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RIGHTS COMMITTEE

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# INTRODUCTION

Amnesty International is submitting this briefing to the United Nations (UN) Human Rights Committee (the Committee) ahead of its examination of the Bolivarian Republic of Venezuela's 4<sup>th</sup> report on the implementation of the International Covenant on Civil and Political Rights (the Covenant).<sup>1</sup> The document highlights Amnesty International's on-going human rights concerns in Venezuela in relation to violations of the right of physical integrity, freedom of peaceful assembly and due process, as well as violations of the rights of people deprived of their liberty, impunity for past and present human rights violations; attacks against human rights defenders and gender-based violence.

Amnesty International also submitted information in July 2014 in advance of the Committee's preparations to draw up its list of issues on the Bolivarian Republic of Venezuela at its 112<sup>th</sup> session.<sup>2</sup>

The concerns and cases of human rights violations included in this report are the result of research undertaken by Amnesty International from the end of 2013 to May 2015. The organization has obtained information from human rights defenders, journalists and lawyers representing victims of human rights violations. In addition, over one hundred victims of excessive use of force, torture and other ill-treatment were interviewed, as well as relatives of those who died at the hands of the security forces or due to attacks by armed pro-government groups and demonstrators in the context of the protests that took place of 2014. In a number of cases interviewees asked that their complaints or version of events not be published for fear of possible reprisals; such cases have not been included in the report.

Amnesty International has also held meetings with the Attorney General and representatives of the Ombudsperson's office; and has addressed communications about individual victims to the President, Vice-President and the Ministers for Internal Affairs, Justice and Peace; Defence; and the Prison Service. The organization has also sought information from the Attorney General regarding the progress of the Public Prosecutor's Office investigations. To date, only the Public Prosecutor's Office, via the Attorney General, has responded to Amnesty International's letters.

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<sup>1</sup> An executive summary, AI index: AMR/1787/2015, is available at <https://www.amnesty.org/en/documents/amr53/1787/2015/en/>

<sup>2</sup> Available at [http://tbinternet.ohchr.org/Treaties/CCPR/Shared%20Documents/VEN/INT\\_CCPR\\_ICO\\_VEN\\_17851\\_E.pdf](http://tbinternet.ohchr.org/Treaties/CCPR/Shared%20Documents/VEN/INT_CCPR_ICO_VEN_17851_E.pdf)

# MEASURES TO PREVENT TORTURE AND OTHER ILL- TREATMENT (ARTICLE 7)<sup>3</sup>

On 22 July 2013, the Special Law to Prevent and Punish Torture and Other Cruel, Inhuman or Degrading Treatment came into force.<sup>4</sup> This represents an important step forward in the legal framework, as it gives effect to provisions in the Constitution prohibiting torture and other cruel, inhuman or degrading treatment and creates an institutional framework for preventing, reporting and punishing these crimes.

However, as stated by the Committee against Torture in 2014, the definition of torture under article 7 of the Law does not comply with the definition of the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (the Convention against Torture). Under the Venezuelan Law the crime of torture and other ill-treatment only applies to victims who are under the custody of state agents. The definition excludes any injuries or suffering inflicted by others acting in a public capacity or those who are instigated by a public official or act with their acquiescence. The Committee against Torture also raised concerns that the Law does not define as complicit in the crime of torture, the acts of those public officials who instigate or consent to acts of torture by others.<sup>5</sup>

The Law created a National Commission for the Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment, which is presided over by the Ombudsperson's Office. According to the Law, the Commission is responsible for "coordinating, promoting, overseeing and regulating national policies and plans for the prevention of torture and other cruel, inhuman or degrading treatment, as well as overseeing respect for ensuring the rights of people deprived of their liberty. It is also responsible for ensuring compliance with the law and ensuring that the guarantee of the right to physical and psychological integrity and the prohibition of torture and other cruel, inhuman or degrading treatment are fulfilled."<sup>6</sup>

On 14 February 2014, the Ombudsperson, on behalf of the National Commission, announced the approval of a National Plan for the Prevention of Torture "with the objective of directing the action needed to guarantee respect for the right to personal integrity and the prohibition of torture."<sup>7</sup> Although Amnesty International has only had access to the executive summary of this Plan, it welcomes its approval. However, it is concerned that the full content of the Plan,

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<sup>3</sup> **Article 7:** "no one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment. In particular, no one shall be subjected without his free consent to medical or scientific experimentation", available at <http://www.ohchr.org/EN/ProfessionalInterest/Pages/CAT.aspx>

<sup>4</sup> Law 40.212 available at [http://www.mp.gob.ve/LEYES/LEY\\_ESPECIAL\\_PARA\\_PREVENIR\\_Y\\_SANCIONAR\\_LA\\_TORTURA/LEY%20PARA%20SANCIONAR%20LA%20TORTURA.htm](http://www.mp.gob.ve/LEYES/LEY_ESPECIAL_PARA_PREVENIR_Y_SANCIONAR_LA_TORTURA/LEY%20PARA%20SANCIONAR%20LA%20TORTURA.htm).

<sup>5</sup> See Observaciones finales sobre los informes periódicos tercero y cuarto combinados de la República Bolivariana de Venezuela, CAT/C/VEN/CO/3-4, 12 December 2014, para. 7 available at [http://tbinternet.ohchr.org/\\_layouts/treatybodyexternal/Download.aspx?symbolno=CAT%2fC%2fVEN%2fCO%2f3-4&Lang=en](http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CAT%2fC%2fVEN%2fCO%2f3-4&Lang=en)

<sup>6</sup> Article 11 of the Special Law to Prevent and Punish Torture and Other Cruel, Inhuman or Degrading Treatment.

<sup>7</sup> See National Plan to Prevent Torture and Other Cruel, Inhuman or Degrading Treatment, p.4.

including the diagnosis made by the National Commission, has not been widely publicised.

The National Plan, as seen in the executive summary, set up four broad goals: establishing a culture of respect to the right to physical integrity through training and education (Goal 1), eradicate torture and other ill-treatment in detention and psychiatric centres (Goal 2), set a program to offer legal and medical attention to victims (Goal 3); and establish a national movement against torture and other ill-treatment by raising awareness about the law and other protection mechanisms (Goal 4).

At the end of 2014 the National Commission had made progress in implementing the National Plan in two of its four strategic areas: the development of a human rights education plan on preventing torture and other ill-treatment (Goal 1); and in the process of drafting protocols for periodic visits to detention centres, prisons and long-stay mental institutions (Goal 2). However, since then, the organization has not heard of further developments on the implementation of these two goals nor progress on any of the two remaining goals.

Given the grave nature of the reports of alleged torture and other ill-treatment in recent years, Amnesty International considers that this National Commission needs to redouble its efforts to ensure the prompt implementation of all four goals set out in the Plan.<sup>8</sup> In particular, the National Commission should prioritize: human rights education and training for officials responsible for law enforcement; carrying out regular, unannounced and unsupervised visits and inspections of detention centres and prisons; the drawing up of recommendations to promote necessary reforms; and proposing a comprehensive approach to address the needs of victims, including pursuing reports of abuse, proposing measures to ensure victims are able to report abuses without fear of reprisal, as well as measures to ensure victims have access to comprehensive reparations.

With regard to legislative measures to prevent torture and other ill-treatment, Venezuela signed the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment (OPCAT) in 2011, however it has not ratified it yet.

To date Venezuela has not agreed to the visit requests of the UN Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment (Special Rapporteur on Torture) and the UN Special Rapporteur on the situation of human rights defenders to visit the country. It has furthermore failed to respond positively to repeated requests for visits by other Special Procedures of the UN Human Rights Council.<sup>9</sup>

## RECOMMENDATIONS TO THE VENEZUELAN AUTHORITIES

- Ratify the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment.

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<sup>8</sup> See Amnesty International, *Venezuela: Human rights at risk amid protests* (Index: AMR 53/009/2014), April 2014, available at <http://amnesty.org/en/library/info/AMR53/009/2014/en>; and Amnesty International report *Venezuela: the faces of impunity one year since the protests, victims are still waiting for justice* (Index: AMR 52/1239/2015), March 2015 available at <https://www.amnesty.org/en/documents/amr53/1239/2015/en/>

<sup>9</sup> <http://www.ohchr.org/EN/HRBodies/SP/Pages/CountryvisitsN-Z.aspx> accessed on 3 June 2015.

- Extend a standing invitation to the Special Procedures of the UN Human Rights Council, and in particular agree to visits by the UN Special Rapporteur on Torture and the UN Special Rapporteur on the situation of human rights defenders.
- Ensure the definition of torture and other ill-treatment in the Special Law to Prevent and Punish Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, is in accordance with the definition in Article 1 of the Convention against Torture.
- Make a punishable offence the acts of those public officials who instigate or consent to acts of torture by others and disseminate the content of the Special Law and the National Plan as widely as possible, in particular to civil society, to all judicial and Public Prosecution Service officials, to all law enforcement officials and to all officials responsible for the custody of people deprived of their liberty.
- Ensure that the National Plan for the Prevention of Torture includes a timetable that sets out the steps for its implementation in full and includes indicators that allow its impact to be monitored and evaluated; ensure that adequate resources are allocated so that it is implemented promptly.



# HUMAN RIGHT VIOLATIONS IN THE CONTEXT OF PROTESTS (ARTICLES 2, 6, 7, 9, 14, 19, 21 AND 22)<sup>10</sup>

Amnesty International has raised concerns with the Venezuelan authorities about reports of torture and other ill-treatment, including excessive use of force by law enforcement officials during the policing of social protests for decades.<sup>11</sup>

Mass anti and pro-government protests have swept various parts of the country in the last two years which have resulted in human rights violations.

Between February 2014 and July 2014, 43 people were killed and 878 injured.<sup>12</sup> Among those killed and wounded were protesters and law enforcement officials, as well as passers-by and local residents who were not involved in the protests.<sup>13</sup> Suspected perpetrators include law enforcement officials, members of pro-government armed groups and anti-government protesters.<sup>14</sup>

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<sup>10</sup> Article 2: “all individuals within its territory and subject to its jurisdiction [have] the rights recognized in the present Covenant, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status”. Article 6: “every human being has the inherent right to life”. Article 7: “no one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment.” Article 9: “everyone has the right to liberty and security of person. No one shall be subjected to arbitrary arrest or detention. No one shall be deprived of his liberty except on such grounds and in accordance with such procedure as are established by law”. Article 14: “all persons shall be equal before the courts and tribunals”. Article 19: “everyone shall have the right to hold opinions without interference. Everyone shall have the right to freedom of expression”. **Article 21**: “the right of peaceful assembly shall be recognized”. **Article 22**: “everyone shall have the right to freedom of association”.

<sup>11</sup> See, Amnesty International, *Venezuela: denuncias de homicidios arbitrarios y torturas* (Index: AMR 53/002/1990), 1 March 1990, available at <http://www.amnesty.org/es/library/info/AMR53/002/1990/es>; *Venezuela: The eclipse of human rights* (Index: AMR 53/007/1993), 10 November 1993, available at <http://amnesty.org/en/library/info/AMR53/007/1993/en>; Amnesty International, *Venezuela: Human rights at risk amid protests* (Index: AMR 53/009/2014), April 2014, available at <http://amnesty.org/en/library/info/AMR53/009/2014/en>.

<sup>12</sup> See the report of the Public Prosecution Service, *Informe Hechos de Violencia 2014*, of 12 February 2015.

<sup>13</sup> See Amnesty International, *Venezuela: Human rights at risk amid protests* (Index: AMR 53/009/2014), April 2014, available at <http://amnesty.org/en/library/info/AMR53/009/2014/en>; and Amnesty International report *Venezuela: the faces of impunity one year since the protests, victims are still waiting for justice* (Index: AMR 52/1239/2015), March 2015 available at <https://www.amnesty.org/en/documents/amr53/1239/2015/en/>

<sup>14</sup> See the report of the Public Prosecution Service, *Informe Hechos de Violencia 2014*, of 12 February 2015.

Amnesty International received a number of reports of violence carried out by anti-government demonstrators, as well as reports of clashes between anti-government demonstrators and the security forces. The organization also documented attacks against anti-government demonstrators or passers-by carried out by armed pro-government groups, sometimes acting with the acquiescence of the security forces. People living in areas close to roadblocks and major roads told Amnesty International that at times their movement was unlawfully restricted; for example, they were prevented from getting to medical centres or travelling to school and that sanitation services and gas supplies were denied access.

According to investigations carried out by the Public Prosecutor's Office, six people were allegedly killed by members of the security forces. The same investigations also show that 14 people died as a result of incidents that took place at the barricades erected by protesters to block public roads. Some died as a result of injuries caused by the razor-wire protesters used to block the roads. Others died after being shot as they tried to remove the barricades.

In addition, these investigations also indicate that eight other people died after being allegedly shot in the context of anti-government demonstrations. According to information gathered by Amnesty International, the attacks were reportedly carried out by armed pro-government groups, which acted with the tolerance or acquiescence of the security forces.

During the protests, Amnesty International documented tens of cases of torture or other ill-treatment, both of protesters and passers-by. Reports were also received from people who had been injured by the use of excessive force from law enforcement officials.

## A. EXCESSIVE USE OF FORCE

Amnesty International has repeatedly drawn the authorities' attention to actions by the security forces during public order operations that breach international human rights standards, national law and the protocols of law enforcement agencies themselves. Of particular concern have been cases of excessive use of force that have resulted in violations of the right to physical integrity of people exercising their right to peaceful assembly and association.<sup>15</sup>

Despite crucial efforts by the authorities to improve the conduct of law enforcement officials by, for example, initiating a police reform in 2006 and putting plans and measures in place, so that training and laws and protocols governing the security forces are in line with human rights standards, the actions of both national and regional police forces, the National Bolivarian Guard (Guardia Nacional Bolivariana, GNB) and, in some cases, the National Bolivarian Intelligence Service (Servicio Bolivariano de Inteligencia Nacional, SEBIN) and the army, during the recent wave of protests between February and July 2014, have highlighted the fact that Venezuela is still lacking important reforms to ensure that all security forces carry out their public order duties in accordance to international human rights standards, both in law and in practice.

