VENEZUELA

Venezuela is a republic with an elected president and a bicameral congress. President Hugo Chavez Frias, the leader of an attempted coup in 1992, took office in February after being elected in December 1998 with 57 percent of the vote. Chavez's election was the result of deep popular dissatisfaction with the traditional parties and frustration with the country's continued economic crisis. Chavez campaigned on a promise of radical reform, including constitutional change through the election of a National Constitutional Assembly (ANC). In an April 25 national referendum, voters overwhelmingly approved his proposal for the popular election of a 131-member assembly with a 6-month mandate to rewrite the Constitution. Chavez's political party, the Fifth Republic Movement (MVR), won 119 of the 131 ANC seats in a July 25 election. The ANC drafted a new constitution, which voters approved in a December 15 referendum. Despite controversy over the ANC electoral campaign rules, international observers characterized the elections and both referendums as largely free and fair. The new Constitution, which took effect on December 30, creates two new branches of government--the civil authority and the electoral authority--and allows immediate presidential reelection for a 6-year term. In August the ANC issued a Legislative Emergency Decree that led to an institutional clash between the ANC and the Congress until a cohabitation agreement was reached over respective responsibilities. Also in August, the ANC issued a Judicial Emergency Decree to reform the largely discredited judiciary, which although legally independent is highly inefficient, corrupt, and subject to influence.

The security apparatus comprises civilian and military elements, both accountable to elected authorities. The newly combined Interior and Justice Ministry controls the Judicial Technical Police (PTJ), which conducts most criminal investigations, and the State Security Police (DISIP), which is primarily responsible for investigating cases of subversion and arms trafficking. The General Directorate for Military Intelligence, under the Defense Ministry, is responsible for collecting intelligence related to national security and sovereignty. The national guard, an active branch of the military, has arrest powers and is largely responsible for guarding the exterior of prisons and key government
installations, maintaining public order, monitoring frontiers, conducting counterdrug operations, 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, which fall under the authority of the respective state governors or municipal mayors. There was controversy during the year over the increasing role that the military played in government and society. In February President Chavez ordered 70,000 members of the military to participate in a public works program which continued throughout the year, including conducting a census of the unemployed; providing medical care to the needy; renovating schools, playgrounds, and medical care centers; and removing garbage. In May the President appointed an army general as his chief of staff. In December paratroopers and other security force members assisted with relief efforts following devastating flooding. Both police and military personnel were responsible for human rights abuses during the year.

The country has abundant natural resources, and its per capita gross domestic product (GDP) is $4,087. However, income is distributed unevenly, and approximately 80 percent of the population live at or below the poverty line. Oil accounted for 27 percent of GDP, 43 percent of government revenues, and 70 percent of the country's exports in 1998. State-owned enterprises' production of iron, aluminum, and petrochemical products constitute one-fifth of the country's nonoil exports. The economy underwent its worst recession in the last 10 years due to low oil prices, the recessional effect of oil production cuts, monetary tightening to bring inflation under control, and investor uncertainty caused by nearly a year of constant political change. According to preliminary figures from the Central Bank, GDP contracted by 7.2 percent in 1999, compared with a contraction of 0.1 percent in 1998. However, a strong rebound in oil prices reduced the estimated fiscal deficit for the year. In December the country suffered its worst natural disaster when heavy rains triggered severe flooding and landslides that caused an estimated 20,000 deaths as well as extensive property and infrastructure damage. Following the disaster, the ANC declared a "state of alarm," and granted the President broad powers to respond to the flood.

The Government's human rights record continued to be poor in some areas; although there were improvements in some areas, serious problems remain. Human rights violations include extrajudicial killings of criminal suspects by the police and military, an increase in torture and abuse of detainees, failure to punish police and security officers guilty of abuse, arbitrary arrest and excessively lengthy detention, long delays in trials, illegal searches, and corruption and severe inefficiency in the judicial and law enforcement systems. Prison conditions remained harsh, and overcrowding and violence in the prisons were so severe as to constitute inhuman and degrading treatment. In October the ANC declared a prison emergency and set up an interinstitutional commission to address conditions in the prisons. On July 1, the Organic Criminal Procedures Code (COPP) entered into force, replacing the secretive inquisitorial system with an open adversarial system. The authorities fired a number of judges for corruption. In February the Chavez administration reinstated the constitutional provisions of freedom from arbitrary arrest and detention and search without warrant, as well as freedom of movement, which had been suspended in some border areas since June 1994. Violence and discrimination against women, abuse of children, discrimination against the disabled, and inadequate protection of the rights of indigenous people continue to be problems. Child labor persisted, and there were reports of trafficking in children for forced labor. Killings due to vigilante justice increased.
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; however, the security forces continued to commit extrajudicial killings, primarily of criminal suspects. The Venezuelan Program of Action and Education in Human Rights (PROVEA), a highly respected nongovernmental human rights organization, documented 101 extrajudicial killings from October 1998 through September 1999, compared with 104 from October 1997 to September 1998. The killings involved summary executions of criminal suspects, indiscriminate or excessive use of force, and death resulting from mistreatment while in custody. According to PROVEA, the state police forces were responsible for 44 of the killings; the Metropolitan Police, 11; the PTJ, 5; the national guard, 5; the municipal police forces, 13; the armed forces, 15; the DISIP, 2; and other security forces, 6. These figures reflect a range of killings in very different situations committed by organizations with varying levels of control and responsibilities. The majority of the killings were attributed to various state and municipal police forces that report to local officials and usually have little training or supervision.

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 when eyewitness testimony and evidence strongly indicate otherwise. In addition, the civilian judicial system still is struggling to implement the new Organic Criminal Procedures Code (COPP) and, in the meantime, remains highly inefficient and sometimes corrupt. Military courts often are biased in favor of members of the armed forces accused of abuse. A pretrial summary phase called "nulo hecho," which is used in cases involving public officials and is conducted in secret, was abolished in July under the COPP. It often shielded members of the security forces from prosecution, since cases could languish in this 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 or convicted of crimes rarely spend much time in prison.

