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2009 Human Rights Report: Venezuela

BUREAU OF DEMOCRACY, HUMAN RIGHTS, AND LABOR

2009 Country Reports on Human Rights Practices

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Venezuela is a constitutional democracy with a population of approximately 27 million. 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 February voters approved a constitutional referendum eliminating term limits for elected officials. While civilian authorities generally maintained control of the security forces, there were instances in which elements of the security forces acted independently.

Politicization of the judiciary and official harassment and intimidation of the political opposition and the media intensified during the year. The following human rights problems were reported by the nongovernmental organization (NGO) community, the media, and in some cases the government itself: unlawful killings, including summary executions of criminal suspects; widespread criminal kidnappings for ransom; prison uprisings resulting from harsh prison conditions; arbitrary arrests and detentions; corruption and impunity in police forces; a corrupt, inefficient, and politicized judicial system characterized by trial delays and violations of due process; political prisoners and selective prosecution for political purposes; infringement of citizens' privacy rights by security forces; government closure of radio and television stations and threats to close others; government attacks on public demonstrators; systematic discrimination based on political grounds; considerable corruption at all levels of government; threats and attacks against domestic NGOs; violence against women; inadequate juvenile detention centers; trafficking in persons; and restrictions on workers' right of association.

RESPECT FOR HUMAN RIGHTS

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

a. Arbitrary or Unlawful Deprivation of Life

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

There were several reports of arbitrary or unlawful deprivations of life allegedly committed by security forces. The human rights NGO Venezuelan Program of Action and Education in Human Rights (PROVEA) reported 205 deaths due to security force actions from October 2008 through September 2009. The causes of death were categorized as executions,

135; excessive force, 45; indiscriminate force, 14; torture or cruel treatment, 10; and a case of negligence. In its 2008 annual report, the Public Defender's Office cited receiving 134 allegations of unlawful killings by government security forces during 2008.

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Prosecutors occasionally brought cases against such perpetrators. Sentences frequently were light, convictions often were overturned on appeal, and security force members charged with or convicted of crimes rarely were imprisoned. According to PROVEA, in 2007 (the most recent year for which it had information) 370 public officials were involved in extrajudicial killings, of whom 16 received prison sentences. According to Public Ministry statistics published in the newspaper *El Nacional* in July, during 2008 and the first trimester of 2009, out of 755 homicide cases suspected to involve security officials or police officers, authorities filed 384 charges and courts handed down 12 sentences.

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Authorities charged three Merida policemen, one member of the national intelligence service (the Bolivarian Intelligence Service (SEBIN), as of December 4; formerly the Directorate of Intelligence and Prevention Services (DISIP)), and one civilian in the killing of eight young persons on January 24 in a cafe in El Vigia, Merida. At year's end an investigation continued, and the accused were held in Coro Penitentiary.

In June authorities charged three Merida police officers in connection with the April 28 shooting of student leader Yuban Ortega during a student demonstration in Merida and with his death two days later; requested dismissal of related charges against five other police officers; and requested that the accused be held in custody pending trial. In September a court admitted the indictments and ordered the case to trial, which was pending at year's end. As of September 2, the accused were detained in the Merida State Police headquarters.

In May an eyewitness accused 10 El Valle police officials of involvement in the May 20 killing of Anderson Naranjo. The media reported that the officers threw the victim off a roof after he refused to pay extortion or admit to possessing allegedly "planted" drugs. No information on the investigation was available at year's end.

In June authorities detained two Caracas Police Department members (Alejandro Guerra and Jorge Corrales) for their alleged involvement in the May 30 killing of a taxi driver, Freddy Jose Castillin. An investigation was pending at year's end.

On July 4, authorities charged four members of the Libertador Municipal Police Department with premeditated homicide and illegal firearm use in the June 9 daytime killing of psychologist Ana Matilde Raimondi de Bellorin. The four remained in custody at year's end awaiting conclusion of an investigation and trial.

On November 28, Aragua State police officers reportedly killed 22-year-old Oscar Barrios, the fifth member of his family allegedly killed by police. Since the Barrios family had been under protective orders issued by the Inter-American Court of Human Rights in 2004, the Inter-American Commission on Human Rights (IACHR) on December 4 condemned the killing and labeled it "extremely grave that the State of Venezuela had not adopted the measures necessary to protect [Barrios's] life and integrity..." The IACHR further reminded the government of its obligations to investigate the killing, sanction those responsible, and adopt all necessary measures to protect the family. In early December the Inter-American Court twice requested that the government provide information regarding the death of Oscar Barrios. By mid-December the government had not responded to that request, and the court convoked a public hearing on the matter for January 2010. Also of note, the IACHR in January admitted a petition by Eloise Barrios and others--alleging that the government was responsible for violations of the rights to life, humane treatment, personal liberty, a fair trial, and judicial protection set forth in the American Convention on Human Rights--in connection with the deaths of her family members.

There were no known developments in the case against five 32nd Caribbean Brigade army members charged with the May 2008 beating and killing of Jean Carlos Rondon in Monagas State. Pursuant to an August 2008 court decision, the five suspects remained imprisoned pending trial.

There was no information available about the July 2008 killing of Roger Oscar Avila by unknown assailants dressed as Caracas Metropolitan Police members.

Responding to an IACHR inquiry, Prosecutor General Luisa Ortega Diaz explained in late 2008 that the July 2008 shooting and killing of El Rodeo jail inmate Miguel Hiroyuki Baba Barroyeta and the injuring of five individuals (inmates Alexander Jose Gonzalez Mosquera, Renato Javier Rea Noguera, and Hector Luis Solorzano Dias as well as National Guardsman Victor Eduardo Salcedo Ochoa and driver Manuel Eloy Gonzales) had occurred while the inmates were in custody and being transferred from court to prison. According to the prosecutor general, the shooting resulted from prisoners attempting to seize weapons and escape; there were no known developments in the case during the year.

In August a court preliminary hearing upheld the indictment of 10 Lara State police officers charged in late 2008 with involvement in the October kidnapping, torture, sexual abuse, and execution-style killings of six persons (including four minors) in Portuguesa State; continued their detention; and ordered a trial.

There was no information available concerning the killings in 2007 of five men allegedly by eight Guarico State police members and a taxi driver by Anzoategui State police.

In April a court sentenced four police officers and nine civilians to 30 years in prison for the 2006 kidnapping and killing of three boys and their driver.

In September the Inter-American Court of Human Rights held a hearing regarding the government's implementation of the court's 2006 decision in the case of the 1992 massacre of 63 inmates and the injuring of 100 persons at the Reten de Catia prison. In October the prosecutor general stated that the Public Ministry had undertaken more than 300 investigative actions designed to fulfill the court's decision.

There were the following developments during the year in connection with the killings in Caracas in 1989, known as the "Caracazo":

- Between July and October, the Public Ministry charged four former security force officials--former minister of defense Italo Del Valle Alliegro, former Caracas Strategic Command head Manuel Heinz Azpurua, retired National Guard general Freddy Maya Cardona, and former Metropolitan Police director Jose Rafael Leon Orsoni--with being accomplices to homicide and violating treaties and international conventions.
- In September the government submitted an arrest request to Interpol for former president Carlos Andres Perez.
- In September the Public Ministry continued its exhumation of victim remains. The NGO Committee of the Relatives of Victims of the Events between February 27 and early March 1989 (COFAVIC) expressed concern that these government exhumations could not be considered independent since government agents allegedly were implicated in the killings, and some relatives asserted that they would only accept remains examined by independent experts. The Public Ministry rejected COFAVIC's request that forensic experts from Argentina participate in the process. COFAVIC referred the matter to the Inter-American Court of Human Rights which, on September 23, asked the government to provide information about its exhumation and identification efforts and to include victims' relatives in the processes. The court-requested information was not provided by year's end.

- In October a court began retrying two police officers for their alleged involvement in the killing of Luis Manuel Colmenares. Their 2003 acquittal was annulled by an appeals court in 2004.

There was one development during the year in connection with the so-called El Amparo massacre in 1988, in which government security forces allegedly killed 14 persons: In December the Inter-American Court of Human Rights decided to convoke a private hearing in January 2010 to obtain information from the government regarding its implementation of the court's 1996 decision that required reparations to the victims' families, continuation of the investigation of the incident, and prosecution of those responsible.

