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£Venezuela:

@The Eclipse of Human Rights

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1. INTRODUCTION

Venezuela stands out in Latin America as one of the few countries which has been ruled by democratically elected civilian governments without interruption for over 35 years. What is less well known, particularly outside the region, is the extent to which the human rights of an increasing number of its 20 million citizens have been persistently and seriously violated over the years.

To the outside world, Venezuelan governments have increasingly expressed their commitment to defending human rights. Inside the country, however, state officials have been allowed to violate those rights with virtual impunity.

As this report shows, torture and other cruel, inhuman and degrading treatment or punishment are frequently reported. Criminal suspects, especially those living in poor neighbourhoods (barrios), are routinely tortured to extract confessions. Political, student and grass-roots activists are also targeted.

Moreover, during periods of heightened political tension leading to disturbances, which have been growing in frequency in recent years, the security forces have carried out extrajudicial executions with little fear of being brought to account for their actions.

The administration of justice is marked by serious shortcomings. Investigations by the courts into human rights violations are inadequate or non-existent. Trial proceedings are constantly and arbitrarily delayed, frequently far beyond legal limits². Defendants are meanwhile kept in prison, usually in extremely harsh conditions where they are often beaten and sometimes tortured.

In addition, hundreds of people continue to be administratively detained for up to five years under the Ley de Vagos y Maleantes, Law of Vagrants and Crooks. Those detained under this law are frequently tortured, have no access to a judicial hearing or defence lawyers, and are denied many other basic rights.

Amnesty International has monitored the human rights situation in Venezuela for many years. It has conducted fact-finding missions, published reports, campaigned against violations and repeatedly conveyed its concerns to the government of the day³. The authorities have rarely bothered to even respond.

In April 1993 the Venezuelan Foreign Minister, Fernando Ochoa Antich, visited Amnesty International's International Secretariat in London, United Kingdom. The organization presented him with the grim findings of two research trips by Amnesty International delegates to his country. The minister acknowledged many of the organization's concerns and reiterated his government's commitment to end human rights violations. While welcoming his visit and statements, Amnesty International remains deeply concerned about the continuing reports of serious human rights violations in Venezuela and the impunity apparently still enjoyed by the perpetrators.

Political background

The human rights situation in Venezuela has markedly deteriorated in the context of rising social and political tensions, particularly since 1989. On 27 February that year widespread protests broke out following the introduction of austerity measures by the new government of President Carlos Andrés Pérez. People poured into the streets and there was extensive looting and violence. The government suspended a wide range of constitutional guarantees, imposed a curfew and transferred responsibility for law and order to the armed forces.

In the days that followed, several hundred people were killed. Some died in the general violence, but many were the victims of deliberate or indiscriminate shootings by the police or military personnel⁴.

Since then, there have been frequent mass and occasionally violent demonstrations protesting against worsening economic conditions. The security forces have often responded with excessive and arbitrary force, including using live ammunition against unarmed civilians. Students have numbered heavily among the victims as they have been at the forefront of many of the protests⁵.

It is clear that the security forces have in some instances faced difficult situations. But it is also clear that they have been allowed to use lethal force with reckless abandon,

resulting in many unnecessary and tragic deaths and injuries.

In 1992 political tensions increased further when factions of the armed forces attempted to overthrow the government of Carlos Andrés Pérez on two occasions — on 4 February and 27 November. The coup attempts were quickly put down on the same day and scores of soldiers and civilians alleged to have supported the military action were arrested.

The government immediately suspended a series of individual guarantees including the right not to be arrested or imprisoned unless caught in the act of committing a crime, as well as the rights to freedom of expression, assembly and peaceful demonstration.

On 21 May 1993, against a background of growing political unrest, the Senate suspended President Carlos Pérez from office after the Supreme Court ruled that he should stand trial for alleged corruption. The Senate's President, Octavio Lapage, took over as head of state until 5 June, when Ramón José Velásquez, a senator, was elected by Congress as Venezuela's interim President. Ramón Velásquez is expected to remain in the office until February 1994, when a new administration will take over following general elections scheduled for December 1993.

Human rights under threat

Human rights issues in Venezuela have in the recent past received wide coverage in the local media, a reflection of the country's long tradition of tolerating a free press. This coverage is now under threat. Journalists have increasingly been harassed, attacked and even murdered by the security forces, particularly during anti-government demonstrations.

Moreover, as the political, economic and social conditions in the country continued to deteriorate, reports of serious human rights violations increased.

Growing public awareness of human rights issues in Venezuela has stimulated the creation of independent organizations dedicated to the protection and promotion of human rights. Frequently these organizations are the most important source of information about human rights violations in the country. In addition, independent human rights organizations have played an important role in helping victims in their search for redress⁶. This work is not without risk: human rights monitors and relatives of victims have received death threats because of their work. The work of the under-resourced and sometimes threatened Venezuelan human rights organizations is nevertheless relatively unknown abroad.

It is therefore imperative that people around the world know what is going on in Venezuela and join the campaign to protect human rights there⁷.

This report aims to contribute to that cause. It includes some of the findings of two Amnesty International research visits to Venezuela — in May 1992 and between January and February 1993. It briefly summarizes the organization's main concerns and, crucially, includes a list of recommendations to the authorities. Amnesty International believes that, if effectively implemented, these recommendations will help to end the pattern of human rights violations in Venezuela.

The organization therefore calls on the government, and on those who will take power in February 1994, to adopt effective steps for the implementation of the measures recommended in this document.

2. TORTURE AND ILL-TREATMENT

Torture and ill-treatment are widespread in Venezuela, in some cases

resulting in death.

Most reports concern law-enforcement agents during criminal investigations. The main purpose of torture and ill-treatment of prisoners appears to be to intimidate detainees and obtain confessions of guilt. Those living in poor neighbourhoods are particularly targeted.

Other victims include political, student and grass-root activists, who are tortured or ill-treated to obtain confessions and information about their activities.

Torture methods frequently used throughout Venezuela are simple but sophisticated: they are designed to cause maximum pain with the minimum of marks.

Beating is the most common method reported, often starting at the moment of arrest or during initial phases of interrogation in police custody. Beatings are also reported to be a common practice in prisons throughout the country. This method includes slaps, punches, kicks and blows with batons to sensitive parts of the body such as the abdomen, genitals and head. One variation consists of simultaneous blows to both ears, which produces excruciating pain and often ruptures the ear-drums. Another variation is “*peinillazos*”, blows with *peinillas*, sabres without a cutting edge, which are commonly used by members of the police and prison warders.

Near-asphyxiation is also commonly reported. A plastic bag is put over the victim's head to cause suffocation. Irritants such as ammonia, powdered soap and insecticide aerosol are often added to the bag to increase the distress of the victim.

In some cases, victims are asphyxiated by having their heads forced into water, which frequently contains debris or faeces and urine when toilets are used.

Other commonly cited methods are electric torture with cattle prods applied to sensitive parts of the body, and suspending victims for prolonged periods by the wrists, so that the feet barely touch the ground.

These torture methods are often used in combination, most frequently by subjecting the victims to beatings during or after near-asphyxiation with a plastic bag.

The authorities at the highest levels have repeatedly condemned torture and ill-treatment. Both are clearly prohibited by Venezuelan

law and there is ample provision to prevent and punish such practices. Torture and ill-treatment are also prohibited by international standards the government has sworn to uphold. As recently as 1991 Venezuela ratified the UN Convention against Torture and Other Cruel, Inhuman and Degrading Treatment or Punishment and the Inter-American Convention to Prevent and Punish Torture.

The reality, however, is entirely different from the promises and proclamations.

The cases below are just a few of several documented by Amnesty International and are based on extensive evidence drawn from many sources. Some were researched during the visits by Amnesty International delegations to Venezuela in May 1992 and between January and February 1993. The delegates interviewed dozens of victims of torture and ill-treatment, many of whom bore signs of injuries consistent with their allegations. The delegations, which also interviewed several government officials, concluded that torture and ill-treatment continued unabated.

The perpetrators

The police forces most frequently cited in reports of torture and ill-treatment are the *Policía Metropolitana*, Metropolitan Police; the *Policía del Estado*, State Police; and the *Dirección de los Servicios de Inteligencia y Prevención* (DISIP), Directorate of Intelligence and Prevention Services.

The *Policía Técnica Judicial* (PTJ), Criminal Investigations' Police, which is responsible to the ministry of justice, is also frequently accused of torture and ill-treatment. It is in charge of criminal investigations and has a dominant role in the summary phase of criminal procedures. This includes the opening of investigations into criminal complaints, the collection of evidence, including forensic evidence, and the preventive detention of suspects. Its findings have a high probatory value in Venezuelan courts. The other police forces mentioned have more limited responsibilities in criminal investigations. For example, although entitled to receive criminal complaints and make arrests, they must transfer the files to the PTJ within three days, and they cannot hold detainees for more than eight days.

The combination of the prosecutory and investigative powers of the PTJ, coupled with the frequent practice by the police of using confessions to substantiate criminal charges, appears to facilitate the use of torture.

The PTJ is responsible for investigating complaints about torture and other serious human rights abuses by the police and by its own forces. According to reports, this seriously undermines the impartiality or effectiveness of such investigations, thus greatly contributing to the impunity enjoyed by the perpetrators.

All the police forces, including the PTJ, operate under the direction of the executive power.

The *Guardia Nacional*, National Guard, a branch of the army, has also been frequently

accused of torture and other human rights violations. It has investigative powers similar to the PTJ in specific areas such as narcotics. It provides support in law enforcement duties when required, such as during widespread social disturbances. It is also responsible for external security in prisons.

According to widespread reports, the *Dirección de Inteligencia Militar* (DIM), Directorate of Military Intelligence, and the *Dirección de Inteligencia del Ejército* (DIE), Directorate of Intelligence of the Army, were responsible for the systematic and brutal torture of dozens of people arrested after the military uprisings of February and November 1992.

The victims

The victims of torture in Venezuela come from most walks of life, but are usually from the poorest and least articulate sectors of society, who lack the means or power to voice their complaints. Those most frequently subjected to torture and other ill-treatment are criminal suspects, including minors.

Political activists, student leaders and members of grass-root organizations have also been victims of torture and ill-treatment as a result of their activities. This has particularly been the case during periods of social unrest, such as in the wake of the coup attempts in February and November 1992 when several constitutional guarantees were suspended.

Criminal suspects

People alleged to be criminal suspects are frequently tortured, usually in an attempt to make them confess to a crime. Criminal suspects are frequently identified at random and arbitrarily arrested by the police investigating a complaint. Two cases in 1992 highlight the methods commonly used.

Macarri José Fermín, aged 17, gave himself up voluntarily on 25 January 1992 to members of the PTJ investigating the murder of a policeman in Petare, Caracas. Several people, including a state attorney from the Juvenile State Attorney's Office and a local priest, witnessed his arrest to guarantee his physical safety. However, for the next eight days the PTJ denied that Macarri was in their custody.

Macarri later stated that he had been taken to the nearby police station of El Llanito in Petare, where he was suspended by his wrists and beaten with a wooden bar. The following day he was taken to the PTJ headquarters in Parque Carabobo, Caracas, where he remained until 28 January. During this period, he was not ill-treated. He was then taken to the PTJ station in the suburb of Cochecito where his legs, ribs and head were beaten with a thick metal bar and he was threatened with death. Throughout the period of police custody, Macarri was denied access to relatives or representatives from the State Attorney's Office, and was not allowed to receive medical attention.

