

Leaving Democracy Behind

Civil and Political Rights in the Run-up to the Elections in Venezuela
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Executive Summary

The Venezuelan government has launched a widespread attack on basically all civil and political rights during the last decade. The government has passed laws, decrees and constitutional amendments to limit the independence of the judiciary, the National Assembly, civil society and the media. It has continuously accused human rights defenders, opposition leaders and journalists of conspiracy, and sent elected politicians to prison with and without trial.

The human rights situation has continued to deteriorate rapidly since the protests during the spring of 2014. The repression of the protests was excessively violent and the legal processes against the detainees characterized by human rights abuses. The forced expulsion of thousands of Colombians from Venezuela in August this year, and the sentencing of opposition leader Leopoldo Lopez to almost 14 years in prison in September are just a few evidences of the worsening of the situation. Despite this, Venezuela was re-elected to the UN Human Rights Council in October 2015.

After the election of Nicolás Maduro as Hugo Chavez' successor as president in 2013, the country has entered a phase of deteriorating political and economical crisis. The radical increase in violence and impunity in the Venezuelan society the last decade have generated a general fear for personal safety. And, as there are no signs that the economical situation will improve, the increased inflation, poverty and shortages of basic goods will continue to motivate protests and further repression.

The upcoming elections on December 6 could be an important step to start solving both the political and economic crisis. But the aggressive language of the government towards the opposition has made any agreement between the two sides basically impossible. And, as Nicolás Maduro repeatedly has said that he will not accept a new majority in the National Assembly, the possibility that the elections will contribute to a peaceful solution is diminishing rapidly. Unless the government changes attitude dramatically the coming weeks Venezuela is definitely leaving the democracy behind.

The Report

The increasing human rights-abuses and the unwillingness to guarantee free and fair elections in December are not surprises to any observer of Venezuelan politics. They are part of a general pattern since more than a decade. In order to visualise this pattern, this report consists of three parts: First a short analysis of the unfolding of events since the protests started in early 2014. Then a description of some of the attacks on ten of the most fundamental civil and political rights. And last, two examples of how the police and the judiciary use both physical and psychological means to repress young students as well as experienced human rights defenders.

The deterioration of human rights in Venezuela the last decade has been reported in various reports from specialised international organisations, think tanks and media.¹ These reports – as well as this one - could never have been written without data from national Venezuelan human rights organisations though. Increased international support to Venezuelan human rights organisations will therefore be of crucial importance the coming years as the situation most likely will deteriorate further.

When writing the report we have conducted interviews with a wide range of organisations in Caracas during a visit to the country in December 2014.² Venezuelan NGO Foro Penal also arranged interviews with a dozen victims of the repression in San Cristobal de Táchira. In addition to this we have concluded several telephone interviews with these organisations during the course of 2015.

We have also used a report from the government Ombudsman Defensoría del Pueblo, and on several occasions, without any success, tried to get an interview with their representatives to comment on the findings.

The report does not pretend to make a complete description of the human rights situation in the country. It is rather a compilation of examples that confirms a general and rapidly worsening trend. Neither does the report compare the situation before and after Hugo Chavez assumed the presidency in 1999. The sixteen years that has passed since has been enough for the governments to show its real view on civil and political rights.

The Protests of 2014

The street protests of 2014 began February 4 in the city of San Cristobal, the capital of the state of Táchira, on the border with Colombia. According to various activists the protests were a direct and spontaneous reaction not only to increased insecurity at the university campuses after several robberies and an attempt of violation, but also a reaction to the economic crisis, and the authoritarian leadership of President Nicolás Maduro. The protests were heavily repressed by the police.

¹ The most notorious being Human Rights Watch, Amnesty International, Freedom House, International Crisis Group

² Foro Penal Venezolano, Espacio Público, IPYS Venezuela, Un Mundo Sin Mordaza, Civilis, Observatorio Venezolano de Violencia among others.

Within a week the protests had become national news, and on February 12 tens of thousands of people in Caracas and all over the country marched against the police violence in Táchira and against the government.³

Venezuela has a long tradition of street protests against social and economical problems. Since the mid 1990s the protests have multiplied continuously. The 4410 protests in 2013 was an increase from the previous years, but in 2014 that number was surpassed within just a couple of months. During 2014 the government also changed attitude towards the protests. Since 1999 the National Guard, police and other agencies had never repressed more than seven per cent of the reported protests, according to a sample of seven states in the country. But February thru March 2014, 34 per cent of the protests were repressed, almost half of them by the National Guard. Other responsible were armed civilians acting in paramilitary structures, regional police corps and the SEBIN intelligence agency.⁴

During 2014, 36 people died in direct relation to the protests. 19 of these were protesters shot directly by the police, military and armed groups of civilians loyal to the government. Seven were functionaries of the military that the government claims were shot by protesters. Seven died of accidents at the barricades and three were shot to death when cleaning the street of the barricades.⁵

Several participants and witnesses of the protests described to Civil Rights Defenders how the National Guard or other forces arrived at the protests and started shooting tear gas, and beating people completely unprovoked. The police shot several of the protesters with shotguns on very short distance, including in the face and in the crotch, even after the detention. This lack of capacity and will to meet protests pacifically by the security forces explain the large number of deaths, but also the anger among the protesters.⁶

The human rights organisation Provea registered 854 injured individuals related to the protests between February and April 2014 of which protesters were responsible for 74.⁷ The real numbers of injuries is substantially higher though. Civil Rights Defenders interviewed several doctors and nurses that worked outside of the hospitals during the protests treating all kinds of severe injuries, many of which were never reported to Provea. The medical staff also described how security forces entered hospitals arresting injured protesters and even shot through the windows of clinics.

