

# HUMAN RIGHTS WATCH/AMERICAS OVERVIEW

## **Human Rights Developments**

In the Cold War environment of the 1970s and 1980s, governments in the region deflected human rights criticism by accusing those who documented human rights violations of being motivated by ideology, not principle. Though the accusations changed from those of prior years, in much of the region during 1996, human rights groups still faced unfounded criticism designed to discredit their work. Human rights monitors in many countries were accused of favoring criminals when they denounced police brutality or raised questions of due process violations, as if they were seeking to protect those who broke the law from effective law enforcement. In fact, governmental accusations against human rights monitors manipulated the genuine frustration of the region's populations with high levels of impunity, thus attempting to avoid accountability for their own conduct.

While serious laws of war violations continued to be committed by both sides in Colombia, and largely at the hands of the Shining Path in Peru, in other parts of the region, public security became the central issue. In Brazil, Colombia, Mexico, Haiti, and Guatemala, citizens reached a point of desperation because of criminal violence and began clamoring for a crackdown on criminals at any cost. Lack of faith in the justice system and frustration with impunity led to lynchings of suspected criminals in Mexico and Guatemala, while in Brazil, many sectors of society welcomed police brutality in crime control. Despite serious due process violations criticized by the international community, Guatemala executed two convicted murderers, the first use of the death penalty outside of the Caribbean and Guyana in a decade. Indeed, Latin America's trend toward abolition of the death penalty appeared on the verge of being reversed by governments eager to react to public insecurity.

Unfortunately, police forces almost everywhere in the region were part of the problem, rather than the solution, and in many countries were distrusted. A January 1996 survey by one of Brazil's leading pollsters showed that 88 percent of Rio de Janeiro residents believed the police were involved in organized crime. With very few exceptions, police forces were brutal, corrupt, and negligent in fulfilling their basic duties: investigating and apprehending criminals and protecting the population without committing abuses. Faced with allegations of human rights violations, police tended to close ranks rather than investigate and discipline violators. In many countries, police operated as if law enforcement and protection of human rights were incompatible.

Establishing effective judicial systems and forging professional police forces constituted an unanswered challenge to the region in 1996, although some positive steps were taken. In Honduras, the National Congress approved the constitutional reforms necessary to pass the main police force from military to civilian control. The earlier transfer of the police investigations unit from military to civilian hands greatly reduced abuses. In Guatemala, the government committed itself to reforming the constitution to remove the military from any involvement in law enforcement as part of ongoing peace talks with guerrillas. Problems with the military police were publicly acknowledged by the federal and some state governments in Brazil. Though São Paulo and other Brazilian state governments took steps to reduce police violence, Rio de Janeiro

state authorities irresponsibly promoted “far west bonus and promotion programs,” which rewarded police officers for “neutralizing” criminals, dead or alive.

In Mexico, federal and state authorities purged corrupt police officers but failed to prosecute those who committed human rights violations. Although the government of Venezuela sought to reorganize the judiciary, it made no significant advances in reforming its brutal and corrupt police force.

Haiti’s newly created civilian police force lost credibility by carrying out acts of brutality and using excessive force. Although the Inspector General’s Office showed initiative in investigating and administratively sanctioning wrongdoers on the force, criminal prosecutions lagged. And in the Dominican Republic, security forces committed more than thirty-five unjustified killings without prosecution.

Several governments in the region demonstrated a greater willingness to acknowledge serious human rights abuse. The government of Fernando Henrique Cardoso abandoned the defensive posture of past Brazilian governments and invited its critics to join him in formulating a National Human Rights Plan. If implemented, the plan would grant ordinary courts jurisdiction over human rights abuses committed by military police and codify the crime of torture, among other measures. The government of Alvaro Arzú acknowledged the existence of gross human rights violations and impunity as the main obstacles to respect for human rights. Argentina’s President Carlos Menem recognized the growing problem of corruption and police brutality in many provinces, including Buenos Aires. Even President Alberto Fujimori of Peru made uncharacteristic acknowledgments of injustices perpetrated by the “faceless courts” he set up in 1992 to try those accused of terrorism and treason.

Some governments also put into effect measures aimed at addressing persistent problems. The government of Guatemala announced the dissolution of the nationwide network of civil patrols, which had terrorized the countryside by committing serious abuses for fifteen years, and enacted legislation to give civilian courts jurisdiction over common crimes committed by the military. Peru’s Congress finally agreed on the naming of the country’s first human rights ombudsman, Jorge Santistevan, who quickly became active in promoting human rights. At Santistevan’s initiative, the Congress approved a law creating a special commission to review the hundreds of cases of prisoners unjustly prosecuted by the faceless courts and make recommendations for presidential pardons. Unfortunately, Peru’s Congress voted in October to extend the use of faceless courts for another year.

President Arzú took steps to increase civilian control over the military in Guatemala with the unprecedented removal of senior military officers accused of corruption. President Menem retired three of the country’s top military officers, whom he deemed insufficiently supportive of his military reforms, leaving in his post army leader Gen. Martín Balza, who in 1995 had apologized publicly for the role of the army in the 1976-1983 “dirty war.”

Bolivia’s minister of justice, René Blattman, successfully pressed for measures to alleviate human rights violations related to counternarcotics policies, promoting legislative reform and setting up a government office to collect human rights complaints in the coca-growing Chapare region. In Mexico, President Ernesto Zedillo incorporated the language of human rights into his public discourse. This proved to be mainly symbolic, however; he took no meaningful action to address Mexico’s enduring problems of abuses and impunity for human rights violations.

Other authorities rejected criticism outright. In what amounted to a reversal of his earlier support for human rights reform, President Ernesto Samper of Colombia, in an October 1 speech,

recklessly dismissed criticism of Colombia's abysmal human rights record by asking, "What liberties and what human rights are valid amid anarchy and violence?"

The government of Rafael Caldera in Venezuela also displayed little tolerance for human rights criticism. In contrast with Venezuela's traditional openness, the government rejected credible reports from human rights monitors as well as the U.S. State Department.

The government of the state of Rio de Janeiro departed from the stance of Brazil's federal government, a significant fact for human rights in the state. On the day that Human Rights Watch/Americas released its January 1996 report on police violence, the governor responded, "We ought to stop these lies.... They should worry about what is going on in Serbia." The Mexican government permitted an Inter-American Commission on Human Rights delegation to conduct an on-site investigation for the first time, but its Foreign Ministry continued to reject the findings of well-documented reports by nongovernmental human rights organizations.

Many of the region's most serious human rights problems endured. Police and military forces routinely tortured detainees and criminal suspects, especially in Brazil, Mexico, Peru, Colombia, and Venezuela. None of these countries—with the exception of Mexico—had modified their domestic legislation to specifically codify the crime of torture and establish effective judicial remedies for victims, as required by the U.N. Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, to which each of these countries are state parties. In Mexico, the courts failed to enforce legislation prohibiting torture, even in cases where evidence of torture existed.

Brazilian military police continued to commit unjustified killings in the course of official duty. In April, military police killed nineteen squatters blocking a highway in the Amazon state of Pará.

In Cuba, the government systematically violated the rights of freedom of expression, association, assembly, privacy, and due process of law. The Cuban penal code provided a solid legal foundation for the suppression of political dissident.

In Colombia, political killings by the army, police, guerrillas, and paramilitary groups claimed an average of six lives a day in the first nine months of the year, and the government gave the army broad powers to respond to public disturbances, including non-violent protests.

Armed opposition forces engaged in political assassinations in both Colombia and Peru at an alarming level. The Revolutionary Armed Forces of Colombia (FARC) continued to use kidnapping as a means of financing its activities. The National Liberation Army (ELN) continued to use landmines indiscriminately throughout Colombia, leaving many civilian victims. The Shining Path in Peru was responsible for more than 200 political killings, including the March 6 assassination of community leader Pascuala Rosado Cornejo of Huaycán, after which they sought to blow up her body.

Throughout the region, impunity for human rights violations prevailed. Initiatives by the Arzú government in Guatemala failed to curb impunity, while fear of reprisals and incompetence on the part of judicial authorities combined with obstruction by the army led to setbacks in several notorious cases. The Chilean Supreme Court failed to seek justice for past human rights violations by systematically applying the amnesty law decreed by the military government in 1978. As in Chile, the amnesty law promoted by President Fujimori in Peru blocked the investigation and punishment of gross human rights violations.

In Honduras, the failure by police to enforce warrants undermined the efforts of civilian authorities to bring military officers who conducted "disappearances" and torture to account.

## **The Right to Monitor**

Human rights monitors continued to face threats and physical violence without effective investigation, prosecution, or punishment of those responsible. On October 13, a gunman shot dead Josué Giraldo Cardona, a lawyer with the Civic Committee of Meta, Colombia, whose members have suffered systematic persecution by the army and paramilitary groups for years. On October 20, human rights lawyer Francisco Gilson Nogueira de Carvalho was killed by machine-gun fire in the northeastern state of Rio Grande do Norte. Nogueira had been investigating connections between death squads and local authorities. In August, federal police opened a criminal investigation and a military judge filed a civil suit for alleged defamation by our Brazil office director, James Cavallaro, who wrote a newspaper column criticizing the acquittal of military officers accused of torture. Both cases were pending at the time of this writing.

In Mexico, human rights monitors faced serious threats, including those working for the Miguel Agustín Pro Juárez Human Rights Center. The center's director, Father David Fernández, and staff were threatened, apparently in response to the organization's documentation of military and police human rights violations. David Fernández was among those that Human Rights Watch honored in 1996 for their defense of human rights.

The Cuban government continued to prosecute human rights monitors and prevent access to the island by international rights experts, including the U.N. Special Rapporteur for Cuba, Amb. Carl-Johan Groth.

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

### **United Nations**

The U.N. continued to play an effective role in Guatemala, through its human rights verification mission, MINUGUA, and through moderating important accords as part of the process towards a final peace agreement. Two years after MINUGUA opened its doors in November 1994, its countrywide presence greatly contributed to a significant reduction in politically motivated assassinations, "disappearances," and instances of torture.

The U.N. Human Rights Commission decided to open a permanent office in Colombia, under the auspices of the U.N. High Commissioner for Human Rights, to report on human rights violations. As of this writing, the office had yet to be opened.

In July, the U.N. Human Rights Committee issued a devastating report on Peru, recommending an end to the use of faceless courts, a repeal of the amnesty law, and dismissal from public service of human rights violators.

Prof. Nigel Rodley, the U.N. Special Rapporteur on Torture, released a critical report on Chile and conducted an on-site investigation in Venezuela.

### **Organization of American States**

The crisis that paralyzed the Inter-American Commission on Human Rights (IACHR) in 1995 was in part addressed with the appointment of a new executive secretary, which allowed the commission in 1996 to renew its forceful efforts to improve human rights practices in the hemisphere. One example of the commission's revitalization was the granting of dozens of injunctions, sometimes with the participation of the Inter-American Court of Human Rights, to protect the lives of those facing imminent danger.

Unfortunately, the commission's annual report failed for the first time in over twenty years to include country-specific analyses, which resulted in a loss of what had been an important tool to promote human rights.

The court issued important rulings on cases of “disappearances” and extrajudicial executions. However, the court’s decisions did not further develop jurisprudence to advance human rights protection, as they had in previous years.

As they have in past years, some countries, most notably Peru, Mexico, and Chile, proposed initiatives that would, if carried out, undermine the work of the IACHR. Under the pretext of strengthening the inter-American system for human rights protection, they campaigned in 1996 for reforms of the American Convention on Human Rights that would limit access to the commission by nongovernmental organizations and increase regional governments’ political control over the system. These countries also promoted stricter confidentiality in the commission’s findings, as opposed to the transparency that would foster greater respect for human rights.

### **United States**

Free trade and antinarcotics efforts—not human rights protection—lay at the center of Washington’s concerns for the region. The State Department’s annual *Country Reports on Human Rights Practices* continued to reflect accurately the human rights problems in most countries, and the administration kept an open door to human rights monitors. Nonetheless, it pursued no comprehensive policy to encourage human rights protection. At the same time, administration efforts to address past abuses by the Central Intelligence Agency and Defense Department were notably inadequate.

Washington’s apparent desire to cover up relations maintained by the CIA with human rights abusers obstructed Haitian efforts to prosecute human rights violators. The White House refused to return to Haitian authorities thousands of documents and items seized during the 1994 military intervention or to deport Emmanuel “Toto” Constant, the former paramilitary leader wanted for numerous egregious human rights abuses allegedly committed while on the CIA payroll. The CIA’s unwillingness to declassify documents related to human rights also limited prosecutors’ work in Guatemala and Honduras. Although the State Department declassified many documents about Guatemala, the CIA and Defense Department failed to follow suit. Nor have those agencies responded to repeated requests by Honduran authorities for documents regarding Battalion 3-16, a secret military death squad that operated with CIA assistance in the early 1980s in Honduras.

The release in September by the Defense Department of excerpts from training manuals used by the School of the Americas in courses for Latin American military officers until 1991 confirmed critics’ assertions that the school instructed its officer students to violate human rights. The manuals recommended assassinations and torture against guerrillas. In October, U.S. Defense Secretary William Perry apologized for the instructions and promised to review the school’s curriculum. This fell far short of what was needed: a thorough and independent investigation with appropriate penalties.

In June, the executive branch’s Intelligence Oversight Board concluded its investigation of the role of the CIA with regard to a number of human rights violations committed against U.S. citizens or their relatives in Guatemala. The report concluded that agency assets, or local employees, had committed serious human rights violations while on the U.S. payroll, but it failed to recommend adequate steps to prevent recurrence.

Each of these elements revealed a covert policy of support for methods, individuals, and institutions that violated human rights. Although the most serious abuses occurred during past administrations, the current U.S. leadership bore responsibility for investigating and punishing

those who carried out the abuses, a task it largely failed to undertake.

Spurred by the Congress, the administration tightened its decades-old embargo on Cuba, a policy tool which has not only been ineffective in bringing about an improvement in human rights conditions, but has prevented the free exchange of information in violation of the International Covenant on Civil and Political Rights. To some extent, the embargo's ineffectiveness resulted from the fact that it was not part of a principled human rights policy but was instead a blunt tool for the overthrow of the Fidel Castro government.

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

Our work in 1996 focused on seven countries—Brazil, Colombia, Cuba, Guatemala, Haiti, Mexico, and Peru—where the nature and extent of the violations, and the response of the state, raised urgent human rights concerns. We conducted missions, published reports, and advocated changes to improve the human rights situations in these countries, as well as highlighting thematic issues that arose elsewhere, such as human rights abuse associated with the drug war in Bolivia together with the Human Rights Watch special initiative on drugs and human rights; police brutality in Argentina and Paraguay, through meetings with Presidents Carlos Menem and Juan Carlos Wasmosy; and prison conditions in Venezuela.

In Brazil, our representative in Rio de Janeiro worked closely with local human rights groups, contributed to the elaboration of the government's National Human Rights Plan, and published articles in Brazil's major newspapers. Much of our work in 1996 focused on police brutality. In Colombia, we documented human rights violations by paramilitary groups allied with the military, the role of the U.S., as well as violations of the laws of war by government and guerrilla forces.

We encouraged European governments to adopt a more active role in pressing for meaningful change in Cuba. Although European governments have developed influence with the Castro government through dialogue and investment, they have not used this influence to secure meaningful human rights reforms. A representative of Human Rights Watch/Americas traveled to European capitals to discuss Cuban issues with European government officials.

In Guatemala, we strongly advocated that any amnesty law enacted not grant impunity for human rights violations or similar abuses by guerrillas, meeting with President Arzú, Defense Minister Gen. Julio Balconi, and U.N. representatives. One of our long-term objectives, the dissolution of the civil patrols, was announced in August, when its phased implementation began. As part of a friendly settlement negotiation with the government—based on a suit we filed with the Inter-American Commission on Human Rights—the first patrols to be dissolved were the abusive Colotenango patrols.

In Mexico, we monitored rural violence, torture by police, and the failings of the justice system. Together with the International Labor Rights Fund and Mexico's National Association of Democratic Lawyers, we filed a labor rights petition under provisions of the North American Free Trade Agreement, which was accepted for review by the U.S. Labor Department's National Administration Office. The Women's Rights Project of Human Rights Watch documented sexual discrimination in Mexico's *maquiladora* sector, including pregnancy testing of prospective female employees, (*See Women's Rights Project*).

In Haiti, we pressed for accountability for abuses committed under past and current governments. In addition, we documented abuses by the new police force. Our Haiti researcher discussed these issues with President René Préval in June.

Within Peru, we continued to focus on violations committed by the faceless court system, urging

an independent review of cases tried before these courts.

The failure of most countries in the region to establish accountability for human rights violations necessitated our continued use of the inter-American system to seek justice in individual cases. In partnership with the Center for Justice and International Law (CEJIL), which took the lead, and domestic human rights groups throughout the region, we were involved in nearly one hundred cases before the Inter-American Commission on Human Rights, and some cases pending before the Inter-American Court of Human Rights.

## BRAZIL

### **Human Rights Developments**

The year in Brazil was marked by the striking contrast between the laudable goals extolled by the federal government in its National Human Rights Plan (hereinafter, the Plan) and the grave human rights violations that continued to occur. On April 19, less than a month before the release of the Plan—an historic initiative composed of a comprehensive series of short-, medium- and long-term measures designed to prevent and redress grave human rights abuse in Brazil—Military Police near the town of Eldorado do Carajás, in the Amazon state of Pará, opened fire into a crowd of landless squatters, killing nineteen and wounding dozens of others. The Eldorado do Carajás massacre instantly became a symbol of the abuses committed by state agents and third parties in the increasingly tense conflicts between squatters, large landowners, and police over land. Violations in other areas such as forced labor, urban police violence, prison conditions, abuses against minors, women, indigenous peoples, and other minority groups such as transvestites, continued.

The May 13 release of the National Human Rights Plan capped eight months of effort by the Ministry of Justice in conjunction with Brazilian and international nongovernmental organizations (NGOs) since the president announced the plan on September 7, 1995, Brazilian Independence Day. Human Rights Watch/Americas, among the international organizations invited to assist in the drafting process, participated in meetings with other NGOs and government officials—including Justice Minister Nelson Jobim and Attorney General Geraldo Brindeiro—to express our views on the plan. The fact that the plan was a product of the joint efforts of government agents and NGOs marked an important shift in the federal government's approach to the issue of human rights. Since the election of President Fernando Henrique Cardoso, federal authorities have consistently recognized the existence of grave human rights violations, often citing NGOs as the source of their information, and have sought to work together with members of civil society to address these violations. The plan constitutes a first critical step beyond mere recognition of abuses. Still, almost two years after election, the Cardoso administration has been unable to pass legislation to achieve the goals elaborated in the plan. This failure, as explained below, resulted primarily from a lack of cooperation by other sectors of the federal government.

