

PROTECTING HUMAN RIGHTS ON THE GROUND

Case Studies on the Origin
and Development of
OHCHR Country Offices
and their Relevance for
the Situation of
Venezuela

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of OHCHR Country Offices and their
Relevance for the Situation of Venezuela

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*In memory of Andrew Blane and Pedro Nikken, two
exceptional human rights defenders and
extraordinary human beings, both of whom
witnessed the genesis of AlertaVenezuela, and who
physically passed away in 2019, leaving us their
valuable legacy.*

SUMMARY

The proposal to create a United Nations High Commissioner for Human Rights (OHCHR) country office in Venezuela led to the necessity for comparative research to support civil society and human rights advocates who are interested in promoting a greater presence and monitoring by the international human rights system in this country. The report, “Protecting human rights on the ground,” aims to provide insights so that the process of establishing a UNHCR country office in Venezuela can be the result of informed and strategic decision making.

This study identifies processes, strategies, lessons, and practices applicable to the proposal to create an OHCHR country office in Venezuela. The report includes a comparative analysis of the experiences of the four OHCHR country offices in Cambodia, Colombia, Guatemala, and Tunisia. Each office has its own unique characteristics and exists in a distinct context, but an analysis of each office sheds light upon elements of interest for the Venezuelan case. The study aims to provide tools to the national human rights movement in Venezuela as well as to other organizations interested in the Venezuelan’s situation, so that these stakeholders can design a realistic, and coordinated strategy to interact with the relevant actors: the UN human rights system, other interested States and donors.

While the research for this report was being conducted, OHCHR completed its first six months in Venezuela. This report, therefore, also includes an analysis of human rights organizations’ perspectives of OHCHR’s initial experience in Venezuela. Being the first comparative research in this field, its findings are equally of interest to other audiences beyond Venezuela.

Keywords: human rights, Venezuela, OHCHR, country offices

RESUMEN

A raíz de la propuesta de crear una oficina de país en Venezuela del Alto Comisionado de las Naciones Unidas para los Derechos Humanos (ACNUDH), surge la necesidad de explorar algunas experiencias que pueden dar luces a quienes, desde la sociedad civil en general y del movimiento de derechos humanos en particular, tienen interés en impulsar un proceso de mayor presencia y monitoreo por parte del sistema internacional de derechos humanos en Venezuela, a fin de que dicho impulso sea producto de decisiones informadas y ponderadas estratégicamente.

Este estudio identifica procesos, estrategias, lecciones y prácticas que podrían ser aplicables o no a la situación en Venezuela, con base en el análisis comparativo de la experiencia de cuatro oficinas de país del ACNUDH con diferentes características y contextos, pero con elementos de interés para el caso venezolano: Camboya, Colombia, Guatemala y Túnez, para brindar elementos al movimiento nacional de derechos humanos y a otros interesados en Venezuela, para el diseño de una estrategia de incidencia realista y coordinada frente los diferentes actores involucrados: sistema de derechos de la ONU, gobierno, otros Estados interesados y donantes.

Durante la realización de la investigación, la presencia del ACNUDH en Venezuela cumplió sus primeros seis meses, por lo que se incluyó una consulta sobre la valoración de esta experiencia por parte de defensores de derechos humanos del país. Siendo la primera investigación comparativa en este campo, sus hallazgos son igualmente de interés para otras audiencias más allá de Venezuela.

Palabras clave: derechos humanos, Venezuela, ACNUDH, oficinas de país

SUMMARY OF FINDINGS AND CONCLUSIONS

CONTEXT

The countries in which OHCHR offices are established typically are countries experiencing institutional, political and/or economic weakness; therefore, even as they attempt to impose the rules of the game, they are at a disadvantage in comparison to other actors.

Experiences in which an OHCHR country office was established under a dictatorship were not identified, meaning that there is no simple formula to spot the right moment to establish a country office in such a context. However, there are cases in which an office has been established in very adverse conditions, which are relevant to the Venezuelan case.

Waiting for a transition of power to occur to establish an OHCHR country office with a broad mandate in Venezuela could result in the indefinite postponement of the office's establishment, given that a transition of power cannot be predicted. Postponing the establishment of an OHCHR Country Office in Venezuela would only result in the suffering of the Venezuelan population increasing.

Establishing an office in an authoritarian country faces specific risks. The government can use the presence of the office to whitewash its image and create the appearance that progress is being made. Though it is better to have an office than to write reports from abroad, this is a risk to consider.

The opportunity of establishing a country office thus entails a cost-benefit analysis. In negotiations regarding the establishment of an office where the State resists the initiative, there has been a tipping point which forces them to cede.

The decision to establish a country office cannot be a bilateral process between OHCHR and the host State. The exclusion of civil society organizations and other States, which initially seem to work in favor of OHCHR's agenda, can become a liability the moment the State unilaterally closes its doors, just as it initially accepted the establishment of an OHCHR presence.

The office cannot be seen as an objective in itself, but as a medium-term goal which is part of a larger strategy which unites: action by other international mechanisms that supervise the human rights situation, building alliances amongst national and international organizations and democratic States, and placing the country's human rights situation on the international agenda.

THE ROLE OF DIFFERENT ACTORS

In countries where the establishment of an office is not the result of a host State's own initiative but rather the State presents resistance, the establishment of this entity has been made possible thanks to the intervention of numerous actors, with complementing or conflicting interests. Therefore, the final decision making and design will be the product of negotiations in which all parties will have to make concessions.

Alliances among States interested in supporting the establishment of a country office are generally bolstered by systematic advocacy work by civil society organizations. This work advances by exercising diplomatic pressure through a variety of means, which include advocating for resolutions in the different human rights bodies, organizing international conferences, working with embassies, promoting sanctions against officials involved in human rights violations, and supporting actions taken by civil society.

In addition to international alliances, it is valuable to have national allies beyond the human rights movement, including religious institutions, communicators, professional guilds, political leaders and other relevant stakeholders.

The success of the human rights movement's advocacy can be attributed to coordination efforts around a single and shared message and objective, the identification of opportunities to generate an impact, and the inclusion of the largest and most diverse number of allies from within and outside of the country.

The UN's human rights protection system is a relevant actor due to its capacity to produce information which places the host country on the international agenda. The UN's Special Procedures have played a valuable role in raising alarms about the human rights situation of a country.

MANDATE, OPERATIONS AND ASSESSMENT OF THE OFFICES

Although States always prioritize promotion over protection of human rights while NGOs prioritize protection, it is possible to reach agreements which allow for the presence of OHCHR with a mandate that includes both protection and promotion of human rights.

The cases studied show that it is possible to develop a sufficiently broad mandate which considers different aspects of the country's situation, without being limited to a restricted view of human rights.

There is unanimous agreement on the importance of the country office having all of the components of its mandate from the start. In other words, an office that offers technical assistance as its only or main component is unacceptable. Likewise, it is desirable for the country office to have a robust presence throughout the territory.

Relations between country offices and UN agencies tend to be difficult, given agencies' tendency to avoid the topic of human rights to preserve their relationship with the host government. As a response, NGOs must persuade agencies of their obligation to adopt a rights-based approach in their work and to demand that the Secretary General also encourage agencies to take this approach.

One of the main limitations that country offices face in performing their functions that spurs reiterated concern is lack of funding, which should be taken into account prior to the establishment of an office.

The main positive assessments about the offices help to formulate a sort of catalogue of characteristics that may be expected – and, therefore, demanded – from an office, among them are immediacy, credibility and impact.

PRESENCE AND PERSPECTIVES ON THE OHCHR IN VENEZUELA

Currently OHCHR has a small presence in Venezuela, where it maintains a low-profile, without its own headquarters. It works on three aspects of its mandate, but without the real capacity to do so effectively and with limited freedom of movement and access to particular sites. The ultimate goal is to establish a country office with a broad mandate, a high-profile representative with ample experience, a professional team, a robust presence

in the different regions of the country, and the freedom to move and have access to all parts of the country.

The Venezuelan human rights movement recognized the favorable impact that the OHCHR presence has had during its first six months in Venezuela. The movement also recognizes its limitations, with the most notable being the absence of a voice which will speak up loud and clear regarding the human rights situation. To eliminate this shortcoming, the office would need a team that, besides having a broad mandate, has a public spokesperson.

There is a proposal for the establishment of a country office in Venezuela which is being negotiated directly between OHCHR and the State, a proposal which could continue advancing with or without participation of the civil society. Thus, it seems desirable that organizations become actively involved in this process, to assess from the inside and with sufficient evidence, the relevance or not of a country office and its conditions.

Of course, having a country office is not the only option, although it is highly recommended if the circumstances allow for it. This option is also not exclusive of others. In Venezuela's case, there is no justification for the option of having a presence or a country office being used as an option that excludes the current Independent International Fact-Finding Mission. On the contrary, since 2017, the need to integrate different mechanisms with the common objective of ensuring the adequate international supervision of the Venezuelan human rights situation has become evident.

The international community must continue to demand that Venezuela comply with its international human rights commitments and therefore should propose resolutions before the Human Rights Council that serve as the basis to: i) promote and support OHCHR's work in the country; ii) grant an express mandate to the High Commissioner to produce reports on specific matters, which shall be presented to and debated by the Council; iii) support the creation of a country office, establishing the minimum essential bases for an independent and effective operation; and iv) establish complementary monitoring mechanisms for the country, based on the findings and recommendations made by the International Independent Fact Finding Mission.

States interested in the human rights situation in Venezuela must translate their commitment into concrete measures, such as guaranteeing resources that allow the

establishment of a country office in Venezuela, equipped with the necessary personnel and with a presence in the country's different regions.

Civil society organizations must take ownership of the process, which means defending the current presence and eventual office from undue interference and ensuring that it can effectively carry out its work with total freedom in its action. Likewise, civil society organizations must support fundraising efforts and ensure there are mechanisms for participation in technical assistance initiatives.

It is important that advocacy work goes beyond the traditional Geneva settings, meaning that organizations must involve the Secretary General and his Executive Office, as well as the Department of Political Affairs and Peacebuilding.

Organizations must reach an agreement regarding the appropriate timing to raise the need for an office through taking into consideration other options for international supervision of the human rights situation in the country. Organizations must also simultaneously establish a system of alliances with States and international NGOs.

Organizations must come to a consensus on the minimum non-negotiable standards that must be part of the advocacy agenda for an OHCHR country office, which should include: a balanced mandate between promotion and protection; complete autonomy and independence; sufficient funding; unrestricted access to the entire territory, both for visits and for the establishment of sub-offices; security guarantees for equipment, facilities and people who interact with the office; consideration of the office as a non-exclusive option from other international supervision mechanisms; and participation of civil society and the international community in the establishment process.

A plurality of support is crucial to the effort to establish an OHCHR Country Office in Venezuela, to avoid the perception that a single country is attempting to impose its agenda, which could generate resistance from other stakeholders.

Organizations should ensure that rather than the creation of an office *in* the country, the result of this process is an office *for* the country.

INTRODUCTION

JUSTIFICATION AND OBJECTIVES

In March 2019, the Office of the United Nations High Commissioner for Human Rights (OHCHR) sent a technical mission to Venezuela, as part of the process to prepare a report on the country that was requested by the Human Rights Council to evaluate the possibility of a visit by the High Commissioner. At that time, different human rights organizations in Venezuela approached the technical mission with the proposal of opening an OHCHR office the country.

Later, when the report was presented to the Human Rights Council, the High Commissioner announced the Maduro government had agreed to the presence of two OHCHR officials and “*after six months, to evaluate whether to open a full, more operational office with more personnel that could fulfill the most important role*” (El Nacional, 2019).

The High Commissioner’s declaration indicates that her Office has the interest and willingness to establish an autonomous and expanding presence in Venezuela. However, given Venezuela’s political context, it would be naive to imagine that such an objective could be the result of a linear or short-term process. On the contrary, as will be seen in this report, the creation of a country office is usually the result of a process of complex and, in most cases, long-term negotiations.

Furthermore, the proposal formulated by some Venezuelan non-governmental human rights organizations (NGOs) in March 2019 regarding the creation of an office in the country was not the result of an informed or collective decision. On the contrary, it was a suggestion that did not consider the complexities associated with such an operation. While an OHCHR presence in Venezuela is desirable, it cannot be accomplished overnight; nor can it be the result of a unilateral decision of the United Nations (UN) System, much less the product of a non-public agreement between the OHCHR and the State.

Accordingly, this study arises from the need to explore some experiences that may provide insight to those in civil society in general and the human rights movement in particular who wish to promote greater presence and monitoring by the international human rights system in Venezuela, so that this promotion is the product of informed and strategically considered decisions.

The establishment of an office under the terms announced by the High Commissioner raises a series of strategic and operational questions that can be answered in light of other experiences.

Some questions relate to the context and genesis of the offices, such as: Is it possible to establish an office with a broad mandate, when those who hold power in the host country have been cited by the OHCHR as being responsible for serious human rights violations? Or, on the contrary, is it necessary to wait for a transitional government to negotiate the terms of that office's mandate? When is the right time to establish a country office, taking into account the particular characteristics of the political context? What factors of the international and/or national context may influence a government with a negative human rights record to accept the option of an office in the country?

A second group of questions is related to the role of different actors: How have the systems of State alliances operated to promote and support the establishment of a country office? What role can human rights organizations play in advancing the initiative for establishing an office in the country? What is the role of other agencies in the UN Human Rights System in this process?

A third group of questions is associated with the mandates and evolution of offices. Given that Venezuela is facing a crisis that simultaneously includes political, institutional, human rights, and humanitarian issues, is it possible for the OHCHR country office to have a sufficiently broad mandate to address and/or take into account different aspects of the crisis? Although the ultimate goal would be the establishment of a fully staffed office with a broad mandate, is it possible or acceptable to move towards that goal gradually? If so, what steps should be taken? Under what circumstances would the gradual approach not be advisable? What corrective actions have been taken when an office has not lived up to its mission, and from where have those actions been promoted? Is the office the most appropriate response for confronting Venezuela's human rights challenges? What are other options? Is the simultaneous coexistence of several mechanisms for the protection and promotion of human rights possible?

A final block of questions refers to the results of these experiences on the ground. What have been the main limitations encountered, and how could they be prevented or overcome? Based on the experiences analyzed, what are the minimum essential elements for a country office to function in Venezuela?

The preliminary exploration conducted by AlertaVenezuela found that, beyond individual evaluations of some country offices, there are no comparative studies of this type of experiences that would provide clues about the questions raised. Therefore, performing a comparative analysis for this purpose seems pertinent, for which four experiences were chosen, as detailed in Section I.b.

Consequently, the objective of this study is to identify processes, strategies, lessons, and practices that may or may not be applicable to the situation in Venezuela, based on a comparative analysis of OHCHR country offices, with the goal of providing elements to the national human rights movement and other stakeholders for the design of a realistic and coordinated advocacy strategy for different actors involved (the UN Human Rights System, governments, other interested States, and donors).

Thus, the results expected from the research will serve to:

- Provide guidance for reflecting on the relevance and role of an OHCHR country office in Venezuela;
- Encourage debate between the responsible national actors and stakeholders on the possible creation of an OHCHR country office in Venezuela;
- Contribute to the coordination of international advocacy actions related to the possible creation of an office in the country.

This report does not provide a historical account of the experiences, nor does it attempt to construct models, since it is understood that the lessons provided by the case studies serve as references that cannot be replicated without contemplating the specifics of each situation. What is expected is that the research findings will serve as inputs for Venezuelan NGOs in their process to develop a roadmap for achieving the establishment of a country office.

In addition to this introduction, the document consists of seven chapters. The first examines the origins of the country offices studied and the actors involved in the process,

followed by an analysis of the offices' mandates and evolution. The third chapter explores the interaction between the offices and different actors, and the study of the four experiences closes with an assessment of the strengths and weaknesses of the offices. The connection to the Venezuela situation is established in two chapters: the first one presents a summary of recent activities of the United Nations Human Rights System in Venezuela, and the second offers a report on the presence of the OHCHR in Venezuela during its first six months of operation, based on interviews with representatives of Venezuelan human rights organizations. Finally, the document presents conclusions and recommendations that include a proposed roadmap for the Venezuelan human rights movement, and thoughts on the role of the international community in the process to explore different mechanisms for the international supervision of the human rights situation in the country.

METHODOLOGY

The research is based on a comparative analysis of four country-office experiences that, despite their different characteristics and contexts, have elements of interest for the Venezuelan case. It is clear that each country office was established to address the specific needs of its circumstances, so no effort is made to transfer their experiences to the Venezuelan context. However, the four cases were selected because they can provide clues about the negotiation process for the Venezuela office and its possible future development.

It is also clear that none of the OHCHR country offices has been established in a context marked by the absence of the rule of law and by a constitutional breakdown, which is why the situation in Venezuela is not comparable to that of any of the countries in which offices have been established so far. Rather, the selection was based on the identification of some elements of the experiences analyzed that may be of interest for the future in Venezuela.

The experiences analyzed are:

- Cambodia, for being the first country in which the UN Human Rights System was present on the ground, in addition to the survival of the office in an anti-democratic context after a coup d'état in 1997;

- Colombia, for being the first experience in the region, driven by a richer work strategy pursued by civil society, with a greater territorial deployment, and the integration of international humanitarian law (IHL) in its mandate;
- Guatemala, for its interaction with the UN component established to fight against impunity and corruption in the country; and
- Tunisia, for the early incorporation of issues related to poverty and economic, social and cultural rights (ESCR).

The interviews and bibliographic review suggested some factors of interest in other country office experiences, which are duly noted in the text. However, the very specific nature of these elements led us to conclude that expanding the focus of the research beyond the four selected case studies would not be appropriate.

This paper presents exploratory research based on a review of documentary materials and the conduct of interviews with actors involved in these four experiences. A questionnaire was developed for the collection of information, consisting of thirty-seven questions¹ divided into the following four blocks: origin of the office proposal; establishment and evolution of the mandate; interactions with different actors; and general assessment of the experience. The questions were not asked of all respondents and were not addressed by all of the documents reviewed. Rather, the questionnaire served as a general guide that was used at the discretion of the research team to obtain information, depending on the role played by each actor or the nature of each document.

Approximately 200 documents and articles from the UN system and other sources were reviewed. A total of fifty-four interviews were conducted, of which thirty-seven involved current and former OHCHR officials, human rights defenders in each country, representatives of international human rights NGOs, United Nations System officials with knowledge of the situation in Venezuela, and former officials of public institutions in the countries studied. The interviews were confidential in order to facilitate greater frankness, for which reason the respondents are not quoted.

In addition, given that the OHCHR office in Venezuela completed its first six months of operation while the research was being carried out, semi-structured interviews² were conducted with seventeen human rights defenders from organizations located in

¹ See Annex II.

² See Annex III.

seven states in Venezuela³, to learn about their information regarding the presence of the office, their interactions with the office, and their assessment of the experience. For security reasons, we agreed not to disclose the names of the interviewees or their organizations.

Furthermore, three consultations were carried out through virtual forums with the participation of members of the Dejusticia team, AlertaVenezuela, the Center for Human Rights and Global Justice, New York University, Venezuelan human rights defenders, and international experts, in order to validate the information collected in a first draft of the study.

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The research was conducted by a team made up of Ligia Bolívar, Senior Researcher and General Coordinator of the project; Lucía Ramírez Bolívar, Senior Researcher; and Johanna Muñoz Pulido and Carolina G. Berenger, Research Assistants. AlertaVenezuela thanks Professor Pablo De Greiff for accepting responsibility as Academic Supervisor of the research assistant from New York University's Center for Human Rights and Global Justice.

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³ The Venezuelan human rights movement is composed of over 200 organizations. A broad consultation of these organizations did not correspond to the objective of this investigation, which is why the selection of organizations was based upon having a balance between those in the capital and the states, representing a focus on a variety of rights. Priority was given to organizations with a certain level of previous interaction with the UN's human rights system.

Lee, Teresa Albero, Todd Howland, Victoria Figueroa, Wilder Tayler, and the seventeen human rights defenders from Venezuela who agreed to be interviewed, some of whom also participated in the project reviews at different stages.

OHCHR officials were consulted during different moments of the investigation, both on the project development process and on substantive aspects. The final text was sent to the High Commissioner a month and a half before the report was released, along with a request for a meeting with the investigators and with the AlertaVenezuela team. However, no response was received to the meeting request and no comments were received in the scheduled time. The report is the responsibility of the organizations participating in the project.

We also appreciate the support of the Jacob Blaustein Institute for the Advancement of Human Rights (JBI), for its confidence in AlertaVenezuela, and for providing the funds necessary for conducting the research, as well as Felice Gaer and Christen Broecker for their keen observations and contributions throughout the project.

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**THE EMERGENCE OF OHCHR
COUNTRY OFFICES AND THE ACTORS INVOLVED:
PRESENTATION OF THE CASE STUDIES**

The OHCHR is present on the ground through different modalities: regional offices, regional human rights centers, country offices, human rights components of the peacekeeping missions, and national human rights advisors/officials. As of May 2020, the OHCHR had a total of fifteen country offices in the world, all in Global South countries, with four in Latin America, two in Asia, three in the Middle East, and six in Africa.

As mentioned, the OHCHR's first presence on the ground was in Cambodia, created at a time when the UN structures with a mandate in the field of human rights were the Center for Human Rights, predecessor of the OHCHR, and the Commission on Human Rights, an organization of States that was replaced by the Human Rights Council.

An OHCHR report states that country offices *“are established based on a standard agreement between the OHCHR and the host government. A mandate typically includes human rights monitoring, protection, technical cooperation activities, and public reporting, and is tailored to a specific country situation”* (ACNUDH, 2011, pg. 206).

Although the agreement is presented as standard, the truth is that there is no single model for a country office, and that is how it should be, since each situation has its particular characteristics. However, the OHCHR has stated that, in general, *“the activities of the country offices include monitoring, public information, technical assistance, and the supervision and development of long-term national capacities for addressing human*

rights issues” (ACNUDH, 2018), which establishes a nucleus of activities that will be conducted by all offices, to a greater or lesser extent.

The OHCHR has taken steps to standardize the general framework of the offices, but the genesis of each one has marked its subsequent development. Taking these particular characteristics into account, this chapter will analyze the context, the actors involved, and the obstacles that arose during the establishment of the four country offices studied in this research: Guatemala, Colombia, Cambodia, and Tunisia.

The first section will present a general analysis of the similarities and differences in the process of establishing the offices, followed by a detailed analysis of the role of each actor who participated in that process.

THE ORIGINS OF THE OHCHR OFFICES IN CAMBODIA, COLOMBIA, GUATEMALA, AND TUNISIA

The national context in the four cases analyzed was marked by some type of serious socio-political breakdown, with grave consequences for human rights. As one interviewee noted, “*an office is not opened in a peaceful country like Sweden or Switzerland.*” This does not mean that there necessarily has to be a dictatorship or a civil war, but the breakdown of the rule of law is a compelling factor in considering the relevance of a country office.

Such breakdowns, however, had been overcome –at least formally– through peace agreements or processes for the transition to democracy, placing the countries in a post-conflict situation, except in Colombia, as we will later see, where the initiative has been considered in very particular circumstances.

Several factors converge in the context of the origins of the country offices: on the one hand, a weak or weakened State as a result of conflict, the absence of traditionally democratic institutions, and/or scandals that have undermined international support; on the other, the international community’s special attention to the country due to the breakdown of the rule of law, the impact of the country’s situation on the region, or the need to establish a favorable environment for economic recovery or foreign investment. Frequently, the need for investment security is a motivation that is shared by the international community and the country in question.

Cambodia and Guatemala had been devastated by conflict, such that, when their peace agreements were signed, special attention had to be paid to the reconstruction of the country's institutions and social fabric. The prestige of the Colombian government and institutions was severely damaged by paramilitarism and drug-trafficking scandals that touched senior officials of different branches of government. And Tunisia put an end to decades of exclusion and persecution in a process that, while full of social enthusiasm, faced serious institutional deficiencies due to the absence of a democratic tradition.

In two of the countries studied (Cambodia and Guatemala), there had been a human rights component in previous UN operations (the United Nations Transitional Authority in Cambodia (UNTAC), and the United Nations Verification Mission in Guatemala (MINUGUA). The government, civil society, and the international community shared concerns about the need to maintain the human rights component once the UN's mission ended, given that the fragility of institutions and the absence of a democratic culture in the military and police sectors, as well as a fragile, vulnerable, and frightened civil society, endangered the implementation of the commitments reached following the peace agreements.

Although there had been no previous UN structures in Colombia and Tunisia, these countries shared with Cambodia and Guatemala the need for their country offices to pay special attention to the strengthening of the institutional apparatus, to the protection of a civil society subject to different kinds of threats, to the promotion of structural reforms that would put an end to inequality, and to the fight against impunity for past or persistent human rights violations.

