

HUMAN
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“The State Let Evil Take Over”

The Prison Crisis in the Brazilian State of Pernambuco

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Map of Pernambuco State in Brazil



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Summary

Brazil’s prisons are a human-rights disaster. Detainees—even those who have not been convicted of a crime—are routinely held in overcrowded, violent, and disease-ridden cells. Overcrowding in the prisons of the northeastern state of Pernambuco is especially dire. The prisons hold more than three times as many inmates as their official capacity in conditions that are dangerous, unhealthy, and inhumane.

During visits to Pernambuco’s prisons in 2015, a researcher from Human Rights Watch entered a windowless cell without beds, in which 37 men slept on sheets on the floor. Another, which had six cement bunks for 60 men, lacked even enough floor space. A tangle of makeshift hammocks made it difficult to cross the room, and one man was sleeping sitting up, tying himself to the bars of the door so that he wouldn’t slump over onto other men. In that cell, the stench of sweat, feces and mold was overpowering.



Inmates in a windowless cell in the “punishment and transfer” area at Presídio Juiz Antônio Luiz L. de Barros (PJALLB), in Recife. Without bunks or mattresses, all 37 inmates in this cell sleep on the floor. © 2015 César Muñoz Acebes/Human Rights Watch

Poor sanitation and ventilation, combined with overcrowding and lack of adequate medical care, allow disease to spread among inmates. The prevalence of HIV infection in Pernambuco's prisons is 42 times that of the general population; the prevalence of tuberculosis is almost 100 times that of the general population. Prison clinics are understaffed, medication is scarce, and ill detainees are often not taken to hospitals for lack of police escort.

The prisons in Pernambuco are severely short-staffed, with fewer than one guard for every 30 prisoners, the worst ratio in Brazil, where the average ratio is one for every eight, according to official data. Brazil's Ministry of Justice considers appropriate a ratio of one guard to every five prisoners. At one prison in Pernambuco that holds 2,300 inmates—a "semi-open" facility where some inmates are allowed to come and go for work—only four guards are on duty during each shift, its director told Human Rights Watch.

The extreme overcrowding and lack of sufficient staff make it impossible for prison authorities to exercise adequate official control within the prison grounds. In response, they have adopted a practice of delegating authority to a single inmate within each pavilion—fenced-in areas within the prison walls that usually contain multiple cell blocks and more than 100 inmates. The chosen inmates are commonly referred to as "keyholders" because they are given the keys to the pavilion and the cells within, and tasked with maintaining order inside. Prison staff retain control only outside the pavilions.

The keyholders sell drugs, extort payments from fellow prisoners, and require them to pay for places to sleep, according to current and former detainees, family members, and two state officials Human Rights Watch interviewed. They deploy "militias" made up of other inmates to threaten and beat those who do not pay their debts or who question their rule. Prison officials either turn a blind eye or participate in the keyholders' rackets and receive kickbacks, according to several interviewees, including a prison director.

Extreme overcrowding also puts detainees at risk of sexual violence. Human Rights Watch interviewed two detainees who said they were gang raped and reported the attacks to guards who ignored them. In one of the cases, an investigation was opened only after a representative of the state's Human Rights Ombudsman's Office pressed the authorities to take action. The other case was never investigated, according to the victim.

A major factor contributing to overcrowding in Pernambuco's prisons has been the failure to provide detainees with "custody hearings." These hearings, in which a detainee appears before a judge promptly after being arrested, are required under international law but have not—until recently—been provided to detainees in Pernambuco or most other states in Brazil. The hearings allow a judge to make an informed determination about whether a detainee should be held or released pending trial and also to examine detainees for evidence of police brutality. Without custody hearings, detainees waiting to see a judge for the first time may spend many months in overcrowded cells.

On August 14, 2015, Pernambuco began providing custody hearings to detainees allegedly caught in the act of committing a crime in Recife, the state capital. With this new policy, Pernambuco joins a growing number of states that have begun holding custody hearings with the assistance of the National Council of Justice.

A previously published Human Rights Watch study of a similar program in the state of Maranhão found that custody hearings helped prevent the unlawful arbitrary imprisonment of suspected nonviolent offenders while they awaited trial. From October 2014 to March 2015, when judges held custody hearings, they released about 60 percent of arrestees on the grounds that pretrial detention was not warranted. By contrast, when they decided primarily on the basis of police reports without seeing the arrestee, judges released pre-trial suspects only about 10 percent of the time.

Nearly 60 percent of the nearly 32,000 people held in Pernambuco's prisons have not been convicted of a crime. Suspects accused of such non-violent crimes as possessing small amounts of drugs or of minor theft are frequently held in the same cells as convicted large-scale drug dealers and gang members. The practice of incarcerating pre-trial detainees with convicted criminals violates international and Brazilian law.

Severe delays in judicial processing of cases violate the rights of detainees and fuel prison overcrowding. One man spent six years in a Pernambuco prison, pre-trial, without ever seeing a judge for any kind of hearing; another was held in prison a decade beyond completing his sentence, according to the state's Public Defender's Office, which filed habeas corpus petitions to get both men released.

Pernambuco needs to take urgent action to guarantee that conditions within its prisons comply with international and Brazilian law, including by eliminating the filthy, overcrowded, unhealthy, and unsafe conditions endured by Pernambuco’s prison inmates.

One crucial step is implementing custody hearings throughout the state. The state should also eliminate judicial delays that keep its cellblocks full of people who should not be there in the first place. In addition, Pernambuco should immediately stop the practice of holding suspects awaiting trial in the same cells as convicted criminals.

Brazil’s federal government can help by supporting Pernambuco’s efforts with financial assistance from its prison fund, and Brazil’s Congress should approve a pending bill that mandates custody hearings throughout the country.

Detailed recommendations are set forth at the end of this report.



Garbage accumulates in the yards in the Penitenciária Agro-Industrial São João (PAISJ) in Itamaracá.
© 2015 César Muñoz Acebes/Human Rights Watch

Methodology

This report is based primarily on information collected during visits to four prisons in Pernambuco in February 2015: two at the sprawling three-prison complex at Curado, in Recife; and two at Itamaracá, about 45 kilometers away. Human Rights Watch interviewed 40 inmates and former inmates, as well as their relatives, in addition to judges, prosecutors, public defenders, prison authorities, police officers, and representatives of non-governmental organizations. Between February and September 2015, Human Rights Watch conducted additional telephone interviews with state and judicial officials.

We have withheld the names of the detainees, former detainees, and their relatives interviewed to protect them from any possible retaliation from other inmates or prison officials, and in those cases we have used pseudonyms, as indicated in the report. Some state officials also requested that we not identify them by name and we have also indicated that in the relevant citations.

All interviewees were informed of the purpose of the interview and that their interviews might be used publicly. No incentives were offered or provided to persons interviewed. All interviews were conducted individually or, when conditions allowed no alternative, in a small group. The interviews were conducted in Portuguese.

In preparing the report, we also drew on court filings and decisions, state and federal prison data, and academic and judicial reports.

