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VIA EMAIL URGENT-ACTION@OHCHR.ORG, SR-INDEPENDENCEJL@OHCHR.ORG

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Mr. Diego García-Sayán
Special Rapporteur on the Independence of Judges and Lawyers
c/o Office of the High Commissioner for Human Rights
United Nations Office at Geneva
8-14 Avenue de la Paix 1211
Geneva 10 Switzerland

RE: Urgent Action Necessary: Venezuelan Government Violating Leopoldo López's Due Process
Right to Counsel, Ongoing for 64 Days

Dear Mr. García-Sayán,

We are writing to request Urgent Action on behalf of our client, Leopoldo López Mendoza. Mr. López, a leading Venezuelan opposition leader, has been arbitrarily detained in a military prison by the Maduro regime in Venezuela for over three years, or some 1,206 days. It has been 976 days since the UN Working Group on Arbitrary Detention publicly announced an opinion declaring Mr. López's detention arbitrary on Oct. 7, 2014.¹ On February 16, 2017, the Venezuelan Supreme Court upheld Mr. López's wrongful conviction and almost 14-year sentence.

For the past 64 days, the Venezuelan Government has completely restricted Mr. López's ability to meet or communicate with his lawyers in any way. Previously the government disregarded Mr. López's due process rights by preventing any confidential attorney-client privileged communications with his lawyer, but with ongoing political turmoil in Venezuela aggravating the government, it is now refusing to allow Mr. López any access to counsel whatsoever. This situation constitutes a grave defiance of due process rights in violation of the Venezuelan Constitution and international law, and it demands urgent action.

Particularly concerning is that this restriction of access to counsel comes at a time of great instability in Venezuela. Since April 1, 2017, hundreds of thousands of Venezuelans throughout the country have been in the streets, peacefully protesting their country's worsening humanitarian and human rights crisis. The government has responded to its people exercising their constitutional rights to peaceful protest with an iron fist. Since the start of the protests, over 65 Venezuelans have been killed and over 1,000 Venezuelans have been wounded as a result of clashes with the government and its supporters.² Rights groups have reported that 363 civilians have faced proceedings in military tribunals in recent days,

¹ See *Leopoldo López Mendoza v. Bolivarian Republic of Venezuela*, Opinion No. 26/2014, adopted Aug. 26, 2014, ¶¶ 25, 27, 28, 58 & 60, available in English at <http://perseus-strategies.com/wp-content/uploads/2014/10/UNWGAD-Decision-Leopoldo-López-Unofficial-English-Translation.pdf>.

² Eyanir Chinae & Alexandra Ulmer, *Venezuela Prosecutor Chides Government over Military Tribunals*, REUTERS, May 24, 2017, available at <https://www.reuters.com/article/us-venezuela-politics-idUSKBN18K1UU?il=0>.

with 197 still detained.³ In total, over 2,900 people have been arrested, with more than 1,251 still behind bars.⁴

By denying his access to counsel, Venezuela is continuously violating Mr. López's due process rights – rights that are guaranteed under the Venezuelan Constitution,⁵ as well as Articles 2 and 14 of the International Covenant on Civil and Political Rights (ICCPR),⁶ Article 8(2)(d) of the American Convention on Human Rights,⁷ Article 11 of the Universal Declaration of Human Rights (UDHR),⁸ the Body of Principles for the Protection of All Persons under Any Form of Detention, and the Basic Principles on the Role of Lawyers. Throughout the trial and ongoing arbitrary detention of Mr. López, the Government of Venezuela has failed to observe minimum international norms of due process. The Government's 64-day prohibition of Mr. López's right to communicate with counsel further exacerbates this ongoing situation of injustice. Urgent Action is now necessary, with the gravity of Mr. López's situation continuing to increase amidst rapid destabilization of the Maduro regime. As the political situation deteriorates and the Maduro regime continues its ongoing human rights violations, it is pivotal for Mr. López to have access to his lawyers who can properly monitor the conditions of his ongoing arbitrary detention and provide accurate reports of the perpetual abuses of Mr. López's fundamental rights.

