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

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Dr. Nils Melzer
Special Rapporteur on Torture
c/o Office of the High Commissioner for Human Rights
United Nations Office at Geneva
CH-1211 Geneva 10
Switzerland

RE: Torture and Cruel, Inhuman, and Degrading Treatment of Leopoldo López Mendoza

Dear Dr. Melzer,

We are writing to request Urgent Action on behalf of our client, Leopoldo López Mendoza, who has been held *incommunicado* for the past 21 days in the Ramo Verde Military Prison in Los Teques, Venezuela. Since April 8, 2017, Mr. López has been denied access to counsel and family and thus, we have had no proof of life for three weeks. We respectfully request that, in accordance with your working methods, you immediately reach out to the Government of Venezuela, urging it to uphold the physical and mental integrity of Mr. López and ensure his right to access to family and counsel, as guaranteed by the International Covenant on Civil and Political Rights (ICCPR) and the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment (Body of Principles).

Mr. López was last seen on April 7, 2017, by his mother-in-law, Lilian Parra. Mr. López last met with his lawyer the day before on April 6, 2017. His wife, Lilian Tintori, last saw him on April 2, 2017 and his mother, Antonieta Mendoza, last saw him on March 26, 2017.

On April 8, Mr. López's mother was informed that she would not be allowed to visit Mr. López, as he was being punished with 15-days of solitary confinement for an unknown reason. Mr. López's punishment was supposed to end on April 23, 2017, but without explanation he continues to be held *incommunicado*. His continued isolation, especially in light of the rapidly deteriorating domestic situation in Venezuela is of enormous concern to his family and counsel, as his current conditions are unknown.

As expressed in prior communications to the previous Special Rapporteur, Mr. Juan Méndez, the Venezuelan Government regularly submits Mr. López to cruel and unusual punishment through enforced periods of absolute solitary confinement where Mr. López is

denied any visitation by his family and counsel. The reasons for these punishments are arbitrary and can range from Mr. López speaking with a journalist from his prison cell to Mr. López's wife meeting with a foreign dignitary.

This particular punishment and period of *incommunicado* detention is particularly concerning as it occurs at a moment of great importance in Venezuelan history. On March 29, 2017, Venezuela entered a constitutional crisis when in an *ultra vires* decision, the Venezuelan Supreme Court assumed the legislative powers of the opposition-controlled National Assembly. Though the Venezuelan Supreme Court overturned part of that original decision, in the wake of extreme domestic and international pressure, the Venezuelan people have understood this action as an attempt by President Maduro to overthrow the constitutional, democratic order in the country. As a result, more than a million people took to the streets in protest. International pressure on the Venezuelan Government to return constitutional order through elections has amplified as the Government has responded to these peaceful protests with violence, dropping tear gas from military helicopters and encouraging state military and paramilitary groups to shoot at peaceful crowds. Current estimates count 28 deaths since the start of the protests. Additionally, in an attempt to further quell dissent, the Venezuelan Government has arrested over 1,500 people since the protests began.

Mr. López has been a central figure in these recent protests, as he is a major opposition leader in the country who had publicly called for peaceful protest in response to the unconstitutional actions of the Supreme Court. He is one of over 140 political prisoners in the country who the Government has tried to silence through arbitrary detention. On April 26, 2017, the Government of Venezuela announced it was going to withdraw from the Organization of American States, after the Permanent Council voted to hold a meeting of its members' Foreign Ministers to discuss the situation there.

Given the current domestic and international pressure that the Venezuelan Government is facing, we are gravely concerned that in this turmoil, the Government might act erratically and take extreme action to silence dissent, such as neutralizing the political threat of a popular opposition leader. As Mr. López's safety and wellbeing is completely in the Government's control during this unstable time, his *incommunicado* detention for the last 21 days is of enormous concern.

According to Principle 19 of the Body of Principles, "a detained or imprisoned person shall have the right to be visited by and to correspond with, in particular, members of his family." Principle 15 clarifies that "communication of the detained or imprisoned person with the outside world, and in particular his family or counsel, shall not be denied for more than a matter of days." Article 14(3) of the International Covenant on Civil and Political Rights (ICCPR), to which Venezuela is a party, specifically ensures the right of an individual "to communicate with counsel of his own choosing." Principle 18 of the Body of Principles further guarantees "[a] detained or imprisoned person shall be entitled to communicate and consult with legal counsel," and "to be visited by and to consult and communicate, without delay or censorship and in full confidentiality, with his legal counsel." This access may not be suspended or restricted, except in exceptional circumstances.

By prohibiting Mr. López's access to family and counsel, the Venezuelan Government is in direct violation of Article 14(3) of the ICCPR and Principles 15, 18, and 19 of the Body of Principles.

Ongoing Conditions

As detailed to your office in our prior communications, Mr. López voluntarily turned himself in to the Venezuelan Government on February 18, 2014, at the *Plaza Brión de Chacaito* in Caracas, Venezuela, in front of hundreds of thousands of people who responded to his request to come witness his arrest. February 18, 2017 marked his completion of three full years of imprisonment as a civilian in a military prison. Despite the fact that in Opinion No. 26/2014, the United Nations Working Group on Arbitrary Detention that Mr. López's detention was arbitrary and in violation of both his fundamental rights and rights to due process of law, the Government of Venezuela has refused to release him. From the moment he was imprisoned in February 2014, Mr. López has been subject to torture and other forms of degrading treatment. His domestic counsel, Juan Carlos Gutierrez, has brought multiple complaints of Mr. López's treatment to the Venezuelan judiciary, which has dismissed most complaints and, for those considered, carried out secretive, poorly-run investigations that did not involve any testimony from witnesses or Mr. López. All investigations have resulted in the dismissal of the complaints.

