

GUATEMALA

Human Rights Developments

The human rights situation in Guatemala deteriorated significantly in 1990, with political killings and disappearances claiming hundreds of lives, and the use of torture appallingly evident from the condition of corpses discarded in body dumps and along roadsides. In addition, the army was responsible for a major massacre of civilians in early December when soldiers fired into a crowd peacefully protesting army abuses in Santiago Atitlán. These killings remained largely uninvestigated and completely unpunished, thanks to a lack of will on the part of the police and courts and, above all, opposition from the all-powerful military establishment. The victims included those long targeted by the Guatemala security forces: students, teachers, human rights activists, trade unionists, journalists and opposition politicians, as well as individuals apparently selected at random to sow terror.⁴⁸ Those responsible for the killings included the army and police as well as their civilian agents: military commissioners⁴⁹ and civil patrollers.⁵⁰ In addition, new information came to light in 1990 about police violence, including torture, murder and disappearance, inflicted on street

⁴⁸ The Human Rights Ombudsman, appointed by the Guatemalan Congress, reported on October 6 that 276 political murders and 145 disappearances had occurred in the first nine months of 1990. Adjunct Ombudsman César Alvarez Guadamuz, in announcing the figures, was quoted as saying that Guatemala is "returning to the dark past...when we lived amid virtual state terrorism." DPA, October 6, 1990, reprinted in FBIS, October 10, 1990.

⁴⁹ Military commissioners are civilians paid and armed by the military to gather intelligence and recruit young men into the army.

⁵⁰ The civil patrols were established in the early 1980s as part of a massive counterinsurgency scheme whereby highland men were forced to perform unpaid vigilante duty for the army in shifts of 12 to 24 hours every week or two. Although the patrols are now by law voluntary, the army and civil patrol chiefs continued to mete out punishment, sometimes severe, to those who refuse to serve. Increasingly, the patrol chiefs have become instruments of army repression.

children in Guatemala City. A smaller number of violent abuses were committed by guerrillas.

In November, Guatemalans participated in elections for president, congress, municipalities and the Central American parliament. Because no presidential candidate won a majority, a runoff must be held on January 6, 1991. If this process successfully leads to the inauguration of a new president on January 14, it will mark the first time in Guatemalan history that one elected civilian government has succeeded another.

Yet steps toward the consolidation of electoral politics in Guatemala appeared to be completely divorced from the human rights situation. No candidate addressed the issue of political killings, disappearances and torture head on, nor did any promise to bring the principal violators – the security forces and their agents – under the rule of law. The elections were no more than a contest between the extreme right and the moderate right, as constant violence against the left prevented it from having more than a token presence on the political scene.

The most serious army abuse of the year was the massacre of 13 civilians at the military base in Santiago Atitlán, in the department of Sololá, some time between midnight and 1:30 a.m. on December 2. The dead, including three children, were all Tzutuhil Indians. The incidents leading to the massacre began on the evening of December 1, when five drunken soldiers, among them the commander of the base at Santiago Atitlán, began harassing residents of Xechiboy, part of the municipality of Santiago Atitlán. According to a report by the Human Rights Office of the Archbishopric of Guatemala, the soldiers tried to break into the home of a civilian, who called for help. Apparently not realizing that the intruders were military men, one young villager threw a rock, striking a soldier in the face. The soldiers shot at the youth, hitting him in the right leg and left hand.⁵¹ Alarmed neighbors rang the town churchbells and assembled a crowd of some 1,500 civilians who, along with the mayor and the mayor-elect, proceeded under the light of a full moon to the military base to protest the incident. Some of the marchers carried white nylon flags as a sign of their peaceful intent.⁵² A few

⁵¹ Human Rights Office, Archbishopric of Guatemala, "Massacre in Santiago Atitlán, Sololá," December 1990, pp. 2-5.

⁵² Procurador de los Derechos Humanos, Ref. Exp. E.I.O. Sololá 27-90/P, December 7, 1990, pp.

carried sticks.⁵³ As the group approached the base and the mayor-elect addressed the troops, soldiers raked the crowd with machinegun fire, killing 11 immediately and wounding at least 18. Two of the wounded died a few days later.

Human Rights Ombudsman Ramiro de León Carpio, in his office's December 7 report on the massacre, blamed not only the soldiers who provoked the incident and the officers who commanded the stockade, but also the army as an institution, especially because of its past abuses in Santiago Atitlán. The report stated:

It is important to note that this is not simply another massacre; rather, the evidence obtained, the statements of many people...prove that this event has been the culmination of many acts of intimidation, abuse of authority, repression, control of the population, extrajudicial executions and forced and involuntary disappearances, of which the army of Guatemala is accused and responsible....⁵⁴

In an apparent effort at damage control, Defense Minister Juan Leonel Bolaños apologized for the action and announced that two officers would be submitted to a military tribunal. However, both the army and President Vinicio Cerezo stubbornly insisted that blame be limited to the two individuals named. President Cerezo stated on December 7 that "the army has been respectful of constitutional rights, and now finds itself involved in a circumstance caused by the actions or errors of a few of its members; therefore, we must blame circumstances and individuals, not institutions."⁵⁵ Col. Edgar Leonel Ortega Rivas, the newly named public relations chief for the Guatemalan army, stated on December 11: "Whoever says that there are more than two [soldiers] implicated is

1-2; Human Rights Office of the Archbishopric of Guatemala, "Massacre in Santiago Atitlán," p. 5.

⁵³ Human Rights Office of the Archbishopric of Guatemala, "Massacre in Santiago Atitlán," p. 5.

⁵⁴ Procurador de Los Derechos Humanos, Ref. Exp. E.I.O. Sololá, pp. 6-7.

⁵⁵ *Siglo Veintiuno*, December 8, 1990, reprinted in FBIS, December 12, 1990.

an enemy of the army."⁵⁶

In a highly unusual retreat to civilian demands, the army agreed to move its base to another location after Santiago residents amassed 15,000 signatures or thumbprints on a petition calling for an end to the military presence in the town.⁵⁷ Soldiers vacated the base in late December.

Much of the rural violence in 1990 was committed by civil patrollers. In some cases, the patrollers acted on instructions from the army, such as in the March attacks on human rights groups in Chupol and Parraxtut discussed below. In other cases, it was not known who ordered violence carried out by patrollers, or whether they acted on their own initiative. Autonomous action appeared to have been behind the attempted murder of two youths, Remigio Domingo Morales, 18, and his cousin, Rafael Sánchez Morales, 15, in the hamlet of Xemal, municipality of Colotenango, Huehuetenango department.⁵⁸ On the evening of June 27, patrollers bound the boys, accused them of being guerrillas, assembled the local patrollers and, as a group, assaulted the youths with knives and sticks and left them for dead. The boys were hospitalized and regained consciousness after several days. Soldiers later scolded the patrollers for the attack, but instructed those taking the boys to the hospital to lie about the events, saying that the victims had wounded each other.

Cases like this and the incidents at Parraxtut and Chupol described below illustrate how successfully the army has turned the patrols into a repressive counterinsurgency tool, sharply dividing rural communities and placing little dictators with the power of life and death -- the patrol chiefs -- in charge of each village. While the army may not be directly involved in each crime committed by the patrols, it is ultimately responsible for the monster it has created and done nothing to control.

Perhaps most troubling in Guatemala's devastating human rights picture

⁵⁶ *Prensa Libre*, December 12, 1990.

⁵⁷ Lucy Hood, "Guatemala Apologizes for Killings," *Washington Post*, December 8, 1990.

⁵⁸ See News From Americas Watch, "Guatemala: Rights Abuses Escalate as Elections Near," November 8, 1990, pp. 10-11.

is the relentless persecution of human rights activists. Eight were slain in 1990 and another two disappeared in circumstances which to varying degrees indicated the involvement of security forces, military commissioners or civil patrols. Human rights activists have become targets for persecution because of their forceful advocacy of respect for rights established by Guatemalan and international law.

The human rights groups targeted for persecution were primarily CERJ, a rural human rights and legal assistance group, and the Mutual Support Group (*Grupo de Apoyo Mutuo*, or GAM), which seeks to determine the fate of tens of thousands of Guatemalans who disappeared in the last two decades. CERJ, which has borne the brunt of these attacks since its founding in July 1988,⁵⁹ has been in the forefront of the struggle to achieve respect for Article 34 of the Constitution, which prohibits compulsory participation in civil patrols. Most CERJ members have resigned from patrol duty, which has prompted the army and its agents to consider them guerrilla sympathizers.

The growing persecution of human rights activists follows, and no doubt was engendered by, a massive propaganda campaign conducted by the army in scores of highland villages throughout 1989, which equated human rights activities with subversion.⁶⁰ The campaign was launched to counteract the struggle by human rights groups to end forced participation in civil patrols, an effort which has met with some success in the highlands. As a result of these conflicting campaigns, many highland villages have been broken into two hostile camps – the (armed) patrollers versus the (unarmed) non-patrollers; the army supporters versus the human rights activists. A human rights researcher who visited the village of Chunimá in the department of El Quiché in March 1990 was told by local patrollers that the village was so deeply divided along these lines that the two groups did not talk to each other. Each side had its own auxiliary mayor and its own "improvement committee." When the researcher visited the

⁵⁹ See Americas Watch, *Persecuting Human Rights Monitors: The CERJ in Guatemala*, May 1989; and News From Americas Watch, "Guatemala: Army Campaign Against Rights Activists Intensifies."

⁶⁰ See News from Americas Watch, "Guatemala: Army Campaign Against Rights Activists Intensifies," May 1990, p.2.

nearby military base at Chupol, the 18-year-old soldier on duty greeted him with the question, "Are you against the GAM or against the Army?"⁶¹

In March, the repression against human rights activists turned violent in two areas of Quiché province -- one in the area of Sacpulup and Chunimá, and the other in the twin hamlets of Parraxtut and Parraxtut Segundo Centro. On March 2, about 50 GAM members left Guatemala City to demonstrate support for GAM members in Sacpulup and Chunimá who had been threatened and harassed by local civil patrollers and military commissioners.⁶² However, upon reaching Chupol, where the demonstrators had to leave their vehicles and begin the walk to Sacpulup and Chunimá, they were set upon by about 100 civil patrollers and plainclothes soldiers who threw stones, hit them with sticks, and shouted "guerrilla assassins, go back to the mountains!" Twenty demonstrators were injured, some requiring hospital treatment. A GAM vehicle was partially destroyed.

It was later learned that the patrollers had acted under orders of the army base at Chupol, which had convened a meeting of civil patrollers from 17 nearby hamlets early on the morning of March 2. Officers had instructed the patrollers to attack the GAM delegation that would arrive that afternoon and, according to testimony collected by the Minnesota Lawyers International Human Rights Committee, distributed pills apparently intended to make the patrollers more aggressive.⁶³ Although the judge at the Second Court of First Instance in Santa Cruz del Quiché twice issued arrest warrants for four patrollers accused of participating in the attack, the police had failed to arrest the suspects by the end of 1990.⁶⁴ No action had been taken to prosecute the military for its role in the attack.

A little more than two weeks after this incident, violence erupted in

⁶¹ Minnesota Lawyers International Human Rights Committee, *Justice Suspended: the Failure of the Habeas Corpus System in Guatemala*, October 1990, pp. 74-75, 78.

⁶² See News From Americas Watch, "Guatemala: Army Campaign..." and Minnesota Lawyers International Human Rights Committee, *Justice Suspended...*, pp. 65-87.

⁶³ MLHRC, *Justice Suspended...*, pp. 79-82.

⁶⁴ *Ibid.*, p. 85.

Parraxtut and Parraxtut Segundo Centro. On March 17, two men identified as local military commissioners⁶⁵ shot and killed María Mejía, a member of CERJ and of the National Coordinating Body of Widows (CONAVIGUA), inside her home in the hamlet of Parraxtut Segundo Centro. The assassins also shot and left for dead Mejía's husband, Pedro Castro Tojín, whom they had repeatedly harassed and threatened in previous months because of his membership in CERJ and his resistance to the civil patrols. Castro Tojín survived the murder attempt and testified in court that military commissioners Juan de León Pérez and Domingo Castro Lux had shot him and his wife. The accused were arrested in early May, but released for purported lack of evidence on May 31, despite Castro Tojín's eyewitness testimony and a substantial paper trail of complaints filed by CERJ before the murder with the Human Rights Ombudsman's office alleging that the defendants had been threatening and harassing Castro and his family. Castro Tojín's testimony was countered by eight villagers who, reportedly at the bidding of the civil patrol chief in Parraxtut, provided the court with false alibis for the defendants. The trial court's decision was affirmed in July by the Seventh Appeals Court in Quezaltenango, and the case was returned to the trial court for further investigation.

Following the murder of Mejía, the military commissioners threatened to kill members of three families in Parraxtut and Parraxtut Segundo Centro who belonged to CERJ, prompting 39 of them to flee the community. On March 27, at the request of CERJ, César Alvarez Guadamuz, the adjunct human rights ombudsman from Guatemala City, traveled to Santa Cruz del Quiché to escort the Parraxtut villagers back to their homes and demand that they be allowed to live there without fear of further violence or harassment.

It was later learned from the testimony of villagers that army officers and soldiers from the military post in Nebaj traveled to Parraxtut on the morning of March 27 and called a village meeting. The military men told the villagers that both the adjunct ombudsman (a government official) and CERJ director Amílcar Méndez Urizar were guerrillas, and should be treated as such. They ordered those present to gird themselves with sticks, machetes, guns and rocks to use against the expected visitors. Upon the arrival of CERJ director Méndez, the displaced

⁶⁵ Then-Defense Minister General Héctor Alejandro Gramajo stated in an interview with Americas Watch that the accused were civil patrollers, not military commissioners. Parraxtut residents identified them as military commissioners.

villagers, adjunct ombudsman Alvarez Guadamuz and others from his office, they were denounced as communists, threatened and attacked. Méndez and the families were fired on as they fled. Alvarez Guadamuz and his party were held captive and threatened for about an hour; one villager struck Alvarez Guadamuz in the back and hand with a stick. After Alvarez Guadamuz and his party were allowed to leave, the military officers, military commissioners and patrol chief called another town meeting to congratulate the crowd for its bravery and for having almost "broken" the adjunct ombudsman, according to villagers.

The ombudsman's office quickly issued a public reproach of the military and patrollers for the attack. A somewhat chastened military then acceded to the ombudsman's request to provide an escort for a second attempt to return the displaced villagers to Parraxtut on April 18, which took place this time without incident. This unusual example of the military having bowed to civilian authority was repeated on several later occasions in 1990 in which the ombudsman's office persuaded the army to escort officials of the ombudsman's office and CERJ to villages where CERJ members had been killed or threatened and to oblige patrollers to listen to talks about human rights.

The ombudsman's office is to be commended for doing what other civilian officials have failed even to attempt: trying to prevail upon the military to respect human rights. Unfortunately, the limits of these efforts are painfully evident in the spate of killings and disappearances of human rights monitors which continued throughout 1990. Between April and November, five more CERJ members were murdered and another disappeared, all under circumstances suggesting that the security forces or their agents carried out the crime.⁶⁶ In addition, Luis Miguel Solís Pajarito, the leader of the National Council for the Displaced (CONDEG), a group formed in 1989 to defend the rights of Guatemala's displaced population, disappeared on May 3, 1990, without any witnesses; he had foiled an apparent abduction attempt days earlier and subsequently had been followed. On September 11, two men stabbed to death Myrna Mack, an

⁶⁶ One of those killed, Sebastián Velásquez Mejía, was also a member of GAM. The other victims were Samuel de la Cruz Gómez (disappeared) and José Vicente García, José María Ixcaya, Pedro Tiu Cac and Mateo Sarat Ixcay (killed). Pedro Tiu Cac's son, José Pedro Tiu Chivalán, was also abducted and murdered. *See* Human Rights Watch, *The Persecution of Human Rights Monitors*, December 1990; and News from Americas Watch, "Guatemala: Rights Abuses Escalate...", pp. 5-9, 20-21.

anthropologist, a founding member of the Guatemalan Association for the Advancement of Social Sciences (AVANCSO) and a consultant for the Inter-American Institute of Human Rights, as she was leaving the AVANCSO office in Guatemala City. Mack was Guatemala's foremost researcher on the condition of the internally displaced population in the departments of El Quiché and Alta Verapaz, and a tireless advocate of the rights of this marginalized population. On December 10, International Human Rights Day, GAM member Diego Ic Suy of Chumimá was shot dead by masked gunmen in Guatemala City. In none of these cases have the responsible parties been brought to justice.

