

WORLD FACTBOOK of CRIMINAL JUSTICE SYSTEMS

Venezuela

by

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GENERAL OVERVIEW

1. Political System.

Venezuela is a limited democratic federal republic. It is composed of states whose leadership (governor and legislative assembly) is popularly elected. In recent years, there has been substantial delegation of authority to popularly elected municipal governments although the justice system (e.g. courts, police, corrections) is still in the hands of the central government. The country is divided into 20 states (each presided over by a popularly elected governor), 2 federal territories, the Federal District, and numerous island dependencies in the Caribbean. Although the country is considered to be a federal republic, criminal justice policy is nationally uniform.

The Venezuelan government is largely influenced by the United States Constitution and its principle of separation of powers. It has three branches of government: executive, legislative, and judicial. However, Venezuela's history has been characterized by executive dominance and centralized authority. Recent government mismanagement and corruption have led to a continuing economic crisis following the oil boom of the 1970's. While a two-part system had predominated, recent elections have led to the emergence of new populist parties and a rearrangement of the political scene.

2. Legal System.

The legal system of Venezuela is based on a

civil or Napoleonic model largely influenced by the historic European dominance. The Penal Code (Codigo Penal de Venezuela) and the Criminal Procedure Code (Codigo de Enjuiciamiento Criminal) are characterized by their emphasis on codification, formalism, and reliance on abstract principles set forth in treaties. Constitutional review is limited and judges do not normally have authority to interpret legislation. While the trend in Latin America is to move toward a common law model, Venezuela largely continues to rely on civil law practices.

Although the Venezuelan charter has been overturned with persistent regularity, the country's constitutional roots can be traced to the U.S. Constitution. To date, Venezuela bears the unfortunate distinction of having adopted 22 constitutions since its independence from Spain in 1811. Constitutional reform became a means of legitimizing an illegal and often violent change in government rather than representing a true constitutional shift.

### 3. History of the Criminal Justice System.

The first post-independence penal code was issued in 1863. Prior to its independence, Venezuela followed the legislation applicable to the colonies ruled by Spain. Like many other Latin American countries, Venezuela's codes have been strongly influenced by foreign legislation. For example, the 1897 criminal code was an exact, although inaccurate, translation of the Italian Penal Code of 1890 (Aqua, 1964).

Criminal justice decisions are made by each of the implementing agencies. The Executive plays a strong role since it oversees the Ministries of Interior Relations and Justice while also determining what to include within the Executive's budget request to the parliament. The Congress oversees the power of appointment, impeachment, adoption of substantive legislation, and approval of budget requests. There is no one entity which plans for or coordinates the criminal justice sector.

Corruption has been a problem for Venezuela throughout its history. Commentators have complained that every democratic government has been a little more corrupt than the preceding one. This has led to low public confidence in the justice system.

## CRIME

### 1. Classification of Crime.

\* Legal classification. Crimes are classified according to crime families. Among the types of crime families considered in Venezuela, are crimes against national security and the independence of the State, liberty, property of the State, administration of justice, public order, public trust, preservation of public and private interests, the family and public morals, people, and civilian property.

Contraventions (contravenciones) represent the most minor criminal category. They normally carry small sanctions or fines, and are tried at the lowest trial courts level. Contraventions are not considered part of crime families.

\* Age of criminal responsibility. Individuals are treated as adults at age 18. For individuals under 18 years of age, there exists a separate judicial system.

\* Drug offenses. The law makes reference to those drugs banned by the 1961 United Nations Convention on Narcotic Drugs, the 1991 U.N. Agreement on Narcotic Drugs, and the 1991 U.N. guidance on Illicit Trafficking in Narcotics and Narcotic Drugs.

There is also a Venezuelan law that sanctions all crimes related to drugs. The following actions are penalized: production, refining, transformation, extraction, and preparation of drugs; importing and exporting drugs; selling, distributing, doing business with drugs; consumption and possession of drugs; drug trafficking; drug warehousing; financing any type of drug related activity; facilitating, inducing or motivating the consumption of drugs.

The person that uses drugs and the person that is found in possession of drugs for his or her own personal use is subject to security measures, usually for an indeterminate time, and rehabilitation.

