



**International covenant
on civil and
political rights**

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HUMAN RIGHTS COMMITTEE

**Comments by the Government of Venezuela on the concluding observations
by the Human Rights Committee (CCPR/CO/71/VEN)**

[19 September 2002]

I. ACTION TAKEN TO CONTROL AND PREVENT PRISON VIOLENCE

1. The body responsible for taking action to prevent prison violence, as regards the immediate problem of relations between inmates, is the Ministry of the Interior and Justice through the Department of Custody and Prisoner Rehabilitation.
2. Such action is directly related to the general conduct or behaviour displayed at each detention centre, and the size of the inmate population is also relevant, i.e. there are some prisons with high levels of violence and some which are more peaceful. Basically, overcrowding turns out to be one of the principal causes of violence, while it is also a characteristic structural element of the prison system.
3. There is also violence and inhuman treatment of inmates by prison staff and military personnel who do not seem to be deterred by disciplinary measures and at the same time take advantage of the “code of silence” among the prison population, since inmates do not intervene to report or bear witness to such incidents, thus allowing them to go unpunished.
4. Measures such as the following have been taken at prisons:
 - (a) **Regular and special searches:** these are carried out in detention blocks to unearth industrial and prison-made firearms, drugs and drug-taking paraphernalia, blunt projectiles, industrial and prison-made knives and spikes and other prohibited items which inmates use to attack each other;
 - (b) **Searches of family members and visitors:** these take place when visitors wish to enter the premises, to prevent the introduction of firearms, projectiles and any other items that could be used to wound or kill, and prevent the entry of drugs;
 - (c) **Movements of inmates:** occur before, during and after “bloodlettings” take place, checking to see which inmates are involved, as a punitive measure, and with “negative leaders” as a precautionary measure, to maintain order. They are also used to safeguard the lives of inmates who have been attacked;
 - (d) **Use of maximum-security detention centres:** sentencing courts are asked to have inmates with sentences of over 10 years moved to maximum-security detention centres so as to separate the inmate population between very serious and lesser offences;
 - (e) **Action to minimize idleness:** a schedule of physical, cultural, educational and sporting activities is operated by the Inmate Treatment Unit, a part of the Ministry of the Interior and Justice.

II. CURRENT SITUATION IN VENEZUELAN PRISONS

Separation is not practised

5. Our prison system consists of penitentiaries (housing inmates serving sentence) and judicial detention centres (housing individuals on trial and awaiting sentence). They clearly serve a distorted function, since individuals on trial and convicts live together and practical considerations, not technical criteria, predominate; this irregularity is one of their prime characteristics.

Overcrowding

6. This is a structural characteristic of the system; nearly all facilities are jammed.

7. Delays in bringing cases to trial, despite the entry into force of the Code of Criminal Procedure, continue to cause overcrowding.

8. A reduction in the size of the prison population cannot be translated into better living conditions for those in prison.

9. There is a shortage of trained, specialist staff to look after prisoners.

10. The lack of training for guards and wardens ultimately leads to their becoming involved in criminal activities.

11. The lack of specialist staff threatens to produce a system shaped by the actions of military personnel.

Basic services

12. There is a marked dearth of psycho-social care for prisoners, a lack of nutrition policy, and deteriorating basic services; great efforts have been made to improve the health-care service but it is still inadequate, and working and educational conditions are difficult.

Comments

13. It is important to note that although there are measures intended to control and minimize prison violence, they are inadequate and ineffective and need to be reviewed and brought up to date.

14. The lack of trained staff to monitor the situation inside prisons, and the absence of procedural manuals and defined functions for such staff, have a fundamental impact.

15. Delays in bringing cases to trial and serious shortcomings in the registration of individuals undergoing trial and convicts result in failures in the procedures for grouping and separating them.

III. INVESTIGATIONS BY THE PUBLIC PROSECUTOR'S DEPARTMENT INTO CASES OF TORTURE

16. Venezuela has ratified the Convention against Torture and Other Cruel, Inhuman and Degrading Treatment or Punishment and the Inter-American Convention to Prevent and Punish Torture.

17. Article 176 of its Criminal Code states:

“Anyone who, without authority or right, uses threats, violence or other unlawful coercion to compel a person to carry out or tolerate an act he is not obliged to perform by law or prevents him from performing an act that is not prohibited by law shall be punished by between 15 days’ and 30 months’ imprisonment.

“If such coercion involves an abuse of public authority or is exercised against a family member or partner or against a public official in connection with his duties, or if it leads to serious harm to the person, health or property of the victim, the penalty shall be 30 months’ to 5 years’ imprisonment.

“Anyone who, in circumstances other than those indicated above or provided for by law, threatens any person with serious and unjust harm shall, upon a complaint being lodged by the victim, be punished by removal to a Penal Colony for a period of one to 10 months or by 15 days’ to 3 months’ detention.”

18. In the light of the above and by virtue of the powers conferred upon him by the Constitution of the Bolivarian Republic of Venezuela and the Public Prosecutor’s Department Act, if it comes to the public prosecutor’s attention that torture has been committed he launches an investigation and orders all steps to be taken to ascertain whether indeed torture has been committed, and if it has, he will bring charges against those responsible before the competent court so that the court can sentence them for it.

19. It is important to point out that the Public Prosecutor’s Department, as the body leading the criminal investigation, relies on the investigating authorities to gather all the evidence and carry out the relevant forensic tests so as to seek out the truth and proceed accordingly.

20. The Public Prosecutor’s Department, recognising the importance of its contribution to such investigations, has in conjunction with the investigating authorities held talks, known as “Torture Prevention Days”, to improve the training of the staff who are concerned with the matter at hand.
