



# VENEZUELA: THE FACES OF IMPUNITY

ONE YEAR SINCE THE PROTESTS, VICTIMS ARE STILL WAITING FOR JUSTICE

**AMNESTY**  
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# PROTEST-RELATED DEATHS

## FEBRUARY-JULY 2014

*Bassil Alejandro Da Costa Fría, aged 24, carpenter, 12/02/2014, Caracas*  
*Juan Carlos Crisóstomo Montoya, aged 50, leading social activist, 12/02/2014, Caracas*  
*Roberto José Redman Orozco, aged 26, pilot, 12/02/2014, Caracas*  
*Asdrúbal Jesús Rodríguez Araguayán, aged 26, worker, 19/02/2014, Caracas*  
*Elvis Rafael Durán De La Rosa, aged 29, worker, 21/02/2014, Caracas*  
*José Alejandro Márquez, aged 45, engineer, 22/02/2014, Caracas*  
*José Gregorio Amaris Cantillo, aged 25, motorbike-taxi driver, 06/03/2014, Caracas*  
*Acner Isaac López Lyon, aged 29, Sergeant in the National Guard, 06/03/2014, Caracas*  
*Johan Alfonso Pineda Morales, aged 37, contractor, 07/03/2014, Caracas*  
*Glidis Karelis Chacón Benítez, aged 25, SEBIN official, 07/03/2014, Caracas*  
*Francisco Alcides Madrid Rosendo, aged 32, worker, 18/03/2014, Caracas*  
*Jorge Steven Colina Tovar, aged 24, National Police official, 08/05/2014, Caracas*  
*Wilmer Juan Carballo Amaya, aged 43, businessman, 24/02/2014, Aragua*  
*Johan Gabriel Quintero Carrasco, aged 33, worker 5/02/2014, Aragua*  
*José Isabelino Guillén Araque, aged 34, Captain in the National Guard, 16/03/2014, Aragua*  
*Geraldin Moreno Orozco, aged 23, student, 22/02/2014, Carabobo*  
*Eduardo Ramón Anzola Carmona, aged 29, carpenter, 25/02/2014, Carabobo*  
*Julio Eduardo González Pinto, aged 45, assistant prosecutor, 18/02/2014, Carabobo*  
*Génesis Cristina Carmona Tovar, aged 22, student, 18/02/2014, Carabobo*  
*Giovani José Pantoja Hernández, aged 28, Sergeant in the National Guard, 28/02/2014, Carabobo*  
*Jesús Enrique Acosta Matute, aged 22, student, 12/03/2014, Carabobo*  
*Guillermo Alfonso Sánchez Velásquez, aged 42, builder, 12/03/2014, Carabobo*  
*Ramzor Ernesto Bracho Bravo, aged 36, Captain in the National Guard, 12/03/2014, Carabobo*  
*Argenis de Jesús Hernández Moreno, aged 30, worker, 21/03/2014, Carabobo*  
*Mariana del Carmen Ceballos Belisario, aged 32, secretary, 10/04/2014, Carabobo*  
*Arturo Alexis Martínez, aged 58, taxi driver, 20/02/2014, Lara*  
*José Cirilo Damas García, aged 24, National Police official, 09/04/2014, Lara*  
*Doris Elena Lobo Arias, aged 40, housewife, 20/02/2014, Mérida*  
*Gisella Victoria Rubilar Figueroa, aged 46, teacher, 09/03/2014, Mérida*  
*Jesús Orlando Labrador Castiblanco, aged 39, electronics technician, 22/03/2014, Mérida*  
*Miguel Antonio Parras, aged 42, Sergeant in the National Guard, 24/03/2014, Mérida*  
*Adriana Grissel Urquiola Pérez, aged 28, sign language interpreter, 23/03/2014, Miranda*  
*José Ernesto Méndez Gómez, aged 17, 17/02/2014, Sucre*  
*Jimmy Erwill Vargas González, aged 32, worker, 20/02/2014, Táchira*

*Danny Joel Melgarejo Vargas, aged 20, student, 22/02/2014, Táchira*  
*Luis Alejandro Gutiérrez Camargo, aged 23, 04/03/2014, Táchira*  
*Edicson Olivo Daniel Tinoco Carrillo, aged 24, 10/03/2014, Táchira*  
*Jhon Rafael Castillo Castillo, aged 23, Second Sergeant in the National Guard, 19/03/2014, Táchira*  
*Franklin Alberto Romero Moncada, aged 44, manager, 28/03/2014, Táchira*  
*Wilfredo Giovanny Rey Jaimes, aged 32, bus driver, 22/04/2014, Táchira*  
*Jonathan Enrique Martínez García, aged 30, unemployed, 08/03/2014, Zulia*  
*Roberto Luis Annese Gorin, aged 33, businessman, 29/03/2014, Zulia*  
*Josue Emmanuel Farías Sánchez, aged 19, student, 25/05/2014, Zulia*

# EXECUTIVE SUMMARY

A year after the pro and anti-government protests that took place in Venezuela between February and July 2014, Amnesty International is publishing this report which highlights the plight of hundreds of victims of human rights abuses who are still awaiting justice. More than 43 people died and a further 878 were injured during the protests. Scores were ill-treated and 3,351 were detained, 27 of whom remain in detention awaiting trial. By the beginning of March 2015, all those responsible for human rights violations had not been brought to justice, victims and their relatives had yet to receive reparations and those arbitrarily detained had not been released, showing a clear lack of political will on the part of the Venezuelan authorities to ensure that these grave human rights violations are not repeated.

The report details cases in which members of the security forces or pro-government armed groups acting with their acquiescence were involved in killings, as well as cases of torture and other ill-treatment of detainees and arbitrary detentions. During the past year, Amnesty International has also documented cases of harassment and intimidation of victims, their relatives and legal representatives for their efforts to obtain justice. Human rights defenders who have reported these serious abuses have also been the target of attacks.

The concerns and cases highlighted in this report are the result of interviews with victims and their relatives, human rights defenders, journalists and lawyers between February 2014 and February 2015 in Caracas as well as in the states of Valencia, Miranda, Zulia, Táchira and Mérida. The organization also met the Attorney General and representatives of the Office of the Ombudsperson.

Public Prosecutor's Office investigations indicate that law enforcement officials and armed civilians, including members of pro-government armed groups, were responsible for the deaths of demonstrators and passers-by and that a number of people died in incidents at the barricades erected by demonstrators to block public roads.

The Public Prosecutor's Office has investigated 238 reports of human rights violations, 13 of which have resulted in charges being brought against the alleged perpetrators. According to the Attorney General, 30 police officers have been charged in connection with the deaths of protesters, excessive use of force and torture and other ill-treatment, and three law enforcement officials have been convicted of ill-treatment. Fourteen officers have been detained and an arrest warrant has been issued, but not served, for another; the remainder have been granted conditional release.

While most of the 3,351 people detained during the protests were released without charge, 1,404 of those released have been charged with obstructing public roads, wounding, damaging public property and conspiracy to commit a crime and are awaiting trial, and 27 remain in pre-trial detention. Amnesty International has documented five of the 27 cases of people who remain in prison awaiting trial and found that they were arbitrarily detained.

The impunity surrounding human rights violations committed during the protests in 2014 is not the exception. In Venezuela, the vast majority of human rights violations are not investigated or punished. The Public Prosecutor's Office had already stated back in 2012 that in the majority of cases the perpetrators of human rights violations are not brought to justice. The justice system has not only been ineffective in guaranteeing the right to justice of victims of human rights violations, it has also frequently been the target of government interference.

Over the past decade, Amnesty International and other non-governmental organizations, both national and international, as well as the Inter-American Commission on Human Rights and various UN human rights monitoring bodies have called on Venezuela to prioritize human rights protection in order to establish a robust rule of law in which judicial authorities can guarantee protection before the law for the entire population without discrimination.

Venezuela has ignored these calls. Instead of strengthening the rule of law and the protection of human rights it has taken steps that have helped undermine that protection. For example, in September 2013 it denounced the American Convention on Human Rights and withdrew from the jurisdiction of the Inter-American Court of Human Rights, the final court of appeal and last hope for victims of human rights violations and their relatives seeking justice throughout the Americas.

#### EXCESSIVE USE OF FORCE

The authorities' response to the wave of demonstrations that took place in 2014 showed once again that the government will not tolerate dissent or protests criticizing government policies. Excessive use of force by the security forces and reports of torture and other ill-treatment are evidence of this. At no point during the protests or the past year have the authorities clearly and publicly signalled that abuses by state agents would not be tolerated, despite the findings of investigations by the Public Prosecutor's Office that the security forces used excessive force.

