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UNITED STATES DEPARTMENT OF JUSTICE
EXECUTIVE OFFICE FOR IMMIGRATION REVIEW
IMMIGRATION COURT
MIAMI, FLORIDA

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MIAMI, FLORIDA

In the Matter of:

Jose Guillermo GARCIA-MERINO

In removal proceedings

File No.: (b) (6)

EXHIBIT # 10
Marked For Identification ☐
Admitted 12/10/12

Immigration Judge Michael C. Horn

Next hearing: December 10, 2012

DEPARTMENT OF HOMELAND SECURITY'S SEVENTH NOTICE OF FILING

000001

The United States Department of Homeland Security, Immigration and Customs Enforcement ("DHS"), hereby files the following exhibits in the above-styled cause of action before the Honorable Michael C. Horn:

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Excerpts: **Carlo Federico Paredes**, former Under Secretary of Economic Planning, El Salvador.

"On January 27 1981, I resigned my position at the cabinet as it became clear to me that the civilian members of the government were unable to exert any control whatsoever over the security forces, which, under the direction of the high command of the armed forces, were responsible for widespread violence and atrocities committed against the civilian population."

Leonel Gomez, former Assistant Director of Land Reform Program, El Salvador.

"The factors that bind officers together from different services, especially the tandas, are greater than those which separate them. In summary, there is an integrated officer corps. If its leadership truly wanted to eliminate substantially [sic] the abuses now occurring, it could. But remember it doesn't. The army is bent on a war to exterminate all possible challenges to its power."

"The vast majority of killings are made in sweeps in the country-side by the armed forces engaging in indiscriminate killings or by death squads that operate under the formal or informal direction of the regional or local army commanders. Let me be clear. I am talking about the majority of the army officers now in charge. There are some, especially younger officers, who are revolted and shocked by what is going on."

"One is very cautious about rising up against the government when one has seen bodies of people sawed in half, bodies placed alive in battery acid or bodies with every bone broken. I saw all those things last year. And I know who did it, and so do the Salvadoran people."

Captain Alejandro Fiallos, formerly with the Army of El Salvador.

"[In December 1980] I was forced to leave my country after having received anonymous death threats for criticizing the high military command and the directors of the security forces for their lack of professionalism and for

their role in perpetrating atrocities against the civilian population.”

“... the base of power in El Salvador ... is the High Command of the armed forces and, more specifically, Colonels Jose Guillermo Garcia and Jaime Abdul Gutierrez, along with the directors of the security forces, who wield the real power in El Salvador.”

“An example of this is evidenced by the fact that despite two official requests from President Duarte to the Minister of Defense, Colonel Garcia, to remove Colonel Francisco Moran as the head of the Treasury Police due to the involvement of this branch of the security forces in the brutal assassination of various mayors..., Moran still retains his position.”

“It is a grievous error to believe that the forces of the extreme right, or the so-called ‘Death Squads’, operate independent of the security forces. The simple truth of the matter is that Los Escuadrones de la Muerte are made up of members of the security forces and acts of terrorism credited to these squads, such as political assassinations, kidnappings, and indiscriminate murder are, in fact, planned by high-ranking military officers and carried out by members of the security forces.”

QQQQQ BBC News, *El Salvador Head Apologizes for 1981 El Mozote Massacre* (January 17, 2012).344

Summary: El Salvador’s President Mauricio Funes has sought forgiveness for what he called “the worst massacre of civilians in contemporary Latin American history.”

RRRRR El Diario de Hoy, “*Enough Already!*” (June 11, 1980).347

Summary: Newspaper announcement signed by the mayors of 93 municipalities demanding from the revolutionary Government Junta (JRG) and the armed forces, an exhaustive investigation into the assassinations of nine mayors who were members of the Christian Democratic Party and the appropriate punishment of those found guilty.

SSSSS The New York Times, *Files Focus on Salvador Colonel in U.S. Women’s Deaths* (June 25, 1998).350

Summary: In 1985, Garcia acknowledged to U.S. Ambassador Thomas Pickering that “there existed an attitude among the national guard elements that colleagues should be protected” and indicated after learning of the American churchwomen’s murders he thought immediately of Colonel Edgardo Casanova, a military commander in the zone where the churchwomen were abducted. Garcia noted that before the churchwomen incident, something similar had happened within the territory falling under Casanova’s jurisdiction. Casanova was later transferred to a desk job at headquarters partly because of Garcia’s concerns.

TTTTT In Search, *The Story of Thirteen Mutilated Hearts* (January 2010)354

Summary: In late 1979 and the early 1980s, violence and governmental repression against the civilian population escalated. Usulután became one of the departments in which the first “scorched earth” military operations were carried out by the army against the civilian population. Within days soldiers in the El Salvadoran Army assassinated everyone who got in their way, burned houses, killed domestic animals and destroyed crops. More than 500 people, including women, elderly and children were massacred in a town known as La Quesera.

Survivors of the massacre reported seeing children thrown alive from military helicopters, and dying upon falling to the ground or into the river.

UUUUU *Romagoza Arce, et al v. Jose Guillermo Garcia and Carlos Eugenio Vides Casanova*, Case No. 99-8364-CIV-HURLEY (USDC-SDF)(Testimony of Expert witness Professor Jos Luis Garcia).364

Summary: Witness is a retired colonel, Republic of Argentina Army. He was a professor at various military colleges for over 14 years, where he taught basic military structures in military establishments, and how they function in accordance with international and national law. Respondent’s attorney stipulated in the civil trial that Professor Garcia is an expert on military command structure (Tr. 800);

Professor Garcia testified that the true commander of the armed forces is the Minister of Defense to whom the law assigns all responsibilities of creation and management of the armed forces (Tr. 826);

He described the sources of information about human rights violations that the Minister of Defense considers and relies upon, in forming strategy, or directing or supervising his troops, including his G-2 intelligence component, heads each division such as the National Guard and National Police, and information from outside the military structure, such as U.N. organizations, the Organization of American States, reports from the embassies of friendly countries such as the U.S. Embassy, reports of world-wide organizations, reports from the media, political, religious and cultural groups (Tr. 838-840).

Professor Garcia testified that the law and military regulations required Garcia to investigate the 19 specific instances of repression and human rights violations described in the Christian Democratic Party letter to the Junta dated January 31, 1980 (Exh. 7, Tab WWWW). In Professor Garcia's expert opinion, Garcia failed to do his duty by not ordering an investigation of the 19 incidents described. Under the obligations that are inherent in a military commander, Garcia should have immediately, and at least preventatively, adopted the recommendations requested in the letter, as well as a series of punishments throughout the chain of command (Tr. 850-855).

In his expert opinion, Professor Garcia found no evidence in his research that would indicate that Garcia lacked the power to effectively discipline his troops for engaging in human rights abuses (Tr. 980).

VVVVV United Nations, *International Covenant on Civil and Political Rights*, December 16, 1966, 999 U.N.T.S. 171.552

Summary: Signed by El Salvador on September 21, 1967. Ratified on November 30, 1979.

WWWWW Letter to: Members of the Revolutionary Government Junta; Members of the High Command of the Armed Forces; Members of the Leadership of the COPEFA (Permanent Council of the Armed Forces),555

From: The Christian Democratic Party, dated January 31, 1980.

Summary: The letter describes 19 incidents of human rights violations, including torture, murder, disappearances and threats

purportedly committed by members of the military and security forces; proposes structural changes to the armed forces and respect for human rights; recommends various corrective measures to the military High Command, including the issuance of precise written orders and directives prohibiting the violation of human rights and the dismissal of specific officers associated with human rights violations.

XXXXX	Report of the Special Investigative Commission on Political Prisoners and Disappeared of El Salvador, (January 24, 1980)575
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To: The Members of the Honorable Revolutionary Government Junta (JRG)

Summary: Commission formed by Decree No. 9 by the JRG to address abuses of power by the former regime. The commission identified several people arrested by the security forces who were missing and presumed dead. The commission made recommendations, including:

- the prosecution of the former military commanders of the Romero and Molina governments,
- the prohibition on the existence of jails or detention centers within the quarters of the security forces as such jails are conducive to abuses such as illegal detention, torture, and other violations of human rights,
- the formation of a military honor committee to collaborate with the commission to assist in its investigation of possible detentions and in the location of those who have disappeared for political reasons.

YYYYY	Political Constitution of the Republic of El Salvador Arts. 175-178579
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Summary: Authorizes the creation of military tribunals when a suspension of constitutional guarantees has been declared.

ZZZZZ	El Salvador Army Ordinance, Title II, Chap. III, Arts. 139-140 (1934).....585
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Summary: defines functions of Ministry of Defense.

AAAAAA	Declaration of Michael McClintock and curriculum vitae586
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Summary: McClintock is a career human rights monitor and advocate and presently serves as a consultant with Human Rights First, the Organization for Security and Cooperation in

Europe, and the MacArthur Foundation. Mr. McClintock was employed by Amnesty International (AI) from 1974 to 1994 and served in the research department. From 1979 through 1983, his research focused on Latin America with a special focus on Central America. AI was concerned with patterns of human rights abuses, in particular torture, "disappearances," and extrajudicial executions. To address these concerns AI under Mr. McClintock's supervision developed the Urgent Action Network. This network consisted of thousands of individuals, churches, and other organizations that sent letters and telegrams to El Salvadoran government officials, including General Garcia, reporting these abuses and requesting action.

BBBBBB *Summary of DOS cable dated June 1986, from AMEM.....652*
San Salvador, to Secretary of State.

Subject: Congressional correspondence, response to Rep Conyers' letter

Summary: Then U.S. Ambassador Edwin Corr notes the overwhelming majority of people killed in El Salvador during the war were slain between 1979 and 1983.

Since the U.S became actively involved in pressuring for reform, the number of political killings declined to several hundred in the past two years contrasted with over one thousand deaths per month during the earlier period.

Ambassador Corr conceded that in the earlier years of the fighting, civilians were victimized by Salvadoran military and security forces.

CCCCCC *Summary of Department of Defense cable initially sent April 1981 and resent October 1981, to Defense Intelligence Agency, Washington.....657*

Subject: (partially redacted) El Salvador/Status of the new Atlacatl Battalion

Summary: Describes the creation of the Atlacatl Battalion. Reports that the Battalion is subordinated directly under the chief of the armed forces general staff and its mission will be to perform as a counter guerrilla reaction force in any sector of the country.

DDDDDD The Sunday Times of London, *Victims of the Massacre that the World Ignored* (February 22, 1981).660

Summary: News article containing eye witness descriptions of the May 14, 1980 Sampul River Massacre.

One witness reported the arrival of three hundred El Salvadoran Soldiers supported by two helicopter gunships armed with bombs and machineguns.

A witness reported that the gunships flew low over the trees while strafing and bombing the civilian population and their homes.

A witness reported that the soldiers were accompanied by members of ORDEN and that they gathered the children and babies together, threw the children into the air and cut their heads off, and slit their bodies in two with machetes. A soldier told the mother of a child "we are killing the children of subversion."

DHS hereby advises the Immigration Court that it may supplement the record of proceeding with additional evidence. Any amendments to this list will be submitted in accordance with the local EOIR filing guidelines.

Respectfully submitted,



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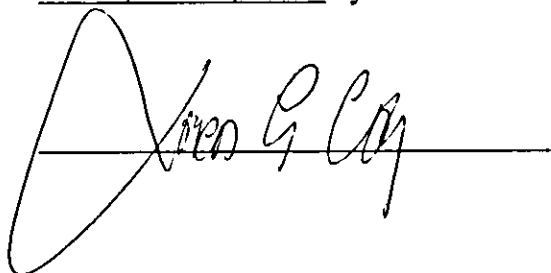
10/18/12
Date

Jose Guillermo GARCIA-MERINO

(b) (6)

PROOF OF SERVICE

On 10/18, 2012, I, Loren G. Coy, Senior Attorney, sent a copy of this Notice of Filing of Department of Homeland Security and any attached pages to Alina Cruz, Esquire, attorney for the respondent at the following address: 6303 Blue Lagoon Drive, Suite 400 Miami, Florida, 33126 by first class mail, United States Postal Service.

A handwritten signature in cursive script, appearing to read "Loren G. Coy", is written over a horizontal line.

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How El Rescate, a Small Nongovernmental Organization, Contributed to the Transformation of the Human Rights Situation in El Salvador

Todd Howland

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How El Rescate, a Small Nongovernmental Organization, Contributed to the Transformation of the Human Rights Situation in El Salvador

Todd Howland*

ABSTRACT

How the balance is struck between accountability for past human rights violations, structural changes that can contribute to a better human rights future, and achieving peace is examined in this article. The article describes the efforts of El Rescate, a small NGO, and how through the projects it developed and implemented facilitated measurable improvement in the

* Todd Howland joined El Rescate in 1986 as Directing Attorney of the Legal Department and later Directing Attorney of the newly created International Legal Department. Following El Rescate, the Carter Center's Human Rights Program contracted Howland in 1993 to work with the Office of the Special Prosecutor of the Transitional Government of Ethiopia. Thereafter he worked for the United Nation's High Commissioner for Human Rights Field Operation in Rwanda, which contributed to the development of the Rwandan government's response to the genocide. He headed the UN Human Rights Division of the UN Mission to Angola. Howland also served as the Director for the Robert F. Kennedy Center for Human Rights and Director of Global Programs of International Rights Advocates. He is currently Professor of Human Rights Law at the dual degree program of the United Nations-mandated University for Peace and the Graduate School of International Area Studies at Hankuk University of Foreign Studies in Seoul, Korea. This work was supported by the Hankuk University of Foreign Studies Research Fund.

The author would like to thank Annette Larkin and Bella Haiz for being an unending source of support during the writing of this article, Kristina Aiello, James Robinson, Janel Abuel, and Marquel Ramirez for their research assistance and Amy Beer, Libby Cooper, Sonia Baires, Patrick Ball, and Sushetha Gopallawa for providing comments on earlier drafts. All errors remain those of the author. The author would also like to thank the numerous individuals associated with the many projects and efforts discussed in this paper, for without their collective effort there would be no need for this article. A special recognition goes to Werner Lottje who recently died of cancer. Werner headed the German Diakonie Human Rights Desk. He was one of the first people to recognize the potential value of the Index to Accountability project. By doing so, he provided the kind of support that he did for so many creative human rights projects around the globe.

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human rights situation in El Salvador. By analyzing its efforts, this article hopes to contribute to an understanding of how change agents can develop unique and innovative tools during transitions toward peace that maximize the transformative potential to benefit the human rights situation.

I. INTRODUCTION

During El Salvador's long transition from more than a decade of civil war to a negotiated peace agreement, El Rescate,¹ a small nongovernmental organization (NGO), created and implemented a multi-faceted approach to address past human rights abuses perpetrated by military and paramilitary forces. This article analyzes El Rescate's work, exploring how a well-developed, integrated strategy enabled a small NGO to facilitate major transformations and significant measurable change. In particular, El Rescate's practice of grounding its strategy in El Salvador's unique history and particular pressure points for change, maximized the potential for leveraging positive human rights change by tactically confronting past abuses.

This article provides an historical context for El Rescate's contributions to the Salvadoran peace process and for the organization's efforts to challenge institutionalized impunity. El Rescate's strategies integrated traditional approaches to promoting and protecting human rights including: theoretical analysis of specific human rights and humanitarian law issues, litigation, and individual and coalition advocacy. In addition, El Rescate used contemporary social science and informatics applications to develop an innovative "Index to Accountability." The Index is a relational database that, in the context of the jurisprudence of command responsibility, facilitates identification of patterns of human rights violations. By developing two separate sets of data, one on human rights abuses and one on the command structure of the Salvadoran military over the course of the civil war, the Index connects abuses to individual components of the Salvadoran military, police, and paramilitary forces, as well as to the military High Command.

Ultimately, the Index to Accountability, beyond its use in the Salvadoran transition, stimulated the use and improvement of relational databases and information management as an important human rights tool.² As this analysis

1. El Rescate is a 501(c)(3) nonprofit organization based in Los Angeles, California. During the period discussed in this article, El Rescate maintained small offices in Washington, D.C. and San Salvador, the capital of El Salvador. El Rescate's history and structure are discussed further in this article. See *infra* Section II C. For more information, see El Rescate's website, available at <http://www.elrescate.org>.
2. While an interesting byproduct of the Index project, it is beyond the scope of this article. For more on the development of this area, see, for example, PATRICK BALL, RICARDO CIFUENTES, JUDITH DUECK, ROMILLY GREGORY, DANIEL SALCEDO, & CARLOS SILDARRIAGA, A DEFINITION OF DATABASE DESIGN STANDARDS FOR HUMAN RIGHTS AGENCIES (1994), available at <http://shr.aaas.org/DBStandards/cover.html>; PATRICK BALL, WHO DID WHAT TO WHOM? PLANNING AND IMPLEMENTING A LARGE SCALE HUMAN RIGHTS DATA PROJECT (1996), available at <http://shr.aaas.org/www/contents.html>.

indicates, El Rescate's success was built and depended on substantial work by diverse NGOs, sometimes working together strategically and other times working separately toward a similar goal. Rather than providing a comprehensive overview of the spectrum of NGO efforts and their impacts, this article focuses on ways that one small NGO made a significant impact in addressing past human rights abuses in El Salvador.

El Salvador's transition from civil war to peace engendered significant and positive human rights change, though this transition was far from perfect. Many individuals from NGOs (Salvadoran and international), the United Nations, and national governments contributed to the success of the Salvadoran transition. These individuals helped to foster the use of similar strategies to address past human rights abuses in various global regions. Since the Salvadoran peace process, these individuals have built upon the legal and informatics lessons learned and applied them elsewhere. By analyzing El Rescate's efforts, this article contributes to an understanding of how change agents such as El Rescate can develop innovative responses critical to transitions in post-conflict areas to maximize the transformative potential.

II. BACKGROUND: EL SALVADOR AND EL RESCATE FROM WAR TO PEACE

A. El Salvador's Civil War

From the era of colonization, when the Salvadoran military used repression to control rebellious rural peasants, until the outbreak of civil war in 1980, Salvadoran armed forces and a small elite controlled El Salvador both economically and politically. The civil war engendered one of the bloodiest periods in El Salvador's history. The war pitted Salvadoran government forces against five guerilla factions that united as the Frente Farabundo Martí Para La Liberación Nacional (FMLN, Farabundo Martí National Liberation Front). During the war, military and paramilitary forces, including the notorious death squads, were responsible for close to 95 percent of human rights abuses. At the same time, successive government regimes officially sanctioned impunity for human rights violations. The civil war uprooted tens of thousands of people, resulting in a major migration to the United States and elsewhere.³

3. For a case study that provides an overall review of the civil war and peace process and examines the national and international historical contexts that impacted them, see MAYRA GOMEZ, *HUMAN RIGHTS IN CUBA, EL SALVADOR AND NICARAGUA: A SOCIOLOGICAL PERSPECTIVE ON HUMAN RIGHTS ABUSE* (2003). See also TOMMIE SUE MONTGOMERY, *REVOLUTION IN EL SALVADOR: FROM CIVIL STRIFE TO CIVIL PEACE* (1995); ELISABETH JEAN WOOD, *INSURGENT COLLECTIVE ACTION AND CIVIL WAR IN EL SALVADOR* (2003).

During this period, El Salvador and the United States were closely allied, and US policymakers viewed prevention of a leftist or communist takeover as particularly important. Accordingly, El Salvador received significant aid from the United States, including weapons and military training. The US influence continues to be significant.⁴

The level of human rights abuses in El Salvador was similar to that in other countries in Latin America, where a phenomenon of a "culture of silence" based on a climate of terror and impunity developed. This phenomenon was reinforced by an ineffective judicial system that discouraged denouncing abuses to the authorities, as it was perceived to be useless and dangerous.

B. The Progression to Peace

During transitions from conflict to peace, perpetrators of human rights violations always place pressure on forgetting the past and moving on. In many ways, the easiest route to a peace agreement is to avoid the thorny path of dealing with past abuses.⁵ For the most part, prosecutions for past abuses have been the rare exception,⁶ and normally such prosecutions only take place after a military victory against an abusive regime or a major political change.⁷ In this reality, countries like Argentina, Chile, and Brazil have led the way in addressing the past without prosecuting those responsible. Many informative studies discuss alternative means of combating impunity without prosecutions.⁸ This article focuses on ways to leverage and maximize positive change when prosecutions are impossible.

In El Salvador, widespread abuses and official impunity meant that the government and military had good reason to want to avoid prosecution. For the FMLN, the issues were more complex. Each faction was singular, and its operations varied in size and nature. Although the FMLN accounted for a small fraction of total human rights abuses, the abuses were not spread evenly throughout the five factions. Accordingly, the factions not implicated

4. David Holiday, *El Salvador's "Model" Democracy*, 104 CURRENT HISTORY 77 (2005).

5. There are a number of interesting works on grappling with past abuses. See NAOMI ROHT-ARIAZA, *IMPUNITY AND HUMAN RIGHTS IN INTERNATIONAL LAW AND PRACTICE* (1995).

6. For a discussion on the use of prosecutions as a proactive means of improving human rights situations, see Todd Howland, *Learning to Make Proactive Human Rights Interventions Effective: The Carter Center and Ethiopia's Office of the Special Prosecutor*, 18 WISC. INT'L L. J. 407 (2000).

7. For a discussion of the use of prosecutions in the criminal tribunal context, see Todd Howland & William Calathes, *The U.N.'s International Criminal Tribunal, Is It Justice or Jingoism For Rwanda? A Call for Transformation*, 39 VA J. INT'L L. 135 (1998).

8. See, e.g., JANE E. STROMSETH, *ACCOUNTABILITY FOR ATROCITIES: NATIONAL AND INTERNATIONAL RESPONSES* (2003); Mark Ensalaco, *Truth Commissions for Chile and El Salvador: A Report and Assessment*, 16 HUM. RTS. Q. 656 (1994).

as frequently in human rights violations envisioned dealing with past human rights abuses as an opportunity to leverage substantial change, while other factions hesitated because of their own implication.

Moreover, Salvadorans were frightened by years of political violence. Civil war and differences among those who supported the FMLN or the government also created differences of opinion, competition, and distrust at many levels, including within political parties, NGOs, and human rights groups. Due to the very real dangers of publicly supporting the FMLN or even expressing a desire for change, there was always a lack of cohesiveness, and alliances constantly shifted.

At the same time, even as the international community pushed for peace in Central America,⁹ an ideology of a continuous Cold War permeated the White House during most of the Salvadoran civil war, even after the Berlin Wall collapsed in 1989. Moreover, entities such as the United Nations and countries within the Group of Friends¹⁰ maintained agendas distinct from that of the United States.

In this context, it was hard to imagine that a tiny NGO with limited funding could make a difference, but such is the role of an activist organization.¹¹ One reason for El Rescate's influence was that it was staffed heavily with Salvadorans linked to an array of organizations and social movements. Thus the NGO was able to factor many of the complexities into its work to provoke and facilitate change. Based on this understanding, El Rescate began to develop a cohesive strategy to address past human rights abuses and to push at necessary pressure points.

C. EL RESCATE

El Rescate was established in 1981 in Los Angeles in response to a Central American refugee crisis that stemmed from extreme political instability and violence plaguing the region.¹² The organization, which was the first of its kind in the United States, addressed the needs of the Central American refugee community in the Los Angeles area by providing such services as a homeless shelter, deportation defense, and representation of refugees seek-

9. The international community's push was motivated to some degree by the efforts of then-President of Costa Rica, Oscar Arias. See InfoCostaRica, Oscar Arias Sanchez (Nobel Peace Prize), available at <http://www.infocostarica.com/people/oscar.html>.

10. Maria Eugenia Brizuela de Avila, Minister of Foreign Affairs, El Salvador, Statement at the 57th Session of the United Nations General Assembly (19 Sept. 2002), available at <http://www.un.org/webcast/ga/57/statements/020919elsalvadorE.htm>.

11. See SUSAN BURGERMAN, *MORAL VICTORIES: HOW ACTIVISTS PROVOKE MULTILATERAL ACTION* (2001).

12. For a case study that provides an overall review of the civil war and peace process and examines the national and international historical contexts that impacted them, see GOMEZ, *supra* note 3.

ing political asylum.¹³ However, unlike many other service organizations, El Rescate developed a strategy to address the root causes of refugee flow, namely, systemic human rights abuses and impunity in refugees' countries of origin.

In Los Angeles, El Rescate serviced the immediate needs of Central Americans and initiated human rights work focused directly on El Salvador.¹⁴ A Human Rights Department monitored human rights conditions in El Salvador, maintained a database of violations, and beginning in 1985, published reports on the country's human rights situation. In addition, by 1987, El Rescate's Legal Department began to collaborate actively with El Salvador-based NGOs to bring petitions to international bodies such as the Inter-American Commission on Human Rights (IACHR)¹⁵ and the International Labour Organization (ILO).¹⁶

In the years before the signing of the 1992 Peace Agreement between the FMLN and the Salvadoran Government,¹⁷ El Rescate's goals shifted from

13. El Rescate: History, available at <http://www.elrescate.org/about.html>.
14. During the final stages of the implementation of the Salvadoran Peace Accords, there was a significant internal debate at El Rescate as to whether its human rights work should be shifted to another Central American country such as Guatemala. As the vast majority of Central Americans on the Board of Directors and on the staff were Salvadoran, the organization decided its work should continue to support El Salvador. As the reality in El Salvador began to change however, the human rights work that had been done became less and less important. Eventually, the organization became much smaller and focused on domestic concerns of Central American refugees and immigrants in Los Angeles in general.
15. For example, El Rescate filed petitions with the Freedom of Association Committee of the International Labour Organization and the Inter-American Commission on Human Rights (IACHR). It is one of two bodies in the Inter-American system for the promotion and protection of human rights. The IACHR is an autonomous organ of the Organization of American States (OAS). Its mandate is found in the Charter of the Organization of American States, 30 Apr. 1948, 2 U.S.T. 2394, 1119 U.N.T.S. 3 (entered into force 13 Dec. 1951), available at <http://www.oas.org/juridico/english/charter.html>; American Convention on Human Rights, signed 22 Nov. 1969, O.A.S.T.S. No. 36, 1144 U.N.T.S. 123, O.A.S. Off. Rec. OEA/Ser.LV/II.23, doc. 21 rev. 6 (1979) (entered into force 18 July 1978), available at <http://www1.umn.edu/humanrts/oasinstr/zoas3con.htm>. The IACHR represents all of the Member States of the OAS and has seven members who act independently, without representing any particular country. All members of the IACHR are elected by the General Assembly of the OAS. For further information about the structure of the IACHR, see Inter-American Commission on Human Rights, available at <http://www.cidh.org>.
16. The International Labour Organization (ILO) is a UN Specialized Agency, which seeks the promotion of social justice and internationally recognized human and labor rights. Founded in 1919, it is the only surviving major creation of the Treaty of Versailles, which was the founding document for the League of Nations. The ILO formulates international labor standards in the form of Conventions and Recommendations, which set minimum standards for basic labor rights such as freedom of association, the right to organize, collective bargaining, abolition of forced labor, equality of opportunity and treatment, among other standards regulating work related issues. See International Labour Organization, available at <http://www.ilo.org>.
17. Peace Agreement, U.N. GAOR, 46th Sess., Agenda Item 31, at 2, U.N. Doc. A/46/864-S/23501 (1992), available at http://www.usip.org/library/pa/el_salvador/pa_es_01161992_toc.htm [hereinafter Chapultepec Peace Accords].

documenting and denouncing human rights abuses to defining a strategy for facilitating positive social change in El Salvador based on human rights law. The organization identified the problem of institutionalized impunity for past human rights abuses in El Salvador¹⁸ as its priority.

El Rescate developed an ambitious, precedent-setting, multi-pronged strategy to contribute to the process of accountability that was absent during the civil war and through the peace process. Over the span of four years, and with the participation of more than a hundred people, El Rescate considered the theoretical foundations for combating institutionalized impunity, established a legal basis for prosecuting past human rights violations, defined ways to utilize command responsibility for holding commanding officers accountable in the context of systematic human rights abuses, and created a strong factual basis to deal effectively with past human rights violations.

The strategy was built on limited precedent. In other contexts, large church-related NGOs had either dealt with the past themselves (Brazil) or contributed to an official process dealing with past human rights abuses (Chile). El Rescate's use of contemporary social science and informatics and its diverse attempts to facilitate measurable change in the context of a peace process was an ambitious endeavor. Specifically, El Rescate pushed for structural changes in the Salvadoran police and military and for the creation of two entities: one empowered to remove active security officers for human rights abuses and the other to identify specific human rights abuses and responsibility for them. These changes came to fruition through aspects of the Salvadoran Peace Accords, which mandated significant structural changes in the Salvadoran security forces, the creation of an Ad-Hoc Commission to "purify" the security forces of human rights abusers, and a Truth Commission designed to create an official human rights history.

18. Throughout the era of civil war, the deep divisions and distortions in Salvadoran society and its economy were reflected in the country's system of justice. The formal legal system was based on written constitutions and civil law codes similar to those found in other [Latin American] countries. However, constitutional provisions were often left unimplemented. The judiciary was politicized and lacking in the most basic resources and management capacities. Formal training was unavailable to justice system operators. Corruption and intimidation were widespread. Extra-judicial executions were commonplace. Political and economic elites and the military were not held accountable under the law. By contrast, the vast majority of the prison population consisted of poor individuals accused of crimes and awaiting trial [for periods well in excess of the period provided by law].

OFFICE OF DEM. AND GOVERNANCE, BUREAU FOR DEM., CONFLICT AND HUMANITARIAN ASSISTANCE, U.S. AGENCY FOR INT'L DEV., PN-ACR-220, ACHIEVEMENTS IN BUILDING AND MAINTAINING THE RULE OF LAW: MSI'S STUDIES IN LAC, E&E, AFR, AND ANE 65 (2002), available at http://www.usaid.gov/our_work/democracy_and_governance/publications/pdfs/pnacr220.pdf.

D. The Peace Accords

The Salvadoran Peace Accords included a series of four agreements brokered under the auspices of the United Nations.¹⁹ Negotiations began in April 1990 and lasted until January 1992. The agreements are commonly referred to by the place in which the negotiations took place: Geneva (agreement to negotiate—4 April 1990); Caracas (agenda established—21 May 1990); San Jose (agreement on human rights—26 July 1990); Mexico (agreement—27 April 1991); New York (agreement—23 September 1991); and Chapultepec (final agreement—6 January 1992).²⁰ These agreements covered a wide range of issues, including economic and social problems (for example, land reform), demobilization and integration of FMLN and government soldiers back into civilian society, and confronting the country's tragic past, including its systemic violation of human rights.²¹ In addressing El Salvador's history of human rights violations, the accords established three mechanisms: mandating structural reforms, creating a quasi-judicial Ad Hoc Commission to remove from military service those implicated in human rights violations and corruption, and creating a Truth Commission to compile an official public accounting of El Salvador's history of human rights abuses.

1. Structural Reforms

One structural reform agreed to by the FMLN and the Salvadoran government included the formation of a new civilian national police force,²² including both FMLN and military combatants, in which an understanding of and compliance with human rights norms was mandatory.²³ Other structural reforms included legislative, constitutional, and practical changes in

19. The Secretary General took on this work at the request of the Central American presidents and with the authorization of Security Council Resolution 637 of 27 July 1989. Under traditional international legal principles only states can make treaties, but both the definition of state and what type of entity is needed to have international legal personality have been evolving. There is precedent for an insurgent movement, especially one like the FMLN that held territory and conducted "foreign relations," to be considered to have the requisite characteristics to enter into a binding treaty. The role of the United Nations was unprecedented in the Salvadoran process. Its role supports the view that the Peace Accords is a treaty between two international actors. What is interesting is that the FMLN was treated as having treaty making powers when they entered into the Peace Accords, but thereafter did not have the same resources available to it as a traditional State when the treaty was violated. For example, the FMLN would most likely not be able to file a complaint with the International Court of Justice when the Peace Accords were violated, although such a case would have interesting legal ramifications.

20. For a complete list and full text digital versions of all of the agreements reached during the El Salvador peace process, see the Peace Agreements Digital Collection, U.S. Inst. of Peace, available at http://www.usip.org/library/pa/el_salvador/pa_el_salvador.html.

21. Chapultepec Peace Accords, *supra* note 17.

22. *Id.* ch. 2, § 7(D).

23. *Id.*

the judicial and electoral systems aimed at creating some level of integrity and independence from the political and military forces.²⁴ As part of the Accords, the FMLN agreed to demobilize,²⁵ and governmental military and security units like the Treasury Police and the National Guard, both linked to systematic abuses, were to disband.²⁶ The parties also agreed to remove internal security jurisdiction from the military.²⁷

Significantly, the Peace Accords called for a UN mission to observe and report on the progress of the Accords' implementation. For instance, the mission would monitor compliance with structural reforms designed to improve the human rights situation.²⁸ The United Nations Observer Mission in El Salvador (ONUSAL) was established by the UN Security Council on 20 May 1991 and was working and publishing reports before the final Accord was signed.²⁹ Throughout its life, ONUSAL played an important role in bringing human rights issues to the forefront and addressing the question of institutionalized immunity. For example, ONUSAL noted in its report that:

In general, viewing the institutional order as a whole, the Mission cannot ignore the fact that many reports by the United Nations and by national and international human rights organizations have testified to the practical ineffectiveness of existing mechanisms in El Salvador for the defense, protection and promotion of human rights. This is especially important when we observe that, despite the high incidence of violations of human rights and humanitarian law, the investigation, prosecution and punishment of those responsible has been virtually non-existent, creating a perception of widespread impunity.³⁰

2. *Ad Hoc Commission*

The Chapultepec Accord mandated that the Ad Hoc Commission evaluate each officer in the Salvadoran military and consider:

[h]is record on observance of the law, with a special emphasis on respect for human rights, both in his personal conduct as well as the strictness with which he may have ordered the correction and punishment of human rights violations or abuses which may have occurred under his supervision, particularly if serious or systematic omissions are observed in this regard.³¹

24. *Id.* chs. 3, 4.

25. *Id.* ch. 6.

26. *Id.* ch. 1, § 6(C).

27. *Id.* ch. 1, § 1(F).

28. *Id.* ch. 8.

29. *U.N. Observers, Police Team Monitors Peace Accords*, UN CHRONICLE, Sept. 1995, at 52. ONUSAL's mandate was eventually expanded to monitor the implementation of all aspects of the peace process and to observe the 1994 elections.

30. *First Report of the United Nations Observer Mission in El Salvador*, U.N. GAOR, 45th Sess., Agenda Item 28, at 16, ¶ 36, U.N. Doc. A/45/1055-S/23037 (1991).

31. Chapultepec Peace Accords, *supra* note 17, ch. 1, § 3(A).

The Chapultepec Accord did not specifically define "human rights." Instead, it built upon other accords, specifically the San Jose Agreement on Human Rights of 27 July 1990, which defined human rights as: "[T]hose rights recognized by the Salvadoran legal system, including treaties to which El Salvador is a party, and by the declarations and principles on human rights and humanitarian law adopted by the United Nations and the Organization of American States."³²

The implicit integration of the contemporary understanding of command responsibility was critical to the Ad Hoc Commission's potential for effectiveness. Taken together, the Peace Accords made it clear that responsibility for human rights violations arises in three ways: (1) when a military officer issues direct orders, (2) when an officer fails to punish violations he was or should have been aware of, and (3) when a systemic pattern and practice of violations occurs under the officer's command indicating that he knew, or should have known about and corrected these violations.³³

Eventually, the Ad Hoc Commission's conclusions ranged from taking no action to changing command to discharging the serviceman under review.

3. Truth Commission

Both the Chapultepec and Mexico Accords discussed the creation of the Truth Commission. The mandate of the Commission was to address the historical problem of impunity:

The parties [the FMLN and the Salvadoran Government] recognize the need to clarify and put an end to any indication of impunity on the part of officers of the armed forces particularly in cases where respect for human rights is jeopardized. To that end, the Parties refer this issue to the Commission on the Truth for consideration and resolution. All of this shall be without prejudice to the principle, which the Parties also recognize, that acts of this nature, regardless of the sector to which their perpetrators belong, must be the object of exemplary action by the courts of law so that the punishment prescribed by law is meted out to those found responsible.³⁴

The Truth Commission had the authority to make a spectrum of recommendations to put El Salvador in compliance with its international legal obligations, end impunity, and give El Salvador the foundation necessary to start anew, solidly based on the rule of law.³⁵

32. *Agreement on Human Rights*, U.N. GAOR, 44th Sess., Agenda Item 34, at 2, U.N. Doc. A/44/971-S/21541 (1990), available at http://www.usip.org/library/pa/el_salvador/pa_es_07261990_hr.html.

33. Throughout the Peace Accords references are made to the respect for human rights and international law in general. Thus, international law provides the framework for the Accords to be interpreted. See Chapultepec Peace Accords, *supra* note 17; Peace Agreements Digital Collection, *supra* note 20.

34. Chapultepec Peace Accords, *supra* note 17, ch. 1, § 5.

35. *Id.* ch. 1, § 3.

The annex to the Mexico Agreements, signed 27 April 1991, explains the relationship of the courts and the Truth Commission: "The provisions of the Agreement shall not impede the normal investigation of any situation or case, regardless of whether the Commission investigates them or not, or the application of legal provisions pertaining to any act that is contrary to law"³⁶ and are "without prejudice to the obligations incumbent on the Salvadoran courts to solve such cases and impose the appropriate sanctions on those responsible."³⁷ The Accords placed certain other limitations on the Truth Commission. First, the Commission had only six months to carry out its ambitious mandate. Second, it had no jurisdiction to investigate incidents occurring before January 1980.³⁸ Further, the Parties instructed the Commission to take into account:

- a) The exceptional importance that may be attached to the acts to be investigated, their characteristics and impact, and social upheaval to which they give rise; and
- b) The need to create confidence in the positive changes which the peace process is promoting and to assist the transition to national reconciliation.³⁹

These provisions indicated a certain reticence to deal fully with the past and warned the Commissioners of the possible volatile impact of their findings. The Parties wanted to stabilize the country, not to engulf it again in conflict, so the goal was not a full accounting, but a means forward that included dealing delicately with the past.

III. EL RESCATE'S STRATEGY AND CONTRIBUTION TO HUMAN RIGHTS CHANGE

El Rescate's strategies were aimed at the pervasive problem of institutionalized impunity. They assisted in creating and maximizing the potential for human rights change by employing the mechanisms explained below. Although El Rescate developed its strategies simultaneously, this section organizes them sequentially to highlight the distinct types of work involved.

A. Theoretical Foundations for Eradicating Impunity and Political Efforts to Create a Viable Policy Response to Past Human Rights Violations

In establishing a foundation to address impunity in the Salvadoran context, El Rescate began by researching other efforts to deal with past human rights

36. *Mexico Agreements: Commission on the Truth*, U.N. GAOR, 46th Sess., Agenda Item 31, at 18, U.N. Doc. A/46/553-S/23130 (1991), available at http://www.usip.org/library/pa/el_salvador/pa_es_04271991_truthcomm.html#report.

37. *Id.* at 16.

38. Chapultepec Peace Accords, *supra* note 17, ch. 4.

39. *Id.*

abuses. Because of the dearth of relevant publications at that time, El Rescate staff members traveled to Brazil, Uruguay, Argentina, and Chile to meet with individuals, NGOs, and officials involved in these countries' recent, and at that time ongoing, efforts to deal with the past and to leverage positive human rights change. These trips created ongoing communication with those most active in this process in Latin America and allowed El Rescate to develop ideas for how to maximize change in El Salvador.

Then in April 1990, El Rescate published "Amnesty Impunity and the Need for a Negotiated Solution"⁴⁰ in El Salvador's leading scholarly publication, *Estudios Centroamericanos* (ECA).⁴¹ The article articulated three essential aspects to a successful anti-impunity campaign: (1) creating a social consciousness about the fundamental impropriety of any act in violation of international law, (2) removing perpetrators of human rights abuses from positions of authority, and (3) demobilizing or restructuring entities responsible for international law violations.⁴² The organization hoped that the publication would actively contribute to the discourse and understanding of the need to respond to institutionalized impunity as part of the peace process.

By publishing the article, El Rescate aimed to expose these ideas to current and future policymakers with whom the organization's staff was meeting and to others who could potentially influence the peace process. These included a broad swath of civil society: factions of the FMLN; Salvadoran human rights groups, legal associations, and influential members of the Bar; think tanks and leading academic, religious, and political leaders; UN officials; and diplomats and politicians from countries involved in the peace process such as leaders of Central American nations and the Group of Friends.

"Amnesty, Impunity, and the Need for a Negotiated Solution" was published in the early stages of negotiations between the FMLN and the Salvadoran government. After its publication, several discussion papers were prepared in Spanish and distributed to those involved in the negotiations and the peace process in general.⁴³ The papers addressed questions or concerns expressed by relevant individuals in response to the original article. On numerous occasions, El Rescate staff personally met with UN person-

40. Todd Howland, *Amnesty Impunity and the Need for a Negotiated Solution*, ESTUDIOS CENTROAMERICANOS, Apr.-May 1990, at 279-90 (published in Spanish).

41. *Estudios Centroamericanos* (ECA) is a scholarly journal that is published at the Universidad Centroamericana José Simeón Cañas (Central American University), a Jesuit University in the nation's capital, San Salvador.

42. Howland, *Amnesty Impunity and the Need for a Negotiated Solution*, *supra* note 40.

43. The following unpublished manuscripts were circulated by El Rescate and written by Todd Howland: Alternatives to Amnesty in the Salvadoran Negotiated Settlement; Amnesty, Impunity, and the Salvadoran Solution; A Comparative Look at Elements in the Construction of a Human Rights Culture—Lessons, Impressions, and Strategies; Impunity, the Negotiations and Beyond—Elements in the Construction of the Foundation of a Human Rights Culture in El Salvador (on file with author).

nel and FMLN representatives to advocate for mechanisms to deal with the past. Salvadoran, European, and US-based human rights groups, as well as church, labor, and religious groups, were also recruited to emphasize the need to include accountability measures in a peace agreement. El Rescate pushed hard for a body like the Ad Hoc Commission and contributed concretely to its creation.

With the progress of negotiations and the Parties' eventual agreement to include mechanisms to deal with the past, El Rescate turned its attention to particular aspects of these mechanisms. For example, standards regarding the Ad Hoc Commission's burden of proof were ambiguous at best, and it was unclear how theories of command responsibility would help overcome this ambiguity. There was also little clarity as to whether human rights violations included violations of humanitarian law.⁴⁴

1. Command Responsibility and Its Relation to the Ad Hoc Commission

El Rescate's position papers centered on ways to use international law to influence change and, specifically, on how to address impunity through the doctrine of command responsibility. This doctrine, developed in the Nuremberg trials, holds a commander responsible for the conduct of his troops if (1) he affirmatively ordered any violation of human rights obligations and/or (2) troops under his command committed misconduct that the officer could, or should, have prevented. In other words, the absence of a direct order to take actions that breach human rights standards could not absolve an officer of responsibility for a subordinate's actions if the officer knew, or had reason to know, that troops were committing or planning to commit actions violating international standards and the officer failed to take all feasible measures to repress or prevent these violations.

The fact that a breach . . . was committed by a subordinate does not absolve his superiors from penal or disciplinary responsibility . . . if they knew or had information which should have enabled them to conclude in the circumstances at the time, that [the subordinate] was committing or was going to commit such a breach, and if they did not take feasible measures within their power to prevent or repress the breach.⁴⁵

44. There are many areas of overlap among human rights, humanitarian, and refugee law. For an interesting treatment of how common this overlap is, see Donna E. Arzt, *Three Degrees of Separation: The Evolving Convergence of Human Rights Law, Humanitarian Law, and Refugee Law, in WAR IN THE TWENTIETH CENTURY: REFLECTIONS AT CENTURY'S END* 165 (Michael A. Hennessy & B.J.C. McKercher eds., 2003).

45. The principle is considered to be a formulation of command responsibility derived from the Nuremberg Tribunals and currently a declaration of customary international law. See High Command Case (U.S. v. von Leeb) (Case No. 12, 1948), *reprinted in 11 TRIALS OF WAR CRIMINALS BEFORE THE NUREMBERG MILITARY TRIBUNALS UNDER CONTROL COUNCIL LAW No. 10*, at 512 (1951). See also TELFORD TAYLOR, *NUREMBERG AND VIETNAM: AN AMERICAN TRAGEDY* 52-53 (1970).

The *Nuremberg High Command* case further held that:

No legal opinion was necessary to determine the illegality of such orders. By any standard of civilized nations they were contrary to the . . . accepted standard of humanity . . . Any participation in the implementing of such orders, tacit or otherwise, any silent acquiescence in their enforcement . . . constitutes a criminal act on [the officer's] part.⁴⁶

In El Salvador, there were not extensive records of commanders ordering violations, but substantial factual evidence supported the existence of patterns of systematic abuses. Thus, it was important to examine command responsibility in the context of patterns and practices of human rights violations. The European Court of Human Rights⁴⁷ defines a practice of human rights abuses as including the following two elements: (1) an accumulation of incidents of the same or similar nature sufficiently numerous and related, which do not constitute isolated incidents or exceptions, to form a pattern, and (2) tolerance of high-ranking officials.⁴⁸

Prosecutions of Argentine junta members reiterated the doctrine of command responsibility for recurrent violations of human rights.⁴⁹ In its closing statement, the prosecution successfully argued that the physical perpetrator does not bear the sole responsibility; instead, any person who controls "a structure" that obviates the will of individual perpetrators is also responsible.⁵⁰ It is important to note that Articles 44 and 46 of the Salvadoran Penal Code integrate the doctrine of command responsibility into domestic Salvadoran law.⁵¹

46. *High Command Case*, *supra* note 45; *International Military Tribunal (Nuremberg), Judgment and Sentences*, 41 AM. J. INT'L L. 172 (1947).

47. The European Convention for the Protection of Human Rights and Fundamental Freedoms represented the first step of collective enforcement of certain rights set out in the Universal Declaration of Human Rights. As part of its enforcement objective, the Convention set up three institutions that were entrusted with this responsibility, one of which was the European Court of Human Rights set up in 1959. European Convention for the Protection of Human Rights and Fundamental Freedoms, *opened for signature* 4 Nov. 1950, 213 U.N.T.S. 221, Europ. T.S. 5 (*entered into force* 3 Sept. 1953).

48. *Ireland v. United Kingdom*, 25 Eur. Ct. H.R. (ser. A) at ¶ 159 (1978).

49. From 1976 to 1983, Argentina was governed by a military dictatorship that committed horrendous human rights crimes, including torture, extrajudicial executions, and the imprisonment of thousands without trial. The hallmark of political repression in Argentina, however, was the practice of enforced disappearance. During what Argentines call the "years of lead" (*años de plomo*), military task forces in unmarked cars (usually Ford Falcons) snatched defenseless men and women (sometimes with their children) from their homes or places of work, took them to clandestine camps, tortured them mercilessly, murdered them, and disposed secretly of their bodies.

HUMAN RIGHTS WATCH, *RELUCTANT PARTNER: THE ARGENTINE GOVERNMENT'S FAILURE TO BACK TRIAL OF HUMAN RIGHTS VIOLATORS* (Dec. 2001), available at <http://www.hrw.org/reports/2001/argentina/>.

50. *República Argentina*, 309 Fallos de la Corte Suprema de Justicia de La Nación 276 (1986).

51. *Código Penal de la República de El Salvador*, Diario Oficial No. 63, Tomo 238 (30 Mar. 1973).

El Rescate argued that the Peace Accords reiterated a dual obligation imposed by contemporary human rights law on all states and persons: to respect (not to personally violate or order a person to violate) human rights and to protect and promote human rights actively (to guarantee respect for the human rights of individuals under one's jurisdiction). Using the doctrine of command responsibility, El Rescate translated this dual obligation into the following three areas of inquiry:

1. Did an officer direct or participate in human rights violations?
2. Did violations occur under a particular officer's command, either by personnel within his unit or within the geographic area of his jurisdiction? If so, were any actions taken to prevent or correct those abuses?
3. Were violations under a particular officer's command, either in his unit or in the geographic area of his jurisdiction, recurrent?

Moreover, El Rescate's position was that, in the Salvadoran context, command responsibility for repeated violations not only implicated officers in command of a particular unit or region, but also members of the military "High Command." They knew, or reasonably should have known, of systematic abuses occurring in the military entities that they commanded and should have taken steps to prevent further abuses. Even though those in the High Command were one step removed from the unit committing the abuse, El Rescate argued that the pattern of abuse was so pervasive that officers in the High Command should not escape accountability. In many ways, this theory of command responsibility defined the scope of the Ad Hoc Commissioners' actions. Although a burden of proof was never defined, past applications regarding command responsibility guided the Ad Hoc Commission.

The High Command's responsibility became most clear when a pattern of violations existed over time. The existence of these patterns was critical in advocating for structural reforms, such as disbanding units continually implicated in abuses and creating the Ad Hoc and Truth Commissions.

2. The Truth Commission's Role

El Rescate also focused on the Truth Commission's role and mandate, a subject of intense debate from the signing of the 27 April 1991 Accord, which created the Commission, until its first report issued in March 1993. First, many understood the Truth Commission as a body that would temporarily replace and compensate for the shortcomings of domestic institutions, especially the Salvadoran judicial system, which had failed miserably to protect Salvadoran citizens from the excesses of their own government. El Rescate argued strongly against this position, positing that the Truth Commission should be the architect of a plan to overcome El Salvador's tragic history by creating new institutions and reviving others. Ultimately, El Rescate

envisioned that the Truth Commission would assist in the transformation of Salvadoran society.

Second, the Truth Commission's mandate to investigate "grave incidents of violence" was controversial: was the Commission limited to investigating only "grave incidents," and how was the phrase to be interpreted? El Rescate insisted that "grave incidents of violence" was not a term of art under international law and was ambiguous. Most likely, the phrase was chosen to deal with the lack of clarity about how to treat human rights abuses by the FMLN.⁵² El Rescate argued that a "grave act of violence" is sufficiently broad to include violations of international human rights agreements, humanitarian law, and Salvadoran criminal law. It also argued that the use of these particular words should not be construed as a limitation on the Commission. El Rescate proposed that the Truth Commission's mandate obliged it to investigate all violations of human rights and recommend sanctions against the perpetrators.

Whether the Truth Commission would, in the end, fulfill its mandate depended entirely on its ability to make recommendations that actually would be carried out. For instance, it would be impossible to fulfill a recommendation to prosecute without the assurance of a radical change in the judicial system. Rather, the Truth Commission would need a series of other recommendations to assure that the adjudication and, if necessary, punishment were carried out consistent with El Salvador's international legal obligations.⁵³

52. While the term "gross human rights violations" would have been clearer, its use would have had important legal and political ramifications. Under traditional international law, an insurgent group is bound by a sub-set of the rules of international law or humanitarian law, but it is not necessarily bound by human rights law. The laws applicable to the FMLN can be distinguished from those applicable to other insurgent groups. The FMLN claimed that one of its major motivations for resorting to armed conflict was the systematic violation of human rights by the Salvadoran government. On various occasions, the FMLN stated that it considers itself to be bound by human rights norms and, in fact, signed an agreement on human rights where the Parties recognize that "the FMLN has the capacity and the will and assumes the commitment to respect the inherent attributes of the human person." *Agreement on Human Rights*, *supra* note 32. The FMLN's ability to unilaterally assume liability under human rights law is supported by arguments made by the school of thought that sees rights as flowing from the individual. This school believes that the individual is a proper subject of international law. Accordingly, the individuals comprising the FMLN would be bound by human rights law. See Julio Barberis, *La personalidad jurídica internacional*, in *Völkerrecht als Rechtsordnung—Internationale Gerichtsbarkeit—Menschenrechte: Festschrift für Hermann Mosler* 383 (Rudolf Bernhardt, Wilhelm Karl Geck, Gunther Jaenicke, Helmut Steinberger eds., 1983).

53. El Rescate, Submission to Truth Commission (31 Oct. 1992).

B. Establishing a Legal Basis—Demonstrating that Amnesty Laws Passed by the Salvadoran Government Violate the American Convention on Human Rights

El Rescate's efforts to support an end to impunity in El Salvador also were boosted by international legal developments. In the late 1980s, the IACHR received three separate cases from Argentina,⁵⁴ Uruguay,⁵⁵ and El Salvador addressing whether national governments could officially "forget" past gross human rights violations. In all these cases, the IACHR held that this was

54. In 1987, the IACHR began to receive petitions against the government of the Argentine Republic that denounced the legislature's passage of Law No. 23,492, enacted on 24 December 1986, and Law No. 23,521, enacted on 8 June 1987. On 7 October 1989, the Argentinean president issued Presidential Decree No. 1002, which ordered any proceedings discontinued against individuals who were charged with human rights violations and had not already benefited by the earlier laws. The original petitions received by the IACHR that challenged the first two laws were soon amended to reflect the Presidential Decree. Petitioners alleged that both laws and the Presidential Decree violated the petitioners' right to judicial protection as stated under the American Convention on Human Rights, *supra* note 15, art. 25, and their right to a fair trial as recognized by Article 8 of that same Convention. The Commission found that Law No. 23,492 and Law No. 23,521 and Presidential Decree No. 1002/89 were incompatible with Article 18 (right to a fair trial) of the American Declaration on the Rights and Duties of Man, signed 2 May 1948, OEA/Ser.LV/II.71, at 17 (1988), and Articles 1, 8, 25 of the American Convention on Human Rights, *supra* note 15. The Commission stated that it:

2. Recommends that the Argentine Government pay the petitioners just compensation for the violations referred to in the preceding paragraph.
3. Recommends to the Argentine Government that it adopt the measures necessary to clarify the facts and identify those responsible for the human rights violations that occurred during the past military dictatorship.

Consuelo v. Argentina, Case 10.147, Inter-Am. C.H.R., Report No. 28/92, OEA/Ser. L/V/II.83, doc. 14, at 41, ¶¶ 2–4, 53–56 (1992), available at <http://www.cidh.org/annualrep/92eng/Argentina10.147.htm>.

55. On 4 October 1991, the IACHR was petitioned to examine another impunity law, this time from Uruguay. Petitioners denounced the legal effects of Law No.15,848, which petitioners alleged violated rights upheld in the American Convention—the right to judicial protection (Article 25) and the right to a fair trial (Article 8). Because the Executive Branch was entrusted with investigating the military, doubts were raised regarding the seriousness and impartiality of the investigative proceedings and the judicial process. The Uruguayan Supreme Court held that the law was constitutional. The IACHR disagreed and held that Law No.15,848 was incompatible with Article 18 (right to a fair trial) of the American Declaration of the Rights and Duties of Man, *supra* note 54, and Articles 1, 8, and 25 of the American Convention on Human Rights, *supra* note 15. As part of its decision, the Commission stated that it:

2. Recommends to the Government of Uruguay that it give the applicant victims or their rightful claimants just compensation for the violations to which the preceding paragraph refers.
3. Recommends to the Government of Uruguay that it adopt the measures necessary to clarify the facts and identify those responsible for the human rights violations that occurred during the *de facto* period.

Mendoza v. Uruguay, Case 10.029, Inter-Am. C.H.R., Report No. 29/92, OEA/Ser.LV/II.83, doc. 14, at 154, ¶¶ 1–7, 55–58 (1992), available at <http://www.cidh.org/annualrep/92eng/Uruguay10.029.htm>.

unacceptable; blanket amnesty laws were contrary to the obligations of parties to the American Convention on Human Rights.

The Salvadoran case derived from a planned and precisely executed massacre of seventy-four members of the National Association of Indigenous People of El Salvador (ANIS).⁵⁶ As dawn broke on 22 February 1983 over the sleepy agricultural cooperative of Las Hojas in Sonsonate,⁵⁷ soldiers of the Fourth Detachment of the Salvadoran Armed Forces, with assistance from the local civil defense,⁵⁸ descended upon the town. They carried lists of Lenca and Maya descendants who were still farming the land of their ancestors and arrested ANIS members. Their bodies were found later that day with multiple bullet wounds and their hands tied behind their backs.⁵⁹

The massacre was carried out shortly after US backed Napoleon Duarte became President of El Salvador.⁶⁰ International outcry forced a criminal investigation, and eventually, a number of criminal charges were filed against soldiers and officers directly involved in the massacre. In fact, this was the

56. El Salvador is an ethnically homogeneous country, though a small segment of the population claims to have descended solely from indigenous peoples. The last census of Indians in El Salvador showed 80,000 in 1930, or 5.6 percent of the population. In 1932, approximately 30,000 were killed by government forces following an abortive uprising. In the face of such repression, most remaining indigenous people adopted local customs and successfully assimilated into the general population. There remain a few very small communities of indigenous people who still wear traditional dress, speak their native language, and maintain traditional customs without repression or interference. The Salvadoran National Indigenous Association (ANIS), headquartered in Sonsonate, promotes indigenous culture and language.

U.S. DEP'T OF STATE, COUNTRY REPORTS ON HUMAN RIGHTS PRACTICES FOR 1993: EL SALVADOR (31 Jan. 1994), available at http://dosfan.lib.uic.edu/ERC/democracy/1993_hrp_report/93hrp_report_ara/ElSalvador.html.

57. Las Hojas is part of the Municipality of San Antonio del Monte of the Sonsonate Department. This Department is one of fourteen and is located along the western coast of the country.

58. The nationwide Civil Defense network had its origins in 1) the patrullas cantonales, village patrols, established in the early 1900s and consisting of army reserve units and local peasants carrying out police-type patrols, and 2) ORDEN, Organización Democrática Nacionalista, Nationalist Democratic Organization, a national paramilitary network and rural vigilante force with tens of thousands of members established by the military in the late 1960s.

U.S. Citizenship and Immigration Services, El Salvador: Information on the Role of the Civil Defense During the War (8 Feb. 2001), available at <http://www.unhcr.org/cgi-bin/texis/vtx/refworld/rwmain?docid=3decd8184>.

59. A petition was filed in January 1989 with the Inter-American Commission on Human Rights. The attack was most likely motivated by offended wealthy landowners who had lost control of lands that ANIS members had only recently acquired title over even though they had traditionally resided upon them. *Masacre Las Hojas v. El Salvador*, Case 10.287, Report No. 26/92, Inter-Am. C.H.R., OEA/Ser.L/V/II.83, doc. 14, at 83 (1993), available at <http://www1.umn.edu/humanrts/cases/26-92-EL-SALVADOR.htm>.

60. In 1979, General Romero was ousted in a coup by reformist officers. The officers installed a military-civilian junta that failed to curtail army-backed political violence. In 1980, Jose Napoleon Duarte, a civilian reformer who enjoyed support from the United States and from some sectors of the populace, became the first civilian president since 1931. See BBC News, Timeline: El Salvador, A Chronology of Key Events (UK Version), available at http://news.bbc.co.uk/1/hi/world/americas/country_profiles/1220818.stm.

first time any high-ranking Salvadoran military officer stood accused of a human rights violation in a Salvadoran court.⁶¹ The case, however, never went to trial. It languished in the preliminary stages until 1988 when the Salvadoran Supreme Court terminated the prosecutions based on a November 1987 amnesty law.⁶²

In 1988, ANIS contacted El Rescate, which in January 1989 filed a petition to the IACHR on behalf of ANIS. The petition not only challenged the massacre as a violation of El Salvador's international legal obligations, but it also attacked the Salvadoran court's application of an amnesty law to block the prosecution of those responsible for the massacre. The IACHR petition was a coalition effort: El Rescate served as lead counsel, joined by the non-governmental Human Rights Commission of El Salvador⁶³ and Jack Tobin of the Harvard Law School's Human Rights Program⁶⁴ as co-counsel. The Minnesota Advocates for Human Rights⁶⁵ also joined the effort as *amicus curiae*.

61. See generally, HUMAN RIGHTS WATCH, *EL SALVADOR: IMPUNITY PREVAILS IN HUMAN RIGHTS CASES* (Sept. 1990), available at <http://www.hrw.org/reports/pdfs/e/elsalvdr/elsalv909.pdf>; MARGARET L. POPKIN, *PEACE WITHOUT JUSTICE, OBSTACLES TO BUILDING THE RULE OF LAW IN EL SALVADOR* (2000).

62. On 28 October 1987, the Legislative Assembly approved Decree Law No. 805, known as the Law of Amnesty to Achieve National Reconciliation. It was approved by the votes of 33 deputies from the government party, the Christian Democrats, after twenty-seven deputies from opposition parties refused to vote because they did not agree with the law's provisions. The amnesty law took effect on 5 November 1987. It benefited 1,000 political prisoners and nearly 4,000 rebels who turned themselves over to the army and were released. Almost 120 political prisoners were freed. Law No. 805 granted absolute amnesty to all persons, national and foreign, who acted as the immediate or proximate perpetrators or accomplices in the commission of political crimes or common crimes prior to 22 October 1987 in which no fewer than twenty persons were involved. Amnesty was also extended to those who had taken up arms but later came forward to declare their total renunciation of violence within fifteen days of the law entering into force. The scope of El Salvador's amnesty law did not extend to include those who took part in the assassination of Monsignor Romero, committed kidnappings for the purpose of personal gain, engaged in clandestine or fraudulent drug trafficking, or took part in the assassination of Herbert Anaya, head of the non-governmental Human Rights Commission. See *Annual Report of the Inter-American Commission on Human Rights 1987-1988: El Salvador*, Inter-Am. C.H.R., OEA/Ser.LV/II.74, doc. 10 rev. 1, ¶¶ 29-31 (1988), available at <http://www.cidh.oas.org/annualrep/87.88eng/chap4a.htm>.

63. The Human Rights Commission of El Salvador (CDHES) is a member of the International Federation on Human Rights (FIDH). CDHES is an NGO accredited by the United Nations and maintains Consultant II status with the European Union. Press Release, Human Rights Commission of El Salvador (CDHES), CDHES Joins Campaign in Support of Torture Victims (26 June 2002), available at <http://espanol.groups.yahoo.com/group/sanromero/message/205>.

64. The Harvard Human Rights Program is a research center with the Harvard Law School. For more information on this program, see Harvard Human Rights Program at Harvard Law School, available at http://www.law.harvard.edu/programs/hrp/about_us.html.

65. The Advocates for Human Rights (formerly the Minnesota Advocates for Human Rights) is a volunteer-based, nongovernmental and nonprofit organization dedicated to the promotion and protection of internationally recognized human rights. For more information on this organization, see The Advocates for Human Rights, available at <http://www.mnadvocates.org>.

On 12 October 1992, the IACHR publicly released a resolution on the Salvadoran case that dealt separately with the issue of amnesty for human rights violations. The Commission held:

That the passage of the Amnesty Law shortly after the issuance of an arrest warrant for an official of the Armed Forces legally eliminated the possibility of an effective investigation and prosecution of those responsible for the massacre.

That despite the weight of the evidence and the importance of the case, the Government of El Salvador has not made the effort incumbent upon it to thoroughly investigate the incident and prosecute all those responsible.⁶⁶

That the Government of El Salvador's failure to investigate and prosecute demonstrates the existence of a deliberate policy of ignoring crimes committed by the Armed Forces.

That Article 29 of the American Convention on Human Rights (ACHR) prohibits a State from unilaterally invoking the provisions of its domestic laws as a justification for non-compliance with a legal obligation imposed by the Convention.⁶⁷

That Article 144, 2nd clause, of the Salvadoran Constitution states: "The law cannot modify or revoke what has been agreed to in a treaty presently in force in El Salvador. In case of conflict between the treaty and the law, the treaty will prevail."⁶⁸

The IACHR's resolution concluded that the "Amnesty Law constitutes a violation of the right to ensure and respect the fundamental rights of Article 1,⁶⁹

66. American Convention on Human Rights, *supra* note 15, art. 1, demands that state parties ensure the rights in the Convention. The obligation is clarified by the Inter-American Court of Human Rights' interpretation in the Velasquez-Rodriguez case:

The State is obligated to investigate every situation involving a violation of the rights protected by the Convention. If the State apparatus acts in such a way that the violation goes unpunished and the victim's full enjoyment of such rights is not restored as soon as possible, the State has failed to comply with its duty to ensure the free and full exercise of those rights to persons within its jurisdiction. The same is true when the State allows private persons or groups to act freely with impunity to the detriment of the rights recognized by the Convention.

These obligations are not fulfilled in an investigation as a "mere formality preordained to be ineffective." In the Court's view, either a failure to investigate, or an investigation not undertaken in a "serious manner" resulting in a lack of punishment or compensation for the victim, violates the state's duty to "ensure" the full and free exercise of the affected right. Velasquez-Rodriguez Case, 1989 Inter-Am. Ct. H.R. (ser. C) No. 4, ¶¶ 166, 176, 177 (29 July 1988), available at http://www1.umn.edu/humanrts/iachr/b_11_12d.htm (finding Honduras responsible for the disappearance of Manfred Velasquez-Rodriguez).

67. American Convention on Human Rights, *supra* note 15, art. 29.

68. Constitución Política de la República de El Salvador de 1983, art. 144, available at <http://www.georgetown.edu/pdba/Constitutions/ElSal/ElSal83.html>.

69. The American Convention on Human Rights states:

The State Parties to this Convention undertake to respect the rights and freedoms recognized herein and to ensure to all persons subject to their jurisdiction the free and full exercise of those rights and freedoms, without any discrimination for reasons of race, color, sex, language, religion, political or other opinion, national or social origin, economic status, birth, or any other social condition.

American Convention on Human Rights, *supra* note 15, art. 1.

8,⁷⁰ and 25⁷¹ of the American Convention on Human Rights and related principles of international law binding on El Salvador."⁷²

Before the IACHR's 1992 decision invalidating the 1987 amnesty law, the Salvadoran government passed another amnesty law, "the Law of National Reconciliation," earlier in 1992.⁷³ The IACHR decision did not directly address the 1992 law, as its legality was not in front of the Commission. Importantly, the rationale utilized by the IACHR threw into question the validity of the 1992 amnesty law.

The IACHR issued its decision while the Truth Commission was in the middle of its deliberations. The Truth Commission's report, released in March 1993,⁷⁴ used the Inter-American Commission's decision and rationale.

C. Creating a Solid Factual Basis for Combating Impunity: The Index to Accountability

The theoretical and legal work was progressing. The remaining challenge to effectively combating impunity, as highlighted by El Rescate's discussion with a member of the IACHR secretariat, was the lack of a tool that could organize available information and create an understanding of patterns of

70. *Id.* art. 8 states:

Every person has the right to a hearing, with due guarantees and within a reasonable time, by a competent, independent, and impartial tribunal, previously established by law, in the substantiation of any accusation of a criminal nature made against him or for the determination of his rights and obligations of a civil, labor, fiscal, or any other nature.

71. *Id.* art. 25 states:

1. Everyone has the right to simple and prompt recourse, or any other effective recourse, to a competent court or tribunal for protection against acts that violate his fundamental rights recognized by the constitution or laws of the state concerned or by this Convention, even though such violation may have been committed by persons acting in the course of their official duties.
2. The States Parties undertake: a) to ensure that any person claiming such remedy shall have his rights determined by the competent authority provided for by the legal system of the state; b) to develop the possibilities of judicial remedy; and c) to ensure that the competent authorities shall enforce such remedies when granted.

72. Resolution Inter-American Commission on Human Rights—Case 10.287 El Salvador (decision in ANIS petition 12 Oct. 1992) (on file with author).

73. On 23 January 1992, the Salvadoran Assembly enacted the Law of National Reconciliation, which was an

amnesty law covering most political crimes. Exempted from the law were only the handful of cases decided by jury trial (the Jesuit case, the US churchwomen's case, and the Zona Rosa massacre, for example), cases of kidnapping, and cases in which the Truth Commission might recommend prosecution. However, the law specified that the Assembly could 'adopt the resolutions it considers appropriate' six months after the Truth Commission issued its findings, either extending the amnesty to all cases or preserving certain exemptions.

HUMAN RIGHTS WATCH, *WORLD REPORT 1993: EL SALVADOR: HUMAN RIGHTS DEVELOPMENTS* (1993), available at <http://www.hrw.org/reports/1993/WR93/Amw-05.htm>.