It should also be noted that, except in the case of Tunisia, where the initiative was undertaken directly by the OHCHR and was favorably received by the transitional government, the processes were slow, complex, and the product of negotiations that involved different actors: political organizations and the UN Human Rights System, authorities of the interested State, other States, national and international human rights organizations, and donors. All of these actors participated in negotiations of difficult agreements that required concessions, without sacrificing fundamental provisions.

The negotiation processes for the presence of an office in the country were notably lengthy, even when the agreements seemed relatively easy to reach. Over two years passed between the end of the conflict and the installation of a country office in

Cambodia, while nine years passed between the signing of the peace agreements and the installation of the OHCHR in Guatemala. The Colombian human rights movement's first proposals for the establishment of a UN supervisory mechanism in the country date to the early nineties and took some seven years to be realized. Tunisia is again an exception, in that the OHCHR office was installed in the country very quickly at the beginning of the transition and was widely well-received, with less than six months passing between the OHCHR's first visit and the actual creation of the office.⁴

It can be concluded that, while the reasons that motivated the installation of an OHCHR office in the four countries studied are similar, each process had its own characteristics, and the final decision depended not only on the national and international context, but also on the role and level of involvement of different institutional actors, the international community, and civil society. The following section presents a detailed analysis of the roles of different actors.

ACTORS INVOLVED IN THE NEGOTIATIONS FOR THE ESTABLISHMENT OF AN OHCHR COUNTRY OFFICE

The actors involved in the negotiation process may have different views on the relevance of an OHCHR country office. In the experiences analyzed, there were actors who were very proactive, others who were more passive, and still others who opposed the idea of an office. Different points of view can even be found within the same sector. This section presents the different positions and motivations of the actors, and the factors that influenced those who resisted to change their minds.

The Host States

In the cases studied, the participation of the host States was marked by their relative political weakness at the time the proposal for a country office was gathering strength, except in the case of Tunisia, in which the negotiation process was conducted under different circumstances, as already mentioned.

⁴ Tunisian Prime Minister Ben Ali resigned on January 14, 2011, and the first OHCHR delegation visited the country from January 26 to February 2. During the OHCHR delegation's stay, the Minister of Foreign Affairs expressed interest in the establishment of a country office.

In Cambodia, four parties were engaged in the conflict at a national level before the 1991 Paris Peace Agreements were signed: the State of Cambodia, represented by Hun Sen; the Khmer Rouge; the Khmer People's National Liberation Front; and the National United Front for an Independent, Neutral, Peaceful and Cooperative Cambodia (FUNCINPEC), led by Prince Norodom Ranariddh. None of the parties was strong enough to impose its views on the others. That factor, in addition to the international context, which is presented below, led to the process that culminated in the signing of the Paris Peace Agreements in 1991, with a significant human rights component under the responsibility of the UNTAC mission.

Human rights problems persisted following the premature completion of the UNTAC mission, so it seemed reasonable to continue the mission's human rights component through the establishment of another monitoring mechanism. The State did not play a proactive role in the establishment of a country office, nor did it have the ability to object to it, given that the recent Paris commitments obligated it to accept the terms agreed to by the international community in the resolution that gave rise to the OHCHR office.

Guatemala suffered through a bloody 36-year internal conflict that ended with the signing of the Agreement on a Firm and Lasting Peace between the Government of Guatemala and the Guatemalan National Revolutionary Unity, and the [Global Agreement on Human Rights](#) of 1994, followed by the establishment of a United Nations mission (MINUGUA) with a human rights component.

The decision-making framework was based on the human rights commitments that were formalized in the peace agreements regarding the profound reform of the State, which required external advice in the post-conflict context. Once again, when MINUGUA's mandate was about to end, and given the persistence of human rights violations and strong persecution of civil society organizations (CSOs), these organizations and State officials identified the need to ensure a mechanism to continue to be attentive to the human rights situation at the end of MINUGUA.

Resistance came from former president Efraín Ríos Montt and his political group, which controlled a parliamentary majority at the time of the negotiations.⁵ They initially opposed the Commission for the Investigation of Illegal Groups and Clandestine Security

⁵ Legislative approval was required in Guatemala because the office's powers put it on the same level as a national institution, and could be approved only by the Congress.

Organizations (CICIACS),⁶ and later opposed the establishment of an office, because Ríos Montt feared that an OHCHR office in the country would constitute a sort of international criminal court for the adjudication of crimes against humanity. Curiously, it would be the Guatemalan courts, and not an external court, that would accuse Ríos Montt of genocide. In perspective, it could be said that the OHCHR was indirectly responsible for the case against Ríos Montt, to the extent that it provided the judicial system with the necessary muscle to confront the challenges imposed by the fight against impunity.

The fact is that this resistance was overcome because the government actors managed to convince the military sector that the office would have monitoring and technical assistance functions that were not related to the persecution committed in the past.

In Colombia in the early nineties, the government was totally opposed to any international supervision initiative. The administration of César Gaviria used its diplomatic skills to present the country to the international community as a victim State, thereby seeking to shift attention from serious human rights violations to the violence associated with drug-trafficking and the guerillas. In 1994, the presidency was assumed by Ernesto Samper, who was more open to dialogue and expressed interest in advancing a peace process. However, the scandal involving Process 8,000,⁷ which led to Colombia's decertification by the United States,⁸ placed Colombia in a position of weakness, and constituted a turning point domestically that led the government to lower its resistance and seek rapprochement with the High Commissioner at that time, José Ayala Lasso, thereby advancing the proposal for an office.

In principle, the Colombian government was opposed to any initiative that went beyond the provision of technical assistance in matters that were not too compromising. The human rights movement, having managed to place Colombia on the international

⁶ The Commission for the Investigation of Illegal Groups and Clandestine Security Organizations (CICIACS) was created in 2004 pursuant to an agreement between the UN and the government of Guatemala, thanks to the coordinated work of a group of human rights organizations in the country. However, its operation was hampered by a decision of the Constitutional Court that year, which held that the Commission's powers transcended those that were acceptable for a supranational organization.

⁷ In 1995, judicial case number 8,000 was commenced against high-level political personalities, including President Ernesto Samper, who were accused of having received financing from drug-trafficking for their electoral campaigns.

⁸ Certification is a mechanism of the United States Congress that requires the president to evaluate other countries' commitment to the fight against drugs. When, in the opinion of the United States, a country does not show such a commitment, it may be decertified, subjecting it to negative commercial and credit consequences.

human rights agenda, felt strong enough to present the toughest proposal, a country rapporteur, even knowing how unlikely its implementation would be. By raising its demands to the limit, it opened a margin for negotiation, leading the government to view a country office as the lesser evil.

The Minister of Foreign Affairs at the time expressed it eloquently: “*No government has made as much progress as this one in protecting human rights. That is why we cannot accept the establishment of a UN **rapporteur**, since in the international sphere it is considered to be a **punishment***” (Gasparini, 1996, emphasis added).

Finally, the recently installed transitional government in Tunisia cannot be characterized as politically weak, as it had considerable support from the population. However, it faced several challenges derived from the institutional weakness stemming from the twenty-three years of Ben Ali’s dictatorship –extended to sixty years when added to that of his predecessor, Habib Bourguiba– which were reflected in a weak democratic culture and the absence of the independence of powers.

In that context, the OHCHR found fertile ground for developing a country office. It is thus understood that the establishment of the office was facilitated by the demonstration of the Tunisian transitional government of significant political willingness to adopt relevant changes in the fields of human rights and democracy in the country.

In most of the country-office negotiation processes, acceptance by the host State occurred after a turning point, which is when resistance was overcome. That point relates to weighing the political costs of the office against other options that are perceived as more burdensome. Thus, the level of proactive participation by host States in the establishment of their country offices appears to be directly proportional to their political and institutional strength. As we will see below, in the face of the weakness of a host State, other States have played an important role in the negotiation and promotion of country offices.

Other States

Other interested States have played an important role in the establishment of country offices, promoting them politically as well as providing financial support for their operation.

In Cambodia's case, the conclusion of the Cold War resulted in the end of Soviet support to Vietnam, which had an impact on the Cambodian conflict. The UN Secretary-General used this moment, with the support of the great powers of the world, to convene meetings aimed at promoting dialogue and negotiations among the four parties involved in the Cambodian conflict, but with an important international presence. Participants included representatives of Vietnam, Laos, and members of the Association of Southeast Asian Nations (ASEAN), with Indonesia as the host country. The Paris Agreements, which contained a strong human rights component, were signed by nineteen countries,⁹ and UNTAC was initially responsible for their implementation.

The States involved in the Paris Peace Agreements remained active following the rapid end of the UNTAC mission; they supported the creation of a country office as well as the appointment of a Special Representative of the Secretary-General (SRSG) as a way of continuing the work carried out by the UNTAC's human rights component, at a time when serious challenges in this area persisted.

The stabilization of the country through support for the strengthening of its institutions, the creation of conditions for peaceful coexistence, and the attraction of foreign investment were objectives shared by the Cambodian authorities and the international community. It was also expected that the scope of these objectives would have favorable repercussions for the stability of the region.

The international community's concerns regarding the human rights situation in Cambodia were reflected in resolutions adopted by the Human Rights Commission, and later the Human Rights Council and the General Assembly in response to the reports presented by the Office and the SRSG.

In the case of Guatemala, initially with Álvaro Arzú as president, there were certain reservations about the authenticity of the government's interest in establishing an OHCHR presence in the country, because his business career placed him on the political right, linked to the perpetrators of human rights violations in that country. Also, the government did not conceal its interest in obtaining greater legitimacy so it could establish good commercial and financial relationships with other countries. In the opinion of some of the interviewees, certain officials believed that OHCHR would be useful to

⁹ The signatory countries to the Paris Agreements were Australia, Brunei, Cambodia, Canada, China, the United States, the Philippines, France, India, Indonesia, Japan, Laos, Malaysia, the United Kingdom, Singapore, Thailand, the Soviet Union, Vietnam, and Yugoslavia.

certify and endorse the legitimacy that was desired, at a time the international community sought legal certainty for its investments.

The international community –especially European countries– had invested considerable resources in initiatives related to reforming the State, such as the restructuring and training of the police and the judiciary, and so they were interested in an office that would give continuity to these efforts.¹⁰ Thus, the group of countries that were friendly to the negotiations supported the process to establish the OHCHR office as part of its efforts to transform the State.

With regard to Tunisia, some States took advantage of the political events in the country to promote a democratic transition. However, the international community did not greatly influence the terms of the negotiations or the opening of an OHCHR office. Nonetheless, despite its lack of influence in the negotiations, the international community did play a role with respect to funding. The OHCHR had not included the creation of a Tunisia office in its 2011 budget, and so it had to seek additional funds for the project. The funding was readily available at that time because the region was going through a period of great instability after the Arab Spring. According to some interviewees, the international scene, and more specifically the regional scene, were important factors in the implementation of the plan to establish an office in Tunisia.

As for Colombia, the role of other States cannot be understood without a detailed discussion of the fundamental role played by Colombian human rights NGOs throughout this process. This report includes a special box (“Colombia: a history of strategic vision, perseverance, and coordination”) which sets forth the dynamics developed between the NGOs and allied States in the establishment of a country office.

The common denominator of the role played by other States in the establishment of the country offices was their interest in ensuring a mechanism to monitor the human rights situation in the host country, as part of a broader strategy for stabilizing that country or its region.

¹⁰ By the end of 1995, the donors had contributed 3.6 million dollars for projects to strengthen institutions related to human rights. This amount rose to 8.5 million dollars in 1997. See Franco and Kotler, 2000.

Different UN System Actors

The agencies of the UN System –political agencies as well as Human Rights System agencies– have played diverse roles in the establishment of the OHCHR country offices.

In both Cambodia and Guatemala, members of the human rights components of the previous structures (UNTAC and MINUGUA) played an active role in the establishment of an office as a way to ensure the continuity of these structures' human rights components in the nascent mechanism.

The defensive attitude of a bureaucracy towards new things was present in the processes to establish the first field experiences.¹¹ Curiously, according to some of the interviewees, despite the active role of different UN System actors in the creation of the Cambodia office, resistance came from the Center for Human Rights. As this was the first field office established after the Cold War, the UN Human Rights Secretariat had no experience working in the field and was not well equipped to do so. Consequently, the office staff did not feel supported by Geneva.

This situation of resistance was repeated in Colombia in its relationship with the OHCHR in Geneva, as it was the first experience within this new structure.¹² Some interviewees stated that the Colombia office was not initially viewed as part of the UN apparatus. There were no instructions and everything had to be created, from the terms of reference for the hiring of personnel to the work methods, and so the new office relied heavily on the experiences of peace operations in El Salvador and Guatemala.

Furthermore, while the NGOs tried to persuade the international community of the need to create a mechanism for monitoring the human rights situation in the country –facing strong resistance from Colombian diplomats– the Special Rapporteur on the question of torture and the Special Rapporteur on the question of extrajudicial, summary or arbitrary executions made a joint visit to the country in October 1994. The rapporteurs presented a joint report on their visit to

¹¹ It should be noted that several articles in the book edited by Henkin (2000) on field operations in different countries at different times discuss the recurring problem of recruiting personnel who had prior training and experience in human rights, as well as the Geneva office's difficulties in understanding some implications of the field work.

¹² The initial components of the UN Human Rights System were the Commission on Human Rights, made up of fifty-three States, and the Center for Human Rights, headquartered in Geneva, as a support structure for all human rights operations. The Commission operated until 2006, when it was replaced by the Human Rights Council, while the Center ceased operations in 1993, when the OHCHR was created.

the Commission on Human Rights, which had a great impact in calling attention to the human rights situation in the country, preparing the way for those who advocated for a permanent monitoring mechanism.

A different situation existed in Guatemala, since the creation of the CICIACS was proposed while MINUGUA was still active, in order to focus specifically on the illegal security structures that continued to be active and that were deemed responsible for a number of attacks against human rights defenders. The proposal, promoted by the NGOs, was accepted by the government, which undertook negotiations with the then UN's Department of Political Affairs (CICIG, n.d.).¹³ As such, another agency on the political spectrum of the UN participated in what would be a preliminary step in the establishment of the country office. The dynamics of the interactions among the different UN structures in Guatemala with a human rights mandate are addressed in more detail below.¹⁴

In Tunisia, High Commissioner Navi Pillay undoubtedly played a very proactive role in the establishment of that country's office, due in part to the increased use of rapid response mechanisms during her term of office (Broecker, C. 2013, p. 165).

However, with respect to the situation in Tunisia, it has been argued that the UN System and the international community did not initially respond in a "timely and collective" manner to the large-scale protests and the government's attacks against demonstrators. Only independent human rights experts, special rapporteurs,¹⁵ and OHCHR officials provided a "proactive response and a relatively timely condemnation of the violent attacks against the Tunisian demonstrators" (Cairo Institute for Human Rights Studies, 2012).

The Human Rights Council called attention to the situation in Tunisia during its 16th session in March 2011, and it demonstrated its support for the establishment of an OHCHR office in Tunisia through Resolution 16/19, which was presented by the European Union (Human Rights Council, 2011).

¹³ CICIG historical archives up to September 3, 2019.

¹⁴ See Section III.c.1.

¹⁵ Beginning in 2011, Tunisia received visits by Special Procedures on torture, human rights and counter-terrorism, education, migrants, human rights defenders, truth, discrimination against women, independence of judges, mercenaries, foreign debt, housing, freedom of religion, freedom of assembly, and racism. See: <https://spinternet.ohchr.org/ViewCountryVisits.aspx?visitType=all&country=TUN&Lang=en>

As can be seen, different agencies and actors from both the UN's political arm and its Human Rights System have influenced and contributed to the establishment of country offices. On occasion, civil society has taken advantage of the initiatives undertaken by other agencies of the UN System to call attention to the gravity of the situation, creating a conducive environment for the decision to establish a country office.

National Human Rights Organizations

The large majority of people interviewed for this study agreed that human rights organizations played an important role in the processes that led to the creation of an OHCHR office in their country, despite the weaknesses caused by the adverse conditions in which they operated.

Until the signing of the 1991 Paris Peace Agreements and the establishment of the UNTAC in 1992, civil society in Cambodia was practically non-existent.¹⁶ Many critics of the regime had to go into exile, while others fled due to the war. Some activists capable of individual action took on initiatives to ensure that the issue of human rights was included in the peace negotiations.

In Guatemala, on the other hand, there was a wide range of human rights organizations, some of which had existed for decades, but they were subject to heavy persecution that continued in the years after the signing of the peace agreements. It is worth recalling that Monsignor Juan Gerardi, founder of the Human Rights Office of the Archdiocese of Guatemala (ODHAG), was assassinated in 1989, two days after having issued a report titled "Recovery of Historical Memory (REMHI)," which collected the testimony of more than 54,000 victims of human rights violations in the context of the armed conflict.

The early years of the 21st century saw a climate of threats and intimidation against human rights defenders, peasant leaders, trade unionists, and Guatemalan journalists. In that context, the organizations developed a campaign to promote the creation of a mechanism to ensure compliance with the peace agreements in relation to the dismantling of illegal armed groups, which culminated in the creation of the CICIACS and, later, the establishment of the OHCHR office in the country.

¹⁶ The Cambodian Human Rights and Development Association (ADHOC), founded in 1991, and the Cambodian League for the Promotion and Defense of Human Rights (LICADHO), founded in 1992.

The NGOs wanted to give continuity to the monitoring of the MINUGUA findings, strengthening the role of civil power in a democratic society. They advocated for the creation of a strong monitoring mandate for the new entity, and they proposed the monitoring of certain issues, including the situation of indigenous peoples, who constituted a large sector of the population subject to discrimination and exclusion. Thus, the organizations not only promoted the creation of the office, but also tried to influence the substantive matters on which the office should work.

In Tunisia, after the departure of Ben Ali, many local NGOs were reactivated and new ones were created. Initially, it was these organizations, especially well-established ones like the Tunisian Human Rights League and the Tunisian Association of Democratic Women, that monitored the human rights situation in the country. They also served as strong voices in promoting changes in the country's democratic and human rights framework.

The dynamics of the relationship that the Colombian human rights movement was able to establish with national and international actors merit a detailed discussion because of the lessons that can be drawn from its experience for the Venezuelan context.

Colombia: a history of strategic vision, perseverance, and coordination

In the late 80s, Colombia's incipient human rights movement consisted of few organizations, and lacked consolidated international work strategies. Some organizations went to Geneva and promoted solidarity, but without a clear advocacy strategy. A few advocates began to appreciate the importance of international work and sought support from an NGO headquartered in Geneva, with which they performed sustained work with diplomatic missions.

In 1989, [Pax Christi](#) organized an international event in Switzerland in solidarity with Colombia, which was reported in the media and generated follow-up interest from organizations in Europe. In 1991, international organizations (donors) created the so-called London Agreement to coordinate activities in support of Colombia. Some advocates suggested supporting political advocacy for a UN presence in Colombia. In 1993, the government created the position of the Presidency's High Counselor for Human Rights, in an effort to try to improve its image in response to the strong pressure that it began to feel.

In 1994, Amnesty International launched a year-long global campaign on the human rights situation in Colombia, which had a large impact in the international sphere, leading several State

governments to change their position, contributing domestically to greater cohesion among the NGOs, and causing a stir in the government.

Beginning in 1994, the NGOs, feeling they were in a stronger position, presented proposals and requested a rapporteur for Colombia, and engaged in intense lobbying in European capitals. That same year, two Special Rapporteurs made a joint visit to the country, which culminated in a strong report. The government saw the danger and resisted the idea of a rapporteur for the country, because it knew that a presence on the ground would mean monitoring. As a counter-proposal, it requested technical assistance. A mission visited the country and produced a very critical report that recommended the installation of a protection mechanism.

In 1995, the European Parliament convened an international conference in Belgium, and a black book of crimes committed by the military was published. As a consequence, many military attachés were rejected by European states. The organizations then produced a manifesto requesting a special rapporteur, which was distributed to members of the Commission on Human Rights.

As a consequence of the Brussels Conference, the donors supported the creation of the International Office of Human Rights Action on Colombia ([OIDHACO](#)), which promoted the subsequent creation of the [Colombia–Europe Coordination](#), which lobbied international parliaments to put pressure on the Colombian government.

Thus, permanent advocacy was created in coordination with cooperation agencies in Europe, and not only in Geneva. There was more international political advocacy. The European network of cooperation agencies lobbied their respective States, such that advanced preparatory work had been done by the time the Colombian NGOs arrived in Geneva.

The failed attempts at a peace agreement were also a factor that contributed to the creation of a political and geopolitical environment favorable to the opening of an office. This required important full-time advocacy work in Geneva by the human rights organizations. Until the mid-nineties, the main objective was the appointment of a Special Rapporteur, although some organizations were inclined to accept the provision of advisory services. The coordination that began among the NGOs was fundamental. There came a time when more grassroots NGOs began to participate in the strategies, and the coordination among more diverse organizations (not only those from an international working group) towards a common front was important. Even so, the proposed rapporteur was difficult to obtain, because the government had a well-managed diplomatic strategy, and other countries did not see a human rights problem because they perceived Colombia as a narco-state. In these circumstances, the challenge was to position the issue of human rights on the international agenda.

Finally, a strategy was put together with the missions of allied countries in Geneva. Spain, which still viewed Colombia as a victim State, changed its position, resulting in a unified European

position. Thus, when Ayala Lasso proposed the establishment of an office, the NGOs decided not to pursue a divided strategy in the UN, and agreed to join in the office proposal.

The NGOs joined Ayala Lasso in advocating for an office when the issue began to be discussed. The human rights movement pushed the rapporteur proposal because it knew that it was an option that the government did not want. That is, it presented the worst-case scenario as a negotiating tool, and began to work discretely on the office proposal.

The NGOs had established a very close relationship with members of the Commission on Human Rights, from which it obtained information about the “temperature” of the negotiations in order to ensure that they would not result in an “toothless” office (with more emphasis on technical assistance and less on monitoring). The Colombian government offered to create an OHCHR office with a technical assistance mandate. The organizations entered into direct talks with the Ministry of Foreign Affairs, and thanks to their work on several fronts simultaneously, they achieved an agreement with a broad mandate: technical assistance and permanent monitoring, with a report of the High Commissioner in sessions of the Commission on Human Rights.

Although it was the least costly alternative from a political point of view, this did not mean that the office was an innocuous option. The human rights movement made it clear that the office had to comply with two conditions: independence in carrying out its work, and the possibility of working throughout the entire territory. It was also expected that the thematic rapporteurs would be able to visit the country with freedom of action. That approach, which was negotiated in Colombia as the first experience since the establishment of the OHCHR, was replicated in subsequent offices.

In the words of an interviewee:

“I was always impressed that so many NGOs with very varied positions were able to agree on the fundamental points and the strategy. The work of the coordinations was essential and admirable. Meetings of fifty NGO representatives who came together to discuss a strategy for the Office, and each year were able to come to an agreement and present the strategy to the Commission on Human Rights for years, with an impressive commitment.”

In short, the human rights movement, even under adverse and fragile conditions, has played an important role in promoting the establishment of country offices, even exerting influence to ensure a balanced mandate and the inclusion of key issues on the work agenda. This advocacy capacity has been made possible by the pursuit of a strategic and coordinated vision, as demonstrated by the cases of Guatemala and Colombia.

MANDATE AND EVOLUTION OF THE OFFICES

The OHCHR website, notes that “*in establishing country offices and stand-alone offices, OHCHR negotiates with the host government a comprehensive mandate that includes both the protection and promotion of human rights*” (OHCHR, 2018, para. 3). It adds: “*Activities of country offices include monitoring, public reporting, technical assistance, and long-term monitoring and development of national capabilities to address human rights issues*” (OHCHR, 2018, para. 4).

Although it sounds simple, in reality, these negotiations are fraught with tension, as host governments are generally willing to accept technical assistance from OHCHR – including other promotion components such as human rights education– but resist components that involve scrutinizing their human rights performance –such as monitoring or oversight, and reporting. Civil society organizations must take into account the tension between these components when they seek to influence the decision-making process for the creation and development of a country office, or even during earlier stages, as in Venezuela, with the existing presence.

INITIAL MANDATE

In the cases studied, the initial mandate has remained largely unchanged over time. Nevertheless, it has been expanded or restricted based on the actors’ interpretation of what was previously agreed rather than amendments to the existing text.

The initial mandate of the OHCHR office in Cambodia was:

- 1) Manage the delivery of educational and technical assistance and advisory service programs, and ensure their continuation;
- 2) When requested, assist the Government of Cambodia established after the elections to fulfill its obligations under the recently signed human rights instruments, including in the preparation of reports for the pertinent treaty bodies;
- 3) Support human rights groups in Cambodia;
- 4) Contribute to the establishment and/or strengthening of the national institutions responsible for promoting and protecting human rights;
- 5) Assist in the development and implementation of legislation with the aim of promoting and protecting human rights;
- 6) Assist in the training of those responsible for the administration of justice.

