

## **HUMAN RIGHTS WATCH/AMERICAS OVERVIEW**

### **Human Rights Developments**

Over the last fifteen years, many Latin American and Caribbean countries have undergone the important transformation from military dictatorship to civilian government. Unfortunately, respect for human rights has not kept pace with progress in democratization. More than a decade of civilian rule has allowed for a blossoming of civil society, yet the limits of political space were still defined by torture, disappearances, and extrajudicial executions in 1995. In societies with wide income disparities, economically vulnerable sectors—children, indigenous people, women, peasants, workers, and the homeless—were disproportionately affected by violent human rights abuse.

The states of the hemisphere must adopt effective measures to prevent future human rights violations and to punish abuses by agents of the state and those operating with official acquiescence. Just as it is unacceptable for a state to adopt torture or disappearance as official policy, a government may not condone such violations or decline to protect those subject to its jurisdiction. Nearly every state in the region has assumed the affirmative obligation under international law to secure the unconditional exercise of the rights enshrined in that law. They have thus assumed the responsibility to bring domestic legislation into accord with international human rights standards and develop independent and impartial judiciaries capable of prosecuting and punishing the perpetrators of human rights violations.

The spread of institutional democracy in the region has given national legislatures unparalleled opportunities to enact human rights reforms and to provide oversight of state security agencies, a challenge that has yet to be met. In 1995, most civilian governments in the region had yet to reform penal codes to criminalize explicitly human rights violations such as torture, disappearances, and extrajudicial executions; guarantee due process; restrict the jurisdiction of military courts; and repeal *desacato* (contempt) laws and other legislative artifacts of authoritarian regimes that penalize the free expression of ideas. Further, national legislatures did not exercise sufficient diligence in bringing human rights considerations to bear on the foreign policy of their governments.

Frequently, judiciaries in the hemisphere abdicated their central role in the defense of rights. Judicial authorities took an excessively formalistic view of their role, forgetting that procedural requirements are a means of reaching justice and not justice in themselves. Their failure to take even minimal steps to protect people whose rights were violated guaranteed impunity for the perpetrators of abuses. Peru's "faceless courts" and secret military tribunals, for example, robbed civilians accused of terrorism or treason of their most basic due process guarantees. Colombia's secret "public order" courts, used to prosecute individuals charged with rebellion and drug trafficking, raised similar due process concerns. In Chile, the judiciary, especially the Supreme Court, remained ineffectual, with the notable exception of the prosecution of the security police officers responsible for the 1976 slaying of Orlando Letelier and Ronni Moffitt in Washington,

D.C. Fear of the army permeated the Guatemalan judicial system, rendering it incapable of resolving disappearances and extrajudicial executions. Disorganization and a lack of resources plagued the Haitian judiciary, which had not prosecuted any member of the armed forces by November 1995.

Military justice systems, which failed in most cases to meet international standards of impartiality and independence, continued to foster a climate of impunity for perpetrators of human rights violations. In Peru, military courts achieved a near-perfect conviction rate against civilians (97 percent in 1994), while compiling an equally impressive acquittal rate when judging soldiers accused of human rights violations.

A Human Rights Watch/Americas review of internal Mexican army documents on the 1994 Ocosingo clinic massacre in Chiapas found military prosecutors more interested in accusing human rights groups of dishonesty than in investigating and prosecuting those responsible. In Brazil, military courts made little more than perfunctory inquiries into gross abuses by the military and police, despite the existence of ample evidence. National legislatures, meanwhile, neglected to take the necessary steps to ensure that human rights violations committed by members of the armed forces were judged in civilian courts.

Not all the news emanating from judges' chambers during the year was bad. Courageous prosecutors and judges did pursue human rights cases in some countries, despite considerable pressure to abandon their investigations. Peruvian prosecutor Ana Cecilia Magallanes reopened the investigation into the 1991 massacre in the Barrios Altos district of Lima, and Judge Antonia Saquicuray Sánchez found Peru's sweeping amnesty law inapplicable to the case. Sonia Marlina Dubón de Flores, the Honduran special prosecutor for human rights, initiated the hemisphere's first investigation of active-duty military officers for human rights violations, and Judge Roy Medina issued arrest warrants in October for three of the ten Honduran military officers under investigation. Special prosecutor Abraham Méndez García vigorously investigated the 1993 killing of Jorge Carpio Nicolle in Guatemala. Until he resigned from the case of Efraín Bámaca Velásquez under threat in July, Guatemalan special prosecutor Julio Arango Escobar showed integrity and initiative in pursuing the case. Stella Kuhlman, a Brazilian prosecutor in charge of the case of 111 detainees who were killed in Carandiru prison in 1992, diligently investigated the prison case and other instances of police abuse and corruption despite threats to her life; in 1995, she and seven other prosecutors in Sao Paulo's military justice system challenged military jurisdiction in cases of crimes against civilians. Colombia's Constitutional Court issued a number of decisions in 1995 demonstrating both a commitment to the defense of human rights and a resistance to political control; in one of these, it found unconstitutional President Ernesto Samper's August 1995 declaration of a "state of internal commotion."

In most instances where jurists worked to promote justice in human rights cases, however, they did so against the prevailing sentiment of elected civilian officials. This was clearest in Peru, where President Alberto Fujimori signed the most sweeping amnesty law in the region. He granted amnesty to all military, police, and civilians who had committed serious crimes in the

course of the counterinsurgency effort between 1980 and 1995. In Colombia, where President Ernesto Samper began the year by admitting state responsibility for a spree of extrajudicial killings and disappearances in Trujillo in 1990, the president went on to support continued military jurisdiction over human rights cases, despite the impunity that military courts have fostered.

President Cardoso of Brazil introduced legislation to compensate the victims of disappearances during the military regime. This otherwise positive step proved cosmetic but the new law failed to provide any mechanism for determining the circumstances of the disappearances, identifying those responsible, or rendering justice.

In Argentina, the army chief of staff, Gen. Martín Balza, issued an historic apology to the nation for the crimes of the "dirty war" of the 1970s; yet the administration of President Carlos Menem failed to compel officers to disclose what they knew about the fate of thousands of disappearances to the families and to Argentine society.

In addition to the failure of elected civilian leaders to consolidate human rights protections in the new era of democracy, these leaders also often failed to prevent ongoing human rights violations. Extrajudicial executions, disappearances, and torture persisted in the region. In Guatemala, soldiers killed eleven repatriated refugees, a bitter reminder that the advancing peace process had not fundamentally changed the human rights situation there. In Brazil, state police officials in Rio de Janeiro, Sao Paulo, and Rio Grande do Norte and Mato Grosso do Sul participated in extermination squads to dispose of marginals ("lowlives")—street youth, the homeless, and others suspected of general lawlessness but often no particular crime. The prevalence of these grave violations in Colombia led the U.N. special rapporteurs for extrajudicial executions and torture to issue a joint report characterizing the situation as "alarming."

Disappearances were documented in such formally democratic countries as Brazil, Colombia, Guatemala, and Peru. Even in Argentina, provincial police were tied to several cases of disappearance, revealing that this tactic of repression had not been eradicated despite earlier, temporarily successful attempts to end it.

Torture during 1995 was also documented by local and international human rights groups and multilateral organizations in countries such as Brazil, Colombia, Guatemala, and Peru. The methods used differed little from those employed by military dictatorships during the 1970s and 1980s. Although Cuba ratified the U.N. Convention Against Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment in 1995, both political and common-crime prisoners reported suffering denial of medical attention, beatings, violent and arbitrary searches, and other degrading treatment for minor infractions or nonviolent protests such as hunger strikes. In Mexico, police employed severe physical and psychological torture to obtain confessions, which judges—to their shame—accepted as evidence.

The positive model for the region, as a response to torture, was the Argentine Supreme Court ruling in 1981 that confessions obtained by torture were inadmissible, even with corroborating evidence. The Alfonsín government codified this judicially adopted ruling at the federal level in 1984, and the prohibition was retained in the 1992 revision of the criminal procedure code. Even Argentina did not achieve this standard, however, in 1995. Unfortunately, some appellate courts continued to admit as presumptive evidence confessions as the result of torture. Region-wide, the failure of judges to reject confessions obtained through torture and of legislatures to prohibit their use provided an incentive for state agents to continue to torture.

In Mexico, Brazil, and to a lesser extent in Argentina, which have federal systems of government, federal authorities sought to avoid responsibility for abuses committed by security forces of state governments. This was the case, for example, in Mexico's state of Guerrero, where state police gunned down seventeen peasants in June but federal officials maintained they could not intervene to ensure justice was done. The American Convention on Human Rights holds national governments responsible for abuses committed by state government officials.

Freedom of expression, too, remained restricted in several countries. Cuba continued systematically to violate this right, frequently charging human rights activists and political dissidents with "enemy propaganda," "clandestine printing," "contempt of authority," "anti-social behavior," or the violation of "socialist morality." In Chile, several individuals were arrested and punished for remarks deemed offensive to the honor of military and civilian authorities or government institutions.

A study of desecration laws by the Inter-American Commission on Human Rights published in February noted that thirteen states in the region had some form of legislation criminalizing expression that offends, insults, or threatens a public official, in violation of the American Convention on Human Rights.

Guerrilla groups in several countries of the region violated international humanitarian law, killing civilians or destroying their homes or other property. All sides in an internal armed conflict, whether government or guerrilla, are bound by the provisions of common article 3 of the Geneva Conventions, the principal international treaty delineating the laws of war.

The Shining Path (Sendero Luminoso) of Peru continued consistently to violate international humanitarian law, targeting local authorities, members of peasant patrols, and its political opponents for assassination, threats, or humiliating and degrading treatment. Some killings followed "popular trials" in which the guerrillas mimicked a judicial process but provided no semblance of independence or impartiality. In May, the group slaughtered an entire community for its failure to pay a "war tax."

In Colombia, the Revolutionary Armed Forces of Colombia (Fuerzas Armadas Revolucionarias de Colombia, FARC) were implicated in numerous cases of hostage-taking and assassination, including a massacre in September in which twenty-three people were killed near Urabá. In

June, members of the FARC apparently executed two abducted American missionaries. Other Colombian guerrilla groups, notably the Camilist Union-National Army of Liberation (Unión Camilista-Ejército de Liberación Nacional, UC-ELN), carried out executions and took hostages during the year. In Guatemala, guerrillas failed to exercise care to minimize danger to civilians during attacks on military targets and imposed "war taxes" on civilians with the implicit threat that those who did not pay would suffer bodily harm or damage to their property. In addition, several civilians were killed by land mines laid by the Guatemalan guerrillas.

### **The Right to Monitor**

Throughout the region, a network of human rights nongovernmental organizations continued to develop. With the exception of Cuba, where human rights monitoring continued to be illegal and monitors were subjected to criminal prosecutions, the majority of states imposed few, if any, formal obstacles to human rights monitoring. A growing number of governments established or acted to strengthen human rights ombudsmen, although it was less clear whether these governments were willing to use ombudsmen's information to prosecute human rights violations.

In Honduras, the National Commission on Human Rights was granted constitutional status, formalizing its permanent mandate to investigate and report on abuses in the country. In Peru, the congress created a defensor del pueblo (ombudsman) but severely limited his power to enter military installations or compel officials to cooperate with investigations. The position had not been filled as of this writing.

As in previous years, independent monitors ran the serious risk of injury or death, especially in Colombia and Guatemala. At least three human rights activists—Ernesto Fernández Fester, Javier Barriga Vergel, and Humberto Peña Prieto—were killed in Colombia in 1995. In June, Guatemalan rights monitor Manuel Saquic Vásquez disappeared. His decapitated corpse was found the following month with thirty-three stab wounds. Human rights monitors in other countries, such as Brazil, Honduras, Mexico, and Peru faced threats and other forms of harassment for doing their work.

### **The Role of the International Community**

#### **The United Nations**

The United Nations played a fundamental role in human rights monitoring and promotion in Haiti and Guatemala. Six thousand peacekeepers of the U.N. Mission in Haiti (UNMIH) and over 800 U.N. Civilian Police (CivPol) monitors contributed to the marked improvement in human rights conditions during the first year since President Aristide's reinstatement. The U.N. Human Rights Verification Mission in Guatemala (MINUGUA), established in November 1994, produced three reports documenting cases of torture, extrajudicial execution, and disappearance by security forces as well as government links to organized crime and "social cleansing" operations. The U.N. presence throughout the year provided some protection for the human rights community in Guatemala and may have had some effect in reducing human rights abuses. Nevertheless, the security forces and their agents continued to commit gross abuses with impunity.

The U.N. High Commissioner for Human Rights announced plans to study the possibility of opening a permanent office in Colombia. The initiative stood a chance of helping improve the human rights situation if conducted in coordination with, not instead of, other U.N. human rights projects in Colombia, including the special rapporteurs on extrajudicial executions and torture and the Working Group on Enforced or Involuntary Disappearances. Human Rights Watch/Americas echoed the concern of Colombian human rights groups that a U.N. High Commissioner office should not preclude other U.N. initiatives, such as the appointment of a country rapporteur for Colombia.

### **The Inter-American System**

Latin America and the Caribbean have one of the world's most progressive systems for the international protection of human rights. The two autonomous human rights institutions of the Organization of American States (OAS)—the Inter-American Court of Human Rights, a tribunal that applies and interprets the American Convention on Human Rights, and the Inter-American Commission on Human Rights, a quasi-judicial investigatory and advisory body—have played a vital role in guaranteeing fundamental human rights to those living in the hemisphere.

The court fills the valuable role of the tribunal of last resort for the region in cases of human rights violations. As it observed in the now-famous case of Velásquez Rodríguez, the sentences pronounced by the court serve as a form of reparation by establishing the facts, identifying with precision the nature of the violations committed, and establishing the state's responsibility to take concrete steps to prevent, investigate, punish, and disclose violations, and restore an individual's rights or provide reparations to victims or their relatives. In 1995, the court found Peru responsible for violations of the right to life in the deadly suppression of the 1986 prison riot in El Frontón. However, when Venezuela accepted full responsibility for the massacre in El Amparo, the court merely noted this admission without issuing a declaratory judgment of Venezuela's violation of the convention or determining the resulting legal consequences. As representatives of the victims, Human Rights Watch/Americas urged the court to cure this deficiency in the context of determining the nature and scope of reparations.

The work of the commission was marred in 1995 by the deficient performance of its secretariat. Over the course of the year, management anomalies made it nearly impossible to discern what, if any, criteria were used to guide the secretariat's proceedings. The secretariat's disinclination to grant requests for precautionary measures—instrumental in saving the lives of countless victims of disappearances and threats throughout the hemisphere—reversed its decades-long tradition of responsiveness in such cases and, exemplified a growing inconsistency in its work. Other procedural irregularities included unwarranted delays in the release of reports; arbitrary and illegal refusal to admit new complaints; impeding the resolution of cases before the commission; and affording certain government representatives access to documents and petitions even before they came under the consideration of the commissioners. Under these circumstances, some government representatives were able to use personal or political influence with the secretariat,

thus undermining the independence of the commission and the credibility of the OAS as a protector of human rights.

Human Rights Watch/Americas was extremely concerned about these developments at the commission; the weight and influence of the commission's resolutions and recommendations depend not only on their content but also on the moral authority of the institution itself.

As a consequence of the irregularities at the secretariat, the commissioners informed the secretary-general of the OAS in September that they lacked confidence in the commission's executive secretary. Nevertheless, some governments, particularly Venezuela and Chile, sought to maintain the executive secretary in her position. As of this writing, the secretary-general had not acted to solve a situation that threatened the autonomy and integrity of the commission.

### **U.S. Policy**

The Clinton administration remained sensitive to human rights concerns in the hemisphere but failed to make human rights a centerpiece of its policy towards the region. In relations with Mexico, the administration muted human rights concerns so as not to jeopardize economic policy. Even while providing a \$20-billion economic support package to Mexico, the administration failed to raise publicly human rights concerns. Although the U.S. ambassador in Mexico assured us he privately raised human rights concerns at the highest levels of government in Mexico, the issuance of only one cautious public statement focusing on human rights, lent legitimacy to abuses in Mexico.

In a similar vein, the administration failed to seize the opportunity presented by the Summit of the Americas in December 1994 to advance human rights protection in the hemisphere. Human rights concerns were included in the final plan of action approved at the summit, but no specific follow-up meetings or reporting provisions were included to ensure that human rights would be actually addressed over the coming years. Other subjects in the plan of action, such as trade, included detailed follow-up mechanisms.

In Bolivia, human rights principles were sacrificed to the pursuit of counternarcotics programs. Bolivia's rural counternarcotics forces—created, funded, and trained by the U.S.—rode roughshod over residents in coca-growing areas, beating them, stealing their money and goods, and arbitrarily searching their homes at all hours. The U.S. Drug Enforcement Administration (DEA) was intimately involved in counternarcotics operations in Bolivia; yet the results of the agency's internal investigations into alleged complicity or acquiescence in abusive interrogations were not made public.

In the wake of its successful restoration of the democratically elected government of Haiti, the Clinton administration rushed to return Haitians who had found "safe haven" at the U.S. naval base in Guantánamo Bay, Cuba, without first determining if they qualified as refugees under international law. The January 1995 forced repatriation of more than 3,700 Haitians from Guantánamo violated the U.S.'s obligation under the 1967 Protocol Relating to the Status of

Refugees not to return (refouler) a refugee to a territory where his or her life or freedom would be threatened on account of persecution. The Department of Defense also restricted independent monitoring of the Guantánamo facilities, making it difficult to investigate reports of mistreatment and to independently verify the claims of those detained there. In the first months of 1995, unaccompanied Haitian minors reported some abuses by U.S. military personnel, including shackling and isolation. The U.S. military did not release the results of its investigation into these complaints or its regulations governing discipline.

On May 2, the Clinton administration announced a new policy to interdict and repatriate Cuban asylum seekers based on an agreement struck with the government of President Fidel Castro. Under the agreement, most of the 20,000 Cubans remaining in Guantánamo camps would receive humanitarian parole into the U.S.; those found excludable because of past criminal activity or other statutory reasons would be repatriated. After returning several groups of Cubans without adequate refugee screening, the U.S. improved its procedures to adhere to international requirements.

U.S. covert links to human rights violators in the hemisphere became front page news in 1995 with the revelation that a Guatemalan military officer paid by the Central Intelligence Agency (CIA) had been involved in two extrajudicial executions, including the 1990 murder of American citizen Michael DeVine. The CIA's links to human rights violations in Guatemala followed a similar pattern previously disclosed in El Salvador, Haiti, Honduras, and Peru. The Clinton administration announced several executive branch inquiries to deal with the crisis, disciplined several CIA officials, expanded a review of its foreign agents, and began writing new rules governing their recruitment. No review appeared to be underway, however, of the so-called liaison programs that the CIA routinely establishes with foreign intelligence services without informing Congress or the public. As the details of the CIA relationship with Guatemala became public in March and April, it was revealed that the agency had spent millions of dollars in such a program with Guatemala's notoriously abusive military intelligence service after overt military aid had been suspended in the wake of Michael DeVine's murder.

The initial steps taken to curb the CIA were positive but insufficient. Human Rights Watch called for the enactment of legislation—rather than classified internal regulations—that would prevent the agency from keeping murderers and torturers on its payroll and would prohibit liaison relationships with units that consistently violate human rights.

### **The Work of Human Rights Watch/Americas**

Our work in 1995 focused on seven countries—Brazil, Colombia, Cuba, Guatemala, Haiti, Mexico, and Peru—in which the nature and extent of the violations and the response of the state raised urgent human rights concerns. We conducted missions, wrote and released publications, and advocated for change in these countries' human rights practices as well as highlighting discrete issues in other countries, such as the human rights violations associated with the drug war in Bolivia and the need for accountability for past CIA activities in Honduras. We called attention to the need of the Chilean government to enforce the judgment of its highest court



against the head of the intelligence agency during the dictatorship, and we emphasized the obligation of the Chilean state to investigate, prosecute, and punish those responsible for human rights abuses. In an amicus brief prepared jointly with the Center for Justice and International Law (CEJIL), we urged the Argentine Supreme Court to guarantee the right of the victims of human rights violations and their families to know the truth about the role of the state in the abuses—an indispensable step to prevent future abuses and provide compensation for the victims of past cruelty.

Among our efforts to press for accountability for past human rights violations, we cosponsored an international conference on amnesties in Guatemala with the Myrna Mack Foundation, which concluded that grave human rights violations and breaches of the laws of war should never be amnestied, and we worked with the national commissioner for human rights of Honduras, to press the Clinton administration to declassify documents relating to disappearances carried out by a U.S.-funded death squad in the 1980s. In Mexico, we released new information on a 1994 massacre of civilians in Chiapas which helped advance domestic efforts to investigate the crime. Our work on Peru and Bolivia drew attention to the lack of due process guarantees for out-of-favor groups or individuals such as those accused of drug offenses or support for terrorists. We also continued our traditional monitoring of laws of war violations by all sides to the region's armed conflicts, including violations of international humanitarian law by guerrillas in Colombia and Peru.

In partnership with CEJIL and several national human rights organizations, we are involved in nearly one hundred cases at the Inter-American Commission on Human Rights, which has referred ten of these to the Inter-American Court of Human Rights.

## **BRAZIL**

### **Human Rights Developments**

The assumption of power in 1995 by the largest contingent of newly elected federal and state officials in Brazilian history, and in particular, of President Fernando Henrique Cardoso, widely viewed as a long-term defender of the rights of the excluded, brought high hopes for the improvement of human rights in Brazil. Indeed, in his first year as president, Cardoso took several important steps toward ameliorating many of Brazil's chronic problems. Nonetheless, government agents and private parties continued to violate fundamental rights in Brazil in 1995.

The magnitude of human rights violations that face Brazil were exemplified by two high-profile incidents. On March 4, before dozens of onlookers outside the Rio Sul shopping center in Rio de Janeiro's prosperous southern zone, Military Police Corp. Flávio Ferreira Carneiro dragged robbery suspect Cristiano Moura Mesquita de Melo behind a parked van and summarily executed him with three shots at point-blank range. The entire incident was filmed by a camera crew from the TV Globo network and broadcast throughout Brazil and the world. The banality of this event

for Brazilians was underscored by flash polls taken in subsequent weeks showing that a majority of Rio residents supported the actions of Corporal Ferreira Carneira.

