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

July 29, 2014

Mr. Juan E. Méndez
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 Mr. Méndez,

I am writing on behalf of my client, Leopoldo López Mendoza, to ask for your urgent assistance. 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.

Mr. López has been subjected to psychological torture over the past five months through permanent, enforced, and arbitrary solitary confinement up to 23-24 hours a day, including a three-month period without natural light. He has also been punished on three occasions for purported offenses and denied all visitors for three two-week periods. In addition, Mr. López has suffered seven arbitrary and highly physical searches and confiscation of previously approved items, including music players, books, private correspondence, and notes prepared for his trial. He has never been provided confidential attorney-client communication or private telephone calls.

This and other mistreatment constitutes torture as well as 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, you 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, ongoing and enforced solitary confinement is being used against Mr. López during pretrial detention as punishment for his political activism and has been imposed for over five months, with no sign it will ever end. Even worse, it has been imposed arbitrarily – 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. Not only does this constitute torture and cruel, inhuman, and degrading treatment, but it is also a flagrant violation of the presumption of innocence that should be provided to criminal defendants prior to their having been convicted of any offense. As a result, your urgent intervention with the Government of Venezuela would be greatly appreciated.

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.

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, some 3,180 Venezuelans have been detained.

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&>.

Among those still imprisoned is my client Leopoldo López, 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 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.

In 2002, Mr. López participated with other civil society leaders in protests against the Chávez government. 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; the charges for murder and terrorism were eventually dropped. Despite even acknowledging that Mr. López repeatedly has advocated non-violence and a constitutional transition of power in Venezuela, prosecutors now claim he used “subliminal messaging” to persuade his supporters to use acts of violence.

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 that the Government views him as a serious political threat. It is therefore seeking to silence Mr. López and disqualify him again from running for public office through a new series of false charges that have been lodged against him. Mr. López’s ongoing detention is punishment for exercising his fundamental rights to freedom 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.

In the days prior to the trial resuming, Judge Susana Barreiro rejected every piece of evidence proposed by the defense, including more than 60 witnesses, a dozen expert witnesses, and 13 videos. Mr. López’s trial began in Caracas on July 23, 2014.

Ongoing Conditions

As noted previously, Mr. López was detained on February 18, 2014. Despite not being in the military or having been accused of committing violations of military law, he has been held in *Ramo Verde*, also known as the National Center of Accused Soldiers (CENAPROMIL), in Los Teques, Miranda, Venezuela.

During the five months that Leopoldo López has been unjustly detained in the *Ramo Verde* military prison, he has suffered repeated violations of his fundamental human rights. Since his arrival, Mr. López has been completely isolated in solitary confinement. His cell is located in the punishment wing of the prison and is approximately 30 m² (320 sq. feet). The space includes the basic facilities of a bathroom, a bed, a plastic table – used to eat and work – and a hammock.

For the first three months of his detention, Mr. López was held in complete isolation: he could not leave his cell, was only able to receive visitors within the confines of his padlocked cell and did not maintain contact with any other inmate. In the last two months, he has been allowed to leave his cell only one hour per day between 6:30 am and 7:30 am to exercise in the prison basketball court, thus spending twenty-three hours alone in his cell every day. During this time period, he has been “punished” on repeated occasions and not allowed to leave for his one-

hour of exercise. Furthermore, he has only been able to receive visits from his immediate relatives (his wife, children, parents, and siblings) and his three lawyers. On seven occasions, his cell has been ransacked and previously-approved materials such as books, private letters from his family, and notes he made for his trial have been confiscated and never returned. Mr. López has never been allowed confidential attorney-client communications or private phone calls with his family.

Conclusion

The ongoing, enforced, and arbitrary solitary confinement imposed on Mr. López constitutes psychological torture. In addition, this mistreatment and significant other actions directed against him also constitute cruel, inhuman, and degrading treatment.

Based upon the credible information provided in the model questionnaire that Mr. López suffers torture and other cruel, inhuman, or degrading treatment, I respectfully request that in accordance with your working methods you investigate the situation and immediately reach out to the Government of Venezuela and urge it to uphold Mr. López's physical and mental integrity during his detention.