There were the following developments during the year in connection with the so-called Yumare massacre in 1986, in which nine persons were killed:

- In April the prosecutor general asked the military prosecutor general to transmit its case files.
- In May the Public Ministry announced its intention to turn over the remains of six victims to their families. (Two other victims' remains were released to relatives in 2006, and a third set were not claimed.)
- The prosecutor general also issued arrest warrants for two unnamed persons in June and formally accused seven former DISIP agents and a former army officer in August of involvement in the massacre.
- Also in August DISIP agents searched the home and personal files of then president Lusinchi.
- In October the Criminal Chamber of the Supreme Court approved the government's request for the extradition from Costa Rica of former police commissioner Henry Rafael Lopez Sisco of DISIP to answer charges related to the killings.

There were the following developments during the year in connection with the so-called Cantaura massacre in 1982, in which armed forces and DISIP members allegedly killed 25 persons:

- In April the prosecutor general requested that the military prosecutor general transmit its case files. The Public Ministry announced receipt of the original Directorate of Military Intelligence files in August and the military court files in October.
- In October the Public Ministry began exhuming victim remains located in five states and Caracas.
- In October the prosecutor general stated that massacre survivors would be protected and that the massacre was not the result of a confrontation between military forces and guerrillas but an "ambush" involving 471 military and DISIP personnel and approximately 40 persons in a guerrilla camp.

Societal violence remained high. In the first four months of the year, the NGO Venezuelan Observatory of Violence reported 4,659 killings in the country. For 2008 the observatory noted 49 killings for every 100,000 inhabitants nationwide and an estimated 130 killings per 100,000 inhabitants of Caracas.

b. Disappearance

There were no substantiated reports of politically motivated disappearances.

However, criminal kidnappings for ransom were reportedly widespread in both urban centers and rural areas. PROVEA reported that in the first nine months of the year there were 518 kidnappings, an increase of 41 percent from the 366 reported for all of 2008. The National Federation of Cattle Ranchers president announced late in the year the recording of 360 abductions between January 1 and December 16, mainly in states along the country's western border with Colombia. On December 23, the director of the government's Scientific, Penal, and Criminalistic Investigative Corps (CICPC) stated

that kidnappings had increased by approximately 63 percent during the year, with a total of 616 cases reported. NGOs noted that many victims did not report kidnappings to police or other authorities.

Media frequently reported the public perception of collaboration between police and kidnappers. According to the NGO Active Peace, in 2008 the average total cost of a kidnapping--based on an average of 12 days in captivity, a negotiator's fee, and ransom paid--was approximately the equivalent of \$118,000. Human rights NGOs reported approximately 20 percent of kidnapping victims were minors or students.

In the case of the forced disappearances of two persons during the 1999 mudslide in Vargas State, the government reported to the Inter-American Court of Human Rights in September that a court sentenced DISIP official Casimiro Jose Yanez in June to 15 years' imprisonment and acquitted another official.

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 continued to torture and abuse detainees.

PROVEA reported that in the 12 months prior to September, it received 16 complaints alleging torture and 427 complaints regarding cruel, inhuman, and degrading treatment, a decrease from the 573 cases reported in the comparable period in 2008. (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.)

In August the government Public Defender's Office reported that allegations of torture by the police had increased by 10 percent during 2008. Of the 87 complaint cases filed that year, 66 resulted from alleged physical torture and 21 from alleged psychological torture; 62 percent of the victims were men between 20 and 34.

Human rights groups continued to question the commitment of the prosecutor general and the human rights ombudsman to oversee neutral investigations. There was no data available on convictions in cases of alleged torture.

Reports of beatings and humiliating treatment of suspects during arrests were common and involved various law enforcement agencies.

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 some prisons; and food and water shortages. The prison-monitoring NGO Venezuelan Prison Observatory (OVP) estimated that existing prisons were designed to hold approximately 60 percent of the 23,457 persons in the national penitentiary system. For the first nine months of the year, PROVEA reported that a total of 30,483 persons were imprisoned, of whom 1,901 or 6 percent were women; and that 55 centers in the country held approximately 750 minors.

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 while no prison had good conditions, women's facilities were

generally less violent and healthier than those for men.

Both the OVP and PROVEA estimated that only approximately one-third of the prisoner population in 2008 had been formally convicted and sentenced, while two-thirds were in preventive detention or awaiting trial. In its 2008 annual report, the Public Defender's Office noted that 30 percent of those imprisoned had been sentenced.

The National Guard and the Ministry of Interior and Justice have responsibility for exterior and interior security, respectively. The government failed to provide adequate prison security. The OVP estimated in 2008 that the guard force in Uribana prison, one of the most violent prisons, was 0.5 percent of the required strength.

The OVP reported 366 inmates died in custody during the year and 635 were injured, compared to 422 deaths and 854 injuries in 2008. Most such deaths and injuries resulted from prisoner-on-prisoner violence, riots, fires, and generally unsanitary and unsafe conditions. The Carabobo Penitentiary (commonly known as "Tocuyito") documented the highest numbers in the country of deaths (53) and injuries (106) due to violence during the year.

Hunger strikes and prison uprisings protesting administrative delays and harsh prison conditions were common during the year. They included the following selected cases:

- In March in prison protests in 11 separate prisons, the OVP reported that more than 6,000 inmates and 3,000 family members protested the country's poor prison conditions. During the protests National Guard forces shot an inmate, Francisco Madrid, in the head.
- In May in Los Teques prison, the OVP reported to the media that prisoner human rights were violated when guards allegedly left inmates naked for several hours during a search for weapons and guns. During the search the National Guard shot and injured two inmates, and 10 other prisoners allegedly were injured.
- In August according to media reports, a prison uprising resulted in the killing of eight prisoners and injury to five in the Vista Hermosa jail in Bolivar State.

Human rights observers continued to experience lengthy administrative delays and restricted access to prisons and detention centers.

The government's High-Level Prison Council, established in December 2008 to design penitentiary-system improvement policies, began work during the year. In July the prosecutor general announced a pilot project in Caracas to create two prosecutors' offices (one for investigations, another for trials) to expedite cases involving Caracas-area inmates. The Supreme Court president announced an increased number of judges to reduce judicial delays. PROVEA reported the opening during the year of new penitentiaries or annexes in Coro (capacity 840) and in Caracas (Terrazas de Yare III, capacity 432), and others were under construction as part of the government's "Strategic Plan to Humanize the Penitentiary System, 2006-11."

During a public hearing convened by the Inter-American Court of Human Rights in September, a government delegation provided information on government actions to comply with a 2006 court decision regarding the improvement of penitentiary conditions and concluded that prison violence had been reduced. In a September 30 statement, the IACHR rapporteur on the rights of persons deprived of liberty recognized these efforts but found them insufficient to overcome the high level of prison violence; and inmate representatives claimed the government "violates, continually, systematically and notoriously, the right to life and personal integrity of the inmate population." In November the Inter-American Court issued a resolution requiring the government to maintain the provisional measures and to submit bimonthly reports, beginning in February 2010, with specific information on actions taken "to protect the life and integrity" of inmates, and requiring the

IACHR and inmate representatives to provide reports every six and four months, respectively, on prison conditions.

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 and lawyers who, in turn, have the right to know a detainee's whereabouts (see also section 1.e.).

Role of the Police and Security Apparatus

The National Guard, a branch of the military, is largely 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 (formerly DISIP), which collects intelligence within the country and is responsible for investigating cases of corruption, subversion, and arms trafficking.

Mayors and governors generally oversee local and state police forces; however, in 2008 the Interior and Justice Ministry assumed authority over the Caracas Metropolitan Police from the mayor of Greater Caracas.

In December following the killing of two National Guardsmen in Tachira State, President Chavez alleged that the Tachira and Zulia state police forces had failed to control Colombian paramilitary activity and warned that the national government might intervene in those forces. In a December 21 public statement, the president said he told the defense minister and the strategic operational commander to seize state police headquarters if they continued "openly [to] defy the public authority." The two state governors, members of the opposition, rejected the intervention threat.

Pursuant to a 2008 law, President Chavez inaugurated the new Bolivarian National Police (PNB) in December, and the PNB deployed its first graduating class of 953 officers in a Caracas municipality. According to its mission statement, the PNB is not to be a substitute for, but a complement to, state and municipal police efforts.

