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Human Rights Council**

***Topic Area B: "The Situation of Human
Rights in Venezuela"***



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Topic Area A: Threats to International Peace and Security caused by Terrorist Acts

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1. Welcoming letter

Esteemed delegates,

We are more than honoured to welcome you to the Human Rights Council of the Thessaloniki International Student Model United Nations 2019 (ThessISMUN 2019). In the world of the United Nations, the Human Rights Council (UNHRC) was established so as to discuss the most important, global issues regarding human rights. Therefore, two really interesting topics were selected to let you experience the real essence of the Council.

The first topic is an opportunity for you to explore the influence of technology on human rights and how its developments may result in their violations. The second topic will give you an insight into the situation in Venezuela and it needs you to debate how the Council could help the Venezuelan people.

After thorough research, we have conducted for you two study guides, one for each topic. These will serve as your tools and your guidelines while you are making your own preparation on your country's policy. We believe that the present documents combined with your personal research will be more than sufficient to fully comprehend the two topics under discussion and be ready for our debates at the conference.

Moreover, we ought to underline that we are always at your disposal should you have any questions regarding our committee and/or our topics. With that being said, we would like to kindly ask you to respect the given deadlines to help us provide you with the support you may need.

Don't forget to have with you your negotiation skills, your respect for the diplomatic courtesy and a pen!

See you in Thessaloniki!

Best regards,

The Board of Human Rights Council,

Georgiadou Danai, *President*

Aravidis Iraklis, *Vice President*

Mpountidou Anna-Maria, *High Commissioner of Human Rights*

2. Introduction to the Committee

The Human Rights Council is an inter-governmental body of the United Nations (UN) that consists of 47 States solely responsible for the promotion and protection of Human Rights around the globe.¹ It was established by the UN General Assembly on the 15th of March of 2006 by resolution 60/251.² Its first session took place only a couple of months later, from the 19th to the 30th of June of the same year.³

The Council's mandate is *"to promote and protect the enjoyment and full realization, by all people, of all rights established in the Charter of the United Nations and in international human rights laws and treaties"*.⁴ Said mandate is supported by the resolution 48/141 of the UN General Assembly, the UN Charter, the UN Declaration of Human rights, the Treaty of Vienna, the Programme of Action, the 1993 World Conference on Human Rights and the 2005 World Summit Outcome Document and last but not least the decisions of human rights instruments.⁵

Its mechanisms are contained within the "Institution-building package" adopted a year after its creation and it contains the 3 main mechanisms: the Universal Periodic Review, which assesses Human Rights situations in UN Member States, The Advisory Committee, the HRCs' think tanks and the Complaint Procedure where Human Rights' Defenders and Non Governmental Organizations can bring forth to the attention of the Council HR violations.⁶ Additionally every task the Council performs shall be reviewed by the General assembly every 5 years.⁷

The Human Rights Council can be comprised of representatives of any Member State of the UN. The member states elect via majority in the General Assembly of the UN 47 of their own in a secret voting procedure.⁸ Obligatorily the Council has to have an equitable geographical distribution that goes as follows: African States: 13 representatives, Asia-Pacific

¹ Ohchr.org. (n.d.). OHCHR | HRC Home.
<https://www.ohchr.org/EN/HRBodies/HRC/Pages/Home.aspx>

² Ibid

³ Ibid

⁴ Ochr.org.(n.d.). OHCHR| HRC Mandate.
<https://www.ohchr.org/EN/ABOUTUS/Pages/Mandate.aspx>

⁵ Ibid

⁶ Ohchr.org. (n.d.). OHCHR | HRC Home.
<https://www.ohchr.org/EN/HRBodies/HRC/Pages/Home.aspx>

⁷ Ohchr.org. (n.d.). OHCHR | HRC Membership Available at:
<https://www.ohchr.org/EN/HRBodies/HRC/Pages/Membership.aspx>

⁸ Ibid

States: 13 representatives, Latin American and Caribbean States: 8 representatives, Western European and other States: 7 representatives, Eastern European States: 6 representatives.⁹ The Bureau of the Council is tallied to 5 people: 1 President and 4 Vice-Presidents representing one group each. They all serve for the duration of 1 year.¹⁰

3. Introduction to the topic area

Human rights are rights given, without discrimination, to every human being. They are characterized as interrelated, interdependent and indivisible.¹¹ Human rights are protected both by domestic and international law in most of the existing states. However, respect for human rights is not always guaranteed and their violations are still evident today.

The international media, the Human Rights Watch, and the Office of High Commissioner for Human Rights (OHCHR) are greatly focused on the ongoing situation in Venezuela.¹² A series of human rights violations torment the country and its people. The Venezuelan Government is refusing OHCHR's access to its territory, thus, its reports are based on information gained through remote monitoring.¹³

At the same time, the Government doesn't accept the given humanitarian aid that the international community offers.¹⁴ More specifically, during a meeting of the Organisation of American States, a number of diplomats urged Venezuela to accept their help in order to resolve their internal problems.¹⁵ However, the Venezuelan delegation refused the allegations

⁹ Ibid

¹⁰ Ibid

¹¹ Ohchr.org. (n.d.). OHCHR | What are Human Rights. [online] Available at: <https://www.ohchr.org/en/issues/pages/whatarehumanrights.aspx> [Accessed 18 Dec. 2018].

¹² Office of the United High Commissioner for Human Rights (2018). Human rights violations in the Bolivarian Republic of Venezuela: a downward spiral with no end in sight. [online] p.2. Available at: https://www.ohchr.org/Documents/Countries/VE/VenezuelaReport2018_EN.pdf [Accessed 18 Dec. 2018].

¹³ Ibid

¹⁴ Nytimes.com. (2016). Concern as Venezuela Refuses to Accept Aid. [online] Available at: <https://www.nytimes.com/2016/09/28/world/americas/venezuela-refuses-us-aid.html> [Accessed 18 Dec. 2018].

¹⁵ The Sydney Morning Herald. (2018). Diplomats urge Venezuela to accept international aid. [online] Available at: <https://www.smh.com.au/world/south-america/diplomats-urge-venezuela-to-accept-international-aid-20180906-p5024w.html> [Accessed 18 Dec. 2018].

and supported that “*the Organization of American States has become a forum of aggression toward Venezuela*”.¹⁶

Therefore, the Human Rights Council, being one of the principal UN organs responsible for the promotion and protection of human rights, is responsible to carefully examine the situation in Venezuela and find those solutions that are necessary to ensure the human rights of the Venezuelan people.

