

VENEZUELA

EXECUTIVE SUMMARY

Venezuela is a multiparty constitutional republic. In 2006 voters reelected President Hugo Chavez Frias of the Fifth Republic Movement party. International observer missions deemed the elections generally free and fair but noted some irregularities. In September 2010 voters elected 165 deputies to the National Assembly. Voting on election day was generally free and fair with scattered reports of irregularities. However, domestic election observers and opposition political parties criticized both the electoral law, claiming it violated the constitutional principle of proportionality, and the government's partisan use of state-owned media. There were instances in which elements of the security forces acted independently of civilian control.

Concentration of power in the executive branch continued to increase significantly. An Enabling Law enacted by the outgoing National Assembly in December 2010 (less than three weeks before newly elected members took office) gave the president broad authority to decree laws for a period of 18 months without consultation or approval by the elected National Assembly. The law responded to the president's request for authorities necessary to deal with the emergency created by floods in late 2010. Using this authority President Chavez decreed 26 laws, including a number of provisions restricting fundamental economic and property rights.

The principal human rights abuses reported during the year included government actions to impede freedom of expression and criminalize dissent. The government harassed and intimidated privately owned television stations, other media outlets, and journalists throughout the year, using threats, fines, property seizures, targeted regulations, and criminal investigations and prosecutions. The government did not respect judicial independence or permit judges to act according to the law without fear of retaliation. The government used the judiciary to intimidate and selectively prosecute political, union, business, and civil society leaders who were critical of government policies or actions. Failure to provide for the due process rights, physical safety, and humane conditions for inmates contributed to widespread violence, riots, injuries, and deaths in the country's prisons.

In addition, the following human rights problems were reported by nongovernmental organizations (NGOs), the media, and in some cases the government itself: unlawful killings, including summary executions of criminal

suspects; torture and other cruel, inhuman, or degrading treatment; prison violence and harsh prison conditions; inadequate juvenile detention centers; arbitrary arrests and detentions; corruption and impunity in police forces; corruption, inefficiency, and politicization in a judicial system characterized by trial delays and violations of due process; political prisoners; interference with privacy rights; restrictions on freedom of expression; corruption at all levels of government; threats against domestic NGOs; violence against women; anti-Semitism in the official media; trafficking in persons; violence based on sexual orientation and gender identity; and restrictions on workers' right of association.

The government sometimes took steps to punish lower-ranking officials who committed abuses, but there were no investigations or prosecutions of senior officials for alleged corruption or abuses.

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

a. Arbitrary or Unlawful Deprivation of Life

The government or its agents did not commit any politically motivated killings, but security forces were accused of committing unlawful killings, including summary executions of criminal suspects.

There were several reports that security forces committed arbitrary or unlawful killings. The human rights NGO Venezuelan Program of Action and Education in Human Rights (PROVEA) reported 173 deaths due to security force actions between October 2010 and September 2011, a 27 percent decrease compared with the preceding 12 months. The causes of death were categorized as 129 killings, seven cases of excessive use of force, 15 cases of indiscriminate use of force, 12 cases of torture or cruel treatment, and two cases of negligence.

Prosecutors occasionally brought cases against such perpetrators. Sentences frequently were light, and convictions often were overturned on appeal. According to PROVEA, 37 national, state, and municipal police entities as well as the armed forces were involved in extrajudicial killings between October 2010 and September 2011, with the Scientific, Penal, and Criminal Investigative Corps (CICPC) and the National Guard associated with the most violations. There was no information available on the numbers of public officials who were prosecuted or received prison sentences for involvement in extrajudicial killings.

On May 28, two hooded assailants killed Juan Jose Barrios, making him the seventh member of his family to be killed allegedly by Aragua State police agents since the Barrios family publicly complained of police abuse in Aragua in 1998. On June 2, the Inter-American Human Rights Commission (IACHR) issued a statement deploring the killing and stating that “the Venezuelan state has not adopted the necessary measures to protect the life of the members of this family, who continue to be targets of assassination, detention, raids, threats and harassment” (see section 1.e.). The Barrios family has been under IACHR protection orders since 2004.

On May 26, three detainees, Pedro Rivero, William Perez, and Ruben Arnal, died in a detention facility in the El Rosal section of Caracas. The CICPC initially claimed the deaths resulted from asphyxiation related to drug abuse, but a Public Ministry investigation showed that the bodies exhibited signs of torture. According to press reports, other inmates claimed the guards had beaten the men, subjected them to electric shock, and covered their heads with pesticide-filled bags. The Public Ministry accused six CICPC officers, Evert Rondon, Miguel Hernandez, Edgard Humbria, Michael Borges, Jepzon Diaz, and Alfredo Suarez, of intentional homicide, cruel treatment, and violation of international treaties and pacts. The Public Ministry also accused the original pathologist, Franklin Perez, with attempted cover-up, falsifying documents, and violation of international treaties and pacts. On October 13, the six CICPC officers were indicted on all charges, and at year’s end they remained in detention awaiting trial.

On June 21, a court composed of one professional judge and two jurors acquitted the 10 Lara state police officers charged in the 2008 torture and killing of six persons in Chabasquen, Portuguesa State. The judge abstained in the decision.

The government continued to prosecute individuals connected with the 1989 killings in Caracas known as the “Caracazo,” in which the Public Ministry estimated 331 individuals died; the 1988 El Amparo massacre, in which government security forces allegedly killed 14 persons; the 1986 Yumare massacre, in which nine persons were killed; and the 1982 Cantaura massacre, in which armed forces and intelligence service members allegedly killed 25 persons. For example:

- Caracazo: On May 6, the Public Ministry charged the former governor of the Federal District (now Capital District), Virgilio Avila Vivas, with intentional homicide and violation of international pacts and treaties. On October 1, the court ordered to trial former defense minister Italo del Valle

Alliegro; the former Metropolitan Police commandant, retired general Jose Rafael Leon Orsoni; former second commandant of the Metropolitan Police Luis Guillermo Fuentes Serra; and retired general Freddy Maya Cardona for their actions during the Caracazo massacre. Fuentes Serra and Maya Cardona had been indicted on February 9 for premeditated murder and violation of international agreements in connection with the deaths of 21 and 10 victims, respectively.

- El Amparo: In April PROVEA requested a meeting with representatives of the Prosecutor General's Office, survivors of the massacre, and families of the victims to obtain information on the government's actions to investigate the massacre. PROVEA also requested that, pursuant to a 2010 resolution of the Inter-American Court of Human Rights, the government present a timeline with planned actions to investigate and prosecute those responsible. The government did not respond to PROVEA's request.
- Yumare: In May the court sentenced retired general Alexis Ramon Sanchez Paz to 13 years in prison for his involvement in the massacre. Sanchez admitted responsibility.
- Cantaura: Neither the National Assembly nor the government took action on petitions submitted by PROVEA requesting the lifting of the parliamentary immunity of newly elected Deputy Roger Cordero Lara and his investigation for alleged involvement (as pilot of one of the airplanes) in the bombardment of the Cantaura guerrilla camp.

On October 18, the National Assembly enacted the Law to Punish Crimes, Disappearances, Torture, and Other Human Rights Violations for Political Reasons in the Period 1958-1998 (Law against Forgetting). The law calls for the investigation and punishment of human rights abuses committed by the governments of this period against "revolutionary militants" fighting for "social justice and socialism." It also creates a Commission for Justice and Truth and provides reparations to victims. The law does not cover all human rights violations, including those committed after President Chavez took office in 1999. There was no implementation of the law by year's end.

b. Disappearance

There were no substantiated reports of politically motivated disappearances.

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

Although the constitution states that no person shall be subjected to cruel, inhuman, or degrading punishment, there were credible reports that security forces tortured and abused detainees. During the year the National Assembly did not act on the fourth transitional provision of the constitution requiring the assembly to adopt by 2001 either a law or a reform of the penal code to provide sanctions for torture. The NGO Network of Support for Justice and Peace reported that the lack of such a law contributed to the government's failure to punish adequately officials responsible for torture; the lack of programs providing medical, psychological, and rehabilitation services to victims; and the lack of a fund to compensate victims.

The Public Defender's Office did not publish statistics for 2011 regarding allegations of torture by police; however, PROVEA reported there were 20 victims of torture and 75 victims of "cruel and inhuman treatment" between October 2010 and September 2011, a reduction of 45 percent and 79 percent, respectively, from the previous year. PROVEA defines "torture" as methods used by state security force members to extract information from victims and "cruel and inhuman treatment" as methods used by those members to punish or intimidate victims.

Human rights groups continued to question the commitment of the prosecutor general and the public defender to conduct impartial investigations. There were no data available on convictions in cases of alleged torture. According to Network of Support for Justice and Peace, no government official had been prosecuted in connection with any of the 243 claims of torture reported since 2003.

Press and NGO reports of beatings and humiliating treatment of suspects during arrests were common and involved various law enforcement agencies. Torture and other cruel, inhuman, or degrading treatment or punishments of prisoners were reported during the year. A common method of torture or degrading treatment was the denial of medical care by prison authorities (see Prison Conditions below).

An example of psychological torture was the case of Judge Maria Lourdes Afiuni, who was transferred from prison to "house arrest" on February 8 (see section 1.d.). Afiuni's attorneys and a leading human rights defender claimed the government's restrictions on Afiuni's access to medical care, her medical reports, sunlight, and the courts constituted "psychological" torture. On July 29, Afiuni's attorneys filed a complaint with the court, alleging that the National Guard frequently did not arrive to take Afiuni to mandatory bimonthly court appearances, thereby subjecting

Afiuni to the fear of having her house arrest revoked and of return to prison, where officials and inmates had threatened her. On August 1, the Center for Human Rights of Andres Bello Catholic University filed a request for urgent action on Afiuni's behalf with the UN special rapporteur for torture.

Prison and Detention Center Conditions

Prison conditions were harsh due to poorly trained and allegedly corrupt prison staff; violence and alleged extortion by guards and inmates, some gang-related and fueled by trafficking in arms and drugs; severe overcrowding in most prisons; and food and potable water shortages. Prison experts and the press frequently claimed that prison gang leaders, rather than government authorities, controlled the prisons. The NGO Venezuelan Observatory for Prisons (OVP) reported that as of November 3, there were approximately 48,602 inmates in the country's 33 prisons and penitentiaries, approximately 4,400 of whom were women. Leading prison monitoring NGOs estimated that prisons nationwide had capacity for only 15,000 inmates.

According to the OVP, HIV/AIDS, tuberculosis, and a lack of medical care accounted for approximately 50 deaths in prison during the year. A comprehensive study, published in September by the NGO Solidarity Action, found that prison rules regarding the classification of inmates resulted in the isolation of those with HIV/AIDS in "inadequate spaces without food and medical attention."

