

# VENEZUELA 2013 HUMAN RIGHTS REPORT

## EXECUTIVE SUMMARY

Venezuela is formally a multi-party constitutional republic, but in recent years, political power has been concentrated in a single party with an increasingly authoritarian executive exercising significant control over the legislative, judicial, human rights ombudsman, and electoral branches of government. On April 14, authorities announced that Nicolas Maduro had won the presidency by a 1.49 percent margin, amid allegations of pre- and post-election fraud based on a number of irregularities, including government interference, the use of state resources by the ruling party, and voter manipulation. The electoral and judicial bodies rejected the opposition's claims and refused to conduct a full audit of the electoral process. The Union of South American Nations electoral "accompaniment" delegation urged all parties to respect the election results while publicly supporting an audit of the results. Some domestic election observation groups, nongovernmental organizations (NGOs), and the Institute for Advanced European Studies (IAEE) questioned the constitutional legitimacy of Nicolas Maduro's election. Authorities maintained effective control over security forces. Security forces committed human rights abuses.

The principal human rights abuses reported during the year included corruption, politicization of the judicial system, and government actions to impede freedom of expression and restrict freedom of the press. The government did not respect judicial independence or permit judges to act according to the law without fear of retaliation. The government used the judiciary to intimidate and selectively prosecute political, union, business, and civil society leaders who were critical of government policies or actions. The government harassed and intimidated privately owned television stations, other media outlets, and journalists throughout the year, using threats, fines, property seizures, targeted regulations, arrests, and criminal investigations and prosecutions.

In addition, the following human rights problems were reported by NGOs, the media, and in some cases the government itself: unlawful killings, including summary killings by police elements; torture and other cruel, inhumane, or degrading treatment; harsh and life-threatening prison conditions and lack of due process rights that contributed to widespread violence, riots, injuries, and deaths in prisons; inadequate juvenile detention centers; arbitrary arrests and detentions; corruption and impunity in police forces; political prisoners; interference with privacy rights; corruption at all levels of government; threats against domestic

NGOs; violence against women; anti-Semitism in the official media; trafficking in persons; violence based on sexual orientation and gender identity; and restrictions on workers' right of association.

The government sometimes took steps to punish lower-ranking government officials who committed abuses, but there were few investigations or prosecutions of senior government officials for alleged corruption or abuses.

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

### **a. Arbitrary or Unlawful Deprivation of Life**

Although the government reported no statistics on arbitrary or unlawful killings, NGOs received numerous reports that such killings occurred, including involvement by national, state, and municipal police entities, as well as the armed forces. The Public Ministry's Office of Fundamental Rights is charged with investigating cases involving security force killings. The NGO Venezuelan Program for Education/Action on Human Rights (PROVEA) reported 138 extrajudicial killings in 2012.

Although there was no official information available on the number of public officials prosecuted or sentenced to prison for involvement in extrajudicial killings, the media reported that in 2011 the government reported 8,813 killings committed by police but classified those killings as "resistance to authority." Of those, 97 percent were dismissed or remained pending with no action taken by the Public Ministry.

The Committee for the Families of Victims of February 1989 (COFAVIC) reported that in 2012, 37 percent of killings classified as "resistance to authority" by the government involved members of the Scientific, Penal, and Criminal Investigative Corps (CICPC), and 21 percent involved regional and municipal police. According to NGOs, prosecutors occasionally brought cases against such perpetrators, but prosecutions often resulted in light sentences, and convictions often were overturned on appeal.

In response to high crime rates and public pressure, on May 13, President Maduro launched the military-civilian crime prevention program, "Safe Homeland Plan." Under the program more than 50,000 central government law enforcement officials and military troops--including Venezuelan Armed Forces (FANB), Bolivarian National Guard (GNB), CICPC, and Venezuelan Intelligence Service (SEBIN)--

were dispatched to 14 states and the Caracas metropolitan area to prevent crime. The media reported that in the first seven weeks after the implementation of the plan, security officials killed 49 individuals nationwide. COFAVIC and PROVEA expressed concern that the Safe Homeland Plan resulted in increased extrajudicial killings committed by security forces, primarily among poor youth in low-income neighborhoods.

Since 2006 COFAVIC reported cases of what it defined as extrajudicial killings in 20 states committed by elements within local and state police forces. COFAVIC reported that these groups systematically and arbitrarily detained and killed individuals (mainly young people from lower social classes) without any recourse to or proper investigation by the government.

On March 8, 12 CICPC officials were arrested for killing Karen Berendique, the daughter of the honorary Chilean consul in Maracaibo, and transferred to a detention center in Caracas. By year's end the court had not set a trial date.

On May 15, Roniel David Barrios Alzul was found stabbed to death in Aragua state. Barrios Alzul was a beneficiary of provisional measures handed down by the Inter-American (IA) Court of Human Rights. In 2011 the IA Court issued a judgment that faulted the government for the alleged extrajudicial execution of Benito Antonio Barrios and Narciso Barrios and failure to prosecute state police officials who killed them. After the IA Court's ruling, seven other family members were killed, even though the ruling required the government to protect the family. Roniel David Barrios Alzul, son of one of the first Barrios family victims killed in 2004, was the 10th family member killed. On September 13, three CICPC officials entered the home of the Barrios family without a warrant and threatened family members.

On July 3, CICPC officials allegedly killed five individuals in three different Caracas neighborhoods during security operations. Family members reported that the victims were unarmed. According to news reports, in one incident CICPC officials broke into the home of Jesus Alberto Estevez Padilla and shot him four times while he was sleeping. According to Estevez' mother, Angela Padilla, the officials also took clothes and 45,000 Venezuelan bolivars (Bs) (\$7,143). In the same neighborhood, CICPC officials reportedly entered the home of Luis Alfredo Ramos and shot and killed him while he was sleeping. In the third case, CICPC officials reportedly killed Arnaldo Esteban Trejo Elles, Fernando Davinson Pinto Avila, and Jorge Richard Parada Laguna. CICPC officials allegedly arrived at the

construction site where the three individuals were employed, yelled, shot their guns, and demanded to see the “labor unionists.”

The government continued to prosecute individuals connected with the 1989 killings in Caracas known as the “Caracazo,” in which the Public Ministry estimated 331 individuals died, and the 1988 El Amparo massacre, in which government security forces allegedly killed 14 persons. On February 26, President Maduro announced the payment of approximately Bs 12.2 million (\$1.9 million) in reparations to 34 families whose family members were killed in the Caracazo. Attorney General Luisa Ortega Diaz said that as of October 7, her office had conducted 125 exhumations and 223 technical inspections related to the Caracazo investigations.

On February 26, then vice president Maduro announced the creation of a Truth Commission to investigate and prosecute crimes that occurred between 1950 and 1990. In May 2012 the Supreme Court (TSJ) overturned a 2006 lower court ruling dismissing charges against three military officials and reopened criminal proceedings against army officers Pedro Colmenares Gomez, Carlos Miguel Yanez Figueredo, and Jesus Francisco Blanco Berroteran for their alleged involvement in the death of Crisanto Mederos, one of the Caracazo victims. Despite the criminal proceedings against him, on April 30, the FANB promoted Carlos Miguel Yanez Figueredo to brigadier general of the 35th Police Military Command in Caracas.

In 2011 the Public Ministry established a special commission pursuant to the 2011 Law to Punish Crimes, Disappearances, Torture, and Other Human Rights Violations for Political Reasons in the Period 1958-98 (Law against Forgetting). The commission announced it had opened 146 investigations during the year.

## **b. Disappearance**

There were no substantiated reports of politically motivated disappearances.

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

Although the constitution states that no person shall be subjected to cruel, inhumane, or degrading punishment, there were credible reports that security forces tortured and abused detainees. On July 22, President Maduro signed the Prevention and Punishment of Torture and other Inhumane, Cruel, and Degrading Treatment Law. The law states that an agent or public official who inflicts pain or

suffering--whether physical or mental--on another individual to obtain information or a confession or seeks to punish an individual for an act the individual has committed could face up to 25 years in prison. A public official could also be dismissed from office and barred from holding public office for up to 25 years. The law also sanctions coconspirators or collaborators for the same amount of time. Prison and detention center officials who commit torture can face up to five years in prison and fines up to Bs 53.5 million (\$8.5 million). The law also includes mechanisms for reparations to victims and their families and creates a special National Commission for Torture Prevention composed of several government ministries. On August 31, the commission announced that within two months it would release a national action plan focused on abolishing and eradicating all forms of torture in all the uniformed services. At year's end the commission had not released the plan.

The Public Defender's Office did not publish statistics for the year regarding allegations of torture by police; however, PROVEA reported 76 victims of torture and "cruel, inhumane, and degrading treatment" as of May 13, compared with 42 victims in all of 2012. Most of these incidents occurred during protests on April 15 and April 16, in the immediate aftermath of the April 14 presidential elections.

Human rights groups continued to question the commitment of the prosecutor general and the public defender to conduct impartial investigations. No data were available on convictions in cases of alleged torture.

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

On July 25, the Public Ministry charged Colonel William Serrano Fermin, Lieutenant Jaime Jaramillo Navas, and Sergeant Gerson Ramirez Estevez, members of a GNB special forces team stationed in Caracas, for torturing and killing GNB Corporal Diosny Manuel Guinand. On September 8, the Public Ministry arrested and charged three additional individuals, Lieutenant Victor Median Arvelo, Lieutenant Kenny Joel Hernandez, and Sergeant Guillermo Marin Alvarado, as accomplices to torture and forced disappearance. According to the Public Ministry investigation, between June 30 and July 1, Serrano, Jaramillo, and Estevez took Guinand to a creek where they interrogated and tortured him until Guinand revealed the location of a missing firearm. Autopsy reports showed

Guinand had mud and water in his lungs and stomach; medical examiners concluded that he had died from asphyxiation by drowning. All six suspects remained in detention at year's end pending trial.

### **Prison and Detention Center Conditions**

Prison conditions were harsh and life threatening due to poorly trained and allegedly corrupt prison staff; violence and alleged extortion by guards and inmates, some of which was gang related and fueled by trafficking in arms and drugs; severe overcrowding in most prisons; lack of adequate medical care; and shortages of food and potable water. NGOs and the press frequently claimed prison gang leaders, rather than government authorities, controlled the prisons.

