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HUNGER FOR JUSTICE

CRIMES AGAINST HUMANITY IN VENEZUELA

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1. EXECUTIVE SUMMARY

Venezuela has been experiencing a profound human rights crisis for several years. Massive violations of civil, political, economic and social rights have been reflected in shortages of and lack of access to food and medicines, a deterioration in health services, as well as violence and political repression by the state. As a result at least 3.4 million people have been forced to flee the country since 2015.

In this context, social protest became the main and most visible way in which people could respond and channel their discontent. Since 2014, there have been several cycles of mass demonstrations, interspersed with spontaneous protests to demand a range of rights.

In February 2014, the first mass protests took place both against and in support of the government of Nicolás Maduro, who had come to power a year earlier. During the first months of demonstrations, Amnesty International documented the excessive use of force, torture and politically motivated arbitrary detentions and highlighted the use of derogatory language to stigmatize anti-government protesters. By the end of these protests, 43 people had been killed, including 10 public officials. A year later, the organization expressed concern at the high level of impunity in relation to possible human rights violations committed during those months.

Between April and July 2017, there was a new wave of social conflict in which more than 120 people were killed, mostly at the hands of the state and groups of armed pro-government civilians (“collectives”). At least 1,958 people were injured as a result of the systematic and widespread use of excessive, and often intentionally lethal, force against protesters. In addition, according to the Office of the United Nations High Commissioner for Human Rights (OHCHR), more than 5,000 people were reported to have been detained. One year after the protests, to Amnesty International’s knowledge, in only one case had judicial proceedings in relation to these deaths been opened against a member of the Bolivarian National Guard (Guardia Nacional Bolivariana, GNB).

While 2018 was not characterized by mass protests, it nevertheless saw the largest number of spontaneous protests throughout the country (more than 12,000 during the year) around demands for economic and social rights, due to the serious deterioration in living standards.

It was in this context that, at the beginning of 2019, thousands of people took to the streets to demand a change of government. During January, numerous demonstrations were reported, many of them in low-income areas where the demand for political change had not been so pronounced up to that point.

From 21 to 25 January 2019, in a total of 12 of the country’s 23 states, at least 47 people died in the context of the protests, all of them as a result of gunshot wounds. Reports indicated that, of these 47 people, at least 39 were killed by members of state forces or of third parties acting with their acquiescence during demonstrations (33 and six respectively). Eleven were reportedly victims of targeted extrajudicial executions, 24 reportedly died in the context of demonstrations and 11 reportedly during looting. According to press reports, one member of the security forces also died during these protests.

During these five days, more than 900 people were arbitrarily detained in practically every state in the country. It is estimated that 770 of these arbitrary detentions took place in just one day, 23 January, the date on which demonstrations were held throughout the country. Children and teenagers were among those detained.

Amnesty International has documented the policy of politically motivated repression implemented by the government of Nicolás Maduro since 2014. As part of this, between 31 January and 17 February 2019, an Amnesty International team visited Venezuela to carry out research into crimes under international law and serious human rights violations committed in the context of the protests. During this visit, a total of six extrajudicial executions were documented, three cases of excessive use of force

and six arbitrary detentions, as well as cover-ups and a failure to investigate several of these violations. The 15 cases detailed in this report are representative of a broader pattern of possible human rights violations that took place in January 2019.

The extrajudicial executions documented in different parts of the country illustrate a recurring pattern. In all cases, the victims were young men who were critical of the government, or perceived as such by the authorities, from low-income areas and whose participation in the protests had been visible or whose criticisms had gone viral on social media. That is, they were targeted executions based on the profile of the victims.

All died as a result of gunshot wounds to the chest and were executed while in the custody of the authorities. Some were tortured before they were killed. After executing them, the authorities publicly depicted them as criminals who had died in confrontations and initiated criminal investigations for “resisting authority” (“resistencia a la autoridad”). In all six cases, the crime scene was tampered with in order to cover up the facts, as were the bodies of the victims. The police force that carried out these executions was the Bolivarian National Police (Policía Nacional Bolivariana, PNB), mainly through its Special Actions Force (Fuerzas de Acciones Especiales, FAES).

Regarding the use of force, Amnesty International’s research confirmed the disproportionate and unnecessary use of lethal force against demonstrators. In the documented cases, the GNB and the Bolivarian National Guard of Venezuela (Guardia Nacional Bolivariana, GNB) were identified as the bodies responsible for the deaths. For example, Alixon Pisani was killed by a gunshot wound to the chest sustained when a PNB official riding on the back of a motorcycle fired indiscriminately on a protest in Catia (Caracas). According to witnesses, the demonstrators had blocked the street with burning objects and were not armed. Only in a few cases had Molotov cocktails and stones been thrown at the security forces.

The cases of detention illustrate a pattern of arbitrary mass arrests followed by ill-treatment of detainees by government forces in order to punish people for taking part in the protests. Researchers also found that judicial guarantees were flouted and that there was interference with principle of judicial independence.

For example, in the cases of four teenagers (all under 18) detained in the state of Yaracuy, none was brought before a judge within the legal time limit and they were held for several days despite the absence of sufficient evidence to justify their detention. Days later, the supervising judge (juez de control) dealing with their case complained on social media that her decision regarding the minors had been the result of pressure and the death threats from the Executive branch.

Finally, according to the information received from relatives and lawyers, in all the documented cases of violation of the right to life and physical integrity, the official investigations have been neither impartial or thorough and the families have received only minimal information about them. In addition, several relatives were harassed by public officials because of the victims’ involvement in the protests.

Analysis of these violations shows that in January 2019, multiple acts of violence were committed consistently in all states and with a high degree of coordination between the security forces at the national and state levels.

The authorities right up to the highest level, including Nicolás Maduro, have at the very least tolerated such attacks. Amnesty International’s research shows that these human rights violations were not random, but were part of a previously planned attack directed against a distinct part of the civilian population: government opponents, or those perceived as such by the government, who were at times specifically identified as targets by the attackers. In addition, these incidents were public and widely known; in other words, the authorities at the highest level knew what was happening.

These incidents took place during January 2019 and intensified between 21 and 25 January; that is, these violations were the result of a decision taken and continued over a period of time in which the necessary measures to prevent them were not taken. Throughout this period, statements at the highest level of government, expressed support for the security forces, stigmatized demonstrators, denied the underlying causes of the social protest and ignored the victims. Finally, according to the available information, there appears to have been no thorough, prompt and impartial investigation to clarify the facts as a whole and establish responsibility at all levels.

The multiple acts of violence documented point to a policy of systematic and widespread attacks, targeted in some cases and indiscriminate in others, implemented by the government of Nicolás Maduro to dissuade, neutralize or, in some cases, eliminate opponents, or those it perceives as such.

Amnesty International believes that this pattern is consistent with the repressive practices inflicted on the civilian population since 2014 and were particularly in evidence in 2017. There are, therefore, well-founded reasons to argue that the incidents detailed in this report and in previous Amnesty International reports constitute crimes against humanity as part of a strategy of systematic and widespread attacks against people considered dissidents by state agents or third parties operating at the very least with state acquiescence or consent.

In the light of these serious human rights violations and crimes under international law, a series of measures are needed to prevent impunity. These include creating a commission of inquiry under the auspices of the United Nations Human Rights Council (HRC) and the invoking of universal jurisdiction by those countries genuinely concerned about the situation in the country, as well as the examination of the facts by the Prosecutor of the International Criminal Court (ICC) – Venezuela has been the subject of a preliminary examination by the ICC since the beginning of 2018.

2. METHODOLOGY

This report documents human rights violations that occurred mainly between the 21 and the 25 January 2019. A research team carried out a mission from 31 January to 17 February 2019 to document these violations, visiting the states of Lara, Yaracuy, Vargas and different locations in Caracas.

Hunger for justice, is based on interviews with more than 70 people; examination of 72 pieces of audiovisual and photographic material; analysis of the context in which the attacks occurred; and a study and documentation of 15 representative cases. In eight of these cases, the victims died. In one other case the victim was seriously injured. The remaining six cases involve people who were detained, some of whom were subjected to torture or other cruel, inhuman or degrading treatment.

Amnesty International used its Digital Verification Corps, a network of volunteers trained in social media verification based at universities around the world to help in the selection, review and verification process. The verification methodology included checking for the capture date and upload date to social media, geolocating the content and checking for corroborating evidence. All visual footage was cross-checked by different members of the Corps using this methodology and reviewed by Amnesty International researchers. Amnesty International's weapons expert provided in-depth analysis of some of the open source videos and images. Forensic images were also analyzed by Amnesty International's experts.

The organisation has had access to the death certificates of the eight people who died whose cases are cited and in all cases except one, to eyewitnesses to the crimes. Because of the dangerous situation prevailing in Venezuela at the time of writing this report, the names of all sources have been withheld for their security.

Amnesty International requested a meeting with Nicolás Maduro and has requested in writing information from the Lara State Attorney General's Office, the Attorney General's Office for the Caracas Metropolitan Area, as well as the Ombudsman's Office and the Ministry of People's Power for Internal Relations, Justice and Peace. At the time this report was completed, the organization had received no response to the requests.

The violence documented is analysed from the perspective of regional and international human rights standards and international criminal law. The Venezuelan government has withdrawn from the jurisdiction of the Inter-American Court of Human Rights, which has jurisdiction to hear violations of the American Convention on Human Rights (Inter-American Court) in the Venezuelan context only up to 10 September 2013. Therefore, the standards set by the Inter-American Court referred to in this report are intended solely to assist interpretation with respect to the cases detailed.

3. INTRODUCTION TO THE CONTEXT IN VENEZUELA

Venezuela¹ continues to experience a crisis of massive violations of human rights that has lasted for several years.²

According to UN agencies, between 1998 and 2011 poverty in the country was progressively and steadily reduced. However, since 2013, Venezuela has seen a steep decline in its social indicators.³ As a result of the fall in the international price of oil and the drastic reduction in production⁴ (Venezuela depends on the hydrocarbons sector for 96% of exports), as well as certain public policies at both the macro and microeconomic levels, Venezuela began to experience a serious and complex economic crisis. In 2018, inflation reached 1,370,000% and by the end of 2019 it could rise to 10,000,000%.⁵

Malnourishment,⁶ child malnutrition,⁷ the emergence of previously eradicated diseases,⁸ an increase in deaths from preventable diseases and an increase in maternal and infant mortality rates,⁹ among other indicators, are evidence of the increase in poverty¹⁰ and the erosion of social systems, such as the health system. In February 2019, the UN High Commissioner for Refugees (UNHCR) estimated that 3.4 million people had fled Venezuela since 2015 because of the serious deterioration in the standard of living and human rights violations.¹¹

This situation of limited access to human rights sparked protests against government policies. Thus, the most significant periods of mass demonstrations occurred in the years 2014, 2017 and most recently in 2019. During these protests, various state security forces followed a consistent pattern of repression in many regions of the country against people who exercised their right to freedom of expression and assembly.

1. This section is based mainly on Amnesty International's previous research, as well as secondary sources, image analysis and, in some cases, first-hand testimonies.

2. Amnesty International uses the expression "massive violations of human rights" as defined in the 1984 Cartagena Declaration on Refugees and its interpretation, www.unhcr.org/protection/expert/53bd4d0c9/summary-conclusions-interpretation-extended-refugee-definition-1984-cartagena.html

3. Between 1998 and 2011, the percentage of the population living below the poverty line fell from 49% to 27.4%, and the percentage living in extreme poverty fell from 21.0% to 7.3%. However, in 2013, poverty increased to 32.1% and extreme poverty to 9.8%. World Health Organization, 'Estrategia de Cooperación, Resumen Venezuela', ['Cooperation Strategy, Summary, Venezuela'], [Apps.who.int/iris/bitstream/10665/136983/2/ccsbrief_ven_es.pdf?ua=](https://apps.who.int/iris/bitstream/10665/136983/2/ccsbrief_ven_es.pdf?ua=) (Spanish only). See also the Pan American Health Organization (PAHO) at <https://www.paho.org/salud-en-las-americas-2017?p=2391> and the National Institute of Statistics (INE), Síntesis Estadística de Pobreza e Indicadores de Desigualdad 1er semestre 1997 - 2do semestre 2011 [Statistical Synthesis of Poverty and Indicators of Inequality 1st semester 1997 - 2nd semester 2011] at www.ine.gov.ve/documentos/Boletines_Electronicos/Estadisticas_Sociales_y_Ambientales/Sintesis_Pobreza_e_Indicadores/pdf/2011Semestre2.pdf (Spanish only).

4. Oil production fell from 2,213 million barrels per day in 2016 to 1,468 million barrels in 2018. The Economist Intelligence Unit, 'Country Forecast: Venezuela', <http://country.eiu.com/venezuela>

5. International Monetary Fund, Bolivarian Republic of Venezuela, www.imf.org/en/Countries/VEN

6. In the three years 2015-2017, Venezuela came second in the region as regards the prevalence of hunger, which almost tripled during this period: 2010-2012 (3.6%) and 2015-2017 (11.7%). The number of people who were undernourished increased to 3.7 million. Food and Agriculture Organization of the United Nations, 'Panorama de Food and Nutrition Security in Latin American and the Caribbean, 2018'

7. UNICEF, 'In Venezuela, prevalence of malnutrition among children grows as economic crisis deepens', www.unicef.org/press-releases/venezuela-prevalence-malnutrition-among-children-grows-economic-crisis-deepens

8. Venezuela served as a model for the eradication of malaria in the Americas. However, reports of outbreaks began to increase in 2008 and between 2015 and 2016 notified cases rose by more than 76% (from 136,000 to 240,000), overtaking Brazil (which had the highest rate) and registering the highest levels in the country's epidemiological history. World Health Organization, World Malaria Report, 2017, <http://apps.who.int/iris/bitstream/10665/259492/1/9789241565523-eng.pdf?ua=1>

9. According to the latest Epidemiological Bulletin (2016), issued by the Ministry of health, the total number of maternal deaths in 2016 exceeded those in 2015 by 65.79%, while the deaths of children under aged under a year rose by 30% compared to the previous year. Venezuelan Ministry of People's Power for Health, Boletín Epidemiológico, semana epidemiológica n° 52, 2016.

10. According to the National Survey of Living Conditions (ENCOVI), in 2017 income poverty affected 87% of Venezuelan households, www.ucab.edu.ve/wp-content/uploads/sites/2/2018/02/ENCOVI-2017-presentaci%C3%B3n-para-difundir-.pdf (Spanish only).

11. UNHCR, Venezuela situation, <https://data2.unhcr.org/en/situations/venet>

4. MASS PROTESTS AND REPRESSION 2014-2019

The first mass protests against the government of Nicolás Maduro, who at the time had been in office for only a year, took place in 2014.

Amnesty International reported that at least 43 people lost their lives in this context, including a prosecutor and nine members of the security forces.¹² It also documented, cases of torture and politically motivated arbitrary detention, excessive use of force during demonstrations and the participation of armed civilians in these operations with the authorization, support or acquiescence of the Venezuelan state. As early as 2014, Amnesty International raised concerns about the use of language by senior government figures that stigmatized demonstrators.¹³ A year later, high levels of impunity were reported in all these cases.¹⁴

Between April and July 2017, there was a new period of social conflict in which more than 120 people died, mostly at the hands of the state and groups of pro-government armed civilians. At least 1,958 people were wounded as result of the systematic and widespread use of excessive and sometimes intentionally lethal force against protesters.¹⁵ A year after the protests, only one GNB official had been prosecuted in connection with these deaths.¹⁶

In addition, there were reports that more than 5,000 people were detained in the months during which the protests took place.¹⁷ Amnesty International identified patterns of politically motivated arbitrary detentions. These included arrests carried out without a warrant and without evidence of a crime being committed in flagrante; the use of criminal offences allowing for considerable discretion in interpretation (such as “terrorism” or treason); torture; and disregard for release warrants.¹⁸

The Office of the UN High Commissioner for Human Rights (OHCHR) observed that there was a policy aimed at systematically repressing opposition to the government and instilling fear among the population, which was bolstered by political discourse characterized by demeaning language that “portrayed the leaders of the opposition and protesters as terrorists, violent and manipulated by foreign powers to destabilise the government.”¹⁹

12. OHCHR, ‘UN Human Rights Chief urges Venezuela to release arbitrarily detained protestors and politicians’, 20 October 2014, www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=15187&LangID=E

13. Amnesty International, Venezuela: Human rights at risk amid protests, (Index: AMR 53/009/2014), 1 April 2014, www.amnesty.org/en/documents/amr53/009/2014/en/

14. Amnesty International, Venezuela: The faces of impunity – A year after the protests, the victims still await justice, (Index: AMR 53/1239/2015) 24 March 2015, www.amnesty.org/en/documents/amr53/1239/2015/en/

15. OHCHR, Human rights violations and abuses in the context of protests in the Bolivarian Republic of Venezuela from 1 April to 31 July 2017, 30 August 2017, https://www.ohchr.org/Documents/Countries/VE/HCRReportVenezuela_1April-31July2017_en.pdf

16. OHCHR, Human rights violations in the Bolivarian Republic of Venezuela: a downward spiral with no end in sight, June 2018, p. 8, www.ohchr.org/Documents/Countries/VE/VenezuelaReport2018_EN.pdf

17. OHCHR, Human rights violations and abuses in the context of protests in the Bolivarian Republic of Venezuela from 1 April to 31 July 2017, 30 August 2017, www.ohchr.org/Documents/Countries/VE/HCRReportVenezuela_1April-31July2017_en.pdf

18. Amnesty International, Venezuela: Silenced by force – politically motivated arbitrary detentions in Venezuela, (Index: AMR 53/6014/2017) 26 April 2017, www.amnesty.org/en/documents/amr53/6014/2017/en/

19. OHCHR, Human rights violations and abuses in the context of protests in the Bolivarian Republic of Venezuela from 1 April to 31 July 2017, 30 August 2017, www.ohchr.org/Documents/Countries/VE/HCRReportVenezuela_1April-31July2017_en.pdf

A year later, the OHCHR reported that the government continued to use arbitrary detentions “as one of the main tools to intimidate and repress the political opposition” and that the situation was exacerbated by the use of military courts.²⁰

In this period, Amnesty International documented raids and illegal attacks on houses where protesters were believed to be present in order to intimidate the community and punish those demonstrating against the government. Such operations were documented in at least six communities in four different states and involving at least six different security forces and pro-government armed groups.²¹ In other words, this was part of a broader state strategy to generate terror among the population and quell the protests.

