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VIA EMAIL URGENT-ACTION@OHCHR.ORG, SR-TORTURE@OHCHR.ORG

April 12, 2012

Mr. Juan E. Méndez
Special Rapporteur on Torture
c/o Office of the High Commissioner for Human Rights
United Nations Office at Geneva
CH-1211 Geneva 10
Switzerland

RE: Torture and Cruel, Inhuman, and Degrading Treatment of Jason Zachary Puracal
in Nicaragua

Dear Mr. Méndez,

I am writing on behalf of my client, Jason Zachary Puracal, who is being slowly starved to death by the Government of Nicaragua. He has been denied edible food and potable water on a daily basis for the last 17 months. This and other mistreatment constitutes cruel, inhuman, and degrading treatment, if not torture.

Background on the Case

Mr. Puracal is a United States citizen who has been illegally imprisoned in Nicaragua since November 2010. Mr. Puracal traveled to Nicaragua in 2002 to serve in the United States Peace Corps. He ultimately stayed in the country and married a Nicaraguan woman with whom he has a four year-old son. At the time of his arrest, Mr. Puracal was working as a real estate agent in a RE/MAX office that he owned along with three other Americans in San Juan del Sur, Nicaragua.

Nicaraguan police arrested Mr. Puracal on November 11, 2010, and he was charged, along with ten Nicaraguan nationals, with international drug trafficking, money laundering, and organized crime. Mr. Puracal was imprisoned in sub-human conditions in a Nicaraguan prison for nine months without evidence or a trial. After numerous unlawful delays, a trial was finally held in August of 2011. The trial was closed to media, family, and the public, and, on August 29, 2011, Mr. Puracal was wrongfully convicted, despite the fact that no evidence was offered to prove the allegations against him. He was sentenced to 22 years in prison and remains in custody at La Modelo Prison in Tipitapa, Nicaragua.

Pre-Trial Detention

On the day of Mr. Puracal's arrest, Mr. Puracal was held at gunpoint by the Nicaraguan National Police for over six hours while they raided his office. Mr. Puracal was physically and verbally abused during the transport to jail and was beaten with a revolver on his arm and in the back of his head. He and the ten Nicaraguan nationals that were also arrested were forced to sit in a crouched position in the back of a van with their heads bent over their knees while the police drove them around for over an hour. Since then, Mr. Puracal has been held without bail in sub-human conditions where he suffers from repeated and continuing violations of his human rights.

Mr. Puracal was initially held for three days at El Chipote, a subterranean prison in Managua formerly used as an interrogation facility during and after the Somoza regime.¹ Mr. Puracal was stripped of his clothing and forced into a 6' x 8' cell in only his underwear. He was kept inside the dark cell which was infested with cockroaches, mosquitoes, snakes, and other vermin. The floor was covered with garbage, dirt, water, and slime. Mr. Puracal was denied drinkable water during the entire three days of his detention at El Chipote, and was provided only one meal of pasta for the duration of his detention.

Ongoing Conditions

After three days, Mr. Puracal was moved to La Modelo, a maximum security prison in Tipitapa, where he has been held ever since. Mr. Puracal is currently sharing a 15' x 15' concrete cell with eight other men. There is no running water. The cell includes an area that is 3' x 5' with a hole in the ground that serves as not only a toilet, but also a sink, shower, and area to wash dishes. The unsanitary conditions are inhumane. The cell, including Mr. Puracal's bed, is infested with ticks and ants. Consequently, Mr. Puracal continuously suffers from bites all over his body. Mr. Puracal is allowed only two hours of sunlight once per week.² However, the outdoor area to which he is taken shares space with an open sewer system, making the two-hour excursion unbearable.

