

**FREE
LEOPOLDO**



**Submission on Government of Venezuela Review Before the UN Committee Against
Torture and Other Cruel, Inhuman, and Degrading Treatment**

**53rd Session of the UN Committee Against Torture and Other Cruel, Inhuman, and
Degrading Treatment**

Friends of a Free Venezuela

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Summary

Peaceful protests broke out in Venezuela in early 2014 as Venezuelans became frustrated with high rates of crime and economic hardship. Many of these protestors were arbitrarily detained, and several leading opposition figures have been targeted and imprisoned. Police and security force brutality against these political prisoners has been reported frequently, including beatings and physical violence, humiliation, and psychological abuse. Prominent political dissidents have also been placed in prolonged solitary confinement before receiving a trial and in poor conditions. This treatment of political prisoners by the Venezuelan Government under President Maduro's regime amounts to torture, in violation of Venezuela's responsibilities under the Convention against Torture (CAT).

I. Background

Hugo Chávez died in March 2013, after which Nicolás Maduro, who was vice-president at the time, took Chávez's place.¹ Chávez's tradition of "accumulati[ng] ... power in the executive branch and erod[ing] ... human rights guarantees"² has continued under Maduro, which has "enabled [his] government to [similarly] intimidate, censor, and prosecute its critics."³ In this political climate, a series of protests and political demonstrations broke out in Venezuela

¹ Catherine E. Shoichet & 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>.

² Human Rights Watch, *World Report 2014* (Jan. 21, 2014), http://www.hrw.org/sites/default/files/wr2014_web_0.pdf.

³ *Id.*

in early February 2014.⁴ The protests erupted largely as a result of high levels of violence,⁵ corruption, inflation,⁶ and scarcity of basic goods in the country.⁷ These dynamics bred profound dissatisfaction with the Government among Venezuelans across the social spectrum.⁸

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.⁹ The Maduro regime's response to the 2014 protests reveals a continuation of such repression of political dissent: as of August 2014, there have been approximately 3,269 individuals detained for political purposes, 238 of whom are under age.¹⁰ Of those, only 357 have been granted full freedom, while 2,078 have been freed with injunctions.¹¹ Venezuelan legal aid organization *Foro Penal* estimates that over 90% of detentions made during the demonstrations had no legal basis, and were made in an attempt to punish or intimidate protestors.¹² Accordingly, the vast majority of detained protestors are political prisoners, held for their political activity and not because of any criminal activity.

The detention of peaceful protestors began almost as soon as the protests did. Accordingly, on February 12, a peaceful protest was held to call for the release of detained student protestors. During the protest, a small handful of protestors threw rocks at and damaged a public building, and set some police cars on fire.¹³ President Maduro and other Government officials immediately blamed the outbreak of violence on opposition leader Leopoldo López, who has consistently promoted non-violent approaches in his speeches, and issued a warrant for his arrest. López remains in custody, along with other prominent opposition figures who have been detained for their involvement in peaceful anti-government protests, notably opposition

⁴ 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>.

⁵ *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/>

⁶ *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>.

⁷ 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>; Corina Pons and Jose Orozco, *Venezuela Planning Third Dollar Supply System as Scarcity Rises*, BLOOMBERG, Feb. 11, 2014.

⁸ *Socialism After Chávez*, *supra* note 6; *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>.

⁹ *Criminals or Dissidents?* THE ECONOMIST, Feb. 17, 2011, available at <http://www.economist.com/node/18184396> (detailing the repercussions faced by dissidents for defying Chávez).

¹⁰ *Foro Penal Venezolano*, <http://foropenal.com/>.

¹¹ *Id.*

¹² *Foro Penal Denuncia ante Fiscalia Venezolano 80 Casos de Tortura Durante Protestas*, Ultimas Noticias, May 1, 2014, available at <http://www.ultimasnoticias.com.ve/noticias/actualidad/politica/foro-penal-denuncia-ante-fiscalia-venezolana-80-ca.aspx>.

¹³ 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*].

Mayors Daniel Ceballos and Enzo Scarano and Police Commissioner Salvatore Lucchese.¹⁴ Six students were also arrested on February 12, and have been charged with the crimes López supposedly incited, although rights groups have criticized the complete lack of evidence against them. One student remains in custody; the others eventually obtained a conditional release. Each of these individuals has faced mistreatment by Government agents and various forms of torture.