A year later, in February 2018, the Prosecutor of the International Criminal Court (ICC) decided to open a preliminary examination based on allegations of crimes under international law that had been committed in the context of the demonstrations and political unrest since at least 2017; in particular, the excessive use of force and the arbitrary detention, torture and ill-treatment of actual or perceived members of the opposition.²²

The year 2018 saw the highest number of protests during Nicolás Maduro’s administration, with the equivalent of 35 protests a day, mainly due to lack of access to work, food and basic services.²³ These protests were in low-income areas, spontaneous and were not convened by the political sector.²⁴

The year 2019 began with numerous demonstrations against the administration of Nicolás Maduro, many of them in low-income areas where the protests demanding a change of government had not been so visible or well supported until that point. The Venezuelan Observatory of Social Conflict (Observatorio Venezolano de Conflictividad Social, OVCS) recorded a total of 1,023 protests between 21 and 25 January alone, the majority of which demanded the resignation of Nicolás Maduro.²⁵

In those five days, the repression intensified. At least 47 people died during the protests, all from gunshot wounds. The deaths were reported in 12 of the country’s 23 states²⁶ and most victims were from low-income neighbourhoods once considered as “bases of support for Chavism”; that is, sympathetic to the ruling party.²⁷

Of these 47 people, it is believed that at least 39 were killed by state forces, or by third parties acting

20. OHCHR, Human rights violations in the Bolivarian Republic of Venezuela: a downward spiral with no end in sight, June 2018, p. 22, www.ohchr.org/Documents/Countries/VE/VenezuelaReport2018_EN.pdf

21. Amnesty International, Nights of terror: Attacks and illegal raids on homes in Venezuela, 30 October 2017, (Index: AMR 53/7285/2017) www.amnesty.org/en/documents/amr53/7285/2017/en/

22. ICC, Statement of the Prosecutor of the International Criminal Court, Mrs Fatou Bensouda, on opening Preliminary Examinations into the situations in the Philippines and in Venezuela, www.icc-cpi.int/Pages/item.aspx?name=180208-otp-stat

23. OVCS, Conflictividad social en Venezuela 2018 [Social Conflict in Venezuela 2018], www.observatoriodeconflictos.org.ve/tendencias-de-la-conflictividad/conflictividad-social-en-venezuela-2018 (Spanish only).

24. OVCS, Conflictividad social en Venezuela 2018 [Social Conflict in Venezuela 2018], www.observatoriodeconflictos.org.ve/tendencias-de-la-conflictividad/conflictividad-social-en-venezuela-2018 (Spanish only).

25. According to the OVCS, during 2018, the right to work, basic services and food were the rights most widely demanded. However, in January 2019, the right to political participation, which related to the change of government, was the issue that sparked a greater number of protests. www.observatoriodeconflictos.org.ve/tendencias-de-la-conflictividad/conflictividad-social-en-venezuela-2018 and www.observatoriodeconflictos.org.ve/tendencias-de-la-conflictividad/conflictividad-social-en-venezuela-enero-2019 (Spanish only)

26. Specifically in Lara, Táchira, Bolívar, Portuguesa, Miranda, Vargas, Sucre, Monagas, Barinas, Yaracuy, Amazonas and the Capital District.

27. OVCS, Conflictividad social en Venezuela 2019 [Social Conflict in Venezuela 2019], www.observatoriodeconflictos.org.ve/tendencias-de-la-conflictividad/conflictividad-social-en-venezuela-enero-2019 (Spanish only).

with their acquiescence, in the context of social protest.²⁸ In addition, according to the information obtained, 11 were extrajudicially executed, 24 died in the context of demonstrations and 11 during the looting of commercial premises.²⁹ According to official reports, 131 public security officials were injured and press reports indicated that a GNB official died in incidents related to the protests during January.³⁰

In this same period, more than 980 people were detained, including 137 teenagers. The largest number of detentions recorded in a single day for at least 20 years (770) were carried out on 23 January.³¹ On 31 January, it was reported that 741 people remained in detention. Detentions were reported in almost all states and the Capital District, Aragua, Bolívar and Zulia registered the largest number of arrests.³² Three months later, eight members of the security forces had been detained for crimes against demonstrators.³³

28. Amnesty International believes that at least 33 people died at the hands of state forces and six at the hands of groups of pro-government armed civilians.

29. This information is based on information compiled from press reports, OHCHR public information and Venezuelan human rights organizations.

30. On 23 January, the death of GNB officer Pedro Díaz Rojas was reported by some local media. On 29 January, the OHCHR reported that this GNB official had died in the context of the protests. However, the government has not commented on this. <https://onu.org.ve/cuarenta-muertos-y-record-de-arrestos-durante-las-protestas-en-venezuela/>, as well as Globovisión Videos: Tarek Wiliam Saab, www.youtube.com/watch?v=YPWi_DeMISU and www.elperiodicodemonagas.com.ve/site/sucesos/un-guardia-y-un-civil-mueren-en-enfrentamiento-en-punta-de-mata/. (Spanish only).

31. UN News, 'Forty dead and record number of arrests during the protests in Venezuela', <https://onu.org.ve/cuarenta-muertos-y-record-de-arrestos-durante-las-protestas-en-venezuela/> (Spanish only).

32. Foro Penal, Reporte sobre la represión en Venezuela, [Report on repression in Venezuela], January 2019 (Spanish only).

33. Globovisión Videos, Tarek Wiliam Saab, www.youtube.com/watch?v=YPWi_DeMISU (Spanish only).

5. TIMELINE OF THE INSTITUTIONAL CRISIS IN EARLY 2019

On 10 January 2019, Nicolás Maduro was sworn in as president for a new term following elections in May 2018. Questions about the elections were raised by human rights organizations such as the Inter-American Commission on Human Rights (IACHR) and the UN OHCHR on the grounds that the principle of separation of powers in the country had been “seriously compromised” and that the minimal conditions for free elections had not been fulfilled.³⁴

A day later, the President of the National Assembly, Deputy Juan Guaidó, refuted Nicolás Maduro’s legitimacy as president, called a national march on 23 January and announced that he would assume presidential powers and duties.³⁵

On 15 January, the National Assembly issued the “Agreement on the Declaration of Usurpation of the Presidency of the Republic by Nicolás Maduro Moros and the Restoration of the Validity of the Constitution”. This stated that, based on several articles of the Constitution, the de facto situation of Nicolás Maduro was null and void and agreed to a political and economic transition during which the President of the National Assembly was responsible for ensuring compliance with the legal regulation.³⁶

In the following days, the National Assembly called for “open assemblies” (“cabildos abiertos”)³⁷ throughout the country and for a mass nationwide demonstration on 23 January.³⁸

On 21 January, a score of GNB officials in the command barracks of Zone No. 43 in Cotiza (north of Caracas) issued a call through social media for people to demonstrate against the government of Nicolás Maduro.³⁹ Although they were arrested shortly after by the authorities, dozens of people took to the streets in support. That day marked the beginning of almost a week of mass protests in which thousands of people exercised their right to freedom of expression and assembly.⁴⁰

That same day there were about 30 protests lasting until dawn in areas such as the 23 de Enero neighbourhood, Cotiza and Las Adjuntas, all economically deprived areas where residents have historically been close to the ruling United Socialist Party of Venezuela (Partido Socialista Unido de

34. OHCHR, High Commissioner’s global update of human rights concerns; ‘IACHR Warns about Lack of Adequate Conditions to Hold Free and Fair Elections in Venezuela’, www.oas.org/en/iachr/media_center/PReleases/2018/112.asp

35. National Assembly, ‘Juan Guaidó: me apego a los artículos 33, 35, y 233’ [‘I invoke articles 33, 35, and 233’], www.asambleanacional.gob.ve/noticias/_juan-guaido-me-apego-a-los-articulos-333-350-y-233 (Spanish only).

36. National Assembly, Agreement on the Declaration of Usurpation of the Presidency of the Republic by Nicolás Maduro Moros and the Restoration of the Validity of the Constitution, 15 January 2019, www.asambleanacional.gob.ve/actos/_acuerdo-sobre-la-declaratoria-de-usurpacion-de-la-presidencia-de-la-republica-por-parte-de-nicolas-maduro-moros-y-el-restablecimiento-de-la-vigenciade-la-constitucion (Spanish only).

37. Article 70 of Constitution of the Bolivarian Republic of Venezuela includes a provision on “open assemblies” (“cabildo abierto”) as a method of constitutional political participation.

38. Aristegui Noticias, ‘Asamblea Nacional de Venezuela llama a “cabildo abierto” para definir plan contra Maduro’ [‘National Assembly of Venezuela calls “cabildo abierto” to devise a plan against Maduro’], 11 January 2019, www.aristeguionoticias.com/1101/mundo/asamblea-nacional-de-venezuela-llama-a-cabildo-abierto-para-definir-plan-contra-maduro/ (Spanish only)

39. La Vanguardia, ‘Fracasa la rebelión de un grupo de militares que se había alzado contra Maduro’, [‘Rebellion by a group of soldiers against Maduro fails’], www.lavanguardia.com/internacional/20190122/454240116655/fracasa-rebelion-militares-alzado-nicolas-maduro-caracas-video-seo-ext.html (Spanish only).

40. Efecto Cocuyo, ‘Vecinos de Cotiza despertaron de golpe con protestas y represión’ [‘People living near Cotiza awake startled by protests and repression’] (Photos), 21 January 2019, www.efectococuyo.com/politica/vecinos-de-cotiza-despertaron-de-golpe-con-protestas-y-represion-fotos (Spanish only).

Venezuela, PSUV).⁴¹ According to the initial reports, the PNB repressed several of the protests.⁴²

On 22 January, there were more than 60 anti-government protests, again mostly in low-income neighbourhoods in Caracas.⁴³ The human rights organization PROVEA reported repression by the GNB, the FAES tactical group of the PNB and armed groups of pro-government civilians (known as “collectives”) in these areas.⁴⁴ That night, 19-year-old Alixon Pisani died at the hands of the PNB in Catia, the first person reported to have been killed in the context of these protests.

On 23 January, nationwide marches were called by both the ruling party of Nicolás Maduro and the National Assembly. In this context, the President of the National Assembly, Juan Guaidó, appeared publicly before a “cabildo abierto” and declared that he had been sworn in as interim president of the country.⁴⁵ Subsequently, several countries in the region recognized Juan Guaidó as the legitimate president.⁴⁶ Nicolás Maduro, for his part, reported that he was breaking off diplomatic relations with the USA in response to its immediate recognition of the President of the National Assembly.⁴⁷

Throughout the day, there were reports of looting of commercial premises and numerous marches in different cities throughout the country and in Caracas and the surrounding areas, such as La Vega, Coche and San Martín, in which excessive force was used by the PNB, and its FAES units; the GNB; National Anti-extortion and Kidnapping Command (Comando Nacional Antiextorsión y Secuestro, CONAS); and members of state police forces.⁴⁸ By the end of the day of protest, 19 people in nine different states had died of gunshot wounds and 770 people had been detained by the security forces.⁴⁹ In Petare in the state of Miranda, there were reports of a very violent confrontation.⁵⁰

41. Venezuelan Observatory of Social Conflict, 21 January 2019, <https://twitter.com/OVCSocial/status/1087549682589581312> (Spanish only). For an audiovisual record of the protests, see Tal Cual Digital, ‘Manifestaciones pacíficas escalaron a enfrentamientos violentos en sectores populares’, [‘Peaceful demonstrations descend into violent confrontations in low-income areas’] 22 January 2019, www.talcualdigital.com/index.php/2019/01/22/manifestaciones-enfrentamientos-violencia/ (Spanish only).

42. El Pitazo, 22 January 2019, en <https://twitter.com/ElPitazoTV/status/1087684883932237824>; 4 Provea, 21 January 2019, twitter.com/_Provea/status/1087557932382896129 5

43. OVCS, Twitter #22Ene, www.twitter.com/OVCSocial/status/1087913121149341696?ref_src=twsrc%5Etfw%7Ctwcamp%5Etweetembed%7Ctwterm%5E1087913121149341696&ref_url=http%3A%2F%2Fwww.descifrado.com%2F2019%2F01%2F23%2Fovcs-contabilizo-63-protestas-en-la-gran-caracas-durante-la-noche-de-ayer-22ene%2F (Spanish only).

44. Lexys Rondón, 22 January 2019 <https://twitter.com/lexysrendon/status/1087910527412719616> (Spanish only) C:\twitter.com\lexysrendon\status\1087910527412719616

45. El Pitazo, 23 January 2019, <https://twitter.com/ElPitazoTV/status/1088171632944955393> - Analítica, 23 January 2019, <https://twitter.com/Analitica/status/1088182362092064768> - El Pitazo, 23 January 2019, <https://twitter.com/ElPitazoTV/status/108852663048957952> (Spanish only).

46. National Assembly, ‘Juan Guaidó: Juro asumir formalmente las competencias del Ejecutivo Nacional como presidente encargado de Venezuela’ [‘Juan Guaidó: I formally assume the powers of the National Executive as interim President of Venezuela’], www.asambleanacional.gob.ve/noticias/_juan-guaido-juro-asumir-formalmente (Spanish only).

47. PSUV, ‘Maduro rompe relaciones con EE.UU: Diplomáticos tienen 72 horas para abandonar el país’, [‘Maduro breaks off relations with the USA: Diplomats have 72 hours to leave the country’], http://www.psu.org.ve/portada/estados-unidos-gobierno-golpe-estado-venezuela-titeres-oposicion-venezuela-gringos-revolucion/#.XI_UVyhKjIU

See also, Euronews, ‘¿Qué países reconocen a Guaidó y qué países a Maduro como presidente de Venezuela?’ [‘Which countries recognize Guaidó and which Maduro as president of Venezuela?’] www.es.euronews.com/2019/01/24/mapa-que-paises-reconocen-a-guaido-y-que-paises-a-maduro-como-presidente-de-venezuela (Spanish only).

48. OVCS, Twitter, 23 January 2019, <https://twitter.com/OVCSocial/status/1088130935080529920>. See also Radio Fórmula, ‘Reportan saqueos en Venezuela y muertos durante las protestas’ [‘Reports of looting and deaths during protests in Venezuela’] www.radioformula.com.mx/noticias/mundo/20190123/saqueos-en-venezuela-protestas-muertos-caracas-golpe-de-estado-twitter-2019/ (Spanish only).

49. Foro Penal, Reporte sobre la represión en Venezuela, [Report on repression in Venezuela], January 2019 (Spanish only).

50. Cocuyo Effect, ‘Saqueos, tiroteos y granadas: la noche del #23Ene en Caracas estuvo marcada por la violencia’ [‘Looting, shootings and grenades: the night of #23Ene in Caracas marked by violence’], 23 January 2019, <http://efectococuyo.com/sucesos/saqueos-tiroteos-y-granadas-la-noche-del-23ene-en-caracas-estuvo-marcada-por-la-violencia/> Crónica Uno, ‘Por tercera noche barrios de Caracas fueron escenario de enfrentamientos y saqueos’, [‘For a third night Caracas neighbourhoods were the scene of clashes and looting’] 24 January 2019, <http://cronica.uno/por-tercera-noche-barrios-de-caracas-fueron-escenario-de-enfrentamientos-y-saqueos/> NTN24 and ‘Explotó una granada en el puente de Petare, la noche de este miércoles #23Ene’, [‘A grenade explodes on the Petare bridge during the night this Wednesday #23Ene’] 23 January 2019, <https://www.youtube.com/watch?v=QPGSihzjxE> (Spanish only).

On 24 January, numerous demonstrations were again reported in low-income areas of Caracas.⁵¹ Human rights organizations criticized illegal raids in communities such as El Junquito⁵² and round-ups in La Vega and the 23 de Enero neighbourhood by the FAES.⁵³ At least one person was killed and 92 people were detained.⁵⁴

That same day, Tarek Wiliam Saab, the Attorney General, appointed by the National Constituent Assembly⁵⁵ and representative of the Public Prosecutor's Office (in charge of investigating possible crimes and human rights violations) stated: "the free and gallant spirit of the people, their institutions and the FANB⁵⁶ to resolve differences and internal affairs in a peaceful manner and through dialogue, ignoring calls to violence, a coup d'état or foreign interference."⁵⁷ By that time, the death toll had risen to more than 40.

