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## U.S. Department of State

### Venezuela Country Report on Human Rights Practices for 1996

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#### VENEZUELA

Venezuela is a republic with an active multiparty democratic system, a bicameral Congress, and a popularly elected president. Over three decades of two-party dominance ended in 1994 when former president Rafael Caldera was sworn in as President with the support of a coalition of small and medium sized parties. Five major political groupings now comprise the Congress. In July 1995, the Government reinstated most of the constitutional protections for citizens' rights that it had suspended in June 1994 ostensibly to combat subversion and to address the country's financial crisis. In some border areas, suspension of the freedom from arbitrary arrest and detention and search without warrant, as well as freedom to travel, remained in effect. The judiciary is legally independent, but judges are subject to influence.

The security apparatus comprises civilian and military elements, both accountable to elected authorities. The Justice Ministry controls the Judicial Technical Police (PTJ), which conducts most criminal investigations. The Interior Ministry controls the State Security Police (DISIP), which is primarily responsible for protecting public officials and investigating cases of subversion and arms trafficking. The General Directorate for Military Intelligence (DIM), under the Defense Ministry, is responsible for collecting intelligence related to national security and sovereignty. The National Guard, a branch of the military, has arrest powers and is largely responsible for guarding the exterior of prisons and key government installations, maintaining order during times of civil unrest, monitoring frontiers, and providing law enforcement in remote areas. It also supplies the top leadership for the Metropolitan Police, the main civilian police force in and around Caracas, and for various state and municipal police forces. Both police and military personnel were responsible for human rights abuses.

The public sector, including the petroleum industry which accounts for some 24 percent of gross domestic product, dominates the economy. In response to a financial crisis in 1994, the Government instituted price and exchange controls, which exacerbated the economic recession and the Government's fiscal and monetary difficulties. To stabilize and revive the economy, the Government implemented a reform program and virtually eliminated controls in April. High inflation negatively affected the poor and a shrinking middle class. The Government estimates unemployment at 12 percent, but does not include the informal sector, which represents about 50 percent of the labor force.

The Government's human rights record continued to be poor in certain areas, and includes extrajudicial killings by the police and military, torture and abuse of detainees, failure to punish police and security officers accused of abuse, arbitrary arrests and excessively lengthy detentions, illegal searches, corruption and severe inefficiency in the judicial and law enforcement systems, and extremely harsh prison conditions. Violence against women, abuse of children, and discrimination against the disabled continue to be problems. The Government does not rigorously defend the rights of indigenous people. In an effort to address these problems and better coordinate human rights policy, the Government created an intergovernmental Human Rights Commission in December.

## **RESPECT FOR HUMAN RIGHTS**

### **Section 1 Respect for the Integrity of the Person, Including Freedom from:**

#### **a. Political and Other Extrajudicial Killing**

There were no reports of targeted political killings, but extrajudicial killings, primarily of criminal suspects, by the security forces continued. The Venezuelan Program of Action and Education in Human Rights (PROVEA), a highly respected nongovernmental human rights organization, documented 146 extrajudicial killings from October 1995 through September 1996. The killings involved summary executions, indiscriminate or excessive use of force, death resulting from torture and mistreatment while in custody, and death resulting from abuse during military or public service. According to PROVEA, the State Police carried out 47 of the killings; the Metropolitan Police of the Federal District, 26; the Municipal Police, 18; the PTJ, 15; the National Guard, 12; the armed forces, 12; the DISIP, 11; and other branches of the security apparatus or a combination of branches, 5.

The perpetrators of extrajudicial killings act with near impunity, as the Government rarely prosecutes such cases. The police often fail to investigate crimes allegedly committed by their colleagues and characterize incidents of extrajudicial killings as "confrontations," even though eyewitness testimony and evidence strongly indicate otherwise. In addition, the civilian judicial system remains highly inefficient and sometimes corrupt, and military courts are often strongly biased in favor of members of the armed forces accused of abuse. A special pretrial summary phase called "nudo hecho," which is used in cases involving public officials and is conducted in secret, often shields members of the security forces from prosecution, since cases can languish in that phase for several years. In the small number of prosecutions in which the courts convict perpetrators of extrajudicial killings and other abuses, the sentences issued are frequently light or the convictions are overturned on appeal. Unlike common criminals, members of the security forces charged with crimes rarely spend much time in prison.

