



Foro Penal
venezolano



**POLITICALLY MOTIVATED DETENTIONS, TORTURE, OTHER
CRUEL, INHUMAN OR DEGRADING TREATMENT, AND
KILLINGS
(2014-2015)**

SUMMARY, MAY 2015

* The Foro Penal Venezolano (Venezuelan Penal Forum) is an NGO which has worked defending human rights since 2002, offering free assistance to victims of arbitrary detentions, torture and cruel, inhuman and degrading treatment. The Venezuelan Penal Forum currently has 200 volunteer lawyers, regional offices throughout the country and more than 1,500 volunteer activists who provide assistance and free legal support to victims.

Putting his hands on his head, the 14-year-old student Kluibert Roa begged the police officer, "PLEASE DON'T KILL ME... DON'T KILL ME." But the officer, with malice afterthought, shot him in the head at close range with a 12 gauge shotgun containing rubber bullets, causing a fatal injury to the teenager's skull. (February 24, 2015)



Kluibert Roa, killed on 24.02.2015

I. INTRODUCTION

At the recently held 20th Session of the Human Rights Council (2015), the United Nations High Commissioner for Human Rights expressed his concern regarding the deterioration of human rights in Venezuela. He was particularly concerned about the state media campaigns, lead by high-ranking officials, against human rights defenders, the lethal attacks against protesters, and the detention of opposition leaders and protestors. The European Parliament, the Inter-American Commission on Human Rights (IACHR), and several parliaments from different countries have made similar statements.



II. DETENTIONS MOTIVATED BY PROTESTS AND POLITICS

Between February 4, 2014 and May 31, 2015 the Venezuelan Penal Forum (Foro Penal Venezolano) has registered **3,758 detentions** related to the protests that have been taking place in Venezuela since 2014. Of these, 370 were minors or teenagers. Within this group of total detainees **296 were detained on court order**, meaning that they were or are imprisoned. The others were detained for between one and four days and then freed by court order. One student, **Christian Holdack**, was detained for one year from February 12, 2014.

However, there are still 2,048 people who participated in protests who are subject to either restricted freedom or precautionary measures. This means that they have been subjected to criminal procedures and measures that condition their freedom, such as presenting themselves at court, prohibitions on leaving the country, being released on bail, bans on making statements to the media, etc.

Seven hundred and sixty seven (767) people who were detained have been granted full freedom, and at least 638 people were freed without even going to court, which constitutes an arbitrary arrest.

As of May 31, 2015, there were still 31 people in jail as a consequence of the protests. In addition, another 46 people have been detained for political motives. **In total there are 77 people incarcerated for political motives**, of which 12 are students and six are women.

Of the 77 prisoners, 36 are in Bolivarian National Intelligence Service (Servicio Bolivariano de Inteligencia, SEBIN) detention centres, 12 are in military prisons, 17 are in ordinary prisons, five are in police stations and seven are under house arrest. The list of the 77 prisoners is restricted and confidential; it can be provided to recognized human rights institutions upon request.

While many of the detentions are related to the protests, there are other political prisoners such as Iván Simonovis who has been imprisoned for more than nine years. Today he is under house arrest. Mayor Antonio Ledezma, another example, was detained for alleged conspiracy and is also currently under house arrest. People have even been detained for writing messages against government officials on Twitter, such as **Inés González, Víctor Ugas** and **Lessy Marcano**.

We have observed that since February 2014 there have been progressively more detentions, initially just of protesters and later including the **detention of lawyers** who assist the detainees. For example, **Marcelo Crovato** was placed in custody on April 22, 2014 when he assisted two people who were having their home

searched. Crovato is a volunteer lawyer and has attended several demonstrations with the Venezuelan Penal Forum (VPF).



Marcelo Crovato

In regard to the mass detentions of protestors, the detention of 213 people in just one day (May 8, 2014) particularly stands out. The majority were students who had installed “resistance camps” in several public plazas in Caracas.



A camp on Av. Francisco de Miranda, Altamira, Caracas, in front of the UNDP headquarters

At approximately three in the morning on May 8, 2014, the Bolivarian National Guard and the Bolivarian National Police carried out an operation to clear the plazas in Caracas with 1,500 military forces and police. They arrested all of the people who were sleeping there that night.