Second, in the pre-dawn hours of August 9, 187 military police conducted a search of the Santa Elina fazenda (ranch) in the northern state of Rondônia to remove 200 families of sem terra (landless squatters) who were occupying the land. With violence on both sides, two police and several squatters were killed in the conflict. After the police had subdued the squatters, however, they killed several more, tortured dozens, and beat more than one hundred men. The military police humiliated the squatters, forcing one man to eat the brains of a dead companion so that he would overcome "his fear of the dead." In all, the police killed nine people, including a seven-year-old girl shot in the back, and injured more than one hundred, thirty of whom were hospitalized in serious condition. Nine people remained unaccounted for.

These two incidents were not isolated events: in Rio alone police killed 191 civilians in the first seven months of 1995. Figures from the Pastoral Land Commission (Comissão Pastoral da Terra, CPT) for the first eight months of 1995 showed that at least twenty-six people had been killed in land conflicts. Of these, the CPT attributed six cases to hired gunmen, four to civil police, and two to military police.

These two incidents also demonstrated the serious problems in the military justice system, the entity charged with the prosecution of violations committed by military police. Corporal Ferreira Carneiro, though eventually convicted in the aftermath of the televised shooting, had been involved in the killings of several other civilians, but none of these cases had been prosecuted by the military justice system. In the weeks after the Santa Elena ranch incident, although the ordinary courts took statements from 121 squatters and indicted seventy-four for the crime of resisting the judicial order to abandon the fazenda, only nine military police had given statements to the military court investigating police violence in the event.

Finally, the two incidents demonstrated that reforms instituted solely at the federal level are insufficient. Significant steps must be taken at the state level if human rights abuses are to be brought under control. In both instances, the prosecution of the police officers involved rested in the exclusive jurisdiction of state authorities, as do the overwhelming majority of cases of human rights abuse.

Urban police violence continued to be a severe human rights problem throughout Brazil in 1995, as exemplified by the televised execution. In several major cities, reports of extrajudicial killings and torture were commonplace. In Rio de Janeiro, an October 1994 massacre of thirteen residents of the Nova Brasília favela (slum) by the state civil police resulted in federal intervention in Rio de Janeiro. Dubbed "Operation Rio" by the press, the joint military and state police initiative provoked great expectations but little relief from the city's surging criminality and violence. Perhaps this was because the operations failed to target police criminality, widely viewed as inextricably linked to drug-related violence. In late November 1994, in the Borel and Chácara do Céu favelas of Rio de Janeiro, troops tortured detainees with electric current, near

drowning, and severe beatings. Despite ample evidence of these and other abuses, the prosecutors failed to charge any of the troops involved.

State police forces were also responsible for serious violations during 1995. In May, Rio civil police raided the Nova Brasília favela, killing thirteen young men. After the killings, police loaded the corpses of their victims into a sanitation department pickup truck and drove them to the hospital for "first aid." This technique—a flagrant violation of Brazilian law—is a common technique among abusive police to undermine crime scene investigations. In the aftermath of the operation, favela residents reported that they had seen a number of the victims being executed after having surrendered to police. Human Rights Watch/Americas obtained copies of the coroner's reports, which established conclusively that several victims had been shot numerous times in the head and chest, consistent with a massacre but not a shootout. Nonetheless, Rio de Janeiro Gov. Marcello Alencar declared that he would not accept any criticism of the police action, and at this writing—six months after the events—the public ministry had still not indicted any of the police involved.

In Sao Paulo, police killings of civilians rose to shocking levels in 1995, significantly higher than those registered in 1994. During the first half of 1995, military police in the state of Sao Paulo killed 338 civilians, reversing what had been a downward trend over the previous three years. The discovery in April of a clandestine deposit for corpses on the outskirts of Sao Paulo and evidence that police used the site to dump the corpses of their victims raised the possibility that, as alarming as the official figures for civilian killings were in Sao Paulo in 1995, they might not accurately reflect the actual total number of homicides by the police.

Unfortunately, urban police violence in 1995 and impunity for abuses, particularly when directed against criminal suspects, were not limited to Rio de Janeiro and Sao Paulo. For example, on January 23, 1995, a group of police in Maceió (capital of the northeastern state of Alagoas), under the direction of Secretary of Public Security José de Azevedo Amaral, raided a housing complex purportedly to capture bank robbery suspects, killing nine and arresting only one. The lone prisoner taken, Wellington Santos, was photographed handcuffed outside the residential unit, but his body was later found at the morgue. According to newspaper reports, three other detainees disappeared from this police station without having been registered. Summarizing the operation to the press, the secretary of public security stated, "We identified the lowlives (marginais) and we sent them bullets."

In May, in the northeastern state of Rio Grande do Norte, the state attorney general formed a special commission to investigate allegations that Under Secretary of Public Security Maurílio Pinto had been involved directly in the oversight and operations of a death squad that included off-duty police known as the Meninos de Ouro (Golden Boys). Witness and victim testimony presented to the special commission established that the Meninos de Ouro had killed eight people and "disappeared" two others since 1988. In addition, among the allegations that surfaced were Pinto's direct supervision of torture sessions. In a televised interview, Pinto admitted that he

instructed—and would continue to instruct—his officers to beat "lowlives." Nonetheless, he was retained in his position overseeing all police in the state of Rio Grande do Norte.

The national news program "SBT Reporter" aired a program on September 12 denouncing the suspected involvement of a special police force, the Border Operations Group (Grupo de Operações da Fronteira, GOF), in Mato Grosso do Sul, in dozens of extrajudicial killings. Speaking on the program, the GOF's commander admitted that the group had killed "marginals."

Street children and other youths continued to be killed at a frightening pace in Brazil's major cities. According to the Center for the Mobilization of Marginalized Populations (Centro de Articulação dos Povos Marginalizados, CEAP), a Rio de Janeiro human rights group focusing on issues of racial discrimination and violence against persons of color, 574 minors were killed by guns in the state of Rio in 1994; some 1,274 were victims of violent death. In the first three months of 1995, 189 minors in Rio were killed by gunfire as compared with 151 in the same period in 1994. Despite these alarming figures, police and other authorities failed to protect urban youths; in some cases, off-duty police officers and participants in death squads were responsible for the killings.

A critical factor in the persistence of these abuses was the impunity virtually guaranteed to military police who violated human rights. Impunity continued to be particularly extreme in the case of the Sao Paulo justice system. In 1995, high-profile cases remained stalled in the Sao Paulo courts, including the 1992 massacre of 111 prisoners in the Carandiru prison and the 1989 killing of eighteen detainees by beating and asphyxiation in Parque Sao Lucas, despite federal government pressure to address these matters. In a meeting also attended by representatives of the Center for the Study of Violence at the University of Sao Paulo (Núcleo de Estudos da Violência), Minister of Justice Nelson Jobim raised both cases with the president of the Sao Paulo military appellate court. In his September 7 speech on human rights, President Cardoso noted the message of impunity sent by the lack of progress in the Carandiru case.

In an Independence Day speech on September 7, President Cardoso recognized the pervasiveness of impunity, noting in particular the slaughter of 111 prisoners by Sao Paulo military police in October 1992 and the massacre of eight street children by off-duty police in then-named Candelária plaza in Rio in July 1993, among other grave violations. In the second half of 1995, the president and his cabinet created a division within the federal police to investigate human rights abuses, prepared draft legislation to provide federal jurisdiction for certain human rights violations, and announced the creation of a national human rights plan.

In 1995, the Cardoso administration also took an important step forward by introducing legislation to compensate relatives of those forcibly "disappeared" by state agents during the military dictatorship (1964-1985). Unfortunately, the legislation, stalled in the Senate, would not provide any means of investigating these disappearances or of including those executed for political reasons (though not "disappeared") among those whose deaths were to be compensated. This continued failure to investigate disappearances and extrajudicial executions constituted

ongoing violations of Brazil's duty under the American Convention on Human Rights and the International Covenant on Civil and Political Rights to ensure justice and an effective remedy to the victims of human rights abuses.

Another important development in 1995 was the creation of a human rights commission within the federal Chamber of Deputies. Presided by the chamber's president, Nilmário Miranda, the commission followed its establishment in March with outstanding work in drawing public attention to severe human rights problems in Brazil, including those whose denunciation was politically unpopular, such as police abuse committed against criminal suspects. Despite limited resources, the commission managed to become an effective voice in denouncing human rights abuses and in pressing the federal and state governments to address human rights concerns.

Of particular concern in 1995 were renewed reports of disappearance in rural Brazil. On June 30, 1995, police arrested José Carlos B. Matos and another unidentified individual, in Conceição do Araguaia, in southern Pará state in the heart of Amazônia, for their alleged involvement in the theft of a motorcycle. The arresting officers took the two men to the local precinct and later that evening turned the two detainees over to a group of four men, one of whom was also a police officer. Three days later, two corpses were found by the side of a local highway, burnt almost beyond recognition. Matos's mother identified the remains of her son from police photographs.

On July 12, five prisoners accused of bank robbery and other assaults were called to testify before a judge in the interior of Alagoas. While returning from their court appearance, the prisoners disappeared from police custody. Authorities stated that the prisoners had been kidnaped by a group of heavily armed men, although not a single shot was fired.

Sergio Gomes, one of those missing following the August 9 Rondônia massacre, was later seen by a local city councilman entering a police vehicle. Days later, his corpse was found floating in the nearby Tanarú river.

CPT investigations revealed the continued increase in reported cases of forced labor and near-forced labor in 1994, the practice by which rural laborers are enticed with promises of high wages to toil at distant work sites. These laborers are often bonded to their employers by heavy, ever-increasing debt and are confined to the site by armed guards. While the CPT documented twenty-seven such cases involving 4,883 people in 1991, and eighteen cases involving 16,442 victims in 1992, these numbers increased to twenty-nine cases involving 19,940 laborers in 1993 and twenty-eight cases involving 25,193 workers in 1994.

The Cardoso government's response to allegations of forced labor was open and constructive. In an April radio address, President Cardoso recognized the seriousness of the problem and established an inter-ministerial commission to address it. Although much needed to be done to eradicate forced labor—for instance, the federal police investigated only two of more than a dozen cases denounced during 1995—the president's recognition of the issue and his preliminary efforts to address it constituted a positive first step.

Although Brazilians generally enjoyed the right to free speech, in several instances in 1995 the judiciary was employed to impose limits on the full enjoyment of this right, in direct violation of article 13 of the American Convention on Human Rights and article 19 of the International Covenant on Civil and Political Rights. In March, an appellate court affirmed the conviction of human rights activist Father Júlio Lancellotti for the crime of disrespect of authority. In a television interview in 1992, Father Lancellotti had accused the military police of acting as a death squad. In that year, the military police in Sao Paulo killed 1,470 civilians, including 111 disarmed prison inmates in a single episode.

In May, after more than a year, *O Calvário de Sonia Angel*, a text in which former military officer Joao Luiz de Moraes' describes his twenty-year ordeal in discovering how his daughter had been tortured and murdered by security forces during the dictatorship, was finally permitted to circulate. In 1994, a Rio de Janeiro court had granted Air Force Gen. Joao Paulo Burnier, one of those implicated by Moraes's book, a restraining order prohibiting the book's circulation.

In June, on petition from Bonifácio de Andrada, counsel for the Chamber of Deputies of the Federal Congress, a court in the capital Brasília prohibited the rock band Paralamas do Sucesso from playing a song of their own composition based on a speech given by former presidential candidate Luiz Inácio da Silva ("Lula"). The song, "Luiz Inácio (300 Picaretas)," accuses the majority of Congress of being scoundrels (picaretas).

### **The Right to Monitor**

The Brazilian government imposed no formal obstacles to human rights monitoring, and Brazil continued to maintain a well developed network of human rights nongovernmental organizations (NGOs). These groups promoted the rights of women, children, indigenous groups, rural laborers and activists, prisoners and others victimized by human rights violations. These groups, however, did face threats, intimidation, and physical violence from police and fazendeiros (ranchers).

Wagner dos Santos, who survived gunshot wounds from the July 1993 Candelária massacre of eight street children and had come forward as a witness, once again survived an attack by off-duty police. In September, dos Santos fled Rio de Janeiro and abandoned the case, underscoring the need for an effective national witness protection program.

Human rights activists in southern Pará continued to operate under death threats from a vigilante group directed by Jerônimo Alves de Amorim, owner of the Nazaré fazenda. The Rev. Ricardo Rezende and the Rev. Henri des Roziers of the CPT were among those on a list of forty targeted persons that continued to circulate in the region. In 1994, five of those on the list were killed. During 1995, authorities failed to detain Alves de Amorim, despite of outstanding warrants for his involvement in several homicides.

In June, all eight prosecutors in the Sao Paulo military justice system signed a document calling for the transfer of crimes committed against civilians to the ordinary courts. This important

reform proposal, an attempt to bring some measure of due process to an important set of cases, flew in the face of the military high command. A week afterwards, two of the eight prosecutors began to receive anonymous death threats. A third, responsible for the prosecution of 120 military police responsible for the October 1992 massacre of 111 prisoners in the Carandiru prison, had already received threats for more than two years. Despite the frequency and similarity of the threats, in more than two years the authorities charged with investigating them had been unable to identify those responsible.

### **U.S. Policy**

In April, President Fernando Henrique Cardoso visited the United States and met with senior officials, including President Clinton. Despite pressure from the NGO community, including Human Rights Watch/Americas, Clinton failed to raise the issue of Brazil's human rights record with his Brazilian counterpart. With the exception of the Brazil section of the retrospective Country Reports on Human Rights Practices for 1994, the Brazil desk officer for the State Department could point to no public human rights statement on Brazil made by the State Department or the U.S. Embassy in Brasília during 1995.

The State Department's 1994 country report for Brazil generally presented a fair portrayal of the human rights situation. Nevertheless, the report's summary and treatment of Operation Rio failed to note the abuses committed by military troops and police forces, noting instead that the joint operations were "essentially nonviolent and popular with the city's residents" and repeating the military authorities' contention that they "worked closely with judges to obtain the necessary warrants." Human Rights Watch/Americas investigations established that troops engaged in Operation Rio committed numerous abuses, including torture, massive arbitrary searches and arrest, and extended detention without adequate legal basis.

In December 1994, the U.S. Embassy's human rights officer traveled to Belém, in the state of Pará, to attend the trial of those charged in the 1991 assassination of rural activist Expedito Ribeiro de Souza. The two defendants present at the trial were convicted; the third, fazendeiro Jerônimo Alves de Amorim, remained a fugitive.

In 1995, the U.S. gave relatively little direct assistance to Brazil. For fiscal year 1996, the administration requested \$200,000 for training through the International Military Education and Training Program (IMET) and \$1 million in anti-narcotics assistance. The U.S. government should use both aid grants to press police and military to take steps to eliminate human rights abuses by their forces and to respond to reports of violations when they occur.

### **The Work of Human Rights Watch/Americas**

Given the seriousness and range of human rights violations in Brazil, Human Rights Watch/Americas decided to establish permanent representation in the country, opening a joint office with the Center for Justice and International Law (CEJIL) in Rio de Janeiro. Having a permanent office in Brazil allowed us to participate more closely in the public debate concerning

human rights violations and to press government officials concerning measures to be taken to address these violations.

In March, together with several Brazilian human rights groups, we submitted an agenda for human rights to newly-elected President Fernando Henrique Cardoso. That document, an open letter released to the press, summarized our reports and main concerns in Brazil since our first report in 1987. Several of the recommendations contained in that letter, such as the need to create federal jurisdiction for human rights abuses and modify the jurisdiction of the military justice system, led to public debate and government action in 1995.

In April, along with several organizations in Washington, we met with President Cardoso, Minister of Justice Jobim, and other members of a visiting Brazilian official delegation. We later followed up by meeting other senior officials of the Cardoso administration to discuss human rights concerns.

In September, we released in Brazil a Portuguese version of the Human Rights Watch Global Report on Women's Human Rights (see the Women's Rights Project section) emphasizing the chapter that addressed human rights abuses of women in Brazil. The release received vast press coverage in the television, radio and print media.

Throughout 1995, we continued to use international mechanisms to pressure the Brazilian government to comply with its international obligations. In conjunction with CEJIL, we brought several cases to the attention of the Inter-American Commission on Human Rights, including the August massacre in Ronônia. In February, on the application of Human Rights Watch/Americas and CEJIL, the Inter-American Commission requested that the Brazilian government take measures to protect the life of Father Rezende, who was honored by Human Rights Watch in its December 1994 for the CPT's sustained work on human rights in the southern Pará state in the Amazon region. In 1995, after years of pressure by Human Rights Watch/Americas and CEJIL, the Brazilian government decided, in an April meeting with Human Rights Watch/Americas and other NGOs, to permit the Inter-American Commission on Human Rights to visit Brazil to investigate human rights conditions.

## **CHILE**

### **Human Rights Developments**

The issue of accountability for past human rights violations continued to divide the nation; and constitutional restraints on full democracy, out-of-date penal standards, and ingrained police abuses remained major obstacles to the full enjoyment of basic human rights in Chile.

On May 30, the Supreme Court unanimously confirmed a prison sentence of seven years for Manuel Contreras Sepúlveda, a retired army general and former head of Chile's secret police, the



National Intelligence Directorate (Dirección de Inteligencia Nacional, DINA), and a sentence of six years for Brig. Gen. Pedro Espinoza, Contreras's former deputy. These two had been convicted in 1993 by a special judge appointed by the Supreme Court to resolve the 1976 Washington, D.C., car-bombing murders of Orlando Letelier, a former Chilean defense minister, and U.S. citizen Ronni Moffitt. Contreras was finally incarcerated in Punta Peuco prison in the early hours of October 21. The Letelier-Moffitt case is the only one in which senior DINA officials—responsible for a widespread campaign of disappearances and political murders between 1973 and 1978—have been fully prosecuted or imprisoned.

On June 19, after three weeks of uncertainty in which police officials tried in vain to carry out an arrest order, the army discharged Espinoza, and an army escort took him to a prison constructed especially for military officers in Punta Peuco, on the outskirts of Santiago. It took almost five months for the court sentence on Contreras to be executed. On learning of his conviction, Contreras promised that he would "never spend a day in jail" and took refuge in his ranch in southern Chile. On June 13, after police received authorization to arrest him there, army commandos working under cover of night spirited him away to the naval base in Talcahuano, where he was admitted to hospital allegedly suffering from diabetes and high blood pressure, disorders from which he had not been known previously to suffer. Citing ill health, Contreras's attorneys launched a series of appeals against his imprisonment, prompting a sequence of medical examinations. Finally, Contreras underwent a hernia operation at the hospital, having received permission by the court to begin serving his sentence there. When his doctors had pronounced him fit and all further avenues of appeal had been exhausted, Contreras finally joined Espinoza in prison on October 21.

In response to the civil-military crisis, right-wing opposition parties, which have historically rejected concerns about human rights issues stemming from Pinochet's military rule (1973-90), pressed for a new law to interpret the 1978 amnesty that provided immunity from punishment for human rights violations committed between 1973 and 1978. Opposition senators introduced a bill in July proposing what amounted to a "full stop law," a deadline for judicial investigations into human rights cases. The bill would make it easier for courts to close unresolved human rights cases by requiring that they need only establish the type and date of the human rights violation that took place to mandate the permanent closure of the case. In recent years, trial-level courts have made significant advances in the opposite direction, including reopening human rights cases and prosecuting suspected human rights violators.

At issue was the ability of Chilean courts to investigate human rights violations and prosecute perpetrators, which the Supreme Court itself threw into further question. The amnesty clearly made punishing human rights violators impossible but did not definitively address investigations and prosecutions. Trial-level courts had previously considered disappearance cases open pending confirmation of the fate of the victim. In August, however, the Supreme Court ordered the final closure of the case of the 1976 disappearance of Joel Huaquiñir Benavides, a Socialist Party leader. The court ruled that Huanquiñir be legally considered deceased from the time of his disappearance, even though his fate remained unknown. By November, the Supreme Court had

confirmed the application of the amnesty law to seven other cases, and its president, Roberto Dávila, indicated publicly that the court would shortly close the remaining cases before it.

In response to the proposed bill to "reinterpret" the amnesty, the government countered with a proposal of its own. In an unusually frank television address to the nation on August 21, President Eduardo Frei stressed that the Letelier-Moffitt case had brought Chile face to face with the limitations of its democracy and that the truth about past human rights violations, especially disappearances, had to be confronted for national reconciliation to be possible.

After his speech, Frei presented three bills to parliament, the first dealing with human rights investigations and the second and third with constitutional reforms aimed at phasing out military restrictions on the full exercise of democracy. The human rights bill promised to streamline court investigations, but its general effect would be to reinforce and extend the negative effects of the amnesty law by offering to keep secret the identity of human rights violators in exchange for information about the fate of the "disappeared". The bill would mandate the appointment of superior court judges devoted for two years exclusively to disappearance cases. The judges would receive special investigative powers, including access to classified documents, military installations, and police stations, which are normally off-limits for members of the civilian judiciary. Judges would also take over all cases currently filed in military courts. Cases could be closed finally only if the judges were able to establish either the physical whereabouts of the victims' remains, or the fact of their death. However, to accomplish this, the identities of military suspects would be protected permanently in exchange for their testimony.

Other bills introduced by Frei would reduce some, but not all, of the military privileges left in place by the army when Pinochet left the presidency in 1990. With respect to human rights, they would restore the president's power to retire military officials, which could be used to remove human rights violators from service even if they could not be tried in the courts. Human Rights Watch/Americas encouraged a review under these provisions of cases such as those of Brig. Miguel Krasnoff Marchenko and Lt. Col. Fernando Laureani Maturana, former DINA agents directly implicated in several cases of disappearance in 1974. At this writing, Krasnoff was on active service in Santiago and Laureani was serving in a regiment in the northern city of Iquique.

In early November, President Frei announced on television that the government had made significant concessions to the right-wing opposition. Cases would only be opened at the express wish of relatives, those in military courts would not be transferred to civilian judges, and the grounds on which judges could close cases were relaxed. In an open letter to the Chilean Congress, Human Rights Watch/Americas criticized the government's failure to establish clear norms ensuring that cases were kept open until the fate of the victims had been determined. The congressional debate on the proposals was continuing as of this writing.

