

# PARAGUAY

## AN ENCOURAGING VICTORY IN THE SEARCH FOR TRUTH AND JUSTICE

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*This trial did not belong only to Mario's family and friends, but has been and will continue to belong to a Paraguayan society that is seeking the reign of justice, so that citizens will never again be tortured in police headquarters....*

- Guillermina Kannonikof, after receiving news of the conviction of her husband's murderers. (*Noticias*, "Viuda de Schaerer aplaude condena", May 24, 1992.)

# Introduction

The last decade in Latin America has brought with it a rich debate over the issue of how to deal with the legacy of state crimes during the transition from dictatorship to democracy. Following the February 1989 coup in Paraguay, which ended almost thirty-five years of authoritarian rule under General Alfredo Stroessner, Americas Watch has repeatedly noted in its reports that Paraguay is the only country in the region that has not developed any form of amnesty or pardon for perpetrators of past human rights abuses.<sup>1</sup> However, until now, neither had there been any convictions. On May 21, 1992, that changed. In the first ruling of over a dozen human rights cases that had been floundering in the courts, Judge Luis María Benítez Riera tested the political will of the government. Four high ranking police officers were convicted of the 1976 torture and homicide of Mario Schaerer Prono, a political prisoner, and were sentenced to the maximum twenty-five years imprisonment. In addition, a retired army general was convicted for participating in the cover-up of the same case and given five years.

The recent ruling has been considered a breakthrough that could provide an important precedent both in Paraguay and elsewhere. Although there has been no mention of the possibility of a pardon by President Andrés Rodríguez, and press reaction to the ruling has been extremely favorable, another danger remains: the decision, now before an appellate court, could be overturned.

The remaining cases concerning past human rights abuses have been effectively stalled in other echelons of the judiciary. The five state agents already convicted also have several others cases pending against them, none of which have the abundant evidence of the Schaerer case. Four other police officers have also been detained pending resolution of those cases.

Americas Watch has long maintained that, following periods of dictatorships, new democratically elected governments are obliged under international law to bring those responsible for grave human rights violations to justice. We also hold that there is a need to reveal the truth with regard to past political repression, including state policies and individual responsibilities. We have referred to these two elements as conceptually separate stages of the process — the truth phase and the justice phase — and have applauded even partial efforts by governments to achieve either. It is our view that there is a direct relationship between the pursuit of these standards and the deterrence of human rights violations in the future.<sup>2</sup>

The recent court ruling takes place in the context of a political process in Paraguay that most observers characterize as a transition to democracy. In this regard, it should be understood that this ruling in no way reflects a retreat by the armed forces from power. The February 1989 coup

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<sup>1</sup> See *Human Rights Watch World Report*, 1991 and 1992, Paraguay sections, as well as News From Americas Watch, "New Outbursts of Violence in Land Conflicts", February 10, 1991. Previous Americas Watch reports on Paraguay are: *Human Rights in Paraguay on the Eve of the Elections*, February 1988; *Paraguay: Repression in the Countryside*, May 1988; *Paraguay: Latin America's Oldest Dictatorship Under Pressure*, August 1986; *Rule by Fear: Paraguay After Thirty Years Under Stroessner*, January 1985; and *Post-Stroessner Paraguay*, April 1989.

<sup>2</sup> See Americas Watch, *Truth and Partial Justice in Argentina: An Update*, April, 1991; *Challenging Impunity: The Ley de Caducidad and the Referendum*, March 1989; *Human Rights and the Politics of Agreement: Chile During Aylwin's First Year*, July 1991.

was, in fact, a relatively successful attempt to preempt the demise of the armed forces and avoid, or at least postpone, an opposition take-over. Stroessner's power and stability had been based on an Alliance between the Colorado Party, the armed forces and himself as the military strongman in the presidency. Though Stroessner has been replaced by General Andrés Rodríguez, in effect the tripartite power base remains in place. One manifestation of this is the fact that numerous high ranking made the transition from the old regime to the government of the "Revolución Libertadora" without significant protest from the opposition.<sup>3</sup>

The "Revolución Libertadora" (as the February 1989 coup has been called) was no doubt a result of multiple factors, including political opposition to the regime, economic difficulties, and international pressure to respect human rights. However, most analysts believe that the principal catalyst was the dispute between the two sectors of the Colorado Party, the *Militantes* and the *Tradicionalistas*, over the issue of who would succeed General Alfredo Stroessner.<sup>4</sup> The armed forces allied with the Traditionalists against the dominant Militants, who planned to support Stroessner's son, Colonel Gustavo Stroessner. In addition to Gustavo's controversial lifestyle, the army hierarchy objected to the promotion to the presidency of an air force colonel, because it would necessarily result in the automatic retirement of several high ranking officers within the armed forces.

Paving the way for such a transition, Stroessner was about to force the resignation of his formerly close associate and in-law, General Andrés Rodríguez. In earlier years, Rodríguez (now age 68), had not only been an active participant in the rampant contraband and narcotics trade but had enjoyed privileged status as the father-in-law of one of Stroessner's sons. The Militants suspected him of preparing an alternative succession plan and had been able to maneuver a restructuring of the army to undermine Rodríguez's support. Thus, in effect Rodríguez's move on the Government Palace in February was not only a response to the divisions within the Party and the military, but also an effort to save his own position.

Upon assuming office, President Rodríguez nonetheless emerged with a new image as a democrat seeking to rescue the country from dictatorship. He announced that he had "left the barracks to insure respect for human rights..." and called for elections to legitimize his rule.<sup>5</sup> Elections were held three months later under protest from the opposition that claimed that the lists of eligible voters essentially the same as in the days of Stroessner's fraudulent elections, were distorted in favor of the Colorados. The opposition also objected that they had no time to prepare for the campaign. Rodríguez won approximately 70 percent of the vote. In the following

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<sup>3</sup> The 1989 *coup d'etat* was a defeat for a faction of the Colorado party known as the Militants. The fact that Army officers were not affected by the change in political fortunes is exemplified by the way the new regime has handled cases of past corruption. Eleven high ranking former civilian officials, all *Militantes*, have been imprisoned and convicted of graft with sentences ranging from two to six years. Six of these officials have been released in the last year on parole or after having completed their sentences. Three more government officials are awaiting final rulings in their cases.

It is noteworthy that not a single member of the military has been convicted of economic crimes. Two retired high ranking officers have been charged with economic crimes and are purportedly under house arrest. However, their cases have apparently been stalled within the judiciary.

<sup>4</sup> See for example: Fernando Masi, *Stroessner: la extinción de un modelo Político en Paraguay*, Ñanduti Vive/Intercontinental Editora, Asunción, Paraguay, 1989, and Riordan Roett, "Paraguay After Stroessner," in *Foreign Affairs*, Spring 1989.

<sup>5</sup> Radio broadcast, Insurreccional Proclamation of General Andrés Rodríguez, February 3, 1989.

months, under considerable pressure from the United States Embassy in Asunción, Rodríguez promised to step down after free elections in May 1993, both from the presidency and from his post as chief of the armed forces.

## Press Coverage of Past Abuses

In the weeks following the overthrow of General Alfredo Stroessner, the Paraguayan press celebrated their new freedom. The newspaper *ABC Color* and Ñanduti radio, which had been shut down several years, immediately re-opened. Except on issues concerning the new president's past, the old practice of self-censorship quickly dissipated. Newspapers and radios were flooded with accounts of human rights violations committed during the dictatorship. Even the traditionally conservative television network ran lengthy talk show programs with victims.

The horrifying testimonies dated back to the torture and forced exile of dissident Colorado leaders in the late 1950's and moved onward into the mid-1960's, when between 200 and 400 people were murdered and thrown into the Paraná River. Most of these people had belonged to one of two small guerrilla groups, the May 14 Movement and the United Front for National Liberation. The period of intense repression between 1974 and 1977 was also described as a time during which members of such groups as the Agrarian Leagues (a Christian peasant movement), the March 1 Political Military Organization (OPM), and the Paraguayan Communist Party, were tortured and detained in camps for several years. Human rights groups estimated that 1,200 political prisoners were held in 1976. Since that time, it is believed that fourteen people were killed by state agents and thirty-three disappeared at the hands of the police.<sup>6</sup>

A new bout of repression followed the 1980 assassination in Asunción of the Nicaraguan despot Anastasio Somoza, leading to the imprisonment and torture of some 300 persons, most of whom were foreigners subsequently expelled from the country.

The press willingly lent itself to this surge of information on past human rights violations, although the less spectacular stories of permanent harassment in the form of repeated arbitrary detention and economic disadvantages received little attention. In one of the most incredible episodes televised during this period, the Minister of Interior and the Chief of Police were seen visiting the Department of Investigations, one of the main torture centers under Stroessner. In a highly symbolic ceremony, police agents took large sledge hammers and destroyed an old tub that was used for the *submarino* — the immersion of a prisoner's head into a trough of water, usually mixed with excrement and vomit, until near asphyxiation.<sup>7</sup>

The press also gave considerable coverage to human rights related events. For example, in October 1989, the Argentine human rights leader and Nobel Peace Prize laureate, Adolfo Pérez Esquivel, visited Paraguay for the first time since the coup and met with victims and their relatives. Every newspaper in Paraguay covered his visit as front page news. During the

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<sup>6</sup> A Paraguayan human rights organization, the Association of Relatives of the Disappeared, circulated a list several years ago of thirty-four persons who had disappeared between 1970 and 1980. See Americas Watch, *Rule by Fear: Paraguay After Thirty Years Under Stroessner*, *cit.*, Appendix A.

<sup>7</sup> Two other well-known torture centers, the Center for Narcotics Investigations, (DINAR), and the Technical Division (an intelligence group within the Ministry of Interior itself), did not follow on the Minister's round of visits. Americas Watch has since received reports of torture of suspects in both centers.

Stroessner regime Pérez Esquivel had been declared *persona non grata* in Paraguay.

## The Parliament

Immediately upon commencing activities, the newly-elected House of Deputies and Senate both passed resolutions creating human rights commissions. The commissions were originally conceived by the legislators to investigate not only new abuses but also past crimes. The Deputies called on the Attorney General to "initiate trials in all the cases involving torture, illegal punishments (*apremios ilegales*), disappearances, and similar crimes, in order that the facts be investigated and those directly responsible, their accomplices or those that engaged in cover-up (*encubridores*) be duly punished."<sup>8</sup>

Both commissions were led by former human rights leaders. In the House of Deputies, members of the opposition Liberal Radical Authentic Party (PLRA), Francisco de Vargas, a former member of the human rights organization called the Church Committee, and Sandino Gil Oporto, a Colorado dissident, led the investigations. In the Senate, Carmen Lara Castro, a PLRA member and head of the Paraguayan Human Rights Commission, together with Colorado dissident Waldino Lovera, led equally important actions.

Within several months, however, it was clear that the Executive Branch would not cooperate with their efforts. Both the Minister of Interior, General Orlando Machuca Vargas, and the head of the police, General Francisco Sánchez, refused to provide subpoenaed information and claimed that the commissions did not have investigative powers. The Attorney General, Diógenes Martínez, also protested that the commissions were usurping his agency's role.

