

AMNESTY INTERNATIONAL PUBLIC STATEMENT

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ADMINISTRATIVE INQUIRY AGAINST HUMAN RIGHTS DEFENDER IN PARAGUAY IS DISPROPORTIONATE

Amnesty International is extremely concerned about the administrative inquiry (*sumario administrativo*) being carried out by the Supreme Court of Justice of Paraguay against lawyer and human rights defender Julia Cabello Alonso, as a result of a public statement she made about the actions of a Supreme Court judge. The administrative inquiry could result in the cancellation of Julia Cabello Alonso's license to practice as a lawyer.

The administrative inquiry against Julia Cabello, executive director of the NGO Tierraviva, was initiated in February 2015 after a newspaper published a press release issued by that organization in which the actions of Dr Gladys Bareiro de Modica, President of the Constitutional Chamber of the Supreme Court are questioned.

In the press release, Judge Bareiro was criticized for admitting a claim of unconstitutionality against the expropriation law for the restitution of ancestral lands to the indigenous community Sawhoyamaxa, on the grounds that it is an issue that the Supreme Court itself had already resolved on September 2014. In the statement, Julia Cabello alleged a violation of the principle of *res judicata* and concluded that Judge Barreiro's action only "*can be explained through venality and corruption, or extreme negligence, because from a law perspective it is impossible.*"

Amnesty International considers Judge Bareiro's solicitation of an administrative inquiry to be a disproportionate response to Julia Cabello's criticism. The organization is concerned that such responses from the judiciary to critics of their decisions can amount to intimidation of lawyers legitimately exercising their right to defend their clients.

The right to defend human rights is an autonomous and independent right, which could count for international responsibility when not respected, protected or guaranteed. When actions in defence of human rights are prevented, limited, sanctioned or repressed, or when nothing is done to prevent or eliminate such situations, the obligations arising from this right are not fulfilled. In turn, under the framework of the right to freedom of expression, civil servants should have a greater margin of tolerance to criticism than private individuals.

Amnesty International urges that no administrative penalties be applied against lawyer and human rights defender Julia Cabello Alonso.

In 2006 the Inter-American Court of Human Rights ordered the Paraguayan State to return their traditional lands to the Sawhoyamaxa community. Amnesty International reiterates its appeal to the Paraguayan authorities to ensure a prompt implementation of that judgement and expresses its concerns that, almost a year after the expropriation law in favour of the Sawhoyamaxa was passed in the Paraguayan Congress, the land transfer has still not been finalized.

Additional Information

Tierraviva has led the legal representation of the Sawhoyamaxa community, which for 20 years has struggled to recover its ancestral lands. Despite the 2006 ruling of the Inter-American Court of Human Rights against Paraguay, it was not until June 2014, and after fruitless negotiations with the owner of the land, that the Paraguayan Congress passed an expropriation law (Law 5194 of June 2014).

The owner of the land filed an action to the Supreme Court of Justice alleging the unconstitutionality of Law 5194. The legal representatives of the community had no access to the text of that action and were not allowed to take part in it.

In September 2014 the Constitutional Chamber of the Supreme Court dismissed the action presented, indicating that: *"... likewise, it is revealed that a compensation will be paid to the owner of the expropriated under the terms of Art. 109 of the C.N. In addition to the reading of the articles of the questioned expropriation law, and stressing that this case represents longstanding claims of indigenous communities ... in strict justice, the issue in dispute cannot continue without a final decision. The challenged law is revealed as congruent to achieving that objective. "*

In December 2014 the land owner attempted to lodge a new action asserting the law's unconstitutionality, this time arguing that the method to determine financial compensation (contained in Article 3 of the expropriation law) was unconstitutional. The President of the Constitutional Chamber of the Supreme Court of Justice agreed to admit the action and transferred it to the Attorney General for an opinion.