Arbitrary detentions of protesters and activists defending the detained protesters constituted another issue of concern. From February to May 2014, *Foro Penal* registered 3127 detentions, and until March 2015 another 600. Out of this number 358 were under the age of 18. 2005 of the detained were set free with precautionary

³ The violence during the protests has been described in various reports of which the most complete is "Venezuela 2014 – Protestas y Derechos Humanos" Provea et al 2014. Others are: "Punished for Protesting – Rights Violations in Venezuela's Streets. Detention Centers, and Justice System", Human Rights Watch 2014; "Venezuela – Los Derechos Humanos en riesgo en medio de protestas", Amnistía Internacional, 2014; "Febrero: Un golpe a la paz 1a parte – Del 12 al 26 de febrero de 2014", Defensoría del Pueblo 2014.

⁴ "Venezuela 2014 – Protestas y Derechos Humanos" Provea et al 2014.

⁵ "Resumen del Informe del Foro Penal Venezolano ante el Comité de DDHH de la ONU", Foro Penal, June 2015

⁶ "Venezuela 2014 – Protestas y Derechos Humanos" Provea et al 2014.

⁷ "Venezuela 2014 – Protestas y Derechos Humanos" Provea et al 2014.

measures, as prohibition to travel abroad, talk to the media etc. The investigations against them can also be opened again⁸.

In May 2015 there were still 31 people in prison because of their participation in the protest during 2014. There were also another 46 people in prison because of other political reasons⁹. In November 2015 there were still 27 protesters in prison, and 47 other political prisoners. Out of these, six were in prison for criticising the government in social media, two for civil rebellion and 16 for military rebellion.¹⁰

A large part of the detained have been victims of torture and cruel and degrading treatment, including the infliction of punches, kicks, beatings with metallic objects and guns' grips, sexual offenses, electric shocks and harsh verbal aggressions. Particularly serious is the situation in the prison the Security Police SEBIN has built five floors under its headquarters in downtown Caracas called La Tumba, The Tomb. The prisoners are regularly subjected to both physical and psychological torture, isolation, air conditioning put on maximum and without the ability to see daylight or breathe fresh air.¹¹

Not only the protesters and activists were severely repressed, the media was as well. Most of the violations were carried out by the authorities or armed groups loyal to the government, but some also by protesters. The Venezuelan NGO *Espacio Público* registers violations against the freedom of expression of journalists since more than a decade. In 2012 they recorded 248 violations and the year after 289. But in only the first four months of 2014 they recorded 325. There were also several cases of direct censorship of media outlets and harassment from President Maduro himself.¹²

In February 2014 the President of the National Assembly, Diosdado Cabello, launched a new TV-show with the purpose of driving government propaganda and label critics, accusing them of being corrupt traitors, or just mocking them. The show is called *Con el Mazo Dando* – Striking with the hammer – and has a wooden club as a logotype. It is aired weekly for more than two hours on prime time on the main state TV-station. When local NGO IPYS analysed nine shows October through December 2014, they found Cabello referring to critics as fascists and destabilisers, and linking them to a conspiracy in 25 occasions. 165 persons were included in these programs in total. The accusations against them were presented as if secret informants had sent them to Cabello.¹³ This naming and shaming-strategy works as a threat against those mentioned, and creates fear that semi-independent armed groups loyal to the government will attack them.¹⁴

In September the court responsible for the trial against opposition leader Leopoldo Lopez, who was arrested in February 2014, came to an end. The court sentenced him to 13 years and nine months in prison for inciting violence and other acts during the

⁸ "Resumen del Informe del Foro Penal Venezolano ante el Comité de DDHH de la ONU", Foro Penal, June 2015 and foropenal.com March 2015.

⁹ Resumen del Informe del Foro Penal Venezolano ante el Comité de DDHH de la ONU, Foro Penal, June 2015

¹⁰ foropenal.com/detenidos 20151119

¹¹ "Un año en la Tumba", La Razon 20150915, <http://www.larazon.net/2015/09/14/a-un-ano-en-la-tumba/>

¹² "Venezuela – Situación de Derecho a la Libertad de Expresión e Información, Informe 2012", Espacio Público 2013

¹³ "Los mazazos' – contra los medios y la disidencia", Reportes Ipys Vzla, " #2 nota 2, Enero 2015.

¹⁴ An example is the kidnapping and robbery of prominent human rights defender Marino Alvarado on October 1st 2015. <http://www.eluniversal.com/sucesos/151001/secuestran-y-roban-al-activista-de-derechos-humanos-marino-alvarado>

protests.¹⁵ The closed-door trial was described as politically motivated by various Venezuelan human rights groups.

In late August 2015, Nicolas Maduro ordered the closing of the borders with Colombia and ordered state of emergency in the state of Táchira, due to a shootout between Colombian paramilitaries and the Venezuelan border patrols. The following weeks, thousands of Colombians living in Venezuela were deported to Colombia or fled because of fear.¹⁶

The state of emergency has since been extended to 24 municipalities covering most of the border area, and prolonged until the end of December. The state of emergency does not only give the police and military extended powers, but also obliges public gatherings of more than five people to have permission from the police. This fact has created suspicion that the measure is aiming primarily to reduce the opposition's possibility to run the election campaign in the border areas, one of the opposition's main strongholds.¹⁷