To date, the authorities have not sent a clear signal condemning the grave violations resulting from the excessive use of force by the security forces during the policing of demonstrations. They have also failed to show due diligence in investigating these events, clarifying who was responsible at all levels and bringing the perpetrators to justice.

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<sup>15</sup> See *Carta abierta de Amnistía Internacional a los candidatos y las candidatas presidenciales de la República Bolivariana de Venezuela* (Index: AMR 53/006/2012) available at <http://amnesty.org/en/library/info/AMR53/006/2012/es>.

Furthermore, far from showing a clear commitment to respect the right to peaceful assembly, the Ministry of Defence issued Resolution 008610 in January 2015<sup>16</sup>, that allows all sections of the armed forces to be deployed in public order operations, including at public protests. The resolution also authorizes the use of firearms in such operations. Using all sections of the armed forces in public order operations is a cause for concern given that under the Constitution, the only body mandated to cooperate with the National Police in matters of internal policing is the Bolivarian National Guard.

The Resolution states that military personnel will be trained in and will act in accordance with international human rights standards. However, it does not clearly define the exceptional circumstances that would justify the use of the armed forces in public order operations, nor does it clearly establish the circumstances when the armed forces are authorized to carry and use which firearms, nor how they are going to be used in order to comply strictly with international human rights standards on the use of force and firearms. The Resolution has been criticized, including by the Attorney General herself, who raised questions about the circumstances in which the armed forces would be permitted to use of firearms in the policing of protests.<sup>17</sup>

The decision of the authorities to use the armed forces, whose role and training is not appropriate for public order operations, such as policing social protests, suggests a lack of real commitment on their part to fulfil their obligations to respect the right to peaceful assembly and to ensure that the grave human rights violations that occurred in the context of the protests between February and July 2014 will not recur.

The Armed forces should only be deployed in exceptional circumstances and they should act solely in support of and under the control of the civilian authorities and be subject to the same training, accountability mechanisms and sanctions as any other section of the security forces.

For several years the National Police has had specific rules, principles and manuals on the progressive, selective and proportional use of force, including during the policing of public protests.<sup>18</sup> According to these rules and regulations, any security force involved in public

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<sup>16</sup> Resolution MPPD no. 008610 of 23 January 2015, published in *Official Gazette 40.589* of 27 January 2015, available at <http://historico.tsj.gob.ve/gaceta/enero/2712015/2712015-4190.pdf>.

<sup>17</sup> In a press conference on 10 February 2015, the Attorney General stated: "It is not necessary to use firearms in public order operations or to police protests." She added: "There may be situations which the National Police do not have the resources to deal with, situations of such gravity that they pose a threat to internal security. In such cases, where the National Guard, which is a part of the National Armed Forces, may intervene, however in these situations the use of firearms is prohibited." The Attorney General was in effect referring to the text of Resolution 008610, published in the *Official Gazette* on 27 January 2015 in order to highlight that this was "ambiguous and could confuse rather than clarify... There must be no doubts because at the point where these regulations are implemented, unless there is clarity, actions will be neither consistent nor appropriate."

<sup>18</sup> For more information, see "Normas sobre la actuación de los cuerpos de policía en sus diversos ámbitos político territoriales para garantizar el orden público, la paz social y la convivencia ciudadana en reuniones públicas y manifestaciones", available at [http://www.mp.gob.ve/c/document\\_library/get\\_file?p\\_l\\_id=10240&folderId=270686&name=DLFE-2408.pdf](http://www.mp.gob.ve/c/document_library/get_file?p_l_id=10240&folderId=270686&name=DLFE-2408.pdf); "Normas y principios para el UPDF policial por parte de los funcionarios y funcionarias de los cuerpos de policía en sus diversos ámbitos político territoriales", available at <http://virtual.urbe.edu/gacetitas/39390.pdf>; "Normas para la adquisición, registro y control de armamento, municiones equipos y accesorios para los cuerpos de policía y órganos de seguridad ciudadana que prestan el servicio de policía", available at <http://visipol.gob.ve/descargas/manuales/Manual-Dotacion->

order operations must act in accordance with all these various rules and principles.<sup>19</sup> However, Amnesty International has compelling evidence that the National Police, as well as the National Guard, were directly linked to a series of grave human rights violations resulting from excessive use of force. In doing so, they have breached international human rights law and standards, as well as national laws and protocols for law enforcement agencies.

Furthermore, the officials implicated in these offences have not been held to account in the manner stipulated by their own rules and regulations, and there has been no thorough review of the operating procedures that led to these abuses.

Statements from victims, eyewitnesses, journalists and medical personnel who treated the injured, as well as photographic and video evidence and analysis of riot equipment and non-regulation equipment used, show that law enforcement officials used excessive force on many occasions against protesters, passers-by and residents in areas where the 2014 protests took place.

Evidence obtained by Amnesty International indicates that the security forces frequently saw dispersing protests, including peaceful protests, as a priority and used force to do so, often when there was no clear reason for doing so to maintain order or prevent a crime. Protests were also dispersed without any attempt being made to negotiate with the demonstrators and without giving a clear, prior warning that would allow protesters and passers-by to leave the area.

Even in those situations where the use of force by law enforcement officials may have been a legitimate response to some groups of protesters who were using violence it was not used in a targeted manner to contain those groups of protesters engaged in acts of violence, according to the evidence available. Rather, it was used in an indiscriminate, generalized and disproportionate manner against peaceful protesters and passers-by, and on many occasions served to exacerbate and escalate the tension and violence.

Amnesty International has documented cases when live ammunition was fired at demonstrators and homes in residential areas where “*cacerolazos*”<sup>20</sup> were taking place or where residents had set up roadblocks.

In at least one case, the use of live ammunition by the security forces resulted in the death of a protester. Twenty-three-year-old **Bassil Da Costa Frías** died on 12 February 2014 in Caracas after taking part in a demonstration. According to one of Bassil Da Costa’s relatives who was also at the demonstration, one of the protesters was detained and several others started shouting and throwing stones at the security forces in protest. In response, members of the National Intelligence Service and armed men in plainclothes started firing at the protesters using rifles and handguns.

Bassil Da Costa was shot in the head. Eight public security officials are being tried for his

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Equipamiento.pdf; and “Manual de actuación de los cuerpos de policía para garantizar el orden público, la paz social y la convivencia ciudadana en reuniones públicas y manifestaciones”, available at <http://es.scribd.com/doc/229939771/Manual-de-Actuacion-de-Los-Cuerpos-de-Policia-Para-Garantizar-El-Orden-Publico-La-Paz-Social-y-La-Convivencia-Ciudadana-en-Reuniones-Publicas-y-Manife#scribd>.

<sup>19</sup> Article 1 of “las Normas sobre la Actuación de los Cuerpos de Policía en sus diversos Ámbitos Político Territoriales para garantizar el orden público, la paz y la convivencia ciudadana en reuniones públicas y manifestaciones”.

<sup>20</sup> Protests in the street or their homes in which people use cooking utensils or other objects to make a noise.

death and one of the accused is currently in detention awaiting trial and the rest are on bail.

The Public Prosecutor's Office has estimated that 90 people were injured during the 2014 protests by live ammunition.<sup>21</sup> According to information obtained by Amnesty International, law enforcement officials failed to give a clear prior warning of their intention to use firearms, giving people sufficient time to take appropriate action as required by the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials.

**Yaneuliz Vaca**, a 20-year-old student nurse, told Amnesty International how she was shot and wounded by members of the security forces near her family home in La Fría municipality (Táchira State) on 26 February 2014.

Yaneuliz Vaca described how that day the security forces started to throw tear-gas grenades and fire rubber bullets at the demonstrators to disperse them. Although she was suffering from the effects of tear gas, she tried to take cover behind a parked car to protect herself from the bullets. While she was crouched there, she was shot in the shoulder. The wound resulted in a haemothorax (the rupture caused blood to flow into the space between the thorax and the lung) and two broken ribs. A year later she was still in pain.

The Public Prosecutor's Office has recently informed Amnesty International that the case will be dismissed due to lack of evidence.

Amnesty International has also received information of expanding bullets having been used in at least one case. **Anthony Gregorio Carrero** was wounded on his way home from work on 19 March 2014. He was struck on the left-hand side of his chest by an expanding bullet fired at close range reportedly by an officer of the National Guard, as officers dispersed a protest in San Cristóbal, Táchira State. According to the medical report the bullet pierced the left-hand side of his diaphragm.

Despite an initial reluctance to report the incident for fear of reprisals and further attacks, Anthony Carrero lodged a formal complaint with the Public Prosecutor's Office. The Public Prosecutor's Office has recently informed Amnesty International that the case will be dismissed due to lack of evidence.

Amnesty International has also documented cases where law enforcement officials fired rubber bullets directly at protesters and passers-by at close range without giving a clear warning, with the apparent intention of causing maximum injury. According to the Public Prosecutor's Office, at least 54 people were injured by rubber bullets during the protests that took place between February and July 2014.<sup>22</sup>

**Geraldín Moreno**, a 23-year-old student from Valencia, Carabobo State, died on 22 February 2014 after being hit in the eye by a rubber bullet during a protest on 19 February 2014.

According to testimony given by family members and accounts from eyewitnesses at the

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<sup>21</sup> See the report of the Public Prosecution Office, *Balance de la actuación del Ministerio Público ante los hechos violentos ocurridos durante los meses febrero-junio de 2014*, 14 July 2014.

<sup>22</sup> Ibid.

protest, members of the National Bolivarian Guard on motorbikes dispersed demonstrators by firing rubber bullets. Geraldín Moreno was lying on the ground when the bullet was fired at close range, piercing through her eye and lodging in her brain. She died later in a nearby hospital. The Public Prosecutor's Office recently informed Amnesty International that two members of the National Bolivarian Guard have been detained and are awaiting trial.

On 21 April 2014, 16-year-old **John Michael Ortiz Fernández** was hit in the left eye by a rubber bullet, on 21 April 2014 in San Cristóbal (Táchira State).

John Michael Ortiz told Amnesty International that he went out onto the balcony when he heard shots. He described the circumstances in which the shot was fired: "I went out and as soon as the police officer saw me on the balcony, he raised his gun and fired immediately". The bullet burned the retina and as a result he has only 30% of his sight in his left eye.

A formal complaint was lodged with the Public Prosecutor's Office. However, at the time of writing, no significant progress into the investigation had been reported and no one had been charged in connection with the incident.

Photographs, videos and statements from eyewitnesses, protesters and passers-by who were injured and from medical personnel, all attest to the use on a number of occasions of non-regulation riot equipment and firearms by law enforcement officials. Amnesty International has obtained evidence that riot equipment was tampered with, to insert marbles, nails, candles or broken glass into cartridges with the apparent intention of causing maximum physical injury.<sup>23</sup>

**Luigi Romano Flores** told Amnesty International that he was shot and injured in the shoulder by bullets fired at close range by a member of the Merida State Police in the early hours of the morning in mid-April 2014. He was with a group of about 30 people protesting near some barricades. When the security forces started to disperse them, there was a clash between the police and protesters and some protesters responded by firing mortars.

Luigi Romano Flores ran to take cover in a nearby building, and he and another youth found themselves on the lower part of the staircase, with no way out. A police officer standing higher up the staircase shot him at close range in the shoulder and then hit him in the head with his gun and kicked him. Pieces of glass and tiny metal nuts were later extracted from the wounds, indicating that other substances had been inserted into the rubber bullets. Luigi Romano did not report this for fear of possible reprisals.

The other youth who had tried to take cover with Luigi Romano Flores was detained by the State Police. He described how he was beaten and questioned about who was financing the protests while he was in a van being taken to the detention centre. As they were driving to the detention centre, some police officers on motorcycles stopped the van and he heard them say: "Let this one go. I think we have killed one [meaning Luigi]". He was released on a national highway.

On dozens of occasions, law enforcement officials – and in at least one case, in the municipality of Rubio in Táchira State, --members of the military shot pellets at houses in residential areas where there were protests or barricades. They also used tear gas excessively

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<sup>23</sup> Victims did not report these incidents formally to the Public Prosecutor's Office because they feared reprisals and lacked confidence in the justice system. They also asked Amnesty International to preserve their anonymity. The organization has also gathered statements from medical personnel and witnesses noting dozens of cases of protesters injured in this way. Those who spoke to Amnesty International asked that their names be withheld.

and indiscriminately. For example, in some instances they fired tear gas directly at protesters or in enclosed spaces and in residential areas. These incidents occurred when law enforcement officers arrived to disperse demonstrators or remove barricades. Photographs obtained by Amnesty International show that in many cases shots and tear-gas grenades entered people's homes through windows causing symptoms of asphyxia and risking injuries as residents were forced to throw themselves to the ground or rush to the back of the house to take cover.

Law enforcement officials including those who should be trained for such operations, as well as trained in the progressive, proportionate and selective use of force during social protests, such as the National Police, failed to fulfil their obligation to respect and protect the right to life and physical integrity, as well as the right to peaceful assembly.

In light of this, the Venezuelan authorities must concentrate and redouble their efforts to strengthen and ensure appropriate training for civil law enforcement officials, so that they can fulfil their obligation to maintain order and respect human rights at all times. The authorities must ensure that those officials who have violated these rights are brought to justice and punished accordingly, rather than allowing and increasing the use of the armed forces in public order operations, including the policing of public protests, which is outside the scope of their proper functions and for which they are clearly not trained.