Ongoing Conditions of Mr. López's Arbitrary Detention

In order to highlight the urgency of Mr. López having access to his lawyers, it is important to understand his current conditions.

Mr. López is being held in solitary confinement at Ramo Verde Prison, the official name of which is *Centro Penitenciario para Procesados Militares* ("National Center for Accused Soldiers"), where the Venezuelan Government has arbitrarily detained him for the past 1,206 days. The government states the reason for López being held in a military prison, despite the fact that he is a civilian, is that it is the only place where they can guarantee his safety. However, during previous visits to Mr. López, his lawyers and relatives witnessed grossly inhumane conditions. From the moment he was imprisoned, Mr. López has been subject to torture and other forms of degrading treatment.

Mr. López's restriction from access to legal counsel, now ongoing for 64 days, may result in serious human rights violations as long as his lawyers are unable to record present conditions and are therefore unable to bring specific complaints to the Venezuelan Judiciary and international human rights mechanisms. From reports by Mr. López's family, who have irregular access to him, Mr. López's current conditions can be considered cruel and inhuman, violating Article 1 of the Convention Against Torture and Other Cruel, Inhuman, and Degrading Treatment or Punishment ("Torture Convention").⁹ Throughout his detention, Mr. López has been separated from other prisoners and forced to spend most of his day in an isolated prison building where he is often the only prisoner. Mr. López is infrequently allowed out of his cell, but when he has been allowed out he has not been allowed to converse with other

³ Gitanjali Wolfermann, "La Virgen del Valle Reclama a sus hijos", RUNRUN.ES, June 6, 2017, available at <http://runrun.es/tr-es-plus/311949/la-virgen-del-valle-reclama-a-sus-hijos-7-margaritenos-victimas-de-la-justicia-militar-fueron-enviados-a-la-pica.html>.

⁴ *Foro Penal: Casi 3.000 venezolanos arrestados por protestar*, EL NACIONAL, May 30, 2017, available at http://www.el-nacional.com/noticias/protestas/foro-penal-casi-3000-venezolanos-arrestados-por-protestar_185049.

⁵ Venezuela (Bolivarian Republic of)'s Constitution of 1999 with Amendments through 2009, see Articles 19, 23, 26, 27, 44 & 49, available in English at https://www.constituteproject.org/constitution/Venezuela_2009.pdf?lang=en [hereinafter *Venezuelan Constitution*].

⁶ *International Covenant on Civil and Political Rights*, G.A. Res 2200A (XXI), 21 U.N. GAOR Supp. (No. 16) at 52, U.N. Doc. A/6316 (1966), 999 U.N.T.S. 171, entered into force Mar. 23, 1976, see Articles 2(3) & 14(1)(3) [hereinafter *ICCPR*].

⁷ *American Convention on Human Rights*, "Pact of San Jose," Costa Rica, Nov. 22, 1969, OAS Treaty Series No. 36; 1144 UNTS 123; 9 ILM 99 (1969).

⁸ *Universal Declaration of Human Rights*, G.A. Res. 217A (III), U.N. Doc. A/810 at 71 (1948), see Article 11 [hereinafter *UDHR*].

⁹ *Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment*, G.A. Res 39/46, 1465 U.N.T.S. at 85, entered into force June 26, 1987, see Article 1 [hereinafter *Torture Convention*].

individuals—anyone who speaks with Mr. López is punished. Mr. López has been allowed to attend mass at the prison, but guards accompany him and prevent him from having any meaningful social contact with the priest or other attendees. Moreover, Mr. López’s access to these activities is irregular and often used as a one-off photo opportunity to “prove” to international human rights mechanisms that Mr. López is afforded appropriate and human prison conditions when in reality he has had no real respite from years of enforced solitary confinement, which in his case amounts to psychological torture. In addition to his isolation, Mr. López is subject to humiliating strip-searches up to 10 times per day. He has also been subjected to arbitrary searches on several occasions, during which armed military troops have ransacked his cell, confiscating and destroying previously approved items such as personal writings, drawings of his family, and legal documents for his defense.

