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Venezuela

Country Reports on Human Rights Practices - [2005](#)

Released by the Bureau of Democracy, Human Rights, and Labor

March 8, 2006

Venezuela is a constitutional democracy with a population of approximately 25 million. In 2000 voters elected President Hugo Chavez of the Fifth Republic Movement (MVR) in generally free and fair elections. While civilian authorities generally maintained control of the security forces, there were instances in which elements of the security forces acted independently of government authority.

Politicization of the judiciary, restrictions on the media, and harassment of the political opposition continued to characterize the human rights situation during the year. The government used the justice system selectively against the political opposition and implementation of a 2004 media law threatened to limit press freedom. The following human rights problems were reported:

- unlawful killings of criminal suspects
- torture and abuse of detainees
- harsh prison conditions including violence and severe overcrowding
- arbitrary arrests and detentions
- corrupt, inefficient, and highly politicized judicial system characterized by trial delays, impunity, and violations of due process
- dismissal or forced retirements of judges for political reasons
- unlawful taking of private property, including failure to make property restitution in such cases
- illegal wiretapping and searches of private homes and businesses
- official intimidation and attacks on the independent media, the political opposition, labor unions, courts, the Catholic Church, missionary groups, and human rights groups
- widespread corruption at all levels of government
- violence and discrimination against women, abuse of children, discrimination against persons with disabilities, and inadequate protection of the rights of indigenous people
- trafficking in persons
- restrictions on the right of association

RESPECT FOR HUMAN RIGHTS

Section 1 Respect for the Integrity of the Person, Including

Freedom From:

a. Arbitrary or Unlawful Deprivation of Life

The government or its agents were not accused of committing any politically motivated killings. Security forces committed unlawful killings, including summary executions of criminal suspects, and mistreated persons in custody resulting in deaths.

In August the attorney general's office released statistics implicating security forces in approximately six thousand killings during the last five years. The survey included all security force-related deaths, whether or not misconduct was alleged. The human rights nongovernmental organization (NGO) Venezuelan Program of Action and Education in Human Rights (PROVEA) documented 162 unlawful killings from October 2004 through September. The human rights NGO Committee for the Families of the Victims of February 1989 (COFAVIC) noted the expansion of police death squad activity linked to police participation in crime.

In January Amnesty International reported that two Aragua State police officers allegedly shot and killed Rigoberto Barrios in Guanayen, Aragua State. Rigoberto Barrios was the third member of the Barrios family allegedly killed by police, despite a 2004 Inter-American Court of Human Rights resolution ordering police protection for the family.

In June security forces killed students Leonardo Gonzalez, Erick Montenegro, and Edgar Quintero and injured three others near a Caracas police checkpoint. Autopsy results showed that two of the students were shot multiple times and that all had shots to the head. The minister of interior told the press he had proof that a patrol was ordered to plant guns where the bodies of the students had fallen. The attorney general's office implicated approximately 30 officers in connection with the killings, and the case was under investigation at year's end.

In December a Caracas judge convicted three former police officers as the material authors of the 2004 killing of prosecutor Danilo Anderson (see section 1.e.).

There were no significant developments in the following cases reported in 2004: the January killings of nine men, allegedly by Lara State police officers; and the March killing of Juan Carlos Zembrano in Lagunillas, Zulia State, allegedly by soldiers.

On August 12, a judge convicted 11 Portuguesa State police officers for murders stemming from their participation in the death squad "Exterminio." Exterminio had been accused of up to 100 killings during 2000-01 in Portuguesa State. Human rights NGOs criticized the decision, which absolved the officers of responsibility in 4 of 7 cases, noting that 17 witnesses were killed during the approximately 5-year trial delay.

Unlike in previous years, there were no reports that security forces killed prisoners; however, deaths in prison resulted from other causes (see section 1.c.).

The case of four National Guard officers charged with killing seven prisoners at the Vista Hermosa prison in 2003 had not gone to trial by year's end.

Unlike in the previous year, no deaths resulted from security force intervention in antigovernment demonstrations.

There was one high-profile case of mistreatment of soldiers resulting in death. On March 7, a fire in a "punishment cell" in Cumana, Sucre State injured two soldiers who later died from burns. Authorities detained one soldier and a civilian court was given jurisdiction of the case. The case was pending trial at year's end.

There were no significant developments in the March 2004 death of army Private Roberto Aguilar, who died on a military installation in Zulia State. The deaths in March 2004 of two soldiers allegedly burned in a punishment cell fire in Fuerte Mara, Zulia State remained under investigation and the prosecution postponed the release its final report. In April prosecutors charged an additional soldier with setting the fire.

Prosecutors rarely brought cases against perpetrators of unlawful killings. When prosecutors investigated, they alleged that unsecured crime scenes, poor investigative techniques, and constantly changing or inexperienced personnel ensured that political and human rights abuse cases were delayed indefinitely or had a preordained result. In August the attorney general's office reported that of the more than 6 thousand police officers implicated in killings during the last 5 years, only 88 were convicted. Sentences frequently were light, and convictions often were overturned on appeal. Members of the security forces charged with or convicted of crimes rarely were imprisoned.

Colombian guerrillas or other illegal armed groups reportedly killed four ranchers (see section 1.b.).

The press reported several cases of lynching and attempted lynching of suspected criminals. According to public opinion polls, a significant portion of the population tacitly supported vigilante activity to control crime.

b. Disappearance

There were no reports of politically motivated disappearances.

Human rights groups noted that police officers sometimes disposed of their victims' bodies to avoid investigations. PROVEA recorded 17 reports of disappearances allegedly involving security forces from October 2004 to September. The NGO Red de Apoyo received six reports of disappearances between January and June and noted that this figure exceeded the total number of disappearance reports it had received in 2004. On July 1, human rights NGOs issued a joint statement expressing concern over the increase in disappearances.

In January the press reported that retired Air Force Colonel Silvino Bustillos, a leader of the *Plaza Francia* military dissidents, requested political asylum in Colombia. Bustillos was reported missing in October 2004 after allegedly being followed by agents of the General Directorate for Military Intelligence (DIM).