#### RECOMMENDATIONS TO THE VENEZUELAN AUTHORITIES

- Ensure that the security forces comply fully and at all times with international standards, including the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials, when carrying out their duties policing protests, in particular by:
  - Ensuring that the police and other security forces avert violence at public protests by communicating with the protest organizers and demonstrators before and during the protest, with the aim of reaching a mutual understanding, reducing tension and avoiding unnecessary clashes between officials and protesters in order to prevent violence or to end it promptly should clashes occur;
  - Ensuring that any decision to disperse a peaceful assembly respects the principles of necessity and proportionality and that the order to disperse is communicated and explained clearly in order that, as far as possible, protesters understand it and can comply with it. Protesters should be given sufficient time to take appropriate action;
  - Ensuring that the police and other security forces use non-violent methods before resorting to the use of force and firearms;
  - Ensuring that if violence does occur in the context of a gathering and the use of force is unavoidable, for example in self-defence or defence of others against imminent threat of death or serious injury, officials use the minimum force necessary to deal with the situation, in line with the UN Basic Principles;
  - Ensuring that "less lethal" weapons, such as plastic and rubber bullets, are used only when strictly necessary, after a warning that they will be used, when their use is proportional to the threat faced and when other non-violent methods are not sufficient. Such weapons should only be used by officials who have been fully trained in how to use them appropriately;

- Ensuring that the police, as well as other security forces, receive appropriate and effective training on how to police public demonstrations, including training on the use of non-violent methods, on “less lethal” weapons and on international standards on the use of force and firearms;
  - Strengthen the accountability of all law enforcement agencies and diligently review training and procedures for the policing of protests in order to ensure that the security forces comply fully with their obligation to maintain public order while at all times respecting the human rights of all.
- Train all members of agencies involved in public order operations, including the policing of protests, in order to enable them to comply fully with international law and standards on the use of force and firearms and international human rights law and, including in their responsibilities under the UN Convention against Torture, and ensure that all training manuals and use of equipment comply fully with these standards.
- Refrain from using the armed forces in public order operations and, if in exceptional circumstances this does occur, the authorities must ensure that the armed forces act solely in support of and under the control of the civilian authorities and are subject to the same training, accountability mechanisms and sanctions as any other section of the security forces.

## B. VIOLENCE BY ARMED PRO-GOVERNMENT GROUPS ACTING WITH THE ACQUIESCENCE OF THE SECURITY FORCES

Amnesty International is particularly concerned at reports received, backed by photographic and video evidence, of violence allegedly infringed by armed pro-government groups believed to have been acting with the tolerance or acquiescence of the security forces. The violence, which included the use of firearms, targeted protesters, passers-by, houses where people had beaten cooking utensils or other objects to protest and make a noise, and residential areas where there were protests and barricades.

Amnesty International has compiled scores of testimonies of people living in Mérida, as well as photographs and video evidence, indicating that armed groups attacked homes by throwing stones and shooting, while the security forces looked on. Reports received by the organization indicate that law enforcement officials policing demonstrations sometimes let armed groups enter the area or withdrew, allowing these groups to attack groups of anti-government protesters, sometimes using live ammunition.

Many of the statements gathered by the organization indicate that people living in Mérida set up barricades in front of their homes to protect themselves from these armed groups. The organization received similar reports, together with photographic and video evidence, from Táchira, Caracas and Valencia. The organization has repeatedly called on the authorities to carry out a comprehensive, independent and impartial investigation into the involvement of pro-government armed groups in acts of violence acting with impunity in the presence of law enforcement officials. At the time of writing, however, Amnesty International is only aware of one member of these groups having been detained in connection with the human rights abuses committed during the protests, including abuses of the right to life and physical integrity.

**Guillermo Sánchez** died after being shot, in La Isabelica, Valencia, on 12 March 2014. Protests were taking place in the road in which he lived. According to eyewitnesses, a group of armed men shot him and beat him on his way to his mother's house. They then put him on a motorbike and threw him at state police officers who were monitoring the protests, saying:



“here’s another one, expect some more”. According to these eyewitnesses the police officers took him to a medical centre where staff tried to save his life.

A law enforcement official has been charged in connection to Guillermo Sánchez’ death after ballistic evidence was discovered linking him to the crime.

“I started to hear shots and lots of stones, lots of bullets, hitting the building. The number of men... arriving on motorbikes and shooting was shocking. They shot at the flats. They shot at the electricity cables, so that we wouldn’t have any light... I had to throw myself on the floor because the bullets were flying. It was terrifying... There were lots of motorbikes, maybe 40 or 50 motorbikes, coming down the road, firing in all directions. They told me that there was a white National Guard van parked at the corner. I told the children not to go out... when this was happening they didn’t even leave their room because of all the tear gas... we had to seal every crack hermetically... I live in a second-floor flat; there were bombs on the first and second floor.” Ghina Rodríguez, Guillermo Sánchez’s wife told Amnesty International.

When she reported these incidents, the public prosecutor ordered that she receive protective measures, which consisted of 24-hour protection by the Valencia Municipal Police. However, she stated that when she went to the police to ask that the measures be implemented, “the police officers made fun of us. They made it clear that they were not going to waste their time protecting us and they never implemented the measures”. Ghina Rodríguez and her two children left Venezuela in July 2014, fearing for their safety. At the time of writing, they were living in Mexico where they had been granted refugee status.

#### RECOMMENDATIONS TO THE VENEZUELAN AUTHORITIES

- Continue existing efforts to ensure effective arms control among the civilian population.
- Implement programmes to mark and trace ammunition and control police firearms.
- Disarm illegal groups of armed civilians and ensure that members of such groups who have committed crimes and brought to justice.

### C. TORTURE AND OTHER ILL-TREATMENT

Dozens of people were subjected to torture or other ill-treatment by members of the security forces during the pro and anti-government protests that swept the country between February and July 2014. These violations were reported to have been inflicted on detainees at the time of arrest, during transfer to detention centres and while in detention. In some cases, people were not taken to detention centres but simply held by law enforcement officials and then released a few hours later.

The authorities have acknowledged that cases of torture and other ill-treatment did occur in the course of the protests. In its latest report, the Public Prosecutor’s Office stated that it has initiated 238 investigations into reports of human rights violations, including two cases of torture and 184 cases of other ill-treatment.<sup>24</sup> In addition, in meetings with Amnesty

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<sup>24</sup> See the report of the Public Prosecutor’s Office, *Informe Hechos de Violencia 2014*, of 12 February 2015.

International in July 2014, the state Ombudspersons for Táchira and Mérida indicated that they had recorded 19 cases of ill-treatment in Mérida and 109 in Táchira, including three cases of torture.

The evidence obtained through interviews with victims, witnesses, lawyers, human rights defenders and medical personnel indicate that most of those who were tortured or otherwise ill-treated have not reported these violations to the authorities. Some fear reprisals from the perpetrators or fear that they will be detained if they admit that they took part in the protests. Others who are facing charges after taking part in the protests fear that making allegations of torture or other ill-treatment could have a negative impact on their court cases.

The majority of the victims interviewed by Amnesty International said that they had no confidence in the state institutions responsible for investigating such cases and for bringing those responsible to justice. The number of cases reported to the authorities, therefore, represent only a fraction of the real number of victims of these human rights violations.

In February 2015, in its latest report, the Public Prosecution Service states that 21 members of the security forces have been charged with ill-treatment.<sup>25</sup>

c.1 Reports of torture and other ill-treatment used as a form of punishment and to extract confessions.

In most of the cases documented by Amnesty International, detainees appear to have been subjected to torture or other ill-treatment in order to punish them for their participation, or alleged participation, in the protests; or to extract confessions to crimes committed while participating in the protests.

Reports include cases of law enforcement officials punching, kicking and beating detainees with blunt instruments, such as helmets. Some victims were beaten during their arrest while they were lying on the ground already restrained and offering no resistance.<sup>26</sup>

20-year-old **Rafael Ángel Cardozo Maldonado**, who has a mental disability, was detained during an army operation in the city of San Cristóbal (Táchira State) on 17 March 2014 as he was on his way home. He was detained for five days and spent at least one day in incommunicado detention in a military barrack. According to his lawyer, the military repeatedly denied that they were holding Ángel and refused him access to his client. Ángel Cardozo was punched and beaten in the face with helmets, deprived of sleep and threatened with death. According to witnesses, he was forced to wear a crown made of rope and nails (thistles, known in Venezuela as “miguelitos”) on his head. Amnesty International has been given access to a forensic medical report dated 18 March 2014, which notes that the detainee had “lesions to the skin on his scalp... of approximately 2cm, no other physical trauma or injuries, no clinical problems noted during the examination”. His injuries were

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<sup>25</sup> Ibid.

<sup>26</sup> See the cases of Marvinia Jiménez, Juan Manuel Carrasco y Daniel Quintero, Amnesty International, *Venezuela: Human rights at risk amid protests* (Index: AMR 53/009/2014), April 2014, pp. 9-11, available at <http://amnesty.org/en/library/info/AMR53/009/2014/en>; and Amnesty International report *Venezuela: the faces of impunity one year since the protests, victims are still waiting for justice* (Index: AMR 52/1239/2015), March 2015, p. 28-32, available at <https://www.amnesty.org/en/documents/amr53/1239/2015/en/>

sufficiently evident that the judge ordered that an investigation be initiated into torture and other ill-treatment.

Prosecutors charged Ángel Cardozo and another two detainees with, among other offences, incitement and conspiracy to commit a crime. The charges against him were dismissed on the basis of a psychiatric forensic medical report introduced by the defence which confirmed that he suffered from “mental impairment and a cognitive disability that should be evident to any person with a sufficient level of education, given that people suffering from this condition have severe difficulties in understanding”.

However, after his unconditional release, members of the Bolivarian National Guard have attempted to detain Ángel Cardozo without an arrest warrant on two separate occasions, once at his home and another time at his work place. Apparently in both instances the officers left when they were asked to show an arrest warrant or provide information about the reason for the arrest.

At the time of writing, Amnesty International has no information on the outcome of the prosecutor’s investigation into the allegations of torture and other ill-treatment to which Ángel Cardozo was subjected during detention.

Amnesty International has also received reports from other detainees alleging that they were forced to stay on their knees or to stand for many hours while held in detention centres. Some said that they were blindfolded or had hoods placed over their heads, while being taken to or held in detention centres, sometimes for several days. There have also been reports of tear gas being used in confined spaces, such as patrol cars or police cells, as well as sexual abuse and threats of rape against both men and women detainees. Death threats have also been reported, including cases where the detainees were sprayed with petrol.

Amnesty International has been able confirm that in many cases protesters and passers-by were arbitrarily detained – they had not committed any offence nor had an arrest warrant had been issued and that they were subjected to torture or other ill-treatment in order to force them to implicate themselves in crimes. 21-year-old **Wuaddy Moreno Duque** was on his way home with a group of friends in the early hours of 27 February after a birthday party. National Bolivarian Guard officers pulled up beside them, accused them of taking part in the protests and took them to a square in front of the army headquarters in La Grita (Táchira State). “That was where they burned all my papers... all that I had. They burned my papers and took a screwdriver out the bag where I kept the tools for my motorcycle... they started to heat the screwdriver and then they used it to burn me. They said that I had been on the demonstrations. We told them that I hadn’t. And they burned me. They beat up the friends that were with me, but I was the only one they burned.” Waddy Moreno told Amnesty International. The group was kept in the square for two hours, where Wuaddy Moreno was beaten with batons and then taken to the National Guard headquarters. Wuaddy Moreno was held there until the following morning and then released without charge.

Wuaddy Moreno lodged a formal complaint with the Public Prosecution Service. He and his family have been the target of intimidation on two occasions by members of the National Guard, including the officer who allegedly tortured him, who is still in active service. Officers have come to the family’s shop and approached them in the street demanding that they withdraw the complaint.

Amnesty International has been informed that the Attorney General in Táchira State is

currently investigating the case, however it has not yet had access to the findings of the investigation.

**Moisés Guánchez** was arbitrarily detained and tortured by members of the National Bolivarian Guard in Carrizal municipality, Miranda State, as he was leaving work on 5 March 2014, and beaten and injured with rubber bullets while he was detained. He was released without charge two days later and had to undergo surgery twice. The court that ordered his release also ordered an investigation into his detention and ill-treatment. However, to date no one has been brought to justice.

Since his release he has been harassed on several occasions by members of the National Guard with apparent intention of intimidating him. He has received a number of official summonses to appear at the local headquarters of the National Guard purportedly in connection with an “administrative investigation”, despite having been released without charge two days after his detention.

On 13 August 2014, Moisés Guánchez filed a complaint with the Public Prosecutor’s office in relation to the harassment. That same month, a court granted him protection measures consisting of state police patrolling his residence. Moises Guánchez and his family complained to the authorities that the measures had not been consulted with him and that they were inappropriate. In fact, while he was under protection, on 24 November 2014 he was stopped in his car by three officers from the National Guard in Los Teques city, in Miranda State, who pointed their firearms at him and forced him out of the car. They fled when a state police patrol arrived at the scene. In January 2015, Moisés Guánchez fled Venezuela.

#### c.2 Reports of torture and other ill-treatment in order to obtain information.

Amnesty International has documented cases where abuses clearly occurred during interrogation with the aim of extracting information about the identity of people who took part in or organized anti-government protests. The reports include allegations that people were punched, kicked and beaten with blunt instruments. There have also been reports of people being tortured or otherwise ill-treated during interrogation by having electric shocks applied to them, having plastic bags put over their heads until they nearly suffocated, and by being burned with sharp objects.

**Gloria Tobón** and at least 22 other people were detained during a joint National Bolivarian Guard and army operation in Rubio, Táchira State on 19 March 2014. Amnesty International interviewed five of those detained who said that they had been subjected to torture and other ill-treatment. Most of those interviewed asked that their names not be made public for fear of reprisals.

The detainees described their individual experiences during arrest and while they were held in the National Bolivarian Guard headquarters in Rubio. The abuses that they described included: being kicked; beatings, including using metal bars; use of tear gas and firearms; insults, death threats and threats of sexual violence; and electric shocks applied while they were handcuffed. They said that all the detainees, both men and women, were held in the same room and were kept blindfolded for several hours. Although they couldn’t see what was happening around them, they could hear how those near them were being beaten. They were asked to name the leaders of the protest and who was financing the protests. At least one detainee was forced to watch while another detainee was beaten.

Gloria Tobón was on her way to the state capital to buy food when she and her daughter were stopped by National Guard officers. They grabbed her by the neck and dragged her along the

road for several metres before forcing her into a van. While she was being taken to the detention centre, they beat her and threatened her with electric shocks to force her to say who were the leaders and financial backers of the protests.

She was kept blindfolded, doused with water and then electric shocks were applied to her arms, breasts and genitals. She was threatened and told that she would be killed and buried in pieces.

The day after they were apprehended, detainees were given a forensic medical examination. Amnesty International has been given access to the reports, which contain no information on the circumstances in which the examinations were conducted or who was present at the time they were conducted. The reports do not contain a detailed account of the detainee's version of events or of the injuries that each detainee presented, nor do they include the doctor's assessment of the likely link between injuries and possible torture or ill-treatment, as required by the Principles on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Istanbul Protocol). Nevertheless, the examinations established that 12 of the 23 detainees had sustained some form of injury.