Indeed, far from showing a clear commitment to respect the right to peaceful assembly the government issued Ministry of Defence Resolution 008610 as recently as 27 January 2015, allowing all sections of the armed forces to be deployed in public order operations, including the policing of public protests, and authorizing the use of firearms in such operations.

Given the numerous serious human rights violations resulting from the excessive use of force by state agents, considering using all sections of the armed forces in public order operations is of grave concern. International standards clearly state that the use of the armed forces for internal policing operations should be considered only in clearly defined exceptional circumstances, and that should such deployments take place, excessive force must not be used and the right to life and physical integrity must be respected at all times.

Instead of sending a clear message condemning human rights violations, the authorities have continued to seek to justify the unlawful actions of the security forces in the name of public order and security and of political stability.

Fourteen-year-old Kluiberth Roa Núñez died after being hit by a rubber bullet fired by national police in Táchira State a few weeks ago on 24 February 2015, a month after



Resolution 008610 was issued. He was walking near a protest when the security forces opened fire on demonstrators who had been throwing stones and Molotov cocktails. His death sparked student protests in Mérida the following day during which five students were shot and injured, reportedly by members of the security forces.

#### TORTURE AND OTHER CRUEL, INHUMAN OR DEGRADING TREATMENT

Scores of people were beaten, burned, subjected to sexual abuse and electric shocks and threatened with rape and death by law enforcement officials during the protests. These violations were inflicted on detainees at the time of arrest, during transfer to detention centres and while in detention.

In the cases documented by Amnesty International, security forces ill-treated detainees in order to punish them for their participation, or alleged participation, in the protests; to coerce them into confessing to having committed crimes while they were taking part in the protests; or to obtain information in order to identify those who had taken part in or organized anti-government protests.

#### ARBITRARY DETENTION

After reviewing the evidence presented by the Public Prosecutor's Office in the case of five of the 27 people who remain in detention, Amnesty International was able to confirm that these five have been arbitrarily detained. They are facing trial despite the absence of credible evidence to support the charges brought against them and some were detained without an arrest warrant.

Not only have those arbitrarily detained since 2014 yet to be released, but people continue to be imprisoned for their political views or for holding anti-government opinions.

Antonio Ledezma, the Mayor of Caracas, was detained on 19 February 2015 in circumstances suggesting that his arrest was 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.

Judge Alí Fabricio Paredes was also detained recently on 10 February. 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 of lawyer Tadeo Arriechi, apparently in reprisal for carrying out his duties and providing legal representation for a company accused of destabilizing the economy.

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

The report highlights the manifest lack of commitment on the part of the authorities to end impunity for grave violations committed a year ago and to ensure the protection of human rights for all, without discrimination and regardless of political affiliation. It concludes that this lack of commitment creates a serious risk that the tragic events documented by Amnesty International will be repeated, especially given the context of increasing social discontent.

A series of concrete recommendations that must be implemented as a matter of urgency, are included in the last chapter. In particular, the Venezuelan authorities must guarantee the right to peaceful assembly and the right of victims of human rights violations to justice and reparation. All those arbitrarily detained must be released without delay and the intimidation and harassment of those who report abuses – whether victims, relatives, lawyers or human rights defenders – must end. The authorities must also refrain from using the armed forces in public order operations, except for clearly defined emergency situations; and must ensure that the security forces act in accordance with the UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officials.

Amnesty International is concerned that the level of violence will intensify and more lives will be lost unless the Venezuelan government prioritizes the protection of human rights and the executive sends a clear message that excessive use of force by the security forces will not be tolerated. The government must also guarantee that protesters and dissidents will not be targeted. Without such a commitment, the rule of law will continue to be eroded, potentially putting everyone at risk of human rights violations.

# METHODOLOGY

The concerns and cases of human rights violations included in this report are the result of research undertaken by Amnesty International between February and July 2014, as well as in subsequent months in the capital, Caracas, and in the states of Valencia, Miranda, Zulia, Táchira and Mérida.

During the past year, Amnesty International held meetings with human rights defenders, journalists and citizen journalists who were documenting the protests, and with lawyers representing the hundreds of victims of human rights violations. In addition, Amnesty International interviewed more than a hundred people, including victims of excessive use of force and torture and other ill-treatment, and relatives of those who died as a result of the use of lethal force by the security forces and attacks by armed pro-government groups and demonstrators.

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 had several meetings with the Attorney General and in July 2014 delegates met the Ombudsperson. In addition, delegates met representatives of the state Ombudspersons in Táchira and Mérida.

In the course of the past year, Amnesty International has raised concerns about individual victims of human rights violations with 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 Public Prosecutor's Office regarding the progress of investigations into violations and abuses of human rights committed during the protests and the trials of the suspected perpetrators. To date, only the Public Prosecutor's Office, via the Attorney General, has responded to Amnesty International's letters.

# BACKGROUND

Between February and July 2014, Venezuela was convulsed by a wave of pro and anti-government protests that affected the majority of states.

The protests began on 4 February 2014 in San Cristóbal, Táchira State, in the west of the country. They were led by university students demanding better security on university campuses following a series of reported thefts and an attempted rape.

Following the arrest of a group of students in San Cristóbal, student movements backed by opposition parties organized protests in different parts of the country demanding their release. In the six months that followed, thousands of people, led by students and some opposition politicians, took to the streets in most of the country's states. The protests now focused not only on security issues, but also on the economic crisis, high inflation and the lack of basic commodities and demanded the resignation of President Nicolás Maduro.

Counterdemonstrations in support of the President's leadership and policies also took place in various states.

In the face of rising social discontent, the authorities responded to the strong criticisms voiced by a large section of society by accusing demonstrators, the organizers of the protests, student leaders and opposition political parties who supported them of attempting to destabilize the country and of fomenting a coup d'état against the government of President Nicolás Maduro.

The demonstrations, and the confrontations that soon followed, are the latest example of the increasing polarization that has riven the country for more than a decade. This latest wave of social discontent left 43 people dead and a further 878 injured, according to the most recent official statistics published in February 2015. Among the dead and injured were demonstrators and law enforcement officials as well as passers-by and local residents who were not involved in the protests. Suspected perpetrators include law enforcement officials and armed civilians, both protesters and members of pro-government armed groups.

Violent confrontations during the protests and the response of the security forces resulted, as the authorities have admitted, in abuses and violations of human rights.

In April 2014, Amnesty International published a report highlighting reports of human rights violations reportedly committed by the security forces during the first months of the protests. In that report, the organization warned of the unfolding human rights crisis and spiralling violence in the country. It urged the government to investigate the allegations and punish those responsible and to put human rights at the forefront of the political agenda by implementing a National Human Rights Plan. Amnesty International called on political leaders from across the political spectrum to set up a constructive dialogue with the aim of

resolving the crisis and seeking consensus on policies that would address the legitimate demands of the protesters.

In November 2014, Amnesty International submitted its concerns about the human rights situation in the context of six months of protests to the UN Committee against Torture prior to its consideration of the combined third and fourth periodic reports of the Bolivarian Republic of Venezuela on its implementation of the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

During the six months of the protests and in the following months, Amnesty International issued statements and initiated actions on behalf of individual victims of human rights violations. It called on the authorities to release those arbitrarily detained and investigate all reports of human rights violations and to ensure that those responsible were brought to justice and that victims received reparations.

However, one year after the events, the vast majority of relatives of those who died as well as the victims of torture and other ill-treatment, excessive use of force and arbitrary detention are still waiting for truth, justice and reparations.

The impunity surrounding human rights violations committed during the protests in 2014 is not the exception. In Venezuela, the vast majority of human rights violations are not investigated or punished. The Public Prosecutor's Office itself stated in 2012 that in the majority of cases, the perpetrators of human rights violations are not brought to justice.<sup>1</sup> According to its figures, only 3% of reports of human rights violations result in the suspected perpetrators being charged and brought before a court.

The justice system not only lacks the necessary resources to guarantee the right to justice of victims of human rights violations, it has also frequently been the target of government interference. This interference is facilitated by the fact that a large number of judges and public prosecutors are appointed on a temporary basis, leaving them open to political pressure.

As far back as 2009, the Inter-American Commission on Human Rights noted regarding a number of cases in which judges in Venezuela had been dismissed that "the fact that they occurred almost immediately after the judges in question handed down judicial decisions in cases with a major political impact... 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>2</sup>

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<sup>1</sup> See Report of the Bolivarian Republic of Venezuela to the Committee against Torture on the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment, August 2012.

<sup>2</sup> See Inter-American Commission on Human Rights, *Democracy and Human Rights in Venezuela*, OEA/Ser.L/V/II, December 2009, para. 301, available at: <http://www.cidh.oas.org/pdf%20files/VENEZUELA%202009%20ENG.pdf>.

