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January 27, 2011

The Honorable Trinidad Jiménez García-Herrera
Minister of Foreign Affairs and Cooperation of Spain
Plaza de la Provincia, 1
Via fax and express mail
Madrid, Spain

Dear Minister Jiménez:

The Human Rights Foundation (HRF) respectfully writes to you, as Minister of Foreign Affairs and Cooperation of Spain, to express our deepest concern regarding your November 2 and November 16, 2010, statements about the nonexistence of political prisoners in Venezuela. We are writing to inform you of the case of Rubén González, a labor leader and prisoner of conscience of the Venezuelan government, as well as to give you a brief overview of the human rights situation in Venezuela. The cases that follow are by no means exhaustive, but are just a few illustrative examples of the types of human rights violations occurring in Venezuela today.

On November 2, 2010, while addressing the Spanish Senate, you stated:

In contrast to what happens in other countries, international human rights organizations such as Amnesty International and Human Rights Watch, have not categorized any of Venezuela's prisoners as political prisoners. There are prisoners under criminal charges, accused of having participated in the coup of 2002 or accused of possible corruption, who are considered political prisoners by some political parties of the opposition in Venezuela, but not by these organizations, which are human rights organizations, and whose criteria has been followed by us to deal with human rights issues in other countries.

On January 21, 2011, HRF declared Rubén González a prisoner of conscience of the Venezuelan government. HRF's declaration is the result of its exhaustive legal report on the case of Rubén González, which we enclose with this letter. HRF's report concludes that Rubén González, secretary general of Sintraferrominera, was accused, detained, imprisoned, and prosecuted exclusively for exercising his right to freely associate for labor purposes in Venezuela. From August 12-26, 2009, González led a peaceful strike of the workers of state-owned company Ferrominera, in protest of the company's failure to comply with a collective bargaining agreement signed on January 5, 2009. As a result of the strike, González was indicted for the crimes of unlawful assembly, violation of the freedom to work, violation of a security zone, and public incitement to commit crimes.

These accusations and the criminal proceedings against González are in violation of the Organic Labor Law, which recognizes the legitimate ends of labor union activities and strikes, and the Organic Penal Procedure Code, which establishes the minimum statutory requirements for a criminal case. The actions of the public prosecutor and the judge sitting on González's case also violate the international standard of protection of freedom of association. According to this international law standard, reprisals against a worker for exercising his legitimate right to strike, constitute a violation of freedom of association, as guaranteed by Article 16 of the American Convention on Human Rights.

On November 19, 2010, the Committee on Freedom of Association of the International Labor Organization (ILO) requested that the Venezuelan government release González “without delay pending judgment” and that González be “appropriately compensated for his inappropriate detention.” On January 19, 2011, Thomas R. Donahue, President Emeritus of the AFL-CIO, and Chairman of the Committee for Free Trade Unionism (CFTU) issued a [statement](#) joining HRF and concluding the Venezuelan state “should end this mockery of its own court system and free Rubén González.”

González's case is emblematic of the dire situation of human rights and highly eroded state of democracy in Venezuela. According to figures from the Venezuelan Program for Education-Action on Human Rights (PROVEA), in the last five years more than 2,240 protestors in Venezuela—including workers, peasants and students—have been subjected to criminal prosecution for exercising their rights to freedom of expression and freedom of peaceful association. On December 30, 2009, the Inter-American Commission on Human Rights (IACHR) determined that: “In Venezuela, the official response to peaceful demonstrations has been characterized by the criminalization of social protest through the criminal prosecution of the persons involved” and called on the Venezuelan state “to refrain from subjecting to judicial processes [those] labor leaders who are exercising that right legitimately and peacefully.”

Yet, Ruben González is neither the first nor the only prisoner of conscience in Venezuela. Last year, HRF declared Oswaldo Álvarez Paz, former governor of Zulia and former presidential candidate, a prisoner of conscience of the government of Hugo Chávez after a legal report determined that he was imprisoned solely for having expressed opinions that were critical of President Chávez and his government. The case of Rubén González is the seventh documented through HRF's [Caracas Nine](#) campaign, a project aimed at raising international awareness about the cases of individuals who are the targets of harassment, judicial persecution or imprisonment for expressing critical opinions or exercising human rights against the will of the Venezuelan government.