In early February he was taken before the judge of the II Penal Court, who was said to be concerned about his physical condition. The judge ordered his transfer to a holding centre for minors, from where Macarri escaped in early March 1992. On 22 April 1992 the Metropolitan Police raided his home and took him to the police station of San José, Punta Alta in Petare. There, a police inspector reportedly blindfolded him and beat him with a stick before releasing him.

A complaint about the torture allegedly suffered by Macarri Fermín was presented to the Attorney General's Office in March 1992, but to Amnesty International's knowledge no action has been taken to bring those responsible to justice.

José Blondell, aged 22, was arrested on 9 March 1992 by the PTJ when he went to the

police station of El Llanito, Caracas, to testify in a murder case. On his arrest, four police officers kicked and beat him. They accused him of involvement in the murder, which he denied. In the afternoon the treatment got worse. The police put a plastic bag over his head and sprayed a gas into the bag, causing near-asphyxiation. He was also beaten.

The following day, he was subjected to the same forms of torture, as well as death threats. In the afternoon, he was taken out of his cell, sprayed with fire extinguisher — which causes an acute burning sensation — and beaten with a metal bar.

He was eventually released on 16 March without charge and having been denied medical attention. A complaint on his behalf was presented to the authorities on 29 March 1992, but to Amnesty International's knowledge those responsible for his torture and ill-treatment have not been brought to justice.

The poor

The appalling conditions in many of the *barrios* of Caracas received international coverage in early August 1993 when torrential rain swept away hundreds of homes and killed at least a hundred people.

People living in the *barrios* suffer not just from poverty, disease and unemployment, but also from persistent police brutality. They are often detained without charge for short periods by the security forces during raids (*redadas*), and frequently tortured or ill-treated before release.

For example, on 18 and 19 October 1991 police raided La Vega, a *barrio* in Caracas, after a member of the National Guard had been attacked and killed by criminals. A number of people who were arbitrarily arrested were tortured.

Among them was Yorfan José Escobar Berríos, 17, who was arrested by the National Guard. On 21 October his mother and a representative of the *Programa Venezolano de Educación-Acción en Derechos Humanos*, Venezuelan Programme for Education and Action in Human Rights, a local human rights organization, visited him in the Homicide Division of the PTJ. Yorfan told his mother that he had been beaten and that the police had walked on his stomach, even though he had informed them that he was recovering from an abdominal operation.

On 22 October a writ of *habeas corpus* was presented to the courts on his behalf.

Yorfan was released the next day following the intervention of a state attorney from the *Procuraduría de Menores*, Juvenile Attorney's Office.

On 7 December 1991, Yorfan was again arrested in La Vega by the National Guard. He was bundled into a jeep and beaten. The complaint prepared for the authorities says that he was taken to the police station where he was given electric shocks, beaten and kicked. The statement indicates that he was then driven to a remote place where his wrists were cut with a knife and he received further beatings. He was taken back to the police station where he was tied to a wire fence outside the building. He remained there throughout the night. Police reportedly threw water over him, cut him several times in the ribs with a knife, burned his back with a hot iron and rubbed salt water into the wounds. He was released on 9 December without charge.

An investigation (*información de nudo hecho*) into his allegations was reportedly opened but by July 1993 it was not clear if it had progressed. No other action was known to have been taken.

In another incident, police raided the sectors of Monte Piedad and La Cañada in “23 de

Enero", a poor neighbourhood in Caracas, on 21 October 1991 following the killing of a policeman. Javier Ascanio, 15, was arrested with six members of his family after 15 policemen entered their home and reportedly beat the 12 people who were there. Javier was released but then rearrested the following day.

He was reportedly taken to the police station in Cotiza and accused of being an accomplice in the murder. He suffered near-asphyxia after being sprayed with a liquid. His head was covered with a plastic rubbish bag that was fastened round his feet, causing him to pass out. He was also reported to have been beaten, denied food and prevented from going to the toilet.

In the early hours of 23 October Javier was transferred into the custody of the PTJ who reportedly subjected him to a mock execution. He was also beaten and sprayed with a liquid irritant which caused him to pass out. A writ of *habeas corpus* was presented on his behalf on 24 October and he was released the following day. He was immediately sent to an official forensic doctor who reportedly failed to carry out a physical examination. To Amnesty International's knowledge, no one has been brought to justice in connection with the alleged torture of Javier Ascanio.

Also in October 1991 nearly 200 people, including children as young as 13, were arrested and subsequently tortured after mass raids by the Metropolitan Police and National Guard in the *barrios* of La Vega and "23 de Enero". The raids followed the killing of two members of the security forces.

In complaints submitted to the Attorney General's Office, people living in the two neighbourhoods reported that the police showed no search or arrest warrants when they entered houses and that some wore hoods to hide their identity. Witnesses alleged that during house-to-house searches, several people were beaten and property was destroyed. Tear-gas was also reportedly used recklessly. In La Vega, for example, a four-year-old child reportedly suffered near-asphyxia after National Guard members threw a tear-gas canister into his home.

Among the victims was 20-year-old Kodiak Ascanio. He was beaten at the time of arrest and suspended from the 12th floor balcony of a block of flats. The police held him incommunicado until 25 October 1991. He was initially taken to the police station in Cotiza and reportedly beaten with a baseball bat. He was then taken to a street in another neighbourhood where he was subjected to a mock execution. He was transferred to the PTJ where his brother, Javier, saw him on 23 October. Following mounting pressure from human rights organizations for information concerning his whereabouts, the police admitted he was in detention on 25 October. He was released three days later without charge.

Many other complaints of torture were submitted to the Attorney General's Office concerning those arrested during raids in October 1991. Among them were those of Pablo José Rondón, 34, and Nolan Simón Rondón, 15, who were detained by the Metropolitan Police on 21 October. The police did not present a search warrant. During their search of the flat, the landlord's daughter and two grand-daughters were reportedly made to undress and the two girls were subjected to an intimate and humiliating body search.

Nolan Rondón was allegedly beaten and threatened in an attempt to make him confess to killing a policeman. He was taken first to the police station in Cañada and then to Cotiza police station. He was released at 3am. Pablo José Rondón, a member of a local

neighbourhood organization, was reportedly suspended by the police from the balcony of a block of flats. He was subsequently beaten and kicked. He was later taken to the Cañada police station and then to Cotiza. He was released the same night.

Other more recent incidents of arbitrary arrest and torture of people living in Caracas' *barrios* have been reported to Amnesty International.

Political activists and students

Fourteen men, most of them University students, including teenagers, were beaten with clubs and kicked while they were being arrested in the *Universidad Central de Venezuela*, Venezuelan Central University, in Caracas on 23 January 1992 during demonstrations. The authorities accused the 14 of causing disturbances while wearing hoods to hide their identities. All denied the accusation and witnesses said the police had themselves covered the detainees' heads during arrest. A journalist, Jesús Antonio Castillo Gómez, who was covering the demonstrations for the daily newspaper *El Nacional*, took photographs of the arrests. He was approached by the police who then punched him and gave him electric shocks with a cattle prod as they removed his camera.

One of the 14 was taken to the DISIP; the others were taken to Metropolitan Police headquarters in San José Cotiza, a Caracas suburb. According to their statements, José Gregorio Escalona, Orlando José Ramírez, Jesús Enrique González and Lisandro Obed Pérez were given electric shocks as they were being transferred to the police headquarters. José Gregorio Escalona received electric shocks on his shoulders, back and chest. Lisandro Obed Pérez received electric shocks on his face and was kicked in the chest resulting in a broken rib.

Mark Flavio Zucchelli, a US citizen, was released a few hours later. Unconfirmed reports indicate that he was beaten and threatened with rape. The 13 others were taken to the PTJ headquarters in Caracas. On 26 January 1991 they were charged with "injuring police agents and disturbing public order" ("*lesiones personales a funcionarios policiales y alteración del orden público*") and were transferred pending trial to the *Internado Judicial de El Junquito*, a prison in Caracas.

On 31 January, after medical examinations, attorneys from the Attorney General's Office submitted a request for an investigation (*información de nudo hecho*) into the detainees' allegations of torture and ill-treatment to the XVI Penal Court.

The detainees were released free of charge on 5 February after a judge ruled that there was no evidence to link them with the offenses they had been accused of. At least two of the students reported that they and their families had received death threats.

In the wake of the two attempted coups in February and November 1992, the security forces carried out widespread raids in many cities. They arbitrarily arrested a number of people, including student leaders, members of political parties and community activists. Most of those detained were later released without charge. Dozens, however, were tortured. Complaints were submitted to the authorities, but by July 1993 none of those responsible for illegal arrests, torture or ill-treatment had reportedly been brought to justice, and the victims had not received any compensation.

For example, 22 civilians, many of them students, were arrested on 4 February 1992 and taken by the Carabobo State Police to the police headquarters of Navas Espínola in Valencia. There, they were reportedly made to crouch down facing the wall for several hours and were beaten repeatedly. They were also allegedly subjected to electric

shocks with a cattle prod.

The detainees were held incommunicado until 12 February when they were visited by six attorneys. A writ of *habeas corpus* submitted on 5 February on behalf of Ursula Mujica, a third-year law student, requesting her release unless accusations that she was involved in the military rebellion could be substantiated, was never resolved by the courts.

While in incommunicado detention, the detainees were reportedly given no medical attention despite the injuries many had sustained as a consequence of beatings. One of them, Cecilio Benítez, informed the police that he needed special medication for a neurological illness: he received it only after suffering two epileptic seizures. Another detainee, Carmen Alicia Gómez Potellá, who was four months pregnant, suffered symptoms of a miscarriage as a result of beatings. She was eventually taken to hospital.

On 7 February the detainees were charged with *rebelión militar*, military rebellion — a provision in the Military Code that penalizes members or supporters of armed movements. Thirteen of the detainees were subsequently released without charge on 7 March. The eight remaining detainees were transferred on 11 March to the *Cuartel San Carlos* San Carlos Barracks in Caracas. Ten days later a presidential decree ordered their unconditional release.

Scores of students and political activists suspected of supporting the 27 November attempted coup were tortured and ill-treated following their arrest in Caracas, Valencia and Barquisimeto. Most were released within a few weeks without charge. Several victims required medical treatment for the injuries they suffered under torture.

Those who later submitted complaints to the authorities about their treatment said they were kept incommunicado and tortured during the first days of detention. They were reportedly beaten, deprived of food and water, and threatened with death. Many said they had been suspended by the wrists for long periods and nearly asphyxiated with plastic bags, sometimes containing ammonia or other irritants. In most cases, those allegedly responsible were members of the DIE and DIM. No action against the alleged perpetrators had been taken by July 1993.

Among the victims was Ivo Rodríguez Escudero, a 36-year-old student at the University of Carabobo, who was arrested on 26 November in Valencia by the Carabobo state police. He was accused of participating in a student demonstration. When news of the attempted coup became known the following day, he was transferred to the DISIP headquarters in Carabobo and charged with supporting the military uprising.

He was held there for three days incommunicado and reportedly kicked and beaten, suspended by the wrists for long periods, threatened with electric shocks and death, and denied food. He was not allowed to see a doctor despite suffering from acute urinary retention due to the severe blows he had received to his back, abdomen and genitals.

