

Arbitrary Detentions in Venezuela: Failure to Release Detainees Granted Bail

Joint Statement by the Venezuelan Penal Forum and Human Rights Watch

More than 5,300 people have been detained in the context of massive anti-government demonstrations in Venezuela since early April, according to a tally by the Venezuelan Penal Forum, a network of lawyers who provide pro-bono legal defense to detainees nation-wide. As of August 22, approximately 1,000 remained behind bars.

There are more than 640 people who, for political reasons, have been sentenced, being prosecuted, or ordered to remain in pre-trial detention while they await criminal prosecution (called “political prisoners” by the Venezuelan Penal Forum), some who have yet to be brought before a judge, at least 19 who have been granted a judicial order for their release but whom intelligence officers refuse to let go, and more than 100 who have been granted a judicial order to be released on bail but justice officials delay processing the bail for prolonged periods of time.

No monetary payment is required for release on bail in Venezuela. Venezuelan law allows judges to release people facing criminal prosecution if they present a guarantor who can assure the judge the detainee will present him or herself before the court during the process. However, the implementation of such measures has been unduly delayed by justice officials, leaving these people in arbitrary detention for periods of up to several months. The continued detention of such individuals after their release has been ordered is arbitrary and unlawful under international human rights law.

The following are some accounts by lawyers who provided legal support to people who were or continue to be held in detention arbitrarily, having had their judicial order granting their release on bail effectively ignored for weeks:

On April 13, members of armed pro-government gangs called “colectivos” detained Alberto Brito and Maribel Ilarraza in separate incidents in Caracas—Brito was leaving his home, while Ilarraza was returning home from work. Both were handed over to the Bolivarian National Guard, then to investigative police officers, and then back to the Bolivarian National Guard. The two detainees were eventually taken together before the same court in Caracas, where a judge charged them with “instigation to commit crimes” and “holding incendiary substances” during an anti-government demonstration. The judge imposed bail on Brito and authorized Ilarraza’s release without a guarantor, but requested a statement (*caución juratoria*) that she would present herself before the court. However, the court has since failed to process the paperwork that Brito’s and Ilarraza’s lawyer filed in their cases. They remain in detention.

On May 19, investigative police officers detained Yusmari Cañizalez, Haydee Brusco, and Caride Malavé—mother, daughter, and granddaughter respectively—in their home in Miranda state. A police report seen by their lawyer said they had been caught *in flagranti* while they were looting a toy store nearby. On May 21, the three were taken before a judge in Los Teques and charged with “taking advantage of products that derive from the crime” of looting. The judge ordered their conditional release after they presented guarantors. Although the lawyer claims he filed all the paperwork that same day, Cañizalez was released on July 7—50 days after her arrest—while Malavé and Brusco remained behind bars for 72 days, until July 29.

On May 25, Aragua state police forces detained Walter José Yepez Vargas, a 19-year-old student, as he was leaving a demonstration. On May 27, he was brought before a judge. Even though the

prosecutor present at the hearing did not charge Yepez with any crime, the judge charged him with obstructing and damaging public roads, and ordered his release on bail after he presented six guarantors. However, the court rejected the guarantors presented by Yepez for different reasons, including that one had included his cell-phone instead of a landline to be reached. Forty days later, after increasing public pressure, a court ordered his conditional release without any guarantors.

On July 20, members of the Bolivarian National Guard detained Francisco Gamboa, a student and musician, who was inside a family member's home in Mérida. On July 23, Gamboa was taken before a criminal judge and charged with public instigation to commit crimes. The judge allowed his release on bail, after he presented a guarantor before the court. Becerra's lawyer filed the paperwork for his release that same day, as well as subsequent documentation additionally requested by the court, but Becerra remained in detention 27 days, until August 15.

On July 22, Ferney Becerra Pérez, a private security guard, was brought before a criminal court in Mérida, two days after being detained by members of the Bolivarian National Police while he was eating a hamburger in a street kiosk. The prosecutor did not charge Becerra with any crime and requested his release, but the judge nonetheless charged him with "public incitement to commit crimes" and ruled he would be released only after presenting two guarantors before the court. Becerra's defense attorney filed the paperwork for his release on the same day, but he remained in detention 26 days, until August 14.

On July 27, members of the Bolivarian National Guard detained Wully Arteaga, a violinist who has become a symbol of peaceful protest in Venezuela, during a protest in Caracas against the government's plan to convoke a Constituent Assembly. On July 30, Arteaga was taken before a civilian judge, but neither his family nor lawyer were told when the hearing took place, even though they had seen him arrive at the courthouse and were waiting outside for official information about which court would take the case. His lawyer later learned from an official with the court that the judge said Arteaga would be defended by a public defender and a prosecutor had charged him with possessing inflammatory substances, public incitement to commit crimes, and association to commit crimes. In that hearing, the judge ordered he could be released upon presentation of a guarantor.

When his lawyer eventually had access to the case file, he filed the paperwork for the guarantor but Arteaga was not released. The judge only let Arteaga go on August 15, after his case received huge international attention and his release was publicly and formally requested by Tarek William Saab—the attorney general appointed by the pro-government Constituent Assembly. Members of the National Guard drove Arteaga to a park in Caracas and dropped him off, without notifying his lawyers or family of his release. Arteaga is required to present himself before the court periodically and cannot participate in demonstrations.