



JANUARY 2007

COUNTRY SUMMARY

Venezuela

After repeatedly winning elections and referendums, and surviving a coup d'état in 2002, President Chávez and his supporters have sought to consolidate power by undermining the independence of the judiciary and the press, institutions that are essential for promoting the protection of human rights.

Independence of the Judiciary

The Venezuelan National Assembly dealt a severe blow to judicial independence in December 2004 by packing the country's Supreme Court with twelve new justices. A majority of the ruling coalition, dominated by President Chávez's party, named the justices to fill new seats created by a law passed earlier that year that expanded the court from 20 to 32 members. At that time, 80 percent of lower-court judges had provisional appointments and could be summarily dismissed by the Supreme Court's Judicial Commission.

During 2005 and 2006 the court granted tenure to hundreds of the provisional judges. By October 2006 only about 20 percent of the country's judges had provisional appointments, according to a Supreme Court spokesman. However, the judges who gained tenure during this period were not required to win public competitions as prescribed in the Constitution.

The judges on the First and Second Administrative Courts, which have jurisdiction over challenges to administrative actions by the government, continue to be provisional appointees. In September 2005 the judicial commission fired all six judges of both courts and their six substitutes, and once more replaced them with temporary appointees. The official reason given was that they failed to pass performance tests. The lack of guarantees to ensure that these key judges may make decisions free of government pressure remains a problem.

The 2004 court-packing law also gave the majority party in the National Assembly the power to remove judges from the Supreme Court without the two-thirds majority vote required under the constitution. In May 2006 Justice Luis Velázquez Alvaray, who had been a leading proponent of the law as a congressman in 2004, was himself suspended from the Supreme Court for allegedly mismanaging the construction of a court complex. After his appointment to the Court, Velázquez had chaired the Judicial Commission charged with appointing and dismissing lower court judges. He claimed that he had been targeted for impeachment because he resisted the efforts of the Chávez administration to control the selection of judges. In June the National Assembly impeached Velázquez with a two-thirds majority vote after he failed to appear at a hearing on the charges.

Freedom of Expression

Laws passed since late 2004 have created onerous restrictions on the media that pose a serious threat to freedom of expression. The Law of Social Responsibility in Radio and Television establishes detailed regulations for the content of television and radio programs. For example, stations deemed to “condone or incite” public disturbances or publish messages “contrary to the security of the nation” are subject to heavy fines, and can be ordered to suspend broadcasting for seventy-two hours. Upon a second offense, they may be stripped of their broadcasting licenses for up to five years. Key terms in the law, such as those quoted above, are left ill-defined, inviting politically motivated application. The National Commission of Telecommunications (CONATEL) may issue “precautionary measures” prohibiting the transmission of outlawed content.

The radio and television law has not led to a clampdown on the audiovisual media. At moments of political tension, however, CONATEL officials warn media directors about punishments they face for coverage that infringes the law. For instance, in April 2006 the president of Globovision, Venezuela’s 24-hour cable news channel, received a letter from the director of CONATEL warning him that the station could be suspended for seventy-two hours if it resorted to “sensationalist techniques” (*tecnicas amarillistas*) in reporting on street protests about rising levels of criminal violence.

In one instance, a court banned reporting about a controversial criminal investigation. In January 2006 the attorney general obtained an injunction to prevent the media from

discussing the credibility of a key prosecution witness who had testified about the car bomb assassination of Danilo Anderson, the prosecutor who had been leading the probe into the aborted 2002 coup against President Chávez. The witness's testimony implicated two opposition figures in the crime. The newspaper *El Nacional* had published evidence that the witness, who claimed to be a psychiatrist, was an impostor. The ban on any further stories about the witness remained in force until August, during which time CONATEL closely monitored media coverage of the case.

