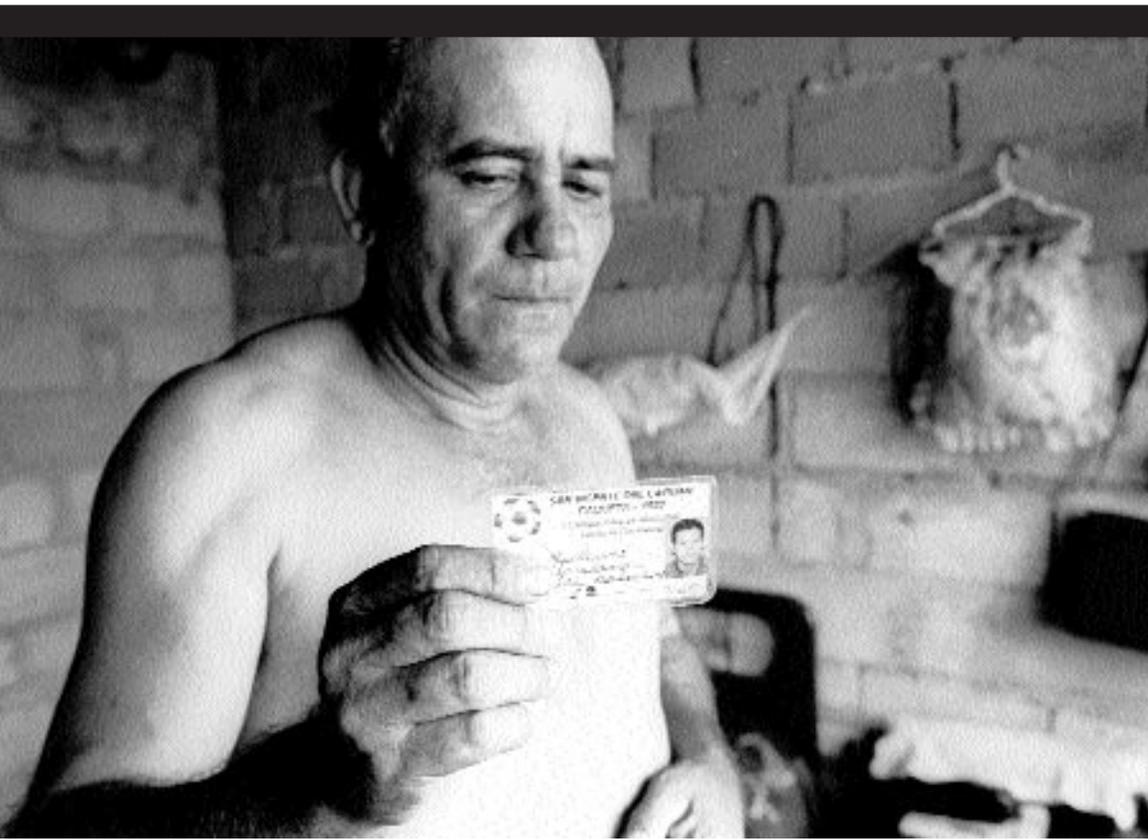


**HUMAN RIGHTS WATCH WORLD REPORT 2002**

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# **AMERICAS**



*A father shows a soccer club identification card of his “disappeared” son in Colombia.*

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## AMERICAS OVERVIEW

### HUMAN RIGHTS DEVELOPMENTS

Although the year was dominated by the human rights tragedy in Colombia, other parts of Latin America experienced positive change. With presidential balloting in April, Peru finally closed the door on the undemocratic and discredited administration of former President Alberto Fujimori. Mexico, having just ended seven decades of one-party rule, took several steps toward reform. And a number of different countries made meaningful progress in the area of truth, justice, and accountability. Still, all over Latin America and the Caribbean, chronic problems such as police brutality, deplorable prison conditions, domestic violence, and labor right abuses went largely unaddressed.

The human rights situation in Colombia deteriorated markedly over the course of the year, with civilians bearing the brunt of the country's violent armed conflict. In the first ten months of 2001, the office of the Public Advocate recorded ninety-two massacres, defined as the killing of three or more people at the same place and at the same time. Paramilitary groups linked to the security forces were responsible for the bulk of the killings, followed by guerrillas. The country's epidemic of kidnappings, half committed by leftist guerrilla forces, showed no sign of abating. Children, some as young as thirteen, were recruited into the irregular armed forces—guerrillas and paramilitaries—that played a primary role in the conflict. An estimated two million Colombians were internally displaced, with at least 300,000 reported displaced in 2001, the highest number ever in a single year. Human rights defenders, trade unionists, journalists, government investigators, and community leaders continued to be killed because of their work.

In Peru, the fall of the Fujimori government in late 2000 brought new hope for democracy and human rights. Both the interim administration of Valentin Paniagua and the new government of President Alejandro Toledo took important steps to strengthen democratic institutions and the rule of law, while also taking aim at long neglected human rights problems.

Haiti remained mired in political turmoil stemming from fraudulent elections held in 2000. Despite the vigorous efforts of international negotiators to reach a solution to the crisis, the lack of progress discouraged donor states, leaving hundreds of millions of dollars in international aid frozen.

Chile's indictment of Augusto Pinochet was an important landmark in Latin America's efforts to achieve accountability for past human rights violations, even though the trial of the former military ruler was later terminated on the grounds of poor health. Equally significant was the decision of Argentine Federal Judge Gabriel

Cavallo to strike down the country's amnesty laws, a ruling that was later affirmed by a Buenos Aires appellate tribunal. In Peru, a truth commission was established to investigate responsibility for the systematic human rights violations and guerrilla abuses committed during the country's twenty-two year internal armed conflict, which began in 1980. The commission was mandated to investigate violations of collective rights of Peru's Andean and native communities as well as violations of individual rights such as extrajudicial executions, torture, and "disappearances." The large number of Latin American governments having signed or ratified the Rome Statute of the International Criminal Court (ICC) was further encouraging proof of the strength of the regional impetus toward justice.

In Mexico, as of this writing, President Vicente Fox had yet to establish a promised truth commission to examine past human rights abuses. Fox did, however, order his government to grant public access to files on "disappearances" that took place in the 1970s and 1980s. In November, after the country's National Human Rights Commission presented him with a study documenting the military's role in the forced disappearance and torture of hundreds of suspected leftists in the 1970s, Fox announced that he would name a special prosecutor to investigate the crimes. The commission report represented the Mexican government's first official acknowledgment of responsibility for the abuses, but it did not name the estimated seventy-four public officials said to be personally implicated in them.

Police violence, frequent in many Latin American countries, was of particular concern in Venezuela and Argentina. According to the Buenos Aires-based Center for Legal and Social Studies (Centro de Estudios Legales y Sociales, CELS), police in Argentina killed some 266 people in the last six months of 2000 and the first six months of 2001. While most of these killings were officially attributed to shoot-outs with suspected criminals, investigations by human rights groups suggested that many deaths resulted from the excessive use of lethal force by the police, or were deliberate executions. A disturbing recent development in Venezuela was the emergence in some states of organized death squads with ties to the police.

Prisoners throughout the region frequently suffered inhumane treatment, with particularly abusive prison and jail conditions found in Venezuela, Brazil, Haiti, Panama, Colombia, and El Salvador. The continued growth of inmate populations exacerbated overcrowding, at the root of a host of other problems. Yet, all over the region, prisons and jails were not crammed with convicted prisoners, but instead with pretrial detainees, turning the presumption of innocence on its head. In February, a large-scale inmate riot at Brazil's Carandirú prison ended bloodily, bringing momentary public attention to the country's chronic prison abuses. Fifteen prisoners were killed during and after the rioting, most by riot police, and some in circumstances suggesting extrajudicial executions. In November, similarly, prisoners in Haiti's National Penitentiary claimed that prison officials deliberately killed unarmed inmates in quelling prison unrest.

The use of capital punishment was of particular concern in the English-speaking Caribbean, where countries such as Trinidad and Tobago, Jamaica, and Barbados retained the death penalty. In August, Trinidad and Tobago sentenced ten men to hang for a single murder. One positive development occurred in April, when the Eastern Caribbean Court of Appeal, which has jurisdiction over some Caribbean countries, ruled that the mandatory death penalty was unconstitutional.

In May, Chilean President Ricardo Lagos signed a law that substituted life in prison for the death penalty. Chile's legal reform left Guatemala and Cuba as the only Spanish-speaking countries in the region to fully apply the death penalty, although several others reserved the right to execute persons convicted of treason during wartime or of other extraordinary offenses. Guatemala not only retained the death penalty, but by imposing it in cases of non-fatal kidnappings it contravened the American Convention on Human Rights.

Chile also made important strides toward protecting freedom of expression by repealing article 6b of the State Security Law, a repressive and antediluvian penal statute that had protected public authorities from criticism. In Panama, in contrast, the government had yet to reform the draconian press laws inherited from military rule. More than fifty journalists reportedly faced criminal charges for defamation or "contempt of authority," with several being convicted of those offenses over the course of the year. In May, for example, journalist Marcelino Rodríguez of *El Siglo* was sentenced to sixteen months in prison, commutable to a fine of U.S. \$1,000, after being convicted of libel of a public employee.

Throughout Latin American and the Caribbean, workers continued to suffer myriad violations of internationally recognized labor rights. Common abuses included the worst forms of child labor, employment discrimination, and violations of the right to freedom of association. In some cases, violations were perpetuated by the government's failure to enforce domestic labor legislation and, in other cases, national labor laws fell short of international labor standards. The result was the same, however: governmental omissions that allowed employers to violate workers' rights with impunity.

In Ecuador, children as young as eight labored for long hours on banana plantations in unsafe and unhealthy working conditions. In Guatemala, women workers in the maquila sector often faced pregnancy-based discrimination. And in Brazil, according to a 2001 International Labor Organization report, the government's failure to apply effective sanctions, the slow judicial process, impunity for perpetrators, and lack of intra-governmental coordination impeded the eradication of "degrading working conditions and debt bondage" in the rural sector.

Workers' right to organize—the internationally sanctioned tool for demanding better working conditions and respect for labor rights—was obstructed or violated throughout the region. In Mexico, legitimate organizing activity was frequently hindered by collective bargaining agreements negotiated between management and pro-business, non-independent unions. In other cases, workers were impeded from organizing by employers' hiring practices, including the use of subcontractors and "permanent temporary" workers. Although employers benefited from subcontracted workers' labor and often even controlled their employment terms and conditions, employers were not required to bargain collectively with the subcontracted workers because, legally, the subcontractor was the employer. Similarly, employers hired workers for months or years on end using consecutive temporary employment contracts, creating a "permanent temporary" workforce without job stability and too afraid to organize. Such tactics inhibited worker organization, for example, in Ecuador's banana sector, where the banana worker affiliation rate, at roughly 1 percent, was exceptionally low.

In other cases, workers' right to organize was violated through direct anti-union

discrimination, including the harassment, demotion, or dismissal of union members and sympathizers. In the most serious cases, union leaders and their supporters risked assassination. Colombia led the world in such assassinations, with 112 trade unionists killed in 2000, and 125 killed in the first ten months of 2001, according to Colombia's largest trade union organization. In March 2001, the Governing Body of the International Labor Organization (ILO) criticized the Colombian authorities' failure to prosecute the perpetrators of such crimes and to implement adequate security measures to protect trade union officials and members.

Many women in the region faced daily violence and discrimination, perpetuated by their governments' failure to take meaningful action to protect women from abuse. Domestic violence remained a particularly salient issue in many countries, with men beating their wives and other female family members with little fear of criminal prosecution.

Some positive steps were taken to improve women's legal status, but much remained to be done. In August, the Brazilian Congress approved a new civil code that recognized men's and women's equality before the law. The new code did away with the expression "paternal power," replacing it with the gender-neutral concept of "the power of the family." Under the reformed code, women were to have equal authority with men in family affairs. In other countries, however, women still did not enjoy full legal equality with men, despite constitutional provisions granting both sexes equal rights. The Chilean civil code continued to grant husbands primary control over household decisions and property. The civil codes of countries such as Argentina, Mexico, and Colombia set lower marrying ages for girls than for boys. Venezuelan women were barred from remarrying until ten months after a divorce or annulment, unless they proved they were not pregnant.

Gays, lesbians, and transgender people were also particularly vulnerable to violations of their human rights. In several countries, police singled out gay people and transvestites for abuses. In Mexico, transvestites in Monterrey, the capital of Nuevo Leon state, faced arbitrary arrest, extortion, and physical violence. Even more frequently around the region, criminal justice authorities failed to respond to crimes against gays and transvestites. A series of killings of gay men in Colima, Mexico, went unpunished and inadequately investigated. "It's as if [the gay community] doesn't enjoy the protection of the law," commented Max Mejía, a Colima-based gay rights activist.

Yet over the course of the year significant advances were made in the area of gay rights. In an important legal victory, the Association of New Men and Women Association of Panama (Asociación Hombres y Mujeres Nuevos de Panamá, AHMNP) finally obtained legal recognition by the government. In other places, laws were passed to protect the rights of sexual minorities or legislation was drafted on the issue. The Brazilian state of Minas Gerais passed a measure in October 2001 adding sexual orientation as a protected status to existing anti-discrimination legislation. In November 2000, the city council of Niteroi, in Rio de Janeiro, Brazil, passed an ordinance barring discrimination based on sexual orientation. A similar draft bill was presented to Mexican President Vicente Fox and the leaders of Mexico's political parties in November 2001, a first step toward passing federal legislation on the topic.

## **DEFENDING HUMAN RIGHTS**

The strength of the human rights movement in Latin America and the Caribbean was evidenced by, among other things, the multitude of local and regional nongovernmental organizations dedicated to the issue. Made up of talented and committed lawyers, activists, community leaders, and others, these groups worked to put human rights principles into practice locally. In some countries, the work of nongovernmental groups was supplemented by that of permanent national human right commissions, ad hoc parliamentary bodies, and other government organs.

The public in many Latin American countries, having lived through repressive military governments, recognized the importance of human rights principles. Nonetheless, human rights defenders were frequently stigmatized for protecting the rights of unpopular groups, particularly criminal suspects.

In several countries, including Colombia, Guatemala, Haiti, Mexico, and Brazil, individual activists faced intimidation, assault, and sometimes death for their advocacy of human rights. Colombia remained the most dangerous country for human rights defenders. According to the Colombian Commission of Jurists, eleven defenders were killed there in the first ten months of 2001. Government investigators handling prosecutions of paramilitary leaders were also at risk, as were witnesses in such cases.

The brutal murder of Mexican human rights lawyer Digna Ochoa in October 2001 further underscored the dangers that these frontline defenders of fundamental rights endure. Next to Ochoa's body was a note that warned members of the human rights center where Ochoa had worked for several years that the same could happen to them.

## **THE ROLE OF THE INTERNATIONAL COMMUNITY**

### **United Nations**

The United Nations did not have a particularly high profile on human rights issues in Latin America and the Caribbean, although specific problems and situations received attention. Colombia remained, appropriately, the primary recipient of the U.N.'s efforts in the region. The country's human rights and humanitarian crisis was on the agenda of a number of U.N. bodies.

