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April 5, 2011

Ricardo Martinelli
President of the Republic of Panama
Palacio de Las Garzas, Corregimiento de San Felipe
Presidencia de la República, Panamá 1
Via express mail and fax
Republic of Panama

Dear Mr. President,

The Human Rights Foundation (HRF) respectfully writes to you, as president of the Republic of Panama for three reasons: 1) to express our concern regarding your statements made on February 26 and February 28, 2011, wherein you justified the detention and arbitrary expulsion of the Spanish journalists and human rights defenders, Paco Gómez Nadal and Pilar Chato; 2) to inform you of the treatment which, in accordance with its international obligations, the Panamanian government must give to foreign journalists and human rights defenders; 3) to ask you to take all necessary measures to guarantee that these individuals can return freely and safely to Panama.

On February 26, 2011, at 7:51 pm, four hours after Gómez Nadal and Pilar Chato were detained, the office of the President of the Republic sent the Panamanian press a statement titled: "Police detains foreigner inciting violence." The presidential statement said:

The National Police detained the foreigner Francisco Gómez Nadal while he was instigating and organizing a group of citizens as they were preparing a demonstration at the National Assembly. *The foreign citizen's participation has been fully documented in footage from surveillance cameras.*

The National Government has denounced that, in clear violation of the law, foreign citizens not only participate in demonstrations, but also *incite indigenous Panamanians to defy national authorities. Foreigners are banned from participation in all kinds of political activity or protests.*

On Monday, February 28, hours after Gómez Nadal and Pilar Chato were expelled from Panama, you declared to several media outlets:

A person that becomes an activist, that throws himself on to the street, incites violence, incites chaos, that's another thing. No foreigner can come to Panama to incite violence, because... I'll ask any of you, you and everybody, when you go to Spain or to any country, and cause chaos, violence, throw yourself into the street, you get deported.

Today, HRF published a [legal report](#) that reviews the events that took place on February 26, 27, and 28, 2011, in detail—in particular, the footage captured by the surveillance cameras, press releases by both independent and official media, statements made to the press by government officials, and the resolutions of the National Immigration Service (SNM). In contrast to that which you and some government officials have asserted since February 26, HRF's report concludes that Gómez Nadal and Pilar Chato did not “participate” in the February 26 protest, nor did they “throw themselves on to the street,” “instigate” a group of citizens to engage in a demonstration to “create chaos” or violence, or “incite” “indigenous Panamanians to defy national authorities.”

On the contrary, HRF's report concludes that Gómez Nadal and Pilar Chato were detained, arrested, and arbitrarily expelled from Panama for engaging in journalism critical of the government and conducting legitimate activities as human rights defenders.

Gómez Nadal and Pilar Chato are journalists and human rights defenders. The Panamanian state granted Gómez Nadal permanent residence status in February 2007, when he was still an advisor to the board of the Panamanian newspaper *La Prensa*. Since May 2007, Gómez Nadal has published a weekly opinion column in the same periodical, while Pilar Chato is an editor for the Spanish journal *El Diario Montañés*, and has lived in both Spain and Panama since July 2010. Both are volunteer members of the human rights advocacy organization Human Rights Everywhere (HREV), whose work concentrates on the human rights situation of the indigenous peoples of Panama.

Gómez Nadal's opinion columns have been very critical of your government, as well as that of your predecessor, President Martin Torrijos. Along these lines, multiple reports by HREV have documented several violations of human rights and, consequently, criticized the different official bodies of the Panamanian state. In July 2010, for example, HREV documented and criticized the use of excessive force by police in the repression of a demonstration in the town of Changuinola.

In order to document these types of human rights violations, the work of HREV has typically included properly identified staff to accompany the demonstrations of indigenous communities on the ground, with the objective of monitoring them, raising awareness in the public about possible violations of human rights, and documenting them if they occur. With this goal in mind, during the afternoon of February 26, Gómez Nadal and Pilar Chato were monitoring the demonstration staged by about twenty members of the Ngäbe-Buglé peoples in front of the National Assembly, protesting against the recently approved reforms to the mining code in

Panama. The protesters were standing on 5 de Mayo Street, on the corner of L Street, holding banners and flags from sidewalk to sidewalk and blocking vehicle traffic.

The images provided by your own government confirm that neither Gómez Nadal nor Pilar Chato participated in the protest at any point. Instead, they performed their monitoring roles at all times. In these images, Gómez Nadal appears alternately filming the protest with a small video camera, talking on a cell phone, and speaking to a police officer and his colleague, Pilar Chato. During the entire video, Gómez Nadal can be seen wearing HREV credentials.

When a group of 40 policemen arrived at the demonstration, Gómez Nadal began filming the police officers who were standing next to the protesters lying on the ground. Upon seeing the police approaching, the protestors put down their banners and lay down peacefully on the ground, in order to be carried away from the area. Five seconds later, a police officer ran toward Gómez Nadal, took his camera and, with the help of two other policemen, subdued him by taking him by both arms. While Gómez Nadal was being detained, two other police officers identified and detained Pilar Chato, who was standing on the sidewalk several meters away. Gómez Nadal and Pilar Chato were then forced into two different police pickup trucks, while the other officers proceeded to do the same with the protesters lying on the pavement.