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.

In July for instance, General Juan Francisco Romero Figueroa, vice minister of citizen security in the Ministry of Interior and Justice, illustrated the need for police internal investigations by reporting that 1,800 of the 9,000 Metropolitan Police officers were under investigation for alleged misconduct or human rights violations--including kidnapping, torture, unlawful arrest and detention, and extrajudicial killing--stemming from cases filed in the previous eight years. In October Interior and Justice Minister Tarek El Aissami stated that police committed approximately 15-20 percent of the country's crimes, including the most violent ones.

In March Vice President Ramon Alonzo Carrizales and the interior and justice minister established the National Prevention Council for Citizen Security to address crime-related issues. Under its auspices, an expert-level conference to discuss public policies for crime reduction occurred in October.

The government used police and the National Guard to repress political demonstrations (see section 2.b.).

Some local police forces offered human rights training for their personnel. For example, during the year the Chacao municipality of Caracas continued to provide mandatory human rights training to all new police recruits. Amnesty International worked with the municipality to offer workshops on domestic-violence case processing.

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. Persons 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 detention. A person accused of a crime may not be detained for longer than the possible minimum sentence for that crime nor 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 that 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 that there is a danger that the accused may flee or impede the investigation. In 2008 the public defender reported that more than 60 percent of those imprisoned had not been convicted or sentenced. The law requires that detainees be provided access to counsel and family members, and that requirement was generally met in practice.

e. Denial of Fair Public Trial

While the constitution provides for an independent judiciary, judicial independence remained compromised according to many observers, and there were allegations of corruption and political influence, particularly from the Prosecutor General's Office. (See also section 3.)

On May 21, authorities raided the Caracas residence of Guillermo Zuloaga, president of the private television network Globovision, and confiscated 24 new vehicles and hunting trophies. According to Zuloaga, the automobiles belonged to his car dealership and were at his home for security reasons, and the trophies had been acquired abroad. On July 16, a court charged Zuloaga with hoarding vehicles and issued an order preventing his departure from the country. The next day the judge handling the case stated publicly that a superior had pressured her to issue the order; three days later she was notified of the revocation of her judicial appointment. On July 21, the 13th Criminal Court overturned the travel injunction, but the following day another judge reinstated the travel ban, which continued in force at year's end.

Eligio Cedeno--a banker accused in 2003 and detained in 2007 on charges of corruption and embezzlement, and conditionally released on December 10--alleged in a December 25 press conference outside the country that his case was subjected to judicial manipulation, due process violations, and numerous trial irregularities. A court had annulled his earlier trial in May at Public Ministry request, ordered a retrial, and reinstated a detention order, but the Appeals Court for Caracas ordered his release in October because his detention exceeded the two-year limit. The Public Ministry successfully appealed the release order to the Constitutional Chamber of the Supreme Court, but on December 10, Judge Maria Lourdes Afiuni granted Cedeno conditional release pending retrial. Shortly thereafter, SEBIN agents detained the judge on charges of corruption, aiding in the evasion of justice, abuse of authority, and conspiracy; and the two bailiffs, on corruption, aiding in the evasion of justice, and conspiracy charges. The bailiffs were released pending trial, but President

Chavez called for the judge's imprisonment for 35 years as a lesson to others. At year's end she remained detained at the Women's Detention Facility, and her attorney expressed concern for her safety in that facility since women she had sentenced were held there. SEBIN was unable to locate Cedeno after his departure from the courthouse and issued a fugitive arrest warrant; Foreign Minister Nicolas Maduro Moros announced the government's intention to seek Cedeno's extradition on December 22.

A court sentenced former Caracas Metropolitan Police commissioners Ivan Simonovis, Henry Vivas, and Lazarro Forero to 30 years' imprisonment on April 3 for coordinating police firing on pro-Chavez demonstrators during events related to the 2002 attempted coup. They continued to maintain their innocence and assert that the prosecution was politically motivated. The defendants also claimed that the verdicts were reached despite a lack of key forensic evidence and asserted that the court ignored exonerating video, audio, and eyewitness-testimonial evidence. Of the eight police officers also charged in connection with the shootings, a court found seven guilty and sentenced them to prison terms ranging from three to 30 years. At year's end they were held at SEBIN headquarters in Caracas.

The judicial sector consists of the Supreme Court of Justice and lower courts, the Prosecutor General's Office, and the Ministry of Interior and Justice. The Supreme Court, the highest court, administers lower courts through the Executive Directorate of the Judiciary. Supreme Court justices are elected by the National Assembly for 12-year terms.

According to the NGO Penal Forum, almost 40 percent of lower court judges were provisional and temporary. The Supreme Court's Judicial Committee may hire and fire temporary judges without cause or explanation, and it did so. (See section 3 for examples of dismissals contested in the IACHR and the Inter-American Court.) Provisional and temporary judges, who legally have the same rights and authorities as permanent judges, were particularly subject to political influence from the Ministry of Interior and Justice and the prosecutor general. A prominent legal scholar's study, published in the media in March, concluded that in 2007 the Supreme Court's Political-Administrative Chamber ruled in favor of the government in 324 of the 325 cases brought by private citizens against the government.

The law provides that the Moral Council (prosecutor general, human rights ombudsman, and comptroller general) may suspend judges and allows the National Assembly to remove Supreme Court justices by a simple majority vote.

Lower court judges hear pretrial motions, including prosecution and defense motions, prior to criminal cases going to trial judges. Executive judges oversee the application of sentences. Appeals courts, consisting of three-judge panels, review lower court decisions. The prosecutor general oversees the prosecutors who investigate crimes and bring charges against criminal suspects.

The three persons convicted in 2007 for their roles in the 2004 car bombing that killed prosecutor Danilo Anderson remained in a SEBIN jail on 27- to 30-year sentences. In March 2008 a former prosecutor in the case alleged that their convictions had been based on false and perjured testimony.

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. 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

During the year various NGOs reported between 11 and 57 political prisoners in the country. Nine leading NGOs published advertisements in Trinidad and Tobago newspapers before the April Summit of the Americas that listed the names of 11 persons they considered political prisoners. The advertisements also claimed that the government was pursuing another 45 persons as "political objectives" using various legal and administrative means. As of December 31, the NGO Venezuelan Awareness Foundation listed 32 persons as political prisoners.

In some cases political prisoners were held in various penal facilities, including SEBIN installations and the Ramo Verde military prison. Authorities permitted the International Committee of the Red Cross access to these individuals.

Some examples of persons claiming to be political detainees follow (see also section 1.e.):

- On July 29, Tachira authorities detained journalist Gustavo Azocar following the publication on the Internet, in violation of a court gag order, of excerpts from his trial for alleged illegal enrichment resulting from an advertising contract with Tachira State's lottery. He claimed his prosecution was politically motivated because of his investigative reporting on government corruption, including by the president's relatives--a claim supported by the National College of Journalists and the NGOs Reporters without Borders and Inter American Press Association (IAPA). The trial judge was suspended in September, and a new trial was ordered; no date was set, and he remained in Santa Ana prison, Tachira.
- On August 26, authorities arrested the opposition prefect of the Caracas Metropolitan District, Richard Blanco, on charges of "injurious and law-breaking behavior" following a scuffle between police and opposition protesters during August 22 demonstrations against a new educational reform law and the "criminalization" of protest. He argued that he had intervened to protect a plainclothes police officer whom protesters were threatening after the officer photographed them. At year's end Blanco remained imprisoned pending trial.
- On August 28, authorities arrested 11 municipal employees associated with opposition Greater Caracas Mayor Antonio Ledezma on charges of "disturbing public order" following their participation in an August 22 march. The employees were granted provisional release from prison on October 29, and formal charges remained pending at year's end.
- On September 7, Caracas authorities detained student leader Julio Cesar Rivas for alleged involvement in fomenting violence during an August 22 march. Charged with resisting authorities, unauthorized use of a firearm, and instigation of civil war, he was released from prison on September 28 and required to appear in court every 30 days; charges remained pending at year's end. His arrest sparked student hunger strikes, in Caracas and several other cities, that ended two days after his release and after the secretary general of the Organization of American States (OAS) stated that the students could present their request for an IACHR visit to commission headquarters in Washington.
- At year's end Jose Sanchez "Mazuco," former Zulia State security chief, remained in custody at the Ramo Verde military prison following his 2007 arrest for alleged involvement in the killing of a military intelligence police informant in jail. Prosecutors alleged that Sanchez authorized the killing; Sanchez claimed persecution because of his association with opposition leader Manuel Rosales (to whom Peru later granted asylum (see section 3)).