In February several agents of the National Guard in Maracaibo detained Danny Ojeda Arrieta ostensibly for failure to carry proper identification. Two hours later they delivered him to a hospital with severe head injuries. He died 2 days later. The guardsmen involved claimed that Ojeda Arrieta jumped from their moving car. The Zulia state legislative assembly has requested an investigation. In April several members of the Caracas Metropolitan Police took Ramses Zambrano from his home to question him

about a burglary. Less than an hour later they took him to a hospital with severe bruises to his chest, neck, and face. Zambrano died a short time later; the case was under investigation. In June following a robbery and shooting in a Caracas bakery in which a policewoman and a suspect were killed, members of the Metropolitan Police captured uninjured two other suspects whom they handcuffed and took away. A few hours later the police delivered the two suspects to the morgue, dead from bullet wounds. The authorities charged seven policemen with the killings, but a judge released all of them in September on the grounds that the case as filed was technically deficient.

In October during a dispute with some inmates, members of the National Guard fired tear gas canisters into a closed cellblock of La Planta prison in Caracas, which started a fire that killed 25 trapped inmates. The authorities charged three National Guard members and one prison guard with manslaughter. The prison guard, who applied the lock, testified that the National Guard prevented him from opening the cell when the fire started. Their trial had not been held by year's end.

A prosecutor charged with investigating the 1995 disappearance of Marcos Tulio Briceno Escalona told his family members that Briceno had been killed and his body dumped in a reservoir. Although witnesses claimed that PTJ members detained Briceno just before his disappearance, the prosecutor's office found insufficient evidence to charge any official. PROVEA included his death in its list of extrajudicial killings. There has been no trial or other resolution of the August 1995 execution-style killing of 21-year-old Hector Rojas, although the authorities have imprisoned four members of the PTJ.

There were no prosecutions or new revelations surrounding the discovery of a common grave in April 1994 in the Sierra de Perija region of Zulia state. Forensic experts provided no count of the number of bodies found in the grave, but human rights groups placed the number at around 15. At least one of the bodies showed signs of execution-style killing. Although members of a special rural contingent of the Zulia state police were alleged to have committed the killings, there were no arrests. A number of persons have come forward with credible testimony in recent years that there are additional common graves in the Sierra de Perija and Catatumbo regions as a result of killings by security forces, although subsequent government investigations were inconclusive. Human rights groups reported that local farmers and indigenous people are afraid to come forward with additional information for fear of reprisals.

The authorities also never prosecuted or held anyone responsible

for the November 1992 killing of at least 63 prisoners at Catia prison. The National Guard--erroneously claiming that coup leaders had distributed arms there--stormed the prison, opened cells, and fired on inmates. The majority of bodies found were reportedly shot at close range, suggesting summary executions. Apart from the officially recorded 63 prisoners killed, the fate of 25 others remains unknown--either their bodies were not found or they escaped during or near the time of the killings. The Committee of Family Members of the Victims of the Unrest (COFAVIC) continued to seek prosecutions and a thorough investigation of the Catia prison killings.

There were no prosecutions for the 1992 killing of reporters Maria Veronica Tessari and Virgilio Fernandez by members of the security forces. Tessari had been covering a student demonstration and Fernandez a coup attempt.

Minimal progress was made towards resolving some 300 alleged extrajudicial killings by security forces during and after the civil unrest of February-March 1989. There has been only one prosecution: A police officer was found guilty in 1991 of killing 18-year-old Eleazar Ramon Mavares, shot by several police officers some 18 times at close range. The courts released the officer from prison 1 year later. In

negotiations held with the Inter-American Commission on Human Rights (IACHR) in 1995, the Government agreed to initiate a new investigation of the Mavares case, punish those responsible, and provide indemnities to the victim's family. The Government's offer to pay \$14,737 (7 million bolivars) in damages was judged inadequate by the family. COFAVIC referred 44 cases surrounding the 1989 killings to the IACHR, asserting that the Government had not ensured justice.

In September the Inter-American Court of Human Rights awarded \$722,332 in damages to two survivors and the families of 14 fishermen killed in 1988 by military and police officers near the border town of El Amparo, Apure state. The military originally claimed that the deaths were the result of action taken against Colombian guerrillas, but the Government later acknowledged responsibility and said that it would pay indemnities to the survivors and the victims' families. In August 1994, a military tribunal overturned the conviction of 16 defendants in the case despite strong evidence that they had participated in a planned ambush.

Mob lynchings of supposed criminals is a growing problem. The victims are almost always known criminals who prey on residents of poor neighborhoods. Between October 1995 and September 1996, PROVEA recorded 14 lynchings resulting in death and 24 attempted lynchings.

#### b. Disappearance

There were no reliable reports of persons who disappeared after being detained by the police or the armed forces.