Dismantling the camp outside the UNDP headquarters, 8.5.2014

On May 10, 2014, the **two hundred and thirteen (213)** people who had been detained at the Caracas camps were taken before the criminal courts of the Venezuelan Republic. Thirteen people were held in custody by court order, of which 11 were students. The designated detention centre was the headquarters of the Bolivarian National Intelligence Service (SEBIN), located in El Helicoide, Caracas. Later six people were freed, including the student leader **Sairam Rivas** (age 20), who was held for more than four months at El Helicoide (SEBIN) and **Eitan del Campo** (age 18) who was detained at El Helicoide for a month. Currently there are five people still imprisoned at El Helicoide (SEBIN): the student **Gerardo Resplandor** and **Nixon Leal, Angel Contreras, Gerardo Carrero**, and **Carlos Pérez**.

More recently there have been **selective detentions**. These detentions are of people who have allegedly been seen or caught by intelligence agencies, or by “patriotic informants,”¹ (*patriotas cooperantes*) not just protesting, but also supplying food, water or some kind of assistance to the protesters in the streets. For example, Juan Pablo Giraldo was detained in the El Helicoide (SEBIN) because he allegedly financed the events that took place in Táchira State in 2014. There is no evidence to demonstrate any degree of participation in the criminal

¹ “Patriotic informants” are anonymous witnesses and informal informants who violate legal requirements stipulated in the Law on the Protection of Victims, Witnesses and other persons participating in criminal investigations (Ley para la Protección de Víctimas, Testigos y otros Sujetos Procesales) and in the Organic Law on Organized Crime (Ley Orgánica Contra la Delincuencia Organizada). These figures have become increasingly well known. They make appearances on TV programmes where they discuss dissidents, human rights defenders, etc, from a different perspective, even presenting photographs and videos to publicly shame them.

acts that he has been accused of. Another case is **Maria Elena Uzcátegui's** detention on September 12, 2014. She was imprisoned for three months in the female annex of the Uribana Prison, and is currently under house arrest. There have also been selective detentions of student leaders, such as **Renzo Prieto**. Additionally there have been arrests resulting from searches of properties where people who were just employees and not involved in any protests were detained, for example, **Yeimi Varela** who worked as a watchman at a house where students allegedly stayed the night.

It is important to emphasise that in the context of these detentions there have been repeated complaints by families, NGOs, and the detainees' defence lawyers regarding **violations of the right to defence and due process. Also complaints about the solitary confinement of detainees, the obstruction of their defence lawyers, the absence of official information about the reasons for their detention, the lack of information about the people in detention and the detention centres where they are being held, amongst other similar situations, have been constant.**

Human rights defenders and other NGOs, including Amnesty International and Human Rights Watch, have called for the release of political prisoners and have denounced the torture.

(See http://elpais.com/elpais/2014/04/01/inenglish/1396356679_795146.html).

III. TORTURE, CRUEL, INHUMAN OR DEGRADING TREATMENT

In November 2014, the United Nations Committee against Torture questioned the Venezuelan government about reports establishing that several people detained during anti-government protests, which have taken place since February 2014, have suffered torture, or cruel, inhuman and degrading treatment. The Committee recommended the immediate release of those detained during the protests and also of the political opposition that has been arbitrarily arrested.

The Venezuelan Penal Forum (VPF) has formally registered **138 cases of torture or cruel and inhuman treatment** taking place when individuals were detained; this has been reported to official bodies. In total, the VPF has received many more complaints; however, we have only registered cases where reports have also been filed with official bodies. In the complete report (which can be sent upon request) we specifically identify **85** cases of victims where the VPF directly or indirectly participates in their legal assistance.

One case is that of **Jaime Yéspica** who was brutally attacked causing polytrauma and a fractured skull. Despite there being a video where you can see more than ten people hitting him, including various civilians (members of civilian collectives known as "*colectivos*"), only one policeman has been detained and he

has not yet been charged. Jaime's case is assisted by the VPF as the prosecuting lawyers.

Another case is that of **José Alejandro Márquez** who died as the result of polytrauma on February 21, 2014. It has been recognized that the People's Guard apprehended him alive and that he died after the authorities that captured him left him in the capital city's Vargas Hospital. To date there have been no arrests or charges made, no member of the People's Guard has been interviewed, despite the coroner's report clearly stating that he died because of polytrauma, all of which happened while he was detained. In this case the VPF represents the families.



