



January 2008

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 essential for the protection and promotion of human rights.

State interference in trade union elections has weakened the right to free association. The government has failed to tackle widespread police abuse, and prison conditions remain among the worst on the continent. In 2007 fundamental due process rights, including fair trial rights, were threatened by proposed constitutional reforms allowing the indefinite suspension of rights during states of emergency. The reforms were defeated in a national referendum in December.

Independence of the Judiciary

The governing coalition in the Venezuelan National Assembly dealt a severe blow to judicial independence in December 2004 when it packed the country's Supreme Court by adding 12 new justices. A law passed earlier that year expanded the court from 20 to 32 members. The law also gave the National Assembly the power to remove judges from the Supreme Court by simple majority, rather than the two-thirds majority required under the constitution.

Since the 2004 court-packing law, the Supreme Court's judicial commission has fired hundreds of provisional judges and granted permanent judgeships to around a thousand others.

Freedom of Expression

While Venezuela enjoys vibrant public debate on political issues, laws passed since late 2004 have created dangerous restrictions on the media that pose a serious threat to freedom of expression. The Law of Social Responsibility in Radio and

Television, which went into effect in December 2004, 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 72 hours. Key terms in the law, such as those quoted above, are ill-defined, inviting politically-motivated applications. The National Commission of Telecommunications (CONATEL) may issue “precautionary measures” that prohibit the transmission of outlawed content.

Government officials have regularly threatened opposition media with sanctions under the Law of Social Responsibility, though no station has in fact been sanctioned to date for its coverage of events or expressing its political views. During student protests in May and June 2007, for example, the Directorate of Social Responsibility (the government body that investigates infractions of the law) warned stations about transmitting messages that incite hatred and law-breaking, and announced that the directorate was in permanent session monitoring media coverage of the protests.

President Chávez has repeatedly responded to critical coverage by threatening television stations that they would lose their broadcasting rights as soon as their concessions expired. In the case of Radio Caracas Television (RCTV), he carried out the threat, announcing at a nationally broadcast military ceremony in December 2006 that RCTV would not have its concession renewed because of its support for the 2002 coup. Neither the accusation about the station’s role in the April 2002 events nor its alleged breach of broadcasting standards were ever proven in a proceeding in which RCTV had an opportunity to present a defense.

RCTV was removed from the public airwaves when its 20-year concession expired on May 27, 2007. Several days earlier, in compliance with a Supreme Court order, the military took control of RCTV’s transmission facilities across the country, enabling them to be used by TVes, a newly created state channel. RCTV has since renewed broadcasting as a cable channel.

The government's administration of broadcasting concessions lacks transparency and is strongly influenced by political considerations. Other private stations which have requested permission to extend their frequencies and coverage from the government broadcasting authority, CONATEL, have had their requests turned down or ignored for years, while new stations recently created by the state, such as Vive, Telesur, and TVes, have quickly been approved for national coverage.

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 criminal defamation and libel. At least eight journalists faced charges in 2007 for *desacato*, libel, defamation, and related offenses.

In contrast to its efforts to restrict private media, the government has actively promoted the growth of nonprofit community broadcast media, and has given substantial financial backing to new community media ventures. The regulations include safeguards to protect pluralism and prevent intervention by the government or political parties in community media. In June 2007 more than 270 community radio stations and more than 30 community television outlets were licensed and operating across the country, according to CONATEL.

Freedom of Association

An article of the 1999 Constitution which authorizes the National Electoral Commission (Comision Nacional Electoral, CNE) to organize trade union elections is a serious obstacle to freedom of association and collective bargaining rights. The Ministry of Labor has frequently denied unions the right to represent their workers because of delays in the authorization of elections.

Police Killings

Extrajudicial killings by security agents remain a frequent occurrence in Venezuela. Thousands of extrajudicial executions have been recorded in the last decade. Impunity remains the norm. Between January 2000 and February 2007, the attorney general's office registered 6,068 alleged killings by the police and National Guard.

Of 1,142 officials charged, only 204 were convicted.

Following several egregious murders implicating police agents, a long overdue police reform process began in June 2006 when then-Minister of the Interior and Justice Jesse Chacón convened the National Commission for Police Reform. After months of broad public consultations and debate, in January 2007 the commission published recommendations for remodeling public security institutions and strengthening police oversight. The reforms, however, had yet to be implemented at this writing.

Prison Conditions

Venezuelan prisons are among the most violent in Latin America. Venezuelan Prison Watch (Observatorio Venezolano de Prisiones), a Caracas-based group that monitors prison conditions, reported 370 violent prison deaths and 781 injuries in the first eight months of 2007. With a homicide rate of more than 20 per 1,000 prisoners, the risk of violent death is greater inside than outside prison walls. Weak security and corruption of guards allow armed gangs to effectively control prisons. Overcrowding, deteriorating infrastructure, and poorly trained security personnel contribute to the brutal conditions. Despite much fanfare, government plans to “humanize” the penitentiary system have not resulted in any notable improvements.

Constitutional Reform Proposals

In 2007 President Chávez and his supporters in the National Assembly proposed far-reaching reforms to the Venezuelan constitution. The reforms, which included 69 amendments covering a wide range of issues, would have enhanced executive powers during states of emergency to allow the suspension of due process rights (including essential guarantees like the right to fair trial and the presumption of innocence), removing constitutional time-limits on emergencies, and eliminating the Supreme Court’s power to review decrees that suspend rights.

A positive aspect of the reforms was the proposed modification of the constitution’s nondiscrimination guarantee to include sexual orientation and political views.

The proposed reforms were narrowly defeated in a national referendum in December.

Human Rights Defenders

Although human rights advocacy groups operate in Venezuela without legal restrictions, the government often questions their legitimacy and tries to block their participation in international human rights fora, typically on grounds that their work is political or that they receive US or other foreign funding. In December 2006 the comptroller general wrote to the Organization of American States (OAS) objecting to the publication on the OAS website of a report by the Venezuelan branch of Transparency International about Venezuela's implementation of the Inter-American Convention against Corruption. Due to government objections, Transparency Venezuela was not allowed to present its report at a meeting of an expert panel of the OAS in June 2007.

Some human rights defenders continue to face threats and intimidation. They include María del Rosario Guerrero Gallucci and her husband, Adolfo Segundo Martínez Barrios, members of a human rights group in the state of Guarico that seeks justice for victims of police killings. The two were shot and wounded by a police agent in April 2006, and reportedly have been subject to repeated death threats. In July 2006 the Inter-American Court of Human Rights ordered Venezuela to take special measures to protect their lives and physical integrity.

Key International Actors

In July 2007, the Inter-American Commission on Human Rights (IACHR) transmitted a live hearing on the case of seven people killed during protests that culminated in the April 11, 2002 coup attempt against President Chávez. At this writing, Venezuela has still not set a date for a mission by the IACHR, which has not visited the country since 2002. The government has conditioned the visit on a public *mea culpa* by the commission for what officials consider its failure to condemn the coup in forthright terms.

In May 2007 the presidency of the European Union issued a statement expressing concern about the non-renewal of RCTV's broadcasting concession. The senates of Chile, Brazil, and the United States issued similar resolutions, while Cuba, Bolivia, Ecuador, and Nicaragua endorsed the decision.