



February 27, 2012

Via email: bcm@international.gc.ca

The Honourable John Baird, P.C. M.P.
Minister of Foreign Affairs
Lester B. Pearson Building, Tower A
125 Sussex Drive
Ottawa, ON K1A 0G2

Dear Minister:

Re: Independence of the Judiciary and Arbitrary Arrest – Venezuela

I write about the continued detention of Judge Maria Lourdes Afiuni in Venezuela. I am attaching information from the International Bar Association (IBA) about this situation, and would like to offer the support and assistance of the Canadian Bar Association (CBA) for any efforts the Government of Canada may be undertaking to investigate or address this situation.

The CBA is a national organization of over 37,000 lawyers, notaries, students and law teachers. Our primary objectives include upholding the rule of law as well as promoting improvements in the law and the administration of justice. Through its membership in the IBA, the CBA lends its voice to the advocacy efforts of the IBA. Additionally, through its connection to the IBA, CBA has access to and relationships with lawyers all around the world.

The arrest of Judge Maria Lourdes Afiuni has received a significant amount of attention around the world. Judge Afiuni was arbitrarily incarcerated in 2009 for conditionally releasing a banker who had been held without a trial for over two years, exceeding the limits of Venezuelan law. Judge Afiuni was charged with corruption, being an accessory to escape, criminal conspiracy and abuse of power. In February 2011 she was granted house arrest to recover from emergency surgery. On December 13, 2011, in the absence of Judge Afiuni or her lawyer, her house arrest was extended for another two years. Her continued detention demonstrates a disregard for judicial independence and the rule of law.

The IBA Human Rights Institute's (IBAHRI) report, *Distrust in Justice: the Afiuni case and the independence of the judiciary in Venezuela*,¹ notes grave concerns with the case of Judge Afiuni. It cites multiple violations of due process and judicial guarantees in her case. The IBAHRI takes the view that the arrest of this judge violates the principle of the presumption of innocence and shows scant regard for democratic values.

In addition, the arrest of Judge Afiuni has impaired the independence of the judiciary and the administration of justice. The IBAHRI states in its report that it fears members of the judiciary will be deprived of their liberty if they make decisions that are not aligned with the will of the executive. This poses a grave threat to the independence of the judiciary and seriously undermines public confidence in the administration of justice.

Assuring the independence of the judiciary is crucial to upholding the rule of law. Judges play a key role in any democracy. A judge's duty is to interpret and apply the law to the best of his or her ability. Courts stand as the last line of defence against injustice. Citizens must be assured that judges act impartially and make their decisions free of any outside influence or interference.

We urge the Canadian government to press for the release of Judge Afiuni and continue to demonstrate a firm commitment to the independence of the judiciary. We would be pleased to assist you in this regard in any way possible.

Yours truly,



Trinda L. Ernst, Q.C.

¹ Available online at http://www.ibanet.org/Human_Rights_Institute/HRI_Publications/Country_reports.aspx