On July 16, President Chavez publicly urged the judiciary to use its existing legal authority to grant humanitarian parole to "gravely ill" prisoners needing medical treatment, including permitting them to return to their homes. On July 19, the government formed an interagency committee to evaluate an initial group of 54 gravely ill prisoners potentially eligible for conditional release. On July 21, the government granted conditional parole to 44 of the 54 prisoners and announced that parole for the others would follow. Two of those released had claimed to be political prisoners. Later in the year, the government granted humanitarian paroles to former police officer Julio Rodriguez and former police commissioner Henry Vivas, imprisoned for their alleged involvement in the 2002 coup, and to National Assembly Deputy-elect Jose Sanchez ("Mazuco"), convicted on what he alleged were politically motivated charges.

Security forces and law enforcement authorities often held minors together with adults, even though separate facilities existed. Because reform institutions were filled to capacity, hundreds of children accused of infractions were confined in

juvenile detention centers where they were reportedly crowded into small, unsanitary cells. Women and men generally were held in separate prison facilities. The OVP stated that women's facilities were generally less violent than those for men.

The National Guard and the Ministry of Interior and Justice have responsibility for prisons' exterior and interior security, respectively. The government failed to provide adequate prison security. The OVP reported there were 560 prisoner deaths in 2011, compared with 476 in 2010. Most such deaths and injuries resulted from prisoner-on-prisoner violence, riots, fires, and generally unsanitary and unsafe conditions.

According to press reports, more than 100 inmates were injured during inmate-organized knife fights, commonly known as the "coliseum," which occurred in the Uribana Penitentiary in Lara State and the General Venezuelan Penitentiary in Guarico State. On February 22, the IACHR reiterated its condemnation of the violence and stressed the government's obligation to ensure the safety of inmates.

During the year prisoners conducted hunger strikes and violent uprisings to protest administrative delays and harsh prison conditions. Prisoners and detainees were permitted religious observance and had access to visitors, but in some cases prison officials allegedly harassed or abused visitors.

During the year there were almost constant prison riots that resulted in inmate deaths and injuries, including a riot at El Rodeo Penitentiary in Miranda State, which began as a conflict between heavily armed rival prison gangs on June 12, lasted 27 days, and left at least 34 inmates and three National Guard troops dead. On June 17, 4,000 National Guard troops engaged in a gun battle with the inmates as they attempted to storm the prison to end the rioting. While the National Guard removed 2,500 inmates from the facility, another 2,000 barricaded themselves in and continued to resist. Before the inmates surrendered on July 13, one of the two ringleaders, 26 of his lieutenants, and an estimated 50 other inmates had escaped, despite the presence of soldiers and tanks surrounding most of the prison. On August 9, the Public Ministry brought charges of corruption and facilitating the trafficking of arms and drugs against the former director and deputy director of the El Rodeo Penitentiary and a National Guard captain.

Human rights observers continued to experience lengthy administrative delays and restricted access to prisons and detention centers. The International Committee of the Red Cross (ICRC) did not have access to prisons except for the two controlled

by the Bolivarian Intelligence Service (SEBIN) and the military for security detainees. The public defender did not generally advocate on behalf of prisoners and detainees for alternatives to incarceration.

During the year the IACHR issued several statements calling on the government to improve prison conditions and adopt measures to prevent outbreaks of violence. On February 9, in response to the deaths of prisoners at the Villa Hermosa and Tocoron prisons, the IACHR urged the government to ensure that inmates were adequately protected and adopt appropriate measures to prevent similar outbreaks of violence. On June 16, in response to the prison riot at El Rodeo, the IACHR issued a statement reiterating its concern over the high rates of violence in the country's penitentiaries and the presence in several prisons of criminal organizations in possession of large-caliber weapons.

The Inter-American Court of Human Rights continued its supervision of Venezuelan penitentiaries pursuant to its 2006 decision regarding the need for improvement of prison conditions. In resolutions dated May 15 and July 6, the court again required the government to submit bimonthly reports with specific information on actions taken to "protect the life and integrity" of prisoners, but there was no information publicly available about the government's compliance with this requirement.

On July 25, in response to the riot at the El Rodeo Penitentiary, President Chavez announced the creation of a new Ministry of Penitentiary Services and appointed National Assembly Deputy Iris Varela as its minister. Varela immediately announced proposed reforms to reduce overcrowding and violence, including through the parole of an estimated 20,000 eligible prisoners and a prohibition on the transfer of new prisoners into the prisons. By year's end the government had not implemented these proposals.

d. Arbitrary Arrest or Detention

The constitution prohibits the arrest or detention of an individual without a judicial order; provides for the accused to remain free while being tried, except in specific cases where state law or individual judges may supersede this provision; and provides that any detained individual has the right to immediate communication with family members and lawyers who, in turn, have the right to know a detainee's whereabouts.

During the year the chair of the UN Working Group on Arbitrary Detention, the International Commission of Jurists, international and domestic human rights NGOs, and prominent international figures called on the government to release Judge Maria Lourdes Afiuni, who was detained in 2009 for her decision to release imprisoned banker Eligio Cedeno. On February 8, a court granted Afiuni house arrest to recover after her emergency surgery, but it prohibited her from leaving her apartment (see section 1.c.). The court required that National Guard personnel escort Afiuni to her required court appearance every 15 days. The court continued the trial against Afiuni, despite the May 2010 statement by the prosecutor “that it has not been determined that she [had] received money or anything else” to approve Eligio Cedeno’s release. During the year Afiuni refused to participate in the trial, arguing that the presiding judge, Ali Paredes, had publicly admitted his “unconditional” support for President Chavez and was therefore not impartial. The court denied her petition to recuse Paredes as the presiding judge. However, on October 6, the Judicial Disciplinary Tribunal acknowledged Afiuni’s complaint against Paredes and opened an investigation. In a routine annual rotation of judges on December 16, the court named Judge Robinson Vasquez to replace Paredes as the trial judge in Afiuni’s case, effective beginning in the 2012 judicial term. On December 13, the court extended Afiuni’s pretrial detention for another two years.

On April 14, the Public Ministry indicted 10 directors of the country’s largest brokerages who had been detained since May 2010 and charged in July 2010 with “illegal commercialization of hard currency” and conspiracy. The directors were indicted under the Partial Reform Law on Illegal Foreign Exchange Transactions, which took effect in May 2010, after their allegedly illicit activities had occurred. The law did not provide for its retroactive application.

Role of the Police and Security Apparatus

The National Guard, a branch of the military, is 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 Ministry of Interior and Justice controls the CICPC, which conducts most criminal investigations, and the SEBIN, which collects intelligence within the country and is responsible for investigating cases of corruption, subversion, and arms trafficking. The police include municipal, state, and national police forces. Mayors and governors oversee municipal and state police forces.

In 2009 the government established the Bolivarian National Police Corps (CPNB) and announced the dissolution of the Caracas Metropolitan Police (PM). By the end of 2011, the government had phased out the PM, which Minister of Interior and Justice Tareck El Aissami stated had consisted of 10,547 officers. According to the National Assembly's news agency, as of December 16, approximately 3,200 former officers had received training and been incorporated into the CPNB, approximately 800 had been transferred to other positions within the ministry, and the remainder had been retired or removed for health, disciplinary, or other reasons.

As of December 20, CPNB forces totaled 6,848 officers, according to Minister El Aissami. The CPNB largely focused on policing one Caracas municipality and had only a minimal presence in five of the country's 23 states. During the year the CPNB also began to protect Caracas-area highways, railways, metro system, and diplomatic missions.

Societal violence remained high. According to press reports, CICPC statistics showed an estimated 18,500 homicides nationwide during the year (a rate of 65 killings per 100,000 inhabitants), compared with the 14,500 killings that Minister El Aissami reported for 2010. Criminal kidnappings for ransom also were widespread in both urban centers and rural areas; kidnappings included both "express kidnappings," in which victims were held for several hours and then released, and traditional kidnappings. On November 19, the press cited CICPC sources as reporting 1,115 cases of kidnappings thus far in 2011, an increase of 26 percent over the 885 kidnappings reported in all of 2010. NGOs and police noted that many victims did not report kidnappings to police or other authorities.

Corruption, inadequate police training and equipment, and insufficient central government funding, particularly for police forces in states and municipalities governed by opposition officials, reduced the effectiveness of the security forces. There were continued reports of police abuse and involvement in crime, including illegal and arbitrary detentions, extrajudicial killings, kidnappings, and the excessive use of force. In the 12 months ending in October, PROVEA registered 10 complaints of missing persons allegedly seized by police or military personnel, compared with 39 such complaints in the preceding 12-month period.

During the year PROVEA registered 10 complaints of missing persons allegedly seized by police or military personnel.

For example, on March 15, according to press reports, municipal police detained three CBNP members for kidnapping and robbery. Jean Carlos Jesus Colorado Linares, Ruben Dario Troconis Diaz, and Nestor Jose Vasquez Olmos allegedly kidnapped three youths at gunpoint; stole their money, cars, and clothing; and then left them on the street in the Sucre municipality of Caracas. In another example, on August 30, the Public Ministry arrested an Apure State police officer, Deibis Pantoja, for his alleged involvement in the kidnapping of a businessman, Henry Claret Bolivar, on August 26.

Impunity remained a serious problem in the security forces. The Public Ministry is responsible for initiating judicial investigations of security force abuses. The ministry's annual report for 2010 cited 9,131 cases of human rights violations by presumed police and military officers, of which 266, or less than 3 percent, resulted in indictments; the remainder were either dismissed or suspended. Neither the Public Ministry nor the Public Defender's Office provided comparable statistics for 2011.

State and municipal governments also investigate their respective police forces. By law national, state, and municipal police forces have a Police Corps Disciplinary Council, which takes action against security officials who commit abuses. The National Assembly can investigate security force abuses. The General Police Council has developed policies and reforms in response to systematic abuses.

According to Network of Support for Justice and Peace, the lack of sufficient prosecutors made it difficult to prosecute police and military officials allegedly involved in human rights abuses.

During the year the government at both the local and national level took some actions to sanction officers involved in abuses. For example, in May the opposition-governed Chacao municipality of Caracas expelled 10 police officers after a video was released showing them kicking and hitting a group of handcuffed prisoners. In June the CPNB expelled 86 officers for corruption. In October the opposition-governed Zulia State government expelled 114 officers linked to extortion, homicide, theft, and human rights violations. There was no publicly available information about prosecutions of the officers expelled.

Following the deaths of three prisoners in a CICPC detention facility in May (see section 1.a.), the government announced plans to reform the CICPC. On June 7, Minister El Aissami stated that a multidisciplinary team of experts from the

Commission for Police Reform and Support Network for Peace and Justice would evaluate and make recommendations for restructuring the CICPC. On September 22, El Aissami named Jose Humberto Ramirez Marquez as the new CICPC director and announced a “Strategic Plan for the Transformation of the CICPC.” There was no information regarding any changes to the structure or functions of the CICPC by year’s end.