The military guards at Ramo Verde also impose harsh, arbitrary punishments on Mr. López that affect members of Mr. López’s family. These punishments normally occur as a result of the international advocacy efforts of Mr. López’s wife, Lilian Tintori, to free her husband or as a result of internal events in Venezuela. Recently, in the wake of the massive protests that began on April 1, 2017, Mr. López was held *incommunicado* with no proof of life for a period lasting up to 35 days. Guards told his family this forced solitary confinement was allegedly a punishment. Although no reason as to what prompted the punishment was ever given, the family suspected it was because of Mr. López’s role as a leader in the opposition who had previously called for peaceful protests in the country.

Tintori had not seen him for 31 days as of May 3, 2017, when prominent Venezuelan journalist Leopoldo Castillo tweeted: “Information, transfer of Leopoldo López from Ramo Verde to the Military Hospital, without vital signs. Regime maintains hypothesis of poisoning.” Having received no word from the government, Tintori rushed immediately to the Military Hospital, where she was held back at the gates and not permitted to enter. Videos emerged on social media networks showcasing Tintori’s desperation and concern as she was repeatedly denied access to information on her husband’s well-being.¹⁰ The government did not heed Tintori’s requests to see her husband, and instead kept Mr. López’s family, including his two small children, in the dark about his health and whereabouts for several hours. Eventually the government released a suspect “proof of life” video, which appeared heavily altered.¹¹ It was three days later before Tintori was permitted to see Mr. López and able to confirm he was alive.¹²

Background on the Case of Leopoldo López

The imminent danger that Mr. López faces is a direct result of his relationship with the Venezuelan Government. A brief background on his case exemplifies the grave risk he faces daily in their custody.

The Venezuelan Government has a long history of attacking Mr. López for his political beliefs that dates back to 2004, nearly a decade before the Maduro regime came to power. In 2008, despite being recognized as running the most transparent municipality in all of Venezuela during his time as mayor,¹³ the Venezuelan Government banned López from public office for six years. His political disqualification originally ran from December 2008 to December 2014, but following his 2015 sentencing Mr. López’s disqualification is now set to run the length of his sentence – 13 years and 9 months.

¹⁰ VIDEO: *Lilian Tintori espera información sobre Leopoldo López desde el Hospital Militar*, EL PITAZO, May 3, 2017, available at <https://elpitazo.com/ultimas-noticias/video-lilian-tintori-espera-informacion-sobre-leopoldo-lopez-desde-el-hospital-militar/>.

¹¹ *Venezuela Opposition leader Lopez in ‘proof of life’ video*, BBC NEWS, May 4, 2017, available at <http://www.bbc.com/news/world-latin-america-39803673>.

¹² *Lilian Tintori: “El video de la dictadura es falso”*, EL NACIONAL, May 4, 2017, available at http://www.el-nacional.com/noticias/presos-politicos/lilian-tintori-video-dictadura-falso_180473.

¹³ OSLO FREEDOM FORUM, available at <https://oslofreedomforum.com/speakers/leopoldo-lopez>.

Since Mr. López's unjust detention began in February 2014, he has become the most prominent victim of the Maduro regime, not coincidentally because he is perhaps the most formidable political opponent of the regime. *Datanálisis* polls from 2015 and 2016 show Mr. López defeating President Maduro by a large margin in a hypothetical presidential election.¹⁴

Throughout the legal proceedings against Mr. López, the Government of Venezuela violated international standards for due process of law under the Venezuelan Constitution, ICCPR, and American Convention on Human Rights, including the right to be tried before an independent and impartial judiciary, the right to be presumed innocent until proven guilty, the right to present an adequate defense, and the right to have confidential attorney-client communications.¹⁵ However, the character of this ongoing injustice has grown graver in the past two months, as the Venezuelan Government has now completely banned Mr. López from any contact with his legal counsel for the past 64 days.