While past military abuses received considerable national attention, ongoing abuses by Chile's police forces did not, even though they continued to constitute a human rights problem in the country. Police, particularly the uniformed carabineros, operated without effective judicial

control, often arbitrarily arresting, mistreating, or torturing detainees. Though Chilean police forces instituted internal mechanisms for investigating complaints of torture, their internal investigations rarely, if ever, led to successful court prosecutions. In a meeting with Human Rights Watch/Americas in July, officials of the Ministry of the Presidency and the Ministry of Justice failed to provide evidence that any police officers had been convicted of torture since the return to democracy, although the Ministry of Interior reported that courts received some sixty complaints of torture between March 1990 and October 1994. In July, U.N. Special Rapporteur on Torture Nigel S. Rodley visited Chile.

Although the government officially recognized the importance of freedom of expression, it continued to apply laws that limited this right, including the Law of State Security, which the former military government used to stifle political dissent. Police continued to arrest people for expression-related "crimes" under this law, and prosecutors based indictments on it. In January, both branches of the legislature voted to file a lawsuit, based on the law, against Francisco Javier Cuadra, a former Pinochet minister, because of remarks he made in the news magazine *¿Qué Pasa?* In the interview, Cuadra said that he had information that "some parliamentarians and other persons holding public office take drugs." Members of parliament deemed the comment an affront to their honor. On June 19, police arrested Cuadra and took him to Capuchinos prison in Santiago. He was released on bond on July 7. In August, police jailed Chilean Socialist Youth leader Arturo Barrios, accused of violating the law, on charges of "insulting" General Pinochet. Two weeks later, Pinochet sued Christian Democrat Congressman Rodolfo Seguel under the same law for observing that "after well-irrigated lunches he [Pinochet] is wont to say stupid things."

The state also restricted freedom of expression in other ways. In August, the Supreme Court refused permission for Channel 7 television to interview Miguel Estay Reyno, a jailed former police undercover agent, who was believed to have information about the fate of the people who had disappeared during the military period. That same month, in an apparent case of self-censorship, a music video by the hit Argentine rock group Los Fabulosos Cadillacs was edited to delete an image of Pinochet. The video, titled "Mal Bicho" (Bad Bug), showed the general along with Argentine dictator Rafael Videla, Hitler, Mussolini, and Saddam Hussein. According to the Chilean newspaper *La Epoca*, Sony Music (Chile), which distributed the video, said that it received the version already cut from the company's Miami office and that the cut had been made to avoid problems with Chilean law.

### **The Right to Monitor**

Human Rights Watch/Americas did not receive any reports that the government prevented or restricted human rights organizations from conducting their investigations and reporting their findings during 1995.

### **U.S. Policy**

Human rights remained a low priority in United States relations with Chile, as both the Chilean and U.S. governments focused their attention on Chile's proposed entry into the North American

Free Trade Agreement (NAFTA). In mid-1995, representatives of Chile, Mexico, the United States, and Canada met to begin official negotiations on Chile's accession to the treaty. Neither the U.S. nor the Chilean government opposed the labor rights components of the existing accord.

The Supreme Court ruling on the major issue of historic contention between the two governments, the Letelier-Moffitt case, motivated a brief official note of congratulations to the Chilean government. Although the Clinton administration was outspoken about the human rights implications of the Letelier-Moffitt case, the United States failed to voice concern about other human rights problems, including Chilean proposals to expand the amnesty law, justice for past human rights violations, current police abuses (including torture), and freedom of expression.

During 1995, the Chilean and United States militaries continued to expand their links. The U.S. continued to provide aid to the Chilean military for training in the United States and began to program military training for civilian members of Chile's defense management. The U.S. also transferred to the country excess military equipment, including a Landing Ship Tank (LST), trucks, and other vehicles. In 1995, for the first time since the 1976 Kennedy Amendment blocked U.S. military aid to Chile, the Chilean army participated in joint military exercises with the U.S. Southern Command. Congress had lifted the aid restriction in 1990.

The U.S. Agency for International Development (AID) provided an estimated \$3,598,000 in assistance to Chile, focused basically on administration of justice. The Agency for International Development's justice-related programs will end by 1996, when the AID Chile mission is expected to close down.

### **The Work of Human Rights Watch/Americas**

In Chile, where a Human Rights Watch/Americas representative was based, the organization focused its energies on advocacy work, particularly related to proposed legislative changes in Chile likely to affect human rights. In June, we wrote to U.S. Assistant Secretary of State for Democracy, Human Rights and Labor John Shattuck, urging that he commend Frei's stand on implementing the court verdict in the Letelier case and encourage the Chilean government to support the principle of accountability in the negotiations over the amnesty law.

In July, the division's executive director visited Santiago to urge government officials to include greater human rights protections in its penal code and eliminate military jurisdiction over civilians. He and our Chile representative met with several high-level government officials. In August, on a second visit to study the Frei proposals on investigations into the disappearances covered by the amnesty law, they were received by the minister of the interior and other authorities, as well as members of human rights organizations.

In November, Human Rights Watch/Americas sent an open letter to members of the Chilean Congress urging them not to approve measures that would prevent a full clarification of the truth in each case and criticizing Frei's proposals on secrecy as an extension of the effects of the amnesty law of 1978.

We also continued to cooperate with intergovernmental human rights bodies to promote human rights in Chile in other ways: by providing information to the United Nations special rapporteur on torture during his visit to Santiago and by continuing to litigate several cases on behalf of relatives of the disappeared before the Inter-American Commission on Human Rights. In hearings before the commission, we argued that Chile had a duty to investigate these human rights violations and prosecute those responsible. We also argued the case of Francisco Martorell, a Chilean journalist whose book, *Impunidad diplomática* (Diplomatic Impunity), was published in Argentina in 1994 and banned in Chile.

## **COLOMBIA**

### **Human Rights Developments**

Dogged by mounting evidence linking his campaign to drug money, and spurned by some guerrillas and members of the army who opposed his peace initiative, in 1995 President Ernesto Samper implemented authoritarian measures to govern Colombia. Although the president repeatedly promised to respect human rights and significantly expanded the country's human rights bureaucracy, the contrast sharpened between the government's sophisticated rhetoric in support of human rights and its meager accomplishments. Extrajudicial executions, forced disappearances, reports of torture, evidence of paramilitary groups operating with the assistance and tolerance of the security forces, and impunity for security force members implicated in human rights crimes continued. Guerrillas also shared blame for Colombia's dire record, murdering, kidnaping, and attacking civilians as a method of combat, in violation of international humanitarian law.

In August, Samper exercised his constitutional authority to declare a state of "internal commotion." Like the states of siege used to rule Colombia for most of its history in this century, the declaration gave him the power to suspend fundamental rights and created a climate of fear. Human Rights Watch/Americas was particularly troubled by the government's intention to lower the age at which children could be tried as adults from eighteen to fourteen, in violation of Colombia's obligations under the Convention on the Rights of the Child. Although the decree was struck down in October by the Constitutional Court, Samper declared a new state of internal commotion after the November 2 assassination of political leader Alvaro Gómez Hurtado. The executive also supported legislators who planned to codify into law emergency measures that would violate certain human rights, like the right to due process and freedom from unwarranted search and seizure.

According to the Andean Commission of Jurists-Colombian Section (Comisión Andina de Juristas-Seccional Colombiana, CAJ-SC), ten civilians a day fell victim to political violence. Of those killings where a perpetrator was known, 65 percent corresponded to government security forces while 35 percent corresponded to guerrillas. The Intercongregational Commission on

Justice and Peace (Comisión Intercongregacional de Justicia y Paz), a human rights group, indicated that ninety-six people were forcibly "disappeared" between January and September. Another 121 fell victim to so-called "social cleansing" killings, mostly indigents, homeless persons, and street children.

A March report to Congress by the public ombudsman termed the marked rise in complaints of human rights violations to his office "chilling" and described the government's response as "apathetic." Most complaints that the ombudsman had received in 1994 involved the military, followed by police. "It is undeniable," the report noted, "that a profound impunity favors the perpetrators of these crimes through silence, indulgence, group solidarity, and cover-ups." The ombudsman said guerrillas continued to violate international humanitarian law, "completely ignoring the distinction between combatants and noncombatants."

Violence by all sides continued to spur forced displacement. A report by the Colombian Episcopal Conference published in late 1994 concluded that over 586,000 people had been forcibly displaced since 1985, 2 percent of the country's population. In 1995, forced displacement was especially acute in the city of Necoclí, in the banana-growing region known as Urabá, where local authorities registered a population increase of approximately 7,800 people between February and April, almost all rural families fleeing political violence.

Paramilitary groups expanded their area of operation in 1995, following a purported November 1994 "paramilitary summit," and appeared to be mounting a nationally coordinated offensive against Colombians deemed subversive or sympathetic to guerrillas. The paramilitary advance was particularly marked in the departments of Cesar, Norte de Santander, Bolívar, Meta, and region known as the Magdalena Medio, where they operated with the tolerance and often open support of the security forces. In the town of San Alberto, Cesar, nineteen people were killed in the month of April, most by men identifying themselves as members of Peasant Self-Defense Groups of Colombia (Autodefensas de los Campesinos de Colombia, ACC). In areas like San Vicente de Chucurí, department of Santander, paramilitaries unhindered by local police or military openly charged local merchants a war tax.

The Colombian government accepted the binding nature of Protocol II Additional to the Geneva Conventions, which means that the parties involved in an internal conflict, including the government forces, would be bound by its precepts. Nevertheless, the government continued to violate international humanitarian law. The public ombudsman's office documented one particularly flagrant incident, in which soldiers belonging to the army's Bomboná Battalion simulated a guerrilla attack in the town of Segovia, department of Antioquia, after guerrillas successfully stole a dynamite shipment on March 3. Soldiers executed a guerrilla captured hours later, killed a civilian with a grenade, wounded four children, and fired on civilian dwellings, including an elementary school, to fabricate guerrilla-army cross fire.

Although guerrillas repeatedly called on the government to respect human rights, their own record was seriously compromised by a series of massacres and kidnappings. According to press investigations, in March, in Ituango, department of Antioquia, the Revolutionary Armed Forces

of Colombia (Fuerzas Armadas Revolucionarias de Colombia, FARC) killed several residents, including a four-year-old girl and three prisoners in the local jail. In September, the FARC apparently massacred twenty-six people, including two children, less than a quarter-mile from a military base in Urabá. The Camilist Union-National Liberation Army (Unión Camilista-Ejército de Liberación Nacional, UC-ELN) also carried out executions. In Saravena, department of Arauca, for example, community leaders accused the UC-ELN of killing seven girls, all minors, who had befriended local soldiers, a clear violation on the prohibition against the murder of noncombatants. The UC-ELN continued to use mines in civilian areas, although it expressed its willingness to negotiate with the government on limiting their use.

Kidnaping remained a prime source of income for guerrillas, who, according to police, captured 304 people in the first seven months of 1995, 52 percent of the total number of kidnappings reported. Victims included businesspeople, educators, government officials, journalists, landowners, a Venezuelan mayor, and five American missionaries. Two of those missionaries, Steve Welsh and Timothy Van Dyke, were kidnaped in early 1994 and apparently executed by their FARC captors near Medina, department of Cundinamarca, on June 19, 1995.

Among the areas most devastated by political violence was Urabá, on Colombia's Caribbean shore. During 1995, hundreds fell victim to political violence or fled the region out of fear for their lives, including civic leaders, trade unionists, farmers, banana workers, and indigenous leaders. Five massacres took place there in August alone, two of which local leaders blamed on paramilitaries believed to be working with the security forces, local landowners, and businesspeople. The Popular Alternative Commands (Comandos de Alternativa Popular), a self-proclaimed group of former guerrillas and others pledged to wiping out subversion, claimed responsibility for the August 12 massacre of eighteen unarmed people at the Aracatazo bar in Chigorodó.

Other massacres occurred in the context of clashes between guerrillas of the FARC, guerrillas of the Popular Liberation Army (Ejército Popular de Liberación, EPL), and former guerrillas who had laid down their arms and become part of the political party Hope, Peace, and Liberty (Esperanza, Paz y Libertad). In March, the party released a report saying that 274 of its 3,000 members had been murdered since it was formed four years ago. Most were victims of EPL guerrillas who had refused the government amnesty. On August 29, guerrillas believed to belong to the FARC stopped a truck near Carepa, department of Antioquia, selected sixteen members of the party, and bound and executed them.

In this generally bleak panorama, there were some advances for human rights. On January 31, President Samper accepted a report that concluded that government forces were responsible for the killings and forced disappearance of at least thirty-four people in and around the town of Trujillo, department of Valle, in 1990. Subsequently, Fernando Bolero, then the defense minister, discharged Lt. Col. Alirio Urueña, implicated in the killings, over the unanimous objections of the Joint Chiefs of Staff. A joint government-NGO commission was created to monitor the government's compliance with its promises to prosecute and punish alleged perpetrators of the

Trujillo killings, continue the investigation, and negotiate compensation to surviving family members. In September, a committee composed of government and non-government representatives was set up to study three additional cases before the IACHR. In October, the government formed a special unit to advance criminal investigations of members of paramilitary groups implicated in serious human rights violations.

Nonetheless, government action to end impunity remained scarce. In a February report to the United Nations Human Rights Commission, the U.N. special rapporteurs for extrajudicial executions and torture concluded that, even though Colombia's human rights situation was "alarming," the government had failed to implement most of their previous recommendations. On August 18, the U.N. Subcommission for the Prevention of Discrimination and Protection of Minorities approved a declaration of concern about human rights violations in Colombia.

Colombia's civilian and military court systems contributed to the violation of human rights during 1995. The public order courts, used to prosecute individuals charged with rebellion and drug trafficking, violated the right to due process. Tried before secret judges and prosecutors, suspects were prevented from knowing the identities of the witnesses used against them and were subjected to prolonged pre-trial detention. Colombia's Congress voted to maintain the system until 1999 however.

Military tribunals continued systematically to cover up human rights crimes and absolve the military and police officers involved, using the broad categories of "acts of service" and "due obedience" to place crimes like murder, rape, and torture within their jurisdiction. In a case in which former navy intelligence officers in Barrancabermeja, department of Santander, accused Col. Rodrigo Quiñonez of ordering the murders of dozens of trade unionists, human rights activists, and local leaders, military courts absolved him of any wrongdoing, while a public order court issued warrants for the arrests of the officers who accused him.

In 1995, the government began to study reforms to the military justice system. One set of proposed reforms suggested major changes to protect human rights, while another set would maintain most current military court characteristics, including the power to handle cases involving extrajudicial execution, forced disappearance, and torture. Human Rights Watch/Americas was troubled by President Samper's support for the latter initiative, which continued the tradition of Colombian governments winking at impunity. As if to underscore its defiance of governmental human rights investigators, the Defense Ministry decorated Army Brig. Gen. Alvaro Hernán Velandia Hurtado, commander of the Cali-based Third Brigade, for "distinguished service," just one month after the attorney general's office ordered the officer discharged for his role in the forced disappearance of captured guerrilla Nydia Erika Bautista in 1990. After widespread protest by human rights groups, General Velandia was formally dismissed. In an October speech, Samper termed allegations that the security forces committed human rights violations as "without foundation, presented by their enemies," and vowed to defend military jurisdiction. A proposal to reform the constitution, supported by the executive



and before Congress at this writing, would reassign active-duty officers to military tribunals, a practice struck down by the Constitutional Court.

### **The Right to Monitor**

Local human rights monitors, including members of civic associations, unions, and religious groups, continued to play an important role in gathering and disseminating information on human rights and pressuring the authorities for change. As in previous years, however, this work put monitors at serious risk, especially those who lived and worked in Colombia's smaller cities and towns.

At least three human rights monitors were murdered during 1995. Ernesto Fernández Fester, a teacher, trade unionist, human rights activist, and founding member of the Pailitas Movement for Civic-Community Integration, was killed on February 20 by armed men who had been linked to several earlier killings of peasant and civic leaders around Pailitas, department of Cesar. Javier Barriga Vergel, a lawyer who defended Colombians accused of rebellion, was shot and killed in Cúcuta, department of Norte de Santander, on June 16. Barriga was a member of the Bogotá-based Committee in Solidarity with Political Prisoners (Comité de Solidaridad con los Presos Políticos, CSPP). Humberto Peña Taylor, a law student at Bogotá's National University who took part in a free legal clinic for poor Colombians, was hunted down and killed by two armed men who entered the university campus on June 15, apparently with the collusion of university security personnel. When fellow law student Gabriel Riaño Prieto, a member of a university human rights group, later led a campaign to press for an investigation of Peña's killing, he received telephone death threats.

Several human rights monitoring groups disbanded, or members fled, after being attacked or threatened. The Ocaña-based Human Rights Team closed its doors in early 1995, and the Civic Committee for Human Rights abandoned its offices in Villavicencio in April. Bogotá-based lawyer Luis Pérez, a member of the "José Restrepo Alvear" Collective Lawyers Association (Corporación Colectivo de Abogados "José Restrepo Alvear,") was forced to leave the country with his family after harassment and repeated threats. In May, Miguel Olaya Pabón, a member of the Pailitas Movement, was threatened by three soldiers and a civilian army informer.

The Regional Association for the Defense of Human Rights (Corporación Regional para la Defensa de los Derechos Humanos, CREDHOS) was the target of repeated telephone death threats and harassment by men traveling in unmarked vehicles, believed to be connected to the security forces. In April, two CREDHOS members were part of an international delegation including Human Rights Watch that was reportedly the target of a failed assassination attempt near Sabana de Torres, department of Santander.

On August 4, three members of MINGA, a Bogotá-based human rights organization, were arrested in Aguachica, department of Cesar, by members of the Anti-kidnaping and Extortion Unit (Unidad Anti-Secuestro y Extorsión, UNASE), who kept them for several hours in an effort

to harass them and instill fear. Two weeks after their return to Bogotá, MINGA received a telephone death threat."

Aida Abella Esquivel, the president of the Patriotic Union (Unión Patriótica, UP) also reported that she was a target of harassment by unidentified men believed to work for the security forces since they operated with the unmarked cars and communications equipment used by police.

### **U.S. Policy**

The drug war dominated relations between the U.S. and Colombia, with traded accusations and mistrust prevailing. Human rights issues received low priority in diplomatic and public exchanges between the two countries. In a brief March visit, Assistant Secretary of State for Democracy, Human Rights and Labor John Shattuck met with government officials and human rights groups and praised Colombia for recent advances. He did not balance his statements with a more detailed review of how the government failed to address serious human rights problems.

Joined by Senate Foreign Relations Committee Chairman Jesse Helms Secretary of State Warren Christopher and other administration officials threatened not to certify Colombia for continued aid and loans based on what they characterized as a poor drug-fighting performance. A bitter diplomatic exchange peaked in March, when the State Department issued a "conditional" certification with a national security waiver.

In 1995, U.S. embassy personnel conducted reviews of the human rights records of Colombian security force personnel scheduled to receive U.S. training. The U.S. military held two human rights training sessions for Colombian officers and a session for field commanders. However, the United States did not screen Colombian diplomats for their human rights records. For example, only widespread protest convinced Colombia in August to withdraw retired army colonel Luis Plazas Vega as its San Francisco consul general. Government inquiries had uncovered links between Plazas Vega and paramilitary groups in the departments of Meta and Cundinamarca. Plazas Vega was also suspected of having ordered the forcible disappearance of an M-19 guerrilla after that group's assault on the Palace of Justice in 1985.

Units within the security forces continue to receive U.S. aid, yet the officers in charge were not screened, a necessary complement to any serious end-use monitoring. In 1994, most aid went to police. However, a significant amount of aid from previous years remained in the hands of the military, including M16 rifles, M60 grenade launchers, radios, ammunition, and vehicles. Among those that received U.S. aid were army units engaged in systematic human rights violations, including the Cali-based Third Brigade and Mobile Brigade I, headquartered in La Uribe, department of Meta. In his annual report to Congress, Colombia's public ombudsman singled out Mobile Brigade I commander Brig. Gen. Néstor Ramírez Mejía as an officer who tolerated human rights violations and had refused to cooperate with official investigations of the troops under his command.

In contrast to earlier years, aid to Colombia in the proposed budget for fiscal year 1996 sought to consolidate all funding into a single counternarcotics account, with \$35 million requested, continuing an upward trend. About half of those funds, \$15 million, were destined for the military, while most of the balance went to police, despite what Human Rights Watch/Americas believed were serious human rights concerns that merited the suspension of aid.

The United States also continued to offer "qualified support" for Colombia's six public order courts through a \$36 million, six-year program funded by the Agency for International Development. Although Human Rights Watch/Americas research shows that these courts commit systematic violations of due process, U.S. government officials have termed them "acceptable."

In an improvement over previous years' reports, the State Department's annual Country Reports on Human Rights Practices for 1994 avoided characterizing violations by state security agencies and guerrillas as equal, and accurately described the human rights situation as "critical." However, the report continues to downplay violations inherent in the public order courts.

### **The Work of Human Rights Watch/Americas**

Human Rights Watch/Americas sought to focus attention on institutionalized human rights problems in Colombia, such as those created by the civilian and military justice systems, impunity, and the government's failure to protect vulnerable sectors of the population from violence by state and private actors. We worked in Colombia and international fora, like the United Nations and the Organization of American States, to press the Colombian government to live up to its international human rights obligations. At the same time, we called on guerrillas to cease violating international humanitarian law.

During the year, we sent two missions and our representatives met with senior U.S. and Colombian officials as well as human rights groups, humanitarian organizations, and victims of abuses, raising our concerns along with concrete recommendations for change, including reforms to the military justice system, public order courts, and government support for investigations into human rights crimes.

We registered frequent protests with the Colombian government regarding human rights abuses. With the CAJ-SC and the Center for Justice and International Law (CEJIL), we represented victims of abuses before the Inter-American Commission on Human Rights in an effort to compel the government to accept responsibility for the actions of its agents.