Also unsolved are a string of killings of at least ten politicians from several different political parties. Many belonged to the right-wing Union of the National Center (UCN), whose presidential candidate, Jorge Carpio Nicolle, won the most votes in the November 11 balloting. Other victims came from the ruling Christian Democratic Party, the Social Democratic Party, and the extreme right-wing National Liberation Movement (MLN).

In only one case – the October 15 murder of leftist politician and journalist Humberto González Gamarra – have the police apparently developed any leads, and these leads raise as many questions as they solve. González Gamarra, leader of the newly formed Revolutionary Democratic Union (URD), was shot dead by armed men on a motorcycle on October 15. Two days later, two young men riding a motorcycle, Nery Pineda Mancio, 17, and Guillermo Benavides, 22, were themselves shot dead by right-wing MLN activists Carlos Humberto Muady and Fernando Sandoval Madrazo (the son of MLN leader Mario Sandoval Alarcón). On October 19, National Police Director Col. Julio Caballeros announced that one of the youths on the motorcycle, Pineda Mancio, was at the time of his death carrying the same gun used to kill González Gamarra. The MLN activists claimed that they had acted in self-defense. However, witnesses interviewed by the Archbishop of Guatemala's Human Rights Office insisted that the slain youths on the motorcycle had not been armed and did nothing to provoke their shooting by the MLN activists.⁶⁷

Beatings, torture, killings and disappearances of street children by the

⁶⁷ Human Rights Office of the Archbishopric of Guatemala, "Political Violence During the Election Campaign," November 5, 1990, pp. 5-6.

police in Guatemala City increasingly came to light in 1990.⁶⁸ Toward the end of the year, witnesses to these crimes and children's advocates had become the targets of abuse. Covenant House, a US-based child advocacy agency which operates several shelters for street children in Guatemala, made an aggressive effort to seek legal redress for violent abuses against children. By the end of 1990, Covenant House had initiated legal proceedings against 35 National Police agents, three Treasury Policemen, one military police agent, five members of private security agencies, nine civilians and nine others whose status was unclear. Six National Policemen and one civilian were in jail in connection with these cases, but none had yet been convicted or sentenced.

Meanwhile, the army continued to forcibly relocate civilians from guerrilla-held areas in the northern province of Quiché. Although the number of civilians being relocated was much lower than during 1987 and 1988, Americas Watch continued to receive reports of civilians being detained in the Ixil triangle in Quiché province, subjected to weeks or months of interrogation and indoctrination, and eventually transferred to what were euphemistically called "model villages" – hamlets built and controlled by the army where the displaced lived under constant surveillance.

During the course of the relocation of 86 people who the army detained in the Santa Clara area of northern Quiché on or around August 29, María Tiu Tojín and her infant daughter disappeared. According to a witness, the captured peasants were kept in the army base in Amachel for eight or nine days of interrogation and then transferred to the army base in Nebaj. Reportedly believing Tiu Tojín to be a combatant, the soldiers repeatedly separated her from the rest of the group for more intensive interrogation during their confinement in Amachel. Soon after their arrival at the base in Nebaj, the witness said, soldiers took away Tiu Tojín, who was crying, and her infant and never brought them back. When a relative sought information about Tiu Tojín and her daughter at the army base in Nebaj several weeks later, she was told that they were not there. Despite the filing of two habeas corpus petitions, María Tiu and her daughter remained missing.

The systematic abuses carried out by government forces and their agents in Guatemala continued unchecked because the police and courts have all but uniformly failed to investigate and prosecute those responsible. The killers

⁶⁸ See News From Americas Watch, "Guatemala: Rights Abuses Escalate...", pp. 12-16.

enjoyed near-complete impunity. In the early years of the Cerezo administration, government officials talked about prosecuting agents of the security forces for human rights abuses, and prosecutions were undertaken in two cases. However, the only case to produce a conviction, the October 1987 murder of students Danilo Sergio Alvarado Mejía and René Haroldo Leiva Cayax, was overturned by an appeals court in July 1990.⁶⁹ The five police agents and their chief, who had been given 30-year sentences for the double assassination, were released, prompting concerns about the safety of the victims' families, who had actively pressed the case against the police. The fears proved well founded when on November 28, unidentified armed men dragged from his home the brother of one of the victims, Urbino Efraín Alvarado Mejía, tied him to a tree, shot and killed him.

Americas Watch also learned of abuses committed by guerrillas, including abuses against civilians living in areas under guerrilla control. A man who had lived in a guerrilla area until forcibly relocated by the army in December 1989 reported to Americas Watch in 1990 that the guerrillas threatened to kill any civilian who tried to leave his or her community. (Americas Watch interviewed the man in a camp for the displaced that was nominally under the control of civilian authorities.) He said that in or around August 1989, the rebels killed two young men who had snuck out of the community and later tried to return for their families. In addition, on November 13, 1990, according to the Human Rights Office of the Archbishopric of Guatemala, a guerrilla shot dead 14-year-old Víctor de Jesús Sánchez Hernández in the village of Los Trojes, three kilometers from Amatitlán in the department of Guatemala. The boy was said to have been fleeing from the rebels when he was shot in the back and left leg. The kidnapping and murder of two farmers from Santa María de Jesús, Sacatepéquez, also in November, was attributed to the guerrillas by some sources, although an on-site investigation by the Archbishop's Human Rights Office was unable to determine responsibility for the incident.

US Policy

⁶⁹ News from Americas Watch, "Guatemala: Sole Conviction in Human Rights Case Overturned," August 1990.

US human rights policy toward Guatemala improved greatly in 1990. The US administration was far more willing than it had been for most of a decade to publicly criticize Guatemala's horrendous human rights record, and at year's end, it announced a suspension of all military aid to the abusive Guatemalan army. But there was still further progress to be made in US policy: tough condemnations of abuses were often watered down by a failure to hold the government and security forces directly accountable; the cutoff of aid was triggered primarily by an atypical killing of a US citizen; and the announcement on military aid left intact far more extensive budgetary support which had the effect of funding the military. Nonetheless, the US actions received wide coverage in the Guatemalan press and raised the profile of human rights concerns in Guatemala, an important accomplishment in a country where the military considers the notion of human rights to be a communist invention.

The State Department's *Country Reports on Human Rights Practices for 1989*, published in February 1990, was in comparison with previous years a scathing denunciation of official practices. In a February 27 speech to the Rotary Club in Guatemala City, new US Ambassador Thomas Stroock followed up on this criticism by warning:

The inability of the government as regards the protection of its citizens and the arrest and punishment of the violators of human rights constitutes a factor that, were it to continue, would inevitably damage relations between our countries.

President Cerezo issued a combative response, accusing the ambassador of meddling in Guatemala's internal affairs and suggesting that his warning did not reflect US policy. The State Department swiftly backed up Ambassador Stroock, announcing on March 5 that Secretary of State James Baker had recalled Stroock to Washington for consultations about Guatemala's human rights situation and insisting that his statements to the Rotary Club "fully reflect US policy concerns." State Department spokeswoman Margaret Tutwiler issued one of the strongest critiques of Guatemalan human rights practices in a decade, recalling the best known incidents of political violence of the previous months and adding:

Although the United States government has pressed for the investigation of incidents such as those previously noted and has provided substantial assistance to increase the investigative capacity of the police and the judicial system, the

perpetrators have still not been subjected to the rule of law.

The statement was weakened, however, by its assignment of responsibility for the violence to "extremists who seek to undermine the democratically elected civilian government," while ignoring the military's central responsibility for the repression and the civilian government's own role as an apologist for the military.

Following his recall, Ambassador Stroock returned to Guatemala and "delivered a message of concern" to President Cerezo, according to the State Department.⁷⁰ On that and later occasions, Ambassador Stroock pressed Guatemalan authorities on a series of cases, including violations against street children and human rights activists. He was also very accessible to international human rights groups such as Americas Watch.

The June 1990 murder of US citizen Michael Devine near Poptún, in the remote Petén department, prompted further pressure from the US Embassy. The *New York Times* reported that the Bush administration threatened to cut US military aid if the murder was not fully investigated and the suspects prosecuted.⁷¹ Ironically, in light of later events, the State Department publicly denied having made such a threat.⁷² Whether or not an aid cut was specifically discussed, pressure from the US embassy led President Cerezo to acknowledge security force responsibility in the crime and produced the later arrest of several soldiers from the Poptún military base. The commander of the base, however, was transferred without even being questioned by the authorities.

On December 21, the State Department lost patience with the lack of progress in the Devine murder case and announced a suspension of the \$2.8 million in military aid destined for Guatemala in fiscal year 1991 as well as of a substantial amount in the pipeline from previous allocations. The suspension included licenses for commercial arms sales but did not include military and police training or anti-narcotics programs.⁷³

⁷⁰ State Department Regular Briefing, April 13, 1990.

⁷¹ Clifford Krauss, "Guatemala is Told to Solve Slaying," *New York Times*, September 20, 1990.

⁷² State Department Regular Briefing, September 20, 1990.

⁷³ The \$2.8 million in so-called nonlethal military aid for fiscal year 1991 represented a cap

The announcement, which also made reference to the massacre at Santiago Atitlán and the Guatemalan government's failure to investigate and prosecute human rights abuses, read as follows:

The United States wishes to express its deep disappointment with the lack of commitment of the government of Guatemala to protect human rights. The recent shooting of civilians in Atitlán is a vivid illustration of the violence which continues to plague the country. While recognizing that the government does not pursue a policy of abusing human rights, we note that it rarely takes action to thoroughly investigate and prosecute those who do.

For the past six months, we have met regularly with President Cerezo and Minister of Defense Bolaños to request the immediate detention and prosecution of those who killed US citizen Michael Devine on June 8, 1990.

While some action was taken initially to detain six suspects, including five military men, unfortunately the case has neither been resolved nor moved ahead.

Given these developments, regrettably, we have concluded that it would not be appropriate to continue a normal military assistance relationship with the government of Guatemala at this time. We will therefore immediately stop deliveries of military assistance.

It is our firm hope that the new Guatemalan administration will, as soon as possible, take the necessary steps to resolve the Devine case and demonstrate its commitment to the rule of law

imposed by the US Congress out of displeasure with Guatemala's human rights record. The Bush administration had requested \$5 million. In addition, Congress required that all aid to Guatemala be placed on reprogramming procedures, meaning that congressional appropriations committees must be notified 15 working days in advance of the provision of funds, and allowing the committees to place a hold on the aid.

and human rights so that we may resume normal military relations.

The administration did not make clear what the new government, to be inaugurated on January 13, 1991, would need to do to have the aid restored.

This important action brought the administration into partial compliance with Section 502B of the Foreign Assistance Act of 1961, which requires that military aid be denied to countries whose governments are engaged in a consistent pattern of gross violations of human rights. Although the civilian administration in Guatemala may not be directly ordering such abuses, government forces at its disposal, through repeated acts of murder, disappearance and torture, are engaged in a consistent pattern of gross human rights violations.

The administration's announcement also brought it into compliance with a separate provision of Section 502B requiring an end to licenses for commercial arms sales to such gross and consistent rights abusers. In late 1988 and early 1989, the United States had allowed the commercial sale of \$13.8 million worth of M-16 rifles to the Guatemalan army. This sale angered US lawmakers, since the State Department had approved the sale without consulting Congress, as it is required to do for sales worth more than \$14 million. This represented the first significant sale of lethal equipment to the Guatemalan army since the late 1970s. It is now believed that weapons from this sale were used by the soldiers responsible for the massacre of civilians at Santiago Atitlán in December 1990; before the M-16 sale, which provided new rifles for about half the army, soldiers only used Galil rifles. The Guatemalan government has not requested further arms sales.

The administration's actions did not bring it into compliance with the provision of Section 502B that applies the same standard on consistent gross abuse to the granting of Economic Support Funds. These funds, which are given in the form of budgetary assistance rather than being sent directly to the army, nonetheless have the effect of freeing other government funds which in turn can be given to the army. For this reason, Section 502B treats Economic Support Funds as "security assistance" which must be denied to governments engaged in a consistent pattern of gross violations of human rights. In the case of Guatemala, Economic Support Funds have not been restricted, and they constitute a far more significant source of security assistance to Guatemala than formal military aid.

The administration requested \$60 million in Economic Support Funds for Guatemala in fiscal year 1991, up from an estimated \$56 million provided in fiscal year 1990. However, Guatemala is unlikely to receive that entire amount because of limitations on the amount of Economic Support Funds available to all countries.

In addition, Americas Watch is disturbed by reports prior to the cutoff of military aid that the US embassy was cementing ties with the army – particularly with military intelligence (G-2) – to enlist its help in combatting narcotics trafficking. The G-2 is widely considered the brain center of repression in Guatemala. A US drug expert quoted by the *Los Angeles Times* in May said US officials "don't ask" about G-2 involvement in killings and disappearances because the unit does "good work" on narcotics matters.⁷⁴ Meanwhile, the United States continued in 1990 to engage in symbolic displays of cooperation with the Guatemalan military such as sending US National Guard units for civic action exercises with Guatemalan troops. These actions, which inevitably demonstrate US support for a military establishment engaged in horrendous crimes, were not stopped as part of December's military-aid suspension.

The US Department of Justice continues to provide training and equipment for criminal investigations to the Guatemalan police, despite strong evidence implicating the police in grave abuses, including the torture and murder of street children in a series of episodes in 1990 and the kidnapping and torture of an American nun in November 1989. At the same time, whether through willful obstruction or sheer incompetence, the police continue to bungle criminal investigations in human rights cases despite five years of US assistance. This program should be terminated until the police demonstrate the political will to use US training to conduct serious investigations into crimes, including those committed by members of the security forces, and until they end gross abuses or human rights by their own ranks.

The Work of Americas Watch

Americas Watch in 1990 sought to encourage the Bush administration's

⁷⁴ Kenneth Freed, "U.S. Is Taking a New Tack in Guatemala," *Los Angeles Times* May 7, 1990.

new-found outspokenness on human rights in Guatemala and pressed for an end to military and security assistance and commercial arms sales to Guatemala. The call for a cutoff in Economic Support Funds represented a strengthening of Americas Watch's position on Guatemala since it was the first time since the Cerezo administration came into office that Americas Watch had explicitly raised the issue. In addition, in accordance with US law, Americas Watch pressed for an end to development aid unless it meets the basic human needs of the population. In July, Americas Watch testified at the first congressional hearings on Guatemala since the advent of civilian government in 1986.

Despite progress in US policy toward Guatemala, the ultimate goal of bringing about an improvement in human rights practices in Guatemala continued to prove elusive. Nevertheless, a combination of circumstances enabled Americas Watch to shine a spotlight on Guatemalan abuses with greater intensity than in the recent past. The timing of the release in early March of a comprehensive Americas Watch report, *Messengers of Death: Human Rights in Guatemala, November 1988 - February 1990*,⁷⁵ just as the Bush administration was recalling its ambassador, helped attract extensive press attention to the violations described. Americas Watch also issued a public letter to Secretary Baker commending him for his support of Ambassador Stroock. The letter prompted articles in the *Washington Post* and the *Miami Herald*, and *Messengers of Death* was the subject of stories by the *New York Times*, the *Philadelphia Inquirer*, the *Economist*, Cox News Service, and the Guatemalan press. Americas Watch was also interviewed by National Public Radio about the report. The report was based on several investigative missions to Guatemala since April 1989.

