destacamento de la Guardia Nacional en la región de Guayana", 9 July 2020.

¹⁶³ For detailed descriptions of the structures and operations of DGCIM and SEBIN, see A/HRC/51/43, and accompanying conference room paper with detailed findings.

¹⁶⁴ NTN24, "Impactante: Así fue el ataque de la Banda de "El Toto" a sede del DGCIM en El Callao", 31 March 2021.

¹⁶⁵ Interview OOIV19; Interview OOIV24; Armando.Info, "El capataz que "mantiene a Venezuela", 26 July 2020.

¹⁶⁶ Reglamento Orgánico del Servicio Bolivariano de Inteligencia Nacional (SEBIN), Presidential Decree No. 2524, *Official Gazette* No. 41.021 of 1 November 2016, art. 5.

¹⁶⁷ See *infra* chap. III.

¹⁶⁸ See police organization chart available at: <http://www.policianacional.gob.ve/index.php/organizacion>.

¹⁶⁹ Reglamento General de la Ley Orgánica del Servicio de Policía y del Cuerpo de Policía Nacional Bolivariana, Presidential Decree No. 1152, *Official Gazette* No. 40,468 of 5 August 2014, art. 24.

¹⁷⁰ Ibid., art. 25.

agency and is responsible for criminal investigations and forensic services,¹⁷¹ with sub-delegations throughout the region.¹⁷²

D. Economic interests of military and political actors in the mining sector

1. Economic interests of the FANB

114. The FANB not only has a designated role in the Arco Minero security framework, but its various branches also have varied and extensive economic interests in the region. These range from military-owned entities created to exploit natural resources, to apparently illicit revenues generated by individual officers.

(a) The operations of military-owned companies

115. Already by 2016, military-owned investments included 17 companies and joint ventures.¹⁷³ CAMIMPEG was established on 10 February 2016, a mere two weeks before the establishment of the Arco Minero region.¹⁷⁴ CAMIMPEG is fully owned¹⁷⁵ by the Ministry of Defence and is the main military-owned company in the mining industry.

116. CAMIMPEG has expanded its footprint in the mining sector since 2016. In 2017 and 2018, the company signed various agreements with private companies and investors for operations in the mining sector, primarily in Sifontes municipality in Bolívar state.¹⁷⁶ Between September 2017 and January 2020, CAMIMPEG also signed *alianzas estratégicas* with at least six other companies linked to gold mining operations in the region.¹⁷⁷

117. At the end of 2020, CAMIMPEG recorded a net profit of 175,979,443.69 Venezuelan bolivares (approximately US\$30,9 million at current rates),¹⁷⁸ It is unclear, however, from publicly available information, what CAMIMPEG's operations have been since 2021.¹⁷⁹

118. Other military-owned companies involved in the gold industry are the FANB Military Transport Company (Empresa Militar de Transporte de la Fuerza Armada Nacional Bolivariana, or EMILTRA), which provides gold transport and custody services,¹⁸⁰ and the Anonymous Venezuelan Company of Military Industries (Compañía Anónima Venezolana de Industrias Militares, or CAVIM), a manufacturer of firearms and explosives for the FANB that has supplied explosives to small-scale miners.¹⁸¹

119. Following the Arco Minero model, the FANB economic interests have expanded to other economic sectors in Bolívar state and in other parts of the country, signalling the

¹⁷¹ 1999 Constitution, art. 332.2.

¹⁷² InfoBae, "La tolerancia del Ejército con la guerrilla le costó la vida al comandante de un Fuerte Militar en Venezuela", 8 April 2020.

¹⁷³ Infodefensa, "Venezuela continúa con su carrera de creación de empresas militares", 19 April 2014; Transparency Venezuela, "Presencia militar en el estado venezolano", November 2021.

¹⁷⁴ Presidential Decree No. 2231, *Official Gazette* No. 40,845 of 10 February 2016.

¹⁷⁵ Registro Nacional de Contratistas de Venezuela (via Sayari [subscription database]).

¹⁷⁶ Registro Nacional de Contratistas (via Sayari [subscription database]); Ministerio del Poder Popular de Desarrollo Minero Ecológico, "Inversiones en el Arco Minero del Orinoco", 29 January 2018, available at: <http://www.desarrollominero.gob.ve/inversiones-en-el-amo-2/>; Cuentas Claras Digital, "Maduro firma millonario contrato minero con cuestionada empresa china Camc", 26 July 2017; Havan Chang Holdings Ltd., Facebook page, 8 November 2017, available at: <https://es-la.facebook.com/HavanChangHoldings/>.

¹⁷⁷ Document LLDD002.

¹⁷⁸ Mission's own research based on open sources and subscription databases.

¹⁷⁹ Document LLDD001.

¹⁸⁰ Empresa Militar de Transporte de la Fuerza Armada Bolivariana (EMILTRA), Instagram page, available at: <https://www.instagram.com/emiltrafanb/?hl=en>.

¹⁸¹ Prensa Minera (Ministry of Popular Power for Ecological Mining Development), "Pequeña minería recibe insumos y acompañamiento especializado para aumentar producción de oro", 23 December 2017.

increased militarization of Venezuelan economic structures. The 2020 FANB Constitutional Law foresees the establishment of “Special Military Economic Zones” where the FANB can undertake economic activities under a “civil-military union.”¹⁸² Under this arrangement, that same year the Government created the Special Military Economic Zone of Forestry Development (ZEEMEF for its Spanish acronym), spanning between northern Bolívar state and Delta Amacuro state.¹⁸³ The military-run Empresa Militar para el Aprovechamiento Sustentable de Productos Forestales y Recursos Naturales S.A. (EMASPROFORN) was established as the key corporate actor within this economic zone.¹⁸⁴

120. Retired and active military officers have also continued to dominate positions of power within State institutions and enterprises in the mining sector in Bolívar state, as noted below. In addition, it is not uncommon or illegal in Venezuela for active or retired military officers in the Bolivarian Republic Venezuela to have corporate affiliations and actively participate in companies.¹⁸⁵ CVM has reportedly, for example, awarded mining concessions in El Callao, to entities controlled or effectively owned by FANB officers and members of law enforcement, although the named representatives of the concession holders are typically frontmen.¹⁸⁶

(b) Alleged illicit sources of military revenue in the Arco Minero region

121. Apart from the military’s formal involvement in the mining industry, the Mission has also received credible information of members of the security forces colluding with *sindicatos* and other criminal elements involved in the mining sector. As laid out in further detail in Chapter III, such collaboration has ranged from tacit acceptance of the presence of armed groups, active collusion between low-ranking State and non-State actors, to alleged strategic high-level alliances to “cleanse” mines of certain *sindicatos*. Lower-ranking members of the FANB have also been known to use extortion and other abuses of power for financial gain. However, off-the-books sources of revenue are difficult to track, and it is unclear to what extent such activities are conducted by rogue elements, or if they are endorsed, tolerated, or controlled through FANB structures and chains of command.

122. Illicit activities in which FANB officials are reported to be involved include the provision of security services to illegal mines;¹⁸⁷ control of fuel distribution and air transport in mining areas;¹⁸⁸ cross-border smuggling of mercury;¹⁸⁹ and charging of bribes (known in Bolívar state as *vacunas*) or extortionary taxes from the operation of illegal mines or to access infrastructure, often exerted at military checkpoints (also known as *alcabalas*).¹⁹⁰

123. Another main source of off-budget military revenue is allegedly gold smuggling to neighbouring countries, particularly to Brazil and Colombia. According to the Organisation for Economic Co-operation and Development (OECD), in 2021 authorities from Colombia and United States of America jointly investigated a scheme in which gold allegedly collected from mines by the GNB was concealed and shipped into Bogotá, with a final destination of the United States of America and other third countries.¹⁹¹ According to a Colombian National Police report in January 2021, Colombian companies operating in the mining sector are being used by financial intermediaries close to the regime of President

¹⁸² 2020 FANB Constitutional Law, art. 27.

¹⁸³ Presidential Decree No. 4392, *Official Gazette* No. 42,034 of 22 December 2020.

¹⁸⁴ Presidential Decree No. 4383, *Official Gazette* No. 42,034 of 22 December 2020.

¹⁸⁵ Ibid. See also OCCRP, “How Venezuela Bought Military Loyalty”, 10 April 2020.

¹⁸⁶ Interview NNIV029.

¹⁸⁷ Interview OOIV24.

¹⁸⁸ Transparency Venezuela, “Economías ilícitas al amparo de la corrupción”, June 2022.

¹⁸⁹ Marcos David Valverde, “On the shores of Cuyuní, Mercury shines brighter than gold”, 14 September 2020.

¹⁹⁰ Interview HHIV045; Interview HHIV038; Interview HHIV044; Interview HHIV039; Interview HHIV037; Interview HHIV035.

¹⁹¹ OECD, *Gold Flows from Venezuela*, p. 34.

Maduro to smuggle Venezuelan gold via the Orinoco river, allegedly with the support of FANB officers and factions of the National Liberation Army (ELN).¹⁹²

124. The Mission has received information indicating that current and former individual FANB personnel may have benefitted from off-budget assets in the mining sector in the Arco Minero region. According to public reports, former FANB officials have alleged ties to private companies in the gold mining sector in the Arco Minero region. In addition, evidence gathered by the Mission indicates alleged financial collusion with illegal armed groups. This issue is discussed in more detail in Chapter III below.

2. Economic interests of Government officials and other politically exposed persons

125. While the establishment of the Arco Minero region in 2016 was officially driven by a State policy to combat illicit mining and to better utilise mineral resources to aid the country's economic recovery, it has also created opportunities for people close to power to generate personal wealth, including by circumventing international sanctions. Publicly available information indicates that several high-level national authorities have benefitted financially from mining activities in the Arco Minero region.

126. Several high-level politicians or members of President Maduro's immediate family have been sanctioned by the United States of America for their alleged involvement in the Bolivarian Republic of Venezuela's illicit drug trade. These include, for example, the president's son Nicolás Maduro Guerra, who was sanctioned in July 2020.¹⁹³ The Mission has further received information from various sources, including a former DGCIM official, that First Lady Cilia Flores has an interest both licit and illicit mining activities, but was unable to independently verify such claims.¹⁹⁴

127. Tareck El-Aissami, the current Minister for Petroleum and former Minister of Industries, has been sanctioned for his alleged involvement in international narcotics trafficking.¹⁹⁵ El Aissami has been accused by the United States of America of working with Colombian businessman Alex Nain Saab Morán to sell gold to Türkiye and the Islamic Republic of Iran, thereby skirting international sanctions.¹⁹⁶ When Tareck El-Aissami was appointed Minister of Industries in June 2018, he effectively took over administrative control over MINERVEN, Carbones del Zulia S.A. (CARBOZULIA), and Empresa de Propiedad Social Maderas del Orinoco C.A. (Maderas del Orinoco C.A.). He acted as signatory on behalf of these SOEs in the creation of three joint ventures (MIBITURVEN,¹⁹⁷ Sociedad Anónima Carbones de Turquía y Venezuela S.A. also known as CARBOTURVEN,¹⁹⁸ and Maderas de Venezuela y Turquía also known as MAVETUR¹⁹⁹) with entities controlled by Alex Nain Saab Morán (see *infra*).

128. According to the Department of the Treasury of the United States of America, Diosdado Cabello, First Vice President of the ruling Venezuelan PSUV party, under the direction of former Governor of Bolívar state, Francisco Rangel Gómez, participated in illegal mineral extraction and money laundering through three SOEs: Venezolana de

¹⁹² Document NNDD054.

¹⁹³ U.S. Department of the Treasury, "Treasury Targets Individuals Supporting Illegitimate Maduro Regime's Corruption", press release, 23 July 2020.

¹⁹⁴ Document NNDD046; Document NNDD047; Interview HHIV058.

¹⁹⁵ U.S. Department of the Treasury, "Treasury Disrupts Corruption Network Stealing from Venezuela's Food Distribution Program, CLAP", press release, 25 July 2019; U.S. Department of the Treasury, "Treasury Sanctions Prominent Venezuelan Drug Trafficker Tareck El Aissami and His Primary Frontman Samark Lopez Bello", press release, 13 February 2017.

¹⁹⁶ U.S. Department of the Treasury, "Treasury Disrupts Corruption Network Stealing from Venezuela's Food Distribution Program, CLAP", press release, 25 July 2019; Bloomberg, "Maduro to Tap Sanctioned Dealmaker to Ship Gold to Iran", 8 May 2020.

¹⁹⁷ President Maduro approved the creation of the company through Presidential Decree No. 3598, *Official Gazette* No. 41,472, 31 August 2018.

¹⁹⁸ *Official Gazette* No. 41,513 of 30 October 2018.

¹⁹⁹ *Official Gazette* No. 41,643 of 29 May 2019.

Aluminio C.A. (VENALUM), Aluminos Nacionales S.A. (ALUNASA) and Ferrominera del Orinoco C.A. (FMO), all of which were CVG subsidiaries.²⁰⁰

129. Diosdado Cabello has further been alleged in legal proceedings in the United States of America to have been involved in illegal mineral exports, as well as in money laundering and drug trafficking.²⁰¹

130. Francisco Rangel Gómez, a reported close ally of former President Hugo Chávez, served as the Governor of Bolívar state from 2004 to 2017.²⁰² Prior to becoming Governor, Rangel Gómez was chairman of CVG from 10 October 2000 until 19 April 2004.²⁰³ On 5 January 2018, Francisco Rangel Gómez was sanctioned by the United States of America for collaborating with Diosdado Cabello in laundering money through three SOEs structured under CVG, as referred to above.²⁰⁴ Francisco Rangel Gómez was also sanctioned by the Panama Ministry of Economy and Finance in March 2018.²⁰⁵ As will be discussed in Chapter III, Francisco Rangel Gómez and Julio Cesar Fuentes Manzulli, the Secretary of Public Security and head of the Bolívar State Police (PEB), have both been accused of collaborating with and supplying arms to illegal armed groups involved in the illicit gold trade.

131. Intertwined with this clique of powerful individuals are numerous financial intermediaries who, via complex corporate networks outside the Bolivarian Republic of Venezuela, facilitate the illicit commercialisation of gold. The most well-known example is Alex Nain Saab Morán (Alex Saab), a Colombian businessman. Alex Saab was directly involved in the establishment of MIBITURVEN, as well as other public-private joint ventures mandated to exploit and commercialise natural resources in the Bolivarian Republic of Venezuela: CARBOTURVEN (coal) and MAVETUR (timber) (see *supra*). Alex Saab is currently facing trial in the United States of America on money laundering charges, having been extradited from Cabo Verde in October 2021.²⁰⁶ Another known fiduciary is Eduardo Rivas, who came to prominence in the gold mining sector in El Callao after Operation Metal Hands, when he was appointed director of a key gold processing facility, the Domingo Sifontes Industrial Complex.²⁰⁷

E. Gold mining in the Arco Minero region: Typology and impact

1. Types of mining operations

132. One of the main drivers behind the creation of the Arco Minero region was precisely to control the mining sector and benefit from the country's mineral resources. To this end, the Government expected to attract the foreign investment required to relaunch industrial mining. However, because of the lack of legal protections, widespread insecurity, and international sanctions, foreign investment never attained the levels that the Government expected.²⁰⁸ An OECD report concluded that, by 2020, there was no large-scale mining in

²⁰⁰ U.S. Department of the Treasury, "Treasury Targets Influential Former Venezuelan Official and His Corruption Network", press release, 18 May 2018.

²⁰¹ *Stansell et al. v. Revolutionary Armed Forces of Columbia, (FARC) et al.*, case No. 13-11339, United States Court of Appeals (11th Circuit), 2014; *John Doe v. Ejército de Liberación Nacional (ELN), et al.*, case No. 92 F. Supp. 3d 1, United States District Court, D. Puerto Rico, 2015; U.S. Department of the Treasury, FinCEN Advisory FIN-2018-A003, 12 Junio 2018.

²⁰² Armando.Info, "General Rangel Gómez under the Shadow of this Son-in-Law's Business in Mexico", 1 September 2019; Primicia, "Agradecen visita de Nidia Escobar de Rangel a Mundo de Sonrisas", 21 October 2021.

²⁰³ Ministerio de Industria, "Presidentes de la CVG", available at: <http://www.cvg.gob.ve/?q=node/97>

²⁰⁴ U.S. Department of the Treasury, "Treasury Targets Influential Former Venezuelan Official and His Corruption Network", press release, 18 May 2018.

²⁰⁵ Panama Ministry of Economy and Finance, Resolution 02-2018, *Official Gazette* No. 28493-A of 27 March 2018.

²⁰⁶ U.S. Department of Justice, "Colombian Businessman Charged with Money Laundering Extradited to the United States from Cabo Verde", 18 October 2021.

²⁰⁷ Armando.Info, "El capataz que mantiene a Venezuela", 28 July 2020.

²⁰⁸ InSight Crime, "Maduro's El Dorado", p. 3.

the Bolivarian Republic of Venezuela, and that rumours of “highly mechanized operations conducted discreetly by international mining enterprises” could not be confirmed.²⁰⁹

133. The State mining company MINERVEN took over most existing mining concessions after the 2011 Nationalisation Decree. However, the company subsequently entered a financial and production crisis.²¹⁰ As mentioned above, most of MINERVEN’s mining assets were subsequently transferred to the joint venture MIBITURVEN in 2018 (see *supra*). By early 2022, however, CVM appears to have taken over the operations of MIBITURVEN mines in and around El Callao.²¹¹

134. Given the limited availability of public information, the current status of these operations is unclear. There are indications that the State’s gold production capacity has not fully recovered and, as an alternative source of gold, both MINERVEN and MIBITURVEN continued to commercialise gold from small-scale miners and criminal organisations operating in the region.²¹²

135. The above seems to suggest that most of the gold produced in the Arco Minero region, and certainly all the gold produced outside the formal boundaries of the special economic zone, is extracted from small and medium-scale mines, which are typically controlled by illegal groups.²¹³

136. Due to a lack of official data and the opacity of the Government regulatory bodies, the Mission found it impossible to determine which proportion of the gold produced in the country is legally mined or comes from illegal mining sites. According to more conservative estimates, gold extracted from illegal mines may amount to a minimum of 70% of the gold produced in the Bolivarian Republic of Venezuela.²¹⁴ However, the Mission has no means to determine the accuracy of these estimates.

2. The gold mining cycle

137. In the Bolivarian Republic of Venezuela, gold is extracted using several mining methods, mostly semi-mechanic alluvial and rock mining, small galleries, and dredge mining in rivers. The most common methods are small-scale alluvial and rock mining, which rely on water pumps and explosives to dislodge rock and move gravel deposit. Miners often work inside narrow circular excavations (known as *barrancos*).²¹⁵

138. Gold is processed in the Arco Minero region using two main methods: small-scale grinding, using gold mills, and “lixiviation”, using cyanidation plants. Gold mills grind the gold-bearing gravel gathered by small-scale miners. The gravel is mixed with mercury to form amalgams to extract gold. Amalgams are subsequently burned, causing the mercury to evaporate into the atmosphere. The resulting product are small nuggets of unrefined gold, which are locally known as *gramas*. The widespread use of mercury has severe and lasting impacts on people’s health and the environment (see *infra*).

139. Cyanidation plants operate at an industrial scale, and are, by and large, more efficient than amalgamation processes.²¹⁶ They apply the process known as “lixiviation” (leaching), whereby cyanide is used as a solvent to extract gold from its carrier substance; the specific method used in the Bolivarian Republic of Venezuela is known as lixiviation

²⁰⁹ OECD, *Gold Flows from Venezuela*, p. 17.

²¹⁰ SOS Orinoco, “Presence, Activity and Influence of Organized Armed Groups”, p. 12; InSight Crime, “Maduro’s El Dorado”, p. 3.

²¹¹ Corporación Venezolana de Minería (CVM) website, available at: <http://www.cvm.com.ve/>

²¹² Document NNDD047.

²¹³ CERLAS and Plataforma contra el Arco Minero del Orinoco, “Report on the human rights situation in the Arco Minero of 2019”, p. 5.

²¹⁴ See Livia Wagner, “Organized Crime and Illegally Mined Gold in Latin America,” Global Initiative Against Transnational Organized Crime (GIATOC), 30 March 2016; Transparencia Internacional, “Oro Mortal”.

²¹⁵ *Ibid.*; Interview OOIV19.

²¹⁶ SOS Orinoco, “The Role of Cyanidation Plants”, p. 4.

by agitation.²¹⁷ Cyanidation plants are normally associated with industrial mining processes. However, in the case of the Arco Minero region, these plants process gold-rich gravel obtained in piles and tailing dams from abandoned industrial mines or artisanal mills.²¹⁸

3. Living and working conditions in the mining areas

140. The establishment of the Arco Minero has resulted in a deterioration of the living and working conditions of people working in the mines, and also of the people who live in and around the mining areas.²¹⁹ This applies not only to those dependant on illegal mining and living under the control of armed groups, but also to small-scale formalised miners, including those known as “mining brigades” (*brigadas mineras*), who are equally subject to extortion, abuse, and generalised violence.

141. The cycle of exploitation of irregular miners starts when they enter the *sindicato*-controlled mining area, where the cell phones of anyone entering the mine are often confiscated.²²⁰ Lack of communication is felt as a source of constant anxiety for the relatives of people in the mines, as the number of people who have gone to the mines and have subsequently disappeared has risen in recent years.²²¹ Once they have entered the mines, miners are obliged to pay a percentage of the gold they extract to the *sindicato* or armed group that controls the mining site.²²²

142. Small-scale miners work long and arduous hours – with shifts of up to 12 hours – deprived of any protective equipment, and in unsafe conditions.²²³ Accidents and deaths caused by landslides and cave-ins are often reported.²²⁴ For instance, according to NGO sources, from January to June 2020, 18 miners were killed in three landslides in El Callao municipality.²²⁵ Child labour, involving minors as young as 10 years old, is reportedly common in the mines.²²⁶

143. Women also work as miners but mostly they perform jobs related to the day-to-day needs of those working in the mining sector, such as cooking and doing laundry.²²⁷ These activities are also performed in deplorable conditions, and during long hours. The washing of clothes coming from the mine is usually done by hand in rivers, which involves specific health risks, given the high contamination of the rivers with mercury from mining activity. Women also disproportionately take on the burden of childcare and household work along with their own workday. This is especially difficult in mining areas as they lack safe childcare options.²²⁸

²¹⁷ Ibid., p. 15.

²¹⁸ InSight Crime, “Maduro’s El Dorado”, p. 6.

²¹⁹ CERLAS and Plataforma contra el Arco Minero del Orinoco, “Report on the human rights situation in the Arco Minero of 2019”, chaps. 3 and 4.

²²⁰ Interview HHIV038; Interview HHIV046; Interview HHIV042.

²²¹ Comisión para los Derechos Humanos y la Ciudadanía (CODEHCIU), “Codehciu registró 37 reportes de desaparecidos en zonas mineras de Bolívar”, 29 June 2022.

²²² Interview NNIV030; Interview OOV019; Interview PPIV028.

²²³ Human Rights Watch, “Violent Abuses in Illegal Gold Mines”, p. 5.

²²⁴ See, for example, Deutsche Welle, “Venezuela: derrumbe de mina deja tres muertos y al menos 20 desaparecidos”, 6 February 2020.

²²⁵ CERLAS and Plataforma contra el Arco Minero del Orinoco, “Report on the human rights situation in the Arco Minero of 2019”.

²²⁶ Human Rights Watch, “Violent Abuses in Illegal Gold Mines”, p. 5.

²²⁷ Centro de Derechos Humanos-Universidad Católica Andrés Bello (UCAB), “Formas contemporáneas de esclavitud en el Estado Bolívar. Una perspectiva género sensitiva” (Contemporary forms of slavery in Bolívar State. A gender-sensitive perspective), May 2021 [hereinafter “Contemporary forms of slavery”], pp. 33-34.

²²⁸ Coalición Equivalencias en Acción, “Mujeres al límite, derechos de las mujeres de cara al agravamiento de la emergencia humanitaria compleja en Venezuela”, May 2019 [hereinafter “Mujeres al límite of 2019”], p. 99.

144. Illegal groups dictate rules and impose social order within the mines and exercise territorial control over specific areas.²²⁹ They exercise arbitrary justice and impose punishments, often in extremely violent forms such as dismemberment, as a form of collective warning.²³⁰ NGO sources documented punishments inflicted specifically against women by either forcibly and violently shaving their heads or forcing them to walk around naked in public with derogatory messages written on their skin or on signs hung around their necks.²³¹

145. The economic and social impacts of mining reach well beyond the mining sites and affect the lives of entire communities across Bolívar state. Gold has become the local currency even for basic goods, and prices have skyrocketed.²³² Despite the Bolivarian Republic of Venezuela being an oil producing country, there is a constant shortage of fuel as it is directed towards mining operations or is smuggled into neighbouring countries.²³³ Despite the influx of mining revenues, social services in the state are systematically lacking.²³⁴ The precarious living conditions of communities around the mines are an indication of how the supposed benefits of the Arco Minero project have yet to translate into actual improvements in the life of the local population.

4. The impacts of mining

(a) Environmental impacts

146. Uncontrolled mining in the Arco Minero region, as well as illegal mining in protected areas in indigenous territories in Bolívar state, have taken a devastating environmental toll. Alluvial semi-mechanical mining of the kind practiced south of the Orinoco river and other areas of the great Panamazon region typically results in heavy deforestation, soil disturbance, degradation of riverbeds and banks, and water and land pollution by hazardous waste, notably mercury.²³⁵

147. The environmental situation in Canaima National Park, in Gran Sabana municipality, is of particular concern. Listed as a UNESCO World Heritage site since 1994, the Canaima National Park has a surface of 3,000,000 hectares and is located on the traditional territory of the Pemon Kamarata-Kanaimö people (Pemon *Sector II*). It hosts rare “tepyu ecosystems” as well as Angel Falls (*Kerepakupai Vená*), the world’s highest waterfall.²³⁶

148. In July 2018, the non-governmental organization SOS Orinoco filed a report with UNESCO and the International Union for Conservation of Nature (IUCN), denouncing the uncontrolled illegal mining in Canaima National Park.²³⁷ According to non-governmental sources, illegal mining affected an estimated 1,033 hectares of the park’s surface.²³⁸

²²⁹ Interview HHIV028; Human Rights Watch, “Violent Abuses in Illegal Gold Mines”, p. 5. Centro de Derechos Humanos-UCAB, “Contemporary forms of slavery”.

²³⁰ Interview HHIV027; Interview HHIV038; Interview PPIV042; Interview HHIV035; Interview HHIV045; Interview PPIV028; Interview HHIV037; Interview PPIV041, Interview PPIV040; Interview HHIV039.

²³¹ Centro de Derechos Humanos-UCAB, “F Contemporary forms of slavery”, p. 34.

²³² Interview HHIV027.

²³³ Efecto Cocuyo, “Claves para entender por qué hay problemas con la gasolina en Venezuela”, 20 September 2017; SOS Orinoco, “Crisis en Venezuela revierte el flujo del contrabando de combustible”, 15 May 2020.

²³⁴ Interview NNIV035.

²³⁵ Yvette Sierra Praveli, “Minería ilegal: la peor devastación en la historia de la Amazonía”, 17 January 2022.

²³⁶ Prensa Ecosocialismo (Ministerio del Poder Popular para el Ecosocialismo), “Parque Nacional Canaima cumple 57 años”, 12 June 2019.

²³⁷ SOS Orinoco, “Illegal Gold Mining in Canaima National Park (World Heritage Site)”, 16 July 2018.

²³⁸ SOS Orinoco, “Current Gold Mining Situation in 2020 in Canaima National Park”; María Ramírez Cabello, “Devastación minera aurífera bajo los ojos del Tepuy de Roraima”, El Correo del Caroní and Pulitzer Center, 5 June 2020.

149. Similar dynamics have been reported in other protected and environmentally sensitive areas, such as the Imataca Forest Reserve or the Ikabarú or Cuyuní rivers.²³⁹ Severe environmental impacts caused by illegal mining have also been reported in the Yapacana National Park and other protected areas in the neighbouring state of Amazonas, where mining is formally banned.²⁴⁰

150. The widespread use of mercury in small and medium-scale mining is a serious environmental and health risk. Like other countries in the region, the type of semi-mechanical alluvial gold mining practiced in the southern parts of the Bolivarian Republic of Venezuela relies heavily on mercury. Mercury is used in mining sites and gold mills to amalgamate gold and form alloys; the alloy is subsequently burned to melt the gold, and the mercury is dispersed in the atmosphere, land, and water.

151. In 2016, the Bolivarian Republic of Venezuela formally banned the use of mercury “in all stages of mining activity”.²⁴¹ This formal ban has not however been implemented in practice. Mercury-related pollution has been dubbed the “greatest tragedy” within the Arco Minero del Orinoco region.²⁴² The Bolivarian Republic of Venezuela signed, but has not ratified, the Minamata Convention on Mercury.²⁴³

152. The Government has seen the installation of cyanidation plants as a more efficient and less polluting alternative to mercury amalgamation.²⁴⁴ However, only seven cyanidation plants are operative (13% of the 54 plants originally planned).²⁴⁵ In addition, the plants rely on small-scale mines, where mercury is widely used, to obtain gold-bearing gravel.²⁴⁶

(b) Health impacts

153. Uncontrolled small-scale mining in Bolívar state has widespread negative impacts on the health of miners and surrounding communities. Water pollution caused by mercury and the gold extraction process has reportedly led to a rise of cases of intestinal parasitosis, hepatitis and diarrhoea and maternal and infant health complications.²⁴⁷ Negative health impacts have been exacerbated by the severe lack of access to food and medication stemming from the economic and humanitarian crises the country has faced in recent years.²⁴⁸

154. Uncontrolled mining is also considered a key factor in the critical spread of malaria and other previously controlled infectious diseases in Bolívar state. Mining sites are hotspots for malaria transmission, due to heavy deforestation, stagnant water deposits and increased human mobility. Even through the disease was officially controlled in the country in the 1960s, malaria cases soared with the establishment of the Arco Minero region to reach epidemic levels. According to the World Health Organization (WHO), the incidence of malaria in the country reached a peak in 2019, accounting for over half of the malaria cases and 73% of malaria-related deaths in the Americas region.²⁴⁹ Recent reports show an

²³⁹ CERLAS and Plataforma contra el Arco Minero del Orinoco, “Report on the human rights situation in the Arco Minero of 2019”, pp. 25-34.

²⁴⁰ Presidential Decree No. 269, *Official Gazette* (Extraordinary), No. 4,106 of 9 June 1989.

²⁴¹ Presidential Decree No. 1412, *Official Gazette* No. 40,960 of 5 August 2016.

²⁴² Luis Miguel Alvarenga, “Alejandro Álvarez: La mayor tragedia en el Arco Minero del Orinoco es la contaminación por mercurio”, Amnesty International, 4 September 2019.

²⁴³ Minamata Convention on Mercury, adopted in Kukamoto (Japan) on 10 October 2013, entered into force on 16 August 2017, in accordance with article 31(1). Available at: <https://www.mercuryconvention.org/sites/default/files/2021-06/Minamata-Convention-booklet-Sep2019-EN.pdf>.

²⁴⁴ Prensa Minera (Ministry of Popular Power for Ecological Mining Development), “Operativas 7 plantas auríferas con tecnología de bajo impacto en el Arco del Orinoco”, 27 November 2018.

²⁴⁵ CERLAS and Plataforma contra el Arco Minero del Orinoco, “Report on the human rights situation in the Arco Minero of 2019”, p. 24.

²⁴⁶ SOS Orinoco, *The Role of Cyanidation Plants*, p. 4.

²⁴⁷ CERLAS and Plataforma contra el Arco Minero del Orinoco, “Report on the human rights situation in the Arco Minero of 2019”, p. 36.

²⁴⁸ *Ibid.*

²⁴⁹ World Health Organization (WHO), *World Malaria Report 2020* (Geneva, 2021), p. 149.

improvement in the situation, but this has been attributed to COVID-19-related mobility restrictions and fuel shortages affecting the mining industry.²⁵⁰

155. The lack of sexual and reproductive health care in Bolívar state also has harmful impacts.²⁵¹ In the Bolívarian Republic of Venezuela as a whole, but more acutely in isolated and rural mining areas, there is no adequate access to sexual and reproductive health services, such as family planning methods, the prevention of sexually transmitted diseases, or access to feminine hygiene products.²⁵² Chemicals used in illegal mining and mercury contamination have serious consequences for women's health, especially for pregnant women. In Bolívar state, overall maternal mortality increased by more than 60% in 2019 compared to 2015.²⁵³

156. Indigenous peoples have also been particularly affected by the health crisis brought on by uncontrolled mining. According to a 2019 report by the organization Kapé- Kapé, malaria affected 92% of the indigenous communities in the Venezuelan Amazon and accounted for 40% of the deaths of indigenous people in the region.²⁵⁴

F. The situation of indigenous peoples

157. According to 2018 estimates, 7.51% of the Bolívarian Republic of Venezuela's indigenous population lived within the boundaries of the Arco Minero del Orinoco region.²⁵⁵ The latest population census of 2011 indicated that at least 11 distinct indigenous peoples were found within Bolívar state, with an estimated population of approximately 54,686 people.²⁵⁶ Among these, the largest group was the Pemon people, whose traditional territory extends across southern Bolívar state and into the northern Brazilian state of Roraima.²⁵⁷

158. The Bolívarian Republic of Venezuela is party to the International Labour Organization Convention concerning Indigenous and Tribal Peoples in Independent Countries (No. 169, 1989) (Convention No. 169)²⁵⁸ and played a favourable role in the adoption of both the United Nations Declaration²⁵⁹ and the American Declaration on the Rights of Indigenous Peoples.²⁶⁰

159. The 1999 Constitution recognised the “existence of indigenous peoples and communities, their social, political and economic organisation, their cultures, customs and traditions, languages and religions, as well as their habitat and original rights over their ancestral and traditional lands.”²⁶¹ The Constitution also affirms the State's duty to “demarcate and guarantee the right to collective ownership of their lands, which shall be

²⁵⁰ WHO, *World Malaria Report 2021* (Geneva, 2021), p. 34.

²⁵¹ Centro de Derechos Humanos-UCAB, “Contemporary forms of slavery”, p. 15 ff.

²⁵² Ibid.

²⁵³ Coalición Equivalencias en Acción, “Mujeres al límite of 2019”, p. 96.

²⁵⁴ Observatorio de Ecología Política de Venezuela, “Malaria afecta a 92% de las comunidades indígenas abordadas en estudio de Kapé Kapé”, 9 August 2019.

²⁵⁵ Kapé Kapé, “Kapé Kapé aprovechó foro de pueblos indígenas para denunciar las vulneraciones a indígenas venezolanos”, 14 April 2018.

²⁵⁶ Instituto Nacional de Estadística, “Población indígena por área, según entidad federal, Censo 2011”, 2011.

²⁵⁷ Luis Jesús Bello and José Gregorio Díaz “Informe sobre la Situación Actual de los Grupos de Pueblos Indígenas en Aislamiento Relativo y Poco Contacto en Venezuela (Jödi, Uwottüja, y Yanomami)”, October 2017, p. 2.

²⁵⁸ International Labour Convention on Indigenous and Tribal Peoples in Independent Countries, No. 169 (1989), ratified by the Bolívarian Republic of Venezuela by virtue of Law No. 41, *Official Gazette* No. 37,305 of 17 December 2000.

²⁵⁹ United Nations Declaration on the Rights of Indigenous Peoples, adopted by General Assembly resolution 61/295 of 13 September 2007.

²⁶⁰ American Declaration on the Rights of Indigenous Peoples, AG/RES. 2888 (XLVI-O/16), 14 June 2016.

²⁶¹ 1999 Constitution, art. 1999.

considered inalienable, imprescriptible, unseizable and non-transferable.”²⁶² Furthermore, according to article 120 of the Constitution, State exploitation of natural resources on indigenous territory “shall not violate the cultural, social and economic integrity” of indigenous peoples and “shall be subject to prior information and consultation with the communities concerned.”²⁶³

160. Constitutional provisions on indigenous peoples’ rights were subsequently developed in the Organic Law on Indigenous Peoples and Communities,²⁶⁴ the Law on Demarcation and Guarantee of the Habitat and Lands of Indigenous Peoples,²⁶⁵ and other national legislation.

161. The 1999 Constitution foresaw the demarcation of indigenous territories within two years after its adoption.²⁶⁶ However, by 2020, 20 years after the Constitution came into force, more than 80% of the indigenous territories in the country remained undemarcated.²⁶⁷ Since then, there has been no significant progress in the recognition of indigenous peoples’ territorial rights, leaving these communities without legal protection in the face of pressure and threats linked to the exploitation of natural resources, particularly mining, in their territories.²⁶⁸

162. The establishment of the Arco Minero del Orinoco region was not based on previous and informed consultations with indigenous peoples, in alleged breach of the State’s national legislation and international obligations.²⁶⁹ Attempts at consultations with potentially affected indigenous communities took place mostly after the adoption of the presidential decree establishing the Arco Minero in region, and concluded in early 2018.²⁷⁰ However, indigenous and civil society organizations criticised the consultations carried out by Government authorities for failing to meet applicable standards.²⁷¹

163. Invasions of indigenous territories by illegal miners and settlers, environmental degradation, and systematic violence have gravely affected the majority of indigenous communities in Bolívar state. Deforestation and pollution have impacts on the fauna, water and hydro-biological resources on which indigenous peoples rely for their traditional subsistence economies.²⁷² This includes several indigenous peoples living in relative isolation, such as the Hoti (*Jödi*), Yanomami and Piaroa (*Uwottüja*),²⁷³ who live between the states of Bolívar and Amazonas, and whose population is estimated to be just over 10,000 people.²⁷⁴ They are also particularly vulnerable to the disruptive social dynamics and abuses associated with illegal mining.²⁷⁵

²⁶² Ibid.

²⁶³ Ibid., art. 213.

²⁶⁴ Ley Orgánica de Pueblos y Comunidades Indígenas, *Official Gazette* No. 38.344 of 27 December 2005.

²⁶⁵ Ley de Demarcación y Garantía del Hábitat y Tierras de los Pueblos Indígenas, *Official Gazette* No. 37,188 of 12 January 2001.

²⁶⁶ 1999 Constitution, art. 1999.

²⁶⁷ Luis Jesús Bello et al. (Wataniba), “Venezuela” in Dwayne Mamo (Ed.) *The Indigenous World 2020* (Copenhagen, IWGIA, 2020), p. 514.

²⁶⁸ Melgris Jose Becerra Ruiz, “Los territorios indígenas: una tarea pendiente en Venezuela”, unpublished paper, Boletín Geocrítica Latinoamérica, October 2020, p. 27.

²⁶⁹ Document PPDC002; Interview HHIV052; CERLAS and Plataforma contra el Arco Minero del Orinoco, “Report on the human rights situation in the Arco Minero of 2019”, p. 16.

²⁷⁰ Interview HHIV052; CERLAS and Plataforma contra el Arco Minero del Orinoco, “Report on the human rights situation in the Arco Minero of 2019”, p. 16.

²⁷¹ Ibid.

²⁷² Hortensia Caballero, “Entre los marcos jurídicos y las cartografías indígenas. A review of concepts around national sovereignty in Venezuela”, *Revue d’ethnoécologie* No. 9 (2016).

²⁷³ Wataniba, “Información PIACI Venezuela para Relator Especial Naciones Unidas”, 2021.

²⁷⁴ Luis Jesús Bello y José Gregorio Díaz, “Informe sobre la Situación Actual de los Grupos de Pueblos Indígenas en Aislamiento Relativo y Poco Contacto en Venezuela (Jödi, Uwottüja, y Yanomami)”, October 2017, p. 2

²⁷⁵ Interview PPIV010.

164. The expansion of mining throughout indigenous peoples' territories have brought changes to their traditional economies and other alternative sources of income on which they relied for their survival, such as tourism. As a result, many indigenous community members have, either voluntarily or due to external pressures, undertaken mining as a source of income. Certain indigenous people are involved in small-scale mining themselves or charge third parties for the use of their lands.²⁷⁶

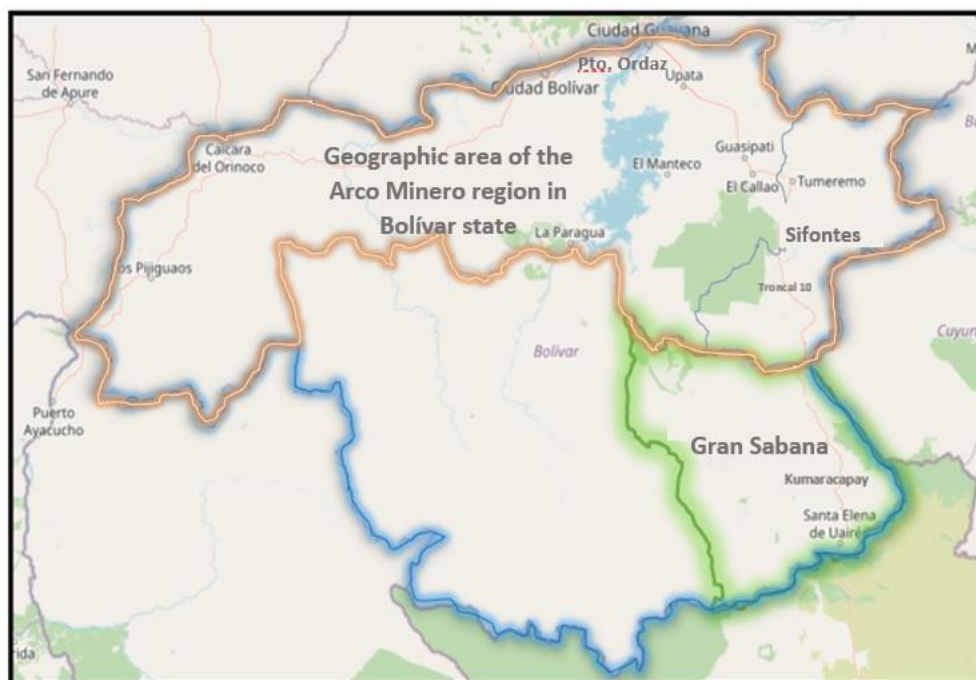
165. The establishment of the Arco Minero region also resulted in a militarisation of the region that has threatened the lives of indigenous people. State-led violence against indigenous communities has resulted in several massacres, particularly in Gran Sabana municipality, including cases that have been documented by the Mission and are detailed in chapters III and IV of this report.²⁷⁷

166. Moreover, in recent years indigenous peoples have denounced attacks against their communities by armed criminal groups in the context of mining. Several indigenous peoples, such as the Yekwana, the Sanöma, and the Pemón, have publicly denounced the situation in their territories and have demanded for illegal groups to exit their land, calling for the State's protection.²⁷⁸

167. Widespread violence has led many indigenous people, including entire communities, to flee the country. It has been estimated that only between March and May 2019, more than 900 members of the Pemón people fled to Brazil following the attacks in Kumaracapay and Santa Elena de Uairén (see *infra*).²⁷⁹

Map 2

Map of Bolívar state, highlighting the geographic area of the Arco Minero del Orinoco region in the state, as well as Gran Sabana municipality



Source: Prepared by the Mission using Open Street Map. © OpenStreetMap contributors. The boundaries and names shown and the designations used on this map do not imply official endorsement or acceptance by the United Nations.

²⁷⁶ Interview HHIV039.

²⁷⁷ Interview PPIV011; Interview HHIV052.

²⁷⁸ Interview HHIV052; Interview HHIV039.

²⁷⁹ María Ramírez Cabello, “Denuncian ante la CIDH que 966 indígenas de 14 comunidades de Gran Sabana se han desplazado a Brasil por persecución”, *El Correo del Caroní*, 11 May 2019.

III. The situation in the gold mines in Arco Minero (north-eastern Bolívar state)

A. General context

1. Armed criminal groups and widespread violence in north-eastern Bolívar state

168. The presence of armed criminal groups and the widespread expansion of illegal mining and other illicit activities, coupled with increased militarization, has led to a sharp increase in violence in Bolívar state. Disputes between armed criminal groups for control of the mines, as well as between such groups and State security forces, have led to violence in the mining areas of Bolívar state, in particular in the state's northeastern municipalities within the formal perimeter of the Arco Minero region.

169. Since the early 2000s, and especially since the creation of the "National Strategic Development Zone" of the Arco Minero,²⁸⁰ different groups have extended their areas of influence in the mines and surrounding towns. These groups include the so-called *pranatos* (from *pran*, a slang term for the leader of prison gangs) and the so-called *sindicatos* (illicit organizations originally formed by members of trade unions in Puerto Ordaz and Ciudad Bolívar), although both types of organizations have in practice merged.²⁸¹ The presence of Colombian guerrilla groups and other criminal gangs with interests in illegal mining has also been reported.²⁸²

170. These criminal armed groups are heavily armed, often with weaponry that exceeds that of state security forces.²⁸³ Illegal groups routinely engage in violent conflict among themselves, or with state authorities, over control of particular mines or areas of influence. In areas under their control, criminal armed groups extort the mining population and demand regular payments or fees, usually in gold in exchange for "protection" from other *sindicatos* or armed actors. If a miner refuses to pay their fees or *vacunas* ("vaccines")- as they are known locally - they can face threats, violence and even death.²⁸⁴ The groups use brutal violence against miners and local people - both men and women - often in the form of corporal punishment (see *infra*). In addition, women and girls are disproportionately affected by gender-based violence, such as their forced abuse by *sindicatos* for sexual purposes.²⁸⁵

171. The proliferation of armed groups, as well as the region's increased militarization, has led to a progressive increase in the rates of violence in Bolívar state, particularly in the municipalities of Sifontes, Roscio and El Callao, where the main gold deposits of the Arco Minero are located.²⁸⁶

172. According to Observatorio Venezolano de Violencia (OVV), Bolívar went from being the fourth state in the Bolivarian Republic of Venezuela with the highest rates of violence and violent deaths in 2017,²⁸⁷ to being the third in 2018.²⁸⁸ In 2019 and 2020,²⁸⁹ the Bolívar state was the second most violent in the country, and became the third in

²⁸⁰ 2016 Arco Minero Decree.

²⁸¹ Interview HHIV042; Interview HHIV038; Interview HHIV027; Interview HHIV034; SOS Orinoco, "Presence, Activity and Influence 2022", p. 21.

²⁸² International Crisis Group, "Gold and Grief"; SOS Orinoco, "Presencia, actividad e influencia de 2022", p. 21.

²⁸³ Ibid.

²⁸⁴ Interview PPIV028.

²⁸⁵ See *infra* chap V.

²⁸⁶ Observatorio Venezolano de Violencia (OOV), "Informe Anual de Violencia 2021", 2022.

²⁸⁷ Observatorio Venezolano de Violencia, "2017 - Informe OVV de Violencia", 5 January 2018.

²⁸⁸ Observatorio Venezolano de Violencia, "2018 - La violencia presenta nuevos rostros en el país: el empobrecimiento y la letalidad policial", 28 December 2018.

²⁸⁹ Observatorio Venezolano de Violencia, "Informe Anual de Violencia 2019", 2019.

2021.²⁹⁰ Three of the five most violent municipalities in the country in 2021 were El Callao, Roscio and Sifontes.²⁹¹

173. According to data collected by the NGO Observatorio Guayanés de Violencia basada en Género, cases of violence against women registered in Bolívar state increased by 18.72% between 2017 and 2018, and by 17.6% between 2019 and 2020.²⁹² According to data compiled by the Venezuelan NGO Comisión para los Derechos Humanos y la Ciudadanía (CODEHCIU), in the first four months of 2022 there was an increase in registered cases of violence against women of 174% compared to the same period in 2021.²⁹³

2. Timeline of events

(a) 1999-2016: The penetration of illegal armed groups into mines in Bolívar state

174. Brazilian *garimpeiros* had been in control of illegal mining in the border areas since at least the 1990s.²⁹⁴ *Sindicatos* began to have a presence in the Bolívar state in the 2000s.²⁹⁵ One miner told the Mission that he "arrived at the Los Caballos mine 19 years ago, and in 2005 and 2006 the armed groups began to arrive".²⁹⁶ The first record of large-scale violence allegedly perpetrated for the purpose of gaining territorial control in mining areas was the so-called "La Paragua massacre" or "Musupa massacre" on 22 September 2006, in which six people were killed in an alleged attack by the FANB to close down an illegal mine.²⁹⁷

175. Beginning in 2006, entire areas of Bolívar state fell under the influence of the various armed groups or *sindicatos*²⁹⁸. Between 2006 and 2008, the ELN is known to have penetrated the mining areas in Bolívar state, initially establishing checkpoints on the road between Tumeremo and Las Claritas, in Sifontes municipality.²⁹⁹

(b) 2016-2017: The establishment of the Arco Minero and the proliferation of armed groups

176. As noted previously, the establishment of the Arco Minero coincided with the expansion of illegal small-scale mining in the region, in the context of the intense economic and humanitarian crisis gripping the country, couple with massive migratory movement from Caracas and other parts of the country to work in the mines.

177. The expansion of illegal mining was exploited by the *sindicatos* to increase their presence from 2016 and 2017, and to further develop illegal mining and other illicit activities in the mining areas in the north-east of the state.³⁰⁰

²⁹⁰ Observatorio Venezolano de Violencia, "Informe Anual de Violencia 2020 - Entre las epidemias de la Violencia y del Covid-19", 2020.

²⁹¹ Observatorio Venezolano de Violencia, "Informe Anual de Violencia 2021", 2022.

²⁹² Ateneo Ecológico del Orinoco, Observatorio Guayanés de Violencia de Género, "Reporte de Incidencia y Prevalencia de la Violencia contra la Mujer, Estado Bolívar", 20 January 2022, table 3.

²⁹³ CODEHCIU, "Monitoreo de violencia contra la mujer en los estados Bolívar, Delta Amacuro y Monagas", 30 June 2022, p. 7.

²⁹⁴ SOS Orinoco, "Presencia, actividad e influencia de 2022", p. 21.

²⁹⁵ Interview HHIV052; Interview HHIV042; Interview PPIV028; Interview MMIV036; Interview HHIV039; Interview HHIV034; see also Natalie García, "El Plan Caura persigue a los indígenas, no a los mineros", 22 October 2012.

²⁹⁶ Interview PPIV028.

²⁹⁷ Interview PPIV027; Centro de Derechos Humanos de la Universidad Católica Andrés Bello and others, "Masacre de la Paragua", 3 October 2016.

²⁹⁸ SOS Orinoco, "Presencia, actividad e influencia de 2022", p. 21.

²⁹⁹ Interview HHIV027; Interview HHIV027; Interview HHIV027; Interview MMIV018; Interview MMIV022; Interview HHIV051; Interview HHIV052; Interview HHIV052; Interview HHIV045; Interview HHIV047.

³⁰⁰ International Crisis Group, A Glut of Arms: Curbing the Threat to Venezuela from Violent Groups, 20 February 2020.

178. The different *sindicatos* spread mainly in the northeast of Bolívar state, reportedly forming strategic alliances with state officials in order to control the mining areas.³⁰¹ With this expansion, disputes and violence between the different armed groups, including massacres, also increased in order to gain territorial control of the mines.³⁰²

179. The expansion of illegal armed groups in the Bolívar state coincides with the period in which General Francisco Rangel Gómez served as Governor (2004-2017). During this period, there were public accusations and reports denouncing alleged collaboration between the Governor and *sindicatos*.³⁰³ As one miner succinctly explained to the Mission: "The Government handed over power to the armed civilians".³⁰⁴ This led to a situation in which, according to the same miner, "once you control an area as a criminal, you have impunity, because you are controlling the area for the Government".³⁰⁵

180. In 2015, the so-called "Curvelo Report" was published, in which allegations of links between Governor Rangel Gómez and *sindicatos* were made public³⁰⁶. The report was written by a first lieutenant of the Bolivarian Army, Jesús Leonardo Curvelo, following his arrest on 24 October 2015 in Bolívar state, when he allegedly carried 33 million bolívares in cash. Lieutenant Curvelo stated that he was carrying the money, under instructions from the Secretary of Security of the Governor's Office, Julio César Fuentes Manzulli, for the purpose of buying gold from the *sindicato* of Juan Gabriel Rivas Núñez (alias "Juancho"). In his report, Lieutenant Curvelo alleged that Rangel Gómez, via Fuentes Manzulli, supplied money and weapons to several *sindicatos* in the Bolívar state to strengthen his control of mining.³⁰⁷

181. In January 2016, other allegations linking the then Governor to armed groups were published, in a confidential report by a former SEBIN official addressed to the then Minister of the Interior, Justice and Peace, Gustavo González López (and now SEBIN director). The former SEBIN official accused Rangel Gómez and Julio César Fuentes Manzulli of alleged corruption and collusion with armed groups in the context of illegal mining.³⁰⁸ This report was subsequently made public.³⁰⁹

182. On 4 March 2016, barely two weeks after the formal establishment of Arco Minero, the so-called Tumeremo massacre took place, which exemplified the violent struggles between *sindicatos* for control of the gold mines. During this incident, men from one *sindicato* set up a roadblock (known locally as an *alcabala*) on the road leading to a recently discovered gold mine in Sifontes municipality, until then controlled by another *sindicato*. In the *alcabala*, armed men held approximately 600 people and killed at least 17, including two women. This incident is discussed in more detail at the end of this chapter.

(c) 2017-2019: State attempts to regain control of mining areas

183. From mid-2017, state security forces began operations against *sindicatos* with the aim of regaining control of the mining sector. In July 2017, Lieutenant Colonel León Ernesto Solís Mares was appointed commander of Army Battalion 512, located in Fuerte

³⁰¹ Ibid.

³⁰² Interview HHIV034; Interview PPIV028; Interview PPIV027; Interview PPIV033; Interview NNIV039; InSight Crime, "Disease outbreaks in Venezuela reveal criminal migration to mining areas", 19 June 2019; Transparencia Venezuela, "Oro mortal de 2019".

³⁰³ Interview HHIV051; Interview PPIV032; Interview HHIV044; Interview HHIV046; Interview PPIV027; Interview HHIV047; Document HHDC030; Interview HHIV024; Interview HHIV042; Interview NNIV040; Interview HHIV040; Jhoalys Silverio, "Informe de comisario del Sebin revela nexos de la Gobernación con pranes mineros al sur del estado Bolívar", Correo del Caroní, 13 March 2017 [hereinafter "Informe de comisario del Sebin"].

³⁰⁴ Interview PPIV028.

³⁰⁵ Ibid.

³⁰⁶ Document HHDC030.

³⁰⁷ Ibid.

³⁰⁸ Jhoalys Silverio, "Informe de comisario del Sebin".

³⁰⁹ Ibid.; Transparencia Venezuela, "Oro mortal de 2019".

Tarabay, in Tumeremo, Sifontes municipality.³¹⁰ In October of the same year, Justo Noguera Pietri was elected Governor of Bolívar state. The new Governor's office increased the presence of security forces, mainly the army, DGCIM and the GNB, in the mining areas. Since then, violent operations by the security forces to take control of the mines and mining areas or to confront the *sindicatos* have increased significantly (see *infra*).

184. According to publicly available information, there were two notable examples of FANB incursions that led to clashes with *sindicatos* in the mines. On 10 September 2017, an incursion in El Triunfo, Sifontes municipality, resulted in the deaths of 11 people. In Valle Verde de El Callao, on 15 November 2017, another raid resulted in nine people being killed.³¹¹ In October 2017, the coermunity of San Luis de Morichal publicly denounced a situation of violence perpetrated by armed groups seeking to control the mining area.