In 2009, UN experts 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>3</sup>

Venezuela has ignored these calls. Instead of strengthening the rule of law and the protection of human rights it has taken steps that have helped undermine that protection. For example, in September 2013 Venezuela denounced the American Convention on Human Rights and withdrew from the jurisdiction of the Inter-American Court of Human Rights, the ultimate and independent judicial body that acts as a final court of appeal and last hope for victims of human rights violations and their relatives seeking justice throughout the Americas, and which is a necessary complement to national systems of justice.

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<sup>3</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.

# THE FACE OF IMPUNITY

## DEATHS DURING THE PROTESTS

Forty-three people died in the context of the protests, including eight law enforcement officials and two public prosecutors.

To date, in at least four cases, investigations by the Public Prosecutor's Office indicate that members of the security forces, including members of the National Intelligence Service (Servicio Bolivariano de Inteligencia Nacional, SEBIN), are believed to be responsible for the deaths of protesters and passers-by.

In addition, Amnesty International has received reports and statements regarding confrontations between protesters and the security forces, violent attacks by protesters and violence against demonstrators by members of pro-government armed groups, in some cases acting with the acquiescence of the authorities.

According to investigations carried out by the Public Prosecutor's Office, 14 people reportedly 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 had used to block the roads. Others died after being shot as they tried to remove the barricades.

At least eight people died after being shot during demonstrations, reportedly by armed pro-government groups.

Reports from victims and photographic and video evidence of the violence, including the use of firearms, indicate that pro-government armed groups, sometimes carried out attacks with the acquiescence of the security forces. The targets of these attacks included protesters, passers-by, houses where local residents were protesting by beating cooking utensils and residential areas where protests and barricades were present.

For example, in Mérida, dozens of statements from local residents as well as photographic and video evidence, indicate that armed groups attacked homes with stones and firearms in full view of the security forces. On some occasions, security force personnel policing protests either let armed groups through the police lines or withdrew from the area, allowing members of the groups to carry out attacks against groups of 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 reports and photographic and video evidence of similar abuses from Táchira, Caracas and Valencia.

In its recent concluding observations on the situation in Venezuela, the UN Committee against Torture expressed its concern about reports of 437 attacks by pro-government armed groups against demonstrators during the protests. A large number of these were carried out

with the complicity and acquiescence of the security forces and those responsible have not been brought to justice.

To date, the authorities have failed to carry out comprehensive, independent and impartial investigations into the participation in violent attacks of government supporters acting with impunity and in full view of the security forces. No member of these groups has been punished for committing human rights abuses during the protests, including abuses of the right to life and physical integrity.

In only one case in which the actions of pro-government armed groups are suspected of causing deaths has the suspected perpetrator handed himself in to the authorities. The relatives of other victims continue to wait for justice.

## BASSIL DA COSTA FRÍAS



Twenty-three-year-old Bassil Da Costa Frías died on 12 February 2014 in Caracas after taking part in a demonstration. The day before he left home to join the protest Bassil Da Costa wrote on his Facebook page: “I am going out to march tomorrow without fear”.

According to the testimony of one of Bassil Da Costa’s relatives who was also on the 12 February protest, that evening, at the end of 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 (Servicio Bolivariano de Inteligencia Nacional, SEBIN) and armed men in plainclothes started firing at the protesters using rifles and handguns. Bassil Da Costa was shot in the head.

Bassil’s cousin, who was with him on the demonstration, described what happened to Amnesty International: “I was running down the street, I crossed on to the other pavement. When I got there I heard someone say: ‘someone’s been hit, someone’s been hit!’ Then I saw it was my cousin. Straight away, I got hold of him, picked him up, but immediately saw that he had been hit in the head because he was bleeding heavily. I picked him up, shouting: ‘Let’s get him out of here, let’s get him out of here!’ Some friends and I carried him. One of those who was helping to carry him said to me: ‘no, he’s already dead, he’s already dead’. And I said: ‘no, he’s not dead, let’s carry on, let’s get him out of here’... Deep down I knew that my cousin was dead, but I did not want to leave him there. I was hoping that he would live because he was breathing and he was still breathing when we arrived at the hospital.”



## JUAN MONTOYA

Juan Montoya, aged 51, died on 12 February after being shot in the face as he was walking in an area close to where a protest was taking place in Caracas and near to where Bassil Da Costa was shot.



Juan Montoya was a leading social activist and Coordinator of the Revolutionary Secretariat of Venezuela, a network bringing together pro-government grassroots groups (*colectivos populares*), in Greater Caracas and Vargas. His brother, Jonny, told Amnesty International that he and other members of the neighbourhood collectives had gone to central Caracas to support the government and counter the anti-government protest called for that day.

The Public Prosecutor's Office has accused a member of the Revolutionary Secretariat of Venezuela leadership of the murder of Juan Montoya. According to Public Prosecutor's Office, the accused has been detained since August 2014 awaiting trial.

## GÉNESIS CARMONA



Génesis Carmona, a 22-year-old a marketing student and the 2013 Miss Carabobo Tourism, was shot in the head on 18 February 2014 while taking part in a student protest. She died the following day.

Génesis' family told Amnesty International that she had gone with her brother, mother and classmates to join a protest in Avenida Cedeño in the city of Valencia, Carabobo State. The demonstration was peaceful, with a cordon of National Guard officers at the front of the march. At a certain point, the police cordon reportedly parted to let through a group of armed men in civilian clothing on motorbikes. The armed men opened fire on the demonstrators. Most of the protesters threw themselves to the ground to avoid the bullets, but Génesis reportedly started running in the opposite direction and was shot in the head.

To date the Public Prosecutor's Office has accused one person of complicity in intentional homicide in connection with Génesis' death. And a international arrest warrant has reportedly been issued for another person, although there is no information about whether or not this is the person who actually carried out the killing.

## GHINA RODRÍGUEZ AND GUILLERMO SÁNCHEZ



Guillermo Sánchez died after being shot, reportedly by a pro-government armed group, in La Isabelica, Valencia, on 12 March 2014. Guillermo Sánchez, who lived in the road where protests were taking place, had left home that day to go and paint his mother's house. His wife, Ghina Rodríguez, told Amnesty International that eyewitnesses stated that a group of armed men shot and beat him. They then put him on a motorbike and flung him towards state police officers who were stationed near the protests, saying: "here's another one for you, expect some more". According to reports, it was the police officers who took Guillermo to the door of a medical centre where staff tried to save his life.

To date, one law enforcement official has reportedly been tried in connection with the death of Guillermo Sánchez on the basis of ballistic evidence linking him to the crime. According to reports, the official alleged that he had lent his gun to another, as yet unidentified, person.

Ghina Rodríguez is a member of the Victims' Anti-repression Front (Frente de Víctimas contra la Represión), an organization set up by relatives and victims of human rights violations committed during the protests between February and July 2014. Members and supporters of the Front have been harassed by unidentified individuals in plainclothes. Vicliz Faudul, a reporter and supporter of the Front, was threatened in June. Ghina told Amnesty International that stones were thrown at the journalist's home and a leaflet was left there that read: *"We see that you did not heed the first warning... Now you see that we have people infiltrated everywhere and that we are following 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.

When Ghina 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 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.

### EXCESSIVE USE OF FORCE

The security forces in Venezuela used excessive force during public order operations and violated the right to physical integrity of people exercising their right to peaceful assembly and association. In doing so, they breached international human rights standards, in particular Article 3 of the UN Code of Conduct for Law Enforcement Officials and the UN

Basic Principles on the Use of Force and Firearms by Law Enforcement Officials.<sup>4</sup> Their actions also violated national laws and protocols for law enforcement agencies.

Statements from victims, eyewitnesses, journalists reporting on the protests 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 protests took place between February and July 2014.

In its recent assessment of the situation in Venezuela, the Committee against Torture expressed concern about the unlawful use of firearms and riot equipment against protesters in residential areas during the 2014 protests.<sup>5</sup>

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, according to the evidence available, it was not used in a targeted manner to contain those groups of protesters engaged in acts of violence. Rather, it was used in an indiscriminate, generalized and disproportionate manner against peaceful protesters and passers-by. On many occasions the use of force by the security forces served to exacerbate and escalate tension and violence.

Amnesty International has documented cases when live ammunition was fired at demonstrators and homes in residential areas where “*cacerolazos*”<sup>6</sup> were taking place or where residents had set up roadblocks. In at least one case, the actions of the security forces resulted in the death of a protester.<sup>7</sup>

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<sup>4</sup> See Article 3 of the UN Code of Conduct for Law Enforcement Officials, available at <http://www.ohchr.org/EN/ProfessionalInterest/Pages/LawEnforcementOfficials.aspx>; and Principles 4, 5, 8, 9, 10, 12, 13 and 14 of the UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officials, available at <http://www.ohchr.org/EN/ProfessionalInterest/Pages/UseOfForceAndFirearms.aspx>.