On 30 November he was taken to the DISIP headquarters in Caracas. He was released without charge on 13 January on condition he signed a document certifying that he was released in “perfect health”. On 28 January an Amnesty International delegate with forensic skills examined Ivo and found injuries and scars consistent with his allegations. Grass-roots human rights activist Miguel Antonio Bervis, 51, a father of five and grandfather of seven, was arrested without warrant by a group of armed and hooded

men in civilian clothes at his home in Ciudad Bolívar on 28 November 1992. The men identified themselves as members of the DIM and forced Miguel Antonio into a car. He was taken, handcuffed and blindfolded, to the local DISIP headquarters and then to the *Cuartel de la V Circunscripción Militar* local military barracks. He remained in incommunicado detention for five days and was interrogated under torture about his activities. He was kicked and punched and asked to disclose information about the whereabouts of a friend, which he refused to do.

He was then driven to an unknown location by the river, where he was brutally beaten and submerged in the river. He still refused to talk, so his torturers allegedly continued to beat him, then dragged him out of the river and forced sand into his mouth and nose. His blindfold fell off and he saw that his captors were members of the army, including the National Guard. They told Miguel Antonio that his wife and children were also being detained and would suffer the same torture if he didn't disclose the information requested. He was then taken back to Ciudad Bolívar, where he remained incommunicado in the military barracks until his release free of charges on 1 December 1993. During his detention his home was raided by members of the army and several of his belongings were destroyed or stolen.

A medical examination carried out after his release revealed that he had suffered six fractured ribs, several bruises and severe impairment in the movement of his limbs. Since his release Miguel Antonio has reportedly received several anonymous telephone death threats telling him to stop his activities. He is a member of the board of the *Juventud Venezolana de Acción Sana*, Venezuelan Youth Health Action, a charity working for the rehabilitation of drug abusers in poor neighbourhoods. He is also involved in human rights monitoring.

Despite a formal complaint before the General Attorney's Office presented on 15 January 1993, those responsible for his torture have not been brought to trial. Miguel Antonio still suffers from chronic pain and motor impairment as a consequence of his ordeal.

Fernando Benítez, 20, a student activist, was arrested in Caracas without warrant on 29 May 1993 by two men who identified themselves as members of the security forces. He was forced into an unidentified car and beaten unconscious. When he regained consciousness he found himself tied to a chair in an unknown location. He was tortured by two men who questioned him about his activities and those of other student activists. He was allegedly beaten with punches, kicks and batons, and nearly-asphyxiated in water containing excrement. He was deprived of food and threatened with death if he continued with his activities. Two days later, shortly before being dumped in the centre of Caracas, he was told he would be killed if he reported the incident.

As a result of his ordeal Fernando Benítez suffered multiple bruises, injuries to his left eye and a fractured jaw. In early June he presented a formal complaint about his abduction and torture to the General Attorney's Office, but those responsible have reportedly remained at large.

Amnesty International has also received reports of people, including grass-roots activists, being tortured and killed by members of the security forces. For example, Freddy Miguel Franquis Aguilar, 40, a bricklayer and grass-roots activist in the poor neighbourhood of La Laguna in Caracas, was abducted by members of the Metropolitan Police on 25 February 1992. A week later his body, bearing the marks of burns, bruises

and a gunshot wound, was discovered by his relatives in the morgue of a local hospital. According to reports, Freddy Franquis Aguilar was detained when he protested against the members of the Metropolitan Police who were reportedly beating two neighbours. The officials forced Freddy Franquis Aguilar into a car and drove him away. His whereabouts remained unknown for a week, although the authorities confirmed that the police had found his unidentified body on a roadside on 26 February. Medical reports confirmed that Freddy Franquis Aguilar had been tortured with cigarette burns, beatings and blows, and killed by a close-range shot. According to reports, three members of the Metropolitan Police were accused of the crime and suspended from duty pending investigation. Amnesty International had not received information about the outcome of this investigation at the time of writing.

Other victims

The victims of torture are not limited to the above mentioned sectors of the population. They include people from all walks of life, even public officials, members of the security forces and children. For instance, Miguel Angel Delgado Méndez, 25, a clerk with the Ministry of Defence in Caracas, was arrested by the Metropolitan Police on the night of 15 April 1992. According to reports, the police arrived at a restaurant in Caracas where Miguel Angel was dining with friends following a reported brawl between other customers. The police searched those in the restaurant and when Miguel Angel protested, he was accused of being an army deserter [*desertor*] and forced into a police car. As he was being taken to a nearby National Guard post, he was allegedly beaten with batons, kicked and punched. At the post he was locked in a storage room and doused with a caustic substance, causing severe burns on several parts of his body, including his right eye. Miguel Angel lost consciousness and woke up at around 3am in a street of Caracas. His documents and money were missing. He was taken to the Military Hospital where he received treatment for his injuries.

Despite formal complaints before the authorities, including the General Attorney's Office, those responsible for Miguel Angel's torture have apparently not been brought to justice, nor has any compensation been paid.

Members of the security forces have also been tortured. For example, Juan Rodríguez Navarrete, Oswaldo Alvarado and Mario Guarimata Rodríguez, former members of the Metropolitan Police in Anzoátegui state, were arrested without warrant by the National Guard on 4 February 1993 in the town of Barcelona, and transferred to the local headquarters. The three men were allegedly tortured with beatings and threatened with death to make them confess to crimes they had not committed. The three were later released without charge. They presented a complaint about their torture and ill-treatment to the local attorney. To Amnesty International's knowledge, those responsible have not been brought to justice.

Máximo Puerta Ollarves, a member of the Zulia state police was arrested on 1 May 1993 by members of the DISIP under charges of robbery. He was transferred to the DISIP headquarters in Maracaibo and forced to confess under torture to a crime of which he is allegedly innocent. He was released on the following days free of charges. Máximo Puerta Ollarves remained in hospital for several days as a consequence of the injuries suffered under torture. On 14 July 1993 a state attorney opened a preliminary *información de nudo hecho*, (see below), against members of the DISIP believed to have participated in Máximo Puerta Ollarves' torture, but at the time of writing those

responsible have reportedly not been brought to justice.

Children have also reportedly been tortured. For example, on 19 January 1993, Elio Pereira Flores was arrested together with Elio González, his three-year-old son in Caracas, by six men who identified themselves as members of the PTJ. Elio Pereira was allegedly arrested without warrant for questioning by the police. His son was beaten and transferred to an unknown destination by two policemen who released him shortly afterwards, while Elio Pereira was driven to an unidentified detention centre in Caracas, which he described as a cellar, where he was interrogated under torture with beatings and electric shocks to several parts of his body. Before his release that same day, free of charges, Elio Pereira was allegedly told he would be killed if he complained to the authorities, regardless of which he presented a formal complaint before the General Attorney's Office. On 30 April 1993 a state attorney opened an *información de nudo hecho* against six members of the PTJ for the torture of Elio Pereira and his son, but to Amnesty International's knowledge, at the time of writing those responsible have not been brought to justice.

Victims of police brutality have even included disabled people. For example, on 27 July 1993 a group of blind street vendors staged a peaceful demonstration in Caracas to demand permission to carry out their activities, recently banned in central Caracas. The demonstration was violently dispersed by the Metropolitan Police, who shot rubber pellets against the group of blind people and used *peinillas* to hit the demonstrators. At least six suffered serious injuries as a result of the use of excessive and arbitrary force by the police to quell the demonstration. None of those responsible was brought to justice.

Why torture continues

Amnesty International believes that the main reason why torture continues in Venezuela is the impunity enjoyed by the perpetrators. The courts consistently fail to investigate properly complaints of torture and other serious human rights violations or bring those responsible to justice. Very few cases of torture have resulted in convictions. Even when convictions have been secured, they have often been based on lenient charges, usually resulting in suspended sentences or conditional releases.

There are many other factors that contribute to the continuing widespread use of torture and ill-treatment by state officials and the climate of impunity.

The police are allowed to hold a detainee in custody for up to eight days before his or her presentation before a judge — far in excess of what is considered safe to prevent conditions which facilitate torture. During this period of pre-trial detention, the police are entitled to collect incriminating evidence, including confessions. Confessions of guilt carry significant weight in Venezuelan courts: defendants have frequently been convicted solely on the basis of such evidence, despite allegations that the confession was obtained under torture.

Constitutional safeguards expressly prohibiting incommunicado detention are routinely violated. Many people, including minors, have been held for several days without access to a representative from the *Fiscalía General de la República*, Attorney General's Office, a body responsible for safeguarding individual's rights and guarantees⁸, or to their relatives. In some cases, relatives have been told that the police were not holding the person in question. Other detainees have been transferred while in police custody from one police station to another (an illegal practice known as *ruleteo*),

making it difficult for relatives to trace them. Also, individuals are often “*retenidos*”, “retained”, an irregular procedure distinct from a formal detention. However the procedure does not exist in Venezuelan law.

Individual rights of detainees are further undermined by the current judicial practice concerning *habeas corpus*. The right of *habeas corpus*, which allows any individual to challenge acts by the state which infringe his or her right to freedom, has been ineffective in most claims made by detainees in cases of alleged illegal detention by law enforcement agents. Judges invariably fail to accept this recourse from detainees in police custody during the first eight days of arrest, when torture most frequently occurs. This failing was exacerbated during the turmoil of February and March 1989 and after the military uprising of February 1992, when several judges reportedly interpreted the suspension of several constitutional guarantees to include *habeas corpus*, a non-derogable right, according to Article 27.2 of the American Convention on Human Rights. The Convention entered in force in Venezuela in August 1977.

Following growing criticism from national and international human rights organizations against this interpretation, the Attorney General's Office adopted measures to prevent repetition of such practices. However, during the period of suspended guarantees which followed the November 1992 military uprising, many detainees were reportedly denied access to courts to seek redress for their illegal arrest and torture.

The complaints procedure for cases of human rights violations by members of the security forces appears to be largely ineffective. One reason is the long delays in the *información de nudo hecho*, a special procedure reserved to members of the security forces. This is a secret investigation carried out by a court and the PTJ - usually at the request of an attorney representing the General Attorney's Office - into complaints about crimes committed by members of the police or armed forces while on duty or by reason of their position. The procedure is meant to be brief but frequently lasts for months, if not years. Based on the results of the investigation the attorney has discretionary powers to determine whether there are sufficient grounds to proceed with a formal criminal complaint. Many in Venezuela consider the *información de nudo hecho* to be an effective mechanism of impunity, often preventing, and systematically delaying, criminal proceedings against those responsible for human rights violations⁹.

In addition, there have been numerous reports of leniency by those involved in criminal investigations into human rights violations, including the state attorneys and the courts, towards members of the security forces accused of such acts.

Another significant factor that seriously undermines investigations into the use of torture and other gross human rights violations is the lack of independence of the *Instituto Médico Forense*, Institute of Forensic Medicine, the medical examiner's office in charge of documenting such abuses. The *Instituto Médico Legal* is part of the PTJ, a force often cited in reports of torture. Forensic examinations are reportedly carried out as a matter of routine in investigations of police abuse. However, forensic doctors often fail to certify injuries and other evidence which might incriminate the police.

Unfortunately there are few, if any, independent forensic doctors in Venezuela who might contest the official medical examiners or provide unbiased expertise in cases of human rights violations.