There were no developments in connection with the 1995 disappearances of Julio Rafael Tovar, Fidel Ernesto Croes Aleman, Luis Martin Sanches Vargas, Juan Daniel Monsalve, or Jose Ramos; or the 1994 disappearances of Elsidia Ines Alvarez, Benjamin Vasquez, or Fidel A. Sanabria. All had reportedly been detained by security force members prior to their disappearances. A family member of Yolanda Landino, who disappeared in 1993, claims that she is living in Colombia.

#### c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment

The law prohibits torture, but credible human rights groups report that security forces continue to abuse detainees physically. This abuse most commonly comprises beatings during arrest or interrogation, but there have been incidents when the security forces used near suffocation and other forms of torture that leave no telltale signs. Most victims come from the poorest and least influential parts of society. There were also cases of torture of political activists and student leaders, after they were arrested and held on charges such as assault or destruction of property.

PROVEA documented 63 cases of torture from October 1995 through September 1996. A large number of cases were never reported because the victims feared retribution. According to PROVEA, the PTJ were responsible for 31 of the reported torture incidents; the State Police, 6; the Metropolitan Police, 5; the DIM, 4; the armed forces, 3; the DISIP, 2; the National Guard, 1; and unknown branches of the security apparatus or a combination of branches, 11. Many of these cases were in border areas where constitutional protections were suspended.

Torture, like extrajudicial killings, continues because the Government does not ensure the independent investigation of complaints needed to bring those responsible to justice. In addition to lack of vigor by the judiciary, the fact that the Institute of Forensic Medicine is part of the PTJ also contributes to a climate of impunity, since its doctors are unlikely to be impartial in their examinations of cases that involve torture by members of the PTJ. Very few instances of torture have resulted in convictions.

In January and twice in April plainclothes Caracas police detained and tortured Luis Escobar Ugas, an activist with the Bolivarian Revolutionary Movement. During the last detention Escobar suffered eight cigarette burns on his left arm and was forced to kneel for a mock execution. In May members of the PTJ suspended bank robbery witness Ramon Molina Castro from the ceiling by his hands, which were handcuffed behind his back. He stayed in that position for 3 hours, and he no longer has use of his hands or arms. He was released from detention after 8 days with the threat of death if he reported what had happened. In June while investigating an arson burning of 13 buses, members of the PTJ allegedly beat, suspended from the ceiling, and threatened with death eight suspects in order to extract confessions. The prosecutor ordered medical examinations in order to determine whether the suspects had been tortured; the results were negative, and no charges were filed.

In the border area where constitutional protections have been suspended, the National Guard and army commit abuses with near impunity. The Support Network for Justice and Peace has documented many such cases by amassing detailed witness testimony. For example, in February in the Anaru district of Apure state two drunken guardsmen reportedly entered the house of two women and a baby and sexually assaulted one of the women. Later in the same day 10 guardsmen went to the house to threaten the women if they filed a complaint. They nevertheless did so, but the guardsmen were not detained.

There has been no resolution of the border-area cases from 1995, in which members of the military tortured 23 rural workers near Cararabo and 19 peasant farmers in La Victoria, both in Apure state.

Prison conditions continued to be extremely harsh due to underfunding, poorly trained staff, corruption among prison staff and National Guard members, and overcrowding so severe as to constitute inhuman and degrading treatment. As of December 5, the 31 prisons administered by the Ministry of Justice held 25,369 inmates, of whom the courts had sentenced only 6,513. The prisons operate on average at twice their designed capacity. Inadequate diet, minimal health care, a prisoner to guard ratio as high as 40 to 1, and physical abuse by guards and by other inmates led to many prison riots. At least two deaths were attributed to guards: That of a prisoner shot in the face in Catia prison, and a prisoner tortured to death by fellow inmates instigated by National Guard members in Tocoron prison. In October guards fired tear gas canisters that started a fire that killed 25 inmates in a locked cellblock (see Section 1.a.). Inmates often have to pay guards as well as each other to obtain necessities such as space in a cell, a bed, and food. Guns, knives, and illegal drugs are easily smuggled into most prisons, and violence between prisoners is very common.

In March a 6-hour-long pitched battle between rival inmate groups in La Pica prison in Monagas state left at least 12 persons dead and 25 injured. In April a riot in Santa Ana prison in Tachira state left six dead and two injured. PROVEA registered a total of 220 prisoners killed and another 1,333 wounded as a result of violence from October 1995 through September 1996. According to the Ministry of Justice, 207 inmates were killed, mostly by firearms or knives, and 1,133 were wounded during the year. In addition, hundreds of others died as a consequence of filth, poor diet, and inadequate medical care.