For 17 months, the prison has denied Mr. Puracal daily access to edible food and potable water. The prison food consists of rice and beans that is laced with bicarbonates to make the prisoners feel full. Within two weeks of his arrest and detention, Mr. Puracal developed an inflammatory condition in his bowels caused by the bicarbonate. As a result, he has been unable to eat the prison food without suffering severe and painful complications. Despite the recommendation of a hospital physician, the prison officials have refused to provide Mr. Puracal with food without bicarbonates. Mr. Puracal is entirely dependent upon his family to bring him deliveries of food once per week. Mr. Puracal grabs what food he can before the rest is stolen by the other eight

¹ See, e.g., Report on the Situation of Human Rights in the Republic of Nicaragua, Inter-American Commission on Human Rights, OEA/Ser.L/V/II.53, doc. 25 (30 June 1981). See also Stephen Kinzer, *Ex-Inmates Complain of Managua Jail*, New York Times, Aug. 24, 1986, <http://www.nytimes.com/1986/08/24/world/ex-inmates-complain-of-managua-jail.html>.

² Mr. Puracal was allowed one hour of sunlight per month for the first four months of his imprisonment and then one hour of sunlight per week thereafter.

starving inmates. Mr. Puracal has lost over thirty pounds since his arrest and currently weighs only 150 pounds (down from his normal 180 pounds).

The prison officials have also refused to provide Mr. Puracal with potable water. The prison water is infested with parasites, and, by Mr. Puracal's description, is contaminated with insects, dirt, and even hair. The prison requires inmates to either drink the contaminated water or buy fresh water from the prison store. The store, however, is frequently out of supply. The prisoners are, instead, forced to boil water to make it drinkable by using the live electrical wires that hang from the walls coupled with crude instruments that serve as a make-shift stove.

On September 9, 2011, Mr. Puracal suffered severe first and second-degree burns on both of his legs when he was trying to boil water to make it drinkable. Despite the severity of the injuries, the prison guards represented to the U.S. Embassy that the burns were minor and that there were no blisters. The prison refused to take him to the hospital or allow a private doctor inside to see him. The prison doctor told Mr. Puracal not to wash his wounds with the prison water due to the high risk of infection caused by the unsanitary water supply.

Mr. Puracal's mother—Dr. Daisy Zachariah, a medical doctor from the United States—immediately flew to Nicaragua to care for Mr. Puracal's injuries. Dr. Zachariah reported that, when she arrived at the prison, Mr. Puracal's bandages were soaked through with blood and the injuries were severe. Dr. Zachariah found that the wounds were infected because of the prison doctor's improper attempts to drain the blisters caused by the burns—blisters that the prison doctor earlier reported did not exist. Dr. Zachariah treated Mr. Puracal for the infection and taught him how to change his own bandages. The prison, however, refused Mr. Puracal's request for a fan to keep the mosquitoes and flies from biting at his open wounds.

The burn incident was not the first time the prison had refused Mr. Puracal proper medical care. Mr. Puracal has a history of asthma, but the prison officials have denied Mr. Puracal access to his inhaler. Prison officials have also refused Mr. Puracal's repeated requests to see a private doctor and dentist to care for his ongoing medical problems caused by malnutrition and prison conditions.

The unsanitary and infested conditions in which Mr. Puracal is forced to live, combined with the denial of edible food and potable water on a daily basis constitutes cruel, inhuman, and degrading treatment, if not torture.

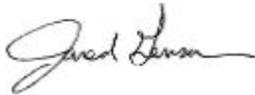
A number of organizations, including CENIDH (El Centro Nicaragüense de Derechos Humanos), have requested access to investigate the prison conditions at La Modelo but have been refused. Most recently, Mr. Puracal's family was terrified to learn that a fire erupted in the middle of the night in Mr. Puracal's cell while he was on lock-down. The fire was sparked by the loose electrical wires that hang freely from the walls, which ignited the bedding in the cell. The inmates were left to fight the fire on their own without sprinklers, running water, or even fire extinguishers. Only days later, 359 inmates were killed by a fire in a Honduran prison under

similar conditions.³ That fire prompted the fire department and human rights organizations in Nicaragua to demand an investigation of the Nicaraguan prisons, but the prison officials refused the groups' access to investigate.⁴

Conclusion

The conditions in which Mr. Puracal has been forced to live are appalling. It is particularly disturbing that Mr. Puracal is being held in a maximum-security prison given he is innocent of the crimes of which he was convicted.⁵ Despite repeated attempts by Mr. Puracal and his lawyer to demand judicial intervention, the Government of Nicaragua continues to subject Mr. Puracal to this mistreatment. Based upon the credible information provided in the model questionnaire that Mr. Puracal suffers ongoing cruel, inhuman, and degrading treatment, if not torture, I respectfully request that in accordance with your working methods you immediately reach out to the Government of Nicaragua and urge it to uphold Mr. Puracal's physical and mental integrity during his detention.

