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*His Excellency Nicolás Maduro Moros*  
*President of the Bolivarian Republic of Venezuela*  
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Venezuela

10 December 2018

**Open letter to His Excellency, Nicolás Maduro Moros, President of the Bolivarian Republic of Venezuela, from the International Bar Association's Human Rights Institute**

Your Excellency,

We are writing to you on behalf of the International Bar Association's Human Rights Institute (IBAHRI) on International Human Rights Day, a date that commemorates the adoption of the Universal Declaration of Human Rights in 1948, and marks the ninth anniversary of the detention of former Judge Maria Lourdes Afiuni Mora.

At the time of her arrest in December 2009, Judge Afiuni was judge of the Court of First Instance No.31 of the Criminal Circuit of the Metropolitan Area of Caracas. She was arrested without a warrant some hours after she ordered the conditional release of a political prisoner. Judge Afiuni was later accused of corruption, being an accessory to an escape, criminal conspiracy and misuse of authority. During her detention at the National Women's Correctional Institute, Judge Afiuni was subjected to multiple violations, including to her personal integrity, her right to health and her of her right to be treated with humanity and with respect for the inherent dignity of the human person.

In relation to this, on 13 February 2012 the IBAHRI wrote to former President Hugo Rafael Chávez Frías respectfully urging to drop all charges against Judge Afiuni ([letter available here](#)). On 14 June 2013, her pre-trial detention was substituted with restrictions to her freedom of movement, expression and work. These restrictions continue at the date of publication of this letter.

Judge Afiuni's trial officially commenced in November 2012 before the Trial Court No.17 of the Metropolitan Area of Caracas. However, the trial was suspended on 23 October 2013 due to the lack of assistance of Public Prosecutors to the scheduled hearing. On 29 April 2015, a second trial began.

The IBAHRI would like to bring to the attention of your Excellency's Government the serious interferences with the independence of the legal profession and the lack of due



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process and fair trial guarantees verified by the IBAHRI during the continuous monitoring of the criminal proceedings against Judge Afiuni.

The International Bar Association, established in 1947, is the world's leading organisation of international legal practitioners, bar associations and law societies. It has a membership of over 80,000 individual lawyers, and 190 bar associations and law societies, spanning over 170 countries. The IBAHRI, an autonomous and financially independent entity, works with the global legal community to promote and protect human rights and the independence of the legal profession worldwide. The IBAHRI's consolidated expertise in international observations is a guarantee of the highest standards in the selection of observers and of the independence and impartiality of its trial observations.

The IBAHRI deeply regrets the undue delays that have characterised the proceedings which were suspended more than 60 times until 31 January 2018. Furthermore, the proceedings have far exceeded the maximum term of the penalty of seven years provided for the crimes for which Judge Afiuni is tried. Although in January 2018 the Public Prosecutor's Office requested to end the trial stage and to proceed to adjudication with the evidence so far collected, the judge rejected the request and argued for the need to hear further testimonies. After 31 January 2018, hearings were scheduled every Friday in February and March, and every 15 days from April to the date of the publication of this letter. However, none of the hearings have been carried out because the court has been closed for an indefinite period of time.

The IBAHRI understands that the prosecutors in charge of the case have regularly changed. Some officials interviewed by the IBAHRI's observers have expressed concern about reprisals and stated that although they do not agree with the charges against Judge Afiuni, they were merely acting as instructed. In this regard, the IBAHRI would like to draw Your Excellency's attention to the fundamental norms that protect undue interference in the administration of justice, in particular, Guideline No. 4 of the [United Nations Guidelines on the Role of Prosecutors](#) and Principle No. 2 of the [United Nations Basic Principles on the Independence of the Judiciary](#), which establish that prosecutors and judges shall always act impartially, based on facts and in accordance with the law, without any restriction and without undue influences, inducements, pressures, threats or intrusions, whether direct or indirect, from any sector or for any reason.

During this process, disciplinary proceedings are also taking place against Judge Afiuni. The IBAHRI has not directly monitored these proceedings however, according to information received, Judge Afiuni has not been allowed access to the disciplinary file, nor given access to requested copies. She has been suspended from her profession for an indefinite period, without the right to remuneration. Moreover, despite the fact that lawyers of her choice have defended Judge Afiuni, she was assigned an ex officio lawyer to defend



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her in the disciplinary proceedings. In this regard, the IBAHRI wishes to remind your Excellency of the duty of all States to ensure that all persons are entitled to call upon the assistance of a lawyer of their choice to protect and establish their rights, in accordance with Article 14.3 d) of the ICCPR and Principle 1 of the [United Nations Basic Principles on the Role of Lawyers](#).

Furthermore, the IBAHRI is deeply concerned that the proceedings against Judge Afiuni are representative of the progressive weakening of the Venezuelan judiciary and the weakening of the rule of law in Venezuela. The Inter-American Commission on Human Rights underlined in its 2018 *Report on the Situation of Human Rights in Venezuela* that Judge Afiuni's arbitrary detention has had "a significant intimidating impact on judges who may fear being treated in the same way, even today". The report concludes that her case "illustrate[s] the grave crisis faced by the Judiciary in Venezuela with respect to its Independence" (see paragraphs 90-97 of the [report](#)).

In the light of the above, the IBAHRI urges Venezuelan judicial authorities to immediately acquit Judge Afiuni of all charges and to provide her with effective, adequate and prompt reparations. The IBAHRI also calls on Your Excellency's Government to adopt all the legislative, administrative, judicial and other measures that are necessary to ensure that judges, prosecutors and lawyers are able to perform all of their professional functions without intimidation, hindrance, harassment or improper interference, and for the establishment of an independent and impartial judicial power.

We would be grateful to receive your assurances that our concerns will be addressed as a matter of urgency.

Yours sincerely,

A handwritten signature in black ink, appearing to read "Hans Corell", enclosed in a dashed rectangular box.

Ambassador (ret) Hans Corell  
IBAHRI Co-Chair

A handwritten signature in black ink, appearing to read "Michael Kirby", enclosed in a solid rectangular box.

The Hon Michael Kirby AC CMG  
IBAHRI Co-Chair

Cc



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