A further factor reportedly contributing to serious irregularities in the Venezuelan criminal justice system is the dominant role of the police, especially the PTJ in the

summary phase of criminal proceedings. According to reports, the police investigations — during which most cases of torture are reported — are the main factor determining the outcome of a large number of trials. This reportedly facilitates the practice of human rights violations against criminal suspects by the law-enforcement agents, who know that such abuses will usually be overlooked by the frequently overworked and judicial authorities.

The complaints procedure for torture and other human rights violations under military jurisdiction is further undermined by the frequent practice by the military authorities of denying access to detainees held under their responsibility, by members of the General Attorney's Office or by independent monitors. Civilians, who may be placed at the disposal of military courts on account of politically-motivated crimes, have frequently suffered torture and ill-treatment.

Some of the problems of the military courts leading to serious human rights violations were highlighted in the aftermath of the November 1992 military up-rising. On 27 November President Carlos Andrés Pérez, in his role as the Commander-in-Chief of the Armed Forces, ordered summary legal proceedings in the military courts against those accused of involvement in the uprising, including civilians. Under Presidential Decree 2669, the Ministry of Defence established, on 4 December, a *Consejo de Guerra Accidental*, a special military tribunal, and issued arrest warrants against 250 people, including around 40 civilians. Most of those named in the warrants were already in detention, having been arrested immediately after the uprising, together with hundreds of others who were released shortly afterwards.

Trials started immediately. Scores of the defendants, most of whom had suffered torture and ill-treatment in detention, were reportedly denied the right to defence, including access to a lawyer. The *Consejo de Guerra Accidental* concluded the summary proceedings and sentenced the defendants on the second week of January, after which it was dissolved. Most of the sentences were extremely harsh. On appeal before the *Consejo de Guerra Permanente*, a military court of appeals, around 110 military and civilians sentenced on first instance were released free of charges. At least 140, however, (including 10 civilians) remained in prison. Their cases were sent for appeal before the Supreme Court, which, on 13 March 1993, ruled that the extraordinary proceedings under Decree 2669 had infringed the defendants' rights to defence as enshrined by the Constitution. It ordered the cases of those imprisoned to be reviewed. Several prisoners were later released on individual appeal, but at the time of writing at least 40 still remained in prison. Those responsible for the torture and ill-treatment suffered by the people arrested under Decree 2669 have not been brought to Justice.

3. EXTRAJUDICIAL EXECUTIONS

Each time political tensions leading to internal disturbances have risen in Venezuela in recent years, so too have the number of reported extrajudicial executions. Some members of the security forces have apparently felt free to kill with impunity when law and order have been challenged. In almost all cases, the law has failed to bring those responsible to justice and in some cases has obstructed efforts by relatives to uncover the truth.

February and March 1989

In February and March 1989, against a background of mass protests against the

government's economic policies, several hundred people were killed. Some died in the general violence, but many were extrajudicially executed by the police or military personnel. Some were shot dead in the street while in police custody. Others died when shots were fired indiscriminately into crowds or homes.

The government maintains that 276 people died, of whom 87 remain unidentified. However, an official list of the dead has never been published. Human rights groups compiled a list of some 400 people who they say were killed or went missing during the disturbances.

At the time of the protests, relatives went to the Bello Monte morgue in Caracas to search for missing members of their families or to reclaim bodies. Officials there told them that the bodies had already been buried in common graves in a sector of a Caracas cemetery known as *La Peste*, The Plague.

Forensic staff at the morgue later claimed that the decision to bury the bodies in common graves was made because they were unable to provide proper storage for the large number of bodies. Some reports indicate that bodies were piled up on the morgue's floor, regardless of which those responsible for the office failed to organize extra storage space, such as refrigerated trucks, to keep the bodies pending identification.

Some human rights organizations in Venezuela, including *COFAVIC*, accused the authorities of purposefully disposing the bodies into unmarked mass graves to conceal the identity, cause and manner of death of the victims, thus casting impunity over the killings. Later findings seemed to confirm these allegations.

For several months the relatives, human rights groups and members of the church appealed to the courts to order the exhumation of the bodies. Their petitions met with little success. Initially, some government officials denied that the common graves existed. However, the authorities later acknowledged that people had been buried in common graves, but said that it would endanger public health to allow exhumations. The efforts of relatives and others finally bore fruit in November 1990, when a civilian judge ordered the exhumation of the remains allegedly buried in unmarked graves in *La Peste*. Forensic experts were sent by Amnesty International and Americas Watch to provide expert advice in the investigations. A few days later, bodies were discovered in plastic bags in a large unmarked trench. Subsequent forensic examinations resulted in the positive identification of three people, two of whom had been reportedly extrajudicially executed in the 1989 protests.

By April 1991, 68 bodies had been exhumed. Forensic examinations revealed that most of the bodies corresponded to those of young men aged between 16 and 25 who were buried at or around the same time. The fact that three of the bodies exhumed were identified as those of people who had been killed during the February and March protests strongly suggests that the others died during the same period.

One of those identified was José del Carmen Pirela León, a 16-year-old artisan. He was reportedly shot and injured by members of the Metropolitan Police while shopping with a friend on 28 February 1989. Forensic scientists established that he had died from a close range bullet wound in the head, an injury consistent with an extrajudicial execution.

José Pirela was buried by his family on 27 February 1991, two years after he was killed, in a ceremony attended by more than 500 people. The investigations into his death

were transferred from the military courts to the 7th Penal Court of the Federal District and State of Miranda *Tribunal 7 de la Circunscripción Judicial del Distrito Federal y Estado Miranda* in December 1989. Despite the evidence collected, nobody has been brought to justice for José Pirela's killing.

The body of Rubén Rojas Campos was also identified. He was one of six people killed on 1 March 1989 in Palo Verde by soldiers and members of the Metropolitan Police. Earlier that morning he had rung his workplace to say he could not come in because of disturbances in the neighbourhood. Shortly afterwards, a neighbour told his family that Rubén had been shot. Relatives found him covered with a sheet on the steps of the entrance to the Palo Verde underground station. Later, when they went to reclaim the body from the morgue, they were told that he had already been buried in a common grave.

The investigations into Rubén Rojas' death are also at a standstill in the Second Military Court and those responsible have not been brought to justice.

Information has since come to light about many of the others killed during the 1989 protests. In several cases, official explanations of the cause of death have proved to be lies.

For example, the Metropolitan Police claimed that Richard Páez Páez died on 3 March 1989 after falling from the roof of a house and breaking his neck. It was later shown that a bullet had passed through his heart. The death certificate indicated that the cause of death was “internal haemorrhage due to a bullet wound”.

In almost no cases have those responsible for the arbitrary killings and extrajudicial executions during February and March 1989 been brought to justice, nor have the relatives received compensation.

Two Argentinean forensic anthropologists who participated in the exhumation carried out in 1990 returned to Venezuela in April 1993. They expressed their deep concern about the lack of progress in the investigations into the remains exhumed two years before.

February 1992

On 4 February 1992, during the attempted military coup, an armed confrontation broke out between rebel soldiers and members of the state police outside Canaima police station, Valencia, in Carabobo state. Once the shooting had stopped, a convoy of National Guard rounded up soldiers who had surrendered. They ordered civilians to come out of nearby houses and wait in the street.

Members of the DISIP arrived and began to beat some of the civilians who had been handcuffed and forced to lie down in the street. A wounded soldier was dragged towards the civilians. According to reports, a member of the DISIP said: “Since you have been wounded in the leg, we might as well kill you” (*como estás herido en la pierna, es mejor que te matemos*). He then shot him dead at close range. Witnesses said another soldier was also shot dead at close range. The identity of the two soldiers is not known.

Three students were also the apparent victims of extrajudicial executions that day in Canaima. Gilberto José Peña and Angel Alberto Ruíz were reportedly armed and travelling with the rebel soldiers. During the shoot-out, both were injured. Reports indicate that they were subsequently shot in the head from close range. The other student, José Lirdemaro Zerpa Miotto, was allegedly not involved in the rebellion and had taken cover in a nearby house with a journalist from *El Carabobeño* newspaper.

Once the shooting had stopped, José Zerpa and the journalist came out of the house. According to witnesses, a member of the security forces kicked José Zerpa to the ground and shot him dead from behind.

The same day two other people — a student and a soldier — were reportedly executed extrajudicially in another part of Valencia. A bus carrying civilians and soldiers was stopped and then fired on by state police. Unconfirmed reports indicate that the soldiers on the bus did not return fire. Instead, they surrendered and threw their weapons to the ground. As they got off the bus, police reportedly fired at their feet and allegedly shot one soldier dead. A student, Columba Guadalupe Rivas, who was said to be too scared to get off the bus at first, was also shot dead by the police as she lay on the ground. The cases of all these extrajudicial executions were originally presented to a civilian court in Valencia. They were later transferred to military courts where standards of independence and objectivity in judicial investigations into complaints of human rights violations have repeatedly been called into question. Those responsible for the killings have not been brought to justice and no compensation has been paid.

November 1992 and the Retén de Catia massacre

Many people were killed in the wake of the 27 November attempted coup. An as yet unknown number of military personnel and civilians died in combat, in cross-fire or as a result of bombs being dropped on populated areas. Dozens of people, however, were extrajudicially executed by the security forces.

Most of those extrajudicially executed on 27 November were killed by the police during an attempted escape from the *Retén e Internado Judicial Los Flores de Catia (Retén de Catia)*, a prison in Caracas. The death toll is still disputed. While the Ministry of Justice claims 47 people were killed in the incident, the Attorney General's Office acknowledges that at least 63 died and more than 20 remain unaccounted for, although prison inmates and witnesses claim that up to 560 prisoners may have been killed. Although the Attorney General's figures appear to be nearest to the truth, further investigations are necessary to establish the definite number of victims.

The attorneys in charge of the investigation and witnesses interviewed by Amnesty International delegates who visited the prison installations in January and February 1993 say that many of those killed were executed after they had been captured by the security forces. On 27 November 1992 there were between 3800 and 4400 prisoners in the *Retén de Catia*, which has a maximum capacity for 900. More than 95% of the prisoners were on remand. Following the radio announcements on the early morning of 27 November of a military uprising, the prison wardens reportedly opened the doors of cells and told the prisoners to congregate in the central corridors. According to reports, in the confusion which followed, some guards started firing arbitrarily at the unarmed prisoners, several of which tried to escape towards the back of the prison, where some succeeded in breaking a small hole through a wall leading to the Guaire river. While most prisoners managed to return to their cells, scores who remained in the main alleys and those attempting to escape towards the river were shot at indiscriminately by the members of the security guard, the Metropolitan Police and the National Guard who were called in by the authorities to help curtail the attempted escape. Most of the killings reportedly took place in the prison's playground and on the shores of the Guaire river, which washed away the bodies of many dead prisoners.

According to reports the security forces failed to exercise due restraint in the use of

firearms as required by international standards such as the UN Basic Principles on the Use of Force and Firearms by Law-Enforcement Officials. And although the guards had reportedly secured total control of the situation by the end of the morning of 27 November, killings continued throughout the day. For example Edgar José Peña Marín, an inmate who gave himself up to members of the Metropolitan Police later that day, was reportedly killed by the police with two close-range shots to the chest and head while he was holding his hands up before the guards. Also, at least eight prisoners were killed at close range while attempting to climb an internal fence to escape the killings. Two other inmates named Faison and Nené Rico were reportedly shot at and killed by prison wardens while following orders to pick up the bodies of dead prisoners late on 27 November. These killings were witnessed by dozens of inmates.