Sincerely,



Jared Genser
Counsel to Jason Zachary Puracal

³ Mayra Navarro, *Honduras Prison Fire Kills More than 350 Inmates*, Reuters, Feb. 15, 2012, <http://www.reuters.com/article/2012/02/15/us-honduras-jail-fire-idUSTRE81E0OK20120215>.

⁴ Rafael Lara and Carlos Larios, *Nicas Inmates in a Tinderbox*, El Nuevo Diario, Feb. 20, 2012, <http://www.elnuevodiario.com.ni/nacionales/242366-reos-nicas-polvorin>. See also Rafael Lara, *et al.*, *Prisons Bursting*, El Nuevo Diario, Feb. 25, 2012, <http://www.elnuevodiario.com.ni/nacionales/242998-carceles-a-punto-de-reventa>.

⁵ Counsel for Mr. Puracal have also filed a petition with the United Nations Working Group on Arbitrary Detention requesting the Working Group consider the case under its "urgent action" procedure given the ongoing threats to Mr. Puracal's health and safety and the denial of due process that led to Mr. Puracal's wrongful conviction. That petition remains pending before the Working Group.

MODEL QUESTIONNAIRE

a. Full name of the victim

Jason Zachary Puracal

b. Date on which the incident(s) of torture occurred (at least as to the month and year)

November 11, 2010, through the present

c. Place where the person was seized (city, province, etc.) and location at which the torture was carried out (if known)

Mr. Puracal was seized in San Juan del Sur, Nicaragua. He has been held and subject to torture as well as cruel, inhuman, and degrading treatment at the local jail in Rivas, El Chipote Prison in Managua, and La Modelo Prison in Tipitapa, Nicaragua.

d. Indication of the forces carrying out the torture

Nicaraguan National Police and prison officials

e. Description of the form of torture used and any injury suffered as a result

Mr. Puracal was physically and verbally abused during the initial transport to the Rivas jail and was beaten in the back of the head and on the arm with a revolver. He, and the ten Nicaraguan nationals with whom he was also arrested, were forced to sit in a crouched position in the back of a van with their heads bent over their knees while the police drove them around for over an hour. Since then, Mr. Puracal has been held without bail in sub-human conditions and suffers from repeated and continuing violations of his human rights, including the denial of edible food, potable water, and proper medical care. Mr. Puracal is suffering from severe weight loss due to malnutrition, infections caused by the infestation of ants and ticks in his bed, and an inflammatory bowel condition brought on by inedible prison food.

f. Identity of the person or organization submitting the report (name and address, which will be kept confidential)

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<p>Janis C. Puracal Sister and Authorized Legal Representative of the Petitioner Bullivant Houser Bailey, PC 1601 Fifth Avenue, Suite 2300 Seattle, WA 98101 United States of America +1 (206) 521-6413 (tel) +1 (206) 386-5130 (fax) janis.puracal@bullivant.com</p>	

I. Identity of the Person(s) Subjected to Torture

The Petitioner, Jason Zachary Puracal, is a citizen of the United States. Mr. Puracal moved to Nicaragua in 2002 to serve in the Peace Corps. He stayed in the country and married a Nicaraguan woman with whom he has a four year old son. At the time of his arrest, Mr. Puracal was working as a real estate agent in a RE/MAX office that he owned along with three other Americans.