185. Armed clashes between State security forces and armed criminal groups continued as part of the *Manos de Metal* (Metal Hands) operation announced by Tareck El Aissami on 8 June 2018. According to the official announcement, this operation was aimed at "attacking smuggling mafias involved in metal extraction".³¹² Arrest warrants were issued against the heads of several *sindicatos*, in total 28 alleged high-profile leaders involved in illegal gold trafficking³¹³.

186. The Mission analysed information from secondary sources regarding eight violent incidents between August 2017 and August 2018 involving the FANB (the Army and the GNB) and the CICPC.³¹⁴ In these incidents there were allegations of extrajudicial killings. These cases are detailed below.

187. In September and October 2019, the media reported on at least two public demonstrations in Puerto Ordaz, in which relatives of victims of around 400 alleged enforced disappearances and other abuses of power publicly denounced the alleged responsibility of the FANB, under the command of Ernesto Solís, in these events.³¹⁵ Some of these events were formally denounced to the local Prosecutor's Office, after which some family members indicated that they had allegedly been threatened.³¹⁶ In response to these protests, on 3 December 2019, the 49th Prosecutor's Office of the Public Prosecutor's Office opened an investigation into Lieutenant Colonel Ernesto Solís and the soldiers under his command.³¹⁷ However, the results of the investigation were never made public.

188. On the night of 6 April 2020, Lieutenant Colonel Ernesto Solís and another soldier, Sergeant Gustavo Flores, were killed in the Las Tejas sector of Tumeremo when their car was ambushed by unknown gunmen.³¹⁸ President Maduro and other high-level state officials publicly pointed to "mafia groups" as responsible for the killings.³¹⁹

³¹⁰ Pableysa Ostos, "Ex futbolista profesional estaría involucrado en el asesinato de un comandante del Ejército y un sargento en Bolívar", *El Universal*, 17 April 2020.

³¹¹ Rurun.es, "Fuga del oro venezolano", January 2019.

³¹² El Pitazo, "El Aissami anunció el inicio de la Operación 'Manos de Metal'", YouTube video, 8 June 2018, available at: https://www.youtube.com/watch?v=gHb_rbulapw.

³¹³ InSight Crime, "Metal Hands and Rubber Feet: Colombian Guerrillas and Venezuelan Gold", 17 November 2021; Rurun.es, "Fuga del oro venezolano", January 2019.

³¹⁴ CERLAS-Plataforma contra el Arco Minero del Orinoco, "Informe sobre la situación de derechos humanos en el Arco Minero 2019".

³¹⁵ Jhoalys Siverio, "Desapariciones, ejecuciones y hasta abusos sexuales atribuyen al Ejército en Tumeremo", *CrónicaUno*, 8 October 2019; Nueva Prensa Digital, "Acusaron a 'Solís' ante Fiscalía General de la República", 28 October 2019.

³¹⁶ *Ibid.*

³¹⁷ TalCual, "Sujetos desconocidos asesinan en Bolívar a comandante del Fuerte Tarabay, Ernesto Solís", 7 April 2020; Nueva Prensa Digital, "Fiscalía investiga a comandante del Fuerte Tarabay", 4 December 2019.

³¹⁸ TalCual, "Sujetos desconocidos asesinan en Bolívar a comandante del Fuerte Tarabay, Ernesto Solís", 7 April 2020.

³¹⁹ Agencia EFE, "Asesinan a tiros a dos militares en convulsa zona minera del sur de Venezuela", 8 April 2020.

(d) 2020-2022: The new status quo

189. After the killing of Lieutenant Colonel Ernesto Solís in April 2020, there was a temporary truce between the main *sindicatos* present in the northeast of Bolívar state, in particular "El Fabio", *Organización R* and *El tren de Guyana*.³²⁰ Thus, the figures recorded by the Mission on massacres and other violent acts with more than one victim during 2020 were progressively decreasing, especially in the municipalities of Sifontes, Roscio and El Callao. However, other types of violence have instead increased. In 2021, both CODEHCIU and OVV recorded that alleged cases of violent deaths, extrajudicial executions and disappearances had increased, in particular in the municipalities of El Callao and Sifontes.³²¹

190. From the second half of 2021 to the date of writing this report, there have been territorial disputes over the control of mines in Tumeremo, Sifontes municipality. The epicentre of these clashes has been the Isidora and El Chocó mines, managed since 2018 by a joint venture led by MIBITURVEN³²² and, more recently, by CVM.³²³

191. DGCIM and GNB officers guard the mines of La Isidora and El Chocó in order to prevent illegal miners from entering. However, according to a witness, the security forces allow illegal miners to enter these mines, up to 100 to 200 times per day, in exchange for a bribe.³²⁴ According to this witness, when DGCIM officers capture illegal male miners inside the mines, they take their gold and beat them.³²⁵

192. State efforts to control the illegal exploitation of gold in these mines have led to several clashes between the Frente Revolucionario del Perú (FRP) (also known as the "El Perú" *sindicato*) and DGCIM,³²⁶ as well as between the FRP and the Nacupay *sindicato*.³²⁷

193. On 21 October 2021, two hundred metres from the MIBITURVEN company premises, a violent ambush was carried out against a group of DGCIM officers, in which one of their officers died.³²⁸ On 11 January 2022, there was another alleged confrontation near the La Isidora mine, which resulted in the death of another DGCIM officer.³²⁹

³²⁰ Interview HHIV027; Transparencia Venezuela, "Los grupos criminales tras las actividades ilícitas en Venezuela", June 2022.

³²¹ CODEHCIU, "Bolívar registra 29 víctimas de presuntas ejecuciones extrajudiciales durante los primeros cuatro meses de 2022", 25 May 2020; CODEHCIU, "Codehciu registró 208 muertes potencialmente ilícitas en Bolívar durante el 2020", 23 February 2021.

³²² Minería Binacional Turquía-Venezuela, which was set up under Decree No. 41.472 of 31 August 2018 and was managed by the People's Ministry of Industry and National Production.

³²³ See Chap II *supra*

³²⁴ Interview OOIV019.

³²⁵ *Ibid.*

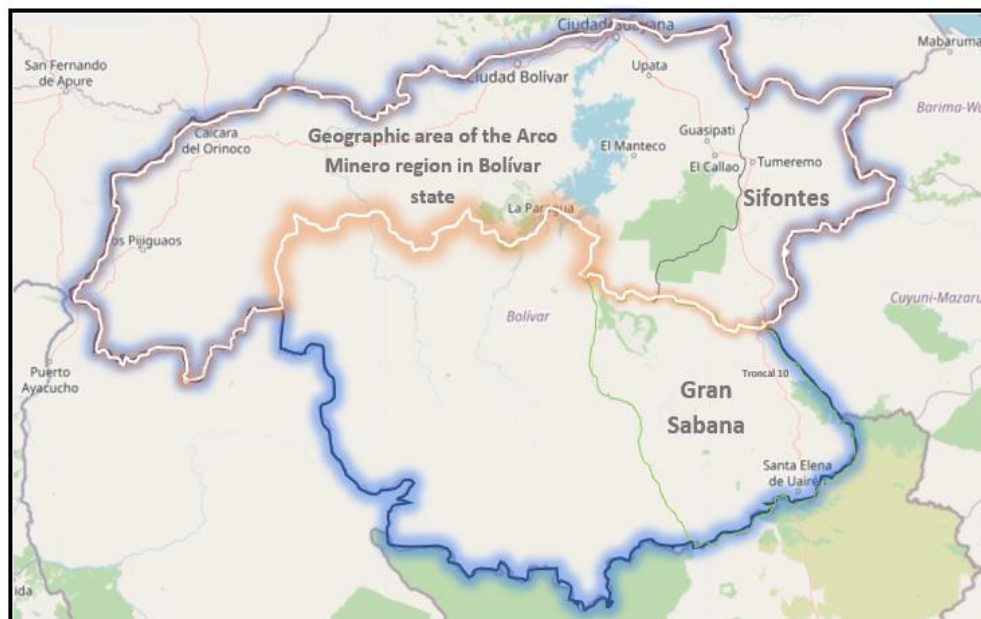
³²⁶ Interview NNIV029.

³²⁷ *Ibid.*

³²⁸ Interview OOIV019.

³²⁹ La Patilla, "Un DGCIM fue asesinado y tres militares heridos en zona minera de El Callao tras una emboscada", 12 January 2022.

Map 3

Map of Bolívar state, highlighting the geographic area of the Arco Minero region in the state

Source: Prepared by the Mission using Open Street Map. © OpenStreetMap contributors. The boundaries and names shown and the designations used on this map do not imply official endorsement or acceptance by the United Nations.

3. The relationship between the State and armed criminal groups

194. Despite occasional attempts to dismantle illegal groups, there are clear indications that some political and military authorities are linked, to varying degrees, to the criminal networks that control the illegal production and commercialisation of gold in the Arco Minero region and other mining areas of Bolívar state.³³⁰ Alliances between State authorities and criminal groups have tended to evolve over time.

195. Various persons interviewed by the Mission stated that officials from the central Government and the Bolívar state Government maintained contacts and relations with the *sindicatos* or the ELN.³³¹ The Mission has also received testimonies from direct witnesses and indirect sources that State officials did business with the *sindicatos*, exchanging arms, fuel or mining supplies in exchange for gold.³³² For example, according to one source, some *sindicatos* came to an agreement with the Venezuelan Government about the delivery of arms and food during times of food shortages in the country.³³³ Various sources who lived in Bolívar state, including a former member of a *sindicato*, informed the Mission that *sindicatos* such as "El Juancho" and "El Tren de Guyana" allegedly have informal strategic alliances with high-ranking state officials, whereby the State, through the FANB, provides them with fuel and facilitates the transport of machinery to remote mining areas.³³⁴

³³⁰ Interview HHIV044.

³³¹ Interview HHIV035; Interview HHIV027; Interview MMIV022; Interview HHIV034; Interview PPIV030; Interview PPIV032; Interview HHIV044; Interview HHIV045; Interview PPIV028; Interview HHIV046; Interview PPIV027; Interview HHIV051; Interview HHIV052; Interview HHIV049; Interview HHIV047; Interview HHIV059.

³³² MMIV018 Interview; HHIV035 Interview; HHIV034 Interview; HHIV027 Interview; MMIV022 Interview; HHIV034 Interview; PPIV032 Interview; HHIV044 Interview; HHIV045 Interview; PPIV028 Interview; HHIV046 Interview; PPIV027 Interview; HHIV051 Interview; HHIV052 Interview; HHIV049 Interview; HHIV059 Interview.

³³³ Interview HHIV035.

³³⁴ Interview NNIV033; Interview PPIV042; Interview HHIV026; Interview NNIV029; Interview PPIV032; Document HHDC030.

196. According to the Mission's investigation, there appears to be a common form of collaboration between the FANB and criminal armed groups, consisting of the exchange of gold for weapons. For example, a man who worked as a miner told the Mission that "for more than ten years, there have always been Government commissions coming to the mines".³³⁵ According to this witness, "the State security services provided arms and ammunition to the criminal groups that controlled the mines, in exchange for gold".³³⁶ Witnesses interviewed by the Mission also directly observed, or heard about, an allegedly common dynamic whereby Government officials would arrive to the mines or mining areas in helicopters loaded with weapons, meet with members of *sindicatos* and return with the helicopters loaded with gold.³³⁷ One of these witnesses stated that, in several operations, the *sindicato* received weapons from the FANB ("the military gave us weapons and [bulletproof] vests"), which were given directly to the mines.³³⁸ On other occasions, the witness stated that weapons were delivered by "people from the Government".³³⁹

197. Witnesses who have spoken to the Mission have claimed that even high-level authorities have maintained direct contact with criminal groups. For example, a witness who had been a member of a *sindicato* told the Mission that on one occasion he was assigned to be part of the perimeter security of the *sindicato* outside the GNB command in Tumeremo, when the then Governor of Bolívar state, General Rangel Gómez, allegedly arrived to provide support and dictate orders to the leaders of the *sindicato*.³⁴⁰ The witness also recalled seeing Rangel Gómez's successor, General Justo Noguera, on several occasions, just before the takeover of the Campanero mine in Cicapra.³⁴¹ (see *infra*).

198. Several witnesses also referred to the alleged presence in the mining areas of the current Vice-President of the Venezuelan Government and then Deputy of the National Assembly, Diosdado Cabello, in 2016 and 2018, who allegedly held meetings with the leaders of the local *sindicatos* in order to negotiate the distribution of the mining territories. The Mission was unable to corroborate these claims through direct sources.³⁴²

4. ELN presence and activity in the Arco Minero region

199. The ELN has been present in Venezuelan territory since at least the 1970s. The ELN expanded its presence in the territory after the peace agreement between the Revolutionary Armed Forces of Colombia (FARC) and the Colombian Government on 26 September 2016.³⁴³

200. According to InSight Crime, the ELN operates in the Bolivarian Republic of Venezuela with close ties with Government officials.³⁴⁴ According to various sources, the ELN reached agreements with Venezuelan State authorities to control mining resources.³⁴⁵ As of 2018, the ELN had a presence in at least 12 Venezuelan states.³⁴⁶ However, the Venezuelan Government has always officially denied the ELN's presence within its territory.³⁴⁷

³³⁵ Interview PPIV028.

³³⁶ Ibid.

³³⁷ Interview MMIV022; Interview HHIV034; Interview PPIV032; Interview HHIV045; Interview PPIV028; Interview HHIV046; Interview PPIV027.

³³⁸ Interview PPIV032.

³³⁹ Ibid.

³⁴⁰ Ibid.

³⁴¹ Ibid.

³⁴² Interview PPIV032; Interview HHIV026; Interview HHIV027.

³⁴³ SOS Orinoco, "Presencia, actividad e influencia de 2022".

³⁴⁴ InSight Crime, "ELN in Venezuela", 3 January 2019.

³⁴⁵ Interview HHIV024; SOS Orinoco, "Presencia, actividad e influencia de 2022", p. 21; El Espectador, "¿Cómo opera el ELN en minería venezolana?", 25 November 2018.

³⁴⁶ Interview HHIV052; Interview HHIV052; El Espectador, "¿Cómo opera el ELN en minería venezolana?", 25 November 2018.

³⁴⁷ People's Ministry of Foreign Affairs, "Gobierno Bolivariano desmiente presencia del ELN en territorio venezolano", 21 January 2019, available at: <https://mppre.gob.ve/2019/01/21/gobierno-bolivariano-desmiente-presencia-eln-venezuela/>.

201. According to several sources, the ELN has been involved in the mining of gold, diamonds and coltan extracted from Venezuelan territory, with which it finances its troops and activities.³⁴⁸ According to the Centre for Strategic and International Studies, the ELN is at least 60 per cent financed by mining in the Bolívarian Republic of Venezuela.³⁴⁹

202. According to public sources, Venezuelan military units allow, and sometimes facilitate, ELN activities to drive out rival criminal armed groups.³⁵⁰ Additionally, the ELN relies on a network of smugglers and mules who pay bribes to cross GNB lines and armed group checkpoints to bring gold to the Colombian border.³⁵¹ InSight Crime describes the relationship between the ELN and the GNB as one of criminal convenience, rather than a strong alliance.³⁵² The guerrillas have also controlled transport routes and extorted other criminal groups, such as the *sindicatos*, to use the same routes.³⁵³

203. The Mission has received information that, since at least 2018, the ELN has had a presence in different municipalities in the Bolívar state.³⁵⁴ According to SOS Orinoco, the ELN has operated in the mining areas of El Bochínche, Sifontes municipality, and in the Sierra de Imataca between the states of Bolívar and Delta Amacuro, and had control over several mines in Tumeremo and other sectors.³⁵⁵ According to an indigenous leader interviewed by the Mission, the Venezuelan Government granted concessions to ELN guerrillas for gold mining along the banks of the Cuyuní river, through the community of San Martín de Turumban, in areas close to the border with Guyana, in Sifontes municipality.³⁵⁶ A witness interviewed by the Mission added that the ELN also made incursions into the Guasipati, Las Claritas and Kilómetro 88 mines,³⁵⁷ in Sifontes municipality.

204. According to testimonies gathered by the Mission, there exists collaboration between the Venezuelan Government and the ELN.³⁵⁸ The Government allowed the ELN to enter and take control of mines from *sindicatos* not allied with the government, especially those that were not paying them bribes.³⁵⁹

205. According to a journalistic source investigating the presence of armed criminal groups in Bolívar state, the ELN was operating during Francisco Rangel Gómez's term in office as Governor of Bolívar state.³⁶⁰ According to SOS Orinoco, the next Governor, Justo Noguera Pietri, invited the ELN to Bolívar state to support the fight to retake control of mining areas in the hands of *sindicatos*.³⁶¹ Lieutenant Colonel Ernesto Solís was accused of

³⁴⁸ Center for Strategic and International Studies, "Illegal Mining in Venezuela: Death and Devastation in the Amazonas and Orinoco Regions", 16 April 2020; InSight Crime, "ELN in Venezuela", 3 January 2019.

³⁴⁹ Ibid.

³⁵⁰ Dialogo Digital Archivo Militar, "Las actividades de refuerzo del ELN en Colombia y Venezuela", 2 August 2021.

³⁵¹ Algimiro Montiel and Jorge Benezra, "Crimen organizado controla la explotación de oro en Venezuela", 2019.

³⁵² InSight Crime, "ELN in Venezuela", 3 January 2019.

³⁵³ Center for Strategic and International Studies, "Illegal Mining in Venezuela: Death and Devastation in the Amazonas and Orinoco Regions", 16 April 2020; International Crisis Group, "Gold and Grief 2019".

³⁵⁴ Ibid.; Algimiro Montiel and Jorge Benezra, "Crimen organizado controla la explotación de oro en Venezuela", 2019; El Espectador, "¿Cómo opera el ELN en minería venezolana?", 25 November 2018.

³⁵⁵ SOS Orinoco, "Presencia, actividad e influencia de 2022".

³⁵⁶ Interview HHIV052.

³⁵⁷ Interview HHIV052.

³⁵⁸ Interview HHIV027; Interview HHIV034; Interview PPIV032; Interview HHIV047; Interview HHIV052.

³⁵⁹ Interview PPIV032; Interview HHIV034; Interview HHIV052; Interview HHIV059.

³⁶⁰ Interview NNIV029.

³⁶¹ SOS Orinoco, "Presencia, actividad e influencia de 2022",

conspiring with the ELN to take control of several mines in the area and of coordinating guerrilla operations from Fuerte Tarabay.³⁶²

206. According to information received by the Mission, the ELN set up checkpoints or *alcabalas* on roads in the Bolívar state and in areas very close to official checkpoints. Two witnesses told the Mission that, in 2017, they witnessed an ELN *alcabala* on the Troncal 10 highway, on the stretch between Casa Blanca and the junction to San Martín de Turumban, in Sifontes municipality. The witnesses observed about 15 armed ELN men wearing uniforms, carrying a flag with ELN symbols and speaking with a Colombian accent.³⁶³ According to the witness, the ELN *alcabala* was located between two *alcabalas*, one belonging to the army and the other to the GNB, with a distance of only a few kilometres between the two *alcabalas*.³⁶⁴

207. Another indigenous leader who testified to the Mission explained that on the route between Tumeremo and San Martín de Turumban, in Sifontes municipality, he saw an *alcabala* established by the ELN, located between two other *alcabalas*, one belonging to the army and the other to the GNB.³⁶⁵

208. According to InSight Crime, after the death of Ernesto Solís in April 2020, the *sindicato* known as "Organización R" gradually took control of the mining areas in Sifontes expelling the ELN from these territories³⁶⁶. Consequently, since mid-2020, the ELN's presence in Bolívar state has decreased substantially.³⁶⁷ Two analysts told the Mission that in 2022 they did not document ELN presence in Bolívar state³⁶⁸.

5. Territorial control by armed criminal groups

209. The *sindicatos* are mainly distributed throughout the municipalities in the northeastern part of the Bolívar state, where they have been operating and carrying out violent acts. The *sindicatos* are usually named after the nickname of their respective leader or ringleader, known as a *pran*.³⁶⁹ The term *pran* comes from Venezuelan prison slang to describe the heads of illicit networks that originally operated inside the prisons and later began to exert their influence on the outside.³⁷⁰

210. The areas of influence of the *sindicatos* extend over different territories, including entire neighbourhoods and small towns. There they extort "protection money" from local traders, arbitrate disputes and even provide humanitarian assistance and basic social services. They act openly with the apparent acceptance, or even acquiescence, of local authorities and security forces.³⁷¹ In return, armed groups keep a significant percentage of the revenues from illegal mining and other associated economies, both in the mines and in the surrounding populations, by demanding bribes (colloquially known as *vacunas*), which are usually collected in gold nuggets. With these revenues, they finance their activities and buy weapons.³⁷²

211. Within the organisation of these groups, in each mine controlled by the *sindicato* there is a representative or person in charge who answers directly to the *pran*.³⁷³ According to different sources consulted by the Mission, the *sindicatos* regulate the social order, as well as the customs and practices of the people living in the mines and mining areas. In the

³⁶² InSight Crime, "The Rebel' of the South: The Rise of the R Organisation", 17 November 2021.

³⁶³ Interview OOIV021.

³⁶⁴ Interview NNIV043; Interview NNIV044.

³⁶⁵ Interview HHIV052.

³⁶⁶ InSight Crime, "How many Colombian fighters are there really in Venezuela?", 5 October 2021.

³⁶⁷ Ibid.

³⁶⁸ Interview PPIV031; Interview NNIV041.

³⁶⁹ Interview HHIV026.

³⁷⁰ Interview HHIV042.

³⁷¹ Interview HHIV028; Interview HHIV052.

³⁷² SOS Orinoco, "Presencia, actividad e influencia de 2022", pp. 9-10.

³⁷³ Interview OOIV019; Interview NNIV029.

different areas of influence of the *sindicatos*, they impose their own rules, functioning as a “parallel state” in the mining areas.³⁷⁴

212. The involvement of illegal groups in the gold industry in the Arco Minero region and elsewhere is linked to other illicit economies, such as trafficking in drugs, arms, fuel, medicines or food, and illegal logging. These activities link them to drug cartels and other criminal groups in other countries, such as Colombia or Mexico.³⁷⁵

213. The territorial area covered by each *sindicato* has evolved dynamically in each period. Taking into account this changing context, the Mission documented, through various sources, the presence of armed groups in the different mining areas of the Bolívar state³⁷⁶ in recent years (see *infra*, Table 1, Map 1).

Table 1
Geographical distribution of armed criminal groups in the northeast of Bolívar state³⁷⁷

No.	Criminal armed group	Controlled areas	Years
1	"Organización R" or "sindicato de Run".	El Callao	2013-2022
2	"El Tren de Guyana" or "Ronny Matón".	Guayana City Guasipati Roscio	2009-2022
3	Pran "El Ciego"	El Manteco	2016-2022
4	Pran "El Gordo Lisandro" and "El Coporo".	Tumeremo	2015-2022
5	"Tren de Aragua" or pran "El Negro Fabio".	El Dorado Sifontes	2015-2022
6	FRP	El Callao	2021-2022
7	Pran "El Juancho" or "El Negro Juancho".	Las Claritas Kilómetro 88	2008-2022
8	Pran "El Topo".	Tumeremo	2009-2017
9	ELN	St. Martin de Turumban Guasipati Las Claritas Kilómetro 88	2011-2020

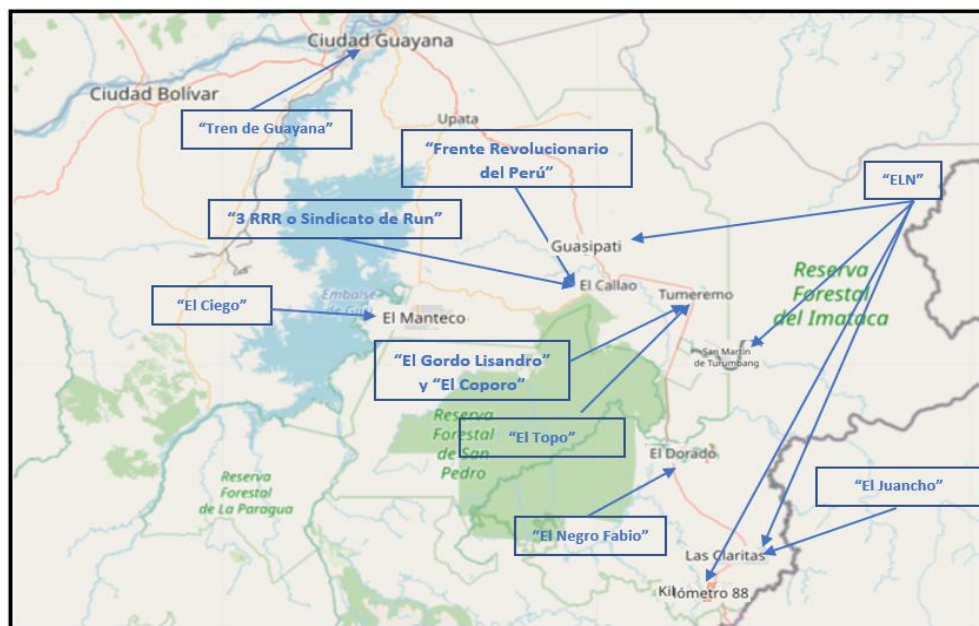
³⁷⁴ Interview HHIV026; Interview HHIV027.

³⁷⁵ SOS Orinoco, " Presencia, actividad e influencia de 2022", pp. 9-10.

³⁷⁶ Interview PPIV032; Interview HHIV052; Interview HHIV049; Interview HHIV027; Interview PPIV028; Interview HHIV045.

³⁷⁷ Interview PPIV032; Interview HHIV052; Interview HHIV049; Interview HHIV027; Interview PPIV028; Interview HHIV045; Interview OOIV019; Interview NNIV029.

Map 4
Geographical distribution of armed criminal groups in the northeast of Bolívar state³⁷⁸



Source: Prepared by the Mission using Open Street Map. © OpenStreetMap contributors. The boundaries and names shown and the designations used on this map do not imply official endorsement or acceptance by the United Nations.

B. Dynamics of violence in the mining areas of the Arco Minero region

214. As part of the investigations carried out by the Mission with regard to the situation in the gold mines of the Arco Minero region, in the north-eastern areas of Bolívar state, the Mission identified several types of violent incidents, with negative impacts on human rights. These dynamics include (1) confrontations between State security forces and armed groups, including "cleansing" operations in mining areas; (2) violent incidents between armed groups, as well as violent acts perpetrated by armed groups against the civilian and mining population and for control of the mines; (3) attacks perpetrated by the ELN; and (4) corporal punishment, including executions.

215. The Mission reviewed incidents through an open-source investigation. Due to the lack of access to the territory of the Bolívarian Republic of Venezuela in general, as well as the time elapsed and the remoteness of the areas where the incidents took place, the Mission was not able to directly interview victims or others who may have directly witnessed the incidents. As a result, the Mission was unable to make findings on the basis of its standard of proof of "reasonable grounds to believe".³⁷⁹

³⁷⁸ Interview PPIV032; Interview HHIV052; Interview HHIV049; Interview HHIV027; Interview PPIV028; Interview HHIV045; Interview OOIV019; Interview NNIV029; SOS Orinoco, "Presencia, actividad e influencia de 2022", pp. 9-10.

³⁷⁹ See *supra* chap. I.

1. Violent incidents between State agents and alleged armed criminal groups

(a) Violent confrontation between the GNB, the Army, the CICPC and the *sindicato* of "El Toto"

216. On 14 August 2017, GNB, Bolivarian Army and CICPC officers entered the La Lagunita sector, El Callao municipality, in southern Bolívar state, allegedly to verify information that the armed criminal group of "El Toto" was in the sector.³⁸⁰ The military delegation encountered approximately 20 members of the group, resulting in an alleged confrontation in which eight members of the group were killed.³⁸¹ No officers were reported injured.³⁸² Among the weapons recovered after the operation were allegedly seven rifles, four grenades, four shotguns, seven rifle magazines and more than a thousand cartridges of different calibres.³⁸³

(b) Armed confrontation between the Army, the GNB, the CICPC and the PEB against a *sindicato* in the La Babita mine, Piar municipality

217. On 9 September 2017, an armed confrontation took place between officers of the Bolivarian Army, the GNB, the CICPC, and the PEB against an armed group operating in the La Babita mine, located in the El Manteco sector, in Piar municipality, Bolívar state. As a result of the confrontation, 13 members of the armed group died.³⁸⁴ According to information from an open source, the armed group was holding a group of more than 60 men working in the mine in precarious conditions. In the operation, State agents seized long arms, high calibre pistols, ammunition and grenades.³⁸⁵

(c) REDIP Guayana raid in the El Triunfo sector, Tumeremo, Sifontes municipality.

218. On 10 September 2017, an incursion by army personnel assigned to the Guayana Región Estratégica de Investigación Penal (REDIP), based in Tumeremo, in the mining sector of El Triunfo, Sifontes municipality, Bolívar state, resulted in a confrontation with alleged members of a criminal armed group. Eleven alleged members of the criminal armed group were killed in the confrontation, and at least one soldier was wounded.³⁸⁶ Among those killed was allegedly the leader of the criminal armed group operating in El Perú, led

³⁸⁰ Vanessa Moreno Losada, "Murieron ocho hombres en supuesto enfrentamiento con GNB y Cicpc en Bolívar", *Efecto Cocuyo*, 15 August 2017; Diario El Guayanés, "Son ocho los abatidos en enfrentamiento con el Ejército", 14 August 2017.

³⁸¹ Marcos Valverde, "Incurción del Ejército en El Callao termina con siete asesinados", *Crónica Uno*, 15 August 2017; Vanessa Moreno Losada, "Murieron ocho hombres en supuesto enfrentamiento con GNB y Cicpc en Bolívar", *Efecto Cocuyo*, 15 August 2017; Pableysa Ostos, "Fiscalía del MP investigará la muerte de ocho personas en el estado Bolívar", *Analítica*, 15 August 2017; Notidario, "Mueren ocho sujetos en enfrentamiento con el ejército en El Callao", 15 August 2017.

³⁸² Vanessa Moreno Losada, "Murieron ocho hombres en supuesto enfrentamiento con GNB y Cicpc en Bolívar", *Efecto Cocuyo*, 15 August 2017.

³⁸³ Marcos Valverde, "Incurción del Ejército en El Callao termina con siete asesinados", *Crónica Uno*, 15 August 2017; Diario El Guayanés, "Son ocho los abatidos en enfrentamiento con el Ejército", 14 August 2017; Notidario, "Mueren ocho sujetos en enfrentamiento con el ejército en El Callao", 15 August 2017.

³⁸⁴ Oriana Faoro, "Ejército despeja zonas mineras de Bolívar con matanzas disfrazadas de enfrentamientos", *Correo del Caroní*, 11 September 2017; Diario El Guayanés, "Abatidos 13 sujetos en mina La Babita de El Manteco", 10 September 2017; Vanessa Moreno Losada, "Ejército sostuvo enfrentamiento que dejó 11 fallecidos en Bolívar", *Efecto Cocuyo*, 11 September 2017.

³⁸⁵ El Diario Guayanés, "Abatidos 13 sujetos en mina La Babita de El Manteco", 10 September 2017.

³⁸⁶ Pableysa Ostos, "Mueren 11 personas durante incursión del Ejército en mina de Bolívar", *El Universal*, 10 September 2017; Vanessa Moreno Losada, "Ejército sostuvo enfrentamiento que dejó 11 fallecidos en Bolívar", *Efecto Cocuyo*, 11 September 2017; *La Razón*, "Al menos 11 muertos en choques entre el Ejército venezolano y un grupo armado", 11 September 2017.

by "El Toto".³⁸⁷ The Public Prosecutor's Office reportedly assigned the case to the 2nd human rights prosecutor in Bolívar state. The results of the investigation are not known.³⁸⁸

(d) Bolivarian Army raid on the Cicpra mine, Roscio municipality

219. In the early hours of 10 February 2018, members of the 51st Jungle Infantry Brigade of the Bolivarian Army, corresponding to Guasipati, raided the Cicpra mine in Roscio municipality, Bolívar state. In the operation, 18 people (17 men and one woman) were killed by gunshot wounds.³⁸⁹ Among the victims were a member of the family that controlled the mine and was considered the mine's leader,³⁹⁰ gang members and miners.³⁹¹ At least two victims were not miners but traders who happened to be in the mine.³⁹² The bodies were taken by a military convoy to the FANB's Yocoima Fort in Guasipati and then to the CICPC's sub-delegation in Tumeremo. From there, they were transferred by air to the National Service of Medicine and Forensic Sciences (SENAMECF) in Ciudad Guayana.³⁹³ On 11 February 2018, the victims' relatives met with SENAMECF to complete the identification process and claim the bodies.³⁹⁴ According to documentary sources reviewed by the Mission, several victims had gunshot wounds to the head.³⁹⁵ No military personnel were injured during the operation. A source consulted by the Mission said that, despite the probable presence of weapons in the mine, there was no evidence of a confrontation.³⁹⁶

2. Violent incidents perpetrated by *sindicatos*

(a) Massacre of Tumeremo, Sifontes municipality

220. This massacre took place less than a month after the creation of the Mining Arc, in the context of an armed confrontation, allegedly between two *sindicatos*, to take territorial control of a gold deposit near the mine of Atenas, located near Tumeremo, Sifontes municipality. On 4 March 2016, men belonging to the *sindicato* of "El Topo" killed at least 17 people (including two women), whom they suspected of belonging to a rival gang. The Mission has investigated this case in depth (see *infra*).

(b) Abduction and subsequent disappearance of Óscar Meya

221. Óscar Meya, a 36-year-old Pemon indigenous man, was detained, tortured and disappeared by apparent members of the *sindicato* of "El Fabio" in the town of El Dorado, Dalla Costa parish, Sifontes municipality, on 13 March 2018.

222. The case took place in a context in which the aforementioned *sindicato* was trying to take control of mines that were being managed by the Pemon (Taurepán) indigenous community of San Luis de Morichal, Sifontes municipality (Pemon *Sector IV*), whose

³⁸⁷ Pableysa Ostos, "Mueren 11 personas durante incursión del Ejército en mina de Bolívar", El Universal, 10 September 2017.

³⁸⁸ Noticias Ahora, "MP designó fiscal para investigar muerte 11 personas en Tumeremo", 12 September 2017.

³⁸⁹ El Nacional, "Operativo del Ejército dejó 18 muertos en mina Cicpra en Bolívar", 11 February 2018; Runrun.es, "Lo de Cicpra fue una ejecución, no hubo enfrentamiento", 12 February 2018; InSight Crime, "Masacres de mineros en Venezuela son resultado de la guerra por el oro entre militares y pranes", 23 February 2018.

³⁹⁰ Interview MMIV031; Interview MMIV037; Interview MMIV030.

³⁹¹ Interview MMIV030; Interview MMIV031.

³⁹² Interview MMIV037; La Patilla, "Familiares de fallecidos en la mina Cicpra: Fue una masacre, mataron a gente inocente", 13 February 2018.

³⁹³ Interview MMIV037; Tweet by Germán Dam [@GEDV86], 10 February 2018, available at: <https://twitter.com/GEDV86/status/962438654475022338>.

³⁹⁴ El Nacional, "Operativo del Ejército dejó 18 muertos en mina Cicpra en Bolívar", 11 February 2018.

³⁹⁵ Runrun.es, "Lo de Cicpra fue una ejecución, no hubo enfrentamiento", 12 February 2018; VPItv tweet [@VPItv], 11 February 2018, available at: <https://mobile.twitter.com/i/web/status/962780573931573248?lang=ar>.

³⁹⁶ Document MMDC011.

³⁹⁷ Interview MMIV031.

captain was Omar Eliéze Meya, Óscar Meya's brother. Since 2017, members of the *sindicato* of "El Fabio" (or "El Negro Fabio"), had allegedly offered incentives to the community to allow the *sindicato* access to the mines in the area.³⁹⁷ However, when the community refused the offer, the *sindicato* allegedly began to threaten the community and use violence to gain control of the mines.³⁹⁸

223. As a result, the family of the indigenous captain of the community, Omar Meya, began to receive threats. On 30 July 2017, Domingo Cabrera, a miner and cousin of Omar Meya, disappeared in San Luis de Morichal. The community accused the *sindicato* of "El Fabio" as being responsible for the disappearance and reported the disappearance to the authorities.³⁹⁹

224. On 13 March 2018, while in the town of El Dorado, municipality of Sifontes, Óscar Meya and a cousin of his were allegedly kidnapped by armed men, who took them to a nearby gold buying office. There, both were beaten and accused of assisting the Army in operations against "El Fabio's" *sindicato*.⁴⁰⁰ The armed men cut the forehead of Óscar's cousin with a knife, causing him an injury; however, when they learned that he had not cooperated with the armed forces, they released him.⁴⁰¹ Óscar remained detained, however, and at approximately 3 p.m., the armed men placed a hood over his head and took him away in a boat.⁴⁰² According to a witness, armed GNB officers were present in El Dorado when the armed men were transporting Óscar Meya in a boat, but did not act to protect Óscar Meya's life.⁴⁰³

225. Óscar Meya's family has continued to receive threats and to be victims of violence. On 28 March 2021, Luis Mario Meya Márquez, a 17-year-old cousin of Óscar Meya, was killed in San Luis de Morichal by unknown armed men.⁴⁰⁴

226. The disappearance of Óscar Meya caused outrage and protests in indigenous communities. A public demonstration was organised in El Dorado.⁴⁰⁵ In a joint public communication on 15 April 2018, the Consejo de Caciques Generales del Pueblo Pemón (Council of *Caciques Generales*⁴⁰⁶ of the Pemón People, or CCGPP)⁴⁰⁷ demanded information on the whereabouts of Óscar Meya, and denounced the apparent lack of action by the State.⁴⁰⁸ The community of San Luis de Morichal sent formal complaints to several regional and national state institutions, including the Bolívar State Police (PEB in its Spanish acronym), the Ombudsman's Office and the Prosecutor's Office.⁴⁰⁹ Additionally, community leaders travelled to Caracas to make a formal complaint to the Ministry of Popular Power for Defence in Caracas.⁴¹⁰

227. In late March 2018, two representatives of Governor Justo Noguera Pietri travelled to San Luis de Morichal to speak to the Pemon community about the Óscar Meya case and said they would support the community in seeking justice. However, since then the community has received no further information about an official investigation.⁴¹¹ At the

³⁹⁷ Interview NNIV037; Interview PPIV017; SOS Orinoco, "Presencia, actividad e influencia de 2022".

³⁹⁸ Interview NNIV037.

³⁹⁹ Ibid.; Interview NNIV042.

⁴⁰⁰ Interview NNIV037.

⁴⁰¹ Ibid.; Minerva Vitti Rodríguez, "Me están llevando para matarme", Fosas de silencio, 13 November 2019.

⁴⁰² Ibid.

⁴⁰³ Interview NNIV037.

⁴⁰⁴ Carlos Suniaga, "Primo de capitán indígena muere en ataque de grupo armado", El Pitazo, 28 March 2022.

⁴⁰⁵ Interview PPIV027.

⁴⁰⁶ *Cacique General* is a term used for chiefs of indigenous tribes in Central and South America.

⁴⁰⁷ See *infra* chap IV.

⁴⁰⁸ Document NNDD049.

⁴⁰⁹ Interview NNIV037; Interview NNIV042.

⁴¹⁰ Interview NNIV037.

⁴¹¹ Interview PPIV027; Interview PPIV017.

time of writing, no one has been arrested in the case and the whereabouts of Óscar Meya remain unknown.⁴¹²

(c) Massacre in the community of San Luis Morichal, Sifontes municipality

228. On 5 June 2018, in the Pemon community of San Luis de Morichal, Sifontes municipality (Óscar Meya's place of origin, see *supra*), a violent incident allegedly took place in the context of a conflict between two armed groups over territorial control of the mines located in San Luis Morichal.⁴¹³ On the one hand, as analysed above, the *sindicato* of "El Fabio" (also known as "El Negro Fabio"⁴¹⁴) had since 2017 been carrying out threats and violent acts against people from the community of San Luis Morichal, such as, for example, against the Meya family. Meanwhile, the local Valdez brothers had created their own armed group, known as "the Lincoln Valdez gang",⁴¹⁵ in order to resist "El Fabio's" *sindicato* and ensure that territorial control of the local mines remained in the hands of the San Luis de Morichal community.⁴¹⁶

229. In the morning hours of 5 June 2018, members of Lincoln Valdez's armed group were travelling towards the La Mochila mine when they were allegedly ambushed by a group of armed men belonging to "El Fabio's" *sindicato*. As a result of the ambush, five members of the Lincoln Valdez gang were killed.⁴¹⁷

230. According to a member of the community of San Luis de Morichal interviewed by the Mission, the CICPC subsequently went to the scene to carry out an inspection. However, the community never got to know the results of the investigation.⁴¹⁸

231. Since then, the community of San Luis de Morichal has continued condemn the occupation of their mining areas by armed groups from outside the community. On 2 February 2021, they denounced that the occupied area included mines located less than one kilometre from the centre of the community, in the basins of the Chicanán river, a tributary of the Cuyuní river.⁴¹⁹

3. Violent incidents allegedly perpetrated by the ELN

(a) ELN attack on mines in Guasipati, Roscio municipality

232. On 7 May 2018, at least 25 people were killed during an alleged ELN raid on the mines of Cicapra, El Cuadro and El Muertico, Campanero, El Caolín, and Florinda, located in the area of Guasipati, Roscio municipality, which are among the most productive gold mines in the area.⁴²⁰ According to the NGO Fundaredes, there was a confrontation between

⁴¹² Interview NNIV037.

⁴¹³ Jhoalys Siverio, "Indígenas pemones de San Luis solicitan protección ante asedio de grupos armados", *Crónica Uno*, 8 February 2021.

⁴¹⁴ *Ibid.*

⁴¹⁵ Interview PPIV017.

⁴¹⁶ Interview HHIV034.

⁴¹⁷ Interview PPIV015; Interview PPIV017.

⁴¹⁸ Interview PPIV017.

⁴¹⁹ Jhoalys Siverio, "Presencia de mineros y grupos armados mantiene en tensión a comunidades indígenas de Bolívar", *Correo del Caroní*, 10 February 2021; Provea, "Pemones de San Luis de Morichal se declaran en emergencia ante penetración de sus territorios por grupos irregulares", 23 February 2021; Wataniba tweet [@Wataniba_ve], 9 February 2021, available at: https://twitter.com/Wataniba_ve/status/1359229546625699843; Observatorio de Ecología Política de Venezuela, "Pronunciamiento de la Comunidad indígena pemón de San Luis de Morichal", 23 February 2021.

⁴²⁰ Tweet by Germán Dam [@GEDV86], 8 May 2018, available at: <https://twitter.com/GEDV86/status/994005941736665088>; Fundaredes, "La guerrilla colombiana busca controlar la explotación minera en Venezuela", 10 May 2018; *El Nacional*, "Al menos 20 muertos con incursión de ELN en minas de Guasipati", 10 May 2018; *El Correo de Orinoco*, "ELN sería autor de nueva masacre en mina cicapra y otros yacimientos", 10 May 2018; Sabrina Martín, "Culpan al ELN por masacre de 20 mineros en zona sin ley de Venezuela", 10 May 2018.

ELN guerrillas and some miners who were in the mines,⁴²¹ and members of ELN killed those miners who defended the areas.⁴²² After the massacre, a group of civilians held a protest in Guasipati against the lack of response of the local Government, which had not spoken out about the massacre. There is no information about an official investigation.⁴²³

(b) Attack at La Alza mine

233. On 18 May 2018, there was a confrontation between alleged ELN members and local *sindicatos* at the La Alza mine in El Callao municipality, in which at least four people working in the mines were allegedly killed.⁴²⁴ Four of those killed were identified.⁴²⁵ According to the police version, the victims were on their way to a meeting with an unknown "union" when they were ambushed by suspected ELN members.⁴²⁶ The attack took place in the context of alleged ELN efforts to take control of mining areas in the area. Two days before the confrontation in La Alza, suspected ELN members attacked miners near Caolín mine, leaving six miners (five men and one woman) dead and 16 people injured.⁴²⁷

4. Corporal punishment and killings by armed criminal groups

234. Armed criminal groups operating in the Arco Minero region and in various mining areas in the Bolívar state have established a strict disciplinary regime towards local populations under their control (see *supra*). These groups impose a series of rules of behaviour that include severe and violent punishments against the civilian population working in the mining areas under their influence.⁴²⁸

235. These punishments documented by the Mission, and also confirmed by other sources,⁴²⁹ include - among others - the violent shaving of women's heads;⁴³⁰ public beatings and whippings of men and women;⁴³¹ mutilation of body parts;⁴³² disappearances;⁴³³ dismemberment; and other violent forms of execution.⁴³⁴ The punishments imposed are often proportional to the type of "disobedience" to the rules imposed by the armed group operating in the area.

236. Often, these punishments are imposed for non-payment of extortion fees (*vacunas*) that the *sindicatos* demand from people working in the mine or in local businesses.⁴³⁵ For example, a male miner who worked at the Los Caballos mine in Sifontes municipality between 2002 and 2021 told the Mission that the *sindicato* that controlled the mine demanded a fee from miners to work there.⁴³⁶ According to the same witness, two or three times a month,⁴³⁷ the members of the *sindicato* organized meetings with the mining population, in which they would cut off the hands or feet of people who had not paid such

⁴²¹ Fundaredes, "La guerrilla colombiana busca controlar la explotación minera en Venezuela", 10 May 2018.

⁴²² Tweet by Germán Dam (@GEDV86), 8 May 2018, available at: <https://twitter.com/GEDV86/status/994005941736665088>.

⁴²³ TalCual, "Vinculan a guerrilla del ELN con secuestro de mineros al sur de Bolívar", 10 May 2018.

⁴²⁴ Pableysa Ostos, "Cinco muertos dejó nuevo incidente en mina de Bolívar", El Universal, 19 May 2018.

⁴²⁵ Ibid.

⁴²⁶ Ibid.

⁴²⁷ El Diario de Guyana, "10 muertos en menos de tres días en zonas mineras", 20 May 2018.

⁴²⁸ Interview HHIV028.

⁴²⁹ Human Rights Watch, "Violent abuses in illegal gold mines 2020"; Centro de Derechos Humanos-UCAB, "Formas de esclavitud moderna 2021".

⁴³⁰ Interview HHIV027; Interview HHIV055; Interview HHIV038; Interview PPIV042.

⁴³¹ Interview HHIV027.

⁴³² Interview HHIV027; Interview HHIV038; Interview HHIV035; Interview HHIV045; Interview PPIV028; Interview HHIV037; Interview PPIV041; Interview PPIV040.

⁴³³ Interview HHIV039.

⁴³⁴ Interview HHIV039; Interview HHIV045; Interview PPIV028; Interview HHIV055;

⁴³⁵ Interview HHIV028; Interview HHIV045; Interview HHIV038; Interview HHIV027.

⁴³⁶ Interview PPIV028.

⁴³⁷ Ibid.

fees. Another witness said that "when business owners and merchants decide to raise their voices to defend their rights, they are silenced."⁴³⁸

237. Inside the mines, the *sindicatos* apply punishments for theft of small quantities of gold, mobile phones or other supplies, as well as for non-compliance with the rules imposed by the *sindicatos* themselves. Two witnesses told the Mission that it is common in mines controlled by *sindicatos* to see persons accused of theft being punished by gunshots to different parts of their bodies, or having their hands and feet mutilated.⁴³⁹ On other occasions, people suspected of theft are publicly executed by particularly violent methods such as decapitation or dismemberment.⁴⁴⁰

238. A miner who worked in a mine controlled by a *sindicato* explained the dynamics of control and punishment:

I had to pay an amount of gold to them [members of the *sindicato*] in order to work in the Los Caballos mine. From time to time, they would organise meetings with all the miners, including 60, 80 or 100 miners. These meetings were controlled by about 60 armed men. And there, they would ask about the reasons why miners had not paid, and then they would start abusing them. If they hadn't paid, they would put [their hand] on a log and bring forward someone with a machete, hooded. They would instruct men with machetes to walk among the miners.

In one particular case, a boy called Manuel asked for clemency, and as they had already given him a chance, they told him "if you don't put your hand on the log, I'm going to put a 9 millimetre [pistol] to your head." Manuel put his hand on the log and they cut it off. I saw this happen every two or three weeks. In one month, it could happen twice. At each meeting, I saw the fingers or hands of two or three people being cut off.⁴⁴¹

239. According to the same witness, he "did not see them kill anyone directly, but when they were going to kill someone, they would take them to an isolated part, and from there you could hear the gunshots, and from then on, no one was allowed to go to that isolated place for a few weeks."⁴⁴²

240. Cases of amputations as a form of punishment have also been documented in the media.⁴⁴³ In one such case, in January 2019, Leocer José Lugo Maíz, a 19-year-old ex-soldier, had his two hands, both eyes and part of his tongue mutilated, allegedly at the hands of members of a *sindicato* who accused him of stealing gold from mining camps in the mining sector of El Perú, El Callao municipality.⁴⁴⁴

241. Cases of decapitations to "set an example" have been frequent in clashes between armed gangs.⁴⁴⁵ In September 2021 in Callao municipality, two heads (one of a man and one of a woman) were found in the El Jobo square of the same locality.⁴⁴⁶ According to one source, the two people had been decapitated as a form of punishment, as the woman had denounced her partner as a member of an armed group.⁴⁴⁷ Another source told the Mission that the residents of El Callao were not very surprised by these events, as the killings had

⁴³⁸ Interview HHIV045.

⁴³⁹ Interview PPIV028; Interview HHIV045.

⁴⁴⁰ Interview HHIV045.

⁴⁴¹ Interview PPIV028.

⁴⁴² Ibid.

⁴⁴³ Human Rights Watch, "Violent abuses in illegal gold mines 2020"; Centro de Derechos Humanos-UCAB, "Formas de esclavitud moderna de 2021".

⁴⁴⁴ El Nacional de Venezuela/GDA, "'Me dieron con un machete en la espalda y me cortaron las manos': Habla el sargento venezolano al que le sacaron los ojos", 31 October 2019.

⁴⁴⁵ Pableysa Ostos, "La barbarie de la violencia en el estado Bolívar: las decapitaciones", *El Universal*, 28 July 2018.

⁴⁴⁶ Interview PPIV042; Jhoalys Siverio, "Hallazgo de dos cabezas humanas en plaza de El Callao reafirma la anarquía impuesta por el pranato minero", *Correo del Caroní*, 30 September 2021.

⁴⁴⁷ Interview PPIV042.

become a common practice in the area, as a form of punishment or warning by the *sindicatos*.⁴⁴⁸

242. As will be detailed below, there are gender-specific forms of punishment.⁴⁴⁹ For example, in addition to those imposed on men, women are subjected to specific punishments, such as the violent shaving of their hair or the disfigurement of their faces. The Mission obtained information on a case in a mine near El Dorado, Dalla Costa parish, Sifontes municipality, where two women miners melted gold together with a padlock with the intention of smuggling the gold out of the mine. When the *sindicato* realised what had happened, the women were publicly punished by being whipped with straps and having their hair shaved off.⁴⁵⁰

C. Case study: The Tumeremo massacre

243. The Mission investigated in depth a violent incident in the north-eastern Bolívar state. This case illustrates the dynamics of violence described above, which involved the *sindicatos* active in the Arco Minero region, and led to the perpetration of crimes against the population.

244. The victims of these crimes have included the mining population, members of indigenous communities in whose territories gold deposits are located, which the armed groups are trying to control, and members of *sindicatos*. There are indications of a lack of investigation by the State, which allows the Mission to reasonably conclude that the State failed to comply with its international human rights obligation to investigate and punish.

1. Background

245. As described above, since the mid-2000s, the mines around the town of Tumeremo, capital of Sifontes municipality, have been disputed by several *sindicatos*.⁴⁵¹ In August 2015, for example, seven people were killed during a clash between armed criminal groups at the Corregente mine near Tumeremo.⁴⁵² In November of the same year, three miners were killed after an alleged FANB raid on the El Miamo mine.⁴⁵³

246. Around October 2015, a surface gold deposit (known colloquially in the region as a *bulla*)⁴⁵⁴ was discovered near the Atenas mine, approximately 45 minutes' drive from the town of Tumeremo.⁴⁵⁵ This newly discovered deposit became known as the "Bulla de Atenas".

247. The discovery attracted the attention of male and female miners, who came to work from different parts of the country. This situation also attracted armed criminal groups or *sindicatos*, who saw an opportunity to extort money from or provide security to for the mining population.⁴⁵⁶ In December 2015, two months after the discovery of the Bulla de Atenas, more than two thousand people were working in the deposit.⁴⁵⁷

⁴⁴⁸ Ibid.

⁴⁴⁹ See *supra* chap V.

⁴⁵⁰ Interview HHIV027.

⁴⁵¹ SOS Orinoco, "Presencia, actividad e influencia de 2022".

⁴⁵² Lorena Meléndez, "Mineros de Tumeremo fueron ejecutados por un yacimiento empobrecido", Runrun.es, March 2016; COFAVIC, "Informe Final sobre caso de los Mineros asesinados en Tumeremo estado Bolívar", 9 May 2016.

⁴⁵³ Primacía, "Dos muertos en bulla minera de El Miamo", 4 November 2015; NotiBolívar, "Masacre por bulla de oro en la mina Corre-Gente", 17 August 2015.

⁴⁵⁴ A "bulla" refers to a discovery of a new gold deposit. See Prensa Minera (Ministerio del Poder Popular de Desarrollo Minero Ecológico), "Mina tu vocabulario", available at: <http://www.desarrollominero.gob.ve/mina-tu-vocabulario/>.

⁴⁵⁵ Interview HHIV046.

⁴⁵⁶ COFAVIC, "Informe Final sobre caso de los Mineros asesinados en Tumeremo estado Bolívar", 9 May 2016.

⁴⁵⁷ Interview HHIV046.

248. Initially, the Bulla de Atenas was controlled by a *sindicato* from Roscio municipality, neighbouring Tumeremo.⁴⁵⁸ At the end of December 2015, another *sindicato* took control of the mine, led by the *pran* Alejandro Lisandro González Montilla (alias "El Gordo").⁴⁵⁹ The latter group originated in the La Caratica neighbourhood of Tumeremo, and was also known as the "La Caratica" *sindicato*.⁴⁶⁰

249. During the armed incursion of the "La Caratica" *sindicato* to take possession and control of the Bulla de Atenas, the miners were separated by their municipality of origin. One of the members of the "La Caratica" *sindicato* recognised a young man and accused him of having robbed another mine a few months earlier, for which he was shot dead at point blank range in the head.⁴⁶¹ One of Roscio's *sindicato* leaders was also shot and wounded in the leg.⁴⁶² The Mission also received information that, during the same night, members of the "La Caratica" *sindicato* killed at least one other person.⁴⁶³

250. After this raid, members of the "La Caratica" *sindicato* seized control of the mine for several months. On 4 March 2016, they were attacked, allegedly by another *sindicato* led by the *pran* Jamilton Andrés Ulloa Suárez, alias "El Topo".⁴⁶⁴

Map 5

Location of the mine "Bulla de Atenas", near Tumeremo, Sifontes municipality.



Source: Prepared by the Mission using Open Street Map. © OpenStreetMap contributors. The boundaries and names shown and the designations used on this map do not imply official endorsement or acceptance by the United Nations.