As a result, in November 1989 both houses enacted a law that sought to expand the commissions' powers to include the right to subpoena and to initiate court cases. This effort was repeatedly vetoed by the President.

During 1990, the commissions continued to receive denunciations of new human rights violations, in particular the beating and arbitrary arrest of thousands of peasant squatters and the torture of adolescent and adult suspects in police precincts. They organized visits around the country to confirm such reports and provided information to the press. Again in November 1990, both houses voted in favor of expanding the powers of the commissions and created

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<sup>8</sup> June 21, 1989 Resolution by the Chamber of Deputies. Both Commissions were advisory, because the old Constitution did not contemplate parliamentary commissions of inquiry. The Constitution enacted in 1992 does.

As this report was being completed, the Paraguayan Congress created a Bi-cameral Commission on Investigation of Illicit Acts, chaired by Senator Waldino Lovera. This first use of the new congressional powers enacted in the Constitution is a historic development in Paraguay politics. In its first week of activities, in September 1992, the Commission found evidence of involvement of high police chiefs in a car theft, and pursued leads on smuggling of drugs and stolen cars across the countries borders.

Americas Watch is pleased to note that a major stumbling block that prevented effective protection of human rights has been removed in Paraguay. As noted above, the Executive Branch can no longer veto Congressional inquiries. Our experience in other Latin American countries shows that congressional inquiries can play a powerful role in making government agents accountable for human rights violations, and in the process prevent their repetition. The success or failure of these mechanisms depends, of course, on the integrity and competence of the men and women entrusted with such duties. In this regard, although only time will tell if these commissions ultimately serve the objectives of truth and justice, the early steps are indeed promising.

another commission to investigate crimes of corruption. Rodríguez vetoed the act again, arguing that they were unconstitutional.

The commissions also continued to pressure the Attorney General to initiate court cases and to support bringing perpetrators of past abuses to justice.<sup>9</sup> Martínez clearly opposed the trials and consequently facilitated the defense's stalling tactics by supporting pleas to apply the statute of limitations. Finally, due to pressure from the parliament, Martínez was forced to resign and a new respected magistrate, Escobar Faella, was named Attorney General by the President.

## The Executive Branch

President Rodríguez declared himself a defender of human rights in his first speech after the coup. He went so far as to proclaim: "My government is committed to respecting human rights, such as they are written in God's Law, in our consciences and in the Universal Declaration, which should be learnt by heart in elementary schools. The first of these rights is the right to life and its logical consequence is the mandated imperative that 'no one will be subject to torture or to punishments and cruel, degrading or inhuman treatment.' And I will repeat what I said in Caacupé. All those that have committed crimes against human rights will be sanctioned. When I say that we must forget the past I am not referring to impunity for crimes, but rather the need to avoid being overcome with hatred or resentment that awakens in us, not the virtue of justice, but rather the desire for vengeance."<sup>10</sup>

The officially stated policy, however, has not always been consistent with attitudes at lower levels within the Executive Branch. The Minister of Interior, the Chief of Police and the former Attorney General have all erected obstacles that have delayed trials of human rights abusers.

The one member of the Cabinet who actively promoted action on both past and present issues of human rights was the Minister of Justice and Labor, Alexis Frutos. Just as the tension between the Ministry of Interior and the parliamentary human rights commissions reached its height at the end of 1989, Frutos spoke before the United Nations Human Rights Commission in Geneva promising full investigations and punishment of those responsible for past abuses. He also cooperated with the United Nations advisors on Paraguay who sought to establish a human rights office with the authority to receive complaints and initiate court action.

However, shortly after his return from Geneva, Frutos was transferred to the job of Foreign Minister. Hugo Estigarribia, a hardline Militant Colorado, was named in his place. Estigarribia not only deactivated the human rights office, leaving it only as window-dressing, but he was also directly responsible for major setbacks with regard to the current human rights situation. For example, in June 1992 he reopened the Lagerenza forced labor camp near the Bolivian border, and sent over forty inmates there in reprisal for a recent prison riot (see "Other Human Rights Concerns" below).

In addition to these sometimes contradictory attitudes, early on in his administration

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<sup>9</sup> The role of the Attorney General's office in Paraguay is to initiate court cases and to suggest resolutions including the final verdict and sentence to the intervening judge. In theory, it is an independent body. In practice, however, because its members are appointed by the Executive Branch, it is politically responsive to the President.

<sup>10</sup> "Rodríguez reiteró promesa de castigar a los torturadores", *El Diario*, April 10, 1989.

Rodríguez adopted a bold measure designed to clean up the armed forces and to renew its leadership. Over thirty of the top military chiefs were asked to resign. These officers had occupied the highest posts for years and controlled the narcotics and contraband trade under Stroessner. Many had also been involved in the repression of the mid-1970's.

## The Judiciary

The Paraguayan court system has always been, in effect and even in law, an extension of the Executive Branch. Judges are named by the President and their term expires with his. Since the 1989 coup, very few new judges have been appointed.

In 1990, Dr. Irala Burgos, a Christian Democrat, was the first non-Colorado judge to be appointed to the Supreme Court. As one out of five judges, however, Irala has had little impact on the high court's decisions.

One of the principal difficulties faced in the human rights trials has been the question of the applicability of the statute of limitations to the offenses under investigation. The attitude of the Supreme Court on this issue has been pathetic. Over a dozen cases of torture have been effectively frozen while defense lawyers appeal to the Supreme Court raising statute of limitations defenses. The Supreme Court has sat on these cases for over two years, despite the stated time limit of sixty days to resolve such legal issues. Through a program with the Prosecutor's Office (*Fiscalía*), advisors from the United Nations advised the Court on international law. More precisely, they advised the government on the international legal obligations of Paraguay with regards to the inapplicability of statute of limitations to actions that may be considered crimes against humanity, such as torture and disappearances.<sup>11</sup> An Argentine judge who served on the appellate court that convicted the former army commanders in that country was flown in to discuss his experience with the Paraguayan justices. Yet, to date, the Court has refused to expedite the investigative process by ruling on this issue.

In June 1992, a new national Constitution, drafted over a six-month period by a democratically-elected assembly, entered into force. Among the important reforms presented in the text is the creation of a special body called the Council of Magistrates, which will be responsible for the appointment of judges. The Council is to consist of one representative from the Supreme Court, the Executive Branch, the Senate, and the House of Representatives, two lawyers elected by the bar, and two professors, one from each of the two national universities. Supreme Court justices will be named by the Senate and approved by the Executive Branch. Current judges will retain their positions until August 15, 1993, when Rodríguez is expected to turn the government over to a newly elected president. Though the transformation of the judiciary into a truly independent body will surely be a lengthy process, the recent reforms will have a far reaching impact.

The other important reform in the new constitution prohibits a second presidential term. The text specifically included the current administration, thereby ensuring that President Rodríguez will not run in the May 1993 elections. Rodríguez retorted that the amendment was an affront to

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<sup>11</sup> A growing body of customary and treaty-based international law makes such crimes "imprescriptible," i.e. their prosecution is not subject to statute of limitations. See, for example, *Convention on the Non-Applicability of Statutory Limitations to War Crimes and Crimes Against Humanity*, opened for signature November 26, 1968, 754 U.N.T.S. 73, G.A. Res. 2391. Paraguay is not a signatory to this convention.

the dignity of his family and refused to attend the inaugural ceremony for the new constitution.

## Human Rights Movement

In the last year before the coup, the human rights movement in Paraguay reached the peak of its influence. Together with opposition parties, social organizations and the Church, human rights activists organized a huge public demonstration on December 10, 1988, International Human Rights Day. Though most of the repression during the Stroessner period was directed against opposition party leaders, human rights monitors were also frequently harassed and several were imprisoned and tortured.

Of the six human rights organizations that existed before the coup, only three continue to operate today: the Church Committee, Promoción y Defensa de Derechos Humanos (PRODEMOS), and the Paraguayan Human Rights Commission. The three work together in a Human Rights Coordinating Body, which organizes joint actions with other civic organizations. In November 1989, a *coordinadora multisectorial* (No to Impunity Coordinating Body) was formed to organize a demonstration demanding that perpetrators of human rights crimes and crimes of corruption be brought to justice. Twenty-thousand protesters marched in front of the Palace of Justice.

The Church Committee is the only group that has made some resources available to sponsor victims and their relatives in the lengthy legal procedures involved in pressing charges against human rights abusers. Several private lawyers have also lent their services to victims.

## Characteristics of the Paraguayan Transition

Public interest in the details of repression under Stroessner surged in the months following the coup, but demands for truth-telling and for justice have since subsided. At least four factors have contributed to diminishing public demands for accountability. All of factors are key to an understanding of the differences between the Paraguayan transition and those of neighboring countries, where the issue of accountability has been more hotly debated.

First, most Paraguayans feel greatly indebted to Rodríguez for having ridden the country of Stroessner. The sense of gratefulness is so strong that the population appears to have written the president a blank check and is willing to forgive Rodríguez and the military for past crimes.

The second factor is the continued political influence of the armed forces during the transition process. Most Paraguayans will feel free to exercise all their rights only when they are convinced that democracy has been permanently established and that the transition period has ended. As unusual as it is, the Paraguayan power triangle — the armed forces, the Colorado Party and the military strongman in the presidency — will not be easily replaced by a more democratic distribution of power because it is supported by a network of beneficiaries of governmental largesse (*prebendarios*) who in turn form the political constituency of the regime. This solid symbiosis between the ruling party and the armed forces is unique in Latin America. (In Mexico, Cuba and in pre-1990 Nicaragua, the Armed Forces were loyal to the ruling party. In other countries the power exercised by military elites is separate and independent from political parties.)

Until the armed forces become a neutral force in the political arena, the politicians who are not members of the Colorado party remain at a great disadvantage. Key institutions such as the



judiciary and the press continue to be controlled by the individual and collective interests of the elite.<sup>12</sup> A critical debate in this regard took place within the assembly elected to reform the national constitution. Non-Colorados, recalling that until last year members of the armed forces were obliged to join the Colorado party, demanded that the military resign from the party. The military accepted that in the future officers should not be permitted to join any party. However, they vehemently rejected the proposal that those already affiliated — in effect the entire armed force — should resign.

The military prevailed and the new constitution does not require their resignation from the Colorado Party. Furthermore, there is no guarantee that the *Tribunal de Calificación* (Promotions Board), which regulates promotions within the armed forces, will not continue to use political criteria. The Colorado leadership within the military is expected to continue for at least another twenty to twenty-five years.

The historical explanation for the military's continued political is quite simple. Unlike its neighbors in the Southern Cone who are also passing from dictatorship to democracy, in Paraguay the military was not disgraced into stepping down. Nonetheless, the question of the future role of the military is being quietly raised by the opposition.

A third factor that may have diminished demands for accountability in Paraguay is that democratic governments have been few, short-lived and far between. Given such a dismal record, the majority of Paraguayans hope for changes that would lead to a society truly based on the rule of law. However, they may be understandably afraid that increased accountability could provoke another era of authoritarian military rule.