Elections 2015

During the last months running up to the election, President Nicolas Maduro has repeatedly made pronouncements that he will not accept that the opposition wins the election and gains a majority in the National Assembly. In a televised speech in June, Maduro said that the Venezuelans should get “prepared for a time of massacre and death if the Bolivarian revolution fails”.¹⁸ A couple of weeks later he claimed that an opposition victory would “unleash a wave of street confrontations” and that he would take to the streets to defend the revolution. In late October he said that he would continue to govern with “a civic military union” even if his party and its allies lost majority.¹⁹ And in mid November he claimed being convinced that the current majority would win, “but if we do not win, I'm cerebrally, spiritually, politically and militarily prepared to assume it and take to the streets”.²⁰

¹⁵ “Venezuela: condenan a Leopoldo López a más de 13 años de prisión” BBC 20150911

http://www.bbc.com/mundo/noticias/2015/09/150910_leopoldo_lopez_sentencia_venezuela_palacio_justicia_ao

¹⁶ “Venezuela: Preocupación por graves violaciones a los derechos humanos en frontera con Colombia” Amnistía Internacional 20150826 <https://www.es.amnesty.org/noticias/noticias/articulo/venezuela-preocupacion-por-graves-violaciones-a-los-derechos-humanos-en-frontera-con-colombia/>

¹⁷ “Venezuela amplía el estado de excepción a la zona fronteriza en el Amazonas”, EFE, published in El Mundo 20151027 <http://www.elmundo.es/internacional/2015/10/27/562ee6aaca4741f62f8b45eb.html> “Estado de excepción en Venezuela complica comicios en municipios fronterizos” La Tercera 20151118

<http://www.latercera.com/noticia/mundo/2015/11/678-656397-9-estado-de-excepcion-en-venezuela-complica-comicios-en-municipios-fronterizos.shtml> “AN aprobó prorrogar Estado de excepción en municipios de Táchira” El Universal 20151027 <http://www.eluniversal.com/nacional-y-politica/151027/an-aprobo-prorrogar-estado-de-excepcion-en-municipios-de-tachira>

¹⁸ “Maduro: ‘Prepárense para un tiempo de masacre y muerte si fracasa la revolución’”, Yusunaby Post 20150606 <http://yusunaby.com/maduro-preparense-para-un-tiempo-de-masacre-y-muerte-si-fracasa-la-revolucion/>

¹⁹ “Maduro: Si la oposición gana ‘no entregaría la revolución’”, EFE, published in Miami Herald 20151029 <http://www.elnuevoherald.com/noticias/mundo/america-latina/venezuela-es/article41875077.html>

²⁰ “Maduro: ‘Me lanzaría a la calle con el pueblo si llegara a ganar la oposición’” Noticias24 20151116

<http://www.noticias24.com/venezuela/noticia/302888/maduro-me-lanzaria-a-la-calle-con-el-pueblo-si-llegara-ganar-la-oposicion/>

During the last year several opposition leaders have been denied the possibility to stand in the elections for clear political reasons. Leopoldo Lopez was sentenced to prison and opposition mayors Daniel Ceballos and Vicencio Scarano, and former member of National Assembly Maria Corina Machado, were denied their right to stand on administrative causes.²¹

Maduro has also recurrently rejected inviting international election observers. In June he said that he would never accept that.²² And when the OAS Secretary General a couple of weeks later claimed it would be important, the Venezuelan election commission reacted aggressively and described the statement as “interventionist”.²³

In a 18 page letter sent to Tibisay Lucena, who heads Venezuela's National Electoral Council (CNE) in November 2015, the Secretary General of OAS Luis Almagro criticised the authorities for failing to ensure fair elections in a vast number of aspects. The General Secretary urged her to respect the democratic principles in the election process.²⁴

A Widespread Attack on Civil and Political Rights

International obligations

Venezuela is party to the International Covenants on Civil and Political as well as on Economic, Social and Cultural Rights (ICCPR and ICESCR). Nevertheless, in the latest UNHRC Universal Periodic Review (UPR) in 2011, the government claimed that the main obstacles to human rights were the political opposition, international media and the Inter-American Human Rights System.²⁵ The government thus ignored the challenges human rights defenders and ordinary Venezuelans have been facing in terms of civil and political rights. The states that took part in the interactive dialogue with Venezuela formulated numerous recommendations concerning freedom of expression, overcrowded prisons and lack of independence of the judicial branch, among many others, of which, a considerable group was rejected by the Venezuelan government.²⁶

As a member of the Organization of American States, OAS, Venezuela is bound by the American Declaration of the Rights and Duties of Man. Venezuela has also ratified the Inter-American Convention on Human Rights and the jurisdiction of the Inter-American Court on Human Rights. However, since 2002 the government has not permitted representatives from the Inter-American Human Rights System, IAHR, to

²¹ “Venezuela opposition leader Leopoldo López jailed for nearly 14 years” The Guardian 20150911 <http://www.theguardian.com/world/2015/sep/11/venezuela-opposition-leader-leopoldo-lopez-sentenced-to-14-years-in-jail>

²² “Maduro descarta a los observadores internacionales: ‘Venezuela no será monitoreada por nadie’”, El Mundo 20150729 <http://www.elmundo.es/internacional/2015/07/29/55b80dc546163fdb1f8b4592.html>

²³ Comunicado del Consejo Nacional Electoral, 20150824 , http://www.cne.gob.ve/web/sala_prensa/noticia_detalle.php?id=3369

²⁴ <http://www.oas.org/documents/eng/press/letter-Mrs-Tibisay-Lucena.pdf>

²⁵ República Bolivariana de Venezuela, Examen Periódico Universal de la Republica Bolivariana de Venezuela, Derechos Humanos para el Buen Vivir (2012) , page 19, Accessed February 2, 2015 <http://www.ohchr.org/EN/HRBodies/UPR/PAGES/VESession12.aspx>

²⁶ “Informe del Grupo de Trabajo sobre el Examen Periódico Universal - Venezuela (República Bolivariana de)” <http://www.ohchr.org/EN/HRBodies/UPR/PAGES/VESession12.aspx>

officially visit the country and verify the human rights situation.²⁷ And, in September 2012 Venezuela denounced the Convention and left it a year later.²⁸

This unwillingness to respect the observations and recommendations of international human rights bodies will in the near future make it necessary for the international community to find other ways to contribute to the improvement of human rights in Venezuela.