2. Chronological description of the events

251. Beginning at 9 p.m. on the night between 3 and 4 March 2016, a group of between 50 and 60 armed men belonging to the *sindicato* of Jamilton Andrés Ulloa Suárez (alias "El Topo") arrived in the area around the Bulla de Atenas.⁴⁶⁵ Most of the attackers wore black clothes and bulletproof vests,⁴⁶⁶ and were armed with R-15 rifles, shotguns and pistols.⁴⁶⁷

⁴⁵⁸ Ibid.

⁴⁵⁹ Interview HHIV025; Interview HHIV046; SOS Orinoco, "Presencia, actividad e influencia".

⁴⁶⁰ Interview HHIV046.

⁴⁶¹ Interview HHIV025; Interview HHIV046; Interview EEIV027.

⁴⁶² Interview HHIV046.

⁴⁶³ Ibid.

⁴⁶⁴ Ibid.

⁴⁶⁵ Interview NNIV039; Interview HHIV046; Document NNDD051.

⁴⁶⁶ Interview HHIV025.

⁴⁶⁷ Document NNDD051.

According to two witnesses to the massacre, some of the men in this group wore bulletproof vests with the SEBIN and CICPC acronyms.⁴⁶⁸

252. In the early hours of the morning of 4 March, members of the "El Topo" *sindicato* had already set up an improvised *alcabala* near the El Peregrino farm, located on the road that leads to the Bulla de Atenas, an hour from the town and about 15 minutes away from the town centre of Tumeremo.⁴⁶⁹

253. The members of the *sindicato* started to stop people who were trying to pass through the *alcabala* of El Peregrino, most of whom were heading towards the mine.⁴⁷⁰ The members of the *sindicato* of "El Topo" who had set up the *alcabala* stopped all the vehicles on the road and forced the passengers to step out for identification. Every person who passed by had their belongings, such as mobile phones and other means of communication, taken away. This meant that they were unable to communicate with the people inside the Bulla de Atenas to report what was happening.⁴⁷¹ According to information received by the Mission, throughout the day of 4 March, a total of approximately 600 people were detained at some point at the *alcabala* of El Peregrino,⁴⁷² when the *sindicato* of "El Topo" maintained control over the passage of people through the *alcabala*.

254. According to a witness, members of the *sindicato* of "El Topo" separated people they suspected might be related to members of the *sindicato* of "La Caratica".⁴⁷³ A witness who was at the Atenas mine indicated that when they recognized persons suspected of belonging to "La Caratica", they moved them away from the road,⁴⁷⁴ and, at a distance of about 50 or 100 metres from the road, they executed them.⁴⁷⁵ Some of these persons were tortured to obtain information about the rival *sindicato* before being executed.⁴⁷⁶

255. A person who was in the Bulla de Atenas on the day of the events, and who fled the area, could hear from the hills where she took refuge, a man who apparently commanded the raid. According to this testimony, the man was giving orders to the members of oen *sindicato* and referred to the insecurity in the area caused by the "La Caratica" *sindicato*.⁴⁷⁷

256. According to the Mission's investigation, at least 17 persons were killed, including two women. As mentioned above, among those killed were persons who members of the El Topo *sindicato* suspected of belonging to the "La Caratica" *sindicato*. However, among those killed were also victims without a direct connection to mining activity or sindicatos. Two of them were the allegedly girlfriends of two suspected members of the La Caratica *sindicato*.⁴⁷⁸

257. One victim was Ángel Trejo, a 30-year-old and law student in Puerto Ordaz.⁴⁷⁹ According to a family member, Ángel Trejo arrived at the El Peregrino *alcabala* with a friend on two separate motorbikes at around 1 p.m., to visit another friend who oversaw a mill at the mine. When Ángel Trejo and his friend were detained at the *alcabala*, they witnessed three people being shot; one of the attackers was wearing a SEBIN jacket.⁴⁸⁰ Angel Trejo panicked and tried to flee; however, as he turned his motorbike, one of the

⁴⁶⁸ Interview NNIV039; Interview HHIV046; Interview HHIV025.

⁴⁶⁹ Ibid.

⁴⁷⁰ Interview HHIV025; Interview HHIV046.

⁴⁷¹ Ibid.

⁴⁷² Interview NNIV039; COFAVIC, "Informe final sobre caso de los mineros asesinados en Tumeremo estado Bolívar", 9 May 2016.

⁴⁷³ Interview HHIV046.

⁴⁷⁴ Ibid.

⁴⁷⁵ Ibid; Interview NNIV039; Interview HHIV027.

⁴⁷⁶ Interview HHIV046; COFAVIC, "Informe final sobre caso de los mineros asesinados en Tumeremo estado Bolívar", 9 May 2016.

⁴⁷⁷ Interview HHIV025; Interview HHIV046.

⁴⁷⁸ Interview HHIV046; Interview HHIV040; Interview HHIV027.

⁴⁷⁹ Interview HHIV046.

⁴⁸⁰ Interview NNIV039.

gunmen shot him in the back. Angel Trejo's body was transported moved to a truck where the bodies of those killed were placed in a pile.⁴⁸¹

258. A group of armed men moved the bodies of the victims to an unknown location, using at least one truck.⁴⁸² Some sources noted that there were *alcabalas* or checkpoints of state security forces near the site of the massacre.⁴⁸³ According to one witness, the vehicles that were transporting the bodies after the massacre must have passed in front of a CICPC office, while there was another GNB *alcabala* at an intersection near the site where the mass grave in which the bodies were buried was found, near the Casa Blanca area.⁴⁸⁴

259. At around 9 p.m., the members of the "El Topo" *sindicato* cleared the *alcabala* and released the people who had been detained. The relatives of the victims and other members of the community were not aware of what had happened during the day until the people who had been detained returned to their respective communities and homes.⁴⁸⁵

3. Response by the State authorities

260. Immediately after the incident, the then Governor of Bolívar state, Francisco José Rangel Gómez, denied that a massacre had taken place, and indicated that reports of the case were a "media campaign to terrorize the Venezuelan population".⁴⁸⁶

261. Relatives of the victims faced obstacles in reporting the crimes to the authorities. For example, on the night of the events, on 4 March 2016, the State Police office remained closed overnight, which prevented a relative of one of the victims from filing a complaint about the disappearance of his relative.⁴⁸⁷

262. The day after the massacre, on 5 March 2016, a group of villagers protested police inaction and displayed photographs of the alleged missing persons.⁴⁸⁸ The demonstration continued for several days and blocked parts of Troncal 10 and attracted national and international media attention.⁴⁸⁹

263. According to two sources consulted by the Mission, several witnesses and community members were threatened by alleged state officials after the protests began.⁴⁹⁰ A former public official informed the Mission that family members who testified about the events were killed months later by the CICPC, SEBIN and armed criminal groups.⁴⁹¹ According to an investigation by the Venezuelan NGO COFAVIC, a witness to the massacre, Ángel Gómez Coa, was arrested on 10 March 2016 by CICPC agents. His lifeless body was later found with a single gunshot wound to the head. There is no indication that his death has been investigated by the authorities.⁴⁹² According to a witness, the then Governor of Bolívar state, Rangel Gómez, tried to influence the local media not to publish information about the Tumeremo massacre.⁴⁹³

⁴⁸¹ Ibid; COFAVIC, "Informe final sobre caso de los mineros asesinados en Tumeremo estado Bolívar", 9 May 2016.

⁴⁸² Interview NNIV039; Interview HHIV025; Interview HHIV046; Interview HHIV027; Runrun.es, "Cicpc recuperó camión utilizado para transportar cuerpos de mineros de Tumeremo", 10 March 2016.

⁴⁸³ Interview NNIV028; Interview HHIV025; Interview HHIV027; COFAVIC, "Informe final sobre caso de los mineros asesinados en Tumeremo estado Bolívar", 9 May 2016.

⁴⁸⁴ Interview HHIV025; Interview HHIV046; Interview NNIV046.

⁴⁸⁵ Interview HHIV046.

⁴⁸⁶ Correo del Caroní, "Rangel Gómez desoye protesta de Tumeremo que clama por paradero de mineros", 5 March 2022.

⁴⁸⁷ Interview NNIV039.

⁴⁸⁸ Interview HHIV046.

⁴⁸⁹ Interview EEIV027; La Patilla, "Militares restablecieron a la fuerza el paso en la Troncal 10 en Tumeremo", 10 March 2016.

⁴⁹⁰ Interview NNIV028; Interview NNIV039.

⁴⁹¹ Interview HHIV024.

⁴⁹² El Nacional, "Denuncian secuestro de testigo en caso Tumeremo", 7 April 2016; COFAVIC, "Informe final sobre caso de los mineros asesinados en Tumeremo estado Bolívar", 9 May 2016.

⁴⁹³ Interview NNIV047.

264. President Nicolás Maduro appointed a presidential commission headed by the then Ombudsman, Tarek William Saab, to lead the investigation into the massacre. On 5 March, a team from the Public Prosecutor's Office was sent to the Bolívar state, while FANB and CICPC officials were tasked with searching for the missing persons.⁴⁹⁴ On 10 March, the Public Prosecutor's Office announced that, as a result of its investigation, it had requested an arrest warrant for Jamilton Andrés Ulloa Suárez, alias "El Topo", and other members of his *sindicato*.

265. On 14 March 2016, Luisa Ortega Díaz, then attorney general, announced on her Twitter account that the bodies of the alleged victims had been found. Two days later, the Public Prosecutor's Office confirmed that a total of 17 bodies had been found in a mass grave near the Hoja de Lata mine in Nuevo Callao. A SENAMECF team was in charge of recovering the bodies and conducting autopsies.⁴⁹⁵

266. Jamilton Andrés Ulloa Suárez, alias "El Topo", was killed on 6 May 2016 in an operation carried out by a joint operation of SEBIN, GNB and CICPC officers. The official report of the Public Prosecutor's Office stated that, during the morning of 6 May, the joint operation was ambushed by armed men upon arriving at the El Limón mine near Nuevo Callao, which led to an armed confrontation. In addition to the death of "El Topo", two alleged members of his *sindicato* were wounded and eight were arrested.⁴⁹⁶

267. By the end of 2016, a total of 12 persons, allegedly members of the *sindicato* of "El Topo", had been arrested in connection with the Tumeremo massacre. They were charged with various crimes, including murder, criminal association and aggravated robbery, and remanded in custody.⁴⁹⁷

268. In September 2021, the Supreme Court, on the basis of alleged irregularities during the preliminary hearing, ordered the transfer of this case to the Presidency of the Criminal Judicial Circuit of the Caracas Metropolitan Area to continue hearings in the case.⁴⁹⁸

4. Analysis by the Mission

(a) Number of victims

269. According to the official report of the Public Prosecutor's Office, in the Tumeremo incident, a total of 17 victims' bodies were discovered, including 15 men and two women. All but one of the victims found were identified by name and their ages ranged from 19 to 31 years. The determined cause of death for all victims was gunshot wounds; at least 14 of the victims died from a single gunshot wound to the head.⁴⁹⁹

270. Some sources estimate that the death toll could have been higher. Immediately after the incident, relatives of the victims and other members of the Tumeremo community reported the disappearance of 28 people. While the Governor of Bolívar state initially denied that an attack had taken place, other senior Government officials and the then Ombudsman, Tarek William Saab, estimated the number of victims at 25. On 14 March 2016, the then attorney general, Luisa Ortega Díaz, stated in a television interview that 21 bodies had been found in the mass grave, 18 of which had been identified.⁵⁰⁰

271. There are still relatives and witnesses who doubt the officially provided figure of the total number of victims.⁵⁰¹ A source told the Mission that it is feasible that the real number is higher, but it has not been possible to establish the exact number as some alleged victims

⁴⁹⁴ Document NNDD048.

⁴⁹⁵ Document NNDD048; Document NNDD052.

⁴⁹⁶ Document NNDD048.

⁴⁹⁷ Ibid; Document NNDD051.

⁴⁹⁸ Document NNDD051.

⁴⁹⁹ Document NNDD048.

⁵⁰⁰ El Pitazo, "Los rostros e historias detrás de la masacre de Tumeremo", 15 March 2016; El Pitazo, "Fiscal Luisa Ortega Díaz: Localizados restos de desaparecidos en Tumeremo", 14 March 2016.

⁵⁰¹ Interview NNIV039; Interview HHIV046.

came from outside the Bolívar state and did not have relatives who could denounce their cases.⁵⁰²

272. However, other sources interviewed by the Mission confirmed the official death toll of 17.⁵⁰³ According to these sources, there are several reasons that may explain the discrepancy between the initially reported number of missing and the final number of victims, including that as many people fled the area following the confusion immediately after the massacre and may have been reported as missing before returning.⁵⁰⁴

(b) Alleged links with the State

273. According to statements by state officials and the official report of the Public Prosecutor's Office, the Tumeremo massacre was the product of a struggle for control of the Bulla de Atenas between two armed criminal groups, on the one hand, the *sindicato* of "El Topo" and on the other, that of "El Gordo", also known as "La Caratica".

274. There have been persistent allegations of possible state complicity in these violent events. As mentioned above, two sources who witnessed the events told the Mission that among the men who illegally set up the *alcabala* were some wearing vests with SEBIN and CICPC logos.⁵⁰⁵ In addition, various sources indicated that the trucks transporting the bodies would have had to pass through *alcabalas* controlled by the state security forces, including by the GNB.⁵⁰⁶ Based on the information from various sources, these events could not have happened without the State security forces in Tumeremo becoming aware that violent events had occurred or were occurring. However, the Mission considers that the testimonies received do not allow it to reliably conclude that the armed men carrying the jackets were members of SEBIN or the CICPC, or that they collaborated with the delivery of the vests. Further investigation would be necessary to determine these facts.

275. As mentioned above, after the massacre, several witnesses and community members reported being threatened by alleged state officials.⁵⁰⁷

276. Doubts have also been raised about the quality of the forensic investigation. According to SENAMECF's internal report on this case, to which the Mission had access, the investigation and the handling of evidence after the massacre were characterised by irregularities.⁵⁰⁸ As a consequence, SENAMECF's internal investigation recommended the dismissal of several of its officials in the Bolívar state.⁵⁰⁹

277. Public allegations regarding the alleged role of State officials in the massacre have never been investigated by the justice system. The alleged involvement of state agents in the violence was not mentioned either in the official report of the Public Prosecutor's Office or in the judicial records of the cases against the accused.⁵¹⁰ In this context, the Mission did not obtain any information indicating that the local administration of justice had investigated whether state agents played a role in the Tumeremo massacre. There was no mention of this in the report of the Public Prosecutor's Office, nor in the judicial records of the cases against the accused to which the Mission has had access.

⁵⁰² Interview NNIV040.

⁵⁰³ Interview NNIV032; Interview NNIV033.

⁵⁰⁴ Interview NNIV033.

⁵⁰⁵ Interview NNIV039; Interview HHIV046; Interview HHIV025.

⁵⁰⁶ Interview NNIV039; Interview HHIV025; Interview HHIV046; Interview HHIV027; Interview NNIV028; Runrun.es, "Cicpc recuperó camión utilizado para transportar cuerpos de mineros de Tumeremo", 10 March 2016; COFAVIC, "Informe Final sobre caso de los Mineros asesinados en Tumeremo estado Bolívar", 9 May 2016.

⁵⁰⁷ Interview NNIV039; Interview NNIV028.

⁵⁰⁸ Document NNDD052; Interview OOIV022.

⁵⁰⁹ Ibid.

⁵¹⁰ Document NNDD048; Document NNDD051.

IV. The situation in the gold mines in the indigenous territories and surrounding areas in Gran Sabana municipality (southern Bolívar state).

A. Context

278. A large part of Gran Sabana municipality in southern Bolívar state is populated by indigenous communities. A majority of the territory that makes up Gran Sabana municipality is outside the area covered by the Arco Minero del Orinoco region. An exception is the Ikabarú area on the border with Brazil, which was identified by the Government as a "special area" of the Arco Minero region.⁵¹¹

279. As noted above, illegal mining and the human rights violations and crimes that often accompany it are not limited to the geographic areas of the Arco Minero del Orinoco region, but have also spread to other territories, such as Gran Sabana municipality. A significant part of the mining activity in this municipality takes place on indigenous lands or in areas adjacent to indigenous communities. Some of these mines are managed by the indigenous communities themselves and others by *sindicatos*.

280. Most of the mines in Gran Sabana municipality are small-scale illegal mines. A large part of the municipality's territory is made up of protected areas, including Canaima National Park, a UNESCO World Heritage Site, which is the largest national park in the Bolivarian Republic of Venezuela and one of the largest in the world. Gran Sabana municipality is also a transit area for the entire mining sector of eastern Bolívar state, as it is home to the Santa Elena de Uairén airport, as well as land access to Guyana and Brazil. Given their strategic position and mineral resources, the indigenous territories in Gran Sabana and other neighbouring municipalities have been a focus of interest for both the State and armed criminal groups. The indigenous population in these areas has resisted these interests, which has led to conflicts and violent confrontations.⁵¹²

1. Background to the conflict in indigenous territories

281. The history of the territorial conflict between the Venezuelan State and indigenous peoples in Bolívar state dates back to at least the 1960s. Already at that time, the Pemón people objected to economic projects run by CVG and Electrificación del Caroní C.A. (EDELCA) in Canaima National Park.⁵¹³ In the mid-1990s, Pemón communities intensified their public opposition to economic projects in their traditional territories. For example, in 1996, indigenous communities spoke out against the construction of the Empresa Nacional de Turismo del Sur (TURISUR) hotel complex in the indigenous territory of Sierra de Lema, located north of Gran Sabana municipality. In 1997, protests began against EDELCA's power lines and against Decree 1850, which regulated mining in the Imataca Forest Reserve.⁵¹⁴

⁵¹¹ Official communiqué from the Pemón authorities regarding the Ikabarú massacre, 1 December 2019, available at: <http://www.revistasic.gumilla.org/2019/comunicado-oficial-de-las-autoridades-Pemón-ante-la-masacre-de-ikabaru/>.

⁵¹² Interview HHIV039; Interview PPIV001; Interview GGIV004; Interview HHIV038; Interview PPIV027.

⁵¹³ Document PPDC002; Iokiñe Rodríguez, "Canaima National Park: Spirit of Evil?" in Stefan Disko and Helen Tugenhat, eds, *World Heritage Sites and Indigenous Peoples' Rights* (Copenhagen, IWGIA, November 2014), p. 496.

⁵¹⁴ *Ibid.*, p. 497; Lisseth Boon and Lorena Meléndez, "Ataques contra comunidades indígenas tienen como objetivo militarizar nuestro territorio", Mongabay, 22 April 2020; Environmental Justice Atlas, "Reserva Forestal Imataca, Región Guayana de Venezuela", available at: <https://ejatlas.org/conflict/reserva-forestal-imataca-region-guayana-de-venezuela>; World Rainforest Movement, "Venezuela; bloque de carretera en protesta por el tendido de transmisión eléctrica", 23 August 1998.

282. The expansion of illegal mining led by criminal armed groups has also become a threat to the security and territorial integrity of indigenous peoples. Since 2005, there has been an increase in the invasion of indigenous lands by illegal miners and armed groups seeking control of gold, diamond and other mineral deposits.⁵¹⁵ As a result of socio-cultural changes resulting from the proliferation of illegal mining and pressure from external actors, many indigenous people are also involved in mining activities in southern Bolívar state.⁵¹⁶

2. Militarization as a State strategy

283. The State responded to the growing control of armed criminal groups over the mining sector through militarisation plans. This strategy was unsuccessful, failing to stop illegal mining activity and dismantle the armed groups in Bolívar state. Moreover, it led human rights violations against indigenous peoples, which were publicly denounced.⁵¹⁷ The growing militarisation of indigenous territories, coupled with tensions with the Government and increasing allegations of abuses of power by the military, gave rise to several violent incidents between FANB troops and indigenous communities, which claimed the lives of indigenous people.⁵¹⁸

284. In 2010, the Government launched Plan Caura in the states of Amazonas, Bolívar and Delta Amacuro with the aim of controlling illegal mining. The implementation of Plan Caura between 2010 and 2013, involved the deployment of some 2,800 FANB troops.⁵¹⁹ Indigenous communities in these areas accused the military of abuses of power, extortion and harassment.⁵²⁰ In response, for example, in February 2013 in the Pemon community of Urimán, the local population took over the airport and disarmed and detained 43 military personnel, demanding the reopening of the airport whose closure had left indigenous communities in the area without access to essential food and medicine deliveries.⁵²¹ The indigenous communities of Canaima and Maurak also took over the airports in protest located in their territories and did not allow military helicopters to take off.⁵²² There was a negotiation with the then Governor of Bolívar state and it was agreed that the Pemon indigenous population would control the mines located in their territories.⁵²³ The following day, the indigenous population in Urimán released the detained soldiers.⁵²⁴ Thereafter, the

⁵¹⁵ Interview HHIV042; Interview PPIV028; Interview MMIV036; Interview HHIV039; Interview HHIV039; Interview HHIV034; see also Natalie García, "El Plan Caura persigue a los indígenas, no a los mineros", *Servindi*, 22 October 2012.

⁵¹⁶ Interview PPIV027; Interview MMIV020; see also Lisseth Boon and Lorena Meléndez, "Ataques contra comunidades indígenas tienen como objetivo militarizar nuestro territorio", 22 April 2020.

⁵¹⁷ Interview HHIV034; Natalie García, "El Plan Caura persigue a los indígenas, no a los mineros", 22 October 2012; Movimiento Regional Por La Tierra, "Estudio de Caso: El territorio que nos fue dado por Kuyujani", April 2018.

⁵¹⁸ Interview HHIV034; Julimar Mora Silva and Fidel Rodríguez Velásquez, "La Amazonía en disputa: agencias políticas y organizaciones indígenas de la Amazonía venezolana frente al Arco Minero del Orinoco", in *Polis* 522019, 5 August 2019, para. 26; Interview HHIV034; Servindi, "Venezuela: Piden a Maduro frenar "neo-esclavitud" indígena en el Caura", 7 January 2015; Natalie García, "El Plan Caura persigue a los indígenas, no a los mineros", 22 October 2012; Movimiento Regional Por La Tierra, "Estudio de Caso: El territorio que nos fue dado por Kuyujani", April 2018.

⁵¹⁹ *El Mundo Indígena* 2011, May 2011, p. 138; Clima21 and Todos por el Futuro, "Pronunciamiento conjunto en apoyo a los esfuerzos de los pobladores del Caura por proteger sus derechos contra la minería depredadora", 28 August 2020; Natalie García, "El Plan Caura persigue a los indígenas, no a los mineros", 22 October 2012.

⁵²⁰ Interview PPIV027; Document PPDC002; Francisco F. Herrera and Iokiñe Rodríguez, "Minería de oro en Venezuela: luchas simbólicas vs políticas redistributivas", *Ecología Política*, July 2015, p. 86.

⁵²¹ Interview PPIV027; Document PPDC002; Correo del Orinoco, "Indígenas pemones tomaron aeropuertos de Gran Sabana", 9 February 2013; Carmen Cecilia Lara, "Entre minas, militares e indígenas te veas", 9 February 2013; Noticias Ahora, "Denuncian que mineros retienen a 43 oficiales del Ejército en Bolívar", 8 February 2013.

⁵²² Interview PPIV027.

⁵²³ *Ibid.*

⁵²⁴ *Ibid.*

indigenous community of Maurak participated in the co-administration of the Santa Elena de Uairén airport until February 2019.⁵²⁵

285. On 28 February 2013, the Consejo de Caciques Generales del Pueblo Pemón (CCGPP) was formed, composed of indigenous leaders of the various sectors of Pemon people in Gran Sabana municipality, representing 117 communities except for the communities of the Canaima sector, as it is located in a national park.⁵²⁶

286. Between late 2014 and 2015, public reports of violent clashes in indigenous territories in Bolívar state decreased. However, according to indigenous leaders interviewed by the Mission, abuses of power and threats by military personnel deployed in mining areas continued during this period and have not ceased since.⁵²⁷

287. The establishment of the Arco Minero region in February 2016, including the Ikabarú "special area", increased militarisation within indigenous territories. Decree No. 2248 establishing the Arco Minero region granted special powers to the FANB to protect "strategic industries".⁵²⁸ The creation of the Arco Minero region led to increased military interventions in indigenous territories, against the interests of indigenous peoples.⁵²⁹ The mineral wealth of Bolívar state led to increased migration from other parts of the country, and armed groups involved in illegal mining continued to increase their presence, without an effective response from the State.⁵³⁰

288. Military operations in 2018 included Operation Metal Hands, aimed at controlling gold smuggling in the Bolívar state,⁵³¹ and the Tepuy Protector Plan, launched to control illegal mining in Canaima National Park.⁵³²

289. The militarisation of indigenous territories, together with tensions with the Government and increasing allegations of abuses of power by the military, led to various violent incidents between FANB troops and indigenous communities, which claimed the lives of indigenous people.⁵³³ These tensions, together with the increased presence of armed groups and trade unions in the region, led indigenous communities to take action to halt the increase of violence in their territories.

3. The creation of indigenous security groups

290. Faced with the aforementioned increase in violence in their territories, indigenous communities in the Bolívar state adopted different strategies. Many communities had depended on tourism, but when this activity decreased or ceased due to the violence and insecurity in the region, their economic needs worsened. Some leaders and members of Pemon indigenous communities began to dedicate themselves to the administration and

⁵²⁵ Ibid.

⁵²⁶ Ibid.

⁵²⁷ Ibid.; Document PPDC002.

⁵²⁸ 2016 Arco Minero Decree.

⁵²⁹ Interview HHIV052; Document PPDC002; see also Francisco Javier Ruiz, "El Arco Minero del Orinoco; Diversificación del extractivismo y nuevos regímenes bio políticos", in No. 274, March-April 2018.

⁵³⁰ Interview HHIV034; Natalie García, "El Plan Caura persigue a los indígenas, no a los mineros", 22 October 2012; Movimiento Regional Por La Tierra, "Estudio de Caso: El territorio que nos fue dado por Kuyujani", April 2018.

⁵³¹ Correo del Orinoco, "Activan Operación Manos de Metal para evitar contrabando de extracción de material estratégico y mineral", 8 June 2018.

⁵³² Venezuela Comenta, "Plan Tepuy Protector atacará la minería ilegal", 12 December 2018.

⁵³³ Interview HHIV034; Julimar Mora Silva and Fidel Rodríguez Velásquez, "La Amazonía en disputa: agencias políticas y organizaciones indígenas de la Amazonía venezolana frente al Arco Minero del Orinoco", in Polis 52 | 2019, 5 August 2019, para. 26; Servindi, "Venezuela: Piden a Maduro frenar "neo-esclavitud" indígena en el Caura", 7 January 2015; Natalie García, "El Plan Caura persigue a los indígenas, no a los mineros", 22 October 2012; Movimiento Regional Por La Tierra, "Estudio de Caso: El territorio que nos fue dado por Kuyujani", April 2018.

exploitation of mines located in their territories.⁵³⁴ Some indigenous communities aligned with the Government, accepting the presence of the FANB and the State's economic projects on their territory in exchange for food supplies and medicines.⁵³⁵

291. Other communities organised political and territorial security groups to resist illegal mining by other actors and armed incursions into their territories by both armed groups and the FANB.⁵³⁶ According to a Pemon leader who spoke to the Mission, "[the] resistance of the Pemon was due to the increasing presence of criminal groups in the mines and within the indigenous territory, threatening the people, and the State did nothing, they even collaborated with the criminal groups".⁵³⁷

292. The creation of indigenous security groups is also due to the lack of response by the authorities in the face of abuses of power and human rights violations by State security forces. Pemon community leaders frequently filed complaints with various authorities, such as the military commanders of the REDI and ZODI and the Ministry of Mining. However, most of these complaints received no response.⁵³⁸

293. The first indigenous security groups began to appear in 2001 with the aim of guaranteeing security within their indigenous communities.⁵³⁹ Between 2016 and 2017, these groups began to expand their focus, orienting their activities towards the protection of indigenous territory against invasions by external actors linked to illegal mining and smuggling. These groups are commonly known as the *Guardia Territorial* or *Guardia Territorial Pemón*.⁵⁴⁰

294. In July 2016, the *Guardia Territorial* group in the community of Santo Domingo de Turasén, in Gran Sabana municipality, established the first checkpoints or *alcabalas* to control the flow of people and the trafficking of drugs and weapons through indigenous territories.⁵⁴¹

⁵³⁴ Interview HHIV039; Interview JJIV005; Interview MMIV022; Provea, "La gran deuda de la constitución de 1999 con los pueblos indígenas", 28 April 2022; Humberto Márquez, "La minería destroza la vida de los indígenas de Venezuela", IPS, 10 May 2022.

⁵³⁵ Interview JJIV005; Interview PPIV025; Interview PPIV027; Interview MMIV022; Lisseth Boon and Lorena Meléndez, "Ataques contra comunidades indígenas tienen como objetivo militarizar nuestro territorio", 22 April 2020; Julimar Mora Silva and Fidel Rodríguez Velásquez, "La Amazonía en disputa: agencias políticas y organizaciones indígenas de la Amazonía venezolana frente al Arco Minero Orinoco", in *Polis* 52, 5 August 2019.

⁵³⁶ Interview PPIV027; Interview PPIV021; Lisseth Boon and Lorena Meléndez, "Ataques contra comunidades indígenas tienen como objetivo militarizar nuestro territorio", 22 April 2020; Julimar Mora Silva and Fidel Rodríguez Velásquez, "La Amazonía en disputa: agencias políticas y organizaciones indígenas de la Amazonía venezolana frente al Arco Minero del Orinoco", in *Polis* 52, 5 August 2019; Joseph Poliszuk, María De Los Ángeles Ramírez, and María Antonieta Segovia, "La resistencia indígena se organiza en guardias territoriales", 13 February 2022.

⁵³⁷ Interview PPIV027.

⁵³⁸ Document PPDC002; Interview PPIV001.

⁵³⁹ Joseph Poliszuk, María de los Ángeles Ramírez, and María Antonieta Segovia, "La resistencia indígena se organiza en guardias territoriales", *Armando.info*, 13 February 2022.

⁵⁴⁰ Interview PPIV010; Interview HHIV034; Interview MMIV020; Interview PPIV021; Alcaldía Gran Sabana, "Pueblo Pemón no entregará explotación minera a empresas transnacionales", 28 October 2018; Movimiento Regional Por La Tierra, "Estudio de Caso: El territorio que nos fue dado por Kuyujani", April 2018; Vladimir Aguilar Castro, Guillermo Marciales Rodríguez and Vercilio Mejías, "La Jurisdicción Especial Indígena en Venezuela como Derecho Propio", 2021, p. 118; Lisseth Boon and Lorena Meléndez, "Ataques contra comunidades indígenas tienen como objetivo militarizar nuestro territorio", 22 April 2020; Joseph Poliszuk, María De Los Ángeles Ramírez, and María Antonieta Segovia, "La resistencia indígena se organiza en guardias territoriales", *Armando.info*, 13 February 2022.

⁵⁴¹ Interview PPIV027; Interview HHIV034; Document PPDC002; Morelia Morillo, "Seguridad pemón suspende ingreso de extraños hacia zonas mineras de Ikarabú", 11 September 2017; Lisseth Boon and Lorena Meléndez, "Ataques contra comunidades indígenas tienen como objetivo militarizar nuestro territorio", 22 April 2020 ; Joseph Poliszuk, María De Los Ángeles Ramírez, and María Antonieta Segovia, "La resistencia indígena se organiza en guardias territoriales", *Armando.info*, 13 February 2022.

295. In September of the same year, an indigenous security group supported by hundreds of indigenous and non-indigenous residents of Santa Elena de Uairén, forced the Bolívar State Police (PEB in its Spanish acronym) to withdraw from the PEB station and leave the town. According to accounts received by the Mission, this occurred because the police were involved in acts of violence and crime.⁵⁴² The indigenous security force remained in control of the PEB station until 22 February 2019.⁵⁴³

296. The indigenous community of Kumarakapay, Gran Sabana municipality, formalised its indigenous political and security organisation under the name "Aretauka".⁵⁴⁴ The term is an acronym made up of the three main linguistic groups of the Pemón people: Arekuna, Taurepan and Kamarakoto.⁵⁴⁵

297. The Aretauka established a checkpoint on the Troncal 10, at the entrance to the community of Kumarakapay, just before the PEB checkpoint in the same community.⁵⁴⁶ According to members of the Kumarakapay community interviewed by the Mission, the checkpoint was set up with the aim of stemming the flow of drugs, arms and contraband passing along the Troncal 10 between Santa Elena de Uairén and other parts of Bolívar state. According to these sources, the PEB officials stationed at the checkpoint in Kumarakapay allowed the trafficking of goods in exchange for bribes.⁵⁴⁷

298. In November 2017, an armed group invaded the territory of an indigenous community in Ikabarú with the aim of gaining access to mines in the area.⁵⁴⁸ A source interviewed by the Mission indicated that indigenous leaders requested support from the Army, but that the latter did not respond.⁵⁴⁹ Faced with this situation, members of various *Guardia Territorial Pemón* groups travelled to Ikabarú to forcibly expel the armed group.⁵⁵⁰ In November 2019, a massacre took place in a mine near Ikabarú, in which eight people working in the mines were killed in circumstances that remain unclear (see *infra*).

299. In December 2017, Emilio González, a Pemón indigenous man, ran for mayor of Gran Sabana municipality with the political party Independientes por el Progreso (IPP).⁵⁵¹ Initially, the National Electoral Council (CNE for its Spanish acronym) indicated that it would proclaim the pro-government candidate the winner. Indigenous communities in the area protested, blocking the main roads, calling declaring electoral fraud.⁵⁵² Finally, the CNE announced the victory of Emilio González in the elections.⁵⁵³ The mayor supported the presence of the *Guardia Territorial Pemón* and publicly criticised the Government's

⁵⁴² Interview PPIV027; Interview PPIV015; Document PPDC002; Joseph Poliszuk, Maria De Los Ángeles Ramírez, and Maria Antonieta Segovia, "La resistencia indígena se organiza en guardias territoriales", 13 February 2022; Morelia Morillo, "Seguridad pemón suspende ingreso de extraños hacia zonas mineras de Ikabarú", 11 September 2017; La Patilla, "Comunidad de Santa Elena de Uairén expulsa a funcionarios policiales en su indignación por la inseguridad", 7 September 2016; Lisseth Boon and Lorena Meléndez, "Ataques contra comunidades indígenas tienen como objetivo militarizar nuestro territorio", 22 April 2020.

⁵⁴³ Interview PPIV027; Interview PPIV015; Morelia Morillo, "Seguridad pemón suspende ingreso de extraños hacia zonas mineras de Ikabarú", 11 September 2017.

⁵⁴⁴ Interview HHIV034; Interview MMIV020; Interview MMIV022; Document PPDC002.

⁵⁴⁵ Interview HHIV034.

⁵⁴⁶ *Ibid.*; Interview PPIV021; Interview MMIV022.

⁵⁴⁷ Interview PPIV021; Interview MMIV022; Interview HHIV030; Interview MMIV023.

⁵⁴⁸ Interview PPIV027; Bram Ebus, "El crecimiento del Arco Minero de Venezuela barre a los pueblos y culturas indígenas", Mongabay, 24 January 2018.

⁵⁴⁹ Interview PPIV027.

⁵⁵⁰ *Ibid.*; Bram Ebus, "crecimiento del Arco Minero de Venezuela barre a los pueblos y culturas indígenas", Mongabay, 24 January 2018.

⁵⁵¹ Interview MMIV020; Document PPDC002; Susej Soto, "Municipio gran sabana protestó por resultados electorales", Correo del Orinoco, 11 December 2017.

⁵⁵² Susej Soto, "Municipio gran sabana protestó por resultados electorales", Correo del Orinoco, 11 December 2017; Marcos Valverde, "La oposición ganó solo una alcaldía de 11 que se eligieron en Bolívar", Crónica Uno, 12 December 2017.

⁵⁵³ Susej Soto, "Municipio gran sabana protestó por resultados electorales", Correo del Orinoco, 11 December 2017; Marcos Valverde, "La oposición ganó solo una alcaldía de 11 que se eligieron en Bolívar", Crónica Uno, 12 December 2017. Crónica Uno, 12 December 2017.

policies on mining in indigenous territories.⁵⁵⁴ González had to take refuge in Brazil after the February 2019 clashes in Santa Elena de Uairén (see *infra*) and was removed from office on 23 April 2019 by the then Governor of Bolívar state, General Justo Noguera Petri.⁵⁵⁵

300. The Mission has received contradictory information as to whether the *Guardia Territorial Pemón* may have regularly carried firearms. Most sources consulted in this regard indicated that the *Guardia Territorial Pemón* only use traditional weapons such as bows, arrows, blowguns and sticks.⁵⁵⁶ According to two Pemón indigenous leaders, members of the *Guardia Territorial Pemón* were also trained in territorial defence techniques by members of the CICPC.⁵⁵⁷ However, three other indigenous sources explained to the Mission that it is possible that some members of the *Guardia Territorial Pemón* may have had firearms at specific times, if circumstances required it.⁵⁵⁸ The creation of *Guardia Territorial Pemón* groups inspired accusations that indigenous communities were organising to supposedly create an "independent Pemón nation".⁵⁵⁹

4. Escalating militarization and the humanitarian aid crisis (2018-2019)

301. In 2018, the State launched two control and militarisation operations affecting indigenous territories. As referred to above, on 8 June 2018, the state activated Operation Metal Hands, supposedly to combat "the smuggling of the nation's strategic and mineral material, especially gold".⁵⁶⁰ Days later, a group of Pemón indigenous people, supported by *Guardia Territorial Pemón* groups from several indigenous communities, protested at the *Casa Presidencial* (Presidential House) in the indigenous community of Manak-krü, Gran Sabana municipality, which served as the headquarters for several military commands in the area. The protesters denounced the militarisation of their territory, and the harassment and threats they received in the framework of the military operation.⁵⁶¹

302. Four months later, in October 2018, the Ministry of Defence and the CEOFANB activated the Tepuy Protector Plan to combat illegal mining in the Bolívar state.⁵⁶² According to an official statement, the purpose of the Tepuy Protector Plan was to "attend to indigenous communities in protected areas, such as Canaima National Park, as well as to

⁵⁵⁴ Alcaldía Gran Sabana, "Pueblo Pemón no entregará explotación minera a empresas trasnacionales", 28 October 2018; Marcos Valverde, "Comunidad indígena teme que le arrebaten a Emilio González la Alcaldía de Gran Sabana", *Crónica Uno*, 14 June 2018.

⁵⁵⁵ Ronny Rodríguez Rosas, "Alcalde destituido de la Gran Sabana denuncia plan del chavismo para 'apoderarse del municipio'", 25 April 2019; Sebastiana Barráez, "Las 'Cuadrillas de la Paz' del chavismo tomaron un pueblo por asalto y despojaron del cargo al único alcalde indígena de Venezuela", *InfoBae*, 23 April 2019.

⁵⁵⁶ Interview PPIV010; Interview PPIV027; Interview MMIV022; Interview PPIV040; Interview HHIV046; Glorimar Fernández, "Perfil | Salvador Franco comandó el Cuerpo de Seguridad Indígena Aretauka", *El Pitazo*, 3 January 2021; Lisseth Boon and Lorena Meléndez, "Ataques contra comunidades indígenas tienen como objetivo militarizar nuestro territorio", 22 April 2020.

⁵⁵⁷ Interview HHIV034; Interview HHIV051.

⁵⁵⁸ Interview HHIV049; Interview HHIV031; Interview HHIV047.

⁵⁵⁹ Interview HHIV034; Interview PPIV034.

⁵⁶⁰ Interview JJIV005; Correo del Orinoco, "Activan Operación Manos de Metal para evitar contrabando de extracción de material estratégico y mineral", 8 June 2018; Julimar Mora Silva and Fidel Rodríguez Velásquez, "La Amazonía en disputa: agencias políticas y organizaciones indígenas de la Amazonía venezolana frente al Arco Minero del Orinoco", in *Polis 52 | 2019*, 5 August 2019, para. 27.

⁵⁶¹ Interview MMIV020; Interview PPIV025; Document PPDC002; NTN24.com, "Pemones tomaron casa presidencial de la Gran Sabana: 'Pretendían robarnos las minas', 11 June 2018; Julimar Mora Silva and Fidel Rodríguez Velásquez, "La Amazonía en disputa: agencias políticas y organizaciones indígenas de la Amazonía venezolana frente al Arco Minero del Orinoco", in *Polis 52 | 2019*, 5 August 2019, para. 27; TalCual, "Con arcos y flechas, pemones tomaron Casa Presidencial en Santa Elena en defensa de minas", 12 June 2018.

⁵⁶² Venezuela Comenta, "Plan Tepuy Protector atacará la minería ilegal", 12 December 2018; Amnesty International UK, "Indigenous communities attacked and at risk", 19 December 2018; Clavel A. Rangel Jiménez, "Caciques denuncian atentado contra líder pemón y advierten riesgos de incursión militar en territorio indígena", 22 October 2018.

ensure the preservation of natural resources from scourges such as illegal mining".⁵⁶³ The CCGPP denounced that under the pretext of protecting Canaima National Park, the State was repressing Pemon resistance efforts.⁵⁶⁴ A few weeks later, as discussed in detail below, DGCIM carried out a violent incursion into Canaima National Park, in which one indigenous man was killed and two others were injured.⁵⁶⁵

303. In February 2019, tension between the authorities and local indigenous communities was exacerbated by the evolving national political context, in the midst of a severe economic and humanitarian crisis. At the beginning of the month, the Venezuelan political opposition announced that a shipment of humanitarian aid was to enter across the Brazilian border on 23 February 2019, sponsored by the opposition itself. With the aim of preventing this shipment from arriving, the Government mobilised troops and groups of civilians to Santa Elena de Uairén.⁵⁶⁶

304. Some groups from the indigenous communities in Gran Sabana municipality, in particular Kumarakapay and Manak-krü, as well as from the municipal capital Santa Elena de Uairén, mobilised to join the efforts to receive the humanitarian aid.⁵⁶⁷ Between 22 and 23 February 2019, clashes took place between the FANB and the local population.⁵⁶⁸ During these and subsequent days, violent repression by State security forces resulted in a series of human rights violations, which are described in detail below.

305. Violence and persecution by the State in early 2019 led many indigenous people in Gran Sabana, particularly leaders of indigenous organisations and the *Guardia Territorial Pemón*, to flee their communities to seek safety and refuge in other areas of the Bolivarian Republic of Venezuela or Brazil. Consequently, the self-defence efforts of several indigenous communities were weakened after February 2019, leaving open the possibility for both the State and criminal armed groups to increase their presence and influence in Gran Sabana.

5. Threats and attacks against indigenous leaders and women leaders

306. Particularly starting in 2016 up until the date of writing this report, several indigenous leaders have been targets of threats and attacks. These dynamics have been especially frequent in indigenous communities situated in strategic locations due to the presence of mines or because they find themselves on trafficking routes, such as the communities of Kumarakapay, located on the Troncal 10, and Maurak, which hosts the Santa Elena de Uairén airport.⁵⁶⁹

307. There have been reports of threats and attacks by armed criminal groups against indigenous community leaders who have prevented the passage of contraband or access to mines in their territory. There have also been threats and attacks by State actors against indigenous leaders who oppose the armed presence of the State in indigenous territories.

308. Various sources told the Mission that in 2018 military and Government authorities began threatening to arrest Pemon leaders and commanders of the *Guardia Territorial Pemón*.⁵⁷⁰ For example, on 23 July 2018, Brigadier General Roberto González Cárdenas

⁵⁶³ Correo del Orinoco, "Operación Tepuy Protector desactivó campamento de minería ilegal en Bolívar", 15 June 2019.

⁵⁶⁴ Clavel A. Rangel Jiménez, "Caciques denuncian atentado contra líder pemón y advierten riesgos de incursión militar en territorio indígena", Correo del Caroní, 22 October 2018.

⁵⁶⁵ Amnesty International UK, "Indigenous communities attacked and at risk", 19 December 2018.

⁵⁶⁶ Interview MMIV042; Interview HHIV057; Interview HHIV060; Interview HHIV059; Interview HHIV050; Interview HHIV047; Interview MMIV035; Interview PPIV018; Interview PPIV021; Interview HHIV034.

⁵⁶⁷ Interview HHIV031; Interview HHIV034; Interview MMIV022; Interview OOIV17; Jhoalys Siverio, "La sangre derramada que encendió a los pemones", La Vida de Nos, 2 March 2019; Marcos Valverde, "Santa Elena de Uairén atrapada entre balas, muerte y ayuda humanitaria", 26 February 2019.

⁵⁶⁸ Ibid.

⁵⁶⁹ Interview PPIV027.

⁵⁷⁰ Interview HHIV034; Interview PPIV010.

appeared on public television accusing indigenous leader Lisa Lynn Henrito Percy of being a "secessionist", of leading a Pemón separatist movement, and of "treason of the homeland".⁵⁷¹ As documented in the Mission's previous reports, the Venezuelan State has demonstrated a pattern of arbitrary detentions and cruel, inhuman, or degrading treatment against people accused of "treason of the homeland".⁵⁷² In a communiqué published on 25 July 2018, the CCGPP rejected the Government's "campaign to discredit indigenous struggles and their spokespersons".⁵⁷³

309. On 26 September 2018, José Vásquez, commander of the *Guardia Territorial Pemón* in the community of Turasén, Gran Sabana municipality, was killed.⁵⁷⁴ Pemón leaders who spoke with the Mission stated that the purpose of the assassination was to intimidate and weaken the *Guardia Territorial Pemón* for having interfered with smuggling activities.⁵⁷⁵ The Public Prosecutor's Office officially charged a former FANB officer with aggravated homicide.⁵⁷⁶

B. Violence over the control of mining in indigenous territories

1. Patterns of violence

310. As noted above, the indigenous communities in Gran Sabana municipality have been affected by various incursions and violent confrontations related to the control of illicit trafficking routes and mineral resources present in their territory, including in protected natural areas. The Mission has observed that acts of violence for the control of mines located in indigenous territories frequently involve criminal gangs or *sindicatos*, and are generally accompanied by invasions by illegal miners under their control or protection.

311. Affected indigenous communities have frequently denounced these invasions and attacks, claiming their rights to their territories and natural resources recognised both by the 1999 Constitution and under Venezuelan law, and by international instruments on indigenous peoples' rights.⁵⁷⁷

312. Along with acts of violence perpetrated by criminal armed actors, the Mission has also documented cases of violent attacks by State agents with the objective of gaining control of indigenous territories. Such attacks have often occurred in the context of military operations, such as Operation Metal Hands or the Tepuy Protector Plan, described above, with the alleged aim of controlling illegal mining, particularly in protected natural areas that overlap with indigenous territories, as in the case of the Canaima National Park in December 2018 (see *infra*). Given the economic interests of Venezuelan military and economic elites involved in the exploitation of gold and other strategic minerals, there are indications that the real objective of the military operations in the indigenous territories of Gran Sabana may be to secure control over natural resources, either directly by the State or by affiliated groups.

⁵⁷¹ Document PPDC002; Lisseth Boon and Lorena Meléndez, "Ataques contra comunidades indígenas tienen como objetivo militarizar nuestro territorio", 22 April 2020.

⁵⁷² See A/HRC/45/33, para. 121; A/HRC/45/33, para. 350; A/HRC/45/33, para. 621; A/HRC/45/33, para. 643; A/HRC/45/33, para. 847; A/HRC/48/CRP.5, para. 272; A/HRC/48/CRP.5, FN 362; A/HRC/48/CRP.5, FN 1349; A/HRC/48/CRP.5, Table 10; A/HRC/48/CRP.5, para. 301; A/HRC/48/CRP.5, Table 13.

⁵⁷³ Lisseth Boon and Lorena Meléndez, "Ataques contra comunidades indígenas tienen como objetivo militarizar nuestro territorio", 22 April 2020.

⁵⁷⁴ Interview HHIV034; Interview EEIV026; Tal Cual, "Consejo de caciques confirma homicidio de líder pemón en la Gran Sabana", 2 October 2018; Joseph Poliszuk, Maria De Los Ángeles Ramírez, and María Antonieta Segovia, "La resistencia indígena se organiza en guardias territoriales", Armando.Info, 13 February 2022.

⁵⁷⁵ Interview HHIV034; Interview EEIV026; Interview PPIV027; Tal Cual, "Consejo de caciques confirma homicidio de líder pemón en la Gran Sabana", 2 October 2018.

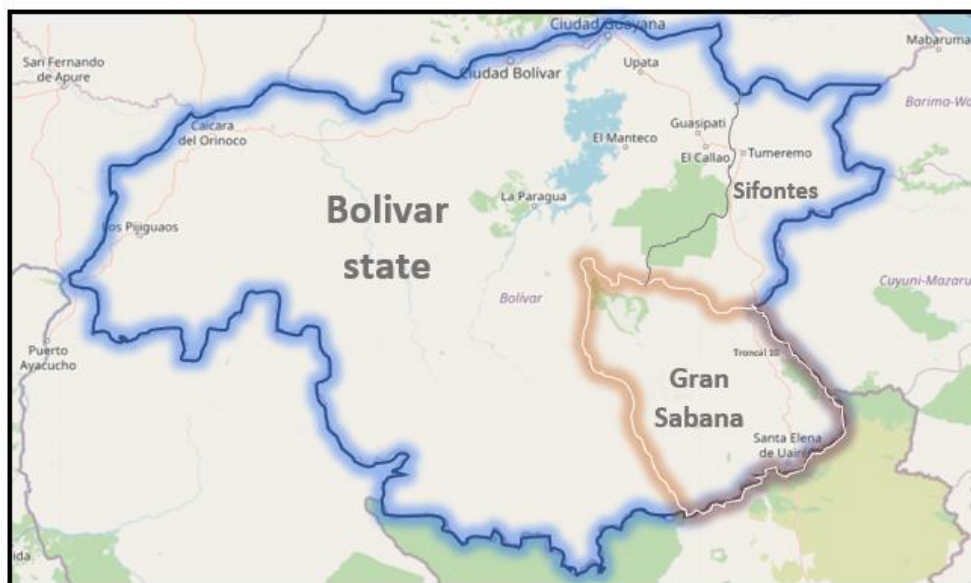
⁵⁷⁶ Tal Cual, "Consejo de caciques confirma homicidio de líder pemón en la Gran Sabana", 2 October 2018.

⁵⁷⁷ Document PPDC002; Interview PPIV001.

313. In previous reports, the Mission has identified a pattern of impunity for human rights violations perpetrated by State security forces in other contexts.⁵⁷⁸

Map 6

Map of Bolívar state, highlighting the geographic area of Gran Sabana municipality



Source: Prepared by the Mission using Open Street Map. © OpenStreetMap contributors. The boundaries and names shown and the designations used on this map do not imply official endorsement or acceptance by the United Nations.

2. Case studies

(a) DGCIM operation at the Campo Carrao mine in Canaima National Park

314. On 8 December 2018, one day before the municipal elections in Gran Sabana, approximately 14 heavily armed DGCIM agents carried out an operation in the artisanal Pemón indigenous mine in the area known as Arenal, next to the Carrao River, inside Canaima (*Kanaimö*) National Park. As a result of this operation, and as described below, an armed confrontation took place in which one indigenous person was killed and three other persons (two indigenous men and one DGCIM agent) were wounded.

(i) Description of the facts

315. On 7 December 2018, a group of approximately 14 young men, who initially presented themselves as tourists, arrived at the heliport of the camp belonging to the SOE Corporación Eléctrica Nacional S.A. (CORPOELEC).⁵⁷⁹ This camp, also known by the company's former name, EDELCA, is located in the indigenous area of Canaima, inside the National Park.⁵⁸⁰ The group of men posing as tourists stayed at the Hotel Ara Merú Lodge owned by tourism and hospitality businessman César Leonel Díaz González.⁵⁸¹ Díaz González was accused in June 2018 by the attorney general, Tarek William Saab, of allegedly being part of a gold smuggling ring in the Bolívar state.⁵⁸²

⁵⁷⁸ A/HRC/48&69, para. 58.

⁵⁷⁹ Interview HHIV033; Interview HHIV034; Interview HHIV049; Interview HHIV059; Interview PPIV027.

⁵⁸⁰ Interview HHIV033; Interview HHIV034; Interview HHIV049; Interview HHIV059; El País, "La muerte de un indígena eleva la tensión en el sur de Venezuela", 10 December 2019.

⁵⁸¹ Document HHDC032 [Acta Constitutiva de Posada Turística Ara Merú Lodge C.A, 3 July 2013]; Interview HHIV034; Interview HHIV049.

⁵⁸² RunrunEstudio, "Ministerio Público venezolano anuncia desmantelamiento de red de contrabando de oro", YouTube video, 19 November 2019, available at: <https://youtu.be/OB84kIn8WbI>. On 4 June

Map 7

Map indicating area between Canaima and the Carrao river



Source: Prepared by the Mission using Open Street Map. © OpenStreetMap contributors. The boundaries and names shown and the designations used on this map do not imply official endorsement or acceptance by the United Nations.

316. On the same day of their arrival in Canaima, the men posing as tourists hired a private tourism company to take them to visit the Angel Falls waterfall, located within Canaima National Park.⁵⁸³ That day, a helicopter transported the luggage of the men posing as tourists from the hotel to the heliport of the CORPOELEC camp in Canaima. It later emerged that the luggage contained weapons and explosives.⁵⁸⁴

317. On 8 December 2018, a public holiday in Canaima,⁵⁸⁵ the group of men posing as tourists left the community of Canaima at 4 a.m. in two boats heading for the Carrao river, presumably in the direction of Angel Falls. The group was accompanied by seven employees of the tourism company, including two boatmen, two boatmen's assistants, two tourist guides and a cook.⁵⁸⁶

318. Between 7 and 8 a.m., the group stopped at Orchid Island for breakfast before turning off towards the Churun Merú river. At this point along the way, some of the men posing as tourists went into the forest and returned a few minutes later, armed. The men posing as tourists began to put on black uniforms without IDs, bulletproof vests, and hoods. They then forced the employees of the tourism company to lie down on the shore, and tied their hands and hooded them.⁵⁸⁷ The two boatmen were not tied or hooded so that they could drive the boats and continue the journey.⁵⁸⁸

2018, Operation Metal Hands was launched with the aim of dismantling alleged gold smuggling mafias in the Bolívar state. César Leonel Días González was included in the list of 39 people with arrest warrants issued by the Public Prosecutor's Office. On 16 August 2019, Attorney General Tarek William Saab announced the arrest and extradition warrant for César Leonel Días González. See Lisseth Bonn and Lorena Meléndez G., "Canaima: el paraíso envenenado por el oro", 17 November 2019.

⁵⁸³ Interview HHIV033; Interview HHIV034; Interview HHIV049; Interview HHIV059.

⁵⁸⁴ Interview HHIV033; Interview HHIV034.

⁵⁸⁵ Celebration of the day of the Immaculate Conception, patron saint of the people of Canaima.

⁵⁸⁶ Interview HHIV049; Interview HHIV059; Tweet by Dr. Jekyll & Mr. Hyde (@DrJ_and_MrH), 18 December 2018, available at: https://twitter.com/DrJ_y_MrH/status/1075079332467494914?s=20&t=gk1X_ICW9zy59zBW2o-7eg.

⁵⁸⁷ Interview HHIV034; Interview HHIV049; Interview HHIV033; Interview PPIV027.

⁵⁸⁸ Interview HHIV049.

