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VENEZUELA

The silent cry: gross human rights violations against children

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SUMMARY

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While Venezuela has increasingly come under the spotlight of international public attention for its appalling human rights record suffered by members of its adult population, one extraordinary fact has remained all but undiscovered: Children in Venezuela are also at risk of serious human rights violations, including extrajudicial killings and torture, as well as ill-treatment and arbitrary detention¹. The cases documented in this report by Amnesty International reveal that the right to life and physical integrity of minors aged under 18 years is being flagrantly violated by members of the Venezuelan security forces who take justice into their own hands and blatantly abuse state powers entrusted upon them. Furthermore, leading human rights organizations in Venezuela have over the last few years repeatedly expressed a growing concern regarding the deterioration in the situation of children's human rights and the number and type of violations committed against them².

¹"A child means every human being below the age of eighteen years unless, under the law applicable to the child, majority is attained earlier". Article 1, the United Nations Convention on the Rights of the Child.

² See introduction for an explanation of this trend.

Despite the fact that the Venezuelan Government was instrumental in drafting the United Nations Convention on the Rights of the Child which it ratified on 13 September 1990, this report illustrates how the authorities are failing to meet their international obligation to protect the basic human rights of children and to provide them with the special protection and care they need. The overwhelming majority of current human rights violations against minors affect those from the poorest sectors of society and occur in the context of police and army operations, purported to curb crime and control border areas respectively, as well as and/or in state detention centres. Those most frequently accused of such human rights violations are members of the Metropolitan Police, *Policía Metropolitana (PM)*, the Municipal Police, *Policía Municipal (PM)*, the Judicial Technical Police, *Policía Técnica Judicial (PTJ)*, the National Guard, *Guardia Nacional (GN)*, the Venezuelan army, prison guards and other special security force units.

President Rafael Caldera has declared 1997 to be the "Year of Human Rights" in Venezuela, and has expressed his government's commitment to improve the human rights situation in the country.

Amnesty International is therefore publishing this report both to raise concern about this mostly undisclosed, widespread and alarming pattern and because it believes that the severity and growing frequency of current human rights violations against children warrants the full and immediate attention and corresponding actions of the Venezuelan government. The organization calls on the government to demonstrate its political will to improve the human rights situation of minors by: bringing to justice those responsible for the violations against children outlined in the cases in this report; making effective its commitment and responsibility before the United Nations Convention on the Rights of the Child, including adopting the recommendations made by Amnesty International; and, taking immediate and effective measures to halt human rights violations against children.

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VENEZUELA

The silent cry: gross human rights violations against children

Introduction

While Venezuela has increasingly come under the spotlight of international public attention for its appalling human rights record suffered by members of its adult population, one extraordinary fact has remained all but hidden: children in Venezuela are also at risk of serious human rights violations, including extrajudicial killings and torture, as well as ill-treatment and arbitrary detention³. The cases documented in this report by Amnesty International reveal that the right to life and physical integrity of minors aged under 18 years is being flagrantly violated by members of the Venezuelan security forces who take justice into their own hands and blatantly abuse state powers entrusted upon them. Furthermore, leading human rights organizations in Venezuela have over the last few years repeatedly expressed a growing concern regarding the deterioration in the situation of children's human rights and the number and type of violations committed against them⁴.

Despite the fact that the Venezuelan Government was instrumental in drafting the United Nations Convention on the Rights of the Child which it ratified on 13 September 1990, this report illustrates how the authorities are failing to meet their international obligation to protect the basic human rights of children and to provide them with the special protection and care they need. The overwhelming majority of current human rights violations against minors affect those from the poorest sectors of society and occur in the context of police and army operations purported to curb crime and control border areas respectively, as well as and/or in state detention

³"A child means every human being below the age of eighteen years unless, under the law applicable to the child, majority is attained earlier". Article 1, the United Nations Convention on the Rights of the Child.

⁴ For example, statistics compiled by national experts indicate that the frequency with which such abuses occur, in particular killings, is rising. According to figures provide by *Cecodap - Centros Comunitarios de Aprendizaje*, Community Centres for Learning, the number of deaths of minors allegedly perpetrated by members of the security forces was 7 in 1993, 20 in 1994, 25 in 1995, and 27 in 1996. Even though some of these cases may not fall within the mandate of Amnesty International and even allowing for the fact that these figures parallel a rise in violence and the levels of crime in Venezuela (see background on page 17), it is still, nonetheless, clear that there is a rising trend in which the situation of minors' human rights is deteriorating and they are at greater risk of human rights violations.

centres. Those most frequently accused of such human rights violations are members of the Metropolitan Police, *Policía Metropolitana (PM)*, the Municipal Police, *Policía Municipal (PM)*, the Judicial Technical Police, *Policía Técnica Judicial (PTJ)*, the National Guard, *Guardia Nacional (GN)*, the Venezuelan army, prison guards and other special security force units.

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The case studies documented in this report illustrate the severity, extent and type of current human rights violations against children. This report is not an exhaustive analysis or a definitive study of the overall human rights situation facing minors in Venezuela⁵.

