



Venezuela

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Venezuela is a constitutional democracy with a president and unicameral legislature in which citizens periodically choose their representatives in free and fair multiparty elections. In addition to the executive, legislative, and judicial branches of government, the Constitution provides for a "Citizen Power" branch of government--which includes the Ombudsman, the Public Prosecutor, and the Controller General--and an "Electoral Power" branch, the National Electoral Council (CNE). In July 2000, following a long and controversial process, voters elected President Hugo Chavez of the Fifth Republic Movement (MVR) in generally free and fair elections. The MVR and the pro-Chavez Movimiento a Socialismo (MAS) party won 92 seats in the 165-member legislature. Subsequent party splits reduced the pro-Chavez members to 84 seats. In December 2000, the National Assembly appointed members of the Citizen Power and Supreme Court in a manner that many observers criticized as unconstitutional. The civilian judiciary is legally independent; however, it was highly inefficient and sometimes corrupt, and judges at all levels were subject to influence from a number of sources, including the executive branch.

In April the country experienced a temporary alteration of constitutional order. When an estimated 400,000 to 600,000 persons participated in a march in downtown Caracas to demand President Chavez's resignation, gunfire broke out, resulting in as many as 18 deaths and more than 100 injuries, with dead and injured on both sides. Military officers took President Chavez into custody, and opposition business leader Pedro Carmona proclaimed himself as interim president. On April 14, troops loyal to Chavez returned him to power.

On December 2, the political opposition called a national work stoppage to protest the Government and for the resignation of President Chavez. On December 4, the petroleum sector joined the stoppage, which continued at year's end.

The security apparatus includes civilian and military elements, both accountable to elected authorities. Active and retired military officers held high-ranking government positions. Two of the 14 members of the President's Cabinet were retired career military officers. The presidents of two major state-owned corporations--Corporacion Venezolana de Guayana and CITGO--were active duty military officers. The military was involved heavily with public service projects. The Defense Ministry controls the General Directorate for Military Intelligence (DIM), which 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 maintaining public order, guarding the exterior of key government installations and prisons, conducting counternarcotics operations, monitoring borders, and providing law enforcement in remote areas. The Interior and Justice Ministry controls the Investigative and Criminal Police Corps (CICPC), which conducts most criminal investigations, and the Directorate for Intelligence and Prevention Services (DISIP), which is primarily responsible for investigating cases of corruption, subversion, and arms trafficking. Municipal mayors and state governors are responsible for local and state police forces, and maintain independence from the central Government. Often, mayors and governors look to the National Guard for the top leadership for state and municipal police forces. The Caracas Metropolitan Police is the main civilian police force in the five municipalities that form the Federal District and was headed by a career police officer, rather than a military officer. The Government intervened in the administration of the Metropolitan Police in November, alleging that the police force was repressing pro-government protests. The issue was not resolved at year-end. While civilian authorities generally maintained effective control over security forces, members of the security forces committed numerous and serious human rights abuses during the year.

The country has abundant natural resources and a market-based economy; however, the vast majority of natural resource extraction and production was done by entities owned and operated wholly or in part by the Government. The country's population was approximately 24.9 million. Oil accounted for 26 percent of gross domestic product (GDP), 48 percent of government revenues, and 80 percent of the country's exports in 2001. Following economic growth of 2.8 percent in 2001, the country experienced a severe economic crisis. Severe political unrest disrupted productivity and discouraged investment. The Government faced a strong recession with negative growth of 7.1 percent in the first half of the year, a significant budget deficit (approximately 7 percent of GDP), a sharply depreciated currency (nearly 100 percent), and an inability to obtain financing in international markets. A national work stoppage interrupted oil production, closed ports to imports and exports, and disrupted domestic production throughout December. Official figures place overall negative growth for the year at 7 percent; unofficial estimates range up to 9 percent. Wages did not keep pace with inflation, which exceeded 40 percent during the year. In addition, income was distributed unevenly, with approximately 60 percent of the

population living at or below the 2001 poverty line of \$500 monthly per household.

The Government's human rights record remained poor; although there were some improvements in a few areas, serious problems remained. The police and military committed extrajudicial killings of criminal suspects. The police allegedly had links to vigilante death squads responsible for dozens of killings in seven states. Investigations into the forced disappearances by the security forces of criminal suspects remained extremely slow. Torture and abuse of detainees persisted, and the Government failed to punish police and security officers guilty of abuses. Prison conditions remained harsh; violence and overcrowding was so severe as to constitute inhuman and degrading treatment. Arbitrary arrests and detentions increased. Impunity was one of the country's most serious human rights problems. Police rarely arrested suspects, and when they did, the suspects often were soon set free. Crimes involving human rights abuses did not proceed to trial due to judicial and administrative delays. Lengthy pretrial detention and corruption and severe inefficiency in the judicial and law enforcement systems also were problems.

The Government conducted illegal wiretapping of private citizens. Government intimidation was serious problem. The President, officials in his administration, and members of his political party frequently spoke out against the media, the political opposition, labor unions, the courts, the Church, and human rights groups. Many persons interpreted these remarks as tacit approval of violence, and they threatened, intimidated, or even physically harmed several individuals from groups opposed to Chavez during the year. The Government abused its power to require television and radio stations to air numerous speeches by President Chavez, other government officials, and other programming favorable to the Government, and by cutting the transmission of television stations that refused to air progovernment material on April 9-11. Violence and discrimination against women, abuse of children, discrimination against people with disabilities, and inadequate protection of the rights of indigenous people remained problems. Although concern over labor rights remained, the atmosphere for independent labor unions remained good. Child labor increased as economic conditions worsened. Trafficking in persons was a problem, although the Government took steps to reduce corruption among immigration authorities. Venezuela was invited by the Community of Democracies' (CD) Convening Group to attend the November 2002 second CD Ministerial Meeting in Seoul, Republic of Korea, as a participant.

RESPECT FOR HUMAN RIGHTS

Section 1 Respect for the Integrity of the Person, Including Freedom From:

a. Arbitrary or Unlawful Deprivation of Life

There were no reports of political killings; however, members of the political opposition received death threats and were the victims of intimidation by government supporters. The security forces continued to commit extrajudicial killings, primarily of criminal suspects, although at a lower level than 2001. The Venezuelan Program of Action and Education in Human Rights (PROVEA), a respected human rights nongovernmental organization (NGO), documented 137 extrajudicial killings from October 2001 through September, compared with 212 killings from October 2000 to June 2001. These figures reflected a range of killings in different situations committed by organizations with varying levels of control and responsibilities and included summary executions of criminal suspects and deaths resulting from mistreatment while in custody. Police continued to fire on criminal suspects who disobeyed orders to halt.

The Government rarely prosecuted perpetrators of extrajudicial killings. The police often failed to investigate crimes allegedly committed by their colleagues and characterized incidents of extrajudicial killings as "confrontations," even when eyewitness testimony and evidence strongly indicated otherwise. In addition, the civilian judicial system struggled to implement the 1999 Organic Criminal Procedures Code (COPP) and remained highly inefficient and sometimes corrupt (see Section 1.e.). In the small number of cases in which the courts convicted perpetrators of extrajudicial killings and other abuses, sentences frequently were light, or the convictions were overturned on appeal. Unlike common criminals, members of the security forces charged with or convicted of crimes rarely spent much time in prison.

Federal and state police continued to investigate vigilante "death squads" with apparent police ties that may be responsible for up to 48 killings in several states, including Portuguesa, Yaracuy, Anzoategui, Bolivar, Miranda, Aragua, and Falcon. In almost all cases, the victims were young, poor, and had criminal records. According to NGO reports, oftentimes the killers first demanded money from the victims, and when they were not able to pay, they were killed.

In October 2001, Human Rights Ombudsman German Mundarain called for "urgent intervention" by the federal Government into the operations of state level police in seven states, in response to what he termed increasing numbers of extrajudicial killings that may have police connections. Neither the Attorney General's office nor the Ministry of the Interior acted. In conjunction with human rights NGO Red de Apoyo, the Human Rights Ombudsman's office conducted training sessions for the police in Portuguesa. According to the Public Ministry, there were 38 extrajudicial killings or forced disappearances in 18 of the country's 23 states during the year.

The majority of extrajudicial killings by security forces were attributed to state and municipal police forces that report to local officials and often had little training or supervision. The killings often involved a person mistaken for a criminal or alleged to have committed a crime. In other cases, human rights organizations reported that police officers acted at the behest of criminals who paid the officers to kill their enemies for them. There historically had been no investigation into

these cases, but the CICPC investigated some cases during the year.