319. The armed men instructed the two boatmen to deviate from their original destination and head for the Arenal mining area,⁵⁸⁹ on the banks of the Carrao river.⁵⁹⁰ At that time, around 9 a.m., a group of indigenous men and women working in the mine were counting the gold obtained during the previous working hours (from 6 p.m. the previous day to 6 a.m. that same morning) and were preparing to head to the community of Canaima to celebrate the festivities of the Immaculate Conception, patron saint of the people of Canaima, after finishing the day's work.⁵⁹¹ When the miners saw the two boats approaching, two CORPOELEC helicopters arrived, one white and one grey.⁵⁹² The person leading the group of armed men shouted "Give us everything you have; the outlaws are here!"⁵⁹³ As a result, the miners deduced that they were being attacked by an illegal armed group.⁵⁹⁴

320. Fearing they would be attacked, the miners headed towards the boats to take them over and the boats began to retreat. From the boats, the armed men began to shoot at point-blank range at the miners, wounding César Sandoval⁵⁹⁵ and brothers Charlie⁵⁹⁶ and Carlos Peñaloza Rivas,⁵⁹⁷ aged 21 and 25 respectively, who were guarding the mine.⁵⁹⁸ All three victims were indigenous Pemon men from the community of Canaima. One of the indigenous miners grabbed one of the attackers, seized his weapon, and began to drown him in the river.⁵⁹⁹ Seeing that the group of indigenous miners was too large to control and that one of their men was being assaulted, the armed men identified themselves as DGCIM agents.⁶⁰⁰ Upon hearing this, the indigenous miner who had grabbed the attacker stopped trying to drown him, but still retained him.⁶⁰¹

321. As the two boats began to turn back and prepared to flee, the indigenous miners managed to stop one of the boats and retain another DGCIM agent.⁶⁰² The other boat, carrying the man commanding the operation and the rest of the DGCIM agents, fled to a nearby island and entered the jungle, leaving the first boat and its boatman behind.⁶⁰³

322. The first retained DGCIM agent was disarmed and interrogated by the miners. He explained that he and the group he came with were DGCIM agents; he mentioned that the members of the operation had no knowledge that the people working in the mine were indigenous, but that they had been given orders to attack Brazilians or Guyanese who were supposedly working in the mine.⁶⁰⁴

323. The grey helicopter accompanying the DGCIM agents' operation flew to a clandestine airstrip in Campo Carrao, near the indigenous mine of the same name.⁶⁰⁵ According to a source interviewed by the Mission, upon landing armed men descended from the helicopter, terrorised the people who were there and stole their gold and other

⁵⁸⁹ In the Arenal area, mining is practised by the Pemon indigenous people in rafts, i.e. the river sand is dredged by means of hoses and separated with mercury until gold nuggets are obtained.

⁵⁹⁰ Interview HHIV049; Interview PPIV027; Runrunes tweet (@RunRunesWeb), 8 December 2019, available at: <https://twitter.com/RunRunesWeb/status/1203749577146417159>.

⁵⁹¹ Interview HHIV049.

⁵⁹² Interview HHIV034; Interview HHIV049; Interview PPIV027.

⁵⁹³ Interview HHIV049.

⁵⁹⁴ Interview PPIV027; Interview HHIV049; see also Tweet by Pableysa Ostos (@pableosto), 9 December 2018, available at: <https://twitter.com/PableOstos/status/1071776684599316480>.

⁵⁹⁵ Interview HHIV033; Interview HHIV034; Interview PPIV027; Interview HHIV049; Document HHDC034; RunrunEstudio, "Así ocurrió el ataque de la DGCIM en Arenal", YouTube video, 17 November 2019, available at: <https://youtu.be/JgvUXq1S3jk>.

⁵⁹⁶ In various press articles, he is also referred to as Charly or Charles Peñaloza.

⁵⁹⁷ Tweet by Americo De Grazia (@AmericoDeGrazia), 9 December 2018, available at: <https://twitter.com/AmericoDeGrazia/status/1071824390193582083>.

⁵⁹⁸ Interview PPIV027.

⁵⁹⁹ Interview HHIV049.

⁶⁰⁰ Ibid.

⁶⁰¹ Ibid.

⁶⁰² Ibid.; Interview HHIV033; Interview HHIV034.

⁶⁰³ Interview HHIV049.

⁶⁰⁴ Ibid.

⁶⁰⁵ The mine is located a few kilometres from the mouth of the Akanán river in the north of the Auyantepui.

belongings, such as mobile phones, leaving them incommunicado. They also stole supplies from a local shop that supplies the mining population. Before leaving, the gunmen threw C-4 explosives, leaving three large holes in the airstrip.⁶⁰⁶

324. Simultaneously to these events, the white helicopter landed in the Arenal mining area and the pilot agreed with the indigenous miners to evacuate the two injured brothers, Charlie and Carlos Peñaloza, as well as the injured DGCIM agent to Canaima.⁶⁰⁷ César Sandoval (who was not seriously injured), as well as the other DGCIM agent who had been retained, remained at the site, on the bank of the Carrao river.⁶⁰⁸ Both were transferred hours later by boat to the community of Canaima, where the last DGCIM agents were disarmed and beaten by the population, who decided to confiscate the agents' weapons.⁶⁰⁹

325. The white helicopter transported the three injured men to the community of Canaima at approximately 10 a.m., where they were taken to the health centre. The helicopter continued onto the CORPOELEC heliport.⁶¹⁰ Some members of the Canaima community went to the CORPOELEC heliport protest against what had taken place. The CORPOELEC facilities were guarded by three armed men, who began to shoot at the ground in order to intimidate the Canaima community members and prevent them from approaching. Between approximately 10 and 11 a.m., four or five other men began to take heavy wooden crates out of the CORPOELEC hangar and put them in the helicopter. CORPOELEC personnel were present at the time, but did not take any action.⁶¹¹

326. At the health centre in Canaima, the injured DGCIM agent was given medical assistance. Indigenous youths took another DGCIM agent out of the health centre and began to beat him. A brawl broke out in which some members of the community expressed their intention to lynch the DGCIM agent, until the community priest acted as mediator and calmed the situation.⁶¹²

327. Around midday, the rest of the people working in the mine arrived in the community by boat, along with the weapons seized from DGCIM, the other DGCIM agent who had been detained in the mine, and the other miner who had been injured during the attack, César Sandoval. When they arrived in Canaima, the population took these two agents to the village hall, along with the agent they had already taken from the health centre, and the three began to be interrogated by the community.⁶¹³ The people of Canaima were enraged by what had happened to the villagers and severely beat the three soldiers.⁶¹⁴ They told the three soldiers that if they talked, their lives would be spared.⁶¹⁵

328. Thereafter, the three men explained that they were cadets at the military academy, and that they were only doing their job for the Government of the Bolivarian Republic of Venezuela. According to a source interviewed by the Mission, they claimed to have been enlisted to carry out an operation ordered by the Presidency and commanded by Alexander Enrique Granko Arteaga, who was then director of the Directorate of Special Affairs of DGCIM.⁶¹⁶

⁶⁰⁶ Interview HHIV049. From the Carrao river mine to the clandestine airstrip is approximately two hours by raft.

⁶⁰⁷ Document HHDC035.

⁶⁰⁸ Interview HHIV049.

⁶⁰⁹ Ibid.; Interview HHIV059; See also: Tweet by Pableysa Ostos (@pableosto), 11 December 2018, available at: <https://twitter.com/PableOstos/status/1072644990063517696>; Tweet by Germán Dam (@GEDV86), 11 December 2018, available at: <https://twitter.com/GEDV86/status/1071532879950286848>.

⁶¹⁰ Interview HHIV049.

⁶¹¹ Ibid.

⁶¹² Ibid; Tweet by Germán Dam (@GEDV86), 8 December 2018, available at: <https://twitter.com/GEDV86/status/1071552119747108865?s=20&t=fYirwNIWrqiC146y2-Zweg>.

⁶¹³ Interview HHIV033; Interview HHIV049.

⁶¹⁴ Interview HHIV049. See also El País, "La muerte de un indígena eleva la tensión en el sur de Venezuela", 10 December 2019.

⁶¹⁵ Interview HHIV049.

⁶¹⁶ Ibid.

329. After being interrogated, the three DGCIM agents continued to be held in the Canaima village hall.⁶¹⁷ At approximately 4 p.m., the community decided to take the two brothers who had been injured during the attack on the mine, Charlie and Carlos Peñaloza, out of Canaima so that they could receive better medical attention in a private clinic in Puerto Ordaz. The Peñaloza brothers, along with some family members, were flown in a private plane belonging to the company Inversiones Moraima. Upon arrival in Puerto Ordaz, both brothers were taken to a clinic.⁶¹⁸

330. At the clinic, the commander of ZODI Bolívar, Major General Alberto Mirtiliano Bermudez, arrived and tried to convince the Peñaloza brothers' family to transfer both brothers to the Ruiz y Paez Public Hospital in Ciudad Bolívar, which is usually protected by military personnel.⁶¹⁹ Carlos Peñaloza declined General Bermúdez's offer and stayed at the private clinic, while the family agreed to have Charlie transferred in an ambulance to the hospital.

331. At the hospital, Charlie was later reported dead. The fact that Charlie Peñaloza, who had previously been stable, died of a gunshot wound to the knee, caused suspicion and indignation among the community of Canaima.⁶²⁰

332. On the same day, after the Peñaloza brothers had been flown to Puerto Ordaz, members of the indigenous population closed the Canaima airstrip and took control of the airport.⁶²¹

333. On 8 December, the Public Prosecutor's Office designated the Sixth Prosecutor's Office for common crimes with jurisdiction in Santa Elena de Uairén, Gran Sabana municipality, and the Office for the Protection of Fundamental Rights of the Public Prosecutor's Office as the competent bodies to carry out investigations into what happened in Canaima.⁶²²

334. The following day, on 9 December, a CCGPP delegation arrived in Canaima and decided to open the local airstrip to receive around 900 people from different parts of Gran Sabana to discuss possible solutions to what had happened in Canaima, in response to the people's calls for justice.⁶²³ The situation in the community of Canaima was tense.⁶²⁴ The population demanded the presence of high-level authorities such as President Nicolás Maduro and the Minister of Popular Power for Defence, Vladímir Padrino López.⁶²⁵ The indigenous community was divided into two positions: on the one hand, the CCGPP, gathered in the village hall and determined to mediate to defuse the situation; on the other hand, the local youth, who maintained a more belligerent stance in the face of the attack.⁶²⁶

335. On the same day, the CCGPP agreed:

(a) to occupy the Hotel Ara Merú Lodge, as the alleged location where the operation was planned;

(b) not to hand over the three detained DGCIM agents to the Venezuelan authorities until their identities were established;

⁶¹⁷ Interview HHIV049.

⁶¹⁸ Ibid; Interview HHIV034; Interview HHIV033; El País, "La muerte de un indígena eleva la tensión en el sur de Venezuela", 10 December 2019.

⁶¹⁹ El País, "La muerte de un indígena eleva la tensión en el sur de Venezuela", 10 December 2019.

⁶²⁰ Interview HHIV049; see also: Tweet by Americo De Grazia (@AmericoDeGrazia), 9 December 2018, available at: <https://twitter.com/AmericoDeGrazia/status/1071822586739376128>; Tweet by Luis Almagro (@Almagro_OAS2015), 9 December 2018, available at: https://twitter.com/Almagro_OEA2015/status/1071902930415050752.

⁶²¹ Interview HHIV049; Interview HHIV059.

⁶²² Tweet by Pableysa Ostos (@pableosto), 8 December 2018, available at: <https://twitter.com/PableOstos/status/1071549769301049344>; Tweet by Germán Dam (@GEDV86), 8 December 2018, available at: <https://twitter.com/GEDV86/status/1071866239444754432>.

⁶²³ Interview HHIV049.

⁶²⁴ Interview HHIV059.

⁶²⁵ Interview HHIV049.

⁶²⁶ Ibid.

- (c) not to return the weapons that had been seized from the DGCIM agents;
- (d) to investigate the aircraft that transported the DGCIM agents and supported the operation, and
- (e) to keep the Canaima airstrip closed.⁶²⁷

336. Since the Hotel Ara Merú Lodge was occupied by the indigenous community, a group of foreign tourists were unable to leave the premises.⁶²⁸

337. On 9 December, the GNB, together with members of the *Guardia Territorial Pemón*, apprehended two CORPOELEC employees, identified as Edgar Velásquez and Luis Malpica. The Canaima community accused them of having transported the weapons of the DGCIM agents in the two CORPOELEC helicopters that had previously landed at the heliport.⁶²⁹

338. The two CORPOELEC employees stated that they were ordered to keep weapons and explosives in the CORPOELEC camp until someone nicknamed "El Niño" and his men came to get them.⁶³⁰ A former military officer who was interviewed by the Mission explained that he heard that the order to execute this operation was given by GNB Major General Luis Motta Domínguez,⁶³¹ who was then Minister of Electrical Energy and president of CORPOELEC (2015-2019), and who allegedly used his influence in DGCIM to carry out the operation.⁶³² According to another source, the objectives of the attack on the Arenal mining site were to enter the Campo Carrao mine, massacre the indigenous miners, steal the gold from the mine, and flee by helicopter, while in a second phase the plan was to militarise Canaima in order to profit from the extraction of gold from the area.⁶³³

339. On the same day, 9 December, a helicopter arrived in Canaima carrying Major General Alberto Mirtiliano Bermúdez, who went to the CCGPP to negotiate the release of the three retained DGCIM agents, the handing over of the confiscated weapons and the release of the foreign tourists stuck at the Hotel Ara Merú Lodge.⁶³⁴ The CCGPP agreed to the release of the tourists. In the following days, General Bermúdez remained in the Canaima village hall while negotiations with the CCGPP took place regarding the return of

⁶²⁷ La Guarura.info, "Informe Preliminar del Consejo General de Caciques Generales del Pueblo Pemón sobre incursión armada en Canaima", 10 December 2018; see also: Tweet from Germán Dam (@GEDV86), 9 December 2018, available at: <https://twitter.com/GEDV86/status/1071805356668522496>.

⁶²⁸ Interview HHIV049.

⁶²⁹ Efecto Cocuyo, "Detenidos Detenidos confesaron a indígenas detalles de incursión armada en Campo Carrao", 10 December 2018; See also: Tweet by Germán Dam (@GEDV86), 9 December 2018, available at: <https://twitter.com/GEDV86/status/1071895302632861698>; Tweet by Pableysa Ostos (@pableosto), 9 December 2018, available at: <https://twitter.com/PableOstos/status/1071935515866398722>; Tweet by VIVONet (@vivoplaynet), 11 December 2019, available at: <https://twitter.com/vivoplaynet/status/1072472666609803264>; Servicios Informativos 918, "De Grazia: Es una estrategia del Gobierno acusar a opositores de sus propios crímenes", YouTube video, 13 December 2018, available at: <https://youtu.be/1SkQsIQFng> (min. 10:00).

⁶³⁰ Tweet by Germán Dam (@GEDV86), 10 December 2018, available at: <https://twitter.com/GEDV86/status/1072095441653776384>.

⁶³¹ Interview HHIV059; Tweet by Germán Dam (@GEDV86), 10 December 2018, available at: <https://twitter.com/GEDV86/status/1072095419654684672>; See also: U.S. Department of State, "Transnational Organized Crime Rewards Program, Luis Alfredo Motta Domínguez", 30 September 2020; Transparencia Venezuela, "¿Cómo Funcionó el Mecanismo de Corrupción en Corpoelec?", 5 September 2019; Deutsche Welle, "Exministro de Maduro, investigado por lavado de dinero en Estados Unidos", 27 June 2019; EFE, "EE.UU. ofrece recompensa por un exministro y un exviceministro de Venezuela", 30 September 2020.

⁶³² Interview HHIV059; see also: Tweet by Americo De Grazia (@AmericoDeGrazia), 9 December 2018, available at: <https://twitter.com/AmericoDeGrazia/status/1071947238656667649>; EFE, 'US offers reward for former Venezuelan minister and ex-vice minister', 30 September 2020.

⁶³³ Tweet by Germán Dam (@GEDV86), 10 December 2018, available at: <https://twitter.com/GEDV86/status/1072095449790730241>.

⁶³⁴ Interview HHIV049; Interview HHIV059.

the confiscated weapons and the release of the three DGCIM agents being held by the community.⁶³⁵

340. On the same day, 9 December, the indigenous authorities suspended municipal elections in Gran Sabana, which had been planned for the same day.⁶³⁶

341. On 10 December, a commission from the Public Prosecutor's Office arrived in Canaima to begin investigations into the attack perpetrated by DGCIM agents at the Arenal indigenous mine.⁶³⁷

342. On 11 December, the then Minister of Defence, Vladimir Padrino López, publicly declared from Caracas that the objective of the DGCIM operation in Canaima was to "clean out the mining mafias" and that "a group took up arms" against the DGCIM agents, which led to a confrontation. He also stated that the authorities had activated a comprehensive plan called "Tepuy Protector" to combat illegal mining in the Bolívar state.⁶³⁸ The statements made by the Minister of Defence met with an immediate response from the indigenous people of Canaima, who, in a communiqué endorsed by the CCGPP, repudiated the information and demanded Padrino López's resignation.⁶³⁹

343. That same day, the CCGPP issued a second communiqué in which they held the Government of President Nicolás Maduro directly responsible for the "military-type covert operation" aimed at "disabling mining equipment in the Carrao river", which left two injured and one dead. They held DGCIM officials responsible for executing the operation, including General Hernández Lagar [*sic*],⁶⁴⁰ Major Barrios, Major Granko Arteaga and First Lieutenant Fernández, as well as the collaboration of Major General Luis Alfredo Motta Domínguez, who allegedly facilitated the logistics of the aircraft and the headquarters of CORPOELEC, the Hotel Ara Merú Lodge and the company Excursiones Kavac. They also decided to try and punish the three DGCIM agents detained under Special Indigenous Jurisdiction.⁶⁴¹

344. On 12 December, the younger faction of the Canaima indigenous community, who had taken control of the airstrip, decided to retain General Bermúdez, who was about to leave the community of Canaima.⁶⁴²

345. On the same day, the Governor of the Bolívar state, Justo Noguera Pietri; the Commander of the Guayana Strategic Region of Integral Defence (REDI Guayana), General Jesús María Mantilla Oliveros,⁶⁴³ military official F01 and others arrived in Canaima to negotiate the release of the retained DGCIM agents and to continue negotiations with the CCGPP.⁶⁴⁴

⁶³⁵ Interview HHIV049.

⁶³⁶ Observatorio de Ecología Política de Venezuela, "Comunicado oficial del pueblo pemón sobre los sucesos en Canaima", 10 December 2018; see also, AP, "Muere indígena en operación militar en el sur de Venezuela", 11 December 2018.

⁶³⁷ Diario Contraste Noticias, Ministerio Público designa fiscal para investigar hechos en Canaima, 10 December 2018.

⁶³⁸ VTV Canal 8, FANB desmanteló campamento de minería ilegal en Bolívar, 11 December 2018.

⁶³⁹ Consejo de Caciques Generales del Pueblo Pemón (CCGPP), "Declaración del pueblo pemón 11 de diciembre del 2018", YouTube Video, 11 December 2018, available at: <https://youtu.be/ODn9tcUBO74>.

⁶⁴⁰ Hernández Lagar's name appears in the second official communiqué of the CCGPP, dated 11 December 2018, as director of DGCIM. Several press articles have reproduced this name on the basis of what was published in this communiqué. However, the Mission has information that the head of DGCIM is General Hernández Dala, and therefore concludes that the name of Hernández Lagar mentioned in the official communiqué is an error and that the correct name would be Hernández Dala.

⁶⁴¹ Document HHDC037.

⁶⁴² Interview HHIV049.

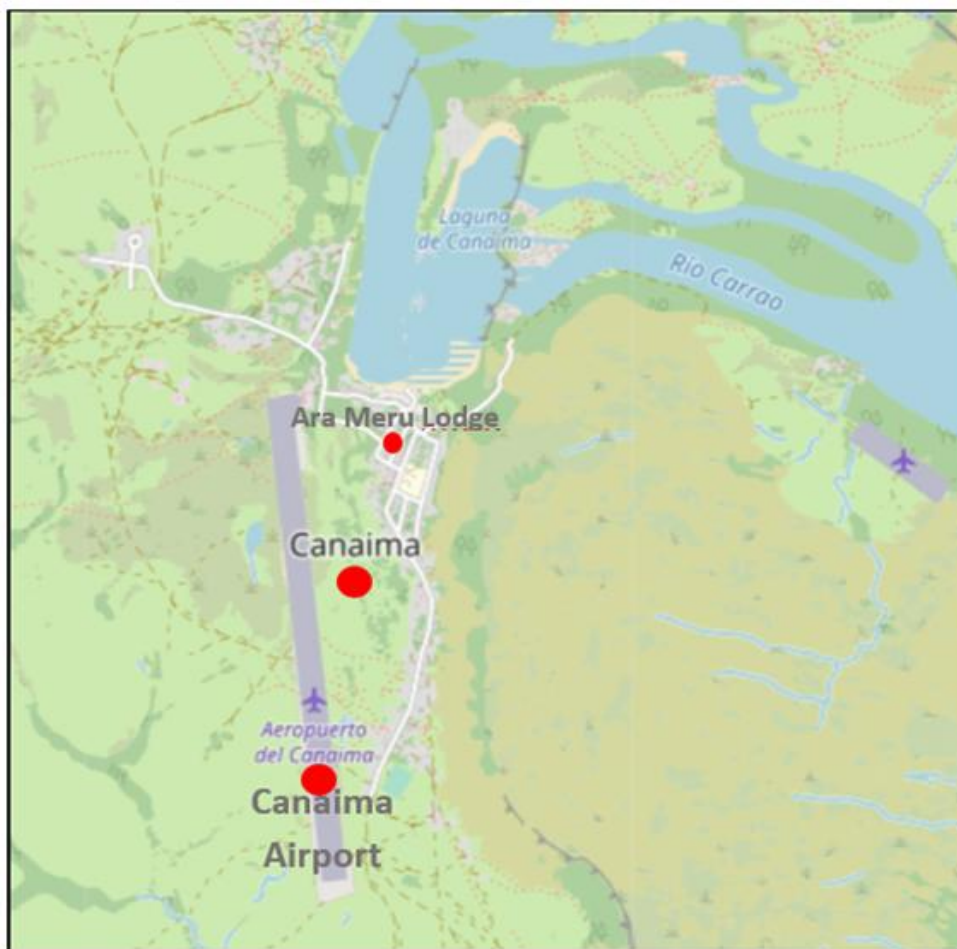
⁶⁴³ Interview HHIV059; Social Watch, "FANB y poder", available at: <https://www.controlciudadano.org/fanb-y-poder/>.

⁶⁴⁴ Interview HHIV049; Tweet by Pableysa Ostos (@pableosto), 9 December 2018, available at: <https://twitter.com/PableOstos/status/1075537681180971009?s=20&t=qsICMmxBklKRHeqwzaV8R>

346. Upon their arrival, the population confronted the Governor, Justo Noguera Pietri, who went to seek refuge in the GNB Command centre. While there, an electric lightening pole exploded, causing Noguera to faint. The population agreed to his evacuation from Canaima by helicopter. Between approximately 4 p.m. and 6 p.m., the population also took control of the GNB Command centre in Canaima and retained the approximately 12 soldiers who were stationed there.⁶⁴⁵

Map 8

Map indicating Canaima and Canaima airport



Source: Prepared by the Mission using Open Street Map. © OpenStreetMap contributors. The boundaries and names shown and the designations used on this map do not imply official endorsement or acceptance by the United Nations.

347. In Caracas, on 12 December 2018, President Nicolás Maduro announced at a public event his support for the fight against illegal mining in the Bolívar state "which has cost the lives of indigenous people in the region".⁶⁴⁶ He also accused the former Governor of Bolívar state (1989-1995), Andrés Velásquez, and Congressman Américo de Grazia, both

Q; Tweet by Pableysa Ostos (@pableosto), 16 December 2018, available at: <https://twitter.com/PableOstos/status/1074292329845022720>.

⁶⁴⁵ Interview HHIV049; Tweet by Pableysa Ostos (@pableosto), 16 December 2018, available at: <https://twitter.com/PableOstos/status/1075214585626546182>.

⁶⁴⁶ TeleSur TV, "Venezuela: reitera Maduro compromiso en lucha contra minería ilegal", YouTube Video, 12 December 2018, available at: https://youtu.be/43CUre0_0hI; Servicios Informativos 918, "De Grazia: Es una estrategia del gobierno acusar a opositores de sus propios crímenes", YouTube video, 13 December 2018, available at: <https://youtu.be/1SkQslIQFng>.

from opposition parties, of leading a "mafia" that had caused an "ecocide" in Canaima National Park.⁶⁴⁷

348. Meanwhile, the delegation of Government authorities remained in Canaima trying to negotiate with the CCGPP for the release of the three retained DGCIM agents and the handover of weapons: three AK assault rifles, bulletproof vests, C-4 grenades, among other weapons and ammunition.⁶⁴⁸ After two days of negotiations, the CCGPP convinced the younger faction of the community to release the three retained DGCIM agents and the retained GNB soldiers, to allow Generals Mantilla and Bermúdez to leave Canaima, and to hand over the weapons initially confiscated from the DGCIM agents. However, despite the agreement reached, the three DGCIM agents were not released on that date.⁶⁴⁹

349. On 13 December, after being authorised by the CCGPP to enter Canaima, a team from the police Scientific, Criminal and Criminalistic Investigations Corps (CICPC in its Spanish acronym) arrived in Canaima with the objective of carrying out an investigation into the armed attack of 8 December 2018.⁶⁵⁰ On 15 December, a commission comprising the CICPC, the GNB and the *Guardia Territorial Pemón* went to the Arenal area of the Carrao river to carry out their investigations.⁶⁵¹

350. On 17 December, the two CORPOELEC employees who had been arrested by the GNB and the *Guardia Territorial Pemón* on 9 December were released.⁶⁵²

351. On 18 December, the community of Canaima released the approximately 12 military officers from the GNB Command centre who had been held since 12 December. This release was the result of a negotiation with the Head Prosecutor of the Bolívar state⁶⁵³. As a result of the negotiations, the three DGCIM agents who had been held since 8 December were also released.⁶⁵⁴

352. On 19 December, an Air Force plane arrived in Canaima carrying a donation from the Bolívar state Government, including bags from the Local Supply and Production Committee (CLAP for its acronym in Spanish) and other household items. According to the source who spoke with the Mission,⁶⁵⁵ this donation was part of a strategy to make the CCGPP overlook the events of 8 December.⁶⁵⁶ The delivery was headed by the Governor of Bolívar state, General Justo Noguera; the Commander of the REDI Guayana, General Jesús María Mantilla Oliveros; and the Commander of the ZODI Bolívar, General Alberto Mirtiliano Bermúdez.⁶⁵⁷

353. Hours after this delivery, SEBIN officials travelled from Puerto Ordaz to Canaima with the aim of recovering the explosives seized from the DGCIM agents. That same day, the community of Canaima handed over the seized weapons.⁶⁵⁸

⁶⁴⁷ Ibid.

⁶⁴⁸ Interview HHIV049.

⁶⁴⁹ Ibid.

⁶⁵⁰ Tweet by Pableysa Ostos (@pableosto), 13 December 2018, available at: <https://twitter.com/PableOstos/status/1073188957079379971>.

⁶⁵¹ Tweet by Pableysa Ostos (@pableosto), 16 December 2018, available at: <https://twitter.com/PableOstos/status/1074292329845022720>.

⁶⁵² Tweet by Americo De Grazia (@AmericoDeGrazia), 17 December 2018, available at: <https://twitter.com/AmericoDeGrazia/status/1074681540829999104>.

⁶⁵³ Tweet by Pableysa Ostos (@pableosto), 19 December 2018, available at: <https://twitter.com/PableOstos/status/1075413704009809920>.

⁶⁵⁴ Interview HHIV049.

⁶⁵⁵ Interview HHIV049.

⁶⁵⁶ Tweet by Germán Dam (@GEDV86), 19 December 2018, available at: <https://twitter.com/GEDV86/status/1075605997094359041>.

⁶⁵⁷ Tweet by Germán Dam (@GEDV86), 19 December 2018, available at: <https://twitter.com/GEDV86/status/1075606023648481289>.

⁶⁵⁸ Interview HHIV049; Tweet by Pableysa Ostos (@pableosto), 19 December 2018, available at: <https://twitter.com/PableOstos/status/1075537779537444865>; Tweet by Germán Dam (@GEDV86), 19 December 2018, available at: <https://twitter.com/GEDV86/status/1075606023648481289>;

354. On 20 December, the CICPC commission and the Public Prosecutor's Office left Canaima, taking with them three weapons belonging to the DGCIM agents, which had been retained by the indigenous people of Canaima.⁶⁵⁹

355. On 22 December, Governor Justo Noguera delivered another donation of CLAP bags to the community of Canaima to try to resume negotiations, but the indigenous population did not agree to continue negotiations.⁶⁶⁰ That day, a GNB light aircraft on its way to the nearby indigenous community of Kamarata with donations crashed in Canaima National Park.⁶⁶¹

356. A source who spoke with the Mission reported that the CCGPP agreed with the authorities to hand over the explosives and weapons to facilitate the investigation by the competent governmental entities. However, to date, these entities have not shared the results of their investigations.⁶⁶²

(b) The Ikabarú massacre

(i) Methodological clarification

357. With regard to the Ikabarú massacre, the Mission investigated this incident through a comparative study of open-source information. Not being able to enter Venezuelan territory, and the case having occurred in a remote area of the country, the Mission encountered significant challenges in interviewing persons who had first-hand experiences of the violent incident. However, the Mission found multiple open sources of information that referred to the events in the community of Ikabarú, describing the crimes which occurred in the framework of violent operations to gain territorial control in mining areas in Gran Sabana municipality.

(ii) Background

358. The community of Ikabarú is a community made up of indigenous and non-indigenous people, located in Gran Sabana municipality, Bolívar state, in the south of the Bolivarian Republic of Venezuela. It is part of the Pemón *Sector VII*. The community is located about 10 kilometres from the border with Brazil and 119 kilometres west of Santa Elena de Uairén.

359. For several years, part of its economic activity has been based on gold mining.⁶⁶³ This territory was designated as a non-contiguous "special area" of the Arco Minero del Orinoco region. However, the area was not formally included in the decree establishing the Arco Minero region, nor in subsequent legal documents.⁶⁶⁴

Tweet by Germán Dam (@GEDV86), 20 December 2018, available at:

<https://twitter.com/GEDV86/status/1075825402113916938>.

⁶⁵⁹ Tweet by Pableysa Ostos (@pableosto), 20 December 2018, available at:

<https://twitter.com/PableOstos/status/1075749374850990083>.

⁶⁶⁰ Tweet by Pableysa Ostos (@pableosto), 22 December 2018, available at:

<https://twitter.com/PableOstos/status/1076606366578561025>.

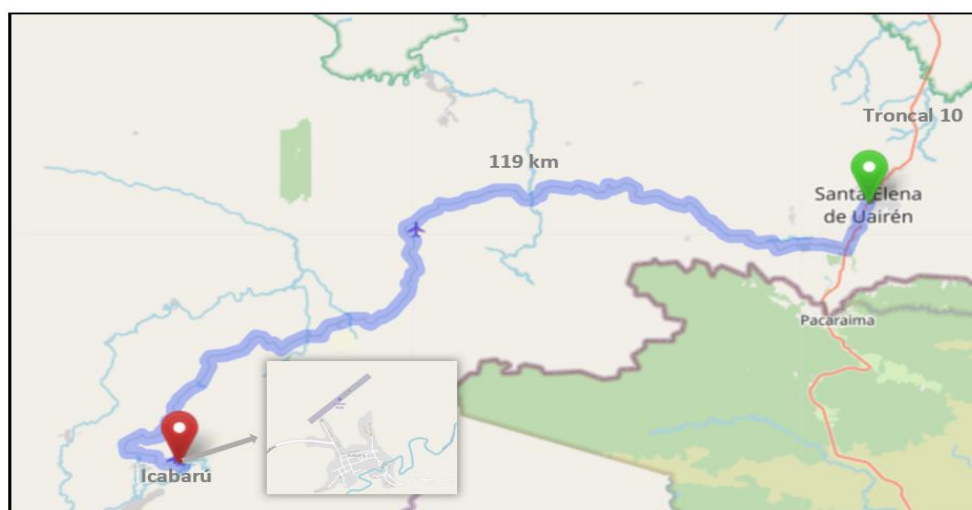
⁶⁶¹ El Universal, "Aeronave militar se estrelló con 204 bolsas del CLAP en Canaima", 22 December 2018.

⁶⁶² Document HHDC038.

⁶⁶³ SOS Orinoco, "Massacre in Icabarú", 10 July 2020.

⁶⁶⁴ See chap. II *supra*.

Map 9
Map indicating area from Ikarabú to Santa Elena de Uairén



Source: Prepared by the Mission using Open Street Map. © OpenStreetMap contributors. The boundaries and names shown and the designations used on this map do not imply official endorsement or acceptance by the United Nations.

360. On 22 November 2019, at 19:40 hours, at the "La Caraota" mine in Ikarabú, a massacre allegedly perpetrated by armed men belonging to the *sindicato* led by Reyniero Murgueitoy Bastardo, alias "El Ciego",⁶⁶⁵ killed at least eight people (one woman and seven men) from the community. The bodies of two of the victims, two men, were found the following day, 23 November, in a nearby mine called "Las Sabanitas".⁶⁶⁶

(i) *Chronological description of the events*

361. Starting in November 2017, following the establishment of Ikarabú as a "special area" of the Arco Minero region, the community's territory began to be invaded by illegal miners, who began to threaten and attack community leaders and members in order to secure control of the gold deposits in the area.

362. In November 2019, according to a source interviewed by the Mission, several indigenous people from the community were at the GNB checkpoint or *alcabala* located on the access road to the community of Ikarabú when they saw a military convoy pass by.⁶⁶⁷ According to the same source, when they reached the community, the soldiers got out of their vehicles and went into the medical centre.⁶⁶⁸

363. A few days later, the GNB Command centre in Santa Elena de Uairén received a warning about a possible attack on the Ikarabú community by illegal armed groups. However, the GNB did not alert either the police or the army about risk or the need to scale up protection the community.⁶⁶⁹

364. On 22 November 2019, at around 19:40 hours, at least ten men in black uniforms, armed and with their faces covered, entered the La Caraota mine, located in the vicinity of the community of Ikarabú. They were travelling in van-type vehicles without license plates, the type of transportation commonly used by Venezuelan security agencies. When they arrived at La Caraota, the armed men identified themselves as members of the "El Ciego"

⁶⁶⁵ Lorena Meléndez, "Ikarabú en claves: De bloque especial del Arco Minero a escenario de una masacre", 28 November 2019.

⁶⁶⁶ El Pitazo, "Hallan muertos a otros dos mineros de Ikarabú en mina La Sabanita", 25 November 2019.

⁶⁶⁷ Interview NNIV032.

⁶⁶⁸ Interview NNIV032.

⁶⁶⁹ Provea, "Informe preliminar sobre los hechos acaecidos en la comunidad indígena Pemón de Ikarabú", 23 November 2019.

sindicato and said they were looking for a member of the community, Cristóbal Ruiz Barrios. When the armed men did not find the person they were allegedly looking for, they began to shoot at random at the people present in the mine.⁶⁷⁰ Although the armed men identified themselves as members of the of "El Ciego" *sindicato*, the community suspected that they were members of the military, because of the way they communicated with each other as well as the weapons they were using.⁶⁷¹

365. During the attack, eight people died (seven men and one woman), all of them from gunshot wounds: Antonio José Perera Flores, retired GNB sergeant; Máximo Jeremy Muñoz Solano, aged 17; Luis Alejandro Fernández Gómez, aged 28; Richard Antonio Rodríguez Galvis, aged 30; Leslie Ezequiel Basanta, aged 33; Edison Ramón Soto Suárez, aged 46;⁶⁷² and the brothers Cristóbal and Cristian Ruiz Barrios, residents of the community of Santa Elena de Uairén.⁶⁷³

366. The following day, 23 November 2019, the bodies of the brothers Cristóbal and Cristian Ruiz were found in a nearby mine, known as "La Sabanitas". Sources consulted by the Mission indicated that the Ruiz brothers controlled the extraction of gold in the Ikabarú mines, but that they also provided security for members of the community.⁶⁷⁴

367. On 27 November 2019, the then attorney general, Luisa Ortega Díaz, stated on Twitter that her office had received "important elements" that established the responsibility of Admiral William Serantes Pinto and Justo Noguera in the Ikabarú massacre, but without offering further details. The following day, statements attributed to the indigenous leader and former mayor of Gran Sabana, Ricardo Delgado, were published, claiming that the massacre was perpetrated by members of DGCIM.⁶⁷⁵

368. According to one source, after the massacre the Government of the Bolivarian Republic of Venezuela was able to consolidate its control over Ikabarú and nearby areas by increasing the presence of the GNB, to later cede control of the area to *sindicatos*.⁶⁷⁶ Conflicts between the local indigenous population and non-indigenous illegal miners over control of the mines have continued after the massacre.⁶⁷⁷

369. The incident was reported to the GNB Command centre by the indigenous authorities.⁶⁷⁸ On 26 November 2019, the indigenous captain of the Ikabarú community, Walter Torres, filed a request for protection measures with the Ombudsman's Office. However, there is no information available on whether this request received any response.⁶⁷⁹

370. On 5 December 2019, the Governor of Bolívar state, General Justo Noguera Pietri, and the Attorney General, Tarek William Saab, announced the arrest of eight alleged

⁶⁷⁰ Cronica.Uno, "Detuvieron a ocho presuntos responsables de la masacre en Ikabarú", 5 December 2019; Efecto Cocuyo, "Ikabarú: lo que debe saber sobre la masacre", 26 November 2019; TalCual, "Hallan cuerpos de hermanos asesinados en masacre en mina de Ikabarú", 25 November 2019.

⁶⁷¹ Observatorio de Conflictos Mineros de América Latina / OCMAL, "Masacre en el pueblo de Ikabarú", 22 November 2019, available at: https://mapa.conflictosmineros.net/ocmal_db-v2/reports/view/297.

⁶⁷² Ibid.

⁶⁷³ Efecto Cocuyo, "Ikabarú: what you should know about the massacre", 26 November 2019.

⁶⁷⁴ El Pitazo, "Hallan muertos a otros dos mineros de Ikabarú en mina La Sabanita", 25 November 2019; Tal Cual, "Hallan cuerpos de hermanos asesinados en masacre en mina de Ikabarú", 25 November 2019; Tweet by Pableysa Ostos (@pableosto), 24 November 2019, available at: <https://twitter.com/PableOstos/status/1198625130483716096>

⁶⁷⁵ Runrun.es, "Ikabarú en claves: De bloque especial del Arco Minero a escenario de una masacre", 28 November 2019; Tal Cual, "Hallan cuerpos de hermanos asesinados en masacre en mina de Ikabarú", 25 November 2019; Tweet by Pableysa Ostos (@pableosto), 24 November 2019, available at: <https://twitter.com/PableOstos/status/1198625130483716096>.

⁶⁷⁶ Interview PPIV034.

⁶⁷⁷ Interview HHIV054.

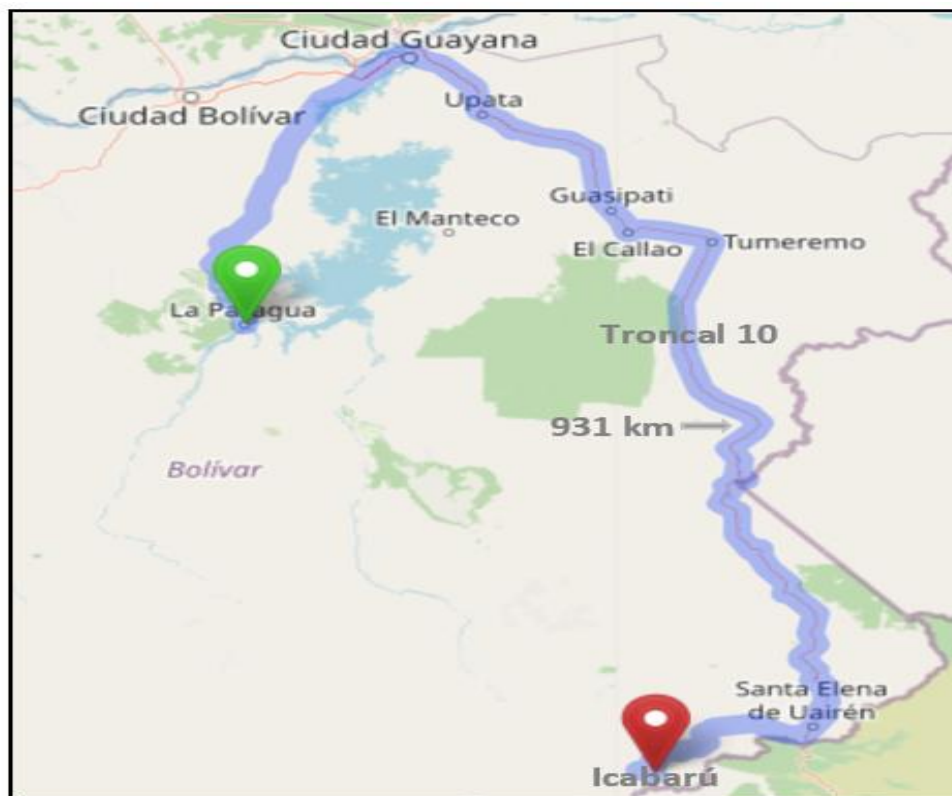
⁶⁷⁸ Nueva Prensa Digital, "Supposedly 'El Ciego' kills miners in Ikabarú sector", 24 November 2019.

⁶⁷⁹ Tweet by Provea (@_Provea), 27 November 2019, available at: https://twitter.com/_Provea/status/1199686049863229441.

perpetrators of the massacre, who were apparently members of the "El Ciego" *sindicato*. Criminal proceedings only continued with respect to two of the eight suspects, who were brought to court on 2 December 2019. They were sentenced to prison for the crimes of homicide, vehicle theft and "agavillamiento" (illicit association).⁶⁸⁰

Map 10

Map indicating the area from La Paragua to Icabarú



Source: Prepared by the Mission using Open Street Map. © OpenStreetMap contributors. The boundaries and names shown and the designations used on this map do not imply official endorsement or acceptance by the United Nations.

C. Human rights violations in the context of the announcement of humanitarian aid in 2019

1. The humanitarian aid crisis: Background

371. On 2 February 2019, the then interim President of the National Assembly, Juan Guaidó Márquez, announced the delivery of humanitarian aid via countries bordering the Bolivarian Republic of Venezuela, namely Colombia (in the town of Cúcuta) and Brazil (in the town of Pacaraima). The entry of humanitarian aid was scheduled for Saturday 23 February 2019.

372. At the time, the mayor of Santa Elena de Uairén was Emilio González, who is both an indigenous Pemon and a supporter of the political opposition to the Government. In the weeks following Guaidó's announcement of the arrival of humanitarian aid, Emilio

⁶⁸⁰ Crónica Uno, "Detenieron a ocho presuntos responsables de la masacre en Icabarú", 5 December 2019; Efecto Cocuyo, "Detenidas ocho personas por masacre de Icabarú, asegura Tarek William Saab", 5 December 2019.

González set about coordinating the arrival of such aid, together with a local businessman from Santa Elena de Uairén.⁶⁸¹

373. The Pemon indigenous communities did not have a unified position on the delivery of humanitarian aid. The CCGPP issued a communiqué on the issue, stating that some Pemon indigenous communities (namely Kamarata, Kawanayen, Ikabarú, Santa Elena de Uairén, Urimán and Wonken) decided to adopt an "impartial position" on the delivery of humanitarian aid.⁶⁸² According to the CCGPP, the leaders of the indigenous communities of Kumarakapay and Manak-krü decided to support the arrival of this aid "under their responsibility", assuming "the consequences that such a situation may entail".⁶⁸³ Members of these communities have confirmed to the Mission that they decided to support the arrival of humanitarian aid because their communities were unable to cover basic needs such as food and medicine.⁶⁸⁴

374. The Venezuelan Government mobilised troops to try to prevent the arrival of the humanitarian aid.⁶⁸⁵ At the beginning of February 2019, Major General Jesús María Mantilla Díaz Oliveros, then Commander of the REDI Guayana, sent an order to the command of the El Escamoto military base (located approximately five kilometres from the town of Santa Elena de Uairén)⁶⁸⁶ for troops to block the Troncal 10, with the aim of preventing humanitarian aid from entering Gran Sabana municipality from the town of Pacaraima, on the Brazilian side of the border.⁶⁸⁷

375. On 8 February, at 9 a.m., the commander of El Escamoto, Major José Gregorio Basantes Márquez, ordered the establishment of a military checkpoint manned by 40 soldiers on the Troncal 10, in front of the military detachment. In the afternoon of the same day, a group of Pemon indigenous men protested demanding the removal of the military checkpoint. Major Basantes listened to the group and decided to withdraw the troops.⁶⁸⁸

376. Starting from 15 February, the population in Santa Elena de Uairén began to see movements of military troops and GNB tanks.⁶⁸⁹ On 19 February, contingents of army and GNB troops began to arrive in El Escamoto from Ciudad Bolívar, Puerto Ordaz and Guasipati.⁶⁹⁰ According to an ex-military witness, Army Colonel Ulises Cardona arrived with the first of these contingents, with the aim of taking command of the operations being planned that day from El Escamoto, following orders from the commander of ZODI Bolívar, General Mantilla.⁶⁹¹

377. On 21 February 2022, President Nicolás Maduro ordered the closure of the border with Brazil.⁶⁹² On the same day, at 6 a.m., Major General Alberto Mirtiliano Bermúdez

⁶⁸¹ Interview HHIV046; Interview MMIV036; CCGPP Official Communiqué on the conclusions of the Pemon Congress 18-20 February 2019, 22 February 2019, available at <http://laguarura.org/2019/02/comunicado-oficial-del-consejo-de-caciques-generales-del-pueblo-pemon-sobre-las-conclusiones-del-congreso-pemon-18-20-febrero-del-2019/>.

⁶⁸² Official Communiqué of the CCGPP on the conclusions of the Pemon Congress 18-20 February 2019, 20 February 2019.

⁶⁸³ Ibid.

⁶⁸⁴ Interview MMIV023; Interview PPIV023; Interview HHIV032; Interview MMIV042 Interview HHIV057; Interview HHIV031; Interview PPIV025; Interview PPIV012.

⁶⁸⁵ Interview PPIV012; Interview PPIV017; Interview HHIV034; Interview HHIV039; Interview HHIV039; Interview MMIV042; Interview HHIV057; Interview HHIV059.

⁶⁸⁶ See *supra* chap. II.

⁶⁸⁷ Interview HHIV057.

⁶⁸⁸ El Nacional, "Militares despejaron vía de Santa Elena de Uairén tras presión de indígenas", 8 February 2019; Tuit de RCTV (@rctv), 8 February 2019, available at: <https://twitter.com/rctv/status/1094021149380481024>.

⁶⁸⁹ Interview MMIV035.

⁶⁹⁰ Interview HHIV057.

⁶⁹¹ Ibid.

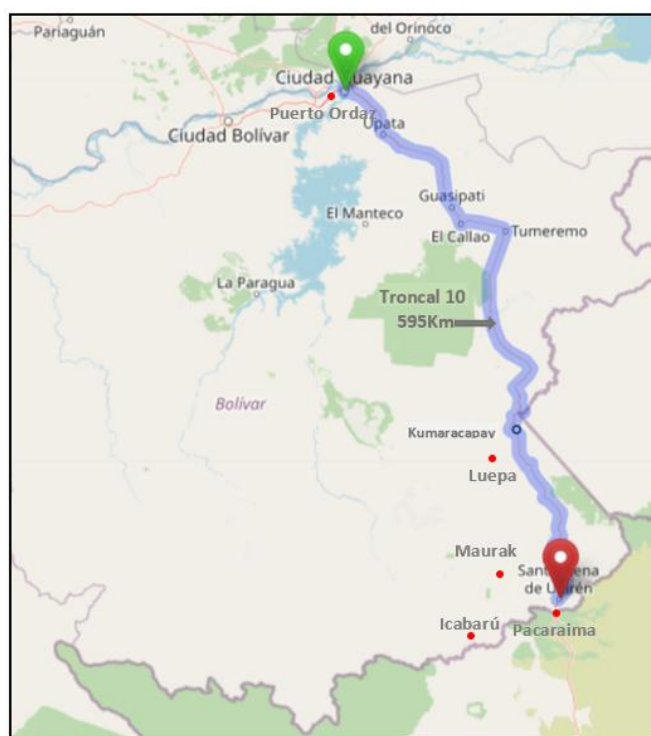
⁶⁹² Luigini Bracci Roa from Venezuela, "Presidente Maduro anuncia cierre de frontera terrestre con Brasil, 21 febrero 2019", YouTube video, 21 February 2019, available at <https://www.youtube.com/watch?v=GNHGwltLWoY>; BBC Mundo, "Crisis in Venezuela: Maduro

Valderrey of ZODI Bolívar arrived in El Escamoto from Ciudad Bolívar. General Bermúdez Valderrey relieved Major Basantes of his post as commander of El Escamoto, allegedly following orders from General Mantilla and the Governor of Bolívar state, Justo Noguera.⁶⁹³

378. Throughout that day, several military troops were concentrated at the Mariano Montilla Jungle Infantry Detachment 523, known as Fuerte Luepa, located in the town of Luepa, in the northern part of Gran Sabana municipality. Among these troops were GNB troops from Detachment 623 of Frontera Sur, under the command of military officer GNB01; along with four white anti-riot tanks with GNB lettering, and a telecommunications repeater. It was decided that the repeater would be transported to Santa Elena de Uairén the next day, along with four trucks carrying 150 soldiers from Fuerte Luepa.⁶⁹⁴

Map 11

Illustration of the Troncal 10 road between Ciudad Guayana and the border with Brazil, passing through Kumarakapay and Santa Elena de Uairén



Source: Prepared by the Mission using Open Street Map. © OpenStreetMap contributors. The boundaries and names shown and the designations used on this map do not imply official endorsement or acceptance by the United Nations.

379. As discussed below, the following day, on 22 February, different convoys composed of military vehicles, including trucks, buses and vans, travelled along the Troncal 10 from Fuerte Luepa to Santa Elena de Uairén, passing through the Pemon indigenous community of Kumarakapay. On the same day, between approximately 5.30 and 6 a.m., when the first of these convoys passed through the community of Kumarakapay, a violent incident took place which is described in detail in the case of the same name, described in the following section of this chapter. In addition, on 22 and 23 February, violent confrontations took place between the FANB and the civilian population in the capital of Gran Sabana

orders closure of border with Brazil and 'evaluates' taking the same measure with Colombia", 21 February 2019.

⁶⁹³ Interview HHIV057.

⁶⁹⁴ Ibid.

municipality, Santa Elena de Uairén, as well as at the airport of the same city, located in the territory of the Pemon indigenous community of Maurak.

2. Case studies

(a) Incidents in the community of Kumarakapay

380. The so-called "Kumarakapay massacre" is one of the most emblematic cases of the tension between the Pemon indigenous communities and the Venezuelan State.

381. On 22 February 2019, between 5 and 6 a.m., three military vehicles arrived at the Pemon indigenous community of Kumarakapay along the Troncal 10 in the direction of Santa Elena de Uairén, Gran Sabana municipality.⁶⁹⁵ Arriving at the community of Kumarakapay, the military convoy came across a barricade set up in front of the security checkpoint of the *Guardia Territorial Pemón*, also known as the Aretauka. Two military trucks forced their way through the barricade, stopping at the exit of the community.⁶⁹⁶ A military pick-up truck with a trailer carrying telecommunications equipment got stuck and was unable to cross the checkpoint.⁶⁹⁷ Uniformed and armed soldiers got out of the military trucks that had stopped at the exit of the community, walked in line towards the Aretauka checkpoint,⁶⁹⁸ and started shooting at the indigenous community members present there. As a result of this incident, three indigenous people were killed and at least 12 other indigenous people were shot and wounded. Three military personnel were retained and subsequently beaten by members of the community. On the same day, another convoy including white armoured vehicles passed through the community firing weapons and tear gas.⁶⁹⁹

382. On the morning of 23 February 2019, a military caravan on its way to Santa Elena de Uairén passed through the community of Kumarakapay, fired tear gas canisters at the civilian population, raided houses in the community and arrested at least nine Pemon men.⁷⁰⁰

383. Faced with this situation, as well as the clashes between the FANB and the local population in Santa Elena de Uairén that took place between 22 and 24 February 2019 (see *infra*), part of the indigenous population of the community of Kumarakapay fled to other areas of the country or to Brazil.⁷⁰¹

(i) Description of the facts

384. Kumarakapay, also officially known as San Francisco de Yuruaní, is an indigenous community of the Pemon people located at kilometre 65 of the Troncal 10, in Gran Sabana municipality, north of Santa Elena de Uairén.

385. On 21 February 2019, following the announcement of the arrival of humanitarian aid, President Nicolás Maduro ordered the closure of the border with Brazil.⁷⁰² On the same

⁶⁹⁵ Interview PPIV014; Interview PPIV011; Interview PPIV012; Interview HHIV031; Interview PPIV023; Interview MMIV022; Interview HHIV034; Interview PPIV021; Interview PPIV022; Interview MMIV023; Interview OOIV15; Interview PPIV026; see also: María Ramírez Cabello, "Una bala sumió al pemón Onésimo Fernández en la parapleja", *Correo del Caroní*, 22 February 2019; Robert F. Kennedy Human Rights, "Voices from Kumarakapay", April 2019, pp. 5, 9, and 10.

⁶⁹⁶ Interview PPIV012; Interview PPIV014; Interview HHIV031; Interview HHIV034; Interview MMIV022; Interview PPIV021; Interview MMIV023; See also: María Ramírez, "Secuestros y muertes: la historia no contada tras el intento de ingreso de ayuda a Venezuela", *Reuters*, 21 May 2019.

⁶⁹⁷ Interview PPIV014; Interview HHIV034; Interview MMIV022; Interview PPIV024; Interview PPIV023; Interview HHIV032; Interview MMIV023.

⁶⁹⁸ Interview PPIV014; Interview HHIV034; Interview MMIV023.

⁶⁹⁹ Interview HHIV047; Interview MMIV023; Interview MMIV024; Interview HHIV034.

⁷⁰⁰ Interview HHIV047; Interview MMIV024; Interview HHIV034; Interview MMIV023.

⁷⁰¹ Interview MMIV023; Interview HHIV034.