There were no significant developments in the case of the Investigative and Criminal Police Corps (CICPC) officers investigated for possibly kidnapping three persons in Tachira State in May 2004.

In June the government acknowledged its responsibility for the forced disappearances of Oscar Blanco Romero, Roberto Hernandez Paz, and Jose Rivas Fernandez following the Vargas floods in 1999. The Inter-American Court of Human Rights accepted the acknowledgement and, in November ruled that the country had violated international conventions on torture and forced disappearance. The court ordered the country to pay reparations and open judicial proceedings on the case. Domestic courts had not convicted any of the security forces allegedly involved in the disappearances by year's end.

The Center of Ranching Studies reported that kidnapers targeting ranchers, farmers, and their families claimed at least 30 victims during the year. Kidnappers killed four of these victims, and unidentified assassins killed at least two more farmers (see section 1.a.). The National Cattle Ranchers Federation and press reports attributed the attacks to criminal gangs, Colombian guerrillas, and other illegal armed groups, such as the Bolivarian Liberation Forces. The National Guard's antiextortion and kidnapping unit rescued at least one victim during the year, but many ranchers paid protection money to illegal armed groups rather than rely on government authorities.

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

Although the law prohibits such practices, NGOs, media, and opposition groups accused security forces of continuing to torture and abuse detainees. Abuse most commonly consisted of beatings during arrest or interrogation, but there also were incidents in which the security forces used near-suffocation and other forms of torture.

PROVEA reported that between October 2004 and September, it received 31 complaints of torture and 503 complaints regarding cruel, inhuman, and degrading treatment. From January to June, Red de Apoyo received 10 complaints from alleged torture victims. There were no arrests associated with these cases.

The government did not authorize independent investigation of torture complaints. Human rights groups continued to question the attorney general's ability to oversee neutral investigations as an active member of the president's political party and a former vice president in the government. Groups also asserted that the Institute of Forensic Medicine, part of the CICPC, was unlikely to be impartial in the examinations of cases that involved torture by CICPC members. Few cases of torture resulted in convictions.

Reports of beatings and other humiliating treatment of suspects during arrests were common and involved various law enforcement agencies.

In February the family of General Felipe Rodriguez, who was arrested and held at Military Intelligence Headquarters, alleged that he was subjected to sensory deprivation and psychological torture. In March authorities transferred Rodriguez to a civilian prison despite a court order that he be transferred to the military prison Ramo Verde. Rodriguez was awaiting trial at year's end.

In June family members of Intelligence and Prevention Services (DISIP) officers being investigated for the escape of an alleged narcotics trafficker claimed that prison authorities beat and tortured the officers in an attempt to secure a confession.

In December a Caracas judge convicted three former police officers allegedly tortured by police in 2004 after the three were detained for killing prosecutor Danilo Anderson. The three received prison sentences ranging from 27 to 30 years.

Prison and Detention Center Conditions

Prison conditions were harsh due to scarce resources, poorly trained and corrupt prison staff, and violence by guards and inmates. The prison monitoring NGO Venezuelan Prison Observatory (OVP) estimated that existing prisons could hold approximately 60 percent of the estimated 19 thousand prisoners. Severe overcrowding in some prisons and food and water shortages remained problems.

Inmates often had to pay guards and other inmates to obtain necessities such as space in a cell, a bed, and food. Most prisoners obtained food from their families, by paying prison guards, or in barter with other prisoners. Many inmates also profited from exploiting and abusing others, particularly since convicted murderers and rapists often were held with pretrial detainees or first-time petty offenders. Trafficking in arms and drugs fueled gang-related violence and extortion. Prison officials often illegally demanded payment from prisoners for transportation to judicial proceedings (see sections 1.d. and 1.e.).

The government failed to provide adequate prison security. The National Guard and the Ministry of Interior and Justice have responsibility for exterior and interior security, respectively. The OVP estimated that the interior guard force was 10 percent of the required strength. Violence between prison gangs, including shootouts and riots, was common. From January through September, OVP recorded 304 deaths and 517 injuries in the prisons. Most inmate deaths resulted from prisoner-on-prisoner violence, riots, fires, and from generally unsanitary and unsafe conditions. Prisoners also died as a consequence of poor diet and inadequate medical care.

In January more than 10 thousand prisoners held a national hunger strike to protest prison conditions and the lack of action on their cases.

Security forces and law enforcement authorities often imprisoned minors together with adults, even though separate facilities existed for juveniles. Because reform institutions were filled to capacity, hundreds of children accused of infractions were confined in juvenile detention centers where they were crowded into small, filthy cells, fed only once a day, and forced to sleep on bare concrete floors. Pretrial detainees were held with convicted prisoners.

The government permitted prison visits by independent human rights observers, and such visits took place during the year.

d. Arbitrary Arrest or Detention

While the law prohibits arbitrary arrest and detention, security forces continued to arrest and detain citizens arbitrarily.

Role of the Police and Security Apparatus

The National Guard, a branch of the military, is largely responsible for maintaining public order, guarding the exterior of key government installations and prisons, conducting counter narcotics operations, monitoring borders, and providing law enforcement in remote areas. The Ministry of Interior and Justice controls the CICPC, which conducts most criminal investigations, and the DISIP, which collects intelligence and is responsible for investigating cases of corruption, subversion, and arms trafficking. Mayors and governors oversee local and state police forces. Corruption was a major problem among all police forces, whose members were poorly paid and trained. Impunity for

corruption, brutality, and other acts of violence were major problems. Some local police forces offered human rights training for their personnel.

Arrest and Detention

Persons were not always apprehended openly with warrants from judicial authorities. Detainees must be brought before a prosecutor within 12 hours and before a judge within 48 hours to determine the legality of the detention. A person accused of a crime may not be detained for longer than the possible minimum sentence for that crime, nor for longer than two years, except in certain circumstances, as when the defendant is responsible for the delay in the proceedings.

