

White Paper
On the Case of

Leopoldo López Mendoza
Citizen of the Bolivarian Republic of Venezuela



v.

Government of the Bolivarian Republic of Venezuela

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Executive Summary

During the past few decades, democracy and respect for human rights has expanded throughout Latin America. After the 1958 coup that displaced Marcos Perez Jimenez, Venezuela became an example of a Latin American democracy. However, in the past fifteen years this has not held true, as successive rulers have eroded respect for human rights and the rule of law in Venezuela. The presidencies of Hugo Chávez (1999-2013) and Nicolás Maduro (2013-present) have been marked by violence, inflation, scarcity of goods, a lack of judicial independence and impartiality, and increasing persecution of journalists and political opponents. During his time in office, Chávez enacted a series of social and economic measures, including nationalization, social welfare programs, and opposition to neoliberal economics, aimed at improving quality of life for Venezuelans. Despite Chávez's bold vision for the country, his presidency saw a dramatic concentration of power and disregard for human-rights protections, and his economic model proved unsustainable. Starting particularly in 2009, the Chávez government targeted a number of opposition leaders for criminal prosecution.

In 2013, Nicolás Maduro was elected President of Venezuela, as President Hugo Chávez's successor. The Maduro government has increased its intimidation, censorship, and prosecution of its critics. Notably, in September 2013, Maduro withdrew from the American Convention on Human Rights, leaving Venezuelans without access to the Inter-American Court of Human Rights. Many of the challenges faced by Chávez, including violence, inflation, and shortages of goods, have intensified under Maduro. It was in this context that mass protests began January 2014. These initially non-violent demonstrations led to violence due to involvement by armed pro-government gangs and *colectivos* that are loyal to Maduro. Since the outbreak of protests, some 3,180 Venezuelans have been detained.

Among those still imprisoned is Leopoldo López Mendoza, a 43-year-old Venezuelan opposition leader who is being held in *Centro Nacional de Procesados Militares*, also known as *Ramo Verde* military prison. Mr. López is the founder and National Coordinator of the political party *Voluntad Popular*. He is married to Lilian Tintori, a recognized athlete and former TV host, and they have two children.

Mr. López received his Bachelor of Arts degree from Kenyon College, where he graduated *cum laude* in 1993. He continued his education at Harvard University's John F. Kennedy School of Government, where he received a Master in Public Policy degree in 1996. In 1992, Mr. López co-founded the non-profit civil association *Primero Justicia*. From 1996 to 1999, he worked in Venezuela as an economic analyst for the *Coordinación de Planificación de Petróleos de Venezuela S.A.* (Department of Planning of Petroleum of Venezuela) ("PDVSA").

Mr. López first entered politics in 2000 when he and other prominent young leaders co-founded the new political party *Primero Justicia*. Later that year, Mr. López was elected mayor of the Chacao Municipality of Caracas. He quickly became popular for reforming the public health system and building new public places. He was also known for his transparent policies, reduction of crime, and eradication of poverty. When he left office in 2008, he held a 92 percent approval rating and was ranked as the world's third best mayor by the World Mayor Project.

In 2002, Mr. López participated with other civil society leaders in protests. Mr. López was not a supporter of the coup and he did not sign the Act Constituting the Government of Democratic Transition and National Unity (“Carmona Decree”), the document that attempted to oust Chávez and dissolve the National Assembly and Supreme Court.

Mr. López served as Mayor of Chacao until 2008, when a disqualification from his running for office imposed by the Government went into effect. His ban ends on December 12, 2014. If not for the ban, Mr. López had planned to challenge the United Socialist Party to become Mayor of Caracas in November 2008. Polls at that time showed that he stood to receive between 65 and 70 percent of the vote had he been allowed to run.

After leaving office in 2008, Mr. López was named a “Most Innovate People” honoree by Future Capitals. In that same year he founded *Voluntad Popular*, a democratic movement dedicated to social, economic, political, and human-rights progress for all Venezuelans. Mr. López was *Voluntad Popular*’s presidential candidate in 2012 before he backed Mr. Capriles after the Venezuelan Supreme Court refused to overturn Mr. López’s political ban. Currently, Mr. López acts as the National Coordinator of *Voluntad Popular*, and is now widely seen as a major leader of the opposition movement. At a series of peaceful protests this year, Mr. López gave speeches calling for non-violent, democratic change in Venezuela, in accordance with its Constitution. Despite his repeated emphasis on urging a transition through non-violence and adherence to the Constitution, on February 12, 2014, the Government issued a warrant for his arrest claiming that his goal was to overthrow the Government through violent means.

The charges against Mr. López were for conspiracy, incitement to commit crimes, public intimidation, setting fire to a public building, damage to public property, causing serious injury, premeditated aggravated homicide, attempted premeditated aggravated homicide, and terrorism. Given the serious charges against him and current political climate, Mr. López went into temporary hiding. Later, on February 18, Mr. López peacefully submitted himself for arrest to Venezuelan military authorities and the charges for murder and terrorism were eventually dropped.

His arrest is simply the latest event in a very long history of political persecution directed against Mr. López by the Government of Venezuela. Notably, the Government has carried out a series of pretextual court cases against him and initiated violent attacks against his person, both demonstrating the Government views him as a serious political threat. It is, therefore, seeking to silence him and disqualify him again from running for public office through a new series of false charges that have been lodged against him. López’s ongoing detention is punishment for exercising his fundamental rights to freedoms of opinion and expression, peaceful assembly, and to be elected and take part in political affairs. In addition, his detention has also failed to meet international standards for due process of law, including the right to be tried before an independent and impartial judiciary, the right to be presumed innocent until proven guilty, and the right to have confidential attorney-client communications. Accordingly, his detention is arbitrary as established by international law and he should be immediately released from prison.

López’s trial resumes in Caracas on July 23, 2014.

I. Biographical Information on Leopoldo López Mendoza

Leopoldo López Mendoza is a 43-year-old Venezuelan opposition leader being held in *Ramo Verde* military prison on charges of inciting violence, arson, damage to property, and conspiracy.² López is the founder and National Coordinator of the political party *Voluntad Popular* (“Popular Will”).³ He is married to Lilian Tintori, a recognized athlete and former TV host, and has two children.⁴

Leopoldo López was born on April 29, 1971, in Caracas, Venezuela to a family with a long history in Venezuelan politics.⁵ He received his Bachelor of Arts from Kenyon College, where he graduated *cum laude* in 1993.⁶ He continued his education at Harvard University’s John F. Kennedy School of Government where he received a Master in Public Policy degree in 1996.⁷ He also received an honorary Doctor of Laws Degree from Kenyon College in 2007.⁸ In 1992, while a student at Kenyon, López and a group of other students in his country “who were motivated by their desire to reform the legal system in Venezuela” co-founded the non-profit civil association *Primero Justicia*.⁹

² Emilia Diaz-Struck, Nick Miroff, *For Venezuela Opposition, Meeting with President Maduro Could Further Expose Rifts*, WASHINGTON POST, Apr. 9, 2014, available at http://www.washingtonpost.com/world/the_americas/for-venezuela-opposition-meeting-with-president-maduro-could-further-expose-rifts/2014/04/09/82dca116-bb34-4cce-8a84-d7f885a82425_story.html; Rodrigo Ugarte, *Venezuela News 2014: Leopoldo López Finally Charged, Thousands Dress in Colors of National Flag to Protest*, LATIN POST, Apr. 6, 2014, available at <http://www.latinpost.com/articles/10115/20140406/venezuela-news-2014-leopoldo-lopez-finally-charged-thousands-dress-colors.htm>; *Venezuela Charges Opposition Leader, Protests Erupt*, YAHOO!, Apr. 5, 2014, available at <http://news.yahoo.com/jailed-venezuelan-opposition-leader-formally-charged-185439105.html>.

³ See, e.g., Jim Wyss, *Venezuela Government and Opposition to Begin Peace Talks Thursday on Live TV*, SACRAMENTO BEE, Apr. 15, 2014, available at <http://www.sacbee.com/2014/04/09/6311031/venezuela-government-and-opposition.html>; Jeffrey Tayler, José Orozco, *Leopoldo López, the Charismatic Face of Venezuela’s Opposition*, BLOOMBERG BUSINESSWEEK, Feb. 20, 2014, available at <http://www.businessweek.com/articles/2014-02-20/leopoldo-lopez-the-venezuela-oppositions-new-hero> [hereinafter *Leopoldo López, the Charismatic Face of Venezuela’s Opposition*]; AMNESTY INTERNATIONAL, *Venezuela: Trial of Opposition Leader an Affront to Justice and Free Assembly*, (Feb. 19, 2014), <http://www.amnestyusa.org/news/news-item/venezuela-trial-of-opposition-leader-an-affront-to-justice-and-free-assembly>; *Leopoldo López is a Venezuelan Politician and Democratic Activist*, FREE LEOPOLDO, available at http://www.freeleopoldo.com/about_leopoldo.

⁴ Eric Martin, Corina Pons, *‘Volcano of Energy’ Lopez Who Rode Shot-Up Car Roils in Venezuela*, BLOOMBERG, Feb. 22, 2014, available at <http://www.bloomberg.com/news/2014-02-21/-volcano-of-energy-lopez-who-rode-shot-up-car-roils-venezuela.html> [hereinafter *‘Volcano of Energy’ Lopez Who Rode Shot-Up Car Roils in Venezuela*]; Jonathan Watts, *Venezuelan Opposition Leader, Leopoldo López, Tells His Allies to Keep Fighting*, THE GUARDIAN, Feb. 21, 2014, available at <http://www.theguardian.com/world/2014/feb/21/leopoldo-lopez-venezuela-opposition-leader-popular> [hereinafter *Leopoldo López, tells his allies to keep fighting*].

⁵ *Leopoldo López Hands Himself To Venezuelan Authorities: 6 Things to Know About Opposition Leader Making Nicolás Maduro Sweat*, LATIN TIMES, Feb. 18, 2014, available at <http://www.latintimes.com/leopoldo-lopez-hands-himself-venezuelan-authorities-6-things-know-about-opposition-leader-making> [hereinafter *Leopoldo López Hands Himself To Venezuelan Authorities*].

⁶ *5 Things To Know About Venezuela’s Protest Leader*, NATIONAL PUBLIC RADIO, Feb. 20, 2014.

⁷ *Id.*; *Leopoldo López, the Charismatic Face of Venezuela’s Opposition*, supra note 3; *Venezuelan opposition leader, Leopoldo López, tells his allies to keep fighting*, supra note 4.

⁸ *Leopoldo López Hands Himself To Venezuelan authorities*, supra note 5.

⁹ Immigration and Refugee Board of Canada, *Venezuela: The First Justice Party*, U.N. REFUGEE AGENCY, Sep. 22, 2003, available at <http://www.refworld.org/docid/403dd2248.html>.

López returned to Venezuela to work as an analyst for the *Office of the Chief Economist of Petróleos de Venezuela S.A.* (“PDVSA”) from 1996 to 1999.¹⁰ He also taught as an economics professor at the *Universidad Católica Andrés Bello* in 2000 and 2001.¹¹

Leopoldo López first entered politics in 2000 when he and other young prominent leaders co-founded the new political party *Primero Justicia* (“Justice First.”)¹² Later that year, he was elected mayor of the Chacao Municipality of Caracas at age 28.¹³ He quickly became popular for reforming the public health system and building new public places.¹⁴ He was also known for his transparent policies, reduction of crime, and eradication of poverty.¹⁵ In 2000, he won 51 percent of the vote; by 2004, 81 percent of the electorate voted for him.¹⁶ When he left office in 2008, he held a 92 percent approval rating and was ranked as the world’s third best mayor by the World Mayor Project.¹⁷ Furthermore, in 2007 and 2008, Transparency International recognized López for having the most transparent municipality in Venezuela.¹⁸ During his tenure as mayor, López oversaw a budget ranging from Bs. 47.9 billion (U.S. \$ 73.2 million) in 2000 to Bs. 376.2 billion in 2007 (U.S. \$ 94 million)¹⁹ and an employee base ranging from 2,800 to 3,000.

In 2002, López participated in public protests, which came days before the failed coup against former President Hugo Chávez.²⁰ At no point was López ever a proponent of the coup, nor was he allied with the business leaders who led it. During the coup, however, López

¹⁰ Rafael Romo, *The Face of Venezuela’s Opposition*, CNN, Feb. 22, 2014, available at <http://www.cnn.com/2014/02/21/world/americas/profile-leopoldo-lopez/> [hereinafter *The Face of Venezuela’s Opposition*]; *Oficina del Alcalde*, CHACAO, available at <http://web.archive.org/web/20071231194747/http://www.chacao.gov.ve/alcalde/oficinadetail.asp?Id=18> [hereinafter *Oficina del Alcalde*].

¹¹ *Id.*

¹² See generally Peter Wilson, *The Poster Boy*, FOREIGN POLICY, Feb. 24, 2014, available at http://www.foreignpolicy.com/articles/2014/02/25/the_poster_boy [hereinafter *The Poster Boy*]; ‘Volcano of Energy’ Lopez Who Rode Shot-Up Car Roils Venezuela, *supra* note 4; Leopoldo López, *the Charismatic Face of Venezuela’s Opposition*, *supra* note 3.

¹³ *The Poster Boy*, *supra* note 12.

¹⁴ *Venezuelan opposition leader, Leopoldo López, tells his allies to keep fighting*, *supra* note 4.

¹⁵ Adam Williams, *Inter-American Court Hears Leopoldo López Case*, INFOSURHOY, Aug. 3, 2011, available at http://infosurhoy.com/en_GB/articles/sai/features/main/2011/03/08/feature-02 [hereinafter *Inter-American Court Hears Leopoldo López Case*].

¹⁶ *El Chavisomo Formaliza los Cargos contra López: Incitación a la Violencia y Asociación para Delinquir*, INFOBAE, Apr. 4, 2014, available at <http://www.infobae.com/2014/04/04/1554977-el-chavisomo-formaliza-los-cargos-contra-lopez-incitacion-la-violencia-y-asociacion-delinquir>; Charles Upton Sahm, *Broken and Divided*, CITY JOURNAL, Mar. 27, 2014, available at <http://www.city-journal.org/2014/eon0327cs.html>; Jackson Diehl, *The Rival Chávez Won’t Permit*, THE WASHINGTON POST, Jun. 30, 2008, available at <http://www.washingtonpost.com/wp-dyn/content/article/2008/06/29/AR2008062901480.html> [hereinafter *The Rival Chávez Won’t Permit*]; *Oficina del Alcalde*, *supra* note 10.

¹⁷ Tann vom Hove, *Helen Zille, Mayor of Cape Town, Wins the 2008 World Mayor Prize*, WORLD MAYOR, Oct. 14, 2008, available at http://www.worldmayor.com/contest_2008/world-mayor-2008-results.html; *Inter-American Court Hears Leopoldo López Case*, *supra* note 15.

¹⁸ OSLO FREEDOM FORUM, available at https://www.oslofreedomforum.com/speakers/leopoldo_lopez.html [hereinafter *Oslo Freedom Forum*].

¹⁹ In 2008, Venezuela switched over to a new currency, the bolivar fuerte (Bs.F). In 2008 the budget of Chacao was Bs.F 430,556,391.

²⁰ Chris Kraul, *A Lightning Rod for Venezuela’s Political Strife*, L.A. TIMES, July 19, 2006, available at <http://articles.latimes.com/2006/jul/19/world/fg-venezuela19> [hereinafter *A Lightning Rod for Venezuela’s Political Strife*].

received—along with the Mayor of Baruta (which was then Henrique Capriles)—a detention order and search warrant for the Minister of the Interior and Justice,²¹ Ramon Rodriguez Chacin. Judge Monica Fernandez of the 39th Control Court issued this detention order. The charges against Rodriguez were for possession of illegal war weapons, and illegally possessing a vehicle that belonged to the Ministry of the Interior and Justice. While López supported democratic and constitutional change rather than the coup, he had no authority as a municipal mayor to challenge a detention order from a judge and it was also immediately apparent that Rodriguez’s life was in danger and that detaining him briefly would provide him with protection. López did not sign the Carmona Decree, which was the document that attempted to oust President Hugo Chávez and dissolve the National Assembly and Supreme Court.²²

Six months after the attempted coup, protesters used Chacao’s Plaza Francia in the post-coup general strike.²³ However, Mayor López had no role in organizing the strike. In Venezuela, under Article 68 of the Constitution of the Bolivarian Republic of Venezuela, protesters may use public space without a permit.²⁴ In the aftermath of the coup, all those critical of the government were targeted, but López was “the object of a full-out campaign.”²⁵ In February 2006, López was held hostage for six hours at a university auditorium where he was speaking.²⁶ Later that year, in March, his bodyguard was shot and killed in what appeared to be an attempt on López’s life.²⁷

Leopoldo López served as the Mayor of Chacao until 2008, when his disqualification from running for office—along with at least 272 other Venezuelan public officials, a vast majority of whom were from the opposition—came into effect.²⁸ Leopoldo López’s ban ends on December 12, 2014. As these were administrative decisions, López was never tried nor convicted of any crime.²⁹

If not for the ban, López had planned to challenge members of the Venezuela United Socialist Party (PSUV) to become Mayor of Caracas in November 2008.³⁰ Polls at the time showed that López stood to receive between 65 and 70 percent of the vote had he been allowed

²¹ The Minister of the Interior and Justice is one of one of 25 ministers in Venezuela’s Executive Branch. *Politics and Government*, EMBASSY OF THE BOLIVARIAN REPUBLIC OF VENEZ., available at <http://venezuela-us.org/politics/>.

²² *A Lightning Rod for Venezuela’s Political Strife*, *supra* note 20

²³ *Id.*

²⁴ *See infra* note 171.

²⁵ *A Lightning Rod for Venezuela’s Political Strife*, *supra* note 20.

²⁶ *The Rival Chávez Won’t Permit*, *supra* note 16; *A Lightning Rod for Venezuela’s Political Strife*, *supra* note 20.

²⁷ *Id.*

²⁸ *Venezuelan Politics Contaminate Mercosur Parliament Session*, MERCOPRESS, Aug. 19, 2008, available at <http://en.mercopress.com/2008/08/19/venezuelan-politics-contaminate-mercosur-parliament-session>. Other news outlets reported up to 400 were barred. *See, e.g.* James Ingham, *Testing Times Ahead for Chávez*, BBC NEWS, Jun. 27, 2008, available at <http://news.bbc.co.uk/2/hi/americas/7471817.stm>.

²⁹ *Case of López Mendoza v. Venezuela*, Merits, Reparations, and Costs, Judgment, Inter-Am. Ct. H.R. (ser. C) No. 233 (Sep. 1, 2011), available at http://www.corteidh.or.cr/docs/casos/articulos/seriec_233_ing.pdf; *See also*, *Leopoldo Lopez: Venezuela’s Maverick Opposition Leader*, BBC NEWS, Feb. 19, 2014, available at <http://www.bbc.com/news/world-latin-america-26238612> [hereinafter *Leopoldo Lopez: Venezuela’s Maverick Opposition Leader*].

³⁰ Adam Williams, *Inter-American Human Rights Court Hears Leopoldo López Case*, INFOSURHOY, Aug. 3, 2011, available at http://infosurhoy.com/en_GB/articles/saii/features/main/2011/03/08/feature-02 [hereinafter *Inter-American Human Rights Court Hears Leopoldo López Case*].

to run.³¹ The mayoral seat of Caracas is the second largest political office after the presidency, and was widely considered the second most powerful political position in Venezuela until the position was largely stripped of power following the 2008 election of another opposition leader, Antonio Ledezma.³²

At the time of the ban, López was also viewed as a serious contender for the 2012 presidential election. A 2008 poll conducted by Keller & Associates showed that López led President Chávez 43 to 41 percent nationally.³³ This marked the first time that President Chávez trailed in a poll since his election 12 years prior.³⁴ However, due to the political ban, López threw his support for president to another opposition candidate, Henrique Capriles, in January 2012.³⁵

Leopoldo López brought his political ban before the Inter-American Commission of Human Rights in 2008.³⁶ As discussed further below in Appendix I, the Inter-American Court ruled in 2011 that by stripping him of his ability to run for public office, Venezuela violated López's rights and ordered that his ability to run for office be restored.³⁷ However, the Supreme Tribunal of Justice of Venezuela (*Tribunal Supremo de Justicia* or Supreme Court) refused to adhere to this ruling.³⁸

After leaving political office, López was named a Most Innovate People honoree by Future Capitals, alongside other world leaders such as Stephen Hawking and Bill Gates.³⁹ In that same year he founded *Voluntad Popular*.⁴⁰ *Voluntad Popular* defines itself as: “a plural and democratic movement organized in Popular Networks for the purposes of social and political action...[whose]...commitment is to progress, which...[is defined]...as conquering the social, economic, political, and human rights of each Venezuelan.”⁴¹ Leopoldo López was *Voluntad Popular*'s presidential candidate in 2012 before he backed Henrique Capriles after the Venezuelan Supreme Court refused to overturn López's political ban. Currently López acts as the National Coordinator of *Voluntad Popular*. He has 2.92 million Twitter followers⁴² and is now widely seen as a major leader of the political opposition.⁴³

³¹ *Id.*

³² See generally John Otis, *Stripped of His Powers, Caracas' Mayor Still Tries to Run a City*, GLOBAL POST, Aug. 12, 2011, available at <http://www.globalpost.com/dispatch/news/regions/americas/venezuela/110811/Politics-Venezuela-Oppression-Chávez>.

³³ *Inter-American Human Rights Court Hears Leopoldo López Case*, *supra* note 30.

³⁴ *Id.*

³⁵ See generally ‘Volcano of Energy’ Lopez Who Rode Shot-Up Car Roils Venezuela, *supra* note 4.

³⁶ *Inter-American Human Rights Court Hears Leopoldo López Case*, *supra* note 30.

³⁷ *Case of López Mendoza*, *supra* note 29, at 80; See also, *Top Court in Venezuela Upholds Ban on Chávez Foe*, CNN, Oct. 17, 2008, available at <http://www.cnn.com/2011/10/17/world/americas/venezuela-lopez/> [hereinafter *Top Court in Venezuela Upholds Ban on Chávez Foe*].

³⁸ *Top Court in Venezuela Upholds Ban on Chávez Foe*, *supra* note 37.

³⁹ Press Release, *Global Innovators Honored at 50-Nation Future Capitals Summit in Abu Dhabi*, FUTURE CAPITOLS, Jan. 14, 2009, available at <http://www.futurecapitals.org/08/media.asp?cid=1&prid=5>.

⁴⁰ *Oslo Freedom Forum*, *supra* note 18.

⁴¹ *Quiénes Somos*, VOLUNTAD POPULAR, available at <http://www.voluntadpopular.com/index.php/quienes-somos?view=featured> (translated from Spanish).

⁴² Leopoldo López, <https://twitter.com/leopoldolopez>.

⁴³ *Leopoldo López, the Charismatic Face of Venezuela's Opposition*, *supra* note 3.

II. Background Context and Current Situation in Venezuela

From 1999 until 2013, Hugo Chávez served as President of Venezuela.⁴⁴ Following *Chavismo*, a left-wing political ideology,⁴⁵ Chávez enacted a series of social and economic measures—termed the Bolivarian Revolution—aimed at improving quality of life for Venezuelans.⁴⁶ Chávez’s policies included nationalization, social welfare programs (known as Bolivarian Missions), and opposition to neoliberal economics (particularly the International Monetary Fund and World Bank).⁴⁷ Chávez sought to build a communal state grounded in self-government institutions such as community councils and communes.⁴⁸

Despite these lofty ambitions, Chávez’s presidency was characterized by corruption,⁴⁹ propaganda,⁵⁰ intimidation of the media,⁵¹ dramatic concentration of power,⁵² and disregard for human-rights protections.⁵³ According to Human Rights Watch, during his presidency Chávez effectively neutralized the judiciary as an independent branch of government.⁵⁴ Chávez’s government carried out a political takeover of Venezuela’s Supreme Court, dramatically expanded the government’s ability to control the content of the country’s broadcast and news media, and sought to block international organizations from monitoring the country’s human

⁴⁴ Ami Sedghi, *How did Venezuela change under Hugo Chávez?*, THE GUARDIAN, Mar. 6, 2013, available at <http://www.theguardian.com/news/datablog/2012/oct/04/venezuela-hugo-chavez-election-data> (noting that Hugo Chávez assumed office in 1999 and providing key indicators that show how Venezuela changed since Chávez assumed office).

⁴⁵ Larisa Epatko, *In Venezuela, Will ‘Chavismo’ Last Without Hugo Chávez?*, PBS, Apr. 12, 2013, available at <http://www.pbs.org/newshour/runtdown/venezuelas-chavismo/> (explaining that Hugo Chávez was “the force behind ‘Chavismo,’ a left-wing political ideology that favors nationalization and social welfare programs over free market development”).

⁴⁶ *Socialism after Chávez: Political Divisions Deepen Amid Unrest in Venezuela*, PBS NEWSHOUR, Apr. 18, 2014, available at <http://www.pbs.org/newshour/bb/socialism-chavez-political-divisions-deepen-amid-unrest-venezuela/> [hereinafter *Socialism After Chávez*] (explaining that Hugo Chávez called his plan Bolivarian socialism. Its goals were social justice, empowering the poor with expanded government services and redistributing Venezuela’s vast oil riches to finance it).

⁴⁷ Arvind Sivaramakrishnan, *Hugo Chávez: Death of a Socialist*, THE HINDU, Mar. 19, 2013, available at <http://www.thehindu.com/news/international/world/hugo-chvez-death-of-a-socialist/article4481169.ece> (explaining Hugo Chávez’s social programs and his wish that the International Monetary Fund and World Bank would “disappear”).

⁴⁸ Dario Azzellini, NORTH AMERICAN CONGRESS ON LATIN AMERICA, *The Communal State: Communal Councils, Communes, and Workplace Democracy* (Summer 2013), <https://nacla.org/article/communal-state-communal-councils-communes-and-workplace-democracy>.

⁴⁹ Gustavo Coronel, CATO INSTITUTE, *The Corruption of Democracy in Venezuela* (Mar. 2008), <http://www.cato.org/publications/commentary/corruption-democracy-venezuela>.

⁵⁰ Joel D. Hirst, COUNCIL ON FOREIGN RELATIONS, *The Bolivarian Alliance and the Hugo Chávez Propaganda Machine* (Nov. 3, 2010), <http://www.cfr.org/venezuela/bolivarian-alliance-hugo-chavez-propaganda-machine/p23307>.

⁵¹ Human Rights Watch, *World Report 2012* (Jan. 22, 2012), <http://www.hrw.org/sites/default/files/reports/wr2012.pdf>.

⁵² Human Rights Watch, *Venezuela: Chávez’s Authoritarian Legacy* (Mar. 5, 2013), <http://www.hrw.org/news/2013/03/05/venezuela-chavez-s-authoritarian-legacy> [hereinafter *Chávez’s Authoritarian Legacy*].

⁵³ *Chávez’s Authoritarian Legacy*, *supra* note 52; *Venezuela Violates Human Rights*, OAS commission reports, CNN, Feb. 24, 2010, available at <http://www.cnn.com/2010/WORLD/americas/02/24/venezuela.human.rights/> (explaining that the Inter-American Commission on Human Rights said in a report that Venezuela routinely violates human rights, often intimidating or punishing citizens based on their political beliefs).