The murder of CERJ member María Mejía and the later attack on the delegation of CERJ members and officials from the Human Rights Ombudsman's office in Parraxtut prompted Americas Watch to send a researcher to investigate and show support for domestic monitors. The results of the mission were

⁷⁵ The title for the report was drawn from a statement by Guatemalan Gen. Juan José Marroquín Siliézar to graduating troops whom, he boasted, would henceforth be known as "Masters of War and Messengers of Death." The report was dedicated to the memory of José Rolando Pantaleón, a unionist and actor who was killed for making fun of the army in July 1989. An Americas Watch delegation met with Pantaleón and his brother in April 1989 to hear about military persecution of the theatre group of the Coca Cola workers' union, and saw an inspiring and brave performance of the troupe's anti-military satire.

published in May in a 14-page newsletter entitled "Guatemala: Army Campaign Against Rights Activists Intensifies." In addition, Americas Watch helped to file a complaint against the government of Guatemala based on Maria Mejía's murder with the Inter-American Commission for Human Rights of the Organization of American States. Further slayings of CERJ activists were the subject of an op-ed article published by Americas Watch in the *Christian Science Monitor*.

The reversal of the one conviction against a security force officer for political killings was the subject of a newsletter issued in August, and an op-ed article published by Americas Watch in the New York daily *El Diario/La Prensa* in December. Additional fact-finding missions by Americas Watch researchers also produced material for another newsletter published on the eve of Guatemala's November 11 general elections. The newsletter discussed the worsening human rights situation in the months prior to the elections.

Much attention over the year was focused on the ferocious persecution of human rights monitors, particularly of CERJ. Americas Watch and its allies in the Congressional Friends of Human Rights Monitors wrote numerous appeals to the Guatemalan government calling for investigations and prosecutions of those responsible as well as protection for the work of human rights activists. In addition, Americas Watch nominated CERJ for the Robert F. Kennedy Memorial Human Rights Award. CERJ director Amílcar Méndez was awarded the prize in November, and shared the Carter-Menil Human Rights Award with a Sri Lankan group in December. Human Rights Watch also honored Manuel Mejía Tol, deputy director of CERJ, at its annual event for human rights monitors in December.

In addition, Americas Watch filed a petition with US Trade Representative Carla Hills requesting a review of Guatemala's trade benefits under the Generalized System of Preferences because of worker rights violations. The petition was denied, on the grounds of inadequate evidence indicating that unionists had been killed because of their union activity. Americas Watch also reported numerous cases of disappearances to the United Nations Working Group on Enforced and Involuntary Disappearances. In addition, Americas Watch representatives met with Christien Tomuschat, the new United Nations expert on Guatemala, to brief him before his first trip to Guatemala in August.

In December, Americas Watch conducted an investigative mission to Guatemala with Physicians for Human Rights to study the medico-legal system and its handling of human rights violations. The mission will produce a report and

one or more articles in early 1991.

GUYANA

Human Rights Developments

In 1990, the movement for human rights in Guyana was focused on ensuring that the upcoming Guyanese election would be the first free and fair election since independence in 1966. In those 24 years, massive electoral fraud has ensured the political dominance of the governing People's National Congress (PNC), headed initially by President Forbes Burnham and, since 1985, by President Hugh Desmond Hoyte.

Under the Guyanese Constitution, elections for the National Assembly -- the President is the leader of the party with the most seats in the National Assembly -- must be held no later than March 1991. Throughout 1990, pressure built within Guyana for basic electoral reforms, including a total revision of the voter list and the institution of a preliminary count of ballots at polling places to prevent the fraud that had characterized past elections.

The opposition political parties, acting together as the Patriotic Coalition for Democracy (PCD), and a newly formed independent civic movement, Guyanese Action for Reform and Democracy (GUARD), applied steady pressure for electoral reform during 1990. GUARD was particularly active, holding well attended rallies throughout the country. Americas Watch contributed to the pressure for electoral reform with a report calling for a number of specific reforms, including a preliminary ballot count at polling places, the presence of significant numbers of international observers, free access to polling places by the press, guarantees of free speech and association during the campaign, greater openness in the administration of registration and voting procedures as well as acceptance of technical assistance, plus longer term changes, including the reorganization of the Elections Commission and the generation of a clean and honest voter list.

The campaign for electoral reform reached a watershed during a visit in mid-October by former US President Jimmy Carter. President Carter had come to Guyana to survey electoral conditions, with the aim of determining how he should respond to President Hoyte's invitation that the Carter Center, on behalf of the Council of Freely Elected Heads of Government, send a delegation of observers to

the 1991 election. Americas Watch had given President Carter an advance copy of its report in the days before his visit.

Coincidentally, the Government had issued its new voter list shortly before President Carter's visit. Consonant with an Americas Watch recommendation, and unlike past practice, the list had been made available to all political parties as well as to independent groups such as GUARD. It immediately became apparent that the list was so full of mistakes, omissions and patently obvious administrative blunders that no one could plausibly say that it would serve as the basis for a fair election. Indeed, even the ruling party issued a statement condemning the list and calling for its withdrawal.

President Carter arrived on the day that President Hoyte announced the withdrawal of the voter list and plans to redo it, including by commissioning a new house-to-house census. Thereafter, in private discussions with President Hoyte, President Carter said that he would not be willing to agree to lead an observer delegation unless he was persuaded that the election would be held under circumstances that would make it free, open and honest.

At the conclusion of their discussions, Presidents Carter and Hoyte jointly announced the institution of the most fundamental change urged by Americas Watch and others. For the first time in decades, Guyanese ballots would be counted preliminarily at polling places, thereby removing the greatest vehicle of recent electoral fraud. They also confirmed President Hoyte's previous announcement that a completely new voter list would be developed and shared with all parties. Under these circumstances, President Carter agreed to lead a team of observers to the election.

While these developments were obviously heartening, many obstacles and uncertainties remained, warranting continued vigilance. First and foremost, on the pretext of needing more time to reconstitute the voter list, President Hoyte stated that the election would have to be postponed beyond the constitutional limit of March 1991. President Carter discussed a date in May, but it appeared that President Hoyte was pressing for an even later date, perhaps toward the end of the summer of 1991.

Second, the Guyanese Elections Commission resisted international offers of technical assistance designed to promote fair balloting. A team from the International Foundation for Electoral Systems ("IFES"), which the US government

had requested to prepare a report on how to employ authorized in-kind electoral aid to Guyana, visited the country at approximately the same time as President Carter. The team recommended assistance in a number of concrete and critical areas, ranging from Polaroid film for registration-card cameras, to photocopying machines to make copies available of the election laws, to new and more secure metal ballot boxes. IFES reported that the initial reaction of the Elections Commission to certain of the recommendations, such as providing the more reliable ballot boxes, was negative, and that the recommendation that Guyana employ a IFES "facilitator" to bolster the "thinly staffed" Guyanese electoral machinery was rejected out of hand. Given the numerous administrative problems that have facilitated fraud in past Guyanese elections, the government's rejection of offers of neutral technical assistance and support was troubling, eroding confidence that its promises of free and fair elections would be translated into performance.

Third, President Carter neither sought nor received any assurance that a substantial international observer presence would be permitted at the election. Of course, as the leader of one of the two international delegations that had been officially invited – the other was the Commonwealth Secretariat – President Carter was not in the best position to confront the government on that issue. Nevertheless, the problem remained. Past elections were marked by substantial irregularities at many of the more than 800 polling places. A substantial and informed international observer presence would go a long way toward bolstering domestic monitoring efforts to ensure that such irregularities would not be repeated. IFES specifically recommended the presence of international observers, stating that they must be trained, that the delegation must be "reasonably sized, bipartisan and 'biphilosophical,'" and that their activities should be coordinated with other observers. Americas Watch would add that there should not be any limit placed on the number of international or domestic observers, and that all who are able, qualified and willing to observe should be permitted to do so.

US Policy

Throughout 1990, the Bush administration worked to persuade the government of Guyana to hold a free and fair election. Deputy Assistant Secretary of State for Inter-American Affairs Sally Groomes-Cowal visited Guyana in early June. In her closing press conference, she stated that US policy was "pro-

democracy and free and fair elections," adding that the US looked forward to "the elections being a reaffirmation of the democratic process." She also said that the US government would encourage Guyana to adhere to principles of free and fair elections and pointed out to the press that American investors do use the electoral process and results as a guide to safe investment. President Bush also issued a statement in March, on Guyana's national day, expressing the hope that the impending elections would "reflect the democratic values shared by both our peoples."

Later that same month, the US embassy in Georgetown sponsored a lecture series by Juan Andrade, executive director of the Midwest/Northeast Voter Registration Education Project in Chicago. Andrade bluntly addressed the Guyanese government's attempted justifications for its fraud-prone electoral system, stating, for example, that anyone who contends that it is not possible to count votes at the polling places is "lying through [his] teeth." His frank comments were widely reported and predictably condemned by the ruling party, but they served as a rallying point for those advocating electoral reform.

Guyana was without a US ambassador following the departure of Theresa Tull in July; objections by Senator Jesse Helms have held up the Senate Foreign Relations Committee's approval of the nominee, George Jones, a strong proponent of electoral reform in Guyana. In the meantime, the administration offered technical assistance to the Guyanese Elections Commission. At the end of the summer, the State Department urged Congress to authorize specific electoral assistance to Guyana as well as limited economic aid, which the State Department said it wanted to use to encourage the Guyanese government to hold free and fair elections. Congress declined to go along with the request, authorizing only in-kind electoral assistance and withholding further economic assistance until free and fair elections are held.

The Work of Americas Watch

Americas Watch undertook an investigative mission to Guyana at the end of July. The trip was the first by an independent, international human rights organization since 1980 to evaluate the openness and fairness of the Guyanese electoral process from inside Guyana. The Americas Watch representative met with government and Elections Commission officials, as well as with electoral-

reform activists and members of opposition political parties, labor unions, religious organizations, the legal community, the government, the independent press and the Guyana Human Rights Association.

In October, Americas Watch published a report, *Electoral Conditions in Guyana* which described in detail the massive fraud that had characterized Guyanese elections since independence in 1966. The report was given to President Carter in advance of his visit to Guyana and helped to secure promised reforms from President Hoyte.

HAITI

Human Rights Developments

Five governments and nearly five years after the fall of the Duvalier dictatorship in February 1986, Haiti's army finally permitted the citizens of Haiti to vote in a free and fair election. On December 16, 1990, the Rev. Jean-Bertrand Aristide, a fiery orator and committed advocate for Haiti's many poor and downtrodden, was elected president by an overwhelming margin after a last-minute entrance into the race. With Aristide's long history as an outspoken opponent of dictatorial rule and his vast popular support, the anticipated inauguration of his government – on February 7, 1991, the fifth anniversary of dictator Jean-Claude Duvalier's flight from the country – gave rise to cautious optimism that the new government might succeed in asserting civilian authority over an army that has shown little inclination to abide by the rule of law.

The enthusiasm with which many Haitians embraced the long-awaited opportunity to exercise their franchise tended to obscure the long and difficult path that they had followed to arrive at the December polling. The year began on a far less optimistic note, with the military government of Lt. Gen. Prosper Avril, having gained power in a September 1988 coup from still another military regime, increasingly distancing itself from its promises to hold elections and, on January 20, 1990, declaring a state of siege.

The prelude to the state of siege could be found in a trip by Gen. Avril to Taiwan – the farthest any sitting Haitian President had ever traveled – in desperate search of economic aid that most nations were withholding pending the inauguration of an elected civilian government. Rumors circulated that Avril hoped to sign an agreement to secure aid worth tens of millions of dollars from the Taiwanese – a windfall which would have dramatically eased the pressure on the cash-starved army to democratize.

On January 9, however, three leading members of a pro-democracy group sent a telegram to the Taiwanese President asserting that the Haitian people had not authorized Avril's trip and would not be bound by any accord he reached. The

Taiwanese press gave the telegram prominent coverage, and an embarrassed and bitter Avril returned empty-handed.

That the army would not take this humiliation lightly was signaled even before Avril's return to Port-au-Prince. Three trade unions and two political parties, all active in the movement for democratic reform, found mounds of excrement dumped on their office doorsteps and smeared on their walls. In an airport speech upon his return to Haiti on January 15, Avril assailed those behind the telegram: "I denounce to the nation the authors of this unpatriotic and vile act....Let us banish from our social tissue those foreign bodies who sow hate and division, those secular enemies of the true people of Haiti."

The first blow issuing from this call to arms struck a popular radio humorist who, in a broadcast on the evening of January 16, rated the Taiwan visit "two to three on a ten-point scale." He was murdered the same night by three armed plainclothesmen waiting for him to return home.

The second blow came on January 20, with Avril's declaration of the state of siege. Troops from the Presidential Guard arrested, and viciously beat, a broad range of civilian leaders of the pro-democracy movement, including presidential candidates and the heads of several political parties. Six opposition leaders were sent into exile, in a revival of a tactic used by the Duvalier dictatorship but outlawed by the popularly enacted Constitution of March 1987. Two days later, on January 22, the government imposed near-total censorship on Haiti's all-important radio stations, the main source of news in a largely illiterate country.

Under international pressure, Gen. Avril lifted the state of siege and press censorship on January 30, and released those who had been detained by February 7. However, the brutality of the military's actions had erased any hope that Avril would reveal himself to be a hidden democrat. With his legitimacy destroyed and popular anger visibly mounting, Gen. Avril finally bowed to a combination of international and domestic pressure and stepped down on March 10.

What emerged in his place was Haiti's first civilian government able plausibly to claim that it represented a broad segment of society. An extraordinary conference of popular leaders selected Ertha Pascal-Trouillot, a Supreme Court Justice with no prior political experience and no apparent political aspirations, to serve as President of an interim civilian government charged with organizing elections. She was inaugurated on March 13. To minimize the possibility that the

new President would become unresponsive to the popular will, a 19-member Council of State, representing various social sectors and geographic areas of Haiti, was also established to consult with the President and oversee government policies. A Cabinet was formed which included several members known for their strong support of human rights, including Joseph Maxi, founder and president of the Haitian League for Human Rights, as Interior Minister, and Pierre Labissière, a highly respected former election official, as Justice Minister. Lt. Gen. Hérard Abraham, an urbane man who had served as Foreign Minister in 1988 under the government of Lt. Gen. Henri Namphy and acting commander-in-chief of the army under Gen. Avril, assumed the head of the army and vowed to support the electoral process.

The transition did little at the outset to stop army abuses, particularly in the course of violent disputes in the countryside, where some 80 percent of Haitians live. For example:

- o On March 13, as the new President was being sworn into office, a land dispute in Piate, in Haiti's central Artibonite Valley, led to violence. Two local army officials killed a Piate resident and in turn were killed by the victim's family. In retaliation, thirty soldiers from the garrison in the nearby coastal town of St. Marc proceeded to ravage Piate, killing eight peasants, burning down over 300 homes, destroying fields and killing livestock. Some 2,000 peasants were left homeless.**
- o Three days later, on March 16, peasants who burned down the home of an abusive local army official in Délatre, in a remote rural area in southern Haiti, were set upon by a 200-strong gang organized by the official and armed with pistols, machetes and picks. At least 11 and perhaps as many as 13 of the peasants were killed.**
- o On April 19, in the town of Cabaret, 25 miles north of Port-au-Prince, a protest over various economic issues was broken up by a local sergeant who began firing into the crowd. When he ran out of ammunition, the crowd set upon him and killed him. In retaliation, a contingent of soldiers arrested more than fifty, beat many of them, and burned down some 40 houses, most in the Guitton area of Cabaret.**
- o On May 31, at least seven were killed in Pérodin, again in the Artibonite Valley, when an abusive local army official who had been chased from**

the village, accompanied by some 28 others, returned to the village and began shooting indiscriminately. The villagers, in turn, killed the official.

In none of these cases were meaningful investigations begun, let alone prosecutions. The inaction led to increasing popular discontent with the Trouillot government, who many Haitians criticized for being too passive in the face of army violence. As the Council of State gave voice to these grievances, relations deteriorated between it and the President. Other Council complaints centered on the army's refusal to provide security for Council members, and the President's insistence on making key decisions without prior consultation, in violation of the agreement establishing the government. The dispute burst into the open on May 21 when the President unilaterally appointed a new Minister of Finance who had been linked to the corruption of the Duvalier dictatorship and maintained close ties to former officials of that regime. The appointment was ultimately withdrawn.

These tensions reached a crescendo in the aftermath of an armed attack on the Council of State. On June 21, during a meeting between the Council and members of several popular groups, two participants -- including a member of the Council of State -- were shot and killed by three gunmen, two in military uniform. President Trouillot's muted personal reaction to the killings, and the police's lackluster investigation, fueled popular disillusion with the Trouillot government.