Physical Conditions: The Ministry of Penitentiary Services reported there were 52,933 inmates in the country's 32 prisons and penitentiaries. The NGO Venezuelan Observatory for Prisons (OVP) reported approximately 6 percent (3,342) of inmates were women and estimated prisons nationwide held more than three times their estimated capacity of 14,500 inmates. Pretrial detainees and convicted prisoners were held in the same facilities. Women and men generally were held in separate prison facilities. The OVP stated that women's facilities were generally less violent than those for men. 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.

CICPC and police station jails and detention centers also faced overcrowding during the year, causing police station offices to be converted into makeshift prison cells. Prisoners slept on floors and office chairs. In Caracas seven jails and detention centers with an estimated capacity of 197 held more than 300 detainees awaiting transport to their assigned prisons.

The National Guard and the Ministry of Interior, Justice, and Peace have responsibility for prisons' exterior and interior security, respectively. The government failed to provide adequate prison security. The OVP reported 289 prisoner deaths during the first six months of the year, compared with 304 in the same period of 2012, a decrease of 5 percent. Most deaths and injuries resulted from prisoner-on-prisoner violence, riots, fires, and generally unsanitary and unsafe conditions. The OVP also reported 423 prisoner injuries during the first six months of the year, compared with 671 in the same time in 2012.

During the year persistent prison riots resulted in inmate deaths and injuries. On January 25, a clash between prisoners and government authorities at Uribana Prison in Lara state reportedly left more than 64 inmates dead and 123 injured, according to NGOs. Official government statistics cited 54 dead and 101 prisoners injured. According to press reports, prisoners rebelled when authorities tried to inspect the prison for illicit arms and contraband. On January 27, the National Assembly announced it would create a special working group to investigate who was responsible for the prison killings but had not released its final report at year's end. The Public Ministry opened an investigation of the incident but did not provide information on the investigation at year's end.

According to news reports, 66 prisoners were killed during various incidents in the first nine months of the year in Sabaneta Prison in Zulia state. On September 16, a riot broke out between rival prison gangs in Sabaneta Prison, resulting in the deaths of 16 individuals; on September 19, authorities evacuated 628 prisoners from the prison to permit a thorough inspection of the facility. The Ministry of Prisons had not investigated the incident by year's end. The OVP reported that Sabaneta had become the most violent prison in the country.

The government failed to investigate the killings that occurred during the April-May 2012 riot at the La Planta Penitentiary in downtown Caracas and the 26-day riot that began on July 2 at the Central Penitentiary of the Andean Region in Merida state.

Statistics were not available regarding deaths in prison during the year due to HIV/AIDS, tuberculosis, and lack of medical care. A 2011 study by the NGO Solidarity Action found that prison rules regarding the classification of inmates resulted in the isolation of those with HIV/AIDS in "inadequate spaces without food and medical attention."

Administration: The government's recordkeeping on prisoners was inadequate. Prison authorities did not maintain accurate counts of inmates. On February 15, Minister Varela admitted that the Ministry of Penitentiary Services controlled only 14 of the country's 32 prisons. On November 7, Minister Varela announced that after inspections for illicit arms and contraband, 80 percent of prisons were now free of firearms. According to press reports, the last correct daily counts at the General Penitentiary of Venezuela and the La Planta Penitentiary occurred in 2009 and 2010, respectively.

In June 2012 the president Chavez enacted a reform of the code of criminal procedures (COPP) that establishes municipal courts to handle “less serious” crimes, i.e., those involving imprisonment of less than eight years. Under the reform municipal courts can levy penalties that include three to eight months of community service. Besides diverting some “less serious” crimes to the municipal courts, the reform also permits individuals accused of “lesser crimes” to ask the courts to conditionally suspend their trials in exchange for their admission of responsibility, commitment to provide restitution “in a material or symbolic form,” community service, and any other condition imposed by the court. The Public Ministry inaugurated 17 municipal courts in 11 of 23 states during the first six months of the year.

During the year prisoners conducted hunger strikes and violent uprisings to protest administrative delays and harsh prison conditions. The government did not respond to most requests from independent organizations to investigate these conditions. The Ministry of Penitentiary Services did not respond to any of the requests it received regarding inmates from the OVP. According to the OVP and press reports, Minister Iris Varela did not respond to demands of inmates and relatives to meet to discuss prison conditions.

Prisoners and detainees could observe their religious practices and had access to visitors, but in some cases, prison officials allegedly harassed or abused visitors.

Independent Monitoring: Human rights observers continued to experience lengthy delays and restrictions in accessing prisons and detention centers. The International Committee of the Red Cross (ICRC) did not have access to prisons except the two for security detainees controlled by SEBIN and the military. The Venezuelan Episcopal Conference of the Roman Catholic Church had more than 300 lay members who volunteered in 40 prisons. Although prohibited from formally entering prisons, Catholic laity visited prisoners during family visitation days.

During the year the Inter-American Commission on Human Rights (IACHR) issued a statement expressing concern over the violent riot in Uribana Prison. The IACHR statement referenced the government’s obligation to adopt urgent measures to guarantee the rights to life and personal integrity of prisoners. There were eight prisons under provisional measures by the IACHR. The IA Court continued its review of penitentiaries pursuant to its 2006 decision regarding the need for improvement of prison conditions.



Improvements: On June 4, Minister Varela announced the implementation of the Cayapa Judicial Plan to address trial delays faced by prisoners in pretrial detention. Beginning in June more than 300 government officials, including judges, prosecutors, and public defenders, travelled to prisons nationwide to process cases. In addition, the plan provided social services and medical attention to prisoners and prisoners' families. On August 28, Minister Varela announced the plan had serviced approximately 30,000 prisoners in more than one-half of the prisons in the country. The Ministry of Penitentiary Services reported that 933 prisoners were employed in 22 bakeries, 10 farms, 10 textile workshops, seven carpentry centers, 15 maintenance crew teams, and eight poultry farms in 2012. The government also reportedly seized 520 firearms and 103,860 bullets in prisons in 2012. On November 7, Minister Varela announced that as a result of increased inspections and firearm seizures during the year, there were no prison riots.

#### **d. Arbitrary Arrest or Detention**

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

On April 15-16, opposition supporters throughout the country marched to their regional National Electoral Council (CNE) headquarters to demand a full recount of the April 14 election results. According to the NGO Criminal Forum, GNB officials in Lara, Carabobo, and Barinas states arbitrarily detained 195 individuals for protesting the April 14 presidential election results. Criminal Forum reported that 11 of those individuals remained in detention at year's end.

On June 14, the 17th Trial Court of Caracas granted conditional release to Maria Lourdes Afiuni, who was accused of corruption and abuse of authority for her 2009 decision to release imprisoned banker Eligio Cedenó. Afiuni was required to appear before the court every 15 days and could not leave the country, talk to media, or use social media. On July 30, an appeals court denied Afiuni's subsequent request to use social media. On October 23, the 17th trial court postponed Afiuni's case. No hearing was scheduled by year's end.

Afiuni's lead attorney, Jose Amalio Graterol, remained free at year's end after being found guilty of "obstruction of justice" in an unrelated December 2012 case.

## **Role of the Police and Security Apparatus**

The GNB, a branch of the military that reports to both the Ministry of Defense and the Ministry of Interior, Justice, and Peace, is responsible for maintaining public order, guarding the exterior of key government installations and prisons, conducting counternarcotics operations, monitoring borders, and providing law enforcement in remote areas. The Ministry of Interior, Justice, and Peace controls the CICPC, which conducts most criminal investigations, and SEBIN, which collects intelligence within the country and is responsible for investigating cases of corruption, subversion, and arms trafficking. Police include municipal, state, and national police forces. Mayors and governors oversee municipal and state police forces. The Bolivarian National Police (CPNB) reports to the Ministry of Interior, Justice, and Peace and had 14,478 officers at year's end. The CPNB largely focused on policing one Caracas municipality and had a minimal presence in eight of the country's 23 states. The CPNB patrolled Caracas-area highways, railways, metro system, and diplomatic missions.

Corruption, inadequate police training and equipment, and insufficient central government funding, particularly for police forces in states and municipalities governed by opposition officials, reduced the effectiveness of the security forces. There were continued reports of police abuse and involvement in crime, including illegal and arbitrary detentions, extrajudicial killings, kidnappings, and the excessive use of force. According to a PROVEA report, of the 164 killings committed by security forces in 2012, CICPC officials were responsible for 45 deaths and the FANB and GNB for 13.

Impunity remained a serious problem in the security forces. The Public Ministry is responsible for initiating judicial investigations of security force abuses. The Office of Fundamental Rights in the Public Ministry is responsible for investigating cases involving crimes committed by public officials, particularly security officials. Crimes include homicides, injuries, arbitrary detention, torture, abuse of authority, and forced disappearances. According to the Public Ministry's annual report for 2012, the Office of Fundamental Rights handled 19,526 cases but did not indicate the types of crimes or security body. Of these cases, approximately 1 percent resulted in indictments; the remainder were either dismissed or suspended. The Public Defender's Office did not provide information regarding human rights violations committed by police and military officers.

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

According to the NGO Network of Support for Justice and Peace, the lack of sufficient prosecutors made it difficult to prosecute police and military officials allegedly involved in human rights abuses. In addition, NGOs reported that the following problems contributed to an ineffective judicial system: long procedural delays, poor court administration and organization, lack of transparency in investigations, and impunity of government officials.

During the year the government at both the local and national levels took some actions to sanction officers involved in abuses.

On July 4, the GNB reportedly shot and killed Luiminer Pacheco and her 15-year-old daughter Gabriela Perez Pacheco in Falcon state. Witnesses reported that 20 to 25 GNB officials shot at their car approximately 50 times and then left the scene. According to news reports, GNB officials mistook Pacheco's vehicle for a fugitive's escape car. Shortly after the incident, authorities arrested 13 GNB officials and on August 21 charged them with homicide and misuse of weapons. The 13 officials remained imprisoned while their trial was pending at year's end.

On August 14, authorities arrested SEBIN official Luis Javier Correa Arroyo, GNB official Oryaniel Abraham Mendez Diaz, and municipal police officer Nazareth Gonzalez Blanco for robbing two individuals at an ATM machine in Miranda state. A trial was pending at year's end.

The National Experimental University for Security (UNES), tasked with professionalization of the law enforcement training for CPNB and other state and municipal personnel, had centers in Caracas and five other cities. UNES requires human rights training as part of the curriculum for all new officers joining the CPNB, state, and municipal police forces. Members of the CPNB, state, and municipal police forces also enrolled for continuing education and higher-learning opportunities as part of the Special Plan of Police Professional at UNES.