Children increasingly at risk of gross human rights violations

A large proportion of current human rights violations against children, especially torture and extrajudicial killings, are committed by government officials in the context of police and army operations purported to combat crime. Scores of children are also random targets of extreme violence by members of the security forces. In this context, minors are discredited and criminalized both for their age and social class, so that they appear to be legitimate targets of attack. Firearms are often planted by the police on the victim or they are falsely accused of initiating a shoot-out against security force agents. The extent and scope of such violations may be much greater than available figures indicate. Experts in this field have suggested that many cases are not reported to the authorities because of the

⁵For further information regarding the human rights situation of minors in Venezuela readers should consult recent reports by UNICEF and Cecodap - Centro Comunitarios de Aprendizaje.

lack of witnesses and suspects and because many victims or their relatives frequently live on the fringes of society and with no family or kinship ties, remain anonymous and forgotten. Another reason for not reporting cases to the authorities is because victims, their relatives and witnesses are frightened or do not believe that they can obtain justice. This is particularly so with regard to killings in the *barrios* (poor urban neighbourhoods) or in small provincial towns.

Other types of human rights violations against minors, such as arbitrary arrest and ill-treatment, are committed by members of the security forces at the time of arrest or in police stations. In these cases, especially those involving torture, abuses occur during interrogation sessions about criminal operations, or in the context of quelling supposed discontent or disturbances in the detention centre. In other instances, minors suffer unnecessary pain and duress amounting to cruel and inhumane treatment, which occasionally results in death, because government officials fail to administer adequate medical treatment or to ensure adequate sanitary conditions and general well-being. For instance, one human rights organization reported in 1995 that Richard Moreno (17) died in a juvenile detention centre because he had not received any medical treatment for the injuries he suffered after having been tortured by two security force agents in a PTJ detention centre. The initial official report stated that the minor had died of severe peritonitis⁶.

In all instances, such abuses as extrajudicial killings, torture and ill-treatment, constitute gross violations to international human rights instruments adopted by Venezuela and applicable to all persons, as well as domestic legislation providing for the protection of all citizens. As persons and minors, the child's right to life and physical integrity is enshrined in the International Covenant on Civil and Political Rights; the American Convention of Human Rights; and the United Nations Convention on the Rights of the Child. Moreover, Article 41 of this Convention states that, "Nothing in the present Convention shall affect any provisions which are more conducive to the realization of the rights of the Child and which may be contained in a). The law of the State Party, or b). International law in force for that State". In domestic legislation, the child's right to life and physical integrity as a Venezuelan national, is also enshrined in the Constitution and the Minors Protection Act (see below).

Yet, despite the fact that the Venezuelan authorities have reportedly initiated investigations into almost all the cases outlined in this report, to Amnesty International's knowledge, few of those responsible have been detained and none have been brought to justice. Attempts to bring those responsible before the courts are hampered by a lack of independent investigations and the fact that allegations of ill-treatment or torture by members of the security forces are first subject to internal investigations by the relevant security force before a criminal investigation can be opened. With respect to such internal

⁶Inflammation of the lining of the abdomen.

investigations the United Nations Special Rapporteur on Torture noted in December 1996 that, "although the Special Rapporteur asked each of the police forces for detailed statistical information to obtain an idea of how many officials had been punished for ill-treatment of detainees and what types of sanction had been applied, the information was either not supplied or supplied in an incomplete form ⁷".

If not for the efforts of Venezuelan human rights activists who campaign on behalf of the relatives of the victims for those responsible to be appropriately punished for their crimes, many cases involving abuses against minors would be forgotten and archived. For instance, one leading non-governmental organization has been working on the case of José William for over seven years. 16 year-old José was shot in the eye and the chest by an agent from the Directorate of Intelligence and Prevention Services, *Dirección de Servicios de Inteligencia y Prevención (DISIP)*, in Caracas on 30 June 1990. According to one witness, a weapon was placed near the victim's head in order to simulate a confrontation. No-one has ever been successfully prosecuted for this crime.

⁷Paragraph 41, Report of the Special Rapporteur, Mr. Nigel S. Rodley, submitted to the Commission on Human Rights, December 1996. Ref: E/CN.4/1997/7/Add.3.

Investigations are also inexplicably slow and are often characterised by irregularities such as the tampering of evidence or the intimidation of those involved in the proceedings. The President of the Supreme Court in Venezuela told the Special Rapporteur on Torture that, "a judge who receives a complaint against a police body might easily be intimidated by the *esprit de corps* of the police and fail to process the complaint", the Rapporteur added that, "it might help judges to feel more secure if they felt that the police was genuinely interested in purging itself"⁸.

While Amnesty International has continued to express its concern about the impunity granted to perpetrators of human right violations in Venezuela, this fact is disturbingly worse in the case of children who actually have no effective recourse to the law when their human rights are violated by the authorities. Alarming, despite ratification of the United Nations Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment in 1991 and the Inter-American Convention to Prevent and Punish Torture in 1991, Venezuela has still not adapted its domestic law to prevent and punish this crime.

Children arrested in Venezuela are frequently arbitrarily detained and denied the right to adequate defence and a fair and prompt hearing. For example, on 9 November 1996 two PTJ policemen who did not present a search warrant searched a family home in the indigenous community of Morichalito, Guayana, in the State of Amazonas. There, the agents arbitrarily detained a minor taking him to the local police station. The same day, policemen at the station refused to allow a lawyer from a local human rights organization access to interview the detainee. The Chief of Police in Guayana was informed of the incident but no response was reportedly received.