I. Overcrowding

Pernambuco's prison system is the most overcrowded in Brazil, according to the Ministry of Justice.¹ In August 2015, it held almost 32,000 prisoners in facilities designed for about 10,500.²

The reality is even worse than official figures indicate. Two prison directors told Human Rights Watch that, in at least two prisons, authorities count some makeshift bunks built by detainees as official beds.³ In the Iguarassu prison, even counting such bunks, authorities acknowledge fewer than one available sleeping space for every seven men.⁴

Under international and Brazilian law, pretrial detainees must be held separately from convicted prisoners,⁵ but in Pernambuco they are housed together. Detainees are held in pavilions, which typically consist of several cell blocks and a gated yard, all encompassed within the prison's outer walls. Cells are not locked within pavilions and some of them do not even have doors.

At the time of Human Rights Watch's visit in February 2015, one facility—the Presídio Agente de Segurança Penitenciária Marcelo Francisco de Araújo (PAMFA)—held 1,902

¹ Departamento Penitenciário Nacional, "Levantamento Nacional de Informações Penitenciárias," June 2014, <http://www.justica.gov.br/noticias/mj-divulgara-novo-relatorio-do-infopen-nesta-terca-feira/relatorio-depen-versao-web.pdf> (accessed September 1, 2015).

² On August 21, 2015, the Iguarassu prison housed 3,788 inmates, while its official capacity was 507. Secretaria de Desenvolvimento Social e Direitos Humanos de Pernambuco, "Relatório do Fluxo Migratório das Unidades Prisionais," August 21, 2015.

³ Human Rights Watch interview with Carlos Alberto Cordeiro, director of the Barreto Campelo prison, Itamaracá, and Roger Moury, director of the Penitenciária Agro-Industrial São João (PAISJ), Itamaracá, February 11, 2015.

⁴ Secretaria de Desenvolvimento Social e Direitos Humanos de Pernambuco, "Relatório do Fluxo Migratório das Unidades Prisionais," August 21, 2015.

⁵ International Covenant on Civil and Political Rights (ICCPR) adopted December 16, 1966, G.A. Res. 2200A (XXI), 21 U.N. GAOR Supp. (No.16) at 52, U.N. Doc. A/6316 (1966), 999 U.N.T.S. 171 entered into force March 23, 1976, <http://www.ohchr.org/en/professionalinterest/pages/ccpr.aspx> (accessed September 23, 2015), art. 10; American Convention on Human Rights ("Pact of San José, Costa Rica"), adopted November 22, 1969, O.A.S. Treaty Series No. 36, 1144 U.N.T.S. 123, entered into force July 18, 1978, reprinted in Basic Documents Pertaining to Human Rights in the Inter-American System, OEA/Ser.L.V/II.82 doc.6 rev.1 at 25 (1992), http://www.oas.org/dil/treaties_B-32_American_Convention_on_Human_Rights.htm (accessed September 23, 2015), art. 5. Both state that "accused persons shall, save in exceptional circumstances, be segregated from convicted persons." Article 84 of Brazil's Penal Execution Law (Law 7,210, July 11, 1984) states that "pretrial prisoners shall be held separated from convicted prisoners."

detainees, though it had space, officially, for only 465.⁶ A PAMFA pavilion reserved for gay, bisexual, and transgender men had an official capacity of 50 but housed 170. Some were sleeping on or under makeshift wooden bunks. Others slept on the floor in a narrow yard, in spaces divided by sheets, a few paces away from an open sewage trench. The 170 men shared two toilets.

In the Penitenciária Agro-Industrial São João (PAISJ) at Itamaracá, detainees slept in any available space in the dining room, including on top of cement tables and benches, and on the floor between them, as well as in all the corridors in the prison. At the time of Human Rights Watch’s visit, the facility housed 2,300 people in space officially designated to hold a maximum of 630, although the prison director said true capacity was 520.⁷

The most extreme overcrowding occurs in punishment cells in prison disciplinary wings. Such cells hold detainees who have committed an infraction, but also detainees who have been threatened by other inmates and have had to be moved from their pavilion for their own protection. While their



Detainees sleep in a dining room due to extreme overcrowding in the Penitenciária Agro-Industrial São João (PAISJ) in Itamaracá. © 2015 César Muñoz Acebes/Human Rights Watch

⁶ Secretaria de Desenvolvimento Social e Direitos Humanos de Pernambuco, “Relatório do Fluxo Migratório das Unidades Prisionais,” February 11, 2015.

⁷ Human Rights Watch interview with Roger Moury, director of PAISJ, Itamaracá, February 11, 2015.

purpose is to house people for short periods of time, those cells are packed with inmates held for long periods in inhumane conditions.

One windowless cell, in the “punishment and transfer” area in Presídio Juiz Antônio Luiz L. de Barros (PJALLB) at Curado, has zero bunks; at the time of Human Rights Watch’s visit, all 37 inmates slept on the floor without mattresses.⁸ Some men stay in those conditions for more than two months, according to a representative of the state Human Rights Ombudsman’s Office.⁹

A cell in the disciplinary area in the PAMFA prison has 6 bunks for 60 men. As recounted above, the men in that cell, crowded shoulder to shoulder, shirtless because of the intense heat and humidity, endure an overbearing stench of sweat, feces, and mold. Most sleep on the bare floor. Some sleep in hammocks, one on top of the other, even over their single latrine. One prisoner who sleeps sitting up at night—because of lack of space to lie down—ties himself to the bars of a door so as not to fall and hit other men, inmates told Human Rights Watch. Some of the detainees told Human Rights Watch that they had been living in that cell under those conditions for two years. On September 1, 2015, the same cell held more than one hundred men, according to a local NGO that visited it then.¹⁰

Five other comparable cells in the disciplinary area at the PAMFA prison each hold a similar number of detainees.¹¹ The keyholder is supposed to let them out for an hour once a week and an additional hour if they have a visit over the weekend, but sometimes he does not, according to a representative of the Human Rights Ombudsman.¹² Such extreme, harsh treatment violates the international prohibition on

⁸ According to Valderize Campos, a representative of the state Human Rights Ombudsman’s Office, the three cells in that area held detainees who had committed an infraction, detainees who could not be sent to pavilions because of fears they would be attacked by other inmates for some reason, and detainees who had come to court hearings in Recife from other prisons outside the city.

Pernambuco’s Human Rights Ombudsman’s Office is an office within the state’s Department of Justice and Human Rights, which is under the governor’s authority. In addition to working for the Human Rights Ombudsman’s Office, Valderize Campos is director of Afadequipe (Associação de Familiares dos Dependentes Químicos, Presos e Apenados do Estado de Pernambuco), an NGO that helps families of detainees who are current or former drug users.

⁹ Human Rights Watch telephone interview with Valderize Campos, Recife, September 1, 2015.

¹⁰ Human Rights Watch telephone interview with Valderize Campos, Recife, September 1, 2015.

¹¹ Ibid.