There was a functioning system of bail, but March penal code reforms eliminated bail for certain crimes (see section 2.a.). Bail also may be denied if the person was apprehended in the act of committing a crime or a judge determines that there is a danger that the accused may flee or impede the investigation. Detainees were provided access to counsel and family members.

PROVEA documented 2,731 arbitrary detentions between October 2004 and September and criticized the security forces for a systematic practice of illegal arrests to combat crime.

OVP reported that as of September, 9,653 persons (51 percent of prisoners) were in pretrial detention. Trials were delayed due to many factors, including the limited power of judges to compel authorities to transport prisoners to court.

e. Denial of Fair Public Trial

While the law provides for an independent judiciary, it was increasingly less so. The judiciary also was highly inefficient, sometimes corrupt, and subject to political influence, particularly from the attorney general's office, which in turn was pressured by the executive branch.

The judicial sector consists of the Supreme Tribunal of Justice and lower courts, the attorney general's office, and the Ministry of Interior and Justice. The Supreme Tribunal of Justice is the country's highest court and directly administers the lower courts through the Executive Directorate of the Judiciary.

According to government statistics, provisional and temporary judges constituted an estimated 50 percent of the approximately 1,900 judges. The Supreme Tribunal of Justice's Judicial Committee may hire and fire temporary judges without cause and without explanation, and it did so. Provisional judges legally have the same rights as permanent judges. In May the Supreme Tribunal of Justice's Judicial Committee removed approximately 50 judges (some tenured and some provisional) in several states and Caracas, accusing them of complicity with drug traffickers and other irregularities. In May the Supreme Tribunal of Justice began administering competitive exams to provisional judges as a basis for granting tenure. As of December approximately 480 judges had been granted tenure.

The law provides that the Moral Council (attorney general, human rights ombudsman, and comptroller general) may suspend judges and allows the National Assembly to revoke the appointment of supreme tribunal of justice judges by a simple majority vote. Human Rights Watch (HRW) noted that the law threatens the independence of the judiciary by subjecting it to political control.

Lower court judges oversee pretrial motions, including prosecution and defense motions, prior to criminal cases going to trial judges. Executive judges oversee the application of sentences. Appeals courts, consisting of three-judge panels, review lower court decisions. The attorney general oversees the prosecutors who investigate crimes and bring charges against criminal suspects.

Corruption and susceptibility to political pressure were widespread, particularly from the attorney general's office, which in turn was responding to pressure from the executive branch. In February the Supreme Tribunal of Justice suspended three judges for lifting travel restrictions prohibiting persons investigated for involvement in the attempted removal of President Chavez in 2002. The magistrates who assumed the duties of the suspended judges subsequently reversed the decision to lift the ban. In March the Constitutional Chamber of the Supreme Tribunal of Justice annulled a 2002 supreme tribunal of justice ruling that the events of April 2002 constituted a power vacuum and not a coup. The 2002 ruling had previously prevented the prosecution of four high-ranking military officers accused of military rebellion.

Human rights NGOs and judicial observers criticized the attorney general's office for corruption and the politicization of prosecutors. In June judicial NGO Foro Penal reported that a small group of prosecutors was given the lead on nearly all high-profile prosecutions. In July the Andean Commission of Jurists criticized the attorney general's use of his office to investigate and prosecute opposition figures on political grounds.

On April 14, the Penal Chamber of the Supreme Tribunal of Justice revoked the October 2004 ruling throwing out all criminal charges against National Guard General Carlos Alfonzo Martinez and ordered the case reheard. On July 12, an appeals court upheld the original August 2004 conviction of General Martinez to five years probation for violating security zones. The court found Martinez not guilty of instigating rebellion or abandoning his command.

In May the Penal Chamber of the Supreme Tribunal of Justice revoked the October 2004 appeals court ruling dismissing the case against Baruta mayor Henrique Capriles Radonski on charges relating to a violent demonstration in front of the Cuban Embassy in 2002 and ordered the case reheard.

In November the attorney general's office issued arrest warrants for four alleged "intellectual authors" of the November 2004 killing of prosecutor Danilo Anderson. Businessman Nelson Mezerhane and 2 others were held for 46 days in DISIP custody for allegedly

masterminding the killing based on the testimony of an alleged former Colombian paramilitary member whose credibility was questioned by various press reports. In December a Caracas judge convicted three former police officers as the material authors of the killing.

In May a judge ruled that General Felipe Rodriguez must stand trial on charges of rebellion and conspiracy for his alleged role in the 2003 bombings of the Spanish and Colombian consulates in Caracas and for his role in a military protest at Altamira (see section 1.c.).

On March 14, prosecutors accused former Miranda State governor and Democratic Coordinating Committee leader Enrique Mendoza of conspiracy and rebellion for his alleged involvement in the closure of a television station in 2002. Mendoza was not subject to any court-ordered restrictions, and the court had yet to rule whether he would stand trial by year's end.

In April prosecutors opened an investigation into Carlos Ayala Corao, President of the Andean Commission of Jurists and former president of the Inter-American Commission on Human Rights, for conspiracy related to his alleged participation in the 2002 coup. Human rights groups criticized the charge as an example of political prosecution without legal foundation. In October the prosecution did not cite Ayala as one of those formally charged in the case, thereby discontinuing the investigation.

In November the controller general suspended from political activity Leopoldo Lopez, an opposition party mayor of a Caracas municipality, for a period of six years after he leaves office in 2008. The controller alleged that Lopez mishandled municipal funds in 2002. Lopez claimed the move was unconstitutional and part of a strategy by the Chavez government to eliminate the political opposition.

Trial Procedures

The law provides for open, public, and fair trials with oral proceedings. Defendants are innocent until proven guilty. Public defenders are provided for indigent defendants, but there continued to be a shortage of public defenders. Defendants and plaintiffs have the right of appeal.

Trial delays were common. A professional judge and two "lay judges" try serious cases; a single judge may hear serious cases if requested by the defendant or victim, or if attempts to appoint lay judges have failed. Difficulty in finding persons willing to serve as lay judges also resulted in delays.

