

**HUMAN RIGHTS IN VENEZUELA**

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**Americas Watch**

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The staff includes Kenneth Roth, executive director; Holly J. Burkhalter, Washington director; Gara LaMarche, associate director; Susan Osnos, press director; Ellen Lutz, California director; Jemera Rone, counsel; Michal Longfelder, development director; Stephanie Steele, operations director; Cynthia Brown, consultant; Allyson Collins, research associate; Joanna Weschler, Prison Project director; Kenneth Anderson, Arms Project director; Dorothy Q. Thomas, Women's Rights Project director; and Gara LaMarche, the Fund for Free Expression director.

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\* \* \*

**The report is dedicated to Venezuelan victims of human rights abuse and their family and friends.**

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## **INTRODUCTION**

**In February 1989, Carlos Andrés Pérez (universally referred to as CAP) assumed for the second time the presidency of Venezuela. Four years later he was stripped of his powers and ordered to stand trial on charges of misappropriating seventeen million dollars in public funds. Strong public support for CAP's impeachment is not simply a response to his alleged crimes. It reflects widespread resentment and frustration over increasing poverty, inadequate public services, the effect of economic structural policies the dramatic escalation of violent common crime and a discredited and corrupt political system that denies the majority of Venezuelans channels of political participation while offering fortunes to friends of the ruling clique.**

**Mr. Pérez's tenure was marked by an increase in human rights violations, including arbitrary detentions, torture, extrajudicial executions, the violent repression of popular demonstrations and protests, and a brutal response to a prison uprising. The incidence of such abuses and the judiciary's nearly complete failure to punish those responsible are forceful reminders that Venezuelan democracy does not guarantee the rule of law or respect for human rights.**

**During the 1970s and 1980s, while much of Latin America suffered under authoritarian regimes relying on human rights violations to remain in power, Venezuela was distinguished as the hemisphere's oldest uninterrupted constitutional democracy. The wealth earned from the country's vast, nationalized oil reserves and distributed throughout society via subsidies, patronage and corruption, enabled Venezuela to avoid divisive public policies and to maintain relative social and political tranquility. Then the collapse of the oil bonanza and the subsequent institution in 1989 of structural adjustment policies broke the calm. In the past four years, social conflict and political turmoil, including 1989 riots over economic conditions and two abortive coup attempts in 1992, have exposed the limitations of the country's democratic traditions. Criticism of the corrupted political system and unresponsive public institutions is now common in Venezuela, as are calls for reform to strengthen the rule of law and the rights of individuals.**

**Despite such discontent, the Pérez administration refused to change its policies or to pioneer much-needed reform. Rather, it ceded to the military and to the poorly trained, notoriously corrupt and brutal police forces the task of maintaining order. This period has been characterized by abuses against civilians in certain highly visible cases involving prison inmates, alleged subversives, community leaders and others opposing government policies and practices, while less visible but no less violent abuses take place routinely in poor urban neighborhoods as part of the anti-crime campaign. The number and nature of these abuses are cause for concern.**

**But the test of a government's commitment to human rights is not measured solely by the number of abuses committed. It is also measured by the determination and vigor with which such crimes are prosecuted, by the seriousness and steadfastness of a government's efforts to hold its agents accountable. By this standard, too, Venezuela comes up short. Neither the civilian nor military courts ensure justice as a general matter in human rights cases; where incidents of large-scale official violence are concerned, the courts' inefficiency and delays have been combined with elements of politicization. Venezuelans from every quarter are convinced that the rule of law is a chimera, that justice is a luxury available only to the rich and powerful and that state agents can violate fundamental human rights with impunity. Nor has the government acted to compensate for the courts' failures; even**

**when massacres have occurred, such as the one that suppressed the Retén de Catia prison uprising in November 1992, the government has failed to conduct an official investigation, render accounts to the public or assign responsibilities.**

**The peaceful transfer of presidential powers to an interim president this past May,<sup>1</sup> and the country's ability to withstand two military uprisings in 1992, testify to the strength of civilian constitutional traditions. At the same time, the turmoil of recent years underscores the need for Venezuelans to make a firm commitment to deepening democracy and to securing the rule of law. There is some cause for optimism. Gaining momentum, for example, are political reforms to increase citizen participation in the choice of leaders and to make elected officials more accountable for their actions. There is also widespread consensus on the urgent need for judicial reform. One of the most promising recent developments has been the birth and development of a national human rights effort, led by non-governmental organizations whose work we cite throughout this report.**

**This is the first report Americas Watch has issued on human rights in Venezuela. We have not attempted a comprehensive assessment of all the human rights violations that have occurred in the past five years. Instead, the report examines the structures of the judicial system and archaic statutes that permit the abuse of the right to due process of law; these include aspects of the military justice system as well as inefficiency in the civilian courts and a lack of transparency in internal police disciplinary procedures. The report discusses cases and situations that illustrate some of the most serious kinds of abuses that have occurred in this period. We also report on cases in which judicial conduct has been especially questionable, as in the investigation into the 1988 massacre of fourteen fishermen at El Amparo.**

## **Background<sup>2</sup>**

**Venezuela's democratic political system has been in place since the peaceful ouster in 1958 of Marcos Pérez Jiménez, a flamboyant and flamboyantly corrupt dictator. While military opponents of the dictator formed a regime of transition, civilian political leaders representing the three major parties of the time -- Acción Democrática (AD), the Christian Democratic Comité de Organización Política Electoral Independiente (COPEI), and the Unión Republicana Democrática (URD) -- negotiated the terms for restoring democratic government. The negotiations culminated in a formal accord, the Pacto de Punto Fijo, by which the future rules of governance were established by the country's political elites.<sup>3</sup>**

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<sup>1</sup> Pérez was suspended on May 21, 1993 by unanimous Senate ratification after the Supreme Court decided that grounds existed to try him for misappropriation of public funds. Senate President Octavio Lepage assumed office immediately and held it briefly until the Congress appointed Ramón J. Velásquez. Velásquez was to serve the remainder of Pérez's term until February 1994 (new elections will be held in December) unless Pérez's trial establishes his innocence, in which case he may be able to resume the presidency. At the end of August, Congress voted to make Pérez's suspension permanent, blocking his return to the presidency even if he is acquitted. Pérez is challenging the constitutionality of this vote.

<sup>2</sup> This section draws on the reporting of Americas Watch board member Tom J. Farer, who visited Venezuela in July 1992.

<sup>3</sup> The pact guaranteed that all parties would respect the electoral process and share power in a manner commensurate with the voting results. In addition, the parties promised to maintain a "prolonged political truce

**A new constitution was adopted in 1961. But electoral competition has not empowered the Venezuelan electorate or created an authentic democratic form of governance. Indeed, owing to the preeminence of AD and COPEI, the country's form of government has been deemed a "partidocracy." As one scholar has noted, the two parties "penetrated and came to dominate so many of the other organizations in civil society, including trade unions, that they enjoyed a virtual monopoly over the political process. Furthermore, power was centralized within the parties so that only a handful of leaders needed to be consulted in order to resolve any problems that arose."<sup>4</sup> The small, self-perpetuating though often squabbling elites that rule the parties are known in Venezuela as *cogollos*.**

**The Pacto de Punto Fijo also reflected a promise to the military and the nation's social and economic elites that political power would not be employed to foster radical reforms, and these commitments have been honored. While AD has won more often, COPEI has won often enough to place substantial numbers of its stalwarts in the public administration and to maintain the privileges of patronage. And neither party has sought to alter the inherited distribution of wealth, income and social power. If, until the mid-1980s, Venezuela's middle class was larger and more prosperous, and its popular classes less miserable, than those in most other Latin countries, the explanation lies in the overall national prosperity attendant on being an oil-producing country and in a public policy of broadly distributing the petroleum bonanza.**

**Distribution was effected in part by subsidizing most of the major items in the budgets of poor and modest households, such as food, medicine, transportation, heat and light. The public also shared in oil wealth through steady inflation of the public sector. Unlike subsidies, however, jobs in the public sector were allocated with calculated discrimination through the political parties, forming an important element in the stream of patronage descending from the top of each party to its bases throughout the nation. Most public jobs were ill-paid, but salaries could be augmented by corruption, and many were.**

**Easy oil-based affluence, corruption, complacency and artificial prices did not produce an efficient public administration or a wise allocation of public and private investments. But they did enable Venezuela to avoid social unrest and controversial public policy choices. In the mid-eighties, when the oil bonanza ended, the government averted crisis by pumping debt into the system, an expedient that could work only as long as the local rich would invest at home and foreign lenders were willing to oblige.<sup>5</sup> By 1988 neither condition prevailed.**

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**that would depersonalize debate as well as ensure consultation among the parties. This truce, although not involving explicit quotas of power, required the formation of coalitions and an equitable distribution of the benefits from the State. Regardless of who won the elections, each party was guaranteed some share of the political and economic pie through access to state job and contracts, a partitioning of the ministries, and a complicated spoils system..." T. Karl, "Petroleum and Political Pacts: The Transition to Democracy in Venezuela," *Latin America Research Review*, January 1987, p. 83.**

<sup>4</sup> Michael Coppedge, "Venezuela's Vulnerable Democracy," *Journal of Democracy*, October 1992, p. 35.

<sup>5</sup> During the 1970s, successive governments borrowed heavily to finance infrastructure investments and to cover serious balance of payments deficits. Total debt rose from little more than two billion dollars in 1976 to more than eighteen billion dollars by 1982 and to about thirty-five billion dollars in 1989. By January 1989, falling reserves and declining oil revenues led the government formally to suspend principal and interest payments to commercial banks.

In these circumstances nostalgic for the populist generosity and prosperity of his 1974-79 administration, voters elected Carlos Andrés Pérez a second time. But in 1989, Pérez inherited a nation with exhausted foreign exchange reserves, current-account deficits and huge budget shortfalls. Within weeks of taking office, he stunned the nation by introducing a wholly unexpected packet of neo-liberal economic reforms. His plan included a substantial devaluation of the national currency (*bolívar*), a comprehensive program of tariff and price liberalization, cuts in government subsidies, reductions in public-sector employment and increased private-sector participation in key state-owned industries. The initial results of this program were deep recession and soaring inflation, with prices rising more than 80 percent in 1989. The real GDP plunged almost 8 percent in 1989, and unemployment rose to 10 percent.

From a macro-economic perspective, Pérez's shock treatment succeeded: the 1989 recession was remarkably brief, and Venezuela benefited from the 1991 Persian Gulf war, which both bolstered its oil earnings and highlighted its position as the major long-term oil producer outside the volatile Middle East. By the end of 1991, foreign exchange reserves had risen from virtually zero to thirteen billion dollars, and the formerly moribund economy hummed with commercial energy, evidencing a 9 percent rise in the GDP, the fastest rate in the Americas. The country's economic fortunes remain closely tied to oil, however.<sup>6</sup> And the economy turned sour in 1993, as oil prices slumped. The interim administration of Ramón J. Velásquez has inherited a considerable foreign debt, shrinking foreign reserves, and rising interest and inflation rates. Economists predict that 1994 may be a year of negative growth.<sup>7</sup>

Whatever the merits of Pérez's program of structural adjustments from a macroeconomic perspective, there is no dispute that the costs have been unevenly distributed in Venezuelan society. Poverty has increased, public services have been cut back, and the already broad gap between rich and poor has widened. Real minimum wages in Caracas have fallen to almost half what they were worth in 1987. The number of Venezuelans living in poverty increased markedly, particularly in urban areas. For example, between 1988 and 1991, the number of urban households living in "critical poverty," with incomes inadequate to meet basic food needs, rose from 12.5 percent to 30.6 percent.<sup>8</sup> According to 1990 census figures, only recently released, nearly 45 percent of Venezuelans were living in poverty, with 20 percent living in extreme poverty, after the initial impact of CAP's economic package.<sup>9</sup> More recent figures show that 70 percent of the population lives at or below the recognized poverty line; and of these, almost half lives in critical poverty without the means to support a modestly healthy diet, much less to meet basic needs for clothing, housing and medical treatment.<sup>10</sup>

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<sup>6</sup> Oil earnings account for more than 20 percent of the gross domestic product and 80 percent of the country's foreign exchange.

<sup>7</sup> Heather Scott, "Venezuela '93 Economy Seen Flat, '94 Seen Stagnant," Reuters, August 17, 1993.

<sup>8</sup> James Brooke, "Venezuela's Two-Faced Boom: Riches and Riots," *New York Times*, January 21, 1992.

<sup>9</sup> "Poverty Widespread in Venezuela," Reuters, June 14, 1993.

<sup>10</sup> Programa Venezolano de Educación-Acción en Derechos Humanos (PROVEA), "Referencias" (newsletter), January 1993, citing studies by the Faculty of Economic and Social Sciences at the Central University of Venezuela and the Governmental Foundation Center for Studies on the Growth and Development of the Venezuelan Population (FUNDACREDESA).

**Declining incomes and deteriorating living conditions have led to strikes, protests, anti-government demonstrations and an explosion of common crime. In the first three years of the Pérez presidency there were some 5,000 street protests, with over 2,000 ending in violence.<sup>11</sup> The worst occurred immediately after Pérez took office, when, stunned by the introduction of his economic policies and accompanying transportation, food, water and electricity price increases, the poor of Caracas rioted on February 27, 1989. What began as demonstrations and looting became a bloody confrontation when the armed forces were called in to regain control of the streets. Unencumbered by legal restraints on search, seizure and detention -- the government having suspended constitutional guarantees -- the security forces drove through the vast barrios of Caracas in violent search for loot to be recovered and looters to be detained. The week of rioting and reprisals were given the popular name "*el Caracazo*." Government sources put the resulting death toll at 276 civilians, with 1,522 wounded by gunfire. Human rights organizations report some 400 deaths and disappearances, thousands of injuries and hundreds of arbitrary detentions.<sup>12</sup>**

**Since 1989 and reaching a peak in 1992, Venezuelans have taken to the streets on a weekly, if not daily, basis -- to seek water for their neighborhoods, to protest job layoffs, to demand raises, to oppose tuition hikes, to demand CAP's resignation. Some of the demonstrations have been organized, some have been encouraged and supported by students and/or political radicals, and some have been spontaneous outbursts by people who feel there is no other way they will be heard. Their outbursts testify to the absence of effective channels of political participation in Venezuela's political system. Government and police officials often dismiss these protests by the politically voiceless as the work of subversive agitators intent on destabilizing democracy, yet a viable subversive movement has not existed in Venezuela for more than twenty years. The accusation of subversion is aired as well to round up individuals perceived as unsympathetic to the government, or to justify harsh police actions, including killings during demonstrations.**

**The protests also reveal an erosion in the traditional major parties' power. Discredited by their unresponsiveness and corruption, AD and COPEI are also being weakened by competition from new parties, by political reforms that open the system somewhat, and by Pérez's economic package, which -- by reducing the role of the public sector in the economy -- has begun to diminish the parties' capacity to marshal and manipulate the voters through patronage and services.<sup>13</sup>**

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<sup>11</sup> *Ibid.*

<sup>12</sup> See chapter III.

<sup>13</sup> While the pace of reform is uncertain, the political system is evolving towards one in which the power of the parties will diminish in favor of the electorate. The traditional system in which public officials were chosen by party slates or executive fiat is being phased out. State and city officials are now elected instead of appointed by party headquarters. There is strong public support for adoption of an electoral system known as *uninominalidad* by which the electorate would vote for individual candidates rather than slates of candidates chosen by party leaders.

The two major traditional parties, AD and COPEI, are also losing ground to new parties such as Venezuela's third party, the Movement Toward Socialism (Movimiento al Socialismo, or MAS) and another called Causa R. And as this report is published, the presidential candidate of the upstart National Convergence movement, former Venezuelan president and COPEI founder Rafael Caldera, is ahead in all polls.

**The government has relied primarily on security forces to respond to accelerating social turmoil and protests and to the rise in violent crime that accompanied increasing poverty, the growing availability of arms and the developing drug trade. The police, in particular, were given a role they could not play. An institution notorious for its corruption, incompetence and brutality was asked to restore respect for law and public order.**

**There is scant tradition in Venezuela of police respect for fundamental human rights. In the fight against crime, individuals are detained and homes searched with little regard for the requirements of warrants. Sweeps or *redadas* in poor neighborhoods, in which young men are rounded up for questioning as possible delinquents, are permitted under an archaic vagrancy law (the *Ley sobre Vagos y Maleantes*), an administrative procedure lacking judicial controls and designed to clear the streets without the need for evidence of individual wrongdoing prior to detention. Interrogations conducted in the eight days police may hold a person before turning him over to a judge are accompanied by physical abuse and, in some cases, torture. Equally serious, the police too frequently utilize unjustified force -- including lethal force -- in detaining individuals. Most of these abuses are committed against the poor, although in the political sweeps that followed the coup attempts of 1992, the victims also included targeted individuals such as labor leaders and student activists.<sup>14</sup> Arbitrary arrests, injuries and sometimes death have also been the result of police tactics in quelling protest demonstrations. Although the situation appears recently to have improved somewhat, police all too often fail to handle violent, or even just rowdy, demonstrations with proper restraint.<sup>15</sup> From October 1990 to September 1991, eighty people nationwide were reported killed by security forces; from October 1991 to September 1992, the victims numbered 143;<sup>16</sup> and from October 1992 to June 1993, the number was 128.<sup>17</sup> During 1992, the Public Ministry -- responsible for overseeing the operations of state institutions and the conduct of state agents -- received some 2,500 complaints of mistreatment or misconduct by state agents, principally police agents.<sup>18</sup> The rise in common crime has been answered by a rising incidence of police abuse. And while those implicated in common crime suffer from trial delays and long pre-trial and preventive detentions, and the victims of crime and abuse wait and wait for justice, the Venezuelan courts routinely fail to punish human rights abuse by official forces.**

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<sup>14</sup> See chapter V.

<sup>15</sup> Consider, for example, the killing of Sergio Rodríguez Yance, 27. Rodríguez, a human rights activist who had taken part in PROVEA's human rights monitor training program, was shot and killed on September 23, 1993, as he was participating in a student demonstration violently put down by government forces. He was accused by police and the minister of defense of being a subversive, an accusation rejected by the Catholic Church, PROVEA, and his family.

<sup>16</sup> PROVEA, *Situación de los Derechos Humanos en Venezuela, Informe anual*, (Caracas: November 1992), p. 159. (Hereinafter "PROVEA, Annual report 1992")

<sup>17</sup> According to PROVEA, this figure includes twenty-eight civilians killed during the failed November coup but not the at least fifty-seven killed in the Réten de Catia prison episode the same month.

<sup>18</sup> Human Rights Division of the Public Ministry, "Incidencia de las solicitudes de información de nudo hecho realizadas por el Ministerio Público durante 1.991 y 1.992, y sus resultados," (printout), Caracas, March 1993, p. 2. (See chapter IV.)

## **Year of Crisis: 1992**

**On February 4, 1992, some 1,400 middle- and low-ranking army and air force officers, led by Lt. Col. Hugo Chávez Frías, attempted to overthrow the government, decrying a corrupt and lawless political system. Although they were put down immediately by troops loyal to the President, their proclamations fell on sympathetic ears throughout the country.**

**Nine months later, on November 27, the country awoke to another coup attempt as insurgents bombed military installations and government buildings. Although this attempt was also thwarted in less than twenty-four hours, its suppression proved more violent. Both military uprisings are generally seen as symptoms of the profound crisis of legitimacy into which the Venezuelan political system has fallen.<sup>19</sup>**

**The government responded to both coup attempts by declaring states of emergency and exercising its constitutional prerogative to suspend certain constitutional guarantees, including the right not to be arbitrarily arrested or searched and the rights of free speech, peaceful assembly and free movement. Full liberties were not restored until April after the February 4 attempt; in November, the government lifted restrictions on assembly within forty-eight hours of the coup attempt to enable campaigning for the December 6 nationwide elections for local offices. Full guarantees were not restored, however, until January 18, 1993. After both attempts, thousands of military personnel and civilians were arrested, although most were subsequently released. When protests against the government followed the February coup attempt – including a March 10 *cacerolazo* that began with thousands of Venezuelans banging pots and pans from their windows, and an April 8 *pitazo*, a mass whistle-blowing protest – these demonstrations were violently repressed; press coverage was censored, and venturesome journalists were harassed and in a few cases seriously injured.<sup>20</sup> Protests after the November 27 attempt generally did not reach the same level of intensity, perhaps due to public revulsion over the violence of the second coup attempt and less sympathy with the November 27 conspirators. The government nevertheless responded to the November attempt with a heavy hand and human rights abuse.**

**While most Venezuelans reject a military alternative to democracy, few dispute the rebellious soldiers' critique of generalized corruption, and of a political leadership that abuses public power for its own ends, ignoring the interests of the country. During 1992, in the aftermath of the first coup attempt, proposals for political reform gained new life.<sup>21</sup> That the Supreme Court decided a year later that there**

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<sup>19</sup> Venezuelan analysts point out that the coup attempts also reflected officers' resentment and frustration with the declining standard of living and stagnant wages.

<sup>20</sup> María Verónica Tessari, a journalist for a Colombian news outlet, died on January 15, 1993 from head injuries sustained from being hit by a tear gas cannister lobbed by Metropolitan Police during a protest in Caracas on March 19, 1992.

<sup>21</sup> See, for example, discussions in and recommendations from the National Civil Society Forum (Encuentro Nacional de la Sociedad Civil) held at the Andrés Bello Catholic University in Caracas in May 1993, in which representatives from numerous sectors of society participated in an attempt to encourage a national agenda for the development of Venezuelan civil society.

were sufficient grounds to try the President for misappropriation of public funds, and that the Senate voted to strip Mr. Pérez of his immunity and force him to stand trial, testify to a changed political climate. Even if one views the move to oust President Pérez from office as purely political, that the country continues to withstand the political crisis his ouster has generated without a serious rupture of the democratic process indicates a resolve to challenge the status quo.<sup>22</sup> In light of these developments, it is possible to imagine efforts toward reform that increasingly would be based on broad participation and open public debate.

## **Recommendations**

This report includes cases from a five-year period ending in 1993, and thus reflects the human rights record of the administration of President Pérez. It is not our intention to imply, however, that human rights problems in Venezuela originated with CAP's presidency or will be resolved by his removal from office. Just as he inherited cases of abuse from Jaime Lusinchi's administration, CAP leaves for his successor significant problems to resolve. Human rights violations in Venezuela and the continued failure to curb and redress them speak to systemic shortcomings in Venezuela's democracy. Archaic or questionable law is part of the problem, as is the inefficient administration of justice. Equally important is the absence of political will to enforce human rights protections. Americas Watch releases this report now not to influence partisan debate during an election period, but to support a genuine national dialogue that is already underway in Venezuela, concerning the nation's commitment to fundamental human rights and the rule of law.

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The Venezuelan government has been a strong advocate of human rights and democracy abroad. We urge it to become a human rights advocate at home and publicly and vigorously to demonstrate its commitment to justice in human rights cases. We recommend that it seek out the advice of human rights activists and other professionals who offer serious and creative proposals to strengthen the rule of law. We hope it will identify and take appropriate measures to deter abuses and, when abuses do occur, to hold accountable those state agents who commit them. We also recommend:

- ***Judicial reform.*** Comprehensive reform of the judicial system should be made a national priority, so that timely and impartial justice is available in human rights cases and in general. Reforms should be adopted that reduce the influence of political parties in the selection, appointment and careers of judges; improve the training and pay of judges and judicial support staff; modernize and streamline court administration; and reduce case backlog. Criminal trial procedures should be reformed to increase the pace of justice without sacrificing due-process safeguards. The resources allocated nationally to the administration of justice should be increased.
- ***Review of disciplinary procedures.*** A commission of civilians (including community leaders, human rights activists and lawyers), judges, representatives of the Public Ministry, and police

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<sup>22</sup> It should be noted that the Supreme Court also is currently investigating President Pérez's immediate predecessor, Jaime Lusinchi, also on charges of misuse of public funds.

**officials, among others, should be created to investigate the efficacy of existing internal administrative mechanisms for deterring human rights violations and disciplining abusive agents, and to make public recommendations for reforms. Among such reforms, we urge public disclosure of the findings and results of administrative investigations.**

- ***Review of the military justice system.*** The structure and functioning of the military justice system should be reviewed to ensure that it meets Venezuela's constitutional and international due-process and fair-trial obligations. We strongly suggest that military court jurisdiction over matters involving civilian defendants or victims be abolished because of the inherent difficulties of securing impartial justice from military judges in such cases. We also believe that articles 224 and 54 of the Military Justice Code – which permit the President of the Republic to intervene in military court cases – should be repealed in cases involving civilian defendants or victims.
- ***Reduction of delay in abuse cases.*** The government should review and reform -- if not abolish -- all procedures that unnecessarily delay the prosecution of official agents. One such procedure, known as *averiguación de nudo hecho*, ties up human rights cases for years, giving state agents de facto temporary immunity from prosecution and thus contributing to impunity.
- ***Repeal of the vagrancy law.*** We urge repeal of the Ley sobre Vagos y Maleantes as contrary to national and international human rights standards. The law permits the prolonged administrative detention of individuals without warrant, trial or judicial appeal and promotes police abuse.

**We also urge the government of the United States to use a range of private and public opportunities, in addition to the State Department's annual human rights report, to condemn human rights violations in Venezuela, and that it condition aid to Venezuela's military and police on strict adherence to international human rights standards.**

## **I. ADMINISTRATION OF JUSTICE**

**The administration of justice in Venezuela is in crisis. Ordinary -- or civilian -- courts are undermined by politicization, corruption, inefficiency and lack of resources.<sup>1</sup> They offer scant assurance of the impartial, independent and expeditious proceedings justice requires. And the military courts, by their nature and function, are ill-suited to ensure justice when the law gives them jurisdiction over cases with civilian victims or defendants. The Venezuelan courts are thus unable to play their constitutional role securing the rule of law.**

**The weakness of the courts also prevents them from ensuring accountability for abuses by state agents and redress for their victims. As a consequence, Venezuelans lack a key mechanism for deterring human rights violations and protecting fundamental rights. Moreover, while the critical condition of the courts affects everyone, it particularly burdens the poor, who are the defendants in most criminal proceedings and also the victims in most cases of abuse by the security forces.**

**The Constitution requires the Public Ministry, under the direction of the State Prosecutor (Fiscal General de la República) -- who is appointed by Congress,<sup>2</sup> to monitor the behavior of all arms of Executive power to assure compliance with the law. The State Prosecutor provides opinions to the courts regarding the prosecution of penal cases and acts as public ombudsman to bring to the attention of proper authorities misconduct by public employees, violations of the constitutional or human rights of prisoners, and any failure of the courts to comply with legal requirements regarding processing and disposition of cases. The ability of the Public Ministry to safeguard the rule of law is limited, however, because it lacks the authority to punish or remove delinquent officials or to mandate changes in their operations.**

### **Ordinary Courts**

**The Venezuelan judiciary consists of a Supreme Court, with fifteen magistrates serving nine-year terms, and 1,085 lower level courts, including appeal, trial and district or municipal courts. The trial and appeal courts are almost equally divided between those dealing with civil and penal matters.**

**The penal courts have jurisdiction over civilians, including members of the police accused of committing crimes during the performance of their duties. A separate system of military courts has jurisdiction over members of the military, including those accused of human rights violations, and exercises jurisdiction over police when the police have been acting under military direction.<sup>3</sup> As in most**

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<sup>1</sup> Such problems are not limited to the courts; they are said to plague most Venezuelan public institutions, including those responsible for the administration of justice in addition to the courts. *See*, for example, Andean Commission of Jurists, *Venezuela: Administración de Justicia y Crisis Institucional*, (Lima: 1992).

<sup>2</sup> In Venezuela, the Public Ministry (or State Prosecutor's Office) is known as the Ministerio Público or Fiscalía General de la República. It is often mistranslated as the Attorney General's Office. Because the functions of the State Prosecutor (discussed below) differ significantly from those of the Attorney General in the United States, we have opted to translate "Fiscal General" as "State Prosecutor," and not as "Attorney General."

<sup>3</sup> See discussion below.

of Latin America, the role of the judge in Venezuelan criminal proceedings is pivotal. He or she is responsible for prosecuting the case by developing the facts -- directing the investigations undertaken by the judicial police (Policía Técnica Judicial, or PTJ), taking testimony, witnessing special court-ordered proceedings such as exhumations -- as well as for weighing the evidence and applying the law.<sup>4</sup> Although lawyers (*fiscales*) of the State Prosecutor's Office, defense attorneys and private citizens can request the court to take certain actions, the judge need not act. Ultimately, movement in a case depends on the individual judge's will and effort. In complicated multi-faceted proceedings involving numerous victims and possible defendants, the volume of paperwork and investigative tasks required simply to formulate indictments can overwhelm the most conscientious judge. They can also provide a plausible cover for judicial inaction: a trial judge reluctant to proceed expeditiously on a sensitive case can easily go slow. The La Peste case, involving scores of bodies buried haphazardly in Caracas's General Southern Cemetery in March 1989, is one example of a legal investigation in which cumbersome procedures apparently have combined with political sensitivity to produce a disturbing lack of progress (see chapter III).

Venezuelans believe the independence and integrity of the ordinary courts are compromised by corruption and the undue influence of external factors, including party politics. The extent of corruption is difficult to determine, as there are few proven cases. Nevertheless, the perception is widespread -- among lawyers, judges and *fiscales* as well as ordinary citizens -- that corruption has tainted every level of the judicial system, and particularly the lower courts.

Improper judicial conduct responds to many factors including the absence of a tradition of high judicial ethics, poor pay, a legal system that permits *ex parte* contacts and the absence of an effective judicial disciplinary system. Minimal professional qualifications also contribute; while there is a qualifying exam for the judiciary, passing grades are reputed to be set very low. Large numbers of law graduates with marginal legal skills and hence few professional alternatives become eligible for appointment to the bench. Venezuelan judges face all the ethical temptations that judges do everywhere but with few structural or institutional safeguards to encourage or require resistance.<sup>5</sup>

A Judicial Council (Consejo de la Judicatura), created by Congress, is responsible for administering the judiciary, including selecting and training judges, monitoring court performance and undertaking disciplinary proceedings for court personnel. Traditionally, the selection and appointment of new judges by the Judicial Council have been frankly partisan. Since 1991 however, the Council has implemented open competitions to fill court vacancies and has made an effort to increase the transparency and use of non-political, objective criteria in selecting and appointing new judges. Yet politics still intrudes on the judiciary. Lower court judges are not given life assignments to particular courts, and they remain under the scrutiny of the legislature after their appointments. The main political parties, acting through their representation on the Judicial Council, secure the reassignment and promotion of judges for partisan and other purposes.

While the impact of external factors such as graft and politics can be disputed, no one contests

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<sup>4</sup> A penal trial court judge in Venezuela combines functions and attributes that are divided in the U.S. criminal system among prosecutors, grand juries and judges.

<sup>5</sup> Judges' assistants are at similar risk.

**the overwhelming obstacles to justice arising from inefficient court administration,<sup>6</sup> serious case backlogs, procedural congestion and judicial delays. Available data from 1990 indicate that the average penal trial court receives 675 new cases per year and has 3,000 to 7,000 cases in process. Decisions are reached annually on only 120 cases per court.<sup>7</sup> In 1990 the average criminal court in Caracas took "252 more days to complete its investigation phase beyond the mandated thirty-four days. Likewise, the court required 726 more days to complete its actions to reach the sentencing phase beyond the mandated sixty-eight days."<sup>8</sup>**

**Justice delayed can be justice denied. Fewer than one-third of Venezuela's prisoners have been sentenced. Many of those who are eventually convicted will have spent more time in prison by the date of final sentencing than the maximum sentence permissible for their crimes.<sup>9</sup> According to the Public Ministry, about thirteen percent of those prisoners awaiting final adjudication will be found innocent and a significant percentage of those will have served as long in prison as if they had been convicted, or longer.<sup>10</sup>**

**There appears to be a growing consensus in both government and the private sector regarding judicial problems and the urgent need for solutions. Suggestions for sensible reform abound; what is needed are the political will and leadership to move forward. At a minimum, the country should increase the resources allocated to the judiciary. Judicial spending in Venezuela is low both in absolute and relative terms. Less than 1 percent of the national budget for Fiscal Year 1993 was allocated to the Public Ministry, the Judicial Council, the Supreme Court and the judiciary combined.<sup>11</sup> When the amount dedicated to the Ministry of Justice (which oversees prison administration and the Technical Judicial Police, upon whom the judiciary relies for criminal investigations) is added, the sum still falls below 2 percent of the national budget, and is scarcely more than the amount dedicated to the office of the Presidency (about 1.5 percent compared to 1.3 percent).<sup>12</sup>**

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<sup>6</sup> Court administration suffers from outdated office technology, inconsistent and disorganized case filing and follow-up and other inefficient procedures for case control, duplication of effort, inadequate supplies, weak administrative and logistical support to the judges and inappropriate physical facilities. For example, the court handling the complex La Peste case (see chapter III) manages thick case files without computer support. The lack of appropriate support aggravates the problems inherent to written judicial proceedings that require the production of voluminous reports by all participants at every step.

<sup>7</sup> World Bank, "Venezuela Judicial Infrastructure Project, Staff Appraisal Report," (Washington, D.C.: July 15, 1992, p. 7.