Recently, and largely as a result of U.S. and European influences, Latin American countries have adopted special legislation to facilitate the prosecution of drug traffickers. These policies include accepting the results of electronic surveillance as evidence and the use of plea bargaining to obtain the testimony of informants.

## 2. Crime Statistics.

Crime statistics are reported by the Judicial Technical Police (PTJ), the detective force assigned to the Ministry of Justice. Crimes are reported individually and by crime families. There is presently no attempt to develop other crime indicators. It is unknown whether these statistics reflect the figures of all police

agencies or whether there might be double counting among the different agencies.

Reports present a picture of rising crime rates with a significant increase in the number and types of violent crimes, growth in the number of juvenile crime (especially gang related crimes), as well as an increasing usage of Venezuela as a transfer point for international narcotics distribution.

For example, studies indicate that the crime rate has risen from 700 crimes per 100,000 population in 1972 to 1,300 crimes per 100,000 population in 1990. This rise has been attributable to an increase in property crimes, such as robberies and larcenies. Crimes against persons, such as homicides and battery, have remained relatively stable during this period (Navarro and Perez, 1990).

\* Murder. The Judicial Technical Police registered 31,861 violent crimes in 1990, which comprised 13.6% of the total crime, for a rate of 154 per 100,000 population. There is no further breakdown of violent crime available.

\* Rape. Information not available.

\* Property Crimes. The Judicial Technical Police registered 184,126 property crimes in 1990, comprising 79% of the total crime, for a rate of 890 per 100,000 population.

\* Serious drug offense. The Judicial Technical Police registered a total of 6,405 drug crimes, comprising 2.7% of the total crime, for a rate of 31 per 100,000 population.

Drug trafficking has become a serious problem for Venezuela with approximately 200 tons of cocaine per year passing through Venezuela on their way to other markets. This amount accounts for nearly half the drugs that leave Colombia. Corruption is a serious byproduct of this trade and has reached the highest levels of government. For example, General Ramon Guillen Davila, who was named head of the Venezuelan National Guard's anti-drug unit in 1987, is wanted by the police for shipping drugs to the United States (Reyes, August 28 and September 13, 1993).

\* Crime regions. Forty-three percent of all crimes were reported in the capital city of Caracas (Rauseo, 1990).

## VICTIMS

### 1. Groups Most Victimized by Crime.

One of the most significant aspects of victimization in Venezuela is an increase in the public's level of fear. In recent public opinion polls, fear of crime has risen to the forefront of national problems, even more important than unemployment, the cost of living, and health care. Fully 86% of the population feel that crime has increased, and more than 2/3 of citizens (69%) feel it is probable that they will become a victim of a crime in the coming year. This fear is highest among persons of high income and among residents of the capital city (Navarro and Perez, 1990).

The consequences of the rising fear of crime are diverse. There are economic consequences due to the high amounts being paid for private security measures. There are personal costs as citizens have been forced to change their lifestyle. And, there are political results, as fear of crime has been a theme for those who call for more repressive measures. Seventy-nine percent of Venezuelans support police raids into low income neighborhoods to look for delinquents, while 61% are in favor of police checkpoints to review documentation. Thirty-seven percent support military intervention while 30% favor the usage of death squads in the fight against crime (Navarro and Perez, 1990).

The rise in crime and the perceived inability of the justice system to combat it has led to the organization of citizen groups, such as crime watch programs. In other instances, citizens have taken the law into their own hands by imparting preventive violence on residents of low income neighborhoods (Torres, 1984).

## 2. Victims' Assistance Agencies.

Information Not Available.

## 3. Role of Victim in Prosecution and Sentencing.

By law, victims do not have any role in sentencing unless they initiate the prosecution. Under civil law concepts, certain crimes, especially rape, are to be brought by private prosecution rather than State prosecution.

## 4. Victims' Rights Legislation.

Information Not Available.

## POLICE

### 1. Administration.

The police are organized according to a quasi-military hierarchy. Urban police entities, such as the Caracas police, are under the command of National Guard officers. The National Guard is part of the military but serves as a police agency in many respects. All of the police agencies are centralized.

