

VENEZUELA

BRIEFING TO THE UN COMMITTEE AGAINST TORTURE

53RD SESSION, NOVEMBER 2014

**AMNESTY
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INTRODUCTION

Amnesty International is submitting this briefing to the UN Committee against Torture (the Committee) 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 (the Convention).

The report details Amnesty International's concerns about Venezuela's failure to fulfil its obligations under the Convention, in particular with regard to Articles 1, 2, 4, 10, 12, 13, 14, 16. It highlights the organization's concerns regarding reports of torture and other cruel, inhuman or degrading treatments (other ill-treatment) at the time of arrest, in detention and in the context of excessive use of force by law enforcement officials in responding to social protests.

The report also includes concerns regarding threats and intimidation targeted against human rights defenders and victims of torture and other ill-treatment who have reported the abuses.

Amnesty International believes that Venezuela also needs to take measures to address gender-based violence, to ensure and strengthen the independence of the judiciary, and to continue and intensify efforts to end impunity for human rights violations.

1. MEASURES TO PREVENT AND PUNISH TORTURE (ARTICLES 1, 2, 4, 10, 12, 13, 14 AND 16)

A) LAWS AND POLICIES TO PREVENT AND PUNISH TORTURE AND OTHER ILL-TREATMENT (ARTICLES 1, 2, 4, 10, 13 AND 16)

On 22 July 2013, the Special Law to Prevent and Punish Torture and Other Cruel, Inhuman or Degrading Treatment came into force.¹ This represents an important step forward in the legal framework. It gives effect to provisions in the Constitution prohibiting torture and other cruel, inhuman or degrading treatment and creates an institutional framework for preventing, reporting and punishing these crimes.

The law created a National Commission for the Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment, which is attached to the Ombudsperson's Office. According to the Special Law, the Commission is responsible for "coordinating, promoting, overseeing and regulating national policies and plans for the prevention of torture and other cruel, inhuman or degrading treatment, as well as overseeing respect for ensuring the rights of people deprived of their liberty. It is also responsible for ensuring compliance with the law and ensuring that the guarantee of the right to physical, psychological and spiritual integrity and the prohibition of torture and other cruel, inhuman or degrading treatment are fulfilled."²

On 14 February 2014, the Ombudswoman, on behalf of the National Commission, announced the approval of a National Plan for the Prevention of Torture to "with the objective of directing the action needed to guarantee respect for the right to the integrity of the person and the prohibition of torture."³ Amnesty International has had access only to the executive summary of the National Plan. The organization welcomes the approval of a plan for the prevention of torture and urges the authorities to publicize the content of the plan as widely as possible both at the institutional level and among civil society.

It is crucial that the National Plan include a timetable that sets out the steps for its implementation in full, as well as indicators that allow its impact to be evaluated. Adequate resources must also be allocated to ensure it is implemented as promptly as possible and sustainably. This information should be made public and be readily accessible to civil society.

According to the information received by Amnesty International, the National Commission has made progress in implementing the National Plan in two of the four strategic areas, namely, the development of a human rights education plan on preventing torture and other ill-treatment (Goal 1); and the drafting of protocols for periodic visits to detention centres, prisons and long-stay mental institutions (Goal 2).

Given the grave nature of the reports received by Amnesty International of alleged torture and other ill-treatment in recent years, the organization believes that the National Commission needs to redouble its efforts to ensure the prompt implementation of all four goals set out in the Plan.⁴ In particular, Amnesty International believes

that the National Commission should prioritize: human rights education and training for officials responsible for law enforcement; visits and inspections of detention centres and prisons and the drawing up of recommendation to promote necessary reforms; and a comprehensive approach to addressing the needs of victims, including pursuing reports of abuse, coordinating measures to ensure the people are able to report abuses without fear of reprisal, and ensuring that victims have access to comprehensive reparations.

With regard to legislative measures to prevent torture and other cruel, inhuman or degrading treatment, there is concern that Venezuela has yet to ratify the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment.

Amnesty International is also concerned that to date Venezuela has not responded positively to the request of the UN Special Rapporteur on torture for an invitation to visit the country.

B) IMPUNITY (ARTICLES 12, 13 AND 14)

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

Despite these initiatives, the Public Prosecution Service' own figures show that in the majority of cases of human rights violations the perpetrators are not brought to justice. Official statistics show that only between 3% and 3.1% of formal complaints of human rights violations result in suspects being brought before a judge and charged. For example, in 2009, of the 9,610 reports of human rights violations received, the Attorney General's Office only brought charges in 315 cases;⁵ in 2010, 9,131 reports were received, but in only 266 cases were charges brought;⁶ and in 2011, 7,269 reports were received, but only 226 resulted in charges being brought.⁷ In 2012, the Attorney General's Office stopped providing these statistics and removed the box containing this data from its report. As a result, it is not known what, if any, progress has been made in the fight against impunity in recent years.

According to the official statistics of the Public Prosecution Service, between 2003 and 2011, 12 state officials were found guilty of torture and 187 were convicted of causing bodily harm. In other words, a total of 199 state agents were convicted of torture or other ill-treatment in nine years.⁸ This represents a tiny percentage of the number of reports of torture or other ill-treatment. For example, during the same period, human rights organizations reported more than 200 cases of torture and more than 4,800 cases of other ill-treatment⁹. The human rights organization Support Network (Red de Apoyo), for instance, reported that between 2003 and 2011, it recorded 251 cases, but the Public Prosecution Service brought charges in only one case and in one other gave a final ruling of not guilty.¹⁰

According to information provided to the Inter-American Commission on Human Rights by local human rights organizations, "of the 8,813 new cases of human rights violations presented in 2012 to the Public Prosecutor's Office, 97% were dismissed or archived; charges were brought in the remaining 3% of cases".¹¹

In cases of violations of the right to the integrity of the person recorded recently, in particular reports received of violations or abuses of human rights committed in the context of anti and pro-government protests between February and July 2014, Amnesty International has welcomed the commitment and efforts of the Public Prosecution Service to clarify responsibility.

According to the official figures published by the Public Prosecution Service, up until July 2014, 188 investigations had been initiated, including two violations of the right to life and two cases of torture. The remaining 184 cases were reports of other cruel, inhuman or degrading treatment. At the time of writing, the Public Prosecution Service had completed investigations into 32 cases, one involving homicide and rest ill-

treatment. Of these 32 cases, six had resulted in charges. Thirteen state officials had been detained, seven are on bail and one was the subject of an arrest warrant that had yet to be served.¹²

Among the officials subject to judicial proceedings are eight members of the National Intelligence Service (Servicio Bolivariano de Inteligencia Nacional, SEBIN). One is in pre trial detention and seven are on bail in connection with the death of Bassil Dacosta, a protester who was shot and killed on 12 February.¹³ Also on trial is a member of the National Guard accused of cruel treatment to **Juan Manuel Carrasco González** and other young people detained and ill-treated with him in Valencia, Carabobo State. Another member of the National Guard was charged with the crime of aggravated homicide and unnecessary use of a firearm in connection with the death of **Geraldin Moreno**, a student from Valencia who was hit in the eye with gunshot pellets during a protest on 19 February 2014.¹⁴