We also continued to press the U.S. government, including the Congress, to publicly express its concern over human rights violations in Colombia. Given the importance to Colombia of the United States as a diplomatic and trade partner, Human Rights Watch/Americas considered this a crucial step to convincing the Colombian government to address the serious situation. Working closely with the Congressional Friends of Human Rights Monitors as well as individual congressional offices, we helped generate a series of letters to Colombian officials in defense of

human rights monitors and trade unionists. Another facet of our work involved continuing efforts to foster greater accountability regarding the use of U.S. aid by the Colombian security forces.

At the U.N. we highlighted our concerns about human rights in Colombia in a written statement submitted to the Commission on Human Rights. Along with Colombian groups, we urged the Commission on Human Rights to appoint a special rapporteur for Colombia. This campaign continued at this writing, such that Colombia had become a leading issue at the commission.

After the U.N. High Commissioner for Human Rights sent a delegation to investigate the possibility of opening a permanent human rights office in Colombia, we joined with other human rights groups in recognizing the importance of the high commissioner's initiative and urging that any office opened in Colombia work in strict coordination with other U.N. human rights initiatives and not in their stead.

In June, we filed a petition with the U.S. trade representative requesting that Colombia's status be reviewed pursuant to section 502(b)(8) of the Trade Act of 1974, as amended. Our petition argued that attacks on trade unionists and the overwhelming impunity enjoyed by perpetrators, in many cases agents of the state, merited a suspension of Colombia's trade benefits under the Generalized System of Preferences. A Spanish translation of the petition was also released in Colombia. At the time of this writing, the petition was still pending.

In September, Human Rights Watch/Americas released a Spanish translation of *Generation Under Fire: Children and Violence in Colombia*, with a foreword by noted human rights leader Gustavo Gallón. The presentation was accompanied by a detailed letter to President Samper on human rights violations against children.

## **CUBA**

### **Human Rights Developments**

During 1995 the Cuban government quickened the pace of its economic reform program without making commensurate progress toward compliance with international human rights standards. Still, it did take several positive steps in the area of human rights. These included, most notably, the release of at least twenty-four political prisoners prior to the expiration of their sentences, a decline in the number of political prosecutions and "acts of repudiation," a commitment not to prosecute for "illegal exit" persons who were repatriated to Cuba by the United States, consent to a limited degree of human rights monitoring, and the ratification of the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

None of these steps, however, indicated any fundamental change in the Cuban human rights situation. In the absence of necessary structural reforms, the Cuban government continued to violate systematically the rights to freedom of expression, association, assembly, privacy, and

due process of law. Although the government promised not to prosecute citizens who were repatriated by the United States after exercising their internationally protected right to leave the country, the law against "illegal exit" was not repealed.

Numerous Cubans remained imprisoned for peacefully expressing their disagreement with government policy, including one man jailed for writing a letter to the secretary-general of the United Nations that criticized Cuban government policies. Although the government prosecuted fewer people, state security police continued to arrest, detain, harass, and intimidate human rights monitors, labor organizers, and pro-democracy activists, to refuse them travel visas, and otherwise to restrict their movements. These individuals, whom the authorities assailed as "counterrevolutionaries," were kept under strict surveillance and discriminated against in employment. The civic and political organizations to which they belonged were denied official recognition. Political prosecutions were held in courts—including military tribunals—that flouted basic due process norms.

The Cuban penal code provided a firm legal foundation for the repression of political dissidence. Laws defining such crimes as "enemy propaganda," "clandestine printing," and "contempt of authority" curbed speech. Laws prohibiting "rebellion" and "illicit association," among other crimes—which, if properly defined and carefully applied, might be consistent with international standards—continued to pose a threat to Cubans expressing dissident views. State security forces continued to employ the "dangerousness" provision against perceived opponents of the state. Vaguely worded and broad, with an almost limitless potential for discriminatory application, the dangerousness provision authorized up to four years of preventive detention of those who conducted themselves in a manner that contradicted "socialist morality," even without having committed a crime. Under this provision, dozens of human rights monitors and dissidents received an "official warning," the first step toward detention.

Subordinate to the executive, courts in Cuba lacked the necessary procedural guarantees to protect defendants from unfair prosecutions. Public and press access to trials was often narrowly limited or denied, defense witnesses were often barred, and defendants were almost always convicted. Before trial, or often simply as a form of harassment, government officials commonly detained human rights activists and perceived opponents of the state—sometimes for short periods, sometimes for extremely long periods. Though authorities did not physically torture detainees, they commonly held them in incommunicado detention in extremely severe conditions.

Prison inmates reported that minimal infractions or nonviolent protests such as hunger strikes spawned retaliation in the form of beatings, confinement in harsh isolation cells, violent and arbitrary searches, confiscation of belongings, denial of medical attention, suspension of visits, and transfer to prisons far from their relatives. Besides serious shortages of food and other supplies, Cuban prisons were plagued with overcrowding, poor hygiene and vermin. Prisoners typically lost weight while in confinement due to the insufficient diet provided them.

The evangelical Christian movement was the target of government harassment, including prosecutions. In December 1994, Miguel Angel León García, a lay pastor of the Baptist Church in San Fernando de Camarones, Camagüey Province, and Jorge Luis Brito Rodríguez, a member of that church, were sentenced to six years' imprisonment for the crime of enemy propaganda. Pastor Orson Vila Santoyo, a Pentacostal minister in Camagüey who refused to refrain from holding religious services in his home, was arrested in May 1995. In blatant disregard for due process, he was tried for "illicit association" on the day of his arrest, receiving a sentence that was reduced on appeal to eighteen months. During the same month, the Cuban authorities closed scores of other casas culto, evangelical meeting places operating out of homes.

During the summer, independent journalists suffered harassment as they became increasingly active and organized. In July, the authorities detained and threatened several journalists and confiscated the equipment of another, in an official effort to prevent them from reporting on "sensitive subjects." One such subject was the anniversary of the tragedy of the hijacked tugboat Trece de Marzo, which was rammed by a Cuban government boat on July 13, 1994, causing the deaths of about forty civilians fleeing Cuba. As the anniversary of the incident drew near, Cubans in Miami organized a flotilla to go into or near Cuban territorial waters to honor the victims, hoping that Cubans on the island would commemorate the occasion with them. Human rights monitors reported that a notable police and military presence began building up all over the country after July 1. In the week prior to July 13, and particularly on the 13th itself, the Cuban authorities detained and harassed journalists, dissidents and human rights activists: in all, about three dozen people were detained, while others were placed under house arrest.

Independent journalists also reported serious government harassment in September, with the establishment of the Bureau of Independent Journalists of Cuba (Buró de Periodistas Independientes de Cuba, BPIC), and continuing through November. During this period, the authorities detained or threatened several journalists, including Olance Nogueras Roce. Nogueras, who had just written an article on the Juragua nuclear power plant under construction in Cuba, was arrested on October 20, held for a few days in a maximum security prison, released on October 25, and then detained again and threatened with prosecution. In addition, the authorities barred Roxana Valdivia, the Ciego de Avila representative of the BPIC, from traveling outside her province; and gave Hector Perraza, the Pinar del Rio correspondent of the Havana Press, an official warning that he would be jailed for dangerousness unless he gave up independent journalism.

In a positive step, Cuba ratified the U.N. Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. In addition, over the course of the year, authorities released at least two dozen political prisoners prior to the expiration of their sentences. Many of these prisoners were, however, freed on the condition that they abandon the country. Although such releases gave prisoners an alternative to continued illegal detention, they clearly did not evidence the government's greater openness to political dissent. From the government's perspective, freeing dissidents into exile was beneficial for at least two reasons: internationally, it eliminated the embarrassment to the country's image caused by having known political prisoners;

internally, it helped nip nascent human rights and opposition movements in the bud by expelling potential leaders. Because the technique of releasing political prisoners into exile increasingly became the norm, the unconditional release in May of Yndamiro Restano and Sebastián Arcos was particularly significant. Up to that moment, they were the two most prominent political prisoners in Cuba; international pressure for their release enabled them to refuse exile. Nonetheless, many other pro-democracy activists and rights monitors continued to languish in prison, including Dr. Omar del Pozo of the National Civic Union, Ileana Curra Luzón of the Nationalist Agenda Movement, and Domiciano Torres Roca of the Democratic Civic Party.

### **The Right to Monitor**

Human rights monitoring continued to be illegal in Cuba, and monitors continued to be punished for their activities. Common forms of harassment included long- or short-term detention; the practice of calling monitors into the headquarters of state security forces for questioning, cajoling, and threatening; attacks by anonymous thugs or collisions with vehicles in suspicious circumstances; arbitrary house searches; anonymous threatening phone calls, often late at night; constant surveillance, including telephone taps; discriminatory visa denials; and discriminatory firings.

"Acts of repudiation"—a once-common tactic by which a government-assembled mob gathers outside the home of a "counterrevolutionary" to shout slogans and insults, sometimes defacing or otherwise damaging property—were infrequent. One such incident occurred on August 10, however, at the Havana home of Victoria Ruíz Labrit, president of the Cuban Committee of Peaceful and Independent Opposition (Comité Cubano de Oposición Pacífica e Independiente). A crowd of sixty to eighty people armed with pipes and chains reportedly surrounded her home to prevent a planned meeting of dissidents.

Human rights monitors also faced criminal prosecution. In April, Francisco Chaviano González, president of the National Council for Civil Rights in Cuba (Consejo Nacional para los Derechos Civiles en Cuba), was sentenced to fifteen years' imprisonment by a military tribunal on charges of "revealing state secrets" and "falsifying documents." Not only did his trial violate basic due process guarantees, but the suspicious circumstances of his arrest in May 1994 cast serious doubt on the evidentiary basis of his conviction. Pedro Arguellez Morán of the Cuban Committee for Human Rights (Comité Cubano Pro Derechos Humanos, CCPDH) suffered political persecution in September, when he was convicted of "enemy propaganda" and received a seven-month sentence. In May, prosecutors charged thirteen members of the Cuban Human Rights Party (Partido Pro Derechos Humanos Cubano) with spreading enemy propaganda, and another member with "illicit association." Although the defendants were released after short stints in detention, and were never tried for these offenses, the sudden crackdown was clearly meant to intimidate both them and other human rights monitors.

In July, Genaro Cortés, the Cienfuegos representative of the CCPDH, was detained for two months and charged with "falsifying documents." Since Cortés had provided material support to

Sebastián Arcos of the CCPDH while Arcos was held at Ariza prison, the charges were believed to be a form of retaliation.

There was relatively more openness toward international monitoring in 1995. For the first time since 1988, the Cuban government invited an international delegation to investigate its treatment of political prisoners. The delegation—which included the executive director of Human Rights Watch/Americas—arrived in Cuba in April. Although in a surprise move the authorities hampered the delegation's ability to assess the prisoners' treatment by limiting its access to the administrative areas of prisons, the delegation still enjoyed long, private, and informative conversations with prisoners.

In contrast, the Cuban government firmly rejected the possibility of independent monitoring—either by international or domestic groups—of its treatment of Cubans repatriated under a new migration agreement with the United States. While promising that it would not take reprisals against repatriated Cubans, the Cuban government permitted monitoring only by U.S. Interests Section personnel.

### **The Role of the International Community**

Under the pressure of a continuing economic crisis, Cuba worked to improve its image internationally. Seeking strengthened political and, more critically for the Cubans, economic relations, the government adopted a series of economic reform measures. Though reform in the areas of democracy and human rights lagged far behind, Cuba was notably successful in obtaining improved diplomatic relations and increased foreign investment.

Other countries' resentment of the extraterritorial aspects of the U.S. economic embargo on Cuba—and of U.S. legislative efforts to tighten the embargo—continued to divert their attention from Cuba's human rights record. In November, the U.N. General Assembly voted 117-3 (with thirty-eight abstentions) to condemn the U.S. embargo; among the countries supporting the U.N. resolution were all of the other permanent members of the Security Council save Britain.

### **The United Nations and the European Union**

In its November/December 1994 session, the U.N. Human Rights Commission's Working Group on Arbitrary Detention issued a decision that termed as arbitrary the detention of Patricio de la Guardia, a former general who was sentenced to thirty years' imprisonment for drug trafficking in 1989. The working group concluded that de la Guardia's summary trial before a special military tribunal violated his right to due process.

In addition, U.N. High Commissioner for Human Rights José Ayala Lasso visited Cuba in November 1994. During his stay, he met with high-level Cuban officials, including President Castro, as well as numerous representatives of unofficial human rights, labor rights and political opposition groups. At the close of his trip, however, he made no public comment on the human rights situation in Cuba, missing an important opportunity to bring public pressure on the Cuban government to institute reforms.



The monitoring efforts of U.N. Special Rapporteur Carl-Johan Groth contrasted markedly both with Ayala Lasso's access to Cuba and with his failure to condemn abuses. Though barred from entering the country, the special rapporteur released a detailed report on the Cuban government's human rights practices. Once again, the U.N. Human Rights Commission, which voted 22-8 (with twenty-three abstentions) in favor of a resolution condemning Cuba's human rights abuses, extended the special rapporteur's mandate for another year. The commission's persistent monitoring of abuses kept needed pressure on Cuba to improve its human rights record.

With Spain's accession to the presidency of the European Union, relations between the European community and Cuba progressed rapidly. Although Cuba remained the only Latin American country with which the E.U. had not signed a cooperation agreement, the E.U. took preliminary steps toward negotiating such an agreement, while individual European countries continued to expand their economic relations with Cuba. Unlike the U.S. government, which continued to insist upon a market economy and political pluralism in Cuba as preconditions to the initiation of economic relations, E.U. officials argued that strengthening relations would facilitate the process of political and economic reform. To their credit, many Europeans appeared serious about using their growing influence in Cuba constructively, urging the government to free political prisoners and move toward compliance with international human rights standards.

### **U.S. Policy**

In 1995, U.S. policy toward Cuba took two seemingly divergent paths—one drawn by the executive branch, the other by the Republican-dominated Congress. In May, in what seemed to herald improved relations between the two countries, the administration announced a sweeping change in its reception of Cuban asylum seekers. Ending the blanket welcome that Cubans fleeing Cuba had enjoyed for over three decades, it declared that it would repatriate rapidly all Cubans intercepted at sea. (Simultaneously, the administration stated that it would accept into the United States almost all the 21,000 Cubans then held in indefinite detention in U.S. camps in Guantánamo Bay, Cuba.) Other signs of normalizing relations included the July visit of Deputy Assistant Secretary for American Affairs Anne Patterson, who became the highest-ranking U.S. official to visit Cuba in more than a decade, the lifting in October of the U.S. ban on permanent news bureaus in Cuba, and the partial lifting of travel restrictions that bar most Americans from visiting Cuba.

Although the decision to end the prolonged arbitrary detention of the Cubans held in Guantánamo camps brought U.S. treatment of them into compliance with its international obligations, the accompanying interdiction policy was flawed. Most notably, the standard originally employed for assessing the claims of asylum seekers—by which Cubans had to show that they were in imminent danger of serious human rights violations—was more restrictive than that prescribed under international law, as U.S. authorities relied on the availability of in-country refugee processing to justify a generalized policy of repatriation.

The screening procedures were, however, revised some weeks after being initially instituted. With these revisions, screening officers were reportedly instructed to employ the appropriate international standard, and the government insisted that it would respect the obligation of non-refoulement: its duty not to repatriate any Cuban with a well-founded fear of persecution. Although the new policy appeared generally to comply with international requirements, certain aspects of it remained problematic. Notable among them were procedural problems associated with shipboard screening, such as the difficulty in ensuring that asylum seekers were guaranteed adequate time to rest and recover from the trauma of their voyage before being interviewed.

At the same time, in Congress, a bill intended to strengthen sanctions against Cuba moved toward passage, reflecting the Republicans' desire for a more confrontational Cuba policy. Known as the Helms-Burton bill for its original sponsors, Sen. Jesse Helms and Rep. Dan Burton, the bill represented a congressional attempt to internationalize the American economic embargo on Cuba by, among other things, punishing foreign companies doing business there. Viewed as a U.S. effort to impose its Cuba policy on the rest of the world, it was widely and vociferously condemned by the international community. Largely because of the international outcry against the legislation, the later version of the bill omitted its strongest and most controversial provisions.

Even the weakened version of the Helms-Burton bill raised human rights concerns, however. A provision designed to strengthen the enforcement of restrictions on travel to Cuba would, like the restrictions themselves, violate article 19 of the International Covenant on Civil and Political Rights (ICCPR). Article 19 protects the "freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers": as it suggests, one of the key methods by which information is shared is through travel and human contact.

In contrast to Congress's efforts to tighten enforcement of the ban on travel, a more constructive element of U.S. policy toward Cuba was revealed in the administration's October decision to lift the ban on permanent news bureaus in Cuba and partially lift the ban on travel. Although these measures were only a first step toward bringing U.S. policy toward Cuba into compliance with its international obligation to protect the free flow of information, they were an important first step.

To its credit, the U.S. government extended sympathetic treatment to the embattled human rights community in Cuba. For example, a member of U.S. Interests Section staff attempted to attend the trial of human rights activist Francisco Chaviano, and over the course of the year the State Department issued several statements condemning abuses. Using information collected by the U.S. Interests Section, the State Department produced a reliable annual human rights report on Cuba, as it had since 1989.

### **The Work of Human Rights Watch/Americas**

In 1995, the ability of Human Rights Watch/Americas to monitor human rights conditions in Cuba was significantly improved when the division's executive director was invited to visit Cuban political prisoners as part of an international delegation. The April mission marked the

first time since 1988 that a representative of Human Rights Watch/Americas had been officially granted access to examine the human rights situation in Cuba. During the week he spent in the country, he and the other delegates met with a number of top Cuban officials, including President Castro, and discussed the government's continuing human rights violations. In October, Human Rights Watch/Americas released a lengthy report on Cuban human rights developments, titled *Improvements Without Reform*.

Human Rights Watch/Americas continued to press the U.S. government to comply with international standards in its policy toward Cuba. In May, when the administration announced that it would begin repatriating Cubans picked up at sea, we wrote a letter to Attorney General Janet Reno and Immigration and Naturalization Service Commissioner Doris Meisner expressing concern over objectionable aspects of the new policy, most of which were later revised. We also wrote a letter urging the administration to lift its ban on permanent news bureaus in Cuba, an action finally taken in October.

## **EL SALVADOR**

### **Human Rights Developments**

Human rights violations in 1995 did not take place on the massive scale to which human rights monitors had become accustomed prior to the signing of the 1992 peace accord. Nonetheless, several troubling developments did take place during the year, including vigilante killings and police-related abuses. As yet, it is too early to know if promising reforms in the police will resolve these problems or if the diminishing presence of the United Nations will adversely affect the human rights situation.

Since presidential elections in 1994, which brought the Nationalist Republican Alliance (Alianza Republicana Nacionalista, ARENA) to a second five-year term, the United Nations has increasingly withdrawn from El Salvador after playing a key role in bringing the peace process to fruition, monitoring human rights abuses, and restructuring the country's abusive security forces. Scheduled to withdraw in April 1996, the U.N. mission, known as MINUSAL since May, reduced its staff to only a dozen by mid-1995. MINUSAL was responsible for monitoring unfinished commitments in the peace accords, especially land transfers and public security issues. As the mission wound down, so too did its influence and ability to monitor closely issues related to human rights. Regional offices were closed in early 1995, and the human rights division as such ceased to exist at the end of March.

The formation of a professional, apolitical police force was generally seen as the most transcendent potential contribution of the historic 1992 peace accords, which ended the twelve-year civil war. The most disturbing indication of setbacks in the establishment of this new force, the National Civilian Police (PNC), came with the news in March of the involvement of a PNC agent in the 1993 assassination of FMLN leader Francisco Veliz, leader of the

Farabundo Martí National Liberation Front (Frente Farabundo Martí para la Liberación Nacional, FMLN). The suspect, Carlos Romero Alfaro, had been a former National Police (PN) investigator working within the Criminal Investigations Division of the PNC at the time of the October 1993 assassination. The attorney general's office showed reluctance in pursuing Alfaro, who fled El Salvador. The whereabouts of Alfaro remained unknown until mid-September, when he was arrested on an immigration violation in Houston, Texas, where he awaits extradition to El Salvador.

The new force, which struggled in 1995 to establish itself as the autonomous and professional police service it was intended to be, found itself at a crossroads: either it would begin to terminate the impunity that long characterized El Salvador's administration of justice or it would come to resemble the abusive security forces it sought to replace. Given the important role played by the United Nations on human rights issues, Human Rights Watch/Americas ended the year concerned about the extent to which positive development in the PNC would continue with a diminishing U.N. presence. The United Nations Observer Mission in El Salvador (ONUSAL, as the U.N. mission was called between July 1991 and May 1995) played an important role in the Alfaro case by pressuring authorities to move forward. The case showed the continuing importance in El Salvador of the U.N. mission, but it also highlighted ongoing concern about the extent to which former members of the pre-1992 security forces exercised authority in the PNC. The U.N. also played an important role in dismantling the Anti-Delinquency Battalion, which was made up of former National Police agents.

At mid-year, the ARENA government signed a political pact, known as the Pact of San Andrés, with the Democratic Party. The government committed itself to increase the size of the PNC from its current 8,000 to 20,000 by the end of 1996. But there was growing concern that the ARENA government has yet to address a number of serious problems with the PNC. In late September, at the request of President Armando Calderón Sol, MINUSAL presented the government with a detailed critique of the PNC. According to press reports, the report urged that the government remove greater numbers of former PN members from new force.

Problems remaining in the PNC included excessive use of force and the preponderance, since July, of former PN officers in key positions. Anti-riot units of the PNC used excessive force in a number of cases involving labor protesters or demobilized soldiers, while in other cases they exercised admirable restraint. In one particularly grievous example in March, the PNC dispersed a demonstration of wounded war veterans with tear gas and rubber bullets, wounding sixteen protesters and briefly arresting 200. Although the PNC was to be composed primarily of civilians, by year's end, most of the key leadership posts at the PNC were held by former PN officers. Internal systems to account for abuses by PNC officers were lacking; for much of 1995, the post of inspector general remained empty. In addition, MINUSAL found that the internal disciplinary unit, while sanctioning police misconduct such as drunkenness and violation of internal police regulations, rarely penalized PNC abuses committed against civilians.