Although the mandate in Cambodia included all the components from the beginning, assistance has been emphasized far more than protection. In part, because the reporting function was delegated to the SRSG. Subsequent resolutions of the General Assembly and the Commission on Human Rights sought to expand the mandate by strengthening the protection component (Adams, 2000). The Office and the SRSG were designed to complement each other, the SRSG's strong reports gave the Office certain protection and protection for its personnel. The interrelationship between the two structures¹⁷ is discussed in detail below. In the end, the structures complement each other and span the entire mandate.

Colombia is the first office to have a comprehensive mandate explicitly. Under the framework of the agreement to establish the office in Colombia, the mandate is:

- 1) Observe the human rights situation;
- 2) Advise the Colombian authorities on the formulation and implementation of policies, programs, and measures for the promotion and protection of human rights in the context of violence and internal armed conflict in the country;
- 3) Submit analytical reports to the Commission on Human Rights on behalf of the High Commissioner.

Experts agree that Colombia's mandate is one of the most complete because it covers IHL, whereas other offices' mandates do not.

¹⁷ See section III.e.

As in Cambodia, Colombia's mandate has been modified over time, but these are expansions within the existing components and do not imply any decisive changes. This is not the case in Guatemala and Tunisia, where only one document exists and it has remained unchanged over the years.

Under the agreement establishing the office in Guatemala, the mandate is:

- 1) Observe the human rights situation to advise the authorities on the formulation and implementation of policies, programs, and measures to promote and protect human rights in the country;
- 2) Advise the State and, within its area of competence, civil society representatives, non-governmental organizations, and individuals.
- 3) Promote respect for human rights and the application of the recommendations of international human rights bodies and mechanisms.
- 4) Report on the activities of the office and on the human rights situation in the country through the High Commissioner's annual report, press releases, public statements, and other methods. The report should also provide the observations and recommendations that the High Commissioner considers appropriate to strengthen the promotion and protection of human rights in Guatemala.

The Tunisia office's mandate is set out in the memorandum of understanding signed between the OHCHR and the Tunisian government, which presents a wide range of objectives to be achieved and activities to be carried out by the office. In the framework of the memorandum of understanding, the Tunisia office should:

- 1) Monitor the human rights situation in Tunisia and maintain appropriate contact with the authorities, associations, CSOs, and people who can contribute to its mission;
- 2) Cooperate with the government in the application of international human rights standards, especially the ones established in the international instruments ratified by Tunisia, and provide analytical reports to maintain a dialogue with the Tunisian authorities;
- 3) Advise and assist the Tunisian authorities, national institutions, civil society organizations, and individuals with regard to issues relating to the promotion and protection of human rights.

A key provision of the Tunisia office's mandate –which is expressly present for the first time– is the possibility that officials, as well as experts on mission, can access all

prisons and places of detention, arrest and questioning, without prior notification or authorization from the government.

Interviewees recalled that the scope of the mandate depends on the context in the country, the balance of power between the negotiating parties, and the relationship between OHCHR officials and the government. Ideally, the mandate is comprehensive, so that OHCHR can choose where to direct its focus according to its priorities and available resources, without the need to renegotiate any amendments or extensions to the mandate.

On the other hand, having a broad mandate allows OHCHR to interpret over time what was agreed, thus allowing the office to work in the country as needed. In any event, cooperation between the office and the government is the key element to fulfilling the mandate, regardless of its scope.

THE MANDATE IN PRACTICE

As noted above, amendments to the mandate did not imply, at least formally, a reversal of the aspects that had already been agreed. The main modifications, as discussed below, relate to subjective and political factors that are not reflected formally in the documents that establish the terms of operation of the country offices.

Monitoring

For the purposes of this study, monitoring is understood as the group of actions used to keep track of the human rights situation in the country and influence its improvement. It includes visiting establishments (prisons, hospitals, courts, etc.), observing events (marches, trials, elections, etc.), accompanying and supporting consultation and/or decision-making processes involving the authorities and communities or social organizations, as well as compiling information about these events and human rights abuses, and accompanying and supporting victims in their demands for protection and justice.

States often feel uncomfortable about monitoring, and some even try to prevent it with a restrictive interpretation of the mandate. Several interviewees spoke of the pressure

exercised by governments to decrease monitoring and shift the focus to technical cooperation. An office that is not sufficiently committed to the mandate can give in to these demands, which has indeed happened in some countries.

In fact, for a time, within OHCHR, the protection component as a whole, which includes monitoring, was viewed as the uncomfortable aspect of the work:

Despite the international political currents trying to chase protection work into the shadows, OHCHR is increasingly accepting and asserting with more confidence that protection is a fundamental function of OHCHR and of its field operation (Howen, 2007. p. 32).

There are also those who have diplomatically confronted the conflict between the two components, arguing that technical assistance can only be offered based on monitoring, because it is not possible to make recommendations for improving a policy or amending a law without first identifying the root of the problem, its patterns, and those who are responsible. This presents monitoring as a gateway to other areas of the mandate, thus dispelling government resistance.

Monitoring, however, is not the gateway to technical assistance only; it is also the path leading to information that will serve as input for the reports. This function is essential to reporting in all offices, and it is even more necessary in dual systems like Cambodia's, where not the office but another entity reports on the human rights situation in the country; as a result, throughout the year, the office acts as the recipient and processor of the information that informs the SRSG's reports. In this case, the expert is highly dependent on the office's monitoring to carry out their work, to the extent that, in practice, they are complementary and maintain a shared identity (Adams, 2000).

Human rights defenders also highlighted two important aspects of monitoring. First, the presence of the country office's officials as an impartial third party builds trust in the communities that participate in negotiations or consultations with authorities as well as among civil society organizations that conduct public activities –such as marches or vigils– to demand the satisfaction of rights. Second, it provides accompaniment and support to victims taking part in processes to collect information and allegations, or in traumatic processes, such as the exhumation of a mass grave, which is very appreciated.

It is worth noting that Colombia did not want the installation of a peace mission that resembled the ones operating in El Salvador and Guatemala. However, because it was necessary to incorporate IHL, it is part of the country office agreement. As a result, it was the first office to have a specific mandate on IHL, by including observation of human rights and compliance with international standards within the framework of the internal armed conflict. This also implies guaranteeing the freedom to travel and conduct interviews.

In Colombia, new elements related to monitoring were incorporated in 1999; the renewed mandate added the monitoring of international human rights and IHL recommendations (OHCHR - Colombia, 2000). Subsequently, in 2017 the office's mandate was again expanded, in relation to the monitoring of the implementation of the peace agreement in terms of human rights. The responsibilities assigned to the office include monitoring activities related to accompanying and supporting the implementation of the agreements on the rights of victims and the protection and security of ex-combatants (OHCHR - Colombia, 2019; OHCHR - Colombia, 2020).

The inclusion of IHL in the body of applicable law in Colombia has led to a broad interpretation of the notion of monitoring, which has allowed, for example, deploying the office team across the country to conduct observation during the 2019 strike. For its part, the government has tried to weaken the component with the result that there is no longer talk of observation but rather of “*following-up and reporting on the situation*” (OHCHR - Colombia, 2019, point IV.7.h).

However, in some instances the State has strongly opposed the inclusion of new issues. In 2017 OHCHR Colombia decided to open a field office in Córdoba (Montería). The OHCHR representative in the country justified opening this sub-office by noting that “*in Córdoba there is a serious issue in terms of corruption and when corruption is present this implies a violation of human rights, especially economic rights, of a community's access to water, to education, to health*” (Todd Howland quoted in García, 2017, para. 3). The fact that OHCHR wanted to enter a conflict zone –which is also the birthplace of paramilitarism– under the banner of anti-corruption was not well received by the government, which rejected the initiative alleging it had not been consulted and raised a complaint in Geneva. The Montería sub-office was closed six months after it was established.

Cambodia is an example of how a mandate that seems restricted has been constantly reinterpreted to respond to different situations. A component of the mandate, which is linked to technical assistance, is to analyze whether Cambodian laws and policies are in line with the international human rights conventions signed by the country. This provision has served as grounds for the office to consider interventions in various areas, based on a protection approach.

In this regard, two positive examples were identified. The first one dates back to 1997 when, in the wake of the financial crisis in Southeast Asia, countries and companies began devoting more attention to corruption, while at the same time, new Western investors began to arrive in the country. In this scenario, OHCHR saw an opportunity to engage businesses to align their policies with international standards in areas such as union rights and freedom of association; the office assisted unions in their organizing process. Given that a facet of the office's mandate was to verify the adaptation of national laws to the international normative framework, OHCHR officials considered this a valid action under the mandate.

A second example occurred more recently. More than two decades after the end of the conflict, Cambodian civil society is stronger and more proactive, and has expressed concern about new issues –especially in the area of economic, social, and cultural rights, such as health, deforestation, and internal displacement– as a result of megaprojects carried out by the government. Due to the government's direct participation in the affectation of these rights, the CSOs raised these issues with the OHCHR country office and requested their inclusion in the reports, which the office accepted, initiating a more direct process of observation and documentation in this area.

In the case of Cambodia, it is also noteworthy that in 1996 the resolution of the Commission on Human Rights was amended to expressly include the role of the office in protection issues (Adams, 2000). What is interesting about this amendment is that it was promoted directly by the staff of the Phnom Penh office.

The Guatemala office has also broadened its interests to include issues involving conflicts over productive resources, land defenders, extractivism, hydroelectric projects, palm oil monoculture, and changes in water courses, sometimes due to organizations that focus on the issue and influence the work of the office. Although its ability to accompany and support the groups is limited, it has drawn attention to these matters.

As can be seen, monitoring goes far beyond observation and involves a range of strategies and forms of intervention. As Mahony (2006) notes, monitoring, as part of a broader protection component, aims to: (i) deter human rights abusers; (ii) accompany and encourage civil society; and (iii) influence decision makers to bring about change. The cases studied identified initiatives that reflect the range of strategies.

Today, OHCHR presence in a country without a monitoring component is unthinkable. Adams (2000, p. 380) recalls that a serious human rights operation in the field cannot ignore this component, the documenting and reporting of cases, and concludes categorically that omitting the task of documentation and reporting “*would constitute such a serious moral deficiency that a ‘human rights’ office would lose all credibility. It would be better to close the office than to perpetrate such fraud.*”

Reporting

In the context of this document, reporting is understood as all the activities to produce and publish information on the human rights situation in the country, including the traditional annual reports and other resources that serve to raise awareness of the situation, including press releases, press conferences, articles, forums, briefings, thematic and targeted reports, etc.

Undoubtedly, reports are the main tool to implement this component of the mandate. The experts interviewed indicated that there are guidelines with very clear parameters to produce reports, and that their preparation relies on work that combines observation, databases, testimony gathering, interviews, etc. These facts are considered assumptions, and therefore the information is contrasted with the authorities. In other words, a rigorous methodology is applied, and there are spaces for dialogue with the States, so the questioning and disqualifying reactions of governments tend to be unfounded and are more of a rhetorical exercise to try to repair a damaged image.

The interviews and the document review show changes in the reports and their role over time. The first reports usually have a strong impact, but afterwards, there is a risk of ritualization, that is, of making the report just another requirement to be fulfilled, no longer viewed by the office and/or CSOs as a tool to draw the attention of the international community and promote change.

Colombia is a landmark case in terms of reporting. Thanks to the presence of a highly analytical and dedicated team, notions that were unusual for the time, such as crimes against humanity and systematization, were introduced. However, this gave rise to tension in the relationship with the government, which in turn led to a change in approach that resulted in the Geneva office deciding to review the reports before they were published.

Some argue the reports have lost quality and impact, especially since the Commission on Human Rights was replaced by the Council, and, as a larger bureaucratic structure, the outputs tend to be more calculated, and the spaces for debate have become more formal and reduced. It has also been said that imposing a word limit on these documents affects the ability to deliver better-quality texts. However, other interviewees consider that, even with the word limit, it is possible to convey an impactful message if the team is committed to the purpose of this tool.

A positive example of the value of a committed team occurred in Colombia when the office was first established. The first OHCHR representative in the country was highly questioned because of her unfamiliarity with the topic and her political bias. Concerns arose that, after investing so much effort in this initiative, it would be frustrated by the appointment of an unsuitable person. However, the team was professional and highly committed to the protection and promotion of human rights and was able to put together solid and irrefutable reports, with the support of NGOs, despite the shortcomings of the representative in the country.

The impact of the reports will depend on the creation of mechanisms that will allow society to appropriate them, by stimulating better transmission channels, and adapting the language to different audiences. In some countries, such as Cambodia, this role is fulfilled by radio, as a channel to reach illiterate audiences or those with little capacity to assimilate texts that use technical language.

While the reports may have limitations in terms of access to the population, they also have advantages. A long and detailed report offers space to interact with the authorities from the moment it is drafted. In Colombia, for example, public entities meet with OHCHR, review reports before publication and propose adjustments, in a respectful context.

Another advantage of reports highlighted by NGOs in different countries is their positive effect on the human rights movement, as they constitute an authoritative and recognized version of the facts denounced by local organizations. Often, public opinion is suspicious of the allegations made by human rights organizations, so their inclusion in OHCHR reports provides support for their work. Consequently, human rights organizations are reflected in the reports and their credibility is strengthened in the sense that the version of events presented by OHCHR coincides with their own.

In countries where the government does not cooperate much in advancing human rights, it is necessary to talk about the violations that are occurring on the ground. Thus, the office must use a reporting strategy from the beginning, even if it is unpopular. In Guatemala, the office presented a report at the end of its first year of operation that prompted a complaint from the government on the grounds that this function was not part of the agreed mandate. In response to the government's reaction, the office decided to present the text as an "activity report"; this is still the case. What is important is that the office remained committed to being present in the country and was able to find a way to adapt without sacrificing substance.

Another aspect of reports is that they involve a process of interaction with the government, with the aim of making recommendations that can be accomplished. In this sense, the reporting process should be understood as a tool for change and part of a multifaceted strategy.

According to some interviewees, reports can give rise to many expectations. One person recalled the case of Congo, where a report was released every three months, but with little impact because there are no NGOs to disseminate the information, and the government takes no notice. It is a tiresome exercise with minimal impact, which reinforces the need to view reports as a strategic tool.

On the other hand, releasing a report only once a year can also be a drawback, because it loses immediacy in situations that may require urgent attention. Hence, the offices cannot rely on the annual report as the only mechanism to give an account of the human rights situation in the country.

On occasion, OHCHR country representatives have addressed reports directly to the country, rather than to the Human Rights Council or the OHCHR structure in Geneva. These reports are prepared, translated, and distributed directly, sending them to the

government for comment, but without going through OHCHR. Similarly, reports have been prepared for donors without going through the government.

In Tunisia, the country office has submitted reports informally to the High Commissioner, to donors, especially those who contributed specifically to the office, and to the Tunisian government. For example, the office submitted reports on torture and ill-treatment of prisoners and detainees directly to the Tunisian authorities, who began to adopt the necessary measures, such as changing the legislation, holding the perpetrators of these violations accountable, and establishing a national prevention mechanism. According to interviewees, if these measures had not been taken, the office would have reported the government's lack of action to the UN human rights system.

In Colombia, multiple tools have been used,¹⁸ including press columns, press conferences, and participation in the political process through technical assistance to gain access to decision-making spaces. The reports are important but annual. Additionally, they require a long and complicated process to consult with Geneva before being published, so, meanwhile, other tools are needed to highlight emerging issues that cannot wait for the annual product.

Finally, it is necessary to keep in mind that the risk of ritualizing the reports includes the accumulation of a large number of recommendations over the years. While recommendations can serve as a basis for NGOs to develop their own agenda vis-à-vis the State, some interviewees warned of the risk that the saturation of recommendations could turn them into a rhetorical exercise with no actual impact. Therefore, it is necessary to prioritize the recommendations and the steps to achieve their implementation.

With all its strengths and weaknesses, the report is still uncomfortable, so governments introduce it as a bargaining point in the negotiations to renew the mandate. Nevertheless, despite the discomfort it generates, the mandate has not changed and the report—with all its alternatives—remains an important part of OHCHR's operations in the field.

On the other hand, reports should not be seen as the only public advocacy tool that country offices can use. That is why Adams (2000, p. 378) notes that “*silence in the face*

¹⁸ On the website [of the OHCHR office in Colombia](#), at least eleven modalities to present information can be counted, apart from the annual report.

of serious human rights events can only be interpreted as assent, indifference, or fear. Any of these inferences seriously detracts from the office's credibility.”

Technical Assistance

The Voluntary Fund for Technical Cooperation in the Field of Human Rights defines technical assistance as:

A set of actions aimed at the incorporation of international human rights standards in national legislation and policies, as well as the creation or strengthening of national institutions capable of protecting and promoting human rights and democracy under the rule of law. Such assistance takes the form of expert advisory services, training courses, workshops and seminars, fellowships, grants, the provision of information and documentation, and the assessment of domestic human rights needs” (ACNUDH, n.d.).

For the purposes of this study, the recipients of technical assistance include both state institutions and CSOs, and assistance encompasses other promotional activities, such as human rights education.

While sometimes this assistance is genuinely required, accepted, and well used, on other occasions, it is used as a mechanism to drain time and effort from the country offices, which results in less attention focused on the monitoring and reporting components.

As a result, technical assistance can be manipulated for political purposes, directing it to non-controversial areas such as human rights education, workshops, training of judges and government officials, etc. This can have the effect of legitimizing a government that is not interested in human rights and does not solve the most critical problems.

It should be underlined that a country office can negotiate technical assistance with any component of the State, not just with the executive. In fact, in some countries where the executive is resistant or lacks the genuine will to change, country offices have negotiated technical assistance agreements with local authorities, parliament, the national or regional judiciary, etc.

In addition, promoting structural reforms through technical assistance is not enough on its own if it is not met with a political commitment. This commitment may be present during the early years of a country office's existence but could disappear with subsequent changes in government. In 2011, the OHCHR in Guatemala warned that *“much of the progress made is often formal but lacks real impact, it depends largely on circumstances and personal efforts and does not involve long-term institutional changes”* (OHCHR - Guatemala, 2011, para. 10).

In Tunisia, where the country office has prioritized technical assistance, its support of structural reforms has been essential. OHCHR found space to participate in many initiatives, such as the drafting of the new constitution, the implementation of the transitional justice process, and the institutionalization of the democratic and human rights system. The OHCHR office also played a very important role in providing training to a number of government officials in areas such as transitional justice and a human rights approach to the security system.

Although the NGO community tends to view the technical assistance component with some mistrust –for it is suspicious that governments welcome it– in reality these organizations can and do benefit from this component. In the four cases studied, country offices are carrying out important work for strengthening human rights NGOs and CSOs, either because it was expressly agreed in the mandate or because the mandate was reinterpreted.

Finally, some elements of the technical assistance offered directly to governments, such as advice for the development of national human rights plans, require spaces where meaningful consultation and participation of CSOs can take place; thus, these processes present opportunities for advocacy that must be recovered, especially in contexts where governments are not partial to the idea of citizen participation. Several interviewees highlighted the role of the country office in facilitating dialogue spaces between authorities and CSOs that would not otherwise exist because of their mutual distrust.

“It’s about individuals and leadership, not just the mandate.” This sentence, spoken by an interviewee, reflects an opinion shared by many of the people consulted for this study in the four countries. The mandate may be reinterpreted in ways that broaden or narrow it, depending on the commitment of the persons that head the country offices.

Earlier in this section, examples were given of how, with an unclear mandate, officials carried out activities that served to protect human rights and draw the attention of the international community. Technical assistance in itself is not negative, and monitoring and reporting are not the only solution. If a country office is to make a difference on the ground, it requires, on the one hand, leadership and a team committed to the protection and promotion of human rights and, on the other hand, a proactive civil society with a strategic vision of the role of OHCHR in the country.

Field Presence

Without a doubt, reality in the capitals is very different from the realities of the rest of a country, so in some cases the country offices have sub-offices to establish a presence in the regions.

Three types of offices were identified. (i) Guatemala, whose agreement stipulates a sole headquarters, with the freedom to move throughout the territory; (ii) Tunisia, where agreement provides for opening sub-offices, but which has not made use of this possibility; (iii) Cambodia and Colombia, which have had multiple field offices.

Some interviewees identified the factors that should be considered when opening sub-offices: (i) geography, that is, the size of the country, which also relates to access; (ii) the availability and management of resources; if resources are limited, OHCHR should be mindful of not directing too many funds to establishing separate premises, renting cars, hiring drivers, etc., rather than applying those resources to programs; (iii) whether the minimum infrastructure to operate is available, for example, utilities, and commercial and service infrastructure; and (iv) whether basic security conditions for the presence of the personnel can be guaranteed.

In Cambodia, by 2001 there were small offices scattered throughout the country, often with only one or two local staff, as the office was a continuation of UNTAC. The office decided to close most of these sub-offices because of the absence of a banking system, the risks involved in traveling to remote locations with cash, the inability to adequately supervise staff, etc. Subsequently, an office was kept in Battambang, to be present in a particularly problematic region, with four local employees.

Six offices had been installed in Colombia by 2012. In the following years, as many as seventeen sub-offices were opened. The expansion relates to the peace process. OHCHR presence helped increase interaction between local authorities and communities. This presence was not requested by the government, but was the result of the advocacy of NGOs and the Catholic Church. Afro-descendants, women, peasant and indigenous movements also called for OHCHR presence in their regions. The expansion of the presence coincided with the peace process, amid a climate of great political tension. The government was finding that the OHCHR played a positive role in lowering tension between the security forces and protestors, so the field offices were perceived as useful in this context; this was coupled with the authorities' desire during the peace process to increase their proximity with the communities where the FARC exercised influence. Donors also understood that rural areas had more needs, because more deprivations and problems exist. Then, the office expanded every time the mandate was renewed.

It is worth noting how in Cambodia and Colombia, despite the security criteria mentioned above as factors to opening a field office, the national OHCHR representatives committed to having a presence in places with high levels of conflict where the population was most vulnerable. As stated by Adams (2000, p. 379) *“being effective in the field requires willingness to carry out actions that often involve professional risks.”*

Presence in the field is fundamental to gather information that will serve as input for the country office's reports, but its role extends beyond serving as a local antenna for the human rights situation. Field officials also participate in processes to accompany and support the community in, for example, the search and identification of victims' remains, the demarcation of territories, etc.

Sub-offices or field offices are highly valued by human rights organizations, victims, and local community organizations. The presence of OHCHR representatives is welcomed by both parties in prior consultation processes, as well as in a variety of negotiations with local authorities. On the one hand, social organizations feel accompanied and supported by the presence of an impartial third party that offers them an assurance of seriousness in the negotiation process. On the other hand, authorities, who often lack legitimacy of their own or suffer the mistrust of the population, feel that, on some level, the presence of OHCHR recognizes their legitimacy.

THE ROLE OF OFFICES IN NON-TRADITIONAL AREAS

In the course of their work, some OHCHR offices carry out activities outside the traditional human rights spheres, either because the emergence of a new reality led them to adapt their responses, or because their mandate requires it. This section presents the two experiences in non-traditional fields, such as corruption and ESCR, that are relevant to the case of Venezuela.

Corruption and Human Rights in Guatemala

This section focuses on the interaction between the Guatemala OHCHR office and other UN initiatives in the country or that relate to the fight against corruption in Guatemala.

In the 1994 [Comprehensive Agreement on Human Rights](#), the Government of Guatemala committed to eradicating “*illegal security forces*” and the “*clandestine security apparatus*.” However, the Guatemala country office mandate does not include a specific provision on corruption, because this task was entrusted first to CICIACS and subsequently to the International Commission against Impunity in Guatemala (CICIG).¹⁹

However, the office’s focus on corruption has grown. It was first discussed, although only in reference to specific and focused manifestations of the phenomenon, in the 2008 report, which mentioned corruption in the prison system and the police. In 2010, concern was expressed about the lack of specific legislation on the subject, and in 2011 and 2012, technical assistance was provided to the State to advance anti-corruption measures. The provision of technical assistance by the OHCHR country office in this area is a significant step forward, as it implies recognition of the office’s capabilities in this area.

From 2013, the issue was addressed more forcefully. Initially, concern was voiced about the lack of progress; then, in 2015 and 2016, the reports referenced investigations by the Attorney General’s Office and CICIG that demonstrated the impact of corruption on the right to health. Finally, in 2017 and 2019, the reports addressed corruption in the recommendations section; initially, they recommended that authorities strengthen

¹⁹ For an account of the origins and mandate of CICIACS and CICIG, see <https://www.cicig.org/cicig/antecedentes/>

measures in the fight against impunity and corruption, and then they also called for the protection of the people fighting corruption.

In the years preceding this last recommendation, the reports recorded cases of judges, prosecutors, journalists, and human rights defenders who were persecuted for this cause. By this time, CICIG and OHCHR had developed a valuable dynamic to exchange information, intending to connect human rights and corruption in light of the impact that the diversion of resources has on such rights. Previously, CICIG was not seeing the effect on human rights, because its investigations focused on bringing cases to justice. For its part, OHCHR did not have a clear line of action in this area, but CICIG's findings inevitably influenced OHCHR's work, until it began referencing them more directly in its reports and other activities.