¹² Ibid.

inhuman and degrading treatment, and may constitute torture. Basic international standards on treatment of prisoners require access to an open-air area at least one hour a day,¹³ while Brazilian law requires it for two hours a day.¹⁴

There are many reasons for the gross overcrowding in Pernambuco's prisons, but one contributing factor was a 2007 change in state crime policies. In that year, the late governor Eduardo Campos launched Pacto Pela Vida, a program that sought to establish better coordination between the military and civil police, prosecutors, public defenders, and representatives of all three branches of government.¹⁵ The program strengthened the police with new hires and equipment, and awarded police officers bonuses for drugs and weapons seized, for arrest warrants executed, and for measurable drops in the local crime rate—all of which acted as incentives for police to sweep many more people into prison.

The number of people detained in Pernambuco has increased by 68 percent since implementation of Pacto Pela Vida at the end of 2007, while prison capacity has gone up by only 26 percent.¹⁶ An unintended result of Pacto Pela Vida, therefore, has been a worsening of the already severe overcrowding in Pernambuco's prisons. Before the launch of the initiative, they held double their intended capacity; since then, they have come to hold triple. "The state created a policy of incarceration without thinking if there was space to keep those people in prison," Marianna Granja, a Pernambuco public defender, told Human Rights Watch.¹⁷

¹³ The United Nations Standard Minimum Rules for the Treatment of Prisoners (the Mandela Rules) state: "Every prisoner who is not employed in outdoor work shall have at least one hour of suitable exercise in the open air daily if the weather permits." Rule 23(1). The Mandela Rules can be found at:

https://www.unodc.org/documents/commissions/CCPCJ/CCPCJ_Sessions/CCPCJ_24/resolutions/L6_Rev1/ECN152015_L6Rev1_e_V1503585.pdf.

¹⁴ Article 52 (IV) of Brazil's Penal Execution Law (Law 7210, July 11, 1984) states: "Prisoners shall have the right to spend two hours a day in open air outside the cell."

¹⁵ For reports on Pacto pela Vida, see, for instance, Instituto Igarapé, "O Pacto pela Vida e a Redução de Homicídios em Pernambuco," August 2014; <http://igarape.org.br/wp-content/uploads/2014/07/artigo-8-p2.pdf> (accessed September 23, 2015), and José Luiz Ratton, et al., "Pact for Life and the Reduction of Homicides in the State of Pernambuco," *Stability: International Journal of Security & Development*, vol. 3(1), pp. 1-15, 2014, <http://www.stabilityjournal.org/articles/10.5334/sta.dq/> (accessed September 23, 2015).

¹⁶ These figures are based on data included in the 2008 to 2014 editions of the Anuário Brasileiro de Segurança Pública, a publication by the Forum Brasileiro de Segurança Pública, a non-governmental organization, which compiles official data. The 2015 prison population and capacity data come from tallies kept by the department in charge of prisons in Pernambuco: Secretaria de Desenvolvimento Social e Direitos Humanos de Pernambuco, "Relatório do Fluxo Migratório das Unidades Prisionais," August 21, 2015.

¹⁷ Human Rights Watch interview with Marianna Granja, Recife, February 12, 2015.

II. Disease

Extreme overcrowding has a severe impact on the health of detainees.

Respiratory diseases are common in Pernambuco's prisons, according to data from the Justice Ministry's National Prison Department¹⁸ and Human Rights Watch research. Pernambuco's prisons have 2,260 cases of tuberculosis per 100,000 people detained—a rate almost 100 times higher than in the general Brazilian population.¹⁹

At Penitenciária Professor Barreto Campelo, at Itamaracá, so many new detainees are arriving that personnel cannot test them all for tuberculosis, the prison director said.²⁰ Inmates are only tested after symptoms appear, he said, by which time others—living in cramped conditions with poor ventilation—have contracted the illness. “Overcrowding makes it impossible to eliminate the disease,” the prison director conceded.

Pernambuco's inmates are HIV-positive at a rate more than 42 times that of the general Brazilian population: 870 per 100,000 inmates, according to the National Prison Department.²¹

Scabies, a contagious skin infestation caused by burrowing mites, is also common, said a nurse at the PJALLB prison.²² Human Rights Watch interviewed two men who suffered skin rashes on their feet, although they did not know the exact nature of their illness.²³ Both

¹⁸ Departamento Penitenciário Nacional, “Levantamento Nacional de Informações Penitenciárias,” June 2014, <http://www.justica.gov.br/noticias/mj-divulgara-novo-relatorio-do-infopen-nesta-terca-feira/relatorio-depen-versao-web.pdf> (accessed September 1, 2015).

¹⁹ According to the latest data from Brazil's National Prison Department, a department within the Ministry of Justice, the rate of tuberculosis in the general population in Brazil is 24.4 cases per 100,000 people, compared to 2,260 cases per 100,000 people in Pernambuco's prisons. Departamento Penitenciário Nacional, “Levantamento Nacional de Informações Penitenciárias,” June 2014, <http://www.justica.gov.br/noticias/mj-divulgara-novo-relatorio-do-infopen-nesta-terca-feira/relatorio-depen-versao-web.pdf> (accessed September 1, 2015).

²⁰ Human Rights Watch interview with Carlos Cordeiro, Itamaracá, February 11, 2015.

²¹ According to the latest data from Brazil's National Prison Department, the rate of HIV in the general population in Brazil is 20.4 cases per 100,000 people, compared to 870 cases per 100,000 people in Pernambuco's prisons.

Departamento Penitenciário Nacional, “Levantamento Nacional de Informações Penitenciárias,” June 2014, <http://www.justica.gov.br/noticias/mj-divulgara-novo-relatorio-do-infopen-nesta-terca-feira/relatorio-depen-versao-web.pdf> (accessed September 1, 2015)

²² Human Rights Watch interview, name withheld, Recife, February 12, 2015.

²³ Human Rights Watch separate interviews with two inmates, names withheld, PAISJ prison, Itamaracá, February 11, 2015.

said they were given only anti-inflammatory creams as treatment. One of them had been enduring the rash for three years.

The Pernambuco prison system employs only 161 health professionals to care for more than 31,000 detainees, including one gynecologist for a population of 1,870 female prisoners, according to the National Prison Department.²⁴

Understaffed and without enough medicine, prison infirmaries often offer only rudimentary care, prison personnel told us.²⁵



A detainee at Penitenciária Agro-Industrial São João (PAISJ) in Itamaracá who has suffered a skin rash for three years. © 2015 César Muñoz Acebes/Human Rights Watch

Detainees need to be taken to local hospitals for many treatments, and an insufficient number of officers to escort them to the hospitals impedes access to this treatment.

For instance, inmate Pedro T.

(pseudonym) told Human Rights

Watch that he needs to have surgery

done in one eye, which was stabbed during a prison fight, but he has missed five hospital appointments because the prison never has enough officers to escort him to the hospital.²⁶

Sanitation is also deficient in many units. The pavilions in the PAISJ prison, at Itamaracá, lack running water, so detainees have to collect water in buckets for drinking, washing, showering, and flushing toilets. They go to taps in the yards that have running water only three times daily, for half an hour each time, as we witnessed during a weekday visit. During our visit, the three latrines in the yards were clogged with feces, sewage ran openly through the prison's yards, and garbage had accumulated everywhere.

