

VENEZUELA

**Human rights guarantees must
be respected: a summary of
human rights concerns**

*Amnesty International
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**AMNESTY
INTERNATIONAL**



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INTRODUCTION

The following information was submitted to the United Nations Office of the High Commissioner for Human Rights on 21 March 2011 for the Universal Periodic Review (UPR) of Venezuela in the UPR Working Group at its 12th Session in October 2011.

PROMOTION AND PROTECTION OF HUMAN RIGHTS ON THE GROUND

Amnesty International continues to receive reports of human rights violations in Venezuela, in particular with respect to the rights to life, physical integrity, freedom of expression, freedom of assembly, and freedom from arbitrary detention. There are reports of violations of the rights of human rights defenders, political opponents, journalists, trade unionists and members of the judiciary, solely because they have expressed opinions or taken actions perceived to be contrary to the interests of the government. Human rights protection is further threatened by the current public security crisis in the country. Venezuela has one of the highest murder rates in the region, including due to the large numbers of illegal firearms in circulation.¹

HUMAN RIGHTS DEFENDERS

Human rights defenders, in particular those perceived to be critical of the government, often face attacks and threats:

- In December 2010, Carlos José Correa, of the human rights organization *Espacio Público*, was attacked and threatened with death by unidentified men outside the National Assembly, as he arrived to inform Congress of concerns regarding amendments to two laws on telecommunications and social responsibility in the media that were under discussion in Congress at that time.²
- In July 2010, an unknown man beat up Víctor Martínez in the street while he was distributing flyers denouncing the alleged involvement of police and local officials in the killing of his son, Mijail Martínez, in November 2009. An audio visual producer, Mijail had been documenting human rights abuses in Lara State.
- In May 2010, Rocío San Miguel, president of the Caracas-based organization *Control Ciudadano*, was harassed and threatened with arbitrary arrest after she had publicly criticized members of the military for allegedly breaching the Constitution by siding with the ruling political party.

The ability of human rights defenders to carry out their legitimate work is further impeded by the Law for the Defence of Political Sovereignty and National Self-Determination, passed by the National Assembly in December 2010, according to which human rights organizations may be prevented from accessing international funding.³ The law was apparently passed after President Hugo Chávez publicly demanded that political parties and non-governmental organizations be barred from accessing international funding, arguing that they “attempt to destabilize the country”.⁴ The law bans those organizations from accessing international funding that it considers work for the defence of political rights, i.e. those which “have as an aim in their constitution to promote, provide information on or defend the exercise of political rights”.⁵ However, it does not define “political rights” and Amnesty International is concerned that the protection and promotion of human

rights could be interpreted as such under this law. If implemented, the law could effectively prevent the legitimate work of human rights defenders and the organizations they represent by limiting their access to funding.

USE OF THE JUDICIAL SYSTEM TO PERSECUTE THOSE CRITICAL OF THE GOVERNMENT

Amnesty International is concerned that the authorities appear to use the judicial system to silence those critical of the government and has documented numerous cases in which such critics have been subjected to criminal prosecution and been deprived of their personal liberty on what appears to be political grounds.

- Richard Blanco, a member of the opposition party *Alianza Bravo Pueblo* and a local government official in Caracas, was arrested in August 2009. He was charged with inciting violence and injuring a police officer during a demonstration against a draft law on education, based on video footage that contained no evidence against him. He was released on bail eight months later in April 2010, pending the outcome of the trial.
- In March 2010, the security forces arrested Oswaldo Álvarez Paz, member of an opposition party and ex-governor of Zulia State; Guillermo Zuloaga, owner of TV station *Globovisión*, known for its critical line against the government; and Wilmer Azuaje, opposition candidate for governor of Barinas State. The three men were detained for several days, accused of spreading false information, and insulting a public official and the President. Although all three of them were subsequently released, the charges against them have not been dropped.
- Trade unionist and Secretary General of *Sintraferrominera*, Rubén González was recently released, after having been imprisoned for 17 months for his participation in a strike against the state-run iron mine *CVG Ferrominera Orinoco* in Bolívar State. He had been sentenced to seven years' imprisonment in February 2011 for inciting others to commit crime, curtailing people's freedom to work and violating a security zone.⁶ The sentence was widely criticized, and both pro- and anti-government trade unions called for a national strike in protest against his imprisonment. On 2 March 2011, the Supreme Court ordered his conditional release.

