

# VENEZUELA

## PRISON MASSACRE IN MARACAIBO

### Introduction

On Monday, January 3, a massacre in the Sabaneta prison in Maracaibo, Venezuela, left more than one hundred inmates dead and scores injured. While security personnel stood by, a group of prisoners set fire to a prison housing building and then shot and stabbed prisoners who tried to escape the inferno.

The responsibility for this appalling violence falls squarely on the Venezuelan government. Sabaneta's internal security guards and members of the National Guard stationed at the prison watched the prisoners' assault and permitted the fire to blaze for hours before responding. Their failure to act breached the government's obligations under national and international law to protect prisoners' rights, including, most importantly, their right to life. The government also must bear full responsibility for permitting the notoriously violent, anarchic, overcrowded, and substandard living conditions within the prison — conditions which violated the prisoners' right to decent and safe confinement and which enabled, if not prompted, the January 3 tragedy.

What happened at Sabaneta was avoidable. It was also foreseeable. Numerous earlier reports, by Venezuelans and others including Human Rights Watch, had described the horrendous state of Venezuelan prisons.<sup>1</sup> We have no doubt the Venezuelan government possesses the knowledge and the resources to address its prison problem. What has been tragically lacking thus far is the determination to use them.

On January 11, Human Rights Watch sent a representative to Venezuela to express our concern over the massacre, to call for an energetic and open investigation and to collect information about the events of January 3, their background and aftermath. We visited Sabaneta and interviewed both prison officials and inmates. Additional interviews included prisoners' relatives, members of the judiciary, the governor of the State of Zulia, representatives of the Fiscalía General and the Minister of Justice.<sup>2</sup> This newsletter is the result of that visit.

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<sup>1</sup> In October 1993, Human Rights Watch/Americas (formerly Americas Watch) issued a report, *Human Rights in Venezuela*, which included a chapter on the outbreak at the Retén de Catia in 1992 and an overview of prison conditions generally.

<sup>2</sup> Fiscalía General or the Ministerio Público is the State Prosecutor's Office required by the Constitution to monitor the behavior of all arms of the Executive power to assure compliance with the law.

## Background to January 3: Conditions at Sabaneta

Sabaneta is one of Venezuela's largest prisons and, like most, is vastly overcrowded. About 2,000 inmates live in a space meant for 800. The exact number of inmates on January 3 is unknown because the prison did not have an up-to-date register.

A considerable proportion of the prisoners were in pre-trial detention.<sup>3</sup> Among the prisoners we talked to at Sabaneta, one had been confined for nine years and still had not been tried. Some prisoners had already spent more time in prison awaiting trial than the maximum period possible for the crimes of which they were accused. Among those killed on January 3 were somewhere between eight and twelve inmates who should not have been in the prison at all; they had previously received release or transfer orders that the prison authorities had never acted upon.

Whatever their legal status, the inmates at Sabaneta were confined in conditions of filth, without adequate food or medical care, with little or nothing to do, and in anarchic circumstances in which violence — primarily from other inmates — was constant. Several sources told Human Rights Watch that there had been over seventy violent deaths at Sabaneta in 1993 alone, and at least one source calculated nearly 400 from 1990 through 1993.

Rampant prisoner violence existed because the prison authorities had abdicated their responsibilities to control the inmates and assure their safety. Prison guards remained in the administration area, separated by a barred fence from the prisoners' compound.<sup>4</sup> Henry Andrade, a former deputy director at Sabaneta named acting director after the massacre (the director was removed in the aftermath), told Human Rights Watch that prison guards were too fearful to spend time inside the prisoners' compound because the prisoners were so heavily armed. In recent months, the guards had limited themselves to brief visits two or three times a day.

The prisoners ruled on their side of the fence. Inmates controlled the electricity within the prison and had the ability to cut it off; they controlled the distribution of food; they spent their time as they saw fit. For reasons unknown to us, the prisoners destroyed the general kitchen and the dining hall at some point during the past few months. Relying primarily on food brought by relatives, inmates cooked on makeshift stoves located near cell buildings and ate in their cells or on the patio. They had padlocks and keys to their cellblocks and would lock themselves in for protection from other inmates.

Corruption dominated relations between prisoners and guards. Poorly paid guards supplemented their income through a pervasive system of bribery. Some staff members at the time of the massacre were under official investigation for corruption. Inmates had to pay guards as well as each other to obtain most necessities — space in a cell, a bed — even to be able to

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<sup>3</sup> Throughout Venezuela, prison overcrowding is aggravated by the excessive number of prisoners detained for lengthy periods pending trial. The Minister of Justice, Fermín Mármol León, told Human Rights Watch that there are approximately 26,000 inmates in Venezuelan prisons, only 9,000 of whom have been tried and sentenced.