An arrest warrant was also issued for a member of the National Guard in connection with the treatment of **Marvinia Jiménez**. She was detained during a protest in the city of Valencia and beaten with a helmet while she lay on the ground, restrained by officers. The incident occurred while Marvinia was filming the protest and the response of law enforcement officials to the demonstration. However, six months after the incident, the arrest warrant against the officer believed to be responsible for the attack had yet to be served. The officer was believed to remain on active service with the National Guard. Marvinia Jiménez remains under investigation for alleged offences of obstructing a public road, incitement to commit a crime, public incitement, injuring an officer, disturbing public order and theft.¹⁵

Other cases of violations of the right to physical integrity documented by Amnesty International between February and July 2014 are under investigation by the Attorney General's Office, but the perpetrators have yet to be identified. These include: **José Alejandro Márquez**, who died following ill-treatment reportedly at the hands of National Guard officers in the capital, Caracas; **Moisés Guánchez**, who was beaten and received gunshot wounds, reportedly fired by National Guard officers in Carrizal, Miranda State; and **Daniel Quintero**, who was tortured, reportedly by National Guard officers in Maracaibo, Zulia State.¹⁶

During a recent visit to the country in July 2014, Amnesty International was able to identify a number of obstacles hindering victims' access to justice. For example, in interviews with victims, lawyers and human rights defenders, the organization was able to confirm that in some cases where detainees clearly showed signs of injury, prosecutors failed to initiate official investigations or judges failed to order that such investigations be initiated.

According to the information made available to Amnesty International and the statements made to the organization by the Attorney General, Louisa Ortega; by members of the Attorney General's Office for Human Rights Unit (Fiscalía Especializada en Derechos Humanos); and by the Ombudswoman, in many cases, the progress and outcome of the prosecutor's investigation is determined by the forensic medical report. Tens 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 are not 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. 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 ill-treatment.¹⁷ In addition, there are concerns that medical reports are often not shared with the detainee or their lawyer.

Amnesty International is also concerned that many forensic medical reports are compiled in the presence of law enforcement officials responsible for the person's detention or in front of prosecutors investigating accusations

against the detainee. As a result, many detainees said that they felt intimidated and did not want to report what had happened to them because they feared it might provoke other reprisals from the law enforcement officials, or result in them being subjected to further ill-treatment in detention, or that reporting the abuse might result in them being denied bail or prejudice the outcome of the judgement in their case.

B.1 REPRISALS AGAINST VICTIMS AND RELATIVES WHO REPORT HUMAN RIGHTS VIOLATIONS

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

For example, **Ghina Rodríguez**, the wife of Guillermo Sánchez who died on 12 March, reportedly at the hands of members of a pro-government armed group, in La Isabelica, Valencia, was the target of a campaign of threats and harassment. Other members and supporters of the Victims' Anti-repression Front (Frente de Víctimas contra la Represión) were also the targets of threats by unidentified individuals in plainclothes. Among them were victims of human rights violations committed in the context of the protests between February and July 2014 and their relatives, such as Marvinia Jiménez, Rosa Orozco (the mother of Geraldine Moreno) and Juan Manuel Carrasco. Vicliz Faudul, a reporter and supporter of the Front, was threatened in June. According to reports received by Amnesty International, stones were thrown at her home together with a leaflet which read: "We see that you did not heed the first warning... Now you see how we have people infiltrated everywhere and how we follow you everywhere. This is your second warning. You will not get a third. This time it was stones. The next time it will be bullets." The threat included a photograph of members of the Front, including Ghina.

When Ghina reported these incidents, the prosecutor ordered that she receive protection 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 made fun of us. They made it clear that they were not going to waste their time protecting us and they never implemented them".

Ghina and her two children left Venezuela in July, fearing for their safety. At the time of writing, they were living in Mexico where they had been granted refugee status.

Amnesty International condemned the continuing persecution of members of the Barrios family in Aragua State. The family, which has been the target of threats and intimidation for nearly two decades, believes that they have been targeted because they have consistently demanded justice, effective protection measures and reparations for the grave human rights violations they have suffered. Ten members of the Barrios family have been killed since 1998 in circumstances suggesting the involvement of members of the police. The most recent killing took place on 16 May 2013. Other members of the family have been subjected to various kinds of intimidation and attacks by the police. In 2004, the Inter-American Commission on Human Rights issued the first order for protective measures for the family. This was followed by other similar protection orders issued by the Inter-American Court of Human Rights. However, the Barrios family continues to be subjected to intimidation and new threats.

According to available information, investigations and judicial proceedings relating to the killings of members of the Barrios family have made little progress. In only one case, that of Narciso Barrios, have two police officers been found guilty of the killing. It was not known whether investigations have been initiated into reports from the family of death threats and intimidation by state police officers.¹⁸

C) INDEPENDENCE OF THE JUDICIARY (ARTICLES 12 AND 14)

Amnesty International considers that the national justice system does not have the resources necessary to guarantee the right to justice for victims of human rights violations. It also believes that the justice system is subject to interference by the government, especially in cases involving people who have openly criticized the

government or where the government believes that the individuals have acted in a way that is contrary to its interests.

Amnesty International is particularly concerned about a number of cases where government interference is evident. These include the case of Judge **María Lourdes Afiuni Mora** who was detained in December 2010, just hours after she ordered the release of the banker Eligio Cedeño, a decision that was within her mandate and in line with Venezuelan law. She was detained the day after her decision was condemned by former President Hugo Chávez in a television interview in which he called for her to receive the maximum sentence of 30 years' imprisonment. At the time of writing, María Afiuni was released on bail pending the outcome of her trial.

More recently, Amnesty International highlighted the case of **Leopoldo López**, leader of the opposition Popular Will (Voluntad Popular) party. He is accused of inciting violence during an anti-government protest on 12 February 2014. Leopoldo López has been in detention since 18 February 2014. The court found that there was no evidence to support the serious charges set out in the detention order, which included terrorism, homicide and causing serious injury. However it stated that there was evidence to support other charges which carry sentences of up to 10 years' imprisonment, (arson, damage to property, incitement to commit an offence and conspiracy to commit a crime).

Leopoldo López has spent more than eight months 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 arrest was issued the day after the President of the National Assembly, Diosdado Cabello, and the Minister of Foreign Affairs, Elías Jaua Milano, publicly accused him of being responsible for the violence that broke out during the protests. In addition, President Nicolás Maduro called for his imprisonment the day after his arrest. The fact that the government has made such public allegations, without credible evidence to support them, does not send a clear message that the impartiality and independence of the judiciary will be respected. It also calls into question whether the presumption of innocence, crucial to a fair trial, is being respected in the case Leopoldo López.

In August 2014 the UN Working Group on Arbitrary Detention stated that the detention of Leopoldo López is arbitrary. Based on the opinion of the working group, the High Commissioner for Human Rights has urged the authorities to release him immediately¹⁹.

