

VENEZUELA

@The Law of Vagrants and Crooks: Suppressing dissent and punishing the poor

INTRODUCTION

For a number of years, Amnesty International has been concerned about the use of the *Ley sobre Vagos y Maleantes*, Law of Vagrants and Crooks, to detain large numbers of the poorer sectors of the population and, in some cases, journalists, peasant activists and critics of the government.¹

The present Law of Vagrants and Crooks, which dates from 1956, permits the administrative detention for up to five years, without judicial appeal or review, of people deemed by the police to be a threat to society, but against whom there is no evidence of punishable crimes that may stand in a court of law². In practice it means that someone can be detained simply on suspicion of being a "vagrant" or a "crook". It can also be applied to individuals merely on the basis of their past penal records: someone who has been convicted of a common crime and served his sentence, can be in fact punished again under the Law of Vagrants and Crooks, if detained in a police raid and found to have a police record. If applied repeatedly on the basis of the same police record, there is nothing in law that can stop a virtual life sentence on the individual.

The law classifies as *Vagos* or vagrants, those out of work, or allegedly working in illicit professions "constituting a threat to society"³; those profiting from prostitution or from illegal activities attempting against the public moral or customs; loiterers and others promoting idleness; and those begging for money under religious pretexts, employing minors and the mentally-ill for begging or pretending to be physically disabled or sick in order to beg. *Maleantes* or crooks, are those classed as "scoundrels" (*rufianes*) and "pimps" (*proxenetas*);

¹See *Venezuela: Memorandum to the Government*, AI Index: AMR 53/02/88, published in October 1988.

²The application of the Law of Vagrants and Crooks of 1939, predecessor of the actual Law, was under the control of the judiciary. It was reportedly only applied ten times until it was reformed in 1943. The present administrative procedures were established during the government of Pérez Jiménez in 1956.

³"*Los que habitualmente y sin causa justificada no ejerzan profesión u oficio lícitos y que por tanto constituyen un amenaza para la sociedad*" (art. 2[a]).

gamblers; illegal dealers in drugs, weapons or alcoholic drinks or those supplying alcoholic beverages to minors; witches (*brujos*) and wizards (*hechiceros*); those sentenced two or more times for crimes against private property and those accused two or more times for these crimes who are found to hold false or deformed keys to force open doors and windows; those who trade on pornographic material; paedophiles, smugglers, drunks, cattle rustlers and prowlers; and those generally known as being dangerous, seen in the company of known criminals, or having a police record⁴.

Amnesty International believes that the procedure applicable under this law is so akin to a penal action that it should carry the same guarantees as those established in international norms for a fair trial, including the right to proper defence and the presumption of innocence, as established in articles 9 and 14 of the International Covenant on Civil and Political Rights (ICCPR) and articles 7 and 8 of the American Convention on Human Rights (ACHR)⁵. Venezuela ratified the ICCPR on 10 May 1978 and the ACHR on 9 August 1977.

The Law's definition of "vagrants" and "crooks" is so vague that it raises serious questions as to whether its provisions are compatible with the principle of equality before the law, as set out for example in Art. 24 of the ACHR. The definitions are also open to arbitrary and discriminatory interpretations and practice. In actual terms, the Law of Vagrants and Crooks is applied on the basis of mere suspicion, frequently when individuals have been previously arrested or interviewed by police without being charged. Amnesty International believes this law continues to be used to suppress political and popular dissent, in breach of Art. 7 of the ACHR, which states that "every person has the right to personal liberty and security" and that, moreover, "no one shall be deprived of his physical liberty except for the reasons and under the conditions established beforehand by the constitution of the State Party concerned or a law established pursuant thereto" (see below, under Prisoners of Conscience; and Appendix A for the full text of this article).

While the Venezuelan Government has repeatedly acknowledged that the Law of Vagrants and Crooks infringes the Venezuelan Constitution and the country's obligation to uphold ratified international human rights instruments, the Law of Vagrants and Crooks continues to be applied by most Venezuelan state authorities.

APPLICATION OF THE LAW OF VAGRANTS AND CROOKS

⁴See Appendix B.

⁵The text of the mentioned ICCPR and ACHR articles - in English and Spanish - can be found in Appendix A.

Hundreds of people are detained each year during police sweeps (*redadas*), particularly in the poorer areas of large cities such as Caracas and Maracay. The majority of these people are subsequently released after a few hours, but many are held under the Law of Vagrants and Crooks and kept for many days in cells in police stations and in prisons. Most of those serving terms longer than six months under this law, are transferred to "rehabilitation centres" such as the *Centro Agropecuario de Reeducación El Dorado (CAR El Dorado)* a prison in the town of El Dorado, in the state of Bolívar. Many of those detained under this law are subjected to torture and ill-treatment or sent to prisons whose conditions amount to cruel, inhuman and degrading treatment⁶.

Following the detention of a person under the Law of Vagrants and Crooks by the police, the detainee is sent before the *prefecto* where he or she is interrogated and informed of the charges brought against him (in the great majority of the cases the law is applied to men). The detainee is accused and sentenced by the same authority and the defendant has no access to an independent or impartial tribunal. If the detainee denies the charges, he has three days to present proof of his "innocence": this could be by means of a certificate of good conduct from the neighbourhood association or a letter from his/her present employer. After this, the authority has 48 hours to determine whether he or she is guilty or not before issuing a sentence.

If the accused is found "guilty" under the Law of Vagrants and Crooks, he has 24 hours to appeal the sentence before the state governor, a period admittedly insufficient to prepare an appeal. As previously stated, the application of this law affects primarily the poor who usually cannot afford independent legal counsel. Although defendants have the right to a *defensor público*, or state attorney, these attorneys fail, in most cases, to act arguing they are unable to review the case within the 24 hours stipulated by law.

The case goes before the state governor for consultation, whether on appeal or not. The *defensor público* is then asked to confirm the legality of the process and his agreement with the sentence given, within three days of receiving the appropriate documentation. The attorney's report is then received by the governor, who must confirm, modify or revoke the sentence within another three days. If the sentence is longer than six months, it must go

⁶See *Venezuela: The Eclipse of Human Rights*, AI Index: AMR 53/07/93, published in November 1993.

