

HAITI

Human Rights Developments

The year 1991 marked the first time in Haiti's history that its citizens, however briefly, lived under a freely elected government. But the rule of President Jean-Bertrand Aristide was violently suspended in September with the re-emergence of brutal military rule after the latest in a series of bloody coups d'état.

President Aristide's human rights record, though flawed, was distinguished by his efforts to extend civilian control over the army — the chief perpetrator of human rights violations and the main obstacle to democracy in Haiti since the fall of the Duvalier dictatorship in 1986. President Aristide pressured generals who had controlled the army under previous abusive military regimes to retire; promoted officers believed to be committed to democracy; and dismissed or transferred to obscure posts others known for human rights violations.

President Aristide also abolished the corrupt and abusive system of rural section chiefs. He admitted reform-minded officers into the police force, which in turn began to curb "insecurity," the rampant and often politically motivated violence that has periodically gripped Haiti's cities since 1986. The seven months of the Aristide government also saw a notable decrease in the loss of lives in rural land conflicts, which in the past had been a source of some of the worst massacres, often at the hands of corrupt soldiers in league with large landowners.

Nevertheless, President Aristide's human rights record was marred by sporadic military killings of civilians and Aristide supporters in the countryside. In addition, five youths were killed by officers friendly to the Aristide administration and the murders were never adequately investigated. Further, there was an apparent tolerance by the Aristide government of the lynching and intimidation of suspected criminals and at times political opponents by mobs of civilians. The popular killings are, in significant part, a symptom of frustration with the dysfunctional criminal-justice system inherited from President Aristide's predecessors. With justifiably little confidence that criminals, regardless of motivation, will be tried, convicted and punished, some Haitians have simply taken the law into their own hands. These underlying weaknesses in the judicial system persisted under the Aristide government despite its efforts to remove corrupt judges and train new ones. Hundreds of detainees — including those alleged to have plotted against the civilian government in an earlier coup attempt on

January 7 — were permitted to languish for months in prison, under deplorable conditions, before even being formally charged, let alone brought to trial.

In part, however, popular violence contributed to the weakness of the judicial system. Threats of lynchings were used by Aristide supporters to intimidate lawyers who attempted to defend the January 7 coup-plotters and the court that sought to try them, as well as members of Parliament who opposed the president's policies. President Aristide failed to use his tremendous moral influence to call for an end to these acts of intimidation, and in two speeches, in August and September, publicly seemed to endorse such threats of violence. The president's own publicly ambivalent attitude toward popular violence was later cited by the Haitian army as an excuse to commit yet another serious human rights violation by depriving the Haitian people of their elected government.

In the three months since the September 30 coup, the military government has accumulated a disastrous record on human rights. The regime is headed by Jean-Jacques Honorat, once a leading human rights advocate, who was installed as prime minister in a cynical attempt by the army to put the best face on an outlaw government.

In the immediate aftermath of the coup, Haitian troops killed at least three hundred civilians and wounded thousands more, in random shootings and targeted massacres of residents in impoverished neighborhoods who were suspected of being supporters of President Aristide. As many as one thousand may have been killed, according to the Platform of Haitian Organizations for the Defense of Human Rights, a coalition of nine human rights groups monitoring abuses in post-coup Haiti. In one massacre in the days following the coup in Lamentin, just outside Port-au-Prince, soldiers sought to avenge the murder of one or two troops by mowing down pedestrians and shooting into homes, killing some thirty to forty people. On October 2, soldiers killed some thirty civilians in Cité Soleil, an impoverished section of Port-au-Prince with strong pro-Aristide leanings, after a crowd reportedly attacked a police station in the neighborhood. Indiscriminate shooting, heavy automatic-weapons fire, the lobbing of grenades, and mass arrests by soldiers were reported in the early days of the coup in the Carrefours, Carrefours-Feuilles and Martissant sections of Port-au-Prince. Thousands of residents from these neighborhoods, which again generally backed Aristide, have been forced to flee to the countryside.

On October 7, heavily armed troops surrounded the Legislative Palace, shooting automatic gunfire into the air, and stormed the building. The soldiers forced legislators at gunpoint — and by threatening to use hand grenades — to name Supreme Court Justice Joseph Nerette, an elderly jurist, to replace President Aristide. That day scores of armed soldiers badly beat Mayor of Port-au-Prince

Evans Paul, a close associate of President Aristide, when they arrested him at the Port-au-Prince airport as he attempted to travel to Venezuela to meet with the exiled president. After hours of beatings and vows by soldiers to kill him, Paul was released the next day and went into hiding. At the same time, in an adjacent room at the airport, another group of soldiers broke up a meeting between a delegation of the Organization of American States (OAS) and the military junta.

In December, the military authorities stepped up their attacks on the Haitian legislature. On December 15, a rural section chief — under army authority — shot and killed Astrel Charles, a member of Parliament, in his home in the northern town of Pignon. Charles, a member of the socialist bloc of the Chamber of Deputies which supports President Aristide, reportedly was killed because he was planning to hold a political meeting. In the preceding three days, soldiers had set fire to some fifty houses in the northern town of Plaisance, including the home of the town's legislator, Deputy Jean Mandenave, and slaughtered livestock; and had reportedly shot and killed two Aristide supporters and burned down some thirty houses in a town near Desdunes in the Artibonite Valley.⁹⁷ The alleged killer of Deputy Charles, section chief Pierre Elum, reportedly turned himself in to the authorities on December 17, and confessed to the killing.

Other leading Aristide supporters have been arbitrarily arrested and sometimes savagely beaten by soldiers. They include popular musician Manno Charlemagne and prominent businessman Antoine Izmayery. Since their release, they have been forced into hiding. The army also has been responsible for countless raids on homes and offices of those deemed to be opponents of the military regime, including members of President Aristide's cabinet. The homes or offices of Minister of Information Marie Laurence Lassègue, Minister of Finance Marie-Michèle Rey, and Minister of Planning Renaud Bernadin, among many others, have been attacked, forcing these individuals, too, into hiding.

The army has targeted popular organizations throughout the country such as the Papaye Peasant Movement (MPP), the Kombit Komilfo, the Labadie Youth Movement, the Planters' Defense Group of the Artibonite, the Autonomous Confederation of Haitian Workers (CATH), the literacy project ALPHA, the Movement of Young Peasants of Lascahobas, the September 17 Popular Organization, KONAKOM and CARITAS, as well as organizations closely identified with President Aristide, such as the National Front for Change and Democracy, the popular *ti legliz* Catholic church movement, and the boys' shelter Lafanmi Selavi. Members of

⁹⁷ "Army Promises Inquiry into Slaying of Pro-Aristide Legislator," Associated Press, December 16, 1991.

these organizations have been threatened, arrested or forced into hiding after their offices were raided and destroyed by soldiers.

Most recently, three union activists and a peasant leader were arrested by the police on December 17. Duckens Rafael, general secretary of the state electric company's union, along with fellow union officials Abel Point Dujour and Evans Fortune, reportedly were arrested while attempting to collect paychecks for workers fired since the coup. The police also arrested Dieudonné Jean-Baptiste, an MPP supporter and brother of one of Haiti's leading peasant activists, Chavannes Jean-Baptiste, the head of MPP. He is reportedly being held in police headquarters in Port-au-Prince.

In the southeastern city of Jérémie in October and in the northeastern city of Gonaïves in November, soldiers disrupted demonstrations by Aristide supporters, shooting into crowds or into the air on several occasions. Demonstrations against the military regime have been officially prohibited.

The press has been systematically silenced. The army quickly took aim at Haiti's numerous independent radio stations, arresting journalists, shooting at stations and destroying equipment. Radio Antilles Internationale, Radio Cacique, Radio Caraïbes, Radio Haïti Internationale, Radio Lumière and Radio Métropole all have been attacked and most have been forced to cease broadcasting. Journalists who have been arrested since the coup include Herald Gabiliste, Jean-Pierre Louis and Paul Jean-Mario of Radio Antilles; Frère Roday and a reporter known as Philiare of Radio Cacique; Miché Sully of Radio Galaxie; Michel Favard and Nicolas Sorenville of Radio Nationale; Fernand Billon of Radio Soleil; Masner Beauplan of Collectif Kiskeya in Hinche; and Jean-Robert Philippe of the Voice of America. Other journalists have been physically assaulted or threatened by soldiers, or denounced on the reconstituted state-run Radio Nationale, including Thony Belizaire of Agence France-Presse; Sony Bastien and Lylianne Pierre Paul of Collectif Kiskeya; Jean-Laurent of Radio Plus and an officer of the Association of Haitian Journalists; Edwidge Balutansky of Reuters; and Marvel Dandin of Radio Haïti-Inter. Paul Jean-Mario was badly tortured in the Petit Goâve military post and remains in detention.

The dead body of one journalist, Jacques Gary Siméon of Radio Caraïbe, was found shortly after his arrest by soldiers on the first day of the coup. On December 10, Felix Lamy, director of Radio Galaxie, was abducted from the radio station by heavily armed soldiers who also beat up two employees, shot at the station and destroyed equipment. The military government has denied responsibility for the abduction and Lamy's whereabouts are unknown. After this most recent attack, the last three independent radio stations broadcasting news — Radio Galaxie, along with Radio Métropole and Radio Tropic FM — ceased operations.

On November 12, between 100 and 150 students were arrested after the Federation of Haitian Students (FENEH), together with members of various popular organizations, held a press conference to support the OAS's call for immediate and unconditional restoration of President Aristide and to back its embargo against the military regime. The press conference was held the day after an OAS delegation arrived in Port-au-Prince to meet with members of the regime. The students' gathering was violently disrupted even as anti-Aristide demonstrations by Haiti's economic elite were allowed to take place elsewhere in Port-au-Prince. Several truckloads of heavily armed soldiers stormed the Science Faculty building at the State University of Haiti, where the press conference was held, and clubbed and arrested students and journalists. Some eight journalists were arrested and have since been released. Their equipment was destroyed and some had their press cards confiscated. One group of students was taken to the National Penitentiary and another group to the Anti-Gang Police Service detention center. Some were eventually transferred to the "Cafeteria" police station. Many of the students were badly beaten while in detention, according to several among them. After a court ordered all the students released, most were eventually freed. However, the army has refused to comply fully with the court order and at least forty are said by their lawyers and reputable Haitian human rights groups to remain imprisoned. The state-run Radio Nationale has denounced the students as "déchoukeurs" (lynch mobs), "thieves" and "drug-addicts."

Two additional killings occurred in the first hours of the coup. Sylvio Claude, a prominent politician and critic of President Aristide who had just given an anti-Aristide speech, was killed on September 29, the night before the president was ousted from the country, as the coup was underway. He was murdered in the area of Les Cayes, a city in the south, but there are conflicting reports of how he died. By one account, a crowd of Aristide supporters killed him after learning that a coup was in progress; by this account, soldiers may have tried to stop the crowd but retreated, fearing for their own lives. By another account, he was killed by soldiers in a military post under orders to eliminate this formerly popular politician as a player in post-coup Haiti.

The second killing involved Roger Lafontant, the convicted coup-plotter who was serving a term of life in prison. He was shot in his cell in the National Penitentiary on September 29. The current military government alleges that President Aristide ordered the killing. President Aristide's minister of planning, Renaud Bernardin, has alleged that it was probably a coup collaborator who killed Lafontant to prevent his emergence as a rival for power after the military takeover. Some of the other participants in the January coup attempt who had been

convicted with Lafontant were freed or allowed to escape in the chaos provoked by the Lafontant shooting.

The Right to Monitor

Haitian human rights groups and international human rights organizations were allowed freely to monitor human rights violations under the Aristide government. Jean-Jacques Honorat, the civilian figurehead of the subsequent army-installed regime, complained that while President Aristide was in office, at a time when Honorat still headed the Haitian Center for Human Rights (CHADEL), he received threatening telephone calls. Throughout the period of the Aristide government, CHADEL issued a monthly newsletter on human rights in Haiti and received access to the National Penitentiary in Port-au-Prince. The threats may have been prompted by CHADEL's public stance against the popular intimidation of lawyers seeking to represent those accused of participating in the January coup attempt, as well as CHADEL's criticisms of serious due process violations at the trial of the alleged plotters, including sentences in excess of the legal maximum because of threats against the court by a crowd outside.

Under the *de facto* Honorat government, however, it has become very dangerous for Haiti's leading activists to continue to report on human rights. On October 2, three days after the coup, the Reuters news agency cited unnamed diplomatic sources to report that "troops were going door-to-door searching for aides to Aristide, cabinet ministers and human rights activists named on arrest warrants." Some human rights activists have fled the country or been forced into hiding. Others continue to monitor human rights under the military regime with extreme discretion.

Virginie Sénatus, head of the women's section of the Lafontant Joseph Center for the Promotion of Human Rights, was arrested on November 12 at the FENEH university students' press conference described above. Since then, Raynand Pierre, director of the Center; Loby Gratia, head of publications; and other members of the organization have been forced into hiding.

A member of the Platform of Haitian Organizations for the Defense of Human Rights was prevented from traveling outside the country on October 25 because his name appeared on a list at the international airport. The list, which he was shown, contained an estimated two hundred names. One other name he recognized was of a member of the FENEH student organization.

The Legal Assistance Group (GAJ), a member organization of the Platform

coalition based in the northern city of Cap-Haïtien, has also been targeted. On October 1, the home of GAJ member Joseph Fernel Manigat was shot at and ransacked by soldiers, and some of his belongings were burned. Soldiers also stole equipment from the GAJ office.

U.S. Policy

The United States wields considerable political and economic influence in Haiti. By and large over the last two years, the Bush Administration has used its influence to promote respect for human rights in Haiti, but the refugee crisis sparked by the September 1991 coup has given rise to disturbing indications that the Administration has subordinated the promotion of human rights in Haiti to the goal of stemming the flow of refugees to the United States.

The Administration's strong insistence on peaceful, democratic elections in 1990 was an essential element in the success of the December elections that brought President Aristide to power with the support of over sixty-five percent of the large number of voters who cast ballots. Speaking as head of the Administration's election-monitoring team, Assistant Secretary of State for Inter-American Affairs Bernard Aronson extended swift recognition to Aristide as the overwhelming victor, signaling to the army that Washington was intent on seeing the election results respected. The Administration was equally firm in denouncing the January 1991 coup attempt. Shortly after Aristide's inauguration on February 7, the U.S. Agency for International Development announced that it would provide over \$80 million in assistance for fiscal year 1991, some \$28 million more than the previous year.

In mid-August 1991, Vice President Dan Quayle visited Haiti at the end of a four-nation Latin American tour. He praised Haiti's progress toward democracy and promised increased U.S. assistance the following year. The vice president also signed two economic cooperation agreements with the Haitian government: one committing \$9 million in technical support for public administration, the other granting \$250,000 for anti-drug efforts.

Since the September coup, the Bush Administration generally has been forceful in its support for and continued recognition of President Aristide as the sole legitimate Haitian head of state. Statements condemning the coup were issued immediately by the U.S. Embassy and the State Department on September 30. On October 1, the day after the coup, in an important symbolic gesture, President Bush accepted the credentials of President Aristide's appointed ambassador to Washington, Jean Casimir, who had been a leading figure on the

electoral council that organized the December 1990 election. President Bush told Ambassador Casimir that "despite the events of the last two days, the United States continues to recognize President Aristide as duly elected president of Haiti," according to a statement released by the White House. "We condemn those who have attacked the legally constituted democratically elected government of Haiti, and call for an immediate halt to violence, and the restoration of democracy in Haiti. We will be working closely with the OAS to bring that about," the White House statement read.

On October 2, in an emergency OAS meeting, Secretary of State James Baker condemned the coup in strong terms, saying that the United States "demand[ed] the immediate restoration of President Aristide's constitutional rule. We have suspended all foreign assistance to Haiti. We do not and we will not recognize this outlaw regime." He added: "This junta is illegitimate. It has no standing in the democratic community. Until President Aristide's government is restored, this junta will be treated as a pariah throughout this hemisphere — without assistance, without friends and without a future." He concluded, "this coup must not and will not succeed."⁹⁸

The suspended aid to which Secretary Baker referred included \$66 million of the \$85.5 million aid package for Haiti for fiscal year 1991 that had not been disbursed — \$84 million in economic and food aid and \$1.5 million in nonlethal military aid. Also suspended was the Administration's pending request for fiscal year 1992 of \$90.8 million, including \$88.6 million in economic and food aid and \$2.2 million in nonlethal military aid. On October 4, the Administration froze all Haitian government assets in the United States.

One week into the coup, however, the Bush Administration began to send mixed signals on Haiti, in contrast to its initial solid support for the deposed president. *The New York Times* reported that U.S. officials were "mov[ing] away from the unequivocal support they have voiced for the ousted Haitian President...citing concerns over his human rights record." According to the *Times*, "While strongly criticizing the Haitian military for carrying out the coup, these [Administration] officials now concede that Father Aristide's condoning and even encouragement of vigilante justice by mobs of his supporters in the streets has jeopardized his moral authority and popularity."⁹⁹

The Administration was justified in criticizing President Aristide for his

⁹⁸ As reported in the State Department's *Dispatch*, October 7, 1991.

⁹⁹ Clifford Krauss, "In Policy Shift, U.S. Criticizes Haitian on Rights Abuses," October 7, 1991.

posture toward the political intimidation of his opponents as well as the two acts of intimidation against the Haitian parliament and judicial system committed during his seven months in office. However, since these abuses paled in light of the utter brutality and wholesale disregard for human rights and democratic institutions shown by the successor military regime, the major reappraisal of U.S. policy that was briefly hinted was less understandable.