<sup>8</sup> *Ibid.*

<sup>9</sup> The judicial backlog also has contributed significantly to the vast overcrowding in Venezuela's prison system (see chapter VI).

<sup>10</sup> World Bank, "Judicial Infrastructure Project," p. 8.

<sup>11</sup> The budget was published in the *Gaceta Oficial*, December 10, 1992 (No. 4.498 Extraordinario), p. 16.

<sup>12</sup> *Ibid.* According to the Judicial Council, the percentage allocated to the judiciary has declined over the past several decades, falling from slightly over 3 percent in the 1950s. In comparison, the Costa Rican constitution requires that 6 percent of the national budget be reserved for justice.

## **Prosecution of Police**

**The perception is widespread in Venezuela that most human rights violations by the police are committed with legal impunity.<sup>13</sup> The many lawyers, judges, human rights activists and victims of abuse with whom we have met are unanimous in their conviction that the judicial system does not hold individual law enforcement agents accountable for their crimes. The cases with which we are familiar support the contention that members of the security forces are rarely indicted for abuses against civilians. Those few indicted are rarely convicted, and even then the sentences are usually light, suspended or reduced or reversed on appeal.<sup>14</sup>**

**The lack of legal accountability for human rights abuses has many causes, including problems with the courts and judicial procedure noted above. But Venezuelans have noted other factors as well. There is, for example, the difficulty of obtaining information and cooperation with judicial investigations from the police because agents close ranks against outsiders, a form of loyalty which -- absent a firm commitment by the police hierarchy to ensure abuses are uncovered and punished -- constitutes an obstacle to justice in many countries. Venezuelan analysts also point to more general attitudes which support impunity, such as the acquiescence to abuse of the political and economic elite who are either indifferent to the plight of the poor (the victims of most human rights violations), or who condone (if not encourage) harsh responses to urban crime and social unrest. Analysts also cite the traditional acceptance of authoritarian conduct which is woven into the political culture and the relative paucity of efforts within Venezuelan civil society to educate citizens about their rights and to assist them with their vindication.<sup>15</sup>**

**Police impunity is also promoted by a pre-trial procedure ostensibly intended to protect public officials from irresponsible accusations. The *averiguacion de nudo hecho* is a preliminary investigation carried out by a court, usually at the request of a fiscal of the Public Ministry<sup>16</sup> in response to a complaint of unlawful conduct by state agents, such as police abuse.<sup>17</sup> The investigation, designed as an expedited**

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<sup>13</sup> The perception that members of the military commit human rights abuses with impunity is also widespread, although the instances of abuse are less frequent.

<sup>14</sup> Many Venezuelans have told Americas Watch that internal police procedures for administratively sanctioning abusive agents are also ineffectual. Although Americas Watch was able to meet with several high-ranking police officials, our discussion of disciplinary mechanisms was brief and preliminary. We hope in the future to undertake a detailed look at these mechanisms and their results.

<sup>15</sup> As this report shows, however, there is significant cause for optimism; many non-governmental human rights organizations are leading efforts to prevent and redress abuse. For example, PROVEA has initiated training programs for human rights activists throughout the country; and, victims of human rights abuse and their relatives have learned how to seek justice by working with groups such as COFAVIC and the Red de Apoyo.

<sup>16</sup> Although private individuals are legally entitled to go directly to the court to request the opening of a nudo hecho proceeding, in practice they rarely do. This discussion therefore refers only to nudo hecho investigations initiated by the Public Ministry. A slightly different procedure exists for cases initiated by private individuals.

<sup>17</sup> Nudo hecho proceedings are an exclusive privilege of state agents.

**process, should determine whether the individual named in the complaint was a state agent on active duty when he committed the alleged acts and whether those acts, if proven, would constitute a crime. No criminal proceeding can begin against a public agent until completion of a nudo hecho investigation. If the Public Ministry decides to file charges at the end of the investigation, and they involve a crime which carries a prison sentence, then the agent must be removed from duty and turned over to the courts. Until then, the agent is entitled to remain free and in public service.<sup>18</sup>**

**In 1992, the Public Ministry requested 2,572 nudo hecho proceedings nationwide, essentially the same number as in 1991. Of these, almost ninety-five percent were directed at members of the various security forces, principally the Metropolitan Police. Nationally, physical injury [*lesiones*] accounted for seventy-two percent of the complaints, followed by unlawful detention (with 9.4 percent of complaints). In the federal district and the State of Miranda (including the city of Caracas), however, the second- greatest number of complaints was for homicide.<sup>19</sup>**

**Based on the results of the investigation, the Public Ministry decides whether criminal charges should be brought against the agent. The State Prosecutor's Office will, however, abstain from filing charges if it deems the conduct complained of did not constitute a crime; that the complaint lacks foundation; or that the evidence is clearly insufficient. In 1992, out of 941 nudo hecho proceedings reaching some form of final resolution, 224 ended with Public Ministry abstentions; in 1991 out of 1,029 resolved cases, 168 ended with such abstentions.<sup>20</sup>**

**We lack information suggesting the State Prosecutor's Office abuses its discretion in the cases in which it abstains. However, eminent jurists such as Gonzalo Rodríguez Corro, president of Venezuela's Supreme Court, strongly criticize this exercise of discretion by the Public Ministry, insisting the law does not give them authority to make what are essentially judicial decisions, such as determining whether the act cited in a complaint was justified.**

**Nudo hecho investigations should take no more than a few weeks: the facts to be ascertained are few in number and should, in theory at least, be easily determined.<sup>21</sup> Moreover, by law the court is**

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<sup>18</sup> Police officials told Americas Watch in June 1993 that agents who have committed extremely serious crimes such as homicide are immediately suspended from duty and turned over to the courts. While we have not yet been able to verify the extent to which this claim is true, investigations to date suggest that police suspected of committing grave human rights violations are not routinely removed from their posts and turned over to judicial authorities for investigation (see chapter IV).

<sup>19</sup> Human Rights Division of the Public Ministry, "Incidencia de las Solicitudes de Información de Nudo Hecho Realizadas por el Ministerio Público durante 1.991 y 1.992, y sus Resultados," (mimeo) March 1993, p. 9.

<sup>20</sup> *Ibid.*, p. 7.

<sup>21</sup> The investigations are limited to obtaining: certification from the police that the person complained of was and is still (at the time of the nudo hecho proceeding) an agent and that the person was on duty at the time of the event; information from the judicial police (PTJ) regarding any investigations it may have conducted into the alleged crime; and any other investigation the judge deems appropriate. See generally, D. Díaz-Llanos Montes and V. Marrero Trujillo, "Impunidad y Desigualdad de la Justicia Penal Venezolana: Estudio Comparativo de los Homicidios Cometidos por Delincuentes Comunes y Funcionarios Policiales," (Mimeo, Caracas:1992), pp. 119-120.

**expected to give nudo hecho proceedings precedence over other matters.<sup>22</sup> In practice however, nudo hecho investigations can languish for years.<sup>23</sup> The investigation, which is conducted in secret, can be delayed by uncooperative police who stall before producing the requested information. Indifferent or recalcitrant judges can themselves delay progress, and neither the State Prosecutor nor the victim has legal means to force them to act.**

**The nudo hecho procedure thus gives a state agent a de facto temporary immunity from prosecution which, in fact, is frequently quite prolonged. Moreover, this temporary immunity can become permanent in those not infrequent cases in which the statute of limitations runs out before the nudo hecho investigation concludes and criminal charges can be brought.**

**Americas Watch joins the numerous Venezuelans who believe that nudo hecho proceedings ill serve the cause of justice. It is difficult to understand the justification for a proceeding which accomplishes little except to add further delay to the already near-paralyzed criminal justice system. We urge the government to reform -- if not abolish -- this and any other unnecessary proceedings which contribute in practice to impunity.**

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<sup>22</sup> **Art. 939, Code of Civil Procedure (Código de Procedimiento Civil).**

<sup>23</sup> **See generally, Díaz-Llanos Montes and Marrero Trujillo, "Incidencia," p. 8 ("es posible que tome varios años antes de que el Ministerio Público pueda tomar una decisión...")**

## **Military Courts**

**Under the Military Code of Justice, enacted in 1938,<sup>24</sup> military courts have jurisdiction over members of the military who violate the military code or who commit common crimes while on active duty.<sup>25</sup> They also have jurisdiction over civilians accused of crimes under the military code, whether they act jointly with or separately from military offenders.<sup>26</sup> Thus, for example, military courts are hearing the cases of civilians charged with military rebellion for their participation in the November 27, 1992 coup attempt.<sup>27</sup>**

**Many features of the system of military justice in Venezuela raise concerns for human rights and the rule of law. Of particular concern to Americas Watch is military jurisdiction over civilians and over cases in which members of the military are accused of abuses against civilians.**

**We question, for example, whether Venezuelan military courts trying civilians can protect the fundamental right of every Venezuelan to be tried by independent and impartial tribunals.<sup>28</sup> Since military judges in Venezuela are officers within a chain of command under the President, they are, by definition, not independent. Nor can they reasonably be expected to be impartial in cases in which civilians have challenged the military's mission and traditions, such as cases in which civilians are tried for rebellion against the government. Moreover, the principles justifying military jurisdiction over uniformed personnel have no validity vis-a-vis civilians. Military personnel enjoy a particular legal and moral status stemming from their constitutional role and the armed power they legally wield. They are bound by specific duties to abide by disciplinary codes; they owe special loyalty to their country and its laws as well as to their superiors and comrades. It is this set of norms attached to the role of the military that justifies military oversight of its members for disciplinary breaches and disloyal performances. It cannot justify military court jurisdiction over civilians.**

**Americas Watch is also concerned that military courts which try soldiers accused of common crimes against civilians, may lack the judicial independence and impartiality needed for justice. Traditions of loyalty can impede impartial determination of the facts, scrupulous adherence to procedure, and sound legal rulings. Our experience studying human rights in numerous countries has**

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<sup>24</sup> The Code was enacted twenty years prior to the installation of Venezuela's democracy, and twenty-three years before Venezuela's Constitution entered into force.

<sup>25</sup> There are three levels of court: military tribunals of the first instance, Permanent War Councils (consejos de guerra), and the cortes marciales (courts martial), which are the highest military courts. They are all staffed with judges drawn from officer ranks.

<sup>26</sup> Article 123.

<sup>27</sup> Art. 486 of the Military Justice Code defines participants in a military rebellion as persons who aided or contributed to the insurgency.

<sup>28</sup> See, American Convention on Human Rights, Art. 8 (Right to a Fair Trial) and Art. 25 (Right to Judicial Protection); International Covenant on Civil and Political Rights, Art. 14 (right to "fair and public hearing by a competent, independent and impartial tribunal established by law"); Universal Declaration of Human Rights, Art. 10 (right to "fair and public hearing by an independent and impartial tribunal").

**convinced us that military courts are unlikely to be impartial arbiters of justice when the judge, prosecution and defendants' are all members of the military and the victims of the defendants alleged conduct are civilian. The Venezuelan military courts are no exception. We note, for example, the failure of the Venezuelan military courts to convict even a single policeman or soldier in the hundreds of cases of deaths and woundings of civilians in the "Caracazo" riots of 1989, although nearly five years have passed since those events.<sup>29</sup> Similarly, we note the strained efforts of the court in the El Amparo case<sup>30</sup> to discredit and deny evidence which indicated the military defendants had killed fourteen civilians in cold blood.**

**The threats to judicial independence and impartiality present in any system of military justice are aggravated in Venezuela by the extraordinary authority given to the President to intervene directly in military trials, through articles 224 and 54 of the Military Justice Code. Article 224 requires that every case before the military courts pass to the President after the initial instruction, or sumario, stage has terminated and the crime(s) and perpetrator(s) are identified. The President alone then decides whether or not the case should continue. Equally troubling is Article 54, which authorizes the President, in his capacity as commander in chief of the armed forces, to order the "non-opening" of investigations or the suspension of trials, at any stage of the proceedings, "when he judges it to be suitable."<sup>31</sup>**

**Articles 224 and 54 thus empower the President to prevent or dismiss any military judicial inquiries, for any reason, at any time. Presidential decisions based on these articles are not reviewable by the Venezuelan Supreme Court, unlike other decisions within the military court system.**

**With Articles 224 and 54, all pretense of the pursuit of justice is discarded; political determinations can override strict adherence to the law. The role granted the President in judicial proceedings by Articles 54 and 224 clearly eliminates the impartiality and independence from outside pressures which are essential to a fair trial. We believe for this reason that these articles are incompatible with and in violation of the American Convention on Human Rights, Article 8 of which provides that every person "has the right to a hearing...by a competent, independent, and impartial tribunal..." The threat to basic rights posed by these articles is not hypothetical. For example, relying on Article 54, the President ordered the "non-opening" of an investigation into alleged judicial misconduct in the trial proceedings that followed the 1988 killings of fourteen civilians in El Amparo.<sup>32</sup>**

**Alleging irregularities in the actions of Maj. Ricardo Pérez Gutierrez, the military judge handling the criminal trial proceedings on the El Amparo massacre, attorneys for the victims and other interested parties requested that the Permanent Court Martial of San Cristóbal investigate the judge's actions.<sup>33</sup>**

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<sup>29</sup> The events are discussed in chapter III.

<sup>30</sup> The case is analyzed in chapter II.

<sup>31</sup> Art. 54 (2) and (3).

<sup>32</sup> Article 54 has been invoked on other occasions as well by President Pérez. In March 1992 Pérez ordered the suspension of a military trial in the 1990 death of civilian Raúl Ortíz. In 1990 Pérez ordered that an investigation into the conduct of a Col. José Alberto Vicuña be discontinued.

<sup>33</sup> For example, Judge Pérez Gutierrez allegedly recorded false facts and hid evidence during the proceedings, acts punishable under the Military Justice Code. In so doing, the judge may have made himself an accessory of the

**Questions concerning the professional and ethical conduct of Judge Pérez were so prevalent that the Venezuelan Congress called for a thorough investigation into his activities from the date he assumed his judicial post. Nonetheless, on February 16, 1990, the Fiscalía General de la República, or State Prosecutor's Office, issued a formal letter stating that the President had ordered the "non-opening" of the investigation.**

**On August 3, 1990, representatives of Venezuelan and international human rights organizations submitted a petition to the Inter-American Commission on Human Rights asserting that Article 54 violates the American Convention on Human Rights (see chapter II).<sup>34</sup>**

**As described above, neither the civilian nor military courts can adequately protect human rights in Venezuela. Neither forum is equipped to ensure justice in cases of abuse committed by state agents. As a result, human rights violators are rarely punished and victims and their relatives infrequently seek redress. Abusive agents receive scant indication from the state that their conduct is wrong, and may continue to violate human rights, as may their colleagues. Those who suffer the abuse or its immediate effects lose faith in state institutions ostensibly there to protect their rights.**

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**officials he should have been investigating. If true, this would constitute an example of the kinds of problems discussed above concerning the impartiality of judges in military trials.**

<sup>34</sup> Americas Watch is a co-petitioner in this proceeding.

## **II. THE EL AMPARO MASSACRE**

**On October 29, 1988, members of the Comando Específico General en Jefe José Antonio Páez (CEJAP), a special military-police unit which monitored the porous Venezuelan border with Colombia, shot to death fourteen men on a fishing excursion near El Amparo, in southwestern Venezuela.<sup>1</sup>**

**After four years of dogged perseverance by lawyers for the aggrieved, human rights activists, the Catholic Church, members of Congress and others pressing for truth and justice, a military court of appeals (Corte Marcial Ad Hoc) on March 2, 1993 imposed prison sentences of seven-and-a-half years on fifteen CEJAP defendants for the crime of intentional homicide.**

**The court accepted the defendants' claims of having killed the victims while defending themselves during an armed confrontation; it nonetheless refused to exonerate them completely because of their excessive use of force. The court's skewed handling of the evidence, its failure to pursue lines of inquiry that may have countered the defendants' claims, and its shoddy reasoning, culminating in a shockingly light sentence, demonstrate how far military courts will go to protect their own.**

### **The Massacre**

**The now-disbanded CEJAP, a special unit of military and police agents operating within the Ministry of Defense, was created by presidential decree in October 1987 to combat smuggling, drug trafficking, criminal activities by Colombian guerrillas who cross into Venezuelan territory and other problems along the Colombia-Venezuela border. The history of CEJAP is murky; whatever it accomplished in terms of its ostensible goals, it also earned a reputation for lawlessness and violence. According to PROVEA, for example, CEJAP was responsible for the murders of an additional fourteen people in 1988.<sup>2</sup>**

**According to the CEJAP defendants, the El Amparo killings occurred in the course of their efforts to investigate and respond to Colombian guerrilla kidnappings and extortion of Venezuelan ranchers and attempts on local oil installations. Intelligence sources had informed them that a group of armed guerrillas would be arriving in the area, travelling by boat on the Caño La Colorada, a tributary of the Arauca River which delineates the Colombia-Venezuela border. On the morning of October 29, 1988, twenty members of CEJAP took up positions near the expected landing area. When the victims arrived and disembarked, the commander of the CEJAP unit ordered them to halt. According to the defendants, the victims ignored the order and opened fire, forcing the CEJAP unit to defend themselves.**

**Other participants in the events directly contradict CEJAP's version. Two individuals, Wolmer**

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<sup>1</sup> Although the massacre occurred during the Lusinchi administration, we include the case in this report both because of the inherent significance of a human rights crime of this magnitude and for what it reveals about the quest for justice against military defendants.

<sup>2</sup> See, PROVEA, Annual report 1992, p. 55.

**Gregorio Pinilla and José Augusto Arias, claim to have been on the ill-fated expedition with the fourteen victims. They testified in court -- and their testimony was corroborated by a CEJAP informant<sup>3</sup> as well as other evidence -- that the group had been on a fishing expedition and had been attacked without warning.<sup>4</sup> Pinilla and Arias managed to escape by jumping into the river and swimming away under water. They insisted that neither they nor any of the victims were guerrillas. Indeed, no evidence has been produced in the case to indicate that the members of the fishing expedition were guerrillas.<sup>5</sup>**

**The CEJAP defendants testified that they killed the fourteen victims during a fifteen- to twenty-minute exchange of gunfire. All the CEJAP agents emerged unscathed. It is scarcely credible that in an armed confrontation, at an alleged range of twenty to thirty meters, none of the CEJAP members would have been injured by gunfire or by a grenade, which they claim the victims had lobbed at them. Other than the defendants' testimony, there is no physical evidence that the victims actually fired at the CEJAP unit. Police investigators who arrived at the scene hours after the killings reported finding eight firearms alongside the victims' bodies -- a mix of deteriorated and outdated pistols, rifles and submachine guns, plus three grenades and some explosives. The examination of the weapons by investigators of the Technical Judicial Police indicated that some of the weapons had been fired -- although nothing established whether they had been used on the day or in the area in question. Bayona Ríos, the CEJAP informant, claimed that CEJAP planted the arms after the victims had been killed.<sup>6</sup>**

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<sup>3</sup> Huber Bayona Ríos (aka "Yaruro"), a Colombian serving as a CEJAP informant, confessed to Venezuelan military intelligence that he had taken part in what had been a planned massacre. He subsequently recanted his confession, saying it had been extracted under duress (see below).

<sup>4</sup> Supporting testimony presented to -- and accepted by -- the court included that of a man who lent his boat to one of the victims who had indicated he planned to use it for a fishing expedition as well as that of another man who had been invited to come along but who had declined.

<sup>5</sup> Army General Humberto Camejo Arias testified to the Congressional commission which investigated the massacre (see below) that the victims may have been fishermen, but by virtue of where they lived, were undoubtedly guilty of something:

**[N]o one denies that they were humble fishermen, but they were involved, for this symbiosis that there is, this union between crime and non-crime, in this mix there exists a desire for the Colombian and the Venezuelan. [T]hat everyone is a participant in everything there, practically in these river regions everybody is into something... I'm not going to say that they were guerrillas. I could say to you that they are men who, won over by foreign or Colombian subversion, become part of these groups, for fear that their families or themselves would be affected, or because they like it, or simply because they receive money as a result of a job [...] [T]here in those river zones... practically nobody saves himself from being involved in whatever type of crime, however small it may be; there everybody is involved... [T]here were seven Colombians, not one, seven Colombians with double identity papers, double identity papers, then this mix of elements is what makes these poor men, humble fishermen really, all of a sudden involved in these crimes... but the CEJAP is there, carrying out an operation, only waiting for a criminal act, an act of combat to take place... (Report of the Comisión Especial de la Comisión Delegada para Conocer los Hechos Ocurridos en El Amparo, Estado Apure [hereinafter Commission Report], pp. 49-50 [translation by Americas Watch].)**

**The Commission noted that not one of the victims had a criminal record, and that none was believed by Venezuelan military or Colombian intelligence to be a subversive. (*Ibid.*, p. 53.)**

<sup>6</sup> Bayona Ríos later recanted his testimony, saying it had been forced. Although initially detained for his participation in the events, the judge hearing the case, Maj. Ricardo Pérez Gutiérrez immediately released him after

**Prompt and careful examination of the site and the victims' bodies -- for example, paraffin tests to determine whether the victims had fired any weapons -- could have shed much light on the events. Unfortunately, thirteen of the fourteen bodies were buried without autopsies; the evidence at the site, including guns, bullet casings, clothes and bodies, was handled carelessly by unauthorized personnel; and the investigations at the site by the Technical Judicial Police (Policia Técnica Judicial, or PTJ) were late and wholly inadequate. The PTJ did not begin its investigation until approximately five hours after the killings, and its procedures were sloppy to the point of negligence.<sup>7</sup> Examinations of the corpses conducted one month after the massacre, however, offer powerful support for the claim of the two survivors and the victims' families that what happened at El Amparo was a massacre.**

**On November 26 and 27, thirteen bodies of the fourteen victims were exhumed and forensic examinations undertaken.<sup>8</sup> A special Congressional Commission investigating the massacre sought the exhumations, which required a court order. The first military judge responsible for the case, Maj. Ricardo Pérez Gutiérrez, initially refused the Commission's request for the exhumations. Faced with the congressmen's persistence, however, and lacking legal grounds for his refusal, Maj. Pérez ultimately acquiesced and ordered the exhumation and forensic examination of the corpses. In addition, the Congressional Commission enlisted Jack Castro Rodríguez, a Venezuelan forensic specialist and former director of the Legal Medical Institute (Instituto de Medicina Legal or IML), to examine the bodies simultaneously. The autopsy results are listed below.<sup>9</sup>**

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he recanted. Bayona Ríos has not been heard from since.

<sup>7</sup> See Commission Report, pp. 45-46.

<sup>8</sup> According to Congressman Walter Márquez, the victim Carlos Antonio Eregua was transferred to Arauca, Colombia, where his corpse was examined by Colombian forensic specialist Gustavo Ramiro Simbaqueba before the body was buried on November 1, 1988. Walter Márquez (with Germán Carías), *Comandos del Crimen: La Masacre de El Amparo*, Fuentes Editores (Caracas: November 1992), p. 112. A congressman of the MAS party, Márquez has actively sought justice in the El Amparo case and served on the special Congressional Commission investigating the massacre.

<sup>9</sup> The sources for the following table are: for name, age, profession and nationality, Márquez (with Carías), *Comandos del Crimen*, p. 29; for injuries sustained for all but Carlos Antonio Eregua, autopsies realized on thirteen of the victims November 26-27, 1988 by Cuauhtémoc Abundio Guerra and Nelson Jesús Báez, Military Court of Appeals decision, case file, pp. 231-57.

Regarding the nationality of the deceased, it is apparently not uncommon for residents of the El Amparo region to have identity papers from both Venezuela and Colombia. The Congressional Commission stated that all but one of the sixteen fishermen (including the two survivors) were Venezuelan (Commission Report, p. 53).

Name	Age, profession, nationality	Injuries sustained
José Indalecio Guerrero	51, boat machinist, Venezuelan	shot in stomach, no exit wound; entrance wound in stomach with two exit wounds in back; shot in neck, near right shoulder, exit wound left lumbar region; finger on left hand and right arm injured from shot(s) from firearm
Rafael Majín Moreno	45, fisherman and farmer, Venezuelan	entry wound on right side of mouth -- shot trajectory right to left, top to bottom and front to back; entry wound right scapular region without exit wound
Julio Pastor Ceballos	43, mason, Colombian	entry wound rear left jaw, causing shattering of skull; evidence of entry wound in mid, right region of back ribcage
José Ramón Puertas	30, daylaborer and fisherman, Venezuelan	entry wound in left side of back
José Rigoberto Araujo	36, fisherman, Venezuelan	entry wound in right, rear side of head causing skull to shatter; entry wound in left side of thorax, with exit wound in left back
Emeterio Mariano Vivas	34, Venezuelan	entry wound in left upper jaw, no exit wound; entry wound in left side of chest
Luis Alfredo Berrios	42, porter, Venezuelan	entry wound in right temple; entry wound in

Name	Age, profession, nationality	Injuries sustained
Pedro Indalecio Mosqueda	32, fisherman, Venezuelan	rear of head; entry wound in left temple; entry wound left scapular region  Shattered left humerus (unable to determine entry wound); entry wound in right side of thorax; entry wound in left side of thorax
Moisés Antonio Blanco	24, fisherman and daylaborer, Colombian	entry wound in left temple, exit wound right temple; entry wound in right thorax
Arín Obadías Maldonado	44, mason, Colombian	entry wound lower, left rear of head; entry wound right scapular region; shot in right arm (ulna)
Justo Pastor Mercado	39, farmer, Colombian	entry wound below right scapula, exit through right side of chest, trajectory of bullet from back to front, right to left and bottom to top
José Gregorio Torrealba	22, Venezuelan	shattering of skull from shot, entry wound not determined, although left side is principally damaged
José Mariano Torrealba	50, fisherman, Venezuelan	entry wound below left scapula; fractured lower left arm (ulna)
Carlos Antonio Eregua	19, student, Venezuelan	shot in back twice, in head once; face and neck appear to have been burned

**The quantity, placement and nature of the victims' wounds strongly challenge the defendants' claim of a brief battle between two armed groups. Almost all of the thirteen corpses exhumed present**

multiple wounds, some of them up to four; nine of the victims have wounds in the head, and most were shot in or from the back. It strains credulity that in a combat situation many victims would be shot with such great accuracy. Moreover, given that a single impact from the powerful weapons used by CEJAP would have put the subject out of combat, what is the explanation for the multiple wounds? The autopsy results also strongly suggest that some of the bodies had been shot at extremely close range. The forensic experts who examined the bodies testified in court that some of the wounds appeared to have been inflicted from a distance of less than three feet; in one case, the evidence suggested the shots were fired at a distance of a few centimeters.<sup>10</sup>

Americas Watch believes that the multiple wounds on the bodies, the predominance of head and back wounds, and the evidence concerning the range at which at least some of the victims were shot are more consistent with a cold-blooded ambush and executions than with legitimate combat. Although it is of uncertain credibility, we note also the original testimony of Bayona Ríos, who stated that after CEJAP ceased firing, four or five victims were still alive although wounded, and he and CEJAP agents then finished them off.<sup>11</sup>

If the CEJAP did in fact deliberately execute fourteen fishermen, what might have been the motive? Venezuelans who have followed the case closely believe that CEJAP needed to stage confrontations with alleged guerrillas in order to justify its budget and existence as a special unit. Other suggest CEJAP wanted to contribute to a climate of insecurity in the area to support its efforts to extort protection money from wealthy inhabitants. A secretly-taped conversation between DISIP agent Celso José Rincón Fuentes, military intelligence agent Henry Salinas and Lt. Col. Alfredo Salgado of the Colombian Army) some months before El Amparo contained the following exchange:

**Rincón:** Look, we're going to do the following: we're going to plant arms on these guys, and we're going to put them in an area above La Victoria, make a camp, and do a drama that it was a battle with the guerrillas. This is what we want.

**Salgado:** A staged event (*montaje*).

**Rincón:** A good montaje. But what's up? It's better that they appear with arms, here, dead in Venezuela in a guerrilla camp, and you can wash your hands of it. And then they'll say, "Shit, look where they fell." I spoke with superiors about this. They've been pressuring me about, shit, speak with [your] commander; we're waiting for this. They want us to do this so they can see that at the border we're doing something...We have some *pintas corridas* (individuals presumably picked out), who are güebones (sic: *huevo*nes, or assholes).<sup>12</sup>

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<sup>10</sup> See Military Court of Appeals decision, case file, Vol. 21, pp. 124-127.

<sup>11</sup> Case file, pp. 284-98.

<sup>12</sup> The conversation was apparently taped by Venezuelan military intelligence. Under orders from President Pérez, the transcript of the conversation was turned over to the military court hearing the El Amparo case on December 2, 1988. The document, marked "secret", is included in the case file at pp. 219-225.

## **Legal History**

**Within a couple of days of the massacre, then-Minister of the Interior Simón Alberto Consalvi (currently ambassador to the United States) admitted that a mistake had been committed in El Amparo, that the victims were civilians and that he would recommend to President Jaime Lusinchi that the government investigate the incident.<sup>13</sup> Nevertheless, in mid-November, after a superficial investigation of the events, a military tribunal absolved the implicated state agents. The court accepted CEJAP's version that it had fought an armed group of insurgents and ordered the two survivors arrested, accusing them of military rebellion.<sup>14</sup> But a month later, in December 1988, a higher military court, the Consejo Permanente de Guerra de San Cristóbal, ordered the arrest of the implicated CEJAP soldiers and police officers (and the Colombian Bayona Ríos) for homicide, unnecessary use of firearms and simulating criminal events. Fifteen of the men were detained; five have been fugitives from justice. The court also subsequently retracted the arrest warrant against the two survivors, who had gone into hiding.**

**Although the basic facts in dispute and the conflicting versions of events had been established by the end of 1988, four years would pass before prison sentences would be imposed on the fifteen detainees by the March 1993 military appeals court. In the interim, several legal battles were waged, including an effort by the survivors and families of the victims to join the case as interested parties. The Consejo Permanente de Guerra de San Cristóbal initially ruled that civilians were not allowed to bring private charges against the CEJAP members, a ruling challenged and overturned by a military appeals court. On remand, the Consejo Permanente found the survivors -- but not the victims' relatives -- were legitimate private accusers. The case also reached the Supreme Court on challenges to the military courts' jurisdiction, but the Supreme Court rejected these challenges, accepting the legality of military jurisdiction.<sup>15</sup>**

**The work of the military courts was complemented by that of a special Congressional Commission, composed of members from a range of political parties including Acción Democrática,**

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<sup>13</sup> "Urgent Action," Amnesty International, November 18, 1988. According to Venezuelan human rights monitors, the government of President Jaime Lusinchi also provided aid to the victims' survivors. See, for example, Ligia Bolívar, "La masacre de El Amparo," *Sic* magazine, No. 545, June 1992, p. 228.

<sup>14</sup> See decision of the Corte Marcial Ad Hoc, March 2, 1993, p. 11. Article 486 of the Military Justice Code permits the prosecution of civilians for military rebellion.

<sup>15</sup> Americas Watch believes that civilian court jurisdiction would have been appropriate in the El Amparo case for two reasons. First, as discussed in chapter I, military justice in Venezuela lacks sufficient impartiality and independence so as to be able to provide justice in cases of alleged human rights abuse. Americas Watch has advanced this argument as a co-petitioner with PROVEA and other Venezuelan human rights advocates in a brief filed before the Inter-American Commission on Human Rights (discussed further below in this chapter).

Second, Americas Watch believes that military courts should hear cases of only a purely military nature, that is, cases in which all parties involved are from the military, in which the alleged infraction occurs while the suspect is on active duty, and in which the offense itself is of a specifically military nature, such as disobedience, cowardice, etc. The presence of civilians, as accused or as victims, should immediately trigger civilian court jurisdiction.

**COPEI and MAS, which was created soon after the events.<sup>16</sup> Based on numerous interviews with participants in the incident, other military officials, a review of documents and the exhumations, the Commission's report, issued on January 18, 1989, concluded that it was highly unlikely that an armed confrontation had taken place. The Commission pointed out numerous inconsistencies and implausible assertions in the testimony offered by members of the CEJAP unit which rendered their story less than credible; it concluded that the nature and location of the victims' bullet wounds suggested they were not received during a confrontation; and it concluded that the victims were not subversives and, indeed, had no prior criminal records.**

**The Commission also recommended a thorough investigation of Maj. Ricardo Pérez Gutiérrez, the first military judge on the case, for his apparently unprofessional conduct. Human rights activists and lawyers for the victims' relatives have also challenged Pérez's handling of the case, claiming he concealed relevant evidence and failed to conduct the necessary investigations. They also criticize his unduly hasty release of Bayona Ríos and his initial refusal to permit exhumations.<sup>17</sup>**

**Attorneys for the victims' relatives and the survivors sought to have Pérez recused from the case, claiming he was not a disinterested party. When Pérez declined to recuse himself, they sought a court investigation into his conduct. Despite the serious concerns raised by Pérez's handling of the case, President Pérez,<sup>18</sup> exercising power granted by Article 54 of the Military Justice Code, ordered that no investigation into misconduct commence.<sup>19</sup> In 1992, the Public Ministry concluded that Pérez's failure to withdraw from the case after the recusal petition was filed constituted a procedural irregularity sufficient to merit a new trial. The military appeals court, however, rejected the Public Ministry's petition for a new trial.**

**Most recently, on March 2, 1993, the military appeals court sentenced fifteen members of CEJAP to seven and one-half years in prison for intentional homicide.<sup>20</sup> The defendants never disputed that they had killed the victims; they sought to escape criminal liability for the deaths by arguing they had acted in self-defense and in the course of fulfilling their professional obligations. The court concluded that the defendants had used excessive and disproportionate force to defend themselves, which precludes complete exoneration. Relying on Art. 66 of the Penal Code, the court set prison terms half as long as those ordinarily be given for murder.<sup>21</sup>**

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<sup>16</sup> Its initial members were Congresspersons Angel Zambrano (presiding), Domingo Alberto Rangel, Nelson Valera, Julio César Moreno and Víctor Hugo D'Paola. Four other congresspersons, Raúl Estée, Walter Márquez, Casto Gil Rivera and Gilberto Mora Muñóz, later joined the Commission.