José Alejandro Márquez when admitted into the Vargas Hospital

Another case is **Geraldine Moreno** who died on February 22, 2014 after being shot in the face at close range with rubber bullets by National Guard officers on motorbike during a protest on February 19, disfiguring her face. After pressure from families and an accusation by the VPF, there are two detainees, the alleged perpetrator and an accomplice. However, the detainee, a National Guard, has arrived at the court hearings talking on his mobile phone, without handcuffs, and even passes directly in front of the Geraldine's parents to taunt them. The protection measures requested for the families have not been granted. A pattern

has been identified of firing at close range with rubber bullets to attack protesters. This has caused multiple injuries, and in 2015 it caused the death of 14-year-old student Kluibert Roa during a protest in San Cristóbal, Táchira State. Kluibert Roa's family is assisted by the VPF.



Geraldine Moreno

It is important to emphasise that shooting weapons with rubber bullets at close range (placing the barrel of the gun next to or very close to the body) by the military or police has been employed systematically against protesters. One case is that of **Omar Briceño**, a 20-year-old student in Zulia State. The student was outside of the Rafael Urdaneta University near a pizza restaurant on April 23, 2014 when there were protests in the area. Military officials came towards him and pushed him to the ground where they started to kick him and shout insults. Afterwards one of the officers, who Omar identifies by the surname Yáñez, shot him on his leg at close range with a shotgun with rubber bullets causing a serious injury. There have been many cases of injuries and on two occasions this pattern of behaviour has caused death, as is the case of **Geraldine Moreno** and **Kluibert Roa**.



Omar Briceño

In Carabobo there are multiple victims of torture and cruel and inhumane treatment, for example **Marvinia Jiménez** who was brutally attacked, causing polytrauma. Her contusions were caused by being hit with a helmet by a female officer of the People's Guard, which has been recorded in photos and on video. Despite the Prosecutor's indictment and a court-issued arrest warrant for the officer responsible, to date the officer has not been apprehended and no effective

measures have been implemented to do so, nor is there information about her whereabouts. Surprisingly, Marvinia Jiménez was detained for no reason after her attack. She had not committed any crime but was simply in her local area, which was where people were protesting. Today Marvinia is has been submitted to precautionary measures and to criminal legal procedures.



Marvinia Jiménez' attack



Marvinia Jiménez Torres upon her release

Also in Carabobo State, **Juan Manuel Carrasco** reported the insertion of a blunt instrument into his anus by National Guard officers on February 13, 2014 while he was in detention. He reported this to the same court where he was



presented after his detention along with 10 other young people who had been beaten in different ways, including **Jorge Luis León** who had his skull fractured. To date there have been no charges filed or detainees, despite the fact that the National Guards who were involved in said acts having been identified in the respective police reports. In the case of Juan Manuel Carrasco, state officials have denied his assault despite there being medical examinations to certify it. In any case, there has been no investigation regarding the accusation.

In Caracas, 18-year-old **Marco Aurelio Coello** reported being hit with blunt objects during his detention and being given electric shocks, after which he was detained for more than five months. There is also the case of **Gloria Tobón** in Rubio, Táchira State, who reported being given electric shocks, including to her breasts, and the case of **Raúl Álvarez** in Caracas who also reported being given electric shocks by SEBIN agents while in detention. To date there is no evidence of any investigation and there have been no charges or arrests made for these cases.

The cases of torture and cruel treatment described in the VPF report includes: the use of electric shocks in at least 12 cases; sexual assault in one case; lewd acts; threats of rape and other threats in at least eight cases; suffocation with plastic bags in at least 11 cases; multiple fractures and polytrauma in at least 10 cases, including two skull fractures; serious assault by shooting rubber bullets at close range in at least 10 cases, in one case the person lost an eye; and, burns with heated screwdrivers in three cases, in one case they tried to insert the screwdriver into the anus. There have been beatings and severe abuse in the majority of the cases, with haematoma and wounds in at least 75 of the cases. In at least nine cases, it has been reported that the victim's hair was cut as a punishment, including seven women and one minor in Barquisimeto, Lara State.