The continuing crime wave, which the PNC was unable to stem, drew significant public attention to the PNC's problems in 1995. The response of the Calderón Sol government to rampant crime

raised human rights concerns; the government involved the military in rural patrols in an operation called "Plan Guardián." While these patrols were ostensibly mixed army-PNC efforts under PNC direction, in practice they tended to be run primarily by the armed forces. Public security officials cited a decrease in criminal activity as a result of these patrols, while critics charged that crime simply moved from one area to another. Given the army's lack of training for internal policing, Human Rights Watch/Americas was concerned that Plan Guardián could lead to increased human rights violations. In the second half of the year, there was also discussion of extending the joint military-PNC patrols under Plan Guardián to urban areas.

Another alarming response to the crime wave was the emergence of clandestine vigilante groups, whose stated aim was to "cleanse" society of criminals. The Black Shadow (Sombra Negra), a vigilante group operating in San Miguel, issued public death threats against several judges, saying they should resign to help weed corruption out of the judicial system. The Black Shadow, which is thought to be made up of some forty members, has claimed responsibility for several dozen murders, mostly in the eastern part of the country.

In July, the Organized Crime Unit of the PNC rounded up sixteen alleged members of Black Shadow, including four members of the PNC. Uncovering PNC collusion with vigilante operations ratified, in a startling way, the findings of the report issued in 1994 by the Grupo Conjunto, the working group established to investigate death squad killings. That report found that illegal armed groups continued to exist and were "directed, supported, covered-up or tolerated by members of the military and police institutions, and the judicial and municipal organs." Furthermore, while the fact that the PNC was willing to capture some of its own members (including the head of the San Miguel PNC delegation) was positive, the Black Shadow prosecution made little progress in the ensuing months. Meanwhile, the PNC agent who testified to her fellow officers' involvement was demoted, and high-level PNC officials tried to discredit her testimony.

Several municipalities, particularly those in San Salvador and its environs, moved to strengthen their municipal police structures. While theoretically limited to administrative detentions, the municipal police were identified as responsible for serious human rights abuses; furthermore, the existence of these municipal police undercut the constitutional provision that the PNC be the only body to carry out public-security functions.

Perhaps the most encouraging development in the overall human rights situation in 1995 was the March election for a three-year term of an active, articulate human rights ombudsman, Victoria Marina de Avilés. Avilés took public positions on many important human rights issues. She criticized police excesses in handling demonstrations, unequivocally opposed the death penalty, and challenged the nomination of an unsuitable candidate for PNC inspector general. The ombudsman's office still required a number of internal reforms to improve its effectiveness.

In addition, the Legislative Assembly discussed constitutional and secondary law reforms that had been recommended by the United Nations Truth Commission for El Salvador and

ONUSAL's human rights division. If approved, these reforms would, among other things, invalidate extrajudicial confessions, strengthen the right to defense and the presumption of innocence, reduce the maximum period for administrative detentions from fifteen to five days, and classify torture and enforced disappearances as crimes. The legislature also recognized the jurisdiction of the Inter-American Court of Human Rights and ratified the Optional Protocol to the International Covenant on Civil and Political Rights, the Inter-American Convention on the Prevention, Punishment, and Eradication of Violence Against Women (known as the Convention of Belém do Pará), and the Additional Protocol to the American Covenant on Human Rights in the Area of Economic, Social, and Cultural Rights (known as the Protocol of San Salvador).

### **The Right to Monitor**

The consolidation of regional offices of the human rights ombudsman in each of El Salvador's fourteen departments by early 1995 was an important benchmark in promoting the right to monitor in El Salvador. The ombudsman's office initiated better coordination with nongovernmental human rights organizations, and began to employ directly many former members of these organizations. However, the ARENA government sought to discredit the new human rights ombudsman, both in officials' public remarks and in the government's news bulletins. This campaign began shortly after Avilés refused to endorse the nomination of the public security minister's legal adviser for the post of inspector general.

To our knowledge, the only incident involving a direct threat to human rights workers occurred on October 4, when two armed men forced themselves into the offices of the Human Rights Institute of the Central American University (Universidad Centroamericana, UCA), tying up the institute's director and another worker. The apparent motive was robbery, but one intruder remarked on the institute's attitudes toward the ruling ARENA party. One suspect was caught, and the case was under investigation.

### **U.S. Policy**

U.S. assistance continued to decline in 1995, although \$27 million provided in 1992 to bolster the peace process was still being spent during the year. The U.S. continued to provide support to the National Civilian Police (PNC) and the judicial system. But U.S. officials maintained a very low profile in public, rarely making any statements on human rights or any other issues. While supportive of the U.N.'s leadership on issues of compliance with the peace accords, the U.S. did not take the initiative to head off problems with the PNC such as excessive dependence on former National Police (PN) personnel. The United States was one of two international donors to the country's new Public Security Academy, which trains PNC officers, and to the anti-drug and criminal investigations units of the police. In addition, the United States maintained throughout 1995 a trainer's office in the PNC building.

### **The Work of Human Rights Watch/Americas**

Human Rights Watch/Americas continued to monitor developments in El Salvador, watching in particular the development of a new civilian police force to replace the former National Police, which committed systematic human rights violations in the past. Also of continuing concern was

the persistence of death squads. In July, we wrote to President Calderón Sol expressing concern about a raid on the office of FUNDASIDA, the only nongovernmental AIDS-awareness organization in El Salvador.

## **GUATEMALA**

### **Human Rights Developments**

The human rights situation remained deeply troubling in Guatemala in 1995, despite the deployment since November 1994 of a United Nations verification mission dedicated exclusively to human rights. The team of nearly 200 observers in thirteen offices across the country conducted a more comprehensive study of the human rights situation than had been possible in the past and helped pinpoint the sources of violations. Moreover, the U.N.'s presence most likely had a dissuasive impact on human rights violations and provided some protection for the beleaguered domestic human rights community. Nonetheless, Guatemalan security forces and their agents continued to commit egregious human rights violations with impunity. On October 5, soldiers massacred a group of refugees who had returned from Mexico in a village in the department of Alta Verapaz, killing eleven (including two children) and seriously wounding more than thirty.

The reports produced by MINUGUA, as the U.N. mission was known, highlighted numerous cases of torture, extrajudicial execution, and disappearances by the security forces, as well as official links to organized crime and "social cleansing" operations. The victims included students and teachers, trade unionists, human rights workers, peasant activists, individuals resisting participation in army-organized civil patrols, and common criminals.

The government adopted a two-pronged approach to MINUGUA's presence: maintaining a considerable openness in public at the same time that members of the military or its agents sought to undermine MINUGUA's work behind the scenes, without suffering any sanction for this obstruction.

Two positive steps in 1995 were the naming of a respected attorney as interior minister and the removal of a high-ranking military official who served as vice-minister. In addition, the announcement by President Ramiro de León Carpio that the function of military commissioners—civilians employed by the army, responsible for many human rights violations—would be abolished, was a welcome step, although its impact was not immediately clear.

As had been the case in prior years, the government of Guatemala failed to investigate or punish those responsible for human rights violations. Under such conditions, human rights violators felt no compunction about their behavior. Indeed, while the de León Carpio government consistently failed to bring to justice those responsible for human rights violations, a sort of underground

system regularly meted out retaliation against those who pursued justice through the courts. Not only were witnesses, plaintiffs, and relatives of victims of human rights violations targeted for violence and intimidation, but prosecutors, judges, and police who attempted to bring violators to justice also suffered reprisals.

With rare exceptions, the team of prosecutors headed by Attorney General (fiscal general) Ramsés Cuestas Gómez was notorious for its negligence, ineffectiveness, and infiltration by the security forces. However, blame for the failure to prosecute human rights violations lay not entirely at the attorney general's feet. Cuestas's weakness and lack of leadership simply opened the door for the military to infiltrate and intimidate the institution charged with perhaps the country's most sensitive task: investigating crimes.

Failures of omission included lack of investigation and prosecution of the steady stream of well documented cases MINUGUA provided the government. More direct obstruction was evident as well. In the months preceding MINUGUA's full deployment in late 1994, and to some extent in 1995, the army and its civilian auxiliaries—the civil patrols and military commissioners—in several rural departments spread disinformation about the mission's presence.

Perhaps the most serious attack on MINUGUA occurred on June 28, when a local civil patrol chief in the Ixcán village of San Antonio Tzejá took hostage five international humanitarian workers, including two MINUGUA observers, for twenty-six hours. Although a warrant had been outstanding for the arrest of the patroller, Raúl Martínez Pérez, since May, as of this writing the authorities had made no effort to detain him.

A MINUGUA military officer came under direct attack by the guerrillas of the Guatemalan National Revolutionary Union (Unión Revolucionaria Nacional Guatemalteca, URNG) on March 27 in the Ixcán. Guerrillas fired on the MINUGUA military liaison officer as he inspected a URNG poster after talking to a group of peasants. The officer was wearing a uniform displaying the United Nations emblem and driving a marked U.N. vehicle. Although the officer was not hit, one of the vehicle's tires was.

In addition to firing on the MINUGUA observer, the guerrillas continued to commit violations of international standards applicable to internal armed conflicts, with "war taxes" and attacks in which care was not taken to minimize danger to civilians. The demand for payment of war taxes usually was accompanied by the direct or implicit threat of violence against civilian property owners, prohibited by the laws of war. On March 28, according to MINUGUA, a guerrilla projectile aimed at a military base at Raxrujá, Alta Verapaz, killed fifteen-year-old Ofelia de la Cruz García as she walked on an adjacent road. In addition, several civilians died after stepping on mines apparently laid by the URNG during 1995.

MINUGUA argued that the sabotage of internal infrastructure such as electric pylons by the guerrillas violated the rules of proportionality derived from principles of international



humanitarian law. On January 23, MINUGUA won agreement from URNG leaders in Mexico to desist from this type of attacks. The URNG had lived up to this pledge as of late 1995.

MINUGUA also found cases of participation of minors under age fifteen in the army and in guerrilla units, as well as in the army-organized civil patrols, in violation of the Convention on the Rights of the Child, ratified by Guatemala in 1990.

After the October 5 army massacre of eleven returning refugees, President de León Carpio obtained the resignation of Defense Minister Mario Enríquez Morales, and the Cobán military commander responsible for the patrol. He also named a special investigative commission, and stated that those responsible for the killings would be punished. The soldiers involved in the incident were remanded to a military tribunal in Jalapa, where they have been charged with homicide and inflicting injuries. Guatemalan refugees in Mexico suspended indefinitely the repatriations of roughly 2,000 people which were planned for the following months. The office of the United Nations High Commissioner for Refugees (UNHCR) denounced the massacre as a violation of the "principles that inspire the return process and the fundamental instruments that govern it." This marked the largest army massacre of civilians since the December 1990 slaying of thirteen villagers of Santiago Atitlán who had gathered outside a stockade to protest army violence.

Several trade unionists suffered threats and attacks, including incidents of kidnappings related to their organizing activities. Debora Guzmán Chupén, an organizer in a maquiladora (garment assembly plant) in Amatitlán and the wife of union activist Felix González, was kidnapped on February 28 by heavily armed men who drugged her, beat her, and threatened to kill her. Her captors forced her to telephone the office of the Guatemalan Workers' Federation (UNSITRAGUA), and warn that she would be killed unless her husband left the union affiliated to the Lunafil thread plant. Guzmán and her colleagues at the maquiladora MJ Modas had also received death threats before her kidnapping.

Alexander Yovani Gómez Virula, the treasurer of the RCA maquiladora, was kidnapped on March 13. His body was found in a ravine on March 19, evidently beaten to death.

Violence and the threat of violence continued to stalk members of the news media, especially those covering human rights issues. On February 13, men driving a pickup truck that was later determined to belong to a military officer followed and threatened José Rubén Zamora Marroquín, director of the daily Siglo Veintiuno.

Other journalists—including North American film producer Sky Callahan and Guatemalan reporter Gerson López—were briefly abducted, threatened, and beaten by armed men apparently linked to the security forces.

Street children continued to suffer abuse at the hands of police and private security forces. On June 23, 1995, a group of street children were gathered on a Guatemala City street when two of the youths attempted to rob a pedestrian. A plainclothesman who identified himself as a member

of the police Criminal Investigations Directorate (Dirección de Investigaciones Crimino-lógicas, DIC) fired shots into the air and then shot Edwin Americo Orantes, seventeen, in the face and eighteen-year-old Nicolás Cruz in the ankle. The gunman reportedly shot and killed Americo as he lay on the ground, saying, "All the thieves on 18th Street will end up like this."

MINUGUA's reports described several cases in which the security forces tortured detainees. In one case in November 1994 in which the victim's name was withheld by MINUGUA, soldiers picked up a man whom they accused of being a guerrilla. They denied having detained the individual for several days, until MINUGUA contacted the armed forces general staff. During his interrogation, soldiers placed a plastic bag over the victim's head to suffocate him, inserted a spike into his palate, beat him on the soles of his feet, and removed a gold crown from one of his teeth with a knife.

Cases in which there was considerable publicity provoked some movement. Unfortunately, as the case of "disappeared" guerrilla combatant Efraín Bámaca Velásquez showed, each positive step taken in these high publicity cases was accompanied by obstruction. Bámaca disappeared after a firefight with the army in the department of Retalhuleu on March 12, 1992. The government for years maintained that Bámaca had shot himself to avoid capture and was buried in the general cemetery in the departmental capital, but an exhumation failed to locate him. After the third hunger strike by Jennifer Harbury, Bámaca's North American wife, a U.S. lawmaker revealed that her husband had indeed been secretly detained, tortured, and extrajudicially executed by the army, with the direct participation of an informant in the pay of the Central Intelligence Agency, Col. Julio Roberto Alpírez.

This news breathed new life into the investigation. In May, Julio Arango Escobar launched a vigorous investigation after being named special prosecutor for the case. A military specialist, Nery Urizar García, testified that he saw Bámica, chained to a bed, being interrogated at an army base. Shortly after Urizar testified, the U.S. Embassy received a tip that Bámaca might be buried in a military base in San Marcos called Las Cabañas, information which the State Department passed on to Harbury. The army blocked a court-ordered exhumation, however.

Army officers or government officials sought repeatedly to challenge MINUGUA's right to follow the case, despite language in the human rights accord establishing the mission which gives it authority to verify due process violations and accompany government officials investigating human rights cases.

Shortly after being named special prosecutor in the Bámaca case, Arango, who pursued the case with integrity and courage, began to receive threatening phone calls and to be followed. On June 22, while Arango worked at his desk on the sixth floor of the Public Ministry, a shot fired through a window lodged in the fifth floor ceiling below his desk. In early July, Arango resigned from the case, which was paralyzed thereafter.

The judicial process for the 1993 slaying of Jorge Carpio Nicolle, the president's first cousin, and three of his traveling companions was also punctuated by repeated threats and harassment of the victims' relatives and the special prosecutor, Abraham Méndez. In addition to threats and surveillance, Méndez suffered an assassination attempt on a highway in November 1994. Like Arango in the Bámaca case, Méndez had worked hard to bring the perpetrators of the crime to justice.

Torpor and fear marked the judicial investigation into the possible participation of senior military officers in the September 1991 extrajudicial execution of anthropologist Myrna Mack, in the hands of a military court. While tremendous pressure brought the conviction in 1993 of army Sgt. Noel de Jesús Beteta for murder, the Public Ministry and the courts failed to proceed against the intellectual authors of the crime, in what MINUGUA called "a denial of the right to justice."

Armed civil patrollers violently obstructed the return of Guatemalan refugees from Mexico to villages in the Zona Reina del Ixcán, Quiché province, endangering the safety of repatriating refugees. A regional association called ARAP-KSI, composed mainly of civil patrollers headed by local strongman Raúl Martínez Pérez, physically obstructed access to Zona Reina villages, using death threats, assaults, and hostage-taking to intimidate Guatemalans and international officials involved in the repatriations.

Following an accord signed with the Guatemalan government, roughly 300 refugees crossed the border in April to return to the Zona Reina. On May 7, Martínez and ARAP-KSI detained, in Kaibil Balam, an International Organization for Migration employee, a government official, and an army major. They freed the detainees unharmed on May 9 when the defense minister personally intervened and, contradicting previous accords, publicly acceded to their demands for permanent land titles and a halt to refugee returns to the area. Nonetheless, on June 27, the returnees who had been sheltered by the church in Cantabal walked for two days to their village, San Antonio Tzejá. Just outside the village, ARAP-KSI members forced them to halt. The following day, ARAP-KSI members led by Martínez seized as hostages two MINUGUA observers, a UNHCR official, a representative of the World Council of Churches, and a nurse with Doctors of the World. An army colonel present in San Antonio Tzejá throughout the incident refused to report the detentions by radio, in violation of the government's commitments to cooperate in guaranteeing the security of U.N. mission members. Following the incident, government-led negotiations with the perpetrators and returnees led to the latter group's resettlement on lands south of San Antonio.

Although a judge issued an arrest warrant against Martínez on May 25 after the first hostage incident, the authorities failed to apprehend him. And while the police and local military commander told Human Rights Watch/Americas they could not locate Martínez, our researcher had no difficulty finding and interviewing Martínez at his home in early August. On August 29, the judge issued seven additional warrants for patrollers and others involved in the hostage incident; these warrants were also ignored.

Ongoing insecurity from the simmering armed conflict in Chiapas, Mexico, made it an increasingly inhospitable place for Guatemalan refugees. Organized repatriations to other areas in Guatemala proceeded slowly, mostly due to the laborious and often contentious process of securing lands and credits. Guatemala's National Commission for Attention to Repatriates, Refugees and Displaced (CEAR) reported that 6,256 refugees had repatriated from Mexico during the first half of 1995.

### **The Right to Monitor**

On June 23, 1995, Manuel Saquic Vásquez, Presbyterian pastor and coordinator of the Human Rights Office of the Kakchiquel Presbytery, disappeared. His corpse, exhumed and identified on July 7, was partially decapitated and had thirty-three stab wounds. After the murder, repeated threats against Saquic's widow forced her to flee her home.

Three days after the exhumation, a death threat signed by the "Avenging Jaguar" (Jaguar Justiciero, a name believed to be used by members of the security forces to sow terror) was delivered to the Human Rights Committee of Panabaj, a village in Chimaltenango. The threat referred to Saquic's murder as the first of twenty-four on a "black list" that included Vitalino Similox, general secretary of the Conference of Evangelical Churches of Guatemala (CIEDEG); Blanca Margarita Valiente de Similox, his wife and president of the Kakchiquel Presbytery in Chimaltenango; Sotero Similox, his father; and Lucio Martínez of the Human Rights Office of the Kakchiquel Presbytery. A second, similar threat was delivered to the Kakchiquel Presbytery a month later. On August 7, a Chimaltenango judge issued a warrant for the arrest of military commissioner Víctor Román Cutzal for the Saquic murder, but as of this writing, the Guatemalan police had not arrested him. Saquic's murder and the subsequent death threats appeared to have been a reprisal for efforts to bring Román to justice for the August 1, 1994 murder of Pascal Serech of the Panabaj Human Rights Committee.

Other human rights monitors faced threats and harassment, and the government failed to investigate these threats. In January, a member of the security forces warned Amílcar Méndez Urizar, until recently the leader of the Council of Ethnic Communities Runujel Junam (CERJ), that a plot to kill him was being organized by the head of military intelligence for the department of Quiché, where Méndez lives, and the Quiché head of the Treasury Police. In April, Méndez's teenage son, José Emanuel Méndez, was twice threatened with death by armed men in Guatemala City. CERJ is a rural, grassroots human rights movement formed in 1988; more than twenty members of CERJ had been the victims of disappearance or extrajudicial execution as of late 1995. In October, after Méndez joined the electoral campaign of the New Guatemalan Democratic Front, his home was ransacked by armed men.

On April 9, María de León Santiago, a member of the National Coordinating Committee of Guatemalan Widows (CONAVIGUA), was attacked at her home in the hamlet of Vitzal, in the municipality of Nebaj, Quiché, by unidentified individuals, who hit her with a rock and punched and kicked her. Santiago, who had been threatened and harassed previously for her membership

in CONAVIGUA, was hospitalized for her injuries. Military commissioners threatened to burn down the house of CONAVIGUA member María M. Miranda in April, according to MINUGUA.

### **U.S. Policy**

The Clinton administration's human rights policy toward Guatemala was driven by unprecedented public attention to the plight of U.S. citizen Jennifer Harbury, wife of disappeared guerrilla leader Efraín Bámaca. Harbury's struggle against the lies, intimidation, and extravagant coverup mounted by Guatemalan authorities brought to U.S. public attention a reality all too familiar to Guatemalans. In addition, her pressure for answers from the U.S. government prompted the unraveling of a series of revelations about the Central Intelligence Agency's secret assistance to abusive military institutions and officers in Guatemala. Indeed, the scandal revealed a secret policy that for many years had made all but irrelevant Washington's public postures on human rights in Guatemala.

Harbury pressed both the U.S. and Guatemalan governments to account for her husband's whereabouts as of late 1993. On March 10, 1995, days before Harbury was to begin her third hunger strike, this time in front of the White House, the Clinton administration announced a suspension of military training for Guatemalan officials. To explain the suspension, the State Department cited the lack of progress in five notorious human rights cases: the disappearance of Bámaca, the extrajudicial executions of Myrna Mack, Michael DeVine, Nicholas Blake and Griffin Davis, and the secret detention and torture of Dianna Ortiz—all U.S. citizens excepting Mack and Bámaca.

While U.S. officials had met with Harbury and discussed her case with Guatemalan officials, it later became clear they had not told her about information the U.S. government had about her husband's fate. Washington was shaken when, on March 22, Cong. Robert Torricelli wrote to President Clinton revealing that Bámaca had indeed been tortured and murdered by the Guatemalan army—with the apparent participation of an officer paid by the CIA. Torricelli's letter also alleged that the CIA informant, Col. Julio Roberto Alpírez, was involved in the June 1990 slaying of Michael DeVine, an American innkeeper in the department of the Petén, whose unresolved murder provoked the Bush administration to cut off military aid and arms sales to Guatemala in December 1990.

A Defense Department document declassified in response to a Freedom of Information Act request by Harbury revealed that as early as September 1993, U.S. sources knew Bámaca had been killed in secret army detention. But Harbury was told nothing of the sort until Torricelli's revelations in March 1995, nineteen months and two hunger strikes later.