⁵⁴ Human Rights Watch, *World Report 2009* (Jan. 14, 2009), <http://www.hrw.org/en/world-report-2009>.

rights practices.⁵⁵ Further, the government price controls put in place by Chávez in 2002, which initially aimed to reduce the prices of basic goods, caused inflation and shortages of basic goods.⁵⁶ Additionally, the murder rate under Chávez's administration quadrupled, making Venezuela one of the most violent countries in the world.⁵⁷ Taken together, these factors contributed to widespread discontent among the Venezuelan population.

While Venezuela under Chávez initially enjoyed vibrant public debate on political issues,⁵⁸ starting in 2009, several prominent opposition leaders were targeted for criminal prosecution; without independent courts they had little chance of a fair trial.⁵⁹ Chávez and his followers increasingly intimidated, censored, and prosecuted Venezuelans who were critical of the president or hindered his political agenda.⁶⁰ According to Human Rights Watch:

During the Chávez years, many Venezuelans continued to criticize the government, but the prospect of retribution—in the form of arbitrary or abusive state action—forced journalists and human rights defenders to weigh the consequences of disseminating information and opinions critical of the government, and undercut the ability of judges to adjudicate politically sensitive cases.⁶¹

During the Chávez years, thousands of opposition leaders and supporters were subjected to political persecution, ranging from loss of government jobs to legal action in the country's courts.⁶²

Another individual targeted by the Chávez regime was María Lourdes Afiuni, a judge who was imprisoned in December 2009 after one of her rulings angered President Chávez.⁶³ Afiuni's offense was her having ordered the release of Eligio Cedeño, a banker who was a political prisoner who had been detained for almost three years without trial.⁶⁴ In ruling in Cedeño's favor, Afiuni had applied Venezuelan law and also cited to an opinion on Cedeño's case from the UN Working Group on Arbitrary Detention, which found that he was being held in

⁵⁵ *Chávez's Authoritarian Legacy*, *supra* note 52; Human Rights Watch, *Rigging the Rule of Law: Judicial Independence Under Siege in Venezuela* (Jun. 17, 2004), <http://www.hrw.org/node/12011/section/1>.

⁵⁶ Matthew Walter, *Chávez Price Controls Mean Record Oil Fails to Prevent Shortage*, BLOOMBERG, May 23, 2008, available at <http://www.bloomberg.com/apps/news?pid=newsarchive&sid=a6qMqmU1dCeM> (describing the price controls and shortages that were experienced during Chávez's presidency and the public discontent that they caused).

⁵⁷ Manuel Rueda, *How Did Venezuela Become So Violent?*, FUSION, Jan. 8, 2014, available at <http://fusion.net/leadership/story/venezuela-violent-iraq-365361> (noting that under Chávez's government, Venezuela became one of the world's most violent countries; the country's murder rate has increased dramatically since 1999, the year Chávez took office, and has continued to climb under Nicolás Maduro).

⁵⁸ Human Rights Watch, *World Report 2008* (Mar. 31, 2008), <http://www.hrw.org/legacy/wr2k8/> [hereinafter *World Report 2008*].

⁵⁹ Human Rights Watch, *World Report 2010* (Jan. 31, 2010), <http://www.hrw.org/world-report-2010> [hereinafter *World Report 2010*].

⁶⁰ *Chávez's Authoritarian Legacy*, *supra* note 52.

⁶¹ *Id.*

⁶² *Criminals or Dissidents?* THE ECONOMIST, Feb. 17, 2011, available at <http://www.economist.com/node/18184396> [hereinafter *Criminals or dissidents?*] (detailing the repercussions faced by dissidents for defying Chávez).

⁶³ *Id.*

⁶⁴ *Id.*

violation of Venezuela's international legal obligations.⁶⁵ Nevertheless, three days after Afiuni's arrest, President Chávez demanded that she be imprisoned for thirty years.⁶⁶ Widely considered one of Venezuela's highest-profile political prisoners,⁶⁷ Afiuni was subsequently imprisoned in a jail that also housed violent offenders she herself had sentenced.⁶⁸ The Working Group declared that she was arbitrarily detained, and the Inter-American Commission on Human Rights (IACHR) called for her to be tried or released.⁶⁹ Afiuni was granted house arrest in February 2011 because of a serious medical condition.⁷⁰ She was ultimately released from house arrest in June 2013, but to comply with the conditions of her release, she must report to the court in Caracas every 14 days and is banned from leaving the country without permission or speaking to the media.⁷¹

Afiuni's case is an illustrative example of the many individuals targeted by Chávez during his presidency. On March 5, 2013, Hugo Chávez died of cancer⁷² and Nicolás Maduro, who was vice-president at the time, took Chávez's place.⁷³ Maduro, Chávez's successor,⁷⁴ subsequently narrowly defeated Henrique Capriles in Venezuela's 2013 presidential election, gaining 50.6% of the vote compared to the 55.1% Chávez had received in the previous election.⁷⁵ According to Human Rights Watch, Chávez's tradition of "accumulati[ng] ... power in the executive branch and erod[ing] ... human rights guarantees"⁷⁶ has continued under Maduro, which has "enabled [his] government to [similarly] intimidate, censor, and prosecute its critics."⁷⁷ Notably, in September 2013, the Maduro government's decision to withdraw from the

⁶⁵ *Criminals or Dissidents?*, *supra* note 62; *Eligio Cedeño v. Government of Venezuela*, Opinion No. 10/2009, adopted 28 May 2009, ¶ 53.

⁶⁶ *Criminals or Dissidents?*, *supra* note 62.

⁶⁷ *Venezuela Ends House Arrest of Judge Maria Afiuni*, BBC, Jun. 14, 2013, available at <http://www.bbc.com/news/world-latin-america-22916391> [hereinafter *Venezuela ends house arrest*] (noting that opposition leaders consider Maria Afiuni to be among Venezuela's highest-profile political prisoners and explaining that she was released from house arrest in June 2013).

⁶⁸ *Criminals or Dissidents?*, *supra* note 62.

⁶⁹ *Id.*

⁷⁰ *Venezuela Ends House Arrest*, *supra* note 67.

⁷¹ *Id.*

⁷² *Socialism after Chávez*, *supra* note 46.

⁷³ Catherine E. Shoichet and Dana Ford, *Venezuelan President Hugo Chávez Dies*, CNN, Mar. 5, 2013, available at <http://www.cnn.com/2013/03/05/world/americas/venezuela-Chavez-main/> [hereinafter *Hugo Chávez Dies*] (noting that Hugo Chávez died on Mar. 5, 2013, and elections were held 30 days later, with Nicolás Maduro assuming the presidency in the interim).

⁷⁴ Human Rights Watch, *World Report 2014* (Jan. 21, 2014), http://www.hrw.org/sites/default/files/wr2014_web_0.pdf. [hereinafter *World Report 2014*].

⁷⁵ *Venezuela Gives Chávez Protégé Narrow Victory*, NEW YORK TIMES, Apr. 14, 2013, available at <http://www.nytimes.com/2013/04/15/world/americas/venezuelans-vote-for-successor-to-Chavez.html?pagewanted=all> (noting that in an unexpectedly close race, Nicolás Maduro, Hugo Chávez's handpicked political heir, was chosen by Venezuelans to serve the remainder of Chávez's six-year term as president); *Maduro Wins Venezuela Presidency*, USA TODAY, Apr. 15, 2013, available at <http://www.usatoday.com/story/news/world/2013/04/14/venezuela-election-maduro-capriles/2081677/> (Noting that Venezuelan officials say Nicolás Maduro defeated Henrique Capriles by only about 300,000 votes; the margin was 50.8% to 49.1%); Chris Kraul, *In Venezuela, Hugo Chávez Reelection Raises Unity Questions*, LOS ANGELES TIMES, Oct. 8, 2012, available at <http://articles.latimes.com/2012/oct/08/world/la-fg-venezuela-Chavez-20121009> (noting that in Venezuela's October 2012 presidential election, Hugo Chávez had 8.04 million votes, or 55.1%, to Capriles 6.46 million votes, or 44.3%).

⁷⁶ *World Report 2014*, *supra* note 74.

⁷⁷ *Id.*

American Convention on Human Rights took effect, leaving Venezuelans without access to the Inter-American Court of Human Rights, an international tribunal that had protected their rights for decades in a wide array of cases.⁷⁸ The Maduro government also inherited Chávez's legacy of a lack of judicial independence and impartiality, with Members of the country's Supreme Court continuing to openly reject the principle of separation of powers, publicly pledging their commitment to advance the government's political agenda, and repeatedly ruling in favor of the government.⁷⁹

It was in this political climate that a series of protests and political demonstrations broke out in Venezuela in early February 2014.⁸⁰ The protests erupted largely as a result of high levels of violence,⁸¹ corruption, inflation (the annualized inflation figure topped 57% in February),⁸² and scarcity of basic goods in the country.⁸³ As under Chávez, these dynamics bred profound dissatisfaction with the Government among Venezuelans across the social spectrum.⁸⁴ When the protests began, Maduro's approval rating was 46.8%, with those Venezuelans polled citing shortages of consumer goods as a major concern.⁸⁵ Armed pro-government gangs loyal to Maduro's government, on the other hand, have acted as community enforcers defending revolutionary socialism.⁸⁶ These pro-government militia are often referred to as *colectivos*, a term also used in Venezuela to refer to a wide range of social organizations that support and, in some cases, help to implement the government's policies.⁸⁷ As described below, non-violent protests this year have turned violent because of involvement by armed pro-government gangs and *colectivos*.

⁷⁸ *Id.*

⁷⁹ *Id.*; see also *infra* section B(1)(a).

⁸⁰ Amnesty International, *Venezuela: Political Spiral of Violence a Threat to the Rule of Law* (Mar. 31, 2014), <http://www.amnestyusa.org/news/news-item/venezuela-political-spiral-of-violence-a-threat-to-the-rule-of-law>.

⁸¹ *Socialism after Chávez*, *supra* note 46 (noting that the United Nations says Venezuela under Nicolás Maduro has the second-highest murder rate in the world).

⁸² *Venezuela Hikes Minimum Wage 30 percent Amid High Inflation*, CHICAGO TRIBUNE, Apr. 29, 2014, *available at* <http://www.chicagotribune.com/news/sns-rt-us-venezuela-salaries-20140429,0,6231814.story> (noting that Venezuela's annualized inflation figure topped 57 percent in February 2014).

⁸³ Anatoly Kurmanaev and Corina Pons, *Venezuela Inflation Hits 16-Year High as Shortages Rise*, BLOOMBERG, Nov. 7, 2013, *available at* <http://www.bloomberg.com/news/2013-11-07/venezuela-inflation-hits-16-year-high-as-shortages-rise.html> (noting that Venezuela's annual inflation rate rose more than expected to 54.3 percent in October 2013, the fastest pace in as many as 16 years, with the scarcity rate persistently remaining around 20 percent); Corina Pons and Jose Orozco, *Venezuela Planning Third Dollar Supply System as Scarcity Rises*, BLOOMBERG, Feb. 11, 2014 (noting that the Venezuela Central Bank's scarcity index reached 28 percent in January, meaning that one in four basic goods was out of stock at any given time).

⁸⁴ *Socialism After Chávez*, *supra* note 46; *Inside the Barrios*, THE ECONOMIST, Mar. 22, 2014, *available at* <http://www.economist.com/news/americas/21599382-support-among-poor-government-nicol-s-maduro-conditional-inside-barrios> [hereinafter *Inside the Barrios*] (explaining that *colectivos* are armed civilian gangs loyal to the government that act as community enforcers).

⁸⁵ *Support for Venezuela's Maduro Drops to 37 Percent: Report*, REUTERS, May 5, 2014, *available at* <http://www.reuters.com/article/2014/05/05/us-venezuela-politics-idUSBREA440HH20140505> (noting that Maduro's approval rate was 37 percent in April, 2014, a drop from 46.8 percent in February of that year).

⁸⁶ *Inside the Barrios*, *supra* note 84; Daniel Wallis, *Venezuela Violence Puts Focus on Militant 'Colectivo' Groups*, REUTERS, Feb. 13, 2014, *available at* <http://www.reuters.com/article/2014/02/13/us-venezuela-protests-colectivos-idUSBREA1C1YW20140213> (explaining that *colectivos* "view themselves as the defenders of revolutionary socialism but are denounced by opponents as thugs").

⁸⁷ Human Rights Watch, *Punished for Protesting: Rights Violations in Venezuela's Streets, Detention Centers, and Justice System* (May 2014), <http://www.hrw.org/node/125192> [hereinafter *Punished for Protesting*].

III. Protests of January 2014 to Present

The current protests in Venezuela began in early January 2014 as an outcry against Venezuela's crime rate in the aftermath of the murder of Venezuelan actress and former Miss Venezuela, Monica Spear, along with her husband.⁸⁸ Their five-year-old daughter, who was also in the car, was shot in the leg but survived.⁸⁹

On January 23, Leopoldo López, Marina Corina Machado, Antonio Ledezma and other prominent leaders held a press conference during which the three opposition leaders presented a platform labeled "*La Salida*" ("the Exit").⁹⁰ This political platform highlighted the record inflation (reportedly 56.2 percent in December 2013), Venezuela's high murder rate, and shortage of basic food items.⁹¹ In short, *La Salida* is a political strategy to use democratic and constitutional means to find solutions to the political and economic crisis. The strategy presented was as follows, with each event coming only if the previous failed: a call for the resignation of President Maduro, a recall referendum under Article 72 of the Venezuela Constitution, a constitutional assembly, and as a last resort, a constitutional amendment.⁹²

Thus, López presented *La Salida* as the means for achieving his overall aim, which is to "rise up against oppression, the essence [of which is that] the peoples have ... [this] ... right when faced with a government that seeks imposition, authoritarianism, anti-democracy, corruption, and inefficiency as a form of government."⁹³ Not to be confused with violent confrontation, López clearly defined his vision:

And what does rising up mean? So that they won't misinterpret us and say words that we are not saying, an 'uprising/revolt' [*alzamiento*] means first and foremost the rising to consciousness, the rising up of our fighting spirit, the rising up to our vocation for change. The uprising that today, January 23rd, we must demand, is that a people can take to the streets, ever since peoples have been peoples, ever since history has been history, this right has existed for peoples to

⁸⁸ Isben Martinez, *Chaos, Chavismo and Telenovelas*, N.Y. TIMES, Apr. 8, 2014, available at http://www.nytimes.com/2014/04/09/opinion/chaos-chavismo-and-telenovelas.html?_r=0 [hereinafter *Chaos, Chavismo, and Telenovelas*]; Jeffrey Taylor, *What the Heck is Going on in Venezuela?*, BLOOMBERG BUSINESSWEEK, Feb. 18, 2014, available at <http://www.businessweek.com/articles/2014-02-18/what-the-heck-is-going-on-in-venezuela-could-the-maduro-regime-fall>.

⁸⁹ *Chaos, Chavismo, and Telenovelas*, supra note 88; *What the Heck is Going on in Venezuela*, supra note 88.

⁹⁰ See generally *What Lies Behind the Protests in Venezuela?*, BBC NEWS, Mar. 27, 2014, available at <http://www.bbc.com/news/world-latin-america-26335287>; *Leopoldo Lopez: Venezuela's Maverick Opposition Leader*, supra note 29.

⁹¹ See generally *Venezuela Forces 'Clear' Protest City of San Cristobal*, BBC NEWS, Mar. 31, 2014, available at <http://www.bbc.com/news/world-latin-america-26815745>; *What Lies Behind the Protests in Venezuela?*, supra note 90.

⁹² See generally *Anti-Maduro Protests Persist in Venezuela, Dozens Jailed*, REUTERS, Feb. 14, 2014, available at <http://www.reuters.com/article/2014/02/14/us-venezuela-protests-idUSBREA1D19J20140214> [hereinafter *Anti-Maduro Protests Persist in Venezuela, Dozens Jailed*].

⁹³ See Appendix II, *Speech by Mr. López at Political Assembly in Plaza Brión—January 23, 2014* [hereinafter *López Jan 23. Speech*].

say ‘we want to change...’ [And] today more than ever we encourage the vocation for a peaceful struggle, popular, constitutional, and democratic.⁹⁴

Moreover, López continued in his speech to describe his views about the problems with the current Government:

Today in Venezuela there is a corrupt upper echelon of leadership. Today in Venezuela there is an elite that has hijacked the Venezuelan State, an elite that has become multimillionaires, an elite that behind the backs of the people has robbed it of all of the wealth belonging to the Venezuelans, and that elite that today is governing and that refers to themselves as revolutionaries, that refers to themselves as the agents of change, are the ones responsible for the ills endured by our people, and it is for that reason that we are not going to renounce our right, our sacrosanct right to say ‘enough, already!’, our sacrosanct right to say, as Betancourt said back in the 1950s, that we will be in the streets, that we will converge with the people, that we will converge with the strength of a people that wants to change. And we know that this announcement will be presented by the Government as a call to something different than the consolidation of democracy. But we tell Venezuelans, let’s not get sucked into deceptions, that it does not matter to us how the Government wants to interpret what we are saying, because for us what is important is the Venezuelan people, that people that wants change, that people that wants a better Venezuela, that people that today is frustrated, that has been driven to despair, that appears to not perceive a way out of the disaster to which we are subjected today. We tell Venezuelans that it is possible, it is possible to have a better Venezuela, it is possible but we need you, we need you, sister, we need you, brother, we need you, but first and foremost with the conviction, with the conviction of your soul, with the conviction of your actions.

[...]

[And] what is the exit to this disaster? We believe that calling for a political exit is not only done with political organizations; it is not done only in a restricted space. That discussion regarding where Venezuela needs to go needs to convene a people, we have to listen to the Venezuelan people, we have to debate, we have to incorporate the Venezuelan people’s sentiments of frustration and vocation for change. It is for that reason that we in these street assemblies that we want to hold and which will be held on national territory, in the cities, in the towns, in the neighborhoods, in the developments, we are going to debate this, the exit. And what is the exit that we are proposing? We are aware that the exit must be, first and foremost, popular, popular with the people ... Secondly, a democratic exit, and thirdly, an exit within the Constitution. The Constitution offers us various tools and we will debate with the people which of these tools is the most appropriate, which of those tools can channel us toward a change as soon as

⁹⁴ López *Jan. 23 Speech*, *supra* note 93 (emphasis added).

possible, toward the most profound kind of change, the most democratic, and that enable us to make progress toward a better Venezuela.⁹⁵

On February 2, public assemblies took place throughout the country to discuss *La Salida*. López, Machado, and Ledezma participated in the assembly in Caracas along with student leaders. During this assembly, the decision was made to support the call for a rally on February 12.

An independent set of protests began on February 4 at the University of the Andes in the western city of San Cristóbal, Táchira, where students demanded increased security after the alleged rape of a female student on February 2.⁹⁶ The protests in San Cristóbal resulted in a crackdown by the Government and dozens of student leaders were imprisoned.⁹⁷ This led to demonstrations throughout Venezuela calling for the students' release.⁹⁸ Gabriela Arellano, a student leader from Los Andes University, and Juan Requenses, a student leader from the Central University of Venezuela, called for a protest in Caracas to be held on February 12.

The February 12 protest in Caracas started at 10 am. Hundreds of thousands of protesters converged on Plaza Venezuela, one of the main public squares in Caracas. López, Machado and Ledezma were invited to attend and speak. February 12 was specifically chosen because it was the 200th anniversary of the Battle of La Victoria, a battle where students played a prominent role in the Venezuelan city of La Victoria's resistance against attacks by the Spanish army during Venezuela's campaign for independence.⁹⁹ February 12 is also designated as Venezuela's Youth Day.¹⁰⁰ As he had done in his speech on January 23, López reaffirmed for the attendees the need to work toward a democratic Venezuela through peaceful means:

This is a struggle by the people against the State... let us go out to walk with conviction, with strength, assuming [the path of] non-violence. Our territory is the street, our struggle is non-violent.¹⁰¹

⁹⁵ López *Jan. 23 Speech*, *supra* note 93.

⁹⁶ *Venezuela Charges Opposition Leader, Protests Erupt*, YAHOO!, Apr. 5, 2014, available at <http://news.yahoo.com/jailed-venezuelan-opposition-leader-formally-charged-185439105.html>; *Venezuela Forces 'Clear' Protest City of San Cristobal*, *supra* note 91; *Venezuela Court Rejects Release of Opposition Leader*, YAHOO!, Mar. 28, 2014, available at <http://news.yahoo.com/venezuela-court-rejects-release-opposition-leader-184521764.html>; *What Lies Behind the Protests in Venezuela?*, *supra* note 90; Vivia Sequera, *Did Attempted Rape Ignite Venezuela's National Protests?*, CHRISTIAN SCIENCE MONITOR, Feb. 22, 2014, available at <http://www.csmonitor.com/World/Latest-News-Wires/2014/0222/Did-attempted-rape-ignite-Venezuela-s-national-protests>.

⁹⁷ *Venezuela Forces 'Clear' Protest City of San Cristobal*, *supra* note 91; *What Lies Behind the Protests in Venezuela?*, *supra* note 90.

⁹⁸ *Id.*

⁹⁹ Nicolás Lucca, *Una Ola de Protestas, Represión y Detenciones Sacuden a Venezuela*, EDITORIAL PERFIL SA, available at <http://www.perfil.com/internacional/Una-ola-de-protestas-represion-y-detenciones-sacuden-a-Venezuela-20140211-0032.html>.

¹⁰⁰ *What the Heck is Going on in Venezuela*, *supra* note 88.

¹⁰¹ See Appendix II, *Speech of Mr. López at the Rally at Plaza Venezuela—February 12, 2014* [hereinafter *López Plaza Venezuela Speech*] (emphasis added).

After speeches by students and politicians, the crowd marched to the headquarters of the Public Prosecutor in Carabobo Park, where the office of Attorney General Luisa Ortega Díaz is located, to submit a letter demanding the release of the arrested students. By about 1 pm, after waiting for three hours, it became clear that the Public Prosecutor's office would not accept the letter, so López urged all the protesters to return home. At the same time, a rival march by Maduro supporters was taking place. Again, López emphasized the need for non-violence:

[T]oday I want to highlight, I want to highlight that we have come peacefully, as you can see. Here there is no vocation for violence. There is irreverence, yes, there is also determination, but you in the media can emphasize that there has been no violence. Now then, when is there violence? When they bring out the law enforcement officers, when they bring out the police, the guards, and the army, and when they bring out the collective groups that take their orders from the Government, as occurred yesterday in Mérida when the Tupamaros fell heavily on the students. Today we want to send a message to the soldiers, to the soldiers of the Bolivarian Armed Forces, we want to send a message to the National Guard, to the police officers, to the public prosecutors, and to the members of the collectives: Do not follow orders or instructions to destroy the people. You do not have to repress the people. You must wear that uniform with valor and in adherence to the Constitution and the law.¹⁰²

News reports confirmed that the rally was peaceful.¹⁰³ However, a small group of protesters stayed, when López, Machado, Ledezma, and the vast majority of protesters dispersed.¹⁰⁴ Of this small group, an even smaller number “threw rocks and chunks of concrete at riot police, who responded with tear gas.”¹⁰⁵ This group also “threw projectiles at the headquarters of the national prosecutor's office, breaking windows on the second floor.”¹⁰⁶ According to Human Rights Watch, “[a]ll available accounts from witnesses indicate that the majority of protesters were peaceful, and those that engaged in violence or vandalism did not carry firearms or use lethal force against security forces or third parties.”¹⁰⁷ Police did nothing to control the situation until their vehicles were set on fire.¹⁰⁸ At that point, police rushed a small park, “grabbing people indiscriminately, pummeling them, pushing them to the ground and kicking them. Most of the protesters were gone by then, so many of those beaten by the police were news photographers and cameramen.”¹⁰⁹ In a different area the situation quickly turned deadly when three protesters—two anti-government protesters and one government supporter—

¹⁰² See Appendix II, *Speech of Mr. López at Rally Outside Office of the Attorney General—February 12, 2014* [hereinafter *López Attorney General Speech*] (emphasis added).

¹⁰³ See generally William Neuman, *Prominent Opposition Leader in Venezuela is Blamed for Unrest*, N.Y. TIMES, Feb. 13, 2014, available at http://www.nytimes.com/2014/02/14/world/americas/prominent-opposition-leader-in-venezuela-is-blamed-for-unrest.html?_r=0 [hereinafter *Prominent Opposition Leader in Venezuela is Blamed for Unrest*].

¹⁰⁴ *Id.*

¹⁰⁵ *Id.*

¹⁰⁶ *Id.*

¹⁰⁷ HUMAN RIGHTS WATCH, *Venezuela: Violence Against Protesters, Journalists*, (Feb. 21, 2014), <http://www.hrw.org/news/2014/02/21/venezuela-violence-against-protesters-journalists> [hereinafter *Venezuela: Violence Against Protesters, Journalists*].

¹⁰⁸ *Prominent Opposition Leader in Venezuela is Blame for Unrest*, *supra* note 103

¹⁰⁹ *Id.*

were shot following the largely peaceful march.¹¹⁰ This happened at approximately 1:20 pm. Again, the three opposition leaders had long departed the scene.¹¹¹

Contrary to the Venezuelan Government's claims that López incited violence, photographs and videos released by the daily newspaper *Últimas Noticias* depict uniformed and non-uniformed police agents opening fire on demonstrators who were marching towards them.¹¹² As described above, reports suggest that pro-government gangs and *colectivos* also carried out violence during the protests.¹¹³

At 8 pm that evening, López, Machado, and Ledezma held a press conference denouncing the violence that occurred and calling once again for nonviolent action:

Those Venezuelans who came out throughout national territory did so courageously, knowing that there were threats on the part of the Government, knowing that the call we put out was a call to convene peacefully, non-violently. And that is the way it was, the demonstration that today brought together thousands of individuals in Plaza Venezuela. In that way we walked to the Office of the Attorney General: in peace, non-violently. We were there in that way at the Office of the Attorney General for several hours, protesting, demonstrating, but in peace and non-violently; and yes, with irreverence in our thoughts and in our hearts, but never with violence. ... Know this, Mr. Maduro: regardless what you do, this that has begun will not stop until change is conquered in peace and democracy for all Venezuelans.¹¹⁴

A. *Blame by Political Officials*

President Maduro consistently referred disparagingly to López as “The Throne,” which is meant to cast suspicion on López’s political ambitions.¹¹⁵ Over a year before López’s imprisonment, President Maduro publicly announced, “[f]ormer Chacao Mayor Leopoldo López has already polished ... [his] ... cell. It is just a matter of time. That fascist has done a lot of

¹¹⁰ *Venezuela Opposition Leader Barred from Capitol*, USA TODAY, Apr. 1, 2014, available at <http://www.usatoday.com/story/news/world/2014/04/01/venezuela-opposition-lawmaker/7185043/>; *Venezuelan Opposition Leader Leopoldo López Denied Bail*, BBC NEWS, Mar. 28, 2014, available at <http://www.bbc.com/news/world-latin-america-26793545> [hereinafter *Venezuelan Opposition Leader Leopoldo Lopez Denied Bail*; *What Lies Behind the Protests in Venezuela?*, *supra* note 90.

¹¹¹ *See generally Prominent Opposition Leader in Venezuela is Blamed for Unrest*, *supra* note 103 (“[A]fterward a few hundred young people...stayed”).