IV. HEALTH CONDITIONS AND LACK OF MEDICAL CARE FOR POLITICALLY MOTIVATED DETAINEES

In addition to the reports of torture, cruel, inhuman and degrading treatment in detention centres, which is detailed in our full report, **we have recorded the systematic refusal to provide medical care to politically motivated detainees, as a form of cruel, inhuman treatment or even torture.** Many of the politically motivated detainees have reported a range of health problems because of the reclusion centres' inhumane conditions. This has led to many requests for medical care, which has not been provided.

On May 8, 2014, **Gerardo Carrero** was detained along with 213 people who had spent the night in the camps set up as a form of protest in Caracas. **Gerardo**

Carrero, 26 years old, was part of the camp installed **in front of the UNDP headquarters**, which demanded the release of political prisoners and the leader of the movement. Carrero was imprisoned along with other protesters at the SEBIN headquarters, located in El Helicoide, Caracas. In the afternoon of August 21, 2014, while the judicial proceedings and investigations continued, Gerardo Carrero, who had been jailed for 103 days, released an open letter directed to President Nicolás Maduro announcing his decision to start a hunger strike on the same day (link to the letter: http://www.twitlonger.com/show/n_1s57huv).

According to Carrero's report, on the same day he made his letter public, at approximately 8pm, SEBIN agents forcibly removed him from his cell. They handcuffed him to a tube on the ceiling where he hung for 12 hours without a break (from 9am to 9pm). They wrapped his wrists in newspaper and adhesive tape to leave as few marks as possible. In this time, they shouted at him and insulted him, they threatened him and his family, and they beat him. Whilst beating him with wooden boards they injured him on the back of his legs. He was hit so hard that three of the boards broke against his body. Despite the fact that they had also been wrapped up, it was inevitable that some marks remained on the back of Gerardo's knees.



El Helicoide the SEBIN detention centre in Caracas, principally for politically motivated detentions

In response to this situation on August 26, 2014, Carrero's family and defence lawyers submitted a written complaint to the Department of Fundamental Rights of the Attorney General's Office, specifying the bad treatment, how long it lasted and the names of the people who were allegedly responsible. On the same date, at a special audience at the 48th Supervisory Court of the Metropolitan Area of Caracas with the Prosecution present, the accused and his defence, Gerardo Carrero informed the Judge of the events. Everyone present could visually confirm the marks and bruises that he had on his legs resulting from the bad treatment suffered.



Upon the court's decision, and as a consequence of the complaint, Gerardo Carrero was imprisoned in an even worse place known as "The Tomb," which is also supervised by the SEBIN. It is five floors underground at the SEBIN's Plaza Venezuela headquarters in Caracas. It is called "The Tomb" because of its low temperatures deliberately created with air-conditioning; there is no natural light or medical care available. Artificial light is kept on 24 hours a day. Prisoners are kept completely isolated in solitary confinement, in inhuman conditions. Carrero was held there for six months and his lawyers were not allowed to visit.

To date Gerardo Carrero is still in detention, he is being held at the SEBIN facility El Helicoide. This is where he had previously been beaten after obtaining precautionary measures from the Inter-American Commission on Human Rights. Despite many requests for medical care made at the court handling his case, to the Ombudsman and to the Prosecution for Gerardo Carrero, he has received none. Carrero has serious stomach and dental problems. One of his teeth fell out and he had to reinsert it with "Crazy Glue" because there was no dental care available.

After many unanswered petitions for medical care, on March 2, 2015 the **Inter-American Commission on Human Rights granted precautionary measures in favour of Gerardo Carrero. They specifically requested that the Venezuelan state, "...adopt the necessary measures to protect the life and personal integrity of [...] Gerardo Carrero, providing adequate medical treatment for their [his] pathology[...]."**²

The Venezuelan authorities did not respond and Gerardo Carrero indicated that he had not received medical attention and that his physical complaints continued. Therefore, on June 2, 2015 the VPF requested the intervention of the International Red Cross, an organization which the Venezuelan government has denied access to reclusion centres to provide medical consultations and care to political prisoners.

On June 4, 2015 at a public hearing before Judge María Eugenia Nuñez, 12th Trial Judge of the Caracas Metropolitan Area, Gerardo Carrero indicated that he was taken to the medical examiner on June 2, 2015 for a supposed examination upon the court's request. In this examination, they stood him against a wall and asked him a series of questions, the majority of a political nature, but they never examined him physically.