In March 2005 amendments to the Criminal Code came into force which extended the scope of Venezuela's *desacato* (disrespect) laws, and increased penalties for *desacato*, criminal defamation, and libel. In February 2006 television journalist and well-known Chávez critic, José Ovidio Rodríguez Cuesta (known in Venezuela as Napoleón Bravo), was prosecuted under the *desacato* provision of the criminal code for insulting the Supreme Court. Bravo had publicly criticized the alleged inefficiency of the court and suggested that it should be replaced by a brothel. A judge rejected the charges, but a Caracas appeals court overruled the judge and the case remained open at this writing.

Police Killings

Thousands of extrajudicial executions by police officers have been reported over the past several years, although the problem long predates the current administration. In August 2006, 24 soldiers and policemen were sentenced to up to 30 years in prison for the murder of three university students in June 2005. The agents had opened fire on the students' car and then summarily executed two of the occupants when the car stopped. Such rapid prosecutions for police and army abuses are exceptional, however. In April 2006 Attorney General Isaías Rodríguez reported that 6,110 officials were implicated in alleged killings between 2000 and 2005, yet only 760 had been charged, and only 113 convicted.

Political Violence in Rural Areas

Land reform measures introduced by the Chávez administration have brought a wave of violence against peasant leaders and beneficiaries of the reform. According to a report by the national human rights ombudsman in May 2006, 54 peasants were killed

and 21 were wounded between 1999 and 2006 because of their activities in defense of land claims, particularly after the Land and Agricultural Development Act entered into force in 2001. According to the ombudsman, contract killers hired by landowners appear to have been responsible for most of the killings. The nongovernmental human rights organization PROVEA (Program of Education and Action on Human Rights) reached similar conclusions, although it found that military and police units were also responsible for some abuses against peasants.

Kidnappings and contract killings are common in the states of Zulia, Tachira, and Apure, where there are frequent cross-border incursions by Colombian guerrillas and paramilitaries. Impunity for these crimes has been the rule. According to the ombudsman's report, 72 percent of the investigations conducted by prosecutors have not progressed beyond the preliminary stage. However, in October 2006 the attorney general announced that 56 individuals had been charged for killing peasants.

Prison Conditions

Conditions in Venezuela's prisons are notoriously abusive. Overcrowding is chronic and armed gangs maintain effective control within the prison walls. Prison riots and inmate violence claim hundreds of lives every year. Venezuelan Prison Watch (*Observatorio Venezolano de Prisiones*), a Caracas-based group, reported that 194 prisoners were killed and 407 were wounded in violent incidents over the first six months of 2006.

Human Rights Defenders

In June 2006 the National Assembly began considering legislation on a "Law of International Cooperation," which seeks to regulate the activities of both national and international NGOs in Venezuela. If enacted, the law would require all such organizations to register in order to be able to receive funds from abroad. The bill allows the president to determine by decree the requirements for registration, raising concern that if the restrictions are onerous they could seriously obstruct nongovernmental activities in the country. As of October 2006, the bill remained under review with a legislative committee.

Key International Actors

Venezuela abstained in the United Nations General Assembly vote on the creation of the Human Rights Council (HRC) in March 2006. At the time of the vote, the Venezuelan ambassador to the United Nations offered “reservations” on 10 of the 14 operative paragraphs of the resolution setting up the council. The ambassador asserted that Venezuela would not be bound by resolution language establishing the Council’s most basic functions, such as “promoting universal respect for the protection of all human rights and fundamental freedoms for all” and “address[ing] situations of violations of human rights, including gross and systematic violations, and mak[ing] recommendations thereon.” Venezuela subsequently sought a seat on the Human Rights Council but failed to obtain the necessary votes.

Venezuela has stalled in setting a date for a mission by the Inter-American Commission on Human Rights, which has not visited the country since 2002. In 2006, the Inter-American Court of Human Rights issued provisional measures to protect the lives and physical integrity of prisoners held at Yare and La Pica prisons, where scores of prisoners have died as a result of violence in recent years.