

.....**PARAGUAY**

Panchito López Juvenile Detention Centre: An opportunity for the Government of Paraguay to meet its promises.

Introduction

Amnesty International has expressed repeated concern to the Paraguayan authorities about the grossly inadequate conditions at Panchito López Juvenile Detention Centre, where minors, some 90% of whom are in pretrial detention and have not been sentenced, are held in severely overcrowded, insanitary cells with few washing facilities, little exercise or fresh air, with insufficient food and lack of proper medical care. Ill-treatment, sometimes amounting to torture, is endemic in Panchito López.

International organizations including the United Nations Committee on the Rights of the Child and the Inter-American Commission on Human Rights (IACHR) of the Organization of American States have expressed similar concerns over conditions at Panchito López.

Amnesty International considers that conditions of detention at Panchito López amount to cruel, inhuman and degrading treatment.

Cruel, inhuman and degrading treatment at Panchito López

The Panchito López facility in Asunción was converted into a detention centre from a private home; it is desperately overcrowded. “Panchito López currently has 270 inmates in a space suited to a maximum of 80,” said the facility’s Director, Melitón Bittar, in February 2000. “The overcrowding is terrible, it’s an undeniable reality.”¹

Over the years, there has been a steady stream of allegations about physical punishments amounting to torture or cruel, inhuman or degrading treatment; including boys being kicked, beaten, suspended upside down, having plastic bags put over their heads, being beaten on the back with a hammer or having their hands and feet scalded. Some reported being denied food, drink, or access to toilets — sometimes for several days. There appears to be a high incidence of random brutality from the prison guards.

The overwhelming majority of the inmates have not been tried or convicted of any crime. Many spend months or even years awaiting trial, in filthy and severely overcrowded cells with

¹Hidden scandal, secret shame: Torture and ill-treatment of children, Amnesty International, ACT 40/038/00, 2000.

few toilets or washing facilities. Temperatures in the cell blocks can hover at around 40°C (100°F) for days on end. In some dormitories, the inmates have to sleep three to a bed; a journalist who visited the facility noted that each child got about the same amount of personal space "as that covered by a newspaper". Inmates are not segregated by age or offence: aggressive boys, timid ones, tough repeat offenders, convicted drug dealers and suspected shoplifters are all crammed in together. Amnesty International calls for *all juvenile detainees to be separated by age, seriousness of offence and physical size, and by provisional or sentenced status. Juvenile detainees should also be given access to information about the progress of their cases.*

Over two hundred minors are reportedly still held at the Panchito López juvenile detention centre, despite repeated calls from Amnesty International and other international organizations on the Paraguayan government to transfer all inmates to adequate facilities. In January 2001, of the 201 juveniles detained at the Panchito López juvenile detention centre, 193 were reportedly in pretrial detention and only eight had been sentenced.

Amnesty International also urges the *Government of Paraguay to invest in programs for the application of non-custodial punishments, to allow the Public Prosecution Service and the courts more sentencing options for young offenders and to examine alternatives to detention for young offenders awaiting a court decision. The Government of Paraguay should also allocate adequate resources for the immediate recruitment and training of sufficient numbers of teachers, trainers, social workers and psychologists in order to fulfil their obligation to provide individualized treatment of adolescents aimed at returning them to society.*

On 11 February 2000, inmates of cell eight reportedly set their dormitory on fire in protest at the constant barrage of ill-treatment, particularly a severe beating by two of the guards on several of the cell's occupants the night before. Nine inmates died following that fire at Panchito López, and at least 20 others suffered serious burns. According to press reports a detainee reportedly told the official investigation into the fire that a prison guard refused to assist the detainees trapped in the burning building telling them to "all die in there" ("*muéranse todos allí*")², before another guard unlocked their cell door. A survivor of the fire, who is now 19 years old, reportedly confirmed the tense atmosphere in the detention centre days before the fire: "The day before [the fire] there were rumours that at any moment something was going to happen. The only thing we didn't know was exactly when and what

²Ultima Hora, 13 February 2001.