<sup>17</sup> PROVEA, Annual report 1992, p. 55.

<sup>18</sup> To our knowledge, President Pérez is not related to Maj. Pérez.

<sup>19</sup> See discussion of Article 54 in chapter I.

<sup>20</sup> The court of appeals decision is found in the case file, Vol. 21.

<sup>21</sup> Art. 66 reads in pertinent part:

**He who exceeds the limits imposed by the law in the case of Art. 65 (1) [acting under color of authority within legal limits], and by the authority who gave the order in Art. 65(2) [if the accused acted under due**

**Four Army personnel were convicted: Capt. Ali Coromoto González, Pvt. Ernesto Morales Gómez, Sgt. Omar Antonio Pérez Hudson, and Sgt. Maj. Salvador Ortiz Hernández. Six DISIP agents were also sentenced: Andrés Alberto Román Romero, Celso José Rincón Fuentes (aka "Hipólito"), Carlos Humberto Durán Tolosa, Luis Alberto Villamizar, Omar Gregorio Márquez, and Tonny Richard Urbina Sojo. The five PTJ agents convicted were: Edgar Arturo Mendoza Guanaguaney, Jesús Rafael Rodríguez Salazar, Alfredo José Montero, Gerardo Rugeles Molina, and Daniel Virgilio Vitanare Gómez.**

**The remaining members of the CEJAP unit originally accused of participating in the massacre -- Maximiliano Monsalve Planchart (DISIP), José Ramón Zerpa Poveda (DISIP), Florencio Javier López (PTJ) and Franklin Gómez Rodríguez (DISIP) -- along with the Colombian Huber Bayona Ríos, were not convicted, as they have remained fugitives from justice and cannot be convicted in absentia.<sup>22</sup> The court also dismissed the charges of attempted intentional homicide and undue use of force with respect to the two survivors.**

**Americas Watch is troubled by the court of appeals decision. It is poorly reasoned, manifestly biased and concludes with shockingly light sentences for the defendants. The court's handling of the evidence before it is particularly weak: the decision consists primarily of lengthy recitations of testimony in the record, clearly selected to favor the defendants; most evidence that contradicts the defendants' claims is discarded or discounted; remaining inconsistencies in the evidence are never explicitly addressed; and lines of inquiry that might have hurt the defendants are avoided. The court does not make even a half-hearted effort to justify its findings. Despite a decision of 300 pages, the conclusion of homicide through excessive self-defense is unsubstantiated.**

**For example, the court ruled that the victims had gone on a fishing expedition. But it also ruled that the defendants had acted in self-defense and in fulfillment of their military obligations. The obvious question that the court failed to raise is why fishermen would have attacked a CEJAP unit. In addition, even if the fishermen had for some reason opened fire on the military, the evidence suggests that at some point the defendants' gunfire was no longer defensive;<sup>23</sup> it is highly unlikely that even a disproportionate effort at self-defense would have resulted in a toll of fourteen dead (nine of them shot in the head; several apparently shot at close range) and no wounded or unharmed survivors on one side and on the other side none even wounded. The justification of self-defense -- with or without excessive use of force -- would be inapplicable, of course, if the victims had been executed after their surrender or while defenseless.**

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**obedience, he who gave order to the accused is liable, and he who exceeds himself in defense, or in employing methods to save himself from a grave and imminent danger, doing more than necessary, will be punished with the corresponding penalty, diminished by one to two thirds.... [Translation by Americas Watch]**

<sup>22</sup> In August 1993, Monsalve Planchart was detained as a chief suspect in a recent spate of letter bombs aimed at Supreme Court justices.

<sup>23</sup> We note, in this connection, that the court's decision contains no testimony by the defendants that suggests for how long the victims fired on them, or how heavy or consistent that fire was. Only opening shots by the victims are referred to, and the lobbing of a grenade.

**But the court did not address the question of whether CEJAP made a deliberate effort to leave no survivors. It simply ruled that the defendants used excessive and disproportionate force in self-defense, basing this ruling on two facts: 1) the condition of the victims' firearms, which were dilapidated and less effective and less powerful than CEJAP's; and 2) the multiple wounds in the victims' bodies. Americas Watch agrees that these support a conclusion that excessive force was used. But the court should have gone further to consider that the evidence before it indicates that what took place was not self-defense but simply murder.**

**For example, several forensic doctors who had examined the bodies of the victims testified that the nature of the wounds was consistent with shots fired from a distance of two to three feet, depending on the weapon used; indeed, in one case the shots may have been fired at a distance of a few centimeters. The court quotes from this testimony without comment, indicating uncertainty about the nature of the bullet wounds and the inferences that can be drawn from them. This latter testimony, however, was given by ballistic experts who, by their own admission, were unqualified to address such issues. Although the question of the distance at which the shots were fired is crucial, the court avoids making any findings of fact on this point and does not explain how it assessed the testimony before it. We infer from its ruling, however, that it chose to give more weight to the views of the ballistics witnesses, on a matter clearly outside the scope of their expertise.**

**The court was also able to construe El Amparo as a case of self-defense in great part because it threw out the testimony of the only people who claimed to have been eyewitnesses to the incident other than the CEJAP defendants: Huber Bayona Ríos, a CEJAP informant who at one point testified that CEJAP had planned and carried out a massacre of innocent fishermen; and José Augusto Arias and Wolmer Gregorio Pinilla, who both claimed to have been on the fishing expedition and escaped the unprovoked CEJAP attack by jumping into the river and swimming away. In a blatant display of partiality and by disregarding ordinary evidentiary considerations, the court summarily ruled that the testimony of all three -- and that of other witnesses connected to them -- was worthless in its entirety.**

**By what can only be considered a remarkable judicial fiat, the court ruled that the testimony of Arias and Pinilla should be discarded on the grounds that the two were never present during the events in question. This conclusion follows quotations from different pieces of testimony by Arias and Pinilla that contain negligible inconsistencies and discrepancies<sup>24</sup> and testimony by a reporter who witnessed an apparently unsuccessful or at least clumsy effort by Arias and Pinilla weeks later to reconstruct what happened. An impartial court could perhaps have taken this testimony to raise doubts about certain aspects of the survivors' stories. But the military court of appeals simply leapt -- without analysis or explanation -- to a decision that enabled it to dismiss the survivors' tale out of hand.<sup>25</sup> The decision**

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<sup>24</sup> Although the court claims the testimony is contradictory, we find only minor variations in wording and the description of the events which, to us, suggest even greater credibility -- in contrast to the nearly identical statements of the CEJAP defendants (see below).

<sup>25</sup> Having decided the survivors were not present at the scene, the court also discounted testimony that corroborated the survivors' story, such as that of a local police officer to whom the survivors went for protection after they escaped. Case file, Vol. 21, p. 94. A sounder way of proceeding would have been to consider the police officer's testimony as contributing to the credibility of the survivors. The Court also ignores testimony by CEJAP defendants which contains references to the possibility of two persons escaping, although they were unable to verify the existence of survivors. Case file, Vol. 21, pp. 269-287 (*passim*).

**makes no effort to explain why two individuals would risk the wrath of the military and possible imprisonment to wholly fabricate their presence at and participation in the incident.**

**The court dispatched Huber Bayona Ríos by noting that since he was being prosecuted at the time of his testimony, that testimony would necessarily be "self-serving, twisted and generally tending away from the truth."<sup>26</sup> The court did not pause to note that Bayona's testimony, rather than exculpatory, was against his interests as it made him party to a crime and therefore might even have been given extra indicia of credibility. More importantly, the fact that testimony may wholly or in part be self-serving goes to the weight that the court should give it as against other, more credible evidence; it is highly unusual for a court completely to discard testimony on the sole grounds that the witness is also an accused.**

**In contrast to its treatment of Bayona, Arias and Pinilla, the court showed great deference for the defendants, whose testimony it accepted without scrutiny or assessment. If, as the court said vis-a-vis Bayona, the testimony of a person who is being prosecuted is *ipso facto* worthless, why did it accept and, indeed, heavily rely on the testimony of the defendants? That testimony was clearly self-serving and -- judging by the nearly identical statements given by each defendant -- appears to have been prepared and rehearsed.**

**In the end, the court's decision is best understood as a political compromise. Over the years, the El Amparo case has generated substantial domestic and international attention to Venezuela's human rights record and the impunity generally enjoyed by security forces. A decision completely absolving the CEJAP defendants would have outraged those pressing for justice and would have generated considerable negative press. The government, however, now can point to the decision as proof that abuses by its security forces are punished. But the military has escaped a ruling that it undertook a massacre, and it has succeeded in obtaining sentences that are scant punishment for the crime committed.**

**Human rights workers and victims' representatives dissatisfied with military justice's handling of the El Amparo massacre have lodged complaints before the Inter-American Commission on Human Rights, the organ within the Organization of American States charged with investigating violations of the American Convention on Human Rights, to which Venezuela is a party. Separate complaints assert: 1) that the Venezuelan government has failed to provide justice in the case, and 2) that the Military Justice Code, which in its Article 54 grants the President the power to interfere arbitrarily in military court proceedings, precludes impartial and independent judicial review in military courts. As the supplemental brief for petitioners of the second complaint states:**

**Whether allegations regarding the propriety of Judge Pérez Gutiérrez's actions are proved or not, questions regarding judicial misconduct merit investigation. Answers to such questions will determine whether the victims were afforded a fair trial and judicial protection, rights respectively guaranteed by Articles 8 and 25 of the American Convention.<sup>27</sup>**

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<sup>26</sup> Case file, Vol. 21, p. 81.

<sup>27</sup> Center for Justice and International Law, brief submitted to the Inter-American Commission on Human Rights, September 18, 1992, p. 8.

**Americas Watch joined PROVEA and the Center for Justice and International Law (CEJIL)<sup>28</sup> in this second complaint. The Inter-American Commission has combined both complaints into a single case. We hope the Commission will soon report to the government of Venezuela on its findings and that its report will call on the government to comply with its international human rights obligation to provide justice in the El Amparo case and to correct the shortcomings in military justice that the case so clearly reveals.**

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<sup>28</sup> CEJIL is a non-profit organization composed of member non-governmental human rights groups from around the Americas. It specializes in bringing and litigating cases before international human rights bodies such as the Inter-American Commission and the Inter-American Court of Human Rights. Americas Watch is a founding member of CEJIL.

### III. THE *CARACAZO* AND COMMON GRAVES AT *LA PESTE*

#### **The *Caracazo***

When President Pérez assumed office in February 1989, the economic climate of Venezuela was more than usually tense. Merchants anticipating price increases were hoarding food and other essentials. On Monday, February 27, 1989, three weeks after CAP's inauguration, Caracas and other major cities erupted in frustration over the economic squeeze. The eruption followed CAP's signing a letter of intent with the International Monetary Fund to enact an economic package of austerity measures, which was aimed at dismantling Venezuela's statist economy and which had been little explained to the public. On that Monday morning, workers faced transportation fare hikes aggravated by transporters who had raised fares even further in an attempt to recoup their previous cost increases.<sup>1</sup> Mass and spontaneous protests turned immediately to rioting and looting.

The gravity of the situation went well beyond the ability of police to restore the peace. The government responded by enacting a dusk-to-dawn curfew and suspending, on February 28, a host of constitutional guarantees.<sup>2</sup> Full guarantees would not be re-established until March 22. Meanwhile, the armed forces were called in to retake the streets and, with the police, to reclaim stolen goods. Thus were created the conditions for a short, intense period of violence, known as the *Caracazo*, which lasted roughly a week and during which state agents killed hundreds of persons -- most of them men between the ages of eighteen and thirty-five from poor neighborhoods.<sup>3</sup> More than a thousand more individuals were injured. Others have not been heard from since.<sup>4</sup>

Of the at least 398 persons killed during the *Caracazo*, a considerable majority were shot by government forces; some were extrajudicially executed, while others were victims of indiscriminate force or directed use of force disproportionate to the circumstances.<sup>5</sup> According to the Committee of Relatives of the Victims of February and March 1989 (Comité de Familiares de las Víctimas de los Sucesos de Febrero y Marzo de 1989, or COFAVIC), a non-governmental human rights group that emerged from the tragedy of the *Caracazo*, the majority fell victim to arbitrary and directed gunfire in neighborhoods policed by government forces during and after curfew hours. Many were injured and killed by bullets shot into their homes. Americas Watch is aware of only two security force agents killed during the *Caracazo*, Army Maj. Felipe Acosta Carles and Metropolitan Police agent Eduardo Meza Isturiz.

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<sup>1</sup> See generally, Moisés Naím, *Paper Tigers and Minotaurs: The Politics of Venezuela's Economic Reforms* (Carnegie Endowment for International Peace: Washington, D.C., 1993).

<sup>2</sup> Decree No. 49 suspended Articles 60(1,2, 6 and 10), 62, 64, 66, 71 and 115.

<sup>3</sup> The bulk of the violence occurred in the first days of the *Caracazo*.

<sup>4</sup> Such is the case, for example, with José Miguel Liscano and Juan Acacio Mena Bello, whose relatives are members of the human rights group COFAVIC.

<sup>5</sup> Some persons were killed by private citizens acting as snipers or exacting private justice, but the number is presumed to be relatively small.

In police sweeps like those that would be employed after the coup attempts of 1992 (see chapter VI), hundreds of other individuals -- including those perceived to be subversive -- were detained without warrants and held without charges as authorities conducted raids ostensibly to reclaim stolen items.<sup>6</sup> In a few cases, persons allege being tortured by their military and police captors.<sup>7</sup> In an alarming precedent, detainees suffered a further erosion of their rights as at least one judge refused to grant a *habeas corpus* petition because the constitutional right to personal liberty (Art. 60(1)) had been suspended. The Inter-American Court of Human Rights stated in 1987 that the refusal during the suspension of rights to allow or grant writs of *habeas corpus* or *amparo*, which are "among those judicial remedies that are essential for the protection of various rights whose derogation is prohibited," is incompatible "with the international obligations imposed on these States by the [American] Convention [on Human Rights]," and held unanimously that those judicial remedies could not be suspended.<sup>8</sup> Venezuela is a party to the American Convention.

According to human rights organizations in Venezuela, the government compiled a list of 277 persons killed during the Caracazo, but has never made it public. Nor has the government publicly discussed or assessed its efforts to quell the unrest. Indeed, to our knowledge the government has never initiated any serious non-judicial investigation into the conduct of its security forces during the Caracazo. The government's stance with respect to human rights abuses committed during the Caracazo has been, at best, one of avoidance. The protests and their aftermath of official denials and obfuscation led to the formation of the COFAVIC, whose purpose is to clarify and seek justice for the abuses suffered by their loved ones. COFAVIC and another human rights organization, the Red de Apoyo por la Justicia y la Paz, compiled a provisional list of 398 persons killed during the Caracazo.<sup>9</sup>

So far, attempts at obtaining justice through the courts -- both military and civilian -- have proven fruitless. Some 200 of the approximately 260 criminal cases resulting from the Caracazo are before the 2nd Military Court in Caracas.<sup>10</sup> The military courts gained jurisdiction over these cases because of the military's insistence that as the provider of law and order during the suspension of constitutional guarantees, it should adjudicate cases arising from those conditions.<sup>11</sup> As with the El Amparo case, provisions of Venezuelan law permit military personnel to be tried in military courts for

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<sup>6</sup> Credible complaints assert that the security forces confiscated much more than just stolen goods. See Arturo Sosa A., "¿Qué fue lo que pasó?" *Sic* magazine (Caracas), April 1989, pp. 101-105.

<sup>7</sup> See, Amnesty International, *Reports of Arbitrary Killings and Torture: February/March 1989*, AMR 53/02/90 (London: March 12, 1990); Report of the Presidential Commission Charged with Studying the Situation of the Detained During the Events of February 27-28, 1989 (received by Americas Watch April 24, 1989).

<sup>8</sup> See, Inter-American Court of Human Rights, Advisory Opinion OC-8/87, (San José, Costa Rica: January 30, 1987), Series A, No. 8, p. 48.

<sup>9</sup> See Appendix A.

<sup>10</sup> Some individual cases may have been brought before both the military and civilian courts. Americas Watch fears that, due to the disorganization of the courts and the government's lack of interest in seeing justice served in these cases, no official statistics exist as to which and how many cases are proceeding in which courts.

<sup>11</sup> See, Amnesty International, *Reports of Arbitrary Killings and Torture*, p. 14.

crimes (including human rights abuses) committed against civilians.<sup>12</sup> So far the military courts have not produced a single conviction. In fact, not one case has even advanced from the initial *sumario* stage of proceedings. To Americas Watch's knowledge, to date not one military man has even been detained for a Caracazo victim's death.

Civilian judicial investigations have produced charges against state agents in only three Caracazo cases, all of which have resulted in decisions: the acquittal of the Metropolitan Police agent accused of the death of Eleazar R. Mavares (see related discussion below) was confirmed in February 1992; the Metropolitan Police agent charged with blinding Héctor Osquelis Campos was acquitted on appeal in February 1991; and, after a judge reduced his conviction from murder to manslaughter, the Metropolitan Police agent charged with killing Concepción Yulimar Reyes was granted conditional liberty in 1990.<sup>13</sup> These results compare favorably -- although just barely -- with the unmitigated whitewash conducted by the military justice system, but they are hardly evidence of a healthy civilian judiciary. In sum, as this report is published, we are aware of not one state agent in custody, either detained or sentenced, for having killed any of the Caracazo victims.

## **La Peste**

One particularly disturbing episode of the Caracazo, still unresolved and affecting dozens of victims and their family members, is the illegal burial of at least sixty-eight persons at a common gravesite in the La Peste section of Caracas's General Southern Cemetery (Cementerio General del Sur). Human rights groups in Venezuela, led by COFAVIC, have maintained pressure on the Venezuelan government to identify the bodies buried at La Peste and to find and prosecute those responsible for their deaths and burial. But nearly five years after the Caracazo and despite these efforts, investigations have produced few results. Only three victims buried at La Peste have been positively identified, and no one has been indicted or convicted for the death or illegal burial of a single individual.

The La Peste case combines many of the problems that plague human rights investigations in Venezuela: judicial investigations languish, suffering from a rotation of judges and other administration of justice shortcomings, described elsewhere in this report; proceedings have stagnated in the initial, secret *sumario* stage of the judicial process; the government has made no effort to facilitate investigations, to fully explain the circumstances which produced the clandestine mass burial, or to aid or even respond to the victims' relatives; the assistance and input of human rights monitors has been eschewed; and the effectiveness and interest of the Public Ministry, while initially positive, appears to have stalled.

By all accounts Caracas's central morgue, in the middle-class neighborhood of Bello Monte, was

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<sup>12</sup> Americas Watch opposes such broad military jurisdiction, as noted in chapter I.

<sup>13</sup> COFAVIC, letters to Americas Watch, August 12 and September 20, 1993; Amnesty International, *Homicidios arbitrarios cometidos en febrero y marzo de 1989: exhumación de las víctimas de fosas comunes*, AMR 53/01/91/s (London: June 1991), p. 9.

Similarly, a civilian was convicted of manslaughter in the killing of fourteen-year-old César Vallejo, served roughly one year in jail, and was granted conditional liberty.

**a horrific place during the violent days of late February and early March 1989. The hundreds of bodies brought to the morgue would have overwhelmed its staff and facilities in the best of circumstances. But shortages of water, electricity and basic supplies during the Caracazo turned the morgue into a nightmare in which the staff functioned as best it could. Bodies were brought and left outside the morgue vaults, as there was no room left inside the vaults to store the dead. Individuals searching for missing loved ones during the Caracazo tell of arriving at the morgue and finding piles of corpses through which they were instructed to look.**

**The morgue is run by the Legal Medical Institute (Instituto de Medicina Legal, or IML), a unit of the Technical Judicial Police (PTJ). The PTJ, in turn, is a dependency of the Ministry of Justice.<sup>14</sup> According to the IML's current director, Dr. Enrique Aponte Viloria (at the time a member of the IML staff), during the Caracazo many people were reluctant to approach the morgue due to the number of bodies and the terrible smell created by the decomposing corpses.<sup>15</sup>**

**The precise number of bodies processed at the morgue during the days of the Caracazo has never been made public. In November 1990 the IML declined a request by the Argentine Forensic Anthropology Team (Equipo Argentino de Antropología Forense, or EAAF), in Venezuela to assist in the exhumation of La Peste's dead (see below), to provide a list of bodies the IML examined.<sup>16</sup> Nor did the IML provide such a list to Americas Watch in June 1993. Aponte asserted, rather, that the list was no longer in the IML's possession, as it had been turned over to the courts, and therefore was protected by the secrecy requirement of the initial stage of judicial investigations. According to Aponte, some 280 corpses were examined, approximately the total number of dead according to an unpublished list of victims prepared by the Venezuelan government.<sup>17</sup>**

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<sup>14</sup> It is important to note a constant criticism of the Technical Judicial Police (or PTJ) made by Venezuelan human rights organizations. The PTJ, while designed by law to be an auxiliary of the courts, is a dependency of the executive branch's Ministry of Justice. The PTJ is supposed to conduct technical investigations as requested by the courts. In practice, judicial proceedings are delayed substantially while the courts await results of PTJ investigations. Rights monitors in particular routinely criticize PTJ investigations of crimes involving agents of the state as inadequate and slow, problems they attribute in part to the PTJ's status as an organ of the executive branch, which itself has shown minimal interest in obtaining justice for human rights violations. Americas Watch shares the assessment of our Venezuelan colleagues that corrective steps need to be taken to ensure the impartiality and speed of judicial investigations of human rights abuse.

<sup>15</sup> Interview at the IML in Caracas, June 2, 1993. The IML director at the time of the Caracazo was Dr. Ramón Velasco Torres.

<sup>16</sup> Telephone interview with Mercedes Doretti of the EAAF, July 14, 1993.

<sup>17</sup> Americas Watch believes that publishing the official list of Caracazo dead would in no way jeopardize judicial investigations, as any published list would need not indicate the circumstances under which the victim died, the force presumed responsible, or other information integral to a criminal investigation. In fact, publishing the victims' names could reinvigorate stagnant investigations -- as relatives or witnesses may be spurred into seeking justice or providing information to the courts. Equally importantly, such publication would demonstrate that the government is willing to face Caracazo human rights violations.

Americas Watch requested, by letter, a copy of the list from the Minister of Justice in July 1993. We have yet to receive a response.

**Aponte further indicated that complete autopsies were performed on each body that arrived. This assertion is doubtful. A source close to judicial investigations informed Americas Watch that information compiled by the IML indicated that complete autopsies were not performed on all the bodies. The U.S. press reported as well that morgue attendants admitted that they were forced to reduce the time to examine a corpse from days or weeks to hours.<sup>18</sup> IML staff interviewed by the EAAF stated that autopsies were performed only on the first bodies arriving at the morgue, and that bodies arriving later received only an external examination and summary description of cause of death.<sup>19</sup> According to morgue procedure, each autopsy should have indicated precise physical characteristics of the dead, the cause of death, and the person's identity if known. Such information is crucial in identifying human remains and investigating and assigning responsibility for the victim's death.**

**Other accepted morgue rules also were not strictly followed. For example, some bodies were tagged with makeshift materials liable to decompose;<sup>20</sup> photographs were not taken of all the victims;<sup>21</sup> victims' personal belongings and clothes were not registered and stored; and other articles removed from the bodies (such as bullets and fragments) were not kept. While morgue staff were undoubtedly under considerable strain during the days of the Caracazo, it is inexcusable that these basic steps -- necessary to ensure later identification of the victims -- were not carried out. Blame for such gross negligence should not reside with the IML alone, however. The Justice Ministry of the executive branch, of which the the IML is part, failed to provide the morgue with the means necessary to deal with the overwhelming number of victims, a majority of whom apparently were killed by state agents. Its inaction allowed for a situation to prevail in which dozens of persons would be disposed of in mass graves.**

**Bodies not claimed by family members were removed by order of the IML.<sup>22</sup> Dr. Aponte told Americas Watch that the removals began after approximately three weeks -- that is, in mid- to late March 1989. But this assertion contradicts that of Dr. Ramón Velasco Torres, IML director during the Caracazo. In November 1990 Velasco informed the EAAF that bodies unclaimed by relatives had been transferred to La Peste on March 3 and again on March 6, that is, only days after the unrest began.<sup>23</sup> The bodies were removed from the morgue apparently by the Defensa Civil, a civil volunteer force acting under the guidance of the Ministry of Interior Relations.**

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<sup>18</sup> Mark A. Uhlig, "Lines Form at Caracas Morgue to Identify Kin," *New York Times*, March 5, 1989.

<sup>19</sup> Equipo Argentino de Antropología Forense, "Preliminary Report on Mission to Venezuela, November 23-29, 1990: Investigation of Common Graves Related to the Events of February-March 1989" (unpublished).

<sup>20</sup> Interview with Dr. Aponte, June 2, 1993. Dr. Aponte personally tagged some bodies with paper tags marked in pen or pencil, in place of the usual plastic band marked in indelible ink, as supplies ran down. During exhumations, such paper tags were found with some of the bodies.

<sup>21</sup> IML staff claimed to the EAAF in November 1990, however, that all victims had been fingerprinted and photographed (EAAF, "Preliminary Report.")

<sup>22</sup> Then-IML director Ramón Velasco Torres informed the EAAF in November 1990 that it was an IML decision to remove the bodies. Aponte affirmed this argument in June 1993 to Americas Watch.

<sup>23</sup> EAAF, "Preliminary Report."

The subsequent sequence of events remains cloudy, primarily because the government has not explained publicly what occurred. It is unclear, for example, how many bodies were taken to La Peste,<sup>24</sup> how many were identified, whether forces other than the Defensa Civil transferred bodies to the cemetery, whether there was more than one transfer, on what date or dates the Defensa Civil picked up the bodies, and whether bodies were taken to the common burial site at La Peste from more locations than the morgue.<sup>25</sup> Interviews in November 1990 by the EAAF with cemetery and morgue personnel and family members led it to conclude that the bodies were transferred in Defensa Civil and military vehicles during night hours, when a curfew was in effect and the cemetery staff was not on duty.<sup>26</sup>

According to Dr. Aponte, the IML is not responsible for assuring the proper handling and burial of corpses once they leave the morgue. It is not clear who ordered the disposal of the bodies in the common graves and what the respective roles of the Defensa Civil, cemetery staff, the military or others was in that decision and its implementation. Nor is it clear why no registry or record was created indicating which bodies were buried together, nor whether bodies were buried in more than one common grave.<sup>27</sup> What is clear is that this lack of regard for victims of official force, for their proper identification and their families' right to give them decent burial, goes beyond the expedients necessary in chaotic times at an understaffed facility. There appears to have been no concern for the dead who, in the Caracazo cases, became twice victims -- once of lethal force and then again of official neglect and, apparently, contempt. The unorthodox and illegal form of burial also makes the task of identifying bodies, and tracing official responsibility in each death, much more difficult.

Troubling too is the lack of public information on important aspects of the case. Combined with initial government denials of the existence of the mass graves and its continued silence on the matter, the scarcity of official information helps create the impression that there has been an attempt to cover up the illegal burials or worse, to hide official responsibility for Caracazo killings.

Members of COFAVIC assert that the bodies were taken to La Peste much earlier than three weeks after the Caracazo began. Indeed, some bodies were removed within days of their arrival at the morgue. For example, Caracas resident and COFAVIC member María Salazar recounted to Americas Watch the story of her son, killed during the Caracazo:<sup>28</sup>

Around 10:30 a.m. on March 1, 1989, Rubén Javier Rojas Campos, a twenty-seven-year-old plant worker, left his house in eastern Caracas, despite his mother's

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<sup>24</sup> Journalist Francisco Solórzano (known as "Frasso") claimed to have observed at least two open common graves and excavation on a third, into which he alleges 150 to 200 bodies were dumped. (EAAF, "Preliminary Report."

<sup>25</sup> Pérez Carreño Hospital staff reportedly indicated that on February 28, armed civilians removed some thirty cadavers from the hospital. The staff supposed that the cadavers were taken directly to the cemetery, without ever having gone to Bello Monte, due to crowded conditions at the morgue. See, *Cuando la muerte tomó las calles*, (Editorial El Nacional, Caracas: 1990), p. 64, cited in EAAF, "Preliminary Report."

<sup>26</sup> EAAF, "Preliminary Report."

<sup>27</sup> *Ibid.*

<sup>28</sup> Interview, Caracas, June 5, 1993.

**protestation, to inform his employer he would not be going in to work that day because of the disturbances. Around 11:00 a.m., his mother heard shots outside, as security forces began to open fire in the area. At about 11:30 a.m., a female friend came to tell her that her son had fallen to the ground, on stairs leading to her house. María left her house and found her son, lying in his own blood, killed by gunfire.**

**A military ambulance arrived and took Javier to the Pérez de León Hospital in Petare, a neighborhood to the east of Caracas in Miranda State. Another of María's sons went to the hospital that same day and was informed that Javier's body had been transferred to the morgue at Bello Monte.**

**The following day, March 2, her other son went to the Bello Monte morgue and identified Javier's body lit was No. 1231. He was informed, however, that he could not remove the body that day. Upon returning on March 3, the morgue told him that his brother had already been transferred in a bag to a common grave. He returned home to inform his mother and, that same morning, went to the Cementerio General del Sur. Cemetery officials told him that they had no information regarding Javier's interment, that the military was in charge of that information. They did let him know, however, that the body was in the La Peste section. Carlos ascended to that section of the cemetery and found common gravesites.**

**Salazar's story is similar to those of at least three other family members who joined together to form COFAVIC.<sup>29</sup> In the day or days after the victim's death, these relatives arrived at the morgue, knowing their loved one was or had been there, and were told that the corpse had been removed.**

**While the remains of sixty-eight bodies have been exhumed at La Peste, the precise number buried in the common graves is unknown. Evidence indicates that at least forty-two bodies were turned over to the Defensa Civil by the morgue during the Caracazo. Americas Watch obtained access to a list given to the Minister of Interior Relations by the director of the PTJ on April 11, 1989. It indicated that the IML had turned over forty-two bodies for burial to the Defensa Civil. Thirty-eight bodies were identified by name; thirty-four were listed as victims of the Caracazo unrest. Of those thirty-four, thirty-one indicated not just the person's name, but also his national identification number. Only four of the forty-two were not identified.**

**A second list to which Americas Watch gained access indicated that the IML examined 279 cadavers between February 28 and March 7, 1989.<sup>30</sup> More than 90 percent of the cadavers described in this list were identified by name, and the cause of death indicated for more than 90 percent of all the individuals listed -- identified or not -- was gunshot wounds. This list, which included the name, and cadaver identification number and autopsy number of the dead, indicated that at least twenty-two bodies had been taken by the Defensa Civil, most of them on March 3. Of these twenty-two individuals, at**

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<sup>29</sup> In the cases of Fidel Orlando Romero, Julio César Freitas and Jesús Alberto Cartaya. Unlike these three individuals, who are presumed to be buried at La Peste, the remains of Javier Rojas were identified after being exhumed.

<sup>30</sup> Information in the two lists is not presumed to be mutually exclusive.