Paraguay began a period of chronic instability in 1886, following the War of the Triple Alliance in which Argentina, Brazil, and Uruguay took over large portions of Paraguay's territory and killed an estimated one million of the country's 1.3 million citizens.<sup>13</sup> Thirty governments ensued between 1870 and 1932, when another war broke out. This time Paraguay fought against Bolivia, which had sought access to the sea through the Paraná River. In 1946, six months of a liberal democracy exploded into a civil war between Liberals and *Febreristas* on one side and *Colorados* on the other. After the Colorado faction triumphed, a series of coups within the party paved the way for General Alfredo Stroessner, whose promise of peace to the Paraguayans and anti-communism to the United States became the political solution for the following decades.

Political scientists have described Stroessner's method of rule as traditional authoritarianism, as opposed to the bureaucratic authoritarianism that ruled other South American countries in the 1970's.<sup>14</sup> What is clear is that despite the repeated elections and the existence of a parliament,

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<sup>12</sup> *ABC Color*, a newspaper owned and edited by wealthy opposition leader Aldo Zucolillo, is an exception.

<sup>13</sup> Juan Schvindt and Carlos Kunde, *Del cautiverio a la esperanza*, Consejo Latinoamericano de Iglesias, Quito, Ecuador, Nov., 1991, p.15.

<sup>14</sup> For a discussion of the attributes of bureaucratic authoritarianism, see Guillermo O'Donnel, *1966-1973 El estado burocrático autoritario*, Editorial Belgrano, Buenos Aires, Argentina, 1982. In *Stroessner: la extinción de un modelo*, Fernando Masi describes the differences as lying in the "different political and economic contexts in which each emerge; in the different types of political/social alliances that are created within each (system); and in the absence of significant civilian-party support in the case of the first type of authoritarianism, in comparison with traditional (authoritarianism)." p.13.

democracy remained a distant dream. The political, social and economic discrimination against non-Colorados was so uniform that some observers have gone so far as to describe it as a system of *apartheid*.<sup>15</sup>

In light of this history of social and political divisions, a fourth factor that influences demands for accountability is the concept of "national reconciliation." In other parts of Latin America national reconciliation is a concept that has often been used to argue against demands for truth and justice for past abuses. In Paraguay the term has also been part of the public debate, but it originated in opposition sectors and has an entirely different connotation.

During the final years of the Stroessner regime, the Catholic Church called for reconciliation between the Colorados and the rest of society. The continued exclusion of non-Colorado sectors, including the Church, together with the memories of the 1947 civil war, have made this the principal wound to be healed. This matter seems to override the question of accountability for crimes committed during Stroessner's elimination of leftists in the 1960's and 1970's.

A final point should be made regarding public attitudes and the chances for accountability for past abuses in Paraguay. The above mentioned factors may have contributed to the absence of a highly charged conflict over this issue, which was the case in neighboring nations. However, it is not clear that this lack of widespread attention has deterred the pursuit of truth and justice. In fact it may have helped to bring about the partial victory outcome represented by the *Schaerer* ruling.

Several other elements may also have increased the chances of success for this experiment. One important factor is the continued international focus on the issue of accountability and the support Judge Benítez has received from abroad following his decision. Equally critical was the atypical United States policy towards Paraguay. In contrast to its positions in other countries in the region, the U.S. did not favor an amnesty for past human rights violators.

Probably the most significant factor contributing to the opportunity to bring past abusers to justice is the different roles played by the military and the police during the repression. Most of the human rights violations were carried out by members of the police thereby allowing the armed forces to place most of the blame for crimes on the police. However, the police were and continue to be under the control of the military; even today, an active duty Army general serves as Chief of Police.

In Argentina, Chile, and Uruguay, repressive operations were directed by the army. Prosecution of Army members was thus perceived by the military as an attack on the institution itself, rather than the punishment of individuals accused of wrongdoing. The military refused to cooperate with judicial investigations, threatened to disrupt the democratic process and, in the cases of Argentina and Uruguay, eventually forced civilian governments to issue laws and decrees tantamount to amnesties.

In Paraguay, only two retired members of the military have been indicted in human rights trials: General Francisco Brítez Borges, former Chief of Police; and his predecessor in that post, General Ramón Vera Duarte (currently ambassador in Bolivia).<sup>16</sup> Brítez was recently sentenced

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<sup>15</sup> See, for example, Luis Alonso, "El trapo rojo en primerísimo lugar," *La Hoja*, March, 1992.

<sup>16</sup> Some Army Generals have been charged with crimes of corruption, and are currently under house arrest.

to five years imprisonment in the *Schaerer* case (see below). He has already served three of those years, although the press has reported that the general actually lived at home and only reported daily to the military hospital, his purported place of detention. Charges against Vera Duarte have been dropped in the *Ortigoza* case (see below).

It is generally believed that the jailing of the eight police officers, as a result of several different trials, was a relatively painless "sacrifice" for the armed forces, despite the fact that the police is effectively under military control. However, no one in Paraguay has spoken out in defense of these individuals or of the Stroessner regime's "war against subversion."

## The Cases<sup>1</sup>

By the end of 1989, at least fifty-four cases involving past human rights abuses had been presented before Paraguayan courts. Many of the cases involved torture, which is defined in the Penal Code only as bodily harm (*lesión corporal*). As a relatively minor offense, torture also has a short statute of limitations term. As a result the cases were immediately lodged in the Supreme Court pursuant to statute of limitations claims filed by the defense. They have remained there pending the resolution of the issue. Other cases in which the plaintiffs have been unable to maintain the pressure on the judge to continue the investigation, or where further evidence was not available, have been in effect filed away (*archivados*). The court is required to hand down a final ruling within 100 days of the original complaint. These 100 days include sixty days for the investigative stage (*etapa sumaria*) and forty days for the trial stage (*la etapa plenaria*)<sup>18</sup>. However, in almost no case are these time limitations respected.

At the time of the America Watch visit in April 1992, only seventeen cases were recognized by the office of the Attorney General as on-going. Most judges have either accepted pleas on the defense of unconstitutionality; applied the statute of limitations; or excused themselves from the case entirely, on grounds that there could be a conflict of interest. Each of these claims prolongs the trial. These delays are compounded by the fact that most of the defense lawyers have adopted a strategy of stalling the cases.

Expectations have focused for some time on one case in particular — the 1976 death under torture of Mario Schaerer Prono. In this case an unusual mass of evidence was provided to the

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<sup>17</sup> This section is based on information from the following sources: Amnesty International, "Paraguay; Investigations into Past Human Rights Violations," London, December 1990; "Resúmenes de delitos en contra de los derechos humanos Tramitados," Ministerio Público, Fiscalía General del Estado, mimeo presented to Americas Watch, April, 10, 1992; Church Committee, "Resumen de casos de violación de derechos humanos," Asunción, September 26, 1991.

<sup>18</sup> Under Paraguayan law, the summary stage consists of a judicial investigation which establishes the existence of the crime, the perpetrators, and the circumstances. During this stage detention may be ordered by the judge if the suspects are caught in the act of the crime or if there is *prima facie* evidence ("*semi-plena prueba*"). The plenary stage is the trial itself, in which the plaintiff ("*querellante*") presents a written accusation, the defendants present their "*conclusion*" (summation) and the prosecutor (*fiscal*) presents his opinion including a recommended sentence. Finally, the judge determines innocence or guilt and hands down a sentence. The summary stage should last no longer than two months and the plenary stage forty working days. However, in almost no case are these time limits respected. Any objections or plea of unconstitutionality by the defense results in lengthy delays during the resolution of the objection by the appellate court or pleas of unconstitutionality by the supreme court. Traditionally the defense uses these resources as a stalling technique. Both the supreme and appellate courts have stalled for months cases they are not interested in resolving quickly, e.g. the issue concerning statute of limitations on torture.

court. Judge Luis María Benítez Riera announced his ruling on May 21, 1992.

### **Mario Raúl Schaerer Prono**

On April 5, 1976, agents from the Police Department of Investigations raided the home of twenty-three-year-old teacher Mario Raúl Schaerer. A shoot-out ensued in which police agent Alberto Cantero (imprisoned under charges of torture in other cases) was wounded. Schaerer and his pregnant wife Guillermina Kannonikoff escaped and took refuge in the residency of two Canadian nuns who worked with the couple. Later that night, the nuns' superior, Father Raimundo Roy, turned the couple over to the police. Except for a bullet wound in Schaerer's foot, both were in good health. This fact was corroborated both by the priest and by the police agent who received the couple, in their testimony before the court.

Kannonikoff and Schaerer were taken to police precinct No. 11, and then to the Department of Investigations. Kannonikoff testified that she saw Mario Schaerer three times during the course of the next day. She recalled that she first saw him being taken to another room by two plainclothes agents and that a few minutes later she could hear his screams of pain. The last time she saw him, he was being held up by two men, his head against his chest, his eyes closed, and wounds on his face. Five other witnesses, who were prisoners that day in the precinct, also testified that they saw Schaerer in extremely poor physical condition, and that they themselves had been tortured. In addition, two prisoners testified that defendant Juan Martínez told them, by way of a threat, that he had killed Mario Schaerer.

Kannonikoff's father and Schaerer's uncle testified that they were called the next day, April 7, and told that Schaerer had been killed in a shoot-out and that they could remove his body from the police clinic. Both men, however, testified that they had observed signs of torture on the body before the burial, including cuts, bruises, burns and lifted finger and toe nails. Even the death certificate at the time contradicted the police account, citing the cause of death as "homicide" as a result of "multiple blows and injuries." His wife was held for nineteen months in a state prison without trial where she gave birth to a son, Manuel. She testified that following her release, former Minister of Interior Sabino Montanaro personally told her that "it was necessary to kill Mario Raúl Schaerer Prono because he was a threat to the peace and tranquility of the country...."

In the name of the couple's son, Kannonikoff charged Pastor Milcíades Coronel, the head of the Department of Investigations, and three of his agents, Juan Martínez, Camilo Almada Morel and Lucilo Benítez, as being directly responsible for the killing of her husband as a result of torture. Police Chief Francisco Alcibíades Britez Borges, Minister of Interior Sabino Montanaro and President Alfredo Stroessner Matiauda were also charged. Montanaro and Stroessner were not admitted by the judge as defendants (see appendix on perpetrators being held accountable). Both had fled Paraguay following the coup, to Honduras and Brazil respectively.

Further evidence of the crime was provided by the autopsy following an exhumation ordered by the judge immediately after the case was opened. The medical report concluded that, contrary to police claims, Schaerer had not died as a result of gunshot wounds and that the precise cause of death could not be determined. However, it did confirm the version of relatives who had retrieved and buried the body as to the existence of signs of torture. Specifically, the report noted that the finger and toe nails had been pulled.