Nixon Leal and **Gerardo Resplandor**, who are two of the four people detained for the same reason as Carrero, indicated that they were taken to the medical examiner on May 29, 2015. When they arrived they were asked political questions, such as why they were against the revolutionary process commanded

² See <http://www.oas.org/es/cidh/decisiones/pdf/2015/MC223-13-ES.pdf>

by President Maduro, and whether they were members of a political party, etc. They stated that they had not been given any medical examination. In the same vein, **Carlos Pérez**, who was also detained for the same reason, indicated that he was taken to the medical examiner on June 2, 2015 and that he was only asked two questions: “Do you have bruises on your body?” and “Do you have any dents?” Based on the last question we can assume that whoever asked the questions was not a doctor. Obviously you do not talk about “dents” in reference to human bodies, only for objects. Carlos Pérez did not receive any physical examination and he was told to leave after the aforementioned questions, not giving him the opportunity to point out his serious problems with high blood pressure, which he indicates he still suffers from.



Gerardo Carrero

Daniel Ceballos has been on hunger strike since May 22, 2015, demanding the release of political prisoners and a date to be set for the parliamentary elections by the National Electoral Council (Consejo Nacional Electoral). **Leopoldo López** has also been on hunger strike since May 24, 2015. A day later the prisoners **Raúl Emilio Baduel** and **Alexander Tirado** also followed suit.

At dawn on May 23, 2015, Daniel Ceballos was transferred from Ramo Verde to the 26 de Julio Penitentiary in Guárico. They uniformed him in yellow and shaved his head like a common prisoner. The family and lawyers have complained about the isolation, illegal restrictions on visits by his wife, and the inhuman conditions of his cell, which has the lights on at night and poor hygiene conditions. Both Ceballos' wife Patricia de Ceballos, and Lilian Tintori, López's wife, have requested precautionary protection measures from the IACHR for the persecution and harassment against themselves and their children.

On June 3, 2015 the United Nations High Commissioner for Human Rights issued a public statement requesting that the

Venezuelan state provide medical attention, and release Daniel Ceballos and the other three political prisoners that are currently on hunger strike, Leopoldo López, Raúl Emilio Baduel and Alexander Tirado. Said medical attention given by a doctor of their choice, as requested by the High Commissioner, has not been provided.³



Daniel Ceballos in 26 de Julio Penitentiary

V. KILLINGS

In regard to **killings resulting from protests**, via public and private channels and in statements by high officials there has been reference to different numbers of deaths. In a study carried out by the VPF, we found that of a **total of 45 people mentioned in the media who were allegedly killed in the context of protests, only 36 are actually the result of protests**. The

³ See <http://acnudh.org/en/2015/06/venezuela-ohchr-press-briefing-on-the-situation-of-mr-daniel-ceballos/>

rest are unrelated to protests; they are murders for different reasons or accidents. VPF's number includes the murder of 14-year-old **Kluibert Roa** in 2015 in San Cristóbal, Táchira State.

Of the 36 people who have died, the majority (19) were protesters killed by shooting either by police or by supposed armed civil collectives; seven were military officers, allegedly shot dead by protesters; seven deaths were the result of being crushed against road barricades; and three of the deaths were by alleged shootings when rubble was being removed from the streets.

Of the 19 killings, three were intentional and the consequence of strategies of torture or cruel and inhuman treatment used on various occasions. Such are the cases of Geraldine Moreno, José Alejandro Márquez and Kluibert Roa.

A sentence has only been given for the case of **Kluibert Roa**, where the officer responsible admitted the facts and his responsibility for intentional homicide.

In the case of **Geraldine Moreno**, two officers have been detained and the process is in course. In the case of **José Alejandro Márquez**, there are two arrest warrants that have not been executed, and other charges have been filed but no respective arrest warrants have been issued. In the case of **Génesis Carmona** (age 22) who was killed with a shot at a protest in Valencia, Carabobo State on February 18, 2014, one person has been detained and is under legal proceedings for their collusion in the death of the model. In the case of **Jesús Acosta**, a member of the Scientific, Penal and Criminological Investigation Corps (Cuerpo de Investigaciones Científicas, Penales y Criminalísticas, CICPC) has been apprehended. In the case of Sergeant **Giovanni Pantoja**, three people have been charged according to information available in the press, one of whom has been held in custody, another is under house arrest and the third has been released on probation.