Civil Judicial Procedures and Remedies

There are separate civil courts that permit citizens to bring lawsuits seeking damages. Like all courts in the country, however, the civil elements of the judiciary remained subject to strong executive control.

In the past there were administrative remedies available, but they were generally inefficient. The current consumer-protection mechanism is enforced by the Institute for Defense of the People in Accessing Goods and Services (INDEPABIS) under the auspices of the Commerce Ministry. INDEPABIS is empowered to use reconciliation, mediation, and arbitration to settle disputes and is able to sanction providers of goods and services who violate the law. INDEPABIS also has authority to expropriate goods and services. Other entities that provide administrative or civil remedies include the National Securities Commission and the superintendencies of banks, insurance, cooperatives and savings accounts, and the promotion and protection of free competition.

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

The constitution provides for the inviolability of the home and personal privacy; however, in some cases security forces allegedly infringed on citizens' privacy rights by searching homes, particularly those of independent media owners and opposition leaders.

In July agriculturalist Franklin Brito began a hunger strike to protest the government's failure to resolve remaining compensation issues related to the National Land Institute's 2003 seizure of part of his lands in Bolivar State. He ended the strike in December after receiving a commitment from the National Assembly president to resolve those issues but resumed the strike later that month claiming that the commitments had not been honored fully. The government claimed responsibility for safeguarding his life and forcibly moved him to the psychiatric ward of the Military Hospital for his own "protection," where he remained at year's end.

There was no further information on the investigation into the December 2008 attack against former opposition gubernatorial candidate Lenny Manuitt in her home, allegedly by two men dressed as CICPC officers.

Human rights NGOs asserted that the government was complicit with others, including National Assembly Deputy Luis Tascon, in maintaining the "Tascon" and "Maisanta" Lists, which were reportedly used by employers to dismiss or refuse to hire persons who signed a petition in 2003 to hold a recall referendum on President Chavez in 2004.

NGOs expressed concern over official political discrimination against, and the firing of, state employees whose views differed from those of the government. According to PROVEA, the government used coercion and the threat of dismissal to compel state employees to attend partisan political functions.

Section 2 Respect for Civil Liberties, Including:

a. Freedom of Speech and Press

The law provides for freedom of speech and of the 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 and a climate of self-censorship.

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 55 Bs.F (approximately \$26). Inaccurate reporting that disturbs the public peace is punishable by a two-to-five-year prison term. The requirement that media disseminate only "true" information was undefined and open to politically motivated interpretation.

Government officials regularly characterized the independent media as fomenting instability in the country, and according to the media and NGO community, the government employed a variety of mechanisms to harass and intimidate the private media.

Members of the independent print media privately said they regularly engaged in self-censorship due to fear of government reprisal. The country's major newspapers were independently owned but heavily dependent on government advertising. In regions where local newspapers competed for the same audience and a smaller pool of advertisers, print media tended to exercise even more caution in order to secure financing from government sources. The government published one national newspaper, *Diario Vea*, with a relatively low circulation. In August President Chavez announced government publication and funding of a new newspaper, *El Correo del Orinoco*; it began publication in September. Also in August a new local Caracas newspaper, *Ciudad CCS*, debuted; the newspaper was run by the presidentially appointed Capital District vice president and received funding from the mayor of the Libertador municipality of Caracas.

The country's nonsubscription broadcast media were largely government owned. The government operated six channels with nationwide coverage.

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. Officials made such allegations against Alberto Federico Ravell, director of all-news cable television network Globovision; Guillermo Zuloaga, majority owner of Globovision (see also section 1.e.); Miguel Henrique Otero, director of *El Nacional* newspaper; and Andres Mata, owner and editor in chief of *El Universal* newspaper.

Senior federal and state government leaders actively harassed privately owned and opposition-oriented television stations, media outlets, and journalists throughout the year, using administrative sanctions, fines, and threats of closure to prevent or respond to any perceived criticism of the government.

During the March 1 broadcast of his weekly Sunday talk-show program (*Hello, President*), President Chavez ordered progovernment governors and mayors to "draw a map of the media war" to determine which media were "owned by oligarchs," although he did not specify what he or his administration intended to do with such information.

On April 13, President Chavez urged authorities to impose sanctions on private television networks Venevision, Globovision, Radio Caracas Television (RCTV), and Televen for allegedly having backed the 2002 coup by broadcasting cartoons and movies instead of covering the street protests that aided in his return to power.

Throughout May prominent government officials publicly denounced Globovision (see also section 1.e.) and called for its closure. For example, on May 10, President Chavez threatened to close Globovision during his Sunday talk show. On May 11, the foreign minister publicly accused Globovision Director Ravell of conspiring to take away people's rights and engaging in "media terrorism." On May 18, the National Assembly president condemned Globovision at a political rally. On May 19, members of the governing United Socialist Party of Venezuela (PSUV) held a public demonstration against Globovision.

National and international groups, such as Reporters without Borders and the Committee to Protect Journalists, condemned government efforts throughout the year to restrict press freedom and to create a climate of fear and self-censorship. The domestic media-watchdog NGO Public Space released statistics showing that during the year, 191 journalists either were attacked or had their individual rights violated.

During the year two private media journalists were killed, and numerous others were subjected to physical attacks and threats, notably:

- On January 1, *El Impulso* journalist and photographer Jacinto Lopez was kidnapped, shot, and killed, and another reporter was injured. In March the Public Ministry issued an arrest order against a suspect; at year's end no further information was available.
- On January 16, gunmen on motorcycles shot and killed investigative journalist Orel Sambrano in Valencia. The IACHR's Office of the Special Rapporteur for Freedom of Expression "deplored" the killing. Authorities arrested two suspects who remained detained pending trial at year's end, while a third suspect remained at large.
- On April 22, the "La Piedrita" progovernment militant group published on its Web site a threat against Globovision, referring to the network and its sponsors as "military objectives" in the government's stated "media war." Among the journalists specifically threatened was Leopoldo Castillo, anchor and host of Globovision's *Hello, Citizen* interview program.
- On August 3, armed militants wearing red berets typical of presidential supporters brandished weapons; forced entry onto the grounds of Globovision; threw tear gas canisters; and injured a police officer, a security guard, and several other persons. Video and witness testimony pointed to government collaborator Lina Ron as the attack leader. After a government minister condemned the attack, authorities arrested Ron on August 4, charged her with promoting violence and public intimidation, and imprisoned her until conditionally released on October 14 pending trial.

Progovernment and foreign-affiliated media personnel also faced violence. For example:

- On January 13 in Portuguesa State, unknown assailants shot and injured Rafael Finol, a progovernment journalist for the daily *El Regional*. At year's end the attackers remained unknown, and an investigation continued.
- On July 9, members of the security team of the Barinas State governor (the president's brother) assaulted a freelance photographer working with a *New York Times* correspondent, briefly detained him, erased photographs from his camera, and removed him from the facility where the governor was giving a public speech.
- On August 10, the government initiated an investigation--that continued at year's end--into the killing of Ministry of Communication and Information (MINCI) journalist Daniel Ivan Escamez, whose body was found on August 7 with multiple gunshot wounds.
- On August 13, progovernment supporters attacked a group of journalists in front of the government-owned Avila television station who were distributing flyers protesting press restrictions in the educational reform law passed that day. The attackers hit the journalists with bats and filled bottles and injured 12. On August 17, authorities issued two arrest orders for suspects, one of whom was apprehended, and at year's end an investigation continued.

The government sought to control and/or limit the scope of independent news coverage by controlling licensing requirements and censoring advertising content.

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

The law empowers the government to impose heavy fines and cancel broadcasts, and the National Telecommunications Commission (CONATEL), the government regulatory agency, oversees the law's application. Media-observer organizations called on the government to appoint an independent body to regulate the implementation of the law, which it had not done by year's end.

