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## Venezuela

Since winning a national referendum on his presidency in 2004, Hugo Chávez and his majority coalition in Congress have taken steps to undermine the independence of the country's judiciary by packing the Supreme Court with their allies. They have also enacted legislation that seriously threatens press freedoms and freedom of expression. Several high profile members of civil society have faced prosecution on highly dubious charges, and human rights defenders have been repeatedly accused by government officials of conspiring against the nation. Police violence, torture, and abusive prison conditions are also among the country's most serious human rights problems.

### ***Independence of the Judiciary***

The Venezuelan Congress dealt a severe blow to judicial independence in December 2004 by packing the country's Supreme Court with twelve new justices. A majority of the ruling coalition, dominated by President Chávez's party, named the justices to fill seats created by a law passed in May 2004 that expanded the court from twenty to thirty-two members. In addition to the justices named to the twelve new seats, five justices were named to fill vacancies that had opened in recent months, and thirty-two more were named as reserve justices.

The political takeover of the Supreme Court compounded 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 provide security of tenure to 80 percent of the country's judges.

### ***Freedom of Expression***

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

In March 2005, amendments to the Criminal Code came into force which extended the scope of Venezuela's *desacato* (disrespect) laws, and increased penalties for *desacato*, criminal defamation, and libel. By broadening its *desacato* provisions, Venezuela ignored the recommendations of the Inter-American

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Commission on Human Rights (IACHR) and bucked a continent-wide trend toward the repeal of this type of law.

In July, Attorney General Isaías Rodríguez ordered an investigation into whether the newspaper *El Universal* had illegally subjected his office and the country's judiciary to public contempt by publishing an editorial entitled "Justice on its Knees" (Justicia Arodillada). In October, in a welcome ruling, the Supreme Court found that the editorial in question did not in fact constitute an "institutional insult" prohibited by law. The Court noted, however, that the constitution proscribes "the use of freedom of information and opinion to destabilize democratic institutions."

### **Police Killings**

The killing of three innocent students in the Kennedy district of Caracas on June 27, 2005, highlighted the violence and lawlessness of Venezuela's police forces. Leonardo González, Erick Montenegro, and Edgar Quintero died after police from the Directorate of Military Intelligence (DIM) and the Criminal Investigations Police (Cicpc) opened fire on their car when they were returning from the university. The police reportedly confused the students' car with a vehicle they were pursuing, and opened fire when it failed to heed an order to stop. González's body was found in the street near their car, with a bullet wound in the eye. According to an eyewitness, men in civilian clothes wearing hoods captured Montenegro and Quintero in an alley, made them lie on the ground, and shot them in cold blood. The police reportedly planted weapons on the scene to make it appear that they had been fired on first.

Hundreds of police executions have been reported over the past several years, although the problem long predates the current administration. While the Attorney General's Office and the human rights ombudsman have denounced these abuses, little progress has been made in prosecuting the police responsible or introducing the reforms necessary to combat the practice. In August 2005, the Attorney General's Office announced that it was investigating 5,520 presumed extrajudicial executions—involving 6,127 victims—committed between 2000 and July 31, 2005. Of 5,997 police and military personnel allegedly implicated, prosecutors have filed charges against 517, and at this writing only eighty-eight had been convicted (1.47 percent).

### **Prison Conditions**

Conditions in Venezuela's prisons are notoriously abusive. Overcrowding is chronic and armed gangs maintain effective control within the prison walls. Prison riots and inmate violence claim hundreds of lives every year. In October 2005, Venezuelan Prison Watch (Observatorio Venezolano de Prisiones), a Caracas-based group, claimed that 314 prisoners were killed and 517 were wounded in violent incidents over the course of the year.

### **Border Security and the Right to Refugee Status**

The Venezuelan and Colombian authorities continue to implement joint plans to assist hundreds of refugees who cross into Venezuela to escape violence by irregular armed groups in Colombia. Due to

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insecurity in the border regions, many Colombians fleeing the armed conflict head for an uncertain but safer future in Venezuela's cities. In June, a group of sixty-two people, many of them children, took refuge in a settlement of the indigenous Barí people in Zulia state. After negotiations with Barí community leaders who wanted them to leave, in September the National Commission for Refugees transported the refugees by helicopter to a safer and better equipped location

### ***Human Rights Defenders and Civil Society***

Public officials and government media have continued pursuing efforts to discredit Venezuela's nongovernmental human rights organizations. Government officials and pro-government legislators publicly accused Humberto Prado, coordinator of Venezuelan Prison Watch and a prominent critic of prison policy, of starting a prison protest. In January, Prado reportedly received anonymous threats on his mobile phone. In March, COFAVIC, a respected human rights organization, reported that official media had insinuated that the organization had taken a share of money paid by the State in reparation to the victims of police killings during the Caracazo riots of 1989, a claim the organization vigorously denied.

In August 2005, the Supreme Court rejected a petition by another human rights organization, PROVEA, to order President Chávez to retract public statements he had previously made suggesting that both groups were participating in a U.S.-backed conspiracy against the government.

During 2005 the Attorney General's Office opened a criminal investigation of one of Venezuela's most respected human rights lawyers, Carlos Ayala Corao (a former president of the IACHR and current president of the non-governmental Andean Commission of Jurists), for an alleged role in the unsuccessful 2002 coup against Chávez. The investigating prosecutor refused to inform Ayala about the details and grounds of the accusation, and a judge backed the prosecutor when Ayala challenged the prosecutor's actions. After a concerted campaign by local and international human rights advocates, the prosecutor eventually dropped the case in October.

In July, a Caracas court ordered the prosecution of four civil society leaders on charges of treason. The court ordered that María Corina Machado, Alejandro Plaz, and two colleagues be tried on treason charges brought by a public prosecutor because their nongovernmental organization, Súmate, accepted foreign funds for a program that encouraged citizen participation in a 2004 referendum on President Chavez's presidency. They were charged under article 132 of the Venezuelan Penal Code with "conspiracy to destroy the nation's republican form of government" because Súmate received financial support from the National Endowment for Democracy (NED). According to the NED, an organization that is itself financed by the U.S. Congress, Súmate received U.S.\$31,150, which was used for workshops to educate citizens regarding Venezuela's constitutional referendum process. If convicted, Machado and Plaz face up to sixteen years in prison.

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### ***Key International Actors***

United States-Venezuelan relations continue to be marked by hostility and mutual distrust. The Bush administration is preoccupied by Venezuela's close trading relationship with Cuba and Chávez's friendship with Castro, as well as his perceived influence in politically unstable countries like Bolivia. Secretary of State Condoleezza Rice referred to Venezuela as a "negative force in the region" in her Senate confirmation hearing in January 2005.

Chavez's criticism of the Bush administration has always been outspoken. In a television broadcast in February, he confided that he was sure that Washington was planning to assassinate him, and threatened to respond to aggression by cutting off oil exports to the United States.

In response to the IACHR, the Venezuelan government maintained that the IACHR's analysis and recommendations regarding Venezuela in its 2003 report infringed upon the country's national sovereignty. The commission had criticized Venezuela's weak separation of powers, the concentration of power in the executive branch, and the growing participation of the armed forces in government. In its 2004 annual report, published in early 2005, the commission noted that the government's position was "incompatible with international law and with the American Convention itself."