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Venezuela: Situation and treatment of homosexuals; recourse available to those who have been victimized because of their sexual orientation (2002-2004)
Research Directorate, Immigration and Refugee Board, Ottawa

According to PlanetOut Travel, a travel Website for homosexuals, Caracas is a city with a

thriving gay population with plenty of nightlife and a nascent gay political scene. While gay and lesbian bars are scattered throughout the city, the largest concentration is in the neighborhood of Sabana Grande, near the always popular Avenida Abraham Lincoln (n.d.).

The city's homosexual population is also served by several businesses, including bars, restaurants, discotheques, bathhouses, travel agencies, stores, video rental agencies and a taxi service (RepublicaGay.com n.d.a). Furthermore, a number of non-governmental organizations (NGOs) are active in promoting and defending the human rights of homosexuals and transgendered individuals (ACCSI n.d., 58).

Such groups include the Lambda Alliance of Venezuela (Alianza Lambda de Venezuela), a Caracas-based organization established in February 1998 with a mandate to provide holistic support to gay men, lesbians, bisexuals and transgendered people in the areas of health, human rights, education, culture, sports, research and politics (Consortio Apalancar 17 Nov. 2003). In addition to operating a telephone hotline for those whose rights have been violated on account of their sexual orientation (RepublicaGay.com n.d.a), the organization investigates and follows up on complaints with authorities, as well as engaging in human rights education among both the homosexual and general populations (Consortio Apalancar 17 Nov. 2003).

Amazon Women of Venezuela (Amazonas Mujeres de Venezuela), based in Caracas, provides information and support to lesbians through its Website and radio programme (ibid. 9 Dec. 2003). The group also operates a telephone hotline for victims of domestic violence, particularly those in homosexual relationships (ibid.).

The Caracas-based Education and Health Consultancy (Asesoría en Educación y Salud, ASES) Group implements a range of education, prevention and support initiatives in the area of AIDS and HIV (Vengay.com n.d.). As part of its mandate, the group is involved in the defence and promotion of the human

rights of AIDS sufferers and members of sexual minority populations (RepublicaGay.com n.d.a).

Affirmative Union (Unión Afirmativa, UNAF), founded in April 2000 (Vengay.com n.d.), also seeks to promote the rights of sexual minorities in Venezuela (ibid.; RepublicaGay.com n.d.a). Its achievements include the organization of a national gay, lesbian, bisexual and transgendered network; the implementation of the "Mitos de la homosexualidad" public relations campaign; and the organization of a forum on sexual diversity at the Central University of Venezuela (Universidad Central de Venezuela, UCV) as part of the 2002 gay pride celebrations (Vengay.com n.d.).

Information on organizations involved in promoting and defending the human rights of homosexuals and transgendered individuals outside of Caracas was scarce among the sources consulted the Research Directorate. However, the Wills Wilde Society (Sociedad Wills Wilde), an AIDS prevention and education organization based in the City of Mérida, lists among its objectives monitoring to ensure that human rights are respected, regardless of individuals' sexual preference, race, age, beliefs or customs (Sociedad Wills Wilde n.d.).

The 2003 gay pride march, held in Caracas, reportedly attracted more than 2,000 people, including representatives of human rights groups Amnesty International and the Justice and Peace Support Network (Red de Apoyo por la Justicia y la Paz) (RepublicaGay.com n.d.b). Officers of the Metropolitan Police (Policía Metropolitana, PM) provided crowd control services along the route of the march, which ended with a rally at the Plaza de los Museos (ibid.). The Office of the Mayor of Caracas supported the event by providing a stage and sound system (ibid.). The previous year's gay pride march, held in June 2002, was attended by approximately 1,200 individuals (AP 30 June 2002). According to the Executive Director of the Lambda Alliance of Venezuela, the country's Protestant and Roman Catholic churches are always strongly critical of the gay pride march, and participants are sometimes insulted or threatened by public officials present at the event (Alianza Lambda de Venezuela 12 Feb. 2004).