The government continued to use administrative and criminal investigations against private television station Globovision. For instance, on May 8, CONATEL opened an investigation into Globovision's coverage of the May 4 earthquake, charging that the network might have incited panic. President Chavez and other officials asserted that Globovision panicked the public because it broadcast foreign seismic data instead of the government's (which had been unavailable at the time). On September 7, CONATEL opened a sixth administrative proceeding against Globovision following its September 3 broadcast of text messages that alerted viewers to a possible coup and called for persons to resist the government; a government minister asked prosecutors to open a criminal investigation into the broadcast.

The government also restricted broadcasting during the year; examples follow:

- On July 3, CONATEL initiated an administrative proceeding against four television and two radio stations for broadcasting an advertising campaign opposing pending private-property-rights legislation, and it ordered the advertisements off the air. Authorities also opened criminal investigations against two media organizations and the newspaper *Ultimas Noticias* for printing similar ads; courts dismissed the latter cases on procedural grounds, but prosecutors appealed.
- On September 21, the government gazette published a regulation that would require all radio stations to carry at least 5.5 hours of programming by local/independent producers, 3.5 hours of which the MINCI would dictate. The regulation would also limit the amount of time a single independent producer could broadcast content per day--a limit which, if enforced, could severely limit syndicated radio shows in the country. At year's end the regulation had not taken effect.
- On December 22, CONATEL issued another regulation extending government broadcasting requirements--including the requirement mandating the showing of government broadcasts (known as "cadenas")--to channels on subscription cable networks determined to have 30 percent or more national production. CONATEL was analyzing the cable networks at year's end.

In July the government announced its intention to review the licenses of 240 radio stations for allegedly failing to comply with registration or tax requirements. On July 31, Minister of Public Works and Housing (and CONATEL Director) Diosdado Cabello announced the closure of 32 radio stations and two television stations for alleged procedural, licensing, or tax violations. On September 7, the government announced its intention to close another unspecified 29 radio stations. Minister Cabello also announced that CONATEL had begun studying the possible reassignment of revoked frequencies to other stations or organized communities for the creation of community radio stations. Media owners and watchdog groups expressed concern that permission to operate radio stations would be issued predominantly to government supporters. At year's end the 34 closed stations remained closed, and the others remained under threat of closure.

Some of the notable developments in defending press freedom during the year were as follows:

- On March 16, IAPA issued a resolution condemning violence against journalists, media outlets, and media executives as well as pressure against independent media companies. In a November 10 general assembly resolution, IAPA criticized the country's laws and rejected government actions against media executives and journalists.

- On May 21, the NGO Human Rights Watch (HRW) called on the government to end its persecution and harassment of Globovision. On May 22, the UN special rapporteur on the promotion and protection of the right to freedom of opinion and expression and the IACHR special rapporteur for freedom of expression jointly stated their concern about senior government officials' comments against Globovision and other privately owned media outlets.

During August 1–3, there were demonstrations against the government's decision to shut down 32 radio stations. Many international groups denounced both the station closings and a proposed media law then under consideration by the National Assembly. On August 3, the UN special rapporteur and the IACHR separately expressed deep concern about the closings of 32 radio and two television stations, and on August 14, IAPA condemned the August 3 violence against the media and Globovision.

In January a court convicted the suspected 2008 killer of Caracas journalist Javier Garcia and sentenced him to 15 years' imprisonment.

There were no known developments in the cases of the June 2008 killing of Pierre Fould Gerges, vice president of *Reporte Diario de la Economía*, and the September 2008 shooting of columnist Eliecer Calzadilla, a contributor to the regional newspaper *Correo del Caroni*.

There were no developments in the November 2008 investigations by CONATEL of Globovision for October broadcasts of comments allegedly inciting the assassination of the president and of a speech by the Carabobo State governor-elect that allegedly incited violence.

There were no known developments in the cases of the July 2008 assault by Maracaibo city officials on two journalists from *La Verdad* newspaper in Zulia State, and the December 2008 attack by progovernment supporters on a Valencia journalist in Carabobo.

In November a new trial was ordered in the September 2004 murder of Maturin journalist Mauro Marcano. The accused remained in custody at year's end.

On January 28, the Inter-American Court of Human Rights found the government responsible for failing to prevent attacks, threats, and harassment against employees and reporters both of RCTV during the period 2001-04 and of Globovision during the period 2001-05. The court ordered the government to conduct investigations in order to determine responsibilities; to avoid illegal restrictions and hindrances on the freedom to seek, receive, and impart information; and to report to the court within one year on compliance measures taken.

Internet Freedom

The International Telecommunication Union reported that in 2008 approximately 25 percent of the population accessed the Internet. There were no government restrictions on access to the Internet, and individuals and groups could engage in the peaceful expression of views via the Internet, including by e-mail. Some media NGOs expressed concern that the government monitored e-mails and Web searches.

Academic Freedom and Cultural Events

There were some government restrictions on academic freedom and cultural events. Government supporters often disrupted university classes, marches, and rallies and used violence and intimidation to discourage students from political participation.

On January 18, unknown assailants blew up the pickup truck of the president of the Federation of University Centers—Central University of Venezuela (FCU-UCV). A principal adviser to the FCU-UCV complained in May of weekly attacks on its leaders.

In March and May the media reported that officials of the previous pro-Chavez Miranda State government (2003-08) pulped 62,262 books for counterrevolutionary ideological content, accusations that the government denied.

On August 19, approximately 40 masked men interrupted classes and fired guns at the University of the Andes in Merida, saying they were looking for opposition-oriented students, and injured two law school students and three professors. At year's end there was no information available regarding an investigation.

In August the National Assembly passed an educational reform law consolidating control over the public and private educational systems. Opposition parties, teachers, parents, and students widely complained that the law eliminated university autonomy and subjected teachers and students to ideological litmus tests, and there were demonstrations against it. Catholic school advocates expressed concern that the law could prevent private religious schools from receiving financial support from private international associations. At year's end the new law had not yet been implemented.

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. Penal Forum's 2006 complaint before the Supreme Court challenging this measure's legality remained unheard at year's end.

The media reported on June 5 that authorities opened 50 judicial proceedings in the first half of the year against students, workers, and other citizens for participating in demonstrations. According to the NGO Public Space, during the first eight months of the year, out of a total of 2,079 public demonstrations, police and security forces suppressed 130, resulting in a total of 461 injuries among participants and 440 arrests. PROVEA noted that 584 injuries resulted from security-force interventions in peaceful demonstrations during the year.

On May 5, PROVEA and COFAVIC appealed for government investigations into excessive police force used against demonstrators and urged the government to respect the right of protest.

Among the examples of government disruptions of demonstrations were the following:

- On January 20, police used tear gas, plastic bullets, and water cannons to disperse a demonstration involving several thousand students gathered in Caracas to protest the February referendum. Government forces arrested four students and claimed to have confiscated Molotov cocktails, sacks of stones, and a gasoline container. The minister of justice stated that the students did not have a protest permit, and the president denounced the demonstration.
- During May 1 Labor Day marches, opposition demonstrators complained that members of the Caracas Metropolitan Police and National Guard prevented entrance to Carabobo Park and dispersed them with tear gas, rubber bullets,

and water cannons. Police blamed students for initiating the confrontation; the opposition alleged the government infiltrated provocateurs into the student march.

- During August 22 protests in Caracas against the educational reform law, the National Guard used tear gas, water cannons, and rubber bullets against demonstrators, claiming they were responding to rock and bottle throwing by demonstrators and to the dismantling of a police barricade. Media coverage showed largely peaceful protestors, although the National Guard chief claimed protestors were inciting violence. (See also section 1.e., Political Prisoners and Detainees.)

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 they generally operated without interference, professional and academic 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. The systematic political discrimination that HRW attributed to the Chavez administration in its September 2008 report continued during the year.

c. Freedom of Religion

The constitution provides for freedom of religion on the condition that its practice does not violate public morality, decency, or public order, and the government generally respected this right in practice. There were some efforts by the government to limit the influence of religious groups in certain geographic, social, and political areas.

In November authorities arrested six persons in connection with the December 2008 killings of an evangelical preacher, his wife, and daughter in San Jose de Guanipa. A trial was pending at year's end.

