

**Follow-up report on the implementation of the  
concluding observations of the Committee against  
Torture on the combined third and fourth periodic  
reports of Venezuela**

**April 2017**

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Committee against Torture on the combined third and fourth periodic reports of  
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**I. Background and approach to the report**

1. On 12 December 2014, the Committee against Torture (CAT) adopted its concluding observations on the combined third and fourth reports of Venezuela (doc. CAT/C/VEN/CO/3-4)<sup>2</sup>.

2. In its concluding observations, the Committee requested Venezuela to provide information on its follow-up to the recommendations of: (a) ensuring or strengthening **safeguards for persons deprived of their liberty**; b) Conduct **prompt, impartial and effective investigations into all allegations of torture and ill-treatment and excessive use of force** by law enforcement officials and pro-government armed groups; c) **Prosecute suspects and punish those guilty of torture and ill-treatment**, contained in paragraph 8 (b) and (d), paragraph 9, and paragraph 10 (a) and (e) of the document of concluding observations. The additional information requested was to be provided to the CAT within one year, which expired on 29 November 2015.

3. On December 15, 2015, the expert Jens Modvig, in his capacity as rapporteur to follow up the report of concluding observations, sent a communication to the Venezuelan authorities, reminding them of the sending of the requested information. To date, there is no record of any response by the State.

4. After more than two years, as co-author organizations of shadow reports during the submission of the combined 3rd and 4th periodic reports of Venezuela, we refer again to the Committee in order to provide additional and updated information on the above-mentioned points.

**II. Lack of investigation, prosecution and punishment of perpetrators in cases of torture**

5. After more than three years of the protests in 2014, there are no significant variations on the figures that the State offered to the Committee in November of that year. In some complaints “under investigation”, fully identified officials have not even been called to testify.

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<sup>1</sup> This report is submitted by: Centro de Derechos Humanos de la Universidad Católica Andrés Bello (CDH-UCAB), Civilis, Derechos Humanos, Espacio Público, Programa Venezolano de Educación – Acción en Derechos Humanos (Provea), Co-authors of the shadow report submitted in February 2014 and October 2015 update.

<sup>2</sup> Concluding observations on the combined third and fourth periodic reports of the Bolivarian Republic of Venezuela. Committee against Torture Adopted by the Committee at its fifty-third session (3-28 November 2014).

6. In the annual reports of the Public Prosecutor's Office released in 2015 and 2016, statistics on crimes involving violations of the right to personal integrity are again made invisible. In its introduction, the 2015 report states that “*it is not a State policy to use torture*”, limiting itself to a general reference according to which, by the year 2014, the Public Ministry “*accused 30 police officers of alleged violations of Fundamental guarantees, such as homicide and cruel treatment*”, without providing further details.

7. The same report has a section devoted to “*Defense of the State before the UN Committee against Torture*”<sup>3</sup>, which states that “*In this space, we rejected the campaign of discredit against the State by some non-governmental organizations that have always had and have open doors in the Public Prosecutor's Office to present their denunciations, despite the fact that when we have Received their representatives and request specific data from cases, does not show them*”.

8. In this framework of impunity in cases of torture, there is the case of Luis Alberto Gutiérrez, who was arrested on February 19, 2014 by GNB officials. He was hit in the face and was seriously injured by kicks. He was charged with four felonies and forced to appear every 45 days in court, under the threat of re-arrest. After 11 months, the court decided his full freedom since the prosecution did not file an indictment. However, what is relevant is that after more than two years of the facts and having reported the injuries caused, to date his aggressors remain free and the prosecution has not accused those responsible.

9. Marco Coello was detained in a demonstration on February 12, 2014, by seven police officers, who beat him several times with firearms and fire extinguishers. During his confinement at CICPC headquarters he was subjected to various tortures. In the following days, he was presented to the Public Prosecutor's Office charged with the crimes of fire, property damage, instigation and association to commit crime (*agavillamiento*). He remained deprived of liberty for 5 months and despite the reports made by his relatives about the torture inflicted, no official has been charged or punished. In July 2014, he was granted a substitute measure of presentation for the duration of the trial. Despite having complied with his measure when faced with an unjust sentence and the lack of justice in his accusations of torture and the fear of continuing in Venezuela without guarantees for his integrity and security, he decided to leave the country and request asylum, which was subsequently granted by the US government. The Ombudsman dismissed the accusations of torture, pointing out that he was a fugitive from justice: “*The denunciation is from outside, it makes him a fugitive from justice, someone who should appear before a court and did not appear, [The allegation] Was presented to an international television*

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<sup>3</sup> Public Ministry, Annual Report 2014, p. 44.