Addressing the issue of societal attitudes towards homosexuals more generally, the President of Amazon Women of Venezuela claimed that homophobia is both clear and direct (*clara y directa*), with the terms lesbian (*lesbiana*) and queer (*marico*) used regularly as insults in Venezuelans' conversation (Amazonas Mujeres de Venezuela 14 Feb. 2004). In an undated report, RepublicaGay.com, a Venezuelan Website providing news and information of interest to the country's homosexual population, stated that while Venezuelan broadcasters are including a growing number of homosexual characters in their television programmes, they are usually portrayed in a stereotypical manner or placed in absurd situations (RepublicaGay.com n.d.c). Responding to these negative characterizations, the Lambda Alliance of Venezuela sent protest letters in 2003 to the television company responsible for airing two of these programmes (ibid.).

In an undated interview, UNAF General Coordinator José Ramón Merentes referred to a number of positive developments in areas touching upon the rights of homosexuals (RepublicaGay.com n.d.d). For example, he indicated that there has been a significant opening (*importante apertura*) on the part of mainstream human rights organizations like the Venezuelan Programme of Action-Education in Human Rights (Programa Venezolano de Educación-Acción en Derechos Humanos, PROVEA), the Justice and Peace Support Network and the Office of the

Ombudsman (Defensoría del Pueblo) (ibid.). The UNAF has also reportedly prompted some members of the judiciary to take an interest in discrimination issues, leading them to assist in the drafting of a constitutional recourse to address discrimination based on sexual orientation, as well as in the preparation of a bill on life partnerships (*proyecto de Ley de Parejas*) (ibid.). Furthermore, Merentes noted that a bill has been presented before congress to address hate speech, and to penalize the diffusion of messages that incite or advocate discrimination based on sexual orientation (ibid.). No information on the current status of this bill could be found among the sources consulted by the Research Directorate.

In Merentes' view, while the government has shown some support for the rights of homosexuals, it does so very discreetly and in an inconsistent manner (ibid.). Although a number of openly gay individuals are active in the First Justice (Primero Justicia) party, including Angel Núñez and Merentes himself, Merentes did not know of any self-declared members of sexual minority communities in other political parties, which he attributed to the fact that there are very few homosexual activists in general (ibid.). Furthermore, Merentes claimed that there appears to be more interest in the promotion of homosexuals' rights among mainstream organizations, including NGOs and state agencies, than within the community itself (ibid.).

Although workplace discrimination based on sexual preference (*preferencia sexual*) is already prohibited by the Regulations of the Organic Labour Law (Reglamento de la Ley Orgánica de Trabajo) (UNAF 11 Feb. 2004; RepublicaGay.com n.d.e), reforms to the Organic Labour Law itself currently under consideration include the proposed addition of a clause containing a similar prohibition (UNAF 11 Feb. 2004). However, both the UNAF General Coordinator and the Executive Director of the Lambda Alliance of Venezuela indicated that the law is not respected in practice, with employers having no qualms about firing an employee who is identified as homosexual (ibid.; Alianza Lambda de Venezuela 12 Feb. 2004). The UNAF General Coordinator added that to date there have been no instances in which individuals have made use of provisions of the Organic Labour Law Regulations related to sexual preference to contest their dismissal or other discriminatory practices (11 Feb. 2004). Employees are reportedly reluctant to report discriminatory practices in the workplace because they are afraid it could lead to difficulties in finding another job (RepublicaGay.com n.d.e). Furthermore, homophobic business executives have allegedly responded to the emergence of groups defending homosexual rights by establishing informal networks that seek to identify homosexual employees and arrange their dismissal (ibid.).

Although there is no legislation that expressly protects same sex couples' right to privacy, the rights to freedom from discrimination and to unfettered development of one's character (*libre desarrollo de la personalidad*) are enshrined in the Venezuelan constitution (UNAF 11 Feb. 2004). However, despite these provisions, the UNAF General Coordinator stated that he was aware of cases in which the police had entered hotels frequented by homosexual couples, and engaged in illegal searches and detentions as well as harassing, extorting and sometimes beating guests (ibid.).