There were no prosecutions of public officials for the corruption and neglect that contributed to the January 1994 riot at Sabaneta prison in Maracaibo, in which inmates killed 105 fellow prisoners and wounded scores of others. Prison staff and the National Guard were generally unwilling to enter the facility in the months leading up to the riot, allowing a state of near anarchy to develop. In addition, during the riot, the National Guard allegedly waited for at least 2 hours before entering to restore order. As a result, the number of casualties increased unnecessarily.

The Government permits prison visits by human rights monitors. Delegations from Amnesty International, Human Rights Watch, and the IACHR visited several prisons in 1996 and came to similar conclusions regarding the inhuman conditions. The Government acknowledged the poor state of the

prisons and made plans to improve the situation. The President inaugurated two prison expansions in December, designed to replace Caracas' violence-prone Catia prison, and the Government announced plans to build three new prisons in 1997. Nonetheless, funding for prisons remained extremely low, preventing significant improvement in most penitentiaries.

#### d. Arbitrary Arrest, Detention, or Exile

In 1995 the Government reinstated the constitutionally protected freedom from arbitrary arrest and detention in all but 16 municipalities along the Colombian border where guerrilla activity was a continuing problem. However, the press and human rights groups continued to report a large number of arbitrary detentions during anticrime sweeps in impoverished areas by the Metropolitan Police, the DISIP, the National Guard, and the PTJ. The authorities detained persons during the sweeps for up to 2 days while they checked criminal records; most were released without charges. PROVEA documented 8,888 persons detained in sweeps from October 1995 through September 1996.

The law provides for the right to judicial determination of the legality of detention; however, the police may hold persons without an arrest warrant for up to 8 days, and the courts may hold them for up to an additional 8 days in court custody. In many cases, the police abused detainees physically and psychologically during the initial 8-day period and illegally held them incommunicado. During the second 8-day period a judge may, on the basis of the police investigation, order either the formal arrest or the release of the suspect. Arbitrary arrests are common, and authorities sometimes exceed the time limits for holding suspects. Prison officials often illegally demand payment from prisoners for transportation to judicial proceedings at which formal charges are made. Those who are unable to pay are often forced to forgo their judicial hearings.

The 1939 Vagrancy Law permits the detention for up to 5 years, without warrant, trial, or judicial appeal, of people deemed by the police to be a danger to society even though there is no evidence that they committed a punishable crime. This law is used chiefly against people with previous criminal records who are detained during police sweeps. In October the governor of Carabobo decreed that the Vagrancy Law would be applied to squatters on public and private land. PROVEA documented the application of this law against 552 detainees from October 1995 through September 1996.

Forced exile is illegal and is not practiced.

#### e. Denial of Fair Public Trial

The civilian judiciary is legally independent, but judges are subject to influence from a number of sources.

The judicial sector consists of the Supreme Court, which is the court of final appeal; the prosecutor general, who provides opinions to the courts on prosecution of criminal cases and acts as public ombudsman to bring public employee misconduct or violations of the constitutional rights of prisoners or accused to the attention of the proper authorities; the Ministry of Justice, which manages the national police force and prisons and files complaints in criminal courts; and the Judicial Council, which oversees the lower courts as well as the selection and training of judges. The lower court system includes district and municipal courts as well as trial and appeal courts which deal with civil and criminal matters.

The law provides for the right to a fair trial and considers the accused innocent until proven guilty in a court. The justice system, however, is overburdened and inefficient, suffers from widespread corruption,

and lacks public credibility. Judges are underpaid, poorly disciplined, and susceptible to political influence. The judicial process is paper intensive, requiring the costly and time-consuming production of voluminous reports at every stage by judges, attorneys, and witnesses. Case backlogs and lengthy pretrial detention averaging 4 1/2 years are the norm.

The law provides for public defenders for those unable to afford an attorney, but there are not enough public defenders to handle the caseload. The Judicial Council reported that there are 159 public defense attorneys for the entire country.

Military courts can try civilians in cases of armed subversion and whenever armed forces members are involved. Military courts are subject to a requirement for a speedy trial and a statute of limitations similar to that of civilian courts. Persons convicted by a military court have the same right of appeal to the Supreme Court as do those convicted by the civilian system. Military courts, however, are significantly different from civilian courts in that by law the President must review every case after the initial investigation stage and decide if that case will go to trial. Human rights groups assert that this gives the executive excessive power to intervene in military cases. In addition, the Supreme Court selects military judges from a list of candidates provided by the Minister of Defense, a process that links the careers of military judges to the high command. The tendency of military judges to be responsive to the views of their military leaders, to maintain procedural secrecy, and to act slowly in high-profile cases in which the military is implicated make impartial or timely trials for defendants unlikely. As a result, military offenders evade punishment for extrajudicial killings and other human rights abuses.