On 25 January, the UN OHCHR condemned the violence in which "at least 20 people are reported by credible local sources to have died after allegedly being shot by security forces or members of pro-government armed groups during demonstrations on Tuesday and Wednesday". The High Commissioner also stressed that it was vital that a repetition of the patterns of repression documented in 2017 be prevented and urged all parties to begin immediate talks.⁵⁸

Despite the number of fatalities, Nicolás Maduro did not refer to those who had died and stated that: "Venezuela's path cannot be the guarimba [barricades⁵⁹]. Venezuela will not be governed by criminals or thugs. With the security forces, we will guarantee the peace in the country...those who wear a uniform are ready to fulfil their oath with honour... We must plan for defence, combat and victory."⁶⁰

In this context, La Red de Derechos Humanos de Lara reported that the FAES had killed three young people in the city of El Tocuyo and two more in Carora, Lara State, for taking part in anti-government protests.⁶¹

Although in the context of the protests most people exercised their right to peaceful assembly, there

51. OVCS, 24 January 2019, <https://twitter.com/OVCSocial/status/1088629954068336640> (Spanish only).

52. OVCS, 24 January 2019, <https://twitter.com/OVCSocial/status/1088629954068336640> (Spanish only).

53. Provea, 24 January 2019, https://twitter.com/_Provea/status/1088496458695815168 (Spanish only).

54. Cocuyo Effect, 'Un muerto deja procedimiento del FAES en José Félix Riba' ['An FAES operation in José Félix Ribas leaves one dead'], 24 January 2019, <http://efectococuyo.com/sucesos/un-muerto-deja-procedimiento-del-faes-en-jose-felix-ribas/> (Spanish only).

55. The National Constituent Assembly was convened by Nicolás Maduro and its legitimacy and legality have been questioned because its creation did not comply with legal requirements and it assumed the functions of the National Assembly in which the opposition has a majority.

56. Bolivarian National Armed Forces.

57. Public Prosecutor's Office of the Bolivarian Republic of Venezuela, "el espíritu libre y gallardo del pueblo, sus instituciones y la FANB por resolver de forma pacífica y a través del diálogo diferencias y asuntos internos, desconociendo llamados a la violencia, golpe de Estado e injerencias extranjeras", <https://twitter.com/MinpublicoVE/status/1088544998499454976> (Spanish only).

58. OHCHR, 'Venezuela: Bachelet condemns killings, urges restraint and calls for dialogue to halt spiralling crisis', www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=24110&LangID=E

59. "Guarimba" is the word used by the government of Nicolás Maduro to refer to barricades, the burning of tyres, roadblocks or street closures using objects, ropes, chains or sharp objects to damage tyres, used by some protesters to prevent or delay the passage of the security forces or armed pro-government civilians. The term "guarimbero" refers to protesters who erect such obstructions.

60. PSUV, 'Con los cuerpos de seguridad vamos a garantizar la paz del país'; "el camino de Venezuela no puede ser la guarimba, a Venezuela no lo va a gobernar delincuentes ni malandros, con los cuerpos de seguridad vamos a garantizar la paz del país [...] los que portan un uniforme están dispuestos a cumplir su juramento con honor [...] Debe haber un plan de defensa, de combate y de victoria", http://www.psu.org.ve/temas/noticias/presidentenicolas-madurocuerpos-seguridadgarantizarpaz-paisfanb/#.Xl_OFShKjIU (Spanish only).

61. Provea, 'La Red de Derechos Humanos de Lara, 'Las Faes busca aterrorizar a población larense violando derechos humanos' ['The Faes is committing human rights violations to terrorise the people of Lara'] 26 January 2019, www.derechos.org/ve/actualidad/la-red-de-derechos-humanos-de-lara-las-faes-busca-aterrozar-a-poblacion-larense-violando-derechos-humanos (Spanish only).

were reports that several commercial premises were looted, at least three public buildings were set alight,⁶² roads were blocked by barricades that were on fire and on some occasions Molotov cocktails were thrown by some demonstrators.⁶³

In the interview for the Globovisión channel broadcast on 6 February, Tarek Wiliam Saab suggested that there were demonstrators “who carry guns, who carry homemade weapons, to kill, to shoot, because they want to spark a civil war here, which is what it happened in 2014, 2017”.⁶⁴ At the time this report was completed, one GNB official had died in events related to the protests, according to press reports.⁶⁵

In the same interview, William Saab announced that eight members of the security forces had been arrested in connection with the deaths of four people in the context of the protests and that investigations had been opened into all the deaths that had occurred. However, he did not give official figures of the total number of protesters who had died.⁶⁶

On 31 January, the UN Special Rapporteur concerned with the negative impact of sanctions on the enjoyment of human rights expressed concern about the economic sanctions imposed on 28 January by the US government against PDVSA, the Venezuelan state oil company, and warned of their harmful effect on the Venezuelan population.⁶⁷

The IACHR stated a day later that it was “alarmed by mass repression against demonstrators...and by worrying figures of arbitrary arrests in the context of social protests”. By then, the IACHR had information that there had been at least 943 arrests.⁶⁸

In an interview with the BBC on 12 February 2019, Nicolás Maduro denied that there was a human rights crisis. When asked about people who died in the context of the protests, he did not comment on the deaths and stigmatized the demonstrators as “small groups of criminals”.⁶⁹

62. The burning down of the “Robert Serra” Youth Centre in La Pastora, Caracas, was reported on 21 January. Subsequently, the burning down of the Municipal Police section house in Puerto Cabello, Carabobo, and of the Cantv commercial offices in Guárico state, was reported.

63. EITB, ‘Segunda noche de protestas consecutiva en Venezuela’ [‘Second consecutive nights of protest in Venezuela’], www.eitb.eus/es/noticias/internacional/detalle/6147333/protestas-venezuela-queman-estatua-chavez-san-felix/ (Spanish only).

64. “que van con pistolas, que van con armas caseras, a matar, a plomear, porque quieren que aquí se prenda una guerra civil estilo lo que ocurrió en 2014, 2017 [...]”.

65. On 23 January, the death of GNB officer Pedro Díaz Rojas was reported by some local media. However, the government has not commented on this. Globovisión Videos, Tarek Wiliam Saab, www.youtube.com/watch?v=YPWi_DeMISU. See also Periódico de Monagas www.elperiodicodemonagas.com.ve/site/sucesos/un-guardia-y-un-civil-mueren-en-enfrentamiento-en-punta-de-mata/ (Spanish only).

66. Globovisión Videos, Tarek Wiliam Saab, www.youtube.com/watch?v=YPWi_DeMISU

67. Amnesty International has also expressed concern because of the negative effect such sanctions can have on the enjoyment of human rights, www.amnesty.org/en/latest/news/2019/02/10-things-you-need-to-know-about-venezuelas-human-rights-crisis/ OHCHR, UN Special Rapporteur, ‘Venezuela sanctions harm human rights of innocent people, UN expert warns’, www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=24131&LangID=E

68. Inter-American Commission on Human Rights, Press Release 22, www.oas.org/en/iachr/media_center/PReleases/2019/022.asp

69. BBC, Venezuela President Nicolás Maduro interview: Full transcript, 12 February 2019, www.bbc.com/news/world-latin-america-47211509

BBC: Just last month, the United Nations said that as many as 40 were killed, about 26 by your security forces.

N.M.: What protests? They have not shown a single bit of proof of a campaign that lasted 15 days. I saw it, I watch international news and the international news was showing a Venezuela that was not on the streets. ... It's a small group of delinquents that went out to the streets...and they were caught in the middle of their violent action.

BBC interview with Nicolás Maduro on 12 February 2019

Also, in an interview with the ABC channel broadcast on February 25, Nicolás Maduro affirmed that no human rights organization had held him responsible for any death and stated: "What I can tell you is that in Venezuela there is free expression for political opposition mobilizations...[but there are] delinquent groups that attack public forces, and that is what we put up with in 2017."⁷⁰

When research for this report ended, on 28 February 2019, deaths due to excessive use of force in the context of anti-government protests were continuing,⁷¹ as was the discourse of denying the existence of a crisis and praising and supporting public security forces and not acknowledging the victims of human rights violations.⁷²

70. Youtube, ABC interview with Nicolás Maduro, www.youtube.com/watch?v=wDANCg056sY <https://www.youtube.com/watch?v=wDANCg056sY> (Spanish only). English version: abcnews.go.com/International/venezuelan-president-nicolas-maduros-defiant-interview-tom-llamas/story?id=61318540

71. In March 2019, Amnesty International carried out a mission to the Brazilian border to investigate the events that took place on 22 and 23 February in the communities of Kumarakapay and Santa Elena de Uáiren (Venezuela), in which at least seven people were reported to have died and scores more wounded, probably as a result of the excessive use of force by the National Guard and the army.

72. According to the Amnesty International's analysis of public statements by the authorities at the highest level, during January and February 2019, there was a constant use of the language of war and praise of the Armed Forces. There were also repeated references to civilians and the military being united in supporting the government of Nicolás Maduro. These speeches made no reference to the human rights crisis in Venezuela and used language stigmatizing protests throughout the country.

6. POLICY OF REPRESSION: SERIOUS HUMAN RIGHTS VIOLATIONS AND CRIMES UNDER INTERNATIONAL LAW IN JANUARY 2019

During January 2019, and particularly during five days, widespread and systematic human rights violations were recorded which followed common patterns and were committed with the knowledge or on the orders of the authorities, including at the highest level.

Amnesty International's research indicates that between 21 and 25 January, the authorities carried out targeted extrajudicial executions as a means of punishment and social control through the PNB, and above all its FAES units, against people linked to the protests, most of whom were from sectors that had historically supported the government.

In addition, there were numerous cases of excessive use of force, mainly by the GNP and the GNB, as well as mass arbitrary detentions, again in order to break up the protests, punish protesters and frighten the rest of the population.

The fact that the killings and mass detentions of demonstrators were public and well known and that, far from condemning them, the authorities denied and covered up these violations, gives reason to believe that, if the highest authorities did not order them, they at the very least gave their consent.

The following sections analyse these events.

6.1 EXTRAJUDICIAL EXECUTIONS

In Venezuela, extrajudicial executions are common during public security operations against alleged criminals in low-income areas. In the context of the protests of January 2019, these tactics were used again in deprived areas and more specifically against people who allegedly had some connection with the protests against the government of Nicolás Maduro.⁷³ According to reports, at least 11 people were extrajudicially executed in this context.

International human rights law states that no one may be arbitrarily deprived of life.⁷⁴ Given the fundamental and inalienable nature of the right to life, states have a duty to prevent their agents, or individuals acting on their behalf, from violating this right.⁷⁵ That is why the Human Rights Committee

73. According to the Attorney General's Office, between 2015 and June 2017, there were 8,292 alleged extrajudicial executions. Specifically, in 2015 there were 1,777 alleged extrajudicial executions, representing 10% of the total homicides that occurred that year. In 2016, it was reported that 4,667 people had died at the hands of security officials (accounting for 22% of the total homicides that year) and between January and June 2017, 1,848 such killings were reported to have occurred. Amnesty International, This is no way to live: Public security and the right to life in Venezuela, 20 September 2018, (Index: AMR 53/8975/2018) www.amnesty.org/en/documents/amr53/8975/2018/en/

74. Article 6 of the International Covenant on Civil and Political Rights of 196

75. Inter-American Court, Case of Ortiz Hernández et al v. Venezuela, Judgment of August 22, 2017, para. 101.

considers it of utmost gravity when the security forces themselves violate this right.⁷⁶

The Inter-American Court considers that extrajudicial executions of trade union leaders or political opponents have “threatening and intimidating effects for the collectivity of individuals” and therefore not only entail the violation of several human rights, but also breach the principles upon which the rule of law is based.⁷⁷

Amnesty International documented six extrajudicial executions by the FAES in various parts of the country, all with a similar modus operandi, carried out between 21 and 25 January 2019. In all cases, the victims lived in deprived neighbourhoods in Caracas or in the interior of the country and had some link with the protests that took place during the preceding days and criticisms by several of the victims had gone viral on social media.

The six victims were all young men and the authorities presented them as criminals killed in confrontations with the FAES. They also claimed that several of the victims had a criminal record in an attempt to justify the killings. However, all died as a result of gunshot wounds to the upper chest area. In other words, all the shots were intentionally aimed at areas of the body where they were most likely to prove fatal.

Regional jurisprudence states that: “When a person...dies violently while in its custody, the State has the burden of proving that this death cannot be attributed to it”.⁷⁸ The state, therefore, has an obligation to provide a satisfactory and convincing explanation of what has happened to individuals in its custody and to disprove allegations concerning its responsibility with valid evidence.

In these cases, people were apprehended, physically restrained and finally executed while in a vulnerable situation. In each of the cases, where the authorities did provide a public explanation, it was implausible; they alleged that the young men had died in clashes, despite the statements of many eyewitnesses who were present during the arrests or saw or heard their executions. There was no plausible explanation from the authorities and, on the contrary, the victims were stigmatized as part of an attempt to cover up the facts.

International standards recognize the right of every person to their honour and prohibit any unlawful attack on honour and reputation.⁷⁹ Statements by public officials that stigmatize victims and their families as criminals and people who are protecting criminals can constitute a violation of this right.⁸⁰ In this regard, the IACHR has warned that stigmatization by state officials is not only the prelude to criminalization, but may also serve to justify attacks on people’s lives and physical security.⁸¹

Investigations of possible extrajudicial executions must be initiated ex officio and must be prompt, genuine, impartial and effective. Investigations should not depend on the interested parties and the authorities should conduct them using all available legal means and seek the pursuit, capture, prosecution and punishment of all the perpetrators, especially when state agents are or could be involved.⁸² The Human Rights Committee has also stated that a failure to investigate could in and of

76. CCPR-GC-6, On article 6 of the international Covenant on Civil and Political Rights, on the right to life, para. 23.

77. Inter-American Court, Case of Manuel Cepeda Vargas v. Colombia, Judgment of May 26, 2010, para. 177.

78. Inter-American Court, Case of the Landaeta Mejias Brothers et al. v. Venezuela, Judgment of August 27, 2014, para. 183.

79. Article 17 of the Covenant; Article 11 of the Convention.

80. Inter-American Court, Case of the Miguel Castro-Castro Prison v. Peru, Judgment of November 25, 2006, para. 359; Inter-American Court, Case of Manuel Cepeda Vargas v. Colombia, Judgment of May 2 2010, para. 173.

81. Inter-American Commission on Human Rights, Criminalization of Human Rights Defenders, 2015, www.oas.org/en/iachr/reports/pdfs/criminalization2016.pdf

82. Inter-American Court, Case of Servellón-García et al. v Honduras, Judgment of September 21, 2006, para. 119; Inter-American Court, Case of González Medina and family v. Dominican Republic, Judgment of February 27, 2012, para. 205.

itself give rise to a separate breach of the International Covenant on Civil and Political Rights.⁸³

Similarly, the UN Minnesota Protocol⁸⁴ and the jurisprudence of the Inter-American Court establish that carrying out initial measures to preserve and secure the crime scene are crucial to the success of investigations.⁸⁵ Finally, the participation and protection of the victims' relatives throughout the entire investigation process must be ensured.⁸⁶

In the six cases documented, the security forces tampered with the evidence and in several cases the bodies of the victims were taken to hospital purportedly to seek medical help, even though they showed no signs of life, allegedly in order to tamper with the body and so interfere with one of the key elements of the investigation. In addition, in several cases the delayed arrival of the Forensic Criminal Investigations Police (Cuerpo de Investigaciones Científicas Penales y Criminalísticas, CICPC) resulted in the loss of valuable evidence for an effective and thorough investigation.

At the time they were interviewed by Amnesty International, only one of the families had lodged a complaint with the Public Prosecutor because of fear and a lack of confidence regarding making formal complaints to the judicial authorities, which they believed them to be heavily influenced by the political establishment. None of them knew if an ex officio investigation had been initiated, nor had they been contacted by the CICPC. None had been informed of the results of the autopsies. The authorities had also raided several nearby houses and threatened neighbours in order to frighten them and dissuade them from coming forward as witnesses.

To Amnesty International's knowledge, at the time research for this report was completed, no member of the security forces, including commanding officers, were being prosecuted for any of the extrajudicial executions documented.

6.1.1 CASES IN CARORA: LUIS ENRIQUE RAMOS AND EDUARDO LUIS RAMOS

On 23 January, a demonstration was held in the city of Carora, in the state of Lara, in central-west Venezuela, in support of the call of the National Assembly.

At 12:00 there were clashes between the GNB and demonstrators in various parts of the city in which several people were injured and at least 21 people were arrested by the GNB.⁸⁷

That same day, an audio recording announcing protests that night against Nicolás Maduro and the mayor of the city of Carora went viral. The recording mentioned the names and nicknames of several people who were supposedly to lead a violent takeover of the city to "overthrow" ("acabar") the government.

Amnesty International documented two cases of extrajudicial executions of young people whom the authorities linked to that audio.

83. CCPR/C/21/Rev.1/Add., General comment No. 31, The Nature of the General Legal Obligation Imposed on States Parties to the Covenant, 13, 26, 29 May 2004.

84. Minnesota Protocol on the investigation of potentially unlawful deaths (2016), The Revised United Nations Manual on the Effective, Prevention and Investigation of Extra-legal, Arbitrary and Summary Executions.

