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Human Rights Watch World Report 1998

VENEZUELA

Human Rights Developments

As in previous years, human rights violations in 1997 were closely linked to the battle against crime in Venezuela's cities. Facing the difficult challenge of policing the poor and increasingly crime-ridden neighborhoods that surround Caracas and other Venezuelan cities, security forces resorted to systematic abuses, including torture, extrajudicial executions, and the disproportionate use of lethal force. Time-honored methods used to cover up illegal killings, together with an antiquated legal system that obstructed prompt and impartial investigations, ensured that the perpetrators of these abuses tended to go unpunished. Despite efforts by government authorities to improve prison conditions, convicted prisoners and those awaiting trial continued to be held in circumstances that violated international standards.

The pace of police abuses showed no sign of letting up from the prior year, as Venezuelan police forces, including the Technical Judicial Police (Polica Tcnica Judicial, PTJ), continued to commit serious human rights violations, including summary executions. In some cases, police executed individuals thought to be dangerous criminals, or sought revenge for the killing of police agents. In other instances, police shot suspects fleeing arrest or the scene of a crime. In still other cases, police committed abuses unrelated to their police work, such as during fights or to settle personal grudges. According to the Network in Support of Justice and Peace (Red de Apoyo por la Justicia y la Paz, Red de Apoyo), police committed at least ninety extrajudicial executions between January and August, a figure that was comparable to the prior year's tally.

In investigating arbitrary killings by the police, Human Rights Watch found that many killings appeared to have been planned beforehand and that the police appeared to follow standard procedures designed to avoid accountability. Officers often wore hoods to protect identification, shepherded onlookers away from the scene beforehand, and fired guns into the air after the killing to simulate a firefight. To cover up abuses, they sometimes removed the corpse before crime-scene investigators arrived, on the pretext of taking the victim to a hospital, planted weapons or drugs on the victim, or removed his or her clothing and personal identification. Officers also intimidated relatives or witnesses to dissuade them from denouncing what they had seen. In several cases, post-mortem medical examinations performed by the Medical Legal Institute, a national forensic agency that is subordinate to the PTJ, failed to disclose information on the number and location of gunshot wounds.

In a typical execution, PTJ officers killed Jos Gregorio Rondn on July 4 in his home in the Catia neighborhood of Caracas. The police arrived at 5:00 a.m., forced their way into the house, and overpowered Rondn, who was in bed on the first floor. His sister, Ana Rosa, saw him lying on the floor with a policeman's foot pressed to his head, before the police locked her and her mother into a downstairs room, from where they heard shots fired. After releasing the two women, police told Ana Rosa that Rondn had been shot because he had tried to resist arrest. They removed the body and took it to the morgue. The police arrested Rondn's sister and took her to PTJ headquarters in Carabobo Park, where they threatened her with torture and imprisonment if she did not sign a statement incriminating her brother.

Systematic police abuses were also reported from other states, such as Anzotegui, on Venezuela's Caribbean coast. At 6:30 p.m. on August 1, agents belonging to the Metropolitan Police (Polica Metropolitana, PM) detained Anbal Jos Vargas, an eighteen-year-old soccer enthusiast, while he was training for a local team in a poor neighborhood in the city of Barcelona. According to local residents, the police confused him with a criminal, and despite the fact that Vargas showed them identification, one officer ordered another to shoot Vargas; the youth was shot at close range with an explosive bullet, dying almost instantly. The policeman responsible fired additional shots to simulate a gunfight. A police report issued to the press said that the victim had died in an exchange of gunfire.

