

VENEZUELA

	2009	2011
INTERNET FREEDOM STATUS	n/a	Partly Free
Obstacles to Access	n/a	15
Limits on Content	n/a	13
Violations of User Rights	n/a	18
Total	n/a	46

POPULATION: 28.8 million
INTERNET PENETRATION: 35 percent
WEB 2.0 APPLICATIONS BLOCKED: Yes
SUBSTANTIAL POLITICAL CENSORSHIP: No
BLOGGERS/ONLINE USERS ARRESTED: Yes
PRESS FREEDOM STATUS: Not Free

INTRODUCTION

The Venezuelan constitution guarantees freedom of expression, and the government regards access to the internet as a priority for the country's economic and social development.¹ Internet access has increased dramatically over the past decade, and the country has emerged as a leader in the use of social media platforms. In the context of growing restrictions on broadcast outlets and severe political polarization in the traditional media overall,² new media—especially blogs, the social-networking site Facebook, and the microblogging platform Twitter—have become important spaces for the diffusion of information and opinions on political and social topics. As government opponents have mobilized via these platforms, the authorities have taken measures in recent years to restrict online content and have hinted at future efforts to contain the influence of new media.

In March 2010, President Hugo Chavez declared that the internet could not be “a free thing where you do and say whatever you want.”³ Despite such warnings, the Venezuelan authorities do not engage in systematic filtering or large-scale arrests of bloggers. Nevertheless, there have been periodic interruptions of access to opposition or independent websites, efforts to intimidate websites to censor the comments of their users,

¹ Presidential Decree No. 825 (May 2000) designates access to and use of the internet as political priorities for the development of the country. See *Gaceta Oficial* no. 36.955, May 22, 2000, <http://www.tsj.gov.ve/gaceta/mayo/220500/220500-36955-01.html> (in Spanish).

² M. Bisbal, ed., *Hegemonía y control comunicacional* [Hegemony and Communications Control] (Caracas: Editorial Alfa, 2009), 270 (in Spanish).

³ Hugo Chávez: “Internet No Puede Ser Libre” [Hugo Chávez: “Internet Cannot Be Free”] (YouTube, March 20, 2010), 1 min., 46 sec., <http://www.youtube.com/watch?v=s37YZ0bbbk&feature=related> (in Spanish).

and several prosecutions launched against users for information posted on Twitter. Perhaps the most worrying recent development for online freedoms in Venezuela was the passage in December 2010 of laws increasing state control over telecommunications networks and laying the foundation for website managers and service providers to be required to censor users commenting on the platforms they host.

The internet arrived in Venezuela in 1992, but its popularization began in 1996, when the first commercial internet-service providers (ISPs) were granted licenses by the National Telecommunications Committee (Conatel).⁴ The 1999 constitution obliges the state to provide the public with access to new information and communication technologies (ICTs),⁵ and the 2000 Organic Law of Telecommunications enables private companies to enter the market.⁶

OBSTACLES TO ACCESS

Over the past 10 years, partly due to government investment, internet penetration has grown rapidly, increasing from under 4 percent in 2000 to 34.67 percent—or almost 10 million users—by late 2010, according to statistics provided by Conatel. Recent years have seen a significant shift from dial-up to broadband, and by 2010, over 90 percent of the nearly 2.5 million internet subscriptions were broadband.⁷ Despite the prevalence of broadband connections, such services are slower and more expensive than in other countries in Latin America.⁸ The state-owned telecommunications firm National Telephone Company of Venezuela (CANTV) offers relatively low prices, but its connections are slow, and the company's dominant position stifles competition. Nationally, the average connection speed is less than 1 Mbps,⁹ with a cost of approximately US\$30-45 per month.¹⁰ According to a

⁴ United Nations Development Programme (UNDP), *Las Tecnologías de Información y Comunicación al Servicio del Desarrollo* [Information and Communication Technologies for Development] (Caracas: UNDP, 2002), 249 (in Spanish).

⁵ See Articles 108 and 110 of the constitution, available at <http://www.tsj.gov.ve/legislacion/constitucion1999.htm> (in Spanish).

⁶ In July 2008, a plan to reform the law was leaked to the press. Due to the opposition it garnered, the measure was not introduced in the National Assembly. The proposed modifications included the establishment of a single node for internet service, provided by Conatel, which would have constituted a risk to the neutrality of internet service and management.

⁷ Conatel, *Estadísticas preliminares del sector Telecomunicaciones al cierre del III trimestre de 2010* [Statistics from the Telecommunications Sector at the end of the Third Trimester of 2010] (Caracas: Conatel, 2010), http://www.conatel.gob.ve/files/Indicadores/indicadores2010/presentacion_a_publicar_III_trim_20102.pdf (in Spanish).

⁸ BuddeComm, "Venezuela—Broadband & Broadcasting Market—Overview, Statistics & Forecasts," <https://www.budde.com.au/Research/Venezuela-Broadband-Broadcasting-Market-Overview-Statistics-Forecasts.html?r=51>, accessed August 12, 2010.

⁹ Speedtest.net, "World Speedtest.net Results," <http://www.speedtest.net/global.php#0>, accessed August 12, 2010.

