

## Second round of meetings to examine whether the situation in Venezuela warrants being submitted to the International Criminal Court

On October 16, the panel of independent international experts consisting of Santiago Cantón, Irwin Cotler and Manuel Ventura Robles assumed their responsibilities to receive the presentations by victims and other relevant and interested parties regarding the situation in Venezuela. On October 17, the Panel heard presentations by David Smolansky, Mayor of El Hatillo; Omar Lares, Mayor of the town of Campo Elías; Walter Marquez, National Policy Coordinator of *Voluntad Popular*; Carlos Vecchio, and Doris Coello, mother of Marcos Coello.

David Smolansky, Mayor of El Hatillo, Caracas, Venezuela

The persecution of municipal authorities has become a deliberate policy of the State, undermining an essential element of democracy, the independence of local governments. Smolansky stated that more than 40% of the 80 opposition mayors are being persecuted as part of a systematic and widespread practice. “Anyone who speaks against the regime is a victim of threats, repression, removal or arrest,” said Smolansky. The Supreme Court (TSJ) and the Bolivarian National Intelligence Service (SEBIN), he said, are accomplices in usurping the investigatory functions of the Attorney General (FGR); carrying out sentences, and violating the Organic Law on the Municipal Power which sets out the requirements for removal of authorities.

In the summary proceedings for the removal of the mayors from office, due process was not respected, nor was any constitutional guarantee. The rulings made in the five judgements against the mayors that were published in August 2017 are all identical. The pattern followed in the cases of at least four of the mayors that were eventually jailed includes: (1) arbitrary detention; (2) isolation; (3) torture, and (4) cruel and degrading treatment. Those accused, as in the case of Smolansky, were allowed less than 48 hours to prepare their defense. Appeal proceedings were not allowed and the accused were prohibited from leaving the country. In addition, the SEBIN harassed the homes and families of the accused.

David Smolansky was one of 12 mayors who were arbitrarily removed from office. He was sentenced on August 9, 2017 on grounds of “not guaranteeing freedom of movement” (that is, permitting opposition protests). He was banned from holding office and there is a warrant for his arrest. After 25 days in hiding, he traveled 1,300 km until he crossed the border into Brazil on September 13. He is now in exile, working to help restore the democratic order in Venezuela.

Since 2014, 12 mayors have been illegitimately removed from office in Venezuela: four have been jailed; six are in exile, and the final two have been removed and banned holding office, but are still in the country. These cases include the arrests of Daniel Ceballos, Enzo Scarano, Antonio Ledezma, Lumay Barreto, Warner Jiménez, Delson Guarate, Gustavo Marcano, Alfredo Ramos, Carlos García, Omar Lares, Ramón Muchacho, and David Smolansky. A further 20 mayors are under investigation.

The persecution practices described affect one-third of the population, a total of 10 million Venezuelans who voted for the persecuted mayors. The episodes described occurred in a broader context of hate, which he described as both political and also motivated by anti-Semitism. Smolansky recounted that “it is very common to see the State media’s rhetoric of hatred against anyone who is Jewish or who has Jewish roots.” In 2016, his home was attacked and ransacked. Anti-Semitic slogans and symbols were written on the walls.

Omar Lares, Mayor of the town of Campo Elías, Mérida, Venezuela

In the context of persecution, threatening and imprisonment of dissidents, Omar Lares discussed the systematic, widespread violation of rights that Maduro’s regime uses to intimidate the mayors as well as their families and other people close to them. He referred to the unprecedented case in Venezuela of the arbitrary and forced detention of his son, Juan Pedro Lares (aged 23), who was kidnapped and has been jailed by the SEBIN since July 30, 2017.

On July 30, in the context of the election of the National Constituent Assembly, armed militia (*colectivos*) burst into the Lares’ home in Mérida. Omar Lares fled with his wife and younger son. His older son, Juan Pedro Lares, was captured, tortured and subjected to inhumane treatment. Juan Pedro was doused with gasoline and they threatened to set him on fire if he did not tell them his father’s whereabouts. Juan Pedro was held *incommunicado* for two days. There is no record of his detention, and no complaint or charges were filed against him. On the third day, his family obtained information from the security services as to his whereabouts through unofficial channels. They filed two writs of habeas corpus, which are both unanswered. They filed a request with the IACHR for precautionary measures and proceedings, and took steps to have the Colombian Foreign Ministry intercede in defense of Juan Pedro, who is also a Colombian citizen. Two consular visits have taken place.

Regarding the question of how this persecution has been directed, Lares claimed that there was an order from “very high up” in the government to detain his son in order to pressure him. On the day of the abduction, the mayor’s personal assistant received a call from “a General” offering to free the son in exchange for the father giving himself up. This was not the first time that the Lares family had been the target of aggression and harassment: in 2006, when Omar Lares was the campaign manager for Presidential candidate Manuel Rosales, he the victim of an attempted assassination and was shot three times. Again, in 2016, a political opponent, Pedro Alvarez, attacked the Lares home, firing weapons and stealing his property.

Walter Marquez, former Deputy of the National Assembly of Venezuela

He presented a preliminary analysis of the case of Venezuela in relation to crimes against humanity. With respect to Article 7 (1) of the Rome Statute, it examines the following acts: killings; extermination; slavery, and forced deportation or relocation.