The law provides that trials for military personnel charged with human rights abuses be held in civilian rather than military courts; the provision does not apply to cases that predate the 1999 constitution. Executive courts in the military justice system mirrored the civilian courts.

Human rights NGOs continued to express concern that the supreme tribunal of justice's selection of military judges from a list of candidates provided by the minister of defense linked the careers of military judges to the high command.

Political Prisoners

Retired Army General Francisco Uson remained imprisoned at the Ramo Verde military prison for "defaming" the army, despite being retired and not subject to military jurisdiction. In January the military court upheld on appeal the October 2004 decision which found Uson guilty of insulting the army and sentenced him to five and one half years in prison. In July the Supreme Tribunal of Justice declared Uson's attempt to annul the decision inadmissible.

Property Restitution

On September 29, Supreme Tribunal of Justice President Omar Mora stated that land could be occupied by the state before a judicial review of ownership claims. The government installed state cooperatives on properties still under dispute and on properties whose owners had won court decisions. The Supreme Tribunal of Justice ordered squatters to leave properties, but the government did not enforce its decisions.

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

Although the law prohibits such actions, security forces continued to infringe on citizens' privacy rights by searching homes without warrants, for example during anticrime sweeps in poor neighborhoods. There were reports of illegal wiretapping and invasion of privacy by the security forces.

Throughout the country, witnesses to abuses by security forces reported instances in which their family members later were harassed, threatened, or killed (see section 1.a.).

In April President Chavez called on government officials to stop using the "Tascon List," names and national identification numbers of all persons who had signed the recall petitions which MVR Deputy Luis Tascon had placed on his Web page; however, the Tascon List reportedly was incorporated into a computer program dubbed "Maisanta," which also included information about whether voters benefited from the government's missions. The information was used to identify for retaliation those who signed the recall petition; some of those identified lost their government jobs, were denied government services, such as passports and identity cards, or were denied access to employment.

Section 2 Respect for Civil Liberties, Including:

a. Freedom of Speech and Press

The law provides for freedom of speech and of the press; however, the combination of new laws governing libel and broadcast media content, legal harassment, and physical intimidation resulted in limitations on these freedoms and a climate of self-censorship.

Amendments to the penal code in March make insulting the president punishable by 6 to 30 months in prison, with lesser penalties for insulting lower ranking officials. The defamation law was strengthened such that comments exposing another person to public contempt or hatred are subject to a one- to three-year prison sentence and a fine. Inaccurate reporting which disturbs the public peace is punishable with a prison sentence of two to five years. The requirement that media disseminate only "true" information was undefined and open to politically motivated interpretation.

International organizations, such as the Inter-American Press Association (IAPA) and the International Association of Broadcasting (IAB), and domestic journalists charged the government with creating a climate of self-censorship; in March the IAB denounced to the Inter-American Human Rights Commission the "intimidation, pressure, limitations, and restrictions" placed on the media.

Although print and electronic media were independent, President Chavez repeatedly singled out media owners and editors, charging that the media provoked political unrest and accusing them of treason. The country remained on the International Press Institute's watch list of countries with a growing tendency toward suppression or restriction of press freedom. Reporters without Borders noted similar concerns.

The law requires that practicing journalists have journalism degrees and be members of the National College of Journalists and prescribes three- to six-month jail terms for those who practice journalism illegally. These requirements were waived for foreigners and for opinion columnists.

Assaults against the media declined compared with 2004. From June through August, the National Union of Press Workers recorded 11 physical and verbal attacks against the press. The National Guard, the DIM, the DISIP, and local police also harassed and attacked journalists. Government sympathizers attacked and threatened private media.

On January 14, a mob attacked Punta de Mata radio host Daniel Ortiz Milan and threatened him with revolutionary justice after Ortiz commented in his program on a local election dispute. Police rescued Ortiz from the mob.

On June 13, masked assailants attacked and firebombed the newspaper *Frontera* in Merida, in retaliation for a report on the death of a student during disturbances between pro and antigovernment students at the University of the Andes. The Committee to Protect Journalists reported that the newspaper's management did not file a police complaint for fear that a government investigation would blame *Frontera's* report for provoking the attack.

On June 29, four men believed to be DIM agents beat and briefly detained a photographer for the newspaper *El Nuevo Pais* after he attempted to take photographs of a traffic accident involving the head of the government's land reform office. The photographer reported that authorities seized his camera and removed its memory disc.

On September 19, National Guard officers ransacked the offices of Caracas daily *Ultimas Noticias* and seized photographs.

On November 5, the attorney general's office accused journalist Patricia Poleo of helping to mastermind the November 2004 killing of prosecutor Danilo Anderson. IAPA expressed concern over the accusation and questioned whether the prosecution had targeted Poleo because her reports often investigated government corruption. In January security forces searched her residence, allegedly looking for evidence in the Anderson case; Poleo accused the attorney general of attempting to hide the truth of Anderson's killing.

The 2004 assassination of radio personality, opinion columnist, and activist Mauro Marcano Rames in Maturin remained unsolved.

The president preempted broadcasting on the nation's airwaves to present government programs. Independent media observers criticized the state media for extreme progovernment politicization.

While the law permits the president to suspend telecommunications broadcasts, it was not invoked during the year.

Media analysts, journalists, and other observers alleged that the government used criminal defamation and libel laws to intimidate or harass the media. The attorney general's office charged *El Universal* with criminal defamation for a July 25 editorial concerning the judicial branch. National and international press organizations denounced the charge, and the Supreme Tribunal of Justice dismissed the case.

In September National Guard officers searched without a warrant the offices of TV Guyana looking for a videotape of a speech by a labor leader supporting recent labor actions in Ciudad Guyana. The station owner ordered his staff not to turn over the tape until a legal order had been presented.

In November police raided the offices of the newspaper *La Razon* searching for the name and address of a columnist published in the paper under a pseudonym.

The civil case continued against newspaper *El Impulso* editor Jose Ocanto, charged with libel for accusing a military officer of corruption in 2004.