<sup>4</sup> The National Guard is responsible for guarding the perimeter of the prison. During emergencies, however, the National Guard personnel may act within the prison to protect its security.

receive food. Human Rights Watch was told that bribes were often necessary to receive messages from relatives, to be notified of court dates, to be taken to court, to be transferred. For a price, inmates could also obtain drugs and firearms.

The high number of firearms generally acknowledged to have been held by the prisoners can only have entered the prison with the complicity of the guards. Several relatives of prisoners described to Human Rights Watch the meticulous and often humiliating body searches to which they were subjected prior to each visit. That so many guns were inside the prison suggests the guards were either grossly negligent in their duties or were actively engaged in arms trafficking.

Conflicts and feuds between enemy gangs among the prisoners accounted for much of the inmate violence. There were two main feuding groups, each based in physically separate areas within the prisoner compound. One group lived in the so-called "re-education" section; the other in the "penitentiary," which included a building called Pavilion 1. (In practice, there was little difference between the two sections other than their names.) The two sections were separated by two sets of walls with a long narrow patio in between.

### **The January 3 Massacre**

On the morning of January 3, between fifty and 150 prisoners from the "re-education" area attacked Pavilion 1 of the penitentiary, where about 300 inmates lived. The attack surprised no one. A virtual state of war between the prisoner factions had existed for some time. According to testimony we received, on January 2, someone from Pavilion 1 fired shots at the "re-education" building, disrupting the family visits that were underway. We were also told that an inmate from "re-education" had been recently assassinated by someone who took refuge in Pavilion 1. These incidents may have precipitated the attack on January 3. In any event, survivors from Pavilion 1 told Human Rights Watch that they had been expecting trouble.

The first shots were fired around 10:30 or 11:00 in the morning. According to witnesses, the shots came from the "reeducation" section. The inmates in Pavilion 1 began preparing for more hostile action. They retreated to their cellblocks, put chains on the gates leading to the cellblocks and locked them with padlocks. Prisoners from the "re-education" area forced open the gate to the patio, and then broke a small opening in the cement block wall. We do not know what they used to break through the wall, but given its thickness, the job must have taken some time and should have been noticed by prison personnel.

When the attacking prisoners reached Pavilion 1, they lobbed homemade firebombs into the locked cellblocks, and fire erupted. The cellblocks were a fire hazard — overcrowded, electrical wires draped everywhere, sheets serving as dividers between makeshift rooms, no fire fighting equipment at hand — and the fire spread quickly. The inmates who had taken refuge in their cellblocks now found themselves trapped in an inferno.

At least 108 prisoners died. More than sixty were killed in the fire, many apparently of smoke inhalation. Several died in the bathrooms and in a sewage tunnel where they were apparently trying to escape the flames. The fire was so intense that some bodies were reduced to ashes. The attacking prisoners shot at or stabbed many of those who managed to escape the building, killing dozens. Some of the testimonies we received suggest the attackers were killing selectively, sparing those whom they did not specifically intend to kill. Among those prisoners who survived from Pavilion 1, many were wounded — from burns, from gunshots, and from jumping

to the ground from the second floor. In one cell, for example, twenty-three people saved their lives by forcing out the bars and jumping. There were no casualties among the attackers.

The fires and the shooting continued for about two hours. At no point did the prison alarm sound, as it ordinarily does at the outset of major fights. According to prisoners we interviewed, the siren has the effect of sending everyone back to their cells because shortly after it sounds the National Guard will enter the housing area. We were unable to ascertain why it remained silent on January 3.<sup>5</sup>

During our visit to Sabaneta, inmates showed us the place within the administration section from which, they said, the National Guard and prison personnel watched the attack. Standing there, we could easily see Pavilion 1 and the area the attackers occupied. Yet although they obviously were fully aware of the attack, neither the National Guard nor any other security personnel entered the prisoners' compound until after the attackers had withdrawn and Pavilion 1 was engulfed in flames.

Sorting out individual and institutional responsibilities for this failure to act will be a task for the Venezuelan courts and government agencies. Human Rights Watch could not determine, for example, whether the prison staff delayed in authorizing the National Guard to enter the prisoners' compound or whether the Guard, even though authorized, nonetheless refrained from acting.