¹⁰ In Venezuela, foreign-exchange controls have been in place since 2003. In January 2010, a variable rate of 2.60 bolivares per dollar was decreed for preferential imports such as food and pharmaceutical drugs, a rate of 4.30 was decreed for sectors including telecommunications, and another rate of approximately 5.30 bolivares per dollar, which one could obtain through relatively strict auctions, was applied to automobiles. Calculating the minimum wage at 2.60 bolivares per dollar is, according to many economists, somewhat illusory.

recent study, just over half of all users connect to the internet via cybercafes, while an additional third use home connections.¹¹ About 53 percent of users are male, and 43 percent are minors.¹² In Caracas, the capital, WiMAX internet service is available, but only as a trial program with about 5,000 users.¹³

The most significant obstacles to internet access in Venezuela are lack of service availability, low computer literacy, and the high cost of a connection and necessary equipment. Of the Venezuelans who have difficulty accessing the internet, two thirds are disadvantaged by low income, geographic isolation in rural zones, disabilities, or old age. Internet penetration in the lowest income bracket, where the largest proportion of the population is concentrated, is below the national average.¹⁴ In a study of Venezuelans who do not use the internet, one third cited the lack of sufficient knowledge as the primary reason, while an additional third reported the lack of a connection or a computer in their home; 8.8 percent pointed to high costs.¹⁵

There are about seven million landline telephone subscribers, the equivalent of about 25 percent of the population.¹⁶ By contrast, mobile phones are almost ubiquitous, with a penetration rate of 101.50 percent,¹⁷ although some areas between towns experience limited coverage. Venezuela is a regional leader in text messaging (short-message service, or SMS) with some 21.4 million text messages sent during the last four months of 2010.¹⁸ There is a growing contingent of people subscribing to mobile internet services, particularly

¹¹ "Venezuela Internet: Sub-sector Update," Economist Intelligence Unit (EIU), November 6, 2009, http://www.eiu.com/index.asp?layout=ib3PrintArticle&article_id=1845094769&printer=printer.

¹² Carlos Jiménez, *Números y Palabras, Usos y Penetración de Internet en Venezuela* [Numbers and Words, Uses and Internet Penetration in Venezuela] (Caracas: Tendencias Digitales, May 2009), slides, http://www.slideshare.net/Tendencias_Digitales/nmeros-y-palabras-presentacin-sobre-usos-y-penetracin-de-internet-en-venezuela?type=presentation (in Spanish).

¹³ "Movilmax lanzará servicio de VoIP sobre WiMAX para aumentar número de usuarios" [Movilmax Launches VoIP over MiMAX Service to Increase the Number of Users], TeleSemana.com, October 9, 2008, <http://www.telesemana.com/entrevistas/detalle.php?id=60> (in Spanish).

¹⁴ Bevilacqua, "Carlos Jiménez: 'En 2012 más de la mitad de los venezolanos estarán conectados a la red.'"

¹⁵ Carlos Jiménez, *Estadísticas y Tendencias de Internet en Venezuela* [Statistics and Trends of the Internet in Venezuela] (Caracas: Tendencias Digitales, 2010), slides, http://www.slideshare.net/Tendencias_Digitales/estadsticas-y-tendencias-de-internet-en-venezuela-vp (in Spanish).

¹⁶ Conatel, *Estadísticas preliminares del sector Telecomunicaciones al cierre del III trimestre de 2010* [Statistics from the Telecommunications Sector at the end of the Third Trimester of 2010]

¹⁷ Ibid. The elevated proportion of prepaid service users in Latin America and the Caribbean has resulted in some double counting, due to multiple payments and inactive accounts. See International Telecommunication Union (ITU), *Perfiles Estadísticos de la Sociedad de la Información: Región de América* [Statistical Profiles of the Information Society: Americas Region] (Geneva: ITU, 2009), http://www.itu.int/dms_pub/itu-d/opb/ind/D-IND-RPM.AM-2009-E09-R1-PDF-S.pdf (in Spanish).

¹⁸ Conatel, *Estadísticas preliminares*.

among higher income brackets.¹⁹ In 2010, there were over 764,000 mobile broadband subscribers in Venezuela, making up approximately one third of the broadband market.²⁰

Although there are 25 telecommunications operators in the country, CANTV, which was renationalized in 2007, monopolizes ADSL service and controls more than 90 percent of the internet market. There is some competition from cable modems, wireless broadband, and satellite connections. Inter places a distant second in the market and offers a triple package that includes cable television, cable modem, and telephone service.²¹ CANTV has benefited financially from state ownership, particularly with regard to currency controls. For example, since January 2010, when the local currency was devalued, CANTV has been permitted to import a dollar for every 2.60 bolívares, while other firms in the sector have had to pay 4.30 bolívares per dollar.²² CANTV's Movilnet also leads the mobile-phone market with 14 million subscribers,²³ out of a total of 29 million.²⁴ Two privately-owned companies also provide mobile-phone services: Digitel and Movistar. However, they have had to decrease their investments in infrastructure and have begun to ration their services because they are forced to use the higher private-sector exchange rate.²⁵ There are no special restrictions on the opening of cybercafés. CANTV's position as a dominant, state-owned ISP and mobile-phone provider has raised concerns about the ease with which systemic content filtering and surveillance could be implemented in the future. In recent years, there have been isolated incidents of CANTV engaging in censorship and monitoring when other providers have not (see below), but more systematic controls were not evident.