On April 15, municipal police officers from the town of Caroni shot 33-year-old Luis Beltran Yendis, according to human rights NGO Humana Dignitas. Beltran told the officers he had never had trouble with the police before. The police took Mr. Beltran outside where he was overpowered and then shot in the legs. Neighbors and family members witnessed the officers taking custody of Beltran, who was otherwise in good condition. At the police station, family members were told he had died of two gunshot wounds to the chest and could be found at the city morgue. There was no investigation reported.

Humana Dignitas also reported that on June 8, officers from the Special Operations Tactical Brigade (BTOE) of Ciudad Guayana shot 35-year-old labor activist Milton Jose Zuleta after he exited his home with his arms raised. At an officer's order, he turned around and then was shot and beaten by one of the officers. Mr. Zuleta's wife called for help; she was restrained by another police officer. When she tried to go outside to see her husband, she was hit in the head with the butt of the officer's gun. Zuleta was shot again and taken into custody. He later died. Medical reports indicated that he died from 10 bullet wounds. Humana Dignitas received information leading them to believe Zuleta was targeted for murder because of his activity in his labor union.

Humana Dignitas reported that on April 19, in San Felix, Bolivar state, municipal police forces killed 15-year-old Jose Gregorio Lopez without provocation while he was riding his bicycle. Witnesses reported seeing an officer plant a gun beneath a tree. The case was awaiting trial at year's end.

In August the press reported that officers from the CICPC began an investigation into the deaths of two persons who died in police custody. CICPC officers took Henry Alberto Marimon Villafane and Jose Antonio Gordon into custody in El Tigre, Anzoategui state. Police later discovered their charred bodies in a burned out car that belonged to one of the victims. There was no action taken in this case.

In September the press reported that officers from the Libertador municipality police force killed 22-year-old Adolfo Arcia and 19-year-old Elvis Montesinos. The officers had stopped the two men and their friends as they were returning home in a taxi. The men were told to get out of the taxi and were forced onto the ground. The police received gunfire from a nearby hill, at which point the men got up and ran. Montesinos and Arcia were hit in the back during the gunfire but were able to reach a nearby hospital. Before they could be attended, police officers detained them and told their friends they were taking them to a second hospital. Later that evening, the family located the pair, dead, at a third hospital. A CICPC investigation was pending at year's end.

Security forces also killed some prisoners; however, the majority of the inmate deaths during the year resulted from gang confrontations, riots, fires, and generally unsanitary and unsafe conditions in prison facilities (see Section 1.c.).

There were no developments in the case of army Lieutenant Alessandro Siccat, who sprayed and ignited paint thinner in the holding cell of three allegedly disobedient soldiers in January 2001. Two men were seriously burned; a third, Jesus Alberto Febres, died as a result of burns. A military court convicted Siccat; however, the Attorney General appealed, and in October 2001, the Supreme Court granted a civilian court jurisdiction (see Section 1.e.).

There were no new developments in the investigation into the June 2000 killings by the Caracas Metropolitan Police of Ronny Tovar, Francisco Mister, and Luis Hernandez.

There were mob lynchings of known criminals who preyed on residents of poor neighborhoods.

b. Disappearance

The Constitution prohibits forced disappearance, and there were no reports of politically motivated disappearances during the year. The Constitution also states that an individual must refuse to obey an order to commit such a crime and provides for the prosecution of the intellectual author of the crime.

Government agents were suspected in the forced disappearances of at least four alleged criminal suspects and other individuals in Vargas state during a crackdown on looters following flooding in 1999. In September 2001, the Attorney General announced that formal charges had been filed against two DISIP agents in a Vargas court; however, there was no progress in the case.

In September an appeals court dismissed the case against DISIP Commissioner Jose Yanez Casimiro and retired Commissioner General Justiniano Martinez Carreno in the 1999 disappearances of Oscar Blanco Romero and Marco Monasterio. On February 22, the Vargas state penal court dismissed the charges against the two men because the witnesses could not identify them. COFAVIC, working on behalf of the victims' families, appealed the decision. The families of the victims, as well as the lawyers for COFAVIC, claimed the hearing was unfair because they were not given ample opportunity to speak before the court.

There were reports that Colombian guerrillas kidnaped persons for ransom. According to the National Federation of Cattlemen, 60 persons had been kidnaped as of June, compared with 94 in all of 2001. As of June, Colombian guerrillas still

held 20 of the 94 landowners kidnaped in 2001.

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

The Constitution prohibits torture and the holding of detainees incommunicado, provides for the prosecution of officials who instigate or tolerate torture, and grants victims the right to medical rehabilitation. Detainees have the right to a judicial determination of the legality of their detention within 3 days. However, security forces continued to torture and abuse detainees physically and psychologically. This 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 that left no telltale signs. Most victims came from the poorest and least influential parts of society.

PROVEA documented 324 cases of torture, beatings, and other abuse from October 2001 through September (affecting 1,064 victims), compared with 340 cases from October 2000 through September 2001 (affecting 667 victims).

Torture, like extrajudicial killings, continued because the Government did not ensure independent investigation of complaints. The Institute of Forensic Medicine is part of the CICPC, which contributed to a climate of impunity, since its doctors were unlikely to be impartial in their examinations of cases that involved torture by CICPC members. Very few cases of torture resulted in convictions.

Police officers and National Guard troops at times harassed or humiliated victims. For example, in April the National Guard harassed missionaries from the Church of Jesus Christ of Latter-day Saints (Mormons), by conducting strip searches and intimidating them (see Section 2.c.).

General prison conditions continued to be harsh due to underfunding, poorly trained and corrupt prison staff, and violence by guards and inmates. Despite the implementation of the COPP, the prison population was 117 percent of capacity. Twenty-two of the country's 30 prisons were overpopulated, some severely, according to the Ministry of the Interior and Justice. Overcrowding in some prisons was so severe as to constitute inhuman and degrading treatment. According to the Ministry of the Interior and Justice, 48 percent of all prisoners were in pretrial detention.

Underfunding compounded the degradation of even model prisons. Attempts to relieve overcrowding by transferring prisoners worsened conditions in other facilities. The prisons often lacked such basic equipment as telephones in the prison director's office. Prisoners often complained of food and water shortages.

The Government failed to provide adequate prison security. According to the Ministry of Interior and Justice, there were 244 deaths and 1,249 injuries from violence in jails from October 2001 through September. Security forces committed a small number of the killings in prisons, and many prisoners died as a consequence of poor sanitary conditions, poor diet, and inadequate medical care. However, most inmate deaths resulted from prisoner-on-prisoner violence, riots, fires, and from generally unsafe conditions in prison facilities.

Prisoners reported that the prison officials allowed the prisoners to fight among themselves. For example, in the prison in Barcelona, prisoners claimed that prison officials permitted the more violent prisoners to kill each other to get rid of difficult prisoners, and did nothing to help those who were seriously injured, leaving them to die. Prisoners reported cases in which other prisoners disappeared after being injured in fights.

Prison employees reported that grenades and guns were present in some prisons. In May prison guards discovered grenades at San Antonio prison in Margarita. Guards reported similar access to weapons since February in Barcelona prison, in Anzoategui state. The National Director of Prisons launched an investigation into the National Guard because several of the weapons in the prisoners' possession had been decommissioned from the National Guard.

Inmates often had to pay guards and other inmates to obtain necessities such as space in a cell, a bed, and food. Because of the prison food's low quality and insufficient quantity, most prisoners get their food from their families, by paying prison guards, or in barter with other prisoners. Many inmates also profited from exploiting and abusing others, especially as convicted murderers and rapists often were housed with unsentenced or first-time petty offenders. Gang-related violence and extortion was fueled by the substantial trafficking in arms and drugs that occurred in prisons.

Prison officials often illegally demanded payment from prisoners for transportation to judicial proceedings (see Section 1.e.).

Women inmates were held in separate prisons, where conditions generally were better than those in the men's facilities. 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.

Despite resistance from the Catholic Church and NGOs, the Government sporadically used the National Guard, normally charged with exterior prison security, to maintain internal control of prisons.

The Government permitted prison visits by independent human rights observers; however, guards were often unaware of international law, and sometimes refused entry to consular representatives unless they submitted to strip searches.

d. Arbitrary Arrest, Detention, or Exile

The Constitution and the 1999 COPP provide for freedom from arbitrary arrest and detention; however, the security forces continued to arrest and detain citizens arbitrarily.

