

**Draft Resolution for the
United Nations Human Rights Council
30th Session, September 14-25, 2015**

Situation of Human Rights in Venezuela

The Human Rights Council,

Guided by the Charter of the United Nations and the Universal Declaration of Human Rights, and recalling the International Covenants on Human Rights and other relevant human rights instruments,

Reaffirming that all Member States have an obligation to promote and protect human rights and fundamental freedoms and the duty to fulfil the obligations they have undertaken under the various international instruments in this field,

Gravely concerned that the Bolivarian Republic of Venezuela has severely restricted freedom of expression, prosecuted government critics, inhibited the activities of human rights organizations, and undermined the independence of its judiciary, thereby creating a chilling effect amongst the general public and media at large within Venezuela,

Reaffirms that an essential condition for the proper functioning of a pluralistic and democratic society requires that the State guarantee the necessary conditions for uninhibited democratic political debate which includes the operation of a media free to engage in dissent without fear of government reprisal,

Deeply concerned that the Government of the Bolivarian Republic of Venezuela has engaged in the arrest, incarceration, and criminal prosecution of individuals for having expressed opinions that disturb State authorities, in gross violation of the right to freedom of expression as guaranteed under Article 19 of the Universal Declaration on Human Rights,

Alarmed by legislation and actions by the Bolivarian Republic of Venezuela which have criminalised legitimate opinion and criticism regarding public officials, disregarding the principles of accountability and transparency which are necessary for efficient, ethical and honest government;

Deeply concerned by an orchestrated campaign to delegitimize, stigmatise and cripple the ability of human rights organizations to work in Venezuela, including through the pursuit of unjustified investigations, alarmingly broad rulings by the Supreme Court designed to prevent such organizations from conducting activities not sanctioned by the Government, the aggressive smear campaign launched by the government against human rights advocates, legislative measures that restrict the ability of human rights organizations to obtain critical international funding, the expulsion of foreigners from the country if they express opinions that offend state institutions or senior officials,

Alarmed by the Government's calculated efforts in 2004 and 2010 to achieve a political takeover of the Supreme Court by stacking it with government supporters and creating mechanisms designed to purge other judges, thereby significantly altering the makeup of the judiciary of the lower courts, undermining the rule of law, preventing the court from legitimately serving as a check on executive powers and inhibiting its ability to uphold fundamental constitutional rights,

Deeply concerned that previous appeals by relevant United Nations bodies and independent experts concerning the situation of human rights in Venezuela have not been heeded, and emphasizing that, without significant progress towards heeding those calls of the international community, the situation of human rights in Venezuela will continue to deteriorate,

Gravely alarmed by the Venezuelan court decision of 10 September 2015 that sentenced opposition leader Leopoldo López to 13 years and nine months in prison, after a trial marked by serious irregularities, including the judge hearing 138 witnesses for the prosecution but only one of the 50 witnesses and pieces of evidence submitted by the defence,

Recalling that the UN Working Group on Arbitrary Detention, in its Opinion No. 26/2014, A/HRC/WGAD/2014/26 adopted on 26 August 2014, determined that the deprivation of Mr. Leopoldo López's liberty, with the objective of restricting his political rights and by his being detained in a military prison, as well as his exercising his rights to freedom of thought and opinion, expression, association and politics, constitutes arbitrary detention,

Recalling further that the UN Working Group found that the arrest of Mr. López on February 18 2014, was executed without order from a judicial authority, was extended for a period of more than six months, and exposed Mr. López to isolation; that the authorities failed to grant Mr. López provisional freedom subject to bail if necessary, and imposed obstacles to the defense lawyers, including the censorship of their communications with the detainee; all of which "affects the right to a fair and impartial trial, the presumption of innocence, and due process," constituting "a serious violation of the rules concerning the right to a fair trial" contained in Articles 9 and 14 of the International Covenant on Civil and Political Rights,

Reaffirming the responsibilities of all States, in conformity with the United Nations Charter, to respect human rights and fundamental freedoms for all,

Reaffirming further that all Member States of the United Nations Human Rights Council should uphold the highest standards in the promotion and protection of human rights,

Recalling its resolution 60/251 of 15 March 2006, particularly paragraph 8, which states that the General Assembly may suspend the rights of membership in the Human

Rights Council of a member of the Council that commits gross and systematic violations of human rights,