The killings, and the impunity enjoyed by the murderers, bolstered reactionary forces intent on perpetuating the dictatorial order. The rejuvenation of these so-called Duvalierists was best symbolized by the July 7 return from exile of Roger Lafontant, the dean of the movement. Lafontant had been Jean-Claude Duvalier's Minister of Interior and Defense for more than two years, until he was forced to leave Haiti in October 1985 as the dictatorship was rocked by infighting in its final months. From 1979 to 1985, Lafontant was also believed to have headed the Tontons Macoutes, known officially as the Volunteers for National Security, the Duvaliers' notoriously brutal militia. In these and other posts, Lafontant had presided over, and at times participated in, numerous instances of arrest, torture and murder of dissident figures.

Returning from exile several days before Lafontant was former Maj. Gen. Williams Régala, the Minister of Interior and Defense from the fall of the Duvalier dictatorship in February 1986 to the overthrow of the Namphy government in September 1988. He helped to organize, among other things, the violent crushing of the November 1987 elections and the September 1988 attack on Father Aristide

at St. Jean Bosco Church in Port-au-Prince in which 12 parishioners were killed and over 70 wounded.

Lafontant's return, in particular, led many to fear that the Duvalierists were regrouping to destroy the electoral process. There were repeated calls for his arrest and prosecution for his numerous crimes of abuse -- calls taken up by Interior Minister Maxi, Justice Minister Labissière and Public Prosecutor (*Commissaire de Gouvernement*) Bayard Vincent, but effectively ignored by the police, who despite a constitutional provision placing them under the control of the civilian government, continued to function as a branch of the army. The police made a few token efforts to serve Lafontant with a judicial summons, but claimed to be unable to find him, despite his repeated appearances at well publicized Duvalierist events. Finally, the police simply abandoned the search as Lafontant's lawyers initiated a legal blitz in the courts.

This Duvalierist resurgence led many to doubt whether elections could be held without repeating the bloodbath that had concluded Haiti's last attempt at free and fair elections in 1987. Fueling these fears was persistent political violence by army personnel, largely in the countryside but at times in Port-au-Prince. Some demonstrations were violently broken up, and numerous political activists were arrested and frequently beaten. In Port-au-Prince, robberies and murders by small groups of armed men, often in uniform, added to the sense of insecurity. In only a handful of cases were those responsible for these abuses arrested, and none was prosecuted and convicted.

Many opponents of military rule, including Father Aristide, argued that Haitians would not risk their lives by venturing to the polls unless figures like Lafontant and Régala were brought to justice. Elections held in such circumstances, they argued, would fail to deliver the broad popular mandate that the victor would need to confront the military's reluctance to abide by civilian rule.

Despite these troubling events, there were certain more auspicious developments. At senior levels, including that of Gen. Abraham, the army continued to pledge its support for the electoral process. Unlike the hostility and lack of cooperation that marked relations between the army and the independent electoral council in 1987, the army under Abraham established a special force for electoral security and maintained a respectful working relationship with the electoral council.

Also unlike 1987, the government requested international election observers from the United Nations and the Organization of American States. Both institutions ultimately accepted the invitation. The UN team of observers included a contingent of military advisors, to help bolster security arrangements.

More than anything else, however, what galvanized popular support for the electoral process – at the same time as it compounded political tensions – was Father Aristide's surprise October announcement, just before the period for candidate registration elapsed, that he would run for president. The outspoken and highly popular priest immediately became the front runner in the contest. Voter registration surged, reportedly surpassing three million in a nation of six million.

Although 26 candidates had registered to run for president, the electoral council disqualified 15 of them on various technical grounds. These included: Roger Lafontant; Claude Raymond, a leading Duvalierist who is believed to have carried out the 1987 election-day massacre; and former President Leslie Manigat, the declared victor of the army-organized January 1988 elections who had been in exile since his overthrow in a June 1988 military coup and whose return to Haiti the Trouillot government had improperly prevented -- on the grounds that he had not renounced his claim to be Haiti's lawful President – until October 1990.

The disqualification of the leading Duvalierist candidates brought tensions to their peak. Without a stake in the polling, it was feared, the Duvalierists would unleash the same murderous forces that had destroyed the 1987 elections. Indeed, on December 5, unidentified perpetrators launched a grenade attack on an Aristide rally in Petionville, killing 8 and injuring more than 50. Whether such violence would be repeated on election day, most agreed, depended, as it did in 1987, on the willingness of the army to provide security.

Fortunately, the army behaved in exemplary fashion on the day of the balloting. In contrast to the explosions and regular bursts of machinegun fire that introduced election day in Port-au-Prince in November 1987, the 1990 elections passed without violent incident. Aristide emerged from the balloting with an overwhelming majority -- some 65 percent, according to unofficial tabulations. Marc Bazin, a former World Bank official who until Aristide's entry into the race had been widely considered the front runner, placed a distant second. Even before the victory was formally announced, the successful completion of the elections

and the widespread popular conviction that Aristide had won sent thousands of Haitians into the streets to celebrate. Again, the army responded with professional calm and discipline.

Much of the credit for the army's exemplary behavior lies with Gen. Abraham who, at least in the realm of security for the elections, kept his vow made at the Trouillot inauguration: "The army is at your command." But the successful completion of the elections remains only a first step on the road to democracy and respect for human rights in Haiti. The Duvalierist forces that openly threatened the elections remain intact, and there is every reason to expect that they will seize on the first opportunity to act on those threats -- particularly with their worst nightmares fulfilled in the form of an Aristide presidency. Continued vigilance will be necessary. [Indeed, on January 6-7, 1991, as this report was going to press, Roger Lafontant staged a coup, which after several hours was defeated by loyalist forces.]

A key element in the effort to assert civilian authority will be the need to establish accountability for army abuses. Much of the history of post-Duvalier Haiti can be written in terms of a list of unredressed massacres in which the army played a direct or supportive role: Jean Rabel in July 1987, election day of November 1987, St. Jean Bosco in September 1988, and so on. Father Aristide's oratory has shown him to be deeply committed to bringing gross human rights violators to justice. But his efforts to act on this commitment will face substantial obstacles in a weak and ineffectual judiciary, and an army that has been less than willing to accept orders from a civilian government on justice questions.

Father Aristide's overwhelming popular mandate, including evident support among significant elements of the army rank-and-file, may give him the authority to surmount these obstacles, but it will not be easy. Establishing the truth about such gross abuses and bringing the perpetrators to justice will be the ultimate test of whether the Aristide electoral victory marks the beginning of an era of the rule of law and respect for human rights, or simply a way station on the road to further violence and abuse for the Haitian people.

US Policy

US policy toward Haiti in 1990 could not have been more different than the disastrous policy that contributed to the bloody dashing of electoral hopes in 1987. Much of the credit belongs to US Ambassador Alvin Adams, with timely support from his superiors in Washington. The combined effort serves in most respects as a model for advocacy in support of elections and human rights.

Ambassador Adams assumed his post in November 1989 and immediately broke with his predecessor's discredited policy of quiet faith in the army to support the electoral process. A tireless and outspoken campaigner for free and fair elections, Adams made repeated and important contributions to the electoral process as Haiti maneuvered along the often treacherous path toward December 16. He became known to many Haitians by the sobriquet "*Bourik chajé*" – a reference to his airport speech upon first arriving in Haiti in which he invoked the Creole proverb, "*Bourik chajé pa kanpe*" a loaded donkey cannot stand still. Many took Adams's use of the proverb as an allusion to the Haitian people's pent up longing for elections, although Adams insisted that it referred only to his own personal desires in this regard.

Adams's first major challenge was Gen. Avril's declaration of a state of siege and his arrest, beating and expulsion of several leading politicians. The next day, January 21, 1990, Washington issued a strong denunciation of the move. The State Department "deplored" the arrests and

called on the government of Haiti to move quickly to rescind the extraordinary measures taken and to restore faith in the democratic process in accordance with the wishes of the Haitian people as expressed in their constitution. In addition to rescinding these measures, including allowing deported politicians to return immediately, nothing could restore confidence more quickly than a clear reaffirmation of the government's commitment to go forward with the elections and to guarantee their security.

On January 24, the State Department issued a statement protesting the January 22 restrictions imposed on the Haitian press, calling them "a blatant assault on basic civil liberties" and urging the Haitian government "to cease any actions which infringe upon freedom of speech and other basic rights." State Department spokeswoman Margaret Tutwiler called the expulsion of opposition leaders "indefensible" and the actions of the Haitian government "outrageous," adding: "Unless these and other opposition figures are allowed to participate

safely and fully in the electoral process, the elections will not be credible." She concluded, "You cannot destroy democracy in order to save it."

On January 26, the State Department announced that the lifting of the state of siege, which was then anticipated, would not suffice for putting Haiti on the path to free and fair elections. Spokeswoman Tutwiler said:

We would welcome such an action though it is only an initial step in undoing the damage that has already been done. Any announcement lifting the state of siege should be accompanied by action. Exiled political leaders should be permitted to return immediately. They and others should be permitted to freely participate in political activity. Restrictions on freedom of the press should be lifted immediately.

Moreover, in an important development -- unlike Bush administration policy in most other countries -- the State Department announced that "[t]hose responsible for the beatings of arrested opposition leaders, journalists, and human rights leaders should be punished." The State Department also went out of its way to include reference to the January events in its *Country Reports on Human Rights Practices in 1989*, issued in February 1990, even though the report ordinarily covers events only of the previous year. These strong and repeated expressions of public disapproval were clearly instrumental in securing a quick end to the state of siege and its attendant abuses.

Ambassador Adams, in particular, played a critical role in early March in persuading Gen. Avril to bow to the growing opposition, resign, and ultimately leave Haiti. Presidential candidate Marc Bazin, known to be close to the US embassy, told reporters that the embassy "played a role, a very positive role" in the events leading to Avril's resignation. Embassy officials denied taking direct part in negotiating Avril's departure, but acknowledged that Adams "had encouraged the opposition to unite in order to bring about democratic change in Haiti."⁷⁶ The *Washington Post* credited Adams with a more direct role, noting that "Avril decided to resign as president barely 48 hours after an extraordinary private meeting with the US ambassador." The account continued:

In an hour-long meeting Wednesday [March 7], Ambassador Alvin P.

⁷⁶ Don Bohning, "Protests force Haiti's ruler out," *Miami Herald*, March 11, 1990.

Adams told Avril that like Nixon, he had lost the confidence of key sectors of the country...In a highly personal conversation, Adams also spoke to the general about the capacity for overcoming loss. Adams mentioned the death of his 25-year-old son in the USS Iowa explosion last year and the evacuation of his wife, who is Vietnamese, from her native land. Two days later, Avril summoned Adams to his home and informed the ambassador he had decided to quit.⁷⁷

The Bush administration also offered strong political support to President Trouillot as a symbol of Haiti's electoral aspirations. In May, she became the first Haitian leader since Paul Magloire in the 1950s to be invited to the White House, where she met with President Bush, Secretary of State James Baker and other officials. Three months later, President Trouillot was visited by Vice President Dan Quayle, the highest-ranking US official to come to Haiti in 30 years.

In late March, only a few days after President Trouillot's inauguration, Sally Grooms Cowal, Deputy Assistant Secretary of State for Inter-American Affairs, visited Haiti and declared:

We are convinced that a freely elected government, chosen by the Haitian people through elections under international supervision, will provide the best means to reach the goals of respect for human rights and economic development long desired by the people of this country...We strongly hope that there will be rapid progress on the electoral timetable and electoral preparations, and we hope to help this process.⁷⁸

Ambassador Adams frequently reinforced this position, stating for example, that "It's the alpha and the omega of our policy in Haiti is to promote a normal electoral process. This is the essential goal of our efforts here."⁷⁹

Human rights abuses were also regularly and publicly denounced. For

⁷⁷ Lee Hockstader, "US Envoy Spoke With Avril of Nixon's Final Days Before Haitian Resigned," *Washington Post* March 12, 1990.

⁷⁸ *Le Nouvelliste*, March 27, 1990.

⁷⁹ Huguette Herard, "Adams Parle," *Le Matin*, April 17, 1990.

example, after a brutal attack on a group of nuns less than a week after President Trouillot took office, the US embassy issued a statement condemning "in the most energetic terms the act of barbarous violence committed during the past weekend against the Saint Rose of Lima School by unknown aggressors." The statement went on: "There is no place in the midst of the Haitian democratic process for the perpetration of such acts of violence...This incident draws attention to the perils that threaten the democratic process in Haiti, and underscores that it is important not to permit this process to be diverted by violent acts of this nature."⁸⁰

Following the June attack on the Council of State which left two dead, the embassy issued a statement deploring the murders, offering condolences to the families of the victims, and calling for prosecution of the killers. Reaffirming the need to bring gross abusers to justice, the statement said: "Once again, we urgently call on the competent authorities to apprehend those responsible for the criminal attack at the Hotel Santos, to bring them to trial and to take all necessary legal measures in order to protect the democratic electoral process that the country has launched."⁸¹ The same theme was sounded by Ambassador Adams in a July 4 speech: "When acts of violence are committed, the judicial authorities, together with the military authorities, must do everything, I repeat, everything, to the extent the law allows, to bring those responsible for such violence before the courts."⁸²

Ambassador Adams's efforts received an important boost from Vice President Quayle during his brief visit to Haiti on August 9. Reflecting administration concerns about the army's loyalty to President Trouillot and the electoral process, the Vice President, with extraordinary frankness, told a group of high-ranking officers assembled to meet him at the Presidential Palace: "My message is: no coups, no murders, no threats and instead, free and fair elections that will bring honor to the brave people of Haiti."⁸³

⁸⁰ "Les Etats-Unis condamnent la violence," *Le Nouvelliste*, March 20, 1990.

⁸¹ "L'ambassade des Etats-Unis deplore la mort de Mr Villard," *Le Matin*, June 27-28, 1990.

⁸² *Le Matin*.

⁸³ Philip Shenon, "Quayle Warns Haiti to Hold Fair Elections," *New York Times*, August 10, 1990.

There were two significant shortcomings in this catalogue of important contributions. First was the administration's reluctance to attribute responsibility for particular abuses to the army, despite ample evidence of military involvement in many of them. While it was obvious that general comments urging respect for the electoral process, such as those of Vice President Quayle, were directed at the army, the failure to speak publicly about military responsibility for specific abuses made it easier for the army to avoid prosecutions for particular offenses. Noting such responsibility in the future would go a long way toward fulfilling Ambassador Adams's expressed goal of seeing justice done in cases of gross abuse.

Second, just before the Quayle visit, the administration proposed to provide Haiti \$12 million in military aid -- the first request for military aid since the 1987 election-day massacre. Sources in Washington familiar with the administration's rationale described the aid request as a sort of carrot to accompany Quayle's big stick. But rather than revive such ill-concealed bribery -- a strategy that was tried and failed miserably in 1987 -- the administration should have made clear that the Haitian army would receive no aid so long as it continued to commit violent abuses and to tolerate them by others. The Senate Foreign Relations Committee blocked the aid proposal.

With tensions rising in Haiti at the surprise announcement of the Aristide candidacy, Ambassador Adams again was put to a critical test. To his credit, rather than articulate reservations about the radical priest's possible assumption of power, Adams announced that the United States "is ready to work with the future Haitian President, whoever he is, if he attains the presidency following free, credible and honest elections." Unfortunately, the significance of this statement was somewhat undercut by Adams's cautionary words that "Haitians have a historic and important choice to make" and his employment of another Creole proverb, "*aprè bal, tanbou lou*," after the ball the drums are heavy. Many understood the statement as a warning to Haitians to think through the consequences of an Aristide presidency, although Adams vehemently denies that that was his intention.