Another connection between these issues, which brings CICIG and OHCHR closer, is the persecution of the people who denounce or fight corruption. While the OHCHR's protection mandate requires it take action and be vigilant against these attacks, CICIG was interested in guaranteeing the safety of its strategic allies, such as justice sector officials, witnesses, and the accusers.

In an attempt to convey a straightforward message to a larger audience, the office began sharing content on its Twitter account. In August 2017: “*#Corruption: an obstacle to the realization of #HumanRights.*” In May 2018: “*Corruption adds layers and complexity to inequality and exclusion. High Commissioner #Zeid's 2017 Guatemala report notes that 60% of the population lives in poverty.*” It is worth remembering that, at the time, CICIG was under heavy attack, and the High Commissioner had just concluded a visit to Guatemala.

High Commissioner Bachelet has referenced the issue of corruption in Guatemala twice. The first one was in August 2019 during the international seminar *The Fight against Impunity and Corruption in Guatemala*, where the CICIG's final report was also presented (ACNUDH - Guatemala, 2019). Later, in February 2020, Bachelet denounced setbacks in the fight against corruption, during the 43rd session of the Human Rights Council (EuropaPress, 2020).

Other actors from the UN human rights system came into the picture. In February 2019, two rapporteurs released a joint statement in which they demanded that Guatemala

“guarantee an independent justice system in the fight against corruption” (ACNUDH - Guatemala, 2019).

Ultimately, Guatemala’s experience shows that the fight against corruption can and should be adopted as part of the work of an OHCHR country office. Although it does not have the authority to investigate directly, its voice can make a difference in countries where corruption has a significant impact on human rights and where institutional structures are not robust enough to draw attention to the true dimension of the problem.

ESCR in Tunisia: A Missed Opportunity?

The Tunisia office had two thematic priorities when it was established: (i) combating impunity and strengthening accountability, the rule of law, and democratic society; and (ii) achieving the realization of ESCR, combating inequality and poverty (OHCHR, 2011, p. 356).

At the outset, some actions were carried out in relation to ESCR, such as training judges and prosecutors on the justiciability of these rights. In addition, a guide on the subject was prepared for officials. The office also participated in the implementation and monitoring of the United Nations Development Assistance Framework (UNDAF) 2015-2019, which contains an approach based on human rights, including ESCR. The OHCHR office trained fourteen NGOs working in the field of economic and social rights, including on issues related to water and agriculture (OHCHR, 2017). These initiatives have resulted in the design of a higher number of budgets and development policies with a rights-based approach and an increase in the number of CSOs that monitor and participate in rights-based budgeting.

However, after the revolution, there was a greater emphasis on work on political and civil rights, as the government expressed a particular need for assistance in the advancement of government structures in Tunisia.

Both the interviewees and the literature reviewed coincide in noting that the origin of the revolution was connected to demands in the field of ESCR, rather than to ending the dictatorship. However, the democratic process has responded mainly to the revolutionary demands for political and civil rights of the country’s educated middle class. However, the same has not happened in relation to ESCR, which was the general

population's demand. Consequently, it was argued, that if the OHCHR had a presence in other parts of the country, it would be more perceptive and would better understand the needs of the population in terms of ESCR. The distance between the office and other regions gives it a limited perspective on the country.

Apart from observing the office's lack of contact with the regions and organizations, a distancing was perceived between the office and NGOs working on ESCR. In fact, it was difficult for the research team to identify national NGOs that work on ESCR and that knew about the OHCHR's work in the country, on the basis of their interaction with the office.

From the year 2017, social tensions have increased in the country. Experts and analysts consider that the deterioration of the socioeconomic situation resulting from an adjustment package imposed by the International Monetary Fund, coupled with the widening of socioeconomic gaps in the regions and the exclusion of young people, are risk factors for the democratic transition (Weilandt, 2018). From 2017, strong protests have arisen in the same regions where the popular uprisings began in 2011, which continue being the areas most affected by economic difficulties, lack of access to services, and social marginalization (ECSR Net. 2017). Neither the political leadership nor the media have addressed this situation. A moderate statement made by the OHCHR spokesperson in January 2018 in Geneva urged respect for the rights of the protesters. The statement exhorted "*all sides to work together towards resolving, with full respect for human rights, the economic and social **problems** underpinning the unrest.*" (OHCHR. 2018. Emphasis added); interestingly, the statement did not mention rights.

Regrettably, some interviewees felt that the office adopted a questionable "non-interference" approach to internal affairs in Tunisia. The office has therefore refrained from questioning government stances on important issues such as ESCR and the situation of migrants.

Indeed, ESCR are a key issue in processes that seek to establish democracy and the rule of law, especially after long periods of dictatorship and social exclusion. Focusing primarily on governance and conflict resolution while not addressing ESCR may result in the loss of the gains made. It is unfortunate that the country office, having a specific mandate on ESCR, has not tapped into the potential in this area, failing to take advantage of the opportunity to strengthen ties with the NGOs that are active in this field

and with the communities and organizations located far from the capital, where the impact of the denial of these rights is felt the most.

It is difficult to determine whether the prevalence of civil and political rights work compared to ESCR work stems only from the State's demands on the office, or whether it is also a political decision made by the office, or a combination of both. In any event, as discussed in the cases of Cambodia, Guatemala, and especially Colombia, the advocacy capacity of NGOs is key to ensuring that the country office's mandate is both observed and adapted to the needs of the country. This strategic vision on the part of Tunisian NGOs in relation to the office does not appear to be very evident.

MANDATE RENEWAL

In terms of renewal, the situation in Tunisia is once again unusual, because the Memorandum of Understanding between the Tunisian government and OHCHR allows the presence of the country office for an indefinite period. Therefore, when addressing the dynamics of mandate renewal, the document focuses the experiences in Cambodia, Colombia, and Guatemala.

The conditions for mandate renewal depend largely on the political leanings of the government and its history with the country office. The Cambodian government has always attacked both the office and the SRSG, and it has even demanded an end to the SRSG's functions. External actors that signed the Paris Peace Agreements and UN high-level personnel involved in the peace negotiations had to intervene several times to protect the office and the SRSG from government attacks and during the 1997 coup d'état. In fact, the renewal conditions in Cambodia from grew more difficult after 1997; although the ruler was the same, a stronger position allowed a push for tougher negotiations. Although the government has threatened to close the office several times, it has never dared to end the agreement; its objective seems to be to tame the office, but not end it.

In Colombia, on more than one occasion, the negotiations for renewal have been affected by circumstantial events that heighten tension between the government and the office. Once, following the killing of four peasants a protest, the office issued a statement that pointed at the armed forces, causing a negative reaction at the time of mandate renewal. Military sectors said the office too much spare time and was no longer needed.

It was necessary for the High Commissioner to visit; this lowered the tension, and the agreement was renewed. Uncertainty arose again during the second Uribe government, because of the *false positives* that occurred during this period;²⁰ the office strongly questioned the situation, which provoked a negative reaction from the government. Also, during President Santos' term, the Foreign Minister was reluctant to renew the mandate against the backdrop of the peace agreement, because she considered that the reasons underpinning the office's installation had ceased to exist. With this argument, she sought to transform the office into an advisory body, claiming that monitoring was not needed. Recently, during the Duque government, tension flared again over the renewal.

In the case of Guatemala, there has not been a strong position to end the agreement, despite sharp clashes with some representatives. Also, during the most combative times, attacks were directed against CICIG, as well as against foreign governments, and the OHCHR representative in the country. It came to the point that officials were removed, but they have not dared close the office.

Other means that have been used to place the office in an uncertain position is delaying the renewal of the agreement or the representative's confirmation. In Cambodia, the government has constantly stalled the renovation of the memorandum of understanding with the High Commissioner/ Office, being reluctant to renew the office agreement on some occasions, to the extent that the office has operated for several months without a memorandum of understanding with the government, although this is not of utmost importance as the mandate is based on resolutions by the Commission/ Council/ General Assembly.

The dynamics of the relationship between the office and the government also impact the duration of the agreement, because there are no preestablished time periods. In Cambodia, the mandate was originally renewed every three years, then every two years. In Colombia, the duration of the agreements has fluctuated considerably. Some renewals lasted four years and others only twelve months.

It is important to keep in mind that the mandate renewal does not only concern the State in question and OHCHR. National human rights organizations and allied governments are also key figures in the negotiation. In the case of Cambodia, interviewees stated without hesitation that the office has survived thanks to the support

²⁰ False positive refers to the killing of non-combatant civilians by the security forces; the civilians were then passed off as combat casualties, when in fact their death an execution.

of the European bloc and international human rights organizations. These organizations are also recognized as valuable actors in regarding the Guatemala and Colombia offices.

Just as there are allies, there are also detractors. The majority of ASEAN countries are often against the renewal of the mandate of the Cambodia country office. By contrast, at a time of tension, the Government of Guatemala received the unexpected support of the Apostolic Nunciature against the OHCHR representative in the country.

Finally, although it is separate from the mandate renewal, a host State may seek to condition the country office's presence by insisting it must accept the appointment of the country office representative. Although this process is different from an ambassador's process, some countries have sought to impose an approval requirement. Faced with the OHCHR's resistance to this demand, Colombia once proposed that it be presented with a shortlist to select a candidate; OHCHR refused. Tension in this area has continued, to the point that, at the time of preparation of this report, the representative in Colombia had waited three months for government confirmation of his appointment. Guatemala has also sought to invoke a non-existent approval to accept the representative appointed by OHCHR.

In short, the continuity of a country office cannot be taken for granted. The office is always under threat, it can be scaled down, and even closed. However, closures are uncommon²¹ because they can have a high political cost. If the country office has allies among other States and NGOs, it is more likely that its continuity will be protected.

RELATIONSHIP BETWEEN THE OFFICE AND OTHER ACTORS IN THE UN HUMAN RIGHTS SYSTEM OPERATING IN THE COUNTRY

As discussed above, in some countries, more than one UN structure has authority. Cambodia has a dual system in which responsibility for human rights issues is shared between the country office and the SRSG. At one point, Guatemala had two structures working against impunity from complementary perspectives, namely CICIG and the

²¹ In the region, the only case of a country office closing occurred in Bolivia, during the presidency of Evo Morales. The office had a ten-year term, but criticism arose over the close relationship between the representative and the government. Questions have been raised because the office's closure was not accompanied by a report, to the detriment of accountability. Currently, there are efforts to reopen the office.

country office. Finally, in Colombia, OHCHR arrived first and years later a Verification Mission for the peace accords was also established.

In Cambodia, the office serves as the day-to-day presence, collecting information, liaising with NGOs and local and international governments, and providing services to the SRSG. On the other hand, the SRSG visits the country two or three times a year and, as an independent expert, can prepare strong reports that address the critical issues. This division of roles provides some protection for the office and the staff. Although the office also prepares critical reports, as the day-to-day presence it is more cautious in protecting its staff and avoiding government reprisals. With this division of the functions, the relationship between the office and the SRSG has to be one of trust and cooperation. According to interviewees, this was the case until the arrival of the last representative, a person with no practical experience in human rights who has toned down the reports, overriding the recommendations and views of the office team, even though the country's situation remains critical.

In Guatemala, CICIG could influence judicial prosecution, while the office only has the capacity to make recommendations. However, as was discussed, the two bodies, each acting within its mandate, established a mechanism of communication channels in relation to the issue of corruption. The non-binding nature of the offices' recommendations is viewed as a weakness by some interviewees, but it can also be regarded as a way of protecting its presence. The challenge here, as well as regarding the tension identified in Cambodia, is reaching a balance between the office's continuity and safeguarding principles that cannot be sacrificed.

The arrival of the Verification Mission in Colombia also posed challenges for both UN structures in the country. At the time, the OHCHR country office was experiencing weariness and frustration owing to the State's lack of response on critical issues, with resulted in the adoption of a less diplomatic tone. The Verification Mission arrived in this context, bringing a fresher perspective, which led to tension and differences in the relationship. This prompted a discussion about which entity was responsible for verifying human rights in a conflict zone, evidencing the existence of grey areas regarding each institution's responsibilities.

Beyond the tension, cooperation is positive in some areas. For example, in technical assistance and to support advocacy before Congress for the legal implementation of the peace agreement, in reference to human rights standards.

One interviewee, with field experience in several continents, cautioned that these relationships can be problematic if there is a lack of coordination and no clear division of the roles. The interviewee added that the relationship with the OHCHR presence can be more complex when a peace operation with a human rights component is also present. Moreover, it is uncommon to have a human rights presence and, simultaneously, an investigative or fact-finding commission, although both figures can coexist if their roles are sufficiently defined.

The interaction between country offices and the special procedures deserves a separate reflection. In some countries, experts' visits, prior to the establishment of an office, have been an important element in persuading the international community of the relevance of a permanent OHCHR presence in the country. In Nepal and Colombia, NGOs encouraged special procedure visits to underscore the severity of the situation.

Once the office has been established, the relationship with the special procedures is expressed in different ways. For example, a rapporteur can serve as a channel to bring to light certain facts that could leave the office in a delicate position if it became the spokesperson on the issue. Sometimes a rapporteur can be a channel for raising issues that cannot wait for the publication of the office's report. In general, the special procedures have several options for action that can benefit country offices, such as allegation letters, urgent appeals and pronouncements.

A flow and exchange of valuable information exists between country offices and the special procedures. An office can act as a channel to convey to a rapporteur information compiled in the course of its monitoring work. Furthermore, procedures often seek the support of country offices to verify the sources or the elements of complaints it receives.

The Colombia country office has conducted advocacy vis-à-vis the State to ensure that the recommendations of the special rapporteurs and the working groups are implemented.

During their visits, the experts are assisted by the offices in organizing their agenda and optimizing the time spent in the country. Since the establishment of the Cambodia office, twenty-four special rapporteurs have visited the country, some of them on as many as four occasions.

Similarly, in Tunisia, the number of experts who have visited the country grew significantly after the country office was installed, with over ten visits recorded (OHCHR, 2011). Interviewees consider that the reports and recommendations of the special rapporteurs were very valuable in the preparation of the new Tunisian constitution.

In Guatemala, a strategy of inviting rapporteurs was adopted owing to the impact that their reports and statements often have. However, the government stopped inviting rapporteurs in 2012. Now they are invited on academic visits; while rapporteurs cannot document or express an opinion on the country's situation during academic visits, these establish valuable connections with CSOs and victims, which builds relationships for the future. In the opinion of one interviewee, the office was a sounding board for visits and rapporteurs' reports.

Interaction between the special procedures and country offices is often fluid and mutually cooperative, which shows that relationships developed in the field can be much more fruitful and operational than when the bureaucratic apparatus in Geneva is involved. In fact, one article ensures that the relationship between High Commissioners and the special procedures is characterized by competition and rivalry. OHCHR leadership has not been collaborative and supportive of the special procedures, other than to provide the operational infrastructure to support their work (Gaer, 2013). The independence between the two is taken to such extremes that it can ultimately affect the very purpose of their work. Sometimes, this excessive independence is also present in the relationship between country offices and other UN human rights monitoring mechanisms, such as missions or commissions of inquiry.

Finally, although not part of the UN system, several interviewees from Colombia and Guatemala discussed the importance of the working relationship between the country office and the Inter-American human rights system, especially for to exchange information on situations and cases.

This chapter has described the tension between the protection function (which includes observation, monitoring and reporting) and the advocacy function (which includes technical assistance, training and human rights education) in the OHCHR mandate and its reflection in field operations.

It is a false dichotomy, with no basis in the working principles of the OHCHR. Both [Resolution 48/141](#), which established OHCHR, and the agreements to establish the

country offices in all the cases examined reference a mandate that includes the promotion *and* protection of human rights, which means that, at least in theory, they are two inseparable components for achieving the full realization of human rights.

However, the tension between the two components becomes apparent during mandate implementation. States are reluctant to engage in protection activities because they expose the country's human rights situation. As a result, they seek to avoid or minimize this function, either by diminishing its importance in the agreements with OHCHR or by demanding more technical assistance and human rights education activities as a way to focus the limited resources of the offices in this direction.

NGOs and stakeholder are responsible for exercising permanent vigilance to ensure that an appropriate balance exists between these two components. As Clapham and Martin (2000. p. 313) state "*the key to a successful field mission is understanding how far one function can support the other without descending into a compromise in monitoring or imposing conditionality in the context of technical assistance.*" The need for such a balance was noted early on by the head of the first OHCHR field operation in Rwanda, who indicated that, beyond the pressure from States, "*the mutually supportive roles of monitoring and technical cooperation must be recognized and reflected in managerial structures, in both the field and the Office of the High Commissioner*" (Martin, I. 2000. p. 287).

**INTERACTION OF THE OFFICE WITH
DIFFERENT ACTORS**

Once installed, the country offices must interact with different of actors to perform their duties. As explained below, the dynamics of some of these interactions create obstacles or present opportunities that call for political skill and commitment to the mandate by those responsible for OHCHR operations in the country.

RELATIONSHIP WITH THE STATE

In the beginning, the relationship between the host State and the country office tends to be positive, as there is a commitment by the government or at least the perception that the presence of OHCHR will be of assistance to the country.

Initially, the government of Cambodia needed the legitimacy that a country office would offer, to show that it was making progress, but it did not want to be held accountable. It cooperated with the office when it was in its best interest to do so, but at times it was also hostile to the office and the SRSG, depending on how critical the reports, interventions, and human rights monitoring were. The relationship has had its ups and downs. In the past few years, as the government descended into dictatorship, the role of the office was reduced.

Similarly, there was an idyllic period in Guatemala when the office was favorably viewed, due to the perception that its technical assistance supported state institutions within the confines of a friendly relationship and contributed to the positive image of the

country. After the first reports presented by the office and the results of the work of the CICIG, the authorities became averse to accepting the office representatives and had conflictive relationships with several of them.

Several interviewees agreed that the relationship between the Colombia country office and the Ministry of Foreign Affairs has been complex, given the perception that certain actions by the office are problematic and attempts by the Ministry to limit its mandate. This type of situation has arisen, for example, during the visits of rapporteurs, which are appreciated by NGOs and state institutions involved in human rights issues, but have been hampered by the Ministry of Foreign Affairs. Some people believe that instead of improving the image of the country, the attitude of the Ministry exposes the gaps and difficulties in fulfilling its human rights obligations.

After the Jasmine Revolution in Tunisia, the political environment in the country can be divided into two periods. The first is between 2011 and 2014, and the second from 2014 onwards. The first period was characterized by the exceptional opening of the country and a significant increase in the number of NGOs, as well as the positive measures taken by the government, such as the beginning of a transitional justice process, the establishment of the Truth and Dignity Commission, and the installation of commissions to investigate corruption and abuse.

However, in 2014 the country's political environment shifted, and there was greater resistance to being held accountable. After the death of President Béji Caïd Essebsi in 2019, there have been positive expectations in relation to the incoming president.

In some countries, it is clear that it is easier for the office to influence structural changes during the first years of OHCHR presence, because its interactions are with a government that had requested or accepted the presence of the office in good faith. As the years pass, governments change, and if OHCHR retains a critical attitude, the office may find that its capacity to influence structural changes has diminished.

Beyond this oscillating interaction, several valuable points should be highlighted. In some countries, when authorities know that a report is about to be released and that they can make comments before it is published, they seek to engage in dialogue that may be at a higher level than would be possible in Geneva, where they can interact with diplomats only. In the field, other actors can become involved in this discussion,

including the police, the military, ministers, governors, in other words, people who can directly influence those who have the capacity to generate change.

In the case of Colombia, one aspect highlighted by interviewees from all sectors is that while the authorities are the main source of attacks against the office, OHCHR has played an important role in mediating to improve the relationships between CSO and public institutions, increasing the levels of trust and dialogue between the State and civil society at the national level, especially in the field.

Relations with the host state have always had tensions and ups and downs, and political pressure or blackmail attempts have not been absent.. For this reason, the profile of the representative plays an important role when comes to defending the objectives of the presence, beyond the presence itself.

Cambodia: Navigating a dictatorship (*)

No office has been negotiated with a dictatorship. Most experiences have taken place in situations of post-conflict or in democracies, however distressed it may be. However, in some countries where there has been a serious institutional decline, such as Cambodia, the country office has been able to persist, albeit with some restrictions. We posed some questions in the introduction to this study, including: Can an office with a broad mandate operate in a host country where those who hold power have been cited by the OHCHR as being responsible for serious human rights violations? This special section aims to identify some key elements of the scenarios in Cambodia y Venezuela, where we identified surprisingly similar practices –initially authoritarian and then openly dictatorial.

Hun Sen has been a strong political figure in Cambodia since 1985, when he became Prime Minister (PM). He was one of the four key actors of the 1991 Paris Peace Agreements. His party lost the elections in 1993 by a small margin, but it managed to create an agreement to rule in a coalition with Prince Norodom Ranariddh's party. The Prince became first PM and Hun Sen second PM. In 1997, Hun Sen led a coup and Ranariddh went into exile. Since that time, several opposition leaders have unsuccessfully attempted to dispute Hun Sen's leadership. Cambodia entered the ASEAN in April 1999 and moved closer to China. In the July 2013 elections, for the first time, the opposition won a considerable number of seats in parliament (55 of 123). However, the opposition challenged the results and protests ensued demanding that Hun Sen resign and new elections be held. The protests continued until January 2014, when the army cracked down on opposition members, leaving four dead. In July 2014, the opposition leaders are accused of "insurrection." Between 2015 and 2019, a series of actions led Cambodia towards a dictatorship:

- The National Assembly enacts a law granting broad powers to the authorities to sanction CSOs that criticized the government.
- Pro-government mobs attack opposition party parliamentarians.
- The government strips an opposition leader of his parliamentary immunity in a procedure that was considered questionable because it was carried out behind closed doors.
- Four human rights defenders and the deputy secretary general of the electoral body are detained in a sex scandal that involves Vice-president Kem Sokha.
- Kem Sokha is sentenced to five months on prostitution charges but is granted a pardon by the King.
- The National Democratic Institute leaves Cambodia after allegations by the government that it was not registered to operate in the country.
- Kam Sokha is arrested on charges of treason, accused of conspiring with the United States government to depose Hun Sen.
- The Cambodia Daily newspaper announced that it would close after twenty-four years, following a bill for \$6.3 million owed in taxes, which it considers politically motivated and impossible to pay.
- Radio Free Asia (RFA) closes its operations after twenty years. Radio stations that broadcast RFA content are closed due to alleged licensing issues, while other radio stations stop transmitting RFA content.
- The Supreme Court orders the closure of the main opposition party.
- The party leaders in exile call for a boycott of the elections, after which Hun Sen threatens the supporters of the boycott, calling it a violation of the electoral law.
- The Phnom Penh Post is sold to a Malaysian businessman, whose has business ties with Hun Sen.
- The Working Group on Arbitrary Detentions demands the immediate release of opposition leader Kem Sokha.
- A Cambodian electoral observation NGO announces that it will not observe the elections.
- The Cambodian National Election Committee issues a rule regulating the work of journalists during the elections and prohibits them from questioning the results.
- The government issues regulations for working with telecommunications companies to monitor online news related to the July 2018 elections that could cause anxiety.
- The United States government imposes sanctions on Hun Sen's head of security for human rights violations.
- New Zealand and other countries issue a statement to the UN Human Rights Council asking the Cambodian government to rectify, alleging that the political context in the country was not "*conducive to celebrating free, just, and credible national elections.*"
- The Cambodian National Election Committee announces that 50,000 observers from China, Burma, and Singapore would monitor the elections on July 29, 2018.

- The government threatens to sanction anyone who published images on social media in support of the elections boycott promoted by the opposition.
- Japan announces that it would not send observers to the elections.
- The United States congress passes a law that would open the door to new sanctions for people close to Hun Sen.
- The government blocks fifteen websites two days before and during the elections.
- The day of the election, Hun Sen announces that his party had won 125 seats in parliament.
- The United States, Canada, Australia, and the European Union condemn and do not recognize the election results.
- Cambodia becomes a one-party State.
- In 2019, Hun Sen questions the validity of the Paris agreements and announces that, beginning in 2020, the anniversary of the agreements would no longer be a national holiday.

In this context, the role of the office has been reduced, while the government is increasingly reluctant to make commitments on human rights. Even so, the office continues to monitor the human rights situation, bringing critical issues to the attention of the authorities and, in the perspective of some, serves to contain human rights abuses. Although the SRSG (and later the Rapporteur appointed by the Council) has been questioned by the government –despite a less critical attitude towards its recent reports– the office has not been the target of similar challenges. The future prospects are far from ideal, but the division of functions between the office and the SRSG, in addition to support from the countries involved in the Paris agreements, has made it possible for the office to continue operating, despite the adverse environment. One of the persons interviewed said: *“Without the presence of the office, Cambodia would be another North Korea.”*

(*) The timeline was prepared on the basis of: <https://projects.voanews.com/cambodia-election-2018/english/timeline/timeline.html>

RELATIONSHIP WITH NATIONAL HUMAN RIGHTS ORGANIZATIONS

The different actors interviewed in all the countries agreed on the positive and mutually beneficial relationship between the country offices and the human rights NGOs.