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

<sup>6</sup> Protests in the street or their homes in which people use cooking utensils or other objects to make a noise.

<sup>7</sup> See the case of Bassil Da Costa Frías, p.16.

The Public Prosecutor's Office has estimated that 90 people were injured by live ammunition.<sup>8</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. Amnesty International received information that in at least one case expanding bullets were used; these are not appropriate ammunition for use in the context of policing social protests.

Amnesty International has documented the inappropriate use of rubber bullets by law enforcement officials who fired them directly at protesters and passers-by. According to the evidence gathered by the organization, in a number of cases officers fired rubber bullets at clearly unarmed people at close range and without giving a clear warning, with the apparent intention of causing maximum injury. Rubber bullets fired at close range resulted in at least one death.<sup>9</sup>

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>10</sup>

Photographs, videos, statements from eyewitnesses and from protesters and passers-by who were injured and 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 allegedly tampered with to insert marbles, nails, candles or broken glass into cartridges with the apparent intention of causing maximum physical injury.<sup>11</sup>

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 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 the organization show that in many cases shots and tear-gas grenades entered people's homes through windows causing symptoms of asphyxia and risking injuries as

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<sup>8</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>9</sup> See the case of Geraldín Moreno, p.23.

<sup>10</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>11</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.

residents were forced to throw themselves to the ground or rush to the back of the house to take cover.

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. 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.

Far from showing a clear commitment to respect the right to peaceful assembly, the Ministry of Defence decided to issue a resolution on the eve of the first anniversary of the protests that began in February 2014 that allows all sections of the armed forces to be deployed in public order operations, including public protests. The resolution also authorizes the use of firearms in such operations. The fact that the authorities are now considering 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 National Guard.

Ministry of Defence Resolution 008610 was issued on 27 January 2015.<sup>12</sup> This states that military personnel will be trained in and will act in accordance with international human rights standards. However, there is concern that the Resolution does not give a clear definition of the exceptional circumstances that would justify the use of the armed forces in public order operations, nor does it establish clearly in which limited circumstances the armed forces are authorized to carry and use firearms, which arms they are authorized to carry and how they are to be used to comply strictly with international standards on the use of force. The Resolution has been criticized, including by the Public Prosecutor's Office itself, which raises questions about the circumstances in which the armed forces would be permitted to use of firearms in the policing of protests.<sup>13</sup>

In November 2014, the UN Committee against Torture had noted with concern the participation of military personnel, such as the National Guard, in the policing of protests given that their functions do not include maintaining law and order and that there had been no declaration of a state of emergency or other exceptional circumstance. The Committee stated that there had been 121 complaints of excessive use of force against members of the

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<sup>12</sup> Resolución 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>13</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."

National Guard for their actions during the February to July 2014 protests.<sup>14</sup>

On 10 February, a spokesperson for the UN Office of the High Commissioner for Human Rights reminded the Venezuelan authorities that “the use of the military for law enforcement should only be an exceptional way to respond to an emergency situation” and urged “the Venezuelan Government not to use the armed forces in the control of peaceful demonstrations.”<sup>15</sup>

The decision of the Venezuelan authorities to use the armed forces, whose role and training is not appropriate for public order operations, such as policing social protests, would appear to suggest a certain lack of real commitment on the part of the authorities 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.

Although the authorities have announced that they will establish procedures that are in line with international human rights standards and that they will provide training for the armed forces that are in accordance with these standards, Amnesty International believes that respecting these standards involves much more than the publication of a series of regulations and manuals on these issues.

For example, 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>16</sup> According to these rules and regulations, any security force involved in public order operations must act in accordance with all these various rules and

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<sup>14</sup> See Committee against Torture, *Observaciones finales sobre los informes periódicos tercero y cuarto combinados de la República Bolivariana de Venezuela*, 12 December 2014, para. 12 (CAT/C/VEN/CO/3-4) available at [http://tbinternet.ohchr.org/\\_layouts/treatybodyexternal/Download.aspx?symbolno=CAT/C/VEN/CO/3-4&Lang=Sp](http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CAT/C/VEN/CO/3-4&Lang=Sp)

<sup>15</sup> See <http://acnudh.org/en/2015/02/ohchr-on-the-control-of-public-demonstrations-in-venezuela/>.

<sup>16</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/gacetas/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-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>.

principles.<sup>17</sup> However, 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. These included the indiscriminate use of plastic pellets, tear gas and in a number of cases firearms against protesters, passers-by and local residents in the areas where protests were taking place, as well as torture and other ill-treatment. 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.

The numerous grave human rights violations committed by law enforcement officials during the 2014 protests clearly show that the security forces, including those that should be trained for such operations and 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 and the right to peaceful assembly. In the 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 punished rather than allowing and indeed 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 function and for which they are clearly not trained.

## GERALDÍN MORENO



*“Justice must be done. All the hate in this country has to stop. The main thing is that justice must be done... and peace, peace for this country”*

Words of the father of Geraldín Moreno

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 protest, members of the National Guard on motorbikes dispersed demonstrators by firing rubber bullets. Geraldín was lying on the ground when the bullet was fired at close range, piercing through her eye and lodging in her brain. Other demonstrators took her to a nearby hospital where she died.

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<sup>17</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”.

A relative of Geraldín told Amnesty International: “The guards that wounded people, they fired their guns... bang, bang, bang, then they regrouped and rode off. The guards were not bothered about getting the wounded to hospital. They just rode off together. Plastic bullets are for dispersing people. People get hurt but the bullets are not supposed to be lethal, the [rubber bullets] usually disperse the crowds. But [the guards] must have known that the girl was going to need help”.

The Public Prosecutor’s Office recently informed Amnesty International that two members of the National Guard had been detained and were awaiting trial. At the time of writing, the trial of those accused of killing Geraldín Moreno had been deferred eight times.

## ANTHONY GREGORIO CARRERO

*“Sometimes I wonder why this happened to me, why did this have to happen to me.”*

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 a bullet fired at close range, reportedly by an officer of the National Guard, as officers dispersed a protest by local residents in San Cristóbal, Táchira State.

According to the medical report, to which Amnesty International was given access, Anthony Carrero required surgery for a gunshot wound; a bullet had pierced the left-hand side of his diaphragm. Anthony Carrero told Amnesty International that he was discharged prematurely, just five days after the operation, because medical personnel feared that he would be detained if he remained in hospital. Several months later he had to be readmitted to hospital for emergency treatment to drain his lung. At the time of writing, he was waiting to undergo further surgery linked to the gunshot wound.

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, which launched an investigation. However, the Public Prosecutor’s Office has recently informed Amnesty International that it has requested that the case be dismissed. This would result in the investigation being closed without any of those responsible being brought to justice.

## YANEULIZ VACA

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 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.

She was hospitalized for two weeks and almost a year later she was still in pain. The bullet wound still causes Yaneuliz pain. It has not been possible to remove the bullet, which remains lodged near her spine causing her intense back pain.



Yaneuliz gave her statement to representatives from the Public Prosecutor's Office a few days after the incident. However, the Public Prosecutor's Office has recently informed Amnesty International that it has requested that the case be dismissed. This would result in the investigation being closed without any of those responsible being brought to justice.

## JOHN MICHAEL ORTIZ FERNÁNDEZ



On 21 April 2014, 16-year-old John Michael Ortiz Fernández was hit in the left eye by a rubber bullet, when he went out onto the balcony of his home in San Cristóbal (Táchira State). The bullet burned the retina and doctors believe he will not retain more than 30% of his sight in his left eye.

John Michael told Amnesty International that on that day protests broke out in the area where he lives. A member of the National Police reportedly fired tear-gas grenades and rubber pullets to break up the protest. John Michael 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". According to his family, despite the seriousness of the injuries, when they arrived at the medical centre, staff initially refused to treat him until representatives of the Public Prosecutor's Office arrived.

John Michael and his family lodged a formal complaint with the Public Prosecutor's Office. However, at the time of writing they had not been informed of any significant progress in the case and no one had been charged in connection with the incident.

## TORTURE AND OTHER CRUEL, INHUMAN OR DEGRADING TREATMENT

Dozens of people were the victims of torture or other ill-treatment by members of the security forces during the protests. 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 and then released a few hours later.

In the majority of cases, detainees were ill-treated in order to punish them for their participation, or alleged participation, in the protests; to coerce them into confessing to having committed crimes while they were taking part in the protests; or to obtain information in order to identify those who had taken part in or organized anti-government protests.