4. Definitions

In this chapter, useful notions will be defined in order to facilitate the comprehension of the topic under discussion.

4.1 Human rights’ defenders

According to the United Nations Human Rights Office of High Commissioner, a human rights’ defender is a person who “*individually or with others, act to promote or protect human rights*”.¹⁷ A human rights’ defender can promote any right (civil, political, economic, social, cultural), in every part of the world, and in multiple ways. They can gather information, support victims or spread awareness.¹⁸

4.2 Non-Governmental Organisation (NGO)

An NGO is “*an organization that tries to achieve social or political aims but is not controlled by a government*”¹⁹. NGOs are usually non-profit, despite some exceptions. Their field of interest is mainly humanitarian issues and their actions may be local, national or international.²⁰

¹⁶ Ibid

¹⁷ Ohchr.org. (n.d.). OHCHR | Who is a defender. [online] Available at: <https://www.ohchr.org/en/issues/srhrdefenders/pages/defender.aspx> [Accessed 18 Dec. 2018].

¹⁸ Ibid

¹⁹ Dictionary.cambridge.org. (n.d.). NON-GOVERNMENTAL ORGANIZATION | meaning in the Cambridge English Dictionary. [online] Available at: <https://dictionary.cambridge.org/dictionary/english/non-governmental-organization> [Accessed 18 Dec. 2018].

²⁰ Encyclopedia Britannica. (n.d.). Nongovernmental organization. [online] Available at: <https://www.britannica.com/topic/nongovernmental-organization> [Accessed 18 Dec. 2018].

4.3 Freedom of Assembly

This right is considered to be “*the right to hold public meetings and form associations without interference by the government*”²¹ The freedom of peaceful assembly and association is a fundamental human right, fully protected by international law. It has a broad spectrum including gatherings, protests and marches.²²

4.4 Discrimination

In detail, “*treating a person or particular group of people differently, especially in a worse way from the way in which you treat other people, because of their skin colour, sex, sexuality, etc.*”²³ People may be discriminated for various reasons, ethnicity, sex, opinions, religion. The results also vary and include unfair treatment, marginalization, and violation of human rights.

4.5 Constituent Assembly

One considers this term as “*group authorized and having the power of framing or amending a constitution*”²⁴ In the Venezuelan Constitution, Article 347 states: “*The Venezuelan people are the depositary of the original constituent power. In the exercise of that power, it can convene a National Constituent Assembly with the purpose of transforming the state, creating a new legal system and drafting a new Constitution*”²⁵

5. Historical Background

History is always necessary in order to understand the birth and development of an issue. This chapter shall be used as the bases to explain the situation in Venezuela today.

²¹ www.dictionary.com. (n.d.). Freedom of assembly. [online] Available at: <https://www.dictionary.com/browse/freedom-of-assembly> [Accessed 18 Dec. 2018].

²² Cambodia.ohchr.org. (n.d.). Freedom of peaceful assembly and association | OHCHR. [online] Available at: <http://cambodia.ohchr.org/en/civil-society-fund-freedoms/freedom-peaceful-assembly-association> [Accessed 18 Dec. 2018].

²³ Dictionary, D. (n.d.). DISCRIMINATION | meaning in the Cambridge English Dictionary. [online] Dictionary.cambridge.org. Available at: <https://dictionary.cambridge.org/dictionary/english/discrimination> [Accessed 18 Dec. 2018].

²⁴ BusinessDictionary.com. (n.d.). What is constituent assembly? definition and meaning. [online] Available at: <http://www.businessdictionary.com/definition/constituent-assembly.html> [Accessed 18 Dec. 2018].

²⁵ Melimopoulos, E. (2017). Venezuela: What is a National Constituent Assembly?. [online] Aljazeera.com. Available at: <https://www.aljazeera.com/indepth/features/2017/07/venezuela-maduro-constituent-assembly-170729172525718.html> [Accessed 18 Dec. 2018].

5.1 1498-1830

In 1498 the Portuguese explorer Christopher Columbus, on behalf of the Spanish Monarchy, arrives in Venezuela -then inhabited by Carib, Arawak and Chibcha peoples.²⁶ For years, Venezuela was under the Spanish rule until 1749 when the first rebellion against Spain occurs and at the beginning of the 19th century, taking advantage of Napoleon's invasion in Spain, the Gran Colombia is created.²⁷ However, in 1830 Venezuela separates from it declaring its own independence.²⁸

5.2 1830-1989

The first steps of the newly formed state of Venezuela were very optimistic. The Venezuelan leader, Antonio Guzman Blanco, attracted foreign investments and enhanced national infrastructures, while great was also the development of agriculture and education.²⁹

Some decades later, Venezuela becomes the largest exporter of oil worldwide which gives a boost to its economy.³⁰ In 1945, after a century of military rule, a coup establishes a civilian government. The following years are characterized by political instability as the presidency is changing hands without always following the official procedures.³¹

In 1973, Venezuela benefits from the oil boom as its currency peaks. Nonetheless, in 1983 the fall of oil prices strikes and the government starts to make spending cuts.³² Six years later, Carlos Andres Perez is elected president and he introduces austerity measures as they seek a loan from the International Monetary Fund.³³ Strikes, protests and martial law start to take over the country.³⁴

²⁶ BBC News. (2018). Venezuela profile - Timeline. [online] Available at: <https://www.bbc.com/news/world-latin-america-19652436> [Accessed 18 Dec. 2018].

²⁷ Ibid

²⁸ Aljazeera.com. (2013). Timeline: Venezuela's tumultuous history. [online] Available at: <https://www.aljazeera.com/indepth/features/2012/09/201292121430533264.html> [Accessed 18 Dec. 2018].

²⁹ BBC News. (2018). Venezuela profile - Timeline. [online] Available at: <https://www.bbc.com/news/world-latin-america-19652436> [Accessed 18 Dec. 2018].

³⁰ Ibid

³¹ Ibid

³² Aljazeera.com. (2013). Timeline: Venezuela's tumultuous history. [online] Available at: <https://www.aljazeera.com/indepth/features/2012/09/201292121430533264.html> [Accessed 18 Dec. 2018].