74. For a complete report of the El Salvador Truth Commission, see *FROM MADNESS TO HOPE: THE 12-YEAR WAR IN EL SALVADOR: REPORT OF THE COMMISSION ON THE TRUTH FOR EL SALVADOR* (1993), available at http://www.usip.org/library/tc/doc/reports/el_salvador/tc_es_03151993_toc.html.

abuses and responsibility for human rights violations during the civil war. A number of human rights groups realized the need for this tool, but few addressed it as seriously as El Rescate did through its assembly of data about incidents and perpetrators.⁷⁵ A number of actors collected a huge amount of information during the civil war, but collection was less than systematic and none of it was compiled. Conceptualized in 1990, the Index to Accountability became the factual complement to the theoretical work dealing with past abuses and the legal challenge presented to the IACHR.

IV. INDEX TO ACCOUNTABILITY: FACTUAL POWER BEHIND THE ADVOCACY

Before the signing of the Geneva Agreement in April 1990⁷⁶ between the FMLN and the Salvadoran government, which marked the beginning of the peace process, El Rescate initiated the arduous task of developing an Index to Accountability. The Index provided an accessible tool to illuminate global patterns of abuses during the Salvadoran civil war, and to relate those patterns to individual perpetrators and to those culpable according to principles of command responsibility. The Index also provided a more rigorous understanding of the kinds of abuses that had taken place and an accessible way to locate the victims' identities. Finally, it demonstrated the sheer magnitude of violations of human rights in El Salvador over the course of the civil war.

The Index to Accountability was just that: an index. It did not demonstrate accountability; rather, it was a tool to be used in the process of arriving at accountability. Effectively designing the project to bring results took the combined efforts of many individuals, some experimentation, and a good deal of creativity and persistence.⁷⁷

Two aspects of the early stages of the project are worth noting. First, in addition to advocating for creating mechanisms to deal with past violations, El Rescate staff members traveled to the Southern Cone countries to consult with human rights organizations involved in efforts to end impunity and

75. Luis Jimenez, of the Inter-American Commission on Human Rights, should be specifically mentioned as being helpful in the conceptualization stage of the Index project.

76. *Geneva Agreements*, U.N. GAOR. 45th Sess., Agenda Item 31, U.N. Doc. A/46/551-S/23128 (1990), available at http://www.usip.org/library/pa/el_salvador/pa_es_04041990_geneva.html.

77. Those deserving special mention include the following: Alberto Aguilar, Oscar Andrade, Sonia Baires, William Bollinger, Elizabeth Cooper, Kay Eckhoff, Bernie Eisenberg, Alba Escobar, Linda Garrett, Deirdre Hill, Susan Kandel, Oscar Lopez, Salvador Lopez, Mayron Payes, Tania Podliska, Haydee Sanchez, and many others on the staff of the Index project, the staff and Board of Directors of El Rescate, as well as numerous individuals who served as advisors in an official and unofficial capacity.

establish a basis for reconciliation. Specifically, staff members studied how to process information in a systematic way after it had been collected in a less than systematic fashion. Additionally, they looked at other examples of ways to structurally link human rights violations to actual perpetrators of human rights abuses. The efforts of Centro Estudios Legales (CELS) in Buenos Aires were especially illuminating.⁷⁸

Second, consultations were held with NGO human rights organizations in El Salvador,⁷⁹ various factions of the FMLN, members of the UN mediation team, and international human rights professionals in Europe⁸⁰ and the United States⁸¹ to establish which information sources were available and who was willing to cooperate. These meetings were necessary because of the political complexity of such projects. Bringing together enough relevant actors to realize the compilation of sensitive information required the co-operation and political clout of a wide range of actors.

Originally, El Rescate planned to digitize all reports on the human rights situation in El Salvador, including unpublished ones, and to collect more information. However, achieving a consensus on the best way to do this was difficult and resources were limited. El Rescate eventually settled for digitizing the most complete and credible set of human rights reports: those of Tutela Legal, the human rights organization of the Archdiocese of San Salvador.⁸²

The Index covers the entire civil war period, between January 1980 and January 1992. It is based upon principles of contemporary international human rights law, materials published by Tutela Legal, and a two-year study of the Salvadoran military done by El Rescate.⁸³ This study was essential to

78. Daniel Fontalini of CELS had done some of the first work in the area of linking a database of violations or incidents to a database with information on military hierarchy, structure, and its members.

79. For example, Tutela Legal, Socorro Juridico Cristiano, the non-governmental Human Rights Commission of El Salvador, the human rights program at the Lutheran Church.

80. For example, experts in Germany like Werner Lottje, as well as experts in Scandinavia.

81. For example, individuals working for Human Rights Watch, Amnesty International, Carter Center, Robert F. Kennedy Memorial Center for Human Rights, and Minnesota Advocates for Human Rights.

82. Tutela Legal del Arzobispado was created on 31 May 1982 in an administrative restructuring carried out by the Archdiocese and was the most important private human rights monitoring group in El Salvador. Prior to 31 May 1992, the Legal Aid Office of the Archdiocese of San Salvador (Socorro Juridico Arzobispado) documented human rights violations for the Catholic Church. AMERICA'S WATCH, *US REPORTING ON HUMAN RIGHTS IN EL SALVADOR: METHODOLOGY AT ODDS WITH KNOWLEDGE* (June 1982). After 31 May 1982, Tutela Legal carried on and expanded the work previously conducted by Socorro Juridico related to receiving denunciations of human rights violations. Tutela was recognized by the international human rights community as the foremost human rights monitor in El Salvador.

83. This study forms an integral part of the Index project.

establishing command responsibility because it shows where particular officers served and when, as well as whether the unit which they commanded had geographical responsibility. The study's innovation and digitized results provided the ability to cross-reference it with the violations database to create individual dossiers of abuses linked to each officer.

Thus the Index included two databases. One database contained all the incidents published by Tutela Legal, classified according to categories of violations of international human rights law as defined by ONUSAL.⁸⁴ The other contained extensive data on Salvadoran military structure and personnel. The interrelation of the two databases in the Index to Accountability gave El Rescate a unique capacity to describe El Salvador's tragic human rights past.

A. Incident Database

Tutela Legal's human rights reports served as the source for the incident database. To understand the data entered, one must understand Tutela's approach to human rights reporting. First, Tutela did not establish rigid categories of human rights violations. In fact, Tutela's materials, especially in the early years, indicated an unwillingness to overly categorize and classify. Its terminology often was descriptive and found in a textual format.

Second, of the many denunciations Tutela received, it only published information pertinent to those denunciations that it believed involved a violation of human rights. Tutela's staff investigated all denunciations before publishing them as human rights violations, according to its own conception of that term.⁸⁵ Tutela's conception of a human rights violation was, like that of other Salvadoran human rights organizations, grounded in the reality it confronted: armed conflict, a high level of politically-motivated violence, and a judiciary that simply did not function to protect human rights. Implicit in Tutela Legal's reports is the conclusion that legal protections, including investigations of abuses, were by and large ignored. Tutela's position was

84. ONUSAL was established in July 1991 to verify implementation of all agreements between the Government of El Salvador and the Frente Farabundo Martí para la Liberación Nacional (FMLN), including a ceasefire and related measures, reform and reduction of the armed forces, creation of a new police force, reform of the judicial and electoral systems, human rights, land tenure and other economic and social issues.

Info. Tech. Section/Dep't of Pub. Info. (DPI), U.N. Observer Mission in El Salvador (ONUSAL) (2003), available at http://www.un.org/Depts/dpko/dpko/co_mission/onusal.htm.

85. Interview with Lic. Hernandez, Executive Director of Tutela Legal, San Salvador, El Sal. (Aug. 1990). According to Hernandez, during the early years it was particularly difficult to carry out on-site investigations, thereby limiting what it could publish in its reports.

that the state apparatus, taken as a whole, was involved in creating the climate of impunity.⁸⁶

Tutela's materials were limited mainly because the staff only reported on an incident once. However, in the absence of a judicial response or remedy, the violation actually continued and changed in character, thus implicating rights related to the lack of access to justice as well. Logistical problems, including the difficulty and danger of traveling and limited resources, hindered Tutela's ability to investigate all abuses denounced.

Even if Tutela's published information was only a fraction of the universe of abuses, one should still consider that fraction significant. It included 15,212 violation records or "cases," of which 71 percent had only one victim.⁸⁷ Almost 98 percent had ten or fewer reported victims.⁸⁸ A small proportion of the violation records contained large and possibly speculative victim estimates.⁸⁹ A total of 42,367 victims were reported in all violation records.⁹⁰

B. Military Database

The information contained in the incident database was an important first step to compiling a comprehensive record of the systemic violence that occurred during El Salvador's civil war. The extensive military database and the ability to cross-reference the incident and military databases made the Index particularly useful and innovative. These features helped account for human rights abuses at the commanding and individual officer levels in accordance with the principles of command responsibility.

86. *Id.*

87. Tutela Legal began publishing monthly reports in May 1982. Violations cited during January 1980 through April 1982 reflect denunciations made in later publications. Consequently, information on human rights violations for the years 1980 and 1981 is underrepresented. It is widely accepted that the greatest number of abuses took place in those two years. For more information about the organization, see Tutela Legal del Arzobispado, available at <http://www.tutelalegal.org/>.

88. See El Rescate report to Ad Hoc Commission (on file with author); El Rescate Report to Truth Commission (on file with author). Both reports were based on information produced by the Index to Accountability, described in the introduction of this article and *infra* note 102. For more on this subject, see Bill Bollinger & Deirdre A. Hill, *The Index to Accountability: An Overview of Perpetrators Implicated in Human Rights Violations in El Salvador, 1980–1990* (July 1992) (unpublished manuscript, on file with author). The Commission on the Truth for El Salvador registered more than 22,000 complaints of serious acts of violence that occurred in El Salvador between January 1980 and July 1991. Those giving testimony attributed almost 85 percent of cases to agents of the state, paramilitary groups allied to them, and the death squads. *FROM MADNESS TO HOPE*, *supra* note 74, at 43–45.

89. *Id.*

90. *Id.*

The military database drew from the following sources: Salvadoran Military General Orders;⁹¹ *Diario Oficial* of El Salvador;⁹² US Defense Intelligence Agency (DIA)⁹³ (obtained via Freedom of Information Act⁹⁴ requests); Foreign Broadcast Index Service (FBIS);⁹⁵ Centro de Información, Documentación y Apoyo a la Investigación (CIDAI) of the Universidad Centroamericana (UCA) (University of Central America);⁹⁶ Report of Arms Control and Foreign Policy Caucus of the US Congress;⁹⁷ Max G. Manwaring's *El Salvador at War: an Oral History*;⁹⁸ and the FMLN and Salvadoran political parties (i.e., confidential sources). The occasional contradictions in the obtained information were resolved in favor of the most credible or "official" documents. The sources above are ordered from most credible to least credible according to El Rescate's evaluation.

The information gathered on jurisdiction and position of particular officers was assembled and integrated into the Salvadoran military structure and the chain of command. The database clearly delineated the jurisdiction of the High Command, the various specialized forces, and geographically based divisions.

Creating this database involved a substantial amount of work. A graduate of the Salvadoran Military Academy worked on this project for well over a year.⁹⁹ Several hundred Freedom of Information Act requests were made.

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91. The organic or basic law of the Salvadoran armed forces defines a general order. See *Ley Orgánica de la Fuerza Armada de El Salvador*, available at <http://www.asamblea.gob.sv/leyes/19980353.htm>.
 92. The *Diario Oficial* of El Salvador is an official compilation of El Salvador legislation.
 93. The Defense Intelligence Agency (DIA) is a Department of Defense combat support agency and a member of the United States Intelligence Community. DIA employs over 7500 military and civilian employees worldwide and is a major producer and manager of foreign military intelligence. For more information, see Defense Intelligence Agency, available at <http://www.dia.mil/>.
 94. The Freedom of Information Act (FOIA) generally requires federal agencies to disclose records requested in writing by any person. Agencies may withhold information pursuant to nine exemptions and three exclusions contained in the statute. For the full text, see FOIA, 5 U.S.C. § 552 (2002), available at <http://www.usdoj.gov/04foia/foiastat.htm>.
 95. The Foreign Broadcast Information Service (FBIS) Daily Reports consist of translated broadcasts, news agency transmissions, newspapers, periodicals and government statements from nations around the globe. These media sources were monitored in their original language, translated into English, and issued by an agency of the US government. The Index to the FBIS Daily Reports allows users can trace a story over time, examine perspectives on an issue from a single country, or compare views from several countries on the same issue.
 96. Centro de Información, Documentación y Apoyo a la Investigación (CIDAI) (Information, Documentation and Research Support) de la Universidad Centroamericana "José Simeón Cañas" de El Salvador (University of Central American, or the Jesuit University). CIDAI publishes a weekly called *Proceso*, available at <http://www.uca.edu.sv/publica/proceso/proci1131.html>.
 97. One of Congress' oldest member organizations, the Arms Control and Foreign Policy Caucus.
 98. *EL SALVADOR AT WAR: AN ORAL HISTORY OF CONFLICT FROM THE 1979 INSURRECTION TO THE PRESENT* (Max G. Manwaring & Court Prisk eds., 1988).
 99. For a more complete treatment of this subject, see El Rescate, *El Salvador—Estructura Militar Cadena de Mandos* (Jan. 1992) (unpublished policy paper, on file with author.)

The National Security Archive¹⁰⁰ and Patton, Boggs & Blow¹⁰¹ provided follow-up and assistance with this aspect of the work on a pro bono basis. At that time, this effort was perhaps the most extensive study by an NGO of the military within the framework of command responsibility done for the purposes of accountability for past human rights abuses. Its ability to help link military officers to violations was a substantial innovation.

An example of the "resume report" created for each high-ranking military officer is reproduced below, in this case for Juan Carlos Carrillo Schlenker.¹⁰²

Resume Report for Military Officer
Juan Carlos Carrillo Schlenker
Graduating Class: 1966

Date	Rank (R), Unit (U), or Training (T)	Source
11-11-1966	(R) 2nd Lieutenant (graduated from Sub Lieutenant Military School)	Defense Intelligence Agency
01-01-1968	(U) Military School "Gerardo Barrios" (Chief Squad)	Defense Intelligence Agency
07-01-1968 to 09-01-1968	(T) Panama (U.S. School) (Tactical Officer, Fort Gulick (USARSA))	Defense Intelligence Agency, Confidential
01-01-1969 to 12-20-1969	(T) Other (graduated from "Ranger", Command school)	Defense Intelligence Agency
01-01-1970	(U) National Guard (Chief Squad, 7th Company)	Defense Intelligence Agency
04-01-1970	(U) National Guard (Chief Squad, Training Company)	Defense Intelligence Agency
01-01-1971	(U) Cavalry Regiment (Chief of Section, 1st Squadron)	Defense Intelligence Agency
12-31-1973	(R) Captain	Defense Intelligence Agency
01-01-1976	(U) Cavalry Regiment (Commander Squadron Mounted Mixed)	Defense Intelligence Agency
05-03-1976 to 01-01-1977	(U) Cavalry Regiment (Instructor, Mounted Section)	Defense Intelligence Agency
02-01-1979	(R) Major	Defense Intelligence Agency
12-01-1980 to 01-01-1982	(U) Treasury Police (S-2 (Intelligence))	Defense Intelligence Agency, Other local business not specified, Confidential
01-01-1982 to 05-01-1983	(U) Military Party No. 5	Defense Intelligence Agency, Confidential, Confidential
12-31-1982	(R) Lt. Colonel	Defense Intelligence Agency
06-01-1983 to 01-01-1984	(U) Treasury Police	Defense Intelligence Agency, Confidential
02-01-1984 to 10-01-1984	(U) Military Party No. 1	Defense Intelligence Agency, Confidential, Other local business not specified
11-01-1984 to 07-01-1987	(U) Atlacatl Battalion	Defense Intelligence Agency, Foreign Broadcasting Information Service, Confidential
12-31-1986	(R) Colonel	Defense Intelligence Agency

100. The National Security Archive is an independent nongovernmental research institute and library located at *The George Washington University* in Washington, D.C. The Archive collects and publishes declassified documents acquired through the *Freedom of Information Act (FOIA)*. For more information, see the NSA official website, available at http://www.gwu.edu/~nsarchiv/nsa/the_archive.html.

101. Patton, Boggs & Blow is a Washington, D.C. based law firm. For more than forty years, the firm has worked closely with Congress and regulatory agencies in Washington, litigated in courts across the country, and negotiated business transactions around the world.

102. The Index to Accountability project is, in essence, a database. It can be searched and can create multiple types of reports using various software programs. When El Rescate made its submissions to the Ad Hoc Commission and the Truth Commission, it provided hardcopies of the reports that it thought were most useful to the Commissions. El Rescate generated fifteen volumes of material, much of it in Spanish. There are only a couple of these hardcopies in existence at present. Of the hardcopy reports, the officer resumes are found in volume 8. The reports are found in alphabetical order. The report is a translated version of volume 8.

Date	Rank (R), Unit (U), or Training (T)	Source
07-02-1987 to 06-30-1988	(U) Military Party No. 4	Defense Intelligence Agency, Foreign Broadcasting Information Service; Confidential
07-01-1988 to 05-31-1989	(U) Calvary Regiment	Center of Information, Document and Research Support—University of Central America; Confidential
06-01-1989 to 06-30-1992	(U) National Guard	Center of Information, Document and Research Support—University of Central America; Confidential
02-01-1992 to 08-01-1992	(U) National Guard	Center of Information, Document and Research Support—University of Central America
08-02-1992 to 09-09-1999	Civil Assignment Exterior Service	

C. Issues Confronted in Constructing the Index to Accountability

El Rescate struggled with how to classify an incident, how to avoid errors in data transfer, and whether it was possible to have multiple human rights violations related to a single case. In general, these issues were resolved based on what other groups had used either successfully or unsuccessfully. El Rescate's decisions contributed to the future development of this area of human rights practice.

1. Reliability of Source Materials

ONUSAL's first report pointed out that human rights organizations do not use uniform criteria for classifying violations.¹⁰³ To a large degree, the Index avoided this problem by utilizing only one source.

Tutela Legal collected information on human rights violations in the following manner: individuals came to the office in San Salvador to make denunciations, which were recorded in written form when one of Tutela Legal's technicians interviewed each individual making an denunciation. Through the interviewing process, the technicians checked the credibility of the testimony (e.g., verifying its consistency). They also reviewed the information against existing records for the same year to eliminate duplication of violation records. If information was already documented on the incident, they added the new information to the file. Tutela Legal attempted to carry out separate on-site investigations of each of the cases it published, although these investigations were not carried out when there were military operations or other restrictions in the area. Because such restrictions happened frequently, there was an indeterminate but significant undercounting of violations in its published reports considering that, to be published, the denunciation had to be investigated.

103. *First Report of the United Nations Observer Mission in El Salvador*, *supra* note 30, at 10.

2. *Inter-rater Reliability*

At El Rescate, data collectors converted the reports of human rights abuses into usable information for the incident database. The process of transferring data from Tutela's reports posed certain problems. El Rescate instituted specific procedures to ensure consistency of coding among data collectors. It prepared a detailed manual with step-by-step instructions on how to code the data. The organization also conducted a mandatory training course for collectors that included a test on difficult and ambiguous cases. Finally, it insisted on frequent cross-checking. El Rescate also conducted an inter-rater reliability test, a statistical method to measure the degree of agreement among judges or raters (i.e., those who transferred the data from the text of the Tutela report to the data entry sheets).¹⁰⁴ For instance, each data collector was given the same data to rate, consisting of one month's reports, and the resulting judgments were compared using statistical analysis. The analysis demonstrated a very high degree of agreement among the data collectors, well above any level of agreement that could be attributed to chance.

3. *Accuracy*

El Rescate conducted random reviews of data collectors' work and corrected all work found to be incorrect in order to ensure accuracy and faithfulness to the source materials. Records were maintained charting the frequency and type of errors, so as to provide an analysis of frequent errors that could be corrected. To eliminate arbitrary interpretations or judgments, data entry personnel utilized only the information that appeared on the data collections sheet.

4. *Integration of Human Rights Law into the Index*

The Index included all of the cases reported by Tutela that had sufficient detail, regardless of the political affiliation of the victim. After collecting and entering all of Tutela Legal's reported information into the Index database, the abuse activity was synthesized into defined categories of violations of international law.

In this database, the Index reproduced the human rights abuse activity contained in Tutela's reports including: dates, places, descriptive category (type of incident), victim, and perpetrator. The perpetrator category was divided further into four groups: government forces, death squads, unknown, and the FMLN.

104. Special methods exist for measuring reliability among raters who are assigning data into categories (violation and perpetrator types) rather than making numerical meaningful judgments. See J. L. Fleiss, *Measuring nominal scale agreement among raters*, 76 *PSYCHOL. BULL.* 372 (1971).

The categories of violations used in the Index were borrowed primarily from those utilized by ONUSAL. The following explains the content and basis of the categories. The first six categories were based on the right to life and personal integrity and security¹⁰⁵ (Summary Executions, Enforced or Involuntary Disappearance, Disproportionate or Arbitrary Use of Force, Death Threats, Disproportionate or Indiscriminate Attacks, Mine Explosion), and the seventh category was based on the right to personal liberty (Arbitrary Arrest or Unlawful Deprivation of Personal Liberty).¹⁰⁶ Each incident could include more than one violation. For example, if a person was arrested without a warrant by a plainclothes police officer, not told why he or she was arrested, and was taken to a government detention facility and tortured, two violations would result: the arbitrary arrest or unlawful deprivation of personal liberty and torture. Each was included in the database as a separate violation.

D. Reports Generated by the Index to Accountability

Below are examples of the types of reports the Index could produce.¹⁰⁷ The reports connected incidents of violations with particular units to show omissions and recurrent violations. Connections were established by two methods. First, if the denunciation included information about the perpetrator, that information provided the link to the unit. Second, when no particular perpetrator was mentioned other than "the military" or "the police," violations were connected by geographic area to the unit controlling the area where the violation occurred, thus establishing the jurisdictional responsibility. These reports were generated through Paradox.¹⁰⁸

The Paradox software was used to generate three groups of reports: (1) reports based on individual military officers, (2) reports based on violations, and (3) reports based on names of victims.¹⁰⁹ The first two groups of

105. "Every person has the right to life, liberty and the security of his person." American Declaration of the Rights and Duties of Man, *supra* note 54, ch. 1, art. 1.

106. American Convention on Human Rights, *supra* note 15, arts. 4, 5, 7. While the right to personal liberty (Article 7) is arguably derogable, "arbitrary arrest or unlawful imprisonment" was included in the Index for three principal reasons: (1) El Salvador did not comply with the requirements to suspend the application of the article; (2) even if Article 7 was suspended, procedural protections in regard to arrest cannot be ignored in all circumstances; (3) the San Jose Accord highlights the importance of the right to personal liberty.

107. The raw data is still held by El Rescate, the National Security Archives, the U.S. Department of Justice, and a couple of individuals. It is not easily accessed.

108. Paradox is database software that was commercially available when the Index was being developed.

109. The total number of victims is larger than the total of named victims due to lack of information. In many cases the names of the victims were not known and reported as "nombre indeterminado" by the Tutela Legal publications and, therefore, do not appear on the victims list but will appear on other reports. Additionally, in many cases the total

reports also contained information on the number of victims reported in the incident and details about the perpetrator. All of the reports included the following information: the date of violation (and notation as to whether the date was exact), the type of violation (based on definitions established by international law), the source of the incident (volume and page number of incident as originally published by Tutela Legal), and the department where the violation occurred (if known).

In addition, the Index to Accountability data was used to develop reports using the statistical program SAS.¹¹⁰ These reports helped to describe the reality through graphic devices. Reports generated through SAS included: (1) pie charts demonstrating the violations distributed by perpetrator, (2) the distribution of violations within the security forces, (3) a comparison of perpetrators by violations type, (4) frequency of violation by perpetrators, and (5) distribution of violations by Department for each perpetrator. Finally, a report was generated to describe the frequency and intensity of massacres.

Group 1: Individual Officer Reports

To provide some understanding of the number of officers in active service during the reporting period, and therefore relevant to the Index project, on 1 July 1992, there were 2,013 officers on active duty. Of this number, only 179 had the rank of General, Colonel, or Lieutenant Colonel. Since 1980, well over 3,000 officers have served in the Salvadoran armed forces.¹¹¹

These reports were designed to track the human rights records of individual officers by following the officer from one military unit or command post to another and noting violations attributable to the relevant unit or jurisdiction. In particular, there was hope that the reports would trace particular military leaders' movements and tie them to patterns of human rights abuses. The doctrine of command responsibility made it possible to connect individual military leaders with human rights abuses occurring in areas under their command.

The purpose of Group 1 Reports was to produce complete human rights dossiers on all military officers for whom the Index contains a biography. To do this, the following four different types of reports were created:

(1) A report on violations committed while an officer served in the command position of a major unit. Below is a report related to Juan Orlando Zepeda. El Rescate only had information regarding his time as second and

number of victims was undetermined. In these cases the information on victim count was entered as "0" in the database, as opposed to assigning an arbitrary number.

110. Statistical Analysis System (SAS System) is an integrated system of software products provided by SAS Institute that enables the programmer to perform various statistic functions. See <http://www.sas.com/>.

111. See El Rescate, El Salvador—Estructura Militar Cadena de Mandos, *supra* note 99.

first in command of the First Infantry Battalion. This report related to Col. Zepeda is eighteen pages long and outlines the human rights violations specifically attributed to his unit while under his command. Two pages are reproduced below.¹¹²

Index Accountability:
Individual Violations Attributed to Officials
Attributed Specifically to Government Forces
as Indicated in the Tutela Legal Reports
July 22, 1992

Juan Orlando Zepeda Report

Complete Report: 18 pages

Graduating class: 1966
First Infantry Brigade

From 01-01-1982 to 12-01-1983

Source: Defense Intelligence Agency; Other

					Page 1 of 18
Date	Violation Type	Department	No. of Victims	Book	Page
03-13-1982	Summary Execution	?	1	1 INFO	4
05-05-1982	Arbitrary Deprivation of Liberty	San Salvador	1	1 INFO	4
05-05-1982	Summary Execution	?	1	1 INFO	4
06-07-1982	Arbitrary Deprivation of Liberty	San Salvador	1	2 INFO	3
06-07-1982	Disappearance	San Salvador	1	2 INFO	3
06-10-1982	Arbitrary Deprivation of Liberty	Santa Ana	1	5 INFO	10
07-13-1982?	Torture	San Salvador	0	63 INF	1n, 1m
07-13-1982?	Arbitrary Deprivation of Liberty	San Salvador	1	63 INF	1n, 1m
07-17-1982	Arbitrary Deprivation of Liberty	San Salvador	3	63 INF	1n, 1m
07-29-1982	Arbitrary Deprivation of Liberty	?	1	7 INFO	5
08-22-1982	Arbitrary Deprivation of Liberty	San Salvador	1	4 INFO	5
08-22-1982?	Summary Execution	San Salvador	1	4 INFO	5
08-23-1982	Torture	San Salvador	1	4 INFO	5
08-23-1982	Summary Execution	San Salvador	1	4 INFO	5

Date	Violation Type	Department	No. of Victims	Book	Page
12-14-1982	Arbitrary Deprivation of Liberty	San Salvador	1	8 INFO	12
12-14-1982	Disappearance	San Salvador	1	8 INFO	12
06-10-1983	Arbitrary Deprivation of Liberty	San Salvador	1	22 INF	28
07-02-1983	Arbitrary Deprivation of Liberty	San Salvador	1	32 INF	xxviii
07-09-1983	Arbitrary Deprivation of Liberty	San Salvador	1	22 INF	32
07-09-1983	Arbitrary Deprivation of Liberty	San Salvador	1	22 INF	30
07-10-1983	Arbitrary Deprivation of Liberty	San Salvador	1	22 INF	30
12-01-1983	Arbitrary Deprivation of Liberty	San Salvador	1	34 INF	3n

112. This report can be generated by the Index to Accountability database with Paradox software [hereinafter Index with Paradox]. For an explanation of the Index to Accountability and Paradox, see *supra* notes 102 and 108 and accompanying text. This report is the English language translation of part of the report for Col. Zepeda contained in volume 7 of the materials presented to the Ad Hoc Commission.

From 11-01-1988 to 06-01-1989

Source: Other, Confidential, Confidential

Date	Violation Type	Department	No. of Victims	Book	Page
11-17-1988	Arbitrary Deprivation of Liberty	San Salvador	1	79 INF	8
12-08-1988	Arbitrary Deprivation of Liberty	San Salvador	1	80 INF	5
01-06-1989	Arbitrary Deprivation of Liberty	San Salvador	1	81 INF	6
01-06-1989	Arbitrary Deprivation of Liberty	San Salvador	15	81 INF	6
01-11-1989	Arbitrary Deprivation of Liberty	San Salvador	1	81 INF	6
01-19-1989?	Arbitrary or Indiscriminate Attacks on Civilians	San Salvador	1	81 INF	18, 19
02-16-1989	Arbitrary Deprivation of Liberty	San Salvador	1	82 INF	10
02-16-1989	Use of Indiscriminate Force	San Salvador	1	82 INF	10
02-16-1989	Disappearance	San Salvador	1	82 INF	10
02-19-1989	Arbitrary Deprivation of Liberty	San Salvador	1	82 INF	3
03-07-1989	Arbitrary Deprivation of Liberty	San Salvador	1	83 INF	6
04-08-1989	Arbitrary Deprivation of Liberty	San Salvador	1	84 INF	15, 16
04-08-1989	Disappearance	San Salvador	1	84 INF	15, 16
04-08-1989	Torture	San Salvador	0	84 INF	15, 16
04-08-1989	Torture	San Salvador	0	84 INF	15, 16
04-09-1989	Torture	San Salvador	0	84 INF	15, 16

Page 2 of 18					
Date	Violation Type	Department	No. of Victims	Book	Page
04-09-1989	Arbitrary deprivation of liberty	San Salvador	1	84 INF	15, 16
04-09-1989	Disappearance	San Salvador	1	84 INF	15, 16
04-24-1989	Arbitrary deprivation of liberty	Cuscatlan	2	84 INF	5, 6
04-24-1989	Arbitrary deprivation of liberty	Cuscatlan	2	84 INF	5, 6
04-26-1989	Arbitrary deprivation of liberty	San Salvador	2	84 INF	14, 15
04-26-1989	Disappearance	San Salvador	2	84 INF	14, 15
04-26-1989	Torture	San Salvador	0	84 INF	14, 15
05-03-1989	Arbitrary deprivation of liberty	La Libertad	1	87 INF	52, 53
05-03-1989	Torture	La Libertad	1	87 INF	52, 53
05-04-1989	Torture	San Salvador	1	87 INF	52, 53
05-04-1989	Arbitrary deprivation of liberty	Cuscatlan	2	85 INF	6
05-04-1989	Arbitrary deprivation of liberty	San Salvador	3	85 INF	7, 8
05-12-1989?	Arbitrary or Indiscriminate Attacks on Civilians	Cuscatlan	3	85 INF	14
05-13-1989?	Arbitrary or Indiscriminate Attacks on Civilians	San Salvador	1	85 INF	15
05-25-1989	Arbitrary deprivation of liberty	San Salvador	1	85 INF	8
05-25-1989	Arbitrary deprivation of liberty	San Salvador	3	85 INF	40-44
05-26-1989	Torture	San Salvador	0	85 INF	40-44
05-26-1989	Arbitrary deprivation of liberty	San Salvador	4	85 INF	40-44
05-30-1989	Arbitrary deprivation of liberty	San Salvador	1	86 INF	45
05-31-1989	Torture	San Salvador	0	86 INF	43-44

(2) A report on violations committed while an officer served in a command position that had responsibility for a department.¹¹³ Again, Col. Zepeda's report is included as an example. The First Infantry Battalion had jurisdiction over the department of San Salvador. This report is thirteen pages long, and page 13 is produced below.¹¹⁴

113. El Salvador is divided into fourteen distinct administrative divisions known as "Departments." These Departments are Ahuachapan, Cabanas, Chalatenango, Cuscatlan, La Libertad, La Paz, La Union, Morazan, San Miguel, San Salvador, Santa Ana, San Vicente, Sonsonate, and Usulután.

114. Index with Paradox, *supra* note 112. Depicted is the English language translation of part of the violation report for Col. Zepeda. It is contained in volume 6 of the materials presented to the Ad Hoc Commission.

Date	Violation Type	Department	No. of Victims	Book	Page
05-31-1989	Arbitrary deprivation of liberty	San Salvador	1	86 INF	43-44
05-31-1989	Torture	San Salvador	0	86 INF	43-44
05-31-1989	Torture	San Salvador	0	86 INF	43-44
05-31-1989	Summary Execution	San Salvador	2	86 INF	54-57
05-31-1989	Summary Execution	San Salvador	2	86 INF	54-57
05-31-1989	Arbitrary or Indiscriminate Attacks on Civilians	San Salvador	1	86 INF	54-57
05-31-1989	Arbitrary or Indiscriminate Attacks on Civilians	San Salvador	1	86 INF	54-57
06-01-1989	Arbitrary deprivation of liberty	San Salvador	1	59 INF	7, 8
06-01-1989	Arbitrary deprivation of liberty	San Salvador	1	59 INF	7, 8
06-01-1989	Arbitrary deprivation of liberty	San Salvador	1	59 INF	7, 8
06-01-1989	Arbitrary deprivation of liberty	San Salvador	1	59 INF	7, 8
06-01-1989	Arbitrary deprivation of liberty	San Salvador	2	86 INF	8-10
06-01-1989	Arbitrary deprivation of liberty	San Salvador	2	86 INF	8-10
06-01-1989	Arbitrary deprivation of liberty	San Salvador	2	86 INF	8-10
06-01-1989	Arbitrary deprivation of liberty	San Salvador	2	86 INF	8-10
06-01-1989	Torture	San Salvador	0	86 INF	8-10
06-01-1989	Arbitrary deprivation of liberty	San Salvador	1	86 INF	8, 9
06-01-1989	Arbitrary deprivation of liberty	San Salvador	1	86 INF	8, 9
06-01-1989	Arbitrary deprivation of liberty	San Salvador	1	86 INF	8, 9
06-01-1989	Arbitrary deprivation of liberty	San Salvador	1	86 INF	8, 9
06-01-1989	Arbitrary deprivation of liberty	San Salvador	1	86 INF	8, 9
06-01-1989	Arbitrary deprivation of liberty	San Salvador	1	86 INF	8, 9
06-01-1989	Arbitrary deprivation of liberty	San Salvador	1	86 INF	8, 9
06-01-1989	Arbitrary deprivation of liberty	San Salvador	1	86 INF	8, 9
06-01-1989	Arbitrary deprivation of liberty	San Salvador	1	86 INF	11, 12
06-01-1989	Arbitrary deprivation of liberty	San Salvador	1	86 INF	11, 12
06-01-1989	Torture	San Salvador	1	86 INF	11, 12
06-01-1989	Arbitrary deprivation of liberty	San Salvador	1	87 INF	56
06-01-1989	Disappearance	San Salvador	1	87 INF	56

(3) A report on violations committed while an officer served in a command position that had responsibility for a military zone (typically a number of departments). This report related to Col. Zepeda is eighteen pages long, and page 18 is produced below.¹¹⁵

115. *Id.*

From 11-01-1988 to 06-01-1989

Source: Other, Confidential, Confidential

Page 18 of 18					
Date	Violation Type	Department	No. of Victims	Book	Page
06-06-1989	Arbitrary deprivation of liberty	San Salvador	1	86 INF	10
06-06-1989	Torture	San Salvador	1	86 INF	10
06-07-1989	Arbitrary deprivation of liberty	San Salvador	5	86 INF	10
06-07-1989	Arbitrary deprivation of liberty	San Salvador	5	86 INF	10
06-07-1989	Arbitrary deprivation of liberty	San Salvador	5	86 INF	10
06-07-1989	Arbitrary deprivation of liberty	San Salvador	5	86 INF	46, 47
06-09-1989	Summary Execution	San Salvador	3	86 INF	28, 29
06-09-1989	Disappearance	La Libertad	1	87 INF	57
06-09-1989?	Arbitrary or Indiscriminate Attacks on Civilians	La Paz	3	86 INF	17
06-16-1989	Arbitrary deprivation of liberty	San Salvador	1	86 INF	6
06-16-1989	Arbitrary deprivation of liberty	San Salvador	1	86 INF	6
06-19-1989	Arbitrary deprivation of liberty	La Paz	1	86 INF	5
06-19-1989	Arbitrary deprivation of liberty	La Paz	1	86 INF	5
06-19-1989	Arbitrary deprivation of liberty	La Paz	1	86 INF	5
06-19-1989	Arbitrary deprivation of liberty	La Paz	1	86 INF	5
06-21-1989	Arbitrary deprivation of liberty	San Salvador	1	86 INF	13
06-21-1989	Arbitrary or Indiscriminate Attacks on Civilians	La Libertad	1	86 INF	31, 32, 33
06-22-1989	Arbitrary deprivation of liberty	San Salvador	1	86 INF	13
06-22-1989	Disappearance	San Salvador	1	86 INF	13
06-23-1989	Arbitrary or Indiscriminate Attacks on Civilians	San Salvador	3	86 INF	33, 34
06-24-1989	Arbitrary deprivation of liberty	La Libertad	1	88 INF	52
06-25-1989	Disappearance	San Salvador	1	87 INF	57
06-25-1989	Disappearance	San Salvador	1	89 INF	40
06-26-1989	Arbitrary deprivation of liberty	San Salvador	1	86 INF	11
06-26-1989	Arbitrary deprivation of liberty	San Salvador	1	86 INF	11
06-26-1989	Arbitrary deprivation of liberty	San Salvador	1	86 INF	11

Date	Violation Type	Department	No. of Victims	Book	Page
06-26-1989	Arbitrary deprivation of liberty	San Salvador	1	86 INF	11
06-26-1989	Arbitrary deprivation of liberty	San Salvador	1	86 INF	11
06-26-1989	Disproportionate or Arbitrary Use of Force	San Salvador	1	86 INF	11
06-26-1989?	Torture	San Salvador	1	86 INF	11
06-27-1989	Disappearance	San Salvador	1	87 INF	57
06-29-1989	Disappearance	San Salvador	1	87 INF	57
06-30-1989	Summary Execution	San Salvador	1	86 INF	36, 37
Total Violations: 745					
Total Victims: 1185					
--End of Report--					

(4) A report on all violations committed throughout the entire country while an officer served in the High Command.¹¹⁶

Repeated violations accordingly implicated both unit commanders and the members of the High Command, as they either had, or reasonably should have had, knowledge of the "practice" of violations, and were required to take steps to prevent further abuses. Specific legal responsibility for the High Command is seen clearly when a pattern of violations exists over time.

116. Unfortunately, El Rescate rarely had complete military information to produce all four reports on each officer for whom the Index contained information. Thus, most reports are based on incomplete military histories, which tend to show only a fraction of the abuses linked to a particular officer.

Group 2: Reports by Violation Type

Each report in this group was based on one of the following specific types of violations of human rights law:

- summary execution;
- forced or involuntary disappearance;
- torture and all methods of cruel, inhuman, and degrading treatment or punishment;
- disproportionate or arbitrary use of force;
- death threat;
- disproportionate or indiscriminate attacks on civilians;
- mine explosion; or
- arbitrary arrest or unlawful deprivation of personal liberty.

Each report was designed to illuminate the systematic practice of one violation. These reports are produced for the period between January 1980 and December 1990. Reports showing repeated instances of a certain violation type indicated the existence of a policy or practice.

Pages 1 and 2 of the report related to torture are reproduced below. The data used to produce these reports were limited to those violations specifically attributed to a unit (e.g., Group 1a) and were grouped by perpetrating unit. This example shows torture attributed to the Air Force and the first two cases attributed to the Artillery Brigade.¹¹⁷

117. Index with Paradox, *supra* note 112. Depicted is the English language translation of part of the report on torture. It is contained in volume 8 of the materials presented to the Ad Hoc Commission.

Index to Accountability:
Right to Life and Personal Integrity Violations
Attributed to Specific Government Forces
as Indicated by Reports to Tutela Legal
July 22, 1992

Government Force: Air Force

Violation: Torture

For the period: 01-01-1983 to 06-30-1983

						Page 1
Date	Command	Names	Department	No. of Victims	Book	Page
09-14-1980	1 st	Bustillo Toledo, Juan Rafael	Chalatenango	1	14 INF	6,7
06-10-1983	1 st	Bustillo Toledo, Juan Rafael	San Salvador	2	14 INF	14
06-10-1983	1 st	Bustillo Toledo, Juan Rafael	San Salvador	0	14 INF	14
06-15-1983	1 st	Bustillo Toledo, Juan Rafael	La Libertad	0	14 INF	17,18,19
02-24-1985	1 st	Bustillo Toledo, Juan Rafael	San Salvador	1	35 INF	xx
	2 nd	Villamariona, Rafael Antonio				
06-02-1985	1 st	Bustillo Toledo, Juan Rafael	San Salvador	0	38 INF	34
	2 nd	Villamariona, Rafael Antonio				
02-01-1986?	1 st	Bustillo Toledo, Juan Rafael	San Salvador	1	56 INF	xix, xx
	2 nd	Villamariona, Rafael Antonio				
09-01-1986?	1 st	Bustillo Toledo, Juan Rafael	San Salvador	1	56 INF	xix, xx
	2 nd	Villamariona, Rafael Antonio				
09-09-1985	1 st	Bustillo Toledo, Juan Rafael	La Libertad	1	51 INF	lvii-lviii
	2 nd	Villamariona, Rafael Antonio				
09-09-1985?	1 st	Bustillo Toledo, Juan Rafael	San Salvador	1	65 INF	xv
	2 nd	Villamariona, Rafael Antonio				
10-01-1985?	1 st	Bustillo Toledo, Juan Rafael	San Salvador	1	71 INF	in
	2 nd	Villamariona, Rafael Antonio				
10-10-1986	1 st	Bustillo Toledo, Juan Rafael	San Salvador	1	55 INF	xxii

Date	Command	Names	Department	No. of Victims	Book	Page
	2 nd	Villamariona, Rafael Antonio				
02-18-1987?	1 st	Bustillo Toledo, Juan Rafael	San Salvador	1	59 INF	xxiii, xxiv
	2 nd	Villamariona, Rafael Antonio				
11-30-1986	1 st	Bustillo Toledo, Juan Rafael	San Salvador	1	58 INF	xxxvi
	2 nd	Villamariona, Rafael Antonio				
12-21-1986?	1 st	Bustillo Toledo, Juan Rafael	San Salvador	1	60 INF	xvi, in
	2 nd	Villamariona, Rafael Antonio				
						Page 2
01-20-1987	1 st	Bustillo Toledo, Juan Rafael	San Miguel	0	57 INF	7-9, 20
	2 nd	Villamariona, Rafael Antonio				
02-27-1988?	1 st	Bustillo Toledo, Juan Rafael	San Salvador	1	71 INF	xxviii-xxix
	2 nd	Villamariona, Rafael Antonio				
03-10-1988?	1 st	Bustillo Toledo, Juan Rafael	San Salvador	1	71 INF	41
	2 nd	Villamariona, Rafael Antonio				
04-01-1988?	1 st	Bustillo Toledo, Juan Rafael	San Salvador	1	74 INF	38
	2 nd	Villamariona, Rafael Antonio				
01-11-1989?	1 st	Bustillo Toledo, Juan Rafael	Cuscatlan	0	81 INF	33, 34
	2 nd	Villamariona, Rafael Antonio				
04-25-1989?	1 st	Bustillo Toledo, Juan Rafael	San Salvador	1	85 INF	49, 50
	2 nd	Villamariona, Rafael Antonio				
05-17-1989?	1 st	Bustillo Toledo, Juan Rafael	San Salvador	1	86 INF	41
	2 nd	Villamariona, Rafael Antonio				
11-22-1989	1 st	Bustillo Toledo, Juan Rafael	San Salvador	0	92 INF	49
	2 nd	Villamariona, Rafael Antonio				
11-24-1989	1 st	Bustillo Toledo, Juan Rafael	San Salvador	1	95 INF	48
	2 nd	Villamariona, Rafael Antonio				
08-31-1990	1 st	Villamariona, Rafael Antonio	Cuscatlan	3	100 IN	31, 32
	2 nd	Lobo Perez, Hector Leone				
09-24-1990	1 st	Villamariona, Rafael Antonio	Chalatenango	0	101 IN	27
	2 nd	Lobo Perez, Hector Leone				

Date	Command	Names	Department	No. of Victims	Book	Page
11-29-1990	1 st	Villamariona, Rafael Antonio	Cuscatlan	1	163 IN	38, 40
	2 nd	Lobo Perez, Hector Leone				

Government Force: Artillery Brigade

Violation: Torture

For the period: 01-01-1983 to 06-30-1983

Date	Command	Names	Department	No. of Victims	Book	Page
01-22-1984	1 st	Hernandez Segovia, Leopoldo Antonio	La Libertad	1	25 INF	9, 10
08-13-1984	1 st	Hernandez Segovia, Leopoldo Antonio	San Salvador	0	28 INF	9

The existence of recurrent violations was particularly problematic from an international legal perspective. Recurrent violations may indicate a practice of human rights abuses sanctioned or ordered by those in policy-making positions. Thus, according to principles of international law, recurrent violations may implicate all those in the formal chain of command by indicating that a practice of human rights abuses exists.¹¹⁸

Group 3: Individual Victim Reports

The third group of reports was based on names of the individual victims. Victims' names were included in recognition of the need to provide more than numbers and to pay homage to the individuals who suffered the violations.

When names were available, reports were created for the victims of summary executions, enforced or involuntary disappearance, and torture, as well as all methods of cruel, inhuman, and degrading treatment or punishment.

Reproduced below is page 1 of the report on the victims of disappearance. The report is produced by name of victim in alphabetical order.¹¹⁹

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118. Some experts argue that even a single violation of human rights law may trigger command responsibility when, for example, knowledge of acquiescence existed. Others assert that command responsibility is generated only when violations have occurred on a systematic basis or as a matter of state policy. See THEODORE MERON, *HUMAN RIGHTS AND HUMANITARIAN NORMS AS CUSTOMARY LAW* 103 (1989).
119. Index with Paradox, *supra* note 112. Depicted is the English language translation of part of the report on individual victims that had been disappeared. It is contained in volume 2 of the materials presented to the Ad Hoc Commission.

Index to Accountability
Right to Life and Personal Integrity Violations
As Indicated by Reports to Tutela Legal
July 22, 1992

Type of Violation: Disappearances
For Period: 01-01-1980 to 12-31-1990

Listed Alphabetically

Name	Date	Department	Book	Page	Incdcode	Violcode
Abdala Antonio Handal	11-11-1980	San Salvador	14 INF	10, 11	\$011110001	\$011110002
Abdala Barahona	01-22-1987	San Miguel	57 INF	7-9, 20	\$701200002	\$701220003
Abdullo Gomez	11-26-1989	Morazan	92 INF	46	\$911260003	\$911260002
Abel Argueta Armenos	12-13-1990	Morazan	104 IN	30	\$9012130003	\$9012130002
Abel Dubon Castro	01-23-1987	San Salvador	58 INF	xxxix	\$701080002	\$701230002
Abel Jimenez	12-10-1981	Usulután	26 INF	xxi	\$112100001	\$112100001
Abel Montano Rivera	02-18-1990	La Paz	94 INF	18	\$9002180003	\$9002180002
Abel Reymundo Lobos	06-27-1990	La Libertad	100 IN	41	\$9006270002	\$9006270001
Abelardo Lopez Lorenzana	10-14-1983	San Salvador	18 INF	24	\$310140002	\$310140001
Abraham Pena Gomez	07-13-1982	Santa Ana	13 INF	25	\$207130006	\$207130002
Abraham Rivas Guerrero	07-27-1989	San Salvador	87 INF	20	\$907270002	\$907270003
Adalberto Martinez Martinez	06-23-1986	San Salvador	50 INF	34	\$606230001	\$606230001
Adalfredo Avala Angel	05-26-1982	San Salvador	2 INFO	3	\$205260004	\$205260002
Adan Gutierrez Chacon	01-05-1990	Santa Ana	93 INF	17	\$9001050002	\$9001050001
Adan Miranda Castillo	02-13-1990	Chalatenango	94 INF	20 & 21	\$9002130002	\$9002130001
Adan Quinteros Rivas	10-17-1986	San Miguel	54 INF	32	\$610170001	\$610170004
Adan Santos	10-28-1988	Santa Ana	78 INF	7	\$810280004	\$810280002
Adela Enriquez Cruz	05-02-1982	San Salvador	1 INFO	1	\$205020002	\$205020002
Adelio Sanchez	03-31-1980	La Libertad	51 INF	lx-x	\$003310001	\$003310003
Adolfo Benavides Aguilar	10-02-1982	San Salvador	4 INFO	8	\$210020004	\$210020002
Adolfo Guadado Cartagena	03-27-1988	San Salvador	72 INF	xxiii	\$803270001	\$803270002
Adolfo Morales Rodriguez	09-17-1982	Santa Ana	5 INFO	7, 8	\$209170001	\$209170003

Name	Date	Department	Book	Page	Incdcode	Violcode
Adonato Ponce Lopez	09-28-1985	San Salvador	41 INF	15	\$509280005	\$509280002
Agustin Argueta Mejia	04-11-1989	Usulután	84 INF	18	\$904110002	\$904110001
Agustin Garay	09-26-1982	Usulután	12 INF	16	\$209260004	\$209260002
Agustin Gomez Duran	08-02-1988	La Paz	76 INF	13	\$808020001	\$808020001
Agustin Lopez Hernandez	10-01-1982	"	7 INFO	16	\$210010002	\$210010001
Agustín Ricardo Gonzalez Alvarez	02-04-1988	La Paz	72 INF	xxiv	\$802040002	\$802040001
Agustina Avelar Vela	01-08-1983	San Salvador	9 INFO	10	\$301080001	\$301080002
Agustina Martinez	04-01-1987	Morazan	60 INF	xiii, xiv	\$704010002	\$704010002
Alberto Antonio Coto	03-19-1982	San Salvador	1 INFO	3	\$203190003	\$203190002
Alberto Fernelis Pineda Mejia	06-02-1981	"	9 INFO	11	\$106020001	\$106020001
Alberto Mendez Cortez	04-16-1984	San Salvador	25 INF	30	\$404160002	\$404160002
Alberto Reyes Barrera	03-15-1983	San Salvador	11 INF	17	\$303150005	\$303150002
Alberto Sanchez Martinez	08-31-1983	San Salvador	17 INF	33	\$308310001	\$308310002
Alberto de Jesus Martinez	02-18-1982	San Salvador	25 INF	27	\$202180002	\$202180002
Alcides Aguilar	08-25-1983	Santa Ana	16 INF	30	\$308250002	\$308250002
Alejandro Escobar Artiga	08-30-1983	La Libertad	58 INF	xxii	\$008180001	\$008180002
Alejandro Escobar Artiga	09-30-1983	La Libertad	20 INF	16	\$309300004	\$309300001
Alejandro Hernandez Cruz	10-06-1982	La Libertad	9 INFO	12	\$210060012	\$210060002
Alejandro Hernandez Hernandez	01-27-1990	Chalatenango	93 INF	17	\$9001270004	\$9001270001
Alejandro Horacio Canales Arevalo	11-18-1989	San Salvador	91 INF	27	\$911180003	\$911180001

The reports of massacres are similar to Group 2 reports, but they were designed to show the pattern and volume of the incidents of summary execution with more than five victims over time and by geographic area. Page 1 of the report is reproduced below; it implicated the Air Force, Artillery Brigade, and First Infantry Brigade.¹²⁰

120. *Id.* (for victims who were massacred).

Index of Accountability:
Right to Life and Personal Integrity Violations
Attributed to Specific Government Forces
as Indicated by Reports to Tutela Legal
August 13, 1992

Violations: Massacre
For the Period: 01-01-1980 to 12-31-1990

Government Force: Air Force

Date	Commander	Name	Department	No. of Victims	Book	Page
01-01-1981?	1 st	Bustillo Toledo, Juan Rafael	Cuscatlan	10	42 INF	18
08-28-1981	1 st	Bustillo Toledo, Juan Rafael	Cuscatlan	183	18 INF	10
02-01-1982?	1 st	Bustillo Toledo, Juan Rafael	Cabanas	100	38 INF	xxv
10-01-1982	1 st	Bustillo Toledo, Juan Rafael	?	14	43 INF	x
02-01-1983?	1 st	Bustillo Toledo, Juan Rafael	Cuscatlan	70	30 INF	xxiii
11-04-1983	1 st	Bustillo Toledo, Juan Rafael	Cuscatlan	118	30 INF	iii
	2 nd	Lobo Perez, Hector Leone				
01-01-1984?	1 st	Bustillo Toledo, Juan Rafael	Cuscatlan	100	42 INF	xii
	2 nd	Lobo Perez, Hector Leone				
04-01-1984?	1 st	Bustillo Toledo, Juan Rafael	San Vicente	30	34 INF	xxx, xxxi
	2 nd	Lobo Perez, Hector Leone				
08-29-1984	1 st	Bustillo Toledo, Juan Rafael	Chalatenango	50	28 INF	7a, 7g, 17a
	2 nd	Lobo Perez, Hector Leone				
11-01-1984?	1 st	Bustillo Toledo, Juan Rafael	Cuscatlan	15	31 INF	12
	2 nd	Lobo Perez, Hector Leone				
02-01-1985?	1 st	Bustillo Toledo, Juan Rafael	Cuscatlan	8	39 INF	xxv
	2 nd	Villamariona, Rafael Antonio				
05-31-1985?	1 st	Bustillo Toledo, Juan Rafael	Cuscatlan	7	38 INF	ii, xxxiv
	2 nd	Villamariona, Rafael Antonio				

Government Force: Artillery Brigade

Date	Commander	Name	Department	No. of Victims	Book	Page
05-02-1981?	2 nd	Vasconcelos, Miguel Alfredo	Ahuachapan	40	63 INF	34, 35

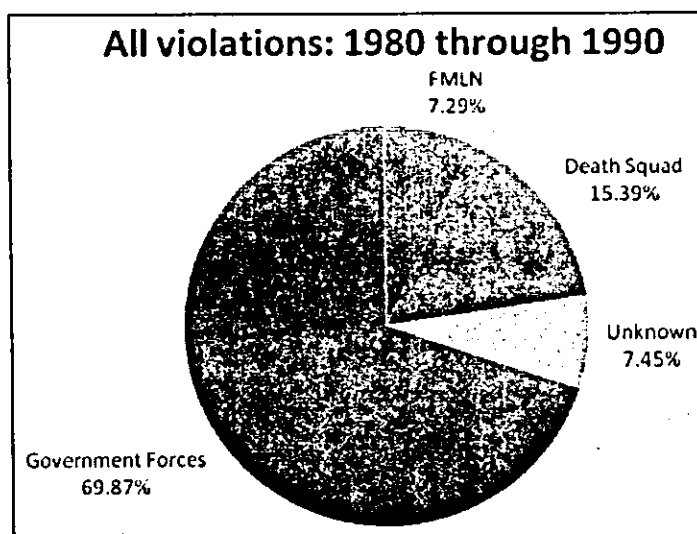
Government Force: First Infantry Brigade

Date	Commander	Name	Department	No. of Victims	Book	Page
05-15-1985	1 st	Hernandez Segovia, Leopoldo Antonio	Cuscatlan	6	38 INF	30
	2 nd	Hernandez, Martinez, Hector Humberto				

The following describes the reports generated from the Index to Accountability through SAS. There are a significant number of these types of reports; examples are produced below.

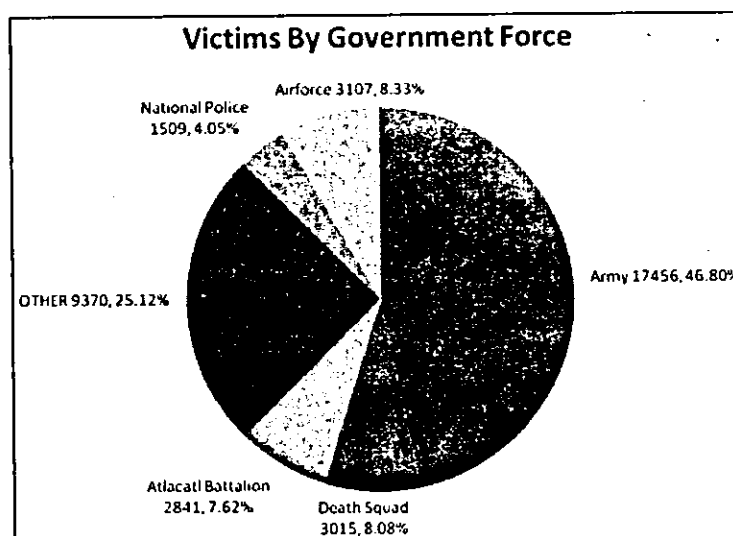
Pie chart of all violations by perpetrator.¹²¹

121. This graph can be generated by the Index to Accountability database with SAS software. Depicted is the English language translation of the graph related to all violations by all perpetrators. It is contained in volume 12 of the materials presented to the Ad Hoc Commission.



This chart demonstrates the distribution of human rights violations among four perpetrators: (1) government forces, (2) death squad[s], (3) unknown, and (4) the FMLN. Pie charts were developed for all violations and also individually for the eight types of violations included in the Index. The charts demonstrate the disparity between the violations committed by the government and those committed by the FMLN.

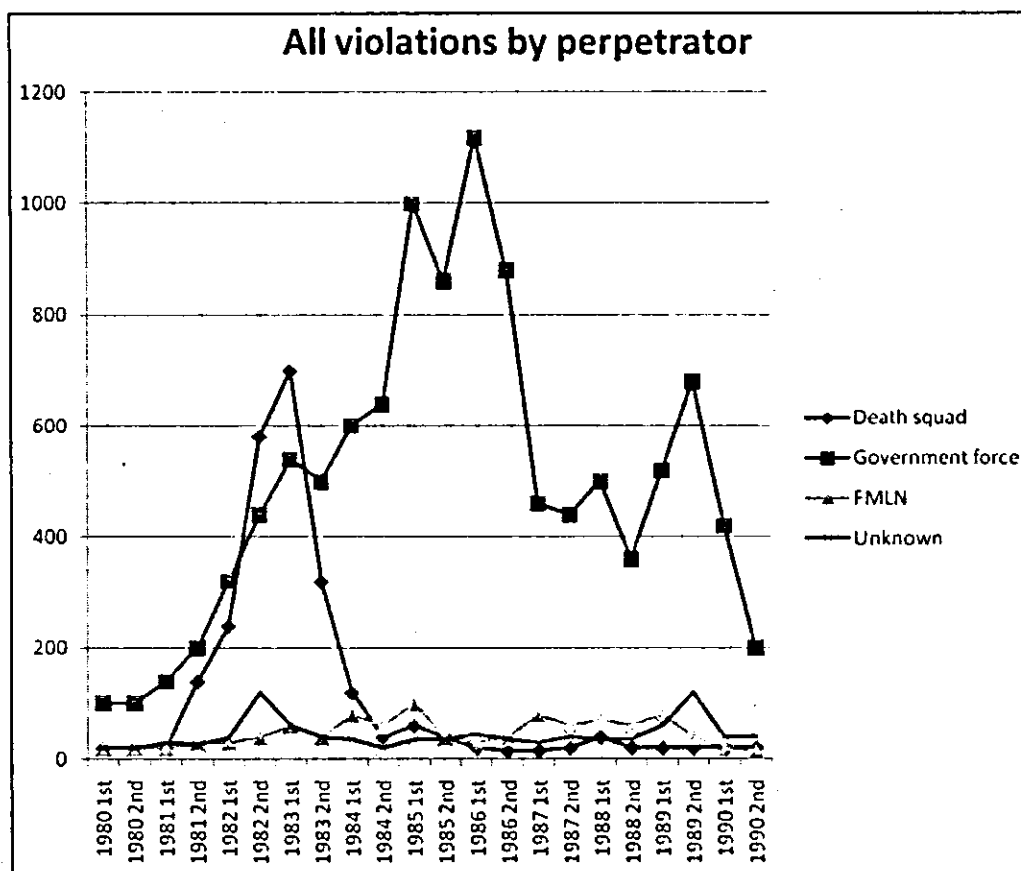
Pie chart showing the distribution of violations within government forces.¹²²



122. *Id.* (for violations within government forces).

This pie chart demonstrates the distribution of human rights abuses by government forces. These charts were created to show the total number of violations and also for each year included in the Index (1980–1990).

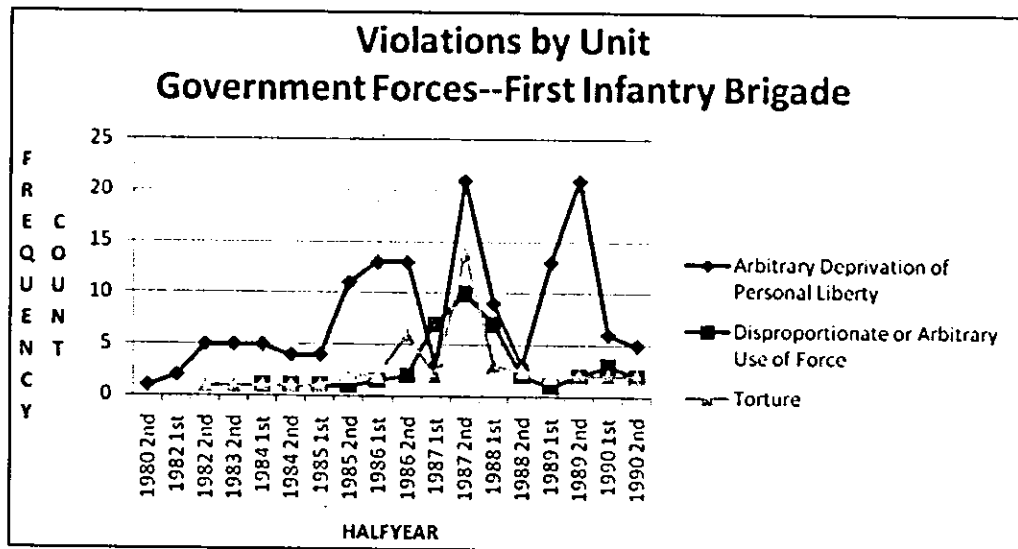
Scatter graph of all violations comparing perpetrators over time.¹²³



This graphic display also demonstrates the disparity between violations of the government and the FMLN. The graphs compare the frequency of one type of violation for each of the four perpetrators: (1) government forces, (2) death squads, (3) unknown, and (4) the FMLN. These graphs were developed both countrywide and by department and also for all violations and for the eight types of violations individually.

123. *Id.* (for comparison of perpetrators over time).

Scatter graph demonstrating perpetrator's frequency and propensity to commit violations.¹²⁴

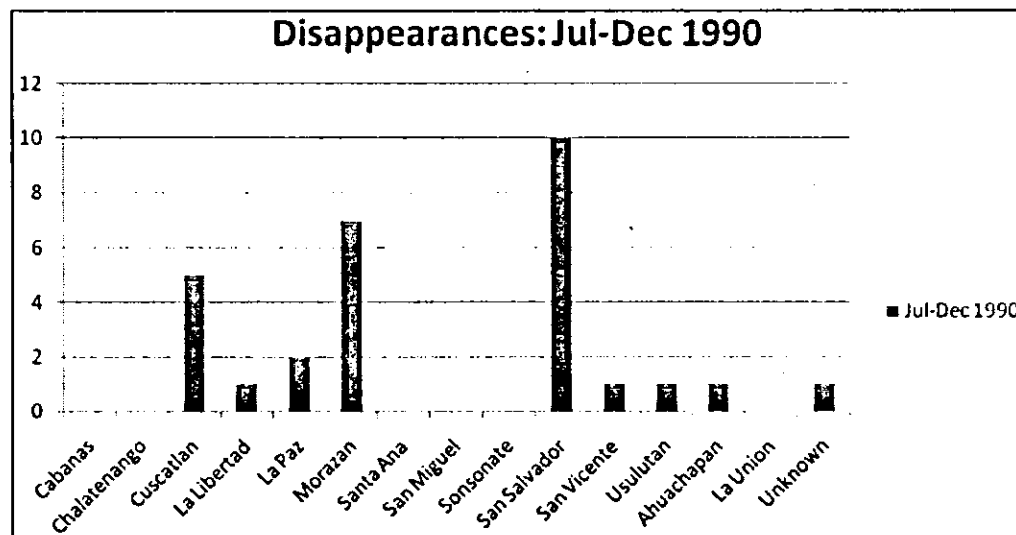
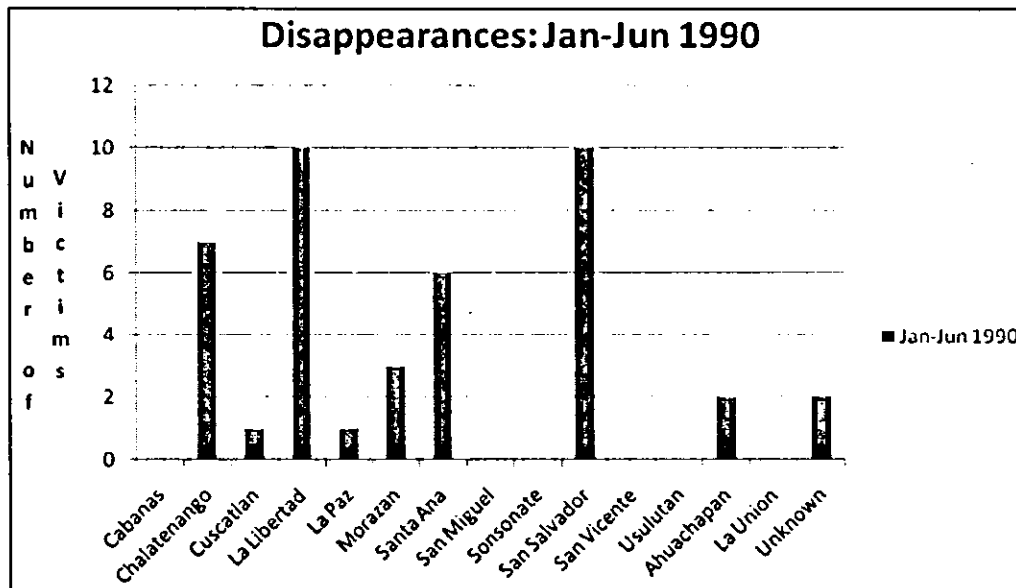


This graph set includes Torture, Disproportionate/Arbitrary Use of Force, and Arbitrary Deprivation of Personal Liberty attributed to the First Infantry Battalion. These graphs were developed for each of the eight violation types, for the four types of perpetrators, and for each of the major military units (i.e., six brigades, eight detachments, three security forces, Air Force, Navy, Civil Defense, and the five Immediate Reaction Battalions). These graphs assisted in determining changes in the global pattern of violations of human rights and in demonstrating the consistent violation or the Salvadoran military's administrative practice of violating the rights to life, personal integrity, and personal liberty.

Bar chart demonstrating distribution of violations by department.

Below are examples of reports related to disappearances during January to June 1990 and June to December 1990.

124. *Id.* (for perpetrators' propensity to commit a particular violation over time).



Bar charts were produced for each of the eight types of violations featured in the Index. This report was based upon the total number of violations, except those attributed to the FMLN, and was categorized by department and violation type for every six-month period between January 1980 and December 1990.¹²⁵ Although some variation existed among the departments, the figures were high and sufficiently distributed to provide strong support for the supposition that violations occurred as an administrative practice.

125. *Id.* (for geographic distribution of a particular violation over time).

In terms of government forces, these bar charts demonstrated that a number of violations occurred throughout the country over the ten-year period. Thus, the violations could not be considered as isolated incidents but as a pattern of abuse.

V. OUTCOMES AND IMPACT OF EL RESCATE'S EFFORTS

The High Command's responsibility became most clear when a pattern of violations existed over time. The existence of these patterns was critical to advocating for structural reforms, such as disbanding units continually implicated in abuses and realizing the potential of the Ad Hoc and Truth Commissions. El Rescate's ability to bring both the law and facts together helped to make these mechanisms effective.

A. Structural Reforms

El Rescate played a limited role in affecting structural reforms of the peace process. Certainly, its articles and position papers, as well as its legal work, contributed to a growing understanding and momentum for the type of changes found in the Peace Accords. At the same time, the Index to Accountability supported the idea that units like the National Guard, which were disbanded in the peace process, were involved in systematic human rights violations. In this particular case, El Rescate was one of many organizations contributing to this area of change. It is important to acknowledge the cooperative nature of advocacy when attempting to analyze its impact on structural reforms.¹²⁶ However, El Rescate's strategy for pushing these reforms was not nearly as elaborate as its strategy relative to the Ad Hoc and Truth Commissions.