⁷The procedure applicable under this law, allows the public administration of a state, the *prefecto* (municipal administrative authority) in the first instance, and the governor of a state on appeal, to determine who the alleged vagrants and crooks are and to impose the sanctions dictated by law, against them.

before the Justice Minister, who then has 15 days to change or confirm it. The Minister's decision is final.⁸

EL DORADO REHABILITATION CENTRE

A number of people detained under the Law of Vagrants and Crooks are sent to the *Centro Agropecuario de Reeducación El Dorado (CAR El Dorado)*, in the state of Bolívar. Between February 1993 and May 1994, Amnesty International delegations visited *CAR El Dorado* on three different occasions. In February 1993, the delegates found the prison's facilities to be grossly inadequate. While not overcrowded, the sewage system was blocked; adequate medical care was lacking; the water was undrinkable; the food was obviously insufficient; and the prison buildings were derelict. Inmates told Amnesty International that corporal punishment was routinely applied against them. For example, they reported that in the early hours of 25 December 1992, more than 20 guards had brutally beaten the prisoners with their rifle butts and *peñillas* (sabres) in retaliation for the attempted escape of a prisoner the day before. Some of the prisoners had been shot at close range with plastic pellets. One of the delegates, a forensic doctor, confirmed that several inmates presented injuries consistent with these allegations. The prison authorities had previously denied that inmates were subjected to any form of torture or ill-treatment.

In November 1993, Amnesty International returned to *CAR El Dorado*. While reports indicated that the use of torture against people detained under the Law of Vagrants and Crooks had diminished, some inmates complained about continuing ill-treatment. Of particular concern were reports that on 6 November 1993, Francisco Javier Méndez Cortéz was summarily executed by a member of the *Guardia Nacional*, National Guard, when he tried to avoid being beaten (see page 9).

The most recent visit to *CAR El Dorado* took place in May 1994. While there had been no massive transfers of prisoners to *CAR El Dorado* under the Law of Vagrants and Crooks in the months preceding the visit, there were complaints about the continuing use of ill-treatment and torture against the inmates. The delegates found the same appalling prison conditions - including lack of drinkable water - as in previous visits. They were also able to confirm that at least two men whom Amnesty International regards as prisoners of conscience (POCs)⁹ were detained under this law (see below).

⁸*La Ley de Vagos y Maleantes: Un Recurso a la Indefensión*, unpublished paper by Osmari Agreda, Arturo Peraza and Patricio Vargas, Cátedra de Derecho Administrativo I, Facultad de Derecho, Universidad Católica Andrés Bello, Caracas, 19 May 1993.

⁹Amnesty International opposes the imprisonment, detention or other physical restrictions imposed on any person by reason of his or her political, religious or other conscientiously held beliefs or by reason of his or her ethnic origin, sex, colour or language, provided he or she has not used or advocated violence. These people are referred to as

It is important to note that while prisoners from most regions of Venezuela detained under the Law of Vagrants and Crooks are sent to *CAR El Dorado*, the governors of the states of Bolívar and Zulia have effectively ceased the application of the Law of Vagrants and Crooks within their territory: the authorities of Zulia state have not applied it since Lolita Aniyar de Castro became Governor in February 1994. According to the Bolívar state authorities interviewed by mission delegates in May 1994, there has not been an increase in petty crime as a result of the decision not to apply the law.

PRISONERS OF CONSCIENCE HELD UNDER THE LAW OF VAGRANTS AND CROOKS

Although the Law of Vagrants and Crooks, is widely used in many states to hold people belonging primarily to the poorest sectors of society, it has also been used to detain political activists.

For example, Gabriel RIVAS GRANADILLO, leader of *La Chivera* peasants union, was arrested without a warrant on 2 July 1994 by members of the state police (*Policía del Estado de Carabobo*) in Valencia, state of Carabobo. He was detained for his peaceful activities on behalf of peasants involved in a land dispute and was subsequently sentenced to a year's administrative detention under the Law of Vagrants and Crooks. It was feared that Gabriel Rivas Granadillo would be sent to *CAR El Dorado*. Following an international campaign to secure his release, Gabriel Rivas Granadillo's sentence was revoked by the state governor of Carabobo on 29 September 1994.

The law has also been sporadically used to arbitrarily imprison homosexuals accused of prostitution by the police. In May 1994, an Amnesty International delegation visited *CAR El Dorado* and interviewed two men being held under the Law of Vagrants and Crooks because of their sexual orientation.

Pedro Luis PEÑA ARÉVALO (also known as "*Colina*"), aged 25, was detained on 13 May 1992 in Maracaibo, state of Zulia by members of the state police, while working as a transvestite prostitute. He was taken to a police station where he remained for five days and was then sentenced to a year's imprisonment under the Law of Vagrants and Crooks. He spent several months in the *Cárcel Nacional de Maracaibo*, also known as *Sabaneta* prison, in the state of Zulia, where he was reportedly shot by a member of the security forces in the leg and buttock during a prison disturbance, allegedly because of his sexual orientation. His sentence was later increased to 30 months' imprisonment by the Ministry of Justice. In

"prisoners of conscience" (POCs) and Amnesty International works towards their immediate and unconditional release.

November 1993, Pedro Peña Arévalo was transferred to the *Cárcel Nacional de Barcelona*, Barcelona prison, in the state of Anzoátegui, where he is reported to have been beaten with *peinillas* by the guards. On 8 December 1993 he was transferred to the *Centro Penitenciario de Guayana*, Guayana Prison, also known as the *Casa Amarilla* (yellow house), a prison adjacent to *CAR El Dorado*¹⁰. He was reportedly beaten while in the *Casa Amarilla* and subjected to repeated harassment by prison wardens and members of the National Guard apparently as a consequence of his sexual orientation.

Pedro Luis Peña Arévalo (left) and José Luis Zapata (right). *CAR El Dorado* prison, May 1994.