On the one hand, a good NGO network is an advantage for the offices because it provides them with firsthand information on the situation and serves as a bridge to the

victims and other organizations. In addition, these networks help the offices validate the quality of their own information.

Another way in which the country offices have benefitted from their relationship with the NGOs is through their support of OHCHR and its staff when facing criticism from the authorities or at the moment of mandate renewal. In Colombia and Guatemala, renewal of the mandate has always required NGOs to work with international allies, such as other States and donors, to whom they also turn to for funding.

In some cases, the offices have been directed by officials who are not committed to the organization or, even worse, are openly partial to the government of the host country. In these cases, the NGOs have served as guardians of the mandate, lodging complaints before OHCHR in Geneva to force the removal of the official.

Another important role of NGOs vis-à-vis the country offices is as caretakers of the historic memory of the process, bearing in mind the high turnover of OHCHR staff. According to some interviewees, the learning curve for an official to get to know the country and begin to take strong steps is one year. Keeping in mind that most officials normally remain three years in a country, this rotation can be exhausting not only for the offices but also for the organizations that interact with them, due to of the valuable role that NGOs play in introducing the new officials to the country.

The offices cannot work on their own without the support of the NGOs. Occasionally, however, when OHCHR enters a country, civil society is fragile or nonexistent. In Cambodia, Tunisia, and to a lesser degree in Guatemala, there were few organizations, or they had been debilitated by years of conflict and repression. In this setting, one of country offices' tasks was to strengthen the capacity of the NGOs to improve their interaction with the State, develop the skills to investigate and document cases and situations, enhance their organizational and financial capabilities, and help them become familiar with the international mechanisms for protection and defense of human rights to optimize their advocacy skills. Even in countries with a diversity of NGOs, many of these are small and fragile, so this kind of support is equally necessary.

As previously mentioned, this component of technical assistance aims to support the work of the NGOs, in the understanding that stronger NGOs will in turn contribute to the office's monitoring efforts, especially in places where the office has no presence.

The offices have also facilitated dialogue between the organizations and the State, providing spaces for interaction and mutual acknowledgement. As previously mentioned, this recognition gives legitimacy to both parties. Some interviewees expressed concerns in this regard because the government may prefer to deal directly with the office rather than with its own citizens. On the other hand, local NGOs may feel more comfortable interacting with the office than with the authorities. They suggest that the country office should limit its dialogue to what is strictly necessary and, on the contrary, should help both parties prepare for interaction without the need for a third party. Progress in this direction will contribute to rebuilding the social fabric and the trust in the institutions.

Occasionally, technical assistance is carried out without consulting the CSOs, or the consultation is merely symbolic. In these cases, OHCHR runs the risk of being used by States to validate processes that have been undertaken without genuine social participation.

When governments have been openly hostile towards NGOs, the country office has provided protection and OHCHR officials have protested to authorities, not only through public statements but also by activating protection measures and opposing restrictive normative frameworks.

Although the natural civil society interlocutors with the office are the human rights NGOs, in Cambodia and Colombia the country offices have broadened their range of interactions to include less traditional sectors. These sectors include churches, the business sector, mid-level public officials, professional associations, retired persons from key state institutions, educators, among others. Closer relationships with these sectors can serve to neutralize the opposition and, in more optimistic scenarios, turn them into allies for fulfilling the country office mandate.

One official who had worked in several country offices did not hesitate to describe the NGOs as “*a point of reference and example*” for their work. A human rights defender described the OHCHR office in their country as a “*protective space*.” Both qualifiers represent the essence of what has been a relationship of trust and mutual support in the promotion and protection of human rights on the ground.

However, there has also been tension. Most times it has been caused by the high expectations of the NGOs with respect to the country offices’ capacity for action, given that they always expect public statements, actions, and responses. Interviewees from civil society and OHCHR warned that NGOs must be aware that the offices are part of the

United Nations system, that they have their own rhythm and bureaucratic structures, and that it is the States who make the decisions, which is why there are conflicting political interests at play. Despite this complex scenario, there are also strengths. The country office is an international structure with a human rights mandate, which lends it legitimacy before different domestic actors.

Human rights NGOs have the right and duty to interact with the country offices, both to defend their achievements and to demand their commitment. In this section, as in previous sections, we have presented examples of proactive positions assumed by NGOs to guarantee that the offices fulfill their mandate. This is only possible if the NGOs recognize that the offices have arrived in the country to address the human rights needs and do not perceive them as a foreign or external institution or as a favor by the international community.

RELATIONSHIP WITH INTERNATIONAL HUMAN RIGHTS ORGANIZATIONS

International NGOs have always been important allies to the country offices, providing political support, collaborating on the development of strategies, and exchanging information.

The political support has been manifested in advocacy work by international NGOs to promote the establishment of offices, protect their work from threats by the host States, ensure the renewal of the mandate, and persuade donors to continue their financial support.²² This work has sometimes been carried out in coordination with national human rights NGOs.

When there are no local contacts in countries where OHCHR is beginning operations, international NGOs have served as a source for the country offices, since their prior knowledge of the situation proves useful for collaboration on strategy development.

In addition, most international NGOs do not have a permanent presence in the countries, which is why they rely on the country offices to verify or complement information on cases or situations. The offices also play an important role in providing

²² Regarding funding, Human Rights Watch has on occasion conducted public campaigns calling on donors to continue their support (Human Rights Watch, 2015).

information on the context, as their permanent presence in the country places them in a better position to understand the changing scenarios.

Finally, it should be noted that in some countries, especially those in post-conflict situations, such as Cambodia and Guatemala, it is possible to find a significant group of international development NGOs whose work is linked to human rights but who are primarily service providers. In these cases, there tends to be tension between the organizations that advocate for the transformation of human rights situations and those that focus on providing services. There is no easy way to resolve this tension, but national NGOs should be aware that it exists in order to manage it.

RELATIONSHIP WITH OTHER STATES AND DONORS

There are three components to the relationship of the country offices with other States: substantive, political, and financial.

The substantive relationship refers to initiatives in which other States work with the office to accomplish their objectives related to the promotion and protection of human rights. In this area, embassies rely on the knowledge of the office to gain a better understanding of the human rights situation and report back to their capitals. They can also cooperate on advocacy strategies based on the concerns of the country office, as in the case of human rights defenders. Embassies can participate in these advocacy efforts by communicating with authorities in the country to express their concerns on the matter.

There are also cases in which the OHCHR representatives in the country seek partnerships with other States, involving them in their work. One way to accomplish this objective is to invite the embassies to participate in meetings with officials.

The lack of diplomatic representation in a country can limit the capacity to work with States. However, even in countries that are relatively isolated in diplomatic terms, OHCHR representatives have made an effort to inform the diplomatic corps accredited in neighboring countries, where there is a critical mass interested in the country in question, about the country's human rights situation.

In the political sphere, the offices seek to maintain a close relationship with the embassies in the host country in order to obtain their support. In addition, some countries

with international or regional influence have been useful in persuading other States to support the country office. There has also been coordination and division of labor between NGOs and States to defend the offices against attacks by host governments or when the mandate comes up for renewal.

As we have explained, some countries have been crucial for the establishment of the office, providing both political and financial support, which almost always go hand in hand. In the early years in Cambodia, a donor conference (Meeting of the Cambodia Consultation Group) was convened each year by the World Bank. Some interviewees consider that, now that Cambodia is developing, large amounts of money are coming from China, and the number of Western donors has decreased.

The two largest structures in the UN are the Department of Political and Peacebuilding Affairs (DPPA, previously the DPA) and the Department of Peacekeeping Operations (DPO), which are twenty times the size of the UN Office for the Coordination of Humanitarian Affairs (OCHA). This difference is reflected in the field, where DPPA or DPO operations are funded by the Security Council and do not require external resources, while OHCHR needs to raise funds. This explains why, for example, the arrival of the UN Mission for verification of the peace agreement in Colombia produced a reduction in support for OHCHR, because the mission arrived as a robust presence and created confusion among donors. Although there was no competition for funding because the cost of the mission was covered through a different budget line, donors were asking themselves whether it made sense for OHCHR to remain in the country if peace had been achieved.

The need for NGOs to develop a permanent relationship with other States to ensure support for their proposals, both in Geneva and in their foreign ministries and in the host country itself, is evident.

RELATIONSHIP WITH UN AGENCIES IN THE COUNTRY

The relationship of the OHCHR country office and other UN agencies in the host country will depend on the leadership and personality of the representatives and on each agency's balance between its level of commitment to the government and its mandate.

In principle, UN agencies are urged to work together with the UN Country Team (UNCT), under the leadership of the Resident Coordinator. In practice, the agencies have different mandates, priorities, and interests. Many agencies support the technical assistance provided by the human rights office (in its role as service provider), but not its substantive work, as they prefer to avoid potential confrontations with the government.

Given the commonalities between the mandates of the United Nations High Commissioner for Refugees (UNHCR) and OHCHR, the relationship between the two agencies tends to be good, as well as the relationship with the International Labor Organization (ILO). Some country offices also develop good relationships with OCHA, on the subject of data analysis and processing of information. On the contrary, other agencies avoid political issues or participating in broader political analyses and instead remain dedicated to their specific mandates, in health, children, food, etc.; neither do they make an effort to get to know the broader UN system, beyond the General Assembly and, in some cases, the Human Rights Council.

In this context, the governments of the host countries also play a role. Some interviewees warned that while international staff rotates, governments are static and develop the skill to negotiate and divide, avoiding responsibility and blackmailing the agencies to submit to their will.

On the other hand, some agencies complained about excessive independence and zeal in the field, especially in areas such as information gathering. While data processing is not OHCHR's strong point, they tend to not seek support from other UN structures with expertise in this area. In addition, some point out that even concerning the collection of information on cases and situations, OHCHR can receive information from other agencies, but the relationship is not reciprocal. For this reason, some agencies feel that the country offices take their independence to an extreme where they do not share information with other UN agencies.

UN agencies must comply with their mandates from a human rights perspective, but they do not do so and they do not understand the negative impact this has on fulfilling their objectives. As early as 2000, Clapham and Florence (p. 314) had warned that UN agencies frequently distance themselves from human rights issues “*for fear of upsetting their own partners in the government.*” They added that “*the UN family is generally badly educated about the meaning and scope of the international human rights instruments that the host government is obliged to respect and promote.*”

Some resident coordinators are not sympathetic towards the mandate of the office. And OHCHR officials did not hesitate to describe the relationship as “*terrible,*” and added “*we were the black sheep, a pain in the neck.*” Another interviewee explained the situation by saying that “*OHCHR is the guard dog, it’s on the front line and confrontational, because that’s its purpose. This can also increase tension with the other agencies*”.

In order to overcome this narrow view, in December 2013, then UN Secretary-General Ban Ki-moon launched the “Rights Up Front” initiative, which, as previously mentioned, seeks to develop an early response program for situations of serious human rights violations that commits all UN agencies. One component of the initiative seeks to achieve a cultural change within the UN, so that staff assume a unified position around the three pillars of the organization: development, peace and security, and human rights (Damplo & Saad, 2019).

The hope was that this initiative would improve the relationship between OHCHR and the UN agencies, and that they would begin to work on the basis of this common approach. Unfortunately, this has only been partially accomplished.

Overall, the initiative focused on the regional reports produced by OHCHR, to ensure that other parts of the Secretariat were aware of the human rights situation in a certain country. According to some interviewees, the initiative has played a more important role in peacekeeping missions than in OHCHR country offices, although others believe that it has been valuable for improving the relationship between the agencies and the country office. Through this initiative, the human rights offices conduct monthly analyses of the warnings on human rights they anticipate and share these analyses with the agencies. Before the initiative began, this work was done by UNDP headquarters in New York and OHCHR in Geneva. Giving country offices the responsibility for this work

constitutes progress, given that they are in more direct and immediate contact with the local reality.

Thus, in the opinion of some interviewees, the “Rights Up Front” initiative brought the topic to the forefront of the organization’s agenda. It also introduced the human rights perspective in dealing with sustainable development goals (OHCHR, n.d.).

More recently, in February 2020, Secretary-General Antonio Guterres launched what he called “[A Call to Action for Human Rights](#),” through which he hopes to revitalize the centrality of human rights by means of a seven-point plan that strengthens support for the Human Rights Up Front initiative.

NGOs still face the challenge of ensuring that this perspective prevails in the work carried out by agencies in the field, in such a way that their approach does not become an obstacle to the work of OHCHR offices.

Regarding this last point, some interviewees warned about the reform to the overall UN system and the new –and enhanced– role of the Resident Coordinator, who supervises the heads of agency; this position will now be appointed directly by the Secretary-General and not the UNDP. The reform may have both positive and negative impacts, since it will facilitate coordination, but concentrates more power in a single individual. Since this reform began implementation in 2019, it is still too soon to assess the impact, especially with respect to the relationship with the OHCHR country offices. There are hopes that the reform will contribute to making the proposal to fully incorporate human rights into the sustainable development goals a reality at the country level.²³

²³ For a simple explanation about the reform of the resident coordinator system and its possible impact on the human rights programs, see Saad, R. (2019). *The human rights implications of the new UN Resident Coordinator system*. Obtained from Universal Rights Group: <https://www.universal-rights.org/blog/the-human-rights-implications-of-the-new-un-resident-coordinator-system/>

ASSESSMENT OF EXPERIENCES

This chapter contains the interviewees' assessment of the four case studies, grouping their reflections into two sections. The first section sets out the achievements and contributions of the offices to the human rights situation in the country in which they were established, and the second section includes the limitations and risks faced by the offices.

MAIN ACCOMPLISHMENTS AND CONTRIBUTIONS

The assessments of the country offices are highly favorable, and the interviewees from OHCHR, NGOs, governments, and other experts all agree that the positive factors outweigh the negative. The assessments of the interviewees are grouped into fourteen categories.

The first positive assessment refers to the country offices' **rapid response** capacity in the field. Country offices have the capacity to react immediately, something that Geneva does not. They have to resolve problems on the spot, and on the ground, which gives them greater flexibility in their response. Although special procedures have their own advantages, an occasional visit by a rapporteur who visits once and then publishes a report is not the same, because it is easier for the government to reduce the impact and costs. Special procedures do not have the capacity to systematically monitor a situation, while an office is in the field and can continuously monitor.

Another facet of immediacy is that country offices can interact with public officials at different levels and branches of government, while interaction in Geneva occurs primarily with the diplomatic corps. In the field, a country office can engage in dialogue with a local authority or a mid-level officer of the public security forces, increasing the possibility of advocating to achieve specific changes.

Second, the offices' capacity for **dialogue and interaction** was positively assessed, as an independent and harmonizing voice, especially at the local level. The office has given a voice to those who do not have their own resources to make themselves heard. The interviewees believed that it was very important to have an organization that is respected by the political institutions and goes beyond what NGOs say or do, with a strong and professional point of view.

One feature of the country offices that is highly valued is their **presence**. The expression "*being there*" was frequently repeated in the interviews, which is reflected in the perception of the office as a safe and protective setting. The office is not a physical structure; it is in the streets, in the communities, in the courts, in public offices, at cocktails. In other words, it is in the places where victims and those who can make decisions to resolve human rights situations are. Its added value is being present in the places where violations take place and people feel abandoned or in danger. This presence also makes a difference in terms of the quality of the information.

In addition to *being there*, the offices provide **accompaniment and support**, which requires a presence with substance. In the words of one interviewee: "*People in the field appreciate the presence of the guys with vests, and they feel protected.*" This is particularly appreciated during public consultations where OHCHR is an observer, which generates trust among the parties, because the office can corroborate the actions as well as report possible incidents.

Sometimes, the main contribution of country offices relates to supporting the process of change in regions where armed groups persist. In these cases, the office has supported the empowerment of the communities to change the dynamics between the communities and the official or de facto power groups.

Several interviewees believe that changes are the result of the field presence more than of the reports published by Geneva. This is why the **presence in the regions** is so positively assessed, to the extent that it has served to support small NGOs, guarantee

better quality reports with local inputs, transmit the voice of the regions to national scenarios, and issue early warnings about problems (for example, OHCHR and not UNHCR was the first organization to publicly warn about the phenomenon of internal displacement in Colombia). In addition, the interviewees believe that a large presence in the regions can have more impact than a discreet one.

Another common reflection about the contribution of country offices is their **deterrent effect**. The presence of an office prevents certain acts from occurring and serves as a force of containment. In addition, interviewees from all sectors concur in their positive assessment of the effect of monitoring by OHCHR staff of civil society activities in curbing state repression. Regular visits to detention centers have also served to reduce cruel treatment and torture. In the four country studies, all of the interviewees asked the same question, without prompting by the research team: What would the situation be without the presence of the office? In all cases the answer was the same: the situation would be worse.

The interviewees believe that the **quality and impact of OHCHR reports** are significantly better when there is a country office. On one hand, the probability of obtaining information directly from the source on cases and situations of human rights abuses increases significantly when OHCHR officials are present in the country, which affects the quality of the documents.

In addition, being present in the region is an important advantage with respect to the relationship with the population, as there are more opportunities to use the report in interaction with other actors for advocacy purposes. In this regard, the interviewees believe that the best reports are those that make viable recommendations that allow pressuring the State to assume its commitments.

Another aspect that was positively assessed by different sectors is that the report legitimizes an independent narrative about what happened. Reports by NGOs frequently do not enjoy the same credibility, which is why OHCHR's perspective also implies the recognition and vindication of the work of human rights defenders.

The permanent presence of OHCHR through a country office also contributes to **keeping the focus on the country**. The diplomatic corps accredited to the country pays close attention to the reports and other statements by the office. In addition to the reports,

the country representative meets with international officials in different settings, and this interaction contributes to keeping the country on the international agenda.

An added value of OHCHR's country presence is that it encourages visits by rapporteurs and the dissemination of their reports. In fact, countries with offices receive more visits from rapporteurs; the offices support and accompany the visits and follow-up on their recommendations.

Dialogue with authorities is undoubtedly another positive contribution of the country offices. While in the country, they can engage with authorities at different levels in ways that would not otherwise be possible.

Another aspect related to the facilitation of dialogue relates to the interaction with civil society. Distrust frequently restricts the spaces for dialogue between authorities and CSOs, at the national or local level. The presence of an impartial third party can facilitate spaces for dialogue that would otherwise be difficult to accomplish.

By being in the country, OHCHR can offer **high-quality technical assistance**, providing more realistic and grounded assessments of a situation. Sound and timely technical assistance even allows early responses in situations where human rights are at risk. Both public officials and CSOs recognize the value of the technical assistance provided on issues such as judicial reform and reform of the security sector, draft legislation, incorporation of a rights-based approach into public policies, and transitional justice. Thus understood, technical assistance can complement protection efforts, as it focuses on structural reforms that address the root causes of protection failures.

One widely recognized component of technical assistance is **strengthening of CSOs**, which translates into the creation and strengthening of networks, capacity building, and support, as well as protection of the organizations, especially of small local groups that are most susceptible to attacks.

Another aspect that was positively assessed was that the office not only supports human rights NGOs but extends its work to other associations, such as unions, community and farmer organizations, and professional and business associations.

In situations of post-conflict or longstanding dictatorships, most of the population lacks information about human rights. In this context, the country offices play an

educational role to create a **culture of human rights**, raising awareness and vindicating the rights of those most affected by inequality and discrimination. OHCHR provides civic education to raise public awareness about the wealth in diversity.

This work has also contributed to the incorporation of human rights language into the discourse and strategies of certain sectors of society, such as trade unions, Afro-descendent and indigenous communities, and women.

Although the mandate of a country office may appear rigid, another element that was positively assessed was its **capacity to adapt to new challenges**. Some offices can adequately analyze the context to ensure that their actions respond to changing needs and emerging problems. This has allowed them to, for example, incorporate human rights-related topics into the educational projects carried out by OHCHR in some countries, and work on business and megaprojects (Cambodia), peace (Colombia), and mining and mono-cultivation (Guatemala), to mention only some topics. The inclusion of these topics has almost always been encouraged by CSOs and the office has been flexible enough to respond.

The interviewees also mentioned that these new topics were reflected in the reports and other public documents; in this way the country office also contributes to drawing international attention to these emerging issues or situations and placing them on the agenda.

Many interviewees noted the importance of the presence of an organization that was recognized as a **voice with authority**, in other words, one that is respected by the public institutions and that can go beyond what NGOs say or do. Thus, they believe that a country office provides a forceful and professional perspective that cannot be easily ignored by the government, public opinion, or political tendencies that discredit denunciations from other actors in the sphere of human rights. The fact that every statement by the office has a public impact is an indication of the importance of its opinions. Another achievement is that the offices are able to place human rights on the public agenda.

The country offices' capacity for immediate response literally allows them to **protect lives**, as they can react immediately in critical situations. Occasionally, their timely actions have stopped disappearances and torture, prevented or reversed the detention of activists, and improved the conditions of detained persons. Referring to

Cambodia, Adams (2000, p. 380) noted: *“There is little doubt that the presence and investigations of the office after the coup acted as a substantial deterrent to continued killings and saved many lives.”*

The offices have also been a significant source of support in the protection of victims and witnesses. In cases of detention, the offices have achieved the release of detainees or the withdrawal of charges. This work is frequently done discretely, which is why CSOs or the population are not always aware of this.

LIMITATIONS AND RISKS OF THE OFFICES

In terms of the limitations of the offices, some depend on OHCHR while others can be attributed to external actors. The following is a summary of the findings in this regard.

The most mentioned limitation in the interviews with all sectors in all countries and in the document review, is the **lack of an adequate budget**. Budgetary restrictions affect the capacity to hire suitable staff, as well as the capacity to deploy to the regions and, consequently, the capacity to have an impact. The financial limitations are related to reduced interest of donors, either because the country is no longer a priority, or because they are expecting to expand their business opportunities in the host country, in which case supporting human rights initiatives could be problematic.

However, the interviewees warned that efforts should be made to increase international cooperation to the country offices, without competing with CSOs, who also need resources. While funding depends on cooperation, OHCHR is also responsible for sensitizing donors, which is why in this case, this limitation has both internal and external components.

The ideal scenario would be that funding for country offices is integrated into the regular OHCHR budget, so they do not depend on the fluctuations of international cooperation and can guarantee stability to the office planning process.

Another important limitation is **staff turnover**. As previously mentioned, the learning curve for an official from abroad who only stays in a country for three years can be one year. This can be detrimental for the teams due to difficulties in maintaining the organizational memory of the office and its interaction with different actors.

The **origins of the staff** can become a problem in certain circumstances. The presence of national personnel was positively assessed because they have a better understanding of the situation in the country and are more stable. However, the interviewees also understand that it may be harder for local staff to remain partial, be objective, and not take sides in political or ideological debates. Sometimes there is less trust in a local official than one who comes from abroad and may be increased risk of infiltration.

Another risk mentioned is the excessively **protagonist role** of country office staff. The perception exists of a certain dominion by UN agencies, including the OHCHR country office, in some topics or projects. It can be difficult for NGOs to “compete” for resources or recognition because the UN system in general has more funds available.

In addition, some local NGOs feel that they occasionally lose opportunities to participate in issues on which they can contribute, not because of their lack of experience in the subject, but because they lack the prestige of an international organization.

Human rights NGOs also tend to question the **excessive diplomacy** of OHCHR officials. Occasionally, the country office has not taken a firm position on certain topics when it was necessary to do so. There is the impression that the office sometimes refrains from being more forceful. However, in these circumstances, it is also important to consider whether the role of the OHCHR office in a particular situation could be to serve as mediator between the different actors.

In some cases, taking a position that is too proactive or divergent could certainly jeopardize the participation of the office in a process that may require more tact. Under these circumstances, NGOs are demanding transparency from the office about what it is doing and the reason for why it acts in a certain way, so as to not fuel skepticism or distrust.

Another source of concern for many interviewees was the **inadequate communications strategy** of the country offices. The technical vocabulary of both the office reports and other forms of intervention is difficult for the common citizen to understand. Thus, although the office is doing important work in research, documentation, and analyses, the public does not know it exists. The offices lack strategies to place their concerns on the public agenda, which is why their messages only

reach specialized audiences. The challenge of broadening their audience is even greater when the population is poorer or has limited access to information.

The interviewees also expressed concern about the possible **model fatigue**. Governments are paying increasingly less attention to the recommendations of the office, and over time have become skilled at avoiding criticism and doing damage control. In the case of authoritarian governments, their main concern is staying in power. As long as the presence of OHCHR does not have a political cost, they can simply ignore it.

