

Venezuela

The weakening of Venezuela's democratic system of checks and balances under President Hugo Chávez has contributed to a precarious human rights situation. Without judicial checks on its actions, the government has systematically undermined the right to free expression, workers' freedom of association, and the ability of human rights groups to protect rights.

Weeks before the new National Assembly—with a substantial opposition composition—took office in January 2011, Chávez's supporters in the legislature adopted several laws that increased the government's ability to undercut rights.

Police abuses and impunity remain a grave problem. Prison conditions are deplorable, and fatality rates high due to inmate violence.

Judicial Independence

In 2004 Chávez and his legislative allies conducted a political takeover of the Supreme Court, filling it with government supporters and creating new measures that make it possible to purge justices from the court. In December 2010 the outgoing legislators from Chávez's political party modified the timeline so they could make appointments before leaving office: they appointed 9 permanent justices and 32 stand-ins, including several allies. Since 2004, the court has largely abdicated its role as a check on executive power, failing to protect fundamental rights enshrined in the constitution.

In 2011 Supreme Court President Luisa Estella Morales declared that laws in Venezuela “respond to an ideological purpose,” while Justice Fernando Torre Alba stated that courts “must severely ... sanction behaviors or cases that undermine the construction of [Bolivarian] socialism.”

Individual judges may face reprisals if they rule against government interests. In December 2009 Judge María Lourdes Afiuni was detained on the day she authorized the conditional release of Eligio Cedeño, a banker accused of corruption. Afiuni was following a recommendation by the United Nations Working Group on Arbitrary Detentions, given that

Cedeño had been in pre-trial detention for almost three years, although Venezuelan law prescribes a two-year limit. The day after her arrest, Chávez publicly branded Afiuni a “bandit” who should receive the maximum 30 years in prison. Accused of corruption, abuse of authority, and “favoring evasion of justice,” her case is pending before a judge who has stated publicly: “I would never betray my Commander because I take the Revolution in my blood...”

Judge Afiuni was held in pre-trial detention in deplorable conditions in a violent prison for over a year, and remains under house arrest. Three UN human rights special rapporteurs and the Inter-American Commission on Human Rights have denounced her arrest and called for her release.

Legislating by Decree

In December 2010 the outgoing National Assembly passed an enabling law that granted Chávez broad powers to legislate by decree on a wide range of issues for 18 months. The law’s vague provisions could directly impact the exercise of rights by, for example, allowing the president to determine which penalties can be imposed when someone commits a crime. As of November 2011 Chávez had adopted over 20 legislative decrees, including one reinstating crimes previously derogated by the legislature. The Supreme Court upheld the constitutionality of this decree, which criminalized several banking practices, arguing that economic crimes are “crimes against humanity” and could not be decriminalized.

Freedom of Media

Venezuela enjoys a vibrant public debate in which anti-government and pro-government media criticize and defend the president. However, the government has discriminated against media that air political opponents’ views, strengthened the state’s ability to limit free speech and created powerful incentives for government critics to self-censor.

Laws contributing to a climate of self-censorship include the 2005 amendments to the criminal code extending the scope of *desacato* laws that criminalize disrespect of high government officials, and a broadcasting statute allowing arbitrary suspension of channels for the vaguely defined offense of “incitement.” In December 2010 the National Assembly extended the scope of this statute to include the internet. It also amended the telecommunications law, granting the government power to suspend or revoke concessions to private outlets if it is “convenient for the interests of the nation” or demanded by public order and security.

The government has abused its control of broadcasting frequencies to punish radio and television stations with overtly critical programming. In 2009 the government broadcasting authority CONATEL closed 32 radio stations and reported that over 200 others were under review, without providing a list of the stations being investigated. Several stations have since limited their critical programming. In November 2011 CONATEL suspended several radio stations while it investigated them, but no additional stations had been closed at this writing.

RCTV, Venezuela's most popular critical television station, was pulled from public airwaves in 2007. RCTV International, the cable channel that replaced it, was removed from cable broadcasting in 2010 after CONATEL ordered that cable providers suspend transmitting channels that it had not certified as "international" channels. RCTV's lawyers say CONATEL has rejected RCTV's requests to obtain this certification, and the channel remains unable to transmit in Venezuela.

CONATEL has opened seven administrative investigations against Globovisión—the only TV channel available without cable critical of the government—that could lead to the station's suspension or revocation of its license. In October 2011 CONATEL fined Globovisión US\$2.1 million for allegedly violating the broadcasting statute when it aired images of a June prison riot. The other six cases have yet to be resolved; some have been pending for over a year.

In 2010 the government adopted vague norms that expand its power to limit access to almost any information it holds, including creating a Center for Situational Studies of the Nation with broad powers to limit public dissemination of "information, facts or circumstance[s]" it deems confidential.

Prosecuting Government Critics

Several prominent critics of Chávez's government have been targeted for criminal prosecution in recent years. The courts' lack of independence reduced the chances of them receiving a fair trial.

In July 2011 Oswaldo Álvarez Paz, a former governor of Zulia state and member of an opposition political party, was sentenced to two years in prison for criticizing the Chávez administration on TV. Álvarez Paz was convicted of disseminating false information for saying that Chávez was not a democrat and that "Venezuela has turned into a center of operations that facilitates the business of drug-trafficking." Álvarez Paz is serving his sentence on conditional liberty but cannot leave the country without judicial authorization.