85. Inter-American Court, Case of the Landaeta Mejías Brothers et al. v. Venezuela, Judgment of August 27, 2014, para. 228.

86. Inter-American Court, Case of Radilla-Pacheco v. Mexico, Judgment of November 23, 2009, para. 247. See also, Inter-American Court of Human Rights, Case of the "Street Children" (Villagrán-Morales et al. v. Guatemala, Judgment of November 19, 1999, para. 277.

87. Amnesty International interview with the Coordinator of Foro Penal in Lara, February 2019.

THE CASE OF LUIS ENRIQUE RAMOS SUÁREZ

Luis Enrique Ramos Suárez was 29 years old when he was extrajudicially executed by members of the FAES on 24 January 2019 in the city of Carora. He was critical of the government and, together with several members of his family, he participated in the march that took place in Carora on 23 January. His nickname, “Cabeza de Piña”, appeared in the audio that had gone viral that day as one of the leaders of the alleged seizure of power.

On 24 January at around 15:00, more than 20 heavily armed members of the FAES, most of them hooded, carried out an illegal raid on the home Luis Enrique Ramos Suárez. The 10 members of the family who were in the house, six of whom were children, were held there. In addition, FAES officials warned neighbours to hide and at least one nearby house was raided by the FAES who forced those inside to lie on the ground for hours so that there would be no eyewitnesses.

They identified Luis Enrique by his nickname and reportedly forced him to kneel in the middle of the room, while an official took pictures and others beat him. At the same time, other members of his family were locked in different rooms in the house, threatened and beaten on various parts of the body.

One of the officers shouted “positive”, confirming the identity of Luis Enrique using a photograph sent over the phone. They then left and forcibly transported the family in an FAES convoy to a place 2km from the house.

Minutes later, Luis Enrique was shot at least twice in the chest; the bullets penetrated his lung and heart. According to the statements obtained by Amnesty International, after his execution FAES officials fired shots inside the house in order to simulate a confrontation. In addition to fabricating evidence, officials tampered with the crime scene, dragging the body to a vehicle and taking it to a Comprehensive Diagnostic Centre (Centro Diagnóstico Integral, CDI),⁸⁸ and finally the Carora Hospital morgue.

According to the analysis carried out by Amnesty International’s team of experts on the shell casings found in the house and photos of the body, two high-impact bullets hit the victim in the left lung and probably the internal thoracic artery. A forensic expert was consulted and indicated that the distribution of injuries on both sides of the face, as well as in the chest region could not, in principle, be attributed to a simple fall, but would be the result of bruising inflicted prior to death. This confirms that Luis Enrique was restrained and tortured prior to his death.

“If we were in a free country, Luis Enrique would not have been killed... His only crime was to be part of the opposition.”

Relative of Luis Enrique Ramos Suárez

The family was informed that Luis Enrique was dead on arrival at the hospital. The death certificate states that the cause of death was “internal bleeding and perforation of the gut due to a gunshot wound”.⁸⁹

88. Centros de Diagnóstico Integral (CDIs) are primary health care centres.

89. National Institute of Statistics (INE), death certificate 913096351 of Luis Enrique Ramos Suarez, 25 January 2019.



Members of the FAES in the public hospital of Carora, allegedly after having taken Luis Enrique Ramos' body there on 24 January 2019. © Amnesty International.

An official account by the Lara Secretary of Security stated that the FAES commandos saw a person carrying a firearm and when they called out, he entered a house from where he fired at the police patrol, which repelled the attack and wounded the armed man, who was transferred to an assistance centre where he died. According to this version, a .38-caliber Smith & Wesson revolver was retrieved at the scene and he was identified as Ramos Suárez Luis Enrique who had been mentioned in an “audio broadcast on social media which talked about seizing Carora”.⁹⁰

According to the official version of events, the weapon that Luis Enrique was allegedly carrying, and with which he faced more than 20 police officers armed with rifles, was a single action firearm that has a capacity to shoot six bullets. Despite the alleged confrontation, no official was killed or wounded.

The family immediately went to the CICPC offices in Quíbor to get a death certificate and register his death. According to the CICPC record of 24 January, Luis Enrique's death was related to the crime of resisting authority (*resistencia a la autoridad*),⁹¹ in other words, in the context of a confrontation. After that, a group of officials went to the scene of the crime to remove the evidence.

At the time of the interview with Amnesty International, Luis Enrique's relatives did not know of any steps taken by the authorities regarding the case. Because of their lack of confidence in the CICPC and the Public Prosecutor's Office, the family did not file a formal complaint until 20 February, almost a month later.

90. Seguridad Oficial Lara, 'Fallecen 3 sujetos tras enfrentarse al FAES-LARA en diversos procedimientos en Carora' ['Three people killed in a confrontation with the FAES-LARA in various operations in Carora'], www.instagram.com/p/BtMzgWaBha2/ (Spanish only).

91. CICPC, formal request for death certificate of Luis Enrique Ramos Suárez, 24 January 2019.

THE CASE OF EDUARDO LUIS RAMOS TORBELLO

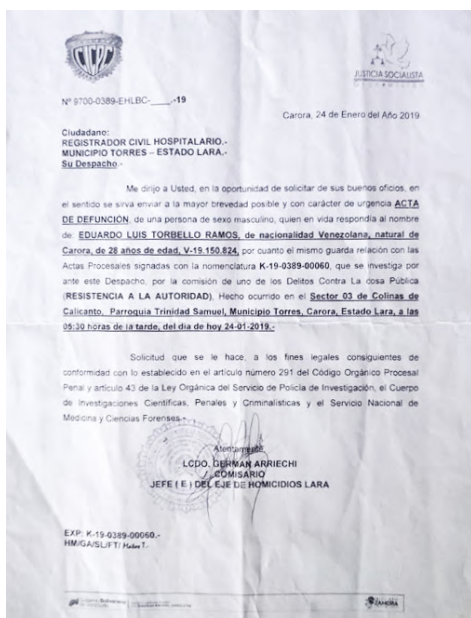
Eduardo Luis Ramos Torbello was 28 years old and living in Caracas and at the time of his death. He was killed in the city of Carora, where he was visiting his family for the first time in four years. Eduardo Luis, was a friend of Luis Enrique Ramos Suárez (see above).

His death was also linked to a recording announcing anti-government protests and claiming that the Calicanto gang were going to take over the city that went viral. Although his family denied that Eduardo had a nickname, the authorities and the local press referred to him as “Candelilla”, leader of the Calicanto gang.⁹²

On 24 January 2019, Eduardo was in his family’s home when members of the FAES took control of the nearby streets. He learned from neighbours that members of the FAES were in the house of Luis Enrique Ramos. At around 15:30, he went with several friends to see what had happened and then to the CDI facility, where he was informed his friend had been taken.

While they were walking along, an FAES patrol and at least four private vehicles passed in front of them. According to several witnesses who were with him at that time, one of the private vehicles carrying FAES members turned round and ordered them to stop. Minutes later one of the FAES members ordered that the “chiquitico” (the little one) be apprehended. Then, Eduardo was put into the vehicle without an arrest warrant or evidence of a crime being committed in flagrante, which would justify him being detained.

About two hours later, his family was informed that Eduardo had died and been transferred to the morgue at Carora’s public hospital. He had a bullet to the chest and the medical report indicated that the cause of death was “hypovolemic shock resulting from visceral vascular perforation caused by a gunshot wound”. Official CICPC records stated that he had died at 17:30 on a public road and an investigation was being initiated into suspected “resisting authority”.⁹³



CICPC document initiating the investigation into the late Eduardo Luis Ramos Torbello for “resisting authority” on 24 January 2019.

92. The family states, however, that Eduardo did not have a nickname and that therefore none of the names with which the local press identified him in relation to the audio, referred to him.

93. CICPC, Formal request for death certificate of Luis Enrique Ramos Suárez, 24 January 2019.

Eduardo was executed in an alley near his family's home and his body was immediately removed and taken to the morgue. FAES officials opened fire to create the impression there had been a confrontation.

Amnesty International went to that alley and confirmed that there were of bullet holes in the walls. In addition, the organization obtained images of FAES officials present on that day and at the time and place where Eduardo was executed.

The Lara Secretary of State Security published an official account which stated that: "Candelilla was neutralized in an armed confrontation in the Barrio Calicanto...he was identified as Ramos Torbello Eduardo Luis and had a criminal record for bodily harm and dealing in drugs and psychotropic substances...he was the leader of the Calicanto criminal gang, which was involved in armed robbery ...as evidence a .38 calibre Astra revolver was recovered from the scene".⁹⁴

According to this account, and despite the accounts of multiple witnesses who were with him at the time of the arrest, Eduardo faced a large group of police officers on his own with an old Astra .38 calibre revolver capable of firing six shots. In addition, the police used his previous criminal record to stigmatize the victim and try to justify his death on the basis that he was a criminal.

In their interview with Amnesty International, Eduardo's relatives said they had not filed a formal complaint because of their complete lack of trust in the authorities, as well as fear for their lives. In addition, they did not know if an investigation had been initiated ex officio, and neither they nor the witnesses interviewed by Amnesty International had been contacted by any authority investigating his death.

EL TOCUYO CASE: CRISTIAN RAMOS, ANDERSON TORRES CORTEZ AND JOSÉ ALFREDO TORRES CORTEZ

On 23 January a protest took place in El Tocuyo, Morán Municipality in the state of Lara, which continued after midnight with tyres being burned in front of the house of the PSUV mayor, as a sign of protest against the government.

Two days after, three young people from the town were executed by the FAES. On the basis of a report of the police version of events, to which Amnesty International has had access, the local press reported that the deaths of the three young people were related to violence at the home of the mayor of Morán Municipality and a mercal⁹⁵ robbery in the area. The organization was able to confirm that at least one of the victims had been present at the protests on 23 January.

José Alfredo Torres Cortez, aged 27; his brother, Anderson Torres Cortez, aged 18; and Cristian Alejandro Ramos Angulo, also aged 18, were extrajudicially executed by the FAES and in the presence of CICPC members from Lara state, on 25 January 2019.

At around 15:00 on that Thursday, more than 40 members of the FAES, travelling in several official vans and private vehicles, arrived in the area known as "caserío el Bosque", and forced all the residents to lock themselves inside their homes under threat of death. FAES members then entered the house of the Torres Cortez family. Once inside, they apprehended Torres Cortez' mother and brothers and drove the mother to a remote point in the town, where they dumped her after warning

94. Seguridad Oficial Lara, 'Fallecen 3 sujetos tras enfrentarse al FAES-LARA en diversos procedimientos en Carora' ['Three people killed in a confrontation with the FAES-LARA in various operations in Carora'], www.instagram.com/p/BtMzgWaBha2/ (Spanish only): "el Candelilla era neutralizado al enfrentarse con un arma de fuego en el Barrio Calicanto [...], fue identificado como Ramos Torbello Eduardo Luis y poseía registros policiales por lesiones personales y comercio de sustancia estupefacientes y psicotrópicos [...] lideraba la banda delictiva los Calicanto, dedicada al robo a mano armada [...] como evidencia fue colectado un revolver marca Astra calibre 38".

95. This refers to one of the Venezuelan government's food programmes.

her not to go near her house. Cortes Torres' father, who has a severe disability that restricts his mobility, was taken to another house and abandoned in the yard. The two brothers were detained inside the family home.

At the same time, officials arrested Cristian Ramos, a local resident, as he was driving home and took him to the Torres Cortez family home. Once there, according to eyewitnesses, the FAES officials beat the three young people, accusing them of being delinquents and “guarimberos”.⁹⁶ The three were taken to the back of the house, their heads covered, and forced to crouch with their hands behind their backs while they were beaten on different parts of the body, mainly on the head and back, and verbally abused. They were extrajudicially executed at 16:30.

According to the statements obtained Amnesty International, more than one of the bodies showed signs of having been hit on the head and neck prior to death and all had a bullet wound in the chest. In addition, the death certificates of the young men gave the cause of death as “perforation of the heart due to a gunshot wound” in the case of Cristian and “visceral perforation due to gunshot wound” in the cases of José Alfredo and Anderson.⁹⁷

Although the bodies were removed shortly after the executions, the area remained cordoned off until 21:00. Witnesses in the area reported that FAES members simulated a confrontation by firing into the air and shouting. Before leaving, the officers looted the Torres Cortez home, stealing the few belongings they had. Amnesty International collected statements from neighbours whose house was raided by members of the FAES in order to keep them there and stop them seeing what was happening.



Funeral of Cristian Ramos, Anderson Torres Cortez and José Alfredo Torres Cortez, January 2019. © Image given by the author to Amnesty International.

96. See footnote 59 on the meaning of “guarimba”.

97. National Institute of Statistics (INE), death certificates 913096354, 913096355 and 913096356, issued on 27 January 2019.

According to the information obtained, the CICPC did not initiate an investigation ex officio, despite the irregularities reported in the local media. An investigation was not opened until some weeks later, after the families lodged a complaint with the Attorney General's Office on 14 February. Instead, according to the CICPC report of 25 January 2019, an investigation was initiated against the three victims for "resisting authority".⁹⁸

According to public statements issued on 31 January by Kleider Ferreiro, Lara State Secretary of Security and Public Order, the young men were armed criminals who were engaged in a confrontation with the authorities in the context of the National Plan against Criminal Gangs.⁹⁹ He also stated that "there was a confrontation between members of a criminal gang and the Special of Special Action Forces (FAES), which succeeded in neutralizing anti-social elements that had caused much anxiety in the area." He also displayed the criminal records of those killed, denying that the case was some kind of reprisal for their participation in political demonstrations. The image accompanying the statement read "young people with criminal records involved in organized criminal gang."¹⁰⁰

Once again, the authorities presented the victims as criminals with a record in an attempt to justify the killings.

The relatives of the three young men told Amnesty International that during the wake, a representative of the mayor's office arrived offering to pay for the funeral, as well as a bag of food and other supplies.

"While we were at the wake, people from the government came to offer us bags of food. In that painful moment, we told them no. There is hunger here, but we have our dignity."

Relative of Cristian Alejandro Ramos Angulo

6.1.2. LA VEGA CASE: JHONNY JOSÉ GODOY BUITRAGO

The community of La Vega, a deprived, low-income area of Caracas, was one of the places where the protests 21 and 25 January were most intense. According to the images and testimonies obtained, on 23 January, repression of the protests by the security forces, mainly the GNB, was particularly harsh.

Jhonny José Godoy Buitrago, aged 29, lived with his family in La Vega and at the time of his death and was due to become a father two months later.

Jhonny was critical of the government and had participated in local protests. On 23 January 2019, he recorded a video in which he appeared shouting slogans critical of Nicolás Maduro while running wearing the Venezuelan flag as a cape and taking part in the mass protest organized in the municipality of Chacao, Caracas. His video went viral on social media.

98. CICPC, Official requests for the death certificates of José Alfredo Torres Cortes and Anderson Torres Cortes, and Cristian Alejandro Ramos Angulo, 25 January 2019.

99. Diálogo Abierto, Interview with Kleyder Ferreiro, www.youtube.com/watch?v=Co7fV4In7_8 (Spanish only).

100. Bolivarian Government of Lara, 'Reducción de la incidencia delictiva del Estado Lara, Jóvenes con antecedentes penales involucrados en banda delictiva del crimen organizado', ['Crime reduction in Lara State: Young people with criminal records involved in an organized crime gang'], www.instagram.com/p/BTV064BeNK/ and www.instagram.com/p/BtMzgWaBha2/ and <https://twitter.com/SeguridadLara/status/1090062491055517701/photo/1> (Spanish only). " [...] hubo un enfrentamiento entre integrantes de una banda delictiva y las Fuerzas Armadas de Acciones Especiales (FAES), lográndose la neutralización de los antisociales que mantenían en zozobra el sector" and "jóvenes con antecedentes penales involucrados en banda delictiva del crimen organizado".



Still from the video that went viral of Jhonny José Godoy Buitrago running while wearing a Venezuelan flag while shouting slogans against Nicolás Maduro on 23 January 2019.

On 25 January 2019, at around 10:00, about 20 FAES and PNB officials entered Jhonny's house, which they found using a photograph, and forcibly dragged him up a flight of stairs to the doorstep of a neighbouring house. Jhonny's relatives who were in the house were threatened and locked in a room. Among them was a 14-year-old boy.

According to witness statements, the officials gagged him because he was screaming and asking them not to kill him because he wanted to live to see his new baby. They beat him for more than 30 minutes. Jhonny was then shot; first in the leg and then in the chest.

He died instantly, although as they were removing the body, FAES members told the family that he was still alive and took him to the hospital. Soon afterwards, FAES officers began firing at the wall of one of the houses. This operation lasted six hours during which time neighbours and relatives were not allowed out and, according to statements, several nearby houses were raided to stop neighbours witnessing what was happening. At around 16:00, the FAES left.

“After killing him in the street, they went into the house of some neighbours and threatened them to get them to say that he was the scourge of the neighbourhood.”

