

VENEZUELA

EXECUTIVE SUMMARY-

SUBMISSION TO THE
UNITED NATIONS HUMAN
RIGHTS COMMITTEE

114TH SESSION, 29 JUNE - 24 JULY 2015

AMNESTY
INTERNATIONAL



Amnesty International Publications

First published in 2015 by
Amnesty International Publications
International Secretariat
Peter Benenson House
1 Easton Street
London WC1X 0DW
United Kingdom
www.amnesty.org

© Amnesty International Publications 2015

Index: AMR 53/1787/2015
Original Language: English
Printed by Amnesty International, International Secretariat, United Kingdom

All rights reserved. This publication is copyright, but may be reproduced by any method without fee for advocacy, campaigning and teaching purposes, but not for resale. The copyright holders request that all such use be registered with them for impact assessment purposes. For copying in any other circumstances, or for reuse in other publications, or for translation or adaptation, prior written permission must be obtained from the publishers, and a fee may be payable. To request permission, or for any other inquiries, please contact copyright@amnesty.org

Amnesty International is a global movement of more than 3 million supporters, members and activists in more than 150 countries and territories who campaign to end grave abuses of human rights.

Our vision is for every person to enjoy all the rights enshrined in the Universal Declaration of Human Rights and other international human rights standards.

We are independent of any government, political ideology, economic interest or religion and are funded mainly by our membership and public donations.

**AMNESTY
INTERNATIONAL**



CONTENTS

Executive Summary	4
Measures to prevent torture and other ill-treatment (Article 7)	4
Human right violations in the context of protests (Articles 2, 6, 7, 9, 14, 19, 21 and 22).....	5
A. Excessive use of force	5
B. Torture and other ill-treatment	5
c. Arbitrary detention.....	6
Situation of people deprived of their liberty (Articles 6, 7, 9 and 10)	6
Attacks, threats and intimidation of human rights defenders (Articles 2, 6 and 22)	7
Impunity (Articles 2, 6 and 9)	7
Independence of the judiciary (Articles 2, 9 and 14)	7
Implementation of the Law to Eradicate Violence against Women (Articles 2, 6, 7 and 26).....	8
Conclusions and recommendations	8

EXECUTIVE SUMMARY

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

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

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

MEASURES TO PREVENT TORTURE AND OTHER ILL-TREATMENT (ARTICLE 7)

Venezuela has taken some measures to prevent torture and other ill-treatment by passing on 22 July 2013 the Special Law to Prevent and Punish Torture and Other Cruel, Inhuman or Degrading Treatment which creates an institutional framework for preventing, reporting and punishing these crimes.

However, as stated by the Committee against Torture in December 2014, the definition of torture does not comply with the definition of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (the Convention against Torture); and the Law does not typify as complicity in the crime of torture the acts of those public official who instigate or consent to act of torture by others.

On 14 February 2014, a National Plan for the Prevention of Torture was announced. However, its full content has not been widely publicised and there has been limited progress in its implementation.

There is concern that Venezuela has yet to ratify the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment (OPCAT) and that to date Venezuela has not agreed to numerous visit requests by the Special Procedures of the UN Human Rights Council.

HUMAN RIGHT VIOLATIONS IN THE CONTEXT OF PROTESTS (ARTICLES 2, 6, 7, 9, 14, 19, 21 AND 22)

In the latest wave of social discontent, between February and July 2014, 43 people were killed and 878 injured. 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. Suspected perpetrators include law enforcement officials, anti-government protesters and members of pro-government armed groups, acting with the tolerance or acquiescence of the authorities. In addition Amnesty International documented scores of cases of torture or other ill-treatment, both of protesters and passers-by. Reports were also received from people who had been arbitrarily detained in connection with the protests; and injured by the use of excessive force from law enforcement officials.

A. EXCESSIVE USE OF FORCE

Despite efforts to improve the conduct of law enforcement officials by, for example, initiating a police reform in 2006 and putting plans and measures so that training and laws and protocols governing the security forces are in line with human rights standards, the actions of the security forces during the recent wave of protests show that security forces continue to fail to carry out their public order duties in accordance with international human rights standards.