Whatever encouragement that reactionary forces might have garnered from Adams's statement was soon undercut by strong US declarations upholding the choice of the Haitian voters once it was apparent that they had opted for

Aristide. Immediately after the election results became clear, Ambassador Adams and Assistant Secretary of State for Inter-American Affairs Bernard Aronson, who was visiting Haiti as the head of an official US delegation to observe the elections, requested a meeting with Aristide to, as the *New York Times* put it, "signal to the army that Washington supported the electoral process even though Father Aristide won."⁸⁴ A senior State Department official was quoted as saying that "it was important to send a signal to the Duvalierists and the army that there was no wink and a nod" for them to undercut Aristide.⁸⁵ After the meeting, Assistant Secretary Aronson announced at a press conference that he had congratulated Father Aristide on his victory and told him that "the United States supports the democratic process in Haiti."⁸⁶ "We fully respect him as the apparent president-elect and look forward to working with him," Aronson added.⁸⁷

These important statements of support for Aristide were invaluable for discouraging right-wing forces from staging a coup out of the belief that they would be satisfying hidden US desires. [A similar firm stance, asserted during Roger Lafontant's short-lived coup attempt of January 6-7, 1991, played an important role in rallying the army to bring a quick end to the effort to prevent Father Aristide from assuming office.] It is to be hoped that the Bush administration will continue its strong support for the Aristide government once it begins the difficult process of bringing to justice those responsible for gross abuses of human rights.

⁸⁴ Clifford Krauss, "Haitian Victor Reported Ready to Soften Stands," *New York Times*, December 20, 1990.

⁸⁵ *Ibid.*

⁸⁶ Howard French, "Haitians Overwhelmingly Elect Populist Priest to the Presidency," *New York Times*, December 18, 1990.

⁸⁷ *Ibid.*

The Work of Americas Watch

As in the past, Americas Watch continued in 1990 to conduct all of its work on Haiti in conjunction with the New York-based National Coalition for Haitian Refugees (NCHR). In 1990, the two organizations co-published their tenth and eleventh reports on Haiti since 1983.

Americas Watch has taken the view, in accordance with US legislation, that the key to combatting antidemocratic tendencies within the Haitian army, and encouraging the military to play an active role in combatting irregular Duvalierist forces intent on sabotaging the electoral process, is to ensure that large influxes of international aid to the Haitian government await the inauguration of a freely elected civilian government. (Exempted from this ban is development aid sent through private voluntary organizations.) With this in mind, Americas Watch has attempted to document abuses by the Haitian army so that policy makers in the United States and elsewhere will be informed of the army's role in gross abuses.

On March 4, 1990, Caribbean Rights and the International Commission of Jurists joined Americas Watch and the NCHR in issuing *Reverting to Despotism*, based on six fact-finding missions to Haiti in 1989 and early 1990. The report documented abuses under the Avril government, including the brutal repression of grass-roots and democratic activists culminating in the January 1990 state of siege.

Americas Watch followed much the same strategy under the Trouillot government, with the aim of generating pressure on the army to provide security for the electoral process and to bring to justice those responsible for gross abuses. In early December, Americas Watch and the NCHR published *In the Army's Hands: Human Rights in Haiti on the Eve of the Elections*, based on three investigative missions to Haiti. The report documented the army's role in continuing political violence, and sought to encourage military support for the elections by making clear that it was fully within the army's power to prevent Duvalierist forces from repeating the electoral violence of 1987, if only it had the will to do so.

In 1991, Americas Watch intends to continue closely monitoring the human rights situation in Haiti, both to ensure that the army respects its vows to oversee the inauguration of President-elect Aristide, and to ensure that army

abuses do not continue. In addition, if Father Aristide successfully assumes the presidency on February 7, he has vowed to bring to justice those responsible for gross abuses of the recent past. Americas Watch will support him in this effort, but also seek to ensure that trials are held in accordance with international standards of due process.

HONDURAS

Human Rights Developments

Hopes that human rights conditions in Honduras might improve with the winding down of the contra war and the change of government in neighboring Nicaragua were dashed in 1990. Political killings of student, union and peasant leaders and torture of security-force detainees continued during the year, and the government did little to identify and prosecute those responsible. Meanwhile, the military flouted civilian authority by fiercely resisting suggestions that it trim its size and power. Former armed forces chief Gen. Arnulfo Cantarero gave an indication of how the military views such efforts in May, when he responded to proposals to end forced recruitment with the warning, "Don't provoke the tiger!"

The police and military also remained above the law for their abuse of human rights. Although Attorney General Leonardo Matute Murillo told Americas Watch in October that an undetermined number of members of the police have been dishonorably discharged for human rights violations, he gave no specifics, nor could he provide examples of any criminal convictions for such offenses.

A dramatic example of police resistance to prosecutions occurred on October 15, when three agents of the investigations police (DNI) physically assaulted a witness who had come to give testimony in a Tegucigalpa court about the kidnap and murder of Salomón Aguilera two weeks earlier. The DNI agents were jailed.

In another case, a judge in Comayaguela ordered the detention of a DNI agent for the March killing of Francisco Tercero González Quiñones. Although the judge repeated the order four times, the police failed to arrest the suspect.

Some of the incidents of political killings and torture that occurred in 1990 are described below:

- o On January 25, Reynaldo Zúñiga Cruz, a former leader of the Committee for the Defense of Human Rights in Honduras (CODEH) and an activist in the National Federation of Agricultural Workers (CNTC), a peasant organization engaged in efforts to secure land for peasants, was shot dead in San Pedro Sula. The day of his assassination, Zúñiga had visited

the National Agrarian Institute to discuss a land dispute. The judicial investigation into the murder appeared stalled.

- o On March 20, peasant activist Denis Hernán Rodríguez was captured by a man who identified himself as a DNI agent. The man drove Rodríguez away in a blue car with no license plates, saying that they were going to the Special Forces battalion. Both DNI and Special Forces later denied holding Rodríguez. His body was found the next afternoon, reportedly with machine-gun bullet wounds and handcuff marks.⁸⁸
- o On May 13, Lucas Aguilera Aguirre, secretary general of the National Peasants Union (UNC) in the department of Francisco Morazán, was detained and accused of involvement in the January 1988 murder of former armed forces chief Gustavo Álvarez Martínez. Aguilera Aguirre was transferred from the department of Olanchito to DNI headquarters in Tegucigalpa where he was tortured with a *capucha* (a rubber hood used for suffocation), bound hand and foot, beaten, and forced to sign something while blindfolded. Aguilera was released on May 15, after a police officer explained that the arrest had been a case of mistaken identity, and after his family signed a document stating that he had not been tortured.⁸⁹
- o Early in the morning of May 26, two students were attacked by plainclothesmen armed with pistols who emerged from a blue Datsun pickup truck in Comayagua and accused them of robbery. While pressing them to admit to the crime, the men beat and kicked the two students and then threw them in the back of the pickup, where they sat on them and placed pistols to their heads. After driving to another location, the men threw the students on the ground and beat them with their pistols, again demanding that they admit to having committed robbery. The men shot both boys, killing Walter David Cruz Torres. The other student, whose name Americas Watch has withheld for his protection, was hospitalized with gunshot wounds in his chest.

⁸⁸ Amnesty International Urgent Action 122/90, March 26, 1990.

⁸⁹ Testimony of Lucas Aguilera Aguirre, given on May 17, 1990, to CODEH.

- o **On May 31, upon leaving a union meeting in Tegucigalpa, Francisco Javier Bonilla was shot by an unknown gunman who also tried to shoot another union member, Consuelo Valladares, walking with Bonilla. Bonilla died on the way to the hospital. Both Bonilla and Valladares were leaders of the Union of Workers of the Honduran Social Security Institute (SITRAIHSS). The murder came at a time of labor conflict at the Social Security Institute.**

- o **A few hours after Bonilla's assassination, student leader Ramón Antonio Briceño was killed. His body reportedly had ten gunshot wounds and signs of torture.⁹⁰**

- o **On July 22, plainclothes police agents captured Luis Andrés Galea García in Tegucigalpa and, according to his testimony to Americas Watch, tortured him until he confessed to having killed Bonilla, a confession which he retracted in court on July 26. Also on July 22, DNI agents captured bricklayer Salvador Amada Zúñiga at his home in Tegucigalpa; Zúñiga also says he was tortured until he confessed to Bonilla's murder. He, too, retracted his confession in court. Both men told Americas Watch that they were forced to implicate two others in the killing -- Martín Pineda and Marco Tulio Mesilla. All four were arrested for the crime; Pineda was released. All denied any involvement in the murder.**

- o **In early September, police in Choluteca were looking for a man accused of killing his wife. Failing to find the suspect, the police arrested one of his brothers, José Victoriano Castillo, 35. DNI agents beat Castillo so severely in detention that he died in the *Hospital Escuela* in Tegucigalpa days after his release.**

- o **On October 16, twenty-four-year-old medical student Ramón Bartolo Espinol Amador was captured by DNI agents in Tegucigalpa. The police questioned him about robberies, drug trafficking, and subversive activities. They beat him and tortured him with the *capucha* and with electric shocks. Then they forced him to sign a confession that he had dealt drugs and warned him never to tell what they had done to him.**

⁹⁰ CODEH bulletin No. 64, May/June 1990, p. 7.

- o On the evening of October 5, Miguel García, like Reynaldo Zúñiga a CNTC leader, was shot in the back by a man in civilian clothes armed with a .38 caliber revolver in San Pedro Sula. An unknown man had visited García's home looking for him several weeks before the attack, and had been seen in the neighborhood where García lives in Progreso several more times. Thirteen CNTC members have been killed since 1985, García told Americas Watch, and none of the cases has been solved.

On August 17, the Inter-American Court of Human Rights of the Organization of American States (OAS) issued its latest in a series of decisions in which the government of Honduras was held responsible for the disappearance of a student, Manfredo Angel Velásquez, and a teacher, Saúl Godínez Cruz, in 1981 and 1982. Having found Honduras responsible for the disappearances, the Court in July 1989 ordered the government to pay damages in the amount of 1,400,000 *lempiras* (worth \$700,000 at the official rate at the time) to the families of the victims. Seventy-five percent of these funds were to be set up as a trust for the victims' children until each reaches the age of 25. The remainder was to be paid directly to the widows. Because Honduras failed to pay the damages by the October 1989 deadline set by the Court, the OAS Inter-American Commission on Human Rights moved for a ruling that the state had a duty to pay interest on the amount due for the period in which the government was in arrears, to compensate for two devaluations of the *lempira* since the due date, and to ensure that the funds placed in trust would be protected against devaluation. On August 17, 1990, the Court ruled favorably on all counts. It instructed the Central Bank of Honduras, as trustee for the children, to take all appropriate measures under the most favorable banking practices and, as a good *pater familias*, not only to avoid deterioration of the trust, but indeed to increase it. The Court also ordered the Honduran government to adjust the sums to be paid, adding interest since October 20, 1989, and reflecting the official devaluations that had taken place in the interim.⁹¹

In October, the Honduran government finally paid part of its debt to the widows of Velásquez and Godínez. They received the 25 percent of each judgement allocated to them by the Court in the original decision, but with none of the adjustments ordered in August 1990. By the end of 1990, the trust in favor of

⁹¹ See News From Americas Watch, "Honduras: Inter-American Court on Human Rights wraps up First Adversarial Case," September 5, 1990.

the children had not been established. In its capacity as counsel for the families, Americas Watch will request the Court to demand full payment of the adjusted amount.

US Policy

Although the end of the contra war waged from Honduran territory against the former Sandinista government in Nicaragua reduced the strategic importance of Honduras to Washington, the Bush administration continued to bolster the Honduran military with substantial amounts of aid. The administration requested \$41.1 million in military aid and training for Honduras for fiscal year 1991, in addition to \$80 million in Economic Support Funds (ESF). Global cuts in the US budget for military aid and ESF brought about a sharp reduction in the amounts of each provided to Honduras in fiscal year 1990 from the level requested; Honduras received an estimated \$20 million in military aid, \$1 million in military training, \$60 million in ESF and \$35 million in development assistance.

In addition, Honduras continued to receive police training under the Justice Department's ICITAP program. Although 1990 marked the fifth year that Honduras had been the beneficiary of US police training programs, the police continued to use the most savage forms of torture on detainees, including electric shocks and the *capucha*. US Ambassador to Honduras Cresencio Arcos told Americas Watch in an October interview that, following a surge of reports of police and military violations in March, April and May, he expressed concern with "the very highest levels" of civilian and military authority. Further, he said, the State Department canceled Honduras's invitation to participate in a May police training course on counterterrorism because of the abuses -- an important and unprecedented step in the case of Honduras. However, with credible reports of torture by the police continuing to surface later in the year, the administration should have ended its police-training programs, accompanied by a public statement that such aid would be resumed only when police torture stops and those responsible are brought to justice.

Similarly, Washington's considerable military aid program with Honduras ought to be used as leverage to bring about an end to human rights abuses by the military. If these efforts fail, military aid ought to be cut off

altogether.

The administration issued no public statement on human rights in Honduras in 1990, other than the State Department's *Country Reports on Human Rights Practices for 1989*, published in February 1990. Though generally accurate and an improvement over prior years, the chapter on Honduras understates some abuses. For example, the report asserted categorically that there had been no politically motivated disappearances in 1989, when in fact two Salvadoran refugees disappeared from the Colomoncagua refugee camp under circumstances suggesting involvement by the Honduran army.

The Work of Americas Watch

Americas Watch's efforts on Honduras in 1990 included casework on behalf of victims of abuse, both in the name of Americas Watch and by providing information to the Congressional Working Group on Labor Rights. As counsel for the relatives, Americas Watch also participated in pressing the Inter-American Court on Human Rights for its August 17 decision adjusting the damages for the families of victims of disappearance to reflect lost value due to Honduras's delinquency in paying. In an effort to reflect on the entire disappearance litigation – the first use of the Court's contentious jurisdiction – Americas Watch published an article in a special issue of the *Hamline Law Review*, a publication of Hamline University in Saint Paul, Minnesota.⁹² The article explored the litigation process and critiqued the Court's procedural and interlocutory decisions. In addition, an Americas Watch newsletter published in September described the Court's decisions, analyzed Americas Watch's involvement in the cases, and set forth its concerns regarding disappearances in Honduras.

In October, in response to a string of political killings in Honduras, Americas Watch sent a researcher to the country for a one-week fact-finding mission. The research will be used in a forthcoming newsletter and later comprehensive report, both planned for 1991.

⁹² "Disappearances and the Inter-American Court: Reflections on a Litigation Experience," Volume 13, Number 3, Summer 1990, pp. 507 *et seq.*

MEXICO

Human Rights Developments

Since Mexican President Carlos Salinas de Gortari took office in 1988, his administration has been blighted by human rights abuses committed by the nation's police and security forces. Mexicans have been subjected to killings, torture and other mistreatment by the police during criminal investigations, especially in Mexico's efforts to curb narcotics trafficking. Over 500 cases of disappearance remained unsolved at the end of 1990, including at least three who disappeared during the Salinas administration: José Ramón García Gómez, a leftist political leader in Cuautla, Morelos who disappeared on December 16, 1988 while en route to a meeting of supporters of former presidential candidate Guauhtémoc Cárdenas; Francisco Quijano García, a vocal critic of police abuse and the father of three men who were tortured and disappeared or killed in the hands of the Federal Judicial Police on June 21, 1990; and Guatemalan national Armando Mazariegos Paz, a health worker in the refugee community in Chiapas, who was abducted by men in civilian dress in Tapachula, Chiapas on October 21, 1990.

In addition, Mexican society is plagued by other human rights violations that are tolerated by the government. Since the national elections in 1988, violence and death have trailed the electoral process, which has also been marked by widespread allegations of fraud. Infringement of freedom of association and other abuses against independent trade unionists, as well as interference with freedom of the press, are long-standing practices. Violations of civil liberties are routine in the criminal justice context. Rural violence provoked by disputes over land as well as frustrations by peasants and members of indigenous communities over the inadequacies of Mexico's land reform program is commonplace and largely unchecked.

During 1990, Mexican human rights monitors became targets of abuse. Norma Corona Sapién, a law professor and president of the Commission in Defense of Human Rights in Sinaloa, was gunned down in Culiacán, Sinaloa on May 21, two months after she received death threats.⁹³ At the time of her death, she was

⁹³ See Americas Watch, *Human Rights in Mexico: A Policy of Impunity*, June 1990, pp. 12-13.

investigating police involvement in the torture and murder of a Mexican lawyer and three Venezuelan nationals. Shortly after her murder, a number of leading human rights monitors, journalists, and political commentators who write about human rights received death threats.