For example, the Ministry of Foreign Affairs continued to oppose ratification of the Optional Protocol to the International Covenant on Civil and Political Rights and of the compulsory jurisdiction of the Inter-American Court of Human Rights. Both would force Brazil to submit itself to the jurisdiction of international bodies authorized to examine claims of human rights abuse. As a result, only the Inter-American Commission on Human Rights could consider individual violations by Brazil.

The plan consists of a series of measures, which, with a few exceptions, must pass both houses of Congress and be signed by the president in order to become law. One of the key measures contained in the plan, known as the "Bicudo law" (named for long-time human rights activist and Congressman Hélio Bicudo), would transfer from military to ordinary courts the jurisdiction over crimes committed by uniformed police officers. On May 9, just days before release of the plan, the Senate defeated the original draft of the Bicudo law, substituting a weakened version that transferred jurisdiction only in cases of murder, and then only once the case had proceeded to trial. Rejection of the original Bicudo law was widely received as a sign that the Senate would not cooperate with the president on the plan. Indeed at the time that this report was written more than six months after the plan's release, none of its measures in the area of public security had passed the Senate.

One key element of the plan concerns the codification of the crime of torture. Ironically, on the very day that the Chamber of Deputies voted to approve legislation criminalizing torture, security agents of the Chamber of Deputies beat to unconsciousness magazine salesman Severino de Araújo Maciel to force him to sign a false confession. This contrast demonstrated the vast gulf between law and practice in this area. In 1996, torture continued to be practiced on a routine basis in police precincts throughout Brazil, by methods including the use of electric shocks, near-drownings, burning with cigarette butts, and the rape of criminal suspects with nightsticks, broomhandles, and similar objects. In the overwhelming majority of cases, police officers who practiced torture were neither prosecuted nor dismissed. One exception was the August dismissal of two federal police officers involved in the October 1995 death of José Ivanildo Sampaio de Souza after his detention and torture in Fortaleza, capital of the northeastern state of Ceará. The decree determining the officers' dismissal was signed by President Cardoso, in accordance with Brazilian civil service law. Though clearly an important step, the dismissal of these two police underscored the need for reform of the civil service provisions that guarantee employment to police involved in grave human rights abuses, pending extended administrative proceedings. For instance, the 120 police officers involved in the 1992 massacre of 111 detainees at the Carandiru prison facility, in São Paulo, continued to serve actively. Many of those involved were promoted within the Military Police. Similarly, all of the military police involved in the April 1996 Eldorado do Carajás massacre continued to serve on active duty. The constructive attitude of the Cardoso administration constituted a welcome relief from the hostile, anti-human rights policies of many Brazilian state government authorities. This tension between the generally pro-human rights position of the federal government and the entrenched, often violent policies of many states constituted perhaps the greatest obstacle to the effective implementation of the National Human Rights plan. In Brazil's federal system, state governments maintain vast authority, over public security in particular. In many states, governmental authorities failed to curb abuses; in several instances, as detailed below, they promoted policies that violated fundamental human rights.

Police violence, particularly unjustified killings and summary executions, intensified in Brazil's major cities and in rural conflicts. In the City of Rio de Janeiro, press figures based on analysis of police reports noted a nearly six-fold increase in the number of civilians killed by military police from just over three (3.2) per month to more than twenty (20.55) per month since Gen. Nilton Cerqueira took over as head of the police in the State of Rio de Janeiro in May 1995. This surge in police killings was widely seen as linked to two policies given priority by the State Secretariat of Public Security. The first promoted—and the second authorized a pay raise for



bravery—thus advertising that officers involved in fatal shootings which, at a minimum, raised doubts as to the veracity of the versions offered by the police involved, would be honored. General Nilton Cerqueira, head of police forces in Rio, refused to consider our recommendation in an August interview that the pay raise and promotion for bravery only be available in cases with no civilian fatalities. Cerqueira told Human Rights Watch/Americas during that interview that “crooks are not civilians” and that “crooks are crooks, dead or alive.”

In the northeastern state of Rio Grande do Norte, Deputy Secretary of Public Security Maurílio Pinto de Medeiros continued in that position despite vast evidence of his supervision of a death squad composed primarily of civil police officers. The State Prosecutor’s Office determined that the death squad was responsible for at least thirty-one homicides and indicted several of its participants. Pinto de Medeiros faced charges in at least two incidents, and the Human Rights Commission of the Chamber of Deputies requested that he be dismissed. Despite this, in a July 1996 interview, Col. Sebastião Américo de Souza, Pinto de Medeiros’s direct supervisor, told Human Rights Watch/Americas that the latter would remain in his post because “there was nothing on him.”

Grave allegations of urban police violence also surfaced in the Amazon’s major cities. In Manaus, press reports in late May exposed a death squad run by police officers responsible for killing twenty-two people. The victims were believed to be criminal suspects, detained and killed by the death squad. In Rio Branco, capital of the Amazonian state of Acre, a special operations battalion composed of military policemen went on a killing rampage to avenge the death of a police officer at the hands of a reputed drug dealer. According to a local prosecutor, the operations battalion cut off the arms, legs and genitals of one victim before gouging out his eyes and killing him.

In contrast to authorities in many other states, São Paulo government officials took several important measures to reduce police violence and professionalize the police force. In September 1995, the secretary of public security created a program to track officers involved in fatal shootings, providing them with psychological counseling and removing them from active duty, at least temporarily. The secretariat also created the position of ombudsman for human rights. In its first six months of operation, the ombudsman’s office received and responded to 1,241 complaints, including 126 complaints of police violence. Largely as a result of these programs, the number of civilians killed by the São Paulo Military Police fell from roughly 500 in 1995 to 104 in the first six months of 1996. In August, Human Rights Watch/Americas representatives met with the governor of São Paulo and his cabinet to express support for their efforts to reduce police brutality.

Similarly, authorities in the northeastern state of Pernambuco made significant advances in the battle to prosecute violent police, death squad members (many of whom were police) and those involved in organized crime. In January 1996, the state government created a witness protection program in conjunction with the prestigious nongovernmental Office of Support for Popular Organizations (Gabinete de Assessoria as Organizacoes Populares, GAJOP). In its first six months of existence, the program assisted thirty-seven people in danger.

Witness protection—or its lack—was highlighted when Wagner dos Santos, the key witness in the July 1993 Candelaria massacre of eight sleeping street children in downtown Rio de Janeiro, returned to Brazil for the trial of the first of seven military police officers charged in the crime. Dos Santos, who survived being shot three times during the Candelaria incident and a December 1994 attack on his life, had been forced to leave Brazil. His protection, survival, and testimony

were critical to the April 1996 conviction of former military police officer Marcus Vinicius Borges Emmanuel. Significantly, Officer Borges Emmanuel was tried and convicted to an extended prison term before a jury, rather than a five-judge military tribunal, because the killings were committed while the police involved were off-duty. Another Rio de Janeiro jury convicted Officer Borges Emmanuel in his second trial several months later. Two other police officers and a third person involved in the sale of a weapon used to kill the children were scheduled to be tried by the end of 1996.

Another important step forward in the battle to end impunity was the August conviction of Osvaldo Rocha Pereira for the 1987 murder of rural leader Paulo Fontelles. Rocha Pereira was hired to kill Fontelles by a security firm working for local landowners in the state of Pará. Underscoring the importance of prompt criminal investigation, Rocha Pereira had been at large for several years, and was brought to Pará to stand trial following his arrest on charges of involvement in death squads in the Baixada Fluminense section of Rio de Janeiro that had claimed the lives of dozens.

On September 20, the federal government and the state of São Paulo signed an accord to destroy the chronically overcrowded Carandiru prison facility and to build twenty smaller, better-run facilities. Human Rights Watch/Americas visited Carandiru in August and verified the abysmal conditions there. Carandiru, which in 1996 housed roughly 6,400 prisoners in units designed for 3,200 inmates, was the site of an October 1992 massacre in which State Military Police killed 111 detainees while suffering no fatalities themselves. At this writing, no one had been brought to trial for the massacre.

Prison conditions throughout Brazil continued to violate international standards. Brazilian prison facilities remained overcrowded: Ministry of Justice figures released in October 1996 showed that more than 148,000 persons were held in facilities designed to accommodate roughly half that number of prisoners. Thousands of detainees and convicted prisoners were routinely held for weeks, months, and even years in holding cells within police precincts because of a lack of prison space. In larger facilities, revolts, like the March 29, 1996 incident in Goiânia in which prisoners seized a delegation composed of Goiás State authorities, holding them for almost a week, were not uncommon.

Detention conditions for minors also continued to be abysmal. In May, Human Rights Watch/Americas joined a group of Brazilian NGOs and the Center for Justice and International Law (CEJIL) in a petition denouncing horrendous conditions in three detention centers for minors in Rio de Janeiro. In those centers, youths were not separated according to age, size, or the gravity of the crime committed. Older, more violent youths abused others, both sexually and by beatings, apparently with the complicity of authorities of the detention centers. The Inter-American Commission on Human Rights ordered the Brazilian government to take immediate measures to separate the adolescents held in the three centers by age, size, and criminal infraction in correspondences sent in May and again in August, and the government initiated construction to comply with the commission's recommendations.

Increasingly violent conflict over land made headlines throughout 1996. On April 19 in Eldorado do Carajás, Pará, in order to evict a group of nearly 2,000 families occupying a state highway to force negotiations, the Pará state military blocked off opposite ends of the road, trapping the landless squatters. After a brief scuffle in which squatters tossed rocks and sticks, the police opened fire into the crowd of men, women, and children. The result was nineteen dead squatters and dozens of wounded. Coroners' reports demonstrated that several of the victims had

been hacked to death with their own sickles and other farming instruments, killed from behind or at point-blank range. After the incident, the police registry of weapons could not be located. None of the surviving squatters were asked to identify individually the police officers involved. Three months after the killings, the State Prosecutor's office submitted a poorly supported indictment to the military courts.

In the aftermath of the massacre, more than 120 police were detained for four days in their barracks. Several officers were confined to their barracks for up to fifteen days, and the commander, Colonel Pantojas, was detained for thirty. At this writing, none of those involved was in detention, and, due to a recent amendment in military court jurisdiction, it remained unclear whether the case would continue in the military or ordinary courts.

Though particularly extreme, the Eldorado do Carajás massacre was not the only case of fatal violence over land in Brazil. According to the Pastoral Land Commission (Comissão Pastoral da Terra, CPT), through mid-September, at least forty-three people had been killed in land conflicts nationwide. In all of 1995, the CPT documented forty-one such deaths.

The CPT also continued to document grave cases of forced labor and degrading labor conditions approximating forced labor throughout Brazil. Figures for 1996 were not available at the time this report was released. Figures for 1995 showed that the number of individuals subjected to forced labor had risen to 26,047 from a 1994 figure of 25,193, according to the CPT. In January, the government provoked concern among those who defend the rights of indigenous peoples when it issued Decree 1775/96 strengthening the procedural rights of large landowners and others claiming title to traditional indigenous people's lands and threatened the stability of tribal areas which were in the process of demarcation. At this writing, the Ministry of Justice had rejected the vast majority of new land claims, although it had as yet not taken concrete action with respect to eight claims.

One important area of improvement was the passage on December 4, 1995 of Law 9,140/95, which authorized compensation for the family members of 136 persons "disappeared" during the military dictatorship (1964-1985), and established a seven-member commission to investigate additional claims for compensation in cases of state-authorized killings during the military dictatorship. Throughout 1996 the commission evaluated numerous requests for indemnification and had authorized payment to at least one hundred families by early October.

### **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 NGOs. As in prior years, these groups nonetheless encountered threats, intimidation, and physical violence from police and large landowners.

On October 20, human rights lawyer Francisco Gilson Nogueira de Carvalho was killed by machine-gun fire in an apparent targeted execution while returning to his home in Macaíba in the northeastern state of Rio Grande do Norte. Nogueira had been actively investigating the participation of police in Rio Grande do Norte in a death squad reportedly coordinated by Deputy Secretary of State Maurílio Pinto de Medeiros.

In several instances in 1996, courts were used to intimidate and harass monitors with groundless suits based on their defense of fundamental rights. In August, Father Antônio Ribeiro of the CPT office in João Pessoa, capital of the northeastern state of Paraíba, was sentenced to a four-year and ten-month prison term for the crime of conspiracy, resisting arrest, trespassing, and failure to obey a judicial order. The conviction resulted from the priest's defense of poor, rural laborers

involved in land disputes.

In another misuse of criminal investigation to harass human rights monitors, the Federal Police opened an inquiry in August to investigate charges that Human Rights Watch/Americas' Brazil office director James Cavallaro had criminally slandered a federal judge in an April article published in the Rio de Janeiro daily, *O Globo*. The article published in *O Globo* criticized an oral sentence in which, according to press accounts, Judge Mário César Machado Monteiro had sought to justify the use of torture to interrogate criminal suspects. Despite the fact that his decision was criticized by numerous public figures, including the minister of justice, Monteiro filed separate civil suits against Cavallaro, the Rio de Janeiro daily *Jornal do Brasil* and two judges for defamation because of their criticism of his decision.

### **The Role of the United States**

In 1996, 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. In October, the Brazilian government refused \$600,000 authorized for anti-narcotics assistance, arguing that the amount was insignificant in comparison to the aid given to other South American nations.

In September, the U.S. Embassy sponsored the visit of Gene Shur, director of the F.B.I.'s witness protection program. The visit highlighted the need for a federal witness protection program.

The State Department's analysis of Brazil in its *Country Reports on Human Rights Practices for 1995* accurately summarized the principal human rights abuses committed in Brazil. The report focused on the failings of the administration of justice, in particular the inefficiency and corruption of the judicial process which rendered convictions of those who violated human rights extremely difficult.

## **CHILE**

### **Human Rights Developments**

Chile made slow progress in promoting human rights reforms, due to continuing opposition from the military and political right and the failure of the government of President Eduardo Frei to press for advances. Human rights violations from the past remained an openly debated and tense issue, as the Supreme Court and military appeals court continued to close unresolved "disappearance" cases, applying an amnesty law enacted by the military government that left power in 1990. Authorities downplayed abuses by the Carabineros police, including torture, while civilian and military officials used the courts to try to silence their critics.

The National Corporation of Reparation and Reconciliation (Corporación Nacional de Reparación y Reconciliación, CNRR), a government body set up in 1991 to continue investigating human rights violations that occurred during the military government, delivered its final report in August. Its investigations confirmed 899 more deaths and "disappearances" than had been documented by its predecessor, the Rettig Commission, bringing the total number of victims of such crimes during the seventeen-year period to 3,197.

Debate continued on the future of court investigations into such cases. Political negotiations on the so-called Figueroa-Otero proposals broke down in April. The bill, named for Minister of the Interior Carlos Figueroa and opposition leader Miguel Otero, was the latest in a series of unsuccessful government proposals aimed at ending court investigations into human rights violations committed during the military dictatorship. In exchange for curbing court actions, a

concession to the military, the government had proposed several reforms to democratize Chile's 1980 Constitution, crafted by the military government. However, right-wing opposition leaders refused to accept the reforms, while left-wing members of the government coalition rejected legitimizing the amnesty law. Tensions surrounding the issue remained unresolved.

Regardless of the proposed Figueroa-Otero bill, the Supreme Court continued to apply Chile's amnesty law. During the first half of the year it closed six cases of "disappearances" and extrajudicial executions, involving twelve victims; the Martial Court, or military appeals court, amnestied eleven cases, involving sixteen victims. Human Rights Watch/Americas met with the president of the Supreme Court to press for stronger human rights action on such cases.

The Supreme Court continued to close human rights cases in the second half of the year. For example, in August, the Second Chamber of the Supreme Court did so in a case involving the torture and murder in 1976 of Spanish United Nations official Carmelo Soria, and gave amnesty to two army officers implicated, Guillermo Salinas Torres and José Ríos San Martín. The case had been reopened on the orders of the Supreme Court in 1994 on the grounds that the amnesty was inapplicable due to Chile's obligations under an international convention on the prevention and punishment of crimes against diplomats. In June 1996, the investigating judge, Eliodoro Ortiz, declared the amnesty applicable, arguing that Soria did not have diplomatic status and that the treaty in question had been misinterpreted. The Supreme Court, despite its earlier verdict, ruled unanimously in support of this view. A group of parliamentarians tabled an unsuccessful impeachment motion against the judges who made the decision.

The Supreme Court also closed the case of Lumi Videla, who was detained by agents belonging to the secret police known as the National Intelligence Directorate (Dirección de Inteligencia Nacional, DINA) in September 1974 and held for several weeks in a secret detention center in Santiago. Her body was later thrown onto the grounds of the Italian Embassy.

While the Chilean courts tended to close human rights cases, Argentine police arrested Enrique Arancibia Clavel, a former DINA agent, in Buenos Aires, in January. The arrest followed the issuance of an arrest warrant by a federal judge, María Servini de Cubría, for the car-bomb attack that killed former Chilean Army Commander-in-Chief Carlos Prats González, then in exile in Buenos Aires, and his wife Sofía, in September 1974. In a positive move, the Chilean government appointed a lawyer to represent it in the Argentine case.

An Uruguayan judge, Aída Vera Barreto, identified a body recovered from a shallow grave on an Uruguayan beach in April 1995 as that of Enrique Berríos, a former DINA chemical weapons expert and an associate of Michael Townley, the former DINA agent convicted in the United States for the murder of former Foreign Minister Orlando Letelier. Berríos had fled Chile in 1991 after being called as a witness in the Letelier case. His whereabouts were unknown until he turned up at a police station in Parque de Plata, Uruguay, in November 1992, and pleaded for assistance, claiming that he had been kidnapped. The police officer in charge offered to help but then returned him to his captors, members of Uruguayan military intelligence, at the insistence of senior Uruguayan military officers.

Abuses by the police, in particular by Carabineros, the uniformed branch, remained an issue of concern. In January, U.N. Special Rapporteur on Torture Nigel S. Rodley concluded in his report on Chile that cases of torture were "sufficiently numerous and serious for the authorities to continue giving attention to the problem, and to translate official rejection of the practice into specific measures. The rapporteur had transmitted to the government 110 allegations since 1990, and concluded that ill-treatment of detainees bordering on torture was "very extensive."

Government officials took issue with the report, including Secretary General of Government José Joaquín Brunner, who said that torture cases were “isolated.”

Much-needed and far-reaching reforms to the Criminal Procedures Code, presented to Congress by the Ministry of Justice in 1995, were still under debate. The reforms would provide protections for detainees’ rights.

Government, military, and police authorities continued to file defamation lawsuits against their critics, using the Law of State Security and the military penal code. In December 1995, Judge Rafael Huerta sentenced political analyst and former Pinochet minister Francisco Javier Cuadra to a suspended sentence of 540 days in prison and a fine of 100,000 pesos (approximately US\$242) for a comment he made in a magazine interview alleging that some parliamentarians used cocaine. The Supreme Court upheld the decision after an appeals court ruled in favor of Cuadra. Human Rights Watch/Americas and the Center for Justice and International Law (CEJIL) brought this case to the Inter-American Commission on Human Rights in October, accusing Chile of violating free expression guarantees.