In the ensuing cascade of revelations, it became clear the agency had secretly provided millions of dollars in assistance to Guatemala's notoriously violent military intelligence unit even after the Bush administration cut off overt military aid and sales. Clinton ordered most of the spy agency's assistance to the Guatemalan military—with the exception of anti-narcotics funding—suspended in the wake of the scandal.

The career of Alpírez, the Guatemalan colonel implicated in both the Bámaca and DeVine cases, showed how closely the United States had embraced the most abusive elements of the Guatemalan army. Alpírez twice attended the School of the Americas at Fort Benning, Georgia, with a curriculum including human rights training. In the late 1980s, the CIA reportedly recruited him while he was working at the notorious intelligence unit "Archivos," a presidential agency which for decades has exerted central control over political repression. The CIA did not cease payments to Alpírez even when he became implicated in the 1990 murder of U.S. citizen DeVine and the subsequent coverup. Indeed, sometime in 1992, when Alpírez was again implicated in an extrajudicial execution—this time of Efraín Bámaca—the CIA rushed to pay him \$44,000 upon severing the relationship.

The scandal prompted President Clinton to order an executive branch probe by the never-before convened Intelligence Oversight Board, whose study was due by the end of 1995. The CIA inspector general produced a report of more than 700 pages on the issue, of which a four-page summary was made public on July 26. The summary suggested the report was a whitewash, concluding: "No evidence has been found that any employee of the Central Intelligence Agency in any way directed, participated in, or condoned the murder of Michael DeVine." Perhaps Alpírez, an agency informant in the field, was not considered "an employee."

Nonetheless, the new CIA director, John Deutch, announced on September 29 unprecedented sanctions against eleven CIA officials, including firing the chief of the Latin American Division of the Directorate of Operations, for their role in the affair. Deutch stressed that the Guatemala scandal required greater "management control" of assets in the field and keeping congressional oversight committees informed. Deutch's actions were important, but insufficient to ensure that the agency would not again become complicit in human rights violations. Human Rights Watch presented specific reform proposals to President Clinton and the congressional intelligence committees.

A group of U.S. lawmakers requested that the Clinton administration declassify government documents regarding dozens of the most notorious human rights violations over the past twenty years. The administration had not yet announced a decision as of this writing. A thorough and timely declassification would be extremely helpful to many victims' relatives, who—against incredible odds—have persisted in seeking to prosecute those responsible for human rights violations. Moreover, it would greatly facilitate the work of the planned Historical Clarification Commission, which was foreseen in the peace negotiations as a means to establish the truth about human rights abuses during the thirty-four-year armed conflict, once a final peace agreement is signed.

U.S. military aid to Guatemala remained suspended in 1995 and was not requested for fiscal 1996. Several million dollars in military aid which had been appropriated for Guatemala before the 1990 cut-off was channeled into a peace fund to support the work of MINUGUA and the peace process.

In October, Congress approved an amendment to the Foreign Aid Appropriations bill for fiscal 1996 which would cut off all security assistance—including police training and anti-narcotics support—pending progress in the prosecution of several dozen notorious cases. At this writing, the bill had not yet become law.

The chapter of the Department of State Country Reports on Human Rights Practices for 1994 on human rights conditions in Guatemala was overall an accurate portrayal of the discouraging situation. In addition, the U.S. Embassy remained extremely receptive and open to both domestic and international human rights monitors.

### **The Work of Human Rights Watch/Americas**

Our work in 1995 focused on establishing accountability for human rights violations in Guatemala, an agenda we addressed at the U.N., through U.S. policy, and through legal activism.

In late 1994 and early 1995, we successfully campaigned for the renewal of the mandate of the U.N. Independent Expert for Guatemala, whose public reports on the human rights situation provided an important source of pressure for reform. In March, we published a report on the denial of justice in the Bámaca case.

We worked both in Washington and in Guatemala to preempt an amnesty for gross violations of human rights in Guatemala. In Washington we pressed the Clinton administration to take a clear position against such a sweeping amnesty and in August, we cosponsored an international conference on amnesties in Guatemala City with the Myrna Mack Foundation.

At this writing, we had undertaken litigation in nearly a dozen cases of human rights violations in Guatemala through the inter-American system of human rights protection. One of these cases, regarding the disappearance, torture, and extrajudicial execution of several students in 1988 by treasury police agents, became in 1995 the first case against Guatemala referred to the Inter-American Court of Human Rights for trial. Two other cases we presented—the extrajudicial executions of Jorge Carpio Nicolle and companions and of a human rights monitor in Colotenango—prompted the court to issue injunctions calling on the Guatemalan government to protect the lives of witnesses who have been threatened. The Carpio injunction, in which we sought protective measures for the government's own prosecutor, Abraham Méndez, marked the first time the Inter-American Court had ordered a government to protect one of its own officials.

## **HAITI**

### **Human Rights Developments**

Human rights conditions in Haiti improved markedly in 1995, due in large part to the presence of over 6,000 international peacekeepers. The significant progress was not fully consolidated at

year's end however, and the imminent departure of international forces in early 1996 loomed as a critical juncture.

After three years of repression, 1995 marked the reemergence of Haitian civil society. Popular and political organizations reorganized and rediscovered their rights to freedom of expression and association. Street demonstrations against the prime minister and even the president proceeded without incident. Freed from the threat of violence, the media ended self-censorship. From October 1994 to October 1995, only some 1,000 Haitians sought refuge outside their country.

The restored Haitian government and international forces in Haiti, particularly those provided by the U.S. government, undertook the dramatic reshaping of Haiti's security forces. The Haitian government largely dismantled the military and dismissed the despised section chiefs (*chefs de sections*) who had exercised near-total control in rural areas and small towns during the period of military rule. Parasitic paramilitary structures that were responsible for severe human rights abuses—including the Front for the Advancement and Progress of Haiti (*Front pour l'Avancement et le Progrès Haïtien*, FRAPH), a particularly violent organization—were not formally dismantled or disarmed but were weakened by the military's demise.

In December 1994, the Haitian government passed a law mandating the creation of a new police force, the Haitian National Police, that would gradually displace the recycled soldiers serving as interim police. Approximately 5,000 new police were scheduled to be deployed by February 1996, in time for the planned withdrawal of U.N. peacekeeping forces.

The U.S. Justice Department's International Criminal Investigations and Training Assistance Program (ICITAP) ran every stage of the selection, classroom training, and on-the-job training of the Haitian National Police. The ICITAP-led recruitment relied on a rigorous examination but did not fully explore human rights concerns. New police officers were involved in a handful of shooting incidents that involved the use of excessive force. In September, the Haitian government suspended two new officers implicated in the use of excessive force but did not initiate prosecutions against them.

Over 3,000 former Haitian soldiers remained on the streets in 1995 as members of the interim police force after a superficial human rights screening. Public recognition of their military past made the force unpopular in many areas. The force also included approximately 900 former Haitian refugees recruited at the U.S. naval base in Guantánamo. In several towns, the cowed interim police refused to patrol. Where they did play an active role, some interim police were implicated in incidents of unnecessarily using deadly force in apprehending suspects. Although several members of the force were disciplined and removed for these incidents, the results of internal investigations were rarely made public. As of this writing none of those disciplined were being prosecuted for criminal violations. The interim police were demobilized in stages as each group of new police was deployed.



The structural shift from an autonomous, abusive military to a police force answerable to civilian authority was a positive development. The initial efforts of the police inspector general's office and the adoption of a police code of conduct were also encouraging steps. Nonetheless, greater attention to human rights concerns in the selection of recruits and leaders, and in the training and deployment of the new police, would have improved the performance of the new force and diminished the risk of its committing abuses in the future.

While state-sponsored human rights violations declined following the demise of the military government, there was an increase in common crime. Some of this was linked to former Haitian soldiers. A disturbing pattern of vigilante killings also emerged in which large crowds often violently attacked suspected collaborators with the military or suspected criminals. Beating and stoning deaths, which local leaders attributed to a perception that the justice system was not working, reached a high of forty-five in March. The government publicly condemned such killings, but it rarely took legal action against those responsible for vigilante violence. President Aristide made no major public intervention to denounce vigilante actions. In a eulogy for a slain congressman on November 11, the president encouraged civilians to take the law into their own hands by "ordering" them to accompany the Haitian police in disarmament efforts. Despite the president's admonishment to act within the law, this invitation for active civilian participation in police functions contributed to eruptions of violence in several cities and a number of deaths. As of mid-November, Prime Minister Claudette Werleigh had clarified that the only appropriate civilian assistance to police disarmament efforts was in providing information, but President Aristide had not retracted his earlier statement.

From February to November 1995, over twenty people were killed "execution-style" in murders committed with heavy weaponry where robbery did not appear to be the primary motive. The victims included a recently elected congressman, former soldiers, officers, members of paramilitary groups, businessmen, an attorney, and gas station owners and employees. Specific allegations of the involvement of agents of the Aristide government emerged in regard to one case, the slaying of anti-Aristide activist Mireille Durocher Bertin and pilot Eugene "Junior" Baillergeau, who were killed in March. As of mid-November 1995, neither the Haitian government nor the F.B.I. team assigned to the case had produced further evidence to confirm any state involvement. The Ministry of Justice formed a special investigation unit in October to probe all of these cases.

In December 1994, the Haitian government announced the formation of a National Commission for Truth and Justice (Commission Nationale de Vérité et Justice), presided by Haitian sociologist Françoise Boucard. The government later named three Haitian and three foreign commissioners to serve with Boucard. The commission's mandate directed it to document the most serious human rights violations committed under military rule, paying special attention to "crimes against humanity" and "aggressions of a sexual nature" against women, and to prepare a public report of its findings together with recommendations to the Haitian government. While not empowered to initiate prosecutions, Boucard announced in September that the commission's report would identify perpetrators by name where there was sufficient evidence to do so. The

commission initially was plagued by insufficient means and disorganization, and investigators did not begin field investigations on rights abuses until July. Boucard maintained, however, that the commission would finalize its report in December.

The Haitian Ministry of Justice, with the assistance of a team of foreign lawyers, investigated some of the most notorious extrajudicial executions of the military period. Seven men closely linked to the military government and a member of a paramilitary group were found guilty in absentia in one such case—the murder of Aristide supporter Antoine Izméry—and a soldier received a sentence of life at hard labor for another infamous killing.

The Haitian government also successfully carried out prosecutions in several less well known cases of abuses committed under military rule. However, some judges refused to investigate and prosecute reputed members of the paramilitary—the infamous attachés—and former members of the Haitian military, fearing retribution after the departure of international forces in February 1996. As of early October 1995, no member of Haiti's armed forces had been successfully prosecuted and sent to prison for human rights abuses, thereby continuing a legacy of impunity.

The Haitian government, with international support, initiated justice, prison, and electoral reforms in 1995, but these efforts lagged behind police reform. Prison reform began with several concrete steps, such as creating a new civilian prison authority and raising the salaries of prison guards. International efforts played a dramatic role, particularly in the registration of detainees, providing materials for physical repairs, and feeding prisoners. While the participation of some minimally screened former soldiers in the new prison authority was troubling, prison conditions improved significantly. The Haitian government closed unofficial detention centers, and the new prison authority instituted some critical reforms, including the separation of women and children from adult males at the National Penitentiary in Port-au-Prince.

The rampant abuse of prisoners that existed under the military government and for the first months after the September 1994 multinational intervention diminished dramatically in 1995. Cruel and inhuman treatment of detainees became the exception rather than the rule. Nevertheless, prisoners rioted in the National Penitentiary in February and April 1995, partly because many did not know why they had been arrested. Judges compounded prison overcrowding by continuing to sentence debtors to prison despite the clear prohibition on imprisonment for debt in international law that is binding on Haiti. Several minors were reportedly beaten while in detention in June, and the failure to segregate adults from minors and convicts from pre-trial detainees persisted in provincial prisons. During a transfer of prisoners in early May, some interim police officers reportedly kicked and beat detainees with rifle butts while they were handcuffed. The same officer the detainees accused of ordering their mistreatment was later named to head the Fort National prison for women and minors.

One of the government's initial steps in addressing problems with the judicial system was to replace some judges and prosecutors that were named by the illegal military government with Aristide's 1991 appointees. In addition, the minister of justice increased court officials' wages,

and copies of the basic Haitian legal texts and office materials were distributed to some courthouses. While the Haitian government took some concrete steps to improve the judicial system, in many districts the courts denied detainees full legal protection. Judicial officials ordered some arrests of questionable legality, including several based on warrants lacking details of specific acts, dates, or places. The Haitian legal system's reliance on public denunciations (*la clameur publique*) substituted for criminal investigations or rigorous proof. The extremely limited calendar for criminal trials virtually ensured lengthy pre-trial incarceration of anyone charged with a violent crime.

Following Aristide's return, the Haitian government created a new electoral law and named a Provisional Electoral Council (CEP). The June 1995 electoral period was marred by several cases of violence directed against CEP staff members or political party supporters. On voting day, national and international security forces cooperated to maintain a relatively peaceful climate. Nonetheless, in some areas ballots were destroyed and voting places and electoral offices were attacked, causing the CEP to cancel and then reschedule the vote. Haitian poll watchers representing political parties turned out in impressive numbers as did international observers.

Although press freedoms were extensive, Information Minister Henry Claude Ménard seized 1,500 copies of the government newspaper *L'Union* in July following the publication of a story criticizing the government's "abandonment" of the newspaper.

### **The Right to Monitor**

Human Rights Watch/Americas was not aware of any Haitian government interference in the work of human rights monitors.

### **The Role of the International Community**

The international community's support for Haiti was largely responsible for the decrease in human rights violations in 1995. That support came in part through the deployment of the U.S.-led multinational force that arrived in September 1994, and in part through the presence of over 6,000 United Nations Mission in Haiti (UNMIH) peacekeepers and over 800 U.N. Civilian Police monitors (CivPol). Significant international assistance was critical to judicial and prison reform and the running of elections.

### **The United Nations and the Organisation of American States**

UNMIH's presence in Haiti contributed to an environment of relative security, where individual freedoms began to flourish. While UNMIH's mandate prohibited its troops or CivPol from taking an active part in law enforcement, they repeatedly filled that role, either by accompanying Haitian security forces or patrolling individually. The CivPol served a particularly important function by acting as role models and on-the-job trainers for Haiti's new police. The United Nations forces were scheduled to remain in Haiti until late February 1996, with a small U.N. police operation possibly taking their place.

The U.N. and OAS continued to support the International Civilian Mission in Haiti (Mission Civile Internationale en Haïti OEA/ONU, MICIVIH), an international human rights monitoring team that had 190 observers as of October. MICIVIH was present in Haiti for two periods under military rule and returned in late 1994. The MICIVIH's leadership and respected work in Haiti contributed to a continued focus on human rights issues. At the same time, the MICIVIH did not fully take advantage of its potential to publicly voice human rights concerns, preferring in most cases to work behind the scenes. The MICIVIH monitors conducted field research, provided expert assistance to the truth commission, and participated in some human rights education efforts. Although the MICIVIH's mandate was due to expire in February 1996, Human Rights Watch/Americas encouraged the extension of its mission further into 1996.

The OAS Election Monitoring unit posted a significant number of impartial observers throughout the country for all of the elections held in 1995 and provided thorough reporting on those elections.

### **The European Union**

The European Union began to play a more significant role in Haiti, particularly with development assistance. It undertook special programs to address human rights and elections concerns, but was most active in the elections area, particularly with a grant to the CEP's Unit for Surveillance and Control and support for the OAS electoral observation team.

### **Dominican Republic**

In 1995, the government of the Dominican Republic invoked a 1991 decree, calling for the expulsion of foreigners, to justify the detention and expulsion of approximately 1,000 Haitians, many of whom had obtained legal residency. The Dominican authorities reportedly exacted several days of forced labor from some Haitian detainees held at the Dajabon prison before expelling them to Haiti, and mistreated scores of others.

### **U.S. Policy**

The Haiti entry of the Department of State Country Reports on Human Rights Practices for 1994 presented a largely accurate portrayal of the violent political repression of Haitians by the Haitian military and its paramilitary counterparts in the period prior to the U.S.-led multinational intervention on September 19, 1994. As it had throughout the period of military rule, however, the State Department downplayed the magnitude of refugee flight from Haiti. Its report also failed to mention the military government's order to deter departures, drownings caused when the army fired on a departing vessel, and army beatings and extortion of refugees forcibly repatriated by the U.S. government. The report understated the relationship of FRAPH to the Haitian army and its organized mechanisms of repression, particularly the cooperation between FRAPH and the military in a pattern of highly destructive neighborhood searches in Port-au-Prince and other areas.

In late 1994 and 1995, the prominent U.S. involvement in Haiti overshadowed that of other countries or institutions. The U.S. presence included leadership of the multinational forces,

significant involvement in UNMIH with almost 3,000 U.S. troops, and a prominent role in virtually every aspect of institutional reform, including the evolution of Haiti's new national police force and reforms of the Haitian judiciary and prison system.

U.S. leadership of these efforts contributed to the diminution of human rights abuses in Haiti. In some respects, however, the U.S. involvement in Haiti in 1995 paid insufficient attention to human rights concerns. The U.S. role in forming the interim police force, for example, utilized inadequate human rights screening of former Haitian soldiers for previous human rights abuses. After reneging on an earlier pledge, in September 1995, well after the truth commission was underway, the U.S. said it would contribute \$50,000 to the commission's work, but as of late October had not delivered the funds.

Furthermore, the U.S. did not offer full cooperation with Haitian government efforts to prosecute those who committed abuses under the military government—former Haitian soldiers or members of FRAPH—even where the U.S. reportedly possessed critical evidence. For example, the U.S. failed to provide Haitian prosecutors with evidence seized from U.S.-led raids of FRAPH headquarters in Port-au-Prince and Cap Haïtien in September and October 1994.

FRAPH leader Emmanuel "Toto" Constant fled Haiti in December 1994, entered the United States on a tourist visa, which U.S. immigration authorities later said was a mistake, and was arrested in New York in May. The Haitian courts had previously issued a warrant for his arrest for crimes committed under military rule, and the Haitian government filed for his extradition. In September, a U.S. immigration judge ordered Constant, a CIA informant who had potentially embarrassing information to disclose about U.S. involvement in Haiti, deported to Haiti. Constant's case was the most egregious of hundreds of potential cases against FRAPH members that would have benefited from the immediate release of documents held by the U.S. government to Haitian prosecutors.

Additional reports of prior U.S. links to human rights violators under military rule appeared in the magazine *The Nation* (New York), which cited U.S. officials in Haiti as stating that Marcel Morissaint, the alleged gunman in the 1993 assassination of Minister of Justice Guy Malary, had been an informant paid by the U.S. Drug Enforcement Agency from 1991 to 1995. Jean-Joseph Exumé, the justice minister, told *The Nation* that Morissaint had been "under U.S. protection" and was removed from custody with U.S. assistance. National Security Advisor Anthony Lake and State Department officials denied the *Nation* report.

A U.S. Army captain, Lawrence Rockwood, was detained by U.S. military police, forced to return to the U.S., and subsequently court-martialed for his September 1994 effort to investigate human rights conditions at the notorious National Penitentiary in Port-au-Prince.

The U.S. Agency for International Development took a leading role in judicial reform by awarding a comprehensive administration of justice project to a U.S. firm. However, the

minimal consultation with Haitian experts in designing the program raised questions about its appropriateness.

The U.S. government continued practices that violated international refugee protections. In January 1995, the U.S. forcibly repatriated nearly 4,000 Haitians who had been interdicted and brought to the U.S. naval base at Guantánamo, Cuba, under a safe haven policy established during military rule. The U.S. government forced the Haitians to return without first allowing them, as is required in international law, to explain the reasons for their departure. International refugee protections adopted by the U.S. require that persons with a well-founded fear of political persecution should not be forced to return to their country. From October 1994 to September 1995, the U.S. Coast Guard repatriated 200 interdicted Haitians without a refugee hearing. Attorney General Janet Reno refused relief to 300 Haitian minors at Guantánamo while Cubans held there were granted humanitarian parole because of harsh conditions. In early 1995, there were credible reports that some American military personnel at Guantánamo were involved in incidents of physical and psychological abuse of the minors, including the use of solitary confinement and shackling. Of the over 20,000 Haitians taken to Guantánamo, not a single one left the camps as a recognized refugee in spite of having fled a brutal military government.

### **The Work of Human Rights Watch/Americas**

Our 1995 work on human rights in Haiti stressed accountability and building respect for the rule of law as critical parts of all institutional reform efforts and as the fundamental foundations for the lasting improvement of human rights protections in Haiti.

In March, with the National Coalition for Haitian Refugees, we published *Security Compromised: Recycled Haitian Soldiers on the Police Front Line*, which examined and expressed concerns about the Haitian and U.S. government's selection and retraining of former Haitian soldiers for the interim police force. We highlighted security concerns and organizational irregularities in a pre-electoral report, *Human Rights Conditions Prior to the June 1995 Elections*, urging heightened security for electoral officials and candidates and full clarification of problems in the voter registration and candidate review process conducted by the Provisional Electoral Council. In October, we released a comprehensive joint report with the National Coalition for Haitian Refugees, *Human Rights in Haiti After President Aristide's Return*, that pointed to dramatic improvement in human rights in Haiti tempered by a need to consolidate gains with heightened efforts to establish accountability for past wrongs and improve institutional reforms.

We undertook several additional initiatives to address impunity concerns, particularly in areas where we had conducted previous intensive research and advocacy. We provided the truth commission with all of our reports detailing the repression under military rule, and in May we co-authored a joint letter signed by nine international human rights organizations urging international support for the commission. We applauded the truth commission's special focus on sexual violence and internal displacement as tools of political repression. In September, we announced in Haiti the release of *The Human Rights Watch Global Report on Women's Human*

Rights, highlighted the report's coverage of politically motivated rape, and urged the Haitian government to intensify prosecution efforts against those responsible for government-sponsored sexual violence committed under military rule. Our French translation of the June election report was released in September with a letter to President Aristide urging prosecutions for all crimes committed during the pre and post-electoral period.