There continued to be arbitrary detentions by the Caracas Metropolitan Police, the DISIP, municipal police forces, the National Guard, and the CICPC, especially during anticrime sweeps in impoverished sections of major cities. PROVEA documented 4,549 persons detained in sweeps from October 2001 through September, compared with 4,243 persons detained in sweeps from October 2000 through September 2001.

Human rights activists in border areas alleged that security forces continued to detain individuals and groups arbitrarily, citing the need to examine identity documents. Hundreds of Colombian nationals were detained and deported without due process (see Section 2.d.).

The COPP stated that a person accused of a crime cannot be incarcerated during criminal proceedings unless that person was caught in the act of committing a crime, or a judge determines that there was a danger that the accused may flee or impede the investigation. The law provides for the right to a judicial determination of the legality of the detention within 72 hours. Persons accused of crimes must be brought before a judge within 24 hours of arrest or be freed pending charges. In no case may the detention of a person accused of a crime exceed the possible minimum sentence for the crime committed, nor may it exceed 2 years. However, confusion over the COPP still exists, and arbitrary arrests continued to be common. Police on the streets were not well trained, and often abused their power for either personal or political reasons. In 2001 the National Assembly broadened the definition of the "in flagranti" circumstances in which a person may be apprehended and lengthened slightly the time provided to police to present charges prior to the release of an arrested individual (see Section 1.e.). Human rights groups claimed this change led to an increase in detentions.

Under the COPP, persons accused of petty crimes who had not been convicted but already had been in custody 2 years or the minimum sentence possible for that crime (whichever is less) are to be released if they passed a psychiatric examination. Under the provisions and benefits provided by the law, approximately 9,000 prisoners were released in 2000, the last year for which statistics were available. There were approximately 19,368 prisoners as of August, 48.27 percent of whom had not been convicted of a crime.

In April, during the short-lived government of Pedro Carmona, military officers held President Chavez for 36 hours against his will. Additionally, security forces conducted raids without warrants and took some Chavez supporters into custody illegally, including National Assembly deputy Tarek Willian Saab, a member of the Chavez-aligned MVR. According to COFAVIC, a large crowd had gathered around Saab's home, threatening him and his family. When the local police arrived to protect Saab, DISIP forces also arrived and took Saab into custody. He was held incommunicado for several hours.

Forced exile is illegal; however, during the short-lived Carmona government in April, military officials attempted to force the exile of President Chavez.

e. Denial of Fair Public Trial

The civilian judiciary is legally independent; however, it was highly inefficient and sometimes corrupt, and judges were subject to influence from a number of sources, including the executive branch.

The judicial sector consists of the Supreme Court, which is the court of final appeal; the Public Prosecutor, who provides opinions to the courts on prosecution of criminal cases and brings to the attention of the proper authorities cases of public employee misconduct and violations of the constitutional rights of prisoners or accused persons; the Ministry of Interior and Justice, which manages the national police force (CICPC), files complaints in criminal courts, and oversees the prisons; and the Executive Directorate of the Magistrature (DEM), 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.

The 1999 COPP provides for the right to a fair trial and considers the accused innocent until proven guilty in a court. However, under the previous secretive inquisitorial code, the presumption of innocence generally was not respected nor accepted. The system was corrupt, paper-intensive, costly, and time-consuming. Judges were 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. The adversarial system also establishes the right to plead guilty and make reparation agreements; however, lengthy delays in trials remained common.

The Government continued to implement the COPP, which altered the fundamental concept of how justice is carried out, the legal procedures involved, and the respective roles of the police, judges, and lawyers. The police no longer detained

persons arbitrarily for up to 8 days (see Section 1.d.) and worked under the supervision of a prosecutor; judges ceased to be investigators and arbiters of law; and prosecutors and defense attorneys assumed both roles respectively.

A November 2001 amendment to the 1999 COPP strengthens out-of-court settlements and increases victims' rights to compensation; provides physical protection to crime victims during trials; bolsters the work of juries for some crimes and eliminates them for others; eliminates some sentence reduction benefits for jailed criminals; and expands powers of detention (see Section 1.d.).

The law provides for public defenders for those unable to afford an attorney; however, there were not enough public defenders. According to statistics from the DEM, there were 531 public defense attorneys for the entire country, of which 164 were dedicated exclusively to juvenile cases and 367 for all other cases. Public defenders handled more than 63,000 cases throughout the country, with an average caseload of 150 cases per public defender. In some states, the average annual caseload was as high as 520 per public defender.

Prison officials often illegally demanded payment from prisoners for transportation to judicial proceedings. Those who were unable to pay often were forced to forgo their hearings (see Section 1.c.).

During the year, the DEM suspended and removed judges based on charges of incompetence or corruption. Judges were suspended with pay; however, some observers challenged that the judges' right to appeal was restricted. The Government held competitive examinations to fill judicial vacancies, beginning in Miranda and Vargas states in January 2001. Judges with pending cases against them were not eligible to take the examinations, and judges who have been reprimanded had points deducted from their scores. However, the slow pace at which suspended or fired judges were replaced meant that, as of November, fewer than 25 percent of the judges in the country were permanent.

The military courts continued to implement a reform similar to the COPP in the military justice system. The Constitution established that trials for military personnel charged with human rights abuses would be held in civilian rather than military courts. However, the provision does not apply to cases that predate the 1999 Constitution, and there was no implementing law for the provision. There was no progress in the January 2001 case of army Lieutenant Alessandro Siccat (see Section 1.a.). In October 2001, the Supreme Court ruled that civilian courts should hear the case. The Court declared the court-martial and sentence null and void, and sent the case to a state civilian court in Maracay. Siccat remained detained at year's end and awaiting trial in Aragua state at year's end. His court appearance has been suspended twice.

Human rights NGOs continued to express 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. However, human rights groups noted the Ministry of Defense's decision in 2001 to publish its judge candidate lists and called this a step toward greater transparency in this process.

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 continued to infringe on citizens' privacy rights by conducting searches of homes without warrants, especially during anticrime sweeps in impoverished neighborhoods. Reports of illegal wiretapping and invasion of privacy by the security forces increased during the year. On various occasions, progovernment legislators made public surreptitiously taped conversations, such as one between labor leader Carlos Ortega and former President Carlos Andres Perez. The conversation was political in nature, not criminal. The Minister of Justice and Interior denied authorizing the taping.

In June a group of MVR deputies made public a recording of two telephone conversations between journalist Patricia Poleo and one of her contacts. Poleo filed a complaint with the Attorney General's office and with the Organization of American States (OAS). The journalist also complained she was the victim of government surveillance. In August Chacao municipality police disrupted DISIP surveillance of Chacao Mayor Leopoldo Lopez, a Chavez critic.

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 respected these rights in practice. However, press freedom deteriorated significantly during the year. Violence and threats of violence against the media increased markedly during the year, as did government intimidation. As a result, self-censorship by the media was thought to be widespread.

Individuals and the media freely and publicly criticized the Government; however, as noted by the Inter-American Human Rights Commission's (IAHRC) Special Reporter on Press Freedom, reprisals and threats of violence against journalists and media organizations restricted freedom of expression in practice. In addition, some individuals reported that the

Government recorded and aired publicly private telephone conversations, restricting freedom of speech (see Section 1.f.).

Print and electronic media were independent. The Government had a national television station, a national radio network, and a newswire service whose directors were named by the President. The President had a weekly call-in show on television and radio. Since April these shows aired only on state media; commercial television and radio were not obligated simultaneously to broadcast the program, as was true before April. Independent media observers criticized the state media for extreme progovernment politicization. State media employees complained about purges of employees considered to be anti-Chavez, and some employees of state-owned Radio Nacional and Venezolana de Television claimed they have lost their jobs because of their political views. Community media, including radio and TV stations, also existed. These are distinct from mainstream commercial media in legal status, frequency licensing requirements, and advertising regulations. Most community media were new and were progovernment in editorial policy.

Media analysts, journalists, and other observers alleged that the criminal defamation and libel laws were used to intimidate or harass the media. Because of the lengthy process and considerable legal costs, some observers regarded these lawsuits, or threats of lawsuits, as examples of attempts to intimidate journalists and discourage investigative journalism. The editor of "La Razon" newspaper remained overseas because of one such long-running lawsuit.

The Constitution states that all persons have the right to "timely, true, and impartial" information, without censorship. This "true information" article raised concerns in the domestic and international media that it could be used by the Government to censor or intimidate the press. The Constitution also provides for the "right to reply" for individuals who believe they are portrayed inaccurately in media reports. Media figures criticized the Supreme Court's 2001 ruling that established criteria for determining and exercising the right to timely, true, and impartial information. President Chavez has demanded a right to reply on several occasions. However, some individuals named by the President in his weekly national radio show complained that they have not been granted the right to reply.