Though El Rescate was in a position to contribute to the implementation of structural reforms, it was unable to maximize its potential in this area. A proposal was developed and circulated for El Rescate's office in San Salvador to hire a few Salvadoran lawyers to actively work toward realizing the reforms included in the Peace Accords. This work would have included lobbying and legal actions. Unfortunately, this proposal was rejected, and El Rescate's role was limited to observing and reporting, as opposed to being proactive.

126. For more on this obstacle to measuring the impact of human rights actors, see Fernande Raine, *The Measurement Challenge in Human Rights*, 4 SUR INT'L J. HUM. RTS. 7-14 (2006).

Structural reforms agreed to in the Peace Accords have not been efficiently or fully implemented. Although problems existed in almost every area, the creation of the National Civilian Police Force and the demobilization of the old security forces have been especially problematic.¹²⁷ Some believe the slow implementation of reforms facilitated the continuation of political killings in El Salvador during the transitional period.¹²⁸ The positive human rights impact of the Accords related to economic reform has been less clear than in the reform of the National Police and the disbanding of the National Guard.¹²⁹ The economic related reforms, such as land reform, were designed to help end the fighting by giving soldiers a new occupation and to address the underlying economic inequities between the majority and the economic elite.

It is important to note that ONUSAL originated as a body to monitor compliance with the terms of the Human Rights Agreement—the San Jose Accord. This Mission kept pressure on the Salvadoran government and military to comply with the structural reforms related to human rights.

Shortly before ONUSAL's mandate was to expire on 30 April 1995, the Secretary-General of the United Nations stated that work regarding the implementation of the Peace Accords was still needed. For example, he cited the following issues as those in need of attention: land transfer, reintegration programs, implementation of the recommendations of the Truth Commission, strengthening the National Civilian Police, the National Counsel of the Defense of Human Rights, the judiciary, and the electoral system.¹³⁰

Describing a "somewhat disquieting situation" in El Salvador, the Secretary-General pushed for the creation of a follow-up mission.¹³¹ In light of a request to the United Nations from both parties to the Peace Accords, the Mission of the UN in El Salvador (MINUSAL) took over from the larger ONUSAL mission on 1 May 1995.¹³² MINUSAL was deactivated in April 1996. As the mission wound down so too did its influence and its ability to closely monitor issues related to human rights.

The UN presence continued because the Peace Accords had not been fully implemented. In large part, this was due to the inefficiency and divisions

127. *Justice on Trial: El Salvador*, ECONOMIST (US), 23 Apr. 1994, at 46; Gary MacEoin, *El Salvador: Progress Since 1992 Peace Accords*, NAT'L CATHOLIC REP., 3 Sept. 1993, at 8.

128. Van Gosse, *Shame and Salvador*, NATION, 29 Nov. 1993, at 645.

129. Washington Office on Latin America, *El Salvador*, available at http://www.wola.org/central_america/salvador/salvador_countrypage.htm.

130. *Report of the Secretary-General on the United Nations Observer Mission in El Salvador*, U.N. SCOR, U.N. Doc. S/1995/220 (1995). See also *ONUSAL: Mission Accomplished*, UN CHRONICLE, June 1995, at 7.

131. *Id.*

132. *Letter Dated 18 May 1995 from the Secretary-General Addressed to the President of the Security Council, Annex: Programme of Work to Complete the Implementation of the Peace Agreement*, U.N. SCOR, U.N. Doc. S/1995/407 (1995).

within the FMLN and the organizations that supported the peace process. Its presence partly related to the less than proactive role played by the international community since the publishing of the Truth Commission's report.

El Rescate was no exception. It worked hard to create mechanisms for change and to compile data to maximize the mechanisms' potential, but it failed to continue the same kind of advocacy to ensure implementation of the recommendations and decisions produced by these mechanisms. The area of structural reforms highlights El Rescate's lack of sufficient follow-through to maximize the potential for change.

To some degree, groups like El Rescate deferred to the United Nations and Member States to push for the implementation of structural reforms. Even if this scenario was not perfect, eventually, many of the reforms were fully or partially implemented and had a positive impact on the human rights situation.¹³³

B. Ad Hoc Commission

El Rescate provided quality materials based on contemporary social science methods in bulk, handing over fifteen volumes of computer-generated reports and graphics to the Ad Hoc Commission. El Rescate's submission also contained an overview of the legal theory, including command responsibility, supporting its work and an analysis and guide to the reports produced.

El Rescate closely monitored the Commission's work, identified difficult legal and political issues, and acted in concert with many other human rights groups to advocate for the Ad Hoc Commission to resolve these issues based upon international law. This effort translated to advocacy by important international human rights groups at key moments.¹³⁴ In addition, El Rescate assisted in organizing a symposium with the Salvadoran NGO Casa de Amistad, which was designed to reinforce the importance and legitimacy of the Ad Hoc Commission. The symposium brought together all Salvadoran human rights groups and representatives of a number of prominent international groups including Americas Watch,¹³⁵ DePaul University's

133. See, e.g., HUMAN RIGHTS WATCH, *WORLD REPORT 1996* (1996). It should be noted that El Salvador was dropped from Human Rights Watch's annual report in 1997 and has not been featured since.

134. Groups that sent faxes included The Carter Center, Minnesota Advocates for Human Rights, Robert F. Kennedy Memorial Center for Human Rights, Human Rights Watch, Lutheran World Federation, and Bread for the World.

135. Americas Watch, now known as Human Rights Watch: Americas, is part of the international human rights organization that protects and promotes human rights around the globe. For more information on the organization's work in the Americas, see Human Rights Watch: Americas, available at <http://www.hrw.org/doc/?t=americas>.

International Human Rights Institute,¹³⁶ the Lawyers Committee for Human Rights,¹³⁷ and the American Association for the Advancement of Science and Human Rights Program.¹³⁸

These efforts contributed to the Ad Hoc Commission's work. The Ad Hoc Commission recommended the removal of 110 officers linked to human rights violations. The President of El Salvador had until 31 December 1992 to implement these recommendations. Although the 110 officers slated for removal by the Ad Hoc Commission comprised only about 5 percent of the officer corps—a paltry number for the volume of violations committed by the military over the last decade—the Salvadoran military ferociously resisted the report's implementation. This resistance was primarily due to the fact that a vast majority of those removed by the Ad Hoc Commission held the rank of General, Colonel, or Lieutenant Colonel and represented over 65 percent of the top-ranking officers. This percentage was impressive and was supported by the findings of the Index to Accountability.¹³⁹

In the end, the Ad Hoc Commission did much more than most people had expected. Even without a definite burden of proof, the Ad Hoc Commission, armed with the information provided to them, could be confident that its decisions were well grounded in fact. In particular, the Commission knew that all the removed officers either held a policy position when systematic human rights abuses were being committed throughout the country or commanded a unit linked to such violations. The facts demonstrated that the commanding officers of the relevant units and those within the High Command knew, or should have known, that widespread abuses were taking place but did not stop the practice, either individually or collectively.

The Ad Hoc Commission's report shook a military long accustomed to impunity. Both the Defense Minister¹⁴⁰ and the Vice Defense

136. The International Human Rights Law Institute works to develop and promote international human rights law and international criminal justice through fieldwork, research and documentation, publications, and advocacy. For more information on the Institute, see International Human Rights Law Institute, available at http://www.law.depaul.edu/centers_institutes/ihrli/about_us/.

137. The Lawyers Committee for Human Rights has been renamed and is now known as Human Rights First. For more information on this organization, see Human Rights First, available at <http://www.humanrightsfirst.org/index.asp>.

138. The AAAS Science and Human Rights Program was established in 1977 to give scientists a way to help their colleagues around the world whose human rights are threatened or violated. Mobilizing effective assistance to protect the human rights of scientists around the world remains central to its mission, as well as making the tools and knowledge of science available to benefit the field of human rights. For more information, see AAAS Science and Human Rights Program, available at <http://shr.aaas.org>.

139. HUMAN RIGHTS WATCH, *WORLD REPORT 1993*, *supra* note 73.

140. General René Emilio Ponce was the Defense Minister of El Salvador from 1988 to 1993. He was involved in death squad activities in the early 1980s. During the 1980s, both the CIA and the State Department identified Ponce as a death squad member and one of a dozen right-wing officers with links to terrorist activities. Ponce rose through the

Minister¹⁴¹ publicly defied the Commission's report by stating that they would not be removed from service.¹⁴² Their intransigence and rumors of a military coup contributed to a crisis in the peace process shortly after the decisions of the Ad Hoc Commission were made public. This crisis motivated visits to El Salvador by UN peace negotiator Alvaro de Soto¹⁴³ and US Army Chief of Staff Colin Powell.¹⁴⁴ Finally, a compromise designed to remove all those named in the report was reached, but under a more ample timeframe that

ranks to become the Defense Minister of El Salvador. The Truth Commission named then Defense Minister Ponce as the top official who ordered the 1989 murders of six Jesuit Priests, their housekeeper, and her daughter. In 1993, the Ad Hoc Commission forced Ponce to resign his post for his role in human rights abuses. See, e.g., Tim Golden, *Salvadoran Panel Seeks Army Purge*, N.Y. TIMES, 25 Oct. 1992, § 1, at 1; Howard W. French, *Salvadoran Official, Under U.N. Scrutiny Over Rights, Resigns*, N.Y. TIMES, 13 Mar. 1993, § 1, at 1; Douglas Farah, *Salvadoran's Fall Laid to U.S. Pressure; Defense Minister Ponce Bitterly Alluded to Clinton Administration's Cutoff of Arms Aid*, WASH. POST, 14 Mar. 1993, at A23. See generally, El Salvador: War, Peace, and Human Rights, 1980–1994, Digital National Security Archive, available at <http://www.gwu.edu/~nsarchiv/nsa/publications/elsalvador2/index.html>.

141. General Orlando Zepeda was the Vice Defense Minister of El Salvador. The Ad Hoc Commission implicated him in numerous abuses and the Truth Commission implicated him as having an important role in human rights abuses like the murder of the Jesuit Priests and their housekeeper and her daughter. FROM MADNESS TO HOPE, *supra* note 74.
142. Both General René Emilio Ponce and General Orlando Zepeda attended the School of the Americas, a US military institution that has trained over 60,000 Latin American soldiers in counterinsurgency techniques, sniper training, commando and psychological warfare, military intelligence and interrogation tactics. Linda Cooper & James Hodge, *General's SOA Connection Uncovered*, NAT'L CATHOLIC REP., 10 Dec. 2004, at 7, available at http://soaw.org/newswire_detail.php?id=640.
143. In 1992, the proposed timetable for the implementation of the Peace Agreements stalled due to major conflicts over the completion of certain commitments crucial to the overall implementation of the peace process. In particular, disagreements arose between the FMLN and the Salvadoran Government over the provision of farming land in former conflict zones to the FMLN and the process for implementing the total demobilization of all of the FMLN's combatants and their reintegration into civilian life as well the implementation of the Ad Hoc Commission's decisions. FMLN reached out to then Secretary-General Boutros Boutros Ghali for assistance with the negotiations. An agreement on the land dispute was soon reached. Both sides still could not agree on a process to demobilize the FMLN. The Secretary-General sent Alvaro de Soto, Senior Political Adviser to the Secretary-General, along with Marrack Goulding, then Under-Secretary-General for Peacekeeping Operations to San Salvador, in late October 1992 to assist in overcoming difficulties. Their efforts were successful and their consultations with the parties led to arrangements for the formal ending of the armed conflict on 15 December 1992. Info. Tech. Section/Dep't of Pub. Info. (DPI), U.N. Observer Mission in El Salvador (ONUSAL): Background (2003), available at http://www.un.org/Depts/dpko/dpko/co_mission/onusalbackgr2.html.
144. During the 1980s under then-President Ronald Reagan, Powell became special military assistant to Defense Secretary Caspar Weinberger, gaining experience with the invasion of Grenada and the bombing of Libya. In 1987, he was promoted to become National Security Advisor where he was heavily involved with the conflicts taking place in Central America. Later he became US Army Chief of Staff. Ed Vulliamy, *Colin Luther Powell: Reluctant Warrior*, OBSERVER (London), 30 Sept. 2001, at 27, available at <http://observer.guardian.co.uk/waronterrorism/story/0,1373,560542,00.html>.

coincided with the normal end-of-year appointments and retirements for 1992. However, many of those named in the report remained in service well after the end of 1992.¹⁴⁵

The inability of the FMLN and the United Nations to facilitate prompt implementation of the Ad Hoc Commission's decisions diminished the impact of its report, but did not negate it. The Commission followed its mandate exactly, but many observers expected much less from it. It had only three months to work, and all three Commissioners were Salvadoran nationals who were fairly senior in age and had an extremely limited secretariat. Accordingly, many thought the Commission would be too apprehensive to take on the military establishment. In the end, the Commissioners' age apparently emboldened them to help leave a legacy of change for the future of El Salvador. At the same time, the lack of secretariat also created an opportunity for El Rescate and other organizations to provide information that would be taken seriously.

In many ways, the creation of and decisions by the Ad Hoc Commission represent El Rescate's most important contribution to the peace process in El Salvador. El Rescate was one of the main advocates for the creation of a body, like the Ad Hoc Commission, with a mandate to remove those linked to human rights abuses from active service. While a number of groups advocated along the same lines, El Rescate showed leadership in terms of legal theory, factual research, and advocacy, which is why its impact was as large as it was. El Rescate had the most complete information on the military. Importantly, it shared much of this information with the non-governmental Human Rights Commission of El Salvador (CDHES), which digitized its own human rights reports. The Ad Hoc Commissioners should have gained confidence that CDHES's report to the Ad Hoc Commission, based on a different set of violations, corroborated those produced by El Rescate's Index to Accountability project. The fact that the task was to empower the Commissioners to act will always make it difficult to measure impact exactly.¹⁴⁶

The reports generated through the Index to Accountability were voluminous. In light of the significant correlation between the information provided and the decisions made by the Ad Hoc Commission, the reports apparently were useful. Rather than a full public report, the Ad Hoc Commission issued only a list of conclusions. Thus, it is impossible to measure scientifically El

145. Various factors explained these delays: military resistance to the loss of control over the institutions and resources of public security, the left's distrust of efforts to incorporate ex-soldiers and members of the old security forces into the PNC (National Civilian Police), and the government's difficulty in amassing sufficient internal funds and external assistance to deploy the PNC nationwide.

A. Douglas Kincaid, *Demilitarization and Security in El Salvador and Guatemala: Convergences of Success and Crisis*, 42 J. INTERAM. STUD. & WORLD AFFS. 39, 44 (2000).

146. For more on the importance of leadership in human rights work, see Raine, *supra* 126, at 14.

Rescate's true impact, but the conclusion and anecdotal feedback from the Commissioners confirmed the importance of the Index.

If El Rescate had digitized other human rights reports perpetrated in El Salvador and had even more complete information on the military command structure, through the Index to Accountability, it would have been able to facilitate even greater change through the Ad Hoc Commission. In this particular case, the limitation on impact was not political or legal or due to a lack of follow-through, but simply was a reflection of the limits of the data assembled and available. Regardless, facilitating the removal of more than 65 percent of the top-ranking officers of the Salvadoran military was no small feat. It is a testament to how a small NGO can make a big difference when it creates a coherent strategy, knows the pressure points, and solves problems effectively to keep the project moving. How this change transformed the Salvadoran Armed Forces in a positive way in the long-run remains an unfolding, but mainly encouraging, saga.

C. Truth Commission

El Rescate actively facilitated the Truth Commission's work. In its official submission, in addition to supplying volumes of computer-generated reports and numerous graphs, El Rescate advocated for the Truth Commission to fulfill its mandate in accordance with international legal standards. Specifically, El Rescate's submission reminded the Commission of the IACHR decision holding the 1987 amnesty law contrary to El Salvador's obligations under the American Convention on Human Rights and how that holding should also apply to El Salvador's 1992 amnesty law. In addition, El Rescate provided detailed reports regarding cases it presented in different legal forums such as the bombing of the FENASTRAS headquarters,¹⁴⁷ the Las Hojas massacre,¹⁴⁸ and the murders of four churchwomen.¹⁴⁹

147. During the afternoon of 31 October 1989, unknown individuals placed a bomb in the headquarters of the National Trade Union Federation of Salvadoran Workers (Federación Nacional Sindical de Trabajadores Salvadoreños, FENASTRAS) located in San Salvador, the nation's capital. Nine people were killed as a result of the bombing and more the forty more were injured. *Caso FENASTRAS y COMADRES, Ejecuciones Extra-Judiciales* (Extra-Judicial Executions), ¶2, 2000-2003, Universidad de El Salvador (El Salvador University), available at http://www.usip.org/library/tc/doc/reports/el_salvador/tc_es_03151993_casesB2hk.html#j. El Rescate worked with FENASTRAS to bring this claim to the Committee on Freedom of Association of the International Labour Organization.

148. See *supra* notes 57-72 and accompanying text.

149. Two Maryknoll nuns, Maura Clarke and Ita C. Ford; an Ursuline Nun, Dorothy Kazel; and a lay missionary, Jean Donovan, were abducted shortly after they had left El Salvador International Airport in Comalapa for San Salvador on 2 December 1980. The women were then raped and murdered. In 1984, five enlisted members of the El Salvador National Guard were convicted in El Salvador and sentenced to thirty years in jail for the

Released in early 1993, the Truth Commission's report contributed to the end of impunity and to the construction of democratic institutions needed to prevent the recurrence of state-sponsored violence. The report did so by covering major human rights cases and by examining patterns of abuses over the period the Commission was mandated to investigate. Importantly, the Truth Commission gave names of those it believed were responsible for the violations, which was not a widely used tactic in previous efforts of this type. In addition, the Truth Commission made a wide range of recommendations including removing the Justices of the Supreme Court, initiating prosecutorial investigations, and providing civil compensation to the victims of abuses.

In an attempt to undercut the impact of the Truth Commission's report, the ruling government and the military subjected the report to criticisms and stonewalling. These criticisms somewhat managed to undermine the report's potential impact. For example, some of the Truth Commission's recommendations, such as initiating prosecutorial investigations, were ignored. The Commission's recommendations were grounded in international law and squarely within the framework established in the Peace Accords—the Accords indicated that the Truth Commission's decisions did not replace the system of justice and that criminal investigations were still needed in specific cases. Nevertheless, no prosecutions were brought.

Perhaps the Commission thought that no prosecutions would be brought, so it published the names of those it believed to be implicated in egregious or systematic violations. The Commission may also have expected more follow-up from the international and local community to ensure that its recommendations would be implemented. For instance, the Commission recommended that ONUSAL be empowered to observe the implementation of its recommendations as well as the Peace Accords. Little or no pressure was forthcoming to ensure implementation of these recommendations, and one commentator noted that most of the Truth Commission's recommendations were not implemented.¹⁵⁰

Nonetheless, the Truth Commission was catalytic for El Salvador. It produced an official public report on El Salvador's tragic past and interesting reports on various cases, and it accurately depicted trends and patterns of abuses. El Rescate's efforts, and specifically its Index to Accountability, facilitated this aspect of the Commission's work. The Truth Commission's recommendations were well thought out and essential, but in the end, they lacked the political support necessary for full implementation. Groups like

women's murders. Four of the men later stated that they had been ordered by superiors to abduct and kill the women. David Gonzalez, *2 Salvador Generals Cleared by U.S. Jury in Nun's Death*, N.Y. TIMES, 4 Nov. 2000, at A3. El Rescate worked on developing an Alien Tort Claims Act case related to this violation.

150. Rodolfo Cardenal, *The Collapse of the Salvadoran State*, 11 J. THIRD WORLD STUD. 114 (1994).

El Rescate did not follow through with projects and programs to ensure full implementation of the recommendations. However, that does not mean that none of its recommendations have been implemented. For example, on 30 March 1995, the Salvadoran Legislative Assembly approved El Salvador becoming a State Party to the Optional Protocol on Civil and Political Rights and accepted jurisdiction of the Inter-American Court of Human Rights.¹⁵¹

Importantly, the Law of National Reconciliation (the amnesty law of 1992) was fully implemented despite the Truth Commission's report and recommendations. In fact, shortly after the release of the Truth Commission's report, the only military official to be prosecuted, convicted, and sentenced for human rights violations in El Salvador was released under this amnesty law. Consequently, other prosecutions for human rights crimes would not even be considered.¹⁵²

The Truth Commission was comprised of international experts and had a good sized professional secretariat, but El Rescate's work in many ways pushed the Commission. The data and analysis provided by El Rescate, from the Truth Commission's report and anecdotal feedback from members of the Commission's secretariat, was useful. Though El Rescate's work was influential, it was one of many groups working to create and support a Truth Commission. The Truth Commission likely would have been created without El Rescate's efforts, but it is unclear whether it would have done the same level of data compilation and analysis without being pushed by El Rescate's Index to Accountability project or whether it would have been as confident to call for prosecutions without the IACHR decision. Similar to the Ad Hoc Commission, there was a collective effort to empower the Truth Commissioners to act, so it is difficult to distill the exact impact.¹⁵³ Considering anecdotal accounts and inference based on correlation of results and El Rescate's work, it substantially contributed to the Truth Commission's work.

VI. CONCLUSION

On the day the final agreement in the Salvadoran peace process was signed, Boutros Boutros-Ghali, then the new UN Secretary-General, stated that what was being signed was a "revolution by negotiation."¹⁵⁴

In the end, structural reforms, the Ad Hoc Commission, and the Truth Commission were critical to transforming the Salvadoran human rights situ-

151. U.N. Observers, *Police Team Monitors Peace Accords*, *supra* note 29.

152. *Preserving Impunity*, *TIME*, 12 Apr. 1993, at 18.

153. For more on this difficulty, see Raine, *supra* note 126.

154. See George Vickers, *El Salvador: A Negotiated Revolution*, *REPORT ON THE AMERICAS*, May 1992, at 4.

ation and to building a new human rights foundation for the future. Most academic treatment has focused on the Truth Commission, rather than on the Ad Hoc Commission and structural changes.¹⁵⁵ Interestingly, some observers have argued that the Ad Hoc Commission and structural changes facilitated more tangible change than the Truth Commission.¹⁵⁶ Perhaps this is because truth commissions have become a somewhat standard approach to past human rights abuses, whereas the other two vehicles were somewhat unique to El Salvador. Their impact in El Salvador indicates that creating mechanisms for change grounded in a particular country's reality needs greater attention during transitions, given their potential for contributing to positive human rights change.

In terms of dealing with past human rights violations, the Salvadoran solution set precedent. This solution included:

- tying specific structural reforms needed to improve the human rights situation to a UN observer mission to help facilitate the implementation of those reforms;
- the creation of the Ad Hoc Commission, which removed from military service those implicated in human rights abuses and transformed the institution most responsible for past human rights violations—the Salvadoran military; and
- the Truth Commission, which not only established an official record of past violations, but also attempted to lay a foundation for additional changes by providing names and making critical recommendations.

The contribution of NGOs to this process, and notably that of El Rescate, was also precedent-setting. El Rescate worked for years to advocate for a peace process that would measurably improve the human rights situation in El Salvador. Admittedly, it is difficult to isolate the precise impact of El Rescate's work on the overall goal of improving the human rights situation or its particular impact on the processes that contributed to that change. In the end, El Rescate successfully advocated for mechanisms to deal with the past, in large part because the organization grounded its work in the concrete reality of the Salvadoran situation. El Rescate used all available tools and developed new ones to implement a multi-faceted approach to past human rights abuses. The strategy integrated human rights and humani-

155. See, e.g., Margaret Popkin, *The Salvadoran Truth Commission and the Search for Justice (Truth Commissions and the Courts: The Tension Between Criminal Justice and the Search for the Truth)*, 15 CRIM. L. F. 105 (2004); Priscilla Hayner, *Fifteen Truth Commissions—1974–1994: A Comparative Study*, 16 HUM. RTS. Q. 597 (1994); Thomas Buergenthal, *The United Nations Truth Commission for El Salvador*, 27 VANDERBILT J. TRANSN'L L. 497 (1994).

156. See CHANDRA LEKHA SRIRAN, *CONFRONTING PAST HUMAN RIGHTS VIOLATIONS: JUSTICE AND PEACE IN TIMES OF TRANSITION* (2004).

tarian law, litigation, theory, scholarly publication, shoe-leather advocacy, coalition advocacy, modern social science, and informatics applications. El Rescate facilitated the work of the negotiators, as well as the Ad Hoc and Truth Commissioners, so that they took concrete steps to improve the human rights situation in El Salvador.

Although El Rescate's work built upon the experience of others, it was a unique effort that attempted to leverage maximum positive human rights change from past human rights abuses. It was far from an off-the-shelf approach. El Rescate's experience, especially its leadership in developing the Index to Accountability and its use of modern information technology, needed to be told. Many individuals involved in this transitional process have gone on to contribute to others. More than fourteen years after leaving El Rescate, the author still found himself speaking about the effort to NGOs, UN staffers, and government officials engaged in a transition process or grappling with the question of how to cope with past human rights abuses. This article is designed to make the lessons from El Rescate's efforts more easily accessible and to contribute to developing the institutional knowledge of how to maximize positive human rights change in the context of a transition.

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REPORT OF THE TRUTH COMMISSION FOR EL SALVADOR

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ANNEXES: VOLUME II

**5. STATISTICAL ANALYSIS OF THE TESTIMONIES RECEIVED
BY THE TRUTH COMMISSION**

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TO THE TRUTH COMMISSION**

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IN THE ARMED CONFLICT**

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**5. STATISTICAL ANALYSIS OF THE TESTIMONIES RECEIVED
BY THE TRUTH COMMISSION**

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ANALYSIS OF THE TESTIMONIES RECEIVED

Introduction

The Truth Commission has received testimonies in two ways: directly and indirectly. Therefore, it shall be referred to as a direct source in the cases where the testimonies were given before the very Commission almost always in a verbal manner and authenticating a written statement. In both cases, the deponent was present and the statement was ratified by way of his signature or finger print.

The indirect source comprises the cases that arrived at the Commission through organizations and institutions and, therefore, were not ratified by personal appearance. In the same way, the Commission received statements sent by victims or their relatives.

The fact that a case proceeds from an indirect source does not prejudice the quality or validity of same, since all cases of this type of source fulfill the requisites of the Commission for registering it.

This revision only includes cases that were remitted *with* sufficient *testimony* and data for analyzing them.

Criteria for Admission

The following requisites were established for a testimony to be admitted into the database:

1. A minimum of information which would allow for identifying the victim and the aggression that occurred. Only those victims were taken into account for whom at least one of the two *last names* were known, the first name or nickname¹ not being enough. Furthermore, the information must have allowed for establishing the event that occurred, as well as an indication of the *place* and the *date* in which it happened. Testimonies that did not include the approximate date or the place were not accepted.
2. Only those events occurred during the *period* of the Commission's mandate, between January of 1980 and July of 1991, date of the installation of the Division of Human Rights of ONUSAL, were taken into account. Numerous events occurred in 1979 were left out.
3. *Serious acts of violence* (SAV), which implied a *violation of human rights or of the international humanitarian right*, were considered exclusively and were inscribed within the political violence in the framework of the war. This implies, firstly, that only events in which the perpetrator or the victim were members of the state apparatus or of groups connected to it were included. Secondly, those killed or wounded in combat were not included. Therefore, events that took place between two private individuals, not belonging to said groups, are not taken into account no matter how serious (a crime of passion, for example). However, violations of human rights perpetrated by members of both groups (state apparatuses or guerrilla) are registered, including when they are due to personal motivation or interest, since it is considered that their pertinence as a group is relevant to said abuses in the context of the war.
4. The outrage against said rights should be judged, furthermore, as *sufficiently serious* as to be included. Numerous testimonies of attempts against property, free movement and personal freedom or frequent arbitrary arrests were not admitted either into the database.

The Commission agreed to consider 6 types of serious acts of violence:

- 1) homicide

¹ In some cases, the last name was inferred from direct relatives that appeared in the report.

² A last category was left open for "Other serious acts of violence", in order to designate the acts that met the previously mentioned requisites, but which were not included in the six classifications that have been enumerated.

- 2) forced disappearance
- 3) tortures and mistreatments
- 4) serious injuries
- 5) kidnapping for extortion
- 6) rape

The terms correspond to the most general sense of the concepts expressed. They should not be understood in any case in a juridical sense, neither do they imply any conclusion of a legal nature. For example, by *homicide*, simply the death of a person caused by another is understood. This death can be due to an execution, to an indiscriminate attack, to the detonation of a mine, to cross fire or to other causes.

By *disappearance*, the capture of a person whose whereabouts are unknown, usually due to having entered a clandestine circuit of detention or because he/she is executed and his/her corpse is hidden, is understood. Ignorance of the whereabouts can be due to the person having been taken to an unknown destination or because the captors, being known, deny having him/her in their power. The disappearance can end in three ways: in homicide, in the liberation of the victim or in the recognition of his/her capture on the part of those responsible, in which case, the disappearance would end despite the liberation not materializing.

Some concepts of general use

Each type of the different violations of human rights, classifiable and identifiable, in which the successive violations that the individual suffers can be divided up, shall be denominated as *event* or *type of event*.

In each case, we shall speak of *main events* which are some of the six mentioned previously. The *related events* are those that precede or antecede said main event. This whole succession of a main event and possible related events makes up a *case or episode*, which may include, for example, disappearance, torture and rape. The order in which they occur is indifferent, but in order for them to constitute one case, the events must happen in an uninterrupted temporal succession. The case ends when all the violations that the victim suffers end, normally during liberation. A victim may find him/herself involved in various cases, but for two different cases to exist there must be an interval between both in which the violations end.

Therefore, it is possible to find a case of torture that lasts several years and that includes multiple repetitions of the torments during that whole time in which the person is incarcerated. It would also be possible to find two different cases of rape on the same person on the same day, as long as the person was free between both episodes.

For the sole purpose of systematization of the information, the events testified were organized as homicide, disappearance, torture, wounds, kidnappings, rape and others. In each case, the event of greatest relative seriousness is registered as the main event, regardless of the order in which they occurred,

It goes without saying that this rule, defined a priori and applied systematically, does not establish a value nor does it prejudice the seriousness of the events per se.

For the events that occur during more than one day, the initial moment is always taken as the *date*. As *place* of the event, that of the death in the case of a homicide or, in default of it, the place where the corpse was found; for disappearance, the last place where the victim was seen alive; for kidnapping for extortion, that of the capture, and for the rest, the place where it in fact happened is taken.

As for the *type of place*, we refer to "city" as any of the departmental headquarters, to "town" as any nucleus of several houses which is not a city and to "countryside" as any place outside of a nucleus. That is to say that hamlets, cantons, and municipalities are considered "towns" and outside of them, the countryside. In this context, there is a certain

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ambiguity in the categorization, given that the word "canton" is used by some people as an administrative term (without specifying however whether it occurred within an urban area or not) while other people employ it as synonymous with small town or hamlet.

For the responsible, the concept of squadron was used, with all that the meaning conveys, when the deponent employed the term in his statement. In the same way, the denomination "men in civilian attire" was respected in the testimonies in which it was used. Some human rights organizations prefer, in fact, this latter expression. Both definitions, squadrons and men in civilian attire, refer in most cases to the same phenomenon.

In general, the conviction of the deponent was respected. The version of the deponent was ignored only in those cases in which it was manifestly erroneous or when the very accuser confessed that it was the product of a conjecture, without greater support. When the versions of different deponents on a same event did not coincide completely, *all* the elements mentioned by *any* of the deponents were taken into consideration, even if these were apparently contradictory to each other. For example, if two people related the same event but one attributed the responsibility to the guerrilla and the other to the Armed Forces, both groups were registered as responsible.

In the case of indirect sources whose testimonies already appeared codified and processed, the Commission has respected in general the criteria and the categorizations of the remitting institutions. The criteria of different institutions can be slightly different among them, so that the complete homogeneity of all the criteria can not be guaranteed conclusively, as occurs with a direct source.

In the absence of a detailed judicial investigation on all the violations included in each individual statement, its strength is based on the convergence of hundreds and thousands of statements which confirm the existence of well-defined patterns of human rights violations, whose simultaneous and coordinated invention would have been impossible, even for the most astute of wills.

DIRECT SOURCE

I. INTRODUCTION

More than 2,000 people turned up to give their testimony before the Truth Commission. From these testimonies, the figure is taken of 7,357 cases of serious events of violence, which affect 7,312 victims with minimum identification requisites.

In these 7,357 episodes, a total of 8,651 events classified by the Commission within the 7 categories mentioned were indentified.

These figures were obtained after a meticulous cross-checking in order to detect the victims that were reported by various deponents¹.

Finally, this universe of 7,000 cases of serious acts of violence (SAV) constitutes one of the best registers of violations of human rights and of the existent humanitarian right. With respect to this, various motives may be highlighted: the amplitude, the length of time, the diversity of points from which the information is gathered, the *post bellum* and, therefore, more open moment at which the information is gathered, the publicity of its convocation, it's having received testimonies from both sides of the conflict, the popular belief in the neutrality of

¹ The guarantee that one same victim and one same event can not appear with two registers can not be absolute, among other things, because all the necessary information was not always available. For example, in events long ago, frequently the deponents had forgotten the exact date. However, the guarantee of the data's credibility as a whole is, after a clean-up job that reduced the number of registries by more than 2,000, is quite enough.

the institution, the public interest in the conclusions of same and, lastly, the systematic processing of the information.

Many deponents affirmed that this was the first occasion on which they related the events to an institution, due to the danger that this would entail during the war, due to the little credit that the institutions to which they could turn merited, or due to the belief in the uselessness of an accusation before other institutions.

II. CHARACTERISTICS OF THE VICTIMS

The universe of registries includes 1,973 *female* victims and 5,196 *male* victims, that is to say 27.5% women and 72.5% men. El Salvador, as almost all societies of a certain size, has a practically equivalent proportion of men to women (49.4% men and 50.6% women, estimate for 1985⁴). With this frame of reference, the idea is reinforced that the victims are predominantly males. In a context of war, the greater political and military participation of men turns them into a more usual target for political violence and the abuses against human rights. Nevertheless, the fact that a fourth of the victims are women reveals a certain grade of indiscrimination in the abuses on the part of the perpetrators.

The greater political and military participation of men manifests itself in that known political affiliation is attributed to the 5.2% of the male victims (against the 2.8% of the females). While military background is known for 4.4% of the male victims (against 0.7% of the female). In many other reports, a political and military militancy, not declared by the deponent, is apparent in the victim, probably due to the erroneous perception that the crimes against human rights are such above all if they are committed against people who are not socially or militarily committed in politics.

Significantly, in many statements, the apparent indignation of the deponent is greater when he can not attribute the crime to a political motivation given that the victim "didn't owe anything". Said reluctance to admit this information could explain the low rate of political and union affiliation stated (10% of the total victims), including in traditionally very militant areas.

The average age of the victims is 30 years and almost half of them are 25 years old or less. The cohorts of most age are those that are between 16 and 25 years, which make up 32.6% of the total. Although this is a young population, it is not younger than the country's general population, in which over 65% is under 25 years old⁵.

The difference between the age pyramids of the population of victims reported (graph 1⁶) and that of the country's population (graph 2) shows the gender disequilibrium between the victims and shows also that the youth in the national pyramid is even greater than that of the victims. However, given that political violence should preferably affect adults, it's perfectly expectable that the pyramid of victims be older than the national one. Rather the contrary occurs: among the victims there are 16.6% younger than 16 years which again indicates a high level of indiscrimination in the violations.

The *occupational structure* is appropriate to a peasant population: 57.7% of the total (equivalent to 73.2% of the men) work as day workers or small farmers, while 17.7% (74% of the women) dedicate themselves to domestic tasks. This is equivalent to an analogous profile to a traditional, agrarian social structure [sic]. After these fundamental occupational categories, the following one is that of students, which encompasses only 7%.

4 Source: FNUAP, *El Salvador: Estimates and population projections 1950-2025*. San Salvador. 1986

5 Source: CEPAL, *Statistical Annual of Latin America*. Santiago de Chile. 1984

6 See the graphs mentioned in the document at the end of same.

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The average number of children per victim is 2,27, a rather high figure⁷. This high birthrate corresponds also with a peasant population whose rates have traditionally been elevated.

In effect, 41.3% of the registered events took place in the *countryside*, 53.7% in *towns*, and only 5% in the *cities*, that is, in the departmental headquarters. If it is considered that already in 1977, 40% of the Salvadorian population was living in these cities⁸, the magnitude of the disproportion may be seen.

The rate of occurrence of the reported SAV is at least 8 times greater in the rural environment compared with the urban, keeping in mind the populations of each one. The consequences of the conflict in the cities are not comparable to the impact that the Salvadorian countryside has experienced. The violence in the cities, no matter how hard it may have seemed, has been much more selective. In a rural environment, the violence was not only more intense, but also more indiscriminate, which manifests itself, for example, in the nature of the victims. 30% of the victims in towns and 27% of the victims in the countryside are women, against 22% in the city. An even more unequivocal piece of data is that 9.9% of the victims in the towns and 10.1% of the victims in the countryside are under 11 years of age, while only 0.5 of the urban victims are under that age.

III. TYPES OF SERIOUS EVENTS OF VIOLENCE

Just as can be appreciated in graph 3 highlights considerably the number of homicides [sic], which is about 5,700⁹. For each 100 reported cases, more than 75 end in homicide. If we add to this that many of the more than 1,000 disappearances also end in execution, although this can not be rigorously established, it shall be concluded that the reported events go primarily and categorically against the right to life.

In second place, it highlights the number of cases which imply torture or mistreatment, which is more than 1,400. The serious injuries and rapes constitute a relatively minor chapter; none of these two types reaches 5% of the total cases. On the other hand, kidnapping for extortion appears as a very infrequent phenomenon, of which merely two dozen cases are registered.

Two elements help to explain the overwhelming predominance of *homicide*. The first and most obvious is the virulence of the violence occurred in El Salvador and the homicidal intention of the victimizers. That extrajudicial executions represent the vast majority is appreciated in the breakdown of the homicides. This confirms what has been concluded about the deaths occurred, that for the most part they can not be justified as accidental casualties of civilians during times of war, but rather that they answer to a predetermined purpose of elimination.

7 This average of children is considerably high, if we keep in mind that it is not a question of general birth rates, but rather that the universe includes men and boys.

8 Op. Cit., CEPAL; Ministry of Public Works. National Geographic Institute *Geographic Dictionary of El Salvador*. San Salvador, 1985.

9 Since several types of events can concur in one case, as has already been explained, it is not strange that the figures of the cases in which each type of case is implicated add up between them to a number greater than that of the total of actual cases.

10 Very few cases entered into the category of "other violent events". This means that our classifications of events adjusted sufficiently well to the reports as for it not be necessary to use said marginal category. Some instances that were framed in this category were, for example, the accidental death of a civilian while he/she was being pursued or the suicide of a victim faced with the blackmail and the threat of death. Both cases can not be qualified as homicides but in both instances, the indirect consequence of the violation ends up being fatal to the victim.

TYPES OF HOMICIDE	NUMBER OF CASES	PERCENTAGE
Indiscriminate Attack	588	10.4 %
Detonation of Mines	14	0.2 %
Cross Fire	26	0.5 %
Extrajudicial Execution	4,960	87.5 %
Other types of homicide	46	0.8 %
Without classification	33	0.5 %
Total	5,667	100.0 %

This homicidal intention explains why the amount of reported serious injuries, for example, is so reduced in relation to the homicides. The victims do not suffer the indirect consequences of the battle but rather are mostly assassinated with premeditation. That is why homicide is the most common type of reported event and not serious injuries which could be product of an indiscriminate attack.

Another important distinction is the one that makes reference to the number of victims that were killed on each occasion. With respect to this, the homicides have been divided into three groups: those with only one victim; those others that happen in events that involve small groups of victims, of less than 20 persons, and lastly, those that consist of large groups (20 persons or more), which we could call massacres.

TYPES OF HOMICIDE ¹¹	NUMBER OF CASES	PERCENTAGE
INDIVIDUAL	591	15.3 %
SMALL GROUPS	2,197	56.9 %
MASSACRES	1,072	27.8 %
TOTAL	3,860	100.0 %

The individual deaths, generally of a more selective type, are the minority. The massacres involve almost double the victims, despite that by its very nature it is more difficult to identify each victim, particularly the larger the mortality. However, the most general pattern is that of the simultaneous death of a small number of persons, circumstances which encompass more than half of the reported victims.

The grouping of the victims in massacres tends to have a geographical base; that is to say that the inhabitants of a zone are eliminated precisely due to their place of residence. In the homicides against small groups, the grouping of victims frequently has a base of family,

¹¹ A total of 1,827 homicides remained without classification in this sense due to lack of information.

profession, belonging to some social or political group, and in others also a geographic element of cohabitation. That is, persons of the same family or of the same institution are killed and they are killed precisely due to their belonging to a family or to a social group considered as enemies.

The predominance of the killings of small groups strays from the hypothesis of the history of El Salvador's political violence, fundamentally as a succession of great and famous massacres. The greater part of the assassinated victims do not correspond to a few sporadic events that could be explained by situations related to the moment or by the impulse of a few individuals in concrete moments, but rather remit to a program of systematic, generalized and organized violence. What's more, from among these 2,197 victims that died in small groups of less than 20 people, 1,662 perished in groups of less than 10 people, thereby reinforcing the dispersion. It is not the large massacres which produce the greater part of the executions in El Salvador, but rather the constant small increments of thousands of victims in different places.

The second element that contributes to the absolute predominance of homicide over the rest of the events is the existence of a perceptive and changing social threshold over what is a SAV. Given that the Commission did not publicly define the concrete events that which are encompassed within the concept of SAV, the decision as to what events could be understood as such and therefore could be or should be reported remained at the interpretation of the people.

It should be taken into account that in past times and in those that violence was more extreme, people conceived only extreme events as SAV, leaving aside or even forgetting other less serious but more common. These relatively less serious events would be socially perceived as SAV in more quiet and more recent times. In other words, the more generalized the violence is, the more serious an individual event has to be in order to be socially considered as a SAV, and vice versa, the more relaxed the context, the easier it will be for a relatively minor event to be perceived as an event that is worth reporting. For example, it would be more improbable that someone come to report a beating occurred in 1980 than another occurred in 1990¹².

The fact that in most long ago periods in the war of El Salvador, the first years of the 80s, are also the most violent and indiscriminate reinforces the conclusion that the minor violations of said time run the serious risk of not having been remembered or judged as sufficiently serious as to be reported before the Commission. For example, as you shall see further on, the Commission has received less cases of torture as main event than cases in which, upon reporting the homicide, the tortures and torments previously applied to the victim were reported "*in passing*".

A piece of data that supports this explanation is that of the total of reports of indiscriminate attack on the civilian population, 588 (92%) of them refer to victims who perished in said attack and only 47 (7%) to victims that suffered serious injuries. It is highly improbable that the bombardments and mortar attacks cause deaths without producing considerable injuries in the people that surround them. On the contrary, it is very probable that there be several wounded for each casualty that results from a bombardment.

As a consequence, this movable threshold of minimum seriousness in order to report a violent event explains why almost exclusively the episodes that ended in death, like homicide, are reported and those of injuries be left aside.

¹² This idea is supported by the principle that it is the social context which sets the base line, the parameters and the thresholds of social perception, but also in the mere cognitive explanation that the person remembers preferably the most outstanding (impacting) stimuli for him/her. Therefore, in a world of very strong stimuli, it is probable that a relatively minor stimulus goes unnoticed and be forgotten with greater speed.

It is convenient to take a good degree of caution in order not to fall in the temptation of affirming that during times of extreme violence, there were "only" extreme events against the right to life, but rather there were also other minor ones not reported in the same proportion.

The disappearances reported for the most part have the same traits as the homicides and are part of the same scene, often with the sole difference that the corpse was not found or was found in such a state of decomposition that its identification was impossible without forensic support, support which was difficult to get and was not without risks. The disappearance does not correspond then exactly to the phenomenon that took place in Chile or Argentina, with the transfer of the victims through clandestine detention centers, but rather in the majority of cases it's a question of more or less immediate executions after the capture and in which the death has not been able to be certified. With frequency, apparently, the perpetrators did not put special care into the hiding of the corpse, given that the corpses were abandoned in "garbage dumps" or on public roads where the relatives of the disappeared would come to try to recognize them. The difference between the certification of the homicide or the persistence of the disappearance could depend then on the time that the relatives took to find the corpse and the state of decomposition in which this was found.

Such was the regularity of the pattern that the full certainty which in many cases the relatives of the victims had of their death shortly after being captured is striking. So much so that frequently, if the capture occurred during the early morning hours, on the following day the relatives would head out directly to look for the corpse in order to bury it, without worrying about inquiring before any institution as to their whereabouts. The consolation for many was simply to be able to find the corpse and give it burial.

As had been mentioned, a case can contain and often contains several events which are linked one to the other. Looking over these series or patterns of consecutive events may reveal much about the nature of each event per se, besides its collective mode of occurrence. For this, all the possible combinations are taken into account, independent of order, between the four most frequent events in the reports received: homicide, disappearance, torture and mistreatments, and rape.

SEQUENCE OF EVENTS	NUMBER OF CASES	PERCENTAGE
Homicide	4,633	63.0 %
Disappearance	929	12.6 %
Torture and Homicide	814	11.1 %
Torture	419	5.7 %
Rape and Homicide	99	1.3 %
Rape, Torture and Homicide	87	1.2 %
Torture and Disappearance	78	1.1 %
Rape	66	0.9 %
Disappearance and Homicide	30	0.4 %
Torture, Disappearance and Homicide	18	0.2 %
Rape and Torture	16	0.2 %
Rape, Disappearance and Homicide	1	0.0 %
Rape, Torture and Disappearance	1	0.0 %
Without Classification	166	2.3 %
Total	7,357	100.0 %

The most outstanding event is the predominance of the attempts against the right to life in exclusive, starting with homicide and continuing with disappearance. But following that, the

novelty is that, torture as well as rape are more frequent among the episodes that end in the victim's death or disappearance than occurring on their own. In other words, it is more probable in reported episodes that the person who was raped or tortured end up being executed than for the contrary to occur.

There were found 435 cases of torture by itself or in combination with rape, while there were registered 998 tortures that end associated to disappearances or homicide, especially to the latter. On the other hand, there are 82 recognized rapes by themselves or accompanied only by torture, while on 188 occasions the rape was accompanied by disappearance or homicide.

This reveals that the mistreatments as well as the rapes, more than constituting practices in of themselves, are elements that are added to the scenario of the executions, augmenting its brutality. That is to say, they form part of the practice that fundamentally rests on the violations to the right to life.

It is thus that torture loses its classic sense of suffering inflicted in search of a confession or information and becomes a cruel form of execution. Often, the same machete that is used to torture and mutilate becomes the weapon of execution by cutting the throat. The proportion of deaths by bladed weapon on the total of deaths, which is 13%, rises to 21% in the case of homicides preceded by torture. In the same way, rape frequently becomes one more manner of aggression against the enemy before finishing him off.

There are cases in which if they occur within the context of an interrogation, there the most common torture is by beating which occurs in 3 out of every 4 cases. On some occasions, there is recurrence to more sophisticated procedures such as the application of electricity (12% of the cases) or fictional execution (8%). It is not unusual for the prisoner to be deprived of sleep and nourishment (13% of the total) during this type of interrogation.

IV. AFFECTED DEPARTMENTS

The geographic zones where the registered cases predominantly happened are the departments of the north and central regions of the country (graph 4). Among them, Chalatenango, which accounts for almost a third of the total cases, stand out strongly. This great abundance is due to two reasons: the intensity of the conflict lived in this zone made it susceptible to the abuses and the intensive work of some ONGs of human rights in the area which took on the cause of bringing the testimonies before the Commission. The difference between Chalatenango and, for example, Morazán, another traditional area of conflict whose quantity of cases is five times smaller, is pertinent. Although the population and the area of Chalatenango are greater than those of Morazán, it is not conceivable that the disproportion have been so great in reality.

The following department in number of cases has been San Salvador, which is explained partly by a greater ease of transportation and mobility to come and depose. Furthermore, the Commission's office in the capital, as different from other points, remained open the entire time that the testimonies were being received.

On the other hand, the departments of the central zone such as Cuscatlán, Cabañas and San Vicente stand out. There are reason for thinking that in these departments the number of violations of basic rights was particularly high, taking into account that they have not been counted, neither with the better localization of San Salvador, nor with a special task of collection of Chalatenango.

These aspects of unequal representation of some departments should make us take with caution the relative magnitudes of the geographic zones in relation to others. However, they do not absolutely invalidate all the conclusions on general patterns and phenomena that are derived from the testimonies as a group.

V. ANNUAL EVOLUTION OF THE CASES REPORTED

In graph 5, it can be noticed that the number of cases reported exceeds 2,500 for 1980, and then start to descend rapidly until 1983. At this moment, the fall lessens

(b) (6)

and tends to stabilize as of 1985, year when the curve has its point of inflexion, with the small exception of a slight rise with the offensive of 1989.

The reduction of 1981 with respect to that of 1980 is no less than 37.2%, that of 1982 in relation to that of 1981 is of 29.9%, while the decline for 1983 compared to 1982 reaches the maximum of 55.2%. From there, as has been stated, it lessens.

By reason of this evolution, the annual series can be divided into two periods, one that includes from 1980 to 1982 and is characterized by a great quantity of acts of violence but at the same time by a strand year to year decline of the same. A second period that encompasses from 1983 until the end of the mandate, in which the violations of human rights are much less numerous and tend to stabilize, except during the small rise of 1989. Thus 3 out of every 4 cases reported were produced during the first period.

In a more careful analysis by type of event, it is noticed that homicides (graph 6) follow the same evolution of the global cases, perhaps with two slight differences: the first, the year [19]82 does not present such a marked decline with respect to '81, but rather this decline holds off until the following year, 1983, in which a spectacular decline in the order of almost 60% is produced. The second difference consists in the rise in '89 which is lower than the general trend. The concordance between homicide and the general trend was expectable given that homicide supposes in of itself the greater part of all the other cases put together.

Disappearances, tortures and rapes appear in graph 7¹³; these evolve in a manner similar to the general trend, with the difference that the start is not so high; that is to say that the decline between '80 and '81 is very slight. Therefore, [19]80 is mainly characterized by generalized homicides and not so much by disappearances. The decline in disappearances continues until stabilizing as of '84.

Tortures represent a unique pattern, which declines very sharply in frequency between '80 and '81 and, with somewhat less force, continues until '82. The decline continues also until '84, but instead of stabilizing, a slight rise starts as of there that culminates in a sharp rise in the year [19]89, when guerrilla offensive on the cities occurs. That high proportion of tortures in 1980 refers to torment as the prelude to execution, just as was defined previously. Of all the cases of execution preceded by torture which are registered, no less than 52% took place in 1980, year of maximum violence and of indiscriminate use of same, according to the testimonies. Little by little, this type of treatment gives way to torture itself, more stable and institutionalized, which pretends to extract information of confessions. It is this type of torture that rises in 1989, year in which a third of the cases of pure torture, without any other associated event, are concentrated.

Rapes are particular to the first three years; that is to say, of the first period and almost disappear during the following phase. In parallel to what would occur with torture, rape during the first years is one of the components of execution. Therefore of the total of cases of rape followed by homicide, 79% occur between 1980 and 1981. When this type of pattern declined sharply as of 1983, the great majority of rapes went with it.

VI. DEPONENTS AND EFFORTS CARRIED OUT

The persons who came forward to report the cases to the Truth Commission generally had a rather close relationship with the victims.

The different types of relationships between the deponents and the victims, from those deponents that did mention their connection with same, are the following.

¹³ The 3 events are accounted for in said graph independent of whether they occurred by themselves or accompanied by others. As we already know, many of the tortures and rapes led to executions

RELATIONSHIP BETWEEN VICTIM AND DEPONENT	NUMBER OF CASES	PERCENTAGE
Mother	401	23.6 %
Father	170	10.0 %
Son	82	4.8 %
Daughter	80	4.7 %
Brother	182	10.7 %
Sister	158	9.3 %
Partner / Husband	16	0.9 %
Partner / Wife	160	9.4 %
Grandfather / Grandmother	4	0.2 %
Grandson / Granddaughter	2	0.1 %
Uncle / Aunt	66	3.9 %
Nephew / Niece	37	2.2 %
Cousin	30	1.8 %
Father-in-law / Mother-in-law	24	1.4 %
Son-in-law	11	0.6 %
Relative (undetermined)	2	0.1 %
	20	1.2 %
Friend		
Neighbor	29	1.7 %
Known person	18	1.1 %
	4	0.2 %
None		
	8	0.5 %
The victim		
	126	7.4 %
Others		
	68	4.0 %
Total	1,698	100.0 %

The panorama that this data offers is very indicative and is far from being complete, given that when a deponent narrates an event that affects many people, he/she does not account for his/her relationship with each one of those victims. However, the conclusion seems clear in the sense that it is the very close relatives who come to testify about the serious events of violence.

The relatives of first degree of consanguinity, that is to say parents, children and siblings represent no less than 63% of the known relationships. If we add to this the spouses, we have then almost 3 out of every 4 cases.

In the same way, it is typically the mother who comes to report what happened to her child. By contrast, the occasions on which the deponent is not a relative of the victim are very few, 7.5% of the total. That 7.5% includes relationships or friendship or cohabitation as well as mere eye witnesses.

The very victim testifies also in around 7% of the cases, a figure that could not be very high given that the majority of the victims are deceased or disappeared.

While we wait for an investigation on the role of the family in the patterns of political violence as well as in the response of the victims to that violence, what can be gathered from this data is the familial connection between victims and testimonial may be generating a negative effect

(b) (6)

and sporadic effect as far as the report of the serious acts of violence. In this way, the more generalized and extreme the violence is, the less likely that each individual victim is reported and identified.

Since it is mothers, children or spouses who generally report the death of the victims, when these also die in the same massacre, it is more difficult for those events to be reported and the victims specified. This explains the lack of testimonies in really serious events that produce numerous victims. From what is set forth, in these situations, greater value should be conferred to a few testimonies for its correct evaluation and not facilitate greater impunity for the perpetrators.

The efforts carried out previously by deponents or relatives in order to denounce or attempt to establish the case are, in general, few and infrequent.

In only 267 cases, 3.6 of the total, the deponent mentioned having carried out previous efforts on the case. Despite that the real number will be higher to that of those that mentioned it, given that not all were asked about the topic, in any case, this represents a very low figure. In fact, many deponents clarified that their report before the Commission was the first one made before any institution.

This denotes the high level of impunity and of distrust of institutions. Often, the report was brought about not in order to obtain a punishment of those guilty, but rather only in order to obtain information on the whereabouts of the victim or of the corpse. Therefore, frequently it is not a question of a report per se, given that said report could endanger those who brought it about, but rather it is part of a search for the victim.

Thus, disappearance is the outrage that produces the most efforts, although it barely reaches above 13% of the cases, where forced disappearance constitutes the main type of event. This percentage, still low even in cases of disappearance, however, reinforces the image of impunity and despair which Salvadorian society lived through during the beginning of the '80s.

The efforts tend to be made in this sense before organizations like the International Red Cross and before non-governmental human rights institutions which carried out tasks of searching and public accusations. The lack of faith in the judiciary manifests itself in the 18 cases in which the deponents stated having submitted a writ of *habeas corpus* before the Supreme Court, despite the more than 1,000 disappearances which were reported. And of these writs, the initiative in many cases seems to stem from a human rights ONG more than from the deponents.

In the years at the start of the decade of the '80s, in which the indiscriminate violence was higher, the percentages of cases with previous efforts are even lower. In 1980 and in 1982, for example, only in 2% of the cases does there appear some type of effort, which suggests that in said time the highest level of impunity was in force. As of 1983, they rise somewhat until reaching their climax of around 15% in the years '90 and '91, years during which the situation was less intense.

The level at which diverse organizations are turned to in order to report the events is greater in the cities (around 8% of the total) than in the countryside (1.3%) or in the towns (1.3%). This paints a dark picture of the rural world where not only the SAVs are much more numerous and indiscriminate, but also the possibility or the habit of turning to institutions to attempt to confront them is more restricted. The peasant did not have the contacts not the ease of movement to go to an urban center and present his case to a public or private institution. Furthermore, frequently he/she did not see the use in a report which undoubtedly implied risks.

VII. FORCES RESPONSIBLE

The number of cases in which each force responsible is implicated in one form or another, according to the testimonies received¹⁴, can be seen in graph 8.

The Armed Forces is pointed out as responsible in almost 4,300 episodes, this is 58% of the cases, followed by the paramilitary bodies (ORDEN and the Civil Defense), implicated in 31% of same.

To the security bodies is attributed 22% of the cases, more than 1,600 in total, and the squadrons are accused on 817 occasions, 11% of the total. This last figure would grow if we added to it at least part of the 107 episodes attributed to men dressed as civilians (1.5% of the total), which almost always are equivalent to squadrons.

The guerrilla is accused of 342 SAV, which represent almost 5% of the total of same.

According to these figures, it is the state apparatus, particularly, its military bodies, the main one accused of violations of human rights, above all on the part of the civilian population. The state is pointed out as directly responsible (through its organized bodies: military, paramilitary and security) in a total of 6,182 cases, 84% of the total. And, what is more striking, from the total sum of cases reported directly before the Commission, 4,911 (66.8%) constitute homicides in which the direct participation of members of the state apparatus is reported. A certain quota corresponding to the squadrons, which tend to be composed of members of the state security and military bodies, would still have to be added onto this responsibility.

We frequently have on the one hand, a complementing between the Armed Forces and the security bodies (which really operated as annexed military bodies) and on the other, less formal structures, although also official like the Civil Defense. The latter often play a role of accusation and support of the repression by the military bodies.

On other occasions, the local or canton headquarters of the Civil Defense or of the Military Escorts respectively, carry out on their own, according to the testimonies received, the actions that culminate in executions. This latter case is that one that most lent itself so that, on occasion, strictly personal interests and vendettas could be disguised behind the political repression. The impunity which the political repression enjoyed was so complete and the absence of superior controls so great, that the perpetrators did not fear any sanction in these cases for their conduct destined to satisfy personal objectives.

The impunity, from the juridical point of view, consists obviously in that the crimes not have a criminal sanction. From the psychosocial point of view, the impunity has two faces: on one side for the victimizer, it means full confidence that his actions will not be punished by the superior power. An indicator of this is that with frequency the perpetrators acts barefacedly it is not even infrequent for them to relate in ample detail, between shots of alcohol, the crimes committed.

On the other hand, for the victim, impunity means the absolute hopelessness of achieving a punishment for those guilty, and translates in a defense attitude that will avoid greater evils. Frequently, appeal to the judicial apparatus is limited to attempting to achieve permission to recover and bury the corpse, something which is not always obtained. In these cases, the perpetrators who are well known are not reported, and on other occasions, when the judge initiates the investigation of his own initiative, the whole truth is not stated in order to avoid reprisals. The resignation reaches such a point that, at least in one case, the relatives find themselves being demanded for money by the perpetrators at the time of the capture, in exchange for leaving them the corpse near the house.

¹⁴ Given that several forces may be involved in one same case, something which happens often, the total of cases represented would be false, but the graph serves in giving us an idea of the relative responsibility of each force.

Besides the collaboration among the military and paramilitary bodies, the squadrons constitute another repressive structure which includes indistinctly military personnel (in this case dressed as civilians), paramilitary personnel and civilians of the same ideology, who would go out every so often to "clean" the adverse zone. According to the testimonies, it was normal for among the members of a squadron to recognize persons belonging to the fore-mentioned groups. They would frequently act with their faces covered in order not to be recognized, which supposes a small setback as far as impunity. On occasions, the members of the squadron were recognized in the whole zone, which does not seem to have stopped their power of annihilation.

The responsibility of each unit, inside each force, may be observed in graph 9.

Within the Armed Forces, the predominance of the ground forces and particularly [those] of the infantry stand out as far as the responsibilities attributed. Said forces were the ones that carried the weight of the war. The Air Forces are pointed out in a relatively small number of occasions, something which contrasts, as will be seen further on, with the greater implication in the testimonies of indirect source. The Navy, for its part, seems to be comparatively almost at the margin of the SAV.

Within the infantry forces, on the one hand the Fourth Brigade and above all the Military Detachment (both from Chalatenango) stand out, and on the other, the 2nd Military Detachment (Cabañas) and the Fifth Brigade (San Vicente). In the case of Chalatenango, besides the virulence of the events that occurred, the overrepresentation of which said department is object within the whole of the testimonies comes into play. For its part, the Armed Forces stationed in the departments of the central area, such as Cabañas and San Vicente, are highlighted as the main culprits in this very-oppressed zone.

The Immediate Reaction Battalions comprise a relatively high level of responsibility, being inculpated at a ratio of 3 to 1 in relation to the other two bodies. Among these latter two, the Treasury Police is held responsible more so than the National Police. This corresponds exactly with the harshness of the violence in the countryside, an environment in which the Guards acted predominantly, while in the urban populations, with greater presence of the National Police, the violence was more selective.

In fact, the National Guard is the most individually highlighted unit of the whole ensemble after the Civil Defense, which is with a great difference, the group to which the most cases are attributed. The Civil Defense stands out in such a distinguished way in part due to that, the different units not being separated, everything appears under only one heading. At the margin of this, the graph reveals the magnitude in which this paramilitary bodies has been implicated in the violence, sometimes oriented towards the military bodies and selecting victims to be executed or tortured, and sometimes acting on it's own account.

Within the FMLN, the Popular Liberation Forces are the unit with the most registered responsibility, but once again the relative great weight that the department of Chalatenango has over the totality has a bearing.

The great majority of the squadrons are not identified individually by concrete names, but rather are branded generically with this term. This conforms to the idea of the squadron not so much as a structured and organized group, but rather more as an informal and circumstantial grouping of military, paramilitary and some civilian elements with the purpose of carrying out certain acts, mainly assassinations.

As far as the *homicides* (graph 10), the perspective is similar to that which is held with the ensemble of the events, with some differences, like that the responsibility of the paramilitary

bodies is even greater in this case. In fact, for every 100 cases in which the paramilitary bodies find themselves involved, 86 finish in the death of the victim: a proportion exactly equal to that found for the squadrons. This demonstrates the lethal potential of these two groups and the homicidal function that they played. This, which is obvious to a certain point in the case of the squadrons, informal groups constituted with the primary purpose of eliminating political adversaries, results surprising in the case of the paramilitary bodies, which constitute legal groups to which, contrary to the squadrons, have a military function attributed to them in the armed conflict. The data shows, however, that beyond this military role of anti-subversive military contention which it could play, the Civil Defense, and the remains ORDEN in the first years of the 80's carried out, just like the squadrons, an intense violence which pretended to clean up the countryside of political enemies, real and imagined.

For example, while 15% of the homicides reported in which the Armed Forces are involved are produced in the context of indiscriminate attacks, this proportion decreases to 5% in the case of the paramilitaries, the percentage of execution rising in parallel to 94%. This indicates that, according to the testimonies, more than combats in which could produce civilian victims, the function of the Civil defense was the repression of the rural population which translated into extrajudicial executions.

The difference between paramilitaries and squadrons is not, in any case, limited, as in fact many of the latter were composed, among others, of members of the Civil Defense, according to the testimonies received.

The disappearances, tortures and rapes attributed to each force appear reflected in graph 11. In the *disappearances*, the fact that the FMLN is accused of 10% of the total of same stands out, which doubles its general rate of responsibility. The type of SAV in which the guerrilla is involved is concentrated in homicides and disappearances and has a more selective nature than that of the state bodies; less than 4% of the homicides for which the FMLN is accused are indiscriminate attacks. While more than 91% (201 cases in total) are extrajudicial executions.

Similarly, there are practically no cases of identified homicide in actions of the FMLN that affect more than 19 victims all together. This demonstrates that the violations committed by the guerrilla center, although to a much lesser extent than those of the state bodies, on the selective elimination of adversaries or dissidents according to the registered reports.

The *tortures and mistreatments* are mostly assigned to the Armed Forces, which accounts for 57% of the accusations, and secondly the security bodies, which add up to 36%. In many cases, as was explained, they are tortures that preceded the execution. The FMLN only receives a total of 8 accusations of torture, so that it seems that was a very sporadic and infrequent event among its ranks.

For its part, the rapes are primarily attributed to the Armed Forces and the paramilitaries, often as a prelude to execution. There are no reports that connect the FMLN to this type of event.

Upon examining the evolution of the responsibility of each force for each year (graph 12), slight differences are seen. The Armed Forces carries the greater weight of the reports, especially for the years '80, '81 and '82 and its as of then that the cases that are attributed to them descend in a significant manner. The incidence, for its part, of the paramilitary and security bodies is very large for the year '80 at the start of the war, but the number of SAV attributed falls sharply in the year '81. Thus, the squadrons have an important role in the three first years, so that hardly any cases are registered as of 1984.

The FMLN, although also diminishing as far as the events that are attributed to it between 1980 and 1983, shows a much more stable tendency during the whole decade.

(b) (6)

In conclusion, the panorama reflects that the systematic abuses against human rights in the year 1980 were led, according to the testimonies received, by the Armed Forces in company of the security and military bodies and, in lesser measure, by the squadrons. As of the year '81, the role of these paramilitary and police bodies decreases considerably, leaving the Armed Forces in center stage.

It is indicative that, in the rise of SAVs that occurred in 1989, the paramilitary do not find themselves involved nor does the activity of the squadrons resurge strongly, but rather said rise is limited to the actions of the formal official units of the military type. In the same way, the fact that despite the intensity of the generalized war which brought with it the FMLN's offensive, the number of SAV would not rise even by far to a figure similar to that of the beginning of 1980, and furthermore the non-resurgence of the informal repressive groups are factor that demonstrate that the violations of human rights and humanitarian right are not due so much to the war as cause of all the veils, but rather to that particular mode of understanding the ideological confrontation as the physical elimination of the adversaries.

Of all the episodes registered for the year [19]80, 46%, that is to say almost half, correspond to the first six months of the year, when the war had not yet generalized. The worsening and extending of the armed conflict in the second half of the year did not bring with it, nevertheless, an increment in the serious acts of violence. This is another proof that the war itself is not the automatic cause of the human rights abuses.

VIII. GENERAL PATTERNS OF SERIOUS ACTS OF VIOLENCE

By pattern is meant a systematic practice that is repeated over time in a consistent manner and with a certain frequency. In order to be able to define a practice as pattern, two elements will thus be necessary:

- systematization, which implies a regularity in its development which reflects on the repetitive functioning of certain mechanisms which produce the same result, cyclically, at different moments in time.
- a minimum frequency, that is to say that the practice repeats itself a sufficient number of times and affects a determinable number of people¹⁵.

Thus, the fundamental patterns detected can be summed up into three:

A) The most detected practice is the extrajudicial execution of the adversaries in the hands of the state agents, which tends to end up classified as homicide and sometimes as disappearance in the cases where the corpse is not found or is found in a state of decomposition which impedes its identification.

In many cases, the execution is preceded by mistreatments, torments and, in the case of women, also rape, events that are not necessarily directed towards extracting information, but rather constitute injuries against the victim. Such cruelty in the execution also had a deterrent and terrorizing effect on the victim's partisans, real or supposed.

These conducts are attributed above all to the Armed Forces, in the cases in which the indiscrimination is greatest, and also on the security corps, the Civil Defense and the squadrons in the cases where the killings were more selective.

Although the difference between the guerrilla, on the one hand, and the Armed Forces, the paramilitary corps, the security bodies and the squadrons, on the other, is very big as far as the

¹⁵ This implies that an event that, even affecting many people, occurs at an isolated moment [as a] product of a special circumstance and without continuity in time, could not be categorized as a pattern. In the same way, a manner of acting that, despite being regular and cyclical, involves very few persons or repeats itself very sporadically, will not be considered a pattern either.

number of cases, the FMLN is also accused of executing individuals, specially those which it considers supply or could supply information to the enemy.

B) The indiscriminate attack on the civilian population in different ways such as air bombardments, machine-gunnings or the placing of explosives or mines, which can result in serious injuries or in the death of the victim. This second pattern, of much less frequency than the former, is inscribed more easily within the logic of war, although it is not infrequent to find extreme cases between execution and an indiscriminate attack in which it is not easy to determine the homicidal intent of the perpetrator. It's a practice carried out by the Armed Forces in areas of conflict, especially during the first five years of the decade.