With the departure in February of the U.N. mission in Haiti, only Colombia and Guatemala still hosted a long-term U.N. human rights field presence. In Guatemala, the United Nations verification mission, known as MINUGUA, played a central role in monitoring compliance with the country's 1996 peace accords. In Colombia, the U.N. maintained a field office of the High Commissioner for Human Rights, which did important work despite poor cooperation from Colombian government officials. The U.N. High Commissioner for Refugees also had field offices in Colombia, with an operational capacity in the Urabá and Middle Magdalena

regions as well as the department of Putumayo. Jan Egeland, the special adviser on Colombia to the U.N. Secretary-General, frequently visited Colombia to assist in peace talks

Three Latin American countries—Colombia, Cuba, and Haiti—were on the agenda at the fifty-seventh session of the Commission on Human Rights. The result, with regard to Cuba, was a resolution criticizing the government's continuing human rights violations. Haiti was the subject of a chairperson's statement that focused on electoral issues and the political crisis. For Colombia, the subject of a special segment of the Commission, the High Commissioner for Human Rights presented her annual report on human rights conditions.

U.N. thematic mechanisms visiting the Americas region included the special representative of the Secretary-General on human rights defenders, who visited Colombia, and the special rapporteur on the independence of judges and lawyers, who visited Guatemala. In addition, the various U.N. treaty bodies examined the human rights records of a number of Latin American and Caribbean states.

### **Organization of American States (OAS)**

On the diplomatic front, the Organization of American States (OAS) was extremely active in trying to negotiate a solution to the political crisis in Haiti. As of November, however, these efforts had not borne fruit.

In September, the OAS Permanent Council approved the Inter-American Democratic Charter, which was subsequently ratified by the foreign ministers of OAS member states at a special general assembly in Lima. The charter attempts to set out the essential elements of representative democracy, citing, among other features, respect for human rights and fundamental freedoms; the rule of law; the holding of periodic free and fair elections based on secret balloting and universal suffrage; a multi-party system; the separation of powers; freedom of expression and of the press; and the constitutional subordination of all state institutions to a legally constituted civilian authority. Designed to protect democracy in the region, the charter codifies the OAS's power to suspend member states deemed undemocratic and sets up mechanisms for responding to coups and other threats against democracy.

The Inter-American Court of Human Rights and the Inter-American Commission on Human Rights—both OAS human rights bodies—heard a number of important cases in 2001. In addition to cases relating to the American Convention on Human Rights, the two bodies had jurisdiction to consider violations of five other regional conventions and protocols pertaining to forced disappearance, the death penalty, violence against women, torture, and social and economic rights. At a special session held in December 2000, the Commission approved new rules of procedure, which took effect on May 1, 2001.

In April, the Inter-American Commission on Human Rights issued its first decision on the issue of violence against women. Ruling in a case brought by Maria da Penha, a Brazilian woman who was repeatedly beaten by her husband and finally left paraplegic, the Commission found Brazil to be responsible for numerous rights violations. Besides recommending that the perpetrator be prosecuted and the victim be adequately compensated, the commission concluded that Brazil should

adopt measures to remedy the problem of state tolerance of domestic violence against women.

In January, Peru's Congress overturned an earlier resolution, made in 1999 under the Fujimori government, by which it had voted to remove Peru from the jurisdiction of the Inter-American Court of Human Rights. (The Court had already declared the earlier resolution to be inadmissible.)

## European Union

The European Union (E.U.) gave its continuing support to efforts to address the region's most pressing human rights and humanitarian problems, including, most notably, the armed conflict in Colombia. The E.U. provided financial support for the Colombian peace process and for the humanitarian assistance of displaced persons. E.U. representatives expressed concern, however, regarding slowdowns in the peace process, mounting violence, and the failure of parties to the conflict to respect basic humanitarian law norms.

Cuba remained the only Latin American country that did not have a cooperation agreement with the European Union. An E.U. visit to Cuba in late November 2001, however, appeared to promise improved E.U.-Cuba relations, possibly signaling a future change in the E.U.'s "common position" on Cuba. Because of the Haitian government's failure to remedy the results of the country's seriously flawed 2000 elections, E.U. economic cooperation with Haiti remained suspended as of November.

Several Western European countries played a critical role in promoting accountability in Latin American and the Caribbean. European courts, continuing the "Pinochet precedent," heard criminal cases against the perpetrators of past human rights crimes, including the systematic abuses that took place in Argentina and Chile in the 1970s. Through the mechanism of universal jurisdiction, by which a country's national courts are empowered to adjudicate human rights crimes committed on another country's territory—and also through the passive personality principle, which recognizes a country's legal interest in crimes committed against its nationals—European courts adjudicated a number of criminal cases in which Latin American high officials and former high officials were defendants.

Courts in Spain, Italy, France, and Germany continued to prosecute, or to seek to prosecute, members of the Argentine armed forces implicated in "dirty war" abuses. The Argentine government, however, did not cooperate in these efforts. Asserting the principle of territoriality—that only Argentine courts had jurisdiction over the crimes at issue—the government failed to comply with the European extradition requests. This argument, which ignored the interest of all states in prosecuting gross violations of human rights, was particularly unconvincing in light of the impunity enjoyed for decades by the perpetrators of human rights crimes in Argentina.

Most disappointingly, Argentina refused to extradite former navy officer Alfredo Astiz, a notorious intelligence operative during military rule. Astiz was arrested and detained for a few weeks in July until the Argentine Foreign Ministry denied extradition requests made by Italian and French judges.

Another setback was the dismissal in December 2000 of a suit in Spain against

Guatemala's former military ruler, Gen. Efraín Ríos Montt, and several other military officials. The case, filed a year previously, was thrown out of court on the ground that the petitioners had not exhausted the possibility of prosecuting the defendants in Guatemala. Yet, given Ríos Montt's continuing power in Guatemala, the ability of the Guatemala courts to manage such a case was questionable. (Facing daunting obstacles, a group of indigenous Maya Indians sued Ríos Montt and others in Guatemala in June for crimes committed during military rule.)

In an important and encouraging new trend, the Mexican government became a strong regional voice in favor of accountability by ratifying the extradition to Spain of Ricardo Miguel Cavallo, a former Argentine navy officer. Cavallo, a member of a notorious naval task force implicated in numerous "disappearances," had been living and working in Mexico. In January, a Mexican district court ruled in favor of Spain's extradition request, and in February Mexican Foreign Minister Jorge Castañeda authorized the extradition. As of November, Cavallo's appeal against the extradition order was pending.

In November, a French judge issued international arrest warrants for fifteen Chileans implicated in the torture and "disappearance" of four French citizens in Chile during the Pinochet era. The suspects included retired Gen. Manuel Contreras, former head of Pinochet's secret police, and four other former generals. Since Chile and France did not have an extradition agreement, the targets of the arrest warrants, all believed to be in Chile, would probably only face arrest if they were to leave the country.

The Belgian courts, too, played a part in the trend toward foreign prosecutions. In October, Cuban exiles filed suit in Brussels against President Fidel Castro and other high Cuban officials. Their criminal complaint, which had not been ruled upon at this writing, described torture and other abuses suffered by political prisoners, as well as Cuba's downing of two planes in 1996.

### **United States**

The Latin America policies of the Bush administration, in its first year in office, did not differ meaningfully from those of the previous administration. The United States under President Bush took a selective interest in the region, focusing primarily on trade and drug issues. The U.S. did not take the lead in promoting human rights in Latin America, nor were U.S. representatives especially vocal on the topic.

In 2001, as in 2000, Colombia was the Latin American country that received the greater part of the U.S. government's attention and funding. The United States continued to push a drug control strategy based on aerial eradication, providing the funding for Colombian counter-narcotics military battalions. In January, President Clinton, under a questionable reading of the relevant legislation, dispersed a second tranche of the military aid passed the previous year. The Bush administration sought an additional U.S. \$400 million for Colombia for fiscal year 2002. But in a clear improvement over the previous year's legislation, the draft legislation before Congress as of this writing did not contain presidential waiver authority for its human rights conditions. In other words, Colombia would have to show concrete progress in breaking military-paramilitary ties to be eligible to receive aid.

In early September, the United States named the Colombian paramilitary

alliance—the United Self Defense Group of Colombia (Autodefensas Unidas de Colombia, AUC)—as a “foreign terrorist organization” under U.S. law. Among other legal consequences, the designation requires U.S. banks to block the group’s funds.

Peru’s downing of a civilian aircraft during a U.S.-Peruvian surveillance operation on April 20 caused the joint drug interdiction program to be suspended. Although the plane’s pilot survived the crash of the small Cessna, two others were killed in the incident: Veronica Bowers, a missionary, and her infant daughter. A joint U.S.-Peruvian report released by the State Department in August put the blame for the tragedy on lax procedures and the failure of the Peruvian pilot to give proper warning.

By nominating Otto Reich, a Cuban-American anti-communist, to be assistant secretary of state, President Bush signaled an apparent unwillingness to modify the U.S. economic embargo against Cuba. In July, when Bush suspended certain provisions under the Helms-Burton sanctions law, he publicly reaffirmed his administration’s commitment to maintaining the embargo. Nonetheless, a milestone in U.S.-Cuban economic relations was reached with the sale to Cuba of some \$30 million in food and medicine by U.S. companies in October. Made necessary after Hurricane Michelle devastated the island, they were the first U.S. sales to Cuba since the imposition of the embargo in 1962.

## **THE WORK OF HUMAN RIGHTS WATCH**

The Americas division of Human Rights Watch kept abreast of human rights developments around the region through frequent visits, close contact with local activists, and intensive monitoring of the media and other information sources. The division sought not only to identify the most pressing problems of the countries in which it worked, but also to understand the root causes of violations and to formulate strategies for addressing them. It campaigned vigorously to put a stop to violations, relying on targeted advocacy with policy-makers, careful coordination with like-minded groups, and outreach to the broader public via the media and the internet.

While the Americas division responded quickly to fast-breaking events, it also gave sustained attention to chronic, long-term problems. Among the issues the division worked on in 2001 were military-paramilitary links and violations of international humanitarian law in Colombia; the Pinochet prosecution and freedom of expression in Chile; military abuses, violence against sexual minorities, and labor rights in Mexico; political violence and impunity in Haiti; accountability in Argentina; freedom of association and child labor in Ecuador; the treatment of Haitian immigrants and Dominico-Haitians in the Dominican Republic; police violence in Jamaica; accountability in Peru; the protection of NGOs and human rights defenders in Guatemala; and overall human rights conditions in Cuba.

Over the course of the year, the Americas division fielded investigative and advocacy missions to nearly a dozen countries. In addition to brief two- or three-day advocacy visits, the division’s researchers conducted longer fact-finding investigations in Argentina, Chile, Colombia, the Dominican Republic, Ecuador, Haiti, Mex-

ico, Peru, and Venezuela, with the division sending, in some cases, more than one mission to a single country. With the information collected during these trips, the Americas division prepared detailed reports and other materials to document the problems under review.

Besides disseminating information via written materials, Human Rights Watch directly addressed high-level government officials and representatives of relevant regional and international bodies, conveying our human rights concerns in a firm, concise, and timely way. In several countries, Human Rights Watch representatives held meetings with presidents and other top government officials. In meetings, as well as in correspondence and written statements, the Americas division made specific recommendations for improving human rights conditions.

As the region's gravest human rights crisis, Colombia was the major focus of the Americas division during 2001. The division's work in support of human rights in Colombia had three tracks: pressing for change within the country, working to influence U.S. policy toward Colombia, and promoting U.N. and other international efforts.

Because all parties to the conflict in Colombia were guilty of serious violations, the division examined not only government abuses but also those committed by non-state actors. In a twenty-page letter sent in July to Manuel Marulanda, the commander-in-chief of the Revolutionary Armed Forces of Colombia-People's Army (Fuerzas Armadas Revolucionarias de Colombia-Ejército del Pueblo, FARC-EP), the executive director of the Americas division assessed the FARC-EP's actions by the standards of international humanitarian law. The letter set out the FARC-EP's responsibility for serious violations, including killings of civilians, cruel and inhuman treatment of captured combatants, abductions of civilians, hostage-taking, the use of child soldiers, grossly unfair trials, and forced displacement of civilians. It also cited the FARC-EP's continuing use of prohibited weapons, including gas cylinder bombs, and its attacks against medical workers and facilities. The FARC-EP's public response to the letter did not counter the substance of these findings, but only attacked Human Rights Watch's integrity as an independent monitor. Later in the year, the findings of Human Rights Watch's letter were incorporated into a report, *Beyond Negotiation: International Humanitarian Law and its Application to the Conduct of the FARC-EP*.

In October, Human Rights Watch issued a report on another critical aspect of the Colombia crisis. Titled *The "Sixth Division": Military-Paramilitary Ties and U.S. Policy in Colombia*, and launched at a press conference in Bogotá, the report documented continuing close ties between Colombian military and police detachments, and paramilitary groups. The report received extensive local and international media coverage; the press conference was carried live on Colombian television. Prior to the report's release, Human Rights Watch representatives discussed human rights concerns in meetings with top Colombian officials, including President Andrés Pastrana. Because *The "Sixth Division"* also addressed U.S. policy, its findings were influential with regard to U.S. aid to Colombia, and it was extensively cited during Senate hearings on the issue.

Human Rights Watch celebrated a major victory a month after the release of its March report on free expression in Chile, when repressive defamation legislation

criticized in the report was repealed. The timing of Human Rights Watch's report, and the organization's targeted advocacy—which included an hour-long meeting with Chilean President Ricardo Lagos—were instrumental in creating momentum for the law's repeal. The report, *Progress Stalled: Setbacks in Freedom of Expression Reform*, was a follow-up to a 1998 report on the same topic, illustrating the value of sustained advocacy on a single issue.

The Americas division continued to draw attention to labor rights violations in the region. In April, the division issued a comprehensive study showing how Mexico, the United States, and Canada have failed to fulfill their obligations under the labor side accord of the North American Free Trade Agreement (NAFTA). Released on the eve of the Summit of the Americas in Québec, the report called for the creation of an independent oversight agency to spur remedial action for workers' rights violations.

To facilitate the broad dissemination of its findings in Latin America, the Americas division put a high priority on translating its materials into Spanish (and Portuguese, in some instances) and posting them on the Human Rights Watch website. With materials arranged chronologically by country and by issue, the Spanish-language website, in particular, presented a detailed picture of human rights conditions in the region. Visitor traffic to the Spanish-language pages expanded rapidly over the course of the year, drawn by the comprehensive and timely selection of materials. By year's end, Spanish-language visitors constituted Human Rights Watch's largest non-English audience.

## ARGENTINA

**P**reoccupied by a deep economic crisis, the government of President Fernando de la Rúa did little to promote human rights. An escalation of police abuses in the province of Buenos Aires came to public attention in October 2001, leading to the immediate dismissal of Buenos Aires police and justice officials. The courts made important strides toward bringing to justice those responsible for the gross human rights violations committed during the period of military rule (1976-1983). President de la Rúa scarcely commented on these developments. Instead of supporting these efforts to break impunity, his ministry of defense backed Argentina's increasingly questioned amnesty laws and the government rejected requests for the extradition of former human rights violators to stand trial in Europe.

### HUMAN RIGHTS DEVELOPMENTS

Police engaged in operations to combat urban crime committed serious human rights violations. Evidence emerged during the year that the Buenos Aires police

harassed and threatened minors for denouncing maltreatment and torture in police stations. Some were later shot dead in suspicious incidents officially described as firefights.