A new phenomenon emerging in some countries is the presence of organized criminal gangs. These groups are increasingly playing a role in politics, but rather than influencing the presidential elections, they are now more interested in controlling local governments in the regions where they operate. They thus invest significant resources to ensure that pliable leaders are in office. These are hidden powers that do not show their faces but obstruct institutionality and the realization of human rights.

To the extent that these actors gain control over the population and territory and erode democratic institutions, they are affecting human rights and should not be ignored. However, OHCHR is not adapting its response to these new scenarios, which could end up making the agency irrelevant.

The interviewees also questioned the lack of **balance of the mandate**. On occasions, it is difficult for country office representatives to balance the protection and promotion mandate. At times, these two components of the mandate appear to contradict each other. There are also complaints that when situations involving human rights violations arise, the office does not react because it has other issues pending with the government. One specific point of concern is that the staff is sometimes selective about what it becomes involved in, so as to not affect its relationship with the government.

Political instability in the host country is a factor that can seriously erode the offices and limit the way they operate. Changes in the local political context are continuously wearing down the offices.

Fluctuations in international support can also affect the performance of the country offices. Lack of political support by government actors generates instability in the implementation of the plans. This constant absence of support by governments and

donors is normally linked to new interests that emerge as a result of the economic relationships that are being built in the country.

Country offices have many virtues and limitations. Leveraging the former and neutralizing the latter will depend on a variety of actors, including the UN political bodies and the system for the protection of human rights, States, and CSOs, in particular human rights NGOs.

In the following chapter, we will explain how many of these virtues and limitations are evident in the recent intervention in Venezuela by the UN human rights system.

**RECENT ACTIVITY OF THE UN HUMAN
RIGHTS SYSTEM IN VENEZUELA**

The relationship between the UN human rights system and Venezuela is twofold. On the one hand, it involves the actions carried out by the Venezuelan State to fulfill its commitments, including presenting periodic reports to treaty bodies, extending invitations to special procedures experts, and participating in the Universal Periodic Review. On the other hand, it also involves the initiatives launched by the system's agencies, with or without the agreement of the Venezuelan State, to ensure the protection and realization of human rights in the country.

This section focuses primarily on the second type of activities, since they are more relevant for the purposes of this research. However, it does not intend to provide an account of all the substantive work that has been carried out, or of its specific findings on the human rights situation of the country, but rather of the evolution of the actions and expressions of the system that seek to provide a more structured response to the human rights situation in Venezuela.

FIRST REPORTS

During Zeid bin Ra'ad Zeid al-Hussein's term as High Commissioner, the Office produced two reports. The first report, entitled *Human Rights Violations and Abuses in the Context of Protests in the Bolivarian Republic of Venezuela* from April 1 to July 31, 2017, was published in 2017.

This was followed in 2018 by the report *Human Rights Violations in the Bolivarian Republic of Venezuela: A Downward Spiral with No End in Sight*. In his second report, Zeid described the human rights situation in Venezuela as “*dismal*” and called upon the Human Rights Council to set up a Commission of Inquiry on situation in Venezuela. Moreover, Zeid asserted “*given that the State appears neither able nor willing to prosecute serious human rights violations, there is also a strong case to be made for deeper involvement by the International Criminal Court.*” (OHCHR, 2018) Both reports were prepared based on remote monitoring and without visiting the country, due to the government’s refusal to provide access to OHCHR officials.

The Venezuelan government reacted angrily, claiming that the Office had exceeded its mandate because it did not have a specific mandate from the Human Rights Council or the General Assembly to produce these reports. Furthermore, the government did not hesitate in describing the reports as politicized and the product of Zeid’s “*shadowy exercise*” of his mandate (Gobierno Bolivariano de Venezuela, 2018). It is worth recalling that the preparation of reports by the Office does not have to be based exclusively on a specific request from the Human Rights Council but rather it is part of its authority pursuant to Resolution 48/141, which established it.

During the September 2018 session, in the general debate on the oral update of the High Commissioner’s report, the Venezuelan Ministry of Foreign Affairs once again attacked Zeid, describing him as “*biased.*” By then, Michel Bachelet had already been elected as head of the OHCHR, so Venezuela tried to ease tension by expressing, in that same debate, that the country hoped to begin a new phase of cooperation with the Council and the new High Commissioner (Matheus, 2018).

FIRST RESOLUTION ON VENEZUELA

At the Council’s September 2018 session, and as a consequence of the strong reports produced by the Office in 2017 and 2018, the Human Rights Council adopted its first resolution on Venezuela; in it, the Council:

Requests the High Commissioner to prepare a comprehensive written report on the human rights situation in the Bolivarian Republic of Venezuela and to present it to the Human Rights Council at its 41st session, to be followed by an enhanced

interactive dialogue, and to present an oral update on the human rights situation to the Council at its 40th and 42nd sessions (OHCHR - Venezuela, 2018).

Bachelet reacted to the resolution immediately. In a meeting with the Venezuelan Minister of Foreign Affairs, she requested access to the country and warned that “*with or without a resolution*” it was her duty to monitor the situation (Noticias ONU, 2018). Meanwhile, Nicolás Maduro invited Bachelet to visit the country. In a letter delivered by the Venezuelan representative to the UN bodies in Geneva, Maduro again rejects the existence of a humanitarian crisis and invites Bachelet to “*learn first-hand, and review together with the Bolivarian Government, the broad and historic efforts to guarantee and promote the human rights of the Venezuelan people*” (Martínez, 2018). Emphasis added.

The tone of the letter raised concern among human rights organizations in Venezuela. Through different means, the organizations sent messages to Bachelet, reminding her that a visit to the country should have the sole purpose of fulfilling the request of the Human Rights Council.

Finally, in March 2019, an OHCHR technical mission composed of five persons visited the country to collect data for the report commissioned by the Human Rights Council and assess the feasibility of a visit by the High Commissioner (OHCHR, 2019). The mission remained in Venezuela for eleven days and visited several cities. In the meeting between the technical team and the country’s human rights organizations, some NGO spokespersons raised for the first time their interest in the installation of a country office in Venezuela.

While the technical mission visited Venezuela, Bachelet provided an update to the Human Rights Council, as requested by that body in a September 2018 resolution. In her oral update, Bachelet expressed she was “*deeply concerned by the magnitude and gravity of the human rights impact of the current crisis, which is also a worrying destabilizing factor in the region*” and noted that the government refused to recognize “*the dimensions and seriousness of the crisis in terms of medical care, food, and basic services, which is why the measures it has adopted have not been sufficient*” (Bachelet, 2019).

The Venezuelan representation in Geneva rejected the oral update, but refrained making any personal attacks or disqualifications, unlike it had done in the past against Zeid. Instead, it chose to point out that Bachelet was not well informed because of the

media campaign against Venezuela, and reiterated the invitation to visit the country (TelesurTV, 2019).

THE START OF THE PRESENCE IN VENEZUELA

The march 2019 technical mission determined the existence of the conditions for a visit by the High Commissioner, which took place from June 19 to 21, 2019. A few days before Bachelet's arrival, part of the team headed to Venezuela to prepare for her visit. In her meeting with the human rights movement, Bachelet announced that two members of the technical team would remain in Venezuela in accordance to an agreement reached with the government. This announcement was formalized in the statement she made at the end of the visit, underlining that the “*presence*” would have the mandate to “*provide technical assistance and advice, as well as –importantly– to continue to monitor the human rights situation in Venezuela*” (Bachelet, 2019).

In her statement, the High Commissioner also referred to some of the work areas agreed with the government, including: the assessment of the National Commission for the Prevention of Torture, the identification of obstacles to access to justice, full access to detention centers and the possibility of confidential interviews with detainees, and the access of UN special procedures to the country. OHCHR officials informed that the agreement also included supporting the process to draft the second national human rights plan, and the creation of a database to follow up on the recommendations of treaty bodies, special procedures, and the Universal Periodic Review. This announcement made it clear that the OHCHR presence in Venezuela would not be limited to providing technical assistance but would extend to all the areas of its mandate.

It should be noted that the OHCHR presence in Venezuela would not have operational autonomy, because it did not have its own office and was housed under UNDP in Venezuela.

The OHCHR report requested by the Human Rights Council in September 2018 was published on July 4, 2019, and it submitted to the Council for discussion on July 5. The report is conclusive in its findings on the violation of civil, political, economic, social and cultural rights, drawing on hundreds of interviews with victims (OHCHR, 2019). However, despite the severity of the facts compiled, the High Commissioner did not make any proposals to the Human Rights Council to follow up on the situation. Zeid's proposal

for the establishment of a commission of inquiry was not acted on, let alone the idea of a greater involvement by the International Criminal Court; nor were there any other recommendations that would prompt the Council to consider future courses of action.

This caution appears to suggest an overriding interest in preserving the nascent OHCHR presence, established in March of that year; in fact, in her closing statement, the High Commissioner spoke of maintaining a cooperative relationship with the State in the agreed areas, with the aim of assessing within six months, the existence of conditions to open an office with a greater capacity to work in the country.

All signs indicate that the Venezuelan officers expected a more benevolent treatment from Bachelet. The regime's reaction to the report was to strongly reject it during the debate at the Human Rights Council on 5 July, although it was careful not to attack the High Commissioner personally. Afterwards, on July 12, Maduro sent a [letter](#) to the High Commissioner demanding "*prompt rectification*" (Ojeda, 2019).

When school vacations arrived, the OHCHR officials in Venezuela left the country to join their families; due to tensions with the government caused by the report, the team was not able to return until September.

On September 24, OHCHR announced that it had signed a Letter of Understanding with the Government of Venezuela on the 20th of that same month. The press release indicates that the letter, signed for a one-year period, commits the parties to developing a work plan to be agreed upon within thirty days (OHCHR, 2019). The document also states that "*the Government has committed to allow UN human rights officials access to detention centers, and freedom of movement across the country*" (OHCHR, 2019, para. 4). The presence of the OHCHR in Venezuela was finally formalized.

Although the text of the letter has not been publicly released, it has been unofficially acknowledged that it would cover the core areas of the OHCHR mandate including: (i) the presence of officials in the country, which implies the possibility of monitoring the human rights situation, including visits to detention centers, and the preparation of reports; (ii) technical assistance to state institutions; (iii) work with other agencies; (iv) strengthening of CSOs.

TOWARDS A GREATER FOCUS OF THE UN SYSTEM ON VENEZUELA

The Human Rights Council adopted two resolutions on Venezuela in its 42nd session (September-October 2019). The first is resolution 42/4, promoted by seven States, none of which is a member of the Council.²⁴ This resolution refers to “*Strengthening cooperation and technical assistance in the field of human rights in the Bolivarian Republic of Venezuela*” (OHCHR - Venezuela, 2019), and, although it was promoted by countries friendly to the Maduro regime, there is nothing objectionable in its content. In its operative part, the resolution “*welcomes*” the report of the High Commissioner –which had been vehemently rejected by Maduro– and the presence of the office in Venezuela. The resolution requests that the High Commissioner present updated oral information on the situation of rights in the country at its 43rd and 45th sessions. Furthermore, it requests “*a comprehensive written report on the situation of human rights at its 44th session, including the outcomes of the investigation on the ground into allegations of possible human right violations of the human rights to life, liberty and physical, and moral integrity*” (OHCHR - Venezuela, 2019, para. 11), to be presented at the 44th session.

The second resolution that was adopted is resolution 42/25, promoted by the Lima Group, which requests oral reports from the High Commissioner for the 43rd and 45th sessions, as well as “*a comprehensive written report on the situation of human rights in the Bolivarian Republic of Venezuela, with a special focus on the independence of the justice system and access to justice, including for violations of economic and social rights and the situation of human rights in the Arco Minero del Orinoco region*” (OHCHR - Venezuela, 2019, para. 22), to be presented at the 44th period of sessions.

But the most innovative aspect of this resolution is the creation of an Independent International Fact-Finding Mission (IFFM), to investigate extrajudicial executions, forced disappearances, arbitrary detentions, and torture and other cruel, inhuman or degrading treatment committed in the country since 2014 (Consejo de Derechos Humanos, 2019). The mission will have a one-year period to perform its work, and it will present its report at the 45th session of the Council, which is scheduled to be held in September 2020.

Persons interviewed for this study stated that the High Commissioner lobbied to prevent the adoption of this resolution, perhaps to evade negative reactions by Venezuela

²⁴ The sponsoring States of resolution 42/4 are Algeria, the Democratic People’s Republic of Korea, Iran, Nicaragua, Syria, Turkey, and the State of Palestine

that might have an adverse effect on the fragile relationship she is building to be able to access the country.

As expected, Venezuela once again reacted irately to this resolution, announcing that it would not grant access to the country to the FFM.

In December 2019, the High Commissioner presented the oral update requested for that session of the Council, which was largely drawn on information collected in the field. In the update, Bachelet insists “*on the importance of establishing a more comprehensive and strengthened presence in the country that allows us to advance human rights*” (Bachelet, 2019, para. 34). In the debate following the oral update, several countries recommended strengthening the presence of OHCHR in Venezuela, and some spoke of creating a country office, this being the first time that members of the Council raised this proposal.

Furthermore, during the December session, the President of the Council appointed three experts to head the Mission: Marta Valiñas (Portugal, who would chair the Mission), Francisco Cox (Chile) and Paul Seils (United Kingdom). In January 2020, the FFM was established in Panama, from where it conducts its work, with approximately ten officials supporting the three experts.

In March 2020, another oral update was presented, with the governments of Brazil, Colombia, Spain, and Uruguay expressing their support for strengthening the presence in Venezuela, or establishing a country office.

It should be noted that, apart from the High Commissioner’s statements, no institutional information on the presence in Venezuela is available on the OHCHR website. Although it is mentioned in the 2019 OHCHR annual report, the existence of this initiative is not yet reflected in the OHCHR in the World section of the website, which only mentions the “remote monitoring” conducted by the Office in 2017. It would be worthwhile to raise this initiative’s visibility in the OHCHR media in order to mark a space that has already been gained by placing it on the international map.

In July 2020, OHCHR presented two reports on Venezuela, as requested in the resolutions approved at the 42nd session of the Human Rights Council.

As previously mentioned, it is not the purpose of this section to undertake a detailed analysis of the substantive aspects of these reports, but to review efforts by the UN protection system in responding to Venezuela's situation. Nonetheless, it is important to state that both this investigative team and the NGOs consulted agree in noting that both reports lack the forcefulness of the reports submitted during Zeid's period and those submitted by Bachelet herself in 2019, creating concern that this may be due to a more cautious position by the High Commissioner in order to maintain a presence in Venezuela. This position could transmit a dangerous message according to which substantive issues could be sacrificed based on permanence in the country; this is how the presence could turn out to be functional to the government's objectives. In fact, in July 2020, during the interactive dialogue, States that sympathize with the Maduro regime, highlighted Venezuela's alleged collaboration with OHCHR, despite the fact that the recommendations made have not been followed in practice.

In the interactive dialogue held on the occasion of the second report, at least 6 countries expressed their support for the presence of OHCHR in Venezuela and / or endorsed the idea of creating a full-fledged country office.

It is undeniable that in recent months the international community's interest in the human rights situation in Venezuela has increased. The two reports produced at the initiative of UNHCHR during the Zeid term drew attention to the seriousness of the situation and generated a reaction that led to other follow-up initiatives. Between September 2018 and September 2019, three resolutions were agreed upon, a technical mission and a visit by the High Commissioner took place, four reports and four oral updates were requested, three interactive dialogues were scheduled to discuss reports, a fact-finding mission –which will also present a report with the corresponding interactive dialogue– was established, and the presence of OHCHR officials in the country was achieved.

Alongside these advances in the UN's attention towards the human rights situation in Venezuela, there are other mechanisms that could deliver significant contributions for the construction of a comprehensive panorama in this direction, such as the Special Procedures. It is noteworthy that, out of 11 procedures that have repeatedly requested to visit the country, the government has chosen to extend invitations to three that are not on that list. The firm promotion of having other procedures invited in the near future is a pending matter for the OHCHR presence in the country; a task that must be driven by NGOs.

Moreover, although the OHCHR presence in Venezuela began with difficulty and is still fragile, it is a relevant step that requires attention. Accordingly, the following chapter presents an assessment of the first six months of OHCHR in Venezuela, based on interviews with representatives of human rights organizations in the country.

**BALANCE: SIX MONTHS OF OHCHR
PRESENCE IN VENEZUELA**

The OHCHR presence in Venezuela completed six months in the country while this research was being conducted. Therefore, we considered it was pertinent to consult human rights organizations in Venezuela about their opinion on the experience in three major areas: (i) the NGOs' understanding of the mandate; (ii) the interaction with the team with respect to monitoring, reporting, and technical assistance; and (iii) their general assessment of the presence of the office in Venezuela. Based on the findings drawn from the interviews.

The objective of this analysis is to shed light on the strategic role that civil society and, in particular, the human rights movement can play in the establishment of a country office, and in making the OHCHR presence a tool for progress in the protection and defense of human rights in Venezuela.

INTERACTION BETWEEN HUMAN RIGHTS NGOS AND THE OHCHR PRESENCE IN VENEZUELA

Generally, some of the NGOs have raised the visibility of the OHCHR's work in Venezuela and have interacted with its team, especially during the visit of High Commissioner Michelle Bachelet to the country, and after the publication of the July 2019 report. For example, during her visit, the High Commissioner met with several human rights organizations and victims' groups, which presented a series of petitions through the participation of 26 spokespersons (PROVEA, 2019). Afterwards, several NGOs endeavored to disseminate the main conclusions of the 2019 report and of the oral

update issued in September of that year (Working Group Against Impunity in Venezuela, 2019; PROVEA, 2019; Rodríguez Rosas, 2019).

However, as time has passed, the interaction between NGOs and OHCHR has been hampered by several factors, such as the lack of knowledge about their mandate, expectations regarding their capacity to act, and lack of access to information about their advocacy actions.

Ninety-four per cent of the organizations interviewed noted that they were familiar with the OHCHR mandate in Venezuela; however, when asked about the mandate's components, it became apparent that the knowledge is incomplete. For example, most responded that the mandate is connected to monitoring the human rights situation to prepare reports. Some mentioned that it relates to evaluating the compliance of the recommendations set out in the reports. Others connected the mandate to more specific issues such as access to justice, due process, the situation of persons deprived of their liberty, torture, and the guarantee of economic, social, and cultural rights. However, only two of the interviewees mentioned the assistance and technical cooperation component. Finally, other interviewees view the presence of the OHCHR team as a first step towards the prospective opening of the country office.

The responses to the questions about the NGOs' understanding of the OHCHR presence's mandate reveal that the NGOs are not familiar with the mandate components that originate in the letter of understanding agreeing to the presence in Venezuela. OHCHR's decision to not publish the contents of the letter affects the interaction between the presence and the NGOs, because there is a lack of certainty about the parameters for OHCHR's actions in the country.

This lack of knowledge can be attributed to the fact that many NGOs learned about the mandate through the media, other organizations, and information available on the OHCHR website, but not directly from the team, or from direct access of the text; this is especially valid for organizations outside of Caracas. Interestingly, most of the NGOs interviewed said they have participated in regular meetings with the OHCHR team – which now are being held online due to the pandemic. It is therefore urgent to act towards ensuring that NGOs have a broader and more accurate understanding of the scope of the OHCHR presence in the country.

ASSESSMENT OF THE WORK CONDUCTED IN TERMS OF THE MANDATE COMPONENTS

This section presents the analysis of the responses provided by the NGOs in relation to exchanging information with the office's presence, as well as their assessment of its monitoring, reporting, and technical assistance activities.

Monitoring

Eighty-seven per cent of the NGOs responded that the OHCHR team had not approached them to offer support in relation to human rights cases. To the contrary, 75% indicated the initiative to engage came mostly from NGOs, when they forwarded information on the issues they work on such as the complex humanitarian emergency, freedom of expression, arbitrary detentions, human rights violations during protests, targeting and stigmatization of CSOs, violation of economic, social and cultural rights, as well as the situation of persons deprived of their liberty, and migrants and refugees, among others.

All the interviewees agree that the OHCHR is interested in receiving information from the organizations, and that is hast scheduled periodic meetings. The meetings would not always take place, but they occur more regularly since they began being held online following the COVID-19 lockdown. The organizations have also facilitated meetings between the team and some of the victims. At least two organizations interviewed indicated they have no contact with the Office's presence because they send the information relating to their cases directly to Geneva.

When asked about their assessment of the team's response to the information and the cases presented by the NGOs, interviewees agreed that the officials are very receptive to listening and receiving the information. The organizations also expressed they feel comfortable having frank conversations about the issues. This has also been positive for victims because they feel heard and there is more proximity with them.

A significant finding was that most organizations felt that the information received by the team is reflected adequately in the regular reports and updates presented by High Commissioner Bachelet to the United Nations Human Rights Council. They also consider that the dialogue between the team and the government can build bridges to resolve specific issues and protect the victims.

While the team is attentive, organizations feel that their work is often limited to documenting and does not extend beyond that. They also consider that the likelihood that women officials will be able to influence the government is very low. *“They pass on the message and perhaps there will be changes, but there is not a direct response,”* said one of the interviewees.

The organizations ascribe the team’s limited capacity to influence to some of the officials’ unfamiliarity with the context. This coincides with the reflection made by some of the interviewees in other countries about the learning curve of officials in the field. The government takes advantage of the limited familiarity, avails itself of diplomatic channels, and delays the implementation of agreements and recommendations. This is compounded by the limited workforce available to cover the entire country. One of the interviewees noted that some opposition groups have disqualified the work of the OHCHR team because they are perceived to be close to the government.

In addition to their limited capacity for advocacy, organizations feel that they have very little understanding of how processes work within the OHCHR team. Organizations have no knowledge of the team’s dealings with the government, and it is unclear whether the officials are allowed to make public statements, or if they refrain from doing so for safety reasons. On the other hand, the organizations indicate that they do not receive feedback on the quality and format of the information they forward, so they do not know how they can best support the monitoring activities. Finally, although other regions of the country have been visited, the organizations do not see the situation of some areas reflected in the reports and updates. In any event, the people who have known about the visits view them in a positive light as an effort to establish relationships with the organizations and victims that are located outside Caracas.

In terms of other interventions, such as visits to detention centers, hospitals, or other cities, most organizations have no knowledge of them. Some of the organizations highlighted the work conducted by OHCHR in relation to persons deprived of their liberty through visits to detention centers and the accompaniment and support of victims before the Office of the Attorney General. However, they consider that the structural problems persist, including the deterioration of the justice system, prison overcrowding, and arbitrary detentions.

In conclusion, the organizations have a positive view of the monitoring activities carried out by OHCHR team in Venezuela because they are attentive to receiving the

information provided by civil society. However, because of their limited capacity to influence outcomes, organizations feel that monitoring does not lead to concrete change. Therefore, they consider it is necessary to turn to other mechanisms, such as the United Nations special procedures, which can take the OHCHR's response in Venezuela to the next level.

Preparation of Reports and Periodic Updates

In terms of NGOs' perceptions of the OHCHR reporting process, 62% of the interviewees have been contacted by the OHCHR team in the country to request input for the reports either individually or through the regular meetings. Parallel to this, about 80% of the NGOs consulted submitted information to the team for reporting purposes. In general, the organizations consider that the team has taken into account the inputs that were submitted because they see them reflected in the reports and oral updates. It is crucial that the information sent by regional organizations receive the same treatment, since some of them do not see their regions' situation reflected in the updates and reports, even though they sent the inputs.

Only one of the organizations interviewed expressed it did not know about the OHCHR reports and oral updates. In general, they make a take a positive view of the reports and their contents because they reflect reality, convey the concerns of the organizations, and keep the international community informed. In particular, they highlight the July 2019 report, which was impactful and had significant repercussions. In their general assessment of the reports and oral updates, the organizations identify limitations in six aspects: rights addressed, regional information, tone, dissemination and debate, their reception by different actors, and, finally, their impact.

In terms of the **rights addressed**, some organizations consider that the violation of some rights has not been reflected in the reports, as is the case with the right to food. Similarly, the situation in the regions has not been fully represented, which could stem from the OHCHR teams' need to agree on the trips to other cities with the government and the limited staff.

At least twice, the organizations have identified a shift in the **tone** of the reports. First, they noted the transition between the term of Zeid Ra'ad Al Hussein –the previous High Commissioner– and Michelle Bachelet. In their opinion, Zeid's reports put

Venezuela on the international community's radar, and were rigorous and forceful. The reports under Bachelet's mandate are still rigorous, but less forceful, relative to the level of information received.

The organizations noted that a second moment is the establishment of the OHCHR team's presence in the country in September 2019. The interviewees consider that their presence in the field allows the officials to have a better understanding of the context, the depth of the problems, the dynamics of the government, the role of the different actors, to engage directly and immediately with the victims and their relatives, and to experience directly the complex humanitarian emergency. In addition, meetings have been held with government representatives to follow up on specific cases, which has been beneficial for some of them. Direct access to information strengthens the contents of the reports.

