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REFERENCE: Follow-up/CAT

15 December 2015

Your Excellency,

In my capacity as Rapporteur for Follow-up on Concluding Observations of the United Nations Committee against Torture, I refer to the examination of the combined third and fourth periodic reports of the Bolivarian Republic of Venezuela (CAT/C/VEN/3-4) by this Committee, at its 53rd session, held from 3 to 28 November 2014. At the end of that session, the Committee's concluding observations (CAT/C/VEN/CO/3-4) were transmitted to your Permanent Mission. In paragraph 24 of those concluding observations, the Committee requested, pursuant to its rules of procedure, that the State party provide, within one year, by 28 November 2015, further information regarding areas of particular concern identified by the Committee in paragraphs 8(b)(d), 9 and 10(a)(e) (see extracts annexed).

The Committee has adopted a follow-up procedure to pursue issues that are serious, that can be accomplished by the State party in a one year period, and that are protective (see, doc. CAT/C/55/3).

The information sought by the Committee has not been provided yet, although more than one year has elapsed from the transmittal of the Committee's concluding observations. Accordingly, I would be grateful for clarification as to the current status of your Government's responses on the matters, and as to when the information requested will be forthcoming. A Word electronic version of the reply should be sent to the Secretariat of the Committee against Torture (cat@ohchr.org). Upon receipt of this information, the Committee will be able to assess whether further action is needed.

The Committee looks forward to pursuing the constructive dialogue it has started with the authorities of the Bolivarian Republic of Venezuela on the implementation of the Convention. In this context, the Committee seeks to receive your response to this enquiry.

Accept, Your Excellency, the assurances of my highest consideration.

Jens Modvig
Rapporteur for Follow-up on Concluding Observations
Committee against Torture

H.E. Mr. Jorge Valero
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**CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES
UNDER ARTICLE 19 OF THE CONVENTION**

Concluding observations of the Committee against Torture
(Extracts for follow-up of CAT/C/VEN/CO/3-4)

BOLIVARIAN REPUBLIC OF VENEZUELA

(...)

C. Principal subjects of concern and recommendations

(...)

Impunity

8. The Committee is concerned about the information provided by the State party according to which, of a total of 31,096 complaints of human rights violations received from 2011 to 2014, only 3.1 per cent resulted in prosecution by the Public Prosecution Service. The Committee regrets that the information provided does not include up-to-date official data on the verdicts and sentences handed down during this period. According to the statistics annexed to the combined third and fourth periodic reports, between 2003 and 2011 only 12 officials were sentenced for committing acts of torture. The Committee is deeply concerned about reports that prosecutors are often failing to initiate investigations *ex officio*, despite clear signs of injury to detained persons (arts. 12 and 13).

The Committee urges the State party to:

(...)

(b) Take steps to ensure that any allegations of torture and ill-treatment by law enforcement officers are investigated *ex officio* and in a prompt, thorough and impartial manner, from the moment that detained persons are brought before the procedural court. Such investigations should be the responsibility of an independent body composed of prosecutors chosen by public competition and with authority to take decisions and act independently;

(...)

(d) Prosecute the alleged perpetrators of acts of torture or ill-treatment and, if they are found guilty, ensure that their sentences are commensurate with the gravity of their acts.

Arbitrary detention and due process guarantees

9. The Committee takes note of the data from the Public Prosecution Service showing that 3,306 persons, including 400 adolescents, were detained from February to June 2014 in connection with demonstrations that occurred during that period. The Committee is concerned about consistent reports that many of these detentions were arbitrary, inasmuch as no arrest warrants were issued and no one was apprehended in flagrante delicto, as in the detentions in residential areas near the protest sites. The Committee also notes that the Working Group on Arbitrary Detention found the detention of political opposition members Leopoldo López and Daniel Ceballos to be arbitrary and that the United Nations High Commissioner for Human Rights expressed concern at the prolonged and arbitrary detention of opposition members and demonstrators. The Committee is likewise concerned about information indicating that many of the detainees were not informed of the reasons for their detention, were not given the opportunity to confer with an attorney in private until just minutes before their court hearing and were shifted around to various detention centres without their family members being informed of their whereabouts. In addition, in some cases, detainees allegedly received no medical treatment until the court hearing, even though there was clear evidence that they had been subjected to violence (arts. 2 and 16).

The State party should adopt effective measures without delay to ensure that persons are arrested in flagrante delicto only at the precise moment of the commission of an offence and, in conformity with the opinions of the Working Group on Arbitrary Detention, to secure the immediate release of Leopoldo López and Daniel Ceballos and all those who have been arbitrarily detained for having exercised their right to self-expression and peaceful protest. The State should also ensure the enjoyment, from the moment a person is deprived of his or her liberty, of all the fundamental legal safeguards, in particular by:

- (a) Reinforcing procedures for confidential and independent medical examination when a detainee arrives at a detention centre and ensuring the provision of prompt, appropriate and confidential care when it is requested;**
- (b) Providing unrestricted access to a lawyer appointed by the court or chosen by the detainee, including consultations in private;**
- (c) Ensuring that detainees are informed of the reasons for their detention and have the right to communicate with their families;**
- (d) Ensuring that detainees are brought before a procedural court within 48 hours, as required by article 44, paragraph 1, of the State party's Constitution;**
- (e) Ensuring that detainees have the right to immediately challenge the lawfulness of the detention;**
- (f) Regularly monitoring compliance with the legal safeguards by public officials and ensuring that those who do not comply with them and those responsible for arbitrary detention are duly sanctioned.**

(...)

Torture and ill-treatment of persons arrested during protests

10. The Committee is alarmed by consistent reports of acts of torture and ill-treatment inflicted on persons arrested during the demonstrations that took place from February to July 2014. Such acts reportedly included beatings, electric shocks, burns, choking, sexual assault and threats, allegedly for the purpose of destroying evidence of actions by security forces, acquiring information, inflicting punishment or extracting confessions or as manifestations of gender-based discrimination. The Committee notes that although the Public Prosecution Service has conducted 185 investigations into cruel treatment, charges have been brought in only five cases and investigations of two torture complaints are still ongoing. The Committee is concerned that, according to information received, many of the persons affected did not report the ill-treatment for fear of reprisals, and some were allegedly threatened after lodging complaints (arts. 2, 12, 13 and 16).

The State party should:

(a) Ensure that all complaints and cases of torture and ill-treatment of detainees are investigated promptly, thoroughly and independently, including the investigation of officials who knew or should have known that such acts were being committed and failed to prevent or report them;

(...)

(e) Bring to trial alleged perpetrators of acts of torture or ill-treatment and, if they are found guilty, impose upon them penalties proportionate to the gravity of their acts. The Committee draws attention to paragraph 10 of its general comment No. 2 (2007), in which it emphasizes that it would be a violation of the Convention to prosecute conduct solely as ill-treatment where the elements of torture are also present.

(...)

24. The Committee requests the State party to provide, by 28 November 2015, follow-up information in response to the Committee's recommendations relating to: (a) ensuring or strengthening safeguards for persons deprived of their liberty; (b) conducting prompt, impartial and effective investigations into all allegations of torture, ill-treatment and excessive use of force by law enforcement officials and pro-Government armed groups; and (c) prosecuting suspects and sanctioning perpetrators of torture or ill-treatment, as contained in paragraphs 8 (b) and (d), 9 and 10 (a) and (e) of the present concluding observations.

(...)