According to the nongovernmental Center for Legal and Social Studies (Centro de Estudios Legales y Sociales, CELS), police killed some 266 people in the last six months of 2000 and the first six months of 2001, many of them teenagers from poor urban areas. The police attributed most civilian killings to exchanges of gunfire, but investigations by human rights groups suggested that many deaths were the result of excessive use of lethal force by the police, or deliberate executions. During the first six months of 2001, fifteen minors were killed and eighteen wounded in shooting incidents in Greater Buenos Aires, according to CELS. Some adolescents appeared to have been deliberately killed in reprisal for denouncing that they had been tortured or maltreated while previously in police custody. In October 2001, the Buenos Aires provincial Supreme Court expressed concern about the death of sixty young people in "alleged shootouts" in 1999 and 2000 after they had filed complaints of torture. Many had received death threats before they were killed. The provincial security minister, former police commissioner Ramón Verón, replied to the allegations by saying that it was "almost a sport" for young people to denounce torture. Provincial governor Carlos Ruckauf, who was elected in 1999 on a tough anti-crime platform, immediately replaced him and the province's minister of justice. Verón's successor, Juan José Álvarez, admitted that "one or two" cases of police killings following complaints of torture had been recently confirmed.

A court was investigating the killing of fourteen-year-old Gastón Galván and sixteen-year-old Miguel Burgos, whose bodies were found in April by a roadside on the outskirts of Buenos Aires. Their hands and feet were tied, their bodies had multiple bullet wounds, and one of them had a plastic bag tied over his head. The police maintained that the deaths were the result of a gang dispute, but the youths' relatives said that police from the area had been constantly harassing the boys. A prosecutor revealed that, before they were killed, the youths had told a judge that police attached to a police station in Don Torcuato, Buenos Aires province, had tortured them. At the end of October, five Don Torcuato policemen, who were suspected of reprisal killings of minors who had denounced torture, were removed from their posts.

Ill-treatment was common in police stations where young offenders were held in overcrowded and squalid conditions. Methods of torture reported including beatings, hooding with plastic bags almost to the point of suffocation, and the use of electric shock batons on sensitive parts of the body, techniques in widespread use when Argentina was under military rule. These practices were most frequently reported in the populous greater Buenos Aires area. In July, Mario Coriolano, the chief state defense attorney attached to the criminal appeals court in the province of Buenos Aires, issued a report to the provincial Supreme Court giving details of more than six hundred complaints of ill-treatment and torture made from March 2000 until July 2001. By late October the court had information on more than 1,000 cases. In August, four respected federal judges publicly expressed concern about the prevalence of torture, asserting that the practice had become systematic in both police stations and prisons.

Twenty-four-year-old Javier Villanueva, for example, was arrested on October 21, 2001, while driving a stolen car in Lomas de Zamora, Buenos Aires province. After the prosecutor interviewing him noticed suspicious marks on his body he ordered that Villanueva be examined by a doctor, who found that he had lesions consistent with electric shock torture. The prosecutor ordered an immediate inspection of the police station in which Villanueva had been held; where an electric cable was found which Villanueva alleged had been used to torture him. Six officers attached to the Lomas de Zamora precinct, one of those most frequently mentioned in complaints, were detained and charged with torture and obstructing justice.

In July, President Fernando de la Rúa confirmed his intention to introduce in the Chamber of Deputies a bill to reform the country's criminal defamation law, an undertaking he made in response to several cases under consideration by the Inter-American Commission on Human Rights. The bill, proposed by the nongovernmental press freedom advocacy group *Periodistas*, aimed to eliminate criminal defamation in the case of public figures, and to make "actual malice" the basic standard for adjudicating defamation suits. At this writing, presentation of the bill was still awaited. Provincial and municipal authorities and members of the Senate, meanwhile, continued to use existing laws to crack down on press critics. In the province of Santiago del Estero, whose government was controlled by the Peronist Justicialista party, the *El Liberal* newspaper was the target of at least eleven civil suits brought by 4,000 members of the party's Women's Branch, about which the newspaper had published critical reports in 2000. As a result, a provincial court ordered the seizure of more than 500,000 pesos (approximately U.S. \$500,000) of the newspaper's assets, threatening its survival. The newspaper, with the largest print-run in the province, also faced discrimination in the granting of government advertising, and several of its journalists were harassed.

Public officials continued to file criminal suits to deter press reports of malfeasance, but in several cases higher courts found in favor of the journalists, appealing to constitutional principles protecting the publication of information in the public interest. In July, the federal appeals court dismissed charges of violation of confidentiality against journalist Marcelo Bonelli, of the newspaper *Clarín*, for revealing details of the tax returns of a former manager of the state pensions fund. In September, another chamber of the same court dismissed a criminal libel complaint filed by the same official against Bartolomé Mitre, director of the newspaper *La Nación*, for reporting on a criminal investigation in progress against him for a questioned contract.

The Supreme Court, however, cited privacy norms to justify penalties against a magazine for publishing information of clear public interest. In September, the Supreme Court upheld a lower court decision awarding criminal damages against the weekly news magazine *Noticias* for reporting in 1994 and 1995 that former president Carlos Menem had an illegitimate son by a congresswoman with whom he had an affair in the 1980s, and that he had used his office to advance her political career. The court found the magazine to have violated Menem's right to privacy, even though neither he nor the courts questioned the truth of the allegations.

Federal and provincial judges continued to investigate "disappearances" and

extrajudicial executions committed during the era of military rule (1976-1983), in so-called "truth trials." The hearings sought to establish the truth about the crimes even though those responsible could not be prosecuted or convicted because of amnesty laws passed in 1986 and 1987. Former chief of state Jorge Videla, junta member Admiral Emilio Massera, and former commander of the First Army Corps Carlos Guillermo Suárez Mason were among a dozen retired officers held under house arrest on charges of ordering the theft of babies born to mothers in secret detention and their handover for adoption to military families. These crimes had been expressly excluded from the amnesty laws.

On June 20, Videla appeared in court to be questioned on charges of illicit association, illegal arrest, and torture. He was accused of participating in Operation Condor, a secret plan devised by Southern Cone military governments to kidnap, exchange, or "disappear" political refugees from neighboring states. Two months previously, investigating Judge Rodolfo Canicoba had issued an international warrant for the arrest and extradition of former Paraguayan dictator Alfredo Stroessner, now in exile in Brasilia, and of Manuel Contreras, the former chief of the DINA, Pinochet's secret police, in Chile. An early example of Operation Condor was the car-bomb assassination of Chilean General Carlos Prats and his wife in Buenos Aires in September 1974. In November 2000, the Sixth Federal Oral Court in Buenos Aires sentenced former Chilean intelligence agent Enrique Arancibia Clavel, a resident of Buenos Aires, to life imprisonment as an accomplice in the crime. Investigating judge María Servini de Cubría was seeking the extradition from Chile of former dictator Augusto Pinochet, Manuel Contreras, and five former DINA officers, for planning and carrying out the assassinations. (See Chile.)

In a landmark decision in March, federal judge Gabriel Cavallo became the first Argentine judge to declare the amnesty laws unconstitutional and null. Judge Cavallo was investigating the theft of Claudia Poblete, who was eight months old when she and her parents José Poblete Roa and Gertrudis Hlaczik, "disappeared" after a military task force abducted them in November 1978. The 188-page ruling, solidly based on international human rights law and precedents in Argentine jurisprudence, argued that the "full-stop" and "due obedience" laws of 1986 and 1987 violated articles 29 and 118 of the Argentine constitution, and conflicted with Argentina's obligation to bring to justice those responsible for crimes against humanity. The two police agents accused of stealing Claudia Poblete and illegally giving her in adoption were the first officers to be charged for "disappearances" since 1987. On November 9, a three-judge panel of the Buenos Aires Federal Court unanimously rejected the defendants' appeal, confirming both the charges and the nullity of the amnesty laws. The trial's future depended on the Supreme Court ratifying the Federal Court's ruling, which would create a precedent for scores of other cases to be opened.

While the government nominally supported the truth and baby theft trials, it opposed any change in the *status quo* defined by the amnesty laws. In a speech in March at a military ceremony in Córdoba, Defense Minister Jaunarena contended that the prolongation of the trials was not beneficial for anyone, neither for the victims nor for those who might be accused. Jaunarena's predecessor as defense minister, Ricardo López Murphy, supported the army when, in the same month, 663

officers in active service presented a *habeas data* demand against CELS, demanding that it turn over information that might implicate the officers in human rights abuse. The army's chief of staff, Gen. Ricardo Brinzoni, who was believed to have authorized the legal action, was himself the object of a criminal complaint filed by CELS in May for his alleged involvement in a notorious massacre of twenty-two political prisoners in Margarita Belén, Chaco province, on December 13, 1976. On Army Day, May 29, President De la Rúa publicly defended Brinzoni in a ceremony attended by members of the military juntas.

## **DEFENDING HUMAN RIGHTS**

Lawyers and human rights activists continued to face death threats and harassment. On November 7, Matilde Bruera, a human rights lawyer in Rosario, province of Santa Fe, received an anonymous message with the words "Bruera, we are going to kill you with a bullet through your head." During June and October she had received similar threats. Other human rights lawyers, including Juan Roberto Coria, Lindolfo Bertinat, Vildor Garavelli, María Eugenia Caggiano, and Juan Lewis suffered break-ins or received threats apparently connected to the opening of a "truth trial" in Rosario.

In October 2000, Carlos Varela, Alejandro Acosta, and Diego Lavado, lawyers representing relatives of the victim of a police killing, suffered a break-in at their office in Mendoza. The desk computers were opened, the hard drives removed, and a laptop computer was stolen. They reported another break-in at the end of the year. The under-secretary for human rights at the Ministry of Justice arranged for the three to be given police protection.

## **THE ROLE OF THE INTERNATIONAL COMMUNITY**

### **United Nations**

In November 2000, the Human Rights Committee issued its concluding observations on Argentina's report under article 40 of the International Covenant on Civil and Political Rights. The committee recommended that "gross violations of civil and political rights during military rule should be prosecutable for as long as necessary, with applicability as far back in time as necessary to bring their perpetrators to justice." In its concluding observations on Argentina's report under article 9 of the International Convention on the Elimination of All Forms of Discrimination, the Committee on the Elimination of Racial Discrimination expressed concern over reports of racist police brutality.

### **European Union**

Courts in Spain, Italy, France, and Germany continued to try, or seek the extradition of, members of the Argentine armed forces for the "disappearance" of their

citizens during military rule. In July, Alfredo Astiz, a former agent attached to the Navy Mechanics School (ESMA), gave himself up to Buenos Aires police after federal judge María Servini de Cubría ordered his arrest at the request of Italian judge Claudio Tortora, for the “disappearance” in 1976 of three Italian citizens. Italy filed an extradition request, and while Astiz was in custody, France also requested his extradition. A French court had sentenced Astiz to life imprisonment in absentia in 1990 for the “disappearance” of two French nuns, Alice Domon and Leonie Duquet, a crime for which Astiz had been spared trial in Argentina under the due obedience law.

In August, the Ministry of Foreign Affairs refused to extradite Astiz, claiming that only Argentine courts had jurisdiction for crimes committed in Argentina. While influential Argentine judges and jurists had assimilated the doctrine of international jurisdiction for crimes against humanity, the government was unwilling to allow the courts to decide such cases on their legal merits. Since there were no charges pending against him in Argentina, Astiz was immediately released. In contrast to its position on the Astiz case, Argentina took a positive step toward combating impunity by ratifying the Rome Treaty for the International Criminal Court (ICC).

In December 2000, Rome’s Second Criminal Court sentenced Gen. Carlos Guillermo Suárez Mason, commander of the First Army Corps from 1976 until 1980, and Gen. Santiago Omar Riveros, to life imprisonment, *in absentia*, on charges of kidnapping, torture, and premeditated murder. Five naval officers received lesser sentences. In July, a court in Nuremberg, Germany, issued an international warrant for Suárez’s arrest in connection with the murder of German sociologist Elisabeth Kaesermann, who was the victim of an extrajudicial execution in May 1977 in Argentina.

In January, Mexican Judge Jesús Guadalupe Luna Altamirano accepted a petition from Spain for the extradition of Ricardo Miguel Cavallo, a member of the notorious 3.3.2 task force that operated out of ESMA. Cavallo had been detained in August 2000 at Cancún airport, after Spanish judge Baltazar Garzón issued an international warrant for his arrest on charges of genocide, terrorism, and torture. In February, Mexican Foreign Minister Jorge Castañeda authorized the extradition. The decision was the first by a Latin American country to put into practice the principle of universal jurisdiction. Again, Argentina expressed opposition: Defense Minister Ricardo López Murphy asserted that no country “should be recognized as having the capacity to be a court of appeals for decisions freely adopted by Argentines.” As of October, Cavallo remained in custody in Mexico awaiting the results of a judicial appeal against his extradition.

### **United States**

In response to requests by Argentine human rights groups and judges in Europe and Argentina, then-Secretary of State Madeleine Albright promised in November 2000 to declassify State Department documents on “disappearances,” the theft of babies, and Operation Condor. It was understood that, unlike the celebrated Chile revelations in 2000, the release would not include Central Intelligence Agency or

Defense Department files. The documents were still awaited at the end of October 2001.

In August, Argentine Judge Rodolfo Canicoba sent a letter rogatory to the State Department requesting a deposition by former Secretary of State Henry Kissinger to aid the judge's investigation of Operation Condor. In addition, French judge Roger Le Loire requested Kissinger's cooperation with judicial inquiries into the "disappearance" in Argentina of French nationals. Although de-classified documents showed that Kissinger was informed about Operation Condor, he did not contribute any information to the French or Argentine courts. The *Washington Times* on August 1 quoted an unnamed White House source as saying that the courts' demands were "unjust and ridiculous."

### **Relevant Human Rights Watch Reports:**

*Reluctant Partner: The Argentine Government's Failure to Back Trials of Human Rights Violators*, 12/01

## **BRAZIL**

### **HUMAN RIGHTS DEVELOPMENTS**

Extrajudicial killings, ill-treatment, and torture continued to be Brazil's most serious human rights problems, with police and prison officials being the primary perpetrators of these abuses. In addition, land reform activists and indigenous people involved in land disputes were harassed, assaulted and killed in circumstances that suggested the acquiescence of public authorities. From police stations to prisons, and from urban centers to the vast territories of Brazil's interior, those responsible for abuses enjoyed widespread impunity. Efforts by the government to address these problems consistently fell short of achieving significant change.

In a landmark ruling, Col. Ubiratan Guimarães—the first military police officer of the rank of colonel or above to be criminally prosecuted in a civilian court—was found responsible for a massacre that left 111 inmates dead after a 1992 prison riot. On June 30, Colonel Guimarães received a 632-year sentence for his role in leading a military police squad that quelled a riot at Carandirú, Brazil's largest prison complex. Police under his command had opened fire on prisoners, many of whom were in their cells, using machine guns and semi-automatic weapons. Subsequent investigations confirmed that the vast majority of the victims died as a result of gunshot wounds, principally to the head and thorax regions. No police were killed in the operation.

While the verdict represented a welcome departure from Brazil's long-standing tradition of impunity, the final outcome of the prosecution remained uncertain. Guimarães was immediately freed after sentencing pending his appeal, which was

likely to take at least another year, and he was allowed to continue in his post as director of a private security firm. Another eighty-five military police implicated in the killings were also to be tried, although no trial date had been set as of this writing.

The case shone a spotlight on the brutality of the country's prisons, still a pressing concern. Just months before the trial, in February, another inmate riot at Carandirú had turned bloody, leaving fifteen prisoners dead. Most were killed by riot police, some in circumstances suggesting extrajudicial executions. The uprising quickly spread to several other states, paralyzing the overburdened prison system and grabbing headlines worldwide. Conditions remained subhuman in most of the country's prisons, jails, and police lockups, and riots and escape attempts were frequent.