*channel*<sup>4</sup>. Coello's mother denied the Ombudsman, recalling the date on which the complaint of torture had been filed in his office.

10. The State not only does not investigate, but produces false information to conceal torture. The complaint of rape and sexual abuse against Judge María Lourdes Afiuni generated a new controversy during the session of the Human Rights Committee in June 2015, when the General Prosecutor presented a false document according to which the Judge denied allegations of sexual abuse. The document was strongly refuted by the victim.

11. In May 2015, in a report presented by the CDH-UCAB<sup>5</sup> it was possible to demonstrate the existence of a deliberate and conscious practice from different organs of the State, designed to conceal evidence of torture and cruel treatment and to obstruct the denunciation of violations of the right to personal integrity of victims of repression in 2014. Expressed in (a) the incommunicado detention; (b) the transfer of the wounded to military hospitals, where their health was kept tight and access to family members was impeded; (c) pressures on victims of violations of the right to physical integrity, who were forced to sign statements denying that they had been subjected to ill-treatment or to record that the injuries did not occurred in a particular detention center; (d) impeding private interviews between detainees and lawyers; (e) use of the Public Defense as a mechanism to prevent victims in the presentation hearings from exposing the circumstances in which their injuries occurred; (f) failure to record forensic medical examination; (g) provision of non-independent medical reports by health professionals assigned to the detention body; and (h) an attempt to transform victims into perpetrators, alleging that the injuries they presented were in response to alleged injuries caused by them to officials without at any time proving the identity of the alleged assaulted, nor the forensic registry of injuries allegedly caused. The Public Ministry was involved in such practices, so it is easy to understand the difficulties encountered by victims to formalize complaints that, on the other hand, should have been initiated ex officio.

12. Among the irregularities presented during the arrests of various cases registered by the CDH-UCAB, the victims were seriously injured and were transferred by the authorities, without the consent of or notification to their families, to military medical institutions in Caracas, in the state of Zulia and in the state of Nueva Esparta. In some cases, even though officials duly identified by the victims, they have not been punished.

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<sup>4</sup> *Ombudsman: It is complicated to take a complaint from someone who is not in the country.* Unión Radio Noticias. Available at: <http://unionradio.net/defensor-es-complicado-tomar-una-denuncia-de-alguien-que-no-esta-en-el-pais/>

<sup>5</sup> Centro de Derechos Humanos de la Universidad Católica Andrés Bello: There shall be no trace. Hiding medical and legal evidence in the context of demonstrations and arrests. Caracas, may 2015.

The practice of transferring detainees to military health centers has continued during the past two years, especially in cases where there are political motivations for detention<sup>6</sup>.

13. The State does not comply with the recommendations made by the Committee in paragraph 9<sup>7</sup>, as it continues to fail confidential, and independent medical examination; prompt adequate and private medical care is not provided, even when requested; likewise, there are restrictions on access to a lawyer and lack of communication with relatives.

14. At the beginning of 2015, complaints were made about one of the headquarters of the Bolivarian Intelligence Service (SEBIN), through which the existence of a detention center was discovered at its facilities in Plaza Venezuela in the city of Caracas, known as "The Tomb". It is located five stories underground, in a basement that has been set up as a place of detention for detainees who represent a presumed danger to the State. The place is guarded by armed officials, there are no windows so there are no air or natural light, there is no sound coming from outside, except that of the subway cars that pass through the tracks on the aforementioned basement. According to testimonies, the place is divided into 7 individual cells side by side, with an extension of 2x3 meters. The walls, floors, bed and table of cement, all white, the light stays on during the day and at night. The facility has closed circuits of cameras and microphones in and out of the cells to constantly monitor detainees who spend most of the day indoors, except when they are occasionally taken to the bathroom. It was also reported that detainees remain at very low temperatures. The Ombudsman initially denied the existence of "The Tomb"; Subsequently admitted that it exists, but stated that the detainees in that place had not been tortured, refusing to acknowledge that the detention conditions of the place constitute in themselves a form of torture.