In fact, whatever reassessment of U.S. policy was considered quickly gave way to a reaffirmation of a pro-Aristide position. Responding on October 7 to questions from reporters about the Administration's support for Aristide, State Department spokesman Richard Boucher stated: "The responsibility of constitutionally elected leaders to safeguard human rights is one thing, but any problems in the human rights situation can't be resolved by overthrowing a democratically elected government."

Thereafter, the Bush Administration took additional steps to isolate the military junta. On October 29, it suspended all trade with Haiti, excluding basic foods and medicines and commercial flights, and ordered home all nonessential U.S. government employees and their dependents. According to Secretary Aronson, the U.S. trade cutoff meant a loss for Haiti of sixty-five percent of its imports and eighty-five percent of its exports. U.S. imports from Haiti in 1990 had amounted to \$339 million and U.S. exports to the country had totaled \$447 million.

In November, the State Department rejected the military government's proposal to hold new national elections on January 5, 1992. With Aristide supporters and popular organizations under continuing violent attack and President Aristide barred from returning to the country, the balloting would have been a meaningless exercise. Instead, the Administration reiterated its support for OAS efforts to negotiate a return to constitutional rule.

U.S. Ambassador to Port-au-Prince Alvin Adams is said to have played an important role in saving President Aristide's life on the day of the coup — negotiating his release from arrest and escorting him to the airport on his way into exile. Ambassador Adams also issued a strong statement on October 24 condemning human rights violations since the coup. He cited the arrest of prominent Aristide supporters Evans Paul, Manno Charlemagne and Antoine Izmery, indiscriminate killing, warrantless raids on private homes and radio stations, police harassment, and mistreatment "in the custody of Haiti's *de facto* authorities."

The Bush Administration's position on refugees fleeing the country is considerably less supportive of Haitians' human rights. The Administration insists that most of the Haitian refugees are fleeing economic conditions rather than

political persecution,¹⁰⁰ despite the widespread arrests, beatings and killings of Aristide supporters and perceived opponents of military rule, and the Administration's appropriate refusal to recognize the legitimacy of the lawless and brutal military regime. Pursuant to an agreement reached between the Reagan Administration and former Haitian dictator Jean-Claude Duvalier, the U.S. Coast Guard has continued to interdict Haitians fleeing by boat and, after cursory interviews by immigration officials aboard Coast Guard cutters, forcibly returned them to Haiti.

Some 538 Haitian refugees had been forcibly repatriated since the coup when, on November 19, U.S. District Judge Clyde Atkins ordered a temporary halt to the practice. He reaffirmed his decision on December 3 by issuing a preliminary injunction, basing his decision on the finding that if the refugees were sent back they would face "loss of liberty or death at the hands of Haiti's military on account of [their] political beliefs."¹⁰¹ The Bush Administration made vigorous efforts to reverse the injunction, including the unusual decision to call on Solicitor General Kenneth Starr to argue a case in the lower federal courts. The Administration argued principally that the refugees had no right to challenge the repatriations in U.S. court because, in the Administration's view, the international prohibition against *refoulement* (the sending of an individual to a land where he or she is likely to face political persecution) does not apply until the refugee has entered U.S. territory. This narrow view of the law ignored the Coast Guard's role in preventing the Haitian refugees from reaching U.S. soil, where the prohibition against *refoulement* clearly does apply. It also contradicted an August 11, 1981 opinion of Assistant Attorney General Theodore Olson, head of the Justice Department's Office of Legal Counsel, which cited the principle of *refoulement* as giving protection to interdicted Haitians. On December 17, however, a federal appeals court endorsed this argument and lifted the injunction. A new restraining order was promptly imposed by Judge Atkins but once again reversed by the appeals court on December 19.

At the same time as the Administration was contesting the injunction, the Coast Guard began holding what quickly became some 7,400 refugees at the U.S.

¹⁰⁰ See, e.g., statement of State Department spokeswoman Margaret Tutwiler at press briefing on November 20, 1991.

¹⁰¹ Will Lester, "Judge Extends Ban on Return of Haitian Boat People," Associated Press, December 4, 1991.

naval base at Guantanamo, Cuba.¹⁰² The effect was to deny the Haitians easy access to legal counsel to prepare asylum claims or the benefit of a hearing of their claims by an immigration judge rather than a low-level immigration official. Even under these conditions, 1,012 Haitians were found by December 17 to have plausible asylum cases, allowing them to be brought to the United States to pursue their claims with the assistance of counsel and full procedural rights.

The Administration's efforts to halt the flight of Haitian refugees appears to have colored its human rights advocacy in Haiti. Haitians began fleeing by boat in large numbers approximately one month after the coup, as widescale acts of political violence continued and the prospect of President Aristide's quick return to office dimmed. At the same time, the Administration stopped publicly criticizing human rights abuses under the military regime. Following Ambassador Adams's October 24 statement described above, and the October 29 imposition of sanctions, no public denunciation of abuses was made by the State Department or the U.S. Embassy. The timing of the sudden silence left the impression that the Administration was more concerned with avoiding lending support to the growing number of Haitians claiming to be fleeing political persecution — or prejudicing the court case challenging interdiction — than with pressing the military regime to stop the violence and killing.

We recognize that one element in this sudden silence may have been the U.S. Embassy's diminished capacity to monitor the human rights situation. With Embassy staff reduced to "essential" personnel out of concern for their safety, an Embassy official told our investigative mission in December that the Embassy lacked the capacity to investigate human rights violations and was dependent on reports of abuses received from others. This diminished capacity to monitor the human rights situation calls into question assurances repeatedly given by the Administration that Haitians, if forcibly repatriated, would not face political persecution. Indeed, the decision to define Embassy personnel assigned to monitor human rights as "nonessential" suggests that the Administration may not have wanted to know the full extent of political persecution in Haiti for fear of compromising its defense of interdiction.

Moreover, subsequent developments suggest that the Administration may be allowing fear of an influx of Haitian refugees to influence the veracity of its human rights reporting. On December 13, the State Department's Office of Asylum Affairs — part of the Bureau of Human Rights and Humanitarian Affairs — issued its first

¹⁰² By contrast, only 1,351 Haitians fled the country during President Aristide's seven-month tenure, according to State Department spokeswoman Tutwiler on December 3, 1991.

opinion on human rights conditions in Haiti since the coup. The opinion is important because it is used by asylum adjudicators in assessing Haitian claims to be fleeing political persecution. The opinion flies in the face of extensive evidence of ongoing persecution of perceived military opponents and Aristide supporters, including the cases of persecution cited above, by asserting: "[A]t this time we have no reason to believe that mere identification of an individual as an Aristide supporter puts that individual at particular risk of mistreatment or abuse."

The State Department opinion also claimed: "There is no indication that persons returned [to Haiti] by the U.S. under the interdiction program are detained or subject to punishment by Haitian authorities."¹⁰³ As noted, such a statement is suspect in any event in light of the Embassy's diminished capacity to monitor even the general human rights situation in Haiti, let alone to engage in the difficult task of tracing returned Haitians to ensure that they have not suffered persecution as a result of their flight. More important, the statement is inconsistent with the interest shown by Haitian soldiers in the political activities of returning Haitians, as detailed in a State Department cable describing the December 3 voluntary return to Haiti of seventy-three Haitians who had fled by boat and, after interdiction, been housed temporarily in Venezuela. According to the cable, soldiers rather than customs officials questioned the returning Haitians and thoroughly searched their persons and luggage. The cable recounted: "Soldiers told Embassy staff they were looking for 'everything' and that they read repatriates' letters and papers to find anything 'compromising.' Repatriates reported [that soldiers] questioned them to determine whether they are politically active." The cable describes the repatriates then being taken to police headquarters before, according to the police, being released.

Other International Actors

The OAS has been at the forefront of international efforts to restore President Aristide to office. It reacted swiftly and vigorously to the September military coup, pursuant to a resolution adopted by the OAS General Assembly the previous June requiring immediate consultations among governments if any elected government in the hemisphere is forcibly overthrown. On September 30, the day of

¹⁰³ A similar theme was sounded by State Department spokesman Boucher on November 18 and spokeswoman Tutwiler on November 21, 1991.

the coup, the Permanent Council of the OAS, responding to "the grave events that have taken place in Haiti and that represent an abrupt, violent and irregular interruption of the legitimate exercise of power by the democratic government of that country," issued "its most vigorous condemnation of those events and of their perpetrators" and demanded "adherence to the Constitution and respect for the Government, which was legitimately established through the free expression of the will of that country's people." The OAS also

deplored the loss of human lives;...demanded that those responsible be punished; and... insisted that, in strict observance of international law, those parties put an end to the violation of the Haitian people's rights, respect the life and physical safety of President Jean-Bertrand Aristide, and restore the President's exercise of his constitutional authority.

The OAS invited President Aristide to speak to it in Washington on October 2.

Pursuant to an OAS resolution, a hemisphere-wide economic embargo was imposed pending the re-establishment of the Aristide government. OAS delegates have literally risked their lives while attempting to negotiate with the military regime. On October 7, when an OAS delegation was meeting in a room at the Port-au-Prince airport with General Raoul Cédras, head of the military junta, heavily armed soldiers burst in and disrupted the discussions. The OAS delegation quickly fled the country.

In the first week of December, the OAS sent a mission to Haiti to investigate human rights violations since the coup. A statement issued a week earlier by the OAS Inter-American Commission on Human Rights expressed alarm that an estimated 1,500 people may have been killed since the coup.

The United Nations General Assembly also condemned the coup in a resolution adopted on October 11. The resolution called for the restoration of President Aristide and appealed to member states to take measures in support of OAS resolutions on Haiti.

In November, French Ambassador to Port-au-Prince Rafael Dufour was recalled to Paris under intimidation by the Haitian military regime for refusing to disclose the names of those who had sought refuge in the French Embassy. He, too, played an important role in ensuring President Aristide's physical safety on September 30 by riding with him in a vehicle from the president's besieged residence to the downtown palace and helping to arrange his safe passage out of the country. Until his expulsion, Ambassador Dufour was among the most outspoken critics of the military regime, despite army attacks on his residence,

including the cutting off of telephone service, electricity and running water to the building, where prominent supporters of Aristide and members of his government are believed to have sought protection. France has suspended \$36 million in foreign aid to Haiti.

Canada and Venezuela, among Haiti's top aid donors, as well as the European Community and the World Bank, also suspended their aid programs in the days following the coup.

The Work of Americas Watch

Americas Watch continues to cooperate closely with the National Coalition for Haitian Refugees (NCHR) in its work on Haiti. In November, the two organizations published our twelfth report on Haiti since 1983, the fourth issued together with Caribbean Rights. The report, *Haiti: The Aristide Government's Human Rights Record*, was based on five fact-finding missions to Haiti between February and September 1991. In preparation at the time of the September 30 coup, the report was released one month later to address the growing controversy over President Aristide's human rights record. The report set forth the positive and negative aspects of President Aristide's human rights policy, while stressing that even the worst of the president's failings did not begin to compare with the large-scale atrocities committed by his military successors.

Since the coup, Americas Watch and the NCHR issued several press releases condemning the army's actions and criticizing human rights abuses. Two representatives from the organizations, together with a representative of Physicians for Human Rights, undertook a fact-finding mission to Haiti in early December to document human rights violations under the military regime. A report of the mission's findings, *Return to the Darkest Days: Human Rights in Haiti Since the Coup*, was released in late December.

Americas Watch has also spoken out on several occasions, including in the December report, in opposition to the Bush Administration's efforts to force Haitian refugees to return to Haiti under the violent regime in Port-au-Prince.

HONDURAS

Human Rights Developments

Hondurans continued during 1991 to suffer grave human rights violations at the hands of the police and military, including murder, torture, illegal detention, threats and harassment. A decade of elected civilian government has failed to address these abuses. Insurgent groups claimed credit for several political assassinations or attempted assassinations during the year, despite a partially successful government effort to encourage their conversion into a peaceful political opposition.

There were no disappearances in 1990 or 1991, marking a possible end to a cruel practice carried out by government forces during the 1980s. However, the government's failure to provide an accounting for scores of disappearance victims over the past decade or to bring to justice any of the perpetrators among the security forces, accommodates the fear that those who resorted to this practice in the past may feel free to do so again should they deem it necessary. Although serious and well-documented abuses by the army in 1991 led to the initiation of judicial proceedings against several military men, including officers, none yielded trials or convictions, leaving the military's well-guarded impunity for human rights abuses intact.

Implementation of a harsh economic austerity program during the year deepened social tensions and inspired widespread labor actions and peasant invasions of land. Labor leaders reported receiving anonymous death threats, and one labor conflict was violently repressed by the army. In late October, soldiers seeking to oust striking miners who had occupied the El Mochito mine in the department of Santa Bárbara killed one miner and wounded twenty others at the U.S.-owned mine, according to the Committee for the Defense of Human Rights in Honduras (CODEH). Press reports indicated that miners injured at least three military men with stones after the army fired on the miners.¹⁰⁴

Rural violence increased significantly in 1991. The provinces of Santa Bárbara, Cortés and Yoro were the scene of massive land invasions in the month of May; in response to one of these actions, on May 3, a group of soldiers and

¹⁰⁴ Inter Press Service, "Honduras: U.S. Mining Company Suspends Operations," October 26, 1991.

plainclothesmen in the employ of an army colonel massacred five peasants and wounded eight in the village of Agua Caliente, in the worst episode of rural violence since the 1970s.¹⁰⁵ Another mass slaying — this time of four peasants in the eastern province of Olancho — was reported by the Honduran press to have occurred on November 2, allegedly at the instigation of an army colonel. Denying any official involvement, the police have detained eight suspects, two of whom later told a reporter that they had been severely tortured to extract confessions.¹⁰⁶

There was detectable change in the political climate in 1991, which tended to encourage respect for human rights, although the government of President Rafael Callejas failed seriously to address the nation's continuing human rights problems, such as the use of torture by the police and army, and violence against peasants engaged in conflicts over land. With the end of the *contra* war in Nicaragua, civilian politicians in Honduras have begun to seek a reduction in the dominant power of the military. They have found a new ally in the Bush Administration, which is pressing Honduras to reduce its budget deficit. Given the fiscal crisis and the lack of any security imperative, Washington views reducing military spending as an essential step to economic health. The army and the Callejas government have reacted angrily to suggestions of demilitarization, whether coming from members of the political opposition or the U.S. Embassy.

The Callejas government in 1991 advanced a policy of national reconciliation that included an amnesty for "political and related common crimes" committed before July 24, 1991. The amnesty led to the release of thirteen prisoners held for politically motivated crimes; the torture by the security forces of several of these prisoners after their arrests in 1989 and 1990 was documented by Amnesty International in a report released in June.¹⁰⁷ The amnesty also led to the release of some three hundred peasants charged with "terrorism" in connection with land invasions.

¹⁰⁵ See Americas Watch, "Honduras: Torture and Murder by Government Forces Persist Despite End of Hostilities," June 6, 1991, pp. 4-5. The government's Agrarian Reform Institute (INA) had given the land in dispute to the peasant group known as *El Astillero* in 1971, but a corrupt agrarian reform official illegally sold it nearly a decade later to the army colonel, Leonel Galindo. Although the peasants had petitioned INA for the return of the land, the agency had taken no action at the time of the massacre.

¹⁰⁶ Inter Press Service, "Alleged Killers Denounce Police Torture," November 19, 1991.

¹⁰⁷ Amnesty International, *Honduras: Persistence of Human Rights Violations*, June 1991, pp. 20-22.

While Americas Watch is not opposed to amnesties intended to foster national reconciliation, we oppose applying amnesties or pardons to parties — be they members of government or insurgent forces — who are responsible for gross violations of human rights, such as extrajudicial execution, disappearance and torture. The amnesty as enacted covers not only members of the military accused of crimes against the state, such as rebellion and sedition, but also those accused of crimes against civilians, including homicide and assault.¹⁰⁸ It thus makes official the *de facto* impunity enjoyed by the military for more than 140 disappearances and hundreds of acts of torture committed since the early 1980s. Americas Watch considers the inclusion of these crimes in the amnesty law to be a breach of Honduras's duty to prosecute gross violators of human rights. It is one more signal to the armed forces that they may torture and murder without fear of punishment.

Political assassinations continued in 1991 and, as in the past, the government made no serious effort to investigate or prosecute them. Some were part of the rural violence described above, as were the murders of peasant activist Moisés Castillo, who while handcuffed was allegedly pushed in front of a speeding truck by his arresting officers on February 19,¹⁰⁹ and indigenous leader Vicente Matute, who was shot dead along with his companion, Francisco Guevara, on September 30. Testimony given to CODEH suggests that the shooting of Matute and Guevara was arranged by a family engaged in a land dispute with an indigenous tribe in the department of Yoro. Matute was apparently trying to settle the land dispute, and had twice been threatened by individuals connected to the family. In addition, on December 9, a high-ranking peasant leader, Manuel de Jesús Guerra, was shot dead; according to the National Confederation of Rural Workers, he was involved in solidarity work with the electrical workers union, which is engaged in a bitter labor dispute with the government.

Two of Honduras's minute insurgent groups — the Morazán Patriotic Front (FPM) and the Cinchoneros — claimed credit for several political killings and assassination attempts during the year. As has been the tradition in the case of assassinations committed by government forces, political assassinations attributed to the guerrillas have not led to prosecutions, even when the victims were members of the military. Among the guerrillas' apparent victims in 1991 were Sergeant José Blas Peña Paz, shot dead in his garage on May 26; cattle rancher

¹⁰⁸ Articles 215 & 216, Title VI, Chapter I, of the Military Code.