¹¹² *Uniformado y Civiles Dispararon en Cadelaria el 12F*, ÚLTIMAS NOTICIAS, Feb. 19, 2014, available at <http://www.ultimasnoticias.com.ve/noticias/actualidad/investigacion/video---uniformados-y-civiles-dispararon-en-candel.aspx>; Oscar Medina, *Their Claims Were Not True*, EL UNIVERSAL, Apr. 19, 2014, available at <http://english.eluniversal.com/nacional-y-politica/140419/their-claims-were-not-true> [hereinafter *Their Claims Were Not True*].

¹¹³ *Punished for Protesting*, *supra* note 87.

¹¹⁴ *See Appendix II, Words from Press Conference Where Mr. López Denounces Violence—February 12, 2014* (emphasis added).

¹¹⁵ Joshua Goodman, *Leopoldo Lopez, Venezuelan Opposition Leader, Sought by Police After Protests*, HUFFINGTON POST, Feb. 16, 2014, available at http://www.huffingtonpost.com/2014/02/16/leopoldo-lopez-_n_4798435.html.

damage to this country. Justice will come sooner or later.”¹¹⁶ On the night of February 12, President Maduro claimed that the protests were part of “a planned coup d’état.”¹¹⁷

After the violence on February 12, Venezuelan Foreign Minister Elías Jaua labeled López as specifically responsible for the February 12 violence, and President Maduro continued to use inflammatory language to mischaracterize López. Foreign Minister Jaua stated on television:

Leopoldo López directed a well-trained group of his followers toward the national prosecutor’s office, and once he had left the demonstration there began a coordinated and massive attack ... We can no longer tolerate that this group acts with impunity, bathing the Venezuelan people with blood.¹¹⁸

Minister Jaua also characterized López as the “intellectual author” of the killings.¹¹⁹ President Maduro described López and other opposition leaders as “right-wing fascists who plant seeds of fear and violence” who have an “irrational, fascist-leaning attitude.”¹²⁰ On the night of February 12, President Maduro declared, “I tell these fugitives from justice: give yourselves up! ... They should go behind bars.”¹²¹ And, while showing video and pictures of Leopoldo López, Maduro continued, “There you have the face of fascism!”¹²² Diosdado Cabello, Speaker of the National Assembly, tweeted López was a “fugitive” before stating, “You’re not going to escape, coward.”¹²³

President Maduro also greatly exaggerated the extent of damage that was done on February 12. Even though the damage to public property consisted mainly of a few broken windows, President Maduro claimed “the demonstrators had destroyed the headquarters of the national prosecutor’s office.”¹²⁴ He also claimed that the protesters were trained and attacked the police in a carefully organized fashion, despite the fact that the scene on the street was chaotic and there was little, if any sign of coordination.¹²⁵

Public Prosecutor Luisa Ortega continued the theme that Leopoldo López was the “intellectual author” of the violence and should therefore be punished. She stated, “We are working to sanction those who are responsible not only as material authors but as intellectual authors. That is, those who call for or incite violence. These messages are direct but sometimes

¹¹⁶ *Sea Ud. El Juez Parte I*, VOLUNTAD POPULAR, Apr. 30, 2014, available at https://www.youtube.com/watch?v=_bK2S5YkWR4 [hereinafter *Sea ud. El Juez Parte I, Voluntad Popular*].

¹¹⁷ *Prominent Opposition Leader in Venezuela is Blamed for Unrest*, *supra* note 103

¹¹⁸ *Id.*

¹¹⁹ *Venezuela: Violence Against Protesters, Journalists*, *supra* note 107.

¹²⁰ Mariano Castillo, Catherine E. Shoichet, *Cheered by Supporters, Venezuelan Opposition Leader López Surrenders*, CNN, Feb. 19, 2014, available at <http://www.cnn.com/2014/02/18/world/americas/venezuela-protests/index.html>; *Anti-Maduro Protests Persist in Venezuela, Dozens Jailed*, *supra* note 92.

¹²¹ 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> [hereinafter *This Politician is a Wanted Man in Venezuela After Leading Anti-Government Protests This Week*].

¹²² *Id.*

¹²³ *Anti-Maduro Protests Persist in Venezuela, Dozens Jailed*, *supra* note 92.

¹²⁴ *Prominent Opposition Leader in Venezuela is Blamed for Unrest*, *supra* note 103.

¹²⁵ *Id.*

also subliminal.”¹²⁶ Jorge Rodríguez, Mayor of Libertador, a municipality within the Metropolitan District of Caracas, stated that López was “directly responsible for sowing violence in the country.”¹²⁷

B. Charges and Arrest

Order of Apprehension N 007-14¹²⁸ (the arrest warrant) was issued for Leopoldo López by the Prosecutor’s Office on the evening of February 12, and approved shortly thereafter by Caracas 16th Control Judge, Ralenys Tovar Guillén.¹²⁹ The arrest warrant ordered the Chief of the Bolivarian National Intelligence Agency,¹³⁰ rather than the local police, to arrest López. Judge Tovar also reportedly ordered the Bolivarian Intelligence Service to enter López’s residence.¹³¹ However, no search warrant was ever presented to family members.

Judge Tovar Guillén is a temporary judge and admitted to being pressured by the Venezuelan executive branch to detain Mr. López. On February 26, the Spanish-language news station *Nuestra Tele Noticias 24 Horas* disclosed text messages given to them by Gabriela Mata, a friend of Judge Tovar. In a conversation using the smartphone application WhatsApp and confirmed by the media as having been traced to her telephone number, Judge Tovar illustrated her lack of judicial independence, writing to Mata, “My friend, I had to choose between keeping my job or waking up fired.”¹³² The television segment of this news story was not available within Venezuela, as this channel was banned from the air for covering the February 12 protests.¹³³

The initial charges against López were for conspiracy, incitement to commit crimes, public intimidation, setting fire to a public building, damage to public property, causing serious injury, premeditated aggravated homicide of Juan Montoya and Bassil Alejandro Da Costa Frías, attempted premeditated aggravated homicide of Neider Arellano Serra and others, and terrorism. Given the serious charges and political climate, and without any specific evidence of the existence of a legal detention order, López went into temporary hiding.

¹²⁶ Virginia López, Jonathan Watts, *Venezuela Violence Continues After Arrest of Leopoldo López*, THE GUARDIAN, Feb. 19, 2014, available at <http://www.theguardian.com/world/2014/feb/19/venezuela-leopoldo-lopez-court> [hereinafter *Venezuela Violence Continues After Arrest of Leopoldo López*].

¹²⁷ *Jorge Rodríguez: Leopoldo López es el Responsable de la Siembra de la Violencia*, EL NACIONAL, Feb. 12, 2014, available at http://173.246.50.18/politica/Jorge-Rodriguez-Leopoldo-Lopez-responsable_0_354564732.html.

¹²⁸ Orden de Aprehension N° 007-14, Feb. 12, 2014, Circuito Judicial Penal, Área Metropolitana de Caracas, Tribunal 16 en Funciones de Control [hereinafter “Orden de Aprehension”].

¹²⁹ *Their Claims Were Not True*, supra note 112; *Venezuelan Opposition Leader Leopoldo López Denied Bail*, supra note 110; Juan Francisco Alonso, *Bench Warrant Against Venezuelan Opposition Leader Leopoldo López*, EL UNIVERSAL, Feb. 16, 2014, available at <http://www.eluniversal.com/nacional-y-politica/140213/bench-warrant-against-venezuelan-opposition-leader-leopoldo-lopez> [hereinafter *Bench Warrant Against Venezuelan Opposition Leader Leopoldo López*].

¹³⁰ In Spanish, “Servicio Bolivariano de Inteligencia Nacional,” also referred to as “SEBIN.”

¹³¹ *Bench Warrant Against Venezuelan Opposition Leader Leopoldo López*, supra note 129.

¹³² *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).

¹³³ *Anti-Maduro Protests Persist in Venezuela, Dozens Jailed*, supra note 92.

In the early morning hours of February 16, security forces simultaneously raided López's home and that of his parents.¹³⁴ At López's house, the officials showed only a copy of the arrest warrant issued by Judge Tovar, but did not present a search warrant. The arresting officers wore ski masks and at first presented no identification. At López's parents' house, more than 20 heavily armed men who identified themselves as police showed up in four vehicles. They blocked access to the street from the residence at two points, preventing neighbors from coming in or out of the area. They then searched through the homes without lawyers present. Leopoldo López was not present at either house.

On the evening of February 16, López declared on YouTube that he would turn himself in and called for a peaceful demonstration on February 18.¹³⁵ "I will be there showing my face. I have nothing to fear ... If there is any illegal decision to jail me, then I will accept that decision and that infamous persecution by the state ... I want to tell all of you who want to accompany us that that day we must go out as we have always done, peacefully. I ask that this time let us go dressed in white so as to symbolize our commitment to peace", Leopoldo López stated.¹³⁶

The protest was to be carried out on Plaza Venezuela and lead to the headquarters of the Ministry of Popular Power for the Interior, Justice, and Peace. Within minutes of the video going public, government officials stated that they could not protect López and that his life could be in danger. On February 18, Government security forces blocked access to Plaza Venezuela, preventing entry for the protestors. The group therefore moved to a different area, Plaza Brión de Chacaíto, and began a peaceful protest. Around noon, Leopoldo López gave a speech to tens of thousands of supporters with his wife beside him before turning himself in to the authorities.¹³⁷ Using a megaphone, he told the crowd: "The options I had were to leave the country, and I will never leave Venezuela ... The other option was to remain in hiding, but that option could've left doubt among some, including some who are here, and we don't have anything to hide."¹³⁸ He also stated: "I present myself to an unjust judiciary."¹³⁹

¹³⁴ *Allanan Residencia de los Padres de Leopoldo López*, ÚLTIMAS NOTICIAS, Feb. 16, 2014, available at <http://www.ultimasnoticias.com.ve/noticias/actualidad/politica/allanan-residencia-de-los-padres-de-leopoldo-lopez.aspx>; *Who is the Opposition Leader Leopoldo López?*, CNN, Feb. 2, 2014, (video, at 1:10) available at <http://www.cnn.com/video/api/embed.html#/video/world/2014/02/19/venezuela-leopoldo-lopez-profile-romo-pkg.cnn>.

¹³⁵ *#Resistencia18F*, available at <https://www.youtube.com/watch?v=vCmoGxEnEJc&list=UUa7FaW0KNECwcCelo5b0Ibw>; *The Face of Venezuela's Opposition*, *supra* note 10.

¹³⁶ See Appendix II, *YouTube Video Wherein Mr. López Declares his Intent to Turn Himself In – February 16, 2014* (emphasis added); see also Eyanir China, Daniel Wallis, *Venezuela's López Says Ready for Arrest at Tuesday's March*, REUTERS, Feb. 16, 2014, available at <http://www.reuters.com/article/2014/02/16/us-venezuela-protests-idUSBREA1F0SQ20140216>.

¹³⁷ *Leopoldo López, the Charismatic Face of Venezuela's Opposition*, *supra* note 3.

¹³⁸ *The Face of Venezuela's Opposition*, *supra* note 10; *Read the Speech Venezuelan Opposition Leader Leopoldo López Made Before He Was Jailed*, DAILY BEAST, Feb. 19, 2014, available at <http://www.thedailybeast.com/articles/2014/02/19/exclusive-read-the-speech-venezuelan-opposition-leader-leopoldo-lopez-made-before-he-was-jailed.html> [hereinafter *Read the Speech Venezuelan Opposition Leader Leopoldo López Made Before He Was Jailed*].

¹³⁹ See Appendix II, *Speech Mr. López at Plaza Brión Just Prior to Arrest and Detainment—February 18, 2014* [hereinafter *López February 18 Speech*]; See also *Venezuelan Opposition Leader Leopoldo Lopez Denied Bail*, *supra* note 110; *Exclusive: Read the Speech Venezuelan Opposition Leader Leopoldo López Made Before He Was Jailed*, *supra* note 138.

Leopoldo López also reiterated again the necessity of protesters remaining peaceful in accordance with his vision for a better Venezuela. He stated:

Nevertheless, I do not want to take this step, perhaps into silence for awhile, without stating very clearly the reasons behind this struggle: This struggle is indeed for our youth, this struggle is for our students. This struggle is for those who have been repressed, this struggle is for those who are imprisoned. This fight, brothers and sisters, is for all the people of Venezuela, who are suffering today. Our people have to endure long lines and shortages; there are no jobs and there is no future for young people because of a failed model, a model that is not our own, but exported by other countries, one that has nothing to do with the brave people of Venezuela. Brothers and sisters, we have to find our way out of this disaster together. While our solution has to be peaceful and constitutional, it also needs to be on the streets because we no longer have any free media to express ourselves in Venezuela. If the media remains silent, then let the streets speak out! Let the streets speak out with people! Let the streets speak out peacefully! And let the streets speak out in democracy!¹⁴⁰

Furthermore, he urged his followers to “remain peaceful” once he turned himself in. He concluded by saying:

Well, brothers and sisters, I ask you to continue this struggle and stay on the streets, to embrace our right to protest. But do so peacefully and without resorting to violence. I ask that all of us here today, all Venezuelans who want change, to get informed, educated and organized, and to carry out a non-violent protest, a massive demonstration of freewill, hearts and souls of the people who want change. But without hurting thy neighbor.¹⁴¹

López then peacefully submitted himself for arrest after this speech. He was detained by military forces and put into an armored military vehicle, as depicted on the cover page of this petition, before ultimately being transferred to a civilian car.¹⁴² He was then taken to a military prison at Francisco de Miranda Military Air Base. From there the authorities moved him to Fort Tiuna military base via helicopter and then eventually to the 16th Control Court.

The Speaker of the National Assembly, Diosdado Cabello, drove Leopoldo López from the helicopter to the court with his wife and parents.¹⁴³ Cabello then drove López to *Ramo Verde* prison, with the Commander of the National Guard. Why Diosdado Cabello served as the driver

¹⁴⁰ López, *February 18 Speech*, supra note 139 (emphasis added); see also *Read the Speech Venezuelan Opposition Leader Leopoldo López Made Before He Was Jailed*, supra note 138.

¹⁴¹ López, *February 18 Speech*, supra note 139 (emphasis added); *Read the Speech Venezuelan Opposition Leader Leopoldo López Made Before He Was Jailed*, supra note 138.

¹⁴² See generally *A Tale of Two Prisoners*, *ECONOMIST*, Feb 22, 2014, available at <http://www.economist.com/news/americas/21596945-after-opposition-leader-arrested-violence-continues-unabated-tale-two-prisoners>.

¹⁴³ *The Poster Boy*, supra note 12

is both unknown and highly unusual given his role as head of the Legislature, with one report suggesting Cabello sought to persuade López to leave the country and seek asylum.¹⁴⁴

With his arrest, López became one of some 3,180 Venezuelans that have been detained since January 2014. Of these, 1,959 (112 minors) have been released with precautionary measures, 440 (15 minors) are yet to be verified, 250 (38 minors) have their full freedom, 184 (25 minors) have been released without legal action, 116 have been deprived of their liberty, and 50 (3 minors) are currently detained, for a total of 3,180 (187 minors).¹⁴⁵

As indicated in the several-hundred-page indictment, the core of the Government's criminal case against López is that he used subliminal messages to incite his followers to overthrow the Government through violent means.

The Government specifically states:

[T]he defendant Leopoldo López intentionally, through his speech, incites his followers to take to the streets to refuse to recognize the law, Government, and State institutions, highlighting therein the commitment of the Venezuelan people to take to the streets to rebel against this Government, as it is their legitimate right to do so. He makes this assertion in reference to the presentation of an anti-democratic, inefficient, corrupt government that is allied to drug-traffickers and profoundly regressive. He accuses the Maduro government and holds it responsible for being the only party responsible for all the evils that are currently being endured in the country.¹⁴⁶

As the indictment further states, these speeches and expression on social media were “inflamed speech that incited people to violence and [to] disrespect ... legally established authorities.”¹⁴⁷ The Government claims that this speech was carried out through subliminal means, saying “[E]vidence can be seen in the social networks, especially in the Twitter account @leopoldolopez, of various declarations with subliminal messages issued by said citizen.”¹⁴⁸ The Government defines subliminal messages as a message “which is captured by thousands of persons through several means of communication and has the goal of persuading someone of something without that person being conscious of it.”¹⁴⁹ It arrives at this conclusion by using an expert of semantic analysis, who states that:

Leopoldo López possesses a discursive ethos that dominates and influences the ethos of his listeners; consequently, everything that the sender or speaker tells his recipients would exercise great influence, not only in their manner of thinking, but also in the potential actions that the recipients might perform, acting as a consequence. On this point, the discursive power and influence of citizen

¹⁴⁴ *Id.*

¹⁴⁵ FORO PENAL VENEZOLANO, available at <http://www.foropenal.com/> (translated from Spanish).

¹⁴⁶ Indictment, Apr 4, 2014, at 240-41 (translated from Spanish) [hereinafter *Indictment*].

¹⁴⁷ *Id.* at 54-55.

¹⁴⁸ *Id.* at 40-41.

¹⁴⁹ *Id.* at 41.

Leopoldo López as a political leader is unquestionable, as he has served as the catalyst of annoyances felt by a significant part of the Venezuelan population. Thus, whatever he says or may be able to transmit to his audience is effectively transferred, so much so that his recipients feel encouraged to continue to carry out the actions that he indicates they should do, even though he does not explain it to them clearly.¹⁵⁰

The Government fails to explain in its indictment how such subliminal messages could be received by the population at large when in every speech referenced in the indictment, he specifically, explicitly, clearly, and unequivocally urges his followers to use exclusively non-violent and constitutional means to challenge the Government.

C. *Legal Proceedings*

Prosecutor Franklin Nieves eventually dropped the murder and terrorism charges¹⁵¹ when journalists showed it to be impossible that Leopoldo López was responsible.¹⁵² An investigative piece showed video footage of Government security forces shooting at unarmed protesters on February 12.¹⁵³ As a result, the murder charges for the two deaths were filed against members of the Bolivarian Intelligence Service.¹⁵⁴

Supervisory Judge No. 16 of Caracas, Ralenis Tovar Guillén, ordered López's pretrial detention on February 20.¹⁵⁵ The arraignment took place inside a military bus parked outside *Ramo Verde* prison.¹⁵⁶ The hearing was originally supposed to take place at 10:30 am on February 19 at the 16th Control Court in the Palace of Justice. However, at approximately 4 pm, López's defense team was notified about Judge Tovar's decision to hold the hearing at the military prison. This decision was made after a group of students supporting López arrived outside the Palace of Justice to demonstrate, and were subsequently attacked by Maduro supporters.¹⁵⁷ One of López's defense counsels, Bernardo Pulido, stated to the media, "I had never seen the courthouse as heavily guarded as today. Thus, we do not understand how the security of our client cannot be guaranteed."¹⁵⁸

After the hearing took place in the bus known as the "Mobile Court," López then went back inside the prison walls. The bus is usually limited to hearings for parties that are incapacitated. The hearing took place on the bus, parked just outside the military prison. The

¹⁵⁰ *Id.* at 171.

¹⁵¹ 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/> [hereinafter *Murder Charges Against Venezuela Opposition Leader Dropped*].

¹⁵² *See id.* *El Juez Parte I, Voluntad Popular*, *supra* note 116.

¹⁵³ *Punished for Protesting*, *supra* note 87.

¹⁵⁴ *Their Claims Were Not True*, *supra* note 112.

¹⁵⁵ *Venezuela: Violence Against Protesters, Journalists*, *supra* note 107.

¹⁵⁶ *Id.*; *Murder Charges Against Venezuela Opposition Leader Dropped*, *supra* note 151.

¹⁵⁷ Juan Francisco Alonso, *Pre-trial Hearing of Leopoldo López to be Held in Ramo Verde Prison*, EL UNIVERSAL, Feb. 19, 2014, available at <http://www.eluniversal.com/nacional-y-politica/140219/pre-trial-hearing-of-leopoldo-lopez-to-be-held-in-ramo-verde-prison>.

¹⁵⁸ *Id.*

hearing did not begin until 10 pm¹⁵⁹ and ended at approximately 4 am. Furthermore, because the hearing took place in Los Teques, Miranda, Judge Tovar was sitting outside of her jurisdiction when the hearing took place, making the hearing and the resulting adoption of charges against López illegal.

On March 28, the Caracas Court of Appeals denied Mr. López bail.¹⁶⁰ The judge stated the petition filed by López's counsel was "without merit."¹⁶¹ On April 4, Prosecutor Luisa Ortega Diaz officially announced the charges; if convicted, López faces up to 14 years in prison.¹⁶² There is also an inherent conflict of interest in the prosecution. The Attorney General's Office is claiming it is the primary victim of the February 12 violence, which damaged its offices, while nevertheless maintaining its prosecutorial authority.

In early May 2014, the Government appointed Judge Adriana López (who has no relation to López or his sister with the same name) to replace Judge Tovar, allegedly due to a usual rotation of judges. Judge López was set to decide whether Leopoldo López will be tried or not in a probable-cause hearing set for the morning of May 8, 2014.¹⁶³ However, on May 8, Mr. López's domestic attorneys were notified that the hearing had been postponed on account of Judge López being ill, and the hearing was postponed until June.

The intermediate phase of the Venezuelan penal process culminated on June 5, 2014. After four days of hearings, provisional Judge Adriana López of Court 16 Control of Caracas, admitted all the charges filed against Leopoldo López for the crimes of fire, damages, incitement and association to commit crimes. She also admitted all the evidence offered by the Office of the Public Prosecutor and ordered the case to be sent for a public trial.

Similarly, Judge López declared inadmissible all the requests for annulments that had been raised by the defense for human rights violations, including inhumane conditions of imprisonment. In addition, she denied all the objections that were presented against the Office of the Public Prosecutor's accusation for factual and legal flaws in their presentation of the case. Furthermore, 98 percent of the evidence proposed by Mr. Lopez defense was denied to be used during the trial phase. The decision also reaffirmed that the defendant would continue to be held in custody through the trial. These judicial pronouncements violated the Venezuelan Constitution and ratified the systematic violation of fundamental rights committed against Leopoldo López.

¹⁵⁹ *The Poster Boy*, *supra* note 12.

¹⁶⁰ *Venezuela Opposition Leader Leopoldo López Will Remain in a Military Prison*, MERCOPRESS, Mar. 29, 2014, available at <http://en.mercopress.com/2014/03/29/venezuela-opposition-leader-leopoldo-lopez-will-remain-in-a-military-prison> [hereinafter *Venezuela Opposition Leader Leopoldo López Will Remain in a Military Prison*]; *Venezuelan Opposition Leader Leopoldo López Denied Bail*, *supra* note 110; *Venezuela Court Rejects Release of Opposition Leader*, YAHOO!, Mar. 28, 2014, available at <http://news.yahoo.com/venezuela-court-rejects-release-opposition-leader-184521764.html> [hereinafter *Venezuela Court Rejects Release of Opposition Leader*].

¹⁶¹ *Venezuela Court Rejects Release of Opposition Leader*, *supra* note 160.

¹⁶² *Venezuelan Opposition leader Leopoldo López Formally Charged, Faces 14 Years*, FOX NEWS LATINO, Apr. 4, 2014, available at <http://latino.foxnews.com/latino/news/2014/04/04/venezuelan-opposition-leader-leopoldo-lopez-formally-charged-faces-14-up-to/>.

¹⁶³ Juan Francisco Alonso, *López's Probable-cause Hearing to be Held on May 8*, EL UNIVERSAL, Apr. 10, 2014, available at <http://www.eluniversal.com/nacional-y-politica/140410/lopezs-probable-cause-hearing-to-be-held-on-may-8>.

D. *Conditions of Imprisonment*

Leopoldo López is being held in solitary confinement at *Ramo Verde* prison, the official name of which is *Centro Penitenciario para Procesados Militares* (CENAPROMIL) (“Processed Military Prison.”)¹⁶⁴ The prison is located in Los Teques, a municipality about one hour outside of Caracas.¹⁶⁵

The Government states the reason for López being held in a military prison is that it is the only place where they can guarantee his safety.¹⁶⁶ However, López’s lawyers and relatives found inhumane conditions upon visiting López. The cell is both dark and cold. The cell contains one small window, which allows for inadequate light, which has caused López to develop vision impairment.

In addition, López does not have access to confidential communication with his attorneys. The attorneys are physically searched when entering the prison, and documents they bring to the prison are read. The attorneys are only allowed to meet in Mr. López’s prison cell, which affords no privacy because a prison guard is stationed directly outside within earshot of their conversations.

IV. **History of Past Persecution – False Accusations and Disqualification to Exercise Political Rights Without Due Process of Law**

Beyond prior violent attacks, the Government has a long history of persecuting López dating back to 2004. Despite being recognized as running the most transparent municipality¹⁶⁷ in all of Venezuela during his time as mayor, the Venezuelan Government banned López from public office for six years. His political disqualification runs from December 12, 2008 to December 12, 2014 and stems from two administrative proceedings related to accusations of corruption.

López is also currently subject to criminal proceedings on one of these grounds, despite the statute of limitations having expired. He was criminally charged for an alleged involvement in the 2002 attempted coup, despite merely following judicial orders to detain and protect a government official and never having signed the Carmona Decree. As described below in substantial detail in Appendix I, all of these proceedings are without merit, and are simply an attempt to undermine López as a political opposition figure, permanently oust him from political office, silence him, and imprison him.

¹⁶⁴ *Venezuela Opposition Leader Leopoldo López Will Remain in a Military Prison*, *supra* note 160; *Una Cárcel Militar Albergada al Político Leopoldo López*, EL MUNDO, Feb. 24, 2014, available at <http://www.elmundo.es/america/2014/02/21/530777b0ca474106648b4579.html>.

¹⁶⁵ *Venezuelan Opposition Leader Leopoldo López Denied Bail*, *supra* note 110; *Venezuela Charges Opposition Leader, Protests Erupt*, YAHOO!, Apr. 5, 2014, available at <http://news.yahoo.com/jailed-venezuelan-opposition-leader-formally-charged-185439105.html>; *The Face of Venezuela’s Opposition*, *supra* note 10.

¹⁶⁶ *Murder Charges Against Venezuela Opposition Leader Dropped*, *supra* note 151.

¹⁶⁷ *Oslo Freedom Forum*, *supra* note 18.

V. Legal Analysis

The detention of López is arbitrary and in violation of international law.¹⁶⁸ Specifically, the detention is arbitrary because López was imprisoned for exercising his rights to freedom of expression, peaceful assembly, and right to take part in public affairs and be elected without unreasonable restrictions. The detention is also arbitrary because in the prosecution of López, the Government is failing to observe international norms related to a fair trial.

Venezuela is a party¹⁶⁹ to the International Covenant on Civil and Political Rights¹⁷⁰ (ICCPR), and must therefore abide by all its provisions contained therein. In addition, the rights provided for in the ICCPR are binding on the Government not only as a matter of international law but also because the Venezuelan Constitution explicitly states that the international treaties to which it is a party have constitutional status and overrule any conflicting domestic legislation. Article 23 of the Constitution reads:

The treaties, pacts and conventions relating to human rights which have been executed and ratified by Venezuela have a constitutional rank, and prevail over internal legislation, insofar as they contain provisions concerning the enjoyment and exercise of such rights that are more favorable than those established by this Constitution and the laws of the Republic, and shall be immediately and directly applied by the courts and other organs of the Public Power.¹⁷¹

A. *The Detention Resulted from Leopoldo López's Exercise of the Rights or Freedoms Guaranteed by the International Covenant on Civil and Political Rights and Universal Declaration of Human Rights*

A detention is considered arbitrary when it results from the exercise of fundamental rights protected by international law.¹⁷² These fundamental rights include the rights to freedom of expression, peaceful assembly, and right to take part in public affairs and be elected without unreasonable restrictions.¹⁷³ López's detention is a result of his exercising these rights and, therefore, is considered an arbitrary detention.