Under Maduro, Venezuela has Conducted Physical and Psychological Torture of Political Detainees During Detention or Shortly Following Arrest

There are numerous reports of protestors being tortured while being arrested, while being transported after the arrest, or upon arriving at a police station or security facility. One Venezuelan human rights organization has documented the torture of eighteen protestors, including one student who was sodomized with a rifle and another who was hit with electric charges.¹⁵ Human Rights Watch also documented multiple instances in which abuse by security forces amounted to torture, including beatings, electric shocks or burns, being forced to squat or kneel for hours at a time, being handcuffed to other detainees for hours at a time, and being subjected to extended periods of cold or heat.¹⁶

The torture of the six students detained on February 12 and accused of carrying out those crimes supposedly ordered by Leopoldo López has been both particularly concerning and well-documented. After their arrest, all six were forced to kneel, handcuffed, against a wall for four hours.¹⁷ Officers walking by stepped on their toes, pulled their hair, kicked them, beat their heads with a notebook, and banged their foreheads against the wall.¹⁸ In addition, the six students were subjected to repeated police brutality during their arrest and detention. For example, after Demian Martin was arrested, officers shouted insults, beat him, and repeatedly sprayed his face with pepper spray.¹⁹ Police sprayed Luis Boada with gasoline and threatened to set him on fire,²⁰ and more than ten officers beat and kicked him, and whipped him with a wet rag.²¹ Nelson Gil was also beaten by police, both during and after his arrest. Upon his arrival at

¹⁴ *Capriles Meets with Detainees at Military Prison North Venezuela*, EL UNIVERSAL, Apr. 24, 2014, available at <http://www.eluniversal.com/nacional-y-politica/140424/capriles-meets-with-detainees-at-military-prison-north-venezuela>.

¹⁵ *ONG Registra 539 Detenciones, 19 Presos y 18 Torturados*, EL TIEMPO, Feb. 24, 2014, available at <http://eltiempo.com.ve/venezuela/organismo/ong-registra-539-detenciones-19-presos-y-18-torturados/127685>.

¹⁶ Human Rights Watch, *Punished for Protesting* 15 (May 9, 2014), http://www.hrw.org/sites/default/files/reports/venezuela0514_ForUpload_0.pdf [hereinafter *Punished for Protesting*].

¹⁷ *Id.* at 55.

¹⁸ *Id.*; CDH-UCAB, *Results of In-Depth Interview Regarding Personal Liberty, Due Process and Allegations of Torture and Ill-Treatment: Second Progress Report* 5 (Mar. 2014), <https://venezuela.princeton.edu/files/2014/03/CDH-UCAB-Second-Progress-Report-Feb-Mar-20141.pdf> pdf [hereinafter *In-Depth Interview*].

¹⁹ *In-Depth Interview*, *supra* note 18, at 5.

²⁰ *Id.*

²¹ *Punished for Protesting*, *supra* note 16, at 54.

the police station, he was told his injuries were from falling, not from police beating him, and he was threatened with death.²²

After Marco Coello refused to sign a false confession despite multiple threats, he was wrapped in foam rubber in an attempt to hide marks from any abuse. He was then beaten by seven officials with bats, golf clubs, and fire extinguishers, and was given electric shocks.²³ Death threats and psychological torture were also used against him; specifically, a gun was held to his head while he was threatened with execution, and he was doused in gasoline while officials held lighters and threatened to light him on fire.²⁴ Throughout the torture, he was told to confess to burning police vehicles, which he refused to do because he had not done so.²⁵

Most recently, detained student activist Gerardo Carrero, who had initiated a hunger strike to protest Maduro's policies of "tyranny and arrogance" was hung from a grate and severely beaten by a stick for more than 12 hours. The incident took place on August 21, 2014, and Carrero identified Carlos Calderón, Director of the Bolivarian National Intelligence Service, as the person who personally tortured him.²⁶

This police abuse constitutes torture under the CAT. Severe physical and psychological abuse was intentionally inflicted on the students by Venezuelan officials. The purpose of the abuse was in some instances clearly to obtain a confession, and in all cases, it appeared to have occurred for purposes of intimidation or coercion, or for punishment for perceived wrongdoings or political affiliation. This mistreatment of protestors accordingly meets the definition of torture under Article 1, and Venezuela is obligated under Article 2 to take action to prevent such torture from occurring. The Government has not conducted investigations into these instances of torture, as required by Article 12. In some instances, such as with Nelson Gil, the students were threatened when they reported a beating or other mistreatment, in which case Venezuela is further in violation of the Article 13 right to complaint. Thus, Venezuela's treatment of protestors during and immediately following arrest reveals a pattern of multiple violations of the CAT.