¹⁰⁹ See Americas Watch, "Honduras: Torture and Murder," p. 5.

Pablo Padilla García; and Raúl Arnulfo Suazo Madrid, a right-wing university activist. Little is known about the violent left-wing opposition groups. They appear to be deeply divided and, according to credible sources, possibly infiltrated by the military. Often insurgent communiques claiming credit for attacks are followed by others denying it. For example, the FPM originally claimed responsibility for the slaying on October 4 of Suazo Madrid, but subsequently denied involvement. Similarly, the Cinchoneros claimed credit for the May 25 assassination attempt against Roger Eludín Gutiérrez Rosales — a former Cinchonero leader who had recently returned from exile and renounced the armed struggle — only to deny responsibility a week later and instead blame the armed forces. According to CODEH, the family of cattleman Padilla García, whose June 20 assassination was claimed by the Cinchoneros, has denied that the guerrillas were responsible.¹¹⁰

The murder on July 22 of Marco Tulio Hernández, the son of a human rights leader and an activist himself, also remains unresolved. Although the gunman was quickly apprehended, he has changed his story several times, leaving his motive in doubt. Nonetheless, Americas Watch is aware of no evidence linking the security forces to the murder of Hernández, although the victim — who had been living in Italy — told a relative before his death that he had been warned to "be careful" by an immigration official when he returned to the country on June 14. Still, the authorities do not appear to be actively pursuing the case. Although the gunman has named an accomplice, he has not been apprehended.

A far larger number of killings occurred without any apparent political motive. As CODEH noted in its report on the first six months of 1991:

Contrary to what occurred in the 1980s, when we denounced a greater number of violations committed against persons belonging to the organized political opposition to the government, a conscientious analysis of the current violations reflects that this is no longer the case. Rather, any citizen who is not to the liking of a military officer is open to having his or her fundamental rights violated with impunity.¹¹¹

CODEH reported sixty killings between January and September 1991 as "abuses of authority." One example, the murder of seventeen-year-old student Riccy Mabel

¹¹⁰ CODEH, *Informe: Violaciones a Los Derechos Humanos en Honduras, Enero - Junio 1991*, Tegucigalpa, p. 9.

¹¹¹ CODEH, *Informe, Enero - Junio 1991*, p. 5 (translation by Americas Watch).

Martínez, shocked the nation and fueled a growing anti-military sentiment. It also riveted attention on the question of whether civilian or military courts should have jurisdiction over human rights crimes.

On July 13, Martínez visited the army's First Communications Battalion to ask two officers — Colonel Angel Castillo Maradiaga and Captain Ovidio Andino Coello — to release a friend of hers who had been recruited at the base. Her body was found hours later, reportedly unclothed and with the genitals and other organs cut out. Both military and civilian courts claimed jurisdiction over the crime, a recurring conflict in Honduras. Both claimed to have the Constitution on their side.

The relevant articles of the Constitution state that military courts have jurisdiction over military crimes, except "[w]hen a civilian or a retired member of the military is implicated in a military misdemeanor or felony," in which case civilian courts have jurisdiction.¹¹² The military has interpreted these articles to give its tribunals jurisdiction over all crimes by the military, including those in which a member of the military (including the police, which operate under military command) commits a crime against a civilian. However, many respected Honduran attorneys consulted by Americas Watch, including current Attorney General Leonardo Matute Murillo, interpret these articles to give civilian courts jurisdiction over cases in which a civilian is the victim of a crime by a member of the military or police. The trying of military offenders in military courts, where a lack of impartiality has guaranteed gentle treatment of defendants in crimes against civilians, is one of the foundations of impunity for human rights violations in Honduras.

After unprecedented public pressure for prosecution, including a public statement by U.S. Ambassador Cresencio Arcos, the army wiggled out of the dilemma in the Martínez case by dismissing the accused officers. This had the effect of ceding jurisdiction to the civilian court while averting a Supreme Court decision on the matter — a precedent which army officers apparently feared. The accused officers are now in pretrial detention at the disposal of the Second District Court in Tegucigalpa. However, a conviction is by no means assured, as several witnesses have failed to respond to court citations, apparently out of fear. Although the U.S. Federal Bureau of Investigations (FBI) conducted a forensic analysis of samples of blood, hair, semen and urine purportedly collected from the suspects with samples found on or near the victim's body, there are widespread suspicions that the military or the government's medicolegal

¹¹² Articles 90 and 91, Constitution of the Republic of Honduras (translation by Americas Watch).

department may have tampered with the evidence.¹¹³

In the Martínez case, the civilian judge aggressively defended her court's jurisdiction. In many other cases, however, civilian judges have chosen to avoid the risk of taking on the military. For example, a civilian court neither investigated nor challenged military jurisdiction when, on June 9, an intoxicated senior officer, Colonel Erick Sánchez, allegedly shot and seriously injured an unarmed man in a restaurant in the coastal town of La Ceiba. The victim, Gustavo Fúnez Rodríguez, remains paralyzed from his injuries. A military tribunal acquitted the influential officer. Linda Rivera, the attorney for the victim, has complained to the Supreme Court about the civilian tribunal's passive posture.¹¹⁴

There appears to have been no letup in the use of torture by the police, largely because of the authorities' consistent failure to punish those responsible. CODEH reported 119 cases of torture between January and September 1991. The police, most often the National Directorate of Investigations (DNI), regularly torture both political and common-crime suspects to obtain confessions. Methods used include severe beatings, suffocation with a rubber hood called the *capucha*, and application of electric shocks. In response to public complaints about torture, President Callejas promised to restructure the DNI, but has made no visible progress.

Often torture is used to extract confessions, as was the case with five civilian suspects detained by the police in connection with the murder of five individuals in the village of El Bálsamo, Yoro, on August 18. The five men had apparently been on patrol with police agents on the night of the killings. The police later arrested and beat them until they confessed to the slayings. They were released by a judge on September 11. A police spokesman eventually acknowledged that the men had been severely beaten. A DNI agent, Elmer Burgos, was consigned to a military court

¹¹³ The FBI did not collect the samples. It simply analyzed those provided by the medicolegal department of the Ministry of Health and reported its findings to the judge. The U.S. Embassy was later surprised to learn that the medicolegal department had sent different samples for a private forensic analysis and provided a separate forensic report to the judge. According to press reports, this forensic report exonerates the defendants. (Cristina González, "Honduran justice system called into question," *Latinamerica Press*, November 14, 1991, p. 5.)

¹¹⁴ "Embajada de Estados Unidos indaga sobre el juicio contra coronel Erick Sánchez," *Tiempo*, November 7, 1991.

because of the ill-treatment.

In September, upon U.S. prompting, the Honduran police instituted an Office of Professional Responsibility (OPR), which is supposed to process civilian complaints about police behavior. The initial information provided by the office is insufficient to determine whether it is addressing human rights violations. Police commander Colonel Guillermo Paredes announced to the press on October 29 that the OPR had investigated ninety cases of alleged corruption or abuse of power by police agents, and that unspecified sanctions had been imposed on fifty-two police agents. Neither the names of the offending officers nor the abuses for which they were said to have been disciplined have been made public. As best as could be ascertained, no officer has been criminally punished for committing acts of torture.

The Right to Monitor

Domestic human rights monitors in the past have faced open hostility from the Honduran military and the U.S. Embassy. Under Ambassador Arcos, the Embassy has adopted a more positive attitude. However, domestic rights activists still occasionally face official harassment and anonymous threats. On July 18, police in the village of Támara, in San Pedro Sula, detained Marcelino Martínez, a CODEH representative, for a little over twenty-four hours. The police threatened him and tried to force him to sign a document saying he had refused to show them his identity card. It is unclear whether this ill-treatment was related to Martínez's human rights work. In addition, several activists affiliated with the Committee of Families of the Disappeared reported being subject to telephone threats, harassment and surveillance during 1991.

Much of the credit for increased consciousness about human rights in Honduras goes to Honduran journalists, some of whom have covered human rights cases quite seriously, such as the murder of Riccy Mabel Martínez and the massacre of five peasants in Agua Caliente. One reporter who over the years has consistently published news unfavorable to the military told Americas Watch that her house was constantly watched and that she had received many anonymous telephone threats. Two other radio reporters covering the Martínez case reportedly received death threats and warnings to cease their coverage.

International human rights groups did not experience problems in monitoring Honduras in 1991. The government responded to reports issued in 1991 by Americas Watch and Amnesty International with fierce criticism of both groups, but placed no obstacles in the way of a subsequent visit by Americas

Watch. The government has also remained open to dialogue with Americas Watch about human rights issues.

U.S. Policy

U.S. policy has changed so radically in Honduras that the Embassy, not long ago seen as the strongest defender of the Honduran military, is now seen as one of the military's tougher critics. While just three and a half years ago protesters attacked and set fire to part of the U.S. Embassy compound, in 1991 demonstrators gathered at the site to praise Ambassador Arcos after he publicly called for a thorough and "transparent" investigation into the murder of Riccy Mabel Martínez. While he took no public position on the question of jurisdiction, Arcos is said to have privately urged civilian leaders to stand up to the military, according to *The Miami Herald*.¹¹⁵ In addition, as noted above, the Embassy provided forensic assistance from the FBI.

Although Ambassador Arcos's public statements have been couched in diplomatic language, and have for the most part refrained from directly blaming the armed forces for violent abuses, they have been received as slaps in the face by a political-military establishment long accustomed to blind acceptance of its abuses by Washington. The possibility that Arcos might be declared *persona non grata* was publicly discussed by top Honduran officials in October, after he was quoted in the press discussing the need to reduce the budget deficit in Honduras and expressing irritation over the medicolegal department's handling of the forensic evidence in the Martínez case.

Yet, while Honduran authorities may find the Embassy's comments on human rights cases to be overly meddlesome, we find U.S. policy still too indulgent of human rights violations. Diplomatically worded criticism notwithstanding, Washington continues to provide Honduras with substantial sums of military and economic aid as well as training and equipment for the Honduran police. The Administration has not used the influence that flows from this aid as leverage for human rights improvements. In fiscal year 1991, Honduras was allocated \$30 million in military aid, up from \$20 million in 1990. In addition, Washington will provide \$1.1 million for military training, \$60.9 million in economic support funds, and \$51.8 million in development and food aid. The Bush Administration also

¹¹⁵ Christopher Marquis, "In Honduras, outrage grows over a murder," *The Miami Herald*, August 11, 1991.

forgave \$430 million worth of loans owed by Tegucigalpa to Washington. For fiscal 1992, the Administration has requested \$20.2 million for military aid and training for Honduras.

In 1990, Americas Watch hailed the State Department's decision to cancel Honduras's participation in police training under the State Department's anti-terrorism assistance plan because of police brutality and torture. This sanction has ended, according to the State Department, because Honduran officials have indicated a willingness to address abuses by the police. Yet we see no signs that the Honduran police has stopped torturing detainees, nor have we seen evidence of police officers convicted for such abuses. Under these conditions, we find unjustified the renewal of police assistance, even for such programs as anti-terrorism assistance, which focuses on airport security, and criminal-investigations training, which is supposed to decrease reliance on coerced confessions in favor of the use of physical evidence.

The Work of Americas Watch

On June 6, Americas Watch issued a newsletter, "Honduras: Torture and Murder by Government Forces Persist Despite End of Hostilities," which received wide coverage in the Honduran press. Although President Callejas rejected the conclusions of the report — principally, that his government had not, after more than a year in office, exercised the political will to end abuses — the subject of human rights was brought to a high level of public attention and remained there for several weeks with the release a short time later of a report by Amnesty International reaching similar conclusions.

To follow up on the report, an Americas Watch representative traveled to Honduras in October, meeting with officials of the Honduran government and U.S. Embassy, as well as human rights activists and attorneys. In addition, Americas Watch corresponded with the Callejas government throughout the year on specific cases of human rights violations.

Americas Watch participated in the successful litigation against Honduras before the Organization of American States (OAS) Inter-American Court of Human Rights in which the Court found Honduras responsible for the disappearance of a student and a teacher in 1981 and 1982 respectively.¹¹⁶ To date, the Honduran government has failed to comply fully with the Court's rulings concerning damages to the victims' families. In June, Americas Watch asked the General Assembly of the OAS, which was meeting in Santiago, Chile, to recommend that Honduras comply fully with the Court's orders. Honduras managed to derail the debate, but in the process told a representative of a nongovernmental organization that full payment was under study.

¹¹⁶ See *News from Americas Watch*, "Honduras" Inter-American Court of Human Rights Wraps Up First Adversarial Case," September 1990; Juan E. Méndez and José Miguel Vivanco, "Disappearances and the Inter-American Court: Reflections on a Litigation Experience," *Hamline Law Review*, Summer 1990; and *News from Americas Watch*, "Honduras: Torture and Murder," pp. 10-11.

MEXICO

Human Rights Developments

During 1991, pressure mounted on the government of President Carlos Salinas de Gortari to improve human rights conditions in Mexico. Americas Watch and other international human rights organizations, in cooperation with an expanding network of non-governmental human rights activists in Mexico, focused national and international attention on numerous ongoing abuses in the country. These include murder, torture and other abuses by federal and state police; violence associated with electoral fraud; violations of labor rights; rural violence; threats against human rights monitors and journalists; and impunity for just about everyone who engages in such abuses.

The pressure came as Mexico and the United States proceeded with negotiations of a free-trade accord. Ratification of a North American Free Trade Agreement, a goal announced by the two nations in June 1990, is a cornerstone of President Salinas's economic policy. His government has worked hard to anticipate and deflect criticism from Washington concerning Mexican domestic policies. One component of this effort has been an extensive campaign to improve Mexico's human rights image.

Following the May 1990 murder of human rights activist Norma Corona Sapién, the Salinas government instituted a series of reforms, including the establishment of a National Human Rights Commission (CNDH) and the implementation of legal and institutional reforms and personnel changes. In a handful of serious, high-profile cases, progress has been made toward identifying and prosecuting those responsible for violent abuses.

Despite these reforms, many steps that are necessary to realize permanent human rights improvements have not been taken.¹¹⁷ The Salinas government has paid scant attention to rights abuses that do not relate to the administration of justice. Rural violence, particularly unannounced forced evictions of peasants from their homes by police working in cooperation with local rural bosses, is

¹¹⁷ For a more detailed description of reforms taken in 1990, see Americas Watch, *Unceasing Abuses: Human Rights in Mexico One Year After the Introduction of Reform*, September 1991, pp. 3-8.

ongoing and unchecked. Human rights activists and journalists have been threatened, and labor activists who oppose government-affiliated unions have found their right to freedom of expression trampled. The fraud and corruption that marred the August 1991 mid-term elections contributed to a highly charged political climate, which in the past has sparked violence.

More fundamentally, the Salinas government has not reversed Mexico's long-standing policy of impunity for those who commit human rights abuses. Hundreds of cases of disappearance — some more than twenty years old — remain unsolved and their perpetrators unpunished. The use of torture by federal and state police — notwithstanding the many reforms introduced to combat the practice — remains routine. Adequate investigation of torture allegations is rare. Even when a serious investigation occurs, the will is often lacking to prosecute and punish the responsible officers and their superiors. If the human rights reforms introduced by the Salinas government are to succeed, they must be supported by a firm and consistent determination to throw the book at *all* those responsible for torture and other human rights abuses.

A positive development in the face of a worsening human rights situation was the June 1990 formation of the National Human Rights Commission, a government agency headed by respected Supreme Court Justice Jorge Carpizo, who reports directly to President Salinas. The CNDH has some three hundred staff members, including approximately sixty lawyers responsible for investigating complaints. As of September 1991, the commission had received more than two thousand admissible complaints of recent serious violations of human rights by government agents, including numerous cases of illegal deprivation of liberty, torture, death threats and homicide.

In that time, the commission had issued 119 recommendations. Many concerned highly publicized cases or cases on which non-governmental human rights groups had focused. Other cases, many equally serious, first received public attention as a result of the CNDH recommendations. While the majority of the recommendations have been directed to state government officials, thirty were sent to the federal attorney general and another three were sent to the Defense Ministry. Many called for the prosecution of agents who had committed the abuse and their superior officers.

The CNDH lacks prosecutorial powers and depends on publicity and the influence of Dr. Carpizo, backed by President Salinas, to enforce its recommendations. President Salinas has decreed that all prosecutors, police and other government agencies are to cooperate fully with commission investigations. In some cases, he has condemned human rights violations under consideration by the CNDH or called for a CNDH recommendation to be

implemented. But President Salinas has avoided public confrontation with state government officials or agencies of the federal executive branch that ignore or reject CNDH recommendations.

During its first year, the CNDH was routinely stymied by Federal Attorney General Enrique Alvarez del Castillo and a number of state officials who refused to comply with CNDH recommendations or did an end run around the CNDH by promising to "investigate" a CNDH recommendation while in fact doing nothing.¹¹⁸ In several highly publicized cases involving abuse by officers of the Federal Judicial Police, Attorney General Alvarez del Castillo either impeded the commission's investigation or refused to carry out its recommendations.¹¹⁹

Since Alvarez del Castillo was replaced by Ignacio Morales Lechuga in May 1991, there have been significant developments in several highly publicized cases, including some in which Alvarez del Castillo had defied CNDH recommendations. Antonio Valencia Fontes, the attorney for relatives of the November 1989 disappearance victim Sergio Machi Ramírez, was released a month after Morales Lechuga became federal attorney general. Shortly after the disappearance, Valencia Fontes and four friends and relatives of Machi Ramírez had been arrested, held incommunicado and tortured. They were incarcerated on trumped up charges for a year and a half before Morales Lechuga dropped the charges and the five were freed. Valencia Fontes is seeking indemnification for wrongful imprisonment and mistreatment.