Advanced applications such as Facebook, Twitter, and the video-sharing site YouTube are freely accessible and growing in popularity.²⁶ On several occasions, however, international blog-hosting services have been temporarily blocked surrounding politically sensitive events. During the February 2009 constitutional referendum, bloggers and Twitter users reported that the site Blogger.com, which housed numerous Venezuelan blogs, was inaccessible to CANTV users for at least 24 hours.²⁷ Blocking allegations arose again during

¹⁹ Hernan Galperin, *Tarifas y brecha de asequibilidad de los servicios de telefonía móvil en América Latina y el Caribe* [Rates and Breaches of Affordability of Mobile Telephone Services in Latin America and the Caribbean] (Lima: Diálogo Regional sobre Sociedad de la Información, 2010), available at http://dirsi.net/sites/default/files/DIRSI-ITIC-10-asequibilidad-movil-v1.1_3.pdf (in Spanish).

²⁰ Venezuela is one of five countries in the region with a mobile broadband penetration rate that is above the average rate of developed countries. ITU, *Perfiles Estadísticos*; Conatel, *Estadísticas preliminares*.

²¹ BuddeComm, "Venezuela—Telecoms, Mobile, Broadband and Forecasts," <http://www.budde.com.au/Research/Venezuela-Telecoms-Mobile-Broadband-and-Forecasts.html>, accessed August 12, 2010.

²² "Oswaldo Cisneros sigue apostándole a Venezuela: Digitel busca vías para consolidarse en 3G" [Oswaldo Cisneros Still Betting on Venezuela: Digitel Seeks Ways to Consolidate in 3G], Casetel, June 23, 2010, http://www.casetel.org/detalle_noticia.php?id_noticia=509 (in Spanish).

²³ "Los números oficiales de clientes de Cantv" [The Official Number of Clients of CANTV], *Inside Telecom* 11, no. 42, November 3, 2010, http://m.insidetele.com/newsletters.php?article_id=-3103130866257163706 (in Spanish).

²⁴ Conatel, *Estadísticas preliminares*.

²⁵ "Aún sin dólares para nuevas inversiones" [Even Without Dollars for New Investments], Casetel, August 23, 2010, http://www.casetel.org/detalle_noticia.php?id_noticia=637 (in Spanish).

²⁶ Alexa, "Top Sites in Venezuela," <http://www.alexa.com/topsites/countries:0/VE>, accessed December 20, 2010.

²⁷ See for example: <http://www.cristalab.com/blog/chavez-y-cantv-bloquean-blogger-y-blogspot-ayer-en-venezuela-c687701/>.

the parliamentary elections on September 26, 2010. From September 24 to 27, blogs hosted by WordPress were inaccessible. Venezuelan bloggers claimed that CANTV blocked WordPress on the grounds that many of the sites it hosted were found to contain “illegally published” electoral content. However, an anonymous source at CANTV reportedly attributed the disruption to maintenance work on WordPress servers.²⁸ The government made no effort to clarify the situation.

The state acts as both the dominant service provider, through CANTV, and the sector’s regulator and licensing authority, through Conatel. The president has the power to name and remove Conatel’s director and the four members of its Directive Council. Although Article 35 of the Organic Law of Telecommunications provides for Conatel’s operational and administrative autonomy, a series of presidential decrees over the past decade has shifted oversight of the commission to various ministries and finally to the vice president,²⁹ which has increased the agency’s politicization.³⁰ Conatel has repeatedly demonstrated pro-government bias in decisions related to broadcast media, though it has not yet made comparable judgments affecting the internet or mobile-phone service.

LIMITS ON CONTENT

Although the Venezuelan authorities do not engage in systematic internet censorship, several measures have been taken to restrict the circulation of information deemed displeasing to the government, and officials have warned of their intention to control online content. According to free expression advocates, the objective of such measures is to gain the upper hand in a medium that is heavily used by the political opposition.

No systematic content blocking or cases of judicial censorship have been reported in Venezuela. However, since the renationalization of CANTV in 2007, there have been some incidents of blocks linked to sensitive political information. For example, days after the closure of the country’s largest private television broadcaster, RCTV, in May 2007, two internet radio stations that transmit from Miami—Radionexx and CaracasRadioTV—began to be filtered by domain name. These are the first websites believed to have been censored by CANTV.³¹ In April 2009, managers of *El Liberal Venezolano*, a blog of opposition-oriented

²⁸ David Sasaki, “Internet Censorship and Freedom of Expression in Latin America,” *Información Cívica*, November 1, 2010, <http://informacioncivica.info/new/internet-censorship-and-freedom-of-expression-in-latin-america/>.

²⁹ See Andrés Cañizález, “Conatel, la joya de la corona” [Conatel, the Jewel in the Crown], *Tal Cual*, August 9, 2010, <http://www.talcualdigital.com/Blogs/Viewer.aspx?id=38920> (in Spanish).

³⁰ Jesús Urbina Serjant, “Venezuela,” in *Las mordazas invisibles: Nuevas y viejas barreras a la diversidad en la radiodifusión* [Invisible Jaws: New and Old Barriers to Diversity in Broadcasting] (Montevideo: Program on Law and the Right to Communication, World Association of Community Radio [AMARC], 2009), http://legislaciones.amarc.org/mordazas/VEN_pais.htm (in Spanish).