INTERFERENCE WITH JUDICIAL INDEPENDENCE

Judge María Lourdes Afiuni was arbitrarily detained and imprisoned for nearly 14 months from December 2009 to February 2011, charged with "ordinary corruption, abuse of authority, aiding escape and criminal association" after granting the conditional release of banker Eligio Cedeño.⁷ Her ruling was in line with Venezuelan law, which states that nobody shall be held in custody awaiting trial for more than two years and took into account the opinion of the UN Working Group on Arbitrary Detention, which had stated in 2009 that the arrest of the banker was arbitrary.⁸ Her ruling was publicly condemned by President Chávez, who called for a long prison sentence. Judge Afiuni has been under house arrest since February and is awaiting trial. To Amnesty International's knowledge, no reliable evidence has been presented to substantiate the charges against her.

FREEDOM OF EXPRESSION AND ASSEMBLY

Amnesty International continues to receive reports of intimidation of and threats against media workers, including journalists and owners of media outlets. The authorities have also taken what appear to be spurious decisions on issues such as licensing of media operations that are critical of the government. The organization is also concerned at reports of excessive use of force by the security forces during protests.

In May 2007, the government did not renew the licence of *RCTV*, a television

channel with an editorial line critical of the government. Similarly, in 2009 at least 34 radio stations had their licenses revoked because of alleged non-compliance with telecommunications regulations. The authorities claimed that these stations “play[ed] at destabilizing Venezuela”, leading to speculation that their editorial line may have been the real reason behind their closure.⁹ Scores of journalists demonstrating against these closures were allegedly beaten by government supporters.

In another incident in 2009, during mass demonstrations against a new education law, staff in the Caracas office of *TV Globovisión* were attacked by a group of armed individuals. The attackers threw teargas bombs and beat up one of the security guards.

In January 2010, *RCTV Internacional* and five other cable television channels were closed for allegedly having contravened the Law on Social Accountability in Radio and Television. The five cable channels were later allowed to resume transmissions. *RCTV* appealed against the closure, but the case has yet to be resolved. The closures of the television stations were followed by a wave of violent protests during which at least two demonstrators were killed, allegedly by armed civilians. Dozens of demonstrators and members of the security forces were also injured.

VIOLENCE AGAINST WOMEN

Venezuela has taken some significant steps towards eradicating violence against women. The Organic Law on the Right of Women to a Life Free of Violence, introduced in 2007, defines violence against women as a human rights violation and reaffirms the responsibility of the state to implement measures to prevent violence against women, to protect women at risk and to punish those responsible.¹⁰ Its implementation, however, has been slow.

Often investigation and prosecution of cases of violence against women and girls do not progress. There is only one shelter in the country for women who need protection from violence in the family or community, and public services, such as the police, the medical profession and the judicial system are insufficiently trained and resourced to respond to these grave human rights violations.

HUMAN RIGHTS VIOLATIONS COMMITTED BY THE POLICE

In the past five years Venezuela has introduced two new laws to regulate the police: the Code of Police Conduct and the Organic Law of Police Service and National Police.¹¹ In March 2010, the Attorney General’s Office established a Criminal Investigation Unit to improve the rate of prosecution of human rights violations committed by the security forces. Despite these positive measures, the number of human rights violations committed by the police remains high. In 2010 local human rights organizations documented over 200 cases of persons unlawfully killed by the police, as well as over 500 cases of alleged torture and ill-treatment in police custody.

- In September 2010, Wilmer José Flores Barrios became the sixth member of the Barrios family to be killed in Aragua State since 1998 when his family started a campaign for truth and justice after a member of their family, Benito Barrios, was found dead following police detention. Aragua police officers are suspected to have been involved in each of the killings. To date, the government has not adopted the necessary measures to protect the Barrios family as requested by the Inter-American Commission and the Inter-American Court of Human Rights. Nor has an effective and impartial investigation been carried out so that those responsible may be brought to justice and the family receive redress.