In June 2010 Public Defender Gabriela Ramirez announced the creation of offices for victim assistance, including victims of crime or abuse by police. The government required that the offices be located apart from police stations and staffed by interdisciplinary personnel to guarantee “fair, respectful, equal, and nondiscriminatory” treatment and to protect “the privacy of the complainants.” On March 22, the prosecutor general reported that the offices had attended to 120,560 individuals during 2010.

The National Experimental University for Security (UNES), inaugurated in October 2010 to professionalize law enforcement training for CPNB and other state and municipal personnel, had centers in Caracas and five other cities, with an enrollment of 11,290 students as of September. UNES requires human rights training as part of the curriculum for all new officers joining the CPNB, state, and municipal police forces. Some municipal and state police forces also offered human rights training for their personnel.

Arrest Procedures and Treatment While in Detention

A warrant is required for an arrest or detention. A detention is possible without an arrest warrant when the individual is caught in the act of committing a crime. Individuals were sometimes apprehended without warrants from judicial authorities. Detainees must be brought before a prosecutor within 12 hours and before a judge within 48 hours to determine the legality of the detention. A person accused of a crime may not be detained for longer than the possible minimum sentence for that crime or for longer than two years, except in certain circumstances, such as when the defendant is responsible for the delay in the proceedings. The law requires that detainees be promptly informed of the charges against them, and the requirement was generally met in practice.

Although there is a functioning system of bail, it is not available for certain crimes. Bail also may be denied if a person is apprehended in the act of committing a crime or if a judge determines there is a danger that the accused may flee or

impede the investigation. The law requires that detainees be given access to counsel and family members, and the requirement was generally met in practice.

Pretrial Detention: Pretrial detention was a serious problem. In its March 21 report for the UN Human Rights Council's Universal Periodic Review (UPR) of Venezuela, the OVP reported that 68 percent of the 44,852 prisoners at the end of 2010 had not been sentenced.

The NGO Citizen Observatory of the Penal Justice System attributed trial delays to the shortage of prosecutors and penal judges. Based on the Public Ministry's annual report for 2010, 1,492 prosecutors had to process approximately 257,400 cases in 2010, an average of 173 cases per prosecutor. The NGO also questioned the small number of penal judges, which it calculated to be 4.7 per 100,000 inhabitants in 2010.

In March 2010 NGOs testifying before the IACHR estimated that, on average, a prosecutor received nearly 2,000 complaints of criminal activity a year but investigated only 50. Of those 50 cases, only 20 ended up in court and only two resulted in convictions. According to the Public Ministry's 2010 annual report, approximately 9 percent of the 378,108 cases involving common crimes resulted in the filing of criminal charges. Prisoners reported that a lack of transportation and the disorganization of the prisons reduced their access to the courts and contributed to trial delays.

e. Denial of Fair Public Trial

While the constitution provides for an independent judiciary, there was increasing evidence that the judiciary lacked independence. There were credible allegations of corruption and political influence throughout the judiciary. On February 5, Supreme Court (TSJ) President Luisa Estela Morales reported that 77 percent of all judges had provisional appointments. TSJ justices, elected by the National Assembly, sat on the TSJ's Judicial Committee that was responsible for hiring and firing temporary judges, which it did without cause or explanation. Provisional and temporary judges, who legally have the same rights and authorities as permanent judges, allegedly were subject to political influence from the Ministry of Interior and Justice and the prosecutor general. PROVEA reported that between October 2010 and October 2011, the TSJ rejected 93 percent of judicial cases against the main organs of government (the Presidency, National Assembly, Comptroller General, National Electoral Council, and Prosecutor General's Office), including all 20 legal actions against President Chavez.

Among notable examples of alleged government interference in the judicial system were:

- On January 11, the TSJ announced that it was assuming jurisdiction in the trial of National Assembly Deputy-elect Biaggio Pilieri on corruption charges. The following day the TSJ annulled the trial because of alleged “irregularities” and ordered a retrial in a different jurisdiction. According to the two jurors in the trial, the TSJ’s actions came after they had informed the judge of their decision to acquit. The judge reportedly told them that they “could not pronounce that decision.” Pilieri had been acquitted in his first trial on the same charges but had been recharged and placed under house arrest following his September 2010 election to the National Assembly. Authorities released Pilieri from prison on February 23 following a hunger strike by students calling for the release of political prisoners. He took office on February 24 and acquired parliamentary immunity from further prosecution.
- On July 19, the TSJ president withdrew her July 14 order for the prosecutor general to open a corruption investigation into Miranda State governor and presidential candidate Henrique Capriles Radonski. Her decision came a day after the progovernment United Socialist Party of Venezuela (PSUV) announced it did not support the investigation because it did not want Capriles to be able to “make himself a victim.”

Trial Procedures

Defendants are considered innocent until proven guilty. The law provides for open, public, and fair trials with oral proceedings for all individuals. Defendants have the right to be present and consult with an attorney. Public defenders are provided for indigent defendants, but there continued to be a shortage. According to press reports and official sources, the 874 public defenders handled approximately 270,000 cases in 2010. The Public Defender’s Office stated that state-paid attorneys represented approximately 76 percent of prisoners.

Defendants have the right to question witnesses against them and present their own witnesses. Defendants and their attorneys have the right to access government-held evidence, but in practice this access often did not occur. Defendants and plaintiffs have the right of appeal. Trial delays were common.

The law provides that trials for military personnel charged with human rights abuses after 1999 be held in civilian rather than military courts.

Political Prisoners and Detainees

At year's end the NGO Venezuelan Awareness Foundation listed 12 individuals as political prisoners, most of whom were convicted for their alleged actions during the 2002 coup. During the year the government used the judiciary to intimidate and selectively prosecute individuals who were critical of government policies or actions.

In some cases political prisoners were held in SEBIN installations and the Ramo Verde military prison. Authorities permitted the ICRC access to these individuals.

In cases of persons claiming to be political prisoners:

- Jose "Mazuco" Sanchez was released on humanitarian parole on December 24 (see section 1.c.).
- There were no developments during the year in the case of General Raul Baduel, former minister of defense and former ally of President Chavez, who was sentenced in May 2010 to seven years and 11 months in prison on corruption-related charges. Baduel continued to claim his arrest and imprisonment constituted political retaliation by President Chavez for his public opposition to the president's proposed constitutional reforms and encouragement of the "no" vote in the 2007 constitutional reform referendum.

On January 31, a group of 10 university students began a hunger strike in front of the office of the Organization of American States in Caracas to seek the release of 28 prisoners they believed were held for political reasons. The hunger strike grew to include 83 protesters in eight states. It ended on February 22 with the government announcing its agreement to release conditionally five of the prisoners, Felipe Rodriguez, Silvio Merida Ortiz, Otto Gebauer, Arube Perez, and Marco Hurtado. All but one had been convicted for their alleged activities during the 2002 coup. The government also agreed to permit the remaining 23 prisoners to receive medical treatment from doctors chosen by their families and to review each prisoner's case and living conditions.

Regional Human Rights Court Decisions

On February 21, the Inter-American Court of Human Rights (the IA Court) issued a resolution ordering the government to adopt immediately “all the necessary and extraordinary measures, in addition to those already taken,” to guarantee the safety of the Barrios family, which had seven family members killed, allegedly by Aragua State police agents, since the family publicly complained of police abuse in 1998 (see section 1.a.). The IA Court reiterated its concern over the government’s failure to protect the Barrios family, which had been subject to an IACHR protection order since 2004, and ordered the government to place permanent guards at the homes of the family members and report to the court every two months on the measures taken. On May 28, two unidentified assailants shot and killed Juan Jose Barrios, a beneficiary of the IA Court’s provisional measures. On June 29 and 30, the IA Court heard testimony in the case but had not issued a decision regarding the government’s responsibility in the deaths of the Barrios family members by year’s end.

On September 1, the IA Court issued a unanimous decision that the government could not administratively disqualify opposition leader Leopoldo Lopez from running for elective office (see section 3, Political Parties). The court ordered the government to allow Lopez to register and run in any future election. It also ordered the government to revise “within a reasonable timeframe” article 105 of the Organic Law on the Comptroller General to prevent the comptroller general from administratively disqualifying individuals from public office in the future. On September 17, President Chavez asserted: “For me, the court has no value. It is worthless.” On October 17, the TSJ declared the ruling of the court to be “unenforceable,” although article 23 of the constitution provides that international treaties and conventions regarding human rights have constitutional rank and are of “immediate and direct application by the courts.” On October 20, the prosecutor general stated that the IA Court’s decisions were binding only insofar as they did not contravene the constitution and domestic laws. The TSJ argued that it had to balance the rights guaranteed in the American Convention with those provided for under the UN and Inter-American Conventions against Corruption. The TSJ president subsequently stated that Lopez could “register and participate freely in elections” but not necessarily hold public office if elected.

The IA Court issued a number of resolutions regarding prisons in Venezuela. These orders required the government to take precautionary measures to avoid loss of life or harm to the physical, mental, and moral integrity of those incarcerated. During the year the IA Court issued specific orders regarding the Yare, El Rodeo, Monagas, Tocoron, and Vista Hermosa prisons, and on July 6, it issued a

resolution ordering the government to adopt measures to safeguard lives in six prisons. The court also required the government to adopt measures to protect the life of prisoner rights activist Humberto Prado. There were no known government actions reflecting compliance with these resolutions.

Civil Judicial Procedures and Remedies

There are separate civil courts that permit citizens to bring lawsuits seeking damages. There are no procedures for individuals or organizations to seek civil remedies for human rights violations. Like all courts in the country, the civil courts remained subject to strong executive control.

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence

The constitution provides for the inviolability of the home and personal privacy, but in some cases government authorities infringed on citizens' privacy rights by searching homes, seizing properties, or interfering in personal communications.

During the year private telephone calls and e-mails between opposition political figures were intercepted and broadcast on government-controlled media in violation of the law. For example, between August 1 and 4, the government-owned Venezolana de Television broadcast what it claimed were recorded private telephone conversations among opposition figures, including a former military leader, party activists, and a presidential candidate, in which they purportedly criticized other opposition leaders and discussed alleged backroom deals to select opposition candidates for the 2012 elections.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press

Status of Freedom of Speech and Press

The law provides for freedom of speech and press; however, the combination of laws and regulations governing libel and media content, as well as legal harassment and physical intimidation of both individuals and the media, resulted in practical limitations on these freedoms. National and international groups, such as Reporters without Borders, the Inter American Press Association (IAPA), and the Committee to Protect Journalists, condemned government efforts throughout the year to restrict press freedom and create a climate of fear and self-censorship.

Freedom of Speech: The law makes insulting the president punishable by six to 30 months in prison without bail, with lesser penalties for insulting lower-ranking officials. Comments exposing another person to public contempt or hatred are punishable by one-to-three-year prison sentences and fines starting at BsF 55 (approximately \$13).

The government took reprisals against individuals who publicly expressed criticism of the president or government policy.