Human Rights Watch/Americas actively engaged the U.S. government with regard to human rights protections in Haiti and for Haitian refugees. In January, we vigorously protested the illegal repatriation of Haitians from Guantánamo communicating our concerns to the State Department, the National Security Council, and the Immigration and Naturalization Service. We filed two Freedom of Information Act requests with the Departments of Justice and Defense regarding reported U.S. military personnel involvement in abuses of Haitian minors at Guantánamo. Both requests were denied and were under appeal at year's end. We visited the ICITAP-directed police academy in Haiti and held meetings with their Haiti and U.S.-based staff.

We also engaged the State Department, the National Security Council, members of congress, the Department of Justice, U.S. AID, and other U.S. government agencies in direct dialogue concerning police selection and training, elections, and other concerns.

## **HONDURAS**

### **Human Rights Developments**

During 1995, the Honduran government took significant initial steps toward establishing accountability for gross human rights violations that occurred in the 1980s. An investigation begun in July of ten former and current members of the armed forces led to the issuing of arrest warrants for three army officers on October 17. These courageous initiatives by the administration of President Carlos Roberto Reina have been hampered by the refusal of the accused to appear in court, thinly-veiled threats, and outright violence from the military.

The special prosecutor for human rights brought charges in July against eight retired and two active-duty members of the armed forces for their role in the kidnaping, torture, and attempted murder in 1982 of six student activists: Guillermo López, Edwin López, Milton Jiménez, Marlen Jiménez, Gilda Rivera, and Suyapa Rivera. The six were taken from a Tegucigalpa apartment early on the morning of April 27, 1982, by fifteen armed men dressed in civilian clothes. They survived their captivity in a clandestine prison because two of those abducted were the daughters of a government official.

On October 17, Judge Roy Medina, assigned to oversee the investigation, concluded that there was sufficient evidence to order the arrest of three of the ten officers. (The arrest warrants were suspended on October 18 pending a review by the Court of Appeals.) Of the three, the most prominent is Lt. Col. Alexander Hernández, who was the operational commander of the infamous Battalion 3-16 in the early 1980s and is now inspector general of the military police.

The other two wanted officers, both retired, are Police Maj. Manuel de Jesús Trejo Rosa and Capt. Billy Fernando Joya Améndola.

With the exception of one suspect, those under investigation were connected with Battalion 3-16, a secret Honduran military unit whose members were instructed by and worked with CIA officials. The battalion detained scores of leftist activists, including students, teachers, unionists, and suspected guerrillas who then disappeared. Members of the unit employed torture techniques including electric shock and suffocation to interrogate their victims, later killing and burying them in unmarked graves.

In what was widely viewed as a "saber rattling" reaction to the charges brought by the special prosecutor, the military deployed armored personnel carriers and artillery in the capital for one day in early August. This move came immediately after Leo Valladares Lanza, the National Commissioner for Human Rights, announced that he had submitted a second request to the U.S. government for documents relating to the military's role in the abuses of the 1980s. General Luis Alonso Discua, commander of the armed forces and a former commander of Battalion 3-16, stated that "the armed forces will adopt actions if there is any problem of partiality in the courts." Afterward, Discua explained that the tanks had been deployed as an "exercise" in preparation for a military celebration the next day. In fact, the celebration was never held.

In early October, threats of violence escalated against those involved in the trial of the ten officers. Two men in a vehicle reportedly opened fire on the courthouse where the trial was being held. As they did so, according to the *Baltimore Sun*, they shouted, "Where is that [expletive] Medina? Tell him to come out so we can kill him!"

Violent tactics were accompanied by an unwillingness of the officers to rely on standard legal means of defense. On October 10, Carlos López Osorio, the lawyer for the ten officers, announced that his clients would not present themselves in court despite a summons to appear. Calling the proceedings a farce, he declared that the disappearances and other abuses were covered by the amnesty laws passed in 1987 and 1991.

As a matter of law, the amnesty does not cover the egregious violations committed by members of Battalion 3-16. Unlike the sweeping amnesties passed in Peru, in Guatemala under military rule, and in El Salvador after the Truth Commission report, the Honduran amnesty is extremely restrictive. The grant of amnesty applies only to "persons sentenced, prosecuted, or subjected to judicial investigation" at the time the law went into force in 1991. Because none of the officials involved in Battalion 3-16's human rights violations was subject to any form of judicial proceeding in 1991, the amnesty does not preclude judicial investigation or prosecution of their cases. Further, the amnesty law covers political acts executed in opposition to the state. In contrast, the military undertook its campaign of human rights abuse in support of the state and as a matter of state policy. The military's argument that the amnesty applies to the actions of Battalion 3-16 is fundamentally in contradiction with the letter and intent of the legislation.



The government took several other encouraging steps during the year. In December 1994, a team of forensic anthropologists identified the remains of Nelson Mackay Chavarría. Mackay, a lawyer who, despite his connections to the military, was detained and "disappeared" on February 21, 1982, at the age of thirty-one. Mackay's alleged co-conspirator, Miguel Carias, testified that the two were held together in a house in Tegucigalpa used by Battalion 3-16 as a secret jail. Carias was locked in a closet, where he could hear Mackay repeating the Hail Mary, his voice growing louder with each recitation. The investigation into Mackay's disappearance, conducted at the request of the attorney general's office, was still in its initial stages as of this writing.

In April, the National Assembly ratified an amendment to the Honduran Constitution providing for a system of voluntary military service. The amendment represented a rejection of the arbitrary and abusive enlistment methods employed by the military during the 1980s, when army press gangs regularly dragged young men from buses, theaters and other public places, and off the streets, selecting the best for forced recruitment and returning the rest to their families for a price.

Local rights groups noted that reported cases of torture and other abuses by police diminished in 1995. At the same time, public confidence in the authorities appeared to increase, making it more likely that such cases would be reported. These improvements followed the reassignment in June 1994 of the main police investigatory branch to civilian control. Most reports of torture charged the abuses to FUSEP, the military police, rather than the civilian Department of Criminal Investigations.

The government failed to make headway in improving prison conditions, such as the practice of illegally detaining minors with adult prisoners in penitentiaries. An August 1 report prepared by the National Commission for Human Rights documented over 200 cases of minors jailed together with adults in seventeen of the twenty-four adult prisons in Honduras. The detention of minors under these conditions is in violation of the Convention on the Rights of the Child and the American Convention on Human Rights, as well as the Honduran Constitution. The children jailed in these conditions are frequently the target of abuse or sexual assault at the hands of their adult cellmates, as a commission composed of members of the judiciary, the Public Ministry, and the public defenders organization acknowledged in April. To date, only three or four prisons have announced plans to provide separate facilities for minors.

### **The Right to Monitor**

In May 1995, Commissioner Valladares reported that he and his family had been the subject of continual death threats from the time he took office. As a result of these threats, he sent two of his children abroad for their protection. One of Valladares' security guards, Pedro Espinosa Osorto, had been shot to death on a public bus one week earlier.

Judge Roy Medina, who was hearing the inquiry against the ten army officers, reported that he has received numerous death threats. After two men fired upon the criminal courthouse in Tegucigalpa while shouting threats against his life, the judge accepted a bodyguard. Increasing

tensions throughout Tegucigalpa and elsewhere in Honduras led the Honduran Supreme Court to post security agents at courthouses and at the homes of Supreme Court judges and other judges who were hearing cases sensitive to the military.

Local human rights monitors reported that the military has conducted a campaign in the media to denounce those who have leveled charges of human rights violations against the military. In particular, the military targeted the six former student leaders who were temporarily "disappeared" in 1982.

### **U.S. Policy**

The Honduran government has taken important and courageous steps to account for the horrific history of Battalion 3-16; the United States has still to do the same. The U.S. role in providing training, equipment, and funding to Battalion 3-16 is well documented. Many of the Honduran participants and several of the commanders of Battalion 3-16 have publicly described CIA officials' close supervision of the battalion's operations, including the interrogation of clandestine prisoners. Although Human Rights Watch/Americas has pressed for several years for an accounting of U.S. involvement, the Clinton administration did not take steps to begin to examine the complicity of the United States in Honduran abuses until 1995. In mid-June, CIA Director John Deutch began an internal review of the agency's relationship with the Honduran military during the 1980s. Deutch stated that the investigation, which he characterized as an "independent review," would yield "new information" and "lessons about how not to do things while I'm director and in the future."

Deutch's announcement came after the Baltimore Sun published a four-part series in June on U.S. support given to Battalion 3-16. Sun staff correspondents Gary Cohn and Ginger Thompson obtained formerly classified documents and interviewed three former Battalion 3-16 torturers to document the breadth and depth of the battalion's close relationship to the CIA. The Sun series followed revelations in March that linked the CIA to serious human rights violations in Guatemala (see Guatemala section).

In addition, various U.S. government agencies agreed jointly in October to proceed with declassification of U.S. government records pertaining to disappearances and other human rights abuses in Honduras. The decision to declassify came just as the New York Times was preparing an editorial criticizing the administration's lack of response to requests from Honduran officials. Prior to the New York Times's decision to publicize the administration's failure to act, all U.S. agencies had balked at Commissioner Valladares' two requests for documents and a third from the office of the Honduran attorney general's office. The State Department insisted that Valladares provide a more narrow list of materials for declassification. The National Security Council, the CIA, and the Department of Defense simply ignored the requests.

The administration's decision also followed the Senate's passage of an amendment to the Foreign Aid Appropriations Bill on September 20. The amendment, sponsored by Senators Leahy

(D-VT), Dodd (D-CT), and Sarbanes (D-MD), called upon the Clinton administration to declassify documents relating to disappearances in Honduras.

A meeting in September between Commissioner Valladares and State Department officials in Washington resulted in the release of some documents. These included State Department cables on the disappearance and murder of Father James Carney in 1983, excerpts from an interrogation manual, and reports from an investigation and closed hearings on Battalion 3-16 by the Senate Select Committee on Intelligence in 1988. However, these documents had already been declassified as the result of prior FOIA requests, and most had already been made public through other sources.

Human Rights Watch/Americas called upon the Clinton administration to muster the political will to let the truth be known about the disappearances, torture, and extrajudicial executions that took place in Honduras and the U.S. role in those violations. We welcome the executive branch's decision to proceed with declassification of documents. The administration's announcement is an important first step. In particular, the administration should resist the temptation to delete materials on the grounds that they would cause embarrassment to U.S. officials or harm relations with the Honduran military and intelligence services.

In 1995, the Honduran police received training in criminal investigations techniques as well as aid to the judiciary. The armed forces received an estimated US\$400,000 in military training and \$1.5 million in arms sales. Human Rights Watch/Americas urged the U.S. government to use its training programs as a means of conveying to the Honduran military the need for subordination to the civilian authorities and the importance of allowing trials of military officers to go forward. We urged the U.S. to cut off all assistance as a response to any further efforts by the Honduran armed forces to obstruct justice or intimidate witnesses, prosecutors, or judges in these cases.

### **The Work of Human Rights Watch/Americas**

In 1995, Human Rights Watch/Americas continued its efforts to press the U.S. to examine its role in the disappearances and extrajudicial executions in Honduras, a matter we have been pursuing for several years. During Commissioner Valladares' two visits to the U.S. in September, Human Rights Watch/Americas arranged for him to meet with U.S. officials. Earlier, in June, Human Rights Watch/Americas led a coalition of human rights groups in writing to President Clinton in an effort to widen the focus of the executive branch examinations of the CIA's involvement in Guatemala to include Honduras as well. We published letters to the editor and opinion articles pressing for accountability and reform at the CIA. In a meeting with National Security Advisor Anthony Lake on October 31, the executive director of Human Rights Watch/Americas urged an open examination of the CIA's involvement with Battalion 3-16.

Human Rights Watch/Americas has prodded the Clinton administration and congressional oversight committees to enact reforms of CIA rules and procedures so that the abuses of the 1980s cannot recur. In August, a letter summarizing our reform proposals was published in The New York Times (see Human Rights Watch/Americas Overview).

In November, Human Rights Watch/Americas sent letters to Honduran government officials regarding the cases of over twenty minors detained in three prisons in Yoro and La Ceiba.

## **MEXICO**

### **Human Rights Developments**

Ernesto Zedillo Ponce de León ended his first full year as president unable or unwilling to halt Mexico's triple evils of political killings, military and police abuses, and impunity. In February, Zedillo himself kicked off a crackdown on guerrillas in the southeastern state of Chiapas, but despite his assurances that security forces would respect human rights, government officials arbitrarily detained, tortured, and forced confessions from suspects. Investigators appeared to make headway in the official probe into the 1994 murder of presidential candidate Luis Donaldo Colosio, though new high-profile killings added to a growing list of such deaths, including Abraham Polo Uscanga, the judge in a politically charged union case, and seventeen peasants gunned down by police in Guerrero state. Throughout the country, labor and human rights activists also suffered attacks.

The crackdown on the Zapatista Army of National Liberation (Ejército Zapatista de Liberación Nacional, EZLN) exposed a breach between presidential words and governmental actions. On the one hand, President Zedillo recognized the problems of human rights violations and impunity, stating in his first state-of-the-union address, "The frequency of crimes and the impunity of those who break the law are an affront to society; and people have every reason to feel exasperated when they see that the very people who are entrusted with safeguarding order and imparting justice are in many cases those who disregard it." However, Zedillo's government continued to commit the very abuses that he himself condemned.

In Chiapas, an uneasy stand-off between the EZLN and the government ended suddenly on February 9, when Zedillo ordered the army to recover by force territory in which the EZLN had operated since January 1994. In a televised address from the presidential palace, Zedillo informed the nation that he had ordered the army offensive to assist the attorney general's office in carrying out arrest warrants against five alleged EZLN commanders, whose names he read on the air, including that of the EZLN leader, "Subcommander Marcos."

During the crackdown, combined police and army operations netted more than twenty people, whom prosecutors later charged with crimes such as "terrorism" and "rebellion." All except two of eighteen February detainees interviewed in prison by Human Rights Watch/Americas reported that they gave coerced statements to government officials after being blindfolded, subjected to incessant and loud music, and deprived of liquid or food for up to forty-eight hours. Initially, none had adequate legal assistance. At least four of seven people detained in Yanga, Veracruz, suffered severe torture and, under threat, signed confessions incriminating themselves. One of them, Alvaro Castillo Granados, told Human Rights Watch/Americas that police forced him into

the back of a car, stuffed a rag into his mouth, and forced mineral water up his nose. The police who interrogated Castillo shocked him with an electric baton and almost suffocated him with a plastic bag. In committing the seven for trial, a judge dismissed the torture allegations, claiming that even if proved, they would not detract from the value of the detainees' confessions. In October, a judge reviewing the earlier decision threw out several of the charges after finding that the attorney general's office failed to substantiate the government's allegations; but as of this writing the prisoners remained in detention. The judge did not refer to the treatment received by the detainees.

The Fray Bartolomé Human Rights Center (Centro para los Derechos Humanos "Fray Bartolomé de las Casas"), in San Cristóbal de las Casas, Chiapas, reported dozens of cases of torture, beatings, and intimidation committed by government officials in the context of the crackdown. Most of the abuses occurred as army troops rounded up and questioned villagers about the Zapatistas. An agreement reached between the government and EZLN in September paved the way for future negotiations between the warring parties. In October, discussions began on the topic of indigenous rights and culture.

The detentions during the crackdown and previous military abuses in Chiapas made clear that existing Mexican safeguards designed to eliminate torture and forced confessions would only be effective if political leaders, including President Zedillo, issued clear directives to their subordinates that such laws must be followed and that any breach would be fully and immediately prosecuted.

The war in Chiapas exacerbated the longstanding conflict between ranchers and the state's largely landless indigenous population. Indigenous groups, drawing inspiration from the EZLN, continued to occupy farming land across the state, while landowners and ranchers reacted by arming and training their own private police, known as guardias blancas, or white guards. In some cases, police sided openly with the guardias, which human rights groups have identified as responsible for serious human rights violations. On January 10, for example, guardias blancas in Chicomuselo, along with municipal police and ranchers, participated in a clash against members of the opposition Party of the Democratic Revolution (Partido de la Revolución Democrática, PRD), leaving seven people dead and several others wounded. Despite a report by the National Commission for Human Rights (Comisión Nacional de Derechos Humanos, CNDH) on the incident that identified collusion between the white guards and uniformed police, the federal Ministry of Government reported that it could find no evidence of guardia blanca activity in Chicomuselo. During the run-up to October local elections in Chiapas, guardias blancas killed some nineteen PRD activists, according to the Fray Bartolomé Human Rights Center. Three members of the ruling Institutional Revolutionary Party (Partido Revolucionario Institucional, PRI) were kidnapped or murdered, according to the New York Times, which cited the PRI.

Another indication of tensions in Chiapas came with the expulsion in June of three priests working in the state: Argentine Jorge Barón Gutlein; U.S. citizen Loren Riebe; and Spanish national Rodolfo Izal Elorz. Without warrants for their arrest, state judicial police detained the

priests in different parts of the state on June 22. While at the airport, the priests learned that they had been accused of encouraging land occupations and preaching about national politics, which they firmly denied in later interviews. Human Rights Watch/Americas recognized the government's right to decide which foreigners to admit and which to exclude, but also found that the government failed to fulfill its obligation to provide due process. Following the expulsions, the Mexican government refused to allow two other foreign Chiapas-based priests to re-enter the country after they had voluntarily departed.

Four months after the crackdown on suspected EZLN members, the national government found itself faced with another human rights crisis of national and international dimensions, this time in the southern state of Guerrero. On June 28, members of several communities in the state made their way toward Atoyac de Alvarez to attend a protest called by the Southern Sierra Peasant Organization (Organización Campesina de la Sierra del Sur, OCSS). Outside the town of Aguas Blancas, state judicial police and public security officers, also known as *policía motorizada*, erected a roadblock and stopped two trucks heading in the direction of the protest. Police opened fire on one of the vehicles, killing seventeen people and wounding fourteen others. Two police officers were wounded by a machete. After the killings, the police planted weapons on the victims and claimed they had returned fire in self-defense. In the months prior to the massacre, authorities and members of indigenous communities had clashed frequently, and attacks by unidentified assailants left more than three dozen people dead, including political activists, police, and peasants.

In a detailed report on the incident, the CNDH determined that even if the peasants had opened fire (which the CNDH doubted), the police had reacted in a "disproportionate, irresponsible, and illegal" manner. The CNDH found overwhelming proof that police and other state officials tried to cover up the incident, and documented evidence of at least one extrajudicial execution at the scene of the massacre.

On July 1, the state attorney general accused ten police officers of manslaughter and abuse of authority, but after the CNDH released its report in August, several of the state's top political leaders—including the attorney general—lost their jobs pending investigation, in fulfillment of a recommendation made in the report. Only the governor remained in his post. Three special prosecutors have been named to head the case, but none made progress on resolving the killings. By the time this report went to press, several important questions remained unanswered, including the identity of the occupants of a helicopter that flew above the massacre and the degree to which government officials planned the killings.

Federal officials maintained that they would not and could not intervene after the massacre because the federal system of government in Mexico prohibited them from doing so. Nonetheless, Human Rights Watch/Americas believes that based on the American Convention on Human Rights, to which Mexico is a state party, the national government cannot hide behind federalism to justify state or local violations of its international obligations. The convention's federal clause, article 28, holds that national governments shall "immediately" take steps to "the

end that the competent authorities of the constituent units may adopt appropriate provisions" for the fulfillment of the convention.

Although the governor made a commitment to fulfill a CNDH recommendation to restructure the police, Human Rights Watch/Americas' field investigations revealed that the state government had taken no effective steps to address impunity or restructure the police to prevent future abuses.

The government of Mexico committed human rights violations in the context of labor issues, including limiting freedom of association and failing to live up to its international obligations to prevent discrimination. A labor tribunal refused to re-register the independent union of the former Fishing Ministry, which the government transformed in December 1994 into the Ministry of Environment, Natural Resources, and Fishing. Following several questionable legal rulings, a pro-government union federation called new elections and eliminated the independent union members from the new union's Leadership. Human Rights Watch/Americas began to study other cases in 1995, including the government's confrontation with the Union of Route 100 Urban Transportation Workers, commonly referred to as Ruta-100. The government declared a publicly-financed bus company bankrupt, declared the union dissolved, and jailed several of its leaders. Three people have lost their lives so far in the struggle, including Judge Abraham Polo Uscanga. Polo denounced threats from court officials after he refused on legal grounds to issue arrest warrants for Ruta-100 leaders, and subsequently sought leave from the court. On June 19, assailants shot him dead in Mexico City. Two days earlier, unidentified gunmen shot to death the government's special prosecutor in the Ruta-100 case. In April, Mexico City's transportation secretary, the official in charge of breaking the union's control over city transportation, died after receiving two gunshots in his chest. Government investigators ruled the death a suicide.

Throughout northern Mexico's maquiladora sector, the government also failed to enforce statutes contained in domestic and international laws that prohibit discrimination on the basis of gender. The Human Rights Watch Women's Rights Project documented routine discrimination against women in the maquiladora industry, which required prospective women employees to reveal their pregnancy status and denied jobs to pregnant women. In addition, the Women's Rights Project documented cases in which private maquiladora companies mistreated or fired women who became pregnant (see the Women's Rights Project section).

As has been the case in past years, journalists in Mexico faced danger or harassment for reporting on sensitive issues. On July 24, gunmen shot and wounded Tijuana-based journalist Dante Cortez as he traveled to a press conference to denounce alleged drug traffickers in Baja California. Cortez had been investigating his son's murder in June, which he believed took place at the hands of drug traffickers. In March, Veracruz state officials closed Radio Huayacocotla, arguing that technical deficiencies at the station posed life-threatening danger to its employees. According to station employees, government officials had accused Radio Huayacocotla of instigating violence among Veracruz's indigenous population, a serious allegation within the context of the guerrilla war in nearby Chiapas. For decades, Radio Huayacocotla had broadcast educational and community-oriented information.

### **The Right to Monitor**

Attacks on human rights monitors took place throughout the country during 1995. On February 13 and 14, news media citing official sources reported that police had discovered an arsenal being shipped to Arturo Lona, the bishop of Tehuantepec, Oaxaca, who is also president of the Tepeyac Human Rights Center (Centro de Derechos Humanos "Tepeyac"). On June 29, two men shot at Bishop Lona, hitting the truck he was driving with eleven bullets. Oaxaca officials ruled the attack an attempted robbery, but the harassment suffered by Bishop Lona earlier in the year led Human Rights Watch/America to suspect a political motive.