The legal framework – the “Minors Protection Act”(Ley Tutelar de Menores)

In Venezuela the rights of children are regulated by domestic legislation, in particular, by the Minors Protection Act, *Ley Tutelar de Menores*, promulgated on 27 November 1980. Although this legislation does to some extent reflect international instruments, specifically the United Nations Convention on the Rights of the Child and United Nations Standard Minimum Rules for the Administration of Juvenile Justice ("Beijing Rules"), Amnesty International believes that the Minors Protection Act contains numerous shortcomings or failings which undermine childrens rights and prevent them from being fully upheld and protected in Venezuela.

⁸Paragraph 41 &42, Ibid.

So, while in theory the Minors Protection Act should guarantee the protection of the child, in practice the situation is frequently the reverse, since shortcomings contained in the Act allow for ambiguities and different interpretations which can sometimes result in the flagrant abuse in its application. For example, Article 100 of the Minors Protection Act stating that the minor should be brought before a judge within eight days of his/her detention, is in clear violation of Article 9 of the International Covenant on Civil and Political Rights and Articles 37 and 40 of the UN Convention on the Rights of the Child which guarantee the individual's right to be promptly brought before a judge and to be entitled to take proceedings before a court, in order that that court may decide without delay on the lawfulness of his/her detention. The fact that judges can extend this period allowing the Venezuelan authorities to have a child detained for an unlimited discretionary period, up to three months according to some experts, clearly contravenes international human rights standards⁹. This is of extreme concern to Amnesty International since most of the torture of both children and adults reported to the organization occurs during pre-trial detention.

Another aspect of the UN Convention on the Rights of the Child that is not sufficiently and clearly provided for in the Minors Protection Act is Article 37c stipulating that, "every child deprived of liberty shall be separated from adults...". Amnesty International has found that children in Venezuela are frequently arrested and detained in exactly the same way that adults would be, with no due attention paid by members of the security forces to their status and rights as minors. Once detained, minors are often held alongside adults in police stations because of an apparent lack of space in the special juvenile detention centres run by the National Minors Institute, *Instituto Nacional del Menor*.

⁹See Appendix I in which the Attorney General writes to the President of the National Institute of Minors expressing concern about the number of minors detained indefinitely. Moreover, the number of children detained indefinitely reportedly increased following the implementation of a curfew for children declared by the Mayor of Caracas in May 1996. Corruption is another factor which contributes to the large number of detained children. Reportedly, the bribe for obtaining a child's release can cost as much as 300 US dollars.

Also, the Minors Protection Act provides for a scope of discretion at the different levels of juvenile justice. However, Amnesty International has received continuing reports indicating that the shortcomings in the Minors Protection Act signify that this discretionary power is frequently abused and that the basic procedural safeguards contained in the "Beijing Rules"¹⁰, particularly article 7.1, are often not guaranteed.

Illustration by Cecodap

The Minors Protection Act, establishes that attorneys from the *Procuraduría de Menores, Juvenile Attorney's Office*¹¹, are the official figure responsible for ensuring that the human rights of children are upheld and respected. However, the Juvenile Attorneys reportedly frequently fail to take adequate action in cases in which their intervention is required by law. Such shortcoming can border on complicity if Juvenile Attorneys fail to prevent human rights violations against minors, for instance by not attending an interrogation session in which a minor is ill-treated and tortured as often reported to Amnesty International, or when they fail to assist in bringing those responsible for human rights violations against minors to justice, such as by failing to adequately follow the judicial investigation.

The vast shortcomings of the Minors Protection Act, coupled with the legislation's incompatibility with the Convention on the Rights of the Child, prompted the Centre of Judicial Investigations, *Centro de Investigaciones Jurídicas*, at Andres Bello University, Caracas, in consultation with non-governmental organizations, legal experts and children themselves, to submit to Congress on 23 July 1997 a Draft Bill for the Organic Law for the Protection of Children and Adolescents, *Anteproyecto de ley organica para la protección del niño y del adolescente*. Amongst the many proposals contained in this draft legislation to improve the human rights of minors in Venezuela, this document states in Article 11 that:

Todos los niños y adolescentes son sujetos de derecho, en consecuencia, gozan de todos los derechos y garantías consagrados en favor de las personas en el ordenamiento jurídico, especialmente aquellos consagrados en la Convención sobre los Derechos del Niño.

All children and adolescents are subject to law, consequently, they enjoy all the rights and guarantees established by judicial order, especially those established under the Convention on the Rights of the Child.

¹⁰ These safeguards include guarantees at all stages of proceedings of the presumption of innocence, the right to be notified of the charges, the right to remain silent, the right to counsel, the right to the presence of a parent or guardian, the right to confront and cross-examine witnesses and the right to appeal to a higher authority.

¹¹ Procurators for Minors are appointed by and accountable to the Public Ministry for Minors.

The need for immediate and effective action

Amnesty International believes that the ten cases selected to illustrate this report exemplify the very serious nature of human rights violations suffered by children in Venezuela and provide evidence to warrant the full and immediate attention of the Venezuelan Government, which should take urgent, concrete and effective steps to end such abuses.

Amnesty International further believes that evidence presented in this report suggests that the Venezuelan Government's failure to take effective steps to halt human rights violations against children, as well as its inability to ensure that those responsible for such abuses are brought before the courts and sanctioned, are indicative of a negligence which is tantamount to full responsibility. Examples of such negligence include the failure to ensure prompt, full and independent investigations, failure to issue clear and explicit instructions on the protection of minors to members of the security forces, failure to ensure that the necessary resources, including adequate medical attention, are allocated to juvenile detention centres, or failure to purge the security forces of perpetrators of human rights violations.