³¹ “Venezuela comienza el bloqueo de Internet” [Venezuela Starts Blocking the Internet], *Noticias 24*, May 31, 2007, <http://www.noticias24.com/actualidad/noticia/5324/venezuela-comienza-el-bloqueo-de-internet/> (in Spanish).

political and economic opinion, reported blocking that affected CANTV clients.³² In the period surrounding a controversial new monetary devaluation in January 2010, a well-known blog that published black-market exchange rates was blocked, along with some other sites providing similar information.³³ In May, it was reported that CANTV users could not access a website with content pertaining to violent crime and insecurity,³⁴ problems for which the government has drawn considerable public criticism.³⁵ These sites remained inaccessible to CANTV users through year's end, but those accessing the internet via Inter or mobile phones provided by Digitel reported being able to reach them. In the run-up to parliamentary elections in September 2010, the news-aggregator site Noticiero Digital, the 28th most popular website in the country,³⁶ was temporarily inaccessible from Venezuela via CANTV in addition to the above-mentioned blanket block on WordPress.³⁷ Separately, the sites of international human rights organizations like Freedom House, Reporters Without Borders, and Amnesty International are freely available.

The lack of clarity on whether the government is responsible for any of these cases of apparent blocking is compounded by the political situation in the country, in which there are no established checks and balances between the different branches of government, and the judiciary lacks independence. In this context, there is no transparent process or independent institutions through which website owners and content producers can pursue complaints of disruptions.

Although technical filtering has been limited, the authorities have taken steps to intimidate news portals and hosting companies, encouraging them to engage in self-censorship. This effort has centered recently on Noticiero Digital, known for its aggregation of content from other media outlets and the aggressively antigovernment viewpoints of its columnists and commenters. In 2007, it was already receiving approximately 450,000 daily

³² "CANTV confirma bloqueo de El Liberal Venezolano" [CANTV Confirms Blocking of El Liberal Venezolano], *El Liberal Venezolano* (blog), April 15, 2009, <http://liberal-venezolano.net/2009/04/15/cantv-confirma-bloqueo> (in Spanish).

³³ Dollar.nu and Preciodolar.info. See "El Gobierno Venezolano Empezo a filtrar el Internet" [The Venezuelan Government Began to Filter the Internet], Ultraforos.com, January 6, 2010, <http://www.ultraforos.com/foro/general/192628-el-gobierno-venezolano-empezo-filtrar-el-internet.html> (in Spanish).

³⁴ Marianne Diaz, "Venezuela: Polémica por el bloqueo de páginas web por el ISP gubernamental" [Venezuela: Controversy Over Website Blocking by Government ISP], Global Voices, May 16, 2010, <http://es.globalvoicesonline.org/2010/05/16/venezuela-polemica-por-el-bloqueo-de-paginas-web-por-el-isp-gubernamental/> (in Spanish).

³⁵ In August 2010, a special court for the protection of children and adolescents, responding to a request by the ombudsman's office, prohibited print media from publishing images of violence for a month. The measure was criticized as unconstitutional, and came shortly before legislative elections in September. Yolanda Valery, "Venezuela: cruce de raciones por prohibición de imágenes violentas" [Mixed Reactions to Prohibition of Violent Images], British Broadcasting Corporation (BBC), August 18, 2010, http://www.bbc.co.uk/mundo/america_latina/2010/08/100819_0145_venezuela_reacciones_prohiben_fotos_violentas_nacional_tal_cual_alf.shtml (in Spanish).

³⁶ Alexa, "Top Sites in Venezuela."

³⁷ David Sasaki, "Internet Censorship and Freedom of Expression in Latin America," *Información Cívica*, November 1, 2010, <http://informacioncivica.info/new/internet-censorship-and-freedom-of-expression-in-latin-america/>; Noticiero Digital, "Carta abierta a CANTV, de parte de Noticiero Digital" [Open Letter to CANTV, from Noticiero Digital], news release, September 28, 2010, <http://www.noticierodigital.com/forum/viewtopic.php?t=696877> (in Spanish).

visits. In March 2010, the attorney general began legal proceedings against the site for the publication in one of its forums of false information regarding the deaths of the minister of public works and housing and a well-known spokesman for the ruling party. The president demanded legal action because, in his words, “both one who says false information and one who allows it to be said and developed, are committing a crime.”³⁸ In their reply, the editors of Noticiero Digital pointed out that although they do not arbitrarily censor their commentators, they have terms and conditions that participants agree to and which are rigorously enforced. They reported that the rumors were spread by two forum participants who had registered just minutes earlier and that once notified, site administrators acted rapidly to eliminate them and suspend the users.³⁹

In March 2010, the attorney general asked the National Assembly to create legislation on the use of the internet by social media outlets. The legislature in turn issued a resolution instructing two of its committees to investigate websites that incite hatred and violence and lead to crime.⁴⁰ Reacting to the government pressure, some forums and pages specializing in news suspended their commentary systems, though the announced investigations have not yet led to any concrete legal restrictions or punishments. Some activists have suggested that the Noticiero Digital affair was orchestrated by the government with provocateurs posting the rumors in order to provide a pretext for intimidating websites and encouraging self-censorship.⁴¹

In June 2010, President Hugo Chávez alleged that an op-ed article published by Noticiero Digital was inciting a coup d'état and demanded a criminal investigation. The site's managers argued that the author alone was responsible for what he wrote. The Public Ministry assigned two lawyers to open an investigation. Robert Carlo Olivares, author of the article in question, stopped collaborating with Noticiero Digital and refused to provide the site with information regarding his legal identification and address, as requested on behalf of the attorney general's office.⁴² As with the earlier case, the results of the investigation remain unknown, but the site suspended registration of new forum participants as a preventative measure.