While Mr. López's current conditions are unknown, his conditions prior to his punishment can be considered cruel and inhumane. Mr. López has been kept separate from other prisoners, forced to spend most of his day in an isolated prison building of four floors and 13 cells, where he is often the only prisoner. Mr. López is sometimes allowed time to play organized sports with either other prisoners or prison guards, but he is not allowed to converse or speak with those he plays with. Anyone who speaks with Mr. López is punished. He is allowed occasionally to work in a vegetable garden or orchard, but is always alone during this activity. And sometimes Mr. López is allowed to attend mass at the prison, but guards accompany him and prevent him from having any meaningful social contact with the priest or talking with other prisoners. Mr. López's access to these activities is irregular and often used as a one-off photo opportunity to "prove" to international human rights mechanisms that Mr. López is afforded appropriate and humane prison conditions. In effect, he has no real respite from years of enforced solitary confinement, which in this case amounts to psychological torture.

In addition to his isolation, Mr. López is strip searched up to 10 times per day. He has also been subject to arbitrary searches on several occasions, resulting in the confiscation of previously approved items such as his personal writings, drawings of his family, legal documents for his defense, and his music player. He is only allowed a copy of the Bible, and is allowed restricted access to other reading materials (that must be deemed apolitical) and writing materials. Additionally, after nightfall, he is provided no source of light. No other prisoners have been subject to the same restrictions.

Furthermore, Mr. López has never been provided confidential attorney-client communication and his visits and calls with his family are subject to constant surveillance. National news channels have broadcast on television private photos and audio recordings of interactions between Mr. López and his family. Friends, colleagues, journalists, humanitarian non-governmental organizations, political leaders, and former presidents have all tried to visit

Leopoldo and have been denied. It is estimated that out of a 168-hour week, Leopoldo spends at least 142 hours alone with no interpersonal contact other than the prison guards.

This and other mistreatment constitutes cruel, inhuman, and degrading treatment as prohibited under Article 1 of the Convention Against Torture and Other Cruel, Inhuman, and Degrading Treatment or Punishment (“Torture Convention”). As you are aware, Venezuela signed the Torture Convention on February 15, 1985, and ratified it on July 29, 1991.

Previously, in speaking about solitary confinement, the former Special Rapporteur on Torture stated the following:

Whatever the name, solitary confinement should be banned by States as a punishment or extortion technique . . . Solitary confinement is a harsh measure which is contrary to rehabilitation, the aim of the penitentiary system . . . Social isolation is one of the harmful elements of solitary confinement and its main objective. It reduces meaningful social contact to an absolute minimum . . . A significant number of individuals will experience serious health problems regardless of the specific conditions of time, place, and pre-existing personal factors . . . Considering the severe mental pain or suffering solitary confinement may cause, it can amount to torture or cruel, inhuman or degrading treatment or punishment when used as a punishment, during pretrial detention, [or] indefinitely. . . .¹

In this case, solitary confinement is being used against Mr. López as punishment for his political activism and has been arbitrarily employed in this manner, with no sign this will ever end. No government official has been willing to name for Mr. López or his counsel who ordered that he be held in solitary confinement or for what reason. In light of this psychological torture and ongoing cruel, inhuman, and degrading treatment at the hands of Venezuelan officials, your urgent intervention with the Government of Venezuela is greatly needed.

Background on the Case

During the past few decades, democracy and respect for human rights has expanded throughout Latin America. After the 1958 coup that displaced Marcos Pérez Jiménez, 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.

¹ UN Special Rapporteur on Torture Calls for Prohibition of Solitary Confinement, United Nations, Oct. 18, 2011, available at <http://www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=11506&>.

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 in January 2014. These initially non-violent demonstrations became violent due to involvement by armed pro-government gangs and *colectivos* that are loyal to Maduro. Since the outbreak of protests in 2014, over 4,000 Venezuelans have been detained.

Among those still imprisoned is our client Leopoldo López, a 44-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 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. He is married to Lilian Tintori, a recognized athlete and former TV host. Previously, she received her Bachelor of Arts degree from Universidad Católica Andrés Bello and taught preschool for seven years. They have two children.

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 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.

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 Innovative 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. The trial that ensued was grossly imbalanced, as Judge Susana Barreiros rejected every piece of evidence proposed by the defense, including more than 60 witnesses, a dozen expert witnesses, and 13 videos. After more than a year and a half in jail, on September 10, 2015, Mr. López was convicted of all charges and sentenced to 13 years and 9 months in prison. A month after his conviction, the main prosecutor of Mr. López's trial defected to the United States and admitted that he was pressured by the Venezuelan government to use false evidence against Mr. López. On February 16, 2017, the Venezuelan Supreme Court upheld Mr. López's conviction, effectively exhausting any further domestic legal remedy.

Mr. López's ongoing detention is punishment for exercising his fundamental rights to freedoms of opinion and expression, to 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, the right to have confidential attorney-client communications, and the right to present evidence in one's own defense.

Conclusion

The arbitrary and punitive use of solitary confinement against Mr. López constitutes psychological torture and violates his rights of access to family and counsel.

Based upon the credible information provided that Mr. López has suffered torture and other cruel, inhuman, or degrading treatment, we respectfully reiterate our request that, in accordance with your working methods, you immediately reach out to the Government of Venezuela, urging it to uphold the physical and mental integrity of Mr. López and respect his right to access to family and counsel.

Sincerely,

[SIGNATURE ON FILE]

Jared Genser
International Counsel to Leopoldo López Mendoza

Juan Carlos Gutierrez
Domestic Counsel to Leopoldo López Mendoza