On February 24, Sucre state police in Cumana used tear gas canisters and pellet guns against students at the University Institute of Technology who were protesting peacefully noncompletion of the cafeteria. One student, Angel Castillo Munoz, died as a result of being hit in the head by rubber bullets and falling unconscious into an area flooded by tear gas. Police reportedly continued to fire, despite students' attempts to surrender, resulting in a delay of medical care to the injured. (Following Castillo's death on February 25, the students again protested and attacked, looted, and burned the Sucre state government palace. The National Guard was called in to restore order.) The Sucre state governor fired police commander Jose Jesus Navarro Dona and Sucre state secretary general Amalio Ermilo Rojas, suspended the police officers who took part in the original confrontation with students, and requested federal help in the investigation. Military intelligence (DIM) officers subsequently arrested Navarro and Rojas. Various groups objected to the fact that the military took over the case. The authorities released Navarro and Rojas for lack of
evidence; there was no further progress on the case at year's end.

Also in February, Red de Apoyo, a nongovernmental organization (NGO), reported that Oswaldo Blanco died as the result of abuse by the National Guard, in whose custody he had been detained.

In June the Metropolitan Police detained Jhon Linares after shooting him in the stomach. The police also threatened his brother and sister who tried to help him. Later, Linares was found dead at the hospital with three bullet wounds. An investigation continued at year's end.

In December heavy rains triggered flooding and landslides that killed an estimated 20,000 persons. The authorities are investigating allegations of human rights violations by the military and security forces in the days immediately following the disaster. Witnesses claim that military and security forces beat, detained, and killed alleged looters and criminal suspects, between December 19 and December 25.

Security forces committed a small number of killings in prisons. However, the majority of the 390 inmate deaths resulted from gang confrontations, riots, fires, and generally unsanitary and unsafe conditions in prison facilities (see Section 1.c.).

There has been no further investigation into the January 1998 killings of Harold Michael Zambrano Gonzalez and Arturo Jose Hernandez Ramirez by Metropolitan Police. The PTJ also made no progress in the investigation of the May 1998 killings of Carlos Alberto Colmenares Garcia, Richard David Palacios Garcia, and Avelino Rafael Vega, who died after the Sucre municipal police opened fire on their car. Nor was any progress made in the investigation of the January 1997 incident in which members of the Metropolitan Police arrested and led away two young men in Guatire, Miranda state. Witnesses heard gunshots and later found one of the men, Freddy Rafael Toro Ramirez, dead from bullet wounds.

There were no prosecutions or new information surrounding the 1996 death of 25 inmates in a fire started by prison guards at La Planta prison. On February 19, a judge sentenced two of the three PTJ members implicated in the 1995 execution-style killing of 21-year-old Hector Rojas to 7 years in prison for first-degree murder, far less than the 15 to 25 years established by law. The court absolved the third officer, despite evidence of his guilt. The prosecution appealed the decision, but there was no further progress in the case at year's end. There were no developments in the 1994 discovery of a common grave in the Sierra de Perija region of Zulia state, the 1992 killing of at least 63 prisoners at Catia prison, or the 1992 killing of reporters Maria Veronica Tessari and Virgilio Fernandez by members of the security forces.

In November before the Inter-American Court of Human Rights, the Government accepted its responsibility in 44 cases of extrajudicial killings by security forces during and after the civil unrest of February-March 1989, in which some 300 alleged extrajudicial killings were committed. The Government also agreed to compensate the families of the victims and to identify and punish those responsible. A total of 45 cases had been referred to the Inter-American Commission on Human Rights (IACHR) by the Committee of Family Members of Victims of the Unrest (COFAVIC) in 1995. In 1991 a police officer was found guilty of one killing, but the courts released the officer from
prison 1 year later. In October 1997, the IACHR called on the Government to investigate this case, provide compensation to the victim's family, and bring to justice those responsible for the death. By the end of 1998, the Government had complied partially; it had investigated and made a payment, but it had not punished any of those responsible. The IACHR made a series of recommendations to the Government, but when the Government did not comply with these recommendations nor reach a settlement with the petitioners, on June 7, the IACHR referred the case to the Inter-American Court of Human Rights. On September 23, the Supreme Court made an unprecedented decision to assume the preliminary investigation of all the related cases that until then had been scattered among 13 courts.

In September 1996, the Inter-American Court of Human Rights awarded $722,332 in damages to 2 survivors and the surviving families of 14 fishermen killed in 1988 by military and police officers near the border town of El Amparo, Apure state. The Government acknowledged its responsibility and began to make payments in September 1997; it had completed payments by year's end, and the parties were discussing the payment of interest on the compensation. The Court also had ruled that the Government had to investigate the case and prosecute those responsible. The military originally claimed that the deaths were the result of a confrontation with Colombian guerrillas, and 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. In October 1998, the Supreme Court upheld that decision.

Mob lynching of supposed criminals increased substantially due to the public's perception of increased impunity resulting from the difficult implementation of the COPP. The victims were almost always known criminals who preyed on residents of poor neighborhoods. Between October 1997 and September 1998 (the latest available figures), PROVEA recorded 2 lynchings and 24 attempted lynchings, but both police and NGO's believe that the figures increased. The activities of vigilante groups known as "brigadas" reportedly decreased.

On February 25, the Revolutionary Armed Forces of Colombia guerrilla organization kidnapped American citizen indigenous activists Terence Freitas, Lahe'ena'e Gay, and Ingrid Washinawatok in Colombia. Their bodies were later found in Venezuela.

d. 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 Sanchez Vargas, Juan Daniel Monsalve, or Jose Ramos; or the 1994 disappearances of Elsida Ines Alvarez, Benjamin Vasquez, and Fidel A. Sanabria. Members of the security forces reportedly had detained each of them prior to their disappearances.

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

The law prohibits torture; however, the security forces continue to torture and abuse detainees physically and psychologically at a substantially increased rate. Credible human
rights groups report that this abuse most commonly consists of 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.