On October 21, the National Assembly designated a subcommission to investigate alleged corruption related to a 2006 construction contract by opposition Deputy Julio Montoya and his wife. Many observers considered the investigation to be a response to Montoya's August 15 release of a confidential report from the Ministry of Finance and the Central Bank on the government's controversial plan to repatriate 211 tons of gold reserves from U.S. and European institutions and transfer approximately \$6.28 billion in liquid reserves to banks in Russia, China, and Brazil. Previously Montoya had charged that the government was complicit in the April 25 robbery of his office and the September 21 hacking of his personal e-mail and social networking sites to "intimidate" his investigations of alleged government corruption. Montoya had publicized alleged narcotics trafficker Walid Makled's charges that senior government and military officials were involved in his narco-trafficking network and that he had financed some government political campaigns (see below).

On July 13, Oswaldo Alvarez Paz, a former governor of Zulia State and a 1993 presidential candidate, was found guilty of disseminating false information and sentenced to two years in prison for his comments during a March 2010 television interview. In that interview he claimed that Venezuela was a "center of operations for drug trafficking" and suggested that President Chavez "could fall" in any international investigation of Venezuela's links with the FARC and ETA terrorist organizations. The court granted Alvarez Paz conditional parole.

There were no developments in the case of Antonio Rivero, a retired brigadier general who was charged in August 2010 with "slander against the armed forces" and "publicly revealing private information and military secrets" for his April 2010 public denunciation of excessive Cuban influence in the military. Rivero remained free pending trial, but a military judge prohibited him from leaving the country, required him to appear before a judge every 15 days, and prohibited him from speaking publicly about the charges against him.

Freedom of Press: The law provides that inaccurate reporting that disturbs the public peace is punishable by prison terms of two to five years. The requirement that media disseminate only “true” information was undefined and open to politically motivated interpretation.

The reformed Law of Social Responsibility for Radio and Television (RESORTE) and the amended Organic Law for Telecommunications, which went into effect in December 2010, prohibit all media from disseminating messages that incite or promote hate or intolerance for religious, political, gender-related, racial, or xenophobic reasons; incite, promote, or condone criminal acts; constitute war propaganda; foment anxiety in the population or affect public order; do not recognize legitimate government authorities; incite homicide; and incite or promote disobedience to the established legal order. Penalties range from fines to the revocation of licenses.

The law declares telecommunications a “public interest service,” thereby giving the state greater authority to regulate the content and structure of the radio, television, and audiovisual production sectors. The law provides that the government can suspend or revoke licenses when it judges such action necessary to the interests of the nation, public order, or security. The telecommunications law empowers the government to impose heavy fines and cancel broadcasts for violations of its norms, and the National Telecommunications Commission (CONATEL) oversees the law’s application.

The government used its authority under the telecommunications law to censor Globovision, a privately owned cable news station that was critical of the government. On October 17, CONATEL imposed a fine of BsF 9.3 million (approximately \$2 million) on Globovision for its reporting of the El Rodeo Penitentiary riot (see section 1.c.). CONATEL claimed that Globovision sought to create civil unrest by doctoring an audiotape to add sounds of machine gun fire to the background, repeatedly broadcasting the most sensational statements of the inmates’ relatives, and failing to report all the government’s statements concerning the riot. Globovision denied the charges, stated that its broadcasts had filled an information vacuum left by the government’s failure to report on the events in the prison, and appealed CONATEL’s decision. The appeal remained pending at year’s end. CONATEL had six other administrative investigations pending against Globovision at year’s end.

The law requires that practicing journalists have journalism degrees and be members of the National College of Journalists, and it prescribes jail terms of three to six months for those practicing illegally. These requirements are waived for foreigners and opinion columnists.

Violence and Harassment: Senior national and state government leaders continued to harass and intimidate privately owned and opposition-oriented television stations, media outlets, and journalists throughout the year using threats, property seizures, administrative and criminal investigations, and prosecutions. Government officials, including the president, used government-controlled media outlets to accuse private media owners, directors, and reporters of fomenting antigovernment destabilization campaigns and coup attempts.

Censorship or Content Restrictions: The government exerted pressure on the independent media through administrative, financial, and legal means in order to affect their editorial positions. Members of the independent media privately said they regularly engaged in self-censorship due to fear of government reprisal.

While the country's major newspapers were independently owned, some print media tended to exercise caution in order to secure government advertising. Two national newspapers, *Diario Vea* and *Correo del Orinoco*, received direct financial support from the government. The Caracas newspaper *Ciudad CCS* was run by the presidentially appointed Capital District vice president and received funding from the mayor of the Libertador municipality of Caracas.

The government sometimes engaged in direct press censorship. On August 21, SEBIN officials detained Dinorah Giron, the director of the opposition-oriented weekly newspaper *Sexto Poder*, for the newspaper's front-page photo montage of female government officials as "cancan" girls and the accompanying article, which alleged that the government put on a "cabaret" to distract the public from real issues. The court also issued an arrest warrant for the newspaper's editor, Leocenis Garcia. At an August 21 rally, TSJ President Luisa Morales said the photograph "offended the dignity" of the female officials and called for the government to close the newspaper immediately for the "flagrant violation of women's rights." The court ordered the newspaper to stop publishing on August 21 but allowed it to resume on August 30, when Garcia surrendered to authorities. The court ordered the newspaper not to publish text or images that offended or insulted the reputation of public officials or that were insulting toward women. The Public Ministry charged Giron and Garcia with instigating hatred, insulting public officials, and violence against women. The court granted Giron, but not Garcia, conditional

release. Employees of *Sexto Poder* issued a communique on October 30 in which they claimed government officials were “pressuring” Garcia to sell his majority share in the newspaper in exchange for his release from prison. On November 21, following Garcia’s 12-day hunger strike to protest his continued detention, the court granted him conditional release pending trial. On August 31, the IACHR’s special rapporteur for freedom of expression condemned the government’s actions regarding *Sexto Poder*, stating that these events “are opposite to regional standards in the field of freedom of expression and have an effect of intimidation and self-censorship, which compromises not only the people directly affected but also all the media in Venezuela.”

The government also exercised control over content through licensing and broadcasting requirements. CONATEL acted selectively on applications by private broadcasters for renewal of their broadcast frequencies. The press reported that approximately 250 radio stations operated with lapsed licenses despite having submitted timely renewal applications to CONATEL years earlier. In an October 31 interview, radio journalist Marta Colomina, a government critic, claimed that she had been fired from the independent Union Radio in mid-October because of government pressure on the station’s owners, who were concerned about being able to renew the expired licenses of 30 radio stations in their network. Colomina claimed the government was trying to provoke self-censorship in the media “to substitute reality with the fiction of a happy world.” During the year CONATEL closed 27 privately owned FM radio stations, charging that they were pirate stations operating illegally or had not complied with administrative or tax obligations. While some station owners publicly denied those allegations, the press quoted the president of the Venezuelan Chamber of Radio Broadcasting as saying that the chamber was “satisfied by the measures adopted by the national government against the so-called clandestine stations.”

On January 21, privately owned cable station RCTV, previously registered as an international audiovisual producer, applied to CONATEL to register as a national audiovisual producer and thereby resume its cable and satellite broadcasts. Cable operators had ceased broadcasting RCTV in January 2010 after CONATEL reclassified it as a “national audiovisual producer” and then alleged it was violating the requirement of national producers to provide live coverage of mandatory government broadcasts (cadenas), including most speeches by President Chavez. CONATEL had not acted on RCTV’s application by year’s end. In August RCTV launched an Internet radio station.

On August 13, the TSJ rejected a request for an injunction against radio frequency 102.3, which had been reassigned from the privately owned National Belfort Circuit (CNB) to the National Assembly in 2009. The TSJ denied the CNB's claim that the reassignment of the frequency was intended to "silence a dissident voice" and claimed that the CNB petitioners could express their opinions in other media. CNB's appeal of the decision to reassign the frequency remained pending at year's end.

National Security: The government sought to exercise control over the press through the Center for National Situational Studies (CESNA), established in June 2010. This government entity, under the jurisdiction of the Ministry of Interior and Justice, is responsible for "compiling, processing, and analyzing" both government-released and other public information with the objective of "protecting the interests and objectives of the state." The National Journalists Association (CNP) and five domestic NGOs publicly expressed concern about the potential for abuse and censorship on national security grounds by CESNA. In July 2010 Public Space, the CNP, and the National Union of Press Workers filed a complaint with the TSJ contesting the constitutional basis for the formation of CESNA. On November 30, the TSJ's constitutional chamber remanded the case to the political-administrative chamber, ruling that the complaint did not raise constitutional questions. The chamber argued that the presidential decree establishing the CESNA did not represent an exercise of constitutional authority, but rather of legal authority derived from the Organic Law on Public Administration. The case remained pending with the political-administrative chamber at year's end.

Nongovernmental Impact: The domestic media watchdog NGO Public Space reported that, as of September 30, the government was responsible for 68 percent of the 140 reported violations of freedom of expression during the previous nine months. Public Space received 159 such violations during the same period in 2010. Violations included physical attacks, threats and intimidation, censorship, verbal and judicial harassment, and administrative restrictions. The NGO Press and Society Institute reported 75 physical attacks on journalists in 2010 and 2011. The widespread violence in the country made it difficult to determine whether attacks resulted from common criminal activity or were specifically directed against members of the media.

Notable examples of attacks against journalists and media outlets were:

- On May 17, the body of *El Clarin* columnist and opposition political activist Wilfred Ojeda Peralta was found in Aragua State. He had been bound,

beaten, hooded, and shot in the head. On May 23, the IACHR's Office of the Special Rapporteur for Freedom of Expression condemned the killing and asked the authorities "not to discount the possibility that the murder was motivated by Ojeda's journalistic work." On June 29, the CICPC reported they had identified the perpetrators as two brothers, Gabriel and Jesus Rafael Prieto Araujo, who allegedly killed Ojeda in a personal dispute over a debt.

- On July 31, several assailants attacked the headquarters of Vive TV in Zulia State in a drive-by shooting that wounded a security guard and a police officer. The station's president claimed the attack was intended to intimidate the government-owned television station. He claimed the station's reporting was "inconvenient for certain sectors because we have dealt with fundamental issues, such as the demarcation of indigenous lands, production in private enterprises, among others." In an August 3 press release, the IACHR's Office of the Special Rapporteur for Freedom of Expression condemned the act "of violence and intolerance." According to press reports, the CICPC traced the assault to the "Untouchables" gang, which was allegedly involved in extorting local businesses. CICPC officials claimed that two individuals involved in the Vive TV attack were killed in a shoot-out with police on August 3.

Regarding cases that occurred in prior years:

- On March 29, the court sentenced Walter Perez Canizalez and Yorman de Jesus Elias to 16 years' imprisonment for the March 2010 killing of Israel Marquez, the director of the newspaper *Diario 2001*.
- On March 25, the court sentenced Oscar David Cabrera Fernandez to 15 years' imprisonment for the January 2010 killing of *Diario Panorama* Director Wilmer Ferrer.