There were no reports of political prisoners.

#### f. Arbitrary Interference with Privacy, Family, Home, or Correspondence

Constitutional provisions prohibit arbitrary interference with privacy, family, home, and correspondence. However, from June 1994 to July 1995, the Government suspended the constitutional protection of freedom from search without a warrant, along with other freedoms. This suspension remained in effect in some border areas throughout 1996. Even after reinstatement of the provision in urban areas, security forces often conducted searches of homes without warrants, especially during anticrime sweeps in impoverished neighborhoods. In recent years, there have been some complaints of telephone surveillance, and human rights monitors accused the security forces of illegal telephone monitoring.

### **Section 2 Respect for Civil Liberties, Including:**

#### a. Freedom of Speech and Press

The Constitution provides for freedom of speech and the press, and the Government generally respects these rights in practice. Individuals criticize the Government publicly, although there were a few instances of reprisal. In February an artist was detained after exhibiting on a street corner his painting of the President and the Pope together with starving people. In October the DISIP detained an astrologer overnight and questioned him because he had predicted that the President would die in 1997. In December a judge sentenced the author of a 1995 book to 1 year in prison for criminal defamation. The book, titled "How much does a judge cost?" (Cuanto vale un juez?), is a compilation of accusations of judicial corruption; the judge also ordered confiscation of the book.

The print and electronic media are independent. However, a 1994 law forbids persons without journalism degrees to practice and requires journalists to be members of the National College of

Journalists. Media owners, under the name Venezuelan Press Bloc, brought a case to the Supreme Court in November 1995 challenging the law as a violation of the freedom of expression provided for in the Constitution and international agreements on human rights that have the force of law. The Court had not ruled by year's end.

Some newspapers claimed that the Government restricted their access to foreign exchange to pay for newsprint because they took an antigovernment editorial line. Courts used restraining orders to limit reporting on certain cases. The police harassed television reporters who had filmed the arrest of two robbery suspects just before the police shot and killed them. The authorities never prosecuted security force members who killed two reporters in 1992 (see Section 1.a.).

The Government respects academic freedom.

#### b. Freedom of Peaceful Assembly and Association

The Government generally respects the constitutional provision for freedom of peaceful assembly and association. Public meetings, including those of all political parties, are generally held unimpeded. The Government requires permits for public marches but does not deny them for political reasons.

As in earlier years, many demonstrations turned violent and were quelled by security forces. In January and February there were a number of violent protests against bus fare increases throughout the country. Hooded youths known as "encapuchados" frequently fomented the violence. In June groups of encapuchados set fire at night to a total of 13 minibuses used to transport workers from the Caracas suburbs. The fire killed a couple sleeping in one of the buses. In November violence broke out at the Central University of Venezuela and the Pedagogic University Institute of Caracas after the Government turned down a request to hold a march to protest a higher education bill in Congress. There were also a number of incidents where security forces contained or stopped peaceful protests. According to PROVEA, 181 people were injured during demonstrations and 756 detained from October 1995 through September 1996.

The Government generally respects the constitutional provision for freedom of association. Professional and academic associations operate without interference.

#### c. Freedom of Religion

The Constitution provides for freedom of religion, provided that a faith does not threaten public order or violate good custom. The authorities respect this right in practice; all religious groups enjoy freedom of worship.

#### d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation

The Constitution provides for the right of citizens and legal residents to travel within the country and to go abroad and return. The Government, however, can suspend the freedom to travel, as it did from June 1994 to July 1995. The Government also restricts foreign travel for persons being investigated for criminal activities.

Venezuela traditionally has been a haven for refugees, exiles, and displaced persons from many European, Caribbean, and Latin American countries. The Government cooperates with the office of the United Nations High Commissioner for Refugees and other humanitarian organizations in assisting refugees. Government policy does afford first asylum, but precise data were not available. There were a

total of 337 applicants for asylum, of which 45 were accepted; about 90 percent of these cases involved first asylum. There were no reports of forced return of persons to a country where they feared persecution.

### **Section 3 Respect for Political Rights: The Right of Citizens to Change Their Government**

The Constitution provides citizens with the right peacefully to change their government, and citizens exercise this right through periodic, free, and fair elections held on the basis of universal suffrage. An antiquated and inefficient system for counting votes, however, gives rise to numerous and, in some cases, credible allegations that the political parties that dominate electoral councils commit fraud.

Women and nonwhites participate fully in government and politics

but remain underrepresented in senior leadership positions. Women hold 12 seats as Deputies in the member lower house of Congress, 3 seats in the 53-person Senate, and 1 of 27 ministerial positions. Indigenous people have traditionally not been fully integrated into the political system due to their lack of knowledge of how it works, low voter turnout, and residency in areas far from the capital and other cities. Few indigenous people are in the Government, and only one is in Congress as an alternate deputy.