⁷⁰² Luigino Bracci Roa, "Presidente Maduro anuncia cierre de frontera terrestre con Brasil, 21 febrero 2019", YouTube video, 21 February 2019, available at

day, the community of Kumarakapay held an assembly and agreed that the community's *Guardia Territorial Pemón* (known as Aretauka) would place barriers on the Troncal 10 to prevent the passage of Venezuelan security forces towards Santa Elena de Uairén, with a view to allowing the entry of humanitarian aid from Brazil.⁷⁰³ On the evening of 21 February, two meetings were held, one between army officers and residents of Kumarakapay and another between army officers and residents of the nearby indigenous community of San Ignacio de Yuruaní. During these meeting, the army officers were informed that the Aretauka would try to block any attempt by the military to pass along the Troncal 10 near their community.⁷⁰⁴

386. In the days leading up to 21 February, military personnel arrived at the 513th Jungle Infantry Battalion Mariano Montilla Padrón (popularly known as Fuerte Luepa), to be moved from there to Santa Elena de Uairén on 22 February.⁷⁰⁵ According to one source, some of these soldiers commented that they had orders to leave Fuerte Luepa in the early hours of 22 February and arrive at El Escamote in Santa Elena de Uairén "regardless of who they met on the way".⁷⁰⁶

387. On Friday 22 February, between midnight and 3am, a military vehicle from Fort Luepa arrived in the community of Kumarakapay heading towards Santa Elena de Uairén.⁷⁰⁷ There were eight Aretauka members on guard at the time,⁷⁰⁸ who stopped the vehicle at the checkpoint on the Troncal 10 and refused to let it pass. The vehicle backed up and parked alongside several other military vehicles with which it was travelling, approximately one kilometre from the entrance of Kumarakapay.⁷⁰⁹

388. Between 5 and 6 a.m., two military trucks and a military vehicle pulling a trailer with communications equipment arrived in Kumarakapay along the Troncal 10 in the direction of Santa Elena de Uairén.⁷¹⁰ Upon arriving in the community they came across a barricade set up in front of the Aretauka checkpoint. The two military trucks successfully forced their way through the barricade thanks to their reinforced tyres,⁷¹¹ and stopped 100 to 200 metres from the checkpoint, at the exit of the community of Kumarakapay.⁷¹² The military vehicle with the trailer carrying the communications equipment got stuck in the barricade and was unable to cross the Aretauka checkpoint.⁷¹³ At that moment, approximately 20 soldiers in green uniforms, armed with AK103 rifles with 7.62 mm

<https://www.youtube.com/watch?v=GNHGwltLW0Y>; BBC News Mundo, "Crisis en Venezuela: Maduro ordena el cierre de la frontera con Brasil y evalúa' tomar la misma medida con Colombia", 21 February 2019.

⁷⁰³ Interview HHIV031; Interview HHIV034; Interview MMIV022; Interview OOIV17; See also Jhoalys Siverio, "La sangre derramada que encendió a los pemones", 2 March 2019; Marcos Valverde, "Santa Elena de Uairén atrapada entre balas, muerte y ayuda humanitaria", *Crónica Uno*, 26 February 2019.

⁷⁰⁴ Interview MMIV042; Interview HHIV057; Interview MMIV022.

⁷⁰⁵ Interview PPIV018; Interview PPIV021; Interview HHIV034; Interview MMIV042; Interview HHIV057; Interview FG/VK_003.

⁷⁰⁶ Interview PPIV018.

⁷⁰⁷ Interview PPIV014; Interview HHIV031; Interview MMIV025; Interview EEIV025; Robert F. Kennedy Human Rights, "Voices from Kumarakapay", April 2019, p. 9.

⁷⁰⁸ Interview HHIV034.

⁷⁰⁹ Interview PPIV014; Interview HHIV031; Interview MMIV023; Interview PPIV026; Robert F. Kennedy Human Rights, "Voices from Kumarakapay", April 2019, p.9.

⁷¹⁰ Interview PPIV014; Interview PPIV011; Interview PPIV012; Interview HHIV031; Interview PPIV023; Interview MMIV022; Interview HHIV034; Interview PPIV021; Interview PPIV022; Interview MMIV023; Interview OOIV15; Interview PPIV026; Interview FG/VK_003; see also, María Ramírez Cabello, "Una bala sumió al pemón Onésimo Fernández en la paraplejia", 22 February 2019; Robert F. Kennedy Human Rights, "Voices from Kumarakapay", April 2019, pp. 5, 9, and 10.

⁷¹¹ Interview MMIV042; Interview HHIV057.

⁷¹² Interview PPIV012; Interview PPIV014; Interview HHIV031; Interview HHIV034; Interview MMIV022; Interview PPIV021; Interview MMIV023; see also, Maria Ramirez, "Secuestros y muertes: la historia no contada tras el intento de ingreso de ayuda a Venezuela", *Reuters*, 21 May 2019.

⁷¹³ Interview PPIV014; Interview HHIV034; Interview MMIV022; Interview PPIV024; Interview PPIV023; Interview HHIV032; Interview MMIV023; Interview FG/VK/VK_003.

calibre ammunition⁷¹⁴ got out of the military trucks that had stopped at the exit of the community, and began to walk in formation towards the checkpoint.⁷¹⁵

389. Meanwhile, other members of Aretauka and other people from the Kumarakapay community had gathered along the Troncal 10 to observe what was happening. Some people tried to prevent the soldiers from passing, spreading their arms and saying that they could not enter the village armed.

390. Some members of Aretauka approached the soldiers, and an argument ensued.⁷¹⁶ At that moment, a first shot was heard.⁷¹⁷ The detonation of this shot was followed by bursts of bullets fired by approximately eight soldiers.⁷¹⁸ According to one source, some members of the indigenous community fired back with arrows.⁷¹⁹ According to this source, one of the soldiers reported being wounded by an arrow, but later, when his colleagues attended to him, they realised that the arrow was embedded in his bulletproof vest and that he was not wounded.⁷²⁰

391. The violent events described lasted approximately five to 15 minutes.⁷²¹ When the soldiers finished shooting, they got back into the trucks and continued on their way to Santa Elena de Uairén.⁷²²

392. Initially, as a result of the shooting, 14 people were wounded (two women and 12 men) and one woman died.⁷²³ On the same day, between six and 10 bullet holes were identified in the wall of the deceased victim's house where she was shot.⁷²⁴

393. After the shooting, the population of Kumarakapay attended to those who were injured.⁷²⁵ Some of them were taken to the community clinic, and later to the hospital in Santa Elena de Uairén.⁷²⁶

394. At least three FANB soldiers were travelling in the vehicle that had got stuck at the Aretauka checkpoint: Lieutenant Roselino José Leal Contreras, Lieutenant José Antonio Gómez Sifontes and Lieutenant Grecia del Valle Roque Castillo.⁷²⁷ After the shooting, some members of the Kumarakapay community destroyed the vehicle and its trailer, and retained the soldiers who were travelling in the vehicle. Approximately five men from Kumarakapay grabbed the two male lieutenants and began beating them.⁷²⁸ They stripped

⁷¹⁴ Interview PPIV023; Interview PPIV014; Interview HHIV034; Interview MMIV023; Interview HHIV032; Interview OOIV15.

⁷¹⁵ Interview PPIV014; Interview HHIV034; Interview MMIV023.

⁷¹⁶ Interview PPIV014; Interview HHIV034; Robert F. Kennedy Human Rights, "Voices from Kumarakapay", April 2019, pp. 5 and 11.

⁷¹⁷ Interview HHIV032; Interview HHIV031; Interview PPIV014; Interview HHIV034; Interview MMIV022; Interview FG/VK_003; Robert F. Kennedy Human Rights, "Voices from Kumarakapay", April 2019, p. 4.

⁷¹⁸ Interview PPIV014; Interview HHIV034; Interview HHIV032; Interview HHIV031; Interview PPIV021; Interview PPIV022; Interview PPIV024; Interview MMIV023; Interview PPIV011; Interview MMIV042; Interview HHIV057; Interview FG/VK_003.

⁷¹⁹ Interview MMIV022.

⁷²⁰ Ibid.

⁷²¹ Ibid.; Interview PPIV014; Interview PPIV011; Interview HHIV034; Interview PPIV021; Interview MMIV023; Interview HHIV032; Interview FFIV001.

⁷²² Interview PPIV014; Interview HHIV034; Interview MMIV022.

⁷²³ Interview HHIV032; Interview HHIV034; Interview HHIV031; Interview MMIV022; Interview FG/VK_003_Kum2.

⁷²⁴ Interview PPIV011; see also, María Ramírez Cabello, "La represión militar hundió a Kumarakapay en un dolor permanente", *Correo de Caroní*, 22 February 2019.

⁷²⁵ Interview HHIV032.

⁷²⁶ Interview PPIV014; Interview EEIV025; Interview MMIV022; Interview PPIV021; Interview FG/VK_003_Kum2; Interview HHIV032; Interview HHIV031; Robert F. Kennedy Human Rights, "Voices from Kumarakapay", April 2019, p. 10.

⁷²⁷ Maria Ramirez, "Kidnappings and deaths: the untold story behind the attempted aid push into Venezuela", *Reuters*, 21 May 2019.

⁷²⁸ Interview PPIV014; Interview HHIV031; Interview HHIV034; Interview PPIV022; Interview PPIV023; Interview MMIV023.

them of their uniforms and detained them in the village hall in front of the Aretauka checkpoint.⁷²⁹ Lieutenant Grecia del Valle Roque Castillo was held by a group of women from the community.⁷³⁰

395. Between 7 and 7.30 a.m. a military convoy arrived along the Troncal 10, headed by a GNB armoured vehicle shooting tear gas canisters as it entered Kumarakapay.⁷³¹ It was followed by at least one vehicle with people dressed in both civilian and military clothing, who fired shots into the air, and another armoured vehicle that was shooting tear gas canisters.⁷³² The convoy passed through Kumarakapay and continued along the Troncal 10 towards Santa Elena de Uairén. Subsequently, some members of the Kumarakapay community began to flee, seeking refuge in the nearby fields.⁷³³

396. A former military official informed the Mission that, at approximately 8 a.m. on the same day, the commander of ZODI Bolívar, Army General Alberto Mirtiliano Bermúdez Valderrey - who had arrived on 21 February 2019 in El Escamoto - received a call from Colonel Miguel Colmenares, commander of Fuerte Luepa, saying that there had been a confrontation in Kumarakapay. General Bermúdez immediately phoned the commander of REDI Guayana, General Jesús María Mantilla Díaz Oliveros, and informed him about the incident in Kumarakapay.⁷³⁴

397. According to the same source, the soldiers who had participated in the shooting in Kumarakapay arrived at El Escamoto during the morning of 22 February. When they arrived, General Bermúdez asked the captain in charge of the military contingent "Who fired the shots?", to which the captain replied "I shot, along with these seven soldiers."⁷³⁵ General Bermúdez then ordered that the weapons of these troops be cleaned, and that the captain and the seven soldiers be flown by helicopter back to Fuerte Luepa to burn their uniforms and be given leave for a few days. According to the same source, General Bermúdez's orders were aimed at eliminating any trace of gunpowder so that there would be no evidence in case an investigation was opened.⁷³⁶

398. In Kumarakapay, between approximately 8 and 8.40 a.m. on 22 February, a military vehicle arrived with General José Miguel Montoya Rodríguez of the GNB and two bodyguards armed with rifles.⁷³⁷ The vehicle stopped at the Aretauka checkpoint, where the community disarmed the two bodyguards⁷³⁸ and the General handed over the keys to the military vehicle.⁷³⁹ The General said he had no knowledge of the violent events that had occurred in Kumarakapay that morning.⁷⁴⁰ According to a witness, members of the community took the General to see the body of the deceased woman, and he contacted the GNB and ordered them not to rescue him because he was staying in Kumarakapay of his own free will to ensure that there would be a dialogue with the community so that they would release the soldiers they had retained earlier that morning.⁷⁴¹ General Montoya and his two bodyguards stayed in Kumarakapay for the rest of 22 February until the next day.⁷⁴²

⁷²⁹ Interview HHIV034; Interview PPIV014; Interview EEIV025; Interview PPIV022.

⁷³⁰ Interview PPIV014; Interview PPIV023.

⁷³¹ Ibid.; Interview HHIV031; Interview HHIV034; Interview PPIV022; Interview HHIV032.

⁷³² Interview HHIV034; Interview PPIV014.

⁷³³ Interview MMIV022; Interview MMIV024.

⁷³⁴ Interview HHIV057.

⁷³⁵ Ibid.

⁷³⁶ Ibid.

⁷³⁷ Interview HHIV034; Interview MMIV022; Interview PPIV023; Interview MMIV023; Interview MMIV023; See also: Tweet by Clavel Rangel (@ClavelRangelJ), 22 February 2019, available at: <https://twitter.com/ClavelRangel/status/1098918530865684480>; Tweet by Germán Dam (@GEDV86), 22 February 2019, available at: <https://twitter.com/gedv86/status/1098933113449795584?lang=es>.

⁷³⁸ Interview HHIV034; Interview MMIV022; Interview PPIV023.

⁷³⁹ Interview HHIV034.

⁷⁴⁰ Ibid.; Interview MMIV022; Interview MMIV023; Interview HHIV046.

⁷⁴¹ Interview HHIV034.

⁷⁴² Ibid.; Interview MMIV022; Interview PPIV023; Interview MMIV023.

Sources indicate that the soldiers who were retained earlier that morning were released on 22 or 23 February.⁷⁴³

399. According to two witnesses, during the course of the day, a commission of four officers who presented themselves as members of the judicial police and the CICPC arrived, took photographs, collected evidence including bullet casings from the scene, and conducted an examination of the body of the woman who had died that same morning as a result of the soldiers' gunfire.⁷⁴⁴ According to both witnesses, the community was never told whether the Police or the Prosecutor's office conducted any criminal investigation, following up on these initial proceedings.⁷⁴⁵

400. On the morning of the following day, Saturday 23 February, a caravan made up of approximately 150 military personnel and 1,500 militias (armed civilians who operate alongside State security forces), together with four armoured vehicles, travelled from Puerto Ordaz to Santa Elena de Uairén, which necessarily involved passing through the community of Kumarakapay.⁷⁴⁶ The caravan was allegedly organised by the Government with the aim of supporting the blockade of humanitarian aid from Brazil.⁷⁴⁷

401. Residents of the community of Kumarakapay were informed of the arrival of the caravan by other indigenous communities located along the Troncal 10, and many villagers decided to take refuge in the fields around the community for fear of further violence.⁷⁴⁸

402. Upon hearing that the armed caravan was heading towards Kumarakapay, General Montoya declared that he was going to act to prevent armed soldiers from passing through the village.⁷⁴⁹ General Montoya ordered 30 GNB troops from the nearby community of San Ignacio de Yuruaní to escort him, and went, along with some members of Aretauka, to the Yuruaní bridge (approximately three kilometres north of Kumarakapay) to wait for the caravan.⁷⁵⁰ Upon reaching the bridge, the caravan stopped and soldiers loaded General Montoya into one of the vehicles, along with the GNB troops and the members of Aretauka who were with him, and the caravan continued on its way.⁷⁵¹

403. Sometime between 11 a.m. and 2 p.m. the caravan arrived at Kumarakapay and stopped.⁷⁵² Approximately 100 FANB soldiers got out of the vehicles, some dressed in riot uniforms, armed with tear gas rifles and AR-15 rifles.⁷⁵³ Behind them came more armed soldiers dressed in green uniforms, pointing guns at both sides of the Troncal 10 at the residential areas of Kumarakapay.⁷⁵⁴ According to two witnesses who spoke with the Mission, the troops travelling with the caravan troops raided some houses located on the Troncal 10 and ransacked them.⁷⁵⁵

404. Armed soldiers crossed Kumarakapay on foot along the Troncal 10, followed by several vehicles, including military trucks, GNB armoured vehicles and red and yellow buses, while the members of the community stood by and watched.⁷⁵⁶

405. Officers of the Bolivarian National Police travelling with the caravan detained at least one leader of the community.⁷⁵⁷ Between the Yuruaní bridge and the Kumarakapay

⁷⁴³ Interview HHIV034; Interview HHIV046.

⁷⁴⁴ Interview HHIV034; Interview FG/VK_003_Kum2.

⁷⁴⁵ Ibid.

⁷⁴⁶ Interview HHIV057.

⁷⁴⁷ Ibid.

⁷⁴⁸ Interview PPIV014; Interview HHIV034; Interview PPIV022; Interview MMIV023. Interview PPIV024; Interview MMIV022.

⁷⁴⁹ Interview HHIV034; Interview MMIV022; Interview MMIV023.

⁷⁵⁰ Interview HHIV034; Interview MMIV022; Interview MMIV023.

⁷⁵¹ Ibid; Interview PPIV023; Interview FG/VK_003_Kum2.

⁷⁵² Interview PPIV014; Interview HHIV034; Interview PPIV022.

⁷⁵³ Interview PPIV014; Interview HHIV034.

⁷⁵⁴ Ibid; Interview MMIV022.

⁷⁵⁵ Interview HHIV034; Interview MMIV022; IACHR, Resolution 7/2019, Precautionary Measure No. 181-19.

⁷⁵⁶ Interview PPIV014; Interview PPIV022; Interview PPIV024; Interview MMIV022.

⁷⁵⁷ Interview HHIV034; Interview MMIV023.

community, the caravan detained at least nine Pemon men.⁷⁵⁸ The caravan took the detained men to El Escamoto in Santa Elena de Uairén.⁷⁵⁹ The passage of this caravan through Kumarakapay caused a further exodus of the local population.⁷⁶⁰

406. During the night of 23 February, witnesses saw white buses and pick-up trucks with armed people passing through Kumarakapay on their way to Santa Elena de Uairén.⁷⁶¹

407. The day of 24 February passed without incident, but the population was attentive to the news and fearful of more violence and arbitrary arrests by the military.⁷⁶² A journalist passing through the community that day observed that the streets of the village were empty.⁷⁶³

408. On Monday 25 February 2019, the FANB removed General José Miguel Montoya as commander of the GNB in the Bolívar state.⁷⁶⁴ The official reasons for his dismissal were not published.

409. On 29 February 2019, the Inter-American Commission on Human Rights (IACHR) adopted precautionary measures in favour of the residents of Kumarakapay and other indigenous persons threatened by the events of 22 and 23 February 2019.⁷⁶⁵

(ii) *Impact analysis*

410. At least three victims died of gunshot wounds inflicted on 22 February 2019 in Kumarakapay:

1. Zoraida Rodríguez, 45-year-old Pemon indigenous woman, shot three times in the abdomen and chest. She died on 22 February 2019, in Kumarakapay.⁷⁶⁶

2. Clíver Pérez, 24-year-old Pemon indigenous man, shot in the chest.⁷⁶⁷ He died on 27 February 2019, at Roraima General Hospital in Boa Vista, Brazil.⁷⁶⁸

3. Rolando García Martínez, 51-year-old Pemon indigenous man, shot in the abdomen.⁷⁶⁹ He died on 2 March 2019 at Roraima General Hospital in Boa Vista, Brazil.⁷⁷⁰

⁷⁵⁸ Among the detainees were Ernesto Pulido (second indigenous captain of Kumarakapay), Aldemaro Pérez, Sergio García, Marcelino Fernández, Leonel Rossi, Salvador Fernando Franco, Robert García, Radamel Gómez and Elio Lambos; Interview MMIV023; Interview MMIV023; Interview HHIV034; Interview PPIV014; Interview PPIV021; Interview PPIV015; Interview HHIV031; IACHR, Resolution 7/2019, Precautionary Measure No. 181-19; Document PPDC005. 181-19; Document PPDC005.

⁷⁵⁹ Interview MMIV023; Interview HHIV034; Interview PPIV014; Interview PPIV021; Interview EEIV025; Interview FG/VK_003_Kum2; IACHR, Resolution 7/2019, Precautionary Measure No. 181-19.

⁷⁶⁰ Interview PPIV014; Interview PPIV022; Interview PPIV024; Interview HHIV034.

⁷⁶¹ Interview PPIV022; Interview PPIV024.

⁷⁶² Interview PPIV014; Interview PPIV022.

⁷⁶³ Jhoalys Siverio, "La sangre derramada que encendió a los pemones", La vida de nos, 2 March 2019.

⁷⁶⁴ Noticia al Día, "Removido general Montoya como comandante de la GNB en Bolívar tras hechos en Kumarakapay", 27 February 2019, available at <https://noticialdia.com/nacionales/removido-general-montoya-como-comandante-de-la-gnb-en-bolivar-tras-hechos-en-kumarakapay/>; Document PPDC007.

⁷⁶⁵ IACHR, Resolution 7/2019, Precautionary Measure No. 181-19.

⁷⁶⁶ Interview PPIV014; Interview PPIV011; Interview HHIV033; Interview MMIV023; Interview HHIV031; Interview HHIV032; Interview MMIV022; Interview OOIV17; Interview PPIV024; Interview OOIV15; Interview HHIV032; IACHR, Resolution 7/2019, Precautionary Measure No. 181-19.

⁷⁶⁷ Interview PPIV014; Interview PPIV011; Interview HHIV031; Interview PPIV021; Interview HHIV034; Interview MMIV023; Interview OOIV15; Interview HHIV032; IACHR, Resolution 7/2019, Precautionary Measure No. 181-19.

⁷⁶⁸ Interview PPIV012; Interview HHIV046; Interview MMIV022; Interview PPIV021; Interview OOIV17; Interview HHIV032.

⁷⁶⁹ Interview PPIV014; Interview MMIV022; Interview PPIV024; Interview MMIV023; Interview OOIV15; Interview OOIV17; IACHR, Resolution 7/2019, Precautionary Measure No. 181-19.

411. The same incident also left at least 12 people with gunshot wounds (two women and ten men), in violation of their rights to physical and mental integrity. Three of the victims received gunshots to the collarbone, one to the back, and the rest were shot in one or both legs.⁷⁷¹ One of the victims, Onésimo Rigoberto Fernández, suffered a gastric injury and paraplegia as a result of his wounds; he died on 10 March 2020.⁷⁷²

412. The physical impacts suffered by the victims of the Kumarakapay incident have been amplified by the lack of access to adequate medical care and social services. A notable example of such impacts is the case of Onesimo Rigoberto Fernandez, who suffered gastric injury and paraplegia as a result of the gunshot wound he sustained on 22 February 2019. Upon returning to his home in Kumarakapay after his hospitalisation, he was unable to access prescribed medical services, pain medication and adequate food, partly due to a lack of income due to his physical disability caused by his injuries. He died a year later, never having fully recovered.⁷⁷³

413. In addition to the physical impacts, the violent incident of 22 February 2019 also left emotional and social scars on the community of Kumarakapay. Victims and witnesses expressed to the Mission that since the violence, many residents of Kumarakapay have been living in fear of another similar incident occurring. Survivors and their families also expressed to the Mission that they live with the trauma of remembering the events and the deaths that occurred as a result of the incident.⁷⁷⁴ There has been no mechanism for accountability or restorative justice to date. The Kumarakapay community is now divided between those who support the Government and those who believe that the Government bears responsibility for what happened.⁷⁷⁵

414. In the days following the events, hundreds of people from Kumarakapay and other surrounding communities, many of them indigenous people, fled to Brazil for fear of being attacked or arbitrarily detained.⁷⁷⁶ These people suffered emotional and social trauma as they left their homes, their ancestral territory and their belongings.

415. More than three years after the events, dozens of indigenous people from Kumarakapay are still living in communities in Brazil, and for reasons of fear and trauma, they are unwilling to return to their homes and ancestral lands, despite living in very precarious conditions in Brazil due to lack of resources and work. They prefer not to return for fear of reprisals or other attacks, or because they do not want to uproot their sons and daughters again.⁷⁷⁷

416. Moreover, after the events of February 2019, the tourist activity on which many families in Kumarakapay depended almost completely disappeared.⁷⁷⁸

417. Regarding the impact of the lack of legal reparations for the damage caused, at the time of writing this report, no source consulted has been able to confirm that a judicial investigation has been carried out into the violent events described above. It is only known that, according to two witnesses, sometime during the same day of the shooting, 22 February, a group of people arrived in Kumarakapay who presented themselves as CICPC

⁷⁷⁰ Interview PPIV021; Interview HHIV032; Interview HHIV034; see also Provea, "Prohibido olvidar: Masacre de Santa Elena de Uairén. Pueblo Pemón", 23 February 2020.

⁷⁷¹ Interview PPIV011; Interview PPIV012; Interview PPIV014; Interview OOIV15; Interview OOIV16; Interview OOIV17; Interview PPIV021; Interview PPIV022; Interview MMIV022; Interview MMIV023; Interview PPIV024; Interview PPIV026; Interview HHIV032; Interview HHIV034; Interview OOIV17; IACHR, Resolution 7/2019, Precautionary Measure No. 181-19, 29 February 2019. Document HHDC036.

⁷⁷² María Ramírez Cabello, "Muere el pemón Onésimo Fernández herido hace un año en la masacre de Kumarakapay", Correo del Caroní, 11 March 2020.

⁷⁷³ María Ramírez Cabello, "Muere el pemón Onésimo Fernández herido hace un año en la masacre de Kumarakapay", Correo del Caroní, 11 March 2020.

⁷⁷⁴ Interview PPIV014; Interview PPIV012.

⁷⁷⁵ Interview PPIV021.

⁷⁷⁶ Interview HHIV046; Interview PPIV016; Interview PPIV022; Interview PPIV024.

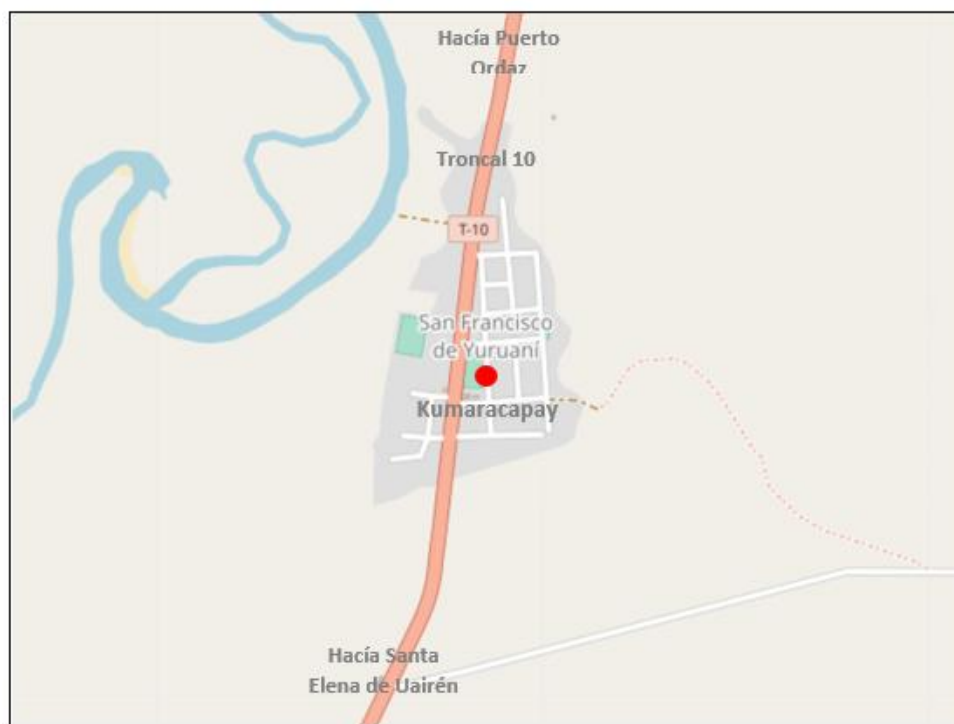
⁷⁷⁷ Interview PPIV021.

⁷⁷⁸ Interview MMIV035.

officers, took photographs and collected evidence, including bullet casings from the scene of the incident.⁷⁷⁹ However, the real identity of this commission is unknown. It is also unknown whether or not these actions initiated an official investigation into the violent events, or whether or not such an investigation led to any results.

Map 12

Map showing the section of the Troncal 10 where it passes through the community of Kumaracapay



Source: Prepared by the Mission using Open Street Map. © OpenStreetMap contributors. The boundaries and names shown and the designations used on this map do not imply official endorsement or acceptance by the United Nations.

(b) Incident at Santa Elena de Uairén airport

418. On Friday 22 February, before 7 a.m., GNB troops took control of the access gate to the airport in Santa Elena de Uairén, Gran Sabana municipality. This incident took place in a context marked by tensions between local communities and the Venezuelan Government, following the announcement of the arrival of humanitarian aid and the violent incident that occurred on the same day in the community of Kumaracapay, in the same Gran Sabana municipality.

419. In the context of this day, groups of people from different indigenous communities near the airport of Santa Elena de Uairén, including members of the *Guardia Territorial Pemón*, disarmed and illegally detained 43 GNB troops, whom they transferred to the nearby community of Waramasen. Next, FANB and GNB armoured vehicles arrived at the airport gate, firing tear gas canisters and rubber bullets at a group of civilians, including women, elderly people and children, who were gathered around the airport gate. This violent response by state security forces was followed by a confrontation in which members of the GNB fired tear gas, rubber bullets and live ammunition, while civilians attacked the armoured vehicles with stones, sticks and, in some cases, firearms. The confrontation ended with at least nine people injured, mainly indigenous people.

420. On Wednesday 27 February, armed military personnel arrived at the entrance to Santa Elena de Uairén airport and detained an indigenous man at the GNB control post.

⁷⁷⁹ Interview HHIV034; Interview FG/VK_003_Kum2.

Subsequently, they entered the airport, where they detained three employees, including two indigenous men⁷⁸⁰. The three indigenous detainees were subsequently tortured. Two of the three indigenous men were released after a negotiation between indigenous leaders and military commanders.⁷⁸¹

(i) *Chronological description of events*

421. Santa Elena de Uairén International Airport is located within the territory of the Pemón indigenous communities of Maurak and Turasén, in Gran Sabana municipality, Bolívar state.

422. In the days leading up to 23 February 2019, the date scheduled for the entry of humanitarian aid from Brazil, military troops (Army and GNB) were mobilised from different cities in the Bolívar state (Caicara del Orinoco, Ciudad Bolívar, Guasipati and Puerto Ordaz) in the direction of Santa Elena de Uairén.

423. On 19 February 2019, the first military troops arrived at the military base known as El Escamote, located in Santa Elena de Uairén and headquarters of the Army's 5102 Motorised Cavalry Squadron, with the aim of reinforcing the military operation to prevent the entry of humanitarian aid into the Bolivarian Republic of Venezuela.⁷⁸² On 21 February, a GNB contingent arrived in Santa Elena de Uairén with approximately 45 troops not belonging to the GNB Command in Santa Elena de Uairén⁷⁸³.

424. On the evening of 21 February, approximately 60 militias (non-career military personnel) were called to El Escamote. There, the Army Commander, Major José Gregorio Basantes, announced that humanitarian aid would arrive in the morning of the following day. The Commander deployed 11 plainclothes unarmed members of the Bolivarian National Militia (MNB), six towards the customs control, and five to the airport.⁷⁸⁴ The five militia members who were deployed to the airport had precise orders to welcome a man arriving in a private jet from Caracas, and to transfer him to El Escamote.⁷⁸⁵

425. On 22 February, before 6.30 a.m., approximately 45 uniformed and armed GNB troops were stationed behind the entrance gate to the airport.⁷⁸⁶ Approximately another 30 GNB troops took up positions at the entrance to the airport runway. The purpose of the military presence at the gate was to reinforce airport security in case of any attempt to bring in humanitarian aid.⁷⁸⁷ Several troops were also stationed at the GNB checkpoint on the road between the airport and the indigenous community of Maurak.⁷⁸⁸ Upon their arrival at the airport, the five militia members were met by four more militia members, two men and two women, making a total of nine militia members.

426. The local population of Santa Elena de Uairén and the surrounding indigenous communities had begun to receive information that two military trucks had fired on the indigenous community of Kumarakapay in the early hours of the morning, killing at least one person, and that the two military vehicles were heading towards Santa Elena de Uairén.⁷⁸⁹ For this reason, when they saw the GNB soldiers stationed at the gate of the airport, the local population thought that they were the same soldiers who had shot at the

⁷⁸⁰ Interview OOIV018

⁷⁸¹ Interview OOIV018

⁷⁸² Interview MMIV042; Interview HHIV057; Interview HHIV033.

⁷⁸³ Interview HHIV033; Interview PPIV027; Interview PPIV027.

⁷⁸⁴ Interview HHIV053.

⁷⁸⁵ Interview HHIV053.

⁷⁸⁶ Interview HHIV047; Interview PPIV017, Interview HHIV033, Interview OOIV018, Interview HHIV054, Interview EEIV0262.

⁷⁸⁷ Interview HHIV053.

⁷⁸⁸ Interview HHIV053.

⁷⁸⁹ Interview PPIV017; Interview PPIV019; Interview PPIV020; Interview HHIV047; Interview HHIV050; Interview HHIV060; Interview HHIV061.

Kumarakapay community and were coming to attack them too,⁷⁹⁰ which is why they went to the airport to evict them from the area.⁷⁹¹

427. Before 10.30 a.m., at least 60 people from various communities around Santa Elena de Uairén, including members of the *Guardia Territorial Pemón*, surrounded the airport gate and asked the military to leave. The group of civilians who surrounded the gate included men and women, young and old, mostly indigenous people. Some were armed with sticks, bows and arrows.⁷⁹² Others were unarmed.⁷⁹³ Throughout the day, a total of about 300 civilians, mostly indigenous, gathered around the airport gate.⁷⁹⁴

428. During the morning, a group of indigenous villagers detained six militia members, released those who were indigenous and took the rest in a pick-up truck to the indigenous community of Maurak. Upon arrival, the militiamen were placed in a hidden location, where they remained under guard.⁷⁹⁵

429. In the course of the same morning, a plane landed at the airport.⁷⁹⁶ Two witnesses recall that it was a white jet with turbines.⁷⁹⁷ According to one witness, a tall, burly man descended from the plane and entered the airport premises.⁷⁹⁸ A group of indigenous men entered through the back of the airport to barricade the runway to prevent the plane from taking off.⁷⁹⁹ However, the plane took off before they could finish setting up the barricade.⁸⁰⁰

430. Shortly after the plane took off, the protesters managed to force open the airport gate. Once through the gate of the airport compound, the demonstrators approached the GNB troops, asking them what they were doing there and ordering them to leave. The GNB refused to give them information, and some indigenous people tried to disarm them. At that moment, one of the soldiers fired a rubber bullet, hitting a young indigenous man from the Waramasen community in the head and injuring him.⁸⁰¹

431. After a skirmish, some indigenous people disarmed and retained all the GNB troops stationed behind the airport gate, a total of 43 troops.⁸⁰² They confiscated their shields, riot gear and weapons.⁸⁰³

432. Members of the *Guardia Territorial Pemón* took the detained GNB troops in a vehicle to the forest near the indigenous community of Waramasen.⁸⁰⁴ A member of the *Guardia Territorial Pemón* who went to see the retained soldiers reported that they had been given food and water.⁸⁰⁵ Other accounts indicate that the soldiers were mistreated,

⁷⁹⁰ Interview MMIV023; Interview MMIV023; Interview PPIV023; Interview HHIV032; Interview MMIV042; Interview HHIV057; Interview PPIV017; Interview PPIV018; Interview HHIV048.

⁷⁹¹ Interview PPIV017; Interview PPIV018; see also Provea, "Prohibido olvidar: Masacre de Santa Elena de Uairén. Pueblo Pemón", 23 February 2020.

⁷⁹² Interview HHIV053.

⁷⁹³ Interview PPIV017; Interview PPIV018; Interview PPIV019; Interview OOIV018; Interview HHIV054; Interview HHIV053.

⁷⁹⁴ Interview OOIV018; Interview HHIV053.

⁷⁹⁵ Interview HHIV047; Interview HHIV053.

⁷⁹⁶ Interview PPIV017; Interview PPIV019; Interview, OOIV018; Interview HHIV053; See also Provea, "Prohibido olvidar: Masacre de Santa Elena de Uairén. Pueblo Pemón", 23 February 2020.

⁷⁹⁷ Interview PPIV017; Interview HHIV053.

⁷⁹⁸ Interview HHIV053.

⁷⁹⁹ Interview PPIV017; Interview HHIV047.

⁸⁰⁰ Interview PPIV017.

⁸⁰¹ Ibid.; Interview PPIV018; Interview PPIV019; Interview HHIV047; Interview HHIV053.

⁸⁰² Ibid.; Interview HHIV033; Document PPDC002.

⁸⁰³ Interview OOIV018; Interview PPIV017; Interview PPIV018; Interview PPIV019; Interview HHIV047.

⁸⁰⁴ Interview PPIV017; Interview PPIV018; Interview HHIV047; Interview HHIV053; Interview EEIV026; see also Provea, "Prohibido olvidar: Masacre de Santa Elena de Uairén. Pueblo Pemón", 23 February 2020.

⁸⁰⁵ Interview PPIV019; Interview HHIV047.

including being forced to walk almost naked through a forested area and over ant hills that resulted in painful ant bites.⁸⁰⁶

433. According to a witness, over the course of the afternoon, one of the retained GNB soldiers dislocated his arm and had to be taken to the hospital in Santa Elena de Uairén. In order to avoid attracting attention, members of the *Guardia Territorial Pemón* took off his uniform and dressed him in civilian clothes. He was told that if at the hospital he was asked about the cause of his injury, he should say that he had been in a motorbike accident. Subsequently, once the injured man had received medical attention at the hospital in Santa Elena de Uairén, he was blindfolded and taken to another hidden location, where he was held for two days.⁸⁰⁷

434. The abduction of the GNB troops generated more tension in the town and surrounding communities. The mayor of Santa Elena de Uairén, Emilio González, went to the airport to meet with the Commander of El Escamote, Major Basantes, to try to find a negotiated solution to the situation.⁸⁰⁸ The military wanted to detain him, but the indigenous and non-indigenous population in the area objected. Subsequently, the mayor left the airport for his home in Wará.⁸⁰⁹

435. After the retained GNB troops were taken away from the airport premises at around midday, a group of civilians, mostly indigenous, remained guarding the entrance gate leading to the airport. A white FANB armoured vehicle arrived from El Escamote, firing tear gas upon arrival.⁸¹⁰ A witness told the Mission that no one was demonstrating or attacking at the time, and that the armoured vehicle was firing tear gas at a peaceful group.⁸¹¹ The armoured vehicle advanced to the GNB checkpoint and stopped there. Subsequently, two more GNB armoured vehicles arrived from El Escamote, firing more teargas canisters as they passed; one of the canisters accidentally hit the GNB checkpoint booth and it caught fire.⁸¹²

436. In response to the firing of tear gas, a group of people began to attack the armoured vehicles with sticks and stones.⁸¹³ One man climbed on top of an armoured vehicle to try to neutralise it. Others tried to slash their tyres without success because they were reinforced tyres.⁸¹⁴

437. Faced with the attacks, the first tank began to retreat in the direction of El Escamote, while the soldiers at the GNB checkpoint began to fire; one witness mentioned that they fired rubber bullets,⁸¹⁵ while another stated that they fired live ammunition.⁸¹⁶ According to several witnesses, the soldiers on top of one of the armoured vehicles fired rounds of live ammunition into the air.⁸¹⁷ Some civilians dove to the ground, others ran for cover.⁸¹⁸ By this time some indigenous people had arrived with weapons - 9mm pistols and shotguns - and began firing at the armoured vehicles.⁸¹⁹

438. The armoured vehicles and troops that had been at GNB checkpoint withdrew to El Escamote, and the *Guardia Territorial Pemón* took over the GNB checkpoint.⁸²⁰ More

⁸⁰⁶ Interview HHIV047; Maria Ramirez, 'Kidnappings and deaths: the untold story behind the attempted aid push into Venezuela', Reuters, 21 May 2019.

⁸⁰⁷ Interview HHIV047.

⁸⁰⁸ Ibid; Interview HHIV054.

⁸⁰⁹ Interview HHIV054.

⁸¹⁰ Interview PPIV017; Interview HHIV033; Interview HHIV053.

⁸¹¹ Interview PPIV017.

⁸¹² Ibid; Interview PPIV018; Interview PPIV019; Interview HHIV053.

⁸¹³ Interview PPIV017; Interview PPIV018; Interview PPIV019.

⁸¹⁴ Interview PPIV017.

⁸¹⁵ Ibid.

⁸¹⁶ Interview PPIV018.

⁸¹⁷ Interview PPIV017; Interview PPIV019; Interview HHIV053.

⁸¹⁸ Interview PPIV018; Interview PPIV017.

⁸¹⁹ Interview PPIV019; Interview HHIV033; Interview HHIV053.

⁸²⁰ Interview PPIV017; Interview PPIV019.

people from surrounding indigenous communities arrived to guard the entrance to the airport and spent the night there.⁸²¹

439. At least nine people were injured as a result of rubber bullets and tear-gas canisters, including seven Pemon indigenous men and two women, who received injuries of varying severity as a result of rubber bullets or tear-gas canister impacts: a woman injured in the leg and hand by a tear gas canister;⁸²² a woman injured in the chest by rubber bullets;⁸²³ a Pemon man injured in the hand by a tear gas canister;⁸²⁴ a Pemon man injured in the leg by a tear gas canister;⁸²⁵ a Pemon man injured in the chest by rubber bullets;⁸²⁶ a Pemon man injured in the arm by rubber bullets;⁸²⁷ a Pemon indigenous man injured in the face by rubber bullets;⁸²⁸ a Pemon indigenous man injured in the leg by rubber bullets;⁸²⁹ and a Pemon indigenous man injured in the chest by rubber bullets.⁸³⁰

440. On Sunday 24 February, following a negotiation between indigenous leaders and military commanders, an exchange of detainees took place. The *Guardia Territorial Pemón* handed over the 43 GNB troops who were taken hostage on 22 February, and then the military released 14 men, mostly indigenous, who were detained by State security forces in Kumarakapay and Santa Elena de Uairén between 22 and 23 February.⁸³¹

441. Members of the *Guardia Territorial Pemón* continued to occupy the GNB checkpoint from the afternoon of 22 February until Wednesday 27 February. During this time no further military incursions were reported at the airport. However, the Maurak community remained vigilant and fearful of being attacked by the military.⁸³²

442. In the morning hours of Wednesday 27 February, a group of armed soldiers arrived at the airport in armoured vehicles and military trucks.⁸³³ The soldiers arrived at the GNB checkpoint, where they detained and beat Jorge Leonardo Gómez Martínez, son of the general cacique of Pemon *Sector VI*.⁸³⁴

443. The soldiers also entered the airport and detained three officials of the National Civil Aviation Institute (INAC): Nicodemo Martínez, a Pemon indigenous man⁸³⁵; Boris Hernández, a Pemon indigenous man⁸³⁶; and Oscar Zapata, a non-indigenous man⁸³⁷. These three men reportedly did not resist, but the soldiers hit them several times with their

⁸²¹ Interview PPIV017.

⁸²² Interview HHIV048.

⁸²³ Interview PPIV019.

⁸²⁴ Interview PPIV017; Interview PPIV018; Interview PPIV019.

⁸²⁵ Interview PPIV017.

⁸²⁶ Interview PPIV018.

⁸²⁷ Ibid.

⁸²⁸ Interview PPIV019; Document PPDC002.

⁸²⁹ Interview PPIV019.

⁸³⁰ Ibid.

⁸³¹ Interview HHIV047.

⁸³² Interview HHIV048.

⁸³³ Interview HHIV033; Interview PPIV020; Interview, OOIV018; Document PPDC002; Vanessa Morena Losada, "Venían a matar indígenas: testimonio de toma militar al aeropuerto de Santa Elena de Uairén", 28 February 2019; Provea, "Prohibido olvidar: Masacre de Santa Elena de Uairén. Pueblo Pemón", 23 February 2020.

⁸³⁴ Interview HHIV054; Document PPDC002; Vanessa Morena Losada, "Venían a matar indígenas: testimonio de toma militar al aeropuerto de Santa Elena de Uairén", 28 February 2019; Provea, "Prohibido olvidar: Masacre de Santa Elena de Uairén. Pueblo Pemón", 23 February 2020.

⁸³⁵ Interview HHIV033; Interview PPIV020; Interview, OOIV018; Interview MMIV019; Document PPDC002; Vanessa Morena Losada, "Venían a matar indígenas: testimonio de toma militar al aeropuerto de Santa Elena de Uairén", 28 February 2019; Provea, "Prohibido olvidar: Masacre de Santa Elena de Uairén. Pueblo Pemón", 23 February 2020.

⁸³⁶ Interview PPIV020; Interview OOIV018; Interview MMIV019; Document PPDC002; Provea and others, "Alto a la persecución y torturas contra integrantes del pueblo indígena Pemón", 2 March 2019; Vanessa Morena Losada, "Venían a matar indígenas: testimonio de toma militar al aeropuerto de Santa Elena de Uairén", 28 February 2019; Provea, "Prohibido olvidar: Masacre de Santa Elena de Uairén. Pueblo Pemón", Provea, 23 February 2020.

⁸³⁷ Interview HHIV033; Interview OOIV018; Interview PPIV020; Interview MMIV019.

weapons on the head and other parts of their bodies⁸³⁸. The soldiers also took their personal belongings such as money, identity documents and mobile phones.⁸³⁹

444. The soldiers transported the detained men to El Escamote⁸⁴⁰. When they arrived there, they were put in a cell with approximately 15 other indigenous detainees, without explaining to them the reasons for their detention⁸⁴¹. Between 12:00 and 1 pm, soldiers took Nicodemo Martínez, Boris Hernández and Jorge Gómez Martínez in a vehicle to the GNB Command centre in Santa Elena de Uairén, located on Mariscal de Sucre Avenue⁸⁴². During the transfer, they were not told where they were being taken, and were hit on the head with a stick⁸⁴³. Upon arrival at the GNB Command centre, the soldiers took the three men out of the vehicle and sat them down in front of a room⁸⁴⁴. Several GNB troops were present, including some who were reportedly taken hostage on 22 February at the airport and later released⁸⁴⁵. Jorge Gómez Martínez and Nicodemo Martínez were taken to different rooms. The three detainees were beaten all over their bodies with blows, sticks and kicks; they also received electric shocks after having their shirts removed and their feet placed in water⁸⁴⁶. At the same time as the three detainees were being beaten, the soldiers insulted them for being indigenous, interrogated them about other indigenous leaders, and threatened that they would kill them⁸⁴⁷.

445. Two witnesses reported that, during this incident, the detainees were brought before a person who identified herself as "the prosecutor"⁸⁴⁸. Another witness heard that the woman was the Prosecutor for Indigenous Affairs⁸⁴⁹. The person identified as the prosecutor interrogated the detainees, asking them for personal information⁸⁵⁰. According to one witness, she witnessed the beatings and could see that they were injured, but took no action⁸⁵¹.

446. Subsequently, the soldiers took the detainees to a courtyard, and took pictures of them in front of several Molotov cocktails and weapons that were distributed on the ground⁸⁵². The men were then taken back to a room.

447. At approximately 6 p.m., a Sergeant Major of the GNB arrived and gave the order to release the detainees, as the indigenous captain Jorge Gómez had negotiated their release⁸⁵³

⁸³⁸ Interview PPIV020.

⁸³⁹ Document PPDC002.

⁸⁴⁰ Interview PPIV020; Interview HHIV033; Provea et al, "Alto a la persecución y torturas contra integrantes del pueblo indígena Pemón", 2 March 2019, available at: <https://www.civilisac.org/alertas/comunicado-alto-a-lap-persecucion-y-torturas-contra-integrantes-del-pueblo-indigena-pemon>; Interview OOIV018; see also, Provea, "Prohibido olvidar: Masacre de Santa Elena de Uairén. Pueblo Pemón", 23 February 2020.

⁸⁴¹ Interview PPIV020.

⁸⁴² Ibid; Document PPDC002; See also Vanessa Morena Losada, "'Venían a matar indígenas', testimonio de toma militar al aeropuerto de Santa Elena de Uairén", *Efecto Cucuyo*, 28 February 2019; Provea, "Prohibido olvidar: Masacre de Santa Elena de Uairén. Pueblo Pemón", 23 February 2020, available at <https://provea.org/trabajos-especiales/prohibido-olvidar-masacre-de-santa-elena-de-uairén-pueblo-pemon/>.

⁸⁴³ Interview PPIV020.

⁸⁴⁴ Ibid.

⁸⁴⁵ Ibid.

⁸⁴⁶ Ibid.; Interview HHIV033; Interview OOIV018; Document PPDC002; Vanessa Morena Losada, "Venían a matar indígenas: testimonio de toma militar al aeropuerto de Santa Elena de Uairén", 28 February 2019; Provea, "Prohibido olvidar: Masacre de Santa Elena de Uairén. Pueblo Pemón", 23 February 2020.

⁸⁴⁷ Interview PPIV020; Document PPDC002.

⁸⁴⁸ Ibid; Interview OOIV018.

⁸⁴⁹ Interview OOIV018.

⁸⁵⁰ Interview PPIV020; Document PPDC002.

⁸⁵¹ Interview OOIV018.

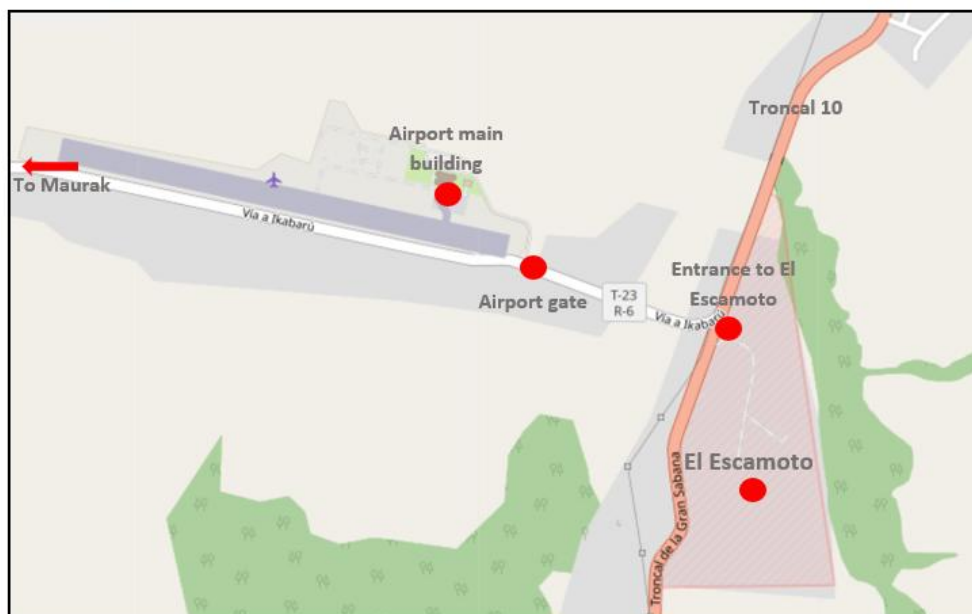
⁸⁵² Interview PPIV020; Interview OOIV018; Document PPDC002; Vanessa Morena Losada, "Venían a matar indígenas: testimonio de toma militar al aeropuerto de Santa Elena de Uairén", 28 February 2019.

According to a witness, a Sergeant present argued that the detainees should be disappeared, as they would be able to identify the officers who had mistreated them. However, the Sergeant Major insisted that they be released⁸⁵⁴.

448. The three detainees were transferred to El Escamoto. That same night, Nicodemo Martínez and Jorge Gómez Martínez were released⁸⁵⁵. Boris Hernández was taken to another cell inside El Escamoto, where he was detained until 3 March⁸⁵⁶.

Map 13

Map indicating Santa Elena de Uairén airport, the Troncal 10 and El Escamoto



Source: Prepared by the Mission using Open Street Map. © OpenStreetMap contributors. The boundaries and names shown and the designations used on this map do not imply official endorsement or acceptance by the United Nations.

(c) Incidents in and around the city of Santa Elena de Uairén

449. This case concerns the violent incidents that occurred in Santa Elena de Uairén, Gran Sabana municipality, Bolívar state, between 22 and 24 February 2019. The incident, which resulted in an undetermined number of deaths, took place in the context of violent repression by the GNB and the FANB against the population of Santa Elena de Uairén, including the indigenous population, following protests that were triggered by three factors:

- (1) the response to the army's previous attack against the population of the indigenous community of San Francisco de Yuruaní (Kumarakapay).
- (2) support for the entry of humanitarian aid from Brazil organised by the political opposition, and
- (3) the closure of the Venezuelan border between Santa Elena de Uairén and Pacaraima, Brazil, by order of the central Government.

450. The incidents occurred between the morning of Friday 22 February and the early hours of Sunday 24 February 2019 in the town centre of Santa Elena de Uairén and at the exits on Troncal 10 at El Escamoto.

⁸⁵³ Interview PPIV020; Provea, "Prohibido olvidar: Masacre de Santa Elena de Uairén. Pueblo Pemón", 23 February 2020.

⁸⁵⁴ Interview PPIV020.

⁸⁵⁵ Ibid; Document PPDC002; Provea, "Prohibido olvidar: Masacre de Santa Elena de Uairén. Pueblo Pemón", 23 February 2020.

⁸⁵⁶ Interview OOIV018.

451. The clashes caused an unknown number of casualties due to injuries caused by firearms and rubber bullets (locally called "pellets"). After the incident, a large number of people fled to Brazil for fear of reprisals. In particular, some Pemón indigenous communities feared state repression because of their support for the entry of humanitarian aid. Other indigenous people fled for fear of widespread violence against indigenous peoples by the state. Following these events, Santa Elena de Uairén and the indigenous communities involved in the protests came under the administration of Government supporters.

(i) *Detailed description of the facts*

452. Historically, the Gran Sabana has been inhabited by the indigenous Pemón people. Santa Elena de Uairén is a border town, capital of the Gran Sabana municipality in the Bolívar state. It is a small, quiet town, almost isolated from the rest of the country due to its proximity to Brazil.⁸⁵⁷ It is located on Troncal 10. The border of the Bolivarian Republic of Venezuela with Brazil is about 15 km to the south and Kumarakapay is about 65 km to the north.

453. On Friday, 22 February 2019, in the early hours of the morning, news began to spread in Santa Elena de Uairén and the indigenous communities of Gran Sabana that the army had attacked the indigenous community in Kumarakapay. Between 8 and 9 a.m., the most seriously wounded from the events in Kumarakapay began to arrive at the Santa Elena de Uairén Hospital⁸⁵⁸.

454. On that day, an indigenous market was being held in the town centre of Santa Elena de Uairén. Street vendors had come from different parts of the country and from the surrounding indigenous communities, and other people had arrived to receive the announced humanitarian aid⁸⁵⁹.

455. The FANB closed customs and set up checkpoints in the streets of Santa Elena de Uairén and on the Troncal 10 road to the Brazilian border. On the same day, opposition deputies from the National Assembly arrived in Santa Elena de Uairén to witness the delivery of humanitarian aid, scheduled for the following day.⁸⁶⁰

456. When information began to spread about the deaths in Kumarakapay, the indigenous population of different localities of the Gran Sabana, including Santa Elena de Uairén, Maurak, Santo Domingo, Waramacén, and San Antonio de Morichal took to the streets to protest against the military⁸⁶¹. In reaction to the army attack in Kumarakapay, the indigenous population in Santa Elena de Uairén began to protest spontaneously and simultaneously at different points, mainly along Troncal 10 and in front of El Escamoto, as well as in Wará, a village located 5.8 km east of Santa Elena de Uairén.

457. Subsequently, non-indigenous sectors of the population of Santa Elena de Uairén joined in, demanding that humanitarian aid be allowed in. The protests spread through the centre of the town centre of Santa Elena de Uairén. According to the sources consulted, they were not organised protests and therefore no one was in charge, leading or coordinating them⁸⁶².

a. Establishment of a military command staff to prevent the entry of humanitarian aid and respond to protests.

458. Two ex-military witnesses confirmed to the Mission that, during the same morning of 22 February 2019, the Governor of Bolívar state, Justo Noguera Pietri, and the Major General commanding the REDI Guayana, Jesús María Mantilla Díaz Oliveros, arrived at El Escamoto in two helicopters. Also arriving in the helicopters were General Malpica,

⁸⁵⁷ Interview HHIV025; Interview with HHIV023; Interview MMIV035.

⁸⁵⁸ Interview HHIV048; Interview HHIV046; Interview MMIV035; Interview MMIV046.

⁸⁵⁹ Interview MMIV035.

⁸⁶⁰ Interview HHIV046.

⁸⁶¹ Interview MMIV024; Interview HHIV047; Interview HHIV046.