For many years, public discussion about human rights abuses inside the country was muted by the one-party political system that has dominated most sectors of Mexican society since 1929. That system received a serious blow when presidential contender Cuauhtémoc Cárdenas, the leader of a breakaway political movement, nearly won the 1988 presidential elections.⁹⁴ The political opening that followed Cárdenas's showing encouraged many nongovernmental organizations, including independent peasant and labor groups and human rights organizations, to speak out about abuses in Mexico.

This new outspokenness coincided with significant increases in human rights abuses in two spheres: election-related violence, and abuses by Federal Judicial Police officers charged with fighting Mexico's "war against drugs." It also coincided with heightened attention to human rights abuses in Mexico by several international nongovernmental human rights organizations, including Americas Watch. In June, Americas Watch published its first comprehensive report on Mexico, entitled *Human Rights in Mexico: A Policy of Impunity*.

President Salinas de Gortari responded to the domestic and international pressure by establishing a National Human Rights Commission. Supreme Court Justice Jorge Carpizo, a man with distinguished academic and judicial credentials, was named to direct the Commission, and ten of Mexico's best known writers, journalists and academics were asked to serve as advisors. Justice Carpizo directs a staff of some 260, including 60 lawyers responsible for investigating complaints about human rights abuses. Although the Commission has no independent power to prosecute cases, President Salinas has decreed that all police and other government agencies are to cooperate fully with Commission investigations.

During the summer and fall of 1990, President Salinas introduced a

⁹⁴ Cárdenas's supporters claimed that, but for electoral fraud perpetrated by the Institutional Revolutionary Party, or PRI, Cárdenas would have become President. Even official tallies showed that Cárdenas has won a significant portion of the vote.

number of other steps directed at improving human rights conditions in Mexico. Police checkpoints on the nation's highways, long used by police for extortion, were ordered dismantled, and all police were ordered to display photo identification. Deputy Attorney General Javier Coello Trejo, head of the notoriously brutal anti-narcotics division of the Federal Judicial Police, was removed from his post. In an effort to curb the use of torture to extract confessions, legislation was proposed that would ban confessions made outside the presence of defense counsel as a basis for criminal conviction. President Salinas also promised to clean up the Federal Judicial Police's anti-narcotics division and to outlaw arrests without warrants.

While these developments created the impression that President Salinas had Mexico's human rights situation well in hand, serious abuses continued, as did impunity for past abuses. In its first semiannual report, the National Human Rights Commission reported that it had received more than 1,000 admissible complaints of serious violations of human rights by government agents in the recent past, including 192 cases of illegal deprivation of liberty, 180 cases of torture, 101 cases of homicide and 79 cases of death threats.

The Commission issued recommendations in 33 cases. Many called for the prosecution of the agents who had committed the abuse and their superior officers. While it is difficult to assess from the Commission's report the degree of prosecutorial compliance with its recommendations, the Commission itself complained that three of its recommendations went unheeded and that, in three other cases, authorities promised to heed the recommendations but did nothing.

In several highly publicized human rights cases involving officers of the Federal Judicial Police, Mexico's Attorney General, Enrique Alvarez de Castillo, either impeded a Commission investigation or refused to carry out its recommendations. Days after the June disappearance of Francisco Quijano García, a Commission lawyer was denied access to part of the detention facility used by the Federal Judicial Police, despite evidence suggesting that Quijano was being held there. The Attorney General has since denied that Quijano was in federal custody, but information available to Americas Watch continues to give rise to grave doubts.

In a more recent case, Mexican attorney Antonio Valencia Fontes alleged that following his arrest in Mexicali on November 22, 1989 he was tortured, held incommunicado for five days and coerced by Federal Judicial Police anti-

narcotics officers into confessing to crimes that he did not commit. The Attorney General denied that these abuses had occurred by claiming that Valencia was not in federal custody prior to November 27. The Human Rights Commission examined Valencia's case, determined that the earlier arrest date was probable, and called on the Attorney General to investigate whether Valencia Fontes's human rights had been violated. Alvarez del Castillo refused. The Commission then issued a further recommendation in which it cited new evidence demonstrating that the Federal Judicial Police had, indeed, violated Valencia Fontes's human rights and called for his release. Again, Alvarez del Castillo refused.

In an interview published in the *Los Angeles Times*, President Salinas stated that the Attorney General objected to the Commission's recommendations because he did not want to set loose "one of the top [narcotics] traffickers."⁹⁵ He went on to say, "I have nevertheless stated that even the rights of drug traffickers must be respected." His comments left the impression that Valencia Fontes was guilty of drug trafficking, when in fact he had never been tried. Valencia Fontes remained in jail, the police officers who illegally detained and tortured him were still on duty, and the Attorney General appeared, with President Salinas's cooperation, to have successfully undermined the National Human Rights Commission.

Many of the other steps taken by President Salinas suggest that he cares more about his country's human rights image than about human rights. Mexican human rights groups reported that there were still police checkpoints along the nation's highways. While the proposals for new legislation are laudable, torture was already prohibited by the Mexican Constitution, as well as by federal statute and international treaty obligations; there is little reason to be optimistic that a new law will be respected any more than previous laws had been. Instead of arresting Deputy Attorney General Coello Trejo for the serious rights abuses committed by his officers in the anti-narcotics division of the Federal Judicial Police, including several of his bodyguards who are charged with raping 19 women in the Federal District,⁹⁶ President Salinas named Coello to head the government's office of consumer affairs.

⁹⁵ Interview with President Salinas, *Los Angeles Times*, November 25, 1990.

⁹⁶ See Americas Watch, *Human Rights in Mexico: A Policy of Impunity*, June 1990, p. 15.

US Policy

Critics in Mexico argued that the purported human rights advancements made by President Salinas were little more than a public relations ploy designed to advance his goal of winning a United States-Mexico Free Trade Agreement. If so, the Bush administration has allowed itself to be seduced. On September 12, despite strong administration opposition, the US House of Representatives held hearings for the first time on human rights in Mexico. Americas Watch, Amnesty International-USA, and representatives of the State Department testified.⁹⁷ When queried about the State Department's assessment of rights conditions in Mexico, Deputy Assistant Secretary of State for Inter-American Affairs Sally Groomes-Cowal declined to say more than that the human rights situation in Mexico is "less than perfect."

This trivial response underscored the Bush administration's determination not to allow Mexican human rights abuses to interfere with its key policy objectives: the strengthening of Mexico's drug-interdiction capabilities and the signing of a United States-Mexico Free Trade Agreement.

In fiscal year 1990, the United States provided Mexico with \$15 million in International Narcotics Control funds, which in effect were direct aid to the abusive Federal Judicial Police's anti-narcotics division. The administration also provided a "defense drawdown" of \$17 million in helicopters for Mexico's Northern Border Task Force. In addition, Mexico is buying from the United States two Cessna airplanes with radar capabilities to monitor border and Mexican airspace,⁹⁸ and Mexico receives a small International Military Education and Training (IMET) grant to train military personnel to operate and maintain equipment used in anti-narcotics operations. These appropriations were made without any public consideration of the human rights abuses committed by the Federal Judicial

⁹⁷ The hearings were jointly sponsored by the House Subcommittee on Western Hemisphere Affairs and the House Subcommittee on Human Rights and International Organizations.

⁹⁸ Marjorie Miller, "Mexico Has New General in the War on Narcotics," *Los Angeles Times*, November 13, 1990.

Police and other police and security personnel charged with stopping narcotics trafficking.

In its dealings with Mexico, the United States has failed to insist that its interest in controlling drug trafficking includes an interest in ensuring that international human rights standards are strictly observed. To the contrary, the administration has shown annoyance when Mexico's steps to reduce rights abuses have slowed the course of anti-narcotics investigations. According to one high-level Mexican government official, the Bush administration was bitter about the transfer of Coello Trejo from the head of the Federal Judicial Police's anti-narcotics division because the administration had hailed him as a great warrior in the international war against drugs. Soon after Coello Trejo's transfer, a US official was quoted in the *Los Angeles Times* as saying:

I think the human rights policy is going to diminish [the Mexican Police's] effectiveness at the street level, but not at the program level....You have to treat [suspects] like you do in the United States now, which means they have all the leeway in the world to say nothing. Investigations will go more slowly.⁹⁹

The negotiations for a Free Trade Agreement are proceeding without any discussion of human rights conditions on either side of the United States-Mexico border.¹⁰⁰ On the day after the congressional hearings on human rights in Mexico, at which the Free Trade Agreement was not mentioned, the Bush administration announced an expedited schedule for proceeding with the negotiations. Under the terms for those negotiations established by the US and Mexican governments, only tariff and trade issues are on the table; human rights have been explicitly excluded. While Americas Watch takes no position on free trade, it strongly urges that human rights be raised in the context of these major bilateral discussions.

⁹⁹ *Ibid.*

¹⁰⁰ Mexico has repeatedly filed diplomatic notes protesting abuses committed against its nationals by US border control agents, including a number of shootings of minors that have resulted in death or permanent injury.

The Work of Americas Watch

In addition to its publication of *Human Rights in Mexico: A Policy of Impunity* and its testimony before Congress, Americas Watch has undertaken a study of prison conditions in Mexico which is due to be published in early 1991. The report will highlight a range of problems, including massive overcrowding, deteriorating buildings, poorly trained and vastly underpaid guards and other prison officials, and a systemwide culture of corruption.

In November, Americas Watch submitted an *amicus curiae* brief to the US Court of Appeals for the Ninth Circuit regarding US involvement in the clandestine abduction and transport to the United States of Mexican gynecologist Humberto Alvarez Machain. At the end of 1990, Alvarez Machain was being held in the United States in connection with the 1985 torture and murder of US Drug Enforcement Administration agent Enrique Camarena. Americas Watch argued that because those acting on behalf of the United States violated customary international human rights law in the course of the abduction, the District Court should have found that it lacked jurisdiction over the case on due process grounds. Instead, Americas Watch contended, Alvarez Machain should be repatriated to Mexico where he faces a similar indictment.

NICARAGUA

Human Rights Developments

Nicaragua held presidential, legislative and municipal elections on February 25, 1990, which the ruling Sandinista National Liberation Front lost by a wide margin. The candidate of the United Nicaraguan Opposition (UNO), Violeta Barrios de Chamorro, assumed the Presidency on April 25.

Before taking office, representatives of the Chamorro government negotiated an agreement with the outgoing Sandinistas, the Catholic Church and contra rebels providing for a ceasefire in the eight-year contra war and a complete disarming of the rebel movement by mid-June. The formal end of hostilities represented a significant achievement for all Nicaraguans, and removed a major source of human rights violations by both sides to the conflict. Since the cessation of hostilities, the human rights situation has improved. Following the election, laws regulating freedom of expression were also lifted, although there were several violent attacks by unidentified persons against radio stations across the political spectrum.

Major problems remained, however. Ongoing political polarization yielded several violent incidents, at times involving the use of firearms, which claimed the lives of a number of Nicaraguans since April. While exact figures were difficult to establish, the number killed appeared to have approached two to three dozen by the end of 1990, with many dozens more wounded. Victims of the political violence included activists of the new government, Sandinista supporters, demobilized resistance fighters, and members of the armed forces, which are still controlled by the Sandinistas.

Some instances of civil unrest were rooted in popular demands that Sandinista-controlled police and army units withdraw from towns, particularly those where UNO won an overwhelming electoral victory. Civilian resentment of the police yielded mass demonstrations and sit-ins, such as the one that blocked a major highway in the southeastern part of the country in November. Troops at times used lethal force to counter demonstrations, killing and wounding civilians and former resistance fighters in several episodes since April. There were

conflicting reports on whether demonstrators had been armed and whether they or the troops had instigated the violence. In at least two incidents, in the town of Waslala in October and in Neuva Guinea in November, the police appeared to have panicked in the face of crowds that outnumbered them and fired indiscriminately at the demonstrators.

By contrast, troops responded with apparent restraint to a series of Sandinista-led strikes in May and July, intervening primarily to stop violence between supporters and opponents of the strikes. UNO supporters legitimately complained that the police respond more harshly to disturbances by non-Sandinistas. There were also credible reports that the Sandinista military and police arrested and issued death threats against former contras.

Additional conflicts erupted over land. Resistance fighters were promised land and other assistance in exchange for turning in their weapons. By the end of 1990, however, large numbers had not received land, or had been granted parcels in remote, less desirable parts of the country. Former combatants also disputed Sandinista ownership of farms and cooperatives, including those for which titles had been hastily passed out in the months between Chamorro's election and inauguration. Land invasions of cooperatives by former rebels produced deaths and wounded on both sides.

The International Verification and Support Commission (CIAV) of the Organization of American States played a highly constructive role in defusing confrontations and minimizing the toll in violent episodes. Set up in 1989 under the Central American peace accords, the CIAV took the lead in disarming resistance fighters inside Nicaragua and assisting in their transition to civilian life. The CIAV agreed to maintain a presence in Nicaragua through mid-1991. A commission headed by Cardinal Miguel Obando y Bravo also played a constructive role in mediating conflict situations.

Under the terms of the agreement made by the Chamorro government before taking office, the Nicaraguan army remained under the control of Humberto Ortega, former Sandinista Defense Minister and now Army Commander-in-Chief. One of the Sandinistas' top nine comandantes, Ortega resigned from the Sandinista Party as a condition of staying on as head of the army. Police forces operated under the Ministry of Governance (formerly the Ministry of Interior), now headed by a civilian official. Although the Ministry of Interior's state security force (DGSE) was ostensibly disbanded, there were numerous credible reports that its

intelligence functions had been transferred to the army and that DGSE members had been appointed to positions in the police. The presence of these individuals, particularly in former conflictive zones, remained a source of tension, if not open dispute, in the countryside.

During the transition period between February and April, the outgoing Sandinista government agreed to subordinate the armed forces to presidential power, and to sever the army's connections with any political party. But a "Law of Military Organization of the Sandinista Popular Army," passed by the Sandinistas in late 1989 and printed in the official gazette in February 1990, made the Army Commander-in-Chief a military rather than civilian official, and granted significant autonomy to the armed forces in such areas as budget, procurement, and deployment of forces. The law heightens the danger that the army in Nicaragua, as in many other Latin American countries, will be exempt from civilian control.

With opposition support, the Sandinista-dominated Nicaraguan Assembly also passed in mid-March an unconditional amnesty for public officials, members of the military and others who "committed crimes against the public order and the interior and exterior security of the state." Adopted in the spirit of national reconciliation, the amnesty law made it impossible to prosecute members of either the Sandinista armed forces or the contra rebels for past human rights abuses. Investigations of military abuses by the army's *Auditoría Militar* (military prosecutor's office) were dropped following the amnesty. Neither the army nor the Chamorro government appeared willing to pursue unfinished investigations to ensure, despite the bar on criminal prosecutions, that those responsible for abuses do not continue to occupy positions of authority in government, be they government troops or former resistance fighters.

Challenges to the amnesty were prominently raised by revelations in early June of several clandestine cemeteries dating from the early years of the armed conflict in Nicaragua. Reports of the graves were given to the Nicaraguan Association for Human Rights (ANPDH), which publicized the discovery and assisted in their exhumation.¹⁰¹ The three graves unearthed by the end of 1990

¹⁰¹ ANPDH was established by the US State Department to investigate and prosecute cases of human rights abuse by contra rebels. It continues to receive US funding and has established offices throughout Nicaragua.

yielded the remains of 26; relatives and other witnesses said that those killed had last been seen in the custody of Sandinista army and state security forces. ANPDH received information about additional mass graves which had not yet been exhumed by the end of 1990. The Chamorro government declined to investigate these killings, but instead petitioned the Inter-American Commission on Human Rights of the Organization of American States to do so. The army's *Auditoría Militar* investigated one of the cemeteries but did not make its findings public. An army representative, testifying before a human rights committee of the Nicaraguan Assembly, maintained that whatever crimes might have led to the mass graves were covered by the March 1990 amnesty law. "If the amnesty covered [these crimes]," Col. Hugo Torres asked rhetorically, "why would one reopen the wounds?"