15. On the other hand, the conditions of detention at the headquarters of SEBIN Helicoide in Caracas have been classified as contrary to the State's obligations regarding personal integrity by the Inter-American Court of Human Rights<sup>8</sup>. These conditions have not varied and, on the contrary, have been extended to the headquarters of Plaza Venezuela. To date, the death of a detainee, allegedly due to suicide at El Helicoide<sup>9</sup> and an attempted suicide<sup>10</sup> in Plaza Venezuela HQ.

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<sup>6</sup> Some cases are: Nelson Guarate, former Mayor Mario Brieño Iragorri Municipality (November 2016); Rosmit Mantilla, Deputy (November 2016); Leopoldo López, former Mayor of Chacao and leader of Voluntad Popular party (March and December 2016); Héctor Zerpa, leader of Un Nuevo Tiempo party (March 2017); José Gámez Bustamante, army Colonel (March 2017); Lorent Saleh, former student leader (July 2016)

<sup>7</sup> Committee Against Torture: Concluding observations on the combined third and fourth reports of Venezuela. (November 3 - 28 2014).

<sup>8</sup> Inter-American Court of Human Rights. Díaz Peña Vs. Venezuela. June 26, 2012.

<sup>9</sup> Mr. Rodolfo González would have committed suicide on March 13, 2015, after being detained for 11 months, presenting as an only evidence against him the anonymous testimony of a "cooperating patriot."

<sup>10</sup> According to his lawyer, Lorent Saleh would have attempted to commit suicide on April 20 in the area of SEBIN headquarters in Plaza Venezuela known as "La Tumba", which is a place that houses detainees in a basement 5 floors below ground.

16. With reference to the Committee's recommendation to the State on the immediate release of Leopoldo López, Daniel Ceballos, and all those who have been arbitrarily detained for exercising their right to express themselves and protest peacefully, in accordance with the views of the Group Working Group on Arbitrary Detention, it should be noted that they have not been complied with; on the contrary, there are new cases of persons who have been sentenced and continue to be arbitrarily deprived of their liberty.

17. Students Raúl Emilio Baduel and Alexander Tirado were arrested in a demonstration on March 21, 2014, being deprived of their liberty and subjected to a trial where innumerable irregularities and violations of due process were evidenced. March 4, 2015<sup>11</sup> both were sentenced to 8 years' imprisonment for allegedly committing crimes of public instigation to commit crime, conspiracy and public intimidation with explosive devices, assigning them the Tocuyito Judicial Internment as a place of imprisonment. Initially they were detained in the David Vilorio Prison Center, where they were victims of torture, physical and psychological abuse<sup>12</sup>.

18. In the second half of 2016, there was a further upsurge of politically motivated arrests, which included student, community, and political leaders<sup>13</sup>; among the victims there is also a deputy, which constitutes a violation of parliamentary immunity<sup>14</sup>. The majority of these detainees are in the facilities of SEBIN. There are at least 20 cases of politically motivated detainees who have not been charged by the Public Prosecutor's Office, or who have been ordered by the courts to continue their trial in released, but remain detained because SEBIN refuses to execute release orders. In January 2017, Provea denounced the existence of new political prisoners "*for exercising the right to demonstrate in the framework of food queues or the claim for public services*"<sup>15</sup>. More than 160 people would be in this situation, according to the Provea's records. In addition, at least 300 people have been arrested in the context of protests in the first half of April 2017.

19. In relation to Leopoldo López and Daniel Ceballos, during their stay in the National Center for Military Proceedings, Ramo Verde continue to be repeatedly subjected to situations of human rights violations, such as: confinement on the wings of punishment,

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<sup>11</sup> *Sentenced to 8 years Alexander "The Cat" Tirado and Raúl Emilio Baduel*. Voluntad Popular. Available at: <http://www.voluntadpopular.com/index.php/ver-noticia/noticias/8-noticias/2400-sentenciados-a-8-anos-alexander-el-gato-tirado-y-raul-emilio-baduel>

<sup>12</sup> *Interview with Raúl Emilio Baduel and The Cat from Tocuyito prison*. El Impulso newspaper. Audio and interview available at: <http://elimpulso.com/articulo/entrevista-a-raul-emilio-baduel-y-el-gato-de-aragua-desde-tocuyito>

<sup>13</sup> Yon Goicochea, Braulio Jatar, José Vicente García, Víctor Ugas, Gilber Caro, Javier Briceño and 14 police officers, among others.