C) The classic type of torture on the part of the Armed Forces and the security bodies is that which after capturing and overpowering the victim, he/she is subjected to suffering so that he/she will provide information and confess his/her participation in determined events. This pattern implies a more prolonged detention and in more adequate centers than that which was produced in the tortures before the execution. Just as with indiscriminate attack, it's a pattern whose reports, despite their importance, are much less generalized than those of extrajudicial executions.

IX. THE TWO PERIODS

The Commission's mandate time can be divided into two periods as far the occurrence of serious acts of violence. The first encompasses from 1980 to 1982 and the second includes from 1983 onwards.

A comparative exam of both periods, while summing up synthetically what has been analyzed thus far, serves to better understand the patterns of the abuses of human rights and of humanitarian right in the country.

In the first place, the relation of the volume of reported episodes in the first and the second periods is 3 to 1, despite the first only containing 3 years and the second 8 and a half.

The difference is not only quantitative, but also qualitative, this is in the mode in which they occur. In the first period, 70% of the victims see their basic rights violated in the company of other victims and the remaining 30% in individual events with a sole victim. By contrast, in the second period, the percentage of individual victims rises to 43%.

On the other hand, 80% of the homicide cases correspond to the first period and the remaining 20% to the second. This defines the first period characterized by executions and collective killings, compared with a second phase in which the repression was more selective. From the total of actions which affect 20 victims or more, actions which tend to refer to massacres, 71 happen in the first period as opposed to 27 in the second.

These first years of the '80s are the years of the great massacres, the most known ones and of indiscriminate repression, in the hands above all of the Armed Forces accompanied by the Civil Defense, the Guard and the squadrons; the paramilitary, security and squadron bodies carry out 89%, 92% and 89% respectively of the total of homicides which they are accused of during the first period. According to the testimonies received, thousands of citizens in extensive zones of the country are contemplated and treated as enemies by the state apparatus, due to the mere fact of where they live. To live in small towns of large zones of the northern and central areas of the country supposed a certain risk to one's life which could be lost in indiscriminate attacks or, more commonly, in deliberate executions.

From among all the episodes directly reported to the Commission, nothing less than 3,762 extrajudicial executions occurred in the countryside or in small nuclei are counted during the first period under the direct responsibility of the state corps. This number is equal to more than 50% of the total of reports. It was however the rural world in these areas, called areas of conflict, which suffered this strong beating. 95% of all the cases registered in this period happen outside of the cities, within which the violence is more restricted (graph 13).

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In the worst cases, the testimonies reflect that it was a matter of not only cleaning an area of contrary political elements, but also of expulsing the whole population, which was seen as suspect or at least susceptible to collaborating with the guerrilla. With this unstated purpose of converting determined areas into demographic deserts where the army could confront the guerrilla in more favorable conditions, frequently after the attacks on the people, the houses and crops were burned and the livestock killed in order to ensure that the inhabitants would not return.

These operations, which were the most indiscriminate, produced the most known massacres and, subsequent to each one of them, a great number of refugees who escaped to Honduras and of internal displaced persons. Thousands of Salvadorians crossed the border to save their lives or piled up in unhealthy cellars in San Salvador in a state of semi-clandestinity. The fact that, although harassed and accosted, they would be allowed to survive in said places of refuge, and to even occasionally leave the country from there, is good proof on the one hand, of the greater moderation of the violence in the city and, on the other, that the persecution had a very important geographic base within the state military apparatus' strategy. They could be allowed to subsist, but not in the areas of conflict where they could lend support to the insurgent forces.

On occasions, the operatives would surround whole zones to then encircle them and attack them. On these occasions, big killing were sometimes produced at a determined point which are the ones that are popularly known as massacres. However, on no fewer occasions within an operation of several days, victims were produced in different hamlets or places as people were found by the soldiers. This type of action could suppose a quite high number of victims but has not received so much attention as the massacres due to not all having been produced simultaneously. However, the pattern of indiscriminate violence is the same and the context and the objective of the perpetrators also seems to coincide, so that it deserves to be considered, along with the massacres, within the same phenomenon.

For example, in the context of the "Ataraya" operation,, which was produced between May 27 and June 9 of 1992 in the east of Chalatenango, the Commission has 38 victims registered in the testimonies, of which 6 suffered human rights abuses individually and the rest in 13 different collective episodes. Given that the number of victims not yet identified is probably much higher, the magnitude of this group of converging deaths which are inscribed within one same action with one same objective acquires characteristics particular to a massacre.

At this juncture, the defense for the civil population which opted for not abandoning their traditional habitat, could only opt for the escape more or less organized of groups that were wandering the countryside without a determined destination, changing their position according to the advance of the military forces. This phenomenon is known in the country by the name of "guinda".

At the start, it was the men, especially the young ones, who would leave on "guinda" at the arrival of the soldiers, for being suspect or susceptible to converting to guerrilla fighters. Later on, after several episodes in which many people who remained in their houses trusting in the gender or their age (too young or too old) would serve them as a shield ended up executed, the "guindas" started to include women, elderly and children.

In parallel to the massacres, as we already saw at their time there were an infinite number of assassination of small groups of people in which definitely the majority of deaths were produced. These killings of groups of a few people were especially frequent in 1980. In 1981, however, the collective execution decrease in number but increase in magnitude. There are less episodes, but among these are the bloodiest ones, those that leave a greater number of victims, like the great massacres in the context of the operations that pretend to clean up whole zones. This can be neatly seen in the following table which contains the number of collective events with more than 5 registered victims for each year and the median number of victims for all the episodes in the same year.

YEAR	NUMBER OF COLLECTIVE EVENTS	MEDIAN ESTIMATE NUMBER OF VICTIMS PER EVENT
80	138	19
81	65	64
82	62	45
83	32	42
84	16	21
85	3	9
86	7	22
87	4	13
88	2	33
89	11	22
90	2	20

As of '82, the number of collective episodes decreases as well as the number of victims in each one, until reaching a minimum in 1985, moment as of which the slight rise begins which culminates in '88. According to the picture, the number of estimated victims in events of this kind is of about 2,600 in 1980 and of about 4,100 in 1981, despite that, as has already been seen, there are more registered victims in the first year than in the second. This reaffirms that the victims of multitudinous events, such as the massacres that were frequent in '81, are more difficult to individualize in the testimonies of victims of collective events which affect few people. In the measure that the execution affects close relatives also, it becomes more improbable to obtain testimony about each victim.

The intensity of the reported assassinations, their temporal and geographic extension, their multiplicity in various points during the first period, negates the idea of isolated episodes produced by the excess of some official or of some juncture of the war and affirms the conclusion of an organized and systematized violence, which pursued the ideological elimination of those considered enemies and the breaking of any possible attempt at opposition organization. What's more, in many cases we can not speak properly of excesses, when the executions appear as plan with this specific end of cleaning the enemy territory.

The large spaces of impunity opened to aid this political repression made it possible for this absolute power to be used, above all by the paramilitary corps, in order to settle old personal or family feuds, or simply to profit at the victims' expense.

In many cases, the executions were preceded, as has already been seen, by other events which contributed to the crime's brutality; 85% of the episodes of torture and consecutive execution and 90% of the rapes followed by execution, occurred in this first period.

Frequently, they are cases of extreme cruelty, with mutilated extremities and genitals by machetes before slitting the throat, in actions proper of death squadrons and paramilitary bodies which sometimes did not use fire arms. The proportion of cases in which the bladed weapon constitutes the murder weapon is 14.5% in the first period, while it decreases to 8.5% in the second.

These events developed under great impunity which reaches its climax when the perpetrators carry out the tortures and executions in public, often in front of the victim's family, with the purpose of intimidate and terrorize his/her family or social group.

After the death, there were abuses and disfigurements of the very corpse which was left visible in a public place, a bush or a road to increase the terror. The bodies were thrown in places near to the assassination, not far from the place of action of the armed group

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or else in the so-called corpse "dumps" where the relatives would go to identify them.

As can be observed, these practices stray from the normal type of forced disappearance of the southern cone, with concealment of the event and express intention of creating uncertainty as to the final destiny of the victim, despite that the non-identification of the corpse makes the execution remain classified as disappearance. Rather in El Salvador, the testimonies demonstrate that it is not the event that is hidden but rather that, on the contrary, it is publicized in order to increase the terror. The only thing that is sought to be hidden is, and not always, the identity of the concrete perpetrators of the crime, throwing the corpse in a place slightly distant from the place of homicide. Practically in all the cases, the relatives are convinced of the person's death, especially when he/she was captured in the countryside during this period by squadrons, guards and civil defenses.

The minimal consolation for orphans and widows of burying the victims was not always conceded and, at the extremity of cruelty, the perpetrators would sometimes even watch over the corpse so that, under threat of death, it would not be recuperated opportunely. This image constitutes one of the most powerful and significant ones from this hard period. In these cases, the reports relate how the relatives tended to go before the judge who could not or would not always facilitate permission for the inhumation.

As of 1983, at the start of the second period, there is an improvement in relation to the human right situation. All the types of events reported decrease in number, but also their relative composition differs with respect to the first period (graph 14).

TYPE OF EVENT	PERIOD 1	PERIOD 2
HOMICIDE	4437	1101
DISAPPEARANCE	714	317
TORTURE	948	469
RAPE	215	55
INJURIES	78	92
EXT. KIDNAPPING	12	12
OTHER EVENTS	6	0

Not only does the number decrease, but also the proportion of the homicides, as a consequence of the great decrease in the massacres and the indiscriminate violence. Conversely, the relative weight of the disappearances, the serious injuries and, especially, the tortures increases. This is due, on the one hand, to the lesser virulence of the violations and, on the other to that, as was already explained, in a less dramatic context as that of the second period, the margin of perception as to what constitutes a SAV is widened and people go to report relatively less serious events.

Torture takes on a substantive superior importance so that, although the global cases decrease between the two periods, the instances of torture in exclusive rise from 132 to 285. This contrast is explained by the spectacular fall of tortures which precede execution. It's a question of tortures strictly speaking in this second period, with the purpose of obtaining information or confessions, in which the security corps, which are the ones officially in charge of intelligence and information tasks, recover the protagonist role in almost 45% of the cases. According to the testimonies, the tortures tend to end in the coercion of the victim to sign a blank paper onto which will be written a posteriori the supposed confession which will serve as the basis to a judicial accusation.

In this period, the final remission of the victims to the judicial and penal system, after the violations, increases. Regardless, it is the indirect source where the great rise in the number of tortures will be contemplated. This is due to that upon reporting the events before

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the institutions shortly after their occurrence, they do not suffer in the indirect source, the filter of being perceived as relatively less serious.

The panorama which come through during this period is thus of a more selective and relatively softer repression, in which it is already possible to emerge alive after having been tortured. In this context, the episodes occurred in the cities, where many detention centers are located in which tortures may be applied, rose from 4 to 9% of the total in this second period. In this new situation, of more urban profile, San Salvador acquires a more distinguished role. Thus, from the reports made in this department of San Salvador, those that correspond to this second period reach almost half (43%), which supposes almost duplicating the general rate of cases which belong to this period (24.5%). Conversely, departments such as San Vicente, where the accusations had been very numerous for the first period, there are now relatively fewer with only 10% of the total of cases in this second period.

Those responsible most often accused for the violations of basic rights vary between the two periods (graph 15), fundamentally due to the almost disappearance of the victims attributed to squadrons as of '83 and due to the strong decrease of the paramilitaries.

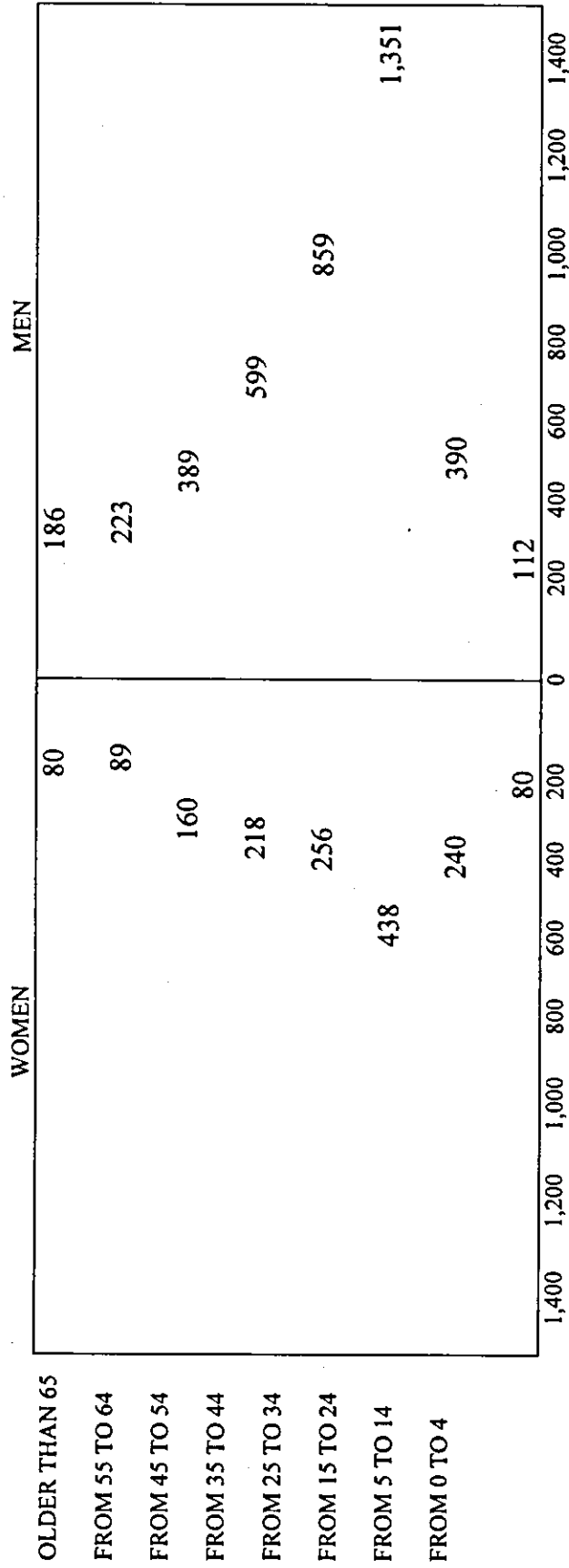
For its part, the FMLN maintains a relatively low and balanced rate of responsibility between both periods. In the first period, the homicides are more frequent (138 against 80) and in the second, the disappearances (78 against 24 in the first). Hardly any reports of torture or of rape were received. The reports of injuries and of kidnappings for extortion are also very few.

The events blamed on the guerrilla, homicides and disappearances, occur more than anything in areas of conflict, fundamentally in Chalatenango (54%) and Morazán (95%), and reflect the elimination of individuals seen as enemies or dissidents in the very ranks or in areas controlled by the forces. The guerrilla managed to reach a high level of control over some zones in which it constituted an authority which regulated de facto the order and applied punishments. In this context, some persons were even executed, fundamentally those accused of denunciation or collaboration with the enemy, be it within the very ranks ("traitors") or outside of them ("snitches"). In these executions, the victims did not count on the guarantees of due process which would allow them to defend themselves from the accusations. In some other cases, the minority, the homicides reported appear to reflect the selective elimination of individuals considered as enemies due to their post or due to their personal disposition, on the margin of accusations of collaborationism.

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VICTIM POPULATION AGE PYRAMID

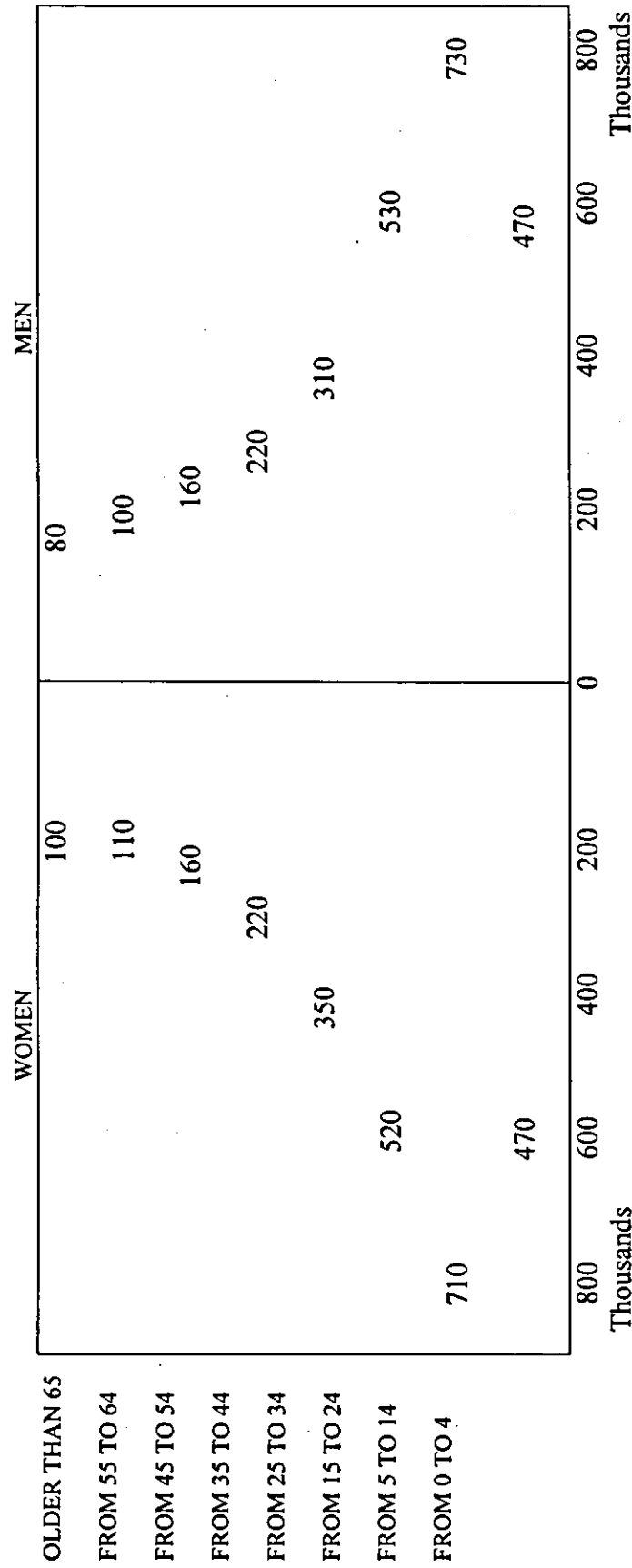
Direct Source Victims



GRAPH 1

VICTIM POPULATION AGE PYRAMID FOR EL SALVADOR

Number of persons by gender and age group

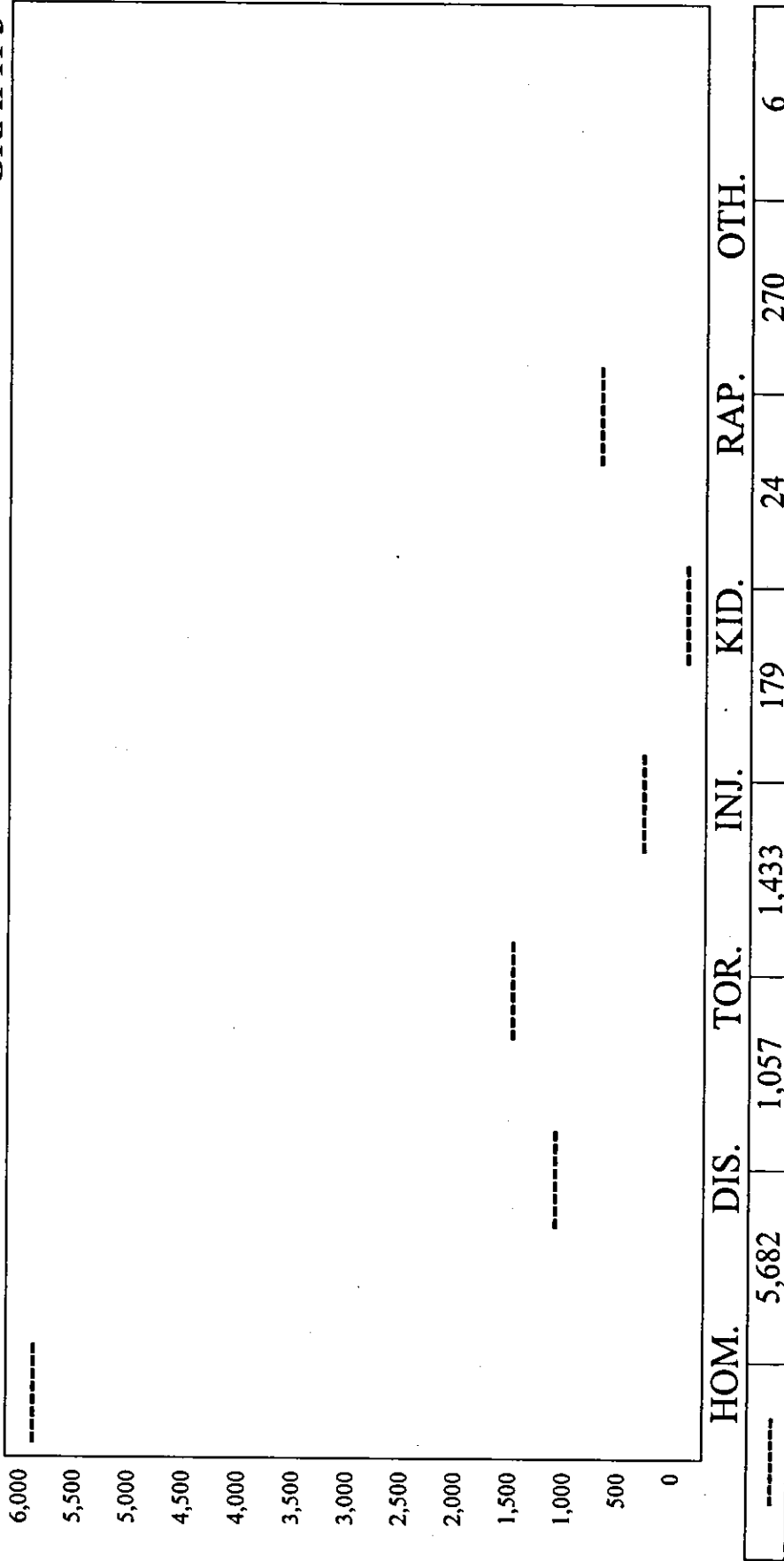


Source: CEPAL. Latin American Statistics Yearbook. Santiago de Chile. 1984.

GRAPH 2

NUMBER OF CASES THAT INCLUDE EACH TYPE OF
DIRECT SOURCE

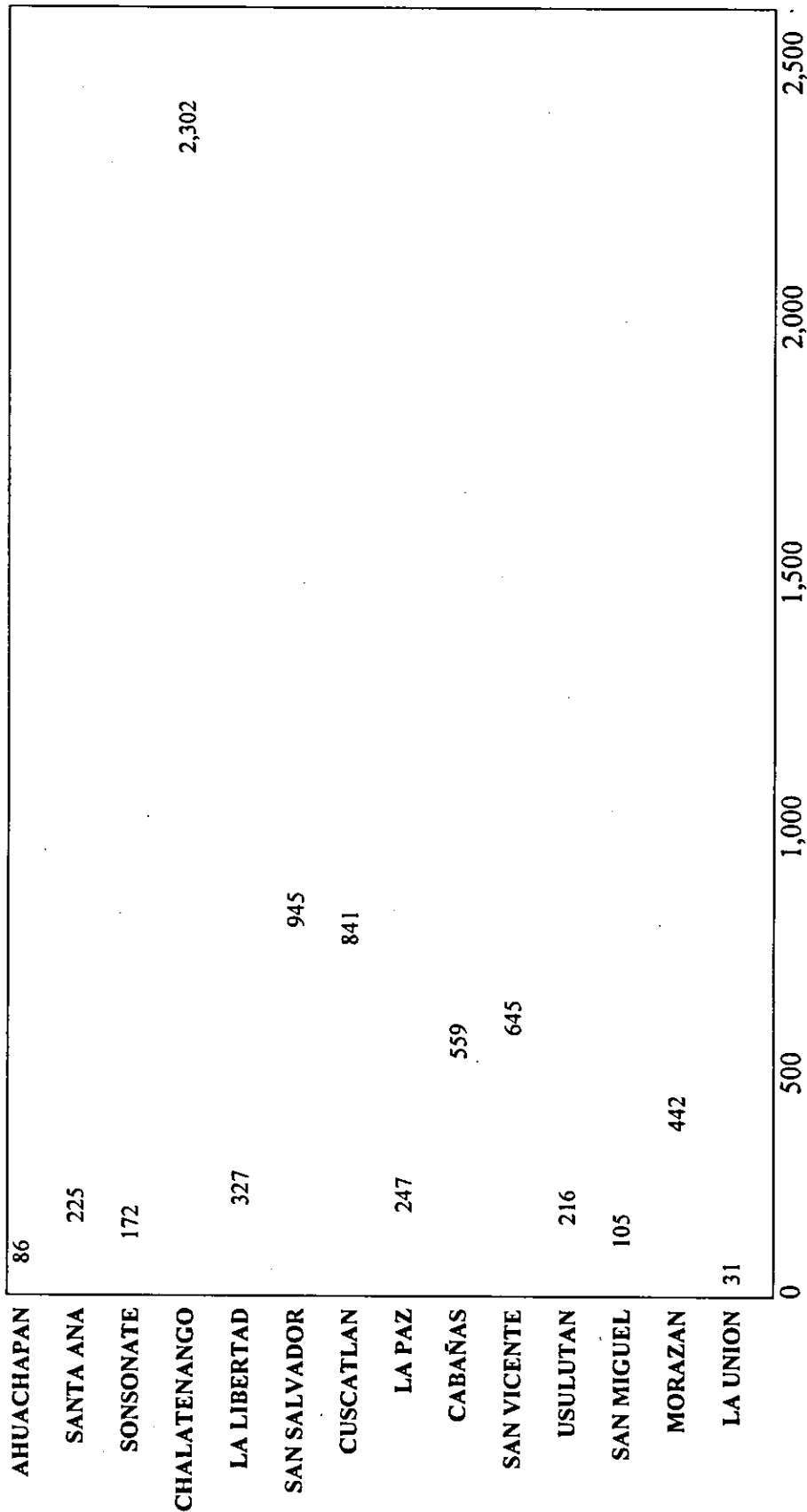
GRAPH 3



HOM: HOMICIDE DIS: DISAPPEARANCE TOR: TORTURE INJ: INJURY KID: KIDNAPPING RAP: RAPE OTH: OTHER

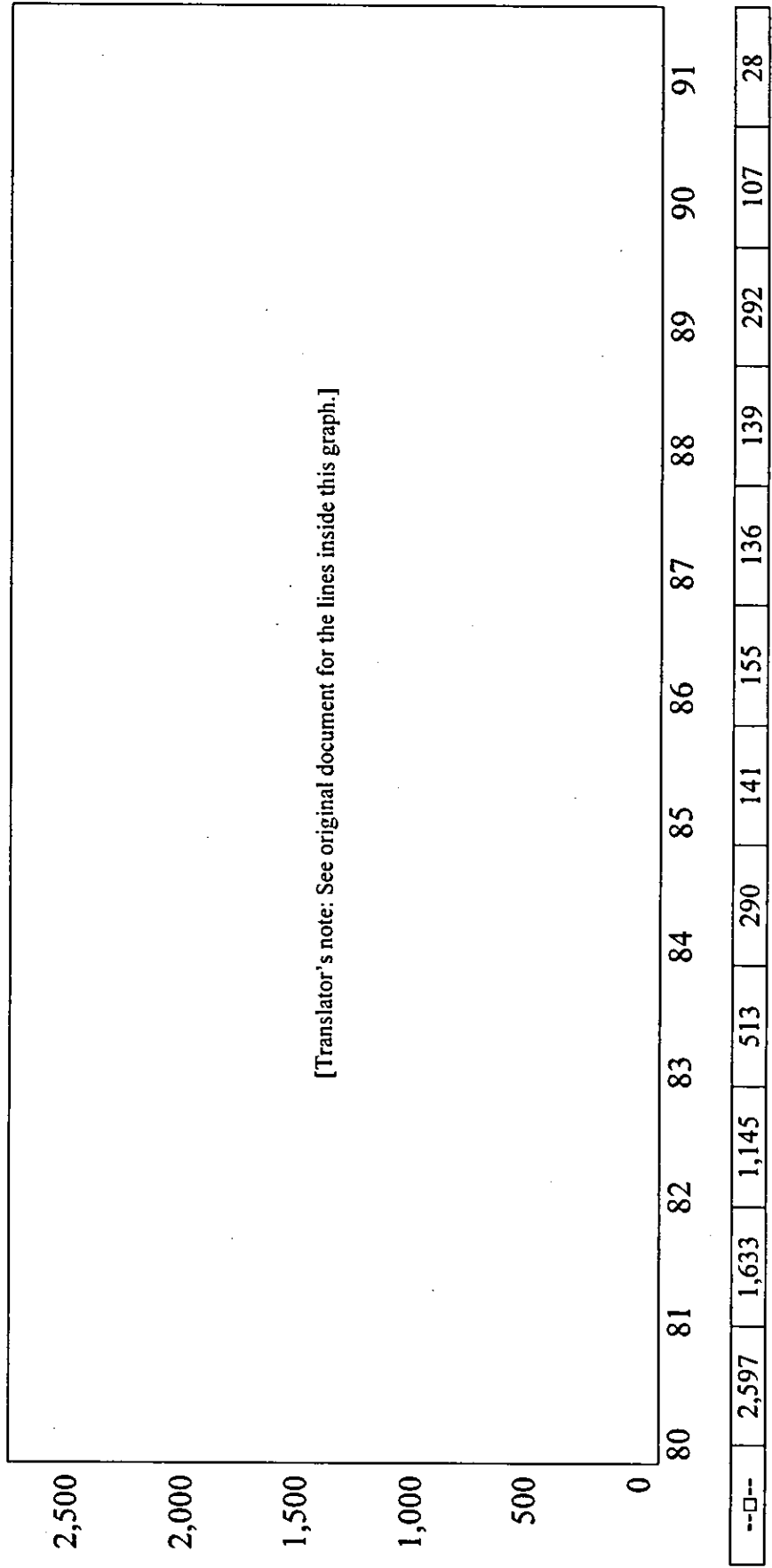
NUMBER OF CASES BY DEPARTMENT

DIRECT SOURCE



GRAPH 4

ANNUAL EVALUATION OF THE NUMBER OF REPORTED CASES
DIRECT SOURCE

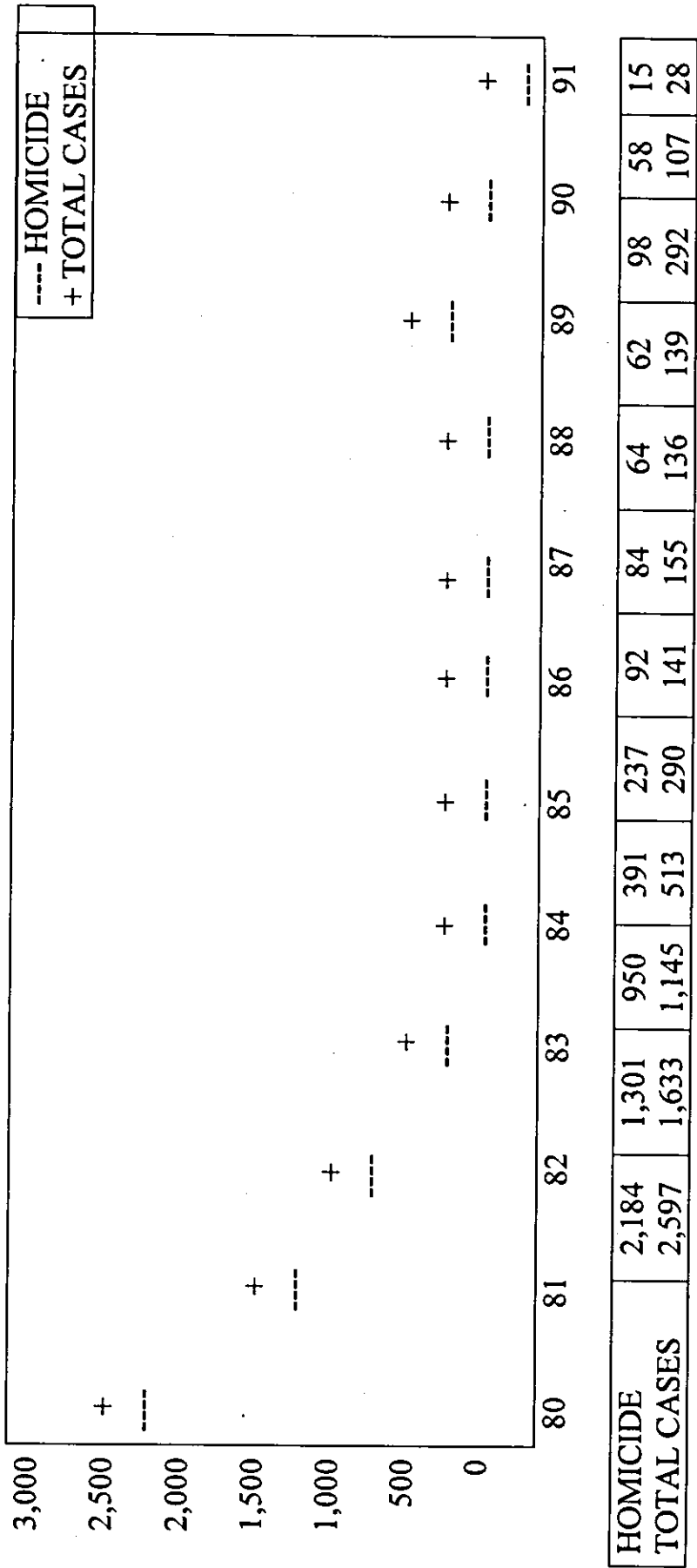


For 1991, only until July is included.

GRAPH 5

NUMBER OF HOMICIDES REPORTED PER YEAR

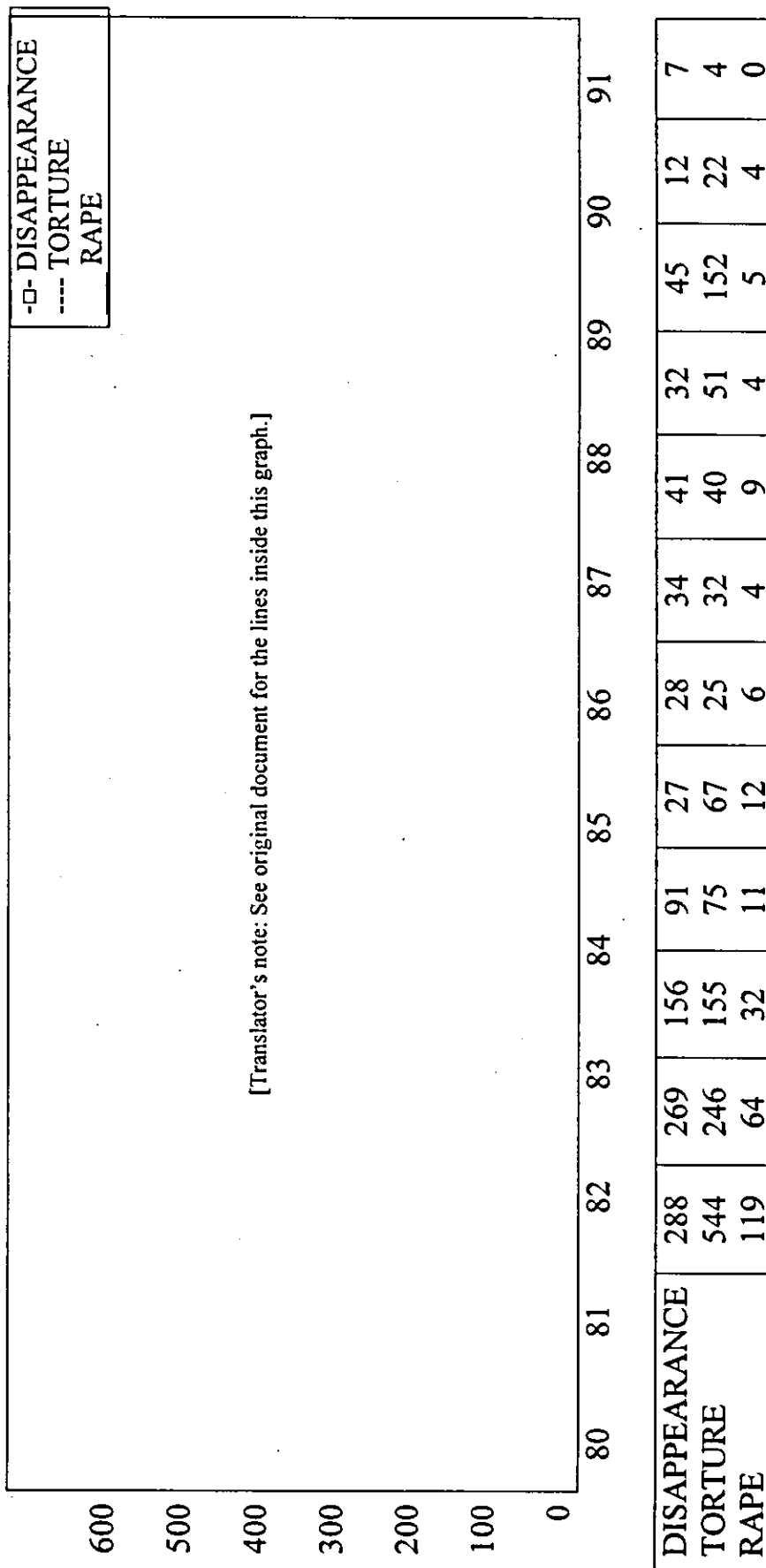
DIRECT SOURCE



For 1991, only until July is included.

GRAPH 6

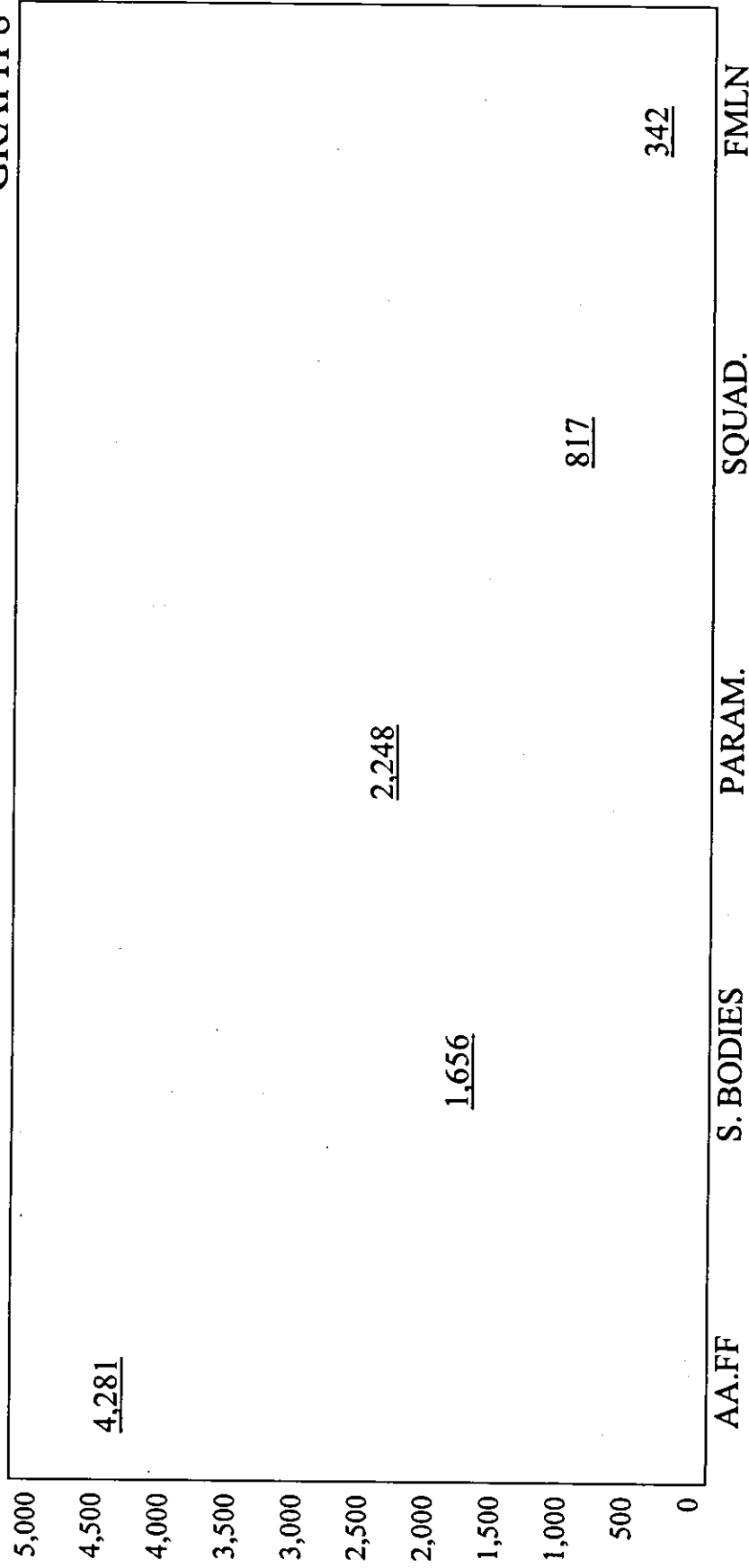
NUMBER OF DISAPPEARANCES, TORTURES AND RAPES PER YEAR DIRECT SOURCE



For 1991, only until July is included. GRAPH 7

NUMBER OF CASES IN WHICH EACH FORCE IS RESPONSIBLE
DIRECT SOURCE

GRAPH 8

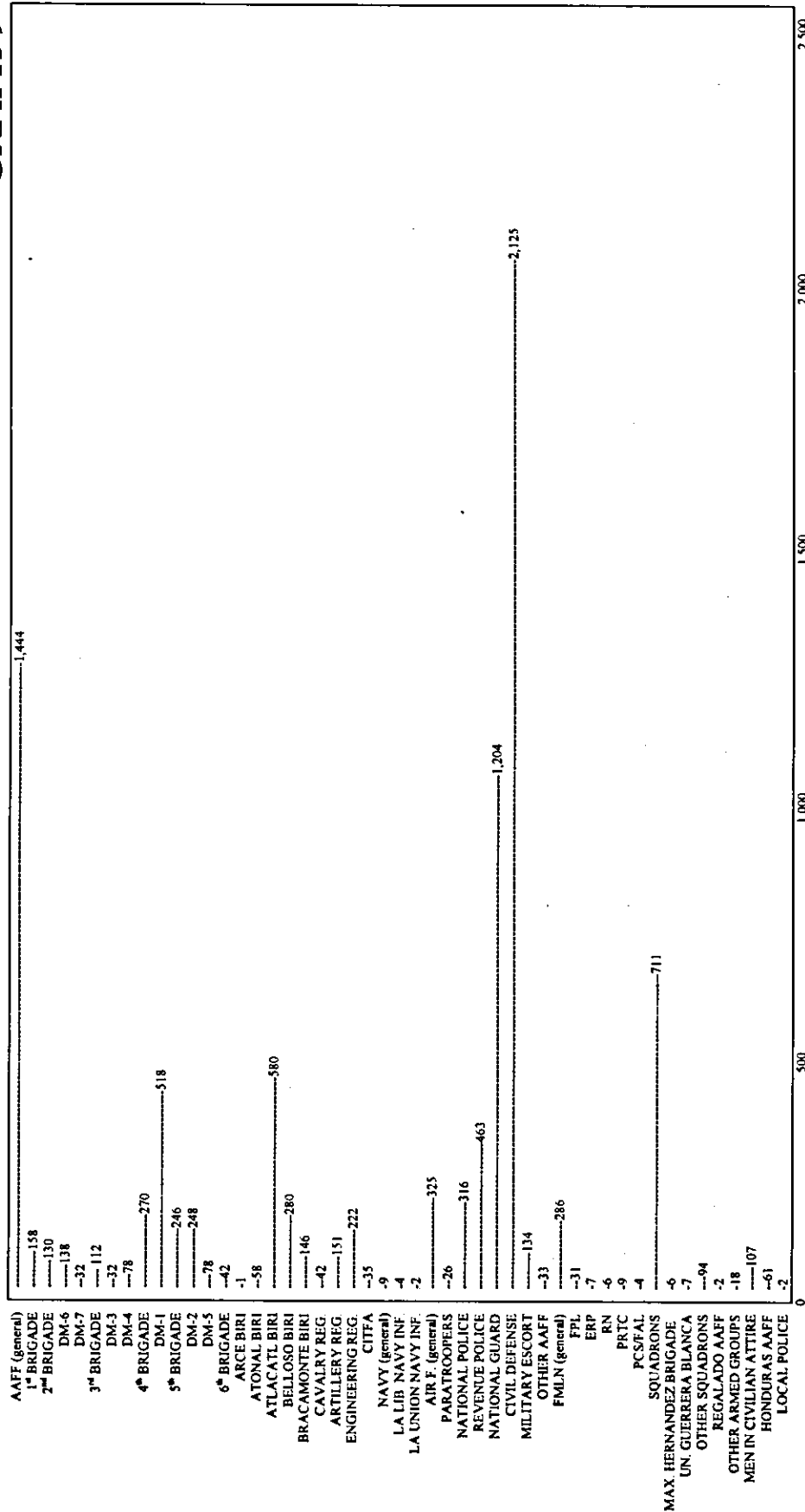


AAFF: Armed Forces S. BODIES: Security Bodies PARAM: Paramilitary SQUAD: Squadrons

NUMBER OF CASES PER MILITARY UNIT RESPONSIBLE

DIRECT SOURCE

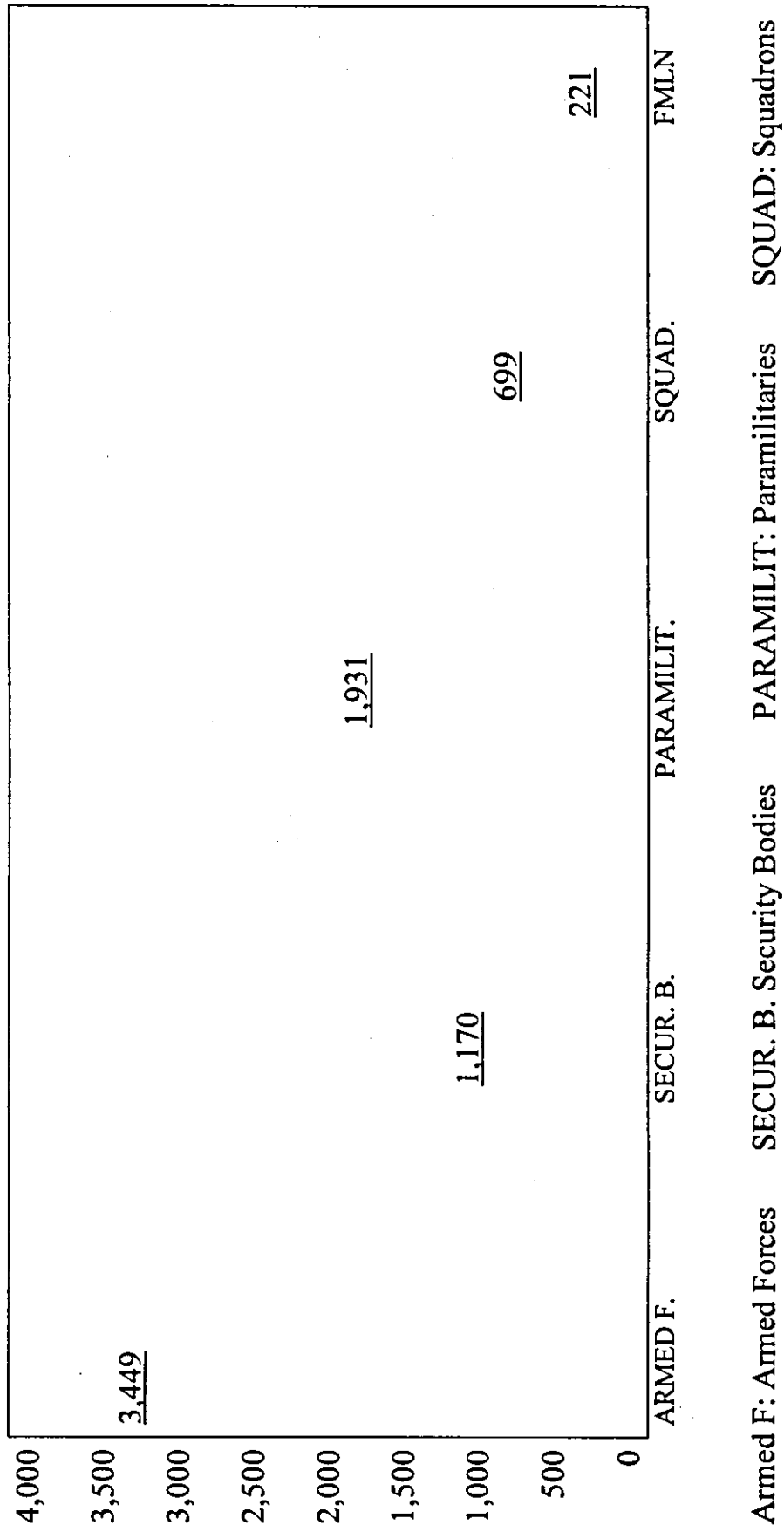
GRAPH 9



[Translator note: BIRI: Immediate Reaction Infantry Brigade]

NUMBER OF HOMICIDES PER RESPONSIBLE FORCE

GRAPH 10

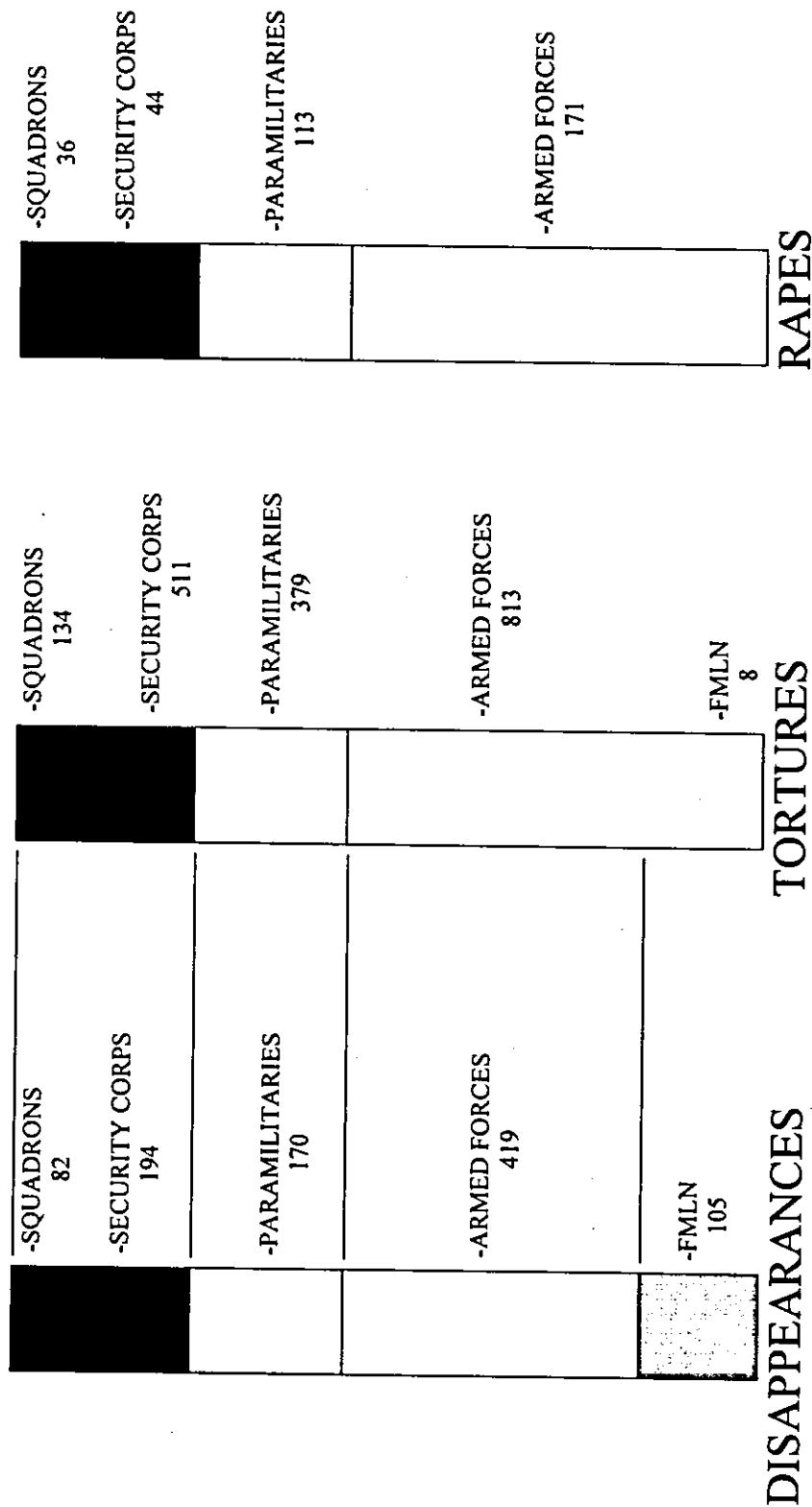


Armed F: Armed Forces SECUR. B. Security Bodies PARAMILIT: Paramilitaries SQUAD: Squadrons

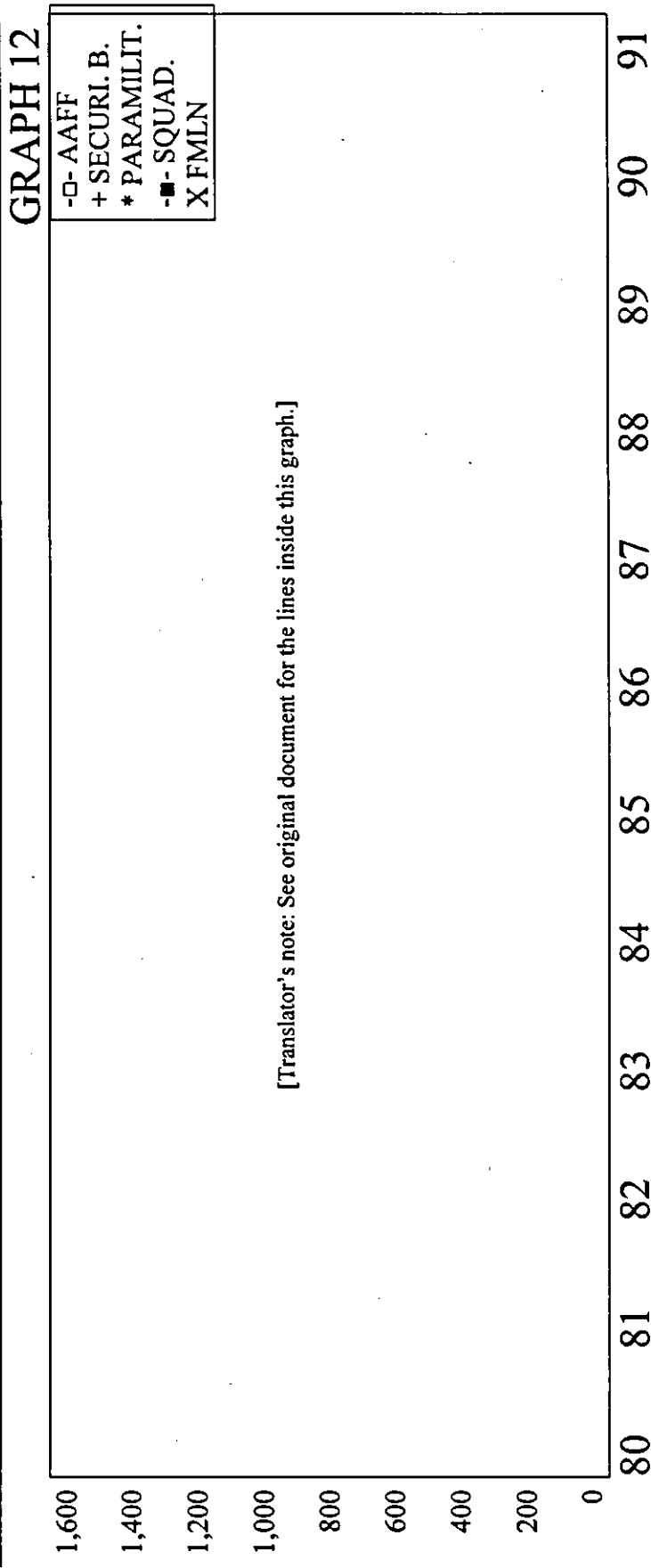
TYPES OF EVENT PER FORCE RESPONSIBLE

DIRECT SOURCE

GRAPH 11



NUMBER OF CASES IN WHICH EACH MILITARY FORCE IS IMPLICATED, PER YEAR
DIRECT SOURCE



AAFF	1,424	922	750	298	210	75	87	64	69	214	50	11
SECURI B.	789	338	161	55	22	17	46	25	26	116	16	5
PARAMILIT.	1,109	541	297	121	38	19	35	9	8	13	10	2
SQUAD.	345	251	115	53	20	8	1	5	7	0	2	1
FMLN	81	45	39	33	7	20	21	20	26	19	15	6

PROPORTION OF CASES ACCORDING TO THE TYPE OF HABITAT AND THE PERIOD

DIRECT SOURCE

NYC T# 117045

[Translator's note: See original document for the pie graphs. The three terms used around the pie graphs are translated below.
PUEBLO: TOWN
CIUDAD: CITY
CAMPO: COUNTRYSIDE.]

[pie graph]

[pie graph]

FIRST PERIOD 80-82

SECOND PERIOD 83-91

(b) (6)

TYPES OF EVENT PER PERIOD

DIRECT SOURCE

GRAPH 14

[Translator's note: See original document for the pie graphs. The terms used around the pie graphs are translated below.
DESAPARICION: DISAPPEARANCE
TORTURA: TORTURE
VIOLACION: RAPE
OTROS: OTHERS
HOMICIDIOS: HOMICIDES.]

[pie graph]

[pie graph]

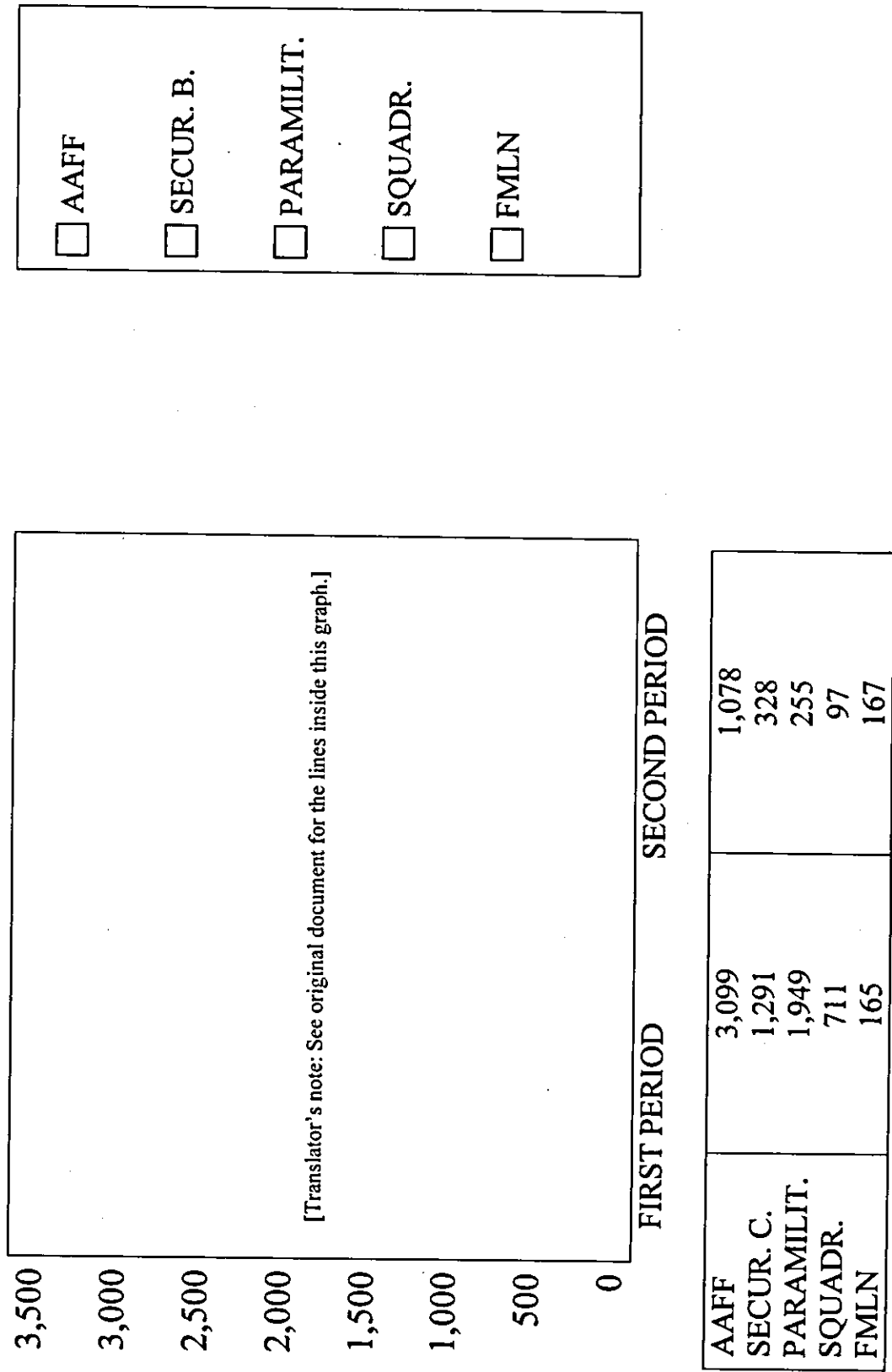
FIRST PERIOD 80-82

SECOND PERIOD 83-91

<input type="checkbox"/> OTHERS	<input type="checkbox"/> RAPE	<input type="checkbox"/> TORTURE	<input checked="" type="checkbox"/> DISAPPEARANCE	<input checked="" type="checkbox"/> HOMICIDE
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The category "OTHERS" includes, in this case, Injuries and Kidnappings.

RESPONSIBILITY ATTRIBUTED TO EACH FORCE PER PERIOD
DIRECT SOURCE



INDIRECT SOURCE

I. INTRODUCTION

Cases that arrived via organizations, institutions as well as those that were forwarded by individuals, without coming before the Commission, are called indirect source. Those that proceed from institutions constitute practically the totality of cases.

The Commission received more than 23,000 reports on cases of serious acts of violence against individuals who, once crossed in order to detect those that appeared in various sources, composed a total of 18,462 cases which included a total of 18,455 victims¹. Only the ones that contained at least a testimony, beside the minimum information, were analyzed. These constitute a total of 13,569 cases which correspond to 13,562 victims².

In general, the analysis of the indirect source is necessarily more limited than that of direct source, given that the information which was codified and registered was more reduced than in the latter. This was due above all to the great quantity of cases received and to the little time available, as well as to the fact that not all the institutions presented the same data nor in the same manner. This latter [fact] rendered difficult the equal and sole treatment of some aspects which, in the primary source, had been codified by the very Commission in a homogenous manner.

As the results obtained are exposed, it will be compared with the direct source, in the cases where it is possible, given that we have parallel information for both types of sources. However, aspects will remain which were treated in the direct source and which on this occasion will remain without being taken on due to lack of detailed information.

II. PROFILE OF THE VICTIMS

24.2% of the victims are women and the remaining 75.1% men. That is to say, just as in the indirect source, for every four persons who suffer a serious act of violence, approximately three are of the *masculine gender*. As was explained, the higher rate of males affected reflects a greater participation of men in military and political activities, being thus more exposed to political violence.

The population is rather *young* with a median of 28.6 years, and half the total under the age of 25. The existence of a significant percentage of child victims, 11.9% of those under 15 years of age, supports the idea of a certain indiscrimination in the violence.

The typical victim profile is that of a young man, between 15 and 35 years of age. This group accounts for 48% of the total of victims.

The occupational structure reflects a composition where the persons of the middle and lower classes predominate, with a strong peasant component. 40% of the total are day-laborers or work on their small property. Then, 11% are workers; in the same way, there is an equivalent proportion of women dedicated to house work (8%) and students (11%).

The socio-demographic composition by gender and age is very similar in the direct and indirect sources. However, the occupation distribution shows us a less rural population in the indirect source (40% of day-laborers, as opposed to 57.7% in the direct). In parallel, the proportion of workers rises by 2.6% in the cases testified to before the Commission to more than 11% in

¹ The difference between these two figures reflects that one same victim is sometimes involved in more than one case. In the direct source, it is very difficult to be sure that two cases occurred to persons of the same name correspond in reality to the same victim, given that the cases arrived registered individually. In the direct source, however, the accuser often related a complete story of the victim which included several episodes.

² Of the rest of the victims, for which the Commission did not receive testimonies and that therefore does not enter into the analysis, a separate list will be presented in an individual annex.

those delivered by institutions. The proportion of students rises also from 7 to 11%, and equally, the weight of other lesser categories increases. These figures reflect, despite that the indirect source does not have a variable referring explicitly to the type of habitat in which the events happen, that the total of documented victims by other institutions is clearly more urban than that of victims reported directly before the Commission.

This links with what has been stated with respect to the formalities taken previously for the victims who testified before the Commission. There it was proven that it was more probable that an event be reported before some institution if it occurred in the city, than if it occurred in the countryside. In the same way, the cases reported before institutions demonstrate now a greater proportion of urban victims. In conclusion, we observe once again the helplessness of the rural world as far its ability to protect itself from abuses of fundamental rights.

The other conclusion which can be extracted is that many people and organizations made an exceptional effort so that the victims coming from small towns and cantons would come to testify before the Truth Commission, bettering in this way their representation in relation to the group of reports gathered by other institutions. This effort was also facilitated by the post-bellum climate in which the testimonies were collected.

III. TYPES OF SERIOUS ACTS OF VIOLENCE

The types of acts considered are the seven which were already mentioned at the beginning: homicide, disappearance, torture and mistreatment, serious injuries, kidnapping for extortion, rape and other serious acts.

The numbers of cases in which each of these types are present appear in the following box and can be seen also in graph 1. The data of direct source are also included in order to facilitate the comparison.

TYPE OF EVENT	TYPE OF SOURCE			
	INDIRECT		DIRECT	
	N. OF CASES	TOTAL %	N. OF CASES	TOTAL %
HOMICIDE	7,388	54.4%	5,682	77.2%
DISAPPEARANCE	3,880	28.6%	1,057	14.4%
TORTURE	3,514	25.9%	1,435	19.5%
SERIOUS INJURIES	246	1.8%	179	2.4%
KIDNAPPING FOR EXTORTION	29	0.2%	24	0.3%
RAPE	180	1.3%	270	3.7%
OTHER SERIOUS ACTS	2	0.0%	6	0.1%

The most reported type of event continues to be homicide, in which are concentrated more than half the cases.

In the second place are disappearances, which are present in almost one third of the cases and following that, tortures and mistreatments with close figures.

Serious injuries and rapes have a low rate, in both cases less than 2% of the total of reported episodes.

Kidnapping for extortion, as well as the category of "others", have a very low presence in the group of accusations. Again, the six types of acts considered appear to define well the type of SAV that we want to include, so that there is no need for frequent use the marginal category of "others".

Keeping in mind both the direct as well as the indirect source, several conclusions remain pertinent.

The SAV reported are fundamentally directed against the right to life. Within this context, the predominance of *homicide* is reported less in the indirect source and opens the way for a rise in *disappearances*. This change is explainable because it covers the purpose of the deponent in each of the two situations.

As was detailed with respect to direct source, disappearance represents the violation of the two basic rights which cause the most formalities before institutions. Whoever reports a disappearance and for this turns to human rights institutions, more than punishing the guilty one, above all seeks information. Usually, the punishment on the responsible party is perceived as improbable, given the level of impunity and little credit of the judicial institutions. This was strongest in El Salvador at the beginning of the decade of the eighties.