PROVEA documented 424 cases of torture from October 1998 through September 1999, compared with 21 from October 1997 through September 1998. (This increase may reflect improved data collection and more accurate reporting by PROVEA.) According to PROVEA, the DISIP was responsible for 11 of the reported torture incidents; the PTJ, 10; the armed forces, 7; the state police forces, 203; the municipal police forces, 72; the Metropolitan Police, 67; and the national guard, 40. In April human rights NGO's presented a report to the U.N. Committee Against Torture in which they listed and documented 120 torture cases since 1987 that they have investigated and reported to the Prosecutor General and the National Human Rights Commission, but that still have not been investigated fully by the Government.

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 March the Metropolitan Police harassed and beat 22-year-old Andres Flores for no apparent reason when they encountered him sitting on the steps of a building. Despite the protests of those present, the police arbitrarily detained him. He was released only when a priest lobbied on his behalf at the police station.

In August the PTJ in Guasdualito detained Juan de la Cruz Bravo and accused him of murder. Bravo alleges that the police drugged him, beat him, and subjected him to electrical shock. The Justice Foundation, an NGO, is bringing his case to trial.

There were reports that security force members killed and beat looters following the December floods and landslides (see Section 1.a.).

No action ever was reported against some 50 Baruta municipal police officers who attacked residents of the poor working class Caracas suburb of Petare in the predawn hours of December 25, 1997, injuring 43 persons. There was no reported progress from the criminal court investigation or the internal investigation by the chief of the Baruta municipal police.

The police used tear gas and pellet guns against peaceful demonstrators, resulting in deaths and injuries (see Sections 1.a. and 2.b.).

In the Colombian border area where some constitutional protections had been suspended since 1994, the National Guard and army acted with near impunity until the suspension of the protections was lifted on February 23. Subsequently, complaints against the security forces in this area decreased. The Support Network for Justice and Peace had documented many human rights abuses in this region by amassing detailed witness testimony. There has been no resolution of the border-area cases from 1995, in which members of the
military, in separate incidents in reaction to guerrilla attacks, 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 and corrupt prison staff and national guard members, and overcrowding so severe as to constitute inhuman and degrading treatment.

Inmates often have to pay guards as well as each other to obtain necessities such as space in a cell, a bed, and food. Because of the prison food's low quality and insufficient quantity, only about 30 percent of inmates consume it. Most prisoners get their food from their families, by paying prison guards, or in barter with other prisoners. Many inmates also profit from exploiting and abusing others, and violence among prisoners is common. This problem is exacerbated by the absence of a rational system of prisoner classification: convicted murderers and rapists are housed with unsentenced first-time petty offenders. Gang-related violence and extortion is fueled by the substantial trafficking in arms and drugs that exist in the prisons. In early June, 26 inmates escaped from Barcelona prison east of Caracas; prisoners in the El Dorado prison threatened to commit mass suicide unless they were transferred to other jails. In October some 35 prisoners escaped from a prison in downtown Caracas.

Female prisoners are detained in separate prisons, where conditions generally are better than those in the men's facilities. Security forces and law enforcement authorities often detain children together with adults.

At the beginning of the year, roughly 70 percent of the approximately 24,500 prisoners had not been convicted of a crime because, under the old procedural code, most criminal defendants were incarcerated rather than granted provisional liberty while their prosecutions were pending. In addition, the slow and secretive inquisitorial justice system of the old code had led to an inefficient, overwhelmed, and corrupt justice system, which resulted in cases languishing an average of 4 to 5 years in the courts during which time the accused usually remained in jail. With the implementation of the new COPP on July 1, prisoners accused of petty crimes who had not been convicted but already had served 2 years or the minimum sentence possible for that crime were to be released following a psychiatric examination. Between July 1 and October 1, approximately 2,000 prisoners were released under the new provisions and benefits provided by the law. There were approximately 19,000 prisoners at year's end.

At the end of September, prisoners carried out a number of hunger strikes to demand that the Government expedite the review of the cases of inmates who might benefit from the COPP's provisions. It was estimated that there were still more than 6,000 prisoners who had not been convicted but already had served 2 or more years in prison. However, prisoners also had false expectations with respect to the benefits of the COPP, which resulted in rising levels of tension and violence. By the end of September, violent gang clashes in various penitentiaries resulted in 16 deaths and 57 injuries.

In response to these events, the National Constitutional Assembly declared a Prison Emergency on September 30 and created an Interinstitutional Prison Emergency Commission comprised of representatives from the ANC, the Interior and Justice Ministry, the judicial branch, and NGO's. Despite resistance from the Catholic Church and human rights NGO's, the Government decided to use the national guard, normally
charged with guarding the outside of the prisons, to maintain internal control of the prisons while the Commission carried out its work and until new prison guards could be trained.

PROVEA documented 390 deaths and 1,695 injuries from violence in the prisons from October 1998 through September 1999; a decline from a total of 460 deaths from violence between October 1997 and September 1998. The majority of the deaths resulted from prisoner-on-prisoner violence, especially during clashes between rival gangs. Many others died as a consequence of poor sanitary conditions, poor diet, and inadequate medical care. Security forces committed a small number of the killings in prisons. Funding for prisons remained extremely low, preventing significant improvement in most penitentiaries.

There were no prosecutions of public officials for the corruption and neglect that contributed to the January 1994 riot at Sabaneta prison, in which inmates killed 105 fellow prisoners and wounded scores of others.

The Government permits prison visits by human rights monitors.

d. Arbitrary Arrest, Detention, or Exile

The Constitution and the COPP provide for freedom from arbitrary arrest and detention; however, the security forces routinely continued to arrest and detain citizens arbitrarily.

On February 23, the Government reinstated the constitutionally protected freedom from arbitrary arrest and detention in the border areas, where certain constitutional provisions had been suspended since 1994 and had not been lifted in 1995 when those protections were restored in the rest of the country.