In May, the Inter-American Commission on Human Rights found Chile to be in breach of the freedom of expression provisions of the American Convention on Human Rights by banning circulation and distribution in Chile of *Impunidad Diplomática*, a book by Chilean journalist Francisco Martorell, released by Planeta editors in Argentina. Martorell was given a 541-day suspended sentence for libel in September 1995. The commission called on Chile to lift the ban, which amounted to prior censorship, and allow Martorell to return to Chile to promote his book; he was not permitted to promote the volume. Human Rights Watch/Americas and CEJIL litigated on Martorell’s behalf.

On October 29, police arrested Gladys Marín, who was accused of defaming General Pinochet. The president of the Communist Party, Marín had called Pinochet a “blackmailer” during a speech marking the anniversary of the 1973 military coup. Others sued for defamation during the year included Socialist Youth leader Arturo Barrios, charged with insulting Gen. Augusto Pinochet at a June 1995 ceremony in memory of “disappeared” Socialist leader Carlos Lorca; Nolberto Díaz, president of the Christian Democrat Youth, for comments on a radio show attacking conscription laws; Tomás Hirsch, president of the Humanist Party, for accusing a prison medical team of using unclean hyperdermic needles during a prison HIV test; Manuel Cabieses, director of the left-wing newspaper *Punto Final*, accused of sedition for a front-page image of Pinochet; and Eduardo Maneses, lead singer of the rap group Black Panthers (Panteras Negras), for insulting the police in the lyrics of its song “War on the Streets.”

### **The Right to Monitor**

We did not receive any reports that the government prevented or restricted human rights organizations from conducting their investigations and reporting their findings during 1996.

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

### **European Union**

In July, the European Union (E.U.) signed a cooperation agreement with Chile pursuing enhanced economic, financial, and technical cooperation, and enabling Chile to become involved in trade talks between the E.U. and Mercosur. “Respect for democratic principles and fundamental human rights” constitutes an essential element of the agreement. In June, prior to the signing of the agreement, the European Parliament passed a resolution deploring the Supreme Court decision in the Carmelo Soria case.

## **United States**

Human rights remained a low priority in U.S. relations with Chile, and the Clinton administration made no public interventions on human right issues during the year.

In July, U.S. Amb. Gabriel Guerra-Mondragon provoked a stern reaction from the Chilean government when he pointed out—correctly—in an embassy press briefing that the military was not fully subordinated to the civilian power. The ambassador's comments came in the midst of rumors, sparked by an article in the *New York Times*, that the Clinton administration was debating allowing sales of high-technology military equipment, such as F-16 fighter planes, to countries in the region. Chilean Minister of Defense Edmundo Pérez Yoma retorted that Guerra-Mondragon was “very wrong” in his comments about civil-military relations, and that the armed forces were constitutionally subject to the elected government. The U.S. Embassy issued a clarification, stating that the ambassador's remarks had been taken out of context and saying that the State Department's annual human rights report noted that Chile's armed forces were subordinated to the president but enjoyed a “large degree of autonomy.”

# **COLOMBIA**

## **Human Rights Developments**

Turmoil continued in Colombia as President Ernesto Samper confronted mounting evidence that he approved of drug cartel donations to his presidential campaign. A vocal opposition, intense U.S. pressure to resign, and his own resolve to remain in office apparently led the president to adopt authoritarian measures and cede broad powers to the army to govern. The result was a direct assault on the 1991 Constitution and its fundamental guarantees, with nefarious implications for human rights.

President Samper's measures had little effect on political violence or human rights violations, which remained numerous. In the first six months of the year, an average of three people a day fell victim to political killings, which totaled 522. As a percentage of such cases, paramilitary violence rose in comparison to 1995.

New evidence emerged in 1996 showing that the military continued to promote paramilitaries and used them to collect intelligence and assassinate Colombians suspected of guerrilla ties. For example, in Segovia, in the department of Antioquia, a government investigation led to the arrest of a captain who eyewitnesses said escorted six paramilitaries flown in from Medellín to a military base on April 22, then killed fourteen people and injured fifteen.

For their part, guerrillas committed violations of international humanitarian law, including political killings, kidnappings, the use of landmines, and attacks on civilian targets, including public buses. In a single incident, Revolutionary Armed Forces of Colombia (Fuerzas Armadas Revolucionarias de Colombia, FARC) militants were believed to have murdered eleven men on the Osaka Farm on February 14. The National Liberation Army (Ejército de Liberación Nacional, ELN) also reportedly detained and disarmed three policemen and a soldier at a roadblock in the department of Norte de Santander on January 24, then killed them, burning one of the bodies. According to police, a majority of the kidnappings registered over the first nine months of 1996 were the work of guerrillas. Some victims had no part in the conflict but were noncombatants seized for ransom. Although the FARC leadership purported to have stopped kidnapping, the practice continued, albeit described as “a peace tax.” For its part, the ELN called its kidnappings a “war tax on the wealthy.”

During the first half of 1996, President Samper governed Colombia under a “state of internal commotion,” invoked after the killing of Conservative leader Alvaro Gómez on November 2, 1995 and extended through August. Although the measure never produced the capture of Gómez’s killers, its stated goal, it did suspend key rights, like freedom from unwarranted search and seizure. The military was also authorized to circumvent local civil authority and petition the executive directly to declare “special public order zones” where more rights were suspended, like free movement. By the end of May, over one-third of Colombia was a “special public order zone.” The governor of the department of Guaviare publicly criticized the executive for failing to notify him that his state would be placed under *de facto* military rule. After the Constitutional Court overturned President Samper’s August 1995 declaration of a state of internal commotion, its members were barraged with anonymous death threats. Subsequently, the court did not challenge the November declaration of a state of internal commotion, limiting its actions to instead striking down a few measures imposed in its wake. In what was considered a public rebuke, in July 1996 President Samper introduced to congress a constitutional reform bill that would bar the court from reviewing states of internal commotion in the future and eliminate time constraints on such declarations, making them indefinite.

President Samper’s dependence on extraordinary measures demonstrated that, far from following through on his inaugural promise to defend rights, he was convinced that soldiers must be allowed to operate outside the rule of law to be effective. Another constitutional reform bill he introduced would convert emergency measures into permanent legislation, including one that would authorize the military to investigate all crimes even in non-emergency situations.

A pro-military coalition of forty senators also presented six bills seeking to reform the constitution to curtail rights, including the legalization of preventive detention without a warrant for up to seven days and a prohibition of civilian investigations of military officers implicated in crimes. It took only six months for legislators to overturn a 1995 Constitutional Court decision barring active-duty military officers from serving on military tribunals, virtually ensuring that their record of impunity would remain intact.

In a marked shift from previous years, President Samper sharply questioned the dedicated Colombians who took seriously their roles as rights monitors, including Public Ombudsman Jaime Córdoba, who declined to stand for a second term after Samper chastised him for failing to defend the president against charges of corruption. Córdoba had also opposed President Samper’s promise to reintroduce the death penalty for the crime of kidnapping, which would violate Colombia’s obligations under the American Convention on Human Rights, terming it “the *coup de grace* to his deteriorating policy of the defense of human rights.”

All was not negative in 1996, however. Efforts to improve the human rights record of the National Police bore fruit. President Samper signed into law a measure obligating Colombia to honor recommendations made by the Inter-American Commission on Human Rights, including the payment of reparations in human rights cases. The office of the Attorney General (Fiscal de la Nación) conducted credible investigations, though they produced few tangible results. Of special interest was the work of the Attorney General’s Human Rights Unit, which handled selected human rights and international humanitarian law cases. One investigation led to an arrest warrant for Gen. (Ret.) Farouk Yanine Díaz, a central figure in the army’s support for and promotion of paramilitary groups in the 1980s. Eyewitnesses testified to prosecutors that as Second Division commander, General Yanine had paid paramilitaries to kill nineteen men, then supplied the gunmen with information used to locate and kill them. Yanine, who finished his career in 1992 as



the second-in-command of the Colombian military, taught at the Inter-American Defense Board College, which operated under the auspices of the Organization of American States in Washington, until his return to Colombia to face charges in October.

General Harold Bedoya, who became commander of the joint chiefs of staff in October 1996, accused the Human Rights Unit of being “infiltrated by the guerrillas.” President Samper echoed these charges, in one War College address vowing to “prevent [soldiers] from having to constantly appear before court to respond to unfounded charges...by other enemies instead of carrying out their duties for the benefit of the country.”

As investigators, the Procuraduría, in charge of investigations against government officials and administrative sanctions, fared worse. Two successive heads of the Procuraduría faced criminal charges for corruption, and the offices of the delegate for human rights and special investigations were largely dismantled. Far from seeking to fortify the Procuraduría, pro-military senators proposed a constitutional reform to eliminate its jurisdiction over the military, thereby ensuring impunity.

The available evidence showed that impunity remained the norm for soldiers who committed human rights violations. Even as the military denied complicity, the institution almost always filed a *colisión de competencia*, a jurisdictional challenge, with Colombia's Superior Judicial Council (Consejo Superior de la Judicatura) to shift cases from civilian to military jurisdiction. There was a consensus among human rights groups in Colombia that the council unfairly favored the military in such disputes. In one 1996 case, the council ruled that military officers who provided arms and uniforms to paramilitaries who helped carry out the 1991 massacre of seventeen people near Los Uvos, in the department of Cauca, should be prosecuted by military tribunals since such equipment was provided as part of the officers' normal duty. In October, General Bedoya suggested amending the constitution to allow military trials for civilians accused of terrorism.

The military argued that its tribunals were tougher and more efficient than civilian courts, citing a high conviction rate. However, their accounting made no distinction between trials for military infractions—like insubordination—and human rights violations. According to the Procuraduría, most convictions corresponded to infractions while most acquittals corresponded to human rights violations.

In the past, President Samper promised to reform the military justice system, and in 1995 he convoked a commission to study such changes. As of this writing, however, the commission's effort had yet to be translated into legislation. An effort to establish criminal penalties for the crime of forcible “disappearance” continued to languish.

Other government actions also contributed to disturbing attacks on rights. Despite criticism from within the judiciary, the only step taken to reform the public order courts, or “faceless” courts, created to prosecute drug traffickers and guerrillas, was to limit the use of anonymous witnesses to a case-by-case review. Using anonymous judges and with severe restrictions on the right to a defense, these courts continued to violate the right to fair trial. The Defense Ministry continued to promote so-called “rural security cooperatives” of wealthy ranchers and businessmen who secretly provided troops with intelligence and formed groups to defend their property despite these groups' similarity to outlawed paramilitary groups.

The government also sought to muzzle unfavorable press. After reporters filmed soldiers firing on Caquetá coca farmers during an August protest of a U.S.-backed eradication campaign, the state-run National Television Commission (Comisión Nacional de Televisión) banned televised

reports based on anything but official sources. It also barred news programs from showing any images related to the protests “that reflect situations of extreme human suffering,” a move widely interpreted as an attempt to stifle protest.

Over 750,000 Colombians were internally displaced because of political violence, the single largest group in Latin America. A national study in 1995 found that paramilitary violence was responsible for 32 percent of all forced flight, compared to 26 percent caused by guerrillas and 16 percent by the armed forces. The problem worsened during 1996. Although the government developed a plan to assist the displaced, as of this writing it had failed to allocate funds to it. Guerrillas routinely used forced displacement as a tool of war, demonstrating that neither side was yet willing to honor Protocol II Additional to the Geneva Conventions, ratified by the government in 1995.

### **The Right to Monitor**

Human rights monitors continued to carry out courageous work despite attacks and threats. Among those who most forcefully spoke out was Pedro Malagón, a congressman from the department of Meta and a member of the Patriotic Union (Unión Patriótica, UP). On June 20, 1996, armed men shot and killed Malagón and his seventeen-year-old daughter in Villavicencio, Meta’s capital. Previously, Malagón had reported that army intelligence agents had offered a bodyguard US\$10,000 to facilitate his murder. Josué Giraldo, also a UP member and a founder of the Meta Civic Committee for Human Rights, was himself murdered in Villavicencio on October 13, after receiving numerous death threats. On January 11, armed men shot and killed community activist Sylvio Salazar as he left his Medellín office. Salazar had worked to stem violence between gangs, police, and guerrilla-backed militias.

Threats remained common, particularly for lawyers who defended Colombians accused of rebellion, the charge that corresponded to support for armed opposition groups. On February 28, Reynaldo Villalba Vargas, a member of the “José Alvear Restrepo” Lawyers’ Collective, received a condolence card for a client, Margarita Arregoces, from a paramilitary group calling itself “Colombia Without Guerrillas” (Colombia Sin Guerrilla, COLSINGUE).

Human rights groups and other nongovernmental organizations were also threatened for their work. Three groups working with families displaced by paramilitaries, including the National Association of Peasant Small-Holders/Unity and Reconstruction (Asociación Nacional de Usuarios Campesinos-Unidad y Reconstrucción, ANUC-UR), were described as “manipulated by the guerrillas” in an army report. In July, paramilitaries reportedly threatened ANUC-UR president Belén Torres.

Members of the Peace Brigades International based in Barrancabermeja also received threats from police and local paramilitaries. On June 13, a Peace Brigades member traveling by bus was apparently the target of paramilitaries who stopped public busses near Puerto Araujo. Armed men searching for “a foreigner” stopped the wrong bus, however, and the member was unhurt.

Human rights activists were often charged with slander by army officers. Although the courts rarely acted on these cases, including one filed by General Bedoya against Father Javier Giraldo, the director of the Intercongregational Commission for Justice and Peace (Comisión Intercongregacional de Justicia y Paz), the tactic was widely seen as an effort to silence critics. Even international intervention—like the invocation of precautionary measures by the Inter-American Commission on Human Rights—resulted in more, not less danger for monitors. According to one respected Colombian human rights group, “Within Colombia, this procedure has resulted in more pressure and intimidation as well as the complete control of the activities [of

the threatened person] through the only measures taken: the assignment of bodyguards.”

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

In March, at the meeting of the U.N. Commission on Human Rights, Colombia successfully deflected efforts to increase international oversight of its human rights conditions through appointing a special rapporteur. However, sustained pressure by Colombian human rights groups and their international counterparts, including Human Rights Watch/Americas, obligated the government to agree to establish a permanent office in Colombia under the auspices of the U.N. High Commissioner for Human Rights. As of this writing, the office had yet to begin its work; however, human rights groups were hopeful that it would serve as both a collector of information and a source of pressure on the government to honor Colombia's commitments under international agreements.

Several commissions created under the auspices of the Inter-American Commission on Human Rights to study key cases, including the Trujillo massacre, failed to bear tangible fruit in 1996. In contrast, the Inter-American Court issued its first condemnation of Colombia ever on December 8, 1995, when it held the government responsible for the 1989 forced “disappearance” of Isidro Caballero and María del Carmen Santana. The only dissenting vote was Judge Rafael Nieto Navia, a Colombian, who argued that since the officer involved was suffering “mental difficulties”—an assertion unproved before any court—the state should be absolved of responsibility. The petitioners sought unsuccessfully to recuse Nieto from considering the case based on conflict of interest, since his son was the Colombian Defense Ministry's legal adviser for international affairs and cases like this one.

For the first time since the U.S. Congress adopted a “certification” process for countries that received anti-narcotics assistance, Colombia was “decertified” in March. In July, the Clinton administration stepped up pressure by revoking Samper's U.S. visa, and exchanges between the two countries were bitter. Nevertheless, the United States remained a key supporter of the Colombian security forces, and Colombia remained the hemisphere's top recipient of U.S. military aid, most of which went to the National Police for drug interdiction and eradication. The Pentagon estimated U.S.-Colombian arms deals at \$84 million in Fiscal Year 1996 and \$123 million in Fiscal Year 1997—the highest level ever.

As U.S. campaign rhetoric turned to drugs, Congress approved the sale of lethal weaponry to Colombia's military, a troubling shift. In September hearings, Congress authorized up to twelve Black Hawk helicopters and twenty-two M-60 machine guns for shipment to the Colombian army even though, as administration officials noted, they sought no assurances that they not be used in the counterinsurgency operations where most human rights violations occurred. Indeed, the Colombian military had previously announced to the national press its intention to buy U.S. helicopters and launch a new offensive against guerrillas. Although past commercial arms deliveries amounted to less than \$2 million per year, administration officials estimated that they could reach \$35 million in Fiscal Year 1996 and \$21 million in Fiscal Year 1997.

At this writing, Human Rights Watch/Americas and the Human Rights Watch Arms Project were nearing completion of a report documenting the disturbing role played by the United States in Colombia's military-paramilitary partnership. Despite Colombia's disastrous human rights record, a U.S. Defense Department and Central Intelligence Agency (CIA) team worked closely with Colombian military officers on the 1991 intelligence reorganization, after which, in 1992 and 1993, dozens of people in and around the city of Barrancabermeja were killed because of their political activity. In addition, U.S. military authorities appeared to have turned a blind eye to

abuses, even though they had acknowledged that training and weapons provided to Colombia for counterdrug purposes could be used in counterinsurgency operations where human rights violations might occur.

U.S. Ambassador to Colombia Myles Frechette offered support to the Attorney General's Human Rights Unit, a positive step. Likewise, the embassy met with international and Colombian human rights groups, an important message at a time when they faced threats and attacks. Within the embassy, a group vetted officers slated for U.S. training, disqualifying officers implicated in serious human rights abuses and thus sending an important message. The State Department's *Country Reports on Human Rights Practices for 1995* was widely considered an accurate portrayal of the situation, although Human Rights Watch/Americas criticized the report for imprecisely terming crimes committed by drug traffickers and guerrillas "human rights violations," rather than labeling them common crimes or, when appropriate, violations of the laws of war. We were aware of no public statements made by the ambassador or other U.S. Embassy officials in support of human rights in Colombia in 1996.

## CUBA

### Human Rights Developments

The Cuban government continued to use intimidatory tactics and its unduly restrictive criminal laws to silence independent voices and emerging organizations in 1996. State security agents limited the activities of dissidents, nongovernmental organizations (NGOs), and Cuba's few independent journalists through intimidation, short-term detention, and in the most serious cases, prison terms or forced exile. Reinforcing the urgent need for legal reform, authorities invoked penal code provisions such as "enemy propaganda," "contempt of authority," and "dangerousness" that criminalized internationally protected rights to free expression and association.

Vice-President and General of the Army Raúl Castro Ruz expressed the government's intolerance of minimal openings in Cuban civil society in a March 23 speech to the Central Committee of the Communist Party. General Castro dismissed what he called incipient "*glasnost*," particularly the emerging independent press, as a threat requiring aggressive governmental control.