- Since this report was submitted to the Office of the High Commissioner for Human Rights, another member of the family has been killed, namely Juan José Barrios, who was killed by two hooded men in Aragua in May 2011. In June 2011, the case against the Venezuelan State was heard at the Inter-American Court of Human Rights.
- In January 2010, Daniel Antonio Núñez and his 16 year-old daughter Francis Daniela Núñez Martínez were reportedly beaten and threatened by seven police officers from the Caracas Investigative Police. The police officers were allegedly trying to intimidate them into testifying as witnesses in a shooting near their home.¹² As far as Amnesty International is aware, there has been no investigation into their alleged ill-treatment.

PRISON CONDITIONS

The human rights situation in Venezuelan prisons is critical. According to reports there are currently over 40,000 prisoners in a system built for 12,500. Amnesty International is concerned at reports that violence between inmates is rife, and that human rights violations committed by the prison authorities are commonplace. National human rights organizations have reported that between 2006 and 2009 over 1,600 inmates died as a result of violence and over 3,100 were injured. More recently their reports indicate that during the first six months of 2010, 221 inmates were killed and at least 449 injured, a higher figure than the previous year.¹³

Since this report was submitted, an outbreak of violence at El Rodeo prison in June 2011 has once again highlighted the need for urgent reform of the Venezuelan prison system. Amnesty International has called on the government to investigate the circumstances that lead to the violence, and to take the measures urgently required to improve prison conditions in the country. In the wake of the disturbances at the prison, Humberto Prado Sifontes, director of the Venezuelan Observatory of Prisons (Observatorio Venezolano de Prisiones) became the target of a campaign of intimidation and death threats.

RECOMMENDATIONS FOR ACTION BY THE STATE UNDER REVIEW

Amnesty International calls on the government of Venezuela:

On human rights defenders

- To unequivocally and publicly affirm its support for the legitimate work of human rights defenders, as set out in the 1996 UN Declaration on Human Rights Defenders;
- To guarantee that no action is taken to prevent human rights defenders from carrying out their legitimate work, including guaranteeing that their access to sources of funding is not restricted.

On politically motivated charges and independence of the judiciary

- To end the misuse of the justice system to harass those who are critical of government policies and to drop any politically motivated charges against them;
- To guarantee the independence of the judiciary.

On freedom of expression and assembly

- To unequivocally and publicly affirm its respect for the right of everyone to freedom of expression and assembly;
- To carry out full and impartial investigations into reports of threats and harassment of journalists and to bring those responsible to justice;
- To guarantee that security forces do not use excessive force during protests and that they abide by international human rights standards for law enforcement officials, and to guarantee the right of demonstrators to peaceful protest without fear or risk to their life or physical integrity.

On violence against women

- To establish a well-resourced plan of action for the full implementation of the 2007 Organic Law on the Right of Women to a Life Free of Violence.

On human rights violations committed by the security forces and control of firearms

- To ensure independent and impartial investigations into all cases of alleged human rights violations by members of the security forces and to bring those responsible to justice;
- To ensure that all members of the security forces receive adequate training on the use of force and firearms, as well as on understanding of crowd behaviour and methods of persuasion, negotiation and mediation;
- To implement strict controls on the availability and use of firearms based on international human rights and humanitarian law.

On prison conditions

- To adopt urgent measures to guarantee that all places of detention comply with the UN Standard Minimum Rules for the Treatment of Prisoners;
- To implement the provisional measures issued by the Inter-American Commission on Human Rights and the Inter-American Court of Human Rights in relation to the threat to the rights to life and security of inmates in several prisons in the country.

ENDNOTES

¹ According to the latest official statistics published by the Institute of National Statistics, there were over 21,000 killings in Venezuela in 2009; nearly 80 per cent of the killings were firearms-related. The rate of killings in Venezuela thus stands at 75 per 100,000 inhabitants, in contrast with 15 in Mexico and 20 in Brazil. The National Assembly's Security and Defence Commission reported in 2009 that there were between nine and 15 million illegal firearms in circulation.

² The Law on Telecommunications (Ley Orgánica de Telecomunicaciones) and the Law on Social Responsibility in Radio, Television and other Media Outlets (Ley de Responsabilidad Social en Radio, Televisión y otros Medios Electrónicos).