Under President Maduro, Political Detainees are Placed in Inhumane Prison Conditions Amounting to Torture

Four detained opposition figures have been placed in solitary confinement at *Ramo Verde* military prison: Leopoldo López, Enzo Scarano, Daniel Ceballos, and Salvatore Lucchese. This suggests the creation of a norm under the Maduro regime by which high-profile opposition

²² *Id.* at 54-55

²³ *In-Depth Interview*, *supra* note 18, at 6.

²⁴ Human Rights Foundation, *Venezuela: HRF Condemns Torture of Students and Calls for their Immediate Release*, Jun. 2, 2014, available at http://humanrightsfoundation.org/news/venezuela-hrf-condemns-torture-of-students-and-calls-for-their-immediate-release-00389?utm_content=wiser%40freebeacon.com&utm_source=VerticalResponse&utm_medium=Email&utm_term=here&utm_campaign=Venezuela%3A%20HRF%20Condemns%20Torture%20of%20Studentscontent.

²⁵ *Punished for Protesting*, *supra* note 16, at 54.

²⁶ "The Director of Venezuelan National Intelligence Tortured My Son," PANAM POST, Aug. 29, 2014.

members are placed in solitary confinement. Leopoldo López, for example, has been subjected to permanent, enforced, and arbitrary solitary confinement for 23-24 hours per day since his initial detention. On three occasions he has been punished for purported offenses by being deprived of all visitors for a two-week period.²⁷ The other three are reportedly held under similar conditions. Although pictures of the four in a courtyard together circulated in late July, this was a rare allowance apparently granted only for the photo opportunity, and since then conditions of solitary confinement have continued.²⁸

The Committee has said that prolonged solitary confinement may constitute torture. It has further recommended that the use of solitary confinement be abolished except in exceptional circumstances, and even then should be subject to judicial and legal regulation and oversight.²⁹ These exceptional circumstances apply only “when the safety of persons or property is involved.”³⁰ The Government has not shown how keeping these political detainees under indefinite, constant solitary conditions is necessary to protect the safety of persons or property.

Furthermore, the Committee has expressed particular concern regarding the use of solitary confinement during pre-trial detention or for disciplinary reasons.³¹ The aforementioned four political prisoners are all in pre-trial detention, and have been repeatedly deprived of their usual daily hour spent outside their cell and of visitors as “punishment” for alleged offenses. Prolonged isolation whose purpose is retributive constitutes cruel, inhuman, or degrading treatment under Article 16.³² Accordingly, even in those instances in which solitary confinement is not imposed in a manner that is sufficiently severe to constitute torture under Article 1, the use of prolonged isolation in a retributive manner constitutes cruel, inhuman, or degrading treatment in violation of Article 16.

General prison conditions further compound the impact of the solitary confinement. These four political prisoners were also subject to an arbitrary attack in the middle of the night in late July. They were assaulted and their personal belongings, including legal papers, were confiscated.³³ Mayor Enzo Scarano, in particular, was brutally beaten, including being thrown to the floor and kicked. This attack deliberately targeted his health since he was recovering from a neck operation, and the beating negatively affected his neurological system.³⁴ After the attack,

²⁷ Information on these incidents was received by members of Friends of a Free Venezuela.

²⁸ Marcela Estrada, *Leopoldo Lopez, Fellow Inmates “Brutally Beaten” by Intel Agents*, PANAMA POST, Jul. 28, 2014, available at <http://panamapost.com/marcela-estrada/2014/07/28/leopoldo-lopez-fellow-inmates-brutally-beaten-by-intel-agents>.