1. ***Recommends to the United Nations General Assembly, in view of the gross and systematic violations of human rights by the Venezuelan authorities, and in the consideration of the measures foreseen in OP8 of General Assembly resolution 60/251, that it decide to suspend the rights of membership in the Human Rights Council of Venezuela;***
2. *Strongly condemns* the ongoing, systematic violations of human rights and fundamental freedoms of the people of Venezuela;
3. *Demands* that the Government of Venezuela ensure, enable and cultivate the existence of a free, independent, pluralistic, and diverse media;
4. *Urges* the Government of Venezuela to adopt all necessary measures to ensure that freedom of expression is respected and guaranteed, in accordance with the international human rights treaties to which Venezuela is a State party;
5. *Calls upon* the Government of Venezuela to repeal all laws that impinge on and restrict freedom of expression, including, but not limited to so-called “disrespect” (*desacato*) laws that unfairly prohibit the legitimate scrutiny and criticism of public figures and officials, thereby restricting the public’s ability to monitor government actions;
6. *Demands* that the Government of Venezuela repeal all laws that promote self-censorship and cultivate a palpable chilling effect that impacts not only individuals facing such charges, but also the general public, as well as all media outlets in Venezuela;
7. *Calls upon* the Government of Venezuela to lift restrictions on the freedom of expression, and instead guarantee and safeguard a free and independent media that is at liberty to report on or express views critical of the Government, free of any censorship;
8. *Urges* the Government of Venezuela, in accordance with international human rights standards, to take measures to prevent intimidation and reprisals against individuals and groups that seek to cooperate with the United Nations, to publicly support activities in defence of human rights and cooperation with the United Nations, its representatives and mechanisms in the field of human rights, to inform the population of ways and means to effect such cooperation, and to prosecute those who order or undertake such unlawful acts of intimidation or reprisal;

9. *Demands* that the Government of Venezuela repeal all legislative measures, including through restrictions on fundraising, designed to curtail the legitimate activities of human rights organizations and other non-governmental bodies;
10. *Stresses* that the Government of Venezuela must refrain from engaging in campaigns that stigmatise and unfairly attack human rights organizations as well other non-governmental organizations, retract all public statements and media campaigns that have unjustly maligned these organizations, and instead pursue a path of constructive and meaningful dialogue with these organizations toward the goal of ending human rights violations;
11. *Requests* the Government of Venezuela to promptly and effectively prosecute and address all acts of intimidation and reprisal against human rights organizations and other non-governmental bodies in an appropriate manner, in order to combat impunity, bring perpetrators to justice and provide victims with appropriate remedies;
12. *Urges* the Government of Venezuela to ensure the independence and impartiality of the judiciary and to guarantee due process of law;
13. *Calls upon* the Government of Venezuela to implement measures to restore the integrity and independence of the Supreme Court and the judiciary, including measures to review the composition of the court, allow for current judges to be replaced, ensure the absence of conflicts of interest, in particular for cases concerned with fundamental human rights or that challenge Government authority;
14. *Condemns* the Venezuelan Government's retaliation against those who express critical or dissenting opinions;
15. ***Demands that the Government of Venezuela immediately free Mr. Leopoldo López***, and pursuant to the findings of the UN Working Group on Arbitrary Detention, grant him comprehensive reparation, including compensation of his moral and compensatory character, and measures of satisfaction, which could be a **public statement of apology in his favor**;
16. ***Decides to urgently dispatch an independent, international commission of inquiry***, to be appointed by the President of the Council, to investigate all alleged violations of international human rights law in Venezuela, to establish the facts and circumstances of such violations and of the crimes perpetrated, and, where possible identify those responsible to make recommendations, in particular, on accountability measures, all with a view to ensuring that those individuals responsible are held accountable, and to report to the Council at its thirty-first session, and calls upon the Venezuelan authorities to fully cooperate with the Commission;

17. *Requests* the Government of Venezuela to engage in a dialogue with the Office of the High Commissioner with a view to ensuring full respect for all human rights and fundamental freedoms;
18. *Strongly encourages* the thematic special procedures mandate holders to pay particular attention to the situation of human rights in the Bolivarian Republic of Venezuela, including the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, the Special Rapporteur on the rights to freedom of peaceful assembly and of association, the Special Rapporteur on the situation of human rights defenders, and the Special Rapporteur on the independence of judges and lawyers;
19. *Requests that* the High Commissioner report to the Council at its thirty-first session on the progress made in the implementation of the present resolution, including options and recommendations to improve its implementation, and to submit an interim report to the Human Rights Council.