Victims were punched, kicked and beaten with blunt objects, such as helmets, by law enforcement officials, in some cases while the detainee was lying on the ground, restrained and offering no resistance to arrest. In a number of cases members of the security forces tortured detainees during interrogation by applying electric shocks, putting plastic bags over their heads until they almost asphyxiated and burning them with sharp objects.

Some detainees reported that they had been forced to stay on their knees or remain standing

for many hours in detention centres. Others reported that they were blindfolded or hooded while being transferred to the detention centre and while held there, sometimes for days.

Amnesty International has also documented cases of asphyxia where tear gas was used in enclosed spaces, such as patrol cars or police cells, and of sexual abuse and threats of rape against detainees. It has also received reports of death threats, including in cases where the detainees had been sprayed with petrol.<sup>18</sup>

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>19</sup> In addition, in meetings with Amnesty International in July 2014, the state Ombudspersons for Táchira and Mérida indicated that they had recorded cases of cruel, inhuman and degrading treatment: 19 cases 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. Some fear reprisals from the perpetrators or that they will be detained if they admit that they took part in the protests. Others who took part in the protests and are facing charges fear that making allegation 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, represents only a fraction of the real number of victims of these human rights violations.

Although the Public Prosecutor's Office has taken a number of steps to ascertain who was responsible for the grave human rights violations committed during the protests, in the vast majority of cases of torture and other ill-treatment, one year after the violations occurred, those responsible have not been brought to justice. Indeed, they remain on active service and in some cases have harassed and intimidated victims. At the same time, a number of victims continue to face investigation and trial for their alleged participation in violent clashes during the protests.

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. For example, victims, lawyers and human rights defenders stated that in some cases, despite the

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<sup>18</sup> In the cases documented by Amnesty International, the victims requested that their information not be made public because they feared reprisals or that making a statement about their treatment could have a negative impact on the outcome of investigations or court cases being brought against them for alleged offences committed while they were taking part in protests.

<sup>19</sup> See the report of the Public Prosecutor's Office, *Informe Hechos de Violencia 2014*, of 12 February 2015.

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.

According to statements made, as well as in conversations with Amnesty International representatives, the Attorney General, Louisa Ortega, and members of the Attorney General's Human Rights Unit (Fiscalía Especializada en Derechos Humanos) and the Ombudperson'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 by Amnesty International said that forensic doctors often do not carry out a thorough examination aimed at revealing evidence of torture or ill-treatment that may not be visible, as required by international standards. This was the case even when the detainee showed visible signs pointing to the likelihood of ill-treatment.

Amnesty International was given access to a number of forensic medical reports and believes that in some cases these did not meet the minimum standards set out in the Principles on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. 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.<sup>20</sup> In addition, there are concerns that medical reports are often not shared with the detainee or their lawyer.

In a number of cases, medical examinations of detainees were carried 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 the ill-treatment because they were afraid of reprisals by the law enforcement officials or because they feared that if they lodged a complaint they would be subjected to further ill-treatment while in detention or denied conditional release or that making a report would have a negative impact on their court case.

In Amnesty International's opinion, all these factors have helped create a situation in which the vast majority of the victims of torture and other ill-treatment during the 2014 protests

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<sup>20</sup> See the cases of people detained in Rubio, Táchira State, on pp.31-32 and the case of Ángel Cardozo on p.34.

have yet to receive any redress for violations of their human rights.

One year on, the government cannot continue to avoid fulfilling its obligation to condemn, prevent and punish torture and other ill-treatment. It must send a clear signal that it rejects and condemns all forms of torture and other ill-treatment and that all those responsible for such violations will be punished.

## DANIEL QUINTERO



*"First they punched me in the face, kicked me in the ribs and hit me with the butts of their guns on the forehead. I told them to leave me alone but they insulted me, saying 'shut up you idiot, shut up you son of a bitch, get on the bike' and they kept on hitting me."*

Daniel Quintero, a 21-year-old student, joined an anti-government demonstration on 21 February in Maracaibo, Zulia State. He described to Amnesty International how he was tortured and ill-treated after being stopped as he was on his way home by members of the National Guard. He was put in an armed vehicle where officers took turns in beating him. Daniel said that afterwards: "One of officers switched on the video on his mobile phone, handed it to a

colleague, then got on top of me and made obscene sexual movements, they brushed my legs with their rifles and said to me 'hey, he shaves his legs, they are going to rape you in Marite,<sup>21</sup> and if they rape you, they will kill you as well'."

Daniel Quintero was then taken to the National Guard's Regional Base No. 3 (Comando Regional 3) in Maracaibo, where the commanding officer "told me they were going to burn me. And at his side he had a can of petrol, wires and matches... and he said they were going to burn me and that nobody would ask about me... The whole army unit, about 150 soldiers, surrounded me while he hit me nine times with his baton while talking to me and while I was still handcuffed."

Daniel was then taken to the offices of the National Guard's Anti-Extortion and Kidnapping Squad (Grupo Antiextorsión y Secuestro, GAES), also in Maracaibo. Daniel told Amnesty International, "they put [me] in a cell and ordered me to strip down to my underwear. In the cell, they handcuffed my left hand to a bar attached the wall at about foot height. They said I had to obey two rules: I must not fall asleep, because guards do not sleep and they wanted me to feel like they did, and that I had to keep my feet together, with my right hand touching my ankles, and my navel practically touching my thighs. I had to stay in this doubled-up position all night, otherwise they would come and start hitting me."

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<sup>21</sup> El Marite is a prison in Maracaibo State (el Centro de Arrestos y Detenciones Preventivas El Marite).

The Public Prosecutor's Office recently informed Amnesty International that it has requested that the case be dismissed. This would result in the investigation into the Daniel's complaint of torture being closed without any of those responsible being brought to justice. Daniel is facing trial on charges of incitement to commit a crime, blocking public roads and possession of illegal drugs.

## JUAN MANUEL CARRASCO



*"They put us in a foetal position, on our knees and hit us, they just hit us and hit us. A guard went out and said that God would not save us even if we prayed and that this was our last day. They pulled my underpants down and stuck something up my behind. And they continued to hit us, hitting us until they were tired out".*

Juan Manuel Carrasco, aged 21, and two friends were detained by the National Guard on the night of 13 February 2014 near to where a protest was taking place in Valencia, Carabobo State. Juan Manuel Carrasco was sexually assaulted, threatened with death and repeatedly beaten while in detention.

He was detained for three days, along with 10 others, in the National Guard's Urban Security Detachment (Destacamento de Seguridad Urbana) facility in Valencia. While detained he was punched, kicked and beaten with guns and helmets, intimidated with dogs, threatened with death and raped with an object. Juan Manuel Carrasco told Amnesty International that some guards even tried to intervene on his behalf when they saw the beating he was taking. "One of the guards said 'don't hit the lad with the yellow shirt (which was me) anymore or you'll kill him". They kicked me here and I spat out a mouthful of blood. They kept hitting us".

During his detention, Juan Manuel Carrasco was visited by staff from the Public Prosecutor's Office. He did not tell them anything for fear of reprisals, as the visit took place in the presence of members of the National Guard. Attorney General Luisa Ortega told Amnesty International that Public Prosecutor's Office was investigating the complaint of ill-treatment and torture, including rape.

The Public Prosecutor's Office recently informed Amnesty International that non-custodial measures had been imposed on three National Guard officials pending trial. Legal proceedings against Juan Manuel Carrasco on charges of causing violent damage to property, obstructing a public highway, inciting a minor to commit a crime, public intimidation and conspiracy to commit a crime have stalled.

## CARLOS VILLAMIZAR

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 his statement, he was with a group of students on a public road. 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 allegation. 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 few days after the incident, 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"), to which Amnesty International has had access. Despite this, the judge ordered that he be held in pre-trial detention until 8 October 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 hospital where doctors recorded multiple injuries to his head and spinal column (multiple injuries, cranial trauma, trauma to the spinal cord and lower motor neurone damage).

At the time of writing, Carlos Villamizar was under house arrest awaiting 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 about the ill-treatment of her son with the Attorney General's Fundamental Rights Office in Táchira on 10 October 2014. According to the information received by Amnesty International, the case is currently under investigation.

## GLORIA TOBÓN



Gloria Tobón was detained, along with her daughter, during a joint National Guard and army operation in Rubio, Táchira State, on 19 March 2014. Two days later, Gloria Tobón appeared before a judge and was released. However, while she was in detention, she was subjected to torture and other ill-treatment.

Gloria Tobón told Amnesty International that on the day she and her daughter were detained, she was trying to go to the state capital to buy food. When they arrived at the bus station, they saw that a protest was taking place. Officials advised them not to travel, so they decided to sit down with the people who were protesting. Security force officials 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, she was beaten and threatened with electric shocks to force her to say who the leaders and financial backers of the protests were.