Societal violence remained high and continued to increase. The NGO Venezuelan Observatory of Violence (OVV) reported morgues received 17 cadavers per day of

individuals killed in violent acts, compared with 13 cadavers per day in 2012. Based on these numbers, the OVV estimated at least 25,000 homicides nationwide during the year. On March 21, the Ministry of Interior, Justice, and Peace reported 16,072 homicides in 2012, compared with 14,092 in 2011. Criminal kidnappings for ransom were widespread in both urban centers and rural areas; kidnappings included both “express kidnappings,” in which victims were held for several hours and then released, and traditional kidnappings. According to the press (using police data), there were 309 kidnappings between January and October. NGOs and police noted that many victims did not report kidnappings to police or other authorities.

On October 30, Minister of Interior, Justice, and Peace Miguel Rodriguez Torres stated that the Safe Homeland Plan was responsible for a 28 percent reduction in homicides nationwide since the plan’s implementation. In addition, Minister Rodriguez Torres stated there was a 33 percent reduction in “serious crimes” such as homicides and kidnappings in the areas where the plan was implemented. On June 25, Minister Rodriguez Torres stated that security officials arrested 486 homicide suspects and 1,700 other suspects involved in crime-related activities, disbanded 83 illegal gangs and arrested 266 gang members, recovered 1,750 stolen cars, and seized 575 illegal firearms since the plan’s implementation. Conversely, local news reports stated that homicides and crime in Caracas had increased since the plan’s inception. In addition PROVEA and the media reported that FANB personnel involved in the Security Homeland Plan unlawfully killed between five and seven individuals following the plan’s inception in May.

### **Arrest Procedures and Treatment of Detainees**

A warrant is required for an arrest or detention. Detention is possible without an arrest warrant when the individual is caught in the act of committing a crime. Individuals were sometimes apprehended without warrants from judicial authorities. Detainees must be brought before a prosecutor within 12 hours and before a judge within 48 hours to determine the legality of the detention. The law requires that detainees be informed promptly of the charges against them, and the requirement was generally met.

Although there is a functioning system of bail, it is not available for certain crimes. Bail also may be denied if a person is apprehended in the act of committing a crime or if a judge determines there is a danger that the accused may flee or impede the investigation. The law requires allowing detainees access to counsel and family members, and the requirement was generally met. A person accused of

a crime may not be detained for longer than the possible minimum sentence for that crime or for longer than two years, except in certain circumstances, such as when the defendant is responsible for the delay in the proceedings.

Arbitrary Arrest: The NGO Criminal Forum reported 195 cases of arbitrary detention in Valencia, Barquisimeto, Barinas, and Caracas that occurred on April 15 and April 16 following the April 14 presidential elections. Most individuals were reportedly detained during postelection protests. Detainees claimed that security personnel subjected them to inhumane and degrading treatment. Eighteen individuals were released conditionally after a few days in detention and charged with public misconduct, disturbing the peace, resistance to authority, and destruction of government property. Individuals had to present themselves to the court every 15 days, were prohibited from leaving the country, and could not engage in public protests. Their cases remained open at year's end.

In October 2012 Ana Maria Abreu, a physician who worked for 12 years in a building across from the Miraflores presidential palace, was released after 48 days of arbitrary detention on charges of leaking "political or military secrets concerning the security of Venezuela" from 2010 to 2012. Authorities took no further action on her case at year's end.

Pretrial Detention: Pretrial detention was a serious problem. According to the OVP, of the 52,933 prisoners in prison, only 17,591 were serving sentences, while the rest faced trial delays. According to the TSJ, only 17 percent of trials concluded or reached sentencing. The NGO Citizen Observatory of the Penal Justice System attributed trial delays to the shortage of prosecutors and penal judges (4.7 penal judges per 100,000 inhabitants in 2010). The Public Ministry's 2012 annual report indicated it had 776 prosecutors, of whom 683 processed criminal cases. The Public Ministry reported it processed 627,833 cases during the year, of which 622,442 were criminal investigations. According to media reports, the country required 70 percent more prosecutors and 50 percent more judges to handle the large number of criminal cases.

TSJ President Gladys Gutierrez stated that cases were often deferred or suspended when pertinent parties, such as the prosecutor, public defender, or judge were absent. In an effort to reduce pretrial delays, on July 30, the TSJ announced implementation of an information system that automatically scheduled trial hearings around the availability of the prosecutor, public defender, and judge handling each case. The automated calendar would select dates based on the availability of all pertinent parties in order to avoid suspending or deferring the

trial. Judges were prohibited from scheduling more than 10 hearings per day in order to avoid overscheduling. During the first three months of its implementation, the system reportedly increased the backlog because of fewer scheduled hearings. In some instances, judges scheduled hearings six months from the start of the case.

According to the Public Ministry's 2012 annual report, approximately 1 percent of the 390,799 cases involving common crimes actually went to trial. The Public Ministry reported it closed 365,996 of those cases but did not indicate the final outcomes. Prisoners reported that a lack of transportation and the disorganization of the prisons reduced their access to the courts and contributed to trial delays.

#### **e. Denial of Fair Public Trial**

While the constitution provides for an independent judiciary, there was significant evidence that the judiciary lacked independence. There were credible allegations of corruption and political influence throughout the judiciary. According to reports, more than 60 percent of all judges had provisional appointments. TSJ justices, elected by the National Assembly, sat on the TSJ's Judicial Committee responsible for hiring and firing temporary judges, which it did without cause or explanation. Provisional and temporary judges, who legally have the same rights and authorities as permanent judges, allegedly were subject to political influence from the Ministry of Interior, Justice, and Peace and the prosecutor general. On June 12, the TSJ appointed one of late president Hugo Chavez's brothers, Argenis Chavez Frias, as director of the Executive Office of the Judiciary (DEM). The DEM's responsibilities are administration management and oversight of funding and human resources of the judiciary branch. NGOs criticized the appointment of Argenis Chavez as a further threat to the autonomy of the justice system. An engineer by trade, Argenis Chavez had no prior experience in the justice system. PROVEA reported that in 2012 the TSJ rejected all cases publicly reported against the main organs of government (the presidency, National Assembly, and Prosecutor General's Office). Only 7.4 percent of cases submitted to the TSJ in 2012 against public institutions were accepted, and they were primarily against the CNE and comptroller general.

On February 27 and March 6, respectively, the Public Ministry charged opposition Popular Will party leader Leopoldo Lopez and his mother, Antonieta Mendoza de Lopez, for illicit trafficking and embezzlement. The Public Ministry stated Leopoldo Lopez used his mother's position at the state oil company, Venezuelan Petroleum (PDVSA), to receive campaign contributions in 1998. On May 30, the Public Ministry charged Lopez for corruption based on his alleged misuse of

budget resources when he served as Chacao (Caracas municipality) mayor in 2002. Lopez denied the charges, claiming the cases against him and his mother were politically motivated.

### **Trial Procedures**

Defendants are considered innocent until proven guilty. The law requires detainees be informed promptly of the charges against them, and the requirement was generally respected. The law provides for open, public, and fair trials with oral proceedings for all individuals. In June 2012 then president Hugo Chavez enacted a reform of COPP that eliminated trial by jury. Defendants have the right to consult with an attorney. Public defenders are provided for indigent defendants, but there continued to be a shortage of such attorneys. The Public Defender's Office reported that between October 2011 and October 2012, the latest data available, the number of public defenders increased from 876 to 910. Public defenders represented 90 percent of prisoners.

While defendants and their attorneys have the right to access government-held evidence, access often did not occur; in some instances, particularly in politically motivated cases, the court or prosecution did not allow defendants or their attorneys access to information. Under the reformed COPP, defendants can request no less than 30 days and no more than 45 days to prepare the defense. Defendants have the right to question adverse witnesses and present their own witnesses. By law, defendants cannot be compelled to testify or confess guilt. Defendants and plaintiffs have the right of appeal. Trial delays were common. The reformed COPP permits trials "in absentia" in certain circumstances, although opponents of the reforms claimed the constitution prohibits such trials. The law also says the trial will proceed with the defense attorney, or in his absence, with a public defender whom the court designates. The COPP gives judges discretion to hold trials behind closed doors if a public trial could "disturb the normal development of the trial."

The law provides that trials for military personnel charged with human rights abuses after 1999 be held in civilian rather than military courts. In addition, under the Organic Code of Military Justice, an individual can be tried in the military justice system for "insulting, offending, or disparaging the National Armed Forces or any related entities." NGOs expressed concern with the government's practice of trying citizens under the military justice system for protests and other actions not under military jurisdiction.

## **Political Prisoners and Detainees**

At year's end the NGO Due Process Foundation (Fundepro) reported that 21 political prisoners remained incarcerated. Then president Chavez reportedly ordered the imprisonment of nine of those individuals, most of whom were either convicted for their alleged actions during the 2002 coup attempt or charged for alleged financial crimes. According to Fundepro, President Maduro's government arbitrarily detained 11 individuals in Barinas state while they were driving to regional CNE offices to protest the April 14 election results. Security officials alleged they found shell casings in the suspects' vehicle. Fundepro claimed police targeted the group because they wore clothing that identified them as opposition supporters. No trial was scheduled, and the individuals remained in detention at year's end. During the year the government used the judiciary to intimidate and selectively prosecute individuals who were critical of government policies or actions.

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

On April 27, SEBIN officials arrested retired general and opposition party leader Antonio Rivero for allegedly inciting violence following the April 14 presidential elections. On April 29, a Caracas court charged Rivero with conspiracy and inciting violence after authorities showed a video of Rivero helping coordinate protesters in the streets. Rivero was released conditionally on May 17 after he suffered health complications. No trial date had been scheduled at year's end.

## **Civil Judicial Procedures and Remedies**

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

## **Regional Human Rights Court Decisions**

On May 9, the IACHR filed a petition with the IA Court against the government's decision not to renew the license of independent television station Radio Caracas Television (RCTV) in 2007. The commission concluded that the government's shutdown of RCTV violated the right to freedom of expression, right to equality and nondiscrimination, and administrative due process.



On September 10, Venezuela's official denunciation of the American Convention on Human Rights and withdrawal from the IA Court went into effect. As a member state of the Organization of American States (OAS), the country will continue to be subject to the jurisdiction of the IACHR and bound by the obligations in the OAS Charter and the American Declaration of the Rights and Duties of Man. Human rights violations that took place during the time in which the country was party to the American Convention are subject to the IA Court's jurisdiction. Petitions the IACHR may receive after September 10 alleging human rights violations that occurred before September 10 will be processed based on the country's obligation under the American Convention and subject to consideration by the IA Court.