The Directorate of Justice and Religion in the Ministry of Interior and Justice maintains a registry of religious groups and disburses funds to religious organizations. Registration, involving largely administrative requirements, is required for legal status as a religious organization.

Foreign missionaries are required to have a special visa to enter the country, and they noted continuing difficulties, including refusals for first-time religious visas and, less frequently, for renewals. The government continued to prohibit foreign missionary groups from working in indigenous areas.

Societal Abuses and Discrimination

Government officials criticized specific Catholic bishops and the papal nuncio on several occasions and warned them to refrain from commenting on political issues.

In 2007 the Vatican granted political asylum to opposition student leader Nixon Moreno in the Holy See mission in Caracas; thereafter the government denied Moreno permission to leave the country. On January 19 and February 5, unknown perpetrators threw tear gas canisters at the mission, and on March 9, Moreno fled the mission, reportedly fearing that progovernment supporters would forcibly extricate him. March issues of the progovernment daily *Diario Vea* featured numerous articles and political cartoons accusing the nuncio and the Catholic Church of complicity in Moreno's departure, although no evidence was offered. In late October Peru granted Moreno political asylum.

There were an estimated 11,000 Jews in the country. Government-affiliated media outlets broadcast or printed numerous anti-Semitic comments. There was an increase in anti-Semitic vandalism, caricatures, and expressions at rallies and in newspapers. The host of *The Razorblade*, a progovernment talk show on state television, made frequent anti-Semitic slurs, and government-owned *Diario Vea* regularly published anti-Semitic comments. Incidents of sprayed graffiti, intimidation, vandalism, and other physical attacks against Jewish institutions were frequent.

Anti-Semitism was not officially condoned by the government, but in January following Israel's operations in Gaza, the government convoked several anti-Israel demonstrations and equated Israeli military actions against Palestinians to the Holocaust. These activities were accompanied by an increase in anti-Semitic rhetoric and graffiti, including vandalism of properties owned by Jews. President Chavez called on the Jewish community to denounce Israel's military actions, remarks interpreted by Jewish community members as intimidation.

On February 9, prosecutors charged eight police officers and three others in connection with the January 30-31 armed attack on and vandalization of Tiferet Israel Synagogue in Caracas, an attack the government condemned. Eleven suspects remained in prison at year's end awaiting trial.

On February 26, unknown assailants threw a small explosive device into the Caracas Hebrew Center. No investigation results were known at year's end.

For a more detailed discussion, see the *2009 International Religious Freedom Report* at www.state.gov/g/drl/rls/irf/.

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. There were individual complaints that government agencies denied passports and other official documents if individuals signed the petition in support of the 2004 recall referendum.

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

The law prohibits forced exile, and it was not used.

Protection of Refugees

The country is a party to the 1951 Convention relating to the Status of Refugees and its 1967 Protocol. Its laws provide for the granting of asylum or refugee status, and 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.

The UNHCR reported 14,317 (cumulative) applicants for refugee status in the country as of December, of whom 1,211 (cumulative) were recognized as refugees by the government. The UNHCR estimated that there were an additional 200,000 persons in need of international protection. During the year 2,796 persons applied for refugee status.

The government cooperated with the UNHCR and other humanitarian organizations in assisting refugees and asylum

seekers. The National Committee for Refugees had limited physical and human resources to address refugee issues, in addition to a lengthy process for examining individual refugee applications.

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 through periodic free and fair elections based on universal suffrage.

Elections and Political Participation

In 2006 voters reelected Hugo Chavez as president. Official observation missions from the European Union and the OAS deemed the elections generally free and fair but noted some irregularities.

In a February referendum deemed generally free and fair by international observers notwithstanding scattered reports of irregularities, voters approved a proposal to eliminate term limits for all elected officials. Before the referendum, the Venezuelan Episcopal Conference (CEV), opposition political parties, and leading NGOs questioned the legality and legitimacy of the referendum on the basis of the 2007 electoral defeat of a constitutional reform package that had included the elimination of presidential term limits. Prior to the February vote, those opposed to the referendum held a large number of demonstrations throughout the country (see section 2.b.).

During the year the central government and the National Assembly removed most of the responsibilities and funding from the Office of the Mayor of Greater Caracas, held by opposition leader Antonio Ledezma. In early January the government revoked the mayor's authority over the police force, hospital system, and sports and recreation facilities. On January 16, 40 armed masked men took over the Caracas city hall, tied up security guards, and refused access to the mayor and staff. On February 5, a conflict erupted between the mayor's staff and personnel from the Ministries of Housing and Culture; the media reported that an armed group attacked the mayor's staff. In April the National Assembly approved a law that transferred control of the city's budget and resources to a newly created position of vice president of the capital district, appointed by the president. Opposition parties protested this move as antidemocratic and undermining voter choice.

On August 12, President Chavez approved a new election law (passed by the National Assembly on July 31) that changed the country's proportional representation system to advantage majority parties greatly and gave the CNE broad discretion in redrawing voting-district boundaries and establishing electoral regulations and timetables. Smaller political parties expressed concern that the law would disadvantage them in the 2010 National Assembly election.

Opposition political parties operated in an atmosphere characterized by intimidation, violence, and restricted media access. Opposition political leaders and their families suffered physical assaults by unknown assailants and selective prosecutions. Progovernment militant groups--including "La Piedrita," "Alexis Vive," and "Los Tupamaros"--frequently issued threats against opposition figures (see also sections 1.e. and 2.a.).

On January 20, a progovernment group headed by Lina Ron stormed the meeting hall of a small political party (Bandera Roja), fired weapons, threw tear gas, and forced the building's evacuation. There was no police response.

On February 19, Carlos Azuaje, the brother of a National Assembly deputy, was shot and killed in Barinas. The deputy, who was expelled from the ruling PSUV in 2008 after accusing the Chavez family of corruption, blamed the killing on the Barinas governor, the president's brother, whom he accused of "inciting" the crime. Authorities arrested two suspects in the killing. A court convicted and sentenced one to 20 years' imprisonment in November; the second suspect's trial was

pending at year's end.

On September 14, the IACHR recommended that the government annul the disqualification of the former opposition mayor of Chacao, Leopoldo Lopez, and other current and former public officials whom the comptroller general had declared ineligible to run for elected office in 2008 based on allegations of misappropriation of public funds and corruption.

Following are examples of prosecutions of several key opposition leaders that were widely considered politically motivated and appeared selective:

- On March 19, authorities issued an arrest warrant for Maracaibo mayor and 2006 opposition presidential candidate Manuel Rosales on charges of illicit enrichment. Rosales went into hiding and eventually received political asylum in Peru. He stated that he did not believe he would have received a fair trial had he remained in-country.
- In early April authorities detained retired general Raul Baduel, former minister of defense and former ally of President Chavez, in a military prison on corruption charges that authorities originally had filed in October 2008. At year's end Baduel remained in detention and a trial was continuing.
- On April 24, authorities issued an arrest warrant for former Guarico State governor Eduardo Manuitt, a former government ally, for alleged embezzlement. On December 21, based on these charges, the comptroller general declared Manuitt ineligible to run for elected office for 15 years.
- In August authorities filed corruption charges against former government ally and former Aragua State governor Didalco Bolivar, who fled the country and sought political asylum abroad.
- In October the comptroller general opened an investigation against opposition Miranda State Governor Henrique Capriles Radonski for alleged corruption, tax evasion, and other financial crimes. Capriles also remained subject to old charges related to a violent demonstration in April 2002 outside the Cuban Embassy. Prosecutors reopened this case after a court of appeals annulled an October 2008 acquittal.
- On December 8, a court issued arrest warrants for former Sucre State governor Ramon Martinez, an ally-turned-critic of the president, and his son, on allegations of irregularities in housing development and fishing projects.

There were 29 women in the 167-seat National Assembly, five women in the 27-member cabinet, and 10 women among the 32 justices on the Supreme Court.

The constitution reserves three seats in the National Assembly for indigenous persons, which were filled in the 2000 election and remained occupied during the year. There is one indigenous member of the cabinet.

Section 4 Official Corruption and Government Transparency

The law provides criminal penalties for corruption by government officials; credible observers alleged the government did not implement the law effectively or fairly and frequently prosecuted its political opponents selectively on corruption charges to harass, intimidate, or imprison them.