The five defendants were arrested in April 1989. According to press reports, retired General

Brítez, who is supposedly held at the Military Hospital for health reasons (he is diabetic), moves freely in and out of the hospital.<sup>19</sup> The other four police officials are held at the headquarters of the *Agrupación Especializada de Policía*, a police unit formerly known as the *Guardia de Seguridad*. They too have reportedly been seen in the streets of Asunción.<sup>20</sup> Complaints presented to Judge Benítez Riera by the plaintiff's lawyer, Dr. Francisco Carballo Mutz, have been ignored.<sup>21</sup>

The plaintiff also complained of the lack of cooperation in the judicial investigation by police hierarchy. When the judge requested medical files on Schaerer, the police clinic claimed files from that period had been destroyed. Nevertheless, Carballo points out that files on police agent Alberto Cantero, who was wounded the night of Schaerer's arrest, were made available by the clinic to the court.

Meanwhile, defense lawyers appealed the detention orders. In July 1990, the appellate court ruled that the autopsy, together with the original death certificate and the police chief's admission before the court that he had turned the couple over to Department of Investigations agents, established sufficient evidence to justify detention. That same month the case moved to the plenary stage.

In March 1992, the plaintiff and the prosecutor presented their statements. At the time of Americas Watch's April 1992 mission, the court had received one of the defense statements and was awaiting the four remaining submissions. The prosecutor's recommendation, which most interpret to be the Executive Branch recommendation, was a conviction of simple homicide for the five defendants. Kannonikof and her lawyer expressed indignation that the prosecutor had argued that the police had not intentionally murdered Schaerer, since "... they (the police) were in the midst of an investigation attempting to disband a subversive group (OPM). It all leads one to believe that a member of this organization is more useful to the police alive than dead, given the information he could provide." The prosecutor advised against categorizing the murder as aggravated by *alevosía* or *ensañamiento*, and suggested nine rather than twenty-five years imprisonment.<sup>22</sup>

Riera's ruling accepted the plaintiff's argument that Schaerer had been killed under torture by the police, and sentenced the police officers to the maximum sentence — twenty-five years imprisonment. General Brítez was convicted of cover-up (*encubrimiento*). The convictions were appealed by all of the defendants and there is some concern that the appellate court could reverse the ruling.

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<sup>19</sup> "Borges abandona su prisión los viernes," *ABC Color*, Nov. 17, 1990.

<sup>20</sup> "Denuncia de que Cantero está libre los fines de semana", *El Diario*, May 28, 1990.

<sup>21</sup> In an interview with Americas Watch, Judge Benítez Riera admitted that it was probable that the defendants had special permission from their fellow-security agents occasionally to return to their homes. When questioned on why he did not send the prisoners to the Tacumbú state penitentiary with other common criminals, the judge responded that they would be in great danger of being attacked by fellow prisoners.

<sup>22</sup> *Alevosía* is the fact that a crime of violence is committed when the victim is rendered defenseless; *ensañamiento* is particular cruelty or viciousness.

No one is certain of how many other individual cases remain open in the judiciary, which to some degree reveals the lack of public interest. Americas Watch was able to identify seventeen as well as three additional cases involving non-identified graves or group assassination. None have yet entered into the trial stage, but two have advanced considerably in recent months, and in light of the *Schaerer* ruling there may be hope for a prompt resolution. Among the cases described below are the torture and murder of the Villalba brothers, who were seen in the Department of Investigations in 1974 by other prisoners but later disappeared, and the case involving the 1976 torture of four peasant members of the Agrarian League.

## Cases of Homicide and Disappearances

1.) **Rodolfo Feliciano and Benjamín Jesús Ramírez Villalba:** The Villalba brothers were kidnapped on November 25, 1974. They spent almost two years in the Department of Investigations, together with Amílcar Oviedo Duarte (see below), Luis Wagner and other political prisoners. They were last seen on September 21, 1976. Later, according to the testimonies of other prisoners, they were tortured and killed by strangulation in their cell. The two were then strung up and hung from the bars of the cell.

In November 1989, Coronel, Brítez Borges, Benítez, Martínez, and several new defendants: Alberto Cantero, Eusebio Torres, and Agustín Belotto,<sup>23</sup> were charged with the torture and homicide of the Villalba brothers. Judge Jorge González Riobóo's investigation has been continually blocked by defense tactics. This case has been in the Supreme Court for over six months awaiting resolution of a constitutional challenge filed by Cantero's lawyer.

2.) **Juan Carlos Da Costa:** On the night of April 5, 1976, Da Costa was in the home of Mario Schaerer when it was raided by police. Da Costa fired back at the police and while he attempted to escape through a backyard he was shot. A few hours later he died. In May 1989, his son, Juan Wilfrido Da Costa, brought charges of homicide against Coronel, Almada, Benítez, Brítez Borges and Montanaro. All except Montanaro had been arrested in the *Schaerer* case.

The appellate court accepted the defense's request that Judge Tadeo Rodríguez recuse himself, but appointed Benítez Riera, the judge responsible for the convictions in the *Schaerer* case. However, the record remains at the appellate court, and following the *Schaerer* case Benítez recused himself. At the time of this writing no new judge had been assigned.

3) **Amílcar María Oviedo Duarte:** Oviedo Duarte was detained by the Department of Investigations police on November 23, 1974. Numerous witnesses, who were also prisoners at the time, testified that during the course of the next two years he was seen in very poor physical condition at the Department of Investigations. They also reported that they were tortured themselves and that torture in many forms was systematic. One witness, Luis Wagner, now a congressman for the Authentic Radical Liberal Party (PLRA), stated that he spent six months in a cell with Oviedo Duarte. The prisoner's mother testified that when she brought food for her son to the Department, the police agents often gave her his clothes to wash. She stated that they were

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<sup>23</sup> Cantero was the officer in charge of the arrest of five members of an Americas Watch mission in 1986, headed by the late Orville Schell Jr., the founder and first Chairman of Americas Watch. Mr. Schell and his colleagues were intercepted at the airport upon arriving in Asunción and taken to the Department of Investigations where they were photographed. Their documents were photocopied, and they were detained for nine hours before being expelled. The Paraguayan government later apologized for the incident and invited the mission to return to the country.

frequently stained with blood. Alberto Alegre Portillo, who was also a prisoner (see torture cases), told the judge that he last saw Oviedo Duarte on September 21, 1976, when he was transferred to Emboscada prison. His family was never notified of his transfer nor of his apparent death.

In May 1989, Oviedo Duarte's parents filed murder charges against Coronel, Brítez Borges and Montanaro — three of the defendants also charged in the *Schaerer* case. As stated previously, the first two are under arrest, while the latter is in exile in Honduras. In testimonies before Judge Nelson Mora, Pastor Coronel, the founder of the Department of Investigations, denied knowledge of Oviedo Duarte's detention and claimed torture was never practiced in his the Department. As in the *Schaerer* case, he testified that he simply carried out the orders of Chief of Police, Gen. Brítez Borges and of the Minister of Interior, Sabino Montanaro. Brítez Borges, in turn, denied responsibility by stating that the Department of Investigations was only formally a dependency of the police, but in practice received its instruction directly from the Ministry of Interior and the Presidency. He also denied that torture existed.

In July 1990, the judge ordered the arrest of all three defendants. He stated that sufficient evidence existed to charge them with aggravated homicide, kidnapping, torture, and abuse of authority. The defense appealed the charges.<sup>24</sup> Both the plaintiff's lawyer and the prosecutor argued that the appellate court should reject the defendant's plea to amend the indictment to lesser charges. The appellate court still has not ruled and the delay blocks the possibility of further investigation as well as passage to the plenary or trial stage.

4) **Carlos Mancuello Barreiro:** Mancuello was arrested November 25, 1976, as he returned to Paraguay from Argentina with his wife and young daughter. Mancuello was held in the Department of Investigations with the same group of prisoners mentioned in the previous case. His wife, Gladys Ríos, was sent to Emboscada Prison where she gave birth to a son in August 1977. She was released in October 1977. Mancuello's mother, Ana Arminda Oviedo, was permitted to bring her son food and clothing, but not permitted to visit him. On September 21, 1976, she was told that he was no longer in the Department of Investigations. Mancuello remains disappeared.

In March 1990, Mancuello's mother filed a criminal complaint against Stroessner, Montanaro, Brítez Borges, Coronel, Cantero, Benítez, Almada Morel, Belotto, and Torres — all of them also charged in the Villalba brothers case — as well as Julián Ruiz Paredes. She charged them with the kidnapping, torture, and murder of her son. Americas Watch has been unable to obtain any information on the progress, if any, of this case.

5) **Miguel Angel Soler:** Soler, Secretary General of the Paraguayan Communist Party, was arrested by Department of Investigation agents on November 30, 1975, and was last seen by his fellow prisoners on December 1, 1975. In May 1989, his wife, Mercedes Fernández de Soler, charged Stroessner, Montanaro, Brítez Borges, Coronel, Benítez, Martínez, Almada, Torres, Belotto and Dr. Alejandro Evreinoff for the death of her husband by torture.

Several former political prisoners testified before Judge Cristóbal Cáceres. One prisoner, Prudencio Vidal Bogarín, described his own torture by means of *submarino* (see page 4). He

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<sup>24</sup> Under Paraguayan criminal procedure, the defense has the right to appeal the *calificación* (preliminary), finding that the facts as charged constitute the offenses established by the judge in the indictment.

stated that another inmate told him that he had overheard a torture session in which Soler was being whipped, and that he heard groaning and then a deep silence. Olegario Rodríguez, another prisoner in the Department of Investigations, claimed that he saw Soler in Pastor Coronel's office on December 1, 1975. Mauricio Schwartzmann, a third witness imprisoned at the time of Soler's disappearance in the Department of Investigations, recalled that he had been taken to a torture chamber which contained a bed with steel straps. Once there, he was told by Lucilo Benítez that if he "did not collaborate with them the same thing that happened to Soler would happen to him."

In September 1989, Judge Cáceres ordered a search of the Department of Investigations which confirmed the existence of a torture chamber. Former prisoner Ignacio Chamorro claimed that Soler was buried in another detention center known as the *Guardia de Seguridad*, along with many other disappeared political prisoners (see below). Following denials by each of the defendants that they had even been aware of Soler's detention, the Judge ordered the arrest of Coronel, Benítez and Almada in September 1990. The arrests were confirmed by the appellate court in October. In the same month, the court also rejected a request by Coronel's defense that Judge Cáceres recuse himself.

6) **Dr. Agustín Goiburú:** A physician and founding member of MOPOCO, the dissident wing of the Colorado Party, Goiburú had been in exile in Argentina for many years. On February 9, 1977, he was arrested by Argentine police in Paraná, Entre Ríos, a central province of Argentina. He was believed to have been turned over to Paraguayan police agents from the General Headquarters in Asunción, and subsequently tortured to death. Some believe that he could have been buried in *Guardia de Seguridad* together with Soler and others.

In May 1989, his widow, Elva Elisa Benítez, filed charges of kidnapping, torture and murder against Stroessner, Montanaro, Coronel, Brítez Borges, General Benito Guanes Serrano (Chief of Military Intelligence Division), and Dr. Oscar Gómez. She was among the relatives of the victims that urged the parliamentary Human Rights Commission to press for exhumations at the *Guardia de Seguridad*.