Morales Lechuga moved to clean up the human rights mess left by Alvarez del Castillo. He took action in the May 1990 Aguililla case, which resulted from a heavy-handed anti-narcotics raid in Michoacán.¹²⁰ President Salinas in December 1990 publicly expressed his support for a November 1990 CNDH recommendation that had called for a complete investigation into the events in Aguililla, the release of four men imprisoned following the raid, and the punishment of all police who committed human rights abuses. Two of the men were released in December 1990, but two others remained incarcerated until Morales Lechuga dropped charges against them on June 26, 1991. Morales Lechuga's office announced in

¹¹⁸ The federal attorney general heads the *Procuraduría General de la República* (PGR). The investigative branch of the *Procuraduría* is the Federal Judicial Police.

¹¹⁹ See Americas Watch, *Unceasing Abuses*, pp. 3-5.

¹²⁰ See Americas Watch, *Unceasing Abuses*, p. 10; and Americas Watch, *Human Rights in Mexico: A Policy of Impunity*, June 1990, pp. 15-16.

late September that it had taken criminal action against a Federal Judicial Police commander, a Public Ministry agent in Michoacán state, and others responsible for human rights violations related to the raid.

But there has been no resolution in one of the most brutal cases in which the CNDH and the federal attorney general's office collided. On January 14, 1990, agents of the Federal Judicial Police murdered in cold blood Erick Dante, Jaime Mauro and Héctor Ignacio Quijano Santoyo.¹²¹ One year later, the CNDH issued a recommendation calling on the federal attorney general to begin an immediate full-scale investigation into the murders and asked that named Federal Judicial Police agents be investigated. It further called on the attorney general to suspend the suspects from duty and to begin criminal proceedings against all who participated in the crimes. However, none of the agents named in the case has yet been charged for the murders, including one who was arrested in December 1990 in a separate case for leading Federal Judicial Police anti-narcotics agents in killing six civilians in Angostura, Sinaloa. Indeed, in December 1990, one of the officers — Roberto Velázquez Quiroz — was promoted to first regional commander of the Federal Judicial Police in Reynosa, Tamaulipas.¹²²

The May 1991 dismissal of Federal Attorney General Alvarez del Castillo, who had come under increasing domestic criticism, was welcomed by human rights groups. His highly publicized battles with the CNDH had inspired opposition members of Congress to sponsor a bill of impeachment.¹²³ Although the connection was never proved, many Mexicans took for granted that the federal attorney general's office was responsible for the April 1991 bugging of the CNDH offices.¹²⁴ And in the weeks immediately preceding his ouster, Federal Judicial Police officers under his authority were implicated in the bloody takeover of the

¹²¹ See Americas Watch, *Unceasing Abuses*, pp. 12-13. See also the case of Francisco Quijano García, father of the victims and a vocal critic of police misconduct, who disappeared in June 1990. The PGR would not allow a CNDH investigator access to police detention facilities immediately following his disappearance. Quijano García's corpse was found in a private residence in March 1991. (*Ibid.*, pp. 3-4.)

¹²² See Americas Watch, *Unceasing Abuses*, pp. 17-18.

¹²³ The motion was defeated by the ruling Institutional Revolutionary Party (PRI), but the publicity surrounding it embarrassed the Salinas government.

¹²⁴ To date, there have been no arrests for the bugging.

prison in Matamoros, Tamaulipas. Eighteen inmates were killed in ending the thirteen-day revolt by prisoners loyal to drug kingpin Oliverio Chávez Araujo.¹²⁵

Since Morales Lechuga's appointment, relations between the CNDH and the Federal Attorney General's Office seem to have improved. In July 1991, the CNDH was granted by decree the authority to carry out "visits and acts of monitoring and observation in each and every area" of the office. The new federal attorney general also has promised prompt replies to past and future CNDH recommendations, and has appeared publicly with CNDH President Carpizo to address human rights issues. In addition, during the summer and fall of 1991, the federal attorney general endeavored to restructure his office, with the publicly stated goal of ensuring greater observance of citizens' rights and institutional accountability.

It remains to be seen whether Morales Lechuga will significantly contribute to the improvement of human rights in Mexico. Already his tenure has been marred by allegations of serious abuse by police and prosecutors who report to him. In July 1991 Víctor Manuel Oropeza, a homeopathic physician and a columnist for *Diario de Juárez* and *Diario de Chihuahua*, was found stabbed to death in his medical office. He was well known for his outspoken opposition to and willingness to publicize electoral fraud, police abuse and other violations of civil and political rights. According to his wife, Oropeza and his family previously had received death threats.

Prosecutors handpicked by Morales Lechuga took charge of the Oropeza murder investigation. Although members of the respected Human Rights Commission of Juárez, Chihuahua (COSYDDHAC) were invited to observe the official interrogation of suspects, allegations abounded of torture and due process violations. Suspects were picked up for questioning without warrants and, according to COSYDDHAC, appeared at official interrogation sessions covered with bruises. One suspect told an Americas Watch investigator that he had been tortured into making a statement that he had murdered Dr. Oropeza after a homosexual liaison. When other evidence refuted this, he said police offered him

¹²⁵ For a description of the melee between rival drug bands and the ensuing standoff between police and Chávez's men, see Americas Watch, *Unceasing Abuses*, pp. 18-21. In relieving Alvarez del Castillo of his law enforcement duties, the Salinas government failed to take the one step that would have signaled to those engaged in human rights abuses that such conduct will not be tolerated: Alvarez del Castillo was not investigated, charged, or tried for human rights abuses committed by agents under his command. Instead, he was awarded a position of trust as head of Mexico's rural development bank.

a five hundred dollar bribe to point a finger at someone else. On July 12, two suspects in their early twenties were arrested. They told Americas Watch that they, too, had been tortured into confessing to the crime.

Maria Teresa Jardí Alonso, Attorney General Morales Lechuga's human rights staff officer, traveled to Chihuahua in July to investigate allegations that suspects had been tortured. Upon her return to Mexico City, she told the press, "what we saw again was the manufacture of guilty persons through the use of torture." On August 22, Jardí Alonso resigned from the attorney general's office.

In February 1991, Mexico adopted legal reforms that cover a range of topics, including the right of indigenous persons who do not understand Spanish to have an interpreter in criminal proceedings, a liberalization of the circumstances under which stays of proceedings may be requested; and a restriction of the circumstances under which confessions are admissible as evidence in criminal proceedings. In September, the CNDH proposed additional reforms. While these reforms are welcome, they have been introduced into a political climate in which the rule of law is often ignored. Only when coupled with strict enforcement of existing laws can such new legislation contribute to improving human rights conditions in Mexico.

The Right to Monitor

Americas Watch is especially concerned about threats to human rights activists in Mexico. The murder of Norma Corona Sapién in 1990, and her predecessor, Jesús Michel Jacobo, in 1987, both while they were serving as president of the Commission in Defense of Human Rights in Sinaloa, are frightening reminders to human rights activists of what might happen to them.¹²⁶ A month before her murder, Corona told the press that she had received death threats warning her to discontinue her investigation of Federal Judicial Police agents for the torture and murder of four persons in Sinaloa. In late September 1991, the Mexican government announced that a Federal Judicial Police commander had been arrested and charged with the Corona murder. There have been no arrests in the Jacobo murder.

On September 18, 1991, four state judicial police agents in civilian dress detained Father Joel Padrón González in his house in Simojovel, Chiapas. The officers did not identify themselves or present an arrest warrant. The judge assigned to the case refused to hear testimony on behalf of Father Padrón before ordering his pre-trial detention, and state authorities initially refused to grant CNDH investigators access to the case files. Father Padrón was charged formally with crimes relating to a Simojovel land conflict. On November 5, a federal judge ordered Padrón's release, citing the arresting police officers' failure to identify themselves or present an arrest warrant, and the trial judge's failure to file charges within the required three days.¹²⁷ Padrón was released the next day. The respected Chiapas-based Fray Bartolomé de las Casas Human Rights Center believes that Father Padrón was targeted in retaliation for Chiapas Bishop Samuel Ruiz's outspoken criticism of the deplorable state of human rights in the region.

In September 1990, the CNDH issued a recommendation in the case of Jesús Manuel Martínez Ruiz, who was tortured and murdered by Tabasco State Judicial Police in September 1989.¹²⁸ The CNDH called on the governor of Tabasco to guarantee the physical integrity of members of Martínez Ruiz's family, who feared

¹²⁶ See Americas Watch, *A Policy of Impunity*, pp. 12-13, and Americas Watch, *Unceasing Abuses*, pp. 10-11.

¹²⁷ Candelaria Rodriguez, "Jailed Priest Accused of Leading Peasant Revolt is Freed," Associated Press, November 7, 1991.

¹²⁸ See Americas Watch, *A Policy of Impunity*, pp. 19-20.

police reprisal for denouncing his torture and murder. Ana María Martínez Ruiz, Jesús Manuel's sister, complained of continued harassment by police well into 1991.

Journalists critical of human rights abuses and the government also have been threatened. In the most publicized case, Jorge Castañeda Gutman, a journalist, leading political pundit and board member of the non-governmental Mexican Commission for the Defense and Promotion of Human Rights, received indirect death threats in June 1990 through his secretary, Mariana Rodríguez Villegas, who twice was terrorized by gun-toting men on a Mexico City street.¹²⁹ At a conference hosted by the Center for Strategic and International Studies in Washington in September 1991, Federal Attorney General Morales Lechuga publicly attempted to discredit Rodríguez Villegas's account of the incidents.

U.S. Policy

The Bush Administration's human rights policy toward Mexico is wanting. Apparently determined not to allow human rights violations in Mexico to stand in the way of passage of the North American Free Trade Agreement (NAFTA) or U.S. efforts to fortify Mexico's anti-narcotics capabilities, the Administration in 1991 avoided all opportunities to criticize the Salinas government publicly for serious human rights abuses. In January, Assistant Secretary of State for Human Rights and Humanitarian Affairs Richard Shifter made his first official visit to Mexico. After his return, he reported to an Americas Watch representative that he was "very, very positive" about human rights reforms there. Yet during his brief visit, he never left Mexico City, nor did he hold substantive meetings with representatives of any Mexican non-governmental human rights organizations.

At a hearing in March before the House Subcommittee on Western Hemisphere Affairs, Assistant Secretary of State for Inter-American Affairs Bernard Aronson testified that "[U.S.-Mexican] cooperation in the war against drugs has never been better," but did not comment on the range of abuses committed by Mexican police and security agents charged with waging that "war." Rather, when asked about human rights in Mexico, Secretary Aronson commended President Salinas for the positive steps he had taken. In a similar hearing on April 18 before the Senate Subcommittee on Western Hemisphere Affairs, Secretary Aronson again did not broach the topic of human rights. The State Department

¹²⁹ See Human Rights Watch, *Persecution of Human Rights Monitors*, pp. 72-3.

informed Americas Watch that it did discuss human rights concerns with Attorney General Morales Lechuga during his visit to Washington in September.

The NAFTA negotiations are proceeding without any public discussion of human rights conditions on either side of the U.S.-Mexican border. Subjects such as human rights, labor rights and other social issues are explicitly excluded from the talks. Such exclusion flies in the face of a statement made by the State Department to Americas Watch: that initiatives like the free trade negotiations tend to encourage a fuller dialogue on human rights concerns.¹³⁰

In May, the U.S. Congress acceded to the Bush Administration's demand that the NAFTA negotiations be placed on a "fast track." By doing so Congress lost the opportunity to write human rights provisions into the agreement. The Administration has the opportunity to negotiate the inclusion of such standards, which have been advocated by many labor and human rights groups, but to date has shown no inclination to do so.

While Americas Watch takes no position on the NAFTA, we are disappointed that both governments are ignoring this extraordinary opportunity for bilateral cooperation in focussing attention on and ending human rights abuses on both sides of the border. The failure of the Bush Administration to insist publicly on human rights improvements in Mexico before opening its border to free trade is surprising since, according to the State Department, Americans frequently fall prey to police abuse in Mexico. The Mexican government's failure to raise the issue is also surprising, since it has sent numerous diplomatic protests regarding the abuse of Mexican nationals by agents of the U.S. Immigration and Naturalization Service and other government agencies — involving more than seventy-five victims since 1985¹³¹ — without receiving satisfactory responses. Americas Watch calls on both governments to use the historic opportunity presented by the free trade negotiations to fulfill their obligations under the United Nations Charter to work together to promote respect for and observance of human rights in both countries.

In the anti-narcotics area, the United States continues to support Mexican anti-narcotics forces with training and equipment, despite ongoing abuses by these forces. On May 3, 1991, the United States and Mexico formally ratified a law

¹³⁰ Letter of October 3, 1991 to Americas Watch from Richard Howard, director of the Office of Mexican Affairs.

¹³¹ Edward Cody, "Mexico Protests Alleged Border Aggression by U.S. Agents, *The Washington Post* October 4, 1991.

enforcement accord, known as the Mutual Legal Assistance Treaty, designed to help law enforcement personnel in the two countries prosecute cross-border criminal cases including narcotics trafficking. For fiscal year 1991, the United States gave Mexico \$18.3 million in International Narcotics Control funds; the State Department has requested that \$26 million be appropriated for fiscal year 1992. These funds (to be provided in kind, primarily in the form of aviation maintenance and field support) are, in effect, direct aid to the Federal Judicial Police's abusive anti-narcotics division. The Bush Administration also provided \$400,000 in International Military Education and Training (IMET) assistance to the Mexican military in fiscal year 1991, and is seeking another \$430,000 for fiscal year 1992. These funds are intended primarily to train the Mexican military to operate more effectively in the anti-narcotics arena. The Administration's request for International Narcotics Control and IMET funds was presented with no mention of the unrelenting and extremely serious human rights abuses committed by the Federal Judicial Police and other police and security personnel charged with stopping narcotics trafficking.

This lack of concern about human rights is particularly troubling in light of the November 7 drug-related confrontation between Federal Judicial Police and the Mexican army, in which seven police agents were shot dead. Characterized as a "tragic error" by the Mexican government, *The Los Angeles Times* reported that autopsies revealed three of the victims had been shot at close range, including one police agent shot at point-blank range in the mouth.¹³² Compelling evidence indicates that, rather than a mistaken firefight, soldiers, intending to protect a plane laden with cocaine landing at a clandestine strip in Veracruz state, assaulted and overwhelmed police officers pursuing the plane.¹³³ Three persons aboard the plane escaped. Under orders from President Salinas, the Defense Ministry has enlisted the National Human Rights Commission to investigate the case.¹³⁴ Asked a series of questions about the incident on November 21, U.S. State

¹³² Marjorie Miller and Douglas Jehl, "Mexico Soldiers Accused in Drug Agent Killings," November 20, 1991.

¹³³ *Ibid.* The Federal Judicial Police was alerted to the plane by U.S. Drug Enforcement Administration agents monitoring the plane's flight by a U.S. Customs surveillance plane. Airborne Customs agents apparently videotaped the shootings.

¹³⁴ "Mexico insists killing of drug agents was accidental," United Press International, November 21, 1991.

Department spokeswoman Margaret Tutwiler lamented the police agents' deaths, but added that "[t]he Bush Administration has been very pleased with [Mexico's] cooperation" in the drug "war" in general.

Americas Watch believes that the United States should make crystal clear that all police and security forces engaged in preventing drug trafficking must adhere strictly to international human rights norms. To that end, the United States should stop funding any police or security agency — including Mexico's Federal Judicial Police — that does not unequivocally prevent and punish human rights abuses by its officers. The United States, in continuing to fund abusive forces, becomes party to the human rights violations committed by them.

The Work of Americas Watch

In January and February, an Americas Watch representative visited regions along the U.S.-Mexican border to investigate violence committed by U.S. border agents against foreign citizens attempting to migrate to the United States.

In February, an Americas Watch delegation conducted a week-long fact-finding mission to Angostura, Sinaloa and Mexico City. It met with state and federal government officials, National Human Rights Commission President Jorge Carpizo, members of the non-governmental human rights community, opposition labor leaders and victims of human rights abuse.

In March, in conjunction with the Prison Project of Human Rights Watch, Americas Watch released *Prison Conditions in Mexico*. The report described massive overcrowding, deteriorating physical facilities, poorly trained and vastly underpaid guards and other prison officials, a system-wide culture of corruption and a lack of adequate funding.

In August, an Americas Watch representative visited Chihuahua to research the July murder of journalist Víctor Oropeza. Also in August, upon Americas Watch's suggestion, the Congressional Friends of Human Rights Monitors wrote to the Mexican government to express their concern over the delays and limited progress in the investigations into the May 1990 murder of Norma Corona.

In September, an Americas Watch representative met with Federal Attorney General Ignacio Morales Lechuga during the latter's trip to Washington. Americas Watch also published *Unceasing Abuses: Human Rights in Mexico One Year After the Introduction of Reform*, which updated the June 1990 report, *Human Rights in Mexico: A Policy of Impunity*.

On October 16, an Americas Watch representative testified on human rights

in Mexico before the House Subcommittees on Western Hemisphere Affairs and Human Rights and International Organizations. Also in October, a representative traveled to Mexico to speak on human rights documentation at a conference of the newly formed National Democratic Lawyers Association, a nationwide group which is committed to representing victims of human rights abuses in legal proceedings.

