



Venezuela

Amnesty International submission to the UN Universal Periodic Review 12th session of the UPR Working Group, May 2011

C. 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 which are contrary, or 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 right 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, when they arrived to inform congress of their concerns regarding amendments to two laws on telecommunications and social responsibility in the media under discussion in congress at the 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. Mijail was an audio visual producer who had been documenting cases of human rights abuse 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.

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*).

The ability of human rights defenders to carry out their legitimate work is further compromised by the Law for the Defence of Political Sovereignty and National Self-Determination, a new law passed by the National Assembly in December 2010, according to which human rights organizations might be prevented from accessing international funding.³ The law was apparently passed after President Hugo Chávez demanded publicly 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, as it does not define what is meant by ‘political rights’, Amnesty International fears that under this law the protection and promotion of human rights will be interpreted as such. If the law is implemented, it will effectively prevent the legitimate work of human rights defenders and the organizations they represent by limiting their access to funding.

Use of the judiciary to persecute those critical of the government

The authorities are using the judicial system to silence those critical of the government. Amnesty International has documented numerous cases in which those critical of the government have been subjected to criminal prosecution and have 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, which contains no evidence against him. He was released on bail eight months later in April 2010, pending the outcome of his trial.
- In March 2010, 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 have been released, the charges against them have to this date not been dropped.
- Trade unionist and Secretary General of Sintraferrominera, Rubén González was recently released, 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 was sentenced to 7 year’s imprisonment at the end of 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,

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=mBYRxYOs7U>

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).

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 imprisoned for nearly 14 months from December 2009 to February 2011, having been charged with “ordinary corruption, abuse of authority, aiding escape and criminal association”.⁷ She was charged after granting conditional release to banker Eligio Cedeño. 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 However, 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 and threats to media workers, including journalists, and owners of media outlets. The authorities further take what appears to be spurious decisions on issues such as licensing with respect to media operations that are critical of the government. The organization is further 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 to 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, in the context of mass demonstrations in connection with a new education law, staff in the main office of TV Globovisión in Caracas 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 International 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 allowed to resume transmissions days later. RCTV appealed against the closure, but the case has yet to be resolved. The closures of the TV stations were lowed 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, a new law introduced in 2007, defines violence

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

⁸ See opinion of the UNWGAR 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>

against women as a human rights violation.¹⁰ It further reaffirms the responsibility of the state to implement measures to prevent violence against women, to protect women at risk and to punish those responsible. However, the implementation of the law has been slow.

Investigations and prosecution of cases of violence against women and girls often 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 this grave human rights violation.

Human rights violations committed by the police

In the past five years Venezuela has introduced two new laws to regulate the police, i.e. a new Code of Police Conduct and a new Organic Law of Police Service and National Police.¹¹ In addition, in March 2010, the Attorney General's Office established a Criminal Investigation Unit to improve prosecution rates 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 his family started a campaign in 1998 for truth and justice after one of their family members, Benito Barrios, was found dead following police detention. To date, the state has not adopted the necessary measures to protect the Barrios family as requested by the Inter-American Commission and 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.
- 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, an investigation into their alleged ill-treatment has never been opened.

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

¹⁰ Organic law on the right of women to a life free of violence (Ley Órgánica 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.

D. Recommendations for action by the State under review

Amnesty International calls on the Venezuelan government:

Human rights defenders

- To affirm unequivocally and publicly 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.

Politically motivated charges and independence of the judiciary

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

Freedom of expression and assembly

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

Violence against women

- To establish a well- resourced plan of action for the full implementation of the 2007 law on the right of women and girls to a life free of violence.

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 strong controls on the availability and use of arms based on international human rights and humanitarian law.

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 on Human Rights in relation to the threat to the rights to life and security of inmates in several prisons in the country.