Another factor that facilitates government interference in the judicial process is that most judges are appointed on a temporary basis, leaving them open to political pressure. According to the Inter-American Court of Human Rights, according to official figures, in 2010, 56% of judges were provisional or temporary appointments. According to press reports, in 2013, more than 60% of judges in Venezuela were on temporary, interim, short-term or provisional contracts.²⁰ The International Commission of Jurists has stated that the unrestricted appointment of provisional judges means that they can be removed at will, simply by stating that the appointment is "no longer effect".²¹

The Inter-American Commission on Human Rights has stated that, regarding the cases of judges who have been dismissed detailed in its report: "the fact that they occurred almost immediately after the judges in question handed down judicial decisions in cases with a major political impact, combined with the fact that the resolutions establishing the destitution do not state with clarity the causes that motivate the decision, nor do they refer to the procedure through which the decision was adopted, sends a strong signal – to society and to other judges – that the judiciary does not enjoy the freedom to adopt rulings that go against government interests and, if they do so, that they face the risk of being removed from office."²²

Amnesty International is also concerned at barriers restricting access to justice for victims of human rights violations. In particular, it is concerned at Venezuela's denunciation of the American Convention on Human Rights and its decision to withdraw recognition of the jurisdiction of the Inter-American Court of Human Rights. The Inter-American Court represents a measure of last resort and hope for thousands of victims of human rights

violations and their relatives throughout the American continent and is a necessary complement to national systems of justice. Amnesty International has expressed its concerns at the negative impact on victims of human rights violations of these decisions and has urged Venezuela to reverse them.

2. TORTURE AND OTHER ILL-TREATMENT IN THE CONTEXT OF SOCIAL PROTESTS (ARTICLE 16)

Amnesty International has raised concerns with the Venezuelan authorities about reports of torture and other ill-treatment, including excessive use of force by officers responsible for enforcing the law during the policing of social protests, for decades.²³

Recently, Venezuela has been convulsed by mass anti and pro-government protests in various parts of the country. In this latest wave of social discontent, it has been widely acknowledged, including by the authorities, that there have been violent clashes during protests and the response of law enforcement officials has resulted in abuses and violation of human rights.

Between February 2014, the start of the protests, and 14 July 2014, at least 43 people were killed and more than 870 injured.²⁴ Among the killed and wounded were protesters and law enforcement officials, as well as passers by and local residents who were not involved in the protests.²⁵

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

At least 10 people are believed to have died following incidents at barricades. Some died as a result of injuries caused by the razor wire with which protesters had put up to block the roads. Others died after being shot as they tried to remove the barricades. At least 15 people died after being shot, reportedly by armed pro-government groups.

During the protests, Amnesty International documented tens of cases of torture or other ill-treatment, both of protesters and passers by. There was also concern at reports received from people of violations of their right to physical integrity caused by the use of excessive force by law enforcement officials during protests.

A. EXCESSIVE USE OF FORCE (ARTICLE 16)

Amnesty International has repeatedly drawn the authorities' attention to actions by the security forces during public order operations that breached international human rights standards, national law and the protocols of law enforcement agencies themselves. Of particular concern have been cases of excessive use of force that have resulted in violations of the right to physical integrity of people exercising their right to peaceful assembly and association.²⁶

Amnesty International welcomes the police reform initiated in 2006 and the authorities' efforts to ensure that training and laws and protocols governing security force actions are in line with human rights standards on the

use of force. However, despite these efforts, the actions of both national and regional police forces, the National Guard and, in some cases, the National Intelligence Service and the army, during the recent wave of protests between February and July 2014, highlight the need for Venezuela to redouble its efforts in order to ensure that the security forces carry out their public order duties in a manner that respects human rights, both in law and in practice.

Drawing on 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, Amnesty International considers 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.

The information gathered indicates that law enforcement officials frequently saw dispersing protests, including peaceful protests, as a priority and used force to do so, often without attempting to negotiate with the demonstrators or giving a clear prior warning.

A.1 USE OF LIVE AMMUNITION DURING DEMONSTRATIONS

Amnesty International has documented cases when live ammunition was fired at demonstrators and homes in residential areas where “cacerolazos” (protests in which people use cooking utensils or other objects to make a noise) 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.²⁷ According to information received by Amnesty International, law enforcement officials failed to give a sufficient clear warning of their intention to use firearms, 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.

The Public Prosecution Service has estimated that 90 people received gunshot wounds. Among the injured were **Anthony Gregorio Carrero** and **Yaneuliz Vaca**.

Anthony Gregorio Carrero was wounded on 19 March 2014 when he was struck on the left-hand side of his chest by a bullet fired at close range. The shot was reportedly fired by a National Guard officer during an operation by the security forces to disperse a protest by local residents in San Cristóbal (Táchira State). According to the medical report, Anthony Carrero required surgery after a bullet pierced the left-hand side of his diaphragm. He 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.

Yaneuliz Vaca, a 20-year-old student nurse, told Amnesty International that on 26 February 2014 she was shot by state security forces close to her family home in the Fría municipality (Táchira State). According to her statement, the security forces started to throw tear-gas grenades and opened fire on the demonstrators to disperse them. 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 (a condition in which a rupture causes blood to flow into the pleural space between the thorax and the lung) and two broken ribs. She was hospitalized for two months and the injury remains painful. She gave her testimony to representatives from the Public Prosecution Service a few days after the incident. However, she has received no information about the progress of any investigation.

A.2 USE OF “LESS LETHAL” WEAPONS

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, 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.²⁸

According to the Public Prosecution Service, at least 54 people were injured by rubber bullets during the protests that took place between February and July 2014.

Among the injured was 16-year-old **John Michael Ortiz Fernández**. On 21 April 2014, he was hit in the left eye by a rubber bullet, which burned the retina. He had gone out onto the balcony of his home in San Cristóbal (Táchira State) after hearing explosions in the street. According to doctors, he will not retain more than 30% of his sight in his left eye. A member of the National Police was reported to have fired tear gas and rubber bullets to disperse a protest near John Michael's home. John Michael described what happened to Amnesty International: "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 Prosecution Service arrived.

A.3 USE OF NON-REGULATION EQUIPMENT

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 tampered with to insert marbles, nails, broken candles or glass, with the apparent intention of causing maximum physical injury.

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

Luigi told Amnesty International that as he was running to take cover in a nearby building, he and another youth found themselves on the lower part of the staircase, with no way out. A police officer standing higher up the staircase reportedly shot him at close range in the shoulder and then hit him in the head with his gun and kicked him. Luigi described how he and other protesters were eventually taken to a medical centre where surgeons treating him extracted pieces of glass and tiny metal nuts from the wounds, indicating that other substances had been inserted into the rubber bullets. Luigi did not report this for fear of possible reprisals.

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

A.4 USE OF RIOT EQUIPMENT IN RESIDENTIAL AREAS

Amnesty International has detailed tens of cases in which law enforcement officials – and in at least one case in the municipality of Rubio in Táchira State military personnel – shot pellets at houses in residential areas where there were protests or barricades. The shots were reportedly fired when law enforcement officers arrived to disperse demonstrators or remove barricades. Photographs obtained by the organization show that in many cases shots entered people's homes through windows and could have injured residents who were forced to throw themselves to the ground or rush to the back of the house to try to take cover.