Americas Watch and Yale University Press are preparing a comprehensive study of human rights conditions in Mexico. The book is to be part of the "Human Rights Watch Books" series published jointly by Yale and Human Rights Watch. In addition, Mexico's Planeta publishing house will soon release a Spanish-language anthology consisting of Americas Watch's three published reports on Mexico.

NICARAGUA

Human Rights Developments

In 1991, the task of national reconciliation in Nicaragua continued to be threatened by sporadic and sometimes violent unrest, the re-emergence of armed groups composed of both former *contras* and ex-Sandinista soldiers, and the inability of the judicial system to administer justice. The divisions wrought by the previous decade's bloody conflict continued to be manifest in a highly charged and politically polarized debate about private property, the state's role in the economy, and Sandinista dominance of the armed forces. The resort to violence by persons and groups of different political persuasions was perhaps the most troubling aspect of the still incomplete, and regularly tumultuous, democratic transition.

The Nicaraguan police and military did not themselves instigate political violence in urban areas. However, their failure to punish abuses — from either official or opposition sources — and their passivity in the face of major instances of violent unrest signaled the need for further progress in establishing the rule of law.

During the year, the government of President Violeta Chamorro reacted responsibly and prudently to tense situations in the countryside. The integration of former *contrarebels* in the so-called rural police expanded throughout the year in areas traditionally sympathetic to the *contras*, reducing the potential for political violence. Some former State Security officials known for human rights abuses who had entered the police force were removed from their posts in conflict areas. An office within the Ministry of Governance — the Civil Inspectorate — was created to investigate police abuses and became increasingly active throughout the year. The army was reduced in size to about twenty thousand and its role in society greatly diminished. Efforts to retrieve arms in the possession of the civilian population were renewed. Often, however, reforms were implemented only after long-standing problems had gotten out of hand. For example, the tensions that arose from the continued presence of Sandinista military and police in areas sympathetic to the *contras* and the United Nicaraguan Opposition (UNO) could have been anticipated.

The judicial system continued to suffer from poor funding, politicization, and an apparent lack of political will to investigate and prosecute violent crimes. As in

1990, the Chamorro government seemed intentionally to avoid pressing through the justice system cases involving violent crimes committed by persons of one political persuasion against another.¹³⁵

The government apparently continues to believe that jailing suspects involved in politically motivated crimes would elicit charges of political persecution. However, this failure to enforce the criminal laws has bred further polarization and distrust. Violence perpetrated for political motives — whether by UNO, *contra* or Sandinista partisans — should be, but rarely is, investigated and punished by the authorities. The state also has a particularly strong responsibility to prosecute crimes committed by its own agents.

A number of high-profile killings and many lesser-known murders were not resolved during the course of 1991. Foremost among the prominent cases was the February 17 assassination of Enrique Bermúdez, who had been the top *contra* commander during most of the war. His murder was a setback to the process of national reconciliation and did more to create a feeling of insecurity among demobilized rebels than any other single incident in post-war Nicaragua.

Less than a month after the murder, President Chamorro appointed a special commission composed of several lawyers and one former *contra* commander to monitor the government's investigation into the Bermúdez killing. After months of work, including exhuming the body months later for an autopsy in Miami, the commission issued a brief report in early November and disbanded. The report concluded that the one eyewitness named by the police had no credibility and that the forensic capabilities of the police were not sufficient to carry out a decent investigation.¹³⁶

In another case, several members of the army and police killed Francisco Luis Cano Chavarría, alias Commander "Chapulín," as they attempted to disarm him on April 12 near Wiwilí, Jinotega. "Chapulín" had been suspected of the murder of a former State Security agent. An Americas Watch investigation concluded that "Chapulín's" death, while not necessarily premeditated, was intentional and could have been avoided. The man filling the newly created post of

¹³⁵ An October 30 report by the Nicaraguan Center for Human Rights (CENIDH), for example, found that judicial investigations were opened in only fifty-five of the 215 killings it reviewed, and that in only a small percentage of those was anyone detained and prosecuted. See CENIDH, *Investigación: El Derecho a la Vida e Impunidad*, October 30, 1991.

¹³⁶ For more information on this and other cases, see Americas Watch, *Fitful Peace: Human Rights and Reconciliation in Nicaragua under the Chamorro Government*, July 1991.

civil inspector investigated the case and recommended that the police lieutenant in charge of the operation be transferred to another zone, that the army not engage in law-enforcement missions, and that special delegates from the Ministry of Governance (formerly Interior) be named in municipalities with deep political divisions. In theory, the naming of Ministry of Governance delegates would provide a civilian authority that could mediate conflicts and investigate abuses by Sandinista military personnel. Months after "Chapulín's" death, and after further violence in July in Wiwili, the police lieutenant identified by the civil inspector was finally transferred. In late 1991, Ministry of Governance delegates were named in nine conflictive municipalities in the north. However, no one has been charged in "Chapulín's" death.

The October 1990 killing of sixteen-year-old Jean Paul Genie was revisited in 1991 by a special National Assembly commission. Genie was allegedly murdered by bodyguards of army General Humberto Ortega as Genie attempted to pass a caravan of four military escort vehicles on the highway between Managua and Masaya. At the request of the Nicaraguan Assembly, the Venezuelan Parliament sent a team of specialists to review the police investigation, which had identified no suspects. Although the Venezuelan team turned up no new evidence, it reiterated the charge made by Nicaragua's Permanent Commission on Human Rights (CPDH) and Genie's parents that the prime suspects were General Ortega's bodyguards. The case remains in the civilian court system.

Significant urban violence erupted in 1991 during labor disputes as well as when the National Assembly attempted in June to overturn controversial property laws enacted in the closing months of Sandinista rule. The Nicaraguan police intervened aggressively against Sandinista unions in several cases, but in others were accused of standing by passively during violence by Sandinista partisans.

In April, for example, the police brutally attacked striking workers affiliated with the pro-Sandinista National Workers' Front outside the Olof Palme conference center, injuring dozens of people. According to the Nicaraguan Center for Human Rights (CENIDH), at least sixteen workers were beaten around the head, back and stomach with rubber truncheons and clubs, and kicked while being forced into police vehicles.

In mid-June, political tensions erupted when the National Conservative Party introduced a bill in the National Assembly to repeal two laws passed in the waning months of Sandinista rule. Laws 85 and 86 had privatized some state property (enriching top Sandinista leaders in a so-called *piñata*) and legalized the status of rural and urban plots handed out over the years to thousands of poor Nicaraguans. The Assembly action led to armed takeovers of radio stations and municipal buildings by Sandinista organizations and bombings of the homes and offices of

UNO politicians. For the most part, the police responded with inaction, which was widely interpreted as evidence of their pro-Sandinista bias.

UNO deputies and politicians decried the various incidents as acts of terrorism by the Sandinista Front (FSLN), and National Assembly President Alfredo César blamed the Sandinistas for death threats that he said some UNO deputies had received. On June 21, even the pro-Sandinista newspaper *Barricada* condemned the bombings as terrorism and called for negotiations to end the conflict. All of the takeovers were eventually resolved through negotiations and without further violence, although former President Daniel Ortega held out the prospect of renewed disorder. "We have used civic rebellion," he told supporters. "But the Sandinista Front cannot renounce armed rebellion if the National Assembly tries to take away the rights the people have won."¹³⁷ The UNO majority in the Assembly eventually passed a property bill on August 23, but it was vetoed by President Chamorro.

Violence erupted again in Managua on November 9 following the bombing of the tomb of Carlos Fonseca, a Sandinista hero and one of the founders of the FSLN. Looting ensued after Sandinista demonstrators set fire to the offices of Managua Mayor Arnoldo Alemán, a chief conservative leader, whom they blamed for the bombing. Other Sandinistas shot at former *contras* outside the headquarters of their civic association. Conservative radio stations were assaulted by armed Sandinista partisans, and *contra*-leader Alfredo César's Social Democratic Party headquarters were damaged. The police, as they had during the disturbances in June, remained passive.

Following the worst of the violence, Daniel Ortega called for calm at a public rally and accused right-wing politicians of trying to bring back "*somocismo*," a reference to the rule of the former Nicaraguan dictator.¹³⁸ Meanwhile, conservatives accused the FSLN of planting the bomb at Fonseca's grave to provoke chaos.

Following these incidents, the government announced an agreement on November 12 to begin a tripartite "national dialogue" between the government, anti-Chamorro UNO politicians, and the FSLN. Governance Minister Carlos Hurtado

¹³⁷ Richard Jacobsen, Reuters, "Sandinistas Offer to Return Land – With a Catch," *The Miami Herald*, July 1, 1991.

¹³⁸ Conservatives had recently attempted to challenge the legal status of the FSLN, to create a municipal police force independent of the Sandinistas, and to strip Ortega of his parliamentary immunity.

also announced the formation of a commission led by Vice-Minister of Governance José Pallais to investigate credible charges that some police officers stood by and did nothing to stop the violence.

Few of the major violent land disputes of 1990 were repeated in 1991. Previously, armed and unarmed demobilized rebels, former Sandinista soldiers and traditionally landless peasants had invaded dozens of cooperatives and other lands out of sheer economic desperation, often sparking violent confrontations. According to the National Federation of Cooperatives, by late 1991 only some forty coops remained in the hands of former *contras* who had forcibly taken them over, as compared with two hundred at the beginning of the year.

The most violent incident in 1991 occurred on February 28, when a group of some two hundred unarmed persons, among them peasants, demobilized *contras*, and members of the Communist Party's Confederation of Trade Union Action and Unity, marched on a state farm in Corinto Finca, Jinotega, where they were fired upon by armed workers, leaving five dead and eleven wounded.¹³⁹ The incident was one of the few in which a judicial investigation was carried out. Several of the workers from Corinto Finca were incarcerated, although no further action appears to have been taken.

Despite the decline in the number of land disputes, violence in the countryside continued at high levels during 1991, producing a situation of insecurity for persons across the political spectrum. There were numerous violent confrontations between demobilized *contras* and Sandinista civilians, and a smaller number of incidents involving the police or military.¹⁴⁰ In addition, small groups of demobilized *contras* -- disgruntled with the failure of the Chamorro government to deliver on promises of land, and often claiming persecution by the police and Sandinista civilians -- began taking up arms again in early 1991. These groups have been popularly dubbed the "*recontras*." By mid-year, attacks by these groups on both military and civilian targets were a weekly, if not daily, occurrence. As a result of the renewed military activity by former rebels, groups of Sandinistas (the so-called *recompas*¹⁴¹) also began to form armed bands by mid-year. It is

¹³⁹ Americas Watch, *Fitful Peace*, July 1991, p. 36.

¹⁴⁰ These incidents were reported by the International Commission of Support and Verification (CIAV) without elaboration as to the circumstances and without attributing culpability. In the latter part of the year, the CIAV only reported statistics on the numbers killed.

¹⁴¹ Sandinistas, and more specifically Sandinista soldiers, referred to each other

thought that the *recompas* consist of demobilized members of the Sandinista army.

The demobilized *contras* often cite the state's inability or unwillingness to secure their personal security as the principal reason for the emergence of the *recontra* movement. Indeed, two of the *recontra* groups named themselves after Enrique Bermúdez and "Chapulín," noted above, whom they believe to have been murdered by the Sandinistas.

The group responsible for verifying the security of the demobilized *contras*, the Organization of American States (OAS) International Commission of Support and Verification (CIAV), has played a valuable, though little understood, role in defusing tensions in the countryside.¹⁴² Through its daily contact with the demobilized *contras*, it has compiled reports of seventy-seven killings of former rebels between July 1, 1990 and August 31, 1991, as well as hundreds of other cases of threats, illegal detentions, and physical attacks. Responsibility for seventeen of the reported deaths was attributed to the police or military, and forty-two to Sandinista partisans. The Nicaraguan Association For Human Rights (ANPDH), set up to monitor human rights abuses within the *contra* movement, also documented numerous other instances of threats, physical injury, robbery and detentions. During approximately the same period, CENIDH reported some fifty-six killings of members or sympathizers of the FSLN.

The exact motives for and circumstances surrounding the killings of former rebels varied. In some of the cases attributed to state authorities or FSLN militants, the victims as well as the assailants were armed. Moreover, not all of the deaths had political overtones. But the substantial impunity for abuses by both government forces and civilians of all political persuasions has fostered a situation conducive to violence and the personal settling of scores.

In this context, the *recontras*, and later the *recompas*, began to emerge in early 1991, primarily in northern Nicaragua. The *recontras* have operated mostly in Region VI (Jinotega and Matagalpa), the area where the *contra* war was most intense and where today there is the largest concentration of former rebels without land and the most serious reported security problems for former *contras*. *Recontras* also have been active in other former conflictive zones in Regions I and V. Estimates of their number, which range from several hundred to several

informally as *compas* during the war.

¹⁴² In late 1991, discussions were underway that would expand the CIAV's mandate to include other sectors threatened by violence.

thousand, are complicated by the many armed actions carried out by former *contras* and ex-Sandinista soldiers that are criminal rather than political in nature. Although the demands of the *recontras* have not always been clear or well-articulated, and have varied depending on the particular *recontra* unit, their overriding goal seems to be to reduce the influence and power of the Sandinistas in the military and the police.

By mid-year, *recontra* attacks against civilian and military targets had become a common occurrence, especially in the north. *Recontra* units under the command of José Angel Román, known as "Indomable," appear to be responsible for serious abuses and attacks against civilians, while additional troops appear to be loyal to Francisco Valdivia ("Dimas") and his brother Encarnación ("Tigrillo"). Some of the more notorious cases of abuse attributed to the *recontras* include the June 6 assassination of the police chief of San Rafael del Norte and his secretary as they were traveling by car en route to San Rafael, and the August 31 attack in Boaco on the "Carlos Fonseca" cooperative, in which three children were killed and others wounded.

In August, the Nicaraguan press reported the emergence of various *recontra* groups set up to counter the attacks of the *recontras*. The August 22 detonation of a mine on a road near Pita del Carmen, Matagalpa – where one group of *recontras* was known to congregate -- resulted in the death of some six *recontras* and eight civilians traveling in a truck with them.

In general, the government has responded politically rather than militarily to the *recontra* threat, trying to minimize its importance and to avoid armed confrontations. Negotiations between government officials and *recontra* leaders to end the violence began in June. By November, the government and the major *recontra* leaders (with the exception of "Indomable") had agreed to increase the number of former *contras* in the rural police, withdraw the military from several northern areas, and include *contras* and *recontras* in regional security commissions and disarmament brigades.

Disarmament brigades, which are made up of equal numbers of military or police agents and former *contras* or *recontras*, began functioning in November in Matagalpa. Their task is to disarm the huge number of civilians (estimates range from 50,000 to 100,000) who possess arms. Although the brigade is expected to meet with only limited success, it represents an important first step in the process of disarming the civilian population.

The Right to Monitor

Freedom to monitor the human rights situation in Nicaragua is for the most part unrestricted, although late in the year the CIAV denounced a number of ways, described below, in which Sandinista authorities or sympathizers had interfered with the work of the organization. Several human rights organizations of different political and ideological tendencies continue to operate, for the most part without the direct or indirect pressures against monitors that one finds in other Central American countries (with the obvious exception of Costa Rica.) Americas Watch was told, however, of one incident in which a house of a collaborator of the CPDH was shot at in Boaco in late September but no one was injured.

In addition to domestic groups, the OAS International Commission for Verification and Support operates throughout Nicaragua, in part verifying the security of the demobilized *contras*. Although some of the work of the CIAV involves monitoring, it also engages in direct assistance to the demobilized *contras*. In early December, CIAV director Santiago Murray publicly denounced a series of threats and physical attacks on CIAV personnel and property carried out by Sandinista military and security agents as well as by unknown perpetrators; the reprehensible incident that sparked Murray's public condemnation was the kidnapping and murder by *recompas* of a wounded *recontra* being transported in a CIAV vehicle. In a similar episode, Claudia Vargas de Pérez, a CIAV official, was stopped by the police on October 1 and physically abused while transporting three wounded *recontras*. Several of the police were later reprimanded.

Through the coordination of the civil inspector, domestic human rights groups also have a more regular means of communicating with the government. Several groups have made extensive visits to state prisons to examine conditions. On one occasion, a visiting delegation was allowed to film conditions and interviews with prisoners.

U.S. Policy

Having occupied center stage in the U.S. foreign policy battles of the 1980s, Nicaragua virtually disappeared from policy discussion following the 1990 inauguration of President Violeta Chamorro.¹⁴³ Most State Department public comment was measured, and emphasized U.S. support for Chamorro's efforts at national reconciliation; for example, in response to a question on the *recontrason*

¹⁴³ Nonetheless, Nicaragua received the largest economic aid package of any country in Central America during fiscal years 1990 and 1991, more than \$555 million.

April 9, spokesman Richard Boucher blandly stated that all sectors of Nicaraguan society should refrain from violence and contribute to national reconciliation.

The failure throughout the year to condemn the *recontras* return to arms as well as various incidents of murder or kidnapping attributed to them contrasted sharply with the pointed criticism of Sandinista leaders in June for provoking violent takeovers of radio stations and municipal buildings and threats to non-Sandinista legislators. Boucher stated on June 20 that "Sandinista leaders have the responsibility to disavow these violent actions, take action to end them, and conduct their debate through constitutional means." In early December, Secretary of State James Baker sent an unpublicized letter to Nicaraguan Foreign Minister Enrique Dreyfus expressing concern over the violence in November. While U.S. criticisms of Sandinista behavior have been well-placed, they have been one-sided, given other sources of political violence in Nicaragua, especially the *recontras*.