Faced with the disappearance of a relative, the deponent turns, for example, to an international organization like the International Committee of the Red Cross (ICRC) or to a Human Rights non-governmental organization (NGO) in order to try to find him/her. If then the disappeared person is liberated or the corpse turns up, it is possible that the deponent does not return to the institution to relate the outcome, given that he/she no longer has any information to seek. Thus, the event could remain registered at the institution only as a disappearance, while it could arrive at the Truth Commission as a homicide or not arrive at all.

With a public security system of little sophistication and with wide margins of arbitrariness, the testimonies reflect that the captures of persons frequently were not communicated to the relatives, nor were the captured subjects put at the disposal of a judge, independently of the motives or the legality of the capture.

In this way, any capture could lead to a disappearance, including in the cases in which the express intention of the captors was not the hiding of their action. Often, after inquiring – with the help of specialized institutions or not- the family manages to find out which security body is holding the victim prisoner and this finds his/her whereabouts. On the other hand, in the cases where –after the family's inquiries- the security body admits to having the person in its power, they are included as disappearance only if there has been a sufficient lapse between the moment of capture and that of the finding. Undoubtedly, these latter cases have a very different content from those others, where the intent of the captor was to cover up the very capture and keep the victim in an unknown place. In conclusion, it is the very arbitrariness and lack of procedural guarantees of the public security system which cause the existence of multiple temporary disappearances.

On the other hand, while the reports before human rights organization are normally produced after the events, especially if it's a question of seeking information in cases of disappearance, the report before the Truth Commission is brought about, almost always long after the events and, mostly, with the purpose of contributing to the clarification of the past. It is thus that the cases in which the deponent makes the report seeking information about the victim are much fewer.

The existence of the minimal threshold of seriousness in the social perception of what constitutes a serious act of violence, which has already been referred to, makes the probability of reporting a disappearance before the Commission much less likely if the victim was liberated than if it ended in execution. This is especially true for the first period of great mass violations. Therefore,

it can be inferred that it is probable that many disappearances which ended in liberation did not arrive directly at the Commission, but they did at human rights organizations.

All the considerations set forth help in understanding why almost 4 times as many disappearances are registered at the institutional sources in comparison with the direct source and, in the same way, why the proportion of cases that end in homicide is much higher in the latter.

Tortures constitute in a very glaring way a rather wide phenomenon in the secondary source. A similar phenomenon can happen here, but on a smaller scale to what was described in reference to disappearance.

The motivation for reporting a case of torture before an institution is greater if the capture continues and, therefore, the danger of torture remains possible. This would not occur in the reports before the Commission, where the episode would have already ended. We must add to this that the notion of the minimal threshold of what is perceived as a SAV would tend to reduce the number of cases reported directly to the Commission.

The existence of more than 2,000 cases of torture and mistreatments registered by the human rights institutions corroborates the existence of a systematic and widely diffused practice which was over-represented in the direct source because a "simple" episode of mistreatments is not socially perceived in many cases, or remembered in others, as sufficiently serious as to be reported as a SAV.

The combination of the two types of source, direct and indirect, confirms the lowering in the rate of reports of *serious injuries* and of *rapes* and likewise demonstrates that kidnapping for extortion, understood as a phenomenon related to human rights or to humanitarian right, was rather sporadic.

The most usual succession or patters of successive events are the following.

SEQUENCE OF EVENTS	NUMBER OF CASES	PERCENTAGE
Homicide	6,166	46.2 %
Disappearance	3,441	25.8 %
Torture	2,208	16.5 %
Torture and Homicide	913	6.8 %
Torture and Disappearance	257	1.9 %
Disappearance and Homicide	134	1.0 %
Rape, Torture and Homicide	72	0.5 %
Torture, Disappearance and Homicide	43	0.3 %
Rape and Homicide	57	0.4 %
Rape	28	0.2 %
Rape and Torture	18	0.1 %
Rape, Torture, Disappearance and Homicide	2	0.0 %
Rape and Disappearance	1	0.0 %
Rape, Torture and Disappearance	1	0.0 %
Rape, Disappearance and Homicide	1	0.0 %
Without Classification	227	1.5 %
Total	13,569	100.0 %

The most common episodes involve the different types of events in individual form: homicide, forced disappearance and torture and mistreatment. After these three most common

patterns, there is another modality of considerable number of occurrences which are torture followed by homicide or disappearance.

The decrease in the relative weight of the episodes of torture and of rapes which precede homicide, in comparison with the direct source, is noteworthy. This is due, above all, to the very increase in the individual number of disappearance and torture cases. The figure for disappearances in exclusive almost quadruples the one for tortures almost quintuples, with respect to the cases reported directly before the Commission.

In the same way, there is a sharp drop in the number of rapes registered by the human rights organizations, when they appear as sole events as when accompanied by other events. Despite that the total number of cases registered in the indirect source is higher by approximately 6,000 to those gathered in the direct source, the number of rapes indirectly reported is lower however. This decrease can be connected to the social shame which inhibits the reporting of rapes before the institutions and, to some extent, this may have occurred in the case of Truth Commission.

IV. DEPARTMENTS AFFECTED BY THE SAV

The number of episodes occurred in each department can be seen in graph 2.

Two points stand out strongly. The first is the high level in three departments where the conflict was very intense: Chalatenango in the North, San Vicente in the central zone and Morazán in the West. The central department of Cuscatlán also presents a high number.

In relation to the cases reported directly before the Commission, a higher weight in Morazán is noticed and, above all, a decrease in the levels of Chalatenango to more moderate proportions. Given that these figures for Chalatenango in the direct source were due, as was already explained, to the effort of gathering information on the part of the area's human rights organizations in order to present testimonies before the Commission, it can be concluded that the proportion which reflects this indirect source reflects better the nature of what occurred.

The second point to highlight is the enormous preponderance of the department of San Salvador in the cases of indirect source. This predominance corresponds fundamentally to the 1,903 cases of disappearance and to the 1,221 of torture registered in this department. Here, only 18% of the disappearances in this zone end in homicide; it is a much lower rate than the general one, despite that the volcano in Guazapa, a very conflictive area, belongs partly to this department.

One of the clearest explanations for this phenomenon is that the main detention establishments for all the security bodies are found in the capital. The tortures and disappearances which succeed the captures without publicity and without criminal process occur there. 42% of the SAV which transpire in the department of San Salvador involve the security corps, a rate that almost doubles the general median for all the departments. Thus, while direct extrajudicial execution is more possible in the countryside, detention that leads to disappearance or torture is more probable in the city. Furthermore, persons detained in other places are sometimes transferred to the general police stations of San Salvador and there, on occasion, are tortured or made to disappear.

V. ANNUAL EVOLUTION OF THE CASES REPORTED

Just as is seen in graph 3, the violence was especially virulent in the years '80 and '81, in which more than 40% of all the reported SAV were registered.

After the maximum reached in '81, there is a clear fall in '82, which is accentuated in '83 to attenuate already in '84, in which the curve seems to stabilize. The strongest inter annual decrease is in '83 and '84, and is in the order of 48%. However, the decrease between '82 and '83 is similar in percentage terms (45%) and much glaring in absolute terms. Moreover, '83 appears to be curve's point of inflexion, which marks the change in trend. As of 1984, the number of cases stabilizes, oscillating at about 500 reports per year.

In 1987, a slight rise begins which reaches its climax in '89, the year of the guerrilla offensive, but to levels relatively low which do not reach 1000 cases that year. As of that moment, the tendency again turns downward, and 1990 returns to the trend of

500 annual cases. '91 is not directly comparable to the previous ones because it only includes a period of approximately half a year.

In comparison to the direct source, there is a common pattern between the two curves but with some differences:
-not only does the volume of SAVs not descend in 81, but rather it increases somewhat with respect to '80, although it keeps in similar quotas.

-the series keeps stable in both cases as of 1984 but now at a higher level: a median of 500 annual cases in the indirect source as opposed to 140 in the direct.

In relation to the cases which arrived through institutions, the existence of a first period, which would encompass 1980 and 1982, made up of a phase of massive human rights violations which decrease as of 1981, could be corroborated.

The second period encompasses from 1983 to 1991. In same, the level of violations descends noticeably in relation to the first period and stabilizes at around 500 cases per year, at the margin of the slight rise that starts in '87 and culminates in '89.

According to the type of event, *homicides* (graph 4) occur in a massive way during the years '80 and '81, to then undergo a very strong decrease as of '82, especially in 1983, and stabilizing as of '84. The rise in '89 slightly affects the number of registered homicides. It is very revealing that, in the middle of the heat of the combats of 1989, the number of executions does not rise in great measure and remains very far, for example, from the levels of the beginning of 1980 when the intensity of the war conflict itself was much more limited. Once again, it is clear that the abuses against fundamental rights testified are not exclusively product of the war, but rather of the violence based on the notion that ideological dissidence should be confronted through the annihilation of the adversary. Another piece of data that reaffirms this conclusion is that 51% of the homicides registered in 1980 are produced in the six first months of the year and the remaining 49% in the six final months, precisely when the war conflict is acquiring impulse and explodes in a more open manner.

Disappearances (graph 4) have a rather stable level at around 600 annual cases between the years [19]80 and [19]83. In the last year of these years, its number even exceeds that of homicides, which in previous years was much higher. As of 1985, the average for both types of events stays very much the same. Neither do disappearance rise significantly during the lapse 1987-1989.

In conclusion, while at the start of the decade of the 1980s, execution was the most frequent practice with an overwhelming proportion, its number decreases as of 1982 until equaling the levels for disappearance and continues decreasing at a slower pace until 1984, at which time it stabilizes.

Tortures (graph 5) maintain a very wavy trajectory throughout the 12 years of the period under consideration. They begin with a rather high rate at around 400 annual cases during the first two years, to then decrease in an irregular manner until the minimum of the year [19]84. From here, an increase begins which continues, despite the decrease in 1987, until the year 1989 which constitutes a very pronounced maximum. As of here, the number of registered cases again falls significantly.

During the first years of the 80s, mistreatments constitute a prelude to execution. 68% of the cases of torture followed by homicide are registered during the years [19]80 and [19]81. After this phase of extreme violence, these behaviors tend to faze out and then 1985 there are only 5 reports of this type. In parallel, and in contrast, the practice of torture in exclusive, torture in the traditional sense of a manner in which to obtain information or confession, increases as the years pass. During the years [19]80 and [19]81, this pattern represents less than 3% of the cases. This proportion increases in an accelerated manner until reaching 60% of all the testimonies referring to 1989.

As the repression becomes less exterminating, the custom of pressuring and interrogating those captured with the use of physical and psychic violence, constituting a relatively more elaborate system for obtaining information. Tortures no longer include amputations nor do they necessarily end in the death of the victim, and the practice consequently becomes less brutal but more generalized.

The *rapes* (graph 5) reported before the human rights organizations are, as was already seen, few and occur almost exclusively during the first 4 years of the decade.

In conclusion, in all the types of events, the panorama of the annual evolution is analogous to that of the direct source, with the difference of a greater importance and extension of torture as of 1985.

VI. FORCES RESPONSIBLE

The Armed Forces are highlighted in the testimonies as the main perpetrator of the violations and makes a big difference over the rest given that it appears implicated in almost 8,000 cases, 57.3% of same (graph 6).

The security bodies follow with 27.6% of the episodes and the paramilitary bodies with 15.1%.

It is to say that the formal bodies of the state, especially the military ones, are mentioned as the fundamental perpetrators of the serious acts of violence. At least three out of every four cases (79%) are attributed directly to members of the state apparatus, all this, at the margin of participation of the same in irregular groups such as the squadrons. In the case of homicides, the direct responsibility of the state bodies rises even more up to the high number of 87%.

The death squadrons are cited explicitly in about 1,000 cases, 7.7%. On to this number must be added a large part of the 1,402 cases (10.3% of the total) which are attributed to men dressed in civilian attire. This is a designation preferred by some institutions in the presentation of their cases and which is mainly equivalent to same concept as squadron³. Both categories added up outdo the level of participation by the paramilitary bodies.

Lastly, the FMLN is accused of about 500 episodes, which represent 3.8% of the total.

Comparing both types of sources, it is noted that in the cases turned in by the institutions there is a greater role played by the security bodies and the squadrons in the perpetration of the violations, and a lower profile of the paramilitary bodies. In both sources, the FMLN and well as the Armed Forces obtain similar results, this latter one being accused as the main perpetrator of the serious acts of violence.

The higher level of attribution of guilt to the security bodies in the cases that reported before institutions goes hand in hand with a universe of victims who, as was observed, is more urban and with a greater proportion of cases of torture. Torture as well as SAVs occurred in cities are more characteristic elements of the police bodies, which tend to carry out a good part of the captures and interrogations and have their headquarters and detention centers in important population nuclei.

In the same way, the decrease in the role of the Civil Defense also coincides with a group of reports in which the rural world is less represented, given that such paramilitary bodies formed part of the counter-insurgent strategy in the countryside, which is where they had their preferred sphere of action. In this sense, the direct source appears to better capture what occurred outside of the cities, due to the very difficulty for the peasants to reach the human rights organizations during the war.

Graph 7 demonstrates the level of responsibility attributed to each *unit* within each force.

Within the infantry forces, which are accused with greater frequency of committing SAVs and which carried the weight of the war, the Fifth Brigade of San Vicente and, especially, the Atlacatl Elite Battalion, which has a rate of responsibility which almost triples that of all the other immediate reaction battalions combined, stand out. In this figure, the El Mozote massacre has a very strong influence, although without it, said battalion would still be the most responsible.

The Air Force plays a first-rate role also as far as the SAVs carried out against the civilian population through indiscriminate bombardments; while among the security bodies, it is the National Guard for which there are the most accusations and, much further down, the National Police.

³ In the direct source, this category was also generated for the purpose of comparison with the institutional source, but it was only taken into account due to its low rate of registries, since the direct accusers preferred almost always to make reference to the concept of squadron.

In fact, the National Guard and the Civil Defense are the units with the highest rates of responsibility among all the ones that are recorded, although we must keep in mind that not being spread out territorially, they appear as a sole element, something which does not occur with the Armed Forces.

In comparison with the direct source, the following differences can be confirmed in this data:

- a still much more preponderant role on the part of the Atlacatl Battalion and, especially, of the Armed Forces. The bombardments are thus proportionally much more reported to the institutions than what they were directly before the Commission. Again, it might be a problem of social perception as to what is a SAV, so that a bombardment, which causes victims in an indiscriminate manner, is not seen as something reportable in the same measure as an extrajudicial execution.

- a rather higher incidence of the death squadrons.

- a relatively lower rate of responsibility for the Civil Defense and, much higher for the National Police, although the Guard continues to be the security body which holds the first place as far as attributed human rights violations. Both things, the decrease of the Civil Defense and the increase of the National Police, correspond very well with the new scenario of a greater proportion of urban episodes and a greater diffusion of torture. In effect, the National Police is the body which works most in urban areas and the one that has a greater role in the captures and interrogations, which can lead to torture.

Graph 8 demonstrates the responsibility attributed to the different bodies for each type of event. In *homicides*, the Armed Forces has a main role, given that the testimonies involve it in 72% of all the cases which end in the death of the victim. Following this, at an equal level are found the security and paramilitary bodies and then the irregular groups, squadrons and men in civilian attire.

In *disappearances*, the role of the army and especially of the paramilitaries is reduced and, in exchange, the men in civilian attire and the security bodies acquire a much more prominent role. This is not strange if it is remembered that many disappearances originate as arbitrary captures without the due publicity and appearance before a judge.

The FMLN is cited as perpetrator in more than 300 cases, which supposes a rate of responsibility very close to 8% of the total of disappearances, which almost doubles the general rate for the guerrilla group keeping in mind all the types of events. This means that, always in very modest proportions, disappearance is the type of violation which is most related with the insurgency.

Tortures basically correspond to the security bodies, as was already highlighted, and to the Armed Forces, according to the reports. The FMLN, for its part, is accused on numerous occasions of torture and mistreatments.

The rapes attributed to some force specifically, which do not appear on the graph due to their very low number, were almost always [attributed] to the Armed Forces, but with too low a number as to establish conclusions. The inexistence of rape cases attributed to the FMLN is notable.

In conclusion, the Armed Forces participated in a very outstanding way in all the types of human rights abuses, except in rapes. The paramilitary groups and especially the squadrons and the irregular structures have a main objective the elimination of the adversary through execution and, on occasion, disappearance. For its part, the security bodies have a much greater role in the irregular captures and, above all, in the tortures, due to the very nature of its function.

Examining the annual evolution of the rates of responsibility (graph 9), the panorama that has just been described is confirmed. The Armed Forces are accused of a very high number of SAVs during the first two years, especially in 1981. It mostly a question of mass executions. These massacres by the Armed Forces are responsible for the elevation in the number of registries in 1981, given that the rest of forces see a reduction in the number of accusations received.

The paramilitary bodies and the squadrons are also accused of committing numerous executions during the first years of the 80s to then decrease to rather low levels as of 1984. On the other hand, the security bodies also see the number of their accusations decrease

uninterruptedly between '80 and '84. They stabilize after 84, their rate of responsibility, which even tends to then grow until reaching the sharp rise in the year [19]89. As was already explained, it's a question of an increase in the cases of torture, which are very frequent in '89.

The FMLN keeps levels of responsibility [that are] relatively sustained but oscillating during the whole decade, although the hardest period seems to be between 1984 and 1987.

VII. GENERAL PATTERNS OF SERIOUS ACTS OF VIOLENCE

In conclusion, there are three patterns that have the greatest significance as far as their frequency and their systematization:

A) Extrajudicial execution is the most serious and at the same time the most frequent abuse. It mostly figures in the registries as homicide, although on occasions it ends up categorized as disappearance upon not finding the corpse. Sometimes, the execution is preceded by torments and mutilations.

B) Forced disappearance due to isolation of the detainees and their not being brought before the judicial system. The episodes classified as disappearance can be broken down into three different processes.

One, the most frequent, is the classic type of forced disappearance in which the perpetrators capture the victim, take him/her to a clandestine detention location and cover up their own participation as well as what occurred to the victim, with the express intention of creating uncertainty as to his/her whereabouts and final destiny. In these cases, the victim might turn up dead or alive, or might never turn up.

The second, as was already indicated, is an extrajudicial execution immediately or nearly immediately after the capture in which the corpse is probably thrown someplace and is not found during the subsequent days.

The third, which is the one that really constitutes the general pattern, is a capture that does not respect due guarantees. In circumstances where the relatives are not informed and the detainees rarely are brought before the judge, many captures become disappearances independently of the legality or the motivation for the detention. This allows the captors to escape any type of public or legal control, and establishes the framework which facilitates the tortures during the interrogations. On occasion, the perpetrators do not have the express intent of hiding the victim, but neither do they make the capture public nor do they communicate it to the judge, so that the relatives that do not find the person bring a report before Human Rights organizations. When these or the relatives manage to find out on their own the whereabouts, it might happen that the military or security organization concedes having the person in custody or that they deny it. The case typically ends in the liberation of the victim or in their reentering prison, after an interrogation filled with torture. Occasionally, it might also end in execution.

The lack of express intent to hide the victim, the event or the perpetrator in many cases, makes us stray from the classic concept of disappearance. However, the arbitrariness and lack of transparency and of guarantees in the public security system constitute in themselves a serious infringement on the rights of citizens.

The fact that this is the predominant modality among the cases classified as disappearances is backed by the big difference in the volume of the registered disappearances between the direct source, in which torture also abounds, and the indirect one. On the other hand, the proportion of cases of disappearances is especially high in the case of some human rights institutions, which might indicate that the magnitude of its registry depended also on each organization's defining criteria.

C) Torture and mistreatments stand out as a very common practice, now that in the indirect source they do not suffer from such a large filter as in the direct source, as far as the seriousness necessary for it to be perceived as a serious act of violence. On some occasions, the torments precede the execution, but in the vast majority of cases, the torture constitutes a practice in itself which frequently accompanies captures and interrogations.

Generally blows, and occasionally other more sophisticated types of torture, are used to coerce the political detainees into revealing information and, lastly, so that they'll admit to their participation in criminal acts, by signing a blank paper on which later the supposed confession is drawn up.

VIII. THE TWO PERIODS IN RELATION TO SAVs

It had been highlighted that, in the cases brought directly before the Commission as well as those others of indirect source, the lapse of mandate time can be divided into two periods, one between '80 and '82, and another from '83 onwards. Graph 10 compares two periods, as far as types of events which occur in each one.

The first period is characterized by a massive quantity of executions, 72.6% among the cases of the first period but only 29.2% among those of the second end in homicide. On the contrary, the disappearances and especially the tortures are more frequent in the second period, 42.6% of the episodes of the latter period contain torture as opposed to only 13.9% of the first.

In this first period, the torments as prelude to execute predominate. 76% of the cases of torture followed by execution happen in the first period, while 90% of the tortures by themselves occur in the second period.

The cases of disappearance are spread equally among the two periods.

The initial period is particularly virulent precisely in the departments with a higher level of cases in general. 69% of the cases registered for Chalatenango, 86% of those for San Vicente and 71% of those for Morazán take place during these first years of '80 to '82. In these three departments, the first years of the 80s constitute a period in which extrajudicial executions are very common. Only in San Vicente are there more than 1,000 registered.

The Armed Forces, implicated in 63% of the cases, the security bodies, mentioned in 29% of the cases, and the paramilitaries, with 22%, are the main protagonists in this repression. The squadrons, with a more limited participation of 11% are also characteristic of the homicidal dynamic of this phase. The level of responsibility attributed to each period can be appreciated in graph 11.

The second period evolves towards a greater level of respect for the right to life. Executions decrease noticeably, as well the reports of homicides by the security bodies, the squadrons and the paramilitaries decrease in each of the three cases to below 3% of the total of episodes registered. Thus, the repression becomes more selective and relatively more subdued. In parallel to the decrease in the executions, there is a strong rise in the number of tortures, mainly at the hands of security bodies, which becomes a very common practice during the interrogations and the captures. The proportion of the total cases which corresponds to tortures blamed on the various police [units] and on the Guard surpasses 2% in the first period and 18% in the second. In the same way, the Armed Forces are presumably responsible for 67 cases of torture in the first period and 1,086 in the second. This rise in torture cases occurs in the establishments and headquarters of the military and security forces. Hence the reason why the number of tortures registered in the department of San Salvador, where many of these installations are located, grows from 229 to 985 between the two periods.

The FMLN, contrary to all the other groups, commits almost all its presumed abuses, 465 out of a total of 516, in the second period and particularly during the years '84 to '87.

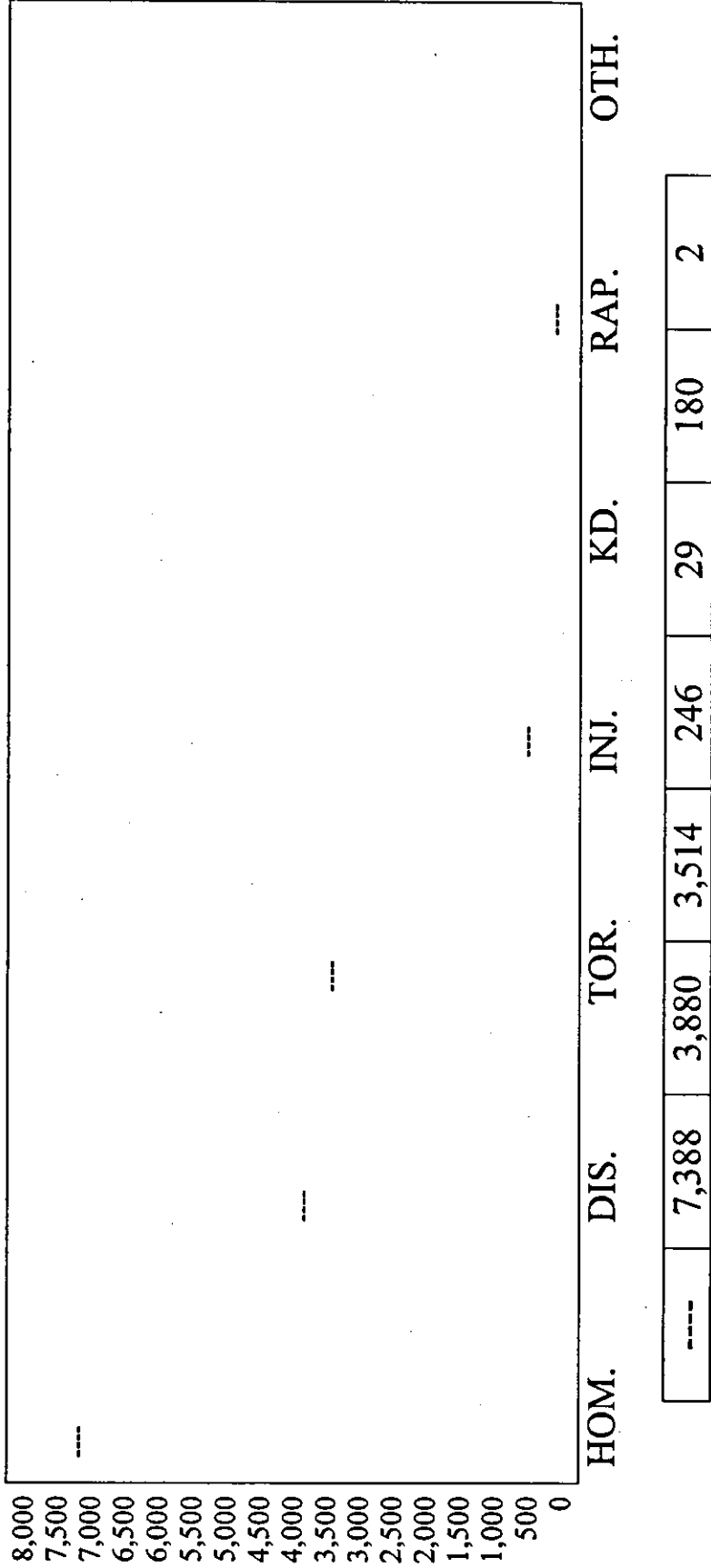
The general conclusion after reviewing the indirect source is a general confirmation of the processes that were seen in the direct source. This is a first period of a few years of extreme violence and indiscriminate repression with a great quantity of executions, which were sometimes preceded by tortures and torments.

In a second, longer phase where the violence softens, becoming more selective, is where the executions diminish just as the tortures in the interrogations augment. In the same way, the number of disappearances grows, often due to the arbitrariness and the lack of guarantees in the captures. What marks the difference with the direct source is no more than a greater emphasis on disappearances and especially on torture, as a generalized proceeding in this second phase.

This supposes an indirect verification that the relatively minor events, such as torture, were not reported directly before the Commission in the same proportion as the more serious ones.

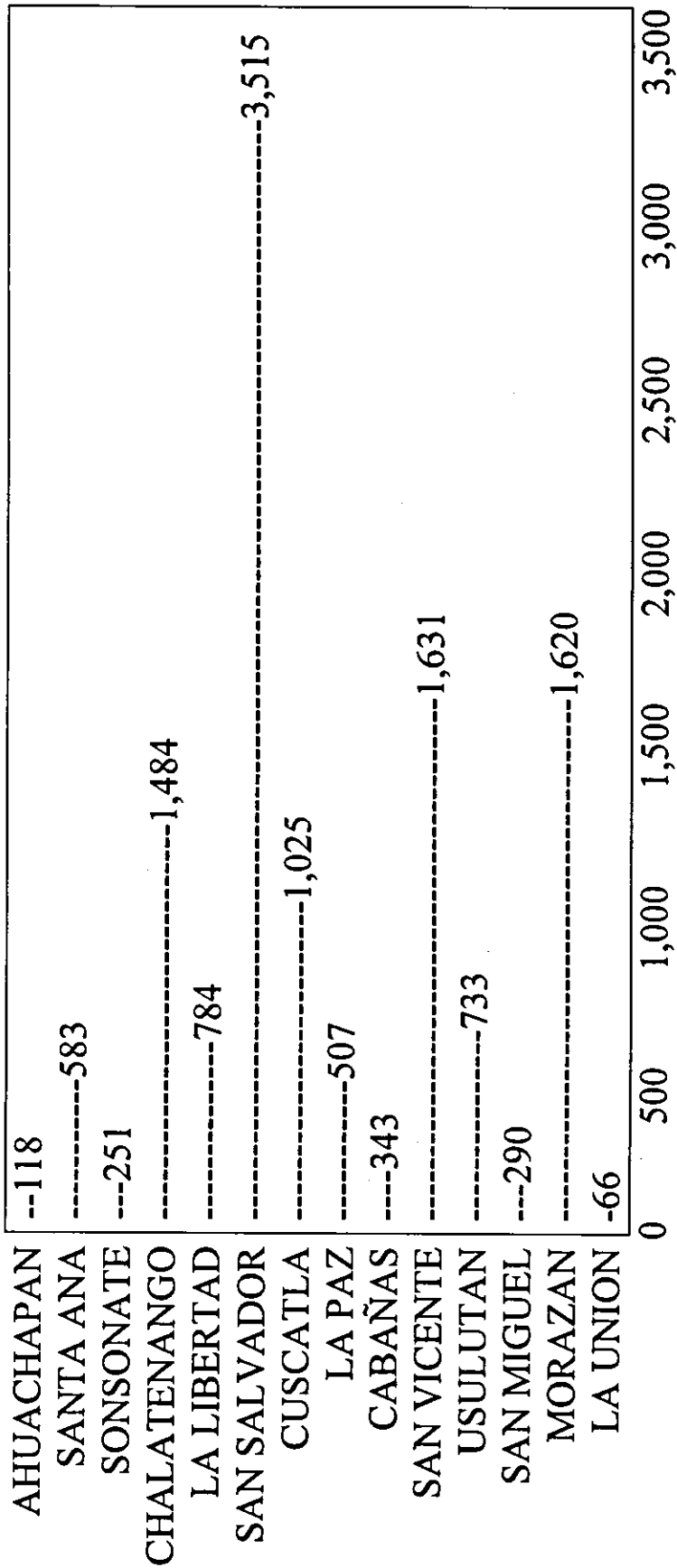
NUMBER OF CASES IN WHICH EACH TYPE OF EVENT IS PRESENT
INDIRECT SOURCE

GRAPH 1



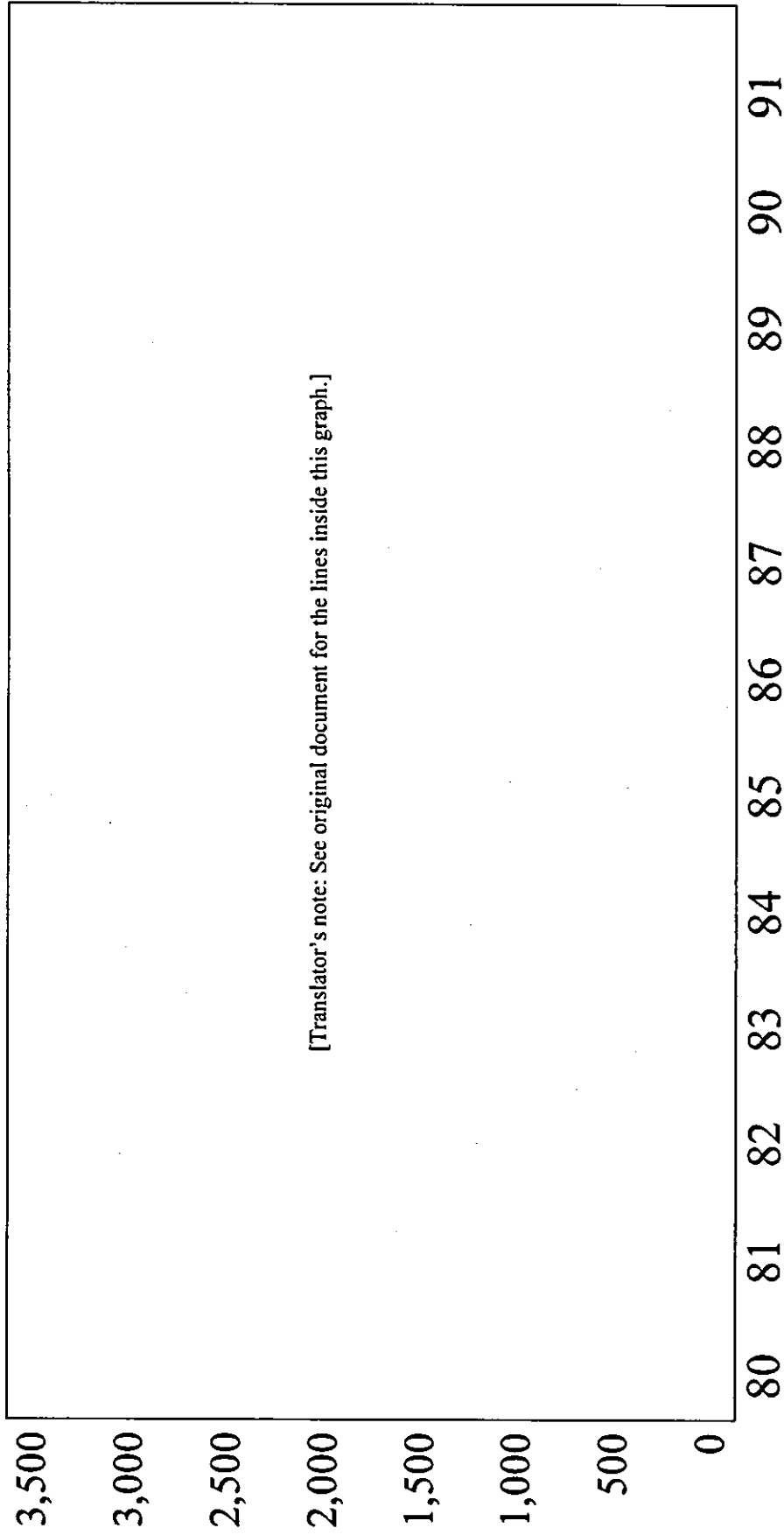
HOM: HOMICIDE DIS: DISAPPEARANCE TOR: TORTURE INJ: INJURIES KID: KIDNAPPING RAP: RAPE OTH: OTHERS

NUMBER OF CASES PER DEPARTMENT INDIRECT SOURCE



GRAPH 2

ANNUAL EVOLUTION OF THE NUMBER OF REPORTED CASES (1980-1991)
INDIRECT SOURCE



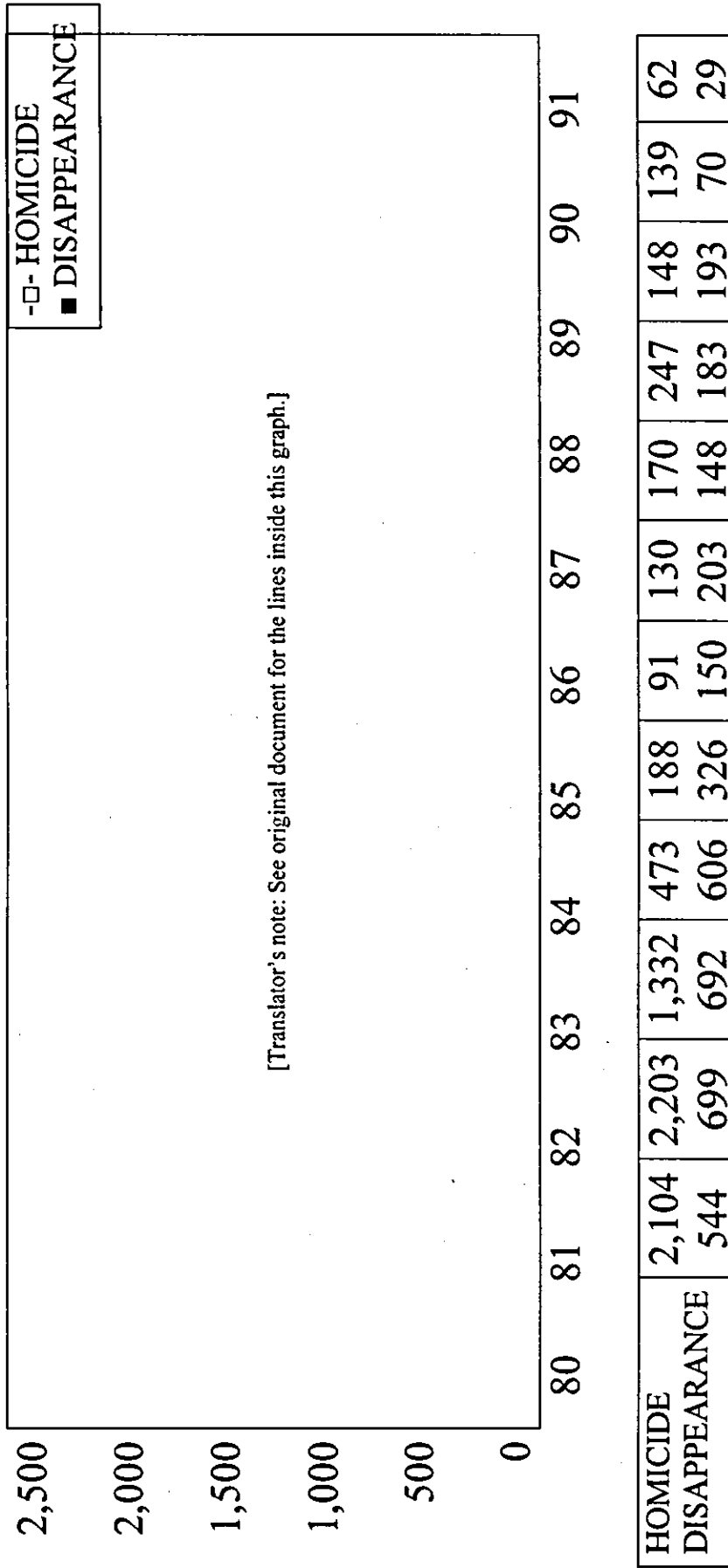
-□-	2,712	2,956	2,097	1,162	605	435	633	469	712	883	530	214
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GRAPH 3

For 1991, only until July is included.

NUMBER OF HOMICIDES AND DISAPPEARANCES PER YEAR

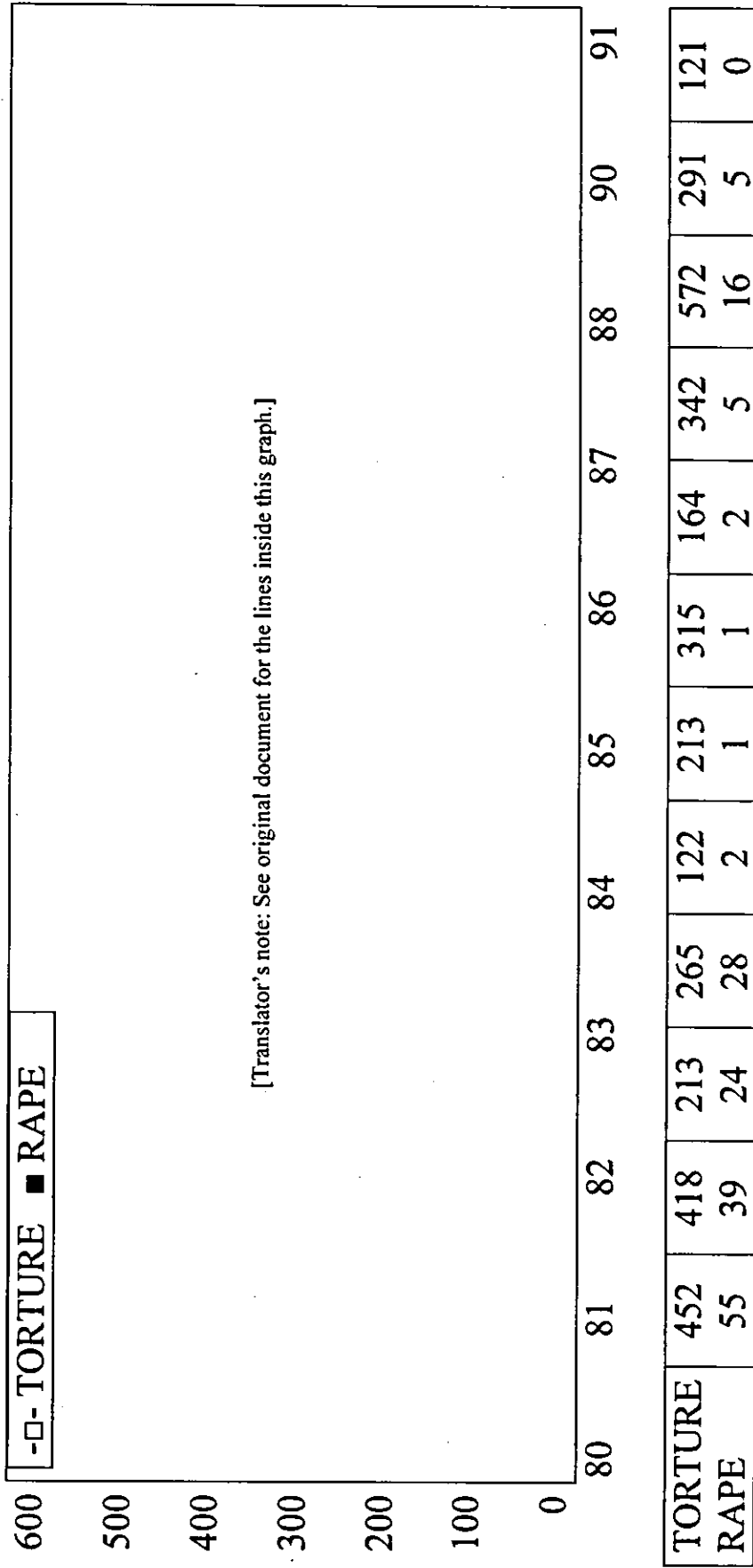
INDIRECT SOURCE



For 1991, only until July is included.

GRAPH 4

NUMBER OF TORTURES AND RAPES PER YEAR INDIRECT SOURCE

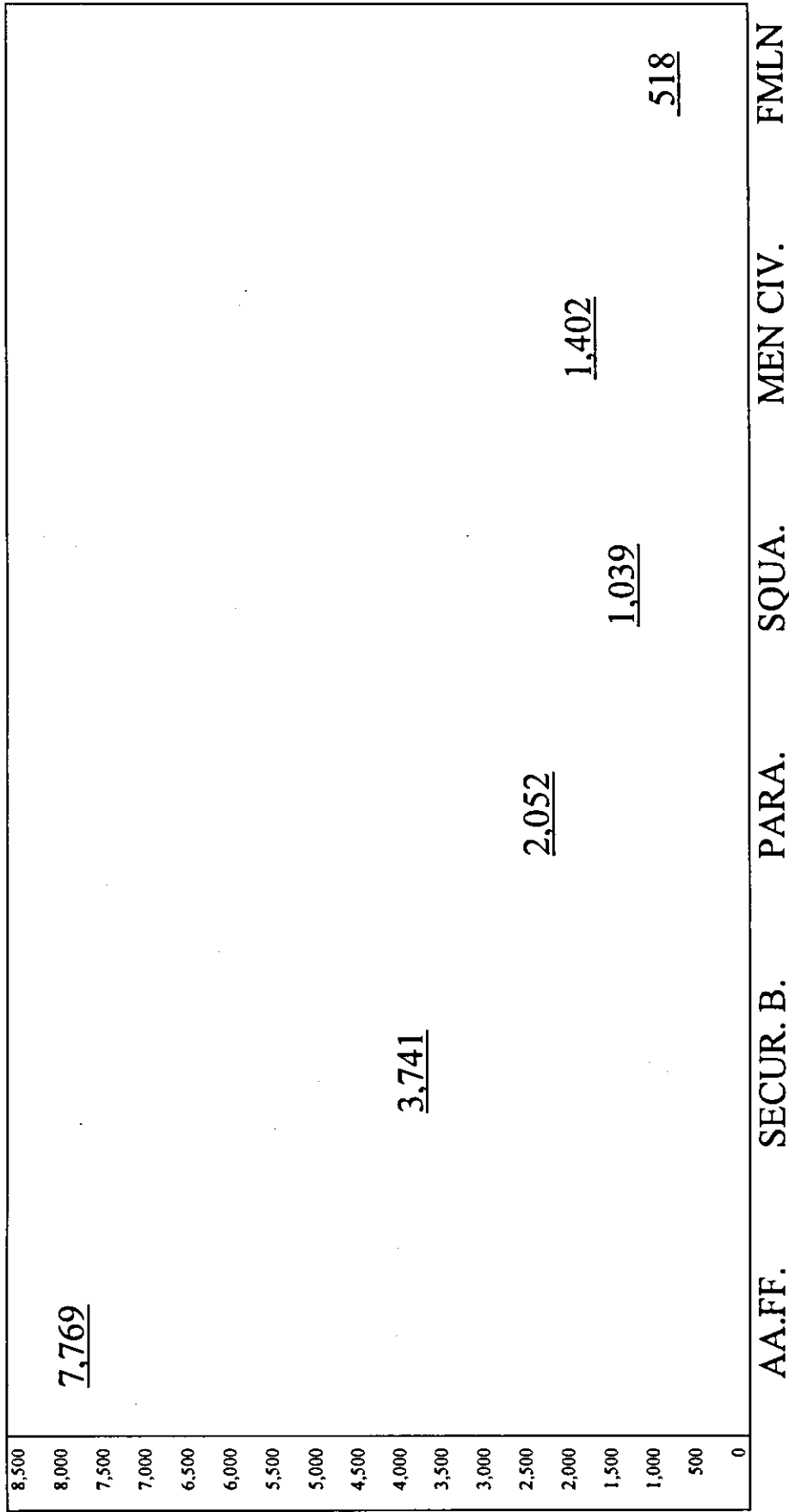


For 1991, only until July is included.

GRAPH 5

NUMBER OF CASES PER IMPLICATED FORCE RESPONSIBLE
INDIRECT SOURCE

GRAPH 6

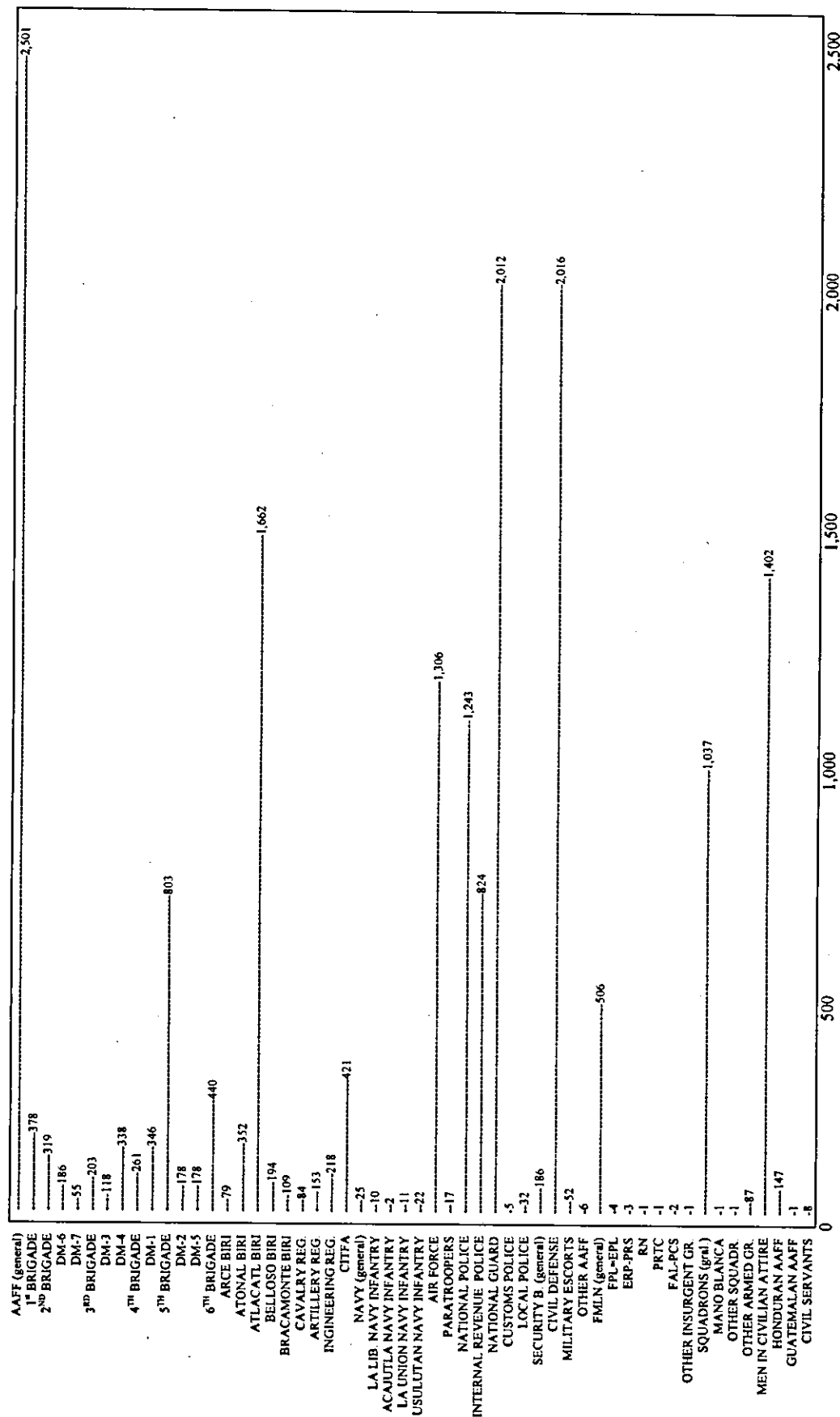


AAFF: Armed Forces
SECUR B.: Security Bodies
PARAM: Paramilitary
SQUA.: Squadrons
MEN CIV.: Men in civilian attire

(b) (6)

NUMBER OF CASES PER RESPONSIBLE MILITARY UNIT
INDIRECT SOURCE

GRAPH 7

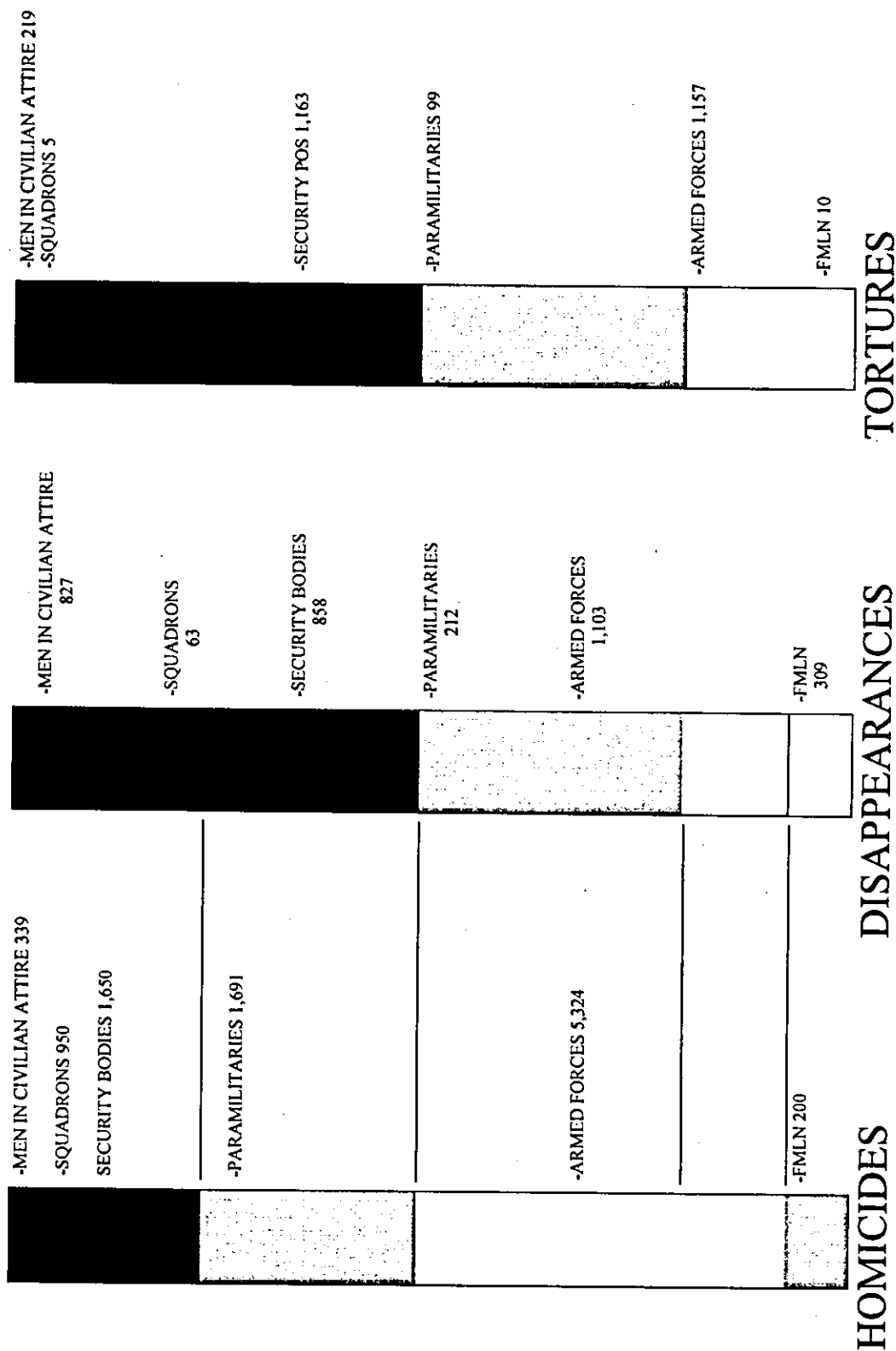


[Translators note: BIR: Immediate Reaction Infantry Brigade]

NUMBER OF EVENTS PER TYPE AND FORCE RESPONSIBLE

INDIRECT SOURCE

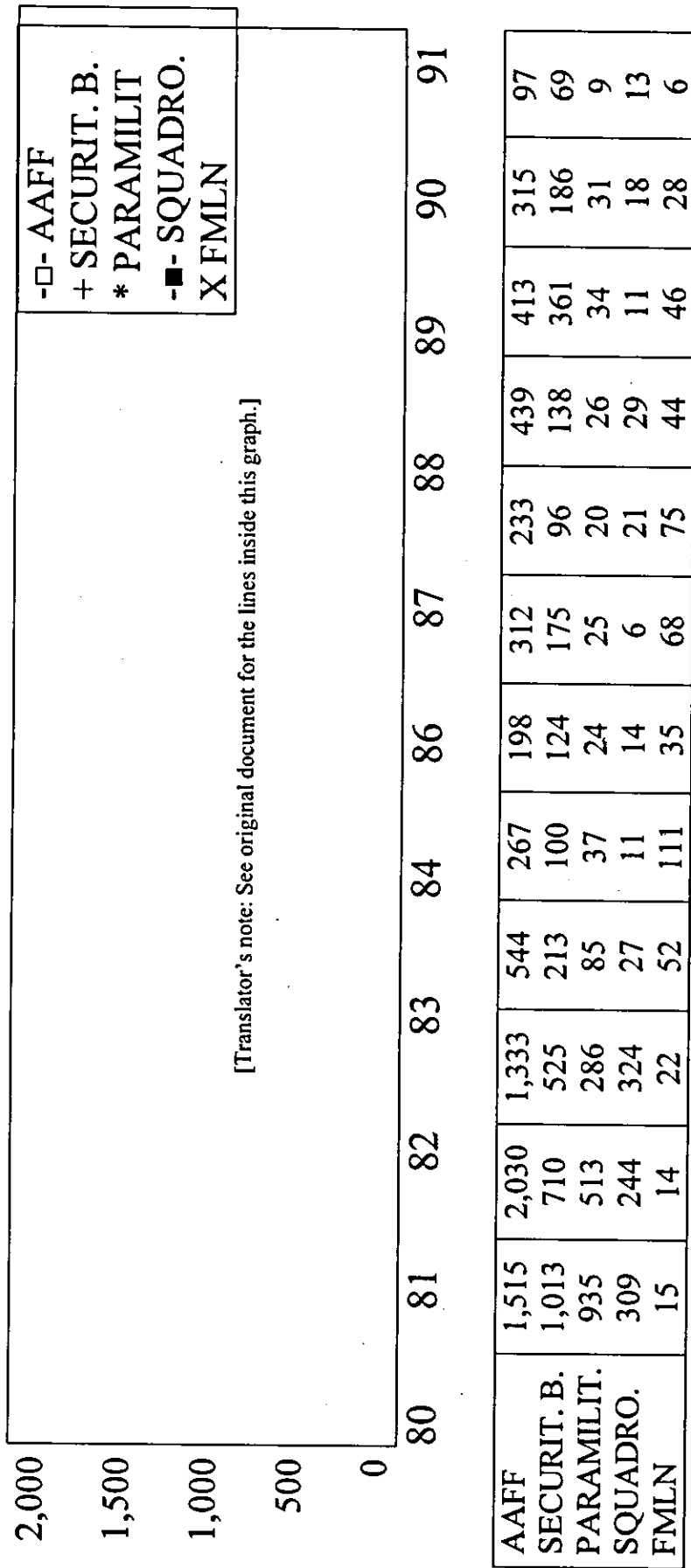
GRAPH 8



(b) (6)

NUMBER OF CASES WHERE EACH MILITARY FORCE IS IMPLICATED, PER YEAR
INDIRECT SOURCE

GRAPH 9



(b) (6)

TYPES OF EVENTS PER PERIOD

INDIRECT SOURCE

[Translator's note: See original document for the pie graphs. The terms used around the pie graphs are translated below.
DESAPARICION: DISAPPEARANCE
TORTURA: TORTURE
VIOLACION: RAPE
OTROS: OTHERS
HOMICIDIO: HOMICIDE]

[pie graph]

[pie graph]

FIRST PERIOD

SECOND PERIOD

<input type="checkbox"/> OTHERS	<input type="checkbox"/> RAPE	<input type="checkbox"/> TORTURE	<input type="checkbox"/> DISAPPEARANCE	<input checked="" type="checkbox"/> HOMICIDE
---------------------------------	-------------------------------	----------------------------------	--	--

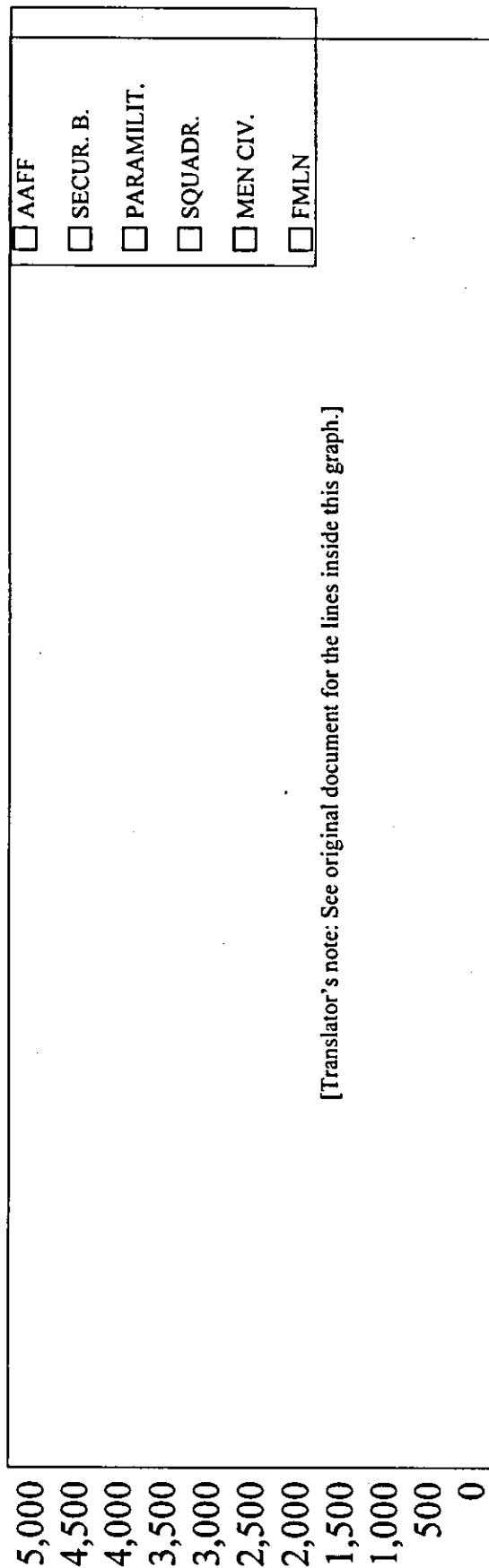
First Period: 1980-1982 Second Period: 1983-1991

GRAPH 10

The category "OTHERS" includes, in this case, Injuries and Kidnappings.

(b) (6)

NUMBER OF CASES IN WHICH EACH FORCE IS IMPLICATED PER PERIOD INDIRECT SOURCE



FIRST PERIOD

SECOND PERIOD

AAFF	4,878	2,818
SECUR. B.	2,248	1,462
PARAMILIT.	1,734	291
SQUADR.	877	150
MEN CIV.	748	646
FMLN	51	465

GRAPH 11

UNST/SG/)
ONUSAL
(063.2)
S2
Annexes
Vol. I & II
SPA
C.1

ANEXOS

TOMO I

UN LIBRARY

LIBRARY

UN/SA COLLECTION

INFORME DE LA COMISION DE LA VERDAD PARA EL SALVADOR

NACIONES UNIDAS
SAN SALVADOR ♦ NUEVA YORK

ANEXOS: TOMO II

**5. ANALISIS ESTADISTICO DE LOS TESTIMONIOS RECIBIDOS
POR LA COMISION DE LA VERDAD**

**6. LISTAS DE VICTIMAS PRESENTADAS
A LA COMISION DE LA VERDAD**

**7. LISTAS DE PERSONAS DESAPARECIDAS
DEL GRUPO DE TRABAJO DE NACIONES UNIDAS**

**8. LISTA DE CAIDOS DE LA FUERZA ARMADA
EN EL CONFLICTO ARMADO**

**9. LISTA DE CAIDOS DEL FMLN
EN EL CONFLICTO ARMADO**

1. SPACE STATION

2. THE SPACE STATION IS A LARGE, COMPLEX STRUCTURE
DESIGNED TO SUPPORT A LONG-TERM HUMAN PRESENCE IN SPACE.

3. THE STATION WILL BE USED FOR A VARIETY OF PURPOSES,
INCLUDING RESEARCH, OBSERVATION, AND COMMUNICATION.

4. THE STATION WILL BE ORBITED AT A HIGH ALTITUDE,
ABOVE THE ATMOSPHERE, TO AVOID AIR RESISTANCE AND WEATHER.

5. THE STATION WILL BE A MAJOR STEP TOWARD
HUMAN EXPLORATION OF THE DEEP SPACE.

6. THE STATION WILL BE A MAJOR STEP TOWARD
HUMAN EXPLORATION OF THE DEEP SPACE.

**5. ANALISIS ESTADISTICO DE LOS TESTIMONIOS RECIBIDOS
POR LA COMISION DE LA VERDAD**

ANÁLISIS DE LOS TESTIMONIOS RECIBIDOS

Introducción

La Comisión de la Verdad ha recibido testimonios de dos maneras: directa e indirectamente. Así, se hablará de fuente directa a propósito de los casos, cuyos testimonios fueron vertidos ante la propia Comisión casi siempre en forma oral y refrendando una declaración escrita. En ambos casos se contó con la presencia del declarante y con la ratificación de la declaración por medio de su firma o huella dactilar.

La fuente indirecta comprende los casos que llegaron a la Comisión a través de organismos e instituciones y por lo tanto, no fueron ratificados por una comparecencia personal. Igualmente, la Comisión recibió testimonios enviados por víctimas o sus familiares.

El hecho de que un caso provenga de fuente indirecta no prejuzga sobre la calidad o validez del mismo, ya que todo caso de este tipo de fuente llena los requisitos de la Comisión para registrarlo.

Esta revisión sólo incluye casos que fueron remitidos *con testimonio* y datos suficientes para analizarlos.

Criterios de Admisión

Se establecieron los siguientes requisitos para que un testimonio fuera admitido en la base de datos:

1. Una mínima información que permitiera identificar a la víctima y la agresión ocurrida. Se tomaron en cuenta sólo las víctimas de las cuales se conocía por lo menos uno de los dos *apellidos*, no bastando con el nombre o el apodo¹. Además, la información debía permitir establecer el *hecho* ocurrido, así como, una indicación del *lugar* y la *fecha* en que sucedió. No se aceptaron testimonios que no incluyeran la fecha o lugar aproximados.
2. Sólo fueron tomados en cuenta los hechos sucedidos durante el *período* del mandato de la Comisión, entre enero de 1980 y Julio de 1991, fecha de la instalación de la División de Derechos Humanos de ONUSAL. Numerosos testimonios sobre hechos acaecidos en 1979 quedaron fuera.
3. Se consideraron en exclusiva *graves hechos de violencia* (GHV) que implicaban una *violación a los derechos humanos o al derecho internacional humanitario* y se inscribían dentro de la violencia política en el marco de la guerra. Esto implica en primer lugar que sólo ingresaron hechos en los que el autor o la víctima eran miembros del aparato del estado o de grupos vinculados al mismo, o de grupos guerrilleros. En segundo lugar, no se incluyen a los muertos o lesionados en combate. Así, hechos ocurridos entre dos personas privadas, no pertenecientes a dichos grupos, no son tomados en cuenta por graves que sean (un homicidio pasional, por ejemplo). Sin embargo, las violaciones a los derechos humanos cometidas por integrantes de ambos grupos (aparatos del estado o guerrilla) son registradas, incluso cuando responden a motivaciones o intereses personales, puesto que se estima que, su pertenencia grupal es relevante a dichos abusos en el contexto de la guerra.
4. El atropello a dichos derechos debía ser juzgado además como *suficientemente grave* para ser incluido. Numerosos testimonios de atentados contra la propiedad, el libre tránsito y la libertad personal o la frecuente captura arbitraria, tampoco fueron admitidos en la base de datos.

La Comisión acordó considerar 6 tipos² de graves hechos de violencia:

- 1) homicidio

¹ En algunos casos, el apellido fue inferido a partir de familiares directos que aparecían en el relato.

² Se dejó una última categoría abierta de "Otros hechos graves de violencia", para designar a los hechos que cumplieran los requisitos anteriormente señalados, pero que no estuvieran incluidos en las seis tipificaciones que se han enumerado.

- 2) desaparición forzada
- 3) torturas y malos tratos
- 4) lesiones graves
- 5) secuestro extorsivo
- 6) violación sexual

Los términos corresponden a la acepción más genérica de los conceptos expresados. Ellos no deben ser entendidos en ningún caso en un sentido jurídico, tampoco implican ninguna conclusión de tipo legal. Por ejemplo, *por homicidio*, se entiende simplemente la muerte de una persona causada por otra. Esta muerte puede deberse a una ejecución, a un ataque indiscriminado, a la detonación de una mina, al fuego cruzado o a otras causas.

Por *desaparición* se entiende la captura de una persona cuyo paradero se desconoce, usualmente por entrar a un circuito clandestino de detención o porque es ejecutada y su cadáver ocultado. El desconocimiento del paradero puede deberse a que la persona es llevada con rumbo desconocido o porque los captores, siendo conocidos, niegan tenerla en su poder. La desaparición puede acabar de tres modos: en homicidio, en la liberación de la víctima o en el reconocimiento de su captura por parte de los responsables, en cuyo caso, la desaparición terminaría pese a no producirse la liberación.

Algunos conceptos de uso general

Se denominará *hecho o tipo de hecho* a cada uno de los diferentes atropellos a los derechos humanos, tipificable e identificable, en que pueden dividirse las violaciones sucesivas que sufre un individuo.

En cada caso, se hablará de *hechos principales* que son alguno de los seis mencionados anteriormente. Los *hechos relacionados* son los que preceden o anteceden a dicho hecho principal. Toda esta sucesión de un hecho principal y posibles hechos relacionados conforma un *caso o episodio*, que puede incluir por ejemplo, desaparición, tortura y violación sexual. El orden en el que ocurren es indiferente, pero para que constituyan un único caso, los hechos deben darse en una sucesión temporal ininterrumpida. El caso termina cuando finalizan todos los atropellos que sufre la víctima, normalmente mediante su liberación. Una víctima puede verse involucrada en varios casos, pero para que existan dos casos diferentes debe haber un intervalo entre ambos en el que cesen las violaciones.

Así, se puede hallar un único caso de tortura que dure varios años y que incluya múltiples repeticiones de los tormentos durante todo ese tiempo en que la persona está presa. También sería posible encontrar dos casos diferentes de violación sexual a la misma persona en el mismo día, siempre que la persona haya estado libre entre ambos episodios.