The World Bank's governance indicators reflected that government corruption was a serious problem. There was a perception of widespread corruption at all government levels. Journalists reported several cases of apparent corruption implicating high-level government officials, but none was investigated.

Public officials are not subject to financial disclosure laws. The government agency responsible for combating government corruption is the Comptroller General's Office.

The law provides for citizen access to government information. Human rights groups reported that the government routinely ignored this requirement and their requests, did not make government information available, and usually did not give a reason for not providing it.

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, and government officials were somewhat responsive to their views. Major domestic human rights NGOs that operated independently from the government included COFAVIC, PROVEA, Network of Assistance, and the OVP.

In late May the government prohibited the attendance of three prominent civil society organizations (Active Citizenry, Public Space, and Transparency Venezuela) at the OAS General Assembly.

Many domestic NGOs reported threats, physical attacks, and harassment.

On July 9, the Inter-American Court of Human Rights removed the 2002-05 protection orders granting COFAVIC employees and its executive director, Lilian Ortega, a security detail. COFAVIC expressed concern about continued threats to their personal safety.

Government and ruling-party officials publicly criticized OVP Director Humberto Prado numerous times during the year. For example, in a March 19 television interview, PSUV political leader Gerson Perez accused Prado of promoting prison hunger strikes, and in a July university seminar, National Assembly Deputy Pedro Infante accused Prado of working with prison leaders to orchestrate hunger strikes.

The director of the NGO Window to Liberty, Carlos Nieto Palma, reported threats on August 19 from three police officers who visited his home.

The government continued to reject IACHR requests to conduct a human rights monitoring visit in the country, and by year's end no such permission had been granted. In October students demanded such an IACHR visit as one of the conditions for ending their hunger strike (see section 1.e.). The government's representative to the IACHR, German Saltron, told the press that the government would not accept such a visit because it objected to the continued tenure of IACHR Executive Secretary Santiago Canton due to his alleged support of the 2002 attempted coup. Students lifted a second hunger strike in December following a one-day visit by IACHR staff members to Caracas.

On November 25, the IACHR filed a case asking the Inter-American Court to order the government both to reinstate or compensate Mercedes Chocron Chocron for her arbitrary removal in 2003 as a temporary judge of the Metropolitan Caracas Criminal Court of First Instance and also to adopt "clear criteria and ensure guarantees in the appointment, tenure, and removal of judges."

In December 2008 the Supreme Court rejected and criticized the Inter-American Court judgment seeking reinstatement of three of the country's judges to the First Court of Administrative Disputes, a judgment that found the 2003 removal of the judges to be a violation of due process and that ordered reinstatement and compensation.

On June 30, the Inter-American Court ordered reinstatement of Judge Reveron Trujillo, who had been removed in 2002.

On August 27, two unknown persons shot at Jose Luis Urbano, president of the Foundation for the Defense of the Right to Education, near the city of Barcelona. Injured in a 2007 shooting attack, Urbano and other members of the foundation have been repeatedly targeted by unknown assailants and received death threats after having publicly condemned corruption and violations of the right to free education.

Although the ombudsman, named 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 Ombudsman's Office was not independent and rarely acted on public interest cases, and that the ombudsman was chosen in 2007 in a nontransparent process. Reports or recommendations issued by the office were not widely available.

The National Assembly's Subcommittee on Human Rights played an insignificant role in human rights debates.

Section 6 Discrimination, Societal Abuses, and Trafficking in Persons

Although the law prohibits discrimination based on race, gender, disability, language, or social status, discrimination against women, persons with disabilities, and indigenous persons was a problem.

Women

The law prohibits rape, including spousal rape. It is punishable by prison terms of eight to 14 years, although cases often were not reported to the police. A man may avoid punishment by marrying his victim before sentencing. There were no reliable statistics on the incidence of, or prosecutions or convictions for, rape.

The law prohibits domestic violence, and penalties range from six to 27 months in prison. Violence against women continued to be a problem. In October Supreme Court Justice Yolanda Jaimes Guerrero stated, "Every 15 minutes a woman is the victim of abuse by her partner. Every 10 days a woman dies in Caracas, the victim of violence by her husband, lover, or partner."

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, as well as trafficking, forced prostitution, sexual harassment, and slavery; it also establishes women's bureaus at local police headquarters and tribunals specializing in gender-based violence. Justice Jaimes Guerrero reported that between June 2008 and October 2009, the 29 specialized tribunals had received 55,916 cases, of which 23,443 had been processed. There was no information available on the results of these tribunal cases.

The law requires police to report domestic violence to judicial authorities and obligates hospital personnel to notify the authorities when they admit patients who are victims of domestic abuse. Police generally were reluctant to intervene to prevent domestic violence. Justice Jaimes Guerrero reported in October that the Public Ministry was investigating approximately 124,000 complaints of violence against women, although there was no publicly available information regarding the number of indictments, prosecutions, or convictions resulting from these investigations. The government sought to combat domestic violence through a public awareness campaign and a national victim-assistance hotline administered by the government's National Women's Institute (INAMUJER). According to the Director for the Prevention and Attention to Violence against Women, Florangel Parodi, between January and September there were 127,133 calls to the women's hotline. There were no reliable statistics available on the incidence of, or prosecutions or convictions for,

domestic violence.

Prostitution is legal. While there was no government information on the extent of prostitution, the local antitrafficking NGO Association of Women for Welfare and Mutual Help noted that prostitution was a serious problem, particularly in Caracas and domestic tourist destinations.

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

Couples and individuals had 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.

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 (CTV), these regulations were enforced in the formal sector, although women reportedly earned 30 percent less than men on average. INAMUJER 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

Citizenship is derived by birth within the country's territory. According to the UN Children's Fund (UNICEF), thousands of children were not officially registered at birth.

According to UNICEF and NGOs working with children and women, child abuse, including incest, occurred but was rarely reported. 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. Some children were occasionally engaged in commercial sexual exploitation and pornography. The law prohibits the production and sale of child pornography and establishes penalties of 16 to 20 years' imprisonment.

The human rights 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 (Mision Negra Hipolita) provided assistance to street children and the homeless.

Trafficking in Persons

The constitution prohibits slavery or servitude, and the law prohibits transnational trafficking in persons; however, there were reports of trafficking to, from, and within the country.

According to NGOs, the country was a source, destination, and transit country for men, women, and children trafficked for the purposes of commercial sexual exploitation and forced labor. An underdeveloped legal framework, economic conditions, and the relative ease with which fraudulent passports, identity cards, and birth certificates could be obtained created favorable conditions for trafficking. The Foreign Ministry reported in late November that police conducted 15 investigations and detained 11 persons in 2008-09 for trafficking crimes and that there were seven cases of repatriation of persons who had been trafficked abroad (to Trinidad and Tobago, Spain, and Romania) for sexual or labor exploitation; at year's end no further information was available.

According to a range of international organizations and NGOs, women and children from Brazil, Colombia, Peru, Ecuador, the Dominican Republic, and the People's Republic of China were reportedly trafficked to and through the country and subjected to commercial sexual exploitation or forced labor. Citizens were reportedly trafficked internally and to Western Europe, particularly Spain and the Netherlands, and to destinations in the region such as Mexico, Aruba, Curacao, the Dominican Republic, and Trinidad and Tobago for commercial sexual exploitation. The country was a transit country for undocumented migrants from other places in the region--particularly Peru and Colombia--and for Asian nationals, some of whom were believed to be trafficking victims. Subgroups particularly at risk included women and children from poor areas.

Organized criminal groups were widely believed to be involved in trafficking women and children to and through the country. Traffickers traveled to transport victims to large urban centers or resort destinations. In many cases traffickers reportedly placed ads for models in regional newspapers and then lured respondents to Caracas and other urban areas under false pretenses of employment.

Trafficking may be prosecuted under criminal laws against forced prostitution and trafficking, with penalties of up to 20 years for using force to coerce a victim to perform a sexual act for a third person, and under a law to protect children, with fines of one to 10 months' income for trafficking in children and two to six years' imprisonment for trafficking a child abroad. The law provides for sentences of 10 to 15 years in prison if the victim is an adult (or up to 18 years if the victim is a child or adolescent).