³⁸ “Noticiero Digital Responde a Acusaciones de Chávez” [Noticiero Digital Responds to Accusations by Chávez], *El Universal*, March 14, 2010, http://www.eluniversal.com/2010/03/14/pol_ava_noticiero-digital-re_14A3582451.shtml (in Spanish).

³⁹ Noticiero Digital, “Cómo dos foristas recién inscritos se aprovecharon de la libertad de ND y qué hicimos para controlarlos” [How Two Newly Registered Forum Members Took Advantage of the Freedom of ND and What We Did to Control Them], news release, March 16, 2010, <http://www.noticierodigital.com/forum/viewtopic.php?t=631523> (in Spanish).

⁴⁰ *Gaceta Oficial* no. 39.389, March 18, 2010, <http://www.tsj.gov.ve/gaceta/Marzo/1832010/1832010.pdf#page=1> (in Spanish).

⁴¹ Marianne Diaz, “Venezuela: Algunas notas sobre el caso de Noticiero Digital” [Venezuela: Some Notes on the Noticiero Digital Case], *Global Voices*, April 19, 2010, <http://es.globalvoicesonline.org/2010/04/19/venezuela-algunas-notas-sobre-el-caso-de-noticiero-digital/> (in Spanish).

⁴² “ND le responde al ex columnista Roberto Carlo Olivares” [ND Responds to Former Columnist Roberto Carlo Olivares], Noticiero Digital, June 23, 2010, <http://www.noticierodigital.com/2010/06/nd-le-responde-al-ex-columnista-roberto-carlo-olivares/> (in Spanish).

Although there are no specific regulations for conducting electoral campaigns using digital media, the National Electoral Council established some guidelines with Conatel ahead of the September 2010 parliamentary polls.⁴³ Twitter accounts of candidates, parties, and media outlets must comply with the general election rules, and candidates can only send three mass text messages per week per operator.

The Venezuelan authorities have taken measures to proactively influence online discussion, including via the pro-Chávez website www.aporrea.org. In January 2010, on a national television channel, Chávez encouraged members of his party to use Twitter to counteract the opposition. Shortly thereafter, in April 2010, Chavez opened his own Twitter account and by year's end had the largest number of followers in the country at approximately one million.⁴⁴ There are also some allegations that the government has attempted to influence online news coverage through the manipulation of advertising. Online media outlets critical of the government do not receive advertising revenue from state agencies and some private advertisers have been pressured to withdraw their funding from outlets like *Noticiero Digital* and *Código Venezuela*.

There are currently close to 130,000 Venezuelan websites, and social media have emerged as an important avenue for circulating information and expressing opinions at a time when independent television and radio stations have come under increased pressure. The country has the third-largest number of Facebook users in Latin America (about 7 million by the end of 2010)⁴⁵ and the largest number of Spanish-language Twitter users.⁴⁶ There are about 700,000 Venezuelan Twitter users, a figure that has grown by 1,000 percent in the last year, due in part to the president's recent instructions to his supporters to counteract his opponents on the platform.⁴⁷

In addition to street demonstrations, which have been orchestrated through intensive use of SMS and BlackBerry Messenger,⁴⁸ activists have mounted notable campaigns on Twitter. The first of these, called *#internetlujo*, was launched in March 2009 to strengthen the effects of Decree 825, which declares access to the internet to be a political priority for

⁴³ "CNE se reunirá con Conatel el próximo martes para discutir la normativa de propaganda electoral" [Conatel and CNE will meet next Tuesday to discuss the rules of electoral propaganda], *Venezolana de Televisión (VTV)*, August 22, 2010, <http://www.vtv.gov.ve/noticias-nacionales/42430> (in Spanish).

⁴⁴ "Tweeters más populares en Venezuela" [Most Popular Twitters in Venezuela], *Twitter-Venezuela*, <http://www.twitter-venezuela.com/> (in Spanish), accessed March 9, 2011.

⁴⁵ "Venezuela Facebook Statistics," *Socialbakers*, <http://www.socialbakers.com/facebook-statistics/venezuela>, accessed March 9, 2011.

⁴⁶ ComScore, "Indonesia, Brazil and Venezuela Lead Global Surge in Twitter Usage," press release, August 11, 2010, http://www.comscore.com/Press_Events/Press_Releases/2010/8/Indonesia_Brazil_and_Venezuela_Lead_Global_Surge_in_Twitter_Usage.

⁴⁷ "Venezuela, política 2.0," *BBC*, January 29, 2010, http://www.bbc.co.uk/mundo/america_latina/2010/01/100128_2205_venezuela_marchas_twitter_internet_jrg.shtml (in Spanish).