Following a tumultuous first year under the rule of President Nicolás Maduro, a series of protests and political demonstrations broke out in Venezuela in early February 2014.¹⁶ These initially non-violent demonstrations led to violence due directly to involvement by armed pro-government militia, often referred to as *colectivos*,¹⁷ which are loyal to Maduro. On the morning of February 12, 2014, hundreds of thousands of Venezuelans converged on Plaza Venezuela, one of the main public squares in the capital city of Caracas. Speaking before them as founder and National Coordinator of the political party *Voluntad Popular* (Popular Will), Mr. López reaffirmed the need to work collectively as a nation through strictly peaceful means, including peaceful demonstration and constitutional reform, toward a democratic Venezuela.

Later in the day, after López and a vast majority of attendees had left the area, a very small group of protestors began to throw "rocks and chunks of concrete at riot police" and "broke windows at the headquarters of the national prosecutors office."¹⁸ Uniformed and non-uniformed government agents and supporters of Maduro opened fire on Venezuelan citizens, and three Venezuelans were killed.¹⁹ That evening, President Maduro used inflammatory and false language to accuse López and other opposition leaders of inciting violence that led to the death of Venezuelans, even going so far as to say that López "should go behind bars."²⁰ This statement by the President highlights the lack of presumption of innocence and direct violation of due process rights underlying Mr. López's initial arrest. The government response that followed, and the so-called "trial" of Mr. López, is an example of grave injustice at the hands of an unchecked Executive and Judiciary with no regard for the fundamental rights of its citizens or due process of law.

The first example of obstruction of due process in Mr. López's legal proceedings took place just after López was taken into custody, when Judge Ralenys Tovar Guillén admitted in a text message that

¹⁴ *Encuesta Nacional Omnibus* slide 117, DatAnalysis, available at <http://www.slideshare.net/energia/encuesta-julio-2015-datanalisis> (2015) & <http://americanuestra.com/wp-content/uploads/2016/06/Informe-Omnibus-Mayo-Alcalde-Ada-de-Chacao1.pdf> (2016).

¹⁵ *Id.*

¹⁶ Amnesty International, *Venezuela: Political Spiral of Violence a Threat to the Rule of Law*, Mar. 31, 2014, available at <https://www.amnesty.org/en/latest/news/2014/04/venezuela-political-spiral-violence-threat-rule-law/>.

¹⁷ Human Rights Watch, *Punished for Protesting: Rights Violations in Venezuela's Streets, Detention Centers, and Justice System*, May 5, 2014, available at <http://www.hrw.org/node/125192>.

¹⁸ William Neuman, *Prominent Opposition Leader in Venezuela Is Blamed for Unrest*, N.Y. TIMES, Feb. 13, 2014, available at <https://www.nytimes.com/2014/02/14/world/americas/prominent-opposition-leader-in-venezuela-is-blamed-for-unrest.html>.

¹⁹ *Venezuela Student Protest Ends in Deadly Violence*, BBC NEWS, Feb. 3, 2014, available at <http://www.bbc.com/news/world-latin-america-26166094>.

²⁰ Andrew Cawthorne & David Wallis, *This Politician is a Wanted Man in Venezuela After Leading Anti-Government Protests This Week*, BUSINESS INSIDER, Feb. 14, 2014, available at <http://www.businessinsider.com/leopoldo-lopez-wanted-in-venezuela-2014-2>.

her decision to issue an arrest warrant was based on political, not impartial, reasons.²¹ At nearly every stage thereafter, the Venezuelan Government continued to demonstrate a blatant disregard for Mr. López's due process rights. The arraignment to determine pretrial detention, which took place inside a military bus outside *Ramo Verde* prison on February 20,²² was presided over by Judge Tovar, the same temporary judge who had ordered the arrest warrant. Because the hearing took place on the "Mobile Court" bus in Los Teques, Miranda State, Judge Tovar was sitting outside of her jurisdiction when the hearing took place, making the hearing and the resulting adoption of charges against Mr. López illegal.