⁸⁶² Interview HHIV047.

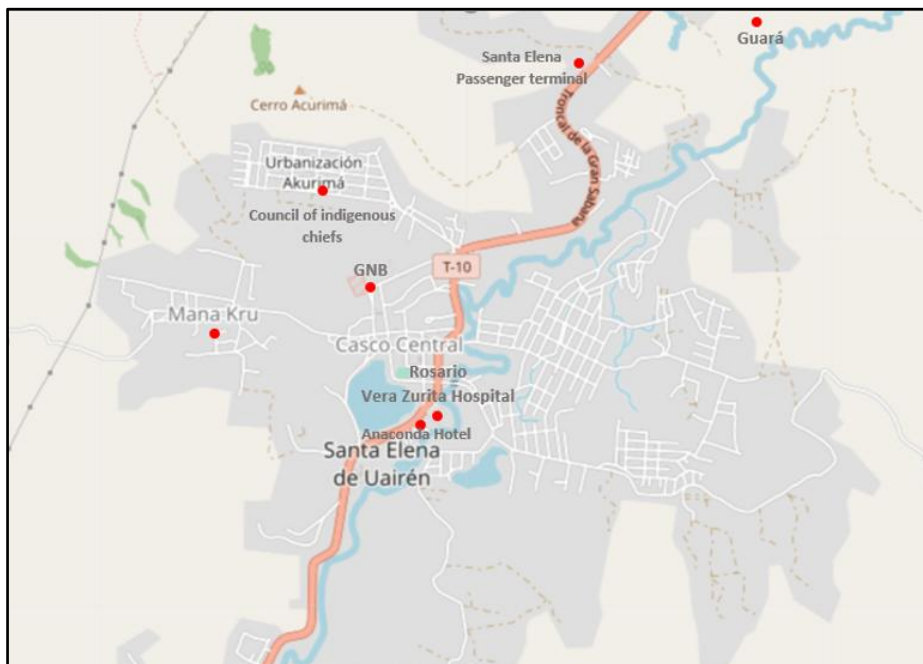
assigned to the REDI Guayana; General Villegas; General Montoya, in charge of the GNB's internal order troops in the Bolívar state; General Lázaro, in charge of the air control consultancy. GNB01 under the command of General Montoya; GNB02, then inactive in the GNB, but in the service of the Governor's Office of Bolívar state⁸⁶³.

459. General Bermúdez Valderrey and Major Basantes received the retinue. General Mantilla said that he was coming to El Escamoto to assume full military command of the operation planned to prevent the arrival of humanitarian aid, together with the Governor, Justo Noguera, who was coming to assume political command of the same operation. General Mantilla reported that the Government had organised similar operations at the most critical points on the external borders of the Bolivarian Republic of Venezuela⁸⁶⁴.

460. According to one of the aforementioned sources, upon taking military command of the operation, General Mantilla established a general staff to coordinate the execution of the aforementioned military operation. This staff was composed of the highest ranking officers who were part of the retinue. General Mantilla designated General Bermúdez Valderrey to assume operational command of the operation. GNB03 took over as head of custody of the persons to be detained, as it was decided that they would be taken to the GNB and El Escamoto. General Colina Reyes took over as head of the special forces team for this operation. General Lázaro was in charge of air control consultancy during the operation⁸⁶⁵.

Map 14

Illustration of Santa Elena de Uairén and surroundings



Source: Prepared by the Mission using Open Street Map. © OpenStreetMap contributors. The boundaries and names shown and the designations used on this map do not imply official endorsement or acceptance by the United Nations.

461. All these military officers, together with Governor Justo Noguera Pietri, were installed in El Escamoto, from where they continued to coordinate the execution of the military operation to prevent the entry of humanitarian aid into Santa Elena de Uairén. Additionally, F01 assumed the responsibility of coordinating with the PNB and especially with the CICPC the detention of persons

⁸⁶³ Interview HHIV057; Interview HHIV059.

⁸⁶⁴ Ibid.

⁸⁶⁵ Ibid.

suspected of having participated in the disturbances of 22 and 23 February 2019, in Santa Elena de Uairén, and its surroundings⁸⁶⁶.

b. Protests and violent incidents in and around Santa Elena de Uairén during 22 February 2019.

462. Between 9 and 10 a.m. on Friday 22 February, people protesting in the streets began to burn down the GNB checkpoint called "La Guillotina", located at the entrance to Santa Elena de Uairén, near the bus terminal⁸⁶⁷. The indigenous population of Wará also began to show their rejection by blocking roads⁸⁶⁸.

463. From 10 a.m. onwards, the presence of the army and the GNB increased notably in different parts of the town of Santa Elena de Uairén and its surroundings, especially on the Troncal 10 highway, on the route in front of the El Escamoto military detachment, and en route to the border with Brazil.⁸⁶⁹ At that time, GNB tanks were seen driving along Troncal 10 towards the entrance to Santa Elena de Uairén via "La Guillotina" and towards the Guará passenger terminal, while tear gas canisters were thrown⁸⁷⁰. From the hill near "La Guillotina", shots were heard and soon after, armed soldiers were seen patrolling on foot⁸⁷¹.

464. At around midday, groups of indigenous and non-indigenous people gathered in front of the El Escamoto military detachment to protest against the violence in Kumarakapay and to demand that the army not prevent the entry of humanitarian aid⁸⁷².

465. At the same time, other groups headed towards the border with Brazil and found that the Troncal 10 road was blocked with yellow iron barriers, placed in front of El Escamoto⁸⁷³. The population also began to block the road with various objects⁸⁷⁴. This situation caused an agglomeration on Troncal 10, particularly in front of El Escamoto, and clashes began between civilians supporting the Government and other people supporting the political opposition and demanding the entry of humanitarian aid⁸⁷⁵. At first, the clashes were between civilians only. Later, the military intervened with tear gas⁸⁷⁶, a situation that continued during the afternoon of the same day⁸⁷⁷. According to one source, initially, the military fired tear gas canisters into the bush, not directly at the demonstrators⁸⁷⁸.

466. There were ambulances travelling from Santa Elena de Uairén to Brazil. At the checkpoints, the military only let through ambulances carrying injured people⁸⁷⁹. Seeing these ambulances, the population on Troncal 10 realised that more violent incidents were occurring in Santa Elena de Uairén⁸⁸⁰.

467. A witness who was near the hospital in Santa Elena de Uairén reported that at around 4 p.m., distant gunshots were heard, which seemed to come from Guará. The same

⁸⁶⁶ Ibid.; Descifrado, "Conozca quién sería el responsable de la masacre de indígenas en la Gran Sabana", 27 February 2019.

⁸⁶⁷ Interview MMIV024.

⁸⁶⁸ Interview HHIV047.

⁸⁶⁹ Interview MMIV035; Interview HHIV057.

⁸⁷⁰ Interview MMIV035.

⁸⁷¹ Interview MMIV024.

⁸⁷² Interview MMIV035; Interview HHIV046; Interview HHIV050; Interview PPIV018; Interview FG/VK_002_Kum.

⁸⁷³ Interview HHIV046.

⁸⁷⁴ Ibid.

⁸⁷⁵ Interview MMIV035; see also Tweet by Clavel Rangel (@ClavelRangelJ), 22 February 2019, available at: <https://twitter.com/ClavelRangel/status/1099016211709464576>; Jhoalys Siverio, "La sangre derramada que encendió a los pemones", 2 March 2019.

⁸⁷⁶ Interview MMIV035; Jhoalys Siverio, "La sangre derramada que encendió a los pemones", La vida de nos, 2 March 2019.

⁸⁷⁷ Interview PPIV018.

⁸⁷⁸ Jhoalys Siverio, "La sangre derramada que encendió a los pemones", La vida de nos, 2 March 2019. , La vida de nos, 2 March 2019.

⁸⁷⁹ Interview HHIV046.

⁸⁸⁰ Ibid.

witness indicated that he later learned that indigenous people had gathered in Guará to try to prevent the military from passing, provoking an altercation in which some indigenous men had been wounded and taken to the hospital in Santa Elena de Uairén⁸⁸¹. Despite being close to the hospital, the witness said that he was unable to enter the hospital to see the wounded Guará because they were not allowed in⁸⁸².

468. Throughout the day on 22 February, the Santa Elena de Uairén Hospital was progressively flooded with wounded people requiring medical treatment. In the morning, the first injured indigenous men arrived from the communities of Kumarakapay and Kavanayen⁸⁸³. Towards the end of the morning and into the afternoon, injured indigenous and non-indigenous people were arriving from the violent incidents at the airport, in the town centre of Santa Elena de Uairén, and on Troncal 10⁸⁸⁴. At 4pm, injured indigenous people were still arriving from Kumarakapay, causing crowds and commotion inside the hospital⁸⁸⁵. Injured people continued to arrive at the hospital until 5pm⁸⁸⁶. According to the testimonies collected, a total of approximately 15 to 20 people with gunshot wounds arrived during the same day⁸⁸⁷.

469. Between 5 p.m. and 6 p.m., multiple gunshots were heard in various parts of Santa Elena de Uairén, including around the hospital⁸⁸⁸.

470. At around 7 p.m., a group of men in civilian clothes, who identified themselves as state officials, arrived at the hospital asking for the wounded, and were informed that they had already been transferred to Boa Vista, Brazil. The officials left the hospital at approximately 19.30 hours. According to an eyewitness, these Government officials had come to the hospital to identify the injured men and kill them, so as not to leave any witnesses to the violent incidents⁸⁸⁹. Another eyewitness said that tonight he took an injured man to the hospital and that when he arrived there were GNB troops at the entrance, but that they both managed to enter the hospital without any problems⁸⁹⁰.

471. At around 7 p.m., the riots continued. People in civilian clothes burned a bus to block the passage of GNB tanks along Troncal 10, while people shouted angrily⁸⁹¹. On the bridge over the Uairén river, burnt tyres, a vehicle that had been set on fire, and many people carrying sticks and stones shouted that they were going to defend the town because of what had happened in Kumarakapay⁸⁹². People carrying sticks and armed with Molotov cocktails were also seen protesting angrily in the area of "La Planta", a residential area located at the exit of the urban centre, in the direction of Brazil⁸⁹³.

472. On the route to the square, also called "Las Cuatro Esquinas" route, one witness saw seven GNB tanks together and others circling, while throwing tear gas bombs⁸⁹⁴. In the street, other trucks were on fire with soldiers around them shooting at people who were running and/or fleeing. There were people shouting that the agents were not firing pellets but real bullets⁸⁹⁵.

473. Two witnesses affirmed that, leaving towards Guará and passing through the indigenous community of Manak-Krü⁸⁹⁶, at the height of the Akurimá neighbourhood and

⁸⁸¹ Interview HHIV048.

⁸⁸² Ibid.

⁸⁸³ Interview PPIV016.

⁸⁸⁴ Interview MMIV046.

⁸⁸⁵ Interview with PPIV016.

⁸⁸⁶ Ibid; Interview MMIV046.

⁸⁸⁷ Ibid.

⁸⁸⁸ Interview PPIV021; Interview HHIV048.

⁸⁸⁹ Interview PPIV016.

⁸⁹⁰ Interview HHIV047.

⁸⁹¹ Interview PPIV015.

⁸⁹² Ibid.

⁸⁹³ Ibid.

⁸⁹⁴ Ibid.

⁸⁹⁵ Interview PPIV015.

⁸⁹⁶ Ibid; Interview MMIV026.

in front of the police command, they saw a GNB tank, shooting at people in the street with tear gas bombs, in an area close to other vehicles that were burning⁸⁹⁷.

474. At night, all the entrances to Santa Elena de Uairén were blocked by trucks that had been placed by the population to obstruct the passage of vehicles⁸⁹⁸. One of the witnesses, who participated in the protests that night, said that all the people protesting had their faces covered and were in the street assembling Molotov cocktails to throw at the tanks, while the tanks advanced and retreated⁸⁹⁹. This witness said that, at first, the military did not fire.⁹⁰⁰ Another witness who was on one of the hills around the village indicated that shouts could be heard that night from Santa Elena de Uairén: "Run! Save yourself! Watch out!" and tanks could be seen driving around⁹⁰¹.

475. At the height of the Akurimá neighbourhood, the demonstrators set fire to a white government bus with the intention of blocking the entrance to Santa Elena, so that the army trucks could not pass⁹⁰². They did the same with an MB van and a truck belonging to a private company. The military responded by firing rubber bullets, resulting in injuries but no deaths⁹⁰³.

476. During the afternoon and evening of Friday 22nd, messages began to circulate on local social networks indicating that the State had taken prisoners from various prisons in the Bolivarian Republic of Venezuela, who had been uniformed and armed, along with pro-government militiamen, to attack the people in Santa Elena de Uairén and were arriving in buses from various parts of Bolívar state, including Ciudad Bolívar, Las Claritas, Kilómetro 88, Mapaurí, Tumeremo and Puerto Ordaz⁹⁰⁴. There were also Pemón indigenous militiamen from San Ignacio de Yuruaní⁹⁰⁵.

477. A witness said that on Friday night he saw on the street in front of the hospital approximately 48 government buses, some of them red and some double-decker buses. All of them were full. Along with the military, there were people in civilian clothes, presumably government militiamen. Each bus had a capacity of 35 to 40 people⁹⁰⁶.

478. Between the night of Friday 22nd and the morning of Saturday 23rd, reinforcement tanks of the GNB arrived at El Escamoto from Luepa and Puerto Ordaz⁹⁰⁷. A witness saw them start to arrive from 8.30 pm onwards. The tanks arrived in trailers and were covered in tarpaulins on which was written: "Guardia del Estado" (State Guard). Each trailer carried two tanks. Rumours spread on local social networks that "the Government was coming to kill people"⁹⁰⁸.

479. At 9 p.m., in El Escamoto, General Mantilla led a distribution of tasks to be carried out the following day among the officers in charge of the military operation aimed at preventing humanitarian aid from entering Santa Elena de Uairén and being received by the population.

480. Several witnesses said that in Santa Elena de Uairén, the chaos, shouting, burning vehicles and gunfire continued throughout the night and into the early hours of the morning⁹⁰⁹.

⁸⁹⁷ Interview PPIV015; Interview HHIV046.

⁸⁹⁸ Interview HHIV046; Interview HHIV050.

⁸⁹⁹ Interview HHIV046.

⁹⁰⁰ Ibid.

⁹⁰¹ Interview PPIV015.

⁹⁰² Interview HHIV046.

⁹⁰³ Ibid.

⁹⁰⁴ Interview PPIV015; Interview PPIV057; Interview PPIV016.

⁹⁰⁵ Interview HHIV057.

⁹⁰⁶ Interview PPIV016.

⁹⁰⁷ Interview HHIV057.

⁹⁰⁸ Interview PPIV016.

⁹⁰⁹ Interview MMIV024; Interview HHIV032; Interview HHIV048; Interview PPIV015; Interview HHIV050.

c. Protests and violent incidents in the city centre of Santa Elena de Uairén on 23 February 2019

481. On Saturday 23 February, the violence intensified considerably, especially along Troncal 10, in front of El Escamoto en route to the border⁹¹⁰.

482. During the day, state security forces were involved in several violent incidents in different parts of Santa Elena de Uairén and its surroundings, sometimes characterised by clashes with protesters, and other times by the indiscriminate use of firearms against civilians on foot or in vehicles. Throughout the day, hundreds of uniformed men were seen on the streets, mainly from the army, the GNB, and to a lesser extent, the police.⁹¹¹

483. Protests by the population in the city centre began in the morning of Saturday 23 February. From 5 a.m. onwards, there were already people in the streets protesting in favour of the humanitarian entry.⁹¹² Many streets were closed, while both the army and the GNB were already in the streets of Santa Elena de Uairén, blocking the passage of passers-by and vehicles⁹¹³. Between approximately 6.30 a.m. and 7 a.m. that morning, a witness saw two bodies being taken to the morgue behind the Santa Elena de Uairén Hospital within 30 minutes⁹¹⁴.

484. There were peaceful demonstrators, including women with children, but there were also demonstrators with Molotov cocktails⁹¹⁵. A witness saw that between 9 and 10 a.m., as part of the protests around the GNB command in Santa Elena de Uairén, a truck crashed into the GNB perimeter wall, hitting near the entrance to the command's internal courtyard. GNB soldiers responded by firing tear gas and or rubber bullets, although the surrounding people were able to run away⁹¹⁶.

485. A witness explained that at 10 a.m., in the "Plaza Miranda", she saw three boys going to the hospital to see a relative. When they met an army patrol, a soldier in a camouflage uniform shot one of the boys. He then shot another. And when the third tried to run away, one of the soldiers shot him as well. All three bled to death as they lay on the street. The soldiers put them on iron stretchers, and took them to the morgue⁹¹⁷.

486. The situation became even more violent when some protesters began to park trucks in the streets, blocking traffic⁹¹⁸. Some protesters drove a truck through the front of the fairgrounds and set it on fire⁹¹⁹. Thereafter, the military began to make greater use of firearms in the streets where protesters had placed trucks blocking traffic, including by the "Four Corners" intersection and by the Plant⁹²⁰. One protester tried to drive another truck to park it in the street, blocking traffic, but was shot at by a GNB tank and the protester was wounded⁹²¹.

487. From then on and throughout the day, at various points in the streets of the city centre, GNB tanks and military foot patrols fired guns at civilians and vehicles in the streets. According to a witness, they were shooting to kill⁹²². At different points in the city centre, it was observed that GNB soldiers in these tanks picked up the bodies of people who fell dead in the street and placed them inside the tanks to remove them from the scenes of violence and take them away⁹²³.

⁹¹⁰ Interview MMIV035; Interview HHIV046; Interview HHIV050.

⁹¹¹ Interview MMIV029.

⁹¹² Ibid; Interview PPIV016; Interview HHIV048.

⁹¹³ Interview MMIV029; Interview HHIV048.

⁹¹⁴ Interview FFIV002.

⁹¹⁵ Interview HHIV050; Interview MMIV029.

⁹¹⁶ Interview MMIV046.

⁹¹⁷ Interview HHIV048.

⁹¹⁸ Interview MMIV035.

⁹¹⁹ Interview HHIV046.

⁹²⁰ Interview MMIV035.

⁹²¹ Interview HHIV046.

⁹²² Interview MMIV046.

⁹²³ Interview PPIV029.

488. At 9 a.m., the first corpse received at the hospital that day arrived⁹²⁴. Later, wounded people arrived at the hospital. At mid-morning, a second body arrived, an indigenous man from "El Salto", with numerous marks on his chest from rubber bullets. According to a witness, from then on, only dead bodies were brought to the hospital⁹²⁵.

489. At 11 a.m., a retinue of Government officials in civilian clothes arrived at the hospital, asking for the wounded and were informed that they had already been evacuated to Boa Vista⁹²⁶. As on the previous day, it was rumoured that the officials had returned to kill any wounded who may have been present⁹²⁷.

490. Witnesses who were near the city centre and the hospital at midday had to hide because of gunfire and tear gas.⁹²⁸ One witness said he heard what sounded like machine gun fire for an hour or an hour and a half⁹²⁹. In the meantime, there was a blackout that lasted for a few hours, which hampered communications among the population⁹³⁰.

491. At approximately 3 p.m. and during the afternoon, around the GNB command and in a part of the city centre, known as "Los Apamates" or "Bachaquero", the GNB military continued to shoot with firearms, killing civilians who were there. Bullets and tear gas can be heard⁹³¹.

492. A witness stated, "I saw the GNB shoot two young men. One of them was being chased and shot at while he was fleeing in a food delivery truck. When they reached a place known as Las Cuatro Esquinas, they caught up with him and shot him. They shot him dead in one shot. They pulled him out of the truck and took him to the commando in a white pickup truck. The other young man who was shot was a protester in the same street. He was carrying a Venezuelan flag. He was running to get away from the GNB soldiers. From a distance, they shot him as he ran. As he fell down wounded, his friends approached and tried to take him away, but as the GNB soldiers approached, they had to let go of the wounded man and ran away. When they got to where he was, the GNB soldiers shot him again and took the body away"⁹³².

493. Another witness explained that army and GNB soldiers were shooting at anyone who passed through the street⁹³³. One witness counted at least five dead bodies lying in different streets of the city centre⁹³⁴. The same witness said that some demonstrators had set fire to a GNB checkpoint in Kewey⁹³⁵. Another witness indicated that, in the afternoon, several boys from the Kewey and "Caño amarillo" areas were coming towards Plaza Miranda to get to the hospital, *as they* were going to see their dead relatives. However, the military threw tear gas canisters to disperse them⁹³⁶.

494. By 4 p.m., a large number of people had already arrived at the Santa Elena de Uairén Hospital, carrying corpses. One witness informed the Mission that, in the course of that day, he saw more than ten lifeless bodies being taken to the morgue⁹³⁷. One witness told the Mission that he estimated that, over the course of Saturday 23 February, approximately 60 bodies may have been taken to the hospital⁹³⁸. Most of them had been shot by firearms, with an entry wound in the chest or back⁹³⁹.

⁹²⁴ Interview PPIV016.

⁹²⁵ Interview PPIV016.

⁹²⁶ Interview PPIV016.

⁹²⁷ Interview MMIV029; Interview HHIV048.

⁹²⁸ Interview MMIV029; Interview HHIV048.

⁹²⁹ Interview MMIV029.

⁹³⁰ Interview MMIV029.

⁹³¹ Interview PPIV016.

⁹³² Interview MMIV046.

⁹³³ Interview HHIV046; Interview MMIV046; Interview HHIV048; Interview PPIV016.

⁹³⁴ Interview HHIV046.

⁹³⁵ Interview HHIV046.

⁹³⁶ Interview HHIV048.

⁹³⁷ Interview PPIV021.

⁹³⁸ Interview PPIV016.

⁹³⁹ Ibid.

495. Between 4 p.m. and 5 p.m., around the hospital, only government vehicles were seen driving around⁹⁴⁰. One witness indicated that at around 5.30 p.m., when he left the hospital, there was a lot of tension, but he did not observe any further violence at that time⁹⁴¹. In the late afternoon, in the centre of the town centre, there were many people in the streets, burnt vehicles, blood on the streets and gunshots on the walls, although the tanks were no longer firing⁹⁴². Other sources indicated that, in other parts of the city centre, riots continued until at least 6 p.m.⁹⁴³ One witness saw that at approximately 5.30 p.m., a tank fired at a man who was in front of the "Abuela" hotel, killing him⁹⁴⁴.

496. That night, from 9 or 10 p.m. onwards, there was a curfew in Santa Elena de Uairén⁹⁴⁵. One witness saw pickup trucks driving around, taking bodies out of El Escamoto⁹⁴⁶. Another witness saw bodies being taken to the morgue⁹⁴⁷. Most of them were white, without plates or number plates, although at least one belonged to the State Police. Each van was manned at the front by Government officials or people in civilian clothes. Every ten to fifteen minutes, a van would arrive at the morgue. In the morgue, officials wearing white gloves would take the bodies out of the pickup trucks and pile them up inside the morgue. The same witness noted that he observed dozens of corpses piled up in the morgue and at its entrance. This movement of pickup trucks arriving and leaving the morgue continued to be heard until approximately two o'clock in the morning⁹⁴⁸.

- d. Riots in villages near Santa Elena de Uairén and on the Troncal 10 road to the border with Brazil on 23 February 2019.

497. During Saturday 23 February 2019, violent incidents not only affected the town centre of Santa Elena de Uairén, but also the villages surrounding Santa Elena de Uairén, and the Troncal 10 highway, especially on the route from Santa Elena de Uairén to the border of the Bolivarian Republic of Venezuela with Brazil, including, for the second consecutive day, the stretch in front of the El Escamoto detachment.

498. From 6 a.m. onwards, people were walking along Troncal 10, heading from Santa Elena de Uairén towards the border with Brazil, because they were trying to flee the violence. On the way, they had to pass through the front of El Escamoto⁹⁴⁹. Other groups of people fleeing the violence in Santa Elena de Uairén began to go to the indigenous communities along Troncal 10, seeking protection, as they thought that the GNB tanks would not leave the Troncal 10 road to enter these communities⁹⁵⁰.

499. A witness observed that from 9 a.m. onwards there were GNB tanks on Troncal 10, firing tear gas canisters. He also observed that at approximately the same time, the Pemón Indigenous Guard had blocked the crossing at the entrance to the Manak-Krü community and had Molotov cocktails⁹⁵¹.

500. At 10 a.m., in front of the El Escamoto military detachment, there was a large flow of people walking towards the border with Brazil⁹⁵². Among these people, there were people protesting, journalists who wanted to cover the news about the possible entry of

⁹⁴⁰ Ibid.

⁹⁴¹ Interview MMIV029.

⁹⁴² Interview PPIV015; Interview MMIV042.

⁹⁴³ Interview PPIV016; Interview MMIV026; Interview MMIV035.

⁹⁴⁴ Interview PPIV029.

⁹⁴⁵ Interview MMIV029; Interview HHIV047; Interview PPIV016.

⁹⁴⁶ Interview HHIV054; Interview PPIV029.

⁹⁴⁷ Interview PPIV016.

⁹⁴⁸ Ibid.

⁹⁴⁹ Interview HHIV057.

⁹⁵⁰ Interview MMIV035.

⁹⁵¹ Interview MMIV026.

⁹⁵² Interview HHIV050; Interview MMIV029; Interview MMIV042.

humanitarian aid, as well as Venezuelans and Brazilians who wanted to go to Brazil⁹⁵³. Up to that point there was tension, but no confrontation.⁹⁵⁴

501. At approximately 10 a.m., General Mantilla ordered the army and the National Guard not to fire any shots. A helicopter that had taken off at 8 a.m. from the La Carlota air base in Caracas landed at El Escamoto. The helicopter was carrying an entourage made up of: Arístobulo Iztúriz, who was then Minister of Education of the Bolivarian Republic of Venezuela; Major General Luis Alberto Medina Ramírez, who was then Minister of Food; Yelitze Santaella, Governor of the state of Monagas; and a group of Government officials accompanying them. This delegation arrived in El Escamoto on behalf of the central Government to attend an event that had been organised to officially and publicly declare that Santa Elena de Uairén rejected humanitarian aid from abroad.⁹⁵⁵

502. After a lull in the shooting, violent disturbances were again observed outside El Escamoto, where protesters threw Molotov cocktails and set fire to vehicles.⁹⁵⁶ In this context, General Mantilla ordered the air traffic controller to take off the helicopter that took the official Government entourage to the Luepa detachment. Once the helicopter had left,⁹⁵⁷ GNB tanks and soldiers continued firing rubber bullets,⁹⁵⁸ at the protesting population outside El Escamoto.

503. Once the military began firing weapons, the protesters desisted.⁹⁵⁹ One witness observed at least three people injured in this incident, including a young woman with a bullet in her leg, another young man with a wound in his foot and another man with a gunshot wound⁹⁶⁰.

504. Two witnesses told the Mission that the two of them and other demonstrators tried to return to town in two vans and were shot with pellets.⁹⁶¹ According to witnesses, one of the people in one of the two vans was shot in the face and arms, and went to the Santa Elena de Uairén Hospital.⁹⁶² The young man driving the pick-up received a pellet in the face, lost control of the vehicle and crashed. After 11 days, as a result of his injuries, the young man died.⁹⁶³ The witness said that the distance of the shot from the tank to the driver's face was similar to the width of the road.⁹⁶⁴

505. In the course of the afternoon, the same helicopter mentioned above returned from the Luepa detachment and the Governmental entourage went to the public event rejecting humanitarian aid together with the Venezuelan flag placed on the border line between Brazil and the Bolivarian Republic of Venezuela⁹⁶⁵.

506. On Saturday, 23 February, between 7 p.m. and 9 p.m., the caravan arrived in El Escamoto, consisting of approximately a 2-kilometre line of buses and other vehicles, carrying approximately 1,500 militiamen, several armed, along with military personnel. This caravan had brought militiamen from other parts of Bolívar state, including Ciudad Bolívar, Mapaurí, Las Claritas, Kilómetro 88, Tumeremo and Puerto Ordaz, from the Luepa detachment. The same caravan included military, police and CICPC officers⁹⁶⁶. The same caravan had travelled along Troncal 10 and passed through the indigenous community of Kumarakapay and Santa Elena de Uairén, causing the violent incidents described earlier in

⁹⁵³ Interview MMIV029; Interview MMIV042.

⁹⁵⁴ Interview MMIV029.

⁹⁵⁵ Interview HHIV057.

⁹⁵⁶ Interview HHIV046.

⁹⁵⁷ Interview HHIV057.

⁹⁵⁸ Interview HHIV050; Interview HHIV046.

⁹⁵⁹ Interview HHIV046.

⁹⁶⁰ Ibid.

⁹⁶¹ Interview HHIV046; Interview HHIV050.

⁹⁶² Ibid.

⁹⁶³ Interview HHIV046.

⁹⁶⁴ Ibid.

⁹⁶⁵ Interview HHIV057; Interview HHIV034.

⁹⁶⁶ Interview HHIV057.

this report⁹⁶⁷. The buses and militiamen who were part of the caravan spent the night in El Escamoto.

507. A witness who was inside El Escamoto explained that, from the night of Saturday 23 February, between 11 p.m. and 1 a.m. on Sunday 24 February, a witness observed that the GNB tanks that had patrolled in Santa Elena de Uairén arrived at El Escamoto. The same witness saw that more than twenty dead bodies were taken out of these GNB tanks, with each tank taking down around four or five corpses. Another witness said that 16 bodies were taken out of a single tank, and in the early hours of Sunday morning he counted a total of 21 or 22 bodies in the same place⁹⁶⁸. Most of the bodies were of young men, although there were also bodies of women. Once the bodies were lowered to the ground, a pick-up truck would arrive, into which the corpses were dumped and taken out of El Escamoto. This procedure was repeated four or five times. This same dynamic was observed for at least three consecutive nights starting on Saturday, 23 February⁹⁶⁹.

508. That same Saturday, 23 February, the border between the Bolivarian Republic of Venezuela and Brazil was closed, although there was an agglomeration of people on the Brazilian side, waiting to see what would happen with the humanitarian aid announced by the Venezuelan opposition⁹⁷⁰. On the same day, the flow of Venezuelans fleeing the violence and trying to cross into Brazil along the mountain roads—locally known as "trochas"—intensified markedly⁹⁷¹. At least four ambulances passed through, carrying people who had been injured in the incidents described in this report.⁹⁷²

509. Meanwhile, the humanitarian aid announced by the Venezuelan opposition had arrived in Pacaraima (Roraima state, Brazil) and, according to information obtained by the Mission, was being transported in two trucks, one large and one small⁹⁷³. Both trucks remained on the border line between Brazil and the Bolivarian Republic of Venezuela, without crossing the border⁹⁷⁴. Between 4 p.m. and 7 p.m., there were clashes on the same border line between Venezuelan citizens in favour of the trucks' entry into the Bolivarian Republic of Venezuela and approximately 20 members of the GNB who were blocking the Venezuelan border⁹⁷⁵. The demonstrators began throwing stones and Molotov cocktails from the hills on the Brazilian side, while the GNB began firing in the air and throwing tear gas canisters into the same hills⁹⁷⁶.

510. Protests on the border line continued until 7pm. On that day, protesters removed the Venezuelan flag located on the border⁹⁷⁷. One witness saw at least 10 injured people coming from different places, not only from Santa Elena de Uairén. Some of the injured people even crossed the border along the trail into Brazilian territory⁹⁷⁸.

⁹⁶⁷ Ibid.; Interview HHIV053; Interview HHIV059.

⁹⁶⁸ Interview PPIV029.

⁹⁶⁹ Interview HHIV054.

⁹⁷⁰ Interview MMIV033; Interview HHIV060.

⁹⁷¹ Interview MMIV033.

⁹⁷² Ibid.

⁹⁷³ Ibid.; Interview HHIV060.

⁹⁷⁴ Ibid.

⁹⁷⁵ Ibid.; see also, CNN Español, "Varias personas murieron en enfrentamientos en Venezuela, según fuentes", 23 February 2019.

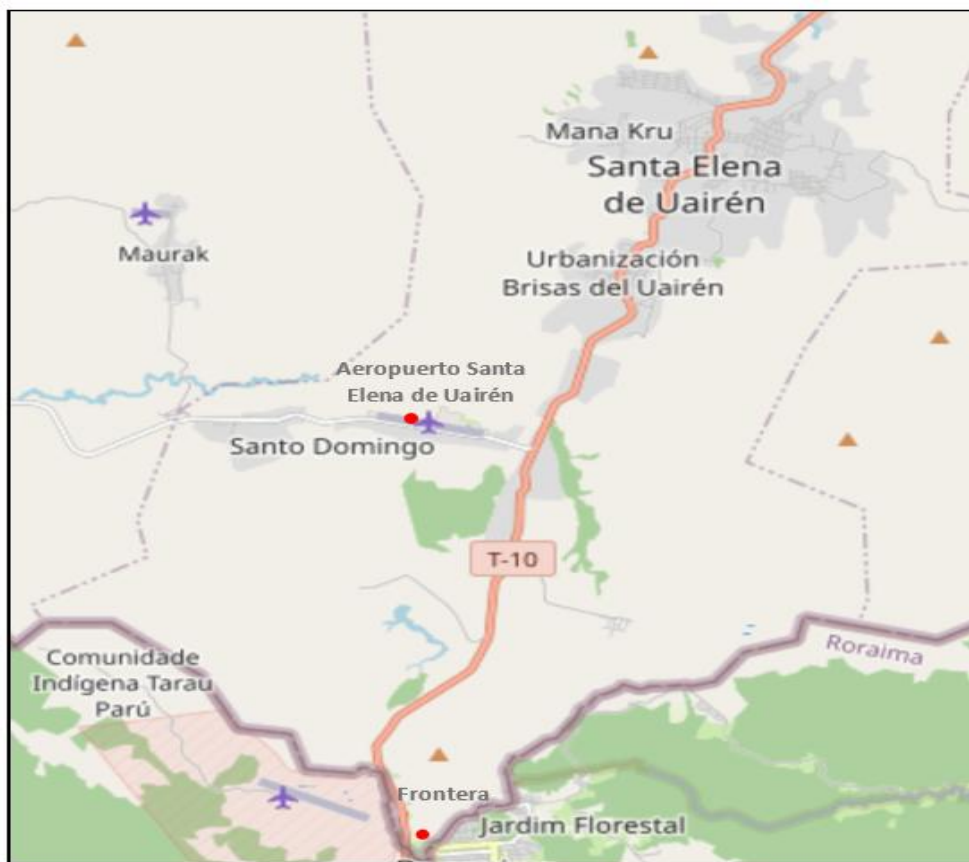
⁹⁷⁶ Ibid.

⁹⁷⁷ Interview HHIV060; Interview HHIV061.

⁹⁷⁸ Interview MMIV033; Interview HHIV060.

Map 15

Section of Troncal 10 highway, between Santa Elena de Uairén, El Escamoto and the Bolívarian Republic of Venezuela/Brazil border.



Source: Prepared by the Mission using Open Street Map. © OpenStreetMap contributors. The boundaries and names shown and the designations used on this map do not imply official endorsement or acceptance by the United Nations.

d. The situation on 24 February 2019

511. By Sunday morning, 24 February, the disturbances and violent incidents in Santa Elena de Uairén had subsided and the situation was calmer and more peaceful.⁹⁷⁹

512. At around 6 a.m., the Santa Elena de Uairén morgue was guarded by approximately ten to 15 uniformed soldiers armed with rifles, together with four white vans and three pick-up trucks belonging to the CICPC and SEBIN, and eight officers dressed as civilians, who did not allow access to the morgue, which was closed, so that the population could not approach it to find out if the bodies of their relatives who had disappeared during the riots of the previous two days were there⁹⁸⁰. Other soldiers were guarding the hospital, although no more civilians were arriving there. Other soldiers were guarding the hospital, although no more civilians were arriving there.⁹⁸¹

513. A witness explained to the Mission that he walked through the town centre on the morning of Sunday 24 and that the streets were almost empty of people, and that he only saw military personnel patrolling. In seven military patrols he encountered along the way, the officer in charge seized his mobile phone and checked that he had no photos, videos or information about what had happened the previous day. When they found that he had no information, they returned it to him. According to this person, "the streets were a mess".

⁹⁷⁹ Interview HHIV046; Interview PPIV016; Interview MMIV026.

⁹⁸⁰ Interview PPIV016.

⁹⁸¹ Interview HHIV048.

The same person saw two trailers that had been burned, although he did not come across any bodies⁹⁸².

514. In the streets of Santa Elena de Uairén and its surroundings there were many military personnel patrolling, but hardly any civilians walking around⁹⁸³. One person testified that he had been told that the then Governor of Bolívar state, Justo Noguera, had ordered the militiamen who had arrived in Santa Elena de Uairén the previous evening, 23 February, to clean the streets of the town of any sign of what had happened in the previous days⁹⁸⁴. The same person testified to the Mission that, while walking through Plaza Miranda, he saw a red truck with a water hose (possibly a fire brigade truck), cleaning the streets, which were stained with blood⁹⁸⁵.

- e. Arbitrary detention and torture in the military detachment El Escamoto during the riots and the following days of violent incidents in Santa Elena de Uairén.

515. In the afternoon of 23 February, four men (three non-indigenous and one indigenous) who were travelling in two vehicles on the road to Waramasen near the crossroads to Vista El Sol, were stopped, beaten and had a rifle pointed at their heads by SEBIN agents. One of them was hit hard on the head with the rifle. Subsequently, the four men were taken to El Escamoto⁹⁸⁶.

516. Upon arrival at the El Escamoto military detachment, the four men were handcuffed and placed in a dining room that had previously been an auditorium with a capacity of approximately 1,000 people. Subsequently, they were interrogated, beaten and locked naked in a refrigerator chamber, on orders from F01⁹⁸⁷.

517. An army staff sergeant, not in uniform but wearing a badge, placed a bucket of water in the centre of the cooling chamber. The same soldier forced the four men, one by one, to sit in the bucket while he gave them electric shocks. The torture was repeated several times. Repeatedly, the four men were beaten, electrocuted, and forced in and out of the cooling chamber to be repeatedly tortured⁹⁸⁸. The four men were detained at El Escamoto for six days.

518. Every day they were tortured and kept fasting. One of the men saw several people from Santa Elena de Uairén who had been detained arrive at El Escamoto. In the military compound, these people were also beaten and tortured; some had their heads put in buckets of water with the intention of drowning them and others had a blanket put over their bodies and were beaten. These persons were later transferred to a cell located near the dining room.

- f. Institutional response to the unrest in and around Santa Elena de Uairén

519. From 24 February, the chain of command of the military operation was reduced to three people: Justo Noguera, General Mantilla and F01⁹⁸⁹.

520. An *ad hoc* and summary control court was set up in the El Escamoto Command building. The army fetched officials from the judicial circuit of the Bolívar state and transported them to El Escamoto. Among the officials were the judge and president of the Bolívar state judicial circuit, the prosecutor of Court VI and other officials of the justice system⁹⁹⁰. This *ad hoc* tribunal was established to summarily try people who had been detained in the previous ones, both in Santa Elena de Uairén and in Kumarakapay.

⁹⁸² Interview PPIV016.

⁹⁸³ Ibid.; Interview HHIV048.

⁹⁸⁴ Interview HHIV048.

⁹⁸⁵ Ibid.

⁹⁸⁶ Interview HHIV054.

⁹⁸⁷ Interview HHIV054.

⁹⁸⁸ Ibid.

⁹⁸⁹ Interview HHIV057.

⁹⁹⁰ Ibid.

According to one witness, it was actually the Governor of Bolívar state, Justo Noguera Pietri, who decided who should continue to be detained and who should be released.⁹⁹¹

521. From the same day and during the following week, many military and police patrols were carried out. Selective arrests were made, mainly against indigenous leaders and members of the *Guardia Territorial*.⁹⁹²

522. A witness informed the Mission that from Sunday 24 February onwards, F01 together with PNB agents carried out patrols to make selective arrests of people from Santa Elena de Uairén. They were then taken to El Escamoto, where they were tortured and beaten before being handed over to GNB03⁹⁹³.

523. A witness told the Mission that the detainees were taken to El Escamoto in the back of pick-up trucks, which entered through the back of the military detachment, which was out of sight for those in the front of El Escamoto. The detainees were held in a large dormitory and in a soldiers' dining room, a former auditorium with a capacity of approximately 1,000 people, which had been vacated to house the detainees. Two witnesses estimated to the Mission that, over the course of the following days and weeks, there may have been a total of approximately one hundred detainees at El Escamoto, and that most of them may have been tortured⁹⁹⁴.

524. Among those detained were indigenous leaders and members of the *Guardia Territorial* of Santa Elena de Uairén, and of the indigenous communities of Maurak and Kumarakapay, in Gran Sabana. In the days around 28 March, a swap took place, according to which the army released 12 indigenous people who had been detained in the context of the events in Santa Elena de Uairén, the airport and Kumarakapay, in exchange for the Pemón indigenous sector releasing the 43 members of the GNB who had been detained since the violent incidents of 22 February at the Santa Elena de Uairén airport⁹⁹⁵.

525. Over the course of the following days and weeks, the *ad hoc* supervisory court tried the persons detained at El Escamoto. On 19 March 2019, the last 12 detainees were released "with precautionary measures of liberty, [consisting] of appearing every 15 days before the bailiff's office of the Judicial Circuit and under the prohibition of approaching Santa Elena de Uairén". This judicial resolution was reflected in the Boleta de Libertad no. 068/19 of the third judge in control functions, Julennys Rojas Urbano, dated 18 March 2019⁹⁹⁶.

526. Despite the large number of violent deaths that occurred during the violent events of 22, 23 and 24 February 2019, according to the information gathered by the Mission, the State only opened an investigation into the death of a man who, during the course of the riots, allegedly jumped over the perimeter wall of the GNB command in Santa Elena Uairén on Saturday 23 February and was killed by gunfire. According to the official version, on Saturday 23 February, he had allegedly jumped over the perimeter wall of the GNB command in Santa Elena de Uairén and was shot dead by sentries once he was inside the command compound⁹⁹⁷.

V. Sexual and gender-based violence in the context of mining in Bolívar state

A. Introduction

527. Pursuant to Human Rights Council resolution 45/20, the Mission documents incidents of sexual and gender-based violence within its mandate to investigate gross

⁹⁹¹ Interview HHIV054.

⁹⁹² Interview PPIV016.

⁹⁹³ Interview HHIV057.

⁹⁹⁴ Ibid; Interview HHIV054.

⁹⁹⁵ Interview HHIV054.

⁹⁹⁶ Document HHDC039.

⁹⁹⁷ Interview HHIV057.

violations of human rights in the Bolivarian Republic of Venezuela since 2014.⁹⁹⁸ Gender-based violence is violence directed towards, or disproportionately affecting, someone because of their gender or sex. Sexual violence is a specific form of gender-based violence⁹⁹⁹ that encompasses acts of a sexual nature perpetrated by force or by threat of force and coercion, among others.¹⁰⁰⁰ These forms of violence can be committed against any person of any gender and of any age.

528. During its investigation, the Mission sought information on cases of sexual and gender-based violence covering, to the extent possible, the full spectrum of gender identity. However, most of the information received by the Mission corresponds to cases where non-indigenous women, girls and adolescents are the victims.

529. The Mission encountered several challenges in investigating and documenting cases of sexual and gender-based violence in Bolívar state. These include the difficulty in talking to victims or direct witnesses. According to several interviewees, victims and witnesses are often afraid to report or present evidence against alleged perpetrators, or even to talk to external actors. This is compounded by the time and resource constraints of the Mission's mandate, the lack of cooperation from the Venezuelan authorities, and the lack of access to the geographical area. Due to these obstacles, the Mission has not been able to make factual determinations regarding sexual and gender-based violence in accordance with its established methodology.¹⁰⁰¹ Instead, the Mission has limited itself to reflecting general patterns and analyzing these patterns from a gender perspective, based on testimonies and information gathered by the Mission, as well as secondary sources, such as research by other organisations or groups.¹⁰⁰²

530. Similarly, the Mission was unable to document and investigate the extent of sexual and gender-based violence against lesbian, gay, bisexual, transgender and intersex (LGBTI) persons. This is due to the difficulties in accessing victims and witnesses, as well as the general lack of information regarding sexual and gender-based violence against LGBTI persons. As explained by two transgender women interviewed by the Mission, who had fled Bolívar state, homophobic and transphobic threats and attacks are constant, due in part to the lack of laws, policies and institutions that guarantee the rights of LGBTI persons, and the indifference of security forces to these crimes.¹⁰⁰³

531. This chapter describes the gender dynamics linked to mining in Bolívar state and sets out the context in which sexual and gender-based violence, especially against women, takes place in mining areas. It further includes information gathered by the Mission in relation to the patterns of sexual violence in the context of mining, structural factors of violence against women, girls and adolescents, as well as the impacts of sexual and gender-based violence.

B. Gender dynamics linked to mining areas

532. The economic and social dynamics in the context of mining activities in the Arco Minero region and other parts of Bolívar state reflect the inequality and persistence of

⁹⁹⁸ Human Rights Council resolution 45/20: Situation of human rights in the Bolivarian Republic of Venezuela, 6 October 2022, para. 15.

⁹⁹⁹ Office of the High Commissioner for Human Rights, *Integrating a gender perspective into human rights investigations, Guidance and Practice*, 2018, pp. 7-10.

¹⁰⁰⁰ See also, "Any sexual act, attempt to obtain a sexual act, unwanted sexual comments or advances, or acts to traffic or otherwise directed against a person's sexuality using coercion, by any person regardless of their relationship to the victim, in any setting, including but not limited to home and work." PAHO/WHO *Understanding and Addressing Violence against Women. Sexual Violence*. WHO/RHR/12.37, Washington DC: PAHO, 2013.

¹⁰⁰¹ See *supra* chap 1.

¹⁰⁰² The Mission conducted interviews with these organizations/entities to corroborate the applied methodology.

¹⁰⁰³ Interview PPIV035; Interview HHIV056.

harmful gender roles and stereotypes that permeate Venezuelan society as a whole, as identified by the Mission previously.¹⁰⁰⁴

533. According to civil society organizations, gender dynamics related to mining activities are marked by high levels of discrimination against women, girls and adolescents and other traditionally excluded groups, such as the LGBTI population and indigenous people. Such groups are made vulnerable to sexual and gender-based violence.¹⁰⁰⁵ These pervasive forms of discrimination and violence are in turn underpinned by a "patriarchal system"¹⁰⁰⁶ and by cultural norms, beliefs and attitudes that encourage sexual and gender-based violence.¹⁰⁰⁷

534. Gender roles and stereotypes affect many aspects of life in the mines, including employment opportunities, living conditions and the types of violence perpetrated against men or women.¹⁰⁰⁸

1. Female migration to Bolívar state

535. Bolívar is an origin and destination state for migration in Bolívarian Republic of Venezuela, while it is also a transit destination for those seeking to leave the country to go to Brazil, Colombia, Guyana, or Trinidad and Tobago.¹⁰⁰⁹ In addition, the economic crisis in the county has pushed many people to seek opportunities in the various mining areas that have developed in Bolívar in recent years.¹⁰¹⁰

536. Although this internal migration includes both men and women, most women and girls who arrive in the Arco Minero region and other parts of Bolívar state come from the most impoverished areas of the country in search of work opportunities.¹⁰¹¹ A human rights researcher has linked the recent increase in female migration to the financial impact of the Covid-19 pandemic.¹⁰¹²

537. Their precarious situation, low socio-economic status and underlying gender inequality make these women more vulnerable to sexual and gender-based violence.¹⁰¹³ Many of the women who arrive in Bolívar state from other regions have developed protection strategies, such as travelling in groups and seeking out other women to build support networks.¹⁰¹⁴

¹⁰⁰⁴ A/HRC/45/CRP.11, pp. 366 ff.

¹⁰⁰⁵ Centro de Derechos Humanos-UCAB, "Formas contemporáneas de esclavitud de 2021", p. 38; Coalición Equivalencias en Acción, "Mujeres al límite de 2019", p. 85.

¹⁰⁰⁶ Magdymar León Torrealba, "Violencia sexual en la emergencia compleja venezolana", paper presented at a meeting, November 2018, p. 4; Centro de Derechos Humanos-UCAB, "De lo laboral a lo sexual: formas de esclavitud moderna en el estado Bolívar", 22 December 2020, [hereafter "De lo laboral a lo sexual de 2020"] p. 33.

¹⁰⁰⁷ Magdymar León Torrealba, "Violencia sexual en la emergencia compleja venezolana", paper presented at a meeting, November 2018; Coalición Equivalencias en Acción, "Mujeres al límite de 2019"; Centro de Derechos Humanos-UCAB, "De lo laboral a lo sexual de 2020".

¹⁰⁰⁸ Interview PPIV038; Interview PPIV012, Document PPDC006; Interview MMIV045; Interview PPIV028.

¹⁰⁰⁹ Interview HHIV027.

¹⁰¹⁰ Interview HHIV039; Interview PPIV038; Interview NNIV029; Interview PPIV027; Interview PPIV038.

¹⁰¹¹ Interview PPIV038.

¹⁰¹² Interview PPIV042.

¹⁰¹³ Interview PPIV038; Interview MMIV017; Interview PPIV039; Centro de Derechos Humanos-UCAB, "Formas contemporáneas de esclavitud de 2021", p. 35; UN Committee on the Elimination of Discrimination against Women (CEDAW), General Recommendation No. 35, 2017.

¹⁰¹⁴ Interview PPIV013.

2. Data on sexual and gender-based violence in Bolívar state.

538. As indicated above, according to the NGO Observatorio Venezolano de Violencia (OVV), Bolívar was the third most violent state in the Bolivarian Republic of Venezuela in 2021.¹⁰¹⁵

539. According to data collected by the NGO Observatorio Guayanés de Violencia Basada en Género, cases of violence against women in the State of Bolívar increased from 40% between 2018 and 2020 (from 20,307 in 2018, to 24,115 in 2019, and 28,346 in 2020).¹⁰¹⁶ In 2021, the number of recorded cases was 22,109,¹⁰¹⁷ but there may have been unreported cases due to the COVID-19 pandemic.¹⁰¹⁸ According to the Observatorio Guayanés, there were a total of 518 femicides between 2013 and 2021¹⁰¹⁹.

540. The NGO CODEHCIU recorded 260 incidents of gender-based violence in seven municipalities in Bolívar state between December 2021 and April 2022.¹⁰²⁰ In the first four months of 2022, there was a 174% increase in cases of violence against women compared to the same period in 2021.¹⁰²¹

541. Various experts interviewed by the Mission agreed that there is a significant under-reporting of cases of sexual and gender-based violence in Bolívar state. This under-reporting is explained by several factors, including the lack of effective State-run institutions, programmes and services for the documentation and registration regarding sexual and gender-based violence.¹⁰²² This is in addition to the local population's deep mistrust of the justice system; the fear of reprisals by victims who report incidents; and the general stigma surrounding issues related to sexual violence.¹⁰²³ In the particular case of women, the NGO CODEHCIU reported in 2018 that only 10-15% of cases of violence against women in the Guayana region are reported.¹⁰²⁴ Furthermore, CODEHCIU notes that the organisation's figures only reflect incidents reported in media outlets and do not reflect the full picture of violence against women.¹⁰²⁵

542. The under-reporting of sexual and gender-based violence is particularly significant in the case of indigenous women. A study by a coalition of human rights organisations in 2019 linked the lack of data to the barriers faced by indigenous peoples in accessing justice, as well as the implications of gender-based violence within indigenous communities.¹⁰²⁶ However, the indigenous organisation Kapé Kapé has highlighted how mining activity goes hand in hand with an increase in sexual violence against indigenous women. Indigenous women are particularly vulnerable since they effectively face threefold discrimination for being women, indigenous and poor.¹⁰²⁷

¹⁰¹⁵ CODEHCIU, "Violencia Basada en Género – Bolívar. Boletín informativo (diciembre 2021 – febrero 2022)", 2022, p. 4.

¹⁰¹⁶ Ateneo Ecológico del Orinoco, Observatorio Guayanés de Violencia de Género, "Reporte de Incidencia y Prevalencia de la Violencia contra la Mujer, Estado Bolívar", 20 January 2022, Table 3.

¹⁰¹⁷ Ibid.

¹⁰¹⁸ Ibid., p. 9.

¹⁰¹⁹ Ibid.

¹⁰²⁰ CODEHCIU, "Monitoreo de Violencia contra la mujer en los estados Bolívar, Delta Amacuro y Monagas (Diciembre 2021-Abril 2022)", 2022, p. 11.

¹⁰²¹ Ibid.

¹⁰²² Interview MMIV045; Interview PPIV042; Interview HHIV039; Centro de Derechos Humanos-UCAB, "Formas contemporáneas de esclavitud de 2021", p. 43.

¹⁰²³ Interview PPIV036; Interview MMIV045; Interview HHIV039; Interview HHIV038; Interview PPIV042; Interview MMIV044.

¹⁰²⁴ CODEHCIU, "1er boletín informativo de la Comisión para los Derechos Humanos y la Ciudadanía. Junio – Agosto de 2018", 25 October 2018.

¹⁰²⁵ CODEHCIU, "Violencia Basada en Género – Bolívar. Boletín informativo (diciembre 2021 – febrero 2022)", 2022, p. 2.

¹⁰²⁶ Coalición Equivalencias en Acción, "Mujeres al límite de 2019", p. 98.

¹⁰²⁷ Kapé-Kapé, "Aportes sobre Mujeres Indígenas de Venezuela al Relator Especial de Pueblos Indígenas de las Naciones Unidas", 4 March 2022.

543. The Mission notes that the prevalence of high rates of violence suggests significant shortcomings in the Venezuelan State's compliance with its obligation to prevent and punish sexual and gender-based violence.¹⁰²⁸

3. Living conditions and gendered division of labour in the mines

544. Work in the mines and its management are highly male-dominated activities where control and decision-making are mostly in the hands of men. This is true for both state officials and for criminal groups, who have established a parallel state system in many mines under their control.¹⁰²⁹ The Mission has obtained information from different sources confirming that in the mines, men tend to carry out jobs that require greater physical strength, while women predominantly do auxiliary jobs such as cleaning and cooking, as well as sex work.¹⁰³⁰

545. However, despite mining being predominantly carried out by men, the Mission has also received several testimonies stating that some women work as miners.¹⁰³¹ A woman who worked at Cuatro Muertos mine in Las Claritas, Sifontes municipality, told the Mission that she was joined by women of all ages in doing mining work, from young girls to older women.¹⁰³² According to another source, the rules and working conditions inside these mines are the same for both male and female miners, and both have to pay fees to *sindicatos*.¹⁰³³

546. Information received by the Mission also indicates that children and women of slight build are, due to their physical size, used to enter small spaces to locate and open gold veins.¹⁰³⁴ They are also tasked with manning the artisanal pulleys that raise and lower equipment, sandbags and stones into the mines,¹⁰³⁵ or work in rivers to extract gold with gold pans.¹⁰³⁶

547. Living conditions inside most mines are very poor, and many mines lack water, electricity and sanitation facilities.¹⁰³⁷ This means that many people working in the mines do not have access to toilets, or have to pay for their use in mines where latrines are available.¹⁰³⁸ This can be considered a vulnerability factor that increases women's and girls' risk of sexual and gender-based violence, for example, when they have to go to the toilet alone in isolated areas or at night.¹⁰³⁹ In addition, without adequate toilets, women are also at high risk of infection or other health problems related to menstruation.¹⁰⁴⁰

¹⁰²⁸ Provided for in international instruments such as: United Nations, Convention on the Elimination of Discrimination against Women (CEDAW), 3 September 1981, United Nations Treaty Series, vol. 1249, p. 13; OAS, Inter-American Convention on the Prevention, Punishment and Eradication of Violence against Women, Convention of Belém do Pará (1994).