After the February rioting at Carandirú, officials from the Justice Ministry promised to close the prison, although the closure date was later pushed back repeatedly. Announced plans to build eleven new detention facilities around the state of São Paulo would, according to state prison officials, create space for 8,256 prisoners, including some 7,200 to be transferred from Carandirú. Yet with the total number of inmates growing by approximately nine hundred each year, the problem of insufficient space appeared unlikely to be resolved.

On March 11, police allegedly fired rubber bullets on juvenile detainees after a riot in Unit 30 of the São Paulo state juvenile detention facilities (Fundação Estadual para o Bem-Estar do Menor, FEBEM), in Franco da Rocha. The uprising left one prison guard dead, and thirty-three young inmates wounded. According to reports, after the juveniles had been subdued, police poured powdered soap and pepper on their open wounds. Angered by the death of their colleague, guards beat a priest called in by the state to negotiate with the inmates.

Torture remained a "systematic and widespread" practice in detention facilities, according to a report issued at the end of March by Sir Nigel Rodley, the U.N. special rapporteur on torture. The U.N. report, which corroborated years of research by Brazilian and international human rights organizations, found that state agents routinely commit acts of torture during all phases of detention, including police investigations, short- and long-term imprisonment, and in centers for juvenile offenders. In addition to describing the overcrowded and unhealthy conditions discovered during the special rapporteur's visit to five Brazilian states and the national capital, the report included an appendix detailing 348 cases of torture in eighteen Brazilian states.

Police abuse outside of the detention context also remained a serious concern. Deaths resulting from the excessive use of force by police, or in circumstances suggesting extrajudicial executions, continued throughout the country. Despite the widespread nature of the abuses, only five of Brazil's twenty-seven states had an office of police ombudsman (*ouvidoria*) to receive complaints of police brutality and monitor police actions. Low wages, poor training, and inadequate equipment all contributed to the widespread corruption and violence of the police forces. In July, a massive police strike to protest these problems in Bahia state resulted in a rash of looting and killings, which were only halted when the army was called in to restore control.

According to the São Paulo police ombudsman, military police in that state killed 272 people in the first half of 2001, an average of three killings every two days. While shocking, these numbers actually represented a decrease from comparable figures from 2000. Most victims of police killings had no prior criminal record. Notably, black and dark-skinned people were disproportionately subject to fatal police shootings.

A particularly egregious case of police violence in Mato Grosso state involved a minor, fifteen-year-old Nilson Pedro da Silva. According to reports, da Silva was killed in the pre-dawn hours of March 30, shot in the head and stomach by military police. Da Silva was apparently unarmed and did not resist arrest. Another young man, Ronilson Oliveira Ferreira, age nineteen, was shot in the leg, but managed to escape. A camera crew from a local television station, TV Cidade, caught the incident on film. The two soldiers involved in the incident, identified in news reports as Macedo César Filho and Denis Coutinho, were dismissed from their posts but not incarcerated. Rights groups urged Mato Grosso state authorities to prosecute the officers and to offer Oliveira the security of the state's witness protection program.

A hauntingly similar case from 1999 went unpunished. On August 27, 1999, Daniel Silva Cartarino, age fifteen, Vando Almeida Araújo, age twenty, and a sixteen-year-old now known as AAS were arrested by military police in the city of São Bernardo do Campo, made to strip naked, and shot, execution style. AAS was able to escape by pretending to be dead. He later identified the police officers and was granted entry into the São Paulo state witness protection program. In July, police officers Ivair Roberto de Souza, Isaías Mendonça Silva, Wagner Augusto Pinheiro, and Emerson Roberto de Sisto were acquitted of the killings. Officials from the Public Ministry in São Bernardo do Campo said that they would appeal the case to the Supreme Court.

Justice in a case involving 149 military police accused of killing nineteen landless peasants and wounding sixty-six others also remained elusive. The incident occurred in April 1996, in Eldorado dos Carajás, during a protest roadblock organized by members of the Landless Movement (Movimento dos Sem Terra, MST). Charges against the three commanding officers were dropped by a jury in August 1999, a decision that was later reversed by the Pará state Justice Tribunal. A retrial was originally set for May 2001, but was suspended after judge Eva Coelho de Amaral barred the entry into evidence of a report thought to discredit police claims that protesters fired the first shots. Under pressure from civil society and the human rights community, the judge later ruled that the report was admissible in the proceedings, but ordered a counter-investigation that was expected to delay the trial even further.

Although the case of Eldorado dos Carajás was the most high profile example of rural violence, killings and threats against rural workers were frequent throughout the year. According to the Pastoral Land Commission (Comissão Pastoral da Terra, CPT), 1,532 people were assassinated in rural areas from 1988 to September 2001, among them workers, religious agents, lawyers, and labor leaders. In most of these cases, those responsible were never brought to justice. In the state of Pará, where many of the violations were concentrated, the CPT counted six people killed in the four-month period from April to August, hundreds more imprisoned, and more

than 1,500 families displaced in military police operations. The majority of displaced families had been occupying areas of land for more than two years and had registered to take legal title to the land.

In one of the many serious attacks against rural activists and landless peasants in southern Pará state, José Pinheiro de Lima, his wife, and their fifteen-year-old son were killed by gunmen in their home in Morada Nova, Marabá, on July 9. The murders came just five days after another peasant worker, Manoel Messias Colono de Souza, was shot dead on a nearby farm. Following the killings, federal police sent a team to Marabá to help with the investigation, four months after they had themselves alerted state authorities about death threats against Lima, a leader in the movement to expropriate land on the Fazenda São Raimundo. Later that month, the former owner of the Fazenda São Raimundo, who had lost title to his land due to Lima's efforts, was arrested for ordering the killing.

On August 25, Ademir Alfeu Federicci was murdered in his home in Altamira, in western Pará state. Federicci, a coordinator for the Movement for the Development of the Transamazon and the Xingu Area (Movimento pelo Desenvolvimento da Transamazônica e do Xingu), worked to promote sustainable development in the region. Although police called his killing the result of an armed robbery, Federicci's leadership in the fight against dam construction, illegal logging, and corruption, made a political motive appear more likely.

Indigenous people were also a frequent target in land disputes, and they continued to be moved off their land, threatened, and killed. According to a report released by Guarani leaders, in November 2000 members of the Guarani community were fired on by police allegedly hired by a cattle rancher who had taken over their land. Among those injured was a baby, who was hit in the head by a rubber bullet. In February, the then-president of the Human Rights Committee of the Chamber of Representatives, Marcos Rolim, reported several cases of alleged sexual abuse by army soldiers against Yanomami women in the Surucucus region of the Amazon.

On August 23, indigenous leader Francisco de Assis Santana was murdered in Pesqueira, Pernambuco, apparently in connection with his struggles for Xucuru land rights in the territory, demarcated as an official reserve in April 2001. De Assis Santana, known as "Chico Quelé," was killed in an ambush as he made his way to a meeting with an authority from the country's indigenous rights organization (Fundação Nacional do Índio, FUNAI).

Attacks against and harassment of lesbians and gays were also of concern. The Gay Association of Bahia, a gay rights advocacy group, reported frequent murders of gay men, claiming that less than 10 percent of such crimes were successfully prosecuted in the courts. But in February, in an encouraging development, José Nilson Pereira da Silva and Juliano Filipini Sabino were sentenced to twenty-one years in prison for beating a gay man to death. José Edson Neris da Silva and his partner Dario Pereira were attacked in downtown São Paulo in February 2000, apparently because they were holding hands. Neris da Silva died as a result of the attack. A third suspect was acquitted of the murder but convicted of assault, while a fourth was sentenced to three years and four months in prison for attempted murder.

Freedom of expression was undermined by violence against journalists, censor-

ship, exorbitantly high lawsuits against the press, and proposed gag laws. On August 16, the day before he was to testify in a defamation trial brought by two municipal officials whom he had accused of misappropriating funds, journalist Mário Coelho de Almeida Filho was murdered. According to reports, Coelho, who lived in Magé, in the state of Rio de Janeiro, had been threatened because of his writing, and a company linked to one of the municipal officials had recently tried to buy his silence. In September, a retired military police officer was arrested for the crime; the officer had previously served as a bodyguard for the daughter of one of the two municipal officials.

On July 21, Judge Ana Paula Braga Alencastro ordered the confiscation of the next day's issue of the newspaper *Tribuna Popular*, published in São Lourenço do Sul, in the state of Rio Grande do Sul. The confiscation was carried out at the request of a local prefect whose administrative improprieties were described in an article to be published that day. The Inter American Press Association condemned the action as an act of "prior censorship."

Efforts to extend the "Pinochet precedent" to Brazil were initiated, part of an international movement to bring former dictators to justice. In December 2000, a Paraguayan judge issued a detention order against former Paraguayan ruler Gen. Alfredo Stroessner, whose thirty-five-year reign was characterized by human rights abuses such as political killings and "disappearances." As of this writing, however, Stroessner continued to enjoy immunity in Brasília, where he was granted political asylum and has lived since 1989.

Brazil's aggressive efforts to combat the HIV/AIDS pandemic were one positive element in its overall human rights picture, with the country's national HIV/AIDS program being rightly hailed as a model. Although the country had the highest number of AIDS-affected persons in Latin America, mortality from AIDS declined sharply over the past few years as the government ensured that persons with HIV had access to a treatment regimen based on generic drugs.

## **DEFENDING HUMAN RIGHTS**

The president of the Pastoral Land Commission (Comissão Pastoral da Terra, CPT) in Paraná, Dinísio Vandressi, reportedly received several death threats over the course of the year. On May 24, members of congress asked the Justice Ministry to intervene to ensure the protection of Vandressi and his family.

Father Júlio Lancellotti of the Catholic Church's Youth Pastoral was assaulted by FEBEM guards during the March 11 rioting at the Franco da Rocha youth detention facility. Although Lancellotti had been invited by the state to negotiate with inmates, his arrival was greeted not by officials, but by a group of prison guards who were angry over a colleague's death in the uprising. The priest was hit in the face by guards, and the cross he was wearing around his neck was ripped off.

## **THE ROLE OF THE INTERNATIONAL COMMUNITY**

### **United Nations**

As described above, the report of the U.N. special rapporteur on torture was comprehensive, forceful, and accurate. Following a recommendation contained in the U.N. report, and under pressure from human rights organizations, the government invited the U.N. special rapporteur on extrajudicial executions, Dr. Asma Jahangir, to visit Brazil. She was expected to begin research in the country in early 2002.

In May, the Committee against Torture reviewed Brazil's record of implementing the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. The committee noted the "remarkably frank and self-critical character" of the Brazilian government's report on implementation. Among other things, the committee expressed concern over the frequency of torture and inhuman treatment, and the impunity enjoyed by the perpetrators of such acts.

### **Organization of American States (OAS)**

In 2001, the Brazilian government began directly negotiating with parties involved in litigation before the Inter-American Court of Human Rights. The initiative was welcomed as a sign of increased government cooperation and as a means to obtain faster results in remedying human rights violations. According to the Brazil office of the nongovernmental Center for Justice and International Law (CEJIL), Brazil conducted direct negotiations in six cases pending before the Inter-American Court.

In April, the Inter-American Commission on Human Rights decided the case of Maria da Penha. It was the first case involving Brazil that the Inter-American Commission had accepted based on violations of the Inter-American Convention on the Prevention, Punishment and Eradication of Violence against Women. Da Penha had been repeatedly beaten by her husband, Marco Antônio Heredia Viveiros. The beatings culminated, in 1983, in an attempted homicide that left her paraplegic. In its ground-breaking decision, the commission found numerous rights violations and recommended that Brazil adopt measures to remedy the problem of state tolerance of domestic violence against women.

### **United States**

The United States, Brazil's main trade partner, remained the major source of direct foreign investment, including investment by a number of major U.S. companies. Brazil was not, however, a major recipient of direct U.S. foreign assistance. The State Department's chapter on Brazil in its *Country Reports on Human Rights Practices for 2000* fairly portrayed the country's human rights situation.

Under pressure from pharmaceutical companies, the United States had initiated a trade dispute with Brazil, complaining that the Brazilian authorities violated patent protections in manufacturing and distributing generic anti-AIDS drugs. In

late June, however, the U.S. government dropped its objections to Brazil's successful anti-AIDS effort.

### **European Union**

Bilateral trade between Brazil and the members of the European Union (E.U.) remained substantial, with Brazil being the E.U.'s principal market in Latin America. The E.U. committed 150 million euros to cooperation projects in Brazil in 2000.

## **CHILE**

**T**he landmark indictment of former dictator Gen. Augusto Pinochet and its confirmation by the Santiago Appeals Court were the year's signal human rights achievements. Yet the suspension of criminal proceedings against Pinochet in July, ostensibly for medical reasons, undermined hopes that all Chileans were genuinely equal before the law.

Encouraging, but partial, progress was also made in the area of freedom of expression. Congress repealed several objectionable provisions of the State Security Law, and took steps toward ending film censorship.

### **HUMAN RIGHTS DEVELOPMENTS**

On December 1, 2001, Judge Juan Guzmán indicted Pinochet on eighteen counts of aggravated kidnapping and fifty-seven counts of homicide. The former dictator was accused of ordering killings committed by the "Caravan of Death," a helicopter-borne military squad that toured the country in October 1973, removing political prisoners from their cells and secretly executing them. Pinochet's lawyers appealed the indictment, arguing that Judge Guzmán had failed to take a deposition from Pinochet before charging him, as the law required. On December 20, the Supreme Court upheld the appeal, annulled the indictment, and ordered Judge Guzmán to question Pinochet within twenty days. The court did not make it a requirement, as Pinochet's lawyers had urged, that Pinochet undergo medical tests *before* the deposition. Six days later, however, the Supreme Court issued a "clarification" of its earlier ruling that said that the medical tests had to be conducted beforehand, giving Pinochet's defense another opportunity to fend off criminal charges.

Between January 10 and 13, a team of six psychiatrists and neurologists, with one expert observer from either side, examined and tested Pinochet at the military hospital. They found him to be suffering from "light to moderate" sub cortical dementia caused by a series of mild strokes (in their final report, they termed the dementia "moderate"). Reviewing the team's report, Judge Guzmán concluded that

Pinochet's disability was not severe enough for him to be exempted from trial since under Chilean law defendants must be found to be "mad" or "demented" before trial proceedings are suspended for mental health reasons. On January 23 the judge finally obtained Pinochet's deposition at his Santiago residence. Five days later he indicted Pinochet a second time, placing him under house arrest.

Chilean society, though it was divided over Pinochet's legacy, absorbed this momentous episode without violence or political instability. Nor did the political branches of government put overt pressure on the courts. Nonetheless, it was no secret that the government hoped to see Pinochet eventually exempted from trial on humanitarian grounds.

On March 8, a Santiago Appeals Court panel confirmed Pinochet's indictment, but reduced the charges against him from kidnapping and murder to concealment of the crimes. Both sides appealed. A week later, another panel of the court permitted Pinochet to be released on bail. It also ordered Judge Guzmán to take Pinochet's fingerprints and photographs, a formal requirement in Chile following criminal indictment. Pinochet's defense lawyers insisted that even this brief procedure would endanger the defendant's health. They made strenuous efforts to delay the procedure in the hope that the case would be closed on health grounds and fingerprinting would be unnecessary. Eventually, they succeeded: on July 9, the Sixth Chamber of the Santiago Appeals Court suspended the proceedings, ruling by two votes to one that Pinochet was too infirm to stand trial.

The appellate court ruled that if the terms "madness" or "dementia" (grounds for exemption from trial under the code of penal procedures in force) were interpreted in the light of modern medical science (as the court believed they should be) Pinochet's condition should bar his trial. Moreover, the court held, to try Pinochet in his condition would violate the due process guarantees of the Chilean constitution and its new code of penal procedures.