**least ten were identified by name, yet events show that little -- if any -- effort was made to inform relatives of their burial.**

**These stories and records, along with former IML director Velasco's statements, contradict the IML's current position that the bodies were removed after weeks because of the health hazard they presented. While much information relating to the number of victims buried at La Peste and their identity is murky, a number of facts appear conclusive. These are:**

- **the dead were taken to La Peste well before three weeks after the Caracazo commenced;**
- **many of the dead transferred to La Peste had already been identified, either by family members or otherwise;**
- **victims were buried during curfew hours and not properly registered at the cemetery; and**
- **the morgue did not follow minimal procedures, either standard or ad hoc, that would contribute to the successful post-burial identification of the remains or determine cause of death.**

**What generates so much concern then, is the haste in which bodies were transferred to the common graves and the little care taken to ensure future identification of the bodies so buried. If the morgue had taken minimal steps to preserve the identity of those corpses transferred to La Peste, there would not currently be at least sixty-five sets of human remains exhumed from La Peste that remain unidentified. If records of the La Peste dead had been maintained properly, their family members would not now find themselves in the unenviable position of not knowing the fate of their loved ones.**

**Furthermore, if adequate steps had been taken to process the victims of the Caracazo, and if the government had initially and continuously made public efforts to explain what happened, it would not currently find itself attempting to shake accusations -- now nearly five years old -- that the illegal La Peste burials were, more than gross negligence, part of an effort to cover up human rights violations committed during the Caracazo by state agents. It would appear now that the only hope for determining precisely what led to the La Peste tragedy are judicial investigations. These investigations, to date, have produced depressingly few results.**

**The history of the La Peste case is riddled with gaps, inconsistencies, contradictions and confusion. The case is before the 10th Penal Court of Caracas and Miranda State. Since it began in November 1990 the case has remained in the sumario stage, in which the judge directs the collection of evidence to determine the crimes committed and identify the parties involved.<sup>31</sup> The case is currently before its third judge. Successful investigations would establish both the identity of those buried at La Peste and their cause of death as well as responsibility for their illegal burials. They also would, ideally, make it possible to identify and prosecute those responsible for the victims' deaths. With the passing of time, however, it becomes increasingly difficult to identify the buried and establish cause of death, and consequently to determine legal responsibilities.**

**Efforts by human rights groups to press the government and the courts to begin investigations**

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<sup>31</sup> Criminal Code of Justice, Art. 71, *et seq.*

soon after the mass-burials were met with resistance. For example, in July 1989 the judge of the 43rd Penal Court of Caracas and Miranda State rejected COFAVIC petitions to begin investigations, arguing a lack of jurisdiction. And echoing previous mistaken assumptions, government officials argued that the exhumation would pose health risks.<sup>32</sup>

Once judicial investigations finally began in November 1990, however, they showed promise. The judge who took on the case, Saúl Ron Braasch, demonstrated a willingness to get to the bottom of La Peste. He welcomed assistance and information from COFAVIC, recognizing the vital importance of family members in providing information relevant to the case. The Public Ministry is also credited by rights monitors for actively seeking justice in the case as it began. Perhaps the most important judicial procedure taken to date, ordered by Judge Ron and undertaken in November 1990, was the exhumation of the bodies in the common graves.

Exhuming the dead did not begin until nearly twenty-one months after their burial. The Argentine Forensic Anthropology Team and Dr. Clyde Snow traveled to Caracas in November 1990 to assist the IML and forensic anthropologists and students of Caracas's Universidad Central de Venezuela to exhume the bodies.<sup>33</sup> Their assistance, requested by COFAVIC, was approved by Judge Ron. Remaining in Caracas for a week, they helped locate the site of the common grave and began exhumations.

Before reaching the corpses in the mass grave, they first discovered that bodies in caskets had been buried on top of the common-burial victims.<sup>34</sup> The mass-burial victims' bodies appeared to have been dumped rather than placed in the common grave. The corpses found at greater depth in the grave were in high-quality polyurethane bags, while those on top were in lesser-quality bags. That corpses in better-quality bags were found at the bottom of the pile suggests not only that the IML had indeed run out of supplies as time progressed and was forced to use inferior materials, but also that more than one load of cadavers had been dumped in the same common grave. It stands to reason that if only one load of bodies had been disposed of in such a fashion, the bodies in inferior bags would have been interspersed with those in the better bags.

The international forensic specialists also met with human rights groups, family members and representatives of the Public Ministry, as well as with IML, PTJ and other government officials. They attempted to share their experience and insights resulting from similar human rights investigations in order to ensure the complete and proper exhumation of the La Peste dead. In addition, they helped orient the collection of pre-mortem information on the victims, important for identification. The EAAF noted reluctance on the part of IML officials, including IML Director Velasco, both to attempt to determine the victims' cause of death and to include family members and human rights groups in the

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<sup>32</sup> Amnesty International, *Homicidios arbitrarios cometidos en febrero y marzo de 1989*, pp. 4-5.

<sup>33</sup> Both Snow and the EAAF have conducted other forensic examinations of victims of human rights abuse around the globe, including at the site of the El Mozote massacre in El Salvador, of common graves in El Quiché, Guatemala, and in Kurdish areas devastated by Iraq's Saddam Hussein. In the Venezuelan case, the EAAF's work was supported financially by Americas Watch; Dr. Snow's, by Amnesty International.

<sup>34</sup> It is a common practice, apparently, that those who die with no resources, or whose relatives do not bury them, are buried in the vast La Peste section in a haphazard fashion.

discussion of the progress of the exhumations.<sup>35</sup> Dr. Snow stressed the importance of maintaining continuous contact with family members, who can best provide information on the victim.

After the international experts left, exhumations and identification remained squarely in the hands of their Venezuelan colleagues. The necessity of the foreign forensic experts' presence was questioned in June 1993 by IML Director Aponte, who stated that the Venezuelans could have performed the exhumations themselves. The Venezuelans' professional ability was called into question, however, in August 1991, when body No. 56 exhumed from "La Peste" was identified by the IML as possibly being that of Eleazar Mavares. Mavares's family already had buried in March 1989 an individual they believed to be Eleazar, who had been turned over to them by the IML at the time. COFAVIC and Eleazar's mother requested in August 1991 that the court order an exhumation and comparison of the bodies in question, but in which IML officials would not participate. As of this writing, Eleazar's mother has not been informed of the results of any investigations conducted to resolve this question of identity.<sup>36</sup>

The exhumations, begun in November 1990, virtually ceased in April 1991 after the remains of sixty-eight bodies had been removed. Despite a standing court order to identify each set of remains, the IML has positively identified only three of the La Peste dead.<sup>37</sup> In June 1993, another five sets of remains were reportedly being examined at the IML, leaving at least sixty bodies unidentified and unstudied. The rest of the remains are encased in concrete cubicles in a honeycomb-like structure specially constructed for them at the site of the common grave in La Peste.

The virtual halt in exhumation and identification coincided with Judge Ron's departure from the case. He was promoted to a higher court in April 1991. Credible sources have suggested that his good work on La Peste was an important factor in his being removed from the case. Whether or not La Peste was a factor, the results of his promotion are evident: investigations led by the two judges who since have been assigned the case have moved considerably more slowly than those under Ron's direction.

But as previously noted, criminal cases generally lumber at best, especially in complex cases involving many parties in which a number of crimes may have been committed. A case must pass in its entirety from one stage to another; the parts may not be separated.<sup>38</sup> Regarding La Peste, for example, the case will not pass to the *plenario* stage, where legal responsibilities are assigned, before all possible crimes committed are determined and all possible criminals identified. A source close to the 10th Penal Court informed Americas Watch of the near certainty that information related to the La Peste case may be found in judicial proceedings in other courts. The same source indicated that judges sitting on other courts have not been alerted to forward such information to the 10th Penal Court.

Since May 1992, the case has been under the direction of Rayza Díaz Fortoul, the third judge on

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<sup>35</sup> EAAF, "Preliminary Report."

<sup>36</sup> COFAVIC, letter to Americas Watch, August 12, 1993.

<sup>37</sup> They are José del Carmen Pirela León, Javier Rojas (see above), and Teobaldo Antonio Salas Guillén. See, Amnesty International, *Homicidios arbitrarios cometidos en febrero y marzo de 1989*, pp. 7-9.

<sup>38</sup> It is possible to add parties and crimes as the case is being investigated in the instruction, or *sumario*, stage.

**the case. Human rights groups have criticized her progress as too slow. They fault her, for example, for not insisting that the IML proceed with more dispatch to identify the exhumed bodies. Judge Díaz is also reluctant to work with the non-governmental community, although it (COFAVIC in particular) traditionally has had more contact with victims' relatives than has the court. Her reluctance appears to stem, at least in part, from a reliance on, or concern for, the confidentiality of sumario information. The judge apparently fears that any publicity on the case may taint the procedure and so negatively affect its progress. A good working relationship with COFAVIC, however, would increase the likelihood that the judge obtain from family members missing information necessary both to identify the bodies at La Peste and to determine the circumstances under which they were killed and buried.<sup>39</sup>**

**Americas Watch is aware of the difficulties involved in investigating this case, especially because so much time has passed with so little progress. Some relatives of victims, aside from being difficult to locate, apparently have lost hope in investigations, and their contact with COFAVIC has lapsed. Court officials have complained that the apparent lack of interest by family members has hampered the ability to proceed,<sup>40</sup> yet at the same time have excluded from the process human rights groups which can offer valuable assistance. At this stage, approaching the five-year anniversary of the Caracazo, there appears to be little will on the part of the court to work with COFAVIC, which doubts, understandably, the court's determination and ability to pursue the case.**

**Static judicial investigations give the impression that there is no interest in resolving the case, and furthermore that it will never be concluded successfully. As the case fails to advance and the government remains silent, the relatives of at least sixty-five victims remain ignorant of the fate of their loved ones; those who ordered, carried out and allowed the burials remain unpunished; and those responsible for the victims' killings benefit from impunity. This impunity feeds public skepticism of the state institutions charged with preventing and punishing such abuse.**

**Americas Watch urges the court to pursue the La Peste investigations with vigor. The court should strive to coordinate with human rights groups, to the extent possible by law, in efforts to contact relatives of La Peste victims and collect additional information. It should also make use of the national media to contact relatives. An immediate notice should be dispatched to other courts so that information relating to La Peste may be forwarded to the 10th Penal Court for its incorporation into the case. The court immediately should take the steps necessary to provide for the identification of those corpses yet to be identified, including a directive to the IML to make this a priority.**

**To the extent that the IML has limited capacity to conduct its daily routine and work on this project, it should request from the executive branch the resources and staff necessary to carry out such a task promptly. The government, which has consistently failed to provide answers to the questions raised by these burials should endeavor to assist its agencies (including the PTJ) and the IML) in investigating the common graves at La Peste. The government also should rise to its moral obligation -- to the Venezuelan public in general and to the relatives of the buried victims in particular -- and explain what errors, negligent acts and crimes were committed that resulted in the killing of these citizens and**

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<sup>39</sup> Much information of this sort should already be in the case file, as COFAVIC has worked to present relevant information to the court.

<sup>40</sup> A fiscal of the Public Ministry shared this complaint with Americas Watch (Interview, June 1, 1993).

**their burial in La Peste.**

**In so doing, the government must not shirk other related responsibilities. The La Peste case, after all, is only part of the massive human rights violations committed during the Caracazo. Judicial investigations into other Caracazo cases, as mentioned above, are going nowhere, and are doing so principally in the military courts. Venezuela will not have met its international obligations to investigate, prosecute and punish human rights violations until it adequately attempts to secure justice in these cases. And until justice is served, the credibility of its governmental institutions will continue to erode.**

#### **IV. POLICE VIOLENCE**

**A cause of continuing concern to Americas Watch is the routine use of violence by police resulting in death and serious physical harm. Police commit human rights violations not only in criminal investigations, but also when they are called in to control non-violent demonstrations and protest. According to PROVEA, police agents were responsible for 117 unjustified killings between October 1991 and September 1992; and 128 between October 1992 and June 1993, not including some ninety civilian deaths resulting from suppressions of the November 1992 coup attempt and the concurrent uprising at Retén de Catia prison. Arbitrary detentions are commonplace. And credible reports of torture and other physical abuse, including extreme abuse of minors in custody, are frequent.<sup>1</sup>**

**Moreover, between October 1990 and September 1992, PROVEA reported a total of twenty-eight cases it classified as "disappearances."<sup>2</sup> PROVEA notes that the phenomenon of "disappearance" -- while it does occur throughout the country -- is neither systematic nor massive. These are extremely serious cases, however, which deserve more attention than they have received. They include, for example, Jorge Elías Acosta Escorcía, detained by Zulia State Police on August 28, 1991, and not seen until his remains were found in May 1992; Wilson Arias Quintero, apparently detained by the same police force on May 24, 1991 and whose remains may have been found together with those of Acosta Escorcía; and the Pérez family (Oswaldo, his wife and two baby boys) of Sucre, Bolívar state, who were last seen on November 12, 1991, the day they were visited by police agents of the municipal prefecture in search of Oswaldo's son Pedro Luis. Six other "disappearances" (of four military men and two civilians) occurred in the days following the failed February 4, 1992 coup.**

**The Public Ministry's Human Rights Division reports that in 1992 it received 2,572 requests to begin pre-trial nudo hecho proceedings against state agents.<sup>3</sup> Of these denunciations, 1,858 related to physical abuse, and 227 dealt with homicide and attempted homicide.<sup>4</sup>**

**Police face an increasingly armed and dangerous criminal population, as drug gangs and thugs carve out territories for themselves in the poor communities circling Caracas. According to human rights activists working in the marginalized communities, the gangs are willing to kill in order to steal a**

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<sup>1</sup> Data in this chapter are drawn from Caracas and its metropolitan area. Although this report does not examine the issue of police corruption and the use of extortion, it is worth noting that observers in Venezuela cite corruption as another chronic problem, due in part to the low salaries police receive.

<sup>2</sup> The breakdown is fourteen in each of the two year-long periods reviewed. PROVEA Annual report 1992, p. 34.

<sup>3</sup> Human Rights Division of the Public Ministry, "Incidencia de las solicitudes de información de nudo hecho realizadas por el Ministerio Público durante 1.991 y 1.992 y sus resultados," (printout, Caracas: March 1992), p. 3. As discussed in chapter I, "nudo hecho" is a procedure for reviewing complaints against state agents to determine whether grounds exist for prosecution.

<sup>4</sup> *Ibid.*, p. 3. Forty-one complaints were against state agents involved in the administration of Venezuela's jails, including agents working in nineteen of the country's thirty-two penal institutions; the Public Ministry assumed this figure to be underreporting, however, considering that prisoners are reluctant to denounce abuse for fear of reprisal and lack easy access to the Public Ministry. *Ibid.*, pp. 5-6.

pair of expensive shoes from a victim's feet. Violence has become a daily fact of life in Venezuela.<sup>5</sup> Residents of a few communities, in a practice similar to that found in poor urban areas in Colombia, have formed extra-legal self-defense patrols which utilize violent means to protect their neighborhoods.<sup>6</sup>

Police themselves are often the targets of violence. One police officer, moonlighting as a taxi driver in Caracas, explained to an Americas Watch representative in June 1993 that he always carried two wallets. In one he kept his police identification. The other, in which he kept nothing identifying him as a police officer, he used in case of a mugging. He felt that he was much less likely to be shot by an armed assailant if he did not show his police identification. Pedro Moreno, a senior Metropolitan Police official, indicated that, on average, two Metropolitan Police agents were killed every month in 1992.<sup>7</sup> The average rate was high, according to Moreno, because of the unusually large number of casualties before and after the November 27 attempted coup.<sup>8</sup>

In addition to confronting crime, police over the past few years have performed another function of the state: suppressing civilian unrest. Since the Caracazo riots of 1989, Venezuelans with increasing frequency have taken to the streets to demand basic necessities or wage increases, to oppose government policies or to challenge the government itself. Government and police officials commonly assert that such demonstrations are infiltrated, if not instigated, by supposed subversives intent on destabilizing democracy, yet a viable subversive movement has not existed in Venezuela for at least twenty years. Combatting subversion appears to serve as a catch-all justification for heavy police action, including the arbitrary detention of persons perceived as unsympathetic to the government. For example, Sergio Rodríguez, a twenty-seven-year-old participant in PROVEA's human rights monitor training program, was shot and killed by government forces while participating in a student march on September 23, 1993.<sup>9</sup> Police officials and Minister of Defense Adm. Radamés Muñoz León claimed that

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<sup>5</sup> A recent issue of *Sic* magazine, a Caracas monthly dedicated to examining social issues, dedicated an entire issue to violence in Venezuela (No. 554, May 1993).

In response to violent crime, some in Venezuela advocate the establishment of the death penalty, a measure Americas Watch views with alarm. Installing the death penalty in Venezuela, where it is constitutionally prohibited, would violate international law to which Venezuela is a party (American Convention on Human Rights, Art. 4(3)). Americas Watch maintains that capital punishment, applied in any case, violates human rights. But even if it did not, the seriously deficient Venezuelan system of criminal justice could rarely -- if at all -- guarantee that the death penalty had been applied in a manner satisfying due process requirements. In Americas Watch's view, Venezuelans would fare better by designing and implementing effective measures to combat violent crime and its root causes rather than by resorting to state-sanctioned killing.

<sup>6</sup> Recently this practice appears to be on the wane. Interviews with human rights advocates working in the poor zones to the east of Caracas, June 1993.

<sup>7</sup> In comparison, twenty to twenty-five civilian homicides are reported nearly every weekend in Caracas and its environs.

<sup>8</sup> Interview, Caracas, June 9, 1993. Americas Watch, in a letter to the Minister of Justice in July 1993, requested official statistics on violence against police for the past few years, but had not received a reply as of this writing.

<sup>9</sup> His brother Caril was detained and tortured by the Metropolitan Police in October 1991 (see below).

the victim was a subversive, an allegation promptly rejected by PROVEA, the Catholic Church and his family.

When civilian protests occur, the police, traditionally ill-prepared in crowd control, are routinely called in to quiet them, and tend to do so with a heavy hand. Police do, however, receive instruction on restraint and proper use of force. A Metropolitan Police circular of January 17, 1992, for example, instructs all units concerning the proper respect for the constitutional rights and legal protection of all citizens; another, dated May 20 of the same year, covers what it calls "the delicate mission" of ensuring public order in times of disturbance. In addition, the Public Ministry has conducted courses and seminars on human rights for security forces.<sup>10</sup>

Despite this training, police confronting crime and civilian protest have resorted to tactics that violate human rights, including arbitrary detention, physical abuse of detainees and the unjustified use of lethal force. Venezuelan human rights monitors concur that police violence and arbitrariness are increasing. They point out, however, that police brutality itself is not a new phenomenon. Rather, the frequency of police violence has kept pace with the increase in crime and protest that has accompanied harder economic times. Not surprisingly, most victims of abuse come from the same poor areas where violence among citizens takes its toll and where demonstrations commonly take place.

## **Police Forces**

Venezuela's various security forces have relatively specialized duties, but in practice their work overlaps. The central forces performing police functions are:<sup>11</sup>

**National Guard:** Volunteer troops make up the Guardia Nacional,<sup>12</sup> known also as the Fuerzas Armadas de Cooperación (Armed Forces of Cooperation), the fourth component of the Venezuelan armed forces. The National Guard monitors most prison perimeters and transports prisoners, among other duties. National Guardsmen were called in to put down the uprising at the Retén de Catia (see chapter VI), retook Channel 8 with the Metropolitan Police during the November 27 coup attempt (see chapter V), and was active in suppressing the riots of 1989 (see chapter III).

**Metropolitan, state and municipal police:** Most police belong to the metropolitan, state and municipal forces, which answer to local and state authorities. Chiefs of these forces, with few exceptions, are senior officers of the National Guard. The work of these uniformed police is preventive. The largest force is that of the Metropolitan Police (Policía Metropolitana, or PM) of

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<sup>10</sup> State Prosecutor's Office, *Informe del Fiscal General 1992* (Caracas: 1993), Vol I, p. 230-31.

<sup>11</sup> Not included in this list are the traffic police, under the Ministry of Transport and Communications, a national force of some 2,000 in 1990 (See *Venezuela: A Country Study*, Federal Research Division of the Library of Congress, 4th ed., 1993 (Richard A. Haggerty, ed.), p. 209.).

Debate has recently renewed in Venezuela regarding the creation of a federal police force, which would unite the Technical Judicial Police and the DISIP under the Ministry of Justice.

<sup>12</sup> See *Ibid.*, p. 202.

the Federal District (including Caracas) and Miranda State.<sup>13</sup> Its agents are responsible for the routine use of excessive force.

**PTJ:** Criminal investigations are conducted principally by the Judicial Technical Police (Cuerpo Técnico de la Policía Judicial or Policía Técnica Judicial, or PTJ), a dependency of the Justice Ministry. Its director is a civilian. PTJ agents participated in, and bungled investigations of, the 1988 El Amparo massacre (see chapter II).

**DISIP:** The Dirección de los Servicios de Inteligencia y Prevención (DISIP) is the intelligence police of the Interior Ministry. The DISIP investigates crimes involving subversion, narcotics and arms trafficking.<sup>14</sup> DISIP agents also participated in the El Amparo massacre.

## **Torture and Physical Mistreatment**

Members of each of these forces have been denounced by domestic monitoring organizations as human rights violators. The abuses denounced come at every stage of police contact with citizens. Suspected criminals and individuals caught in police sweeps are often roughed up when first detained. Once in custody, individuals remain for more than a week in legal limbo, as police are allowed to hold individuals in preventive detention for eight days before bringing them before a judge. Rights monitors in Venezuela report that the basic rights of detainees are routinely violated during these first days of detention: detainees are denied access to counsel, relatives, or fiscales of the Public Ministry, despite a constitutional prohibition of incommunicado detention. The first days are also the time when a detainee is most likely to be abused physically.<sup>15</sup>

The following cases from Caracas and its environs, involving agents of the PTJ, municipal police and Metropolitan Police, illustrate common practices:

- **Father Matías Camuñas, parish priest of Sagrado Corazón de Jesús de Petare and a human rights activist well-known in Venezuela, described in *Sic* magazine the case of Macarri José Fermín, a seventeen-year-old boy tortured by PTJ agents in January and February 1992.<sup>16</sup> Fermín, accompanied by Camuñas and a lawyer from the Public Ministry's Families and Minors Division, was turned over to the PTJ in El Llanito on January 25 for apparent delinquent behavior. He received such beatings there by police that he vomited blood twice. A PTJ agent turned him over to other detainees with the directive that "you better fuck up this thug or else I won't allow you**

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<sup>13</sup> In 1990, when all metropolitan, state and municipal police together numbered 18,000, the Metropolitan Police constituted half of that total. *Ibid.*, p. 209.

<sup>14</sup> The DISIP is roughly the same size as the PTJ; each consists of some 3,000 agents. *Ibid.*, p. 208.

<sup>15</sup> After being brought before a court, the detainee may be held for an additional eight days while the judge decides whether or not to open criminal proceedings against him. An individual, then, may not be made aware of any charges until sixteen days after detention.

<sup>16</sup> See Matías Camuñas, "El menor," *Sic*, April 1992, pp. 144-45.

to receive visitors."<sup>17</sup> They stripped him down to his underwear. He was then transferred to PTJ central offices at Parque Carabobo in Caracas, where he was not abused. Later transferred to the PTJ station in Cohecito, he was handcuffed, hung, beaten repeatedly and told he "would not leave alive."<sup>18</sup> Fermín was held incommunicado for eight days before being turned over to the 2nd Penal Court, where the judge was outraged to receive him in such poor condition. On February 12, when Camuñas visited him the boy could not walk. Doctors feared that he may have sustained internal injuries.

- **A sixteen-year-old boy from the José Félix Rivas neighborhood outside Caracas, was detained by municipal police on February 2, 1993 for not having proper identification, and tortured.<sup>19</sup> He recounts:**

**They took me [and another boy they had picked up] to an isolated place, where you couldn't see any houses, only trees, and you could hear a lot of birds chirping. ... They tied me to a tree -- they handcuffed me -- and they fucked me up for about an hour... They hit me with their fists, they kicked me, in the stomach, in the legs, in the head, all over.... I told them to leave me alone, that I didn't know anything. ...They hit me so I'd tell them where the gun was.<sup>20</sup> They made me pass out twice ... by putting a plastic bag over my head and tying it around my neck. I couldn't breathe and they hit me until I passed out.... I thought they were going to kill me and that no one would ever know because I was all alone. The other kid was crying and wanted them to let him go.**

**He was turned over to the PTJ at their El Llanito station, where "... the police treated me fine. They only hit me two or three times on the legs with a tube. It hurt a lot but they left me alone right after that." He was subsequently released and required to present himself before a juvenile court judge every eight days.**

- **The Asociación Muchachos de la Calle (Street Kids Association) denounced a case of abuse against a street child to the State Prosecutor. On April 29, 1993, a university student doing thesis research on the plight of street children witnessed DISIP agents detain a twelve-year-old male street child in the Sabana Grande section of Caracas, take him to a remote area, pour gasoline on his genitals and abuse him physically and verbally.<sup>21</sup> The State Prosecutor's Office, through its Families and Minors Division, responded on May 26, indicating that an investigation was underway. To date, investigations have yielded no results.**

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<sup>17</sup> "Tienen que joder a este malandro; si no lo hacen, les prohibo las visitas." *Ibid.*

<sup>18</sup> Amnesty International reports that this practice of moving detainees among various police facilities is known as the "roulette" (*ruleta*), a practice which makes it difficult to trace detainees. *Venezuela: Torture and other human rights violations*, (London: July 1992), p. 2.

<sup>19</sup> Testimony taken by the Comisión de Solidaridad de Justicia y Paz de Petare, February 18, 1993.

<sup>20</sup> According to the youth's testimony, he had been given a gun by his uncle and had pointed it at someone.

<sup>21</sup> Letter of the Asociación Muchachos de la Calle to the State Prosecutor, May 3, 1993.

Police roundups, known as *redadas*, are common practice. Generally, a considerable contingent of heavily-armed police enters a poor neighborhood and detains dozens of young men they find in the streets. Police employ roundups in areas that have been hit hard by crime sprees, after a police agent has been killed, or to counter perceived subversion.<sup>22</sup> Under an archaic 1956 statute, the *Ley sobre Vagos y Maleantes* (Law on Vagrants and Miscreants), police may detain individuals with neither judicial warrant nor reasonable suspicion that the individual has perpetrated a crime. Because the detention is strictly administrative, there is no transfer of control of the detainee to the courts. In practice, such detentions generally last a day or less. But they feature a range of abuses nonetheless.<sup>23</sup>

The indiscriminate *redadas*, with their reliance on arbitrariness and surprise, set aside due-process guarantees which, under international law, may be suspended only under a state of emergency, and even then must be suspended to deal strictly with the exigencies of the specific situation, and in a manner that does not unduly punish any one social sector. The absence of search warrants or individual arrest orders and the fact that these tactics affect only low-income areas make the *redadas* inherently abusive. They are frequently accompanied, moreover, by unnecessary and severe violence against persons already in custody, including the use of electricity, beatings, mock executions and threats of death. For example:

- On October 18-20, 1991, the National Guard conducted large-scale sweeps in poor barrios of La Vega, Caracas, in an attempt to locate persons responsible for the October 17 killing of National Guard Sub-Lt. José Pedro Darbisi Andrade. According to PROVEA, among those rounded up during the *operativos* and tortured by the National Guard were:

Richard Alberto Ortíz Montilla, who was detained on October 18. Visited by PROVEA on October 21, his body presented signs of a beating and bore small, circular burn marks;

Yorfan Escobar Berríos, seventeen, who was detained the same day, during the seventh

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<sup>22</sup> Although not documented in detail, another phenomenon is frequently noted in connection with the roundup. Security forces reportedly utilize these operations for forced conscription. Both obligatory military service and the prohibition of forced recruitment are established in Venezuela's Constitution (Arts. 53 and 60(9)). In theory, the obligation to perform military service applies to all young men when they reach the age of eighteen unless they fall within certain exempt categories such as being a family's sole breadwinner. Police press gangs reportedly scour poor neighborhoods or descend on adolescent hangouts and scoop up whom they choose -- frequently the poor, the dark, the ill-dressed or the unemployed.

Observing the rights of exempt persons is not a hallmark of these operations. Nor, once having been seized, does a young man have early occasion to present outside the military chain of command whatever claim to exemption he may possess. Indeed, he may find it difficult to communicate anything, including the fact of his induction, to anyone, including his parents who in some cases do not discover until the conscriptee's first leave after three months of training that their son is a soldier.

Whatever its name, reason or place, detention by the state violates human rights if the detainee is denied a reasonable opportunity to show that the law does not authorize detention in the particular case. Unequal application of laws providing for the circumvention of liberty, as conscription laws do, also is an abuse of human rights. The state's right to conscript is, of course, indisputable. But like all essays in state power, it is a right limited by the obligations of due process and equal protection of the law.

<sup>23</sup> See, for example, Amnesty International, *Venezuela: The Eclipse of Human Rights*, forthcoming November 1993.

search of his house. His body bore similar burn marks as well as scratches.<sup>24</sup> He complained of having been beaten and walked on by National Guard agents,<sup>25</sup>

Orlando José Guerra, twenty, who denounced that once he had been transferred to National Guard Barracks No. 51 in El Paraíso (Caracas), "They put us all in a line...applied electricity..., beat us in the head with bottles of Gatorade... and when the bottle broke they would get another one. They ordered us to repeat over and over again the complete name of the sublieutenant killed in El Valle and if we got it wrong, they hit us, kicked us...."<sup>26</sup>

- On October 21, 1991, the Metropolitan Police conducted a similar operation in the 23 de Enero barrio of Caracas, in search of the killer of Metropolitan Police agent Angel Juvenal Pérez. PROVEA registered at least thirty-eight persons detained, including twenty-three minors between the ages of thirteen and seventeen. Accounts of the detentions provided by fourteen victims speak of the routine use of beatings and, in some cases, torture.<sup>27</sup> Detained without judicial order was Caril Rodríguez Yance. Caril was transferred to the Motorized Brigade in Maripérez and tortured.<sup>28</sup> Detained too was Betsaida Figueroa. She was taken to Metropolitan Police Caracas headquarters at Cotiza before being transferred to the western commissary of the PTJ. Her body displayed signs of having been beaten.<sup>29</sup>

One family received particularly harsh treatment: J.R.,<sup>30</sup> sixteen, was bathing when police entered his home. He was taken from the bath, beaten, and taken to the twelfth floor of the building in which he lived. There, he was suspended from the window and threatened with death. J.A., fifteen, was beaten during transfer to Metropolitan Police headquarters at Cotiza. He was released the same day. The following day, he was detained by Metropolitan Police agents again and taken to Cotiza, where he was sprayed with a liquid that made it difficult for him to breathe. Agents covered his entire body with a plastic bag tied at his feet. As a result, he lost consciousness. He was beaten with a pole covered with cloth, spit on, and kicked from behind. He was not allowed to go to the bathroom and was not fed. Late that night he was transferred to PTJ custody, and received additional beatings. Police agents carried out a mock execution,

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<sup>24</sup> See, PROVEA petitions to 31st Penal Court of the Federal District and Miranda State, October 22, 1991, and to Ada Maritza Dávila Flores, 11th Penal Judge of the Federal District and Miranda State, February 18, 1992.

<sup>25</sup> Denunciation of his mother, Eusebia Berríos, without date.

<sup>26</sup> See list of denunciations compiled by PROVEA, p. 3 (of six); complaint filed before Ada Maritza Dávila Flores, 11th Penal Judge of the Federal District and Miranda State, February 18, 1992.

<sup>27</sup> See *Testimonios Recogidos por PROVEA y La Vicaría Episcopal de Derechos Humanos de la Arquidiócesis de Caracas a Raíz de la Ola de Allanamientos Producida en el 23 de Enero, el 21.10.91*, without date.

<sup>28</sup> See PROVEA petition to 29th Penal Court of the Federal District and Miranda State, October 24, 1991.

<sup>29</sup> See PROVEA petition to 40th Penal Court of the Federal District and Miranda State, October 25, 1991.

<sup>30</sup> It is against Venezuelan law to publish the names of minors. Americas Watch has refrained from publishing the names of those victims of human rights abuse still alive who may not yet have reached eighteen years of age.

using an unloaded 9-mm pistol. He was released three days later, October 25. While at the PTJ, J.A. saw his brother Kodiast Ascanio, twenty. His brother, like J.R., was suspended from the twelfth floor of his apartment building by Metropolitan Police agents in an effort to make him talk. Metropolitan Police agents beat him seriously and threatened to kill him, pointing guns at him. He was held incommunicado until October 26 and released on October 28.

As of June 1993, no one has been detained for the abuse these individuals suffered.

Human rights monitors informed Americas Watch in June 1993 that a person detained under such circumstances will generally spend a few hours or a day under arrest. Detainees frequently complain of physical abuse, including beatings -- by the hands or with rifle butts, poles and batons -- as well as kickings and torture, including mock executions and the *capucha*.<sup>31</sup> Such abuse is reported to occur both in police stations and in jails.

PROVEA reported fifty-nine cases of torture between October 1991 and September 1992, fifty-two of which corresponded to the police forces mentioned above. Nineteen are attributed to the Metropolitan Police, eleven to the PTJ, ten to the National Guard, seven to the DISIP and another five to state police forces. The remaining seven were attributed to the Armed Forces.<sup>32</sup> PROVEA reports as well that at least sixty persons were tortured by security forces in the period October 1992-June 1993.<sup>33</sup> Because PROVEA's statistics are based primarily on press accounts, it is not unlikely that the actual number of cases is higher, given the reticence of torture victims and, in Venezuela, the widespread lack of faith in the legal system.

### **Excessive Force Resulting in Injury and Death, and Extrajudicial Executions**

Venezuelan police use excessive force, both while on routine patrol duty and when dispatched specifically to quell demonstrations. They have also committed summary executions. Between October 1991 and September 1992, data gathered by PROVEA indicate that of 143 persons nationwide whose "right to life" was violated by state agents,<sup>34</sup> the police forces mentioned above were responsible for 117 of the deaths. The breakdown is as follows:<sup>35</sup>

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<sup>31</sup> A *capucha* is a hood. In this form of torture a plastic bag is placed over the victim's head and he is brought to near-asphyxiation either by injecting disinfectant or pesticides under the bag or by holding the bag closed.

<sup>32</sup> See PROVEA, annual report 1992, p. 162.

<sup>33</sup> Partial list compiled by PROVEA and provided to Americas Watch in August 1993. This list does not break down cases by force responsible.