Al solo efecto de sistematización de la información, se ordenaron los hechos testimoniados en como homicidio, desaparición, tortura, lesiones, secuestros, violación y otros. En cada caso queda registrado como hecho principal, independientemente del orden en que se produjeron, el hecho con mayor gravedad relativa.

Va de suyo que esta regla, definida apriori y aplicada sistemáticamente, no establece una valoración ni prejuzga sobre la gravedad de los hechos en sí mismos.

Para los hechos que transcurren durante más de un día, se toma siempre como *fecha* el momento inicial. Como *lugar* del hecho, se toma en el caso del homicidio el de la muerte o en su defecto el del hallazgo del cadáver. Para la desaparición el último lugar donde la víctima fue vista con vida, para el secuestro extorsivo el de la captura y en el resto, el lugar donde efectivamente sucede.

En cuanto al *tipo de lugar*, se toma "ciudad" como cualquiera de las cabeceras departamentales. Como "pueblo" se asume cualquier núcleo habitacional de varias casas que no sea "ciudad" y como "campo" cualquier lugar fuera de un núcleo. Es decir que caseríos, cantones y municipios son considerados "pueblo" y fuera de ellos quedaría el campo. En este contexto hay una cierta

ambigüedad en la categorización, debido a que la palabra "cantón" es usada por algunas personas como un término administrativo (sin precisar por tanto si ocurrió dentro de un casco urbano o no) mientras que otras personas la emplean como sinónimo de pequeño pueblo o caserío.

Para los *responsables*, se usó el concepto de "escuadrón", con toda la indefinición que conlleva, cuando el declarante empleó el término en su relato. Asimismo, se respetó la denominación "hombres de civil" en los testimonios en los que fue utilizada. Algunos organismos de derechos humanos prefieren de hecho esta última expresión. Ambas definiciones, escuadrones y hombres de civil, se refieren en la gran mayoría de los casos al mismo fenómeno.

En general, se respetó la convicción del declarante. La versión del declarante fue ignorada, sólo en los casos en que era manifiestamente errónea o cuando el propio denunciante confesaba que era producto de una conjetura, sin mayor respaldo. Cuando las versiones de distintos testificantes sobre un mismo hecho no eran totalmente coincidentes, se tomaron en cuenta *todos* los elementos mencionados por *cualquiera* de los declarantes, incluso aunque estos fueran aparentemente contradictorios entre sí. Por ejemplo, si dos personas relataban el mismo hecho pero una le adjudicaba la responsabilidad a la guerrilla y otra a la Fuerza Armada, ambos grupos fueron registrados como responsables.

En el caso de las fuentes indirectas cuyos testimonios ya aparecían codificados y procesados, la Comisión ha respetado en general los criterios y las categorizaciones de las instituciones remisoras. Los criterios de distintas instituciones pueden ser ligeramente diferentes entre sí, por lo que no se puede garantizar de forma concluyente, tal como ocurre en la fuente directa, la homogeneidad completa de todos los criterios.

A falta de una investigación judicial pormenorizada sobre todos los extremos incluidos en cada declaración individual, su fuerza radica en la convergencia de cientos y miles de declaraciones que confirman la existencia de patrones bien definidos de violaciones a los derechos humanos, cuya invención simultánea y coordinada hubiera sido imposible, incluso para la más astuta de las voluntades.

FUENTE DIRECTA

I. INTRODUCCION

Más de 2000 personas acudieron a dar su testimonio ante la Comisión de la Verdad. De estos testimonios se desprende la cifra de 7,357 casos de graves hechos de violencia, que afectan a 7,312 víctimas con requisitos mínimos de identificación.

En estos 7,357 episodios pudieron identificarse un total de 8,651 hechos tipificados por la Comisión dentro de las 7 categorías mencionadas.

Estas cifras se obtuvieron después de una minuciosa limpieza y cruce para detectar las víctimas que eran denunciadas por varios declarantes³.

En definitiva, este universo de más de 7,000 casos de graves hechos de violencia (GHV) constituye uno de los mejores registros de violaciones a los derechos humanos y al derecho humanitario existente. Al respecto, varios motivos se pueden señalar: la amplitud, la longitud del tiempo, la diversidad de puntos de donde se recolecta la información, el momento posbélico y por tanto más abierto en que dicha información se recolecta, la publicidad de su convocatoria, el haber recibido testimonios de ambas partes del pasado conflicto, la creencia popular en la neutralidad de

³ La garantía de que una misma víctima y un mismo hecho no pueda aparecer con dos registros no puede ser absoluta, entre otras cosas porque no siempre se contaba con toda la información necesaria. Por ejemplo, en sucesos lejanos era frecuente que los declarantes hubieran olvidado la fecha exacta. Sin embargo, la garantía de fiabilidad de los datos en su conjunto es, después de un trabajo de limpieza que redujo en más de 2000 el número inicial de registros, bastante amplia.

la institución, el interés público en las conclusiones de la misma, y por último, el procesamiento sistemático de la información.

Muchos denunciantes afirmaron que ésta era la primera ocasión en que relataban los hechos a una institución, bien por el peligro que ello suponía durante la guerra, bien por el escaso crédito que les merecían las instancias a que podían acudir, o bien por la creencia en la inutilidad de una denuncia ante otras instituciones.

II. CARACTERÍSTICAS DE LAS VÍCTIMAS

El universo de registros incluye 1,973 víctimas *femeninas* y 5,196 víctimas *masculinas*, es decir un 27,5% de mujeres y un 72,5% de hombres. El Salvador, como casi todas las sociedades de cierto tamaño, cuenta con una proporción de hombres y mujeres prácticamente equivalente (49,4% de hombres y 50,6% de mujeres, estimado para 1985⁴). Con este marco de referencia, se refuerza la idea de que las víctimas son predominantemente masculinas. En un contexto de guerra la mayor participación política y militar de los hombres los convierte en un blanco más usual de la violencia política y los abusos contra los derechos humanos. Sin embargo, el hecho de que un cuarto de las víctimas sean mujeres, revela un cierto grado de indiscriminación en los abusos por parte de los victimarios.

La mayor participación política y militar de los hombres se manifiesta en que al 5,2% de las víctimas masculinas (contra el 2,8% de las femeninas) se les atribuye afiliación política conocida. Mientras al 4,4% de las víctimas masculinas (contra sólo el 0,7% de las femeninas) les son reconocidos antecedentes militares. En muchos otros relatos se trasluce en la víctima una militancia política y militar no declarada por el denunciante, probablemente por la errónea percepción de que los crímenes contra los derechos humanos son tales sobretodo si se cometen contra personas, que no están social o militarmente comprometidas en política.

Significativamente, en muchas declaraciones la indignación aparente del testimoniante es mayor cuando no puede atribuir el crimen a una motivación política puesto que la víctima "nada debía". Dicha reluctancia a admitir esta pertenencia podría explicar la baja tasa de afiliación política y gremial declarada (10% de las víctimas totales), incluso en áreas tradicionalmente muy militantes.

La edad media de las víctimas es de 30 años y casi la mitad de ellas tiene 25 años o menos. Las cohortes de edad más numerosas son aquellas que se sitúan entre 16 y 25 años cumplidos, que suponen 32,6% del total. Aunque esta es una población joven, no es más joven que la población general del país, en la que más de un 65% es menor de 25 años⁵.

La diferencia entre las pirámides de edad de la población de víctimas denunciadas (gráfico 1⁶) y la población del país (gráfico 2) muestra el desequilibrio sexual entre las víctimas, y muestra además que la juventud en la pirámide nacional es aún mayor que la de las víctimas. Sin embargo, dado que la violencia política debería afectar preferentemente a los adultos, es perfectamente esperable que la pirámide de víctimas sea más vieja que la nacional. Más bien ocurre al contrario, entre las víctimas hay un 16,6% de menores de 16 años que remite de nuevo a un elevado nivel de indiscriminación de los atropellos.

La estructura ocupacional es propia de una población campesina: el 57,7% del total (equivalente al 73,2% de los hombres) trabaja como jornalero o agricultor en pequeño, mientras que el 17,7% (el 74% de las mujeres) se dedica a oficios domésticos. Esto equivale a un perfil análogo a una estructura social agraria tradicional. Después de estas dos categorías ocupacionales fundamentales, la siguiente es la de los estudiantes que engloba sólo a un 7%.

⁴ Fuente: FNUAP, *El Salvador: Estimaciones y proyecciones de población 1950-2025*. San Salvador. 1986.

⁵ Fuente: CEPAL, *Anuario Estadístico de América Latina*. Santiago de Chile. 1984.

⁶ Ver los gráficos mencionados en el documento al final del mismo.

El número medio de hijos por víctima es de 2,27, una cifra bastante alta⁷. Esta fuerte natalidad se corresponde también con una población campesina cuyas tasas han sido tradicionalmente elevadas.

En efecto, el 41,3% de los hechos registrados tiene lugar en el *campo*, el 53,7% en *pueblos*, y tan sólo el 5% en las *ciudades*, esto es, en las cabeceras departamentales. Si se piensa que ya en 1977 el 40% de la población salvadoreña vivía en estas ciudades⁸, ya puede verse la magnitud de la desproporción.

La tasa de ocurrencia de los GHV denunciados es cuando menos 8 veces superior en el hábitat rural comparado con el urbano, teniendo en cuenta las poblaciones de cada uno. Las consecuencias del conflicto en las ciudades no son comparables al impacto que ha experimentado el campo salvadoreño. La violencia en las ciudades, por más dura que pueda haber parecido, ha sido mucho más selectiva. En el medio rural la violencia fue no sólo más intensa sino también más indiscriminada, lo cual se manifiesta por ejemplo, en la naturaleza de las víctimas. El 30% de las víctimas en los pueblos y el 27% de las víctimas en el campo son mujeres, contra un 22% en la ciudad. Un dato aún más inequívoco, es que el 9,9% de las víctimas en los pueblos y el 10,1% de las víctimas en el campo son menores de 11 años, mientras que sólo el 0,5% de las víctimas urbanas son menores de esa edad.

III. TIPOS DE HECHOS GRAVES DE VIOLENCIA

Tal y como puede apreciarse en el gráfico 3 destaca poderosamente el número de homicidios, que ronda los 5,700⁹. De cada 100 casos denunciados, más de 75 acaban en homicidio. Si a esto se añade que muchas de las más de 1,000 desapariciones también acaban en ejecución, aunque ésta no pueda establecerse en rigor, se habrá de concluir, que los hechos denunciados van primordial y contundentemente contra el derecho a la vida.

En segundo lugar, resalta el número de casos que implican tortura o malos tratos que pasan de 1,400. Las lesiones graves y las violaciones sexuales constituyen un capítulo relativamente menor; ninguno de estos dos tipos llega al 5% del total de casos. Por su parte, el secuestro extorsivo aparece como un fenómeno muy infrecuente del que se registran apenas dos docenas de casos.¹⁰

Dos elementos contribuyen a explicar la abrumadora predominancia del *homicidio*. El primero y más obvio es la virulencia de la violencia acontecida en El Salvador y la intención homicida de los victimarios. En la descomposición de los homicidios se aprecia que las ejecuciones extrajudiciales representan la amplísima mayoría. Esto confirma lo deliberado de las muertes ocurridas, que en su mayoría no pueden justificarse como bajas accidentales de civiles en tiempo de guerra, sino que responden a un propósito predeterminado de eliminación.

⁷ Esta media de hijos es considerablemente alta, si tenemos en cuenta que no se trata de tasas de fecundidad general sino que el universo incluye hombres y niños.

⁸ Op. Cit., CEPAL; Ministerio de Obras Públicas. Instituto Geográfico Nacional *Diccionario Geográfico de El Salvador*. San Salvador, 1985.

⁹ Como en un caso pueden concurrir varios tipos de hechos, como ya se explicó, no es de extrañar que las cifras de los casos en que está implicado cada tipo de hecho sumen entre sí un número superior al del total de casos reales.

¹⁰ Escasísimos casos entraron en la categoría de "otros hechos de violencia". Esto significa que nuestras tipologías de hechos se ajustaron suficientemente bien a las denuncias, como para que no fuera necesario el uso de tal categoría marginal. Algunas instancias que se encuadraron en esta categoría fueron por ejemplo la muerte accidental de una persona civil mientras era perseguida o el suicidio de una víctima ante el chantaje y la amenaza de muerte. Ambos casos no pueden ser calificados de homicidio pero en las dos instancias la consecuencia indirecta del atropello termina siendo fatal para la víctima.

TIPOS DE HOMICIDIO	NUMERO DE CASOS	PORCENTAJE
Ataque Indiscriminado	588	10,4 %
Detonación de Minas	14	0,2 %
Fuego Cruzado	26	0,5 %
Ejecución Extrajudicial	4960	87,5 %
Otros tipos homicidio	46	0,8 %
Sin Clasificar	33	0,5 %
Total	5667	100,0 %

Esta intención homicida explica por qué la cantidad de lesiones graves denunciadas, por ejemplo, es tan reducida en relación a los homicidios. Las víctimas no sufren las consecuencias indirectas del combate sino que mayoritariamente son asesinadas alevosamente. Por eso, es el homicidio el tipo más usual de hecho denunciado y no las lesiones graves que podrían ser producto de un ataque indiscriminado.

Otra distinción importante es la que hace referencia al número de víctimas que fue muerta en cada ocasión. Con arreglo a ello, se han dividido los homicidios en tres grupos: los de una sola víctima; aquellos otros que suceden en hechos que implican a grupos pequeños de víctimas, de menos de 20 personas, y por último, aquellos que tienen como objeto a grupos grandes (20 personas y más), a los que podríamos llamar masacres.

TIPOS DE HOMICIDIO ¹¹	NUMERO DE CASOS	PORCENTAJE
INDIVIDUALES	591	15,3 %
GRUPOS PEQUEÑOS	2197	56,9 %
MASACRES	1072	27,8 %
Total	3860	100,0 %

Las muertes individuales generalmente de tipo más selectivo, son la minoría. Las masacres involucran a casi el doble de víctimas, pese a que por su propia naturaleza es más difícil identificar a cada víctima, cuanto más grande sea la mortandad. Sin embargo, el patrón más general es el de la muerte simultánea de un número pequeño de personas, circunstancia que engloba a más de la mitad de las víctimas denunciadas.

La agrupación de las víctimas en las masacres suele tener una base geográfica, es decir que se elimina a los habitantes de una zona precisamente en razón del lugar de residencia. En los homicidios contra grupos pequeños, la agrupación de las víctimas tiene con frecuencia una base familiar,

¹¹ Un total de 1827 homicidios quedaron sin clasificar en este sentido por falta de información.

profesional o de pertenencia a alguna agrupación social o política, y en otras también un elemento geográfico de cohabitación. Esto es, se mata a personas de la misma familia o de la misma institución, y se las mata, justamente por su pertenencia a una familia o a un grupo social considerados como enemigos.

La predominancia de las matanzas a pequeños grupos se aleja de la hipótesis de la historia de la violencia política en El Salvador, fundamentalmente como una sucesión de grandes y famosas masacres. La mayor parte de las víctimas asesinadas no corresponden a unos cuantos sucesos esporádicos que pudieran explicarse por situaciones coyunturales o por el impulso de unos pocos individuos en momentos concretos, sino que remiten a un panorama de violencia sistemática, generalizada y organizada. Es más, de entre estas 2,197 víctimas que mueren en pequeños grupos de menos de 20 personas, 1,662 perecen en grupos de menos de 10 personas, reforzando así la dispersión. No son las grandes masacres las que aportan la mayor parte de las ejecuciones en El Salvador, sino el goteo constante de miles de víctimas en diferentes lugares.

El segundo elemento que contribuye a la explicación del predominio absoluto del homicidio sobre el resto de los hechos es la existencia de un umbral social perceptivo y cambiante sobre lo que es un GHV. Dado que la Comisión no definió públicamente los hechos concretos que se englobaban dentro del concepto de GHV, quedó a la interpretación de la gente la decisión de qué hechos podían entenderse como tales y por tanto si podían o debían denunciarse.

Se debe de tomar en cuenta que en las épocas más lejanas y en las que la violencia es más extrema, las personas conceptualizan como GHV sólo los hechos extremos, dejando de lado u olvidando incluso, otros menos graves pero más usuales. Estos hechos relativamente menos graves, sí serían socialmente percibidos como GHV en períodos más tranquilos y más recientes. En otras palabras, cuanto más generalizada es la violencia más grave debe ser un hecho individual para ser socialmente considerado como un GHV, y viceversa, cuanto más relajado sea el contexto más fácil será que un hecho relativamente menor sea percibido como un hecho que merezca la pena denunciar. Por ejemplo, sería más improbable que alguien viniera a denunciar una golpiza acaecida en 1980 que otra ocurrida en 1990¹².

El hecho de que en la guerra de El Salvador los períodos más lejanos, los primeros años de los 80, sean también los más violentos e indiscriminados, refuerza el pronóstico de que las violaciones menores de dicha época, corren el serio riesgo de no haber sido recordadas o juzgadas como lo suficientemente graves como para ser denunciadas ante la Comisión. Por ejemplo, como se verá más adelante, la Comisión ha recibido menos casos de torturas como hecho principal que casos en los que, al denunciar un homicidio, se relataban "de paso" las torturas o tormentos aplicados a la víctima previamente.

Un dato que avala esta explicación es que del total de denuncias de ataque indiscriminado a población civil 588 de ellas (el 92%) se refieren a víctimas que perecieron en dicho ataque y sólo 47 (el 7%) a víctimas que sufrieron lesiones de gravedad. Es altamente improbable que los bombardeos o mortereos causen muertos sin provocar heridas de consideración en las personas que los rodean. Al contrario, es muy probable que se den varios heridos por cada muerto que resulte de tal bombardeo.

Por consiguiente, este umbral móvil de gravedad mínima para denunciar un hecho de violencia, explica que se declaren casi exclusivamente los episodios que acaban en muerte, como el homicidio, y se dejen de lado las lesiones.

¹² Esta idea está sustentada en el principio de que es el contexto social el que marca la línea base, los parámetros y los umbrales de la percepción social, pero también en la mera explicación cognitiva de que la persona recuerda preferentemente los estímulos que son más salientes (impactantes) para ella. Por ende, en un mundo de estímulos muy fuertes, es probable que un estímulo relativamente menor pase desapercibido y se olvide con mayor rapidez.

Conviene por tanto extraer una buena dosis de cautela para no caer en la tentación de afirmar que en épocas de violencia extrema "sólo" hubo hechos extremos contra el derecho a la vida, sino que también hubo otros menores no testimoniados en la misma proporción.

Las desapariciones denunciadas tienen en su mayoría los mismos rasgos que los homicidios y se inscriben en el mismo escenario, a menudo con la única diferencia de que el cadáver no fue encontrado o fue hallado en tal estado de descomposición que hizo imposible su identificación sin apoyo forense, apoyo que era difícil de conseguir y no estaba ausente de riesgos. La desaparición no responde pues exactamente al fenómeno que se dio en Chile o Argentina, con el traslado de las víctimas por centros clandestinos de detención, sino que se trata en la gran mayoría de los casos de ejecuciones más o menos inmediatas después de la captura y en las que la muerte no se ha podido certificar. Con frecuencia, al parecer, los victimarios tampoco ponían especial cuidado en el ocultamiento del cadáver, puesto que los cuerpos era abandonados en "botaderos" o en vías públicas en donde los familiares de los desaparecidos acudían a tratar de reconocerlos. La diferencia entre la certificación del homicidio o la persistencia de la desaparición podría radicar entonces en el tiempo en que los familiares tardaban en encontrar el cuerpo y el estado de descomposición en que éste se encontrara.

Tal era la regularidad del patrón, que llama la atención la plena certeza que en muchos casos tenían los familiares de la víctima sobre la muerte de la misma poco después de su captura. Tan es así que con frecuencia, si la captura se producía de madrugada, al día siguiente los familiares salían directamente a buscar el cadáver para enterrarlo, sin preocuparse por indagar por su paradero ante ninguna instancia. El consuelo de muchos era simplemente poder hallar el cadáver y darle sepultura.

Como se había mencionado, un caso puede contener y a menudo contiene varios hechos que se encadenan unos con otros. Revisar estas sucesiones o patrones de hechos consecutivos puede revelar mucho de la naturaleza de cada hecho en sí, además de su modo de ocurrencia colectivo. Para ello se toman en cuenta todas las combinaciones posibles, independientemente del orden, entre los cuatro hechos más frecuentes en las denuncias recibidas: homicidio, desaparición, tortura y malos tratos, y violación sexual.

SECUENCIA DE HECHOS	NUMERO DE CASOS	PORCENTAJE
Homicidio	4633	63,0 %
Desaparición	929	12,6 %
Tortura y Homicidio	814	11,1 %
Tortura	419	5,7 %
Violación y Homicidio	99	1,3 %
Violac., Tort., y Homic.	87	1,2 %
Tortura y Desaparición	78	1,1 %
Violación	66	0,9 %
Desaparición y Homicid.	30	0,4 %
Tortura, Desap. y Homic.	18	0,2 %
Violación y Tortura	16	0,2 %
Violac., Desap. y Homic.	1	0,0 %
Violac., Tortu. y Desap.	1	0,0 %
Sin Clasificar	166	2,3 %
Total	7357	100,0 %

El hecho más destacado es el predominio de los atentados contra el derecho a la vida en exclusiva, comenzando por el homicidio y siguiendo con la desaparición. Pero a continuación, la

novedad es que, tanto la tortura como la violación sexual, son más frecuentes entre los episodios que acaban en la muerte o desaparición de la víctima que ocurriendo por sí mismos. En otras palabras, es más probable en los episodios denunciados, que la persona que fue violada o torturada termine siendo ejecutada, que ocurra lo contrario.

Se encontraron 435 casos de tortura en solitario o en combinación sólo con violación, mientras que se registran 998 torturas que terminan asociadas a desaparición u homicidio, especialmente a este último. Por su parte, se reconocen 82 violaciones sexuales solas o en compañía sólo de torturas, mientras que en 188 ocasiones la violación viene acompañada de desaparición u homicidio.

Esto nos revela que tanto los malos tratos como las violaciones sexuales, más que constituir prácticas en sí mismas, son elementos que se añaden al escenario de las ejecuciones, aumentando su brutalidad. Es decir, ellas forman parte de la práctica que gravita de manera fundamental, en torno a las violaciones al derecho a la vida.

Es así que la tortura pierde su sentido clásico de sufrimiento infligido en busca de confesión o información y deviene en una forma cruel de ejecución. A menudo, el mismo machete que se utiliza para torturar y mutilar se convierte en el arma de la ejecución por degollamiento. La proporción de muertes por arma blanca sobre el total de muertes, que es de 13%, sube a un 21% en el caso de homicidios precedidos de tortura. De la misma forma, la violación sexual se convierte con frecuencia en una forma más de agresión al enemigo antes de acabar con él.

Hay casos en que si se producen en el contexto de un interrogatorio, allí la tortura más habitual es la golpiza que se da en 3 de cada 4 casos. En algunas ocasiones, se recurre a procedimientos más sofisticados como la aplicación de electricidad (12% de los casos) o el simulacro de ejecución (8%). No es inusual que durante este tipo de interrogatorios el preso sea privado de sueño y de alimentación (13% del total).

IV. DEPARTAMENTOS AFECTADOS

Las *zonas geográficas* donde suceden preferentemente los casos registrados son los departamentos de las regiones norte y paracentral del país (gráfico 4). Entre ellas resalta poderosamente Chalatenango, que concentra casi un tercio del total de casos. Esta gran afluencia se debió a dos razones: la intensidad del conflicto vivido en esta zona la hizo proclive a los abusos y el trabajo intensivo de algunas ONG de derechos humanos en el área que encauzaron la llegada de los testimoniantes ante la Comisión. Es patente la diferencia entre Chalatenango y por ejemplo Morazán, otra área tradicionalmente conflictiva, cuya cantidad de casos es cinco veces inferior. Aunque la población y la extensión de Chalatenango son mayores a las de Morazán, no es concebible que la desproporción haya sido tan grande en la realidad.

El siguiente departamento en número de casos ha sido San Salvador, que se explica en parte por una mayor facilidad de transporte y movilidad para venir a declarar. Además, la oficina de la Comisión en la capital, a diferencia de otros puntos, permaneció abierta todo el tiempo que duró la recepción de testimonios.

Por otro lado, destacan los departamentos de la zona paracentral como Cuscatlán, Cabañas y San Vicente. Hay razones para pensar que en estos departamentos el número de violaciones a los derechos básicos fue particularmente alto, teniendo en cuenta que no se han contado, ni con la mejor localización de San Salvador, ni con un especial trabajo de recogida de Chalatenango.

Estos aspectos de desigual representación de algunos departamentos, deben hacer tomar con cautela las magnitudes relativas de unas zonas geográficas en relación a otras. Sin embargo, no invalidan en absoluto todas las conclusiones sobre patrones y fenómenos generales que se derivan del conjunto de los testimonios.

V. EVOLUCION ANUAL DE LOS CASOS DENUNCIADOS

En el gráfico 5 puede apreciarse que el número de hechos denunciados supera los 2,500 para 1980, y luego va descendiendo de manera intensa hasta 1983. En este momento la caída se amortigua

y tiende a estabilizarse desde 1985, año en que la curva tiene su punto de inflexión, con la pequeña excepción de una ligera subida con la ofensiva de 1989.

La reducción del 1981 con respecto a la de 1980 es nada menos que del 37.2%, la de 1982 en relación a la del 1981 es del 29.9%, mientras que la caída del 1983 comparado con 1982 alcanza el porcentaje máximo de 55.2%. A partir de ahí, como se dijo, la caída se amortigua.

En razón a esta evolución se puede dividir a la serie anual en dos períodos, uno que incluye desde 1980 a 1982 y se caracteriza por una gran cantidad de graves hechos de violencia pero a la vez por una fuerte caída interanual de los mismos. Un segundo período que abarca desde 1983 hasta el fin del mandato, en el que las violaciones a los derechos humanos son mucho menos numerosas y tienden a estabilizarse, excepto por el pequeño repunte de 1989. Así durante el primer período se producen 3 de cada 4 casos denunciados.

En un análisis más detenido por tipo de hecho se percibe que el *homicidio* (gráfico 6) sigue la misma evolución de los casos globales, quizás con dos ligeras diferencias: la primera, el año 82 no presenta un descenso tan pronunciado respecto al 81 sino que ésta caída se contiene hasta el año siguiente, 1983, en el que se produce una caída espectacular del orden de casi el 60%. La segunda diferencia consiste en el repunte en el 89 que es inferior a la tónica general. La concordancia entre el homicidio y la tendencia general era esperable puesto que el homicidio supone por sí solo la mayor parte de todos los otros hechos juntos.

Las *desapariciones*, torturas y violaciones aparecen en el gráfico 7¹³, éstas evolucionan en forma parecida a la tónica general, con la diferencia de que el comienzo no es tan alto, es decir que la bajada entre el 80 y el 81 es muy ligera. Por tanto, el 80 se caracteriza principalmente por homicidios generalizados y no tanto por desapariciones. El descenso en las desapariciones continúa hasta estabilizarse a partir del 84.

Las *torturas* presentan un patrón propio, que descende en frecuencia muy intensamente entre el 80 y el 81 y, con algo menos de fuerza, continúa hasta el 82. La bajada sigue también hasta el 84, pero en vez de estabilizarse, inicia desde ahí una ligera subida que culmina en un fuerte repunte en el año 89, cuando ocurre la ofensiva guerrillera sobre las ciudades. Esa alta proporción de torturas en 1980 se refiere al tormento como prelude de la ejecución, tal como se definió antes. De todos los casos de ejecución, con previa tortura que hay registrados, nada menos que el 52% tiene lugar en 1980, año de máxima violencia y de uso indiscriminado de la misma, de acuerdo a los testimonios. Poco a poco, este tipo de malos tratos va dando paso a una tortura propiamente dicha, más estable e institucionalizada, que pretende extraer información o confesión. Es este tipo de tortura la que repunta en 1989, año en que se concentran un tercio de los casos puros de tortura, sin ningún otro hecho asociado.

Las *violaciones sexuales* son propias de los tres primeros años, es decir del primer período y casi desaparecen en la fase siguiente. Paralelamente a lo que ocurría con la tortura, la violación en los primeros años es uno de los ingredientes de la ejecución. Así del total de casos de violación seguida de homicidio, el 79% sucede entre 1980 y 1981. Al bajar bruscamente este tipo de patrón a partir de 1983 se van con él la gran mayoría de las violaciones.

VI. DENUNCIANTES Y GESTIONES REALIZADAS

Las personas que se acercaron a denunciar los casos a la Comisión de la Verdad guardaban por lo general una relación bastante estrecha con las víctimas.

Los distintos tipos de relaciones entre los denunciantes y las víctimas, de entre aquellos denunciantes que sí mencionaron su vinculación con las mismas, son los siguientes.

¹³ Los 3 hechos son contabilizados en dicho gráfico independientemente de si se producen solos o en compañía de otros. Como ya sabemos, muchas de las torturas y violaciones desembocan en ejecuciones.

RELACION ENTRE VICTIMA Y DENUNCIANTE	NUMERO DE CASOS	PORCENTAJE
Madre	401	23,6 %
Padre	170	10,0 %
Hijo	82	4,8 %
Hija	80	4,7 %
Hermano	182	10,7 %
Hermana	158	9,3 %
Compañero/Esposo	16	0,9 %
Compañera/Esposa	160	9,4 %
Abuelo/Abuela	4	0,2 %
Nieto/Nieta	2	0,1 %
Tío/Tía	66	3,9 %
Sobrino/Sobrina	37	2,2 %
Primo/Prima	30	1,8 %
Cuñado/Cuñada	24	1,4 %
Suegro/Suegra	11	0,6 %
Yerno	2	0,1 %
Familiar (indeterm.)	20	1,2 %
Amigo/Amiga	29	1,7 %
Vecino/Vecina	18	1,1 %
Conocido/Conocida	4	0,2 %
Ninguna	8	0,5 %
La propia Víctima	126	7,4 %
Otros	68	4,0 %
Total	1698	100,0 %

El panorama que ofrecen estos datos es más bien indicativo y dista de ser completo, puesto que cuando un testimoniante narra un hecho que afecta a muchas personas no consta su relación con cada una de esas víctimas. Sin embargo, la conclusión parece clara en el sentido de que son los familiares muy cercanos quienes acuden a testimoniar los graves hechos de violencia.

Los parientes de primer grado de consanguinidad, es decir padres, hijos y hermanos, representan nada menos que el 63% de las relaciones conocidas. Si a esto se añade el cónyuge, se tienen ya a casi 3 de cada 4 casos.

Asimismo, es típicamente la madre quien viene a denunciar lo que le sucedió a su hijo. En contraste, son muy escasas, un 7,5% del total, las ocasiones en que el declarante no es pariente de la víctima. Ese 7,5% incluye tanto a las relaciones de amistad o convivencialidad como a meros testigos presenciales.

La propia víctima testifica también en alrededor del 7% de los casos; cifra que no podía ser muy alta puesto que la mayoría de las víctimas se encuentran fallecidas o desaparecidas.

A la espera de una investigación sobre el rol de la familia tanto en los patrones de violencia política como en la respuesta de las víctimas ante esa violencia, lo que sí se puede colegir de estos datos es que esta vinculación familiar entre víctimas y testimoniante puede estar generando un efecto

negativo y paradójico en cuanto a la denuncia de los graves hechos de violencia. De este modo, cuanto más generalizada y extrema sea la violación, menos probabilidad hay de que cada víctima individual sea denunciada e identificada.

Siendo madres, hijos o cónyuges quienes declaran generalmente sobre la muerte de las víctimas, cuando estos también perecen en la misma masacre, será más difícil que esos hechos sean denunciados y las víctimas individualizadas. Esto explica la escasez de testimonios en hechos gravísimos que producen numerosas víctimas. Por lo expuesto, en estas situaciones, debe conferirse mayor valor a unos pocos testimonios para su correcta evaluación y no facilitarle a los victimarios mayor impunidad.

Las gestiones realizadas anteriormente por testimoniantes o familiares para denunciar o intentar esclarecer los casos son en general pocas e infrecuentes.

En sólo 267 casos, el 3,6% del total, el declarante mencionó haber llevado a cabo gestiones previas sobre el caso. Pese a que el número real será superior al de aquéllos que lo mencionaron, dado que no todos fueron preguntados sobre el tema, en cualquier caso, esto representa una cifra muy baja. De hecho, muchos testimoniantes aclaraban que su denuncia ante la Comisión era la primera hecha ante institución alguna.

Ello denota un alto grado de impunidad y de desconfianza ante las instituciones. A menudo, la denuncia se producía no para obtener un castigo de los culpables, sino tan sólo para obtener información sobre el paradero de la víctima o del cadáver. Por tanto, con frecuencia no se trata de una denuncia propiamente dicha, debido a que tal denuncia podía poner en peligro a quienes la efectuaban, sino más bien ella es parte de una búsqueda de la víctima.

Así, es la desaparición el atropello que produce más gestiones, aunque apenas supera el 13% del total de los casos, en donde la desaparición forzada constituye el tipo de hecho principal. Este porcentaje, todavía bajo incluso en casos de desaparición, sin embargo, refuerza la imagen de impunidad y desesperanza, que vivió la sociedad salvadoreña a principios de los años 80.

Las gestiones suelen hacerse en este sentido ante organismos como la Cruz Roja Internacional o ante organizaciones no gubernamentales de derechos humanos, que desarrollaban tareas de búsqueda y de denuncia pública. La falta de fe en el poder judicial se manifiesta en los 18 casos en que los denunciantes manifestaron haber puesto un recurso de Habeas Corpus ante la Corte Suprema, pese a las más de 1,000 desapariciones que se relataron. Y de estos recursos, en muchos casos la iniciativa parece partir de una ONG de derechos humanos más que del testificante.

En los años iniciales de la década del 80, en los que la violencia indiscriminada fue más alta, los porcentajes de casos con gestiones previas son aún más bajos. En 1980 y en 1982, por ejemplo, sólo en el 2% de los casos aparece algún tipo de gestión, lo cual sugiere que en dicha época se vivió el grado más alto de impunidad. A partir de 1983 suben en alguna medida, hasta llegar a un tope de alrededor del 15% en los años 90 y 91, años en los que la situación era menos tensa.

El grado en que se acude ante diversos organismos para denunciar los hechos es mayor en las ciudades (alrededor del 8% del total) que en el campo (1,3%) o en los pueblos (1,3%). Esto apunta a un oscuro panorama en el mundo rural donde no solamente los GHV son mucho más numerosos e indiscriminados, sino que además la posibilidad o el hábito de recurrir a instituciones para intentar enfrentarlos es más restringida. El campesino no tenía los contactos ni la facilidad de movilización para ir a un núcleo urbano y exponer su caso a una institución pública o privada. Además, frecuentemente no le veía tampoco la utilidad a una denuncia que implicaba indudablemente riesgos.

VII. FUERZAS RESPONSABLES

En el gráfico 8 puede apreciarse el número de casos en que cada fuerza responsable está implicada de una u otra forma, de acuerdo a los testimonios recibidos¹⁴.

La Fuerza Armada es señalada como responsable en casi 4,300 episodios, esto es, en un 58% de los casos, seguida de los cuerpos paramilitares (ORDEN y la Defensa Civil) implicados en un 31% de los mismos.

A los cuerpos de seguridad se les atribuye responsabilidad en un 22% de los casos, más de 1600 en total, y los escuadrones son acusados en 817 ocasiones, el 11% del total. Esta última cifra crecería si se le añadiera al menos, parte de los 107 episodios atribuidos a hombres vestidos de civil (1,5% del total), que casi siempre equivalen a escuadrones.

La guerrilla es acusada de 342 GHV, que representan casi el 5% del total de los mismos.

De acuerdo a estas cifras, es el aparato del estado, particularmente, sus cuerpos militares, el principal acusado de violaciones a los derechos humanos, sobretodo por parte de la población civil. El estado es señalado como responsable directo (mediante sus cuerpos organizados: militares, paramilitares y de seguridad) en un total de 6,182 casos, el 84% del total. Y, lo que es más llamativo, del conjunto total de casos denunciados directamente ante la Comisión, 4,911 (el 66,8%) constituyen homicidios en los que se denuncia la participación directa de miembros del aparato del estado. A esta responsabilidad habría que añadirle todavía una cierta cuota correspondiente a los escuadrones, que suelen estar compuestos por miembros de los cuerpos estatales de seguridad y militares.

Con frecuencia se da por un lado, una complementación entre la Fuerza Armada y los cuerpos de seguridad (los cuales funcionaron en realidad como cuerpos militares anexados) y por otro, estructuras menos formales, aunque también oficiales como la Defensa Civil. Estas últimas a menudo representan un papel de delación y acompañamiento de la represión de los cuerpos militares.

En otras ocasiones las comandancias locales o cantonales de la Defensa Civil o de las Escoltas Militares respectivamente, realizan en solitario, de acuerdo a los testimonios recibidos, las acciones que culminan en ejecuciones. Este último caso es el que más se prestó para que, tras la represión política, se enmascararan en ocasiones intereses y venganzas estrictamente personales. La impunidad de que gozaba la represión política era tan completa y la ausencia de controles superiores tan grande, que los autores no temían en estos casos ninguna sanción por su conducta destinada a satisfacer objetivos personales.

La impunidad, desde el punto de vista jurídico, consiste obviamente en que los crímenes no tuvieran una sanción penal. Desde el punto de vista psicosocial, la impunidad tiene dos caras, de un lado para el victimario, significa una plena confianza en que sus acciones no serán castigadas por el poder superior. Un índice de esto es que con frecuencia los autores actúan a cara descubierta e incluso no es infrecuente que ellos mismos relaten con todo lujo de detalles, entre unos vasos de alcohol, los crímenes cometidos.

De otro lado, para la víctima, la impunidad significa desesperanza absoluta de lograr un castigo a los culpables, y se traduce en una actitud defensiva que evite males mayores. Frecuentemente, la apelación al aparato judicial se limita a intentar lograr un permiso para recuperar y enterrar el cadáver, algo que no siempre se consigue. En estos casos no se denuncia a los victimarios a quienes se conoce sobradamente, y en otras ocasiones, cuando el juez inicia la investigación por su propia iniciativa, no se dice toda la verdad para evitar represalias. La resignación llega a tal punto que, al menos en un caso, los familiares se encuentran ante la demanda de dinero por parte de los victimarios en el momento de la captura, a cambio de dejarles el cadáver cerca de la casa.

¹⁴ Dado que varias fuerzas pueden estar involucradas en un mismo caso, cosa que sucede a menudo, el total de casos representados sería ficticio, pero la gráfica nos sirve para hacernos una idea de la responsabilidad relativa de cada fuerza.

Además de la colaboración entre los cuerpos militares y paramilitares, los escuadrones constituyen otra estructura represiva que incluye indistintamente a militares (en este caso vestidos de civil), paramilitares y civiles de ideología afín, quienes salen cada cierto tiempo a "limpiar" la zona adversa. De acuerdo a los testimonios, era normal que entre los miembros de un escuadrón se reconocieran a personas pertenecientes a los grupos antes mencionados. Frecuentemente actúan con la cara cubierta para no ser reconocidos, lo cual supone un pequeño retroceso en cuanto a la impunidad. En ocasiones los miembros del escuadrón llegan a ser conocidos en toda la zona, lo cual no parece frenar su poder de aniquilación.

En el gráfico 9 puede observarse la responsabilidad para cada *unidad*, dentro de cada fuerza.

Dentro de la Fuerza Armada, queda reflejado el predominio de las fuerzas de tierra y particularmente de infantería en cuanto a las responsabilidades atribuidas. Dichas fuerzas fueron las que llevaron el peso de la guerra. La Fuerza Aérea es señalada en un número de ocasiones relativamente pequeño, algo que contrasta como se verá más adelante con su mayor implicación en los testimonios de fuente indirecta. La Marina, por su parte, parece estar comparativamente casi al margen de los GHV.

Dentro de las fuerzas de infantería destacan, por un lado la Cuarta Brigada y sobre todo el Destacamento Militar 1 (ambos de Chalatenango), y por otro, el Destacamento Militar 2 (Cabañas) y la Quinta Brigada (San Vicente). En el caso de Chalatenango influye, además de la virulencia de los hechos ocurridos, la sobrerrepresentación de que es objeto dicho departamento en el conjunto de los testimonios. Por su parte, las Fuerzas Armadas estacionadas en los departamentos del área paracentral como Cabañas y San Vicente aparecen señaladas como responsables principales de los GHV en esta zona tan castigada.

Los Batallones de Reacción Inmediata presentan una tasa de responsabilidad relativamente alta, pero de forma desigual; mientras que el Atonal y especialmente el Arce aparecen con baja frecuencia, el Bracamonte, el Beloso y especialmente el Atlacatl son acusados de numerosos episodios.

Dentro de los cuerpos de seguridad, es la Guardia Nacional la que sobresale, recibiendo inculpaciones en una proporción de 3 a 1 en relación a los otros dos cuerpos. Entre estos dos últimos, la Policía de Hacienda es responsabilizada más asiduamente que la Policía Nacional. Esto se corresponde exactamente con la dureza de la violencia en el campo, ámbito en que actuaba preferentemente la Guardia, mientras que en las poblaciones urbanas, con mayor presencia de la Policía Nacional, la violencia fue más selectiva.

De hecho, la Guardia Nacional es la unidad individualmente más señalada de todo el conjunto después de la Defensa Civil, que es con una gran diferencia, la agrupación a la que más casos se le atribuyen. La Defensa Civil surge de forma tan destacada en parte debido a que, al no descomponerse en unidades, aparece toda bajo un solo rubro. Al margen de ello, el gráfico revela la magnitud en que este cuerpo paramilitar ha estado implicado en la violencia, a veces orientando a los cuerpos militares y seleccionando víctimas para ser ejecutadas o torturadas, y a veces actuando por su cuenta.

Dentro del FMLN, las Fuerzas Populares de Liberación son la unidad con mayor responsabilidad registrada, pero en esto incide una vez más el gran peso relativo que tiene el departamento de Chalatenango sobre el total.

Los escuadrones en su gran mayoría no son identificados de forma individual con un nombre concreto sino que son tildados en forma genérica con este término. Esto confirma la idea del escuadrón no tanto como un grupo estructurado y organizado, sino más bien como un agrupamiento informal y circunstancial de elementos militares, paramilitares y algunos civiles con el fin de llevar a cabo determinados actos, mayormente asesinatos.

En cuanto a los *homicidios* (gráfico 10), la perspectiva es parecida a la que se tiene con el conjunto de los hechos, con algunas diferencias, como que la responsabilidad de los cuerpos

paramilitares es aún mayor en este caso. De hecho, de cada 100 casos en que se ven envueltos los cuerpos paramilitares, 86 acaban en muerte de la víctima; una proporción exactamente igual a la encontrada para los escuadrones. Ello demuestra el potencial letal de estos dos grupos y la función homicida que jugaron. Esto, que resulta obvio hasta cierto punto en el caso de los escuadrones, agrupaciones informales constituidas con el fin primordial de eliminar adversarios políticos, resulta sorprendente en el caso de los cuerpos paramilitares, que constituyen agrupaciones legales a las que, a diferencia de los escuadrones, se les atribuye una función militar en el conflicto armado. Los datos muestran, sin embargo, que más allá de este rol militar de contención militar antisubversiva que pudiera jugar, la Defensa Civil, y los restos de ORDEN en los primeros años 80, llevaron a cabo, al igual que los escuadrones, una intensa violencia que pretendió limpiar el campo de enemigos políticos reales o figurados.

Por ejemplo, mientras un 15% de los homicidios denunciados en que está involucrada la Fuerza Armada se producen en el contexto de ataques indiscriminados, esta proporción baja al 5% en el caso de los paramilitares, subiendo paralelamente el porcentaje de ejecuciones al 94%. Esto indica que, de acuerdo a los testimonios, más que combates en los que pudieran producirse víctimas civiles la función de la Defensa Civil fue la represión de la población rural que se traducía en ejecuciones extrajudiciales.

La diferencia entre paramilitares y escuadrones no es, en cualquier caso, taxativa, pues de hecho muchos de estos últimos estaban compuestos, entre otros, por miembros de la Defensa Civil, según los testimonios recibidos.

Las desapariciones, torturas y violaciones atribuidas a cada fuerza aparecen reflejadas en el gráfico 11. En las *desapariciones* destaca el hecho de que el FMLN es acusado del 10% del total de las mismas, lo cual duplica su tasa general de responsabilidad. El tipo de GHV en que está envuelta la guerrilla se concentra en homicidios y desapariciones y tiene una naturaleza más selectiva que las de los cuerpos estatales; menos del 4% de los homicidios de los que está acusado el FMLN son ataques indiscriminados, mientras más del 91% (201 casos en total) son ejecuciones extrajudiciales.

Paralelamente, no se encuentran prácticamente casos de homicidios identificados en acciones del FMLN que afecten a más de 19 víctimas conjuntamente. Esto muestra que las violaciones cometidas por la guerrilla se centran, aunque en una dimensión muy inferior a la de los cuerpos estatales, en la eliminación selectiva de adversarios o disidentes de acuerdo a las denuncias registradas.

Las *torturas y malos tratos* son mayormente asignados a la Fuerza Armada, que acapara el 57% de las acusaciones, y en segundo lugar a los cuerpos de seguridad, que suman el 36%. Son en muchos casos, como se explicó, torturas que preceden a la ejecución. El FMLN no recibe sino 8 acusaciones de tortura en total, por lo que parece que fue un hecho muy ocasional e infrecuente entre sus filas.

Por su parte, las *violaciones sexuales* son fundamentalmente atribuidas a la Fuerza Armada y a los paramilitares, a menudo como prelude de la ejecución. No se encuentran denuncias en que se vincule al FMLN con este tipo de hecho.

Al examinar la evolución de la responsabilidad de cada fuerza por cada año (gráfico 12), se aprecian ligeras diferencias. La Fuerza Armada lleva el peso mayor de las denuncias, especialmente en los años 80, 81 y 82 y es a partir de entonces cuando descienden de forma importante los casos que se le asignan. La incidencia, por su parte, de los cuerpos paramilitares y de los de seguridad, es muy grande en el año 80 al comienzo de la guerra, pero el número de GHV atribuidos cae fuertemente ya en el año 81. Así, los escuadrones tienen un rol importante en los tres primeros años, para casi no registrar casos a partir de 1984.

El FMLN, aunque también disminuye en cuanto a los hechos que se le imputan entre 1980 y 1983, muestra una tendencia mucho más estable durante toda la década.

En conclusión el panorama refleja pues que los sistemáticos abusos contra los derechos humanos en el año 1980 fueron protagonizados, con arreglo a los testimonios recibidos, por la Fuerza Armada en compañía de los cuerpos de seguridad y paramilitares y, en menor medida, de los escuadrones. A partir del año 81 el papel de estos cuerpos paramilitares y policías baja considerablemente, dejando a la Fuerza Armada en el centro de la escena.

Es indicativo que, en el repunte en los GHV que se vive en 1989, no se ven envueltos los paramilitares ni resurge con fuerza la actividad de los escuadrones, sino que dicho aumento se limita al accionar de los cuerpos formales oficiales de tipo militar. Asimismo, el hecho de que a pesar de la intensidad de la guerra generalizada que trajo consigo la ofensiva del FMLN, el número de GHV no subiera ni de lejos a una cifra parecida a la de inicios de 1980, y además el no resurgimiento de agrupaciones represivas informales son factores que demuestran que las violaciones a los derechos humanos y al derecho humanitario, no se deben tanto a la guerra como causa de todos los males, sino a ese modo particular de entender la confrontación ideológica como la eliminación física de los adversarios.

De todos los episodios registrados en el año 80 el 46%, es decir casi la mitad, corresponden a los primeros seis meses del año, cuando la guerra aún no se había generalizado. La agudización y extensión del conflicto armado en la segunda mitad del año no trajo consigo, por tanto, un incremento en los graves hechos de violencia. Esto es otra muestra de que no es la guerra, en sí misma, la causante automática de los abusos contra los derechos básicos.

VIII. PATRONES GENERALES DE GRAVES HECHOS DE VIOLENCIA

Se entenderá por patrón una práctica sistemática que se repite en el tiempo de manera consistente y con una cierta frecuencia. Para poder definir una práctica como un patrón harán falta entonces dos elementos:

- sistematicidad, la cual implica una regularidad en su desarrollo que remite al funcionamiento repetitivo de ciertos mecanismos que producen el mismo resultado, cíclicamente, en distintos momentos del tiempo.
- una frecuencia mínima, es decir que la práctica se repita un número de veces suficiente y afecte a un número estimable de personas¹⁵.

Así, los patrones fundamentales detectados pueden resumirse en tres:

A) La práctica más destacada es la ejecución extrajudicial de los adversarios a manos de los agentes del estado, que suele terminar clasificada como homicidio y a veces como desaparición en los casos en que el cadáver no es hallado o es encontrado en un estado de descomposición que impide su identificación.

En muchos casos, la ejecución está precedida de malos tratos, tormentos y, en el caso de mujeres, también de violación sexual, hechos que no necesariamente van dirigidos a extraer información, sino que constituyen agravios contra el enemigo. Tal ensañamiento en la ejecución pretendía además un efecto disuasorio y aterrador sobre los correligionarios, reales o supuestos, de la víctima.

Estas conductas son atribuidas sobre todo a la Fuerza Armada, en los casos en que la indiscriminación es mayor, y también a los cuerpos de seguridad, la Defensa Civil y a los escuadrones en los casos donde las matanzas son más selectivas.

Aunque la diferencia entre la guerrilla, por un lado, y la Fuerza Armada, los cuerpos paramilitares, los cuerpos de seguridad y los escuadrones por otro, es muy grande en cuanto al

¹⁵ Esto implica que no podría ser categorizada como patrón un suceso que, aún afectando a muchas personas, acontece en un momento aislado producto de una circunstancia especial y sin continuidad en el tiempo. De la misma forma, tampoco sería considerada un patrón un modo de actuar que, pese a ser regular y cíclico, involucrase a muy pocas personas o se repitiese cada mucho tiempo.

número de casos, el FMLN también es acusado de ejecutar a individuos, especialmente a aquellos que considera proporcionan o pueden proporcionar información al enemigo.

B) El ataque indiscriminado a la población civil mediante diferentes formas como bombardeos aéreos, ametrallamientos o colocación de explosivos o minas, que puede resultar en graves lesiones o en la muerte de la víctima. Este segundo patrón, de una incidencia muy inferior al anterior, se inscribe con mayor facilidad dentro de la lógica de la guerra, aunque no es infrecuente encontrar casos límite entre una ejecución y un ataque indiscriminado en los que no es sencillo determinar la intención homicida del victimario. Es una práctica llevada a cabo por la Fuerza Armada en áreas de conflicto, sobre todo en el primer quinquenio de la década.

C) El tipo clásico de tortura por parte de la Fuerza Armada y los cuerpos de seguridad, es el que después de capturar y reducir a la víctima se la somete a padecimientos para que proporcione información y confiese su participación en determinados hechos. Este patrón implica una detención más prolongada, y en centros más adecuados que la que se producía en las torturas previas a la ejecución. Al igual que el ataque indiscriminado, es un patrón cuyas denuncias, pese a su importancia, son mucho menos generalizadas que las de ejecuciones extrajudiciales.

IX. LOS DOS PERIODOS

El tiempo del mandato de la Comisión puede dividirse en dos períodos en cuanto a la ocurrencia de los graves hechos de violencia. El primero que abarca de 1980 a 1982 y el segundo que incluye de 1983 en adelante.

Un examen comparativo de ambos períodos a la vez que resume sintéticamente lo analizado hasta el momento, sirve para comprender mejor los patrones de los atropellos a los derechos humanos y al derecho humanitario en el país.

En primer lugar, la relación del volumen de episodios denunciados en el primero y el segundo períodos es de 3 a 1, a pesar de que el primero sólo contiene 3 años y el segundo 8 y medio.

La diferencia no es sólo cuantitativa sino también cualitativa, esto es en el modo en que se producen. En el primer período un 70% de las víctimas ven violados sus derechos básicos en compañía de otras víctimas y el 30% restante en hechos individuales con una única víctima. En cambio, en el segundo período sube hasta el 43% el porcentaje de las víctimas individuales.

Por otro lado, el 80% de los casos de homicidio corresponden al primer período y el 20% restante al segundo. Esto define un primer período caracterizado por ejecuciones y matanzas colectivas, comparado con una segunda fase en la que la represión fue más selectiva. Del total de acciones que afectan a 20 víctimas o más, acciones que suelen hacer referencia a masacres, 71 suceden en el primer período contra 27 en el segundo.

Estos primeros años 80 son los años de las grandes masacres, las más conocidas y de la represión indiscriminada, a manos sobre todo de la Fuerza Armada acompañada de la Defensa Civil, la Guardia y los escuadrones; los cuerpos paramilitares, los de seguridad y los escuadrones llevan a cabo el 89%, el 92%, y el 89% respectivamente del total de los homicidios de que se les acusa durante el primer período. De acuerdo a los testimonios recibidos, miles de ciudadanos en extensas zonas del país son contemplados y tratados como enemigos por el aparato del estado, por el mero hecho del lugar en que habitan. Vivir en pequeños pueblos de amplias zonas del área norte y paracentral del país suponía un riesgo cierto para la vida que podía perderse en ataques indiscriminados o, más comunmente, en ejecuciones deliberadas.

De entre todos los episodios relatados directamente a la Comisión, se cuentan nada menos que 3,762 ejecuciones extrajudiciales acaecidas en el campo o en pequeños núcleos durante el primer período bajo la responsabilidad directa de los cuerpos estatales. Esta cifra equivale a más del 50% del total de las denuncias. Fue por tanto el mundo rural en estas áreas, llamadas áreas de conflicto, el que sufrió este fuerte embate. El 95% de todos los casos registrados en este período sucede fuera de las ciudades, dentro de las cuales la violencia es más restringida (gráfico 13).

En los peores casos, los testimonios reflejan que se trataba no sólo de limpiar un área de elementos políticamente contrarios, sino de expulsar a toda la población, que era vista como sospechosa o al menos susceptible de colaboración con la guerrilla. Con este fin no declarado de convertir determinadas áreas en desiertos demográficos donde el ejército pudiese enfrentarse a la guerrilla en condiciones más favorables, con frecuencia se procedía después de los ataques contra las personas a quemar las casas y las cosechas y matar el ganado para asegurarse de que los habitantes no volvieran.

Estos operativos, que fueron los más indiscriminados, produjeron las masacres más conocidas y, subsiguientemente a cada una de ellas, un gran número de refugiados que huyeron a Honduras y de desplazados internos. Miles de salvadoreños cruzaron la frontera para salvar la vida o se hacinaron en insalubres sótanos en San Salvador en un estado de semiclandestinidad. El hecho de que, aunque hostigados y acosados, se les permitiera sobrevivir en dichos refugios, e incluso ocasionalmente salir del país desde allí, es buena prueba por una parte, de la mayor moderación de la violencia en la ciudad, y por otra, de que la persecución tenía una base geográfica muy importante dentro de la estrategia del aparato militar del estado. Se les podía permitir subsistir, pero no en las áreas de conflicto donde podían prestar apoyo a las fuerzas insurgentes.

En ocasiones, los operativos rodeaban zonas enteras para luego cercarlas y atacarlas. En estas ocasiones, se producían a veces grandes matanzas en un punto determinado que son las que se conocen popularmente como masacres. Sin embargo, en no menos ocasiones dentro de un operativo de varios días, se iban produciendo víctimas en distintos caseríos o lugares a medida que la gente iba siendo encontrada por los soldados. Este tipo de acciones podía suponer un número de víctimas bastante alto, pero no ha recibido tanta atención como las masacres por no haberse producido todas simultáneamente. Sin embargo, el patrón de violencia indiscriminada es el mismo y el contexto y el objetivo de los victimarios parece también coincidente, por lo que merece ser considerado, junto a las masacres, dentro del mismo fenómeno.

Por ejemplo, en el contexto del operativo "Ataraya" que se produce entre el 27 de Mayo y el 9 de Junio de 1992 en el Este de Chalatenango la Comisión tiene registradas 38 víctimas identificadas en los testimonios, de las cuáles 6 padecieron abusos contra los derechos humanos individualmente y el resto en 13 episodios colectivos distintos. Dado que el número de víctimas aún no identificadas es probablemente muy superior, la magnitud de este conjunto de muertes convergentes que se inscriben dentro de una misma acción con un mismo objetivo adquiere características propias de una masacre.

En esta coyuntura, la defensa de la población civil que optaba por no huir de su hábitat tradicional, sólo podía optar por la huida más o menos organizada de grupos que vagaban sin un rumbo determinado por los campos, alterando su posición según el avance de las fuerzas militares. Este fenómeno se conoce en el país con el nombre de "guinda".

Al principio eran los hombres, especialmente los jóvenes, quienes salían en guinda a la llegada de los soldados, por ser sospechosos o susceptibles de convertirse en guerrilleros. Más tarde, después de varios episodios en los que muchas personas que permanecieron en sus casas en la confianza de que su sexo o su edad (escasa o muy avanzada) les serviría de escudo acabaron ejecutadas, las guindas empezaron a incluir a mujeres, viejos y niños.

Paralelamente a las masacres, se cuentan como ya vimos en su momento, un sin fin de asesinatos a pequeños grupos de personas en los que se producen en definitiva la mayoría de las muertes. Estas matanzas a grupos de unas pocas personas son especialmente frecuentes en 1980. En 1981 en cambio las ejecuciones colectivas descienden en número pero aumentan en magnitud. Se dan menos episodios, pero entre éstos se producen los más sangrientos, aquellos que dejan un mayor número de víctimas, como las grandes masacres en el contexto de los operativos que pretenden despejar zonas enteras. Esto se observa con nitidez en la tabla siguiente que contiene el número de hechos colectivos con más de 5 víctimas registradas para cada año y el número medio de víctimas estimadas para todos los episodios del mismo año.

AÑO	NUMERO DE HECHOS COLECTIVOS	NUMERO MEDIO ESTIMADO DE VICTIMAS POR HECHO
80	138	19
81	65	64
82	62	45
83	32	42
84	16	21
85	3	9
86	7	22
87	4	13
88	2	33
89	11	22
90	2	20

Desde el 82 desciende tanto el número de episodios colectivos como el número de víctimas en cada uno, hasta alcanzar un mínimo en 1985, momento a partir del cual comienza una ligera subida que culmina en el 88. Según el cuadro, el número de víctimas *estimadas* en hechos de esta índole es de unas 2,600 en 1980 y de unas 4,100 en 1981, pese a que, como ya se vio, se cuenta con más víctimas registradas en el primer año que en el segundo. Esto reafirma que las víctimas de hechos multitudinarios, como las masacres que fueron frecuentes en el 81, son más difíciles de individualizar en los testimonios que las víctimas de hechos colectivos que afectan a pocas personas. En la medida en que la ejecución afecte también a familiares cercanos, se hace más improbable obtener un testimonio sobre cada víctima.

La intensidad de los asesinatos denunciados, su extensión temporal y geográfica, su multiplicidad en diversos puntos durante este primer período, niega la idea de episodios aislados producto del exceso de algún oficial o de alguna coyuntura de la guerra y afirma la conclusión de una violencia organizada y sistemática, que perseguía la eliminación ideológica de aquellos considerados enemigos y la ruptura de cualquier posible intento de organización opositora. Es más, en muchos casos no se puede hablar en propiedad de "excesos", cuando las ejecuciones aparecen como planificadas con este fin específico de limpiar el terreno de enemigos.

Los grandes espacios de impunidad abiertos al amparo de esta represión política hacían posible que este poder omnímodo fuera usado, sobre todo por los cuerpos paramilitares, para saldar viejas rencillas personales o familiares, o simplemente para lucrar a costa de las víctimas.

En muchos casos, las ejecuciones iban precedidas como ya se vio de otros hechos que contribuían a la brutalidad del crimen; el 85% de los episodios de tortura y homicidio consecutivos y el 90% de las violaciones seguidas de ejecución, acaecen en este primer período.

Con frecuencia, son pues actos de extrema crueldad, con extremidades y genitales mutilados a machetazos antes del degollamiento, en acciones propias de escuadrones de la muerte y cuerpos paramilitares que a veces no usaban arma de fuego. La proporción de casos en que el arma blanca constituye el arma homicida es del 14,5% en el primer período, mientras que baja al 8,5% en el segundo.

Estos actos se desarrollaban bajo una gran impunidad que llega a su clímax cuando los victimarios perpetrar las torturas y las ejecuciones en público, a menudo frente a los familiares de la víctima, con el fin de amedrentar y aterrorizar a su grupo familiar o social.

Después de la muerte se daban abusos y desfiguraciones del propio cadáver que quedaba visible en un lugar público, un arbusto o una carretera para incrementar el terror. Los cuerpos eran arrojados en lugares cercanos al lugar del asesinato, no lejos del área de actuación del grupo armado

o bien en los conocidos como "botaderos" de cadáveres adonde los familiares acudían a identificarlos.

Como puede observarse, estas prácticas se alejan del tipo normal de desaparición forzada del cono Sur, con ocultamiento del hecho e intención expresa de crear incertidumbre sobre el destino final de la víctima, a pesar de que la no identificación del cadáver haga que la ejecución quede clasificada como desaparición. Más bien en El Salvador, los testimonios muestran que no es el hecho lo que se suele ocultar sino que, por el contrario, se publicita para incrementar el terror. Lo único que se pretende esconder es, y no siempre, la identidad de los autores concretos del crimen, arrojando el cadáver en un sitio ligeramente distante del lugar del homicidio. Prácticamente en la totalidad de los casos los familiares están convencidos de la muerte de la persona, especialmente cuando era apresada en el campo durante este período por escuadroneros, guardias o defensas civiles.

El mínimo consuelo para huérfanos y viudas de enterrar a las víctimas, no era siempre concedido y, en el extremo de la crueldad, los autores llegaban a veces a vigilar el cadáver para que, bajo amenaza de muerte, éste no fuera recuperado oportunamente. Esta imagen constituye una de las más poderosas y significativas de este duro período. En estos casos, las denuncias relatan cómo las familias solían acudir al juez que no siempre podía o quería facilitar el permiso para la inhumación.

A partir de 1983, comenzando el segundo período, se da una mejora relativa de la situación de los derechos humanos. Todos los tipos de hechos denunciados descienden en número, pero además su composición relativa difiere respecto al primer período (Gráfico 14).

TIPO DE HECHO	PERIODO 1	PERIODO 2
HOMICIDIO	4437	1101
DESAPARICION	714	317
TORTURA	948	469
VIOLACION	215	55
LESIONES	78	92
SECUESTRO EXT.	12	12
OTROS HECHOS	6	0

Disminuye no sólo el número sino también la proporción de los homicidios, como consecuencia del gran descenso en las masacres y la violencia indiscriminada. Inversamente, aumenta el peso relativo de las desapariciones, las lesiones graves y, especialmente, las torturas. Esto se debe por un lado a la menor virulencia de los atropellos y, por otro a que, como ya se explicó, en un contexto menos dramático como el del segundo período el umbral de percepción de qué es un GHV se hace más amplio y la gente acude a denunciar también hechos relativamente menos graves.

La tortura toma una importancia sustantiva superior tal que, aunque los casos globales bajan entre los dos períodos, las instancias de tortura en exclusiva suben de 132 a 285. Este contraste se explica por la caída espectacular de las torturas que preceden a ejecuciones. Se trata pues en este segundo período de torturas propiamente dichas, con el fin de obtener información o confesión, en las que los cuerpos de seguridad, que son los encargados oficialmente de labores de inteligencia e información, recuperan el protagonismo con casi el 45% de los casos. De acuerdo a los testimonios, las torturas suelen terminar en la coacción a la víctima para que firme un papel en blanco en el que se escribirá a posteriori la supuesta confesión que servirá de base a una acusación judicial.

En este período aumenta por tanto la remisión final de las víctimas al sistema judicial y penal, después de los atropellos. Con todo, es en la fuente indirecta donde se podrá contemplar con mayor claridad el gran ascenso en el número de torturas. Esto se debe a que al denunciarse los hechos ante

las instituciones poco después de producirse, ellos no sufren en la fuente indirecta, el filtro de ser percibidos como relativamente menos graves.

El panorama surgido en este período es pues de una represión más selectiva y relativamente más suave, en la que ya es probable salir vivo después de haber sido torturado. En este contexto, los episodios ocurridos en las ciudades, donde se albergan numerosos centros de detención en los que pueden aplicarse torturas, subieron del 4 al 9% del total en este segundo período. En esta nueva situación, de perfil más urbano, San Salvador adquiere un papel más destacado. Así, de las denuncias habidas en este departamento de San Salvador, se acercan a la mitad (43%) las que corresponden a este segundo período, lo cual supone casi duplicar la tasa general de casos que pertenecen a este período (24,5%). Por el contrario, departamentos como San Vicente, donde las denuncias habían sido muy numerosas para el primer período, aparecen ahora relativamente menores con sólo un 10% del total de casos en este segundo período.

Los responsables más usualmente acusados de las violaciones a los derechos básicos varían entre los dos períodos (gráfico 15), fundamentalmente por la casi desaparición de las víctimas atribuidas a escuadrones a partir del 83 y por el fuerte descenso de los paramilitares.

Por su parte, el FMLN mantiene una tasa de responsabilidad bastante baja y equilibrada entre ambos períodos. En el primer período son más frecuentes los homicidios (138 contra 80) y en el segundo las desapariciones (78 contra 24 en el primero). Se reciben apenas acusaciones de tortura ni de violación sexual. También son muy escasas las imputaciones de lesiones y de secuestros extorsivos.

Los hechos imputados a la guerrilla, homicidios y desapariciones, acontecen más que nada en áreas de conflicto, fundamentalmente en Chalatenango (54%) y Morazán (9%), y reflejan la eliminación de individuos vistos como enemigos o de disidentes en las propias filas o en áreas controladas por sus fuerzas. La guerrilla llegó a alcanzar un alto grado de control sobre algunas zonas en las que constituía una instancia que regulaba de facto el orden y aplicaba castigos. En este contexto, se llegaba en ocasiones a ejecutar a algunas personas, fundamentalmente a aquellas acusadas de delación o colaboración con el enemigo, sea dentro de las propias filas ("traidores") o fuera de ellas ("orejas"). En estas ejecuciones las víctimas no contaban con las garantías de un debido proceso que les permitiera defenderse de las acusaciones. En algunos otros casos, la minoría, los homicidios imputados parecen reflejar la eliminación selectiva de individuos considerados como enemigos por su cargo o por su talante personal, al margen de acusaciones de colaboracionismo.