The United States pressed publicly for a thorough investigation of the killing of *contra* commander Enrique Bermúdez, and both Assistant Secretary of State for Inter-American Affairs Bernard Aronson and Assistant Secretary of State for Human Rights and Humanitarian Affairs Richard Schifter met with Bermúdez's widow to demonstrate U.S. concern for the murder. In the months immediately following the assassination, however, several U.S. actions were decidedly unhelpful to the pursuit of justice in the case. The Federal Bureau of Investigation delayed until December providing information relevant to the investigation that was officially requested by the Nicaraguan Ministry of Governance in April. Similarly, Administration officials said in February that they had "heavy circumstantial evidence" linking the murder to the army high command; but after leveling the charge, the Administration refused to describe the nature of its information or to pass it along to the Nicaraguan government.¹⁴⁴

In one instance, the United States appeared to be interfering with a valid human rights initiative of the Chamorro government. In September, Minister of the Presidency Antonio Lacayo told reporters that the United States was reluctant to finance a civilian disarmament program that involved buying back and destroying weapons; a U.S. official told Americas Watch that this was because the Sandinistas, who control more weapons, would unduly benefit. This logic obscures the fact that disarmament of the civilian population is a key demand of human rights groups and groups opposed to the Sandinistas, including the *recontras*, and would no doubt diminish political violence. Similar buy-back

¹⁴⁴ See Americas Watch, *Fifteen Peace*, July 1991, pp. 40 and 53.

programs are taking place in major cities around the United States, without regard to who receives payment for the weapons purchased.

A case in the International Court of Justice (the World Court) that had stood as a major irritant in U.S.-Nicaraguan relations was also resolved in 1991. In 1984, Nicaragua sued the United States in the World Court for the mining of Nicaraguan harbors and violations of international humanitarian law. Two days before filing the case, the United States announced its refusal to accept Court jurisdiction for disputes involving Central America; in 1985, the United States announced that it was ending its policy of automatic compliance with Court decisions.

Nonetheless, the Court ruled on June 27, 1986 that U.S. sponsorship of the *contra* war and the laying of mines in Nicaraguan harbors were violations of international law, and that the United States had "encouraged the commission by [the *contras*] of acts contrary to general principles of humanitarian law."¹⁴⁵ The Court ordered the United States to pay reparations, but never specified an amount. The decision represented a key political victory for the Sandinista government, while the U.S. withdrawal demonstrated the selectivity with which the United States upheld international law.

On June 5, 1991, Nicaragua's National Assembly approved a law repealing another law that had required Nicaragua to seek compensation. In mid-September, the Chamorro government announced that it had withdrawn the suit from the Court. While the dropping of the case will no doubt smooth relations between the United States and Nicaragua, Americas Watch deplores the short shrift given to international law, particularly as the Bush Administration purports to build a "new world order" on international legal principles.

The Work of Americas Watch

Americas Watch conducted extensive field research in Nicaragua during the months of March, April, May and June 1991, which led to the release of a July report, *Fitful Peace: Human Rights and Reconciliation in Nicaragua under the Chamorro Government*. The report was a comprehensive study of the human rights situation

¹⁴⁵ For example, the CIA produced a manual on "Psychological Operations in Guerrilla Warfare" which in several places instructed the *contras* to assassinate civilians taking no active part in hostilities. See Americas Watch, *Violations of the Laws of War by Both Sides in Nicaragua 1981-1985*, March 1985, pp. 93-97; and Americas Watch, *Human Rights in Nicaragua 1986*, February 1987, pp. 167-170.

since President Chamorro took office, reviewing all the major episodes of political violence, agrarian conflict, and targeted assassinations, as well as issues of clandestine cemeteries, accountability for past abuses, the *recontras* and the judicial system. The report was widely covered in the Nicaraguan press and, to a lesser degree, the U.S. press. Additional follow-up visits to Nicaragua were conducted in July and November.

PANAMA

Human Rights Developments

Two years after the December 1989 invasion by U.S. forces, serious deficiencies in the Panamanian judicial and penal systems remain largely unimproved. Extremely lengthy pretrial detention — in some cases lasting up to five years — continues to be the rule for defendants accused of crime. According to the Panamanian government's own figures, at least eighty percent of the more than 3,500 prisoners in jail have not been convicted or even, in many cases, formally charged. Although this represents a decline from the ninety percent figure reported a year ago, the number of pretrial detainees in custody for more than two years has actually increased slightly since the end of 1990. A government plan to identify and process the cases of those held longest in prison without trial has had no discernible impact.

Americas Watch is concerned not only by the inordinate length of pretrial detention, but also by the conditions in which inmates are held. Every one of Panama's five principal jails is seriously overcrowded, and in some cases the prison population is more than triple the facility's maximum capacity. These conditions breed intense, and sometimes fatal, prisoner-against-prisoner violence. For example, in the Modelo jail in Panama City alone, there were six murders during a four-month period in late 1990 and early 1991. Partly in response to these conditions, prisoners at Modelo staged an uprising in September, which authorities were able to suppress only after several prisoners were wounded. Although most prison violence in Panama is instigated by prisoners themselves, credible reports indicate that inmates at the Coiba Island facility were also severely and systematically abused by their jailers in 1991. Two inmates at Coiba who died in July are believed to have been victims of torture by prison officials, and more than 170 fellow inmates have complained of serious physical and

psychological abuse. Government sources have acknowledged that abuses at the Coiba facility were confirmed in reports by lower-ranking prison officials that were later suppressed by the Ministry of Government and Justice.

Panamanian officials do not deny the seriousness of the problems posed by prolonged pretrial detention, a crushing backlog in the courts, and substandard prison conditions. Over the past two years, however, they have had virtually no success in addressing these deficiencies. Fifteen new public defenders were appointed in 1991, but the total number now, thirty-one, is still five fewer than required by Panamanian law and far fewer than needed to serve the thousands of accused who lack the resources to retain private counsel. Four new courts were added in early 1991, but even though the pace of judicial activity is reported to have increased substantially, there were still more than 25,000 criminal cases pending in the courts at mid-year, many of which had been referred for prosecution over two years earlier. No new prison facilities have been built or even begun since the invasion.

The Panamanian government's poor performance in improving the administration of justice is frequently explained by the lack of funds available in a country with pressing social-welfare needs and continuing economic dislocation caused by the U.S. boycott prior to the invasion. However, mismanagement, political cronyism, corruption and a lack of institutional will also have contributed significantly to the failure of judicial and penal reform in Panama. Throughout the first half of 1991, for example, the attorney general's office was beset by waves of firings and dismissals having little to do with issues of competence. The attorney general himself, Rogelio Cruz, at times appeared to devote more energy to attacking his critics in the press, and to publicizing dubious charges of attempted coups, than to the day-to-day responsibilities of his office. Moreover, in at least two cases, lower-court judges who issued politically unpopular orders to release certain defendants on bail were rebuked by the Executive branch and fired by their supervisory judges. In addition, in April 1991, disputes within the Executive over patronage and other issues led to the ouster of the Christian Democratic Party from the ruling coalition; as a result, many officials responsible for the administration of justice, including Vice President and former Minister of Government and Justice Ricardo Arias Calderon, left their posts, and the reforms they had advocated have not been pursued.

These systemic shortcomings are compounded by the Panamanian government's continued unwillingness to address the most serious human rights violations committed by members of the former Noriega regime. To date, no one responsible for the more prominent abuses of the former government — including the murder in 1971 of activist priest Hector Gallego, and the torture and murder of

Hugo Spadafora in 1985 — has been brought to trial. Indeed, the government is able to cite only one successful prosecution thus far of a Noriega-era official — a military captain sentenced to forty-two months for extortion. Fewer than thirty other former officials currently face charges for past abuses, a number which many believe does not come close to representing the level of past abuse.

Americas Watch remains concerned by the composition, leadership and training of the Panamanian Public Force (PPF), which replaced Noriega's Panamanian Defense Force (PDF). Although the most senior officials of the PDF were removed following the invasion, the vast majority of PDF soldiers, numbering more than ten thousand, were retained as members of the PPF. Only approximately half of these have undergone U.S.-sponsored training programs designed to improve the professionalism of Panama's principal law-enforcement agency and enhance its respect for human rights. So far, politically motivated abuses by the PPF appear to be rare, at least by comparison to the record compiled by the PDF, but corruption and lawlessness are continuing: among other incidents, PPF members were implicated in a bank robbery in Panama City and the theft and destruction of property in Chiriqui province, and there are persistent reports that the PPF provides assistance to drug smugglers in several sections of the country. Frequent turnovers at the top of the agency have hampered the government's ability to identify and control such misconduct. Since the invasion, there have been six PPF directors. The most recent resignation, in October, was forced because of the director's open participation in party politics, in violation of constitutional prohibitions. The resignation before that, in April, resulted from the Christian Democratic Party's ouster from the coalition government of President Guillermo Endara.

Apart from the PPF, President Endara has created an Institutional Protection Service (IPS) of between six and nine hundred members whose activities are of concern to many Panamanians. Charged with protection of the office of the president, the IPS is believed to carry on the wiretapping program of Noriega's G-2 intelligence service. In addition, the structure of the IPS — its members are heavily armed, do not wear uniforms or badges, and have no clearly defined chain of command — poses a constant risk of return to the paramilitary-style abuses of the Noriega era. These concerns are reinforced by widespread reports, never denied by President Endara, that both the IPS and the Public Security and National Defense Council are headed by Menalco Solis, a former Noriega minister and ally.

In upholding the freedoms of expression and association, the current government represents a substantial improvement over the prior regime. Public protests are not uncommon and, with a few notable exceptions, have not been met with official violence. The range of political expression is far broader than it was

under Noriega: anti-government viewpoints are heard daily on television and radio, and a number of newspapers that are harshly critical of the government publish regularly. Freedom from censorship is not absolute, however. Anti-Endara radio stations have been the subject of highly selective enforcement of technical operating requirements, and the government on occasion has blocked the import of foreign magazines containing detailed articles concerning corruption in various ministries.

The Right to Monitor

Americas Watch is unaware of any cases of government persecution of national or international human rights monitors or obstruction of their work in 1991. This reflects the general increase in freedom of expression and freedom of association that has been the most positive contribution of the Endara government to the human rights climate.

U.S. Policy

Like most Panamanian officials, U.S. representatives are quick to acknowledge the serious shortcomings that plague the judicial and penal systems in Panama. Through an "Improved Administration of Justice" project funded by the U.S. Agency for International Development (USAID), the United States is committed to help improve the operations of the judiciary and prosecutor's office. The means employed include professional training, the development of nonpolitical career tracks, modern case-management techniques, and material assistance such as computers and additional courtrooms. However, despite its laudable objectives, the modest program — a total of twelve million dollars to fund the program's five-year expected duration — has not, so far at least, materially affected the Panamanian legal system. Nor has the United States publicly used its leverage to encourage prosecution of the offenses committed under the Noriega regime.

The United States continues to refuse to pay reparations to the families of civilians killed during the fighting — even those killed because of the U.S. failure to give effective advance warning to the civilian population of its attack on a heavily populated zone, as required by the laws of war. Although the United States has provided some money for housing, the funds fall far short of the amount necessary to rehouse all the families whose homes were destroyed in December

1989.

The United States has declined to pursue further certain troubling issues raised by the casualties of the invasion. Americas Watch has concluded, as have other monitoring groups, that the total number of Panamanians killed is not likely to have exceeded 350. But the circumstances under which the dead were killed remains shrouded in mystery, mainly because no contemporaneous autopsy or other investigation was conducted in the majority of cases. Nor, in many cases, were the dead buried in individual, clearly marked graves, as required by the laws of war. The later U.S. efforts on this issue appear to have been designed more for public relations purposes than to obtain an honest accounting of the conduct of U.S. forces.

The Work of Americas Watch

An Americas Watch representative visited Panama between February 21 and 26 to investigate the administration of justice in the country. The representative met with government officials, local human rights and prison monitors, attorneys and criminal defendants. In addition, the representative conducted follow-up inquiries concerning the issue of invasion casualties. In April, Americas Watch published a newsletter summarizing the conclusions of this mission, "Human Rights in Post-Invasion Panama: Justice Delayed is Justice Denied." The Americas Watch mission was covered widely by the Panamanian media.

On July 17, an Americas Watch representative testified about human rights conditions before the House Subcommittee on Western Hemisphere Affairs. The testimony later was relied upon by the subcommittee in questioning representatives of the Administration about human rights in Panama and the conduct of U.S. forces during the invasion.

PARAGUAY

Human Rights Developments

Elections in Paraguay in 1991 marked an important step toward the consolidation of democracy. Three months following the 1989 overthrow of longtime dictator General Alfredo Stroessner, coup leader General Andrés Rodríguez had held a quick election to legitimize his power. However, nationwide municipal elections held on May 26, 1991, were in some respects more significant. Not only were municipal officials elected for the first time in Paraguay's history — previously they were appointed by the president — but the triumph of a leftist candidate in Asunción represented the first real test of President Rodríguez's promise to permit political pluralism.

By honoring the election results, the Rodríguez government reinforced Paraguay's democratic direction as it encouraged broad sectors of civil society to participate in a national debate over the country's future constitution. On December 1, voters elected delegates to the convention charged with rewriting the constitution, a task which will take between 120 and 180 days.

Another unquestionable sign of change was the convening of the first public congress of the Paraguayan Communist Party in July. Espousing Marxist ideas remains a criminal offense under the current Constitution. Official tolerance of the Communists' legal activities was greeted by most sectors as an indication that President Rodríguez seriously intends to guarantee political rights.

However, there were also less auspicious developments in 1991. The problem of "land invasions," as they are known in Paraguay, exploded beginning in 1989 as landless peasants assumed that democracy would bring agrarian reform. The government has reacted with violence, including beatings, to expel thousands of peasants who have dared to move onto large estates (*latifundios*) that are eligible under Paraguayan law for expropriation. Evictions often occur without judicial warrant. Homes and crops are systematically destroyed. The peasants' tools and other belongings have been stolen by the police and soldiers. Community leaders have been arrested and held for days and sometimes weeks without proper judicial procedures. Hired gunmen have begun to operate with considerable impunity in rural areas, threatening and in a few cases killing peasant leaders.

Rural gunmen in 1991 also intimidated and in one case killed reporters investigating contraband and drug dealings. On April 25, Journalists' Day in

Paraguay, civilian gunmen shot and killed Santiago Leguizamón, a correspondent for the daily *Noticias* and an announcer for local radio station *Radio Mburucuyá*. The murder took place in the rural district of Amambay and came after the reporter had received a series of death threats warning him to stop investigating narcotics and contraband activities in the area. The journalists' union had sent a letter to the minister of interior requesting protection for Leguizamón before his death. Despite a May 1 march organized by the labor confederation to demand the detention and punishment of those responsible, the investigating judge has taken a largely passive approach to the case so far, and the investigation is stalled.

Other journalists have also been systematically harassed by gunmen. Héctor Guerrín, correspondent for *ABC Color* in Ciudad del Este, Alto Paraná, published a series of articles about a clandestine airstrip on the property of an important local politician of the ruling Colorado party. Some thirty gunmen who guard the property have physically threatened Guerrín with death, and harassed him in his home and office. Guerrín has given an investigating judge the names of the individuals involved, but no legal action has been taken to prevent further violence. A parliamentary delegation attempting to carry out an on-site investigation was also confronted by the armed guards and told at gunpoint that they must immediately leave.

The government has not adequately addressed the problems of lengthy pretrial delays and police beatings of prisoners. According to lawyers from the Tekojoja Foundation, of the 1,420 inmates in Tacumbú National Prison, only 142 have been convicted of a crime. In the rehabilitation institution for minors, La Emboscada, only three of the more than 140 inmates have been convicted. Many of these prisoners were forced to sign confessions under torture during the Stroessner era. The great majority of prisoners are eventually released once they serve the maximum jail term for the crime they are accused of committing. But those released under these circumstances have their identification cards stamped with a mark that, for the police and future employers, is tantamount to a previous conviction, even though the former prisoners never received a trial.

Numerous incidents of severe beating of men, women and adolescents in police precincts throughout the country were reported in 1991. Human rights lawyers report an increasing numbers of minors subjected to torture, and complain that prison authorities in the detention center for minors do not cooperate in facilitating medical exams to confirm injuries.

Reports were also received that the military continues to detain minors under the minimum draft age of seventeen and to induct them into the military. For example, sixteen-year-old Claudio Norberto Cuevas disappeared and was later found forcibly serving in a military barracks in Mariscal Estigarriba. On June 10,

the newspaper *ABC Color* reported that the boy had been shot and killed.

The courts are currently investigating over a dozen cases of torture and assassination from the Stroessner era. While Paraguay is the only new democracy in the Southern Cone in which no amnesty law protects those responsible for committing abuses during past regimes, trials have generally not moved forward. Only one case, regarding the murder of Mario Schaerer Prono, has reached the trial stage. Four police officials are in detention awaiting the decision, although press reports indicate that at least two of these infamous torturers have been seen walking the streets of Asunción. Most observers believe they are given special privileges and are allowed to return to their homes on weekends.

The Right to Monitor

Several nongovernmental human rights groups now operate in Paraguay, generally without interference. However, three leading human rights lawyers involved in judicial prosecution of police responsible for past human rights violations reported receiving numerous telephoned and written death threats. The lawyers, Pedro Darío Portillo, Rodolfo Manuel Aseretto and Francisco de Vargas,¹⁴⁶ formally demanded an investigation in March. On March 10 unidentified gunmen opened fire on de Vargas's home.