<sup>14</sup> It is Gilber Caro, who was arrested next to his girlfriend, Steysi Escalona. Caro was held incommunicado for 10 days and his whereabouts were unknown, having been kept for three months without being heard by a judge. Ms. Escalona was passed to military justice.

<sup>15</sup> Provea denounces the existence of new political prisoners, detained for protesting. Contrapunto: <http://contrapunto.com/noticia/provea-denuncia-existencia-de-nuevos-presos-politicos-los-detenidos-por-protestar-117181/>

restricted visits regime and in some cases suspended as a means of punishment, without justification, limitations of access to light and natural air circulation, incommunicado detention, beatings and ill-treatment. Motivated by these violations, both citizens went on hunger strike, for almost a month they were not allowed to be visited by a trusted doctor and were kept in spaces that put their health at risk.

20. After having been deprived of liberty for a period of one and a half years and having been held in three detention centers: Cárcel de Ramo; The "26 de Julio" and at the SEBIN Helicoide HQ, Daniel Ceballos was finally granted the measure of house arrest in August 2015<sup>16</sup>. The measure was granted on health grounds<sup>17</sup> and complications resulting from the hunger strike. Ceballos was again sent to prison in August 2016, when an ambulance unexpectedly arrived at his residence claiming to carry out a medical check and, moving him under deceit and with custody of the SEBIN to the headquarters of this organism. He remains at the seat of the SEBIN, in Helicoide, Caracas.

21. With regard to Leopoldo López, on 10 September 2015, he was sentenced along with Christian Holdack, Demian Martín and Ángel de Jesús González,<sup>18</sup> after having been tried for more than one year, in which complaints of torture and ill-treatment, obstruction of due process and the right to defense were dismissed without evidence or justification. These people were victims of torture documented by national organizations such as the CDH-UCAB<sup>19</sup> and international ones; to date no official has been punished for acts committed.

### **III. Excessive use of force**

22. Within the framework of the process of militarization of the country and the criminalization of protest, there is a sharp increase in the indiscriminate use of force. Violence against peaceful demonstrations by security forces remains a constant, with significant numbers of injured and some dead. The protest is also repressed by invoking laws such as the National Security Law<sup>20</sup> and the Organic Law against Organized Crime and Financing Terrorism<sup>21</sup>.

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<sup>16</sup> Daniel Ceballos received house arrest benefit, El Nacional, available at:

[http://www.elnacional.com/presos\\_politicos/Daniel-Ceballos-recio-beneficio-carcel\\_0\\_681532004.html](http://www.elnacional.com/presos_politicos/Daniel-Ceballos-recio-beneficio-carcel_0_681532004.html)

<sup>17</sup> House arrest for Daniel Ceballos, Últimas Noticias, available at:

<http://www.ultimasnoticias.com.ve/noticias/actualidad/politica/dan-casa-por-carcel-a-daniel-ceballos.aspx#ixzz3icJ0XCrL>

<sup>18</sup> *Leopoldo López was sentenced to 13 years and 9 months in prison for the acts of violence of 12-F*. El Nacional.

Available at: [http://www.el-nacional.com/politica/Condenaron-Leopoldo-Lopez-hechos-violencia\\_0\\_700129993.html](http://www.el-nacional.com/politica/Condenaron-Leopoldo-Lopez-hechos-violencia_0_700129993.html)

<sup>19</sup> Centro de Derechos Humanos Universidad Católica Andrés Bello: Outcome of deep interviews with detainees on personal liberty, due process, and allegations of torture and ill-treatment. Second progress report.