With regards to the killing of the civilian population, Márquez cited 124 deaths that occurred in the popular protests of 2017, and 44 that took place in 2014. In addition, Márquez stated that the lack of food and medicine, combined with the refusal to open humanitarian channels and the veto of the Law on the National Health Crisis, constitute a generalized and systematic attack that seeks the extermination of the civilian population. According to Márquez, this is a violation of Article 7.2 of the Rome Statute: “‘Extermination’ includes the intentional infliction of conditions of life, *inter alia* the deprivation of access to food and medicine, calculated to bring about the destruction of part of a population.” Márquez also described a form of modern slavery in Venezuela involving 30,000 Cubans in the health and sports sectors. Finally, he detailed the deportation or forced relocation of more than 1,482 Colombians between August and September 2015. The illegal manner in which the Venezuelan Government carried out the deportations of Colombians drew the condemnation of the international community.

Carlos Vecchio, National Policy Coordinator, *Voluntad Popular*

The judiciary in Venezuela is a branch of the regime that is used to systematically persecute opposition leaders. All of the powers of the State are abused, and used to promote hatred of any opposition political entity or group. Vecchio denounced a state policy designed to exterminate anyone who thinks differently: “Those of us who think differently are another class of people.” The members of *Voluntad Popular* have experienced 30 arbitrary detentions, 21 leaders wounded, 17 leaders exiled, and 5 mayors illegally removed from office. They reported numerous personal attacks, attacks on their headquarters, banning them from office and putting them in jail and intimidating them. “We feel that we are in exile here, our souls are in prison,” concluded Vecchio.

Public prosecutor Franklin Nieves was ordered to arrest Leopoldo López along with other opposition leaders. On February 12, 2014, together with Leopoldo López and a group of students, Vecchio and other political leaders called on the people of Venezuela to peacefully protest for the protection of their rights. Two people lost their lives that day—the government decided López was responsible for the deaths—but an investigative journalist concluded that government officials were responsible for these deaths. After López was arrested on February 17, 2014, military forces attempted to capture Vecchio, in both cases without a warrant for arrest or a search warrant. He was forced into hiding for political reasons. The regime’s weapon, he said, has been the Judiciary: “There is no institution to which I can go for constitutional guarantees of impartiality and independence.”

Opposition leaders are the victims of hate speech and rhetoric to incite violence is used against them. All of the public and government media and all of the power of the State is used for these purposes. Vice President Tareck El Aissami declared that, “All members and activists of *Voluntad Popular* are fascists. They are not democrats, even less so can they be considered human beings. They are far from being human. Justice will come for them.” President Nicolás Maduro insists, “I shall not be afraid and I will not waver in administering justice. I call on all branches of government to act in the face of the threats by this terrorist group called *Voluntad Popular*.”

Vecchio spoke of cases that stem from a State policy of systematic and widespread political persecution. As he explained, “It’s not just us, the politicians. Others have left, for political reasons.” Vecchio said that what is happening to *Voluntad Popularis* is happening to all opposition parties and to any Venezuelan who thinks differently. Persecution includes direct action against leaders, activists and organizations. The targeted discrimination also involves the selective granting of subsidies and benefits for political motives, using things such as the “*carnet de la patria*”, social intelligence, or participation in missions, to determine who gets the subsidies and who does not.

Doris Coello, mother of Marcos Coello

Marcos Coello was a victim of arbitrary detention and was tortured and forced to sign a false confession as well as face a trial during which his fundamental rights were violated. On February 12, 2014, street demonstrations took place in Caracas in which Marcos Coello (18 years old) participated. During the demobilization, Coello heard explosions, and sought refuge with a group of students, but was cornered and forced into an altercation with members of the armed militia (*colectivos*) on motorcycles, who were armed and wearing masks. Coello was hit by a tear gas bomb at his waist, and then attacked by a group of five individuals, who beat him with fire extinguishers and riot police helmets. Marcos Coello was then detained and transferred to a station of the Investigative, Scientific, Penal and Criminal Police (*Cuerpo de Investigaciones Científicas, Penales y Criminalísticas*).

During his detention, Coello was subjected to torture and cruel, inhuman and degrading treatment by members of the Venezuelan security agencies. Coello was subject to physical and psychological violence. Under threat of his life, he was asked to sign a statement incriminating Leopoldo López for so-called ‘criminal acts’ that had taken place that day. When Marcos Coello refused to sign the incriminating document, he was tortured. Electric shocks were applied to his body, he was wrapped in plastic, kicked and hit with bats, a golf club and wooden sticks. A psychological assessment concluded that he suffers post-traumatic stress as the result of the torture to which he was subjected.

Coello denounced the failure to respect the fundamental rights of the accused, who was subjected to an unfair trial in lacking due process and denied the right to present and examine evidence. His case demonstrates the absence of separation of powers. For more than two years, Coello, along with the other students, were caught in a politically motivated court case, tied to opposition leader Leopoldo López. Coello is charged of the violent acts that took place on February 12, 2014.

Coello’s defense has exhausted the national courts and petitions have been launched in international fora. The case has been submitted to the International Criminal Court. The United Nations Working Group on Arbitrary Detention recognized in its report that Marcos’ detention was indeed arbitrary, and a Human Rights Watch report “Punished for Protesting” cites the case of Coello and the other students.