Although police authorities said that officers accused of committing killings had been detained or suspended pending judicial examinations, such investigations faced almost insuperable obstacles. A legal procedure unique to Venezuela allows cases against police to be sidetracked for long periods of time. Known as an averiguacin de nudo hecho-a requirement that public officials undergo a preliminary investigation before an official criminal investigation can take place-these proceedings are intended to be completed within ten days but often languish for months or years. Their effect was to shield those responsible from prosecution, since criminal charges cannot be filed until the preliminary investigation is completed. Meanwhile, the officer can remain in service. Frequently, the police agency accused in abuse cases failed to respond to repeated orders from the courts for the information needed for the case to pass to trial. Moreover, until the official has been arrested and formal charges have been filed, court investigations remain secret. After several years of waiting for a result, relatives of victims of police killings told Human Rights Watch that they still had no access to the court's findings.

In addition to summary executions, torture continued to be used by police routinely in criminal investigations. According to a report issued in December 1996 by United Nations Special Rapporteur on Torture Nigel S. Rodley, security forces "resort frequently to the use of torture as a method of obtaining information or as a punishment, especially among low-income sectors of the population, in a society characterized by high levels of crime." After publication of the special rapporteur's report, the number of reported torture cases has significantly increased. During the first eight months of 1997, the Red de Apoyo documented 767 reports of torture or ill-treatment, an increase of more than 300 over the comparable figure for 1996. The police forces most frequently cited by the special rapporteur were the PM, which operates under the jurisdiction of the governor of Caracas; the PTJ, responsible to the minister of justice; the Directorate of Services of Intelligence and Prevention (Direccin de los Servicios de Inteligencia y Prevencin, DISIP), which is subordinate to the interior minister; and the various state police forces, which are responsible to state governors.

Luis Evelio Quintero, a driver for a food company, reported that he was unjustly detained and tortured by PTJ agents to get him to confess to a robbery he did not commit. On February 4, Quintero's truck was hijacked, and he and another man in the truck were dumped on a highway east of Caracas, after which they reported the crime to the PTJ in nearby Guarenas. On February 28, another truck from the same company was robbed. The owner went to the PTJ to denounce the theft, and the PTJ subsequently arrested both Quintero and his driving partner, took them to the PTJ station in El Llanito, Miranda state, and held them in detention for eight days, the maximum permitted by the law. During this time, they were taken in the evenings to a deserted house some thirty minutes from the police station. They beat Quintero

and applied electric shocks all over his body. After handcuffing his wrists behind his body, on several occasions they hoisted him in the air and let him hang for thirty minutes. As a result of the hanging, Quintero's left hand was paralyzed.

Jos Francisco Palencia Ruiz, a nineteen-year-old former volunteer fireman who worked at a forestry station, was detained on July 8 by members of the Baruta municipal police and tortured to get him to confess to robbing a safe deposit box in the station. Palencia was handcuffed and hung by the cuffs from a beam, while he was beaten and kicked in the stomach. A plastic bag was put over his head several times while the police tried to force him to confess. At one point his torturers beat him repeatedly to get him to confess to having stolen a larger amount of money.

The PTJ could hold suspects for eight days before placing them at the disposal of a judge, an excessively long period that provided ample opportunity for mistreatment. In any case, the time period was often ignored. Human Rights Watch is not aware of a single torturer who has been punished, despite ample documentation on torture cases prepared by Venezuelan and international human rights groups. Among the many factors contributing to impunity was the subordination of the Medical Legal Institute to the PTJ, one of the police agencies most frequently implicated in torture. In addition, cursory and slipshod examinations and the fact that autopsies are secret make evidence of torture difficult to prove. Another factor was the "nudo hecho" procedure; often, the procedure was delayed so long that the crime became subject to a statute of limitations before the preliminary investigation was completed and charges could be filed.

Overcrowded, understaffed, physically deteriorated, plagued by official corruption and abuse, and rife with weapons, guns, and gangs, Venezuela's prisons languished in a seemingly permanent state of crisis. Although the Ministry of Justice, charged with administering the country's prison system, took some steps toward reform, the prisons' overall structural problems were not noticeably eased. The January closure of the violent and overcrowded Retn de Catia prison, although it eliminated a notorious symbol of the country's prison woes, exacerbated overcrowding at the remaining penal facilities in Caracas. Nationally, with over 25,000 inmates crammed into thirty-two penal institutions, the prison population continued to far exceed the available capacity.