José Luis ZAPATA (also known as "*Liliana*"), aged 25, was detained on 11 December 1992 in Caracas during a raid by the Metropolitan Police. Since José Luis Zapata had already been confined to *CAR El Dorado* under the Law of Vagrants and Crooks between 1986 and 1990, he was imprisoned again under this law. José Luis Zapata spent 15 days in the *Retén de la Vega*, La Vega prison, in Caracas and was then transferred to the *Retén de Catia*, Catia prison, also in Caracas. In Catia he was reportedly ill-treated by the prison guards. In March 1993, he was taken to *La Planta*, another Caracas prison, and on 29 April 1993 he was transferred to a punishment cell in *CAR El Dorado* where he remained for a month. He was allegedly harassed by other prisoners and had to be transferred to another annex because of this. José Luis Zapata believes that he has been ill-treated by the guards because of his sexual orientation: "They beat me for being who I am" ("*me golpean simplemente por ser como soy*").

Amnesty International believes that Pedro Luis Peña Arévalo and José Luis Zapata are being held under the Law of Vagrants and Crooks solely on account of their sexual

¹⁰The *Casa Amarilla* was reopened as a high security prison in early 1994 for inmates convicted of common crimes. In theory, it should not house inmates under the Law of Vagrants and Crooks, although in practice, prisoners from *CAR El Dorado* are transferred to the *Casa Amarilla* as a means of punishment.

orientation. The organization urges their immediate release as prisoners of conscience and calls for full and immediate investigations into reports of their torture and ill-treatment at the hands of prison guards and members of the National Guard.

TORTURE, ILL-TREATMENT AND OTHER ABUSES BY PRISON GUARDS

During Amnesty International's visits to Venezuela in January and November 1993 and in May 1994, delegates were able to confirm that several detainees held under the Law of Vagrants and Crooks at the *CAR El Dorado*, state of Bolívar, and the *Departamento Central de la Policía del Estado Aragua*, Central Police Department in Maracay, state of Aragua (a detention centre formerly known as *El Alayón* prison), had suffered torture and ill-treatment.

Pedro Antonio NIEVES, 35 years of age, bricklayer and master baker, four children, originally from Maracay, state of Aragua.

In May 1984, Pedro Nieves was arbitrarily detained during a police raid in his home town of Maracay. He had never been previously detained or charged with any common offenses and had no police record. He was nonetheless detained under the Law of Vagrants and Crooks, and taken to the *Comandancia General del Estado Aragua*, the General Commander's Office in Aragua, where he remained in detention for 15 days. He was reportedly beaten and kicked by the police. He was then transferred to *CAR El Dorado* where he was also reportedly punched and beaten with sticks and *peinillas* (sabres). He remained in *CAR El Dorado* until February 1987.

In December 1988 Pedro Nieves was rearrested in Maracay and taken to the Central Police Department (formerly *El Alayón*), where he was reportedly tortured. He was sentenced to five years' detention under the Law of Vagrants and Crooks and transferred to *CAR El Dorado* on 12 March 1989. He was brutally beaten by prison guards shortly after arriving there. Pedro Nieves was released after six months, in October 1989, for good behaviour.

In October 1992, he was rearrested in Maracay by the state police (*Policía del Estado de Aragua*), during a random raid, and held under the Law of Vagrants and Crooks at the Central Police Department. Based on his police record, he was sentenced to 30 months' imprisonment. An Amnesty International delegation visiting Maracay in January 1993, met with state authorities to protest the possible transfer of 30 inmates, among whom was Pedro Nieves, to *CAR El Dorado*. Despite these appeals, Pedro Nieves was sent to *CAR El Dorado* in February 1993. He told Amnesty International delegates visiting *CAR El Dorado* in May 1994, that he had been beaten by members of the National Guard and a prison guard in April 1994, for protesting against the ill-treatment of other inmates held at *CAR El Dorado*: he had been forced to lean against a wall and had been beaten with *peinillas*.

Pedro Antonio Nieves, May 1994.

Ricardo DONIS, 18-years-old, originally from Maracay, state of Aragua.

On 16 December 1993, Ricardo Donis was arbitrarily transferred to the *Casa Amarilla* by prison wardens, ignoring the well known rivalries between prisoners in the *Casa Amarilla* and *CAR El Dorado*. He had been sent to *CAR El Dorado* on 2 June 1993 under the Law of Vagrants and Crooks (inmates held under the Law of Vagrants and Crooks should not, in theory, be housed in the *Casa Amarilla* - see footnote 10). Ricardo Donis was stabbed by inmates at the *Casa Amarilla* that same day and died of his knife wounds. The prison guard responsible for Ricardo Donis' arbitrary and illegal transfer has not been brought to justice. Prison guards frequently threaten inmates in *CAR El Dorado* with transfer to the *Casa Amarilla*.

The same prison guard has been reported to have frequently beaten prisoners. In one instance, in April 1994, Orlando Amado PARDONE was beaten with *guayaba* sticks for trying to defend another inmate who was being ill-treated.

Amnesty International remains concerned that the duty of prison guards to guarantee the safety of all prisoners under their responsibility continues to be neglected, leading in many instances to grave human rights violations.

THE EXTRAJUDICIAL EXECUTION OF FRANCISCO MÉNDEZ CORTÉZ

On 6 November 1993, Francisco Javier MÉNDEZ CORTÉZ was reportedly killed by a member of the National Guard as he was running for help to avoid a beating. According to reports, on that day, Francisco Méndez was punished ("*sanción disciplinaria*") by members of the National Guard after protesting not having been paid for some work he had done inside the prison. The guards reportedly started beating him near other prisoners, but he managed to break away and ran towards the director's office, crying for help. A guard shot him repeatedly on the back. Francisco Méndez died hours later without receiving any medical assistance and after having been handcuffed by the guards.

Amnesty International sent a letter to the Attorney General on 11 November 1993, strongly condemning the killing and demanding an impartial investigation into the incident. To Amnesty International's knowledge, no investigation has been opened into this killing nor anyone has been brought to justice. Moreover, the organization has not received a reply from the Venezuelan authorities regarding this case.