### **Section 4 Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights**

A wide variety of human rights groups generally operate without government restriction, investigating and publishing their findings on human rights cases. Both international and local human rights organizations were provided ready access to the prison system. However, government officials were often critical of human rights groups, accusing them of seeking to discredit the State and undermine the country's image. In July the Minister of the Presidency met with Amnesty International (AI) chairman Pierre Sane, who had come to present AI's report on prison conditions. The Minister later asserted that Sane had his mind made up on the subject in advance of the meeting. Subsequently, the Minister of Interior opened a dialog with the local AI representative in an effort to establish a channel to allow information about human rights abuses to reach the Ministry for investigation.

In July and October, several human rights monitors operating in the militarized zone of Apure state were jailed briefly without justification. In December the President named a national human rights commission, whose functions include advising the executive branch on human rights issues, making recommendations to improve respect for human rights, and facilitating cooperation with international and nongovernmental bodies concerned with human rights.

### **Section 5 Discrimination Based on Race, Sex, Religion, Disability, Language, or Social Status**

The law prohibits discrimination based on ethnic origin, sex, or disability. The Government, however, does not sufficiently enforce laws that safeguard the rights of indigenous people, protect women against societal and domestic violence, and ensure disabled people's access to jobs and public services. Very few resources are devoted to children's welfare; young delinquents are locked in institutions that are unsafe and dangerous.

Women

Women face substantial institutional and societal prejudice with respect to rape and domestic violence. The law makes rape extremely difficult to prove, requiring at a minimum medical examination within 48

hours of the violation. Few police officers are trained to deal responsibly with rape victims. A total of 7,816 sexual assaults, including rape, were reported to the authorities in 1995; data for 1996 were not available at year's end. Women's organizations, however, assert that such figures are very low and do not accurately portray the problem of rape and sexual assault. The overwhelming majority of victims do not report the incident or press charges due to societal pressure and their own feelings of guilt.

Domestic violence against women is very common and has been aggravated by the country's economic difficulties. According to local monitors, the police are generally unwilling to intervene to prevent domestic violence, and the courts rarely prosecute those accused of such abuse. In addition, poor women are generally unaware of legal remedies and have little access to them.

The Congress reformed the Civil Code in the 1980's to make women and men legally equal in marriage. Women account for roughly half the student body of most universities, have advanced in many professions, including medicine and law, and have gradually surmounted many of the barriers to their full participation in political and economic life. Nonetheless, women are still underrepresented in the higher ranks of labor unions and private industry.

The Labor Code specifies that employers must not discriminate against women with regard to pay or working conditions, must not fire them during pregnancy and for a year after giving birth, must grant them unpaid leave and benefits for 6 weeks before the birth of a child and 12 weeks after, and must provide them with 10 weeks of unpaid leave if they legally adopt children under 3 years of age. According to the Ministry of Labor and the major labor federation, these regulations are enforced in the formal sector, although social security payments are often delayed.

## Children

The Government scaled back its expenditure on education, health, and social services. While the law provides for universal free education, the Government dedicates very little funding to primary and secondary education. According to a study by two reputable nongovernmental organizations (NGO's), one in four children is malnourished. Many government agencies responsible for the welfare of children are plagued by corruption, and government funding often does not reach the children it is intended to help. In addition, a large number of children are not eligible to receive government assistance because their birth is not properly documented.

A survey by the National Institute for Minors determined that 206,000 children were involved in illicit activities, principally begging but also petty theft, prostitution, and drug trafficking. Some 40,000 children were exploited sexually, according to a 1994 study. The preliminary results of a national epidemiological survey conducted in April-June showed that heroin, along with other drugs, has been introduced to public and private schools. The authorities in the metropolitan Caracas area, the states of Carabobo and Lara, and in some municipalities in Guarico, Merida, and Portuguesa instituted a 10 p.m. to 5 a.m. curfew for unsupervised minors. Children's rights advocates claim that curfews permit the police to act arbitrarily in detaining persons who have committed no crime.

Because reform institutions are filled to capacity, hundreds of children accused of infractions are confined in jails. Crowded into small cells, child inmates often live in filth, are fed only once a day, and sleep on bare concrete floors. The Coche facility near Caracas was temporarily emptied of its 53 inmates in September after press exposure of the harsh conditions there. The authorities have not formally charged most of the children in jails with any crimes.