Amnesty International urges the Government of President Rafael Caldera, who declared 1997 the "Year of Human Rights", *Año de Derechos Humanos en Venezuela*, to take this opportunity to adopt and implement the recommendations outlined in this report. Amnesty International believes that by adopting these recommendations and those made by national and international experts in this field, the Venezuelan authorities could substantially improve the grave human rights situation of children in Venezuela.

The organization is further urging the Venezuelan government to fulfil its international obligation to submit a report on the United Nations Convention on the Rights of the Child and to take a leading role, as it did in the drafting of the Convention, in ensuring that recommendations made under this Convention are implemented.

Cases studies involving the extrajudicial killing of minors

"Every child has the inherent right to life". Article 6 of the Convention on the Rights

of the Child, adopted by the United Nations General Assembly on 20 November 1989 and ratified by the Venezuelan government on 13 September 1990¹².

Cases studies on the extrajudicial killings of minors show how members of the Venezuelan security forces conducting anti-crime operations sometimes act with complete disregard for the right to life of children. Frequently, their attitude and actions are characteristic of a "social cleansing" policy, in which perceived criminal suspects, a category in which they include street children, are singled out for elimination. In some cases the truth is never known because of the anonymity of some victims and the lack of witnesses and suspects.

In the cases analyzed in this report, the victims were killed in cold blood because they were suspected criminals, because of their political activism, or in a brutal and arbitrary act of abuse of power by security force agents. None of those responsible have been brought to justice, nor have the victims or their relatives been compensated.

Simón Alvarez (14)

Simón Alvarez was in the street with a group of friends in the area of Ezequiel Zamora, the town of Puerto La Cruz, Anzoátegui State, on 4 May 1996, when members of the State Police, *Policía Estatal*, approached them asking for identification. As Simón was about to pull his identification card out of his pocket he was shot in the right side of the ribs. The bullet passed through Simón's heart killing him instantly. Witnesses reported that the murderer said, "What did I do!??, I fired a shot!!".

Over one year later, no-one has yet been arrested in connection with the killing of Simón Alvarez and the accused has not yet been suspended from duty pending the results of the investigation. Investigations have been sluggish due to lengthy delays in the ballistic testing of the weapons allegedly used in the killing. Moreover, according to a local human rights organization, the witnesses in this case have been intimidated and harassed with threatening telephone calls warning them that if they give evidence something might happen to one of their family members.

¹² See also, Article 6 of the International Covenant on Civil and Political Rights and Article 4 of the American Convention of Human Rights.

**Lian Jonathan Cáceres Herrera
(13)**

On 7 May 1996, 13 year-old Lian Jonathan Cáceres Herrera, was shot at close range in the head by a member of the Metropolitan Police on duty, while he was walking with two friends in a street of the capital city on their way to the hairdresser for a haircut. The assailant, dressed in uniform, approached Lian Jonathan Cáceres Herrera from behind, grabbed him by the shirt, and without advance notice held a pistol to his head and shot him killing the minor instantly.

Witnesses managed to prevent the perpetrator from planting a weapon or drugs on the victim in order to claim he had died in a shootout. One witness who actually saw the perpetrator planting a gun on the corpse was later taken to a police station and threatened in order to deter her from giving evidence in the case. Later, the police agent tried to justify his actions by accusing Lian of being a thief, an accusation which proved to be totally unfounded.

In March 1997 the court handling the case of Lian Jonathan had still not decided to issue an arrest warrant for the accused following an official complaint of homicide filed eight months earlier in July 1996 by the Juvenile Attorney¹³. In 1996, Amnesty International discovered that the accused had not been suspended from duty pending the outcome of the investigations, but remained on active service. During an interview with Amnesty International delegates in July 1996, the mother of the victim expressed her fear for the security of the two witnesses to Lian's killing and her anguish that the accused had still not been detained.

¹³ No 6, S.O.S bulletin published in March 1997 by the Justice and Peace Support Network, *Red de Apoyo por la Justicia y la Paz*.

Alejandro Campos Orsini (17)

On 12 April 1996, Alejandro Campos Orsini and one of his friends José Antonio Clavijo Rodríguez (27), two grass-root and student activists in their poor neighbourhood in Caracas, were shot dead in the streets near their homes in circumstances suggesting they were extrajudicially executed. After first having shot José Antonio Clavijo, three unidentified men then pursued Alejandro as he was trying to escape. According to a newspaper article at the time, Alejandro Campos Orsini was shot three times and later died in hospital. Eye-witnesses claimed the perpetrators are linked to the security forces.

Both victims had received anonymous death threats for their grass-root activism in their neighbourhood. Two months after their killing, five other activists from the same grass-roots organization were arrested by members of the PTJ in Caracas. During the first three days of their detention they were held incommunicado in the police station where senior police officers subjected them to beatings, electric shocks and prolonged suspension by the wrists in order to extract confessions.

Yorki José Mujica (17)

Members of the Metropolitan Police, killed Yorki José Mujica on 6 January 1995 while purporting to carry out anti-criminal operations in the Los Anaucos neighbourhood on the outskirts of Caracas. The policemen raided the homes of the child and two others, José Ricardo Monsalve and José Luis Hernández, without search warrants. José Luis Hernández was reportedly extrajudicially killed for having witnessed the killing of the other two victims.