A.5 DISPROPORTIONATE USE OF TEAR GAS

Amnesty International has obtained evidence of the excessive and indiscriminate use of tear gas by law enforcement officials to disperse protesters, remove barricades and sometimes in reprisal for the protests and barricades. In some instances, tear gas was fired directly at protesters, in enclosed spaces and in residential areas. For example, in Rubio, Táchira State, Amnesty International interviews with local residents and photographic evidence show that law enforcement officials, together with members of the army, fired rubber

bullets and tear-gas grenades over the roofs of people homes and into windows, causing people living there to experience symptoms of suffocation.

A.6 VIOLENCE BY ARMED PRO-GOVERNMENT GROUPS ACTING WITH THE ACQUIESCENCE OF THE SECURITY FORCES

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

Amnesty International has compiled tens of testimonies of people living in Mérida, as well as photographs and video evidence, indicating that armed group attacked homes, throwing stones and shooting, while the security forces looked on. Tens of reports received by the organization indicate that law enforcement officials policing demonstrations sometimes let armed groups enter the area or withdrew, allowing these groups to attack groups of protesters, sometimes using live ammunition. Many of the statements gathered by the organization indicate that people living in Mérida set up barricades in front of their homes to protect themselves from these armed groups. The organization received similar reports and photographic and video evidence from Táchira, Caracas and Valencia.

Amnesty International has repeatedly called on the authorities to carry out a comprehensive, independent and impartial investigation into the involvement in the violence of pro-government armed groups acting with impunity in the presence of law enforcement officials. At the time of writing, Amnesty International was not aware of any member of these groups having been detained in connection with the human rights abuses committed during the protests, including abuses of the right to life and physical integrity.

Guillermo Sánchez died after being shot, reportedly by armed men, in La Isabelica, Valencia, on 12 March 2014. Guillermo had left home that day to go and paint his mother's house. Protests were taking place in the road in which he lived. According to eyewitnesses, a group of armed men shot him and beat him. They then put him on a motorbike and threw him at state police officers who were monitoring the protests, saying: "here's another one, expect some more". According to reports, it was the police officers who took Guillermo to the door of a medical centre where staff tried to save his life.

According to information provided by Guillermo's wife, a law enforcement official was charged in connection Guillermo Sánchez' death after ballistic evidence was discovered linking him to the crime. According to reports, the official alleged that he had lent his gun to another, as yet unidentified, person.

Amnesty International interviewed Ghina Rodríguez, the wife of Guillermo Sánchez, who described how a month before her husband was shot, the National Guard was collaborating "together with some men who were in civilian clothing and who had started to throw stones and shoot at the houses".

On 12 March, law enforcement officials opened fire and "I started to hear shots and lots of stones, lots of bullets, hitting the building... The number of men... arriving on motorbikes and shooting was shocking. They shot at the flats. They shot at the electricity cables, so that we wouldn't have any light... I had to throw myself on the floor because the bullets were flying. It was terrifying... There were lots of motorbikes, maybe 40 or 50 motorbikes, coming down the road, firing in all directions. They told me that there was a white National Guard van parked at the corner. I told the children not to go out... when this was happening they didn't even leave their room because of all the tear gas... we had to seal every crack hermetically... I live in a second-floor flat; there were bombs on the first and second floor.

B. TORTURE OR OTHER-ILLTREATMENT (ARTICLES 1 AND 16)

In the context of the recent protests, Amnesty International has received dozens of reports of torture and other

ill-treatment committed by law enforcement officials both during arrest, while people are being transferred to a detention centre and in detention.²⁹ In some of the cases investigated by the organization, the victims were not taken to detention centres; they were apprehended and then released a few hours later.

The authorities have acknowledged that during the protests that took place between February and July 2014, there were cases of torture and other cruel, inhuman or degrading treatment. In its latest report, the Public Prosecution Service indicated that it was investigating 188 cases of human rights violations, including two cases of torture and 184 of other cruel, inhuman or degrading treatment.³⁰ Similarly, in meetings in July 2014 between representatives of Amnesty International and the Ombudsperson's Offices in Táchira y Mérida, both authorities stated that they had recorded cases of cruel, inhuman or degrading treatment: 19 cases in Mérida and 109 in Táchira, including three cases of torture.

Evidence obtained through interviews with victims, witnesses, lawyers, human rights defenders and medical personnel indicates that most of those who were subjected to torture or other ill-treatment did not lodge formal complaints. Some feared reprisals from the perpetrators; others were afraid that they would be detained if they admitted to having taken part in the protests; while others, who had been involved in the protests and faced charges, feared that reporting torture or other ill-treatment could have a negative impact on legal proceedings against them.

In addition, most of the victims interviewed by Amnesty International said that they had no confidence that the relevant state institutions would carry out investigations and bring those responsible to justice. The organization considers that the number of formal complaints received by the authorities represents only a fraction of the real number of victims of these human rights violations.

B.1 REPORTS OF TORTURE AND OTHER ILL-TREATMENT USED TO AS A FORM OF PUNISHMENT AND TO EXTRACT CONFESSIONS

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

Reports include cases of law enforcement officials punching, kicking and beating detainees with blunt instruments, such as helmets. Some victims were beaten during arrest while they were lying on the ground already restrained and offering no resistance.³¹

Among the cases documented is that of 20-year-old **Rafael Ángel Cardozo Maldonado**, who has a mental disability. Ángel was detained during an army operation in the city of San Cristóbal (Táchira State) on 17 March as he was on his way home. He was detained for five days and spent at least one day in incommunicado detention in a military barracks. According to his lawyer, the military repeatedly denied that it was holding Ángel and refused her access to him. 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. Amnesty International has been given access to a forensic medical report dated 18 March, which notes that the detainee had "lesions to the skin on his scalp... of approximately 2cm, no other physical trauma or injuries, no clinical problems noted during the examination". His injuries were sufficiently evident that the judge ordered that an investigation be initiated into torture and other cruel, inhuman and degrading treatment.

Prosecutors charged Ángel and another two detainees with offences including incitement and conspiracy to commit a crime. The charges against Ángel were dismissed following a medical report that confirmed Ángel suffered from "mental impairment and a cognitive disability that should be evident to any person with a sufficient level of education, given that people suffering from this condition have severe difficulties in understanding".

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

detention.

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

Amnesty International has been able to confirm that in many cases protesters and passers-by were arbitrarily detained – they had not committed any offence or no arrest warrant had been issued – and that they were subjected to torture or ill-treatment in order to force them to implicate themselves in crimes.

For example, 21-year-old **Wuaddy Moreno Duque** was on his way home in the early hours of 27 February after a birthday party. He and a group of friends were travelling by motorcycle and ran out of petrol in La Grita (Táchira State). National Guard officers pulled up beside them and accused them of taking part in the protests. They were taken to a square in front of the army headquarters in La Grita. Wuaddy described what happened next: “That was where they burned all my papers... all that I had. They burned my papers and took a screwdriver out the bag where I kept the tools for my motorcycle... they started to heat the screwdriver and then they used it to burn me. They said that I had been on the demonstrations. We told them that I hadn’t. And they burned me. They beat up the friends that were with me, but I was the only one they burned.” They were kept in the square for two hours, where Wuaddy was beaten with batons and then taken to the National Guard headquarters. Wuaddy was held there until the following morning and then released without charge.