The Constitution declared that it is "contrary to the freedom of information" for a medium to "emit negative or critical concepts about ideas, thoughts, judgments, rulings, etc.," without indicating what is being criticized. The ruling set criteria to establish whether a media report is "true" or not, according to the Constitution. Violations include expressing opinions that contain statements that are "out of context, disconnected, or unnecessary for the topic, or offensive, insidious, or degrading expressions unconnected to the topic, or unnecessary for the forming of public opinion." The ruling affirms that information can be censored prior to publication if it violates Article 57 of the Constitution, which prohibits anonymous authorship, war propaganda, and messages that promote discrimination or religious intolerance. The Court also ruled that it is "restrictive of true and impartial information" if a majority of a medium's writers of editorial articles express the same ideological tendency, unless that medium openly declares itself to be a party to those views. The domestic media and international organizations such as the Inter-American Press Association (IAPA) and the Committee for the Protection of Journalists criticized the Court's ruling.

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.

In October 2001, the President accused television station Globovisión of engaging in a "campaign of lies" against the Government. President Chavez warned Globovisión's director Alberto Federico Ravell and its owner Nelson Mezerhane that if they did not reconsider their broadcasts, he would "be forced to activate mechanisms in defense of the national interest, truth, and public order" and that their actions might have "legal consequences." President Chavez noted that the "airwaves belong to the State," announced that he had ordered the National Telecommunications Commission (Conatel) to investigate the station, and warned that the station's broadcast licenses might be reviewed. In October 2001, Conatel announced that it was opening administrative proceedings against Globovisión to determine if the station had violated broadcast content regulations. The situation continued at year's end.

International organizations and domestic journalists charged the Government with encouraging a climate of hostility toward the media that jeopardizes freedom of the press. In September the IAPA expressed its concern for "the serious deterioration of press freedom in Venezuela due to a climate of intimidation and physical attacks against journalists and media outlets, as well as a legal and judicial system, that threatens the free practice of journalism." In its annual report released to the General Assembly in October, IAPA stated that "freedom of expression is exposed to a series of risks that are not limited to simple threats or to abuses that compromise its existence, but include serious measures and revenge for exercising that freedom."

The law allows the Government to call national broadcasts (cadenas) requiring all broadcast media to pre-empt scheduled programming and transmit the broadcasts in their entirety. Domestic and international observers criticized the Government for excessive abuse of this right. For example, April 8 and 9, the Government aired more than 30 cadenas to block commercial broadcast media reporting on massive opposition demonstrations.

The Government influenced the press through licensing requirements for journalists, broadcast licensing concessions for television and radio stations, and lucrative public sector advertising.

Some commercial radio stations complained that the allocation of broadcasting frequencies to community radios was not in accordance with existing broadcast regulations. On April 12 and 13, several community media charged that state security agents of the short-lived Carmona government entered their installations and harassed their employees.

The Government denied equal access to official events. In August the Government and government supporters restricted private media's access to cover government-sponsored events. Between August and December, guards at the presidential palace occasionally turned away reporters from private stations, and in December restricted their access altogether. State controlled television and radio stations continued to have full access.

The Telecommunications Law of 2000 establishes that the President, "when he judges it convenient to the interests of the nation, or when required for reasons of public order or security, can suspend telecommunications broadcasts, in conformity with the Constitution." Some observers believed that this article might allow the suspension of media broadcasts for vague and arbitrary reasons. The President referred to this law many times and threatened to revoke commercial broadcast licenses. Many media professionals complained that investigations of television and radio stations by state broadcast regulation agency Conatel were politically motivated.

On April 11, the Government shut the television signals of Venevisión, Televen, RCTV, Globovisión, and CMT for several hours. In addition, armed troops from the DIM also surrounded the CMT building for several hours trapping station employees inside.

There were numerous allegations of government pressure against the media. President Chavez repeatedly singled out media owners and editors by name and charged that the media provoked political unrest. The statements resulted in a precarious situation for journalists, who were frequently attacked and harassed.

President Chavez also publicly accused media owners and institutions of tax evasion. Media figures charged that the Government used ongoing tax cases and tax investigations to pressure media owners and cited as an example, on May 3, the announcements of Conatel investigations of commercial televisions.

On January 17, the National Assembly passed a resolution calling on media owners to discuss and adopt a Code of Ethics. The media rejected the resolution as inappropriate state interference.

On March 13, state news agency Venpres characterized several media figures as narco-journalists. The Committee to Protect Journalists criticized the article as an obvious government effort to defame.

There were credible reports of state security agents spying on, harassing, intimidating, and physically attacking journalists. Some security agents masqueraded as journalists and photographed or filmed antigovernment speeches and gatherings. There were numerous cases of wiretaps of journalists, media owners, and media's telephones, apparently without legal authorization (see Section 1.f.).

In January 600 journalists severely criticized the systematic verbal aggression, principally from the President, and charged that the President's rhetoric stigmatized them and led to physical and verbal aggressions by supporters of the regime. The press workers and photographers syndicate also criticized the derogatory, unfair, and inconsiderate rhetoric. The IACHR ordered protective measures for numerous individual journalists and for many television stations and newspapers. The country remained on International Press Institute's "watch list" of countries where there was a growing tendency toward suppression or restriction of press freedom.

Violence and threats of violence against the media increased markedly during the year. On April 11, newspaper photographer Jorge Tortoza was killed and several others were injured during demonstrations. In August progovernment protesters shot a television cameraman while he was covering the event. During the year, according to media sources and published reports, at least 7 reporters were shot and more than 80 were physically attacked, including with weapons such as clubs, knives, rocks, and battery acid while covering street demonstrations and political rallies. Five were victims of crime under suspicious circumstances; nearly 100 reported having received threats, in some instances telephoned death threats. At least 28 individuals and media organizations requested and received protective measures from the IAHR. There were many incidents of vandalism, theft, and destruction of media vehicles, cameras, and other equipment, including several incidents caught on videotape. At least 13 media vehicles were vandalized and 4 television cameras and 2 microwave transmitters were destroyed.

Violent or threatening demonstrations occurred at several media offices. In January government supporters, some armed with baseball bats and sticks, demonstrated in front of the newspaper El Nacional and chanted "Tell the truth or we will burn you down." There were recurrent demonstrations in front of the studios of RCTV during the year. On December 9, in an action severely criticized by OAS Secretary General Cesar Gaviria, government supporters, in some instances accompanied by pro-government deputies from the National Assembly, simultaneously surrounded and attacked 33 media installations throughout the country, causing significant damage.

There were numerous bomb threats and several explosive devices attacks against the media. On January 31, an assailant

threw a firebomb at the offices of *Así es la Noticia* newspaper after its director published a video alleging ties between the Government and Colombian guerrillas. In July an assailant threw a fragmentation grenade at the studios of Globovisión television. On September 12, four incendiary devices were thrown at the studios of Promar TV. In November an incendiary device exploded in Globovisión television's parking lot, destroying two vehicles and part of the building.

On April 13, progovernment crowds assembled at private television stations and demanded access to the studios. The demonstrators forced the stations to air messages by demonstration leaders and to rebroadcast state television programming. On April 14, most Caracas newspapers did not publish because progovernment crowds forced the abandonment of the newspaper buildings.

Venevisión journalists outside Caracas were threatened with violence and in several instances were forced into hiding. Several journalists, fearing for their safety, fled the country. Pro-Chavez demonstrators took over various radio stations to convene supporters "to defend the revolution."

Although there was no official censorship of cultural activities, violent protests also were aimed at political satirists and political comedy shows perceived by demonstrators as being critical of President Chavez.

The Government did not restrict access to the Internet.

While academic freedom traditionally has been respected, the autonomy of the country's universities was threatened during the year. Public institutions of higher education designated as "experimental universities" are governed by Superior Councils, to which the Government may appoint a majority of members. The Government successfully replaced the leadership of other universities, mostly in the interior of the country, with political allies.

b. Freedom of Peaceful Assembly and Association

The Constitution provides for the freedoms of peaceful assembly and association, and the Government generally respected these rights in practice. Public meetings, including those of all political parties, generally were held unimpeded. The Government required permits for public marches but did not deny them for political reasons. The Metropolitan Police reported that, although both opposition and progovernment marches took place during the year, only opposition-march organizers requested permits.