While she was detained, she was kept blindfolded and she was doused with water and then electric shocks were applied to her arms, breasts and genitals. Gloria Tobón described how while she was in detention, they threatened to kill her: “They taunted us. They told us that they were going to take us up into the mountains and kill us and chop us up into pieces. They said they would dig a grave and bury us where no one would ever find us.”

At least 21 other people were detained during the operation in Rubio in which Gloria was apprehended. Amnesty International was able to speak to four of those detained. All said that they too had been subjected to torture and other ill-treatment. However, most of those interviewed asked that their names not be made public for fear of reprisals.

In statements made to Amnesty International about their detention and time in custody, the detainees described how they had repeatedly been kicked; beaten, including using a metal bar, a tear-gas canister and firearms; insulted and threatened with death and sexual violence; and, in some cases, given electric shocks 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 reveal who was financing them. In at least one case, a detainee was reportedly forced to watch while another detainee was beaten.

The following day, all the detainees were given a forensic medical examination. Amnesty International has been given access to the reports of the examinations. Although key information required to meet international standards is missing, the reports do establish that 12 of the 23 detainees had sustained some form of injury.

Gloria Tobón made a formal complaint to the Public Prosecutor's Office about her treatment. She was subsequently threatened and insulted in the street by the security force officials who

had detained her and who remained on active service. Amnesty International has no information about the outcome of any investigations that may have been initiated into the threats and intimidated.

The Public Prosecutor's Office recently informed Amnesty International that it has requested that the case be dismissed. This would result in the investigation into the Gloria Tobón's complaint of torture and other ill-treatment being closed without any of those responsible being brought to justice.

## MARVINIA JIMÉNEZ



*"I don't think I should be beaten up just for recording a demonstration."*

Marvinia Jiménez, aged 36, described to Amnesty International how she was beaten by a member of the National Guard in Valencia, Carabobo State. On 24 February 2014, Marvinia Jiménez was taking photos with her mobile phone of National Guard armoured vehicles breaking up a demonstration near her home. She was surrounded by several officers, one of whom attacked her, hit her with her helmet and pulled her hair. Marvinia Jiménez told Amnesty International she was still in pain several days later.

She was detained for several days. During that time she was not told the reason for her detention nor was she allowed access to her family or lawyer. It was only when she was brought before a judge that she was able to see her family. "That's when I was able to speak to my brother, who told me he'd been looking for me for days. I realized I had not been alone and that my family was trying to find out where I was. That's when I could start breathing... The worst thing for me was to see my seven-year-old son at the hearing, seeing me like that and having to explain to him that I had been arrested and beaten up".

The Attorney General told Amnesty International that she had requested the detention of the member of the National Guard who ill-treated Marvinia Jiménez. However, nearly a year after the incident, the arrest warrant against the officer believed to be responsible for the attack had yet to be served and she was believed to remain on active service in National Guard facilities in Valencia, Carabobo State.

Marvinia Jiménez made formal complaints about the intimidation she has suffered. For example, she reported to the Public Prosecutor's Office that she was being followed in her neighbourhood, near her son's school and around her place of work by unidentified individuals. As a result, on 12 March 2014, the supervising court (*tribunal de control*) ordered that Marvinia Jiménez should receive protection and charged the Valencia Municipal Police with implementing the order. However, protective measures have not been properly put in place. For example, two weeks after the protection order was granted, the Municipal Police argued that they did not have enough officers to comply with the order. At the time of writing



Marvinia was not receiving any form of police protection.

## WUADDY MORENO DUQUE



Wuaddy Moreno Duque – a 21-year-old peasant farmer living in Cerro Palenque, Jáuregui municipality, Táchira State – was tortured because the authorities suspected him of taking part in a protest.

Wuaddy Moreno told Amnesty International that on 27 February 2014 he had gone out with two friends to go to a birthday party. On the way back home, his motorcycle ran out of petrol in La Grita, Táchira State. Fifteen National Guard officers spotted them and pulled up beside them.

The officers accused them of participating in the anti-government protests that had taken place. They took Wuaddy Moreno and his two friends to the public square in front of the army headquarters La Grita. There in this public space, the military officers tortured them to try to get them to admit that they had participated in the protests and used firearms, and to implicate the Mayor of La Grita in the financing of the protests.

Wuaddy Moreno described what happened next: “That was when they burned all my papers... all those I had. They... took a screwdriver out the bag where I kept the tools for my motorcycle... they started to heat the screwdriver and to burn me with it. 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.” They were kept in the square for two hours, where Wuaddy Moreno was beaten with batons. He was then taken to the National Guard headquarters and held there until the following morning, when he was released without charge.

Wuaddy lodged a formal complaint with the Public Prosecutor’s Office. However, he and his family have been the targets of intimidation on two occasions by members of the National Guard, including the officer alleged to have carried out the torture; he remains on active service. Officers have approached the family demanding that they withdraw the complaint.

Amnesty International understands that the Attorney General of Táchira State is investigating the case. However it has not yet had access to the findings of the investigation.

## RAFAEL ÁNGEL CARDOZO MALDONADO



Rafael Ángel Cardozo Maldonado, a 20-year-old man with mental disabilities, was detained during an army operation in the city of San Cristóbal, Táchira State, as he was making his way home on 17 March 2014. He was detained for five days and spent at least one day in incommunicado detention in a military barracks.

Ángel and his lawyer spoke to Amnesty International in July 2014 in Táchira. They described how the military repeatedly denied that it was holding Ángel and refused to allow access to him. They said that from the moment he was arrested, Ángel 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 (known as “*miguelitos*”) on his head. His family is concerned that the forensic medical report of 18 March, to which Amnesty International has had access, only 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”. However, his injuries were sufficiently visible for the judge to order that an investigation be initiated into torture and other cruel, inhuman and degrading treatment.

Prosecutors charged Ángel and other detainees with incitement and conspiracy to commit a crime. The charges against Ángel were dismissed following a medical report that confirmed Ángel suffered from “mental impairment ... 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”.

At the time of writing, Amnesty International had no information on the progress of the prosecutor’s investigation into the allegations the torture and other ill-treatment of Ángel during detention.

## MOISÉS GUÁNCHEZ

Moisés Guánchez was arbitrarily detained and ill-treated by members of the National Guard in Carrizal municipality, Miranda State, as he leaving work on 5 March 2014. He stated that he was beaten and injured with rubber bullets while he was detained. There had been a confrontation between the National Guard and demonstrators who were erecting barricades near to the shopping centre where he worked, part of the pro and anti-government protests that took place between February and July 2014.

Moisés Guánchez was released without charge two days later, on 7 March 2014. 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 for his terrible ordeal. The injuries he sustained were so serious that he had had to undergo surgery twice.

Since his release Moisés Guánchez 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. In addition, according to reports, National Guard officers went to the place where he studies and questioned one of his teachers about him, took photographs of him and inspected his car.

Amnesty International is concerned that all this has occurred since his unconditional release and after an investigation was initiated into his arbitrary detention and ill-treatment.

## ARBITRARY DETENTION

According to recent statements made by the Attorney General, 3,351 people were apprehended during the 2014 protests.<sup>22</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 and to medical attention.<sup>23</sup> Dozens were victims of torture and other ill-treatment.

Although most of those who were detained were released, according to the latest information published by the Attorney General, one year later, 1,402 people are facing charges for offences allegedly committed during the protest, 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, according to the recent statements of the Attorney General, 27 people remain in detention.<sup>24</sup>

After reviewing the evidence presented by the Public Prosecution Service on a number of the 27 cases of those who remain in detention, Amnesty International was able to confirm that some detainees had been arbitrarily detained. Some had been detained although they had

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<sup>22</sup> See the report of the Public Prosecution Service, *Informe Hechos de Violencia 2014*, of 12 February 2015.

<sup>23</sup> The UN Working Group on Arbitrary Detention has defined arbitrary detention as deprivation of liberty that is contrary to provisions laid down the relevant international human rights instruments. More specifically, the Working Group has defined three categories of arbitrary detention:

1. When it is clearly impossible to invoke any legal basis justifying the deprivation of liberty (as when a person is kept in detention after the completion of their sentence or despite an amnesty law applicable to them);
2. When the deprivation of liberty results from the exercise of the rights or freedoms guaranteed in the Universal Declaration of Human Rights (UDHR) or the International Covenant on Civil and Political Rights.
3. When a person is deprived of their liberty after a trial that did not comply with international norms relating to the right to a fair trial, spelled out in the UDHR and other relevant international instruments.