Most notable among the prisons' chronic problems was their extreme violence, which remained at the highest levels in the region. According to newspaper accounts, eighty-two prisoners were killed during the first eight months of the year—a number that, while shockingly high, represented a substantial decline from previous years. One of the most violent prisons was Tocuyito, in Valencia, where at least twenty-nine prisoners were killed—many by gunshots—between January and September. In Tocuyito and other prisons, such killings were almost entirely the product of inmate-on-inmate violence. Heavily armed, and supervised by a small number of untrained, underpaid guards, the prisoners themselves effectively controlled the prisons, as even the minister of justice publicly acknowledged.

The year was punctuated by exceptionally brutal outbursts of prison violence. On August 28, a surprise attack of one group against its rivals at El Dorado prison, a remote jungle facility in southeastern Venezuela, resulted in twenty-nine dead and numerous injured. Even prior to the violence, the deplorable conditions of the "Casa Amarilla," the area of the prison where the murders took place, had led the Public Ministry to call for its closure.

The prisons' severe overcrowding and unhygienic conditions, combined with their appalling lack of medical care, encouraged the emergence and spread of disease. Tuberculosis was the most common illness, according to the Public Ministry, which in August reported 1,011 confirmed cases in the prisons. In May, cholera broke out in Sabaneta prison, a densely populated, decaying facility in western Venezuela: eighty-five prisoners reportedly fell ill, while almost 600 others required treatment. Cases of cholera were also reported in La Planta prison in July and in El Rodeo II in September. In a promising effort to stem the spread of disease, the government of Miranda state instituted a pilot project of sending large medical teams into local prisons for short-term sweeps, conducting tests, providing vaccinations, and distributing much-needed medical supplies.

In the wake of the El Dorado prison massacre, the new minister of justice, who was appointed in March, promised that in less than a year the prison crisis would be brought under control, and described an array of measures meant to accomplish this goal, including the development of a new corps of prison guards who would be better paid and better trained. Given the lackluster history of Venezuelan prison reform efforts, however, such claims must be judged on the strength of their results rather than on the encouraging scope of their ambition. The Ministry of Justice did, in June, conduct a detailed census of the prison population, a first step toward classifying prisoners to separate pre-trial detainees from convicted offenders, and first-time petty criminals from dangerous recidivists. It also established a new prison ombudsman's office, a post with greater independence than provided previous such monitors.

Over two-thirds of the Venezuelan prison population was made up of pre-trial detainees and others at some stage in the criminal justice process—people who might be incarcerated for several years before being acquitted of the charges against them—indicating that a durable solution to Venezuela's prison crisis required action from other government authorities as well. In particular, the country's criminal justice system was in need of radical reform, an effort implicating the legislature and the judiciary, among others.

Minister of Justice Hilarin Cardozo acknowledged the gravity of the situation in the country's prisons and agreed to proposals on prison reform made by the Forum for Life, a consortium of nongovernmental organizations. However, the government agreed to implement only a few of the forum's overall recommendations.

Local human rights groups reported indiscriminate arrests, torture, and arbitrary killings in Apure state, along Venezuela's border with Colombia, where constitutional guarantees continued to be suspended due to incursions by Colombian guerrilla groups. On February 6, for example, National Guard (GN) troops shot dead Juan Jos Rodriguez Bastidas, a teacher, and Jess Castellanos Vasco, a three-year-old Colombian boy, when they were traveling by boat down the Arauca river. The shooting occurred an hour after an armed cross-river clash between the GN and Colombian guerrillas. As the boat went past a GN river control post, the police opened fire, claiming afterward that they had been responding to shots fired from the Colombian bank. However, according to witnesses, no shots from the Colombian side preceded the GN attack, and the police gave no warning prior to opening fire. Four other passengers in the boat were wounded. On the same day, GN troops shot dead Ignacio Jos Briceo, a twenty-eight-year-old cattleman, when he failed to heed an order to halt at a GN mobile control post in El Molino.

