

Venezuela

Venezuelan democracy passed an important test in August 2004 when it held, in a lawful and peaceful manner, a national referendum to determine whether President Hugo Chávez should remain in office. According to election authorities and international observers, a solid majority of Venezuelans voted in favor of the president's continued tenure. But President Chávez and his supporters in the National Assembly continue to take steps to undermine the independence of the country's judiciary and to threaten freedom of the press.

The country's political polarization has diverted attention from other pressing human rights issues, including a longstanding problem of police abuse. Extrajudicial executions of criminal suspects by both state and municipal police forces are common and all too often go unpunished. Cases of torture continue to be reported. Violence and anarchy prevail in many Venezuelan prisons. Refugees from neighboring Colombia, in areas close to the border, face legal insecurity, difficult living conditions, and sometimes threats to their lives.

Independence of the Judiciary

In May 2004, President Chávez signed a court-packing law that expands the number of Supreme Court justices from twenty to thirty-two. Although the new justices had not been appointed at this writing, the new law allows the governing coalition to use its slim majority in the legislature to obtain an overwhelming majority of seats on the country's highest court. The law also gives the governing coalition the power to remove sitting justices by nullifying their appointments.

A political takeover of the Supreme Court would compound the damage already done to judicial independence by policies pursued by the Court itself. The Court, which has administrative control over the judiciary, has failed to grant 80 percent of the country's judges security of tenure, which is an essential ingredient of judicial independence. In March 2004, three judges were summarily fired after they ordered the release of people detained during anti-government protests.

Freedom of the Press

Venezuela has a vigorous and uninhibited media. Indeed, as part of the often heated and acrimonious debate between supporters of the government and its opponents, members of the media have been able to express strong views without restriction. Private television companies have often adopted blatantly partisan positions, airing news and debate programs extremely hostile to the Chávez government. In response, many journalists working for media that support the opposition have been subject to

aggression and intimidation by government supporters. To a lesser degree, journalists working for media sympathetic to the government have also faced intimidation.

While journalists have a professional responsibility to be objective in their reporting, it is not the job of government to police such professional standards. On the contrary, the government has an obligation, no matter how critical or partisan the reporting, to defend press freedom by vigorously prosecuting perpetrators of attacks and acts of intimidation. In the majority of cases, the Chávez government has not done so.

In October 2004, the National Assembly moved to pass a government bill on the “social responsibility” of radio and television stations that would impose excessive restrictions on the content of these media. The draft legislation would introduce an array of restrictions on broadcasting content that, if enforced rigorously, would infringe upon basic norms of free expression. Under the guise of protecting children from crude language, sexual situations, and violence, the proposed law would subject adults to restrictive and puritanical viewing standards. The proposed law also contains loosely-worded rules on incitement to violence and threats to public order that could penalize the stations’ legitimate expression of political views.

In addition, the draft law provides for a regime of drastic punishments for infractions the likely effect of which would be to encourage pervasive self-censorship. If found responsible for infractions, the stations could be fined, ordered to suspend transmissions, or even have their broadcasting licenses revoked.

Police Killings, Torture, and Ill-treatment

Police continue to carry out extrajudicial executions of criminal suspects. According to the respected nongovernmental human rights group PROVEA, 130 people, most of them young male criminal suspects, were victims of extrajudicial execution by national, state, and municipal police forces between October 2002 and September 2003. About one in ten of the victims were children under the age of eighteen. In many cases, the police covered up executions by asserting that the victims were killed in exchanges of gunfire, despite contrary testimony by witnesses. Generally, the police responsible for killings escaped justice.

In early February and late March 2004, National Guard and police officers beat and tortured people detained during and after protests in Caracas and other Venezuelan cities. After demonstrators clashed with National Guard units and Chávez supporters, leaving thirteen people dead and more than one hundred wounded, security forces detained more than three hundred civilians. Detainees reported being beaten during and after their arrests with nightsticks, with the flat side of sabers, and with helmets, gunstocks, and other articles. Some reported that their captors hurled tear gas bombs into the closed vehicles in which they were seated, causing extreme distress, near suffocation, and panic, while others described how the powder from tear gas canisters was sprinkled on their faces and eyes, causing burns and skin irritation. Detainees also reported being shocked with electric batons while in custody and

defenseless. The alleged abuses appeared to enjoy official approval at some level of command in the forces responsible for them.

Prison Conditions

Conditions in Venezuelan prisons are cruel, inhuman, and degrading. Overcrowding is a chronic problem and prisons are virtually controlled by armed gangs. Prison riots and inmate violence claim hundreds of lives every year. In 2003 PROVEA estimated the prison murder rate to be forty times the national average.

Border Security and the Right to Refugee Status

Lawlessness prevails along parts of Venezuela's 1,300 mile border with Colombia. Colombian paramilitaries and guerrillas, as well as Venezuelan armed groups and criminal gangs, appear to be responsible for execution-style killings, but so far such groups have operated with near-complete impunity.

According to the United Nations High Commissioner for Refugees (UNHCR), 2,691 people had applied for refugee status in Venezuela by summer 2004. But UNHCR officials say that the real number of refugees is far higher since most try to blend undetected into the population. In February 2004, Venezuela began using a newly-established asylum application process and in June began providing identification documents to recognized refugees to enable them to exercise their rights, including to work, study, and obtain medical treatment.

The Venezuelan National Refugee Commission granted temporary protection status to 292 indigenous Wayúu who fled to Venezuela in May 2004 following armed violence in their community of Bahía Portete, in La Guajira, Colombia. It was the first time that the Venezuelan government has granted this status. The temporary protection is valid for ninety days and renewable according to the security and protection needs of the group. This status means they can remain in Venezuela and get government assistance through the National Civil Protection Office.

Key International Actors

The Organization of American States (OAS) played a key role in brokering the agreement between the government and the political opposition to find a peaceful and constitutional solution to the political crisis, helping set the stage for the August 2004 recall referendum. The U.S.-based Carter Center, along with the OAS, provided international observers to help ensure that the referendum took place without serious incident or disruption by partisans on either side. Both the Carter Center and the OAS validated the official results of the referendum, concluding that President Chávez had won a legitimate victory.

UNHCR organized a series of training workshops for the army units that patrol the border and provided officers with instruction on refugee rights, international refugee law, and the role of the military in

refugee protection. UNHCR also provided the National Refugee Commission with continuing technical assistance, training, and expertise.