The Cuban government launched a crackdown against the Cuban Council (Concilio Cubano), a coalition of 135 NGOs, on February 15, shortly before the group's first national assembly to discuss nonviolent dissent. State security agents targeted Concilio members with harassment, short-term detention, and in several cases, criminal prosecution. The pressures against Concilio prevented the national meeting and continued with less intensity at this writing. As part of the crackdown, Cuban authorities detained dozens of activists, including Dr. René Góme Manzano, who previously had been disbarred, was later released after trial. On February 23, judicial authorities convicted Concilio's national leader, attorney Leonel Morejón Almagro, of "resisting authority" and "contempt of authority," charges frequently used to criminalize expression perceived to threaten the state, and sentenced him to fifteen months in prison. On February 22, a Cuban tribunal sentenced another Concilio leader, Lázaro González Valdés, to fourteen months on the same charges.

The Cuban government steadily harassed Cuba's emerging, independent journalists, several of whom were Concilio members. In the most severe cases, the authorities forced journalists to choose between exile or prosecution under criminal laws penalizing free expression or

association. In May, after repeated detentions and threats of prosecution for “criminal association,” the government forced Rafael Solano, the founder of Habana Press, into exile in Spain. Roxana Valdivia Castilla, who founded the Patria press agency in Ciego de Avila, received similar threats. In June, she went into exile in the U.S. At this writing, the government had not permitted exiled journalist Yndamiro Restano Díaz to return to Cuba, despite assuring him that he would be able to leave and return freely to the country after his 1995 release from prison. Cuban authorities sometimes harassed and detained exiled journalists’ family members who remained in Cuba.

The Cuban government also exiled activists, such as Concilio member Eugenio Rodríguez Chaple, the president of the Democratic Block José Martí (Bloque Democrático José Martí). Cuban authorities detained him in February and threatened him with up to fifteen years in prison for “illegal association” and “enemy propaganda.” He left Cuba for Spain on July 4. In June, a Cuban tribunal sentenced Radames García de la Vega and Néstor Rodríguez Lobeina, of the Cuban Movement of Youth for Democracy (Movimiento Cubano de Jóvenes por la Democracia), to internal exile, ordering them from Havana to their hometowns in eastern Cuba.

Conditions for political prisoners and the general prison population remained poor in Cuba. In violation of the U.N. Standard Minimum Rules for the Treatment of Prisoners, Cuban inmates languished in overcrowded cells with minimal provisions of food and medical assistance, frequently reporting significant weight loss and aggravated health problems. At several facilities, prison authorities reportedly beat prisoners, including minors, and subjected political prisoners and others who protested prison conditions to harsh measures, such as suspension of visits, transfers to remote areas far from family members, and prolonged confinement in isolation cells, in violation of the Convention Against Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment, which is binding on Cuba. Meanwhile, the government continued to bar access to prisons to domestic and international human rights monitors. Cuban authorities last permitted the International Committee of the Red Cross (ICRC) access to prisons in 1989.

The Cuban penal code continued to criminalize “illegal exit,” thereby violating Article 13 of the Universal Declaration of Human Rights which protects the right to leave one’s own country. In June, Cuban authorities charged Elier Orosa Remírez with this “crime,” after the U.S. returned him from Guantánamo Bay. Orosa’s treatment violated the May 1995 immigration agreement between the U.S. and Cuban governments, which provided that Cuba would not harass returnees. The Cuban government refused legalization of independent organizations in 1996, including human rights groups, labor unions, and other NGOs, thereby leaving these groups’ members at risk of prosecution for taking part in meetings. Years after Elizardo Sánchez Santacruz filed for the legalization of the Cuban Commission for Human Rights and National Reconciliation (Comisión Cubana de Derechos Humanos y Reconciliación Nacional, CCDHRN), the Cuban government continued to withhold legal recognition. Similarly, members of the Christian Liberation Movement (Movimiento Cristiano Liberación) were detained and intimidated after filing for government registration in March 1995, which they never received.

Cuba’s Foreign Investment Law required all investors to hire employees through the government-controlled employment agency, which apparently selected workers based on political viewpoints. This discriminatory action and the government’s refusal to allow independent trade unions violated Article 23 of the Universal Declaration of Human Rights, which guarantees nondiscriminatory access to jobs and the right to form and join trade unions.

### **The Right to Monitor**

The Cuban government impeded the work of domestic and international human rights groups in 1996. The Concilio crackdown targeted all of Cuba's most prominent human rights organizations. The government did not allow human rights activists to participate in international conferences outside Cuba.

Once again, the Cuban authorities refused to allow the U.N. Special Rapporteur on Cuba, Amb. Carl-Johan Groth, who was appointed in March 1992, to enter the country and review human rights conditions. The government did not permit the ICRC to visit prisons, nor did it allow international human rights NGOs, including Human Rights Watch/Americas, to conduct on-site visits. At mid-year, an unnamed Cuban government source cited in the U.S. media attempted to discredit our work by falsely alleging that we funneled U.S. government money to Cuban NGOs.

On June 19, following four days of meetings with Cuban journalists, Suzanne Bilello of the U.S.-based Committee to Protect Journalists was detained by Cuban authorities, interrogated for several hours, and then expelled from the country the following morning. On July 12, Cuban immigration officials expelled Jacques Perrot, of the France-based Reporters without Borders (Reporters sans frontières), hours after his arrival in Havana. Harassment of local journalists intensified following these incidents.

In August, the Cuban government refused to renew the visa of Robin Diane Meyers, the United States Interests Section human rights officer, complaining among other things that she had distributed "anti-government literature," including writings about José Martí and George Orwell's *Animal Farm*.

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

### **United Nations**

While barred from entering Cuba, Special Rapporteur Groth actively tracked human rights developments. The fifty-second session of the Human Rights Commission again extended the special rapporteur's mandate and condemned Cuban human rights practices. The Cuban government unsuccessfully attempted to restrict the mandate of the U.N. Working Group on Arbitrary Detentions, which had censured Cuba in several cases.

### **European Union**

The European Union (E.U.) publicly supported human rights in Cuba and successfully pressed for the release of several political prisoners, who were then exiled. The E.U. could claim few other positive results from its efforts, though. Europeans became complicit in human rights abuse by promoting investment in government-dominated projects that deny basic labor rights. Moreover, while urging further investment in Cuba, the E.U. did not exercise its leverage to insist on concrete improvements in human rights, such as penal code reforms or access for the U.N. special rapporteur.

To its credit, following the crackdown on Concilio Cuban, the E.U. froze discussions on a cooperation agreement with Cuba, which was due to include a human rights conditionality clause.

### **Organization of American States**

In October, the Inter-American Commission on Human Rights condemned the Cuban government's July 1994 sinking of the *13 de marzo* tugboat, whose seventy-two occupants were fleeing Cuba. Forty-one people died in the attack, which the commission assailed as a violation of the rights to life and transit.

### **United States**

On February 24, the Cuban Air Force shot down two civilian aircraft, killing four members of

Brothers to the Rescue (Hermanos al Rescate), a Miami-based Cuban exile group. The incident sparked a prompt but indiscriminate U.S. government response. On March 12, President Clinton signed the Cuban Liberty and Democratic Solidarity Act (also known as the Helms-Burton law) into law, solidifying the thirty-year policy of isolation that had failed to bring human rights improvements to Cuba. The Helms-Burton law included provisions that restricted the rights to free expression and association and the freedom to travel between the U.S. and Cuba, thus violating Article 19 of the International Covenant on Civil and Political Rights, a treaty ratified by the U.S. The Clinton administration's additional bars on communication, such as the suspension of direct flights between the U.S. and Cuba, also limited opportunities for the free flow of information.

The U.S. government continued to track closely human rights developments in Cuba in 1996. The State Department's Cuba section in *Country Reports on Human Rights Practices for 1995* was thorough and reliable.

## DOMINICAN REPUBLIC

### Human Rights Developments

The government of the Dominican Republic was responsible for serious human rights violations in 1996, including extrajudicial executions and other police abuses and substandard prison conditions. Human rights activists highlighting these and other concerns found themselves the targets of government intimidations.

Dominican security forces, including the police, military, and the National Directorate for Drug Control (Dirección Nacional de Control de Drogas, DNCD), were responsible for the extrajudicial killings of more than thirty-five persons, including minors, from January to November. Government investigations of these cases were rare, and at this writing, the Dominican courts had not convicted any state agent for the crimes. Among these cases, on April 22, members of a National Police (Policía Nacional, PN) unit killed José Luis Alvarez and Juan Villegas Castillo in the Villa Agrícolas section of Santo Domingo. On July 15, two police officers asked seventeen-year-old Valentín Vargas Martínez, a resident of the El Capotillo section of Santo Domingo, to give them money; when he did not, both officers opened fire, killing him. Police shot to death another minor, nine-year-old Anthony Martínez, in Villa Altagracia on August 6. A DNCD unit in Santo Domingo chased Crispin Tiburcio to the shore of the river Isabela on May 26. When he fled into the water, the DNCD agents prohibited rescuers from assisting him, and he drowned.

Common inmates in Dominican jails and prisons suffered extreme overcrowding, food shortages, poor physical conditions, and beatings, knifings, and bullet wounds at the hands of guards and other prisoners. The government routinely failed to separate minors from adults in the prison population and, in a number of cases, reportedly denied minors sufficient protection from older prisoners, who forcibly prostituted them. At the country's largest prison, La Victoria, outside Santo Domingo, approximately 90 percent of the detainees had never been tried, according to the Dominican Human Rights Committee (Comité Dominicano de los Derechos Humanos, CDDH), some despite having spent up to six years in the facility. Prison authorities rarely separated pre-trial detainees from convicted prisoners.

The poor prison conditions led to frequent protests and prison violence. On May 11, for example, prisoners at the jail in Najayo rioted, leaving eleven inmates dead and fifty injured. In September,

prisoners in several regions coordinated strikes, leading to one death at La Victoria and one each at prisons in El Seibo and San Francisco de Macorís.

Although prison conditions changed little in 1996, the government took positive steps by establishing a Children's Tribunal (Tribunal Titular de Menores) and a children's detention center in La Vega. Several hundred children remained in adult prisons as of this writing, however. Two rounds of presidential elections in 1996, leading to the August 16 inauguration of Leonel Fernández Reyna, occurred without significant violence or irregularities. However, the government undertook several illegal, discriminatory measures in the pre-electoral period. In conjunction with public criticisms of an opposition candidate's alleged Haitian heritage, the government expelled over 3,000 Haitians, many of whom were legal residents and others who were Dominican citizens of Haitian descent. Dominican authorities seized and destroyed the national identity cards of numerous Dominicans of Haitian descent. The cards also served as proof of voter registration. The police and military conducting the expulsions routinely denied detainees their right to a hearing before expulsion. They also mistreated detainees and failed to allow them to notify family members or retrieve belongings. Shortly before the elections, then President Joaquín Balaguer made public statements challenging the right to citizenship of children born to Haitians residing in the country, in apparent contradiction to constitutional citizenship rights.

On May 27, the Dominican government refused Dr. Josefina Juan viuda Pichardo, the former attorney general for the national district, the right to return from Miami to the Dominican Republic. Doctor Juan, who had been receiving treatment for cancer in the U.S., was known for speaking out against alleged involvement of high-ranking Dominican government officials in drug trafficking. With the second round of presidential elections scheduled for June 30, a legal advisor to the government justified barring Dr. Juan's return on the grounds that her presence in the country would create "irritation, controversy, and conflict" at election time. In mid-June, the Inter-American Commission on Human Rights took action on her case, urging the Dominican government to permit her return. Shortly after the presidential election, the government announced that she could return, and she arrived in Santo Domingo on July 21.

Journalists also suffered pressures at election time. Television producer Nuria Piera and a photographer, Iris Lizardo, were attacked by ruling party members and accused of being "traitors" at June electoral rallies. Juan Bolívar Díaz, the author of *Electoral Trauma (Trauma Electoral)*, a book making accusations of fraud in the 1994 presidential elections, lost a defamation suit brought by Generoso Ledesma. The June 19 sentence appeared excessive: a six-month jail term and order to pay 3 million pesos (approximately US\$214,000) indemnization.

Late in the year, the May 26, 1994 "disappearance" of university professor Dr. Narciso González Medina drew increasing national attention, largely due to the October 11 hearing on the case before the Inter-American Commission on Human Rights. Shortly before his "disappearance" González had published an article criticizing then-President Balaguer as "the most perverse" leader in the Americas and had called for civil disobedience in response to alleged fraud in the 1994 presidential elections. One year later, an investigating judge (*juez de instrucción*) had opened the case, but witnesses refused to comply with subpoenas, and police did little to enforce them. Late in 1996 however, the president reaffirmed his commitment to resolving the case and several witnesses provided declarations, including the Chief of the Armed Forces, Lt. Gen. Juan Bautista Rojas Tabar. Shortly after his appearance in court, Rojas made public statements leading the president to fire him on November 1. Two representatives of organizations working on



González's case received telephone death threats near the time of Rojas' removal, in one case blaming their efforts for his firing. Other González supporters, family members, and witnesses also had faced death threats. Information emerged in 1996 that one witness, José Pérez, who reportedly saw Dominican soldiers detain González on May 26, 1994, was "disappeared" a few days later.

### **The Right to Monitor**

Repeated threats from the Dominican government, as well as intimidatory incidents such as robberies of homes and vehicles without any items of value being taken, created a tense environment for Dominican human rights activists. In June, in full view of a crowd, two National Police officers fired repeatedly on Danilo de la Cruz, a member of the CDDH. De la Cruz had just spoken at a press conference in El Capotillo denouncing the police role in the drowning death of Crispin Tiburcio (see above). The police reportedly opened an investigation of this incident but had made no progress as of this writing. Police publicly threatened to kill the president of the CDDH, Virgilio Almánzar, in October, shortly after he videotaped them roughing up several youths.

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

The Inter-American Commission on Human Rights took swift action in the case of Dr. Josefina Juan viuda Pichardo (see above) in June 1996, urging the Dominican government to permit her return and guarantee her safety. In October, the commission heard Narciso González's case (see above) but had not reached any decision or settlement at this writing.

The U.S. State Department's section on the Dominican Republic in *Country Reports on Human Rights Practices for 1995* provided a detailed and reliable review of human rights concerns in the country.

## **GUATEMALA**

### **Human Rights Developments**

Political violence waned in 1996 as the government of President Alvaro Arzú Irigoyen made progress in peace talks with the Guatemalan National Revolutionary Union (Unión Revolucionaria Nacional Guatemalteca, URNG). The Arzú administration undertook several bold initiatives to address longstanding human rights problems and also demonstrated a greater degree of independence from the military than any previous civilian government.

The presence for a second year of a professional and effective United Nations human rights verification mission, MINUGUA, undoubtedly contributed to the decline in politically motivated human rights abuse, by almost guaranteeing international scrutiny to those abuses that occurred. Yet while human rights violations such as "disappearance" and extrajudicial execution motivated by ideology sharply declined during the Arzú government's first year, criminal violence—in many cases with the involvement of current or former security force elements—surged. Popular desperation at the unchecked violence prompted several lynchings in different parts of the country. At the same time, journalists, human rights monitors, political activists, trade union and peasant organizers continued to face terror tactics including abductions, torture, and death threats, in many cases from current or former security force members or their civilian allies who stalked their victims with impunity.

And while the government took several potentially significant steps towards ending impunity, none had produced concrete results at the time of this writing. In January and again in September,

the government took the unprecedented steps of dismissing high-level army and police officers allegedly involved in organized crime. Among those cashiered were officers linked to notorious human rights violations. With U.S. encouragement, the government formed a special crime task force composed of police and prosecutors to solve new cases in which the security forces were implicated, or in which judicial or police authorities, human rights monitors or international observers became victims. The effectiveness of this unit was difficult to measure in its first months of operation.

In what may become an important precedent for the hemisphere, the Congress in June approved legislation channeling all trials of common crimes committed by the military into civilian, rather than military courts. Military courts would henceforth be limited to handling infractions of the military code of justice. A constitutional challenge to this legislation, filed by military officers, was not yet resolved by the Constitutional Court as of this writing. And in August, the Congress passed legislation creating a judicial protection unit to coordinate protection for judges, prosecutors, witnesses and others connected with criminal prosecutions who might come under threat, although this unit had not been funded as of this writing.

Unfortunately, the accumulated weight of decades of terror rendered the judiciary unresponsive to such stimulants. Prosecutions of notorious human rights violations remained stalled in 1996, and in some cases suffered setbacks. While fear of the potential violent consequences of prosecuting human rights violators explained much of this inaction, negligence on the part of some prosecutors and judges also played a large part.

MINUGUA reported that members of the guerrilla URNG threatened civilians from whom it sought to collect "war taxes" early in the year, although these incidents dropped off after the guerrillas agreed in May to suspend the war tax. In October, the guerrillas turned over an elderly woman they had abducted in exchange for a guerrilla commander detained by the government. Street children continued to suffer at the hands of police officers and private security guards. In April, two police officers raped sixteen-year-old Sandra Esmeralda Gómez Guevara while a third kept watch. Despite detailed testimony from the victim and an eyewitness, including physical descriptions and the names of two of the attackers, the police internal affairs unit did nothing to investigate the crime.

In June, two private security guards were sentenced to thirty years in prison for the murder of two street children and wounding of a third in 1994. This conviction, a rare achievement, was overturned by an appeals court on August 26, on the basis of a flimsy technicality. The owner of the security firm that employed the guards was a high-ranking and powerful former military officer.

During 1996, various street children and youths were the victims of shootings, many of which appeared to be linked to efforts at "social cleansing"; police and/or security guard involvement was suspected. Nine minors died as a result of these shootings, while three other youths were knifed to death near Guatemala City in June. On September 20, sixteen-year-old street youth Ronald Rafael Ramos was shot in the head and killed by a uniformed Treasury Police officer in the town of Tecun Uman, on the western border with Mexico. The officer was not apprehended. In September, on the other hand, Guatemala set a negative precedent for the hemisphere, becoming the first country in the region, outside of the Caribbean and Guyana, to use the death penalty in more than a decade. Two peasants convicted of raping and murdering a four-year-old girl in 1993 were executed by firing squad, despite international protests including a request from the Inter-American Commission on Human Rights of the Organization of American States to

delay the executions until due process defects in the men's trial were resolved. The men had no attorney for several weeks after their arrest and were subsequently defended only by a law student.

On August 14, the Arzú government announced it would begin a gradual dissolution and disarming of the army-organized civil patrols which, since the early 1980s, have been responsible for innumerable human rights violations in rural areas. Human Rights Watch/Americas and others had pressed for the patrols' dissolution for many years but faced determined resistance from the military, which relied on the patrols for intelligence-gathering, political control of remote communities, and to carry out its dirty work of political repression. The welcome announcement that the patrols would be dissolved and disarmed encountered some resistance in subsequent months, including from patrollers and members of the army.

This announcement followed the 1995 dissolution of the network of military commissioners, civilians deputized by the army to carry out intelligence-gathering and local military recruitment.

Yet many individuals who previously held that position continued to exercise power through intimidation in rural communities. This phenomenon was expected to reproduce itself with the civil patrollers unless the government aggressively investigated, prosecuted, and punished former patrollers and military commissioners who committed abuses.