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

Amnesty International understands that the Attorney General in Táchira State is investigating the case, however it has not yet had access to the findings.

B.2 REPORTS OF TORTURE AND OTHER ILL-TREATMENT IN ORDER TO OBTAIN INFORMATION

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

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

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

Gloria Tobón was on her way to the state capital to buy food when she and her daughter were stopped. National Guard officers grabbed her by the neck and dragged her along the road for several metres before forcing her into a van. While she was being taken to the detention centre, they beat her and threatened her with electric shocks to force her to say who the leaders and financial backers of the protests were.

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

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

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

Amnesty International has no information about the outcome of any investigations into reports of torture and other ill-treatment that may have been initiated in these cases.

B.3 GENDER-BASED ABUSES AGAINST DETAINEES

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

B.4 LACK OF MEDICAL ATTENTION

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

3. PEOPLE DEPRIVED OF THEIR LIBERTY (ARTICLES 2 AND 16)

A. PROLONGED PRE-TRIAL DETENTION

Amnesty International is concerned at the lack of official publicly available information that provides comprehensive, up-to-date data on the number of people detained and their legal status. The human rights organization, the Venezuelan Prisons Observatory (Observatorio Venezolano de Prisioneros, OVP) estimates that the prison population has reached some 55,000 (see section b “Overcrowding and poor conditions in the prison system” below); more than 60% of those deprived of their liberty are in pre-trial detention.³²

According to the information provided by Venezuela to the Inter-American Commission on Human Rights for its report on pre-trial detention in the Americas, people awaiting trial account for more than 50% of the Venezuelan prison population.³³ At present convicted prisoners and people detained awaiting trial are not held separately in detention facilities.

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

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

B. OVERCROWDING AND POOR PRISON CONDITIONS

As mentioned above, there is a lack of publicly available official data on the prison population and detention facilities. Information is lacking on the number of people deprived of their liberty, the capacity of detention facilities and the number of inmates housed in them, the legal status of detainees, as well as resources allocated to the prison system.

Human rights organizations and local experts on prison issues estimate that at the end of June 2014 there were 55,007 people in prison in Venezuela. The capacity of the prison system is only 19,000, a third of the actual number of people thought to be held.³⁴ In 2011, overcrowding in prisons was a grave concern. According to the International Centre for Prison Studies, the information provided to them by the Venezuelan Prison Services Ministry indicated that the capacity of Venezuela’s prisons in 2011 was 18,515. The same source indicated that in 2013 the number of people detained, including those awaiting trial, was 53,933.³⁵ Although these figures may be subject to some variation, they suggest that prisons are currently housing three times as many prisoners as their maximum capacity.

In addition, local human rights organizations report that at the end of June 2014, more than 13,765 people were held in police detention,³⁶ almost twice the number of people held in police detention at the end of 2013, when the total number of police detainees stood at 7,700.³⁷ Some of those in detention had been deprived of their liberty for months, even years, in facilities that were not designed to hold people for more than a few days. Among them were people who have been tried and convicted. Reports also suggest that the authorities have stopped moving people (both pre-trial detainees and convicted prisoners) from police facilities to prisons because of the lack of capacity in prisons.

Since 2011, two new prisons have been opened (Comunidad Penitenciaria de Coro and Comunidad Penitenciaria de Fenix) and another has been renovated and reopened (Rodeo II). Prisoners have been moved out of one prison (C. P. Reg. Centro Occid.-"Uribana") and other prisons have been closed (Casa de Reeducación y Trabajo Artesanal de La Planta, Internado Judicial de Coro, Cárcel Nacional de Maracaibo "Sabaneta", Internado Judicial de Los Teques, Internado Judicial de Cumaná).³⁸

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

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

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

When Amnesty International interviewed these two detainees in July 2014, they confirmed that there were people still detained and held in vehicles in the National Guard Headquarters in Táchira. The Ombudsperson in Táchira admitted during an interview with Amnesty International representatives that this was indeed the case, but said that when they had tried to intervene, the detainees themselves had preferred to remain there rather than be transferred because they were afraid of the conditions in prisons.

In recent years, inmates have organized protests, including hunger strikes, and some have even carried out acts of self-harm, in protest at delays in the justice system, the lack of food and clean drinking water in prisons, unhygienic conditions of detention, the lack of medical care, the failure to provide transport to take them to hearings so that their cases could progress through the courts, and the risk of being transferred to prisons notorious for their violence where prisoners are at risk of being killed by other inmates. Amnesty International is concerned at the lack of detailed public information about the resources allocated to the provision of food, water, sanitation and medical attention in detention facilities in Venezuela.

The authorities are aware of the crisis in Venezuela's prisons and have initiated a number of measures to address overcrowding and delays in the justice system. Since 2012, the Prison Services Ministry has led the implementation of the Cayapa Judicial Plan. This is a comprehensive plan involving the Prison Services Ministry, the Attorney General's Office, the Office of the Ombudsperson as well as judges and defence lawyers. Members of these institutions visit detention centres, interview detainees and examine legal documents in order to assess the situation and decide there and then if the detainee can be released. According to press reports, the Cayapa Judicial Plan has resulted in the release of 13,224 detainees who had the right to be released or where alternatives to detention could be applied.³⁹

C. VIOLENCE IN PRISONS

Security in prisons is the responsibility of civilian guards, whereas security around the external perimeter of facilities is under the remit of military personnel, in particular officers of the National Guard. According to information received from human rights organizations and experts on prison issues,⁴⁰ in many facilities, prison guards avoid going into areas where prisoners are held, effectively abandoning them to their fate. This situation, in which the authorities have abandoned their fundamental duty to ensure order and security inside prisons, encourages inmates to take over and govern themselves.

The ready availability of firearms in prisons is a key source of violence and risk to life and the integrity of the people deprived of their liberty. The arms confiscated following security operations in Venezuelan prisons have

shown that prisoners possess firearms, including semi-automatic and assault weapons and hand grenades. As a result, the lives and physical integrity of detainees are in constant danger.

No official information is publicly available about the level of violence in prisons. The only information available is that compiled by the Venezuelan Prisons Observatory. This has reported increasing numbers of violent deaths and injuries among detainees in recent years. Between January 2004 and 30 June 2014, it registered 4,791 deaths and 9,931 injuries in Venezuelan prisons. In 2013 alone, the Venezuelan Prisons Observatory recorded 506 deaths in prisons and, in the first six months of 2014, 150 deaths were reported. According to the Observatory, 41 detainees died and 239 others were injured while in police detention in 2013. An alarming number of deaths and injuries in police custody continued to be reported in the first six months of 2014. At the time of writing, seven detainees had died and 20 others had been injured while in police custody so far in 2014.⁴¹

The vast majority of deaths were caused by the use of weapons, including firearms, and most were the result of violence between prisoners (to gain and maintain control of areas of the prison, to settle scores or for failure to pay “protection money” or to comply with other rules laid down by gang leaders). Available information points to a persistent failure by the authorities to exercise control over the lives of prisoners in more than half of the country’s detention facilities and to the continued existence of self-rule imposed by some prisoners over other inmates through the use of violence and threats.