US Policy

The Bush administration enthusiastically welcomed the results of Nicaragua's February elections, after spending millions of dollars appropriated by Congress to help to secure an UNO victory.¹⁰² Chamorro's electoral success was a triumph of sorts for US policy; after attempting and failing to overthrow the Sandinistas militarily by backing the contra effort, the Bush administration sought and contributed to a Sandinista defeat at the ballot box.

Following Chamorro's routing of the Sandinistas, the Bush administration pressured leading contra rebels to accept the results of the election and return to Nicaragua. Administration officials apparently viewed demobilization of the contra army as critical to ensuring a peaceful transition of power from Sandinista President Daniel Ortega to President-elect Chamorro. Within days of the election, President Bush stated that "there is no reason at all for further military activity from any quarter." Vice President Dan Quayle and State Department special consultant Harry Shlaudeman, later named US ambassador to Nicaragua, met with contra leaders to persuade them to disarm; key rebel leaders

¹⁰² On three different occasions beginning in late 1988, Congress appropriated a total \$12.5 million in electoral assistance to Nicaragua. Only a fraction of the last installment of \$9 million reached UNO prior to the February 1990 elections.

at the time were refusing to lay down their arms until the Sandinista army was also disbanded, and some had filtered back into Nicaragua with their weapons.

Reversing a nearly decade-old policy of isolating Nicaragua diplomatically and economically, the Bush administration lifted the US embargo on March 13, before Chamorro took office. At the same time, President Bush asked Congress to appropriate \$300 million in economic aid, \$47 million of which was to go for the repatriation of contra rebels and their reintegration into Nicaraguan society. Congress approved the aid package, which also contained \$420 million for Panama, in late May.

Despite the initial embrace, tensions soon emerged between President Chamorro and the Bush administration. Key officials were reportedly disturbed by President Chamorro's conciliatory policy toward the Sandinistas, including the decision to keep Gen. Humberto Ortega as head of the military. An additional source of friction was Nicaragua's failure to drop its case against the United States in the International Court of Justice (the World Court) at the Hague. In 1986, the Court ruled that US sponsorship of the contra war and the laying of mines in Nicaragua's harbors in 1984 were violations of international law, and directed the United States to pay reparations. Two days before the case was filed with the Court in 1984, the United States announced its refusal to accept Court jurisdiction over disputes involving Central America. In 1985, the United States announced that it was ending its policy of automatic compliance with Court decisions.

US officials denied reports that the United States was slowing delivery of economic aid until Nicaragua dropped the World Court claim (not all of the \$300 had been delivered by the end of 1990), but senior policymakers affirmed to Americas Watch that US objections had been made known to the Chamorro government and that aid could be affected in the future if the claim was not dropped.

The Work of Americas Watch

Americas Watch visited Nicaragua three times in 1990: before the

elections to investigate the murder of two nuns in a contra ambush,¹⁰³ during the election campaign to monitor human rights conditions, and after the elections to assess the human rights practices of the new government. Following the introduction of the amnesty law in the Nicaraguan Assembly in early March, Americas Watch wrote President Ortega protesting the move, insisting that government soldiers and members of the resistance who had committed gross violations of human rights should not be granted immunity from prosecution. Americas Watch noted its concern particularly because some of the human rights cases submitted to the government in the past had resulted in investigation, trial, and occasional punishment of those responsible.

Americas Watch addressed similar correspondence to President Chamorro in late November, urging her to investigate the crimes behind newly discovered clandestine cemeteries as well as other instances of past human rights abuses. Noting the precedent of Argentina, Americas Watch urged President Chamorro to declare the amnesty law null and void or, failing that, to establish the truth about past abuses and to purge the ranks of the armed forces and civil service of those who had committed them. Americas Watch had received no reply to either letter by the end of 1990.

¹⁰³ See Americas Watch, *The New Year's Day Killing of the Nuns in Nicaragua*, January 1990.

PANAMA

Human Rights Developments and US Policy

One year after the December 1989 invasion of Panama, Americas Watch remains concerned that US and Panamanian officials -- despite their duty and eminent capacity to do so -- have failed to investigate the number of civilians killed in the operation and, more significantly, the circumstances under which they died. In January 1990, Panamanian forensic authorities and the Southern Command of the US Armed Forces provided lists and figures for both "enemy dead" and civilian casualties. This accounting effort was clearly inadequate because it failed to investigate all possible places where bodies could be found, and because it made no attempt to establish cause of death on an individual basis. Americas Watch stands by its January 1990 estimate of approximately 300 civilian dead (about 50 percent higher than the 202 claimed by the Southern Command), but emphasizes that this number could change with a proper official investigation. Given that considerable controversy persists regarding the number and identity of victims buried -- with some claiming thousands of dead -- a completely new, official, forensically competent effort to exhume, count and identify victims, as well as to establish the circumstances of their deaths, is in order.

More important, neither US nor Panamanian officials have systematically investigated and acknowledged, let alone punished, violations of the laws of war committed by US and Panamanian troops during the invasion. These violations included the taking of hostages by Gen. Manuel Antonio Noriega's forces and, in the case of the US invading forces, the failure to abide by international standards for the treatment of prisoners of war and for searches, detentions and arrests of civilians, and, most important, the failure to minimize civilian casualties during the attack. (The sole prosecutorial effort in this regard was the court-martial and acquittal of a US soldier charged with a battlefield execution.) The US House Armed Services Committee announced a far-reaching review of these issues in mid-1990, but those plans were suspended indefinitely as result of the Persian Gulf crisis.

After the invasion, the Panamanian government systematically arrested

and imprisoned former members of the Noriega regime for the mere fact of having been officials of that government. In the most serious case, on January 30 and 31, 1990, Rogelio Cruz, the Panamanian Attorney General, issued arrest warrants for all members of the *Consejo General de Estado* (Council of State), a short-lived institution created to govern the nation after the annulment of the elections of May 7, 1989. After several months these charges were dropped. Other charges still pending at the end of 1990 -- for example, against members of General Noriega's Dignity Battalions -- do not specify particular abuses attributable to particular individuals, but charge former members simply for having been part of a civil militia which was then legal, for having helped to organize it, and for having prepared its members to defend against a foreign invasion. None of these acts was a criminal offense at the time.

These prosecutions fail to meet Panamanian and international standards for due process and, as such, constitute political persecution. The mere fact of having served in the previous government cannot, by itself, constitute a crime. Even in cases in which the government alleges corruption, charges are often vague and the evidence appears weak. These prosecutions thus appear to have been launched and maintained with the aim of preventing the development of a significant opposition to the current government, at least from quarters once sympathetic to the old regime.

Americas Watch's concern about these due process violations is compounded by the slow and overloaded Panamanian judicial system. Legal experts say that more than 17,000 cases are yet to be processed, and that many people being detained have been awaiting trial for years longer than the maximum sentence they could receive if convicted. According to one account, 90 percent of the country's 3,200 prisoners are awaiting trial.¹⁰⁴ Not one of the 1,400 prisoners arrested after the invasion for crimes committed in connection with the Noriega government has been brought to trial.¹⁰⁵

At the same time, the successor government of President Guillermo Endara has failed to prosecute those in the Noriega regime who, evidence shows, committed serious human rights violations such as murder, torture and

¹⁰⁴ John Otis, "Panamanian jails filled to brim," *Los Angeles Times*, October 11, 1990.

¹⁰⁵ Mark Uhlig, "Panama's courts stalled by chaos," *New York Times*, September 6, 1990.

indiscriminate violence against civilians. Americas Watch believes that governments have a duty to punish these egregious acts, that this duty extends to successor governments, and that the Endara government is obliged to seek the extradition of any such violators outside the country, including Gen. Noriega, to try them for human rights abuses.

The Panamanian and US governments have also failed to resolve the situation of the refugees from the El Chorrillo neighborhood, which was destroyed during the invasion. More than 3,000 former residents of El Chorrillo are still housed in two airplane hangars on a former US air base that was turned into a refugee camp in January. Efforts to relocate them appear to be stalled indefinitely.

Americas Watch is also concerned by the structure, composition and conduct of the newly created Panamanian Public Force (PPF), which replaced Noriega's Panamanian Defense Force (PDF). We were troubled to learn of the post-invasion appointment of Col. Eduardo Herrera Hassan to head the new PPF because he had overseen the Noriega government's most brutal repression of peaceful opposition demonstrators, in an episode that Noriega opponents (many of whom are now in the Endara government) called "Black Friday." We are also concerned because of the absence of an investigation into evidence linking him to an illicit arms shipment from Israel to Antigua that ended up in the hands of paramilitary groups supported by drug traffickers in Colombia. The paramilitary groups use these weapons to inflict murder and destruction on Colombian peasants.

Herrera Hassan, Noriega's one-time ambassador to Israel, broke with the former Panamanian leader in March 1988 and, by his own admission, was recruited by the United States to lead a secret mission to oust the strongman.¹⁰⁶ Israeli security specialist Lt. Col. Yair Klein, who also believed that he was acting at the behest of the US Central Intelligence Agency,¹⁰⁷ has stated that he and Herrera Hassan were to be involved in creating a base on the island of Antigua to

¹⁰⁶ Andres Oppenheimer, "Head of Panama police force resigns amid government rift," *Miami Herald*, August 23, 1990.

¹⁰⁷ Alfonso Chardy, "Israeli: plot against Noriega shaped in Miami," *Miami Herald*, May 14, 1990; Alfonso Chardy, "Israeli planned anti-Noriega base in Caribbean," *Miami Herald*, May 7, 1990.

train 500 Panamanian commandos to overthrow Noriega; the plan was derailed when the Antiguan government refused to give permission to build the base. Klein has acknowledged training armed civilian Colombians whom authorities later said were assassins hired by drug dealers. These accounts raise unanswered questions about whether the US government, in its eagerness to overthrow Noriega, might have been averting its gaze from the arming of abusive forces in Colombia by its agents.

Herrera Hassan resigned his post as head of the PPF in August 1990. On October 19, the Associated Press reported that, according to Panamanian prosecutors, Herrera Hassan was implicated as leader of a plot to overthrow the Endara government that month. On December 5, Herrera Hassan escaped from an island prison in Fort Amador which had been guarded by both Panamanian and US troops. A few hours later, he and several PPF officers occupied the National Police headquarters. President Endara asked US troops to surround the building and arrest Herrera. At a press conference before his surrender, Herrera claimed that he had been leading a protest on behalf of fellow officers and was not attempting a coup.

Even with Herrera Hassan no longer in the picture, the PPF remains composed almost entirely of decommissioned soldiers from Gen. Noriega's PDF. PPF members no longer carry automatic weapons, are outfitted as police rather than soldiers, and no longer sleep in barracks. However, Americas Watch fears that these may be only cosmetic changes, and that the PDF's rampant human rights abuses, not to mention corruption and drug trafficking, will soon resurface.

Numerous indicators already point in this direction. In May, a group of Panamanian officers was charged with murder after the kidnapping for ransom and killing of the three-year-old granddaughter of Gen. Noriega's former second-in-command. Special Prosecutor Rodrigo Miranda revealed that US military sources had provided evidence linking Judicial Police Chief Leslie Loaiza, the former inspector of Noriega's security police, to the crime. Shortly after, Attorney General Rogelio Cruz accused Miranda of making "irresponsible accusations" against officers of the PPF and suspended him from his job.¹⁰⁸ There was no public US comment.

¹⁰⁸ Andres Oppenheimer, "Whistle blower in Panama suspended from his job," *Miami Herald*, May 11, 1990.

US military police officers have been conducting joint patrols with the new PPF since the time of the invasion, accompanying Panamanian officers and assisting in arrests. In July, US military policemen accompanied Panamanian officers as they arbitrarily arrested Miguel Antonio Bernal, a Panamanian journalist and social critic. As Bernal was eating in a restaurant, his companions noticed a man who they recognized as their torturer during their detention under the Noriega regime. Bernal and his friends were detained shortly after they started clinking their glasses with silverware in protest; they were later released without charges being filed.¹⁰⁹ The participation of US troops in joint patrols make them accountable for arrests and searches without warrants and other violations of due process committed by their Panamanian counterparts, as well as for attacks on freedom of expression as in the arrest of Bernal. In addition to joint patrolling, the US trains the PPF through the International Criminal Investigation Training Assistance Program of the US Justice Department and provides the PPF with supplies.

The Work of Americas Watch

Americas Watch representatives visited Panama between January 9 and January 20, 1990 to inquire into the observance of the laws of war in the context of the US invasion of December 20, 1989 and its immediate aftermath. In May 1990, Americas Watch published a report entitled *The Laws of War and the Conduct of the Panama Invasion* which documented violations of Panamanian and international human rights and humanitarian law during and after the invasion. A version of the report was also published in the *Journal of Terrorism and Political Violence*, increasing its visibility to military and security specialists in the United States and Europe.

On March 22, Americas Watch wrote a letter to Vice President Guillermo

¹⁰⁹ Howard French, "Noriega's troops now form police with US aid, Panamanians say," *New York Times*, July 24, 1990.

Ford, on the occasion of a visit he made to Washington, to protest the violations of due process in the context of prosecutions of those associated with the Noriega regime. Vice President Ford responded to Americas Watch that he had conveyed these concerns to Attorney General Cruz, and that the Executive Branch could not interfere with the independence of the judiciary. Attorney General Cruz did not respond to this expression of concern, nor has he explained the legal basis for bringing these charges, but a few weeks later the charges against former Council of State members were dropped. Prominent officials of the Noriega regime were still in custody at the end of 1990 and their prosecutors had not brought their cases to trial. On at least one occasion, high-ranking members of the Endara administration made public requests to the citizenry to bring evidence against these former officials or they would have to be released. Americas Watch has repeatedly called on the Panamanian government to bring speedy trials against these officials, on the basis of reasonably sufficient evidence of wrongdoing, or release them. Americas Watch has also made appeals to the Panamanian government concerning its forces' use of excessive violence against student protestors in August, and regarding the need to protect Otilia Koster, director of the Center for Research on Human Rights, against repeated telephone harassment and suspicious surveillance by unknown men.

Americas Watch has also called on the Bush administration to conduct a thorough review of all actions taken in pursuit of the December 20, 1989 invasion and in its aftermath. This review should include a complete accounting for each military and civilian casualty, and prosecutions when required by the Geneva Conventions. The US should also institute a program to compensate Panamanians who were wounded, whose family members died, or who were displaced as a result of US conduct in violation of the laws of war.

PARAGUAY

Human Rights Developments

Since the February 1989 coup that overthrew Gen. Alfredo Stroessner, the problem of landless peasants has become increasingly severe in Paraguay. Over 12,000 families in hundreds of spots around the country have spontaneously moved onto *latifundios* (large agricultural enterprises) and established communities of small farmers. The government of Gen. Andrés Rodríguez adopted a contradictory response. On the one hand, the constitutionally guaranteed right of every peasant to own a piece of land and the agrarian reform laws that call for the expropriation of large *latifundios* were held up by the government as pillars of the ruling Colorado Party's platform. At the same time, under pressure from the landed gentry, the government ordered the eviction of peasant squatters.

Americas Watch takes no position on who is entitled to the land in dispute; its concerns are limited to abuses committed by authorities in the eviction process. Beginning in mid-1989, these abuses included illegal actions by the armed forces in the course of eviction proceedings, including massive detentions without proper arrest warrants, the use of irregular detention centers such as landowners' barns and military barracks which have facilitated mistreatment of prisoners, the use of excessive force which has led to the hospitalization of many peasants, the destruction of homes and crops, the theft of farm tools, the use of death threats and other forms of intimidation, and a total disregard for the problem of small children who are dispersed and lost during raids.

In response to the problem of peasant squatters, the Rural Association of Paraguay, representing the landed gentry, publicly promised to take justice into its own hands. Alto Parana, an eastern province on the border with Brazil and Argentina, has traditionally been the area of greatest conflict, where for years landowners have hired mercenaries, often Brazilian, to intimidate peasants and in some cases force evictions. In 1990, the central province of San Pedro became a center of mercenary activity, leading in one case to an armed clash between peasants and 30 hired gunmen armed with machine guns in which one died and ten were wounded. Reports of mercenaries harassing peasants have also come

from Caaguazú, Misiones, Concepción, Guirá and Itapua provinces.