Police feared former military commissioners and civil patrollers because they perceived these individuals as protected by the army. The Arzú government had little more success than its predecessors in detaining notorious patrollers or former commissioners wanted for human rights violations. Former military commissioner Victor Román Cutzal, wanted in connection with the murders of two human rights monitors in the department of Chimaltenango in 1994 and 1995, remained at large as of this writing, although a warrant for his arrest was issued in August 1995. Román had been briefly detained in 1994, but was released after the judge who ordered his detention was murdered in a still unresolved case. Three patrollers wanted for the murder of human rights monitor Tomás Lares Cipriano in April 1993 remained undisturbed in their communities near Joyabaj, Quiché, as did a group of patrollers wanted for the slaying of three villagers from Chel, in northern Quiché department, in December 1990.

Raúl Martínez, a former civil patrol chief in the Ixcán region who on two separate occasions took hostage representatives of international humanitarian organizations, continued to defy a May 1995 arrest warrant for several months in 1996. On April 30, 1996, in an apparently choreographed maneuver, Martínez appeared in court on a day in which the regular judge was sick and his substitute released Martínez on bond. Martínez's bond was later revoked, and on August 26, he was sent to prison in Cobán.

Other cases suffered disheartening setbacks in 1996, including the murder of human rights monitor Juan Chonay Pablo at the hands of civil patrollers as a human rights demonstration was winding down in August 1993. On April 25, a district court judge in Huehuetenango acquitted civil patrollers linked to the slaying after dismissing evidence from several eyewitnesses on the specious grounds that their participation in the demonstration disqualified their testimony. An appeals court subsequently remanded for a new trial.

Prosecution of the alleged masterminds of the 1990 extrajudicial execution of anthropologist Myrna Mack Chang took one step forward and two steps back. The forward movement, including the indictment of Gen. (ret.) Edgar Godoy Gaitán, Lt. Col. Juan Guillermo Oliva Carrera, and Col. Juan Valencia Osorio by military judge Eriberto Guzmán, resulted from the persistence of the victim's sister, Helen Mack, and the special prosecutor handling the case,

Mynor Melgar. But in June, new legislation transferring cases of common crimes to civilian courts brought a transfer of the case to a district court judge, who declined to take the case on the grounds that Guatemala's old criminal procedures code, rather than the code implemented in 1994, should govern the procedures. Helen Mack and prosecutor Melgar each appealed this ruling, without success at the appellate level, and were awaiting a decision by the Supreme Court as of this writing. Two years of investigatory work in the case would be discarded were the Supreme Court to ratify the district court judge's ruling. Fear of military reprisal pervaded the six-year proceedings in the Mack case; more than a dozen judges handled and passed it on; nearly all the witnesses fled the country; the police investigator was murdered, and one magistrate's bodyguard kidnapped, beaten, and threatened.

In proceedings for the October 1995 massacre of eleven repatriated refugees in the hamlet of Xamán, the judge hearing the case in Cobán released eight soldiers on bond a few hours after receiving the 5,000-page judicial file on the case. Although the judge was later fired by the Supreme Court and the soldiers' bond revoked, the case did not move forward in 1996. Nor was progress made in the case of Efraín Bámaca Velásquez, a guerrilla commander married to U.S. citizen Jennifer Harbury, "disappeared" and apparently extrajudicially executed after capture by the army in March 1992. Instead of pursuing strong evidence of Bámaca's murder at the hands of the army, Attorney General Acisclo Valladares expended considerable effort in a successful bid to convince the Constitutional Court to rule the Harbury-Bámaca marriage invalidate, so that Harbury could no longer pursue the case in Guatemalan courts. Meanwhile, inaction by the prosecutor assigned to the case, Sylvia Jerez, enabled the army to further obstruct the judicial progress.

The military struggle that had provided the pretext for repression through the 1980s and early 1990s was coming to an end. On September 19, the government and the URNG signed one of the most significant and contentious of the substantive accords designed to form the basis for a comprehensive peace agreement. In the "Accord on Strengthening Civilian Power and the Army's Role in a Democratic Society," the government vowed to reform the constitution to remove from the military its role as the guarantor of internal security, and to grant it responsibility only for defending the nation from external threats. A single civilian police force was planned, the Mobile Military Police would be demobilized, and the army's troop strength reduced by one-third. The accord also allowed for a civilian defense minister for the first time. Additional provisions in the agreement were designed to disentangle the army from domestic spying, a practice which had enabled the army to identify and eliminate successive generations of civil society leaders.

Operational issues surrounding the formal end of armed conflict remained to be discussed between the government and guerrillas before a comprehensive peace accord could be signed; several aspects of this and previous accords, including the formation of a truth commission, would only come into effect at that moment.

The repatriation of refugees from Mexico slowed to a trickle in 1996 due to a combination of factors including continued concerns for physical safety following the Xamán massacre, limited access to land and material assistance, and the possibility of permanent resettlement in Mexico.

### **The Right to Monitor**

Those promoting respect for human rights continued to suffer threats and harassment, and the government made no serious effort to investigate the threats. Journalists reporting on abuses by security forces also continued to be targets of harassment.

On February 28, four armed men driving a black vehicle with smoked-glass windows kidnapped radio reporter Vinicio Pacheco in downtown Guatemala City. The men drugged and tortured Pacheco and questioned him about his coverage of corruption and kidnapping rings before releasing him near Lake Amatitlán.

On April 1, residents of the village of Guineales, including civil patrollers, and a former military commissioner, attacked Julio Ixmatá Tziquín, of the human rights group Defensoría Maya. The group threatened to kill Ixmatá because of his human rights work and was about to set him on fire when relatives and neighbors intervened.

The bishop of San Marcos and attorneys working in his human rights office received death threats in February, and members of an indigenous human rights group in Chimaltenango were threatened by the so-called Avenging Jaguar (Jaguar Justiciero, JJ), which appears linked to current or former security force agents.

In April, May, and June, Father Daniel Vogt, a parish priest in El Estor, Izabal, who has faced repeated harassment and threats from local authorities because of his defense of peasants jailed on fabricated charges, received anonymous threatening telephone calls. In addition, Father Vogt and other residents of El Estor who had protested arbitrary acts by local authorities were threatened in obscene flyers distributed broadly in El Estor in June, September, and October.

Although the government had committed itself, under instructions from the Inter-American Court of Human Rights, to protect Father Vogt, it failed to investigate the threats he received.

In June, Carlos Federico Reyes López, a member of the Guatemalan Forensic Anthropology Team, was twice threatened by unidentified armed men. A caller to the forensic team office proffered new death threats in August.

Widows of men massacred by the army and civil patrols in the early 1980s in the Rabinal area were threatened by former military commissioners, who stated in early September that there would be mass killings on September 15, the date the widows planned to commemorate the massacres.

Former human rights activists who in January became congressional deputies received death threats on several occasions. The "Group for the Recovery of the Guatemalan Army" (Por la Reivindicación del Ejército de Guatemala, PREGUA) issued public threats against deputies Rosalina Tuyuc, Amílcar Méndez, Nineth de Montenegro, as well as human rights monitors Carlos Aldana and Frank LaRue and several government officials. In September, the same deputies were again threatened, this time in a communiqué signed by JJ, which also listed labor and student activists, human rights monitors Ronal Ochaeta, Carlos Aldana, Mario Polanco, and Helen Mack, and the human rights ombudsman, Jorge Mario García Laguardia, as potential targets.

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

### **United Nations**

As noted above, the United Nations played an important and increasingly successful role in moderating peace talks with between the government and guerrillas and in monitoring human rights violations through its respected verification mission, MINUGUA. Indications early in the year that the U.N. might allow a blanket amnesty to be included in peace agreements prompted Human Rights Watch/Americas to write to Secretary-General Boutros Boutros-Ghali and foreign ministers of nations assisting the peace process to insist that any amnesty negotiated between the government and guerrillas not include gross violations of human rights. On August 8, U.N.

Under-Secretary-General for Political Affairs Marrack Goulding responded, assuring us that the U.N. could not condone any agreement that would violate the principles of human rights and international law upon which the United Nations was founded.

Guatemala also continued to benefit from scrutiny by U.N. Independent Expert Mónica Pinto, who through her December 1995 report maintained pressure on broad issues such as the end to the civil patrols, the removal of military influence from law enforcement, and demilitarization of the intelligence services.

### **United States**

The Clinton administration's policy towards Guatemala remained entangled in the threads of a scandal—the 1995 revelation that a Guatemalan army colonel implicated in the coverup of the murder of U.S. citizen Michael DeVine and the torture and possible execution of Efraín Bámaca had been on the Central Intelligence Agency (CIA) payroll even after his involvement in one of the cases had come to light.

In May 1996, the State Department declassified nearly 5,000 documents regarding human rights violations suffered by U.S. citizens or their relatives in Guatemala, as well as a handful of human rights violations against Guatemalan citizens since 1984. The declassification was a welcome move, which unfortunately was not followed by other agencies whose files were more likely to contain relevant information. U.S. intelligence and military agencies maintained intimate contacts with Guatemalan human rights violators for several decades and did not generally share information with the State Department. Intelligence agency files were thus more likely to contain information valuable to relatives of victims and prosecutors seeking to bring to justice those responsible. Not only have U.S. intelligence agencies and the Pentagon refused to open their files, they have also, according to press accounts, barred the State Department from releasing a handful of documents which attribute human rights violations and other criminal acts to the CIA-linked Guatemalan implicated in the DeVine and Bámaca cases.

A lengthy investigation into the Guatemala scandal conducted by the executive branch's Intelligence Oversight Board was made public on June 28. The report confirmed that "several CIA assets [Guatemalans on the CIA payroll] were credibly alleged to have ordered, planned, or participated in serious human rights violations such as assassination, extrajudicial execution, torture, or kidnapping while they were assets—and that the CIA's Directorate of Operations (DO) headquarters was aware at the time of the allegations [of abuse]." The IOB also found that the agency "violated its statutory obligation to keep the Congressional oversight committees 'fully and currently informed'" of these instances and also neglected to inform officials within the U.S. Embassy in Guatemala, the State Department, or the National Security Council.

While the IOB's report was hardhitting, its recommendations were insufficient to prevent recurrence of abuse. The report praised new guidelines issued by the CIA in February which "generally bar" asset or liaison relationships with human rights abusers, but allow such relationships "in special cases when national security interests so warrant." The IOB added that the CIA operatives in Guatemala had previously ignored headquarter recommendations to avoid hiring assets involved in human rights abuse. Clearly the agency cannot be left to police itself on this matter, and the fact that the IOB report accepted CIA assurances at face value detracted from the report's credibility.

Overt U.S. military aid and training remained suspended for Guatemala, although the CIA reportedly maintained aid to military intelligence, purportedly on counternarcotics grounds. The administration resumed criminal investigations training programs for the police, which had been

suspended in 1995. This move was warranted by the Arzú government's commitment to police reform.

# HAITI

## **Human Rights Developments**

President René Préval assumed office on February 7, 1996, marking a historic transfer of power from Haiti's first democratic government to its second. Despite a peaceful change of government, Haiti continued to suffer police abuses and political violence, in several cases at the hands of former soldiers, in 1996. However, the absence of widespread, systematic abuses ensured that Haiti's refugee outflow was negligible. The continued presence of both troops and civilian police of the United Nations Support Mission in Haiti contributed to the country's relative stability. In October, U.N. Secretary-General Boutros Boutros-Ghali recommended UNSMIH's extension beyond its November 30 expiration date.

The new civilian police force, the Haitian National Police (Police Nationale d'Haïti, PNH), which was created to replace the army and commenced operations in mid-1995, reached a full strength of over 5,200 agents in 1996. The PNH committed serious human rights violations, including extrajudicial executions, the unjustified or disproportionate use of lethal force, and beatings. Eradication of abusive practices by the police apparently will require thorough training and supervision. Yet, the new force lacked qualified leaders and was plagued by poor discipline and inexperience. These ongoing abuses went almost completely unpunished. While the investigative and disciplinary actions of an internal inspector general's office were encouraging, the judicial system lagged behind, making minimal progress on prosecutions of abusive police agents. In a troubling development, unknown assailants killed eight police agents between March and August.

The worst police violence occurred on March 6 in the Port-au-Prince shantytown Cité Soleil. Yet at this writing, the Haitian judicial system had not prosecuted any wrongdoing that day. PNH agents extrajudicially executed at least six individuals in a disturbance that commenced when local residents gathered to protest the police killings of Jimmy Poteau and Eliphète Monval. A PNH agent had reportedly shot and killed Monval at a Port-au-Prince demonstration on March 4, 1996, after the demonstrator had slapped him. At the same demonstration, the PNH unit known as the Ministerial Security Corps (Corps de Sécurité Ministerielle, CSM) detained Poteau and eight others, later transferring only eight detainees to the Pétionville police station. Poteau, the apparent victim of an extrajudicial execution, was found on March 5 near Portaille Léogane with a bullet in his chest.

The crowd protesting Monval's and Poteau's deaths erected barricades on March 6 and allegedly attacked a passing police officer. An emergency call went out on police radios and most Port-au-Prince area police units responded. Several hours of pandemonium ensued as police roared through Cité Soleil in pickup trucks firing weapons and terrified residents fled for cover. Witnesses stated that many police agents were searching for members of a purported Red Army (Armée Rouge).

PNH agents conducting house to house searches on March 6 seized Frenel Louis from his home, took him outside, and shot him twice. Leaving his body in the street, the police left the neighborhood, but returned shortly afterward and reportedly shot him again, killing him. Walson Marco was protesting with a youth group on March 6 when three PNH officers reportedly killed

him, shooting him in the head, chest, and foot. Other March 6 shooting victims survived apparent police attempts at extrajudicial execution. A twenty-year-old man alleged that PNH agents took him from his home and beat him and two others while questioning them about the Red Army. When he said he did not know of such a group, the police told him to run and then shot him in the hip. Three police agents stopped a nineteen-year-old man and asked him if he was in the Red Army. He was too frightened to respond and began to run. Police officers reportedly shot him in the buttocks.

Police using excessive force wounded at least fifteen others that day. Maxim Destin was walking when he saw a police truck with at least eight armed, uniformed officers. Police fired at him as they passed, wounding him in the hip. Christol Bruno observed police in pickup trucks firing on demonstrators and then fled for his home. Police tried to force open his locked door and then fired through it, shooting him in the chin.

The Haitian police were responsible for additional summary killings in 1996, including the beating deaths of at least five detainees. In late June, PNH agents killed four detainees held at the Croix-des-Bouquets police station, near Port-au-Prince, including Fedner Descollines, whom they severely beat before throwing him in a latrine, where he was later found dead. On June 6, 1996, PNH agents beat one detainee to death and severely injured three others in the Carrefour police station.

On August 20, 1996, a leader of the Mobilization for National Development (Mobilisation pour le Développement National, MDN) party, Pastor Antoine Leroy, and member Jacques Florival were shot to death in Port-au-Prince. The U.S. Embassy alleged that members of the Presidential Guard, a unit of the national police dedicated to presidential security, were responsible. Shortly thereafter, President Préval removed the unit's chief, deputy chief, and one other member. At this writing, the Haitian government had commenced an investigation of the deaths but had not charged anyone for the killings.

Police leaders, who received eighty-six complaints of ill-treatment or torture in the first six months of 1996, acknowledged increasing police reliance on violent interrogation methods.

Some police justified beatings when detainees were armed or accused of gang activity, and one officer excused beatings as a necessary police practice, since "these people are criminals."

Detainees faced mistreatment during arrest and interrogation with punches, kicks, blows with pistol butts, batons, and pipes, and in one Port-au-Prince police station, with electric shocks.

Haitian police continued to use their weapons in circumstances where lethal force was unjustified or excessive. On January 16, a group of employees went to the Haitian-American Sugar Company in Port-au-Prince to demand their paychecks. A large contingent of police arrived, attempted in vain to disperse the crowd, and then opened fire, killing Martha Jean-Charles and a six-month-old baby. Police also engaged in other misconduct, including the failure to respect appropriate arrest and search procedures, the carrying of impermissible weapons (such as Uzis or M16s) and the failure to wear uniforms and identification.

The Haitian government made only half-hearted efforts to establish accountability for past human rights violations and for ongoing police abuses during 1996. The U.S. government's refusal to return documents seized from the paramilitary organization, Front for the Advancement and Progress of Haiti (Front pour l'Avancement et Progrès d'Haïti), most widely known as FRAPH, and Haitian military headquarters in 1994 and its secret settlement with FRAPH's leader, Emmanuel Constant, directly impeded the prosecution of human rights crimes in Haiti. The U.S. also covered up information regarding Constant's alleged role in the October 1993 assassination



of Justice Minister Guy Malary. A CIA memo detailing a meeting of Constant and other FRAPH leaders with Haitian military officers that month, reportedly to plan Malary's execution, was released late in 1996 as part of a civil suit against FRAPH.

U.S. forces seized approximately 160,000 pages of documents and other materials from FRAPH and military headquarters late in 1994, including "trophy" photographs of torture victims, videotapes, and passports. FRAPH reportedly was founded with CIA assistance and its director, Constant, received regular CIA payments. FRAPH members were responsible for human rights atrocities under the military government that ruled Haiti from 1991 to 1994. The U.S. withholding of evidence of human rights crimes from the Haitian government, including documents implicating U.S. agents, and its protection of Constant, obstructed the search for truth and justice.

In this context, the Haitian government-supported Commission for Truth and Justice completed its investigation and presented a final, 1,200-page report detailing human rights violations under the military government to then President Aristide in February. President Préval later did little to follow through on the truth commission's work, only releasing the report's recommendations at mid-year and announcing a limited distribution of the report in October. The justice minister declared in June that the ministry lacked sufficient funds to provide reparations for human rights victims. The committee for the enactment of the truth commission's recommendations and the Office of Citizen Protection (Office de la Protection du Citoyen, a human rights ombudsman) both lacked a staff and financial backing.

Haitian courts made limited progress in pursuing scores of criminal complaints presented by human rights victims. By late 1996, prosecutors obtained convictions in approximately thirty cases nationwide of abuses committed by soldiers, their accomplices, and members of FRAPH, but these cases reportedly were marked by light sentences relative to the gravity of the offenses. The Haitian government suffered a resounding defeat with the acquittal of two defendants accused of assassinating the justice minister, Guy Malary, on October 14, 1993. That trial was marred by poor preparation of the prosecution and weak evidence. The prosecution of the Malary case was marred by the flight of the principal suspects, at least one under alleged U.S. protection, the government's inability to access army and paramilitary records held by the U.S., witnesses' fear of coming forward, and poor prosecutorial preparation.

Despite minimal progress, the successful prosecution of even a few human rights offenders demonstrated the possibility that when the government chose to do so, it could make genuine progress against impunity. Thus, the government's failure to provide justice for more human rights victims called into question its will to tackle this fundamental problem.