Government efforts to combat trafficking are the responsibility of the Public Prosecutor's Family Protection Directorate, the National Institutes for Women and Minors, and the Interior and Justice Ministry's Crime Prevention Unit, which is under the jurisdiction of the Vice Ministry of Citizen Security. Enforcement efforts generally were limited.

In some cases the government provided trafficking victims with psychological and physical examinations, but it did not operate shelters specifically for trafficking victims. The government operated a hotline and conducted information campaigns of uncertain effectiveness to prevent future trafficking cases.

The Department of State's annual *Trafficking in Persons Report* can be found at www.state.gov/g/tip.

Persons with Disabilities

The constitution prohibits discrimination against persons with physical and mental disabilities in education, employment, health care, and the provision of other state services. Persons with disabilities had minimal access to public transportation, and ramps were practically nonexistent. The law requires that all newly constructed or renovated public parks and

buildings provide access and prohibits discrimination in employment practices and in the provision of public services; however, 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.

Indigenous People

The law prohibits discrimination based on ethnic origin, and senior government officials repeatedly stated support for indigenous rights. However, there were complaints from some organizations and in the media of government mismanagement and paternalistic attitudes toward the indigenous population. Of the country's approximately 300,000 indigenous persons in 27 ethnic groups, many 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 creates three seats in the National Assembly for deputies of indigenous origin and also provides for "the protection of indigenous communities and their progressive incorporation into the life of the nation." Nonetheless, 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.

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. Following the alleged theft of 124 cattle on October 11, three Yukpa tribe members were killed, allegedly by other Yukpa members, on October 13. Authorities detained one Yukpa community leader that month in connection with the killings, but no further information was available at year's end.

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 ruled in March 2008 that no individual may be discriminated against by reason of sexual orientation in any way that implies treatment in an unequal fashion. This prohibition was generally respected in practice.

There were no reliable statistics on societal violence or discrimination based on sexual orientation, although violence against lesbian, gay, transgender, and bisexual communities reportedly occurred during the year. The media reported that four transgender persons were killed in Caracas between November 2008 and May and that nine transgender persons were killed in Caracas and Zulia State between January and October. The media also noted that victims of hate crimes based on sexual orientation frequently did not report the incidents.

Other Societal Violence or Discrimination

According to the NGO Citizen Action against AIDS, persons diagnosed with HIV/AIDS frequently were discriminated against at the workplace and often were refused access to government health services.

Section 7 Worker Rights

a. The Right of Association

While 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, according to labor sources and media reports the government continued to undermine this right by restricting the composition of union leadership and refusing to negotiate collective bargaining agreements. Approximately 10 to 12 percent of the 12-million-person labor force was unionized.

Although the law recognizes the right of all public and private sector workers to strike in accordance with conditions established by labor law, public servants may strike only if the strike does not cause "irreparable damage to the population or to institutions." Replacement workers are not permitted during legal strikes, and 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."

There were no government-provided statistics available on newly registered trade union organizations during the year, but other sources estimated that the number of such organizations remained relatively stable at approximately 6,200. According to labor leaders, the government was responsible for many of these organizations, as it sought to create "parallel" unions to dilute the membership and effectiveness of traditional unions.

The CNE has the authority to administer internal elections of labor confederations. Labor unions complained of long delays in obtaining CNE concurrence to hold such elections and in receiving certification of the election results.

According to union leaders, the government organized groups of parallel construction unions to attack and intimidate construction workers affiliated with the CTV to gain control of lucrative construction projects. According to PROVEA, 46 reported deaths were associated with union clashes from October 2008 through September 2009. According to statistics maintained by a respected academic, there was an average of 75 new or ongoing labor conflicts each month between January and August.

At year's end the government continued to refuse to adjudicate or resolve the cases of 19,000 state-owned petroleum-company 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.

The International Trade Union Confederation (ITUC) 2009 Annual Survey of violations of trade union rights reported that labor conflicts (related to recruitment practices in the construction and oil sectors and, to a lesser extent, in basic industries) generated acts of violence ranging from physical and verbal assaults to killings. According to PROVEA, in the period between September 2008 and October 2009, at least 88 workers, including 16 union leaders, were affected by violence. The ITUC survey also stated that the president called on trade unions to join the PSUV.

In January authorities charged and detained Julio Cesar Arguinzonez in connection with the November 2008 killings of three trade union leaders (Richard Gallardo, Carlos Jose Requena, and Luis Hernandez) in Aragua State at the time of a collective bargaining dispute. The April preliminary court hearing accepted the indictment and ordered that Arguinzonez remain in custody pending trial.

b. The Right to Organize and Bargain Collectively

The law provides that all public and private sector workers have the right to conduct their activities without interference

and protects collective bargaining. The law stipulates that employers must negotiate a collective contract with the union that represents the majority of their workers. The International Labor Organization (ILO) objected to this provision and requested that the government amend it. Due to the expired status of many public sector collective bargaining agreements, only 9 percent of the sector's workers were covered by them.

On July 14, Energy and Petroleum Minister Rafael Ramirez told oil and gas workers that he would not negotiate a new collective bargaining agreement with unions unsupportive of the government. After seven postponements, the CNE convoked union elections in October, and the government-supported slate of candidates won--with substantial financial support from both the state-owned petroleum company and the government and with the open endorsement of the minister and other officials.

According to PROVEA, more than two million public sector employees worked under expired collective agreements during the year. The leader of the largest national union federation, the National Workers' Union, stated that the framework agreement for public administration has not been discussed for four years and the one covering Labor Ministry employees has not been discussed for 17 years. There were no developments reported during the year concerning the formal complaint lodged with the ILO by the Teachers' Federation and its 27 affiliated organizations to request that the government restore its collective bargaining rights, which were blocked in 2006.

There are no special laws or exemptions from regular labor laws in the sole export processing zone.

c. Prohibition of Forced or Compulsory Labor

While the law prohibits forced or compulsory labor, including by children, there were reports of trafficking in children for employment purposes, particularly in the informal economic sector (see also section 7.d.).

d. Prohibition of Child Labor and Minimum Age for Employment

The law protects children from exploitation in the workplace. 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.

Children most frequently worked in agriculture, retail trade, hotels, restaurants, manufacturing, and community and social services. The Community Center of Apprenticeship, a domestic NGO promoting the rights of children, estimated that there were approximately one million minors working and that a large percentage of them did not receive the salary and benefits due to them under the law. According to the government, in 2006, 131,902 boys and 10,196 girls worked in the agricultural sector, 3,772 boys and 10,285 girls worked in industrial manufacturing, and 36,106 boys and 746 girls worked in construction. Indigenous children were reportedly trafficked and forced to work as miners and prostitutes in illegal gold mining camps.

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 the permission of their legal guardians. Those under 16 years of age 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 or smelting factories, in occupations that risk life or health or could damage intellectual or moral development, or in public spectacles. Fines are established for employing children ages eight to 11 and for employing a 12- or 13-year-old 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 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 are increased 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. The law establishes sentences of one to three years' incarceration for forced child labor. There were no substantiated reports that these penalties were enforced.

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 programs.

e. Acceptable Conditions of Work

The minimum wage is established and updated annually by the Ministry of Labor, which according to law should consult publicly when proposing changes. However, union leaders alleged the ministry does not carry out such consultations.

On April 30, President Chavez announced a 20 percent increase in the monthly minimum wage and in the salaries of all public sector employees. This increase was implemented in two increments--the first 10 percent as of May 1 and the second 10 percent as of September 1--for a total of 966.79 Bs.F (approximately \$450). The 20 percent increase was below the country's recent annual inflation rate of 25-30 percent, so workers receiving it suffered a decline in real annual purchasing power. The minimum wage did not provide a decent standard of living for a worker and family. The Labor Ministry enforced minimum wage rates effectively in the formal sector, but approximately half the population worked in the informal sector, where labor laws and protections generally were not enforced.

The law stipulates that the work week 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 ministry effectively enforced these standards in the formal sector.

While the constitution provides for secure, hygienic, and adequate working conditions, authorities conducted infrequent inspections to implement the health and safety law. 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. Numerous complaints of unsafe conditions, resulting in several deaths at state-owned industrial plants, continued in Bolivar State. In practice ministry inspectors seldom closed unsafe job sites. Under the law workers may remove themselves from dangerous workplace situations without jeopardy to continued employment.