²⁴ Departamento Penitenciário Nacional, "Levantamento Nacional de Informações Penitenciárias," June 2014, <http://www.justica.gov.br/noticias/mj-divulgara-novo-relatorio-do-infopen-nesta-terca-feira/relatorio-depen-versao-web.pdf> (accessed September 1, 2015).

²⁵ Human Rights Watch interviews with prison staff at PAISJ prison, Itamaracá, February 11, 2015.

²⁶ Human Rights Watch interview with Pedro T. (pseudonym), February 11, 2015.



The yard in the Penitenciária Agro-Industrial São João (PAIS) in Itamaracá. Because the pavilions lack running water, detainees have to collect water in buckets for drinking, washing, showering, and flushing toilets from taps in the yards that have running water only three times a day for half an hour each. © 2015 César Muñoz Acebes/Human Rights Watch

III. Lawlessness Within the Prison Walls

Prison authorities deploy guards to control the outer perimeter of the prison but have abdicated responsibility for control of the prisons' interiors to inmates. In a purported effort to maintain order inside the pavilions, they give the keys to cells and pavilions to prisoners officially called “representatives” but known by inmates and prison officials alike as “chaveiros,” or “keyholders.”

Keyholders are often prisoners convicted of serious crimes such as homicide, chosen by prison authorities because they are able to command respect from their fellow inmates, according to interviewees.²⁷ They hold the keys even to the cells in disciplinary wings, as Human Rights Watch witnessed.

Inside the pavilions, “there is no control” by prison authorities, a guard at the Barreto Campelo prison, near Recife, told Human Rights Watch.²⁸ Guards retain control only of areas outside the pavilions. Authorities at Barreto Campelo could show Human Rights Watch only certain pavilions, the director said, because he lacked the personnel to guarantee the safety of visitors in other areas of the facility.²⁹

Keyholders abuse their power in various ways—for example, by selling places to sleep. Because official cement bunks are scarce, inmates buy from keyholders “barracos”—wooden cubicles built by previous inmates—for 600 to 2,000 reais (about US\$570), former detainees and relatives of current detainees told Human Rights Watch.³⁰ The cubicles close to the ceiling are cheaper because they are hotter and smaller. Inmates get to them by climbing makeshift wooden ladders. In other pavilions, “barracos” are simply divisions made of sheets within cells. Such sheet-walled barracos are also sold and rented.

²⁷ Human Rights Watch interviews with a state official who asked not to be identified and a man who spent nine years in four prisons in Pernambuco (name withheld), February 11 and February 9, 2015.

²⁸ Human Rights Watch interview with Jairo Cândido de Melo, Itamaracá, February 11, 2015.

²⁹ Human Rights Watch interview with Carlos Cordeiro, Itamaracá, February 11, 2015.

³⁰ Human Rights Watch interviews with two former detainees who were held in four prisons –Barreto Campelo, Igarassu, PAISJ, and Presídio Frei Damião de Bozzano (PFDB)- and the mothers of three detainees, held at the time of the interviews in PJALLB, Barreto Campelo and PAMFA, (names withheld), Recife, February 9, 2015.



Makeshift “barracos,” or cubicles, inside Pavilion 7 at Presídio Juiz Antônio Luiz L. de Barros (PJALLB), in Recife. © 2015 César Muñoz Acebes/Human Rights Watch

One woman, Regina T. (pseudonym), told Human Rights Watch that she paid 2,000 reais for a cubicle for her son, a 20-year-old sentenced to more than 4 years for possessing marijuana worth 50 reais (US\$14).³¹ “I gave the money to the keyholder myself,” said Regina T. Later, she said, the keyholder “renovated” the area, and her son lost the cubicle.

³¹ Human Rights Watch interview with Regina T. (pseudonym), February 9, 2015. Regina also provided us with a copy of the sentencing order in the case, which included the four-year term imposed on her son and the fact that the underlying offense was possession of 50 reais of marijuana.



A “barraco” made out of sheets within a cell in the Presídio Agente de Segurança Penitenciária Marcelo Francisco de Araújo (PAMFA), within the Curado prison complex in Recife. © 2015 César Muñoz Acebes/Human Rights Watch

Some keyholders charge inmates a weekly “tax,” extorted on a threat of beatings, which ranges from 5 to 15 reais (US\$1 to US\$4), interviewees said.³²

Keyholders also make money by selling illegal drugs or authorizing other inmates to do so, several interviewees told Human Rights Watch.³³ Crack cocaine, marijuana, and moonshine are widely available in Pernambuco’s prisons, interviewees said. At the PJALLB prison,

³² Human Rights Watch interviews with an inmate at PAISJ prison, Itamaracá, February 11, 2015 and the mother of an inmate in Barreto Campelo prison, Recife, February 9 2015, (names withheld).

³³ Human Rights Watch interviews with two former detainees who were held in four different prisons –PAISJ, Barreto Campelo, Igarassu, and PJALLB– and the mothers of three detainees, held at the time of the interviews in PJALLB, Barreto Campelo, and PAMFA, (names withheld), Recife, February 9, 2015.

Human Rights Watch saw two detainees smoking crack under a guard tower. Guards, police officers, and other prison officials are not searched or scanned as they enter, and a prison director conceded that sometimes they bring in drugs.³⁴ Drugs and other contraband are also thrown in packages over the prison walls from the outside, a former inmate and a prison director said.³⁵ None of the prisons visited by Human Rights Watch offered substance-abuse treatment.³⁶

Some inmates buy drugs on credit from the keyholders, and family members outside are forced to bring money on weekends to pay the debt. Sandra C. (pseudonym), a 63-year-old woman who sells cosmetics on the streets and earns about 1,000 reais (about US\$300) a month, told Human Rights Watch that a keyholder called her from a smuggled cell phone and demanded that she come up with the money to pay her son's drug debt.³⁷ "Either you pay, or you buy a coffin for your son," she said the keyholder told her. She gave him her television, on which she was still paying installments. To pay her son's prison debts, she said, "I sold everything I had."

Keyholders live in private cells, often with televisions, large fans, refrigerators, and bathrooms, as Human Rights Watch witnessed during prison visits. Other detainees, called "chegados," (loosely, "buddies") cook, clean, and do laundry for keyholders in exchange for privileges. In a pavilion at the PAMFA prison, Human Rights Watch saw "chegados" sleeping, chatting, and cooking in the yard, while those inside the cellblocks had not been let out for the previous two months, according to a representative of the state Human Rights Ombudsman.³⁸

The keyholders' rule within the pavilions is enforced by "militias" that they recruit. Militia members beat up inmates who break the keyholders' rules or owe the keyholders money, several interviewees told Human Rights Watch.³⁹ One woman, Maria R. (pseudonym), said

³⁴ Human Rights Watch interview with a prison director in February 2015. The director talked to Human Rights Watch on condition that we do not reveal his identity.