In early May of 2014, the government appointed provisional Judge Adriana López of the 16th Control Court of Caracas (who has no relation to Mr. López, or his sister with the same name) to replace Judge Tovar, allegedly due to a usual rotation of judges. The intermediate phase of the Venezuelan penal process culminated on June 5, 2014: After four days of hearings, Judge López admitted all the charges filed against Mr. López for the crimes of arson, property damage, incitement of violence, and conspiracy to commit crimes that occurred during the February 12, 2014, protest. Judge López also admitted all evidence offered by the prosecution and ordered the case to be set for a public trial. There was an inherent conflict of interest in the prosecution, as the Office of the Attorney General claimed it was the primary victim of the February 12th violence, which damaged its headquarters, while nevertheless maintaining prosecutorial authority.

In contrast with her treatment of the prosecution, Judge López declared inadmissible all of the defense's annulment requests raised for human rights violations, including the inhumane conditions of Mr. López's imprisonment. In addition, Judge López denied all objections that the defense presented against the prosecution's accusations based on factual and legal flaws in their presentation of the case. Although Mr. López's defense proposed 60 witnesses, 12 experts, and 13 videos, Judge López refused all evidence except for two witnesses. Judge López's decision also reaffirmed that Mr. López would continue to be held in custody for the duration of the trial, thus ratifying the ongoing systemic violation of Mr. López's fundamental rights of due process in continuing violation of the ICCPR and the Venezuelan Constitution.

The trial of Leopoldo López opened on July 23, 2014, with Judge Susana Barreiros of the 28th Trial Court of the Metropolitan Area of Caracas presiding. Judge Barreiros, like Judge López, continued the pattern of denying the defense's requests. For example, she rejected all claims presented by defense lawyers requesting remedy for human rights abuses.²³ Of particular concern is that she affirmed Judge López's decision to block the vast majority of the defense evidence. The prosecution proceeded with some 100 witnesses, including 82 police officers and officials from the prosecutor's office, 16 expert testimonies, seven reports, four videos, and two on-site inspections. In contrast, the defense had no witnesses as even the two of the 60 proposed that could have appeared were unwilling to do so. Such a gross imbalance in the proceedings prevented López from presenting an adequate defense and represented a failure of the Venezuelan justice system to provide him a fair trial.

The government's main argument in the trial was that Mr. López's clear calls for nonviolent protest actually contained coded, subliminal messages to provoke violence. This argument fell apart 8 months into Mr. López's trial, however, when the government's main witness, Dr. Rosa Amelia Asuaje León, affiliated with the ruling party and a PhD in Linguistics, revised her testimony, which was that

²¹ *Judge Who Ordered Detention of Opposition Leader López Pressured by Maduro Gov't*, NUESTRA TELE NOTICIAS 24 HORAS, Feb. 26, 2014, available at <http://www.ntn24.com/noticias/exclusive-judge-who-ordered-detention-opposition-leader-lopez-pressured-maduro-govt-123025>, see also *Ciudadana Venezolana Denuncia en NTN24 que Jueza del Caso Leopoldo López Recibió Presión*, NUESTRA TELE NOTICIAS 24 HORAS, Feb. 26, 2014, available at <https://www.youtube.com/watch?v=Qi8LsVLW-b0#t=84> (video in Spanish).

²² Mariano Castillo & Ed Payne, *Murder Charges Against Venezuela Opposition Leader Dropped*, CNN, Feb. 20, 2014, available at <http://www.cnn.com/2014/02/20/world/americas/venezuela-protests>.

²³ Juan Francisco Alonso, *López Feels that Democracy is Prosecuted in His Case*, EL UNIVERSAL, Jul. 24, 2014, available at <http://www.eluniversal.com/nacional-y-politica/140724/lopez-feels-that-democracy-is-prosecuted-in-his-case>.

basis of the subliminal messaging accusations, and admitted that López had never called for violence. She stated “López’s messages are not subliminal; they are clear, direct, and specific. They call for non-violence. There was never a call to violence by López.”²⁴ Without this evidence there was nothing linking Leopoldo and the violence the Government claims he caused.