In March, the Binational Human Rights Center (Centro Binacional de Derechos Humanos) discovered that someone had wiretapped its offices, after private investigators contracted by the center conducted a thorough sweep of the group's Tijuana installations. The investigators found tapped phone lines and an expensive microphone in a telephone handset.

In August, the Rev. David Fernández, a priest who heads the Mexico City-based Miguel Agustín Pro Juárez Human Rights Center (Centro de Derechos Humanos "Miguel Agustín Pro Juárez", known as Prodh), received a series of threats against him and his family. Prior to the threats, Proceso magazine published a hard-hitting interview with Father Fernández, who severely criticized the government's handling of human rights issues. In September, Prodh personnel received several additional threats. José Lavanderos, a human rights lawyer working on the cases of the alleged Zapatistas detained during the crackdown, received threats in October.

An October report by the human rights coordinating group National Network of Human Rights Groups (La Red Nacional de Organismos de Derechos Humanos "Todos los Derechos para Todos," known as La Red) documented a series of threats or attacks against human rights monitors throughout Mexico, including the Mahatma Gandhi Regional Human Rights Commission (Comisión Regional de Derechos Humanos "Mahatma Gandhi") in Tuxtepec, Oaxaca; the Miguel Hidalgo Human Rights Committee (Comité de Derechos Humanos y Orientación "Miguel Hidalgo") in Dolores Hidalgo, Guanajuato; Citizens in Support of Human Rights (Ciudadanos en Apoyo a los Derechos Humanos) in Guadalupe, Nuevo León; the Tabasco Human Rights Committee (Comité de Derechos Humanos de Tabasco); and the Northern Sierra Human Rights Committee (Comité de Derechos Humanos de la Sierra Norte de Veracruz) in Huayacocotla, Veracruz. Human rights activists in Guerrero working on the June massacre also received threats. In most of the cases documented by La Red, the identity of the people making the threats could not be confirmed.

### **U.S. Policy**

As it has in the past, the Clinton administration went out of its way to avoid criticizing the Mexican government on human rights issues. In its public statements on Mexico, the United States showed great support for the Zedillo government, rallying to provide billions of dollars in a financial package for Mexico after the peso collapsed in December 1994. Repeated praise for the Mexican government in the context of the financial package and the North American Free



Trade Agreement (NAFTA), with virtually no public mention of human rights problems, made it clear that the economic relationship between the two countries mattered to the United States far more than human rights problems.

Throughout 1995, the State Department made only one public statement focusing on human rights in Mexico. The U.S. Embassy in Mexico City made none. On February 10, as the crackdown on alleged Zapatistas continued, acting State Department spokeswoman Christine Shelly justified, "Governments have the right and responsibility to protect their citizens against violence, while, at the same time, respecting their human rights." When it became clear that the Mexican government had flagrantly violated the rights of suspected guerrillas, the United States issued no follow-up comment. To his credit, U.S. Amb. James Jones did meet with Mexican human rights activists on at least one occasion.

The U.S. Agency for International Development continued to plan a rule-of-law program in Mexico, with a pilot initiative to focus on judicial reform in the state of Hidalgo. The State Department requested \$2 million to assist with judicial reform issues in Mexico in 1996, including training for Mexican jurists and police, and sought another \$1 million for the International Military Education and Training Program (IMET), up from \$200,000 in 1994 and an estimated \$400,000 in 1995. U.S. Defense Secretary William Perry visited Mexico in October and publicly announced the IMET program.

In an interview in Mexico City, Ambassador Jones assured Human Rights Watch/Americas that the United States raised human rights concerns "at the highest levels of government" in Mexico, though he emphasized that it never did so publicly. "Our message is that respect for human rights is a factor in whether people will invest in Mexico," he said. "The most effective tool is the investment community." The ambassador cautioned that nationalism in Mexico would cause the government to reject any public criticism made by the United States. Human Rights Watch/Americas found the caution to be misplaced because U.S. statements on Mexico that ignored serious human rights issues yet praised other developments effectively helped the Mexican government avoid responsibility for the violations committed by its agents. Reporting on Mexico in the Department of State's Country Reports on Human Rights Practices for 1994 noted serious problems in Mexico, including "extrajudicial killings by the police, torture, and illegal arrests," but the existence of such violations appeared not to be factored into U.S. policy on Mexico. Further, since the State Department requested \$3 million in aid to train Mexican soldiers, police, and jurists in 1996, the U.S. government should have been particularly careful to issue public criticism of human rights abuses in Mexico. By doing otherwise, the United States sent the message to Mexican officials that not only did committing or tolerating human rights abuses carry no cost, but the United States would continue to provide financial support to state agencies responsible for violating human rights.

The United States encouraged the Mexican government to accept donated helicopters and airplanes to strengthen the ability of the attorney general's office to interdict illegal drugs. In

October, the United States transferred twelve Huey helicopters to the attorney general's office on a no-cost-lease basis and slated another twelve to be sent for spare parts.

During 1995, the U.S. Labor Department reviewed one complaint about labor rights violations in Mexico. The department's National Administrative Office (NAO), created in 1994 by the NAFTA accord, released a report on a complaint filed the previous year by three U.S. groups and one Mexican organization. The complaint alleged that Sony Corporation had violated freedom of association, the right to organize, and minimum employment standards. The NAO deemed "plausible" a complaint of wrongful dismissal and recommended further study of the problems. The labor ministries of Mexico and the United States agreed to study the problem of union registration in Mexico and educate Mexicans about their labor rights. While the process highlighted the lack of enforcement mechanisms in NAFTA's labor side agreement, it also showed positive signs of facilitating much-needed discussions of important labor rights issues in Mexico. At this writing, the U.S. Congress had yet to debate a Republican-sponsored bill that would effectively curtail presidential authority to include labor rights side agreements in future trade accords in cases where the president wanted fast-track negotiating capabilities.

### **The Work of Human Rights Watch/Americas**

Human Rights Watch/Americas continued to focus attention on human rights abuses committed in the context of the Zapatista uprising, but also sought during the year to highlight broader human rights problems in Mexico, such as impunity for violations committed by the police and military and torture. In addition, with the goal of submitting cases to the National Administrative Office of the Department of Labor, we began to investigate freedom of association cases related to Mexico's labor unions.

In April, Human Rights Watch/Americas sent a fact-finding mission to Mexico to investigate abuses committed during the February crackdown on alleged Zapatistas and, as part of its ongoing focus on impunity in Mexico, to gather new information about the 1994 Ocosingo clinic massacre in Chiapas. In June, Human Rights Watch/Americas published *Army Officer Held "Responsible" for Chiapas Massacre: Accused Found Dead at Defense Ministry*. Based on internal military documents, the report analyzed the army's handling of the massacre, finding serious methodological flaws in the military's investigation. In publishing the report, Human Rights Watch/Americas sought to bring attention to continuing military impunity and urged that an exhaustive investigation by civilian authorities lead to the punishment of those found responsible for the killings. In addition, we urged the adoption of legislation to ensure that the investigation and prosecution of crimes involving military personnel that may constitute human rights violations are conducted under strict civilian jurisdiction.

Human Rights Watch/Americas called for a cut-off of U.S. Foreign Military Sales (FMS), estimated at \$3,500,000 in 1995 and \$3,600,000 in 1996, until the Mexican army completes adequate investigations into human rights violations committed by the army during the Chiapas uprising and until prosecutions of those found responsible are underway. IMET funding should

be used as a lever to reach these same goals; if progress is not made, the administration should seriously consider cutting off IMET.

In August and September, Human Rights Watch/Americas conducted another fact-finding trip in Mexico to gather further information on the February crackdown, research labor rights cases, and investigate the June massacre of seventeen peasants in Guerrero state. The resulting analysis of the torture and other ill treatment during the February crackdown was being prepared for publication at this writing.

## **PERU**

### **Human Rights Developments**

After a comfortable victory in presidential elections held on April 9 and with a majority in the legislature, President Alberto Fujimori began his second term of office on July 28 with an agenda to modernize Peru. On June 14 the Democratic Constituent Congress (CCD) passed a sweeping amnesty benefiting scores of military and police personnel implicated in serious human rights crimes during the fifteen-year war against Shining Path (Sendero Luminoso) and other violent groups. This scandalous gift of impunity to the army and police, which was repudiated by public opinion and by many of Fujimori's own supporters, was not balanced by any relaxation of the draconian anti-terrorist measures in force. In October, Congress passed a law extending for a further year the system of so-called faceless courts, set up in April 1992 to facilitate summary trials of terrorist suspects. These courts had resulted in hundreds of arbitrary convictions after unfair trials, but no measures were taken to review them. In August, the government promulgated a law defining the functions and powers of a defensor del pueblo (ombudsman), a new institution contemplated in the 1993 constitution to monitor and protect human rights.

In spite of frequent government statements claiming that the violence of Shining Path had been brought under control, 45 percent of Peru's population continued to live under states of emergency, effectively military rule. Pockets of the country were still significantly affected by political violence, especially the jungle region of Huánuco, San Martín, Ucayali, and Loreto, parts of which are also centers of narcotics trafficking. Lima was not immune either: in May its inhabitants suffered a dramatic reminder of the violence of earlier years when a car bomb planted by a Shining Path squad exploded in the center of the Miraflores business district, killing five people.

Tactics used by violent groups, particularly Shining Path, continued to violate basic standards of international humanitarian law, and killings of civilians by this group this year outnumbered those committed by government forces. They included selective assassinations of local authorities and reprisals against civilians accused of betrayal or collaboration with the army and peasant self-defense groups (rondas campesinas), as well as indiscriminate violence against civilians, such as the María Angola attack. On May 12, about twenty Shining Path guerrillas

entered the community of San José de Belén, Huancavélica, whose inhabitants had recently returned after leaving the zone for the relative safety of Huancayo. The guerrillas demanded payment of a war tax of 1,000 soles (approximately US\$450), which the villagers were unable to pay. A survivor told how the guerrillas then murdered six of the villagers and burned their homes.

The number of extrajudicial executions and disappearances attributed to government forces continued to decline. Human rights groups documented three extrajudicial executions and nine disappearances in the first nine months of the year. All but two of the disappearances occurred in the department of Ucayali, which is under emergency rule by a political-military command garrisoned by the Navy (Marina de Guerra). The navy base at Aguaytía has been the site of several documented cases of torture, extrajudicial executions, and disappearances. Marines from Aguaytía were allegedly responsible for the death in April of seventeen-year-old Indalecio Pomatanta Albarrán. While searching his home for terrorists, marines doused him with gasoline and set him on fire, according to his parents' testimony to a court investigator. Pomatante died in the hospital of second degree burns over 65 percent of his body. In a televised death-bed interview he told reporters that his Navy attackers made two unsuccessful attempts before setting him alight. Torture was endemic and systematic in this zone: Justiniano Hurtado Rorres, detained on November 21, 1994, and Tomás Flores Huanío, detained on April 19, 1995, died subsequently of their injuries. The whereabouts of six people detained by the marines between January and July in the area is still unknown.

The practice of torture is not limited to counterinsurgency but is a routine adjunct to police investigation in Peru, although its severity seems to depend on the social class and resources of the victim. The public prosecutor's office, which is nominally required to safeguard the rights of detainees is ineffective, in part because it is also responsible for leading criminal prosecutions. A case in which the prosecutor notably failed to protect a victim was that of student Jhoel Huamán García, who was beaten to death by police in Cerro de Pasco. Huamán's captors, acting without a warrant, pulled him out of a football game on May 26, following an apparently mistaken accusation by a robbery victim, and took him for interrogation. His father testified in court that drunken police celebrating a birthday in the precinct tortured and beat Huamán mercilessly. They then ordered him to be taken to a hospital, where he was dead on arrival from a cerebral hemorrhage and severe internal injuries, according to an autopsy report. The police claimed that Huamán "fell on his back after suffering convulsions provoked by the interrogation." Asked to clarify Huamán's legal situation, the prosecutor told Huamán's father, "We'll sort it out tomorrow." By the next day the youth was dead.

The special faceless courts set up under the anti-terrorist law of May 6, 1992, which allow suspects to be tried through one-way mirrors by prosecutors and judges whose identity is concealed, continued to violate the most basic due process guarantees. Secret military tribunals which hear cases under the Treason Law provide even fewer guarantees: only one of the panel of five judges is an attorney, and the remainder are career officers on active service. In Peru: The Two Faces of Justice, released in July, Human Rights Watch/Americas highlighted nine

terrorism and treason cases in which innocent people had been handed down sentences ranging from ten years to life imprisonment by these courts. The probable number of unjust convictions was close to seven hundred, according to Peruvian nongovernmental human rights organizations. Confessed guerillas who gave themselves up under the 1992 Repentance Law implicated many innocent people in order to get their own sentences suspended or reduced. On April 19, with the support of both the public prosecutor's office and the Supreme Court, the CCD passed a reform abolishing the faceless courts with effect from October 15, on the grounds that the menace of political violence had abated. However, on September 27 President Fujimori sent an urgent bill to Congress for the deadline to be extended, and Congress voted that the courts should continue to function until October 1996. In striking contrast with the celerity of this decision, a proposal suggested by Fujimori in July for Congress to appoint a special commission to review cases of unfair imprisonment came to nothing.

In an ominous new development, the Supreme Court began to overrule acquittals by faceless courts on purely procedural grounds and ordered cases to be reopened, placing former prisoners in danger of rearrest. Thus the procedural vices of the faceless courts are now prejudicing those the courts find innocent as well as those they have convicted.

In the early hours of June 14, Congress passed a law granting amnesty to military or police personnel and civilians convicted or implicated in human rights crimes during the fifteen year counterinsurgency war. The law required the immediate release of all those convicted or indicted, as well as that all mention of them in police or court records be struck out. It also expressly prohibited new investigations or prosecution of perpetrators who had not yet been identified. The law, one of the most sweeping ever passed in the hemisphere, was presented to Congress without warning, scarcely debated, and promulgated on the following day by Fujimori before the populace and international public opinion had time to react. During the next week, eight members of the Colina Group, an army death squad, who had been convicted and imprisoned for the abduction and murder of nine students and a teacher from the La Cantuta University, walked free. So did those responsible for a 1986 prison massacre and an army lieutenant sentenced to ten years for the slaying of fifteen peasants in Santa Bárbara, Huancavelica, in 1991. The law also granted amnesty to some twenty-six military officers who participated in discussions about ousting Fujimori in November 1993, and to a group of officers who had been charged and imprisoned for criticizing government policy during the border conflict with Ecuador (see below).

The law was sprung on Congress by a pro-Fujimori deputy soon after the surprise reopening of a case involving the slaying in November 1991 of fifteen people at a party in the Lima neighborhood of Barrios Altos, in which members of the Colina group were also implicated. Prosecutor Ana Cecilia Magallanes reopened the case in April and named five army officers, including General Julio Salazar Monroe, head of the National Intelligence Service (Servicio de Inteligencia Nacional, SIN) as responsible. Four of them had been convicted already for involvement in the Cantuta case. Judge Antonia Saquicuray Sánchez opened a formal investigation and ordered the commander-in-chief of the army, Nicolás de Bari Hermosa Ríos,

and Vladimiro Montesinos, a close Fujimori advisor and intelligence figure, to appear as witnesses. Following the promulgation of the amnesty law, Judge Saquicuray ruled that it was inapplicable to the Barrios Altos case on the grounds that it violated Peru's constitution and international obligations under the American Convention on Human Rights. Despite a warning by the public prosecutor that she might be charged with prevaricato (breach of public duty), Saquicuray insisted to the Supreme Court on her duty to continue the investigation, and the court's senior prosecutor ruled in her favor. The government reacted by railroading a new law through Congress on June 28 which effectively obligated judges to grant the amnesty. On July 13 the court ruled two to one to apply the amnesty, closing the case. Other cases were closed in the weeks that followed.

Freedom of speech remained a precarious right. In April two retired army generals, Walter Ledesma Rebaza and Carlos Mauricio Agurto, were detained and prosecuted before a military tribunal for "insulting the armed forces and the nation" solely because they had commented critically on the army's conduct of the border conflict with Ecuador in February 1995. Both former officers were supporters of opposition candidate Javier Pérez de Cuellar. Ledesma, who was retired prematurely in 1994, was sentenced in May to forty days in detention because of an interview he gave to the weekly magazine *Caretas*. Ledesma and Mauricio were absolved under the amnesty law.

### **The Right To Monitor**

The position of defensor del pueblo (ombudsman), created in August, had not been filled as of this writing. The appointment requires a two-thirds majority in Congress. Although an initial version of the legislation establishing the position would have given the defensor the authority to enter military premises, have access to classified information, and order the prosecution of officials who refused to cooperate with his or her investigations, these powers were cut from what became law.

In June and early July several human rights lawyers working on the Barrios Altos case, as well as relatives of the victims, received anonymous death threats. The circumstances suggested a concerted operation by military intelligence agents to scare them off the case. Gloria Cano Lengua, of the nongovernmental Association for Human Rights (Asociación Pro-Derechos Humanos, APRODEH) received death threats by telephone in her office. Dr. Guido Gallegos of the Vicaría de Derechos Humanos de Juli, a church-based group in Puno, received an anonymous death note and threatening phone calls from a group calling itself the Patriotic Military Front. On July 8, the Lima offices of the Ecumenical Human Rights Commission (Comisión Ecueménica de Derechos Humanos, COMISEDH) were broken into in the early morning; files were searched and diskettes and other materials handled. General Rodolfo Robles Espinoza, who was cashiered from the army for revealing the participation of the Colina Group in disappearances, received death threats following his return in June from exile in Argentina.

### **U.S. Policy**

The Clinton administration continued to push behind the scenes for piecemeal improvements in Peru's human rights performance, while trying to avoid giving Fujimori an opportunity to dismiss human rights concerns by claiming to be "standing up to the U.S.," as he has done on several occasions in the past. While this "quiet diplomacy" has been useful in some cases, we have consistently urged the administration to use public pressure when private communication fails.

The State Department issued an unusually forthright statement condemning the amnesty law promulgated in June. The June 15 statement by spokesman Nicholas Burns read in part: "We are deeply concerned at both the substance of the law and the peremptory manner in which it was passed. We regret that President Fujimori has signed the bill into law. Doing so demonstrates to the world a lack of serious commitment to the protection of human rights, a principle on which there is broad hemispheric consensus." This statement was an unprecedented declaration of principle on the issue of accountability, giving valuable moral support to relatives of victims of human rights violations and human rights groups. Regrettably, the State Department was silent when Fujimori renewed the faceless courts in October. The administration may have been seeking to avoid a repetition of the Peruvian government's hostile reaction to the findings of the Goldman Commission, a panel of international jurists established in 1993 by the Clinton administration, with the acquiescence of the Fujimori government, to review anti-terrorist legislation. Since the commission reported, the State Department has implicitly distanced itself from the commission's recommendations rather than press publicly for their immediate implementation. While the Goldman Commission called for the government to end trials of civilians by military courts, the Clinton administration apparently believes that this system is reformable.

Plans are underway for a program of U.S. human rights training for military prosecutors and judges to begin in early 1996, according to officials of the U.S. Embassy, a move we consider ill-advised. Military courts, which have a deplorable record of due process violations and a lack of independence and impartiality, should not receive U.S. assistance or training. Any assistance provided to the judiciary should be channeled instead to support an independent review of unfair convictions by military tribunals and faceless courts. In addition, the State Department should deny visas to military and former military personnel released under the amnesty law.

The need to secure Peruvian government cooperation with the U.S. anti-narcotics program has been another factor limiting a more public administration profile on human rights. The administration will spend approximately \$18 million assisting Peru's anti-narcotics police force in fiscal year 1996, roughly the same level of assistance provided in past years. An effort by the administration to provide approximately \$1 million in military assistance as part of its counternarcotics package for fiscal year 1996 was dropped in the wake of strong congressional opposition. Aid to the military has been limited to training since fiscal 1991. Human Rights Watch/Americas strongly opposes police aid on the grounds that the Peruvian police continue to engage with impunity in systematic human rights abuse, particularly torture. Furthermore, drug traffickers, like violent oppositionists, continued to be tried by military tribunals for "treason," with attendant due process violations.

### **The Work of Human Rights Watch/Americas**

Of Peru's many human rights problems, the deplorable state of the justice system stands out in sharp relief, and the main focus of our work was to bring this concern to international attention. In July we published a fifty-page report, *Peru: the Two Faces of Justice*, which analyzed the workings of the anti-terrorist law, the faceless courts, and military tribunals, describing in detail the Kafkaesque situation faced by innocent people accused of terrorism and the mechanisms which have ensured impunity for those guilty of horrific human rights crimes. The report also described and condemned the so-called popular trials carried out by Shining Path, which were often a prelude to cold-blooded murder. In a speech to the U.N. Human Rights Commission in Geneva in February, we highlighted the use of torture and arbitrary detention in Peru through the faceless courts system. In addition, we litigated several cases through the Inter-American Commission on Human Rights and the Inter-American Court of Human Rights. In one of these, the Case of Neira Alegría (commonly known as "El Frontón," after the prison where the petitioners were detained), the court found in January that Peru had violated the right to life and the right of habeas corpus of three detainees, ordering Peru to pay their families compensation in an amount to be agreed upon by Peru and the commission.

In February a Human Rights Watch/Americas representative visited Peru during Fujimori's campaign for re-election. Irregularities such as the distribution of pro-Fujimori propaganda by military officers and public officials, the illegal issuing of voting credentials to members of the military, and harassment of opposition candidates, marred the campaign at numerous junctures, at times throwing into question the credibility of the electoral process. In March we wrote to President Fujimori describing abuses we had confirmed during our visit, and calling on him to prevent their repetition. We also sent our findings to César Gaviria, the Secretary General of the Organization of American States (OAS), which had a mission in Peru monitoring the elections, urging him to make the commission's findings public. During the last week of March, the OAS official in charge of the monitoring effort announced that his report would be made available to Peruvian political parties, as well as the government.