Several of the detainees have said that after their release they were insulted and threatened by the National Guard officers who detained them and who remain on active service.

The Public Prosecutor's Office recently informed Amnesty International that it has requested that the case of Gloria Tobón be dismissed due to lack of evidence.

#### c.3 Gender-based abuses against detainees.

Amnesty International has received reports like that of Gloria Tobón above suggesting that in many cases women who were detained or stopped by law enforcement officials near protests and then released without their detention being formally recorded were targeted for abuse because of their gender. In most of the cases documented, women who were detained faced sexual harassment or were threatened with rape. Many were insulted and humiliated because of their gender.

#### c.4 Lack of medical attention.

Drawing on the cases documented and the complaints forwarded to Amnesty International by lawyers and human rights defenders, the organization has concluded that most detainees did not receive medical examinations when they entered detention centres. Some were not examined until they appeared before a judge, at least 48 hours after their detention, despite visible injuries from gunshot or rubber bullets and despite detainees' requests for medical attention for injuries sustained as a result of beatings during arrest. According to the statements of injured people gathered by the organization, medical professionals frequently refused to treat people injured during social protests without the presence of representatives from the Attorney General's Office or law enforcement officials. According to some reports, some doctors refused to write comprehensive medical reports recording injuries consistent with torture or other ill-treatment for fear of reprisals.

During a visit to the country in July 2014, Amnesty International representatives were able to identify some of the obstacles faced by victims in getting access to justice. Victims, lawyers and human rights defenders stated that in some cases, despite the detainees' visible signs of

injury, public prosecutors did not initiate investigations or judges did not order such investigations.

The complaints received by lawyers and human rights defenders indicate that most of those detained were not given medical examinations when they arrived at detention centres. In some cases detainees did not get any medical attention until they appeared before a judge, at least 48 hours after their arrest, even though they had clearly visible wounds caused by pellets (*perdigones*) or rubber bullets and despite requests for medical attention for injuries caused by pellets or beatings inflicted at the time of arrest.

According to some reports, some doctors refused to produce complete medical reports recording that detainees bore signs of torture or other ill-treatment because they feared reprisals

**Carlos Eduardo Villamizar Guerrero**, a 20-year-old student, was knocked to the ground, beaten and detained by members of the National Police on 6 October 2014, in San Cristóbal municipality, Táchira State. According to the police and the Public Prosecutor's Office, he was blocking a road and armed with a mortar (rocket launcher) when he was detained. Carlos Villamizar denies the allegations. The only evidence against him in the files of the Public Prosecutor's Office consists of the statements of the law enforcement officers who detained him.

Carlos Villamizar's family told Amnesty International that a member of the National Police on a motorcycle had knocked Carlos Villamizar down while he was standing with a group of students in the street. While he was on the ground, other officers kicked and beat him with their helmets. They also tried to hit him with a metal rod, but he managed to protect himself with his hands. Carlos Villamizar was also beaten while he was being taken to the National Police centre, where he was detained for five days.

Carlos Villamizar's injuries were clearly visible and recorded in the report of the medical forensic examination that was carried out on the day he was detained ("injuries and abrasions on the left arm, face and both hands"). Despite this, the judge ordered that he be held in pre-trial detention and failed to order an investigation into possible torture or other ill-treatment. Carlos Villamizar was too afraid to make a complaint when he appeared before the judge.

On 11 October, Carlos Villamizar lost consciousness while held in the police station and had to be taken to a hospital where doctors recorded multiple injuries to his head and spinal column, including cranial trauma, trauma to the spinal cord and lower motor neurone damage.

At the time of writing, Carlos Villamizar was released pending the outcome of his trial on charges of public incitement, illegally making incendiary or explosive substances or devices and obstructing a public highway and means of transport. He was still receiving treatment for his injuries.

Carlos Villamizar's mother lodged a formal complaint with the Attorney General's Fundamental Rights Office in Táchira on 10 October 2014. The case is currently under investigation.

According to public statements, as well as in conversations with Amnesty International representatives, the Attorney General and members of the Attorney General's Human Rights Unit (Fiscalía Especializada en Derechos Humanos) and the Ombudsperson's Office, in many cases the progress and outcome of the prosecutor's investigation is determined by the forensic medical report. Dozens of detainees interviewed said that forensic doctors often do

not carry out a thorough examination aimed at revealing evidence of torture or other ill-treatment that may not be visible, as required by international standards. This was the case even when detainees showed visible signs pointing to the likelihood of torture or other ill-treatment.

Amnesty International was given access to a number of forensic medical reports and considers that in some cases these did not meet the minimum standards set out in the Istanbul Protocol. For example, reports do not include information about the circumstances in which the examination took place or who was present when it was carried out. Nor do they give a detailed account of the detainee's version of events or give the medical personnel's view of the probable link between injuries and possible torture or other ill-treatment. In addition, there are concerns that medical reports are often not shared with the alleged victim or their lawyer.

In a number of cases, medical examinations of detainees were carried out in the presence of the law enforcement officials responsible for their detention or of public prosecutors investigating them for alleged offences. Consequently, many detainees stated that they felt intimidated or did not want to report their injuries because they were afraid of reprisals by the law enforcement officials or because they feared they would be further tortured or otherwise ill-treated while in detention, denied conditional release and that filing a complaint would have a negative impact on their court case.

#### RECOMMENDATIONS TO THE VENEZUELAN AUTHORITIES

- Send a clear message of rejection and condemnation of all forms of torture and other ill-treatment and unequivocally state that all those responsible for such acts will be prosecuted and punished in accordance to the severity of the crime.
- Ensure that detainees have access to a lawyer, including the opportunity to have access to a lawyer of their choice, immediately after arrest.
- Ensure that people deprived of their liberty have prompt and regular access to relatives and to appropriate medical care.
- Strengthen the procedures for initial medical examinations when people are first detained and ensure that these are carried out promptly and in accordance with international standards, which require, among other things, that they respect confidentiality and that they are thorough and impartial. Medical reports should be made available immediately to detainees and their lawyers.
- Implement international standards for the investigation of torture, such as the Manual on Effective Investigation and Documentation of Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment (Istanbul Protocol); ensure, among other things, that forensic doctors use forms amended to bring them into line with Annex IV of the Istanbul Protocol and include the interpretation of findings; and ensure that medical examinations are comprehensive and carried out in accordance with the principles of confidentiality and privacy.

## D. ARBITRARY DETENTION

According to statements made by the Attorney General, 3,351 people were apprehended during the 2014 protests.<sup>27</sup> Statements from detainees, their relatives and lawyers and from human rights defenders who monitored the protests and the treatment of detainees in detention centres, indicate that many people were arbitrarily detained and that they were denied access to a lawyer during the 48 hours they were held prior to appearing before a judge. Dozens were victim of torture and other ill-treatment, as detailed above.

Although most of those who were detained were later released, according to the latest information published by the Attorney General, 1,402 people are facing charges one year later for offences allegedly committed during the protests, such as blocking a public road, wounding, damage to property and conspiracy to commit a crime. While the majority of those charged were granted conditional release pending trial, to date, over 20 people remain in detention.

After reviewing the evidence presented by the Public Prosecution Service on a number of the cases of those who remain in detention, Amnesty International was able to confirm that some detainees had been arbitrarily detained. Some of them had been detained despite that they had committed no offence and without an arrest warrant being issued. In the five cases examined by Amnesty International, three continue to be detained to date,<sup>28</sup> one is under house arrest and one has been conditionally released pending the outcome of a trial.<sup>29</sup> All have been charged and are facing trial despite the absence of credible evidence to support the charges against them. The lack of credible and admissible evidence against them means there is a serious risk that their right to due process is undermined. Amnesty International considers that the charges against them and continued detention are politically motivated.

**Rosmit Mantilla**, a lesbian, gay, bisexual transgender and intersex (LGBTI) rights activist and member of the opposition Popular Will (Voluntad Popular) party, has been in pre-trial detention since 2 May 2014. On 30 January 2015, after nine months of procedural delays during which the committal hearing was postponed 11 times, and despite the lack of credible evidence against him, the investigating judge ordered that Rosmit Mantilla should face trial. The basis of the detention order was a statement by an unidentified individual alleging that Rosmit Mantilla had received funds from a group of businessmen in order to finance the anti-government protests taking place in Caracas at the time. National Intelligence Service officials claim that during a search of Rosmit Mantilla's home on the day he was detained they found leaflets urging people to join the anti-government protests and envelopes containing money. Both Rosmit Mantilla and his family deny these allegations. According to their statements, the officials went into his bedroom, put money in some

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<sup>27</sup> See the report of the Public Prosecution Service, *Informe Hechos de Violencia 2014*, of 12 February 2015.

<sup>28</sup> See the cases of Leopoldo López and Daniel Ceballos under chapter *Independence of the judiciary*, page 41-44.

<sup>29</sup> See in Amnesty International report *Venezuela: the faces of impunity one year since the protests, victims are still waiting for justice*, AMR 52/1239/2015, March 2015 (available at <https://www.amnesty.org/en/documents/amr53/1239/2015/en/>), the case of **Marcelo Crovato**, a lawyer working with the organization the Venezuelan Penal Forum, who was arbitrarily detained between 22 April 2014 and 26 February 2015, currently under house arrest pending the outcome of his trial on unsubstantiated charges of endangering safety on a public road, incitement to break the law, public intimidation and conspiracy to commit a crime; and the case of **Christian Holdack** arbitrarily detained between 12 February 2014 and 17 March 2015, currently conditionally released awaiting trial on unsubstantiated charges of incitement to commit a crime, arson, damage to property and conspiracy to commit a crime.



envelopes on which they wrote the names of the two squares where protesters, mostly students, had set up camp as a symbol of protest against the government

The Public Prosecutor's Office has accused Rosmit Mantilla of public incitement and intimidation, obstructing a public highway, arson involving public and private buildings, violent damage and conspiracy to commit a crime. These offences carry a penalty of at least 18 years' imprisonment. Amnesty International believes that to date the Public Prosecutor's Office has failed to present credible evidence linking Rosmit Mantilla to the crimes of which he is accused

There are at least 20 people who continue to be deprived of their liberty in relation to the protests of last year who are facing a trial for alleged crimes connected with the protests. Amnesty International has documented five of those cases and has concluded that there is no credible evidence linking them to the charges presented against them. Amnesty International is concerned that others in pre-trial detention could be facing unsubstantiated charges.

#### RECOMMENDATIONS TO THE VENEZUELAN AUTHORITIES

- Release those arbitrarily detained immediately.
  
- Ensure that all those in pre-trial detention and those conditionally released pending trial have access to a fair trial within a reasonable time.

# SITUATION OF PEOPLE DEPRIVED OF THEIR LIBERTY (ARTICLES 6, 7, 9 AND 10)<sup>30</sup>

## A. PROLONGED PRE-TRIAL DETENTION

There is official publicly available information that provides comprehensive, up-to-date data on the number of people detained and their legal status. The human rights organization, the Venezuelan Prisons Observatory (Observatorio Venezolano de Prisioneros, OVP) estimates that more than 60% of those deprived of their liberty are held in pre-trial detention.<sup>31</sup>

According to the information provided in 2013 by Venezuela to the Inter-American Commission on Human Rights for its report on pre-trial detention in the Americas, people awaiting trial account for more than 50% of the Venezuelan prison population.<sup>32</sup> At present, convicted prisoners and people detained awaiting trial are not held separately.

Amnesty International is particularly concerned at the extent of delays in the criminal justice system and their impact on those detained pending trial. The development and implementation of a clear plan of action to tackle these delays is urgently needed. Adequate resources need to be allocated to ensure that delays in the criminal justice system are addressed in a comprehensive and coherent manner by the relevant bodies, including the Public Prosecution Service, the Public Defence's Office, the police, the prison service and the justice system.

The failure to apply provisions introduced in the 2012 reform of the Code of Penal Procedure (Código de Procedimiento Penal) that allow for alternatives to pre-trial detention is also a cause for concern. The revised Code introduced the possibility of imposing alternative measures to pre-trial detention for less serious crimes. However, according to local human rights organizations, these are rarely applied.

## B. OVERCROWDING AND POOR PRISON CONDITIONS

The Ministry of Prisons indicates that there are 72 detention centres, however according to the Venezuelan Prisons Observatory, this figure is incorrect and there are only 47 detention

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<sup>30</sup> Article 6: "every human being has the inherent right to life". Article 7: "no one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment". Article 9: "everyone has the right to liberty and security of person". Article 10: "all persons deprived of their liberty shall be treated with humanity and with respect for the inherent dignity of the human person".

<sup>31</sup> See the Venezuelan Prisons Observatory, *Annual Report 2014*.

<sup>32</sup> See Inter-American Commission on Human Rights, *Report on the use of pre-trial detention in the Americas*, 2013. This put the number of detainees held in pre-trial detention in mid-2012 at 52%. However, this figure refers solely to those defended by the Public Defender's Office. In its annual report for 2014, the Venezuelan NGO, the Venezuelan Prisons Observatory puts the figure at 63%. The International Centre for Prison Studies states that 2012 the number of detainees held in Venezuelan prisons awaiting trial was 64.1%; see <http://www.prisonstudies.org/country/venezuela>.

centres and four penitentiary agricultural colonies (colonias agrícolas penitenciarias).<sup>33</sup> Official data is also lacking on the number of people deprived of their liberty, the capacity of detention facilities and the number of inmates held in each of them, the legal status of detainees, as well as resources allocated to the prison system.