Guillermo Zuloaga, president of Globovisión, remains under criminal investigation for allegedly disseminating false information and for offending the president. At a public meeting in March 2010, Zuloaga accused Chávez of ordering the shooting of demonstrators during the 2002 coup. In a June televised speech, Chávez expressed outrage that Zuloaga was still free. A week later police arrived at Zuloaga's house to arrest him and his son for alleged irregularities in their car sales business, an investigation their lawyers said had been stalled for months. The two men, who were not at home, subsequently fled the country.

In March 2011 Rubén González, secretary general of the Ferrominera Orinoco Union, was sentenced to over seven years in prison for organizing and participating in a strike with 2,000 workers in Guyana to protest a government-owned company's failure to comply with a collective bargaining agreement. González was convicted for incitement to commit crimes, restricting freedom to work, and violating the prohibition to enter security zones. Not only was the prosecution of González criticized by the International Labour Organization and Venezuelan unions, but it was also denounced by pro-government labor leaders in Venezuela. Upon appeal, the Supreme Court ordered another judge to re-try González. The case against González, who was released on conditional liberty, remained pending at this writing.

Human Rights Defenders

Chávez's government has aggressively sought to discredit human rights defenders. In June Justice Minister Tarek El Aissami accused Humberto Prado of the Venezuelan Observatory of Prisons of "destabilizing the prison system" and having been "an accomplice in the massacre of inmates" in the past. After several official media outlets discredited Prado, he received multiple death threats and left Venezuela for two months.

In July 2010 the Supreme Court ruled that "obtaining financial resources, either directly or indirectly, from foreign states with the intent of using them against the Republic, [and] the interest of the people [could constitute] treason." That same month members of Chávez's political party filed a criminal complaint with the Attorney General's Office, alleging that several local human rights NGOs had committed treason by receiving funding from foreign donors. Over 30 NGOs are currently under investigation, according to local media.

In December 2010 the National Assembly adopted two laws that, if applied to human rights organizations, could severely undermine their ability to work independently. The "Law for the Defense of Political Sovereignty and National Self Determination" blocks NGOs that

“defend political rights” or “monitor the performance of public bodies” from receiving international funding. It also imposes stiff fines on organizations that invite foreigners who express opinions that offend institutions or undermine national sovereignty. The “Organic Law on Social Control”—which regulates the work of organizations and individuals that have an impact on “general or collective interests”—states that individuals must follow the law’s socialist principles and values: those who violate the law may face civil, administrative, or criminal sanctions.

Police Abuses

Violent crime is rampant in Venezuela, where extrajudicial killings by security agents remain a problem. The minister of the interior and justice has estimated that police commit one of every five crimes. According to the most recent official statistics, law enforcement agents allegedly killed 7,998 people between January 2000 and the first third of 2009.

Impunity for human rights violations remains the norm. In 2010, prosecutors charged individuals allegedly responsible for abuses in less than 3 percent of cases investigated.

In April 2008 Chávez’s administration issued a decree that established a new national police force and enacted measures to promote non-abusive policing proposed by a commission comprised of government and NGO representatives. At this writing there had been no independent evaluation of the new police force’s performance.

Prison Conditions

Venezuelan prisons are among the most violent in Latin America. Weak security, deteriorating infrastructure, overcrowding, insufficient and poorly trained guards, and corruption allow armed gangs to effectively control prisons. Hundreds of violent prison deaths occur every year. In June 2011, at least 25 people were killed and over 60 seriously injured, including prisoners and National Guard members, after clashes between inmates in the El Rodeo prisons.

Labor Rights

The National Electoral Council (CNE), a public authority, has the power to organize and certify all union elections, violating international standards that guarantee workers the right to elect their representatives in full freedom, according to conditions they determine. Established unions whose elections have not been CNE-certified may not participate in collective bargaining.

For several years the government has promised to reform the relevant labor and electoral laws to restrict state interference in union elections. Reforms that explicitly state that union elections held without CNE participation are legally valid were still pending before the National Assembly at this writing.

Key International Actors

Venezuela's government has increasingly rejected international monitoring of its human rights record. In September 2011 the Supreme Court president held that Venezuela will "respect all international agreements only if ... international bodies respect [Venezuelan] sovereignty and ... jurisdiction."

In September 2011 the Inter-American Court of Human Rights ruled that Venezuela must allow Leopoldo López, a prominent opposition leader, to run for public office. López, a former Caracas district mayor, has been barred from seeking elected office by the country's comptroller general since 2008 due to corruption allegations for which he has never been formally charged, prosecuted, or convicted. The court has also found that Venezuela is failing to adopt measures it ordered to protect individuals facing imminent risks to their lives or physical integrity.

In October 2011 many governments expressed concern regarding the human rights situation in Venezuela during the UN Human Rights Council's Universal Periodic Review of the country. Venezuela's government accepted most recommendations that states made, but rejected several key recommendations aimed at protecting free speech, strengthening judicial independence, complying with the Inter-American Court's binding rulings, and supporting the independent work of NGOs.