1. The right to life and physical integrity

Since the late 80s, violence has become an increasing threat to human rights in Venezuela. The homicide rate rose from 9 per 100 000 inhabitants in the 1980s to 20 in 1998 when Hugo Chavez was elected.²⁹ The violence has since risen to levels among the highest in the world reaching a homicide rate of 82, and a total of 25 000 homicides in 2014.³⁰

The perpetrators are mainly from organised criminal groups, including those claiming to support the government, as well as from the police and military. Among those killed by the police and military forces there were more than 600 extrajudicial executions per year during both 2012 and 2013.³¹

Although Venezuela is party to the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, the Law against Torture has serious shortcomings. It is only applicable when victims are under the custody of a public official, and not when torture, pain or suffering are inflicted by another person exercising public functions or on the street, as was widespread during the protests 2014.³²

2. The right to liberty and security of person

During 2014 and 2015, at least 3700 persons, including more than 370 adolescents, were detained in relation to the protests. As of June 2015 approximately 2000 were still under precautionary measures such as being under prohibition to leave the country or talk to the press. At the end of the 2014, 63 were still in prison and by the end of May 2015, 31. In November 2015, the total number of political prisoners in the country stands at 74.³³

The conditions of prisons and the environment for inmates in Venezuela in terms of security, infrastructure and administration is one of the worst in the world. Out of the 51 000 prisoners, more than 60% have not received sentences. The level of violence within the prison system is extremely high. Since 2004 at least 4791 people have been killed,

²⁷ HRW 2012, p. 45

²⁸ OAS (2013.09.10)

http://www.oas.org/en/iachr/media_center/PReleases/2013/064.asp

²⁹ Tres fases de la violencia homicida en Venezuela, Ciencia & Saúde Colectiva 2012.

³⁰ Observatorio venezolano de violencia 2014, accessible at observatoriodeviolencia.org.ve/

³¹ "Observaciones finales sobre los informes periódicos tercero y cuarto combinados de la República Bolivariana de Venezuela" Comité contra la Tortura de la ONU, (2014.12.12).

³² Ibid

³³ foropenal.com/detenidos

and 9931 injured.³⁴ During 2014, 309 inmates were killed; which nevertheless was a significant drop from the previous ten years.³⁵

3. The right to a fair trial and an effective remedy

International human rights law provides that all individuals have the right to a fair trial and effective remedy. However, this right has been seriously challenged due to structural, but also ideological gaps within the Venezuelan judiciary.

Detention times before formal presentation to a judicial officer often exceed the maximum deadlines. As an example, most of the detentions of protesters during 2014 were made on flagrant allegations and without basic burden of proofs. Documents from courts often mention the assumed political position of the detainee, and what consequences these opinions supposedly have had for the country.

The lack of judicial independence has been evident during the recent years, as government officials publicly accuse human rights activists, opposition leaders, journalists, etc of conspiracy, being CIA agents or instigators against the revolution. These public accusations often end with judicial processes. In 2009, for example, President Chavez denounced the judge María Lourdes Afiuni as a “bandit” on national TV after she had authorised the conditional release of a government critic who had spent three years in prison awaiting trial, and called for her to be sentenced to 30 years in prison.³⁶ Afiuni later spent three and a half years in prison and under house arrest, until she was released under precautionary measures.³⁷

Another example is the case of opposition leader Leopoldo Lopez, who in February 2014 handed himself in after a mediated persecution for instigating the protests. When the trial opened in July 2014, President Nicolas Maduro explained: “[Lopez] has to pay, and he will pay, it is that easy”. Maduro also claimed that Lopez was “responsible for crimes, violence and destruction of human lives”.³⁸ In September 2015 Lopez was sentenced to 13 years and nine months in prison for inciting violence during the protests. According to his defence team, the judge heard 138 witnesses for the prosecution but only one of the 50 witnesses and pieces of evidence submitted by the defence.

Corruption and impunity are also serious concerns for human rights in Venezuela. In 1998 there were 4550 homicides in the country, and 5017 detentions for homicide, slightly more than one detention per homicide. In 2008 the number of homicides had tripled to 14589, but the detentions dropped to 1356. The police detained less than one person for every ten homicides in the country that year. The impunity was almost total,

³⁴ “Observaciones finales sobre los informes periódicos tercero y cuarto combinados de la República Bolivariana de Venezuela” Comité contra la Tortura de la ONU, 20141212.

³⁵ Observatorio Venezolano de Prisiones, Informe Anual 2014.