Relative of Jhonny José Godoy Buitrago

Jhonny's body was taken by the FAES to the morgue at the Pérez Carreño Hospital. According to the information received, despite the fact that several witnesses saw the lifeless body of Jhonny being taken away, the security forces told his relatives that he was alive and that he was being taken to hospital. Amnesty International considers this to be part of a strategy to tamper with the crime scene and impede the investigation. According to Jhonny's death certificate, the cause of death was hypovolemic shock due to a single thoracic-abdominal projectile wound.¹⁰¹

The organization received information that the CICPC arrived at the scene, but the family did not know what steps had been taken or what progress the investigation had made following a formal complaint lodged by a relative. According to the information available, at the time of the interview with Amnesty International, no member of the family or witness had been called to give evidence.

101. National Institute of Statistics (INE), death certificate 901010917 of Jhonny Godoy Buitrago, 27 January 2019.

6.2 EXCESSIVE USE OF FORCE

It is estimated that in January 2019, at least 24 people died in the context of protests as a result of the use of lethal force against protesters. According to the reports, of these 24 people, at least 21 died at the hands of public security officials and armed civilians acting with their acquiescence. In addition, of the 11 people who died in the context of the looting of commercial premises, at least seven died at the hands of security force officials or armed pro-government civilians.

The use of force by state officials must be based on criteria of proportionality and necessity in relation to the threat that it is intended to address, and officials must seek at all times to minimize the damage and to preserve life and physical integrity.¹⁰²

Because of their potentially lethal effect, the security forces are authorized to resort to the use of firearms only in extreme situations, when other means have proved ineffective and their use is unavoidable.¹⁰³ That is, their use must be absolutely exceptional.

International law indicates that the fact that some groups or individuals use violence in a demonstration does not in itself render the entire protest violent or authorize the security forces to disperse it by force.¹⁰⁴ Even in the case of meetings where violence is used, it has been established that lethal force will be used to the “minimum extent necessary”, in response to an attack of similar proportions, with the intention of minimizing the damage to life, and medical assistance must be rendered at the earliest possible moment, if required.¹⁰⁵

Amnesty International documented three cases of the use of lethal force by PNB and GNB members against demonstrators during the protests on 22, 23 and 24 January.

In the cases documented, the protesters had barricaded the street with garbage or with burning objects and thrown stones and in some cases Molotov cocktails at the security forces. There is no indication that demonstrators used firearms. In all three cases, the victims sustained gunshot wounds.

In one of the cases, there is information that, initially, the security forces used less lethal means to disperse the protest. However, they subsequently used firearms against the demonstrators, even though they did not pose a threat to the life of the security force officials. Therefore, the use of lethal force was unnecessary and disproportionate and it was not guaranteed to minimize damage to life and physical integrity.

In addition, in none of the cases did the victims receive assistance from the authorities, despite the fact that international standards require law enforcement officials to provide, at the earliest possible opportunity, medical assistance and services to those injured and to promptly notify relatives or close friends of those injured or affected.¹⁰⁶

The Inter-American Court has established that the state must avoid obstacles and adopt, in the course of the investigations, the measures necessary to protect the safety of the victims and others linked to the case, so as to enable them to exercise their rights to a fair trial and judicial protection without restriction.¹⁰⁷

102. Basic Principles on the Use of Force and Firearms by Law Enforcement Officials, 7 September 1990, Principle 5 (a) and (b).

103. Basic Principles on the Use of Force and Firearms by Law Enforcement Officials, 7 September 1990. See also Inter-American Court,

104. Report of the Special Rapporteur on extrajudicial, summary or arbitrary executions, Christof Heyns, 1 April 2014.

105. Basic Principles on the Use of Force and Firearms by Law Enforcement Officials, 7 September 1990, Principles 5 and 14.

106. Basic Principles on the Use of Force and Firearms by Law Enforcement Officials, 7 September 1990, Principle 5.

107. Inter-American Court, Case Castillo González et al. v. Venezuela, Judgment of November 27, 2012, para. 167.

However, in two of the three cases documented, the families were harassed by public officials because of the victims' participation in protests.

Finally, two of the families knew there was an ex officio investigation, but had little information on the lines of inquiry, what stage it was at or what progress had been made.¹⁰⁸ In the case of the third family, they did not file a complaint because they feared reprisals and lacked confidence in the Public Prosecutor's Office.

6.2.1. THE CASE OF ALIXON PISANI – PROTESTS IN CATIA

On 22 January protests were reported in Catia, Libertador municipality in the west of Caracas. According to the images and testimonies gathered, at around 19:00, protesters blocked one of the streets and began a “cacerolazo” (protest by banging pots and pans) to protest against the government. Alixon Osorio Dos Santos Pisani, a 19-year-old baker, died during this protest after being shot in the chest by the security forces.

At around 19:30 Alixon went to join the protest with a group of friends. According to witnesses, members of the PNB and its FAES, the National Guard, and the Bolivarian National Intelligence Service (SEBIN) were there. At first, a group of riot police threw tear gas at protesters who had blocked a street and were throwing stones and sometimes Molotov cocktails at the security forces.

“It’s impossible to live in this country. You live the same as you would if you were a bum. You work but you don’t have enough money to buy food. There are no medicines and there’s not enough money [for them]. We don’t have what we need to survive. He wanted a change of government, a change of country”.

Relative of Alixon Pisani

However, around 21:45, two uniformed PNB officials on motorbikes approached the crowd. The officer riding at the back reportedly fired a pistol indiscriminately into the crowd and seriously wounded Alixon and at least one other person.

Amnesty International analysed images of the incident, as well as the spent shells collected at the scene, which confirmed that members of a PNB motorized unit were present, as well as the use of a 9mm semi-automatic pistol.

Alixon's friends put him on a motorbike immediately and took him to the Periférico Hospital in Catia; they received no help from the authorities. Alixon died at the hospital. The death certificate states that the cause of death was “hypovolemic shock due to a single projectile wound to the thorax”.¹⁰⁹ Medical

108. The Inter-American Court has indicated that the victims of human rights violations, or their next of kin, must be given ample possibility to be heard and to act in the respective proceedings, both to seek clarification of the facts and the punishment of those responsible, and to obtain due reparation. Inter-American Court, Case of the Barrios family v. Venezuela, Judgment of November 24, 2011, para. 178.

109. National Electoral Commission, death Certificate no. 254, of Alixon Osorio Dos Santos Pisani, 24 January 2019.

staff explained to his family that the bullet had destroyed his lung.

According to witnesses, at around 1:00 on the morning of 23 January, relatives and friends gathered at the doors of the hospital where the body was in the morgue, when uniformed personnel dressed in black, allegedly from the FAES, began firing in the air and against the hospital doors to intimidate them. Alixon's relatives and friends stayed there for hours guarded by medical personnel and later CICPC officials who came to help them.



Member of Alixon Pisani's family. Photo taken by Amnesty International on 1 February 2019

The body of Alixon had to stay in the morgue of the National Forensic Medicine and Sciences Service (Servicio Nacional de Medicina y Ciencias Forenses, SENAMECF) for several days because his family did not have the money to buy a coffin. His relatives reported that days later they received an extra CLAP box (government subsidized box of basic foods), as well as a call from the National Office for Comprehensive Support for the Victims of Violence, which offered them financial assistance. They believe that this was an effort by the government to “buy their silence”.

At the time of the interview with Amnesty International, the Public Prosecutor's Office had opened an investigation into the case. The family said that they only knew of one step that had been taken: the planimetry taken at the crime scene by the CICPC on the night Alixon was fatally wounded.

6.2.2. THE CASE OF NICK SAMUEL OROPEZA BORJAS – PROTESTS IN LAS ADJUNTAS

According to the images analysed by Amnesty International, for several hours on the night of 23 January 2019, residents of Las Adjuntas, Caracas, took part in a protest, burning rubbish to block the streets. Some demonstrators threw objects and Molotov cocktails at the security forces.

Nick Samuel, aged 19, had taken part in the march called by the National Assembly in Caracas during the day and that night decided to go out, without informing his mother, to participate in a protest near his home.

According to the family, at around 20:30, a young man told them that Nick Samuel had been shot and wounded and taken to a CDI. When his mother arrived at the CDI, he was still alive but having serious difficulty breathing. Although he was immediately transferred to the Pérez Carreño Hospital to be treated, Nick Samuel died en route.

According to the information given by the medical staff to the family, he had a bullet wound, possibly from a rifle, which had punctured a lung and a kidney. According to the death certificate, the cause of death was “hypovolemic shock due to a single thoracic-abdominal projectile firearm wound”.¹¹⁰

República Bolivariana de Venezuela
Consejo Nacional Electoral
Comisión de Registro Civil y Electoral

Edificio N° 009
Avenida N° 259
Módulo 01
Año: 2019
Folios: 2

CERTIFICADO DE ACTA DE DEFUNCIÓN

Conforme al artículo 155 de la Ley Orgánica de Registro Civil, certifica que los datos transcritos son exactos a los contenidos en el acta original de DEFUNCIÓN, que reposa en los archivos de este Registro Civil.

Datos del Registrado(a) Civil
NOMBRES Y APELLIDOS: NICK SAMUEL OROPEZA BORJAS
DOCUMENTO DE IDENTIDAD N°: 901010872
RESOLUCIÓN N°: 18052/018/FECHA: 24/01/2019
CATEGORÍA: SI-418 MUNICIPAL- OFICIAL IN

Datos del Fallecido
NOMBRES Y APELLIDOS: NICK SAMUEL OROPEZA BORJAS
DOCUMENTO DE IDENTIDAD N°: 901010872
RESOLUCIÓN N°: 18052/018/FECHA: 24/01/2019
CATEGORÍA: SI-418 MUNICIPAL- OFICIAL IN

Datos de la Defunción
FECHA DE DEFUNCIÓN: 24/01/2019
LUGAR PAIS DONDE OCURRIÓ: SANTA CRUZ, DASA 227, LAS ADJUNTAS, MARGARITA, DPTO CAPITAL
CAUSAS: HUGO BOTOLO ENFOQUE POR HERIDA DE ARMA DE FUEGO DE PROYECTIL ÚNICO TORAX ABDOMINAL

Datos del Certificado de Defunción
FECHA DE EXPEDICIÓN: 24/01/2019
NOMBRES Y APELLIDOS DE LA AUTORIDAD QUE LO EXPIDE: NICK SAMUEL OROPEZA BORJAS
DOCUMENTO DE IDENTIDAD N°: 901010872
DENOMINACIÓN DE LA DEPENDENCIA DE SALUD: SENACEST

Datos Familiares
NOMBRES Y APELLIDOS DEL CONYUGE O PAREJA ESTABLE DE HECHO: []
DOCUMENTO DE IDENTIDAD N°: []
RESIDENCIA: []

Hijos e Hijas del Fallecido (a)

NOMBRES Y APELLIDOS	DOCUMENTO DE IDENTIDAD N°	EDAD	VIVE
1) []	[]	[]	SI [] NO []
2) []	[]	[]	SI [] NO []
3) []	[]	[]	SI [] NO []
4) []	[]	[]	SI [] NO []
5) []	[]	[]	SI [] NO []

Datos de la Persona que Declara la Defunción
NOMBRES Y APELLIDOS DE QUIEN DECLARA LA DEFUNCIÓN: []
DOCUMENTO DE IDENTIDAD N°: []
RESIDENCIA: []

Datos del Extracto Consular
EXTRACTO N°: []
FECHA DE EXPEDICIÓN: []
AUTORIDAD QUE LA EXPIDE: []

CERTIFICADO DE DEFUNCIÓN EV-14
SECCIÓN I IDENTIFICACIÓN DEL FALLECIDO

NICK SAMUEL OROPEZA BORJAS
24/01/2019

SECCIÓN II MENORES DE UN AÑO O MUJERES EN EDADES FERTILES

SECCIÓN III MUJERES EN EDADES FERTILES

SECCIÓN IV MUJERES EN EDADES FERTILES

SECCIÓN V CERTIFICACIÓN MÉDICA
Causa de muerte: HUGO BOTO ENFOQUE POR HERIDA DE ARMA DE FUEGO DE PROYECTIL ÚNICO TORAX ABDOMINAL
Diagnóstico: HYPVOLEMIC SHOCK DUE TO A SINGLE THORACIC-ABDOMINAL PROJECTILE FIREARM WOUND

SECCIÓN VI RESPONSABLE DE LA IDENTIFICACIÓN
NICK SAMUEL OROPEZA BORJAS

SECCIÓN VII DATOS DEL REGISTRO CIVIL
NICK SAMUEL OROPEZA BORJAS
901010872

Nick Samuel Oropeza Borjas' death certificate, 25 January 2019.

While Amnesty International has not had access to any eyewitnesses of the shooting in this case, Nick's relatives, neighbours and friends who took part in the protest indicated that members of the GNB were responsible for his death.¹¹¹ They told Amnesty International that the GNB started firing into the air to disperse the young people and, when that did not succeed, several officers fired into the crowd.

110. National Electoral Commission, Death Certificate no. 259, of Nick Samuel Oropeza Borjas, 24 January 2019.

111. In the report broadcast by Channel 4, 'The Venezuelan family who turned on government when their son was shot dead' of 28 January 2019, a reported eyewitness stated that it was the National Guard who fired on the demonstrators www.channel4.com/news/the-venezuelan-family-who-turned-on-government-when-their-son-was-shot-dead

“The other day I was walking along and I saw several national guard officials on the street. I had an anxiety attack. That uniform, I don’t know with what face, killed my son.”

Mother of Nick Samuel Oropeza Borjas

Nick’s mother filed a complaint the next day, after which the CICPC began an investigation and went to the scene to gather evidence. In an interview with Amnesty International, Nick’s relatives complained that by then there was practically no evidence left and that because of the fear and distrust that exists in the neighbourhood, no eyewitness had wanted to formally come forward to the authorities.

6.2.3. THE CASE OF M.A.X. – PROTESTS IN EL JUNQUITO

According to the images and testimonies gathered, on the morning of 24 January, protesters critical of the government of Nicolás Maduro started blocking the main road of El Junquito by burning tyres and garbage in protest. The day before, the death of a young man had been reported in that same area in the context of a similar protest. Press reports indicated that the GNB was responsible.¹¹²

On 24 January, M.A.X., a 19-year-old engineering student, went out to join a local protest with four friends.

M.A.X. told Amnesty International that at around 14:00 a protest began at km16 on the main road to El Junquito. The protest intensified around 16:00 when the road was blocked at km14 and km16 by burning rubber and trash. According to M.A.X., the demonstrators were not carrying any kind of weapon.

M.A.X. described how at first several members of the GNB appeared in official patrols, threw tear gas and shot their rifles into the air to disperse those at the barricade. The protesters then withdrew, but returned to their position soon afterwards. According to M.A.X., around 18:00, during one of these attacks by the GNB against the demonstrators, he was shot in the right leg and fell to the ground.

M.A.X. was helped by several people, who took him to the CDI. His mother, who had heard the shots from another part of the neighbourhood, ran to find him when she realized he was not at home. She found him at the CDI, where they could barely treat him because they did not have enough supplies. At around 23:00, he was transferred to the Dr José María Benítez de la Victoria Hospital in the state of Aragua, where the medical staff again explained that they did not have supplies to treat this type of injury. M.A.X. had a bullet lodged in the upper part of his right thigh.

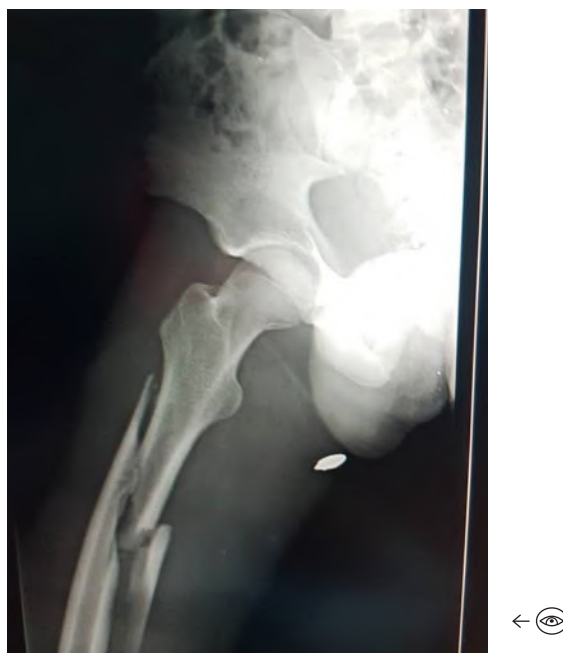
He was taken to the Periférico de Coche Hospital, where he was denied medical care and staff harassed his family because he had been injured during a protest. In the light of the lack of treatment, his family moved him in the early hours of 29 January to the Vargas Hospital in Caracas, where he was finally treated after saying that the wound was the result of an attempted robbery. According to his hospital medical records, M.A.X. sustained a “proximal diaphyseal fracture with [illegible] fragment of the right femur” and required surgery.¹¹³ When research for this report ended, M.A.X. had

112. Franklin Nova died on 23 January of a gunshot wound. The press and social networks reported the GNB was responsible, Lysaura Fuentes on Twitter, <https://twitter.com/lysaurafuentes/status/1088887937905971200> (Spanish only).

113. Hospital Vargas in Caracas, M.A.X.’s medical records, 31 January 2019.

not yet been properly treated and the family reported numerous failings in the service.

Analysis of the X-rays, to which Amnesty International had access, revealed that a bullet was lodged in M.A.X.'s leg was most likely fired by a 5.56mm or 7.62mm rifle.



M.A.X.'s X-ray taken at the Dr José María Benítez de la Victoria Hospital, January 2019.