The recent increase in poverty has raised the level of stress within families and led to a rise in the

number of abandoned children and to more child abuse. Moreover, neighbors often hesitate to report cases of child abuse, due to a fear of entanglement with the authorities and ingrained attitudes regarding family privacy. The overburdened judicial system, though very slow, generally ensures that in most situations children are removed from abusive households once a case has been reported. Public facilities for such children, however, are inadequate and have poorly trained staff.

### People with Disabilities

The physically disabled have minimal access to public transportation, and ramps are practically nonexistent, even in government buildings. According to local advocates, the disabled are discriminated against in many sectors, including education, health care, and employment.

In 1993 the Government passed the first comprehensive law to protect the rights of the disabled. That law requires that all newly constructed or renovated public parks and buildings provide access for the disabled. Among other important provisions, the law forbids discrimination in employment practices in the provision of public services. However, the Government did not make a significant effort to implement the new law, to inform the public of it, or to try to change societal prejudice against the disabled.

### Indigenous People

Although the law prohibits discrimination based on ethnic origin, members of the country's indigenous population frequently suffer from inattention to and violation of their human rights. There are about 316,000 indigenous people comprising 28 ethnic groups, according to a special 1992 census.

The Constitution provides for special laws governing "the protection of indigenous communities and their progressive incorporation into the life of the nation." Nonetheless, local political authorities seldom take account of the interests of indigenous people when making decisions affecting their lands, cultures, traditions, and the allocation of natural resources. In March a judge in Puerto Ayacucho stopped the state government of Amazonas from building a road without undertaking an environmental impact assessment. As farmers and miners intrude on their habitat, indigenous communities are threatened by deforestation and water pollution. Few indigenous people hold title to their land. Since 1994 the Panare indigenous group of Bolivar state has unsuccessfully tried to defend its land from encroachment by cattle ranchers. In September a land dispute involving 28 families of the Wayuu indigenous group of Zulia state resulted in their being forcibly removed from their homes.

In 1995 representatives of the 19 indigenous groups of Amazonas state brought a case to the Supreme Court challenging the constitutionality of the law that defines political boundaries in their state. They claimed that the law, promulgated in 1994, jeopardized their collective possession of ancestral lands and did not respect traditional indigenous systems of decisionmaking. In December the Supreme Court ruled in their favor, declaring the law null because it was passed without the required consultations with the affected population.

Many of the country's indigenous people live isolated from modern civilization and lack access to basic health and educational facilities. High rates of cholera, hepatitis-B, malaria, and other diseases plague their communities. An outbreak believed to be leptospirosis killed 15 people in the Yanomami village of Manotheri between November 1995 and January 1996. Severe flooding in July destroyed indigenous homes and gardens in Amazonas state, causing a dramatic increase in malnutrition, diarrheal diseases, and other health problems.

The Yanomami, among the most isolated of the indigenous people, have been subject to persistent incursions into their territory by illegal gold miners. The miners have not only introduced new diseases but social ills as well. In August 1993, Brazilian miners killed at least 16 Yanomami in a remote area of Amazonas state and then retreated into Brazilian territory. The Government failed to seek their prosecution forcefully, and the Brazilian authorities released the miners after 3 months' detention. In August and September, the Government undertook a massive military operation in southern Amazonas state to dislodge illegal miners; about 80 were arrested, but several hundred more were believed to be still operating.

In February 1994, members of the army shot and killed three members of the Yucpa ethnic group after women in the group tried to block the soldiers from taking wood they had cut. The military allegedly responded by firing indiscriminately. There were no arrests of those responsible for the killings.

## **Section 6 Worker Rights**

### **a. The Right of Association**

Both the Constitution and labor law recognize and encourage the right of unions to organize. The comprehensive 1990 Labor Code extends to all private sector and public sector employees (except members of the armed forces) the right to form and join unions of their choosing. The Code mandates registration of unions with the Ministry of Labor, but it reduces the Ministry's discretion by specifying that registration may not be denied if the proper documents (a record of the founding meeting, the statutes, and the membership list) are submitted. Only a judge may dissolve a union, and then only for reasons listed in the law, such as the dissolution of a firm or by agreement of two-thirds of the membership.

One major union confederation, the Venezuelan Confederation of Workers (CTV), and three small ones, as well as a number of independent unions, operate freely. About 25 percent of the national labor force is unionized. The CTV's top leadership includes members of several political parties. The majority are affiliated with the country's largest party, Democratic Action (AD). The CTV and the AD exercise reciprocal influence on each other.