Some commercial radio stations complained that broadcasting frequencies for community radios were not allocated in accordance with broadcast regulations. According to the National Venezuelan Radio Broadcasting Chamber, most of these community radio stations neither received broadcasting licenses nor followed regulations and interfered with the broadcasts of licensed stations. The government reportedly funded the community stations, whose broadcasting was progovernment.

The law permits the government to order national broadcasts *cadenas* requiring all broadcast media to preempt scheduled programming and transmit the government's entire message. Domestic and international observers to the December national assembly elections questioned the government's use of this provision during the election. According to private media sources, there were approximately 171 *cadenas* from January through September.

In October the National Integrated Service of Customs and Tax Administration of Venezuela (SENIAT) temporarily closed several newspaper and radio stations in the states of Bolivar and Lara. Domestic journalists criticized the move as an attempt to restrict press freedom. On October 12, the press reported that the newspapers *La Nueva Prensa* and *El Expreso* were closed, along with radio stations Radio Alegria and Radio Bolivariana, and then allowed to reopen a few days after the shutdown. On October 25, the proopposition newspaper *El Impulso* was closed for 24 hours and fined. *El Impulso* linked the action to its recent comments to the IAPA criticizing government moves against press freedom. The government responded that SENIAT had intervened for tax enforcement reasons.

The government denied private media equal access to many official events, and, in cases when private media had access to government facilities, they often did not have access to officials and information. For example, only the government radio and television stations were authorized to have reporters at the presidential palace. State-controlled television and radio stations and many foreign news reporters continued to have full access to official events.

There were no government restrictions on the Internet or academic freedom.

b. Freedom of Peaceful Assembly and Association

Freedom of Assembly

The law provides for freedom of assembly, and the government generally respected this right in practice. PROVEA noted that at least 49 injuries resulted from security force interventions in peaceful demonstrations, which marked a significant decrease from the previous year.

Human rights groups criticized the March penal code revision for the strict penalties it imposes on some forms of peaceful demonstration. The new law outlaws pot-banging protests often identified with opponents of the government and punishes street closures with up to eight-year prison terms. In June human rights NGOs submitted a motion to declare the revision unconstitutional, but the Constitutional Chamber of the Supreme Tribunal of Justice had not made a decision by year's end. In November the attorney general's office submitted a separate motion to declare the penal code revision unconstitutional.

Government supporters sometimes disrupted marches and rallies. Supporters and opponents of the government demonstrated in the capital and other cities during the year, and several demonstrations resulted in injuries after the government failed to protect peaceful demonstrators.

On July 12, government supporters repeatedly accosted demonstrators protesting the June 27 police killing of three students (see section 1.a.). Security forces failed to provide protection, and by the time the march reached the National Assembly, fewer than half the original demonstrators remained.

On August 27, government supporters confronted an opposition march, throwing rocks, bottles and other objects at marchers as they made their way to the National Assembly. The metropolitan fire chief reported six injuries, including one hospitalization. Security forces failed to intervene effectively to protect demonstrators.

The case against a National Guard officer arrested in November 2004 for his role in the violent confrontation between opposition demonstrators and National Guard troops in February 2004 had not gone to trial by year's end. In December a court sentenced 3 gunmen accused of killing a demonstrator in August 2004 to 11 years in prison.

Freedom of Association

While the law provides for freedom of association, the government only partially respected this right. While professional and academic associations indicated they generally operated without interference, they complained that the National Electoral Council (CNE) repeatedly interfered with their attempts to hold internal elections. A 2000 Supreme Tribunal of Justice ruling declared that groups belonging to civil society could not receive money from foreign governments or groups influenced by foreign governments, engage in political activism, or be run by members of the military or religious groups. The government brought charges of conspiracy against the NGO SUMATE based in part on the fact that the organization received financing from abroad (see section 4).

c. Freedom of Religion

The law provides for freedom of religion, on the condition that its practice does not violate public morality, decency, or the public order, and the government generally respected this right in practice. There were efforts by the government to limit the influence of churches in certain social and political areas.

Foreign missionaries require a special visa to enter the country. For several weeks in August the Directorate of Justice and Religion froze the issuance of religious visas to missionaries. In October President Chavez ordered the expulsion of the missionary group New Tribes Missions based on government claims of interference and damage to the indigenous population. There were no expulsions as of year's end.

Societal Abuses and Discrimination

In July members of the Catholic Church hierarchy criticized government actions directed against civil society and the press. In response the president denounced a Catholic cardinal as a devil and a hypocrite and church leaders as "coupsters."

The small Jewish community was active, and there were few reports of anti-Semitic incidents. However the government and its supporters occasionally demonstrated anti-Semitism. In December the international Jewish rights group, the Simon Wiesenthal Center, denounced comments made by President Chavez as anti-Semitic and demanded an apology.

In October, 219 Mormon missionaries left the country for security reasons and due to difficulties obtaining religious visas. There were no developments in the investigation into explosives detonated outside two Mormon churches in May 2004.

For a more detailed discussion, see the [2005 International Religious Freedom Report](#)

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

The law provides for these rights, and the government generally respected them in practice, although there were numerous reports that persons were denied passports and other official documents by government agencies for having signed the recall referendum. There were also reports that those whose identification numbers appeared on a list of petition signers had bribed to receive their documents.

The law prohibits forced exile, and it was not used.

Protection of Refugees

The law provides for the granting of asylum or refugee status in accordance with the 1951 UN Convention relating to the Status of Refugees and its 1967 protocol, and the government established a system for providing protection to refugees. In practice the government provided protection against *refoulement*, the return of persons to a country where they feared persecution.

The government cooperated with the UN High Commissioner for Refugees (UNHCR) and other humanitarian organizations in assisting refugees and asylum seekers.

During 2004 and the beginning of the year, the government implemented the Regularization and Naturalization Decree, which sought to resolve the status of foreigners, primarily Colombians, regarded as "irregular." Approximately 400 thousand persons were documented, but because the program was carried out primarily in urban centers, it did not reach most dispersed populations of UNHCR concern living in remote border areas. UNHCR assumed that many Colombians chose to be naturalized rather than apply for refugee status.