The jurisprudence of the Inter-American Court has established that, in addition to the absolute demonstrable necessity of using lethal force, its use must be proportionate to the level of resistance offered at any given moment and “the level of cooperation, resistance, or aggressiveness” in order to “use tactics of negotiation, control or use of force, as appropriate”.¹¹⁴ The details of this case indicate that the GNB used lethal force almost immediately, in order to enable road traffic to circulate and when the blockade posed no risk or threat to the lives of the officials.

“For me they are serial killers. They don’t ask questions. They didn’t want to disperse the protest in another way. They arrived shooting.”

M.A.X.

The family has not filed a complaint because they fear M.A.X. will be persecuted for his participation in the protest. According to the information obtained, no investigation had been opened ex officio, despite reports suggesting the excessive use of force.

¹¹⁴ Inter-American Court, Case of the Landaeta Mejías Brothers et al. v. Venezuela, Judgment of August 27, 2014, para. 134.

6.3 ARBITRARY DETENTION AND LACK OF JUDICIAL GUARANTEES

In the past, Amnesty International has extensively documented arbitrary detentions in Venezuela and how they are part of a policy of repression pursued by the government of Nicolás Maduro to stifle dissent and silence criticism.

The organization has identified patterns of politically motivated arbitrary detention and denial of due process. This has involved, for example, arrests without warrants or without signs of a crime having been committed in flagrante; the use of vaguely defined offences; the holding of detainees in isolation or incommunicado, as well as torture and other cruel, inhuman or degrading treatment during detention; non-compliance with orders for the release of detainees issued by the courts and the use of military courts to hear cases against civilians.¹¹⁵

According to the organization Foro Penal Venezolano, between 21 and 31 January 2019, there was an unprecedented rise in the number of arbitrary detentions. The authorities detained 988 people, including 137 children, across the country. On 23 January alone, 770 arrests were recorded. In other words, 77% of the arbitrary detentions in the entire month of January were carried out in a single day. In addition, in 90% of the cases there were serious irregularities and violations of detainees' rights to due process and to legal defence.¹¹⁶

International law states that a person can only be deprived of their liberty for the causes set out in law and in compliance with procedures established in law, otherwise the detention is considered arbitrary.¹¹⁷

Amnesty International documented the arbitrary detention and lack of procedural safeguards in the cases of six people: four children who were apprehended in a demonstration in the city of San Felipe, Yaracuy state, and two young people aged 19 and 20 in Carora, state of Lara.

The Convention on the Rights of the Child (CRC) states that: "No child shall be deprived of his or her liberty unlawfully or arbitrarily. The arrest, detention or imprisonment of a child shall be in conformity with the law and shall be used only as a measure of last resort and for the shortest appropriate period of time."¹¹⁸ This has been reiterated by the Committee on the Rights of the Child.¹¹⁹

The CRC also establishes that: "Every child deprived of liberty shall be treated with humanity and respect for the inherent dignity of the human person, and in a manner which takes into account the needs of persons of his or her age."¹²⁰ States must ensure that their competent authorities proceed ex officio to a prompt and impartial investigation wherever there is reasonable ground to believe that an act of ill-treatment or torture has been committed.¹²¹

The Committee on the Rights of the Child has said that the placement of children in adult prisons or jails compromises their basic safety and well-being and their future ability to remain free of crime and to reintegrate into society.¹²² The Committee against Torture has stated that a failure to separate

115. Amnesty International, *Silenced by force -- politically motivated arbitrary detentions in Venezuela*, 26 April 2017, (Index: AMR 53/6014/2017) www.amnesty.org/en/documents/amr53/6014/2017/en/

116. Foro Penal, *Reporte sobre la represión en Venezuela*, [Report on repression in Venezuela], January 2019 (Spanish only).

117. International Covenant on Civil and Political Rights, Article 9.1 and American Convention on Human Rights, Article 7.2.

118. Convention on the Rights of the Child, Article 37 (b).

119. CRC/C/GC/10, General comment No. 8, *Children's rights in juvenile justice*, 25 April 2007, para. 79.

120. Convention on the Rights of the Child, Article 37 (c).

121. Committee against Torture, *Orkatz Gallastegi Sodupe v. Spain*, CAT/C/48/D/453/2011, Communication No. 453/2011, 28 June 2012.

122. CRC/C/GC/10, General comment No. 10, *Children's rights in juvenile justice*. 25 April 2007, para. 85.

detained children and adolescents from the adult prison population constitutes cruel, inhuman and degrading treatment.¹²³

Likewise, the CRC sets out the right to legal assistance and to be presented before a judge within 24 hours of arrest. This is linked to the principle of equality of arms that is violated, for example, when the defendant does not have access to the information necessary to prepare their defence, or when they cannot adequately instruct defence counsel.¹²⁴

In addition, the separation of powers is one of the guarantees of the independence of judiciary, both institutionally (the judiciary as a system) and individual (the specific judge), and therefore the undue restrictions imposed by external parties are contrary to that principle.¹²⁵ The effective independence of the judiciary from political interference from the Executive and Legislature means protecting judges from all forms of political influence. In four of the cases cited, this type of interference was documented.¹²⁶

On the other hand, the Inter-American Court has explained how offences that are ambiguously worded open the way for discretionary interpretations by the authorities, which is particularly undesirable when this could result in sanctions that impact on people's lives or liberty.¹²⁷ This is of particular concern in relation to the application of anti-terrorist and national security laws,¹²⁸ as in the two cases documented in Carora.

The arbitrary detention of four teenagers, and the other 133 children and adolescents, breaches national legislation and violates Venezuela's international obligations, especially given the imposition of an unlawful detention, the holding the children in facilities together with adults and evidence of government interference with the independence of the judiciary.

There were many complaints and worrying indications that these teenagers were subjected to ill-treatment and in some cases even torture, including by being beaten, deprived of sleep and exposed to irritants in enclosed spaces.

The failure to comply with the procedural deadline for presenting them before a competent court to determine the lawfulness of their detention and depriving them of an adequate legal defence also constitute violations of their human rights.

In relation to the other two cases, in addition to the lack of a legal basis for detention, there were also allegations of psychological and physical abuse which could constitute torture. Such acts are absolutely prohibited under international human rights law.¹²⁹

123. Conclusions and recommendations of the Committee against Torture, Bosnia and Herzegovina, (2005) UN doc. CAT/C/BIH/CO/1, para. 14.

124. Human Rights Committee, *Wolf v. Panama*, CCPR/C/44/D/289/1988, Communication No. 289/1988 of 26 March 1992, para. 6.6; European Court of Human Rights, *Moiseyev v. Russia*, Judgment 62936/00 (2008), para. 224; Inter-American Court, *Case of Barreto Leiva v. Venezuela*, Judgment of November 17, 2009, paras. 29, 54, 62 and 63.

125. Inter-American Court, *Case of Reverón Trujillo v. Venezuela*, Judgment of 30 June 2009, para. 67.

126. CCPR-GC-32, General Comment No. 32, Article 14: Right to equality before courts and tribunals and to a fair trial (replaces general comment No. 13, CCPR/GC/13), 23 August 2007, para. 19.

127. Inter-American Court, *Case of Castillo Petruzzi et al. v. Peru*, Judgment of 30 May 1999, para. 121.

128. Report of the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism, Doc. E/CN.4/2006/98 (2005), paras. 13, 26-27, 42-50, 72; Mission to Spain, Doc. A/HRC/10/3/Add.2 (2008), paras. 6-14; Mission to Israel, Doc. A/HRC/6/17/Add.4, para. 16; and CCPR/C/HUN/CO/5, Concluding observations of the Human Rights Committee, October 2010, para. 9.

129. Article 5 of the Universal Declaration of Human Rights; Article 7 of the International Covenant on Civil and Political Rights; Article 2 of the Convention against Torture; Articles 37.a and 19 of the Convention on the Rights of the Child; Article 5.2 of the American Convention on Human Rights; and Articles 1 and 2 of the Inter-American Convention against Torture.

In none of the cases of arbitrary detention documented by Amnesty International have allegations of cruel, inhuman or degrading treatment or torture been investigated by the authorities.

6.3.1. THE CASE OF FOUR TEENAGERS DETAINED IN SAN FELIPE

Amnesty International documented the cases of W, X, Y and Z, four of the 19 minors detained on 23 January in the context of the protests in San Felipe, capital of the Yaracuy state in the northwest of the country.

W and X, aged 15 and 16 respectively, reported that on 23 January, at around 13:00, after leaving school, they decided to support the demonstration in San Felipe. Together with four other people, they got onto a truck to urge on the protesters and encourage people to join the march. Among those on the truck was the mother of a state opposition deputy, who was well known in the area.¹³⁰

At around 15:00, the truck was stopped by three vehicles, including one from the Department of Intelligence for Preventive Strategies (Dirección de Inteligencia de Estrategias Preventivas, DIEP) of the Yaracuy Police. Several people, who were not in uniform, surrounded them at gunpoint. They accused them of being “guarimberos” and “terrorists” and said that they were going to prosecute them. No arrest warrant was presented and those detained had not been caught in flagrante. Six people were then put into one of the vehicles, where W and X were repeatedly punched in the head and stomach and threatened with death.

Seventeen-year-old Y was detained in another neighbourhood near the centre of San Felipe. He was protesting and was arrested by officials from various security forces, including the PNB and CONAS.

He told Amnesty International that he was beaten repeatedly and that officials took his belongings. At the time of his arrest, about 12 people were apprehended.

Z, aged 16, was working near to where the demonstration was taking place when unidentified officials detained him, beat him and forced him into a vehicle without presenting a warrant and without evidence that a crime was being committed in flagrante.

Z explained to the officers that he had a visual disability and that the blows could cause irreparable damage to his vision. However, this did not stop them from continuing to hit him, mainly on the head.

Z and the three other people who were in the vehicle were first transferred to the Yaracuy state government headquarters, where Z said they were beaten several times by different officials. He and the others were thrown to the ground and repeatedly beaten all over their bodies with rifle butts.

Amnesty International learned that later W, X, Y and Z were held together in the Yaracuy State General Police Headquarters for several days. They were then all transferred to the Yaracuy State Rehabilitation Centre for Minors, known as El Albergue.

While they were held in the Yaracuy State General Police Headquarters, several officials (mostly in civilian clothes) came in to take pictures of them and interrogate them. Every time an official came to see them, they were verbally insulted, for example officials would say: “they are terrorists, guarimberos”; “And they were so brave weren’t they? Now, we are going to do them as coup

130. Laura Gallo, an Italian national and the mother of the regional leader of the Voluntad Popular party in Yaracuy, Gabriel Gallo, was in the same vehicle at the time of the arrest and was also arbitrarily detained. According to Foro Penal, Laura Gallo was brought before a judge on 27 January, after the hearing was delayed and postponed beyond the 48-hours limit following arrest, in violation of the law. Following the hearing, she was released on bail after presenting surety to the court and when research for this report ended, she remained at liberty pending trial, <https://foropenal.com/2019/02/05/reporte-sobre-la-represion-en-venezuela-enero-2019/> (Spanish only).

plotters”¹³¹ and accused them of having destroyed shops and streets in the municipality.

They reported that for a day they did not have access to a toilets and had to urinate and defecate in water bottles and plastic bags, and that on the first night, the officers guarding them let off tear gas canisters inside the room in which the teenagers were held and then set fire to papers to spread the tear gas round the room, increasing their exposure to irritants.

One of them said that the he was beaten so severely that at times he could not breathe and that when he tried to lie on the ground he was gasping for air. Two of them reported feeling very afraid when they were held overnight with the adult prison population when they first detained.

Afterward, the four teenagers were transferred to a CDI for medical examination. However, the medical staff did not ask them any questions and the results of the examinations are unknown.

In all cases, the teenagers claimed to have signed documents they were not allowed to read and without the presence of a lawyer. In addition, none of the young people had access to their lawyer before the hearing, not even to explain the case or the circumstances of their detention. One of them was still dressed in his school uniform when he appeared in court.

On 25 January, W, X, Y and Z appeared before the San Felipe Supervisory Court of First Instance No. 1, Juvenile Criminal Responsibility Section (Tribunal de Primera Instancia de Control N° 1 de la Sección de Responsabilidad Penal de Adolescentes). They were therefore held for a period exceeding the 24-hour limit stipulated in law juveniles before being brought before a judge.

According to the defence testimony, the official police record of their arrest presented did not establish the alleged criminal behaviour of the four teenagers individually and gave a general account that a total of 11 teenagers arrested carrying bottles of petrol.

The representative of the Public Prosecutor’s Office requested that judge hearing the case impose non-custodial bail conditions, in accordance with the provisions of the Organic Law for the Protection of Children and Adolescents (Ley Orgánica de Protección del Niño, Niña y Adolescent, LOPNNA).

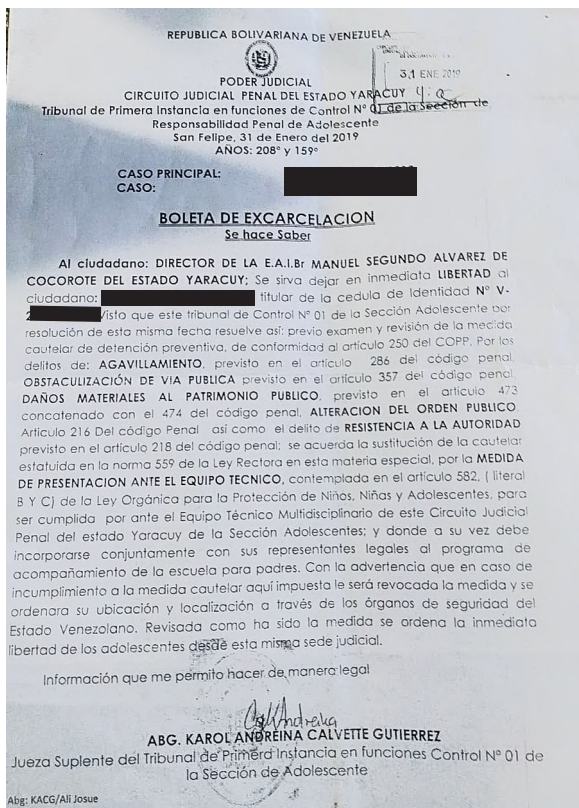
On Sunday 27 January, the four were transferred to the centre for adolescents in conflict with the criminal law, which has a military regime. According to their statements, they were subjected to forced labour, their heads were shaved when they arrived, they had to wear uniforms and they were forced to submit to military training and to chant slogans such as “we are Chávez’ children” and “Chávez lives”.

W, X, Y and Z were charged with conspiracy (criminal association), obstructing public roads, damaging public property, disturbing public order and resisting authority.¹³² Under special legislation contained in the LOPNNA, these crimes did not warrant any form of pre-trial detention. Therefore, holding these young people on pre-trial detention constitutes arbitrary and unlawful detention.¹³³

131. “son unos terroristas, guarimberos”; “¿No y que eran muy valientes?, ahora sí los vamos a joder por golpistas”

132. Judiciary, Yaracuy State Criminal Judicial Circuit, Supervisory Court of First Instance No. 1, Juvenile Criminal Responsibility Section, Case UP01-D-2019-12. Release orders for X, Y and Z, of 31 January 2019.

133. Articles 581 and 628 of the LOPNNA.



Order for the release of X on 31 January 2019

On 29 January, the judge issued a message on social media in which she stated that she had been pressured to put these and other young people on remand, even though she knew that she was contravening the law. She indicated that pressure had been brought to bear on her in particular by the President of the Criminal Court Circuit for the state of Yaracuy and the state governor. In addition, she reported that she had received death threats against herself and members of her family. The judge left the country some days later.¹³⁴

On Thursday 31 January at 10:00, W, X, Y and Z were transferred to the circuit court where they were ordered to present themselves to the LOPNNA technical team and so were released pending trial.¹³⁵

The allegations of ill-treatment and torture which the youths reported should have been investigated ex officio by the authorities, but this did not happen. Neither did the medical examinations detail their physical condition and lead to a complaint by medical staff, guards, the prosecutor or the court itself.

These arrests occurred in the context of a mass protests and the young people's statements consistently described how officials insulted them, calling them "guarimberos" or "terrorists", among other things. This indicates that the detentions were acts of political retaliation and were intended to serve as a warning to others, making them part of a policy of repression and social control.

Amnesty International interviewees highlighted the effects the on teenagers and their families. They consistently expressed fear and lack of confidence in the authorities and a feeling of insecurity, because the arbitrary behaviour of the authorities and the impunity surrounding their experiences meant that such incidents could happen again.

134. La Prensa, Diario de Lara, Judge Ediluh Guedez Ochoa, www.youtube.com/watch?v=bwrxezvJQOY (Spanish only).

135. Judiciary, Yaracuy State Criminal Judicial Circuit, Supervisory Court of First Instance No. 1, Juvenile Criminal Responsibility Section, Case UP01-D-2019-12. Order for the release of X of 31 January 2019.

“I want justice to be done because they violated our rights, they did things they should not have done, such as hitting us, detaining us, humiliating us. What did we do to be treated like this.”

Fifteen-year-old detained in San Felipe

After their released, subject to certain restrictions and pending trial, some relatives told Amnesty International that the youths had been made to sign a document without further explanation. They mentioned that they were pressured to dismiss the lawyers from the NGO Foro Penal Venezolano that had supported them in defending their cases so that a public defence lawyer could be allocated to them.