The Constitution prohibits the use of firearms to control peaceful demonstrations. Supporters and opponents of President Chavez repeatedly demonstrated in the streets of the capital and other cities during the year. Several demonstrations resulted in injuries or loss of life. Both the authorities and the demonstrators used firearms (including military weapons), tear gas, and billy clubs against each other.

There were allegations that the Metropolitan Police used excessive force during various demonstrations. Several witnesses reported seeing Metropolitan Police officers firing on progovernment demonstrators during the April 11 protests and in the subsequent days of mass looting throughout Caracas. The President criticized the Metropolitan Police for firing on a group of progovernment demonstrators as they protested a Supreme Court decision in August.

Professional and academic associations generally operated without interference; however, in 2000, the Supreme Court ruled that NGOs that receive funding from foreign governments or whose leaders are not Venezuelan are not part of "civil society" and therefore may not represent Venezuelan citizens in court or bring their own legal actions; Religious organizations are not part of civil society and are subject to the same restrictions; and the Government has an obligation to ensure that NGOs are "democratic in nature" and therefore the internal elections of nonprofit groups (such as for boards of directors) can be regulated by the National Electoral Council. The Government has not moved to implement the Court's decision.

Following months of tension, the Confederation of Venezuelan Workers and Fedecamaras, the country's largest business federation, called a national strike and opposition groups organized a protest march for April 11. As the crowd of approximately 400,000 to 600,000 marchers approached the presidential palace, National Guard officers prevented the marchers from advancing. Unidentified shooters fired on the crowd, and at least four men were filmed firing from Puente Llaguno, a pedestrian overpass. Metropolitan Police officers escorting the marchers also fired their weapons. Both sides claimed the other fired first. Although no official count exists, COFAVIC reported that at least 19 persons died, at least 17 of whom were anti-Chavez demonstrators. Four men identified shooting from Puente Llaguno were arrested and were awaiting trial at year's end. During the march, President Chavez ordered the implementation of "Plan Avila," a civil defense plan intended to mobilize troops to protect the presidential palace from attack. Military officers refused to implement this plan, claiming it would have violated the human rights of the civilian demonstrators.

After April opposition groups requested permission to demonstrate at the presidential palace on several occasions, but were not granted permission for security reasons. Government supporters regularly congregated there to show their support for the president, although they did not hold organized marches, and therefore did not require permits. In September President Chavez issued a decree establishing eight security zones within Caracas. The decrees gave the central Government rather than municipal officials the authority to permit demonstrations there. The zones included areas

around military installations, state television and radio stations, and PDVSA headquarters. Opposition groups criticized these security zones as a restriction on the right of assembly. As of November, the Government had not used the decrees to hinder freedom of assembly.

The Metropolitan Police and National Guard used tear gas to restrain crowds in the April 11 demonstrations, and there was evidence that National Guard troops shot at demonstrators. The Metropolitan Police, in turn, fired on progovernment supporters. In August Metropolitan Police used tear gas and a water cannon against pro-Chavez protesters at various demonstrations against the Supreme Court. The President accused the Metropolitan Police of committing human rights violations during these protests. During one demonstration, National Guard officers received gunfire from the crowd, including fire from semiautomatic weapons, at which point they returned fire. Several demonstrators were injured.

In November members of opposition political parties and civil society marched to CNE headquarters to deliver more than 2 million signatures to request a consultative referendum. Marchers battled to deliver the signatures amidst violent demonstrations by government supporters. Although the Government sent emissaries to try to discourage the violence, the crowds fired guns and threw rocks and bottles at the marchers and Metropolitan Police. The National Guard eventually dispersed the crowd.

c. Freedom of Religion

The Constitution provides for freedom of religion, on the condition that the practice of a religion not violate public morality, decency, or the public order, and the Government generally respected this right in practice.

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 Church, including to its social programs and schools. During the year, this money was not disbursed due to budget shortages. Other religious groups are free to establish and run their own schools, but they do not receive subsidies from the Government.

Each local religious group must register with the Directorate of Justice and Religion in the Ministry of Interior and Justice to hold legal status as a religious organization and to own property. The requirements for registration were largely administrative. However, some groups complained that the process of registration was slow and inefficient. A special visa is required for foreign missionaries to enter the country, which is obtained through consulates abroad. Missionaries were not refused entry generally, but many complained that due to general bureaucratic inefficiency the Government often took months or years to process a request.

Archbishop Balthazar Porras, president of the Venezuelan Episcopal Conference, complained to the Vatican in September about what he characterized as increased government attacks on the Catholic Church. For example, on January 25, Chavez said that the Catholic Church was one of Venezuela's problems and that it was a tumor that must be eradicated. Members of the Church, including Monsignor Porras, reported being threatened, and one priest, Father Juan Manuel Fernandez was shot. There has been no investigation into these crimes.

Some foreign missionaries complained that members of the National Guard harassed them. In May the Church of Jesus Christ of Latter-day Saints (Mormons) reported that the National Guard harassed two of its missionaries in Tachira state. According to church officials, National Guard troops stopped missionaries at a checkpoint on two occasions and told them to strip. On one occasion, the officer asked one of the missionaries to surrender his foreign passport. When the missionary resisted, the officer made him strip completely naked and demanded that he jump up and down, while other guards laughed at him. The missionary's clothes and body were not searched.

For a more detailed discussion see the [2002 International Religious Freedom Report](#).

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 respected these rights in practice. However, the Government may suspend the freedom to travel. The Government also restricted foreign travel for persons being investigated for criminal activities. In addition, the Government requires citizens and foreigners resident in the country who are departing the country with minors to present to immigration officials proof of authorization from the minors' parents.

There is still a large population of internally displaced persons following the 1999 floods during which more than 250,000 persons lost their homes. Although many of those affected were relocated to other communities in the interior of the country, thousands returned and live in shantytowns in and around Caracas.

The Constitution recognizes and provides for the right to asylum and refugee status. Both the Constitution and the Organic Refugee Law that came into effect in October 2001 are in accordance with the 1951 U.N. Convention Relating to the Status of Refugees and its 1967 Protocol. The law is designed to expand the legal rights of refugees, contains a broad definition of the conditions that would entitle individuals to refugee status, commits the Government to an active role in providing humanitarian assistance to refugees, and creates an institutional body to make refugee and asylum status determinations.

In August President Chavez inaugurated a new office of the U.N. High Commissioner for Refugees (UNHCR) in San Cristobal, Tachira state.

Implementing regulations for the Refugee Law have not been drafted, and training for border officials was poor. As a result, there was no formal mechanism for those seeking asylum to legalize their refugee status. During the year, the UNHCR worked with the Attorney General's office to investigate cases on an ad hoc basis to speed the Commission's ability to decide a case once it is formed. UNHCR reported that files were often lost or misplaced, since the Attorney General's Office had no fixed department to centralize the processing of these cases. UNHCR also noted that the investigation of refugee claims was flawed. For example, for family groups, the review process involved only the head of the family, even when the dependents' cases may be more compelling from a humanitarian standpoint.

Persons who applied formally for refugee status were given no provisional documentation that legalized their presence in the country. Therefore, they had no legal protection, and could not legally work, attend public school, or receive public health services. National Guard troops rarely investigated the cases of undocumented aliens found at security checkpoints along the border before deporting them.

As of October, there were approximately 200 persons in the country who had been granted refugee status from prior years, and approximately 1,000 additional refugee claims pending.

In theory, the Government provides first asylum. However, the Government denied the existence of all but a small number of Colombians who crossed the border and claimed to be fleeing paramilitary incursions. It called the Colombians, whose presence it did acknowledge, "displaced persons in transit"--a term that does not exist in public international law. According to UNHCR, the number of small groups entering the country, including individuals and small family groups, increased. In these cases, the persons often chose to blend into the local population rather than apply for formal refugee status.

There were no reports of forced return of persons to a country where they feared persecution. However, the National Guard in the border region in Zulia, Tachira, and Apure states, reported that they deported on average 42 Colombian nationals per day. As of September, they deported 9,533 persons. Although the law requires the authorities to take 30 days to investigate each undocumented persons case, this was done only rarely.

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 exercised this right through periodic, free, and fair elections held on the basis of universal suffrage. The Constitution provides for the direct election of the President and unicameral National Assembly, as well as of state governors, state legislative councils, and local governments. Political parties organize, and their candidates are allowed freely to run for office and to seek the support of voters. The President has extensive powers and the legislature appoints the members of the Supreme Court, the CNE, and the Citizen Power consisting of the Ombudsman, Public Prosecutor, and Controller General.