In 1996, Col. Michel François, the former Port-au-Prince police chief, who had been sentenced *in absentia* to life imprisonment for the 1993 murder of Aristide financial supporter Antoine Izméry left the Dominican Republic for political asylum in Honduras. Franck Romain, the former mayor of Port-au-Prince, whom the Haitian government indicted for his leading role in a 1988 massacre, accompanied him and also received political asylum. The Haitian government had not prepared extradition requests for either François or Romain at this writing.

A Special Investigation Unit created in late 1995 and operating with international support continued investigating seventy-seven politically motivated crimes committed before, during, and after the period of military government, including the 1995 series of approximately twenty "execution-style killings." Yet, the most significant development regarding these twenty cases

came from the U.S. government. In testimony to the International Relations Committee of the U.S. Congress on September 27, U.S. Amb. William Lacy Swing blamed the Presidential Guard for the May 22, 1995 killing of Michel J. Gonzalez and suggested that the unit may have participated in other killings. On October 22, the Republican majority of the committee charged in a public report that the Clinton administration had "information implicating" members of the Presidential Guard in at least six 1995 killings, as well as those of the two MDN leaders on August 20, 1996. In response to U.S. requests, the Haitian government removed several members of the unit. Despite U.S. allegations, neither the U.S. nor the Haitian government produced concrete evidence that the Haitian security unit had committed these killings.

The few successful human rights prosecutions and the stigma still attached to sexual violence against women discouraged Haitians who suffered rape under the military government from seeking the prosecution of their attackers. Meanwhile, women's organizations reported an increase in sexual violence. In April, the government took the positive step of ratifying the Inter-American Convention on the Prevention, Punishment and Eradication of Violence Against Women. The Ministry for Women's Condition and the Rights of Women prepared extensive recommendations for reform of Haiti's legal codes, including the redefinition of rape as a crime against the person rather than against morals, but the Justice Ministry had not acted on these changes at this writing.

The Haitian public's frustration with the judiciary's ineffectiveness contributed to recurring vigilante violence. The June 1996 attack on three prisoners, who were dragged from a prison cell in the town of Roseaux prior to trial and hacked to death, highlighted a continued reliance on popular "justice." Disappointingly, the impunity that gave rise to these killings also was extended to those responsible for vigilante violence.

Under President Jean-Bertrand Aristide, the Haitian government had dismantled the army, but without a comprehensive policy against impunity these demobilized soldiers continued to threaten Haiti's security. In July, André Armand, the leader of the Organization of Soldiers Dismissed Without Cause (*Rassemblement des Militaires Révoqués Sans Motifs*, RAMIRESM), alleged that former soldiers were planning a *coup d'état*. Days later, he was shot and killed. On August 17, 1996, the government arrested fifteen former soldiers and several others at the MDN party headquarters and accused them of plotting against the government. Two days later approximately twenty armed men, reportedly in uniforms and thought to be former soldiers, fired on the Port-au-Prince police station, killing one bystander.

The improvements in prison conditions that commenced with the 1995 creation of a National Penitentiary Administration (*Administration Penitentiaire Nationale*, APENA) were sustained in 1996. Nonetheless, pre-trial detainees made up approximately 80 percent of the prison population, and prison authorities regularly held them with convicts. Overcrowding and substandard conditions persisted. There were fewer escapes, and the prison guards did not commit systematic human rights abuses. However, on November 28 and 29, 1995, prison guards reportedly beat child detainees at the Fort National prison. Subsequently, the government moved children to a separate facility and initiated procedures to separate children from adults in all detention centers. The Ministry of Social Affairs opened a Children's Tribunal (*Tribunal pour Enfants*) in December 1995.

The Haitian press functioned with minimal restrictions in 1996, and newspapers, radio and television stations represented divergent viewpoints.

Minimum wage violations, retaliatory firings for union organizing, and sexual harassment,

including dismissals for pregnancies, reportedly were commonplace in Haiti's workplace in 1996. Yet, the Ministry of Social Affairs lacked sufficient staff, vehicles, and resources to adequately monitor compliance with labor laws.

### **The Right to Monitor**

The Haitian government created no obstacles to the monitoring work of domestic and international human rights organizations.

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

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

In June 1996, the U.N. reduced its troops in Haiti from 6,000 to 1,300, and the number of civilian police dropped from 800 to approximately 300. The mandate of the newly named UNSMIH extended until November 30. The U.N. troops contributed to greater security, while the civilian police provided training assistance to the Haitian police force. The U.N. Human Rights Commission extended the mandate of the independent expert on Haiti, Adama Dieng, for another year, requiring him to submit a report at the commission's fifty-third session.

The U.N./OAS International Civilian Mission in Haiti maintained a reduced presence, with approximately sixty human rights observers. The mission provided technical assistance to the justice ministry and police, and monitored human rights. The mission increased outreach and training for local organizations.

#### **European Union**

The European Union provided valuable support to improve prison conditions and contributed to judges' training. The French led UNSMIH's civilian police. However, the French government expelled Haitians from the French Caribbean departments of St. Martin and Guadalupe, without respect for due process rights.

#### **Canada**

Sustaining a strong commitment to Haiti in 1996, Canada provided a significant portion of UNSMIH troops and civilian police, and technical assistance, particularly to the judiciary.

#### **United States**

The U.S. played a leading role in police and judicial reform and supporting elections as part of an overall aid package of US\$120 million in 1996. Most U.S. troops departed Haiti early in the year. Despite this notable commitment, by delaying the return of the FRAPH and Haitian military materials to the Haitian government for over two years and by protecting FRAPH leader Emmanuel Constant, the Clinton administration impeded Haiti's progress on prosecuting human rights abuses. U.S. officials negotiating for the return of the seized items proposed limiting access to certain Haitian investigative and prosecutorial authorities with the apparent aim of avoiding retaliation against named individuals. The administration's further insistence on the excision of U.S. citizens' names apparently served the separate and illegitimate purpose of covering up possible U.S. complicity in political murder and other abuses, particularly the involvement of U.S. intelligence agents with the military government and FRAPH. In late September, U.S. officials announced plans to return these items to Haiti, but in fact, the administration had only arranged for delivery to the U.S. Embassy there. As of this writing, the U.S. had not reached an agreement for the return of the documents and other materials to the Haitian government.

In June, the U.S. reached a secret settlement with FRAPH's leader, Emmanuel Constant,

allowing Constant to remain in the United States. Several months after Constant was detained and found deportable by the U.S. immigration authorities, the Clinton administration decided to release him into the United States rather than return him to Haiti. The agreement allowed Constant to go free on June 14, 1996 and provided him with a work permit, but required that he not speak publicly. Constant also retained the option to choose deportation to a country other than Haiti or the Dominican Republic, subject to U.S. approval.

The U.S. Congress conducted several hearings on political violence in Haiti during 1996. The September testimony of Amb. William Swing, and the International Relations Committee Republican majority's public report revealed the administration's prior knowledge of alleged participation of the Haitian Presidential Guard in political killings in 1995 and 1996. As the year drew to a close, the need remained clear for the administration to conduct a thorough and impartial investigation into allegations that U.S. government agents or entities had been or were involved in serious human rights violations in Haiti in the past years.

## **HONDURAS**

### **Human Rights Developments**

In 1996, the attorney general's office, the national commissioner for human rights, and private human rights groups pressed forward with efforts to establish accountability for gross human rights violations which occurred in the 1980s. Their courageous initiatives were thwarted, however, by the refusal of the alleged perpetrators to appear in court, the failure of the police to carry out arrest warrants, and the inability of the judicial system to act independently when pressured by the armed forces. The government of President Carlos Roberto Reina took positive steps to institutionalize civilian control of the police and to reduce the excessive authority enjoyed by the military. The fact that on March 26, a grenade was thrown from a passing vehicle at the home of President Reina in Tegucigalpa, underscored the risks inherent in taking these positive steps.

Criminal charges were filed this year and arrest warrants issued for Maj. Manuel de Jesús Trejo Rosa and Col. Raimundo Alexander Hernández Santos for the murder of Nelson Mackay Chavarría and the attempted murder of Miguel Francisco Carias in 1982. Colonel Hernández was for many years operational commander of Battalion 3-16, a secret military intelligence unit responsible for scores of "disappearances" in the 1980s. Hernández, who had been continually promoted by his superiors despite his well-documented role in death squad activities, is now wanted for three separate cases of atrocities. He and Trejo remained at large as of this writing. Eight retired and two active-duty members of the armed forces charged in 1995 for their role in the 1982 kidnapping, torture, and attempted murder of six student activists, also refused to appear in court. On February 19, the other fugitive in this case, Capt. Billy Fernando Joya Almendola, held a televised press conference. Still the police failed to detain him. In April, the civilian criminal investigations unit of the Honduran police detained former police agent Jorge Antonio Padilla Torres, who allegedly participated in the capture of the students, although he was later released for insufficient evidence.

On January 5, the First Appellate Court ruled that an amnesty law passed in 1991 applied in cases of members of the armed forces charged with "disappearances." President Reina and then-Armed Forces Chief Luis Alonso Discua Elvir publicly applauded the court's unfortunate decision. On January 19, the Supreme Court of Justice of Honduras unanimously overruled the lower

court, finding that the amnesty laws passed in 1987 and 1991 did not preclude judicial investigation of human rights violations.

On June 24, Judge Celino Aguilera of the Choluteca district court issued arrest warrants for nineteen men charged in the case of the June 1982 forced “disappearance” and execution in June 1982 of Adán Aviles Fúnez and Amado Espinoza, among them police and military officers. On July 19, one of the men, Col. Aben Claros Méndez, appeared in court and was detained.

However, when Claros provided an alibi, the judge granted him provisional liberty, even though Claros was under investigation for instigating, rather than directly participating in, the crime.

In April, the Reina government granted political asylum to two Haitians wanted for numerous gross violations of human rights in Haiti, in violation of international treaties which limit political asylum for individuals who have acted against the founding principles of the United Nations, which include human rights and international law. This unethical measure to protect Lt. Gen. Michel François and Col. Franck Romain helped those individuals escape justice in Haiti, where their alleged crimes included extrajudicial execution and torture. Human Rights Watch/Americas protested this decision to the Reina government, whose foreign minister, Délmer Urbizo Panting, responded, “The demands of Americas Watch [sic] have no importance for us...,” according to press accounts.

We also protested the decision to appoint former Armed Forces Chief Luis Alonso Discua as the government’s alternate delegate to the U.N. Discua had been linked to serious human rights violations and, according to U.S. documents declassified in 1996, had boasted of forming Battalion 3-16. Sending Discua to a gilded exile in the U.N.’s posh New York headquarters represented an affront to the United Nations’ avowed purpose of promoting respect for human rights, not to mention providing an undeserved bonus for the general. Later in the year, Discua’s status was downgraded to “advisor.”

Local human rights groups continued to report homicides resulting from police abuse of authority, although at diminished levels compared with the 1980s and early 1990s. The exception to this positive trend was the performance of regional police commandos (COREs), which engaged in abuses including the extrajudicial executions of supposed criminals. The commander of CORE-7, Lt. Col. David Abraham Mendoza García, named in five different lawsuits, was charged with assassination, abuse of authority and violation of the duties of an official.

In a welcome move, the Honduran government ratified the United Nations Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment in 1996. As of this writing, the National Congress was considering reforms to the criminal code which would codify torture as a crime and assign penalties of five to fifteen years to government officials who engage in torture, with lighter penalties for private citizens found guilty.

In another positive development, on September 8, 1995, the National Congress approved constitutional reforms necessary to pass the main police force from military to civilian control. A vote on the ratification of the constitutional reforms was expected before the end of 1996.

Military control of the police was long identified as a source of human rights violations in Honduras, and abuses declined after the criminal investigations police was placed under civilian control in 1994.

In other areas, Honduras’s record remained poor. Prison conditions continued to be substandard, and Honduras had one of the highest rates of incarceration of unconvicted prisoners in the world—more than 90 percent—in the world. The illegal detention of minors with adults was commonplace, in violation of the Honduran constitution and international human rights treaties

to which Honduras is a state party. Several cases in which minors were physically and sexually abused by adult prisoners were reported in 1996 and one minor in prison, Carlos Enrique Jako, was murdered.

### **The Right to Monitor**

A series of threats and attacks against human rights monitors, critics of the army, and those seeking justice in human rights cases demonstrated the continued dangers associated with the pursuit of truth and justice in Honduras. The authorities failed to prosecute anyone responsible for these attacks and threats.

On February 10, unknown men machine gunned the vehicle of Carlos Turcios, a congressional deputy who had just spoken out against the naming of General Discua to the U.N. Security Council.

On June 17, two unidentified men shot dead public defender Marlen Zepeda in San Pedro Sula. Zepeda had received threats related to one of her cases and told friends she feared reprisals from the police.

The step-daughter of Dr. Ramón Custodio López, the head of the Committee for the Defense of Human Rights in Honduras, died under unclear circumstances on June 5. Mercedes Emilia Burgos Espinoza's death was reported as a suicide. Her car had crashed into an electrical post, and she suffered a gunshot to the head. On July 17, Dr. Custodio and the victim's mother publicly stated that she had been assassinated as a reprisal for Dr. Custodio's human rights work and that since her death, Custodio and his wife had received anonymous threatening phone calls. In July, the Public Ministry discovered about 4,000 background files on human rights advocates, government officials, judges, politicians, and journalists among the dossiers of suspected leftists—many of them victims of “disappearance”—in a military intelligence office. The files included such information as the floor plans of homes, the names of children, and the schools they attended. Although many files were obviously compiled in the 1980s, the content of others indicated that the military continued surveillance of civilians.

### **The Role of the United States**

The United States owes a tremendous debt to Honduran victims of human rights abuses because of its substantial, prolonged support for human rights abusers in the military. Washington provided hundreds of millions of dollars in aid to the Honduran military in the 1980s, and engaged in a covert program of direct assistance to Battalion 3-16 which carried out scores of “disappearances” of suspected subversives. Moreover, those courageous Hondurans who reported on military abuses of human rights were rewarded with scorn and defamation from the U.S. Embassy and State Department. These U.S. policies reflected Washington's desire to counter leftist forces in Central America, regardless of the cost to human rights.

As part of their efforts to investigate and prosecute military officers who commanded Battalion 3-16, the Honduran attorney general and the national commissioner for human rights have repeatedly requested the declassification of documents in U.S. agencies' files regarding Battalion 3-16. The most significant of these files may be held by the Central Intelligence Agency, which supported, trained, and worked closely with Battalion 3-16 during the 1980s, according to Honduran and U.S. government officials. While the State Department provided some materials in response to these requests in 1996, all other agencies failed to respond. The Clinton administration's failure to insist on CIA and Pentagon disclosure of information on Battalion 3-16 was a shameful betrayal of those seeking justice in Honduras and was most likely motivated by a desire to avoid embarrassing and incriminating disclosures about CIA involvement with

human rights violators.

# MEXICO

## Human Rights Developments

Words versus deeds again posed the central human rights conundrum in Mexico during 1996. In a speech before United Nations Secretary-General Boutros Boutros-Ghali in Mexico, President Ernesto Zedillo noted, "In Mexico, the government has a responsibility to exhaust all constitutional remedies to ensure that no serious violation of individual guarantees remains unpunished." Nonetheless, impunity remained a serious human rights problem throughout Mexico. Rural violence, police abuse, and torture also plagued the country, while attacks against human rights activists, journalists, and labor union members proved the difficulty of dissenting publicly in a country experiencing profound political and economic transformation.

To its credit, the Mexican government showed itself to be more open to some international human rights inspection than it had been in the past, hosting a delegation from the Inter-American Commission on Human Rights (IACHR), which is part of the Organization of American States. Mexico also reversed a longstanding refusal to allow the U.N. Special Rapporteur on Torture to visit the country, though the oral invitation issued before the U.N. Human Rights Commission in April had not, as of this writing, resulted in the setting of dates for such an investigation. Mexico had also not yet decided whether to accept the compulsory jurisdiction of the Inter-American Court of Human Rights, a possibility the government said it was considering.

Unfortunately, impunity for human rights violations—one key indicator of the political will to fight abuses—remained pervasive during 1996, and the government continued to deny that violations had occurred in even the most blatant cases. No soldier had been brought to justice for the violations committed by the military during the 1994 uprising of the Zapatista Army of National Liberation (Ejército Zapatista de Liberación Nacional, EZLN), including the Ocosingo Clinic massacre and Ejido Morelia extrajudicial executions.

The government also failed to take action against public servants responsible for torture and due process violations committed during a crackdown on alleged Zapatistas in 1995, documented in the February 1996 Human Rights Watch/Americas report, *Torture and Other Abuses During the 1995 Crackdown on Alleged Zapatistas*. On appeal, judges acquitted two of the supposed Zapatistas, Javier Elorriaga and María Gloria Benavides, a married couple, ruling in the Benavides case that police acted without a search warrant and that her confession had been forced through "physical and mental pressure." Sebastián Entzin, tried with Elorriaga on charges including rebellion, walked free after paying a fine for possession of a weapon and criminal association. More than a dozen other alleged Zapatistas detained in the 1995 crackdown, all of whom suffered serious abuses, remained in jail.

The conviction of seven alleged Zapatistas from Yanga, Veracruz state, highlighted the problem of torture in Mexico. Strong evidence existed to indicate that the detainees gave their testimony under torture, yet judges accepted their self-incriminating declarations. Mexico could rightly boast a series of federal and state laws that provide strong protections against torture and mandate punishment for those who practice it, but prosecutors rarely, if ever, applied the law. As of this writing, no police officer, soldier, or public official had ever served a sentence for torture in Mexico.

Several serious obstacles stood in the way of the eradication of torture in Mexico, including Mexican jurisprudence that established the principle of judicial immediacy. The principle permits judges to give greater weight to a detainee's first confession, which is more likely to be made under torture, even if the detainee later retracts it. A judge cited this principle in the Yanga case, for example. Moreover, prosecutors lacked the will to end the practice of torture. Often, if prosecutors charged torturers at all, they accused them of lesser crimes, like abuse of authority. Further, prosecutors acted as if to give the benefit of the doubt to those accused of torture, rather than initiate immediate and thorough inquiries into the accusations.

While human rights violations committed in the context of the Zapatista uprising have been well documented, rural Mexico suffered from violations that often occurred outside the national or international spotlight. Violence tore particularly at the northern zone of Chiapas state, which lies beyond the area where Zapatistas and the Mexican army faced off beginning in January 1994.