PIRAMIDE DE EDAD DE LA POBLACION DE VICTIMAS Víctimas de Fuente Directa

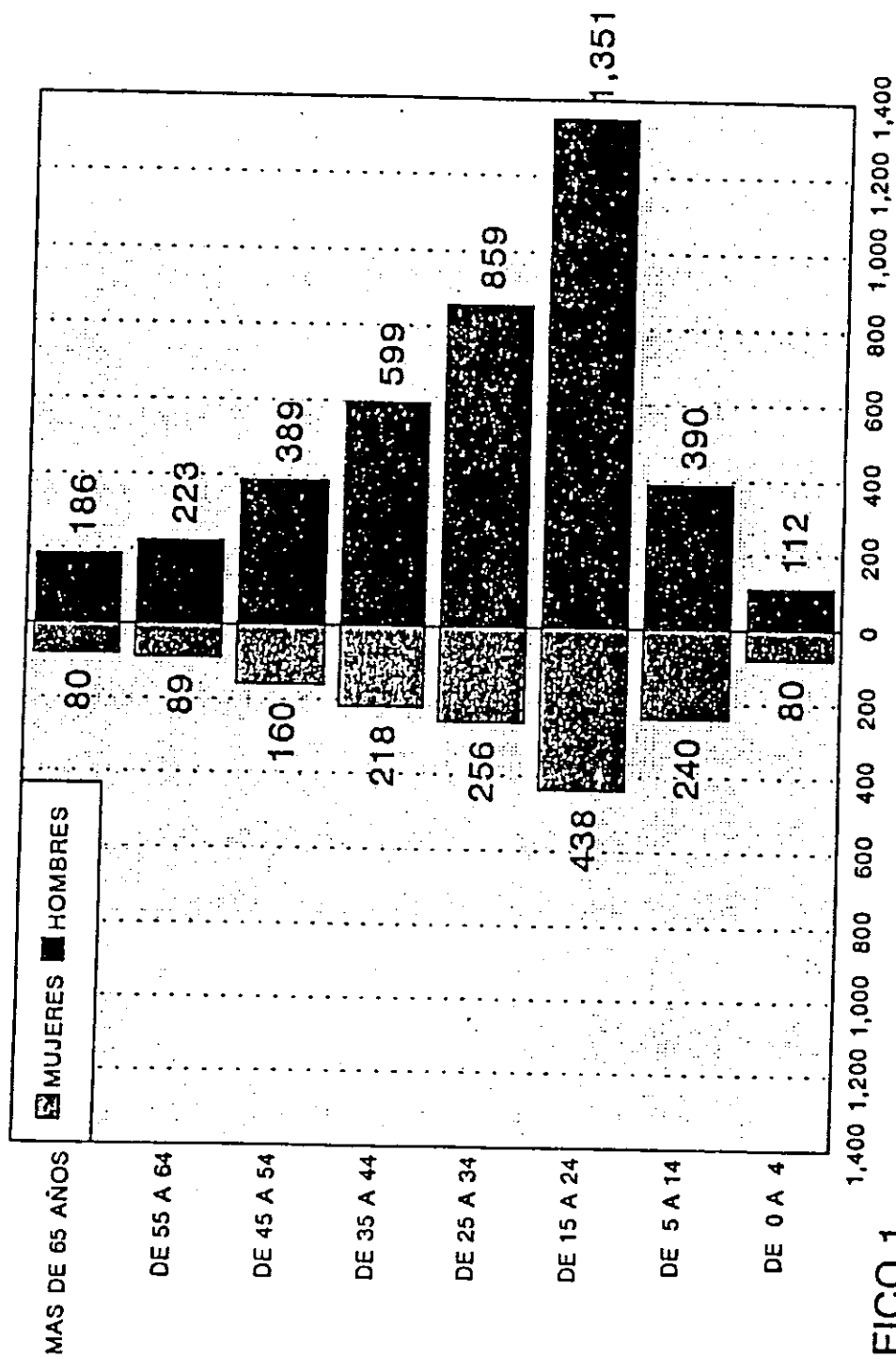
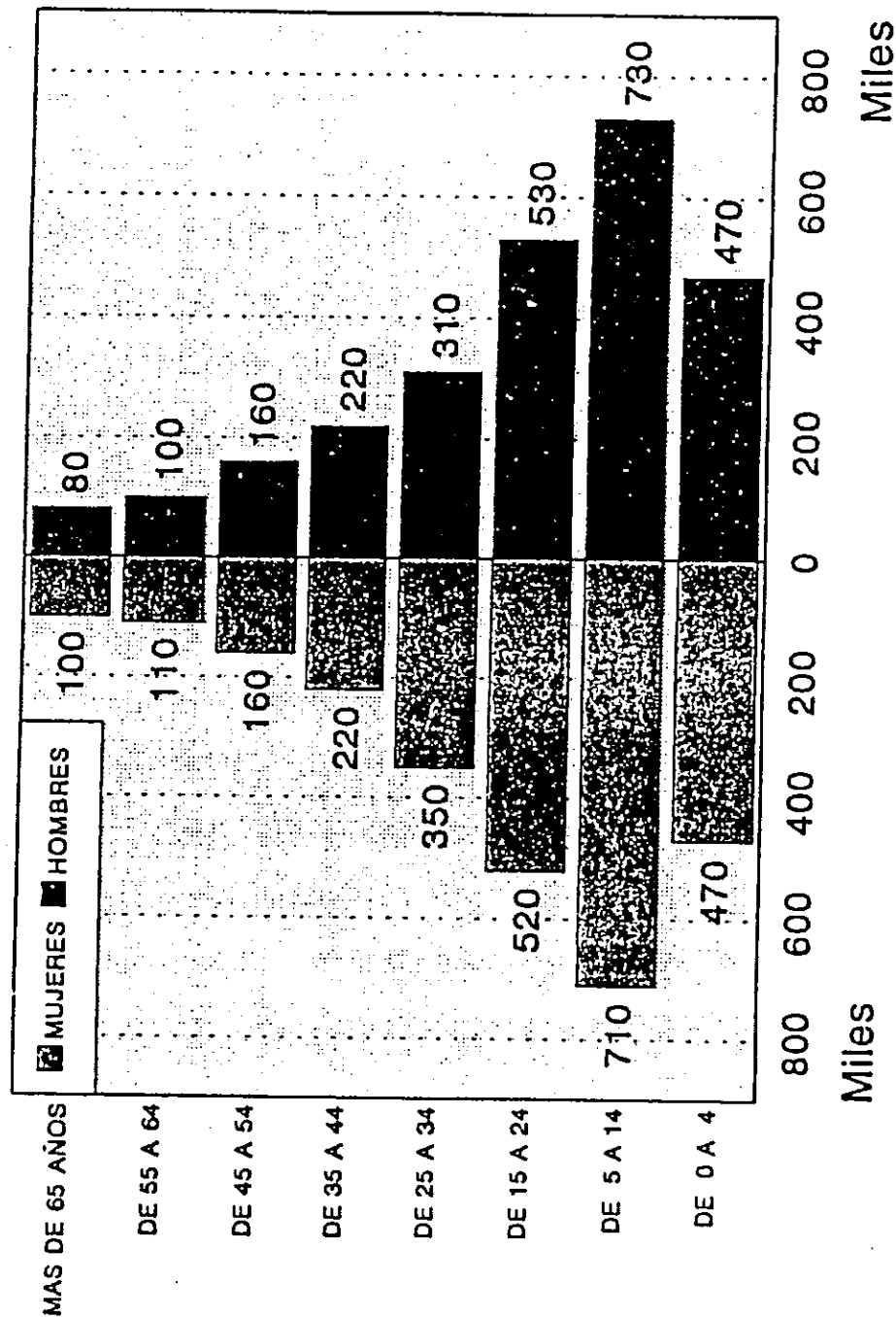


GRAFICO 1

PIRAMIDE DE EDAD DE LA POBLACION DE EL SALVADOR Número de personas por sexo y grupo de edad

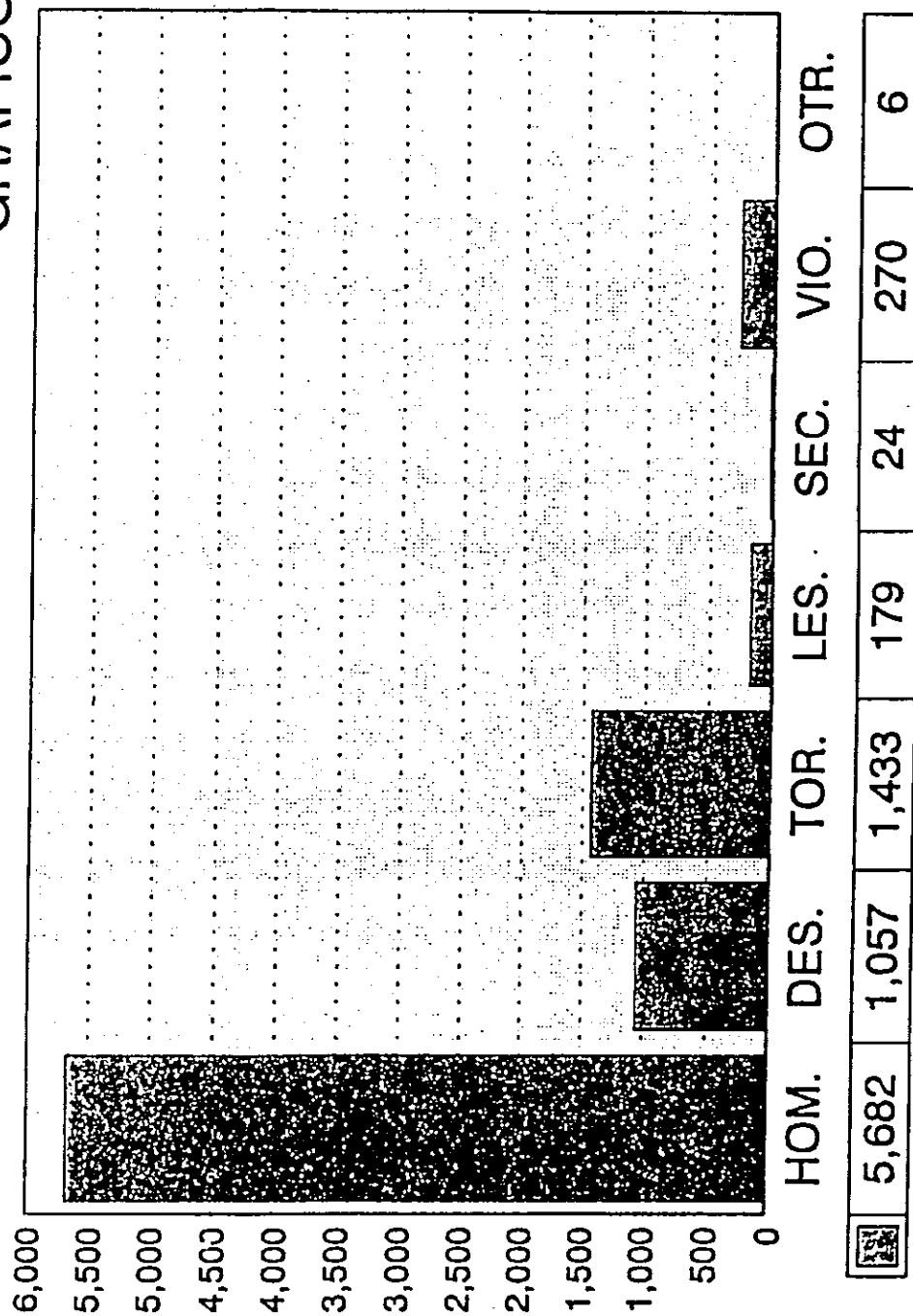


Fuente: CEPAL. Anuario Estadístico de América Latina. Santiago de Chile. 1984.

GRAFICO 2

NUMERO DE CASOS QUE INCLUYEN CADA TIPO DE HECHO FUENTE DIRECTA

GRAFICO 3



HOM:HOMICIDIO DES:DESPARICION TOR:TORTURA LES:LESIONES SEC:SECUESTRO VIO:VIOLACION OTR:OTROS

NUMERO DE CASOS POR DEPARTAMENTO

FUENTE DIRECTA

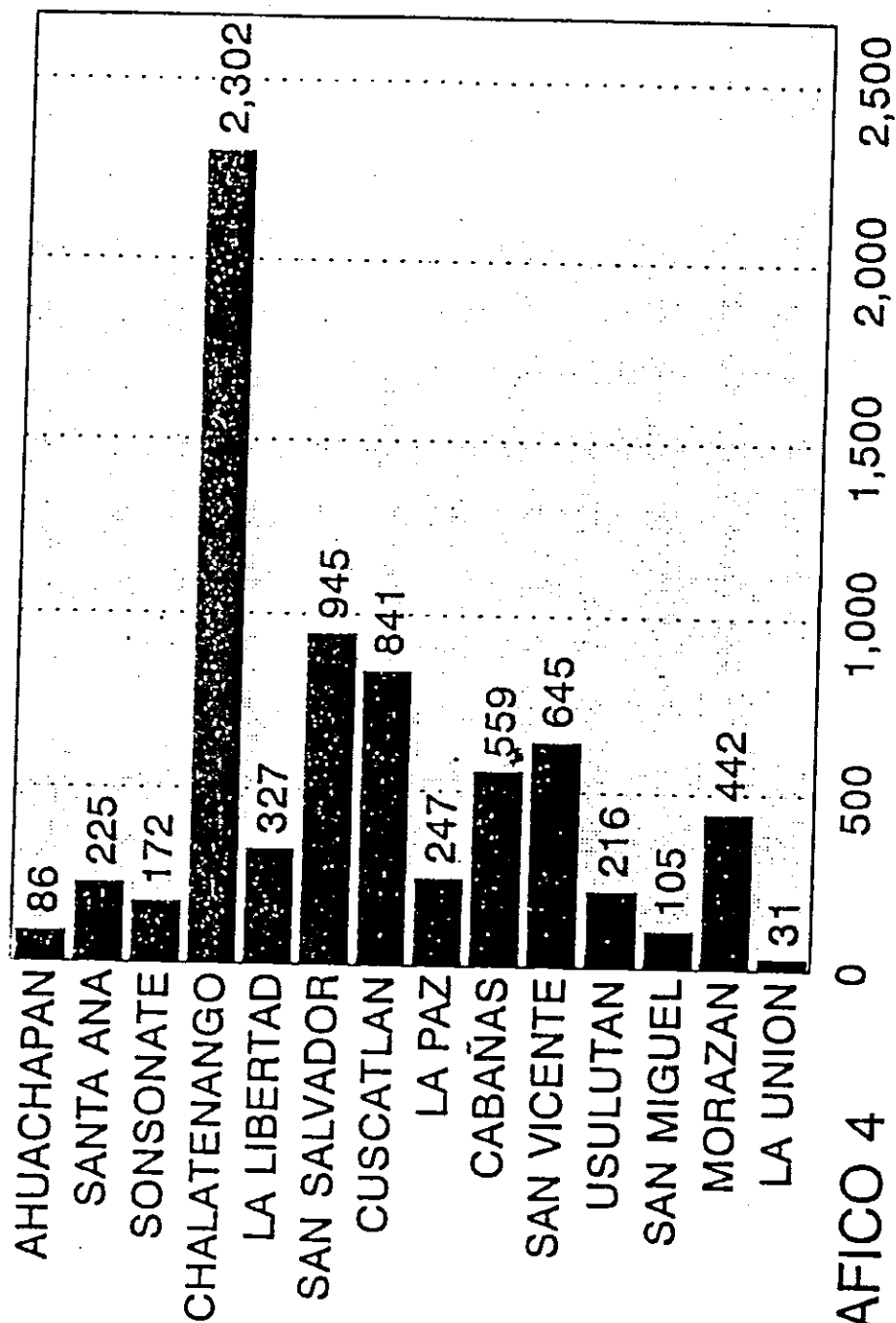


GRAFICO 4

EVOLUCION ANUAL DEL NUMERO DE CASOS DENUNCIADOS FUENTE DIRECTA

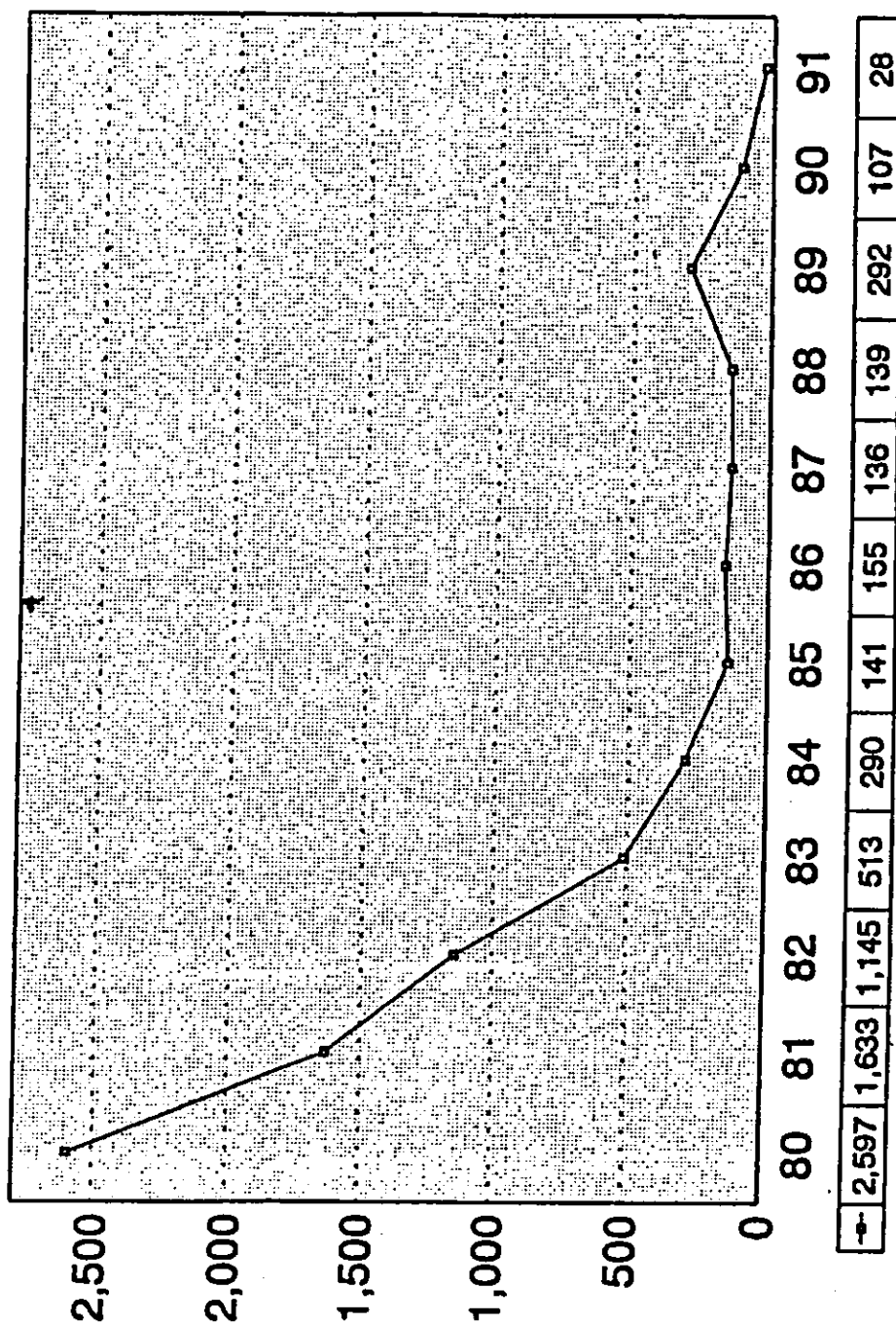
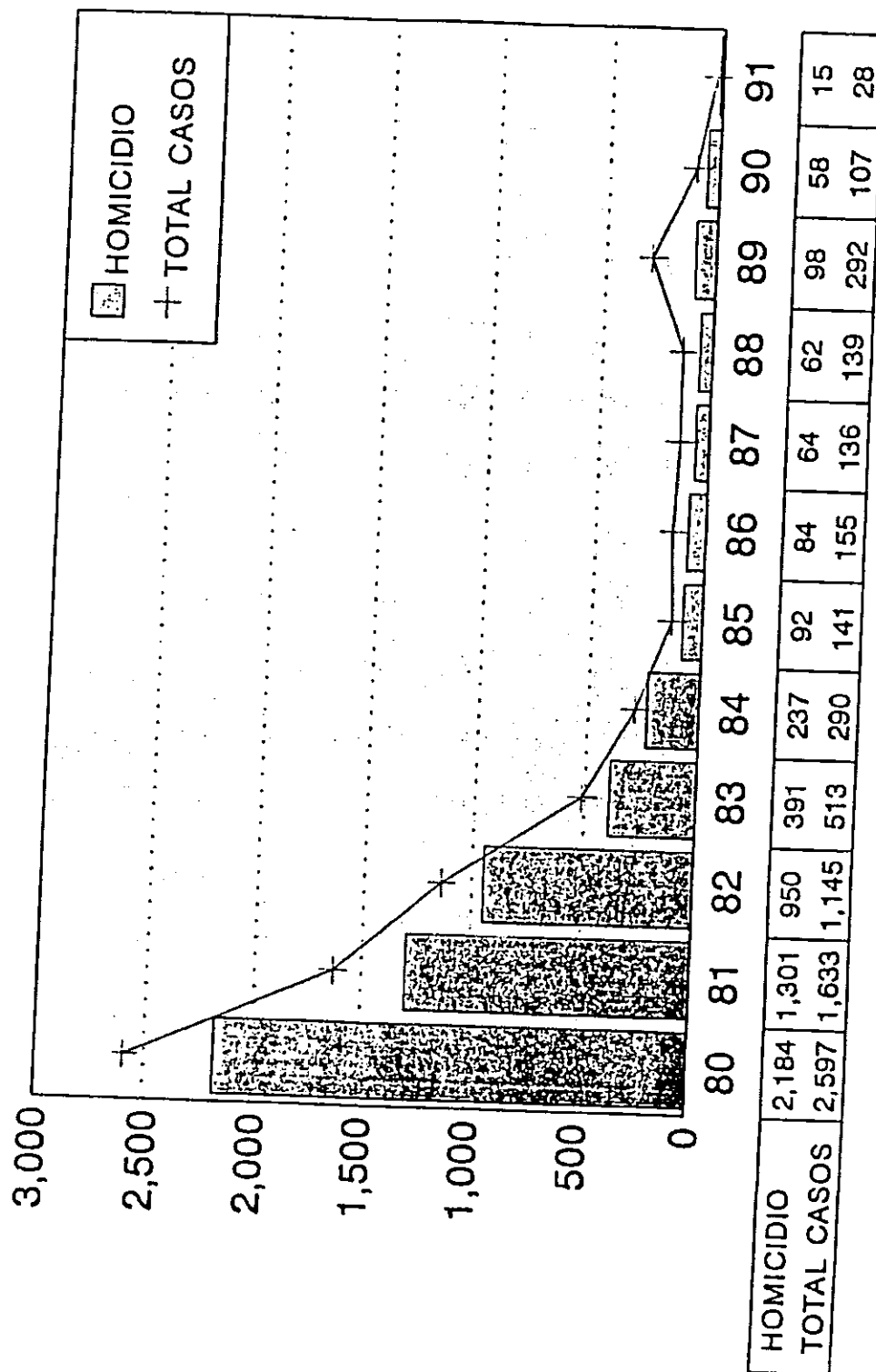


GRAFICO 5

Para 1991 se considera sólo hasta Julio

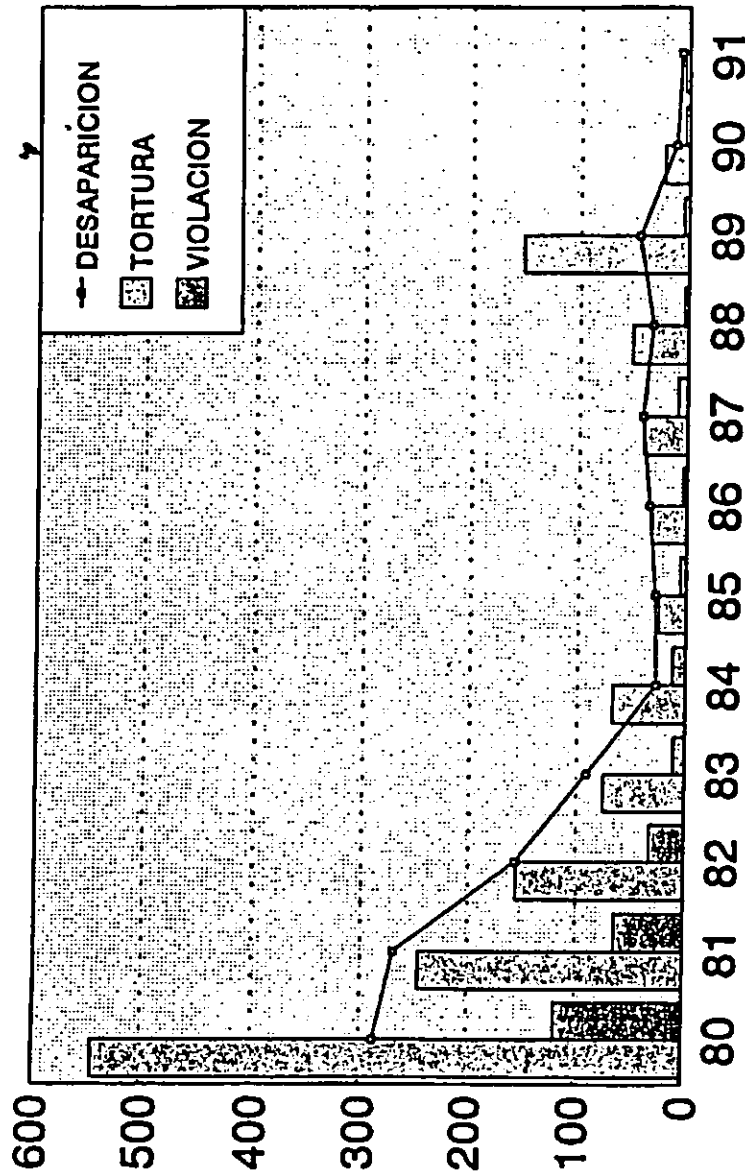
NUMERO DE HOMICIDIOS DENUNCIADOS POR AÑO FUENTE DIRECTA



Para el año 1991 sólo se considera hasta Julio

GRAFICO 6

NUMERO DE DESAPARICIONES, TORTURAS Y VIOLACIONES POR AÑO FUENTE DIRECTA



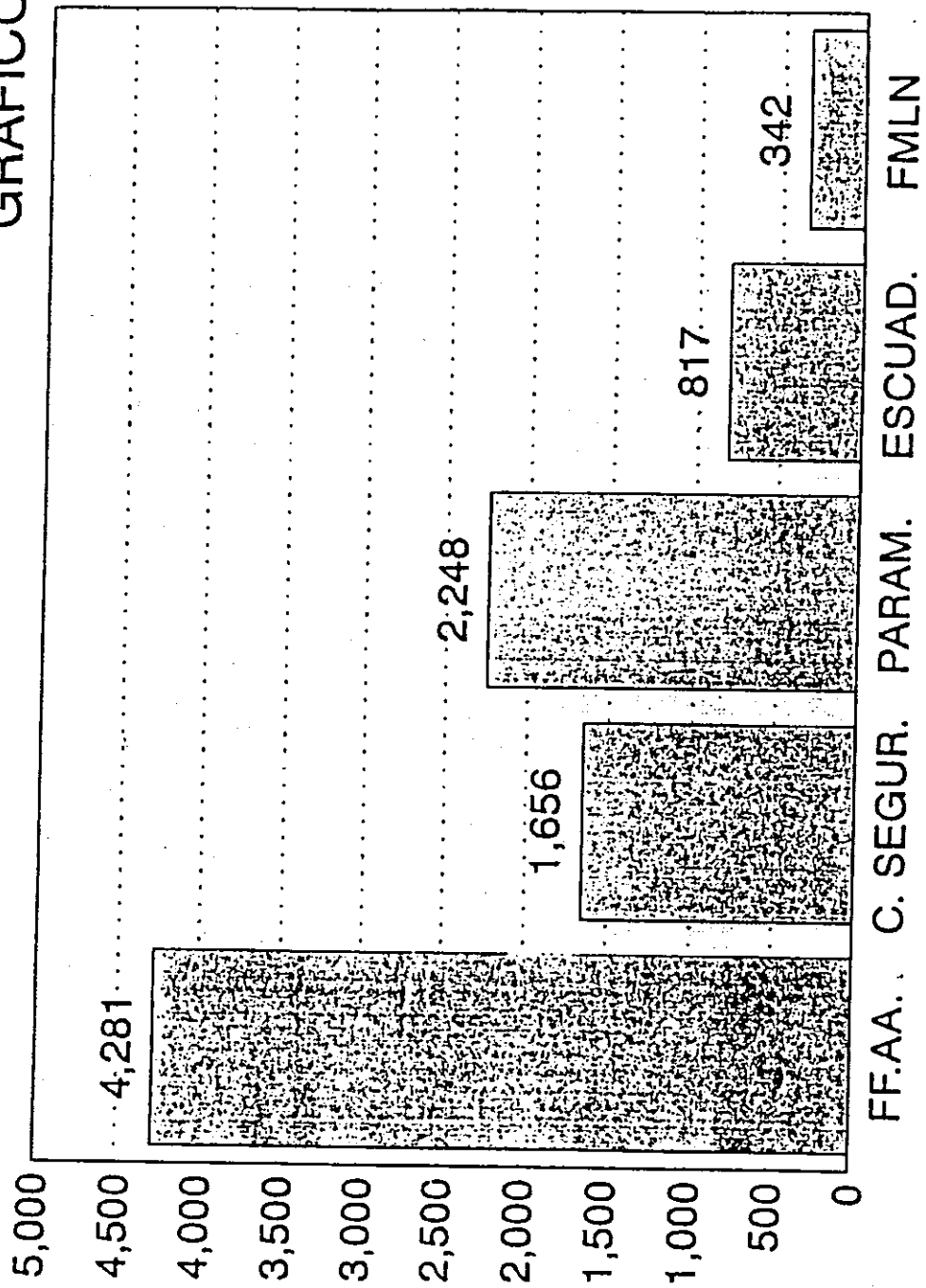
DESAPARICION	288	269	156	91	27	28	34	41	32	45	12	7
TORTURA	544	246	155	75	67	25	32	40	51	152	22	4
VIOLACION	119	64	32	11	12	6	4	9	4	5	4	0

Para el año 1991 sólo se considera hasta Julio

GRAFICO 7

NUMERO DE CASOS EN QUE ES RESPONSABILIZADA CADA FUERZA
FUENTE DIRECTA

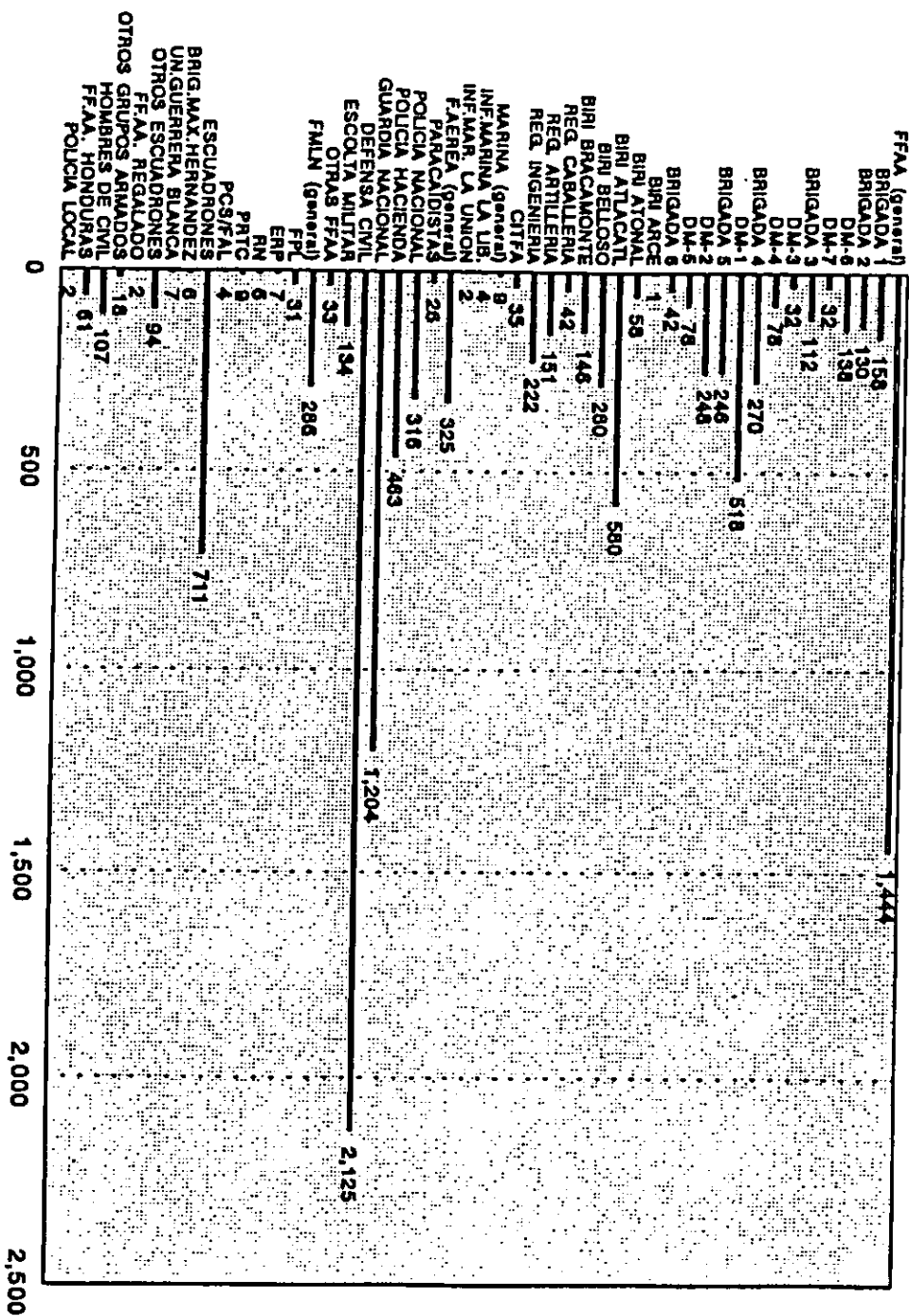
GRAFICO 8



FFAA:Fuerza Armada C.SEGUR.:Cuerpos Seguridad PARAM: paramilitar ESCUAD: Escuadrones

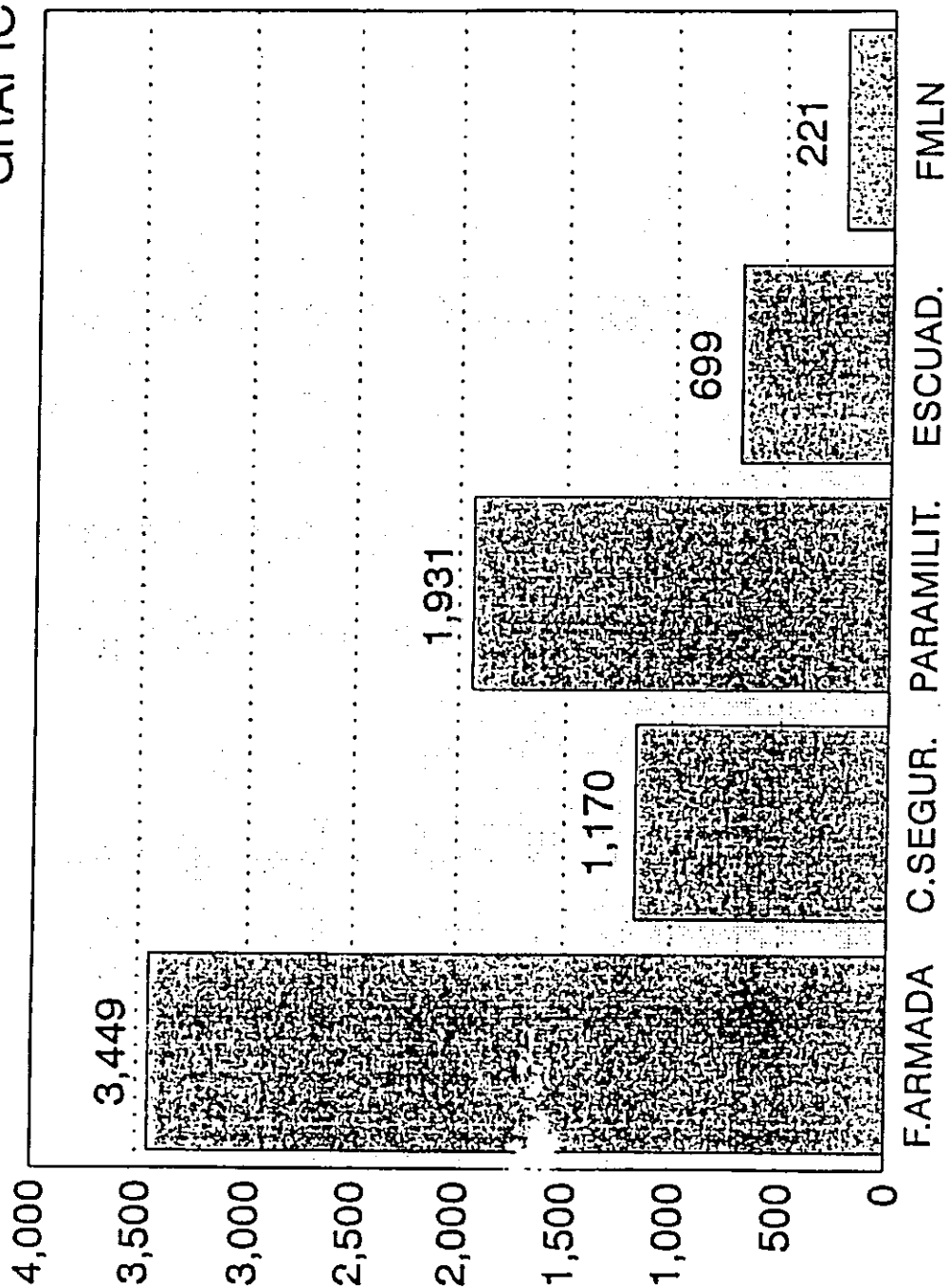
NUMERO DE CASOS POR UNIDAD MILITAR RESPONSABILIZADA FUENTE DIRECTA

GRAFICO 9



NUMERO DE HOMICIDIOS POR FUERZA RESPONSABLE

GRAFICO 10

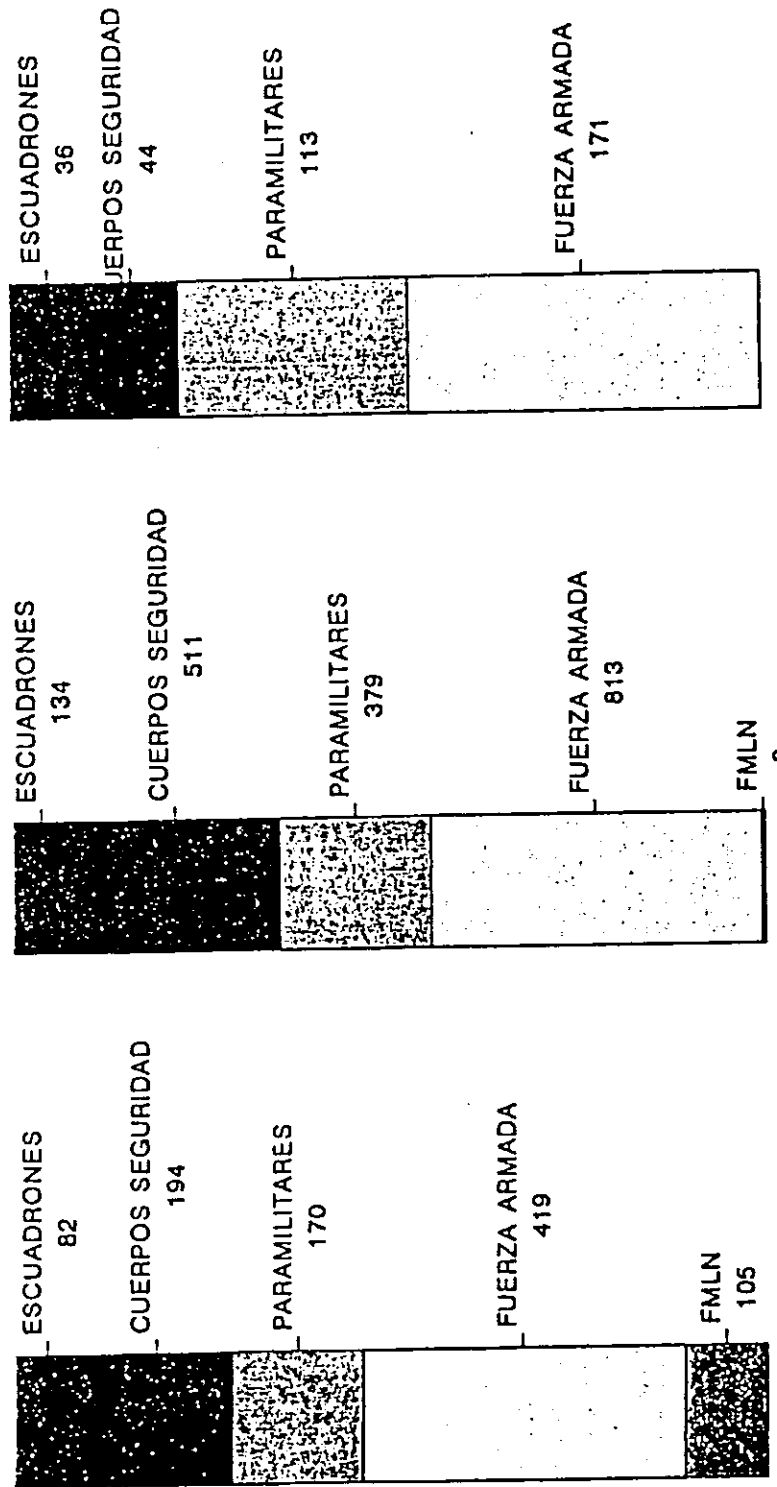


FARMADA:Fuerza Armada. C.SEGUR.:Cuerpos Seguridad. Paramilit.:Paramilitares. Escuad:Escuadrones.

TIPOS DE HECHOS POR FUERZA RESPONSABILIZADA

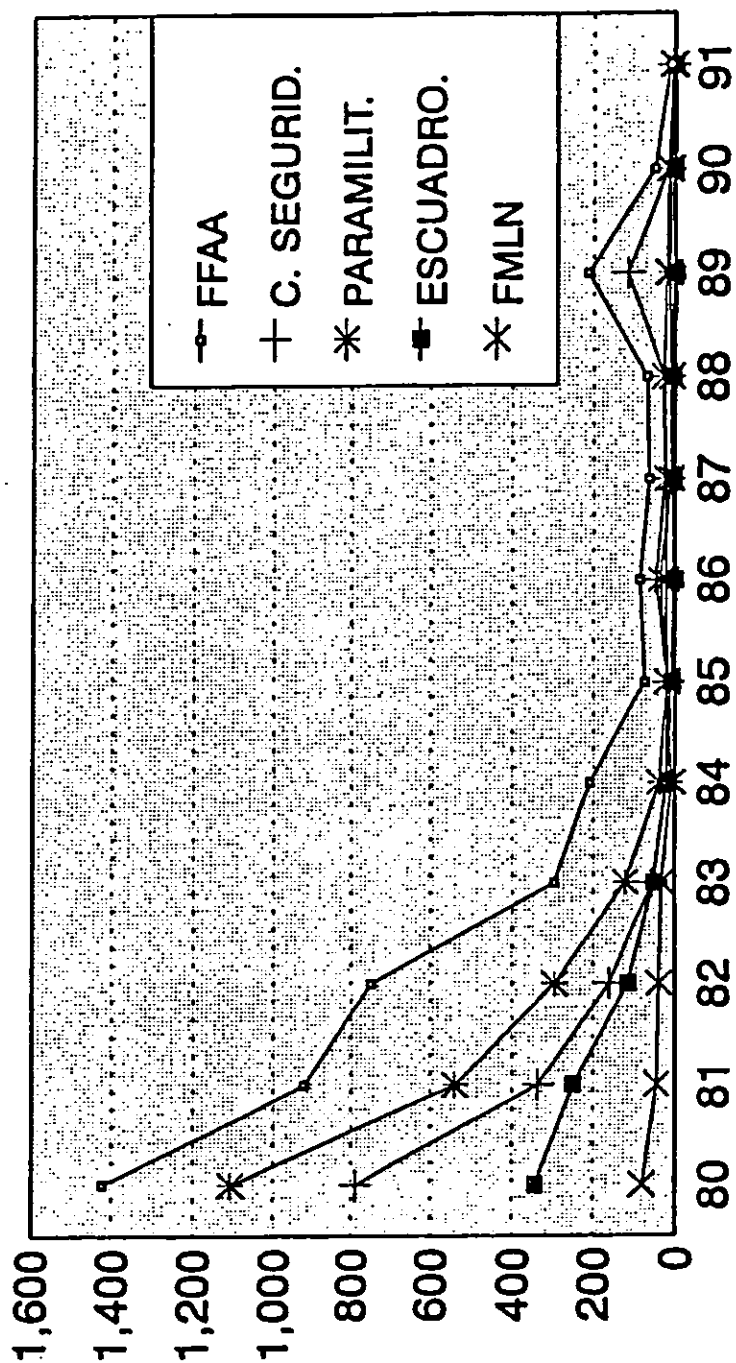
FUENTE DIRECTA

GRAFICO 11



NUMERO CASOS EN QUE SE IMPLICA A CADA FUERZA MILITAR, POR AÑO
FUENTE DIRECTA

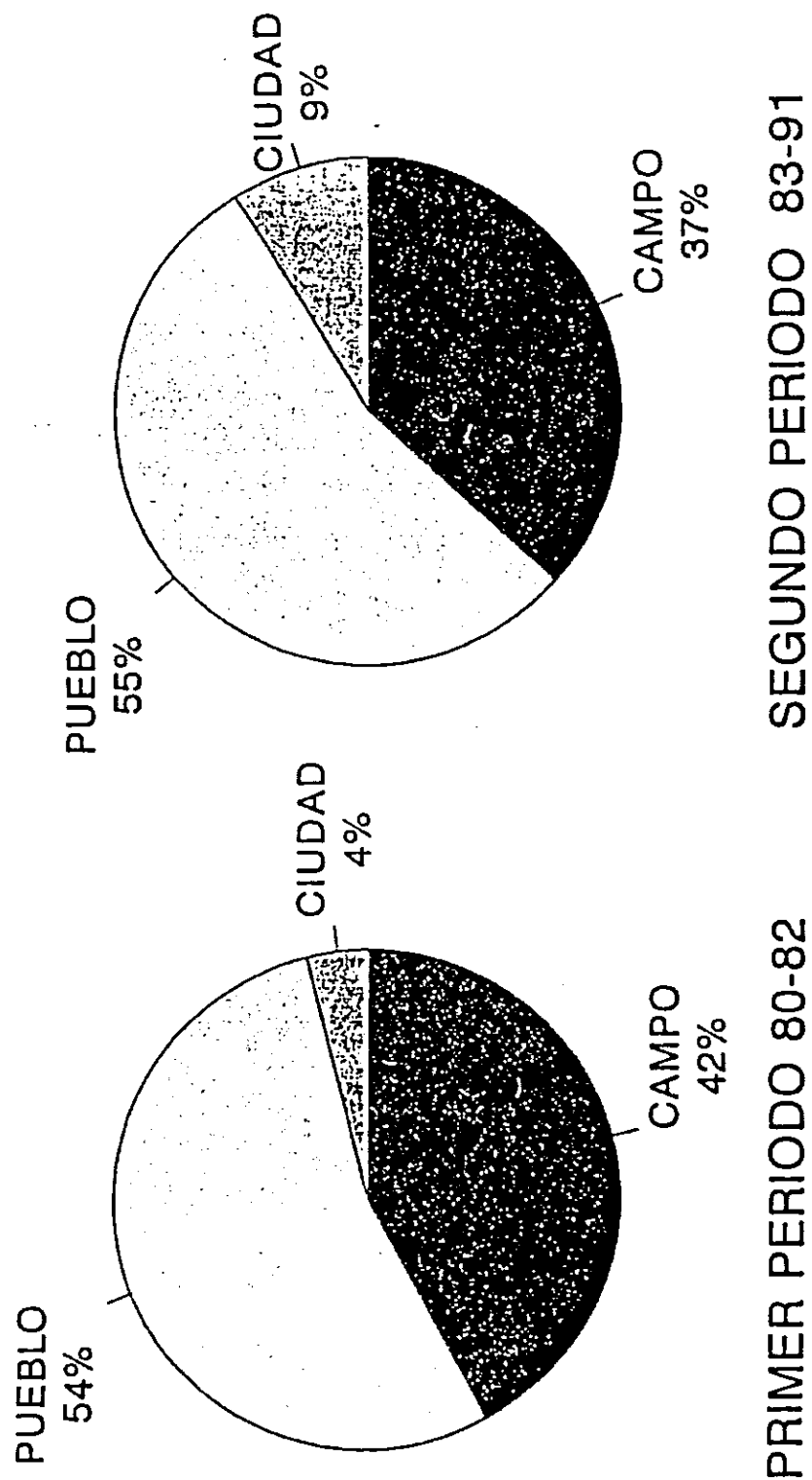
GRAFICO 12



FFAA	1,424	922	750	298	210	75	87	64	69	214	50	11
C. SEGURID.	789	338	161	55	22	17	46	25	26	116	16	5
PARAMILIT.	1,109	541	297	121	38	19	35	9	8	13	10	2
ESCUADRO.	345	251	115	53	20	8	1	5	7	0	2	1
FMLN	81	45	39	33	7	20	21	20	26	19	15	6

PROPORCION DE CASOS SEGUN EL TIPO DE HABITAT Y EL PERIODO
FUENTE DIRECTA

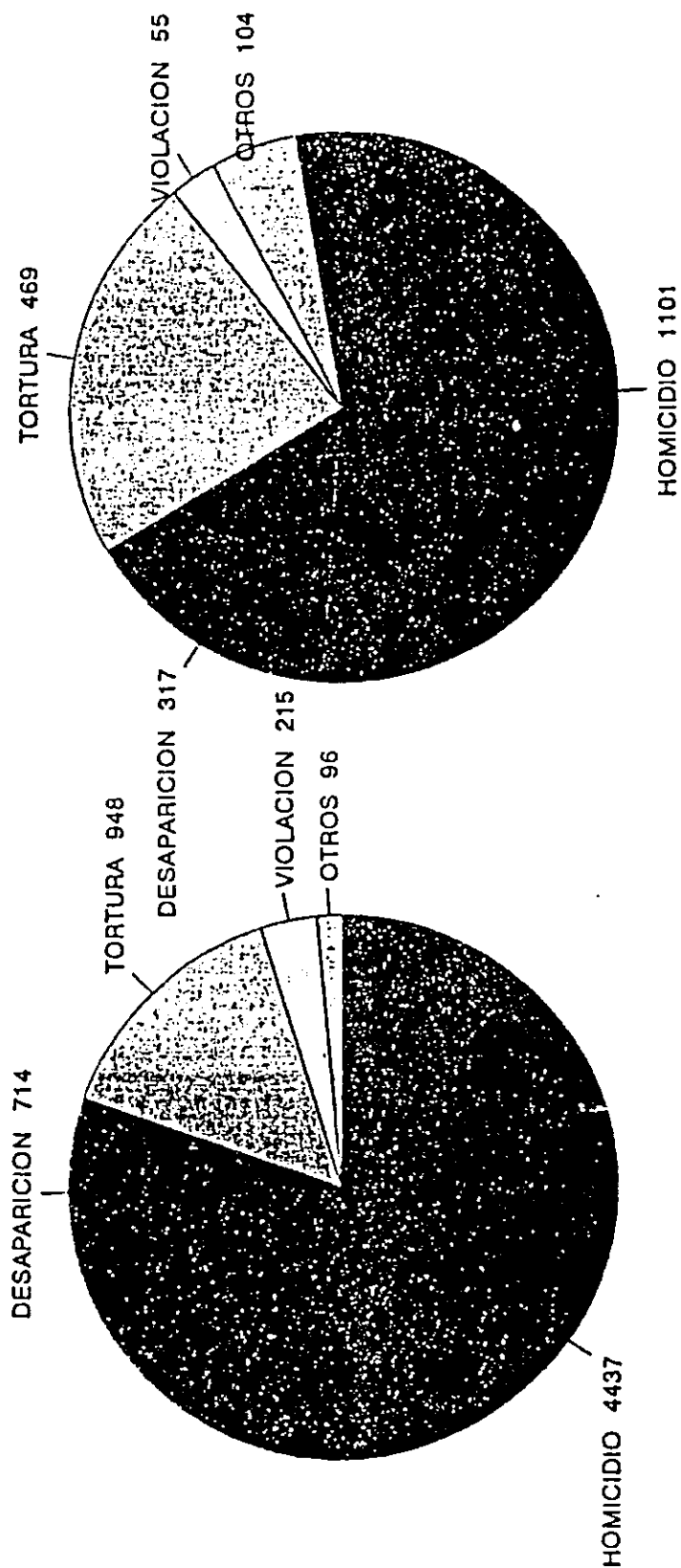
GRAFICO 13



TIPOS DE HECHO POR PERIODO

FUENTE DIRECTA

GRAFICO 14



PRIMER PERIODO 80-82 SEGUNDO PERIODO 83-91

☐ OTROS
 ☐ VIOLACION
 ☐ TORTURA
 ☐ DESAPARICION
 ☐ HOMICIDIO

La categoría "Otros" incluye, en este caso, Lesiones y Secuestros.

RESPONSABILIDAD IMPUTADA A CADA FUERZA POR PERIODO FUENTE DIRECTA

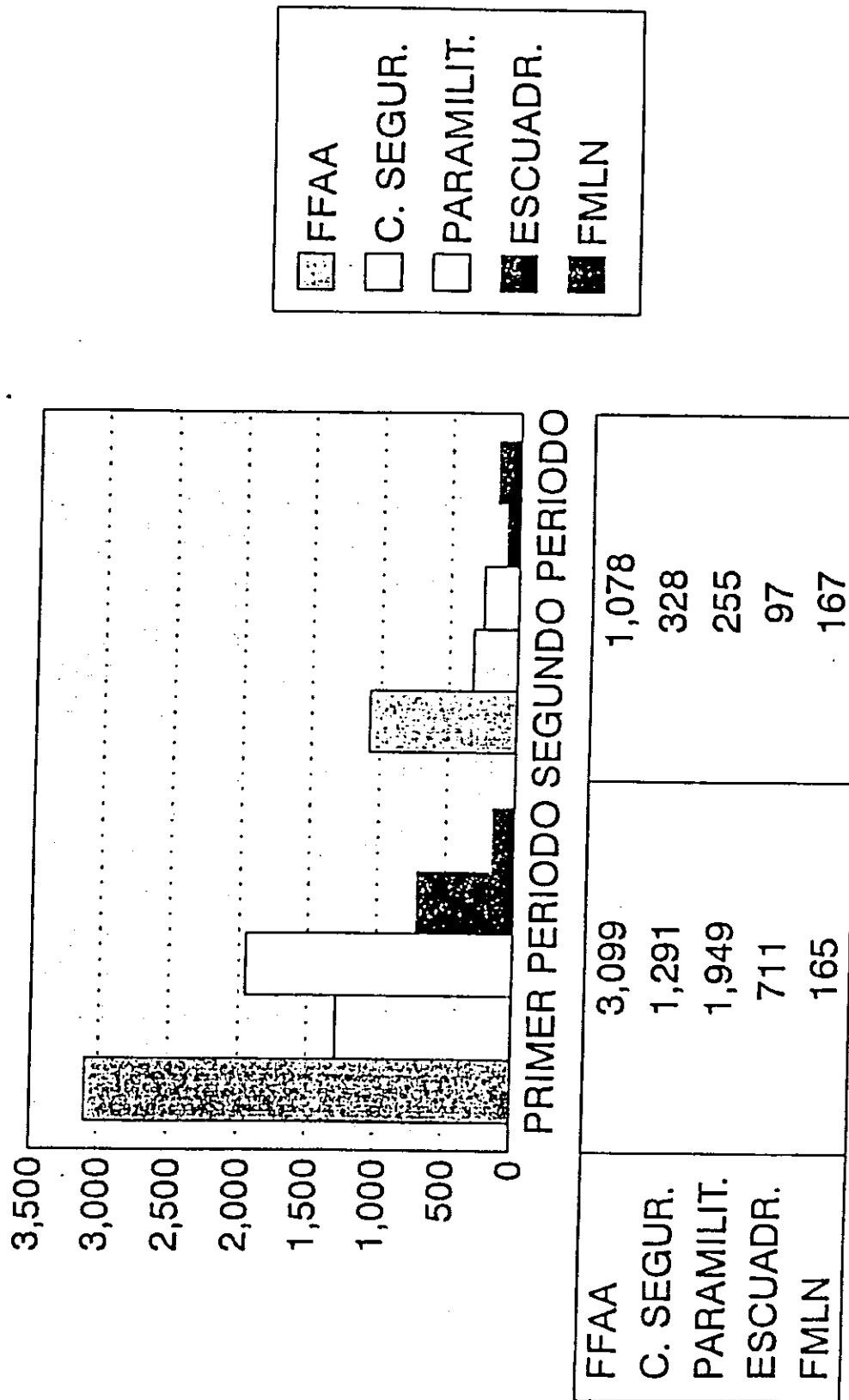


GRAFICO 15

FUENTE INDIRECTA

I. INTRODUCCION

Se denomina fuente indirecta a los casos que llegaron a través de organismos, instituciones así como aquellos que fueron remitidos por particulares, sin hacerse presentes ante la Comisión. Los que proceden de instituciones constituyen prácticamente totalidad de los casos.

La Comisión recibió más de 23,000 denuncias sobre casos de graves hechos de violencia contra individuos que, una vez cruzados para detectar aquellos que aparecían en varias fuentes, conformaron un total de 18,462 casos que incluían un total de 18,455 víctimas¹. Se analizaron sólo los que contenían, además de la información mínima al menos un testimonio. Estos constituyen un total de 13,569 casos que corresponden a 13,562 víctimas².

En general, el análisis de la fuente indirecta es forzosamente más limitado que el de la fuente directa, puesto que la información que se codificó y registró fue más reducida que en esta última. Esto se debió sobretudo a la gran cantidad de casos recibidos y al reducido tiempo disponible, así como al hecho de que no todas las instituciones presentaban los mismos datos ni de la misma forma. Esto último hizo difícil un tratamiento común y único de algunos aspectos que, en la fuente primaria, sí habían sido codificados por la propia Comisión de manera homogénea.

A medida que se expongan los resultados obtenidos se irán comparando con los de la fuente directa, en los casos en que ello sea posible, dado que se cuenta con información paralela para ambos tipos de fuente. Quedarán, sin embargo, aspectos que fueron tratados en la fuente directa y que en esta ocasión permanecerán sin abordarse por falta de información elaborada.

II. PERFIL DE LAS VICTIMAS

El 24,2% de las víctimas son mujeres y el 75,1% restante hombres. Es decir que, al igual que en la fuente directa, de cada cuatro personas que sufren un grave hecho de violencia aproximadamente tres son de *sexo masculino*. Como se explicó, la mayor tasa de afectación masculina responde a una mayor participación de los hombres en actividades militares y políticas, estando así más expuestos a la violencia política.

La población es bastante *joven* con una media de 28,6 años, y la mitad del total por debajo de los 25 años. La existencia de un porcentaje significativo de víctimas infantiles, con un 11,9% de menores de 15 años, respalda la idea de una cierta indiscriminación en la violencia.

El perfil típico de víctima es el de un hombre joven, entre 15 y 35 años. Este colectivo supone el 48% del total de víctimas.

La *estructura ocupacional* refleja una composición donde predominan las personas de clase media y baja, con un fuerte componente campesino. Un 40% del total son jornaleros o trabajan su pequeña propiedad. Luego, un 11% son obreros, asimismo, hay una proporción equivalente de mujeres dedicadas al trabajo doméstico (8%) y estudiantes (11%).

La composición socio-demográfica por sexo y edad es muy similar en las fuentes directa e indirecta. Sin embargo, la distribución ocupacional nos muestra una población menos rural en la fuente indirecta (40% de jornaleros, contra 57,7% en la directa). Paralelamente, la proporción de obreros asciende de 2,6% en los casos directamente testimoniados a la Comisión a más de 11% en

¹ La diferencia entre estas dos cifras responde a que una misma víctima se envuelta a veces en más de un caso. En la fuente indirecta, es muy difícil asegurar que dos casos sucedidos a personas del mismo nombre correspondan en realidad a la misma víctima, puesto que los casos llegan registrados de forma independiente. En la fuente directa, sin embargo, el denunciante a menudo relataba una historia completa de la víctima que incluía varios episodios.

² Del resto de las víctimas, sobre las que la Comisión no recibió testimonios y que por tanto no entran en el análisis, se presentará un listado aparte en un anexo independiente.

los entregados por instituciones. La proporción de estudiantes sube también de un 7 a un 11%, e igualmente, se incrementa el peso de otras categorías menores. Estas cifras reflejan, pese a que la fuente indirecta no cuenta con una variable referida explícitamente al tipo de hábitat en que suceden los hechos, que el universo de víctimas documentadas por otras instituciones es claramente más urbano que el de las víctimas denunciadas directamente ante la Comisión.

Esto se enlaza con lo expuesto respecto a las gestiones realizadas previamente por las víctimas que testimoniaron ante la Comisión. Allí se comprobó que era más probable que un hecho fuera denunciado ante alguna institución si ocurría en la ciudad, que si sucedía en el campo. De la misma forma, los casos denunciados ante instituciones muestran ahora una mayor proporción de víctimas urbanas. En definitiva se observa una vez más, el desamparo del mundo rural en cuanto a su capacidad de protección, ante los atropellos a los derechos fundamentales.

La otra conclusión que puede extraerse es que, muchas personas y organismos hicieron un esfuerzo excepcional para que las víctimas procedentes de pueblecitos y cantones vinieran a testificar ante la Comisión de la Verdad, mejorando de este modo su representatividad en relación al conjunto de denuncias recogidas por otras instituciones. Este esfuerzo también fue facilitado por el clima posbélico en el que se recogieron los testimonios.

III. TIPOS DE HECHOS GRAVES DE VIOLENCIA

Los tipos de hechos considerados son los siete que ya se enunciaron en un principio: homicidio, desaparición, tortura y malos tratos, lesiones graves, secuestro extorsivo, violación, y otros hechos graves.

Las cifras de casos en que están presentes cada uno de estos tipos aparecen en el siguiente cuadro y pueden apreciarse también en el gráfico 1. Se incluyen también los datos de fuente directa para facilitar la comparación.

TIPO DE HECHO	TIPO DE FUENTE			
	INDIRECTA		DIRECTA	
	N.CASOS % TOTAL		N.CASOS % TOTAL	
HOMICIDIO	7388	54,4%	5682	77,2%
DESAPARICION	3880	28,6%	1057	14,4%
TORTURA	3514	25,9%	1435	19,5%
LESIONES GRAVES	246	1,8%	179	2,4%
SECUESTRO EXTORSIVO	29	0,2%	24	0,3%
VIOLACION	180	1,3%	270	3,7%
OTROS HECHOS GRAVES	2	0,0%	6	0,1%

El tipo de hecho más denunciado continúa siendo el homicidio, en el que se concentran más de la mitad de los casos.

En segundo lugar figuran las desapariciones, que están presentes en casi un tercio de los casos y a continuación, las torturas y los malos tratos con una cifra cercana.

Las lesiones graves y las violaciones sexuales cuentan con una tasa baja, inferior en ambos casos al 2% del total de los episodios denunciados.

El secuestro extorsivo, así como la categoría de "otros" tienen una muy escasa presencia en el conjunto de las denuncias. De nuevo, los seis tipos de hechos considerados parecen definir bien el tipo de GHV que se pretende incluir, de modo que no hay necesidad de recurrir con frecuencia a la categoría marginal de "otros".

Teniendo en cuenta tanto la fuente directa como la indirecta, quedan patentes varias conclusiones.

Los GHV denunciados se dirigen fundamentalmente contra el derecho a la vida. Dentro de este contexto, el predominio del *homicidio* es menos acusado en la fuente indirecta y abre paso a un ascenso de la *desaparición*. Este cambio es explicable porque responde al propósito del declarante en cada una de las dos situaciones.

Como se detalló a propósito de la fuente directa, la desaparición representa la violación a los derechos básicos que más gestiones ante instituciones provoca. Quién denuncia una desaparición y para ello acude a la instituciones de derechos humanos, más que castigar al culpable, sobretudo busca información. Usualmente, el castigo al responsable, es percibido como improbable, dado el grado de impunidad y escaso crédito de las instituciones judiciales. Esto ocurrió en El Salvador con mayor fuerza al inicio de la década de los ochenta.

Ante la desaparición de un familiar, el testificante acude por ejemplo a un organismo internacional como el Comité Internacional de la Cruz Roja (CICR) o ante una organización no gubernamental(ONG) de Derechos Humanos para intentar encontrarlo. Si luego la persona en calidad de desaparecida es liberada o aparece el cadáver, es posible que el testificante no vuelva a la institución para relatar el desenlace, puesto que ya no tiene información que recabar. Así, el hecho podría quedar registrado en la institución sólo como desaparición, mientras que a la Comisión de la Verdad podría llegar como homicidio o no llegar.

Con un sistema de seguridad pública de escasa sofisticación y con amplios márgenes de arbitrariedad, los testimonios reflejan que las capturas de personas con frecuencia no eran comunicadas a los familiares, ni los sujetos capturados fueron tampoco puestos a disposición de un juez, independientemente de los motivos o de la legalidad de la captura.

De esta forma, cualquier captura podía desembocar en una desaparición, incluso en los casos en los que la intención expresa de los captores no fuera el ocultamiento de su acción. A menudo, la familia tras indagar -con ayuda o no de instituciones especializadas- logra averiguar que cuerpo de seguridad es el que tiene prisionera a la víctima y así da con su paradero. De otro lado, en los casos que -tras las averiguaciones de la familia- el cuerpo de seguridad admite tener en su poder a la persona, se incluyen como desaparición sólo si ha habido un lapso suficiente entre el momento de la captura y el del descubrimiento. Indudablemente estos últimos casos tienen un tenor muy distinto a aquellos otros, donde la intención del captor era encubrir la propia captura y mantener a la víctima en un lugar ignorado. En definitiva, son la propia arbitrariedad y falta de garantías procesales del sistema de seguridad pública las que provocan la existencia de múltiples desapariciones temporales.

Por otra parte, mientras las denuncias ante organismos de derechos humanos se producen normalmente poco después de los hechos, especialmente si se trata de búsqueda de información en casos de desaparición, la denuncia ante la Comisión de la Verdad se produce, casi siempre mucho después de los hechos y, mayoritariamente, con el fin de aportar al esclarecimiento del pasado. Es así que son muchos menos los casos en que el testificante hace la denuncia buscando información sobre la víctima.

La existencia del umbral de gravedad mínima en la percepción social sobre qué es un hecho grave de violencia, al que ya se hizo referencia, hace que la probabilidad de denuncia de una desaparición ante la Comisión sea mucho menor si la víctima fue liberada que si terminó en ejecución. Esto es especialmente cierto en la primera época de grandes violaciones masivas. Por

tanto, se puede inferir que muchas desapariciones que terminaron en liberación es probable que no hayan llegado directamente a la Comisión, pero sí a organismos de derechos humanos.

Todas las consideraciones expuestas ayudan a comprender por qué se registran casi 4 veces más desapariciones en las fuentes institucionales en comparación con la fuente directa y, del mismo modo, por qué la proporción de casos que terminan en homicidio es mucho más alta en esta última.

Las torturas constituyen de manera muy notoria, un fenómeno bastante amplio en la fuente secundaria. Aquí puede suceder un fenómeno parecido, pero en menor escala, a lo descrito a propósito de la desaparición.

La motivación para denunciar un caso de tortura ante una institución es mayor si la captura continúa y por tanto el peligro de tortura permanece abierto. Esto no ocurriría en las denuncias ante la Comisión, donde el episodio ya habría terminado. A esto hay que añadir que la noción del umbral mínimo de lo que se percibe como un GHV, tendería a reducir el número de casos testimoniados directamente a la Comisión.

La existencia de más de 2,000 casos de torturas y malos tratos registrados por las instituciones de derechos humanos corrobora la existencia de una práctica sistemática y de amplia difusión, que estaba subrepresentada en la fuente directa porque un "simple" episodio de malos tratos no es percibido socialmente en muchos casos, o recordado en otros, como suficientemente grave como para ser denunciado como un GHV.

La conjunción de los dos tipos de fuente, directa e indirecta, confirma la disminución en la tasa de denuncias de lesiones graves y de violaciones y asimismo, muestra que el secuestro extorsivo, entendido como un fenómeno relativo a los derechos humanos o al derecho humanitario, fue bastante esporádico.

Las sucesiones o patrones de hechos sucesivos más usuales son los siguientes.

SECUENCIA DE HECHOS	NUMERO DE CASOS	PORCENTAJE
Homicidio	6166	46,2 %
Desaparición	3441	25,8 %
Tortura	2208	16,5 %
Tortura y Homicidio	913	6,8 %
Tortura y Desaparición	257	1,9 %
Desaparición y Homicid.	134	1,0 %
Violac., Tort., y Homic.	72	0,5 %
Tortura, Desap. y Homic.	43	0,3 %
Violación y Homicidio	57	0,4 %
Violación	28	0,2 %
Violación y Tortura	18	0,1 %
Viol. Tort. Desap. y Hom.	2	0,0 %
Violación y Desaparic.	1	0,0 %
Violac., Tortu. y Desap.	1	0,0 %
Violac., Desap. y Homic.	1	0,0 %
Sin Clasificar	227	1,5 %
Total	13569	100,0 %

Los episodios más comunes implican a los distintos tipos de hechos en forma individual: el homicidio, la desaparición forzada y la tortura y los malos tratos. Después de estos tres patrones más

comunes, se encuentra otra modalidad con un número apreciable de ocurrencias que son la tortura seguida de homicidio o desaparición.