was going to happen" ("*Un día antes del hecho ya se murmuraba que en cualquier momento iba a ocurrir algo. Lo único que no sabíamos era cuándo exactamente y de qué se trataba*"). He went on to describe the torture and ill-treatment of detainees by prison guards: "They punished us on occasion for no reason. They would take us to the torture room that we called *La Bajada*. There they would tie us by our hands to a post and beat us with their batons" ("*Ellos nos castigaban en ocasiones sin motivo. Nos llevaban al sótano de la tortura al que llamábamos La Bajada. Allí nos ataban de la mano por un poste y luego nos golpeaban con sus cachiporras*")³. Since then the government has told Amnesty International and other international organizations several times that it is taking steps to improve conditions at the centre, and that arrangements are almost complete for the transfer of the inmates to a new, purpose-built juvenile detention centre.

After a second fire broke out a week later, some 25 juveniles were transferred to the Emboscada prison, an adult facility, known to be damp and vermin-infested, without adequate light or ventilation and containing no enclosed toilet facilities. They are only allowed out for recreation for between 30 minutes and one hour per day, and there are no medical, educational or social services. Several boys have complained of severe beatings and other ill-treatment, and at least 13 were apparently put in incommunicado detention in an isolation cell in the adult pavilion.

On 5 February 2001 nine more detainees were injured in another fire at Panchito López, less than a year after nine inmates died there in similar circumstances. Reports indicate that these detainees were being held in isolation and may have been subject to reprisals following their capture after escaping from the detention centre on 24 January. Three detainees were being treated at a prison hospital, and six at a specialist burns hospital. At the time of writing four of the detainees remained in hospital.

Amnesty International received disturbing reports following this fire that the authorities in the Public Ministry (*Ministerio Público*), were considering reopening the children's pavilion at the Emboscada adult prison. Following the February 2000 fire at Panchito López, a group of juvenile detainees from the detention centre spent several months in the Emboscada adult high security prison outside Asunción, where they were held "temporarily", until a suitable institution could be found. The conditions at this prison are so poor that on 11 January 2001, the Minister of Justice, Silvio Ferreira, after visiting the prison, ordered 33 minors to be transferred from Emboscada to Panchito López.

For several years, the Paraguayan government has stated that all the inmates at Panchito López would be transferred to a new purpose-built facility. In March 2000 forty detainees were moved to the new detention centre (*Centro de Educación Integral*) in Itauguá, 25km from Asunción. Some 100 inmates have now been transferred from Panchito López to the new *Centro de Educación Integral*, in Itauguá, 25km from the capital, Asunción. Conditions

³Ibid.

there are reportedly better than at Panchito López although there have also been reports of ill-treatment at this centre.

Government commitments

In recent years Amnesty International has repeatedly called for the immediate closure of Panchito López. In October 1999 Amnesty International delegates conveyed the organization's concerns personally to the Vice-Minister of Justice, Dr Fernando Canilla Veras, during a visit to Paraguay. The Vice-Minister acknowledged that the detention centre's present site was wholly inadequate. He repeated an assurance he had given several times, that measures were being taken to improve conditions and that arrangements were almost complete for the imminent transfer of the inmates to a new, purpose-built, juvenile detention centre in Luque. The Inter-American Commission on Human Rights (IACHR) of the Organization of American States received similar assurances, being told that Panchito López would be relocated to the site in Luque by the end of 1999. Plans for a juvenile detention centre in Luque were later abandoned.

In a March 2001 report on human rights in Paraguay the IACHR identified the overcrowding at Panchito López as unacceptable and the most serious prison conditions observed by the delegation during a July 1999 visit (*"Los problemas más graves detectados por la Comisión durante su visita se refieren al Correccional de Menores Panchito López, donde están reclusos los menores de edad en condiciones de hacinamiento inaceptables"*)⁴.