MEETINGS WITH THE VENEZUELAN AUTHORITIES AND THE CITIZENS' SECURITY PROTECTION LAW

Amnesty International has discussed its serious concerns about the Law of Vagrants and Crooks with a wide range of national authorities, legal experts and institutions working among the poor in Venezuela. Some authorities and other individuals maintain that it is difficult to relinquish the use of the law of Vagrants and Crooks as a method of crime prevention. Amnesty International believes, however, that practices that compromise fundamental civil rights and contravene the international human rights obligations of Venezuela cannot be accepted as legitimate law enforcement or crime prevention measures. It is the duty of the Venezuelan Government, however difficult, to endeavour to fulfil those responsibilities within the framework of normal police, judicial and penal procedures and without undermining the fundamental rights of any sector of the population.

Moreover, many authorities, including the governors of Bolívar and Zulia - states which have effectively ceased the application of the Law of Vagrants and Crooks within their territories - have scorned the use of this law for the prevention of violent crimes in Venezuela. According to their views, those detained under this law have not committed any punishable crimes.

The organization has been particularly concerned at the potential abuse of this law for political reasons - such as in the case of Gabriel Rivas Granadillo - but it is aware that its most serious conflict with human rights principles arises from its application almost exclusively to

members of the poorer sectors of the population, suggesting discrimination on the basis of social origin.

Proposals to replace the Law of Vagrants and Crooks with a Citizens' Security Protection Law (*Ley de Protección a la Seguridad Ciudadana, LPSC*), were presented to Congress by Interior Minister Ramón Escovar Salom in November 1994. An early version of these proposals was discussed in the meeting that the Amnesty International delegation held with Dr. Escovar Salom in May 1994. One of the concerns expressed by members of the delegation was the vagueness of the law's definition of punishable behaviours, described as "*conductas contraventoras del orden público*", behaviours which contravene the public order. The Amnesty International delegation argued that this could lead to arbitrary and discriminatory interpretations of the law, including the detention of people holding peaceful demonstrations (article 2[a]: those marching or demonstrating illegally uniformed, disguised or masked and those who promote public disorder - "*quien marche or manifieste ilegalmente uniformado, disfrazado u ocultando su rostro y quien fomente el desorden público*").

In another example, Article 2(b) specifies the contravening behaviours as those "acts which threaten the morals or the respectable customs [of society]" ("*...actos considerados atentatorios de la moral o de las buenas costumbres*"). The ambiguous nature of this wording could lead to further imprisonments of people because of their sexual orientation, including homosexuals.

Proposals for the LPSC, as introduced to the Venezuelan Congress, differ in two aspects from the present Law of Vagrants and Crooks: a) the LPSC is applied by the local Courts – instead of the administrative authorities presently applying the LVM –, a modification welcomed by Amnesty International; and b) the maximum penalty applicable to those found guilty is, in principle, two years, instead of five.

However, a detainee who is considered not to have been "rehabilitated" during his/her period of reclusion, can be remanded in prison by the judicial authorities for as many years as the penalty originally served (Arts. 14 and 15 of the LPSC, see Appendix B). This would amount to an actual sentence of four years. Moreover, there are no safeguards in the LPSC that would prevent the courts from applying the same sentence *ad infinitum* to an individual who, in their view, had not been "rehabilitated" during previous periods of reclusion. Amnesty International considers that the inclusion of articles 14 and 15 in the new LPSC preserves, in fact, one of the most disturbing features of the present Law of Vagrants and Crooks.

Moreover, the organization remains concerned about several aspects of the LPSC which have been transferred virtually unchanged from the Law of Vagrants and Crooks. The procedure applicable to the detainees shows little improvement from that used in the Law of Vagrants and Crooks. Under the LPSC, if a defendant rejects the charges against

him or her, he/she has six days to present (*promover y evacuar*) proof in his/her defense. Following that, the judge has 48 hours to determine whether the defendant is guilty and to issue a sentence. The defendant may then appeal the sentence before the *Juzgado de Parroquia o Municipio de la Circunscripción Municipal*, Municipal Tribunal of the Municipal Circuit, within three days. Although the LPSC specifies the right of the defendant to legal counsel, it imposes time constraints similar to those found in the Law of Vagrants and Crooks.

The LPSC's main purpose is the "social readaptation of citizens who have incurred in a contravening behaviour" (*readaptación social del ciudadano que ha incurrido en una conducta contraventora*). The LPSC provides for the "readaptation" of individuals in *Casas de Trabajo y Reeducción*, Labour and Reeduction Centres, and in *Colonias Agrícolas Correccionales*, Agricultural Correction Centres, that is, the same places presently used to house detainees under the Law of Vagrants and Crooks. Amnesty International is concerned that, unless the conditions in these prisons and centres are substantially improved, all complaints of torture and ill-treatment are investigated and those responsible are brought to justice, detainees under the LPSC will continue to suffer torture and ill-treatment at the hands of the security forces.

The organization remains concerned about the potential application of the LPSC based on discrimination because of social status or origin and the detention of POCs. Amnesty International welcomes the proposal to have local courts apply the law, but is concerned about the vagueness of descriptions contained in articles 2(a), 2(b), 2(d) and 2(j), which could lead to further imprisonment of individuals due to their political or conscientiously held beliefs or for reasons based on their social origins or status.

In summary, Amnesty International remains concerned that the proposed LPSC contains a number of provisos, carried over from the *Ley sobre Vagos y Maleantes*, which continue to be in breach of the same international standards as the Law of Vagrants and Crooks and which could lead to similar violations of human rights as those described in this document.

RECOMMENDATIONS

Amnesty International urgently appeals to the Venezuelan Government to adopt and implement the following recommendations to reduce serious human rights violations resulting from the application of the Law of Vagrants and Crooks and the potential use of the proposed *Ley de Protección a la Seguridad Ciudadana (LPSC)*.

- 1) The *Ley sobre Vagos y Maleantes*, Law of Vagrants and Crooks, -- which infringes the Venezuelan Constitution, the International Covenant on Civil and Political Rights and

the American Convention of Human Rights, in particular the right to personal liberty and security, right to equality before the law, right to legal defense, and right to challenge the legality of a detention before the courts of law – should be repealed.