³⁶ HRW 2012. p. 30

³⁷ NYT 20130615 http://www.nytimes.com/2013/06/15/world/americas/court-in-venezuela-orders-release-of-a-judge-once-scorned-and-jailed-by-chavez.html?_r=0

El Universal 20130614

<http://www.eluniversal.com/nacional-y-politica/130614/cronologia-del-caso-de-la-juez-maria-lourdes-afiuni>

³⁸ La Nacion 20140724

<http://www.lanacion.com.ve/nacional/maduro-dice-que-lider-leopoldo-tiene-que-pagar-y-va-a-pagar/>

and the situation has not improved since. The impunity as such is also one of the main causes of the radical increase in homicide the last decades.³⁹

At the same time the risk for the police falling victim to violence has increased considerably. In 2010, 59 police officers were killed in the metropolitan area of Caracas. In 2012 it was 106 and in 2014 132. At least 250 police officers were killed nationwide in 2014.⁴⁰ This trend demoralises the entire police force and pushes officers to leave the police and start working for private security companies.⁴¹

4. The right to the freedom of expression

The new Constitution Hugo Chavez promoted just after assuming power in 1999, states that:

*“Everyone has the right to express freely his or her thoughts, ideas or opinions orally, in writing or by any other form of expression, and to use for such purpose any means of communication and diffusion, and no censorship shall be established”.*⁴²

Nevertheless, the freedom of expression has become severely curtailed since the adoption of the new “broadcasting law” in 2004. The law establishes several controls over the content and the country’s mass media, including the suspension of channels for the offense of “encouraging unrest among citizens or disturbing the public order”⁴³

The enforcement of the law is in the hands of CONATEL (*Comisión Nacional de Telecomunicaciones*) – a government agency that answers directly to the vice president of the country. CONATEL can also censor radio stations, television broadcasters and electronic media by ordering them to abstain from issuing messages that could violate the law.⁴⁴

Through CONATEL the government has also prohibited commercial spots on TV that criticise government policies, a decision that the Supreme Court upheld.⁴⁵ The government has also obliged private TV channels to air spots celebrating the government and smearing protesters for free.⁴⁶

The government has increased its control over the media in Venezuela, and controls a number of TV-channels, a news agency and a whole conglomerate of newspapers, radio stations, websites and a magazine within the National System of Public Media.⁴⁷ Under allegations of administrative irregularities and lack of compliance with the law,

³⁹ Briceño-León, Roberto, Alberto Camardiel y Olga Ávila “La impunidad como causa de la violencia homicida” en *Violencia y institucionalidad – informe del Observatorio Venezolano de Violencia 2012 and Country Reports on Human Rights Practices for 2014 Venezuela*, US Department of State.

<http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/#wrapper> ; Venezuela 2014 protestas y derechos humanos

⁴⁰ El universal 20141205, El Nacional 20150112. Voz de América 20141223.

⁴¹ Informe del Observatorio venezolano de violencia 2014, accessible at observatoriodeviolencia.org.ve/

⁴² Article 57 of the Constitution of the Bolivarian Republic of Venezuela, venezuela-us.org/live/wp-content/uploads/2009/08/constitucioningles.pdf

⁴³ Ley de Responsabilidad Social en Radio y Televisión y Medios Electrónicos, Article 29

⁴⁴ HRW 2012, p. 49f

⁴⁵ HRW 2012, p. 21f

⁴⁶ HRW 2012, p 25

⁴⁷ HRW 2012, p 81f

several radio and TV stations have been shut down through discretionary decrees.⁴⁸ One of the first to be closed down was Radio Caracas Televisión (RCTV), a private channel who had been transmitting since 1953. It was closed down in May 2007. In 2015 the Inter-American Court of Human Rights ruled that the RCTV should be given back its frequency, as it had been close down because the government wanted to silence its critical editorial line.⁴⁹

The main independent newspapers such as *El Nacional*, *El Universal* and *Tal Cual* have been unable to purchase dollars to the official rates, which limits their ability to import paper for publishing purposes. The lack of paper is the main reason as to why many publications carry less than half the number of pages now compared to a couple of years ago. This problem does not affect newspapers loyal to the government to the same extent.

Freedom of expression advocate *Espacio Público* continuously reports on physical and oral aggression, judicial harassment and administrative obstructions against journalists perpetrated by the police, military and other actors loyal to the government. Nevertheless, aggression has not been an exclusive feature of just government supporters. In fact, journalists have also been attacked when covering opposition events although to a lesser extent.⁵⁰

Another challenge that has emerged for human rights activists relates to the lack of transparent information available from governmental bodies.⁵¹ The norms on how to manage public information established in 2010 severely limit the public's access to information by giving the public entities the right to classify information according to its own priorities.⁵² Since the adoption of the norms it has become increasingly difficult for non-governmental actors to get access to public information.⁵³

5. The right to political rights

According to Article 67 of the Constitution, political parties are banned from receiving public funding.⁵⁴ However in practical terms that provision only applies to the opposition. TV-shows on national channels, as well as social programs funded by the government are continuously used to promote the ruling PSUV-party.

The Supreme Court has ruled that it is possible to ban individuals from running for public office even before being charged or sentenced for corruption. This has been used against several senior opposition politicians from various parties.⁵⁵

⁴⁸ http://elpais.com/diario/2009/08/02/internacional/1249164003_850215.html;

<http://www.laprensa.hn/mundo/americalatina/357061-98/canal-opositor-venezolano-cumple-cinco-años-cerrado>

⁴⁹ Sentencia sobre el cierre de Radio Caracas Televisión (RCTV) en Venezuela

http://www.corteidh.or.cr/docs/comunicados/cp_26_15.pdf

⁵⁰ Carlos Correa (ed.), Venezuela, Situación del Derecho a la Libertad de Expresión e Información 2012. (Caracas: Espacio Público, 2013), 13 – 18

⁵¹ Inter-American Commission for Human Rights, Democracia y Derechos Humanos en Venezuela (Organization of American States, 2009), 174 <http://www.cidh.org/pdf%20files/VENEZUELA.2009.ESP.pdf>

⁵² Normativa de clasificación y tratamiento de la información en la administración pública. (Article 14 and 17 Parágrafo Único) *Gazeta Oficial de la República Bolivariana de Venezuela*, 21 de diciembre 2010.