³³ Ibid

³⁴ BBC News. (2018). Venezuela profile - Timeline. [online] Available at: <https://www.bbc.com/news/world-latin-america-19652436> [Accessed 18 Dec. 2018].

5.3 1992-2013

In 1992, Hugo Chavez attempts two military coups but fails.³⁵ Nevertheless, in the following years, President Perez is accused of corruption which leads to the election of Chavez in 1998.³⁶ Chavez brings with him a variety of changes in Venezuela. He presents the “Bolivarian Revolution” which establishes a new constitution.³⁷ At the same time, socialism and populism evolve funded by oil revenues while an anti-American external policy is enacted.

President Chavez passes a variety of laws aiming to redistribute land and wealth raising concerns in the business world.³⁸ Political instability remains evident with a coup attempted in 2002.³⁹ Three years later, violations of human rights are becoming evident with the political decisions attack both the private property and media freedom of speech -land reforms and legal persecutions of journalists in case they attack a political figure. In 2006, Chavez refreshes his term winning the elections with a high percentage starting a series of nationalizations in the country.⁴⁰

Energy and telecommunication companies become state-controlled while efforts are made in order for oil companies and the central bank to be nationalized too.⁴¹ The country suffers from supply shortages and the government assign the biggest petroleum exporter company in charge of a food campaign. Price controls are imposed while a major media channel is obligated to pay the fine of \$2.1m because of a prison riot coverage. Although Chavez wins the elections of 2012, he dies the following year and his successor, Nicolas Maduro, takes control of the party.⁴²

5.4 2013-today

The economic crisis emerges and worsens with the inflation rising to 50% and power shortages. Moreover, oppositional political figures start being accused of conspiracies against

³⁵ Aljazeera.com. (2013). Timeline: Venezuela's tumultuous history. [online] Available at: <https://www.aljazeera.com/indepth/features/2012/09/201292121430533264.html> [Accessed 18 Dec. 2018].

³⁶ BBC News. (2018). Venezuela profile - Timeline. [online] Available at: <https://www.bbc.com/news/world-latin-america-19652436> [Accessed 18 Dec. 2018].

³⁷ Ibid

³⁸ Ibid

³⁹ Ibid

⁴⁰ Ibid

⁴¹ Ibid

⁴² Aljazeera.com. (2013). Timeline: Venezuela's tumultuous history. [online] Available at: <https://www.aljazeera.com/indepth/features/2012/09/201292121430533264.html> [Accessed 18 Dec. 2018].

President Maduro, while mass protests happen all over the country because of the economic crisis in which many people are killed.⁴³ The government is accused of corruption and human rights abuses but the prosecutor is exiled. The United Nations warns for a migration crisis in the country.⁴⁴

6. Analysis of the topic

The situation in Venezuela is multidimensional and its understanding demands further analysis. In the following chapter, the violations of human rights in the country will be categorised and explained to facilitate their better comprehension.

6.1 Violation of freedom

6.1.1 Freedom of expression

For years, the government has been magnifying its control over the media and has taken aggressive measures against potential opposing media channels.⁴⁵ The Venezuelan government has passed legislation which permits the suspension or the cancellation of given privileges to the private media sector in favour of the nation's interests.⁴⁶ Moreover, the government has the power to suspend, at will, websites for the vague offence of "incitement", while the "dishonour" of high government officials is a criminal act.⁴⁷ As a result, most of the media outlets have been adopting the self-censorship as a way to ensure their safety.⁴⁸

In 2017, an anti-hate law was adopted by the Constituent Assembly. Its vague language confines freedom of speech, outlaws political parties that "promote fascism, hatred, and intolerance," and enforces long-term prison sentences on anyone who shares "messages of intolerance and hatred" in traditional or social media.⁴⁹

To be more specific, in 2017, the NGO Espacio Público recorded 708 cases with 1,002 violations of the right to freedom of expression, setting a record of violations for the

⁴³ BBC News. (2018). Venezuela profile - Timeline. [online] Available at: <https://www.bbc.com/news/world-latin-america-19652436> [Accessed 18 Dec. 2018].

⁴⁴ Ibid

⁴⁵ Human Rights Watch. (2018). World Report 2018: Rights Trends in Venezuela. [online] Available at: <https://www.hrw.org/world-report/2018/country-chapters/venezuela> [Accessed 19 Dec. 2018].

⁴⁶ Ibid

⁴⁷ Ibid

⁴⁸ Ibid

⁴⁹ Ibid

last 16 years.⁵⁰ The Office of High Commissioner for Human Rights (OHCHR) has underlined that during mass protests, the violations of freedom of speech increase, which is verified by the fact that 69% of the aforementioned cases took place during the wave of such demonstrations. 51

Although most documented violations of freedom of expression concern protests and their coverage, journalists researching about health and food shortages, prisoners living conditions, and corruption have been victims of violence and confinements.⁵² According to journalists' testimonies, there are cases that they had to use hidden cameras to record the situation in a public hospital or they had been arrested, beaten and abandoned by unknown security forces.⁵³

However, according to OHCHR, violations of the rights to freedom of opinion and expression have not only targeted the media sector, but also NGOs, the academic community, social and political activists, and active members of the society.⁵⁴ They have experienced harassment, threats, attacks or detentions for expressing publicly their opposing views and participating in protests. The OHCHR, also, reported restrictive measures, taken by the government, targeting the circulation of the printed paper.⁵⁵ Provoking headlines against the authorities and revealing articles caused the restriction of their distribution confining the variety of accessible information, especially for those who have limited or no internet access. Numerous television channels and radio stations have already gone off, while the circulation of more than a dozen printed media have been cancelled.⁵⁶

6.1.2 Freedom of peaceful assembly and protest

The past few years, protests were an everyday reality for Venezuela. Nevertheless, the right to peaceful assembly was not safeguarded as it was supposed to. The OHCHR noted

⁵⁰ Espacio Público, “Situación del Derecho a la Libertad de Expresión e Información: Informe 2017”, available at: <http://espaciopublico.org/informes/>.

⁵¹ Office of the United High Commissioner for Human Rights (2018). Human rights violations in the Bolivarian Republic of Venezuela: a downward spiral with no end in sight. [online] p.37. Available at: https://www.ohchr.org/Documents/Countries/VE/VenezuelaReport2018_EN.pdf [Accessed 18 Dec. 2018].