<sup>24</sup> See the report of the Public Prosecution Service, *Informe Hechos de Violencia 2014*, of 12 February 2015

committed no offence and without an arrest warrant had been issued.<sup>25</sup> In the five cases examined by Amnesty International, detainees are facing trial despite the absence of credible evidence to support the charges against them. The organization is gravely concerned that these detainees may have been prosecuted because they held opinions which were critical of the authorities or contrary to government interests. The lack of credible and admissible evidence against them means there is a serious risk that their right to due process will be undermined. Amnesty International considers that their detention is arbitrary and is concerned that it appears to be political motivated.

Amnesty International is also concerned that others among the 27 people who continue to be deprived of their liberty may also be facing trial for crimes connected with the protests without any credible evidence linking them to the crimes of which they are accused.

## MARCELO CROVATO



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

The Public Prosecutor's Office has accused Marcelo Crovato 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.

Amnesty International has been given access to the indictment issued by the Public Prosecutor's Office. The main basis for the charges is the testimony of an unidentified police officer who has accused Marcelo Crovato of taking part in a meeting on 10 April 2014 at which people allegedly responsible for organizing and building barricades and blocking the roads in Chacao were also present. These barricades, known as "*guarimbas*" (where protesters block roads with burning rubbish, forcing local residents to stay indoors) were a feature of the anti-government protests between February and July 2014. Marcelo Crovato denied being present in this meeting. However, to date, the authorities have not produced any credible evidence to support the charges against him or implicating him in criminal acts. Amnesty International, therefore, called on the authorities to release him.

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<sup>25</sup> See the case of Marcelo Crovato, below.

In the 10 months that Marcelo Crovato was arbitrarily detained, his family and lawyer told Amnesty International of their concern about the negative effects on his state of health of his imprisonment in the Capital Region Central Prison, Yare III, especially following his attempted suicide in December 2014.

The medical report of a psychiatric assessment carried out by a team from the Public Prosecution Service itself in October 2014, to which Amnesty International had access, 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.

At a press conference on 10 February 2015, the Public Prosecutor's Office announced that it had requested a review of the decision to hold Marcelo Crovato in pre-trial detention. On 26 February 2015, the judge in charge of the case ordered that he be placed under house arrest.

## CHRISTIAN HOLDACK



Christian Holdack has been detained since his arrest on 12 February 2014 near an anti-government demonstration in Caracas. His lawyer told Amnesty International that Christian Holdack was filming the protest when he was detained by the national investigative police (Cuerpo de Investigaciones Científicas, Penales y Criminalísticas, CICPC). Christian has stated that he was beaten, insulted and forced to kneel for protracted periods at the time of his arrest and while he was in the custody of the CICPC for two days before being brought before a court.

Christian Holdack has been accused of incitement to commit a crime, arson, damage to property and conspiracy to commit a crime, charges which carry a maximum sentence of eight years' imprisonment. The Public Prosecutor's Office indictment, to which Amnesty International has had access, contains no credible evidence to support the charges against him. Christian Holdack's case is part of the same judicial proceedings as Leopoldo López, leader of the opposition Popular Will (Voluntad Popular) party, who has been arbitrarily detained since 18 February 2014 for politically motivated reasons. Three other people reportedly charged in the same case have been granted bail pending the outcome of the trial.

Christian Holdack's lawyers are gravely concerned about the impact on his health of his continued detention. According to a psychological assessment carried out by the Public Prosecutor's Office forensic doctor on 2 April 2014 Christian Holdack: "*exhibited symptoms of post-traumatic stress disorder as a result of his experiences*". In August 2014, another official medical examination found that he was suffering from a mixture of anxiety and depression and recommended that Christian Holdack be removed from his stressful environment.

On the basis of these reports, the Ombudsperson's Office wrote to the courts on 17

September 2014 asking that they reconsider the decision to impose pre-trial detention because: *“as a citizen deprived of his liberty, Christian Holdack is unable to access or complete the course of treatment prescribed for him (psychotherapy). This is having a serious effect on his mental health and could compromise his physical health and integrity.”* Despite this, the court has on at least two occasions rejected similar requests by the defence and Christian Holdack remains in detention at the Municipal Police Station in Chacao.

## ROSMIT MANTILLA

Rosmit Mantilla, a lesbian, gay, bisexual transgender and intersex (LGBTI) rights activist and member of the opposition Popular Will (Voluntad Popular) party, has been detained for nearly a year by the National Intelligence Service (Servicio Bolivariano de Inteligencia Nacional, SEBIN). 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, the investigating judge ordered that Rosmit Mantilla should face trial.

On 2 May 2014, Rosmit Mantilla was detained at his home in the capital, Caracas, by SEBIN officers. 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. SEBIN 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 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 has been given access to the charges brought by the Public Prosecutor’s Office. The main basis for the charges is the testimony of an unidentified individual and the evidence that SEBIN officers claim to have discovered in Rosmit Mantilla’s home. 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. For example, according to the Public Prosecutor’s Office’s report, the authorities have based the charges of incitement, arson involving public and private buildings and violent damage on the fact that Rosmit Mantilla, according to SEBIN’s version of events, was in possession of leaflets calling for anti-government student protests.

## LEOPOLDO LÓPEZ



The authorities must release Leopoldo López, leader of the opposition Popular Will (Voluntad Popular) party, immediately and implement the recommendation of the UN Working Group on Arbitrary Detention issued in August 2014.<sup>26</sup> Leopoldo López was detained by the National Guard during an anti-government protest in a square in east Caracas called by his party on 18 February 2014. He has remained in detention ever since. On 19 February, he appeared before a court, which found that there was no evidence to support the serious crimes listed in the detention order, such as terrorism, homicide and causing serious injury. However it stated that there was evidence to support other charges, such as arson, damage to property and conspiracy to commit a crime. These crimes carry a penalty of at least 13 years' imprisonment. The judge

ordered that he be remanded in custody pending the outcome of an investigation by the Public Prosecutor's Office.

Four months later, on 4 July 2014, the judge determined the results of the investigation by the Public Prosecutor's Office admissible and found that there was sufficient evidence to bring Leopoldo López to trial. In addition, he refused to grant bail pending trial. Leopoldo López has now 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 the capital, Caracas.

Amnesty International is concerned that Leopoldo López's detention appears to be politically motivated. The warrant for his detention 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 anti-government protests. In addition, President Nicolás Maduro called for Leopoldo López's 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 casts doubt as to whether the presumption of innocence, crucial to a fair trial, is being respected in the case Leopoldo López. The case calls into question the independence and impartiality of the judicial system – a cornerstone of the rule of law – and as a result the casts doubt on the impartiality of trial proceedings from the outset.

On 26 August 2014, the UN Working Group on Arbitrary Detention stated that it considered the detention of Leopoldo López to be arbitrary. In an opinion adopted at its seventieth session the Working Group notes that this is not the first time that Leopoldo López has faced

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<sup>26</sup> Opinion adopted by the UN Working Group on Arbitrary Detention in its seventieth session, Opinion No. 26/2014 (A/HRC/WGAD/2014/26), para. 60, made public by Leopoldo López' legal representatives.

legal proceedings and “suffered retaliations”.<sup>27</sup> The Working Group concludes that: The arrest of Mr. López on February 18 2014, having been executed without order from a judicial authority; having been extended for a period of more than six months; having exposed Mr. López to isolation; not having granted Mr. López provisional freedom subject to bail if necessary; and having imposed obstacles to the defense lawyers, including the censorship of their communications with the detainee, affects the right to a fair and impartial trial, the presumption of innocence, and due process.”<sup>28</sup>

## DANIEL CEBALLOS

Daniel Ceballos, Mayor of San Cristóbal (Táchira State) and a member of the opposition Popular Will (Voluntad Popular) party, was detained on 19 March 2014 by members of the National Intelligence Service (Servicio Bolivariano de Inteligencia Nacional, SEBIN). At the time of writing, he remained in detention in CENAPROMIL (Centro Nacional de Procesados Militares), a military prison in city of Los Teques, more than 800km from San Cristóbal.

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 security and other rights, such as the right to freedom of movement, in their municipalities during the protests that began in February 2014. This ruling was extended to include Daniel 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 that shook the country between February and July 2014. At the time of writing the trial was continuing; 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>29</sup>

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<sup>27</sup> Opinion adopted by the UN Working Group on Arbitrary Detention in its seventieth session, Opinion No. 26/2014 (A/HRC/WGAD/2014/26), para. 51.

<sup>28</sup> Opinion adopted by the UN Working Group on Arbitrary Detention in its seventieth session, Opinion No. 26/2014 (A/HRC/WGAD/2014/26), para. 59.