The Commission also stated that despite two fires in which more than a dozen detainees died, and despite the commitments of current and previous authorities' to promptly shut the centre Panchito López remains open. It stressed that this cannot be delayed any further. (*"...la Comisión desea recordar aquí que, pese a dos incendios en los cuales perdieron la vida más de una docena de internos en el Panchito López, y pese a que autoridades tanto del presente Gobierno como de Gobiernos anteriores se comprometieron a su pronto cierre... el Correccional de Menores Panchito López continúa funcionando y todavía hay jóvenes detenidos en esa institución. La Comisión considera que el plazo para remediar tal situación es impostergable."*)⁵.

Amnesty International has received government assurances that torture will not be tolerated in Paraguay and that those responsible will not escape justice (*"No queremos tolerar en manera*

⁴*Tercer Informe Sobre la situación de los derechos humanos en Paraguay*, 9 March 2001.

⁵Ibid.

alguna ni dejar impune la tortura en el país") in a letter from the Minister of Foreign Affairs, Juan Esteban Aguirre, in March 2000.

International Human Rights Standards

The international community has adopted minimum standards to govern the conduct of states. These are based on the precept that human rights are an international responsibility, not simply internal matters. International human rights standards articulate the criteria against which the conduct of any state should be measured.

The human rights of children, including their rights when they enter a justice system, are specified in a number of international treaties and other instruments. These include the International Covenant on Civil and Political Rights, the Convention Against Torture and Other Cruel, Inhuman and Degrading Treatment and Punishment, the Convention on the Rights of the Child, the United Nations Standard Minimum Rules for the Administration of Juvenile Justice, and the United Nations Rules for the Protection of Juveniles Deprived of their Liberty. The following paragraphs briefly outline a number of these.

Treaties Ratified by Paraguay:

The *International Covenant on Civil and Political Rights* (ICCPR) sets out a range of rights, including those relating to the protection of the human rights of children who are accused or convicted of violating the criminal law. These include

- the right not to be subjected to torture or cruel, inhuman and degrading treatment or punishment (Article 7)
- rights that provide for fair trials (Article 14) and
- the right of children who are incarcerated to be kept separate from adults (Article 10).

Paraguay ratified the ICCPR on 10 June 1992.

The *Convention Against Torture* requires states to prohibit and punish torture in law and in practice. States must investigate whenever there are reasonable grounds to believe that torture or cruel, inhuman or degrading treatment or punishment has been committed, and must bring those responsible to justice.

Paraguay ratified the Convention Against Torture on 12 March 1990.

The *Convention on the Rights of the Child*, the most important treaty for the protection of the human rights of children.

The Convention is based on four general principles:

- the “best interests of the child” should be a primary consideration in all actions concerning children, whether undertaken by courts of law, administrative authorities or legislative bodies (Article 3)
- there should not be discrimination on the basis of race, sex, ethnicity or other status, and governments should take measures to prevent discrimination and prejudiced attitudes (Article 2)
- all children must be guaranteed the right to life, survival and development (article 6)
- the views of children must be respected (Article 12).

The general principles are reflected in a range of rights that apply to all children as well as to children who are accused or convicted of violating the law. For example, the right of all children to education (Article 28) is of considerable importance to children deprived of their liberty because custodial institutions often fail to provide educational programs. Paraguay ratified the Convention on the rights of the Child on 25 September 1990.

Other International Standards

Many human rights requirements are contained in standards which have been adopted by the international community, but which are not in the form of treaties. Although these standards do not technically have the legal power of treaties, they have the moral force of having been negotiated by governments, and of having been adopted by political bodies such as the UN General Assembly, usually by consensus. Two apply specifically to children.

The *United National Standard Minimum Rules for the Administration of Juvenile Justice* (commonly called the “*Beijing Rules*”) provide guidelines for “juvenile justice”, that is, systems of law that deal specifically with child offenders. The Rules state that authorities should use the principles on which the Rules are based to guide the treatment of children who are prosecuted in the general criminal justice system that also deals with adults (Rule 3.3).

The *United Nations Rules for the Protection of Juveniles Deprived of their Liberty* specify general standards for the treatment of children deprived of their liberty in any form of detention or imprisonment ordered by a judicial or other public authority. They cover a range of matters including the provision of education and medical care, limitations on the use of force and independent inspections of facilities.