Sincerely,

[Signature on File]

Jared Genser
International Counsel to Leopoldo López Mendoza

MODEL QUESTIONNAIRE

a. Full name of the victim

Leopoldo López Mendoza

b. Date on which the incident(s) of torture occurred (at least as to the month and year)

February 18, 2014, to present

c. Place where the person was seized (city, province, etc.) and location at which the torture was carried out (if known)

Mr. Leopoldo López voluntarily turned himself in to the Venezuelan Government on February 18, 2014, on the *Plaza Brión de Chacaito* in Caracas, Venezuela. He presented himself to Venezuelan military officials and was later transferred to the military jail of *Ramo Verde*, also known as the National Center of Accused Soldiers (CENAPROMIL), in Los Teques, Miranda.

d. Indication of the forces carrying out the torture

Bolivarian National Guard, Military Police of the National Armed Forces, and the Military Counterintelligence Department (DGCIM).

e. Description of the form of torture used and any injury suffered as a result

- During the five months that Leopoldo López has been unjustly detained in the *Ramo Verde* military prison, he has suffered repeated violations of his fundamental human rights. Since his arrival, Mr. López has been completely isolated in solitary confinement. His cell is located in the punishment wing of the prison and is approximately 30 m² (320 sq. feet). The space includes the basic facilities of a bathroom, a bed, a table of plastic – used to eat and work – and a hammock. Also, there is a small used refrigerator, which his sister Diana brought him, a three burner stove, and a coffee maker. At various times, he has also had a television, DVDs, a music player, books, magazines, pencils, and notebooks – although many of these items were later arbitrarily confiscated. He is able to get news daily and to exercise, as he has some exercise equipment including a machine for suspension training and a punching bag.
- Mr. López spent the first ninety days in complete isolation: he could not leave his cell, was only able to receive visitors within the confines of his padlocked cell, could not attend Catholic mass, and did not maintain contact with any other inmate. In addition, over this time, his room had no natural light, since the small ceiling windows were shut. Mr. López and his family have requested natural light from day one of his detention and these requests have been physically recorded. Even though the poor lighting in the cell has damaged Mr. López's eyesight, the family's request for visitation rights for Mr. Lopez's ophthalmologist, Dr. Henrique Suárez, has been denied.

- For the past two months, Mr. López has been allowed to leave his cell only one hour per day between 6:30 am and 7:30 am to exercise alone in the prison basketball court, thus spending twenty-three hours alone in his cell every day. During this time period, he has been forbidden from leaving on numerous occasions as “punishment.” He is now allowed to attend a special mass once a week for an hour with fellow political prisoners Daniel Ceballos, Enso Scarano and Salvatore Lucchese – completely removed from the rest of the prison population.
- Mr. López has only been able to receive visits from his immediate relatives (his wife, children, parents, and siblings) and his three lawyers. He received two additional visits from Julio Borges and Miguel Pizarro, members of the political party *Primero Justicia*, and from Henrique Capriles Radonski, the Governor of Miranda, also of *Primero Justicia*. To access prison they required special permission from the Vice-President of the Republic Jorge Arreaza, again demonstrating the lack of separation of public powers in Venezuela.
- There is no respect for the right of confidentiality between client and lawyer. Members of the prosecution have extensively reviewed communications and documents of the defense that have been brought to or taken out of the prison by Mr. López’s attorneys. In some cases, they have tried to photograph or confiscate material related to the defense. There is also no privacy in Mr. López’s meetings with his lawyers. The meetings were initially held in his cell with guards immediately outside. Now, they are held on the ground floor, in an area prison officials call the visiting room, but which is actually the military Ombudsman Office. There is still always a guard at these meetings.
- All books and documents that are brought to Mr. López are intensely reviewed. Prison officials prevent the entry of books and correspondence that are confiscated and sometimes, the visitor must remove the books or documents or else they are seized by the guards. Similarly they have banned the entry of cakes, posters, brochures, flyers, t-shirts, and anything else with political content, including maps of Venezuela.
- Since Mr. López was arrested, seven “requisitions” or extensive inspections have been made of his cell. Each has been abusive and sometimes violent. During the inspections, Mr. López may not intervene and there is little regard for his treatment or that of his belongings. During the same time period, the rest of the prison has only undergone one inspection. During these searches, prison officials have confiscated the following items: television, seven personal music players, and several books (including a complete collection of Ramón Díaz Sánchez, a book entitled *The Oil as an Instrument of Progress* by Pedro Luis Rodríguez and Luis Roberto Rodríguez, and the religious work, *The Zealot*). Additionally, they have confiscated Mr. Lopez’s private correspondence that he had already read and notebooks with personal annotations and documents pertaining to his defense. All of these confiscated objects had been reviewed and permitted entry into his cell prior to these searches. To this day not one item has been returned to Mr. López.
- It has been learned through unofficial channels that calls made from the payphone in the jail are being tapped by the DGCIM; Mr. López has never been notified of this intervention, nor was he aware that the content of these private phone calls could be grounds for punishment.