In 1999 the National Constituent Assembly (ANC) drafted and submitted to a popular referendum a new Constitution, which went into effect in December 1999. The ANC also decreed new general elections. In July 2000, in voting that observers from the OAS and various countries judged to be generally free and fair, voters elected President Chavez, with 59 percent of the vote. Chavez's supporters won a majority (92 seats) in the 165-seat National Assembly. His supporters also won half the governorships.

In December 2000, the National Assembly appointed members of the Supreme Court and the Citizen Power in a process that was criticized by the political opposition, the media, and NGOs as unconstitutional. These groups argued that the procedures set forth in the 1999 Constitution regarding civil society participation in the selection process were not followed. The outgoing Ombudsman and others challenged the selection procedure but lost the appeal.

Displeased with President Hugo Chavez, several opposition groups and political parties sought to remove him from power throughout the year. In April military officers illegally detained Chavez, and opposition business leader Pedro Carmona, without any constitutional authority, declared himself President. Their principal legal avenues were to try to convict the President of a crime, to hold a non-binding referendum to remove him from the presidency, and to pass a constitutional amendment to shorten his term of office.

In April the country experienced a temporary alteration of constitutional order. Political opposition leaders, business associations, and labor leaders organized various public demonstrations and work stoppages opposing President Hugo Chavez beginning in late December 2001. On April 11, an estimated 400,000 to 600,000 people participated in a march in downtown Caracas to demand President Chavez's resignation. When the march approached central Caracas, the Government cut the transmission of private television stations that refused to broadcast a series of presidential speeches. As marchers changed course and approached the Presidential Palace, gunfire broke out, resulting in as many as 18 deaths and more than 100 injuries, with dead and injured on both sides. Military officers announced they would not follow presidential orders to attack the marchers and took President Chavez into custody. Opposition business leader Pedro Carmona proclaimed himself as interim president when the Minister of Defense announced Chavez had resigned the

presidency. Carmona dissolved the National Assembly, the Supreme Court, and suspended the Constitution. DISIP officers arrested officials of the Chavez Government. Between April 12 and 14, Chavez supporters turned out and looting broke out in some areas of Caracas, resulting in more deaths and injuries. On April 14, troops loyal to Chavez returned him to power. An investigation into the April 11 shootings, plagued by irregularities, has failed to result in any convictions.

Women and minorities participated fully in government and politics. The National Assembly's Family, Women, and Youth Committee promotes political opportunities for women. In the July 2000 elections, women won 20 seats in the 165-seat Assembly. There were 4 women in the 18-member Cabinet.

Indigenous people traditionally have not been integrated fully into the political system due to low voter turnout, geographic isolation, and limited economic and educational opportunities. The 1999 Constitution reserved three seats in the National Assembly for indigenous people, and these seats were filled in the July 2000 election. There were no indigenous members in the Cabinet. One of the Vice Presidents of the National Assembly was an indigenous person.

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 occasionally responsive to their views. However, NGOs objected to a November 2000 Supreme Court ruling that NGOs that receive funding from foreign governments or whose leaders are not Venezuelan were not part of civil society. The ruling concluded that such NGOs may not represent citizens in court or bring their own legal actions, and that NGOs are subject to government regulation of their internal leadership selection should they be found to be "undemocratic in nature" (see Section 2.b.). This ruling has not impeded the work of NGOs.

Several human rights NGOs received an increased number of threats and intimidation by government representatives and government supporters.

A Caracas NGO that works on behalf of victims of violence, COFAVIC, received e-mail and telephone threats beginning in January from Bolivarian Circles and persons who identified themselves as Chavez supporters. The Attorney General's office and Human Rights Ombudsman's office did not pursue requests by COFAVIC for investigations of this harassment. In May COFAVIC filed a complaint with the IACHR. The IACHR recommended that the Government provide police protection to COFAVIC's offices and director. It also called for the Government to investigate COFAVIC's claims and speak out against the intimidation of human rights organizations. The Government did not respond to this request. The Metropolitan Police provided bodyguards for the COFAVIC director and protection in and around COFAVIC's office.

The Ombudsman is responsible for compelling the Government to adhere to the Constitution and laws and, together with the Public Prosecutor and Controller General, makes up the Citizen Power branch of government. In 2000 the National Assembly named attorney German Mundarain as the new Ombudsman (see Section 3). Since his appointment, Mundarain has used his position to urge broad consensus on human rights issues. However, human rights NGOs claimed that the Ombudsman's office had acted on only a small number of cases presented to it. Many critics claimed that the Ombudsman was not truly impartial.

Human rights groups remained concerned about the Chavez administration's lack of a human rights agenda and lack of support for the national human rights agenda formulated by the previous Government. There have been no meetings between President Chavez and NGOs to discuss human rights issues since 1999. However, NGOs have developed relationships with specific government bodies such as the Ministry of Education (to develop educational materials on human rights), the Foreign Ministry (to discuss the resolution of existing human rights cases against the Government in international courts), and the National Assembly (to discuss proposed legislation affecting human rights). The Government also continued to fail to support the National Human Rights Commission created in 1996 to coordinate government human rights programs and to serve as a forum for dialog with NGOs.

The Defense Ministry's human rights office continued to conduct courses as part of the armed forces' training curriculum. Human rights NGOs complained that the Ministry still rejected the validity of their reports of alleged human rights violations by the armed forces and remained unwilling to provide evidence to refute the charges, citing confidentiality regulations.

Following the violence of April 11-14, several NGOs, political parties, and observers called for the creation of a truth commission. National Assembly deputies introduced legislation to create one; however, it did not pass.

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

The Constitution expressly prohibits discrimination on the basis of politics, age, race, sex, creed, or any other condition, and the law prohibits discrimination based on ethnic origin, sex, or disability. However, the Government did not protect women adequately against societal and domestic violence and did not ensure the disabled access to jobs and public services, nor did it safeguard adequately the rights of indigenous people during the year.

There were no new developments in the 2000 case that state police in Valencia, Carabobo state, detained four transgendered persons and held them incommunicado for 2 days without food or drinking water. The family of one of the detainees filed a formal complaint with the Public Ministry.

Women

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. Domestic violence against women was very common and was aggravated by the country's economic difficulties. There were 8,411 cases of domestic violence reported to the authorities during the year. Many domestic violence cases were not reported to the police. The police generally were unwilling to intervene to prevent domestic violence, and the courts rarely prosecuted those accused of such abuse, according to local monitors. In addition, poor women generally were unaware of legal remedies and have little access to them. The law requires police to report domestic violence and obligates hospital personnel to advise the authorities when it admits patients who are victims of domestic abuse cases.

Rape is extremely difficult to prove, requiring at a minimum medical examination within 48 hours of the crime. A provision in the Penal Code also provides that an adult man guilty of raping an adult woman with whom he is acquainted can avoid punishment if, before sentencing, he marries the victim. Few police officers were trained to assist rape victims. During the year, the police received 3,492 reports of rape. However, women's organizations asserted that these figures were low and did not accurately portray the problem of rape and sexual assault. They claimed that many victims did not report the incident or press charges due to societal pressure and their own feelings of guilt.

There were reports that women were trafficked to Spain for purposes of prostitution (see Section 6.f.).

Sexual harassment in the workplace was a common problem but was not a criminal offense.

Women gradually surmounted many of the barriers to their full participation in political and economic life; nonetheless, they still were underrepresented in leadership positions and, on average, earned 30 percent less than men. Women accounted for approximately half the student body of most universities and advanced in many professions, including medicine and law. As of November, 70 women were in training at the Army's military academy, 100 were in training at the Naval academy, 39 were at the Air Force academy, and 75 were in training at the National Guard academy. A 2000 government decision allowed women to attend military academies and serve in expanded roles as officers in the armed forces. Women and men were legally equal in marriage.

The Constitution provides for sexual equality in exercising the right to work. The 1990 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 1 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 Confederation of Venezuelan Workers (CTV), the country's major labor federation, these regulations were enforced in the formal sector, although social security payments often were delayed.

In 2001 the National Institute for Women (formerly the National Women's Council)--an agency of the Presidency with representation from the Ministries of Justice, Education, Family, Health, and Labor--designed two programs to assist women in need and enhanced the economic independence of women. The first program was the "Women's Bank" to provide small-scale financing to micro-enterprises run by women. In February the Government said that \$10 million (15 billion bolivars) had been placed into this fund. However, the fund did not publish its balances, and it was not controlled by the Ministry of Finance. There were allegations of corruption and mismanagement within the fund. The second initiative was the Women's Shelters Program--the construction of a series of centers to receive, care for, and rehabilitate women in distress.