The evidence available to Judge Tomás Damián Cárdenas that Goiburú was held by police (in addition to the information coming from Argentina) were statements made in court by General Brítez Borges, who said that Goiburú had been held by the Marines and then transferred to Police Precinct Number Seven. According to Brítez, Goiburú escaped from Precinct Number Seven. Questionnaires were sent to Montanaro and Stroessner in their respective places of exile. Only the latter responded.

7) We are aware of at least two other cases brought by relatives of victims of human rights abuse that are still being processed by the courts. The case for the murder of **Marciano López Pintos** is reportedly on the verge of passing to the plenary stage.

**Sindulfo, Adolfo and Víctor López Irala** were brothers who were detained on August 30, 1978 in Tebicuary-mí by agents of the local police post (*alcaldía*). They were tortured in the police post and taken away on September 5, 1978. They have been missing ever since. Kidnapping, torture and murder charges have been brought against Elvio Reyes, Salustiano Jiménez and Rubén Fernández, former police agents in the *alcaldía* of Tebicuary-mi, Department of Paraguari. The case has been stalled in appellate court due to briefs presented by the defense.



## "No Name" Graves

1) **Guardia de Seguridad:** Now called *Agrupación Especializada*, the *guardia* is a police unit designed for urban and rural riot control, organized as a "storm troop" military unit that uses war weapons. For years it has been rumored in Paraguay that many of the disappeared were buried in the back yard of its headquarters. While an extremely lethargic investigation was unable to confirm these reports, the case serves as an illustration of the continued fear the military and police impose upon judges, who one after another tried to avoid prosecuting this case.

In April 1989, former political prisoner Ignacio Duarte, who was detained in *Guardia de Seguridad* between 1972 and 1976, formally denounced before Judge Juan Carlos Valenzuela Jiménez that at least six disappeared political prisoners had been buried in the barrack's garden. According to Duarte, the remains of Soler and Goiburú were among those buried there. Duarte testified that several times at night all the garden lights were turned off, vans entered the barracks, and bodies were unloaded and buried in the garden behind the kitchen. He said that he had been ordered to water freshly covered graves to pack the ground. Shortly after the press reported the Duarte testimony, newspapers received several anonymous phone calls from men who identified themselves as former military officers. They each called to confirm Duarte's story.

The first attempt to carry out the exhumations was in April 1989. When Duarte and Judge Valenzuela arrived with a warrant, the barrack's commander, General Pedro Juan Peña, refused to give Duarte access to the premises. The judge refused to proceed with the exhumation and charged the General with contempt of court.

Subsequently, Valenzuela recused himself. Judge Pedro Méndez Ramírez, received the case and promptly questioned Valenzuela's recusation. The issue then passed to the Supreme Court, which returned the case to Valenzuela. In June 1989, Duarte and Soler's widow were able to obtain another court order to carry out the exhumations. The judge canceled the search, however, when the police appointed to accompany him did not show up at the designated hour. Formal objections to the investigation were presented by the prosecutor and by Attorney General Diógenes Martínez. They claimed that Duarte had not provided sufficient information to justify the search — for example, he had not listed his address for security reasons. The appellate court accepted the prosecutors' arguments.

In July 1989, Duarte began new proceedings before Judge Cristóbal Cáceres Frutos, but the judge did not act on them. The complainant protested to the Supreme Court, which assigned a new judge, Arnaldo Mieres, who for several weeks tried unsuccessfully to decline jurisdiction, arguing that Cáceres should hear the case. These motions delayed the case for five months, until November 9, when Duarte finally testified before Mieres. Meanwhile, in November 1989, the Church Committee human rights organization, whose lawyers represented Duarte, began receiving anonymous telephone calls. The calls were coming from residents of the neighborhood adjoining the *Guardia de Seguridad*, and claimed that the bodies were being removed. These calls led to a visit to the site by the Parliamentary Human Rights Commission, and a confirmation that there were no signs of recently removed graves.

Finally, in February 1990, excavations were carried out and no bodies were found. In statements to the press, Duarte noted that the dirt at the site that he remembered from the 1970's was red (typical in Paraguay), while the dirt turned over during the excavations was white.

1) **Santa Elena, Cordillera:** In April 1989, peasants residing in the Santa Elena area informed members of the Church Committee that numerous political prisoners and disappeared persons were buried in unmarked graves in the local cemetery. They asserted that police commissioners José Ignacio Irrazábal and Arturo Hellman, who headed the *Gendarmería Volante*, an anti-subversive unit created by the Ministry of Interior, were responsible for the torture and assassination of these individuals. According to the ex-governor of Cordillera, the unit received support and training from the head of army counter-insurgency in the region, General Patricio Colman (now deceased). Irrazábal continued in his post until June 1989.

In the mid-1960's, an official version about these mass graves stated that the bodies belonged to guerrillas killed in clashes between two subversive groups. Numerous individuals, however reported having been detained, tortured, and threatened with death by Irrazábal and Hellman in the Santa Elena Police precinct in those years. This practice apparently continued for the next twenty-five years. César Araujo reported that he was tortured in 1987 by Irrazábal. He initiated judicial proceedings in May 1989.

In April, Judge Edmundo Vittone visited the site with members of the Church Committee and the press. Numerous witnesses came forward to describe the killings and provided the names of at least twenty people reportedly buried in the area. As a result of separate proceedings initiated by Dorila Alvarenga Caballero, Judge Antonio Alvarenga Torres exhumed the body of her assassinated brother, Blas Alvarenga Caballero, along with that of Herminio Cubillas. Both had been members of the Agrarian Leagues, a non-violent movement that was decimated in the mid-1970's. Prosecutor Arnaldo Pereira Wrede recommended the police commissioner's detention in April. José Ignacio Irrazábal and Arturo Hellman were imprisoned only briefly in the Central Police Headquarters before the judge ordered their release. In June, Vittone was replaced by Judge Pablo Vicente Ibarra. The new judge applied the statute of limitations and immediately dismissed the case on the grounds that more than twenty years had passed since the crimes had been committed. The Church Committee questioned the constitutionality of this ruling. The Supreme Court has yet to hand down a ruling on any of the human rights cases in which the statute of limitations has been invoked.

2) **San Juan Nepomuceno, Caazapá:** In November 1989, the press reported that bodies of members of a small guerrilla group known as May 14, were buried in unmarked graves in San Juan Nepomuceno, province of Caazapá. Their sources included peasants from the area and José Dolores López Báez, an old man who had worked on a nearby farm for over thirty years. The operation had occurred in 1960, headed by the army counter-insurgency chief, Patricio Colman. The press listed the names of thirteen victims. They described the rape of a woman among them and the manner in which the victims had been tortured and castrated before being tied to trees and having their throats slit.

The Parliamentary Human Rights Commission visited the site in November 1989, and obtained a court order to conduct an exhumation. The remains of seven persons were found in a common grave. Deputy Carlos Duarte, of the Colorado Party, called on the Armed Forces to provide a report on the counter-guerrilla operations conducted in the area in 1959 and 1960. The Armed Forces never responded and the case has gone nowhere.

## Torture Cases

1) **Captain Modesto Napoleón Ortigoza:** Ortigoza, a charismatic army captain accused of a plot to overthrow Stroessner in 1962, was sentenced to twenty-five years imprisonment. Most

observers in Paraguay believe the conviction was based on trumped up charges of having murdered a soldier. He was held alone in a tiny dark cell in the *Guardia de Seguridad* for most of his term. After serving his full sentence he was released in December 1987, and sent into internal exile in the interior of the country; later he was held under house arrest. Ortigoza eventually escaped and took refuge in the Colombian Ambassador's residence. In July 1988, the government granted him safe conduct in an embassy vehicle out of the country. After spending two years in Spain, Ortigoza returned in July 1990. In October of that year, he initiated judicial proceedings for illegal detention and torture against Stroessner, Edgar Ynsfrán (Stroessner's interior minister at the time of Ortigoza's conviction), Brítez Borges, Montanaro, police commissioner Raúl Riveros Taponier, General Ramón Duarte Vera (former head of the police and currently Ambassador to Bolivia), Coronel Victor Amarilla (member of the military court that convicted Ortigoza), and Víctor Martínez.

Ortigoza had been virtually a legend in Paraguay as a result of the inhumane conditions under which he was held and the length of his imprisonment. The case against Stroessner and the others received considerable press attention during the first several months. The court accepted Stroessner himself as a defendant for the first time in a human rights case, thereby increasing the importance of the case. Ynsfrán's lawyer raised statute of limitations objections, and the case went to the Supreme Court, which has not ruled on it. Attention promptly waned, however, as Ortigoza and his lawyers declined to energetically pursue the proceedings. Ortigoza has been named Director of Museums within the Ministry of Education and Culture by President Rodríguez.

2) **Julián Cubas**: Cubas was arrested on November 24, 1974, by agents of the Department of Investigations. He was tortured for the next three days and later transferred to Emboscada Prison, from where he was finally released in 1977. In 1989, Cubas charged Montanaro, Coronel, Brítez, Cantero, Benítez Almada and police General Benito Guanes, Ramón Saldivar, and Luis Paredes, with illegal detention, torture, and death threats. As in all of the torture cases, the defense attempted to stall by claiming that the statute of limitations had expired. The court of appeals has rejected this claim. The defense also attempted to remove Judge Cristóbal Cáceres from the case, but the Supreme Court rejected the claims of partiality on the part of the judge. In September 1990, the judge altered the terms of detention for Almada and Benítez from preventive detention (*detención preventiva*) to imprisonment (*prisión*).

3) **Celestina Pérez de Almada**: On November 24, 1974, Martín Almada was arrested by Department of Investigation agents and tortured in the subsequent days. His wife, Celestina Pérez de Almada, was made to listen to a recording of these torture sessions and told that her husband would be killed. She was later informed that he had died. Before learning that this was not the case, Mrs. Almada died as a result of a heart attack. Her husband was released in August 1977 and in 1989 he pressed charges against Stroessner, Montanaro, Coronel, Cantero and Almada for illegal detention, torture and death threats. Judge Cristóbal Cáceres rejected defense claims that the statute of limitation had expired and ordered the continued detention of Coronel, Cantero and Almada.

4) **Melchor Rolón** : On April 16, 1976, Rolón was arrested by Department of Investigation agents. He was tortured with electric shocks and beatings. Twelve days earlier, his brother Martín had been kidnapped by security agents and made to disappear. Melchor Rolón was eventually released from Emboscada Prison in September 1976. In May 1990, he charged Montanaro, Coronel, Almada, Benítez and Martínez, with illegal detention, torture, and attempted aggravated homicide. In July and August 1990, Judge Benítez Riera took statements

from the defendants in which they denied having tortured the plaintiff.

5) **Abraham Cué:** Four peasants from the Department of Misiones, Gumersindo Galeano, Leopoldo Armando Moringo, Isabelino Antonio Silva, and Hilario Martínez, all members of the Agrarian Leagues, were arrested in 1976 in Abraham Cué. They were then transferred to the Department of Investigations where they were brutally tortured. They were held for over a year and one of them for two years. After the change of government, the peasants charged Coronel, Almada and Benítez with illegal detention and torture. Following defense statements, Judge Jorge González Riobóo ordered the detention of Almada in May 1990.