There, operating with the tacit and sometimes explicit support of the government, groups of armed civilians, linked to the ruling Institutional Revolutionary Party (Partido Revolucionario Institucional, PRI), violently expelled their ideological opponents from communities. Opponents of the PRI were also killed, apparently for their political beliefs. In Tila municipality, Human Rights Watch/Americas interviewed refugees from Miguel Alemán, Nuevo Limar, Susuchumil, Tzaquil, and Usipá, all of whom were expelled from their homes because of their support for the Party of the Democratic Revolution (Partido de la Revolución Democrática, PRD). The victims identified their assailants as members of Peace and Justice (Paz y Justicia), a group founded in 1995 by members of the PRI. Peace and Justice members prohibited residents of Masojá Shucjá from traveling past the two communities on its border, Miguel Alemán and Crucero, for example, effectively holding them captive in Masojá Shucjá. On August 28, 1995, residents of Miguel Alemán expelled PRD members from the community, who took refuge in Masojá Shucjá, leaving behind their burning homes. They returned following an agreement reached on March 31, 1996, but the peace lasted only until May 18, when residents again burned the homes of PRD members and forced them to flee. In Tila, the Catholic church also came under attack, in large part because of its support for human rights work in the region.

In a long report on northern Chiapas released in October, the Fray Bartolomé de las Casas Human Rights Center (Centro de Derechos Humanos Fray Bartolomé de las Casas, CDHFBC) strongly criticized the government for acting in concert with pro-government groups committing acts of politically motivated violence and failing to punish those responsible for them.

In Bachajón, Chilón municipality, members of a PRI group known as the Chinchulines went on a rampage following the murder of their leader in May 1996. A longstanding community conflict came to a head following a vote for local authorities in which the PRI candidate lost. After the Chinchulines harassed members of the victorious group, people within the victorious group murdered the leader of the Chinchulines, Gerónimo Gómez Guzmán, which touched off violent attacks by his supporters. The Chinchulines burned houses and forced more than one hundred people to seek refuge outside the community. They also set fire to buildings belonging to the Catholic diocese, whose human rights organization, the Indigenous Rights Center (Centro de Derechos Indígenas, CEDIAC), had documented abuses committed by the Chinchulines for years. Witnesses interviewed by Human Rights Watch/Americas agreed that for several days after the attacks, state security police worked hand in hand with the Chinchulines to control the streets, including overseeing a roadblock at the entrance to the town. Only after strong national and international pressure did police arrest some two dozen members of the Chinchulines.



Chiapas state government officials denied the existence of any armed groups other than those committing common crimes.

Violent attacks were carried out by anti-PRI groups as well in Chiapas. In June, for example, gunmen killed four members of the PRI in Jonixtié, Tila. As noted above, those opposed to the PRI's domination in Chilón murdered the head of the Chinchulines; in Venustiano Carranza, members of the Casa del Pueblo, a community group, engaged in armed confrontations with the Alianza San Bartolomé, a group aligned with the PRI. The government, however, often favored the PRI participants in violence. Despite well-documented attacks by the Alianza San Bartolomé in Venustiano Carranza, for example, only members of the opposition Casa del Pueblo were arrested, according to the Coordinating Group of Nongovernmental Organizations (Coordinación de Organismos No Gubernamentales, CONPAZ).

With the appearance of a new guerrilla group in Mexico, the Popular Revolutionary Army (Ejército Popular Revolucionario, EPR), the government tightened controls on social organizations in areas where the EPR moved publicly. On August 28, the EPR attacked targets including navy, police, and army posts in the states of México, Chiapas, Oaxaca, Puebla, and Guerrero, leading to a heavy deployment of troops in many parts of the country. In response in Guerrero, the army gave the strong impression that it suspected the entire civilian population and had decided to investigate civilians to find those they felt might be guilty of some crime. At roadblocks in some areas, soldiers required local residents to show identification and checked their names against a list. Troops reportedly carried out similar actions in other states where the EPR was thought to be present. In Oaxaca state, men believed to be state security officials kidnapped journalist Razhy González Rodríguez on September 17. González, who interviewed EPR members for the local weekly *Contrapunto*, spent two days in captivity, during which time his abductors questioned him about the armed group.

Authorities also moved to jail leaders of social organizations whose radical rhetoric made them suspect in the eyes of officials; some of the detainees reported being tortured in detention. Authorities arrested Omar Garibay, from the Marxist-Leninist Communist Party of Mexico (Partido Comunista de México/Marxista-Leninista, PCM-ML), on charges that included attempted murder. According to Garibay and his lawyer, the prosecutor initiated the investigation at 4:30 p.m. on June 14, even though the incident did not take place until almost 8:00 that night, indicating that authorities falsely accused him. Garibay was released in late October. In addition to his role in the Communist Party, Garibay was a leader of the Broad Front for the Creation of a National Liberation Movement (Frente Amplio para la Construcción del Movimiento de Liberación Nacional, FAC-MLN), a group of above-ground organizations suspected by authorities to be linked to the EPR. Other groups, such as the Southern Sierra Peasant Organization (Organización Campesina de la Sierra del Sur, OCSS) also suffered arrests. Hilario Mesino, an OCSS leader and Amnesty International prisoner of conscience, who was jailed in Acapulco, reported being beaten twice while in detention in attempts by authorities to force him to incriminate himself as a member of the EPR.

Tighter security measures coincided with what appeared to be mounting pressure against journalists and social activists. In February, the weekly *Proceso* magazine and daily *Reforma* published reports on surveillance of social activists on the part of government security agencies. Other pressures on activists also occurred during the year. On July 9, for instance, members of El Barzón, a national organization of debtors affected by high interest rates, found a bomb in their office in Nuevo León state. El Barzón had been active in protesting Mexico's economic policies.

Prior to the discovery, several members of the organization had been threatened, including Liliana Flores Benavides, Nancy Rodríguez Villareal, and Marta Rodríguez Martínez. The perpetrators were not identified.

Physical attacks and threats also served to pressure journalists, many of whom covered topics related to corruption. In most cases, the assailants went unidentified, though it was widely presumed that the subjects of exposés were involved. In February, for example, Ninfa Deandar, who owns and runs the daily *El Mañana de Nuevo Laredo*, in Tamaulipas state, received anonymous telephone death threats. Later that month, unidentified assailants kidnapped reporter Raymundo Ramos as he left the newspaper's office, warning him to stop writing about the governor of Tamaulipas.

Labor activists continued during the year to face government restrictions designed to limit their effectiveness. As documented in a Human Rights Watch/Americas report released in September, *Labor Rights and NAFTA: A Case Study*, pro-government labor unions and federations, along with laws and labor tribunals that favor the ruling PRI, combined with repressive government action to make independent union activity difficult. The case of the Single Union of Workers of the Fishing Ministry (SUTSP) exemplified the problem. After the Fishing Ministry was converted into the Ministry of the Environment, Natural Resources and Fishing in 1994, authorities prohibited SUTSP members from freely exercising their free association rights. After more than eighteen months of restrictions, the government called for elections so the ministry's workers could choose between SUTSP and a union supported by the PRI; SUTSP lost the vote, but only after being weakened by the government to the point where it was likely to lose. In June 1996, Human Rights Watch/Americas, the International Labor Rights Fund (ILRF), and Mexico's National Association of Democratic Lawyers (Asociación Nacional de Abogados Democráticos, ANAD) filed a petition on the case before the United States National Administrative Office (NAO), which is part of the Labor Department, under the labor rights side agreement enacted with the North American Free Trade Agreement (NAFTA). (See below.)

Violations of women's rights in the northern *maquiladora* sector were also common, as documented in *No Guarantees: Sex Discrimination in Mexico's Maquiladora Sector*, researched by the Human Rights Watch Women's Rights Project. To reduce the cost of pregnancy- and maternity-related benefits, major corporations from the U.S. and elsewhere systematically required women job applicants to take pregnancy tests so they could eliminate from the work pool women whose tests were positive. The government failed to investigate the violations fully or take steps to end them. (See section on Women's Rights Project.)

### **The Right to Monitor**

The year started badly for human rights activists in Mexico, and it never improved. Rocío Culebro, director the National Network of Civil Human Rights Organizations (La Red Nacional de Organismos Civiles de Derechos Humanos), received a series of threatening phone calls beginning on January 12, prior to a trip to the United States to discuss Mexican human rights conditions. That same month in Tijuana, Baja California state, Lourdes Felgúerez and Víctor Clark Alfaro of the Binational Human Rights Center (Centro Binacional de Derechos Humanos) received threats for their efforts to end torture by local police officers.

On March 27, unidentified assailants abducted Héctor Gutiérrez Ugalde, an assistant to National Human Rights Commission staff member Dr. Julián Andrade Jardí. After beating him severely, his abductors told Gutiérrez to deliver a threat upon his release: "Tell that woman we will get her, and her son, too." The reference was to Andrade and his mother, human rights activist Teresa

Jardí, who at the time ran the human rights program of the Fund for Assistance, Promotion and Development (Fonda para la Asistencia, Promoción y Desarrollo, FAPRODE), a Mexico City-based human rights group. Then, on April 3 and 4, Teresa Jardí received anonymous death threats at her home in Mexico City.

The Miguel Agustín Pro Juárez Human Rights Center (Centro de Derechos Humanos Miguel Agustín Pro Juárez, Prodh) came under repeated attack. In a campaign designed to discredit Prodh's work, individuals claiming to be Jesuit priests falsely accused Prodh's director, Father David Fernández, himself a Jesuit, of being a guerrilla leader. On October 7, Fernández received a telephone death threat from a caller who said he would be killed following the murder of Pilar Noriega, who worked with Prodh on the defense of the alleged Zapatistas. That same morning, an anonymous note left at Prodh's office threatened the team of lawyers working with the group. The note contained detail about the movements of Noriega that morning. Prodh lawyer Digna Ochoa and Noriega had received three prior death threats, each increasingly specific about the activities of the lawyers, indicating that they were under surveillance. One of the messages also threatened Enrique Flota, a lawyer who collaborated with the Prodh defense of the alleged Zapatistas. On October 24, Juan Salgado of the Mexican Academy of Human Rights (Academia Mexicana de Derechos Humanos, AMDH) received a telephone death threat after organizing a campaign in solidarity with Prodh staff and other threatened human rights activists.

In recognition of the important and necessary work done by Prodh, Human Rights Watch invited Fernández to participate in an annual event to mark the achievements of noted human rights monitors from around the world.

Other church-related human rights groups also came under attack. The Commission for Solidarity and Defense of Human Rights (Comisión de Solidaridad y Defensa de los Derechos Humanos, COSYDDHAC) received a series of threats addressed to Father Camilo Daniel Pérez, a founder of the group, which threatened him and members of the staff's family. In May, Bachajón's CEDIAC came under attack during the rampage by the Chinchulines (see above). On June 19, local media in Oaxaca state accused Msgr. Arturo Lona, the bishop of Tehuantepec, of arming local rebels. Following similar charges in 1995, assailants shot at Bishop Lona, but he survived unharmed. Throughout the year in Chiapas, CDHFBC labored under threat from organizations linked to the PRI, who impeded its field work and accused the staff of supporting attacks against the political party.

### **The Role of the United States**

The United States continued to solidify government-to-government ties with Mexico, seeking an ever-closer relationship on fighting drugs, monitoring the common border, and military cooperation. As had been the case in past years, the State Department's report on human rights practices for 1995 criticized Mexico, finding that torture "continues to be a serious human rights problem" and that "a number of murders were committed for ostensibly political reasons." Nonetheless, U.S. officials gave no indication that they factored their concerns into policy toward Mexico, except on cases related to U.S. citizens, though, to their credit, Embassy officials met periodically with Mexican human rights activists.

The U.S. Department of Labor continued to work on labor rights issues in Mexico through the NAO. In July, the NAO accepted for review the three contentions contained in the petition submitted in June by Human Rights Watch/Americas, ILRF and ANAD: that Mexico violated its labor law by denying SUTSP free association rights; that provisions in Mexican law that limit to

one the number of unions that federal employees can form in any entity, like a ministry, violate Mexico's obligations under international treaties to respect freedom of association; and that the Federal Conciliation and Arbitration Tribunal (Tribunal Federal de Conciliación y Arbitraje) is biased against unions independent of the ruling PRI. The NAO scheduled a hearing on the topic for December 3.

In June, the NAO released a hard-hitting report on a 1994 case, involving freedom of association violations in a Sony plant. "It is difficult for workers to register an independent union at the local level in Mexico," found the June 8 report, but given the lack of enforcement mechanisms within the side agreement, the report prescribed no compulsory remedy. In October, the NAO received a new petition, submitted by the Communications Workers of America, that accused the Maxi-Switch factory in Sonora state of violating freedom of association guarantees. At this writing, the NAO was considering whether to accept the petition for review.

If the State Department ruled out the "stick" approach to promoting human rights, the "carrot" became more enticing during the year. For the first time ever, a U.S. secretary of defense visited Mexico in December 1995, during which time the Mexican and U.S. militaries agreed to explore closer cooperation in such areas as counter-narcotics, force modernization, disaster relief, and education and training. As of this writing, the United States had approved the grant transfer of twenty UH-1H helicopters to Mexico's Defense Ministry, and President Bill Clinton announced that he planned to send fifty-three more during Fiscal Year 1997. In April, the U.S. began to train Mexican soldiers at Fort Bragg, Fort Campbell, and Fort Benning, the first such instruction for the Mexican military. Funded by the U.S. Department of Defense's anti-narcotics bureau, the soldiers returned to Mexico to train police in counter-narcotics tactics.

In addition to the anti-drug instruction, Mexico received \$1 million in International Military Education and Training (IMET) funds, more than double the amount provided in 1995. The State Department requested five times that amount for International Narcotics Law Enforcement (INL).

## PERU

### **Human Rights Developments**

During 1996, the government of Alberto Fujimori adopted some positive steps towards protecting human rights, although violations of due process and torture remained as ingrained as ever and serious violations of international humanitarian law continued to be committed by the Shining Path (Sendero Luminoso) guerrillas. In a welcome, if overdue development, the Congress elected a People's Defender, (Defensor del Pueblo, or human rights ombudsman), whose task was to investigate and promote human rights. One of the ombudsman's first actions was to draft a bill, approved by Congress in August, setting up a special commission to advise President Fujimori on the granting of pardons to the hundreds of people unjustly imprisoned for terrorism since 1992, an initiative the government had been promising for years.

This positive development was overshadowed in October, however, when Congress voted to allow the so-called faceless courts responsible for these unfair convictions to function for a further year. Established as an emergency measure in 1992 to summarily convict terrorism suspects, these courts have been unreservedly condemned by the international community for violations of basic due process guarantees which affect innocent and guilty alike.

Extrajudicial executions and "disappearances" committed by government forces in their

continuing battle against armed opposition groups continued to decline, although local human rights groups reported several cases in the second half of the year. Violent state-sponsored abuse continued as police regularly engaged in torture as an interrogation tool; a practice facilitated by lengthy periods of police detention allowed under anti-terrorism procedures and by routine acceptance of coerced confessions as evidence in the faceless courts. In a July 1996 report, the U.N. Human Rights Committee stated it was "deeply concerned by persistent reports of torture or cruel, inhuman or degrading treatment..." Following the beating death of detainee Mario Palomino in a Lima police station in March, opposition deputies proposed legislation to codify specifically the crime of torture, assigning penalties appropriate for the gravity of the offense. However, the Congress failed to act on this proposal. By June some 928 police had been sacked for impropriety and criminal offenses, including those allegedly responsible in the Palomino case. In a rare example of a conviction for torture, in July a court in Huánuco sentenced two policemen to five and six years of imprisonment for beating to death a detainee, Jhoel Huaman García, in Cerro de Pasco in May 1995.

New doubts were raised about the effectiveness of measures to restore the independence of Peru's judiciary, which was shattered following President Fujimori's *coup d'état* in April 1992. The future of the positive efforts being made by the National Magistrates Council (Consejo Nacional de la Magistratura) to restore the tenure of judges and prosecutors whose positions had become provisional after executive branch intervention in 1992, was called into question when Congress approved a law in June creating a Council of Judicial Coordination (Consejo de Coordinación Judicial) charged with overseeing the restructuring of the judiciary and with powers to fire judges and prosecutors. Control over this body was to be concentrated for a two-year renewable transition period in the hands of two officials, both considered to have close ties with the executive branch.

The Shining Path continued to resort to indiscriminate violence against civilians as well as the selective murder of their political opponents, violating basic standards of international humanitarian law. The Shining Path detonated two car bombs during the last week of July, when Peru celebrated its Independence Day. One exploded outside a Lima police station, killing a passerby and wounding several others. The other went off in the basement of an apartment block where Gen. Manuel Varela Gamarra, military chief of the Upper Huallaga region, lived, killing a taxi driver and injuring five people.

Some of the worst guerrilla abuses occurred in the departments of San Martín and Huánuco, in the Upper Huallaga valley. Among the victims was fifty-two-year-old Julio del Castillo Rodríguez, president of the Upper Huallaga Self-Defense Committee, who was killed in Naranjillo on April 6 by six armed men wearing hoods. On June 1, six civilians, a soldier, and four guerrillas were killed when Shining Path members led by Oscar Ramírez Durand, a.k.a. "Feliciano," attacked a civilian bus traveling with a military and police escort near the town of Tocache, Nuevo Progreso. On the previous day, the same group had blocked traffic at the village of San Jacinto and searched travelers one by one, checking their names against a list of local leaders said to be targeted for assassination. On August 21, around one hundred guerrillas believed to belong to Shining Path blocked the road to Pucallpa and murdered Celso Estela Pérez, whom they had captured after he had gone to the defense of his brother Casimiro, a local government leader.

Red Path, a Shining Path faction led by Feliciano and opposed to the "peace accord" currently advocated by the imprisoned Shining Path founder, Abimael Guzmán, was the prime suspect in a

wave of killings and threats against former Lima community leaders. On March 6 a Red Path unit assassinated Pascuala Rosado Cornejo, founder and leader of the self-help community of Huaycán, who had returned to the community after a period spent in Chile, where she had taken refuge due to repeated death threats from the Shining Path. Rosado's assassins shot her in the head, attempted to explode her body, and scattered leaflets. Several of Rosado's colleagues received death threats, and some left the country for security reasons. On July 30, four armed individuals shot and killed Epifanio Santamaría Rodríguez, a former leader of the community of San Martín de Porres, in Los Olivos, a Lima suburb. His assassins shot him at point-blank range in front of his daughter.

Red Path increasingly turned its weapons on former comrades in the Abimael Guzmán faction of the movement. On May 2, three men dressed in suits, who identified themselves as policemen, shot and killed a Shining Path leader, Víctor Rafael Hernández Ramírez, while he lay asleep in his home in Villa El Salvador, Lima. Before blowing up the body with a hand grenade, the assassins left a card saying "stamp out revisionists and capitulators, PCP Lima Base," a reference to the group that police believed were responsible for the Rosado killing. In July, four hooded individuals forcibly assembled the villagers of Huacrachuco, near Chimbote, harangued them, and then separated two brothers, Beltrán and Gonzalo Principe Herrera, and a third man from the rest. They then murdered all three, who were reported to be followers of the Guzmán line, placed placards on their bodies with the word "traitors," and fled in a van.

The number of killings and "disappearances" attributed to police and military forces continued a downward trend which has been maintained since 1992. However, the National Human Rights Coordinating Committee (Coordinadora Nacional de Derechos Humanos, hereinafter "Coordinadora"), a respected nongovernmental network of human rights groups, reported several extrajudicial executions in the Upper Huallaga Valley at the hands of the army.