According to the IA Court website, the government had not complied with 13 of the 16 decisions submitted by the IA Court, and in the three cases, it had only partially complied and owed reparations ordered by the court to 265 victims. At year's end the TSJ did not respond to the petition submitted by Venezuelan human rights NGOs against then president Chavez's decision to withdraw from the IA Court.

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

The constitution provides for the inviolability of the home and personal privacy, but the government generally did not respect these prohibitions. In some cases government authorities infringed on citizens' privacy rights by searching homes without judicial authorization, seizing properties without due process, or interfering in personal communications.

On June 25, the government released a recording during which the government alleged opposition National Assembly Deputy Maria Corina Machado discussed a potential coup against the government with academic German Carrera Damas. In the recording, Machado and Carrera Damas allegedly discussed the outcome of the April 14 presidential elections and Machado's thoughts on members of the opposition. Machado acknowledged the recording was authentic but criticized the government for editing a two-hour long conversation down to 10 minutes and for using snippets of the conversation out of context. On July 17, the National Assembly created a special commission to investigate the recording.

### **Section 2. Respect for Civil Liberties, Including:**

### a. Freedom of Speech and Press

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

The NGO Press and Society Institute (IPYS) reported that the government committed 254 violations of freedom of expression during the first six months of the year, a 68 percent increase from the same time in 2012.

Freedom of Speech: The law makes insulting the president punishable by six to 30 months in prison without bail, with lesser penalties for insulting lower-ranking officials. Comments exposing another person to public contempt or hatred are punishable by one-to-three-year prison sentences and fines starting at Bs 55 (\$8.73).

The government took reprisals against individuals who publicly expressed criticism of the president or government policy. For example, on July 11, a local court subpoenaed journalist Nelson Bocaranda to respond to claims that he had incited violence after the April 14 elections. On April 15, Bocaranda tweeted that election officials stored ballot boxes in the Cuban-government-staffed Integrated Diagnostic Center (CDI) in Maracaibo, Zulia. Government officials alleged Bocaranda's tweets motivated opposition protesters to attack the CDI center and held him responsible for the injuries of 25 Cuban medical personnel. Government critics claimed charges against Bocaranda were unfounded and were retaliation for Bocaranda's past reports about the president Chavez's cancer.

Press Freedoms: The law provides that inaccurate reporting that disturbs the public peace is punishable by prison terms of two to five years. The requirement that media disseminate only "true" information was undefined and open to politically motivated interpretation. As of November 12, IPYS reported 228 violations of freedom of the press.

The Law of Social Responsibility for Radio and Television and the Organic Law for Telecommunications prohibit all media from disseminating messages that incite or promote hate or intolerance for religious, political, gender-related, racial, or

xenophobic reasons; incite, promote, or condone criminal acts; constitute war propaganda; foment anxiety in the population or affect public order; do not recognize legitimate government authorities; incite homicide; or incite or promote disobedience to the established legal order. Penalties range from fines to the revocation of licenses.

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

On March 11, Globovision--the country’s only opposition-oriented 24-hour news channel--was sold to businessmen Juan Cordero, Raul Gorrin, and Gustavo Perdomo. On September 30, CONATEL opened an administrative investigation against Globovision for reporting on food and automobile shortages in the country. CONATEL asserted the investigative report intended to generate anxiety among the population. If found guilty, the channel could face a fine of up to 10 percent of its gross income from the previous year. There remained eight pending administrative investigations and six pending fines against Globovision at year’s end.

On July 27, the attorney general requested that a Caracas court freeze the bank accounts of Miguel Henrique Otero, editor of the opposition-leaning newspaper *El Nacional*. The Attorney General’s Office released a statement alleging that the action related to an illegal enrichment investigation from 2003. In another judicial procedure against *El Nacional*, a Caracas court fined the newspapers *El Nacional* and *Tal Cual* for publishing photographs in 2010 of piles of bodies in the city morgue. The fine was equivalent to 1 percent of the newspapers’ 2009 gross income. IPYS stated that both cases against *El Nacional* were efforts to criminalize media that were critical of the government. *El Nacional* and *Tal Cual* were appealing the fine at year’s end.

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

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

The NGO Public Space reported that the government was responsible for 258 violations of freedom of expression between January and November, 177 of which involved physical attacks, threats, and intimidation against journalists. As a notable example of such attacks, on March 5, individuals attacked Carmen Andrea Rengifo, a reporter from the Colombian television channel RCN, while she covered the events immediately following President Hugo Chavez's death. Attackers reportedly beat her and her cameraman, kicked them, and then chased them out of the military hospital (where President Chavez reportedly died). Attackers reportedly mistook her for an employee of an "anti-Chavez" television station.

Censorship or Content Restrictions: According to a study conducted by IPYS, the government exerted increased pressure during the year on the independent media through administrative, financial, and legal means to influence their editorial positions. IPYS stated that legal proceedings, financial sanctions, and administrative actions against news outlets incurred lower political costs than shutting down news outlets directly. Members of the independent media privately said they regularly engaged in self-censorship due to fear of government reprisal. Public Space reported that between January and November, there were 71 cases involving censorship, compared with 53 cases for all of 2012. In addition, Public Space reported harassment of the media through legal means increased by 246 percent, as did cases of intimidation (124 percent), between January and November.

State-owned media provided almost continuous progovernment programming. In addition, private and public radio and television stations were required to transmit mandatory nationwide broadcasts throughout the year. Public Space reported that during the first seven months of the year, there were 90 hours and 27 minutes of mandatory broadcasts. Most broadcasts were progovernment propaganda on economic, political, and military issues. President Maduro used mandatory broadcasts 87 times totaling 538 minutes through public and private television and

radio between April 15 and November 15. On September 9, President Maduro announced that government activities and initiatives would be transmitted twice a day through mandatory nationwide broadcasts.

While the country's major newspapers were independently owned, some print media tended to exercise caution to secure government advertising.

On July 23, a Bolivar state court censured the regional newspaper *Correo del Caroni* in Bolivar state for publishing news on a corruption scandal within the government-run company Ferrominera. The scandal reportedly involved high-level government and security officials and businessman Jamal Mustafa, who were affiliated with Ferrominera. In addition, the court admitted a civil case by Jamal Mustafa against *Correo del Caroni* owner David Natera for libel and defamation. A court order prevented the newspaper from publishing anything related to Jamal Mustafa and the corruption investigation until the civil case was resolved. No hearing was scheduled at year's end.

On July 30, Leocenis Garcia, editor and owner of the opposition-oriented weekly newspaper *Sexto Poder*, was arrested and charged with tax fraud and money laundering. The Public Ministry and local court ordered the closing of *Sexto Poder* and the freezing of Garcia's other assets during the investigation. On September 4, Garcia's attorneys complained the court refused to permit them to review the evidence and charges against their client. After a hunger strike, Garcia was transferred to a military hospital and remained in detention pending a trial date.

The government also exercised control over content through licensing and broadcasting requirements. CONATEL acted selectively on applications from private broadcasters for renewal of their broadcast frequencies. Public Space reported that many station owners requested renewed licenses, but CONATEL did not respond in a timely manner and then punished the radio stations by sanctioning them or refusing to renew their licenses.

Libel Laws/National Security: On October 9, the government sought to exercise control over the press through the creation of a new government entity known as the Strategic Center for Security and Protection of the Homeland (CESPPA), which was similar to the government entity Center for National Situational Studies (CESNA), established in 2010. CESNA and CESPPA have similar mandates and are responsible for "compiling, processing, analyzing, and classifying" both government-released and other public information with the objective of "protecting the interests and objectives of the state." The TSJ took no further action at year's

end on a complaint filed by NGOs in March 2012 seeking the annulment of CESNA. On October 15, opposition leaders from the political party COPEI filed a similar complaint to the TSJ against CESPPA, but the TSJ had taken no action at year's end.

Nongovernmental Impact: The widespread violence in the country made it difficult to determine whether attacks against journalists resulted from common criminal activity or whether criminals or others targeted members of the media.

### **Internet Freedom**

There were no government restrictions on access to the internet, and individuals and groups could engage in the expression of views via the internet, including by e-mail. The law, however, prohibits the dissemination of messages or information that could incite violence, promote hatred and intolerance, lead to crime or murder, foment anxiety in the populace or disturb public order, or be considered disrespectful of public offices or officeholders. The law puts the burden of filtering electronic messages on service providers, provides that CONATEL can order them to block access to websites that violate these norms, and sanctions them with fines for distributing prohibited messages. Human rights and media freedom advocates complained the law thus limited freedom of expression.

During the year some NGOs, members of the opposition, and government critics expressed concern that the government monitored e-mails and web searches without appropriate legal authority. Public Space reported that the social networking sites, e-mails, and websites of political figures, civil society activists, writers, journalists, and newspapers were hacked during the year. According to the NGO, social network identities were usurped and personal communications and messages were broadly disseminated, some in government-controlled media.

There were multiple cyber attacks, particularly hacking, against websites and Twitter or Facebook accounts of political officeholders and candidates that appeared politically motivated. For example, on April 14, the government-run internet provider shut down internet service for three minutes during the presidential elections. The then minister of science and technology, Jorge Arreaza, stated the shutdown was to prevent international cyber attacks. The shutdown came after several Twitter accounts of government officials--including those of then presidential candidate Nicolas Maduro and National Assembly President Diosdado Cabello--were hacked. In addition, on April 15, the government shut down the CNE website because of 45,000 cyber attacks, according to the

government. The site eventually returned after one day but remained inaccessible for one week to individuals with international IP addresses.

On November 10, President Maduro announced the government blocked seven internet sites that post dollar and euro currency exchange rates other than the government's official rate. Maduro accused these websites of creating economic instability and intended to crack down on speculation by businesses inflating prices to equal the unofficial rate. CONATEL also announced an investigation against eight private and state-run internet providers for permitting access to these websites. The NGO Public Space stated this was the first time the government sanctioned internet providers.

The International Telecommunication Union reported 44 percent of individuals used the internet during the year. According to the newspaper *El Nacional*, 14 million citizens had internet access and connected to the internet five to seven days a week.