More generally, the UNAF General Coordinator claimed that the police are very aggressive in their attitude towards homosexuals, and have been known to suppress (*reprimir*) public expressions of affection among same sex couples, as well as arbitrarily detaining homosexuals, sometimes for periods in excess of the 48 hours permitted by the constitution (ibid.). Similarly, the Executive Director of

the Lambda Alliance of Venezuela claimed that the majority of police officers believe they have a license to assault, humiliate and demand money from homosexuals, adding that it is common for police to demand bribes from transgendered sex workers in exchange for not arresting them or to threaten owners of homosexual businesses with closure unless they agree to pay a sum of money (Alianza Lambda de Venezuela 12 Feb. 2004). These statements corroborate information included in an undated report by the Caracas-based Citizen Action Against AIDS (Acción Ciudadana Contra el SIDA, ACCSI), which claims that homosexual and transgendered individuals are among the groups most likely to experience human rights violations at the hands of the police and members of the public (n.d., 57).

According to the Executive Director of the Lambda Alliance of Venezuela, the group's human rights unit has detected a sustained increase in the number of human rights violations committed against homosexual men in Caracas in recent years (Alianza Lambda de Venezuela 12 Feb. 2004). In 1998, the group received a total of 85 complaints, rising to 92 in 1999; 121 in 2000; 152 in 2001; 200 in 2002; and 312 in 2003 (ibid.). The breakdown of complaints received in 2003 was as follows: 46 cases of verbal aggression by state security forces; 29 cases of verbal aggression by private security guards; 31 cases of illegal detention by state security forces; 38 cases of illegal detention by private security guards; 24 cases of coerced sexual activity; 51 cases of harassment; 2 instances of assassination; 16 cases of assault causing light bodily harm; 29 cases of individuals being refused treatment at hospital because of their sexual orientation; 17 cases of individuals being expelled from their homes by parents or family members; and 29 cases of a miscellaneous nature (ibid.). The Executive Director also noted that only five per cent of the violations reported to the organization result in the lodging of a formal complaint with the authorities. When asked why they did not register a complaint, 45 per cent of victims said they were afraid of reprisals by the perpetrator; 22 per cent indicated that they were afraid their sexual orientation would become known in the community; 20 per cent stated that they were not familiar with the complaints process; and 13 per cent indicated that they were fearful their parents or family members would discover their sexual orientation (ibid.).

The Office of the Attorney General (Fiscalía General de la República) and the Office of the Ombudsman are the two state agencies responsible for receiving complaints from those who have suffered mistreatment because of their sexual orientation (UNAF 11 Feb. 2004; Alianza Lambda de Venezuela 12 Feb. 2004). However, only the Office of the Attorney General has the authority to initiate legal proceedings against the abuse perpetrators (UNAF 11 Feb. 2004) or to order a medical examination of the victim, which must, with limited exceptions, be undertaken during business hours on weekdays under the auspices of the Office of Forensic Medicine (Medicatura Forense) or the Bello Monte morgue (Alianza Lambda de Venezuela 12 Feb. 2004). The Executive Director of the Lambda Alliance of Venezuela indicated that, in the context of a complaint he made after being harassed by police officers in Caracas on 8 June 2003 (ibid. 9 June 2003), the Office of the Ombudsman showed a greater willingness to investigate the incident than the Office of the Attorney General (ibid. 12 Feb. 2004).

The UNAF General Coordinator also indicated that homosexuals generally do not report mistreatment at the hands of state security forces because of their fear of repercussions, and that the bodies charged with responding to victims' allegations are in any case incapable of providing them with protection (11 Feb. 2004). To account for his observations, the General Coordinator cited one

instance in which he was himself threatened while accompanying a fellow activist to lodge complaint of police wrongdoing, and another in which a request for assistance from a man assaulted on the street by homophobic assailants was rejected by police officers, who allegedly told him that homosexuals do not have any rights (ibid.). While the Lambda Alliance of Venezuela Executive Director corroborated the UNAF General Coordinator's statement regarding the lack of state protection available to victims (Alianza Lambda de Venezuela 12 Feb. 2004), the President of Amazon Women of Venezuela indicated that state agencies do not provide any open support to sexual minority communities (Amazonas Mujeres de Venezuela 14 Feb. 2004).