¹⁶⁸ This case is currently pending before the UN Working Group on Arbitrary Detention. *See Revised Methods of Work of the Working Group*, Human Rights Council, A/HRC/16/47 (Annex), Jan. 19, 2011, para. 8(b)-(c) [hereinafter *Revised Methods of Work*].

¹⁶⁹ United Nations Treaty Status: ICCPR, http://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=IV-4&chapter=4&lang=en#EndDec (noting that Venezuela signed the treaty on June 24, 1969, and ratified it on May 10, 1978).

¹⁷⁰ *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 23 March 1976, at Article 9(1) [hereinafter *ICCPR*].

¹⁷¹ Constitution of the Bolivarian Republic of Venezuela 1999, Article 23 (emphasis added) [hereinafter *Venezuelan Constitution*].

¹⁷² A Category II deprivation of liberty occurs, "When the deprivation of liberty results from the exercise of the rights or freedoms guaranteed by articles 7, 13, 14, 18, 19, 20 and 21 of the Universal Declaration of Human Rights and, insofar as States parties are concerned, by articles 12, 18, 19, 21, 22, 25, 26 and 27 of the International Covenant on Civil and Political Rights." *See Revised Methods of Work*, *supra* note 168.

¹⁷³ *Universal Declaration of Human Rights*, G.A. Res. 217A (III), U.N. Doc. A/810, at arts. 19-21 (1948) [hereinafter *Universal Declaration*]. *See also* ICCPR, *supra* note 170, at Arts. 19, 21, and 25.

1. The Venezuelan Government Arrested and Imprisoned Leopoldo López Because He Exercised His Right to Freedom of Expression

The Government's detention of Leopoldo López is punishment for exercising his right to freedom of expression protected by the ICCPR and Universal Declaration of Human Rights.¹⁷⁴ Freedom of expression includes the "freedom to hold opinions without interference" and "to seek, receive and impart information and ideas of all kinds regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his choice."¹⁷⁵ Freedom of expression also includes the right to political discourse.¹⁷⁶ As the Human Rights Committee observed:

[T]he freedoms of information and of expression are cornerstones in any free and democratic society. It is in the essence of such societies that its citizens must be allowed to inform themselves about alternatives to the political system/parties in power, and that they may criticize or openly and publicly evaluate their Governments without fear of interference or punishment . . .¹⁷⁷

In addition to the requirements of international law, Venezuelan law protects the right to freedom of expression. Article 57 of the Venezuelan Constitution guarantees "the right to express freely his or her thoughts, ideas or opinions . . . and to use for such purpose any means of communication . . . and no censorship shall be established [against this right]."¹⁷⁸ As noted above, this Constitutional protection is inextricably linked to Venezuela's international obligations pursuant to Article 23 of its Constitution.¹⁷⁹

¹⁷⁴ While the Universal Declaration, as a General Assembly resolution, is not technically considered binding in its entirety on all states, scholars continue to debate the binding nature of specific provisions. However, in looking to the Universal Declaration and the Body of Principles Regarding Any Form of Detention or Imprisonment, the UN Working Group on Arbitrary Detention has decided to "rely heavily on 'soft' international legal principles to adjudicate individual cases." Jared M. Genser & Margaret Winterkorn-Meikle, *The Intersection of Politics and International Law: The United Nations Working Group on Arbitrary Detention in Theory and Practice*, 39 COLUM. HUM. RTS. L. REV. 101, 114 (2008).

¹⁷⁵ ICCPR, *supra* note 170, at Article 19(1), (2) ("Everyone shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideals of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his choice"); *see also* Universal Declaration, *supra* note 173, at Article 19 ("Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media regardless of frontiers.").

¹⁷⁶ *Human Rights Committee General Comment No. 34 (2011) on Article 19: Freedom of Expression*, Sep. 12, 2011 (adopted at 102nd session July 11-29, 2011), CCPR /C/GC/34 at ¶ 11 [hereinafter *General Comment 34*].

¹⁷⁷ *Aduayom et al. v. Togo*, Communications Nos. 422/1990, 423/1990 and 424/1990, U.N. Doc. CCPR/C/51/D/422/1990/423/1990 and 424/1990 (1996) at ¶ 7.4 (emphasis added). *See also de Morais v. Angola*, Communication No. 1128/2002, U.N. Doc. CCPR/C/83/D/1128/2002 (2005) at ¶ 6.7.

¹⁷⁸ *See supra* note 171; *see also* Venezuelan Constitution, *supra* note 171, at Article 57 ("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. Anyone making use of this right assumes full responsibility for everything expressed. Anonymity, war propaganda, discriminatory messages or those promoting religious intolerance are not permitted. Censorship restricting the ability of public officials to report on matters for which they are responsible is prohibited").

¹⁷⁹ *See Venezuelan Constitution*, *supra* note 171.

The speeches and other statements cited by the Government as reason for Leopoldo López's detention fit squarely within López's right to freedom of expression. Contrary to what the Government asserts, López never advocated its violent overthrow. In fact, he specifically, explicitly, and consistently—in all speeches presented and analyzed in the indictment—called for non-violent¹⁸⁰ and democratic change within the parameters of the Venezuelan Constitution.¹⁸¹ López's speech evaluated and strongly criticized policies of the Government.¹⁸² But, the imprisonment of López is solely in reaction to his criticism of the Government, which he should be able to deliver without fear of interference or punishment. López's speech is well within the protection of freedom of expression afforded by both international and Venezuelan law and therefore his detention on these grounds is in violation of both domestic and international law.

Further, the narrow limitation on the right to freedoms of opinion and expression contained in Article 19(3) of the ICCPR does not apply in this case. Article 19(3) provides that,

The exercise of the [right to freedom of expression] carries with it special duties and responsibilities. It may therefore be subject to certain restrictions, but these shall only be such as are provided by law and are necessary: (a) [f]or the respect of the rights or reputations of others; [or] (b) [f]or the protection of national security or of public order (*ordre public*), or of public health and morals.¹⁸³

The scope of this restriction is highly limited. The Human Rights Committee has emphasized the narrowness of this limitation by noting that,

[W]hen a State party imposes a limitation on the exercise of freedom of expression, [it] may not put in jeopardy the right itself.¹⁸⁴ [Moreover, Article 19(3)] may never be invoked as a justification for the muzzling of any advocacy of multi-party democracy, democratic tenets and human rights. Nor, under any circumstance, can an attack on a person, because of the exercise of his or her freedom of opinion or expression, including such forms of attack as arbitrary arrest ... be compatible with article 19.¹⁸⁵

As such, any limitation “must meet a strict test of justification.”¹⁸⁶ To guide states, the Human Rights Committee has established three requirements for any limitation on the right to freedom

¹⁸⁰ See *López Attorney General Speech*, *supra* note 102 (“Here there is no vocation for violence”); See *López Plaza Venezuela Speech*, *supra* note 101 (“[L]et us go out...assuming [the path of] non-violence. Our territory is the street, our struggle is non-violent”); See *López Jan. 23 Speech*, *supra* note 93 (“[A]n uprising/revolt [*alzamiento*] means first and foremost the rising to consciousness, the rising up of our fighting spirit, the rising up to our vocation for change... a peaceful struggle, popular, constitutional, and democratic”).

¹⁸¹ *López Jan. 23 Speech*, *supra* note 93 (“[T]he exit must be, first and foremost, popular... Secondly, a democratic exit, and thirdly, an exit within the Constitution. The Constitution offers us various tools and we will debate with the people which of these tools is the most appropriate... the most democratic”).

¹⁸² *López Jan. 23 Speech*, *supra* note 93.

¹⁸³ ICCPR, *supra* note 170, at Article 19(3).

¹⁸⁴ General Comment 34, *supra* note 176, at ¶ 21.

¹⁸⁵ General Comment 34, *supra* note 176, at ¶ 23 (emphasis added).

¹⁸⁶ *Park v. Republic Korea*, Communication No. 628/1995, U.N. Doc. CCPR/C/64/D/628/1995 (1998) at ¶ 10.3.

of expression. A permissible limitation must be (1) “provided by law,” (2) for the protection of one of the “enumerated purposes,” and (3) “necessary” to achieve that purpose.¹⁸⁷

Venezuela attempts to satisfy this narrow restriction by claiming López’s imprisonment is necessary for the protection of public order. The Government states “public order is violated by placing an entire society in imminent danger when individuals gather together in order to commit crimes of a collective nature that evolve into destabilizing the prevailing social peace.”¹⁸⁸ While protection of public order may serve as a legitimate objective, the Government fails to demonstrate how López’s speech caused such a threat, and even assuming it did, how his detention is necessary to achieve this purpose. As such, the imprisonment of López amounts to no more than an attempt to muzzle multi-party democracy in Venezuela.

Despite invoking public order, the Venezuelan Government cites no law and therefore fails to establish a *prima facie* argument for López’s detention. Even if it had cited to a law, this invocation still falls outside of the exception because it does not satisfy the third part of the test that requires detention to be necessary to achieve the enumerated purpose. It is not enough that a limitation on freedom of expression merely advance the government’s purpose.¹⁸⁹ The Human Rights Committee has observed, “[T]he requirement of necessity implies an element of proportionality, in the sense that the scope of the restriction imposed on the freedom of expression must be proportional to the value which the restriction serves to protect.”¹⁹⁰ This requires the government to establish a “direct and immediate connection between the expression and the threat.”¹⁹¹ Here, the Government has offered no such arguments.

Moreover, the Government acknowledges the weakness of its own arguments in three key ways. First, it admits that López merely “may” have been able to incite his supporters to violence using subliminal messaging. Second, the Government fails to account for the fact that virtually all the protesters remained peaceful and that sporadic violence continues despite López remaining in a prison cell, unable to tweet or give speeches. Third, the Venezuelan Government contradicts itself by actually admitting that Leopoldo López preached non-violence, but then claiming he did not do so with enough specificity to be effective or genuine.

The Government admits the weakness of its own argument when it claims only López “may” have been able to incite his followers to violence using subliminal messaging.

[T]he speaker (Leopoldo López), by cultivating rage in his speech arguing against the current national government, may have been able to transfer this sentiment to

¹⁸⁷ *Shin v. Republic of Korea*, Communication No. 926/2000, U.N. Doc. CCPR/C/80/D/926/2000 (2004) at ¶ 7.3.

¹⁸⁸ Indictment, *supra* note 146, at 2.

¹⁸⁹ The UN Human Rights Committee has noted that even if the State party establishes the existence of a legitimate purpose for the limitation, it must also demonstrate that the actions taken were “necessary” for protecting that purpose. *Shin v. Republic of Korea*, *supra* note 187.

¹⁹⁰ *Gauthier v. Canada*, Communication No. 633/1995, U.N. Doc. CCPR/C/65/D/633/1995, at ¶ 13.6 (*adopted* Apr. 7, 1999). *See also Jong-Kyu Sohn v. Republic of Korea*, Communication No. 518/1992, U.N. Doc.

CCPR/C/54/D/518/1992 at ¶10.4 (*adopted* Jul. 19, 1995) (finding that “reference to the general nature of the labor movement” and “alleging that the statements issued by the author in collaboration with others was a disguise for the incitement to a national strike” was insufficiently precise to meet the necessity requirement).

¹⁹¹ General Comment No. 34, *supra* note 176, at ¶ 35 (emphasis added).

his public (followers) by activating a discursive mechanism that he named #LaSalida, under an argument that denounced the present government (led by President Nicolás Maduro) of having omitted a series of offences, excesses, and omissions that could have inflamed those who follow Leopoldo López to materialize this solution by a possible violent path.¹⁹²

The Government's own expert acknowledges the subliminal messages theory is tenuous, in his own analysis.

For me, what occurred in the afternoon of 12 February 2014 in front of the Office of the Public Prosecutor of the Bolivarian Republic of Venezuela is proof that the incitement by a political leader to struggle in the streets in order to escape from a constitutional government can generate erratic, desperate acts that are very likely violent.¹⁹³

If one assumes, *arguendo*, the Government's claim that López has the ability to influence others through subliminal messages, including his 2.92 million Twitter followers, then it follows that many of his 2.92 million followers should have engaged in violent action against the government. This clearly did not occur, however, because media reports indicate that a very small minority of protesters engaged in violence on February 12, and all three deaths actually came at the hands of government forces. If one follows the Government's logic a step further, it should follow that the violence would cease once López was detained, as he cannot tweet, give speeches, or easily communicate with his supporters from his prison cell. However, since his detention, both street protests and sporadic violence has continued.

Along these same lines, despite arguing that López has control of his 2.81 million Twitter followers, the Government simultaneously asserts that López's followers only represent a small segment of the population.

[I]t is important to emphasize that the idea of the 'people' is very vague and not easy to delimit how much of the Venezuelan people follow his ideals. The fact that there are annoyances felt on the part of a sector of the Venezuelan population, and that the speaker catalyzes them, does not mean that the entire Venezuelan people follows what citizen Leopoldo López proposes, much less that they are in agreement with his stance and political decisions.¹⁹⁴

Perplexingly, the Government argues that López is somehow able to control those who agree with him through subliminal messages, yet is unable to control those who do not believe him. Simultaneously, it argues that the segment López does represent is simply a small minority nevertheless. This tenuous argument contradicts the Government's implicit argument that López's imprisonment is necessary to control public order. If most people don't follow what López wants, then there is by definition no threat to public order.

¹⁹² Indictment, *supra* note 146, at 172-173 (emphasis added).

¹⁹³ *Id.* at 173-175 (emphasis added).

¹⁹⁴ *Id.* at 171.

Finally, on one hand, the Government claims that López incited his followers to carry out a specific plan of violence. Yet, on the other hand, the Government asserts that López did not give clear enough instructions regarding the type of nonviolent protests that were to be carried out, and thus he cannot really be characterized as nonviolent:

[W]e could appeal to the figure of Gandhi, a leader who achieved independence for India through the use of non-violent methods such as fasting and vigils... but in that case Gandhi always gave precise instructions to his followers ... In the speeches analyzed, citizen Leopoldo López ... did not establish precise guidelines for the characteristics of the protests that would be carried out.¹⁹⁵

Because the Government has no evidence of López calling for its violent overthrow, it is left to present a dubious and illogical semantic analysis of his speeches. What emerges in the final analysis is that López was exercising his right to freedoms of opinion and expression by calling for what any person who lives in an oppressive country desires: a democratic political system that is free from corruption and that works for its citizens. Therefore, the Government has failed to establish a *prima facie* case as to how López's detention is necessary to protect public order. The Government's restriction on López's speech through its arbitrary detention is a clear violation of his right to freedoms of opinion and expression.

Similarly, the Venezuelan Government cannot invoke derogation as a defense for its behavior. In accordance with Article 4 of the ICCPR, a State party may derogate from its obligations under Article 19, but only in time of public emergency.¹⁹⁶ However, it may do so only to the extent "strictly required by the exigencies of the situation" and "provided that such measures are not inconsistent with their other obligations under international law."¹⁹⁷ Additionally, any restrictions must be limited to the needs of the situation and cease as soon as the state of emergency no longer exists.¹⁹⁸ Finally, the State party must inform other State parties to the ICCPR immediately of any such derogation.¹⁹⁹

Here, derogation is not applicable because there is no public emergency, and even if there had been, Venezuela has not informed other State parties of a desire to derogate. Furthermore, and assuming *arguendo*, such derogation would be impermissible because it would be inconsistent with Venezuela's other international legal obligations and would still result in the continued illegal treatment of López in violation of his rights under Article 14.

In short, the speech Leopoldo López engaged in is fully protected by international and Venezuelan law. The Government has unsuccessfully attempted to invoke the public order exception by failing to demonstrate how López's speech directly and immediately posed a threat to public order and why his imprisonment is necessary to maintain public order. The Government also fails to invoke derogation. Therefore, the imprisonment of Leopoldo López is

¹⁹⁵ Indictment, *supra* note 146, at 173-75.

¹⁹⁶ ICCPR, *supra* note 170, at Article 4(1).

¹⁹⁷ *Id.*

¹⁹⁸ *Human Rights Committee General Comment No. 29 (2001) on Article 4: Derogations During a State of Emergency*, Aug. 31, 2001 (adopted at 1950th meeting on Jul. 24, 2001), CCPR/C/21/Rev.1/Add.11) at ¶ 5.

¹⁹⁹ ICCPR, *supra* note 170, at Article 4(3).

a violation of his right to freedom of opinion and expression as guaranteed by Articles 19 of the ICCPR and UDHR.

2. The Venezuelan Government Arrested and Imprisoned Leopoldo López Because He Exercised His Right to Freedoms of Peaceful Assembly and Association

The Venezuelan Government's arrest and detention of López is punishment for exercising his right to freedoms of peaceful assembly and association as protected by Articles 21²⁰⁰ and 22(1)²⁰¹ of the ICCPR and Article 20 of the UDHR.²⁰² These rights are further guaranteed by the Venezuelan Constitution. Article 68²⁰³ gives citizens "the right to demonstrate, peacefully and without weapons" and Article 67²⁰⁴ provides citizens "the right of association for political purposes." López's arrest at a peaceful political protest unquestionably violated these rights. Although both ICCPR Articles 21 and 22 provide exceptions for national security, public safety and public order,²⁰⁵ the same tests that apply to restrictions on freedom of expression apply to these rights as well,²⁰⁶ and for the same reasons, they have neither been invoked nor met.

3. The Venezuelan Government Arrested and Imprisoned Leopoldo López Because He Exercised His Right to Take Part in Public Affairs and Be Elected Without Unreasonable Restrictions

The Venezuelan Government's arrest and detention of López is also punishment for exercising his right to take part in public affairs and be elected without unreasonable restrictions as protected by Article 25²⁰⁷ of the ICCPR and Article 21²⁰⁸ of the UDHR. This right is also

²⁰⁰ ICCPR, *supra* note 170, at Article 21 ("The right of peaceful assembly shall be recognized. No restrictions may be placed on the exercise of this right other than those imposed in conformity with the law and which are necessary in a democratic society in the interests of national security or public safety, public order (*ordre public*), the protection of public health or morals or the protection of the rights and freedoms of others").

²⁰¹ ICCPR, *supra* note 170, at Article 22(1) ("Everyone shall have the right to freedom of association with others, including the right to form and join trade unions for the protection of his interests").

²⁰² Universal Declaration, *supra* note 173, at Article 20 ("(1) Everyone has the right to freedom of peaceful assembly and association. (2) No one may be compelled to belong to an association").

²⁰³ *Venezuelan Constitution*, *supra* note 171, at Article 68; *see also Venezuelan Constitution supra* note 171, at Article 23.

²⁰⁴ *Venezuelan Constitution*, *supra* note 171, at Article 67; *see also Venezuelan Constitution supra* note 171, at Article 23.

²⁰⁵ *See supra* note 200. *See also* ICCPR, *supra* note 170, at Article 22(2) ("No restrictions may be placed on the exercise of this right other than those which are prescribed by law and which are necessary in a democratic society in the interests of national security or public safety, public order (*ordre public*), the protection of public health or morals or the protection of the rights and freedoms of others. This article shall not prevent the imposition of lawful restrictions on members of the armed forces and of the police in their exercise of this right").

²⁰⁶ Sarah Joseph, et al., THE INTERNATIONAL COVENANT ON CIVIL AND POLITICAL RIGHTS 426-427 (2000) [hereinafter *The International Covenant on Civil and Political Rights*] (citing to Siracusa Principles on the Limitation and Derogation Provisions in the International Covenant on Civil and Political Rights (1985) 7 HRQ 1 "which indicates that all limitation clauses in the ICCPR are to be interpreted in the same way with regard to each right.")

²⁰⁷ ICCPR, *supra* note 170, at Article 25 ("Every citizen shall have the right and the opportunity, without any of the distinctions mentioned in article 2 and without unreasonable restrictions: (a) To take part in the conduct of public affairs, directly or through freely chosen representatives; (b) To vote and to be elected at genuine periodic elections

protected in the Venezuelan Constitution.²⁰⁹ According to the Human Rights Committee, the right allows “[c]itizens . . . [to] take part in the conduct of public affairs by exerting influence through public debate and dialogue with their representatives or through their capacity to organize themselves. This participation is supported by ensuring the freedoms of expression, assembly and association.”²¹⁰ Moreover, this right depends on the ability of individuals to run for office. As the Human Rights Committee has noted:

The effective implementation of the right and the opportunity to stand for elective office ensures that persons entitled to vote have a free choice of candidates . . . Persons who are otherwise eligible to stand for election should not be excluded by unreasonable or discriminatory requirements such as education, residence or descent, or by reason of political affiliation. No person should suffer discrimination or disadvantage of any kind because of that person’s candidacy.²¹¹

In addition, the Working Group jurisprudence supports this right; a violation of Article 25 occurs where individuals are detained solely for exercising their right to freedom of association and the right to take part in the conduct of public affairs.²¹²

Here, as discussed above in Section A(4) and below in Appendix I, the Government has repeatedly violated López’s political rights so as to remove him as a political opponent. His current arrest and detention is simply the latest in a series of political persecutions that is illegal and in violation of Venezuelan’s obligations under international law. His detention on these grounds is therefore illegal.

B. The Trial and Detention of Leopoldo López Failed to Respect International Norms Relating to the Right to a Fair Trial Guaranteed by the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights

Leopoldo López is being held arbitrarily in violation of his due process rights. The ICCPR and UDHR, and Body of Principles for the Protection of All Persons Under Any Form of Detention or Imprisonment provide the Petitioner with the right to a fair trial, which Venezuela is denying him, and in the process of doing so, is also violating Venezuelan law providing for due process protections.

which shall be by universal and equal suffrage and shall be held by secret ballot, guaranteeing the free expression of the will of the electors; (c) To have access, on general terms of equality, to public service in his country”).

²⁰⁸ *Universal Declaration*, *supra* note 173, at Article 21 (“(1) Everyone has the right to take part in the government of his country, directly or through freely chosen representatives. (2) Everyone has the right of equal access to public service in his country. (3) The will of the people shall be the basis of the authority of government; this will shall be expressed in periodic and genuine elections which shall be by universal and equal suffrage and shall be held by secret vote or by equivalent free voting procedures”).

²⁰⁹ *Venezuelan Constitution*, *supra* note 171, at Article 62 (“All citizens have the right to participate freely in public affairs, either directly or through their elected representatives”) (emphasis added); *see also Venezuelan Constitution supra* note 171, at Article 23.

²¹⁰ *Human Rights Committee General Comment No. 25 (1996)*, CCPR/C/21/Rev.1/Add.7 at ¶ 8 (emphasis added) [hereinafter *General Comment 25*].

²¹¹ *Comment 25*, *supra* note 210, at ¶ 15 (emphasis added).

²¹² *See Tran Thi Thuy et al. v. Government of Viet Nam*, Opinion No. 46/2011, adopted Sept. 2, 2011, ¶¶ 21, 22, 26.

It is considered an arbitrary detention “[w]hen the total or partial non-observance of the international norms relating to the right to a fair trial, established in the Universal Declaration of Human Rights and in the relevant international instruments accepted by the States concerned, is of such gravity as to give the deprivation of liberty an arbitrary character.”²¹³ Because the trial and ongoing detention of López has failed to observe the minimum international norms relating to a fair trial, as contained in the ICCPR, UDHR, and Body of Principles his detention is arbitrary.

1. The Venezuelan Government Failed to Provide Leopoldo López an Independent and Impartial Judiciary

ICCPR Article 14(1) affords individuals “a fair and public hearing by a competent, independent and impartial tribunal established by law.”²¹⁴ This right is further guaranteed by Venezuela’s constitution.²¹⁵ Despite these *de jure* protections, the Human Rights Committee recently stated its clear views about the lack of independence in Venezuela’s judiciary, in facts very similar to López’s situation. In a prominent case²¹⁶ regarding Venezuelan petitioner Eligio Cedeño, it found:

[T]he judicial authorities who heard the case were not independent because the State party has imposed a system of provisional judges who are not secure in their positions and who can be removed at will without any predefined procedure; and that those who do not follow instructions from the executive branch are subject to reprisals²¹⁷ . . . The Committee recalls that States should take specific measures to guarantee the independence of the judiciary, protect judges from any form of political influence, and establish clear procedures and objective criteria for the appointment, remuneration, tenure, promotion, suspension and dismissal of the members of the judiciary and for disciplinary sanctions against them. A situation where the functions and competencies of the judiciary and the executive branches are not clearly distinguishable or where the latter is able to control or direct the former is incompatible with the notion of an independent tribunal. The Committee finds that the arrest of the judge presiding over [the case] suggests a

²¹³ See *Revised Methods of Work*, *supra* note 168.

²¹⁴ ICCPR, *supra* note 170, at art. 14(1) (“All persons shall be equal before the courts and tribunals. In the determination of any criminal charge against him, or of his rights and obligations in a suit at law, everyone shall be entitled to a fair and public hearing by a competent, independent and impartial tribunal established by law. . .”). This same right is established by the Universal Declaration Article 10: “Everyone is entitled in full equality to a fair and public hearing by an independent and impartial tribunal, in the determination of his rights and obligations and of any criminal charge against him.”

²¹⁵ See *Venezuelan Constitution* *supra* note 171; see also Organization of American States, Inter-American Commission on Human Rights, *Democracy and Human Rights in Venezuela*, Dec. 30, 2009 (noting that, “The State of Venezuela has said that the Constitution of the Bolivarian Republic of Venezuela provides the mechanisms necessary to ensure the independence of the branches of government. Specifically, Title IV, ‘Public Power,’ establishes the independence of the country’s branches of government and, in the rationale section, sets forth the principle of restrictive competence, whereby those agencies that wield public power may only perform those functions expressly assigned to them by the Constitution and by law”) [hereinafter *OAS 2009 Venezuela Report*].

²¹⁶ *Cedeño v. Bolivarian Republic of Venezuela*, Communication No. 1940/2010, U.N. Doc. CCPR/C/106/D/1940/2010 (2012) [hereinafter *Cedeño v. Venezuela*].

²¹⁷ *Id.* at ¶ 7.2 (emphasis added).

possible link with the wishes of the executive branch, in view of the public statements made by the President of the Republic in relation to the arrest ... In view of this, together with the provisional nature of the judicial authorities involved in the proceedings against the author, the Committee concludes that in the case at hand the State party violated the independence of the judicial bodies involved and article 14, paragraph 1, of the Covenant.²¹⁸

Furthermore, during Venezuela's most recent Universal Periodic Review²¹⁹ before the Human Rights Council, numerous member states urged Venezuela to reform its judiciary to make it independent and free of political influence.²²⁰ Despite the reasonable nature of the proposals, Venezuela rejected the vast majority of the suggested improvements.²²¹

Similarly, the Inter-American Commission on Human Rights²²² has repeatedly found violations in Venezuela,²²³ including: the way judges and prosecutors are appointed,²²⁴ their lack of independence and impartiality,²²⁵ political interference in the removal of judges,²²⁶ and the delegation of legislative powers to the executive branch.²²⁷ Of particular concern was information IACHR became aware of in April 2012, where the former president of the Criminal

²¹⁸ *Id.* at ¶ 7.3 (emphasis added).