As from around 15:00 hrs of 27 November the guards ordered all prisoners to assemble for a check-up in the playground, where they were reportedly beaten with rifle butts and *peinillas*, and forced to remain naked until around 23:00, when they were returned to their cells. On the following days hundreds were transferred to prisons in other parts of the country, such as *El Tocuyito*, *Los Morros* and *El Rodeo*, — all of which are also severely overcrowded —. During the transferrals, some of which took place late at night, the prisoners were systematically beaten with rifle butts and *peinillas*. The prisoners who remained in the *Retén de Catia* - more than 2500 - were reportedly deprived of food until 1 December 1992.

During two days which followed the massacre of 27 November, the authorities in charge of the *Retén de Catia* denied access to prisoners by relatives and members of the *Dirección de Derechos Humanos*, including Father Luis María Olaso, who was called by the relatives to ensure the safety of the inmates. Several relatives requesting access to their loved ones were beaten by the police.

A criminal investigation into the *Retén de Catia* massacre is under way, but human rights monitors in Venezuela have expressed concern that it may not lead to prosecutions. Those responsible for the investigations failed to conduct crime scene investigations although, according to information disclosed to Amnesty International, forensic investigations into the bodies of those killed in the *Retén de Catia* have revealed that many died of close-range shots, some of which to the back and to the head. This information, which is consistent with the witnesses' accounts of arbitrary and extra-judicial executions of the prisoners, should provide firm grounds for the prosecution of those responsible. Nevertheless, Amnesty International is deeply concerned that by July 1993 none of those allegedly responsible for the killings, including the former director of the prison (who was transferred on duty to another prison following the massacre), had been brought to justice, nor had anyone been suspended from duty, neither had the relatives of any of those killed received compensation.

In the barrios

The security forces have in recent years killed many criminal suspects, particularly in the *barrios*, in circumstances suggesting that they used firearms unnecessarily or with the deliberate intention of killing or causing serious injury.

For example, José William Guerra Ortiz, 16, was shot outside his home in Caracas on 30 June 1990 when he approached a DISIP patrol car. He was reportedly shot again and killed by a member of the patrol while he lay wounded on the ground. The police

later claimed he died during an exchange of gunfire, but this was denied by several witnesses. The killing has not been investigated.

José Salas Mendoza was shot dead by the Metropolitan Police in Caracas on 3 August 1991. Witnesses said that a policeman shot him as he lay wounded and defenceless on the ground. The police allegedly tried to fabricate evidence of a shoot-out by planting a weapon on the victim. No investigation has been initiated.

Gabriel Antonio Martín Salaverría was shot at point-blank range by members of the Metropolitan Police on 28 January 1992 while he was chatting with friends outside his home in Caracas. The police claimed they shot him during an exchange of fire. This was denied by witnesses and relatives of the victim, who also alleged that the police failed to provide emergency care to the wounded man who died a few hours later. No one has been prosecuted for his death.

On 18 March 1992 members of the Metropolitan Police shot Kirk García in the back, apparently without warning. The incident took place in one of Caracas' *barrios*. Kirk García was then reportedly kicked by the police as he lay wounded on the ground and died on his way to hospital. Those responsible have apparently not been brought to justice.

Geovanni Celestino Monné Meza was killed during a raid by members of the Metropolitan Police on 1 May 1993 in La Vega, Caracas. He was working with two colleagues late at night when the police ordered them to open the door of their workshop. When they began to do so, one of the officials reportedly opened fire with a machine-gun before entering. Geovanni Celestino fell to the floor critically injured. The police reportedly ordered the other two men to lie down and kicked them in the head, until neighbours who gathered to witness the incident protested against the policemen's behaviour. Geovanni Celestino was taken to a local hospital where he died on arrival. The other two men were arrested and held for five days before being released without charge.

Formal complaints about the killing and ill-treatment were presented to the Attorney General's Office on 19 May 1993. At the time of writing Amnesty International has not received information about any measure adopted to bring those responsible to justice.

Journalists and other victims

Since 1992 journalists have increasingly been targeted for harassment and violent attacks by the security forces.

For example, a soldier shot and killed Virgilio Fernández, a reporter for *El Universal* newspaper, while he was covering the military uprising of 27 November 1992. According to reports, the soldier deliberately fired at the car he was in, which bore the newspaper's logo, while it was parked near La Carlota air force barracks in Caracas. A colleague, Carmen Carrillo, who was also in the car, was injured. A criminal complaint was presented to the Attorney General's Office on 6 December. On 5 January 1993 the case was transferred to military courts which by July 1993 had failed to conduct any investigation.

In an earlier incident Verónica Tessari, a television reporter who was covering student demonstrations in Caracas on 19 March 1992, was hit and seriously injured by a tear-gas canister fired at close range by the Metropolitan Police. She died of her injuries on 15 January 1993. Those responsible for her death have not been brought to justice. There have also been frequent reports of unlawful killings of demonstrators by the

security forces as a result of the excessive use of force. In recent years, several people, most of them students, have died during protests, and many others have been seriously injured by buckshot or beatings.

For example, Raúl Contreras, a student at the University College “Cecilio Acosta” in Los Teques, was killed on 29 October 1991 by a member of the Miranda state police during a demonstration. Reports indicate that he had gone to help a fellow student affected by tear-gas on the tenth floor of the university when the policeman opened fire in an unprovoked attack.

Twelve-year-old Wilmer Alfredo Freites was killed on 10 August 1992 outside his home in Caracas by the Metropolitan Police who reportedly fired into residential buildings during an anti-government demonstration.

Two Wayúu Indians were extrajudicially executed by members of the Presidential Guard on 12 October 1992 during President Pérez' visit to Paraguaipoa (a region with a high indigenous population) as part of the commemoration of Columbus' arrival in the Americas¹⁰. The two unarmed men were killed in front of many witnesses after their truck accidentally crashed close to the presidential convoy. Those responsible have not been brought to justice, nor have the victims' relatives received any compensation.

Luis Enrique Landa Díaz, a 21-year-old medical student, was killed by the National Guard on 17 September 1992¹¹. A patrol of 20 members of the National Guard approached students and staff of the Medical School of the Carabobo State University in Aragua who were outside the building celebrating the school's 17th anniversary. After a verbal altercation, the guards fired tear-gas at the group, followed by live ammunition. The whole incident was recorded on video.

Luis Landa was shot dead a few minutes later. According to the forensic report, he died of a gunshot wound to the head. His body was taken to a local hospital. The PTJ and a representative from the Attorney General's Office later went to the hospital to begin an investigation into his death.

The same evening Luis Landa's father, Hipólito Landa Torres, talked to the media about his son's death. Almost immediately he began to receive threatening phone calls. At first the calls said that three of his other children who were at university would suffer the same fate as Luis if he persisted with his complaints. The family reported the threats to the authorities.

On 20 September the PTJ identified a member of the National Guard as a suspect. Ballistic experts had previously established that the bullet had been fired by the security forces. Investigations were opened in both the Military Court of the State of Aragua and the Fourth Penal Court of Aragua. The suspect was transferred to another state pending trial. In March 1993 the military courts requested jurisdiction of the case which, at the time of writing, was still being considered by the Supreme Court

On 25 December 1992, Hipólito Landa Torres was sitting in his house when four men stopped nearby in a red car. One of them leaned out and pointed a gun at his face. He then pointed to his legs and said: “*Toma tu aguinaldo, viejo marica*”, [Here's your bonus, you old faggot], and shot him in the left knee. The family continued to receive threatening phone calls and in February 1993 shots were fired at their house from a passing car. These incidents have been reported to the authorities.

Failure of the law

Many of the failures of the law outlined above in cases of torture also apply to cases of

extrajudicial executions. By and large, such killings are not investigated properly and few of the perpetrators are ever brought to justice.

For example, over four years after the events of early 1989, the vast majority of complaints of unlawful killings by the security forces submitted to the courts have made little or no progress. In only one case, that of Eleazar Mavares, has the person responsible been prosecuted. Eleazar Mavares was shot dead by a member of the Metropolitan Police on 2 March as he was walking across a bridge. The policeman was reportedly convicted of homicide and sentenced to 12 to 18 years' imprisonment. He submitted an appeal against the ruling and there are reports that the sentence may be reduced. He is said to be held in a special police precinct and allowed out at weekends. More than 200 cases of unclarified deaths and serious injury reported in 1989 are still unresolved in the courts. Most of the 68 bodies exhumed from *La Peste* have still not been identified despite the availability of competent forensic specialists.

Also, those responsible for the massacre of prisoners in the *Retén de Catia* on 27 November 1993 have continued to benefit from impunity.

4. PRISON CONDITIONS

Prison conditions throughout the country continue to be extremely harsh, frequently amounting to cruel, inhuman or degrading treatment.

Harsh conditions include severe overcrowding¹²; the use of punishment cells; inadequate food; deplorable sanitary conditions; lack of proper medical care and security measures, and the lack of rehabilitation programs. The authorities have acknowledged the grave situation in many prisons, but have failed to implement effective remedial measures.

Overcrowding and lack of adequate security in prisons has led to many deaths. For example, in *El Tocuyito*, a prison near the city of Valencia, an average of 14 prisoners reportedly died every month between January 1989 and February 1990, most of them killed in violent incidents. Despite official announcements early in 1993 of measures being adopted to prevent further deaths, at least 29 inmates were reportedly killed in the same prison between January and June 1993.

On 20 June 1993, six inmates in the *Centro Penitenciario de Barcelona*, a prison in the city of Barcelona, were killed during violent rioting. According to reports, the killings took place when two opposing gangs clashed after the security guards failed to stop an argument between groups of prisoners. At least 21 inmates were seriously injured during the incident.

Poor prison conditions have prompted frequent protests by inmates, some of which have been violently quelled by the security forces. For example, in October 1991 at least three prisoners in the *Penitenciaría General*, General Prison, in San Juan de los Morros were killed when prison guards broke up protests against overcrowding and ill-treatment.

Conditions of many detention centres for minors are also appalling. For example, in May 1991 a 15-year-old detainee at the *Albergue Carolina Uslar* in Antimano was reportedly held in a punishment cell for 25 days. According to reports, he had repeatedly asked to be let out and died after setting fire to the mattresses in the cell. In August 1991 a 17-year-old youth died in the same establishment as a result of severe burns he received during protests against the conditions of detention.

In addition, children are illegally kept in many adult prisons. For example, in February

1993 there were at least 70 minors in *La Planta*, a prison in Caracas. According to Venezuelan law, criminal offenders under the age of 18 should only be kept in juvenile detention centres under responsibility of the *Instituto Nacional de Menores*, the national institute for juvenile offenders.

Amnesty International delegates visiting Venezuela in early 1993 investigated the conditions in five prison establishments: the *Retén e Internado Judicial Los Flores de Catia*, in Caracas; the *Centro Penitenciario de Valencia* and the *Centro Penitenciario de Carabobo (Máxima de Carabobo)*, also known as *El Tocuyito*, both near the city of Valencia; the *Comandancia General de la Policía del Estado de Aragua*, the Aragua state police headquarters, also known as *El Alayón*, in the city of Maracay, and the *Centro Agropecuario de Reeducción El Dorado*, in the state of Bolívar. All these establishments were overcrowded at the time of the visit. For example, on 25 January 1993, the day of the visit to *Retén de Catia*, (with a maximum capacity of 900), had a population of 2441 inmates. Some of the cells visited by the delegates were so full that inmates could not lie down to sleep. The floors were covered with excrement and sewage. The food was insufficient, albeit disgusting.