Section 3 Respect for Political Rights: The Right of Citizens to Change their Government

The law provides citizens with the right to change their government peacefully, and citizens exercised this right through periodic elections held on the basis of universal suffrage.

Elections and Political Participation

In 2000 voters elected Hugo Chavez as president in elections that observers judged to be generally free and fair. In August 2004 President Chavez defeated a recall referendum organized by opposition groups. While irregularities and a progovernment bias characterized the process leading to the referendum, the Organization of American States (OAS) and the Carter Center stated that the official results were compatible with their own quick count and "reflected the will of the electorate."

International observers, including the OAS and EU, noted that CNE bias and lack of transparency contributed to record-low voter turnout in the December legislative elections in which pro-Chavez parties won all 167 National Assembly seats. All major opposition parties withdrew from the election before the vote, following the revelation that it was possible to determine how individuals voted. The opposition and international observers criticized the CNE for releasing a limited voter registry and government abuse of state resources for its campaign. While the CNE estimated that abstention reached 75 percent, independent pollsters and opposition and NGO leaders estimated the figure to be as high as 80 percent.

In its preliminary assessment, European Union (EU) observers noted that many citizens lacked confidence in electoral authority independence. The observers' initial conclusions also highlighted voter fears that the secrecy of their vote would be violated as a result of the Maisanta Program. Opposition members noted that the Maisanta Program and its predecessor, the Tascon List, were strategies to intimidate voters (see section 1.f.).

There were 34 women in the 165-seat assembly, 3 women in the 21-member cabinet, and 9 women among the 32 justices on the Supreme

Tribunal of Justice.

Indigenous people traditionally were not integrated fully into the political system due to low voter turnout, geographic isolation, and limited economic and educational opportunities. The constitution reserves three seats in the National Assembly for indigenous people, which were filled in the 2000 election. There were no indigenous members in the cabinet and none of the national assembly vice presidents was an indigenous person.

Government Corruption and Transparency

There was a perception of widespread corruption at all levels of the government. Journalists reported several cases of apparent corruption implicating high-level government officials, but none were investigated. Officials acknowledged that the National Office of Identification and Immigration, the agency responsible for issuing identity cards and passports, was corrupt.

The law provides for citizens' access to government information and forbids censoring. Human rights groups reported that the government routinely ignored this requirement and did not make information available.

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

A wide variety of independent domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials were somewhat responsive to their views. Major domestic human rights NGOs that operated independently from the government included SUMATE, COFAVIC, PROVEA, Red de Apoyo, and the Venezuelan Prison Observatory.

In July a Caracas court ruled that SUMATE leaders Maria Corina Machado, Alejandro Plaz, Luis Enrique Palacios, and Ricardo Estevez would stand trial for conspiracy to destroy the country's republican form of government. The charges were based on the group's acceptance of funds from a foreign source. Domestic and international human rights groups criticized the ruling. The trial start was delayed until 2006, and the accused were free pending trial at year's end.

Several human rights NGOs received threats and intimidation by government representatives and supporters.

In January Venezuelan Prison Observatory Director Humberto Prado received telephone threats after he announced his solidarity with prisoners engaged in a national hunger strike (see section 1.c.).

On March 4, the Metropolitan Police withdrew the IACHR-ordered bodyguards it had provided for COFAVIC director Liliana Ortega. The IACHR passed a resolution on June 14 directing the government to reinstitute Ortega's police protection. In October police restored Ortega's protection after she defended the IACHR order before a local court.

During the year HRW, the Center for Justice and International Law, and other human rights groups criticized the government's prosecution of well-known human rights lawyer Carlos Ayala Corao on charges of conspiracy (see section 1.e.). The government cited the criticisms as evidence that it was under international attack because of its case against Ayala.

In August a group of prominent domestic human rights NGOs issued a joint statement requesting that the government investigate the threats against human rights workers and adopt measures to guarantee their security.

In November the interior minister responded to criticisms made by Venezuelan Prison Observatory Director Humberto Prado with a personal attack on Prado's character. Minister Chacon told the press that he had concerns about Prado's alleged mistreatment of inmates during his tenure as a prison director in the late 1990s. Prado stated that he was unaware of the complaints and publicly questioned why he had not been previously informed of their existence.

The government cooperated with international governmental organizations and permitted visits by OAS representatives. While the CNE negotiated with the OAS and EU to provide observers for the December 4 National Assembly elections, the government publicly condemned their preliminary observation reports.

Although the ombudsman is responsible for ensuring that citizens' rights are protected in a conflict with the state, human rights NGOs claimed that the ombudsman's office was not independent and rarely acted on public interest cases. PROVEA criticized the ombudsman's office for remaining silent on the unconstitutionality of the March penal code reform.

The national assembly's Sub-Commission on Human Rights played an insignificant role in the national debate on human rights.

Section 5 Discrimination, Societal Abuses, and Trafficking in Persons

Although the law prohibits discrimination based on race, gender, disability, language, or social status, discrimination against women, persons with disabilities, and indigenous people were problems.

Women

The law prohibits domestic violence and violators faced penalties of 6 to 18 months in prison. Violence against women continued to be a problem, and women faced substantial institutional and societal prejudice with respect to rape and domestic violence. During the year the Center for Women's Studies reported that in 2004 there were 3,900 cases of domestic violence reported, and that 1 woman in Caracas died every 10 days from domestic violence. The law requires police to report domestic violence and obligates hospital personnel to notify the authorities when they admit patients who are victims of domestic abuse. Police generally were reluctant to intervene to prevent domestic violence, and the courts rarely prosecuted those accused of such abuse. Women generally were unaware of legal remedies and had little access to them. The government sought to combat domestic violence through a public awareness campaign and a national victim assistance hot line.

In December 2004 a judge absolved the alleged torturer of Linda Loaiza, claiming the public ministry had not provided sufficient evidence to prove culpability. The decision was under appeal at year's end.