There continued to be arbitrary detentions by the Metropolitan Police, the DISIP, the national guard, and the PTJ--especially during anticrime sweeps in impoverished sections of major cities. The authorities detained persons during the sweeps for up to 2 days while they checked criminal records; most were released without charges. PROVEA documented 6,236 persons detained in sweeps from October 1998 through September 1999, compared with 12,308 persons detained in sweeps from October 1997 through September 1998. Human rights groups attribute the decline to the shift in government policy away from using sweeps as a method of controlling crime. After taking office, the Chavez Government declared that DISIP and other intelligence agencies no longer would be used for domestic political purposes. However, on April 5, DISIP arrested Daniel Perez, the son of the then-secretary general of the Democratic Action (AD) party, based only on an anonymous telephone call accusing Perez of alleged arms trafficking. Following intervention by the Foreign and Interior Ministers, Perez was released the following day. The COPP states that a person accused of a crime cannot be incarcerated during the criminal proceedings unless that person is caught in the act of committing a crime, or a judge determines that there is a danger the accused may flee or impede the investigation. The law also provides for the right to a judicial determination of the legality of the detention within 48 hours. In no case can the detention of a person accused of a crime exceed the possible minimum sentence for the crime committed, nor exceed 2 years. Under the previous system, the police could hold persons without an arrest warrant for up to 8 days, and in many cases, the police abused detainees physically and psychologically during that period and illegally held them incommunicado. There still
exists confusion over the new code, and arbitrary arrests continued to be common. Prison officials often illegally demand payment from prisoners for transportation to judicial proceedings. Those who are unable to pay often are forced to forgo their judicial hearings.

Forced exile is illegal and is not practiced.

e. Denial of Fair Public Trial

The civilian judiciary is legally independent; however, it is highly inefficient, and 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 persons to the attention of the proper authorities; the Ministry of Justice, which manages the national police force, oversees the 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 that deal with civil and criminal matters.

Both the old code and its replacement, the new Organic Code of Criminal Procedures, provide for the right to a fair trial and consider the accused innocent until proven guilty in a court. However, under the old secretive inquisitorial code, the presumption of innocence was ineffective in the justice system, which became overburdened, inefficient, and corrupt under a paper-intensive, costly, and time-consuming judicial process. Judges are underpaid, poorly disciplined, and susceptible to political influence. The COPP introduced for the first time open, public trials with oral proceedings and verdicts by juries or panels of judges. This new adversarial system of justice gives practical effect to the presumption of innocence, eliminates the secret stage of trial that had existed in the previous system, and establishes the right to plead guilty and make reparation agreements. Lengthy delays in trials were still common; there has been some improvement, but the average length of delay is approximately 2 1/2 years.

The Government struggled to implement the COPP, which required a major shift in the fundamental concept of how justice is carried out, the legal procedures involved, and the respective roles of the police, the judge, and the lawyers. The police no longer may detain persons arbitrarily for up to 8 days and now must work under the supervision of a prosecutor; judges have ceased to be investigators and are now arbiters of law; and prosecutors and defense attorneys confront one another in open court. Open, oral trials took place around the country despite a shortage of trained personnel and resources. The COPP's successful implementation over the long term is expected to require further progress, including increased training for police and lawyers and an increased number of prosecutors and defenders to handle the workload.

In August the ANC issued a Judicial Emergency Decree that created the Judicial Emergency Commission, in order to bring about reform of the judicial system. On September 7, the Judicial Council, which oversees the selection, training, and discipline of judges, removed eight judges from office based on charges of corruption or judicial impropriety. The decisions were made with the support of the Supreme Court and the
Judicial Emergency Commission. The head of the Judicial Emergency Commission announced at the same time that 50 other judges would face similar charges, and that many others were under active review. On September 9, the president of the Judicial Council resigned, stating that the Judicial Emergency Commission's method of dismissing judges violated the constitutional right to a proper defense. On September 17, the Judicial Council dismissed 10 more judges for administrative failures or sentencing errors. The Judicial Council also announced that it would dismiss formally judges more than once for different charges against them; in order to be reinstated, a judge would have to win an appeal to the Supreme Court on each charge. Judges with pending cases against them would not be eligible to take the October 15 competitive examinations required for all judges to become part of the new oral system under the COPP. Judges who had been reprimanded would lose points on the exam.

On October 7, the ANC amended the Judicial Emergency Decree to allow for the suspension of judges facing more than 7 charges while investigations are conducted, which facilitated the suspension of 124 judges. These judges continued to receive salaries, and their prosecution was subject to due process of law. By year's end, the Judicial Council had suspended or dismissed more than 200 judges, largely for corruption.

The military courts implemented a similar reform of the military justice system and successfully have made the transition to the new system. The military justice system carried out the first oral trial in the country. The secret pretrial summary phase called "nulo hecho" was abolished in July with the implementation of the COPP. This phase often shielded members of the security forces from prosecution, since cases could languish for several years. Despite this success, human rights NGO's expressed concern that the Supreme Court's selection of military judges from a list of candidates provided by the Minister of Defense links the careers of military judges to the high command, making them more responsive to the views of their military leaders and influencing them to act slowly in cases in which the military is implicated. As a result, military offenders might evade punishment for extrajudicial killings and other human rights abuses.

The law provides for public defenders for those unable to afford an attorney; however, 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.

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, the security forces infringed on citizens' privacy rights. 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 border areas until February 23, when President Chavez restored the suspended constitutional provisions. 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. There were no complaints during the year by human rights NGO's of illegal wiretapping by the security forces.

Section 2 Respect for Civil Liberties, Including:
a. Freedom of Speech and Press

The Constitution provides for freedom of speech and of the press, and the Government generally respects these rights in practice. Individuals and the media freely and publicly criticize the Government. A provision in the new Constitution states that all persons have the right to timely, truthful, and impartial information, without censorship. This "truthful information" clause raised concerns among many in the domestic and international media that it could be used by the Government to intimidate or censor the press. In addition, there were some allegations of government pressure on the media. On December 21, the editor of the El Mundo daily newspaper announced that he was resigning because of "tremendous government pressures" against the newspaper's owners. The paper had denounced the concentration of power in the President's hands.

There is no statutory censorship. The Government has tools to influence the press (e.g., potential controls on newsprint importation, lucrative public sector advertising, licensing requirements for journalists); however, in practice the media environment is free and open. Some observers believe that there is self-censorship; for example, there are very few editorials that reflect the opinion of an individual newspaper. However, signed articles on opinion pages carry abundant and varied perspectives, often highly critical of the Government. Radio and television stations do not broadcast overt political opinions.