The law recognizes the right of public and private sector employees to strike. However, public servants may only exercise it if it does not cause "irremediable damage to the population or to institutions." The Labor Code allows the President to order public or private sector strikers back to work and to submit their dispute to arbitration if the strike "puts in immediate danger the lives or security of all or part of the population." During 1996 most strikes occurred among government employees such as teachers, whose strike lasted more than 6 weeks; judicial workers, who were on strike for over 2 weeks; and physicians in public hospitals and clinics, whose strike included emergency care. In addition, there were a number of work stoppages by public sector employees to protest the Government's delay in paying negotiated and agreed-upon salary increases and bonuses.

There are no restrictions on affiliation with international labor organizations, and many union organizations are active internationally.

### **b. The Right to Organize and Bargain Collectively**

The Labor Code protects and encourages collective bargaining, which is freely practiced. According to the code, employers "must negotiate" a collective contract with the union that represents the majority of their workers. The code also contains a provision stating that wages may be raised by administrative

decree, provided that the Congress approves the decree.

The law prohibits employers from interfering with the formation of unions or with their activities and from stipulating as a condition of employment that new workers must abstain from union activity or must join a specified union. Ministry of Labor inspectors hear complaints regarding violations of these regulations, and can impose a maximum fine of twice the minimum monthly wage for a first infraction. Under the code, union officials enjoy special protection from dismissal. If a judge determines that any worker was fired for union activity, the worker is entitled to back pay plus either reinstatement or payment of a substantial sum of money, which varies according to his years of seniority.

Labor law and practice is the same in the sole export processing zone as in the rest of the country.

#### c. Prohibition of Forced or Compulsory Labor

The Labor Code states that no one may "obligate others to work against their will." However, there are credible reports of prison labor being administratively imposed on persons detained under the Vagrancy Law.

#### d. Minimum Age for Employment of Children

The Labor Code allows children between the ages of 12 and 14 years to work only if the National Institute for Minors or the Labor Ministry grant special permission. It states that children between the ages of 14 and 16 years may not work without permission from their legal guardians. Minors may not work in mines or smelters, in occupations "that risk life or health" or could damage intellectual or moral development, or in "public spectacles."

Those under 16 years of age must by law work no more than 6 hours a day or 30 hours a week. Minors under the age of 18 years may work only during the hours between 6 a.m. and 7 p.m. The Ministry of Labor and the National Institute for Minors enforce the law effectively in the formal sector of the economy but much less so in the informal sector, which accounts for about half of total employment. According to a 1992 survey of sample households, more than 1 million children work in the informal sector, mostly as street vendors; large numbers of children also work as beggars and bootblacks.

#### e. Acceptable Conditions of Work

There is a national urban minimum wage and a national rural minimum wage. The monthly minimum wage was \$32 (15,000 bolivars) in the private sector for urban workers and \$26 (12,500 bolivars) for rural workers. In addition, minimum wage workers in the private sector received mandatory food and transport bonuses amounting to \$80 (37,800 bolivars). Total take-home pay in the public sector, the product of collective bargaining, was at least equal to that received by private sector minimum wage workers. Fringe benefits are added to these minimum figures; they vary with the workers' individual circumstances, but in general increase wages by about one-third. However, even with bonuses and benefits, the minimum wage is not sufficient to provide a decent standard of living for a worker and family. Unions point out that this combined income is far less than the cost of a family's basic food basket, estimated in September at \$247 (116,395 bolivars).

The law excludes only domestic workers and concierges from coverage under the minimum wage decrees. Under the Labor Code, the rates are set by administrative decree, which Congress may either suspend or ratify but may not change. The Ministry of Labor enforces minimum wage rates effectively in the formal sector of the economy but generally does not enforce them in the informal sector.

The 1990 Labor Code reduced the standard workweek to a maximum of 44 hours, and requires 2 "complete days of rest each week." Some unions, such as the petroleum workers, have negotiated a 40-hour week. Overtime may not exceed 2 hours daily, 10 hours weekly, or 100 hours annually, and may not be paid at a rate less than time and a half. The Ministry of Labor effectively enforces these standards in the formal sector.

The 1986 health and safety law is still awaiting implementation regulations and is not enforced. The delay is due largely to concern that the law provides penal sanctions against management when violations of health and safety occur and to ambiguity in the law over what constitutes a violation. The Labor Code states that employers are obligated to pay specified amounts (up to a maximum of 25 times the minimum monthly salary) to workers for accidents or occupational illnesses, regardless of who is responsible for the injury.

It also requires that workplaces must maintain "sufficient protection for health and life against sicknesses and accidents," and it imposes fines of from one-quarter to twice the minimum monthly salary for first infractions. In practice, however, unsafe job sites are seldom closed down by Ministry of Labor inspectors. Under the law, workers can remove themselves from dangerous workplace situations without jeopardy to continued employment.

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