The first Caracas Nine case is that of prisoner of conscience Francisco Usón, a retired army officer who was incarcerated and sentenced to five and a half years in prison for having made public comments suggesting the possibility of human rights violations in Venezuelan military prisons. Usón served three years and seven months in prison before he was released on parole. Student leader Yon Goicoechea is the second Caracas Nine case. A leader of the student movement opposing the constitutional reform of 2007, Goicoechea was the target of multiple attacks and threats for peacefully protesting against the erosion of democracy and human rights violations in Venezuela. Caracas Nine case number three is Alberto Federico Ravell, the former director of Globovisión. His case clearly exemplifies the struggle of hundreds of people in the Venezuelan media who are victims of constant attacks and harassment for holding an independent editorial line. In 2008, the Inter-American Court of Human Rights condemned the Venezuelan state for failing to protect the freedom to search, receive, and disseminate information, and the right to personal integrity of a group of Globovisión workers.

The fourth Caracas Nine case is Marta Colomina, an independent journalist who is a victim of intimidation, threats, and attacks for expressing an independent opinion. Caracas Nine number five is Humberto Quintero, a lieutenant colonel who, in 2005, was detained, tortured, and sentenced to three years and eight months in prison for allegedly capturing the terrorist leader of the Revolutionary Armed Forces of Colombia (FARC), Ricardo González, alias Rodrigo Granda. Quintero was finally released in May of 2009, after spending more than four years in prison. Caracas Nine case six is Gustavo Azócar, a journalist and university professor, who has been the target of judicial persecution since 2000, due to his critical position toward the government of Hugo Chávez. In March 2010, after long criminal proceedings plagued by numerous due process violations

and after almost eight months in prison, Azócar was disqualified from running for public office and sentenced to two years and six months in jail. As of today, Azócar is serving his sentence on parole.

The seven cases documented through HRF's Caracas Nine campaign are representative of the human rights abuses suffered by thousands in Venezuela. González is the only Caracas Nine dissident currently in prison. Nonetheless, all of them remain the subject of some form of harassment or restriction of their personal liberties. For instance, Oswaldo Álvarez Paz, after spending nearly two months in jail, is currently not allowed to speak publicly about his case, as he faces criminal proceedings that could lead to a conviction of up to 16 years in prison.

As with previous cases, the case of Francisco Usón led to an Inter-American Court of Human Rights (ICtHR) decision that confirmed the human rights violations documented by HRF. The ICtHR determined that the Venezuelan state had violated Usón's freedoms of thought and speech, his right to judicial guarantees, his right to judicial protection, and his right to personal liberty, among others. Yet the Venezuelan government has not only refused to comply with this and other rulings of the ICtHR, but the Superior Tribunal of Justice of Venezuela, comprised in its majority by officials who are loyal to the Chávez regime, has even called on the government "to denounce" the American Convention on Human Rights, "given the evident usurpation of powers incurred by the Inter-American Court."

Venezuela is the only country in the Americas, apart from Cuba, that consistently denies the Inter-American Commission on Human Rights (IACHR) permission to enter the country. It is also the only country that considers this institution to be a "coup maker." Furthermore, the government has not only denied IACHR entry to Venezuela, but on September 18, 2008, Venezuelan law enforcement officials expelled José Miguel Vivanco, Human Rights Watch's (HRW) Americas Division Director, at gunpoint from that country. Following this incident and later remarks made by then president of Colombia, Alvaro Uribe, against HRW, HRF stated in defense of Vivanco:

.... HRF considers HRW to be a human rights organization that has defended these principles in the majority of the countries of this continent with conviction, competence, and integrity, within a framework of transparency and professionalism. A great part of this accomplishment is due to the work of José Miguel Vivanco, who, in a very professional manner, impartially and tirelessly, has been fighting for human rights in this world. It is in that respect, that HRW in Latin America, under the guidance of Mr. Vivanco, has always been opportune in investigating and denouncing human rights violations with equanimity, regardless of the government these violations come from, its political ideology or its ends; and only aiming at promoting human rights and identifying those who violate them.