The decision gave norms of due process precedence over written laws for the first time in Chilean legal history. It also relied in part on a code of penal procedures that had not yet entered into force in Santiago, where Pinochet's trial was to be held. (In December 2000, the new code of penal procedures entered into force in Chile's Fourth and Ninth regions, but it was not scheduled to become effective in Santiago until 2004. The code allowed judges to suspend trials if the due process rights of a defendant cannot be guaranteed). Prominent justice officials, including representatives of the Council for the Defense of the State and the Public Defender (*Defensor Público Penal*), declared that the application of the new code in Santiago was illegal and unconstitutional.

Subsequent court rulings confirmed fears that the Sixth Chamber's decision was a special concession to Pinochet, and not would benefit other mentally challenged defendants. In July, the Legal Assistance Corporation, which provides free legal representation to poor defendants, asked a different panel of the Santiago Appeals Court to grant the same rights to a hundred of its clients who were facing trial on a variety of felony charges. The court rejected the petition on grounds that the new penal procedures code was not in force. As of this writing the Supreme Court was due to hear the petitioners' appeal, as well as an appeal alleging the Sixth Chamber's misapplication of the new code in the Pinochet case.

Continued progress was made in other prosecutions of Pinochet-era officials. In August, Judge Sergio Muñoz charged sixteen army officers, most of them members of the Army Intelligence Directorate (Dirección de Inteligencia del Ejército, DINE), with the 1982 murder of trade unionist Tucapel Jiménez. Among the accused were four retired army generals. The investigation, which had been thwarted for years, progressed rapidly after Judge Muñoz took over the case in 2000 and several of the soldiers confessed. Interior Ministry officials confirmed that judges and police officers investigating human rights violations committed during the Pinochet era had been followed and threatened by individuals believed to be former members of the National Information Center (Central Nacional de Informaciones, CNI), a secret police force that operated during the 1980s.

In January, the armed forces and uniformed police, whose representatives had participated in a civil-military roundtable initiated in August 1999, acknowledged for the first time that the bodies of 151 prisoners who “disappeared” after the September 1973 military coup had been thrown from aircraft into the sea, rivers, and lakes of Chile. Unfortunately, the importance of the revelation was overshadowed by numerous errors in the information provided by the military regarding two hundred “disappearance” cases. The errors added to the trauma of relatives of the “disappeared,” and confirmed the expectations of many relatives who had opposed the civil-military dialogue from the outset.

Out of two hundred victims whose fate was revealed, the final resting place of forty-nine was given with sufficient precision to make it possible, in theory, to find their remains. Yet in more than fifty cases the dates given for the arrest and death of the victim did not tally with the facts known to human rights organizations. The body of trade unionist Juan Rivera Matus, described in the round table list as having been thrown into the sea near the port of San Antonio, was found in April buried in an army compound at Fort Arteaga. Some dental fragments and pieces of bone found in a disused mineshaft near Santiago were believed to belong to Communist Party leaders Horacio Cepeda and Fernando Ortíz, detained in December 1976, and whose bodies were listed in the armed forces document as having been buried at the site. However, relatives still awaited conclusive identification in October. After months of searching, investigators could not find the remains of four other party members whose bodies, according to the Navy, were also thrown down the shaft. The discovery only of small bone fragments suggested that the mine had been visited at some subsequent date and skeletal remains removed to conceal the crime.

After years of debate, Congress finally enacted reforms benefiting freedom of expression, although many legal restraints remained in place. In April, it repealed article 6b of the State Security Law, a 1958 statute that allowed top judges, military chiefs and members of congress to bring charges of contempt of authority against their press critics.

Other provisions of the State Security Law—including article 16, which allowed the seizure of publications considered insulting by public officials—were also abolished. Legislators refused to accept more sweeping reforms, including a government proposal to repeal three articles of the criminal code that cover defamation and libel of public officials in terms similar to article 6b.

Journalist Alejandra Matus, who left Chile to avoid arrest in April 1999 after her book *The Black Book of Chilean Justice* was seized under article 16, returned to the country for the first time in July. During her visit she petitioned the Santiago Appeals Court to allow the distribution of her book, since the law under which it had been confiscated was no longer in force. The court rejected her writ, and in August the Supreme Court dismissed her appeal of the rejection. In October, however, appeals court judge Rubén Ballesteros finally lifted the ban on the book and ordered the confiscated copies returned to the publisher. He also suspended Matus's prosecution on other charges related to the book.

The State Security Law amendments were part of a comprehensive new law regulating the press and protecting the rights of journalists, first proposed by the Aylwin government in 1993. It shielded journalists from having to reveal their sources, and stripped courts of the power to gag press reporting of controversial criminal cases. It also stripped military courts of jurisdiction over cases involving criticism of the military. However, the law was by no means a panacea ending all of Chile's freedom of expression restrictions, and in some areas it made matters worse. For example, it discriminated against journalists without recognized university degrees. And even with the reforms, Chile's privacy laws failed to sufficiently protect those responsible for disclosures in the public interest.

In July, Congress approved a constitutional amendment eliminating prior censorship of the cinema. The reform was expected to come into force as soon as Congress approved a bill changing the powers and composition of the film classification council. That bill, introduced by President Lagos in March, restricted the council's powers to the certification of films for age-group suitability, and eliminated the representation of the armed forces and the police on the council.

On May 20, twenty-six inmates died in a prison fire in the northern city of Iquique. Prison officials were reported to have mistaken the fire for a riot and failed to call the fire brigade in time to rescue the victims, while fire-fighting equipment in the prison failed to work. The prison, constructed for a maximum of 1,000 inmates, held 1,700 at the time of the tragedy. Minister of Justice José Antonio Gómez announced that the government was planning to build ten new prisons to alleviate overcrowding.

On May 28, President Lagos signed into law the abolition of capital punishment. The death penalty was replaced by life imprisonment, with a minimum forty-year prison sentence for the most serious crimes. The new code of penal procedures entered into force in two regions in December 2000, replacing written with oral proceedings and strengthening the due process rights of defendants. The new code was scheduled to enter force progressively across the country.

## **DEFENDING HUMAN RIGHTS**

Attorneys representing relatives of the victims in the "Caravan of Death" case litigated tirelessly to hold Pinochet accountable for the crimes committed by the military death squad. The Council for the Defense of the State, an autonomous body representing the interests of the state, made itself a party to this and several other human rights cases.

Relatives of the “disappeared” and other human rights defenders did not report any direct threats or harassment, in contrast to previous years. However, a website believed to be linked to former members of the CNI, the military government’s intelligence agency, carried spiteful attacks on the president of the Association of Relatives of the “Disappeared,” Viviana Díaz, and publicized her private address and telephone number.

## **THE ROLE OF THE INTERNATIONAL COMMUNITY**

### **Organization of American States (OAS)**

In February, the Inter-American Court of Human Rights found that Chile had violated article 13 of the American Convention on Human Rights by refusing to allow the public exhibition of Martin Scorsese’s film *The Last Temptation of Christ*. The court ruled that Chile must amend its domestic law to eliminate prior censorship and allow the film to be screened. The decision, which was unanimous, was the court’s first ruling in a contentious case involving freedom of expression, and its first ruling against Chile.

### **United States**

In November 2000 the Clinton administration fulfilled its promise to release more than 16,000 secret documents on U.S.-Chilean relations before and after the military coup that brought General Pinochet to power in September 1973. The release included some seven hundred Central Intelligence Agency (CIA) records, which the CIA’s Directorate of Operations agreed to release only after pressure from the White House. These dealt with covert operations to prevent the election of President Salvador Allende, to destabilize his government, and to bolster that of Pinochet.

On the basis of new information from the declassified documents, in October and December 2000, Judge Guzmán opened investigations into the “disappearance” and murder of two North Americans, Boris Weisfeiler and Charles Horman. Weisfeiler, a Russian-born mathematician, “disappeared” in January 1985 while hiking in southern Chile. Horman was executed in the National Stadium days after the military coup. In July, Judge Guzmán sent a letter rogatory to the State Department, requesting depositions on the case from former Secretary of State Henry Kissinger and from officials of the U.S. embassy in Chile at the time of the coup.

### **Argentina**

In October 2001, Manuel Contreras (former director of Pinochet’s secret police, the DINA), and five former DINA agents were arrested in Chile at the request of Argentine federal judge María Servini de Cubría, pending a hearing on their extradition to Argentina. They had been charged in Argentina for the 1974 assassination in Buenos Aires of former Gen. Carlos Prats and his wife Sofia Cuthbert, but the Chilean Supreme Court had earlier denied their extradition on procedural

grounds. In August, the Supreme Court had rejected Judge Servini's request that Pinochet be extradited for ordering the assassination.

In April, Argentine federal judge Rodolfo Canicoba issued another international warrant for the arrest of Manuel Contreras with a view to his extradition for organizing Operation Condor, a secret plan of South American military governments to track, kidnap, murder, or illegally deport persons seeking refuge from repression in neighboring countries. In July, Justice Alberto Chaigneau of the Chilean Supreme Court ordered that Contreras be placed under house arrest. The following month the Santiago Appeals Court denied Contreras' bail request. Chilean Supreme Court judge Domingo Kokisch denied a similar request by the Argentine judge for the arrest, pending extradition, of General Pinochet. In both the Prats and Condor cases the Chilean courts held that Pinochet still preserved his parliamentary immunity from prosecution. Unless the Supreme Court lifted his immunity, Pinochet could not be questioned or charged in either case, a necessary prerequisite to his extradition.

### **Relevant Human Rights Watch Reports:**

*Progress Stalled: Setbacks in Freedom of Expression Reform, 3/01*

## **COLOMBIA**

**N**egotiations between the government and leftist guerrillas reached an impasse in 2001 as both sides traded accusations of bad faith and broken promises. Political violence increased for the second consecutive year and became increasingly urban, with clashes and selective killings occurring in cities. Colombians continued to flee their homes and even their country in record numbers, facing hunger, the elements, and disease in desperate efforts to save themselves and their families.

In the first ten months of the year, the office of the Public Advocate (Defensoría del Pueblo) recorded ninety-two massacres, which they defined as the killing of three or more people at the same place and at the same time. Most were linked to paramilitary groups, followed by guerrillas. Both paramilitaries and guerrillas reportedly moved with ease throughout the country, including via helicopter.

One of the year's worst massacres occurred on January 17, in Chengue, Sucre. Witnesses told government investigators that several Colombian navy units looked the other way as heavily armed paramilitaries traveled past them to the village. Paramilitaries assembled villagers in two groups, the *Washington Post* later reported. "Then, one by one, they killed the men by crushing their heads with heavy stones and a sledgehammer. When it was over, twenty-four men lay dead in pools of blood. Two more were found later in shallow graves. As the troops left, they set fire to the village."

The authorities subsequently arrested Navy Sergeant Rubén Darío Rojas and

charged him with supplying weapons to paramilitaries and helping coordinate the attack. Colombia's Internal Affairs agency (Procuraduría) filed disciplinary charges against Navy Brig. Gen. Rodrigo Quiñones and five other security force officers for allegedly ignoring detailed information received in advance about paramilitary movements near Chengue. At the time, Quiñones was the commander of the first Naval Brigade. Despite the charges, he was later promoted to the post of navy chief of staff.

As the Chengue case showed, certain military units and police detachments continued to promote, work with, support, profit from, and tolerate paramilitary groups, treating them as a force allied to and compatible with their own. At their most brazen, these relationships involved active coordination during military operations between government and paramilitary units; communication via radios, cellular telephones, and beepers; the sharing of intelligence, including the names of suspected guerrilla collaborators; the sharing of fighters, including active-duty soldiers serving in paramilitary units and paramilitary commanders lodging on military bases; the sharing of vehicles, including army trucks used to transport paramilitary fighters; coordination of army roadblocks, which routinely let heavily-armed paramilitary fighters pass; and payments made from paramilitaries to military officers for their support.

Overall, President Andrés Pastrana and his defense ministers failed to take effective action to establish control over the security forces and break their persistent ties to paramilitary groups. Even as President Pastrana publicly deplored atrocities, the high-ranking officers he commanded failed to take steps necessary to prevent killings by suspending security force members suspected of abuses, ensuring that their cases were handed over to civilian judicial authorities for investigation and prosecution, and pursuing and arresting paramilitary leaders.

Paramilitaries allied under the umbrella United Self Defense Group of Colombia (Autodefensas Unidas de Colombia, AUC) expanded their radius of action and troop strength in 2001. In June, AUC commander Carlos Castaño announced that he had relinquished military leadership and dedicated himself to organizing its political wing. Since 1996, the group had grown by over 560 percent, according to Castaño, who claimed a force of over 11,000 fighters. In some situations, as with the temporary seizure of a community of displaced people in Esperanza en Dios and Nueva Vida, Chocó, paramilitaries reportedly operated with as many as eight hundred troops at a time. Large concentrations of paramilitaries were rarely challenged by the Colombian security forces.

Over a period of a week in early July, in the town of Peque, Antioquia, over five hundred armed and uniformed paramilitaries blockaded roads, occupied municipal buildings, looted, cut all outside communication, and prevented food and medicines from being shipped in, according to the Public Advocate's office. Over 5,000 Colombians were forced to flee. When the paramilitaries left, church workers counted at least nine dead and another ten people "disappeared," several of them children. As a local official said: "The state abandoned us. This was a massacre foretold. We alerted the regional government the paramilitaries were coming and they didn't send help."

During much of 2000, the AUC paid monthly salaries to local army and police officials based on rank in the department of Putumayo, where U.S.-funded and

trained counternarcotics battalions were deployed. In the state of Cauca, soldiers moonlighting as paramilitaries earned up to \$500 per month. These salaries far exceeded the average Colombian's monthly income.

Mayors, municipal officials, governors, human rights groups, the Public Advocate's office and even some police detachments regularly informed the appropriate authorities about credible threats by paramilitaries or even massacres that were taking place. An early warning system paid for by the United States and administered by the office of the Public Advocate registered twenty separate warnings nationwide between June, when the system began to function, and September. But rarely did the government take effective action to prevent atrocities. Of the warnings that were received, eleven incidents resulted either in killings being committed or the continued, pronounced presence of armed groups that threatened civilians.

Paramilitaries were linked to the murders of Colombians working to foster peace, among them three congressmen. On June 2, armed men believed to be paramilitaries seized Kimy Pernia Domicó, a leader of the Emberá-Katío community in the department of Córdoba, who remained "disappeared" at this writing. Three weeks after he was abducted, another Emberá-Katío leader who had been active in calls for Domicó's release was abducted by presumed paramilitaries and later killed. As these killings showed, certain groups faced special risks, among them indigenous groups, trade unionists, journalists, human rights defenders, and peace advocates.

The security forces were also directly implicated in abuses. In May, it was revealed that a combined police-army unit had illegally tapped over 2,000 telephone lines in the city of Medellín, many belonging to nongovernmental and human rights groups. The police officer who apparently helped place the taps was killed in April in circumstances that remained unclear.

Prosecutors implicated a former Colombian army major and an active duty police captain along with Carlos Castaño in the December 21, 2000, attack on trade union leader Wilson Borja, who was seriously wounded. In the first ten months of 2001, 125 trade unionists were murdered according to the Central Workers Union (Central Unitaria de Trabajadores, CUT), which represents most Colombian unions.