Judge Barreiros stated she would respond publically after the initial announcement on October 7, 2014, of the UN Working Group on Arbitrary Detention’s decision finding Mr. López’s detention arbitrary, but she proceeded to close her court without notice until November 13.²⁵ On November 13, 2014, Judge Barreiros officially rejected the decision of the UN Working Group on Arbitrary Detention on the basis that “Venezuela is a sovereign country that does not accept interferences on internal matters.”²⁶ This statement demonstrates Venezuela’s refusal to adhere to the ICCPR, a binding treaty to which they are a party. On that same day, the UN Committee Against Torture, which oversees implementation of the Convention Against Torture and Other Cruel, Inhuman, and Degrading Treatment, issued its final report on Venezuela’s review. It is worth noting that the Committee Against Torture explicitly called for the immediate release of López and all political prisoners in Venezuela, stating, “the State party should...release immediately Leopoldo López...and all those who have been arbitrarily detained for exercising their right to speak out and protest peacefully.”²⁷ On December 16, 2014, Judge Barreiros formally rejected the Committee Against Torture’s call for López’s release as well.²⁸

In response to Judge Barreiros’ rejection of the UN Working Group on Arbitrary Detention decision, Mr. López appealed immediately to the Court of Appeals of Caracas. Mr. López had announced in November of 2014 that he would not be participating in the Barreiros “trial” and would continue to protest by refusing to appear until his appeal was considered. However, on January 13, 2015, Judge Barreiros issued a contempt of court ruling and stated the trial would continue despite López’s absence.²⁹ On March 15, 2015, the Court of Appeals of Caracas ruled in favor of Judge Barreiros’ rejection of the UN Working Group on Arbitrary Detention decision, continuing the grave violation of Mr. López’s fundamental due process rights.³⁰

On August 25, 2015, Judge Barreiros concluded the trial against Mr. López. The Court, over the course of 70 hearings spanning some 600 hours, heard accounts from 108 witness for the prosecution and examined 30 pieces of evidence from the prosecution, yet it failed to examine evidence crucial to Mr. López’s case, excluding from its consideration the very speeches that served as the basis of his conviction, as well as a declaration by several adolescents claiming sole responsibility for the violence on February 12th and accounts from witnesses affirming that López’s speeches had never called for violence.³¹ Out of 70 hearings and 600 hours, Mr. López and his counsel were provided only three hours for his defense. This grave disparity between the prosecution and the defense is further proof of the

²⁴ *Experta Reconoce que Leopoldo López No Instó a La Violencia*, EL NACIONAL, Feb. 27, 2015, available at http://www.el-nacional.com/politica/Experta-reconoce-Leopoldo-Lopez-violencia_0_581942045.html

²⁵ Juan Francisco Alonso, *Tintori exige a Tribunal 28 el cese de receso y acatar dictamen de la ONU*, EL UNIVERSAL, Nov. 11, 2014, available at <http://www.eluniversal.com/nacional-y-politica/141111/tintori-exige-a-tribunal-28-el-cese-de-receso-y-acatar-dictamen-de-la->

²⁶ Edgar López, *Jueza negó liberación de López pedida por la ONU*, EL NACIONAL, Nov. 14, 2014, available at http://www.el-nacional.com/noticias/politica/jueza-nego-liberacion-lopez-pedida-por-onu_121756.

²⁷ U.N. Committee Against Torture, *Observaciones finales sobre el tercer y cuarto informe periódico de la República Bolivariana de Venezuela*, CAT/C/VEN/3-4, issued Nov. 13, 2014, at ¶ 9.

²⁸ *Jueza Rechaza Resolución de Comité de la ONU que Pide Liberar a López*, LA VERDAD, Dec. 16, 2014, available at <http://www.laverdad.com/politica/66021-jueza-rechaza-resolucion-de-comite-de-la-onu-que-pide-liberar-a-lopez.html>.

²⁹ *Leopoldo López Trial To Continue Despite His Absence*, PANAM POST, Jan. 15, 2015, available at <http://panampost.com/panam-staff/2015/01/15/leopoldo-lopez-trial-to-continue-despite-his-absence>.