<http://www.tsj.gov.ve/gaceta/Diciembre/21122010/21122010-3031.pdf#page=46>

⁵³ HRW 2012, P.111.

⁵⁴ Constitution of the Bolivarian Republic of Venezuela, Article 67: *No se permitirá el financiamiento de las asociaciones con fines políticos con fondos provenientes del Estado*

⁵⁵ HRW 2012, p 28

The detentions of opposition mayors Daniel Ceballos, Enzo Scarano and Antonio Ledezma in early 2015, and the destitution of Maria Corina Machado as member of the National Assembly in 2014 were clearly violations of their political rights as well as the rights of their voters.

When opposition election observers presented a long list of irregularities after the presidential elections of 2013, the incumbent President Nicolas Maduro first promised to investigate them, but later refused to do so, creating a suspicion that the votes of many citizens were never counted for.

6. The right to freedom of assembly and association

Since the creation of “security zones” in 2002, public manifestations or protests have been limited or prohibited in as much as 30 per cent of Venezuelan territory. Despite the constitutional protection contained in articles 53 and 68 regarding freedom of assembly and therefore demonstrations, an extraordinary ordinance from the Supreme Tribunal of Justice (TSJ) on April 24, 2014 suspended the guaranties for the exercise of pacific protests.⁵⁶

The same judicial authority has ruled that NGOs receiving financial support from abroad could also be charged with treason if the received resources are used against the Republic.⁵⁷ Additionally, a law from 2010 concerning the defence of national self-determination against external involvement through organisations working with political aims or in favour of political rights, prohibits such organisations from receiving economic support from international sources, and obliges them to exist exclusively on national funds.⁵⁸

In 2009, the Inter American Commission for Human Rights expressed its concern in respect to a survey in which the Venezuelan Central Bank asked 500 questions on sensitive financial information from many of the main human rights organisations in the country.⁵⁹

In January 2015 the Venezuelan Defence ministry adopted a resolution on how the national armed forces should be used when controlling public order at outdoors protests and demonstrations⁶⁰. The resolution legitimises the use of the armed forces on these situations, in total contradiction with international standards and the Venezuelan Constitution, which establishes that the police are the authority in charge of controlling demonstrations and protests. The resolution also legitimises the use of “potentially lethal force, be it with a firearm or with another potentially lethal weapon” when a soldier is in risk of death. Within the context of the last years’ protests, this resolution creates the risk of legitimising the direct use of lethal violence by armed forces in controlling a demonstration.

⁵⁶ “Venezuela 2014 – Protestas y Derechos Humanos” Provea et al 2014. P. 58

⁵⁷ HRW 2012, p. 18

⁵⁸ Ley de defensa de la soberanía política y autodeterminación nacional, *Gazeta oficial* 23 de diciembre 2010, <http://www.minamb.gob.ve/files/leyes-2011/No6013ledespan.pdf>

⁵⁹ “Democracia y Derechos Humanos en Venezuela 2009”, Inter American Commission for Human Rights, p 154

⁶⁰ “Normas sobre la actuación de la fuerza armada nacional bolivariana en funciones de control del orden público, la paz social y la convivencia ciudadana en reuniones públicas y manifestaciones.” Resolución 008610 del Ministerio del Poder Popular para la Defensa, *Gazeta oficial de la república bolivariana de Venezuela*, 27 de enero 2015.

7. The right to protection against hate speech and war propaganda

The polarisation of Venezuelan politics is widely a result of the excessive use of disqualifying adjectives by government officials against their critics. Verbal attacks have also been levied against easy-identifiable targets such as foreign governments and organisations. Much of these have their origin in the TV-show *Con el Mazo Dando* of the speaker of the National Assembly Diosdado Cabello. When the local NGO IPYS analysed nine shows broadcasted October thru December 2014, they found that Cabello had referred to critics as fascists and destabilisers, and linked them to a conspiracy in 25 occasions. In total 165 persons were mentioned in these programs.⁶¹

Another important example of the government hate speech against critics was a declaration of Venezuelan Ambassador to the OAS, Roy Chaderton, in March 2015. In a discussion on national TV about the so-called threat of an US invasion, Chaderton described the difference in sound between a bullet passing the head of a chavista – a government supporter - and the head of a “squalid one” - a government critic. He said that “the sound a squalid head produces is much lower, it is like a snap, as the cranial vault is hollow”.⁶²

8. The right to protection against discrimination

The Venezuelan Constitution prohibits discrimination and discriminatory messages. Nevertheless, in late August and beginning of September 2015 more than 1 000 Colombians were deported from Venezuela to Colombia and tens of thousands fled of fear, after the Venezuelan President Nicolás Maduro publically accused Colombians living in Venezuela of being paramilitaries, smugglers and the ones causing food shortages.⁶³

In addition to these accusations, thousands of houses where Colombians used to live were raided and destroyed by official forces that did not have a judicial warrant. Colombians who were deported were neither given the opportunity to challenge their expulsion from Venezuela nor the opportunity to pick up their belongings.⁶⁴

9. The right to respect for private and family life

Due to the state of insecurity and proliferation of violence surrounding political demonstrations across the country, respect for private and family life has been ignored in many occasions. Assaults on Venezuelans’ residences were indiscriminately done by official forces in complicity with private gangs during the protests in 2014. In several occasions during the protests, official forces fired tear gas into homes without taking into account the possible presence of children and elderly. Threats and intimidations

⁶¹ “Los mazazos’ – contra los medios y la disidencia”, Reportes Ipys Vzla, ” #2 nota 2, Enero 2015.