⁵² Ibid

⁵³ Ibid

⁵⁴ Ibid

⁵⁵ Ibid

⁵⁶ National Press Workers Union (SNTP), press release at the occasion of World Press Freedom Day, 3 May 2018, available at: <https://drive.google.com/file/d/1UH37fMyiMi9v-nOv6vv8Wg06oA-bdVXj/view>.

that as the economic and social crisis worsened, people's demands started changing from mere political to social and economic claims.⁵⁷ Indeed, in the majority of the demonstrations recorded in 2018, demonstrators asked for advancements in labour rights and guaranteed access to food, medication, health care, and all basic services -electricity, drinkable water and domestic gas.⁵⁸

The local NGO Venezuelan Penal Forum reports that 5,341 people were arrested in protests, of which, only, 822 were subjected to trial.⁵⁹

National security forces in collaboration with the “colectivos” -armed groups in favour of the government- have made violent attacks on anti-government demonstrations.⁶⁰ They have shot civilians, they have run over them with vehicles, and brutally hit even those who didn't resist their arrest. More specifically, the UN High Commissioner for Human Rights reported that security agents or colectivos had caused more than half of the deaths in protests. 61

The Venezuelan government has been adopting legislation and rules that criminalize protests and restrict the exercise of the right of freedom of assembly.⁶² Namely, demonstrations are subjected by these regulations even prior authorization, they are prohibited in extended security areas, and they are criminalized for the “obstruction of public roads”.⁶³

⁵⁷ Office of the United High Commissioner for Human Rights (2018). Human rights violations in the Bolivarian Republic of Venezuela: a downward spiral with no end in sight. [online] p.8. Available at: https://www.ohchr.org/Documents/Countries/VE/VenezuelaReport2018_EN.pdf [Accessed 18 Dec. 2018]

⁵⁸ Observatorio Venezolano de Conflictividad Social, “Emergencia Humanitaria en Venezuela: Conflictividad Social – Primer Trimestre del 2018”, available at: <https://www.observatoriodeconflictos.org.ve/sin-categoria/conflictividadesocial-en-venezuela-en-el-primer-trimestre-de-2018>; and “Conflictividad social en Venezuela en abril de 2018”, available at: <https://www.observatoriodeconflictos.org.ve/destacado/conflictividad-social-en-venezuela-en-abrilde-2018>.

⁵⁹ Amnesty.org. (2018). Venezuela 2017/2018. [online] Available at: <https://www.amnesty.org/en/countries/americas/venezuela/report-venezuela/> [Accessed 19 Dec. 2018].

⁶⁰ Office of the United High Commissioner for Human Rights (2018). Human rights violations in the Bolivarian Republic of Venezuela: a downward spiral with no end in sight. [online] p.8-9. Available at: https://www.ohchr.org/Documents/Countries/VE/VenezuelaReport2018_EN.pdf [Accessed 18 Dec. 2018]

⁶¹ Ibid

⁶² Ibid

⁶³ Ibid

6.1.3 Operation Peoples' Liberation (paramilitary activity)

In July 2015, President Maduro created the initiative “Operation Peoples’ Liberation” (OLP) so as to combat the rising security issues deploying more than 80,000 members of security forces.⁶⁴ Since then, claims for excessive abuse -extrajudicial killings, illegal detentions, bad prison conditions, arbitrary expulsions, and forced deportations- by police and military raids have increased significantly.⁶⁵

According to the attorney general, more than 500 people have lost their lives because of the OLP between 2015 and 2017.⁶⁶ The Venezuelan government claims that these killings were caused by “confrontations” with criminals, allegations mostly denied by the families of the victims or the witnesses.⁶⁷ Furthermore, in many cases, victims were last seen alive in police detention.

Excessive and unnecessary use of force by security officials was, also, detected by OHCHR in OLP’s raids.⁶⁸ Those ended up to numerous deaths that could be identified as extrajudicial killings. Moreover, the OLPs have high levels of impunity as the Bureau for Scientific, Criminal, and Forensic Investigations is both responsible for most of the OLPs’ killings and, also, in charge of the forensic examinations in all violent deaths.⁶⁹

6.2 Violation of political rights

6.2.1 Political opponents’ persecution and political discrimination

People in Venezuela are being persecuted in the name of their political views. Numerous arrests have been made to political opponents who have been, also, disqualified from running for office.⁷⁰

⁶⁴ Human Rights Watch. (2018). World Report 2018: Rights Trends in Venezuela. [online] Available at: <https://www.hrw.org/world-report/2018/country-chapters/venezuela> [Accessed 19 Dec. 2018].

⁶⁵ Ibid

⁶⁶ Amnesty.org. (2018). Venezuela 2017/2018. [online] Available at: <https://www.amnesty.org/en/countries/americas/venezuela/report-venezuela/> [Accessed 19 Dec. 2018].

⁶⁷ Human Rights Watch. (2018). World Report 2018: Rights Trends in Venezuela. [online] Available at: <https://www.hrw.org/world-report/2018/country-chapters/venezuela> [Accessed 19 Dec. 2018].

⁶⁸ Office of the United High Commissioner for Human Rights (2018). Human rights violations in the Bolivarian Republic of Venezuela: a downward spiral with no end in sight. [online] p.2. Available at: https://www.ohchr.org/Documents/Countries/VE/VenezuelaReport2018_EN.pdf [Accessed 18 Dec. 2018]

⁶⁹ Ibid

⁷⁰ Human Rights Watch. (2018). World Report 2018: Rights Trends in Venezuela. [online] Available at: <https://www.hrw.org/world-report/2018/country-chapters/venezuela> [Accessed 19 Dec. 2018].