- There have been three sanctions of absolute isolation imposed on Mr. López, totaling about forty-five days. None of the sanctions has been duly notified, nor has there been any access to the records or justifications of these sanctions. The sanctions are the following:
 - April 15, 2014 (15-day ban on all visits): Mr. López’s wife, Lilian Tintori was being interviewed by journalists from the Spanish ABC newspaper while en route to the prison. Ms. Tintori then got out of the car while journalists remained in the car in order to leave with the person transporting them all to the prison. At the prison’s exit, the vehicle was requisitioned. The guards seized the equipment of the photographer and alleged that they were taking photos in the prison. Mr. López was punished for this incident.
 - May 30, 2014 (15-day ban on all visits): Mr. López wrote two letters addressed to Rosa Scarano and Patricia Ceballos, the wives of prisoners Enzo Scarano and Daniel Ceballos, mayors of the municipalities of San Diego and San Cristobal respectively, who were unjustly dismissed and imprisoned with Mr. López in *Ramo Verde*. The letters included an open call to the voters of these municipalities to participate massively in the election and demonstrate support for their mayors by voting for their wives. The correspondence was confiscated from his lawyer and they were denied their request that the confiscation to be properly recorded. Two days later, Mr. López was notified of a new punishment.
 - July 10, 2014 (13-day ban on all visits): This punishment resulted from accusations that Mr. López made calls with “political content.” On this date, Mr. López called from the prison payphone his wife, who was with other people at the time. She put the phone on speaker in order for López to greet everyone. His greetings of the other people resulted in his punishment.
- In the early hours of July 26, 2014, at 1:10 am, a command of thirty-two men under the direction of DGCIM entered quietly into the punishment wing of *Ramo Verde*. They came dressed in black, hooded with long weapons, and no identification. Led by General Iván Hernández Aquino, they entered simultaneously the cells of Daniel Ceballos, Enzo Scarano, Salvatore Lucchese and Leopoldo López – eight men per cell. They entered in total darkness without any lights in the corridors and stairs. Unlike previous searches, this one was not recorded, and did not include the participation of the military guards, Public Prosecutor’s Office, nor the Military Ombudsman. At 1:10 am, Mr. López was awakened by the feeling of being observed. He opened his eyes and saw two hooded men. The other six were beginning to search his cell with extreme cruelty and violence. This time, they took his television, his music player, his books, and his notebooks with personal notes. Most seriously, they took his handwritten notes of his defense. Mr. López expressed his disagreement over the removal of the manuscripts of his defense. General Hernández said to him: “This material is in our interest.” Mr. López then demanded that they should properly record the belongings that were being removed. This caused a struggle and López was then shoved and pushed around. A similar incident took place in Mayor Enzo Scarano’s cell, where he was brutally beaten including being kicked after being thrown to the floor. This attack was deliberately against Scarano’s health since he had just undergone an operation on his neck and the beating negatively affected his neurological system. This attack also took

place in the context of sustained complaints that have come from the families regarding the isolation of the prisoners, the violation of personal correspondence, and restriction of visits.

- On Monday, July 21, 2014, as a result of public pressure regarding the situation of Mr. López, the Attorney General Luisa Ortega Díaz commissioned the Public Prosecutor's Office led by the Director of Fundamental Rights, María Berthe, to verify the condition of isolation and the violation of human rights of the four political prisoners. As a result of this inspection, they issued an order, which explicitly established the lifting of the isolation, the opening of visits, the use of the sports field, and the protection of private correspondence from external review. This situation of regularizing conditions lasted only two days. On July 23, 2014, when Mr. López's trial began, it was reported that the prisoners had been returned to solitary confinement.

f. Identity of the person or organization submitting the report (name and address, which will be kept confidential)

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I. Identity of the Person(s) Subjected to Torture

The Petitioner, Leopoldo López Mendoza, is a 43-year-old citizen of Venezuela, who is Founder and Coordinator of the political party *Voluntad Popular*. Previously, he served eight years as Mayor of Chacao Municipality in Caracas (2000-2008), before being wrongly disqualified from serving in political office.