Since 2011, when the authorities established the Prison Service Ministry to tackle the crisis in the prison system, two new prisons have been opened (Comunidad Penitenciaria de Coro and Comunidad Penitenciaria de Fénix) and two others have been renovated and reopened (Rodeo II and C. P. Reg. Centro Occid.-David Viloria formerly known as “Uribana”) and other prisons have been closed (Casa de Reeducción y Trabajo Artesanal de La Planta, Internado Judicial de Coro, Cárcel Nacional de Maracaibo “Sabaneta”, Internado Judicial de Los Teques, Internado Judicial de Cumaná).<sup>34</sup>

However, in spite of these measures, human rights organizations and local experts on prison issues estimate that at the end of 2014 there were over 51,000 people in prison in Venezuela, a number which would put overcrowding levels at 170% of the capacity of the prison system, which stands at only 19,000 inmates.<sup>35</sup>

In addition, local human rights organizations report that at the end of June 2014, more than 13,765 people were held in police detention,<sup>36</sup> almost twice the number of people held in police detention at the end of 2013, when the total number of police detainees stood at 7,700.<sup>37</sup> Some of those in detention had been deprived of their liberty for months, even years, in facilities that were not designed to hold people for more than a few days. Among them were people who have been tried and convicted. Reports also suggest that the authorities have stopped moving people (both pre-trial detainees and convicted prisoners) from police facilities to prisons because of the lack of capacity in prisons.

For example, two detainees who asked for their names not to be revealed, told Amnesty International that they were detained for more than two months in a military vehicle at the Region 1 Headquarters of the National Bolivarian Guard in San Cristóbal (Táchira State).

They were detained on 21 March 2014 in the vicinity of a protest that was taking place near their home in San Cristóbal, although both said that they were not involved in the demonstration. Both alleged that they were beaten and threatened with death.

Once in the Headquarters, they were held during their entire period of detention in a patrol vehicle along with three other people. They were only allowed out of the vehicle twice a day to go to the toilet: once in the morning and once in the evening. On a few occasions they were allowed out into the open air, but that depended on which guard was on duty. They also said that while they were in the vehicle they were doused with water and tear gas.

When Amnesty International interviewed these two detainees in July 2014, they confirmed

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<sup>34</sup> See the Venezuelan Prisons Observatory, *Informe Semestral, Enero-Junio 2014*.

<sup>35</sup> See the Venezuelan Prisons Observatory, *Annual Report 2014*.

<sup>36</sup> See the Venezuelan Prisons Observatory, *Informe Semestral, Enero-Junio 2014*.

<sup>37</sup> See the Venezuelan Prisons Observatory, *Annual Report 2013*.

that there were people still detained and held in vehicles in the National Bolivarian Guard Headquarters in Táchira. The Ombudsperson in Táchira admitted to Amnesty International representatives that this was indeed the case, but said that when they had tried to intervene, the detainees themselves had preferred to remain there rather than be transferred because they were afraid of the conditions in prisons.

There is also no detailed public information about the resources allocated to the provision of food, water and sanitation, and medical care and treatment in detention facilities.

In recent years, inmates have organized protests, including hunger strikes, and some have even carried out acts of self-harm, in protest at delays in the justice system, the lack of food and clean drinking water in prisons, unhygienic conditions of detention, the lack of medical care, the failure to provide transport to take them to hearings so that their cases could progress through the courts, and the risk of being transferred to prisons notorious for their violence where prisoners are at risk of being killed by other inmates. The local human rights organization Venezuelan Prisons Observatory, has estimated that only in 2014, there were 35 protests, including ten hunger strikes and 24 incidents of inmates self-harming.<sup>38</sup>

In November 2014, during a riot in the C. P. Reg. Centro Occid.-David Vilorio, in Lara State, in protest for the ill-treatment of inmates following the appointment of a new prison director, according to the Venezuelan Prison Observatory, a group of 50 inmates died and other 150 suffered from intoxication after ingesting alcohol and medicines from the prison pharmacy. Inmates lodged complaints of ill-treatment to the human rights organization, including beatings, being forced to stand up naked in the sun for long periods of time and being forced to stand holding a tear gas canister.<sup>39</sup>

In addition, Amnesty International received information during the last year about one suicide and at least two attempted suicides of people in pre-trial detention. Two detainees were held for months in a building of the Intelligence Bolivarian National Services in an underground cell with little or no access to natural light and limited contact with their lawyers.<sup>40</sup> Another detainee was arbitrarily detained for over a year in a high security prison and denied several requests from his lawyer to be conditionally released due to the lack of clear evidence against him and medical reports by the Public Prosecutor's Office raising concerns about his mental health and having suicidal thoughts.<sup>41</sup>

The authorities have acknowledged the crisis in the country's prisons and have initiated a

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<sup>38</sup> See Venezuelan Prisons Observatory, *Annual Report 2014*.

<sup>38</sup> See Venezuelan Prisons Observatory, *Informe Semestral, Enero-Junio 2014*; and Venezuelan Prisons Observatory, *Informe Anual 2014*.

<sup>39</sup> See Venezuelan Prisons Observatory, *Annual Report 2014*.

<sup>40</sup> Rodolfo González who was detained in April 2014 accused of association to commit a crime, possession of explosives and traffic of fire arms, in relation to the 2014 protests, was held at the Bolivarian National Security Services' headquarters, in Caracas, in an underground cell, where he killed himself in March 2015 after learning that he will be transferred to a high security prison. In April 2015, Lorent Saleh, who has been held for eight months also at the Bolivarian National Security Services' headquarters, on charges of attempting to disseminate false information, intimidation of public order, falsification of documents and facilitating the illegal entry of foreign citizens; attempted to commit suicide.

On 2 March 2015, the Inter-American Commission on Human Rights issued precautionary measures on his behalf and that of another detainee held at the same location (<http://www.oas.org/es/cidh/decisiones/pdf/2015/MC223-13-ES.pdf>).

<sup>41</sup> See the case of Marcelo Crovato under *Lack of medical care in prisons*, page 30.

number of measures to address overcrowding and delays in the justice system. Since 2012, the Prison Services Ministry has led the implementation of the Cayapa Judicial Plan. This is a comprehensive plan involving the Prison Services Ministry, the Attorney General's Office, and the Office of the Ombudsperson, as well as judges and defence lawyers. Members of these institutions visit detention centres, interview detainees and examine legal documents in order to assess the situation and decide there and then if the detainee can be released. According to press reports, by January 2014 the Cayapa Judicial Plan had resulted in the release of 13,224 detainees who had the right to be released or where alternatives to detention could be applied.<sup>42</sup>

However, in spite of these measures, local human rights organizations still estimate that over 60% of the prison population are awaiting trial.

### C. VIOLENCE IN PRISONS

Security in prisons is the responsibility of civilian guards, whereas security around the external perimeter of the facilities is under the remit of military personnel, in particular officers of the National Bolivarian Guard. In many facilities prison guards avoid going into specific areas where prisoners are held, effectively abandoning them to their fate, which encourages inmates to take over and govern themselves.

The availability of firearms in prisons is a key source of violence and heightens the risks to life and integrity of people deprived of their liberty. The arms confiscated following security operations have shown that prisoners possess firearms, including semi-automatic and assault weapons and hand grenades. As a result, the lives and physical integrity of detainees are in constant danger. According to official figures, between January 2004 and the end of 2014, there were 4,791 detainees dead and 9,931 injured. Despite claims by the authorities that prison reforms have tackle levels of violence, the official figures put the number of deaths in 2014 at 140.<sup>43</sup> The Venezuelan Prisons Observatory's records indicate that the numbers could be higher. Between 1999 and 2014, it registered 6,472 deaths and 16,387 injuries in Venezuelan prisons. In 2014 alone, 309 deaths and 179 injuries were reported in prisons. According to the Observatory, 41 detainees died and 239 others were injured while in police detention in 2013. In the first six months of 2014, seven detainees died and 20 others were injured while in police custody.<sup>44</sup>

The vast majority of deaths were caused by the use of weapons, including firearms, and most were the result of violence between prisoners (to gain and maintain control of areas of the prison, to settle scores or for failure to pay "protection money" or to comply with other rules laid down by gang leaders). Available information points to a persistent failure by the

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<sup>42</sup> See *El Universal*, "Plan Cayapa dejó en libertad a 13.224 presos en dos años", 27 January 2014, available at <http://m.eluniversal.com/sucesos/140127/plan-cayapa-dejo-en-libertad-a-13224-presos-en-dos-anos>.

<sup>43</sup> See Observaciones finales sobre los informes periódicos tercero y cuarto combinados de la República Bolivariana de Venezuela, CAT/C/VEN/CO/3-4, 12 December 2014, para. 19 available at [http://tbinternet.ohchr.org/\\_layouts/treatybodyexternal/Download.aspx?symbolno=CAT%2fC%2fVEN%2fCO%2f3-4&Lang=en](http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CAT%2fC%2fVEN%2fCO%2f3-4&Lang=en)[http://tbinternet.ohchr.org/\\_layouts/treatybodyexternal/TBSearch.aspx?Lang=en&TreatyID=1&DocTypeID=5](http://tbinternet.ohchr.org/_layouts/treatybodyexternal/TBSearch.aspx?Lang=en&TreatyID=1&DocTypeID=5)

<sup>44</sup> See the Venezuelan Prisons Observatory, *Informe Semestral, Enero-Junio 2014*.

authorities to exercise control over the lives of prisoners in more than half of the country's detention facilities and to the continued existence of self-rule imposed by some prisoners over other inmates through the use of violence and threats.

In addition to prisoners killed and injured, the Venezuela Prisons Observatory has also documented the deaths of four prison guards and National Bolivarian Guard officers and the injury of eight others, as well as the death of one person and the injury of 13 others either while visiting a prison or as a result of violence inside or in the vicinity of prisons in 2013.

There are also concerns about human rights violations committed by prison personnel during operations to retake control of some prisons. Reports indicate that the use of excessive force in these operations have resulted in death and people injured. On 25 January 2013, a joint operation by prison guards and National Guard officers carried out in the Central-West Region Prison in the city of Uribana, Lara State, left 58 people dead and 90 injured. The authorities announced that an investigation into the incident would be initiated; however, more than two years later, the outcome has not been made public.

Information about prison monitoring mechanisms is also lacking, which makes it difficult to assess how effective such mechanisms are in ensuring the human rights of people deprived of their liberty. For example, the Ombudsperson's Office, whose mandate includes ensuring that the rights and security of people deprived of their liberty are respected, has not published details of actions undertaken and the action plans that have been put in place. According to the Ombudsperson's Office's 2012 annual report, it carried out 386 prison inspections. However, the annual report does not specify which prisons were visited, the results of these inspections or what follow-up actions are being taken to address problems identified during the inspections.

Since 2006, both the Inter-American Court of Human Rights and the Inter-American Commission on Human Rights have ordered precautionary and provisional measures in relation to the situation in nine Venezuelan prisons. However, hundreds of inmates have lost their lives during these years as a result of prison violence. According to the Venezuelan Prisons Observatory, in 2014 alone, 64 inmates died and 7 were injured in penal institutions where precautionary measures were requested.<sup>45</sup>

#### D. LACK OF MEDICAL CARE IN PRISONS

**Marcelo Crovato**, a lawyer working with the organization Venezuelan Penal Forum, was detained on 22 April 2014, when he arrived at his clients' home in order to represent them during a police raid on their house in Chacao municipality in the capital, Caracas. The police were looking for evidence linked to his support and funding for the 2014 anti-government protests.

Marcelo Crovato is accused of endangering safety on a public road, incitement to break the law, public intimidation and conspiracy to commit a crime. These offences carry sentences of at least 15 years' imprisonment. To date the authorities have not produced any credible evidence to support the charges against him or implicating him in criminal acts.

In December 2014 Marcelo Crovato attempted suicide at the Capital Region Central Prison, Yare III, where he was being held.

The medical report of a psychiatric assessment carried out by the Public Prosecution Service

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<sup>45</sup> See the Venezuelan Prisons Observatory, *Informe Anual 2014*.

itself in October 2014, a few months before his attempted suicide, stated that: “His emotional instability and the appearance of thoughts of death indicate that there is a serious risk of suicide linked to current living conditions and circumstances.” Despite this report, the authorities took no preventive measures for several months to safeguard Marcelo Crovato’s life nor provided medical or psychological attention, until 26 February 2015, when the judge in charge of his case ordered that he be placed under house arrest due to the effect his pre-trial detention in prison was having on him.

## RECOMMENDATIONS TO THE VENEZUELAN AUTHORITIES

- Ensure prisons and detention centres meet international human rights standards, including the standard minimum rules for the treatment of prisoners.
  
- Make available detailed information regarding conditions in all detention centres, including police stations.
  
- Make available detailed information on the impact that recent reforms introduced in some detention centres have had to bring them in line with international human rights standards, including the standard minimum rules for the treatment of prisoners.
  
- Make available detailed information on the plans, timescale and resources allocated to implement reforms in the remaining detention centres, in order to bring them in line with international human rights standards, including the standard minimum rules for the treatment of prisoners.
  
- Promote the application of alternatives to imprisonment, especially for minor offences, whenever possible, in order to prevent prolonged pre-trial detention and address prison overcrowding.
  
- Ensure that the wellbeing, security and integrity of all those deprived of their liberty are protected and monitored by prison staff. In order to ensure that these duties are fulfilled, sufficient resources, including human resources, must be allocated to prison staffing.
  
- Ensure that operations undertaken to regain control of any prison facility are carried out in accordance with international human rights law and standards, that any complaint of excessive use of force during these operations is properly investigated in a thorough and impartial manner, and that the outcome is made public.

# ATTACKS, THREATS AND INTIMIDATION OF HUMAN RIGHTS DEFENDERS (ARTICLES 2, 6, 19 AND 22)<sup>46</sup>

The continuous attacks, smear and intimidation directed against human rights defenders and journalists are a cause of particular concern. These have continued and in some cases intensified as a result of the 2014 protests and their work in defending the rights of hundreds of victims of torture and other ill-treatment, excessive use of force and arbitrary detention.

To date, the authorities have failed to take action to bring those responsible to justice and to guarantee that human rights defenders can carry out their work without fear of reprisals. In addition, the authorities, at the highest level have been involved in smearing human rights defenders for their legitimate work.

Recognizing the legitimacy of the work carried out by human rights defenders and granting the necessary protection for them to work in a safe and enabling environment does not imply a special status for them. International human rights law establishes and protects the right to defend human rights, as the UN Declaration on Human Rights Defenders states.

Special mechanisms are required in order to protect human rights defenders from abuses inflicted on them for exercising their legitimate work. Firstly, those who defend human rights must be recognized as human rights defenders and their work as an important part for the promotion of human rights and the rule of law. Secondly, the authorities must take specific measures to address the risks they face directly related to their human rights work or arising from it in order to ensure that they provide the necessary conditions for defenders to carry out their work. States also have an obligation to ensure that they undertake thorough and effective investigations and bring to justice those responsible for the abuses.