<sup>20</sup> Official Gazette N° 37.594 December 18, 2002

<sup>21</sup> Official Gazette N° 39.912 April 30, 2012

23. The State has not developed policies aimed at ensuring that the actions of the police and military agencies involved in the control of demonstrations are in accordance with national and international principles and standards on the progressive and proportional use of force. In addition to the repressive actions of the security forces, there is also the participation of paramilitary groups and armed civilians who, in clear coordination with military and police corps, have attacked demonstrators throughout the country. Pretexts such as the maintenance of public security and the right to free movement, among others, continue to be invoked to justify repression and human rights violations against demonstrators.

24. A source of concern is Resolution 008610<sup>22</sup> of the Ministry of Defense published on January 27, 2015, which authorizes all components of the Armed Forces to participate in public order control activities, including the use of fire weapons. In this regard, protests and requests of various kinds were made in rejection of it; the preparation of a manual to guide on the implementation of the Resolution was announced, which has not yet been published.

25. Finally, the Committee must be aware of the People's Liberation Operation (PLO) to combat insecurity, which since July 2015 has represented a way for security forces to commit excesses and abuses against civilians. These operations include raids on residences and neighborhoods without judicial order, arbitrary detentions, extrajudicial executions and massive deportations<sup>23</sup>.

26. According to a joint report published by Provea and Human Rights Watch<sup>24</sup>, between July 2015 and January 2016, more than 14,000 people have been arbitrarily detained in the absence of a warrant or a crime in flagrante delicto and less than 100 of them were ultimately charged with a crime; 245 people died in the framework of PLO in 2015 and more than 13,000 homes were illegally searched<sup>25</sup>. At the beginning of 2017 the President ordered to reinforce and restructure the operations in a more humanistic way, however the abuses continue and the security forces now act using masks<sup>26</sup> contrary to the law. These facts show that, due to the militarization policy of the State, constitutional guarantees and human rights, are less and less respected. It is evident that the State has

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<sup>22</sup> Official Gazette N° 40.589 January 27, 2015 , available at: <http://historico.tsj.gob.ve/gaceta/enero/2712015/2712015-4190.pdf>

<sup>23</sup> *Razzia against the poor: a month of PLO*. Provea. Available at: <http://www.derechos.org/ve/2015/08/13/razzia-contralos-pobres-un-mes-de-olp/>

<sup>24</sup> *Power without Limits Police and military raids in popular and immigrant communities in Venezuela*. Available at: <https://www.hrw.org/es/report/2016/04/04/poder-sin-limites/redadas-policiales-y-militares-en-comunidades-populares-y-de>

<sup>25</sup> *Runrunes.es: 8,000 arbitrary arrests took place in three months of PLO*. Available at:

<http://www.derechos.org/ve/2015/10/19/runrun-es-8-000-detenciones-arbitrarias-hubo-en-tres-meses-de-olp/>

<sup>26</sup> *The terrifying new mask of the PLO*. Available at: [http://www.el-nacional.com/noticias/sucesos/aterradora-nueva-mascara-las-olp\\_84856](http://www.el-nacional.com/noticias/sucesos/aterradora-nueva-mascara-las-olp_84856)



not complied with the Committee's recommendations under paragraphs 9 (c) and 10 (a) of the report of concluding observations.

27. The irresponsible, indiscriminate and illegal use of tear gas has been aggravated, with attacks by tear gas from helicopters in April 2017, as well as the use of tear gas inside closed spaces such as shopping centers and medical centers. Likewise, the shooting of these objects at close range and directly to the body of the people, has caused several injuries, the most significant being the journalist Román Camacho, who presented a fracture of the tibia and requires rest for 12 weeks, and a young man with broken skull.

#### **IV. Conclusions**

28. On the recommendation to carry out prompt, impartial and effective investigations into all allegations of torture and ill-treatment and excessive use of force by law enforcement officials and pro-government armed groups,

The recommendation has not been implemented	As described in this report, the State has not taken sufficient action to resolve the situation and some have even aggravated the problem	<b>C</b>
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29. To prosecute suspects and to punish those guilty of torture and ill-treatment, contained in paragraph 8 (b) and (d), paragraph 9, and paragraph 10 (a) and (e)

The recommendation has been counteracted	As described in this report, the State has not taken actions that produce results contrary to the Committee's recommendations	<b>F</b>
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