- 2) All detainees held under the present Law of Vagrants and Crooks, should be released or charged with recognizable criminal offenses and brought before a court of law.
- 3) An independent legal Commission should be formed to look at the compatibility, or otherwise, of the proposed *LPSC* with national and international law. The Commission should include members of both governmental and non-governmental organizations, such as human rights groups, popular sectors, academics, lawyers and the Church. The Commission's findings should be made public and taken into consideration by the respective authorities before adopting the *LPSC*.

APPENDIX A

ENGLISH TEXT OF ARTICLES CITED IN THIS DOCUMENT

International Covenant on Civil and Political Rights (ICCPR)

Adopted by the General Assembly of the United Nations on 16 December 1966. Ratified by Venezuela in 10 May 1978.

Art. 91. Everyone has the right to liberty and security of person. No one shall be subjected to arbitrary arrest or detention. No one shall be deprived of his liberty except on such grounds and in accordance with such procedure as are established by law.

2. Anyone who is arrested shall be informed, at the time of the arrest, of the reasons for his arrest and shall be promptly informed of any charges against him.

3. Anyone arrested or detained on a criminal charge shall be brought promptly before a judge or other officer authorized by law to exercise judicial power and shall be entitled to trial within a reasonable time or to release. It shall not be the general rule that persons awaiting trial shall be detained in custody, but release may be subject to guarantees to appear for trial, at any other stage of the judicial proceedings, and, should occasion arise, for execution of the judgement.

4. Anyone who is deprived of his liberty by arrest or detention shall be entitled to take proceedings before a court, in order that that court may decide without delay on the lawfulness of his detention and order his release if the detention is not lawful.

5. Anyone who has been victim of unlawful arrest or detention shall have an enforceable right to compensation.

Art. 141. All persons shall be equal before the courts and tribunals. In the determination of any criminal charge against him, or of his rights and obligations in a suit at law, everyone shall be entitled to a fair and public hearing by a competent, independent and impartial tribunal established by law. The press and public may be excluded from all or part of a trial for reasons of morals, public order (*ordre public*) or national security in a democratic society, or when the interest of the private lives of the Parties so requires, or to the

extent strictly necessary in the opinion of the court in special circumstances where publicity would prejudice the interests of justice; but any judgement rendered in a criminal case or in a suit at law shall be made public except where the interest of juvenile persons otherwise requires or the proceedings concern matrimonial disputes of the guardianship of children.

2. Everyone charged with a criminal offence shall have the right to be presumed innocent until proved guilty according to law.
3. In the determination of any criminal charge against him, everyone shall be entitled to the following minimum guarantees, in full equality:
 - (a) To be informed promptly and in detail in a language which he understands of the nature and cause of the charge against him;
 - (b) To have adequate time and facilities for the preparation of his defence and to communicate with counsel of his own choosing;
 - (c) To be tried without undue delay;
 - (d) To be tried in his presence, and to defend himself in person or through legal assistance of his own choosing; to be informed, if he does not have legal assistance, of this right; and to have legal assistance assigned to him, in any case where the interests of justice so require, and without payment by him in any such case if he does not have sufficient means to pay for it;
 - (e) To examine, or have examined, the witnesses against him and to obtain the attendance and examination of witnesses on his behalf under the same conditions as witnesses against him;
 - (f) To have the free assistance of an interpreter if he cannot understand or speak the language used in court;
 - (g) Not to be compelled to testify against himself or to confess guilt.
4. In the case of juvenile persons, the procedure shall be such as will take account of their age and the desirability of promoting their rehabilitation.
5. Everyone convicted of a crime shall have the right to his conviction and sentence being reviewed by a higher tribunal according to law.
6. When a person has by a final decision been convicted of a criminal offence and when subsequently his conviction has been reversed or he has been pardoned on the ground that a new or newly discovered fact shows conclusively that there has been a miscarriage of justice, the person who has suffered punishment as a result of such conviction shall be compensated according to law, unless it is proved that the non-disclosure of the unknown fact in time is wholly or partly attributable to him.

7. No one shall be liable to be tried or punished again for an offence for which he has already been finally convicted or acquitted in accordance with the law and penal procedure of each country.

American Convention on Human Rights (ACHR)

Adopted by the Organization of American States (OAS) in San José, Costa Rica, in November 1969. Ratified by Venezuela on 9 August 1977.

Art. 7 - Right to Personal Liberty

1. Every person has the right to personal liberty and security.
2. No one shall be deprived of his physical liberty except for the reasons and under the conditions established beforehand by the constitution of the State Party concerned or a law established pursuant thereto.
3. No one shall be subject to arbitrary arrest or imprisonment.
4. Anyone who is detained shall be informed of the reasons for his detention and shall be promptly notified of the charge or charges against him.
5. Any person detained shall be brought promptly before a judge or other officer authorised by law to exercise judicial power and shall be entitled to trial within a reasonable time or to be released without prejudice to continuation of the proceedings. His release may be subject to guarantees to assure his appearance for trial.
6. Anyone who is deprived of his liberty shall be entitled to recourse to a competent court, in order that the court may decide without delay on the lawfulness of his arrest or detention and order his release if the arrest or detention is unlawful. In State Parties whose laws provide that anyone who believes himself to be threatened with deprivation of his liberty is entitled to recourse to a competent court in order that it may decide on the lawfulness of such threat, this remedy may not be restricted or abolished. The interested party or another person in his behalf is entitled to seek these remedies.
7. No one shall be detained for debt. This principle shall not limit the orders of a competent judicial authority issued for non-fulfilment of duties of support.