On July 27, the court ordered to trial Walid Makled, who was indicted as the "intellectual author" of the 2009 killing of investigative journalist Orel Sambrano. Three other individuals previously had been charged in connection with Sambrano's killing: former Carabobo police officer Rafael Segundo Perez, convicted in May 2010 and sentenced to 25 years' imprisonment, and Jose Duque Daboin and David Antonio Yanez Inciarte, who remained detained pending completion of their trials.

Internet Freedom

There were no government restrictions on access to the Internet, and individuals and groups could engage in the expression of views via the Internet, including by e-mail. However, under the reformed RESORTE law, Internet providers are subject to government regulations. The law prohibits the dissemination of messages or information that could incite violence, promote hatred and intolerance, lead to crime or murder, foment anxiety in the populace or disturb public order, or be considered disrespectful of public offices or officeholders. It puts the burden of filtering electronic messages on service providers, provides that CONATEL can order them to block access to Web sites that violate these norms, and sanctions them with fines for distributing prohibited messages. Human rights and media-freedom advocates complained that the law further limited freedom of expression. Following the December 2010 enactment of the law, IAPA stated that the RESORTE and telecommunications laws tried to “put a tombstone on freedom of press and expression.” On January 21, the Alliance for Free Expression, composed of 14 organizations and universities involved in human rights and press freedom issues, condemned the laws as “antidemocratic and unconstitutional” for “limiting even more the right to free and plural communication that the constitution guarantees for all Venezuelans.”

During the year some NGOs, members of the opposition, and government critics expressed concern that the government monitored e-mails and Web searches. On September 7, Public Space publicly complained that, from August 31 to September 7, the social networking sites and e-mails of political figures, civil society activists, writers, and journalists had been hacked. According to the NGO, social network identities were usurped and personal communications and messages were broadly disseminated, some in government-controlled media. Twitter accounts of several opposition figures were hacked and began disseminating progovernment messages.

Public Space called for the government to investigate and punish the hackers. In a September 2 communique, the group #N33 claimed responsibility for the hacking attacks and absolved the government of any responsibility. The group justified the attacks by claiming that the individuals who had been hacked had used their Twitter accounts to “attack in different forms the solemnity of our institutions and, more specifically, that of the chief of state.” The group pledged to continue the cyber attacks. In November there was a similar outbreak of cyber attacks. By year’s end the government had taken no action to investigate or punish those responsible for these incidents.

Academic Freedom and Cultural Events

There were some government restrictions on academic freedom and cultural events. However, on January 4, President Chavez announced he would not sign into law the controversial University Education Law that the National Assembly had adopted in December 2010, which would have eliminated the principle of university autonomy and established the construction of socialism as the goal of higher education.

Students alleged that the government retaliated against opposition-oriented autonomous universities by allocating budgets significantly below the annual 25-30 percent inflation rate, forcing cutbacks in student services and financial support. Between February 23 and March 26, at least 30 students in several cities engaged in a hunger strike in favor of a "just university budget," with several sewing their lips together as part of the protest. The hunger strike ended after the Ministry of University Education agreed to increase the number and financial amount of student scholarships and to negotiate issues involving university services and employee salaries.

Government supporters sometimes disrupted university classes, marches, and rallies and used violence and intimidation to protest university policies and to discourage opposition students from political participation.

- On June 17, in Maracay, Aragua State, members of the progovernment Tupamaro and Bolivarian Circle militant groups attacked students and university employees who were demonstrating to demand the university pay workers' back pay. Three students and two workers were reportedly injured in the confrontation. There was no reported government investigation of the attack.
- On December 9, a group of masked individuals violently interrupted the vote-counting process during the student leadership elections at the Central University of Venezuela (UCV). The assailants detonated pipe bombs that damaged a section of the university, released tear gas, and destroyed vote-counting equipment. The attack caused the university's election authorities to reschedule the elections in two of the departments where voting had not yet concluded and to delay the release of the rest of the results, which overwhelmingly favored opposition-affiliated over progovernment candidates. UCV Rector Cecilia Garcia Arocha criticized the government's lack of investigation of previous attacks against the university and said the impunity provoked further attacks.

b. Freedom of Peaceful Assembly and Association

Freedom of Assembly

The constitution provides for freedom of assembly, and the government generally respected this right in practice.

Human rights groups continued to criticize the 2005 penal code revision for its strict penalties on some forms of peaceful demonstration. PROVEA expressed concern over the law's "criminalization" of protests and noted that between October 2010 and September 2011, government security forces impeded or repressed 3 percent of the 4,472 peaceful demonstrations that were reported to have taken place, compared with 4.6 percent of the 3,315 protests that occurred during the preceding 12-month period.

During the year government security forces used tear gas, water hoses, and rubber bullets to suppress peaceful protests. According to press reports, in April a group of students chained themselves to a fence surrounding a courthouse in Barinas State to call for the release of imprisoned General Delfin Gomez Perez, whom the government had arrested in 2006 on corruption charges the students alleged were politically motivated. After 19 days, police dispersed the students using pellet guns and tear gas. According to press reports, four students suffered injuries from pellets shot at close range and 10 students sustained other injuries.

Freedom of Association

While the constitution provides for freedom of association and freedom from political discrimination, the government only partially respected this right. Although indicating that professional and academic associations generally operated without interference, the associations complained that the National Electoral Council (CNE), which is responsible for convoking all elections and establishing dates and procedures for them, repeatedly interfered with their attempts to hold internal elections.

c. Freedom of Religion

See the Department of State's *International Religious Freedom Report* at www.state.gov/j/drl/irf/rpt.

d. Freedom of Movement, Internally Displaced Persons, Protection of Refugees, and Stateless Persons

The constitution provides for freedom of movement within the country, foreign travel, emigration, and repatriation, and the government generally respected these rights in practice.

The government cooperated with the Office of the UN High Commissioner for Refugees and other humanitarian organizations in providing protection and assistance to refugees, asylum seekers, and other persons of concern.

Protection of Refugees

Access to Asylum: The constitution recognizes the right to asylum and refuge, and laws provide for the granting of asylum or refugee status. The government has established a system for providing protection to refugees. In practice the government provided protection against the expulsion or return of refugees to countries where their lives or freedom would be threatened on account of their race, religion, nationality, membership in a particular social group, or political opinion.

Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government

The constitution provides citizens the right to change their government peacefully, and citizens exercised this right in practice through periodic, free, and fair elections based on universal suffrage.

Elections and Political Participation

Recent Elections: In September 2010 voters elected 165 deputies to five-year terms in the National Assembly; voter participation reached 66.5 percent. Voters also elected 12 deputies to the Latin American Parliament (“Parlatino”). The CNE did not invite international election monitoring missions to observe the electoral process. However, domestic electoral observers and opposition political leaders generally considered the elections free and fair despite scattered delays due to problems with old voting machines, generalized reports of improper electioneering by the official PSUV party, and isolated examples of voter intimidation.

One CNE rector and opposition political parties criticized the electoral law and the electoral redistricting for allegedly violating the constitutional principle of proportionality. Opposition parties claimed the changes led to PSUV candidates winning approximately 59 percent of the National Assembly seats (98) despite winning only 49 percent of the national vote. Opposition candidates won approximately 40 percent of the seats (65) with 48 percent of the national vote. A third party won the remaining two seats with approximately 3 percent of the vote.

One CNE rector and the domestic electoral observation NGO Ojo Electoral also criticized the government's partisan use of state-owned media in the months before the election and during the official month-long campaign period. The NGO specifically cited the CNE's failure to enforce its regulations providing for "equality of conditions" in access to the media, especially the president's use of frequent and lengthy mandatory broadcasts (cadenas) for partisan campaign purposes.

Political Parties: In December 2010 the outgoing National Assembly enacted two laws that restrict the freedom of National Assembly deputies:

- The Law on Political Parties, Public Meetings, and Demonstrations prohibits deputies from voting against legislation proposed by the political organization that supported their candidacies; "making common cause" with "contrary" positions, parties, or organizations; and changing parliamentary blocs. At the request of 0.1 percent of the voters and upon the approval of a simple majority of the deputies, the comptroller general can penalize a deputy for "fraud against the electorate" with disqualification from public office. Critics claimed the law violates Article 201 of the constitution, which provides that deputies are subject only to their consciences and that their votes are "personal." No deputies were sanctioned under this law during the year.
- The Law on Internal Rules and Debate reduces the amount of time a deputy can speak on the floor, lowers the threshold necessary to sanction a deputy for violating the rules of debate, and restricts access by private television stations to the National Assembly. Throughout the year opposition deputies and independent journalists repeatedly criticized the lack of access to the National Assembly for independent media. On June 21, the CNP called on ANTV television, which has the exclusive right to televise the National Assembly, to provide unbiased coverage of parliamentary proceedings. Based on a content analysis of ANTV's broadcasts, the NGO Legislative

Monitor claimed on September 15 that ANTV rarely broadcast opposition deputies' views, named them only when they were being discredited, and always linked them with plans to destabilize the country. The NGO called on the National Assembly to restore open media access to parliamentary sessions.

The constitution provides for parliamentary immunity for anyone elected to the legislature "from the time of their proclamation until the end of their term or resignation," and opposition Deputies-elect Richard Blanco and Hernan Aleman were sworn into office despite pending legal charges against them. However, on January 5, imprisoned opposition Deputies-elect Jose "Mazuco" Sanchez and Biaggio Pilieri were prevented from taking office (see sections 1. c. and 1.e.). Sanchez's alternate, Nora Bracho, was sworn into office and legislated in his absence. Pilieri was released from prison on February 23 and sworn into office the following day.

Opposition political parties operated in a restrictive atmosphere, which was characterized by intimidation, the threat of prosecution or administrative sanction on questionable charges, prohibitions against receiving resources from any non-Venezuelan person or entity, and restricted media access because of the smaller number of independent television and radio stations (see section 2.a.). Throughout the year the Public Ministry and the National Assembly threatened to open or reopen investigations against leading opposition political figures, including presidential candidates Henrique Capriles Radonski, Pablo Perez, and Leopoldo Lopez, on charges ranging from corruption to human rights abuses by police in their jurisdictions. On September 28, the progovernment majority in the National Assembly decided to open an investigation against opposition Governor Henri Falcon for his failure to increase teachers' salaries and for alleged corruption in several tenders during his tenure as mayor of Iribarren and governor of Lara State. Earlier in the year, the Public Ministry had opened an investigation of Falcon on similar charges. Falcon claimed the government was seeking a way to disqualify him administratively from running for reelection in 2012. Falcon had left the progovernment PSUV party to join an independent party in 2010.

On September 1, in the case of Leopoldo Lopez (see section 1.e.), the IA Court ruled that administrative disqualification from public office absent a trial and conviction violated the American Convention on Human Rights. On October 17, the TSJ formally rejected the IA Court's decision, including its order to revise the law that authorizes administrative disqualifications for alleged corruption. However, the TSJ president stated that Lopez could "register and participate freely

in elections” but not necessarily hold public office if elected. According to the Office of the Comptroller General, as of November the comptroller general had administratively disqualified 116 people during the year; 343 individuals in total were subject to administrative disqualifications at year’s end.