**Humberto Prado** of the Venezuelan Prisons Observatory has been repeatedly intimidated and threatened. In February 2014, in the context of the demonstrations that began that month, the then Minister of the Interior accused Humberto Prado of being involved in violent acts during the protests and of conspiring to destabilize the government and the prisons.<sup>47</sup> In October 2014, the President of the National Assembly read out on his weekly television

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<sup>46</sup> **Article 2:** “each State Party to the present Covenant undertakes to respect and to ensure to all individuals within its territory and subject to its jurisdiction the rights recognized in the present Covenant, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status”. Article 6: “every human being has the inherent right to life”. Article 22: “

1. Everyone shall have the right to freedom of association with others, including the right to form and join trade unions for the protection of his interests”.

<sup>47</sup> See World Organisation Against Torture, *Venezuela: Nuevos actos de difamación contra el Sr. Humberto Prado Sifontes*, <http://www.omct.org/es/human-rights-defenders/urgent-interventions/venezuela/2013/05/d22246/> and <http://www.derechos.org/ve/2013/05/07/omct-venezuela-nuevos-actos-de-difamacion-contra-el-sr-humberto-prado-sifontes/>.



programme information allegedly sent by a member of the audience about Humberto Prado's visit to Panama at the end of September, stating that he had met "strange people" there.<sup>48</sup> In fact, Humberto had participated in a Regional Forum on the Optional Protocol to the Convention against Torture organized by the Association for the Prevention of Torture (APT). In the same program, viewers were asked to "remember that he has close links with prison mafias and was always behind public order and prison disturbances".<sup>49</sup>

In November 2014, the President of the National Assembly once again criticized Humberto Prado and Carlos Correa, a member of the human rights organization Public Space, for their trip to Europe to appear before the Committee against Torture while it was reviewing Venezuela's human rights record.<sup>50</sup>

This latest incident is not isolated. Despite the commitment by Venezuelan authorities to the respect of human rights defenders before the Committee against Torture in November 2014, Amnesty International has continued to receive an increasing number of reports about harassment against human rights defenders after they have denounced human rights violations before international and regional human rights bodies.

On 20 March 2015, **Marco Antonio Ponce**, director of the Venezuelan Observatory of Social Conflict, OVCS (Observatorio Venezolano de Conflictividad Social), **and another eleven human rights defenders** were harassed and intimidated at the airport in Caracas on their return from Washington DC, where they had taken part in hearings before the Inter-American Commission of Human Rights.

The human rights defenders reported having been watched, followed, photographed and filmed with cell phones by at least five men without identification, and recognized some of them as the same following or photographing defenders on different itineraries. These actions occurred during arrival at the airport when exiting the plane, on their way to immigration, during presentation of documents in immigration, during baggage collection and customs check and when leaving the airport facilities. The unidentified men, who came and went freely in non-public areas of immigration, openly harassed the group of human rights defenders.

This incident took place after the President of the National Assembly, Diosdado Cabello, informed in his weekly television program *Con el Mazo Dando* that a group of human rights defenders, who he identified by name, had come before the Inter-American Commission. During the program he also made public the day and time when they were returning from Washington to Venezuela.<sup>51</sup>

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<sup>48</sup> Statements made on the programme *Con el Mazo Dando*, broadcast on 9 October 2014 by the television channel, Venezolana de Televisión, available at <http://www.youtube.com/watch?v=WbeArn2s-gQ>, <http://www.youtube.com/watch?v=WbeArn2s-gQ>, last visited 14 October 2014.

<sup>49</sup> Statements made on the programme *Con el Mazo Dando*, broadcast on 9 October 2014 by the television channel, Venezolana de Televisión, available at <http://www.youtube.com/watch?v=WbeArn2s-gQ>, last visited 14 October 2014.

<sup>50</sup> Statements made on the programme *Con el Mazo Dando* broadcast on 6 November 2014 by the television channel, Venezolana de Televisión, available at <https://www.youtube.com/watch?v=COY03Wf-hG4>, last visited 18 March 2015.

<sup>51</sup> Marco Antonio Ponce (OVC) encabeza listado de las ONG que viajan a Washington DC y Miami para conspirar contra el Gobierno de Venezuela, available at: <http://www.conelmazodando.com.ve/marco-antonio-ponce-ovc-encabeza-listado-de-las-ong-que-viajan-a-washington-dc-y-miami-para-conspirar-contra-el-gobierno-de-venezuela/>

On 20 March 2015, the Inter-American Commission expressed concern that human rights defenders were intimidated, discredited and singled out by high-level State authorities, as a result of having exercised their right to come before the regional body.<sup>52</sup>

A day later, the Inter-American Commission issued precautionary measures on behalf of Marco Ponce.<sup>53</sup> To date, Amnesty International has no information on the measures the authorities have taken to protect Marco Ponce's life and physical integrity and ensure that he is able to carry out his work as a human rights defender without fear of reprisals.

In recent years, **Víctor Martínez**, a human rights defender in Barquisimeto, Lara State, has been attacked on a number of occasions, including after the death of his son, Mijail Martínez, in 2009. For many years, Víctor Martínez has worked to combat corruption and human rights violations committed by the police in Lara State. In January 2012, he was the target of an assassination attempt. In the summer of 2013, he learned that the two men arrested in connection with the murder of his son were at liberty. One had been released on bail and the other appeared to have escaped from prison.

Despite several calls to protect him, on 6 April 2015 Víctor Martínez was once again victim of an attack. He was on his way home from a meeting with different civil society organizations to organize activities in response to the human rights violations that occurred during protests over the last year in Venezuela. According to his testimony, two men approached his car as he was trying to park outside his home and pointed their guns at him. Víctor Martínez cried for help and after struggling with one of the two men he managed to drive away in his car.

After this incident he did receive police protection. However, in May 2015 Amnesty International learned that the protection measures granted to him had not been not adequately implemented and that he still fears for his safety. Víctor Martínez complained that he needed to go to the local police station himself to pick up the police officer in charge of his protection and bring him back in the evening, and that on many occasions he has been told when he arrives at the police station that no one is available to offer him and his family protection for the day.<sup>54</sup>

Amnesty International has also received reports of the harassment of lawyers representing victims of human rights violations, contrary to the UN Basic Principles on the Role of Lawyers.

**Alfredo Romero, along with other members of the lawyers' network Venezuelan Penal Forum**, have frequently been attacked and discredited by the President of the National Assembly on his weekly television programme, *Con el Mazo Dando*. Alfredo Romero has represented hundreds of people detained during the protests, many of whom were victims of arbitrary detention, torture and other ill-treatment.<sup>55</sup>

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<sup>52</sup> See Press Release IACHR Expresses Alarm over Intimidation in Venezuela directed against People Who Come before the Inter-American Human Rights System, available at [http://www.oas.org/en/iachr/media\\_center/PReleases/2015/032.asp](http://www.oas.org/en/iachr/media_center/PReleases/2015/032.asp)

<sup>53</sup> See Comisión Interamericana de Derechos Humanos, Resolución 9/15, Medida Cuatelar 17-15, available at <http://www.oas.org/es/cidh/decisiones/pdf/2015/MC71-15-es.pdf>

<sup>54</sup> See Amnesty International Urgent Action, *Demand adequate protection for defender*, further information on UA: 220/13, Index: AMR 53/1693/2015, 21 May 2015, available at <https://www.amnesty.org/en/documents/AMR53/1693/2015/en/>

<sup>55</sup> Statements made on the programme *Con el Mazo Dando* broadcast 12 May 2014 by the television channel, Venezolana de Televisión that: Alfred Romero of Penal Forum – one of the ones who go around beating their breasts, talking about peace and who knows what else. You are actively conspiring for a coup d'etat". Available at <https://www.youtube.com/watch?v=vH5mH3fLEN4>, last visited 18 March 2015.

In February 2015, **Alfredo Romero** told Amnesty International that the National Intelligence Service had requested that the Public Prosecutor's Office intercept his communications and those of members of his family in connection with an investigation into charges of conspiracy and association to commit a crime linked to an alleged plan to destabilize the government of President Nicolás Maduro. Amnesty International is concerned that the same institution that is accused of grave human rights violations in cases to which Venezuelan Penal Forum is providing legal representation is seeking access to the communications of the Director of the organization. This could undermine the right of detainees and those facing charges to a fair trial, in particular their right to a legal defence and confidential communications and consultations with their legal representatives and also jeopardize the right to access to justice of victims of human rights violations.<sup>56</sup>

On 17 March 2015, the Inter-American Commission on Human Rights issued precautionary measures on behalf of Alfredo Romero and other members of Venezuela Penal Forum<sup>57</sup> In spite of this, Alfredo Romero has reported to Amnesty International that to date, they have received no protection from the authorities and that the attempts to discredit and the harassment against him and his organization has continued.

**Omar Ernesto Silva Martínez**, a private defence lawyer who has worked with Penal Forum, made a formal complaint on 14 October 2014 after he received several threatening calls and was followed by people who, judging by the cars they were using and the weapons they had, he believes were members of the intelligence services. This surveillance reportedly started after Omar Silva represented a Venezuelan citizen extradited from Colombia and charged with rebellion in Venezuela.

On 28 April 2015, **Horacio Giusti**, a journalist and volunteer press officer at Foro Penal Venezolano was beaten by two men on motorbikes. The men asked him to identify himself and then hit him. Amnesty International believes that this attack is directly linked to his work at Foro Penal Venezolano.

According to Horacio Giusti's testimony, on the days prior to this attack, he had been threatened on two separate occasions. On 15 April 2015, he was leaving a press conference organized by his organization, when two men on motorbikes pointed at him in an intimidating manner. Ten days later he found a threatening note on the front door of his house that read: "Warning, keep playing the star journalist and you will end up crashed. You know you are in the spotlight, don't cross the line. Be responsible. Do not make a mistake". When he tried to report these incidents to the Public Prosecutor's office and the police, Horacio Giusti was told that they could not file his complaint as he was unable to identify the alleged perpetrators and no crime had been committed. A day later, he was beaten by unidentified men.

Horacio Giusti has reported the attack to the Public Prosecutor's office. At the time of

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<sup>56</sup> Principle 22 of the UN Basic Principles on the Role of Lawyers, adopted by the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, Havana, Cuba, 27 August to 7 September 1990 (A/CONF.144/28/Rev) states: "Governments shall recognize and respect that all communications and consultations between lawyers and their clients within their professional relationship are confidential."

<sup>57</sup> See Comisión Interamericana de Derechos Humanos, Resolución 8/15, Medida cautelar No 142-13, available at <http://www.oas.org/es/cidh/decisiones/pdf/2015/MC143-13-ES.pdf>

writing, he had not been granted any protection measures. Horacio Giusti has been interviewed by the public prosecutor in charge of investigating his complaint, but Amnesty International is not aware of the outcome of the investigation.<sup>58</sup>

Human rights defenders and lawyers representing victims of human rights violations have repeatedly expressed concern to Amnesty International that in a society as polarized as that in Venezuela these continuing attacks and smear campaigns on the part of the authorities at the highest level could incite government sympathizers, including pro-government armed groups, to carry out physical attacks on them.

Amnesty International considers that, to date, the authorities have failed to fulfil their obligation to ensure the protection of human rights defenders and victims of human rights violations who lodge complaints, their families and legal representatives.

## RECOMMENDATIONS TO THE VENEZUELAN AUTHORITIES

- Ensure that human rights defenders, victims of human rights violations, their relatives and lawyers receive full protection, in accordance with their wishes, and undertake comprehensive investigations into their complaints.
- Ensure that lawyers are able to fulfil their professional role without intimidation, hindrance, harassment or undue interference.
- Explicitly and publicly recognize the legitimacy of the work of human rights defenders. This must include public declarations recognizing their contribution to the promotion of human rights and the rule of law.

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<sup>58</sup> See Amnesty International Urgent Action *Journalist beaten and threatened*, UA: 115/15 Index: AMR 53/1714/2015 Venezuela , 22 May 2015, available at <https://www.amnesty.org/en/documents/amr53/1714/2015/en/>

# IMPUNITY (ARTICLES 2, 6 AND 9)<sup>59</sup>

Impunity for violations of human rights persists. Amnesty International acknowledges the efforts of the Public Prosecution Service to investigate and prosecute human rights violations. For example, in 2008 it created the Criminal Investigation Units against Violations of Fundamental Rights (Unidades Criminalísticas Contra la Vulneración de Derechos Fundamentales) which investigate human rights violations in which state officials are believed to be implicated. At present, two Units are operational: one in the Caracas metropolitan area and the other in the city of Barquisimeto, Lara State.

Despite these initiatives, the Public Prosecution Services' own figures show that in the majority of cases of human rights violations the perpetrators are not brought to justice. Official statistics show that only between 3% and 3.1% of formal complaints of human rights violations result in suspects being charged and brought before a judge. For example, in 2009, of the 9,610 reports of human rights violations received, the Attorney General's Office only brought charges in 315 cases;<sup>60</sup> in 2010, 9,131 reports were received, but in only 266 cases charges were presented;<sup>61</sup> and in 2011, 7,269 reports were received, but only 226 resulted in charges being brought.<sup>62</sup> In 2012, the Attorney General's Office stopped providing these statistics and removed the box containing this data from its report. As a result, it is not known what progress, if any, has been made in the fight against impunity in recent years.

According to information provided to the Inter-American Commission on Human Rights by local human rights organizations, "of the 8,813 new cases of human rights violations presented in 2012 to the Public Prosecutor's Office, 97% were dismissed or archived; charges were brought in the remaining 3% of cases".<sup>63</sup>

In cases of violations of the right to personal integrity recorded recently, in particular reports received of violations or abuses of human rights committed in the context of anti and pro-

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**Article 2:** "each State Party to the present Covenant undertakes to respect and to ensure to all individuals within its territory and subject to its jurisdiction the rights recognized in the present Covenant, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status. Article 6: "every human being has the inherent right to life". Article 9: "everyone has the right to liberty and security of person".