²¹⁹ Human Rights Council, *Report of the Working Group on the Universal Periodic Review: Venezuela*, A/HRC/60/1, Dec. 7, 2011 [hereinafter *Venezuela 2011 UPR*].

²²⁰ *Venezuela 2011 UPR*, *supra* note 219, at ¶¶ 57, 88, 89, 90.

²²¹ For an list of the rejected improvements, see *Venezuela 2011 UPR*, *supra* note 219, at ¶¶ 96.1 (Comply with its international obligations in respect to the judiciary and the right to freedom of expression and implement recommendations, resolutions and decisions of the international and regional human rights protection systems), 96.13 (Respect the independence of the judiciary), 96.14 (Work to ensure the independence of the judiciary), 96.15 (Guarantee the independence of judiciary and take all the necessary measures to combat impunity), 96.16 (Ensure independent, open and transparent selection procedures based on merit for judges and prosecutors), 96.17 (Take necessary measures to ensure transparency in the independent appointment of judicial and prosecutorial officers), 96.18 (Reinforce the independence of the judiciary by increasing institutional and material support for the justice system and putting an end to the provisional nature of judicial appointments), 96.19 (Fully guarantee the independence of the judiciary, in particular by taking concrete measures to ensure that judges can exercise their profession in full impartiality), 96.20 (Reinforce the independence of the judiciary, including bringing to an end the provisional nature of judicial appointments and repealing the provisions of the Supreme Court law that undermine the court's independence), 96.21 (Abolish the practice of using the judicial system to silence critics of the Government, reinforce the independence of the judiciary by increasing institutional and material support for the justice system and end the provisional nature of judicial appointments), 96.22 (Investigate allegations of executive branch interference in judicial decision-making).

²²² *OAS 2009 Venezuela Report*, *supra* note 215; Organization of American States, *Annual Report of the Inter-American Commission on Human Rights 2011, Chapter IV: Venezuela* [hereinafter *OAS 2011 Venezuela Report*]; Organization of American States, *Annual Report of the Inter-American Commission on Human Rights 2012, Chapter IV: Venezuela* [hereinafter *OAS 2012 Venezuela Report*]; Organization of American States, *Annual Report of the Inter-American Commission on Human Rights 2013, Chapter IV: Venezuela* [hereinafter *OAS 2013 Venezuela Report*].

²²³ *OAS 2012 Venezuela Report*, *supra* note 222, at § II(C).

²²⁴ *OAS 2009 Venezuela Report*, *supra* note 215, at 48; *OAS 2013 Venezuela Report*, *supra* note 222, at ¶¶ 645-648.

²²⁵ *OAS 2009 Venezuela Report*, *supra* note 215, at 59; *OAS 2011 Venezuela Report*, *supra* note 222, at § II(D); *OAS 2013 Venezuela Report*, *supra* note 222, at ¶ 642.

²²⁶ *OAS 2009 Venezuela Report*, *supra* note 215, at 71; *OAS 2011 Venezuela Report*, *supra* note 222, at § II(D)(2); *OAS 2012 Venezuela Report*, *supra* note 222, at ¶¶ 494-496. *OAS 2013 Venezuela Report*, *supra* note 222, at ¶¶ 633-641, 657-660.

²²⁷ *OAS 2009 Venezuela Report*, *supra* note 215, at 80.

Cassation Chamber of the Supreme Court, Eladio Aponte Aponte, “referred to the workings of the judicial branch in Venezuela and said that while he had served in the judiciary he would receive instructions from senior government officials on decisions in cases under his cognizance.”²²⁸

Numerous international human rights groups have conveyed serious concern about Venezuela’s judicial system. In their annual country reports, Amnesty International²²⁹ and Freedom House²³⁰ both called into question the independence of the judiciary. In its 2014 report on Venezuela, Human Rights Watch echoed this sentiment, noting that:

[Because] ... President Chávez and his supporters in the National Assembly conducted a political takeover of the Supreme Court in 2004, the judiciary has largely ceased to function as an independent branch of government. Members of the Supreme Court have openly rejected the principle of separation of powers, publicly pledged their commitment to advancing the government’s political agenda, and repeatedly ruled in favor of the government, validating the government’s disregard for human rights.²³¹

This high-level concern with the lack of an independent and impartial judiciary in Venezuela was quickly exemplified in the current proceedings against López. The judge originally appointed to López’s case, Judge Raleyns Tovar Guillén, is not a permanently appointed judge. Furthermore, the phone messages leaked by the Spanish-language station *Nuestra Tele Noticias 24 Horas*, where Judge Tovar expressed to a friend that she had to “choose between keeping my job or waking up fired”²³² clearly demonstrates the symbiotic relationship between the judiciary branch and the executive—where President Maduro has made clear his desire to imprison López a year ago well in advance of the protests. The judge currently appointed to López’s criminal case, Judge Adriana López, is also a temporarily appointed judge. In addition, the ICCPR assumes that a judge may only act with legal authority of the state. Judge Tovar held a hearing and issued a ruling on López’s indictment in a location outside of her authority – in a mobile courtroom sitting outside her geographical jurisdiction – in violation of Venezuelan law. Finally, there is also an inherent conflict of interest because the prosecutors are charged with carrying out the investigation and prosecution while simultaneously claiming to be the victim. Because López is imprisoned by and will be tried by Venezuela’s judicial system, which is neither independent nor impartial, López is not receiving a fair judicial process and his detention is therefore arbitrary.

²²⁸ *OAS 2012 Venezuela Report*, *supra* note 222, at ¶ 449.

²²⁹ Amnesty International, *2012 Annual Report: Venezuela*, <https://www.amnesty.org/en/region/venezuela/report-2012#section-30-6> (noting concern about Judge María Lourdes Afiuni, who has suffered various forms of arbitrary detention since 2009 for ruling against the government).

²³⁰ Freedom House, *Freedom in the World 2014: Venezuela*, <http://www.freedomhouse.org/report/freedom-world/2014/venezuela-0#.U1fguuZdXbY> (noting that “Politicization of the judicial branch increased dramatically under Chávez, and high courts generally do not rule against the government.” As such, “Venezuela received a downward trend arrow due to an increase in the selective enforcement of laws and regulations against the opposition in order to minimize its role as a check on government power”) (emphasis added).

²³¹ *World Report 2014*, *supra* note 74; *see also Punished for Protesting*, *supra* note 87.

²³² *Supra* note 132.

2. The Venezuelan Government Failed to Afford Leopoldo López the Presumption of Innocence

ICCPR affords individuals “the right to be presumed innocent until proved guilty according to law.”²³³ The Human Rights Committee has noted that the presumption of innocence is expressed in unambiguous terms, and “the burden of proof of the charge is on the prosecution and the accused has the benefit of doubt. No guilt can be presumed until the charge has been proved beyond reasonable doubt. Further, the presumption of innocence implies a right to be treated in accordance with this principle. It is, therefore, a duty for all public authorities to refrain from prejudging the outcome of a trial.”²³⁴ The Venezuelan Constitution also enshrines this right.²³⁵

In the present case, multiple public authorities used inflammatory language in public, labeling López as being responsible for the violence that occurred on February 12, 2014, in addition to the greater unrest Venezuela is currently facing. This language made clear that the outcome of López’s case had been pre-determined, even before a preliminary investigation had been completed. Venezuela’s Foreign Minister, Elías Jaua, labeled Leopoldo López as the “intellectual author” of the killings that took place on February 12, 2014.²³⁶ Minister Jaua also stated in a television interview that López “directed a well trained group of followers toward the national prosecutor’s office, and once he had left the demonstrators began a coordinated and massive attack ... We can no longer tolerate that this group ... bath[es] the Venezuelan people with blood.”²³⁷ On the very night of the February 12 protests, President Maduro stated that López and other opposition leaders were fugitives who “should go behind bars.”²³⁸

Given these above statements, it is abundantly clear that López has been considered guilty before his indictment was even presented. When these statements are coupled with the lack of an independent judiciary, it is clear that López’s right to be presumed innocent by the judicial system is being violated.

3. The Venezuelan Government Failed to Provide the Right to Attorney-Client Confidentiality

The ICCPR states unequivocally that the accused “should be able to have recourse to a lawyer” and further “requires counsel to communicate with the accused in conditions giving full respect for the confidentiality of their communications. Lawyers should be able to counsel and to represent their clients in accordance with their established professional standards and

²³³ ICCPR, *supra* note 170. This same right is established by the Universal Declaration Article 11(1): “Everyone charged with a penal offence has the right to be presumed innocent until proved guilty according to law in a public trial at which he has had all the guarantees necessary for his defence.”

²³⁴ *The International Covenant on Civil and Political Rights*, *supra* note 220, at 308 (emphasis added).

²³⁵ *Venezuelan Constitution*, *supra* note 171, at Article 49(2) (“Any person shall be presumed innocent until proven otherwise”); *see also Venezuelan Constitution* *supra* note 171, at Article 23.

²³⁶ *Venezuela: Violence Against Protesters, Journalists*, *supra* note 107.

²³⁷ *Prominent Opposition Leader in Venezuela is Blamed for Unrest*, *supra* note 118.

²³⁸ *This Politician is a Wanted Man in Venezuela After Leading Anti-Government Protests This Week*, *supra* note 121.

judgment without any restrictions, influences, pressures or undue interference from any quarter.”²³⁹ The Human Rights Committee²⁴⁰ has also discussed the importance of attorney-client confidentiality,²⁴¹ with both bodies finding that, in maintaining the right to a fair trial, the ability of lawyers and their clients to communicate in private is of paramount importance. The Venezuelan Constitution also provides this right to its citizens.²⁴²

In this case, the Government has violated López’s right to communicate confidentially with his attorneys. López’s attorneys are physically searched and all of their documents are read upon entering the prison. Furthermore, López is not afforded private meetings with his attorney. Attorney-client meetings only may take place in López’s cell, where a guard is always present within earshot of their conversations. Thus, López is unable to have confidential conversations with his legal counsel in violation of ICCPR .

Conclusion

Leopoldo López’s ongoing detention is punishment for exercising his fundamental rights to freedoms of opinion and expression, peaceful assembly, and to be elected and take part in political affairs. In addition, his detention has also failed to meet international standards for due process of law, including the right to be tried before an independent and impartial judiciary, the right to be presumed innocent until proven guilty, and the right to have confidential attorney-client communications. Accordingly, his detention is arbitrary as established by international law and he should be immediately released from prison.

²³⁹ 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. 13, 1984.

²⁴⁰ Human Rights Committee, *General Comment No. 32, Article 14: Right to equality before courts and tribunals and to a fair trial*, CCPR/C/GC/32 (2007) at V (“Counsel should be able to meet their clients in private and to communicate with the accused in conditions that fully respect the confidentiality of their communications”).

²⁴¹ UN Working Group on Arbitrary Detention, Communication Addressed to the Government on March 16, 2009, Decision No. 27/2009, Adopted Nov. 24, 2009 (noting that “in order to determine whether a detention is arbitrary or not, a number of critical procedural safeguards need to be confirmed by the Government. For instance, the Working Group has not received an unequivocal confirmation that the three detainees were arrested pursuant to a warrant; that they had access to a lawyer; that they were able to have private meetings with their lawyer...”).

²⁴² *Venezuelan Constitution*, *supra* note 171, at Article 48 (“The secrecy and inviolability of private communications in all forms are guaranteed. The same may not be interfered with except by order of a competent court, with observance of applicable provisions of law and preserving the secrecy of the private issues unrelated to the pertinent proceedings”); *see also Venezuelan Constitution supra* note 171, at Article 23.

Appendix I – Overview of Past Political Persecution Against Leopoldo López by Venezuelan Government: False Accusations and Disqualification to Exercise Political Rights Without Due Process of Law

As discussed in the three sections below, López has been the victim of political persecution at the hands of the Government. Its goal is to silence him for fear that his vision of a democratic Venezuela will undermine the status quo and strip away the current administration's political power.

Despite being hailed as running the most transparent municipality in Venezuela by Transparency International,²⁴³ López was banned from running for and holding a political position for six years beginning in 2008. Though he acted appropriately, two administrative actions found López administratively responsible for acts of corruption. Because these were administrative proceedings, López was never tried nor convicted in any court of law. In 2011, the Inter-American Court of Human Rights issued a judgment finding that López's disqualification from political office was a violation of international law and ordered that he be allowed to hold and run for office. However, the Supreme Justice Tribunal of Venezuela refused to implement this ruling.

Furthermore, the Government filed charges against López in 2004 for an alleged involvement in the attempted 2002 coup. All of these proceedings are without merit, however, and are simply an attempt by the Government to remove López as an opposition figure.

Finally, in addition to these false court charges, there have been repeated attempts on López's life. In sum, these violent attacks against his person combined with the false charges and court proceedings demonstrate that the Government views López as a political threat. It is this past persecution which sets the context for the current charges.

1. Leopoldo López Banned From Politics 2008-2014

Administrative Proceeding on Alleged “Conflict of Interest” while an Employee at Petróleos de Venezuela S.A. (2004)

In 2004, Leopoldo López was banned from running for public office for three years due to allegations that he improperly received public money in 1998. At the time in question, López was employed within the Office of the Chief Economist at *Petróleos de Venezuela S.A.* (“PDVSA”) as an Analyst of the National Environment.²⁴⁴ He was also a member of the Board of Directors for the non-profit civil association *Primero Justicia*.²⁴⁵ López's mother, Antonieta Mendoza de López, was a Manager of Public Affairs at *División de PDVSA Petróleo y Gas, S.A.*, a subsidiary of PDVSA.²⁴⁶

²⁴³ *Oslo Freedom Forum*, *supra* note 18.

²⁴⁴ *Case of López Mendoza v. Venezuela*, Merits, Reparations, and Costs, Judgment, Inter-Am. Ct. H.R. (ser. C) No. 233, ¶ 40 (Sep. 1, 2011), available at http://www.corteidh.or.cr/docs/casos/articulos/seriec_233_ing.pdf [hereinafter *Inter-Am. Ct. H.R. (ser. C) No. 233*].

²⁴⁵ *Id.* at ¶ 40.

²⁴⁶ See generally *Inter-Am. Ct. H.R. (ser. C) No. 233*, *supra* note 244, at ¶ 42.

It is common practice for PDVSA to donate money to local nonprofits. In 1998, the PDVSA Board of Directors held a contest for nonprofits to apply to receive donations. Around 600 nonprofits applied, and PDVSA approved donations to over 200 organizations. Two donations made in 1998 by PDVSA to the civil association *Primero Justicia* were cited in the administrative action as reason for López’s ban. These donations were executed under an agreement made between the Inter-American Foundation and PDVSA dated June 24, 1998. Both the board of the IAF and the board of PDVSA independently approved these donations; the donations were also integrated and reflected in the Social Investment Budget of both organizations.

No members of the PDVSA Board of Directors were never investigated nor punished for granting the funds. Neither was the President of *Primero Justicia* at the time, Dr. Alirio Breu Burelli. The only people accused of any wrongdoing were López and his mother, despite the fact that at no time did Mr. López personally receive any money donated to *Primero Justicia*, nor did Mrs. Mendoza de López have any role in selecting which non-profits received the grants.

The donations in question are as follows. On December 23, 1998, PDVSA donated Bs. 60,060,000 (U.S. \$ 117, 764.00) to *Primero Justicia* to fund a project²⁴⁷ aimed at increasing the number of justices of the peace and thereby increase Venezuelans’ access to judicial services.²⁴⁸ A separate donation of Bs. 25,000,000 (U.S. \$ 49,019.00) was made to *Primero Justicia* on September 11, 1998 to support the project “*Educando Para La Justicia 1998-1999*” (“Educating for Justice 1998-1999”).²⁴⁹

In an audit conducted by the Internal Comptroller of PDVSA completed on May 22, 2001, it was specifically noted that the cash flow and use of donations demonstrated that the money was used for its intended purpose. Mr. López never personally received nor benefited from these donations. Nevertheless, an administrative proceeding was initiated against Mr. López on July 15, 2004—despite no wrongdoing on his part—and in violation of a five-year statute of limitations to bring administrative actions in Venezuela.²⁵⁰

Despite Mr. López never receiving the money, and Mrs. Mendoza de López’s lack of involvement in the selection of *Primero Justicia* as a recipient, the Office of the Determination of Responsibility of the Comptroller General of the Republic (“Office of the Determination of Responsibility”) issued an order declaring Mr. López administratively responsible for a conflict of interest on October 29, 2004.²⁵¹ The order imposed a fine on both Mr. López and Mrs. Mendoza de López for Bs. 1,243,200 (U.S. \$647.50 at that time).²⁵²

²⁴⁷ The project was labeled “Expansión y consolidación de la justicia de paz en los Estados Monagas, Anzoátegui, Sucre y Delta Amacuro: una oportunidad para la equidad en un context de crecimiento económico Regional” (“Expansion and consolidation of justice for peace in the States of Monagas, Anzoátegui, Sucre, and Delta Amacuro: an opportunity for equity in a context of regional economic growth”). See Inter-Am Ct. H.R. (ser. C) No. 233 ¶ 41.

²⁴⁸ See generally Inter-Am. Ct. H.R. (ser. C) No. 233, *supra* note 244, at ¶ 41.

²⁴⁹ *Id.* at ¶ 41.

²⁵⁰ *Id.* at ¶ 51.

²⁵¹ *Id.* at ¶ 54.

²⁵² *Id.* at ¶ 55.

Almost ten months later and without a new administrative hearing, the Comptroller General issued Resolution No. 01-00-000206 on August 24, 2005. This resolution banned Mr. López from holding public office for a period of three years.²⁵³ The Comptroller General forwarded the administrative action to the Public Prosecutor's Office on December 2, 2004, for a simultaneous "corresponding criminal investigation."²⁵⁴ However, criminal charges were not brought against Mr. López until almost a decade later,²⁵⁵ in February 2013—again in violation of the five-year statute of limitations. These charges accuse Mr. López of "influence peddling" and are still ongoing.²⁵⁶

Administrative Proceeding on Budget Decision as Mayor of Chacao (2004)

Legislation created the Metropolitan District of Caracas ("Metropolitan District") on March 8, 2000. The Metropolitan District officially came into existence on August 30, 2000, with the swearing in of the first Metropolitan Mayor.

Each year, municipalities that make up the Metropolitan District must transfer 10 percent of their tax revenue from two years earlier, along with 10 percent of funds granted by the federal government in the current fiscal year.²⁵⁷ In the first year these payments were due under this new system, Chacao initially made a mistake in the amount of money it allocated to transfer to the Metropolitan District.

All municipalities must set their budgets for the following year by October 31. Chacao thus set its 2002 budget on October 31, 2001. After correctly budgeting 10 percent of its anticipated 2002 federal funds, Chacao mistakenly budgeted its estimated tax revenue for all of 2001, in addition to the last four months of 2000 (September through December, after the Metropolitan District was validly constituted). However, as mentioned above, Chacao did not need to transfer its 2001 tax revenue until 2003. The rationale for this approach is that municipalities do not know what their actual tax revenue for the current tax year in October, months before the remaining taxes for the municipality are actually collected.

Once Chacao realized this mistake, the money originally budgeted for the Metropolitan District of Caracas was returned to the general fund of the Chacao treasury at the directive of Mayor Leopoldo López, who confirmed the legality of conducting such a transaction with the independent Municipal Comptroller. As Chacao is one the wealthiest municipality in Venezuela, total revenue dwarfs federal funds received. Therefore, removing 10 percent of its funds over an entire year greatly reduced the amount of money transferred to the Metropolitan District as compared to what had been originally budgeted.

²⁵³ See generally Inter-Am. Ct. H.R. (ser. C) No. 233, *supra* note 244, at ¶¶ 58-59.

²⁵⁴ *Id.* at ¶ 64 [external citations omitted].

²⁵⁵ *Chávez Opponent Charged With Influence Peddling*, ASSOCIATED PRESS, Feb. 28, 2013, available at <http://bigstory.ap.org/article/Chávez-opponent-charged-influence-peddling>.

²⁵⁶ *Id.*

²⁵⁷ Special Law on the Regime of the Metropolitan District of Caracas, Art. 22, Ordinal 4, 5; Inter-Am. Ct. H.R. (ser. C) No. 233, ¶ 65 (citing Judgment No. 912 of August 6, 2008, of the Political-Administrative Chamber of the Supreme Tribunal of Justice, Case file No. 2005-5124).

Municipalities have the power to authorize additional allocations to their expense budgets by declaring total or partial annulments of excess budgetary funds not used in full.²⁵⁸ In accordance with this law, Mayor López passed Resolution No. 14802 on October 25, 2002, which “declared a partial shortage of some budget appropriations.”²⁵⁹ The Chacao City Council then reallocated a portion of the money originally allocated for the Metropolitan District for things such as payment to the police and fire departments, teachers, and electricity, telephone, garbage, water and maintenance service. Mayor López publicly announced this reallocation of funds during a news conference.

As noted previously, prior to transferring the excess budgetary funds back into the Treasury, Mayor López consulted with the Municipal Comptroller of Chacao—which is an entity separate and independent from the Chacao Mayor’s Office. The independent Chacao City Council also explicitly approved the reallocation of funds, which was required by law. Later, the Municipal Comptroller submitted a written report in support of these actions.²⁶⁰

Despite municipalities possessing the power to authorize additional allocations, and endorsement by two independent entities of this administrative decision to do so, the Office of Municipal Oversight within the Comptroller’s Office (“Office of Municipal Oversight”)—which is a Federal Executive agency—began an investigation on December 6, 2002, regarding the “use given to the resources [originally] destined for the Metropolitan Mayor[’s] Office of Caracas.”²⁶¹ This investigation was commenced only when a member of the Chacao City Council made a complaint to the Office of Municipal Oversight. This council member was a member of the same political party as President Hugo Chávez and was politically opposed to Mayor López and his party.

On September 9, 2003, the Office of Municipal Oversight issued a report.²⁶² This report inaccurately stated that Chacao should have paid 10% of its tax revenue from 2001. Mayor López was not afforded the opportunity to give input or submit evidence that the correct procedure was followed. Subsequently, the Office of Municipal Oversight created administrative record No. 07-02-PI-2003-020 and ordered that legal notice be provided by López.²⁶³ Six of the seven city council members were also investigated and declared administratively responsible, while the seventh member, who was a member of Chávez’s party and called for the initial investigation, was never investigated.

On April 26, 2004, a Report on Results was issued by the Office of Municipal Oversight, which incorrectly found that the money originally allocated to the Metropolitan District “constitute[d] a legal obligation... by which they cannot be used for means distinct from those

²⁵⁸ Inter-Am. Ct. H.R. (ser. C) No. 233, *supra* note 244, at ¶ 65.

²⁵⁹ *Id.* at ¶ 66 (citing Official Letter DA. 3255.10.2002 and DA. 3253.10.2022 signed by Mr. López Mendoza on October 28, 2002).

²⁶⁰ *Id.* at n. 171 (citing Note No. CMDC/GL/776, Nov. 18, 2002).

²⁶¹ *Id.* at ¶ 67 (quoting Official Letter No. 07-02-4457 of December 6, 2002, from the Office of Municipal Oversight to the Municipality of Chacao).

²⁶² *Id.* at ¶ 68.

²⁶³ *Id.* at ¶ 70.

foreseen.”²⁶⁴ The report also erroneously stated that Chacao should have paid 10% of their 2001 tax revenue in their 2002 budget to the Metropolitan District.

The administrative case was then transferred to another office within the Comptroller General, the Office of Determination of Responsibility of the General Office of Special Procedures of the Comptroller General (“Office of Determination of Responsibility”), which is within the same Federal agency as the Office of Municipal Oversight. A public hearing was held on October 26, 2004. On November 2, 2004, the Office of Determination of Responsibility issued an order finding López administratively responsible for what it claimed was a flawed budget reallocation.²⁶⁵ The Office of Determination of Responsibility made no finding regarding the amount owed to the Metropolitan District. The order solely regarded the decision to reassign money to the general fund within the treasury and then reallocate this money for other purposes.

Consequently, López was fined Bs. 8,140,000, equivalent at the time to U.S. \$4,239.58.²⁶⁶ López appealed the decision to the Venezuelan Supreme Court. Almost a year after the original order, on September 26, 2005, the Office of Determination of Responsibility, acting in response to a directive issued by the Comptroller General’s Office imposed an “accessory sanction” on López, disqualifying him from public office for a period of six years.²⁶⁷ López was also charged with embezzlement on May 8, 2005. This criminal case is still open and ongoing.

López appealed the fine, administrative responsibility, and political disqualification, and requested to have these suspended pending the Supreme Court’s review and decision on his case. The Supreme Court denied this request and took two years to act on López’s appeal, longer than is permissible under Venezuelan law. Ultimately, the Venezuelan Supreme Court upheld the decision by the Office of Determination of Responsibility on August 5 and 6, 2008.²⁶⁸ Over the course of these events, López was never accused of receiving any of the reallocated money, nor was he ever charged or convicted in a court of law. López was only found to be administratively responsible on dubious administrative procedural grounds that were contrary to law.

As the 2008 election season approached, the Comptroller General forwarded a list of hundreds of people disqualified from holding public office for administrative reasons to the National Electoral Council (*Consejo Nacional Electoral* or CNE), the vast majority of whom were opposition politicians and office holders.²⁶⁹ As a result, on July 21, 2008, CNE approved a law barring citizens on this list from running for office in the November 2008 election.²⁷⁰ Leopoldo López was on this list. López’s disqualification went into effect in 2008, allowing him to finish his term as mayor, but prohibiting him to run for office in the November 2008 elections.

²⁶⁴ *Id.* at ¶ 71 (quoting Report on Results of April 26, 2004, issued by the Office of Municipal Oversight).

²⁶⁵ *Id.* at ¶¶ 66, 76.

²⁶⁶ *Id.* at ¶ 78.

²⁶⁷ *Id.* at ¶ 81.

²⁶⁸ *Id.* at ¶ 87.

²⁶⁹ *See generally* Inter-Am. Ct. H.R. (ser. C) No. 233, *supra* note 244, at ¶ 91.

²⁷⁰ *Id.* at ¶ 91 (noting “Article 9 of the regulation stated: “[the] following may not run for a position through popular election... [t]hose who committed acts enshrined in Article 65 of the Bolivarian Republic of Venezuela and the other laws of the Republic... [t]hose who are subject to civil interdiction or disqualification”).

López had planned to run for Mayor of Caracas. Polling suggested that he stood to receive between 65 and 70 percent of the vote.²⁷¹

Despite reallocating the money in accordance with law, the facts clearly indicate that this action against Leopoldo López was politically motivated and designed to remove him as an opposition figure. This conclusion is evident from the following facts: López's decision to reallocate the money was legal and endorsed by two independent entities (Municipal Comptroller and Chacao City Council); López was never found to have engaged in corruption or to have personally used the public money in question; López was never charged or found guilty in a court of law; the Supreme Court denied López's request to suspend his political disbarment until it made its ruling two years later, in violation of López's due process rights; the CNE passed a law barring López from running for office; and finally, the Supreme Court upheld López's political ban. These events thus all resulted in Leopoldo López not being able to run for office in 2008 for a position that polls show he would have won, and thus these actions are emblematic of the Venezuelan Government's relentless efforts to eliminate López as a political opponent.