More specifically, in 2017, the Supreme Court sentenced five opposition mayors - after concise proceedings violating the international guidelines of due process- to 15 months in prison and disqualified them.⁷¹ Leopoldo López, an oppositional leader, is currently serving a 13-year sentence in house arrest. It has been claimed that he incited violence in a demonstration in Caracas in 2014, however, there is no credible evidence against him.⁷²

Venezuelan media reports have documented that, in 2016, numerous government employees were fired due to their open support of the recalling of the Venezuelan President.⁷³ Other reports claim that a state program responsible for the distribution of food and basic goods segregates against government opponents.⁷⁴

The OHCHR has detected serious attacks on leaders and members of opposition parties, accused of terrorism and treason, by security forces and pro-government individuals. Physical violence, harassment, stigmatization, coercion, and threats are common examples of such attacks.⁷⁵ In 2017 only, the Inter-American Commission on Human Rights authorized precautionary acts to protect seven deputies from harassment and threats.⁷⁶

6.2.2 *Illegal revision of the constitution*

In 2017, President Maduro, although it was a constitutional requirement to hold a public referendum beforehand, assembled a Constituent Assembly through a presidential decree.⁷⁷ Its members are exclusively government supporters elected by the people two months after Maduro's decree. Nevertheless, Smartmatic -a British company hired to validate the results- declared that the election results were deceptive.⁷⁸

The most important issue regarding the Constituent Assembly is not only the revision of the constitution -despite the danger that this power holds- as its capabilities are broader than that. Only one month after its creation, its members undertook all legislative powers and

⁷¹ Ibid

⁷² Ibid

⁷³ Office of the United High Commissioner for Human Rights (2018). Human rights violations in the Bolivarian Republic of Venezuela: a downward spiral with no end in sight. [online] p.33. Available at: https://www.ohchr.org/Documents/Countries/VE/VenezuelaReport2018_EN.pdf [Accessed 18 Dec. 2018]

⁷⁴ Ibid

⁷⁵ Ibid

⁷⁶ Ibid

⁷⁷ Human Rights Watch. (2018). World Report 2018: Rights Trends in Venezuela. [online] Available at: <https://www.hrw.org/world-report/2018/country-chapters/venezuela> [Accessed 19 Dec. 2018].

⁷⁸ Ibid

fired the Attorney General Ortega Díaz -former government loyalist who began to criticise the government- and replaced her with a government supporter.⁷⁹ Furthermore, in November of the same year, the Assembly with the Supreme Court, stripped at will the parliamentary immunity of Freddy Guevara, the National Assembly's vice president.⁸⁰

The aforementioned are serious violations of democracy and its values. The prevarication of elections results and the exploitation of power infringe the fundamental political human rights recognized internationally.

6.3 Humanitarian crisis

6.3.1 Food shortages

Every person has the right to adequate food which is satisfied when everyone has physical and economic access at all times to food or means for its acquisition. The most important part of this right is the availability of enough, quality food that can meet the needs of individuals in accordance with their cultural, economic, and physical characteristics.⁸¹ As it has already been mentioned, every state has the responsibility to respect, protect, and fulfil every single human right, thus, the right to food is not an exception.

It is true that Venezuela is experiencing a serious economic crisis in the last few years. The hyperinflation, the loss of purchasing power, the collapse of the domestic food production system, and the reliance on imported food, have had serious consequences on the right to food for most Venezuelans.⁸² Experts interviewed by the OHCHR support that the food crisis is a result of economic and social policies implemented by the government.⁸³ These include its control over food prices and foreign currency exchange, the wrong management of confiscated land, the State's monopoly on agricultural supplies, the food distribution by the military, and the implementation of unclear social food programmes.⁸⁴

⁷⁹ Office of the United High Commissioner for Human Rights (2018). Human rights violations in the Bolivarian Republic of Venezuela: a downward spiral with no end in sight. [online] p.4. Available at: https://www.ohchr.org/Documents/Countries/VE/VenezuelaReport2018_EN.pdf [Accessed 18 Dec. 2018]

⁸⁰ Ibid

⁸¹ Office of the United High Commissioner for Human Rights (2018). Human rights violations in the Bolivarian Republic of Venezuela: a downward spiral with no end in sight. [online] p.45. Available at: https://www.ohchr.org/Documents/Countries/VE/VenezuelaReport2018_EN.pdf [Accessed 18 Dec. 2018]

⁸² Ibid

⁸³ Ibid

⁸⁴ Ibid

Furthermore, in October 2016, a decree issued by the government forced food companies to sell 50% of their products to the government at fixed prices.⁸⁵ These will be used for social programmes like the Local Supply and Production Committees (CLAPs). One year later, this quota was escalated at 70% of the production.⁸⁶ Therefore, food availability on the market was drastically reduced.

On the other hand, in 2017, certain corporations were allowed to import food but only through the parallel Dollar exchange rate.⁸⁷ As a result, although the availability of some products increased, prices were unaffordable for most Venezuelans. The low availability and the high prices of food items together with the high percentages of corruption have resulted in the creation of a massive black market selling smuggled items or re-selling those bought at State-controlled supermarkets or through social programs.⁸⁸

For the last few years, the Venezuelans need to queue for long hours in order to buy food at State-controlled prices -which are usually offered scarcely and in small quantities-, to try to benefit from a social programme, or to buy products at the supermarket or on the black market excessive prices.⁸⁹ It has been reported that Venezuelans are consuming less and less every year, while their calories intake is decreasing. OHCHR has documented that in many cities groups of people, particularly children, were waiting outside restaurants every night to eat the leftovers.⁹⁰

As studies have shown, pregnant women, the elderly and children are at higher risk of malnutrition. Acute malnutrition in children under five years old has increased from 8.7% in October 2016 to 16.8% in December 2017.⁹¹

Therefore, Venezuela's percentage is set above the crisis threshold of 10% set by the World Health Organisation.⁹² The same studies show that 33% of the children assessed had chronic malnutrition, which proves that the food crisis exists in the country for at least four years.⁹³ According to the local media outlets, the first months of 2018 were marked with high

⁸⁵ Ibid, p. 46

⁸⁶ Ibid

⁸⁷ Ibid

⁸⁸ Ibid

⁸⁹ Ibid

⁹⁰ Ibid

⁹¹ Ibid

⁹² Ibid, p.48

⁹³ Ibid

numbers of child-deaths caused by malnutrition. However, the exact number of these deaths is unknown, malnutrition is rarely mentioned as a cause of death.⁹⁴

As mentioned before, in 2016, the government moved its efforts and resources on the implementation of the Local Supply and Production Committees (CLAP). The government claimed that CLAPs constituted a new scheme of a social organisation aiming to distribute and deliver food at State-controlled prices in every house in need.⁹⁵ The CLAPs' distributions contain the "CLAP box", which is comprised of food items changing from time to time and is supposed to be distributed every 21 days by local structures.⁹⁶

However, taking into consideration the General Comments No. 12 of the Committee on Economic, Social and Cultural Rights, the OHCHR deems that the CLAPs programme does not meet the certain standards related to the right to food.⁹⁷ Namely, it doesn't meet the nutritional needs of Venezuelans as the items contained in the CLAP boxes are low in proteins and vitamins and high in fats, sugar and carbohydrates.⁹⁸ Moreover, the quantity covers the needs of a family for only a few days and the quality of some products is deficient.