### **Academic Freedom and Cultural Events**

There were some government restrictions on academic freedom and cultural events. University leaders and students alleged the government retaliated against opposition-oriented autonomous universities by allocating budgets for those universities significantly below the annual inflation rate. Autonomous and other public universities not affiliated with the government last received a budget increase in 2006. On June 6, the Federation of University Professors Association of Venezuela (FAPUV) called for an indefinite work stoppage in 13 universities until the government increased university salaries by 100 percent. On October 8, the Ministry of Higher Education reached an agreement with university representatives to increase salaries by 98 percent. On November 14, professors, students, and supporters marched in Caracas to protest the government's noncompliance with the agreed-upon terms of the new agreement.

Government supporters sometimes disrupted university classes, marches, and rallies and used violence and intimidation to protest university policies and to discourage opposition students from political participation. Between June and July, armed men attacked students, professors, and campus buildings 62 times. For example, on June 19, an armed group burned two buses and fired handguns at the Central University of Venezuela rector's office.

### **b. Freedom of Peaceful Assembly and Association**

## **Freedom of Assembly**

The constitution provides for freedom of assembly, but the government did not respect this right.

Human rights groups continued to criticize the 2005 penal code revision for its strict penalties on some forms of peaceful demonstration.

During the year government security forces used tear gas, water hoses, and rubber bullets to suppress peaceful protests. According to press reports, during April 15 and April 16 protests in which opposition supporters marched to their regional CNE headquarters to demand a full recount of the April 14 election results, security forces clashed with some protesters, and the GNB arrested others. On September 18, the attorney general announced that nationwide, nine individuals had been killed, 108 wounded, and 62 criminal investigations opened against individuals for inciting violence. The attorney general also stated her office was considering charging opposition leaders and holding them responsible for masterminding postelection violence, but no further action was taken at year's end. In Lara state, 93 individuals were detained by the 47th Detachment of the National Guard. According to the human rights NGO Funpaz, the individuals were beaten on the head with frozen water bottles, forced to run in circles while yelling and singing songs expressing loyalty to President Nicolas Maduro, and forced to sign documents stating they would remain loyal to the "Bolivarian cause." On August 20, attorneys filed a formal complaint with the Public Ministry against Freddy Hernandez Parababi, commander of the 14th Infantry Brigade, and Octavio Chacon, brigadier general of the Fourth Regional Command in Lara state.

In May the attorney general rejected allegations of torture committed by GNB officials and claimed the Public Ministry was investigating only two cases of mistreatment. Criminal Forum representatives and lawyers disputed the attorney general's claims and submitted 17 cases of alleged torture committed by the 47th Detachment of the National Guard.

## **Freedom of Association**

While the constitution provides for freedom of association and freedom from political discrimination, the government did not respect this right. Although indicating that professional and academic associations generally operated without interference, the associations complained the CNE, which is responsible for



convoking all elections and establishing electoral dates and procedures, and the Supreme Court repeatedly interfered with their attempts to hold internal elections.

### **c. Freedom of Religion**

See the Department of State's *International Religious Freedom Report* at [www.state.gov/j/drl/irf/rpt](http://www.state.gov/j/drl/irf/rpt).

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

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

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, asylum seekers, and other persons of concern.

### **Protection of Refugees**

Access to Asylum: The constitution recognizes the right to asylum and refuge, and laws provide for the granting of asylum or refugee status. The government has established a system for providing protection to refugees, although NGOs reported the asylum process was slow and often difficult to access. 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 estimated up to 200,000 persons in need of international protection, mostly Colombians, lived in Venezuela and reported that 3,650 persons were legally recognized as refugees.

Refugee Abuse: While no official statistics were available, a women's shelter reported that gender-based violence and trafficking of refugee women was a problem.

Also see the Department of State's annual *Trafficking in Persons Report* at [www.state.gov/j/tip](http://www.state.gov/j/tip).

## **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. Nonetheless, allegations of widespread pre- and post-election fraud included electoral irregularities, government interference, and manipulation of voters, reportedly restricted the exercise of this right.

### **Elections and Political Participation**

Recent Elections: On March 5, President Hugo Chavez died before completing his six-year term. On March 8, the TSJ swore in Nicolas Maduro as acting president and stated Maduro would not need to relinquish his position as acting president to run in the upcoming election. Government critics and legal scholars claimed the TSJ's decision was unconstitutional because the constitution prohibits a sitting vice president, minister, governor, or mayor from running for president while serving in one of those designated positions. Despite these objections, the CNE called a special election for April 14.

On April 14, CNE President Tibisay Lucena announced that acting president and United Socialist Party of Venezuela (PSUV) candidate Nicolas Maduro had received 50.66 percent of the votes and opposition candidate Henrique Capriles Radonski had received 49.07 percent. Lucena announced that the results were "irreversible." Capriles stated in a press conference that he would not recognize the electoral results and demanded that the CNE conduct a full audit of the results. After the CNE refused to audit all electoral instruments involved in the electoral process, the Capriles campaign submitted three petitions to the TSJ requesting that it annul the April 14 elections. Capriles' petitions argued that before, during, and after the elections, numerous government abuses of power and other irregularities affected the election results. Abuses cited included improper assisted voting, voter intimidation, proselytizing close to the voting centers, restricting voting-center witnesses, government officials campaigning while in their official capacities, and the government candidate's misuse of public resources during the official campaign. The Capriles campaign stated it received complaints of election-day irregularities in 3,389 voting centers, affecting approximately eight million voters. On August 7, the TSJ announced its unanimous decision to dismiss all challenges to the presidential election, including those of Capriles, and fined Capriles Bs 10,700 (\$1,700) for making accusations against the judiciary and public institutions in the petitions. The TSJ requested that the Public Ministry investigate and determine whether criminal action against Capriles would be appropriate. The TSJ also dismissed seven other petitions filed by various NGOs and private citizens contesting the April 14 election.

Two accredited domestic election observation groups, Education Assembly and Venezuelan Electoral Observatory, reported the April 14 elections were more efficient than the October 2012 presidential elections, citing shorter lines and more efficient use of the biometric identification system and voting machines as examples. Both organizations expressed concern over voter intimidation at the voting tables. Another accredited domestic election observation group, Electoral Observation Network, refused to recognize the election results because of “irregularities, intimidation, and violent tactics that potentially compromised the electoral process.” Electoral Observation Network and Venezuelan Electoral Observatory released separate statements supporting the need for an audit in order to “dispel any uncertainty.”

The Carter Center, which the CNE had invited to witness the elections as an “electoral accompaniment delegation,” noted concerns with the use of government resources throughout the election campaign to gain electoral advantage. Observer organizations and other NGOs documented the government’s use of public resources for political purposes, including public vehicles to transport voters to rallies and to vote, and use of public buildings for campaign propaganda. In addition, local organizations and opposition political parties complained public officials improperly used government offices and personnel to encourage public employees to vote or to threaten them. The Madrid-based IAEE, an invited accompaniment delegation, claimed the entire April 14 election was “null and void.” According to the IAEE, the TSJ misinterpreted the constitution when deciding to allow Maduro to run for president while concurrently holding the position of vice president, thus invalidating the election entirely. The IAEE also criticized the CNE, military, and TSJ for lacking impartiality and neutrality during the electoral process.

Opposition political parties, two accredited domestic election observation groups, and one CNE rector cited elements in the pre-election process indicating the CNE heavily favored the candidacy of Nicolas Maduro. CNE regulations restricted paid campaign advertising, but state-owned media provided almost continuous programming of Nicolas Maduro and only limited and distorted coverage of the campaign of opposition candidate Henrique Capriles. During the pre-election campaign, violations reportedly included the following: Maduro’s use of more than 15 hours of mandatory nationwide broadcasts over private and public radio and television channels; more than 46 hours of coverage of Maduro’s election campaign by the government-run television channel (compared with approximately 78 seconds of coverage received by opposition candidate Capriles); exclusion from

the voter registry of approximately 100,000 voters; government use of buildings, resources, and money for Maduro's campaign; and destruction and vandalism of Capriles' campaign propaganda. The CNE did not respond to any official denunciations by year's end.

On March 25, CNE President Lucena suspended "get out and vote" newspaper advertisements of local NGO Women for Liberty, because the electoral law prohibited civil society groups from running "electoral propaganda." In addition, the CNE announced an administrative investigation into two newspapers, *Tal Cual* and *2001*, for running Women for Liberty advertisements a few days prior.

Political Parties: Opposition political parties operated in a restrictive atmosphere characterized by intimidation, the threat of prosecution or administrative sanction on questionable charges, and restricted media access. On April 30, a fight between progovernment and opposition National Assembly deputies injured at least seven deputies during a legislative session. National Assembly President Diosdado Cabello had denied the request of opposition deputies to speak on the Assembly floor. Cabello argued he was within his rights because opposition deputies had violated National Assembly rules by refusing to recognize Nicolas Maduro as president. Cabello also removed opposition deputies from committee chairmanships and temporarily withheld their pay. On May 21, Cabello permitted opposition deputies to speak during the legislative session for the first time following the April 30 fight. Cabello had not reinstated opposition deputies in committee chairmanships by year's end.

During the year the attorney general submitted three petitions to the TSJ requesting authorization to suspend temporarily National Assembly deputies in order to conduct criminal investigations against them. The TSJ approved two of the three petitions and submitted the court's decision to the National Assembly in order for the National Assembly to vote to strip the deputies of their parliamentary immunity. On July 30, the National Assembly stripped opposition National Assembly Deputy Richard Mardo's parliamentary immunity. That action paved the way for Attorney General Luisa Ortega Diaz to bring charges against him for money laundering, tax evasion, and an illegal bank transfer in connection with 11 checks Mardo allegedly received. On November 12, the National Assembly removed opposition National Assembly Deputy Maria Aranguren's parliamentary immunity. Attorney General Diaz accused Aranguren of corruption, money laundering, and embezzlement.

During the year the National Assembly's Accountability Committee continued ongoing and opened new investigations against five former opposition governors. In addition, the National Assembly, through various other committees, opened investigations against the country's only three opposition governors, Henrique Capriles Radonski (Miranda), Liborio Guarulla (Amazonas), and Henri Falcon (Lara). The National Assembly did not open any investigations against the 19 PSUV governors during the year.

On November 25, the Public Ministry requested an Interpol "Red Notice" for the arrest and extradition of former Monagas state governor Jose Gregorio Briceno. On July 2, the National Assembly's Accountability Committee released its final investigative report against Briceno. The National Assembly accused Briceno of mismanaging approximately Bs 29.86 million (\$4.74 million) of government contracts while he was Monagas governor. The committee requested that the Public Ministry open a criminal investigation against him and order the freezing of his bank accounts. The committee also requested that the inspector general open an administrative investigation against him. In March 2012 Briceno criticized the national government's response to the February 2012 oil spill in Monagas, which left residents of the state without running water for more than a month.