The prisons visited had grossly inadequate sanitary facilities. Three had blocked sewage systems, and in *El Dorado* the sanitary authorities had classified its water as unfit for human consumption several months before Amnesty International's visit, regardless of which the inmates were still drinking the same water.

The delegates also noted that the prisons provided inadequate medical treatment, exercise and recreation. For example, in *El Tocuyito*, at the time of the visit in early February, some 192 prisoners, transferred from the *Retén de Catia* had still not been allowed out of their cells to the prison's sports ground since their arrival on 28 November 1992.

In addition, according to reports, prison guards routinely beat prisoners for minor breaches of discipline, using brutal methods which frequently amount to torture, including beatings with sabres and rifle butts.

The level of corruption of prison authorities and guards is reportedly very high. For example, it is apparently customary for wardens to request payment from prisoners to transfer them to "better" cells. Also, according to reports, a substantial percentage of the funds assigned to prisons, albeit insufficient, fail to reach their destination because of corruption. Prison wardens interviewed by Amnesty International delegates acknowledged that this was one of the root causes for the prevalence of inadequate prison conditions¹³.

Although the Ministry of Justice has repeatedly announced plans to reform the Venezuelan prison system, and to substantially reduce the overcrowding of prisons¹⁴, Amnesty International remains seriously concerned about continuing abuses suffered by hundreds of those held in the country's overcrowded prisons and detention centres. The organization believes that immediate and effective measures must be adopted to alleviate some of the most grave violations of human rights happening in prisons at the moment, such as the torture and ill-treatment of prisoners, and the use of arbitrary and inhuman forms of punishment.

5. LAW OF VAGRANTS AND CROOKS

Ley de Vagos y Maleantes, the Law of Vagrants and Crooks permits the administrative detention for up to five years, without judicial appeal or review, of people deemed by the

police to be a danger to society, but against whom there is no evidence of punishable crimes¹⁵. The law, which has been used in the past for detaining political dissidents, is still widely used in many states to hold people belonging almost exclusively to the poorer sectors of the population, suggesting discrimination on the basis of social origin¹⁶.

In recent years Amnesty International has also received sporadic reports about the use of this law to suppress political dissent. For example, on 25 November 1992 the head of the metropolitan police in Caracas publicly threatened to apply the Law of Vagrants and Crooks against Enrique Ochoa Antich and Edgar Silva, two human rights and political activists, if they persisted in their activities. They were arrested on that same day after participating in a peaceful demonstration in Caracas held by patients with kidney conditions demanding adequate care in public hospitals. Both activists were later released free of charge.

People detained under this law are held in cells in police offices and in prisons, although most of those serving "sentences" longer than six months are transferred to "rehabilitation centres" such as the *Centro Agropecuario de Reeducción El Dorado (El Dorado)*, located in the state of Bolívar, in an isolated jungle area close to the Guyanese border¹⁷.

Amnesty International's delegates visited this centre in February 1993. Although not severely overcrowded the conditions were deplorable. The sewage system was blocked, medical care was inadequate and the water undrinkable¹⁸. The delegates also confirmed reports about brutal beatings by the wardens. While the officials in charge of the establishment denied reports of recent torture and ill-treatment against detainees, a member of the delegation with forensic experience examined several inmates who had injuries consistent with reports of recent beatings by the guards, including signs of injuries with sabres and plastic-pellet gunshot wounds. The detainees told the Amnesty International delegation that on 25 December 1992 several guards subjected all the inmates to brutal beatings following the attempted escape of a prisoner. During the incident several prisoners were reportedly shot at arbitrarily at close range by a guard with plastic-pellet gunshots while they were standing against a wall. Those responsible have not been brought to justice nor have they been suspended pending an investigation.

During meetings with the Attorney General and the Vice-Minister of Justice in February 1993, Amnesty International's delegates discussed the organization's serious concerns about the continuing application of the Law of Vagrants and Crooks. They were told that the authorities were "seriously considering" modifications, and even the repeal of the law, pending the drafting and approval of a replacement law which, it was claimed, would help guarantee the citizen's security and the detainees' constitutional rights. Nevertheless, at the time of writing Amnesty International has received no information about modifications to the Law of Vagrants and Crooks.

Amnesty International is aware that at least one submission to the Supreme Court is pending which requests the court to abolish the Law of Vagrants and Crooks on account of it being unconstitutional. This submission has been pending since year 1985. It is high time the law was repealed. Both the letter and the application of the law violate individual rights and international human rights standards which Venezuela has promised to respect.

The law is purely administrative, in violation of the International Covenant of Civil and Political Rights. It offers no proper right of defence. The procedure applicable under this law is so akin to a penal action that it should carry the same guarantees as those established in international norms for a fair hearing, including the right to proper defence.

Its definition of “vagrants” and “crooks” is so vague as to raise serious questions as to whether its provisions are compatible with the principle of equality before the law. The definitions are also open to arbitrary and discriminatory interpretation and practices. In practice, the Law of Vagrants and Crooks is applied on the basis of mere suspicion, frequently when individuals have been previously arrested or interviewed by police without being charged. It is also applied to many people merely on the basis of their past criminal records. Amnesty International has received reports about people who have been repeatedly detained for several months on each occasion for this reason. As a result, the frequent police raids in poor neighbourhoods, carried out under this law to identify individuals with police records or those who may otherwise be deemed “dangerous”, give rise to countless complaints of arbitrary detention and other abuses. Most importantly, those arrested under this law are frequently victims of brutal torture. During Amnesty International's visit to Venezuela in early 1993 the delegates interviewed several detainees held under the Law of Vagrants and Crooks who had suffered torture and ill-treatment.

For example, John Antonio Páez, 33, a puppeteer from the town of Maracay, in the state of Aragua, was arrested for the first time in 1974 by the PTJ. He was reportedly forced to confess under torture - including electric shocks and near suffocation - to charges of burglary. He served a six-year jail sentence, after which he returned to his work in Maracay. In December 1980 he was detained in that city during a police raid and held under the Law of Vagrants and Crooks because of his criminal record. He was transferred to *El Dorado* until January 1982, when he was released for good behaviour. John Antonio returned to his family and work in Maracay, but in April 1984 he was detained during a police raid and, based on the same criminal record, was “sentenced” under the Law of Vagrants and Crooks to five years' imprisonment in *El Dorado*, where he was again released before the end of his “sentence” for good behaviour. In August 1986 he returned to his town and in July 1987 he was again detained during a police raid. When he complained against this arbitrary detention John Antonio was reportedly beaten by the police with batons and rifle butts, as a consequence of which he required medical treatment in hospital. He was sent again under the Law of Vagrants and Crooks to *El Dorado*, where he remained until April 1990. On 19 October 1991 John Antonio was again a victim of one of the frequent police raids in Maracay. Always based on the same old criminal record the authorities sent him once more to *El Dorado*, where he arrived on 26 November 1991, without a “sentence” nor an order of detention. On 11 November 1992 John Antonio held a hunger strike with other detainees demanding a visit of a representative of the Attorney General's office to complain about their arbitrary imprisonment, torture and ill-treatment. John Antonio was released from *El Dorado* on 13 December 1992 and returned to his home-town. He became increasingly active in a campaign against the Law of Vagrants and Crooks but on 22 January 1993 he was arbitrarily detained by members of the Metropolitan Police and transferred to the local state police headquarters. He remained in detention under the Law of Vagrants and

Crooks, always based on his old criminal record. John Antonio was not unemployed at the moment and was also expecting to join a new theatre group in the following week. John Antonio told Amnesty International's delegates who visited him on 29 January 1993 in *El Alayón*, a prison in Maracay, that he had been systematically tortured after each arrest. Torture included electric shocks to sensitive parts of the body, beatings and blows, *peinillazos* and death threats. He was examined by an Amnesty International doctor who found several injuries consistent with his allegations of torture, including bruises and cuts, such as those produced by flogging with *peinillas*. Although John Antonio Páez was released free of charges in February 1993, those responsible for his torture and ill-treatment have not been brought to justice. Amnesty International fears that he might be arbitrarily arrested again and tortured under the Law of Vagrants and Crooks.

John Antonio Páez' appalling ordeal is not unique. Several of those interviewed by Amnesty International's delegates in *El Alayón* (where 47 people were being held under the Law of Vagrants and Crooks at the time of the visit) and in *El Dorado*, had allegedly suffered similar situations, and all of those interviewed had reportedly suffered torture and ill-treatment. For example, Edgar Rafael Suárez Hermoso, 32, a musician from Maracay, was arbitrarily detained on 9 December 1992 during a raid by the state police in that town, and imprisoned in *El Alayón* under the Law of Vagrants and Crooks. He had been previously imprisoned in *El Dorado* - between 1985 and 1987, and between 1989 and July 1992 - under the same law, in connection to a criminal record dating from 1979. During his imprisonment in *El Dorado* Rafael Suárez frequently suffered brutal torture by the guards, including near suffocation with plastic bags (see photograph on page 4), flogging with *peinillas*, beatings with sticks, rifle butts and kicks. In January 1992 he lost an eye as a result of kicks to the head and face from a guard. Those responsible for his torture have not been brought to justice. Rafael Suárez remained imprisoned in *El Alayón* awaiting a decision from the state authorities for his transferral to *El Dorado*. Reports about his release later this year could not be confirmed by Amnesty International.

Several authorities, including the Attorney General, have acknowledged that the Law of Vagrants and Crooks infringes the Venezuelan Constitution, and the state of Bolívar has ceased to use the law in its territory. Yet others, while publicly acknowledging its unconstitutionality, continue to apply it. This includes the state of Aragua, where at least 242 people were detained under this law in 1992, many of whom were transferred to *El Dorado*.

So long as the authorities continue to apply the Law of Vagrants and Crooks, so Venezuela will continue to infringe international human rights standards which the country has long since ratified.

RECOMMENDATIONS

As illustrated by the above discussions, the human rights situation in Venezuela should call into question the government's commitment to their effective protection.

Amnesty International therefore urgently appeals to the Venezuelan Government to adopt and implement the following recommendations, which, if effectively implemented, should contribute to stop serious human rights violations in the country.

1. Prevention of arbitrary arrest

Arrests should only be authorized in instances of *flagrante delicto* or by a judicial

warrant.

Law enforcement officials should always adequately identify themselves and present arrest warrants at the time of arrest.

Redadas (police raids) should be immediately banned and strictly prohibited.

All arrests should be carried out under strict judicial control and only by authorized personnel.

Everyone should be informed, at the time of arrest, of the specific reasons for his or her arrest.

All detainees should receive a clear oral and written explanation of how to avail themselves of their legal rights, including the right to lodge complaints of ill-treatment.

The maximum period a detainee may be held by the police without being brought before a judge should be substantially reduced, and the judicial authorities should decide in not more than 24 hours the legal situation of detainees.

The armed forces should be prohibited from arresting, holding in custody or interrogating civilian detainees in criminal investigations.

Those failing to adhere to these safeguards should be effectively disciplined or brought to justice.

2. Prevention of incommunicado detention

All detainees should be brought before a representative of the General Attorney's Office immediately after arrest, and promptly presented before a judge.