Although the Executive Director of the Lambda Alliance of Venezuela noted that he has been involved in the provision of human rights training to Caracas police agencies, the number of officers who have received such training is small (Alianza Lambda de Venezuela 12 Feb. 2004). As well, homosexuals who attempt to register a complaint with the police are poorly treated, with completed complaint forms sometimes allegedly being ripped up by officers after the individuals involved have left the police station (ibid.).

Non-governmental organizations that receive complaints from victims of sexual orientation-related human rights violations include Amazon Women of Venezuela, which deals primarily with lesbians (Consortio Apalancar 9 Dec. 2003; Amazonas Mujeres de Venezuela 14 Feb. 2004); Citizen Action Against AIDS, involved principally with AIDS sufferers; and the Lambda Alliance of Venezuela, which also offers accompaniment to victims throughout the complaints process (Alianza Lambda de Venezuela 12 Feb. 2004). However, both the Executive Director of the Lambda Alliance of Venezuela and the President of Amazon Women of Venezuela noted that the NGO community is unable to respond adequately to the needs of victims, for reasons such as a lack of personnel, infrastructure (Amazonas Mujeres de Venezuela 14 Feb. 2004) or funding (Alianza Lambda de Venezuela 12 Feb. 2004). The Lambda Alliance of Venezuela Executive Director added that the situation is particularly difficult outside of Caracas, where organizations working with sexual minority communities do not have any presence (ibid.).

While no reports on the situation or treatment of homosexuals outside of Caracas since 2002 could be found among the sources consulted by the Research Directorate, a number of articles dating from 2002 discuss the targeting of sexual minority community members in Valencia, Carabobo (AI 12 Feb. 2002; *Weekly News Update on the Americas* 31 Mar. 2002; IGLHRC 12 Feb. 2002). For example, according to Amnesty International (AI),

Valencia's lesbian, gay, bisexual and transgender (LGBT) community are at constant risk of harassment, ill-treatment and arbitrary detention by police. The Governor of Carabobo State, Henrique Salas Feo-Romer, has reportedly refused to address the problem. The commander of police in Carabobo has said that homosexuals and prostitutes are to be ruled by a police code. They cannot move freely in the streets. In effect, this means that police use administrative detentions widely (12 Feb. 2002).

Three transgendered individuals were killed in Valencia in 2002 and Maury Oviedo, a prominent transgendered activist affiliated with the organization Respect for the Personality (Respeto a la Personalidad), went into hiding (*Weekly News Update on the Americas* 31 Mar. 2002; IGLHRC 12 Feb. 2002; Rex Wockner 27 Feb. 2002; AI 12 Feb. 2002). Two of the murder victims were from Valencia,

as is Maury Oviedo (*Weekly News Update on the Americas* 31 Mar. 2002).

Valencia police officers are suspected by human rights groups of involvement in the mistreatment of transgendered individuals:

The local transgender organization Respeto a la Personalidad and the local Ombudsman, Mr. Israel Alvarez de Armas, have documented a pattern of police abuse against transgender people in Carabobo, including cases of harassment, arbitrary arrest, physical abuse, and possible murders (IGLHRC 12 Feb. 2002).

In addition to referring to some of the same incidents described in preceding paragraphs that took place in Valencia in 2002, Andrew Reding's December 2003 report *Sexual Orientation and Human Rights in the Americas* describes a number of other instances in which transvestites or transgendered individuals were the victims of illegal detention or lethal violence in the States of Carabobo and Zulia between July 2000 and March 2002 (Dec. 2003, 42-44). However, more recent information on the treatment of gays and lesbians in Venezuela is not contained in the report.

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 to refugee status or asylum. Please find below the list of additional sources consulted in researching this Information Request.

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