At the national level, the National Guard can be seen patrolling the streets of most major cities. The Directorate of Intelligence and Prevention Services (DISIP) is a part of the Interior Ministry and is primarily engaged in external and internal State security and espionage. An intelligence unit of the DISIP also conducts street patrols. Traffic is regulated by the Cuerpo de Fiscales de Transito, attached to the Ministry of Transportation.

The State police are comprised of municipal and provincial police forces. There are 23 provincial police forces who follow the orders of their respective governors. The Judicial Technical Police (PTJ) comprising 2,300 investigators is the elite force charged with traditional detective duties.

Unfortunately, there is little coordination among these units and duplication of efforts, as well as conflicts, are common. Until recently, the majority of the major police departments were under the leadership of officers from the National Guard which has resulted in many police forces taking a militaristic approach to police work.

The serious rise in crime, especially violent crimes, and the lack of confidence in the police has increased calls for greater participation of the National Guard (e.g. the military) in traditional police functions.

## 2. Resources.

\* Expenditures. In 1990, the government allocated 909 billion Venezuelan bolivares to the police. This figure may not include expenditures at the state level nor expenditures of the National Guard, an agency which typically reports its budget under the defense budget (Fourth United Nations Survey of Crime Trends and Operations of Criminal Justice Systems, 1992).

Police salaries are extremely low. In 1991, the average monthly wage was 8,400 bolivares, which was only 1,800 bolivares above the minimum wage. Private security guards, on the other hand, averaged 14,000 to 16,000 bolivares monthly. Richer municipalities also tend to pay their police better than the national average. For example in 1991, the municipality of Sucre paid a starting salary of 16,500 bolivares monthly (Rico,

et.al., 1991).

\* Number of police. The total number of police personnel in 1991 was 91,300, for a rate of 44.9 police per 100,000 population. These figures, however, are misleading since they take into account the manpower of quasi-military forces, such as the National Guard, which perform police functions while claiming to be primarily a military institution. Likewise, there is no clear demarcation between support personnel and sworn law enforcement agents. Of the total, there were 30,000 National Guard personnel for a rate of 15.57 officers per 100,000 population. There were also 3,300 personnel in the Judicial Technical Police, for a rate of 1.80, 4,000 Traffic Police personnel, for a rate of 2.21, 4,000 DISIP personnel for a rate of 2.21, and 40,000 persons among the 23 State police forces for a rate of 22.09 per 100,000 population (Jose, et.al., 1991).

The number of private security agencies and personnel have grown relative to the growth in the fear of crime. In 1991, there were 30,000 persons employed in private security. These agencies are unregulated and its personnel need only meet the most basic criteria in order to be allowed to wear uniforms and carry weapons.

Women have low participation in law enforcement. This low participation is due largely to cultural traits but is also ascribed to a perception among agency leaders that they present additional financial costs to those of men. In addition, commanders believe them to be less efficient, and training academies do not have the capacity to house them. Women have been assigned to some police tasks, such as tourist police duties. The majority of other female police personnel are assigned to largely clerical duties.

### 3. Technology.

\* Availability of police automobiles. Information not Available.

\* Electronic equipment. There is very little use of automated information management systems.

\* Weapons. There is great diversity among police agencies on the types of weapons assigned to them. However, there is generally an insufficient number of weapons and ammunition such that each weapon must be shared among various personnel. The National Guard appear to be the best armed.

### 4. Training and Qualifications.

There is a great deal of diversity in training and recruitment criteria for the various police departments in Venezuela. However, in most agencies, the emphasis is on military training (e.g., marching, etc.). A 9th grade education as well as minimum physical and psychological standards are required for admittance into a police training academy. Psychological tests are offered only by those agencies that have psychologists on staff. Failure to pass the psychological tests is the primary reason for rejection of applicants and accounts for 80% of rejections of police recruits in Caracas in 1991 (Rico, et.al., 1991).

Generally, police tend to come from families of persons who are already police officers. For example in 1991, 40% of members of the Caracas Metropolitan Police had a relative on the police force (Rico, et.al., 1991).

#### 5. Discretion.

\* Use of force. Police violence is a problem. According to the Human Rights Division of the prosecutor's office, it reviewed 2,572 complaints against police agents in 1992. Of these, 1,858 concerned physical abuse and 227 concerned homicide and attempted homicide.