According to witnesses, the victim's killers attempted to cover up the scene of the crime by removing incriminating evidence. The dead bodies of two of the victims were reportedly transported to hospital before the PTJ¹⁴ had arrived at the site of the incident. According to witnesses, the killers alleged that they had sent the victims to hospital to receive urgently needed medical attention, when in fact they were already dead. Witnesses reportedly stopped the assailants from removing the third body. The daily newspaper *El Nacional* claimed that witnesses heard the killers saying "Calm down, here comes the chief [of the PTJ]. Whatever happens, you say that they shot at you from above...", "Tranquilate, que ahí viene el comisario [del PTJ]. Cualquier cosa, tú dices que te echaron tiros desde arriba..". Local human rights organizations claim that the Chief of the Metropolitan Police and the Chief of Intelligence collaborated in covering-up the crime by substantiating the version of events submitted by the killers. Those responsible for the killings have still not been brought to justice.

¹⁴The PTJ is responsible for criminal investigations at the scene of the crime.

Oscar Antonio Moreno (15)

According to information collected by a national human rights organization, Oscar Antonio Moreno was killed during a raid being conducted by State Police on 27 May 1995 in the town of Los Teques, State of Miranda. Whilst out running an errand near his home, Oscar Antonio Moreno reportedly saw two other youths running and surprised, decide to do the same. He was shot at very close range in the back by a policeman after he had fallen to the ground. The policemen later alleged that Antonio Moreno and another youth had participated in a robbery, and that as the policemen tried to catch them shooting broke out and Antonio Moreno was killed. This version of events reportedly contradicts both eyewitnesses and relatives accounts.

Under a sign of the National Security Forces (literally translated as Body for the Security of the State), Lucita plays on the Spanish word *cuervo* by writing "for the insecurity of our bodies", because *cuervo* is used to mean both the human body and a collective body of individuals. Illustration by Cecodap

Cases of torture and ill-treatment of minors

"No child shall be subjected to torture or other cruel, inhuman or degrading treatment or punishment." Article 37 of the Convention on the Rights of the Child, adopted by the United Nations General Assembly on 20 November 1989 and ratified by the Venezuelan government on 13 September 1990¹⁵.

The United Nations Special Rapporteur on Torture wrote in December 1996 that, "crime prevention and investigation activities by the security forces frequently include the use of torture as a method of obtaining information or as punishment, especially when dealing with low-income sectors of the population, in a society characterized by high crime rates¹⁶. The Rapporteur also reported that "torture victims are frequently reluctant to lodge a complaint, either because they have been threatened with subsequent reprisals, because they mistrust the judicial system and doubt whether their complaint will lead to the punishment of those responsible¹⁷".

Amnesty International has found that children in Venezuela are frequently detained and physically ill-treated by members of the security forces. They are also held in appalling conditions which amount to cruel, inhuman and degrading treatment. In some cases minors are sent to adult prisons where they are held with convicted prisoners, in overcrowded conditions. Even when minors are imprisoned in the special juvenile detention centres their fundamental human rights are still ignored. They are subjected to brutal beatings and are held in appalling conditions and often denied food, water and vital medical treatment.

Luiris Elena Flores (16)

Three month pregnant Luiris Elena Flores was detained at her home by members of the PTJ on suspicion of robbery on 14 March 1996 in Ocumare del Tuy, the State of Miranda. There she was interrogated without the presence of an attorney for minors as required by Venezuelan law. The policemen reportedly beat her and threatened to kill her partner and one-year-old son if she refused to confess to having committed the robbery.

¹⁵See also Article 7 of the International Covenant on Civil and Political Rights; Article 5.2 of the American Convention of Human Rights; and Article 1 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

¹⁶ Paragraph 5, the Special Rapporteur on Torture's report to the United Nations Commission on Human Rights, December 1996, E/CN.4/1997/7/Add.3.

¹⁷Ibid. Paragraph 14.

Luiris Elena Flores was separated from her family for several hours and then taken to a State police station where she was locked in a cell with several detainees and criminals. She was later transferred to a PTJ police station. A few days later her partner was also arrested. He was reportedly tortured as part of a renewed attempt by the security forces agents to make Luiris Elena Flores confess to the robbery.

Luiris Elena Flores aborted her unborn child on 17 March 1996. After receiving some medical attention she was returned to custody and held in a cell with very basic conditions.

To Amnesty International's knowledge no-one has yet been brought to justice for the ill-treatment of Luiris Elena Flores.

Arnoldo Blanco Blanco (15) and Carlos David Fuentes (16)

Arnold Blanco Blanco, aged 15, and Carlos David Fuentes, aged 16, both suffered fractured ribs as a result of beatings they received while held in the Juvenile Division of the PTJ in Coche, a police detention centre for minors in Caracas.

Arnoldo Blanco Blanco had been arrested on 3 July 1996, for alleged drug abuse, at his home in Petare, by the Municipal Police of Sucre, and transferred to the PTJ detention centre in Caracas for young offenders. There he was brutally beaten by warders. He received no medical care for the fractured ribs and his mother was not permitted to see him.

When an Amnesty International delegation visited the centre in July 1996, delegates found dozens of children as young as 12 years old enduring up to two months cruel, inhuman and degrading conditions, including lack of water, sanitation and adequate food, with no access to medical care and no recourse to legal assistance. All the children were subjected daily to brutal beatings by the warders. According to a forensic expert on the delegation, many showed signs of recent torture and even fractured bones. One 13-year-old boy told Amnesty International delegates: "I am detained here without charge. I should be released but relatives cannot afford to come and fetch me. And they [the police] also beat us with truncheons".

