

*A draft UN Human Rights Council resolution, adopted by dissidents and human rights activists at the 4<sup>th</sup> Geneva Summit for Human Rights and Democracy, 13 March 2012.*  
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## **Draft Resolution for the UN Human Rights Council**

### **Situation of Human Rights in Venezuela**

*The Human Rights Council,*

*Guided* by the Charter of the United Nations and the Universal Declaration of Human Rights, and recalling the International Covenants on Human Rights and other relevant human rights instruments,

*Reaffirming that* all Member States have an obligation to promote and protect human rights and fundamental freedoms and the duty to fulfil the obligations they have undertaken under the various international instruments in this field,

*Gravely concerned* that the Bolivarian Republic of Venezuela has severely restricted freedom of expression, prosecuted government critics, inhibited the activities of human rights organizations, and undermined the independence of its judiciary, thereby creating a chilling effect amongst the general public and media at large within Venezuela,

*Reaffirms that* an essential condition for the proper functioning of a pluralistic and democratic society requires that the State guarantee the necessary conditions for uninhibited democratic political debate which includes the operation of a media free to engage in dissent without fear of government reprisal,

*Deeply concerned* that the Government of the Bolivarian Republic of Venezuela has engaged in the arrest, incarceration, and criminal prosecution of individuals for having expressed opinions that disturb State authorities, in gross violation of the right to freedom of expression as guaranteed under Article 19 of the Universal Declaration on Human Rights,

*Alarmed* by legislation and actions by the Bolivarian Republic of Venezuela which have criminalised legitimate opinion and criticism regarding public officials, disregarding the principles of accountability and transparency which are necessary for efficient, ethical and honest government;

*Deeply concerned* by an orchestrated campaign to delegitimize, stigmatise and cripple the ability of human rights organizations to work in Venezuela, including through the pursuit of unjustified investigations, alarmingly broad rulings by the Supreme Court designed to prevent such organizations from conducting activities not sanctioned by the Government, the aggressive smear campaign launched by the government against human rights advocates, legislative measures that restrict the ability of human rights

organizations to obtain critical international funding, the expulsion of foreigners from the country if they express opinions that offend state institutions or senior officials,

*Alarmed* by the Government's calculated efforts in 2004 and 2010 to achieve a political takeover of the Supreme Court by stacking it with government supporters and creating mechanisms designed to purge other judges, thereby significantly altering the makeup of the judiciary of the lower courts, undermining the rule of law, preventing the court from legitimately serving as a check on executive powers and inhibiting its ability to uphold fundamental constitutional rights,

*Gravely concerned* regarding the plight of Judge María Lourdes Afiuni, who was immediately arrested by intelligence police officers after she ordered, on 10 December 2009, the conditional release pending trial of Eligio Cedeño, whose detention for nearly three years without trial was declared arbitrary by the United Nations Human Rights Council Working Group on Arbitrary Detention in its 1 September 2009 Opinion citing violations of the right to fair trial;

*Noting that* the case of Judge Maria Lourdes Afiuni has been previously addressed in Human Rights Council reports and by the United Nations High Commissioner for Human Rights in her statement at the tenth Biennial Conference of the International Association of Women Judges in Seoul,

*Welcoming further* the 16 December 2009 joint urgent appeal by three independent UN human rights experts to the Bolivarian Republic of Venezuela which called for the immediate release of Judge Afiuni, criticized the infringement by President Hugo Chávez of the independence of judges and lawyers, and noted that reprisals for the exercise of constitutionally guaranteed functions, and the creation of a climate of fear among the judiciary and the legal profession, serve no purpose other than to undermine the rule of law and obstruct justice,

*Deeply concerned* that previous appeals by relevant United Nations bodies and independent experts concerning the situation of human rights in Venezuela have not been heeded, and emphasizing that, without significant progress towards heeding those calls of the international community, the situation of human rights in Venezuela will continue to deteriorate,

1. *Condemns* the ongoing, systematic violations of human rights and fundamental freedoms of the people of Venezuela;
2. *Demands* that the Government of Venezuela ensure, enable and cultivate the existence of a free, independent, pluralistic, and diverse media;
3. *Urges* the Government of Venezuela to adopt all necessary measures to ensure that freedom of expression is respected and guaranteed, in accordance with the international human rights treaties to which Venezuela is a State party;