Art. 8 - Right to a Fair Trial

1. Every person shall have the right to a hearing with due guarantees and within a reasonable time, by a competent, independent and impartial tribunal, previously established by law, in the substantiation of any accusation of a criminal nature made against him or for the determination of his rights or obligations of a civil, labour, fiscal or any other nature.
2. Every person accused of a serious crime has the right to be presumed innocent so long as his guilt has not been proven according to law. During the proceedings, every person is entitled, with full equality, to the following minimum guarantees:
 - (a) the right of the accused to be assisted without charge by a translator or interpreter, if he does not understand or does not speak the language of the tribunal or court;
 - (b) prior notification in detail to the accused of the charges against him;
 - (c) adequate time and means for the preparation of his defence;
 - (d) the right of the accused to defend himself personally or to be assisted by legal counsel of his own choosing, and to communicate freely and privately with his counsel;
 - (e) the inalienable right to be assisted by counsel provided by the State, paid or not as the domestic law provides, if the accused does not defend himself personally or engage his own counsel within the time period established by law;
 - (f) the right of the defence to examine witnesses present in the court and to obtain the appearance, as witnesses, of experts or other persons who may throw light on the facts;
 - (g) the right not to be compelled to be a witness against himself or to plead guilty; and
 - (h) the right to appeal the judgement to a higher court.
3. A confession of guilt by the accused shall be valid only if it is made without coercion of any kind.
4. An accused person, acquitted by a non-appealable judgement, shall not be subjected to a new trial for the same cause.
5. Criminal procedure shall be public, except in so far as may be necessary to protect the interests of justice.

Art. 24 - Right to Equal Protection

All persons are equal before the law. Consequently, they are entitled, without discrimination, to equal protection of the law.

TEXTO EN ESPAÑOL DE LOS ARTÍCULOS CITADOS EN EL DOCUMENTO

Pacto Internacional de Derechos Civiles y Políticos

Adoptado por la Asamblea General de las Naciones Unidas el 16 de diciembre de 1966.
Ratificado por Venezuela el 10 de mayo de 1978.

Art. 91. Todo individuo tiene derecho a la libertad y a la seguridad personales. Nadie podrá ser sometido a detención o prisión arbitrarias. Nadie podrá ser privado de su libertad, salvo por las causas fijadas por la ley y con arreglo al procedimiento establecido en ésta.

2. Toda persona detenida será informada, en el momento de su detención, de las razones de la misma y notificada, sin demora, de la acusación formulada contra ella.

3. Toda persona detenida o presa a causa de una infracción penal será llevada sin demora ante un juez u otro funcionario autorizado por la ley para ejercer funciones judiciales, y tendrá derecho a ser juzgada dentro de un plazo razonable o a ser puesta en libertad. La prisión preventiva de las personas que hayan de ser juzgadas no debe ser la regla general, pero su libertad podrá estar subordinada a garantías que aseguren la comparecencia del acusado en el acto del juicio, o en cualquier otro momento de las diligencias procesales y, en su caso, para la ejecución del fallo.

4. Toda persona que sea privada de libertad en virtud de detención o de prisión tendrá derecho a recurrir ante un tribunal, a fin de que éste decida a la brevedad posible sobre la legalidad de su prisión y ordene su libertad si la prisión fuera ilegal.

5. Toda persona que haya sido ilegalmente detenida o presa, tendrá el derecho efectivo a obtener reparación.

Art. 141. Todas las personas son iguales ante los tribunales y cortes de justicia. Toda persona tendrá derecho a ser oída públicamente y con las debidas garantías por un tribunal competente, independiente e imparcial, establecido por la ley, en la substanciación de cualquier acusación de carácter penal formulada contra ella o para la determinación de sus derechos u obligaciones de carácter civil. La prensa y el público podrán ser excluidos de la totalidad o parte de los juicios por consideraciones de moral, orden público o seguridad nacional en una sociedad democrática, o cuando lo exija el interés de la vida privada de las partes o, en la medida estrictamente necesaria en opinión del tribunal, cuando por circunstancias especiales del asunto la publicidad

podiera perjudicar a los intereses de la justicia; pero toda sentencia en materia penal o contenciosa será pública, excepto en los casos en que el interés de menores de edad exija lo contrario, o en las actuaciones referentes a pleitos matrimoniales o a la tutela de los menores.

2. Toda persona acusada de un delito tiene derecho a que se presuma su inocencia mientras no se pruebe su culpabilidad conforme a la ley.
3. Durante el proceso, toda persona acusada de un delito tendrá derecho, en plena igualdad, a las siguientes garantías mínimas:
 - (a) A ser informada sin demora, en un idioma que comprenda y en forma detallada, de la naturaleza y causas de la acusación formulada contra ella;
 - (b) A disponer del tiempo y de los medios adecuados para la preparación de su defensa y a comunicarse con un defensor de su elección;
 - (c) A ser juzgada sin dilaciones indebidas;
 - (d) A hallarse presente en el proceso y a defenderse personalmente o ser asistida por un defensor de su elección; a ser informada, si no tuviere defensor, del derecho que le asiste a tenerlo, y, siempre que el interés de la justicia lo exija, a que se le nombre defensor de oficio, gratuitamente, si careciere de medios suficientes para pagarlo;
 - (e) A interrogar o hacer interrogar a los testigos de cargo y a obtener la comparecencia de los testigos de descargo y que éstos sean interrogados en las mismas condiciones que los testigos de cargo;
 - (f) A ser asistida gratuitamente por un intérprete, si no comprende o no habla el idioma empleado en el tribunal;
 - (g) A no ser obligada a declarar contra sí misma ni a confesarse culpable.
4. En el procedimiento aplicable a los menores de edad a efectos penales se tendrá en cuenta esta circunstancia y la importancia de estimular su readaptación social.
5. Toda persona declarada culpable de un delito tendrá derecho a que el fallo condenatorio y la pena que se le haya impuesto sean sometidos a un tribunal superior, conforme a lo prescrito por la ley.
6. Cuando una sentencia condenatoria firme haya sido ulteriormente revocada, o el condenado haya sido indultado por haberse producido o descubierto un hecho plenamente probatorio de la comisión de un error judicial, la persona que haya sufrido una pena como resultado de tal sentencia deberá ser indemnizada, conforme a la ley, a menos que se demuestre que le es imputable en todo o en parte el no haberse revelado oportunamente el hecho desconocido.

7. Nadie podrá ser juzgado ni sancionado por un delito por el cual haya sido condenado o absuelto por una sentencia firme de acuerdo con la ley y el procedimiento de cada país.

Convención Americana de Derechos Humanos

Adoptada por la Organización de Estados Americanos (OEA) en San José, Costa Rica, en noviembre de 1969. Ratificada por Venezuela el 9 de agosto de 1977.