<sup>34</sup> The right is presumed violated, according to PROVEA, when there is unjustified use of a firearm (because the victim is unarmed); when the security force agent has used his or her service weapon outside the line of duty; when the official justification for the death has been repudiated by family members or witnesses; or family members or persons or organizations acquainted with the victim seek an independent investigation, putting in doubt the official version of the facts. (Annual report 1992, p. 157.).

<sup>35</sup> PROVEA Annual report 1992, p. 158.

<b>Metropolitan Police</b>		<b>37</b>
<b>State police</b>		<b>30</b>
<b>National Guard</b>	<b>24</b>	
<b>PTJ</b>		<b>18</b>
<b>DISIP</b>		<b>8</b>
<b>Total</b>		<b>117</b>

**For the period October 1992 through June 1993, PROVEA reports 128 violations of the right to life. That figure does not include deaths resulting from the November 27 coup attempt and the Retén de Catia revolt. In those two incidents, some ninety civilians were killed by security forces, most of them in circumstances suggesting excessive police use of force (see chapters V and VI).<sup>36</sup>**

**The following cases illustrate not only police use of force disproportionate to the circumstances, but also extra-judicial execution.**

- **Sixteen-year-old José William Guerra Ortíz was killed by DISIP agents on June 30, 1990 in Nueva Tacagua, Caracas.<sup>37</sup> The case is being monitored by the Red de Apoyo, where the victim's mother now works.**

**Guerra was at a birthday party, standing on a house porch, when he noticed a DISIP car stop in front of the house around 10:00 p.m. He had a friend who was a DISIP officer, Guillermo, so he went out with another friend to see if it was him. When they did not recognize the officers inside the car, they turned and walked back towards the house.**

**As he reached inside his pocket for his key to open the door, two uniformed DISIP officers emerged from the car shooting. They did not shout a warning. Guerra was shot in the eye and fell to the ground. The DISIP officer came over and in front of his mother, shot him again in the chest while he was down.**

**Mrs. Ortíz ran to get Guillermo, her son's DISIP friend. When she returned to the scene, a .38 calibre pistol had been placed in her son's hand. A girl informed her that she saw the DISIP officer place it there. Several more DISIP patrol cars arrived, and there was more shooting to keep people away. An elderly man who witnessed the shooting and shouted, "Why would you shoot this innocent boy?" was beaten by the officers. They arrested the friend who was with her son.**

**The DISIP agents took the victim's friend to Chaguaramos, the central DISIP station in Caracas, where he was told that he would be released if he gave a statement saying that Guerra**

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<sup>36</sup> **At least fifty-seven inmates died at Retén de Catia. PROVEA reports that at least twenty-eight civilians were killed during the November 27 coup attempt. (Partial list compiled by PROVEA and provided to Americas Watch in August 1993.)**

<sup>37</sup> **Interviews with Luz Ortíz, mother of the victim, Caracas, July 1992 and June 1993.**

had a gun.

One of the DISIP officers involved was identified by the girl and the victim's mother as José López Jiménez. As of June 1993, three years after the crime, López Jiménez was detained, but no one had been convicted.

- Late in the evening of December 16, 1992, a significant contingent of Metropolitan Police agents was dispatched to area known as Blandín, on the outskirts of Caracas in Miranda state, where dozens of young motorcycle enthusiasts were gathered for a party. In three separate incidents, Metropolitan Police agents are believed to have shot and killed five young men.<sup>38</sup>

Police were apparently responding to complaints from neighbors that the partygoers were making noise. The contingent arrived with water cannon, and are reported to have arrived shooting, saying nothing. One police officer, known to area residents as "Terminator", for his apparent propensity to violence, was hit in the arm by gunfire.

Police are said to have detained a group of some ten youths, who were ordered to lie on the ground face down. The injured police officer, angered over his wound, reportedly gave the order to fire upon the group. A number of officers opened fire with machine guns, killing three individuals.

One victim, Douglas Armando Yusty, a twenty-six-year-old resident of Sarría, Caracas, received twelve shots to the body. Killed also were Gerardo José López Torres, a twenty-two-year-old shopkeeper and resident of the 23 de Enero barrio of Caracas, and Rolando Iracet Díaz, a fifteen-year-old student and resident of the same neighborhood. Family members found Iracet's corpse at the morgue with seven gunshot wounds in the back, legs and head. At least two others were reported injured.

Early in the morning of December 17, Yusty's family heard on the radio that apparent members of the subversive group Bandera Roja, in military-style uniforms, had battled police.<sup>39</sup> Family members indicate that the victims did not participate in subversive groups.

Yusty's relatives denounced the case to the PTJ and the Public Ministry on December 21, 1992. That same week, they took nineteen witnesses to give declarations to authorities.

Another partygoer, Franklin José Pérez, a twenty-five-year-old driver and resident of Los Rosales, Caracas, died under different circumstances. When police arrived, he fled on a motorcycle driven by a friend. They were pursued by police and, according to the friend, Pérez was shot in the arm. Arriving at an area known as Las Trincheras, close to the Maiquetía International Airport, the motorcycle was struck by a police vehicle. The two fell to the ground, and Pérez asked for assistance his friend was unable to provide due to the presence of three

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<sup>38</sup> Interviews with the victims' family members and the Red de Apoyo, Caracas, June 1993.

<sup>39</sup> Many of the partygoers were wearing red Santa Claus-style hats because of the season and dressed in motorcycle riding gear. Some in Venezuela associate the wearing of red berets with subversion.

**Metropolitan Police agents. Pérez's friend, as he was taken away by police, heard two shots fired.**

**Pérez remained missing until December 26, when his family found his body in a ditch on the side of the highway, close to where the motorcycle had crashed. The body displayed gunshot wounds in the arm, the shoulder and the ribs. Pérez had died from blood loss.**

**In June, the case was before the 29th Penal Court, which was waiting for results of PTJ investigations. As of this writing, nearly a year after the events, no one had been detained for the killings, and "Terminator" was still on duty.**

- **Kilian García ("Chino"), a seventeen-year-old street child, was killed during an altercation with a DISIP agent on February 4, 1993.<sup>40</sup>**

**Around 11:00 a.m. on February 4, Kilian was washing cars in the Calle Principal de Las Delicias in Caracas. He went to assist a young woman, also a street child, who was being accosted by a man. The young woman saw the man beat Kilian and take out a pistol. During the altercation, she saw the man's credentials -- identifying him as a DISIP agent -- fall to the ground. She subsequently fled the scene. From a distance, she heard two shots.**

**About eight hours later, another street child found Kilian's corpse in a construction site, approximately ten meters from where the altercation had taken place. The official explanation, which appeared in a Caracas newspaper article, was that a minor had been shot attempting to steal a car.**

**The Street Kids' Association, which denounced the case to the press and to the Public Ministry,<sup>41</sup> complains that investigations are paralyzed. The Association reports that Kilian's sibling, also a street child, received threats from the same agent after the Association made the case public.**

**To date, no one has been detained in the case.**

**As mentioned above, police also rely on excessive force in putting down demonstrations. PROVEA has found that roughly one-third of all peaceful protests are repressed by the state.<sup>42</sup> The repression of civic protest results in arbitrary detentions, physical mistreatment and killings by security forces,<sup>43</sup> as the following cases illustrate:**

- **José Gregorio Delgado, a seventeen-year-old student in his third year of high school, was killed**

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<sup>40</sup> Interview with a representative of the Street Kid's Association, Caracas, June 10, 1993.

<sup>41</sup> See "Los niños de la calle temen ser asesinados," *El Nacional*(Caracas), February 18, 1993.

<sup>42</sup> 1992 annual report, p. 67.

<sup>43</sup> For example, PROVEA reports that twenty-five of 184 killings in 1992 (not including deaths associated with the November coup attempt or Retén de Catia killings) occurred during demonstrations.

by the Metropolitan Police on November 20, 1991 near his home in Las Adjuntas, in southwestern Caracas.<sup>44</sup> On the day of his death, students were demonstrating in Macarao to protest an increase in transportation fares.

Delgado left his house around 10:00 a.m., as the protest was beginning to calm down. Various Metropolitan Police agents arrived on the scene as he went on his way to class at the Colegio Juan Lovera. One agent fired on him with a shotgun, from a distance of some eight to ten meters, hitting Delgado in the back of the neck.

As his mother returned home from work, she heard the news that three students had been shot. Arriving home around 11:30 a.m., a neighbor informed her that her son had been injured. She proceeded to the Pérez Carreño Hospital, but hospital officials would not allow her to see her son. She was informed that he had arrived dead.

Delgado's father identified the cadaver at Caracas's Bello Monte morgue, where the cause of death was listed as a fractured skull.

Witnesses identified Metropolitan Police agent Jesús Alberto Zambrano Sánchez as the man who shot Delgado. As of June 1993, Zambrano was detained,<sup>45</sup> and the family hoped he would soon be sentenced.

- **Twenty-year-old José Félix Patiño Hidalgo, of the Caricuao section of Caracas, was killed by police on Thursday, June 25, 1992.<sup>46</sup> His sixteen-year-old brother was wounded in the same incident.**

The high schools let out early that day because of student protests in the area. The whole Patiño family was home when Metropolitan Police arrived.

"It was like Vietnam -- tear gas, gunfire. My daughter Erika said 'Papi, the water cannon knocked down the gates of the apartment block,' at the building where we live. When I saw that, I was indignant," said José's father Enrique Patiño, a security guard at a government enterprise.

According to Mr. Patiño, "They were destroying cars, breaking through gates. This had never happened [in our neighborhood] before, and I've been living there twenty years. I believe in peaceful protests."

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<sup>44</sup> Interview with the victim's parents, Caracas, June 1993. Two other youths were shot and killed that day in Macarao as the Metropolitan Police put down the demonstration. They are Jarwin Duncan Capote Rondón, a seventeen-year-old student, and Humberto José López, a twenty-year-old army reservist. The Metropolitan Police conducted a raid in the area, during which fifty homes were searched without proper judicial authority and twenty-two persons were detained arbitrarily (See PROVEA letter to State Prosecutor Ramón Escobar Salom, December 18, 1991)

<sup>45</sup> Also detained was Metropolitan Police agent Giovannis Araque for his presumed participation in the killings.

<sup>46</sup> Interview with Enrique Patiño, father of the victim, Caracas, July 1992.

**Police officers who had arrived in the water-cannon vehicle, known as *la ballena* (the whale), fired buckshot into the apartment building, but did not use the water cannon itself. Shots were also fired by police officers who had surrounded the building and were beginning to enter the building's parking lot, and finally the building itself.**

**José, inside the building when he was shot in the chest, died of internal bleeding. His brother Jimmy received buckshot in the leg. A number of others were wounded, including two other students.**

**"In Japan, they have clubs and they don't kill people. Here they kill people. I should feel protected when I see a policeman. But I'm afraid," said Mr. Patiño.**

**The police reportedly began an investigation the next day. Americas Watch is unaware of any results.**

- **Angel Jehu Bolívar, an eighteen-year-old student and laborer, resident of Los Teques, in Miranda state, was beaten to death, apparently by Miranda State Police (Policía del Estado Miranda, or PEM) on November 27, 1992, the day of the second attempted coup.<sup>47</sup>**

**Around 10:30 a.m., Angel Bolívar left his home to paint a house with a pair of friends. He reportedly became interested in a small protest underway at Los Teques circle and went to see what was going on.**

**An acquaintance of Bolívar's friend said that he had seen six PEM agents beating Bolívar with their rifle butts and kicking him. Another individual indicated that the police agents responsible for Bolívar's beating were driving a patrol vehicle with license plates P-030.**

**The family itself received no news of the young man's whereabouts until 10:00 the following morning. His mother asked after him in police stations and the hospital, then ran across a friend of Bolívar who told her that a young man had been found in a ravine close to the Los Teques circle.**

**It was Bolívar who had been removed from the ravine, and taken to the Victorino Santaella hospital around 11:00 a.m. on November 27. According to a doctor, he had suffered a triple fracture of the skull, had wounds on his arms and hands, and one of his eyes was exceedingly swollen. There were also signs of blows to the stomach. The hospital informed the family that Bolívar had arrived nearly naked with no identity credentials and had been taken there by the Defensa Civil.**

**On November 28, the victim was transferred to Domingo Luciani hospital. His mother tried to denounce the case on November 30 to the PTJ, but was informed she needed to wait to denounce the case until her son died. The family turned to the central site of the Public Ministry, where they were referred to the branch office in Los Teques, which office took on the case.**

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<sup>47</sup> Interview with the victim's sister, Caracas, June 10, 1993.

**Bolívar died in the hospital on December 16. The family complains that the Public Ministry lawyer in charge of the case is never around to receive them.**

**A friend within the PTJ informed the family that Bolívar had been accused of being a subversive, apparently for wearing a red beret. The family denies that he belonged to any subversive group.**

**According to the Red de Apoyo, in June 1993 Nerysol Kosmalki, a Public Ministry fiscal, informed the family and the Red de Apoyo that the Public Ministry had not requested nudo hecho investigations because Bolívar's friends, under PTJ questioning, did not implicate the PEM. She would offer no other information on the case due to the confidentiality of the judicial proceedings.**

**Despite the rise in police violence, the government has not made curtailing police abuses a priority. Indeed, at the higher levels of government there is scant public acknowledgement that more than isolated cases occur. More frequently, the government asserts that it complies fully with human rights standards. In September 1993 in Washington, Foreign Minister Fernando Ochoa Antich stated to the press:<sup>48</sup>**

**I would like to speak of the very firm support of Venezuela for the principles of international law, in particular the principles of freedom, of human rights, and especially for the existence and strengthening of democracy. Consequently, Venezuela and the United States will be working together during Venezuela's chairmanship of the UN Security Council, defending the same principles that we have always defended and which we will continue to fight for.<sup>49</sup>**

**The Human Rights Division of the Public Ministry, however, is convinced that violations and impunity continue. In its annual report for 1992, the Public Ministry notes that:**

**[a] complete diagnosis of impunity in our country is needed. It is indispensable in avoiding [impunity to have] political will from the diverse institutions, which should tell the truth about and correct the anomalies committed by public officials in their daily practices, by applying appropriate internal procedures and promoting human rights norms. In that way one avoids falling into the "culture of self-protection" that characterizes our institutions and that manifests itself in the protection offered to the state agents who have violated some norm during the exercise of their functions.<sup>50</sup>**

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<sup>48</sup> In July 1993 Americas Watch had requested a meeting with the Foreign Minister during his stay in Washington. In particular we hoped to discuss the discrepancy between government pronouncements (like the one in the text) and action on human rights. Despite letters to the foreign ministry and to the Venezuelan embassy in Washington, and follow-up telephone calls to the Embassy, we were not granted the meeting, nor did we ever receive a response from the Foreign Ministry.

<sup>49</sup> Federal News Service, "Photo OP/Secy of State Warren Christopher & Venezuelan Foreign Minister Fernando Ochoa Antich," (Federal Information Systems Corporation, Washington, DC: September 2, 1993.)

<sup>50</sup> State Prosecutor's Office, *Informe del Fiscal General 1992*, Vol. I., p. 226 (translation by Americas Watch). (Caracas: 1993)

**Police officials with whom we met either denied there was an institutional problem or suggested that if there were abuses, responsibility lay with the middle-level officers who were failing to control their agents. For example, DISIP Director Gen. (ret.) Manuel Heinz Aspúrua told Americas Watch in June 1993 that DISIP was proud of its agents' strict adherence to the law. He noted that human rights groups have made baseless allegations about violations, but have never proven them. According to Heinz, DISIP has never violated citizens' rights during the course of its investigations, nor has any DISIP agent ever been prosecuted for violating the law. Both statements are patently false -- see for example, the Guerra Ortíz killing discussed above.<sup>51</sup>**

**During our missions to Venezuela, Americas Watch did not assess the efficacy or vigor of internal police procedures for responding to abusive police conduct. Police officials with whom we spoke defended their procedures for investigating and punishing police misconduct. According to these sources, in most instances of alleged wrongdoing the police hold their own internal investigation and impose the appropriate sanction. If it appears a serious crime has been committed, such as homicide, the agent will be suspended and then turned over to the PTJ and the civil judicial system. Americas Watch is unable at this point to determine the extent to which these claims reflect reality, although we note with concern the widespread perception among Venezuela's human rights community that abusive agents remain in their posts or are transferred after an allegation of abuse arises.**

**The public does not have access to the results of administrative or judicial proceedings held in response to complaints of police abuse. Police officials interviewed by Americas Watch believe that providing the public with the results of their internal investigations and the status of legal proceedings against their agents would be damaging to the force. They disparaged the public's ability to properly understand the significance of internal investigations, and believed informing the public would simply lead to more criticism. We find this concern inappropriate. Accounting to the public does not require disclosure of preliminary investigations into allegedly abusive conduct by specific agents. Such disclosure could unjustly damage both the individual's reputation and the force's image. It would be appropriate, however, to report regularly -- even in general terms -- on definitive action taken against agents for criminal conduct. Such public disclosure would demonstrate a willingness by police to clean house, and so contribute to increased confidence in the security forces by the citizenry.**

**The matter of image appeared to concern the police command disproportionately. Police officials interviewed by Americas Watch denied the existence of pervasive abuse, demonstrated great concern about what they felt were unfair press attacks and were quick to make excuses for police misconduct. For example, they insisted corruption was usually caused by civilians tempting individual agents. A year's worth of directives from the head of the Metropolitan Police contains only a handful that address abusive conduct, while matters of image loom large. For example, a directive in mid-1991 called attention to "an apparent lack of control, supervision and a high degree of deterioration in the image of the police [which] make it necessary to review meticulously the events that have taken place inside our**

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<sup>51</sup> Heinz Aspúrua noted as well that if DISIP agents had transgressed the law but had not been investigated, the fault lay with the Public Ministry.

**institution in order to take...corrective measures..."<sup>52</sup>**

**But criticism of the police and the forces' dismal image reflect the public's assessment of police conduct and the extent of impunity. If the Venezuelan police command demonstrated unequivocally its commitment to punishing human rights violations through expeditious internal investigations and sanctions, the results of which were made public, abuses would decrease and the image of the force would improve. We strongly recommend that a civilian commission be created to investigate the efficacy of existing internal administrative mechanisms for deterring human rights violations and disciplining abusive agents, and to make public recommendations for reforms, such as the public disclosure of the results of administrative investigations.**

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<sup>52</sup> Directive from the General Commander of the Metropolitan Police in reference to Points of Institutional Doctrine, Caracas, July 30, 1991.

## **V. HUMAN RIGHTS ABUSE ASSOCIATED WITH THE TWO COUP ATTEMPTS OF 1992**

**Venezuelan democracy survived two dramatic challenges in 1992. Military rebels twice attempted to overthrow the government, on February 4 and again on November 27. Both uprisings were quickly quelled by loyalist forces. Repercussions of the attempts linger on, however, and cast a foreboding shadow over the country. The possibility of another uprising persists, evidenced by reports of the sudden movement of troops in late July 1993 in Falcón and Zulia states and subsequent detention of military personnel for questioning,<sup>1</sup> and continued fears of uprising throughout August to October.<sup>2</sup> Advocates of civil society and democracy in Venezuela legitimately fear that disgruntled factions of the military may make another move to oust legitimate leaders from power.**

**Venezuelans overwhelmingly rejected the attempted coups of 1992, and only a few civilians participated. While Venezuelans rejected the violent overthrow of their government, they nonetheless were sympathetic to the *golpistas*,<sup>3</sup> primary concern -- changing a government believed to be led by corrupt politicians with little concern for most of the population. Public rallies, opinion polls, commentaries and the personal popularity of certain *golpistas* and calls for amnesty following the February coup attempt attested to the public's support for the *golpistas*' critique of the status quo.**

**Americas Watch affirms the Venezuelan government's right and responsibility to put down the revolts. We are nonetheless critical of the manner in which human rights were violated by government forces during and after the coup attempts. Equally, Americas Watch condemns actions committed by the rebels during the coup attempts that violate principles of international humanitarian law, or the laws of war. It should be noted, however, that the great majority of denunciations of human rights abuse committed in the context of the coup attempts are attributed to the government.**

**In response to both coup attempts, the government suspended a host of constitutional guarantees. Americas Watch does not question the government's authority, in times of emergency, to suspend certain rights. Both domestic law and international law to which Venezuela subscribes allow the government to suspend certain basic guarantees -- including the rights to assembly and speech, and freedom from arbitrary arrest, among others, but only to the extent and for so long as the emergency requires.<sup>4</sup> Hundreds of persons were detained arbitrarily, houses were ransacked without restraint, and,**

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<sup>1</sup> See NotiExpress, No. 1583, July 23, 1993.

<sup>2</sup> InterPress Service, "Venezuela: Defense Ministry Adopts Emergency Measures," August 27, 1993; NotiExpress, No. 1632, October 1, 1993.

<sup>3</sup> The Spanish for coup d'état (or simply coup) is golpe de estado. Coup participants are *golpistas*.

<sup>4</sup> Article 241 of the Venezuelan Constitution permits the President to suspend constitutional guarantees except the right to life (Art. 58) and the prohibition of torture and other cruel treatment (Art. 60(3)), and life or other excessive sentences (Art. 60(7)). Article 68 states that the right to defense in judicial proceedings is inviolable. Article 243 requires either the President or a joint session of Congress to revoke the suspension when the causes motivating it cease.

The language contained in international law is more strict. See, American Convention on Human Rights, Art. 27 (a State Party "may take measures derogating from its obligations under the present Convention to the

**according to PROVEA, more than forty persons, including civilians and rebels who had surrendered to loyalist forces, were apparently extrajudicially executed or victims of the use of lethal force disproportionate to the circumstances. The suspension of freedom of expression led to censorship of numerous media outlets. We also criticize the unnecessary duration of the suspension of guarantees. Both coup attempts were, after all, put down in a day. Constitutional guarantees were suspended, however, for over two months in the first case and more than three weeks in the second.**

**Violations of human rights did not cease with the restoration of guarantees, moreover. Human rights groups note that the government's response to the military threat was, in part, to initiate a "witch-hunt" of civilian dissidents who may or may not have had any connection to the coup attempts. Student and community leaders, and others critical of the government, were arbitrarily detained long after the attempts were thwarted. Family members of the military rebels were intimidated, harassed and in at least one case, suffered serious physical abuse (see below). And some of the jailed golpistas have not benefited from due process of law.**

**Below we discuss the two coup attempts and rights violations associated with them.**

#### **February 4**

**In the early morning hours of February 4, 1992, units of middle-ranking army and air force officers in various cities attempted to overthrow the Pérez government. The uprising was launched by a group of soldiers who called themselves the Revolutionary Bolivarian Movement-200 (MBR-200), after the nineteenth-century Venezuelan revolutionary, Simón Bolívar, and were led by Air Force Lt. Col. Hugo Chávez Frías (and three other Air Force lieutenant colonels). The attempt followed three months of increasingly violent public protests during which ten persons reportedly had been killed, one hundred more injured, and the school year had been canceled.<sup>5</sup> The golpistas intended to depose a government they considered corrupt and out of touch with the country's problems.**

**Loyalist troops suppressed the attempt in a day.<sup>6</sup> While reports vary, Public Ministry data indicated that forty-seven persons died during the attempt; in a number of cases, it appears military rebels were executed by government forces after capitulating.<sup>7</sup> While certain rights are derogable**

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**extent and for the period of time strictly required by the exigencies of the situation" (emphasis added)); International Covenant on Civil and Political Rights, Art. 4. ("... States Parties ... may take measures derogating from their obligations under the present Covenant to the extent strictly required by the exigencies of the situation ..." (emphasis added)).**

**Since Venezuela is a signatory of these treaties, the stricter standard of international law is binding on the Venezuelan government.**

<sup>5</sup> Douglas Farah, "Perez Survives Coup Attempt in Venezuela," *Washington Post*, February 5, 1992.

<sup>6</sup> Then-Defense Minister Fernando Ochoa Antich (now the foreign minister) is widely credited with saving the Pérez government. President Pérez himself had just returned from a trip abroad when the attempt began.

<sup>7</sup> See, PROVEA, "Informe especial: Violaciones a los Derechos Humanos en el marco del intento de golpe de Estado," (in 1992 annual report) p. iv.

during states of emergency, the right to life may never be derogated (see legal discussion below). PROVEA reported fifteen civilians killed by security forces during the coup and its aftermath.<sup>8</sup>

President Pérez suspended several constitutional guarantees. The right to not be arbitrarily arrested, the right to free speech, peaceful assembly and free movement, the right to strike and the inviolability of the home were derogated.<sup>9</sup> The action received immediate and near-unanimous approval by the Congress.<sup>10</sup> During the suspension of guarantees, which were not fully restored until April 9, abuses of persons in custody included extrajudicial executions, torture and other physical mistreatment. Some 1,500 military personnel were detained in the days following the coup attempt, although most were soon released.

As would happen again in the days and weeks following the November coup attempt, security forces, especially the DISIP and Military Intelligence (Dirección de Inteligencia Militar, or DIM), took advantage of the suspension of guarantees to round up persons unsympathetic to the government. Particularly hard hit were student leaders, traditional thorns in the side of the CAP administration. Also detained were civic and labor leaders, and even dissidents living in areas untouched by the coup attempt,<sup>11</sup> despite government assertions that the coup attempt was a purely military venture. Homes of military personnel involved in the attempt and their relatives were also raided, often violently.

During the suspension of guarantees, the government both censored the media directly and urged them more generally to use discretion in reporting events; in particular, not to portray Lt. Col. Chávez in a favorable light. Some examples of censorship<sup>12</sup> include:

- The government seized the February 7 edition of the daily *El Nuevo País* after it published a story about the state-security police raid of the offices of *Zeta*, a weekly magazine. *Zeta* had run a photograph of Lt. Col. Chávez on its cover a day after the coup. The *Zeta* photograph of Lt. Col. Chávez was taken at a press conference in which the government presented Chávez after the revolt was suppressed.<sup>13</sup> The issue of *Zeta* was banned from circulation. According to President

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<sup>8</sup> PROVEA also reported 694 arbitrary arrests and eighty-four threats against civic leaders and politicians.

<sup>9</sup> Presidential decree No. 2086 suspended articles 60 (sections 1, 2, 6 and 10), 62, 64, 66, 71, 92 and 115 of the Constitution of 1961.

<sup>10</sup> PROVEA, "Informe especial," p. ix.

<sup>11</sup> *Ibid.*, p. v.

<sup>12</sup> Censorship was but one grave issue facing Venezuelan journalists in 1992. According to Jesús Pérez, secretary general of the National Media Workers Union (Sindicato Nacional de Trabajadores de la Prensa or SNTP), 1992 was a disastrous year for the press. (Interview, Caracas, June 7, 1993) In a document prepared by the SNTP and given to Americas Watch in June 1993, fifty-six journalists were listed as having been victims of physical abuse by security force agents between January 10 and November 27, 1992. PROVEA, in its 1992 annual report (pp. 164-66), cited 123 cases of aggression and intimidation (including physical abuse, threats, detentions, judicial citations and obstructing journalists from covering a story) against journalists perpetrated by state agents and government officials.

<sup>13</sup> Committee to Protect Journalists (CPJ), letter to President Pérez, February 7, 1992

**Pérez's chief of staff, "They were extolling the image of rebel soldiers who have committed a crime of high treason."<sup>14</sup>**

- **On the evening of February 7, the offices of the weekly magazine *Elite* were raided by the police who seized its Saturday edition which offered a photograph of Chávez on its cover.**
- **The offices of *El Diario de Caracas*, a leading daily, were raided by police on February 7. The following day, a special supplement of the paper covering the military rebellion was removed from newsstands by government forces.**
- **The authorities barred the circulation of the daily *El Nacional* on February 10 after a raid on its offices by state security police. Government censors screened the production of both issues. *El Nacional* reportedly had angered authorities by printing the word "censored" in blank spaces where articles had been removed by censors.**
- **Retired Army Gen. Jacobo Yépez Daza was arrested by DISIP on February 8, after he and more than sixty other retired military officers issued a statement that ran as a paid advertisement in several newspapers blaming the government for the discontent and unrest that led to the attempted coup. He was released without charge on February 14.**

**After a meeting with a group of newspaper publishers, President Pérez ordered the removal of government censors from media organizations on February 10. On February 17, the suspension of free speech (along with the freedom of movement and the right to strike) was ended. Pressures to censor material would continue even into April, however:**

- **On March 10, 1992, then-Interior Minister Luis Piñerúa Ordáz arrived at Radio Rumbos and demanded it adjust its coverage of the *Cacerolazo* mass protest (see below).<sup>15</sup>**
- **On April 4, 1992, the government suspended for eight days YVK Mundial broadcasts for, among other things, transmitting information "not adhering to the truth".<sup>16</sup>**

**While other rights remained suspended, serious protests began: citizens called for CAP's resignation and rallied for detained leaders of the coup attempt, who were initially held at the San Carlos military barracks in Caracas.**

- **On March 10, hundreds of thousands of Venezuelans across the country participated in the *cacerolazo*, banging pots and pans from their windows. Unruly street demonstrations occurred in major cities. Police responded with tear gas, water cannon and buckshot. Similar protests on**

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<sup>14</sup> Andrés Oppenheimer, "Venezuelan agents raid news offices," *The Miami Herald*, February 8, 1992.

<sup>15</sup> International Federation of Journalists (Regional office, Latin America), "Seguimiento sobre violaciones de los derechos humanos de periodistas y circunstancias en el área de la comunicación, enero - junio 1992 (caso venezolano)", document given to Americas Watch, July 1992.

<sup>16</sup> *Ibid.*

**April 8, culminating in the pitazo or mass whistle-blowing protest organized by students and unions, also met with state violence, as Metropolitan Police fired indiscriminately at protesters in and around Caracas. According to PROVEA, thirteen people were killed during the cacerolazo and the pitazo combined.<sup>17</sup>**

- **On March 19, some one hundred residents staged a demonstration in Petare, an impoverished neighborhood just outside Caracas, demanding CAP's resignation and calling for the full restoration of constitutional protections and amnesty for mid-level officers who participated in the coup.<sup>18</sup> At least fourteen and as many as twenty-five were arrested by police, who broke up the protest with tear gas and birdshot. Three journalists and a dozen other persons were reportedly wounded. As the Metropolitan Police attacked the press on the scene, María Verónica Tessari, a Venezuelan working for a Colombian news medium, suffered a fractured skull<sup>19</sup> and Herminia Serrano, a reporter for Venezuelan Radio RQ 910, received injuries to her spine. Francisco Solórzano, the secretary-general of the Journalists Association, was briefly detained.<sup>20</sup>**
- **On April 2, twenty-eight persons were wounded as police put down a demonstration in Caracas in support of the coup leaders with a water cannon, tear gas, and plastic pellets.<sup>21</sup> *El Nacional* photographer Orlando Urgueto and reporter Roberto Cienfuegos of the Mexican daily *Excelsior* denounced having been deliberately sprayed with a mace-like gas by Metropolitan Police officers as they covered the demonstration. Later that day, Raquel García of the Venezuelan private TV channel *Televén* was pushed to the ground by National Guard troops as she reported on a disturbance at the San Carlos military barracks.<sup>22</sup>**

**Full constitutional guarantees were not restored until April 9, more than two months after the attempted coup had been quashed.**

**In addition to rights abuse associated with the suspension of guarantees, military rebels detained for their participation in the coup attempt complain of a violation of their due process rights. Family members of the golpistas presented Americas Watch with a litany of complaints, including the violation of correspondence, denial of medical attention, the suspension of visiting rights, the maintenance of incommunicado detention, and abhorrent prison conditions.<sup>23</sup>**

<sup>17</sup> PROVEA, "Informe especial," p. v.

<sup>18</sup> Edward Holland, "Venezuela police squelch protest," *Miami Herald*, March 20, 1992

<sup>19</sup> She died from her injuries on January 15, 1993. A criminal case against the Metropolitan Police agents allegedly responsible for her death is reportedly before the courts. (Víctor Manuel Reinoso, "Fiscal denunció a 13 policías por homicidio de periodista," *El Nacional*, January 30, 1993.)

<sup>20</sup> CPI, letter to President Pérez, March 27, 1992.

<sup>21</sup> Andrés Oppenheimer, "Venezuelan resentment, protests grow," *Miami Herald*, April 4, 1992.

<sup>22</sup> CPI, letter to Antonio Ledezma, Federal District Governor, April 3, 1992.

<sup>23</sup> Meeting, Caracas, June 4, 1993.

Only a small number of legal investigations into alleged human rights violations -- including the killing of civilians and military insurgents *hors de combat*, arbitrary and incommunicado detention; torture and other mistreatment during detention; and security force raids on neighborhoods -- committed during and subsequent to the February 4 coup attempt have been initiated, and even these are stalled. As of October 13, 1993, few cases have gone further than initial inquiries by the State Prosecutor's Office (see discussion of *nudo hecho* in chapter I), and investigations have yet to yield a single detention.