⁶² Zurda Konducta, 9 marzo 2015.

http://www.diariolasamericas.com/4848_venezuela/2993113_chaderton-una-bala-por-la-cabeza-de-un-escualido-opositor-pasa-rapido-y-suena-hueco.html

⁶³ La crisis de Venezuela se extienden a la frontera colombiana. Available at <http://blog.crisisgroup.org/latin-america/2015/09/02/los-peligros-de-venezuela-se-extienden-a-lo-largo-de-la-frontera-colombiana/>

⁶⁴ <https://www.es.amnesty.org/noticias/noticias/articulo/venezuela-preocupacion-por-graves-violaciones-a-los-derechos-humanos-en-frontera-con-colombia/>

against families and close relatives are often employed as a means to create false statements and facilitate conviction of human rights defenders.

According to various lawyers representing the protesters during 2014, it has become a rule that the police confiscate the cell phones of the detainees and never return them, creating suspicion that they use contacts and images to map potential networks of critics.⁶⁵

10. The right to freedom of thought, conscience and religion

Despite the formal freedom that the Constitution grants freedom of conscience, discrimination because of political opinions has been common during the last years. Critics to the government have been fired from state agencies and from the national oil company.⁶⁶ Access to social programs has also been denied to critics of the government.⁶⁷

The reduction of political pluralism in the country and the constant attacks of the government against their critics constitute a risk for Venezuelans' freedom of thought because they became afraid of thinking and expressing opinions contrary to the government's ideology.

Two Cases of Physical and Psychological Abuse

The repression against people critical of the government, or that the government suspected of being critical, was constant during the protests of 2014. In this part of the report we use two cases as examples on how the police and the judiciary used both violent and non-violent measures to intimidate individuals.

The two cases are not interesting because of their particularities or seriousness. People being shot to death by the police, or who spent more than a year behind bars have suffered a lot worse. However, these cases are interesting because they represent the widespread violations against students and human rights defenders during the last years. Some two thousand people have been detained, smeared and formally accused of serious crimes in similar ways. Many of them have been severely beaten and tortured, and the vast majority have still not been taken to court. With very few exceptions the security personnel responsible for the violence have not been investigated or punished.

In the long run, the scope of the government's strategy will likely have more impact on the citizens, than the seriousness of each case. When the repression is normalised it seriously damages the capacity of society to rise up against injustices or individual's interest to get involved in political activities.

⁶⁵ This information was presented to Civil Rights Defenders in meeting with lawyers working with Foro Penal Venezolano, in Venezuela in december 2014

⁶⁶ <http://www.derechos.org.ve/2015/11/09/correo-del-caroni-protostar-y-disentir-se-paga-con-despidos-en-las-empresas-estatales-2/>

⁶⁷ <https://www.hrw.org/reports/2008/venezuela0908/1.htm>

Carlos Villamizar Guerrero

Carlos Villamizar Guerrero was 20 years old when he was arrested outside his university, *Universidad Nacional Experimental de Táchira*, in San Cristobal de Táchira on October 6, 2014.⁶⁸ In an interview with Civil Rights Defenders he described how some protesters were already outside the gates of the university, and the police nearby as he was arriving. Even though he was not taking part in the protests a police officer aimed at him with his gun and another officer hit him down and ran him over with his motorbike. After that several policemen beat him up and put him into a police truck where the beating continued. The policemen covered his face with cloth so that he could not see the perpetrators. After a couple of hours, while he was still handcuffed, they took him to a forensic doctor who made a superficial examination claiming he was fine. Villamizar Guerrero was then sent to a cell where he stayed for approximately 48 hours without being offered food, drink or the possibility to go to a bathroom.

The police' version of the facts differs radically from Villamizar Guerrero's, but it is also contradictory. According to the police report, masked protesters, including Villamizar Guerrero, threw rocks, grenades and Molotov cocktails at the police, who responded with tear gas and shotguns with plastic bullets. Nevertheless, in the report from the technical inspection of the area where the protest took place, the police observed no evidence of criminal activities and added five photos to support the statement. There was no rests of roadblocks, grenades or Molotov cocktails.

According to the police, Villamizar Guerrero was detained with a backpack containing two caps, a metallic tube used to shoot grenades, a facemask, dark swimming goggles, a gas mask, and two cell phones. However, according to Villamizar Guerrero, none of these items except for the cell phones were his, but had been put in his bag by the police.

On October 8 2014 the case was submitted to the court. According to the case file the judge decided to hold Villamizar Guerrero in custody arguing that he was formally suspected of sedition, making explosives and blocking a public road. The judge also claimed that Villamizar Guerrero's right to protest had a limit: "It is impossible to put individual rights over collective, when it threatens the right to health, freedom of movement and the right to life."

During custody, Villamizar Guerrero shared a cell with some ten other inmates, accused of common crimes and was forced to sleep on the floor since there were no beds. He did not get any medical treatment for his injuries and on October 12 he fainted. He was then taken to a hospital where the journal states that he did not react to pain or talk, had several injuries and bruising in his face and body and a swelling in the brain. According to Villamizar Guerrero all the injuries were caused by the motorbike running over him and the beatings from the policemen that detained him. Villamizar Guerrero was then kept at intensive care for a couple of days, and later on at a regular ward. He lost the feeling in his legs and arms for several weeks.

⁶⁸ The police report as well as other legal documents concerning the case of Carlos Villamizar Guerrero were handed over to Civil Rights Defenders by his family

On November 5 2014 the judge's decision was changed to house arrest and he was sent home, still sitting in a wheel chair. Since December 17 2014, Villamizar is obliged to present himself before the court every two weeks, and no date has been set for the trial.