³ See Law for the Defence of Political Sovereignty and National Self-Determination (Ley de Defensa de la Soberanía Política y Autodeterminación Nacional).

⁴ "Tratar de desestabilizar el país". See speech by President Hugo Chávez of 23 November 2010 at <http://www.youtube.com/watch?v=mBYRxYQsj7U>

⁵ "[A]quellas que tengan como finalidad en su constitución promover, divulgar, informar o defender el pleno ejercicio de los derechos políticos de la ciudadanía." See article 3.2 of the Law for the Defence of Political Sovereignty and National Self-Determination.

⁶ Richard Blanco was charged with "inciting others to commit a crime, curtailing people's freedom to work and violating a security zone" (instigación a delinquir, restricción de la libertad del trabajo y violación de la zona de seguridad).

⁷ "Corrupción propia, abuso de autoridad, favorecimiento para la evasión y asociación para delinquir."

⁸ See opinion of the UNWGAD 10/2009 of 1 September 2009 in UN doc A/HRC/13/30. Add.1.

⁹ "[J]uegan a la desestabilización en Venezuela". See Press Release No. 55/09 by the Inter-American Commission on Human Rights, 3 August 2009, at <http://www.cidh.org/comunicados/spanish/2009/55-09sp.htm>

¹⁰ Organic law on the right of women to a life free of violence (Ley Orgánica sobre el derecho de las mujeres a una vida libre de violencia).

¹¹ The Code of Police Conduct (Código de conducta para los funcionarios civiles o militares que cumplan funciones policiales en el ámbito nacional, estatal y municipal), came into force in 2006, and the Organic Law of Police Service and National Police (Ley del servicio de la policía y del cuerpo de Policía Nacional), came into force in 2008.

¹² Cuerpo de Investigaciones Científicas, Penales y Criminalísticas.

¹³ See Programa Venezolano de Educación-Acción en Derechos Humanos (PROVEA), Informe Annual 2010, p. 400-401.

ANNEX

AMNESTY INTERNATIONAL DOCUMENTS FOR FURTHER REFERENCE¹

Amnesty International Report 2011: The State of the World's Human Rights (Index: POL 10/001/2011)

Amnesty International Report 2010: The State of the World's Human Rights (Index: POL 10/001/2010)

Venezuela: International Human Rights Day: One year on from the arbitrary arrest of Judge Afiuni, Amnesty International reiterates its call for her release (Index: AMR 53/009/2010)

Venezuela: End impunity through universal jurisdiction (No safe haven series, No.5) (Index: AMR 53/006/2009)

Venezuelan activist received death threats (Index: AMR 53/006/2011)

Venezuela: Father and daughter beaten by police: Daniel Antonio Núñez, Francis Daniela Núñez Martínez (Index: AMR 53/005/2011)

Venezuela: Venezuelan woman and daughters threatened: Saraí Pérez (Index: AMR 53/004/2011)

Venezuela: Demand protection for man and family: Néstor Caudí Barrios (Index: AMR 53/002/2011)

Venezuela: Concern for health of detained judge: María Lourdes Afiuni Mora (Index: AMR 53/001/2011)

Venezuela: Further information: Dad attacked as he calls for justice for son: Victor Martínez (AMR 53/008/2010)

Venezuela: Human rights defender at risk (Index: AMR53/007/2010)

Venezuela: Further information: Critics of government detained (Index: AMR 53/004/2010)

Deadly clashes highlight need for urgent prison reform in Venezuela (Index: PRE 01/312/2011)

Police role suspected in continued attacks on Venezuelan family (Web News Story: <http://www.amnesty.org/en/news-and-updates/police-role-suspected-continued-attacks-venezuelan-family-2011-06-01>)

Venezuela urged to release judge held without trial for a year (Web News Story: <http://www.amnesty.org/en/news-and-updates/venezuela-urged-release-judge-held-without-trial-year-2011-01-26>)

Venezuelan Government deliberately targeting opponents (Index: PRE 01/116/2010)

¹ All of these documents are available on Amnesty International's website:

<http://www.amnesty.org/en/region/venezuela>

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