\* Stop/apprehend a suspect. Police commonly engage in raids into lower class neighborhoods in areas with high crime rates. Acting under the color of law, police may detain suspects without a warrant or any suspicion of wrongdoing. Detentions are short lived, lasting usually for no more than a day. However, the detainee is often not transferred to the courts which allows ample opportunity for police abuse (Amnesty International, 1993).

\* Decision to arrest. Arrests may take place when the crime is witnessed by an agent of the police or when there is a judicial order for arrest. However, persons are often detained without a judicial order. Upon arrest, a person must be brought before a judicial officer within a specified and limited period of time. The judge then releases the defendant or formally orders pretrial detention.

\* Search and seizure. Information not Available.

\* Confessions. Information not Available.

#### 6. Accountability.

The Code of Criminal Procedure determines procedures which the police must follow.



Investigations of police misconduct must be supervised by the investigating magistrate, although, in practice, this seldom occurs.

The review of police practices is usually limited to an internal investigation. Only when a serious crime has been committed will the case be referred to the court system. Additionally, there is no disclosure of the cases that have been investigated nor the results of the investigation. "Charges are rarely brought against perpetrators of...killings." In 1991, a police agent was tried and convicted of homicide and sentenced to 1 year in prison (Americas Watch, 1993; U.S. Department of State, 1992: 800; U.S. Department of State, 1992).

## PROSECUTORIAL AND JUDICIAL PROCESS

### 1. Rights of the Accused.

\* Rights of the accused. The rights of the accused are contained in the Constitution and the Criminal Code of Venezuela offers procedures whereby individuals may present requests for extraordinary relief, such as habeas corpus and amparo. Habeas corpus has been traditionally recognized as a rapid means of securing a judicial review of detentions. After Venezuela obtained independence, legislators well-versed in English law and determined to curb the abuses of the past, viewed habeas corpus as a fundamental tool to prevent judicial abuse. Habeas corpus petitions are usually reviewed in a simple and expedited manner. While the defendant may usually appeal the decision, this right may be negated by the prosecution.

Amparo is a uniquely Latin American remedy which partially replicates habeas corpus while also allowing challenges to the constitutionality of laws and regulations. It is used to address violations of constitutional rights which cannot be addressed through habeas corpus. It is designed to protect persons whose rights have been violated by unconstitutional laws or unlawful acts of government officials.

Unlike amparo and habeas corpus, which may be brought at any time, an appeal is a review remedy which challenges final orders. It can only be made in a limited number of cases since it allows the higher court discretion to review any facts presented in the lower court as well as new ones.

Cassation is an appeal from trial court findings that addresses errors of law and is the most frequently used post-conviction remedy to review final sentences. Its traditional use to correct errors of substantive or procedural law

can result in a reversal, affirmation or modification of the original sentence.

Another feature of Latin America appellate practice is the right of the government to appeal an acquittal wherein the reviewing court may change a finding of acquittal to one of guilt.

\* Assistance to the accused. All defendants are represented by counsel at the trial. However, there are questions concerning the quality of representation and the point at which counsel must be involved. Since the instructional stage is the most important in the civil law system where the bulk of evidence and testimony is gathered, making the right to counsel (for indigent defendants) attach at the trial stage ignores the most critical stage of the Venezuelan justice process.

There is no state-funded public defender system; the judge appoints attorneys to serve as ad honorem attorneys, i.e. without compensation, for the defendant.

## 2. Procedures.

\* Preparatory procedures for bringing a suspect to trial. The criminal process is initiated after evidence of a crime has been brought before a competent authority. A crime may be reported to the prosecutor or the court. Once the complaint is filed, the judge initiates the investigation. In some cases, the law requires that the victim file the complaint and prosecute the crime privately. Police could also initiate the process if they detained the defendant in the course of committing a crime (in flagrante delicto). Finally, the court can proceed ex officio based on the evidence at its disposal.

The criminal process is divided into two primary stages. The investigative or instructional stage involves the investigation of the crime and the determination that there is probable cause to proceed with a trial against the accused. The purpose of this stage is to reach some tentative conclusions as to the existence of a crime and the culpability of parties. The trial stage determines the guilt or innocence of the accused and the imposition of a sentence upon conviction.