With the stated goal of furthering peace talks, the government continued to allow the Revolutionary Armed Forces of Colombia-People's Army (Fuerzas Armadas Revolucionarias de Colombia-Ejército del Pueblo, FARC-EP) to maintain control over a Switzerland-sized area in southern Colombia. During the year, the two sides agreed on a prisoner exchange that led to the release of 364 captured members of the police and military forces, and fourteen imprisoned FARC-EP members. Several freed officers reported that FARC-EP guerrillas abused them during captivity. Colombian National Police (CNP) Col. Álvaro León Acosta, captured on April 5, 2000, suffered from serious ailments and excruciating pain stemming from an untreated back injury. Other captives reported jungle diseases, including malaria, fungi, constant diarrhea because of contaminated water, and leishmaniasis, which can be fatal if untreated. Guerrillas never allowed the International Committee of the Red Cross (ICRC) or other independent groups to visit captured combatants, dozens of whom remained in the group's custody.

Criticism of the FARC-EP intensified as evidence mounted that the group used its area of control not only to warehouse prisoners and kidnaped civilians, but also

to plan and mount attacks, including assaults that caused civilian casualties. The FARC-EP frequently used indiscriminate weapons, specifically gas cylinder bombs.

The FARC-EP continued to kill civilians throughout Colombia, with human rights groups reporting 197 such killings in the first ten months of the year. Among the victims was former culture minister Consuelo Araújo Noguera, abducted by the FARC-EP on September 24. The wife of Colombia's Internal Affairs director, Araújo Noguera was apparently executed by guerrillas during a Colombian army rescue attempt. Other victims included Paez leader Cristóbal Secué Escué, a former president of the Cauca Indigenous Regional Council (Consejo Regional Indígena del Cauca, CRIC), who was shot on June 25 near his home in Corinto, Cauca. The FARC-EP accused Paez communities of forming "civic guards" that were like paramilitary groups, a charge indigenous leaders denied. Secué was, at the time of the killing, serving as a judge investigating several alleged murders by FARC-EP guerrillas.

Kidnaping remained a source of income and political pressure for the FARC-EP. In July, the group carried out its first mass kidnaping from an apartment building, seizing sixteen people after blowing the doors off a residence in Neiva, Huila. Among those kidnaped were children as young as five years old. Six people were later released.

After Human Rights Watch wrote to FARC-EP leader Manuel Marulanda to protest these violations, he dismissed the letter as "Yankee interventionism, disguised as a humanitarian action."

For its part, the Camilist Union-National Liberation Army (Unión Camilista-Ejército de Liberación Nacional, UC-ELN) violated international humanitarian law by launching indiscriminate attacks and committing kidnapings. After the government suspended talks with the group on August 7, the UC-ELN set off a series of car and package bombs in the department of Antioquia, including the city of Medellín, killing passers-by and destroying electrical towers and public buses. Two weeks earlier, over fifteen UC-ELN guerrillas died when bombs they were placing along a road exploded in the truck carrying them.

There were some advances on accountability, principally by the office of the attorney general under the direction of Alfonso Gómez Méndez, who completed his four-year term in July. On May 25, prosecutors seized valuable information related to paramilitary financing networks and communications in the city of Montería, Córdoba, long considered an AUC stronghold. During the raid, prosecutors searched the home of Salvatore Mancuso, a Montería native who was said to be the AUC's military commander. In part, the investigation focused on how landowners and business people in the region donated heavily to the AUC.

The attorney general's office also pursued important cases involving laws of war violations, among them the murder in December 29, 2000, of Congressman Diego Turbay and six others outside Florencia, Caquetá. The massacre took place as Turbay, chair of the Peace Commission in Colombia's House of Representatives, and his companions were headed toward a meeting with guerrilla leaders in Los Pozos. The FARC-EP denied committing this massacre, but the attorney general opened a formal investigation of alleged guerrillas based on testimonies of captured gunmen and other evidence.

New Attorney General Luis Osorio set a disturbing precedent when he forced

the resignation of the director of the Human Rights Unit, the former director of the Human Rights Unit, and the former head of the Technical Investigations Unit (Cuerpo Técnico de Investigaciones, CTI) during his first hours in office. This change in leadership and the message it sent threatened to reverse or hamper important investigations and led to a slowdown or suspension of important cases, including the Chengue massacre.

Osorio objected to the unit's decision to order the July 23 arrest of Gen. (ret.) Rito Alejo del Río for his alleged support of paramilitary groups while in command of the army's Seventeenth Brigade in Carepa, Antioquia, between 1995 and 1997. Del Río was among the officers dismissed from the army by President Pastrana because of his poor human rights record. Also, the United States canceled his visa to the United States because of his alleged involvement in acts of terrorism and drug trafficking.

The Security and National Defense Law that President Pastrana signed on August 13 threatened to reinforce impunity for human rights abuses. The law gave the security forces judicial police powers under certain circumstances and severely restricted the ability of civilian investigators to initiate disciplinary investigations against security force personnel for human rights violations committed during operations. Also, the law limited the obligation of the armed forces to inform judicial authorities about the detention of suspects, increasing the risk of torture.

Since the president signed a new military penal code in 2000 that allowed military commanders to dismiss subordinates implicated in a wide range of crime, the Defense Ministry claimed that over five hundred people had been removed from the service. However, the government provided no information indicating the reason for the dismissals, which could range from incompetence to involvement in human rights crimes. In addition, there was no evidence that any of these individuals subsequently faced criminal investigations for human rights violations. Meanwhile, officers charged with abuses remained on active duty and in charge of groups in the field.

The Colombian government also argued that it arrested hundreds of paramilitaries and dismissed their military supporters. However, arrests were mainly of low-ranking individuals, some of whom were speedily released.

Landmines were a threat to civilians throughout Colombia. According to the Colombian army and independent landmine monitors, the total number of landmines in Colombia was estimated at 130,000. Deaths and injuries resulting from their use were up sharply. Through mid-July 2001, the Colombian Campaign Against Land Mines recorded eighty-eight people killed or maimed by landmines, mostly farmers and their children. Colombia has signed but not yet ratified the 1999 Ottawa Convention banning the use, stockpiling, and export of landmines.

Forced displacement continued to increase, with at least 300,000 Colombians reported displaced in 2001, the highest number ever in a single year. Increasingly, Colombians applied for exit visas to travel abroad and applied for political asylum in other countries.

Kofi Asomani, the United Nations special coordinator on internal displacement of the Office for the Coordination of Humanitarian Affairs, visited Colombia in August and concluded that the conflict had "catastrophic consequences" for the civilian population. Despite government programs meant to assist the displaced,

Asonani found that they continued to suffer extreme hardship, living in overcrowded and unsanitary conditions with limited access to basic services.

## **DEFENDING HUMAN RIGHTS**

Colombia continued to be an extremely dangerous place for human rights defenders as well as for government investigators handling human rights and international humanitarian law investigations. In the first ten months of 2001, eleven defenders were killed according to the CCJ.

Among the victims was lawyer Alma Rosa Jaramillo Lafourie, who worked with the Middle Magdalena Development and Peace Program (Programa de Desarrollo y Paz del Magdalena Medio, PDPMM). Seized by presumed paramilitaries in Morales, in the department of Bolívar, on June 29, locals found her body two days later dumped in a rural area. According to associates, Jaramillo was tortured before being executed. Another PDPMM colleague, Eduardo Estrada, was murdered in similar circumstances on July 18 in the town of San Pablo, Bolívar. Colombia's Pacific coast was also dangerous. On September 19, armed men shot and killed Roman Catholic nun and human rights defender Yolanda Cerón Delgado in front of a church in Tumaco, Nariño.

Paramilitaries intensified an announced campaign to murder prosecutors and investigators of cases that implicated paramilitary leaders. During 2001, seven government investigators were murdered by alleged paramilitary gunmen. Among them were the three investigators who worked most closely on the investigation of the Chengue massacre. Several key witnesses to important cases were also killed while in government custody or while in the process of supplying information to prosecutors. The office in Colombia of the U.N. High Commissioner for Human Rights (UNHCHR) called these killings "a systematic campaign of retaliation and intimidation" by those seeking "total impunity for the most serious crimes committed in the country."

Human rights defenders were among the main targets of the paramilitary advance in Barrancabermeja that began in December 2000. Members of the Regional Committee for the Defense of Human Rights and the Popular Women's Organization (Organización Femenina Popular, OFP) received multiple death threats by telephone and in person, and paramilitaries destroyed a house they used to hold events. "The paramilitaries are not just killing us physically, they are also killing our ability to organize, to be community leaders," said Yolanda Becerra, OFP president. "We have been forced to shut down projects outside the city, because the paramilitaries have banned us from traveling by river."

Some government offices attempted to protect threatened defenders, supplying bodyguards, bulletproof reinforcement for offices, and an emergency response network operated by handheld radios. The CNP Human Rights office and the Interior Ministry, in particular, took steps to protect defenders and to investigate specific allegations of police collaboration with paramilitary groups. The Interior Ministry provided protection or relocation assistance to 747 people between May and mid-September of 2001.

In many instances, however, government response was slow, nonexistent, or

abusive. For example, the commander of the Barrancabermeja-based CNP, Col. José Miguel Villar Jiménez, attacked human rights groups by claiming that they had their “origin in [guerrillas], which attempt to throw mud on the good work that is done constantly with reports and information that also has an echo in the different international Non-Governmental Organizations.”

## **THE ROLE OF THE INTERNATIONAL COMMUNITY**

The international community played a prominent role in efforts to resolve Colombia’s conflict. France, Switzerland, Cuba, Mexico, Venezuela, Norway, Spain, Italy, Canada, and Sweden agreed to meet every two weeks with the FARC-EP and act as “facilitator countries” for the peace process.

### **United Nations**

The office of the UNHCHR continued to operate in Colombia, despite poor cooperation from Colombian government officials. As High Commissioner Mary Robinson noted in the office’s annual report, “the overwhelming majority of Governmental responses to Office communications about specific cases and situations (such as early warnings) have been unsatisfactory, inoperative and purely bureaucratic.” The end result, she emphasized, was that “the potential of the Office has been greatly underutilized by the Government.”

Before announcing his departure at year’s end, Jan Egeland, the special adviser on Colombia to the United Nations Secretary-General, frequently visited Colombia to assist in peace talks, but was prevented by the government from remaining in the country for more than eight days at a time.

Special representative of the secretary-general on human rights defenders, Hina Jilani, undertook a fact-finding mission to Colombia in October at the invitation of the Colombian government. It ended bitterly, after Jilani raised questions about the new Attorney General and his commitment to prosecuting cases involving high-ranking military officers.

### **European Union**

Political relations with the European Union were strengthened in 2001. In March, E.U. Foreign Affairs Commissioner Chris Patten met with President Pastrana in Colombia. Shortly after, Patten announced a 3 million euro aid package in support of the displaced population and the launching of an Andean regional human rights program.

In July, the European Union expressed deep concern at mounting violence, in particular the holding up of a U.N. vehicle and the abduction of one of its Colombian occupants, former Meta department governor Alan Jara, as well as three German aid workers. The FARC-EP acknowledged abducting the workers in a communiqué. The incidents, the E.U. stated, “seriously jeopardize the peace process and openly flout elementary principles of international law.” In October,

one of the German hostages escaped and the remaining two were later released. Jara remained in FARC-EP custody as of this writing.

Spanish authorities detained Carlos Arturo Marulanda, the former Colombian ambassador to the European Union, on charges that he supported paramilitary groups that killed and threatened farmers in the department of Cesar. A Colombian judge ordered the arrest after receiving information that allegedly linked the diplomat directly to paramilitary support. Marulanda remained in Spain at this writing awaiting the outcome of extradition hearings.

### **United States**

The United States continued to focus on the aerial eradication of drug-producing crops and was increasingly and publicly skeptical of the peace process. U.S. State Department spokesman Philip Reeker charged in August that the FARC-EP was “misusing the demilitarized zone to abuse prisoners, engage in narcotics trafficking and, for example, reportedly receive training from the Irish Republican Army,” referring to three Irish nationals charged in Colombia in August with helping train guerrillas. At the same time, U.S. Ambassador Anne Patterson made several important public statements in support of human rights.

Despite such concerns, the United States remained Colombia’s largest foreign donor. It also increased military aid to Colombia’s neighbors, in an effort to strengthen border controls against both armed groups and trafficking.

In March, Secretary of State Colin Powell announced to the U.S. Congress that he would seek another \$400 million for Colombia for fiscal year (FY) 2002, roughly equivalent to the amount Colombia received in 2000 and in 2001. At this writing, the legislation contained human rights conditions and no waiver authority, meaning that Colombia would have to show concrete progress in breaking ties between the security forces and paramilitaries in order to receive aid. A day before his planned visit to Colombia, suspended after the September 11 attacks on the World Trade Center and Pentagon, Secretary Powell also announced that the United States had put the AUC on the administration’s list of terrorist groups, along with the FARC-EP and UC-ELN, allowing U.S. officials to suspend the U.S.-based accounts of people who contributed to the group.

Between 1998 and 2001, eleven Colombian Army units were vetted for human rights problems and approved to receive U.S. security assistance. In addition, all CNP counternarcotics units, the Colombian Air Force, the Colombian Navy, and the Colombian Marines were cleared to receive U.S. assistance.

Although human rights continued to be cited as an important policy concern, the U.S. violated the spirit of its own laws and in some cases downplayed evidence of ties between the Colombian armed forces and paramilitary groups in order to continue funding abusive units. Compelling evidence emerged, in particular, of ties between paramilitaries and Colombian military units deployed in the U.S. antinarcotics campaign in southern Colombia, showing that U.S.-vetted, -funded, and -trained troops were mixing freely with units that maintained close ties with paramilitaries.

This occurred in the case of the First and Second Counternarcotics Battalions.

On their first joint deployment in December 2000, these battalions depended heavily on the army's Twenty-Fourth Brigade for support and logistical assistance, particularly with regard to intelligence, civic-military outreach, and psychological operations. Yet there was abundant and credible evidence to show that the Twenty-Fourth Brigade regularly worked with and supported paramilitary groups in the department of Putumayo. Indeed, the Twenty-Fourth Brigade hosted counternarcotics battalion troops at its facilities in La Hormiga—a town where, according to witnesses, paramilitaries and Colombian Army troops were indistinguishable.

The application of human rights conditions proved inconsistent if a unit was considered key to U.S. strategy, with embassy officials openly acknowledging that they applied conditions in a subjective manner. In certain cases, if a unit was considered important enough to drug war objectives, the U.S. circumvented its own human rights law to continue funding and training it.

One example was Combat Air Command No. 1 (Comando Aéreo de Combate No. 1), part of the Colombian Air Force. The State Department did not suspend this unit from receiving security assistance despite credible evidence that one of its helicopter crews committed a serious violation in the village of Santo Domingo, near Arauca, in 1998, by bombing a house where civilians had taken shelter. At the time of this writing, almost three years after the incident, no military personnel had been effectively investigated or disciplined for an attack that killed seven children and eleven adults. Throughout, Combat Air Command No. 1 continued to be authorized to receive U.S. security assistance and training.

A report prepared by the U.S. General Accounting Office concluded that farmers displaced by the U.S.-funded anti-drug campaign received little assistance beyond the first ninety days of their displacement. Under the U.S. aid plan, U.S. \$37 million was set aside to deal with displaced persons, particularly those affected by eradication efforts in the south of Colombia.