Soon after, the demonstrators were verbally reprimanded and sanctioned with a \$15 fine for staging a protest that blocked a public road. However, Gómez Nadal and Pilar Chato, neither of whom participated in the protest, remained under custody for almost 48 hours in three different detention centers, and were later expelled to Spain. On February 27, the SNM issued two resolutions ordering the indefinite detention of Gómez Nadal and Pilar Chato, subject to deportation of the detainees.

On February 28, they opted to “accept” the “voluntary repatriation” option proposed by the SNM, given that, under these circumstances, their only real alternative was to remain imprisoned indefinitely and then be deported. HRF considers that a “voluntary repatriation,”—12 hours after notification of an indefinite arrest warrant, and subject to a future decision of deportation at the discretion of the same authority who issued the arrest warrant—is equivalent to an expulsion.

Mr. President, the American Convention on Human Rights (Article 22.6) and the International Covenant on Civil and Political Rights (Article 13), both treaties signed by Panama, establish that an alien who is legally in the territory of a state cannot be expelled without due process. In the case of *Hammel v. Madagascar*, the U.N. Human Rights Committee determined that these guarantees must be applied with special attention in cases where the expulsion of an alien may be related to the undertaking of legitimate activities in the defense of human rights.

According to the facts thoroughly analyzed by HRF in its report, the measures of Gómez Nadal and Pilar Chato’s detention, arrest, verbal reprimand, and indefinite detention subject to deportation are all directly related to the undertaking of legitimate activities in the defense of human rights. On February 26, Gómez Nadal and Pilar Chato were engaged in the legitimate activity of monitoring a protest by members of the Ngäbe-Buglé peoples, and were clearly identified as representatives of HREV.

International human rights law in matters of freedom of expression (Convention, Article 13 and Covenant, Article 19) also protects foreign journalists who practice critical and independent journalism. In the case of *Ivcher Bronstein v. Peru*—in which the Peruvian state reverted the migratory status of a majority stockholder of a TV channel critical of the government—the Inter American Court determined that this measure “constituted an indirect means of restricting his freedom of expression” and “not only restricted their right to circulate news, ideas and opinions, but also affected the right of all citizens [...] to receive information.”

As it was established by the UN Declaration on Human Rights Defenders, journalists also have the right to “seek, obtain, receive and hold information [...] to freely publish, impart or disseminate to others views, information and knowledge on all human rights [...] and to draw public attention to those matters.”

The harassment which took place in July 2010, and the arrest, detention, and arbitrary expulsion of Gómez Nadal and Pilar Chato, are indirect means of restricting their freedom of expression and did not only restrict their rights, and those of HREV, to circulate news, ideas, and opinions, but also affected the rights of all Panamanian citizens to receive information, thus limiting their freedom to exercise their political options and to develop fully in a democratic society. Likewise, these measures violate their rights to seek, obtain, receive, and possess information about the human rights of the Ngäbe and Buglé peoples; to publish, impart, or disseminate opinions, information, and knowledge concerning human rights in Panama; to hold opinions regarding human rights; and to bring these issues to public attention in Panama.

The arbitrary expulsion of Gómez Nadal and Pilar Chato—documented in the [legal report](#) prepared by HRF and highlighted in this missive—sends a clear signal against freedom of the press and the defense of human rights in Panama, and confirms the serious deterioration in freedom of expression since you took office last year.

According to Reporters Without Borders's Press Freedom Index, last year, Panama fell abruptly from 55th to 81st place, out of the 178 countries surveyed. Similarly, in its 2010 general assembly, the Inter American Press Society (IAPA) affirmed that “Over the past six months, freedom of the press has been threatened by actions by institutions belonging to the government of President Ricardo Martinelli.”

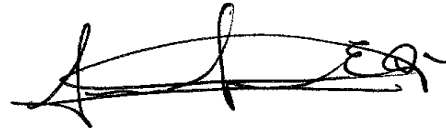
Mr. President, on July 7, 2010, you publicly apologized to photographer Mauricio Valenzuela and promised sanctions for the police officers who had beaten and arrested him as he was covering a labor protest. Most recently, on January 9, 2011, you announced you were ready to veto a slander law that would have criminalized those who dared to insult you or any other elected official.

Your authoritarian actions regarding journalists and human rights defenders Paco Gómez Nadal and Pilar Chato speak louder than your previous apologies and announcements in favor of freedom of expression. HRF respectfully asks you to take all necessary measures to guarantee the immediate and safe return of both Paco Gómez Nadal and Pilar Chato to Panama, and thus, fulfill Panama's international obligations and lift the threat that currently looms over the free exercise of journalism and the defense of human rights in your country.

Sincerely,



Thor Halvorssen
President



Javier El-Hage
General Counsel

cc.

Americas Director, Amnesty International (Katie Strifolino)
Asociacion de Editores de Diarios Espanoles
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