The director of the prison, Luis Zambrano, was on vacation on January 3. The commander of the National Guard, Captain Blanco, told us that he "was not in charge" that day. He refused to answer any other questions, however, unless Human Rights Watch obtained permission from his superiors to interview him. Other sources told us that Captain Blanco left on the prison the morning of January 3, after designating Manuel Rodríguez, a twenty-two-year-old with only a few months' experience, as the officer in charge. When a member of the prison staff instructed the Guard to enter the prisoners' compound — and we do not know when this instruction was given — Rodríguez demanded that the order be issued in writing. In the midst of the violence and chaos, the official typed the order.

Minister of Justice Fermín Mármol León told us that the Guard did not enter the prisoners' compound sooner because the prisoners had blocked the gate joining it to the administrative area. This explanation scarcely constitutes an excuse. Guards determined to save lives would not have allowed themselves to be deterred simply by a barricaded gate. Among the many questions that must be answered are why the Guard did not quickly find a way to climb over the wall, why they did not fire warning shots over the attackers, why — in short — they delayed in doing anything to put an end to the carnage.

A number of those we interviewed suspect the delay was deliberate, that the internal prison guards and the National Guard intentionally chose to let prisoners kill each other. The information we gathered suggests that their suspicion cannot be dismissed out of hand. But whether intentional or criminally negligent, officials' passivity in the face of the ongoing assault and a burning building resulted in a staggering loss of life and injury.

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<sup>5</sup> There are rumors, which we were unable to verify, that prison staff actively prevented efforts to set off the siren.

## The Aftermath

The first official statements estimated between 100 and 200 persons killed. The most recent official figure stands at 108. The figure is based on remains recovered from the prison; some bodies may have been burned to ashes and thus are not included in the body count. The final number is also uncertain because of the possibility that some prisoners may have escaped during the chaos of the attack and its aftermath.

As the news of the events at Sabaneta spread around the city, inmates' relatives started gathering near the prison, trying to secure information about their loved ones. Prison authorities made little effort to inform relatives about the fate of inmates, even as this information became known. Until the first regular prison visiting day — Thursday, three days after the attack — most family members were unable to determine whether their incarcerated relatives were still alive. Because only forty-seven of the bodies recovered from the prison were positively identified, many families lived with the anguish of uncertainty. Frustrated by the lack of information from the prison, many toured city morgues and hospitals looking for, and hoping not to find, familiar faces. The lack of an up-to-date inmate register at the prison impeded the authorities' ability to compile a list of the survivors; there was still no final list even nine days after the massacre, when Human Rights Watch visited Sabaneta.

Some guards took advantage of the chaos and family concern to make a little easy money. Human Rights Watch interviewed a woman whose thirty-one-year-old brother was serving a sentence in Pavilion 1 of Sabaneta. She came to the gate on Tuesday, the day after the attack, and bribed a guard to look for her brother. The guard subsequently told her he had spoken to her brother and that he had asked her to come on Thursday during visiting hours. The next day she discovered that her brother had in fact been killed January 3.

Because of the lack of sufficient storage space for dozens of cadavers, bodies that were not identified within a few days were numbered, tagged and buried. It is our understanding that the police forensic team tried to process the bodies as carefully as possible under the circumstances so that their identification might be possible should they be exhumed in the future.

## The Official Investigation

By pure chance, an official investigation into the attack began even before the flames were put out. Judge Salvador Cubillán, an investigative judge with the local penal court, happened to be in the Sabaneta neighborhood on the afternoon of January 3. Judge Cubillán has on his docket several corruption cases against prison officials in Sabaneta; in August 1993 he had also conducted a sanitary inspection of the facility. When he heard sirens (from either ambulances or fire trucks) he came to the prison and, that very evening, launched an investigation. The next day, Tuesday, January 4, he brought his clerks to the prison and installed his office there. For the rest of the week he worked almost around the clock, collecting testimony. Although he hoped to finish the preliminary investigation and be ready to issue the first arrest warrants by Monday, on Friday afternoon he was displaced from the investigation, causing well informed observers to express concern that the investigation might not continue so vigorously. The state's seven-member Superior Council of Judges appointed a different judge, Mirtha Ríos de Alvarez, as "special investigator." According to Judge Iván Rincón, a member of the Council, the decision to appoint a special investigative judge was made after the Council had received a letter from "The Human Rights Committee of the Inmates of the State of Zulia" requesting that such an

appointment be made as authorized under Venezuelan law.

While Judge Cubillán was investigating the Sabaneta attack, prison officials tried to interfere with his work. After compiling a list of some forty prisoners suspected of being the leaders of the disturbance, Cubillán was confronted by the then-prison director, Luis Zambrano, who handed him a handwritten list of six inmates. Zambrano insisted their names be removed from the list of suspects because, he said, he knew they were not involved in the attack. Cubillán ignored the demand.