Human rights groups criticized the Government for interfering with free debate over the proposed new Constitution. In November Catholic Bishop Roberto Luckert of Coro reportedly spoke against the new Constitution on his diocese's radio station. The next day, two military intelligence agents allegedly visited the station, accused its manager of opposing the political process, and warned that they would be monitoring and recording future broadcasts.

A 1994 law requires practicing journalists to have journalism degrees and be members of the National College of Journalists. These requirements are waived for foreigners and for opinion columnists, on the grounds of tolerance of free speech. Media owners challenged the law in November 1995, but the Supreme Court had not yet ruled on this matter by year's end.

Print and electronic media are independent. There are state television and radio stations whose directors are named by the President, but whose broadcast policies are autonomous. The President's speeches are broadcast live on all radio and television stations, which traditionally provide broadcast time. The President has a weekly television show, which began in June, and a weekly call-in radio show. There is also a government-funded newspaper entitled The President's Mail.

There is no state censorship of books, films, or other media products.

Internet access is completely free and uncontrolled.

The Government respects academic freedom.

b. Freedom of Peaceful Assembly and Association

The Constitution provides for freedom of peaceful assembly, and the Government
generally respects this right in practice. Public meetings, including those of all political parties, generally are held unimpeded. The Government requires permits for public marches but does not deny them for political reasons.

However, as in earlier years, some demonstrations turned violent and were quelled by security forces, who on occasion used deadly force (see Section 1.a.). According to PROVEA, 2 persons were killed during demonstrations, and 77 were injured from October 1998 through September 1999. The student and teaching sectors carry out the largest number of protests, and the largest number of their demonstrations end up being quelled by security forces. In February one student died as a result of police tear gas and pellet guns used against peaceful student demonstrators (see Section 1.a.). In August police minimally used tear gas and water cannon to keep pro-Congress demonstrators and pro-ANC demonstrators separate following an attempt by the ANC to prevent Congress from meeting (see Section 3).

The Constitution provides for freedom of association, and the Government respects this right in practice. Professional and academic associations operate without interference.

c. Freedom of Religion

The Constitution provides for freedom of religion, provided that the practice of a religion does not threaten public order or violate good custom, and the authorities respect this right in practice.

Each local church must register with the Office of Religion in order to hold legal status as a religious organization and to own property. The requirements for registration are largely administrative. However, some groups have complained that the process of registration is slow and inefficient. Foreign missionaries require a special visa to enter the country, which is obtained through the Office of Religion. Missionaries generally are not refused entry; however, many complain that the Office of Religion often takes months or years to process a request.

In 1964 the Government and the Holy See signed a concordat that underscores the country's historical ties to the Roman Catholic Church and provides government subsidies to the Catholic Church's schools and social programs. Other religious groups are free to establish and run their own schools, but do not receive subsidies from the Government.

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, and the Government generally respects these rights. However, the Government can suspend the freedom to travel, as it did from June 1994 to July 1995. Freedom of movement remained suspended in some border areas until February 23 when President Chavez restored the suspended constitutional provisions. The Government also restricts foreign travel for persons being investigated for criminal activities. In December the security forces sometimes restricted movement in and out of some of the areas hardest hit by the floods.

There is no domestic legislation regarding determination of refugee status, the procedure
or criteria to be applied, and no independent organization to handle asylum requests. In the absence of any such legislation, the Government allows the Venezuelan Bishops' Conference to coordinate with the U.N. High Commissioner for Refugees (UNHCR) in assisting refugees, determining the status of individual asylum applicants under UNHCR's mandate. In 1999 there were a total of 188 persons in the country who had been granted refugee status. Under UNHCR procedures, 39 of these were granted refugee status during the year.

The Government in theory provides first asylum; however, in June some 3,500 Colombians entered the country in 3 waves following a paramilitary offensive in the Catatumbo area of Colombia. The Government provided rapid and effective humanitarian aid but, in coordination with the Colombian Government, quickly repatriated all of the Colombians. The first group of 2,084 Colombians, arrived June 3-4 and was repatriated voluntarily with the support of both governments by June 6. The Government determined that they were not refugees, but "displaced persons in transit." A second group arrived on June 8, and according to human rights workers, expressed fear of returning to their homes in Rio Negro, Colombia. The accelerated procedures adopted by both governments for the return of the second and third groups limited the opportunity for the Colombians to seek asylum, despite the intention previously stated by some members of these groups to different NGO's and the UNHCR. In August human rights NGO's filed a petition before the IACHR asserting that this was a violation of international refugee law. The Government established an Interministerial Technical Commission to address future cross-border movements, and the UNHCR reiterated the importance of enacting domestic regulations to establish a humanitarian procedure within a framework of respect for international refugee principles. There were no other reports of the possible 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 to change their government peacefully, and citizens exercise this right through periodic, free, and fair elections held on the basis of universal suffrage.

In December 1997, Congress passed a new election law that automated the vote counting process, removed political party representatives from all electoral organs, prohibited campaign financing by anonymous sources, and created the National Electoral Council (CNE). The smoothness of the electoral process and the rapid reporting of the results during the November and December 1998 regional and presidential elections, and the referendums and elections related to the ANC, were evidence of the electoral reform. Most legislators from all levels of government were elected from party lists (which, under the new law, were supposed to have at least 30 percent women). The top election officials, although not party members, were selected by negotiation among the political parties in Congress. However, representatives to the ANC were not chosen from party lists, and top election officials did not function as formal representatives of political parties.

President Chavez had promised during his 1998 presidential campaign to reform the Government and to use a constitutional assembly as the primary mechanism to accomplish this objective. On January 19, the Supreme Court ruled that a national referendum on the proposed constitutional assembly did not violate the existing Constitution. The Young Jurists civic association and the Foundation for Human Rights
both had challenged the referendum in October and December 1998, respectively, and the January ruling addressed both of these challenges simultaneously. On February 2, President Chavez signed a decree calling for a consultative referendum on his proposed constitutional assembly, asking the public to authorize the calling of a constitutional assembly and to grant the President the authority to determine how its members would be selected. On February 8, leaders of the Democratic Action party asked the Supreme Court to rule the second question unconstitutional; the Court ruled on March 23, and Chavez modified the second question. On April 25, voters approved a constitutional assembly in elections that international observers judged to be free and fair.