¹⁰²⁹ Coalición Equivalencias en Acción, "Mujeres al límite de 2019", p. 101; Centro de Derechos Humanos-UCAB, "De lo laboral a lo sexual de 2020", pp. 9-10.

¹⁰³⁰ Interview PPIV038; Interview PPIV012; Interview MMIV045; Interview PPIV028; Document MMDC010; Document PPDC006; Centro de Derechos Humanos-UCAB, "Formas contemporáneas de esclavitud de 2021", pp. 35-36.

¹⁰³¹ Interview MMIV045; Interview PPIV028; Interview PPIV038; Interview MMIV039; Document MMDC010; Centro de Derechos Humanos-UCAB, "Formas contemporáneas de esclavitud de 2021".

¹⁰³² Document PPDC006.

¹⁰³³ Interview PPIV028.

¹⁰³⁴ Interview HHIV027; CODEHCIU, "Informe Semestral de Casos de Violencia contra la Mujer en el Estado Bolívar Julio-Diciembre 2020".

¹⁰³⁵ CODEHCIU, "Informe Semestral de Casos de Violencia contra la Mujer en el Estado Bolívar Julio-Diciembre 2020".

¹⁰³⁶ Interview MMIV045; Centro de Derechos Humanos-UCAB, "Formas contemporáneas de esclavitud de 2021", pp. 35-36.

¹⁰³⁷ Interview MMIV045; Document MMDC010; Centro de Derechos Humanos-UCAB, "De lo laboral a lo sexual de 2020", p.16.

¹⁰³⁸ Document MMDC010.

¹⁰³⁹ UN, Report of the Special Rapporteur on the human right to safe drinking water and sanitation, A/HRC/33/49, pp. 27-28.

¹⁰⁴⁰ Ibid.

548. On the other hand, childcare in mining areas is often the responsibility of women.¹⁰⁴¹ The lack of safe childcare options means that many children are left without adult supervision in the mines during the day, increasing their risk to various types of violence, including sexual abuse and labour exploitation.¹⁰⁴²

4. Conditions affecting sex workers, mostly women

549. The Mission has received information from numerous witnesses confirming the prevalence of female sex work in mines in the Arco Minero region, particularly in the mines of El Callao and Sifontes municipalities, and in the main squares of their respective capitals, El Callao and Tumeremo.¹⁰⁴³ According to information received by the Mission, sex workers in the mining areas of Bolívar state are almost exclusively women (including some transgender women) and girls. They come from the Bolívar state, other parts of the country and Brazil.¹⁰⁴⁴

550. Several sources claim that sex work, alongside the sale of drugs and alcohol, are key sources of income for *sindicatos* that control the mines, in addition to revenue from mining.¹⁰⁴⁵ In the words of one witness, "[t]he gold that the miners extract, they immediately spend it on these things, and the money stays with the *sindicato*."¹⁰⁴⁶

551. According to information received by the Mission, sex work in mining areas takes various forms. In almost all of the mines there is a place where sexual services can be bought, either in a bar or in premises designated for this purpose, colloquially known as *currutelas*¹⁰⁴⁷ (from *corruptelas*, a term introduced by the Brazilian *garimpeiros*). Most of the premises where sexual services are sold are run by private individuals, under the authorisation and "protection" of the armed groups that control the area, to whom the owner of the *currutela* has to pay a fee.¹⁰⁴⁸

552. In urban and peri-urban centres, women, girls and adolescents often offer sexual services in the streets and squares, as in the cases of El Callao and Sifontes.¹⁰⁴⁹ In these settings, some sex workers are popularly known as *cafeseras*, as they appear to be selling coffee, but it is generally known that they also offer sexual services.¹⁰⁵⁰

553. All the women sex workers in the mining areas with whom the Mission was able to speak denied having been forced to do this work, but also explained that they did it out of necessity, trying to improve their economic situation and that of their families.¹⁰⁵¹ One of them also told the Mission about the physical and sexual violence, including rape, she and

¹⁰⁴¹ Interview PPIV033; Coalición Equivalencias en Acción, "Mujeres al límite de 2019", p. 99.

¹⁰⁴² Document PPDC008; Interview PPIV042.

¹⁰⁴³ Interview JJIV005; Interview PPIV039; Interview PPIV028; Interview MMIV039; Interview PPIV012; Interview PPIV017; Interview PPIV042; Document PPDC006; Interview MMIV039; Interview PPIV041; Interview PPIV010; Document MMDC010; Centro de Derechos Humanos-UCAB, "Formas contemporáneas de esclavitud de 2021", pp. 35-36; Bram Ebus, "El crecimiento del Arco Minero de Venezuela barre a los pueblos y culturas indígenas", Mongabay, 24 January 2018.

¹⁰⁴⁴ Interview MMIV045; Centro de Derechos Humanos-UCAB, "Formas contemporáneas de esclavitud 2021", p. 38.

¹⁰⁴⁵ Interview MMIV039; Interview MMIV045; Interview PPIV010; Centro de Derechos Humanos-UCAB, "Formas contemporáneas de esclavitud de 2021".

¹⁰⁴⁶ Interview PPIV040.

¹⁰⁴⁷ Interview MMIV045; Interview PPIV015; Interview PPIV010; Interview PPIV013; Centro de Derechos Humanos-UCAB, "De lo laboral a lo sexual de 2020", p. 16; Coalición Equivalencias en Acción, "Mujeres al límite de 2019", p. 99.

¹⁰⁴⁸ Interview MMIV045; Centro de Derechos Humanos-UCAB, "De lo laboral a lo sexual de 2020", p. 38; Coalición Equivalencias en Acción, "Mujeres al límite de 2019".

¹⁰⁴⁹ Interview HHIV027; Interview MMIV041; Yohanna Marra, "Prostitutas de Tumeremo dicen a sus familiares que trabajan como cocineras", Crónica Uno, 4 May 2016.

¹⁰⁵⁰ Interview MMIV041; Interview MMIV039; Interview PPIV042.

¹⁰⁵¹ Interview PPIV036; Interview PPIV035; Interview HHIV056; Interview HHIV055; Interview MMIV017.

other female colleagues suffered near the bus station of the locality known as Kilómetro 88, which she never reported for fear of reprisals.¹⁰⁵²

C. Patterns of sexual and gender-based violence

1. General considerations

554. Sexual and gender-based violence in the context of mining takes on different forms of sexual exploitation. This could constitute sexual slavery, forced prostitution and/or trafficking in persons, as well as other forms of sexual violence, including rape, threats, and specific corporal punishment with a strong gender component.

555. The information gathered by the Mission refers almost exclusively to acts of sexual and gender-based violence against women and girls in Bolívar state, particularly in the context of mining. As the United Nations Committee on the Elimination of Discrimination against Women (CEDAW) has stated, sexual and gender-based violence against women is "one of the fundamental social, political and economic means by which the subordinate position of women with respect to men and their stereotyped roles are perpetuated".¹⁰⁵³

556. A women's rights defender interviewed by the Mission explained that "getting into the mines is very easy for women. The problem is to get out of there in one piece: not raped, not chased by a man, not hurt".¹⁰⁵⁴

557. *Sindicato* members have been identified as the main perpetrators of sexual and gender-based violence in the mining context. Women and girls are also victims of rape by State agents.

2. Sexual exploitation of women in the mining context

558. The Mission has been able to identify that there is a differentiated pattern of sexual exploitation of women, girls and adolescents in Bolívar state that is based on a culture of ownership of women's bodies for the sexual use and enjoyment of men. Gender power relations, in a context of insecurity and violence, facilitate the commission of acts of sexual violence, including rape.

(a) Forms of sexual exploitation

559. By definition, sexual exploitation refers to "the obtaining of financial or other benefits through the involvement of another person in prostitution, sexual servitude or other kinds of sexual services, including pornographic acts or the production of pornographic materials".¹⁰⁵⁵

560. Exploitation of the prostitution of others (or forced prostitution) is "the unlawful obtaining of financial or other material benefit from the prostitution of another person."¹⁰⁵⁶ Both sexual exploitation and forced prostitution have in common economic and social gain, using "threat, coercion, abduction, force, abuse of authority, debt bondage or fraud."¹⁰⁵⁷

¹⁰⁵² Interview PPIV036.

¹⁰⁵³ CEDAW, General Recommendation No. 35, 2017, para. 10.

¹⁰⁵⁴ Interview PPIV039.

¹⁰⁵⁵ UN Working Group on Trafficking in Persons, *Analysis of key concepts of the Trafficking in Persons Protocol*, CTOC/COP/WG.4/2010/2, 9 December 2009, paras. 9-12; CEDAW, General Recommendation 19, 1992, para. 14; UN, *Secretary-General's Bulletin on Special Measures for Protection from Sexual Exploitation and Sexual Abuse*, ST/SGB/2003/13, 2003; Council of Europe Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse, 25 October 2007; A/HRC/RES/23/25, paras. 13 and 14.

¹⁰⁵⁶ UN Working Group on Trafficking in Persons, *Analysis of key concepts of the Trafficking in Persons Protocol*, CTOC/COP/WG.4/2010/2, 9 December 2009; CEDAW, General Recommendation 19, 1992, para. 12.

¹⁰⁵⁷ United Nations Working Group on Trafficking in Persons, *Analysis of key concepts of the Trafficking in Persons Protocol*, CTOC/COP/WG.4/2010/2, 9 December 2009, paras. 9-12.

561. Sexual slavery is defined as (a) exercising one of the powers attached to the right of ownership such as purchasing, selling, lending or bartering, or by imposing on them a similar deprivation of liberty, for the purpose of engaging in (b) acts of a sexual nature.¹⁰⁵⁸ It differs from forced prostitution in that there is no payment or exchange of services, even if the former is against the will of the person being forced.

562. Trafficking in persons, according to the definition of the Palermo Protocol, has to fulfil three main elements: (a) an action ("the recruitment, transportation, transfer, harbouring or receipt of persons"), by (b) means ("of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person"), with (c) a specific purpose.¹⁰⁵⁹ These purposes include the exploitation of the prostitution of others (forced prostitution), other forms of sexual exploitation and slavery.

563. The key element in proving the crime of trafficking for sexual purposes (i.e., either the exploitation of the prostitution of others, other acts of sexual exploitation or slavery) is the fulfilment of the specific action element of trafficking. This means that trafficking for sexual purposes always constitutes a form of sexual exploitation; however, not all cases of sexual exploitation constitute trafficking, as it is necessary to be able to prove the action element mentioned above.

564. A central element of these crimes is the abuse of power over the victims. This abuse of power is centred, in the case of Bolívar state, on taking advantage of the situation of vulnerability in which the exploited people find themselves and derives from the power exercised by those who control the mining activity and the impunity with which they exercise and abuse this power. Every woman and girl who approaches the mine is at risk of either being recruited into forced prostitution or being exploited against her will.

(b) Sexual and gender-based violence accounts

565. The Mission has received allegations of the use, for varying lengths of time, of women and girls in the mines for the sexual enjoyment of *pranes* and members of the *sindicatos*. This use involves widespread violence against them, including rape.¹⁰⁶⁰

566. A miner who worked in several mines in El Callao between 2002 and 2021 said that members of the *sindicatos* raped the women they wanted to: "if a *malandro* [gang member] liked a woman, he would go and get her and she couldn't refuse".¹⁰⁶¹ This miner heard of many cases of women offering themselves to gang members to protect their daughters: "The *malandros* would come looking for the girls, and the mothers would beg to sleep with them instead, to protect their daughters."¹⁰⁶²

567. A person who worked as a military officer in Bolívar state said that many women go to the mines on their own, where they are prevented from leaving and having visits or contacts.¹⁰⁶³ In another similar case, a woman miner told the Mission about an acquaintance of hers who went with another friend to a mine controlled by *sindicatos* to work. Both were sent for by the leaders who controlled the mine and, although they refused at first, they were threatened with weapons and eventually forced to stay and have sex with them for several months.¹⁰⁶⁴

¹⁰⁵⁸ Rome Statute of the International Criminal Court, Articles 7(1)(g)-2, 8(2)(b)(xxii)-2 and 8(2)(e)(vi)-2. See also, 1926 Slavery Convention, Article 1(1); 1956 Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery, Article 7.

¹⁰⁵⁹ Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime, 15 November 2000, Article 3(a).

¹⁰⁶⁰ Interview PPIV036; Interview PPIV042; Interview PPIV028.

¹⁰⁶¹ PPIV028.

¹⁰⁶² Ibid.

¹⁰⁶³ Interview PPIV041.

¹⁰⁶⁴ Interview EEIV028.

568. A study by the Andrés Bello Catholic University (UCAB) in 2020 on forms of slavery in Bolívar state included the case of a 15-year-old girl who a year earlier, in a square in Tumeremo, was harassed by an armed young man who wanted to take her with him to a mine. The girl refused and was threatened with death. The teenager was then forced to go to the mine with the young man; once a month the members of the *sindicato* allowed her to go down to the village to see her mother, but always under supervision.¹⁰⁶⁵

569. A woman who had been a sex worker in the locality known as Kilómetro 88, in Sifontes municipality, told the Mission that, in mid-2019, she witnessed the kidnapping of a teenage girl aged between 12 and 13 who was working as a prostitute. A man, whom the witness identified as a member of a *sindicato*, started talking to the teenager and forced her into the car with him, despite her attempts to escape. The witness never saw her again.¹⁰⁶⁶

570. According to testimony collected by an NGO, to which the Mission had access, a woman who worked in a mine in Las Claritas (Sifontes municipality) until 2018, recounted the case of a miner who wanted to have sex with one of the girls working in the mine. Although the girl refused, the man held her for several days against her will.¹⁰⁶⁷

571. Information obtained by the Mission from researchers, civil society organisations and witnesses confirmed that many women in sex work have moved to mining areas due to a lack of economic alternatives, seeking work to survive.¹⁰⁶⁸ Furthermore, according to one researcher, women "get trapped by violence and power relations established by the *pranato* system."¹⁰⁶⁹ Thus, women are often forced to engage in sexual services without being free to leave the mines or premises where they work, according to the terms set by third parties who take advantage of their social and economic situation and under threat of violence.¹⁰⁷⁰

572. According to one researcher, there is a real risk of physical harm, and even death, in the mining environment if women refuse to have sex with a man.¹⁰⁷¹ A woman who worked in a mine in Las Claritas until 2018 stated that, in the mine, women who refuse a man are beaten and abused. She said that, if a woman is solicited by a member of the *sindicato*, "the only way she gets out of there unfortunately is if she has died, because they won't let her leave of her own will".¹⁰⁷²

573. According to another researcher, who spent several months in 2018 in the mines of Las Claritas, sex workers could not move from the mine without the authorization of the *sindicato*, as "they were there to offer an essential service to the miners".¹⁰⁷³ He also spoke to two women sex workers, who told him that they could not talk to him "because if the *pranato* found out they would kill them".¹⁰⁷⁴

574. The Mission has also been able to identify elements that, due to the circumstances in which women arrive and remain in the mining areas, could constitute trafficking for sexual purposes. For example, according to information received by the Mission, women and adolescents are recruited for sexual exploitation through false offers of employment in different contexts.¹⁰⁷⁵ Then, upon arrival in mining areas, they are forced into sex work.¹⁰⁷⁶

¹⁰⁶⁵ Centro de Derechos Humanos-UCAB, "De lo laboral a lo sexual de 2020", p. 10.

¹⁰⁶⁶ Interview PPIV036.

¹⁰⁶⁷ Document PPDC006.

¹⁰⁶⁸ Interview PPIV042; Interview PPIV013; Interview PPIV012; Interview MMIV045; Interview NNIV037.

¹⁰⁶⁹ Interview MMIV045.

¹⁰⁷⁰ Interview MMIV045; Interview JJIV001; Centro de Derechos Humanos-UCAB, "Esclavitud moderna y explotación laboral en Venezuela con especial énfasis en las condiciones del estado Bolívar", 3 March 2021, p. 28; Kapé-Kapé, "Informe sobre violencia minera en AMO, 2021".

¹⁰⁷¹ Interview PPIV040.

¹⁰⁷² Document PPDC006.

¹⁰⁷³ Interview MMIV045.

¹⁰⁷⁴ Ibid.

¹⁰⁷⁵ Interview MMIV043; Interview HHIV037; CDH- UCAB, "Formas contemporáneas de esclavitud de 2021", p. 36.

¹⁰⁷⁶ Ibid.

575. In one case reported to the Mission by a researcher, a young woman from the lower-middle class was contacted through a Facebook sales group and offered work in the mines as a cook, hairdresser, clothes washer or to otherwise attend to the needs of the mine workers, in exchange for a good salary. The purpose of the organisation was, however, to forcefully prostitute her.¹⁰⁷⁷ Such dynamics are facilitated by a popular perception in Bolívar's neighbourhoods and towns, which regard working in the mines as an easy way to make money.¹⁰⁷⁸

576. Finally, the Mission has also received allegations of State officials taking advantage of women and abusing their positions of power to obtain sex for free, sometimes also physically abusing them. A humanitarian organization in Angostura municipality received a complaint in 2021 of a sex worker who was mistreated by a client who was a GNB soldier, who did not respect the conditions and did not pay her what she had agreed to. When the woman went to report this to the police, she did not feel able to do so as one of the police officers was also a client at the bar where she worked.¹⁰⁷⁹ The Mission interviewed a woman who was refused payment by a soldier because "he had forgotten his wallet"; she reported it to the GNB but was told that it was not within their mandate to respond.¹⁰⁸⁰ The Mission also interviewed a person who documented several cases in 2016 of sex workers in Santa Elena de Uairén who were refused payment for their work by GNB and police officers.¹⁰⁸¹

577. Information gathered by the Mission indicate the use of coercive means, such as violence, intimidation or abuse of power, to impede the freedom of movement and to sexually exploit women and girls involved in sex work in mining areas, who are in a vulnerable situation. These findings could indicate the existence of forms of forced prostitution and/or sex trafficking, and even sexual slavery. However, in order to corroborate such conclusions according to the standard of reasonable grounds to believe, further research is needed. One challenge that the Mission faced in investigating sexual and gender-based crimes is the difficulty in accessing direct victims or witnesses, due to their fear of speaking to third parties. This is compounded by the difficulties of investigating crimes or human rights violations as complex as human trafficking, as well as the challenges many people experience in identifying themselves as victims of trafficking.

3. Sexual exploitation of children and adolescents through prostitution

578. Gender dynamics and inequalities have normalised the sexual exploitation of children¹⁰⁸² in the mines of Bolívar state. The Mission understands commercial sexual exploitation of children to be "the sexual exploitation by an adult of a child or adolescent below 18 years of age that involves a transaction in cash or in kind to the child or to one or more third parties". This may include, among other forms of sexual exploitation, the use of children in remunerated sexual activities or sex trafficking.¹⁰⁸³

579. Some of the testimonies collected by the Mission, girls and adolescents claim to have freely chosen to participate in sex work. The Mission, however, considers, based on international legal standards, that consent is not valid in the case of children and adolescents under 18 years of age in situations of exploitation and abuse, regardless of the age of sexual consent defined in the national law in question.¹⁰⁸⁴

¹⁰⁷⁷ Interview MMIV044.

¹⁰⁷⁸ Interview MMIV043.

¹⁰⁷⁹ Interview PPIV015; Interview PPIV042.

¹⁰⁸⁰ Interview HHIV055.

¹⁰⁸¹ Interview PPIV015.

¹⁰⁸² Convention on the Rights of the Child, Article 1 (1989). The Convention defines a "child" as any person under the age of 18. This includes children and adolescents.

¹⁰⁸³ *Commercial sexual exploitation of children and adolescents* (ILO, 2014). See also ILO Convention (No. 182) on the Worst Forms of Child Labour, 1999.

¹⁰⁸⁴ Article 1 of the Convention on the Rights of the Child states that "for the purposes of the present Convention, a child means every human being below the age of eighteen years unless under the law applicable to the child, majority is attained earlier". See also, Inter-Agency Working Group on Sexual

580. Sexual exploitation of girls and adolescents is particularly frequent in mines. Local organizations specialized in the rights of indigenous peoples have denounced that many of the *currutelas* and places where sex work takes place enslave indigenous girls and adolescents. Female prostitutes are furthermore increasingly younger, due to a preference for younger girls.¹⁰⁸⁵

581. According to the testimony of a man who worked in several mines in Sifontes municipality in 2016 and 2017, there were sex workers in all the mines, including girls aged 12 and older.¹⁰⁸⁶ Girls were almost always put to work in the early hours of the morning, while older women worked in the evenings.¹⁰⁸⁷ Another witness who spoke to the Mission and who worked in San Luis de Morichal mines between May and July 2018 claims to have seen at least 25 children working in the *currutelas* in these mines.¹⁰⁸⁸ According to the testimony of a woman who worked in a mine in Las Claritas, which the Mission has reviewed, there was a woman in the mine known as “La Abuela”, who forced girls between the ages of 11 and 13 into prostitution; the miners harassed, insulted and beat the girls.¹⁰⁸⁹

582. Girls who are alone and/or in extreme poverty are particularly vulnerable to exploitation.¹⁰⁹⁰ According to a report by the NGO Centro Comunitario de Aprendizaje (CECODAP), in the Vista al Sol neighbourhood of San Felix, girls and adolescents go to the mines knowing that they will work in sexual activities, and their families see it as normal, or even support it because of their financial needs.¹⁰⁹¹ In some cases, sexual exploitation is coordinated by third parties who receive and manage the payment for their services.¹⁰⁹² One of the external researchers interviewed stated that recruiters seek out girls in particular because “they tend to be more vulnerable, docile and go unnoticed”.¹⁰⁹³ According to a human rights defender, girls and adolescents under the age of 18 are the most highly paid in *currutelas* and other sites for prostitution.¹⁰⁹⁴

583. A researcher documented the case of a 16-year-old girl who was tricked into going to Santa Elena de Uairén to take care of children but was then lured to offer sexual services.¹⁰⁹⁵ A miner who worked at the La Ramona mine near Tumeremo in 2017 explained to an NGO that on weekends at the mine, parties were organised where girls' virginities were auctioned off, with younger girls getting a higher price. He also spoke of boys being offered, depending on the miner's sexual interest.¹⁰⁹⁶

584. The Mission interviewed an indigenous adolescent girl who had offered sexual services between 2018 and 2020 in La Paragua square, Angostura municipality, when she was between 14 and 16 years old. She said that no one forced her and that she did it out of necessity, stating that this was “normal in Venezuela”.¹⁰⁹⁷ Her clients were miners and State armed forces who paid her in gold or cash, which she used to rent her own room to work. The girl explained that no one knew her real name and that she took alcohol and drugs such

Exploitation of Children and Adolescents. “Terminological Guidelines for the Protection of Children and Adolescents from Sexual Exploitation and Sexual Abuse”, p. 36, 2016.

¹⁰⁸⁵ Document PPDC009; Interview JJIV001.

¹⁰⁸⁶ The specific mines mentioned are: San Antonio de Roscio (indigenous mine); Paruruaca; El Dorado; El 88; La Leona; El Lápiz; El cuaderno; La tijera; El vapor; Morichal; San Martin de Turumpán (indigenous mine); Apanaú 1; Apanaú 2; Apanaú 3; El Tigrito.

¹⁰⁸⁷ Interview PPIV012.

¹⁰⁸⁸ Interview PPIV015.

¹⁰⁸⁹ Document PPDC006.

¹⁰⁹⁰ Interview PPIV038; Wanaaleru, “Cómo afecta la minería a las mujeres indígenas”, 26 July 2016.

¹⁰⁹¹ Centro Comunitario de Aprendizaje (CECODAP), “Informe especial: Peligros y Vulneraciones de DDHH de Niños, Niñas y Adolescentes en la Frontera y Actividades Mineras”, 2018.

¹⁰⁹² Interview PPIV042; Document PPDC006; Document PPOS009.

¹⁰⁹³ Interview PPIV038.

¹⁰⁹⁴ Interview PPIV013.

¹⁰⁹⁵ Interview HHIV027.

¹⁰⁹⁶ Interview PPIV040.

¹⁰⁹⁷ Interview MMIV017.

as marijuana, nitrite and cocaine to be able to bear her work, as they allowed her not to feel emotional pain and to be more cheerful with the clients.¹⁰⁹⁸

585. Between October and November 2016, in Santa Elena de Uairén, Gran Sabana municipality, near a place known as "Las Cuatro Esquinas", the *Guardia Territorial*, the GNB, the police and other State bodies responsible for the protection of children¹⁰⁹⁹ carried out an intervention to offer 43 sex workers health services in the face of an increase in sexually transmitted diseases (STDs). According to a person involved in the intervention, some eight girls between the ages of 13 and 16 were identified among the 43 sex workers. Among them, two sisters aged 14 and 16, originally from Maturín, Monagas State, had travelled to Santa Elena de Uairén having been promised work as domestic servants, but were instead forced into prostitution.¹¹⁰⁰

586. Based on the testimonies gathered by the Mission, there is evidence of a situation of sexual exploitation of girls and adolescents in the mining areas in Bolívar state. The Mission identified indications of recruitment and transfer of minors to be exploited in the context of the mines, which are constituent elements of child trafficking.

587. More research is needed to document the existence and *modus operandi* of alleged trafficking networks in Bolívar state.

588. Likewise, testimonies gathered by the Mission attest to the presence of State agents in *currutelas* where girls and adolescents are sexually exploited through prostitution. The Mission interviewed a woman who explained that it is common for State actors to exploit adolescents and then not pay them.¹¹⁰¹ These testimonies are indicative of the State's acquiescence with this type of practice, as well as the absence of effective and efficient measures to investigate sexual exploitation, or to protect girls and adolescents from it.

589. According to civil society organisations operating in Bolívar state, the sexual exploitation of women, girls and adolescents has become naturalised and occurs in a context of lack of protection and control by State authorities.¹¹⁰² This is despite the presence of several security forces, especially the GNB, at several checkpoints or *alcabalas* along Troncal 10, on the secondary routes to the mines and at the border posts to Brazil.¹¹⁰³ For example, according to the testimony of a 19-year-old girl who in late January 2020 went with a friend from Ciudad Bolívar to Upata to work in a mine as a cook, during the journey she had to pass through 17 *alcabalas* guarded by state officials: an average of one *alcabala* every ten kilometres.¹¹⁰⁴

590. No source, witness, or victim with whom the Mission has been in contact has recalled witnessing or hearing of security forces stopping unaccompanied girls, despite the high rates of sexual violence. One investigator told the Mission that while some operations are carried out to identify trafficking networks, they are very sporadic because, in general, sexual exploitation is tolerated: "there is a tacit agreement between public officials and criminal groups. It is not formal, but everyone knows about it."¹¹⁰⁵

¹⁰⁹⁸ Ibid.

¹⁰⁹⁹ Including a body created under the 2007 Organic Law for the Protection of Children and Adolescents.

¹¹⁰⁰ Interview PPIV015.

¹¹⁰¹ Ibid.

¹¹⁰² Interview HHIV039; Interview PPIV042; UPR 2016 - Summary prepared by the Office of the United Nations High Commissioner for Human Rights pursuant to paragraph 15 (c) of the annex to Human Rights Council resolution 5/1 and paragraph 5 of the annex to Council resolution 16/21 No. A/HRC/WG.6/26/VEN/3. Available at: <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G16/187/19/PDF/G1618719.pdf?OpenElement>

¹¹⁰³ Interview PPIV042; Interview MMIV043; Interview PPIV040; Interview MMIV018; Interview PPIV031; Document MMDC010.

¹¹⁰⁴ Video interview, Document MMDC010.

¹¹⁰⁵ Interview PPIV042.

4. Sexual violence at *alcabalas* and border crossings

591. According to victims and witnesses, there is a common pattern of sexual violence against women in the context of checkpoints, or *alcabalas*, and border controls, generally involving state agents.

592. In July 2018, at the Casa Blanca *alcabala*, located at the intersection between Troncal 10 and the road to San Martín de Turumbán, north of Gran Sabana municipality, a witness saw a military officer stop a teenage girl of no more than 15 years of age, check her purse, and make sexual advances; the officer refused to return her ID card until the girl gave him her phone number.¹¹⁰⁶ The United Nations Population Fund (UNFPA) has also documented cases in which members of the security forces refused to return women's and girls' documents, preventing them from continuing on their way, if they did not agree to perform sexual acts for them.¹¹⁰⁷

593. One researcher spoke to seven Venezuelan women in countries bordering the Bolivarian Republic of Venezuela, who said that when they crossed the Venezuelan border in 2020 they were stopped by armed men patrolling the border crossings, and forced to have sex with them under threat of death or not being allowed to cross. Some of these women said they were also subjected to the same treatment by GNB troops.¹¹⁰⁸

594. In September 2021, a Venezuelan woman travelling with her children along Troncal 10 from El Callao to Brazil told the Mission that, as she passed through various *alcabalas*, several members of the GNB asked her have sex with them in order to let her pass.¹¹⁰⁹

595. A Venezuelan transgender woman told the Mission that in late December 2020 she tried to cross the official border from the Bolivarian Republic of Venezuela to Brazil, which was closed due to the Covid-19 pandemic. The officer controlling the border asked her for a bribe in order to cross the border. This led her to try to cross the border through an informal crossing, known as a *trocha*, where she encountered members of an armed criminal group, who were also demanding bribes to let people through. Seeing that the woman had no money or other goods, one of them forced her to engage in sexual intercourse in exchange for letting her pass.¹¹¹⁰

5. Sexual violence and gender-differentiated punishments by armed criminal groups

596. Armed criminal groups indiscriminately use violence as a form of social control inside the mines, including corporal punishment and killings. Although both men and women are victims of such violence,¹¹¹¹ information received by the Mission indicate that the type of corporal punishment imposed by *sindicatos* usually varies depending on the victim's gender.¹¹¹² Punishments inflicted on women are often intended to disfigure them, with their faces cut or their heads shaved, sometimes violently to the point of scalp damage;¹¹¹³ men are often punished with amputations and injuries to their hands or feet.¹¹¹⁴ Rape or other acts of sexual violence is sometimes used as a form of punishment, mostly against women.¹¹¹⁵

¹¹⁰⁶ Interview PPIV039.

¹¹⁰⁷ United Nations Population Fund (UNFPA), *GBV in Contexts of Human Mobility: Qualitative Information Gathering on Needs in the Area of Gender-Based Violence in Contexts of Human Mobility in Border Zones of Venezuela: Bolívar state*, pp. 45-46, December 2020.

¹¹⁰⁸ Interview PPIV042.

¹¹⁰⁹ Interview PPIV041.

¹¹¹⁰ Interview PPIV035.

¹¹¹¹ Interview PPIV041; Interview PPIV028; Interview MMIV041; Interview HHIV045.

¹¹¹² Interview PPIV040; Interview PPIV041; Centro de Derechos Humanos-UCAB, "Formas contemporáneas de esclavitud de 2021", p. 34.

¹¹¹³ Interview PPIV041; Interview PPIV040; Interview PPIV042.

¹¹¹⁴ Interview PPIV028; Interview MMIV041; Interview HHIV045; Interview PPIV040. See *supra* chap. 3.

¹¹¹⁵ Interview PPIV040; Interview PPIV042.

597. A 2021 UCAB study in the Guayana region documented cases of punishment inflicted on women in the mines for violating rules imposed by the armed group in charge. Among these punishments, women were forced to walk around the village naked, or with signs or messages written on their bodies.¹¹¹⁶

598. The Mission interviewed an indigenous girl who was a sex worker in La Paragua, Angostura municipality, about the punishment suffered by another girl who worked with her. This girl wanted to quit sex work and leave La Paragua, but she did not have enough money to do so. One night she decided to steal gold from a drunken client. The next day, he asked for help from the members of a *sindicato* that controlled La Paragua to get his gold back. They found the gold in the girl's room and "beat her hard, cut off her hair, cut off her finger, and left her in the jungle". The young woman died on the way to the hospital in Ciudad Bolívar.¹¹¹⁷

599. The same armed groups film women being punished and circulate the videos on WhatsApp groups in the mining community. One researcher told the Mission that she had spoken to a 15-year-old girl who was a victim of this type of punishment in 2020 and had seen the video of herself being raped and having her hair cut off by members of a criminal group for "spilling information".¹¹¹⁸

600. A witness who was in a shelter for Venezuelan refugees in September 2021 told the Mission that she saw at least 30 women with scars from cuts on their faces, near their mouths, or with their ears cut off. These women were called *las desechadas* ("the discarded ones"), because the *sindicatos* had disfigured them for having violated one of the rules governing life in the mining industry, or for having angered a member of the *sindicato*. A woman with a scar on her face told the same source that her face was "cut off" for defending her brother at La Tomy mine in Tumeremo.¹¹¹⁹

601. According to one researcher, the punishments of disfiguring women's faces are intended to strip women of their value according to prevailing beauty standards. As one expert explained to the Mission: "Being a beautiful woman has value in the mines. If you disfigure her, you take away her value. For men, it doesn't matter to be pretty. Their value is to be able to work in the mine".¹¹²⁰

6. Other forms of sexual and gender-based violence by State actors

602. The Mission has received information about other forms of sexual and gender-based violence by State actors that particularly affect women and girls. Although such violence takes place in different contexts, similar patterns of devaluing and objectifying women's bodies, assaulting and sexually threatening them, repeat themselves. Violence against women is a form of discrimination that, even when it occurs in a public space, is rooted in a context of domination in which it is normalised and accepted within different spheres of society.

603. The Mission received information about how violations during incursions into mines by State security forces, allegedly to combat illegal mining, affected women and men in particular ways. Such operations occur in particular when a *bullá*, a new vein of gold, is discovered in the mine.¹¹²¹

604. A miner witnessed several military raids on mines in El Callao between 2002 and 2021. Once, in mid-2021, in Los Caballos mine near Tumeremo, Sifontes municipality, the military arrived and forced all the people to lay on the ground, physically assaulting young male miners who, because of their gender, age and physical appearance, they assumed were members of *sindicatos*. The military threatened them with guns to their heads, beat them,

¹¹¹⁶ Interview HHIV055; Centro de Derechos Humanos-UCAB, "Formas contemporáneas de esclavitud de 2021", p. 34.

¹¹¹⁷ Interview MMIV017.

¹¹¹⁸ Interview PPIV042.

¹¹¹⁹ Interview PPIV041.

¹¹²⁰ Interview PPIV040.

¹¹²¹ Interview PPIV028.

pulled their hair and kicked them, while accusing them of being gang members.¹¹²² When women were present during the raids, the soldiers insulted them by calling them "whores"¹¹²³ and threatening that they would "rape them in the bush".¹¹²⁴

605. Threats of a sexual nature are also commonplace against women detainees, as the Mission has documented in its previous reports and in its second conference room paper that accompanies this one. In the case of Bolívar state, indigenous women leaders have been particularly targeted. In 2019, an indigenous woman leader was detained by security forces in Gran Sabana municipality and received sexual threats against her daughters. The indigenous leader was taken to an office for interrogation by several members of the armed forces and Government officials. During this meeting, she alleges that one of the officers threatened to attack her daughters, saying: "Do you know that you have very pretty girls?" The leader was eventually released, but because of these threats, she decided to send her daughters, 12 and 13 years old, to live in another country.¹¹²⁵

D. Impacts of sexual and gender-based violence

606. The Mission analyzed open-source information from organizations and academic institutions that highlight that the high levels of sexual and gender-based violence in the context of mining, and how asymmetrical power relations have a particular impact on women. This includes serious physical, psychological and personal consequences, affecting their life goals and future plans.¹¹²⁶ At the same time, the lack of response from the authorities has allowed such violence to take place in total impunity. It is worth mentioning that, in environments such as the one described in this document, the consequences and adverse impacts on people's health and lives are not exclusively related to the sexual and gender-based violence experienced, but to all the abuses they face in the context of mining as a whole.

607. These patterns of sexual and gender-based violence have created a permanent climate of fear and mistrust towards state actors, due to their perceived participation in or acquiescence of the crimes.¹¹²⁷ In the words of one social leader, "[t]he very fear generates silence in this environment".¹¹²⁸

608. One source described being rejected by the community for having practised sex work.¹¹²⁹ In other cases, sex work is less stigmatized by women's relatives, who, although they do not want to know the details, accept the work because of the income women send from the mines.¹¹³⁰ According to a human rights specialist interviewed by the Mission, "women who prostitute themselves in mining areas are called 'cooks' in a derogatory way and in an attempt to hide the reality behind it. This is also a way of romanticising violence against women. It is even said as a joke on social networks".¹¹³¹ The same happens with gender punishments: shaving women's hair - a part of their identity - as a punishment, or stripping them naked in front of the rest of the community, is a form of humiliation with impact on the individual and societal level.¹¹³²

609. The presence of armed criminal groups in mines and their sexual exploitation of indigenous women has had an individual physical, sexual and psychological impact on

¹¹²² Ibid.

¹¹²³ Ibid.

¹¹²⁴ Ibid.

¹¹²⁵ Interview PPIV015.

¹¹²⁶ Centro de Derechos Humanos-UCAB, "Formas contemporáneas de esclavitud de 2021".

¹¹²⁷ Interview PPIV040.

¹¹²⁸ Interview HHIV039; Interview PPIV039.

¹¹²⁹ Centro de Derechos Humanos-UCAB, "Formas contemporáneas de esclavitud de 2021", p. 13.

¹¹³⁰ Interview PPIV038.

¹¹³¹ Interview MMIV044.

¹¹³² Interview PPIV040; Interview PPIV042.

women. It has also affected indigenous families, since indigenous women are the main pillars of the families and the transmitters of knowledge, values and wisdom.¹¹³³

610. Breaking the cycle of violence has not been easy for many of the women who have experienced sexual and gender-based violence. Even after leaving the mining areas, women may remain vulnerable, unable to break out of harmful power dynamics and violence. For example, a young woman who was a sex worker in the *Kilómetro 88* mining area fled to a country bordering the Bolivarian Republic of Venezuela out of fear of abuse and mistreatment by clients. Once there, she began a relationship with a man who soon began to mistreat her. This led her to move to another city, but as she was unable to find another job and, to support her son, she continued to work as a sex worker.¹¹³⁴

611. In the case of many transgender women, it is even more difficult to leave contexts of violence and develop personal life goals outside of them. They experience intersectional discrimination because they are women and because they are transgender, facing a great deal of discrimination, threats and violence from men in the streets, with very little protection from authorities.¹¹³⁵

612. Mining areas, and particularly mines farther away from urban areas, lack access to basic health services, let alone sexual and reproductive health services and commodities.¹¹³⁶ For example, condoms and other contraceptive methods are difficult to find in the mines, and according to one miner interviewed by the Mission can be sold for "up to 20 times the price" of that in towns, meaning women are often forced to have unprotected sex.¹¹³⁷

613. According to an NGO specialising in children's rights, these dynamics have had a direct impact on the health of people living in the mining areas, increasing the rates of STD infections and in particular the human immunodeficiency virus (HIV), including among children.¹¹³⁸ This situation of violence has also had a clear impact on Guayanese children, breaking the basis of family units.¹¹³⁹

614. In addition, pregnancy rates, including teenage pregnancy, have increased due to the lack of access to contraceptives, the normalisation of sexual relations with children, and the prevalence of teenage sex.¹¹⁴⁰ Several people interviewed by the Mission who were in mines in El Callao, Las Claritas, and Tumeremo, saw many girls between 12 and 17-years-old pregnant or caring for children.¹¹⁴¹ The high prevalence of early pregnancies clearly affects the future plans and life opportunities of mothers, their partners - in many cases also under 17 - and their children, exacerbating their situation of poverty and their vulnerability to further abuse and violence.

615. The patterns of sexual and gender-based violence documented by the Mission reflect a particular vulnerability of women, girls and adolescents, as a result of poverty, the control exercised by criminal groups and widespread insecurity in the mining areas of Arco Minero and other areas of Bolívar state. Many indigenous women and girls are particularly vulnerable to these forms of violence and are victims of intersectional discrimination because they are women, indigenous and often poor.

616. Among the identified patterns of sexual and gender-based violence, the Mission found evidence of trafficking for sexual purposes, including child trafficking, as well as evidence of practices that could amount to forced prostitution and even sexual slavery. Rape and other acts of sexual violence through coercion, threats, or the abuse of power or

¹¹³³ Kapé-Kapé, "Aportes sobre Mujeres Indígenas de Venezuela al Relator Especial de Pueblos Indígenas de las Naciones Unidas", 4 March 2022.

¹¹³⁴ Interview PPIV036.

¹¹³⁵ Interview PPIV035.

¹¹³⁶ Document PPDC006; Interview MMIV045.

¹¹³⁷ Interview MMIV045.

¹¹³⁸ Interview NNIV037.

¹¹³⁹ Document PPDC009.

¹¹⁴⁰ Interview PPIV039.

¹¹⁴¹ Interview PPIV033; Interview PPIV042; Interview PPIV039; Interview PPIV040; Interview NNIV037.

vulnerability, are also common. Such practices generally occur in mining areas, where women, girls and adolescents are often sexually exploited by *sindicatos*. The Mission has documented how survivors of sexual and gender-based violence suffer a range of impacts that affect their health, life experiences and life goals and future plans, but also those of their families and communities.

VI. The Mission's determinations

A. General considerations

617. The human rights violations and crimes described in this report may give rise to State responsibility under international human rights law. They may also give rise to individual criminal responsibility under domestic criminal law.

618. The following paragraphs will analyze the various contributions of individuals, institutions or entities in the commission of human rights violations, and possibly in the commission of domestic or international crimes. This analysis will be conducted on the basis of the Mission's mandate to investigate gross human rights violations, such as extrajudicial executions, enforced disappearances, arbitrary detentions, torture and other cruel, inhuman or degrading treatment or punishment, including sexual and gender-based violence, committed since 2014.¹¹⁴²

619. It is important to remember that the Mission's determinations are based on two types of verifications: (i) that the violation or offence occurred, and (ii) that the identified person is responsible. The standard of proof applied is "reasonable grounds to believe". This standard is lower than both the standard required for a criminal conviction ("beyond reasonable doubt") and the standard required to substantiate an indictment. However, it is sufficiently high to justify further investigation.

620. The Mission is not a judicial body. The determination of the individual criminal responsibility of the persons mentioned in this section must be made by the competent judicial authorities.

B. National and international legal framework

621. The facts documented by the Mission were assessed in light of the obligations arising from international¹¹⁴³ and regional¹¹⁴⁴ human rights and international criminal law¹¹⁴⁵

¹¹⁴² A/HRC/RES/45/20.

¹¹⁴³ International Convention on the Elimination of All Forms of Racial Discrimination, 10 October 1967; International Covenant on Economic, Social and Cultural Rights, 10 May 1978; International Covenant on Civil and Political Rights, 10 May 1978; Convention on the Elimination of All Forms of Discrimination against Women, 2 May 1983; Convention on the Rights of the Child, 13 September 1990; Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, 29 July 1991; International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, 25 October 2016; Convention on the Rights of Persons with Disabilities, 24 September 2013. The Bolivarian Republic of Venezuela is also party to: First Optional Protocol to the International Covenant on Civil and Political Rights, establishing an individual complaints mechanism, 10 May 1978; Second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at the abolition of the death penalty, 22 February 1993; Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women on individual complaints and enquiry procedures, 13 May 2002; Optional Protocol to the International Covenant on Economic, Social and Cultural Rights, on individual complaints and enquiry procedures, 10 October 2018; Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography, 8 May 2002; Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict, 23 September 2003; Optional Protocol to the Convention on the Rights of Persons with Disabilities, 24 September 2013.

¹¹⁴⁴ *American Convention on Human Rights, "Pact of San José de Costa Rica", 23 June 1977; Inter-American Court of Human Rights, "IACHR expresses its deep concern over the effect of Venezuela's*

treaties to which the Bolivarian Republic of Venezuela is a party. Where appropriate, the Mission also considered relevant standards under Venezuelan domestic law.

622. Among the customary and conventional human rights standards binding on the Bolivarian Republic of Venezuela are those relating to the five human rights violations and/or crimes that form the core of the Mission's mandate: (1) extrajudicial executions; (2) enforced disappearances; (3) arbitrary detentions; (4) torture and other cruel, inhuman or degrading treatment or punishment; and (5) sexual and gender-based violence. The Mission's mandate includes the investigation of such gross human rights violations with the aim of combating impunity and ensuring full accountability of perpetrators and justice for victims.¹¹⁴⁶

623. As analyzed in greater depth in the Mission's 2020 report, some of these human rights violations correspond to conduct that qualifies as international crimes, specifically crimes against humanity.¹¹⁴⁷ Likewise, these violations correspond, to a greater or lesser extent, to offences under Venezuelan criminal law.¹¹⁴⁸

1. Extrajudicial killings

624. Under international human rights law, the right to life is the supreme non-derogable right, even in situations of armed conflict and other public emergencies that threaten the existence of the State.¹¹⁴⁹ The international legal regime applicable to extrajudicial executions is based on the norms and provisions of international treaties and customary law. These norms have not codified a definition of extrajudicial killing. However, the latter has been developed on the basis of the jurisprudence of regional and international human rights and international criminal law courts, as well as *soft law* norms.¹¹⁵⁰

625. Human rights law establishes that the protection of the right to life imposes a positive obligation on States to ensure that no one is arbitrarily deprived of his or her life. Law enforcement and public officials may use lethal force as a measure of last resort only when strictly necessary to protect life or prevent serious injury in the face of an imminent threat.¹¹⁵¹ These norms are reflected in the Venezuelan legal system.¹¹⁵²

denunciation of the American Convention", press release, 10 September 2012; BBC, "Venezuela submits formal request to leave the Organization of American States (OAS)", 28 April 2017; Organisation of American States, "Permanent Council accepts appointment of permanent representative designated by the National Assembly of Venezuela to the OAS", press release, 09 April 2019; Organisation of American States, "Inter-American Convention to Prevent and Punish Torture", 25 June 1991; Organisation of American States, Protocol to the American Convention on Human Rights to Abolish the Death Penalty, 6 April 1994; Organisation of American States, Inter-American Convention on the Prevention, Punishment and Eradication of Violence against Women ("Convention of Belém do Pará"), 16 January 1995; Inter-American Convention on Forced Disappearance of Persons, 6 July 1998.

¹¹⁴⁵ Rome Statute, 17 July 1998.

¹¹⁴⁶ A/HRC/RES/45/20.

¹¹⁴⁷ A/HRC/45/33/CRP.11, paras. 22 et ff.

¹¹⁴⁸ *Ibid.*

¹¹⁴⁹ The right to life is protected by the International Covenant on Civil and Political Rights, art. 6(1); Convention on the Rights of the Child, art. 6; Convention on the Rights of Persons with Disabilities, art. 10; Universal Declaration of Human Rights, art. 3, American Declaration of the Rights and Duties of Man, art.1; American Convention on Human Rights, art. 4, as well as the Inter-American Convention on the Prevention, Punishment and Eradication of Violence against Women ("Convention of Belém do Pará", art. 4). See also Human Rights Committee General Comment No. 36, para. 2 (CCPR/C/GC/36), 3 September 2019.

¹¹⁵⁰ The UN Principles on the Effective Prevention and Investigation of Extra-legal, Arbitrary and Summary Executions (1989), and its companion document, Minnesota Protocol on the Investigation of Potentially Unlawful Killings, [hereinafter "Minnesota Protocol"], HR/PUB/17/4, 2017.

¹¹⁵¹ Code of Conduct for Law Enforcement Officials [hereinafter "Code of Conduct"], A/RES/34/109, 17 December 1989, art. 3; Basic Principles on the Use of Force and Firearms by Law Enforcement Officials [hereinafter "Basic Principles"], A/RES/41/149, 4 December 1986, art. See, for example, *Montero-Aranguren et al. (Catia Detention Centre) v. Venezuela*, 5 July 2005, Inter-American Court

626. Accordingly, any person acting in any public capacity may only use firearms under justified conditions and circumstances.¹¹⁵³ Furthermore, when authorities know or should know of potentially unlawful deprivations of life, they are obliged to investigate and, where appropriate, prosecute the perpetrators of such incidents, including those involving allegations of excessive use of force with lethal consequences.¹¹⁵⁴ The Mission has analyzed whether facts in the cases documented qualify as extrajudicial killings or other forms of arbitrary deprivation of life.

627. The Rome Statute does not contain any specific provision on extrajudicial executions. Rather, in the article on crimes against humanity, the Rome Statute criminalizes as murder the act of killing or causing death to one or more persons in the context of a widespread or systematic attack directed against a civilian population, with knowledge of the attack.¹¹⁵⁵

628. Extrajudicial executions have not been codified as specific crimes in Venezuelan criminal law. However, homicide is criminalized in Article 407 of the Penal Code, which states that "[w]hoever intentionally kills any person shall be punished with imprisonment for twelve to eighteen years." The Mission notes that the Penal Code does not provide for a qualified or aggravated form of homicide when perpetrated by agents of the State or their collaborators, including security forces, in abuse of their functions.¹¹⁵⁶ However, the Penal Code does include malicious aforethought and abuse of authority as aggravating circumstances for any crime, including homicide.¹¹⁵⁷

2. Enforced disappearances

629. The Bolivarian Republic of Venezuela is a party to the International Convention for the Protection of All Persons from Enforced Disappearance and the Inter-American Convention on Enforced Disappearance of Persons. Under international human rights law, an enforced disappearance occurs when three elements are combined: (i) the deprivation of liberty against the will of the person or persons; (ii) the involvement of agents of the State or of persons or groups of persons acting with the authorization, support or acquiescence of the State; and (iii) the failure or refusal to acknowledge the deprivation of liberty or the concealment of the fate or whereabouts of the disappeared person.¹¹⁵⁸

630. According to the Rome Statute, the enforced disappearance of persons may constitute a crime against humanity if committed in the context of a widespread or systematic attack directed against a civilian population, with knowledge of the attack.¹¹⁵⁹

631. The 1999 Constitution prohibits enforced disappearances,¹¹⁶⁰ a prohibition that cannot be suspended during states of emergency.¹¹⁶¹ Similarly, the Venezuelan Penal Code punishes the crime of enforced disappearance, punishing "[t]he public authority, whether civil or military, or any person in the service of the State who illegitimately deprives a person of his or her liberty, and refuses to acknowledge the detention or to provide information on the fate or situation of the disappeared person, preventing the exercise of his

of Human Rights, Series C, No. 150, paras. 68-69; *Zambrano Vélez et al. v. Ecuador*, 4 July 2007, Inter-American Court of Human Rights, Series C, No. 166, para. 84.

¹¹⁵² 1999 Constitution, art. 43; and its violation is criminalized in the 2005 Penal Code, arts. 405 ff..

¹¹⁵³ Code of Conduct; Basic Principles.

¹¹⁵⁴ See Human Rights Committee, General Comment No. 36 (Right to life), CCPR/C/GC/36, para. 27.

¹¹⁵⁵ Rome Statute, art. 7(1)(a); A/HRC/45/CRP.11, para. 31; A/HRC/48/CRP.5, para. 337.

¹¹⁵⁶ 2005 Penal Code, arts. 406, 406(3)(b), 407(2).

¹¹⁵⁷ *Ibid.* art. 77(1) and (8).

¹¹⁵⁸ Inter-American Convention on Forced Disappearance of Persons (1994), art. 2.

¹¹⁵⁹ Rome Statute, art. 7(2)(i). The Mission notes that the Rome Statute contemplates an additional constitutive element for the crime of enforced disappearance as a crime against humanity, in particular the intention to place such person or persons outside the protection of the law for a prolonged period of time. The fact that this element is not contemplated in Venezuelan law broadens the scope of application of the law. See ICC, *Elements of Crimes*, 2002 [hereinafter "Elements of Crimes"], art. 7(1)(i).

¹¹⁶⁰ 1999 Constitution, art. 45.

¹¹⁶¹ *Ibid.* See also Organic Law on States of Emergency of 2001, art. 7.

or her constitutional and legal rights and guarantees."¹¹⁶² The crime of enforced disappearance does not have a statute of limitation and those responsible for its commission cannot enjoy pardon or amnesty.¹¹⁶³

632. The Mission notes that the definition of enforced disappearance in the Criminal Code applies only to state agents, and does not provide for criminal responsibility of persons or groups of persons acting with the control, collaboration or acquiescence of the state. Similarly, by limiting protection against enforced disappearances to unlawful deprivation of liberty, the Penal Code does not currently provide protection against all forms of deprivation of liberty.¹¹⁶⁴

3. Arbitrary detentions

633. The Bolivarian Republic of Venezuela is a party to the International Covenant on Civil and Political Rights (ICCPR), which prohibits arbitrary arrest or detention, as well as unlawful deprivation of liberty, or deprivation of liberty not imposed in accordance with procedures established by law.¹¹⁶⁵ A detention is considered arbitrary when it is not in conformity with domestic law or with the relevant international standards set out in international instruments accepted by the State concerned.¹¹⁶⁶ The fundamental guarantee against arbitrary detention is non-derogable.¹¹⁶⁷ The ICCPR also establishes the right to a fair trial and due process.¹¹⁶⁸

634. Imprisonment or other severe deprivation of physical liberty constitutes a crime against humanity when committed as part of a widespread or systematic attack against any civilian population.¹¹⁶⁹

635. The 1999 Venezuelan Constitution prohibits arbitrary detentions.¹¹⁷⁰ The Venezuelan Organic Code of Criminal Procedure enshrines a series of procedural guarantees aimed at protecting the right to due process. The Penal Code criminalizes the unlawful deprivation of liberty with a prison sentence of 15 to 30 months.¹¹⁷¹ The penalty for unlawful deprivation of liberty is aggravated when the deprivation of liberty is committed by a "public official [in] abuse of his or her functions".¹¹⁷²

4. Torture and other cruel, inhuman or degrading treatment

636. The Convention against Torture (CAT) defines torture as acts that cause severe pain or suffering, whether physical or mental. These acts must be inflicted intentionally and with the involvement of a public official, either directly or indirectly. To constitute torture, the acts must be committed for a specific purpose, such as extracting a confession, obtaining information, punishment, intimidation, humiliation, coercion or any reason based on discrimination.¹¹⁷³ Under the CAT, States have a positive obligation to take effective measures to prevent all acts of torture and cruel, inhuman or degrading treatment or punishment, and to investigate promptly any allegations of such treatment.¹¹⁷⁴

637. According to the Rome Statute, torture constitutes a crime against humanity when committed in the context of a widespread or systematic attack directed against any civilian

¹¹⁶² 2005 Penal Code, art. 181-A.

¹¹⁶³ Ibid.

¹¹⁶⁴ See *Case of Blanco Romero et al. v. Venezuela*, Inter-American Court of Human Rights, Series C, No. 138, 28 November 2005, para. 105.

¹¹⁶⁵ See A/HRC/45/CRP.11, para. 40.

¹¹⁶⁶ Ibid.

¹¹⁶⁷ Ibid. para. 41.

¹¹⁶⁸ Ibid.

¹¹⁶⁹ Rome Statute, art. 7(1)(e); Elements of Crimes, art. 7(1)(e). See A/HRC/45/CRP.11, para. 43. See A/HRC/48/CRP.5, para. 348.

¹¹⁷⁰ 1999 Constitution, art. 44.

¹¹⁷¹ 2005 Penal Code, art. 175.

¹¹⁷² Ibid. art. 177.

¹¹⁷³ Convention against Torture, art. 1.