II. Circumstances Surrounding Torture

A. Date and place of arrest and subsequent torture

Mr. Puracal was arrested by the Nicaraguan National Police on November 11, 2010. The police, without notice or a warrant, raided Mr. Puracal’s office in San Juan del Sur, Nicaragua, found no evidence of crime, but took Mr. Puracal into custody. He was arrested and taken to the police jail in San Juan del Sur. From there, Mr. Puracal was moved to another police jail in Rivas and then to El Chipote in Managua. At El Chipote, Mr. Puracal was held for three days in a cell with no outside light that was infested with cockroaches, mosquitoes, snakes, and other

vermin. He was held there in only his underwear and was denied food and water. Mr. Puracal was then transferred to La Modelo Prison, the maximum security prison in Tipitapa, Nicaragua, where he has been held ever since. Mr. Puracal has been denied edible food, potable water, and proper medical care at La Modelo. He has lost over 30 pounds and suffers from infections and disease.

B. Identity of force(s) carrying out the initial detention and/or torture (police, intelligence services, armed forces, paramilitary, prison officials, other)

Nicaraguan National Police and prison officials

C. Were any person, such as a lawyer, relatives, or friends, permitted to see the victim during the detention? If so, how long after the arrest?

Mr. Puracal was arrested without a warrant on November 11, 2010, and initially denied any access to his attorney. He immediately requested a phone call to his attorney, but the request was denied. Mr. Puracal was interrogated three times (on November 11, 12, and 13) without his attorney despite his repeated demands for counsel.

Mr. Puracal was further denied the right to visit with his attorney as the police moved him from prison to prison and refused to tell his attorney where he had been taken. Mr. Puracal's wife hired an attorney to first locate Mr. Puracal in the prison system and then to represent him. The prison guards refused to disclose Mr. Puracal's whereabouts to his family and his attorney, and Mr. Puracal was not provided access to his attorney until the evening of November 13—two days after being taken into custody. His family was unable to see him until November 19—nine days after the arrest.

Mr. Puracal has been able to see his family approximately two or three times per month since his arrest.

D. Describe the methods of torture used

See section (e) above.

E. What injuries were sustained as a result of the torture?

The full extent of Mr. Puracal's injuries are unknown as Mr. Puracal has been denied access to proper medical care. Mr. Puracal is known to be suffering from severe weight loss due to malnutrition, infections caused by the infestation of ants and ticks in his bed, and an inflammatory bowel condition brought on by inedible prison food. He further suffers from joint pain caused by the sleeping conditions and from insomnia and depression.

F. What was believed to be the purpose of the torture?

It is believed that the initial torture at El Chipote Prison was aimed at persuading Mr. Puracal to confess to crimes he did not commit. It is believed that ongoing torture as well as

cruel, inhumane, and degrading treatment is viewed as a punishment for the crimes on which he was convicted.

G. Was the victim examined by a doctor at any point during or after his/her ordeal? If so, when? Was the examination performed by a prison or government doctor?

Mr. Puracal has been visited by a prison doctor on several occasions, but denied proper care. First, shortly after his arrest, Mr. Puracal was transported to the Rivas police jail and was taken into an office by a prison doctor. The doctor asked Mr. Puracal for his name, age, height, weight, and history of medical operations. The doctor then sent him back to his cell without conducting a visual scan or physical examination.

Second, Mr. Puracal was examined by the prison doctor after Mr. Puracal suffered severe second-degree burns trying to boil water to make it drinkable because the prison would not provide drinkable water. The prison doctor reported to the U.S. Embassy that Mr. Puracal suffered only first-degree burns without any blisters and that he had been cared for. Mr. Puracal, however, reported much more severe injuries and begged for help, which the prison denied. Mr. Puracal's mother, Dr. Daisy Zachariah, a medical doctor from the U.S., traveled to Nicaragua to care for Mr. Puracal's injuries. Dr. Zachariah reported that, when she arrived at the prison, Mr. Puracal's bandages were soaked through with blood and the injuries were second-degree and severe. Dr. Zachariah further found that the wounds were infected because of the prison doctor's improper attempts to drain the blisters caused by the burns—blisters that the prison doctor earlier reported did not exist. Dr. Zachariah treated Mr. Puracal for the infection and taught him how to change his own bandages. The prison, however, refused Mr. Puracal's request for a fan to keep mosquitos and ticks from biting at his open wounds.