Participation of Women and Minorities: During the year women headed three of the five branches of government (judicial, electoral, and human rights ombudsman) and occupied nine of the 31 cabinet positions. There were 17 women among the 32 TSJ justices.

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

#### **Section 4. Corruption and Lack of Transparency in Government**

The law provides criminal penalties for corruption by officials; however, the government did not implement the law effectively, and the press reported officials sometimes engaged in corrupt practices with impunity. The government frequently investigated and prosecuted its political opponents selectively on corruption charges to harass, intimidate, or imprison them. There were numerous reports of government corruption during the year.

Corruption: On June 28, Attorney General Luisa Ortega Diaz announced the reactivation of the Public Ministry's Anticorruption Unit to handle corruption

cases involving high-level government officials. On August 8, President Maduro announced a campaign to tackle corruption, but critics contended the government's efforts focused only on low- to mid-level public officials while targeting high-level opposition politicians. According to Transparency Venezuela, weak government institutions and lack of transparency allowed public officials at all levels to participate in nefarious activity with impunity.

On August 25, public prosecutors opened investigations against five government officials from the Venezuelan Economic Development Bank--including Pablo Jose Gonzalez Hernandez, Cesar Rafael Cortizo Ospino, Maria Gabriela Dona Garcia, Javier Fernando Gonzalez, and Angel Daniel Davila Briceno--for embezzlement. In addition, prosecutors opened investigations against three officials from the government-run industrial company Cavemin and three individuals--Robert Pfeffer, Dubravka Dojg, and Lea Dojg--for forging public documents and being accessories to a crime. All individuals were in pretrial detention, and no hearing was scheduled by year's end.

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

During the year the acting comptroller general sanctioned 300 public officials for alleged corruption totaling approximately Bs 46.2 million (\$7.3 million). Comptroller General Adelina Gonzalez stated that only in 15 percent of the cases was the government able to recover the funding.

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

By year's end the government had not opened any investigations against former Supreme Court justice Eladio Aponte or any of the government officials he implicated for alleged interference in the judicial process. In March 2012, upon

the recommendation of the constitutionally established Moral Council (consisting of the Supreme Court president, the prosecutor general, and the comptroller general), the National Assembly unanimously voted to remove Aponte from the Supreme Court for his alleged links to narcotics trafficker Walid Makled.

Whistleblower Protection: According to local NGOs, no law on whistleblower protection exists.

Financial Disclosure: Public officials, as well as all directors and members of the board of private companies, are required to submit sworn financial disclosure statements pursuant to the Organic Law on the Comptroller General of the Republic and the National Fiscal Control System (LOCGR) and the Law against Corruption. According to the LOCGR, the comptroller general of the republic; the comptroller general of the Bolivarian National Armed Forces; the comptrollers of the states, districts, metropolitan districts, and municipalities; and the Central Bank are responsible for ensuring compliance with this requirement. Under the Law against Corruption, the Public Ministry and competent criminal courts can require statements from any other persons when circumstantial evidence arises during an investigation. In 2012 the acting comptroller general sanctioned 81 public officials for engaging in illicit enrichment or influence peddling; administratively disqualified three individuals from holding public office during the year; and suspended 12 individuals without pay.

Public Access to Information: Although the law provides for citizen access to government information, human rights groups reported the government routinely ignored this requirement. The law requires a government agency to respond to a petition within 20 days of filing free of charge. The agency must also notify the applicant within five days of any missing information needed to process the request. Government agencies are subject to sanctions if they do not respond to a request. If the agency rejects the petition, an individual can file another petition or appeal at a higher level within the government agency. The agency must respond to the appeal within 15 days. On August 10, the Pro Access Coalition, composed of NGOs advocating the right to access public information, denounced difficulties in accessing public information.

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

A variety of independent domestic and international human rights groups generally operated with some government restrictions. Major domestic human rights NGOs

conducted investigations and published their findings on human rights cases. Government officials were not cooperative or responsive to their views.

Some domestic NGOs reported government threats and harassment against their leaders, staff, and organizations.

The COPP includes provisions eliminating the right of human rights NGOs to represent victims of human rights abuses in legal proceedings. COPP articles 123 and 124 provide that only the public defender and private individuals can file complaints in court or represent victims of alleged human rights abuses committed by public employees or members of the security forces.

The government threatened NGOs with criminal investigations for allegedly illegal receipt of foreign funds. The law prohibits individuals, political organizations, or organizations involved in the defense of “political rights” from receiving resources from any non-Venezuelan person or entity. For violations, the law stipulates monetary penalties and/or a potential five- to eight-year disqualification from running for political office. The law defines political organizations as those involved in promoting citizen participation, exercising control over public offices, and promoting candidates for public office. Organizations involved in the defense of political rights include those that “promote, disseminate, inform, or defend the full exercise of the political rights of citizens.” The law also prohibits foreign citizens sponsored by Venezuelan individuals or political organizations from “issuing opinions that offend the institutions of the state and its high officials or go against the exercise of sovereignty.” On February 8, progovernment National Assembly Deputy Adel El Zabayar announced the National Assembly Committee on Security and Defense would investigate Transparency International (TI) for “organizing a smear campaign against the Venezuelan military and trying to destabilize the country.” TI’s *Government Defense Anti-Corruption Index* described the military as “highly susceptible” to corruption. Deputy el Zabayar also requested that CONATEL investigate all media organizations that referenced TI’s report.

On May 16, the chairman of the National Assembly’s oversight committee announced the committee’s decision to open an investigation into alleged foreign funding of two NGOs, Transparency Venezuela and Legislative Monitor.

On October 23, National Assembly Deputy William Farinas announced a National Assembly committee investigation against Metropolitan University Rector Benjamin Scharifker. Farinas accused Scharifker of links to the Israeli intelligence



agency, Mossad, and using the university's democracy program as a ruse for indoctrinating students. Scharifker stated that he had not received an official summons from the committee, and the committee took no further action by year's end.

UN and Other International Bodies: Although a member of the UN Human Rights Council, the government was generally hostile toward international human rights bodies and refused to permit a visit by the IACHR, which has not visited the country since 2002. In 2012 the government did not respond to requests by the UN high commissioner for human rights to visit Venezuela. Additionally, the government withdrew from the Inter-American Convention on Human Rights on September 10.

Government Human Rights Bodies: Although the public defender, appointed by the National Assembly, is responsible for ensuring that citizen rights are protected in a conflict with the state, human rights NGOs claimed the Public Defender's Office was not independent and rarely acted on public interest cases. Reports or recommendations issued by the office were not widely available. According to its 2011 annual report, the Public Defender's Office considered 31,962 complaints during that year, of which 12,503 related to human rights.

The human rights ombudsman is responsible for representing victims of human rights violations and promoting human rights. On August 20, NGOs released a report that revealed the ombudsman did not act on any human rights cases between 2007 and 2013.

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

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

The law prohibits discrimination based on race, gender, sexual orientation, disability, language, or social status; however, discrimination occurred against women; persons with disabilities; members of the lesbian, gay, bisexual, and transgender (LGBT) community; and indigenous persons.

### **Women**

Rape and Domestic Violence: The law criminalizes rape, including spousal rape, making it punishable by a prison term of eight to 14 years. Cases often were not

reported to police, however, due to fear of social stigma and retribution, particularly in light of widespread impunity. There were no reliable statistics on the incidence of, or prosecutions or convictions for, rape. A man may avoid punishment by marrying (before he is sentenced) the person he violated. Women faced substantial institutional and societal prejudice with respect to reporting rape and domestic violence. The law allows authorities to consider alternative forms of punishment, including work release, for those convicted of various crimes, including rape, if they have completed three-quarters of their sentence.

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

Violence against women continued to be a serious and underreported problem. Maryelith Suarez, director of the Public Ministry's Directorate for the Defense of Women, announced in August that the ministry had recorded 30,103 criminal acts against women, including 38 deaths and 10,352 cases of physical violence, during the first three months of the year. In 2012 the Public Ministry recorded 150,584 acts of violence against women, the majority related to physical abuse (50,014), followed by psychological abuse (47,406), and harassment (32,463). Separately, women's rights advocates noted nearly 600 cases of gender-based killings of women in 2012.

According to the Public Ministry, 33 prosecutors and 46 courts were exclusively responsible for dealing with such crimes. Statistics were not available for 2013 on the number of cases concerning violence against women or their outcomes.

Many advocates said there was a lack of public awareness among women regarding resources and support available to prevent and combat domestic violence. The government offered some shelter and services for victims of domestic and other violence, but NGOs provided the majority of domestic-abuse services.

Sexual Harassment: Sexual harassment is illegal and punishable by a prison sentence of one to three years. The law establishes a fine of between Bs 3,210

(\$510) and Bs 6,420 (\$1,020) for employers who engage in sexual harassment. Although allegedly common in the workplace, sexual harassment cases were rarely reported.

Reproductive Rights: Couples and individuals have the right to decide the number, spacing, and timing of children and had the information and means to do so free from discrimination. Access to information on contraception and skilled attendance at delivery and in postpartum care were widely available. The Ministry of Health revealed that it had closed 47 health centers for adolescent sexual and reproductive health since 2005.

Discrimination: Women enjoy the same legal status and rights as men under the constitution. 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. The law also prohibits the requirement of a pregnancy test to qualify for a job and provides six weeks of maternity leave prior to birth. The law extends the period of maternity leave after birth or an adoption from 12 to 20 weeks and prohibits an employer from firing either parent for two years after a birth or adoption. According to the Ministry of Labor and the Confederation of Workers, regulations protecting women's labor rights were enforced in the formal sector, although according to the World Economic Forum, women earned 36 percent less than men on average for comparable jobs.

The Ministry of Women worked to protect women's rights but did not make statistics publicly available.

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

## **Children**

Birth Registration: Citizenship is derived by birth within the country's territory. According to the UN Children's Fund (UNICEF), 92 percent of children under five were registered at birth.

Child Abuse: According to UNICEF and NGOs working with children and women, child abuse, including incest, occurred but was rarely reported. According to a National Institute for Statistics (INE) survey, 5 percent of victims of sexual

abuse were children. According to a 2012 report released in July by Cecodap, an NGO dedicated to the defense of children and adolescents, 469 children and adolescents were victims of sexual violence in 2011, a 43 percent increase compared with 2010. The report, which relied on cases reported in the media, stated that 373 of the cases involved rape and that 150 of the victims were between the ages of seven and 12. According to the Public Ministry, 67 prosecutors were assigned to handle cases specializing in the protection of children. Although the judicial system acted to remove children from abusive households, the press reported that public facilities for such children were inadequate.