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6.3.2 *Health conditions*

Interviews made by the OHCHR at medical staff, health professionals, and human rights defenders documented that a serious health crisis is ongoing in Venezuela and its health care system is on the edge of collapse.¹⁰⁰ Therefore, massive violations of the right to health have been evident. The 60% increase in maternal mortality and 30% in infant mortality from 2014 to 2016, the insufficient access to decent and regular treatment for over 300,000 patients with chronic diseases, and the outbreak of previously eradicated diseases (e.g. malaria and diphtheria), serve as serious indicators of the catastrophic decay of the healthcare

⁹⁴ Ibid

⁹⁵ Statement of the Minister of Agriculture and Food before the National Constituent Assembly on 5 January 2018
(see video: <https://www.youtube.com/watch?v=nZioy0QuJFI>).

⁹⁶ Ibid

⁹⁷ Office of the United High Commissioner for Human Rights (2018). Human rights violations in the Bolivarian Republic of Venezuela: a downward spiral with no end in sight. [online] p.50. Available at: https://www.ohchr.org/Documents/Countries/VE/VenezuelaReport2018_EN.pdf [Accessed 18 Dec. 2018]

⁹⁸ Ibid

⁹⁹ Ibid

¹⁰⁰ Ibid, p.39

system.

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The causes of this phenomenon have been various. The World Health Organization (WHO) has reported that the percentage of health expenses in relation to the country's GDP had a serious decrease between 2007 and 2015.¹⁰² Furthermore, the establishment of Misión Barrio Adentro -a parallel health care system-, with the purpose to expand the preventive health services to the poorest areas, ensued a serious underfunding of public hospitals and clinics which served more than 64% of the population.¹⁰³ In addition to this, the Misión proved to be unsustainable because it was financially dependent on the government's oil revenues.

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In addition, the high dependence on medicines and health equipment imports and the decrease of the already limited production nationally has resulted in the deterioration of the health care system. In 2014, the inflation and the high debt towards health supplies companies resulted in the reduction by 60% of the Government's ability to import medicines and health equipment.¹⁰⁵ Thus, as these imports were almost 95% of the needed health supplies, the imports reduction caused severe shortages of medicines and medical equipment.¹⁰⁶

Doctors have confirmed that, frequently, patients are obliged to buy their own medicines and supplies, like syringes and medical gloves, for their treatment outside the hospital.¹⁰⁷ Nevertheless, due to the usage of the “parallel” USD exchange in medicine imports and the hyperinflation, Venezuelans are having a really hard time to afford the necessary health items they need. For example, a box of hypertension pills costs more than the monthly minimum salary.¹⁰⁸

On the other hand, although the government has confirmed the medicine shortage, it has not recognized the ongoing health crisis and, also, it has not asked the international

¹⁰¹ Epidemiological Bulletin of December 2016, available at:

<https://www.ovsalud.org/descargas/publicaciones/documentos-oficiales/Boletin-Epidemiologico-2016.pdf>.

¹⁰² WHO, “Global Health Expenditure Database”, available at: <http://apps.who.int/nha/database/ViewData/Indicators/en>

¹⁰³ Office of the United High Commissioner for Human Rights (2018). Human rights violations in the Bolivarian Republic of Venezuela: a downward spiral with no end in sight. [online] p.40. Available at: https://www.ohchr.org/Documents/Countries/VE/VenezuelaReport2018_EN.pdf [Accessed 18 Dec. 2018]

¹⁰⁴ Ibid

¹⁰⁵ Ibid

¹⁰⁶ Ibid

¹⁰⁷ Ibid

¹⁰⁸ Ibid

support it needs. Moreover, the OHCHR discovered that the Venezuelan Ministry of Health has not shared vital information, essential to assess the health situation in the country.¹⁰⁹

6.4 Penitentiary crisis

The economic and humanitarian crisis in Venezuela has, reasonably, driven to an increase in crime rates, ranking the country among the deadliest and most dangerous countries on earth. It could be assumed the enhancement of the police forces and the judicial system would combat the problem of criminality. Nevertheless, crimes and human rights violations are present in prisons too.¹¹⁰

To begin with, testimonies all over the country have pointed out increasing police brutality both during protests, but also after the arrest.¹¹¹ A 30-year-old student was arrested during an antigovernmental protest, was directed to Helicoide (a prison in Caracas) and was held there for 12 hours. He, then, said that during those hours guards gave him electric shocks, threw tear gas into his cell and pummelled his torso.¹¹²

Another relevant case is Chacao in eastern Caracas. This police station was built in order to hold non-permanently maximum 36 inmates, till they are either released or sent to prison. In 2016, it held 150 inmates and some of them were there for months or years.¹¹³ Its cells are full of shirtless standing up men who don't even have enough room to sit down and they are taking turns to rest on sheets tied to bars like hammocks. Many of them are severely ill or injured but they are getting no treatment, water access is limited to 1 hour per day and hygiene facilities simply don't exist.¹¹⁴

On the other hand, permanent prisons are turning into battlefields. For years, prisons are under the control of imprisoned gangs, principally, because jails are understaffed and

¹⁰⁹ Ibid

¹¹⁰ Krygier, R. and Partlow, J. (2017). In Venezuela, prisoners say abuse is so bad they are forced to eat pasta mixed with excrement. [online] Washington Post. Available at: https://www.washingtonpost.com/world/the_americas/in-venezuela-prisoners-say-abuse-is-so-bad-they-are-forced-to-eat-pasta-mixed-with-excrement/2017/06/23/39a0c85e-4acb-11e7-987c-42ab5745db2e_story.html?utm_term=.8c937b0a0ea5 [Accessed 18 Dec. 2018].

¹¹¹ Ibid

¹¹² Ibid

¹¹³ GRILLO, I. and BENEZRA, J. (2016). Inside the Hell of Venezuelan Police Prisons. [online] Time. Available at: <http://time.com/4360758/inside-the-hell-of-venezuelan-police-prisons/> [Accessed 18 Dec. 2018].