There were a number of NGOs concerned with domestic violence, sex education, and economic discrimination. However, the recommendations of these groups were not implemented widely by the police or other concerned government agencies.

Children

The Organic Procedural Law on Adolescents and Children establishes legal protection of children under the age of 18, regardless of nationality; however, observers expressed concern over the slow implementation of the law's provisions. Government expenditures on education, health, and social services decreased during the year due to a weakening economy and government budget deficits. Primary and secondary education was chronically underfunded. According to the Constitution, the State is to provide free education up to the university-preparatory level (15 or 16 years old) and the law provides for universal, compulsory, and free education; however, an estimated 57 percent of children left school before the 9th grade.

In addition, approximately 1 million children were not eligible to receive government assistance, including public education,

because they were either illegal aliens, or their births were not documented properly, according to the annual report of the NGO Community Centers for Learning (CECODAP). A 1998 government regulation requires hospitals to register the births of all children, but a government program of sending teams into poor neighborhoods to register minors has been discontinued. Many children remain undocumented.

According to a 2001 report by CECODAP, approximately 25 percent of children under the age of 15 had a nutritional deficit. Substandard conditions contributed to the increase in preventable diseases that were leading causes of infant mortality.

Increasing poverty raised the level of stress within families and led to a rise in the number of abandoned children and to more child abuse. Reports of child abuse were rare due to a fear of entanglement with the authorities and societal ingrained attitudes regarding family privacy. The judicial system, although slow, ensured that in most situations children were removed from abusive households once a case had been reported. However, public facilities for such children are inadequate and had poorly trained staff.

There were reports that children from other South American countries, especially Ecuador, were trafficked to work in Caracas as street vendors and housemaids (see Section 6.f.).

According to CECODAP, approximately 1.6 million children worked in the country, mostly in the informal sector where they worked as street vendors or as beggars. An estimated 206,000 children were involved in prostitution, drug trafficking, and petty crime.

The authorities in Caracas and several other jurisdictions tried to cope with the phenomenon of street children by continuing to impose curfews for unsupervised minors. Children's rights advocates claimed that curfews permitted the police to act arbitrarily and detain persons who had committed no crime. Because reform institutions were filled to capacity, hundreds of children accused of infractions, such as curfew violations, were confined in juvenile detention centers (see Section 1.c.).

Children's rights advocates continued to criticize the Government's lack of success in reuniting children and parents who were separated in the flooding in Vargas state in 1999. At year's end, some children remained missing. The Ombudsman's office continued to investigate whether some of these children may have been trafficked (see Section 6.f.).

Persons with Disabilities

Persons with disabilities had minimal access to public transportation, and ramps were practically nonexistent, even in government buildings. According to local advocates, persons with disabilities were discriminated against in many sectors, including education, health care, and employment.

A comprehensive 1993 law to protect the rights of persons with disabilities requires that all newly constructed or renovated public parks and buildings provide access. The law also forbids 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 try to change 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 frequently suffered from inattention to and violation of their rights. There were approximately 316,000 indigenous people in 27 ethnic groups. Many indigenous people were isolated from modern civilization and lack access to basic health and educational facilities. High rates of cholera, hepatitis B, malaria, and other diseases plagued their communities.

The Constitution creates three seats in the National Assembly for indigenous people 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, and traditions, or the allocation of natural resources. As farmers and miners intruded on their habitats, indigenous communities faced deforestation and water pollution. Few indigenous persons held title to their land, but many did not want to 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.

In July 2001, four members of the Pume indigenous people in Apure state were killed during an apparent effort to take control of the land they occupied, according to a Pume woman who witnessed the incident. The family of four—Cruz (age 50), Lorenzo (age 28), Ana Maria (age 25), and Rosa Maria Flores (age 9)—were attacked by nonindigenous persons armed with machetes and firearms. Another Pume member, Carmen Flores, witnessed the killings and escaped unnoticed. In August 2001, two persons were arrested in connection with the killings. In November 2001, a court found them innocent and they were released. In July the Supreme Court reopened the case and ordered that the two men be detained.

The Yanomami, among the most isolated of the indigenous people, have been subjected to persistent incursions into their

territory by illegal gold miners, who have introduced both diseases and social ills.

Members of the Warao indigenous group of Delta Amacuro state continued to migrate during the year from their homelands in the swampy Orinoco delta to Caracas, where they live in the streets, selling handicrafts and begging. The Warao claim that flooding and petroleum exploration have eroded their traditional means of survival: Fishing and horticulture. The Caracas city government and the Metropolitan Police maintained a policy of forcing the Warao to return to the delta by rounding them up and loading them onto buses. In 1998, the last year for which estimates are available, they returned at least 15 groups averaging 100 Warao each. Many of the Warao nevertheless return to Caracas, citing lack of jobs and money in the delta and their ability to earn approximately \$112 (130,000 bolivars) per week in handouts in Caracas.

Section 6 Worker Rights

a. The Right of Association

Both the Constitution and the 1990 Labor Code recognize and encourage the right of workers to organize; however, concerns over labor rights continued. According to the Constitution, all workers, without prejudice or need of previous authorization, have the right to form freely unions that they believe can help them defend their rights and interests, as well as the right to join--or refrain from joining--these organizations. The 1990 Labor Code extends the right to form and join unions of their choosing to all private and public sector employees, except members of the armed forces. The Constitution provides that labor organizations are not subject to intervention, suspension, or administrative dissolution, and workers are protected against any discrimination or measure contrary to this right. Labor organizers and leaders may not be removed from their positions during the period of time or under the conditions in which they exercise their leadership functions. However, Articles 23 and 95 of the Constitution, which provide for freedom of association, are contradicted by Article 293, which gives the National Electoral Council the authority to administer the internal elections of labor confederations. This article is in violation of the Government's commitments to ILO Conventions 87 and 98 and has been the subject of a long-running dispute between the Government and the ILO.

The ILO repeatedly expressed concerns that the 1990 Labor Code violates freedom of association by requiring a high number of workers (100 workers) to form self-employed workers' trade unions and a high number of employers to form employer trade unions (10 employers). The ILO noted that the long and detailed list of duties assigned to workers' and employers' organizations and the requirement that foreign workers must be resident in the country for more than 10 years in order to hold trade union offices also violates freedom of association.

Despite ILO objections, the Government continued to insist on the CNE's oversight authority for labor leadership elections. However, in practice CNE authorities took a broad interpretation of the requirement, allowing the individual union and federation elections to proceed uninterrupted under the authority of the CTV, and generally limiting its activities to an advisory role.

In June the Government, labor, and business representatives participated in the annual ILO Conference. Although the Government pondered accrediting someone other than Ortega to represent labor, the Supreme Court ruled that Ortega was the proper representative. The Committee on the Application of Conventions and Recommendations criticized the country for its violations for the second year in a row. The Government responded that labor law reform was under debate in the National Assembly.

The Labor Code mandates registration of unions with the Ministry of Labor, but it limits 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 membership list) are submitted. Only a judge may dissolve a union, and only for reasons listed in the law.

The law also prohibits employers from interfering in the formation of unions or in their activities and from stipulating as a condition of employment that new workers must abstain from union activity or must join a specified union. The Constitution prohibits measures that "alter the sanctity and progressiveness" of labor rights and worker benefits, declares labor rights to be irrevocable, and provides that ambiguities regarding the application or interpretation of norms are to be applied in the manner most favorable to the worker.

Ministry of Labor inspectors hear complaints regarding violations of these regulations and traditionally impose a maximum fine of twice the monthly minimum wage for a first infraction. Under the Constitution, union officials have special protection from dismissal. Under the 1990 Labor Code, 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 the worker's seniority.

Approximately 10 to 12 percent of the 10-million-member national labor force were unionized. One major union confederation (the CTV), three small union confederations, and a number of independent unions operated freely. The CTV represented most of the unionized workers and was especially strong in the public sector; its membership was approximately 900,000 workers. The CTV's top leadership included members of several political parties, but the majority affiliated with one of the traditional parties, Democratic Action (AD) or the Christian Democrats (COPEI). The CTV and the AD traditionally influenced each other. The Bolivarian Workers Force (FBT) tried to organize unions within the CTV and

participated in the CTV internal elections held in October 2001.