<sup>60</sup> Public Prosecution Service of the Bolivarian Republic of Venezuela: Annual Report 2009, Area Operations Section, p. 21, available at [http://www.mp.gob.ve/c/document\\_library/get\\_file?p\\_l\\_id=48590&folderId=48616&name=DLFE-1403.pdf](http://www.mp.gob.ve/c/document_library/get_file?p_l_id=48590&folderId=48616&name=DLFE-1403.pdf)

<sup>61</sup> Public Prosecution Service of the Bolivarian Republic of Venezuela: Annual Report 2010, p. 20, available at [http://www.mp.gob.ve/c/document\\_library/get\\_file?uuid=cd583d88-cf06-4b6a-830d-d540a56772ca&groupId=10136](http://www.mp.gob.ve/c/document_library/get_file?uuid=cd583d88-cf06-4b6a-830d-d540a56772ca&groupId=10136)

<sup>62</sup> Public Prosecution Service of the Bolivarian Republic of Venezuela: Annual Report 2011, p. 41 available at [http://www.mp.gob.ve/c/document\\_library/get\\_file?uuid=c9efb1a0-93db-4320-8c9f-be4d1a49397b&groupId=10136](http://www.mp.gob.ve/c/document_library/get_file?uuid=c9efb1a0-93db-4320-8c9f-be4d1a49397b&groupId=10136)

<sup>63</sup> See 2012 Annual Report of the Inter-American Commission of Human Rights, para. 378, available <http://www.oas.org/en/iachr/docs/annual/2012/TOC.asp>.

government protests between February and July 2014, Amnesty International has welcomed the commitment and efforts of the Public Prosecution Service to clarify responsibility.

According to the official figures published by the Public Prosecution Service, up until February 2015, 238 investigations had been initiated but charges have only been filed in 13 cases. Two of the cases relate to charges of murder, in the case of the death of Bassil Dacosta and Geraldín Moreno. The remaining 11 cases relate to ill-treatment. Amongst them, is the case brought against a member of the Bolivarian National Guard accused of ill-treatment of Juan Manuel Carrasco González and another young man detained and ill-treated with him in Valencia, Carabobo State.<sup>64</sup>

These 13 cases involve a total of 30 members of the security forces charged with human rights violations. Three have been convicted of ill-treatment. Fourteen have been detained and an arrest warrant has been issued, but not served; the remainder have been granted conditional release.<sup>65</sup>

An arrest warrant was issued in February 2014 for a member of the National Guard in connection with the treatment of **Marvinia Jiménez**. She was detained during a protest in the city of Valencia and beaten with a helmet while she laid on the ground, restrained by officers. The incident occurred while Marvinia was filming the protest and the response of law enforcement officials to the demonstration. However, more than a year since the arrest warrant was issued against the officer believed to be responsible for the attack, it had yet to be served. The officer was believed to remain on active service with the National Guard. Marvinia Jiménez remains under investigation for alleged offences of obstructing a public road, incitement to commit a crime, public incitement, injuring an officer, disturbing public order and theft.<sup>66</sup>

Other cases of violations of the right to physical integrity documented by Amnesty International between February and July 2014 are under investigation by the Attorney General's Office, but the perpetrators have yet to be identified. These include Moisés Guánchez, Daniel Quintero, Carlos Villamizar, Wuaddy Moreno, Rafael Ángel Cardozo Maldonado, John Michael Ortíz and Guillermo Sánchez.<sup>67</sup>

In other cases of violations of the right to physical integrity documented by Amnesty International during the same period, the Attorney General's Office, has recently informed the organization that the cases have been dismissed. These include Gloria Tobón, Yaneuliz Vaca and Anthony Carrero.<sup>68</sup>

Amnesty International remains concerned of the decision of Venezuela to denounce the American Convention on Human Rights and its decision to withdraw recognition of the jurisdiction of the Inter-American Court of Human Rights. The Inter-American Court represents a measure of last resort and hope for thousands of victims of human rights

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<sup>64</sup> See the case of Juan Manuel Carrasco in Amnesty International report *Venezuela: the faces of impunity one year since the protests, victims are still waiting for justice* (Index: AMR 52/1239/2015), March 2015, p. 29, available at <https://www.amnesty.org/en/documents/amr53/1239/2015/en/>.

<sup>65</sup> See the report of the Public Prosecution Service, *Informe Hechos de Violencia 2014*, of 12 February 2015.

<sup>66</sup> See the case of Marvinia Jiménez in Amnesty International report *Venezuela: the faces of impunity one year since the protests, victims are still waiting for justice* (Index: AMR 52/1239/2015), March 2015, p. 32, available at <https://www.amnesty.org/en/documents/amr53/1239/2015/en/>

<sup>67</sup> See cases on pages 14-20 of this report.

<sup>68</sup> See cases on pages 13 and 20x of this report.

violations and their relatives through the American continent and is a necessary complement to national systems of justice. Closing this door for many victims of human rights has implied an additional barrier for victims and their families to access their right to truth justice and reparation.

## REPRISALS AGAINST VICTIMS AND RELATIVES WHO REPORT HUMAN RIGHTS VIOLATIONS

Amnesty International interviewed tens of victims, relatives, lawyers and human rights defenders in the months following the February 2014 protests. Most of the victims and relatives interviewed expressed a lack of confidence in their ability to get justice and were afraid of reporting abuses because of possible reprisals. In several cases, the victims live in the same neighbourhoods as the alleged abusers, who remain on active service, and have been the targets of intimidation and harassment. Even in those cases where victims and their families have been granted protection, the measures have not always put into effect.

For example, **Ghina Rodríguez**, the wife of Guillermo Sánchez<sup>69</sup> who died on 12 March 2014 in Valencia, was the target of a campaign of threats and harassment. Other members and supporters of the Victims' Anti-repression Front (Frente de Víctimas contra la Represión) have also been the targets of threats by unidentified individuals in plainclothes. Marvinia Jiménez, Rosa Orozco (the mother of Geraldine Moreno) and Juan Manuel Carrasco are members of this group.<sup>70</sup>

**Viczliz Faudul**, a reporter and supporter of the Front, was threatened in June 2014. Stones were thrown at her home together with a leaflet which read: "We see that you did not heed the first warning... Now you see how we have people infiltrated everywhere and how we follow you everywhere. This is your second warning. You will not get a third. This time it was stones. The next time it will be bullets." The threat included a photograph of members of the Front, including Ghina Rodríguez.

The **Barrios family** in Aragua State has been the target of threats and intimidation for nearly two decades. Ten members of the Barrios family have been killed since 1998 in circumstances suggesting the involvement of members of the police. The most recent killing took place on 16 May 2013. Other members of the family have been subjected to various kinds of intimidation and attacks by the police. In 2004, the Inter-American Commission on Human Rights issued the first order for precautionary measures for the family. This was followed by other similar provisional measures ordered by the Inter-American Court of Human Rights. However, the Barrios family continues to be subjected to harassment, intimidation and new threats.

According to available information, investigations and judicial proceedings relating to the killings of members of the Barrios family have made little progress. In only one case have two police officers been found guilty of the killing of Narciso Barrios. Amnesty International has no knowledge of investigation having been initiated into the harassment, intimidation and

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<sup>69</sup> See the case of Guillermo Sánchez on page 16-17 of this report.

<sup>70</sup> See their cases on pages 13 and 38 of this report.

threats they have suffered for years.<sup>71</sup>

## RECOMMENDATIONS TO THE VENEZUELAN AUTHORITIES

- Undertake independent, comprehensive and prompt investigations into all cases of human rights violations, bring those responsible to justice, and ensure that those convicted receive a punishment appropriate to the seriousness of the crime.
- Ensure that investigations into allegations of torture and other ill-treatment are carried out thoroughly and are not based solely on forensic medical reports. They should include interviews with witnesses and victims; perpetrators and their superiors; inspections of the scene of the crime; and investigations into other reports relating to human rights violations with a view to identifying patterns of abuse by the officials implicated.
- Ensure the security of those lodging complaints is protected, in accordance with their wishes.
- Suspend any official suspected of involvement in human rights violations pending completion of an impartial and independent investigation and ensure that no public official who is found to be responsible, either directly or indirectly, for human rights violations is employed by institutions responsible for public security, public prosecution or justice administration.
- Ensure the full cooperation of police and military institutions in investigations and in the detention of people who are the subject of arrest warrants or court orders.
- Ensure that all victims and their relatives receive adequate reparation and rehabilitation.
- Regularly make public information on complaints of human rights violations; provide data disaggregated by state and by the institution suspected of involvement; and give details of the outcome of investigations undertaken and any punishment imposed.
- Ensure that those who suffered violations of their human rights and who did not receive justice in the national courts have access, without risk of reprisals, to the Inter-American human rights system as well as to UN bodies responsible for the protection of human rights.

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<sup>71</sup> See Amnesty International: Urgent Action: Police threaten and intimidate Barrios family (Index: AMR 53/019/2014); Urgent Action: Murders of family continue; 17-year-old killed (Index: AMR 53/007/2013); Urgent Action: Demand protection for man and family: Néstor Caudi Barrios (Index: AMR 53/002/2011); Urgent Action: Family at risk after killing (Index: AMR 53/007/2009); Urgent Action: Further Information on: Fear for safety/Death threats (Index: AMR 53/005/2005); and Urgent Action: Further information on: Fear for safety/Death threats (Index: AMR 53/020/2004).



# INDEPENDENCE OF THE JUDICIARY (ARTICLES 2, 9 AND 14)<sup>72</sup>

Amnesty International considers that the national justice system does not have the resources necessary to guarantee the right to justice for victims of human rights violations. The justice system is subject to interference by the government, especially in cases involving people who have openly criticized the government or where the government believes that the individuals have acted in a way that is contrary to its interests.

Recently, on 10 February 2015 Judge **Alf Fabricio Paredes** was detained. His arrest appears to be linked to a sentence he handed down in a high-profile case that did not conform to the wishes of the Attorney General. Also of great concern is the recent detention on 8 February 2015 of lawyer **Tadeo Arriechi**, apparently in reprisal for carrying out his duties and providing legal representation for a company accused of “destabilizing the economy”.

Prior to these cases, Amnesty International had raised great concern at the arrest of Judge **María Lourdes Afiuni Mora** in December 2010, just hours after she ordered the release of the banker Eligio Cedeño, a decision that was within her mandate and in line with Venezuelan law. She was detained the day after her decision was condemned by former President Hugo Chávez in a television interview in which he called for her to receive the maximum sentence of 30 years’ imprisonment. At the time of writing, María Afiuni has been released on bail pending the outcome of her trial.

Opposition politicians have also been the target of politically motivated charges.

Recently, **Antonio Ledezma**, Mayor of Caracas, was detained on 19 February 2015 in circumstances suggesting that his arrest might be politically motivated. According to the Venezuelan Mayors’ Association, at the end of February 2015, 33 of the 73 mayors belonging to opposition parties were facing legal proceedings. Antonio Ledezma was put under house arrest on 1 May to recover from a medical intervention.

**Leopoldo López**, leader of the opposition Popular Will (Voluntad Popular) party is accused of inciting violence during an anti-government protest on 12 February 2014. He has been in detention since 18 February 2014. The court found that there was no evidence to support

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<sup>72</sup> **Article 2:** “each State Party to the present Covenant undertakes to respect and to ensure to all individuals within its territory and subject to its jurisdiction the rights recognized in the present Covenant, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.” **Article 9:** “everyone has the right to liberty and security of person.

the serious charges set out in the detention order, which included terrorism, homicide and causing serious injury. However, it stated that there was evidence to support other charges which carry sentences of up to 10 years' imprisonment (arson, damage to property, incitement to commit an offence and conspiracy to commit a crime).

Leopoldo López has spent more than a year in pre-trial detention in CENAPROMIL (Centro Nacional de Procesados Militares), a military prison in Los Teques, on the outskirts of Caracas.

Amnesty International considers his detention to be politically motivated, since the charges he faces have not been substantiated by the prosecutor in charges of the case. In addition, the warrant for his arrest was issued the day after the President of the National Assembly, Diosdado Cabello, and the Minister of Foreign Affairs, Elías Jaua Milano, publicly accused him of being responsible for the violence that broke out during the protests. In addition, President Nicolás Maduro called for his imprisonment the day after his arrest. The fact that the government has made such public allegations, without credible evidence to support them, does not send a clear message that the impartiality and independence of the judiciary will be respected. It also calls into question whether the presumption of innocence, crucial to a fair trial, is being respected in the case Leopoldo López.

In August 2014 the UN Working Group on Arbitrary Detention stated that the detention of Leopoldo López is arbitrary. Based on the opinion of the working group, the High Commissioner for Human Rights has urged the authorities to release him immediately.<sup>73</sup>

**Daniel Ceballos**, former Mayor of San Cristóbal (Táchira State) and a member of the opposition party Popular Will (Voluntad Popular) party, was detained on 19 March 2014, when he was the Mayor of San Cristobal, by members of the National Intelligence Service (Servicio Bolivariano de Inteligencia Nacional, SEBIN).

At the time of writing he remained in detention in the high risk prison of San Juan de los Morros, Guárico State, where he was transferred in the early hours of the morning on 23 May 2015, raising concerns about his safety.<sup>74</sup> His transfer took place weeks after the Inter-American Commission on Human Rights issued precautionary measures, in April 2015, on his behalf and that of Leopoldo López and ordered the state to protect their life and physical integrity and ensure that their conditions of detention met international standards.<sup>75</sup>

Daniel Ceballos has been the subject of two legal proceedings. On 25 March 2014, the Constitutional Chamber of the Supreme Court of Justice sentenced him to 12 months' imprisonment and removal from the post of Mayor for contempt of court for failing to comply with a ruling by the Chamber. On 12 March 2014, the Constitutional Chamber had issued a ruling ordering a number of mayors belonging to the opposition to guarantee in their municipalities the security and other rights, such as the right to freedom of movement, during the protests that began in February 2014. This ruling was extended to include Daniel

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<sup>73</sup> Press statement from the High Commissioner of the United Nations for Human Rights, available at: <http://acnudh.org/2014/10/jefe-de-derechos-humanos-de-la-onu-urge-a-venezuela-a-liberar-a-manifestantes-y-politicos-detenidos-arbitrariamente/> with reference to the opinion adopted by the UN Working Group on Arbitrary Detention in its 70th period of sessions. N26/2014 (Venezuela). A/HRC/WGAD/2014/26, made public by Leopoldo López' legal representatives.