The rise in street violence continued to affect children. According to a 2013 Cecodap study, firearms were the main cause of death for minors between the ages of 15 and 17 and resulted in the deaths of 415 minors as of August. As of November, 28 children under age 12 were killed by firearms. Most homicides involving minors included some component of retaliation, revenge, or confrontation between street gangs. In some cases gangs used children as human shields or for “negotiation.”

Forced and Early Marriage: In general the legal minimum age for marriage is 18 for women and men, but with parental consent it is 14 for women and 16 for men.

Sexual Exploitation of Children: By law sexual relations with a minor under age 13 or an “especially vulnerable” person, or with a minor under age 16 when the perpetrator is a relative or guardian, are punishable with a mandatory sentence of 15 to 20 years’ imprisonment. The law prohibits the forced 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 forcing a minor into prostitution increase by up to five years if various aggravating circumstances occur. Penalties for several crimes relating to child prostitution do not apply if the perpetrator marries the victim.

The law prohibits the production and sale of child pornography and establishes penalties of 16 to 20 years’ imprisonment. The law allows authorities to consider alternative forms of punishment, including work release, for those who have committed various crimes, including “offenses against the freedom, integrity, and sexual security of children and adolescents,” once they have completed three-quarters of their sentence. There was no publicly available information regarding

the number of investigations or prosecutions of cases involving the commercial sexual exploitation of minors or child pornography.

Displaced Children: Leading advocates and the press estimated 10,000 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. A 2013 study by the Foundation Research and Training Institute found that of the 1.6 million children who worked, more than one million were employed in informal and undocumented sectors and 200,000 in marginal activities such as drug dealing and theft. According to the study, most of these working children provided income for their families and eventually left school.

International Child Abductions: The country is a party to the 1980 Hague Convention on the Civil Aspects of International Child Abduction. For information see the Department of State's report on country-specific information at [http://travel.state.gov/abduction/country/country\\_5994.html](http://travel.state.gov/abduction/country/country_5994.html).

### **Anti-Semitism**

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

There were an estimated 9,000 Jews in the country. There were no confirmed reports of anti-Semitic acts by the state, but Jewish community leaders expressed concern about anti-Semitic statements linked to the government. During a program on government-owned Venezolana de Television (VTV) on May 5, National Assembly Deputy Jesus Cepeda commented on the "great Jewish tentacles that drive international economics." Cepeda, a deputy from the ruling PSUV, characterized Zionism as a political vision for world domination and control of world commerce.

The government-affiliated media also regularly contained anti-Semitic statements, including some comments against former opposition presidential candidate Capriles, a practicing Catholic of Jewish ancestry. For example, the website Aporeea.org published an article that linked Capriles' support for military intervention in Syria with his Jewish heritage and allegedly suspicious relationships with named Jewish leaders and organizations in Venezuela.

## Trafficking in Persons

See the Department of State's *Trafficking in Persons Report* at [www.state.gov/j/tip](http://www.state.gov/j/tip).

## Persons with Disabilities

The law prohibits discrimination against persons with physical and mental disabilities in education, employment, health care, air travel and other transportation, and the provision of other state services, but the government did not make a significant effort to implement the law, inform the public of it, or combat societal prejudice against persons with disabilities. The law requires that all newly constructed or renovated public parks and buildings provide access, but persons with disabilities had minimal access to public transportation, and ramps were almost nonexistent. Online resources and access to information were generally available to persons with disabilities, although access to close-captioned or audio-described online videos for deaf and blind persons was limited. Separately, leading deaf advocates lamented difficulty accessing public services due to a lack of government-funded interpreters in public courts, health-care facilities, lawyers and legal services, and other public accommodations.

The National Commission for Persons with Disabilities (Conapdis), an independent agency affiliated with the Ministry for Participation and Social Development, and the Mission Jose Gregorio Hernandez advocated for the rights of persons with disabilities and provided medical, legal, occupational, and cultural programs. On May 2, the national director of the mission reported that since the mission's inception in 2009, the program had assisted 336,490 persons with disabilities. He added the program had distributed, without charge, 1,000 prosthetic devices and 22,000 hearing aids. According to the Ministry of Education, 207,265 children received special needs education in 2011 in private and public schools. Fourteen percent of these children were enrolled in segregated special-needs schools, while 86 percent received periodic additional care. The Mission for the Children of Venezuela provided monthly subsidies of Bs 600 (\$95) to heads of households for each disabled child or adult they support.

## National/Racial/Ethnic Minorities

The constitution prohibits discrimination based on race. The law prohibits all forms of racial discrimination and provides for up to three years' imprisonment for acts of racial discrimination. By year's end the government had not formally

established the National Institute against Racial Discrimination provided for under the law.

The 2011 national census, which for the first time included questions regarding racial and ethnic self-identification, reported 50 percent of the population self-identified as “brown,” 42 percent as “white,” 3 percent as “black,” 3 percent as “indigenous,” and 0.7 percent as Afrodescendent.

### **Indigenous People**

The law prohibits discrimination based on ethnic origin, and senior government officials repeatedly stated support for indigenous rights. The law provides for three seats in the National Assembly for deputies of indigenous origin and for “the protection of indigenous communities and their progressive incorporation into the life of the nation.” A member of the Wayuu indigenous group headed the Ministry for Indigenous Peoples, and the governor of Amazonas state was a member of the indigenous group Baniva.

Many of the country’s approximately 300,000 indigenous persons were isolated from urban areas; lacked access to basic health, housing, 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.

NGOs and the press reported 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 they traditionally inhabited as territories belonging to each respective indigenous group. The National Land Demarcation Commission, charged with implementing a land demarcation agreement reached after a violent 2008 land invasion, continued to provide land titles in several communities, but indigenous groups continued to call for faster implementation of the demarcation process.

According to indigenous groups, the armed forces reportedly harassed, injured, and killed indigenous persons in multiple isolated incidents. Indigenous leaders claimed GNB troops had killed 10 indigenous persons and injured hundreds more in Zulia state as a result of intoxication or misbehavior since 2011. Separately, on February 7, members of 12 Uriman indigenous communities in Bolivar state temporarily detained and disarmed 43 army soldiers to protest abuse and

maltreatment by the military. Indigenous leaders reported that armed forces blocked authorizations for 21 aircraft that carried food and medical supplies to the indigenous community.

Indigenous groups regularly reported violent conflicts with miners and cattle ranchers over land rights. On March 3, two unknown assailants killed indigenous Yukpa leader Sabino Romero in the western state of Zulia. Romero was a high-profile advocate for the demarcation of indigenous lands in the Perija Mountain range that borders Colombia. Romero's relatives also received threats and harassment. On November 11, the Public Ministry charged and arrested six suspects allegedly linked to Romero's death.

### **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," but it does not explicitly prohibit discrimination based on sexual orientation or sexual identity. The TSJ has ruled that no individual may be discriminated against because of sexual orientation; however, the ruling was rarely enforced. The media and leading advocates for the rights of LGBT persons noted that victims of hate crimes based on sexual orientation or sexual identity frequently did not report the incidents and were often subjected to threats or extortion if they filed official complaints.

The law has no legal definition of a hate crime. As a result, LGBT-related violence is not reflected in any official law enforcement statistics. Rather, most crimes against LGBT persons are classified as "crimes of passion," not crimes of hate. According to a 2013 study by NGO Citizen Action against AIDS (ACCSI), the national press recorded 99 cases of crimes against the LGBT community (46 killings and 53 assaults) between January 2009 and August 2013. The incidents of violence were most prevalent in the transgender community. Leading advocates noted, however, that the media underreported most cases of LGBT-related crime and that law enforcement did not properly investigate to determine the motive.

Local police and private security forces allegedly prevented LGBT persons from entering malls, public parks, and recreational areas. The report also stated the government systematically denied legal recognition to transgender and transsexual persons by preventing them from obtaining identity documents required for accessing education, employment, housing, and health care. This vulnerability



often led transgender and transsexual persons to become victims of human trafficking or prostitution.

Psychological, verbal, and physical abuses towards the LGBT community were common practice in schools and universities, according to leading advocates. No laws or policies protect LGBT persons against bullying. As a result, according to NGOs, LGBT students had a higher dropout rate than heterosexual students.

On August 13, PSUV deputy Pedro Carreno used homophobic slurs during a televised National Assembly session and charged opposition leader Henrique Capriles with condoning a ring of homosexual and transgender people in prostitution. President Maduro apologized for the homophobic slurs the following day and said, “I am not homophobic. The revolution has vindicated respect for all.” Maduro, however, repeated Carreno’s allegations against Capriles and the national opposition and claimed he had “unprintable videos and photos of orgies” and that the “office of the governor of Miranda has been used as a place for homosexual and transgender prostitution.” Carreno alleged Capriles’ chief of staff, Oscar Lopez, was directly involved in a prostitution ring. On August 3, military intelligence officials raided Lopez’ home. Leading LGBT rights advocates rejected Carreno’s and Maduro’s accusations as “homophobic” and highly offensive to the LGBT community.

### **Other Societal Violence or Discrimination**

Health experts confirmed that HIV/AIDS was on the rise, with 1,195 new cases of HIV/AIDS reported as of July, compared with 1,942 and 1,644 cases in all of 2012 and 2011, respectively. Leading advocates lamented discrimination against persons with HIV/AIDS, although no new studies were available. Throughout the year many hospitals experienced large shortages of basic medicines that affected all citizens, not just those with HIV/AIDS.

Prison rules regarding the classification of inmates resulted in the isolation of those with HIV/AIDS in “inadequate spaces without food and medical attention” (see section 1.c.).

HIV/AIDS experts said the government had not conducted an HIV/AIDS awareness and prevention campaign since 2005.

### **Section 7. Worker Rights**

### **a. Freedom of Association and the Right to Collective Bargaining**

The law provides that all private and public sector workers (except armed forces members) have the right to form and join unions of their choice, and it provides for collective bargaining and the right to strike. The law, however, places several restrictions on these rights. Minimum membership requirements for unions differ based on the type of union. A minimum of 20 workers is required to form a company union; 40 workers in the same field to form a professional, industrial, or sectoral union in one jurisdiction; and 150 workers to form a regional or national union. Ten people can form an employers' association, a parallel type of representation endorsed and openly supported by the government.