Prior to these events, the President of the National Institute for Minors had written on 29 September 1995 to the Attorney General requesting that the necessary steps be taken to ensure the immediate transfer of 24 minors in the Juvenile Division of the PTJ in Coche to other institutions under the responsibility of the National Institute of Minors. In the communication the President of the National Institute of Minors noted that of these 24 minors, 10 needed medical attention for scabies and one for an infected wound.

Human rights experts claim that although a Juvenile Procurator is obliged to be on duty at the detention centre at all times, this is rarely the case. The adequate and appropriate exercise of the Juvenile Procurator's duties is apparently further hampered by the fact that there is little continuity or coordination between procurators.

Jairo A. Carrasquel (16)

Sixteen year-old Jairo A. Carrasquel was beaten after being detained on suspicion of robbery by members of the PTJ in Guasdalito in the state of Apure, bordering Colombia, on 12 February 1996. According to a report by the local human rights organization, *Comité para la Defensa de los Derechos Humanos* (CODEHUM), Committee for Human Rights Defence, Jairo A. Carrasquel was taken to the police headquarters where he was hand-cuffed and hung up from one arm. He was then repeatedly beaten in the stomach, a plastic bag was put over his head and he was blindfolded during the duration of his torture.

Jairo A. Carrasquel was detained for eight days before he was eventually released. The victim's mother filed a complaint with the attorney general in Apure about her son's torture and ill-treatment, but to Amnesty International's knowledge no investigation has been conducted and no disciplinary action has been taken against those allegedly responsible for these crimes.

The case of Jairo A. Carrasquel bears the same characteristics as many other cases of torture reported in the region of Venezuela that borders Colombia. In this region where incursions of Colombian armed opposition groups have led to widespread repression against the civilian population suspected of collaborating with such groups, Amnesty International has documented a systematic pattern of torture. Such torture is characterized by beatings, suspension from wrists or ankles for prolonged periods of time, near-asphyxiation with plastic bags, electric shocks, and mock executions - used to extract statements of guilt from suspects and to terrorise detainees. Confessions extracted under torture continue to be accepted as evidence by courts. State attorneys regularly fail to act effectively on complaints of torture, and official forensic doctors frequently avoided documenting cases of torture.

Kevys Wilfredo Palmera (14) and Francisco Javier Beltrán (17)

In another case involving members of the security forces ostensibly conducting anti-terrorist operations on the border area, two minors were tortured in front of two health professionals - possibly doctors - in March 1995 by marines from the naval base in Cararabo, Apure

State¹⁸. Both children sustained fractures and one of them was branded with a piece of burning wood.

Kevys Wilfredo Palmera and Francisco Javier Beltrán were arrested together with Juan Vicente Palmero on 26 February at the marine base. They were reportedly beaten and kicked as they lay on the ground in the sun. Kevys Palmera was allegedly beaten with sharp objects. He was subjected to semi-asphyxiation with a plastic bag over his head and earth was put up his nose and mouth so that he could not breathe. He was threatened with death and was shown the body of Juan Vicente Palmero who has since "disappeared". Francisco Beltrán was beaten with sticks and helmets and burnt with a torch. The marines also subjected the two youths to psychological torture, reportedly telling them that they awaited the same fate as Juan Vicente Palmero who reportedly died under torture.

Amnesty International is concerned at reports that two health professionals - possibly doctors - were present while Kevys Palmera and Francisco Beltrán were being tortured; one dressed in military uniform, the other in civilian clothes. The latter is reported to have abused the two verbally. Both minors were severely affected by the torture they endured, suffering deep depression, stuttering and palpitations. To Amnesty International's knowledge no one has yet been brought to justice for these serious human rights violations.

¹⁸ The two minors were amongst a group of at least 24 people who were detained by Venezuelan marines in February 1995 following an attack by members of a Colombian armed opposition group. Some of the detainees were brutally tortured and ill-treated (see *Amnesty International - Venezuela: Villagers of Cararabo tortured by security forces* AMR 53/07/95).

Kevys Wilfredo Palmera (14 years old)

Francisco Javier Beltrán (17 years old)

Angel Jaidar Iruiz (15)

Angel Jaidar Iruiz was arrested at his home by members of the *Guardia Nacional* (GN) National Guard detachment No. 87 on 14 January 1995 in Caicara del Orinoco, Bolíva state. He and three other young men arrested at the same time, were allegedly beaten and nearly drowned in front of several members of the community, including relatives.

They were then transferred to a local police station where they were subjected to further beatings; mock executions; semi-asphyxiation with plastic bags containing caustic

substances; suspension from the wrists; and electric shocks. A state attorney general reportedly witnessed the torture but failed to intervene. Although the victims were seriously injured, they were reportedly denied medical treatment. Those responsible were not brought to justice.

Background

Venezuela stands out in Latin America as one of the few countries which has been ruled by democratically elected civilian governments without interruption for over 35 years. What is less well known, particularly outside the region, is the extent to which the human rights of an increasing number of its 20 million citizens have been persistently and seriously violated over the years.

To the outside world, Venezuelan governments have increasingly expressed their commitment to defending human rights. Inside the country, however, state officials have been allowed to violate those rights with virtual impunity.

The human rights situation in Venezuela has markedly deteriorated in the context of rising social and political tensions, particularly since 1989 when widespread protests broke out following the introduction of austerity measures by the government of President Carlos Andrés Pérez. In the days that followed, several hundred people were killed. Some died in the general violence, but many were the victims of deliberate or indiscriminate shootings by the police or military personnel.