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

There are also concerns about reported human rights violations by the authorities during operations to retake control of some prisons. According to information received, these kinds of operations have reportedly been carried out with excessive use of force, resulting in large numbers of inmates being killed or injured. For example, on 25 January 2013, a joint operation by prison guards and National Guard officers carried out in the Central-West Region Prison in the city of Uribana, Lara State, left 58 people dead and 90 injured. The authorities announced that an investigation into the incident would be initiated; however, more than a year later, the outcome has not been made public.

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

Since 2006, the Inter-American Human Rights System has ordered precautionary and provisional measures in relation to nine Venezuelan prisons. However, hundreds of inmates are continuing to lose their lives as a result of prison violence. According to the Venezuelan Prisons Observatory, in 2013, 184 inmates died and 269 were injured in penal institutions that were the subject of precautionary measures.

D. LACK OF MEDICAL CARE IN PRISONS

Luis Rafael Escobar Ugas was detained on 19 March 2013. He was taking part in protests on the right to adequate housing in Barcelona, Anzoátegui State. He stated that while in detention, police officers beat him and hung him by his wrists.⁴² At the time of writing, no investigation had been initiated into his case and no official had been brought to justice. Rafael was released in September 2014 after completing half his sentence. He suffers from a number of health conditions, but was not given the medical care he required while in detention.

Iván Simonovis was in charge of public security in Caracas at the time of the failed coup d'état against President Hugo Chávez in April 2002. On the day of the attempted coup, two groups of protesters clashed in the centre of Caracas. Twenty people were shot and killed and another 60 were injured. In 2009, Iván Simonovis and two other high-ranking officers were sentenced to a maximum of 30 years' in prison for complicity in the killings. The conditions in which he was held caused a severe vitamin D deficiency and a serious deterioration in his health, including severe osteoporosis, particularly in the spinal column and shin, putting him at grave risk of fractures, and a deterioration in the condition of several vertebrae.

Between 2011 and 2014, Iván Simonovis repeatedly requested permission to complete the rest of his sentence at home under house arrest on humanitarian grounds, given his state of health. After a number of delays in transferring him to hospital, where his medical needs could be assessed, a court considered his request and granted it on humanitarian grounds in September 2014.

4. ATTACKS, THREATS AND INTIMIDATION TARGETED AT HUMAN RIGHTS DEFENDERS (ARTICLE 13)

Amnesty International has repeatedly raised concerns about attacks, smear campaigns and intimidation targeting human rights defenders.⁴³ However, the authorities have failed to take action to bring those responsible to justice and to ensure that defenders are able to carry out their work without fear of reprisals.

Recognizing those who defend human rights as human rights defenders is not a question of conferring a special status on them, but rather a matter of adopting practical measures for their protection. States have the same obligation to protect and respect the human rights of defenders as they do to protect and respect the rights of every person within their jurisdiction, as stated in UN Declaration on Human Rights Defenders.

Nevertheless, in order to protect defenders from abuses linked to the exercise of their rights, states also have an obligation to establish and implement mechanisms specifically designed to achieve this aim. As a first step, they must recognize individuals as human rights defenders and acknowledge the important contribution they make to establishing the rule of law. They should then take specific measures to address the risks faced by those undertaking human rights work, or reprisals resulting from that work, and to create the appropriate conditions to enable them to continue their work. In addition, states have an obligation to guarantee that effective investigations are initiated into human rights abuses and to ensure that those responsible are brought to justice.

Humberto Prado and Marianela Sánchez, both members of the Venezuelan Prisons Observatory, have been threatened and intimidated on a number of occasions. In 2012, Marianela Sánchez' husband was abducted and robbed. His attackers warned him that if his wife did not stop lodging complaints about prison conditions and criticizing the government, his family would face the consequences.

On 12 April 2013, Marianela Sánchez and her family received another death threat via an anonymous letter left at the entrance of her mother-in-law's house. The Venezuelan Prisons Observatory lodged a complaint about this latest incident. However, the authorities have not initiated an effective investigation into the threat, nor have they provided the necessary security measures, consistent with the family's wishes.

In 2011, Humberto Prado received an anonymous death threat after he criticized the situation in El Rodeo prison and was branded a liar and agitator in the Venezuelan media.⁴⁴ Since then, he has been attacked in the press on a number of occasions, including in statements by the Prison Services Minister, who accused him of lying, organizing violent protests inside prisons and involvement in other criminal and destabilizing activities. In February 2014, in the context of the protests that started that month, the Minister of the Interior, accused him of involvement in violence during the protests and of conspiracy to destabilize the government and the prison system.⁴⁵ In October 2014, on his weekly television programme, the President of the National Assembly read out 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.⁴⁶ 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".⁴⁷

In recent years, **Víctor Martínez**, a human rights defender in Barquisimeto, Lara State, has been attacked on a number of occasions, including after the death of his son, Mijail Martínez, in 2009. For many years, Víctor Martínez has worked to combat corruption and human rights violations committed by the police in Lara State. In

January 2012, he was the target of an assassination attempt. In the summer of 2013, he learned that the two men arrested in connection with the murder of his son were at liberty. One had been released on bail and the other appeared to have escaped from prison. Víctor Martínez is at risk of reprisals from these two men and the authorities have a duty to take all necessary measures to protect him and his family, in accordance with their wishes, as well as to punish those responsible for the killing of his son, Mijail.

Amnesty International is also concerned at reports that, in the context of the recent wave of protests, lawyers working for human rights organizations have been denied access to detainees.

5. IMPLEMENTATION OF THE LAW TO ERADICATE VIOLENCE AGAINST WOMEN (ARTICLES 2, 12, 14 AND 16)

The 2007 Organic Law on the Right of Women to a Life Free of Violence represents an important step forward in the criminalization and eradication of gender-based violence, which is widespread in Venezuela. However, to date, the application of the law has been slow and sufficient resources have not been allocated to ensure that women have access to justice and other effective protection measures.

In order to ensure that the law is applied effectively, it is vital that the authorities take urgent practical steps, including issuing a regulatory framework. Procedures for receiving and responding to reports of violence against women must be standardized in order to ensure that women have equitable access to justice. In addition, courts specializing in dealing with such cases need to be strengthened. The authorities must also ensure that there are sufficient shelters and that they have sufficient resources to guarantee women's physical and mental integrity while their cases are proceeding through the courts.