¹¹⁷⁴ Ibid. art 2.

population, with knowledge of the attack.¹¹⁷⁵ Torture is defined as "intentionally causing severe pain or suffering, whether physical or mental, to a person in the custody or under the control of the accused; however, torture does not include pain or suffering arising only from, or being the normal or incidental consequence of, lawful sanctions."¹¹⁷⁶

638. The Special Law to Prevent and Punish Torture and Other Cruel, Inhuman and Degrading Treatment defines torture as "acts by which pain or suffering, whether physical or mental, is intentionally inflicted on a person for such purposes as obtaining from him or a third person information or a confession, to punish him for an act he has committed, or to intimidate or coerce him or others, or for any reason based on discrimination of any kind, when such suffering is inflicted by or at the instigation of or with the consent of a public official or other person acting in an official capacity".¹¹⁷⁷

639. The Act provides for a prison sentence of 15 to 25 years for the commission of the offence of torture.¹¹⁷⁸ The law also criminalizes the offence of cruel treatment¹¹⁷⁹ and the offence of inhuman or degrading treatment.¹¹⁸⁰ The law also punishes public officials for covering up acts of torture¹¹⁸¹ or for failing to denounce them,¹¹⁸² as well as any individual who participates as a material or intellectual author of acts of torture.¹¹⁸³

5. Sexual and gender-based violence

640. International human rights law does not contain an explicit definition of sexual and gender-based violence. However, the term "gender-based violence" refers to any harmful act directed against a person or group of persons because of their gender.¹¹⁸⁴ "Sexual violence" describes acts of a sexual nature that are committed without a person's consent, often through the use of force or coercion.¹¹⁸⁵ These acts may violate several of the rights contained in regional and international human rights treaties, such as the right to be protected from torture and other ill-treatment¹¹⁸⁶ or the right to health.¹¹⁸⁷ Some of the acts

¹¹⁷⁵ Rome Statute, art. 7(1)(f); A/HRC/45/CRP.11, para. 49.

¹¹⁷⁶ Rome Statute, art. 7(2)(e); International Criminal Court, "Elements of Crimes", 2002, art. 7(1)(f).

¹¹⁷⁷ Special Act to Prevent and Punish Torture and Other Cruel, Inhuman and Degrading Treatment or Punishment 2013 [hereinafter "Torture Act 2013"], section 5(2).

¹¹⁷⁸ *Ibid.*, 2013, art.17.

¹¹⁷⁹ *Ibid.*, arts. 5(3) and 18.

¹¹⁸⁰ *Ibid.*, arts. 5(4) and 21.

¹¹⁸¹ *Ibid.*, art. 19.

¹¹⁸² *Ibid.*, art. 31.

¹¹⁸³ *Ibid.*, art. 20.

¹¹⁸⁴ See UN Women, "Frequently Asked Questions: Types of violence against women and girls", available at: <https://www.unwomen.org/es/what-we-do/ending-violence-against-women/faqs/types-of-violence>; UNHCR, "Gender-based violence", available at: <https://www.acnur.org/violencia-sexual-y-de-genero.html>.

¹¹⁸⁵ See Convention on the Elimination of All Forms of Discrimination Against Women (1979); Declaration on the Elimination of Violence Against Women, adopted by the General Assembly (1993); Rome Statute (1998) and International Criminal Court, Elements of Crimes, art. 7(1) (g)-6.

¹¹⁸⁶ International Covenant on Civil and Political Rights, art. 7; Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, arts. 1, 16; International Convention on the Elimination of All Forms of Racial Discrimination, art. 5(b); Convention on the Rights of the Child, arts. 19, 37(a); Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography; International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, arts. 10, 16(1) and 16(2). At the regional level, see American Convention on Human Rights, art. 5(2); Inter-American Convention on Human Rights, art. 5. 5(2); Convention of Belem do Para; Inter-American Convention to Prevent and Punish Torture; African Charter on Human and Peoples' Rights, art. 5(5); Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa, arts. 11(3) and 14(2)(c); African Charter on the Rights and Welfare of the Child, arts. 16, 17(2)(a), 21, 22(1) and (3); 27; African Commission on Human and Peoples' Rights, Guidelines and Measures for the Prohibition and Prevention of Torture, Cruel, Inhuman or Degrading Treatment or Punishment in Africa [hereinafter "Robben Island Guidelines"]; Arab Charter on Human Rights art. 8; European Convention on Human Rights art. 3; Council of Europe Convention on preventing and combating violence against women and domestic

that fall under the category of sexual violence are rape,¹¹⁸⁸ forced prostitution,¹¹⁸⁹ trafficking for sexual exploitation, sexual abuse of children, sexual slavery,¹¹⁹⁰ forced nudity,¹¹⁹¹ and sexual harassment.¹¹⁹²

641. Trafficking for sexual exploitation is considered a form of gender-based violence as it disproportionately affects women and girls. Trafficking in persons is defined as "the recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability, or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation".¹¹⁹³ Therefore, three elements must be present for a situation of trafficking in (adult) persons to exist: (i) action (recruitment); (ii) means (threat) and (iii) purpose (exploitation).¹¹⁹⁴ Exploitation includes both the exploitation of the prostitution of others (forced prostitution) or other forms of sexual exploitation, as well as slavery or slavery-like practices.¹¹⁹⁵

642. According to the Rome Statute, rape, sexual slavery, enforced prostitution, forced pregnancy, enforced sterilization or any other form of sexual violence of comparable gravity constitutes a crime against humanity, when committed in the context of a widespread or systematic attack directed against any civilian population, with knowledge of the attack.¹¹⁹⁶

643. In Venezuelan law, both the Penal Code and the Organic Law on Women's Right to a Life Free of Violence (2007) prohibit acts of sexual violence,¹¹⁹⁷ which include rape¹¹⁹⁸ and lascivious acts.¹¹⁹⁹ The 2007 law also defines other forms of sexual violence including forced prostitution,¹²⁰⁰ sexual slavery¹²⁰¹ and sexual harassment,¹²⁰² among others. The law

violence (2014), art. 36; European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment.

¹¹⁸⁷ Optional Protocol to the International Covenant on Economic, Social and Cultural Rights, art. 12, see also Committee on Economic, Social and Cultural Rights, General Comment No. 14, para. 8.

¹¹⁸⁸ *World Report on Violence and Health* (WHO, 2002), pp. 149-150. See also Declaration on the Elimination of Violence against Women, adopted by the General Assembly, 20 December 1993, art. 2; Report of the Special Rapporteur on violence against women, including its causes and consequences, E/CN.4/1998/54, para. 130.

¹¹⁸⁹ Elements of Crimes, Art. 8(2)(b)(xxii)-3 and 8(2)(e)(vi)-3.

¹¹⁹⁰ Elements of Crimes, Art. 8(2)(b)(xxii)-1 and 8(2)(e)(vi)-1.

¹¹⁹¹ *Prosecutor v. Kunarac*, ICTY, Trial Chamber, ICTY-96-23-T, Judgement of 22 February 2001, paras. 766-774.

¹¹⁹² Sexual harassment has been defined as "unwanted behaviour of a sexual nature [such as] physical contact and advances, comments of a sexual nature, display of pornography and sexual demand, whether by words or actions", Committee on the Elimination of Discrimination against Women, General Recommendation No. 19, para. 18; See also Council of Europe, Convention on preventing and combating violence against women and domestic violence (2014), art. 40.

¹¹⁹³ Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime, A/RES/55/25 of 15 November 2000 [hereinafter "Trafficking Protocol"], art. 3(a).

¹¹⁹⁴ OHCHR, *Human Rights and Human Trafficking*, Fact Sheet No. 36, 2014 [hereinafter "OHCHR Fact Sheet No. 36"], p. 3. International law provides a different definition for trafficking in children (persons under the age of 18), according to which the existence of a "means" is not required. It is only necessary to prove: (i) the existence of an "action", such as recruitment, sale or purchase; and (ii) that such action was specifically for the purpose of exploitation. *Ibid.*

¹¹⁹⁵ Trafficking Protocol, art. 3(a).

¹¹⁹⁶ Rome Statute, art. 7(1)(g); A/HRC/45/CRP.11, para. 53.

¹¹⁹⁷ 2005 Penal Code, arts. 374-375; Organic Law on Women's Right to a Life Free of Violence of 2007 [hereinafter "Organic Law on Women's Right 2007"], arts. 43-44.

¹¹⁹⁸ 2005 Penal Code, art. 374; Organic Law on Women's Rights 2007, art. 43.

¹¹⁹⁹ 2005 Penal Code, arts. 376, 374; Organic Law on Women's Rights 2007, art. 45.

¹²⁰⁰ *Ibid.*, art. 46.

¹²⁰¹ *Ibid.*, art. 47.

¹²⁰² *Ibid.*, art. 48.

also establishes a special procedure for crimes against women¹²⁰³ and establishes specialized courts (Violence against Women Courts) to prosecute crimes under the law.¹²⁰⁴ The Mission notes that the definition of sexual violence in the Organic Law is limited to acts committed against women and girls, to the exclusion of other genders.

644. Article 54 of the 1999 Constitution prohibits "[t]rafficking in persons and, in particular, trafficking in women, children and adolescents". Article 174 of the Penal Code punishes the enslavement of any person, including the slave trade, with "imprisonment of six to twelve years". Article 15 of the Organic Law on the Right of Women to a Life Free of Violence recognizes trafficking in women, children and adolescents as a form of violence against women.¹²⁰⁵ According to the Organic Law, trafficking is punishable with a sentence of between 20 and 25 years in prison, and between 25 and 30 years when the victims are girls and adolescents.¹²⁰⁶

C. Analysis and legal determinations in cases documented by the Mission

645. The following is an analysis of individual and State responsibility arising in relation to the human rights violations and crimes documented in this report. These determinations are made in relation to the incidents whose details have been described in the preceding chapters. The Mission briefly recapitulates the facts that are proven, based on the "reasonable grounds to believe" standard, and then proceeds to an analysis of responsibility.

646. As emphasized above, this analysis does not amount to a determination of criminal responsibility, given that the Mission is not a judicial body. Such determination can only be made by national or international authorities that would investigate these facts, determine individual responsibility in accordance with the principles of due process, make judgements on proven conducts and impose sanctions. The Mission merely concludes that there is reason to believe that certain individuals bear responsibility for the incidents and should therefore be investigated.

1. The Tumeremo massacre, Sifontes municipality (4 March 2016)

(a) Factual determinations of the Mission

647. The Mission has reasonable grounds to believe that on 4 March 2016, alleged members of the *sindicato* of Jamilton Andrés Ulloa Suárez (alias "El Topo") carried out a massacre - understood as a series of multiple killings - in order to take control of the mine known as the Bulla de Atenas, in the vicinity of Tumeremo, Sifontes municipality.

648. On the night between 3 and 4 March 2016, starting from 9 p.m., a group of around 50 to 60 armed men, allegedly belonging to the said *sindicato*, arrived in the area around the mine. These men were armed with R-15 rifles, shotguns and pistols.¹²⁰⁷ According to eyewitnesses, some of them were wearing SEBIN and CICPC bulletproof vests.¹²⁰⁸

649. On 4 March, members of the *sindicato* of "El Topo" set up an improvised *alcabala* near the El Peregrino farm, located on the road that leads to the Bulla de Atenas, an hour away from the town of Atenas and about 15 minutes from the town centre of Tumeremo.¹²⁰⁹ At the *alcabala*, members of the *sindicato* stopped vehicles passing by on the road and ordered passengers to get out for identification.¹²¹⁰ Among these, "El Topo's" men killed at

¹²⁰³ Ibid., arts. 94-113.

¹²⁰⁴ Ibid., arts. 115-123.

¹²⁰⁵ Ibid., art. 15(8).

¹²⁰⁶ Ibid., art. 72.

¹²⁰⁷ Interview NNIV039; Interview HHIV046; Document NNDD051; COFAVIC, "Informe Final sobre caso de los Mineros asesinados en Tumeremo estado Bolívar", 9 May 2016.

¹²⁰⁸ Interview NNIV039; Interview HHIV046; Interview HHIV025.

¹²⁰⁹ Interview NNIV039; Interview HHIV046; Interview HHIV025.

¹²¹⁰ Interview HHIV025; Interview HHIV046.

least 17 people (including two women and 15 men). They took the bodies out of the area in trucks, and subsequently hid them. Some of these people were tortured before being killed.

(b) Responsibility

650. Based on the description of the Tumeremo case above, the Mission has reasonable elements to consider that on 4 March 2106, armed men belonging to a local *sindicato* killed at least 17 people, including two women. These violent deaths could fall within the criminal offences codified in the Venezuelan Penal Code.¹²¹¹ Specifically, TITLE IX, "*crimes against persons*", of this code contains Chapter I, "*homicide*", where, between articles 407 and 414, different types of homicide are typified, therefore criminalizing the violent death of persons.

651. The Mission considers that, although there is information indicating that alleged members of SEBIN and CICPC participated in the attack, this is insufficient to consider such participation as proven. As noted above, eyewitnesses have told the Mission that some of the armed men who participated in the attack wore bulletproof vests bearing the SEBIN and CICPC acronyms.¹²¹² However, the Mission considers that the testimonies received do not allow a conclusion, with reasonable grounds to believe, that the armed men wearing the bulletproof vests were indeed members of SEBIN or CICPC, or that these collaborated in the provisions of the bulletproof vests. Further investigation would be necessary to determine these matters.

652. There is also evidence to support the existence of an omission by State agents of their duty to prevent these violations. The men of "El Topo" maintained an active checkpoint or illegal *alcabala* on the road leading to the Bulla de Atenas. At this *alcabala*, they held approximately 600 people for more than ten hours. When they identified people suspected of belonging to a rival *sindicato*, they moved them off the road,¹²¹³ and killed them at a distance of 50 to 100 metres.¹²¹⁴ The GNB maintained a permanent *alcabala* at a nearby point. Testimonies received by the Mission claim that the GNB agents must have been aware of what was happening given the proximity.¹²¹⁵ However, the Mission has not been able to determine how far away the GNB post was. Subsequently, 17 bodies were transported in trucks that had to pass along the road in front of an *alcabala* controlled by the GNB.¹²¹⁶

653. The Mission recognizes that the combination of a series of factors - such as the use of the bulletproof vests, the existence of official *alcabalas* in the vicinity, the number of persons who were detained, the fact that the murders took place about 100 meters from the *alcabala* set up by the *sindicato* and the transfer of the bodies through routes with official *alcabalas* - support the hypothesis that the agents of the State security forces, in effect, must have been aware that the crimes were being committed. However, in light of the applicable standard of proof, these indications do not allow to conclude that there are reasonable grounds to believe that there was complicity, by action or omission, on the part of the security forces. Further investigation would be necessary to determine these issues.

654. The Mission has received information that a commission of enquiry, chaired by the then Ombudsman, Tarek William Saab, was set up to lead the investigation into the massacre. Efforts were made by the Public Prosecutor's Office and officials of the FANB and the CICPC to search for the bodies of the dead.¹²¹⁷ As a result of its investigation, the Public Prosecutor's Office requested an arrest warrant for "El Topo" and other members of his *sindicato*.¹²¹⁸ Subsequently, "El Topo" was killed in a confrontation and a total of 12

¹²¹¹ 2005 Penal Code.

¹²¹² Interview HHIV025; Interview NNIV039; Interview HHIV046.

¹²¹³ Interview HHIV046.

¹²¹⁴ Interview NNIV039; Interview HHIV046; Interview HHIV027.

¹²¹⁵ Interview HHIV025; Interview NNIV039; Interview HHIV046.

¹²¹⁶ Interview HHIV025; Interview HHIV046; Interview NNIV046.

¹²¹⁷ Document NNDD048; COFAVIC, "Informe final sobre caso de los mineros asesinados en Tumeremo estado Bolívar", 9 May 2016.

¹²¹⁸ Document NNDD048.

persons from his *sindicato* were arrested in connection with the Tumeremo massacre. They were charged with various crimes, including murder, criminal association and aggravated robbery. They were remanded in custody.¹²¹⁹

655. The Mission has no information indicating that the justice system has investigated whether state agents played a role in the Tumeremo massacre. There is no mention of this in the official report of the Public Prosecutor's Office, nor in the judicial records of the cases against the accused, to which the Mission had access.¹²²⁰ Likewise, the Mission has formally requested the Bolivarian Republic of Venezuela to provide information on the existence and status of criminal cases, if any, where these events are being investigated. At the time of writing, the Mission has not received any response. Consequently, there are indications that the State has failed its duty to investigate the role of its State agents in the perpetration of the serious human rights violations that occurred in the present incident.

2. The operation at the Campo Carrao mine in Canaima National Park, Gran Sabana municipality (8 December 2018)

(a) Factual determinations of the Mission

656. The Mission has reasonable grounds to believe that on 8 December 2018, in the Canaima National Park, DGCIM officials carried out an armed attack against the local indigenous population extracting gold in the small-scale artisanal Campo Carrao mine. The latter is located in the Arenal area, in the vicinity of the Carrao River, Canaima National Park. Gold mining at this site is prohibited by Venezuelan law.¹²²¹ In the operation, a Pemon indigenous man, Charlie Peñaloza Rivas, was wounded and subsequently died later the same day. Two other Pemon indigenous men, Carlos Peñaloza Rivas and César Sandoval, were injured in the course of the same violent incident.

657. According to the Venezuelan Government, this operation was part of the Tepuy Protector plan and was aimed at eradicating illegal mining in the Canaima National Park. In fact, on 11 December 2018, the Minister of People's Power for Defence, Vladimir Padrino López, publicly reported from Caracas, that this operation sought to "clean out the mining mafias" and that "a group took up arms" against the DGCIM agents.¹²²² However, the investigation carried out by the Mission has shown that the attack was directed against the indigenous artisanal mining population, rather than against "mining mafias".¹²²³ The gold was being gathered and counted precisely when the DGCIM agents arrived.¹²²⁴

(b) Responsibility

658. The Mission has reasonable grounds to believe that, on 8 December 2018, Mr. Peñaloza was wounded in the knee by a shot fired by the security forces during the military operation at the Campo Carrao gold mine. He was transported from the mine to a private clinic in official transport, including a DGCIM helicopter. Mr. Peñaloza later died in an ambulance while being transferred from the private clinic to the public hospital in Puerto Ordaz. Major General Alberto Mirtiliano Bermudez, commander of ZODI Bolívar, convinced Mr. Peñaloza to move from one hospital to another, and provided the ambulance in which he was transferred. When the ambulance arrived at the Ruiz y Paez hospital in Ciudad Bolívar, the victim had already passed away. The Mission has not been able to gather information about what happened in the ambulance or during the transfer. The assessment of the information, in light of the applicable standard of proof, does not lead to the conclusion that there are reasonable grounds to believe that the commander of ZODI

¹²¹⁹ Document NNDD048; Document NNDD051.

¹²²⁰ Ibid.; Document NNDD051.

¹²²¹ National Assembly, "Ley núm. 3, por la cual se reforma el código de recursos minerales", 28 January 1988.

¹²²² VTV Canal 8, "FANB desmanteló campamento de minería ilegal en Bolívar", 11 December 2018.

¹²²³ See Chapter IV *supra*.

¹²²⁴ Interview HHIV049.

Bolívar bears responsibility for this death. Such a determination would require further investigation.

659. The Mission has no information on the identity of the persons who fired the shots during the operation in Canaima National Park, in which Charlie Peñaloza was initially wounded along with Carlos Peñaloza Rivas and César Sandoval. However, this violation of the right to physical integrity was committed by agents of the DGCIM. DGCIM agents received logistical support from the state-owned enterprise CORPOELEC. They used the company's helicopters and facilities before, during and after the execution of the operation. The participation of different public state institutions in the execution of the armed operation is indicative of coordination at higher levels of authority. The DGCIM troops and State agents who participated in the planning, coordination and execution of the operation on 8 December 2018 in Canaima National Park may bear responsibility for these violations of the right to physical integrity, and should therefore be investigated.

660. The Mission has received information that initially the Public Prosecutor's Office, the CICPC and the CCGPP conducted investigations into the events of 8 December 2018 in Canaima. A team from the CICPC and the Public Prosecutor's Office visited Canaima and took with them three weapons belonging to DGCIM agents that had been retained by the indigenous population. The CCGPP agreed with the Government of the Bolivarian Republic of Venezuela not to continue with its investigations, but to leave the investigation in the hands of the Public Prosecutor's Office and the CICPC.¹²²⁵

661. The Mission has, however, not obtained information on any progress that may have been made in the investigation since 20 December 2018. The Mission sent letters to the Executive Branch of the Bolivarian Republic of Venezuela, to the High Court of Justice, to the Attorney General's Office and the Military Prosecutor General's Office requesting information on the existence of any court cases that would provide evidence of the investigations carried out. As of the date of writing of this report, the Mission has not received a reply.

662. Consequently, the Mission has reasonable grounds to believe that the State has failed in its obligation to investigate the agents in accordance with international standards of seriousness, impartiality and effectiveness in investigating serious human rights violations,¹²²⁶ and, if found responsible in a fair trial for the violation of the right to physical integrity committed on 8 December 2018 in Canaima National Park, to sanction those responsible.

3. Incidents in the community of Kumarakapay, Gran Sabana municipality (22 February 2019)

(a) Factual determinations of the Mission

663. The Mission has reasonable grounds to believe that on 22 February 2019, between 5 and 6 a.m., FANB army elements passed through the indigenous community of Kumarakapay, Gran Sabana municipality, Bolívar state, while moving along the Troncal 10 road, from the detachment of the 513th Mario Montilla Padrón Jungle Infantry Battalion (known as the Luepa Battalion) to the base of the FANB's 5102nd Motorized Cavalry Squadron, known as El Escamote. The objective of the operation was to prevent the entry into Venezuelan territory of the humanitarian aid that had been announced by the political

¹²²⁵ Document HHDC038.

¹²²⁶ *Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment* (United Nations publication, 1999), [hereinafter "Istanbul Protocol"]; United Nations Commission on Human Rights, "The Joint Principles, as updated by Diane Orentlicher", resolution 2005/81, 08 February 2005; Minnesota Protocol; See also the jurisprudence of the Inter-American Court, *Case of Acosta et al. v. Nicaragua*. Judgment of 25 March 2017, Series C, No. 334, para. 132; *Gutiérrez Hernández et al. v. Guatemala. Preliminary Objections, Merits, Reparations and Costs*. Judgment of 24 August 2017. Series 339, para. 148 and *Yarce et al. v. Colombia*. Preliminary Objections, Merits, Reparations and Costs. Judgment of 22 November 2016. Series C, No. 325, para. 280.

opposition. According to the opposition's announcement, the humanitarian aid was to arrive on 23 February 2022, from the border between the Bolivarian Republic of Venezuela and Brazil, near Santa Elena de Uairén. The military convoy consisted of two trucks and a smaller truck with a trailer transporting telecommunications equipment. The convoy was under orders to ensure that the telecommunications equipment arrived at the El Escamoto, so that it could be used during the military operation.

664. At approximately 6 a.m., the military convoy came across a barricade on the section of the Troncal 10 road that crosses the indigenous community of Kumarakapay. Sharp objects had been placed on the road in front of the security checkpoint of the indigenous organisation Aretauka. The two military trucks, which had reinforced tyres,¹²²⁷ drove through the barricade and stopped between 100 and 200 metres from the checkpoint, just outside the community of Kumarakapay.¹²²⁸ The smaller truck with the trailer carrying the communications equipment got stuck and was unable to cross the indigenous checkpoint.¹²²⁹ Three soldiers who were traveling with the trailer, including a female lieutenant and two communications specialists, were detained.

665. Approximately 20 soldiers in green uniforms, armed with rifles¹²³⁰ - according to witnesses they were carrying AK103 rifles with 7.62mm calibre ammunitions - got out of the military trucks that had stopped at the exit of the community, and walked towards the Aretauka security post.¹²³¹ An argument broke out between the military and the indigenous guards, some of whom were armed with bows and arrows. Moments later, after a gunshot was heard, the military began firing live ammunition at the people for approximately 15 minutes.

666. As a result of this incident, three people died, including one woman, and at least 12 other people were wounded, two of them women. The three soldiers - two male lieutenants and a female lieutenant - who were travelling in the van with the telecommunications equipment, were beaten by members of the indigenous community of Kumarakapay, who held them captive.

667. The next day, 23 February, a new military caravan from the Luepa Battalion, with hundreds of military, militia and state officials, headed for Santa Elena de Uairén. Before reaching the community, the caravan stopped at the Yuruaní bridge, where it detained eight men from the community of Kumarakapay. Upon arrival in the community, military personnel got out of their vehicles, raided and ransacked the houses located on the main road,¹²³² and detained at least one leader of the community.¹²³³ Between the Yuruaní bridge and the community of Kumarakapay, the caravan detained a total of at least nine Pemon men.

(b) Responsibility

(i) *Arbitrary deprivations of life and violations of the right to physical integrity*

668. The Mission has reasonable grounds to believe that on 22 February 2019, at approximately 6 a.m., arbitrary deprivations of life were committed against three Pemon indigenous persons, including one woman, in the community of Kumarakapay.

669. In addition, at least 12 members of the indigenous community, including two women, were injured by gunshots fired by members of the FANB army.

¹²²⁷ Interview HHIV057.

¹²²⁸ Interview PPIV012; Interview PPIV014; Interview HHIV031; Interview HHIV034; Interview MMIV022; Interview PPIV021; Interview MMIV023; see also, Maria Ramirez, "Kidnappings and deaths: the untold story behind the attempted aid push into Venezuela", *Reuters*, 21 May 2019.

¹²²⁹ Interview PPIV014; Interview HHIV034; Interview MMIV022; Interview PPIV024; Interview PPIV023; Interview HHIV032; Interview MMIV023.

¹²³⁰ Interview PPIV023; Interview PPIV014; Interview HHIV034; Interview MMIV023; Interview HHIV032; Interview OOIV15.

¹²³¹ Interview PPIV014; Interview HHIV034; Interview MMIV023.

¹²³² Interview PPIV014; Interview HHIV034; Interview MMIV022.

¹²³³ Interview HHIV034; Interview MMIV023.

670. Both the arbitrary deprivations of life and the violations of the right to physical integrity described above were the consequence of the use of lethal force, with large calibre weapons, by approximately 20 FANB troops against the indigenous civilian population present on the Troncal 10 road. The Mission found no indications that the indigenous civilian population had used firearms, but it did find indications that there were people armed with sticks or bows and arrows.

671. The use of lethal violence was not justified in the circumstances of the case, despite the fact that members of the indigenous guard of the Aretauka organization had managed to hold the military van with the trailer and telecommunications equipment, as well as its three military crew members. Although some members of the community were armed with bows and arrows, in particular members of the community's *Guardia Territorial*, known as Aretauka, the facts of the events do not provide any indication that the lives of the officers were at risk. On the contrary, the information gathered by the Mission indicates that the attack did not meet the requirements of proportionality and necessity, since it was clearly not necessary to use AK103 weapons against the indigenous population to control a group of individuals armed with bows and arrows, even if they were holding the three soldiers.

672. The Mission has reasonable grounds to believe that the human rights violations committed on 22 February 2019 in the community of Kumarakapay were carried out by approximately 20 FANB army personnel. They may bear responsibility for the above incidents under Venezuelan criminal law, and should therefore be investigated.

673. The presence of approximately 20 FANB troops at the scene was not accidental. They were participating in a mobilisation from the Luepa Battalion to support the military operation that was being coordinated from the El Escamoto detachment, with the aim of preventing the humanitarian aid announced by the opposition from entering Venezuelan territory from the Brazilian border. The operation preceded a large-scale military deployment involving hundreds of FANB troops the following day. This is indicative of higher-level planning and coordination.

674. The Mission did not obtain evidence that the military convoy received a direct or even non-specific order to fire on the indigenous population of the Kumarakapay community on 22 February 2019.

675. According to the *de jure* distribution of powers among the military commanders, the commanders of REDI Guayana and ZODI Bolívar had effective authority and command at the time and place when the violations occurred. General Jesús María Mantilla Oliveros was in charge of REDI Guayana and General Alberto Mirtiliano Bermúdez Valderrey was in charge of ZODI Bolívar on 22 and 23 February 2019.

676. This has been confirmed in the specific case, i.e. *de facto*. Indeed, as described in the background to the case,¹²³⁴ on 15 February 2019, General Mantilla had transmitted an order to the El Escamoto command to plan and prepare a military operation to block the entry of the humanitarian aid mentioned above.¹²³⁵ General Bermúdez gave orders to the convoy to prioritise the arrival of the telecommunications equipment at El Escamoto as soon as possible.¹²³⁶

677. Accordingly, the Mission finds reasonable grounds to believe that Generals Mantilla and Bermudez may have breached their obligations to prevent and suppress violations and crimes committed by subordinates under their effective authority and command, and should therefore be investigated.

(ii) *Arbitrary detentions*

678. The Mission notes that the detention of at least nine Pemon indigenous men occurred the day after the violent incident in Kumarakapay. Even if they had participated in

¹²³⁴ See Chap. IV *supra*.

¹²³⁵ Interview HHIV057.

¹²³⁶ Interview HHIV057.

the blockades set up the day before, there was no *flagrante delicto* to justify an arrest without a warrant from a competent judge.

679. Despite its efforts, the Mission has found no information to confirm that an arrest warrant was issued. The Mission requested information from the Government of the Bolivarian Republic of Venezuela on the existence of any judicial cases related to the incident. At the time of writing, the Mission has not received a response.

680. Therefore, the Mission has reasonable grounds to believe that on 23 February 2019, arbitrary detentions were committed by the FANB against at least nine indigenous Pemon men, who were subsequently held in detention at the El Escamoto military detachment.

(iii) *Obligation to prevent, investigate and punish human rights violations*

681. The Mission has not been able to confirm whether the State has initiated criminal proceedings or investigations into the arbitrary deprivations of life, injuries and arbitrary detentions in relation to the events described.

682. No source of public information, nor any of the victims and witnesses who presented their testimony to the Mission, were aware of any official investigation having been carried out to identify, prosecute and punish the military personnel responsible for the three (3) arbitrary deprivations of life, the violations of the right to physical integrity of twelve (12) persons, as well as the arbitrary detentions of the nine (9) Pemon indigenous men. As indicated above, the Mission requested information from the State in this regard, but at the time of writing this report, no response had been received.

683. The Mission therefore concludes that, in this case, the Bolivarian Republic of Venezuela is responsible for failing to comply with its international obligation to prevent, investigate and punish human rights violations. As a consequence of such non-compliance, victims and relatives of the victims were unable to exercise their rights of access to justice and to reparation for the harm resulting from these violations.

4. Incidents at Santa Elena de Uairén airport, Gran Sabana municipality (22 February 2019)

(a) Factual determinations of the Mission

684. On 21 February, a GNB contingent of approximately 45 soldiers, not belonging to the GNB command of Santa Elena de Uairén, was mobilized to the International Airport of Santa Elena de Uairén. The reason for the mobilisation was to protect the airport, as part of the efforts to prevent the humanitarian aid announced by the Venezuelan political opposition from entering the Bolivarian Republic of Venezuela on 23 February 2019.¹²³⁷

685. On 22 February, before 6.30 a.m., approximately 45 uniformed and armed GNB soldiers were stationed behind the gate of the Santa Elena de Uairén International Airport.¹²³⁸ More elements were also stationed both at the GNB checkpoint, located on the road leading to the airport from the indigenous community of Maurak,¹²³⁹ and at the entrance to the airport's runway. In the morning hours, nine militia personnel, including two women, were also deployed at the airport.¹²⁴⁰

686. That same morning, approximately 300 people, mostly indigenous residents of Maurak and other surrounding communities, headed to the airport and surrounded the gate, with the intention of evicting the military.¹²⁴¹ While most of the people were unarmed,¹²⁴²

¹²³⁷ Interview HHIV033; Interview PPIV027.

¹²³⁸ Interview HHIV047.

¹²³⁹ Interview HHIV053.

¹²⁴⁰ Ibid.

¹²⁴¹ Interview PPIV017; Interview PPIV018; see also Provea, "Prohibido olvidar: Masacre de Santa Elena de Uairén. Pemón people", 23 February 2020.

¹²⁴² Interview PPIV017; Interview PPIV018; Interview PPIV019; Interview OOIV018; Interview HHIV054; Interview HHIV053.

some carried sticks, bows and arrows, and even firearms, including 9mm pistols.¹²⁴³ During the morning, as a form of protest, the population detained six militia men and released those who were indigenous.¹²⁴⁴ The group also managed to disarm and detain 43 members of the GNB who were inside the entrance gate to the airport compound.¹²⁴⁵ The soldiers were taken in a vehicle to a nearby indigenous community, where they were held.¹²⁴⁶

687. At approximately midday on 22 February, when the detained GNB troops had already been moved from the airport, a FANB tank arrived at the site firing tear gas. It was followed by two other GNB tanks which also fired tear gas as they arrived.¹²⁴⁷ In response to the firing of tear gas, a group of people began to attack the tanks with sticks and stones. This was followed by a confrontation in which the military fired tear gas canisters, rubber bullets or "buckshot", and live ammunition, while civilians attacked the tanks with stones, sticks and firearms.¹²⁴⁸ At least nine people were injured as a result of the firing of rubber bullets or "buckshot" and tear gas by the GNB.¹²⁴⁹

688. Members of the indigenous guard remained at the GNB checkpoint from the afternoon of 22 February until Wednesday, 27 February. During this time, no further military incursions were reported at the airport.¹²⁵⁰

689. In the morning hours of Wednesday, 27 February, a group of soldiers in tanks and military trucks arrived at the airport entrance.¹²⁵¹ At the local GNB post, they beat and detained an indigenous man, the son of an indigenous *Cacique General*.¹²⁵² The military also advanced to the airport, where they detained and beat three employees of the National Institute of Civil Aeronautics (INAC),¹²⁵³ two of whom were indigenous, without explaining the reasons for their detention.¹²⁵⁴ During the day of 27 February, the military tortured the three indigenous men with sticks, kicks, electric shocks, and threats.¹²⁵⁵

¹²⁴³ Interview HHIV053.

¹²⁴⁴ Interview HHIV047; Interview HHIV053.

¹²⁴⁵ Interview PPIV017; Interview PPIV018; Interview PPIV019; Interview HHIV033; Interview HHIV047; Interview HHIV053; Document PPDC002.

¹²⁴⁶ Interview PPIV017; Interview PPIV018; Interview HHIV047; Interview HHIV053; Interview EEIV026; See also Provea, "Prohibido olvidar: Masacre de Santa Elena de Uairén. Pemón people", 23 February 2020.

¹²⁴⁷ Interview PPIV017; Interview HHIV033; Interview HHIV053.

¹²⁴⁸ Interview PPIV017; Interview PPIV018; Interview PPIV019

¹²⁴⁹ Interview PPIV017; Interview PPIV018; Interview PPIV019; Interview HHIV048; Document PPDC002.

¹²⁵⁰ Interview HHIV048.

¹²⁵¹ Interview HHIV033; Interview PPIV020; Interview OOIV018; Document PPDC002; Vanessa Morena Losada, "Venían a matar indígenas, testimonio de toma militar al aeropuerto de Santa Elena de Uairén", Efecto Cocuyo, 28 February 2019; Provea, "Prohibido olvidar: Masacre de Santa Elena de Uairén. Pueblo Pemón", 23 February 2020.

¹²⁵² Interview HHIV054; Document PPDC002; see also, Vanessa Morena Losada, "Venían a matar indígenas", testimonio de toma militar al aeropuerto de Santa Elena de Uairén", Efecto Cocuyo, 28 February 2019; Provea, "Prohibido olvidar: Masacre de Santa Elena de Uairén. Pueblo Pemón", 23 February 2020.

¹²⁵³ Interview HHIV033; Interview PPIV020; Interview OOIV018; Interview MMIV019; Document PPDC002; see also Vanessa Morena Losada, "Venían a matar indígenas", testimonio de toma militar al aeropuerto de Santa Elena de Uairén", Efecto Cocuyo, 28 February 2019; Provea, "Prohibido olvidar: Masacre de Santa Elena de Uairén. Pueblo Pemón", 23 February 2020.

¹²⁵⁴ Interview PPIV020.

¹²⁵⁵ Interview PPIV020; Interview HHIV033; Provea et al, "Alto a la persecución y torturas contra integrantes del pueblo indígena Pemón", 2 March 2019; Interview OOIV018; see also Provea, "Prohibido olvidar: Masacre de Santa Elena de Uairén. Pueblo Pemón", 23 February 2020.

(b) Responsibility*(i) Violation of the right to physical integrity*

690. The Mission has reasonable grounds to believe that the FANB and GNB elements that attacked the civilian population gathered in front of the airport, used not only demonstration control equipment, such as tear gas and rubber bullets, but also firearms.

691. The Mission considers that this represented an excessive use of force as, at that time, the group of people gathered in front of the airport did not represent a threat justifying the use of force, including lethal force. Although there were some people armed with sticks, stones, bows and arrows, most of the people were unarmed. There are reasonable grounds to believe that tear gas canisters were used excessively, and firearms were used unnecessarily and disproportionately, at a time when the danger posed by the crowds was not yet present.

692. The Mission has reasonable grounds to believe that at least nine persons, including at least two women, were victims of violations of their right to personal, physical and mental integrity, as a result of injuries caused by GNB troops.

693. The Mission has reasonable grounds to believe that the GNB command had command responsibility for the actions of the GNB troops who carried out the crackdown on 22 February 2019.¹²⁵⁶

(ii) Arbitrary detentions

694. The Mission has reasonable grounds to believe that, on 27 February 2019, GNB agents detained four persons without warrants, including three indigenous men. The three indigenous men were beaten during the detention.

695. As mentioned above, the arrests took place on 27 February. There was no indication of *in flagrante delicto*. The Mission also found no evidence of a prior and lawful arrest warrant issued by a competent judge. Accordingly, the Mission has reasonable grounds to believe that on 27 February 2019 four persons were arbitrarily detained by GNB agents. Subsequently, they were transferred and held in detention at the FANB El Escamoto military base.

696. The Mission has reasonable grounds to believe that the FANB senior command had command responsibility for the actions of the FANB troops who carried out the arbitrary detentions on 22 February 2019.¹²⁵⁷ Likewise, the FANB command had command responsibility for the arbitrary detentions and acts of torture perpetrated at GNB Command 623 in Santa Elena de Uairén and at El Escamoto on 27 February 2019.

(iii) Torture and cruel, inhuman or degrading treatment

697. During the arrests on 27 February, the three indigenous men arrested were beaten by FANB officers. These beatings amounted to ill-treatment or cruel, inhuman and/or degrading treatment.

698. The three indigenous men were threatened, insulted, beaten with fists and sticks, kicked, and repeatedly given electric shocks for the purpose of obtaining information, confessions, or to punish them. The Mission considers that there are reasonable grounds to believe that, during their detention, these three persons were subjected to torture.

699. The Mission has reasonable grounds to believe that the GNB and FANB command had command responsibility for the acts of torture perpetrated against the three indigenous persons detained on 27 February 2019.

¹²⁵⁶ Interview HHIV057; Interview HHIV059.

¹²⁵⁷ Interview HHIV057; Interview HHIV059.

(iv) Obligation to prevent, investigate and punish human rights violations

700. Despite its efforts, the Mission was not able to establish that the State initiated criminal proceedings or investigations into the violations of the right to physical integrity, arbitrary detentions and acts of torture or other cruel, inhuman or degrading treatment in relation to the events described. As indicated above, the Mission requested information from the State in this regard, but has received no response. The witnesses and victims with whom the Mission was able to speak are also unaware of any investigation. They have not been called to testify or contacted by the authorities, nor were they notified of any procedural steps taken or measures adopted. These steps should have been taken if the State were conducting investigations to clarify the relevant facts.

701. In view of the above, the Mission concludes that, with respect to the present incident, the Bolivarian Republic of Venezuela is responsible for failing to comply with its international obligation to prevent, investigate and punish human rights violations. As a consequence of this non-compliance, victims and the victims' relatives could not exercise their rights to justice and to reparation for the harm resulting from these violations.

5. Incidents in Santa Elena de Uairén, Gran Sabana municipality (22-24 February 2019)**(a) Factual determinations of the Mission**

702. As previously described, spontaneous protests took place between 22 and 24 February 2019 in and around Santa Elena de Uairén, capital of the Gran Sabana municipality, and on the section of the Troncal 10 road leading to the border with Brazil. The protests began on 22 February, following the incidents described above in the community of Kumarakapay and to demand that the authorities allow the entrance of the humanitarian aid in Santa Elena de Uairén. The GNB and the Army responded to the protests firing rubber bullets and tear gas from tanks and by patrolling soldiers, causing injuries of varying severity.

703. From 23 February, security forces began to crack down on protests by using firearms with lethal force. Initially, the shots were directed at the protesters. But then GNB and army soldiers fired indiscriminately at people and vehicles passing through the town of Santa Elena de Uairén.¹²⁵⁸ The Mission has reasonable grounds to believe that on 23 February 2019 the State security forces were responsible for the arbitrary deprivation of life of an indeterminate number of persons, as a result of the excessive and indiscriminate use of force. According to testimonies gathered by the Mission, this figure could be approximately 60 fatalities.¹²⁵⁹ These deaths require further objective and independent investigation.

704. Between 23 and 24 February, the state security forces carried out an operation to hide and make the bodies of the victims disappear. As part of this operation, GNB tanks collected the bodies from the streets of the city and transported them to the military base of El Escamote, located on the outskirts of Santa Elena de Uairén.¹²⁶⁰ From there, some bodies were transported in pickup trucks to the local morgue.¹²⁶¹ To date, the final whereabouts of the bodies is unknown.

705. The Mission determined that, in the days following the protests, mainly between 24 and 27 February 2018, F01 coordinated and personally carried out patrols together with agents of the PEB to carry out selective detentions of persons from Santa Elena de Uairén who had supposedly participated in the protests, without any evidence of their participation in the protests. Once detained, the people were transported in pickup trucks to El Escamote.¹²⁶² It is estimated that in the following days and weeks, between 50 and 100

¹²⁵⁸ Interview MMIV046.

¹²⁵⁹ Interview PPIV021; Interview PPIV029; Interview PPIV016.

¹²⁶⁰ Interview PPIV029.

¹²⁶¹ Interview PPIV029.

¹²⁶² Interview HHIV057; Interview HHIV054.

people were detained in El Escamoto.¹²⁶³ Among the detained persons there were indigenous leaders and members of the *Guardia Territorial* of Santa Elena de Uairén and of the indigenous communities of Maurak and Kumarakapay.¹²⁶⁴ In the military base of El Escamoto, an indefinite number of detainees were tortured for several days by F01 and elements of the Army.

706. The Mission has collected direct testimonies from victims indicating that at least four men were interrogated, beaten and locked naked in a cold room. During one interrogation, an Army sergeant, who was not in uniform but had a military insignia, placed a bucket of water in the centre of the cold room. The same soldier forced the four men, one by one, to sit in the bucket while he gave them electric shocks. The torture was repeated several times. During the six days they were detained at El Escamoto, the four men were repeatedly beaten, electrocuted and forced to enter and leave the cold chamber to be tortured.¹²⁶⁵

707. The Mission received testimonies indicating that similar methods of torture were also applied to other persons detained in the context of the violent events in Santa Elena de Uairén who were under arrest in El Escamoto. According to one witness, some of these persons had their heads submerged in buckets of water with the intention of drowning them and others had a blanket placed over their bodies and were beaten.¹²⁶⁶

708. In the following days, General Justo Noguera Petri, Governor of Bolívar state, presided over the above-mentioned *ad hoc* control court, which was also made up of judicial officials from that state. On 19 March, the last persons detained were released under interim measures by that court.

(b) Violations and crimes

(i) Arbitrary deprivations of life and violations of the right to physical integrity

709. The Mission has reasonable grounds to believe that, on 23 February 2019, Army and GNB elements began firing indiscriminately with rubber bullets and firearms at protesters, bystanders and people in vehicles in the centre of Santa Elena de Uairén. An unknown number of people died as a result of the shooting by the security forces.

710. The Mission has reasonable grounds to conclude that, in an unspecified number of cases, these were arbitrary deprivations of life carried out by State agents against unarmed persons, who did not put the lives of those agents or third persons at risk. Therefore, the use of lethal violence was not justified.

711. The Mission gathered testimonies from various people who witnessed the events from different points of view and perspectives. Their estimates of the number of people killed, depending on what each person witnessed directly, ranged from 12, 20, 60, 100 or up to 200 fatalities.¹²⁶⁷ Although the Mission was unable to determine the exact number of fatalities, it was able to confirm that there were at least 12 victims who were shot and killed by state security forces.

712. On the basis of the testimonies gathered, the Mission can conclude, with reasonable grounds to believe, that the State security forces, after having killed people, carried out an operation aimed at making the bodies disappear in order to obstruct the identification of the victims, the clarification of the violent events and the determination of responsibilities.

¹²⁶³ Interview HHIV057; Interview HHIV054.

¹²⁶⁴ Interview HHIV054.

¹²⁶⁵ Ibid.

¹²⁶⁶ Ibid.

¹²⁶⁷ Interview PPIV021; Interview HHIV034; Interview FFIV003; Interview FFIV002; Interview PPIV027; Interview HHIV057; Interview PPIV01; Interview HHIV061; Interview MMIV046; IACHR, *Indígenas de la etnia Pemón de la comunidad San Francisco de Yuruaní o "Kumaracapay" y otro regarding Venezuela*, RES/7/2019, Precautionary Measure No. 181-19, 28 February 2019.

713. In addition, the Mission concluded that an undetermined number of persons suffered injuries of varying severity as a result of rubber bullets, tear gas and firearms fired by elements of the FANB and the GNB. According to testimonies gathered by the Mission, on 22 and 23 February 2019, at least 50 people arrived at the Rosario Vera Zurita Hospital with tear gas poisoning or injuries caused by rubber bullets or firearms.¹²⁶⁸ Additionally, on Saturday, 23 February, more than 20 injured people were transferred from Santa Elena de Uairén to the Roraima General Hospital in Boa Vista, Brazil.¹²⁶⁹

714. The Mission has reasonable grounds to believe that the human rights violations described in the present incident were carried out by the Bolivarian Army and the GNB of the FANB.

715. The Mission notes that between 22 and 24 February 2019, the security forces that acted in and around Santa Elena de Uairén did so as part of a coordinated military operation aimed at preventing the entrance of humanitarian aid through the border. The troops were mobilised from different locations in the Bolívar state, such as Ciudad Bolívar, El Callao, Luepa, Puerto Ordaz and Sifontes.

716. During the morning of 22 February, the then Governor of Bolívar state, General Justo Noguera Pietri, and the Commander of the REDI Guayana, General Jesús María Mantilla Oliveros, together with other high-ranking military commanders, arrived at the El Escamoto military base. There, they set up senior coordination body with the aim of directing a coordinated response by the security forces and carrying out a military operation to prevent the entry of the humanitarian aid.¹²⁷⁰ Under the overall command of General Mantilla Oliveros, the military operation was led by the Commander of ZODI Bolívar, General Alberto Mirtiliano Bermúdez Valderrey. The other GNB officers who composed the coordination body of the operation were General Montoya, Commander of the GNB in Bolívar state, and GNB01.¹²⁷¹

717. The coordination bodygroup coordinated its operations with the security institutions of the Bolívar state Governor's office, which were under the supervision of the Governor, General Justo Noguera Pietri. In this context, GNB02 and F01 were the persons in charge of transmitting the decisions of the coordination body to the Bolívar State Police and also participated in its execution.¹²⁷²

718. The Mission has reasonable grounds to believe that the operation's commanders: (1) knew or should have known what happened in the operations and (2) failed to take necessary and reasonable measures to prevent and suppress the violations that took place.

719. Therefore, there are reasonable grounds to believe that General Noguera Pietri, General Mantilla Oliveros, General Bermúdez Valderrey, General Montoya and GNB01 may bear responsibility for the acts perpetrated by elements of the FANB, GNB and PEB between 22 and 24 February 2019, and subsequent days in and around Santa Elena de Uairén.

(i) *Arbitrary detentions*

720. The Mission found that, between 22 and 27 February 2019, between 50 and 100 persons suspected of having participated in the protests in and around Santa Elena de Uairén were arrested. The arrests that took place in the days following the protests could not be justified on the grounds of flagrancy. Despite its efforts, the Mission has not obtained information on the existence of arrest warrants issued by the competent authorities.

¹²⁶⁸ Interview HHIV046; Interview PPIV016; Interview MMIV029; Interview HHIV032; Interview PPIV021; Interview FFIV002; Interview PPIV016; Interview MMIV046.

¹²⁶⁹ Interview MMIV033; CNN English, 'Brazil: Roraima is overwhelmed by the large number of seriously wounded bullet victims arriving from Venezuela', 26 February 2019.

¹²⁷⁰ Interview HHIV057; Interview HHIV059.

¹²⁷¹ Interview HHIV057; Interview HHIV059.

¹²⁷² Interview HHIV057; Interview HHIV059.

721. Accordingly, the Mission has reasonable grounds to conclude that, between 22 and 27 February 2019, between 50 and 100 persons were arbitrarily detained at the El Escamoto. The Mission has reasonable grounds to conclude that F01 had command responsibility within the Secretariat of Citizen Security in the Governor's Office of the Bolívar state and on the PEB elements that carried out the arbitrary detentions,¹²⁷³ transferred the arrested persons to the El Escamoto, where they remained in detention.

(ii) *Torture and other cruel, inhuman and degrading treatment*

722. According to the testimonies gathered by the mission, between 50 and 100 persons who were detained between 22 and 27 February 2019, were subsequently transferred to the military base of El Escamoto, where an undetermined number of them were tortured. The Mission has reasonable grounds to believe that the events described above were carried out for the purpose of obtaining information, confessions, and/or to punish the persons concerned. The Mission has reasonable grounds to believe that at least four persons were tortured in El Escamoto.

723. The Mission also has indications that similar acts of torture may also have been committed against a larger number of persons, between 50 and 100, who were detained at El Escamoto between 22 February and 19 March 2019. However, further investigation is necessary to reach a determination in accordance with the reasonable grounds to believe standard.

724. The Mission has reasonable grounds to believe that F01 and other army officers may bear responsibility for these events and should therefore be investigated.

(iii) *The obligation to prevent, investigate and punish*

725. The Mission notes that, apart from the criminal proceedings brought against those detained in connection with the protests, the judiciary initiated only one other investigation related to the incident. This case investigated the death of a man who, during the course of the riots, allegedly jumped over the perimeter wall of the GNB command in Santa Elena de Uairén and was shot by guards.¹²⁷⁴

726. The Mission is not aware of any investigation to identify, prosecute and punish the military personnel responsible for the human rights violations and crimes committed during and after the events described in this incident. The Mission has requested information from the Venezuelan Government on the existence of judicial proceedings initiated by the national justice system, but at the time of writing this report, no response has been received. To date, the victims and the relatives of the deceased victims have not been able to exercise their rights of access to justice and to reparations for the harm caused by the human rights violations.

727. The Mission concludes that, in this case, the Bolivarian Republic of Venezuela is responsible for a breach of its international obligation to prevent, investigate and punish human rights violations.

VII. Conclusions and recommendations

A. Conclusions

728. The establishment of the Arco Minero region and the expansion of illegal mining activity in Bolívar state has created a context in which human rights violations and crimes have been committed. The Mission remains concerned about the human rights violations committed by State officials and security forces, such as the arbitrary deprivation of life, arbitrary detention, and torture or other forms of ill-treatment. The Mission has documented

¹²⁷³ Interview HHIV057.

¹²⁷⁴ Interview HHIV057.

the continued presence of armed criminal groups in Bolívar state, in particular in indigenous territories, and the broad range of crimes these have committed against people in the region. The Mission has also investigated sexual and gender-based violence by both State and non-State actors, and is concerned about an overall lack of State protection for vulnerable persons, in particular children. These issues all require further investigation.

729. In some of the case studies detailed in this report, the Mission has reasonable grounds to believe that State authorities have regularly failed in their obligation to prevent, investigate and sanction human rights violations and crimes. As outlined in the report, the Mission has reasonable grounds to believe that the FANB was directly involved for gross human rights violations in repressing the local population, including indigenous peoples, while often failing to protect mining populations against crimes by armed criminal groups.

1. Recommendations to the Government

730. The Mission urges the Government of the Bolivarian Republic of Venezuela to:

(a) Launch independent, objective and impartial investigations into the incidents documented in this report concerning human rights violations and crimes in the Arco Minero region and Gran Sabana municipality, Bolívar state, including arbitrary deprivations of life, arbitrary detentions, sexual and gender-based violence, and torture and other cruel, inhuman and degrading treatment.

(b) Ensure that State security forces, including police and military, carry out their law enforcement activities within a framework of strict respect for the protection of the human rights of the entire population of Bolívar state, and in particular of indigenous peoples and the mining population.

(c) Investigate and sanction military and State officials responsible for the human rights violations and crimes identified in this report, applying corresponding criminal sanctions and disciplinary measures in accordance with the procedures established by law.

(d) Ensure compliance with the right to access to justice and reparation for victims and relatives of victims of the human rights violations and crimes described in this report.

(e) Increase efforts to ensure the effective implementation of the Organic Law on Women's Right to a Life Free of Violence; establish a system for the systematic and disaggregated collection of statistical data on sexual and gender-based violence; and protect, accompany and assist victims of such violence, in particular women and children.

(f) Make concerted efforts to prevent the illegal activities of armed criminal groups operating in Bolívar state and other parts of the country, while ensuring respect for human rights, notably of affected communities and indigenous peoples.

(g) Investigate all allegations of acquiescence or collaboration by civilian and military authorities in the activities of armed criminal groups, act upon such investigations by holding responsible officials to account, and put in place measure to prevent such collusion or collaboration in the future.

(h) Adopt necessary measures to respect, protect and fulfil the rights of indigenous peoples, as recognized by the 1999 Constitution and legislation of the Bolivarian Republic of Venezuela, ILO Convention 169 and other relevant international standards, with particular attention to indigenous populations' rights to land, territory and natural resources and to prior consultation. The State must take decisive steps to advance the demarcation and titling of indigenous territories in the Bolívar state and other areas of the country.

(i) Implement all legislative, administrative and other measures necessary to stop the illegal mining of gold and other resources in the Arco Minero region and other areas of Bolívar state, including protected areas or ABRAEs, in full consultation with indigenous peoples.

(i) Investigate allegations of possible illicit enrichment by civilian and military authorities, as well as other politically exposed persons, in illicit activities linked to gold mining, production and trade, and hold those responsible to account.

(j) Actively cooperate with the OHCHR, United Nations human rights mechanisms, and the inter-American human rights system to address the urgent human rights situation in the Arco Minero region and other areas in the country facing similar situations.

2. Recommendations to the international community

731. States should consider bringing legal action against individuals responsible for the violations and crimes identified in this report, in accordance with their relevant domestic legislation.

732. States should put in place adequate mechanisms to prevent gold laundering, as well as gold-related money laundering, originating from illegal mining in the Bolívar state and other parts of the Bolivarian Republic of Venezuela.

733. The International Criminal Court should assess whether the violations and crimes documented in the present investigation fall under its jurisdiction and, if this is the case, consider whether the Bolivarian Republic of Venezuela is genuinely investigating and prosecuting the individuals identified in the present report, particularly those at mid- and high-levels of responsibility.

734. Within the framework of the UN Guiding Principles on Business and Human Rights, business enterprises across in the value chain of gold and other strategic minerals should conduct human rights due diligence to identify, prevent and remedy potential risks arising from minerals sourced from the Bolivarian Republic of Venezuela.