There were no restrictions on affiliation with international labor organizations, and many union organizations were active internationally; however, a November 2000 Supreme Court ruling regarding the legal rights of NGOs that receive funding from foreign sources has the potential to restrict the international affiliations of union organizers (see Section 2.b.).

b. The Right to Organize and Bargain Collectively

According to the Constitution, all public and private sector workers have the right to voluntary collective bargaining and to arrive at collective bargaining agreements, without any additional requirements other than those established by the law. The Constitution provides that the Government is to ensure development of collective bargaining and to establish conditions favorable to collective relationships and the resolution of labor conflicts. The 1990 Labor Code stipulates that employers must negotiate a collective contract with the union that represents the majority of their workers. The ILO repeatedly expressed concerns that this provision restricts freedom of association and in March 2000 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 Code contains a provision stating that wages may be raised by administrative decree, provided that the legislature approves the decree.

During the year, the conflict between the Government and the CTV intensified, with the labor confederation participating in both a national work stoppage in December 2001, several massive antigovernment demonstrations, and the general strike in April that led to the brief overthrow of President Chavez. The national work stoppage that contributed to Chavez's brief downfall began with a protest at the state oil concern PDVSA after Chavez fired the company's board of directors. This led to sympathy strikes at several PDVSA outlets and culminated with the CTV convoking a national work stoppage. After the second day of the stoppage, the CTV called a general strike on April 10, but it did so as a consensus of its executive committee without consulting the rank-and-file. CTV President Ortega went into hiding for a brief period after President Chavez returned to power. Meanwhile, he and the CTV's Executive Committee--four progovernment labor leaders have refused to take their seats--has become increasingly committed to Chavez's removal from office.

In October 2001, the CTV elected Carlos Ortega Secretary General. Both sides lodged numerous protests of fraud, but the Chavez government, which had endorsed FBT candidate Artistobulo Isturiz, claimed massive fraud had decided the election and refused to recognize Ortega as the winner. Ortega continued to occupy the office without the official election certification by the CNE. The lack of recognition prevented government-labor dialog on issues such as the minimum wage and collective contract negotiations.

The Constitution and the 1990 Labor Code recognize the right of all public and private sector workers to strike in accordance with conditions established by labor law. However, public servants may strike only if the strike does not cause "irreparable damage to the population or to institutions." Replacement workers are not permitted during legal strikes. The 1990 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, teachers, and transportation workers.

In August Caracas subway workers struck for 1 day to protest their collective contract, which expired 3 years ago. This strike was resolved when the Ministry of Labor offered the workers a bonus of nearly \$6,000 per worker. The Ministry did not initiate talks to negotiate a new contract. Shortly thereafter, workers of the state-owned aluminum company also struck to protest their contract, expecting a similar settlement. In all, more than 600 collective contracts required renegotiation.

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

c. Prohibition of Forced or Bonded Labor

The 1990 Labor Code states that no one may "obligate others to work against their will," and such practices generally were not known to occur. Apart from the general prohibition of compulsory labor, the law does not prohibit specifically forced and bonded labor by children, and such practices generally were not known to occur; however, there were reports of trafficking in children for employment purposes (see Section 6.f.).

d. Status of Child Labor Practices and Minimum Age for Employment

The 1990 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 less so in the informal sector, in which an estimated 1.1 million children worked. According to UNICEF, approximately 2.5 percent of children were in the labor market, and they worked in agriculture, as artisans, in offices, and in the services sector.

The 1990 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 the permission of their legal guardians. 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 Constitution prohibits adolescents from working in jobs that will affect their development.

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. The estimated 1.2 million children who worked in the informal sector, mostly as street vendors, generally worked more hours than the total permitted under the law. A 1996 survey of working children found that half of 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 reported that 12 percent of the country's children between the ages of 10 and 17 were working, had worked at some time, or were seeking work. Of that number, approximately 70 percent work in the informal sector of the economy.

e. Acceptable Conditions of Work

The Constitution provides workers with the right to a salary that is sufficient to allow them to live with dignity, and provides them and their families with the right to basic material, social, and intellectual necessities. The Constitution obliges the State to provide public and private sector workers with an annually adjusted minimum wage, using the cost of the basic basket of necessities as a reference point. Under the 1990 Labor Code, minimum wage rates are set by administrative decree, which the legislature may suspend or ratify but may not change. The law excludes only domestic workers and concierges from coverage under the minimum wage decrees. In July the Government raised the minimum wage for public and private employees by 10 percent. Following the increase, the monthly minimum wage at present exchange rates is \$163 (190,080 bolivars) in the private sector for urban workers, \$150 (174,240 bolivars) for employees of small and medium-sized companies, and \$150 (174,072 bolivars) for rural workers. The increase applied only to those already earning the minimum wage—approximately 15 percent of the labor force. Total take-home pay in the private sector, the product of a presidential decree, was at least equal to that received by public sector minimum wage workers. Fringe benefits that were added to these minimum figures generally increased wages by about one-third. However, even with these benefits, the minimum wage was not sufficient to provide a decent standard of living for a worker and family. Unions noted that a worker's income was often less than the cost of basic monthly food for a family of five, estimated by the Government's Central Office of Statistics and Information. The basic basket, which includes medical care, transportation, clothing, and housing, in addition to food, totaled \$828 (960,000 bolivars) for August. The Ministry of Labor enforced minimum wage rates effectively in the formal sector of the economy, but approximately one-half of the population works in the informal sector where labor laws and protections generally were not enforced.

The Constitution stipulates that the workday may not exceed 8 hours daily or 44 hours weekly and that night work may not exceed 7 hours daily or 35 hours weekly. Managers are prohibited from obligating employees to work additional overtime, and workers have the right to weekly time away from work and annual paid vacations. Some unions, such as the petroleum workers' union, 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-one-half. The Ministry of Labor effectively enforced these standards in the formal sector.

The Constitution provides for secure, hygienic, and adequate working conditions; however, the authorities have not yet promulgated regulations to implement the 1986 Health and Safety Law, which was 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 sickness 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 closed unsafe job sites. Under the law, workers may remove themselves from dangerous workplace situations without jeopardy to continued employment.

f. Trafficking in Persons

The Constitution prohibits trafficking in persons; however, there is no implementing law specifically for prosecution of all forms of trafficking in persons, and trafficking was a problem. Trafficking may be prosecuted under laws against forced disappearance and kidnaping (punishable by 2 to 4 years' imprisonment) and, in the case of children, under the 2000 Organic Law to Protect Children and Adolescents (which carries a penalty of 1 to 10 months in jail for trafficking in children). There were reports that the country was a source, destination and transit country for trafficked men, women, and children during the year. However, no figures were available from either government or NGO sources, and it was difficult to gauge the extent of the problem. The authorities showed little awareness of the problem of trafficking in persons. An underdeveloped legal framework, corruption among immigration authorities, and the ease with which fraudulent Venezuelan passports, identity cards, and birth certificates were obtained created favorable conditions for trafficking. However, there were no reports or evidence of involvement in trafficking by government officials, and the Government took steps to reduce corruption among immigration officials by replacing immigration inspectors at the Simon

Bolivar International Airport in Maiquetia.

There were reports that women were trafficked to Spain for purposes of prostitution. There also were reports that children from other South American countries, especially Ecuador, were trafficked to work in Caracas as street vendors and housemaids. In October a smuggling ring was discovered in which children from Ecuador were smuggled through the country to their waiting parents in the U.S. Chinese nationals trafficked to the U.S. via countries bordering Venezuela transited the country. The Ombudsman's office continues to investigate whether some of the children separated from their parents in the December 1999 flooding in Vargas state may have been trafficked. It also was believed widely that young women were lured from rural areas to urban centers by misleading newspaper advertisements promising domestic or other employment and educational opportunities; they then became victims of sexual exploitation. Organized criminal groups, possibly including Colombian drug traffickers, Ecuadorian citizens, and Chinese mafia groups, reportedly were behind some of these trafficking activities.

The Government did not prosecute any individuals for trafficking in persons during the year. Government efforts to prevent and prosecute trafficking, which were rare, are the responsibility of the Public Prosecutor's Family Protection Directorate and the National Institutes for Women and Minors. Female victims of trafficking have recourse to the Government's national system of women's shelters (see Section 5). NGOs such as CECODAP and the Coalition Against Trafficking in Women also were involved in activities to combat trafficking. There were no efforts or surveys planned or underway to document the extent and nature of trafficking in the country. However, in January the Government did provide some assistance to apparent victims of trafficking from various West African countries who landed on the coast of Sucre state. The group claimed that it had been abandoned at sea by a Turkish cargo ship that, for a fee, had brought them from Africa to find work in an undetermined country.