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## Other Human Rights Concerns in Paraguay

### Torture in Police Precincts

Torture is an everyday occurrence in police precincts in Paraguay. Police are convinced that torture is the only way to resolve crimes and establish social order. As such, and not surprisingly, the term "torture" does not even exist in the penal code.<sup>25</sup> The so-called transition to democracy has had little impact in halting the torture of suspects. At best, it has simply modified the technology. Electric shock and *submarino* rarely occur now, except reportedly in the police narcotics division, DINAR.<sup>26</sup> In police precincts, beatings with rubber and wooden sticks (*cachiporras*) on the hands and soles of the feet, and *submarino seco* (suffocating the victim by placing a plastic bag over his head), are the preferred methods, generally carried out by the head of the *Robos y Hurtos* division, the unit that investigates crimes against property.

The victims are exclusively peasants and urban poor. Political party activists, if arrested at all, are not subject to this treatment. According to lawyers who have represented over 200 minors accused of different crimes and sent to Emboscada Reformatory, there is a clear pattern of abuse in what happens to arrested youths. First, the juvenile is detained by police for questioning and sent to Emboscada prison (more recently, the police sends them to a new facility for minors). If he can't pay off the police, he will probably be systematically tortured. A torture room does, in fact, exist and there are specialists within the precinct that are in charge of inflicting torture. The prisoners are brought in on rotation and the sessions last over an hour. Once the minor has confessed to having stolen something, the police notify a judge.<sup>27</sup> In their report, the police simply state that the prisoner confessed to having stolen something. In many of these reports there is no *denunciante* (a witness or victim reporting the crime), nor a police investigation of the

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<sup>25</sup> Cases of torture have been pursued juridically under the category of bodily harm (*lesión corporal*), which carries a sentence of one day to six years in prison. The average term served by defendants convicted of this crime is between thirty and fifty days, if the victim has suffered no permanent physical damage.

<sup>26</sup> As a unit dedicated to enforcing drug laws, DINAR receives assistance from the U.S. Drug Enforcement Administration (DEA).

<sup>27</sup> Police are obliged by law to inform the prisoner of specific charges within twenty-four hours of his detention, and to notify a judge of the detention within forty-eight hours.

crime prior to the confession.<sup>28</sup> The judge confirms the detention and "legalizes" their irregular transfer to Emboscada. There the minor may remain from one month to several years before the judge calls him in to answer charges and make a plea (*declaración*).<sup>29</sup>

Approximately 90 percent of the prisoners in Emboscada, Tacumbú and Buen Pastor are eventually released with *compurgamiento de pena* — a term which means having served out the maximum time that would correspond to the crime for which they were never tried.<sup>30</sup> The Tekojoja Foundation, a human rights organization specializing in providing free legal services to juveniles, has reported that, of 170 minors they represented in 1990, ninety-eight were released by the end of that year. Yet only four had received sentences. The rest were released either on bail, a lifting of the order of detention, or in the majority of cases, by *compurgamiento de pena*.

During the Americas Watch mission to Asunción in April, we were able to interview several young victims who still bore signs of the torture sessions they had endured at the hands of police just three days earlier. Lawyers and victims described the case as "typical" treatment for minors picked up for questioning. According to the Tekojoja Foundation lawyers, it is common for boys who have been previously detained by the police or held in Emboscada Reformatory, to be marked by police. That is to say, when a crime is committed, they are the first to be blamed. In the absence of a crime, through routine "questioning," the police extract confessions of crimes that have not been reported and may not even have taken place. This was the case with the three minors interviewed by Americas Watch. Their story follows:

#### 1) **Ramón Melgarejo Ortega:** (Age sixteen)

On Monday (April 6, 1992), I was on my way home on bus No. 19 when four plainclothes police agents got on the bus. They asked me if I was "Refu", and I said no. They said they were taking me in anyway and grabbed me by the arms. They took me to Police Precinct No. 26 in San Lorenzo, on the outskirts of Asunción and sat me down in a chair in a room where two police men called Villalba and Zamudio were waiting. They blindfolded me with a dirty rag and began asking me what things had I robbed that I could give them? ("*Que vamos a rescatar?*") They handcuffed me to the chair and put a plastic bag over my head, closing it here around my neck. I couldn't breath and I thought I would die. Then they took it off and asked me again what I had stolen. I said I was not a thief. They put the bag on me many more times. Then they sent me to a cell where there were about twelve people. Three of my friends were there. On Tuesday, early in the morning, they took me back into that room. They beat me with a broomstick on the palms of my hands and kept asking me what I had stolen. It went on for hours. Officer Villalba opened my mouth and with a pair of pliers grabbed the skin under my tongue and pulled (he showed us the torn and swollen tissues under his tongue). And they kept asking what I had robbed. They took me out of the cell again that afternoon and started cutting my hair with a blunt knife. They said they would kill me if I didn't tell them what I had stolen. So I told them that I

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<sup>28</sup> Article 132 of the Paraguayan Penal Code requires a complaint by a witness or victim, or a police report of the crime before a court may initiate the trial of suspects, the *sumario* or investigative stage.

<sup>29</sup> In Asunción, male prisoners under twenty years of age are sent to Emboscada Reformatory; those over twenty to Tacumbú Prison, and women and girls are sent to Buen Pastor Prison.

<sup>30</sup> "Justicia para todos," *Revista Noticias*, March 17, 1991.

had a stolen stereo in my house. But it wasn't stolen. My sister bought it with the money she earned as a servant. My mother has the receipt....

Ramón's mother, María Paula Ortega, with the assistance of Fundación Tekojoja, has filed charges against the police for illegal detention and torture (*apremios ilegales*) and theft. She told Americas Watch that on Tuesday police came to her house.

I opened the door and they burst in without explaining anything. They went into my bedroom and took the stereo recorder from the bureau. I told them that it was mine that I had the receipt and everything, but they just told me to get out of the way. One of my neighbors told me they were police from the San Lorenzo precinct...I went to see my son. The police officer said I had to come back the next day. The next day, they told me it was not visiting hours yet, that I should come back at 4 p.m. When I returned, they told me that visiting hours were over. They said that if I kept bothering them they would keep me there as a servant. I showed them the receipt for the stereo again, and finally they said that my son would be released. About 5 p.m. they released my son, covered with wounds all over his body. They still have the stereo....

Since this incident, Ramón Melgarejo Ortega was detained again. The police of precinct No. 9 placed him in detention for his supposed involvement in a street fight with a vendor. He was sent to Emboscada where he was once again physically abused. After several months Ramón was released on bail. The minor immediately fled and went into hiding for fear of continued police retaliation.

2) **Luis Roberto Lugo:** (Age fifteen, crippled from the waist down, he drags himself along using crutches).

I was sleeping when they burst into my house. They said I had to go with them for questioning. They told my mother the same thing, but when we were on our way to Precinct No. 26 they started beating me and saying I was a thief... They took me to the room and started asking me where certain people were. I said I had never heard those names before. They put the *hule* (plastic bag) on me, and then asked again, and I said I didn't know anything. They hit me with a broomstick and asked me what I had robbed. I cried and said I was not a thief, but they kept on hitting me... Many of the prisoners in the cell were being beaten. They would take us to the room one by one. On Tuesday they took me to the room again...Officer Villalba is the one I know. I told them I was going to call Calle Escuela (a private institution that works with street children), and they hit me even harder. They threatened to kill me with a knife here on my throat. These marks on my arms are where they hit me and handcuffed me. They cut off my hair with the knife....

When Lugo's mother came to the precinct and asked to see her son, she was told he was *incommunicado*. Lugo was released Wednesday at 5 p.m., along with his three friends.

3) **Feliciano Rodríguez:** (Age sixteen)

The police had just released me fifteen days before. On Monday I was sleeping in Lugo's house when the plainclothes police broke in. We were taken to Precinct No. 26 and tortured with the plastic bag, beaten with sticks and they cut off my hair the same way they did to my friends...These are cuts from the handcuffs on my wrists.

Upon release, the first two boys went to Calle Escuela where social workers immediately took them to a first aid clinic. The workers requested that a physician sign a written statement describing the physical state in which he had found the minors. Rodríguez was also taken to a clinic, after he and his friends sought legal assistance from the Tekojoja Foundation. At the clinic, a physician tended to the festering cuts on his arms and, at the request of the lawyers, signed a similar medical statement.

On April 15, 1992, Attorney Carlos Abadía Pankow filed criminal charges on behalf of Ortega's and Lugo's mothers against the police in Precinct No. 26 for bodily harm (*lesión corporal*), death threats, violation of the home (*violación de domicilio*), and theft.<sup>31</sup>

Of the dozens of cases of torture of minors that have been denounced before the courts, none have resulted in the conviction of a police officer. Most are simply filed away (*archivado*) and never pursued. Lawyers with the Tekojoja Foundation have focused their attention on the cases they hope could become examples of accountability for crimes of torture committed by police. Yet their experience has revealed a judiciary that continues to turn their back on the problem of police brutality.

The case of torture of nineteen-year-old Carlos Luis González advanced further than any other in establishing the responsibilities of perpetrators. However, it may hardly be considered precedent-setting, since the judge avoided convicting either of the two police officers implicated.

González, a street vendor, was detained by police from Precinct No. 12 on October 5, 1990. According to his statements to Dr. Carlos Abadía of the Tekojoja Foundation, subsequently submitted to the court when Abadía charged the police with torture, González was taken to the precinct and beaten intermittently for three days.

They beat me a lot, first with a large wooden club on the back, and then on the palms of my hands and feet and on my head. And they threatened me that if I told anyone I would not be able to enter the "Santísima Trinidad" (heaven). They also threatened to bring in my mother and beat her too. I only remember the name of one officer, Aquino, but there were several aggressors. The beating continued until the morning of the eighth when my lawyer, Dr. Carlos Abadía Pankow came to visit me and saw my state. He immediately asked Judge Angel Campos to order a medical exam....

When Abadía returned to the precinct with the judges's order, the police told him that González was on a *rescate* (out with a patrol identifying stolen merchandise). González says he was never taken out of the precinct. Abadía returned a few hours later and was informed by police that González had already been taken to the first aid clinic. González recounts that he was, in fact, taken to see a doctor, but that the doctor did not examine him. He was then sent to Tacumbú, despite the fact that by law, prisoners must be at least twenty to enter this prison.

Abadía and González filed charges against Officer Aquino and others for illegal detention, bodily harm, death threats and the abuse of authority. The medical report was presented to the court and, despite lack of detail, did confirm injuries. Judge Felix Silva Monges questioned four officers on duty at the time of the detention. All denied knowledge that González was tortured, but identified the head of *Robos y Hurtos* in the precinct, Comisario General Blas Ignacio

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<sup>31</sup> "Querrellan por lesión corporal a dos policías; Comisaría de la 26 niega acusaciones," *ABC Color*, April 16, 1992.