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

Furthermore, far from showing a clear commitment to respect the right to peaceful assembly, the Ministry of Defence issued Resolution 008610 in January 2015 that allows all sections of the armed forces to be deployed in public order operations, including at public protests. The resolution also authorizes the use of firearms in such operations, without a clear definition of the exceptional circumstances that would justify their use and the use of firearms.

Statements from victims, eyewitnesses, journalists and medical personnel, as well as photographic and video evidence and analysis of riot equipment and non-regulation equipment used, show that law enforcement officials used excessive force on many occasions against protesters, passers-by and residents in areas where protests took place. This includes the use of live ammunition, use of rubber bullets fired at closed range, use of riot equipment tampered with the apparent intention of causing maximum physical injury; and excessive and indiscriminate use of tear gas.

B. TORTURE AND OTHER ILL-TREATMENT

Dozens of detainees were subjected to torture or other ill-treatment by members of the security forces during the protests, at the time of arrest, during transfer to detention centres and while in detention. In some cases, people were not taken to detention centres but simply held by law enforcement officials and then released a few hours later.

Detainees appear to have been subjected to torture or other ill-treatment to punish them for their participation, or alleged participation in the protests; or to extract confessions to crimes committed while participating in the protests and obtain information about the identity of people who took part in or organized anti-government protests.

The reports include allegations of being punched, kicked and beaten with blunt instruments,

having electric shock applied and plastic bags over their heads to cause suffocation, being burned with sharp objects, being forced to stay on their knees or to stand for many hours while held in detention centres, being blindfolded or have hoods placed over their heads, while being taken to or held in detention centres, sometimes for several days, being exposed to tear gas in confined spaces, such as patrol cars or police cells; as well as cases of sexual abuse and threats of rape against both men and women detainees and death threats.

Most detainees did not receive medical examinations when they entered detention centres. In some cases, despite the detainees' visible signs of injury, public prosecutors did not initiate investigations or judges did not order such investigations; and some doctors refused to produce complete medical reports recording that detainees bore signs of torture or other ill-treatment.

C. ARBITRARY DETENTION

According to figures from the Attorney General's office, 3,351 people were apprehended during the 2014 protests. Statements from detainees, their relatives and lawyers, and from human rights defenders, indicate that many were arbitrarily detained.

Although most of those who were detained were later released, according to the latest information published by the Attorney General, 1,402 people are facing charges one year later for offences allegedly committed during the protests. While the majority of those charged were granted conditional release pending trial, to date, over 20 people remain in detention.

After reviewing the evidence presented by the Public Prosecution Service on five the cases, three of whom continue to be detained to date, and two of whom have been conditionally released pending the outcome of a trial, Amnesty International has concluded that they are facing trial despite the absence of credible evidence to support the charges against them, and therefore should be immediately released. Others in pre-trial detention could also be facing unsubstantiated charges.

SITUATION OF PEOPLE DEPRIVED OF THEIR LIBERTY (ARTICLES 6, 7, 9 AND 10)

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, as well as resources allocated to the provision of food, water and sanitation, and medical care and treatment in detention facilities.

In spite of having implemented positive measures such as establishing Ministry specifically in charge of prisons in 2011, prison conditions remain a concern with large numbers of detained in prolonged pre-trial detention, overcrowding and poor sanitation, lack of access to food, drinking water and medical care, high levels of violence, mainly among inmates; and reports of human rights violations when the authorities intervene to regain control of detention centres.

According to figures from human rights organizations by the end of 2014 over 51,000 were in a prison system that has a capacity for 19,000 inmates and more than 60% of those deprived of their liberty are held in pre-trial detention. 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.

Figures from the human rights organization *Venezuelan Prisons Observatory*, shows that levels of violence in prisons remain high, with 6,472 deaths and 16,387 injuries between 1999 and 2014. Despite claims by the authorities that recent prison reforms have tackled levels of violence, the official figures put the number of deaths in 2014 at 140.

ATTACKS, THREATS AND INTIMIDATION OF HUMAN RIGHTS DEFENDERS (ARTICLES 2, 6 AND 22)

The continuous attacks, smears and intimidation directed against human rights defenders are a cause of particular concern. These have continued and in some cases intensified as a result of their work during the 2014 protests.

To date, the authorities have failed to take action to guarantee that defenders of human rights can carry out their work without fear of reprisals.