³⁰ *Corte de Apelaciones de Caracas Decide Mantener "La Medida Privativa de Libertad" contra Leopoldo López*, NTN, 24, Mar. 15, 2015, available <http://www.ntn24webs.info/noticia/corte-de-apelaciones-decide-mantener-la-medida-privativa-de-libertad-contra-leopoldo-lopez-43426>.

³¹ Jeffrey Tayler, *Kafka in Caracas*, FOREIGN POLICY, Sept. 3, 2015, available at <http://foreignpolicy.com/2015/09/03/kafka-in-caracas-leopoldo-lopez-trial-sentencing-maduro-venezuela/>.

injustice of the proceedings. The trial directly violated the Venezuelan Constitution, Article 2 and Article 14 of the ICCPR, and Article 8 of the American Convention on Human Rights.

As expressed above, López's trial was plagued with procedural flaws and irregularities. The use of provisional judges, necessarily beholden to the executive branch, violated the requirement for an independent and impartial judiciary. High-level government officials publicly blamed López for "murders" and violence before any investigation had begun, violating his right to the presumption of innocence and dooming judicial impartiality. Additionally, the judiciary refused to order any investigation into repeated complaints of mistreatment, included months of extended solitary confinement, harassment, and intimidation by prison guards. Despite these human rights and due process violations and his obvious innocence, López was ultimately convicted of conspiracy, incitement to commit crimes, arson, and damage to public property in reference to violence that occurred after he departed from the February 12, 2014 demonstration. He was convicted and sentenced to 13 years and 9 months in prison on September 10, 2015.

The judgment did not provide any precise relationship between the alleged offenses and the laws governing them. The judgment failed to specify or substantiate with evidence: Mr. López's relationship to the co-defendants; the individual laws that Mr. López allegedly ordered his followers to disobey; the time, place, or manner in which Mr. López "coerced" the individuals to commit crimes given that he was not present at the time; the operations or structure of the so-called criminal organization within which Mr. López was supposedly working; the expressions in Mr. López's speech that could have motivated the acts of violence; or the presence of criminal intent. Indeed, the judgment failed to explain how people could be inspired to commit violence when Mr. López repeatedly exhorted his followers to non-violence.³²

A month after his conviction, Mr. Lopez's trial was further delegitimized when one of the two main prosecutors in his case, Franklin Nieves, abandoned his post in Venezuela, fled to the U.S., and issued a dramatic defection and apology, admitting that he was forced by the Venezuelan government to rely on bogus evidence to wrongly prosecute Mr. López.³³ Mr. Nieves affirmed the notion that, "This was a totally political trial which should be nullified. All of Leopoldo López's human rights were violated because he was not able to present any witnesses or evidence."³⁴

López requested an appeal from his conviction that was finally granted in May 2016; however, he was not given the opportunity for an oral hearing on his appeal until July 22, 2016, over 10 months after his initial sentencing. Although the Court had previously promised López's domestic council that the appeal hearing would be public in nature, on the morning of the appeal hearing soldiers and the Court's own security officials blocked the entrance of the Court, further reducing the slight possibility of a procedure adhering to the due process requirements of Venezuelan and international law. In secret proceedings, the Court of Appeals of Caracas rejected López's appeal and upheld his conviction on August 12, 2016. López immediately appealed this decision to the Supreme Court, which denied his appeal on February 16, 2017, effectively exhausting all domestic legal remedies.³⁵

³² Jared Genser & Juan Carlos Gutierrez, *The Other Side of Leopoldo López*, FOREIGN POLICY, Sept. 7, 2015, available at <http://foreignpolicy.com/2015/09/07/the-other-side-of-leopoldo-lopez-venezuela-opposition/>.

³³ José Córdoba & Kejal Vyas, *Venezuela Prosecutor Franklin Nieves Says Opposition Leader's Trial Was a Sham; Leopoldo López's conviction last month was ordered from above, prosecutor says after escaping to Miami*, WALL ST. J., Oct. 27, 2015, available at <https://www.wsj.com/articles/venezuela-prosecutor-franklin-nieves-says-opposition-leaders-trial-was-a-sham-1445895707>.