Art. 7 - Derecho a la Integridad Personal

1. Toda persona tiene derecho a la libertad y a la seguridad personales.
2. Nadie puede ser privado de su libertad física, salvo por las causas y en las condiciones fijadas de antemano por las Constituciones Políticas de los Estados Partes o por las leyes dictadas conforme a ellas.
3. Nadie puede ser sometido a detención o encarcelamiento arbitrarios.
4. Toda persona detenida o retenida debe ser informada de las razones de su detención y notificada, sin demora, del cargo o cargos formulados contra ella.
5. Toda persona detenida o retenida debe ser llevada, sin demora, ante un juez u otro funcionario autorizado por la ley para ejercer funciones judiciales y tendrá derecho a ser juzgada dentro de un plazo razonable o a ser puesta en libertad, sin perjuicio de que continúe el proceso. Su libertad podrá estar condicionada a garantías que aseguren su comparecencia en el juicio.
6. Toda persona privada de libertad tiene derecho a recurrir ante un juez o tribunal competente, a fin de que éste decida, sin demora, sobre la legalidad de su arresto o detención y ordene su libertad si el arresto o la detención fueran ilegales. En los Estados Partes cuyas leyes prevén que toda persona que se viera amenazada de ser privada de su libertad tiene derecho a recurrir a un juez o tribunal competente a fin de que éste decida sobre la legalidad de tal amenaza, dicho recurso no puede ser restringido ni abolido. Los recursos podrán interponerse por sí o por otra persona.
7. Nadie será detenido por deudas. Este principio no limita los mandatos de autoridad judicial competente dictados por incumplimientos de deberes alimentarios.

Art. 8 - Garantías Judiciales

1. Toda persona tiene derecho a ser oída, con las debidas garantías y dentro de un plazo razonable, por un juez o tribunal competente, independiente e imparcial, establecido con anterioridad por la ley, en la sustanciación de cualquier acusación penal formulada contra ella, o para la determinación de sus derechos y obligaciones de orden civil, laboral, fiscal o de cualquier otro carácter.
2. Toda persona inculpada de delito tiene derecho a que se presuma su inocencia mientras no se establezca legalmente su culpabilidad. Durante el proceso, toda persona tiene derecho, en plena igualdad, a las siguientes garantías mínimas:
 - (a) derecho del inculcado de ser asistido gratuitamente por el traductor o intérprete, si no comprende o no habla el idioma del juzgado o tribunal;
 - (b) comunicación previa y detallada al inculcado de la acusación formulada;
 - (c) concesión al inculcado del tiempo y de los medios adecuados para la preparación de su defensa;
 - (d) derecho del inculcado de defenderse personalmente o de ser asistido por un defensor de su elección y de comunicarse libre y privadamente con su defensor;
 - (e) derecho irrenunciable de ser asistido por un defensor proporcionado por el Estado, remunerado o no según la legislación interna, si el inculcado no se defendiere por sí mismo ni nombrare defensor dentro del plazo establecido por la ley;
 - (f) derecho de la defensa de interrogar a los testigos presentes en el tribunal y de obtener la comparecencia, como testigos o peritos, de otras personas que puedan arrojar luz sobre los hechos;
 - (g) derecho a no ser obligado a declarar contra sí mismo ni a declararse culpable, y,
 - (h) derecho de recurrir del fallo ante juez o tribunal superior.
3. La confesión del inculcado solamente es válida si es hecha sin coacción de ninguna naturaleza.
4. El inculcado absuelto por una sentencia firme no podrá ser sometido a nuevo juicio por los mismos hechos.
5. El proceso penal debe ser público, salvo en lo que sea necesario para preservar los intereses de la justicia.

Art. 24 - Igualdad ante la Ley

Todas las personas son iguales ante la ley. En consecuencia, tienen derecho, sin discriminación, a igual protección de la ley.

APPENDIX B**ARTICLES 1, 2 & 3 OF THE *LEY SOBRE VAGOS Y MALEANTES***

Art. 1 Los vagos y maleantes para su corrección y como medida de defensa social, serán sometidos al régimen de seguridad pautado en la presente Ley.

Art. 2 Se consideran vagos:

- (a) Los que habitualmente y sin causa justificada no ejerzan profesión u oficio lícitos y que por tanto constituyen una amenaza para la sociedad.
- (b) Los que aún ejerciendo profesión, destino u oficio o poseyendo bienes o renta, viviesen o completasen sus recursos personales a expensas de personas dedicadas a la prostitución, o por el ejercicio de actividades ilegítimas, entendiéndose como tales, a los efectos de esta Ley, las que tienen por objeto actos generalmente considerados como atentatorios de la moral o de las buenas costumbres.
- (c) Los timadores y petardistas de oficio.
- (d) Los que habitualmente transiten por calles o caminos promoviendo y fomentando la ociosidad y otros vicios.
- (e) Los que habitualmente pidan limosnas para imágenes, santuarios u otros fines religiosos, sin la licencia eclesiástica y el visado de las autoridades de policía; y los que con pretexto benéfico y filantrópico especulen con la buena fe del público levantando contribuciones.
- (f) Los que habitualmente induzcan o manden a sus hijos, parientes o subordinados que sean menores de edad a mendigar públicamente y los que en general se valgan de menores para mendigar públicamente y los que en general se valgan de menores para el mismo fin o exploten igualmente a enfermos mentales o lisiados.
- (g) Los que infligieren enfermedad o defectos orgánicos para dedicarse a la mendicidad.

Art. 3 Se consideran maleantes:

- (a) Los rufianes y proxenetas.
- (b) Los que hacen de los juegos prohibidos su profesión habitual y los que exploten estos juegos o cooperen con los explotadores en cualquier forma, a sabiendas de esa actividad ilícita.
- (c) Los que habitualmente, sin llenar los requisitos legales, comercien con armas, drogas, bebidas embriagantes y otros efectos de uso o consumo reglamentado o prohibido por la ley. o de la manera ilícita los fabriquen, importen o faciliten.