⁴⁸ Casto Ocando, "El Blackberry cambia batalla política en Venezuela" [Blackberry Changes Political Battle in Venezuela], *El Nuevo Herald*, September 10, 2009, http://www.elnuevoherald.com/2009/10/09/561909_p2/el-blackberry-cambia-batalla-politica.html (in Spanish).

the development of the country. The campaign was initiated primarily by professors and researchers from public universities to protest a subsequent presidential decree that characterized the public sector's use of the internet as a luxury and on those grounds restricted state investment in ICTs. An active community of bloggers, Twitter users, and others joined the campaign.⁴⁹ In July 2009, another Twitter-based campaign, #FreeMediaVe, was launched as a protest against the closure of 32 radio broadcasters by the government, and against a proposed Special Law Against Media Crimes, which was ultimately not submitted to the National Assembly for discussion.⁵⁰ Twitter also played a considerable role in campaigning for the September 2010 parliamentary elections, but like all online media, including news sites and online broadcasters, its use is strongest among the younger, wealthier, and more urban segments of the population.⁵¹

VIOLATIONS OF USER RIGHTS

While freedoms of speech and the press are constitutionally guaranteed, various laws have been used to restrict media and online freedom. Several individuals have been prosecuted in recent years for statements made via the internet or Twitter, though none were imprisoned as of the end of 2010. The courts are subject to the influence of the executive branch, particularly with regards to politically important cases, and the Supreme Court of Justice has passed down at least 10 judgments since 2001 that have placed curbs on freedom of expression.⁵² The 2001 Special Law Against Information Crimes penalizes online activities involving privacy violations or pornography, but it has not been used to restrict online expression related to political or social matters.⁵³

In December 2010, the National Assembly adopted a reform of the 2004 Law of Social Responsibility in Radio and Television (Resorte) that extended it to online and electronic media.⁵⁴ This lay the groundwork for censorship by websites and service providers of content transmitted by other users. Under the amended law, online media outlets are expected to establish mechanisms to restrict content that would violate the law,

⁴⁹ The campaign website is located at <http://www.cecalc.ula.ve/internetprioritaria/>, accessed August 18, 2010.

⁵⁰ Article 3 of the measure indicated that national independent producers, journalists, newscasters, lecturers, artists, and "any other person who expresses himself through any mode of communication" would be subject to criminal liability. See Pedro Pablo Peñaloza, "Todos los 'delitos mediáticos' se castigarán con cárcel" [All 'Media Crimes' Are Punishable by Imprisonment], *El Universal*, July 30, 2009, http://www.eluniversal.com/2009/07/30/pol_art_todos-los-delitos-m_1497998.shtml (in Spanish).

⁵¹ Maria Isabel Neuman, "La participación en las redes sociales y las elecciones: ¿Los seguidores representan votos?" [Participation in Social Networks and the Elections: Do Followers Represent Votes?], *Experiencias Locales de Apropiación Tecnológica* (blog), October 21, 2010, <http://apropiacion.blogspot.com/2010/10/la-participacion-en-las-redes-sociales.html#more> (in Spanish).

⁵² Juan Francisco Alonso, "Jueces buscan limitar libre expresión" ['Judges Seek to Limit Free Expression'], *El Universal*, August 21, 2010, http://politica.eluniversal.com/2010/08/21/pol_art_jueces-buscan-limit_2012844.shtml (in Spanish).

⁵³ The text of the law is available in Spanish at

<http://www.gobiernoonlinea.ve/docMgr/sharedfiles/LeyEspecialcontraDelitosInformaticos.pdf>, accessed August 17, 2010.

⁵⁴ The amended law is available in Spanish at <http://www.scribd.com/doc/45291089/Proyecto-de-Ley-de-Responsabilidad-en-Radio-Television-y-Medios-Electronicos>, accessed December 19, 2010.

according to the Committee to Protect Journalists. Websites found in violation may be fined up to 13,000 bolivars (\$US 3,000) and service providers who do not respond to government inquiries risk high fines and temporary suspension of operations.⁵⁵ Legislators also passed a law that deemed telecommunications networks and services to be of public rather than general interest, meaning they would be subject to greater state control.⁵⁶ These changes were among more than a dozen laws passed in the final days of the outgoing National Assembly, which was set to be replaced by a newly elected chamber with a substantial opposition minority.⁵⁷ The assembly also delegated its powers to the president for 18 months, allowing him to legislate by decree in areas including telecommunications and information technology.⁵⁸ When freedom of expression advocates demanded to participate in the lawmakers' deliberations,⁵⁹ they were harassed and assaulted by government supporters at the doors of the chamber.⁶⁰

A 2005 reform of the penal code included significant restrictions on expression, especially in cases involving contempt or disrespect. Article 147 of the penal code stipulates that defamation of the president is punishable by 6 to 30 months in prison, while offenses against lower-ranking officials carry lighter punishments under Article 148.⁶¹

In addition, the penal code includes vague language criminalizing the dissemination of "false information." Article 297-A states: "Every individual who through false information spread by any print media, radio, television, telephone, e-mail, or written pamphlet causes

⁵⁵ "CPJ Condemns Two Media Laws," International Freedom of Expression eXchange (IFEX), December 22, 2010, http://www.ifex.org/venezuela/2010/12/22/two_reforms_approved/.

⁵⁶ The amended law is available in Spanish at <http://www.scribd.com/doc/45293016/Nueva-Ley-Organica-de-Telecomunicaciones>, accessed December 19, 2010.