Regarding HRW and Amnesty International (AI), you claimed before the Spanish Senate that these institutions "have not categorized any of Venezuela's prisoners as political prisoners." Although it seems to be true that neither of these organizations has identified any "prisoners of conscience" in Venezuela, both organizations have repeatedly published reports and press releases denouncing cases of persecution and imprisonment of individuals solely for exercising their human rights in a peaceful manner. In these releases, HRW and AI have: (1) called on the Venezuelan government to "stop targeting critics of the government" (AI March 31, 2010); (2) demanded the liberation of Oswaldo Álvarez Paz for being "imprisoned for criticizing the Chávez administration in a TV show" (HRW, March 25 2010); (3) denounced that "several people are being prosecuted, or have been convicted, for criticizing the government" (a specific reference is made to the cases of Francisco Pérez, a journalist who was "sentenced to three years and nine months in prison, lost his professional certification, and was ordered to pay a fine of almost \$20,000 for publishing an article in March 2009, stating that the mayor of Valencia had hired his wife and son in high-level positions in the local government;" Oswaldo Álvarez Paz, imprisoned "for criticizing the Chávez administration during a television interview in March;" and Guillermo Zuloaga, president of Globovisión, "investigated for criticizing Chávez in a public statement") (HRW, July 21 2010); and, (4) declared that Oswaldo Álvarez Paz, María Lourdes Afiuni, Richard Blanco, Guillermo Zuloaga, and Wilmer Azuaje faced charges that "are politically motivated and are an attempt to silence critics of the Venezuelan government" (AI, April 1st 2010).

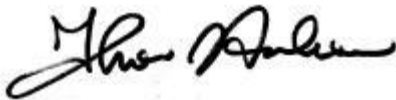
Your claims regarding the case of Judge Afuni are also incorrect. According to you, “Ms. Afuni ordered the release from custody of a person that was involved in the coup d’état, and this issue was resolved in accordance with Venezuelan law.” The fact is that Judge Afuni was detained immediately after decreeing parole for Eligio Cedeño, a businessman accused of bank fraud, who had remained in preventive imprisonment for almost three years, while Venezuelan law established a two-year maximum. Judge Afuni’s decision followed the ruling of the United Nations Working Group on Arbitrary Detention, holding that Cedeño’s detention was arbitrary. Moreover, this same group of human rights experts has already declared that Judge Afuni’s detention was arbitrary.

HRF is currently investigating the case of Judge Afuni in view of determining whether her case could be the eighth of the Caracas Nine. As mentioned above, HRF declares someone a “prisoner of conscience” only after an exhaustive legal investigation has determined that the person in question was the victim of prosecution and imprisonment for exercising his or her right to freedom of speech and association.

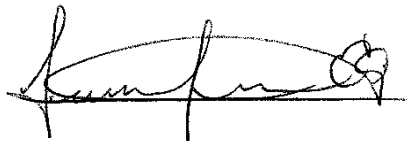
Minister Jiménez, your statements of November 2, which you re-affirmed on November 16, 2010, regarding the nonexistence of political prisoners in Venezuela suggest that you ignore the dire situation of human rights in that country. HRF believes your statements have the harmful effect of confusing public opinion in your country and in Latin America as to the human rights situation in Venezuela. Furthermore, statements such as the ones you have made are worrying, as repressive governments can use them in order to undermine the efforts of international human rights organizations, as well as the many human rights defenders that risk their liberty every day in their own countries.

In your statements of November 2, you asserted that “the Spanish government has made the protection of human rights one of its top priorities in matters of foreign policy, and the liberation of political prisoners constitutes an unmistakable commitment to both our bilateral and multi-lateral relations.” Because of this, HRF respectfully asks that you carry out the priorities of Spanish foreign policy, rectify your declarations, and exercise good offices for the release of Rubén González. We thank you for your attention.

Sincerely,



Thor Halvorssen
President



Javier El-Hage
General Counsel