Third, Mr. Puracal was seen by a hospital doctor after he developed an inflammatory condition in his bowels as a result of the prison diet. The prison diet consists exclusively of rice and beans with bicarbonate added to make the prisoners feel full. Within two weeks after his arrest, Mr. Puracal began suffering from abdominal pain that became increasingly severe to the point that his abdomen became so hard that he could not breathe. Mr. Puracal repeatedly requested that he be taken to see a doctor, but was denied until finally he was in so much pain that he had to be carried to the prison's emergency medical services. Subsequently, he went to the prison doctor five days in a row, but the doctor simply forced injections of unknown medication on Mr. Puracal against his will. The injections did not help. Several days later, the prison guards took Mr. Puracal to the hospital and demanded the doctor perform surgery on Mr. Puracal against his will. Mr. Puracal pleaded with the guards and told them he did not want surgery in the unsanitary conditions. The doctor agreed that surgery was not necessary and did not perform it. All the while, Mr. Puracal's wife was in the hospital requesting to see him and was told he was not there. Mr. Puracal also asked for permission to call his family, but was denied the right to do so. The guards then tried to take Mr. Puracal back to the prison before he could speak with the doctor to get a diagnosis. Mr. Puracal managed to speak with the doctor and was told he had developed an inflammatory condition due to the prison diet. The doctor gave him medication to help with the symptoms, but said the bowel condition would continue unless his diet changed. The prison guards have refused to follow the doctor's orders to change

Mr. Puracal's diet so as to improve the inflammatory condition. As a result, Mr. Puracal is entirely dependent upon his family to make deliveries of food once per week. Mr. Puracal grabs what food he can from the deliveries before the rest is stolen by the other starving inmates.

H. Was appropriate treatment received for injuries sustained as a result of the torture?

See section (G) above. In addition, Mr. Puracal has requested permission to see a private doctor on at least three occasions, but his requests have all been denied by prison authorities.

I. Was the medical examination performed in a manner which would enable the doctor to detect evidence of injuries sustained as a result of the torture? Were any medical reports or certificates issued? If so, what did the reports reveal?

See section (G) above. Mr. Puracal is aware that the hospital doctor who diagnosed Mr. Puracal's inflammatory bowel condition issued a report of her examination, but Mr. Puracal has been denied access to that report.

J. If the victim died in custody, was an autopsy or forensic examination performed and what were the results?

N/A

III. Remedial Action

Were any domestic remedies pursued by the victim or his/her family or representatives (complaints with the forces responsible, the judiciary, political organs, etc.)? If so, what was the results?

Mr. Puracal's family filed written complaints with Internal Affairs for the Nicaraguan National Police and the Center for Human Rights. A report was also given to the Justice Committee in the Nicaraguan National Assembly. There have yet to be any response from the complaints.

In addition, specific violations took place in the courtroom and were immediately raised with the trial judge. For example, during a recess at a hearing while everyone was in court, Mr. Puracal's attorney tried to give Mr. Puracal a bottle of water, and the police berated the attorney for it and denied Mr. Puracal the water. Mr. Puracal's attorney had to protest to the judge to permit Mr. Puracal and the other defendants to have water during the hearing. The attorney also had to beg the judge to allow the defendants to use the restroom during the hearing.

Mr. Puracal is not the only defendant subject to these abuses. For example, each of the defendants, including Mr. Puracal, is transported to and from hearings and trial with their heads bagged for the entire two-hour ride to and from the courthouse. During trial, Mr. Puracal's co-defendant, Paulina Comacho, fell ill from a medical emergency as a result of cancer from which she has been suffering. The trial judge insisted that Ms. Comacho continue through trial, and the

defense attorneys had to collectively beg the judge to allow Ms. Comacho to receive medical attention. Ms. Comacho, like Mr. Puracal, continues to be denied proper medical care in prison.

IV. Information Concerning the Authors of the Present Report

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