⁵⁷ Sara Carolina Díaz, "En 15 días Asamblea aprobó 16 leyes" [In 15 Days Assembly Approves 16 Laws], *El Universal*, December 19, 2010, http://politica.eluniversal.com/2010/12/19/pol_art_en-15-dias-asamblea_2141341.shtml (in Spanish).

⁵⁸ "Texto de la Ley Habilitante entregada al la AN" [Text of the Enabling Act Submitted to the National Assembly], *Panorama.com.ve*, December 14, 2010, <http://www.panorama.com.ve/14-12-2010/avances/0chavez-martes-emergencia2.html> (in Spanish).

⁵⁹ "Periodistas y ONG solicitan audiencia a la AN para defender la libertad de expresión" [Journalists and NGOs Seek Hearing at the National Assembly to Defend Freedom of Expression], *El Nacional*, December 16, 2010, http://www.el-nacional.com/www/site/p_contenido.php?q=nodo/172357/Naci%C3%B3n/Periodistas-y-ONG-solicitan-audiencia-a-la-AN-para-defender-la-libertad-de-expresi%C3%B3n (in Spanish); "Esperamos respuesta oportuna de AN a documento Por una internet de contenido libre" [We Expect a Timely Response from the National Assembly to Document 'For an Internet of Free Content'], *Todos en Red* (blog), December 17, 2010, <http://todosenred.wordpress.com/2010/12/17/esperamos-respuesta-oportuna-de-an-a-documento-por-una-internet-de-contenido-libre/> (in Spanish).

⁶⁰ Patty Fuentes Gimón, "Respuesta oficial" [Official Response], *Tal Cual*, December 17, 2010,

<http://www.talcualdigital.com/Avances/Viewer.aspx?id=45795&secid=28> (in Spanish). ⁶¹ Every opinion or manifestation of dissent made in public or in private against a government employee can be considered an offense. The new penal code has been described as an attempt to criminalize political opposition. For more information, see Súmate, "Respeto a la libertad de expresión: ¿Limita el código penal la libertad de expresión?" [Respect for Freedom of Expression: Does the Penal Code Limit Freedom of Expression?], http://infovenezuela.org/democracy/cap4_es_2.htm (in Spanish), accessed August 22, 2010.

⁶¹ Every opinion or manifestation of dissent made in public or in private against a government employee can be considered an offense. The new penal code has been described as an attempt to criminalize political opposition. For more information, see Súmate, "Respeto a la libertad de expresión: ¿Limita el código penal la libertad de expresión?" [Respect for Freedom of Expression: Does the Penal Code Limit Freedom of Expression?], http://infovenezuela.org/democracy/cap4_es_2.htm (in Spanish), accessed August 22, 2010.

collective panic or anxiety, will be punished with two to five years in prison.”⁶² Given that the internet is classified as a channel of mass distribution of information, some violations of the penal code (such as defamation or incitement of hatred or rebellion) may be considered more severe online than in other media forms.⁶³

Over the past two years, at least five people have been charged or arbitrarily detained for online expression on politically relevant topics. In July 2010, police detained two people for alleged involvement in the spread via Twitter of false rumors aimed at destabilizing the national banking system. The incident came in the wake of the closure or nationalization of more than 10 banks during 2009. The suspects were charged with spreading false information under the General Law on Banks and Other Financial Institutions, reformed in 2009, which calls for prison sentences of 9 to 11 years. Strangely, one suspect, Luis Acosta Oxford, had barely 32 Twitter followers and had sent 201 messages at the time of his detention, and only one of the messages had referred to the banking situation.⁶⁴ The other suspect, Carmen Cecilia Nares Castro, had been subscribed to Twitter for just two months and had only six followers. The authorities ultimately determined that the arrests had been a mistake, and Nares’s lawyer criticized the attorney general’s office for failing to conduct adequate investigations.⁶⁵

Two months later, police arrested a 27-year-old employee of the state electric company, Jesus Majano, for allegedly sharing via Twitter offensive words and images that encouraged the assassination of President Chávez. After several hours of detention under Article 285 of the penal code, he was provisionally released pending additional hearings.⁶⁶ In November, Cristian Fuentes, a social communications student and regular user of the account @Caracasmetro, a tool created to monitor the subway system’s operation, was arrested while taking photographs in the subway. He reported that the police told him he

⁶² *Gaceta Oficial* no. 5.763 Extraordinario, March 16, 2005, http://www.tsj.gov.ve/gaceta_ext/marzo/160305/160305-5763-01.html (in Spanish).

⁶³ Rafael Martínez, “Twitter: Esos Malditos 140 Caracteres” [Twitter: Those Damned 140 Characters], SoyRafael.com, February 22, 2010, <http://soyrafael.com/2010/02/22/twitter-esos-malditos-140-caracteres/> (in Spanish). Article 285 of the penal code states: “Anyone who incites disobedience of the laws or hatred among its people or makes apology for acts that the law provides as crimes, so as to endanger the public peace, shall be punished with imprisonment of three years to six years.”

⁶⁴ “El tweet ‘desestabilizador’” [The ‘Destabilizing’ Tweet], Código Venezuela, July 8, 2010, <http://www.codigovenezuela.com/2010/07/el-tweet-desestabilizador/> (in Spanish).