The United States took some positive steps with regard to human rights in Colombia. The foreign aid bill approved by the U.S. Congress for FY 2002 contained strong human rights conditions on security assistance with no waiver authority, a clear improvement over previous legislation. The U.S. Agency for International Development (USAID) made grants to seven human rights groups in Colombia totaling over \$575,000. USAID also contributed assistance to 176,000 people forcibly displaced by aerial eradication and political violence and supported a \$2.5 million program for ex-combatant children. However, proposed aid for the attorney general's Human Rights Unit was diverted to buy expensive equipment that only marginally benefited this office, which continued to face serious problems in getting prosecutors to the sites of crimes and providing them with even minimal protection. In 2000 and the first three months of 2001—a fifteen-month period—the attorney general's Human Rights Unit and advisers from the Internal Affairs agency received only U.S. \$65,763 from USAID. That worked out to less than the average amount of U.S. military assistance spent in Colombia in two hours of a single day.

The annual country report on human rights issued by the State Department accurately reflected the situation in Colombia, giving a detailed and grim picture of abuses. As importantly, U.S. Amb. Anne Patterson began a long-overdue policy of speaking out on the human rights situation and expressing concern over specific

cases. Her timely telephone call to the army commander of a Barrancabermeja battalion in December 2000 was a critical factor in spurring the Colombian authorities to act to address the paramilitary advance. She also publicly supported the UNHCHR in Colombia, speaking out on the importance of their work at critical moments.

### **Relevant Human Rights Watch Reports:**

*The "Sixth Division": Military-Paramilitary Ties and U.S. Policy in Colombia, 9/01*

*Beyond Negotiation: International Humanitarian Law and its Application to the Conduct of the FARC-EP, 8/01*

## **CUBA**

### **HUMAN RIGHTS DEVELOPMENTS**

The Cuban government's intolerance of democracy and free expression remained unique in the region. A one-party state, Cuba restricted nearly all avenues of political dissent. Although dissidents occasionally faced criminal prosecution, the government relied more frequently on short-term detentions, house arrest, travel restrictions, threats, surveillance, politically-motivated dismissals from employment, and other forms of harassment.

Cuba's restrictions on human rights were undergirded by the country's legal and institutional structure. The rights to freedom of expression, association, assembly, movement, and of the press were strictly limited under Cuban law. By criminalizing enemy propaganda, the spreading of "unauthorized news," and insult to patriotic symbols, the government curbed freedom of speech under the guise of protecting state security. The authorities also imprisoned or ordered the surveillance of individuals who had committed no illegal act, relying upon laws penalizing "dangerousness" (*estado peligroso*) and allowing for "official warning" (*advertencia oficial*). The government-controlled courts undermined the right to fair trial by restricting the right to a defense, and frequently failed to observe the few due process rights available to defendants under domestic law.

In July, the Cuban Commission for Human Rights and National Reconciliation (*Comisión Cubana de Derechos Humanos y Reconciliación Nacional*), a respected Havana-based nongovernmental group, released a partial list of political prisoners that included 246 cases they considered to be reliably documented. Some of the prisoners named on the list were serving extremely long sentences—twenty or more years for crimes such as "rebellion" and "sabotage," offenses broadly defined by Cuban courts—while others were serving short sentences for "contempt of authority" (*desacato*) or public disorder.

The government continued to prosecute people for "illegal exit" if they

attempted to leave the island without first obtaining official permission to do so. Such permission was sometimes denied arbitrarily, or made contingent on the purchase of an expensive exit permit. In June, Pedro Riera Escalante, a former Cuban consul and intelligence officer in Mexico City, was sentenced by a military court to six years in prison for leaving Cuba illegally, using false documents, and bribing officials to allow his departure. Riera Escalante had broken with his government and sought political asylum in Mexico, but he was forcibly deported by the Mexican authorities in October.

Even though his three co-defendants were released in May 2000, dissident leader Vladimiro Roca Antúnez remained incarcerated as of November, serving his last year of a five-year sentence. The four, then members of the Internal Dissidents Working Group (Grupo de Trabajo de la Disidencia Interna, GTDI), were convicted of “acts against the security of the state” in March 1999, after having been detained since July 1997. Their detention followed the GTDI’s release of an analytical paper on the Cuban economy, human rights, and democracy.

Another prominent activist who was still behind bars as of November was thirty-nine-year-old Dr. Oscar Elías Biscet González. Biscet received a three-year prison sentence in February 2000 for protests that included turning the Cuban flag upside-down and carrying anti-abortion placards. The president of the Lawton Human Rights Foundation, an independent organization, Biscet was convicted of dishonoring patriotic symbols, public disorder, and instigating delinquency. In detention since November 1999, he had reportedly been mistreated by prison authorities and kept in poor conditions, causing weight loss and dental problems. In April, Biscet was reportedly made to share a cell with a mentally disordered inmate.

José Orlando González Bridon, leader of the Confederation of Democratic Workers of Cuba, an unofficial union, was sentenced to two years of imprisonment in May for “spreading false news.” The charges stemmed from an article he published on an Internet site in August 2000 that criticized local police for negligence in the death of another labor rights activist. In November 2000, shortly before he was detained, González Bridon took part in a protest rally in which he and other dissidents chanted “Down with Fidel!” as they symbolically buried the Cuban constitution and penal code in small coffins. Prosecutors had originally requested a seven-year sentence for González Bridon. Although they reduced their petition to one year, the trial court added a year to the sentence after finding him guilty. Later, on appeal, the sentence was cut back to a year. González Bridon was released on conditional liberty on November 22, three weeks before the expiration of his sentence. (Cuban law allows for conditional liberty contingent on good behavior after half of a prisoner’s sentence has been served.)

Another person who left prison slightly early was Julia Cecilia Delgado, released on October 19. Delgado, an independent librarian and president of a nongovernmental group, had been serving a one-year sentence for “disrespect.” Delgado was one of about two hundred people who were detained in early December 2000, in a wave of arrests probably meant to discourage public gatherings on December 10, International Human Rights Day. Pro-democracy activist Angel Moya Acosta, prosecuted at the same time, was believed to be finishing his one-year sentence in December.

Cecilio Monteagudo Sánchez, a member of the unofficial Democratic Solidarity Party (Partido Solidaridad Democrática), was released from prison in June. He had been convicted of “enemy propaganda” and sentenced to four years of imprisonment in 1998. Cuban police originally detained him in September 1997, after he had drafted, but not published, a document calling for abstention from local elections.

Much more frequent than actual criminal prosecutions were arrests and short-term detentions. The most prominent case began on January 12, when Czech citizens Jan Bubenik and Ivan Pilip were detained after meeting with independent Cuban journalists in the province of Ciego de Avila. Bubenik, a former student activist, and Pilip, a legislator and former Czech government finance minister, were held for nearly four weeks, as the Cuban authorities considered prosecuting them on charges of acting against state security. The two were released in early February after intensive diplomatic efforts by European officials.

A blind dissident, Juan Carlos Gonzalez Leyva, was reportedly stopped and roughed up by members of the Cuban secret police on January 16, along with two of his colleagues. Over the course of the year, dozens of other dissidents and human rights activists reported being arrested and detained for brief periods, such as a few hours or overnight. On some occasions, detainees were threatened or insulted, or their homes were searched.

Whether detained for political or common crimes, inmates were subjected to abusive prison conditions. Prisoners frequently suffered malnourishment and languished in overcrowded cells without appropriate medical attention. Some endured physical and sexual abuse, typically by other inmates with the acquiescence of guards, or long periods in punitive isolation cells. Prison authorities insisted that all detainees participate in politically oriented “re-education” sessions or face punishment. Political prisoners who denounced the poor conditions of imprisonment were frequently punished with solitary confinement, restricted visits, or denial of medical treatment.

Cuba maintained the death penalty for a large number of offences. In June, Justice Minister Roberto Diaz Sotolongo said that “for humanitarian reasons” Cuba preferred not to employ capital punishment, but that the penalty served as a warning to drug traffickers. Penal code changes dating from the late 1990s had extended capital punishment to cases of drug trafficking with aggravating circumstances.

In April, Elizardo Sánchez of the Cuban Commission for Human Rights and National Reconciliation announced that the death penalty had not been applied in Cuba over the past year. “We are seeing a moratorium on the death penalty, but we should move on to its abolition,” Sánchez reportedly explained. Two Salvadorans convicted of taking part in a wave of bombings of tourist installations in Havana were on death row, having been confined there since 1998. Some twenty other prisoners were also reportedly on death row, although this could not be verified as the authorities did not provide public information on death sentences and executions.

The authorities maintained strict controls on the press, barring local independent news coverage and taking steps to limit foreign reporting. As of November, independent journalist Bernardo Arévalo Padrón, director of the news agency Linea Sur Press, remained behind bars, having been denied conditional release. He was serving a six-year sentence for “insulting” President Castro, imposed in

November 1997. In January, independent journalist Jesús Joel Díaz Hernández, who had been serving a four-year sentence for “dangerousness,” was granted conditional release.

The authorities routinely detained and questioned independent journalists, monitored their telephone calls and visitors, restricted their travel, and put them under house arrest to prevent coverage of certain events. In May, in recognition of such tactics, the Committee to Protect Journalists (CPJ), a U.S.-based press freedom group, named President Fidel Castro as one of the Ten Worst Enemies of the Press for 2001.

To prevent negative foreign media coverage, Cuban authorities continued to deny visas to certain disfavored foreign journalists. In January, President Castro accused some reporters of “transmitting insults and lies,” suggesting that Cuba might consider canceling their employers’ license to operate in Cuba. “We have tolerated for years reporters who intentionally and deliberately insult the leaders of the revolution and me,” Castro said.

The government maintained considerable control over religious expression, but in general religious institutions and their leaders enjoyed a degree of autonomy not permitted other bodies. Several religious-run groups distributed humanitarian aid and carried out social programs. Yet the government continued to slow the entry of foreign priests and nuns and to bar religious institutions from running schools (although religious instruction was allowed). In contrast to the first decades after the Cuban Revolution, discrimination against overtly religious persons was rare.

The government recognized only one labor union, the Worker’s Central of Cuba (Central de Trabajadores de Cuba, CTC). Independent labor unions were denied formal status and their members were harassed. Workers employed in businesses backed by foreign investment remained under tight government control. Under restrictive labor laws, the authorities had a prominent role in the selection, payment, and dismissal of workers, effectively denying workers the right to bargain directly with employers over benefits, promotions, and wages. Cuba also continued to use prison labor for agricultural camps and ran clothing assembly and other factories in its prisons. The authorities’ insistence that political prisoners work without pay in poor conditions violated international labor standards.

## **DEFENDING HUMAN RIGHTS**

Human rights defenders were systematically harassed. The authorities routinely used surveillance, phone tapping, and intimidation in its efforts to restrict independent monitoring of the government’s human rights practices. In some instances, they employed arbitrary searches, short-term arrests, evictions, travel restrictions, politically-motivated dismissals from employment, threats and other forms of harassment against local activists.

Although the U.N. special rapporteur on violence against women was permitted to visit in 1999, the government generally barred international human rights and humanitarian monitors from the country. The International Committee of the Red Cross (ICRC) has not been allowed to conduct prison visits in Cuba since 1989, making Cuba the only country in the region to deny the organization such access.

## **THE ROLE OF THE INTERNATIONAL COMMUNITY**

### **United Nations**

At its fifty-seventh session in April, the U.N. Commission on Human Rights passed a resolution expressing concern about continuing human rights violations in Cuba, the ninth such resolution passed since 1991, and urged the government to invite the U.N. special rapporteurs on torture and on freedom of expression to visit the country.

In the resolution, the Commission noted that Cuba had made “no satisfactory improvements” in the area of human rights. It expressed particular concern at the “continued repression of members of the political opposition,” as well as about the “detention of dissidents and all other persons detained or imprisoned for peacefully expressing their political, religious and social views and for exercising their right to full and equal participation in public affairs.” An early draft of the resolution criticized the U.S. economic embargo on Cuba, but that language was omitted from the final version.

The resolution, which was sponsored by the Czech Republic, passed by a 22-20 vote, with a number of abstentions.

### **European Union**

Cuba remained the only Latin American country that did not have a cooperation agreement with the European Union. The E.U. “common position” on Cuba, adopted in 1996 and extended in June 2001, made full economic cooperation conditional on reforms toward greater democracy and human rights protection. A number of E.U. members, however, were in favor of revisiting the common position and establishing closer ties with Cuba free of any conditions. Already, European countries accounted for almost half of Cuba’s foreign trade, and more than 180 European companies operated on the island.

Visiting Brussels in July, Cuban Foreign Minister Felipe Pérez Roque appealed for a review of E.U. policy toward Cuba. A few months later, E.U. officials announced that the European Union favored resuming the political dialogue with Cuba and permitting the island to join the Cotonou Agreement, which governs the E.U.’s aid relationships with African, Caribbean, and Pacific states. Belgian Foreign Minister Louis Michel, holding the rotating presidency of the E.U. Council, had visited Havana in August, meeting with high Cuban officials as well as political dissidents. On returning to Europe, he expressed support for strengthening contacts with Cuba. Political talks between the European Union and Cuba were scheduled to take place at the end of November.

In early October, Cuban exiles filed a lawsuit in Brussels against President Fidel Castro and other high Cuban officials under a law that empowers Belgian courts to hear cases of genocide and crimes against humanity, regardless of where the incidents occurred. The lead plaintiff in the case was José Basulto, president of the Miami-based group Brothers to the Rescue. Another plaintiff was Eugenio de Sosa Chabau, a former newspaper editor who spent twenty years in prison after the Cuban Revolution. The complaint described torture and other abuses suffered by

political prisoners, including a 1960 incident in which a prisoner allegedly received electric shocks to his head and testicles.

### **Latin America and the Organization of American States (OAS)**

Venezuelan President Hugo Chavez remained Cuba's most reliable ally in the region, with his country being the only one in Latin America (besides Cuba itself) to vote against the U.N. resolution on Cuba's human rights conditions. Several other countries in the region abstained from the vote, while four—Argentina, Costa Rica, Guatemala, and Uruguay—voted in favor of the resolution.

Cuba reacted strongly to the U.N. vote, lashing out at the Latin American countries that voted for the censure. In February, prior to the Geneva session, Cuba's official daily *Granma* accused Argentina of seeking U.S. economic assistance in exchange for voting against Cuba at the United Nations. President Castro accused Argentine President Fernando de la Rúa of "licking the Yankees' boots," leading Argentina to temporarily withdraw its ambassador from Cuba. After the Geneva vote, Castro again attacked Argentina and described Costa Rica as playing the role of "a lackey—something more than a lackey—a servant" of the United States. He also claimed that Guatemala only went along with the vote because of heavy U.S. pressure.

The latter part of the year saw movement toward eliminating the last vestiges of Cuba's diplomatic isolation in the region. In September, Honduras opened an interests section in Havana, a likely first step toward full diplomatic relations. The Honduran move left El Salvador as the only Latin American country with no diplomatic relations with the island. Cuba's diplomatic estrangement from other Latin American states dated from 1961, when the Organization of American States suspended its membership. In August, in a speech before the OAS Permanent Council, Venezuelan Foreign Minister Luis Alfonso Davila pointedly called for the "complete integration" of the hemisphere, arguing that no country should be isolated.

### **United States**

The devastation wrought by Hurricane Michelle opened a crack in the U.S. economic embargo on Cuba, with U.S. companies selling food and medicine to Havana in November 2001 to offset losses and replenish stocks used in the island's worst storm in half a century. The sales, valued by a U.S. official at about U.S. \$30 million, represented the first commercial transactions between the two countries since the embargo was put in place. Authorities in Washington had originally offered to provide Cuba with disaster relief aid, but Cuban officials, declining the aid offer, expressed interest in buying food, medicine, and other necessities.