An alternative to Panchito López: The new *Centro de Educación Integral*

The *Centro de Educación Integral* at Itauguá, about 25 km from Asunción, opened in May 2000. It is a former military justice detention centre that has been adapted for use as a juvenile detention centre. It is on nine hectares of land, with its own vegetable gardens, classroom, football fields, volleyball courts and other recreation spaces. However the new facility does not have sufficient capacity to adequately absorb the population of Panchito López and enable it to be closed, as the government has long promised.

In January 2001 there were reportedly 90 juveniles at the new centre in Itauguá, mostly those the authorities considered to be “the good ones” (*los considerados "buenos"*). According to press reports, on 15 January 2001 two detainees of the *Centro de Educación Integral* were sent to the National Hospital’s casualty department following a beating they received from prison guards. The detainees were taken from their cells and one was stripped, forced to lie face down and kicked. He was then made to stand up and was hit about the head. The other detainee was similarly forced to undress and also beaten. Amnesty International has also received other reports of torture and ill-treatment at the *Centro de Educación Integral*, and calls on the government to ensure that proper systems are in place to report torture and ill-treatment and that investigations are initiated.

Amnesty International welcomes the opening of the *Centro de Educación Integral* as a positive step in the right direction, however it believes that new buildings alone cannot solve the problem of an entrenched culture of violence within the juvenile detention system. The organization welcomes reports that children’s rights defenders have been allowed access to the new centre and have been allowed to carry out their work freely. Amnesty International urges Paraguayan authorities to ensure that *all prison guards implicated in acts of torture or ill-treatment against inmates should immediately be suspended from duty pending a full and impartial investigation, the results of which should be made public. Staff members found responsible for torture or ill-treatment should be brought to justice.*

It is vital that the *Centro de Educación Integral* does not become another Panchito López. Amnesty International urges the Paraguayan authorities to show its determination to meet this challenge and convert previous assurances into concrete actions.

RECOMMENDATIONS TO THE GOVERNMENT OF PARAGUAY

Panchito Lopez juvenile detention centre

C Panchito López juvenile detention centre should be closed immediately, and the transfer of detainees to adequate facilities should be completed without further delay.

Whilst arrangements are being made for an immediate transfer of detainees from Panchito López:

C Immediate steps should be taken to address over-crowding and poor hygiene.

C The authorities should promptly review outstanding judicial processes against the detainees, more than 90% of whom have not been sentenced.

C Panchito López juvenile detention centre should be equipped to provide adequate medical and dental care.

C The transfer of adolescents to Emboscada and other adult prisons should end immediately.

Juveniles in detention

C Juveniles detained pending a court's decision should be separated from those already convicted of an offence.

- C Juvenile detainees should be separated by age, seriousness of offence and physical size, and by provisional or sentenced status.*
- C Juvenile detainees should be given access to information about the progress of their cases.*
- C Juveniles suffering from mental illness should not be held in juvenile detention centres.*

Prison guards

- C Any staff member, police officer or prison guard implicated in acts of torture or ill-treatment against inmates should immediately be suspended from duty pending a full and impartial investigation, the results of which should be made public. Staff members found responsible for torture or ill-treatment should be brought to justice.*

- C An urgent investment should be made in both technical staff and warders, addressing recruitment of sufficient numbers, a training program which equips them to deal with a difficult work environment, and support systems for staff who are victims of aggression by inmates.*

- C Clear rules and regulations governing the discipline of detainees should be drawn up and made available to both staff and inmates.*

Socio-educational measures

- C The government of Paraguay should allocate resources for the immediate recruitment and training of sufficient numbers of teachers, trainers, social workers and psychologists in order to fulfil their obligation to provide individualized treatment of adolescents aimed at returning them to society.*

- C The government of Paraguay should invest in programs for the application of non-custodial punishments to allow the courts more sentencing options for young offenders.*
- C The government of Paraguay should examine alternatives to detention for young offenders awaiting a court decision.*

Children's rights defenders

- C Representatives of bodies legally mandated to monitor juvenile detention centres should be given immediate and unconditional access without fear of obstruction or intimidation.*