⁶⁵ National Assembly, “Imputada en caso de desestabilización bancaria niega su responsabilidad” [Suspect in Case of Bank Destabilization Denies Responsibility], news release, July 21, 2010, http://www.asambleanacional.gob.ve/index.php?option=com_content&view=article&id=26011:imputada-en-caso-de-desestabilizacion-bancaria-niega-su-responsabilidad-&Itemid=50&lang=es (in Spanish); Reporters Without Borders, “Twitter Users Formally Charged, Banned from Posting Messages,” IFEX, July 14, 2010, http://www.ifex.org/venezuela/2010/07/14/twitter_users_arrested/.

⁶⁶ “Designan a Fiscal en caso de twittero por incitar al magnicidio” [Prosecutor Assigned in Case of Twitterer Charged with Inciting Assassination], *La Patilla*, September 9, 2010, <http://www.lapatilla.com/site/2010/09/09/cicpc-detuvo-a-trabajador-de-corpolec-por-incitar-al-magnicidio-a-traves-de-twitter/> (in Spanish); “Venezuelan Released After Arrest for Twitter Post,” Associated Press, September 10, 2010, http://www.boston.com/news/world/latinamerica/articles/2010/09/10/venezuelan_released_after_arrest_for_twitter_post/.

was being detained because they were sure he would post the photos on Twitter.⁶⁷ After a few hours Fuentes was released without charges.

In another case, in March 2006, a judge ordered the pretrial detention of Gustavo Azócar, a newscaster and political commentator for the local television station Televisora del Tachira, and a correspondent for the national daily *El Universal*. Azócar was facing trial on charges of illegal profit, fraud, and forgery, but the case appeared to be a politically motivated retaliation for his regular criticism of the government. Fifteen days after the detention order, Azócar won the right to be judged while remaining outside custody, on the condition, among some others, that he refrain from speaking publicly about the case. In July 2009 he was returned to prison for publishing on his website articles that his colleagues had written about his case. In March 2010 he was convicted of the original crimes and sentenced to two years and six months in prison. Since he had already served eight months behind bars and his supposed crimes were not serious, he was allowed to remain free, though he must report regularly to the courts.⁶⁸

The constitution prohibits anonymity,⁶⁹ and the rule applies to all media. Since 2005,⁷⁰ Conatel has required mobile-phone operators to collect copies of their subscribers' identity documents, address, fingerprints, and signature. According to the Computer Crimes Act, this information must be delivered to the state security agencies upon request. The service providers are also obliged to keep detailed logs of all calls, including the phone number of the caller, the destination phone number, the date, time, and duration of the call, the location and direction of the base station where the call is initiated, and the location and direction of the base station where the call is received, provided it belongs to the same network. The Law Against Kidnapping and Extortion obliges the providers of telecommunications, banking, or financial services to supply required data to the Public Ministry upon request. National Assembly deputies from the ruling party have reported receiving complaints from law enforcement agencies that only the state-owned Movilnet provides information immediately.⁷¹ Cybercafe customers are not required to register their identity documents to gain internet access, and there are no known cases in which such users' activities have been tracked.

⁶⁷ "Seguiré usando el Metro y denunciando fallas del servicio" [Will Continue Using the Metro and Reporting Service Failures], *El Universal*, November 3, 2010, http://www.eluniversal.com/2010/11/03/ccs_art_seguire-usando-el-m_2090854.shtml (in Spanish); IPYS, "Journalist Briefly Detained by Police," IFEX, November 4, 2010, http://www.ifex.org/venezuela/2010/11/04/fuentes_detained/.

⁶⁸; Daniel Cancel, "Gustavo Azócar Released on Parole," *Latin America Herald Tribune*, <http://laht.com/article.asp?CategoryId=10717&ArticleId=231941>; <http://cpj.org/2010/03/venezuela-journalist-azocar-convicted-on-retaliato.php>, accessed March 9, 2011.

⁶⁹ Article 57: "Everyone has the right to freely express their thoughts, ideas or opinions orally, in writing or any other form of expression, and to make use of any means of communication and diffusion, and no censorship shall be established. Anyone making use of this right assumes full responsibility for everything expressed. Anonymity, war propaganda, discriminatory messages or those promoting religious intolerance are not allowed."

⁷⁰ *Gaceta Oficial* no. 38.157, April 1, 2005, <http://www.tsj.gov.ve/gaceta/abril/010405/010405-38157-20.html> (in Spanish).

⁷¹ "Presionan a brindar información personal" [Pressure to Provide Personal Information], BlackBerryVzla.com, June 24, 2010, <http://www.blackberryvzla.com/2010/06/presionan-brindar-informacion-personal.html> (in Spanish).

Article 22 of the Special Law Against Information Crimes penalizes disclosure, dissemination, or misuse of personal information with two to six years in prison and heavy fines. Nevertheless, opinion programs transmitted by the state-owned television channel regularly air recordings of government opponents' telephone conversations, and no investigations or sanctions have ever resulted from the disclosures.

In July 2007, journalist Roger Santodomingo resigned as director of Noticiero Digital after his son received threats and his car was set on fire in front of his house.⁷² However, this has been the only case of its kind to date. There have been no reported instances of hacking or denial-of-service attacks on opposition websites.

⁷² “Estalló camioneta del periodista Roger Santodomingo” [Journalist Roger Santodomingo's Truck 'Exploded'], *Correo del Caroní*, July 5, 2007, <http://www.correodelcaroni.com/archivo/archivo.php?id=71460> (in Spanish).