<sup>29</sup> Opinion adopted by the UN Working Group on Arbitrary Detention at its 70th session. Number 26/2014 (Bolivarian Republic of Venezuela). A/HRC/WGAD/2014/30, paras 50-51.



## REPRISALS AGAINST VICTIMS, THEIR FAMILIES AND LAWYERS AND HUMAN RIGHTS DEFENDERS FOR REPORTING HUMAN RIGHTS VIOLATIONS

Amnesty International interviewed dozens of victims, relatives, lawyers and human rights defenders during the six months when the protests were taking place and in the months that followed. The organization was able to ascertain that the vast majority victims and their families report a lack of confidence in their ability to get justice and a fear of possible reprisals if they make a formal complaint. In a number of cases, the victims live in the same neighbourhoods as the suspected perpetrators, who remain on active services, and have been pressurized and harassed. Even when the victims or their relatives have been given protection, it has not always been implemented effectively.

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

To date, the authorities have failed to take action to bring those responsible to justice and to guarantee that defenders of human rights 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 those who defend human rights are human rights defenders is nothing to do with conferring a special status on them, rather it is about adopting concrete protection measures. States have the same obligation to protect and respect the human rights of defenders as they do to protect and respect the human rights of everyone in their jurisdiction, as the UN Declaration on Human Rights Defenders states.

However, states also have an obligation to create and implement special mechanisms to protect defenders from abuses inflicted on them for exercising their rights. Firstly, those who defend human rights must be recognized as human rights defenders and their work as an important part of creating the rule of law. Secondly, the authorities must take specific measures to address the risks they face because of 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 effective investigations and bring to justice those responsible for 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 Minister of the Interior accused Humberto Prado of being involved in violence during the protests and of conspiring to destabilize the government and the prisons.<sup>30</sup> In October 2014,

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<sup>30</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/>.

the President of the National Assembly read out on his weekly television programme information allegedly sent by a member of the public about Humberto Prado's visit to Panama at the end of September, stating that he had met "strange people" there.<sup>31</sup> In fact, Humberto had participated in a Regional Forum on the Optional Protocol to the Convention against Torture organized by Association for the Prevention of Torture. In the same programme, viewers were asked to "remember that he has close links with prison mafias and was always behind public order and prison disturbances".<sup>32</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 after they appeared before the Committee against Torture while it was reviewing Venezuela's human rights record.<sup>33</sup>

Amnesty International has also received reports of the harassment of lawyers representing victims of human rights violations. The security of lawyers and their right to fulfil their professional functions without intimidation, hindrance or harassment are fundamental principles designed to ensure the protection of the rights of those detained to a defence and a fair trial and the right of victims of human rights violations to justice.

The UN Basic Principles on the Role of Lawyers state that the authorities have an obligation to ensure that lawyers are able to fulfil all their professional functions without intimidation, hindrance, harassment or improper interference and to ensure that lawyers are adequately safeguarded when their security is threatened as a result of discharging their functions.<sup>34</sup>

**Alfredo Romero, along with other member of the lawyers' network Penal Forum,** have frequently been disparaged by on his weekly television programme. Alfred Romero has represented hundreds of people detained during the protests, many of whom were victims of arbitrary detention, torture and other ill-treatment.<sup>35</sup>

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<sup>31</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>32</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>33</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>34</sup> Principles 16 and 17 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.1).

<sup>35</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

**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 being 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.

In February 2015, **Alfredo Romero** told Amnesty International that the National Intelligence Service (Servicio Bolivariano de Inteligencia Nacional, SEBIN) 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 in which Penal Forum is providing legal representation is seeking access to the communications of the Director of Penal Forum. This could undermine the right of detainees and those facing charges to a legal defence and confidential communications and consultations with their legal representatives and also jeopardize the right to justice of victims of human rights violations.<sup>36</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.

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coup d'etat". Available at <https://www.youtube.com/watch?v=vH5mH3fLEN4>, last visited 18 March 2015.

<sup>36</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."

# CONCLUSIONS AND RECOMMENDATIONS

More than a year since the pro and anti-government protests that shook Venezuela between February and July 2014, the authorities have yet to ensure that all those responsible for the human rights violations committed in the context of the protests are brought to justice. The relatives of the 43 people who lost their lives and the hundreds of victims of torture and other cruel, inhuman or degrading treatment and those arbitrarily detained are still waiting for justice. This clearly shows a lack of political will on the part of the Venezuelan authorities to guarantee truth, justice and reparations and to ensure that these grave human rights violations are not repeated.

The government has also failed to state clearly that excessive use of force by the security forces will not be tolerated and that state agents must in all circumstances comply with international and national laws and standards on the progressive, proportionate and selective use of force.

Indeed, far from showing a clear commitment to respect the right to peaceful assembly the government issued a Ministry of Defence Resolution allowing all sections of the armed forces to be deployed in public order operations, including the policing of public protests; the criteria for such deployments remain unclear. The resolution also authorizes the use of firearms in such operations.

In response to the serious political, economic and social problems facing the country, the authorities have continued to seek to silence critics rather than seeking consensual solutions and responding to the legitimate demands of the population, within the framework of the rule of law and establishing full respect for human rights.

Until the authorities send a clear and unequivocal signal at the highest level condemning human rights violations, bring to justice those responsible and take decisive steps to strengthen the rule of law and ensure the human rights of all, irrespective of their political opinions, the distressing events of a year ago risk becoming a sad everyday reality in the country. It is crucial that state institutions who have a fundamental role in the protection and promotion of human rights, such as the Public Prosecutor's Office, the justice system, the Ombudsperson and the police, are strengthened and given the necessary resources to ensure that they are able to carry out their work effectively and with the necessary independence and impartiality.

In this context, Amnesty International urges the Venezuelan authorities to:

## **Guarantee the rights of all victims of human rights violations in the context of the protests to truth, justice and reparations.**

- Undertake independent, comprehensive and prompt investigations into all cases of human rights violations and violent incidents resulting in loss of life or injury in the context of the protests, bring those responsible to justice, and ensure that those

convicted receive a punishment appropriate to the seriousness of the crime.

- 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.
- Ensure that all victims and their relatives received reparations and rehabilitation.
- Implement all provisions of the Special Law to Prevent and Punish Torture and Other Cruel, Inhuman or Degrading Treatment.
- Implement international standards on the protection from 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.

### **Ensure the right to peaceful assembly**

- Make public the obligation of the forces of law and order to respect fully the right to peaceful assembly and to comply in all circumstances with international and national standards on the progressive, selective and proportionate use of force.
- Ensure that the security forces comply fully and at all times with the UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officials.
- 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 standards on the use of force and international human rights law and, in particular with their responsibilities under the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, and ensure that all training manuals and use of equipment comply full 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.

### **Arms control**

- 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.

### **Arbitrary detention and due process**

- 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.

### **Intimidation and harassment of victims of human rights violations, their relatives and lawyers and of human rights defenders**

- Ensure 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.
- Ensure all human rights defenders and lawyers receive full protection, especially those who have been the targets of threats, harassments or attack because they reported human rights or provided services to support victims and initiate comprehensive investigations into their complaints.
- Explicitly recognize the legitimacy of the work of human rights defenders. This must include public declarations recognizing their contribution to the promotion of human rights.

## **VENEZUELA: THE FACE OF IMPUNITY**

### **ONE YEAR SINCE THE PROTESTS, VICTIMS ARE STILL WAITING FOR JUSTICE**

One year after the pro and anti-government protests that swept Venezuela between February and July 2014, leaving 43 people dead, hundreds injured, including police officers, and dozens tortured and ill-treated, the victims and their families are still waiting for justice.

In this report, Amnesty International highlights cases of those who died in which members of the security forces, or pro-government armed groups acting with their acquiescence, were implicated; as well as cases of torture and other ill-treatment and arbitrary detention.

At the time of writing, all those responsible for human rights violations had not been brought to justice, victims and their relatives had yet to receive reparations and those arbitrarily detained had not been released, showing a clear lack of political will on the part of the Venezuelan authorities to ensure that these grave human rights violations are not repeated. Of particular concern is that people continue to be imprisoned for their political views or for holding opinions contrary to government interests.

Amnesty International concludes that the manifest lack of commitment on the part of the authorities to end the impunity that surrounds the serious violations committed a year ago as well as to protect human rights without discrimination and irrespective of political affiliation, creates a serious risk that the tragic events documented in this report will be repeated, especially given the context of increasing social discontent.

Amnesty International urges the Venezuelan authorities to ensure the right to peaceful assembly and the right of all victims of human rights violations to justice and appropriate reparations.

All those arbitrarily detained must be released without delay and the intimidation and harassment of those who report abuses – whether victims, relatives, lawyers or human rights defenders – must end.

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