The law prohibits rape, including spousal rape, but it remained a problem. Rape is punishable with prison terms of 8 to 14 years, although cases often were not reported to the police. An adult man guilty of raping an adult female acquaintance may avoid punishment if he marries the victim before sentencing.

Prostitution is legal. While there was no government information on the extent of prostitution, local antitrafficking NGO Association of Women for Welfare and Mutual Help noted that prostitution was a serious problem, particularly in Caracas and domestic tourist destinations.

Sexual harassment is illegal and punishable with a prison sentence of 6 to 18 months. Sexual harassment was common in the workplace but rarely reported. There were no reported cases of sexual harassment during the year.

Women and men are legally equal in marriage, and the law provides for gender equality in exercising the right to work. The law specifies that employers must not discriminate against women with regard to pay or working conditions. According to the Ministry of Labor and the CTV, these regulations were enforced in the formal sector, although women reportedly earned 30 percent less than men on average. The National Institute for Women, a government agency, worked to protect women's rights.

The National Institute for Women, a government agency, provided approximately 16,412 loans totaling \$8 million (17.2 million bolivars) to women of all ages to establish businesses. Sixty percent of loan recipients were heads of households.

Children

The government was committed to children's rights and welfare. The law provides for universal, compulsory, and free education up to the university-preparatory level; however, the UN Children's Fund (UNICEF) reported that in 2004 an estimated 45 percent of boys and 35 percent of girls left school before the ninth grade. Many children of African and indigenous descent had no access to the education system.

There were numerous government health care programs provided for boys and girls on the basis of equal access.

Reports of child abuse were rare due to a fear of entanglement with the authorities and ingrained societal attitudes regarding family privacy. According to UNICEF and NGOs working with children and women, child abuse, including incest, often occurred at home. Although the judicial system acted to remove children from abusive households, public facilities for such children were inadequate and had poorly trained staff. The human rights NGO For the Rights of Children and Adolescents (CECODAP) reported that the government created a Ministry of Popular Participation and Social Development to exclusively manage children's issues.

CECODAP estimated that approximately 15 thousand children lived on the street. Authorities in Caracas and several other jurisdictions imposed curfews on unsupervised minors to cope with the phenomenon of street children. Because reform institutions were filled to capacity, hundreds of children accused of infractions, such as curfew violations, were confined in inadequate juvenile detention centers (see section 1.c.).

Trafficking in Persons

Although the law prohibits trafficking in persons, there were reports that persons were trafficked to, from, and within the country. There is no implementing law specifically for prosecution of trafficking in persons. Trafficking may be prosecuted under laws against forced disappearance and kidnapping with penalties of 2 to 6 years' imprisonment, and under a law to protect children, which provides for a penalty of 1 to 10 months' income for trafficking in children.

Government efforts to combat trafficking are the responsibility of the public prosecutor's Family Protection Directorate, the National Institutes for Women and Minors, and the Ministry of Interior and Justice's Crime Prevention Unit. Enforcement efforts generally were limited. In June the government arrested one person for trafficking in persons after the Peruvian Embassy in Caracas informed the CICPC that two minors and one adolescent had been lured to the country with false offers of employment. Authorities placed the two minors in juvenile homes, where they were awaiting repatriation at year's end. The whereabouts of the third victim was unknown.

The government assisted with international investigations of trafficking. In June, 13 women reportedly were trafficked to Spain for sexual exploitation. Spanish authorities detained 1 of the 13 women for traveling on false documents and returned her to Venezuela. The whereabouts of the other 12 women were unknown at year's end. One of two suspects in the case was in prison awaiting trial at year's end.

In July authorities assisted in the repatriation of three Colombian victims of trafficking.

There were reports that the country was a source, destination, and transit country for trafficked men, women, and children. An underdeveloped legal framework, corruption among immigration authorities, and the ease with which fraudulent passports, identity cards, and birth certificates could be obtained created favorable conditions for trafficking. No overall statistics on trafficking were available from government or NGO sources.

Human rights NGOs received complaints that women were trafficked to Europe for purposes of prostitution. Subgroups particularly at risk included women from poor areas. Undocumented or fraudulently documented Ecuadorian and Chinese nationals transited the country and reportedly were forced to work off the cost of their transportation in conditions of servitude.

Organized criminal groups, possibly including Colombian drug traffickers, Ecuadorian citizens, and Chinese mafia groups, reportedly were involved in trafficking activities.

In January the Ministry of Foreign Affairs hosted the OAS and the International Organization for Migration for antitrafficking workshops to raise public awareness of the problem.

The government provided trafficking victims with psychological and physical examinations. Several NGOs complained that they lacked government support and cooperation to assist victims and prevent future cases of human trafficking.

Efforts to prevent trafficking were inadequate. There were small specially trained CICPC sections devoted to prostitution and the protection of women.

Persons with Disabilities

The law prohibits discrimination against persons with physical and mental disabilities in education, employment, health care, and the provision of other state services. During the year the public defender's office reported that in 2004 it had received 53 petitions on behalf of persons with disabilities related to discrimination in health, social security, education, and workers' rights. Persons with disabilities had minimal access to public transportation, and ramps practically were nonexistent, even in government buildings. The law requires that all newly constructed or renovated public parks and buildings provide access and prohibits discrimination in employment practices and in the provision of public services; however, the government had not made a significant effort to implement the law, inform the public of it, or to combat societal prejudice against persons with disabilities.

There were no reports of discrimination against persons with mental disabilities.

Indigenous People

Although the law prohibits discrimination based on ethnic origin, members of the country's indigenous population suffered from inattention to and violation of their rights. There were approximately 316 thousand indigenous people in 27 ethnic groups, many of whom were isolated from modern civilization and lacked access to basic health and educational facilities. Their communities suffered from high rates of disease. The government included indigenous people in its literacy campaigns, in some cases teaching them to read and write in their own languages as well as in Spanish.