Es notable, en comparación con la fuente directa, el descenso en el peso relativo de los episodios de torturas y de violaciones que preceden al homicidio. Esto se debe sobre todo al propio ascenso en el número de casos de desaparición y de tortura en solitario. La cifra de desapariciones en exclusiva casi se cuadruplica y la de torturas casi se quintuplica, respecto de los casos testificados directamente ante la Comisión.

Asimismo, se produce una fuerte caída en el número de violaciones sexuales registradas por los organismos de derechos humanos, tanto cuando aparecen como hecho único como acompañando a otros hechos. A pesar de que el número total de casos registrados en la fuente indirecta es superior en aproximadamente 6000 a los recogidos en la fuente directa, el número de violaciones sexuales denunciadas indirectamente, es sin embargo menor. Este descenso puede estar vinculado al pudor cultural que inhibe la denuncia de las violaciones sexuales ante las instituciones y en alguna medida esto puede haber ocurrido en el caso de la Comisión de la Verdad.

IV. DEPARTAMENTOS AFECTADOS POR LOS GHV

El número de episodios ocurridos en cada departamento puede apreciarse en el gráfico 2.

Destacan poderosamente dos puntos. El primero es el elevado nivel en tres departamentos donde el conflicto fue muy intenso: Chalatenango en el Norte, San Vicente en la zona Paracentral y Morazán en el Oriente. El paracentral departamento de Cuscatlán también presenta un número elevado.

En relación a los casos testimoniados directamente ante la Comisión, se observa un mayor peso en Morazán y, sobre todo, un descenso de los niveles de Chalatenango a proporciones más moderadas. Dado que las altas cifras de Chalatenango en la fuente directa se debieron, como ya se explicó, al esfuerzo de recolección de información por parte de los organismos de derechos humanos del área en presentar testimoniantes ante la Comisión, puede concluirse que la proporción que refleja esta fuente indirecta refleja mejor la naturaleza de lo ocurrido.

El segundo punto a destacar es la enorme preponderancia del departamento de San Salvador en los casos de fuente indirecta. Este predominio corresponde fundamentalmente a los 1,903 casos de desaparición y a los 1,221 de tortura registrados en este departamento. Aquí, sólo el 18% de los casos sucedidos en esta zona terminan en homicidio, es una tasa muy inferior a la general, a pesar de que el volcán de Guazapa, un terreno muy conflictivo, pertenece en parte a este departamento.

Una de las explicaciones más claras para este fenómeno es que los establecimientos de detención principales de todos los cuerpos de seguridad se encuentran en la capital. Allí ocurren las torturas y las desapariciones que suceden a las capturas sin publicidad y sin proceso penal. El 42% de los GHV que transcurren en el departamento de San Salvador involucra a los cuerpos de seguridad, una tasa que casi dobla la media general de todos los departamentos. Así pues, mientras en el campo es más posible la ejecución extrajudicial directa, en la capital es más probable la detención que desemboca en desaparición o tortura. Además, personas detenidas en otros lugares a veces son trasladadas a los cuarteles generales de San Salvador y allí, en ocasiones, son torturadas o desaparecidas.

V. EVOLUCION ANUAL DE LOS CASOS DENUNCIADOS

Tal y como se ve en el gráfico 3, la violencia fue especialmente virulenta en los años 80 y 81, en los que se registraron más del 40% de todos los GHV denunciados.

Después del máximo alcanzado el año 81, se produce una clara caída el año 82, que se acentúa en el 83 para atenuarse ya en el año 84, en el que la curva parece estabilizarse. El descenso interanual más fuerte se da entre el 83 y el 84, y es del orden del 48%. Sin embargo, el descenso entre el 82 y el 83 es similar en términos porcentuales (45%) y mucho más notorio en términos absolutos. El 83 parece ser además el punto de inflexión de la curva, que marca un cambio de tónica. Recién a partir de 1984 el número de casos se estabiliza, oscilando alrededor de unas 500 denuncias por año.

En 1987 comienza un ligero repunte que alcanza su cima en el 89, año de la ofensiva guerrillera, pero a unos niveles relativamente bajos que no llegan a alcanzar los 1000 casos en el año. Desde este momento, la tendencia vuelve a inclinarse a la baja, y 1990 vuelve a la tónica de

los 500 casos anuales. El año 91 no es directamente comparable a los anteriores porque sólo incluye un período de aproximadamente medio año.

En comparación con la fuente directa se aprecia un patrón común entre las dos curvas pero con algunas diferencias:

- el año 81 no sólo no desciende el volumen de GHV sino que incluso crece algo respecto al año 80, aunque se mantiene en cuotas similares.

- la serie se mantiene estable en ambos casos a partir de 1984 pero ahora en un nivel más alto: una media de 500 casos anuales en la fuente indirecta contra unos 140 en la directa.

En relación a los casos llegados a través de instituciones, podría corroborarse la existencia de un primer período que abarcaría entre 1980 y 1982, constituido por una fase de masivas violaciones a los derechos humanos que descienden a partir de 1981.

El segundo período comprendería desde 1983 a 1991. En el mismo, el nivel de violaciones desciende notablemente en relación al primer período y se estabiliza en torno a los 500 casos denunciados por año, al margen del pequeño repunte que se inicia en el 87 y culmina en el 89.

De acuerdo al tipo de hecho, los *homicidios* (gráfico 4) se dan de forma masiva durante los años 80 y 81, para sufrir un descenso muy fuerte desde el 82, sobre todo en 1983, y estabilizarse desde el 84. El repunte del 89 afecta poco al número de homicidios registrados. Es muy revelador que, en medio del fragor de los combates de 1989, el número de ejecuciones no sube en gran medida y queda muy lejos, por ejemplo, de los niveles de principios de 1980 cuando la intensidad del conflicto bélico en sí mismo era mucho más limitada. Una vez más, queda patente que los abusos contra los derechos fundamentales testimoniados no son exclusivamente producto de la guerra, sino de la violencia basada en la noción de que la disidencia ideológica debía ser afrontada mediante la aniquilación del adversario. Otro dato que reafirma esta conclusión es que el 51% de los homicidios registrados en 1980 se producen en los seis primeros meses del año y el 49% restante en los seis meses finales, precisamente cuando el conflicto bélico va adquiriendo impulso y estalla de forma más abierta.

Las *desapariciones* (gráfico 4) tienen un nivel bastante uniforme en torno a 600 casos anuales entre los años 80 y 83. En este último año su número sobrepasa incluso ya al de homicidios, que en los años anteriores era muy superior. A partir de 1985 la pauta de ambos tipos de hecho se mantiene muy similar. Tampoco las desapariciones suben de forma importante en el lapso 1987-1989.

En conclusión, mientras que a comienzos de la década de 1980 la ejecución era la práctica más frecuente con una proporción abrumadora, su número desciende a partir de 1982 hasta equipararse a los niveles de las desapariciones y continúa bajando de forma más suave hasta 1984, momento en el que se estabiliza.

Las *torturas* (gráfico 5) mantienen una trayectoria muy sinuosa a través de los 12 años del período considerado. Comienzan con una tasa bastante alta de alrededor de 400 casos anuales en los dos primeros años, para luego ir descendiendo de forma irregular hasta el mínimo del año 84. Desde aquí se inicia un ascenso que continúa, pese al retroceso de 1987, hasta el año 1989 que constituye un máximo muy pronunciado. A partir de aquí, el número de casos registrados vuelve a caer significativamente.

En los primeros años 80, los malos tratos constituyen un preludio a la ejecución. El 68% de los casos de tortura seguida de homicidio se registran en los años 80 y 81. Pasada esta fase de extrema violencia, estos comportamientos tienden a extinguirse y después en 1985 en este patrón se encuentran solamente 5 denuncias. Paralelamente, y en contraste, la práctica de la tortura en exclusiva, la tortura en el sentido tradicional como forma de obtener información o confesión, va creciendo a medida que transcurren los años. En los años 80 y 81 este patrón representa menos del 3% de los casos. Esta proporción sube en forma acelerada hasta llegar al 60% de todos los testimonios referidos a 1989.

A medida que la represión se torna menos exterminadora, se va extendiendo en cambio la costumbre de apresar e interrogar a los capturados con el uso de la violencia física y psíquica, constituyendo un sistema de obtención de información relativamente más elaborado. Las torturas ya no incluyen amputaciones ni terminan necesariamente en la muerte del agredido, y la práctica se va tornando por tanto menos brutal pero más general.

Las *violaciones sexuales* (gráfico 5) denunciadas ante los organismos de derechos humanos son, como ya se vio, escasas y se producen casi exclusivamente en los primeros 4 años de la década.

En definitiva, en todos los tipos de hecho, el panorama de la evolución anual es análogo al de la fuente directa, con la diferencia de una mayor importancia y extensión de la tortura a partir de 1985.

VI. FUERZAS RESPONSABLES

La Fuerza Armada es señalada en los testimonios como el actor principal de las violaciones y tiene una gran diferencia sobre el resto dado que, aparece implicada en cerca de 8,000 casos, un 57,3% de los mismos (gráfico 6).

Le siguen los cuerpos de seguridad con el 27,6% de los episodios y los cuerpos paramilitares con el 15,1%.

Es decir que los cuerpos formales del estado, especialmente los militares, son mencionados como los autores fundamentales de los graves hechos de violencia. Cuando menos tres de cada cuatro casos (un 79%) son atribuidos directamente a miembros del aparato del estado, todo ello, al margen de la participación de los mismos en los grupos irregulares como los escuadrones. En el caso de los homicidios, la responsabilidad directa de los cuerpos estatales asciende aún más hasta la elevada cifra del 87%.

Los escuadrones de la muerte son citados explícitamente en unos 1,000 casos, el 7,7%. A esta cifra hay que sumarle una gran parte de los 1,402 casos (10,3% del total) que son atribuidos a hombres vestidos de civil. Esta es una denominación preferida por algunas instituciones en la presentación de sus casos y que equivale mayormente al mismo concepto de escuadrón³. Sumadas ambas categorías superan al grado de participación de los cuerpos paramilitares.

Por último, el FMLN es acusado en alrededor de 500 episodios, que representan el 3,8% del total.

Comparando ambos tipos de fuente, se observa que en los casos entregados por las instituciones hay un mayor protagonismo en la autoría de las violaciones en los cuerpos de seguridad y los escuadrones, y un perfil más bajo de los cuerpos paramilitares. En ambas fuentes, tanto el FMLN como la Fuerza Armada obtienen resultados similares, siendo esta última acusada como el autor principal de los graves hechos de violencia.

El mayor nivel de atribución de culpa a los cuerpos de seguridad en los casos que son denunciados ante instituciones va de la mano con un universo de víctimas que, tal como se observó, es más urbano y con mayor proporción de casos de tortura. Tanto la tortura como los GHV ocurridos en ciudades, son elementos más característicos de los cuerpos de policía, que suelen realizar una buena parte de las capturas e interrogatorios y cuentan con sus cuarteles generales y centros de detención en núcleos importantes de población.

De la misma forma, el descenso del papel de la Defensa Civil es también coincidente con un conjunto de denuncias en las que el mundo rural está menos representado, dado que tales cuerpos paramilitares formaron parte de la estrategia contrainsurgente en el campo, que es donde tuvieron su ámbito preferente de actuación. En tal sentido, la fuente directa parece captar mejor lo ocurrido fuera de las ciudades, por la propia dificultad de los campesinos para acceder durante la guerra a los organismos de derechos humanos.

El gráfico 7 muestra el grado de responsabilidad atribuida a cada *unidad* dentro de cada fuerza. Dentro de las fuerzas de infantería, que son acusadas con mayor frecuencia de cometer GHV y las que llevaron el peso de la guerra, destacan la Quinta Brigada de San Vicente y, especialmente, el Batallón de élite Atlacatl, que tiene una tasa de responsabilidad que casi triplica a la de todos los otros batallones de reacción inmediata juntos. En esta cifra, la masacre de El Mozote tiene una incidencia muy importante, aunque aún sin ella, dicho batallón seguiría siendo el más inculpado.

La Fuerza Aérea desempeña un rol también de primera línea en cuanto a GHV imputados contra la población civil mediante bombardeos indiscriminados. Mientras entre los cuerpos de seguridad, es la Guardia Nacional la que recibe más denuncias y, a gran distancia, la Policía Nacional.

³ En la fuente directa se generó también esta categoría para fines de comparación con la fuente institucional, pero fue tomada apenas en cuenta por su baja tasa de registros, ya que los denunciantes directos prefirieron casi siempre hacer referencia al concepto de escuadrón.

De hecho, son la Guardia Nacional y Defensa Civil las unidades con mayor tasa de responsabilidad de todas las que se consignan, aunque hay que tener en cuenta que al no estar descompuestas territorialmente aparecen como un solo elemento, cosa que no sucede en las Fuerzas Armadas.

En comparación con la fuente directa, en estos datos se pueden constatar las siguientes diferencias:

- un papel todavía mucho más preponderante por parte del Batallón Atlacatl y, especialmente, de la Fuerza Aérea. Los bombardeos son pues proporcionalmente mucho más denunciados a las instituciones de lo que lo fueron directamente ante la Comisión. De nuevo, puede tratarse de un problema de percepción social de qué es un GHV, de modo que un bombardeo, que causa víctimas de forma indiscriminada, no sea visto como algo denunciante en la misma medida que la ejecución extrajudicial.

- una incidencia bastante más alta de los escuadrones de la muerte.

- una tasa de responsabilidad relativamente menor para la Defensa Civil y, bastante más alta para la Policía Nacional, aunque la Guardia siga siendo el cuerpo de seguridad que ostenta el primer puesto en cuanto a violaciones a los derechos humanos atribuidas. Ambas cosas, el descenso de la Defensa Civil y el ascenso de la Policía Nacional, se corresponden muy bien con el nuevo escenario de una mayor proporción de episodios urbanos y de una difusión mayor de la tortura. En efecto, la Policía Nacional es el cuerpo que más trabaja en las áreas urbanas y el que tiene un papel mayor en las capturas y los interrogatorios, que pueden llevar a la tortura.

El gráfico 8 muestra la responsabilidad atribuida de los distintos cuerpos para cada tipo de hecho. En *homicidios*, la Fuerza Armada carga con el peso principal, puesto que los testimonios la involucran en el 72% de todos los casos que terminan en la muerte de la víctima. A continuación, a un nivel parejo, se encuentran los cuerpos de seguridad y los paramilitares y después los grupos irregulares, escuadrones y hombres de civil.

En las *desapariciones*, el papel del ejército y especialmente de los paramilitares se reduce y, en cambio, los hombres de civil y los cuerpos de seguridad adquieren bastante más protagonismo. Esto no es extraño si se recuerda que muchas desapariciones se originan en capturas arbitrarias sin la debida publicidad y presentación ante el juez.

El FMLN es citado como autor en más de 300 casos, lo que supone una tasa de responsabilidad muy cercana al 8% del total de las desapariciones, que casi dobla la tasa general para el grupo guerrillero tomando en cuenta todos los tipos de hecho. Esto significa que, siempre en proporciones muy modestas, la desaparición es el tipo de violación que más se relaciona con la insurgencia.

Las *torturas* corresponden básicamente a los cuerpos de seguridad, como ya se había señalado, y a la Fuerza Armada, de acuerdo a las denuncias. El FMLN por su parte es acusado en contadísimas ocasiones de torturas o malos tratos.

Las *violaciones sexuales* imputadas a alguna fuerza en concreto, que no aparecen en el gráfico por su escásimo número, lo fueron casi siempre a la Fuerza Armada, pero con un número demasiado reducido como para establecer conclusiones. Es notable la inexistencia de casos de violación sexual que se le impute al FMLN.

En resumen, la Fuerza Armada participa de forma muy destacada en todos los tipos de abusos contra los derechos humanos, excepto en las violaciones sexuales. Los grupos paramilitares y especialmente los escuadrones y las estructuras irregulares tienen como cometido principal la eliminación del adversario mediante la ejecución y, en ocasiones, la desaparición. Por su lado, los cuerpos de seguridad tienen un papel mucho mayor en las capturas irregulares y sobre todo en las torturas, por la propia naturaleza de su función.

Examinando la evolución anual de las tasas de responsabilidad (gráfico 9) se confirma el panorama que se acaba de describir. La Fuerza Armada es acusada de un altísimo número de GHV en los primeros años, especialmente en 1981. Se trata mayormente de ejecuciones colectivas. Son estas masacres de la Fuerza Armada las responsables de la elevación en el número de registros en 1981, puesto que el resto de las fuerzas ve reducido el número de acusaciones recibidas.

Los cuerpos paramilitares y los escuadrones son acusados de cometer también numerosas ejecuciones durante los primeros años 80 para descender a niveles bastante bajos a partir de 1984. De otro lado, los cuerpos de seguridad, también ven descender el número de denuncias

ininterrumpidamente entre el 80 y el 84. Ellos estabilizan después del 84, su tasa de responsabilidad, que incluso tiende luego a crecer hasta llegar a un fuerte repunte en el año 89. Se trata como ya se explicó de un aumento de los casos de torturas, que son muy frecuentes en este año 89.

El FMLN mantiene niveles de responsabilidad relativamente sostenidos pero oscilantes durante toda la década, aunque el período más duro parece situarse entre 1984 y 1987.

VII. PATRONES GENERALES DE GRAVES HECHOS DE VIOLENCIA

En resumen, tres son los patrones que tienen mayor significación en cuanto a su frecuencia y a su sistematicidad:

A) La ejecución extrajudicial es el atropello más grave y a la vez el más frecuente. Mayoritariamente figura en los registros como homicidio, aunque en ocasiones termina encuadrada como desaparición al no encontrarse el cadáver. A veces, la ejecución viene precedida de tormentos y mutilaciones.

B) La desaparición forzada debida a la incomunicación de los detenidos y a su no presentación ante el sistema judicial. Los episodios clasificados como desaparición pueden descomponerse en tres procesos diferentes.

Uno, el más infrecuente, es el tipo clásico de desaparición forzada en el que los victimarios capturan a la víctima, la conducen a un circuito clandestino de detención y encubren tanto su propia participación como lo ocurrido a la víctima, con la intención expresa de crear incertidumbre sobre su paradero y destino final. En estos casos, la víctima puede reaparecer viva o muerta, o puede no aparecer nunca.

El segundo, como ya se indicó, es una ejecución extrajudicial inmediata o casi inmediata a la captura en la que el cadáver es probablemente arrojado en algún lugar y no es encontrado en los días siguientes.

El tercero, que es el que constituye verdaderamente el patrón general, equivale a una captura que no respeta las debidas garantías. En circunstancias donde los familiares no son informados y los detenidos rara vez son puestos a disposición del juez, numerosas capturas devienen en desapariciones independientemente de la legalidad o de la motivación de la detención. Esto les permite a los captores escapar a cualquier tipo de control público o legal, y establece el marco que posibilita las torturas durante los interrogatorios. En ocasiones, los autores no tienen intención expresa de ocultamiento de la víctima, pero tampoco hacen pública la captura ni se la comunican al juez, por lo cual los familiares que no encuentran a la persona presentan una denuncia ante organismos de Derechos Humanos. Cuando éstos o los familiares consiguen averiguar por su cuenta el paradero, puede ocurrir que el organismo militar o de seguridad acepte tener presa a la víctima o que lo niegue. El caso termina comunmente en la liberación de la víctima o en su remisión a prisión, tras un interrogatorio lleno de torturas. Ocasionalmente, también puede terminar en ejecución.

La falta de intención expresa de ocultamiento de la víctima, del hecho y del victimario en muchos casos, nos aleja de la concepción clásica de la desaparición. Sin embargo, la arbitrariedad y falta de transparencia y de garantías en el sistema de seguridad pública, constituyen en sí mismas un serio menoscabo a los derechos de los ciudadanos.

El hecho de que entre los casos clasificados como desaparición, ésta sea la modalidad predominante, está avalado por la gran diferencia en el volumen de las desapariciones registradas entre la fuente indirecta, en la que también abundan las torturas, y la directa. Por otro lado, la proporción de casos de desapariciones es especialmente alta en el caso de algunas instituciones de derechos humanos, lo que podría indicar que la magnitud de su registro dependió además de los criterios definitorios de cada organismo.

C) La tortura y los malos tratos destacan como una práctica muy extendida, ahora que en la fuente indirecta no sufren un filtro tan grande como en la fuente directa, en cuanto a la gravedad necesaria para que se perciba como un hecho grave de violencia. En algunas ocasiones los tormentos preceden a la ejecución, pero en la gran mayoría de los casos, la tortura constituye una práctica en sí misma, que acompaña frecuentemente a capturas e interrogatorios.

Generalmente los golpes, y ocasionalmente otros tipos más sofisticados de tortura, son usados para coaccionar a los detenidos políticos para que revelen información y por último, para que admitan su participación en hechos delictivos, mediante la firma de un papel en blanco en el que luego se redacta la supuesta confesión.

VIII. LOS DOS PERIODOS EN RELACION A LOS GHV

Se había señalado que, tanto en los casos llegados directamente a la Comisión como en aquellos otros de fuente indirecta, el lapso de tiempo de mandato se puede dividir en dos períodos, uno entre el 80 y el 82, y otro del 83 en adelante. El gráfico 10 compara los dos períodos, en cuanto a los tipos de hechos que se dan en cada uno.

El primer período se caracteriza por una cantidad masiva de ejecuciones, el 72,6% entre los casos del primer período pero sólo el 29,2% entre los del segundo acaban en homicidio. Por el contrario, las desapariciones y especialmente las torturas son más frecuentes en el segundo período, el 42,6% de los episodios del último período contienen torturas contra sólo el 13,9% del primero.

En este primer período predominan los tormentos como preludio de la ejecución. El 76% de los casos de tortura seguida de ejecución acontece en el primer período, mientras que el 90% de las torturas en solitario ocurre en el segundo período.

Los casos de desaparición se reparten por igual entre los dos períodos.

El período inicial es particularmente virulento precisamente en los departamentos con un mayor grado de casos en general. El 69 % de los casos registrados en Chalatenango, el 86% de los de San Vicente y el 71% de los de Morazán, tienen lugar en estos primeros años del 80 al 82. En estos tres departamentos, los primeros años 80 constituyen una época en la que las ejecuciones extrajudiciales son muy comunes. Sólo en San Vicente se registran más de 1000.

La Fuerza Armada, implicada en el 63% de los casos, los cuerpos de seguridad, mencionados en el 29% de los casos, y los paramilitares, con el 22%, son los protagonistas principales de esta represión. Los escuadrones, con una participación más limitada del 11% son también característicos de la dinámica homicida de esta fase. El gráfico 11, permite apreciar el grado de responsabilidad atribuida para cada período.

El segundo período evoluciona hacia un mayor grado de respeto al derecho a la vida. Descienden notablemente las ejecuciones, asimismo, las denuncias por homicidio de los cuerpos de seguridad, los escuadrones y los paramilitares, descienden en cada uno de los tres casos por debajo del 3% del total de los episodios registrados. Así, la represión se hace más selectiva y relativamente más amortiguada. Paralelamente al descenso de las ejecuciones se produce un fuerte ascenso en el número de torturas, principalmente a manos de los cuerpos de seguridad, que se convierten en una práctica muy extendida durante los interrogatorios y las capturas. La proporción de los casos totales que corresponde a torturas imputadas a las distintas policías y a la Guardia pasa del 2% en el primer período al 18% en el segundo. De igual forma, la Fuerza Armada es presuntamente responsable de 67 casos de tortura en el primer período, y de 1086 en el segundo. Este aumento de los casos de tortura se da en los establecimientos y cuarteles de las fuerzas militares y de seguridad. De ahí que el número de torturas registradas en el departamento de San Salvador, donde se ubican muchas de estas instalaciones, crezca de 229 a 985 entre los dos períodos.

El FMLN, al contrario de todos los demás grupos, comete casi todos sus presuntos abusos, 465 de un total de 516, en el segundo período y particularmente en los años 84 a 87.

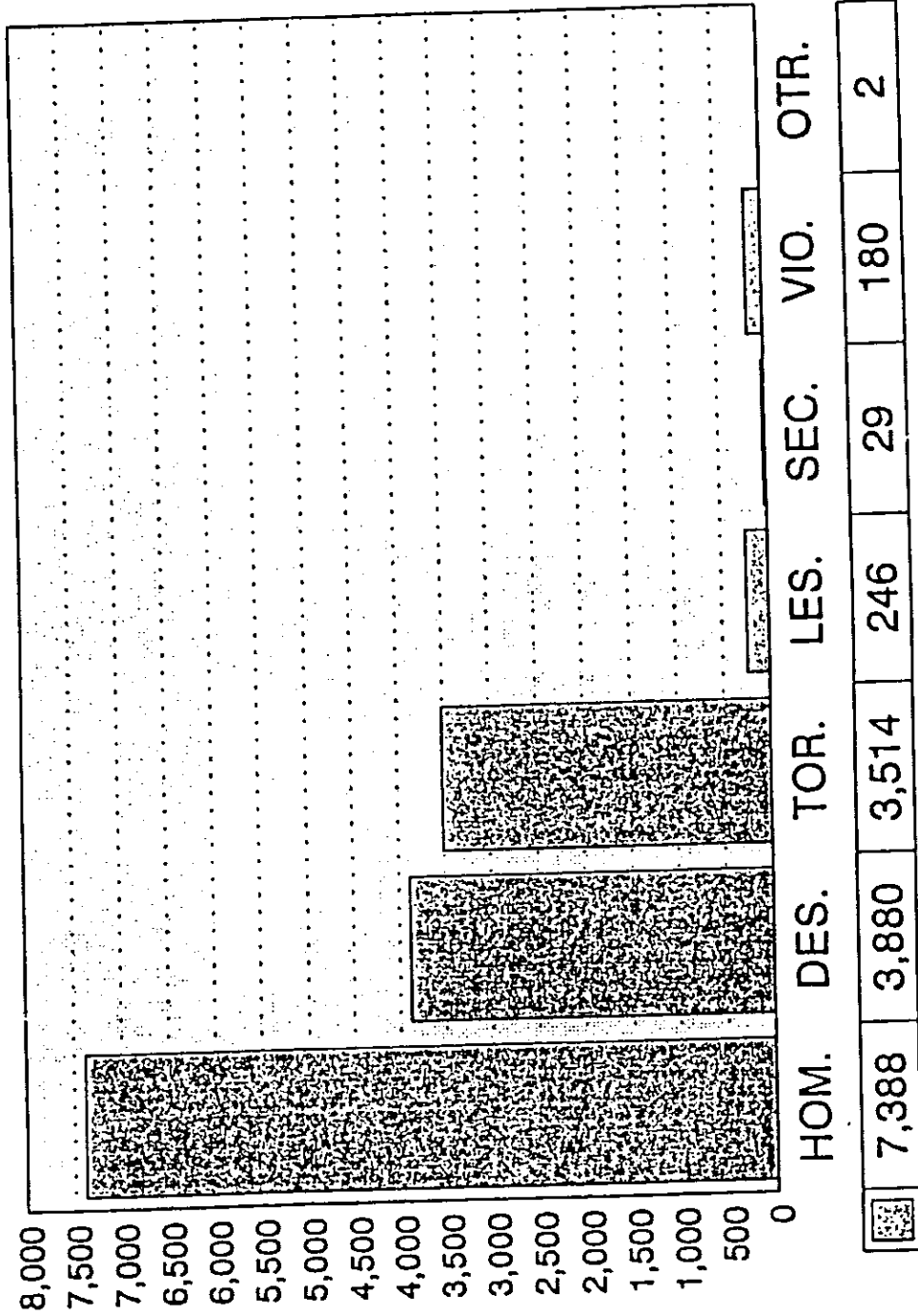
La conclusión general después de pasar revista a la fuente indirecta, es una confirmación general de los procesos que se vieron en la fuente directa. Esto es un primer período de unos pocos años de extrema violencia y represión indiscriminada con gran cantidad de ejecuciones, que a veces estaban precedidas de torturas y tormentos.

En una segunda fase más larga donde la violencia se reblandece, haciéndose más selectiva, es donde las ejecuciones van disminuyendo a la par que aumentan las torturas en los interrogatorios. Asimismo, crece el número de desapariciones, a menudo debidas a la arbitrariedad y a la falta de garantías en las capturas. Lo que marca la diferencia con la fuente directa no es sino un mayor énfasis en la desaparición y especialmente en la tortura, como procedimiento generalizado en esta segunda fase.

Esto supone una comprobación indirecta de que los hechos relativamente menores, como la tortura, no fueron denunciados directamente ante la Comisión en la misma proporción que los más graves.

NUMERO DE CASOS EN QUE ESTA PRESENTE CADA TIPO DE HECHO
FUENTE INDIRECTA

GRAFICO 1



HOM:HOMICIDIO DES:DESPARICION TOR:TORTURA LES:LESIONES SEC:SECUESTRO VIO:VIOLACION OTR:OTROS

NUMERO DE CASOS POR DEPARTAMENTO

FUENTE INDIRECTA

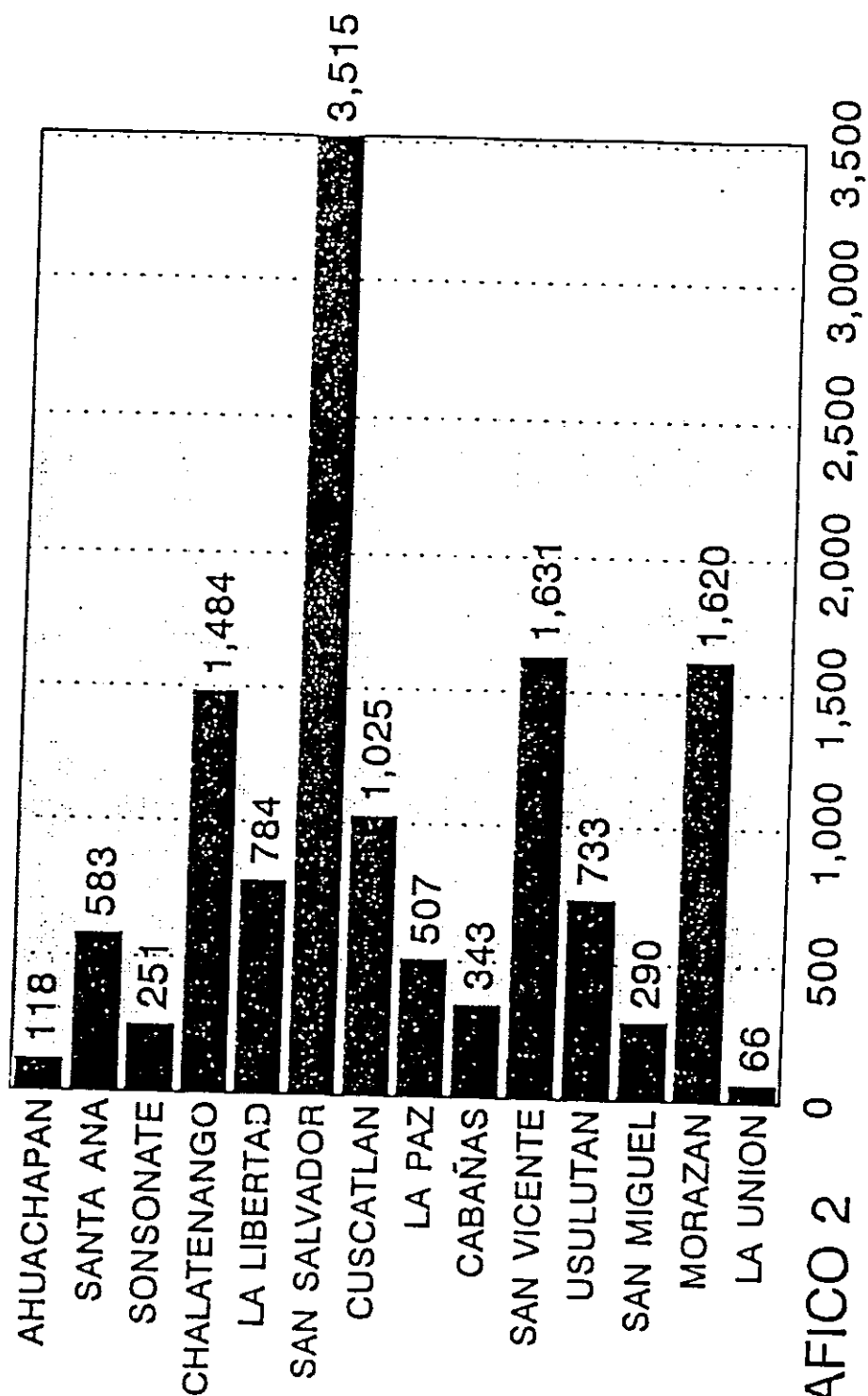


GRAFICO 2 0 500 1,000 1,500 2,000 2,500 3,000 3,500

EVOLUCION ANUAL DEL NUMERO DE CASOS DENUNCIADOS (1980-1991) FUENTE INDIRECTA

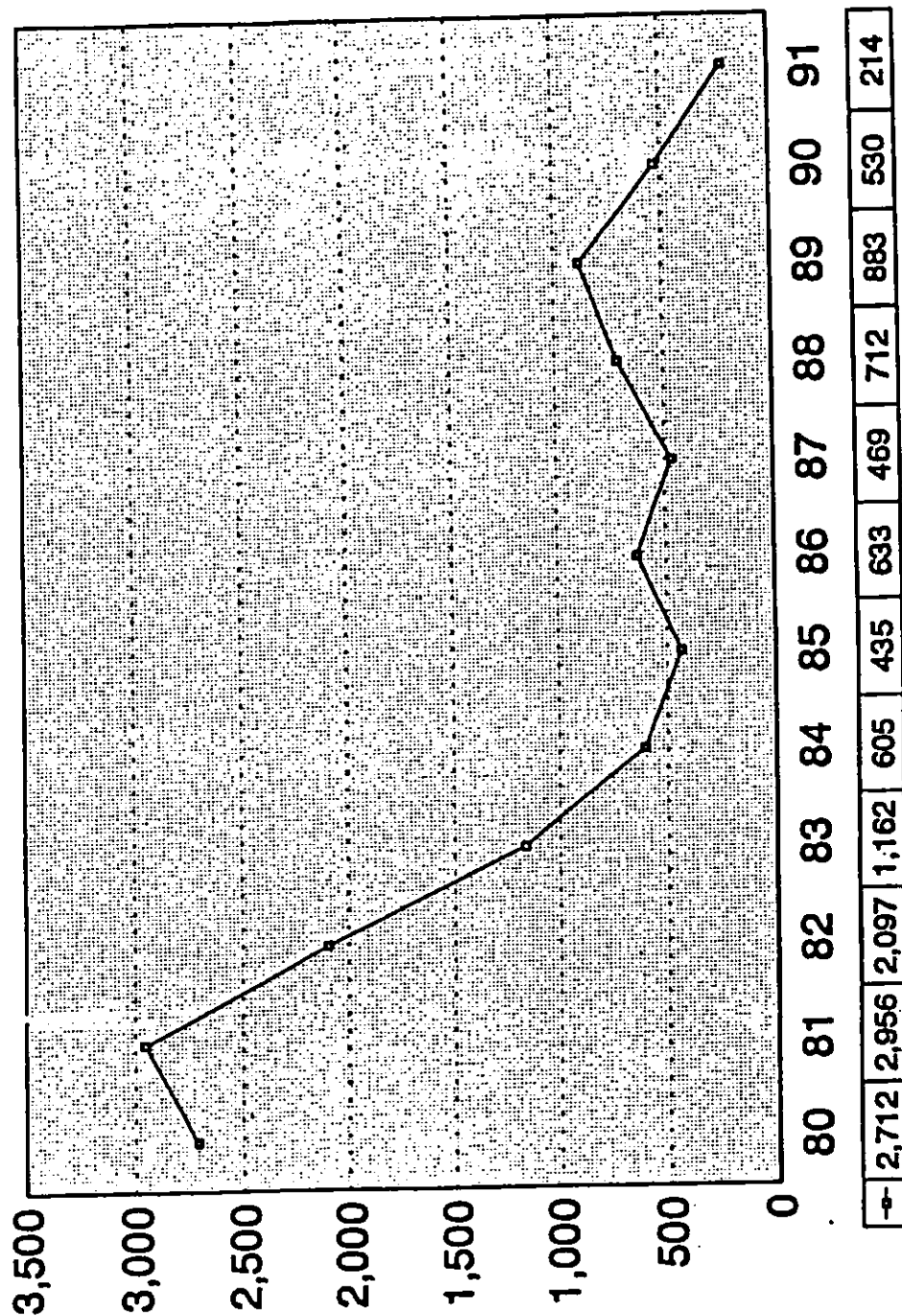
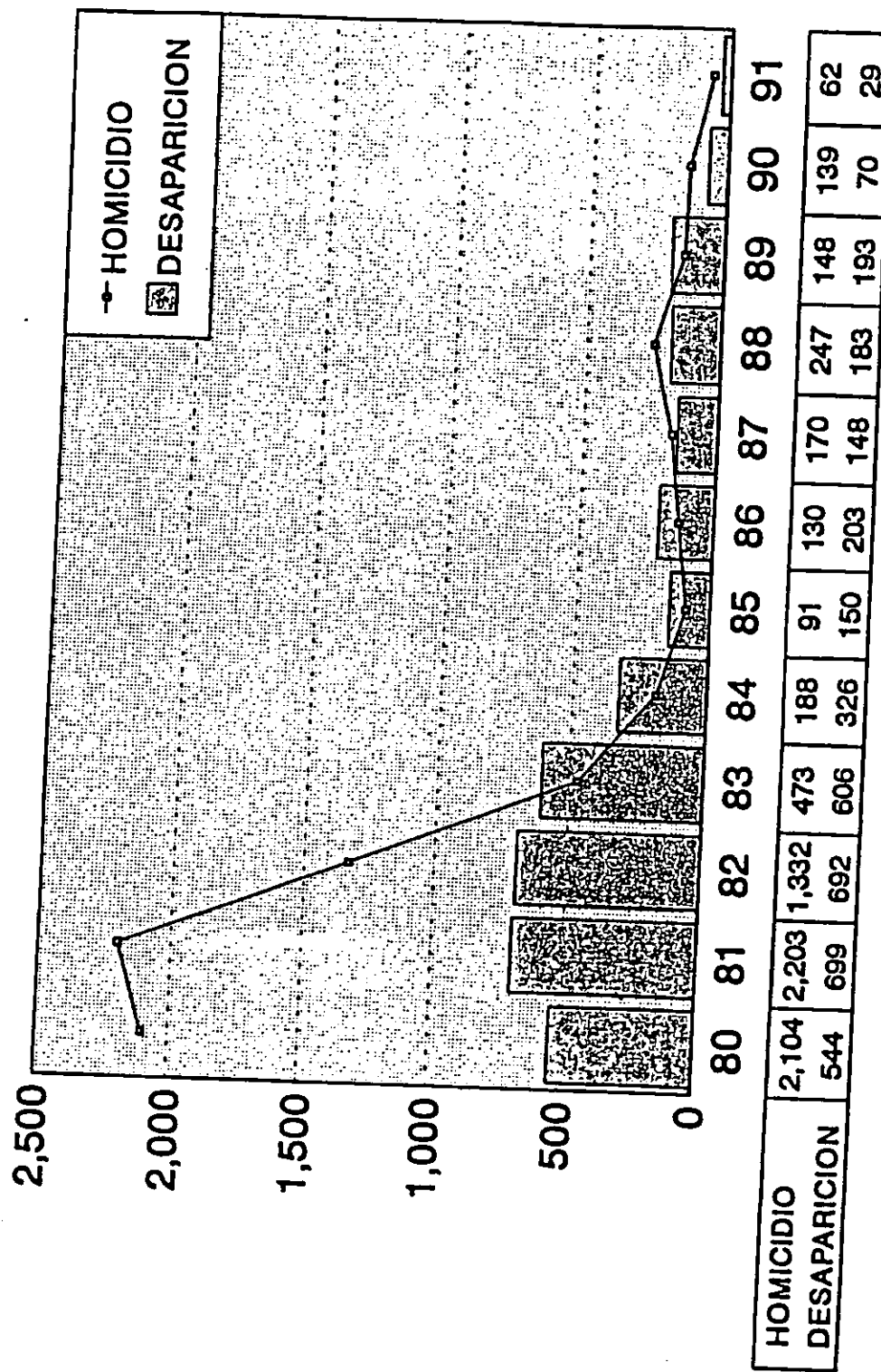


GRAFICO 3

Para 1991 se considera sólo hasta Julio

NUMERO DE HOMICIDIOS Y DESAPARICIONES POR AÑO FUENTE INDIRECTA



Para el año 1991 sólo se considera hasta Julio

GRAFICO 4

NUMERO DE TORTURAS Y VIOLACIONES POR AÑO FUENTE INDIRECTA

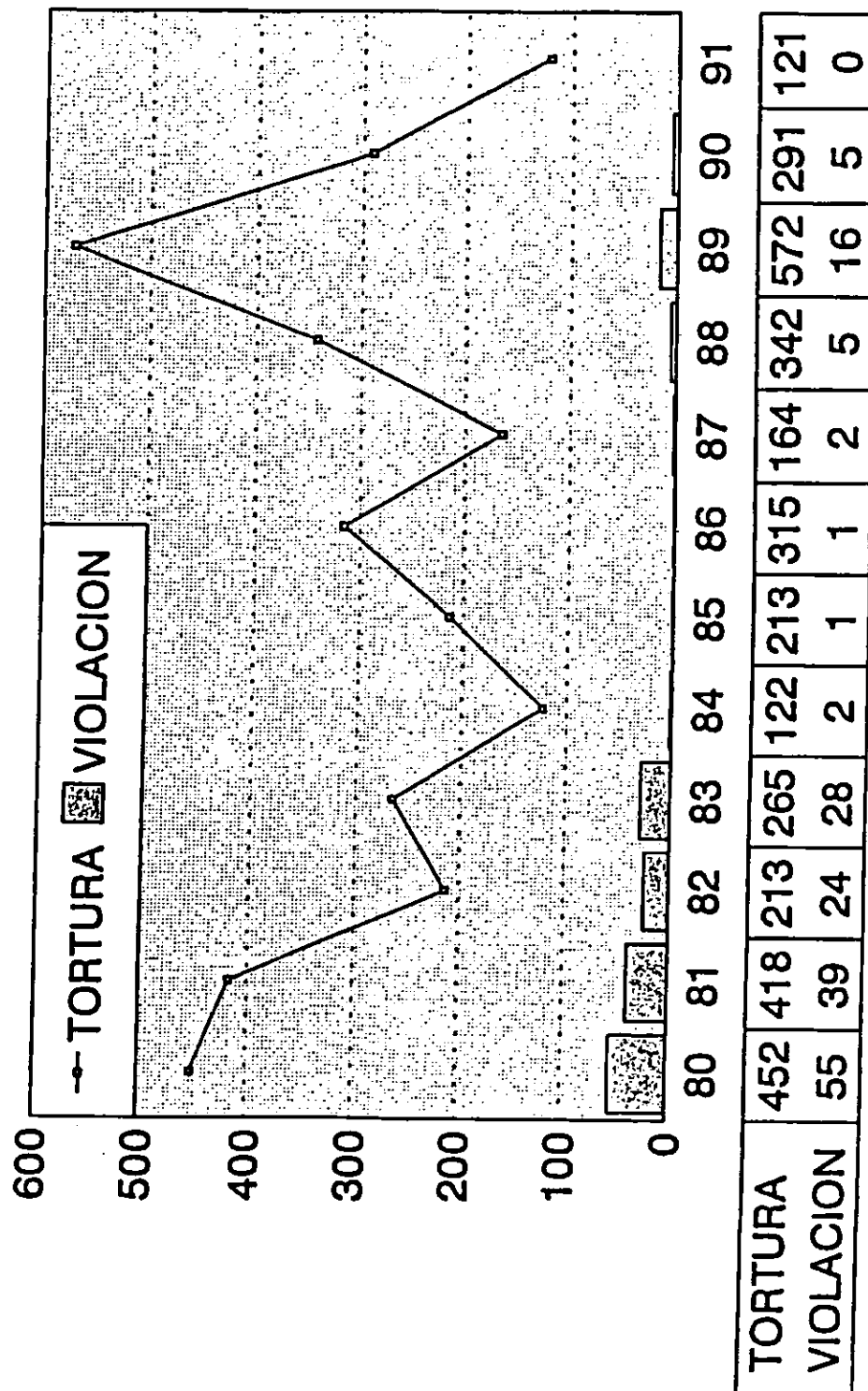
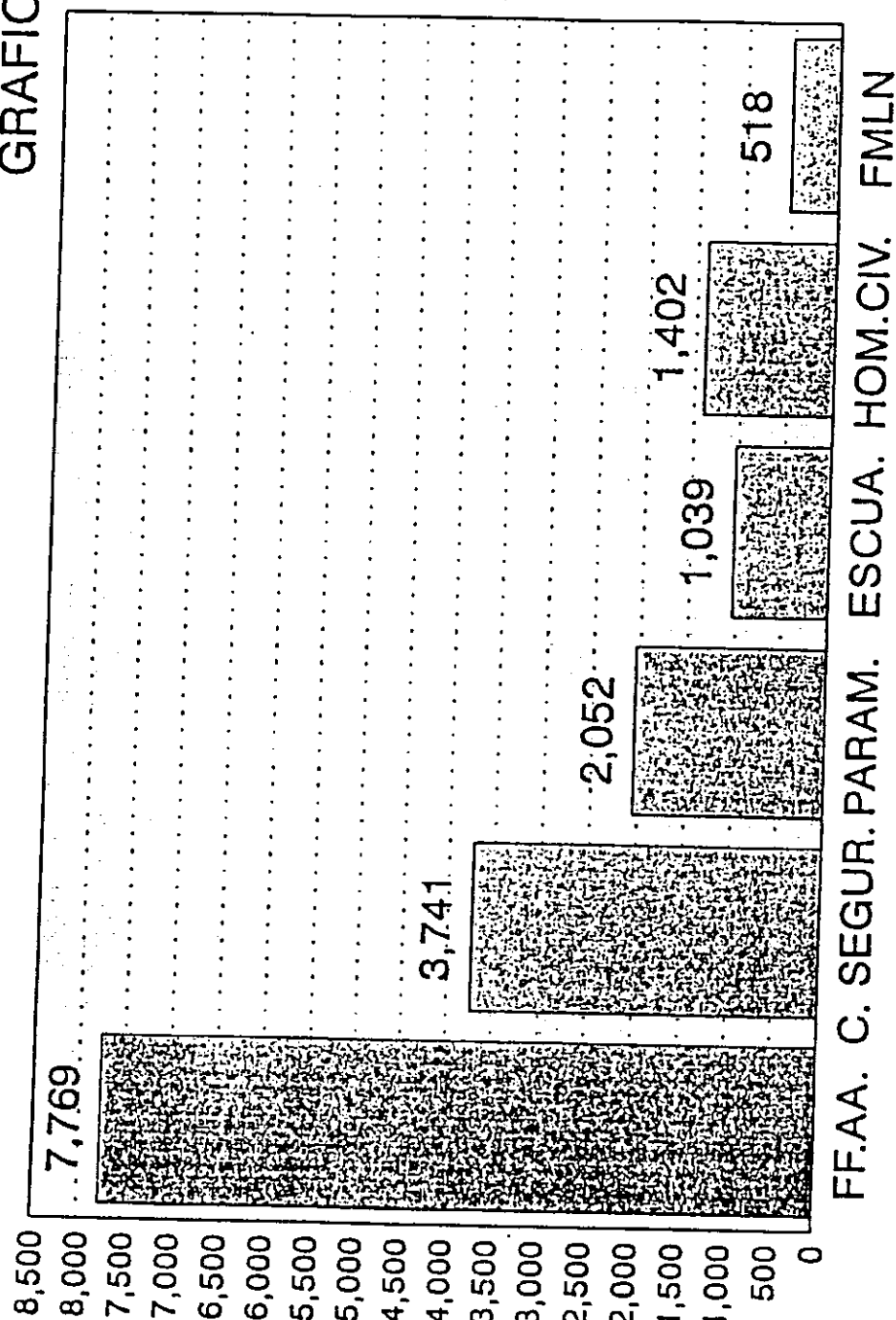


GRAFICO 5

Para el año 1991 sólo se considera hasta Julio

NUMERO DE CASOS POR FUERZA RESPONSABLE IMPLICADA FUENTE INDIRECTA

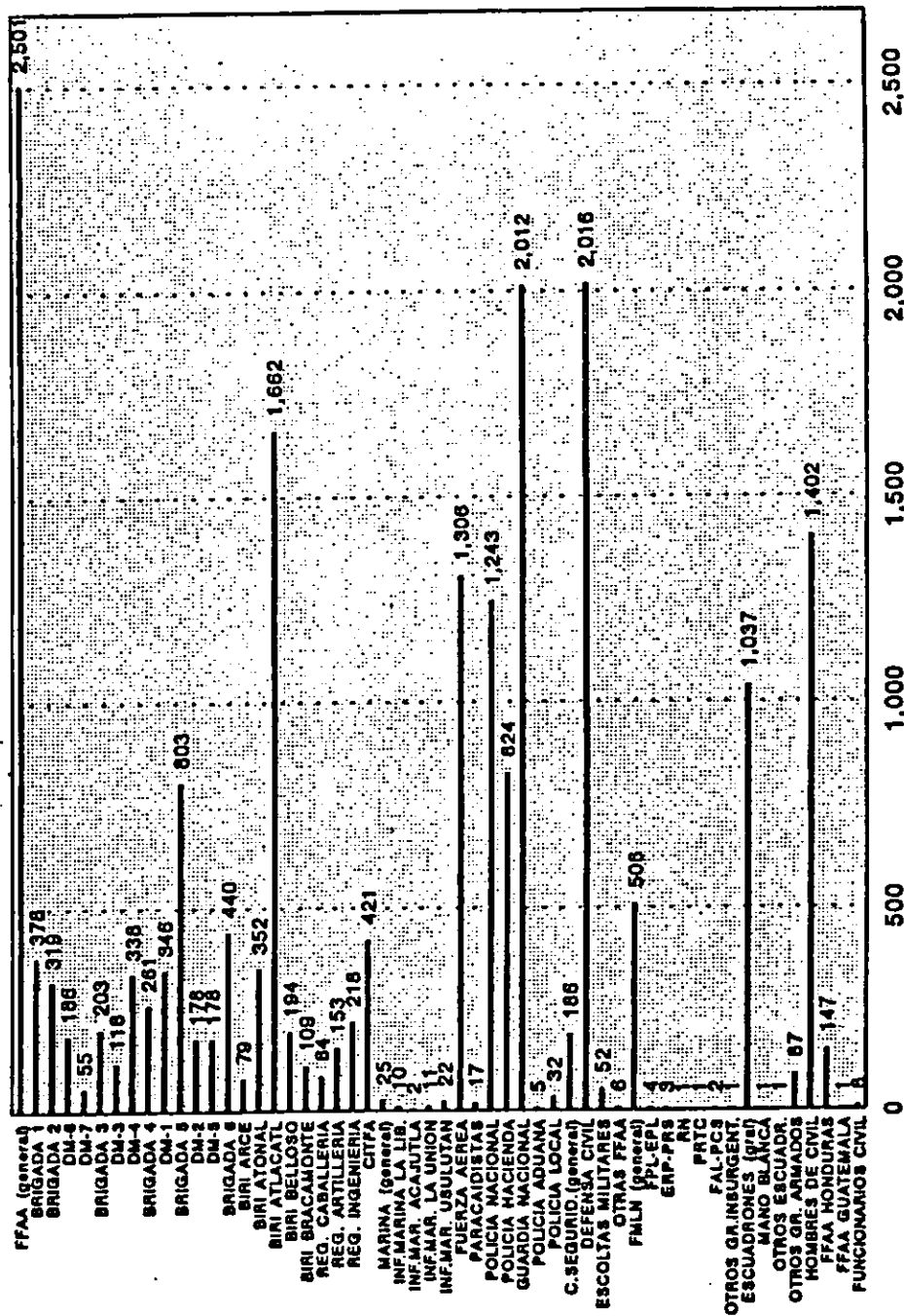
GRAFICO 6



FFAA: Fuerza Armada
C.SEGUR.: Cuerpos Seguridad
PARAM: paramilitar
ESCUA.: Escuadrones
HOM.CIV.: Hombres de civil.

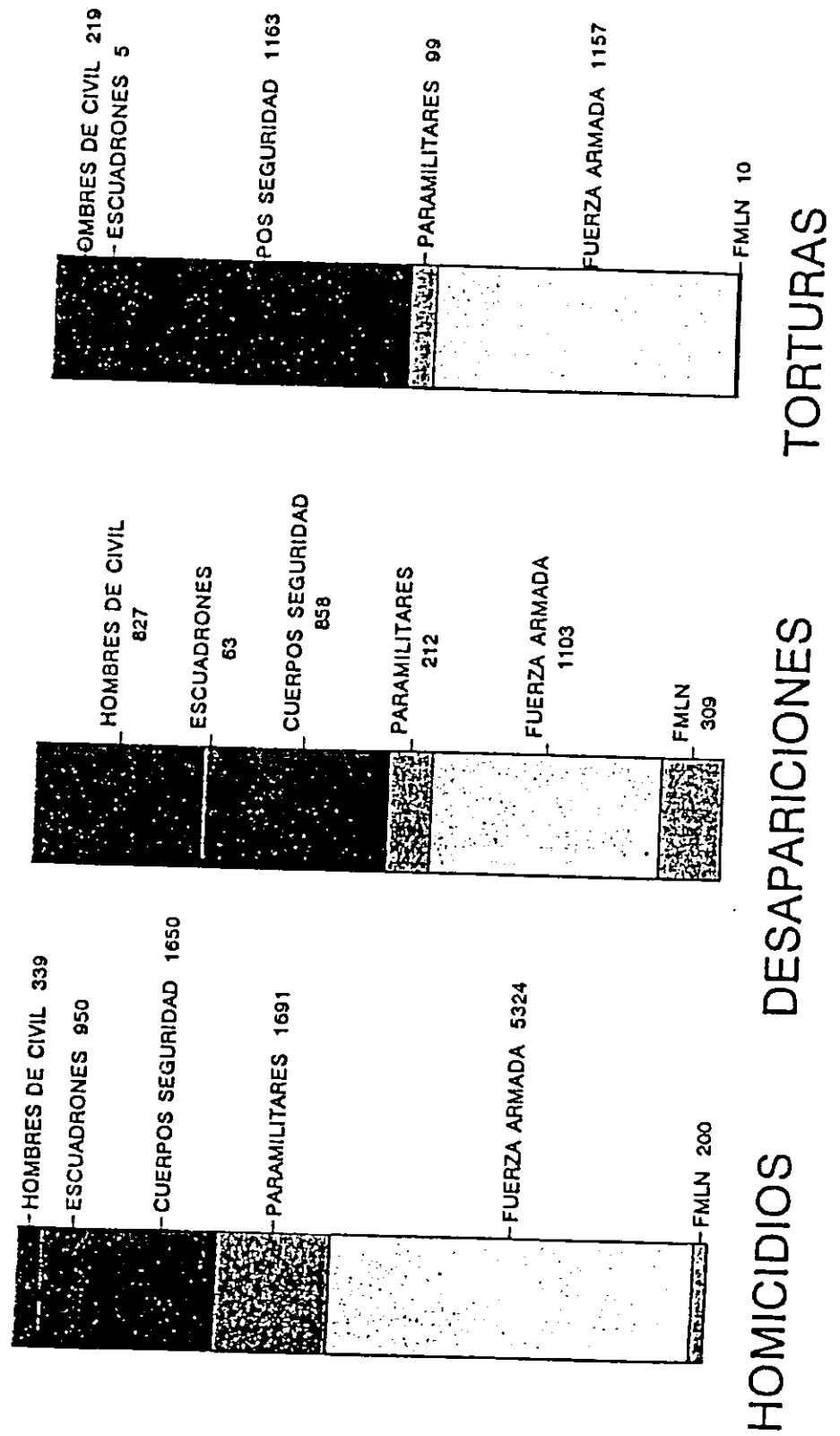
NUMERO DE CASOS POR UNIDAD MILITAR RESPONSABLE FUENTE INDIRECTA

GRAFICO 7



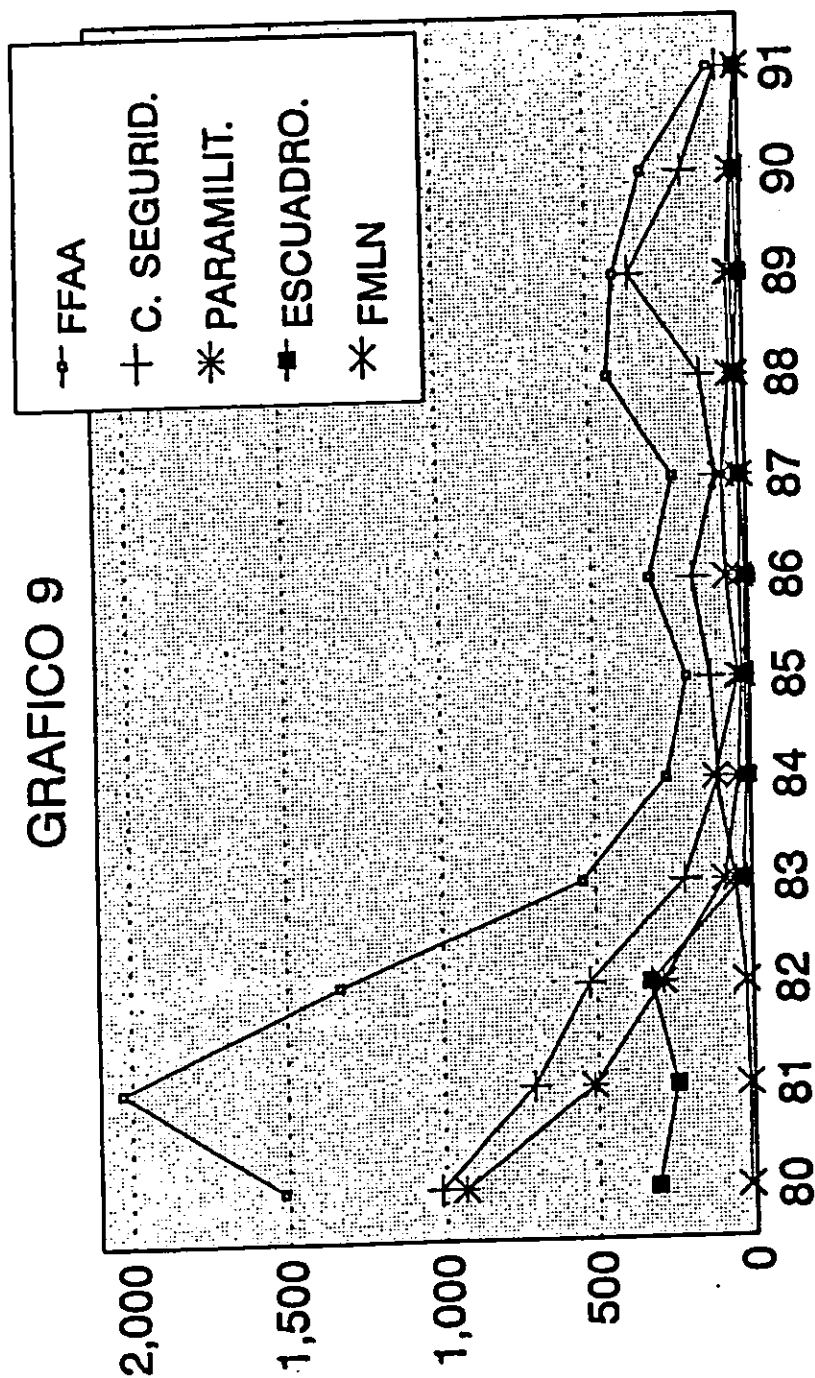
NUMERO DE HECHOS POR TIPO Y FUERZA RESPONSABLE FUENTE INDIRECTA

GRAFICO 8



NUMERO CASOS DONDE ESTA IMPLICADA CADA FUERZA MILITAR, POR AÑO
FUENTE INDIRECTA

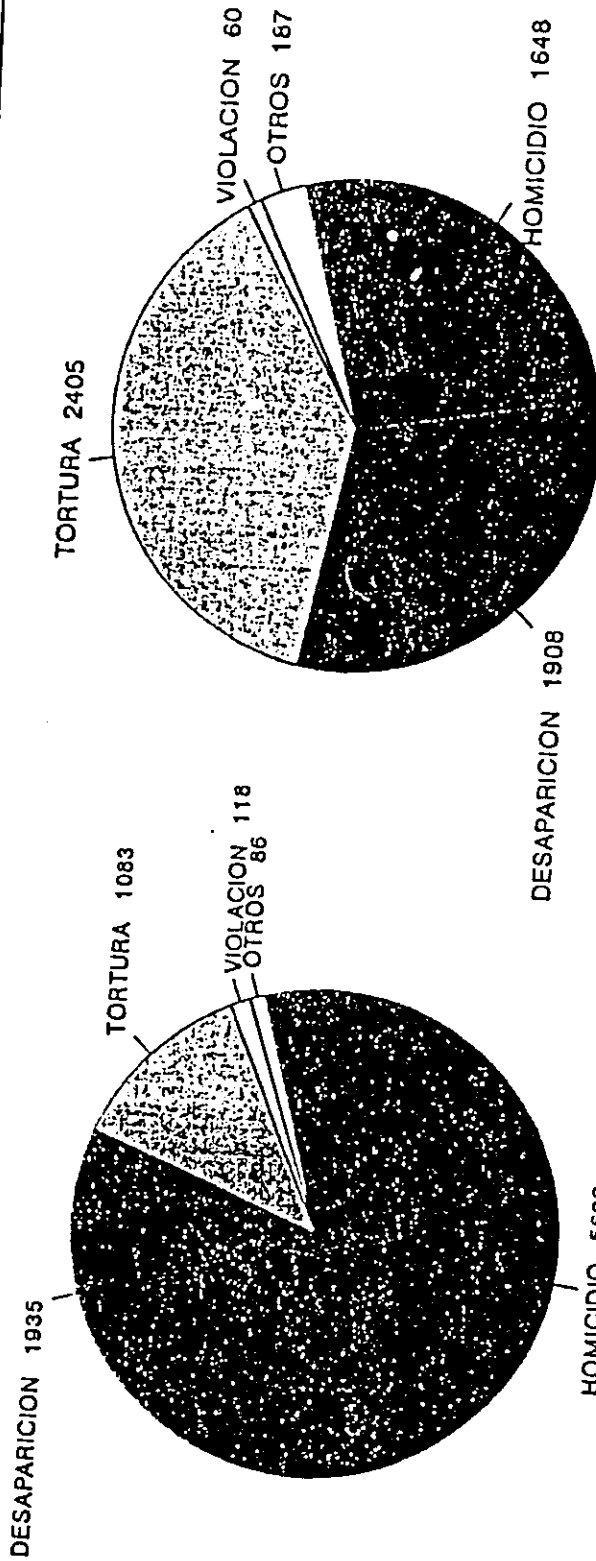
GRAFICO 9



FFAA	1,515	2,030	1,333	544	267	198	312	233	439	413	315	97
C. SEGURID.	1,013	710	525	213	100	124	175	96	138	361	186	69
PARAMILIT.	935	513	286	85	37	24	25	20	26	34	31	9
ESCUADRO.	309	244	324	27	11	14	6	21	29	11	18	13
FMLN	15	14	22	52	111	35	68	75	44	46	28	6

TIPOS DE HECHO POR PERIODO

FUENTE INDIRECTA



PRIMER PERIODO

SEGUNDO PERIODO

☐ OTROS
 ☐ VIOLACION
 ☐ TORTURA
 ☐ DESAPARICION
 ☐ HOMICIDIO

Primer Período: 1980-1982 Segundo Período: 1983-1991
 La categoría "Otros" incluye, en este caso, Lesiones y Secuestros

GRAFICO 10

NUMERO DE CASOS EN QUE SE IMPLICA A CADA FUERZA POR PERIODO
FUENTE INDIRECTA

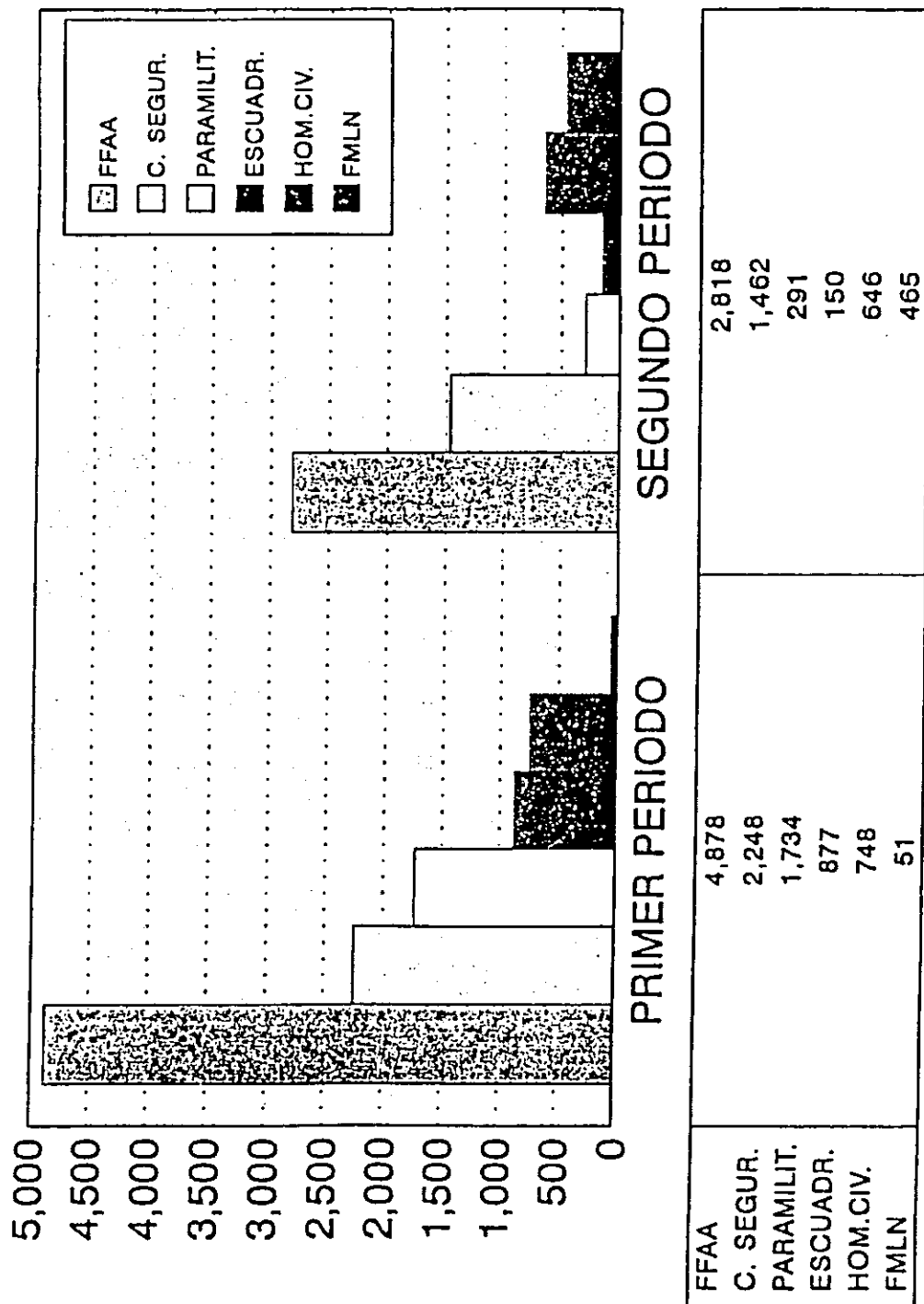


GRAFICO 11

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REPORT OF THE
SECRETARY OF STATE'S
PANEL ON EL SALVADOR

July 1993 ✓

George S. Vest, Member
Career Ambassador, Ret.

Richard W. Murphy, Member
Career Ambassador, Ret.

I. M. Destler, Academic Adviser
Professor, University of Maryland