Detainees should have access to relatives, lawyers and an attorney from the moment of arrest and regularly throughout their detention or imprisonment.

The government should provide free legal assistance to defendants without resources. Interpreters should be provided for non-Spanish speaking defendants, without exception.

Relatives should be informed immediately of any arrest and should be kept informed of the detainee's whereabouts at all times.

Habeas corpus petitions should be admissible from the moment of arrest, even during periods of suspended constitutional guarantees. Effective measures should be adopted to ensure that judges accept such petitions from detainees during the period of police detention, including those held under the Law of Vagrants and Crooks.

Rulings which result from a petition of *habeas corpus* in cases of detention, including unacknowledged and arbitrary detention, should be effectively enforceable throughout Venezuela, even at times of suspended constitutional guarantees.

Detainees and prisoners should be held only in official detention centres, a list of which should be widely publicized.

Every detention centre and prison should be required to keep a detailed up-to-date record, bound with numbered pages, of those detained or imprisoned, as well as the time of arrest and the identities of those who carried out the arrest. The record should include the time the detainee appeared before the attorney and before the judicial authority.

3. Strict controls over interrogation procedures

Interrogation should always take place in the presence of a representative of the General Attorney's Office and a lawyer.

In addition to a lawyer, a female officer should be present during interrogation of women detainees.

Children should be questioned only in the presence of a parent or next of kin and an attorney from the *Procuraduría de Menores*, Juvenile Attorney's office.

The date, time and duration of each period of interrogation should be clearly recorded, as well as the names of all those present during interrogation. These records should be open to judicial scrutiny and to inspection by representatives of the General Attorney's Office, lawyers and relatives of detainees.

The government should publish current guidelines of interrogation procedures and periodically review both procedures and practices, inviting submissions and recommendations from civil rights groups, defence lawyers, bar associations and other interested parties.

4. Separation of the authorities responsible for detention and interrogation

There should be a clear and complete separation between the authorities responsible for detention and those responsible for the interrogation of detainees. This would allow an agency not involved in interrogation to supervise the welfare and physical security of detainees.

The role of the *Policía Técnica Judicial*, Criminal Investigation Police, which is frequently responsible for detention and interrogation in criminal proceedings should therefore be revised accordingly.

5. Prohibition of the use of confessions extracted under torture

Confessions obtained as a result of torture or other ill-treatment should never be admitted in legal proceedings, except as evidence against the perpetrators.

Defendants convicted on the basis of coerced confessions should have their convictions promptly reviewed.

6. Implementation of judicial safeguards

The government should initiate effective reforms to the administration of justice, with regard to the codes of procedure, the provision for appeal mechanisms and the selection, training and supervision of appropriate personnel in sufficient numbers.

Delays in criminal proceedings exceeding legal limits should be effectively prohibited.

Meanwhile, defendants whose final sentences do not exceed the period of detention they have served in prison should have the right of compensation. Respect for the presumption of the detainee's innocence should be effectively respected throughout the judicial proceedings.

Judges should be rigorous in examining the legality of detention and the physical condition of defendants, and in investigating all claims of torture.

International standards pertaining to the judiciary, including those contained in the UN Basic Principles on the Independence of the Judiciary, should be incorporated in Venezuelan law and legal practice.

Adequate resources should be allocated to the judiciary.

7. Ensuring an effective supervision of detention and imprisonment

Domestic law and practice should conform fully with international human rights treaties including human rights conventions ratified by Venezuela, as well as the UN Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment.

The government should oversee the immediate and effective elimination of the use of

so-called “punishment cells” and other cruel, inhuman or degrading treatment in all detention centres and prisons.

Any form of detention or imprisonment and all measures affecting the human rights of a detainee or prisoner should be subject to the effective control of a representative of the General Attorney's Office and the judicial authority, as from the moment of detention.

The *Fiscalía General de la República*, Attorney General's Office, and particularly the *Dirección de Derechos Humanos*, Human Rights Directorate, should be ensured immediate and effective access to any detention centre or prison, under civilian or military jurisdiction, in the country. The office should be provided with additional resources, including forensic doctors to help with the medical documentation of human rights violations.

The government should take particular care to ensure the protection of detainees who are vulnerable for reasons of age or gender.

The confinement of children in prisons for adults should be strictly prohibited.

The authorities should ensure that defendants awaiting trial remain separated from convicted criminals.

Proper rehabilitation programs for convicted criminals should be implemented in all prisons.

All detention centres and prisons should be visited and inspected regularly by representatives of an independent body, including the *Dirección de Derechos Humanos*. The inspectors should conduct their visits without advance warning.

Any detainee or prisoner should have the right to communicate freely and in full confidentiality with the inspectors. The inspectors should have unrestricted access to all relevant records and be authorized to receive and deal with detainees' complaints.

The inspection body should prepare detailed reports of each visit, particularly about overcrowding and the health of detainees, and should ensure that appropriate action is taken to remedy all shortcomings relating to the treatment of detainees and prisoners.

The inspection body should make recommendations for improving conditions of detention in accordance with the UN Standard Minimum Rules for the Treatment of Prisoners. These should be acted upon within a reasonable period.

8. Adequate medical safeguards

An independent medical examiner's office should be established, with full administrative autonomy, to provide forensic expertise at a national level.

Medical examinations should be regularly provided for detainees and prisoners and should be performed by independent professionals under the supervision of a professional association, in accordance with the following principles:

— A medical examination should be carried out on each detainee promptly after arrest and before interrogation.

— Detainees should be medically examined every 24 hours during the period of interrogation; on a frequent and regular basis throughout detention and imprisonment; and immediately before transfer or release.

— The examinations should be performed by the authorized doctor, who should explain to the detainee the importance of having a full and contemporary record of his or her condition.

— Detainees should be informed of the importance of these medical examinations in verbal and written notice of their rights.

- Examinations should be carried out in private, exclusively by medical personnel. Special care should be taken to ensure that examinations of women prisoners are carried out in an acceptable manner.
 - Each detainee should have access to a medical officer at any time on the basis of a reasonable request.
 - Detailed medical records on detainees should be kept and should include weight, state of nutrition, visible marks on the body, psychological state and complaints about health or treatment received.
 - These records should be confidential but should be communicated, at the request of the detainee, to a legal adviser, his or her family, or the authorities charged with investigating the treatment of prisoners.
 - Each detainee should be entitled to private examinations by his or her own doctor at the request of the detainee or the detainee's lawyer or family.
- The medical examination of alleged victims of human rights abuses should only be conducted in the presence of independent witnesses: a health professional designated by the family, the legal representative of the victim or a professional designated by an independent medical association.
- Forensic doctors should be provided with the training and resources necessary for the diagnosis of all forms of torture and other human rights violations.

9. Investigation of all reports of gross human rights violations

All reports of suspected torture, “disappearances” or extrajudicial executions should be promptly, thoroughly and impartially investigated.

When detainees allege that their confessions were extracted under torture, the authorities should ensure a full and impartial investigation by an independent body into such allegations.

The investigating authority should have the power to obtain all information necessary to the inquiry; adequate financial and technical resources for effective investigation; and the authority to oblige those accused of torture to appear and testify.

Any government official who suspects that torture has been committed should report it to the relevant authorities, which should fully investigate all such reports.

The absence of a complaint by the victim or relatives should not deter investigation.

The involvement or complicity of health professionals in the torture and ill-treatment of detainees should be thoroughly and impartially investigated. Disciplinary proceedings should be instituted against medical personnel found to have breached the UN Principles of Medical Ethics.

In all cases of deaths in custody, forensic investigations should conform to international standards including the UN Principles on the Effective Prevention and Investigation of Extra-Legal, Arbitrary and Summary Executions.

10. Bringing those responsible to justice

Any law enforcement agent or person acting under the direction of law enforcement agents who is responsible for human rights violations, or for ordering, encouraging or condoning the practice of such abuses, should be brought to justice, and formal criminal proceedings should be immediately carried out into the allegations.

For this purpose the procedure of *información de nudo hecho*, a legal privilege which effectively protects those accused of gross human rights violations from prosecution, should be abolished or substantially modified to ensure swift, fair and open

investigations into such complaints.

Any law enforcement agent charged in connection with torture or other serious human rights violations should be immediately suspended from duties directly related to arresting, guarding or interrogating detainees. If convicted, he or she should be automatically dismissed from duty, in addition to whatever punishment is imposed by the court.

The crimes of torture and other gross human rights violations such as extra-judicial executions and “disappearances” should not be subject to any statute of limitations.

Any decision to suspend or dismiss state officials accused or convicted of human rights violations should be made public.

An effective information system should be set up to prevent state officials dismissed for human rights violations from being reassigned to similar posts in other jurisdictions or departments.

11. Protection of victims and witnesses

The government should ensure that all necessary measures are taken to prevent attacks on or threats against victims of human rights violations and their relatives, witnesses to such abuses and human rights activists; and that all those responsible for such actions are brought to justice.

12. Compensation for victims of human rights violations

Legal reforms should be adopted to ensure that all victims of gross human rights violations receive medical treatment and rehabilitation where necessary, and financial compensation commensurate with the abuse inflicted.

In cases where a detainee's death is shown to be the result of a gross human rights violation such as torture or extrajudicial execution, the victim's relatives should receive compensatory and exemplary damages.

13. Promoting respect for human rights

An absolute prohibition of torture and ill-treatment as crimes under domestic law should be visibly displayed in every detention centre in the country.

The government should adopt and publish a code of conduct for all law enforcement agents who exercise powers of detention and arrest. This code should conform to the UN Code of Conduct for Law Enforcement Officials and the UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officials.

In addition to categorically prohibiting the use of torture and ill-treatment, the Venezuelan penal code should specify that law enforcement agents have the right and duty to oppose the practice of torture or any other human rights violation, and therefore should refuse to carry out orders to inflict treatment on detainees. They must report any such abuses of authority to their superior officers and, where necessary, to the authorities vested with review or remedial powers.

Breaches of the code should result in specified disciplinary sanctions and criminal prosecution of the agents involved.

The government should ensure that all law enforcement agents and members of the armed forces receive adequate training on human rights standards, both domestic and international, and on the means for their protection.

14. The Law of Vagrants and Crooks and compliance with international law

The *Ley de Vagos y Maleantes*, Law of Vagrants and Crooks — which infringes the Venezuelan Constitution and the International Covenant on Civil and Political Rights, specially the rights to be presumed innocent and to be given a fair and prompt trial — should be immediately abolished.

15. Recognition of international procedures for human rights protection

The government should ratify the Second Optional Protocol of the International Covenant on Civil and Political Rights.

16. Effective investigations into 'disappearances'

The government should press ahead with investigations under way into past “disappearances”, particularly in relation to the killings of February and March 1989, with the aim of bringing to justice those responsible and clarifying the fate of the victims.