Some consider that the diminished strength of the pronouncements after the July 2019 report relates to concerns that the presence will be revoked. For this reason, in the opinion of some of the interviewees, the pronouncements do not elaborate on certain situations and are perceived as "more calculated," although they still address fundamental issues.

The NGOs agree that there is still much work to be done in terms of **disseminating and discussing** the contents of the reports. While they have contributed to the advocacy process abroad, and to the decision-making process of international organizations for their work in Venezuela, they are still largely unknown domestically. A first hurdle to the widespread dissemination of the reports is censorship and the absence of independent media. Given the length and sophistication of some of the reports and the massive amount of news events that occur in the country, the media only provides initial coverage of the report or update, but does not expand on its contents. In the words of one interviewee, *"the media is losing interest, and coverage is decreasing, there is less expectation, and the updates are becoming normalized."*

It was also noted that OHCHR does not have a clear communications strategy to publicize the reports, which limits the opportunity for civil society engagement and for all of the stakeholders, such as local governments, the media, CSOs, victims and their families, etc., to gain a better understanding of the OHCHR's role in Venezuela.

The organizations recognize that they have an important role to play in disseminating the reports, but also that they have had a limited reach. There are many

non-governmental organizations that are still unaware of the presence of the OHCHR team in Venezuela. They also consider that it is important to strengthen and expand efforts to disseminate the information to other audiences outside the sphere of human rights organizations, a goal that has not been accomplished due to, among other problems, the lack of connectivity.

In terms of the **reaction** to the reports, the NGOs agree that it varies depending on the actor. Here we present the reactions of four types of actors: the government of Nicolás Maduro, the interim government led by Juan Guaidó, other countries, and civil society.

The government of Nicolás Maduro has constantly attacked and disqualified the reports, as well as dismissed and ignored their recommendations. Part of his government is more receptive, but will not commit to implementing the recommendations. It should be noted that the rejection has been declining since its highpoint in July 2019, when the report was published. Taking into account that many NGOs have supported and socialized the reports, this has increased accusations by the government against them, which is an element that should be put on the OHCHR agenda, within the framework of its work on reprisals against those who cooperate with the UN system.

At the same time, it is felt that Juan Guaidó and his team have not promoted the dissemination of the reports, but rather have instrumentalized them to serve his political agenda.

The organizations feel that the reports have also contributed to other States taking a position on the situation in Venezuela, some more cautiously than others. The fact that Bachelet is the spokesperson has also supported the progressive recognition of the severity of the human rights situation in Venezuela among sectors of the Latin American left that had previously denied it.

Finally, in the case of civil society, in general, there have been few reactions, as some sectors are unaware of the reports or have lost interest in them given the government's indifference to the recommendations.

This analysis leads to the conclusion that the reports have a limited impact, especially because of the failure to implement the recommendations that advance the human rights situation in the country.

Technical Assistance

The analysis of the interviewees' answers on technical assistance revealed a worrying result, as two-thirds of the organizations do not know the areas in which OHCHR is providing technical assistance to the State. The remaining third have very limited knowledge of these areas, when they relate to the work of the organization. For example, about half of the NGOs were unaware that one of these areas is the National Human Rights Plan of Action (NHRPA), and two thirds were unaware that another area is the development of a database as part of the mechanism to conduct follow-up on the recommendations of treaty bodies and special procedures.

Furthermore, the organizations have no information on the steps taken to create the National Mechanism for Reporting and Follow-up,²⁵ which is based on a methodology developed by OHCHR to assist States in establishing a governmental structure responsible for preparing and following up on reports to the treaty bodies, and coordinating visits with special procedures and the responses to requests for information. A first workshop on how the mechanism operates²⁶ took place with Venezuelan officials, but NGOs were not aware of this.

Some of the technical assistance areas mentioned by the NGOs interviewed – although there is no certainty about the work that is actually being done– include access to justice, conditions in detention centers, prevention of torture, training for officials of the Ombudsman's Office and the Office of the Attorney General, and the NHRPA. This section focuses specifically on assessing the knowledge and participation of NGOs in two of these areas of cooperation: the NHRPA and conducting follow-up to the recommendations of the treaty bodies.

In relation to the NHRPA, all the organizations indicated they had not been consulted during the assessment of the previous NHRPA (2016-2019)²⁷ and only three responded that they had been informed about the process to draft the new NHRPA. However, they expressed their resistance to this type of forum because of the mistrust

²⁵ The functioning of the *National Mechanism for Reporting and Follow-up* is explained in a guide developed by OHCHR, which is available at

https://www.ohchr.org/Documents/Publications/HR_PUB_16_1_NMRF_PracticalGuide.pdf

²⁶ Information on the activity can be found in the UNHCR's Annual Report for 2019, which is available at

<https://www2.ohchr.org/english/OHCHRreport2019/documents/Americas.pdf>

²⁷ *National Human Rights Plan 2016 – 2019 (2016)*. Available at

<https://app.box.com/s/0eweu7893n5ou00mbsr0j1h3dpvavhl3>

caused by the previous plan's process, where there was no real consultation with the organizations. Others consider that at this point in time it is essential to focus on documenting human rights abuses.

In relation to conducting follow-up of treaty body recommendations, it is worrying that to date none of the NGOs interviewed have been consulted in this process.

Against this backdrop, it was important to ask NGOs about the role that OHCHR should have in promoting civil society participation in at least these two technical cooperation areas. While the organizations recognize that the OHCHR team could act as an intermediary to facilitate their participation, they believe that there should be basic conditions to ensure that their participation is effective and is not instrumentalized by government actors. First, the previous PNHD should be subject to a rigorous evaluation; without this evaluation it is not possible to advance towards a new one. Second, the new plan must comply with international human rights standards and must therefore be connected to the database for following up on recommendations. The plan must include indicators to measure the degree to which the recommendations have been fulfilled and also the recommendations that are considered relevant.

The organizations consider that after the preconditions have been established the OHCHR team should make every effort to guarantee the effective and broad participation of NGOs and the whole of civil society, through the strengthening of bilateral relations, training processes, the collection and systematization of information, and an invitation for broad participation that includes regional organizations in the different states of the country.

ASSESSMENT OF THE PRESENCE

The interviews explored the NGOs' interaction with the OHCHR team regarding each of the mandate component as well as their overall assessment of the OHCHR presence in the country. This section analyzes the interviewees' responses about how they assess the work carried out in these months, the impact of the work, and the actions that the team could pursue to strengthen it.

In general, NGOs have a positive opinion of the OHCHR presence in its first six months in the country, despite its personnel limitations. As discussed in the previous

section, first-hand experience of the domestic situation allows them to better understand the context and the actors involved, and increases their credibility. Additionally, some of the organizations consider they can turn to the team for support, which motivates them to continue working on identifying and documenting cases. They value the team's technical capacity, its empathy with victims, and the communication channels they have opened with the organizations. They highlight the clarity and thoroughness of the reports, the progress accomplished in terms of the visibility of certain cases, and see the potential in their being intermediaries vis-à-vis the government. Ultimately, most interviewees agree that the presence of the Office has made a difference.

Despite their positive assessment, the organizations consider that the expected results have not been achieved. First, they consider there is still widespread lack of knowledge about the OHCHR mandate in Venezuela among both organizations and civil society in general, which can sometimes minimize its presence or also generate very high expectations. Second, they believe that the presence should adopt a stronger stance on the failure of the government to honor the recommendations. Third, they believe that it is necessary to disseminate more widely the team's work among victims and organizations.

STRATEGIC ROLE OF THE HUMAN RIGHTS MOVEMENT

The case studies analyzed in this research have highlighted the strategic role that NGOs have in the establishment of an OHCHR presence in their countries as well as the scope and impact of this presence on the guarantee of human rights. This chapter analyzed the perception that some civil society organizations in Venezuela have of the OHCHR presence in the country during the first semester of its existence as well as their assessment of its efforts to fulfill its mandate and the impact of its presence.

Although the organizations' assessment is generally positive, they still have not been able to visualize the potential impact of the OHCHR presence on the human rights situation in the country. While many of the organizations interviewed were self-reflective about their relationship with the OHCHR team and how they could direct their work to benefit more from its presence, it is possible to conclude that there is a lack of strategic vision on the part of the organizations regarding the potential of this mechanism and their own role in promoting it.

This lack of strategic vision takes several forms, including: (i) interacting with the OHCHR team with a focus on specific cases rather than on a comprehensive vision of the role of the presence; (ii) the absence of advocacy to ensure effective participation in technical assistance forums or, alternatively, to highlight the government's lack of political will; (iii) the absence of a more proactive attitude towards the role that the OHCHR team should have.

There is an urgent need for organizations to strengthen their knowledge of the OHCHR mandate, the special procedures, and other United Nations mechanisms, so they can establish a coordinated, joint, and effective advocacy strategy before these bodies both in Venezuela and abroad.

A matter that was not addressed in the consultation of Venezuelan NGOs, but that is noteworthy throughout the process of the establishment of the OHCHR in the country, is the need to manage possible conflicts or tensions between the different UN mechanisms or agencies in Venezuela along with their human rights components, in relation to the execution of the Office of the High Commissioner's mandate in Venezuela, with the goal of contributing to a balance between the areas of protection and technical assistance, not just within the OHCHR in the country, but between the OHCHR and the other UN components.

That said, it is necessary to keep in mind that Venezuela's human rights movement is suffering the impact of the complex humanitarian emergency affecting the country. A study conducted by Dejusticia (2000) shows the many obstacles faced by the work of organizations in Venezuela. These obstacles range from restrictions imposed by official norms, policies, and practices that increasingly and steadily erode the space for civil society, to the obstacles derived from the complex humanitarian emergency and the collapse of public services, which impact daily life as a result of the time that must be invested in securing food, medicine, gasoline, office materials, and financial transactions, as well as the constant interruption of activities due to power, water and internet outages. This is compounded by the forced migration crisis that has resulted in the loss of experienced personnel.

Consequently, any working strategy developed by the NGOs in relation to the OHCHR presence in Venezuela must be designed and developed with consideration for the challenges arising from the context and taking into account the strengths, weaknesses,

and actual advocacy capacity of each organization, both independently and as part of a network.

CONCLUSIONS AND RECOMMENDATIONS

This chapter is divided into three sections. First, the primary findings of the research are identified, followed by a series of points for proposing elements for a civil society road map, on the basis of the installation of the country office. Finally, we present proposals about the role that the international community can play in achieving this objective.

MAIN FINDINGS OF THE STUDY

The findings are presented in four blocks, following the general structure of the study, namely: the context in which the offices emerge; the role of different actors in that process; the mandate and its evolution; interactions with other actors; and general assessment.

In addressing the **context** of the experiences analyzed, the first point that needs to be stressed is that there are no instances of OHCHR offices being established in the context of a dictatorship, where the basic rules of democracy had been destroyed and where the rule of law and separation of powers did not exist. In post-conflict scenarios of institutional fragility, offices have surged as a continuation of a previous human rights component that has formed part of a superior supervision mechanism, as a result of an agreement between the parties in conflict. Therefore, under the present circumstances, it seems challenging to establish a country office in Venezuela that has a full mandate that includes both the promotion and protection of human rights.

However, there are cases of presences that emerge in highly adverse conditions, as in Colombia, for example. There, the office was established in the midst and as a result of an armed conflict. Some offices have also been confronted with deteriorating circumstances, which have created new challenges for their presence in the country, as in Cambodia after the coup d'état of 1997. Similarly, there have been extreme situations such as Rwanda, which was not included in the case studies, and where an OHCHR presence –it was not called an office– was deployed within months of the beginning of the genocide.

The foregoing suggests that, even when those who hold power in the host country have been cited by bodies in the international system as being responsible for serious human rights violations, it is not impossible to reach agreements that would allow for an OHCHR presence with a mandate that includes some facets of the protection and promotion human rights. However, engaging with a government that opposes international monitoring can be a major obstacle to establishing a country office with a broad mandate, as there will always be pressure to prioritize the promotion component over the protection component, and there is a risk that compromises will be made within OHCHR in the face of barriers imposed by the government.

Another point regarding context relates to the opportunity to establish a country office. A scenario opposed to the establishment of an international monitoring mechanism cannot be seen as an obstacle that prevents national and international democratic forces from trying to establish such a mechanism, especially because these are the circumstances in which international monitoring is most needed. Waiting for a transition to occur, when the outlook is uncertain, may result in the indefinite postponement of the initiative, as the suffering of the population increases, the number of victims of human rights abuses grows, and impunity takes root.

In short, there is no simple formula to identify the appropriate time to establish a country office in a dictatorial context. Judging by other elements discussed below, the office cannot be seen as an objective in itself but rather as a medium-term goal that is part of a larger strategy that combines many elements, including the involvement of other human rights monitoring mechanisms, the articulation of alliances between both national and international civil society organizations and democratic States, and positioning the country's human rights situation on the international agenda.

In all country office negotiations where the State has shown resistance, there has been a turning point that forced it to give in.

In terms of the **actors**, the first element that stood out is that in countries where the office was not established at the initiative of the host State but instead encountered resistance, it was created through the intervention of numerous actors who had complementary or conflicting interests. As a result, the final decision and design was the product of negotiations in which all parties made concessions.

Another finding of the study is that the States where country offices are established are usually in a situation of institutional, political and/or economic weakness, so although they will try to impose their ground rules, they are at a disadvantage compared to the rest of the international actors.

There are also systems of alliances between States interested in promoting and supporting the establishment of a country office. These alliances move forward by exerting diplomatic pressure in different spheres, including through resolutions of the Human Rights Council, the General Assembly and/or the Security Council, the promotion of international conferences, direct outreach through their embassies, sanctions against officials involved in human rights violations, and support of civil society efforts. These alliances are most successful when they incorporate a range of diverse countries, to ensure that the efforts to establish an office are not the product of a State's political agenda and are not perceived as part of a unilateral initiative. These alliances, however, do not usually activate on their own but are instead driven by the systematic advocacy of NGOs.

In this sense, the capacity for advocacy of the human rights movement to promote the establishment of a country office also stood out in the study. A proposal's success is driven by several factors, including coordination around a single, shared message and objective; the identification of advocacy opportunities; the incorporation of the largest and most diverse number of allies possible, domestically and abroad, with defined tasks that are regularly reviewed and updated; and perseverance.

Moreover, with few exceptions, including Tunisia, the decision to establish a country office is not a simple bilateral process that takes place between the OHCHR and the host State. It is concerning that up to now the negotiation process in Venezuela has advanced behind closed doors, without informing or engaging civil society, to the point that the text of the letter signed between OHCHR and the Venezuelan State is still

unknown because it has not been made public. By excluding CSOs from the process, it becomes all the more difficult to defend what is defensible and to question what is questionable in order to bring about corrections. Secrecy, which would initially appear to support the OHCHR agenda, can turn against it if a State decides to shut the door as unilaterally as it had accepted its presence.

On the contrary, in instances where a national human rights movement was involved in the process, there is a sense of ownership of the office both to defend and protect it from unfounded attacks and to question it and demand rectification when necessary. The fact that, during the first six months in Venezuela, the national human rights movement has had limited information on the mandate and the operations of the OHCHR presence in the country prevents a more fruitful and mutually beneficial interaction.

Lastly, the UN human rights protection system itself is a relevant actor due to its ability to produce information that places the relevant country on the international agenda, thereby fostering support for the use of international mechanisms to follow-up on the human rights situation in that country. In this sense, the special procedures have played a valuable role in alerting the public to a country's situation. Furthermore, the Human Rights Council has adopted initiatives that require OHCHR to produce reports that lead to debates and decisions on the follow-up of the situation. In the case of Venezuela, given that it was not possible to have reports resulting from visits by special rapporteurs, the High Commissioner himself decided to produce two reports that were discussed in the Council, prompting it to request new reports from the UNHCHR and to focus more attention on the country.

With regard to the **mandate** and its evolution, the case studies show that a mandate can be broad enough to address and factor in different dimensions of a country's situation, without being limited by a restrictive view of human rights. As such, the mandate in Colombia incorporated IHL from the start, and, more recently, it incorporated issues related to peace and the transitional justice system. In Guatemala, the office addressed the issue of corruption due to its human rights impact and compiled information that was crucial to the first cases that CICIG would build in the fight against impunity. In its first years, the Tunisian office actively worked on ESCR, property, and development, and even facilitated the process to integrate the rights-based approach into development goals. In turn, the office in Cambodia has taken advantage of new opportunities brought by economic opening to include the issue of business and human rights in the agenda.

In terms of the question of gradually establishing an office, there are two areas to consider. One is gradualism in relation to the substantive aspects of the mandate, and the other is gradualism in relation to the quantitative aspects of presence.

On the substantive aspects, the four experiences analyzed began with a full mandate that encompassed both promotion and protection components, except for Cambodia, where both components were initially assigned to two different entities (office and SRSG) and the office's protection mandate was expanded later. The comprehensive mandate established since the start of the offices has endured with some changes and the inclusion of new elements, but without significant modifications to this dual role.

There is unanimity on the importance of ensuring that the mandate of the country office include all the components from the outset. It is not acceptable that an office has technical assistance as its only or primary component. Whether the mandate is fully implemented depends on who heads the office, how the relationship with Geneva is handled, the political support of donors and the international community, and the country's situation. For their part, NGOs can and should carry out every advocacy action to ensure that country offices have a broad mandate and carry it out.

The qualitative aspects of the presence relate to the number of officials and their physical location in the country. It is unusual for the entire staff to arrive all at once, and for there to be an extensive geographic expansion from the outset. However, what should be very clear from the start is the authority of the office to hire all the personnel it considers necessary for the development of its functions, to travel throughout the territory without restrictions, and to establish the sub-offices it considers necessary without requiring prior permission from the government.

In this sense, the presence in Venezuela implies a de facto gradualism, albeit backed by an agreement that allows for the necessary expansion. This de facto gradualism involves another element: in practice, it has already begun with a presence consisting of two people, which was then expanded to three, and is expected to continue to grow until it becomes the country office. Therefore, evaluating whether or not a gradual presence is adequate is largely a theoretical exercise.

It is desirable that the country office have a robust presence in the country. Although resources will never be enough to reach the entire country, an office that is only

present in the capital is not ideal. A robust presence has teams rather than individuals in the cities where it decides to open, since a single person can do little and may be exposed to greater risk. Apart from security issues, the creation of sub-offices must also consider operational aspects, such as the existence of services that guarantee their adequate operation.

The cases reviewed showed some situations where offices fell short of what was required to implement their mandate and others where the resolute implementation of the mandate placed work teams at risk. In both cases, the role of national and international NGOs has been fundamental, whether to challenge the lack of adherence to the mandate by officials or the representative –even bringing about their removal– or, conversely, to assume a role to protect the office and its officials by asking Geneva to assume directly certain public functions, such as presenting reports or producing press releases, at times when the office teams have come under attack, putting their security at risk. Organizations become guardians of the mandate when they actively participate in the process to create the office and have a good level of communication with it on substantive and operative matters.

Another element that was revealed, is that the **relationships** between country offices and UN agencies are often difficult, due to the tendency of the agencies to preserve their relationship with the government, avoiding human rights issues when they consider them uncomfortable. Although there are exceptions that hinge on the leadership of the agency heads, NGOs face an ongoing challenge to persuade the agencies of the need and obligation, as part of the UN system, to adopt a rights-based approach in their work.

On the other hand, it is clear that the country office does not operate as an isolated unit; on the contrary, fulfilling its potential depends on designing strategies to work with all the actors in the UN human rights system and, in the case of Venezuela, with the Inter-American system.

Certainly, a country office is not the only option, although it is highly desirable when circumstances allow it. The assessment of the interviewees in the four case studies shows that country offices make many valuable contributions to avoiding abuses, documenting situations, and generating change.

Although the country office is not the only option, it does not exclude other options. In Cambodia, the country office and the SRSB coexist; in Guatemala, CICIG

and the office were operating simultaneously for a time. Other cases exist in addition to those studied in this report. For example, Syria has an office –although for safety considerations the main office is not located in the country– and a Commission of Inquiry. The Occupied Palestinian Territories have an office and a special rapporteur. Myanmar has an Independent Investigation Mechanism (which replaced an Independent International Fact-Finding Mission) and a special rapporteur. In Rwanda, at one point, a peace mission (UNAMIR), a special rapporteur, an OHCHR field operation, and a Security Council-appointed Commission of Experts existed simultaneously. It was the rapporteur who recommended, in August 1994, the deployment of some 147 OHCHR field officials to the country, increasing their request to 300 in June 1995 (Martin, 2000).

As can be seen, the range of possible configurations is very wide. Therefore, in Venezuela’s case, nothing justifies arguing that a presence or country office oppose or exclude the current Independent International Fact-Finding Mission on the grounds that the simultaneous existence of both procedures could jeopardize the continuity of OHCHR’s work in Venezuela. On the contrary, since Zeid’s first reports in 2017 and the subsequent initiatives of the Human Rights Council, the need for *system-wide action* that integrates diverse mechanisms with the common objective of ensuring the adequate international supervision of the human rights situation in Venezuela has become evident.

Finally, in terms of the **balance** of the experiences, it is clear that the positive assessments significantly outweigh the negative ones. Financing was repeatedly identified as one of the main constraints faced by the country offices in carrying out their functions, and it is therefore an issue that deserves to be considered in advance, as part of the strategy for establishing the office.

In this regard, as already noted, it is important to insist that funding for country offices be provided from the regular budget of OHCHR and not derive from voluntary contributions and international cooperation, since the lack of a stable economic base prevents long-term planning and the hiring of staff.

Positive assessments contribute to formulating a catalog of characteristics that can be expected –and therefore can be demanded– of an office. They can be classified in several groups, which are suggested below.

First, there are elements that relate to **immediacy**, which translates into different forms of interaction, including the ability to react immediately, dialogue, presence, accompaniment, and the ability to adapt to new challenges.

Other elements are associated with **credibility**, such as the ability to keep attention focused on the country's situation, the ability to establish dialogue between the State and other sectors, to provide quality technical assistance, and to speak out loudly, clearly and with authority.

A third block of qualities relates to **impact**, which is expressed in the deterrence effect generated by the presence in a country, the reaction provoked by reports and other public interventions, public or discreet actions to protect victims, the strengthening of CSOs, and the creation of a culture of rights.

Finally, it was established that the type of interaction the office develops with the different actors and the weight it gives to the different components of the mandate relies heavily on the leadership, commitment, and personality of the representative and his or her team. CSOs have the right to demand that suitable officials carry out the functions.

On a different note, the inquiry into the views of the human rights movement in Venezuela made it possible to ascertain the positive impact of the OHCHR presence during its first six months in the country. This is reflected several ways, such as increasing the quantity and quality of information collected in the field, establishing direct and regular dialogue with the authorities, strengthening ties with NGOs and victims, and acquiring first-hand knowledge of the impact of the complex humanitarian emergency affecting the country.

There is awareness of the limitations faced by the OHCHR presence in carrying out its work: it is a very small team, with a limited budget, no offices of its own, limited freedom to act, and without a high-level representative to give it more strength. However, these limitations should not keep the OHCHR presence in Venezuela from speaking publicly about the human rights situation in the country. It is clear this can only be accomplished with a team that, in addition to a broad mandate, has a public voice and can convey a firm message in terms of not lowering the tone on substantive issues due to the expectation of negotiating an expanded presence.

DEVELOPING A ROADMAP FOR CIVIL SOCIETY

Below, we propose elements for a roadmap that could serve as the basis for a broad discussion, which would lead NGOs towards agreements for moving forward. The first question civil society should ask itself in the roadmap exercise is, “where are we and where do we want to go?” Based on the answer, the other short- and medium-term components can be identified.

Before proceeding with the roadmap, we consider it is necessary to emphasize some ideas that were raised in the previous section, because this is the backdrop to keep in mind in the process ahead:

- To date, an OHCHR office has not been established in a country under dictatorship.
- As a result, there are few opportunities for civil society to advocate domestically due to the progressive disappearance of the space for dialogue.
- Thus far, the negotiation of an OHCHR presence in Venezuela has been carried out without the participation of civil society or the international community.
- Enough examples show that it is possible –and necessary, depending on the circumstances– for several international monitoring mechanisms to coexist in the same country.

Where are we and where do we want to go? What exists now is a small, low-profile presence that does not have its own premises, that has the potential to work on all three components of the mandate but lacks the real capacity to do so, and with some freedom to travel and access certain locations. We want to arrive at a country office with a broad mandate, a strong team, a robust presence in the regions, and freedom to travel to and access any location.

How do we want to get there? With a unified proposal agreed by the CSOs, that can be presented and discussed with the OHCHR and eventually with the Venezuelan Foreign Ministry, and that incorporates other actors like States interested in the human rights situation in Venezuela, donors, and international non-governmental organizations.

