



VENEZUELA: INTERNATIONAL HUMAN RIGHTS DAY

One year on from the arbitrary arrest of Judge Afiuni, Amnesty International reiterates its call for her release.

Amnesty International believes that the arrest of Judge María Lourdes Afiuni Mora on 10 December 2009 is a case of undue political interference on the part of the executive. Her arrest is in breach of the UN Basic Principles on the Independence of the Judiciary, adopted in 1985, which specify that “[t]he judiciary shall decide matters before them impartially [...] without any restrictions, improper influences, inducements, pressures, threats or interferences, direct or indirect, from any quarter or for any reason”.

Judge Afiuni has been charged with “ordinary corruption (*corrupción propia*), abuse of authority, aiding escape and criminal association”. She was arrested hours after having ordered the conditional release of banker Eligio Cedeño, a decision which was reportedly within her remit and in line with Venezuelan law which states that nobody shall be held in custody awaiting trial for more than two years.

The conditional release order issued by the Judge in December 2009 was publicly condemned by President Hugo Chávez. One year on, the Attorney-General’s Office has reportedly not presented any reliable evidence to substantiate the charges against Judge Afiuni.

Amnesty International is extremely concerned about the consequences this case may have on the willingness of Venezuelan judges to extend to all categories of defendants the benefits and safeguards laid down in the Constitution and laws of Venezuela as well as in the international treaties to which Venezuela is a party. Judges’ fears that the executive and other Venezuelan State bodies may refuse to accept their rulings and the possible consequences that may ensue could adversely affect the realization of the population’s human rights and the ability of defendants and victims of possible human rights abuses and their relatives to secure justice and reparation under clear predetermined rules.

In a United Nations press release dated 16 December 2009, the Working Group on Arbitrary Detention, the Special Rapporteur on the independence of judges and lawyers and the Special Rapporteur on the situation of human rights defenders all stressed that “[t]he immediate and unconditional release of Judge Afiuni is imperative” and that “[r]eprisals for exercising [her] constitutionally guaranteed functions and creating a climate of fear among the judiciary and lawyers’ profession serve no purpose except to undermine the rule of law and obstruct justice”.

Amnesty International is also concerned that the fact that Judge Afiuni is being held in custody in a facility in which prisoners convicted by her are also held may put her at risk and amount to cruel, inhuman and degrading punishment because there is ongoing fear that she may suffer serious injury or death. A fear that is well-founded given the constant threats and physical attacks of which she has complained so far and which are apparently continuing without being properly investigated, as well as the widespread violence that is a feature of the country's prisons and which has merited the repeated issuing of protection measures by the Inter-American Commission on Human Rights.

According to reports, Judge Afiuni also suffers from various health problems that require medication and medical care, including gynaecological and oncological tests, and has, on more than one occasion, been denied access to appropriate medical attention.

AMNESTY INTERNATIONAL URGES THE VENEZUELAN AUTHORITIES TO:

- Release Judge Afiuni and unequivocally and publicly affirm their respect for the work of justice officials and their commitment to respecting and guaranteeing the independence of the judiciary.

ADDITIONAL INFORMATION

The 31st Examining Judge for the Metropolitan Area of Caracas, María Lourdes Afiuni Mora, has been in custody since 10 December 2009. She was arrested hours after ordering the conditional release of Eligio Cedeño, a banker accused of corruption who had been held in custody pending trial for two years and ten months, in contravention of Venezuelan law which stipulates that preventive detention should not exceed two years. The judge ordered Eligio Cedeño to be released on remand pending trial, at the same time banning him from leaving the country, ordering him to appear before the court every two weeks and authorizing his passport to be retained. In making her ruling, she appeared to take into account the view of the UN Working Group on Arbitrary Detentions which, on 1 September 2009, had stated that the detention of Eligio Cedeño was arbitrary in that it violated the right of the accused to a fair trial, in particular his right to be tried within a reasonable time or released. The Working Group based its ruling on the fact that the trial had been at a standstill for a long time, with no reason having been given by the government for the delay, as well as on the extremely long period of preventive detention.

On the same day that Judge Afiuni was arrested, Eligio Cedeño travelled to the United States where he is currently at liberty awaiting a decision on his request for political asylum. On 22 April 2010 the Venezuelan Government sought his extradition.

Judge Afiuni has been charged with “ordinary corruption, abuse of authority, aiding escape and criminal association”, charges that carry sentences of between five and eight years’ imprisonment. The charges were brought against her on 11 December 2009, the same day that President Hugo Chávez made the following statements on a radio and television programme at which the Attorney General was also present: “Well, she is in prison and I want this judge dealt with severely, I even said that to the President of the Supreme Court [Luisa Estela Morales]... and so I also say to the National Assembly that a law needs to be drawn up because it is much, much more serious for a judge to release a crook than for the crook himself... she should get the maximum sentence... I am asking for 30 years’ imprisonment, for the dignity of the country”. “I want the full weight of the law to be brought against her... I want the maximum sentence for judges who get up to this kind of dirty business... and not served in some office or other, where they should be is in prison”.

Judge Afiuni has so far been held in the *Instituto Nacional de Orientación Femenina*, a women’s prison in Los Teques, Miranda state. Her defence lawyer has reportedly filed two appeals against the decision to keep her in custody to await trial. Both were rejected.