Decision of the Inter-American Court of Human Rights (2011)

The Inter-American Court of Human Rights heard the case *Leopoldo López Mendoza v. the Bolivarian Republic of Venezuela* on March 1-2, 2011.²⁷² Both administrative orders discussed above were under review.²⁷³ On September 1, 2011, the Inter-American Court of Human Rights (IACtHR) ruled that Venezuela, "through its competent bodies, particularly the National Electoral Council (CNE), must ensure that the sanction of disqualification is not an impediment to Leopoldo López Mendoza in the election in which he wishes to register as a candidate."²⁷⁴ The decision by the court was unanimous.²⁷⁵

The IACtHR based its decision under Article 23(2) of the American Convention on Human Rights, which states that only the conviction of a crime may be used to disqualify someone from running for and holding public office.²⁷⁶ The Court also found a violation of Article 8(1). This article reads: "Every person has the right to a hearing, with due guarantees and within a reasonable time, by a competent, independent, and impartial tribunal ... in the substantiation of any accusation of a criminal nature ... or for the determination of his rights and obligations."²⁷⁷ President Hugo Chávez immediately dismissed the ruling, stating, "What value can that Court have? For me, it means nothing, zero."²⁷⁸

²⁷¹ *Inter-American Court Hears Leopoldo López Case*, *supra* note 15.

²⁷² *Id.*; Javier El-Hage, *Leopoldo López v. Venezuela: A Case Not About Venezuela*, AMERICAS QUARTERLY, Apr. 4, 2011, available at <http://www.americasquarterly.org/node/2369> [hereinafter *Leopoldo López v. Venezuela: A Case Not About Venezuela*].

²⁷³ *Leopoldo López v. Venezuela: A Case Not About Venezuela*, *supra* note 272.

²⁷⁴ Inter-Am. Ct. H.R. (ser. C) No. 233, *supra* note 244, at ¶ 217

²⁷⁵ Jorge Rueda, *Rights Court Sides with Chávez Opponent*, YAHOO!, available at <http://news.yahoo.com/rights-court-sides-chavez-opponent-215636280.html>.

²⁷⁶ *Inter-American Human Rights Court Hears Leopoldo López Case*, *supra* note 15; *Leopoldo López v. Venezuela: A Case Not About Venezuela*, *supra* note 272.

²⁷⁷ Inter-Am. Ct. H.R. (ser. C) No. 233, *supra* note 244, at ¶ 217.

²⁷⁸ Carlos Camacho, *After Court Ruling, Lopez to Run for Venezuela President*, Latin American Herald Tribune, (last visited Apr 29, 2014), available at <http://www.laht.com/article.asp?CategoryId=10717&ArticleId=426123>.

Decision of the Supreme Justice Tribunal of Venezuela (2011)

On October 17, 2011, the Supreme Court held that the decision by the Inter-American Court on Human Rights was unenforceable.²⁷⁹ Perplexingly, the Supreme Court claimed that technically López would be able to run for, but not hold office, and therefore was still allowed to participate politically.²⁸⁰ However, then-Comptroller General Adelina Gonzalez “warned that López might be committing fraud if he runs a presidential campaign given the measures against him.”²⁸¹

2. Court Proceedings on Alleged “Coup Plotting” (2004)

As discussed above in Section A(1), at no point was López a proponent of the 2002 attempted coup. The extent of his involvement was participating in public protests that occurred days before the attempted coup, and acting on a detention order and search warrant for the Minister of the Interior and Justice, Ramon Rodriguez Chacin, that was issued by Judge Monica Fernandez of the 39th Control Court, in a way that also provided him with brief and temporary protection.

Nevertheless, the Government charged Leopoldo López for involvement in the coup, and he was charged in November 2004 with illegal detention and burglary. He was also charged with instigation, civil rebellion, and conspiracy for his alleged involvement with the coup. These charges were made as a consequence of the protests that took place at Plaza Altamira Square where more than 100 members of the military made public statements and speeches against the government. Though López had no involvement with the coup and had acted within his rights by following the detention order for the Minister of the Interior and Justice, the Government used the 2002 coup as an excuse to punish and silence political opposition leaders such as Mayor López.

However, on December 31, 2007, President Hugo Chávez approved an amnesty law for those involved in the detention of Minister of the Interior and Justice, and for those who were accused of instigation of crime and rebellion up until 2007. At this point all coup-based criminal charges against López were dropped. López, through his counsel, opposed the granting of amnesty to him and wished to continue with the case in court so he could be declared not guilty, but the court dismissed the charges against him.

3. Acts of Violence against Leopoldo López

In addition to these civil and criminal court actions aimed at disqualifying López as a political opponent, there have been a series of violent attacks against López. In at least some of these the attackers used government equipment.

²⁷⁹ *Lopez Vows to Challenge Chávez Despite Ban*, AL JAZEERA, Oct. 19, 2011, available at <http://www.aljazeera.com/news/americas/2011/10/2011101921536934227.html> [hereinafter *Lopez Vows to Challenge Chávez Despite Ban*].

²⁸⁰ *Id.*; Girish Gupta, *Chávez Opponent Can Run for President, but Can't Take Office, Says Court*, CHRISTIAN SCIENCE MONITOR, Oct. 19, 2011, available at <http://www.csmonitor.com/World/Americas/2011/1019/Chávez-opponent-can-run-for-president-but-can-t-take-office-says-court>.

²⁸¹ *Lopez Vows to Challenge Chávez Despite Ban*, *supra* note 279.

On May 24, 2002 López was attacked in *Puerto La Cruz*. One of his companions was injured and López's vehicle sustained damage. The attackers arrived in official City Hall vehicles. On June 25, 2002, members of *Primero Justicia* were attacked at the Central University of Venezuela. The attackers identified themselves as members of *Grupo M-28* of the *Coordinadora Simón Bolívar*, and *Grupo Utopía*. López's vehicle was shot 12 times. On June 6, 2003, López was at the University of Zulia in Maracaibo City when eight men broke into the room where López was present. These men were armed with automatic rifles, tear gas, and smoke bombs. Two students were shot and wounded. One of these students, Germán Petzol, was a member of *Primero Justicia*. As mentioned in Section A(1) above, in April 2006, López's police escort was killed in an apparent attempt on López's life. Carlos Mendoza, a police officer from the Chacao police force was seated in a car seat where López typically sat. Carlos Mendoza was shot more than 12 times. Finally, on October 2, 2006, López was held as a hostage for several hours by a group of masked men. López had been with a group of students at the University of Carabobo when roughly 20 masked individuals with guns and tears gas entered the University. These men wore shirts that indicated they were members of the political party *Podemos*, and some of them were driving government vehicles.²⁸²

These violent attacks against his person—along with the false charges and court proceedings—clearly demonstrate that the Government views Leopoldo López as a political threat, and it is therefore attempting to undermine his opposition by all means possible.

Appendix II – Leopoldo López's Speeches (January 23, 2014; February 12, 2014; February 16, 2014; and February 18, 2014)

Speech by Leopoldo López at Political Assembly in Plaza Brión—January 23, 2014

Thank you very, very much, thanks to all of the Venezuelans who are listening to us today, who are watching us, who are accompanying us, Venezuelans who are in all of the corners of national territory, Venezuelans who know that Venezuela needs a change, who know that we have to move through a change of system, not only a change of government, a change of model.

Today is January 23rd, every January 23rd we celebrate something. Today we want to remember the essence of the rebellion of a people, the essence that the peoples can rise up against oppression, the essence that the peoples have the right when faced with a government that seeks imposition, authoritarianism, anti-democracy, corruption, and inefficiency as a form of government.

Today, January 23rd, which the government claims to also be celebrating, we who are in the opposition also celebrate it. We must be clear about what it is that is being celebrated: in this way do we celebrate the beginning of democracy, but on January 23, 1958 what happened was that a people rose up, that a people revolted, that a people said 'enough, already!' that a people said 'from the streets we must go out to conquer democracy.'

²⁸² *Secuestrado por Varias Horas Alcalde Leopoldo López en la Universidad de Carabobo*, GLOBOVISION, Feb. 10, 2006, available at <http://globovision.com/articulo/secuestrado-por-varias-horas-alcalde-leopoldo-lopez-en-la-universidad-de-carabobo> (translated from Spanish).

Democracy in '58 was not conquered by itself, it was conquered after years of struggle, years of resistance, of political prisoners, of dead, of persecution, of deception, of militarism, and of anti-democracy and today, years later, more than 50 years later, Venezuela is also subjugated in the same ways it was subjugated in 1958: it is subjugated by a government that claims to hold the truth in its hands, it is subjugated by a government that utilizes power to subjugate, it is subjugated by a government that utilizes lies, it is subjugated by a government that utilizes intimidation, jail, authoritarianism, the police in seeking to quiet a people. We, from the windows where they are listening to us, from the media where they may be hearing us, from the radios, television, the print media that may come out tomorrow, we invite the Venezuelan people to lift up their fighting spirit.

To lift up our fighting spirit and today we say it as Venezuelans who are worried about what is happening and we want to say it very clearly: we are opposed to this government, we are opposed to this system, we are opposed to everything that represents anti-democracy, we are opposed to an economic model that has subjugated the people. We are opposed to the fact that in the years of the greatest petroleum boom – this year, 2014, is the 100th year of being an oil country and in the 100 years of being an oil country this has been the strongest boom – the price of petroleum has been above 90 dollars during the last eight years but paradoxically these years [have been the ones] with the highest inflation, highest rates of unemployment, of lines, of shortages, of unemployment, and of lack of opportunities. There are no adolescents in Venezuela today who are not thinking about the possibility of leaving Venezuela; there are no adolescents in Venezuela today who are not thinking about the uncertainty of their attending university in the future, and knowing that they will not have employment opportunities; there are no youth in Venezuela today who are thinking about the possibility of taking to the streets and being peaceful; and if the youth harbor these worries, then so do the parents, so do their grandparents, so does the people who know that there is no future with this government. We Venezuelans are committed to change, we are committed to democracy, to the Constitution, but above all we are committed to the people and we want to tell the Venezuelans that the government will do what it wants to do, that the government will do everything it can at its disposal: utilize the oil resource that belongs to all Venezuelans to subjugate us, utilize its intimidation to seek to quiet the media, utilize the police to intimidate us. But they will not quiet our fighting spirit, they will not suppress our rebelliousness of wanting to change what today signifies a government of oppression, a government of anti-democracy, a government that is profoundly inefficient, and a government that is responsible for all of the ills that we are experiencing today.

The government is the one responsible for the economic crisis; the government is the one responsible for the insecurity; the government is the one responsible for the despair; the government is the one responsible for the lack of opportunities; and being as it is that the government – and we are not just talking about the executive [branch] but rather about the system – is the one responsible for all of the ills being endured by the Venezuelan people, we assume our responsibility, which is to make a call to struggle, to fight, to dream, to dream with optimism but also to dream with the strength of knowing that we are entering a new stage of risks because the government continues to take root through its aims of persecution.

We do not care how the government describes us, because they are not the owners of the truth. For us it is important that the people want change. Today we call on Venezuelans – women, men, adolescents, people of prolonged youth [i.e. senior citizens], indigenous people, creoles, whites, and blacks, women and men – to rise up in the face of the meaning of a government that wants to drive pressure on our people.

And what does rising up mean? So that they won't misinterpret us and say words that we are not saying, an 'uprising/revolt' [*alzamiento*] means first and foremost the rising to consciousness, the rising up of our fighting spirit, the rising up to our vocation for change. The uprising that today, January 23rd, we must demand, is that a people can take to the streets, ever since peoples have been peoples, ever since history has been history, this right has existed for peoples to say 'we want to change and we want to change.'

We do not agree with the economic model that is being driven by the government. Last week Nicolás Maduro said that he does not devalue [the currency], and yesterday they devalued the currency by practically 400%. The government says that the parties responsible for the violence are the television soap operas [*telenovelas*] and cartoons/comic strips [*comiquitas*], and the Attorney General of the Republic, in her presentation to the National Assembly, does not speak of impunity. The government says that the economic war is the responsibility of the businesspersons and producers, when the reality is that today we Venezuelans are suffering the worst [effects] of bad economic management because of the government, and it is for that reason that we invite the Venezuelan people, to all who desire change, to all who wish for Venezuela to be able to improve, to all who dream of a Venezuela in peace, of a Venezuela with wellbeing, of a Venezuela with progress, to all Venezuelans who know that we can be better off, to all Venezuelans who know that we can have a country of opportunities, a country of employment, of progress, a country of justice, of equality before the law, a country of justice, a country in which they kill a mother's son when she discovers that a public prosecutor has not found another criminal who has asked him for 15,000, 20,000 Bolivares to see if his child's case might be processed, a Venezuela in which the judges can treat everyone equally, a Venezuela in which democracy is the essence of all of the rights for all persons, all of the rights for all of the people, not some of the rights for some of the people.

Today in Venezuela there is a corrupt upper echelon of leadership. Today in Venezuela there is an elite that has hijacked the Venezuelan State, an elite that has become multimillionaires, an elite that behind the backs of the people has robbed it of all of the wealth belonging to the Venezuelans, and that elite that today is governing and that refers to themselves as revolutionaries, that refers to themselves as the agents of change, are the ones responsible for the ills endured by our people, and it is for that reason that we are not going to renounce our right, our sacrosanct right to say 'enough, already!', our sacrosanct right to say, as Betancourt said back in the 1950s, that we will be in the streets, that we will converge with the people, that we will converge with the strength of a people that wants to change. And we know that this announcement will be presented by the government as a call to something different than the consolidation of democracy. But we tell Venezuelans, let's not get sucked into deceptions, that it does not matter to us how the government wants to interpret what we are saying, because for us what is important is the Venezuelan people, that people that wants change, that people that wants a better Venezuela, that people that today is frustrated, that has been driven to despair, that

appears to not perceive a way out of the disaster to which we are subjected today. We tell Venezuelans that it is possible, it is possible to have a better Venezuela, it is possible but we need you, we need you, sister, we need you, brother, we need you, but first and foremost with the conviction, with the conviction of your soul, with the conviction of your actions.

And it is for that reason that we call on the Venezuelan people to say ‘enough, already!’ We do not know when change will come about, we do not know if it will be in one month, in one year, in two years – but what we do know is that if we do not begin today, that change will not come, that if we do not begin today that change will never come to the Venezuelans’ doors of destiny. And it is for that reason, and it is for that reason, that we today on the 23rd of January, there is no date, there is no more appropriate date to make a statement such as this one, where today we celebrate the people’s revolt, where today we celebrate the street as a space for struggle, where today we celebrate the strength of a people that was dominated, that was crushed, that was despairing over the imposition of a government that sold significant changes within the economic sphere, that sold a supposed stability, but that below at the level of the people the essence and liberty were lacking, the freedom to be able to say and do what we wanted, to be able to say and do what was on our consciences.

Today Venezuela is suppressed by the darkness, and the sunlight is in our hands, the sunlight of a better future is in the hands of the women and men who know that we can change, and that is why we are aware that there are different spaces for struggle, but that there is one which we will not renounce, and that is the street. And in this sense we want to tell Venezuelans that as of this moment we are going to initiate a cycle of street assemblies throughout national territory, street assemblies with one goal, with one topic to discuss: the exit.

What is the exit to this disaster? We believe that calling for a political exit is not only done with political organizations, it is not done only in a restricted space. That discussion regarding where Venezuela needs to go needs to convene a people, we have to listen to the Venezuelan people, we have to debate, we have to incorporate the Venezuelan people’s sentiments of frustration and vocation for change. It is for that reason that we in these street assemblies that we want to hold and which will be held on national territory, in the cities, in the towns, in the neighborhoods, in the developments, we are going to debate this, the exit.

And what is the exit that we are proposing? We are aware that the exit must be, first and foremost, popular, popular with the people, people, people, persons who want an exit, persons who want to be the strength of a people seeking change. Secondly, a democratic exit, and thirdly, an exit within the Constitution. The Constitution offers us various tools and we will debate with the people which of these tools is the most appropriate, which of those tools can channel us toward a change as soon as possible, toward the most profound kind of change, the most democratic, and that enable us to make progress toward a better Venezuela.

Next Sunday, the 2nd of February, we will have a national day of street assemblies, a national assembly that we want and that will be repeated throughout national territory, and in these street assembly days we will stimulate this debate, this dialogue, this encounter with the people that wants change, this encounter with a people that knows that we can be better off, the dialogue with the Venezuelans who want change, the dialogue with the Venezuelans who know that there

is no justification for someone who goes to a hospital and is told that there are no supplies, the dialogue with a people that knows that there is no justification for having to stand in line for seven hours to get two chickens, the people that knows that there is no justification for having a family member killed and receiving no response, the people that knows that there is no justification for having a government that robs, robs, and robs, and nothing happens, the dialogue with a people that knows that we have an obligation to point out those who are at fault, to point out those who are responsible.

But we also have the obligation to lead toward a change, and that change must convene millions. And we are millions, there are millions of us Venezuelans who want change, there are millions of us Venezuelans who are conscious that today Venezuela is not on the right path, that today Venezuela needs to change, and thus Venezuela [*sic*].

Sisters, brothers throughout national territory who are listening to us, wherever you are listening to us: we invite you to go out onto the streets for this debate, for this encounter, for these street assemblies. Do not wait for us to convene you. Go out onto the streets for this debate, in your development, in your neighborhood, in your small village, with your people at work, in all corners, in the small car, in the metro, in the street: go out to speak about the exit. Venezuela needs an exit.

We do not know what chance we'll have in the future; what we do know is that today we have the chance to issue this statement; that today, January 23, 2014, we assume the responsibility for the fighting spirit that opened the doors to democracy in the 20th Century and that today we have that same responsibility to light the flame of the strength of the people that knows that we be much better off. Hand in hand with the people, hand in hand with the women and men of the struggle, hand in hand with the youth, with students, with workers, with the victims of violence, hand in hand with those who have been driven to despair but who want hope, hand in hand with those who do not see the change but who have in their hearts the vocation for things to change, we will proceed to create this strength, this strength for change to which we call the entire Venezuelan people.

Thank you so very much, brothers of Venezuela, sisters of Venezuela. Today more than ever, today more than ever, today more than ever, today more than ever we encourage the vocation for a peaceful struggle, popular, constitutional, and democratic. This is the message that we bring to Venezuelans and will replicate in all of the corners of national territory.

To the struggle, Venezuelan people! To the struggle, Venezuelan people, with strength and faith to affect the change that we Venezuelans know we deserve! Many, many thanks!

Speech of Leopoldo López at the Rally at Plaza Venezuela—February 12, 2014

A very good day to you, a very good day to you Venezuela, a good day to those of us who are in Caracas and those who are throughout Venezuela. Today this demonstration is being held throughout national territory; we are tens of thousands, we will be hundreds of thousands of Venezuelans who seek political change in Venezuela. Long live Venezuela! Long live

Venezuela! Long live the women and men who today are convinced that Venezuela must change!

And I would like to start by recognizing the Venezuelan youth who today are in the streets, but most especially those who have been suppressed, those who are imprisoned today, those who have been hurt by bullets, those who have been repressed by security officers, by the army, by the police, and by the government's irregular groups. We want to tell those youth that they are not alone: their parents, their grandparents, and all of Venezuela are with the Venezuelan youth.

Today, Youth Day, we should be celebrating a Venezuela full of opportunities, we should be celebrating the young people of the future, but unfortunately today our youth ask themselves: 'What will I do in the future here in this homeland?' And today we want to demand the right that the youth and all Venezuelans have to struggle, to be in the street, and to build a future that is being robbed from us today.

Unfortunately, today Venezuela is living through one of the worst moments in our history: shortages, lines, salaries are not sufficient [for people's needs], insecurity, impunity, drug-trafficking inside the government, corruption, the hand-over of our country to foreign interests. Today we are living through all of these problems during a dark moment of our country. The shortages, inflation, insecurity, lack of opportunities have a culprit: the government. It has a group that is responsible for everything that is happening. What a contradiction, brothers and sisters: in the midst of the biggest oil boom in the history of Venezuela, we have the highest inflation; in the midst of this oil boom we have the greatest shortages; in the midst of this oil boom we have the highest rate of unemployment of our youth. And do you know why? Because here in Venezuela, they intend to install – and an incorrect model has been making progress – a model that, it's not that it is getting us closer to a cliff but rather, Venezuela is falling over a cliff.

We are doing it first and foremost with a patriotic consciousness, nationalistic, we the parents who know that if things continue as they are, there will not be a future for our people, and we are doing it with the awareness that the Constitution provides various options for producing political change. I invite you to continue with us in the street convincing the people that it is indeed possible to change. There are options in the Constitution: there is resignation, there is the *revocatorio* [recall election], there is the *constituyente* [Constituent Assembly]. But, do you know what? All of these mechanisms, which are vehicles that appear in the Constitution, are secondary, secondary to that which is of primary importance, to the individuals, to the people, to the street, to the street, and to the protest; because it is in the street, it is in the street and with the protest in the street that we will be able to activate an exit from this disaster.

Think about how we got here, the convening announcement traveling by word of mouth through social networks. But here we are, and we are in all of Venezuela, and this is going to continue to grow and grow and grow until we are millions in the street, millions of women and men in the streets of Venezuela demanding our rights and our commitment to political change. As we said in Chacaíto, each person will look for five and 10 [other people]. I tell each of you who are here today assembled that each one of you, that each of you who are here today and who are attending the rallies throughout Venezuela, let us understand that change is within you, let us understand that change is within each one of us, each of us must be an active conscience, an active medium

for communication, an ongoing source of information, and when we grow and become millions in the street, we will achieve what we are seeking, which is political change in Venezuela. But that will happen because we are being very clear that we are not willing to give up on those who are being abused.

Today the young people have issued a call to go to the Office of the Attorney General with a very concrete goal of declaring that they will remain in the street with a protest that will grow ever more determined, ever more potent, until the prisoners of Táchira, Nueva Esparta, and Mérida are freed. I want, I want to celebrate the unity in the street, I want to celebrate and ratify that those of us whose second home is the '*alianza unitaria*' [united alliance'] are united, we are all committed to change. Let's not get it wrong by seeking adversaries on the sides, let's not get it wrong by sowing noise where there is none; our adversary is the government, it is Maduro, and it is the government authorities that have been hijacked. This is a struggle by the people against the State. This is a struggle of millions against those who have hijacked the power that should belong to the Venezuelan people. It will not be easy. We are not inviting you [with the idea that] the exit will be generated in one or two days. We are inviting you to [join] the struggle, we are inviting you to take to the street, we are inviting you to be a part of this change, and I want to tell you that this invitation is not an invitation devoid of risks. We all are going to assume the necessary risks for confronting a government that intends to silence us.

Yesterday the government, which wants to disregard the fact that there are millions who are against them, attempted to belittle this convening announcement via national [television] channels by branding this convening announcement as violent, trying to sow fear so that the people would not come. But I am told that not only are we comprised of those of us who are here, but that the crowd reaches all the way to Sabana Grande and throughout Venezuela. And throughout Venezuela today the vocation for change is being given expression. This is a struggle of all Venezuelans, of the middle class and of the poorest, of those who suffer in the lines and do not receive an answer, of those who suffer from the insecurity and do not receive an answer, of those who suffer from the suffocation of not having a future and do not receive an answer. And as they say, 'We are not afraid.' We are not afraid of being in the street and remaining in the street. I ask you, brothers and brothers [*sic*], can this be done or not? Let it be heard: can this be done or not? Well, I would like, I would like . . . 'Yes it can be done, yes it can be done.' I would like to ask all of you who are here today that we assume a commitment to continue to multiply our numbers, to continue growing, to continue making progress in the conquest of this political change that belongs to us. And I ask you, that we raise our right hands and say: 'We, male and female Venezuelans, committed to our history of struggling for freedom, committed today, Youth Day, to the future of our children, we assume the commitment of having a vocation for change, the dedication and determination until we achieve political change, the social change that Venezuela deserves. Long live Venezuela! Long live the future of Venezuela! Long live our youth.'

And let us go out now, let us go out to walk with conviction, with strength, assuming [the path of] non-violence. Our territory is the street, our struggle is non-violent. May God bless you. Many, many thanks.

Speech of Leopoldo López at Rally Outside Office of the Attorney General—February 12, 2014

Today there has been a massive response, and not only what we are seeing in Caracas, and not only what is going to be picked up by the regional media, but also the information that we have of what is happening in towns, in all of the cities, in neighborhoods, in small villages throughout Venezuela. Today Venezuela is in the street, today Venezuela is in the street asking for change, today Venezuela is in the street saying, ‘enough, already!’ Enough already with the abuse, enough already with the lies, enough already with the manipulation.

Today Venezuela, the youth convened, their parents joined, their siblings, their grandparents . . . We are in the street because we are convinced that we can have a much better country than the one we have. We want to say that one’s struggle is everyone’s struggle. We are here today to ask for the release of the students, there are more than 20 students who have been detained, who have been tortured, who have been manipulated, who have been forced to sign blank sheets of paper where they later pieced together accusations and fragments of information in an attempt to inculcate [*‘montar ollas’*] them, and thus we issue the alert. And the chant that is being said today at the Office of the Attorney General is, “Maduro, you coward, free these student prisoners.” Why is this being cried out at the Office of the Attorney General? Because no one has any doubt that the person who issues the orders here at the Office of the Attorney General is Maduro, because the governmental authorities here have no autonomy, because here the Attorney General, the comptroller, the Human Rights Ombudsman [*‘Defensora del Pueblo’*], the CNE [National Electoral Council], and the courts depend on the government and on a political agenda of twisting [human] rights, twisting justice based on their interests.

This movement that is in the street today will continue to grow. I want to say that this doesn’t, that this doesn’t remain here. Last Sunday, February 2 we were thousands, today we are tens of thousands, I would dare say hundreds of thousands throughout the country, and this movement will continue to grow, this movement assumes that one’s struggle is everyone’s struggle.

Yesterday we were with press workers, today with the students. We will be with the workers of Guayana, with the victims of violence, with all those who are in the street protesting. We call on them, [saying] let’s unite and create a single strength, a single voice, a single fighting spirit, and a single commitment: [to effect] change in Venezuela.

That is a demonstration of Maduro’s cowardice and fear. I imagine that they are hurling that insinuation at me, no? I say now, look, Maduro, Diosdado, and to all of the people who accompanies him, because they are a small elite who see themselves as owners of the country. That does not scare us, nor do we lose sleep over it, among other things because this is not the moment for anyone’s candidacy, this is the moment to struggle for political and social change in Venezuela. Despite the threats – look, bring out your uniforms, bring out your epaulettes, your planes, your submarines, your rifles, your pistols, bring out your drug-trafficking and bring out your corruption – we are not afraid, we will not retreat in conquering change in Venezuela, because it is Constitutional, because it belongs to us, because we are millions who are seeking it and are proceeding step by step. The commitment to freeing the students, the youth who have been tortured and imprisoned, is a commitment we will not renounce, and the government should

know this. This protest will escalate, it will grow, and we will achieve the objectives we have set for ourselves.