Having attracted considerable criticism in 1996 for human rights violations, the Venezuelan government took some steps in 1997 to put human rights on its policy agenda. In contrast to prior years, the government publicly recognized that human rights violations took place in the country. President Caldera officially dubbed 1997 the "Year of Human Rights" and announced the formation of a National Commission of Human Rights (Comisin Nacional de Derechos Humanos, CNDH), composed of key cabinet ministers and the governor of Caracas. He instructed the commission to formulate a "national agenda" on human rights. Unlike national human rights commissions or ombudsmen in other Latin American countries, however, the Venezuelan CNDH was not given powers to investigate or make recommendations on individual cases of human rights violations. Its role was limited to coordinating information between ministries on human rights issues, responding to intergovernmental human rights bodies, and acting as a liaison with domestic monitoring groups. By October, the CNDH still lacked a secretariat, staff and budget, and had met only on five occasions. In a positive development, the Supreme Court declared unconstitutional a 1956 law, called the Law of Vagrants and Undesirables, that allowed authorities to detain people administratively for up to five years. Frequently, the law had been used to detain unemployed people or others deemed undesirable.

One of the first meetings of the CNDH was held to discuss an official reply to the U.S. State Department's *Country Reports on Human Rights Practices for 1996*. The twenty-three-page Venezuelan government response, released on February 4, accused the United States of supplanting the supervisory competence of the human rights bodies of the United Nations and the Organization of American States, and implied that the State Department report was flawed because it presented facts out of context and ignored the instability of Venezuela's recent past.

In another international arena, Venezuela's response to a treaty banning landmines was troubling. Of eighty-nine countries that took part in negotiations to draft a convention on a comprehensive ban on the weapons, Venezuela was one of four that indicated that it was unlikely to sign the treaty, which was approved in September.

The Right to Monitor

Members of the Human Rights Office of the Vicariate of Puerto Ayacucho, state of Amazonas, came under attack for their work on behalf of the Amazonian Indians. During the last week of May, local politicians and some members of the regional government, who were trying to frustrate the drafting of a law to protect Indians' land rights, launched a series of attacks against the Vicariate in the press and on the radio, accusing its members of promoting divisions and violence between Indians and white settlers. On May 27, a vehicle belonging to Luis Jess Bello, the general coordinator of the Human Rights Office, and another that belonged to a Salesian nun were damaged when acid was thrown on them.

On June 7, an unidentified person in the street insulted and threatened an engineer working for the office. On June 9, the Superior Court of Puerto Ayacucho ruled that a lawsuit filed by the Public Ministry of Amazonas State against the Human Rights Office for "usurpation of functions" was unwarranted and ordered that it be dropped.

The government sought to improve its relations with the country's large network of nongovernmental human rights organizations. During 1996 and in earlier years, government officials had often tried to discredit and stigmatize the local groups. During 1997, however, the organizations were invited to participate in meetings with government officials to contribute to a list of needed human rights reform measures. The first of these meetings took place on July 4, when the Forum for Life met ministers and lower-ranking officials and presented a detailed list of recommendations, and the Forum for Life welcomed the meeting as a first positive sign.

The Role of the United States

The Venezuela section of the State Department's *Country Reports on Human Rights Practices for 1996* painted an accurate picture of the serious human rights situation in Venezuela. The U.S. Embassy chose not to intervene in the debate caused by the publication of the CNDH's response to the State Department human rights report. Human Rights Watch learned of no public pronouncements made by the United States on human rights issues.

Relevant Human Rights Watch report:

Punishment Before Trial: Prison Conditions in Venezuela, 3/97

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