³⁵ Human Rights Watch interviews with a former inmate held in PFDB prison (name withheld), Recife, February 9, 2015, and with Carlos Alberto Cordeiro, director of the Barreto Campelo prison, Itamaracá, February 11, 2015.

³⁶ Human Rights Watch interview with Valderize Campos, a representative of Pernambuco's Human Rights Ombudsman's Office, Recife, February 10, 2015.

³⁷ Human Rights Watch interview with Sandra C. (pseudonym), Recife, February 9, 2015.

³⁸ Human Rights Watch interview with Valderize Campos, Recife, February 10, 2015.

³⁹ Human Rights Watch interviewed two women and a man who were relatives of three detainees who were beaten by militias because of drug debts, and two former inmates who witnessed similar attacks while in prison (names withheld), Recife, February 10, 2015.

militia members beat her nephew with clubs.⁴⁰ She did not complain to authorities because she was afraid of retaliation against him. “It’s the law of the jungle in there,” said Maria R., who takes care of her nephew because her sister—the man’s mother—is paralyzed. “The authorities are complicit,” she said.

Two sources—a state official and a former detainee—told Human Rights Watch that some prison authorities sell the position of keyholder.⁴¹ The official said to have witnessed a payment of 70,000 reais (approx. US\$22,300) for the post and did not report the sale for fear of retaliation. A prison director told Human Rights Watch that keyholders are sometimes chosen by prison directors or designated by the head of prison security in Pernambuco.⁴² He said other times keyholders who are released select their own successors.

Keyholders often accuse inmates of infractions, interviewees said, to stifle threats to their power or to appropriate the inmates’ cubicles.⁴³ “If a keyholder goes to the administration and says that a person attacked someone, brings witnesses, we believe him, and punish the violator,” a prison director told Human Rights Watch.⁴⁴

Keyholders fail to protect inmates from one another. Prisoners who are newcomers or particularly vulnerable may be housed in cells in disciplinary wings, but two detainees told Human Rights Watch that they were gang raped while being held in such cells, which they shared with scores of other men and which were governed by a keyholder.

Jorge S. (pseudonym), a married 28-year-old with two children imprisoned on charges of stealing 730 reais (about US\$230) from a woman at an ATM machine, told Human Rights Watch that while he was incarcerated in September 2014 at the Centro de Observação Criminológica e Triagem Professor Everardo Luna (COTEL), near Recife, about 10 men with whom he shared a cell put a bag over his head, tied his hands behind his back, and forced

⁴⁰ Human Rights Watch interview with Maria R. (pseudonym), Recife, February 9, 2015.

⁴¹ Human Rights Watch interviews with a state official who asked not to be identified and a man who spent nine years in four prisons in Pernambuco (name withheld), February 11 and February 9, 2015.

⁴² Human Rights Watch interview with a prison director in February 2015. The director talked to Human Rights Watch on condition that we do not reveal his identity.

⁴³ Human Rights Watch interviews with two former inmates (name withheld), Recife, February 9, 2015.

⁴⁴ Human Rights Watch interview with a prison director in February 2015. The director talked to Human Rights Watch on condition that we do not reveal his identity.

him to have anal and oral sex.⁴⁵ He said the rapists threw semen in his face and hit him. “I cried for help and the men were shouting and singing. Nobody came,” he said. The attackers had knives and threatened to kill him if he talked. Still, he later told a guard about the rape.

“Prisoners have to suffer,” answered the guard, who did nothing about it, Jorge S. said. Almost a month later, the representative of the state’s Human Rights Ombudsman met Jorge S. during a prison visit and took him to a police station to report the attack.⁴⁶ Jorge S. said he asked for an HIV test because the men had not used condoms, but he was not taken to the infirmary to undergo the test.

Jorge S. believes he was targeted by other detainees because he is from the state of Bahia and had nobody in the COTEL prison on whom he could rely for protection.

Similarly, a 34-year-old homosexual pretrial detainee named Paulo L. said he was gang raped in November 2014 in a punishment cell that he shared with 67 men at the PAMFA prison.⁴⁷ Paulo L. had been sent to the punishment cell after fighting with another detainee. “The prisoner who was in charge of the cell forced me to have sex with three men,” Paulo L. told Human Rights Watch. The rapists did not use condoms. “I told the chief of security, but he said it was a lie,” Paulo L. said. When he told his story to Human Rights Watch in February of 2015, he had still not seen a judge, had no lawyer, and had not spoken to a public defender since being arrested 18 months earlier on charges of trying to break into a home.

“Keyholders are a necessary evil, because we don’t have enough guards,” a prison director told Human Rights Watch.⁴⁸ At PAISJ, a semi-open prison in Itamaracá where some inmates work by day outside the walls, all 2,300 prisoners (almost four times the official capacity) have access to the yards during the day, and typically only four prison guards staff each shift.⁴⁹ The guards generally stay at the entrance and in administrative areas, rarely venturing into the yards.

⁴⁵ Human Rights Watch interview with Jorge S. (pseudonym), Recife, February 12, 2015.

⁴⁶ Human Rights Watch interview with Valderize Campos, Recife, February 10, 2015.

⁴⁷ Human Rights Watch interview with Paulo L. (pseudonym), Recife, February 10, 2015.

⁴⁸ Human Rights Watch interview with a prison director in February 2015. The director talked to Human Rights Watch on condition that we do not reveal his identity.

⁴⁹ Human Rights Watch interview with Roger Moury, director of the PAISJ prison, Itamaracá, February 11, 2015.

The prisons in Pernambuco on average have one guard for every 31 prisoners, according to the latest data from the National Prison Department.⁵⁰ That is the worst ratio in Brazil, where the average ratio is one guard for every eight detainees. Brazil's Ministry of Justice considers appropriate a ratio of one agent to five prisoners.⁵¹

“Because of the growth in the number of prisoners in the last decade, the state unfortunately abandoned the inside of the prisons,” Eden Vespasiano, secretary of prison administration for Pernambuco, told Human Rights Watch.⁵² “I am going to work for the state to get back in,” he promised. Pernambuco is trying to double the number of guards and the number of cameras in prisons, Vespasiano said.



An associate of the keyholder is in control of the cells in the disciplinary wing in the Presídio Agente de Segurança Penitenciária Marcelo Francisco de Araújo (PAMFA), within the Curado prison complex in Recife. © 2015 César Muñoz Acebes/Human Rights Watch

“Everything that is happening is because the state let evil take over [the prisons],” prosecutor Marcellus Ugiette told Human Rights Watch.⁵³

⁵⁰ Departamento Penitenciário Nacional, “Levantamento Nacional de Informações Penitenciárias,” June 2014, <http://www.justica.gov.br/noticias/mj-divulgara-novo-relatorio-do-infopen-nesta-terca-feira/relatorio-depen-versao-web.pdf> (accessed September 1, 2015).

⁵¹ Departamento de Monitoramento e Fiscalização do Sistema Carcerário e do Sistema de Execução de Medidas Socioeducativas, “Mutirão Carcerário Local no Complexo Prisional do Curado/PE. Relatório Geral,” May 2014.