²⁹ Committee against Torture, *Report to the General Assembly: Concluding Observations, Denmark*, A/52/44(SUPP) (1997) at ¶181-186.

³⁰ *Id.* at ¶186.

³¹ *Id.* at ¶181.

³² Committee against Torture, *Consideration of Reports Submitted by States Parties Under Article 19 of the Convention: Conclusions and Recommendations, United States of America*, CAT/C/USA/CO/2 (2006) at ¶36.

³³ Information on this incident was received by members of Friends of a Free Venezuela.

³⁴ Petition to UN Special Rapporteur on Torture at 8.

Scarano was left handcuffed to the bars of his cell, and subsequently was barely able to leave his bed.³⁵

The attacks on the four men also took place in the context of sustained complaints that have come from their families regarding the isolation of the prisoners, the violation of personal correspondence, and restriction of visits. Inadequate and unhealthy prison conditions are an ongoing concern for many political prisoners. Iván Simonovis, a former police commissioner convicted of involvement in an alleged coup in a questionably fair trial, was imprisoned since 2004 at Helicoide Jail, and since February 1, 2013, has been in the military prison at *Ramo Verde*. The cell and hall in which he has been placed lack natural light and ventilations, and he has no access to prompt medical care; as a result he has developed osteoporosis and nineteen other health issues. As of 2012, he had only had access to fresh air and sunlight for thirteen days out of eight years of confinement.³⁶ Leopoldo López has also had inadequate access to natural light, having had no natural light at all for a three-month period, after which only inadequate light has been provided. As a result, he has developed vision impairment. While taken separately these various conditions may not constitute torture, the combination of poor conditions with the use of solitary confinement, and the intentional targeting of political prisoners, creates a scenario in which the Venezuelan Government is inflicting severe pain and suffering on political detainees.

Finally, while the imposition of solitary confinement appears unique to high-profile political prisoners, lower-profile political prisoners may be placed in the generalized prison community, where conditions are particularly bad and where they may be targeted for their status as political prisoners. Félix Ortuño, telling of his prison experience, reported that every prisoner was beaten upon arrival, and that detained protestors were singled out by being tied up and gagged by other prisoners, while the guards refused to intervene.³⁷ Jennifer Jamarillo, a student sent to a women's prison, reports that women were beaten and that the guards forced them to undergo vaginal examinations.³⁸ Some prisoners were made to sing songs supportive of the current government.³⁹ General prison conditions amounting to torture is beyond the scope of this submission. However, this targeting of political prisoners reflects a discriminatory purpose as described in Article 1. Furthermore, the failure of the guards to protect political prisoners also constitutes "acquiescence of a public official" to suffering inflicted on prisoners because of their political preferences.

³⁵ *Agredieron en Requisa a Lopez, Scarano, y Ceballos*, EL NACIONAL, Jul. 25, 2014, available at http://www.el-nacional.com/politica/Agredieron-requisa-Lopez-Scarano-Ceballos_0_452354810.html; *Golpean a Leopoldo, Scarano y Ceballos Durante Requisa en Ramo Verde*, LA PATILLA, Jul. 25, 2014, available at <http://www.lapatilla.com/site/2014/07/25/golpean-a-leopoldo-scarano-y-ceballos-durante-requisa-en-ramo-verde>.

³⁶ *The Truth Behind Helicoide Jail*, EL UNIVERSAL, Dec. 8, 2012, available at <http://www.eluniversal.com/nacional-y-politica/121208/the-truth-behind-helicoide-jail>.

³⁷ *La Cárcel, Segun Los Jovenes que Protestaron*, EL NACIONAL, Aug. 3, 2014, available at http://www.el-nacional.com/sociedad/carcel-jovenes-protestaron_0_455954474.html.

³⁸ *Id.*

³⁹ *Id.*

Accordingly, even as high-profile political prisoners are subject to torture through the use of solitary confinement and other abusive conditions, average Venezuelans who express political dissent have also been tortured by security forces who arrest them. This reflects a comprehensive culture of torture and cruel, inhuman, or degrading treatment against political prisoners in Venezuela, implicating multiple echelons in the police and security forces under President Maduro.

Sincerely,

A handwritten signature in cursive script, appearing to read "Rob Gluck".

Rob Gluck
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