## **November 27**

In the early morning hours of November 27, Venezuelans were greeted on Venezuelan TV by a previously taped video of Lt. Col. Hugo Chávez, urging them to take to the streets and overthrow the government. Civilians and military rebels had taken over Channel 8, a state TV station, and broadcast the video, which made it appear that Chávez had been freed. Meanwhile, insurgent military forces, calling themselves the July 5 Movement,<sup>24</sup> attacked military and political facilities apparently aided by civilian members or sympathizers of the marginally functional far-left groups *Bandera Roja* (Red Flag) and *Tercer Camino* (Third Way), by members of the rebel MBR-200 movement within the military, and by rebel Metropolitan Police agents. In contrast to the February 4 attempt, leaders came from the highest echelons of the military and rebels comprised more of a cross-section of the armed forces. The apparent reason behind the attempt, rather than to seek a profound change in Venezuelan society, was to depose the civilian leadership, perceived by coup leaders as corrupt.<sup>25</sup>

The attempt focused on Caracas, but there were some sabotage actions in other parts of the country as well. The rebellion was quashed on the first day, although on November 28 *golpistas* in a helicopter attacked the presidential palace in Caracas, and there were a few incidents of sniper fire on loyalist troops.

This attempted coup was much bloodier than that of February 4. Although it is difficult to obtain a precise number of persons killed, official sources estimate the dead at about 230.<sup>26</sup> Information collected by PROVEA indicates that at least twenty-six non-combatants were killed by security-force agents.<sup>27</sup> Eight were victims of intentional executions -- shot and killed for violating the curfew. The rest lost their lives because of the indiscriminate use of lethal force by the security agents, e.g., killed by the random firing into crowds of demonstrators.

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<sup>24</sup> July 5 is national independence day in Venezuela.

<sup>25</sup> Undoubtedly, as in the first coup attempt, the falling social and economic status of the military played a part as well.

<sup>26</sup> Katherine Hutt, "Charges Surface of Rights Abuses During Venezuelan Coup Attempt," *Associated Press*, January 4, 1993. These figures include at least fifty-seven prisoners killed at the *Retén de Catia* (see chapter VI).

<sup>27</sup> One reporter died while covering the attempted coup. Virgilio Fernández of *El Universal* received a fatal FAL shot in his marked press vehicle by a National Guard agent at La Carlota air base. Carmen Castillo (also of *El Universal*) was injured by the same blast. The case is before a military court. (Interview, Jesús Pérez, June 7, 1993.)

**National Guard and Metropolitan Police forces, under the command of then-Metropolitan Police Commander Gen. Vinicio Barrios Puche (since promoted in July 1993 to commander of the National Guard's 5th Regional Command) are charged by survivors with executing three military rebels and three unarmed civilians involved in the taking of Channel 8 television after they had surrendered.<sup>28</sup> According to two military rebels, Army Capt. José Gregorio Valera Rumbos and Navy Lt. (ret.) Arne Chacón Escamilla, once the station had been retaken by loyal forces and the rebels had surrendered,<sup>29</sup> they witnessed National Guard soldiers take Army Sgt. Maj. Delgado de Jesús from the room they were in; minutes later, they saw his body crumpled in a hallway outside the room. They learned later that he died from bullet wounds. Chacón saw the body of rebel Pvt. Piñero Gascón with a bullet wound to the head.<sup>30</sup> Both Valera and Chacón said they were used as human shields when loyalist forces searched the station for more rebels. During that operation, Valera saw rebel Sgt. Jaime Ortega and a civilian dead in a hallway. Ortega had four bullet wounds, in the forehead, abdomen and one on each leg; the civilian had one bullet wound to the head.<sup>31</sup>**

**Surrendered rebels at Channel 8 were made to lie face down on the floor while they were searched by National Guard soldiers, who stole personal belongings.<sup>32</sup> The civilians interviewed by Americas Watch stated that loyalist troops executed three civilian rebels as they lay on the floor. The civilians accuse Gen. Barrios Puche of giving the order to take advantage of the absence of any fiscales from the Public Ministry to rough up those who had surrendered. They assert that Barrios Puche himself walked on the backs of the rebels as they lay in a prone position. To date, no one has been arrested in connection with the apparent execution of surrendered rebels at Channel 8.**

**According to government reports, golpistas summarily executed three members of an Honor Guard near the Palacio Miraflores in Caracas on November 27.<sup>33</sup> This claim was refuted, however, by witnesses who stated that loyalist National Guard soldiers killed the victims.<sup>34</sup> The government also**

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<sup>28</sup> Interviews with civilians Juan Ramón Mena, Eduardo José Garrido, and Jesús María López, and Army Capt. José Gregorio Valera Rumbos and Navy Lt. (ret.) Arne Chacón Escamilla at the San Carlos military barracks, Caracas, June 3, 1993.

**These individuals were among those responsible for broadcasting the video of Hugo Chávez.**

<sup>29</sup> They say that their attempts at surrender, including shouts to loyalist forces once the television signal was cut, were answered with gunfire. Chacón subsequently called the State Prosecutor's Office to let them know his forces wanted to surrender.

<sup>30</sup> Valera had been informed by another participant in the taking of Channel 8, Sgt. Javier Orozco, that Orozco and Piñero had been taken from a bathroom and forced to crawl along a hall to a stairway, where a National Guard soldier killed Piñero with a shot to the head.

<sup>31</sup> Interview, June 3, 1993.

<sup>32</sup> *Ibid.*

<sup>33</sup> PROVEA, "Separata Especial 27N", December 1992.

<sup>34</sup> *Ibid.*

reported that two private guards were executed by rebels while taking over Channel 8.<sup>35</sup> Capt. Valera stated to Americas Watch that one guard was killed in the cross-fire as rebels entered the station and exchanged fire with local police and a Channel 8 guard. The other guard is believed to have been executed by the insurgents after pleading for his life. These serious crimes should be fully prosecuted by the Venezuelan courts.

### **Suspension of Guarantees and Rights Abuse**

Exercising his authority, President Pérez suspended a host of constitutional guarantees on November 27,<sup>36</sup> including the prohibition of arrest without previous judicial authorization, the inviolability of the home, freedom of movement, freedom of expression, freedom of assembly, and freedom to protest peacefully.<sup>37</sup> A curfew was also established, but quickly shortened and lifted. Restrictions on assembly were removed a few days after the coup attempt to allow for December 6 nationwide elections for local offices. Most other liberties, with the exception of the prohibition on warrantless arrest, were restored on December 19.<sup>38</sup> All liberties were once again in place on January 18, 1993.

The suspension of liberties permitted the DISIP, and to a lesser extent the DIM and the Metropolitan Police to round up scores of student, community, labor and political leaders and others known to be critical of the government. While the government may have felt it necessary to neutralize possible sources of support for the rebels, the detention of so many persons, known only for engaging in the legitimate activities of a democratic society -- critical of the government though they might be -- goes beyond responsible containment and becomes a tactic to intimidate lawful dissent. PROVEA registered 284 detentions of civilians.<sup>39</sup>

As had occurred in February, relatives of golpistas complain that their homes were raided violently during the suspension of guarantees. For example, the house of Sonia Díaz Reyes, sister of one of the February 4 golpistas, was raided on November 28, 1992 as a mixed patrol of security-force agents went through her neighborhood in El Cerrito, Petare. Security agents entered her home and pushed Díaz to the ground; one agent threw acid on her right leg and foot, which immediately caused a burning sensation. Díaz was not detained, but rather went immediately to the Domingo Luciani hospital in Caracas.<sup>40</sup> She denounced the case before the State Prosecutor's Office. Díaz previously had been

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<sup>35</sup> *Ibid.*

<sup>36</sup> Presidential decree no. 2668.

<sup>37</sup> Articles 60(1,2,6 and 10), 62, 64, 66, 71 and 115 were suspended.

<sup>38</sup> "Commission Restores Right to Demonstrate, Other Measures," *Venezolana de Televisión*, December 19, 1992 (reprinted in Foreign Broadcast Information Service, FBIS-LAT-92-245, December 21, 1992, p. 41.)

<sup>39</sup> See, "Separata Especial 27N."

<sup>40</sup> Interview, June 4, 1993. Díaz displayed to an Americas Watch representative a discolored mark covering part of her foot and leg which she indicated came from the burn she received.

detained by DISIP agents on October 14, 1992, after a raid of her home, and held in incommunicado detention for eight days.<sup>41</sup>

Human rights groups denounced, along with other human rights problems associated with the coup attempt, the practice of rounding up dissidents in a letter to the president of the House of Representatives Domestic Policy Commission on December 8, 1992, noting that those groups hard hit included university professors, students, political and community leaders, unionists and even candidates for the December 6 elections.<sup>42</sup> Most dissidents detained were released after a short time and not one of these civilian was indicted for participating in the attempt.

On December 8 human rights groups also protested the continued incommunicado detention -- in violation of Article 60(3) of the Constitution -- of all individuals picked up at the end of November and held in military installations.<sup>43</sup> They further criticized the State Prosecutor's Office for failing to dispatch fiscales to military facilities to visit the detained.<sup>44</sup> Such an exercise of its power by the Public Ministry could have prevented the mistreatment of at least eighteen persons who denounced having been tortured and otherwise abused by their military captors.<sup>45</sup>

The cases of two civilians interviewed in custody by Americas Watch are illustrative. Both Eduardo José Garrido and Jesús María López informed Americas Watch that they had spent fourteen days incommunicado in the military's Fort Tiuna in Caracas, during which time they were tortured (along with Franklin López, who was free at the time of the Americas Watch visit).<sup>46</sup> According to the two, the torture took place in custody of Army Intelligence (Dirección de Inteligencia del Ejército, or DIE), in the Las Casitas section of Fort Tiuna, and included being blindfolded for extended periods; interrogation for hour stretches;<sup>47</sup> the placing of a plastic bag filled with ammonia over their heads; blows to the head, stomach and ribs with a foam-covered wooden pole; and mock execution by firing squad. Garrido

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<sup>41</sup> *Ibid.*

<sup>42</sup> See letter to Dr. Paulina Gamus from Vicaría Episcopal de Derechos Humanos de la Arquidiócesis de Caracas, PROVEA, COFAVIC, Red de Apoyo por la Justicia y la Paz, Comisión de Justicia y Paz del Secretariado Conjunto de Religiosas y Religiosos de Venezuela (SECORVE), Comité de Derechos Humanos del Arciprestazgo de Catia and the Asociación Pro-Defensa de los Derechos Humanos de Barquisimeto, December 8, 1992.

<sup>43</sup> See *Ibid.*

<sup>44</sup> Articles 6(13) and 42(16) of its Organic Law explicitly establishes that the Public Ministry and its fiscales may monitor by visitation the human rights of the detained in, among other places, military detention facilities.

<sup>45</sup> PROVEA, *Referencias*, No. 50, December 1992.

<sup>46</sup> Interview, June 3, 1993. An account of López's torture may be found in PROVEA, letter to the State Prosecutor, January 25, 1993.

<sup>47</sup> Garrido claimed that a Lt. Graterol -- he saw his name when his blindfold was not properly set -- directed the interrogations. López added that they had identified the officer by photo when visited by an internal military investigator. According to López, also participating in his interrogations was a Maj. Contreras, whom he had seen in San Carlos.

complained that he had been kicked in the forehead and beaten with fists as well. He also stated that his captors told him they planned to rape his wife and daughter. He claims to have received no medical attention while in detention. López added that his captors had applied electric shocks to both of his ears.

Another civilian prisoner at San Carlos, Raúl Valera, informed Americas Watch that he had been detained by the National Guard on November 27 in the Parque del Este area of Caracas. He claims to have been robbed by the soldiers and also struck in the head by their rifle butts. He was transferred to DISIP headquarters where, he states, agents beat him with their fists, interrogated him, and threatened to kill his family.<sup>48</sup>

### **Due Process Concerns<sup>49</sup>**

Participants in the attempted coup of February 4 are being tried under ordinary military justice procedures.<sup>50</sup> Some 150 participants in the November 27 attempt, however, both military and civilian, were tried by special ad hoc military courts; approximately fifty were convicted. President Pérez established the courts in Decree No. 2669, issued the same day as the suspension of guarantees. The decree was based on functions granted the president by the archaic 1938 Code of Military Justice, promulgated while Venezuela was ruled by strongman Gen. Eleazar López Contreras, twenty years before the transition to democracy.<sup>51</sup> President Pérez justified the special courts on two grounds. First, he reasoned that applying the extremely burdensome rules of ordinary procedure was untenable; the trials, he argued, would have been endless, as underscored by the fact that the proceedings against the February 4 coup were still bogged down. Second, the President argued, the violent nature of the uprising showed that Venezuela had undergone a genuine "state of emergency" which warranted setting up ad hoc courts and the application of special procedures.<sup>52</sup>

Human rights groups and lawyers for those tried in the ad hoc courts challenged the courts' constitutionality soon after their installation.<sup>53</sup> Serious flaws of the ad hoc tribunals include:

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<sup>48</sup> Interview, San Carlos military barracks, Caracas, June 3, 1993.

<sup>49</sup> Americas Watch is grateful to Venezuelan lawyer Virginia Contreras and American attorney Patrick Gavigan for sharing their insight on this matter.

<sup>50</sup> Most of the rebels have been released and charges dropped in exchange for the rebels' resigning from service. Fewer than forty remain in custody, including Lt. Col. Chávez, apparently because they refuse to resign from the armed forces and insist on a trial.

<sup>51</sup> See discussion of military justice in chapters I and II.

<sup>52</sup> Interview, Presidential Palace, Caracas, December 11, 1992.

<sup>53</sup> See, for example, brief filed before the Political-Administrative division of the Supreme Court of Justice by Pedro Nikken and Marcial Pérez Chiriboga, December 14, 1992; brief filed before the Supreme Court of Justice by Aquilés Monagas and Virginia Contreras, January 28, 1993; PROVEA, letter to the State Prosecutor, December 9, 1992.

- the expedited procedures -- in some cases allowing only hours before proceeding to the next step -- rendered an adequate defense impossible,<sup>54</sup>
- the ability to appeal decisions was curtailed; and
- civilians were tried in the ad hoc courts, although the Code of Military Justice anticipates the trials of only military personnel in such courts (Art. 63).

On March 11, 1993, the Supreme Court found the Presidential decree establishing the ad hoc courts unconstitutional. The ruling was welcome, but less than rights advocates had hoped for. The Court decided the issue on narrow grounds, finding that President Pérez had not suspended the constitutional guarantees of a right to defense (Art. 68) and a right to be tried by one's natural judge (Art. 69),<sup>55</sup> which the ad hoc courts violated, and that therefore the courts could not stand. The Supreme Court failed to address the issue of due process guarantees found in international instruments to which Venezuela is a party,<sup>56</sup> and did not affirm the inviolability of the right to an adequate defense.<sup>57</sup> The Supreme Court decision, therefore, failed to defend fully the principles of due process. Curiously, the Supreme Court did not address the cases of those persons already tried and acquitted by the ad hoc courts. Its decision affected only those individuals convicted and still being tried.

With regard to those convicted and those still awaiting trial before the now-defunct ad hoc courts, the Supreme Court ordered the cases remanded to the regular military courts. Normal procedure requires that detainees be brought before a judge after a maximum of eight days' detention. But eight days after that decision came down, the alleged golpistas remained in jail without formal charges. Virginia Contreras, a lawyer for some of the detainees filed a writ of *habeas corpus* before civilian Judge Braulio Sánchez, who granted it, ordering military authorities to produce those mentioned in the writ.<sup>58</sup> The military courts responded by producing a flurry of arrest warrants and a summons for Judge Sánchez to be investigated for obstructing military justice. Judge Sánchez replied by opening a case against military justice officials for ignoring his judicial order.

The ensuing standoff between civilian and military justice prompted civilian judges to strike for two days in support of their colleague. The Judicial Council then requested the Supreme Court to resolve

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<sup>54</sup> Then-Justice Minister José Mendoza Angulo indicated to Americas Watch that the extraordinary (summary) procedure is too fast to allow for an adequate defense. Interview, December 11, 1992.

<sup>55</sup> Venezuelan jurisprudence establishes that one's natural judge is the judge competent to hear the case at the time the alleged crime was committed. Because the courts were created after the fact, the *ad hoc* judges could not have been considered the defendants' natural judges.

<sup>56</sup> See, for example, International Covenant on Civil and Political Rights, Art. 14, which enumerates the defendants' rights; and American Convention on Human Rights, Art. 8 on the right to a fair trial.

<sup>57</sup> Constitution of 1961, Art. 68.

<sup>58</sup> Civilian judges are authorized to issue such writs. See Constitution of 1961, Art. 49; 1988 Ley Orgánica de Amparo sobre Derechos y Garantías Constitucionales. See also the discussion in chapter III regarding the failure of judges to issue such writs during the Caracazo.

**the conflict between military and civilian justice. The Court has yet to do so, however, apparently caught up in the corruption cases against former presidents Pérez and Lusinchi. The decision should define the relative strength of civilian courts *vis á vis* their military counterparts, in the sensitive area of prosecution for political offenses and in the defense of *habeas corpus*.**

## **Current Situation**

**Of the thousands initially arrested, as of this writing, some ninety persons -- including the four civilians interviewed by Americas Watch -- remain in jail for their alleged or confirmed participation in the two coup attempts. Many have been released after accepting discharge from the armed forces. Another fifty-two of the known November 27 golpistas are in Peru, having gained political asylum. A committee of relatives of participants in the coup attempts has called for a general amnesty for all golpistas, a position supported by numerous human rights groups, politicians and even some military officers.<sup>59</sup> Americas Watch takes no stand on the proposed amnesty for those involved in the attempted coups.**

**Americas Watch would have no objection to an amnesty for the offense of rising in arms against the state, if it were necessary for reasons of national reconciliation and it were granted after a public, thorough and democratic debate. Even under such circumstances, however, Americas Watch strongly opposes amnesties and pardons so broad as to provide impunity for the most serious human rights violations, such as torture, disappearance and murder. Such acts committed by state agents amount to crimes against humanity, and states are obliged to investigate, prosecute and punish them. Americas Watch opposes an amnesty or pardon that would have the effect of impunity for similar acts committed by insurgents.**

**We remain more concerned that human rights violations committed during and after the two coup attempts be exhaustively investigated and that the responsible parties, whether among the ranks of loyal or rebel forces, be punished accordingly. We are troubled that investigations to date have gone virtually nowhere. The lesson learned from the coup attempts of 1992 should not be just that violent attempts to overthrow a democratic civilian government are unacceptable, but also that authorizing, perpetrating, and tolerating human rights abuse in the name of defending democracy contradicts the very principles being defended.**

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<sup>59</sup> Family members of the February 4 golpistas collected some 140,000 signatures nationwide in favor of such a measure in early 1992. See, PROVEA, "Informe especial," p. xvi.

## **VI. THE UPRISING AT THE RETÉN E INTERNADO JUDICIAL DE LOS FLORES DE CATIA**

**In the early morning hours of November 27, 1992, soon after the second failed coup commenced, inmates of western Caracas's vastly overcrowded and run-down Retén de Catia prison revolted. Troops of the 5th Regional Command of the National Guard were called in to reinforce agents of the Metropolitan Police's zone 2, stationed immediately adjacent to the prison. By the time security forces quelled the uprising two days later, the dead included at least fifty-seven prisoners shot by government security forces (many of them at close range and in the back), and one police officer, shot by prisoners. Another guard and dozens of prisoners were severely injured.<sup>1</sup>**

**From the evidence available to us, we believe that the killings of the prisoners lacked justification. Although no more than a handful of prisoners were armed, no reasonable effort was made to restore control of the prison by means other than the use of brutal and lethal force. To the contrary, the authorities mounted a massive assault on the prison which included indiscriminate firing and even, it appears, the summary executions of unarmed prisoners. We know of no attempt by the authorities to negotiate with the prisoners or to take steps to minimize the risk of death or injury to them.**

### **Background: Conditions in the Retén and Other Prisons**

**It is widely agreed that deplorable conditions and overcrowding in the Retén de Catia contributed to the revolt. According to the former director of Venezuela's correctional system, National Guard Col. Pablo Escalante, at the time of the revolt prison conditions at the Retén were virtually unbearable.<sup>2</sup> Built to house 700 to 900 prisoners, Retén de Catia held four to six times that many.<sup>3</sup> Prisoners of all types were incarcerated together, from the recently detained to the sentenced,<sup>4</sup> from persons accused of non-violent theft to alleged murderers.**

**By all accounts, the prison was filthy and dangerous. The food was unsuitable for consumption, and inmates were subject to abuse by corrupt guards and trusties (prisoners granted special status and privileges by their keepers) who stole from prisoners, threatened and beat them, and extorted a fee for nearly every aspect of prison life. Family members, for example, had to bribe guards to be allowed to pass food to their relatives. Rather than use the failing and filthy bathrooms, prisoners would defecate**

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<sup>1</sup> Twenty inmates were still unaccounted for as of October 7, 1993, according to the State Prosecutor's Office. The State Prosecutor's Office thinks many -- if not all -- of these are escapees, although some may have been killed.

<sup>2</sup> Interview, Caracas, December 10, 1992.

<sup>3</sup> It is difficult, if not impossible, to know precisely how many prisoners were in the jail when the revolt occurred, but government officials have estimated to Americas Watch that anywhere from 3,400 to 4,200 prisoners were crammed into the facility. It is readily apparent that prison officials poorly maintained lists of prisoners entering, leaving and remaining in the prison before the uprising.

<sup>4</sup> According to fiscales working on the Retén de Catia case, a dozen prisoners had been sentenced (Interview, December 10, 1992).

**in containers or paper and throw the refuse out their windows to the interior yard below.**

**Violence among prisoners themselves was significant. Home-made metal knives (known as *chuzos*) were used to mete out "justice" in the facility. Observers, including Col. Escalante, complained that the *chuzos* confiscated on a daily basis were then re-sold to prisoners by Metropolitan Police monitoring the facility.<sup>5</sup>**

**Inmate oversight in the Retén de Catia was a problem as well. All internal prison operations are under the jurisdiction of the Ministry of Justice, while the National Guard is generally responsible for vigilance outside prison walls (the Retén de Catia, where the Metropolitan Police takes on this role, is an exception). Inside the prison, Metropolitan Police and PTJ agents, as well as prison guards work, with poorly defined responsibilities. Agents from these forces lacked education and specific training to deal with prisoners. Physical abuse of inmates was routine.**

**Americas Watch representatives visited the Retén de Catia in June 1993.<sup>6</sup> The facility's director in June 1993, César Lugo,<sup>7</sup> reported that a number of steps had been taken to alleviate the massive problems. He said that the prison population had been reduced to approximately 1,900 prisoners (still more than twice its capacity), none of whom had been sentenced, and that he was working on stopping corruption among guards and police and violence among prisoners. Fiscales gave him credit for attempting to improve conditions at the facility.**

**Lugo also noted that a number of prisoners had been incarcerated there, awaiting the outcome of their trials, for at least four years -- more than three years beyond the limit mandated by Venezuelan law.<sup>8</sup> In addition, he said that others still imprisoned had been absolved of criminal responsibility but had not been informed of the decision.**

**The Americas Watch inspection in June 1993 found that the worst cells are in a section of the**

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<sup>5</sup> Interview, December 10, 1992. Journalists and human rights activists further claim that the inmates were able to purchase even firearms in the prison black market. (See Heather Scott, "'Hell' found in Venezuelan Prison System," *Reuters*, September 2, 1992.)

Hundreds of weapons, usually sharp instruments, are routinely confiscated during raids by authorities in Venezuelan prisons, including Catia. (See, for example, Francisco Gómez, *Ultimas Noticias* (Caracas), July 7, 1992).

<sup>6</sup> The purpose of the visit to the prison was to examine the scene of the November revolt. Although Americas Watch representatives did not conduct an examination of the entire facility, prison officials were helpful in allowing us to visit any parts of the prison we chose. We are also grateful to the many officials, including President Pérez, who met in December 1992 with Americas Watch consultant Jaime Malamud as part of his investigations into the uprising.

<sup>7</sup> Lugo was not director at the time of the uprising. The director at the time was Eloy Mora. Venezuelan television has reported that there is a history of inmate unrest in the prison facilities in which Mora has worked (PROVEA, Letter to Americas Watch, August 26, 1993). Fiscales working on the Retén de Catia case noted that since Mora was transferred to the Tocorón facility after the Retén de Catia killings, at least one prisoner had died there under suspicious circumstances (Interview, June 3, 1993).

<sup>8</sup> The judicial process, from the opening of sumario to sentencing, should take fewer than 100 working days.

**prison called "El Depósito" (meaning "the dump" or "tank"), where uncharged detainees under authority of the PTJ are held; once charges are brought, prisoners are moved to different sections of the prison where conditions are better. Conditions in El Depósito are appalling. One cell, roughly ten feet by fourteen feet, held five men and contained nothing but one rotting mattress (provided by the prisoners). Another cell of the same size held twenty men. Men routinely spend up to sixteen days in these cells.<sup>9</sup> They complained of not being allowed out to visit the bathroom or to exercise.**

**Elsewhere in the prison, conditions are better, but still below minimum acceptable conditions.<sup>10</sup> Overcrowding is readily apparent -- four to six, and sometimes even more, men sleep in cells with bed space for one or two. Recreational facilities consist of the corridors and an interior paved courtyard roughly eighty by 120 feet, and strewn with waste. Prison food is reputed to be inedible; prisoners eat food supplied by their families. The water contains parasites. Of three bathrooms viewed by Americas Watch, one was execrable, one appeared barely functioning and the third was adequate. One man, with a thirteen-day-old apparently infected gunshot wound on his back, and who complained of arm pain and fever, said that guards would not allow him to visit the prison's infirmary. A significant percentage of prisoners we interviewed expressed fear that they would suffer reprisal later by guards for having spoken with Americas Watch. (Americas Watch expressed its concern for the prisoners' well-being to the director, who promised the prisoners would suffer no retaliation. Americas Watch is unaware of how prisoners were treated upon our departure.)**

**Problems in the Retén de Catia illustrate the crisis affecting Venezuela's prison system generally. Prison conditions are one of the serious human rights problems facing Venezuela today. Conditions throughout the system are reputed to resemble those found at the Retén de Catia, although that facility is commonly cited as one of the worst.<sup>11</sup> The nation's more than thirty penal institutions (excluding centers for minors) were built to hold 12,000 prisoners but currently hold 30,000.<sup>12</sup>**

**Due to judicial backlog, fewer than one-third of all inmates have been sentenced. The lack of adequate alternatives to pre-trial imprisonment exacerbates the overcrowding. Prisoners accused of all categories of crime are intermingled; the sentenced often are not separated from those whose cases still are before the courts. In La Planta prison in Caracas, approximately one hundred minors, who constitute approximately 10 percent of the facility's population, are incarcerated alongside adults.**

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<sup>9</sup> Detainees may be held eight days before being presented to a judge. The judge in turn has another four to eight days to determine whether to open a criminal case against the detainee. (Criminal Code of Justice, Art. 75H).

<sup>10</sup> See the U.N. Standard Minimum Rules for the Treatment of Prisoners.

<sup>11</sup> Police lock-ups and detention facilities are said to be comparably bad.

<sup>12</sup> Like numbers of inmates at the Retén de Catia, official national figures are at best approximate. The State Prosecutor's Office reported that there were 30,659 prisoners in 1991 (*Informe del Fiscal General 1992*, Vol. II, p. 612), and 23,900 prisoners in March 1993, more than double the capacity of the nation's penal institutions. (Human Rights Division, "Incidencia de las solicitudes de información de nudo hecho...", print-out, p. 2.)

Some 5 to 10 percent of inmates are women. According to one Venezuelan penologist, conditions in women's jails are not generally as bad as in the men's facilities. In at least one aspect of prison life, however, women receive discriminatory treatment: women, unlike men, are not permitted conjugal visits.

According to former prisons director Escalante, facilities throughout the penal system lack basic workshop and recreation areas. Prison staff is poorly paid, under-equipped, poorly trained, and widely regarded as corrupt and abusive.<sup>13</sup> Violence, including murder, among prisoners is endemic.<sup>14</sup> For example, according to press reports, a June 20, 1993 conflict among prisoners at the Barcelona facility (in Anzoátegui state) resulted in six prisoners killed and another twenty-three injured. Three of the victims were decapitated.<sup>15</sup> According to the Venezuelan press, another inmate was killed and six more injured in Sabaneta prison in Maracaibo (Zulia state), when a fight broke out on July 9, 1993, and another prisoner was murdered by fellow inmates on July 10 in Caracas's La Planta facility.<sup>16</sup>

Iván Ramírez of the Instituto Universitario Nacional de Estudios Penitenciarios notes that Venezuelan laws and rules regarding prisons are excellent, but routinely disobeyed.<sup>17</sup> The Venezuelan government acknowledges that the prison situation is unacceptable. A few months before the November 1992 uprising, President Pérez and his minister of justice announced the opening of new facilities. Additions to existing prisons are under construction, and there is talk of decentralizing the system, allowing individual states to control the prisons.<sup>18</sup> In addition, in an attempt to alleviate overcrowding, the Executive branch reportedly has sent bills to Congress designed to make bail more accessible to the poor.<sup>19</sup>

Planned too, apparently, is the demolition of the Retén de Catia. Destroying the facility would eliminate a palpable reminder of what is wrong with Venezuelan prisons. It will not, however, diminish the systemic problems or compensate for the mass killing of inmates there in November 1992.

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<sup>13</sup> It is worth noting that the National Institute of Penal Studies (Instituto Universitario Nacional de Estudios Penitenciarios), an initiative of penologist Elio Gómez Grillo which is funded by the federal government, began training a professionalized corps of prison personnel in February 1992. It is still early, however, to determine what effect the Institute will have in improving prison conditions.

<sup>14</sup> PROVEA registered 220 prison deaths, and another 531 persons injured in prisons, from October 1991 to September 1992. See Annual report 1992, p. 63.

Venezuelan press headlines during our June 1993 visit suggest how common is the story: "Two inmates dead and ten injured in conflict between two gangs," *El Universal*, June 2, 1993; "Inmate Dead in La Pica," *El Universal*, June 10, 1993; "PGV Inmate killed," *Ultimas Noticias*, June 10, 1993; "Two Killed in Tocuyito Prison," *El Universal*, June 12, 1993. Translations by Americas Watch.

<sup>15</sup> Reuters, "Six Inmates Killed in Bloody Prison Riot," June 21, 1993. Police reportedly confiscated 350 knives, four homemade muskets and two crossbows after the melee (Associated Press, June 22, 1993).

<sup>16</sup> "Riñas en prisión: Dos muertos y seis heridos," NotiExpress news service, No. 1573, July 12, 1993.

<sup>17</sup> Interview, Caracas, June 1, 1993.

<sup>18</sup> "Government to Take Steps to Prevent Prison Violence," *Venezolana de Televisión*, June 21, 1993, reprinted in *Foreign Broadcast Information Service*, FBIS-LAT-93-118, June 22, 1993, p. 39.

<sup>19</sup> The Ministry of Justice produced in September 1992 an Emergency Plan to reduce the overcrowding at the Retén de Catia, which included taking a complete census of prisoners, removing convicted prisoners from the facility, and releasing and pardoning prisoners depending on their individual circumstances.

## **The Uprising**

**It is difficult to determine the exact sequence of events -- beginning around 5:00 a.m. on November 27 and ending some forty hours later -- that make up the Retén de Catia episode. Witnesses to the revolt agree, however, that the uprising was precipitated when inmates heard about the coup attempt and passed the word that the government of Venezuela was being overthrown. According to inmates in the prison at the time of the uprising, TV and radio broadcasts even led some prisoners to believe that February 4 coup leader Lt. Col. Hugo Chávez had been freed and that President Pérez had been killed.<sup>20</sup> Some prisoners assert that guards opened interior doors in the jail and told them they could leave.<sup>21</sup> The chief guard denies that, stating to Americas Watch in June 1993 that the approximately twenty guards responsible for supervision in the facility fled when the prisoners erupted. Prisoners interviewed by Americas Watch and Venezuelan NGOs stated that inmates began to break from their cells, creating holes in windows and walls and forcing doors open. Prisoners raided the infirmary and the cafeteria, stealing food and drugs.<sup>22</sup>**

**The prisoners did not, however, raid the prison's arms depot. There is little evidence that more than a few prisoners at most were armed with guns. An inmate is believed responsible for shooting and killing a police officer in one of the watchtowers. And one prisoner interviewed by Americas Watch stated that another inmate had used a pistol during the revolt to shoot an officer. Some prisoners undoubtedly had chuzos, or homemade knives, but they would only have posed a risk in close-body situations.**

**Some inmates did attempt to break out, a few apparently successfully. Prisoners broke a hole in an outer wall through which they could squeeze one at a time. Others were able to get over a wall using hand-fashioned ropes. According to prisoners interviewed by Americas Watch, however, as time progressed and the government's violent response advanced, most prisoners were more concerned with their personal safety than with trying to escape. To that end, they attempted to keep mostly to their own cells.**

**The National Guard was called in, on the morning of the uprising, by the prison's warden, Eloy Mora, because the Metropolitan Police could not regain control of the prison. Prisoners interviewed by Americas Watch and COFAVIC stated that during the first part of the operation, the Metropolitan Police fired upon inmates but that once the National Guard entered the prison, around 1:00 or 2:00 p.m., its soldiers were chiefly responsible for the violence. Prisoners' relatives, who went to the Retén de Catia after hearing news of the revolt, describe a confused scene of gunfire, teargas and prisoners' cries for help. Fiscals did not arrive until November 28 but were not permitted access to all areas of the prison**

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<sup>20</sup> Americas Watch interviews with prisoners, June 3, 1993 (see chapter VI).

<sup>21</sup> PROVEA received similar testimony after a national prisoner hunger strike in March 1990. According to PROVEA, a number of prisoners and their relatives denounced in April of that year that, after the hunger strike, guards had opened doors between cellblocks in the Retén de Catia in an unsuccessful attempt to provoke violence among armed and unarmed inmates. (PROVEA, letter to Americas Watch, August 26, 1993.)