The law creates three seats in the National Assembly for indigenous deputies and also provides for "the protection of indigenous communities and their progressive incorporation into the life of the nation." Nonetheless, local political authorities seldom took account of the interests of indigenous people when making decisions affecting their lands, cultures, traditions, or the allocation of natural resources. Few indigenous people held title to their land, and many did not want to do so because most indigenous groups rejected the concept of individual property. Instead, they called on the government to recognize lands traditionally inhabited by them as territories belonging to each respective indigenous group.

Section 6 Worker Rights

a. The Right of Association

While the law provides that all private and public sector workers (except members of the armed forces) have the right to form and join unions of their choice, the government continued to violate these rights. Approximately 10 to 12 percent of the 12 million-person labor force was unionized.

The CNE has the authority to administer internal elections of labor confederations, which contravenes International Labor Organization (ILO) Conventions 87 and 98. In December 2004 the CNE issued regulations governing internal elections that many labor leaders claimed violated freedom of association. Furthermore, the CNE failed to certify the results of elections held during the year by some 300 unions and federations under these new regulations. Labor leaders complained that the CNE also failed to give permission to hold elections to hundreds of unions and federations.

In January the CNE passed a resolution annulling the CTV's 2001 election results. In addition the government refused to appoint the CTV secretary general as labor's representative at the ILO annual meeting. The ILO called upon the government to recognize the CTV's elected

leadership.

The Ministry of Labor continued to deny registration to UNAPETROL, a union composed of oil workers who were later fired for participating in the December 2002 to February 2003 national strike (see section 6.b.).

b. The Right to Organize and Bargain Collectively

The law provides that all public and private sector workers have the right to conduct their activities without interference and protects collective bargaining. The law stipulates that employers must negotiate a collective contract with the union that represents the majority of their workers. The ILO continued to object to this provision and requested that the government amend it so that "in cases where no union organization represents an absolute majority of workers, minority organizations may jointly negotiate a collective agreement on behalf of their members."

The government continued to show preference in collective bargaining agreements toward sympathetic unions and fostered the creation of parallel unions. CTV leaders claimed that the Ministry of Labor routinely rejected collective bargaining agreements negotiated by CTV affiliates on administrative grounds. CTV leaders further claimed that, in those sectors or firms where contracts were rejected, ministry officials facilitated the rapid formation of parallel unions, which legally could force a vote among workers over which union would represent them. The CTV also complained that the ministry usually designated the parallel union as the one authorized to negotiate the contract.

Although the law recognizes the right of all public and private sector workers to strike in accordance with conditions established by labor law, public servants may strike only if the strike does not cause "irreparable damage to the population or to institutions." Replacement workers were not permitted during legal strikes, and the president may order public or private sector strikers back to work and submit their disputes to arbitration if the strike "puts in immediate danger the lives or security of all or part of the population."

By June the government resolved approximately 25 percent of the cases involving 19 thousand PDVSA employees who were fired during and in the aftermath of the December 2002 to February 2003 national strike. The government continued to deny the former workers severance and pension benefits as well as access to company housing, schools, and medical clinics.

In December authorities tried and convicted CTV President Carlos Ortega of civil rebellion and incitement to commit a crime in connection with his role in the December 2002 to February 2003 national strike, despite a June 2004 ILO ruling that the strike was legitimate. Ortega, who was arrested in February after nearly 2 years in exile and hiding, was sentenced to nearly 16 years in prison. The CTV and some human rights activists denounced Ortega's trial for lack of due process and declared Ortega to be a political prisoner. Ortega was expected to appeal the sentence to the Supreme Tribunal of Justice.

Labor law and practice are the same in the sole export processing zone of Punto Fijo, Falcon State, as in the rest of the country.

c. Prohibition of Forced or Compulsory Labor

While the law prohibits forced or compulsory labor, including by children, there were reports of trafficking in children for employment purposes (see sections 5 and 6.d.).

d. Prohibition of Child Labor and Minimum Age for Employment

The law protects children from exploitation in the workplace. The Ministry of Labor and the National Institute for Minors enforced child labor policies effectively in the formal sector of the economy but less so in the informal sector. The Foundation for Training in the Investigation of Human Resources estimated in 2004 that there were 1.6 million children working in various sectors of the labor market, including 206 thousand involved in prostitution, panhandling, or drug trafficking.

The law permits children between the ages of 12 and 14 to work only if the National Institute for Minors or the Ministry of Labor grants special permission; children between the ages of 14 and 16 may not work without the permission of their legal guardians. Those under 16 years of age may by law work no more than 6 hours per day or 30 hours per week. Minors under the age of 18 may work only between 6 a.m. and 7 p.m. Minors may not work in mines or smelting factories; in occupations that risk life or health or could damage intellectual or moral development; or in public spectacles. The law prohibits inducing the prostitution and corruption of minors. Penalties range from 3 to 18 months in prison and up to 4 years in prison if the minor is younger than 12 years old.

The Ministry of Education, Culture, and Sports ran educational programs to reincorporate school dropouts and adults into the educational system; however, there was no independent accounting of the effectiveness of the programs. The government also provided free adult educational and technical training through the *Barrio Adentro* Mission program.

e. Acceptable Conditions of Work

Minimum wage rates are adjusted annually by administrative decree, which the legislature may suspend or ratify but may not change. In May the government raised the monthly minimum wage by 26 percent to \$188 (405 thousand bolivars). The national minimum wage did not provide a decent standard of living for a worker and family. The Ministry of Labor enforced minimum wage rates effectively in the formal sector, but approximately 50 percent of the population worked in the informal sector where labor laws and protections generally were not enforced.

The law stipulates that the work week may not exceed 44 hours. Managers are prohibited from obligating employees to work additional time, and workers have the right to weekly time away from work. 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-one-half. The ministry effectively enforced these standards in the formal sector.

While the constitution provides for secure, hygienic, and adequate working conditions, authorities have not implemented the Health and Safety Law. The law 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. Workplaces must maintain "sufficient protection for health and life against sickness and accidents," and penalties range from one-quarter to twice the minimum monthly salary for first infractions. In practice ministry inspectors seldom closed unsafe job sites. Under the law, workers may remove themselves from dangerous workplace situations without jeopardy to continued employment.

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