IMPUNITY (ARTICLES 2, 6 AND 9)

Amnesty International acknowledges the efforts of the Public Prosecution Service to investigate and prosecute human rights violations such as the creation in 2008 of the Criminal Investigation Units against Violations of Fundamental Rights (Unidades Criminalísticas Contra la Vulneración de Derechos Fundamentales) which investigate human rights violations.

However, despite these initiatives, the Public Prosecution Services' own figures state that only 3% of formal complaints of human rights violations result in suspects being charged and brought before a judge.

Most of the victims and relatives interviewed by Amnesty International stated that they lack confidence in their ability to get justice and were afraid of reporting abuses because of possible reprisals.

The decision of Venezuela to denounce the American Convention on Human Rights and its decision to withdraw recognition of the jurisdiction of the Inter-American Court of Human Rights is of grave concern.

INDEPENDENCE OF THE JUDICIARY (ARTICLES 2, 9 AND 14)

The national justice system does not have the resources necessary to guarantee the right to justice for victims of human rights violations. In addition, it is subject to interference by the government, especially in cases involving people who have openly criticized the government policies.

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

IMPLEMENTATION OF THE LAW TO ERADICATE VIOLENCE AGAINST WOMEN (ARTICLES 2, 6, 7 AND 26)

The 2007 Organic Law on the Right of Women to a Life Free of Violence and the inclusion in November 2014 of the crime of feminicide into the 2007 Law, represent an important step forward towards the criminalization and eradication of gender-based violence, which is still widespread in Venezuela. According to the 2014 Public Ministry Report, there were 73,763 complaints reported of violence against women last year.

However, to date, the implementation of the law has been slow and sufficient resources have not been allocated to ensure that women victims of gender-based violence have access to justice and other effective protection measures, including access to shelters. The latest figures by the Public Ministry indicate that only 0.3% of the cases are tried.

CONCLUSIONS AND RECOMMENDATIONS

Venezuela has made progress taking measures to prevent and punish torture and other ill-treatment (Articles 2 and 7), including gender-based violence, by passing legislation and creating operational plans, ensuring that protocols and training for law enforcement officials responsible for maintaining public order comply with international standards, through the 2006 police reform (Articles 2, 6 and 11); and ensuring the impartiality and independence of investigations into cases of human rights violations (Article 2).

However, the conditions in detention centres do not conform to international human rights standards. The excessive use of force during the policing of social protests and the multiple complaints of torture and other ill-treatment lodged in recent months clearly show that the authorities are failing to comply with their human rights obligation to guarantee in practice the right of every person, without discrimination, to physical and psychological integrity and their rights to freedom of expression, peaceful assembly and association.

Official statistics clearly show that there is still much to do in order to ensure the independence and impartiality of the judiciary and to end the impunity enjoyed by the great majority of those responsible for human rights violations, including gender-based violence.

Following the grave human rights abuses that took place during the pro and anti-government demonstrations of 2014, the authorities stated that they will develop and implement a National Human Rights Plan. However, to date Amnesty International is not aware of any progress being made in this regard.

A real commitment by the authorities to defend, protect and promote human rights must ensure the right of every person to defend and promote human rights. Creating the conditions that allow human rights defenders to carry out their crucial work in a safe and enabling environment is paramount.

Amnesty International recommends that the Venezuelan authorities:

- Send a clear signal of respect for the right to freedom of association and condemn unequivocally all violations against the right to life and physical integrity.
- Take decisive action to guarantee that all law enforcement officials and other security forces carry out their duties in line with international human rights law and standards.

- Undertake independent, comprehensive and prompt investigations into all cases of human rights violations and threats against human rights defenders, victims of human rights violations, their relatives and lawyers, bring those responsible to justice, ensure that those convicted receive a punishment appropriate to the seriousness of the crime, and offer victims of threats receive full protection, in accordance with their wishes.
- Ensure prisons and detention centres meet international human rights standards, including the standard minimum rules for the treatment of prisoners.
- Release all those arbitrarily detained.
- Ensure that the Organic Law on the Right of Women to a Life Free of Violence is effectively implemented and the necessary resources are allocated.
- Implement a National Human Rights Plan.
- Explicitly and publicly recognize the legitimacy of the work of human rights defenders. This must include public declarations recognizing their contribution to the promotion of human rights and the rule of law.

AMNESTY
INTERNATIONAL



www.amnesty.org