<sup>22</sup> According to one prisoner who gave testimony to COFAVIC, it was the prisoners on drugs who attempted to break out of the jail.

until the following day.

Government troops regained control during the afternoon of November 28. On November 29, after hundreds of prisoners had already been transferred to other facilities, the National Guard removed all remaining prisoners from their cells nude, had them crouch in the interior yard (in a mixture of garbage and mud from recent rains), counted the population, and performed a search of the entire prison.<sup>23</sup>

## **The Dead and Injured**

Government officials<sup>24</sup> acknowledge that police and National Guard troops killed at least fifty-seven prisoners and wounded at least another forty-five.<sup>25</sup> Human rights monitors do not disagree with these figures.<sup>26</sup> In fact, in a positive effort of cooperation between governmental and non-governmental actors, COFAVIC and the Red de Apoyo assisted the State Prosecutor's Office in compiling lists of victims. Rights groups still await a final tally of those killed, however, and to date, no official list of the dead and injured has been made public.<sup>27</sup> The forty-five known injured include prisoners wounded within the prison during the quelling of the revolt and others beaten during their transfer to other prisons.

To our knowledge, the authorities never attempted to regain control of the prison through means that did not include the massive use of firepower. Rather, lethal force was used indiscriminately and to an extent far exceeding any justification based on the danger posed by the almost entirely unarmed prisoners to themselves, the security forces or the surrounding neighborhood. We know of no attempt by the authorities to negotiate with the prisoners or to take steps to minimize the risk of death or injury to them.

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<sup>23</sup> Prisoners complained that during this search many of their belongings were destroyed or stolen.

<sup>24</sup> Including former Justice Minister José Mendoza Angulo and personnel of the Fiscalía.

<sup>25</sup> These government sources initially indicated that sixty-three prisoners had perished. According to the Public Ministry now, however, it appears that six of the sixty-three may have died on or about November 27-28 in other prisons. Americas Watch has not investigated the circumstances of their deaths.

<sup>26</sup> Prisoners and their relatives, on the other hand, assert that perhaps hundreds were killed. One family member denounced before COFAVIC that a police official involved in the retaking of Retén de Catia claimed the security forces had killed 160 inmates. The more conservative number of dead seems to Americas Watch more likely to be accurate. However, considering the variety and unreliability of statistics on Retén de Catia prisoners, these other claims should not be dismissed summarily.

<sup>27</sup> As Father Luis María Olazo, director of the Public Ministry's human rights division, stated to Americas Watch in December 1992, "There are no lists of inmates killed yet. Moreover, there are no lists of inmates, period." Interview, December 10, 1992.

Although it is doubtful any official list ever will be made public (see section above on the "Caracazo"), Americas Watch has obtained reliable information regarding the persons killed at the Retén de Catia, which we publish in Appendix B.

**According to survivors interviewed by Americas Watch, once security forces entered the yard in the center of the prison they shot up at cell windows when inmates dared peer through them. We heard testimony concerning three prisoners who were killed in their cells from bullets entering the windows. Prisoners further claim to have seen security-force agents shoot and kill prisoners as they left their cellblocks -- some holding white flags -- in an attempt to evade teargas. This claim would appear to contradict official statements that inmates killed had been attempting to flee the prison. It suggests rather that they were shot by indiscriminate fire or executed.**

**The prisoners' testimony is supported by physical evidence. In a June 1993 visit to the prison, Americas Watch representatives noted that the cement walls surrounding the interior prison yard were riddled with bullet holes of different sizes, some of them coming obviously from weapons of significant caliber.<sup>28</sup> Similar perforations could be seen near cell windows.**

**After the riot, the corpses of at least five prisoners were found in or near a ravine outside the prison's perimeter. Colonel Escalante explained to Americas Watch that these prisoners had been killed under the so-called *ley de fuga* ("flight law"), which allows police to open fire on escaping prisoners.<sup>29</sup> Venezuelan law, however, does not permit the police to use deadly force except in cases of self-defense or to protect others.<sup>30</sup> Indeed, President Pérez, in an interview with Americas Watch, pointed out that there is no *ley de fuga* in Venezuela and insisted that the killing of escaping prisoners should be tried as murder.<sup>31</sup> Moreover, at least some of the prisoners found in the ravine had escaped one by one through a small hole they had broken in the outside wall of the prison. It should not have been unreasonably difficult for the security forces to subdue those prisoners with less than lethal force as they emerged.**

**The most serious charge raised against the security forces' handling of the uprising is that they engaged in summary executions, that is, they deliberately and at close range shot and killed prisoners who were under their control. Some of the inmates Americas Watch interviewed make this claim, as did prisoners who wrote a document obtained by the Caracas daily *El Nacional*.<sup>32</sup> According to reliable sources, examinations of the dead prisoners' bodies indicate that a majority of the dead had been shot**

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<sup>28</sup> Reliable sources also indicated that spent shells of FALs, the Argentine-made automatic rifle commonly used by the National Guard, were found in the prison's interior after the uprising.

<sup>29</sup> The "flight law" is an expression that may take one of two forms: agents either simply fire on escaping prisoners, or more seriously, they contribute to or encourage attempted flight while intending to open fire. Col. Escalante's explanation indicated the first form.

<sup>30</sup> See Penal Code, Art. 65(3), which reads in pertinent part that he who acts in the defense of his own person or right is not criminally liable, provided the following three conditions are met:

1. Illegitimate aggression by the party who is harmed.
2. Necessity of the method employed to impede or repel the aggression.
3. Lack of provocation by the person who acted in his own defense.

(translation by Americas Watch).

<sup>31</sup> Interview, December 11, 1992. In interviews with Americas Watch, the Minister of Justice and fiscales investigating the case also confirmed that Venezuelan law does not allow application of any *ley de fuga*.

<sup>32</sup> See "La Masacre de los Flores," *El Nacional*, December 16, 1992.

at very close range, and that the majority of those were shot in or about the head.<sup>33</sup> In addition, long bloodstains found in the prison's interior suggest that injured or dead prisoners shot in their cellblocks had then been dragged to the inner courtyard.

A number of victims whose corpses were pulled from a water and sewage run-off flowing near the prison's perimeter showed no indication of having drowned. It would appear, rather, that the victims' lifeless bodies were thrown or had fallen into the run-off after having been shot. One of the victims had been burned, and displayed signs of having been doused by gasoline.

## **The Investigation**

Like most criminal judicial investigations in Venezuela, the Retén de Catia case, currently before the 29th Penal Court, is proceeding slowly. Now nearly a year after the killings, not one state agent has been detained for his participation in the events. The case remains in sumario while the judge conducts investigations to determine whether or not sufficient evidence exists to proceed against any person suspected of criminal conduct. Fiscales of the Public Ministry are investigating the case diligently, but ultimately only the judge can secure forward movement.

The first judge to hear the case, Esther Franco, was promoted soon after beginning the case. The second judge has been criticized by persons following the case closely for lacking the will to investigate. Investigation has been slowed not only by the change of judges, but also by the court's move to new offices in May 1993 and a subsequent judicial workers' strike. Further difficulties include the fact that the forces suppressing the uprising moved victims' bodies; the PTJ failed properly to inspect the facility and to examine the dead; and prisoners who were witnesses to the killings are difficult to identify, in that records of inmates were poorly maintained at the time and many prisoners were subsequently either transferred or have been released. Moreover, while the fiscales working on the case have spoken to a number of inmates, as of June 1993 none had been willing to testify in court due to fear of retaliation.

The case has also been slowed by a disgraceful lack of cooperation on the part of the Metropolitan Police and the National Guard. As of June 1993, both institutions had failed to provide the Public Ministry with information it requested, including the names of their agents who participated in the episode. The National Guard informed the Public Ministry that, while it had prepared a report on the events at Retén de Catia, that report was secret and could not be turned over. Nudo hecho proceedings (discussed in chapter III) have been initiated in the 43rd Penal Court against commanders who have not cooperated with investigations.

**We are concerned too at reports that the Medical Legal Institute (IML) is disputing the number of**

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<sup>33</sup> The sister of one prisoner killed during the revolt, Marcos Nerio José Ascanio Plaza, thirty-eight, informed Americas Watch that a death certificate she saw indicated that her brother had died from a FAL shot. His corpse also bore marks suggesting that he had been struck twice on the head, which comported with information from a former prisoner who claimed to witness Ascanio's killing. He stated that after Ascanio went into convulsions after being shot, a National Guard soldier hit him twice in the head with his rifle butt. (Interview with Elena Ascanio, Caracas, June 5, 1993.)

**victims from the Retén de Catia it examined. The IML currently claims that some nine fewer victims were processed by its morgue at the time of the events than the Public Ministry believes actually were. Judicial investigations of the case (and other cases associated with the November 27 coup attempt) are believed to be in a state of complete disorder.**

**President Pérez and high-ranking members of his administration, including the Ministers of Justice and Foreign Affairs, expressed to Americas Watch their support for thorough judicial investigation into the uprising. In a complex tragedy such as the violent quelling of the Retén de Catia uprising, we question whether a government has satisfied its obligations to victims, the public, or even its own security forces if it refrains from demanding positive action from its police forces, permits them to frustrate a judicial inquiry, and then simply leaves the matter in the hands of the judiciary. Americas Watch does not question, of course, the appropriateness of a judicial determination of individual legal responsibilities for the numerous deaths, provided that investigations are conducted in a timely, fair and impartial manner. But judicial prosecutions under the law do not preclude the government from undertaking an inquiry and rendering accounts to the public. A serious, complete and credible government investigation into the public report on the incident would have forcefully conveyed official concern over the toll taken during the suppression of the uprising and the government's determination to hold its agents as a whole accountable -- politically, morally and administratively -- for their conduct in the performance of their duties.**

**We hope that the administration of Ramon J. Velásquez is determined to do what it can to see that justice is served in the Retén de Catia case. We urge that government to make sure the court and the Public Ministry possess the necessary resources to move forward expeditiously with the investigations, and we urge it equally to compel complete cooperation from the National Guard, Metropolitan Police and other agencies, including prompt provision to the judge of all material in its possession that sheds light on the events. We also call upon the government to take steps to ensure that such an unnecessarily brutal assault does not occur again and to make improvement of the appalling prison conditions a national priority.**

## **VII. U.S. POLICY**

**Venezuela has long been regarded as an important U.S. ally in the hemisphere, given its long-standing civilian government and its willingness to sell oil to the United States. In the past few years, with the attempted coups and the country's increased importance as a transshipment point in the flow of drugs from Latin America, the United States is less sanguine than previously about Venezuela's stability and has made the preservation and promotion of democracy a chief goal in its relations with Venezuela.<sup>1</sup> Unfortunately, some of the initiatives of recent years are more show than substance, and should be re-examined by the Clinton Administration.**

**Venezuela's importance as an ally is undeniable. A founding member of OPEC, it is a major supplier of petroleum to the United States, second only to Saudi Arabia. The United States, in turn, is the largest importer of Venezuelan oil, contributing significantly to its status as Venezuela's largest trading partner.<sup>2</sup> Venezuela raised petroleum production after Iraq invaded Kuwait in August 1990, and has been commended by the United States for offering oil at reduced rates to Central American nations, consistent with U.S. policy in the region.<sup>3</sup> The importance of oil was noted in the Clinton Administration's proposal for security assistance for fiscal year 1994, in the language of pragmatism: "Venezuela's enormous petroleum reserves are vital for U.S. national security."<sup>4</sup>**

**After Brazil, Venezuela is the largest buyer of U.S. goods in South America, purchasing roughly \$5.5 billion worth in 1992.<sup>5</sup> The U.S. government actively has encouraged Venezuela's efforts to decentralize and privatize its largely statist economy, believing that causes of many of the country's social ills lie in an over-extended government that poorly manages its resources. Free-market reforms, in the words of U.S. Deputy Secretary of State Clifton Wharton, unleash "new political forces and invigorat[e] democracy. For our part, we seek to promote prosperity, equity and liberty in the Americas in every aspect of our foreign policy."<sup>6</sup>**

**The Bush Administration strongly condemned both coup attempts of 1992. On February 4, President**

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<sup>1</sup> The shift, occurring during the Bush Administration, has not been significantly modified under the Clinton Administration.

<sup>2</sup> The Department of State reported in March 1992 that trade with the United States accounted for more than sixty percent of Venezuela's international trade. See *U.S. Department of State Dispatch*, Washington D.C., March 2, 1992, p. 180.

<sup>3</sup> See Department of State and the Defense Security Assistance Agency (of the Department of Defense), *Congressional Presentation for Security Assistance, Fiscal Year 1992* (Washington, DC: no date) p. 303.

<sup>4</sup> Department of State and Defense Security Assistance Agency, *Congressional Presentation for Security Assistance, Fiscal Year 1994* (Washington, DC: no date) p. 350.

<sup>5</sup> Statement of Jeffrey Davidow, Ambassador-Designate to Venezuela, before the Senate Foreign Relations Committee, July 20, 1993.

<sup>6</sup> Reuter Transcript Report, *Deputy Secretary of State Clifton Wharton Address to the Council of the Americas*, May 3, 1993.

Bush asserted publicly that the "military coup attempt against President Carlos Andrés Pérez is firmly condemned by the United States" and that it "should be condemned by all countries."<sup>7</sup> The White House went further when it condemned the November 27 coup attempt, stating, "The United States cannot have normal relations with a country that has abandoned democracy...."<sup>8</sup> This emphatic support for legitimate government was praiseworthy and correct, but occasionally was expressed without regard for Venezuelan sensibilities. The Bush Administration's ambassador in Caracas, Michael Skol, a vocal critic of the coup attempts, was criticized by Venezuelan parliamentarians in September 1992 for indicating that deviations from democracy would be "unacceptable" in Washington.<sup>9</sup>

In the meantime, the State Department for each of the last three years has issued reports strongly critical of Venezuela's human rights practices. The most recent report, covering events of 1992, states in its introduction:

Venezuelans traditionally have enjoyed a wide range of freedoms and individual rights, including a free press, active unions, and free elections, but serious human rights abuses continued in 1992. They included arbitrary and excessively lengthy detentions, abuse of detainees, extrajudicial killings by the police and military, the failure to punish police and security officers accused of abuses, corruption and gross inefficiency in the judicial and law enforcement systems, deplorable prison conditions, and violence and discrimination against women. Police sweeps of poor, crime-ridden neighborhoods resulted in increased incidents of extrajudicial killings and arbitrary arrests.<sup>10</sup>

The U.S. government has made Venezuela the beneficiary of significant military sales and security assistance funds through the late 1980s and into the 1990s. U.S.-Venezuelan military cooperation has been close, and resulted in the sale of U.S.-made F-16 jet fighters to Venezuela in 1982, the only such sale to a Latin American nation. Military sales, both government-to-government and from private U.S.-based companies to the Venezuelan government, make Venezuela one of the principal Latin American markets for U.S. arms manufacturers. Between 1985 and 1989, Venezuela was the largest Latin American recipient of U.S. arms, with deliveries of an estimated US\$500 million.<sup>11</sup> The following chart shows sales agreements

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<sup>7</sup> Office of the White House Press Secretary, "Statement by the President upon Departure from the White House", February 4, 1992.

<sup>8</sup> Office of the White House Press Secretary, "Statement by the Press Secretary," November 27, 1992.

<sup>9</sup> Notimex, "Deputies Reject U.S. Ambassador's Remarks," October 2, 1992, reprinted in *Foreign Broadcast Information Service*, October 5, 1992, pp. 42-3.

Skol similarly was chastised for "meddling" in Venezuela's internal affairs in July 1993 after remarking that Andrés Velásquez, Causa R's candidate for president, was one of Venezuela's up-and-coming politicians.

<sup>10</sup> U.S. Department of State, *Country Reports on Human Rights Practices for 1992* submitted to Committee on Foreign Relations, U.S. Senate and the Committee on Foreign Affairs, U.S. House of Representatives (Washington, DC: February 1993), p. 506.

<sup>11</sup> In addition, Venezuela received arms worth an estimated US\$420 million from non U.S. suppliers, making it the third largest arms importer in Latin America, behind only Cuba (US\$8.69 billion) and Nicaragua (US\$ 2.39 billion), both of which countries acquired a vast majority of their arms from the former Soviet Union. U.S. Arms Control and Disarmament Agency (of the U.S. Department of State), *World Military Expenditures and Arms Transfers 1990*,

and deliveries over the past few years.<sup>12</sup>

Year	Total Sales Agreements (US\$)	Total Sales Deliveries (US\$)	Commercial Exports Deliveries (US\$)
1988	58,794,000	27,374,000	94,692,000
1989	5,113,000	13,315,000	92,911,000
1990	19,747,000	19,515,000	8,800,000
1991	39,328,000	22,718,000	9,710,000
1992	19,396,000	[information not available]	3,927,000
1993 (estimated)	40,000,000	--	17,541,000
1994 (estimated)	70,000,000	--	8,771,000

Venezuela has received security assistance through the International Narcotics Matters (INM) and International Military Education and Training (IMET) programs, designed primarily to professionalize security forces and train them to combat drug trafficking.<sup>13</sup> INM monies are spent on programs to train police agents in anti-narcotics operations and provide equipment; that is, they are not cash transfers. Human rights is not a component of training conducted through the INM program in Venezuela. Recipient forces are the DISIP, PTJ and National Guard. Through the IMET program, military personnel are similarly trained. In recent years, these programs were allotted the following funding:<sup>14</sup>

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(Washington, D.C.:November 1991), p. 133.

<sup>12</sup> Figures for 1988-1991 come from the Defense Security Assistance Agency, *Fiscal Year Series* (as of September 30, 1991), p. 426. Figures for more recent years are from Department of State and Defense Security Assistance Agency, *Congressional Presentation for Security Assistance, Fiscal Year 1994*, p. 65.

As the chart shows, there may be a significant difference between sales agreements and the actual amount of armaments delivered in any year. Commercial deliveries are from U.S.-based arms manufacturers. These figures do not include military matériel that Venezuela may have purchased from other countries.

<sup>13</sup> The amounts it has received are significantly smaller than those dedicated to such drug cultivating and producing countries as Bolivia, Colombia, Mexico and Peru. Over the past few years, Venezuela has ranked at or near the bottom of the Latin American countries receiving such aid.

<sup>14</sup> IMET figures for 1988-1991 come from the Defense Security Assistance Agency, *Fiscal Year Series* (as of September 30, 1991), p. 427. IMET figures for more recent years are from Department of State and Defense Security Assistance Agency, *Congressional Presentation for Security Assistance, Fiscal Year 1994*, pp. 33 and 36.

Year	INM <sup>15</sup>	IMET	Students trained through IMET
1988	800,000	137,000	75
1989	800,000	115,000	33
1990	800,000	102,000	42
1991	1,000,000	385,000	47
1992	1,000,000	689,000	98
1993 (estimated)	1,000,000	175,000	30
1994 (proposed)	500,000	475,000	47

**According to the Clinton Administration, the expanded IMET program for fiscal year 1994 is to emphasize democratic values, human rights and civilian oversight of the military.<sup>16</sup> But to date, the effectiveness of U.S. assistance to professionalize police and military personnel and to combat drug trafficking is questionable. The three security forces principally responsible for interdicting drugs -- the PTJ, National Guard and DISIP -- have all been associated with instances of human rights abuse, as documented in this report; in the case of the National Guard, grave abuses we document took place very recently, after the November 1992 coup attempt and the Retén de Catia prison unrest of that same period. Moreover, there are persistent charges in Venezuela that members of the armed forces and police are themselves involved in the drug trade. Indeed, in August 1993, an arrest warrant was issued against one of Venezuela's former top drug fighters, National Guard Gen. (Ret.) Ramón Guillén Dávila, and four other officers (including National Guard Gen. Orlando Hernández Villegas, Guillén's successor as drug-unit chief and recently-appointed commander of the Metropolitan Police) suspected of drug-trafficking and related crimes.<sup>17</sup> In the summer of 1993 Venezuelans were debating assertions that infusions of drug money were affecting the presidential campaign.<sup>18</sup>**

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<sup>15</sup> According to the State Department, from whom these figures come, INM funds for each year are estimates only, and it may be assumed that the actual amount for past fiscal years was less. The figure for FY 1994 is likely to be reduced once approved for budgetary reasons.

<sup>16</sup> Department of State and Defense Security Assistance Agency *Congressional Presentation for Security Assistance, Fiscal Year 1994*, p. 350.

<sup>17</sup> "Court orders arrests of drug unit officials," *Miami Herald*, August 26, 1993; Gerardo Reyes, "Venezuela's former drug czar is now accused of trafficking," *Miami Herald*, August 28, 1993.

<sup>18</sup> The expansion of drug-trafficking through Venezuela, including the alleged infiltration of drug money into political

The widespread assumption that corruption, stemming from the drug trade or elsewhere, pervades all levels of Venezuelan society and its institutions, provided impetus for another recent outlay of U.S. assistance to Venezuela. After the attempted coup in February 1992, the United States undertook a program to help fight corruption. The Bush Administration dedicated some \$750-800,000 to an eighteen-month program (due to end in December 1993) to train Venezuelan law enforcement officials, including police, prosecutors and judges, to work together more effectively against corruption. The program was quickly arranged by the State Department's Agency for International Development (AID). AID sought out as independent contractors the Florida International University, because of its experience with AID's Administration of Justice program, and the International Criminal Investigations Training Assistance Program (ICITAP), of the U.S. Department of Justice.<sup>19</sup> In April 1993 interviews with Americas Watch, more than one U.S. government official involved in or knowledgeable of the program criticized it as little more than a U.S. flag-waving exercise to support the ailing Pérez administration, and noted that it had little chance of having a lasting impact on corruption.

On July 20, 1993, Jeffrey Davidow testified before the Senate Foreign Relations Committee as President Clinton's nominee for Ambassador to Venezuela.<sup>20</sup> Davidow, a career diplomat who served as Deputy Chief of Mission in Caracas in the late 1980s, did not raise human rights in his prepared statement, although he acknowledged, under questioning, that human rights abuse takes place in the country. He informed the Committee that the State Department's most recent report was "accurate," although he added that "Venezuela has a long tradition of protection of human rights, both in the political sphere and in the judicial sphere." He regarded the poor prison conditions in the country as "an abnormality in the system which prides itself on respect for human rights."<sup>21</sup> As the State Department itself sets out (see above), deplorable prison conditions are but one of an array of human rights violations perpetrated with regularity in Venezuela, which the courts have failed to correct and the government has failed to address. On July 27, Americas Watch representatives expressed their concerns in a meeting with Mr. Davidow.<sup>22</sup> He stated in that meeting that human rights will be a central concern of the U.S. embassy in Caracas. We are hopeful that the new ambassador will be forceful in condemning abuse.

Americas Watch urges the Clinton Administration to promote human rights vigorously and publicly in Venezuela.<sup>23</sup> Public pressure to stem human rights abuse will contribute significantly to U.S.

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campaigns, prompted Gen. Miguel Maza Márquez of Colombia, a former intelligence officer and current aspirant to the Colombian Presidency, to assert that the Venezuelan system was becoming a "narco-democracy". Maza's charges were not new, but represent perhaps the first time the issue has been discussed so openly.

<sup>19</sup> ICITAP is a program designed to train foreign police officers in investigative techniques.

<sup>20</sup> His appointment was confirmed by the Senate on July 30.

<sup>21</sup> Testimony (unedited) of Mr. Jeffrey Davidow before the Senate Foreign Relations Committee, July 20, 1993.

<sup>22</sup> Americas Watch similarly expressed its concerns to the U.S. embassy's new human rights officer in a meeting in Washington on July 23.

<sup>23</sup> In recent statements to the press, offered while his Venezuelan counterpart Gen. Fernando Ochoa Antich was in Washington, Secretary of State Warren Christopher noted that the United States "strongly support[s] the democratic process" in Venezuela, but failed to address human rights problems affecting the country. See Federal News Service,

**aims of preserving and promoting democracy in the country. We further urge, with regard to IMET and INM funds, that the United States immediately begin a review period during which it will monitor human rights violations committed by the forces whose agents are to be trained; that a similar review be undertaken with regard to the performance of the Metropolitan Police operating in and around Caracas;<sup>24</sup> and that if, after a defined period, not shorter than six months, there has not been a meaningful decline in the number of incidents of police abuse or a verifiable commitment by the Venezuelan government to curb such abuses, police training should be suspended on human rights grounds.**

**In considering the Venezuelan government's commitment to improve police respect for human rights, the United States should examine the government's public stance on everyday police abuses as well as on exceptional cases such as the Caracazo and the November 1992 killings of demonstrators and prison inmates; the appropriate police departments' internal investigations and efforts to clarify such cases and punish abusive agents; and the pattern of judicial action on cases involving police abuse.**

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**"Photo OP/Secy of State Warren Christopher & Venezuelan Foreign Minister Fernando Ochoa Antich," (Federal Information Systems Corporation, Washington, DC: September 2, 1993.)**

<sup>24</sup> **Commanders of the Metropolitan Police routinely come from National Guard ranks, and the two forces often are dispatched together to quell public demonstrations.**

## APPENDIX A

### LIST OF VICTIMS KILLED DURING *EL CARACAZO*, PREPARED BY COFAVIC AND THE RED DE APOYO POR LA JUSTICIA Y LA PAZ<sup>1</sup>

COFAVIC and the Red de Apoyo make clear that this list does not include a definitive number of victims; rather it is the product of investigations that have yet to be completed. Regardless, the list goes well beyond the official count of 277 dead. The list does not include those persons injured, nor does it include persons whose identity is unknown. The purpose of the list, according to these two groups, is not simply to quantify the human rights problems associated with the Caracazo, but rather both to call for reflection and to demonstrate the gravity of the violations committed during February and March 1989, in the hope that such massive abuse does not recur.

No	Name (last name first)	Age	Identity No.	Cause of Death	Comments (comments in <i>italics</i> are Americas Watch's own)
1	ACAZME BASTARDO JESUS RAFAEL	26	6.186.508	Shot	
2	ACEVEDO GUICAS BENIGNO ANTONIO	30	6.215.156	Shot	
3	ACOSTA FRANCISCO ANTONIO		---	Shot	
4	ACOSTA LUIS EDUARDO	21	12.260.961		
5	AGUILAR PEDRO LUIS	25	---	Shot	
6	AGUILERA LA ROSA MIGUEL ANGEL	26	6.908.107	Shot	
7	ALDANA BASTIDAS BENITA DEL CARMEN	47	2.686.194	Shot	Presumed buried in common graves.
8	ALMARALES LUIS ALBERTO	12	---	Shot	
9	ALTUVE ESCALANTE ALFREDO ENRIQUE	20	10.239.680	Shot	
10	ALVAREZ ALBERTO	29	---	Shot	
11	ALVAREZ ALFREDO	--	---	Shot	
12	ALVIS CRUZ	--	---	Shot	Presumed buried in common graves.
13	ANDRADE MIGUEL RODOLFO	--	---	Shot	Presumed buried in common graves.
14	ANDRADE ALVAREZ RICARDO NAPOLEON	31	5.972.100	Shot	
15	ANGULO TAMAYO MIRIAM	36	E-81.448.380		
16	ANTILLANO LACAYO EFRAIN ENRIQUE	26	6.167.772	Shot	
17	APONTE MACHADO ALAND ISIDRO	24	6.290.785	Shot	
18	ARAME JESUS RAFAEL	35	---	Shot	
19	ARANGURA GARCIA ANGEL DAVID	38	3.471.946	Shot	
20	ARANGUREN MATUTE NELSON ANTONIO	20	undocumented	Shot	VAL
21	ARIAS LUIS ENRIQUE	27	---	Shot	
22	ARIAS VEGAS JOSE RAMON	42	3.553.373	Shot	Presumed buried in common graves.
23	ARTEAGA JOSE RAMON	21	10.470.936	Shot	
24	ASCENCION BELLO LUZ MARTA	--		Shot	Presumed buried in common graves.

<sup>1</sup> The attached list was retyped by Americas Watch based on information provided by COFAVIC, as it was provided to the State Prosecutor on March 2, 1990. Any dissimilarities in this list and that maintained by COFAVIC and the Red de Apoyo (other than typo corrections and where otherwise noted) are unintentional.

<b>No</b>	<b>Name (last name first)</b>	<b>Age</b>	<b>Identity No.</b>	<b>Cause of Death</b>	<b>Comments (comments in <i>italics</i> are Americas Watch's own)</b>
25	ASCONA JOSE	--		Shot	Presumed buried in common graves.
26	AULAR GORRIN WILLY RAMON	27	7.660.385	Shot	
27	AVELARDO OVIEDO ALEIXIS	32	---	HxP	
28	BALOA MARTINEZ CARLOS JOSE	17	10.801.015	Shot	
29	BALZA AZUAJE SILVIO DE JESUS	24	6.199.963	Shot	
30	BARRADAS CONCALVES JOAO	37	6.248.488	Shot	
31	BARRETO EDGAR JOSE	22	---	Shot	Presumed buried in common graves.
32	BARRIOS EDGAR JOSE	20	5.567.438	Shot	
33	BARRIOS ISIDORO	32	---	HI	
34	BELLO ROSAS RICHARD JOSE	22	10.525.953	Shot	
35	BERMUDEZ GIL CESAR SANTOS	33	5.520.916		
36	BIGOT LUIS	22	---	Shot	
37	BLANCO CAMACARO FREDYS JACOBO	36	6.373.105		
38	BLANCO JESUS CALIXTO	55	1.851.132	Shot	
39	BLANCO GARRIDO JUAN JOSE	17	11.991.504	Shot	
40	BLANCOS ROMERO DOUGLAS ALEXANDER	21	9.669.888	Shot	VAL
41	BOCANYE FERMIN	38	undocumented	Shot	VAL
42	BOLAÑOS RODRIGUEZ DIEGO CARLOS	23	10.509.142	Shot	Presumed buried in common graves.
43	BOLIVAR MARCANO BORIS EDUARDO	22	6.204.676	Shot	
44	BOLIVAR ZULAY JOSEFINA	20	---	Shot	
45	BRICEÑO JOSE GREGORIO	22	---		
46	BRIZUELA URBANEJA HERMEZ	19	---	Shot	
47	BUTONES RUPERTO		---	MN	Presumed buried in common graves.
48	CABRERAS CARLOS EDUARDO	17	---	Shot	
49	CABRITA REYES VICTOR MANUEL	19	11.409.191	Shot	
50	CAMACHO JEREZ JOSE RAFAEL	43	4.262.412	Shot	
51	CANACHA FRANKLIN ALEXIS	17	10.814.523	Shot	Presumed buried in common graves.
52	CANORO JESUS			Shot	
53	CAÑIZALEZ FRANCISCO ANTONIO	61	1.390.057	Shot	Presumed buried in common graves.
54	CAPELO PEREZ JOSE GREGORIO	22	---	Shot	
55	CAPOTE GUEDEZ TEODORO	34	---	Shot	Presumed buried in common graves.
56	CAPRILES GARCIA NANCY MARGARITA	31	6.514.211	Shot	
57	CABRILES IZQUIERDO ORANGEL DANIEL	25	6.441.743	Shot	Presumed buried in common graves.
58	CARMONA LUIS NAVARRO	33	---		
59	CARPIO JOSE GREGORIO	20	---		
60	CERRASQUERO FRANCISCO	--	---	Shot	
61	CARRILLO JOHAN MANUEL	16	---	Shot	

<b>No</b>	<b>Name (last name first)</b>	<b>Age</b>	<b>Identity No.</b>	<b>Cause of Death</b>	<b>Comments (comments in <i>italics</i> are Americas Watch's own)</b>
62	CASTELLANO CAMELON ARMANDO ANTONIO	30	6.393.448	Shot	
63	CASTILLO GONZALEZ JESUS ISRAEL	17	10.530.514	Shot	
64	CASTILLO NIMARA	19	---	Shot	
65	CASTILLO KROGGGER TOMAS DANIEL	--	---	Shot	
66	CASTILLO NINOSKA GUANIPA	--	---	Shot	
67	CASTRO JOSE GREGORIO	20	10.531.870	Shot	
68	CAURO JESUS	22	---	Shot	Presumed buried in common graves.
69	CEBALLO JORGE LUIS	12	12.959.925	Shot	
70	CEBALLO MENDOZA FREDDY IGNACIO	22	E-81.993.294	Shot	
71	CEBALLO CHARLIS JOSE	10	---	Shot	
72	CEDEÑO SALVADOR JESUS	--	---	MN	Presumed buried in common graves.
73	CELIS DE RAVELO SIXTA ZAIDA	46	2.548.836	Shot	
74	CELLIS PEREZ JUAN CARLOS	24	---	Shot	
75	CHACOA YARLY	9	---	Shot	
76	CHACON TORRES OSWALDO JESUS	32	undocumented	Shot	VAL
77	CHAVEZ PADILLA NELSON JESUS	26	9.546.798	Shot	VAL
78	CHAVE SONIA	28	6.265.895	Shot	
79	CHIGUIN RODRIGUEZ JOSE GREGORIO	32	undocumented	Shot	
80	CHIRINOS KENNEDY	1 MO.	---	Shot	
81	COL MARIA JULIA	--	---	Shot	
82	COLINA ANDRES AUGUSTO	32	7.201.274	Shot	VAL
83	COLMENARES ANA TERESA	36	undocumented	Shot	VAL
84	COLMENARES BELLO JUNIOR ALEXANDER	14	11.922.551	Shot	
85	COLMENARES LUZ ELENA	37	6.040.330	Shot	
86	COLMENARES MARTINEZ LUIS MANUEL	22	10.115.095	Shot	
87	COLMENARES PERAZA WILMER ERNESTO	28	5.972.803	Shot	
88	COLMENARES ZORRILLA FRANCISCO A.	24	6.244.131	Shot	
89	COLMENAREZ JOSE ANTONIO	20	---	Shot	
90	CONTRERAS CARLOS	17	---	Shot	
91	CORRO FERNANDO	25	---	Shot	
92	CORTEZ CHACON ROBERTO ANTONIO	23	10.114.530	Shot	Presumed buried in common graves.
93	CORTEZ HERNANDEZ JOSE ANGEL	29	6.152.608	Shot	
94	CUELLAR YAMAURY	17	---	Shot	
95	CUJAR CARLOS ERNESTO	43	3.309.878	Shot	
96	DE FREITAS PURICA MANUEL ANGEL	22	6.213.613	Shot	
97	DELFINO FIGUERA ANGEL	16	---	Shot	
98	DELGADO MEJIAS CARLOS EDUARDO	19	6.692.646	Shot	Presumed buried in common graves.