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

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

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

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

CONCLUSIONS AND RECOMMENDATIONS

Amnesty International considers that Venezuela has made progress as regards passing legislation and creating operational plans to prevent and punish torture and other ill-treatment (Articles 1, 2, 4, 10, 13 and 16), including those aimed at eradicating gender-based violence. The authorities have also made progress, through the police reform, in ensuring that protocols and training for law enforcement officials responsible for maintaining public order comply with international standards (Articles 10 and 11). The Public Prosecution Service has introduced reforms to ensure the impartiality and independence of investigations into cases of human rights violations, for example through the Criminal Investigation Units Against Violations of Fundamental Rights (Unidades Criminalísticas Contra la Vulneración de Derechos Fundamentales) (Article 12).

Nevertheless, the reports received regarding conditions of detention and in prisons clearly constitute human rights violations. The excessive use of force during the policing of social protests and the tens of complaints of torture and other ill-treatment lodged in recent months clearly show that the authorities need to take urgent measures to guarantee in practice the right of every person to physical integrity. In order to achieve this, it is crucial that conditions in detention centres and prisons and the behaviour of law enforcement officials are brought into line with the state's international human rights obligations (Articles 1, 2 and 16).

In addition, official statistics show that there is still much to do to ensure the independence and impartiality of the judiciary and to end the impunity enjoyed by the great majority of those responsible for human rights violations, including torture and other cruel, inhuman or degrading treatment; and gender-based violence. The state continues to fail the hundreds of people who fall victim to these crimes each year, denying them their right to justice and, in some cases, not responding with due diligence when they are threatened after lodging formal complaints (Article 12, 13 and 14).

Amnesty International believes that a real commitment by the state to defend, protect and promote human rights must entail ensuring the right of every person to defend and promote these rights and creating the conditions that allow them to carry out their crucial work as human rights defenders.

To this end, Amnesty International makes the following recommendations to Venezuela:

Fulfil international human rights commitments, in particular:

- Ratify the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment.
- Recognize the competence of the Inter-American Court of Human Rights.
- Agree to the visit of the UN Special Rapporteur on torture.
- Guarantee the independence of the judiciary, in accordance with international human rights standards.

Implement and disseminate national legislation and public policies concerning the prevention and prohibition of torture and other cruel, inhuman or degrading treatment

- Disseminate the content of the Special law to Prevent and Punish Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, and the National Plan for the Prevention of Torture as widely as possible and, in particular, to civil society, all judicial and Public Prosecution Service officials, all law enforcement officials and all officials responsible for the custody of detainees and prisoners.
- Ensure that the National Plan for the Prevention of Torture includes a timetable that sets out the steps

for its implementation in full and indicators that allow its impact to be evaluated. Adequate resources must also be allocated to ensure it is implemented as promptly as possible and sustainably. This information should be made public and be readily accessible to civil society.

Ensure the protection of human rights defenders

- Ensure full protection for human rights defenders who have been threatened, harassed or attacked because they denounced torture or other ill-treatment, and initiate a comprehensive investigation into such complaints.
- Recognize explicitly the legitimacy of the work of human rights defenders. This should include public statements acknowledging their contribution to furthering human rights.

Ensure that safeguards are implemented and protect detainees from torture and other ill-treatment

- Ensure that detainees have access to a lawyer, including the opportunity to have access to a lawyer of their choice, immediately after arrest.
- Ensure that people deprived of their liberty have prompt and regular access to relatives and to appropriate medical care.
- Strengthen procedures for initial medical examinations when people are first detained and ensure that these are carried out promptly and in accordance with international standards, which require, among other things, that they respect confidentiality and that they are thorough and impartial. Medical reports should be made available immediately to detainees and their lawyers.
- Ensure that forensic medical examinations 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.
- Ensure that security forces respect international standards, including the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials, when carrying out their duties policing protests.
- Ensure that the police and other security forces avert violence at public protests by communicating with the protest organizers and demonstrators before and during the protest, with the aim of reaching a mutual understanding, reducing tension and avoiding unnecessary clashes between officials and protesters in order to prevent violence or to end it promptly should clashes occur.
- Ensure that any decision to disperse a gathering respects the principles of necessity and proportionality and that the order to disperse is communicated and explained clearly in order that, as far as possible, protesters understand it and can comply with it. Protesters should be given sufficient time to disperse.
- Ensure that the police and other security forces use non-violent methods before resorting to the use of force.
- If violence does occur in the context of a gathering and the use of force is unavoidable, for example to protect officials, participants or passers by from the violence, ensure that officials use the minimum force necessary to deal with the situation, in line with the UN Basic Principles.
- Ensure that “less lethal” weapons, such as plastic and rubber bullets, are used only when strictly necessary, after a warning that they will be used, when their use is proportional to the threat faced and

when other non-violent methods are not sufficient. Such weapons should only be used by officials who have been fully trained in how to use them appropriately.

- Ensure that the police, as well as other security forces, receive appropriate and effective training on how to police public demonstrations, including training on the use of non-violent methods, on “less lethal” weapons and on international standards on the use of force.

Investigate all reports of torture and other ill-treatment

- Ensure that judicial mechanisms can be accessed immediately to receive complaints of torture or other ill-treatment and that the security of those lodging complaints is protected, in accordance with their wishes.
- Initiate a prompt, independent, impartial and thorough investigation into any report or complaint of torture or other ill-treatment or excessive use of force and ensure that it is carried out in accordance with international standards, including the immediate implementation of the Manual on Effective Investigation and Documentation of Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment (Istanbul Protocol), in order to bring those responsible to justice.
- Ensure that investigations are carried out thoroughly and are not based solely on forensic medical reports. They should include interviews with witnesses and victims; perpetrators and their superiors; inspections of the scene of the crime; and investigations into other reports relating to torture and other ill-treatment with a view to identifying patterns of abuse by the officials implicated.
- Suspend any official suspected of involvement in torture or other ill-treatment pending completion of an impartial and independent investigation and ensure that no public official who is found to be responsible, either directly or indirectly, for torture or other ill-treatment is employed by institutions responsible for public security, public prosecutions or justice.
- Ensure the full cooperation of police and military institutions in investigations and in the detention of people who are the subject of arrest warrants or court orders.
- Regularly make public information on complaints of torture and other cruel, inhuman or degrading treatment or punishment; provide data disaggregated by state and by the force suspected of involvement; and give details of the outcome of investigations undertaken and any punishment imposed.

Ensure the rights of people deprived of their liberty

- Ensure that prisons and detention centres meet international human rights standards, including standard minimum rules for the treatment of prisoners.
- Promote the application of alternatives to imprisonment, especially for minor offences, whenever possible, in order to prevent prolonged pre-trial detention and address prison overcrowding.
- Ensure that the wellbeing, security and integrity of the person of all those deprived of their liberty are protected and monitored by prison staff. In order to ensure that these duties are fulfilled, sufficient resources, including human resources, must be allocated to prison staffing.
- Ensure that operations undertaken to regain control of any prison facility are carried out in accordance with international human rights law and standards, that any complaint of excessive use of force during these operations is properly investigated in a thorough and impartial manner, and that the outcome is made public.

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¹⁴ See, Amnesty International, *Venezuela: Human rights at risk amid protests* (Index: AMR 53/009/2014), April 2014.