¹¹⁴ Ibid

undertrained.¹¹⁵ Venezuela's government, trying to regain the control is sending special forces which creates deadly confrontations. In August 2017, 37 prisoners were killed during an overnight raid by government forces on a prison in the South.¹¹⁶

7 Legal Background

7.1 Universal Declaration of Human Rights (1948)

The Universal Declaration of Human Rights (UDHR) constitutes the first step towards the creation of the existing legal framework regarding human rights.¹¹⁷ On December 10th 1948, the world leaders accepted the UDHR recognizing the need for the respect and protection of human rights.¹¹⁸ It is the most translated document worldwide, a fact that confirms its importance.¹¹⁹ From then till today, the Declaration functions as a guide towards the promotion of human rights around the world.

7.2 UN Standard Minimum Rules for the Treatment of Prisoners (The Nelson Mandela Rules) (1955)

The UN Standard Minimum Rules for the Treatment of Prisoners were adopted in 1955 by the First UN Congress on the Prevention of Crime and the Treatment of Offenders - currently: UN Congress on Crime Prevention and Criminal Justice.¹²⁰ The adopted rules determined the standards for the administration of penal institutions and the treatment of prisoners and they have had great influence on the development of prison laws, policies and practises in States.¹²¹

In 2015, it was created a new version of the Standard Minimum Rules, named "Nelson Mandela Rules" to honour the President of South Africa who spent 27 years in

¹¹⁵ Ramirez, M. (2017). 37 inmates killed in government raid on Venezuelan prison. [online] Business Insider. Available at: <http://www.businessinsider.com/37-inmates-killed-in-government-raid-on-venezuelan-prison-2017-8> [Accessed 18 Dec. 2018].

¹¹⁶ Ibid

¹¹⁷ Ohchr.org. (n.d.). OHCHR | Universal Declaration of Human Rights Main. [online] Available at: <https://www.ohchr.org/en/udhr/pages/udhrindex.aspx> [Accessed 18 Dec. 2018].

¹¹⁸ Ibid

¹¹⁹ Ibid

¹²⁰ Un.org. (2018). Nelson Mandela International Day, July 18. [online] Available at: <http://www.un.org/en/events/mandeladay/rules.shtml> [Accessed 18 Dec. 2018].

¹²¹ Ibid

prison. The new document was adopted unanimously by the 70th session of the General Assembly.¹²² The rules were updated bearing in mind the changes in the modern criminal justice system and human rights since their initial adoption.

The Nelson Mandela Rules define that the prisoners should be treated with respect, due to their inherent dignity and value as human beings.¹²³ Torture or any form of ill-treatment are prohibited. Special emphasis is given on health-care services since States are responsible for providing free access to medical services for all prisoners without discrimination.¹²⁴ Furthermore, it is explicitly mentioned that the use of restriction or disciplinary punishment shall not amount to torture or other forms of ill-treatment.¹²⁵

The right to access legal representation, which was previously restricted to untried prisoners, is now granted to all prisoners according to the revised rules. The rules further provide solid guidance and training for prisons staff in order to conduct their duties in a professional manner.¹²⁶

7.3 International Covenant on Civil and Political Rights (1966)

The International Covenant on Civil and Political Rights was initially adopted and opened for signature in 1966 by the UN General Assembly, while it was put into force ten years later.¹²⁷ Its creation gave legal force to the Universal Declaration of Human Rights and it constitutes a commitment for the states that have ratified it towards the respect and protection of human rights.¹²⁸

The Covenant covers a lot of aspects of human rights like the right to life, the freedom of thought, religion and expression, the right for peaceful assembly, and the right for

¹²² Ibid

¹²³ Unodc.org. (2018, p. 2). [online] Available at: https://www.unodc.org/documents/justice-and-prison-reform/GA-RESOLUTION/E_ebook.pdf [Accessed 118 Dec. 2018].

¹²⁴ Unodc.org. (2018, pp. 8-11). [online] Available at: https://www.unodc.org/documents/justice-and-prison-reform/GA-RESOLUTION/E_ebook.pdf [Accessed 18 Dec. 2018].

¹²⁵ Unodc.org. (2018, pp. 11-14). [online] Available at: https://www.unodc.org/documents/justice-and-prison-reform/GA-RESOLUTION/E_ebook.pdf [Accessed 12 Mar. 2018].

¹²⁶ Penal Reform International. (2018). UN Nelson Mandela Rules (revised SMR) - Penal Reform International. [online] Available at: <https://www.penalreform.org/priorities/prison-conditions/standard-minimum-rules/> [Accessed 20 May 2018].

¹²⁷ Ohchr.org. (n.d.). OHCHR | International Covenant on Civil and Political Rights. [online] Available at: <https://www.ohchr.org/en/professionalinterest/pages/ccpr.aspx> [Accessed 18 Dec. 2018].

¹²⁸ Ibid

political participation. Furthermore, the Covenant is legally binding while the Human Rights Committee -established under article 28- is responsible for its implementation.¹²⁹

7.4 International Covenant on Economic, Social and Cultural Rights (1966)

The International Covenant on Economic, Social and Cultural Rights was adopted by the UN General Assembly the same day as the International Covenant on Civil and Political Rights, however, it was put into force 3 months earlier.¹³⁰

It recognizes the importance of safeguarding the respect and promotion of human rights of every individual regardless of their sex, ethnicity, religion, and other characteristics.¹³¹ It also highlights human rights like the right to work, the need for social security, and the right to health and education.¹³²

Although Article 17 states that the member states need to submit reports to the Economic and Social Council, the latter established in 1985 the Committee on Economic, Social and Cultural Rights which consists of 18 independent experts responsible of the Covenant's implementation.¹³³

7.5 Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (1984)

The Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Torture Convention) was adopted in 1984 and came into force three years later.¹³⁴ The Torture Convention prohibits torture and any form of inhuman or degrading treatment of prisoners by public officials without exception.¹³⁵ Specifically, it imposes the

¹²⁹ Ibid

¹³⁰ Ohchr.org. (n.d.). OHCHR | International Covenant on Economic, Social and Cultural Rights. [online] Available at: <https://www.ohchr.org/en/professionalinterest/pages/cescr.aspx> [Accessed 18 Dec. 2018].