Judge Alvarez, who by law incorporated Judge Cubillán's findings into her preliminary investigation, has issued several arrest warrants as of early February. Among those with warrants issued against them are two officials: Wolfgang Villalobos, one of the top officials in charge at Sabaneta, and Manuel Rodríguez, the official in charge of the National Guard on January 3. More than fifty inmates, most of them identified earlier by Judge Cubillán as the leaders of the attack, also had warrants issued against them. The prison director was removed from his post in the immediate aftermath of the massacre.

## Conclusions

International law obligates governments to "respect the inherent dignity" of prisoners — which, at a minimum, includes protection of their safety and physical well-being.<sup>6</sup> The Venezuelan government ignored these obligations at Sabaneta.

Public authorities permitted the state of violent anarchy that became a way of life at Sabaneta prison long before the tragedy of January 3. Basic standards for the treatment of prisoners were routinely violated. Due to lack of supervision, the presence of weapons, including firearms, within the prison resulted in an extremely high number of violent deaths over the last several years. Corruption and abuse were rife. Extreme overcrowding and the general dilapidation of the facilities yielded miserable living conditions. Food and medical care were deficient. Opportunities for "rehabilitation" or education were virtually non-existent.

The Venezuelan government also bears heavy responsibility for the loss of life and injury on January 3. Ongoing investigations should clarify why neither the prison staff nor the National Guard responded promptly to the outbreak of prisoner violence. Based on the information available to date, however, the conclusion is inescapable that the public authorities charged with protecting the prisoners failed in their duties, with tragic results.

## Recommendations

Human Rights Watch calls on the Venezuelan authorities to take all necessary steps to meet their obligations under national and international law to protect the rights and interests of inmates at Sabaneta and in all other Venezuelan prisons and to ensure that those who violated the law at Sabaneta are held accountable. As we did in our October 1993 report on human rights

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<sup>6</sup> The International Covenant on Civil and Political Rights (ICCPR) in Article 6 establishes: "Every human being has the inherent right to life. This right shall be protected by law." In Article 10, part 1, it provides: "All persons deprived of their liberty shall be treated with humanity and with respect for the inherent dignity of the human person." The American Convention on Human Rights contains similar language in Article 5, parts 1 and 2.

in Venezuela, we urge the government to make improvement of appalling prison conditions a national priority. The government must establish effective mechanisms for monitoring conditions within prisons; allocate the resources necessary to ensure that minimum standards for housing, food, medical care, exercise and rehabilitation are met; take steps necessary to reduce overcrowding, including through legal reforms that will diminish lengthy pre-trial detention; and establish more effective training and disciplinary systems for prison guards. We also make the following recommendations:

- ◆ The government should conduct an official inquiry into the administration of the Sabaneta prison prior to January 3 and into the actions of the prison staff and National Guard on that day. The inquiry should render accounts to the public concerning what happened at Sabaneta and propose recommendations to enable more effective protection of prisoners' rights in the future. A serious, complete and credible government investigation and public report on Sabaneta will effectively convey official concern over the tragedy and the government's determination to hold its agents as a whole accountable — politically, morally and administratively — for their conduct in the performance of their duties.
- ◆ The government should extend every assistance to the judicial investigation into the events of January 3, so that those guilty of criminal conduct or dereliction of their duties can be prosecuted swiftly and to the full extent of the law. The government should make sure the court and the Public Ministry possess the necessary resources to move forward expeditiously with their investigations; compel complete cooperation from the National Guard and prison authorities; and provide the court with all material in its possession that sheds light on the events.
- ◆ The government should take all steps necessary to identify all the casualties of the January 3 tragedy and the causes of their deaths. The results of all autopsies should be publicly released. Exhumations should be undertaken of all bodies buried without identification so that they may be identified in an orderly fashion. The authorities should cooperate with relatives and human rights groups to ensure that information necessary to identify remains is obtained and that the results of autopsies and exhumations are communicated to the families of the deceased.
- ◆ The physical facilities at Sabaneta must be remodeled to meet appropriate standards for the care and treatment of prisoners; the authorities must ensure that the prison staff regain and effectively exercise control over the institution; prisoner living conditions must improve; and necessary procedures to prevent the entry into prison of weapons, drugs and other illegal goods and to curtail violence among prisoners need to be established.
- ◆ The government should review the legal status of all prisoners at Sabaneta. Those whose sentences have expired and those who have spent more time in pre-trial detention than the maximum sentence corresponding to the crime they have been accused of should be released immediately.



*This report was prepared by the Human Rights Watch/Prison Project and Human Rights*

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