In the case of **Bassil Da Costa**, a young protester killed on February 12, 2014, initially eight officers were apprehended, six from the SEBIN, one Sergeant Major of the Venezuelan army and one National Police officer. The SEBIN agents are José Perdomo Camacho (the perpetrator), Manuel Pérez, Edgardo Lara Gómez, Héctor Rodríguez, Jimmy Sáez, and Josner Márquez; the Bolivarian National Police Officer is Andry Jaspe and the Army Sergeant is Jonathan Rodríguez. Only José Perdomo continues to be imprisoned. On June 17, 2014, the 48th Supervisory Court of Caracas ordered that he should continue to be detained. The rest were granted freedom with probation, having to present themselves once a week. They are each awaiting trial.

In the majority of cases, the Venezuelan government has denied the torture, cruel and inhuman treatment or killings of protesters. Often when the cases have been



made public, it has been to praise the actions of the security forces in an indiscriminate and generalized way. In regard to the killings, the national government has systematically accused the heads of the opposition, such as **Leopoldo López** and **Daniel Ceballos**, who are currently held in custody.

VI. PERSECUTION AND INTIMIDATION AGAINST HUMAN RIGHTS DEFENDERS

May 2014 marked the beginning of an **escalation in intimidation and threats against human rights activists**. In March 2015, this resulted in precautionary measures being granted by the Inter-American Commission on Human Rights to VPF's Executive Director **Alfredo Romero** and other members of this NGO. These measures have not been executed or fulfilled by the Venezuelan state.⁴ In the case of **Alfredo Romero**, intimidation has increased since he attended the UN Committee against Torture in November 2014. Senior government officials systematically mention Romero on state television programs, where they discredit and intimidate him. They even make references to allegedly violent people as though they are members of his family, which they are not. He has also been intercepted by a vehicle on the street and had fire arms pointed at him approximately 30 minutes after being named on a state television channel. This was reported to police agencies.

Tamara Sujú, VPF's International Coordinator, was obliged to seek asylum in the Czech Republic where it was granted, based on the systematic persecution and intimidation by Venezuelan state officials. Other human rights activists also have been granted precautionary measures by the IACHR, such as Humberto Prado, Rocío San Miguel and Marco Ponce.

Members of VPF, like **Gonzalo Himiob Santomé**, and those of other human rights organizations have also suffered constant harassment by senior public officials, such as the former Minister of Justice and Interior, Miguel Rodríguez Torres. They have been discredited and referred to in an intimidating manner on state television channels. On June 4, 2015, President Nicolás Maduro publicly expressed that he would make a statement across all the national state media to expose the human rights NGOs that participated in the session of the United Nations Committee on Economic, Social and Cultural Rights held June 2 and 3, 2015. In reference to the

⁴ See <http://www.oas.org/es/cidh/decisiones/pdf/2015/MC143-13-ES.pdf>

NGOs, President Maduro publically stated that, “These bandits are going to speak badly about the country and they earn thousands of dollars.”⁵



Horacio Giusti, Senior Press Officer, Venezuelan Penal Forum

As a consequence of VPF exposing the violation of human rights in this report, other members of VPF have been intimidated and attacked. In late April 2015, after VPF’s Senior Press Officer, **Horacio Giusti**, filed a report with police authorities for harassment and persecution, two individuals on a motorbike intercepted him. One of the individuals got off the bike and cornered him against a wall and asked his name and his job. When he answered the attacker, he was hit hard twice, once in the eye and once in the jaw. Then both attackers left on the motorbike, leaving a very disturbed Horacio lying on the ground. This attack has been reported to the Venezuelan Attorney General’s Office, the IACHR, and there is even an “urgent action” issued by Amnesty International for this specific case.⁶

June 2015

⁵ See <http://www.eluniversal.com/nacional-y-politica/150604/maduro-bandidos-de-las-ong-ganan-miles-de-dolares-por-hablar-mal-del-p>

⁶ See <https://www.amnesty.org/en/documents/amr53/1714/2015/en/>



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