Rodrigo Diamanti

Rodrigo Diamanti is a human rights activist since many years and one of the founders of the organisation "*Un mundo sin mordaza*" – A world without gag – which has the purpose of using cultural events to promote freedom of expression.⁶⁹ Diamanti has participated in many international events talking about the human rights' challenges in Venezuela and gathering support for the work of the organisation. He also participated in the nationwide anti-government protests during the spring of 2014.

On May 7 2014 when Diamanti was about to travel abroad to participate in a human rights event, the Bolivarian Intelligence Service, SEBIN, arrested him at the Caracas airport. He was taken to the headquarters of SEBIN and remained under complete isolation for approximately 48 hours. After which his case was presented before a judge. According to the case file, a public prosecutor accused him of complicity of attacking the security of public roads and of possessing explosives.

In the documentation from the court in Caracas, the judge claims that an informant had provided SEBIN with the information that a group of six people was planning to acquire five thousand "*Miguelitos*" - small spike strips - and "continue with the violent actions in the streets, which aims to destabilise the existing order". However, Rodrigo Diamanti did not figure among the people in the group and SEBIN did not present any evidence suggesting Diamanti was part of the plan. When the judge interrogated Diamanti, her questions were mainly about Diamanti's international work on human rights and whether *Un Mundo Sin Mordaza* was registered with the UN or the OAS or not. According to the protocol, she did not ask Diamanti if he had taken part in the actions of which he was accused, or if he knew the six people on the list of SEBIN.

Even though Diamanti's lawyer argued there was no evidence against him, that his rights were being violated, and that he was willing to collaborate with the authorities, the judge imposed the precautionary measure of prohibiting Diamanti of traveling abroad until the case was resolved in court.

According to the lawyer's appeal against this precautionary measure, there are several other legal problems in the case. The security officers who arrested Diamanti had no warrant for the arrest, as required by the Constitution unless the arrest occurs in flagrancy. At the moment of the arrest the SEBIN also seized Diamanti's Venezuelan and Italian passports, his wallet and his cell phone, of which nothing has been returned.

On May 12 2014 Diamanti was called to the SEBIN headquarters and interrogated again for more than six hours. Just after the interrogation the Speaker of the Venezuelan National Assembly, Diosdado Cabello, brought up Rodrigo Diamanti together with some 30 other government critics in his weekly television show "*Con el Mazo Dando*" -

⁶⁹ The legal documents concerning the case of Rodrigo Diamanti were handed over to Civil Rights Defenders by Diamanti himself.

“Striking with the hammer” – broadcasted on the state’s main television channel.⁷⁰ Diosdado Cabello indicated that Diamanti’s work had been financed from abroad, and that Diamanti’s international network showed his compliance with foreign political interests. Cabello even described Diamanti as “Washington’s main representative” within the organisation *Un Mundo sin Mordaza*.

The coming months Diamanti was mentioned several times in the TV-show. On December 3, Diosdado Cabello brought him up again and talked about one of Diamanti’s childhood friends and accused him of financing *Voluntad Popular*, the political party of imprisoned opposition leader Leopoldo López. However, according to Rodrigo Diamanti his friend has no connection to Venezuelan politics whatsoever.

On March 19 2015 Diamanti was victim of a robbery in Caracas after visiting the office of a NGO. Six gunmen on three motorcycles threatened to kill him if he did not give them his phone. A month later, on April 27 Diamanti was kidnapped by three gunmen for three hours and was released only after his family paid the kidnappers. Both incidents were reported to the authorities but there have not been any further investigations yet. It is still unclear if these incidents were related to Diamanti’s work as a human rights defender, a consequence of Diosdado Cabello statements against Diamanti or if there were consequences of the increasing insecurity Venezuelans are exposed to.

The political persecution against Rodrigo Diamanti and the NGO *Un mundo sin mordaza* has been the subject of different pronouncements of UN bodies. On May 16 2014 the UN Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, the Special Rapporteur on the rights to freedom of peaceful assembly and of association and the Special Rapporteur on the situation of human rights defenders, sent a requirement to the Venezuelan government in which among other things they ask for further information about the judicial process against Diamanti⁷¹.

On July 01 2015, the UN Human Rights Committee asked the Venezuelan government to inform the Committee about the state of the judicial process against Diamanti and the nature of the crime he had been accused of. On October 19 2015 the case of Diamanti together with the cases of other human rights defenders were also presented to the Inter-American Commission on Human Rights. In the hearing, the Venezuelan government refused to being persecuting human rights defenders and claimed that the judicial investigations against them were the result of their possible participation in crimes defined in the Venezuelan legislation⁷².

Rodrigo Diamanti had not been taken to court when this report was finalised in November 2015.

⁷⁰ Con el Mazo Dando 20140512 <http://bit.ly/1KhU7YA> The government loyal daily newspaper *Últimas Noticias* reproduced the list of alleged “conspirators” and Cabello’s comments about them “Esta es la lista de ‘conspiradores’ anunciada por Diosdado Cabello”, *Últimas Noticias* 2014.05.13 <http://bit.ly/1M6vyeN>

⁷¹ [https://spdb.ohchr.org/hrdb/27th/public - UA_Venezuela_16.05.14_\(4.2014\).pdf](https://spdb.ohchr.org/hrdb/27th/public_-_UA_Venezuela_16.05.14_(4.2014).pdf) (20 November 2015)

⁷² https://www.youtube.com/watch?v=qw_sly5Y4vU#t=46 (20 November 2015)



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