In an interview for Globovisión, broadcasted on 6 February, the Head of the Public Prosecutor’s Office said of the children detained in Yaracuy that “some carried firearms, some were carrying incendiary devices” and stated that they had to be investigated because they “had committed these crimes”¹³⁶ – even though the youths had not been found guilty of any offence by any court – thereby prejudging the crime and the outcome of proceedings in these cases.

6.3.2. THE CASES OF A AND B, TWO YOUNG MEN DETAINED IN CARORA

On 23 January, hundreds of people went out onto the streets to protest in the town of Carora, Lara state, in central-west Venezuela.

A and B, aged 19 and 20 respectively, participated in that protest and later, around 17:00, they went to the home of one of them, from where they continued observing the march from a rooftop.

According to the information received by Amnesty International, A and B were on the roof of a cabin when FAES officials arrived, pointed guns at them and restrained the people around them.

The FAES officials put A and B onto the back of a pick-up truck. Rather than taking them to the police headquarters or before any authority, the officials covered their faces, blindfolded them and made them walk around the city. At one point along the way, officials, who made various intimidating and abusive statements, sprayed the young people with petrol and threatened to set them on fire, telling them to say goodbye to life.

Once they reached the PNB headquarters in Carora, relatives were able to locate the young men and bring them personal belongings and food.

On 25 January, A and B were charged with incitement,¹³⁷ resisting authority,¹³⁸ possession of

136. Globovisión Videos, Tarek Wiliam Saab, 6 February 2019, www.youtube.com/watch?v=ssQrg7kzQFo&t=389s (Spanish only). “fueron usados algunos de ellos portando armas de fuego, algunos de ellos portando artefactos incendiarios” and “cometieron esos delitos”.

137. Article 286 of the Venezuelan Penal Code.

138. Article 216 of the Venezuelan Penal Code.

incendiary objects,¹³⁹ and criminal association,¹⁴⁰ this last offence is defined in the Organic Law on Organized Crime and Terrorist Financing (Anti-Terrorism Law). The charge sheets, based on vaguely defined crimes, states that A and B had handled explosives. However, the official file did not detail what the evidence was against them or whether the authorities had such artefacts in their custody.¹⁴¹

In addition, the type of criminal association proscribed in the Anti-Terrorism Law requires the involvement of at least three people.

At their hearing, the youths told the court that they had been threatened and beaten during their detention. Amnesty International considers that the way in which they were detained and transferred to the Carora police headquarters constitutes ill-treatment. Both the Committee against Torture and the Human Rights Committee have established that threats, and especially death threats in detention, can be considered torture.¹⁴²

However, despite the fact that the young people reported this to the court at their initial hearing on 25 January, the judge did not request an investigation into the allegations of torture and ill-treatment.¹⁴³ At the time research for this report was completed, both young men remained in detention.

6.4 ANALYSIS OF THE POLICY OF REPRESSION ADOPTED IN JANUARY 2019

Between 21 and 25 January 2019, state forces identified people who had been prominent in the protests in their communities, located them and shortly afterwards killed them.

In all the cases documented, the young people died as a result of a bullet wound to the chest and were executed while in the custody of the authorities. Some of them were tortured before they were killed.

In all six cases, in order to cover up the facts, the bodies and the crime scene were tampered with. In all cases, following the executions, the authorities publicly presented the victims as criminals who had died in confrontations and initiated criminal investigations against them for resisting authority. All these killings were carried out in broad daylight and while people in the surrounding area were subjected to intimidation to ensure there were no witnesses and to strike terror in the population. These actions were carried out mainly by the PNB and its FAES units and, on at least one occasion, with the support of members of the CICPC.

In short, these extrajudicial executions were targeted and premeditated, carried out with a high level of coordination between different authorities; they occurred in several regions of the country and were supported in a public discourse, both at the local and national level, which portrayed the victims as criminals and stigmatized them in an effort to justify the police action.

Likewise, the deaths as a result of the use of force during demonstrations could not have occurred in such alarming numbers in such a short space of time without a policy of intentional use of lethal

139. Article 297 of the Venezuelan Penal Code.

140. Article 37 of the Organic Law against Organized Crime and Terrorist Financing.

141. Amnesty International had access to the judicial file on this case. However, for security reasons, the reference has been withheld.

142. A/54/44, Committee against Torture, Concluding Observations on Yugoslavia, (1999), para. 47; Human Rights Committee, CCPR/C/51/D/458/1991, Albert Womah Mukong v. Cameroon, Communication No. 458/1991. 21 July 1994, para. 9.4.

143. Article 31 of the Special Law to Prevent and Punish Torture and Other Cruel, Inhuman and Degrading Treatment and Articles 13 and 14 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

force designed to punish protesters. According to reports, in just five days more than 20 people were killed by the security forces or third parties acting with their acquiescence; all the victims died of gun injuries sustained while protesting.

One of the cases analysed in this report, shows that in certain cases state officials started by using less lethal force, but eventually made use of lethal weapons, despite the fact that there was no threat to the lives of members of the security forces.

Similar incidents were recorded in half of the states in the country. In other words, it was not a case of isolated or discretionary actions by individual public officials, but the result of the planned use of intentionally lethal force. Similarly, the discourse adopted by the authorities was based on discrediting the protests and questioning their legitimacy while sending messages of support for the actions of the security forces. This, despite numerous reports of killings resulting from the disproportionate use of force and extrajudicial executions.

Finally, the organization documented the practice of mass detentions linked to social protest. This was observed in the number of arrests in practically all the states in the country; the fact that detentions coincided with the days on which mass demonstrations took place; the use of ambiguously defined criminal offences to justify the arrests; and, in some cases, government interference with the judiciary aimed at securing outcomes for demonstrators that were onerous and without justification. These practices were most in evidence on 23 January, the day on which even teenagers were arrested.

The high levels of impunity are also part of this coordinated action. As of 28 February, no one was being prosecuted in relation to the cases documented in this report and only eight public officials had been prosecuted for violations committed in the context of the protests.

In most of the cases documented in this report, families and witnesses were too afraid and distrustful to lodge formal complaints with the authorities. Relatives had no information about the investigations and several of them had been subjected to intimidation by public officials. In many cases initial investigation procedures were not carried out in a timely manner and in cases of extrajudicial executions, crime scenes were tampered with by the police officers themselves. Similarly, reports of torture and ill-treatment made to the courts also do not appear to have led to investigations.

This indicates that, at a minimum, commanders did not exercise proper control over their subordinates, ignored information indicating that they were committing or intended to commit those crimes and failed to take the steps they could to stop them, and did not bring those responsible to justice.

In addition to the speeches analysed in the previous sections, Amnesty International examined the social media and public statements of Nicolás Maduro and other high-ranking officials in his government during January and February 2019. This revealed a tendency not to mention the demonstrators killed in the context of the protests; statements stigmatizing the protesters as violent, criminals or agents controlled by foreign powers; and a narrative equating social protest with support for foreign intervention. Finally, it found statements voicing constant praise for the Armed Forces and the use of armed civilians in public security operations.¹⁴⁴

Amnesty International considers that the human rights violations documented in this report were public and widely known, so that authorities up to the highest level were aware of them. They were the result of a decision taken and adhered to for a long period, since they took place during the month of January 2019, intensifying in the period 21 to 25 January, during which time no measures were taken to prevent such actions. Indeed, during this period speeches were made at the highest level supporting the security forces and stigmatizing protesters. These conveyed a refusal

144. Amnesty International analysed social media posts and public statements made between 1 January and 28 February by Nicolás Maduro, Tarek William Saab, Delcy Rodríguez, Diosdado Cabello, Vladimir Padrino, Aristóbulo Istúriz, Jorge Arreaza and Jorge Rodríguez.

to acknowledge the underlying causes of the social protest or the victims. Finally, according to the available information there appears to have been no thorough, prompt and impartial investigation to clarify the facts as a whole and establish responsibility at all levels.

Amnesty International believes that these events are part of and once again illustrate the policy of repression reported by the organization and human rights bodies since 2014. In fact, the targeted executions of people in January 2019 represent an escalation of the policy of repression adopted until then by the government of Nicolás Maduro to control, neutralize and, if necessary eliminate, people who are, or are considered to be, government opponents.

7. IMPUNITY AND LACK OF ACCESS

TO JUSTICE

Amnesty International has repeatedly expressed concern about the absence of mechanisms ensuring truth, justice and reparation for victims of crimes under international law and human rights violations in Venezuela. Various civil society organizations have established that impunity in the country stands at 92%¹⁴⁵ and in cases of possible human rights violations reaches as high as 98%.¹⁴⁶

As this and other previous reports show, the lack of thorough investigations and therefore of convictions for the violations committed is one of the reasons why this pattern has repeated itself since at least 2017.

Amnesty International considers that this entrenched impunity is not accidental, but rather the result of the inappropriate use of the justice system for political ends, accompanied by the weakening of the National Human Rights Institution (the Ombudsman's Office), as well as the progressive disengagement with the regional human rights system.¹⁴⁷

“We are just an ordinary poor family, so they can just riddle people like us with bullets. There is no law for us...we don't have the money to put in an appeal, to get advice, to lodge a complaint...we want justice that is transparent. We need justice to be done.”

Relatives Cristian Alejandro Ramos Angulo

7.1 THE REGIONAL HUMAN RIGHTS PROTECTION SYSTEM IN VENEZUELA

In recent years, the Venezuelan state has progressively limited the mandate of the regional human rights system regarding the state's obligations in order to prevent scrutiny and accountability.

The first major setback was the denunciation of the American Convention on Human Rights, which had been in force in the country for more than 35 years. In 2012, the Venezuelan government announced its withdrawal from this regional treaty, which authorizes the Inter-American Court to deal

145. Insight Crime, 'Lynchings Jump 650% in Venezuela in 2016', 19 January 2016, www.insightcrime.org/news/analysis/lynchings-jump-650-percent-venezuela-2016/

146. See Inter-American Commission on Human Rights, Situation of Human Rights in Venezuela, Chapter 3, Social Protest and Freedom of Expression, 31 December 2017, (Index: OEA/Ser.LV/II), p.144, citing , OVV, 'Impunity reaches 98% of crimes against Human Rights in Venezuela, according to Cofavic', 28 October 2016.

147. In addition to the justice system, the Ombudsperson, has also not been effective in supporting victims and the quest for justice. It is noteworthy that in all the documented cases, the victims or their relatives did not know whether an investigation had been initiated or considered that the investigation was for the benefit of the government. Since October 2016, the Office of the Ombudsman has been downgraded from Category A (Fully compliant with the Paris Principles) to Category B (Partially compliant with the Paris Principles) in the Office of the United Nations High Commissioner for Human Rights' accreditation of national human rights institutions, OHCHR, Chart of the Status of National Institutions, Accreditation status as of 26 May 2017, 26 May 2017, see https://www.ohchr.org/Documents/Countries/NHRI/Chart_Status_NIs.pdf

with individual cases. The withdrawal from the Convention came into effect on 10 September 2013.¹⁴⁸ In total, the Inter-American Court has issued 20 decisions against Venezuela, mostly for violations of the right to due process, life, liberty and physical integrity.¹⁴⁹

At present, the fact that Venezuela has withdrawn from the jurisdiction of the Inter-American Court, the regional body with the authority to issue binding judicial decisions, and from the American Convention on Human Rights, seriously undermines the ability of victims to access justice for human rights violations and the lack of investigations into these violations in the country.

Despite this, the Inter-American Commission on Human Rights (IACHR) has continued to monitor the human rights situation in Venezuela.¹⁵⁰ In 2017, it published a report on the country and it has consistently included Venezuela in its annual report in the section covering the most serious human rights situations on the continent. However, the government of Nicolás Maduro has refused many requests by the IACHR to visit Venezuela.

In addition to these retrogressive steps, in April 2017 Venezuela withdrew from the OAS Charter.¹⁵¹ This means that as well as ceasing to participate in multilateral discussions in the Americas region, after April 2019 Venezuela could be excluded from the regional system for the protection of human rights and thus end the scrutiny exercised to date by the IACHR.¹⁵²

“The Bolivarian Government will continue to pursue peaceful diplomacy in the interest of strengthening the relations of cooperation and friendship that have characterized our foreign policy. Therefore, it reaffirms its wholehearted commitment to the principles and purposes of international law, and of the United Nations Charter.”

Letter from Nicolás Maduro Moros to the Organization of American States setting out the decision to withdraw from the OAS Charter, Caracas, 27 April 2017.

148. However, Venezuela must still be accountable for compliance with the obligations contained in this treaty in relation to events that occurred before 10 September 2013.

149. Inter-American Court, Decisions and Judgments, Venezuela.

150. Despite the fact that the American Declaration of Human Rights is not a binding treaty, the IACHR has used this instrument to monitor the human rights situation in countries that are not party to the American Convention on Human Rights. The interpretation of the IACHR is that the signatories of the American Declaration on Human Rights have declared in good faith that they recognize the rights listed in this document. Another country that has been monitored by the IACHR on the basis of the American Declaration of Human Rights is the USA.

151. Vice-Presidency of the Bolivarian Republic of Venezuela, Venezuela presented a letter of denunciation to the OAS as party of its withdrawal from this body, <http://www.vicepresidencia.gob.ve/index.php/2017/04/28/venezuela-presento-ante-la-oea-carta-de-denuncia/> For English, see http://www.oas.org/en/sla/dil/docs/a-41_note_venezuela_04-28-2017.pdf

152. At the time research for this report ended, it was not known if the government of Nicolás Maduro would retract the decision to withdraw from the OAS and a representative of Juan Guaidó had been appointed as representative to this multilateral organization.

The weakening of the regional system for the protection of human rights in the country means that the international system is now one of the main mechanisms for the protection of human rights.

7.2 THE INTERNATIONAL SYSTEM FOR THE PROTECTION OF HUMAN RIGHTS IN VENEZUELA

The treaty bodies, whose decisions are binding on countries that accept their competence to examine individual cases, have had a limited role in the country. Venezuela has not accepted the authority of the Committee on Enforced Disappearances (CED), the Committee on Economic, Social and Cultural Rights (CESCR), the Committee on the Rights of the Child or the Committee on the Protection of the Rights of All Migrant Workers and Members of their Families (CMW). With respect to the other five treaty bodies, only eight cases have been filed with the Human Rights Committee and the Committee against Torture. Of these, the Committee against Torture decided against the Venezuelan state in one case and the Human Rights Committee in four.¹⁵³

That is, there are five opinions by these committees criticizing the country. All the decisions of the Human Rights Committee relate to, among other things, violations of due process, in particular the right to appear before a competent, independent and impartial tribunal.¹⁵⁴

In relation to review, protection and monitoring mechanisms, Venezuela has regularly participated in the periodic reviews before treaty bodies. In their most recent sessions (in 2014 and 2015) they noted the deterioration in a wide range of human rights in the country,¹⁵⁵ which, according to indicators, have worsened in recent years.

In addition, various Special Procedures have noted a deterioration in the human rights situation in Venezuela for some years.¹⁵⁶ An example of this are the joint statements by several of them calling on the government to end the systematic human rights violations related to detention¹⁵⁷ and “an urgent plea to...the international community to adopt measures to avoid an unfolding tragedy of immense proportions”.¹⁵⁸

Although Venezuela was part of the Human Rights Council until 2018, the government of Nicolás Maduro has repeatedly refused special procedures entry to the country, rejected their recommendations and accused them of being flawed and biased.¹⁵⁹ He has made also accused the

153. OHCHR, Acceptance of individual complaints procedures for Venezuela (Bolivarian Republic of) https://tbinternet.ohchr.org/_layouts/TreatyBodyExternal/countries.aspx?CountryCode=VEN&Lang=EN

154. Human Rights Committee, CCPR/C/121/D/2203/2012, Gabriel Osío Zamora v. Venezuela, Opinion of 1 February 2018. CCPR/C/27/D/156/1983, Luis Alberto Solórzano v. Venezuela, Opinion of 26 March 1986; CCPR/C/106/D/1940/2010, Eligio Cedeño v. Venezuela, Opinion of 4 December 2012; CCPR/C/119/D/2481/2014, Vicencio Scarano Spisso v. Venezuela, Opinion of 8 May 2017.

155. The latest reviews carried out by the Committee against Torture and by Committee on the Elimination of Discrimination against Women in 2014 and the Human Rights Committee in 2015 and Committee on Economic, Social and Cultural Rights in 2015 already reflected the deterioration in the human rights situation regarding torture, the use of military courts, the temporary appointment of judges and access to adequate food, among other rights.

156. Currently there are outstanding requests to visit the country from the special rapporteurs on extrajudicial, summary and arbitrary executions; business and human rights; human rights defenders; adequate housing; the independence of judges; freedom of association; violence against women; freedom of expression; and torture as well as from the Working Groups on Arbitrary Detentions and on People of African Descent.