On November 8, former National Assembly deputy Wilmer Azuaje pled guilty and was sentenced to 12 months of supervised parole for physically attacking a female CICPC officer in March 2010 and harassing his former spouse in 2009. Azuaje had previously criticized his prosecution as politically motivated.

Participation of Women and Minorities: The National Assembly that took office on January 5 had 26 female deputies. During the year women headed three of the five branches of government (judicial, electoral, and citizen) and occupied 12 of the 31 cabinet positions. There were 13 women among the 32 justices on the TSJ.

The constitution reserves three seats in the National Assembly for indigenous persons. Three deputies were elected for these seats in the September 2010 elections. There was one indigenous member of the cabinet.

Section 4. Official Corruption and Government Transparency

The law provides criminal penalties for official corruption. However, the government did not implement the law effectively or impartially and frequently investigated and prosecuted its political opponents selectively on corruption charges to harass, intimidate, or imprison them. The press reported that officials engaged in corrupt practices with impunity.

The Comptroller General’s Office is responsible for investigating and administratively sanctioning corruption by public officials. The Public Ministry investigates and criminally prosecutes individuals and entities in the public and private sectors for corruption. The National Assembly can order the Public Ministry to undertake investigations. The Public Ministry and the Public Defender’s Office investigate abuses by police and military officials.

The NGO Transparency Venezuela reported that between 2004 and 2010, the government had fulfilled four, and made some progress on 12, of the 113 recommendations that the Mechanism for Follow-Up on the Implementation of the Inter-American Convention against Corruption had made to improve government transparency and fight corruption. The NGO reported no progress on the

remaining 97 recommendations. Transparency International's 2011 report reflected a perception that the public sector was highly corrupt.

During his March 15 appearance before the National Assembly to present his annual report, Comptroller General Clodosbaldo Russian acknowledged corruption in the government's housing construction program, paralysis in public works projects, the loss or deterioration of state-owned property, expired medications and rotten food in government warehouses, and minimal accountability over the funds transferred from the national government to community councils.

During the year the comptroller general sanctioned 157 public officials for alleged corruption: 116 were administratively disqualified from holding public office, 36 were suspended from their jobs, and five were dismissed (see section 3).

Although the Public Ministry said that corruption was "one of the phenomena that most affects national development," the Public Ministry dismissed or suspended 81 percent of its corruption-related cases in 2010, according to its annual report. The Public Ministry reported it had closed 3,210 cases involving corruption in both the private and official sectors: 596 resulted in indictments, 2,443 were dismissed, and 171 were suspended.

The Public Ministry and the Public Defender's Office also investigate abuses by police and military officials. Corruption was a major problem in all police forces, whose members were generally poorly paid and minimally trained. Impunity for corruption, brutality, and other acts of violence were major problems explicitly acknowledged by some government officials (see section 1.d.). There was no information publicly available about the number of investigations, prosecutions, and convictions of police and military officials during the year.

One example of high-level corruption involved Rafael Ramos de la Rosa, a government-appointed trustee for two stock brokerage firms, Uno Valores and Italbursatil. Ramos had been appointed as a receiver by the National Securities Superintendency. He was charged in the Southern District Court of Florida in October 2010 on allegations he came to Miami, Florida, to collect a \$1.5 million extortion payment from the former owner of Uno Valores. He pled guilty on July 4 to charges of extortion and conspiracy to obstruct foreign commerce.

On November 7, after an 18-month detention, the court conditionally released, pending trial, the three defendants charged in the June 2010 "Pudreval" scandal, in which thousands of tons of decomposed food were found at government

warehouses throughout the country. The food had been intended for distribution through the government's subsidized food programs. The individuals charged were current or former employees of PDVAL, the food import and distribution unit of the state oil company, PDVSA: director Luis Pulido Lopez, former executive director of operations Mercedes Vilyeska Betancourt Pacheco, and former general manager Ronnal Jose Flores Burgillo. The court had suspended or deferred the trial 24 times, annulled the original proceedings and ordered a retrial in a different court, and recused four judges in the case, including one who had reduced the charges against the defendants.

On August 31, former opposition governor Didalco Bolivar returned to the country and was detained in connection with outstanding 2009 charges for "irregularities in the exercise" of his official responsibilities. On September 15, the court released Bolivar on conditional parole pending a review of his case. Shortly after his release, in interviews with government-controlled media, Bolivar publicly denounced several prominent opposition figures, including National Assembly Deputy Ismael Garcia, for alleged corruption. Garcia denied the allegations, claimed Bolivar was "following the government's playbook," and contrasted the Public Ministry's prompt response to Bolivar's accusations with the lack of any official investigation into his various allegations of corruption by government officials.

Public officials as well as all directors and members of the board of private companies are required to submit sworn financial disclosure statements pursuant to the Organic Law on the Comptroller General of the Republic and the National Fiscal Control System and the Law against Corruption, respectively (see section 3).

The law provides for citizen access to government information. However, human rights groups reported that the government routinely ignored this requirement. During an October 25 hearing before the IACHR, NGOs denounced the difficulties in accessing public information. Public Space claimed it had submitted 65 requests for information related to human rights since August, 84 percent of which had received no response. The CNP president stated that between January and September, there were 21 complaints of limitations in access for independent media to sources of public official information. He stated that independent media could not access government and police offices, PDVSA installations, government press conferences, or even public hospitals, markets, and shelters. He claimed that "the pattern simply consists of impeding access, expelling or attacking [the journalists], and alleging that access requires a permit."

Section 5. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

A variety of independent domestic and international human rights groups generally operated with some government restrictions. Major domestic human rights NGOs conducted investigations and published their findings on human rights cases. Government officials were not cooperative or responsive to their views.

Many domestic NGOs reported government threats and harassment against their leaders, staff, and organizations. For example, on June 18, Minister of Interior and Justice El Aissami publicly blamed OVP Director Humberto Prado for fomenting the riot at the El Rodeo Penitentiary (see section 1.c.). Following El Aissami's statement, a blog published Prado's personal details, including his address and private telephone numbers. The blog entry concluded by warning that, "Soon, we'll publish information about the family... so the people can judge whether he deserves the death penalty." The Web sites of state news agencies claimed that Prado was working with opposition-oriented human rights groups and "right-wing political leaders" to use the inmates to generate "chaos and blame the government." On June 22, Prado's wife received an anonymous telephone call saying that her husband would be "the next one to fall."

The government threatened NGOs with criminal investigations for allegedly illegal receipt of foreign funds. In December 2010 the National Assembly adopted the Law on the Defense of Political Sovereignty and National Self-Determination, which prohibits individuals, political organizations, or organizations involved in the defense of "political rights" from receiving resources from any non-Venezuelan person or entity. The law penalizes individuals and organizations with fines and/or a potential five- to eight-year disqualification from running for political office. The law defines political organizations as those involved in promoting citizen participation, exercising control over public offices, and promoting candidates for public office. Organizations involved in the defense of political rights include those that "promote, disseminate, inform, or defend the full exercise of the political rights of citizens." The law also prohibits foreign nationals sponsored by Venezuelan individuals or political organizations from "issuing opinions that offend the institutions of the state, its high officials or go against the exercise of sovereignty."

The government did not investigate or sanction any organization pursuant to this law during the year. However, on July 25, the president of the NGO Committee of Family Members of the Victims of the Events that occurred between February 27

and the first days of March 1989 reported that the civil registry office denied the registration applications of five NGOs because their stated purposes included the words “democracy,” “human rights,” or “civil and political rights”; the officials reportedly claimed they were acting under orders.

In the report prepared by the UN Office of the High Commissioner for Human Rights in preparation for the UPR, UNESCO noted that the limitations contained in the new law “could affect the stability of NGOs that received international funds and did not have any other income.”

UN and Other International Bodies: During the year the government expressed hostility toward international human rights bodies (see section 1.e.). The government again refused to permit a visit by the IACHR, which has not visited the country since 2002. However, following an October 6 meeting with UN High Commissioner for Human Rights Navi Pillay, Solicitor General Carlos Escarra announced that “a visit by Pillay is expected” in 2012.

In response to the April 14 release of the IACHR’s annual report for 2010, German Saltron, the government’s representative to the organization, said there was “nothing new” in his country’s inclusion on the IACHR’s “black list.” The report expressed concern about freedom of expression, the lack of judicial independence, harassment of human rights defenders and journalists, prison violence, the high level of social violence, and the Enabling Law, which it considered “incompatible” with the American Convention on Human Rights (see section 3). On October 7 and 12, the government participated in the UN Human Rights Council’s UPR of Venezuela. The government received 148 recommendations, of which it accepted 95, rejected 38, and deferred 15. It accepted recommendations related to police, prisons, and social services, and it rejected recommendations made by certain delegations regarding respect for the independence of the judiciary, freedom of expression, and civil society. The foreign minister claimed that the NGOs that criticized the country during the UPR were paid for by the “empire” (the United States). Several countries received diplomatic notes from the Foreign Ministry that expressed concern about their criticisms during the UPR and suggested that these statements could affect their bilateral relationships.

Government Human Rights Bodies: Although the public defender, appointed by the National Assembly, is responsible for ensuring that citizen rights are protected in a conflict with the state, human rights NGOs claimed that the Public Defender’s Office was not independent and rarely acted on public interest cases. The NGOs also alleged that the public defender was chosen in 2007 in a nontransparent

process. Reports or recommendations issued by the office were not widely available. According to its 2010 annual report, the Public Defender's Office considered 27,919 complaints during that year, of which 12,582 related to human rights.

The National Assembly's subcommission on human rights played an insignificant role in human rights debates.

Section 6. Discrimination, Societal Abuses, and Trafficking in Persons

The law prohibits discrimination based on race, gender, sexual orientation, disability, language, or social status; however, discrimination against women, persons with disabilities, and indigenous persons and discrimination based on sexual orientation were problems. On August 22, the National Assembly passed the Organic Law against Racial Discrimination, which President Chavez signed into law on December 19. The law aims to eliminate all forms of racial discrimination, creates a new National Institute against Racial Discrimination to enforce the law, and provides for up to three years' imprisonment for acts of racial discrimination.

Women

Rape and Domestic Violence: The law criminalizes rape, including spousal rape, making it punishable by a prison term of eight to 14 years. However, cases often were not reported to the police due to fear of social stigma and retribution, particularly in light of widespread impunity. There were no reliable statistics on the incidence of, or prosecutions or convictions for, rape. A man may avoid punishment by marrying. before he is sentenced, the person he violated. Women faced substantial institutional and societal prejudice with respect to reporting rape and domestic violence.