³⁴ *Id.*

³⁵ Sabrina Martín, *Venezuela's Top Court Denies Last Appeal of Political Prisoner Leopoldo López*, PANAM POST, Feb. 17, 2017, available at <https://panampost.com/sabrina-martin/2017/02/17/venezuelas-top-court-denies-last-appeal-of-political-prisoner-leopoldo-lopez/>.

Conclusion

The Maduro regime has taken marked anti-democratic action lately as evidenced by a desperate attempt by the Supreme Court to strip the opposition-controlled Legislature of its powers in March 2017³⁶ and President Maduro's even more extreme attempts to form an illegal, undemocratic "constituent" congress in order to rewrite the country's constitution.³⁷ Meanwhile, the opposition continues. From April 1, 2017, to May 17, 2017, there were 1,208 protests across the nation.³⁸ Dozens more have occurred since then, even though security forces have tried to discourage the marches by regularly deploying tanks and using rubber bullets and tear gas. Meanwhile, the Organization of American States held an emergency meeting to discuss the humanitarian crisis and political violence in Venezuela.³⁹ Continued international focus on the ongoing grave humanitarian crisis in Venezuela will begin to hold the Maduro regime accountable, but for now Mr. López must be granted unhindered access to legal counsel without delay. The Venezuelan Government and the Maduro regime clearly have no regard for Mr. López's fundamental rights, evidenced by their consistent and ongoing violation of those rights. Without his lawyers to record the conditions of his arbitrary detention, Mr. López is in serious danger.

The ICCPR states unequivocally that the accused "shall be entitled to . . . have adequate time and facilities . . . to communicate with counsel of his own choosing . . . and to defend himself in person or through legal assistance of his own choosing."⁴⁰ And the American Convention on Human Rights states "[e]very person is entitled . . . to the following minimum guarantees . . . the right of the accused to . . . communicate freely and privately with his counsel."⁴¹ Lawyers should be able to counsel and to represent their clients in accordance with their established professional standards and judgment without any restrictions, influences, pressures, or undue interference from any quarter.⁴² Mr. López's ongoing arbitrary detention is punishment for exercising his fundamental rights and freedoms of opinion and expression, peaceful assembly, and to be elected and take part in political affairs. He is subject to inhumane conditions of detention that amount to torture. As it relates to your mandate, his detention has failed to meet international standards for due process of law and international standards for human rights, including the ongoing denial of his right to legal counsel for the past 64 days and counting.

The situation at hand is imminent and the danger presented to Mr. López is of the utmost gravity. We respectfully request that, in accordance with your working methods, you immediately send an urgent appeal to the Government of Venezuela imploring it to rise to its responsibilities and uphold its obligations under the ICCPR and the Venezuelan Constitution to provide Mr. Lopez with the right to access legal counsel.

Sincerely,

Jared Genser
International Counsel to Leopoldo López Mendoza

Juan Carlos Gutierrez
Domestic Counsel to Leopoldo López Mendoza

³⁶ Rachele Krygier, *Five ways in which this wave of demonstrations in Venezuela is different*, WASHINGTON POST, May 25, 2017, available at https://www.washingtonpost.com/news/worldviews/wp/2017/05/25/five-ways-in-which-these-demonstrations-in-venezuela-are-different/?utm_term=.2d50c9631e3c.

³⁷ *Maduro pushes ahead with his 'constituent' congress*, EURONEWS, May 24, 2017, available at <http://www.euronews.com/2017/05/24/maduro-pushes-ahead-with-his-constituent-congress>.

³⁸ Rachele Krygier, *supra* note 36.

³⁹ *Id.*

⁴⁰ ICCPR, *supra* note 3, at Article 14(3)(b)(d).

⁴¹ *American Convention on Human Rights*, at Art. 8(2)(d), *supra* note 7.

⁴² Office of the High Comm'r for Human Rights, United Nations, *General Comment No. 13: Equality Before the Courts and the Right to a Fair and Public Hearing by an Independent Court Established by Law (Art. 14)*, Apr. 3, 1984 at ¶11.