⁵² Human Rights Watch interview with Eden Vespasiano, Recife, February 10, 2015.

⁵³ Human Rights Watch interview with Marcellus Ugiette, Recife, February 9, 2015.

IV. Custody Hearings in Pernambuco

Until recently, judges throughout Brazil did not see an arrestee when deciding whether to order him or her detained until trial and instead relied primarily on the police report. In October 2014, the state of Maranhão began holding custody hearings for those arrested while allegedly committing a crime. In those hearings, an arrestee appears before a judge to answer questions and, if relevant, can show the judge any physical evidence of mistreatment by police. As of October 3, 2015, 22 other states had also begun holding custody hearings.⁵⁴

Custody hearings primarily help prevent arbitrary and unlawful detention by ensuring that people who should not be in custody are not. In playing this important due process function, the hearings can also help reduce prison overcrowding. For example, in the first four-and-a-half months of custody hearings in Maranhão, judges found that about 60 percent of detainees should not be detained before trial and ordered their release, according to data collected by the state's judiciary.⁵⁵ By comparison, an earlier study showed that when judges in Maranhão made custody determinations based solely on police reports, they ordered pre-trial detainees released in only 10 percent of the cases.⁵⁶ The hearings also act as a safeguard against ill-treatment of defendants, as victims of torture and other abuses have a timely opportunity to raise allegations with the judge, and show them any possible physical evidence of mistreatment.

On August 14, 2015, Pernambuco instituted its own custody-hearing program, but only in Recife, the state capital. One of the judges who designed the program told Human Rights Watch that the judiciary intends gradually to broaden custody hearings to the rest of the state. Authorities have not yet set a timetable.⁵⁷

⁵⁴ National Council of Justice, “Juiz aplica medidas cautelares a viciado acusado de roubo em Alagoas,” October 3, 2015. http://www.cnj.jus.br/index.php?option=com_content&view=article&id=80593:juiz-aplica-medidas-cautelares-a-viciado-acusado-de-roubo-em-alagoas&catid=813:cnj&Itemid=4640&acm=269314_7543

⁵⁵ Official site of the judiciary of the state of Maranhão, “Implantação das audiências de custódia é recomendada na Carta de Recife,” June 22, 2015. <http://www.tjma.jus.br/tj/visualiza/sessao/19/publicacao/409441>

⁵⁶ For an analysis of the Maranhão program, see Human Rights Watch, “Brazil: Prison Crisis Spurs Rights Reform,” April 8, 2015, <https://www.hrw.org/news/2015/04/08/brazil-prison-crisis-spurs-rights-reform>.

⁵⁷ Human Rights Watch telephone interview with judge Mariana Vargas, Recife, August 7, 2015.

The implementation of custody hearings in Recife is an important first step that should be extended to all arrestees throughout Pernambuco as soon as possible. Some 59 percent of those in prison in Pernambuco are awaiting trial, according to the latest data from the National Prison Department.⁵⁸ They are presumed innocent, yet they are housed in the same units as convicted prisoners, in violation of international law.⁵⁹

Brazil's Congress is considering a bill, introduced in the Senate in 2011, that would mandate custody hearings throughout the country.⁶⁰



Detainees who do not have money to buy a “barraco” sleep in a corridor in the Presídio Agente de Segurança Penitenciária Marcelo Francisco de Araújo (PAMFA), within the Curado prison complex in Recife. Their belongings hang from the walls. © 2015 César Muñoz Acebes/Human Rights Watch

⁵⁸ Departamento Penitenciário Nacional, “Levantamento Nacional de Informações Penitenciárias,” June 2014, <http://www.justica.gov.br/noticias/mj-divulgara-novo-relatorio-do-infopen-nesta-terca-feira/relatorio-depen-versao-web.pdf> (accessed September 1, 2015).

⁵⁹ ICCPR, art 10; American Convention on Human Rights, art. 5.

⁶⁰ Senate Bill PLS 554/2011, September 6, 2011.

V. Unjustified Judicial Delays

Inmates in Pernambuco often endure long delays at every stage in the processing of their cases, both before or after trial, and they are sometimes held in prison long after they have served their full sentences.⁶¹ An insufficient number of judges, public defenders, and prosecutors is to blame for the delays, a public defender and a judge told Human Rights Watch.⁶²

Rodrigo da Silva Gonçalves, for example, was detained in September 2007 on charges of homicide, interrogated by police a month later, and then granted no legal proceedings for six years, according to public defender Marianna Granja, who filed a habeas corpus petition for Gonçalves' release in November 2013.⁶³ Nine hearings were scheduled and cancelled because prison authorities did not bring Gonçalves to the courthouse, claiming either a lack of a police escort, or because the prosecutor's witnesses did not appear in court. Gonçalves was released in May 2014 as a result of the habeas corpus petition.

Another man, who had no lawyer or family to advocate for him, completed his sentence in 2004 in Curado –then called Presídio Professor Aníbal Bruno– but spent an additional decade behind bars, until the Public Defender's Office filed a habeas corpus petition that gained his release, Granja said.⁶⁴

Detainees enraged by judicial delays rioted at the three facilities at Curado in January 2015, castigating by name one judge in particular whom they held responsible for delays.⁶⁵

⁶¹ During a review of cases in Curado in 2014, the National Council of Justice (CNJ) found 32 cases of people who had already served their full sentences and 172 cases of people who should have been released on probation, including a man who should have been granted probation five years earlier. The CNJ also determined that under Brazilian law 388 men should have been transferred to semi-open or open facilities, instead of being kept in Curado. As a result of the review, the judges at the CNJ also ordered the release of 284 pretrial detainees, in some cases because their initial arrest was unlawful. Departamento de Monitoramento e Fiscalização do Sistema Carcerário e do Sistema de Execução de Medidas Socioeducativas, "Mutirão Carcerário Local no Complexo Prisional do Curado/PE. Relatório Geral," May 2014, http://www.cnj.jus.br/images/programas/mutirao-carcerario/relatorios/Relatorio_Mutirao_Curado_PE_2014_alterado.pdf.

⁶² Human Rights Watch telephone interview with public defender Marianna Granja, Recife, July 8, 2015, and with Judge Mariana Vargas, Recife, August 7, 2015.

⁶³ Human Rights Watch interview with public defender Marianna Granja, Recife, February 13, 2015. This case is also included in the CNJ review of cases referred to two footnotes above.

⁶⁴ Human Rights Watch interview with public defender Marianna Granja, Recife, February 13, 2015.