The instructional stage is possibly the most confusing phase of the Latin American criminal process. While it is clothed in legalistic terms which appear to guarantee defendant rights, it is characterized by secrecy and arbitrariness. In criminal cases, the investigation is assigned to an instructional judge. Judges are assigned based on the date and place where the complaint is filed. The judge is given extraordinary discretion to receive and evaluate evidence. Therefore, the

presiding judge protects the rights of the accused while also pursuing an investigation that is designed to result in conviction.

By law, all steps of the investigation are supposed to be guided by the jurisdiction of the investigating judge, but this rarely occurs in practice. A cursory review of the number of investigating judges available in any jurisdiction establishes the impossibility of total judicial supervision of criminal investigations. Therefore, the supervision is limited, at best, to the most crucial stages and the rest of the investigation remains in the hands of judicial clerks or, most often, the police.

Although secrecy is at the core of the investigatory stage, the defendant normally has access to the case file, is allowed to participate in hearings, and to offer proof on his or her own behalf. Likewise, while isolation of the defendant may be ordered, it seldom extends to denying defense counsel access to the accused.

The first investigatory actions of crimes involve taking statements from the victim and witnesses and the issuance of orders to search premises and/or secure evidence. While the defendant may refuse to make incriminating statements, he or she may be required to provide basic personal information. The defendant is then advised of the charges and afforded an opportunity to make statements regarding them. Normally, the identity of complainants is part of the court files, but, in some cases, such as drug and national security cases, their identity may be kept from the defendant. Upon the conclusion of the investigatory stage, the presiding officer shall forward the case file to the trial court with a recommendation as to the disposition of the charges.

Upon receipt of the case file, the trial court may: 1) return the case for further investigation, thereby, expanding the term of the summary stage; 2) dismiss the charges, either temporarily or with prejudice; or 3) move the case to trial.

Once the court has dealt with all preliminary matters, the oral trial begins with the reading of the charges. The prosecution will usually present its evidence first and the defense will follow. While the defendant may remain silent, silence may be considered by the court in determining guilt or innocence. Upon the conclusion of the trial, the court issues a sentence which consists of two parts: a finding of guilt or innocence and a sanction.

The Code of Criminal Procedure establishes time periods for the completion of the various stages of the judicial process. Timeliness is

particularly important at the summary stage since noncompliance may result in the severe violation of fundamental guarantees and may contribute to the high percentage of pretrial detainees in the prison population. The prescribed term for the completion of the summary stage is 34 days. However, in 1990, the average criminal court in Caracas took 286 days to complete this stage and another 726 days to reach a sentence. Thus, the average defendant was detained for 2.7 years from the start of the criminal process to its culmination (World Bank, 1992).

Judges, prosecutors, and lawyers generally agree that the primary causes of delay are: the complexity of laws and procedures; reliance on written proceedings; passivity of the prosecution; excessive caseloads; poor court organization and judicial administration; actions of defense lawyers, and a lack of human resources. For example, 1990 data reveals that the average criminal court took in 675 cases per year and had 3,000 to 7,000 active cases. Final decisions were only reached on 120 cases annually per court (World Bank, 1992).

\* Official who conducts prosecution. The Prosecution of criminal cases rests in the hands of the Fiscalia, led by the Fiscal General. The Fiscal general presides over the ministry. There is only one Fiscal General and a number of "fiscales" (prosecutors) assigned to different levels of the court system. There are about 150 prosecutors handling a caseload of about 250 cases. An equal number of public defenders is assigned to represent indigent defendants.

The Fiscal is named to a fixed constitutional term by Congress and is legally autonomous from the Executive and Judicial branches. Additionally, he has sole jurisdiction in the investigation and prosecution of corruption cases. The Fiscal is also charged with acting on the recommendations of the Comptroller and special commissions established to combat corruption.

\* Alternatives to trial. Information not Available.

\* Proportion of prosecuted cases going to trial. Information not Available.

\* Pre-trial incarceration conditions. One of the major decisions taken during the investigatory stage concerns the detention or release of the accused. Upon arrest, whether pursuant to a judicial order or not, the defendant must be brought before the corresponding judicial officer. However, s/he may be kept in detention up to 8

days without a formal arrest order. During this period, s/he may be segregated and questioned. In practice, pretrial incarceration operates as a "sentence in advance." As a result, there is a growing percentage of inmates who are pretrial detainees. Many of those who are ultimately convicted may have spent more time awaiting trial than the maximum sentence which could be imposed for their crime (Americas Watch, 1993).