¹⁴⁶ de Vargas is also a congressman for the opposition Authentic Radical Liberal Party.

U.S. Policy

Over the last several years, Americas Watch has applauded the stance taken by the U.S. Embassy in Asunción on human rights issues. Ambassador Timothy Towell did not hesitate to condemn human rights violations publicly, and most recently, in February 1991, denounced the threats received by journalist Hector Guerrín and a parliamentary delegation involved in an investigation of an illegal airstrip in Alto Parana.

The new U.S. ambassador, John Glassman, has continued this tradition, despite criticism in the Paraguayan press that he is paternalistic and interventionist. Ambassador Glassman has been active in the defense of press freedoms and, in September, intervened in two separate cases in which journalists had been charged with slander by private citizens closely linked to the government. In one of those cases, the ambassador's expression of outrage brought about the release from custody through a judicial pardon of radio journalist Víctor Benítez, who had been convicted on criminal charges of slander for an opinion he expressed about the owner of the newspaper *Hoy*, the probable future treasury minister.

The United States gave Paraguay \$175,000 in military-training assistance and \$400,000 in counternarcotics police aid during fiscal year 1991. The Bush Administration noted in its aid request that "the armed forces may also soon take a more active role in interdicting narcotics smugglers" — a prediction which appears to explain the additional \$500,000 in military grants requested by the Administration for fiscal year 1992.

In February 1991, trade benefits under the Generalized System of Preferences were reinstated. During the Stroessner era the United States had suspended benefits, as required by U.S. law, in response to the government's labor rights violations. Americas Watch opposed the reinstatement of benefits because of continuing labor rights violations and a failure to reform repressive labor laws.

The Work of Americas Watch

In February, Americas Watch published a newsletter, "New Outburst of Violence in Land Disputes," which documented abuses committed by soldiers and police during evictions. The report also described the failure of the government and the judiciary to address the problem of gunmen hired by landowners to intimidate and in some cases murder peasant leaders.

An Americas Watch mission visited Asunción in February to present the

report to government officials and meet with local reporters. Considerable press attention was given to the visit. In response to reporters' questions on his reaction to the report, President Rodríguez implicitly acknowledged abuses but tried to justify them. After charging that the report was "slightly exaggerated," he went on to say that "above all I would like to tell all those that believe we are committing abuses or not keeping our promise to respect human rights, that here the people don't respect the law either."¹⁴⁷

In April, America Watch sent a letter to President Rodríguez expressing concern over the continued use of violence during evictions. Another letter was sent to the Paraguayan Rural Association in response to an advertisement published in several newspapers complaining that the newsletter had not taken into account the human rights of the landowners. The letter explained Americas Watch's belief that the government should guarantee the rights of both parties to such conflicts, but that so far, at least, the judiciary, the police and the armed forces appear to have been at the disposition of only the landowners, while the rights of peasant squatters have been ignored.

PERU

Human Rights Developments

Peru now ranks as one of the most tormented countries of Latin America. Official statistics show that some 24,000 citizens — most of them civilians — have died in political violence since 1980. As many as 200,000 people have been displaced by the conflict, half of them children. Both official forces and the principal insurgents, *Sendero Luminoso* (Shining Path), murder and torture noncombatants and forcibly involve civilians in the conflict, while the lesser rebel group, the Túpac Amaru Revolutionary Movement (MRTA), also carries out selective executions and bombings. For four straight years, from 1987 to 1990, Peru led the world in new disappearances, according to the specialized U.N. working group. Although there was some reduction in new disappearances during

¹⁴⁷ *ABC Color*, March 1, 1991.

1991, the practice continues at a high rate. Victims of political execution, disappearance, torture and harassment by official forces during 1991 included peasants, labor unionists, university students and journalists; the elderly and children were not exempted. *Sendero* victims cover the same gamut, with the addition of politicians and local officials as murder targets, and young boys as forced recruits.

In June 1990, Peruvians elected a new president, Alberto Fujimori, who promised a fresh approach to the counterinsurgency campaign and an end to human rights violations. During his first year, the counterinsurgency plan remained the same; as before, the government responded to rebel initiatives by expanding the territory under a state of emergency and, in emergency zones, establishing Political Military Commands to supersede civilian authority. Nearly half the national territory, and more than half the population of twenty-two million, remained or was placed under a state of emergency — that is, effective military governance — during 1991.

The new government's sole innovation, if it could be called that, was to put special emphasis on the creation of village civil-defense patrols, a tactic initiated under the government of Fernando Belaúnde (1980-1985) and continued off and on under that of Alan García (1985-90). The local civil patrols are in some places a genuinely volunteer force, created at the demand of villagers who are terrified of guerrilla violence. But in many cases the patrols were imposed by the official forces as a form of unpaid, unwelcome reserve duty — dangerous and, very often, aggressive rather than purely defensive. The patrols are frequently guilty of killing noncombatants, and for the first time in 1991 carried out disappearances as well. Because patrols include women and young boys, these normally civilian sectors of the rural population were brought into the conflict.

Predictably, human rights violations, continued during President Fujimori's first year. Indeed, the reduction in disappearances appeared to be balanced by an increase in the number of acknowledged dead, who once more were principally civilian noncombatants. Several massacres in rural areas drew attention to the army's brutality. In some egregious abuses the civil defense patrols participated. Officially tolerated paramilitary violence, including assassinations, persisted, although the death squads appeared to be local phenomena rather than centrally coordinated. Torture took place in both military and police detention centers. On November 3, human rights violations took a new and grisly turn in Peru with the murder of sixteen persons in a barbecue eatery in downtown Lima, perpetrated by a paramilitary group.

These abuses did not appear to correspond to the intentions of the civilian government. However, President Fujimori made gestures of confidence in several

officials linked with human rights abuses or responsible for covering them up. In December 1990, the president decreed that crimes committed by military personnel in the emergency zones must be defined as acts of duty and adjudicated in military courts — a guarantee that the crimes would remain unpunished. This decree was repealed by Congress in February 1991, but congressional reformers were unsuccessful in stopping the presidential promotion, also in December 1990, of two army generals linked to major massacres of the 1980s. On separate occasions during 1991, Fujimori's defense and interior ministers were involved in attempted cover-ups of human rights abuses which called their integrity into question, but neither official was asked to resign.

Both *Sendero* and the MRTA committed violations of the laws of war, specifically, common Article 3 of the 1949 Geneva Conventions, which applies to rebel groups and forbids murder or mistreatment of noncombatants. *Sendero* in particular used terror to control civilian communities. Through a network of clandestine and semi-clandestine front organizations, *Sendero* typically seeks to infiltrate authentic popular organizations and provoke divisions within them. If organizations prove resistant, *Sendero* executes their elected leadership. Similarly, when peasants do not support *Sendero* or object to its use of violence, the guerrillas exact bloody reprisals. Favorite targets are the civil patrols, which in *Sendero's* view represent a village's collaboration with the army and navy, whether or not they are voluntary. *Sendero* has carried out indiscriminate mass murders in villages as punishment for the creation of a patrol. On November 3, *Sendero* killed thirty-seven persons in Santo Tomás de Pata, Angaraes, Ayacucho, ostensibly because they had formed a civil patrol.

During 1991, *Sendero* continued to be active in most of Peru, increasing its attacks in and around Lima and in the strategically important central states. It is not possible to speak of firm control of population or territory, but *Sendero* has by now established itself in the central area of Peru — principally the department of Junín — as firmly as it has been established in the highland regions of Ayacucho, Apurímac and Huancavelica since the early 1980s. It has also become a consistent presence, and important factor, in the Upper Huallaga River Valley, which comprises parts of two northeastern states and is the area where small growers produce most of Peru's coca.

The guerrilla groups do not engage directly in coca trafficking, but both receive "protection" money from drug traffickers in the areas where they operate — *Sendero* in the Upper Huallaga, and the MRTA further north, in the Central Huallaga — and so indirectly derive millions of dollars a year from the traffic in narcotics. The competition between the two groups, already intense, is likely to

become more so given the financial stakes. *Sendero* was reported to be making advances on MRTA territory in the Central Huallaga toward the end of 1991.

The drug trade has stimulated corruption in a society where bribery of officials was already common. Crime and corruption linked to drug trafficking, added to the desperate poverty in which most Peruvians live and the spiral of political violence that grips the country, make Peru a place where solutions are both hard to develop and nearly impossible to administer effectively. In large areas of the country, political violence has driven out judges, mayors and other representatives of legitimate authority. In the Huallaga region, drug traffickers suborn local prosecutors, police and military officers. The central government, too, is riddled with corruption, of which recent accusations against former President García provide only one sensational example.

Nonetheless, there have been some admirable efforts to document human rights abuses and explore possible solutions to the problem of political violence. A special Senate commission on political violence gathers monthly statistics and makes yearly recommendations. Politically mixed commissions in both the Chamber of Deputies and the Senate pursue investigations of major human rights cases. During 1991, in an investigation of a 1990 massacre later covered up by President Fujimori's defense minister, the investigating senators recommended that the minister be tried as an accessory.

The Public Ministry, Peru's public defender, contains an office that investigates human rights complaints. Although the government's support for that office has been inadequate, the prosecutors in charge of human rights cases in the central office in Lima and in some regional offices as well have evidently attempted to do their job. On November 8, the prosecutor for Ayacucho, José Macera Tito, was murdered in the streets of Huamanga, the department capital, in front of his children, by two young men presumed to belong to *Sendero*. Moreover, Peruvian human rights organizations have developed a credible national profile despite the difficulties of investigating complaints in conflict zones. These groups maintain conservative statistics, assist victims, analyze the trends in political violence and make policy recommendations.

In addition, as described below, President Fujimori during the latter half of 1991 instituted reforms demanded by the U.S. Congress which, if seriously implemented, may have a positive effect on human rights conditions.

The Right to Monitor

Each "side" finds fault with Peruvian human rights organizations, because

the organizations criticize violations of basic rights by both sides. During 1991, human rights monitors were physically attacked by both *Sendero* and official forces. Porfirio Suni Quispe, an elected peasant leader in Puno department, a regional parliamentarian and president of the regional congress's human rights commission — a man with a long history of advocacy for human rights — was dragged from his home in May by two men in civilian clothes who were believed to be *Sendero* members and shot to death immediately. The following month, the *Sendero* newspaper, *El Diario*, contained an editorial indirectly threatening human rights activists by calling human rights a "bourgeois" idea created "to deny class struggle."

From the government's side, the victim was Augusto Zúñiga Paz, staff lawyer for the nongovernmental Human Rights Commission (COMISEDH). Zúñiga had been pursuing a disappearance case, and had told colleagues that he knew the identity of the perpetrator — a police officer and explosives expert. The case had been stalled by the Supreme Court but Zúñiga planned to reopen it. In March, Zúñiga received at COMISEDH a hand-delivered envelope which, when he opened it, blew off his left forearm. Zúñiga has left the country for medical treatment. The police investigation has been wholly ineffective, although the Senate has created a special commission to look into the attack.

Harassment has extended to judicial personnel. The victim was Moisés Ochoa Girón, the investigating judge in charge of the case of Hugo Bustíos, a journalist murdered in 1988 after passing through an army roadblock in Ayacucho. In June 1991, shortly after the judge had formally charged two army officers despite the army's failure to cooperate with the investigation, his house was searched by an army patrol, supposedly on suspicion that he harbored subversives, but evidently as a form of intimidation. A secret army document dated in March, signed by General José Valdivia, head of the army for the region including Lima, was made public in July. In it, Valdivia was urged to initiate a military court proceeding so as to stave off the progress of Judge Ochoa's investigation. Later in the year, the military courts exonerated the two officers implicated, and challenged Ochoa's jurisdiction. The Superior Court of Ayacucho ruled in favor of the civilian court, but the defendants have appealed to the Supreme Court, and a final ruling is still pending.

Relations between the government and Peru's human rights organizations were mixed during 1991, becoming more tense toward the end of the year. After experiencing the disapproval of the U.S. Congress, the Fujimori government blamed human rights organizations for Peru's poor reputation. In speeches to military officers in September and October, he attacked what he called "pseudo-human rights organizations," falsely accusing them of not criticizing the deeds of

the insurgencies. He repeated these wrong-headed and false accusations in statements to the press in Spain in October and again in an October 31 open letter to the Inter-American Commission on Human Rights of the Organization of American States (OAS), which was then visiting Peru. Such declarations are a sign of polarization and defensiveness. They also might be taken by some extremists to represent tolerance of reprisals against human rights monitors.

In November, during a visit to San Francisco, California, President Fujimori in public speeches renewed his criticism, this time naming Americas Watch and Amnesty International, and alleging that those organizations do not criticize *Sendero*. Americas Watch responded in letters to the Peruvian press, and articles in Peruvian magazines also demonstrated, that Americas Watch has criticized *Sendero* in all of the reports we have published since 1984. Despite this, Fujimori insisted on his accusation: in late November, at a military ceremony in the Las Palmas Air Force Base, he spent a long part of his speech delivering a blistering attack on both Americas Watch and Amnesty International, and ignoring the evidence that his charges of lack of impartiality are plainly false.

In a clear contradiction of that false charge, the Peruvian government issued an "official communique" on November 16, attacking Americas Watch for releasing an open letter to the head of *Sendero Luminoso* holding the insurgent leader responsible for a war crime committed by his followers: the murder of Peruvian soldiers who had been placed *hors de combat* by their wounds. The official communique not only contradicted Fujimori's repeated charges that Americas Watch failed to address *Sendero* abuses, but it also flew in the face of clear international law that the application of the laws of war to a rebel group does not confer it any legal recognition.

On November 12 and 15, the president issued 126 "legislative decrees," promulgated in exercise of powers delegated to him by Congress, to address economic and political emergencies. Many of these decrees concern counterinsurgency problems. One of them establishes long prison terms for whoever reveals information that the army considers secret. This provision has been widely seen as a threat to both the press and human rights organizations; publication of a human rights violation by security forces, or of documents that refer to such a violation, could result in prosecution. Other decrees allow intelligence agents to seize property and conduct warrantless searches, whether or not a state of emergency is in effect in the area. Another decree subordinates civil defense patrols to the authority of the army, and allows draftees to serve their military duty in a civil patrol. An amendment to the law that regulates the state of emergency expands the powers of the "political-military chiefs" to control all aspects of government in their region, to the detriment of civilian authorities.

Military and police forces are authorized to enter universities, schools and hospitals without seeking authorization from any civilian official. In case of disturbances, military forces are allowed to take over prisons; the last time they did this, in June 1986, under dubious authority, they murdered scores of inmates after they had surrendered.

Leaders of a wide spectrum of opposition parties have made public their disagreement with the content of the decrees, as well as with Fujimori's act of promulgating them without any form of consultation. In mid-December, the Peruvian Congress was working on repealing at least some of the most controversial provisions. Regardless of what parts of these decrees survive congressional action, they clearly show a disposition on Fujimori's part to provide the military with an even freer rein to commit abuses than it has enjoyed so far in counterinsurgency operations.

U.S. Policy

In May, President Fujimori signed a bilateral anti-narcotics agreement with the United States. The agreement, the subject of considerable controversy in Peru, had been under negotiation for over a year. It had been rejected by former President García and, once, by President Fujimori himself, for failing to include credible assistance for economic development. The new agreement was written vaguely; its particulars were to be spelled out in various appendices on military and economic aid. Not surprisingly, the military appendix was the first to appear. Signed in July, it projected some \$95 million in anti-narcotics assistance for fiscal year 1991, of which \$35 million was to be direct military aid.

The U.S. aid plan for Peru involved funding both the police and the military — principally the army — to fight narcotics and, inasmuch as the rebels have links to the drug traffickers, to fight the insurgency as well. Human rights conditions in the International Narcotics Control Act (INCA) of 1990 stipulate that to receive U.S. counter-narcotics aid a country's security forces must not practice torture, arbitrary detention, disappearance, or other flagrant human rights abuses; that appropriate international human rights organizations must have unimpeded access to places of detention; and that the government must exercise effective control over all counter-narcotics and counterinsurgency activities. Peru could not meet these conditions in 1991. Nonetheless, on July 30, just two days before Congress adjourned for its August recess, the Bush Administration issued a "determination" justifying aid to Peru, as required under INCA. The determination misrepresented human rights conditions and, in the process, contradicted the State Department's own annual human rights report on Peru, issued most recently in February 1991. The determination also falsely portrayed national human rights groups as supporting military aid, forcing those organizations to issue a public letter of clarification.

U.S. legislators, irritated at the Administration's attempt to rush through a controversial aid package without providing enough time for congressional oversight, and outraged by the spurious claims of human rights achievements, promptly placed a "hold" on the aid for six weeks. A group of ten senators, ranging from Senator Jesse Helms (the ranking Republican on the Senate Foreign Relations Committee) to Senator Chris Dodd (chair of the Senate's Western Hemisphere Subcommittee) wrote a letter to the State Department requesting that the human rights determination be withdrawn. Leaders of the House Foreign Affairs Committee and both Senate and House Appropriations Committees also issued formal demands for a suspension of the aid package.