¹³¹ Ibid

¹³² Ibid

¹³³ Ohchr.org. (n.d.). OHCHR | Committee on Economic, Social and Cultural Rights. [online] Available at: <https://www.ohchr.org/en/hrbodies/cescr/pages/cescrindex.aspx> [Accessed 18 Dec. 2018].

¹³⁴ Ohchr.org. (2018). OHCHR | Convention against Torture. [online] Available at: <http://www.ohchr.org/EN/ProfessionalInterest/Pages/CAT.aspx> [Accessed 18 Dec. 2018].

¹³⁵ Ibid

obligation on States to undertake all necessary measures -legislative, administrative and judicial– in order to prevent all acts of torture.¹³⁶

According to Article 17, the Committee Against Torture (CAT) is established in order to monitor the full implementation of the Convention's provisions globally.¹³⁷ CAT consists of 10 independent experts who examine States' periodic reports on the implementation of the rights of the Convention.¹³⁸ The monitoring function of the Committee is further realised by the mechanism of individual complaints.¹³⁹

7.6 UN Basic Principles for the Treatment of Prisoners (1990)

Adopted in 1990, the Basic Principles for the Treatment of Prisoners, set out the framework for the protection of the fundamental rights of prisoners during imprisonment as well as for their social reintegration.¹⁴⁰ Moreover, the non-discriminatory clause underlines the prohibition of discrimination on any grounds or status, such as “race, colour, sex, language, religion, political or other opinions, national or social origin, property, birth”.¹⁴¹ Aiming to assist prisoners' personal development, the Principles guarantee the right to participation in cultural activities and education.¹⁴² They, also, highlight that the necessary conditions for prisoners' effective and remunerated employment should be established, in order to promote their reintegration into the labour market. Furthermore, the document stresses the impartial access to health services for all persons deprived of their liberty.¹⁴³

8 Recent developments

In the 39th Human Rights Council meeting, on 27th of September 2018, the resolution A/HRC/39/L.1/Rev.1, regarding the Promotion and protection of human rights in

¹³⁶ Ibid

¹³⁷ Ibid

¹³⁸ Ohchr.org. (2018). [online] Available at: <http://www.ohchr.org/Documents/Publications/FactSheet17en.pdf> [Accessed 18 Dec. 2018].

¹³⁹ Ibid

¹⁴⁰ Ohchr.org. (2018). OHCHR | Basic Principles for the Treatment of Prisoners. [online] Available at: <http://www.ohchr.org/EN/ProfessionalInterest/Pages/BasicPrinciplesTreatmentOfPrisoners.aspx> [Accessed 18 Dec. 2018].

¹⁴¹ Ibid

¹⁴² Ibid

¹⁴³ Ibid

the Bolivarian Republic of Venezuela, was adopted - 23 votes in favour, 7 against, and 17 abstentions.¹⁴⁴

The, currently, draft resolution presents a variety of measures that need to be taken in order to safeguard the respect and promotion of Venezuelans' human rights, recognizing the important role of the United Nations High Commissioner for Human Rights and highlighting the high ongoing immigration flows the draft welcomes the reports of the High Commissioner and urges her to prepare a new one for the 41st Council's meeting.¹⁴⁵ Moreover, it requests the Venezuelan government to accept the given international support so as to resolve the ongoing humanitarian crisis.¹⁴⁶

9 Conclusion

Nelson Mandela once said that "To deny people their human rights is to challenge their very humanity".¹⁴⁷ People in Venezuela are struggling every day to feed themselves while fundamental values like democracy and freedom are collapsing. Mortality rates are rising¹⁴⁸ and a migration crisis is ongoing as more than 1.6 million Venezuelans have fled from their homes.¹⁴⁹ The national government is refusing any kind of help and it characterizes as "propaganda" all the allegations regarding the humanitarian crisis within the country.¹⁵⁰ Despite the Venezuelan arguments and their refusal, the OCHR has conducted researches

¹⁴⁴ Ohchr.org. (n.d.). OHCHR | Session39 39th session of the Human Rights Council - Resolutions, decisions and President's statements. [online] Available at: <https://www.ohchr.org/EN/HRBodies/HRC/RegularSessions/Session39/Pages/ResDecStat.aspx> [Accessed 18 Dec. 2018].

¹⁴⁵ Ap.ohchr.org. (2018). A/HRC/39/L.1/Rev.1. [online] Available at: http://ap.ohchr.org/documents/dpage_e.aspx?si=A/HRC/39/L.1/Rev.1 [Accessed 18 Dec. 2018].

¹⁴⁶ Ibid

¹⁴⁷ Amnesty.org. (2015). 15 inspiring human rights quotes. [online] Available at: <https://www.amnesty.org/en/latest/campaigns/2015/10/inspiring-human-rights-quotes/> [Accessed 18 Dec. 2018].

¹⁴⁸ Data.worldbank.org. (n.d.). Mortality rate, infant (per 1,000 live births) | Data. [online] Available at: <https://data.worldbank.org/indicator/SP.DYN.IMRT.IN?locations=VE> [Accessed 18 Dec. 2018].

¹⁴⁹ The Sydney Morning Herald. (2018). Diplomats urge Venezuela to accept international aid. [online] Available at: <https://www.smh.com.au/world/south-america/diplomats-urge-venezuela-to-accept-international-aid-20180906-p5024w.html> [Accessed 18 Dec. 2018].

¹⁵⁰ VOA. (2018). Maduro: UN Human Rights Chief 'Always Welcome'. [online] Available at: <https://www.voanews.com/a/maduro-un-human-rights-chief-always-welcome-to-visit/4590969.html> [Accessed 18 Dec. 2018].

showing that people are suffering and dying. Therefore, the international community is responsible to protect and help those people in need.

10 Points to be addressed

1. Should the Venezuelan government accept the global accusations against itself?
2. How could the international community provide the necessary help to the Venezuelan people without violating their national sovereignty?
3. What measures should be taken in order to ensure Venezuelan's freedom of speech?
4. How could the Council prevent any acts of illegal violence against civilians and human rights defenders?
5. Is it possible to protect people's political rights in the country? How?
6. How can the international community help with the humanitarian crisis in Venezuela? Namely, what could it be done so as to resolve the issues of food shortages and the collapse of the healthcare system?
7. Can the Council take action against the penitentiary crisis? How?
8. What is the role of the international media in resolving the situation in Venezuela?

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