



Convention against Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment

General distr.

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Unofficial English Translation

*The following is an excerpt from the Committee Against Torture's most recent report on
Venezuela's review*

Arbitrary Detention and Fundamental Legal Guarantees

9. The Committee notes the Public Ministry's data, according to which 3306 persons, included 400 teenagers, were arrested between February and June 2014 as a result of the demonstrations that occurred during this period. The Committee is concerned by consistent reports according to which a large number of these arrests were arbitrary, for there were no warrants or flagrant crimes, as in the case of the arrests that occurred in the surrounding residences at the site of the demonstration. The Committee also notes that the Working Group on Arbitrary Detention said that the arrests of political opponents Leopoldo López y Daniel Ceballos were arbitrary and that the United Nations High Commissioner for Human Rights has expressed concern about the prolonged and arbitrary detention of political opponents and protesters. The Committee is concerned, in addition, by information that finds that a large number of the detainees were not informed about the reasons for their arrest, did not have confidential access to a lawyer until minutes before the court hearing, and were transferred to several detention centers without their whereabouts being reported to relatives. Also, the detainees have not received medical care in certain cases until the court hearing, despite present clear evidence of violence (arts. 2 and 16).

The State party should adopt without delay effective measures to restrict the number of individuals detained at the scene of the crime, and that, according to the views of the Working Group on Arbitrary Detention, release immediately Leopoldo López y Daniel Ceballos, and all those who have been arbitrarily detained for exercising their right to speak out and protest peacefully. Likewise, the State must guarantee the enjoyment, from the beginning of the deprivation of liberty, of all the fundamental legal guarantees, in particular:

(a) strengthening procedures for confidential and independent medical examination when the detainee is at the detention center and ensuring prompt, adequate and confidential care when requested;

(b) securing unfettered access to a court-appointed lawyer or of one of the individual's own choosing, which includes consultations in private;

(c) ensuring that detainees be informed of the reasons for their arrest and have the right to communicate with their families;

d) ensuring the prompt availability of the preliminary proceedings courts within 48 hours, under the article 44.1 of the Constitution of the State;

(e) ensuring the right to an immediate remedy to challenge the lawfulness of the detention;

(f) monitoring systematically the observance of legal safeguards by government officials and duly punishing those who do not observe them and those responsible for arbitrary detention.

Conditions of Detention

18. The Committee takes note of the information provided by the State after the dialogue, according to which there currently exists a prison population of 50,721 inmates for a capacity of 51,127, so there would be no overcrowding in the jails of the country. The Committee notes with concern the significant discrepancy between these figures and those provided in other reports that would indicate a 190% overcrowding in the prison system during the first half of 2014. The Committee is also concerned at the high proportion of detainees awaiting trial (65.71%), and regrets not having received official required data about the number of detainees at police checkpoints, which according to other reports received, would be more than 13,000 people. The Committee is concerned also by the discrepancy between the information received that report shortcomings in health care, water supply, provision of food, sanitation and ventilation of the cells, compared to the official information [from the State] that promises adequate conditions. In addition, the Committee notes with concern reports, denied by the State party, which state that the political opponents Leopoldo López, Enzo Scarano, Daniel Ceballos and Salvatore Lucchese have been detained in solitary confinement for months and Enzo Scarano was allegedly beaten (arts. 2, 11 and 16).

The Committee calls on the State to publish data disaggregated by place of detention on accommodation capacity, including police checkpoints, in relation to the prison population. The Committee also urges the State to allow without delay a visit by the Special Rapporteur Against Torture and to allow non-governmental organizations access to all places where detainees are being held so that they can verify the progress mentioned by the State. Likewise, the State must:

(a) ensure that the alleged acts contrary to the Convention committed against political opponents during their detention are properly investigated and those responsible are punished;

b) ensure that detention in solitary confinement be only used as a measure of last resort, for the shortest time possible, under strict conditions of supervision and judicial control;

(c) adapt the conditions of police checkpoints to the international human rights

standards;

(d) urgently strengthen the resources allocated for the provision of food, water, sanitation, and medical and health care of inmates in all prisons and police checkpoints from the State party;

(e) adopt the legislative amendments necessary to facilitate access to alternatives to prison sentences and to promote its implementation, in accordance with provisions in the standard minimum rules of the United Nations (the Tokyo Rules) non-custodial measures and the United Nations rules for the treatment of women prisoners and the non-custodial measures for women offenders (the Bangkok Rules);

(f) urgently strengthen existing action plans to reduce the procedural delay, providing them with sufficient resources.