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Venezuela: Situation and treatment of homosexuals, particularly in Caracas; recourse available to those who have been harassed based on their sexual orientation (2006 - August 2009)

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### Situation and treatment

Homosexuality is legal in Venezuela (GlobalGayz.com n.d.; ACCSI 2008, 4). Same-sex marriage is not legally recognized (GlobalGayz.com n.d.; Pink News 21 July 2009). However, the Venezuelan National Assembly has engaged in a first round of discussions regarding a proposed law that would acknowledge "the rights of co-habiting same-sex couples and introduce civil unions" (ibid. 21 July 2009; see also ACSOL 18 Aug. 2009).

Globalgayz.com states that Venezuela "is home to a thriving gay community" (n.d.). Cited in a 3 July 2006 Venezuelanalysis.com article, gay health promoter Daniel Romero states that significant discrimination against homosexuals still exists but that "in Caracas things are pretty well liberated." Similarly, an 18 February 2009 article in the *Sydney Star Observer* reports that although "Venezuelan society has yet to embrace homosexuality completely... Caracas does have a gay infrastructure with gay bars and a keen activist movement." A representative of Acción Solidaria (ACSOL), a Caracas-based non-profit organization founded in October 1995 to address HIV/AIDS issues (ACSOL n.d.), provided the following information in correspondence with the Research Directorate:

Caracas ... has different realities for homosexuals. On the one hand, there are many meeting venues - bars, saunas - but there is no general openness regarding public showing of one's sexual orientation or of an affectionate relationship with someone of one's own sex. (ACSOL 18 Aug. 2009)

According to Venezuelanalysis.com, in 2006, Caracas held its sixth annual gay pride parade (3 July 2006).

A Caracas-based lawyer specializing in gay, lesbian, bisexual and transgender (GLBT) issues provided the following information in correspondence with the Research Directorate:

Violence against homosexuals exists, although it is not the worst in Latin America... 50% of homosexuals report at least one incident with public forces during the previous 6 months (verbal or physical violence, blackmail, etc.). In ... cities [other than Caracas], the situation is worse. (Lawyer 21 Aug. 2009)

Similarly, Acción Ciudadana Contra el SIDA (ACCSI), a non-profit organization focussed on the rights of persons living with HIV/AIDS in Venezuela (n.d.), states that, according to a 2008 survey on homophobia and violence in Venezuela, GLBT persons have had negative experiences with the police, including verbal and physical aggression (ACCSI 2008, 15). According to a representative of Unión Afirmativa de Venezuela (UNAF), an organization focussed on GLBT rights, gay men are sometimes detained and blackmailed by the police (18 Aug. 2009). GlobalGayz.com states that "police harassment and homophobia in the workplace remain as serious problems" (n.d.). The ACSOL Representative claims that there have been murders of gay men that have not been investigated by the police (18 Aug. 2009).

Several sources state that transgender persons are targets of violence (BBC 2 June 2009; IGLHRC 10 June 2009; Lawyer 21 Aug. 2009; ACSOL 18 Aug. 2009; UNAF 18 Aug. 2009). The International Gay and Lesbian Human Rights Commission (IGLHRC) states in a 10 June 2009 article that four murders of transgender persons have occurred in Caracas since 7 November 2008. The ACSOL Representative states that there have been at least six transgender murders in 2009 (18 Aug. 2009).

In contrast, the UNAF Representative states that "violent abuses by police forces or derogatory acts by

private citizens against sexual minorities" are rare (18 Aug. 2009).

### Available recourse

With respect to discrimination, Article 21 of the Constitution of the Bolivarian Republic of Venezuela states the following:

No discrimination based on race, sex, creed or social standing shall be permitted, nor, in general, any discrimination with the intent or effect of nullifying or encroaching upon the recognition, enjoyment or exercise, on equal terms, of the rights and liberties of every individual. (Venezuela 1999)

A 28 February 2008 Venezuelan Supreme Court decision states that Article 21 of the Constitution is interpreted to mean that discrimination based on sexual orientation is not permitted (28 Feb. 2008). The UNAF Representative corroborates that, due to a Supreme Court ruling, the Constitution is interpreted as to forbid discrimination based on sexual orientation (18 Aug. 2009).

In contrast, in a 2 June 2009 article by the British Broadcasting Corporation (BBC), Venezuelan law professor Tamara Adrián states that the GLBT community is "given no legal protection whatsoever." Similarly, the *Venezuelanalysis.com* article notes that the Venezuelan constitution does not exclusively protect GLBT rights (3 July 2006). The ACSOL Representative corroborates that "there are no specific legal instruments to prevent instances of discrimination or to proceed through the courts once they have taken place" (ACSOL 18 Aug. 2009).

With respect to whether recourse is available to individuals who experience discrimination based on their sexual orientation, the Caracas-based Lawyer stated that while it is theoretically possible, in practical terms, it is "almost impossible" (21 Aug. 2009).

This Response was prepared after researching publicly accessible information currently available to the Research Directorate within time constraints. This Response is not, and does not purport to be, conclusive as to the merit of any particular claim for refugee protection. Please find below the list of sources consulted in researching this Information Request.

### References

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Venezuelanalysis.com. 3 July 2006. Michael Fox. "6th Annual Gay and Lesbian Pride Celebrated in Venezuela." <<http://www.venezuelanalysis.com/news/1816>> [Accessed 13 Aug. 2009]

#### Additional Sources Consulted

**Oral sources:** Attempts to contact representatives of Alianza Lambda de Venezuela, Asesoría en educación y salud de Venezuela (ASES) and Movimiento Gay Revolucionario de Venezuela were unsuccessful. A representative of the International Gay and Lesbian Human Rights Commission (IGLHRC) was unable to provide information.

**Internet sites, including:** Amnesty International (AI), European Country of Origin Information Network (ecoi.net), Fédération internationale des ligues des droits de l'homme (FIDH), Freedom House, *Gay Times*, Human Rights Watch (HRW), International Lesbian and Gay Association (ILGA), Office of the United Nations High Commissioner for Human Rights (OHCHR), Pink Triangle Trust, Refworld, Sodomy Laws, United States (US) Department of State, U.S. Committee for Refugees and Immigrants (USCRI).

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