\* Bail Procedure. While the Constitution provides for a number of pretrial release mechanisms, such as release on the defendant's own recognizance, the favored technique is to require monetary bail, an option that most defendants cannot meet.

\* Proportion of pre-trial offenders incarcerated. Over 66% of the inmates in Venezuelan correctional institutions are awaiting trial. Lack of adequate facilities to segregate these prisoners from the general prison population results in a mixing of prisoners regardless of legal status or level of security required. In some cases, juveniles are also housed with adult prisoners (Americas Watch, 1993).

## JUDICIAL SYSTEM

### 1. Administration.

Venezuela follows a pyramidal order of courts with the Supreme Court at the top of the structure. The hierarchy is composed of 1,235 courts. Even though the number of courts increased 24% between 1971 and 1991, the ratio of courts to population decreased by 2.9%. At present, the judicial branch receives 0.4% of the national budget (World Bank, 1992; Universal, July 24, 1992: 12).

A recent report by the World Bank concluded that "the Venezuelan judiciary is in crisis. The penal and civil courts are encountering serious case backlogs, procedural congestion, and judicial delays with the resulting effect of inefficient, costly and detrimental delivery of services. These delays contribute to the appearance of impropriety and public perceptions that the courts are unresponsive, corrupt, and politically-influenced. The lack of proper court administration is reflected in archaic procedures, inadequate control mechanisms, duplication of effort, weak administrative and logistical support to the judges and inadequate judicial statistics which fail to provide a complete picture of the problems and are of little use for improved court management and planning," (World Bank, 1992: 1).

Supreme Court. The Supreme Court is the court of last resort. It is composed of 15 justices who each serve a nine-year term. This Court is divided into three chambers: civil, criminal, and civil rights.

Superior Courts. There are 173 Superior courts that primarily act as intermediate appellate courts. The dispersion of these courts throughout the country is based on population and political needs.

Trial courts. The 395 trial courts are divided into first instance trial courts and instructional criminal courts. In addition, 667 departmental and municipal courts are assigned the lowest level cases.

## 2. Special Courts.

Military Courts. Military courts exercise a considerable amount of authority since their jurisdiction extends to all crimes committed by members of the armed forces and on-duty police officers. Many persons have criticized this system, viewing it as a barrier to the successful prosecution of human rights abuses committed by the police and military. Military courts extend their jurisdiction to civilians accused of crimes under the military code, for example treason or subversion.

Anti-corruption Court. The anti-corruption court (Tribunal de Salvaguardia del Patrimonio Publico) was established with specific, and sometimes extraordinary powers, to investigate and punish corruption. While corruption cases may be tried in the first instance by the traditional court system, these special courts have second instance jurisdiction. They also serve as trial courts for cases involving corruption by high-level officials. Even though their jurisdictional powers are extensive, they have been afforded meager resources to carry out their responsibilities.

Family/Juvenile Courts. Another set of courts handle family matters and juvenile cases. Juveniles are processed through special courts and then remanded to juvenile correctional facilities.

## 3. Judges.

\* Number of judges. There are approximately 1,235 judges. Between 1971 and 1991, the number of judges relative to population has decreased from 7.3 per 100,000 to 5.23 per 100,000. During this

same period, the number of lawyers has risen from 8,102 in 1971 to 31,350 in 1990 which adds to the case backlog of the judiciary (World Bank, 1992).

\* Appointment and qualifications. Judges are not elected. The Supreme Court Judges are appointed by the Congress from a list forwarded by the President. There are particular requirements at every stage of the judicial chain for persons to become judges. In every instance, admission to the bar is required.

Overseeing judicial conduct is a job assigned to the Judicial Council. The Council was established as an independent unit of the judiciary. Its aim was to relieve judges of administrative responsibilities and to depoliticize judicial selection. However, political parties maintained control over the appointment of judges. Thus, while the law demanded establishment of a merit selection system, judges continued to be named on the basis of party affiliation.