The law criminalizes physical, sexual, and psychological violence in the home, the community, and at work. The law punishes perpetrators of domestic violence with penalties ranging from six to 27 months in prison. The law requires police to report domestic violence to judicial authorities and obligates hospital personnel to notify the authorities when admitting patients who are victims of domestic abuse. Police generally were reluctant to intervene to prevent domestic violence. The law also establishes women's bureaus at local police headquarters and tribunals specializing in gender-based violence. As of October there were 43 prosecutors with exclusive responsibility for dealing with such crimes. On September 13,

Prosecutor General Luisa Ortega Diaz established a separate Department for the Defense of Women within the Public Ministry.

However, violence against women continued to be a problem. On September 14, Dizlery Cordero, the director for the defense of women in the Public Ministry, said the ministry received an average of 15 to 45 complaints related to gender violence daily. In its 2010 annual report, the Public Ministry reported it had filed formal charges in 6,530 (12 percent) of the 54,170 cases involving gender violence it closed during the year. As of October the prosecutor general reported that the Public Ministry had received 95,877 complaints of gender violence. The press reported on October 9 that according to unofficial statistics from the Prosecutor General's Office, 501 women died as a result of domestic violence during the year.

The government sought to combat domestic violence through public awareness campaigns and training programs. For example, the press reported that on January 20 and 21, more than 90 police officers took part in training to help them better assist victims of domestic violence. The Public Ministry conducted a series of workshops on violence against women between August and December.

Sexual Harassment: Sexual harassment is illegal and punishable by a prison sentence of one to three years. Although allegedly common in the workplace, sexual harassment cases were rarely reported.

Reproductive Rights: Couples and individuals have the right to decide the number, spacing, and timing of children and had the information and means to do so free from discrimination. Access to information on contraception and skilled attendance at delivery and in postpartum care were widely available. Women and men were generally given equal access to diagnostic services and treatment for sexually transmitted infections. The UN Population Fund reported that skilled health personnel attended 95 percent of births and that 62 percent of women and girls ages 15 to 49 used a modern method of contraception.

Discrimination: Women and men are legally equal in marriage, and the law provides for gender equality in exercising the right to work. The law specifies that employers must not discriminate against women with regard to pay or working conditions. According to the Ministry of Labor and the Confederation of Workers, these regulations were enforced in the formal sector, although women reportedly earned 40 percent less than men on average. The Ministry of Women worked to protect women's rights but did not make statistics publicly available.

The law provides women with property rights equal to those of men. In practice, however, women frequently waived these rights by signing over the equivalent of power of attorney to their husbands.

Children

Birth Registration: Citizenship is derived by birth within the country's territory. According to UNICEF, thousands of children were not officially registered at birth.

Child Abuse: According to UNICEF and NGOs working with children and women, child abuse, including incest, occurred but was rarely reported. According to a National Institute for Statistics (INE) survey, 5 percent of victims of sexual abuse were children. Although the judicial system acted to remove children from abusive households, public facilities for such children were inadequate and had poorly trained staff.

Under the law sexual relations with a minor under age 13 or an "especially vulnerable" person, or with a minor under age 16 when the perpetrator is a relative or guardian, are punishable with a mandatory sentence of 15 to 20 years' imprisonment. The law prohibits inducing the prostitution and corruption of minors. Penalties range from three to 18 months in prison and up to four years in prison if the minor is younger than 12 years old. If the crime is committed repeatedly or for profit, it is punishable by three to six years' imprisonment. Prison sentences for inducing a minor into prostitution increase by up to five years if various aggravating circumstances occur. Penalties for several crimes relating to child prostitution do not apply if the perpetrator marries the victim.

Sexual Exploitation of Children: There were isolated reports of commercial sexual exploitation of children during the year. For example, in February local media reported that law enforcement officials took 11 girls who had been forced into prostitution in Caracas to a government shelter for victims of sexual abuse; they arrested the alleged traffickers. The law prohibits the production and sale of child pornography and establishes penalties of 16 to 20 years' imprisonment. There was no publicly available information regarding the number of investigations or prosecutions of cases involving the commercial sexual exploitation of minors or child pornography.

According to a March 2010 announcement by the Public Ministry, a total of 67 prosecutors were assigned to handle cases specializing in the protection of children.

Displaced Children: The NGO For the Rights of Children and Adolescents estimated that 15,000 children lived on the streets. Authorities in Caracas and several other jurisdictions imposed curfews on unsupervised minors to attempt to cope with this problem, but with institutions filled to capacity, hundreds of children accused of infractions, such as curfew violations, were confined in inadequate juvenile detention centers. The government's social-service mission, Mission Negra Hipolita, reported providing assistance to 6,112 street children and homeless persons during the year. According to the public defender, there are 243 public and private institutions for children abandoned or removed from dangerous home situations. These institutions lacked specialized personnel and adequate space and materials.

International Child Abduction: The country is a party to the 1980 Hague Convention on Civil Aspects of International Child Abduction.

Anti-Semitism

There were widespread reports of societal abuses or discrimination based on religious affiliation, belief, or practice, including anti-Semitism.

There were an estimated 9,000 Jews in Venezuela. Jewish community leaders publicly expressed concern about numerous anti-Semitic statements in the official media and by President Chavez. For example:

- On May 24, Jewish leaders filed a formal protest with the Prosecutor General's Office over the "incitement to hate" contained in an April 4 broadcast on the government-owned Radio del Sur. In that broadcast the station's director, Cristina Gonzalez, promoted the *Protocols of the Elders of Zion* as a "must-read." On May 9, the government announced Gonzalez had been replaced as the director for unspecified reasons; however, she continued to have two radio programs on the state-owned Radio Nacional de Venezuela.
- On September 17, in a letter to UN Secretary-General Ban-Ki Moon in support of Palestinian statehood, President Chavez denounced Israel for committing "genocide" and "ethnic cleansing" of Palestinians and called Zionism "racism."

On July 14, a court sentenced six of the 11 defendants to 10 years in prison for the 2009 vandalism and desecration of the Tiferet Israel Synagogue in Caracas. The trial of the remaining five defendants began on July 15 and continued at year's end. The defendants were accused of conspiracy, aggravated theft, concealing weapons, religious disrespect, and embezzlement.

Trafficking in Persons

See the Department of State's *Trafficking in Persons Report* at www.state.gov/j/tip.

Persons with Disabilities

The law prohibits discrimination against persons with physical and mental disabilities in education, employment, health care, and the provision of other state services, but the government did not make a significant effort to implement the law, inform the public of it, or combat societal prejudice against persons with disabilities. The law requires that all newly constructed or renovated public parks and buildings provide access, but persons with disabilities had minimal access to public transportation, and ramps were practically nonexistent. Online resources and access to information were generally available to persons with disabilities. The National Commission for Persons with Disabilities (Conapdis), an independent agency affiliated with the Ministry for Participation and Social Development, and the Mission Jose Gregorio Hernandez advocate for the rights of persons with disabilities and provide them with medical, legal, occupational, and cultural programs. Through the new Mission for the Children of Venezuela, announced on November 25, the government has undertaken to provide monthly subsidies of BsF 600 (\$140) to heads of households for each disabled child or adult whom they support.

Indigenous People

The law prohibits discrimination based on ethnic origin, and senior government officials repeatedly stated support for indigenous rights. Many of the country's approximately 300,000 indigenous persons were isolated from urban areas, lacked access to basic health and educational facilities, and suffered from high rates of disease. The government included indigenous persons in its literacy campaigns, in some cases teaching them to read and write in their native languages as well as in Spanish.

The law provides for three seats in the National Assembly for deputies of indigenous origin and for “the protection of indigenous communities and their progressive incorporation into the life of the nation.” Nonetheless, NGOs and the press reported that local political authorities seldom took account of indigenous interests when making decisions affecting indigenous lands, cultures, traditions, or the allocation of natural resources. Indigenous persons called on the government to recognize lands traditionally inhabited by them as territories belonging to each respective indigenous group. The Yukpa indigenous group also called on the National Assembly to recognize the jurisdiction of indigenous courts to handle criminal cases involving its members.

Conflict between cattle ranchers/landowners and indigenous persons occurred sporadically. Civil society organizations criticized a government land-transfer program, which gave private dairy farms in Zulia State to the Yukpa indigenous group, for causing tension and violence in the region. On August 8, approximately 100 Yukpa invaded a private dairy farm in the Sierra de Perija region in the western part of the country to protest the government’s failure to demarcate indigenous lands. After 12 days, the government sent National Guard members to remove the squatters. The government promised to activate committees composed of representatives of the government, indigenous communities, and landowners to implement the land demarcation agreement reached after a violent 2008 land invasion. On October 12, independent of the demarcation agreement, President Chavez expropriated approximately 39,000 acres of land in Zulia State, which included 25 private ranches, for the benefit of the Yukpa. He also created an “indigenous socialist” mission, Mission Guaicaipuro, to oversee the land transfer and incorporate Bolivarian social programs in indigenous communities.

Societal Abuses, Discrimination, and Acts of Violence Based on Sexual Orientation and Gender Identity

The constitution provides for equality before the law of all persons and prohibits discrimination based on sex or social condition. On this basis the Supreme Court has ruled that no individual may be discriminated against by reason of sexual orientation.

Violence against lesbian, gay, transgender, and bisexual (LGBT) communities reportedly occurred during the year, although nationwide statistics were unavailable. The media and leading advocates for the rights of LGBT persons noted that victims of hate crimes based on sexual orientation frequently did not

report the incidents and were often subjected to threats or extortion if they did file official complaints.

In its report to the UN Human Rights Council in preparation for the UPR, the NGO Diversity and Sexual Equality claimed that, based on 750 interviews conducted in 2008, more than 50 percent of lesbians and gays reported suffering from societal violence or police abuse, and 83 percent of transgender persons reported having been victims of violence or other abuse. The report also stated that the government systematically denied legal recognition to transgender persons by preventing them from obtaining identity documents required for accessing education, employment, housing, and health care.

During the first six months of the year, the press reported that four transgender sex workers had been killed in Caracas: Jesus Nazaret Rondon, Luis Alberto Bravo, “Rubi,” and “Samantha.” The CICPC detained one suspect in Rondon’s killing and three members of the “Prince” gang for the killings of Rubi, Samantha, and Bravo. The press reported the “Prince” gang extorted transsexuals who worked in the Libertador area of Caracas.

Other Societal Violence or Discrimination

According to the comprehensive study on “The Right to Non-Discrimination for HIV in Venezuela” by the NGO Solidarity Action, based on a June-November 2010 survey of 1,332 persons diagnosed with HIV/AIDS, 82 percent of those polled reported “not receiving equal treatment” because of their HIV/AIDS status, and 22 percent claimed to have experienced acts of discrimination or violence, even in health centers. Only 22 percent reported filing complaints regarding this discrimination with government authorities. The study reported that 73 percent of HIV/AIDS patients had told only their doctor of their medical condition for fear of discrimination or harassment. Solidarity Action concluded that the stigmatization and discrimination discouraged testing and early diagnosis and treatment, made it impossible “to achieve greater advances in the national response to HIV,” and “negatively affected ... the exercise of their freedoms in their public as well as personal lives.”