157. OHCHR, 'Venezuela must end systematic detentions and military trials for protesters – UN experts', 4 August 2017, www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=21939&LangID=E

158. OHCHR, 'Venezuela: Dire living conditions worsening by the day, UN human rights experts warn', 9 February 2018, www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=22646&LangID=E

159. Ministry of People's Power for Foreign Affairs, 'Venezuela rechaza declaraciones del Alto Comisionado de la ONU para los DDHH', ['Venezuela rejects the statements

OHCHR of being partial and politicized.¹⁶⁰

During the period of social unrest in 2017, the OHCHR produced a report on the serious human rights violations that occurred in the context of the protests. In particular, it highlighted the excessive use of force, torture and ill-treatment as well as arbitrary detentions, and emphasized that these were systematic and generalized and part of a policy of repression against the population.¹⁶¹ Subsequently, in 2018, the OHCHR published a new report, which in addition raised concerns about access to economic and social rights. In both documents, the OHCHR called for the creation of a commission of inquiry under the auspices of the United Nations to investigate human rights violations in Venezuela.¹⁶²

The victims of human rights violations in Venezuela lack protection due to limited access to justice in the country, as well as the restrictions imposed on the regional and international human rights systems to demand the state comply with its international obligations.

As already stated, Amnesty International considers that the high levels of impunity and the progressive shrinking of space for human rights protection systems in the country are part of the state's policy of repression and expose the lack of will on the part of the authorities to reverse its repressive policy and guarantee truth, justice and reparation for victims.

of the UN High Commissioner for Human Rights', 7 March 2018, <http://mppre.gob.ve/comunicado/venezuela-rechaza-declaraciones-del-alto-comisionado-de-la-onu-para-los-ddhh/> (Spanish only).

160. Ministry of People's Power for Foreign Affairs, 'Venezuela rechaza declaraciones del Alto Comisionado de la ONU para los DDHH', ['Venezuela rejects the statements of the UN High Commissioner for Human Rights'], 7 March 2018, <http://mppre.gob.ve/comunicado/venezuela-rechaza-declaraciones-del-alto-comisionado-de-la-onu-para-los-ddhh/> (Spanish only).

161. In its 2017 report, the OHCHR stated that: "Authorities responded to these violations with few condemnations of the violence and human rights violations committed by security forces; a stigmatizing discourse against the opposition and demonstrators; a denial of security forces' involvement in advance of the conclusion of investigations into killings; and lack of cooperation with open investigations. This points to the existence of a policy to repress political dissent and instil fear in the population to curb demonstrations at the cost of Venezuelans' rights and freedoms. The generalized and systematic use of excessive force during demonstrations and arbitrary detention of protestors and perceived political opponents indicate these were not illegal or rogue acts of isolated officials." OHCHR, Human rights violations and abuses in the context of protests in the Bolivarian Republic of Venezuela from 1 April to 31 July 2017, 30 August 2017, p. 43, www.ohchr.org/Documents/Countries/VE/HCRReportVenezuela_1April-31July2017_en.pdf

162. OHCHR, Human rights violations in the Bolivarian Republic of Venezuela: a downward spiral with no end in sight, June 2018, p. 8, www.ohchr.org/Documents/Countries/VE/VenezuelaReport2018_EN.pdf

8. CRIMES AGAINST HUMANITY

IN VENEZUELA

During January 2019, agents of the Nicolás Maduro government carried out serious human rights violations such as extrajudicial executions, excessive use of force resulting in deaths, mass arrests, torture and ill-treatment, that have not been properly investigated and that were accompanied by a stigmatizing public discourse.

These actions were intended to control, neutralize or punish people who demonstrated against the government and send a message of terror to the population in order to discourage protest.

However, as discussed in this report, such actions are not new in Venezuela. Amnesty International and national and international human rights organizations have highlighted how since at least 2014, the government of Nicolás Maduro has been using different tactics and committing multiple human rights violations in order to discourage, neutralize and, if that failed, eliminate people who were, or were perceived to be, dissidents or critics or opponents of the government. For this, the authorities used various levels of violence, ranging from threatening public discourse, to mass arbitrary detention, to targeted extrajudicial executions.

The Human Rights Committee, has established that “summary and arbitrary killing[s]...[w]hen committed as part of a widespread or systematic attack on a civilian population... are crimes against humanity”.¹⁶³

Crimes against humanity are a category of crimes under international law enshrined in both customary and conventional law, and their prohibition is considered by international jurisprudence to be a rule of *jus cogens*¹⁶⁴ (no derogation is permitted). Crimes against humanity contain a contextual element and a series of underlying acts that must be present within that context.

Article 7 of the Rome Statute of the International Criminal Court sets out the definition of crimes against humanity and states that these crimes take place when crimes such as killings, torture, rape, enforced disappearance, imprisonment or persecution, among others, are committed as part of a generalized or systematic attack against a civilian population and with knowledge of that attack.

The contextual element refers to a generalized or systematic attack against a civilian population. The term “attack” means not only as an armed aggression, but a course of conduct involving the multiple commission of such acts of violence.¹⁶⁵

The attack must be generalized, systematic, or both. The first refers to the large-scale nature of criminal acts and the number of victims. There is no minimum number of victims required, but the specific characteristics are analysed on a case-by-case basis.

Systematic assumes the existence of organized action, which follows a regular pattern, based on a common plan or policy and involving significant public or private resources. That is, it refers to the organized nature of acts of violence, the existence of a plan or objective, the involvement of authorities or non-state agents and the improbability that they are random occurrences.

163. CCPR/C/21/Rev.1/Add.13, General comment No. 31, The Nature of the General Legal Obligation Imposed on States Parties to the Covenant, 29 May 2004, p. 18.

164. International Tribunal for the Former Yugoslavia, Judgement of 14 January 2000, Prosecutor v. Zoran KUPRE[KI] et al. (the Lašva River Valley Case), Case No.: IT-95-16-T, para. 520; and Inter-American Court, Case of Almonacid-Arellano et al v. Chile, Judgment of September 26, 2006, Serie C No. 154, para. 94 onwards; and European Court of Human Rights, Kolk and Kislyiy v. Estonia, Admissibility Decision, 17 January 2006, Estonia, Communication Nos. 23052/04 and 24018/04; and Case of Kononov v. Latvia, Judgment of 17 May 2010, Application no. 36376/04.

165. Article 7 (2) (a) of the Rome Statute.

Between 2014 and 2019, the government of Nicolás Maduro has consistently used forms of violence of varying intensity in order to silence dissident voices: from speeches that stigmatize and criminalize people, to both targeted and indiscriminate arbitrary detention, to ill-treatment, torture and the excessive and indiscriminate use of force.

In addition, the events documented in this report present a further escalation. The targeted extrajudicial executions of key people involved in the protests represent the ultimate manifestation of a repressive policy and show the systematic way in which these crimes under international law and violations of human rights were carried out in January 2019.

In this same period, the Amnesty International was able to confirm the recurrence of patterns of excessive use of force and arbitrary detentions noted in the past, which in themselves are part of the generalized context in which attacks against the civilian population occurs.

It is also widely known that the policy of repression is directed selectively against those who oppose the government of Nicolás Maduro, or those who are perceived to do so. During January 2019, attempts were made to neutralize those expressing their desire for political change, most of whom came from deprived areas that had historically supported the government. In the protests of 2014 and 2017, the sections of the civilian population targeted in this way were political dissidents.

Similarly, since 2014, different mechanisms used to hinder the search for truth and justice for the victims of such acts have been documented. Above all, these involve lack of access to information for victims and relatives, lack of thorough investigations, procedural delays, lack of judicial guarantees and judicial independence and acts of intimidation against the victims and their families.¹⁶⁶

166. Amnesty International, This is no way to live: Public security and the right to life in Venezuela, 20 September 2018, (Index: AMR 53/8975/2018), www.amnesty.org/en/documents/amr53/8975/2018/en/

9. CONCLUSIONS

Amnesty International has concluded that targeted extrajudicial executions, deaths due to excessive use of force, arbitrary and mass detentions and possible cover-ups during January 2019, as well as the lack of investigation of these, were not random actions. On the contrary, they were part of an attack comprising multiple acts of violence which was previously planned and directed against a specific part of civilian population: those who are, or are perceived to be, government opponents.

This was a sustained attack by state agents aimed at controlling, neutralizing, punishing or eliminating people considered, or perceived to be, opponents. And the authorities up to the highest level, including Nicolás Maduro, would have at the very least tolerated this attack.

Given the characteristics of the attack in January 2019, in terms of the seriousness of the actions, the number of victims, the period of time and geographical area in which they were carried out through the coordination of different state forces, as well as the fact that similar patterns were observed in 2014¹⁶⁷ and 2017,¹⁶⁸ Amnesty International believes that crimes against humanity may have been committed in Venezuela.

The general and systematic nature of the context in which similar patterns have occurred in Venezuela in recent years suggests that the incidents detailed in this report, as well as the patterns previously reported, could constitute crimes that are considered among the most serious by the international community. This type of heinous crime requires that those responsible be investigated, prosecuted and punished, taking into account that they are crimes that are not subject to a statute of limitations and to which universal jurisdiction applies.

The classification of this type of crime, as well as any individual criminal responsibility related to the case must always be determined independently and impartially by a national or international judicial authority, as appropriate.

However, the impunity that prevails in Venezuela suggests that national mechanisms are unlikely to fulfil the obligation to provide justice, truth and reparation to the victims of crimes under international law and human rights violations committed in recent years, and this encourages their repetition. Therefore, Amnesty International believes that international justice has a crucial role to play in the fight against impunity and the search for guarantees of non-repetition.

167. Amnesty International, Venezuela: human rights at risk amid protests, 1 April 2014, (Index: AMR 53/009/2014), www.amnesty.org/en/documents/amr53/009/2014/en/

168. Amnesty International, Silenced by force, politically motivated arbitrary detentions in Venezuela, 26 April 2017 (Index: AMR 53/6014/2017) www.amnesty.org/en/documents/amr53/6014/2017/en/

10. RECOMMENDATIONS

10.1. RECOMMENDATIONS TO THE GOVERNMENT OF NICOLÁS MADURO

Amnesty International calls for an immediate end to the policy of repression against the Venezuelan population by agents of the government of Nicolás Maduro, in the context of which crimes against humanity have been committed.

It also calls for respect for the right to freedom of expression and association, as well as for an end to the repression of social protest. In addition, it urgently calls for all the facts documented in this report to be investigated and for all those suspected of criminal responsibility to be brought before the courts, with full respect for judicial guarantees.

10.2. RECOMMENDATIONS TO THE INTERNATIONAL COMMUNITY

Amnesty International calls for the activation of some of the existing international mechanisms for the fight against impunity and non-repetition, such as: 1) the International Criminal Court; 2) national jurisdictions that have universal jurisdiction; and 3) the setting up of an international commission of inquiry.¹⁶⁹

10.2.1. PRELIMINARY EXAMINATION OF THE PROSECUTOR OF THE INTERNATIONAL CRIMINAL COURT

The Prosecutor of the International Criminal Court issued a statement on 8 February 2018 in which she announced the opening of a preliminary examination of the situation in Venezuela to analyse crimes allegedly committed since at least April 2017 in the context of demonstrations which could constitute crimes against humanity. However, the preliminary examination is not limited to the events of that year, but also incidents that occurred both before and after.¹⁷⁰

In fact, months later, six states party to the Rome Statute of the International Criminal Court, referred the situation of Venezuela for the attention of the Prosecutor and requested that the period be extended to 12 February 2014, the date on which the cycle of mass protests began that year in which 43 people died and others were victims of human rights violations.

Given the crimes documented by Amnesty International in this and previous reports, the organization calls on that the Prosecutor of the International Criminal Court to include these recent events, and those that may arise during the institutional crisis that Venezuela is experiencing, in its preliminary examination, and to examine these events in order to determine the international criminal responsibility of the authorities at the highest level.

10.2.2. UNIVERSAL JURISDICTION MECHANISMS

International law authorizes all states to exercise criminal jurisdiction in relation to any crime under international law wherever it has been committed. However, when the alleged perpetrator of a crime under international law is in a territory and jurisdiction of another state (other than the one in which the events occurred), they are not merely empowered but required to exercise their jurisdiction. This obligation, to prosecute or extradite (*aut dedere aut judicare*), is a legal duty of states, unless

169. International commissions of inquiry can be established by the UN Secretary-General, the Human Rights Council and by the UN Security Council.

170. ICC, Statement of the Prosecutor of the International Criminal Court, Mrs Fatou Bensouda, on opening Preliminary Examinations into the situations in the Philippines and in Venezuela, www.icc-cpi.int/Pages/item.aspx?name=180208-otp-stat

they proceed to the extradition of the person in question to another state, or to hand them over to an international criminal court.

Amnesty International's research into universal jurisdiction indicates that, since the end of the Second World War, at least 20 states have carried out investigations, initiated trials or have completed trials based on universal jurisdiction for the most serious crimes. These states include: Argentina, Australia, Austria, Belgium, Canada, Denmark, Finland, France, Germany, Israel, Mexico, the Netherlands, New Zealand, Norway, Paraguay, Spain, Senegal, South Africa, Switzerland, Sweden, the United Kingdom and the USA.¹⁷¹

Therefore, Amnesty International calls on states to comply with this obligation under international law given the serious violations of human rights and crimes against humanity committed in Venezuela described in this report.

10.2.3. INTERNATIONAL COMMISSION OF INQUIRY

The High Commissioner for Human Rights has recommended the establishment of an international commission of inquiry for Venezuela covering the period of social conflict between April and July 2017. This was reiterated in his report on the year 2018.¹⁷²

A commission of inquiry with a mandate from the United Nations Human Rights Council is an urgent and necessary mechanism to stop the impunity that prevails in Venezuela and enable victims of human rights violations to obtain truth, justice, reparations and guarantees of non-repetition in the future. This commission should investigate the violations that occurred in Venezuela since at least April 2017.

The following sets out certain minimum requirements with which Amnesty International believes such a commission should comply.

A commission to investigate these violations and crimes is not and should not be considered a substitute for criminal investigations and judicial processes, which are consistent with due process and judicial guarantees, to establish individual responsibility. Nevertheless, its implementation must include the preservation of the evidence obtained through its mandate so that these can be used later to determine any responsibility, especially for crimes under international law, that may exist.

The commission of inquiry must be independent and impartial. Therefore, the members of the commission of inquiry must be chosen for their reputation for fighting impunity, as well as for their impartiality, independence and professional and personal integrity.

The commission must also investigate, crimes under international law, serious violations of human rights and different levels of individual criminal responsibility for them, including the chain of command and crimes that may constitute crimes against humanity committed at least since April 2017.¹⁷³

All interested parties, including national and international civil society organizations, victims

171. Amnesty International, Universal Jurisdiction: A preliminary survey of legislation around the world - 2012 update, (Index: IOR 53/019/2012) www.amnesty.org/download/Documents/24000/ior530192012en.pdf

172. OHCHR, Human rights violations and abuses in the context of protests in the Bolivarian Republic of Venezuela from 1 April to 31 July 2017, 30 August 2017, www.ohchr.org/Documents/Countries/VE/HCRReportVenezuela_1April-31July2017_en.pdf and OHCHR, Human rights violations in the Bolivarian Republic of Venezuela: a downward spiral with no end in sight, June 2018, p. 8, www.ohchr.org/Documents/Countries/VE/VenezuelaReport2018_EN.pdf

173. This includes violations of civil and political human rights and of economic and social rights, Resolution 19/13 of the Human Rights Council and 67/151 of the General Assembly.

and human rights defenders, should have an opportunity to contribute to the discussion on the establishment of the commission of inquiry, its mandate, its competencies, the selection of its members and how it will function.

The commission must ensure that the victims and other individuals who provide information and assistance to the investigation are treated with respect, in accordance with their human dignity; are not subjected to re-victimization or new traumas; and are offered protection from any threat.

The procedures of the commission of inquiry must be fair and the granting of any form of immunity for crimes under international law or serious violations of human rights must be excluded. Procedural guarantees for all the parties involved must be guaranteed, including the principle of the presumption of innocence.

Finally, as a matter of principle, the work of the commission of inquiry must be made public, except in cases that require confidentiality.

HUNGER FOR JUSTICE

CRIMES AGAINST HUMANITY IN VENEZUELA

In Hunger for Justice, the analysis of extrajudicial executions, arbitrary detentions and deaths and injuries due to excessive use of force showed that during January 2019 there were multiple acts of violence, carried out consistently in all the states of the country and with a high level of coordination between the security bodies at the national and state levels.

This research shows that these human rights violations were not random, but were part of a previously planned attack directed against a distinct part of the civilian population: government opponents, or those perceived as such by the government, who were at times specifically identified as targets by the attackers.

The multiple acts of violence documented point to a policy of systematic and widespread attacks, targeted in some cases and indiscriminate in others, implemented by the government of Nicolás Maduro to dissuade, neutralize or, in some cases, eliminate opponents, or those it perceives as such.

This pattern is consistent with the repressive practices inflicted on the civilian population since 2014 and were particularly in evidence in 2017. There are, therefore, well-founded

reasons to argue that the incidents detailed in this report and in previous Amnesty International reports constitute crimes against humanity as part of a strategy of systematic and widespread attacks against people considered dissidents by state agents or third parties operating at the very least with state acquiescence or consent.

In the light of these serious human rights violations and crimes under international law, a series of measures are needed to prevent impunity. These include creating a commission of inquiry under the auspices of the United Nations Human Rights Council (HRC) and the invoking of universal jurisdiction by those countries genuinely concerned about the situation in the country, as well as the examination of the facts by the Prosecutor of the International Criminal Court (ICC) – Venezuela has been the subject of a preliminary examination by the ICC since the beginning of 2018.

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