II. Circumstances Surrounding Torture

A. Date and place of arrest and subsequent torture

Mr. López was arrested on February 18, 2014, in the *Plaza Brión de Chacaito* in Caracas, where he voluntarily turned himself in to military forces. Hundreds of thousands of people showed up in support of Mr. López, after he announced his intention to turn himself in.

Since then, despite not being a soldier nor charged with any violations of military law, he has been held in the military prison of *Ramo Verde*, also known as the National Center of Accused Soldiers (CENAPROMIL), in Los Teques, Miranda, Venezuela.

B. Identity of force(s) carrying out the initial detention and/or torture (police, intelligence services, armed forces, paramilitary, prison officials, other)

Mr. López is being held in the *Ramo Verde* military prison, which was, up until July 2014, under the supervision of Colonel Humberto Calle González. The current Manager is Colonel Homero Miranda Cáceres.

The Bolivarian National Guard, Military Police of the National Armed Forces, and Military Counterintelligence Department (DGCIM) have overseen his initial detention and ongoing imprisonment.

C. Were any person, such as a lawyer, relatives, or friends, permitted to see the victim during the detention? If so, how long after the arrest?

Over the last five months, he has been held in solitary confinement. Mr. López has typically been able to receive close family and his counsel between Fridays and Sundays. That said, however, there have been three periods of two-week-long arbitrary denial of access to any visitors. There have also been numerous other occasions where family or counsel have been turned away at the prison gates.

D. Describe the methods of torture used

The primary method of torture over the past five months has been extended solitary confinement, including a three-month period trapped during which Mr. López was trapped in his cell without natural light. He has also been punished on three occasions for purported offenses and denied all visitors for three two-week periods over the last five months. In addition, Mr. López has suffered seven arbitrary and highly physical searches and confiscation of previously approved items, including music players, books, private correspondence, and notes prepared for his trial. He has never been provided confidential attorney-client communication or private telephone calls.

E. What injuries were sustained as a result of the torture?

The full extent of Mr. López's injuries are unknown. Poor lighting in the cell has damaged López's eyesight, but the family's request for visitation rights for López's ophthalmologist, Dr. Henrique Suárez, has been denied. While Mr. López remains strong, the effects of the psychological torture of permanent, enforced, and arbitrary solitary confinement are unknown.

F. What was believed to be the purpose of the torture?

It is believed the Mr. López is being punished for his political activities, and especially his exercise of his rights to freedom of opinion and expression and peaceful assembly under both the Constitution of Venezuela and International Covenant on Civil and Political Rights. Despite acknowledging that Mr. López had repeatedly advocated non-violence and that he urged a restoration of democracy in accordance with the Constitution, prosecutors claim that he used "subliminal messaging" to persuade his supporters to engage in acts of violence. Last Wednesday, July 23, 2014, after being asked about Mr. López's trial, President Nicolás Maduro stated:

Well, it is the trial of the extreme right leader, who is responsible of crimes,

violence, and destruction of human lives that he planned . . . He has a . . . quite a crazy messianic vision . . . that, let me tell you, alienates and poisons people making them crazy. He is responsible for crimes that he has to be accountable for and he will be before justice. He will be and will be, as simple as that . . . Justice be done! Only justice will punish the resurgence of the neo-Nazi and fascist sectors that want to impose scenarios like Ukraine, Palestine, Syria, or Libya. That will not happen; they will not come back. [<http://youtu.be/9jtwFkts3YQ>]

G. Was the victim examined by a doctor at any point during or after his/her ordeal? If so, when? Was the examination performed by a prison or government doctor?

No.

H. Was appropriate treatment received for injuries sustained as a result of the torture?

No.

I. Was the medical examination performed in a manner which would enable the doctor to detect evidence of injuries sustained as a result of the torture? Were any medical reports or certificates issued? If so, what did the reports reveal?

N/A.

J. If the victim died in custody, was an autopsy or forensic examination performed and what were the results?

N/A.

III. Remedial Action

Were any domestic remedies pursued by the victim or his/her family or representatives (complaints with the forces responsible, the judiciary, political organs, etc.)? If so, what was the results?

Mr. López has repeatedly complained about his solitary confinement and range of other deprivations. Other than a publicly announced respite from these conditions, which only lasted two days for a photo opportunity of Mr. López with three other political prisoners being held in *Ramo Verde*, there has been no response to his complaints.

IV. Information Concerning the Author of the Present Report

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