The determination was deserving of congressional scorn. The

Administration ducked the legal requirement that *military and law enforcement* agencies not be engaging in gross abuses of human rights by insisting that *President Fujimori* was not engaging in such abuses. And the State Department claimed that the International Committee of the Red Cross (ICRC) had access to all police detention facilities, while in fact at the time of the determination the ICRC was not visiting all such facilities, and was barred altogether from secret military detention facilities, where the bulk of disappearances occur in Peru. The determination was flawed in other particulars, too: ignoring dozens of massacres and hundreds of disappearances at the hands of the armed forces, the State Department dismissed abuses as the isolated acts of rogue soldiers. To bolster a tenuous claim of civilian control over the military, the Department cited three human rights cases allegedly being prosecuted, but failed to mention that in each of the three cases the military had interfered significantly with the civilian authorities' efforts. Death squads were said to be "virtually eliminated," notwithstanding reports by Peruvian human rights monitors that abuses by paramilitary groups had actually increased.

One aspect of the determination that particularly outraged Congress was the claim that Peruvian human rights groups supported the Administration's contention that the government was not engaged in gross abuses of human rights.¹⁴⁸ Peruvian human rights organizations furiously disputed the notion, which was later retracted by Assistant Secretary of State for Human Rights and Humanitarian Affairs Richard Schifter. Nonetheless, Secretary Schifter continued to misrepresent the position of Peruvian human rights groups by insisting that they supported U.S. military assistance to Peru; this contention, too, the Peruvian human rights organizations formally disputed.

The issue was addressed at congressional hearings on September 12, where Assistant Secretary of State for Inter-American Affairs Bernard Aronson, Assistant Secretary of State for International Narcotics Matters Melvyn Levitsky, and Secretary Schifter testified in support of the U.S. military aid package. The most disappointing aspect of the hearing was Secretary Schifter's strong defense of the Peruvian Government's human rights record and his minimization of human rights problems. He dismissed concerns about political killings in Peru by comparing the country favorably with Argentina and Chile in the 1970s and El Salvador in the

¹⁴⁸ The authorship of this particularly controversial feature of the State Department determination is a mystery. The U.S. ambassador to Peru, Anthony Quainton, revealed in a meeting with human rights groups that he was unaware of the contention, suggesting that it was added in Washington.

early 1980s, and claimed (erroneously) that Peru suffered "only a few hundred" such killings in the past year. He insisted that disappearances in Peru had been reduced by two-thirds in the past year, based on cases brought before the United Nations Working Group on Disappearances. But as Schifter well knew but did not tell the committees, the U.N. figures reflect only those cases brought before the Geneva-based working group by Peruvian organizations and bear no resemblance to the reality in Peru, where disappearances ran at about the same rate as in previous years for the first half of 1991, and only declined in the second half because of strong international pressure.

The Human Rights Bureau became engaged in other aspects of the Peru determination battle with Congress. Secretary Schifter himself led a group of congressional aides to Peru, and the Human Rights Bureau developed a human rights training package to sanitize the military-aid proposal. By the end of 1991, however, these efforts had failed to convince congressional leaders that the Peruvian armed forces were deserving recipients of U.S. aid. Congress permitted the economic component of the aid to go forward in several tranches, but eliminated \$10 million in assistance which had been allocated to the Peruvian army. Some \$25 million was provided for training and equipment to the Peruvian navy, air force and police and for the army's civic action program.

Thanks to Congress's willingness to exercise the leverage of foreign assistance, the Peruvian authorities were persuaded to take the first steps toward instituting a series of reforms, including broader access to detainees by the ICRC, and more latitude for prosecutors investigating human rights cases. But a promised public registry of detainees is still far from functional, and little action has been seen to date on the nine test cases of human rights abuse upon which Congress has conditioned the release of aid.¹⁴⁹

¹⁴⁹ By December, only one of those cases showed some progress: for the first time in recent years, the Peruvian army accepted responsibility for a massacre, and instituted charges in military courts against a lieutenant and five soldiers for the murder of fourteen peasants in Santa Barbara, Huancavelica. In November, a civilian prosecutor investigating the case and the president of the Santa Barbara community were arrested and held for four days under charges of obstructing justice by making accusations against the army.

The notorious case in which Lima police were videotaped as they arrested a medical student and two minors who were later found dead has been bogged down in a jurisdictional conflict between civilian and military courts. The Supreme Court ruled in favor of the civilian court, but then vacated its own judgment on a technicality and will rule again. In the meantime, only the three policemen involved in the actual arrest remain in

The Bush Administration's performance on Peru in 1991 was abysmal, but thanks to the language of U.S. human rights law and Congress's vigor in insisting upon compliance with it, the executive branch's eagerness to make an open-ended military commitment to Peru has been stalled. There is some sign that the Administration has been chastened by its grueling human rights policy battle with Congress, and State Department officials appeared to be working more cooperatively with Congress at year's end.

The Work of Americas Watch

Americas Watch was prominent in the effort to apply INCA human rights conditions to the proposed aid, and its recommendations for changes in Peruvian government policies were largely reflected in the demands of congressional leaders to the U.S. and Peruvian governments. A short report, *Into the Quagmire: Human Rights and U.S. Policy in Peru*, published in September, was widely circulated on Capitol Hill. It outlined the conditions prevailing in Peru during President Fujimori's first year in power — abuse by agents of the state and rebel forces, corruption and impunity — and offered a critique of the Bush Administration's arguments for aid. On September 12, Americas Watch also offered testimony on Peru before the House Subcommittees on Western Hemisphere Affairs and on Human Rights and International Organizations, and before the Task Force on International Narcotics Control.

Research and continuous monitoring of Peruvian conditions were done by Americas Watch in Washington and by the Americas Watch representative based in Santiago, Chile. Representatives of the organization visited Peru in May and July. Several campaigns were undertaken on behalf of victims of human rights

prison, while higher officials initially arrested in connection with it have been released and are still on active duty. There has been no progress whatsoever in the other seven cases in which the U.S. Congress expressed interest. ICRC access has indeed been granted and ICRC delegates have visited many police and military detention centers. As for prosecutors, however, it appears that only in six or seven instances have they tried to use their newly gained access, without problems. In general, prosecutors are still acting under severe intimidation and prefer not even to try to visit military detention centers. The central registry of detainees has not been created, and State Department officials have reported that technical and bureaucratic complications will delay implementation of this condition for a long time to come.

violations, including numerous letters to President Fujimori.

During 1991, the OAS Inter-American Commission of Human Rights presented two cases against the government of Peru. Americas Watch is co-petitioner in each of these actions; the first regards the forced disappearance of inmates from the El Frontón prison during an uprising in 1986, and the second involves the massacre by soldiers of at least twenty-seven peasants in Cayara in May 1988 and the subsequent forced disappearance of nine witnesses to the massacre. On December 11, the Court ruled in the El Frontón case against preliminary objections raised by the Peruvian government; a trial on the merits is expected in 1992.

SURINAME

Human Rights Developments

Political life in Suriname, which gained independence from the Netherlands in 1975, continues under the shadow of the February 25, 1980 military coup, led by Sergeant Desire Bouterse, and the December 8-10, 1982 execution of fifteen opponents of the regime. In overthrowing

the civilian government, Bouterse, who became commander-in-chief of the army and assumed the rank of lieutenant colonel, suspended the Constitution and installed a succession of civilian figureheads as president. The executions, at military headquarters in the capital of Paramaribo, eliminated fifteen of the country's most prominent citizens.

As a result of the killings, the Netherlands suspended its substantial aid program, and the United States ended the \$1 million per year which it had been providing. The traumatic effect of the killings, which horrified Suriname's small, close-knit society, can be seen, in the view of many observers, in the later civilian government's lack of political will to exert control over the army.

In 1987, a new Constitution was approved by the National Assembly and a popular referendum. Articles 177 and 178, which give the army the function of "guaranteeing the conditions in which the Surinamese people can carry out and consolidate a peaceful transition to a democratic and socially just society," have been cited by the military to justify a continuing presence in politics.

Elections were held pursuant to the new Constitution in November 1987. Generally viewed as free and fair, the elections brought to power a civilian government dominated by a coalition of traditional ethnic-based parties, called the Front for Democracy and Development. The Front won forty of the fifty-one seats in the National Assembly, while the party affiliated with the military, the National Democratic Party (NDP), captured only three seats.

Despite this decisive mandate, the Front government was widely perceived as corrupt and reluctant to confront the military. The army, still under Colonel Bouterse, retained *de facto* control of the country. In December 1990, ostensibly because the civilian president did not react strongly enough to what Colonel Bouterse perceived to be insulting treatment by the Dutch, the army once again overthrew the civilian government and installed an interim government.

From 1987 to 1990, during the period of nominal civilian rule, the military engaged in numerous human rights abuses, both in the undeveloped interior and in Paramaribo, the capital. Violence in Paramaribo was directed particularly against members of the civilian police force who attempted to enforce the law against military personnel. These attacks included arson against police stations and drive-by shootings aimed at particular police officers. In August 1990, Police Inspector Herman Gooding was murdered under circumstances that strongly indicate military complicity, apparently in the course of investigating military involvement in narcotics.

Violent abuses were most frequent in Suriname's interior. In various attempts to suppress an anti-Bouterse insurgency group called the Jungle Command, which formed following the 1980 coup, the army often launched harsh

attacks against noncombatants. Military raids on villages in the interior resulted in hundreds of civilian deaths. Leaders of an Amerindian insurrection disappeared while in military custody in February 1990.

The situation in the interior worsened with the emergence of several armed groups that purport to be insurgents but almost certainly are proxies of the military. These groups engage in indiscriminate killing and robbery of civilians. In January 1990, the largest and most active of the groups, the Tucayana Amazonas, held a televised press conference in Colonel Bouterse's office and threatened by name Police Inspector Gooding before his murder.

Due to the fighting, thousands of Maroons (descendants of escaped slaves) and Amerindians have fled the interior to Paramaribo, other parts of Suriname, and neighboring French Guiana. Thousands of refugees are currently in camps in French Guiana.

In July 1989, the Jungle Command reached a peace agreement with the civilian government. However, in an indication of the civilian government's relative power, Colonel Bouterse effectively shelved the agreement by denouncing it as

unconstitutional. Although former elements of the Jungle Command insurgency are now allied with the army, with the remaining active insurgents mostly in French Guiana, Colonel Bouterse has cited a supposed continuing insurgent threat to justify an ongoing military presence in the interior. The presence facilitates military involvement in drug trafficking which, considerable evidence shows, has grown rapidly in the last three years. Because military personnel are exempt from the jurisdiction of the civilian police or courts, army traffickers, as well as military abusers of human rights, have enjoyed total impunity.

On May 25, 1991, another election was held, amidst widespread popular doubts that elections would alter the balance of power. The Front, renamed the New Front, won thirty seats; the NDP, twelve seats; and a new opposition party, Democratic Alternative '91, nine seats. About sixty-four percent of the electorate went to the polls.

Again, the election was found to have been essentially free and fair by the international observers in attendance, with little overt intimidation of the opposition during the campaign. However, Americas Watch found that the opposition politicians felt free to address the issue of civilian control of the military only tangentially, through the surrogate issue of whether to seek closer ties to the Netherlands.

Because the National Assembly was unable to elect a president by the requisite two-thirds majority, the decision went to the People's Assembly, made up of the National Assembly and the various New Front-dominated regional

assemblies. On September 6, the People's Assembly elected by an eighty-percent majority Ronald Venetiaan, a member of the New Front and the minister of education in the civilian government toppled by the 1990 coup. Venetiaan is regarded as honest and more forceful than the previous civilian president.

Although newly elected members of the National Assembly belonging to Democratic Alternative have expressed the opinion that "nothing has changed," there has been some positive activity. Under Venetiaan, the government has announced its intention to cut the military's budget and to reorganize its functions, including transferring responsibility for immigration to the civilian police.

In September, President Ventiaan addressed the United Nations, pledging to amend the Constitution "within the shortest possible time." A number of constitutional amendments, including revisions of Articles 177 and 178, have been proposed to the State Council, an advisory body with the role of reviewing legislation, but the amendments have not yet reached the National Assembly.

In the same speech, President Ventiaan also pledged to fight drug trafficking. While few concrete steps have yet to be taken, Suriname in November signed a protocol of future cooperation with the Netherlands, which includes a provision for cooperation in fighting drug trafficking. The Dutch have agreed to restore some aid, including assistance to the judiciary and the police, with the rest of the aid conditioned on structural changes.

The result of these pledges has been a growing tension between the army and the civilian government. Since the government has not yet acted on its announced intentions, it is uncertain to what degree the army will resist further incursions on its prerogatives. A round of talks took place between the new government and the military leadership in October, at about the same time that the new constitutional amendments were proposed. In early November, after the talks, the military issued a curious statement essentially declaring that the military was an organ of the state charged with defense of the national sovereignty and implying that, as such, it reported only to the supreme commander — i.e., the president — and would not take orders from others. This was regarded by some as a refusal to accept the authority of the defense minister. The statement was described by one observer as "superficially compliant" but essentially defiant.

Colonel Bouterse himself also has adopted a defiant posture. He allowed the press to film and report on a speech that he made to his troops, against the explicit instructions of the defense minister. He also threatened to sue *The Washington Post* over an article on drug trafficking in Suriname.

The human rights situation since the election is substantially unchanged. In

the interior, armed groups allied with the military continue to engage in violence against civilians. There are reports of car hijackings, thievery, and kidnappings for ransom. Some diplomatic observers worry that the situation in the interior may soon escalate. In addition, a policeman was murdered in the town of Moengo in November; the lead suspect is a former member of the Jungle Command who is now apparently in the Netherlands. Various sources said that the policeman's murder is believed to be politically motivated, but the situation remains unclear.

There has been some activity on the international level regarding human rights in Suriname. In the fall of 1991, Amos Wako, the U.N. special rapporteur on summary or arbitrary executions, sent a letter to the Surinamese government asking for an explanation of the murder of Police Inspector Gooding. The government has not yet responded.

Two human rights cases involving Suriname are currently before the Organization of American States (OAS) Inter-American Court on Human Rights. In one of the cases, according to the lawyer representing Suriname before the Court, the Surinamese government has conceded responsibility to provide compensation to the families of victims of several military raids on the village of Pokigron, and will allow the Court to determine the amount owed. The Pokigron incidents, which took place in 1987 and 1989, resulted in numerous civilian deaths and the virtual destruction of the village.

The second case involves the November 1988 death of Gangaram Panday, a Surinamese whose body was found in a military police cell in the airport at Paramaribo upon his return to Suriname from the Netherlands. The military and the government assert that Panday committed suicide by hanging himself; others claim that he was murdered while in custody. The Surinamese government defended itself before the Court by arguing that the deceased was not a victim of homicide, that domestic remedies were not exhausted, and that the OAS Inter-American Commission on Human Rights had not handled the case in accordance with the rules set forth in the American Convention on Human Rights. In early December, the Court rejected Suriname's preliminary objections and will consider the case on the merits sometime in 1992.

The Right to Monitor

An Americas Watch mission that visited Suriname shortly before the May election encountered no overt discouragement or intimidation. However, it did find a reluctance on the part of higher-ranking members of the military to speak to the mission.

The situation is more hostile for domestic human rights monitors. In December 1989, an attempt was made to assassinate Stanley Rensch, Suriname's most prominent human rights activist, under circumstance that strongly suggest army involvement. Rensch fortuitously escaped unharmed and there were no further attempts on his life, but he is often under military surveillance. Other members of Rensch's organization, Moiwana '86, have also encountered intimidation, including anonymous phone calls in which the caller imitates the noise of a gun shot. In 1989, two members of Moiwana were forced to leave the country and remain in the Netherlands. In a speech in November 1991, Colonel Bouterse made veiled threats against Ilse Labadie of the Organization for Justice and Peace, and a public prosecutor named Van Der San.¹⁵⁰

U.S. Policy

The Bush Administration strongly condemned the December 1990 coup and suspended aid to Suriname. It also pressed for the May 25 elections to be free and fair.

For example, in testimony before the Senate Subcommittee on Western Hemisphere Affairs on April 18, Assistant Secretary of State for Inter-American Affairs Bernard Aronson said:

We deplore the December military coup in Suriname that overthrew a democratically elected government. We urge the interim government in Paramaribo to keep its pledge to hold free and fair elections on May 25, to make them open to full international observation, and to respect the results.

Following the elections, the State Department expressed strong support for efforts by the civilian government to exert control over the military. Testifying before the House Subcommittee on Western Hemisphere Affairs on June 26, Deputy Assistant Secretary of State for Inter-American Affairs Sally Cowal warned:

We strongly endorse the right of the democratic forces to form a government and to rule unimpeded by the military. Bouterse's unbroken record of

¹⁵⁰ Threatened at the same time was Dr. Jules Sedney, former general director of the Central Bank of Suriname.

violence and intimidation against civilian authority, however, cause doubt that he will respect the popular will. I would note, however, that at the General Assembly of the OAS in Santiago earlier this month, all 34 nations unanimously adopted a resolution that calls for an automatic meeting of foreign ministers should any democratically elected government in the Hemisphere be overthrown. Anyone contemplating such an act in Suriname will face a united hemisphere committed to restoring democracy.... We intend, in conjunction with other interested governments, to offer every encouragement and support to democratic forces in Suriname.

A resumption of a certain amount of nonmilitary aid is reportedly under discussion as a means of strengthening the Venetiaan government. However, Secretaries Aronson and Cowal both indicated in their testimony that Suriname's role as a drug trafficking center remains a source of concern to the United States.

The Work of Americas Watch

Americas Watch sent a mission to Suriname in April 1991 to investigate pre-election conditions. A report of its findings was issued in mid-May, shortly before the election took place. The report received extensive press coverage in the Netherlands which, because of its past colonial relationship and potential aid commitment, is the most important external source of leverage on the Surinamese government.