González, as the responsible officer. When Police Chief González testified, he admitted that the boy had been detained for questioning and that there had been no theft reported to the police. He went on to state that the boy had confessed to stealing a bicycle and a radio (neither of which had been reported as stolen). He also said that he was unable to recall where, or in whose possession, these objects had been found. The judge asked the police chief why the boy had been held beyond the forty-eight-hour limit stipulated by law without intervention of a judge. González responded that it had been his intention to turn the boy over to his mother, but since the mother had not come to pick him up, he eventually filed charges against him. As a result of this admission to an illegal detention, the judge expanded charges to include "violation of constitutional guarantees" and included Blas Ignacio González as defendant.

On October 15, 1990, despite the obvious irregularities in the case, the same judge issued an order for the continued detention of Carlos Luis González in Tacumbú Prison. Fifty-one days after his detention, Carlos Luis was finally called to make his defense statement (*indagatoria*) and released.

On December 27, 1990, the judge ordered the detention of police officers Aquino and González. On December 31 at 8:00 a.m., the two officers were detained. The judge set the hearing for 8:15 and 8:30 respectively, thereby setting a record for the shortest period of detention ever before *indagatoria*. At 8:45 a.m. the judge ordered the release of Blas Ignacio González. Aquino declined to testify and his detention was confirmed by the judge. Officer González was eventually cleared of all charges (*sobreseído*) and has received a promotion in police ranks.

In February, the prosecutor recommended Aquino's release, arguing that he had already spent fifty-one days detained at Police Headquarters. Since the medical report had estimated that the victim needed five days to recuperate from injuries, the penal code stipulates that he should serve thirty-five days imprisonment.<sup>32</sup> The judge, however, resolved that Aquino had also violated articles 274 and 275, subsection 5. Aquino was released under the judge's order, based on *compurgamiento de pena*, on June 8, 1991.

## Press Visit to Emboscada

In October 1990, following the publication of Carlos Luis González's accounts of torture in Precinct No. 12, the parliamentary Human Rights Commission and the press visited the Emboscada reformatory. They had received numerous testimonies of boys that had been tortured in the police precincts before being sent to the reformatory, as well as details of the brutal punishments they continued to receive in Emboscada. As a result of the publication in *ABC Color* of the three boys' stories, which included the names of police torturers, Judge Angel Barchini opened a criminal investigation. Rather than visiting the reformatory himself in order to gather information on the torture of minors, the judge restricted his investigation to those three cases published in the press. The search to identify perpetrators of these crimes was at best half-hearted. To date there have been no arrests. According to the Tekojoja Foundation lawyers, two of the victims were able to obtain medical attention. Their clinical histories document the signs of torture they still bore upon being transferred to Emboscada. The three cases Judge Barchini investigated were the following:

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<sup>32</sup> Article 341 of the Penal Code stipulates seven days imprisonment for each day the victim needs to recuperate from bodily harm (*lesión corporal*).



1) **Tomás Alcides Guanes**, eighteen years old, said that on October 4, 1990 he was beaten with broomsticks and truncheons all over his body by two officers in the Guarambaré police precinct, as a result of which he lost a tooth. He said that he was held for four days and tortured during the first two days "until I had to say that I had robbed so that they would leave me alone...."

2) **Tiago Barrios**, sixteen years old, described being tortured with electric shocks on his arms and ribs, and being beaten and kicked in DINAR. They also threatened to put his head in water. The torture went on for three days.

3) **Angel Acosta Escobar**, seventeen years old, described being blindfolded and tortured with electric shock and beaten with clubs for three days in the Department of Investigations. He identified the torturers as assistant officer Olmedo and Pablo Espínola in the *Robos y Hurtos* division, and claimed the man in charge was the Subcommissioner of Investigations (*Subcomisario de Investigaciones*).

In answering the judge's inquiry as to whether the Chief of Police had received reports of torture, Police Chief Reinaldo Benítez Lenguaza responded that he had not received one report of torture. The minors ratified their accounts before the judge in December 1990. The judge obtained the names of the officers on duty in Guarambaré and called them to testify. Both denied that Guanes had been mistreated.

In response to an inquiry by the judge, the Department of Investigation stated that no agent by the name of Olmedo or Pablo Espínola worked in their division. No investigation of the agents on duty in DINAR at the time of Barrios' detention was initiated by either the prosecutor or the judge.

In February 1992, the most recent entry in the record was a request to submit a copy of another case against police agent José Lezcano, in which he is charged with the attempted rape of a four-year-old girl. Although the file indicated that Lezcano had already fled, in July of 1991 the judge ordered his arrest. There was no further investigation. The judge did not even file charges against the police agents that were identified.

## Tortured Minors

As a result of the work of the Tekojoja Foundation since 1989, more inmates in Emboscada are being summoned by the courts to present their defense statements (*indagatoria*). These statements are extremely important because at this time the judge examines the file and determines whether there is sufficient evidence to continue the detention. Many minors are released for lack of evidence immediately following this interview with the judge.

According to the Tekojoja Foundation lawyers, many of the minors have informed judges of the torture they received in police precincts. The foundation adds that often the judges have ignored these reports.

Among the minors who have filed complaints of torture when they appear for their *indagatoria* are the following:

1) **Lorenzo Martínez**: accused of theft. In his interview with Judge Rubén Candia Amarilla, Martínez described being "beaten [by police from precinct No. 15] with clubs,

including on my mouth, until I was bleeding."

2) **Oscar Escobar:** In his interview with the same judge, he too described being beaten by police in Caacupé until he confessed.

3) **Gilberto Gayoso Acosta:** told Judge Tomás Cárdenas that during his eight days in Precinct No. 8 he was beaten by Officer Edgar Caballero.<sup>33</sup>

4) **Sotero Ruiz Achucarro:** also told the judge that he had been subjected to beatings while he was detained in Precinct #24.<sup>34</sup>

In order to press charges against the perpetrators of the torture of a minor, his parents must be willing to serve as plaintiffs (*querellantes*). This is often not possible because these are street children or because the parents are fearful of reprisals. As a result, the foundation must apply to the judge in charge of minors, Patricia Blasco, and request a medical examination of the prisoner.

Patricia Blasco is a former adviser with DINAR and has rarely cooperated with the foundation in seeking better prison conditions or in investigating cases of torture. As a result of arguments with Carlos Abadía Pankow, Judge Blasco now refuses to accept cases in which he is counsel. To make matters worse, the director of Emboscada prison refuses to order medical exams to confirm reports of torture without a judicial order. At best, Blasco has ordered medical examinations that are then delayed for months. By the time a physician visits the jail (Emboscada has only one un-licensed nurse), the prisoner may no longer bear signs of injury or may have been released or transferred to Tacumbú.

Detainees who report incidents of torture to authorities may face reprisals from police once they have been released. Gilberto Gayoso was released from Emboscada one day last year at 9:00 a.m. At 10:00 am police arrested him and took him to Precinct No. 17. In fact, the director of Emboscada, Luis Ferreira, claimed in a press interview that denouncing cases of torture only hurts the minors, since "these minors, living in the streets selling newspapers, shining shoes or unemployed: they are known by the police...the police commit reprisals against the minors that denounce torture, but it is always the police word against the minors..."<sup>35</sup>

### **Additional Cases Reported in the Press**

1) **Julio Zaracho**, nineteen years old, informed a member of the Supreme Court who recently visited Emboscada, that he was tortured by the chief of *Robos y Hurtos* in the Department of Investigations. Zaracho said that he had robbed a pharmacy that belonged to a police chief, and that as a punishment he was tortured for four days. This torture included the pulling of his nose and of his testicles. He said he suffered permanent damage in his testicles and that he was scheduled for an operation.<sup>36</sup>

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<sup>33</sup> "Un menor denunció a un oficial de la Octava; supuesto apremio físico," *Última Hora*, March 7, 1991.

<sup>34</sup> "Testimonian en juicio sobre violencia policial," *ABC Color*, March 19, 1991.

<sup>35</sup> "La Policía toma represalia contra los que denuncian," *Diario Noticias*, March 20, 1991.

<sup>36</sup> "La Policía toma represalia contra los que denuncian," *Noticias*, March 20, 1991.

2) **Ruben Alberto González** told members of the Court that Police Chief Barboza in Precinct No. 5 had beaten him. "They held me down and beat me on my throat. I couldn't speak or eat for several days... They'd throw me down on the floor and step on my head, and they kept on for several days." He also said that he was sure the police would punish him for denouncing the torture. "When I am free they are going to get me and blame me for anything so that they can torture me again. They always do that."<sup>37</sup>

3) **Modesto Daniel Penayo Ruiz Díaz**, eighteen years old, was released from Emboscada in 1991. Accompanied by a lawyer from the Tekojoja Foundation, he told *ABC Color* that he was severely beaten during four days in Precinct No. 49 in Lambaré. He cited a deputy police chief by the name of Alvarez and two other officers as the torturers. "From the first day that I arrived they beat me with both their fists and with clubs all over my body." He told the reporter as he showed bruises and cuts on his stomach and legs. "I have a hernia in my stomach from the blows and an open wound on my leg from the buckle of the belt they used to whip me," he said. The Tekojoja lawyers requested a medical exam in Emboscada and it was carried out. However, subsequently, the report mysteriously disappeared when the lawyers requested a copy to submit to the judge.<sup>38</sup>

4) **Ramón Centurión**, eighteen years old, was detained by police agents in the police precinct in San Lorenzo, while serving military duty. He reportedly was a suspect in the investigation of a military officer's stolen car. Centurión's mother informed members of the parliamentary Human Rights Commission that she had reason to believe he was being beaten, and that police agents had told her the boy had already been released.<sup>39</sup>

5) **Lucila Alcaraz** presented criminal charges against police officers Valdez, Monges and Meza of Precinct No. 12, for bodily harm and abuse of authority. Alcaraz recalled that she was arrested by agents from Precinct No. 5 but then taken to Precinct No. 12. There she was left the entire night with her hands and feet cuffed. When she cried out in pain, a female agent called Valdez stuffed a rag in her mouth. In the morning, agents Monges and Meza came into her cell. While she was still cuffed they brutally beat her on her face and body. She also reported that Officer Meza asked for 50,000 *guaraníes* in exchange for releasing her. After several days she was transferred back to Precinct No. 5 and then to Buen Pastor prison. In the prison she was examined by a medical doctor whose report was subsequently submitted by the plaintiff as evidence of torture.<sup>40</sup> However, the judicial investigation was not pursued. Upon her release, Alcaraz disappeared, thereby making it impossible for lawyers from Tekojoja to continue the case.

## Forced Labor of Military Conscripts

All Paraguayan male citizens are subject to one year of obligatory military service. The press

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<sup>37</sup> "La Policía toma represalia contra los que denuncian," *Noticias*, March 20, 1991.

<sup>38</sup> "Más denuncias sobre agresión policial," *ABC Color*, March 7, 1991.

<sup>39</sup> "De Vargas: 'Preocupa la violación de derechos humanos'," *Noticias*, February 28, 1991.