⁶⁵ During an interview with Human Rights Watch on February 10, 2015, a prosecutor attributed the riots mainly to delays in the processing of cases and the inmates' anger at the judge in charge of cases in Curado. Several media reports also cited those

Two detainees and a military police officer died in the violence, and the state government declared a state of emergency in the prison system, according to media reports.⁶⁶

In March 2015, as a stopgap initiative, 48 public defenders from Pernambuco and other states reviewed cases in Curado. The state judicial system also assigned judges outside Recife to work overtime, temporarily, to reduce the backlog. Yet, as of September 2015, Afadequipe, a local NGO that helps detainees and their families, was continuing to receive numerous complaints from inmates in Curado about delays in their cases.⁶⁷



Detainees in a cell in the disciplinary wing in the Presídio Agente de Segurança Penitenciária Marcelo Francisco de Araújo (PAMFA), within the Curado prison complex in Recife, which has 6 cement bunks for 60 men. © 2015 César Muñoz Acebes/Human Rights Watch

reasons. See, for instance, NE10, “Governo promete acelerar julgamento de processos com novos advogados,” January 20, 2015, <http://noticias.ne10.uol.com.br/grande-recife/noticia/2015/01/20/governo-promete-acelerar-julgamento-de-processos-com-novos-advogados-529397.php> (accessed September 1, 2015) and G1, “Sobe para três número de mortos em rebelião em presídio no Recife,” January 20, 2015, <http://g1.globo.com/pernambuco/noticia/2015/01/sobe-para-tres-numero-de-mortos-em-rebeliao-em-presidio-no-recife.html> (accessed September 1, 2015).

⁶⁶ See, for instance, G1, “Sobe para três número de mortos em rebelião em presídio no Recife,” January 20, 2015, <http://g1.globo.com/pernambuco/noticia/2015/01/sobe-para-tres-numero-de-mortos-em-rebeliao-em-presidio-no-recife.html> (accessed September 1, 2015).

⁶⁷ Human Rights Watch telephone interview with Valderize Campos, director of Afadequipe, Recife, September 2, 2015.

VI. Brazil's Obligations under International Law

The right to be brought before a judge without delay is enshrined in treaties ratified by Brazil, including the International Covenant on Civil and Political Rights (ICCPR) and the American Convention on Human Rights.⁶⁸ The United Nations Human Rights Committee, which is responsible for interpreting the ICCPR, has advised states that the requirement applies “in all cases without exception” and has held that the delay between the arrest of an accused and when he is brought before a judicial authority “should not exceed a few days,” even during states of emergency.⁶⁹ The detainee “must be brought to appear physically before the judge,” the committee said, as “the physical presence of detainees at the hearing gives the opportunity for inquiry into the treatment that they received in custody.”⁷⁰

Other countries in Latin America have incorporated this right into their domestic law. In Argentina, for example, when someone is arrested without a judicial order, he or she must be brought to a competent judicial authority within six hours.⁷¹ In Chile, people arrested while allegedly committing a crime must be presented within 12 hours to a prosecutor -- who must either drop charges or arrange a hearing before a judge within 24 hours of the arrest.⁷² In Colombia, a detainee caught while allegedly committing a crime must be brought before a judge within 36 hours;⁷³ in Mexico, 48 hours.⁷⁴

Living conditions in Pernambuco's prisons violate the country's obligations under both the ICCPR and the Convention against Torture (CAT), which prohibits not only torture but cruel, inhuman, or degrading treatment or punishment. Housing pre-trial detainees with convicted criminals also violates international law.⁷⁵

⁶⁸ ICCPR, art. 9(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 release”); and American Convention on Human Rights, art. 7 (“Any person detained 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 be released without prejudice to the continuation of the proceedings”).

⁶⁹ UN Human Rights Committee, General Comment No.35, Article 9, Liberty and Security of Person, U.N. Doc. CCPR/C/GC/35 (December 16, 2014), para. 32 and 33, <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=15236&LangID=E> (accessed September 23, 2015).

⁷⁰ UN Human Rights Committee, General Comment No.35, para. 34.

⁷¹ Criminal Procedure Code of Argentina, art. 286, “Presentación del detenido.”

⁷² Criminal Procedure Code of Chile, art. 131, “Plazos de detención.”

⁷³ Constitution of Colombia, art. 28.

⁷⁴ Constitution of Mexico, art. 16.

⁷⁵ ICCPR, art 10; American Convention on Human Rights, art. 5.

Prisoners also have the right to the highest attainable standard of physical and mental health guaranteed in the Covenant on Economic, Social and Cultural Rights, to which Brazil is also a party.⁷⁶ Governments have a unique responsibility to prisoners, “owed by virtue of the custodial relationship between the keepers and the kept”⁷⁷ and “States are under the obligation to respect the right to health by, inter alia, refraining from denying or limiting equal access for all persons, including prisoners or detainees, (...) to preventive, curative and palliative health services,” according to the Committee on Economic, Social and Cultural Rights.⁷⁸

The United Nations Human Rights Committee likewise has reaffirmed that the ICCPR requires governments to provide “adequate medical care during detention.”⁷⁹ And the Committee Against Torture, the monitoring body of the CAT, has found that failure to provide adequate medical care can violate that treaty’s prohibition of cruel, inhuman or degrading treatment.

In May 2015, the UN Commission on Crime Prevention and Criminal Justice adopted revised and updated standards on prison conditions, now called the Mandela Rules.⁸⁰ The rules are based on the premise that prisoners are owed respect for human dignity. They are entitled to safety and non-discrimination, and to having their health and other needs met. They must be provided adequate space in which to live, appropriate ventilation, lighting, heat, sanitation, clean water, adequate and nutritious food, and a clean environment.

The CAT defines torture and cruel, inhuman, or degrading treatment or punishment to include not only acts committed by public officials but also acts committed with their

⁷⁶ International Covenant on Economic, Social and Cultural Rights (ICESCR), adopted December 16, 1966, G.A. Res. 2200A (XXI), 21 U.N. GAOR Supp. (No. 16) at 49, U.N. Doc. A/6316 (1966), 993 U.N.T.S. 3, entered into force January 3, 1976, art. 12.

⁷⁷ Rick Lines, “From equivalence of standards to equivalence of objectives: The entitlement of prisoners to health care standards higher than those outside prisons,” *International Journal of Prisoner Health* 2006, vol. 2(4), p. 276.

⁷⁸ United Nations Committee on Economic, Social and Cultural Rights, General Comment No. 14, The right to the highest attainable standard of health, E/C.12/2000/4 (2000), par. 34, <http://www1.umn.edu/humanrts/gencomm/escgencom14.htm> (accessed September 23, 2015).

⁷⁹ *Pinto v. Trinidad and Tobago* (232/1987), ICCPR, A/45/40 vol. II (July 20, 1990), p. 69, para. 12.7.

⁸⁰ UN Commission on Crime Prevention and Criminal Justice, United Nations Standard Minimum Rules for the Treatment of Prisoners (the Mandela Rules), E/CN.15/2015/L.6/Rev.1, https://www.unodc.org/documents/commissions/CCPCJ/CCPCJ_Sessions/CCPCJ_24/resolutions/L6_Rev1/ECN152015_L6Rev1_e_V1503585.pdf (accessed September 23, 2015).

Brazil was one of the 40 member countries of the Commission in 2015. Members are elected for a three-year term by the Economic and Social Council, one of the six main organs of the United Nations established by the UN Charter in 1946.

acquiescence. In 2011, the Inter-American Commission on Human Rights asked Pernambuco to eliminate the system of keyholders in Curado, and said that guards, not keyholders, should carry out “disciplinary, control and security functions.”⁸¹ The state responded by changing their name from “keyholders” to a new, official title—“representatives”—but it maintained their previous role.