¹⁵ See, Amnesty International, *Venezuela: Human rights at risk amid protests* (Index: AMR 53/009/2014), April 2014.

¹⁶ See, Amnesty International, *Venezuela: Human rights at risk amid protests* (Index: AMR 53/009/2014), April 2014.

¹⁷ See the cases of people detained in Rubio, Táchira State, on p.14 and the case of Ángel Cardozo on p.12.

¹⁸ See Amnesty International: Urgent Action: Police threaten and intimidate Barrios family (Index: AMR 53/019/2014); Urgent Action: Murders of family continue; 17-year-old killed (Index: AMR 53/007/2013); Urgent Action: Demand protection for man and family: Néstor Caudi Barrios (Index: AMR 53/002/2011); Urgent Action: Family at risk after killing (Index: AMR 53/007/2009); Urgent Action: Further Information on: Fear for safety/Death threats (Index: AMR 53/005/2005); and Urgent Action: Further information on: Fear for safety/Death threats (Index: AMR 53/020/2004).

¹⁹ Press statement from the High Commissioner of the United Nations for Human Rights, available at: <http://acnudh.org/2014/10/jefe-de-derechos-humanos-de-la-onu-urge-a-venezuela-a-liberar-a-manifestantes-y-politicos-detenido-arbitrariamente/> with reference to the opinion adopted by the UN Working Group on Arbitrary Detention in its 700 period of sessions. N26/2014 (Venezuela). A/HRC/WGAD/2014/26, made public by Leopoldo López's legal representatives.

²⁰ *El Nacional*, "TSJ suspende normas del Código de Ética del Juez", 11 May 2013, available at http://www.el-nacional.com/politica/TSJ-suspende-Codigo-Etica-Juez_0_187781512.html, last accessed, 1 October 2014.

²¹ See International Commission of Jurists, *Strengthening the Rule of Law in Venezuela, Executive Summary*, p.4, available at <http://icj.wpengine.netdna-cdn.com/wp-content/uploads/2014/06/VENEZUELA-Summary-A5-elec.pdf>.

²² 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>.

²³ See, Amnesty International, *Venezuela: denuncias de homicidios arbitrarios y torturas* (Index: AMR 53/002/1990), 1 March 1990, available at <http://www.amnesty.org/es/library/info/AMR53/002/1990/es>; *Venezuela: The eclipse of human rights* (Index: AMR 53/007/1993), 10 November 1993, available at <http://amnesty.org/en/library/info/AMR53/007/1993/en>; Amnesty International, *Venezuela: Human rights at risk amid protests* (Index: AMR 53/009/2014), April 2014, available at <http://amnesty.org/en/library/info/AMR53/009/2014/en>.

²⁴ See Public Prosecution Service, *Balance General de la actuación del Ministerio Público ante los hechos violentos ocurridos durante los meses de febrero-junio 2014*, 14 July 2014.

²⁵ See Amnesty International, *Venezuela: Human rights at risk amid protests* (Index: AMR 53/009/2014), April 2014, available at <http://amnesty.org/en/library/info/AMR53/009/2014/en>.

²⁶ See *Carta abierta de Amnistía Internacional a los candidatos y las candidatas presidenciales de la República Bolivariana de Venezuela* (Index: AMR 53/006/2012) available at <http://amnesty.org/en/library/info/AMR53/006/2012/es>.

²⁷ See the case of Bassil Dacosta Frías, Amnesty International, *Venezuela: Human rights at risk amid protests* (Index: AMR 53/009/2014), April 2014, p.6, available at <http://amnesty.org/en/library/info/AMR53/009/2014/en>.

²⁸ See the case of Geraldín Moreno, Amnesty International, *Venezuela: Human rights at risk amid protests* (Index: AMR 53/009/2014), April 2014, p.8, available at <http://amnesty.org/en/library/info/AMR53/009/2014/en>.

²⁹ See Amnesty International, *Venezuela: Human rights at risk amid protests* (Index: AMR 53/009/2014), April 2014, available at <http://amnesty.org/en/library/info/AMR53/009/2014/en>.

³⁰ See Public Prosecution Service, *Balance General de la actuación del Ministerio Público ante los hechos violentos ocurridos durante los meses de febrero-junio 2014*, 14 July 2014.

³¹ See the cases of Marvinia Jiménez, Juan Manuel Carrasco y Daniel Quintero, Amnesty International, *Venezuela: Human*

rights at risk amid protests (Index: AMR 53/009/2014), April 2014, pp. 9-11, available at <http://amnesty.org/en/library/info/AMR53/009/2014/en>.

³² See the Venezuelan Prisons Observatory, *Informe Semestral, Enero-Junio 2014*.

³³ See Inter-American Commission on Human Rights, *Report on the use of pre-trial detention in the Americas*, 2013. This puts the number of detainees held in pre-trial detention in mid-2012 at 52%. However, this figure refers solely to those defended by the Public Defender's Office. In its six-monthly report for January to June 2014, the Venezuelan NGO, the Venezuelan Prisons Observatory puts the figure at 64%. The International Centre for Prison Studies states that in 2012 the number of detainees held in Venezuelan prisons awaiting trial was 64.1%; see <http://www.prisonstudies.org/country/venezuela>.

³⁴ See the Venezuelan Prisons Observatory, *Informe Semestral, Enero-Junio 2014*.

³⁵ See the International Centre for Prison Studies, <http://www.prisonstudies.org/country/venezuela>, last visited on 25 September 2014.

³⁶ See the Venezuelan Prisons Observatory, *Informe Semestral, Enero-Junio 2014*.

³⁷ See the Venezuelan Prisons Observatory, *Annual Report 2013*.

³⁸ See the Venezuelan Prisons Observatory, *Informe Semestral, Enero-Junio 2014*.

³⁹ See *El Universal*, "Plan Cayapa dejó en libertad a 13.224 presos en dos años", 27 January 2014, available at <http://m.eluniversal.com/sucesos/140127/plan-cayapa-dejo-en-libertad-a-13224-presos-en-dos-anos>.

⁴⁰ Information compiled during interviews carried by Amnesty International representatives during a visit to Venezuela in November 2013.

⁴¹ See the Venezuelan Prisons Observatory, *Informe Semestral, Enero-Junio 2014*.

⁴² See Amnesty International, *Venezuela: Activist tortured in police cell: Luis Rafael Escobar Ugas* (Index: AMR 53/014/2013), 13 September 2013, available at <http://www.amnesty.org/en/library/info/AMR53/014/2013/en>.

⁴³ See *Carta abierta de Amnistía Internacional a los candidatos y las candidatas presidenciales de la República Bolivariana de Venezuela* (Index: AMR 53/006/2012) available at <http://amnesty.org/en/library/info/AMR53/006/2012/es>.

⁴⁴ See Amnesty International, *Venezuelan activist received death threats: Humberto Prado Sifontes* (Index: AMR 53/006/2011), 27 June 2011, available at <http://www.amnesty.org/en/library/info/AMR53/006/2011/en>.

⁴⁵ 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-contr-el-sr-humberto-prado-sifontes/>.

⁴⁶ 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.

⁴⁷ 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.