Since then, there have been frequent mass and occasionally violent demonstrations protesting against worsening economic conditions. This, plus the widening gap between rich and poor and a rise in crime rates are some of the factors which help compound a climate of widespread public insecurity.

As Amnesty International's report *Venezuela: The eclipse of human rights* (AMR 53/07/93) showed, torture and other cruel, inhuman and degrading treatment or punishment are frequently reported. Criminal suspects, especially those living in poor neighbourhoods, are routinely tortured to extract confessions. Political, student and grass-roots activists are also targeted. Moreover, during periods of heightened political tension leading to disturbances the security forces have carried out extrajudicial executions with little fear of being brought to account for their actions.

The administration of justice is marked by serious shortcomings. Investigations by the courts into human rights violations are inadequate or non-existent. Trial proceedings are constantly and arbitrarily delayed, frequently far beyond legal limits. Defendants are meanwhile kept in prison, usually in extremely harsh conditions where they are often beaten, sometimes tortured or killed.

Since 1990 Venezuelan prisons have seen the worst massacres in the region, including the November 1992 killing of more than 60 inmates in the Retén de Catia, a prison in Caracas, and the January 1994 killing of more than 100 inmates in Sabaneta prison, Maracaibo. In most of these cases the prison warders have been directly involved in the killings, such as the extrajudicial execution by the National Guard of six prisoners from the Aragua State prison, in January 1994. The perpetrators have remained unpunished. In another incident at least 27 inmates, including one minor, died in La Planta prison in the Paraíso neighbourhood of Caracas as a result of an attack by members of the National Guard on 22 October 1996. No-one has yet been brought to justice for these killings.

Amnesty International Secretary General, Pierre Sané, visited the country in July 1996, and handed a memorandum to President Rafael Caldera calling for swift and effective measures to improve the prison situation. The memorandum also expressed grave concern about serious human rights violations in Venezuela, including extrajudicial executions, torture and "disappearances". Officials of the Venezuelan government, including the Ministers of Presidency, Justice and Defence, contested Amnesty International's findings, concerns and recommendations, claiming they were "biased and unfounded".

In addition, hundreds of people continue to be administratively detained for up to five years under the Ley de Vagos y Maleantes, Law of Vagrants and Crooks. Those detained under this law are frequently tortured, have no access to a judicial hearing or defence lawyers, and are denied many other basic rights.

It is clear that the Venezuelan security forces do, in some instances, face difficult situations. But it is also clear that they have been allowed to use lethal force with reckless abandon, resulting in many unnecessary and tragic deaths and injuries.

Amnesty International has monitored the human rights situation in Venezuela for many years. It has conducted fact-finding missions, published reports, campaigned against violations and repeatedly conveyed its concerns to the government of the day. The authorities have rarely bothered to even respond.

While welcoming President Rafael Caldera's initiative to make 1997 the "Year of Human Rights", Amnesty International remains deeply concerned about the continuing reports of serious human rights violations in Venezuela, the impunity so persistently enjoyed by the perpetrators and lack of effective measures by the government to halt either the abuses or the impunity.

Recommendations

Amnesty International is calling on the Venezuelan government to promptly and fully implement the following recommendations.

1. The United Nations Convention on the Rights of the Child

- The government should comply with its international obligations under the United Nations Convention on the Rights of the Child, adopted by the United Nations General Assembly on 20 November 1989 and ratified by the Venezuelan government on 13 September 1990.
- The government should ensure that all the necessary steps are taken to guarantee that "Every child has the inherent right to life" in accordance with Article 6 of the United Nations Convention on the Rights of the Child.
- The government should ensure that all the necessary steps are taken to guarantee that "no child shall be subjected to torture or other cruel, inhuman or degrading treatment or punishment" in accordance with Article 37a of the United Nations Convention on the Rights of the Child.
- The government should ensure that the Convention on the Rights of the Child is fully and promptly incorporated into domestic legislation.
- The government should fulfil its international obligation to submit a report on the United Nations Convention on the Rights of the Child and ensure that recommendations made by the United Nations under this Convention are implemented.

2. Investigation of all reports of gross human rights violations

- All reports of suspected torture, "disappearances" or extrajudicial executions should be promptly, thoroughly and impartially investigated.
- When detainees allege that their confessions were extracted under torture, the authorities should ensure a full and impartial investigation by an independent body into such allegations.
- The investigating authority should have the power to obtain all information necessary to the inquiry; adequate financial and technical resources for effective investigation; and the authority to oblige those accused of torture to appear and testify.
- Any government official who suspects that torture has been committed should report it to the relevant authorities, which should fully investigate all such reports.
- The absence of a complaint by the victim or relatives should not deter investigation.

- The involvement or complicity of health professionals in the torture and ill-treatment of detainees should be thoroughly and impartially investigated. Disciplinary proceedings should be instituted against medical personnel found to have breached the UN Principles of Medical Ethics.
- In all cases of deaths in custody, forensic investigations should conform to international standards including the UN Principles on the Effective Prevention and Investigation of Extra-Legal, Arbitrary and Summary Executions.