On April 26, following an extended debate with Congress over the scope and extent of the powers, President Chavez signed an enabling law that granted him emergency powers and allowed him to legislate by decree for 6 months on economic, financial, and social issues.

Since electoral law did not regulate specifically elections for a constitutional assembly, campaign regulations became the subject of controversy between President Chavez and the CNE. In May the CNE ruled, based on electoral regulations applied to other elections, that high public officials, including the President, could not campaign for or against candidates to the Constitutional Assembly. Later that month, five government ministers resigned to run for the ANC. President Chavez personally praised each candidate and disputed the CNE's ruling against such endorsements. The confrontation reached its conclusion in July when the CNE fined the President for violating the campaign regulations and suspended his radio and television shows. Chavez paid the fine and then stayed within the campaign regulations, as defined by the CNE.

On June 17, the Supreme Court rejected an appeal of the CNE's ruling that party symbols or colors could not appear on the ANC electoral ballot; however, it ordered the CNE to publish symbols and colors along with each participating organization and candidate in its official gazette.

On July 25, voters elected 131 candidates to the ANC; 24 were elected nationally, 104 regionally, and indigenous groups chose 3 persons. President Chavez's MVR party won 119 seats in elections that international observers judged to be free and fair.

At its opening, President Chavez called upon the ANC to decree a state of emergency relating to all branches of the government. The ANC maintained that, in addition to its mandate to draft a new constitution, it had the authority to establish, dissolve, and otherwise alter government institutions. It quickly issued a Judicial Emergency Decree, which was supported by a majority on the Supreme Court but led to the resignation of the its president (see Section 1.e.). President Chavez called several times on the ANC to dissolve Congress, including on one occasion in July when the Senate rejected 34 military promotions that he sought. On August 25, the ANC issued a Legislative Emergency Decree limiting the legislative powers of Congress and subjecting those prerogatives that it retained to ANC approval. The decree forbade the Congress to meet in plenary session, which applied to state governments as well; remaining legislative functions were to be carried out by small standing committees. The decree also established two committees within the ANC to propose legislation to the ANC for consideration and to investigate past congressional actions.

Congressional leaders subsequently said that the body would meet in plenary session
despite the ANC measure. The secretary general of the Catholic Church's Episcopal Conference offered to mediate the dispute, and congressional leaders agreed not to try to meet in plenary session in exchange for a continued dialog with the ANC. However, some rank and file members of Congress, from parties that did not support the President, disagreed with the leadership and declared themselves in general committee. When they tried to read their declaration in front of Congress, they were attacked by ANC supporters, whom the police dispersed with tear gas. Congressional Vice President Capriles appealed the ANC's decree to the Supreme Court. In April the Supreme Court indicated that Congress could not be shut down until a new constitution was approved in a national referendum.

The Catholic Church continued to mediate talks between congressional members and the ANC, allowing for continued dialog between the two groups. On September 6, the two groups reached an agreement that allowed Congress to begin holding sessions in October, on an agenda prenegotiated with the ANC, and on September 9, an agreement was signed that effectively nullified the Legislative Emergency Decree, allowing Congress to resume its regular duties and the ANC to focus on drafting a new constitution. In early October, the Supreme Court rejected Capriles's challenge to the legislative decree, ruling that the ANC was not bound by the Constitution, as a result of the mandate it received from the public in the referendum.

On September 14, the ANC's president submitted a draft constitutional text to the ANC, which then was debated. In November the ANC presented its draft constitution to the public, and on December 15, 71 percent of voters approved the new Constitution. The abstention rate was 54 percent, due in part to the heavy rains in parts of the country. CNE rules for the election allowed public officials and bureaucrats to campaign actively to maximize public participation in the referendum, but they were not allowed to campaign in favor of an affirmative or negative vote. On December 30, the Official Gazette published the text of the new Constitution, and it formally entered into force, abrogating the previous constitution.

On December 23, the ANC appointed a new provisional executive board for the CNE; the move was criticized by civil society organizations and by the existing CNE leadership. Women and nonwhites participate fully in government and politics; however, they remain underrepresented in senior leadership positions and national elective office. The bicameral Congressional Committee for Women's Rights focused on promoting political office-holding opportunities for women. In the November 1998 regional elections, women won 25 seats as deputies in the 207-member lower house of Congress, and 5 seats in the 53-member Senate; in the July elections, 16 women won seats in the 131-member National Constitutional Assembly. President Chavez appointed three women to ministerial positions in February. However, following the reorganization after passage of the Organic Law of Central Administration on August 30, which reduced the number of ministries to 14, there were no women in ministerial positions.

Indigenous people traditionally have not been integrated fully into the political system due to their limited knowledge of politics, low voter turnout, geographic isolation, and fewer economic and educational opportunities. Few indigenous people are in government, and only one was in Congress as an alternate deputy; there were 3 indigenous members of the ANC, who were chosen by traditional indigenous procedures. In February the President appointed Atala Uriana Pocaterra—an indigenous rights activist and member of the Wayuu
indigenous group--as Minister of Environment and Natural Renewable Resources, making her the first indigenous person to occupy a ministry-level position. Along with four other ministers, she resigned in May at the President's request to run for a seat in the ANC. In addition to the three seats reserved for indigenous representatives elected by the indigenous communities, Uriana won a regional seat from Zulia state.

In March the National Indigenous Council of Venezuela (CONIVE), which claims to represent all indigenous groups, held an indigenous congress in which it selected three representatives to the ANC. Opposing indigenous groups contested the selections, and the CNE refused to ratify the choices, since they were made before the national referendum that approved the proposed constitutional assembly. After consulting with the indigenous communities, the CNE decided to reconvene an indigenous assembly in which approximately 600 representatives of the various groups would select their representatives; the assembly ratified the original choices. The active participation of indigenous people resulted in an expansion of their rights in the new Constitution.

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.