Thus, today I want to highlight, I want to highlight that we have come peacefully, as you can see. Here there is no vocation for violence. There is irreverence, yes, there is also determination, but you in the media can emphasize that there has been no violence. Now then, when is there violence? When they bring out the law enforcement officers, when they bring out the police, the guards, and the army, and when they bring out the collective groups that take their orders from the government, as occurred yesterday in Mérida when the Tupamaros fell heavily on the students. Today we want to send a message to the soldiers, to the soldiers of the Bolivarian Armed Forces, we want to send a message to the National Guard, to the police officers, to the public prosecutors, and to the members of the collectives: Do not follow orders or instructions to destroy the people. You do not have to repress the people. You must wear that uniform with valor and in adherence to the Constitution and the law.

Look, nothing has happened here because no group has come from the government or from law enforcement. We leave here in peace, taking on the conquest of the objective that we are setting for ourselves. And this protest will continue to grow, every day it will grow. This is a national sentiment, a popular force. One's struggle is everyone's struggle.

Who are the collectives that are in the UCV [Central University of Venezuela] today kidnapping students at gunpoint? They are the ones that are violent. What is happening now is that the government brings out chains to criminalize us. What we have is this small window of communication with you to be able our message [*sic*]. We are committed to this massive, popular struggle. We are millions, this wave will continue to grow, let no one doubt that. This strength will continue to grow every day until we achieve the objective we have set for ourselves, which is political change.

The immediate release of those who have been tortured, of the prisoners, and the [lifting of the] repression that has occurred in recent days during the peaceful demonstrations of the students and the people who are in the street: this is the complete demand. And they should know that we are not going to leave the street, they should know that we are not going to rest until we achieve what we are proposing, which is political change in the country.

Up to now, the information we have is that there are tens of thousands, I would dare say hundreds of thousands, of Venezuelans in the streets. Just in Caracas alone there are more than 50,000, I would dare say almost 60,000, 70,000 persons who came out today non-violently. That same thing is happening in the capitals, but also in the small villages. Venezuela woke up. What did Maduro expect? What did the government expect? What did the crooks expect who today are in charge of the governmental authorities? That the people would not awaken? The people has already awoken, it is in the street, we are determined, we are convinced that we are going to make progress toward conquering the change that Venezuela needs and deserves. Many thanks.

We will be announcing day by day which they are going to be, but what I can tell you is that what we are seeing here will grow, this is a wave that will grow, this is a wave that will grow every day, week by week, until we achieve what [the objective] we have set for ourselves, which

is, with the Constitution in hand, with the people in the street, in a non-violent fashion, to open a door to guide the country toward an exit from the disaster that Nicolás Maduro and his government represent.

The next actions will be in the street, street, assemblies, it will entail accompanying all of the protests, it will be a coming together of all of the social movements that are in the street with the determination to create one strength from the strength of them all, a single strength with the same determination. Many thanks.

**Words from Press Conference Where Leopoldo López Denounces Violence
February 12, 2014**

First and foremost, our condolences to the family members of the two Venezuelans who died today, our most sincere condolences go out to them, to their family members, regardless of what their political ideology was. Today, despite all of the predictions, despite a brutal campaign mounted by the government over the last four days to sow fear, radio stations and television channels sowing fear in Venezuelans so that they would not take to the streets, lying, manipulating. Hundreds of thousands of Venezuelans took to the streets, hundreds of thousands of Venezuelans, because it wasn't only in Caracas; it was throughout Venezuela that women and men came out [to the streets], committed to the cause, a better country, a country that we know is being hijacked by a small group of women and men who are manipulating power, who manipulate the institutions, who manipulate the truth.

Those Venezuelans who came out throughout national territory did so courageously, knowing that there were threats on the part of the government, knowing that the call we put out was a call to convene peacefully, non-violently. And that is the way it was, the demonstration that today brought together thousands of individuals in Plaza Venezuela. In that way did we walk to the Office of the Attorney General: in peace, non-violently. We were there in that way at the Office of the Attorney General for several hours, protesting, demonstrating, but in peace and non-violently; and yes, with irreverence in our thoughts and in our hearts, but never with violence.

Now there are some questions that we believe are fundamental that remain today in the minds of Venezuelans. Why wasn't there a clear police presence, if they knew that we were going to go to the Office of the Attorney General? If the permit ran up to the Office of the Attorney General, why, in contrast to what has transpired for 15 years in various demonstrations, were there no law enforcement officers at the edges of the demonstration as established by the guidelines? Why, after one-and-one-half hours did a squad of hundreds of law enforcement officers appear one block away from the Office of the Attorney General, but with armed groups behind them? Why do uniformed law enforcement officers attack those who are in front of them, when there are armed groups behind them? Why, if when we withdrew in a peaceful manner, as Mayor Ledezma has stated [and] was recorded in the media, we withdrew and the thousands of people who were there withdrew, and a small group of 30 people stayed there and began to throw rocks and bottles at the Office of the Attorney General, why, why if there was a squad of more than 300 law enforcement officers less than 50 meters away, did they do nothing? The answer to that is because it involved a plan, an orchestrated plan, a plan conceived in the communications being

bombarded by the State for several days now that intensified yesterday with [television and/or radio] channels directly criminalizing us, [a plan] that was executed today.

Now then, times have changed and the truth will come out, and the truth is present in the tens, and I dare say hundreds, of photographs that the people took. There are photos of the armed groups, there are videos of the squads who looked on as mere spectators when they [persons] were destroying the Office of the Attorney General with rocks. There are photos of uniformed officers firing *a mansalva* [liberally, at close range, without fear of reprisal], there are photos that might be able to link those who had weapons with the ammunitions that today ended the lives of two Venezuelans. Times have changed and the truth is there. I call on the media who were here today, I call on the Venezuelans who recorded [the incidents] in photographs, in videos, to make them public, to present them, because therein exists the defense of the truth. This is a fragile government, and it is fragile because it is anti-democratic, corrupt, and inefficient. Its fragility is displayed through the [television] channels today, its fragility was displayed through the [television] channels yesterday, its fragility is displayed by Maduro when he tries to tell us Venezuelans that he is going to suspend guarantees through extrajudicial means and that we won't do anything. Today Maduro tells us Venezuelans that he is suspending the street demonstrations – on account of what? That is a suspension of a guarantee without openly declaring it as such, executing it in order to sow fear.

I would like to tell Nicolás Maduro and the head of governmental authority that we are not afraid: we are on the right side of history, we are on the right side of the truth, we are on the right side of justice, we are on the right side of the people, we are the side of the poor, of the excluded ones, of those who have to stand in line, of those who do not receive answers regarding so much insecurity, of those who are victims and are the recipients of more impunity, of the youth who have no future.

Today [is] the 12th of February, Youth Day; we have youth who not dream in Venezuela because the government has robbed them of their future. We are on the side of those who wish to dream of a better Venezuela. We are on the side of women and men who know that we can have a much better country than we have today, and being on the side of truth, of justice, of the future, we also have the strength of the people to not retreat in our conditions.

They may threaten us, they may threaten us with their uniforms and with all of their epaulettes and with all of their sashes and with all of their military collars, with all of their symbols of power. They may threaten us with their small tanks, with threats of raids, they may threaten us with imprisonment, they may threaten us with their weapons or their airplanes or their submarines, they may threaten us with all of their violent speech. They may threaten us with their drug-trafficking, with their corruption. They may threaten us with all of the communicational power that they intend to utilize to divert the truth, but we will not retreat.

We will not retreat in our conviction to fight for a better Venezuela, to fight for a Venezuela that we know that we can and want to conquer. And I issue this call, most especially to those of you who have come out to walk in the streets of Venezuela today and to those who wanted to walk but for reason did not come out: “Let us not lose hope, let us not permit them to vanquish us in

the only space wherein we cannot be vanquished – in the heart, in hope. We can never lose that battle, we can never lose that space, the strength we derive from hope, truth, and justice.”

We know that difficult times are coming, we knew this, we know that the threats may turn into actions, we know that the government may continue to manipulate the law, the Constitution, and the institutions, but that makes us stronger because they are the weak ones, those who manipulate, those who assembled that macabre plan which had to be completed, as Maduro said, because Maduro announced it yesterday: go look up Maduro’s statements, Maduro declared yesterday that there someone was going to die during this demonstration. What a coincidence, someone did indeed die and later another one in this demonstration. In light of the fact that Maduro said that yesterday, what information did Maduro have yesterday? And I directly point the finger: you are responsible, you and yours are responsible. I point the finger directly at the hijacked governmental authorities.

But I issue a call, a call to civil servants: do not be complicit, do not place yourselves on the wrong side of history, do not place themselves on the side of those who wish to defend the indefensible. To the public prosecutors, to the judges, to the police, to those in uniform, to the Venezuelans, we tell them: that at this time let us seek the truth. That at this time let us be with [on the side of] hope, with [on the side of] the future of knowing that together we can construct a better Venezuela.

And I want to end by saying, as Antonio said so well, as María Corina said so well, that we continue forward. There will be more convening announcements. The wave that began on the 2nd of February and that today was multiplied by 100, that wave will grow. They may threaten us, they may even imprison us, but this wave will continue to grow, because this is a wave with a collective spirit that knows that we need to change. Know this, Mr. Maduro: regardless what you do, this that has begun will not stop until change is conquered in peace and democracy for all Venezuelans.

Thank you very, very much, good evening.

YouTube Video Wherein Leopoldo López Declares his Intent to Turn Himself In – February 16, 2014

I would like to thank you for all of the messages of support and solidarity you have given me during recent days. As I have said, I continue in Venezuela and will continue to fight for a better country. Naturally, I have taken a few days to think, to share with my family, and be able to make the best decision in these moments. As I have confirmed, I will continue to struggle in the streets and hand-in-hand with the Venezuelan people, and it is for that reason that this coming 18th [of February] I want to call on all of you: let us walk together from Plaza Venezuela where on February 12th a flame of hope for change awoke in favor of all Venezuelans, and that from there we walk to the Ministry of Interior and Justice, the place that has become the symbol of repression, of persecution, of torture, and of lies, the place where we will bring very concrete demands: 1) clarification of the responsibility of the State in the homicides that occurred on 12 February; there are photos, videos, irrefutable evidence of what happened that day; 2) the

immediate release of all citizens, especially the youth who have been persecuted and who are still imprisoned and continue to be tortured; 3) the ceasing of the repression and persecution of what is a right of all Venezuelans: the right to protest; [and] 4) the disarming once and for all of the paramilitary groups and collective groups that have been responsible for homicides, insecurity, the devastation and intimidation of the people while under the protection and hand of impunity of the Venezuelan State.

And lastly, I will be there to show my face. It has been said in recent days that they want to see me imprisoned. I will be there to show my face. I have nothing to fear, I have committed no crime. I have been a Venezuelan who is committed to our country, to our people, to the Constitution, and to our future. If there is a decision made to illegally imprison me, well I will be there to take on that persecution and that despicable decision by the State.

I want to tell all of you who want to accompany us that that day we must go out as we have always done, peacefully. I ask that this time let us go dressed in white so as to symbolize our commitment to peace. I will invite you to walk [with me] up to a certain point, and from there on I will go alone to deliver these demands to the Ministry of Interior and Justice. I do not want you to risk your lives or integrity, nor [do I want] the insecurity of any compatriot; but together we must show our faces in these moments. Sister, brother, today more than ever let us assume that the future belongs to us, that it is our responsibility to construct in this dark moment the window that can open onto a better future for our children, for all Venezuelans. We are on the right side of history, we are on the right side of justice, we are on the right side of the truth.

Strength and faith.

We will see each other on Tuesday.

Speech Leopoldo López at Plaza Brión Just Prior to Arrest and Detainment—February 18, 2014

As you know, today in Venezuela, we're living dark times, where criminals are rewarded by the government, and those of us in Venezuela who want peaceful, democratic change following the constitution, are threatened with jail.

Today, I show my face before an unjust justice system, before a corrupt judiciary and before a justice system that does not pass judgments in accordance with the constitution and the laws. But today, I also offer you, Venezuelans, our deepest commitment that, if my imprisonment helps awaken our people, if it is good enough to finally make Venezuela wake up so that the majority of those of us who want change are able to effect that change peacefully and democratically, then this infamous imprisonment that Nicolás Maduro wants, so openly and so cowardly, then for me it will have been worth it. This is the biggest example of how there is no separation of powers in Venezuela. How many times did Maduro say he wanted me in jail? How many times did he say he was giving instructions for our arrests? What is a president doing giving instructions to a district attorney, or to a court? Those actions are the best examples of how there is no justice in Venezuela.

Nevertheless, I do not want to take this step, perhaps into silence for awhile, without stating very clearly the reasons behind this struggle: This struggle is indeed for our youth, this struggle is for our students. This struggle is for those who have been repressed, this struggle is for those who are imprisoned. This fight, brothers and sisters, is for all the people of Venezuela, who are suffering today. Our people have to endure long lines and shortages; there are no jobs and there is no future for young people because of a failed model, a model that is not our own, but exported by other countries, one that has nothing to do with the brave people of Venezuela. Brothers and sisters, we have to find our way out of this disaster together. While our solution has to be peaceful and constitutional, it also needs to be on the streets because we no longer have any free media to express ourselves in Venezuela. If the media remain silent, then let the streets speak out! Let the streets speak out with people! Let the streets speak out peacefully! And let the streets speak out in democracy!

Now, I will go to the police and National Guard's barricade. Believe me, I put a lot of thought into this. I want to tell you that in the past few days I had a lot of time to think things over and to analyze things, to listen to the radio and watch TV, read things I had not read in a while and to talk to my family. One of the options I had was to leave the country, but I am never leaving Venezuela! The other option I was faced with was to stay in hiding, in the shadows; but that choice may have made some people doubt—even some of those present here today—that we had something to hide. But we have nothing to hide! I have not committed any crime! I am not a criminal! I simply have no reason to hide! So the only option left for me is to show my face. And so I ask you, from the bottom of my heart, that when I go to the other side and turn myself in, you remain peaceful. We have no choice. I do not want violence. This is why I ask for your understanding; I ask you to organize yourselves and to be disciplined.

I want to thank everyone, but someone in particular, someone who has given me much strength and who is my greatest pillar that allows me to be here with you: My wife Lilian, who is right here with us.

Well, brothers and sisters, I ask you to continue this struggle and stay on the streets, to embrace our right to protest. But do so peacefully and without resorting to violence. I ask that all of us here today, all Venezuelans who want change, to get informed, educated and organized, and to carry out a non-violent protest, a massive demonstration of freewill, hearts and souls of the people who want change. But without hurting thy neighbor. I ask you not to lose faith, and I am sure that in the name of my children, my daughter Manuela, my son Leopoldo—and like Andres Eloy Blanco once said, “He who has fathered one child, becomes a father for every child.”

In the name of every child in Venezuela, I swear we will prevail and soon we will have a free and democratic Venezuela.

Opening Statement, Leopoldo Lopez, Preliminary Hearing, Court of Justice, Caracas, June 2, 2014

I am a political prisoner, a prisoner of conscience. These are my words in the face of an unjust imprisonment on the occasion of the preliminary hearing of my case, which has taken away my

freedom for seventy (70) days. I write these lines from my confinement cell in the “Ramo Verde” military prison.

I have been politically prosecuted by the regime for more than ten (10) years. I have undergone more than twenty (20) accusations, political trials, attempted murders duly denounced but never answered; moral assassination by the communication means of the State and two (2) political bans that, even after having obtained a favorable sentence from the Inter-American Court of Human Rights for the violation of my rights to the defense and to the political participation, I have been prevented from exercising posts of popular election.

For more than a year, since January 2013, Nicolás Maduro has publicly expressed his desire of putting me in jail. In more than ten (10) opportunities during his national TV and radio networks, Maduro announced that I should be put in jail based on the opinions issued against his Government.

Based on the above context of permanent and explicit prosecution and threats by Maduro, an arrest warrant is issued against me on February 12 of this year. I understand that this new attack is a political one and having my conscience at peace for those claims; I decided to voluntarily present myself before an unworthy justice on February 18 of this year from which date I have been in prison.

I am in jail because I have denounced the Venezuelan State and its main responsible representatives for being corrupt, inefficient, repressive and anti-democratic. I am in jail for having denounced in person that there is no democracy in Venezuela, that the public authorities have been seized by a corrupted elite, inefficient and anti-democratic which has resulted in a deep social, economical and political crisis that all the Venezuelan people undergo today. I am in jail, for denouncing that in Venezuela we are living under a dictatorship. I am in jail for proposing a deep change, which must go through the substitution of those who are in charge of all the political authorities. I am in jail for demanding the resignation or substitution – through the constitutional way – of Nicolás Maduro as President of Venezuela.

I am in jail for having called the Venezuelan people to go out to the streets to protest, exercising our historical and constitutional right to protest until we achieve a political change that guarantees the peace, wellbeing and the progress for the Venezuelan people. I am in jail for exposing ideas, opinions, and proposals that today are shared by the majority of Venezuelans that from their outrage and patriotic heart ask for a deep change which shall allow setting out the route of our nation.

I am physically in jail, I am isolated with severe restriction to visits but neither today nor ever can they jail my deep conviction that we have the right to fight to conquer democracy and freedom for Venezuela. Thank God I am not alone in these ideas, in this conviction to fight. We are millions; we are that majority who are ready to fight for a change towards democracy in Venezuela. They might imprison me and thousand others but they may never imprison the fighting spirit that with the young people in the vanguard walk along the streets of the cities, the quarters and shantytowns of all Venezuela. Today Venezuela decided to change, my imprisonment and that of many others is only the face of a dictatorship weaker and weaker and

with less popular support which pretends to hold onto the power, refraining, silencing the critical voices and criminalizing the protest.

The political reasons of my imprisonment are clearly exposed in the accusation presented by the provisory prosecutors, Franklin Nieves Capace, Nardin Sanabria Bernatte, Juan Canelón Marín, Guendy Duque Carvajal and José Foti González before the 16th Court of Control of the Metropolitan Area of Caracas. From the document presented by the Office of the Public Prosecutor before the Court of Control there are four resulting accusations or offenses against me. My best defense before to denounce this case and as a political prisoner is precisely the accusations made by such prosecutors against me.

There are four accusations made against me by the Office of the Public Prosecutor:

First Accusation:

“Leopoldo López . . . made calls for violence, there was disregard of the legitimate authorities and disobedience of the laws which triggered the excessive attack by a group of persons who acted individually but determined by the speeches of the mentioned citizen against the headquarters of the Office of the Public Prosecutor.” p. 2.

Second Accusation:

The reason was for denouncing the State as corrupt, inefficient and anti-democratic. (Leopoldo López) intensified his speech and began a public and aggressive campaign against the President of the Republic and the Institutions of the State, making aware to the public with his speech that this government has ties with drug dealers, besides being corrupt, oppressing, inefficient, and anti-democratic and that it was necessary to go out to conquer the democracy and that in order to reach this objective the change or results only would be possible with the people in the streets.” p. 3.

Third Accusation, made by the Office of the Public Prosecutor against me for having called the Venezuelan people to conquer democracy:

“It is so that in a conclusive way (Leopoldo Lopez) affirmed “WE HAVE TO GO OUT TO CONQUER DEMOCRACY” (capital letters by the Office of the Public Prosecutor, that is, that his purpose was no other than to sow the idea among his followers that only in the street he may generate a change, inviting them to be actors, with the purpose of ignoring the legitimacy of the National Executive as well as the heads of the Public Authorities. (p. 3) . . . Which objective was to carry out a deep and total change with the purpose of substituting the authorities from their posts, since in its criteria the problem (of the country and of the Venezuelans) was not only Nicolás Maduro, but also all the heads of the public authorities which have been seized. (p. 4) . . . All of these (making reference to the damages caused to the headquarters of the Office of the Public Prosecutor) were executed as a consequence of the persuasion and induction carried out by citizen Leopoldo López, who exercised a strong influence, not only in their way of thinking, but also in the potential actions of their targets who fully acted and complied his message.” (p. 5).

Fourth Accusation, made by the Office of the Public Prosecutor, pretends to extend the scope of responsibility in a vague manner to other persons arguing the existence of a “criminal structure” with a criminal plan to promote the resignation or way out of Nicolás Maduro.

“It is evident that all the instrumentation employed by citizen Leopoldo López, was not carried out per se, necessarily he counted with a criminal structure . . . to develop his criminal plan, which was no other than to persuade or induce a group of persons not to recognize the legitimate authorities and the laws in order to promote the dismissal of the President of the Republic.” (p. 5.)

These four accusations are based, according to the prosecutors of the Office of the Prosecution Office in the testimony of 115 witnesses out of which 110 are officers from the Office of the prosecution Office and from the Government; the presentation and analysis of 4 videos with political speeches that I really made and of which I assume what I said, from the beginning to the end of each one; and in a report issued by the prosecutors. It is important to emphasize that the prosecutors denied all our requests; the presentation of 30 eyewitnesses was denied as well; the promotion of a balanced team and of mutual agreement for the analysis of the speeches was also denied.

The conclusion of the Office of the Public Prosecutor is to implicate me four offenses for these facts, such as: damages, fire, incitement and association to commit crime.

Without sound evidence, since there are none, preventing a just defense and following a political guideline, the prosecutors are accusing me of crimes in which I did not participate, manipulating the events and keeping me as a prisoner of the dictatorship.

Following is my answer to each one of the four charges that the prosecutors are making against me:

The first charge made by the Office of the Public Prosecutor is calling for violence. False. I reject totally and absolutely the claim of the prosecutors to conclude that our speech, before, during and after February 12, had a subliminal message to call violence. I clearly state: “subliminal message” for two reasons: First, the technical report submitted by the Office of the Public Prosecutor, which was prepared by an obedient professional and member of the ruling party concludes that the link between my words and the actions by dozens of protesters is of such magnitude that without calling the violence, the interpretation of the protesters is that in fact there was a call for violence. That is, because a subliminal, message which was not said but that it was in fact understood? And the second reason, why all the videos, photographs recorded by the Office of the Public Prosecutor are a clearly and unquestionably call to a NON VIOLENT protest in the streets (See speeches 23E, 2F, 12F).

The following paragraph of the indictment summarizes the heart of the argument logic of the Prosecutors is summarized as follows:

“Leopoldo López has a discursive ethos that dominates and impacts on the ethos of its recipients; as a result, everything that the sender tells the receivers, would exert a strong influence, not only

in their way of thinking but also in the potential actions that the receivers may carry out as a consequence. At this point, the discursive force and the ascendancy of the citizen Leopoldo López as a political leader is unquestionable because it has served as a catalyst of discomfort felt by a significant part of the Venezuelan population; from this point whatever he says may transmit to his audience is transferred so effectively that his recipients feel encouraged to follow, in actions, what he is indicating they should do, although he does not clearly explain it (that is, subliminal).”

It is clear, explicitly clear, that the accusation against me is based on criminalization, the prohibition of my ideas, proposals and actions, which it is worth to say, are now supported by the majority of Venezuelans.

The accusation against me, based on several speeches I made between January 23 and February 12 has, as a best defense, the same speeches, either read or seen from the beginning to the end, without editing, without manipulation. In these speeches I clearly explain our political proposal that, based on a critical analysis of the present crisis, we propose a way out, a deep political change activated from the street, with non-violent actions and materialized through the popular call to one of the four alternatives offered by the Constitution to bring about a political change.

On January 23 we made a call to the rise of our consciousness, the uprising of the optimistic spirit of the Venezuelan people that we really can have a better Venezuela. A call to the streets made in commemoration of the “23 January 1958,” celebrated by government and opposition, when the Venezuelan people rose in the streets against the dictatorship of Marcos Pérez Jiménez. That day we called upon the celebration of Popular Assemblies throughout Venezuela to discuss the options to a way out of the social, economic and political crisis which we live, which assemblies were to be held on February 2nd.

On February 2nd hundreds of assemblies were held throughout Venezuela, some large, some smaller, ones were held in squares, others in houses or streets. Different organizations, individuals and political parties participated with different protests. The conclusion was to assume the commitment of peacefully protesting in the street for a better country.

During my presentation (the video with the full intervention was presented by the Office of the Public Prosecutor as evidence), explains the non-violent character of our call:

“These struggles, brothers and sisters, must have a clear conduction and methodology, based on non-violence.” Non-violence has been the most effective method of struggle that was invented by the oppressed people. Non-violence does not mean passivity, non-violence does not mean bowing our heads, non-violence does not mean to move backwards. Non-violence is not to be afraid, it means challenging; non-violence means to be on the streets, non-violence means to have a state of awareness where we do not allow anyone to manipulate us.”

Our vocation is the change, our space is the street, our strategy is non-violence. Our commitment is the way out, which is in the Constitution (see speech 2F, Plaza Brion).

The February 2 assemblies were a major step in the performance of non-violent protest. Despite the peaceful attitude of the protesters, that day the repressive face of the regime was shown. An announcement of what would come. Several students and young people were prisoners. Six in Nueva Esparta and six in Táchira. In both cases these detainees were treated as terrorists of highest risk. Moved with a disproportionately deployment of police: helicopters, boats, vans outside of their States. This repressive action generated a great discomfort, especially in young people, which in the case of Táchira were also protesting the rape of a female student.

On February 9, when I was about to board a Conviasa flight via Santo Domingo, Táchira, I was pulled from the aircraft violently and unjustified, by the State security bodies which did not offer any type of explanations and who simply said: “we have orders not to let you take this flight.” I mention this incident, since the words that I said upon leaving the plane in Maiquetia are part of the evidence submitted by the Office of the Public Prosecutor. In these words, I rejected such abuse since it is a reflex of what happens every day to millions of Venezuelans who are victims of abuse and indifference by public officers.

On February 12, as we had called, thousands of people took the streets in all Venezuela. In Caracas, the demonstration began in Plaza Venezuela. There, once more we explained our proposal to the disaster that we live in Venezuela, to the fact that we don't live in a democracy, that there is a dictatorship in Venezuela. We proposed to activate the protest, the right to protest in the street as a popular impulse driven to build the democratic and constitutional road to a political change. The way out from the disaster, the output of the dictatorship and the conquest of democracy (see the 12F speech video in Plaza Venezuela, Caracas).

From Plaza Venezuela we left heading to the headquarters of the Office of the Public Prosecutor, as reported to the authorities. The demonstration arrived to the Office of the Public Prosecutor, massively, in peace and without violence.

There, we protested in peace and without violence, for more than two hours. We massively left in peace and without violence. We finished our protest without any type of violent demonstration. As a support of these declarations you may see the videos recording the declarations made to the media always calling to non-violence.

The description in detail of what happened that day was given at a press conference the same February 12 at night (see statements 12F night).

After thousands and thousands of protesters retired from the site, the vandalism events in front of the headquarters of Office of the Public Prosecutor took place. As we previously explained the intention of the prosecutors is to establish a criminal link between my words and the actions of young people, who threw objects at the headquarters of the MP.

What calls the attention with regard to the narrative of the facts by the Office of the Public Prosecutor MP, is that it ignores completely the more relevant facts occurred that day which is the murder of Juan Montoya and Bassil Da Costa by SEBIN officials.