<b>No</b>	<b>Name (last name first)</b>	<b>Age</b>	<b>Identity No.</b>	<b>Cause of Death</b>	<b>Comments (comments in <i>italics</i> are Americas Watch's own)</b>
99	DEPABLOS BUSTAMANTE ANA IRMA	22	9.149.641	Shot	Presumed buried in common graves.
100	DIEZ CARMEN MARLENE	17	11.990.151	Shot	
101	DIAZ JOSE MANUEL	24	---	Shot	
102	DORANTES TORREZ CARLOS ANTONIO	29	5.543.773	Shot	
103	DUQUE DUQUE PEDRO NORBERTO	33	9.126.055	Shot	
104	DURAN RAMON	21	---		
105	EASTMAN OMAR JESUS	24	---		
106	EACHEVERRIA JORGE	16	---		
107	ECHENZURIA SERGIO	67	2.576.769		Presumed buried in common graves.
108	EDELME JOSE	16	---	Shot	
109	ELADIO NIEVES	67	---		
110	ESCALONA JUAN FRANCISCO	43	3.288.890	Shot	
111	ESPINOZA CASTRO LUIS MIGUEL	20	11.158.286	Shot	
112	ESPINOZA HURTADO ALFREDO RAFAEL	22	10.351.342	Shot	
113	ESTRADA RUBEN DARIO	13	---	Shot	
114	FERNANDEZ JESUS ANTONIO	26	---		
115	FERNANDEZ MARIA ESTHER	28	---	Shot	
116	FERNANDEZ MEURY KARINA	12	---	Shot	
117	FERRER ESPINEL MAGDALENA DEL C.	29	5.522.254	Shot	
118	FIGUEROA JOSE BENJAMIN	32	5.909.043	Shot	
119	FLORES ACEVEDO PEDRO AGUSTIN	24	6.274.454		
120	FLORES JUANA		---	Shot	
121	FRANCO RAMOS JUAN A.		---	Shot	
122	FREITES NELSON		---	Shot	
123	FREITES WILLIAMS JOSE	23	10.116.868	Shot	
124	FREITEZ JULIO CESAR	18	11.265.082		Presumed buried in common graves.
125	FREITES JOSE JULIAN	33	---	Shot	
126	FUENTES JOSE ALEXANDER	12	---	Shot	
127	GARCIA ARANGURE RAFAEL	36	---	Shot	
128	GARCIA ARGELIS		---	Shot	
129	GARCIA OLARTE NORMANDO	28	---	HXP	
130	GARCIA PEREIRA PEDRO PABLO	27	6.399.933	Shot	
131	GARCIA PIÑANGO YENIS ALBERTO	37	6.087.266		
132	GARCIA ROSA	34	E-82.028.186	Shot	Presumed buried in common graves.
133	GARCIA ROSA ARQUIMEDES REYNALDO	15	6.038.947	Shot	
134	GARCIA GENARO FARAEL	30	undocumented	Shot	VAL
135	GARCIA WILLIAMS RODOLFO		---	Shot	
136	GIL COLMENARES JOSE ENRIQUE	30	6.437.536	Shot	

<b>No</b>	<b>Name (last name first)</b>	<b>Age</b>	<b>Identity No.</b>	<b>Cause of Death</b>	<b>Comments (comments in <i>italics</i> are Americas Watch's own)</b>
137	GIL GARCIA ABELARDO		---	Shot	
138	GIL GARCIA JAMEL DE JESUS		---	Shot	
139	GIL RUDES ANTONIO	35	5.603.501	Shot	
140	GIL TERAN REYNA MARGARITA	43	4.348.148		
141	GOMEZ FELIX RAMON	21	---		
142	GOMEZ ISABEL	32	---	Shot	
143	GOMEZ MARIA JOSEFINA	22	---	Shot	
144	GOMEZ ORTEGA FRANCIA JOSEFINA	22	---	Shot	
145	GOMEZ SABAS REYES	40	---		
146	GONZALEZ ANGEL F.		---	MN	Presumed buried in common graves.
147	GONZALEZ ANTONIO	18	---	Shot	
148	GONZALES JUAN ANTONIO	36	---	Shot	
149	GONZALEZ MARTINEZ ELEAZAR JESUS	29	6.056.360	Shot	
150	GRAMA IRAIMA MILAGROS		---	Shot	
151	GUAPE NINOSKA DE LA CRUZ	20	8.914.201	Shot	Presumed buried in common graves.
152	GUERRA ARNEDO NUMA ANTONIO	17	10.801.238	Shot	
153	GUERRERO CARRERO RAMON ELIAS	21	9.339.966	Shot	
154	GUEVARA MANUEL		---	Shot	
155	GUEVARA RAMOS DANIEL ALFREDO	17	10.780.488		
156	GUEVARA U. MARILYN DE LOS ANGELES	15	11.590.607		
157	GUIA LAYA PEDRO GUSTAVO		---	Shot	
158	GUTIERREZ GARCIA EDWIN ALFREDO	28	6.404.033	Shot	
159	GUTIERREZ GAVIDIA WILLIAMS GERARDO	28	8.089.222	Shot	
160	GUTIERREZ JHON JESUS		---		
161	GUTIERREZ HECTOR		---	Shot	
162	GUZMAN ANGELO		---	Shot	
163	HERNANDEZ ALFONSO RAFAEL	25	7.943.133	Shot	
164	HERNANDEZ CESAR	23	---	Shot	
165	HERNANDEZ DAZA MERCEDES BEATRIZ	35	4.273.007		
166	HERNANDEZ DIAZ JUAN MIGUEL	22	6.301.331	Shot	Presumed buried in common graves.
167	HERNANDEZ EDECIO	39	4.417.587	Shot	
168	HERNANDEZ HECTOR ENRIQUE	21	---	Shot	
169	HERNANDEZ JOSE	25	---	Shot	
170	HERNANDEZ RODRIGUEZ ALONSO ANTONIO	18	10.244.953	Shot	Presumed buried in common graves.
171	HERNANDEZ VILLEGAS HECTOR JOSE	27	undocumented	Shot	VAL
172	HERNANDEZ MIGUELINA	47	---	Shot	
173	HERRERA PABLO MANUEL	33	6.397.342	Shot	
174	HIDALGO JOSE OLIVA	26	---	Shot	

<b>No</b>	<b>Name (last name first)</b>	<b>Age</b>	<b>Identity No.</b>	<b>Cause of Death</b>	<b>Comments (comments in <i>italics</i> are Americas Watch's own)</b>
175	IBARRA NICOLAS ENRIQUE	39	3.710.969	Shot	
176	INFANTE GOMEZ NELSON JOSE	23	4.985.989	Shot	
177	IZQUIEL OCHOA CARMEN RAMONA	17	13.291.026	Shot	
178	IZURIZ ASCANIO	22	---	Shot	
179	HIMENEZ PEREZ JONIN JOSE	17	11.165.231	Shot	
180	JUAREZ UZCATEGUI ARGENZ DE JESUS	24	9.496.266	Shot	
181	KRILEWSKI TEODORO	36	---	Shot	
182	LARA MENDOZA ORLANYE	15	---	Shot	
183	LARA MENDOZA RAMON	20	---	Shot	
184	LEIVA GUILLERMO	23	---	Shot	
185	LEON AURELIO JOSE	21	13.288.732	Shot	
186	LEON JUAN DE DIOS	59	1.997.966	Shot	
187	LEON MONTANO JESUS	18	---	Shot	
188	LINARES ERNESTO JOSE	23	10.803.080		
189	LIRA PLOMARD ZURY HOHANA	21	6.310.394	Shot	
190	LOPEZ GOMEZ YENNY JOSE	30	6.153.039	Shot	
191	LOPEZ ROJAS JOSE ALEJANDRO	27	6.373.061	Shot	
192	LOPEZ SEFERINO ANTONIO	42	2.998.688	Shot	
193	LORATO MARTINEZ ANGEL	54	2.034.239	Shot	
194	LOZANO LOZANO JACKSON GERARDO	18	11.564.269	Shot	Presumed buried in common graves.
195	LUCERO BLANCO ORLANDO DAVID	26	6.433.878	Shot	
196	LUGO HECTOR JOSE	27	---	Shot	
197	MACHADO ALEJANDRO CERILO	36	---	Shot	
198	MACHADO SERRANO DOUGLAS NARCISO	23	6.219.032	Shot	
199	MACHADO FRANCISCO		---	Shot	
200	MADRIZ JOSE FRANCISCO	43	632.920	Shot	
201	MALDONADO ALVIS	25	---	Shot	
202	MARCHAN DANNY	20	undocumented	Shot	VAL
203	MARIN CALDERA TERESIO ANTONIO	38	3.408.374	Shot	
204	MARIN PEREZ JOREL ANTONIO	16	11.735.774	Shot	
205	MARQUEZ ANGEL RAMON	15	---	Shot	
206	MARQUEZ OMAR	28	6.188.709	Shot	
207	MARQUEZ WILMER JOSE	15	11.203.140	Shot	
208	MARTINEZ LINARES FIDEL ANTONIO	25	7.589.517	Shot	
209	MARTINEZ ERICK	10	---	Shot	
210	MARTINEZ ITALA	52	---	Shot	
211	MARTINEZ JESUS		---	Shot	
212	MARTINEZ JUAN		---	Shot	

<b>No</b>	<b>Name (last name first)</b>	<b>Age</b>	<b>Identity No.</b>	<b>Cause of Death</b>	<b>Comments (comments in <i>italics</i> are Americas Watch's own)</b>
213	MARTINEZ JULIO CESAR	20	---	Shot	
214	MARTINEZ RAFAEL JOSE		---	Shot	
215	MATA HILARIO MIGUEL	36	V-Indocument	Shot	
216	MATA VIRRIEL CARLOS LUIS	32	6.023.048	Shot	
217	MATERAN OMAR ANTONIO	37	---	Shot	
218	MAVARES ELEAZAR RAMON	19	10.629.959	Shot	<i>The Metropolitan Police officer charged with his death was acquitted. COFAVIC has presented the case to the Inter-American Commission on Human Rights. There is confusion regarding the identity of his remains and whether he may have been buried in the common graves.</i>
219	MAYORA MIJARES FREDDY		---	Shot	
220	MEDEROS HERNANDEZ CRISANTO	38	3.664.735	Shot	
221	MEJIAS GARCIA SERVANDO JULIAN	25	6.8893.460	Shot	
222	MENDEZ TEODENCIO	57	---	Shot	
223	MEZA ISTURIZ EDUARDO	35	4.121.840	Shot	
224	MIJARES LEON	8	---	Shot	
225	MIJARES PERDOMO RITO JULIO	51	1.872.414	Shot	
226	MILERO ELSA	26	---	Shot	
227	MOLINA JOSE GREGORIO	30	5.500.216	Shot	
228	MONCADA FRANCISCO	8	---	Shot	
229	MONTENEGRO CORDERO JOSE RAMON	23	6.223.958	Shot	
230	MONTILLA ALBINO		---	Shot	
231	MONTILLA JOSE ALI	53	---	Shot	
232	MORALES REYES ALFONSO	29	6.184.667	Shot	Presumed buried in common graves.
233	MORENO ALVAREZ JOSE	18	---	Shot	
234	MORENO DE TOOSA ZULAY MARIA	29	9.460.418	Shot	
235	MORENO JOSE LUIS	25	---	Shot	
236	MORILLO LUIS ENRIQUE	40	---	Shot	
237	MORILLO PEREZ JOSE AGUSTIN	30	6.524.356	Shot	
238	MORO LOGGIOVINE RAFAEL ERNESTO	20	6.338.814	Shot	
239	MOSQUERA JOSE GREGORIO		---	Shot	
240	MOYAN ALICIA VICTORIA	36	---	Shot	
241	MUJICA DE GARCIA ROSA		---	Shot	
242	MUJICA PARRA LUIS ALBERTO		---	Shot	
243	MUJICA ZERPA FRANKLIN EDUARDO	18	11.590.546	Shot	
244	NARANJO JOSE LUIS	16	12.062.580	Shot	
245	NAVARRO CARMONA LUIS ENRIQUE	34	5.019.212	Shot	

<b>No</b>	<b>Name (last name first)</b>	<b>Age</b>	<b>Identity No.</b>	<b>Cause of Death</b>	<b>Comments (comments in <i>italics</i> are Americas Watch's own)</b>
246	NAVARRO LUIS	15	---	Shot	
247	NIEVES JAEN FREDDY	33	4.846.900	Shot	
248	NIEVES SALAS REYES		---	Shot	
249	NUÑEZ CAÑIZALEZ ALIRIO JOSE	24	10.037.737	Shot	
250	ODOSCOITTE L. GUILLERMO DEL VALLE	23	9.435.112	Shot	
251	OJEDA GONZALEZ WILLIAMS	21	6.284.056	Shot	
252	OLIVO CARBALLO ZULAY JOSEFINA	30	5.133.993	Shot	
253	OROPEZA TORREZ OSWALDO J.	14	---	Shot	
254	ORTEGA JOSE RAMON		---	Shot	
255	ORTEGA ZAPATA HECTOR DANIEL	24	6.244.400	Shot	
256	ORTIZ QUINTERO IMER MANUEL	28	9.745.835	Shot	
257	ORTIZ FABIAN	19	undocumented	Shot	VAL
258	ORTUÑO TABLANTE VICTOR JOSE	19	10.496.838	Shot	
259	OVIEDO LUIS RAMON	54	9.938.075	Shot	
260	PACHECO ABDULIA		---	Shot	
261	PACHANO JOSE ALMIDE	24	---	Shot	
262	PACHECO LINARES ARMIDES JOSE	25	7.908.929	Shot	
263	PACHECO PARRA ARQUIMEDES ANTONIO	25	10.527.834	Shot	
264	PACHECO REBOLLEDO FRANCISCO ANTONIO	48	2.123.107		
265	PADRINO ERICSON JUAN	26	26.345.162		
266	PAEZ PAEZ RICHARD JOSE	17	10.533.040	Shot	
267	PALACIO YARLIN JOSE	12	---	Shot	
268	PALACIOS EDICK	12	---	Shot	
269	PALACIOS FRANCISCO		---	Shot	
270	PAREDES HERNANDEZ OSWALDO	13	---	Shot	
271	PAREDES RUBIO MARTIN	30	9.179.148	Shot	Presumed buried in common graves.
272	PARRA JOSE EDUARDO	62	669.774	Shot	
273	PARRA LUIS	35	---	Shot	
274	PARRA OJEDA CARLOS ELIAS	28	6.106.126	Shot	Presumed buried in common graves.
275	PARRA RAMON JOSE	26	---	Shot	
276	PAEZ PEREZ MARIO ENRIQUE	47	---	Shot	
277	PEDRON YEGRES JUAN CARLOS	21	6.966.472	H-QR	
278	PELLICER LORETO MALQUIADES	51	1.994.107	Shot	
279	PEÑA LORDUY DIOCELINA	40	E-81.314.453	Shot	
280	PERALES JOEL ALBERTO	21	9.956.157	Shot	
281	PERAZA JOSE ERNESTO	23	undocumented	Shot	VAL
282	PEREIRA DE JESUS JUAN ALBERTO	15	11.305.685	Shot	
283	PEREIRA GUTIERREZ RAMON ANTONIO	17	12.784.128	Shot	

<b>No</b>	<b>Name (last name first)</b>	<b>Age</b>	<b>Identity No.</b>	<b>Cause of Death</b>	<b>Comments (comments in <i>italics</i> are Americas Watch's own)</b>
284	PEREIRA JUAN BAUTISTA	13	---	Shot	
285	PERREIRO JUAN ANTONIO		---	Shot	
286	PEREZ BLANCA ROSA	14	12.918.124	Shot	
287	PEREZ FERNANDO JOSE	17	11.807.279	Shot	
288	PEREZ OTTO JOSE	32	6.576.472	Shot	
289	PEREZ NERIO		---	Shot	
290	PEREZ PEDRO DOMINGO	41	3.523.827	Shot	
291	PEREZ TOVAR JOSE	38	---	Shot	
292	PERNIL RAMON	40	3.653.402	Shot	VAL
293	PEREZ EBERTO RAUL	20	undocumented	Shot	VAL
294	PEREZ GUERRA LUIS MIGUEL		---	Shot	
295	PEREZ GUEVARA MARYLU		---	Shot	
296	PEREZ LUCIA JOSEFINA	16	---	MN	Presumed buried in common graves.
297	PEREZ MANJAREZ WILBERTO	30	E-81.874.087	Shot	
298	PEREZ RIVAS JOSE VICENTE	19	10.780.398	Shot	
299	PIMENTEL HECTOR ENRIQUE	33	---	Shot	
300	PIMENTEL JOSE ANDRES		6.224.160	Shot	
301	PINEDA UGAS MILTON EMILIO	17	12.061.355	Shot	
302	PIRELA LEON JOSE DEL CARMEN	17	11.106.655	Shot	Buried in common graves and identified after exhumation.
303	POLANCO MANAURA JOSE CANDELARIO	29	6.853.180	Shot	
304	PORRAS SANDOVAL MANUEL	20	11.943.658	Shot	
305	PORTILLO PEREZ RAMON JOSE	44	2.819.543	Shot	
306	PRADA RAMON JOSE		---	Shot	
307	QUIJADA JESUS ZENAIDO	26	0.981.870	Shot	
308	QUIMBAYA YANILSA GREGORIA	25	8.187.357	Shot	
309	QUINTANA JOSE	25	---	Shot	
310	QUINTANA LEONARDO	16	---	Shot	
311	QUINTANA VIVAS WOLFANG	20	10.791.117	Shot	
312	QUINTANA JORGE DANIEL	25	12.454.121	Shot	
313	QUINTERO EDUARDO JOSE	36	4.082.025	Shot	
314	RAMIREZ CAMINERO ELSA TEOTISTA	41	E-81.964.555	Shot	Presumed buried in common graves.
315	RAMOS BENTANCOURT JOSE GABRIEL	17	11.994.761	Shot	
316	RAMOS YURIMA MILAGROS	22	10.348.433	Shot	
317	RANGEL RAUL ANTONIO	28	6.086.245	Shot	
318	RANGEL RIVERO GREGORIO ANTONIO	26	8.454.029	Shot	Presumed buried in common graves.
319	REGALADO RAFAEL ANTONIO	22	6.333.769	Shot	
320	REQUENA JOSE GREGORIO	31	6.859.020	Shot	
321	REY ALFONSO JOSE	31	6.080.310	Shot	

<b>No</b>	<b>Name (last name first)</b>	<b>Age</b>	<b>Identity No.</b>	<b>Cause of Death</b>	<b>Comments (comments in <i>italics</i> are Americas Watch's own)</b>
322	REY IVAN	26	6.230.382	Shot	
323	REYES DE POLO MAGOLA	51	E-81.653.276	Shot	
324	REYES GOMEZ SALAZAR	28	---	Shot	
325	REYES MARCANO VENTURA	33	---	Shot	
326	REYES PEREZ DAVID ALBERTO	18	11.689.260	Shot	
327	REYES VICTOR MANUEL	20	---	Shot	
328	REYES YULIMAR CONCEPCION	23	8.048.702	HXP	<i>The Metropolitan Police convicted of killing Reyes was granted conditional liberty in 1990.</i>
329	RIOBUENO MORA LUIS SEGUNDO		undocumented	Shot	VAL
330	RODRIGUEZ DE DIAZ SANDRA	27	10.474.416	Shot	
331	RODRIGUEZ DIONEL OSWALDO	26	6.168.354	Shot	
332	RODRIGUEZ JOSE HUMBERTO	17	6.435.837	Shot	
333	RODRIGUEZ JULIO	34	---	Shot	
334	RODRIGUEZ PALACIO FRANCISCO JOSE	29	5.580.515	Shot	
335	RODRIGUEZ WILLIAM MIGUEL	36	5.747.919	Shot	
336	ROJAS CAMPO JAVIER RUBEN	28	6.097.349	Shot	Buried in common graves and identified after exhumation.
337	ROJAS JOSE AMADOR	22	8.257.848	Shot	
338	ROJAS GAME JUAN		---	Shot	
339	ROMERO CASTRO FIDEL ORLANDO	26	6.210.016	Shot	Presumed buried in common graves.
340	RONDON BERMUDEZ MIGUEL JOSE	26	6.826.494	Shot	
341	ROSALES MORILLO LUIS ENRIQUE	41	3.151.995	Shot	
342	ROSILLO GARCIA ESTEBAN LUCIANO	21	6.808.671	Shot	
343	ROSS SANABRIA WILLIAMS		---	Shot	
344	SALAS AMERICA GLORIA	32	---	Shot	
345	SALAS GUILLEN LEOVALDO ANTONIO	23	9.390.285	Shot	Buried in common graves and identified after exhumation.
346	SALAZAR OTILIO	35	---	Shot	
347	SALAZAR EULICES RAFAEL	16	---	Shot	
348	SALCEDO MARCANO LUIS EMILIO	15	12.640.248	Shot	
349	SALVATO PEREIRA ANTONIO		---	Shot	
350	SANCHEZ ALEX		---	Shot	
351	SANCHEZ ANGEL CECILIO	19	---	Shot	
352	SANCHEZ EDGAR BENJAMIN	19	10.519.414	Shot	
353	SANCHEZ NATALIA	32	---	Shot	
354	SEGOVIA JESUS MARIA	47	---	HXP	
355	SEQUERA MARTINEZ JULIO CESAR	19	9.489.189	Shot	
356	SEQUERA MENESES JOSE ISABEL	36	4.524.825	Shot	
357	SERRANO OVIEDO ALEXIS ABELARDO	32	6.371.751	Shot	

<b>No</b>	<b>Name (last name first)</b>	<b>Age</b>	<b>Identity No.</b>	<b>Cause of Death</b>	<b>Comments (comments in <i>italics</i> are Americas Watch's own)</b>
358	SILVA LUIS NOEL	15	10.816.214	Shot	
359	SIMANCAS JOSE LUIS	14	---	Shot	
360	SOJO OMAR ALBERTO	17	---	Shot	
361	SOOREZ JOSE AGUSTIN	21	---	Shot	
362	SOTO ANILDO ANTONIO	28	6.147.627	Shot	
363	SOTO VILERA ENRIQUE NAPOLEON	25	10.276.258	Shot	
364	SUARES FIGUEIRA ENRIQUE JOSE	21	E-81.360.995	Shot	
365	TAPIA MORALES HECTOR MANUEL	38	E-81.626.6339	Shot	
366	TERAN MARIA		---		
367	TERAN MARTIN		---	Shot	
368	TORREALABA REYNALDO FLORENCIO	29	---	Shot	
369	TORRES GILBERTO	13	---	Shot	
370	TORRES HURTADO MARIA YSABEL	34	E-82.020.858	Shot	Presumed buried in common graves.
371	TORRES JOSE ANTONIO	33	9.000.096	Shot	Presumed buried in common graves.
372	TORRES SALIS FRANCISCO	36	4.587.595	Shot	Presumed buried in common graves.
373	TORREZ GREGORIO	17	---	Shot	
374	TOVAR MARIA		---	Shot	
375	TOVAR RAFAEL JESUS	46	2.120.458	Shot	
376	TREJO JOSE	50	---	Shot	
377	TREMARIA PEDRO	42	3.363.607	HXP	
378	URBINA ANGEL ARTURO	24	6.275.253	Shot	
379	URDANETA MIGUEL	17	undocumented	Shot	VAL
380	VALBUENA BORJAS ROBERTO SEGUNDO	28	7.872.327	Shot	
381	VALERO SUAREZ GERONIMO	24	13.462.326	Shot	Presumed buried in common graves.
382	VALLEJO GUTIERREZ CESAR AUGUSTO	15	12.374.628	Shot	<i>The civilian convicted of killing Vallejo was granted conditional liberty.</i>
383	VARGAS MANUEL	39	---	Shot	
384	VARGAS PEÑA GILBERTO MARCOS	31	E-81.997.407	Shot	
385	VASQUEZ GIL MARTIN JOSE	39	3.595.762	Shot	
386	VASQUEZ YAGUARIN CESAR RAFAEL	23	12.087.626	Shot	Presumed buried in common graves.
387	VEGAS JESUS	27	---	Shot	
388	VELASQUEZ CELIS WILSON ANTONIO	25	6.303.618	Shot	
389	VELASQUEZ MARISOL	29	---	Shot	
390	VELASQUEZ WILFREDO	25	---	Shot	
391	VELAZCO PAOLO PAUL		undocumented	Shot	VAL
392	VERA VIRGINIA	43	---	Shot	
393	VILLAFRANCA HURTADO EDGAR ANTONIO	29	6.362.266	Shot	
394	VINCENT RODRIGUEZ RAFAEL	26	6.045.908	Shot	

<b>No</b>	<b>Name (last name first)</b>	<b>Age</b>	<b>Identity No.</b>	<b>Cause of Death</b>	<b>Comments (comments in <i>italics</i> are Americas Watch's own)</b>
<b>395</b>	<b>WEHBE GEORG</b>	<b>65</b>	<b>E-81.722.851</b>	<b>Shot</b>	<b>Presumed buried in common graves.</b>
<b>396</b>	<b>ZABALA ESCALONA DOUGLAS ARGELIS</b>	<b>23</b>	<b>10.788.857E3</b>	<b>Shot</b>	
<b>397</b>	<b>ZACARIAS OTILIO</b>	<b>31</b>	<b>---</b>	<b>Shot</b>	
<b>398</b>	<b>ZAMBRANO MORA JESUS</b>	<b>14</b>	<b>---</b>	<b>Shot</b>	

## **APPENDIX B**

### **PROVISIONAL LIST OF PRISONERS KILLED DURING THE RETÉN DE CATIA UPRISING OF NOVEMBER 27-28, 1992**

**Because of the difficulty in obtaining such information, this list of forty-nine persons does not include all those prisoners killed at the Retén de Catia. In addition, we offer variations in the spelling of names, true to the information we have obtained from various sources. We received further information concerning between seven and eleven unidentified victims.**

**In choosing between not naming any victims or providing an incomplete list, we considered it important to name the victims for which we have information. In so doing, we believe it is slightly less likely that the victims and their murder will be forgotten, and that criminal responsibility will be avoided.**

<b>No.</b>	<b>Name</b>
<b>1</b>	<b>AGUILERA ANGEL F. AGUILERA ANGEL FRANCISCO AGUILERA ANGEL, FRANCISCO</b>
<b>2</b>	<b>ARMAS G. FRANKLIN A. ARMAS GONZALEZ, FRANKLIN ANTONIO</b>
<b>3</b>	<b>ASCANIO PLAZA MARCOS NERIO JOSSE DE JESUS ASCANIO PLAZA MARCOS ASCANIO PLAZA MARCOS, NERIO JOSE</b>
<b>4</b>	<b>AYALA GUALDRON JOSE LEON</b>
<b>5</b>	<b>CADILLO GARCIA PABLO JOSE BADILLO GARCIA, PABLO JOSE</b>
<b>6</b>	<b>CAMPO VERDE, CHARLES</b>
<b>7</b>	<b>CASTILLO FABIO MANUEL CASTILLO SUAREZ FAVIO MANUEL CASTILLO MARVEL, FAVIO</b>
<b>8</b>	<b>CASTRO CRUCES PEDRO RICARDO CASTRO PEDRO RICARDO</b>
<b>9</b>	<b>CELIS SERGIO JOSE</b>
<b>10</b>	<b>CHIRINOS H. HENRY LEONEL CHIRINOS HERNADEZ HENRY LEONEL</b>
<b>11</b>	<b>DUARTE OSMAN, SIMON</b>
<b>12</b>	<b>ESPINOZA OMAR JOSE ESPINOZA OMAR, JOSE</b>
<b>13</b>	<b>FIGUEROA RAMOS, GABRIEL ANTONIO</b>
<b>14</b>	<b>FLORES V. DAVID A. FLORES VELASQUEZ D. ARMANDO</b>

<b>No.</b>	<b>Name</b>
	<b>FLORES VELASQUEZ, DEYVIS ARMANDO</b>
<b>15</b>	<b>GAVIDIA VELASQUEZ NESTOR GAVIDIA VELASQUEZ, NESTOR LUIS</b>
<b>16</b>	<b>GOMEZ CHAPARRO, JOSE GREGORIO</b>
<b>17</b>	<b>GOMEZ BASQUE WILMER BENJAMIN GOMEZ VASQUEZ, WILMER BENJAMIN</b>
<b>18</b>	<b>GONZALEZ S. JIMMY A. GONZALEZ SANDOVAL, JIMMY ANTONIO</b>
<b>19</b>	<b>GONZALEZ SERGIO JOSE</b>
<b>20</b>	<b>GRANADILLO CARLOS GRANADILLOS, CARLOS</b>
<b>21</b>	<b>GUZMAN CESAR GREGORIO</b>
<b>22</b>	<b>HENRIQUE RIZO JAIME ARTURO HENRIQUEZ R. JAIME A. HENRIQUE RIZZO, JAIME ANTONIO</b>
<b>23</b>	<b>HERNANDEZ DAZA JOSE DURAN</b>
<b>24</b>	<b>HINOJOSA DURAN JOHAN</b>
<b>25</b>	<b>LOPEZ J. WILLIAMS B.</b>
<b>26</b>	<b>MARCIAL G. ANTONIO JOSE</b>
<b>27</b>	<b>MARTINEZ L. ALEXIS A. MARTINEZ LIEVANO</b>
<b>28</b>	<b>MIJAREZ R. HENRY V.</b>
<b>29</b>	<b>MONTERO ARANGUREN VICTOR JESUS MONTERO VICTOR JESUS</b>
<b>30</b>	<b>NAVARRO, JESUS RAFAEL</b>
<b>31</b>	<b>ZULOAGA OBELMEJIAS PEDRO ZULOAGA OVELMEJIA LUIS OBELMEJIAS ZULOAGA, PEDRO LUIS</b>
<b>32</b>	<b>PAIRA R. CHARLY G.</b>
<b>33</b>	<b>REYES CARLOS GUSTAVO PAIVA REYES, CHARLES GUSTAVO</b>
<b>34</b>	<b>PARRA SALAS, JOSE LUIS</b>
<b>35</b>	<b>PEÑA MARIN EDGAR JOSE</b>
<b>36</b>	<b>PEÑA NANCY, RAMON</b>
<b>37</b>	<b>PERES IVAN JOSE</b>

<b>No.</b>	<b>Name</b>
	<b>PEREZ CASTILLO, IVAN JOSE</b>
<b>38</b>	<b>PEREZ LEON JOSE</b> <b>PEREZ LEON, JOSE FRANCISCO</b>
<b>39</b>	<b>PEREZ MENDOZA JOSE</b> <b>PEREZ MENDOZA, JOSE RAFAEL</b>
<b>40</b>	<b>PEREZ SANTOYA WILLIAMS</b> <b>PEREZ SANTOYA WILSON ALBERTO</b> <b>PEREZ SANTOYA, WILLIAM ALBERTO</b>
<b>41</b>	<b>ESPIROLA S. PEDRO E.</b> <b>PIRONA SOSA, PEDRO EMILIO</b>
<b>42</b>	<b>RICO BOLIVAR JUAN</b> <b>RICO BOLIVAR JUAN JOSE</b>
<b>43</b>	<b>RODRIGUEZ JHON JORGE</b>
<b>44</b>	<b>RUIZ DURAN INOCENCIO JOSE</b> <b>RUIZ INOCENCIO</b>
<b>45</b>	<b>SAAVEDRA B. JUAN CARLOS</b> <b>SAAVEDRA RINCO JUAN CARLOS</b>
<b>46</b>	<b>SAAVEDRA V. NESTOR L.</b>
<b>47</b>	<b>SERRANO CARLOS ENRIQUE</b>
<b>48</b>	<b>VELASQUEZ BRAVO FELIPE</b>
<b>49</b>	<b>ZERPA BENJAMIN E.</b> <b>ZERPA RODRIGUEZ BENJAMIN EDUARDO</b> <b>ZERPA RODRIGUEZ, JAMIN EDUARDO</b>