The law prohibits “any act of discrimination or interference contrary to the exercise” of workers' right to unionize. The law requires that all unions must provide the Ministry of Labor a full membership roster that includes the full name, home address, telephone number, and national identification number for each union member. The ministry reviews the registration and determines whether the union fulfilled all requirements. Unions must submit their registration logs by December 31; if not received by the ministry or if the ministry considers the registration unsatisfactory, the union will cease to exist. Organized labor activists reported the process is onerous and infringes on freedom of association. The International Labor Organization (ILO) noted that, except in cases where members decided voluntarily to provide their data for the purposes of the deduction of their trade union dues, the trade union membership of workers should not be communicated to either the employer or authorities.

Under the law, employers may negotiate a collective contract only with the union that represents the majority of their workers. Minority organizations cannot jointly negotiate in cases where no union represents an absolute majority. The law also places a number of restrictions on unions' ability to administer their activities. For example, the CNE has the authority to administer internal elections of labor unions, federations, and confederations. By law elections must be held at least every three years. If CNE-administered and -certified elections are not held within this period, the law prohibits union leaders from representing workers in negotiations or engaging in anything beyond administrative tasks.

The law recognizes the right of all public and private sector workers to strike, subject to conditions established by law. By law workers participating in legal strikes receive immunity from prosecution, and their time-in-service may not be reduced by the time engaged in a strike. The law requires that striking workers be

re-incorporated and provides for prison terms of six to 15 months for employers who fail to do so. Replacement workers are not permitted during legal strikes.

The law also prohibits striking workers from paralyzing the production or provision of essential public goods and services. The minister of labor and social security 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.” Other laws establish criminal penalties for the exercise of the right to strike in certain circumstances. For example, the law prohibits and punishes with a five- to 10-year prison sentence anyone who “organizes, supports, or instigates the realization of activities within security zones that are intended to disturb or affect the organization and functioning of military installations, public services, industries and basic [mining] enterprises, or the social-economic life of the country.” In addition, the law provides for prison terms of two to six years and six to 10 years, respectively, for those who restrict the distribution of goods and for “those ... who develop or carry out actions or omissions that impede, either directly or indirectly, the production, manufacture, import, storing, transport, distribution, and commercialization of goods.” Labor activists were charged under these provisions as well as under provisions for “instigation to commit a crime,” “blocking public access,” and restriction of the “right to work.”

The ILO reiterated its call on the government to amend the law to exclude from the definition of “essential services” activities “that are not essential in the strict sense of the term ... [and] so that in no event may criminal sanctions be imposed in cases of peaceful strikes.”

The government placed restrictions on the freedom of association and right to collective bargaining through administrative and legal mechanisms. Labor unions in both the private and public sectors noted long delays in obtaining CNE concurrence to hold elections and in receiving certification of the election results, which hindered unions’ ability to bargain collectively because union leaders were not permitted to represent workers in negotiations. The ILO noted that trade unions’ elections are an internal matter for trade unions in which authorities should not interfere. The ILO said it repeatedly found cases of interference in trade union elections by the CNE.

According to PROVEA, “large sectors of national, state, and municipal public administrations and an important number of state enterprises continued to refuse to discuss collective agreements.” According to labor group Autonomous Front in

Defense of Employment, Wages, and Unions (FADESS), there were more than 400 expired public sector union contracts nationwide. The ILO requested the government provide information about reports that the majority of collective-bargaining agreements in the public sector had expired (some more than three years ago) but were being applied without being legally valid, with the right to collective bargaining denied due to invocation by authorities of “overdue elections” (not convoking or concluding the electoral process).

In addition, the government continued to support many “parallel” unions, which sought to dilute the membership and effectiveness of traditional, independent unions. In general these government-supported unions were not subject to the same government scrutiny and requirements regarding leadership elections. The ILO again requested the government investigate allegations of government favoritism and promotion of parallel employers’ organizations.

The Venezuelan Observatory for Social Conflict (OVCS) reported that during the first six months of the year, there were 569 labor rights-related protests related to increased pay and benefits, the need for collective bargaining agreements, and declining workplace conditions. The government prosecuted and punished union leaders and members for peaceful protests in defense of their labor rights. The OVCS and local media cited a 55-day work stoppage and protest by workers at the state-owned iron ore company Ferrominera Orinoco for reinstatement of dismissed employees. Although the government sent military forces to the protest site reportedly to intimidate protesters and end the protest, the government later ordered the troops to leave the site, and government and company officials met with workers to negotiate a settlement to end the protest.

On November 8, after a series of postponements, a Caracas court began hearing witness testimony on the case of union leader Ruben Gonzalez, who was appealing his 2011 conviction for his role in organizing a 2009 strike at Ferrominera Orinoco. The strike had been called to protest the company’s alleged failure to pay overdue wages and comply with other elements of the collective agreement. The government conditionally released Gonzalez in 2011 following protests by labor activists and students. The ILO recommended that the state-run industry and the union continue collective-bargaining discussions and sign an agreement. The ILO expressed regret that the government had not provided information from the appropriate judicial authority acknowledging that Gonzalez and other protesters had been involved in a peaceful protest calling for the enforcement of the collective-bargaining agreement.

The government continued to refuse to adjudicate or otherwise resolve the cases of 19,000 PDVSA employees 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.

Union leaders were subject to violent attacks. The lack of effective investigations made determining the motive for the killings difficult. According to OVCS and PROVEA, most violent crimes between and against union workers were not investigated by the government and few were solved. PROVEA reported that less than 5 percent of the cases had been investigated. The ILO requested the government to establish a national tripartite committee on situations of violence and provide information on the findings of the investigations carried out by the national prosecutor appointed to investigate all cases of violence against trade union leaders and members.

Following the April 14 presidential election, the media reported public employees had been fired for supporting the opposition's candidate, Henrique Capriles. On May 1, the independent Venezuelan Workers Confederation (CGT) announced it had submitted an official complaint to the ILO to protest the government's illegal dismissals of public employees for political reasons. On May 14, opposition coalition officials stated they had received an estimated 5,000 complaints nationwide of politically motivated dismissals of public employees.

#### **b. Prohibition of Forced or Compulsory Labor**

The law explicitly prohibits most forms of forced or compulsory labor, including forced labor of women and girls, as well as forced labor of men and boys when carried out by an organized criminal group of three or more individuals. The law does not explicitly prohibit forced labor of men and boys carried out by individuals who are not members of an organized criminal group, but prosecutors could employ other statutes. There was no comprehensive information available regarding the government's enforcement of the law or on government efforts to prevent or eliminate forced labor during the year.

There were isolated reports of children subjected to forced labor, particularly in the informal economic sector and in domestic servitude (see section 7.c.).

Also see the Department of State's *Trafficking in Persons Report* at [www.state.gov/j/tip](http://www.state.gov/j/tip).

### **c. Prohibition of Child Labor and Minimum Age for Employment**

The law sets the minimum employment age at 14 years. Children younger than 14 may work only if the National Institute for Minors or the Ministry of Labor grants special permission. Such permission may not be granted to minors under 14 to work in hazardous occupations that risk their life or health or could damage their intellectual or moral development, but the ILO noted the government had not listed specific types of work considered hazardous. Children ages 14 to 18 may not work without permission of their legal guardians or in occupations expressly prohibited by the law, and they may work no more than six hours per day or 30 hours per week. Minors under the age of 18 may not work outside the normal workday.

The law establishes fines on employers between Bs 6,420 (\$1,020) and Bs 12,840 (\$2,038) for each child employed under the age of 12 or for adolescents between 12 and 14 years employed without proper authorization. Anyone employing children under eight years is subject to a prison term of between one and three years. Employers must notify authorities if they hire a minor as a domestic worker. The law establishes sentences of one to three years' imprisonment for forced child labor.

The Ministry of Labor and the National Institute for Minors enforced child labor policies effectively in the formal sector of the economy, but less so in the informal sector. There was no information available on whether or how many employers were sanctioned for violations. The Ministry of Education, Culture, and Sports had educational programs to reincorporate school dropouts and adults into the educational system. The government also continued to provide services to vulnerable children, including street children, working children, and children at risk of working. There was no independent accounting of the effectiveness of these and other government-supported programs.

Most child laborers worked in the agricultural sector, street vending, domestic service, or in small to medium-sized businesses, most frequently in family-run operations. There continued to be isolated reports of children exploited in domestic servitude, mining, and forced begging.

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

### **d. Acceptable Conditions of Work**

On May 1, President Maduro approved a 48.83 percent increase in the monthly minimum wage, implemented in three stages, which raised the minimum wage to Bs 2,700 (\$429) by September 30. According to the INE, in April the monthly basic food basket cost Bs 2,412 (\$383), although the NGO Workers' Center for Documentation and Analysis reported that, for the same month, a basic food basket cost Bs 4,489 (\$713), 2.2 times the minimum wage at that time. Employers can be fined between Bs 12,840 (\$2,038) and Bs 38,520 (\$6,114) for failing to pay the minimum wage or providing legally required vacation time.

The law sets the workweek at 40 hours (35 hours for a night shift). The law establishes separate limits for "shift workers," who may not work more than an average of 42 hours per week over an eight-week period. Managers are prohibited from obligating employees to work additional time, and workers have the right to two consecutive days off each week. Overtime is paid at a 50 percent surcharge if a labor inspector approves the overtime in advance, and a 100 percent surcharge if an inspector does not give advance permission. The law establishes that after completing one year with an employer, the worker has a right to 15 days of paid vacation annually. In subsequent years the worker has the right to an additional day for every additional year of service, up to a maximum of 15 additional days annually.

The law provides for secure, hygienic, and adequate working conditions. Workplaces must maintain "protection for the health and life of the workers against all dangerous working conditions." Employers are required to report work-related accidents within 24 hours or face penalties between Bs 8,132 (\$1,291) and Bs 10,700 (\$1,698). The law obligates employers to pay workers specified amounts for workplace injuries or occupational illnesses (ranging from two times the daily salary for missed workdays to several years' salary for permanent injuries).

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

The law covers all workers, including temporary, occasional, and domestic workers. Reportedly the Ministry of Labor effectively enforced minimum wage rates and hours of work provisions in the formal sector, but 40 percent of the population worked in the informal sector, where labor laws and protections

generally were not enforced. There was no public information regarding the number of inspectors or the frequency of inspections to implement health and safety, minimum wage, or hours of work laws. There was no information whether penalties were sufficient to deter violations. Ministry inspectors seldom closed unsafe job sites.

Official statistics regarding workplace deaths and injuries were not publicly available.