Who draws the map? Any agreement on a country office must originate in a process in which the relevant bodies of the UN human rights system, the State, and civil society participate. So far, the presence of OHCHR in Venezuela and the establishment

of a prospective office is being discussed between OHCHR and the Ministry of Foreign Affairs.

What do we need to get there? A strategy for advocacy. For that, the shortcomings identified in the previous section of this report, which reflect the limitations in the strategic vision of the Venezuelan human rights movement in relation to the role of the OHCHR and the prospective country office, must be overcome.

With whom do we want to walk this path? An international critical mass needs to develop around the proposal. One way to mobilize partners is to develop actions that generate attention from the international community, eliminating preconceptions (drug trafficking, right/left) from the discourse. There is a perception that the situation in Venezuela has become stalled, so the game needs to be unjammed, at least in terms of human rights.

Some of the experiences studied showed that alongside international alliances, it is important to have domestic allies beyond the human rights movement, which is why churches, communicators, professional associations, political leaders, and other relevant sectors should also be involved.

Does our goal exclude stops along the way? The stops on the road relate to other international monitoring mechanisms for the human rights situation in Venezuela. Guatemala and Colombia both had several mechanisms in place before the country office was established. Moreover, the OHCHR presence and the prospective office in Venezuela may benefit from another monitoring mechanism, as in Cambodia.

Should a strategy be planned in stages? Some of the issues raised require immediate impetus, while others are part of a medium-term strategy. In this process it must be taken into account that it is not starting from scratch. As evidenced in chapter VI, since 2017 important steps have been taken, both from OHCHR and from Venezuelan NGOs, to position the situation of human rights in Venezuela on the international agenda, so the following steps will be part of this sequence.

What is the goal? A high-profile representative, with enough years of experience, and with a team that is professional and knows the country well.²⁸

This also requires funding that is sufficient and stable, to ensure the office's autonomy and continuity; therefore, this element should be incorporated in the work strategy in the early stages.

Consequently, a number of non-negotiable basics should be included in the advocacy agenda, most notably:

- A mandate that balances the promotion and protection aspects;
- Complete autonomy and independence;
- Enough funding to guarantee a robust team with high profile leadership;
- Unrestricted access to the entire country, both for visits and for the establishment of sub-offices;
- Security guarantees for the equipment, the premises and the people who visit the office;
- Awareness that the office does not preclude other international monitoring mechanisms;
- Participation of civil society and the international community in the process.

That said, NGOs should strive to ensure that the outcome of this process is not simply an office *in* the country, rather than an office *for* the country. This is more than just another flag on a world map in Geneva; it is an international mechanism to monitor the commitments made by the country, with a presence on the ground to promote changes in the human rights situation.

THE ROLE OF THE INTERNATIONAL COMMUNITY

Efforts must also be carried out to ensure that support comes from a wide range of sources to avoid the perception that a single country is setting the agenda. Other sectors may react negatively if one country appears to attempting to impose its agenda.

²⁸ Since it is only a presence, the staff who are currently in Venezuela are ranked P3 and P4 on the UN employment scale. Country offices are usually headed by a representative with a minimum rank of P5 or D1, which implies more experience and a higher hierarchical level to interact with the government.

There are several ways to advocate for Venezuela in the near future. First, by preserving and raising the demand to comply with its international human rights commitments, especially now that Venezuela sits on the Human Rights Council again.

Second, the international community, through the Human Rights Council, should propose to the Human Rights Council resolutions that would serve as a basis to: (i) promote and support the work of the OHCHR on the country; (ii) grant to the High Commissioner an express mandate to produce focused reports about specific topics, to be presented to and discussed by the Council; (iii) support the creation of a country office, establishing the basic foundations for independent and effective operation; (iv) establish complementary monitoring mechanisms for the country, based on the findings and recommendations of the International Independent Fact-Finding Mission.

Third, the States that are concerned over the human rights situation in the country must express their commitment through concrete measures, such as the provision of resources to the establishment of a country office in Venezuela, with the necessary staff and a presence in the regions.

An office that has teeth. This is how the country office in Colombia was described by interviewees who were members of the public sector, representatives of civil society and OHCHR, and even the High Commissioner at the time. That must be the goal for Venezuela.

ANNEXES

ANNEX I: INFORMATION GATHERING QUESTIONNAIRE

A. DOCUMENT REVIEW

Document identification			
Document title:			
Author/s:		Date:	dd/mm/yyyy
Source and/or UN doc number:			
Date of consultation:	dd/mm/yyyy	Reviewer:	

B. EXPERT INTERVIEW

Expert identification			
Name:			
Country office			
Relation with country office:			
Date of Interview:	dd/mm/yyyy	Interviewer:	

CONFIDENTIALITY: Please inform interviewees that their names will not be disclosed. Questions do not apply to all respondents or documents reviewed. This is a general guide to be used at the discretion of researchers and assistants. If an expert is related to more than one office, please use one questionnaire for each country office

A. Context of negotiations

1. When was the proposal to open an office first made?
2. Who were the parties involved in the negotiations?
3. What was the internal political context?

4. What elements of the internal political context contributed to/discouraged the establishment of the office?
5. What was the international political context?
6. What elements of the international political context contributed to/discouraged the establishment of the office?
7. What was the UN HR system context?
8. What elements of the UN HR system context contributed to/discouraged the establishment of the office?
9. What was the role of national NGOs during negotiations?
10. What was the role of international NGOs during negotiations?
11. What was the role of other States during negotiations?
12. What was the role of donors during negotiations?

B. Office and mandate - evolution

1. When was the resolution passed/agreement signed?
2. Who were the parties involved in the approval/signature? (Government of... and OHCHR/HRC/HR Commission/UNSG?)
3. When was the office established?
4. What areas of the mandate were first included? (Monitoring, technical assistance, public reporting)
5. If all aspects of the mandate were not included at the beginning, was it extended later? How? What were the reasons to (not) expand it?

6. To whom was the office accountable at first?
7. Was there scrutiny of the human rights situation in the country by a political body?
If so, which one? Please provide details
8. Have there been variations over time in terms of accountability and country reports?
Please provide all possible details, including context of the variations
9. Is there / was there another actor in the human rights system involved in monitoring
the situation in the country (special envoy, rapporteur, etc.)?
10. What changes have been made regarding the participation of that actor?
11. How is the process of renewing the presence of the office? What difficulties have
been encountered? How have they been overcome?
12. When has the country office presence extended? Please provide dates and
mandate/theme changes
13. Has there been an extension of the geographical presence? If so, what have been the
motives (needs, motivations)? How has it developed?

C. Relation with other actors

1. What has been the role of national NGOs? Any changes? Please provide details and
reasons
2. What has been the role of international NGOs? Any changes? Please provide details
and reasons
3. What has been the role of other States? Any changes? Please provide details and
reasons
4. What has been the role of donors? Any changes? Please provide details and reasons
5. How are the relations between the country office and national NGOs?

6. How are the relations of the country office with other UN agencies in the country in terms of cooperation, coordination, information sharing?
7. Does *Human rights up Front* play a role?
8. How has the relation of the country office with the government been? Any changes? Please provide details and reasons

D. General assessment

1. What have been the main achievements of the office?
2. What has been the main contribution of the office to the improvement of human rights in the country?
3. In what aspect (s) has the office's presence made a difference?
4. What have been the main limitations of the office?

**ANNEX II: GUIDE FOR INTERVIEW WITH VENEZUELAN
HUMAN RIGHTS NGOs**

Identification			
Name:			
Organization:			
City:			
Date of interview		Interviewer:	
	dd/mm/yyyy		

*Explain the confidential nature of the interview.
Explain the purpose of the investigation and of the interview.*

A. Knowledge of the mandate of the OHCHR team in Venezuela

1. Do you know the mandate of the OHCHR presence in Venezuela? Ask for details
2. If yes, how did you find out?
3. Has your organization been invited to participate in meetings with the team?

B. Interaction with the team on monitoring

1. Has the team approached you to offer case-related support?
2. Have you been able to present cases or situations of concern to the team?
3. If so, how do you assess the team's action with respect to the cases or situations raised?
4. Are you aware of other interventions by the team in cases or situations that violate human rights in Venezuela? Including trips or visits to facilities

C. Interaction on reports

1. Has the team approached you for information?

2. Have you been able to present information to the team?
3. If so, how do you assess the team's action with respect to the information presented?
4. Do you know the reports and oral updates of the Office on Venezuela?
5. If so, how do you rate them?
6. Do you think that the presence in Venezuela has influenced the type of reports and updates that the office presents?
7. Do you consider that there is sufficient dissemination and debate on the reports?
8. Do you know reactions to reports and updates from the government, the media, the diplomatic community? Detail
9. What else could be done to make the reports have a real impact on the human rights situation in the country?

D. Interaction on technical cooperation

1. Do you know the areas in which OHCHR is providing technical assistance to the State?
2. One of those areas is the National Human Rights Plan, did you know?
3. Has your organization been consulted to evaluate the previous Plan?
4. Has your organization been consulted for the new Plan?
5. Do you think that the presence of OHCHR in Venezuela should be more proactive to ensure the participation of CSOs in the Plan process? Details
6. One of those areas is the database of recommendations of treaty bodies and special procedures, did you know?
7. Has your organization been consulted for the development of this database?

8. Do you think that the presence of OHCHR in Venezuela should be more proactive to ensure the participation of CSOs in the development of the database?

E. Assessment of the presence in Venezuela

1. How do you assess the presence of OHCHR in Venezuela?

2. Do you think presence is making a difference? Detail

3. What else should OHCHR do from the country?

4. What else should NGOs do to make the office fulfill its mandate?

ANNEX III: GENERAL INFORMATION ON THE START OF OHCHR OFFICES IN CAMBODIA, COLOMBIA, GUATEMALA AND TUNISIA

Issue / Country	Cambodia	Colombia	Guatemala	Tunisia
<p>ORIGIN OF THE INITIATIVE</p>	<p>Since 1981, the UN Secretary General developed his good offices to achieve a solution to the Cambodian conflict. The human rights component was always present, even reflected in the decision of the Security Council that created UNTAC. At the International Symposium on Human Rights in Cambodia, held in late 1992, participants requested the presence of the United Nations (then the Center for Human Rights) to monitor the situation, investigate the alleged human rights violations, continue training and education and ensure that local groups can act freely and without retaliation. With the departure of UNTAC, the presence of a human rights component was proposed to continue UNTAC's work in this area.</p>	<p>The proposal was initially promoted in the early 90s by a broad coalition of Colombian human rights NGOs, with the support of state and non-governmental allies, mainly from Europe. In late 1994, the United Nations High Commissioner for Human Rights visited Colombia and proposed the creation of a country office, and NGOs decide to join forces around the proposal. A mission to assess the country's needs and priorities in the field of technical cooperation in human rights was carried out between August and September 1995, which recommended the creation of a representation of OHCHR. During the 52nd session of the Commission on Human Rights (1996), by means of a statement by the chair of the session, the High Commissioner was asked to install the country office, in the shortest possible time.</p>	<p>With the end of ten years of MINUGUA's mandate - which included a human rights component - negotiations began with the Guatemalan government to maintain a UN body to continue the efforts made by MINUGUA and the agenda of human rights in the country. The start of the negotiations was also influenced by violence and the climate of threats against human rights defenders, some of whom actively worked to promote the initiative.</p>	<p>The idea of opening an office in Tunisia arises from OHCHR when the "Jasmine Revolution" was still in development. Immediately after President Ben Ali's departure, the then High Commissioner announced that she would send a mission to Tunisia to assess the human rights situation in the country. The mission, which had the support of the transitional government, was carried out from January 26 to February 2, 2011, finding great willingness and interest on the part of the Tunisian transitional government. On February 10, 2011, the Minister for Foreign Affairs writes to the High Commissioner requesting the opening of an office.</p>

Issue / Country	Cambodia	Colombia	Guatemala	Tunisia
PARTIES INVOLVED	UN Special Representative and head of UNTAC, who suggested that the Center for Human Rights establish a presence after the departure of UNTAC. The representative of the Center for Human Rights, who defined the way in which the Center could be established in the country. Few emerging Cambodian NGOs. The head of the human rights component of APRONUC who promoted resolution 1993/6 of the Commission on Human Rights that creates the Office and establishes a Special Representative of the Secretary General.	The Ministry of Foreign Affairs and the United Nations High Commissioner for Human Rights. Colombian NGOs developed a comprehensive strategy for the creation of the office.	The High Commissioner for Human Rights and the Ministry of Foreign Affairs. Guatemalan NGOs, with the assistance of the United Nations Department of Political Affairs (DPA) in New York.	The Ministry of Foreign Affairs and the United Nations High Commissioner for Human Rights.
INSTRUMENT AND DATE OF CREATION	<u>Resolution 1993/6</u> of the UN Commission on Human Rights <u>Resolution 1992/254</u> of the UN Economic and Social Council and <u>Resolution 48/154</u> of the General Assembly.	<u>Agreement</u> regarding the establishment of an office of the United Nations High Commissioner for Human Rights (<u>signed on November 29, 1996</u>). Spanish only	<u>Agreement</u> regarding the establishment of an office of the United Nations High Commissioner for Human Rights (signed on January 10, 2005). Spanish only	<u>Resolution 16/19</u> March 2011 of the Human Rights Council. Memorandum of Understanding between the Government of Tunisia and OHCHR for the establishment of the office (signed in April 2011).
INSTALATION DATE	October 1, 1993	March 14, 1997	September 20, 2005	July 13, 2011

LIST OF ACRONYMS

ASEAN	Association of Southeast Asian Nations
CICIACS	Commission of Inquiry into Illegal Bodies and Clandestine Security (Comisión de Investigación de Cuerpos Ilegales y de Aparatos Clandestinos de Seguridad)
CICIG	International Commission against Impunity in Guatemala (Comisión Internacional contra la Impunidad en Guatemala)
CSO	Civil Society Organization(s)
DPA / DPPA	Department of Political and Peacebuilding Affairs
DPKO	Department of Peacekeeping Operations
ESCR	Economic, Social and Cultural Rights
FFM	Independent International Fact-Finding Mission
IHL	International Humanitarian Law
IACHR	Inter-American Commission on Human Rights
ILO	International Labor Organization
MINUGUA	United Nations Verification Mission in Guatemala
MOU	Memorandum of Understanding
NGO	Non-government organization(s)
NHRPA	National human rights plans of action
OCHA	Office for the Coordination of Humanitarian Affairs
OHCHR	Office of the High Commissioner for Human Rights
OIDHACO	International Office of Human Rights - Action Colombia
SGSR	Secretary General Special Representative
UN	United Nations
UNDAF	United Nations Development Assistance Framework
UNDP	United Nations Development Program
UNHCR	United Nations High Commissioner for Refugees
UNTAC	United Nations Transitional Authority in Cambodia

RESEARCH TEAM

Ligia Bolívar. Sociologist, Andrés Bello Catholic University and Human Rights Specialist at the Central University of Venezuela. Additional studies in the areas of criminology, psychology education and instructional design in virtual education environments. She was a fellow of the International Human Rights Internship Program, working as a researcher at the International League for Human Rights (New York, 1982 - 1983). Founder of the Venezuelan Education-Action Program in Human Rights (PROVEA), where she worked between 1988 and 1999. Co-founder and former president of the Center for Justice and International Law (CEJIL, Washington D.C.). She served as Amnesty International's Regional Liaison Officer for Latin America, Caribbean, Spain and Portugal (London, 1987 -1988) and was a member of Amnesty International's International Executive Committee. She was a founding member of the International Council for Human Rights Studies (London - Geneva) and was a member of the Board of Trustees of the United Nations Voluntary Fund for Technical Cooperation of the Office of the United Nations High Commissioner for Human Rights (Geneva). She is a member of the board of the International Center for Not-for-Profit Law (ICNL), Washington D.C., of the Advisory Council of the Canadian Venezuelan Democracy Forum and of the Commission for Human Rights and Citizenship, CODEHCIU (Bolívar state). Former director of the Center for Human Rights of the Andrés Bello Catholic University (CDH UCAB) and first Regional Coordinator of the Interuniversity Program of Human Rights (AUSJAL-IIHR Agreement), project of which she was co-founder. In the public sector, she worked in the Prisons Directorate and the Crime Prevention Directorate of the Ministry of Justice in Venezuela and in the judicial modernization program, Supreme Court of Justice - World Bank agreement. She has been a professor in both undergraduate

and postgraduate courses in Venezuela and universities in Latin America and Europe and has vast experience in training activities in human rights in various countries in North, Central and South America, the Caribbean, Europe, Asia and the north. of Africa. She has carried out advocacy activities and accompanied cases before the Inter-American Commission and Court of Human Rights and the United Nations human rights system since 1982. She is an international consultant on issues of human rights education, economic, social and cultural rights, evaluation and international strengthening of human rights organizations, judicial system and migration and refuge. Author of various publications in the field of human rights. She was a Scholar in Residence at the Center for Human Rights and Global Justice, New York University (2017 - 2018). She is founder and General Coordinator of the AlertaVenezuela Coalition. She is an associate researcher at CDH UCAB in charge of the area of rights of migrants and refugees. She is currently a Fellow of the Global South in Dejusticia, Bogotá.

Lucía Ramírez Bolívar. Lawyer, Specialist in Constitutional Law from the Universidad Nacional de Colombia (2008) and Master in Social Work with an emphasis in International Social Work, Poverty and Inequality from the University of Chicago (USA, 2015). Lucía has worked in research, teaching, litigation and advocacy on human rights—especially on the issues of forced migration and women's rights— with international cooperation agencies and non-governmental organizations in Colombia and the United States. She was a researcher in the Drug Policy line in Dejusticia and currently works in the international area as Research Coordinator on the issues of Migration and Venezuela. Her publications include "The Paths of Pain: Access to Palliative Care and Treatment for Heroin Use in Colombia" (2019); "Voices from the coconut: women who build territory" (2018), "Gender and Law: Self-Directed Training Module for Judges of the Judicial Branch" (2016); "Outcome Evaluation of an International Diversity Curriculum" (2016); "Public Policy Communities in Justice in Equity" (2005); "Institutionalization of Forms of Community Justice. Creation or Solution of Conflicts?" (2004).

Pablo de Greiff. Graduated from Yale University (BA) and from Northwestern University (PhD). He was appointed by the UN Human Rights Council to serve as the first Special Rapporteur on the promotion of truth, justice, reparation, and guarantees of non-recurrence in 2012. He was renewed in 2015 until May 2018. In January 2015 he was also asked to be part of UNIIB, a mission of Independent Experts to address the situation in Burundi. Member of the expert group on prevention appointed by the Human Rights Council (2018-2020). He is currently Senior Fellow and Director of the Transitional Justice Program at the Center for Human Rights and Global Justice of the School of Law

at NYU. Prior to joining NYU, he was the Director of Research at the International Center for Transitional Justice from 2001 to 2014. Before joining ICTJ, he was an associate professor with tenure in the Philosophy department at the State University of New York at Buffalo. He was Laurance S. Rockefeller fellow at the Center for Human Values, Princeton University, and held a concurrent fellowship from the National Endowment for the Humanities. De Greiff is the editor or coeditor of ten books and has published extensively on transitions to democracy, democratic theory, and the relationship between morality, politics, and law, and is in the board of editors of the *International Journal of Transitional Justice*. He has lectured extensively, including at Yale, Harvard, Columbia, Cornell, NYU, the European University Institute, and universities across Europe and Latin America. De Greiff contributed to the drafting of the final report of the Stockholm Initiative on DDR, authored the Office of the High Commissioner for Human Rights' Rule-of-Law Tools for Post-Conflict States: Reparations Programmes and was an advisor to the World Bank on the process leading to the World Development Report 2011: Conflict, Security, and Development. He has been an advisor to different transitional justice bodies in Peru, Guatemala, Morocco, Colombia, and the Philippines.

Johanna Muñoz Pulido. Political scientist, graduated from the Universidad de los Andes with an emphasis in international relations and political theory (2019). She was part of the first generation of the Colombia's Ser Pilo Paga scholarship program in 2015. Research intern at Dejusticia, in the line of migration and Latin America (2019). Junior research assistant (2020).

Carolina G. Berenger. Lawyer. She has a master's degree (LL.M) in International Legal Studies from New York University (NYU) School of Law and a law degree from the Pontificia Universidad Católica do Rio de Janeiro (PUC-Rio). At PUC-Rio, she participated in "Simulações e Realidades", a study group on the Inter-American Human Rights System at the PUC-Rio Rights Center. She has also participated in research projects related to freedom of expression cases before the European Court of Human Rights and the Brazilian courts. She has experience in civil litigation and worked as an intellectual property lawyer in a Brazilian law firm. At NYU, she was a part of the International Organizations Clinic and worked as a research assistant at the Center for Human Rights and Global Justice and at the Global Justice Clinic. She currently works on human rights in a non-profit organization.

**THE ORGANIZATIONS INVOLVED
IN THE PROJECT**

AlertaVenezuela was founded in 2019 by a coalition that brings together long-standing Venezuelan organizations, led by renowned human rights defenders with experience before human rights bodies of the inter-American system and the United Nations. The promoting team is made up of Acceso a la Justicia, Acción Solidaria / Coalición por el Derecho a la Salud y la Vida (CODEVIDA), Centro de Derechos Humanos Universidad Católica Andrés Bello, Civilis Derechos Humanos and Espacio Público. These organizations also have experience before political bodies of both systems and all have years of work with diplomatic representations inside and outside Venezuela.

AlertaVenezuela focuses on information and analysis activities that regularly and strategically feed international decision-making bodies, from a rights perspective, based on the information generated by partner organizations in Venezuela and others produced by the project itself. AlertaVenezuela also has a research component, to critically evaluate the role of international actors and organizations and their current ability to respond in a timely manner to complex situations, such as the one Venezuela is going through.

AlertaVenezuela carries out practical advocacy work with the UN bodies - and, insofar as it is relevant, with the Inter-American system and other international initiatives - and, at the same time, seeks to extract from that experience some reflections on the potentialities and limitations of these spaces to provide a timely response to the needs and demands for political, humanitarian and human rights support.

The **Center for Law, Justice and Society** (Dejusticia) founded in 2005, is a Colombia-based research and advocacy organization dedicated to the strengthening of the rule of law and the promotion of social justice and human rights in Colombia and the Global South. It promotes positive social change by producing rigorous studies and fact-based policy proposals; carrying out effective advocacy campaigns or litigating in the most impactful forums; and designing and delivering education and capacity-building programs.

Dejusticia, believes that academic work can be committed to social justice and can contribute to effect change, and has an “amphibious” approach to its work: it takes deep dives in academic and policy-design research and writing with a clear sense of how such work can and will have an impact on the Center’s direct action and advocacy.

The **Center for Human Rights and Global Justice** was established in 2002 to bring together and expand the rich array of teaching, research, clinical, internship, and publishing activities undertaken within New York University School of Law on issues of international human rights law. Over fifteen years later, CHRGGJ has become the hub of human rights study at NYU Law, the top-ranked program for international law in the country and one of the premier law schools in the world. The Center’s location in New York – home of the United Nations and of many human rights NGOs – places the Center at a unique physical and conceptual intersection of human rights scholarship and practice. CHRGGJ is committed to critical introspection in its research and advocacy. It aims to generate substantive and cutting-edge contributions to human rights research and legal scholarship on the part of faculty, staff, students, fellows and visitors; actively engage in public affairs; and make original and constructive contributions to ongoing public debates relating to human rights.

CHRGGJ carries out this mandate with a talented team of scholars and advocates, working under the interdisciplinary direction of four faculty directors renowned in their fields. The Center houses a robust fellowship program and hosts in-house scholarship by established academics and NYU Law students, and places students in summer and post-graduate internships with human rights and international law organizations.

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The proposal to create a United Nations High Commissioner for Human Rights (OHCHR) country office in Venezuela led to the necessity for comparative research to support civil society and human rights advocates who are interested in promoting a greater presence and monitoring by the international human rights system in this country. The report, “Protecting human rights on the ground,” aims to provide insights so that the process of establishing a UNHCR country office in Venezuela can be the result of informed and strategic decision making.

This study identifies processes, strategies, lessons, and practices applicable to the proposal to create an OHCHR country office in Venezuela. The report includes a comparative analysis of the experiences of the four OHCHR country offices in Cambodia, Colombia, Guatemala, and Tunisia. Each office has its own unique characteristics and exists in a distinct context, but an analysis of each office sheds light upon elements of interest for the Venezuelan case. The study aims to provide tools to the national human rights movement in Venezuela as well as to other organizations interested in the Venezuelan’s situation, so that these stakeholders can design a realistic, and coordinated strategy to interact with the relevant actors: the UN human rights system, other interested States and donors.

While the research for this report was being conducted, OHCHR completed its first six months in Venezuela. This report, therefore, also includes an analysis of human rights organizations’ perspectives of OHCHR’s initial experience in Venezuela. Being the first comparative research in this field, its findings are equally of interest to other audiences beyond Venezuela.