Americas Watch is concerned that the growth of such activities has been ignored by the central government, and that at a local level impunity has reigned. Due to the influence of large landowners, the judiciary has refused to investigate all but one known case. Often the landowner and their gunmen were accompanied by police or local soldiers during the raids.

More than any other sector in Paraguay, peasant leaders continued to be harassed in 1990 as a result of their organizing activities. Three leaders of the Association of Farmers of Alto Parana (ASAGRAPA), which has been active on behalf of landless peasants, were beaten and threatened by hired gunmen. Leaders of the National Coordination of the Struggle for Land and Housing (CNLTV) were also repeatedly harassed and forced to go into hiding. In August, a leader of the Paraguayan Peasant Movement (MCP) was killed in Alto Parana by a police sheriff; no judicial investigation had taken place by the end of 1990. Given the obvious vulnerability of peasant leaders, and the new government's repeated promises of full respect for the right of free association, Americas Watch urges President Rodriguez to take action to ensure their security.

Two workers were killed and dozens wounded in December 1989 outside the Itaipú Hydroelectric Dam when an army officer ordered his troops to open fire on a crowd of strikers. No judicial investigation has been initiated, and the army promoted rather than punished the officer responsible. Americas Watch urges President Rodriguez to support an independent judicial investigation into the circumstances surrounding the killings and to establish accountability for these crimes.

At times, the right to evict land dwellers forcibly has been abdicated by the state to private entities. For example, in a community called Ycua Porá, the government entity charged with protecting Indian rights, INDI, reportedly permitted the company Empresa Tupá Rendá to use violence to evict the Mbya Indians from their homes and to sell the lands to Brazilian farmers. During the eviction, an Mbya woman apparently went into labor, was unattended, and died along with her baby.

In contrast with the prompt arrest and trial of almost 30 former Stroessner officials accused of corruption, prosecutions for human rights violations committed during the Stroessner era have moved slowly. Unlike

Argentina, Chile, Uruguay and Brazil, the Paraguayan armed forces, except in a few cases, were not involved in repression as an institution. Many observers thus believed that accountability for past abuses could be achieved without the barracks unrest and threats of military uprisings or coups faced by other fledgling democracies in the Southern Cone. Moreover, Paraguay is the only remaining country in the Southern Cone that as part of its transition to democracy has not enacted a partial or full amnesty for perpetrators of abuses under the former regime.

While several prosecutions for abuse of human rights are underway, human rights organizations and relatives of the victims expressed concern that trials have been stalled by the courts since the beginning of 1990. One leading case involves the torture and assassination of Mario Raúl Schaerer Prono. Schaerer was arrested on April 5, 1976, and his corpse, with obvious signs of torture, was returned to his family two days later. Several witnesses who were in custody at the time of Schaerer's detention testified that they had seen Schaerer in the Department of Investigations headquarters returning from the torture chambers in extremely poor condition. This evidence, together with an exhumation and autopsy which confirmed that Schaerer had died under torture, resulted in the arrest of Pastor Milcíades Coronel, former Chief of Political Police, and police agents Juan Aniceto Martínez, Lucilo Benítez and Camilo Almada Morel.

However, the lawyer for the victim's family reported that the investigation had been frozen since the beginning of 1990. Moreover, the press reported that Camilo Almada Morel and Lucilo Benítez were free to return home on weekends and had been seen walking the streets of Asunción.

The Schaerer Prono case took on special significance not only because of the detention of Paraguay's most infamous torturers, but also because of the undeniable evidence gathered by the victim's relatives. Others interested in filing suit for past human rights abuses were awaiting the result of this first leading case.

Members of the so-called *militante* sector of the ruling Colorado Party, who continue to be avid supporters of ex-President Alfredo Stroessner and his son, Gustavo Stroessner, began to reorganize in 1990. During August and September, *militante* leaders were detained without charges and held illegally for several days. In August, Stroessner's grandson was illegally expelled from the country. Both arbitrary detentions and forced exile were regularly practiced by

the Stroessner regime -- the kinds of human rights violations that President Rodríguez had promised to abolish. The reintroduction of these serious violations raised questions about President Rodríguez's commitment to and understanding of the principles of human rights.

US Policy

The US ambassador to Paraguay, Timothy Towell, has been a strong supporter of the new government and its "transition to democracy."¹¹⁰ However, he has had no reservations about criticizing President Rodríguez in the many areas where democracy is still a distant dream. The State Department's *Country Reports on Human Rights Practices for 1989*, published in February 1990, detailed these deficiencies in its chapter on Paraguay. It stated, for example:

[T]he new Government at times reacted by violently breaking up demonstrations and detaining leaders; the investigation and prosecution of former police torturers moved slowly; respect for habeas corpus remained questionable; the press was circumspect in criticizing the President; and the Government often failed to protect worker rights to collective bargaining.

Since 1987, Paraguay has been excluded from the list of countries receiving trade benefits under the Generalized System of Preferences (GSP) because of its violation of internationally recognized worker rights. In August 1989, the Rodríguez government formally requested the renewal of GSP benefits, and US Trade Representative (USTR) Carla Hills initiated a formal review. By the end of 1990, the matter was still under advisement, but the Bush administration had made clear that GSP benefits would be restored only after significant progress was made in developing a new labor code and in respecting the exercise of labor rights. Americas Watch endorses this position.

The Paraguayan military receives a small amount of training assistance from the United States. For fiscal year 1990, the amount was \$124,000 and for FY91 it will rise to \$175,000. Most of these funds are designed to provide language

¹¹⁰ State Department, *Country Reports on Human Rights Practices for 1989*, p. 695.

training for officers. In addition, the Paraguayan police receive US funding to combat drug trafficking. This aid amounted to \$300,000 in FY90 and \$400,000 in FY91. Small as these figures might seem, they provide the Bush administration with leverage that it could and should use to promote human rights. For instance, the administration could make the continuation of this aid conditional upon an aggressive and successful prosecution of the Schaerer Prono case as well as other cases involving police officers accused of torturing prisoners.

The Work of Americas Watch

In August 1990, Americas Watch sent a researcher to Paraguay to investigate reports of military and police abuse in the handling of land disputes between peasants and large landowners. The researcher interviewed government officials, church representatives, human rights lawyers and peasant leaders. She also visited the Alto Parana jail and several peasant settlements that had faced repeated forcible evictions. The mission received considerable press attention in Paraguay. A newsletter was later published in English and Spanish documenting abuses in the course of land conflicts, as well as the other concerns listed above.

PERU

Human Rights Developments

Since its return to democracy ten years ago, Peru has experienced a severe economic decline, a boom in the production of coca, the spread of a brutal insurgent movement, and fluctuating official concern with human rights. The combination of these factors has exacerbated Peru's already complex problems of regional, racial and class division and seriously weakened the democratic system. The counterinsurgency effort has drained off vital resources needed for development and for payment of the skyrocketing foreign debt. And political violence by both sides has led to the deaths of some 19,000 Peruvians, with more than 2,600 others disappeared.

In the past two years the insurgents, who had begun with support in only the most impoverished mountain departments of Peru, have been active, to varying degrees, in most of the national territory. Correspondingly, civilian authority in much of the country has declined dramatically, as judges, mayors and other representatives of the state have been killed or forced to flee. Access to conflict areas by human rights monitors and journalists has become increasingly dangerous, such that their estimates on the number of abuses have tended to be conservative. Excellent work continues to be done, however, by a Senate committee on political violence and by Peruvian human rights groups.

In 1990, the trends evident in Peru during the previous year did not substantially change. Despite the election in June of a new President, Alberto Fujimori, political violence by both sides claimed more than 3,100 lives during the first eleven months of the year. Nearly half of these victims were clearly civilians -- killed by one side or the other -- and according to a Senate committee, many more of the dead, listed by the military as "subversives," cannot confidently be determined to have been combatants. Moreover, disappearances continued to occur, principally at the hands of the army; torture continued to be employed on both political and nonpolitical detainees; human rights monitors were harassed; and prison conditions continued to be miserable -- so miserable, in fact, that President Fujimori took up the issue as a special concern. (For the first time since 1987, for example, a census of common-crime inmates was taken to determine their number and legal status.)

When President Fujimori took office, he stated his intention to create a National Commission for Human Rights. Unfortunately, as of the end of the year, no progress had been made on this initiative. Nor was it yet clear what the new government intended with respect to the counterinsurgency effort, although political violence intensified during the second half of 1990 and public anxiety mounted with it.

The insurgent groups *Sendero Luminoso* and *Movimiento Revolucionario Tupac Amaru* (MRTA), which do not work together, were both guilty of violations of the laws of war, including the murder of civilians in urban and rural areas; indeed, the killing of noncombatants has become, over the years, a systematic policy of *Sendero*, which in 1989 and 1990 was responsible for more such killings than even the army. While the guerrillas do not control population or territory, they are accountable for their conduct of the war under common Article 3 of the 1949 Geneva Conventions, which prohibits the inhumane treatment of noncombatants, prisoners or wounded combatants. *Sendero's* methods of killing were often particularly brutal, and as in 1989, its most violent campaigns in 1990 coincided with the preludes to elections, when candidates, election officials and voters alike were terrorized.

The government's counterinsurgency strategy, on the other hand, has been to impose states of emergency in conflict zones, where a Political-Military Command supersedes civilian authority. By early 1990, more than half the population lived under effective military control in these zones, legally deprived of the rights to free movement, free assembly and inviolability of the home – and extralegally deprived of many other rights. Arbitrary arrests, sometimes followed by disappearance and often accompanied by torture, were common in the emergency zones. Civilians were rarely permitted to be neutral, by either side, and victims of political violence frequently included children and old people.

As has occurred in other countries during counterinsurgency wars, the definition of a combatant has become increasingly blurred in Peru. The military's promotion of community "self-defense patrols" in the emergency zones has drawn civilians into the conflict and has led to *Sendero* reprisals against villages with patrols as well as gross abuses by the patrollers themselves in some areas. Another form of paramilitary organization, the death squad Comando Rodrigo Franco, also continued its activity during 1990, including harassment and physical attacks on persons it chose to consider guerrilla sympathizers or

otherwise dissident.

The intimidation of human rights organizations intensified during 1990. In February and March, three international human rights organizations' offices in Lima – those of Amnesty International, the International Committee of the Red Cross, and the Andean Commission of Jurists – were bombed; the official investigation into these attacks was unsatisfactory. Also in February, Angel Jurado Escobar, vice president of the departmental Human Rights Committee of Huancavelica, disappeared. Telephone threats, from the Comando Rodrigo Franco among other sources, and intimidation of human rights monitors occurred throughout the year. In Ayacucho department, the area where *Sendero* has been active longest, Guadalupe Ccallocunto, of the local office of *Servicio Paz y Justicia* (SERPAJ), an international human rights organization, disappeared in June. And among other cases, a human rights lawyer affiliated with a university in Ayacucho, Luis Fernando Colonio Arteaga, was shot to death in his home in July.

US Policy

During 1989 and 1990, a major new area of conflict was the coca-producing Upper Huallaga Valley, where political violence is combined with the corruption and violence of the drug trade. The United States proposed to give nearly \$36 million in military aid to Peru for training the armed forces to combat drugs in the Upper Huallaga Valley in fiscal year 1990, but the proposal was controversial on several grounds. First, the Peruvian military engages in systematic violations of human rights, and thus should be ineligible for military aid under US human rights legislation.¹¹¹ Second, US officials admitted that a secondary purpose of the training would be to combat the insurgency; the training therefore could involve US trainers indirectly in human rights abuses associated with the counterinsurgency campaign. Finally, militarizing the coca-eradication effort was expected by many Peruvians to be ineffective, to alienate and endanger the impoverished peasants who grow coca, and to play politically into the hands of insurgents active in the zone. (For more on the Bush administration's Andean drug-interdiction effort, see the chapter on Colombia, *supra*.)

¹¹¹ See Section 502B of the Foreign Assistance Act.

Former President Alan García delayed approving the US aid package for military training, although he did accept some police aid. In September, President Fujimori definitely rejected the US military aid for fiscal year 1990, and as of the end of the year was still considering whether to accept a larger aid offer for fiscal year 1991. Both García and Fujimori objected to the heavy US emphasis on military solutions to the nation's drug and counterinsurgency problems, which are generally recognized in Peru to be problems that also require new developmental, political and social strategies.

The Bush administration said little publicly about Peru's disastrous human rights situation in 1990. The prepared statement of Melvyn Levitsky, the Assistant Secretary of State for International Narcotics Matters, at a hearing before the House Foreign Affairs Subcommittee on Western Hemisphere Affairs, included no word of criticism of Peru's human rights record. Rather, the statement defended the administration's proposed program of vast military assistance to Peru and other Andean countries on the grounds that the aid itself would help improve the recipient military forces' human rights records. He noted that "an impoverished, poorly trained, and equipped military, unable to feed its troops, is far more susceptible to corruption and human rights abuses." This statement was a disservice to human rights in Peru. Peruvian soldiers do not commit murders and disappearances because they are hungry. They commit violations because such tactics are tacitly supported by the Peruvian military as an appropriate means of waging the counterinsurgency war. By refusing to identify the problem properly, Levitsky missed an important opportunity to encourage human rights improvements.

Moreover, Assistant Secretary Levitsky's oral testimony before the House Foreign Affairs Committee, and again a week later before the Senate Foreign Relations Committee, suggested that economic assistance to Peru would be linked to its acceptance of the proffered US military aid, which the Peruvian government had refused to accept. Several members of the House Foreign Affairs Committee reported that ambassadors from several Latin governments had complained of US pressure to accept military aid as a quid pro quo for economic assistance. Senator Dodd reiterated this concern with Assistant Secretary Levitsky during his hearing on June 28.

In the same Senate hearing, Assistant Secretary Levitsky testified that after years of working closely with the Peruvian police, he was unaware of a single

instance of torture. The statement showed a shocking ignorance of the routine use of torture by Peruvian police against both political and common-crime suspects.

The Work of Americas Watch

Americas Watch opposed the military aid package for Peru, and documented the reasons for this position in an August 1990 report titled *// Desperate Straits: Peru after a Decade of Democracy and Insurgency*. The report, which was simultaneously published in Spanish by the Andean Commission of Jurists, documented the pattern of human rights abuses in Peru from late 1988 to mid-1990, including violations by both sides and the dangerous development of village "self-defense" patrols. It also provided historical background on the human rights crisis affecting the country. Among other observations on Peru's institutional crisis, the report analyzed the failure of the judiciary to manage either terrorism cases or cases involving abuse by the military, and the shortcomings of congressional investigations into group killings and the Comando Rodrigo Franco. It was the fourth comprehensive Americas Watch report on Peru. Also published during 1990 was a newsletter concerning attacks on Peruvian human rights organizations and harassment of their representatives.

Research and continuous monitoring of Peruvian conditions were done both by Americas Watch in Washington and by the Americas Watch representative based in Santiago, Chile, who traveled three times to Peru during 1990, once accompanying by a Washington representative. Work with the US Congress included close attention to the aid package for Peru, testimony before the Senate Foreign Relations Subcommittee on the Western Hemisphere on June 28, and dissemination of human rights information on Peru to Senators and Representatives. Several campaigns were also undertaken in Congress on behalf of persecuted human rights monitors and labor activists.

Information provided by Americas Watch was considered by several congressional offices developing conditions to be placed on military and police aid to be offered to Peru, Colombia and Bolivia under the drug-interdiction programs. Those conditions had the effect of strengthening the general human rights requirement inserted in the International Narcotics Control Act (INCA) of

1989. Under the 1990 version of INCA, signed into law in November, the Bush administration is required to certify that the recipient governments have taken steps to improve the human rights situation by:

ensuring that torture, cruel, inhuman, or degrading treatment or punishment, incommunicado detention or detention without charges and trial, disappearances, and other flagrant denials of the right to life, liberty, or security of the person, are not practiced; permitting an unimpeded investigation of alleged violations of internationally recognized human rights, including providing access to places of detention, by appropriate international organizations (including nongovernmental organizations such as the International Committee of the Red Cross) or groups acting under the authority of the United Nations or the Organization of American States....

The President must also make a written determination that "the government of that country has effective control over police and military operations related to counternarcotics and counterinsurgency activities." (For more on America's Watch's work in connection with INCA, see the chapter on Colombia, *supra*)