<sup>40</sup> "Reclusa del Buen Pastor querrela a tres policías," *ABC Color*, March 6, 1991.

has reported numerous cases of boys (sometimes under the legal age limit of eighteen and generally belonging to poor families) who were in effect kidnapped by the armed forces. They were taken without notification to the parents and held not only for the stipulated period of one year for conscripts, but in many cases for even longer periods. In addition, to this arbitrary and discriminatory practice, numerous press reports have described the use of conscripts by high ranking officers and powerful Colorado Party leaders as a source of free labor in private enterprises.

In July, it was reported that a twenty-two-year-old draftee, Ricardo García Ruiz, was killed while serving at a private ranch in Nueva Asunción, in the northern Chaco region. The young man had been assigned to duty with the Government Delegation in the Department of Nueva Asunción, but had been forced to work in the fields on a ranch owned by Carlos Canata, a close friend of Eduardo López, the governor of Nueva Asunción. García's family reported that he was killed by the foreman on the estate.<sup>41</sup>

During the Americas Watch mission, an on-going case of forced labor was described in the newspaper *Hoy*, under the headline "Soldiers Harvest Cotton on Private Farms; They Work under Deplorable Conditions."<sup>42</sup> In Isla Umbú, Pilar, a resident of the community, Víctor Ríos, told a local radio station that approximately twenty conscripts were being used to harvest cotton on a private plantation, and they were receiving no pay. The owner of the plantation is Evangelista Montiel, president of the local chapter of the Colorado Party. "The soldiers are given two sacks and a blanket during their stay in this inhospitable place where insects and vermin abound," recounted Ríos. He said that he had been moved to denounce the situation when a boy from his community who had been sent to the plantation deserted the military service. "He returned with his hands and feet totally swollen as a result of the mosquitos and vermin, and no one had shown any interest in his deplorable state."

More recently, the press reported that conscripts were being used to extract and load sand onto trucks in a private business owned by military officers in San Antonio, a township next to Asunción.<sup>43</sup> No judicial investigation or administrative action from the military hierarchy has been initiated in response to these reports.

Another episode, covered by the press in March, exemplified the armed forces' methods of enforcing draft laws. The military raided a privately owned soccer stadium in Itá, and in a huge round-up operation demanded that all young men show documents with the seal indicating that military service had been completed (*libreta de baja*). Those who did not have the document or had not completed the service were taken away in military trucks.<sup>44</sup>

The press reports about forced free labor of draftees prompted President Andrés Rodríguez and General Ramón Humberto Garcete, the Commander of the Army, to issue a public warning that the Armed Forces would not tolerate the practice and that those found responsible for it

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<sup>41</sup> "Soldado fue garroteado antes de ser asesinado," *ABC Color*, July 31, 1992.

<sup>42</sup> "Soldados recolectan algodón en chacras particulares: Realizan tarea en condiciones deplorables," *Hoy*, April 9, 1992.

<sup>43</sup> *ABC Color*, July 23, 1992.

<sup>44</sup> "Militares pidieron baja en una cancha de fútbol en Itá," *ABC Color*, March 31, 1992.

would be punished in accordance to military regulations. If the statement had any effect it was only temporary. In August 1992, soldiers were found doing construction work on a mansion being built by a Colonel called López Silva, on land formerly owned by his father-in-law in an Asunción neighborhood.<sup>45</sup>

Journalist detected conscripts doing construction work in another private site in Asunción a few days later, reportedly for the benefit of another Army Colonel whose identity was not established.<sup>46</sup> High-ranking police officials were also reported to benefit from this form of forced labor. Draftee police agents wearing blue uniforms were spotted doing masonry work at the Asunción house owned by the Chief of the *Agrupación Especializada*, formerly the *Guardia de Seguridad*, Comisario General Rubén Arias.<sup>47</sup>

The new reports of soldiers forced to do work for private interests prompted an inquiry by the Human Rights Commission of the Paraguayan Chamber of Deputies. Its Chairman, Sandino Gil Oporto, demanded a report from the Executive Branch on all the cases known to the public, including one involving General Regis Romero, Chief of the Military House attached to the Government Palace. Congressman Gil Oporto said that the practice was not new, even though it was specifically prohibited by Article 129 of the Constitution.<sup>48</sup>

Despite these efforts, and in contrast with the statements by the President and by the Chief of the Army, high-ranking Army officers who are close to the President also abuse the services rendered by young Paraguayan men. At a farm in Pirayú, owned by General Antonio Martínez, soldiers tend to livestock under the orders of a non-commissioned officer. General Martínez is the Chief of the Presidential Guard.<sup>49</sup>

## Rural Violence

For several years Americas Watch has followed the issue of arbitrary detention of peasant squatters by police and the military in the Paraguayan countryside. In 1991, we reported that following the 1989 coup, a wave of illegal land occupations seized the country and President Rodríguez was handling the problem in much the same fashion as his predecessor. Arrests of hundreds of peasants were being made without warrants in an attempt to force evictions. Many prisoners were beaten by state agents in the process of being herded onto trucks and taken to detention centers. Homes and crops were destroyed by troops seeking to intimidate illegal squatters. And finally, gunmen hired by large landowners enjoyed near impunity while they threatened, and in several cases, actually murdered peasant leaders.<sup>50</sup>

At this time the situation has improved considerably, although not necessarily by merit of the

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<sup>45</sup> "Jefe militar aprovecha mano de obra de conscriptos," *ABC Color*, August 15, 1992.

<sup>46</sup> "Se mofan de la Constitución y de los reglamentos militares," *ABC Color*, August 25, 1992.

<sup>47</sup> "Conscriptos en la obra de jefe policial," *ABC Color*, August 25, 1992.

<sup>48</sup> "Diputados pedirán informes sobre el tráfico de uniformados," *ABC Color*, August 25, 1992.

<sup>49</sup> "Conscriptos trabajan, en Pirayú, en la granja de un alto oficial," *ABC Color*, September 2, 1992.

<sup>50</sup> See Americas Watch, "Paraguay: New Outbursts of Violence in Land Disputes," *News from Americas Watch*, February 1991.

Rodríguez government. The number of illegal land occupations has diminished in the face of the likelihood of repression. The illegal evictions, arrests, and beatings have also subsided. In May and June of this year, however, several evictions were carried out under court orders. These included the illegal destruction of homes and crops in the departments of Alto Paraná and San Pedro.

## **Prison Conditions and the Reopening of the Work Camps**

In early June, a major uprising of prison inmates in Tacumbú National Prison in Asunción once again focused attention on the overcrowding and the frequent beatings of prisoners by guards in that jail. The uprising was organized to protest the creation of a *comisión garrote*, a gang of prisoners and jail guards reportedly created by Colonel Carmelo Fretes, the Director of Penal Institutes, to beat up other prisoners. Judge Nelson Mora and the Attorney General were able to intervene and negotiate with the rioting inmates and they promised that there would be no reprisals. In addition, they not only confirmed reports of the existence of this gang, but were also able to confirm complaints that fourteen prisoners who were severely mentally ill were being held in this prison.

However, several days later, Minister of Justice and Labor Hugo Estigarribia returned from a trip abroad and immediately ordered sanctions against the prisoners involved in the protest. A distant military barrack called Lagerenza, in the hot desert area of Chaco near the Bolivian border, was re-opened and a large number of inmates from Tacumbú were transferred there. The barracks had been used for years as a prison work camp but was closed down in 1992. Its reopening marked a major setback in the government's human rights record.

Information on the exact numbers of prisoners who were sanctioned has been conflicting. It appears that at least sixty prisoners were brutally beaten with whips and wires by jail guards carrying out Fretes' orders, and that they were then sent to Lagerenza. Americas Watch sent a letter of protest to President Rodríguez (see appendix) on July 10, 1992, requesting the immediate closure of the facility, as well as a full investigation and removal of the public officials responsible for the episode.

In early July, five prisoners, including a minor, were sent back to Tacumbú and then hospitalized due to their poor physical condition. They told members of the press and of the Congressional Human Rights Commission that in Lagerenza they were forced to work all day, they received only one meal a day, and they only had brackish water to drink.<sup>51</sup> They also said that several prisoners were severely ill and that there was no medical attention.

During the last week in July, Americas Watch received news that the remaining prisoners were being returned to Tacumbú. In addition, Judge Arnulfo Arias had ordered the arrest of Colonel Fretes, along with four jail guards, and charged them with the beating of the prison inmates.

## **Conclusion**

In the 1980's, as Latin American countries shifted from dictatorships to democracies, their societies confronted the legacy of egregious past abuses. Organizations of civil society, led by

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<sup>51</sup> "Comíamos carne de víboras y cuervos en Lagerenza," *ABC Color*, July 28, 1992.

human rights advocates and by families of victims, undertook to ensure that crimes against humanity would not be forgiven nor forgotten. The result is a series of victories and partial defeats, but a single outcome of the process is that the search for truth and justice has been recognized, not only as a legitimate endeavor of human rights organizations, but as an obligation of the State.<sup>52</sup> Americas Watch wholeheartedly supports the right of the families of victims to obtain full disclosure of the fate of their loved ones and to seek redress through legal means. We also support the proposition that governments have an obligation to investigate crimes against humanity, to disclose all that can be known about them, to prosecute and punish those who may be individually responsible, and to provide reparations to the victims.<sup>53</sup>

As stated elsewhere in this report, Americas Watch — and more recently also its parent organization, Human Rights Watch — have devoted considerable effort to documenting and reporting on this important development. This report continues our series, as it celebrates the significant contribution made to this cause by the families of the Paraguayan victims, by lawyers and human rights monitors, and by the judge who issued the *Schaerer* decision. That this was achieved with no assistance or support from the Rodríguez administration, and indeed against many pressures from powerful sectors of Paraguayan society, only highlights the significance of this accomplishment.

In an effort to place this singular victory in its context, this report discusses other aspects of the current human rights situation such as prison conditions, torture by police, forced labor of military conscripts and rural violence. We are aware that the context shows that this gain is fragile. We will continue to monitor developments in the *Schaerer* case and in others, as our modest contribution to prevent any regression. Whatever the future holds, in any event, our colleagues in the Paraguayan human rights movement deserve credit and congratulations for an important milestone in the long and difficult path to truth and justice.

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This report was written by Patricia Pittman, Americas Watch Representative in Buenos Aires, Argentina. The research was conducted by Ms. Pittman in Asunción in April, 1992 and edited by Juan E. Méndez. Vanessa Jiménez, Americas Watch associate, provided research and editorial assistance.

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<sup>52</sup> See, Zalaquett, José, "Confronting Human Rights Violations Committed by Former Governments: Principles Applicable and Political Constraints" in *State Crimes: Punishment or Pardon*, The Justice and Society Program of The Aspen Institute, 1989; and Orentlicher, Diane F., "Settling Accounts: The Duty to Prosecute Human Rights Violations of a Prior Regime" in *The Yale Law Journal*, Vol. 100, No. 8, June 1991.

<sup>53</sup> A statement of position adopted by Human Rights Watch -- of which Americas Watch is a division -- appears in the Appendix to *Truth and Partial Justice in Argentina - An Update*, New York, 1991.

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