- (d) Los que suministren para su consumo inmediato aguardientes, vinos o en general bebidas espirituosas a menores de dieciocho años en lugares o establecimientos públicos o en Institutos de educación o instrucción, o los que a sabiendas promuevan o favorezcan la embriaguez de menores.
- (e) Los que ejerzan de brujos o hechiceros, los adivinadores y todos los que por medio de esas artes ilícitas exploten la ignorancia o la superstición ajena.
- (f) Los que habitualmente ocurran a la amenaza de algún daño inmediato contra las personas o sus bienes con el objeto de obtener algún provecho, utilidad o beneficio.
- (g) Los condenados dos o más veces por delitos contra la propiedad.
- (h) Los sindicados dos o más veces por delitos contra la propiedad, en cuyo poder se encuentren llaves falsas o deformadas para abrir o forzar cerraduras o descerrajar puertas o ventanas cuando no justificaren su procedencia y destino legítimo.
- (i) Los que comercien con objetos pornográficos o los exhiban en público, y los que ofendan el pudor de la mujer y la irrespeten en la vía y lugares públicos con persecuciones y palabras que constituyan ofensa a su delicadeza y sean un desacato al respeto y a la moral.
- (j) Los que conocida y habitualmente hagan profesión de testificar en juicios.
- (k) Los pederastas debidamente evidenciados que de ordinario frecuenten las reuniones de menores.
- (l) Los que habitualmente se dediquen al contrabando.
- (m) Los que habitualmente sean hallados en la vías y lugares públicos en estado de embriaguez y que sean además, provocadores de riñas.
- (n) Los que observen conducta reveladora de inclinación al delito manifestada por reiterada amenaza de causar daño a las personas; por el trato asiduo y sin causa justificada con delincuentes y sujetos conocidos como peligrosos; por la asistencia a los lugares donde estos se reúnen habitualmente y por la comisión reiterada y frecuente de faltas o contravenciones policiales.
- (o) Los que habitualmente detenten, compren, vendan, marquen, señalen o conduzcan ganado o cueros sin llenar los requisitos legales y reglamentarios, cuando tales actos sean preparatorios o constitutivos de despojo.
- (p) Los curanderos reincidentes en el ejercicio de algunas de las profesiones médicas, siempre que por su persistencia en la explotación de la credulidad ajena, constituyan peligro para la vida o la salud de las personas.
- (q) Los merodeadores. A los efectos de esta Ley se entienden como tales aquellos que habitualmente vagan por el campo viviendo de lo que hurtan o se apropian.

ARTICLES 1, 2, 14 & 15 OF THE *LEY DE PROTECCIÓN A LA SEGURIDAD CIUDADANA*, AS RECEIVED BY AMNESTY INTERNATIONAL.

Art. 1 Esta ley tiene por objeto como medida de defensa social la determinación y corrección de aquellas conductas contraventoras del orden público capaces de crear situaciones de peligro en la ciudadanía.

Art. 2 Se consideran conductas contraventoras a los efectos de esta ley las siguientes:

- (a) Quien marche o manifieste ilegalmente uniformado, disfrazado u ocultando su rostro y quien fomente el desorden público.
- (b) Quien ejerciendo o no profesión u oficio definido, se dedique además a ejercer actividades que favorezcan la prostitución, y todos aquellos que ejerzan actividades ilegítimas, entendiéndose como tales, a los efectos de esta Ley, las que tienen por objeto actos considerados atentatorios de la moral o de las buenas costumbres.
- (c) Quienes en forma reincidente transiten por las calles promoviendo y fomentando la ociosidad y otros vicios.
- (d) Los que habitualmente pidan limosnas para imágenes, santuarios y otros fines religiosos, sin la licencia eclesiástica, y los que con pretexto benéfico y filantrópico especulen con la buena fe del público solicitando contribuciones.
- (e) Quien procure, coopere o participe en el desarrollo de juegos ilícitos.
- (f) Quien expenda bebidas alcohólicas ilegalmente y fuera de los horarios permitidos o quien permita su consumo en las áreas adyacentes al lugar de venta o distribución, institutos educacionales, deportivos, centros asistenciales, etc.
- (g) Quien fomente y se aproveche de la ignorancia y la superstición ajena, en forma directa o a través de anuncios publicitarios. Los curanderos, siempre que por su persistencia en la explotación de la credulidad ajena, constituyan peligro para la vida o la salud de las personas.
- (h) Los que comercien con objetos pornográficos o los exhiban en público, y los que ofendan el pudor de la mujer y la irrespeten en la vía y lugares públicos con persecuciones y palabras que constituyan ofensa a su delicadeza y sean un desacato al respeto y la moral.
- (i) Quien facilite ilegalmente el ingreso o permanencia del extranjero en el país, sin perjuicio de lo dispuesto en la ley especial sobre la materia.
- (j) Quien perturbe o interrumpa deliberadamente la prestación de los servicios públicos.
- (k) Quien dispare armas de fuego en lugares públicos o abiertos al público, siempre que no constituya un delito.
- (l) Quien simule alguna enfermedad o defecto físico para obtener algún provecho económico.
- (m) Los que habitualmente sean hallados en las vías y lugares públicos en estado de embriaguez y que sean además provocadores de riñas.

Art. 14 Si transcurriere el tiempo de reclusión, sin haberse obtenido la corrección del ciudadano, el juez podrá prorrogar la medida hasta por un tiempo igual al de la sanción impuesta originalmente.

A tal efecto, el Director del Establecimiento remitirá al tribunal de la causa, tres (3) meses antes de la fecha en que finalice la medida impuesta, un Informe psico-social elaborado por un Comité de Seguimiento que tendrá bajo su responsabilidad la vigilancia de la conducta del ciudadano cuya readaptación se quiere lograr, a quien no pondrá en libertad hasta que reciba la orden correspondiente.

Si quince días antes de la fecha en que finalice la medida no se hubiere recibido orden del juez de la causa que prorrogue la internación o disponga la libertad del recluso, el Director notificará el caso al tribunal por la vía más rápida.

Art. 15 Los individuos a quienes se apliquen las medidas de seguridad determinadas en la presente ley, que no se corrijan efectivamente y reincidan en las mismas conductas mientras cumplen la medida impuesta y a juicio del Comité de Seguimiento, les será prorrogada la reclusión por un lapso igual a la medida adoptada.