A detainee in the Presídio Agente de Segurança Penitenciária Marcelo Francisco de Araújo (PAMFA), within the Curado prison complex in Recife, shows a bullet he said was used by guards in the punishment cell where he is incarcerated.
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Brazilian authorities are fully aware of the abuses in Curado, thanks to a coalition of non-governmental organizations—Catholic Church Prison Ministry (Pastoral Carcerária), Global Justice (Justiça Global), Ecumenical Service of Advocacy in Prisons (Serviço Ecumênico de Militância nas Prisões), and Harvard Law School’s International Human Rights Clinic—, which started documenting human rights violations there in 2010. The coalition filed a petition⁸² before the Inter-American Human Rights System, and in 2014 the Inter-American Court of Human Rights ordered Brazil to take protective measures, including guaranteeing the security of detainees, prison personnel, and visitors at Curado.

⁸¹ Letter from the Inter-American Commission on Human Rights to petitioners, informing them it had asked the Brazilian government to take precautionary measures regarding the situation in the Curado prison complex, which at that time was called Anibal Bruno, August 4, 2011, http://arquivoanibal.weebly.com/uploads/4/7/4/9/47496497/06_carta_da_cidh_2011_08_04_-_concessao_de_medidas_cautelares_-_para_el_pt_-_pub.pdf (accessed September 2, 2015).

⁸² “Solicitação de Medidas Cautelares,” letter to Inter-American Commission on Human Rights by Pastoral Carcerária, Serviço Ecumênico de Militância nas Prisões, Justiça Global, and Harvard Law School’s International Human Rights Clinic, June 3, 2011, http://arquivoanibal.weebly.com/uploads/4/7/4/9/47496497/01_solicitacao-de-medidas-cautelares-presidio-anibal-bruno-final-2011-06-03--pub.pdf (accessed September 8, 2015).

Recommendations

To Pernambuco State Authorities

The state of Pernambuco needs to undertake profound reform of its prison system after many years of neglect. Human Rights Watch urges Pernambuco authorities at multiple levels to institute the following reforms:

Governor and Prison Authorities

Security

- The state department of prisons, an executive department under the governor's authority, should stop delegating control of prison facilities to inmates ("keyholders"). Prisoners should never be assigned security responsibilities or be placed in positions of power over each other.
- The state department of prisons should hire sufficient guards to ensure the effective supervision of inmates under its charge. Also, the state needs to ensure it has sufficient escort agents and vehicles to transport detainees to court houses and to hospitals when needed.
- Prison officials should subject all prison personnel, including guards, to searches upon arrival at detention facilities to prevent the introduction of drugs, weapons, and other contraband.

Prison Conditions

- State prison authorities should ensure that all prisoners are provided basic necessities, including a bunk to sleep on, mattresses, bedding, sufficient and nutritious food, drinking water, and necessary sanitary supplies. Cells should have adequate floor space, lighting, and ventilation.
- Prison authorities should end the practice of keeping detainees who cannot be held with the general population (because they have received threats from other inmates, have been involved in fights, or for any other reason) in punishment cells in the disciplinary wing under inhumane conditions. The safety of detainees should be

ensured without violating their rights, such as by transferring them to other prison facilities, if available, where they do not face comparable threats.

- Prison authorities should strictly follow Brazilian law when penalizing inmates for prison infractions. Conditions in punishment cells in the disciplinary wings should fully comply with international standards and with Brazilian law, including the Brazilian provision that every prisoner has the right, at a minimum, to two hours of access to open-air yards daily.

Medical Care

- State prison and health officials should take immediate steps to provide inmates with medical care on a par with that available to the general population, as required by international law.
- Prison authorities should screen all prisoners for communicable diseases upon entry and at regular intervals, and ensure prompt treatment for those with confirmed disease.
- Prisoners with contagious diseases should be segregated from healthy prisoners and given appropriate medical treatment.
- Prison authorities should offer voluntary HIV counseling and testing to all inmates entering prison and all current inmates, and prompt anti-retroviral treatment to those who need it.
- Prison authorities should ensure that all prison clinics have a consistent supply of essential medications.

Pre-Trial Detention

- The state prison department should adhere to Brazilian and international law, and incarcerate pretrial detainees separately from convicted prisoners. Prison authorities should also separate nonviolent prisoners from those convicted of serious crimes.

Investigation of Abuse Allegations

- Civil police, who are under the authority of the governor, should promptly and vigorously investigate cases of possible abuse of inmates carried out by other inmates, police, or prison personnel.

- Prison personnel should alert civil police, the state Attorney General's Office, the Public Defender's Office, the state Human Rights Ombudsman's Office, and Pernambuco's Mechanism to Prevent Torture, a state-level torture-prevention body, of cases of possible abuses against inmates, as soon as they become aware of them.
- Prison authorities should fully cooperate with civil police and prosecutors carrying out investigations of possible abuses.
- The state of Pernambuco should strengthen the capacity of the Human Rights Ombudsman's Office to collect and help respond to complaints of abuse filed by inmates, their families, and others. The state of Pernambuco should also implement a robust witness protection program.

Oversight

- State prison authorities should grant representatives of human rights groups and other nongovernmental organizations regular access to all detention facilities, and allow them to speak privately with inmates and take pictures of prison conditions.
- State authorities should provide Pernambuco's Mechanism to Prevent Torture with the staffing and resources necessary to fulfill its mandate, and should grant its members unfettered access to detention facilities.

Legal Defense

- Pernambuco authorities should guarantee that low-income detainees have timely access to a lawyer, including by ensuring that the Public Defender's Office has the necessary staffing and resources.

Judiciary

- The judiciary should implement custody hearings throughout the state as soon as possible.
- Judges should, within the bounds of the law, consider the extreme overcrowding in Pernambuco's prisons when deciding whether to incarcerate a detainee pending trial.
- Officials charged with oversight and management of the Pernambuco judiciary should ensure justice is administered in a timely manner, including by pressing state officials for adequate staffing and resources. Nobody should have to wait years for a trial or a hearing, or be held in prison after completion of sentence.

Prosecutor's Office

- Prosecutors should promptly and vigorously investigate allegations of abuse of inmates carried out by other inmates, police, or prison personnel, and, in cases when abuse occurs, prosecute the perpetrators.
- Prosecutors should fully investigate any allegations of corruption or negligence involving prison personnel.
- Officials charged with oversight and management of Pernambuco's Prosecutor's Office should ensure that prosecutors carry out their functions in a timely manner, including by pressing state officials for adequate staffing and resources.

To Brazil's Federal Government

- The federal government should provide financial assistance, including resources from its prison fund, to help Pernambuco finance the reforms called for in this report.
- The federal and state governments should cooperate fully with the Inter-American Commission and Inter-American Court of Human Rights and implement their resolutions and protective measures.

To Brazil's Congress

- Brazil's Congress should approve a bill that would mandate custody hearings throughout the country.

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