3. Prevention of arbitrary detention

- All arrests should be conducted under strict judicial control by authorized persons, and only in the cases provided for by the Constitution. Arrests not meeting these standards should be prohibited.
- Law enforcement officials should always adequately identify themselves and present arrest warrants at the time of arrest.
- All arrests should be carried out under strict judicial control and only by authorized personnel.
- Every minor should be informed, at the time of arrest, of the specific reasons for his or her arrest.
- All detainees should receive a clear oral and written explanation of how to avail themselves of their legal rights, including the right to lodge complaints of ill-treatment.
- The maximum period a detainee may be held by the police without being brought before a judge should be substantially reduced, and the judicial authorities should decide in not more than 24 hours the legal situation of detainees.
- Those failing to adhere to these safeguards should be effectively disciplined or brought to justice.

4. Strict controls over interrogation procedures

- Children should be questioned only in the presence of a parent or next of kin and an attorney from the *Procuraduría de Menores*, Juvenile Attorney's office, and a lawyer.
- In addition to a lawyer, a female officer should be present during interrogation of female detainees.

- The date, time and duration of each period of interrogation should be clearly recorded, as well as the names of all those present during interrogation. These records should be open to judicial scrutiny and to inspection by representatives of the General Attorney's Office, lawyers and relatives of detainees.
- The government should publish current guidelines of interrogation procedures and periodically review both procedures and practices, inviting submissions and recommendations from civil rights groups, defence lawyers, bar associations and other interested parties.

5. Adequate medical safeguards

- An independent medical examiner's office should be established, with full administrative autonomy, to provide forensic expertise at a national level.
- Medical examinations should be regularly provided for detainees and prisoners and should be performed by independent professionals under the supervision of a professional association, in accordance with the following principles:
 - A medical examination should be carried out on each detainee promptly after arrest and before interrogation.
 - Detainees should be medically examined every 24 hours during the period of interrogation; on a frequent and regular basis throughout detention and imprisonment; and immediately before transfer or release.
 - The examinations should be performed by the authorized doctor, who should explain to the detainee the importance of having a full and contemporary record of his or her condition.
 - Detainees should be informed of the importance of these medical examinations in verbal and written notice of their rights.
 - Examinations should be carried out in private, exclusively by medical personnel. Special care should be taken to ensure that examinations of female prisoners are carried out in an acceptable manner.
 - Each detainee should have access to a medical officer at any time on the basis of a reasonable request.
 - Detailed medical records on detainees should be kept and should include weight, state of nutrition, visible marks on the body, psychological state and complaints about health or treatment received.

— These records should be confidential but should be communicated, at the request of the detainee, to a legal adviser, his or her family, or the authorities charged with investigating the treatment of prisoners.

— Each detainee should be entitled to private examinations by his or her own doctor at the request of the detainee or the detainee's lawyer or family.

- The medical examination of alleged victims of human rights abuses should only be conducted in the presence of independent witnesses: a health professional designated by the family, the legal representative of the victim or a professional designated by an independent medical association.
- Forensic doctors should be provided with the training and resources necessary for the diagnosis of all forms of torture and other human rights violations.

6. The Minors Protection Act (Ley Tutelar del Menor)

- The government should immediately undertake to make the necessary reforms to the Minors Protection Act, *Ley Tutelar del Menor*, to ensure that all minors are ensured adequate legal guarantees and safeguards, in particular:

— All minors should be presumed innocent until proven guilty;

— All minors should be informed promptly and directly of the charges against him or her;

— All minors should be guaranteed a fair trials by a competent, independent and impartial tribunal and in the presence of appropriate legal assistance and with the adequate defence;

— All petitions of habeas corpus involving minors should be accepted and duly processed;

— No minor should be compelled to give testimony or to confess guilt.

7. Training of security force agents

- An absolute prohibition of extrajudicial killings, torture and ill-treatment as crimes under domestic law should be visibly displayed in every juvenile detention centre and police station in the country.
- The government should adopt and publish a code of conduct for all law enforcement agents who exercise powers of detention and arrest. This code should conform to the UN Code of Conduct for Law Enforcement Officials and the UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officials. Such a code should also

include special instructions in accordance with the Convention on the Rights of the Child on the treatment of minors.

- In addition to categorically prohibiting the use of torture and ill-treatment, the Venezuelan penal code should specify that law enforcement agents have the right and duty to oppose the practice of torture or any other human rights violation, and therefore should refuse to carry out orders to inflict treatment on detainees. They must report any such abuses of authority to their superior officers and, where necessary, to the authorities vested with review or remedial powers.
- This code should include special instructions for members of the security forces conducting anti-crime or anti-terrorist operations.
- Breaches of the code should result in specified disciplinary sanctions and criminal prosecution of the agents involved.
- The government should ensure that all law enforcement agents and members of the armed forces receive adequate training on human rights standards both domestic and international, in particular the United Nations Convention on the Rights of the Child, and on the means for their protection.
- Special training should be provided for state personnel working in juvenile detention centres.

8. Juvenile detention centres

- The government should ensure that all the necessary financial and human resources are made available for the effective and safe running of juvenile detention centres.
- All minors detained indefinitely and without charge should be released immediately.
- The government should adopt and implement the recommendations made by the United Nations Special Rapporteur on Torture, Mr. Nigel S. Rodley, submitted to the United Nations Commission on Human Rights in December 1996, especially:

— Children deprived of liberty (as a last resort), even if only for a few days or weeks, should be held exclusively in institutions aimed at protecting them and adapted, from all points of view, to their particular needs. They should be provided with medical, psychological and educational assistance.

9. Protection of the human rights of minors

- The government should make the necessary legal reforms to establish an Office for the Minors Public Defender, *Defensoría del Niño y del Adolescente*.