CAPTIONS

“March of Silence”: a member of the security forces uses a *peinilla*“, sabre, to beat students' union leader Luis FIGUEROA during a silent demonstration in Caracas in April 1992 © Ernesto Morgado/EI Nacional

Participants in the “March for peace”, calling for an end to violence by the security forces, take cover inside a church after police throw tear gas to disperse them. Caracas, April 1992 ©Orlando Ugueto/EI Nacional

A metropolitan policeman beats a demonstrator during a student march in Caracas on 19 March 1992 © Ernesto Morgado/EI Nacional

Edgar SUÁREZ HERMOSO, a torture victim, demonstrates the torture method known as *la bolsita* (the bag) to an AI delegate in January 1993 © AI

Macarri José FERMIN, a minor, suffered brutal torture by members of the Technical Judicial Police (PTJ). On 25 January 1992 he was arrested by the PTJ, held *incommunicado* for 8 days and repeatedly beaten before being released. © AI

Ivo RODRÍGUEZ ESCUDERO, shows AI delegates the way he was suspended by the wrists and brutally tortured by members of the Venezuelan security forces after his arrest on 26 November 1992 © AI

Miguel Ángel DELGADO MÉNDEZ recovering in hospital after members of the Metropolitan Police tortured him and poured acid over his body on 15 April 1992 © Enio Perdomo/EI Universal

Violent disturbances of 1989 which left several hundred dead: a soldier points his weapon at a defenceless and unarmed civilian © Nelson Maya

Above: November 1990: exhumation of unidentified bodies of people who died in February/March 1989, when hundreds were killed by the security forces. The banner reads “**No to impunity**”. The remains were discovered in an unmarked mass grave in the *Cementerio General del Sur*, Caracas © AI

Below: A forensic expert examines human remains found in a clandestine grave discovered in the *Cementerio General del Sur*, Caracas. Dozens of victims of the February/March 1989 riots, many bearing injuries consistent with extra-judicial

executions, were found in the area known as *La Peste* © AI

Student José Lirdemaro ZERPA MIOTTA, who according to witnesses, was extra-judicially executed by a member of the police on 4 February 1992, the day of the attempted coup © AI

Bodies of students Gilberto José PEÑA and Ángel Alberto RUIZ, who according to witnesses were extra-judicially executed by members of the security forces on 4 February 1992, the day of the attempted coup © AI

The bodies of two unidentified prisoners from the Retén de Catia prison in Caracas, floating in the Guaire River following the massacre of at least 63 prisoners on 27 November 1992 © Carlos Ribodo

Photographer María Verónica TESSARI on the moment she was hit by a tear gas canister shot by the police dispersing a student demonstration on 19 March 1992 in Caracas. She suffered serious head injuries as a consequence of which she died months later © Jesús Castillo

Above: Student Luis Enrique LANDA DÍAZ, killed in Aragua by a member of the National Guard on 17 September 1992. **Below:** The final moments of Luis LANDA DIAZ. He and other students were peacefully celebrating their University's 17th anniversary when members of the National Guard fired shots at those present, hitting Luis on the head. He died instantly despite the immediate assistance provided by his colleagues. © AI

Hipólito LANDA TORRES, father of Luis Landa, shows his wounds in January 1993, four weeks after being shot in the leg by unidentified gunmen for denouncing the killing of his son © AI

Prison conditions: blocked sewers are a continuous and extremely serious **health** hazard in the Retén de Catia prison, Caracas © AI

ENDNOTES

1. From an interview with a high government official, who told Amnesty International's delegates in February 1993: "...*el respeto de los derechos humanos se encuentra en un eclipse casi total en Venezuela...*", "the respect for human rights is nearly completely eclipsed in Venezuela".
2. Although the *Código de Enjuiciamiento Criminal*, the code of criminal proceedings, establishes a maximum period of one year for criminal proceedings, these have an average delay of 4 years. See VAN GRONINGEN, K.: *Desigualdad social y aplicación de la Ley Penal*. Caracas, Editorial Jurídica Venezolana, 1980.
3. See *Venezuela: Memorandum to the government*, AI Index: AMR 53/02/88
4. See *Venezuela: Reports of arbitrary killings and torture: February/March 1989*. (AI Index: AMR 53/02/90)
5. See *Venezuela: Torture and other human rights violations*. (AI Index: AMR 53/05/92)
6. For example: the *Programa Venezolano de Educación-Acción en Derechos Humanos* (PROVEA), an organization engaged in the documentation, defense and promotion of human rights, publishes *Referencias*, a monthly magazine, and an annual report covering the Venezuelan human rights situation; *Comité de Familiares de las Víctimas de los Sucesos de Febrero-Marzo 1989* (COFAVIC), an organization of relatives of those killed during February and March 1989 has been in the forefront of the

investigations into those killings and other extra-judicial executions, including the killings of prisoners in Caracas on 27 November 1992; the *Red de Apoyo por la Justicia y la Paz*, network for peace and justice, has been actively campaigning against torture. It publishes a monthly bulletin summarizing relevant information on human rights. Several other human rights organizations have been established in Caracas and elsewhere in the country.

7. In October 1993 Americas Watch, a US-based non-governmental human rights organization, published "Human Rights in Venezuela", a report which summarizes the organization's concerns in that country.

8. The *Fiscalía General de la República* is an autonomous Constitutional body responsible for ensuring that the Constitution and Venezuelan law are observed. It includes the *Dirección de Derechos Humanos*, Human Rights Directorate, which is responsible for safeguarding the human rights of citizens, including prisoners, and for seeing that members of the security forces who violate the law are brought to justice. The office is under the direction of former human rights monitor Father Luis María Olaso, who has been frequently praised by the Venezuelan public for his commitment. Unfortunately, the lack of sufficient resources and the frequent lack of collaboration from other officials, particularly the military, has seriously hindered the effectiveness of the Directorate. For example, although the office it is supposed to enjoy unrestricted access to any detention centre or prison throughout the country, its members, including Father Luis María Olaso, have frequently been denied access to detainees held under military jurisdiction.

9. See *VENEZUELA: Administración de Justicia y Crisis Institucional, Serie:*

Informes sobre Derechos Humanos 5, Comisión Andina de Juristas, 1992. Lima, Perú.

10. According to information released in July 1993 by the *Oficina Central de Estadística e Información (OCEI)*, Central Statistical and Data Processing Office, there are approximately 315.000 members of indigenous communities living in Venezuela, belonging to 38 different ethnic groups. These include the Wayúu, who live in the western part of Venezuela, in the Guajira peninsula, and in Colombia. According to this census, in four out of ten cases the Venezuelan Indians earn less than the equivalent of 28 U.S. dollars per month, a third of the minimum wage; 40% are illiterate and more than 30% do not speak Spanish; most communities lack basic services. Seventy-three percent of the indigenous communities in Venezuela have no ownership titles to the land they have lived in for centuries. Members of indigenous communities are frequent victims of abuse. For example, in July 1993 at least 13 Yanomami Indians, including six children, were killed by *garimpeiros*, illegal gold-prospectors, who crossed the border from Brazil. According to reports the gold-miners took revenge after two *garimpeiros* were killed in a confrontation earlier that month with the Yanomami, during which at least five Indians were killed. Around 10.000 Yanomami live in the border with Brazil, in remote forest-lands rich in mineral resources, including gold. Amnesty International has called on the Venezuelan and Brazilian Governments to cooperate in a full investigation into the killings.

11. The case of Luis Enrique Landa Díaz is highlighted in Amnesty International's Campaign to stop Political Killings and "Disappearances" launched in October 1993, together with the report *Getting away with murder: Political killings and*

“disappearances” in the 1990's (AI Index: ACT 33/25/93). See also October 1993 Amnesty International's Newsletter Focus Article: “Licence to kill”.

12. At the time of Amnesty International delegation's visit to Venezuela in late January 1993 there were an estimated 32,000 prisoners in the country's 32 prisons and detention centres, which have a total maximum capacity for around 12,000.

13. Two wardens of a high security prison holding around 500 prisoners told an Amnesty International delegate in February 1993 that the establishment urgently needed new pad-locks and a truck to transfer prisoners to court hearings. They claimed that despite repeated requests to the prison authorities these had failed to provide the items, including the locks, alleging lack of funds.

14. The *Ley de Libertad Provisional Bajo Fianza*, a law to grant release on bail, enacted on 9 December 1992, and the 1980 *Ley de Sometimiento a Juicio y Suspensión Condicional de la Pena*, a law for the conditional release of prisoners, have reportedly helped to speed the provisional release of some people held in prison. Nevertheless, according to several Venezuelan lawyers interviewed by Amnesty International, including Dr. Elio Gómez Grillo, a leading jurist, these laws have only helped to ensure the release of a relatively small number of prisoners.

15. The 1939 Law of Vagrants and Crooks was reformed in 1956 under the dictatorship of Marcos Pérez Jiménez, during which it was reportedly used to detain political dissidents. The law permits the arrest of *maleantes*, crooks, people which it defines as those “with a behaviour indicative of their criminal tendencies” (including those with criminal records or who have served sentences), and *vagos*, vagrants, those who, according to the law “are jobless without a reasonable excuse”, an alarming definition in a country with a degree of unemployment of up to 10%. Moreover these definitions are essentially imprecise and are open to arbitrary and discriminatory practices. The law is applied by administrative authorities, which include the municipal authorities (prefects), the state governor, and - in cases involving custodial sentences longer than six months - the minister of justice, to those arbitrarily arrested by the police, under suspicion of vagrancy or crookery. The judiciary has no participation in the proceedings. Detainees are rarely informed of the charges brought against them; they have no recourse to a *habeas corpus* and normally have no access to a lawyer.

16. See TOSCA HERNANDEZ: *Extraordinary police operations in Venezuela in: Vigilantism and the State in Modern Latin-America* Huggins, M.K. Ed., Praeger, NY and London, 1991.

17. The extremely harsh conditions of *El Dorado* are still consistent with those described decades ago by Henri Charrière in his book *Papillon*. The author was imprisoned in *El Dorado* between 1944 and 1945, under the Law of Vagrants and Crooks, after his epic escape from a prison in French Guyana.

18. A sanitary inspection of the water used by the prisoners in *El Dorado*, carried out in early 1992, established that it was “*no apta para consumo humano*”, unsuitable for human consumption. At the time of Amnesty International's visit the authorities had still not adopted measures to correct the situation.

KEYWORDS

IMPUNITY1 / TORTURE/ILL-TREATMENT1 / EXTRAJUDICIAL EXECUTION1 /
PRISON CONDITIONS1 / ADMINISTRATIVE DETENTION1 / INCOMMUNICADO
DETENTION / HARASSMENT / ARBITRARY ARREST / DEATH IN CUSTODY /
DETENTION WITHOUT TRIAL / SEXUAL HARASSMENT / STRIP-SEARCHING /
TRIALS / REARREST / CONFESSIONS / DISABLEMENT / EXTORTION /
STUDENTS1 / JOURNALISTS1 / POLITICAL ACTIVISTS / HUMAN RIGHTS
ACTIVISTS / COMMUNITY WORKERS / POLICE AS VICTIMS / MILITARY AS
VICTIMS / ARTISANS / FOREIGN NATIONALS / CLERICAL WORKERS / MANUAL
WORKERS / DISABLED PEOPLE / ACTORS / MUSICIANS / WOMEN / JUVENILES /
CHILDREN / POLICE1 / MILITARY / PRISON STAFF / ILL-HEALTH / PREGNANCY /
HUNGER STRIKE / HABEAS CORPUS / MILITARY TRIBUNALS / ESCAPES / POST
MORTEMES / EXHUMATION / MEDICAL CONFIRMATION / DEMONSTRATIONS /
COUPS / ELECTIONS / EMERGENCY LEGISLATION / PRISON VIOLENCE /
LEGISLATION / ANNIVERSARIES / TORTURE TECHNIQUES / NON-
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