The demand for merit selection led Venezuela to establish one of the first Latin American judicial schools in 1982. It offered courses for judicial aspirants and was charged with appointing judges on the basis of competitive examinations. However, it had to close its doors since few judges were ever named on the basis of merit criteria. The new judges continued to be appointed politically without having attended the training courses.

In addition to this jurisdictional role, the Council also oversees the daily operations of the courts through the Inspectoria de Tribunales, a judicial audit and oversight office. While this office has a staff of 40 who visit all the courts in the country, it tends to focus on the routine completion of caseloads rather than actively pursuing investigations.

## PENALTIES AND SENTENCING

### 1. Sentencing Process.

\* Who determines the sentence? The sentence is determined by the trial judge within limits set by law.

\* Is there a special sentencing hearing? Upon conviction, the defendant is sentenced at the conclusion of the trial stage.

\* Which persons have input into the sentencing process? While either party may bring forward mitigating and aggravating circumstances, sentencing legislation is especially harsh on

recidivists .

## 2. Types of Penalties.

\* Range of penalties. The typical penalties include fines, restitution, probation, and incarceration. Some crimes carry mandatory prison sentences which prohibit early release.

\* Death penalty. Venezuela does not permit imposition of the death penalty.

## PRISON

### 1. Description.

\* Number of prisons and type. Prisons in Venezuela are generally considered to be the most serious challenge to human rights in the justice system. The annual report of the Attorney General concluded that "almost all prison establishments in the country are in an intolerable situation of physical deterioration which harms the human and constitutional rights of the prison population," (U.S. Department of State, 1992: 802).

The majority of prisons were built around the turn of the century and their design was influenced by the U.S. Pennsylvania model, which entailed almost constant incarceration. The primary objective of the builders was to insure the security of the prison and to prevent escapes. The ultimate example of this form of confinement is demonstrated by the adoption of island prisons, many of which are still in operation.

At present, thirty prison facilities are operated by the Ministry of Justice throughout the country. Separate female and juvenile prison institutions exist, as well.

\* Number of prison beds. The prison population in Venezuela is 40% over its stated capacity. Overcrowding is regarded as a primary factor in the high level of violence within prisons, which resulted in an average of 3 prisoner deaths per week (U.S. Department of State, 1992: 802).

\* Number of annual admissions. Information not Available.

\* Average daily population/number of prisoners. In 1991, there were 30,659 inmates, which was more than double the capacity of the prison system. About 5 to 10% were women. The bulk of the prison population is incarcerated pending trial (Americas Watch, 1993: 77).



\* Actual or estimated proportions of inmates incarcerated. Information not Available.

## 2. Administration.

\* Administration. The Ministry of Justice of the Executive branch supervises the correctional system.

\* Number of prison guards. Information not Available.

\* Training and qualifications. Prison staff are generally underpaid, have access to few resources, are poorly trained, and are generally regarded as corrupt. Venezuela is one of the few countries in the Latin American region which provides training to its correctional personnel. The National Institute of Penitentiary Studies began training prison personnel in 1992 (U.S. Department of State, 1993: 508).

\* Expenditure on prison system. Information not Available.

## 3. Prison Conditions.

\* Work/education. Venezuela, like many of its Latin American countries, has incorporated the United Nation's "Standard Minimum Rules for the Treatment of Prisoners" in its national legislation. However, a recent human rights director of the Venezuelan Attorney General's Office has criticized the conditions of the nation's prisons. As a consequence of government neglect, the prisoners live in overcrowded and unhealthy quarters, without access to education, and lacking incentives to seek jobs once they are released (Olaso, 1991).

\* Amenities/privileges. Information not Available.

## EXTRADITION AND TREATIES

\* Extradition. As of 1992, Venezuela had extradition treaties with most Latin American countries. However, the U.S. treaty was the most contentious. Venezuela strongly protested a United States Supreme Court decision which upheld the seizing of foreign nationals by U.S. police on foreign soil. Venezuela complained that the decision violated international law, was contrary to the International Civil and Political Rights Pact, and had a negative effect on the 1922 extradition treaty between the U.S. and Venezuela (Universal, July 24, 1992: 12).

\* Exchange and transfer of prisoners. Venezuela has no bilateral agreements on prison transfer.

\* Specified conditions. Information not Available.

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