

Latin American prisons are overflowing

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NAJAYO, Dominican Republic --

Nobody ever proved Santos Gusman Batista stole the missing DVDs. He was just thrown into prison and told to wait 10 days to learn the charges against him.

Seven months later, he is still waiting.

Latin America's prisons are overflowing with men, women and children who have not been put on trial, much less convicted. Some serve months or years in dangerous maximum security facilities for crimes they did not commit.

The justice systems differ greatly from that of the United States, where defendants are presumed innocent until proven guilty and many cases go before juries. In Latin America, Napoleonic Code-based systems require defendants to prove they are not guilty if an investigation results in their arrest.

Judges usually decide whether to imprison a person based on vague, preliminary accusations filed by police, with formal charges often not entered until trial begins, said Elias Carranza, director of the U.N. Latin American Institute for the Prevention of Crime and the Treatment of Offenders.

Statutes and pressure to cut down on crime prevent judges from checking police practices honed under dictatorships and colonial rule, said Mark Ungar, a City University of New York professor who has visited penitentiaries in Argentina, Venezuela and Honduras.

"Everyone needs to show they're tough on crime by sending people to prison, so they keep stuffing people in," Ungar said.

Thousands of people like Gusman are in prisons, trapped in the long period between arrest and trial.

There are 172,000 prisoners awaiting trial in Brazil alone, its government said.

Four in five Haitian prisoners and three-quarters of prisoners in Bolivia and Paraguay have not been convicted, according to the London-based International Center for Prison Studies.

Of almost 15,000 inmates in the Dominican Republic, roughly two-thirds have not been convicted, according to the Dominican government.

Last year in Venezuela, 59 out of every 100 prisoners were awaiting trial. Two out of every 100 ended up dead, killed in jailhouse attacks or riots.

By contrast, the United States has a prison population of 2.19 million, but only 21 percent were awaiting trial in 2005 - almost all having been formally charged and housed in local jails away from hardcore convicts, the ICPS said.

Gusman, a 31-year-old motorcycle mechanic, has not seen his two daughters since entering Najayo. Of the 1,400 men there, 800 await trial - almost the exact number guards estimate the prison is over capacity.

"I don't know when I'm going to see a judge. I talked to a lawyer but he didn't know what to do," Gusman said, waiting for a doctor to examine his spasmodic left hand. Meanwhile, he remains in the overcrowded pen on a dusty hill outside Santo Domingo.

Throughout prisons in Latin America, overcrowding often overwhelms guards and leaves gangs to run life on the inside. In Brazil, newcomers sleep with the rats on bathroom floors and riots lead to massacres. An Amnesty International investigator said Minas Gerais state police stuff 15 inmates into roofless cages to be drenched by the rain. A jail there built for 16 people was found to be holding 160.

Two years ago in the Dominican Republic, 136 prisoners were incinerated when inmates set a fire in a cell block built to hold 25.

At Najayo, men roam in polo shirts, shorts and flip-flops, pushing their way through rusted metal doors in the tropical heat. Guards in fatigues and designer sunglasses shove their way through the crowd with inch-thick wooden sticks.

An inmate approaches one with a wad of Dominican bills, then saunters off. "You still owe me 50," the guard barks back.

Other prisoners, speaking on condition of anonymity to avoid retribution, say guards charge inmates in exchange for better bunks, free time or goods from home. Tensions sometimes erupt in violence - a brawl here in April injured two dozen people.

It is the poor who usually get swept into jail, while celebrities and rich defendants go free. Chicago White Sox shortstop Juan Uribe attended spring training in Arizona while Dominican prosecutors investigated his role in an October shooting. He later settled the case with an out-of-court payment.

Dominican prosecutors defend preventive lockups.

"In this country, a lot of people live without documentation or don't have an address where they can be found," District Attorney Perfecto Acosta told The Associated Press. "There is almost always a danger of flight."

A recent Amnesty International report accused the Mexican government of using preventive lockups to punish activists. Bolivia imprisoned Marcela Nogales, the general manager of the old regime's central bank, during an investigation some called a political vendetta.

There have been attempts at reform.

Chile re-instituted its penal system in 2002 with new judges and sentencing restrictions. Mexico's president has proposed oral trials and a uniform nationwide criminal code to reduce a 43 percent pretrial imprisonment rate.

Dominican legislators are also considering measures to end long pretrial imprisonment. But those locked up expect they'll always get the short end of the stick.

"If I had more money, they wouldn't have sent me here," Gusman said.