On August 23, soldiers detained seventy-two-year-old Nicolás Carrión Escobedo in the hamlet of Uruspampa, in the department of La Libertad, taking him to a military base. At 5:00 p.m., Carrión's body was removed to the morgue, and the autopsy revealed he had been stabbed in the chest; his body was lacerated and severely bruised in several places. Several witnesses saw soldiers detain María Cárdenas Espinoza, aged twenty-seven, on May 27 in the hamlet of Chinchavito, Huánuco department, where she worked as a cook. As of this writing, Cárdenas remains "disappeared."

Investigations to establish the fate of victims of "disappearances" in earlier years have been halted by the blanket amnesty law promulgated in June 1995. The amnesty law prevents the courts from investigating human rights violations committed in the course of the counterinsurgency war between 1980 and June 1995, ensuring complete impunity for those responsible. In July 1996, the U.N. Human Rights Committee condemned the law categorically and called on the government of Peru to repeal it, to compensate victims, and to ensure that perpetrators of human rights violations do not continue to hold public positions.

Local human rights groups continued to receive frequent, credible complaints of brutal forms of physical torture employed by the police and military against ordinary criminal suspects as well as persons suspected of terrorism. Neither the old nor young were immune. Cases documented in 1996 by the Coordinadora included eighteen-year-old Porfirio Carmen Pérez, whom police arrested on suspicion of theft in Aguaytía, Pucallpa, and allegedly shocked on the head with electricity, beat with a tire wrench, and half-drowned to get him to confess to a robbery; police in Pucallpa also detained Pedro Manuel Ruiz Brock, and allegedly beat and sexually assaulted him

in a police station; in August, soldiers from the Monzón military base, Huánuco, searching for a stolen assault rifle, were alleged to have brutally tortured and raped a suspect, Juana Ibarra Aguirre. The Coordinadora also documented the deaths, apparently as a result of torture, of two young army recruits, Rafael Delgado Chicchón and Willy Zalamir Obeso Olascagua, in army bases in Piura. The army denied responsibility.

On August 17 the government promulgated Law 26,655 which established an *ad hoc* commission empowered to review cases of persons unjustly convicted of terrorism or treason and make recommendations for presidential pardons. The commission was also empowered to recommend measures to strengthen human rights guarantees in terrorism and treason trials. The three-person commission was composed of the minister of justice; Father Hubert Lanssiers, a former prison chaplain and prisoners' rights activist; and the ombudsman, Jorge Santistevan.

The formation of the commission was a victory for the Peruvian human rights community, which had campaigned long and hard on the issue often in the face of grossly unfair criticism that it was in sympathy with armed opposition groups. One of the first prisoners released on the recommendations of the commission was journalist Alfonso Castiglione Mendoza, who was arrested in Huacho in April 1993 and sentenced in November 1995 to twenty years of imprisonment for terrorism. Mendoza had been tricked into renting a room to individuals who turned out to be guerrillas, and the evidence of his innocence in the trial was overwhelming. In May Human Rights Watch awarded Castiglione the Hellman Hammett prize for politically persecuted or unjustly detained journalists. Forty-four more prisoners were released in October as a result of the first round of case evaluations by the *ad hoc* commission.

President Fujimori remained convinced that Peru's ordinary courts were incapable of prosecuting terrorism suspects. In his July state of the nation address, the president lamented that Peru lacked a "system of justice on which citizens and businesspeople, nationals and foreigners could rely. This is a reality we must overcome once and for all..." Yet mechanisms set up the previous month to coordinate a restructuring of the judiciary and the Public Ministry sacrificed judicial independence at the altar of efficiency. In the early hours of June 16, Congress approved a law ostensibly creating a Council of Judicial Coordination, a broadly representative body intended to improve coordination among the various agencies involved in the reorganization of justice. However, the law proposed that for a transitional period until December 31, 1998 (and extendable indefinitely thereafter) a four-member council, headed by a retired naval commander, José Dellepiane Massa, would take charge of the entire process of judicial reorganization. The law conferred new powers on the Executive Commission of the Judiciary (an administrative body created in December 1995 of which Dellepiane was also executive secretary) to "evaluate the suitability of" and, where necessary, suspend judges, supplanting the powers constitutionally exercised by the National Magistrates Council. It also interfered with the functions of the Magistrates' Academy, a training school for judges and magistrates established under the 1993 Constitution, by assigning Dellepiane control of training curricula. This concentration of powers to restructure the judiciary in a tiny circle of officials, one of whom (Dellepiane) was known to have close connections with the armed forces and the executive, marked a setback for judicial independence. The law sparked protests from members of the Supreme Court and the National Magistrates Association and led to the resignation of two prominent jurists from the Magistrates' Academy.

### **The Right to Monitor**

On March 29 Congress appointed Jorge Santistevan de Noriega as Peru's first human rights

ombudsman by an overwhelming vote. The post was established by the Constitution of 1993, and its duties defined by legislation passed in August 1995. The appointment, long delayed because of disputes over the official's powers and party squabbles over candidates, was widely welcomed, particularly by Peru's nongovernmental human rights community. It signaled, for the first time, official recognition of the importance of the defense of human rights by a government which in past years has treated human rights organizations with scorn.

Nongovernmental human rights monitors continued to suffer harassment and threats in 1996. As in earlier years, the targets were mainly lawyers working to secure convictions of perpetrators of human rights violations. On February 18 three masked individuals visited the home of Edith Luquillas González, a member of the Committee for the Defense of Human Rights in Pasco (CODEH-Pasco). Luquillas was out at the time, but one of her sisters heard the men threaten her safety in obscene language before leaving. Edith Luquillas and CODEH-Pasco have played a prominent role in campaigning for justice in the case of Jhoel Huaman García, tortured to death by police in May 1995. Shortly before the incident Judge Onesimo Vela Velásquez ordered that one of the police officers accused of Huaman's death, Rolando Alejandro Huere Orey, be released without charge.

Threats against human rights lawyer Gloria Cano Legua continued in 1996. Cano was working on the case of Tomás Livia Ortega, one of the survivors of the Barrios Altos massacre of November 1991. The court investigation was closed on July 13, 1995 following the promulgation of the amnesty law in June. Cano, a lawyer belonging to the Peasant Defense and Legal Advice Team, a member of the Coordinadora, received obscene and threatening messages on her telephone answering machine on March 25 and April 3, and on March 28 she discovered that an attempt had been made to force the lock of her office door.

On April 24, Angélica Matías Ronceros, legal advisor to the Association of Relatives of Victims of Terrorism, which is affiliated with the Coordinadora, received a telephone call from a man who greeted her with the words: "Hello, Angélica, I hope you enjoy your birthday, since its going to be your last!" This was one of a series of intimidating telephone calls and encounters with strangers experienced by Matías and members of her family, which began in February. Matías had suffered similar threats repeatedly during 1995. In some of the incidents, individuals claiming to be members of the National Intelligence Service (SIN) were involved.

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

#### **United Nations**

The U.N. Human Rights Committee, which monitors states' compliance with the International Covenant on Civil and Political Rights (to which Peru is state party) held hearings on Peru in New York and Geneva in 1996 and issued its "preliminary observations" on July 25. The committee's report categorically condemned Peru's amnesty law, saying it "prevents appropriate investigation and punishment of perpetrators of past human rights violations, undermines efforts to establish respect for human rights, contributes to an atmosphere of impunity among perpetrators of human rights violations, and constitutes a very serious impediment to efforts undertaken to consolidate democracy and promote respect for human rights and is thus in violation of article 2 of the Covenant.."

The committee also expressed "its deepest concern" about the laws which set up the faceless courts, which it said "seriously impair the protection of the rights contained in the Covenant for persons accused of terrorism..."

#### **United States**



Washington's human rights policy towards Peru evolved from "quiet diplomacy" to a warm embrace, a shift unwarranted by the limited improvements undertaken in Lima. U.S. officials increasingly spoke of close and improving relations with the Fujimori government, and almost never publicly raised human rights issues. In October, the Fujimori government used the visit of Gen. Barry McCaffrey, director of the White House Office of National Drug Control Policy, to launder the image of its scandal-ridden intelligence chief, Vladimiro Montesinos. U.S. officials took insufficient steps to publicly distance themselves from Montesinos during McCaffrey's visit, even while the press characterized his meetings with Montesinos as a gesture of support. Montesinos, an advisor to the National Intelligence Service (Servicio de Inteligencia Nacional, SIN), which he is widely believed to control, reportedly worked for the Central Intelligence Agency. Montesinos had been repeatedly linked to an intelligence agency death squad responsible for serious human rights violations. In August, a drug kingpin on trial in Lima accused him of extorting large sums to enable the trafficker to transfer drugs without problems. Government officials promptly closed ranks around Montesinos and announced that there would be no investigation of the allegations. Human Rights Watch/Americas and the Washington Office on Latin America wrote to U.S. National Security Advisor Anthony Lake in September pressing for a public termination of any relationship the administration maintained with Montesinos. As of this writing, Lake had not responded.

In December 1995, the arrest and summary trial by a faceless military court of a U.S. citizen, Lori Helene Berenson, gave the U.S. a golden opportunity to make a forceful intervention regarding the abusiveness of faceless military courts. Berenson, who was linked by police to a plan by the Túpac Amaru Revolutionary Movement (MRTA) to kidnap parliamentarians, was convicted of treason and sentenced on January 11, 1996 to life imprisonment. The Department of State's acting spokesman Glyn Davies stated on that day that "the United States deeply regrets that Ms. Berenson was not tried in an open civilian court with full rights of legal defense, in accordance with international juridical norms...[T]he United States remains concerned that Ms. Berenson receive due process. We have repeatedly expressed these concerns to the Government of Peru..." This statement stood out during a year otherwise marked by an absence of public criticism of the faceless courts by the U.S. government, and perhaps because it was unique, it had no discernible effect. Washington's plea for an open judicial hearing in a civilian court fell on deaf ears, and all Berenson's appeals were exhausted in secret hearings.

While the administration maintained an imperceptible profile on human rights issues, it increased security assistance to Peru aimed at combating narcotics. The administration spent approximately \$10 million in support of anti-narcotics efforts by Peru's police and air force in Fiscal Year 1996, and will spend a similar amount in Fiscal Year 1997. At the end of the 1996 fiscal year, President Clinton directed an additional \$13.75 million worth of military equipment to the police and air force.

The Clinton administration deserved to be commended for using United States Agency for International Development (AID) funds to support human rights work in Peru, and especially legal aid for prisoners unjustly accused of terrorism. The U.S. contributed AID funds to four human rights groups which specialize in legal defense, including a legal team assembled by Father Hubert Lanssiers for the express purpose of defending innocent prisoners. This program, administered by Catholic Relief Services, has taken up 1,078 cases since the program began in 1995 and obtained the release of 274 prisoners, according to official AID statistics made available to Human Rights Watch/Americas in May. AID also contributed \$50,000 to the office

of the human rights ombudsman.

# VENEZUELA

## **Human Rights Developments**

Venezuela's police captured the attention of national and international human rights groups during 1996 for the brutality with which they carried out their work. Systematic and widespread human rights violations, including torture and extrajudicial executions, were common, while impunity for the state agents responsible remained pervasive. As security forces acted abusively during the year, convicted criminals and detainees awaiting trial suffered prison conditions that violated international standards.

As of this writing, according to Venezuelan human rights organizations, state security forces committed at least 103 extrajudicial executions during the first ten months of 1996, and the number of torture cases increased over prior years. The Panadería La Poma (La Poma Bakery) case highlighted the brutality and impunity with which the Metropolitan Police of Caracas (Policía Metropolitana, PM) operated. After being called to the scene of a robbery on June 17, seven members of the PM, in the presence of witnesses and television cameras, arrested two suspected criminals. Hours later their corpses appeared at the Caracas morgue. The Criminal Court of First Instance issued an arrest warrant for the police officers involved in the operation. The Superior Court later revoked the order on the grounds that there was insufficient evidence. The higher court reasoned that, despite evidence that the police committed the killings, no one could be held responsible because the specific officers who had done so had not been identified. In another case involving Caracas police, this time in the city's Sucre municipality, officers working in the 24 de Julio neighborhood of Caracas detained José Luis Pimentel, whom they accused of being a criminal. According to the Network in Support of Justice and Peace (La Red de Apoyo por la Justicia y la Paz), municipal police officers detained him and took him to an alley, where they shot him to death. The Network in Support of Justice and Peace reported that he was arrested while playing chess and that his neighbors denied that the death followed an armed confrontation, as the police asserted.

Local human rights groups documented repeated violations in Apure state, along Venezuela's border with Colombia. The Guasdalito-based Human Rights Defense Committee (Comité para la Defensa de los Derechos Humanos, CODEHUM) published a report in July documenting forty-seven cases, including such abuses as torture. On January 21, for example, officers of the Technical Judicial Police (Policía Técnica Judicial, PTJ) detained José Anicasio Rojas at his home outside the city of Guasdalito, transferring him to the PTJ station, where they blindfolded, handcuffed, and beat him. They tortured him by placing a plastic bag over his head. In Guasdalito, on February 19, Víctor A. Díaz Ojeda was detained and accused by the National Guard (Guardia Nacional, GN) and army of being a member of a Colombian guerrilla group. He was brought to the local military base, where he was tied to a tree, blindfolded, and tortured with electric current to his testicles. Similarly, GN officers detained Josué Coburuco and Gerardo Vargas on February 20 in the town of El Amparo. Accused of cattle rustling, and turned over to the army, they were tortured with electric current.

Indigenous peoples who lived along Venezuela's border with Colombia or Brazil also suffered human rights violations. The situation was especially serious in the states of Zulia, Amazonas, Bolívar, and Delta Amacuro. In the area of San Fernando de Atabapo, Amazonas state, members

of the Baniba, Curripaco, Piaroa, and Puinabe ethnic communities frequently reported to local human rights groups that state security forces arbitrarily detained and mistreated them. For example, in January, Durifa Da Silva, an indigenous man from the community of Guarinuma, was arrested by police. The officers handcuffed and harshly beat him, then left him with serious bruises on the banks of the Atabapo river.

Impunity for such abuses remained a serious problem. Four years after the bodyguards of then-President Carlos Andrés Pérez assassinated two Wayuú Indians in Zulia state, military and civilian courts continued to argue over jurisdiction, contributing to an unwarranted delay in the case. Similarly, more than three years after a massacre at Haximú, Amazonas state, in which sixteen Yanomami Indians were killed by Brazilian prospectors, the government had not undertaken an investigation, much less prosecuted those responsible. In September, the Inter-American Court of Human Rights ordered Venezuela to pay compensation for its responsibility in massacring fourteen fishermen in El Amparo in 1988, a case that the Venezuelan courts had failed to clarify. The Inter-American Commission on Human Rights, which forwarded the case to the court, found that the killings were carried out by a joint operation of the army, the PTJ, and the Office of Intelligence and Prevention Services (Dirección de Inteligencia y Servicios de Prevención, DISIP). The Venezuelan government did not contest the facts.

While the police and military acted brutally throughout the year, detainees faced abusive conditions in prison. Built to hold a population of just over 15,000 people, the prison system was jammed with 24,000 prisoners during 1996. Notoriously poor conditions led Human Rights Watch/Americas to send a delegation to the country in March 1996 to inspect eleven prisons.

This trip was followed by a mission of the Inter-American Commission on Human Rights.

The extreme overcrowding, exacerbated by severe understaffing, inadequate material support, and violence, meant that the majority of Venezuela's prisoners were forced to endure appalling and degrading living conditions, in violation of the International Covenant on Civil and Political Rights and the American Convention on Human Rights, which established Venezuela's responsibility to treat inmates with dignity. Inmates routinely slept two or three to a bed, on the floor in passageways, or in filthy bathrooms. In Sabaneta prison, for instance, some inmates slept in hammocks strung in narrow pipe-access passageways between cell blocks.

Official violence against prisoners was also common. The GN maintained harsh control of a number of prisons, frequently engaging in collective punishment or arbitrary beatings of prisoners. The most violent incident involving the GN occurred on October 22. Early in the morning, National Guardsmen started a fire in La Planta prison in Caracas that killed at least twenty-five prisoners. Officers indiscriminately fired tear gas and incendiary devices into overcrowded cells of the prison's Ward 4. Prisoners who could not escape the cells, which were locked, burned to death. Venezuela's minister of justice reportedly described the attack as an "unjustifiable crime" and insisted that the responsible guardsmen be punished for their actions. The large majority of inmates in Venezuela were pre-trial detainees, who were held with convicted prisoners. This resulted from Venezuela's extremely long criminal proceedings and systematic denial of provisional liberty to defendants awaiting trial, in violation of international standards that established Venezuela's responsibility to provide prompt trials.

Women prisoners, who constituted nearly 5 percent of the prison population, generally enjoyed somewhat better conditions than male inmates. With some notable exceptions, women's facilities tended to be newer, less overcrowded, and better maintained than men's installations, with proportionally larger staffs, less violence, and greater work and recreational opportunities.

In the prison of Ciudad Bolívar, however, the women's annex was integrated into the larger men's facility, so that some fifty women prisoners were confined together with over 1,000 male prisoners.

Women prisoners also faced discrimination. While men were freely granted conjugal visits, women prisoners, except for a handful participating in a pilot program, were denied them.

### **The Right to Monitor**

Human Rights Watch/Americas was not aware of cases of physical attacks on Venezuelan human rights monitors. Nonetheless, several incidents reflected official intolerance of human rights reporting and activism. This intolerance showed itself in the form of public criticism, part of a broader effort to discredit the work of nongovernmental organizations.

On several occasions government authorities labeled human rights monitors as criminals interested in spoiling Venezuela's international image. In this same vein, the government rejected the Venezuela section of the State Department's *Country Reports on Human Rights Practices for 1995*, stating that it was a "caricature" of the actual situation. The government also called into question the information provided to the State Department by Venezuelan human rights organizations.

Venezuela also rejected the findings of an Amnesty International report. Minister of the Presidency Asdrúbal Aguiar stated that the Amnesty International document was partial and based on biased methodology. Aguiar also sought to discredit the work of Venezuelan human rights organizations, whom he said provided Amnesty International with information "geared exclusively to placing blame on the Caldera administration."

### **The Role of the United States**

U.S. Embassy officials in Venezuela maintained regular contact with Venezuelan human rights organizations, which was reflected in the Venezuela chapter in *Country Reports on Human Rights Practices for 1995*. The report presented an accurate description of human rights conditions in the country. Human Rights Watch/Americas was unaware, however, of any public statements from the embassy condemning human rights violations when they occurred during 1996.

The State Department's International Narcotics and Law Enforcement (INL) bureau disbursed \$500,000 to Venezuela during 1996, roughly the same as the preceding year. In an effort to assist Venezuela in the process of reforming its Code of Criminal Procedure, the United States Information Agency (USIA) sponsored training seminars for judges and prosecutors.