<sup>74</sup> See Amnesty International Urgent Action *Safety fears for detained opposition member*, Further Information UA: 33/14 Index: AMR 53/1715/2015, 25 May 2015, available at <https://www.amnesty.org/en/documents/amr53/1715/2015/en/>

<sup>75</sup> See Comisión Interamericana de Derechos Humanos, Resolución 12/2015, Medida Cuatelar No. 335-14, available at <http://www.oas.org/es/cidh/decisiones/pdf/2015/MC335-14-ES.pdf>

Ceballos only on 17 March 2014.

In addition, Daniel Ceballos is currently on trial charged with civil rebellion and conspiracy to commit a crime. The charges relate to his alleged involvement in the anti-government protests. At the time of writing, the trial was ongoing; if convicted he could face at least eight years in prison.

On 28 August 2014, the UN Working Group on Arbitrary Detention stated that it considered Daniel Ceballos to have been arbitrarily detained and called on the government to release him immediately. The opinion of the UN Working Group, adopted at its 70<sup>th</sup> session, concludes that: “the detention of Mayor Daniel Omar Ceballos was arbitrary and motivated by a desire to prevent him exercising his right to freedom of opinion and expression and his right to political participation in his capacity as an opposition Mayor”. It added that: “Mr Ceballos was arbitrarily detained because the Venezuelan Bolivarian Republic had failed to abide by international standards of judicial impartiality.”<sup>76</sup>

These detentions clearly call into question the authorities’ lack of respect for dissenting views and for the independence and impartiality of the judiciary, and illustrate the difficulties faced by judges and lawyers in carrying out their professional duties.

One of the factors that facilitates government interference in the judicial process is that most judges are appointed on a temporary basis, leaving them open to political pressure.

According to the Inter-American Commission on Human Rights’ 2012 Annual Report, out of a total of 2002 courts with 2,950 judges, only 775 had full permanent judgeships, the rest of the judges were assigned to temporary, pro tempore or interim or special substitute positions and a higher number had a status subject to arbitrary removal. In its 2013 and 2014 Annual Reports, the IACHR noted that this situation had continued.<sup>77</sup> According to press reports, in 2013, more than 60% of judges in Venezuela were on temporary, interim, short-term or provisional contracts.<sup>78</sup>

The Inter-American Commission on Human Rights has stated that, regarding the cases of judges who have been dismissed detailed in a recent report: “the fact that they occurred almost immediately after the judges in question handed down judicial decisions in cases with a major political impact, combined with the fact that the resolutions establishing the destitution do not state with clarity the causes that motivate the decision, nor do they refer to the procedure through which the decision was adopted, sends a strong signal – to society and to other judges – that the judiciary does not enjoy the freedom to adopt rulings that go against government interests and, if they do so, that they face the risk of being removed from office.”<sup>79</sup> Also more recently the Commission has reiterated its concern that the free removal

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<sup>76</sup> Opinion adopted by the UN Working Group on Arbitrary Detention at its 70<sup>th</sup> session. Number 26/2014 (Bolivarian Republic of Venezuela). A/HRC/WGAD/2014/30, paras 50-51.

<sup>77</sup> See Inter-American Commission on Human Rights, Annual report 2014, Chapter on Venezuela, paras 541-54, available at <http://www.oas.org/en/iachr/docs/annual/2014/docs-en/Annual2014-chap4Venezuela.pdf>

<sup>78</sup> *El Nacional*, “TSJ suspende normas del Código de Ética del Juez”, 11 May 2013, available at [http://www.el-nacional.com/politica/TSJ-suspende-Codigo-Etica-Juez\\_0\\_187781512.html](http://www.el-nacional.com/politica/TSJ-suspende-Codigo-Etica-Juez_0_187781512.html), last accessed, 1 October 2014.

<sup>79</sup> See Inter-American Commission on Human Rights, *Democracy and Human Rights in Venezuela*,

of judges “raise objective doubts about whether they can participate in proceedings independently, without fear of reprisals”.<sup>80</sup>

In 2009, a group of UN Special Procedures also raised concerns about “reprisals for the exercise of constitutionally guaranteed functions and the creation of a climate of terror in the judiciary and among lawyers” in Venezuela. They warned that this serves “no purpose except to undermine the rule of law and obstruct justice”.<sup>81</sup>

## RECOMMENDATIONS TO THE VENEZUELAN AUTHORITIES

- Guarantee the independence and impartiality of the judiciary, in accordance with international human rights law and standards.
- Strengthen and give the necessary resources to the Public Prosecutor’s Office and the judiciary to ensure that they are able to carry out their work effectively and without any interference from other branches of power.

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OEA/Ser.LV/II, December 2009, para. 301, available at:  
<http://www.cidh.oas.org/pdf%20files/VENEZUELA%202009%20ENG.pdf>.

<sup>80</sup> See Inter-American Commission on Human Rights, GUARANTEES FOR THE INDEPENDENCE OF JUSTICE OPERATORS. TOWARDS STRENGTHENING ACCESS TO JUSTICE AND THE RULE OF LAW IN THE AMERICAS, OEA/Ser.LV/II. Doc. 44 5 December 2013, para. 90, available at:  
<http://www.oas.org/es/cidh/defensores/docs/pdf/Justice-Operators-2013.pdf>

<sup>81</sup> UN press statement, “UN experts: President Chávez deals new blow to independence of judges and lawyers in Venezuela”, 16 December 2009, available at  
<http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=9677&LangID=E>. The statement was signed by the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, El Hadji Malick Sow; the Special Rapporteur on the independence of judges and lawyers, Gabriela Carina Knaul de Albuquerque e Silva; and the Special Rapporteur on the situation of human rights defenders, Margaret Sekaggya.

# IMPLEMENTATION OF THE LAW TO ERADICATE VIOLENCE AGAINST WOMEN (ARTICLES 2, 6, 7 AND 26)<sup>82</sup>

The 2007 Organic Law on the Right of Women to a Life Free of Violence and the inclusion in November 2014 of the crime of femicide into the 2007 Law represent an important step forward towards the criminalization and eradication of gender-based violence. According to the Public Ministry, there were 73,763 complaints of violence against women reported in 2014.<sup>83</sup>

However, to date, the implementation of the law has been slow and sufficient resources have not been allocated to ensure that women victims of gender-based violence have access to justice and other effective protection measures.

In order to ensure that the law is effectively implemented, it is vital that the authorities take urgent practical steps, including issuing a regulatory framework. Procedures for receiving and responding to reports of violence against women must be standardized in order to ensure that women have equal access to justice. In addition, courts specializing in dealing with such cases need to be strengthened. The latest figures by the Public Ministry indicate that only 0.3% of the cases are tried.<sup>84</sup>

The authorities must also ensure that there are sufficient shelters and that they have sufficient resources to guarantee women's physical and mental integrity while their cases are proceeding through the courts.

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<sup>82</sup> **Article 2:** "each State Party to the present Covenant undertakes to respect and to ensure to all individuals within its territory and subject to its jurisdiction the rights recognized in the present Covenant, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status". **Article 6:** "every human being has the inherent right to life". **Article 7** No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment. In particular, no one shall be subjected without his free consent to medical or scientific experimentation. **Article 26** All persons are equal before the law and are entitled without any discrimination to the equal protection of the law. In this respect, the law shall prohibit any discrimination and guarantee to all persons equal and effective protection against discrimination on any ground such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.

<sup>83</sup> See Ministerio Público, *Informe Anual a la Asamblea Nacional*, 2014, page 7, available at [http://www.mp.gob.ve/c/document\\_library/get\\_file?uuid=84bd8560-3906-455f-8b23-495b94b5c1bd&groupId=10136](http://www.mp.gob.ve/c/document_library/get_file?uuid=84bd8560-3906-455f-8b23-495b94b5c1bd&groupId=10136)

<sup>84</sup> See Ministerio Público, *Informe Anual a la Asamblea Nacional*, 2014, page 34, available at [http://www.mp.gob.ve/c/document\\_library/get\\_file?uuid=84bd8560-3906-455f-8b23-495b94b5c1bd&groupId=10136](http://www.mp.gob.ve/c/document_library/get_file?uuid=84bd8560-3906-455f-8b23-495b94b5c1bd&groupId=10136)

Amnesty International has documented a number of cases of violence against women, including that of **Alexandra Hidalgo**, who has spent more than 10 years seeking justice. On 21 May 2004, Alexandra Hidalgo was abducted at gunpoint as she was getting out of her car outside her place of work. She was dragged from her car and shoved her into the back of a van. She was then blindfolded and taken to a remote location where a group of men repeatedly raped and tortured her for more than seven hours. Alexandra identified one of her attackers as her former husband.

Less than two months before the attack, Alexandra had divorced her husband, Iván Sosa Rivero, who was at the time a lieutenant colonel in the Venezuelan Army. While they were married, Alejandra had been repeatedly subjected to physical, psychological and sexual abuse by her husband.

In July 2004, Iván Sosa Rivero was charged with abduction, rape and aggravated complicity to steal a vehicle. He was detained in December 2004 and held for more than four months in the National Military Detention Centre (Centro Nacional de Procesados Militares) in Ramo Verde, a military prison in Miranda State. However, he never appeared before a court; his legal counsel postponed 14 judicial hearings. In April 2005, he was released on bail and immediately absconded. He evaded justice until he was apprehended again in 2011. At present he is detained awaiting the outcome of the trial.

Two of the other five attackers were convicted of abduction and rape and sentenced to eight years' imprisonment. Their conviction was in part based on evidence that Alejandra herself obtained from her ex-husband's mobile phone. Another two suspects in the case were found not guilty and a fifth is in hiding.

## RECOMMENDATIONS TO THE VENEZUELAN AUTHORITIES

- Ensure that the Organic Law on the Right of Women to a Life Free of Violence is effectively implemented and the necessary resources are allocated.
- Promptly issue the regulatory framework of the Organic Law on the Right of Women to a Life Free of Violence.
- Standardize procedures for receiving and responding to reports of gender-based violence in order to ensure that women have equal access to justice.
- Strengthen courts specializing in dealing with cases of gender-based violence.
- Ensure that there are sufficient shelters and that they have sufficient resources to guarantee women's physical and mental integrity while their cases are proceeding through the courts

# CONCLUSIONS

Amnesty International considers that Venezuela has made progress as regards passing legislation and creating operational plans to prevent and punish torture and other ill-treatment (Articles 2 and 7), including those aimed at eradicating gender-based violence. The authorities have also made progress, through the 2006 police reform, in ensuring that protocols and training for law enforcement officials responsible for maintaining public order comply with international standards (Articles 2, 6 and 11). The Public Prosecution Service has introduced reforms to ensure the impartiality and independence of investigations into cases of human rights violations, for example through the Criminal Investigation Units Against Violations of Fundamental Rights (Unidades Criminalísticas Contra la Vulneración de Derechos Fundamentales) (Article 2).

Nevertheless, the organization is concerned about reports received regarding the conditions in detention centres and prisons which clearly amount to ill-treatment. The excessive use of force during the policing of social protests and the multiple complaints of torture and other ill-treatment lodged in recent months clearly show that the authorities are failing to comply with their human rights obligation to guarantee in practice the right of every person, without discrimination, to physical and psychological integrity and their rights to freedom of expression, peaceful assembly and association (Articles 2, 6, 7, 10, 19, 21 and 22). In order to achieve this, it is crucial that conditions in detention centres and prisons and the conduct of law enforcement officials and other security forces are brought into line with the state's international human rights obligations.

However, far from taking steps in that direction, Amnesty International is deeply concerned that in recent months the authorities have instead taken actions that clearly indicate a lack of commitment to abide by their human rights obligations, namely the adoption of a resolution allowing all sections of the armed forces to be deployed in public order operations, including public protests, without a clear definition of the exceptional circumstances that would justify their use and the use of firearms; and the arbitrary arrest of people who are critical of the authorities or who act in ways contrary to their interests. The authorities must without further delay send a clear signal of respect for the right to freedom of association and condemn unequivocally all violations against the right to life and physical integrity. They must take decisive action to guarantee that all law enforcement officials and other security forces carry out their duties in line with international human rights law and standards; and must immediately release all those arbitrarily detained.

The state continues to fail the hundreds of people who fall victim to these crimes each year, denying them their right to truth, justice and reparation and, in some cases, not responding with due diligence when they are threatened after lodging formal complaints (Article 2, 6 and 9). Official statistics clearly show that there is still much to do in order to ensure the independence and impartiality of the judiciary and to end the impunity enjoyed by the great majority of those responsible for human rights violations, including gender-based violence. The authorities must guarantee the independence of the judiciary, in accordance with international human rights standards and strengthen its institutions. Thorough, independent, comprehensive and prompt investigations must be carried out into all cases of human rights violations, those responsible must be brought to justice, and if convicted receive a punishment appropriate to the seriousness of the crime; the security of those lodging complaints must be protected, in accordance with their wishes. All those who suffered

violations of human rights and who did not receive justice in the national courts must have access, without risk of reprisals, to the Inter-American human rights system as well as to UN bodies responsible for the protection of human rights.

Following the grave human rights abuses that took place during the pro and anti-government demonstrations of 2014, the authorities stated that they will develop and implement a **National Human Rights Plan**. However, to date Amnesty International is not aware of any progress being made in this regard. Priority must be given to the implementation of a National Human Rights Plan. This plan must set out how the authorities plan to guarantee all human rights, without discrimination, assign the responsibilities of the different actors, with an appropriate timetable, budget and indicators for monitoring and evaluating compliance. The National Human Rights Plan must be the result of a national dialogue that incorporates the points of view of all the parties involved, including dissidents and opponents, as well as representatives of civil society.

A real commitment by the authorities to defend, protect and promote human rights must entail ensuring the right of every person to defend and promote human rights and creating the conditions that allow them to carry out their crucial work as human rights defenders in a safe and enabling environment. The continued and unchallenged attacks against human rights defenders, including those from high-ranking officials, are the clearest indication yet of the disregard of the Venezuelan authorities for the protection of human rights for all, without discrimination. Human rights defenders must be able to carry out their legitimate work without fear of reprisals. The authorities must explicitly recognize the legitimacy of the work of human rights defenders and publicly recognise their contribution to the promotion of human rights.





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