In a twisted way, the Public Prosecutors establish a line of causality between my words and the stones thrown at the building, ignoring the fact that the violent reaction of the demonstrators was caused by these two murders carried out by the SEBIN officials; SEBIN officials are credited as bodyguards of the Minister Rodríguez Torres, accompanied by armed civilians, who fired against the protestors “Avenida Urdaneta.” Two persons were killed. SEBIN returned to the site of the murders, manipulated the scene of the crime withdrawing evidence and never providing any kind of explanations. Nobody ever explained what the SEBIN was doing in the march if Maduro confessed that he had given orders to keep the military force quartered in their corresponding places. Who gave the order to get out of the barracks? Who gave the order to shoot? To shoot against the protesters in a command way action, as shown in the videos, is not a spontaneous action. Someone gave the order. Was it Manuel Bernal, Director of the SEBIN which was removed the same 14F and sent to another administrative position without any explanation? Perhaps the order was given by Minister Rodríguez Torres, former head of the SEBIN and Minister in charge of the present police entity? Why Manuel Bernal or Rodríguez Torres have not clarified to the justice what kind of responsibility they had in these murders? They must have given the order to SEBIN to go to the march and shoot, if they were not the responsible, who was? Who gave the order?

The other element about the responsibility of the security forces in the events, is the passive presence of the “Policía Nacional Bolivariana” and the “Guardia Nacional Bolivariana” before the facts against the headquarters of the Office of the Public Prosecutor MP who during 45 minutes, and being only 20 meters away from the site of the incident did not act, they did nothing. Who gave the order to the “Guardia Nacional Bolivariana” to prevent these attacks against the site of the Office of the Public Prosecutor? Obviously, it is more than clear that there is a clear intention behind the passivity of the “Policía Nacional Bolivariana” the “Guardia Nacional”? To allow the actions and then to accuse the protesters and their conveners as violent people. It was a plan, a trap that Maduro himself announced the night before when he said: “tomorrow there will be a dead man.” How did Maduro know? Why there are so many questions before the actions and omissions of the Institutions of the State?

On this first charge, of having instigated vandalism acts as a result of my speech, we may conclude that there are no elements that establish this relation and that rather the violent events that took place on such a date are the responsibility, by action and omission, of the Venezuelan State (see note on the direct call made by Ameliach to violence).

The second accusation brought by the Office of the Public Prosecutor against me is having denounced as corrupt, inefficient, oppressive and anti-democratic Maduro’s Government and the Venezuelan State. I fully assume my responsibility on the above accusations. I not only take responsibility for having made such accusations but I take this opportunity to ratify each and every one of them as these is the pure and inviolable truth.

If it is a crime to denounce corruption, inefficiency, loss of freedom and the anti-democratic vocation of those who run the government, I assume my responsibility.

Taking into consideration that the Office of the Public Prosecutor questions and criminalizes my complaint about the presence of a corrupt State, inefficient, oppressive and anti-

democratic which has been the result of the progressive dismantling of the democratic State and the unconstitutional installation and contrary to the national spirit, of a dictatorship, it is appropriate to make a balance of the present situation of the nation.

This balance is confirmed into two interdependent blocks. The cause and effects of the disaster. The responsible ones and the affected people. The cause of the current crisis in all its dimensions, is the installation of a model of an authoritarian Government, the dictatorship. The effects, the consequences of this dictatorship model are the hardships now suffered by our people in the economic, social and political. That is, the problems we Venezuelans suffer today, shortages, queues, inflation, insecurity, impunity, injustice and loss of freedom are not consequences of external factors, of an economic war or much less an action from the citizens. The problems, all of them, have their origin in the lack of democracy and the asphyxia of freedom. They are the result of a State kidnapped by sectarian political and economic interests of a small elite that manipulates the institutions, derogating the Constitution by way of the facts, which have been placed from origin and performance outside of the Constitution and the national interest, which has made all public authorities assume a condition of illegitimacy. Unlawful in origin and in performance.

Democratic legitimacy is what differentiates the democracy from another system, it is recognized when evaluating the legitimacy of origin and legitimacy of the performance in a democratic system.

The legitimacy of origin refers to the fact that it was the person who, as set out in the Constitution, has elected its representatives. In this sense the elections on April 14, 2013, when Nicolás Maduro was proclaimed President, represent a contested and non-resolved chapter about the legitimacy of the democratic origin. In the first place, on January 2013 the Supreme Court of Justice issued a ruling allowing, contrary to the provisions of the Constitution, that a Vice President in charge of the Presidency is a presidential candidate as well. In the second place, the electoral results of April 14, leave a reasonable doubt on the validity of more than 200,000 contested ballots that might have made a difference in the outcome of the elections. Despite having reported with sufficient evidence the irregular usurpation of identities, double or triple votes, and violence at the polls that could have generated the cancellation of enough votes to change the outcome of the election, there was never a full audit of the congruence between the electoral notebooks, the results of the voting machines and the ballots deposited in the boxes. Despite the fact that this audit was requested to Maduro who readily accepted on the night of April 14 and being this also an express request by the UNASUR, this audit was never conducted. Upon the non-successful closing of this doubt, for more than half of the Venezuelan population Maduro simply seized the elections just as the “Mesa de la Unidad” and Henrique Capriles denounced in the days after the election of April 14.

In addition to this severe questioning of the electoral legitimacy of the triumph of Maduro, weeks after the election there emerged evidence that allegedly questioned the Venezuelan nationality of Maduro. These signs indicate that Nicolas Maduro is presumably of Colombian nationality, which would prevent him, by constitutional provision, to exercise the Presidency of the Republic. This doubt has not been satisfactorily clarified.

On the legitimacy of the origin of the other public authorities we may point out the fact of several designations of people openly militant of the governing party, which would also constitutionally prevent them from exercising the maximum responsibilities of the Public Powers. In addition to this questioning, there is the fact that several officials exercise the highest positions in the public powers having their period expired. Such is the case of the sub-comptroller who has been performing illegally the post of Comptroller for more than four years. Three principals of the CNE (National Election Council) have their posts already expired and eleven members of the Supreme Court of Justice have also expired periods. This situation has been recently recognized by the regime who has been announcing the constitution of commissions to propose the replacement of these officials.

About the legitimacy of democratic performance of the Venezuelan State, that is, full compliance with the Constitution, the autonomy of the public powers, the rule of law, the guarantee of fundamental freedoms, the politicization of the national armed forces and the respect of all rights for all people, we can make a long and detailed balance concluding in the sad statement that in Venezuela systematically and permanently the conditions which make of a State a democratic system are being violated. For limitation of space, we shall refer only to some of these violations to the democratic system.

The justice system made up by the courts, the Office of the Public Prosecutor and the Office of the Ombudsman, are highly corrupted and kidnapped by political manipulation. Most of the judges are provisional, temporary, or substituted judges who are removed to convenience of political interests. Upon the absence of the judge's autonomy and by not having stability, the decisions issued are highly permeable to political manipulation. The same provisional situation is present in the Prosecutor's Office. Example of this situation, is our own case. All the prosecutors who are charging me are provisional and the female judge who was to serve as alternate, was recently removed and replaced. This unstable situation has been denounced on a permanent basis by the Inter-American Commission on Human Rights and various non-governmental organizations as one of the main causes of the breakdown of Justice in Venezuela

On the performance of the powers that includes the system of justice, the result is regrettable. Today Venezuela has the country's highest rates of insecurity in South America. Just two percent of homicides are resolved by the Public Prosecutor. Every year the number of homicides, kidnappings, and crime in general increases. Despite having announced 14 security plans, each year is more violent than the previous one. During 2012, 21,000 homicides were recorded; during 2013 more than 25,000 were recorded, and 2014 is projected with an increase in this figure. In addition to the increase of crimes, increasing impunity and the procedural delay, the prison crisis, a prolonged crisis that worsens every year with higher levels of overcrowding and killings in prisons, closing the cycle of a dysfunctional, corrupt and anti-democratic system of security and justice dysfunctional, corrupt and anti-democratic in the absence of prevention, the organization of the police force, the Office of the Public Prosecutor, courts and prison system. A system of justice that suffers from permanent violations of human rights of thousands of Venezuelans who upon coming into contact with the Venezuelan Justice are encountered with chronic inefficiencies, corruption checkpoints and politicization preventing the exercise of justice.

To these permanent violations of human rights, the institution that was conceived by the 1999 Constitution to be the voice of the oppressed, the Office of the Ombudsman, has become an institution accomplice of the power, which has not had a single case of exemplary justice against abuses of power and violations of human rights by the Venezuelan State.

In regard to the Office of the General Comptroller of the Republic, the responsible entity for ensuring the healthy and transparent administration of the State, it also has become an appendage of the political structure taken by assault by the Venezuelan State. In addition to more than four years of unlawful exercising the responsibility as General Comptroller in the permanent absence of Clodosbaldo Russian, the Comptroller has not achieved a firm and transparent work against corruption.

In regard to the cases of corruption reported to the Office of the Comptroller and the public opinion we could draw up a long list, but with the intention of presenting the complicity of the Office of the Comptroller with corruption and, as an example, I can mention the largest embezzlement case of corruption in the history of Venezuela. Even in times of Guzmán Blanco there had never been a fraud of such magnitude which was the theft of more than 30 billion dollars handed over by CADIVI to fake companies, those call “briefcase companies” linked with the senior leaders of the ruling party. This case is emblematic by the magnitude and the direct impact that has had on the well-being of the Venezuelan people.

During 2013, several State officials reported the loss of tens of billions of dollars in fraudulent assignments and “briefcase companies.” The President of the Venezuelan Central Bank, Ms. Edmme Betancourt, made the first announcement, followed by the announcement from the Finance Minister Jorge Giordani, Minister of Internal Affairs and Justice Miguel Rodríguez Torres, and finally by the President of PDVSA and Economy, Rafael Ramírez. All agreed in reporting the fraud of 30 billion dollars equivalent to 50 percent of the annual income resulting from the sale of oil or 130 percent of international reserves of the Republic.

Thirty billion dollars were stolen and, with a baring face and under the most absolute impunity, they denounced this fact and simply “nothings happens”. No one is guilty, no one knows where the dollars are, or who, or why the delivery of this amount was authorized to phantom companies. The Office of the Comptroller has not investigated. In recent statements, the lady Comptroller in charge said that in 2007 she had reported that there were “Briefcases Companies” but nothing happened. Why nothing happens? Because this fraud is the best example of the installation of a true criminal structure within the Venezuelan State, from which its highest level has been enriched with the resources of all Venezuelans with impunity. Why Manuel Barroso, former President of CADIVI has not been brought to Justice? Why has Rafael Ramírez not explained to the country what happened with those dollars that necessarily passed through PDVSA? Why the President of the Central Bank, Nelson Merentes has not explained to the justice and to the country the fate of a number of dollars greater than its international reserves? The answer is clear: those dollars were handed out to a cast of “entrepreneurs” that far from being productive entrepreneurs had the function of figureheads of the high hierarchy of power. Each company that irregularly received US dollars is linked to some patron that at a given time transacted with a telephone call or with a prior agreement the approval of delivering preferential dollars without complying with the appropriate requirements.

To open the black box of the CADIVI dollars, is to open a complex network of influences, extortion, and abuse of power that would compromise a good part of the high hierarchy of the official power.

This corruption scandal is of such magnitude that today the Venezuelan people are paying the consequences with shortages, inflation, and with the destruction of the national production apparatus that in addition to not receiving timely dollars to operate, its activities have been subjected to an economic model that has been a grind of regulations, threats and corruption that have destroyed the domestic production.

We could extend our statements on the magnitude and impact of corruption acts, which have counted with the indispensable ally and complicity of the Office of the General Comptroller of the Republic.

About the illegitimacy of the performance of the Electoral Power, there is “plenty of fabric to be cut.” Political coercion and manipulation of processes, laws, and decisions are in place long ago. The first element is the public and notorious fact that two of the Principals of the Electoral Power were enrolled militants of the Government (PSUV) and that 4 of the 5 Principals have shown their open political inclination towards the ruling party.

Lack of transparency, dark contractual documents, permissiveness of unfair and unbalanced campaigns in favor of the regime, politicization of the electoral technical structure, change of electoral circuit in favor of the ruling party, and the negative of having done an audit of the voting papers on April 14 after the disputed presidential election set a very negative and anti-democratic the CNE's picture as electoral referee.

Finally the performance of the National Assembly was also contrary to the spirit of the constitutional and democratic performance. To name some examples, the National Assembly making use of an illegitimate simple majority, approved the so called “Plan of the Homeland” as a law, being this document a clear expression of authoritarianism and violative of the Constitution as it was clearly and accurately denounced by the Venezuelan Episcopal Conference. In addition to approving laws contrary to the Constitution, the handling of the Assembly reached the level of democratic outrage that, to date, three deputies from the opposition, elected under the alliance of the Democratic Unit, have been removed illegally from their parliamentary seat. Such is the case of Nora Bracho, Richard Nardo and Maria Corina Machado.

This brief diagnosis of the legitimacy of origin and performance of public powers in Venezuela leads us to conclude that in Venezuela, we cannot speak of the entry into force of a Democratic System. In Venezuela there is no democracy, there is a dictatorship installed by the ruling party.

Besides the poor democratic performance of the institutions of the State, there are some other signs of the anti-democratic vocation of the regime that are worthwhile to point out. The loss of strategic and territorial sovereignty also represents a side of the anti-democracy installed in the Venezuelan State.

In the first place, the loss of sovereignty or irresponsible management of territorial sovereignty. This issue highlights the case of virtual delivery of the Essequibo to the Republic of Guyana by the Maduro Government. Since 2011 the Government of the Republic of Guyana has acted in a hostile manner against Venezuela. In September 2011 Guyana notifies the United Nations a unilateral issue about its continental platform in 300 nautical miles. Venezuela was not notified. Venezuela answered but obviously in accommodating terms because on September of 2013 some maps were published giving account of concessions for the exploration and exploitation of oil which include Venezuelan territory. In October of the same year, a Panamanian-flagged vessel contracted by the company Anadarko, franchised by Guyana was identified on Venezuelan territorial waters. The diplomatic and military response by the Venezuelan State has not been at the level of the threat, which constitutes a risk to give a Venezuelan territory back by the negligence of the State as it occurred during the Governments of Guzmán Blanco, Cipriano Castro and Juan Vicente Gómez.

The problem of territorial integrity is also present in the western border with Colombia where due to the negligence of the authorities and the installation of a system of corrupted interests has allowed a large scale smuggling and the presence of criminal organizations and irregular groups that terrorize and have subjected the people of the border with criminal practices such as kidnapping, the generalized “vaccination” and the penetration of these groups in the handling of some State institutions as well as the presence of drug trafficking in the Venezuelan territory.

The loss of sovereignty in the strategic field has been demonstrated by the presence of representatives of the Cuban regime on such sensitive and strategic issues as the policy of importation of food, handling of State intelligence, and the conduction of military affairs. One of the pieces of evidence of the Cuban presence in the military field was the reverence to the Cuban flag at the military installation of the Paramacay Fort at the State of Carabobo.

Finally, another area where it is evident the anti-democratic vocation and contrary to the Constitution is the management of the national armed forces.

According to Article 338 of the Constitution “the armed force constitutes an institution essentially professional without political militancy . . . in the execution of their duties is the exclusive service to the nation and in no case to a any political partiality.” Unfortunately, the facts show otherwise; it is worrying the progressive penetration of the politics in the national armed forces. It is public and notorious the subordination of the National Armed Forces to the political partiality that represents the ruling party. Political acts where the staff and especially the military officials are forced to politically subordinate to the ruling party. Military harassment conditioned by political loyalty, not merit as laid down in Article 330 of the Constitution. The installation of political slogans as part of the day-to-day organization of military life. Unjustified and untimely promotions of political components outside of the military institution with the intention of merging more and more the National Armed Forces with the Political Party of the Government – PSUV following the style and example of the behavior of the Cuban National Armed Forces and the Cuban Communist party.

These are some of the features of the anti-democratic and unconstitutional handling of the Venezuelan State. Which clarification is relevant to our case since our calling out of the disaster, the dictatorship, is based on specific facts that deserve a strong and patriotic response of all Venezuelan democrats

Although the causes that lead us to say that today we do not live in democracy in Venezuela and that we are rather subject to a dictatorship, have been exhibited, its effects on the population are not just political. The cause, the origin of the crisis in Venezuela is installing a non-democratic system, which is corrupt, repressive and inefficient, the effects are economic, social and political affecting the entire population.

As it has been argued and demonstrated empirically by visionaries like Amartya Sen, Roberto Unger and William Stanley, among many others, there can be no progress, i.e. welfare, overcoming poverty, if there is no freedom.

Freedom is an indivisible concept, you cannot have partial freedom. Without freedom of expression, there can be no freedom, without freedom there can be no freedom to protest, and so on.

The democratic well-being is the coexistence of successful and efficient public policies with the guarantee of freedom for citizens. Social democracy as it emerges from the text of the Constitution is the conquest of all rights for all Venezuelans without anyone being excluded.

The effects of a corrupt, inefficient system, repressive and anti-democratic touch the lives of all Venezuelans, with the exception of the small ruling elite.

The effects of the dictatorship:

The economic collapse. Today in Venezuela, we are experiencing an economic crisis due to the installation of a failed economic model that the regime insists on keeping. Controls of unsustainable prices, exaggerated regulations, expropriations, absence of legal certainty, addiction to imports and the progressive destruction of the national productive apparatus are the characteristics of an economic model that despite living the largest oil boom cycle in 100 years, has generated the highest levels of inflation in Latin America: 56 percent in 2013 and 80 percent by 2014 projections. The highest shortage of the continent, which is approaching 30 percent, evident every day everywhere with long queues to purchase commodities. An exaggerated and non-transparent debt to the nation. The collapse of the oil industry which has lost production capacity more than 700 tbd of conventional crudes from 2008, the highest rate of labor and environmental accidents and an increase in the debt of PDVSA's \$50 billion to \$2.9 billion (between 2006-2013). They are all effects, consequences of the application of an anti-democratic and contrary to the Constitution.

The consequence of the anti-democratic system is that in Venezuela we have an education system that does not educate, of health that does not heal the sick, of social security that does not cover the unprotected, of justice that is not fair, of citizen security that does not protect, and of defense that does not defend our sovereignty.

It is in the face of this collapse of democracy, the kidnapping of democratic institutions and the progressive installation of a dictatorship that we have pronounced ourselves in favor of the conquest of democracy.

Being this the third accusation of the Office of the Public Prosecutor against me, the call to the street to enable the constitutional options that allow by way of popular initiative, it was necessary to expose in a detailed and schematic way the reasons that have led us to affirm that in Venezuela we don't live under a democratic regime.

To the conclusion that in Venezuela we don't live in a democracy, and following our patriotic, democratic and nationalist responsibility, we have made a concrete proposal to articulate an exit to the crisis, an output of dictatorship by popular, democratic and constitutional way. This proposal, has been called the "The way out."

As it is clearly shown in all videos and records evidenced by the Office of the Public Prosecutor, the proposal that we made to the Venezuelan people and why today I am prisoner in Ramo Verde and probably subjected to a political trial, is specific, popular, and framed in the Constitution.

Taking into account the progressive advancement of the installation of a dictatorship in Venezuela we have made a call to nonviolent protest in the streets with the intention of activating any of the four constitutional options that can trigger political change for the restoration of democracy and freedom in Venezuela by way of popular initiative.

The present Constitution contemplates as options to achieve a political change the following:

- a) The resignation of the President of the Republic. Article 233 of the Constitution.
- b) The reform or amendment with the intention to reduce, shorten, constitutional period, and proceed to a replacement of those responsible for the Government as it contemplates the Constitution. Article 340, 341 and 342 of the Constitution. The call for a national constituent Assembly with the intention of transforming the State and restore democracy and freedom in Venezuela. Article 347 and 348 of the Constitution.
- c) The call for a national constituent Assembly with the intention of transforming the State and restore democracy and freedom in Venezuela. Article 347 and 348 of the Constitution.

In all public and private presentations which we have made about the "way out" of the dictatorship, we have based them on the activation of the popular protest as the common denominator to achieve the popular organization and the enabled critical mass that allows the desire of the majority of the Venezuelan people wanting a political change (more than 60 percent according to various opinion polls), can be carried out by activating a popular initiative from one of the options contemplated in the Constitution to produce the necessary political change for Venezuela.

The street, the popular protest which has been criminalized by the State apparatus that has used all its power, economic, diplomatic, law enforcement, and communication to disqualify this initiative of protest and to protesters as terrorists covering a fascist plan for Venezuela. Nothing is further from reality calling our proposal fascist.

So, it is clear that our proposal of the “way out” is not a call to the violent insurrection or a coup d’etat as it relates to our own history, which only the military forces can carry out. Our proposal is then the call for a national protest in the streets, based in the sacred concept of the self-determination of people and endorsed by the Constitution, which allows the realization of a political change as the way out to the deep crisis which we live today in Venezuela.

In this context, I fully assume my responsibility to be summoned to protest, to the street, with the intention to win democracy and freedom for all Venezuelans.

It is important to stress that our proposal is not an empty change of content, it is not a leap into the dark as it has tried to point out the Office of the Public Prosecutor, as the interlocutors of the dictatorship, in its accusation against me. Our proposal is a way out from the dictatorship of the corrupt, inefficient, and anti-democratic system that we have in Venezuela, so that once and for all after conquering the political change we can build together the path towards a strong, inclusive democracy as guarantor of freedom for all which can be materialized in the collective desire that all rights are a reality for all people. A true social democracy centered in each Venezuelan and the materialization of all and each one of the rights that are enshrined in the Constitution.

To achieve this step from dictatorship to democracy, driven by the popular initiative and the implementation of the Constitution it is required the transformation of the State in three dimensions.

The first is to have a Government and an efficient state that can make rights a reality: an education that educate, a health system that heals the sick, a social security system that protect the unprotected, an economic system that produces jobs and prosperity, a system of citizen security that protect and provide security for all.

The second is a system of justice that is really fair. To avoid anyone being outside in the realization of their rights. That all Venezuelans are equal before the law.

And the third is active conscience, permanently active, of every Venezuelan in function of the defense and conquest of their rights.

Yes, it is possible to achieve a better Venezuela, much better than what we have today, but that country that we want cannot arrive by itself. It is imperative that every Venezuelan assumes its responsibility to the present situation of generalized crisis and to become an active and permanent factor in the construction of the road that will take us out from the dictatorship and allows us to conquer freedom and democracy.

All the options that we propose as a constitutional “way out” to the political and economic crisis, social and democratic legitimacy, must be activated by way of the popular initiative. This means that one of the responsibilities which should take this movement of non-violent struggle is the organization of popular support for the back-up of any of the alternatives: reform, amendment or call to a national constituent Assembly in the mandate to replace the powers that have been kidnapped.

Not only they are proposals activated by popular initiative, they all lead to a process of electoral legitimacy.

Just as all constitutional ways out of the crisis have to rely on an active street movement, all of them also lead to a process of electoral legitimacy.

A process of political change as we are proposing, from the bottom and upwards, starting with the people, the common citizen, ordinary people and for the people, is not a simple process, but it is not only possible since such roads are clearly defined in the Constitution. Our proposal for political change, the way out of the dictatorship begins and ends in the exercise of the sovereignty of the Venezuelan people.

To take the street as the ground of our struggle is a right that we Venezuelans have. Since the history is history and the people are people in the face of the oppression of the people have raised its voice. In democracy it is precisely the idea that it is the people who defines its authorities.

The right to protest is part of the essence of a democracy but if there is no right to the free expression and protest the alternative of power cannot be materialized. In Venezuela the protest is a constitutionally guaranteed right. In Article 68 of the Constitution it is clear that there are no limitations to a peaceful and non-violent protest.

Since February 12 the regime has continued its policy of criminalizing the protests. As Marino Alvarado from Provea, has said: “It cannot be said that it is only a strategy of the Government, it is a State policy because all judicial and political structure is used to criminalize the protest.”

Up to April 28, the State/regime has arrested 2,500 persons of which, 1,406 are kept under precautionary measures and 106 have been deprived of their freedom. This balance represents the face of judicial repression that accompanied by police repression and of armed groups from the regime set a sophisticated apparatus of social repression.

According to COFAVIC Liliana Ortega, the situation lived in Venezuela since February 12 is a situation similar to that of the Caracazo in 1989: “The same answer that we had from the Government of Carlos Andrés Pérez with respect to the Caracazo, we have had it as well from the Maduro Government in regard to the protesters. The victims have been criminalized, serious violations to human rights have been disregarded and the actions of the protests have been minimized.”

The bravery of the people into the street and the consolidation of a sense of change expressing in a same movement the various reasons that have generated the outrage of millions, the response of the regime has been the desire of imposing a curfew by way of an accommodative and anti-democratic ruling of the TSJ. It is our right, the right of the Venezuelan people, to disregard such illegal and anti-democratic ruling. While that sentence is another authoritative expression, it also represents a positive sign since, historically, it is when regimes are being cornered that they engage in the use of tools such as the pretension of prohibiting pacific and peaceful demonstrations by way of a Decree. That was the great mistake of the British Empire before the father of non-violent struggle in current times, Mahatma Ghandi.

The fourth accusation from the Office of the Public Prosecutor represents the pretension of the regime of not limiting its accusation against me, aims to expand this accusation to our organization “Voluntad Popular.”

Our party “Voluntad Popular” has been victim of a permanent persecution and at all levels of our leadership. A raid at our national headquarters, raids to regional headquarters, detention of more than 100 activists, order of arrest of Antonio Rivero national leaders and of our Political Coordinator, Carlos Vecchio, the imprisonment of our Mayor of San Cristóbal Daniel Ceballos and the imprisonment of my person. It is evident the systematic persecution to “Voluntad Popular.”

It is pertinent to point out that “Voluntad Popular” has been the only party undergoing elections to choose the parish, municipal, regional, and national authorities of the political organization. Voluntad Popular is a social democratic organization linked to the family of the Socialist International. We organize ourselves in popular networks, teams democratically-elected and social movements.

In the face of the present deep crisis going through the country and after several days of deliberation at regional and national level, “Voluntad Popular” democratically decided to assume the proposal of a “Way Out” as an organizational and political route to face the reality imposed by the dictatorship of Nicolas Maduro.

In the face of the events occurred since February 2, the permanent harassment by various bodies and at all levels has been a State policy.

The last episode of this judicial persecution was the request made by the political collective “Tupamaro”, an organization with a public and notorious violent record, to the TSJ to outlaw “Voluntad Popular”. The appeal was delivered to Francisco Carrasquero as rapporteur.

To all who are reading this document, I hereby confirm the above contents. In the face of the accusations made against me by the Office of the Public Prosecutor about:

1. Having made calls to violence.
2. Having denounced the State and the Government as corrupt, inefficient and anti-democratic

3. Having made a call to go out to exercise the right to protest to conquer democracy in Venezuela.
4. To link alleged organizations and persons as part of a criminal structure with a criminal plan.

I reject, specifically, that we have done before, during, and after the February 12 was a call to violence.

I assume my responsibility for having denounced the Venezuelan State and government as corrupt, inefficient, repressive and anti-democratic.

I assume my responsibility in making a call to the streets to protest in a non violent way.

I assume my responsibility in making a call to consolidate a route to political and constitutional change of the structure of the Venezuelan State.

I declare myself innocent from the charges made by the Office of the Public Prosecutor on having committed criminal actions like damages, fires, instigation, and association to commit crimes.

I am innocent from the crimes charged against me and responsible for having call protests as an impulse for a political change in Venezuela.

I hereby deliver this testimony from my own handwriting and I confirm my denounce of having been prevented from my right to participate in all the phases of the process and being able to give my defense arguments.

In my condition of political and conscience prisoner.

Justice for all political prisoners and persecuted people.

Strength and faith!