4. *Calls upon* the Government of Venezuela to repeal all laws that impinge on and restrict freedom of expression, including, but not limited to so-called “disrespect” (*desacato*) laws that unfairly prohibit the legitimate scrutiny and criticism of public figures and officials, thereby restricting the public’s ability to monitor government actions;
5. *Demands* that the Government of Venezuela repeal all laws that promote self-censorship and cultivate a palpable chilling effect that impacts not only individuals facing such charges, but also the general public, as well as all media outlets in Venezuela;
6. *Calls upon* the Government of Venezuela to lift restrictions on the freedom of expression, and instead guarantee and safeguard a free and independent media that is at liberty to report on or express views critical of the Government, free of any censorship;
7. *Urges* the Government of Venezuela, in accordance with international human rights standards, to take measures to prevent intimidation and reprisals against individuals and groups that seek to cooperate with the United Nations, to publicly support activities in defence of human rights and cooperation with the United Nations, its representatives and mechanisms in the field of human rights, to inform the population of ways and means to effect such cooperation, and to prosecute those who order or undertake such unlawful acts of intimidation or reprisal;
8. *Demands* that the Government of Venezuela to repeal all legislative measures, including through restrictions on fundraising, designed to curtail the legitimate activities of human rights organizations and other non-governmental bodies;
9. *Stresses* that the Government of Venezuela must refrain from engaging in campaigns that stigmatise and unfairly attack human rights organizations as well other non-governmental organizations, retract all public statements and media campaigns that have unjustly maligned these organizations, and instead pursue a path of constructive and meaningful dialogue with these organizations toward the goal of ending human rights violations;
10. *Requests* the Government of Venezuela to promptly and effectively prosecute and address all acts of intimidation and reprisal against human rights organizations and other non-governmental bodies in an appropriate manner, in order to combat impunity, bring perpetrators to justice and provide victims with appropriate remedies;
11. *Urges* the Government of Venezuela to ensure the independence and impartiality of the judiciary and to guarantee due process of law;

12. *Calls upon* the Government of Venezuela to implement measures to restore the integrity and independence of the Supreme Court and the judiciary, including measures to review the composition of the court, allow for current judges to be replaced, ensure the absence of conflicts of interest, in particular for cases concerned with fundamental human rights or that challenge Government authority;
13. *Demands* that the Attorney General immediately release and quash all charges against Judge María Lourdes Afiuni;
14. *Condemns* the Venezuelan Government's retaliation against those who express critical or dissenting opinions, including:
  - (a) the investigation and subsequent arrest of Guillermo Zuloaga, president of the private TV news channel Globovisión, which was deemed by the UN Special Rapporteur on freedom of expression to be a politically motivated arrest designed to intimidate Mr. Zuloaga from criticizing the President, in regard to which the Venezuelan Government must take all necessary steps to guarantee the right to freedom of opinion and expression of all people, in line with fundamental principles stipulated in Article 19 of the Universal Declaration of Human Rights and Article 19 of the International Covenant on Civil and Political Rights, to which Venezuela is a party;
  - (b) the decision to temporarily ban circulation of the weekly publication *Sexto Poder* in Venezuela, as well as the arrest, detention, and criminal prosecution of the publication's editorial director;
  - (c) the sentencing of former Governor of the state of Zulia and potential presidential candidate Oswaldo Álvarez Paz for "disseminating false information," in connection with comments he made in a television interview about investigations into the alleged presence of drug trafficking and armed groups in Venezuela;
15. *Requests* the Government of Venezuela to engage in a dialogue with the Office of the High Commissioner with a view to ensuring full respect for all human rights and fundamental freedoms;
16. *Strongly encourages* the thematic special procedures mandate holders to pay particular attention to the situation of human rights in the Bolivarian Republic of Venezuela, including the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, the Special Rapporteur on the rights to freedom of peaceful assembly and of association, the Special Rapporteur on the situation of human rights defenders, and the Special Rapporteur on the independence of judges and lawyers;

17. *Requests that* the High Commissioner for Human Rights report to the Council at its 20<sup>th</sup> session on the progress made in the implementation of the present resolution, including options and recommendations to improve its implementation.