President Chavez met with human rights NGO's to listen to their suggestions and to discuss human rights issues during his consultations with a broad spectrum of society to formulate a plan for the convocation of the ANC. However, the human rights groups remained concerned about the lack of a new human rights agenda or of support for the national human rights agenda formulated by the previous government in a July 1997 symposium with NGO's. The Chavez administration also did not support the National Human Rights Commission that former President Caldera created in 1996 as a mechanism to coordinate the Government's human rights programs and to serve as a forum for dialog with NGO's. Despite the Commission's paralysis, NGO's have developed good relationships with specific ministries, such as the Ministry of Education to develop educational materials on human rights, and the Foreign Ministry to discuss the resolution of existing human rights cases against the Government in international courts. The Defense Ministry's Human Rights Office made significant advances to incorporate human rights training into the military's curriculum. However, although the Defense Ministry continued to reject the validity of NGO reports of alleged human rights violations by the armed forces, it remained unwilling to provide evidence to refute the charges, citing confidentiality regulations. The National Guard opened a Public Attention Office to process charges of human rights violations by national guard members. A national Police Committee created in September 1997 to monitor police conduct, receive complaints, and ensure implementation of disciplinary measures no longer exists.

During their meeting with President Chavez, the human rights NGO's petitioned for the release of two neighborhood leaders and one human rights activist who were detained arbitrarily in the border town of Guasdualito, after the previously suspended constitutional protections had been restored in February. All three were released shortly after the meeting. At the request of the Venezuelan Episcopal Conference, Chavez also issued a presidential pardon to Jose Rosario Paishi, an indigenous person accused of collaborating with Colombian guerrillas; he had been detained since May 1998.
In September President Chavez invited the IACHR to make an on-site visit to the country.

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

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

Women

Violence against women is a problem, and 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. A provision in the Penal Code provides that anyone guilty of rape can avoid punishment if, before sentencing, he marries the victim. Few police officers are trained to deal responsibly with rape victims. In 1997, the most recent year for which statistics were available, the police received 7,426 reports of sexual crimes, of which over 3,600 were cases of rape. However, women's organizations assert that such low figures do not accurately portray the problem of rape and sexual assault. They claim that many 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. A total of 14,683 cases of domestic violence were reported to the authorities in 1997. According to local monitors, the police generally are unwilling to intervene to prevent domestic violence, and the courts rarely prosecute those accused of such abuse. In addition, poor women generally are unaware of legal remedies and have little access to them. On January 1, the Law Against Violence toward Women and Children came into force, and the PTJ opened the Division Against Violence to accommodate its provisions. This law requires the police to receive reports of domestic violence and obligates hospital personnel to advise authorities of abuse.

The National Women's Council, an agency of the presidency with representation from the Ministries of Justice, Education, Family, Health, and Labor, in 1996 prepared a manual on violence against women and children, which includes information on where the victims might obtain assistance. There are a number of NGO's concerned with domestic violence, sex education, and economic discrimination. However, the recommendations of these groups have not been implemented widely by the police or other concerned governmental agencies.

Sexual harassment in the workplace is a common problem.

Women and men are 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 gradually have surmounted many of the barriers to their full participation in political and economic life. Nonetheless, women still are 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 or 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 often are delayed.

Children

The Government continued to scale back its expenditure on education, health, and social services. While the law provides for universal free education, about one-third of the Ministry of Education budget was dedicated to post-secondary education, leaving both primary and secondary education chronically underfunded. According to the United Nations Children's Fund, only 76.5 percent of eligible children enter the first grade. This means that over 750,000 children remain outside the educational system. In addition, the 1998 annual report of the Community Centers for Learning (CECODAP) stated that over 400,000 children are not eligible to receive government assistance, including public education, because their births are not documented properly. In 1998 the Government attempted to remedy this problem by adopting a new regulation that requires hospitals to register the births of all children.

According to CECODAP's study, 500,000 children, most under the age of 5, have an average of 2 episodes of gastroenteritis a year, a sickness that is the ninth leading cause of death in the country. A total of 40 percent of the population under the age of 17 suffer from malnutrition, and 76 percent live in poverty. These conditions contribute to the increase in preventable diseases that are leading causes of infant mortality.

An 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. A survey by the National Institute for Minors in 1994 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. There were also reports of trafficking in children from other South American countries to work in Caracas as street vendors and housemaids (see Section 6.f.).

The authorities in Caracas and several other jurisdictions tried to cope with the phenomenon of street children by imposing curfews 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 where they are crowded into small, filthy cells, fed only once a day, and forced to sleep on bare concrete floors.

In October 1997, Amnesty International reported past incidents in which minors were subjects of extrajudicial killings and abuse, as well as deficiencies in law and practice with regard to the detention of children. In particular, the 1980 Minors' Protection Act requires them to be brought before a judge within 8 days of detention, but this may be extended to 3 months. In addition, security forces and law enforcement authorities often detain children together with adults.
Reports of child abuse are rare due to a fear of entanglement with the authorities and ingrained attitudes regarding family privacy. The overburdened judicial system, although very slow, generally ensures that in most situations children are removed from abusive households once a case has been reported. However, public facilities for such children 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. The 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 and 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. Many indigenous people are 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. There are approximately 316,000 indigenous people in 27 ethnic groups.

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 allocation of natural resources. As farmers and miners intrude on their habitats, indigenous communities are threatened by deforestation and water pollution. Few indigenous people hold title to their land, but many do not want to since most indigenous groups reject the concept of individual property and want the Government to recognize lands traditionally inhabited by them as territories belonging to each respective indigenous group.

At year's end, the Supreme Court of Justice had not yet ruled on a lawsuit filed by environmental and indigenous organizations challenging a 1997 decree that permitted the expansion of legal mining activities in the Imataca Forest Reserve. The groups charged that only Congress can change the nature of the reserve, that there was an inadequate public review process prior to the change, and that expanded mining activities would affect adversely the health of the Warao, Arawako, Karina, Akawaio, and Pemon indigenous communities that inhabit the Imataca watershed area. In November 1997, the Supreme Court ordered the Government not to issue any new mining concessions in the Imataca reserve until the Court ruled on the constitutionality of the presidential decree. In June President Chavez said that he planned to enact a new law to regulate the use of the Reserve and that it would annul the 1997 decree.
The controversy over infrastructure development and the maintenance of traditional 
Indian lifestyles is most evident in Bolivar state, where the Pemon Indians continued to 
protest the building of power lines through Canaima National Park. In September the 
Pemons knocked down an electrical tower, blocked a key highway linking the country to 
Brazil, and detained three trucks being used to build the lines.