Section 7. Worker Rights

a. Freedom of Association and the Right to Collective Bargaining

The law provides that all private and public sector workers (except armed forces members) have the right to form and join unions of their choice, and it protects collective bargaining and the right to strike. However, the law places several restrictions on these rights. Minimum membership requirements for unions differ based on the type of union. A minimum of 20 workers is required to form a company union; 40 workers in the same field to form a professional, industrial, or sectoral union in one jurisdiction; 150 workers to form a regional or national union; and 100 independent workers to form a national professional, industrial, or sectoral union. The law requires that employers may negotiate a collective contract only with the union that represents the majority of their workers. Minority organizations cannot jointly negotiate in cases where no union represents an absolute majority.

Although the constitution and Organic Labor Law recognize the right of all public and private sector workers to strike in accordance with conditions established by labor law, other laws establish criminal penalties for the exercise of this right in certain circumstances. For example, article 56 of the Organic Law on the Security of the Nation prohibits and punishes with a five- to 10-year prison sentence anyone who “organizes, supports, or instigates the realization of activities within security zones that are intended to disturb or affect the organization and functioning of military installations, public services, industries and basic [mining] enterprises, or the social-economic life of the country.” Articles 139 and 140 of the Law for the Defense of Persons in their Access to Goods and Services provide for prison terms of two to six years and six to 10 years, respectively, for those who restrict the distribution of goods and for “those ... who develop or carry out actions or omissions that impede, either directly or indirectly, the production, manufacture, import, storing, transport, distribution, and commercialization of goods.” Labor activists have been charged under these provisions as well as under the penal code for “instigation to commit a crime,” “blocking public access,” and restriction of the “right to work.”

The constitution prohibits “any act of discrimination or interference contrary to the exercise” of workers’ right to unionize. Replacement workers are not permitted during legal strikes; however, the president may order public or private sector strikers back to work and submit their disputes to arbitration if the strike “puts in immediate danger the lives or security of all or part of the population.” In June the International Labor Organization (ILO) called on the government to amend the Law for the Defense of Persons in their Access to Goods and Services to exclude services “that are not essential in the strict sense of the term ... [and] so that in no event may criminal sanctions be imposed in cases of peaceful strikes.”

The law also places a number of restrictions on unions' ability to administer their activities. For example, the CNE has the authority to administer internal elections of labor unions, federations, and confederations. By law elections must be held at least every three years. If CNE-administered and -certified elections are not held within this period, the law prohibits union leaders from representing workers in negotiations or engaging in anything beyond administrative tasks.

The government did not enforce legal protections in the public sector. According to PROVEA, while "the National Institute for Prevention, Health, and Labor Security improved the inspection processes and has forced many private businesses to correct dangerous labor conditions, these demands were not made in a similar manner in enterprises and entities of the state."

The government placed restrictions on the freedom of association and right to collective bargaining through administrative and legal mechanisms. Labor unions complained of long delays in obtaining CNE concurrence to hold elections and in receiving certification of the election results, which hindered unions' ability to bargain collectively because union leaders were not permitted to represent workers in negotiations. The ILO noted that it repeatedly found cases of interference in trade union elections by the CNE.

In addition, the government was reportedly responsible for the creation of many "parallel" unions which sought to dilute the membership and effectiveness of traditional, independent unions. In general, these new unions were not subject to the same government scrutiny and requirements regarding leadership elections. For instance, on November 17, the National Assembly eliminated the requirement for medical professionals to belong to the Venezuelan Medical Federation and authorized the establishment of alternative unions. Critics charged the change was intended to permit graduates of the "integrated community doctors" program, created by the government, to avoid having to meet the federation's standards and regulations.

On October 10, some employees of the state-owned Venezolana de Television (VTV) established a new union, the National Socialist Union of VTV Workers (Sinsotra VTV), as an alternative to the longstanding union Movement of Organized Workers of Audiovisual Media of Venezuela (Motormav), which had been unsuccessful in getting the government to discuss a collective contract. The Motormav secretary general said the new organization was "led by the minister of communications and a group of workers who have turned their backs on the

interests of the employees.” The new union immediately announced that the minister of communications had agreed to discuss its less costly collective contract proposal.

In addition, the government prosecuted and punished union leaders and members for peaceful protests in defense of their labor rights. For example:

- On February 28, the court sentenced union leader Ruben Gonzalez to seven and a half years in prison for his role in organizing a 2009 strike at the state-owned iron ore company Ferrominera Orinoco. The workers were protesting unpaid wages and the company’s alleged failure to comply with other elements of the workers’ collective agreement. On March 3, following protests by labor activists and students, the court released Gonzalez on the condition he not leave the country and report to the court every 15 days. In June the ILO called on the government to drop all charges against Gonzalez and compensate him for damages suffered. On July 8, Gonzalez publicly claimed the government was trying to fire him and 16 coworkers from their jobs in “political retaliation” for the strike.
- In June the ILO called on the government to immediately release six PDVSA workers detained since 2009 for their participation in a strike and to drop the criminal charges against them.
- The government continued to refuse to adjudicate or otherwise resolve the cases of 19,000 PDVSA employees who were fired during and after the 2002-03 national strike. The Ministry of Labor continued to deny registration to UNAPETROL, a union composed of these workers. On May 11, a fired employee, Jesus Malave, died of respiratory failure after a five-month hunger strike to protest the firings.

Union leaders were subject to violent attacks. PROVEA reported that 36 union leaders and workers were killed between October 2010 and September 2011. In one notable case, on June 9, progovernment unionist Renny Rojas was shot at the entrance to the Ferrominera Orinoco plant in Puerto Ordaz, Bolivar State, where workers were meeting to select a commission to organize the union’s elections. A group of armed men attacked the meeting participants, killing Rojas and wounding two others. On August 8, the government accused Rodney Alvarez of committing the homicide; Alvarez was reportedly affiliated with Ruben Gonzalez’s faction of the union (see above). Gonzalez publicly insisted that Hector Maican, a government supporter and the union’s secretary of finance, was responsible for

Rojas's death. The police initially detained Maican in connection with the shooting but subsequently dropped the homicide charge. Alvarez remained in custody pending trial at year's end.

PROVEA reported that the vast majority of the crimes against unionists went unpunished. In its report to the ILO Governing Body in June, the Committee on Freedom of Association expressed its "grave concern about the serious allegations of murders of workers and union officials."

According to PROVEA, "large sectors of national, state, and municipal public administrations and an important number of state enterprises continued to refuse to discuss collective agreements." PROVEA also noted the public sector's reliance on contracted employees, who are not covered by collective agreements. According to PROVEA, 1,800 workers at the National Statistics Institute were contracted employees, some of whom had been in this status for more than a decade.

b. Prohibition of Forced or Compulsory Labor

The law prohibits forced or compulsory labor. There was no information available regarding the government's enforcement of the law. There were isolated reports of trafficking in children for employment purposes, particularly in the informal economic sector (see section 7.c.). International organizations and NGOs also reported there were men, women, and children from Brazil, China, and Colombia subjected to forced labor, although there was no information available regarding the extent of the problem.

Also see the Department of State's *Trafficking in Persons Report* at www.state.gov/j/tip.

c. Prohibition of Child Labor and Minimum Age for Employment

The law sets the minimum employment age at 14 years and permits children ages 12 to 14 to work only if the National Institute for Minors or the Ministry of Labor grants special permission. Children ages 14 to 16 may not work without permission of their legal guardians and may work no more than six 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. Minors may not work in mines, smelting plants, or in other occupations that risk life or health or could damage intellectual or moral development.

Fines are established for employing children ages eight to 11 and for employing 12- or 13-year-olds without authorization. Employing a child younger than eight years of age is punishable by one to three years' imprisonment. Employers must notify authorities if they hire a minor as a domestic worker. The law establishes sentences of one to three years' incarceration for forced child labor.

The Ministry of Labor and the National Institute for Minors enforced child labor policies effectively in the formal sector of the economy but less so in the informal sector. There was no information available on whether or how many employers were sanctioned for violations.

The Ministry of Education, Culture, and Sports ran educational programs to reincorporate school dropouts and adults into the educational system, and the government also continued to provide services to vulnerable children, including street children, working children, and children at risk of working. However, there was no independent accounting of the effectiveness of these and other government-supported programs.

According to a 2009 UNICEF study, approximately 370,000 children between the ages of 10 and 17 worked in either the formal or informal sectors as of 2007; children between the ages of 10 and 13 constituted approximately 18 percent of this total. Most child laborers worked in the agricultural sector, domestic service, or in small to medium-sized businesses, most frequently in family-run operations. There were isolated reports that children were trafficked for exploitation as domestic servants and forced begging.

Also see the Department of Labor's *Findings on the Worst Forms of Child Labor* at www.dol.gov/ilab/programs/ocft/tda.htm.

d. Acceptable Conditions of Work

On April 26, the government announced a 26.5 percent increase in the monthly minimum wage and in the salaries of all public-sector employees, implemented in two stages, which raised the minimum wage to BsF 1,548 (approximately \$360). However, the country's recent annual inflation rate was 25-30 percent. Moreover, the real annual purchasing power of the minimum wage was reduced with the BsF devaluation from 2.6/\$1 to 4.3/\$1 for both essential and nonessential goods. According to the INE, as of August the monthly basic food basket cost BsF 1,576.11 (approximately \$367), although the NGO Workers' Center for

Documentation and Analysis reported that, for the same month, a basic food basket cost BsF 3,283.55 (approximately \$764)--twice the minimum wage.

The law stipulates that the workweek may not exceed 44 hours. Managers are prohibited from obligating employees to work additional time, and workers have the right to weekly time away from work. Overtime may not exceed two hours daily, 10 hours weekly, or 100 hours annually and may not be paid at a rate less than time-and-one-half. The constitution establishes the right of workers to paid vacations, and the Organic Labor Law establishes that after completing one year with an employer, the worker has a right to 15 days of paid vacation annually. In subsequent years, the worker has the right to an additional day for every additional year of service, up to a maximum of 15 additional days annually.

The law provides for secure, hygienic, and adequate working conditions. Employers are required to report work-related accidents, and the law obligates employers 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. Workplaces must maintain “sufficient protection for health and life against sickness and accidents,” and penalties range from one quarter to twice the minimum monthly salary for first infractions. Under the law workers may remove themselves from dangerous workplace situations without jeopardy to continued employment.

The Organic Labor Law covers all workers including temporary, occasional, and domestic workers. The Labor Ministry enforced minimum wage rates and hours of work provisions effectively in the formal sector, but approximately half the population worked in the informal sector, where labor laws and protections generally were not enforced. There was no public information regarding the number of inspectors or the frequency of inspections to implement health and safety laws. Ministry inspectors seldom closed unsafe job sites.

While statistics were not publicly available, the press reported that, in the last five years, 47 workers died while working for state-owned petroleum, electrical, and mining industries. On April 17, the press reported one fatality at a government-owned steel plant.