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 December 1996, a number of human 
rights organizations, acting on behalf of the Yanomami community of Haximu, petitioned 
the IACHR in connection with the 1993 massacre of 16 members of the community by 
Brazilian miners. The petition alleges that the Government failed in its obligation to 
protect the Yanomami and to seek appropriate punishment of the killers, who were 
released by the Brazilian authorities after 3 months' detention. In May 1998, the 
Government agreed to work with the NGO's under IACHR mediation to resolve the case. 
In November the Government signed an agreement to compensate the Yanomami; plans 
to implement this agreement were being discussed at year's end.

Since 1998 hundreds of members of the Warao indigenous group have migrated from 
their traditional homelands in the swampy Orinoco delta region to the capital of Caracas 
where they live in the streets, selling their traditional crafts and begging. The Warao say 
that flooding and petroleum exploration have eroded their traditional means of survival, 
fishing, and horticulture. In addition, many Warao no longer want to or no longer possess 
the knowledge required to survive in their traditional manner. However, the Caracas city 
government and the Metropolitan Police have maintained a policy of forcing the Warao to 
return to the delta by rounding them up and loading them onto buses. In 1998 they 
returned, on average, groups of 100 Warao, at least 15 times. Many of the Warao return to 
Caracas, citing lack of jobs and money in the delta and their ability to receive 
approximately $225 (130,000 bolivars) per week in handouts in Caracas.

Section 6 Worker Rights

a. The Right of Association

Both the Constitution and labor law recognize and encourage the right of workers to 
organize. The comprehensive 1990 Labor Code extends the right to form and join unions 
of their choosing to all private sector and public sector employees (except members of the 
armed forces). 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), three 
small union confederations, and a number of independent unions operate freely. About 28 
percent of the national labor force is unionized. The CTV's top leadership includes 
members of several political parties but the majority are affiliated with one of the 
traditional parties, Democratic Action. The CTV and the AD influence each other.
In September the ANC debated a proposed labor decree, which called for the closing of unions and federations, and the establishment of a single federation; however, the decree had not been enacted at year's end. On September 13, the ANC and the CTV formalized an agreement to create a single, unified workers confederation with free and open leadership elections. On October 23, the CTV voted to coordinate action plans with the country's three other labor confederations, with the collaboration of the ANC.

The law recognizes the right of public and private sector employees to strike. However, public servants may exercise it only 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 the year, most strikes were brief and occurred among government employees such as petroleum workers, health workers in public hospitals and clinics, and firefighters. In May striking truckers blocked the border crossing between Tachira state and Colombia for 2 weeks, to protest competition from Colombian truckers.

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 practiced freely. 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 are the same in the sole export processing zone, located in Punto Fijo, 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," and such practices generally are not known to occur. Apart from the general prohibition of compulsory labor, the law does not prohibit specifically forced and bonded labor by children, but such practices generally are not known to occur; however, there were reports that children were trafficked into the country to work as housemaids and beggars (see Section 6.f.).

d. Status of Child Labor Practices and Minimum Age for Employment
The Labor Code and the Tutelary Law for Minors contain provisions to protect children from exploitation in the workplace. The Ministry of Labor and the National Institute for Minors enforce child labor policies effectively in the formal sector of the economy but much less so in the informal sector, which accounts for the vast majority of child laborers. A plan formulated by the National Institute for Minors in 1996 to reach and better protect children who work in the informal sector has not been implemented because of a lack of funding.

Primary school education is compulsory, free, and universal. However, 64 percent of children leave school before the ninth grade. In a 1996 survey of working children conducted by the National Institute for Minors, 45 percent of those polled stated that they were not in school. The actual figure is probably much higher considering that those who stated that they attended school also reported that they worked on average 7 1/2 hours a day 4 to 7 days a week.

The Labor Code allows children between the ages of 12 and 14 to work only if the National Institute for Minors or the Labor Ministry grants special permission. It states that children between the ages of 14 and 16 may not work without permission from their legal guardians. Minors may not work in mines or smelters, in occupations that risk life or health, that 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 may work only between the hours of 6 a.m. and 7 p.m. The estimated 1.2 million children who work in the informal sector, mostly as street vendors, generally work more hours than the total permitted under the law. In the National Institute for Minors 1996 survey of working children, half the children worked both morning and afternoon, and 64.5 percent worked 6 or 7 days a week. The Government's Central Office of Statistics and Information reports that 12 percent of the country's children between the ages of 10 and 17 are working, have worked at some time, or are seeking work. Of that number, approximately 70 percent work in the informal sector of the economy. Less than 300,000 of those working in the informal sector have work permits.

Apart from the general prohibition of compulsory labor, the law does not specifically prohibit forced and bonded labor by children, but such practices generally are not known to occur; however, there were reports of trafficking in children (see Sections 6.c. and 6.f.).

e. Acceptable Conditions of Work

The monthly minimum wage was $201 (120,000 bolivars) in the private sector for urban workers and $165 (98,000 bolivars) for rural workers, effective May 1. 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 these benefits, the minimum wage is not sufficient to provide a decent standard of living for a worker and family. Unions point out that a worker's income is often less than the cost of a family's basic monthly food basket, estimated by the Center for Documentation and Analysis for Workers in September at $363 (228,591 bolivars). Under the Labor Code, minimum wage rates are set by administrative decree, which Congress may either suspend or ratify but may not
change. The law excludes only domestic workers and concierges from coverage under the minimum wage decrees. The Ministry of Labor enforces minimum wage rates effectively in the formal sector of the economy, but about one-half of the population works in the informal sector, where labor laws and protections generally are not enforced.

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 authorities have yet to promulgate regulations to implement the 1986 Health and Safety Law, which 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 that there is 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.

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

f. Trafficking in Persons

There were reports that women were trafficked to Spain for purposes of prostitution.

There also were reports of trafficking in children from other South American countries to work in Caracas as street vendors and housemaids.

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