A law enacted in 2000 allowed food sales to Cuba, and an earlier law allowed the export of medicines. Yet, because the law on food sales barred U.S. government or private financing of the sales, Cuban officials had previously criticized it, saying that they would refrain from buying food until the embargo was lifted. This year's purchase represented a departure from that position, but one that Cuban officials

insisted was exceptional. "We have no reason to see [the sales] as a policy shift, rather as something that happened because of a hurricane that doesn't happen every month in Cuba," explained Cuban Vice-President Carlos Lage.

In May, Senator Jesse Helms and Senator Joseph Lieberman introduced draft legislation in Congress to allocate up to \$100 million over four years to assist dissidents, opposition groups, political prisoners, and other nongovernmental voices in Cuba. The bill, known as the Cuban Solidarity Act of 2001, was criticized by some of its potential beneficiaries, who feared that receiving U.S. government aid would damage their credibility and help discredit their views. A parallel bill had been introduced in the House in March. Both versions of the draft legislation were still under review by congressional committees as of November.

A Cuban émigré, Eriberto Mederos, faced denaturalization proceedings in Florida at the end of the year. Mederos could be stripped of his U.S. citizenship because of allegations by another Cuban-American who accused Mederos of torturing him when he was a political prisoner in Cuba in the 1960s. According to the former prisoner, Mederos subjected him to painful electrical shock treatments that lacked any medical justification.

## GUATEMALA

### HUMAN RIGHTS DEVELOPMENTS

Aside from the successful conclusion of one landmark trial, Guatemala made little progress in addressing persistent human rights problems, with certain conditions worsening. State agents were responsible for some abuses, while others were carried out by non-state actors who were able to operate with impunity because their crimes were not adequately investigated. There were increased reports of threats and violence targeting human rights advocates, labor leaders, judges, prosecutors and journalists. Meanwhile, the army's continued influence over the civilian government was evidenced by President Alfonso Portillo's decision to postpone the dismantling of the Presidential Guard (Estado Mayor Presidencial, EMP), an elite army corps associated with past human rights violations. The 1996 peace accords had called for the dismantling of the EMP.

One positive development was the successful prosecution of those responsible for the murder of Bishop Juan Gerardi, who was bludgeoned to death in April 1998, two days after he released the Catholic Church's report on human rights abuses during Guatemala's internal conflict which ended in 1996. In June, a three-judge tribunal found retired army Col. Byron Lima Estrada and his son, army Capt. Byron Lima Oliva, guilty of murder. The two men were sentenced to thirty years in prison. Also convicted were former presidential bodyguard José Obdulio Villanueva and Roman Catholic priest Mario Orantes, who received sentences of thirty years and twenty years respectively.

A major obstacle to investigating and prosecuting human rights violations committed by the army was the intimidation of prosecutors, judges and witnesses through terror tactics. In this, the Gerardi trial was no exception. From the outset, key participants in the case were subjected to “systematic” and “planned” harassment that “intensified in the key procedural moments” of the trial, according to the United Nations Verification Mission in Guatemala (Misión de Verificación de las Naciones Unidas en Guatemala, MINUGUA). One judge, one prosecutor, and several witnesses fled the country before the trial got underway after receiving death threats. In January, Luis García Pontaza, a potential defense witness with links to organized crime, was found dead in a Guatemala City jail. Prior to his death, he told MINUGUA that he had resisted pressure from the EMP to testify that certain individuals linked to the Catholic Church had been involved in the Bishop’s murder. One of the trial judges, Yasmín Barrios Aguilar, reported that two strangers attempted to break into her home a week before the trial and on March 21, the day before the oral debate was scheduled to begin, grenades were exploded at the back of her home. The special prosecutor for the case, Leopoldo Zeissig, reported receiving anonymous telephoned threats and being tailed by strangers. After the trial concluded, he fled the country, as did another witness.

While the trial’s outcome represented an enormous advance for the country, there was little or no progress made in several of the other high-profile human rights cases before the Guatemalan courts. The prosecution of soldiers implicated in the 1995 massacre in Xamán, department of Alta Verapaz, remained in its preliminary stages six years after the crime, and there were no advances in the prosecution, begun in 1994, of soldiers accused of perpetrating the 1982 massacre in Dos Erres, department of Petén. After years of delay the trial of military officers accused of ordering the 1990 assassination of anthropologist Myrna Mack was set to begin in October 2001.

Impunity also remained a serious problem in less prominent cases. MINUGUA documented hundreds of human rights abuses during the year, the majority of which it attributed to the failure of government authorities to investigate and punish the perpetrators adequately. One case that exemplified this pattern of failure involved the family of retired Gen. Otto Pérez Molina, who had helped to negotiate the 1996 peace accords and was preparing to launch a new political party. In November 2000, unknown assailants in an automobile shot and wounded his daughter-in-law. Then, in February 2001, assailants attacked and wounded his daughter and, moments later, shot and killed the driver of a car traveling next to one his wife was driving. Yet, the authorities mounted no serious investigation into the case, failing even to take testimony from an army officer who witnessed the fatal attack. The general’s family left the country for their own safety. Francisco Arnoldo Aguilar, whose wife was the driver killed in the February attack, pressed for an official investigation and urged the creation of a citizens’ group to combat impunity. In May, however, he was assassinated in front of his home in circumstances that, MINUGUA said, ruled out robbery as a motive. The authorities nonetheless insisted that it was a common crime.

The authorities also failed to take strong action against anti-union violence that undermined workers’ right to freedom of association. In March, twenty-four men

were tried for a 1999 incident in which five leaders of the Union of Banana Workers of Izabal (Sindicato de Trabajadores Bananeros de Izabal, SITRABI) were held at gunpoint, ordered to quit the union and their jobs, and call off a planned work stoppage in protest against the firing of 918 banana workers in violation of a collective bargaining agreement. They were indicted on lesser charges of false imprisonment and coercion, however, rather than for kidnapping or other crimes that carry a mandatory prison sentence. All but two were convicted; they received three-and-a-half year prison sentences but these were immediately commuted upon payment of fines. With these men again at large, the five SITRABI leaders feared for their safety and that of their families, and fled the country.

The absence of effective law enforcement and the high incidence of common crime contributed to a climate of insecurity, and the continued use of lynching as a form of vigilante justice. MINUGUA documented eighty-eight lynchings between July 2000 and June 2001, resulting in thirty-seven deaths. Local authorities often played a role in inciting and perpetrating lynchings.

Officers of the National Civilian Police (Policía Nacional Civil, PNC) were responsible for numerous human rights violations, including extrajudicial executions and torture, and for obstructing justice. In October 2000, Rolando Barillas Herrera was detained by two PNC agents in Gualán, Zacapa, brought to a station, and put in cell at midnight. At 5:00 a.m., Barillas was found dead from asphyxiation. A forensic exam found signs of beating and ruled out suicide. Yet, a year later, government investigators still had not identified those responsible for the killing. In April 2001, the PNC detained Julio Alberto Casasola and William Cotom Rodas in Quetzaltenango, having allegedly caught them in the process of stealing a car. The two were tortured and then transferred to a prison. The next day, Casasola was brought to a hospital where he died as a result of the blows he had received from the police.

There was a marked increase in threats made against people who challenged the actions of public authorities. In March, the president of the Constitutional Court, Judge Conchita Mazariegos, reported that she had received threatening phone calls and that shots had been fired at her house. Earlier that month, the Constitutional Court had lifted the immunity of members of Congress, including Gen. Efraín Ríos Montt, so that they could face prosecution for illegally altering the text of a law after it had been voted on by Congress. Three days before the attack on Judge Mazariegos's home, the court had ruled unconstitutional a decree passed by General Ríos Montt's party that would allow him and his colleagues to retain their congressional seats during their prosecution.

Also in March, several members of Congress who defected from the ruling Guatemalan Republican Front party (Frente Republicana Guatemalteca, FRG), reported being subject to threats and acts of intimidation. These politicians had joined the opposition National Unity of Hope party (Unidad Nacional de la Esperanza, UNE). The UNE's offices had previously been raided in August 2000 by people who stole documents and left threatening messages behind.

One journalist was killed; others harassed and threatened, apparently to influence their reporting. Radio journalist Jorge Mynor Alegría was assassinated by unknown assailants in September in the port city of Puerto Barrios, department of

Izabal. A colleague said that before his killing Alegría had rejected an attempt by local municipal authorities to bribe him to stop criticizing local corruption in his broadcasts. Other journalists received threats, including Claudia Méndez Villaseñor of *El Periódico*, who reported receiving telephone threats from two government officials in January when she was investigating alleged government corruption. In March, Silvia Gereda and Martín Juárez, two other *El Periódico* journalists reported receiving death threats and being assaulted. Juárez told MINUGUA that a car followed him for two hours before he was intercepted and forced to stop by another car, whose occupants then got out and pointed a gun at his head and threatened to kill him. The same month, Gustavo Soberanis of *Siglo XXI*, was threatened with a firearm by the comptroller of the president's office (*Contralor General de Cuentas*) when he tried to interview him about its expenses. Journalists in the departments of Zacapa, Quetzaltenango, and Chiquimula also reported receiving death threats. In June, the Public Ministry created a Special Prosecutor's Office for the Protection of Journalists and Unionized Workers (*Fiscalía Especial para la Protección a Periodistas y Sindicalistas*).

Union leaders also continued to be subject to threats. In February, union leaders who organized a work stoppage in the Puerto Barrios harbor received threats and were later fired. In May and June, union leaders in two Izabal banana plantations were also subject to firings and death threats. And during the year, union members were threatened and subject to discriminatory firing by municipal mayors in several towns throughout the country.

Discrimination remained a problem for indigenous people who made up roughly half the country's population. They faced unequal access to education, justice, health and other government services. According to MINUGUA, the government's record with regard to implementing the 1996 peace accords was particularly poor in the area of indigenous people's rights.

Guatemala continued to violate its international treaty obligations in its application of the death penalty. In November 2001, twenty-eight prisoners were on death row. Thirteen of them had been sentenced for kidnappings that did not result in death, a crime that was not a capital offense when the American Convention on Human Rights entered into force. Because the American Convention prohibited extending the death penalty to cover additional crimes, Guatemala's Constitutional Court ruled in October 2000 that the laws extending the death penalty to non-fatal kidnappings violated Guatemala's obligations under the Convention. In June, however, a newly constituted court overturned that earlier ruling.

In October 2000, Guatemala ratified the Additional Protocol to the American Convention on Human Rights in the Area of Economic, Social and Cultural Rights.

## **DEFENDING HUMAN RIGHTS**

In 2001, Guatemala experienced an alarming rise in the number of threats and incidents of harassment and targeted violence against human rights advocates.

MINUGUA documented 171 such cases between July 2000 and June 2001 and concluded that they were the result of “systematic action.”

In November 2000, the Rigoberta Menchú Foundation received threats in the days leading up to a ruling by Spain’s highest court (the Audiencia Nacional de España) on a genocide case that the foundation had brought before it. In May, two members of the organization Relatives of the Detained-Disappeared of Guatemala (Familiares de Detenidos-Desaparecidos de Guatemala, FAMDEGUA) were assaulted outside their Guatemala City office. Two armed men forced their way into their car and interrogated them about the organization’s work while driving them around the city, before releasing the two FAMDEGUA activists and escaping in their car. The Center for Studies, Information and Basis for Social Action (Centro de Estudios, Investigación y Bases para la Acción Social, CEIBAS) reported that its office was repeatedly burgled between February and May, and the Association for Justice and Reconciliation (Asociación Justicia y Reconciliación, AJR) reported that its president was attacked and wounded by a man with a knife, who threatened him and other witnesses in a criminal complaint that the organization had brought against General Ríos Montt and other former military commanders for genocide and crimes against humanity. In June, an Amnesty International representative undertaking research on human rights in Guatemala was the victim of an apparent abduction attempt by unidentified assailants in her Guatemala City hotel.

## **THE ROLE OF THE INTERNATIONAL COMMUNITY**

The international community continued to play a prominent role in monitoring the Guatemalan government’s compliance with the 1996 peace accords and with international human rights norms. The United Nations and the Organization of American States provided mechanisms to which Guatemalans could denounce human rights abuses by the government. The United States also monitored Guatemala’s human rights record, though its responses to this record varied, with the Senate penalizing its shortcomings while the United States Trade Representative rewarded its perceived gains.

### **United Nations and the Organization of American States (OAS)**

The United Nations verification mission, MINUGUA, continued its institution-building activities as well as playing a central role in monitoring compliance with the peace accords. MINUGUA’s reports contained detailed human rights analyses and indicated that significant aspects of the accords remained unimplemented. In September, MINUGUA issued a human rights report for the period July 2000 to June 2001, and at other times it issued communiqués on specific human rights abuses.

The U.N. special rapporteur on the independence of judges and lawyers, Param Cumaraswamy, visited Guatemala in May and found that the climate of insecurity for members of the legal community continued to undermine the rule of law. He

noted that recommendations he made after a 1999 visit had been largely ignored by government authorities.

In November 2000, the Committee against Torture expressed concern about a “deterioration” of the human-rights situation in Guatemala, and recommended, among other things, that independent commissions be established to monitor the performance of the police and to investigate cases of kidnapping and “disappearances.”

In May, the Committee on the Rights of the Child met with the Guatemalan government to discuss its implementation of the Rights of the Child. The committee expressed concern that violence against children was increasing in Guatemala and urged the government to adopt legislation that would protect the children’s rights.

In July, the Human Rights Committee, responding to a report submitted by the Guatemala government, commended Guatemala for providing resources for human rights institutions, yet expressed concern at ongoing “glaring and systematic violations.” It recommended that the Guatemalan government give priority to investigating and bringing to justice the perpetrators of human rights violations.

The Inter-American Commission on Human Rights issued four case reports on Guatemala. In one, it urged the government to reform provisions of the civil code that imposed unequal spousal and familial obligations on women and men. In the other three, it called for the government to investigate and punish extrajudicial executions, forced disappearances and other serious human rights violations committed by the security forces during the 1980s and 1990s, and to compensate victims’ families.

### **United States**

In July, the United States Senate voted to maintain a ban on regular military training and funding for Guatemala’s military. The report that accompanied the Senate foreign operations bill cited the Guatemalan government’s failure to dismantle the EMP and to address the deteriorating human rights situation.

In October 2000, the United States Trade Representative (USTR) took the unprecedented step of initiating a review of Guatemala’s status as a beneficiary of the U.S. Generalized System of Preferences (GSP) largely in response to the failure of government authorities to adequately punish anti-union violence. A review examines a country’s compliance with certain internationally-recognized workers’ rights to determine its eligibility for GSP tariff benefits. In May 2001, the Bush administration’s new USTR lifted the review of Guatemala’s beneficiary status, citing as positive government steps the reinstatement of illegally dismissed banana workers, and the conviction of the twenty-two gunmen involved in the October 13, 1999 incident. In fact, the banana workers’ reinstatement was the result of a negotiated settlement between the workers and management not governmental intervention.

**HAITI**

**W**orsening human rights conditions, mounting political turmoil, and a declining economy marked President Jean-Bertrand's Aristide first year back in office. The investigation into the murder of crusading journalist Jean Dominique reached a standstill, with the judge assigned to the case receiving little cooperation from the police and other government bodies. The work of human rights defenders became increasingly dangerous, as several received serious death threats.

**HUMAN RIGHTS DEVELOPMENTS**

Aristide won the presidency in November 2000, in an election that was boycotted by credible opposition candidates because of the government's failure to remedy the deeply flawed results of the May 2000 legislative and local elections. The Organization of American States (OAS) and other international observers refused to monitor the November balloting, in which Aristide faced no serious challengers.

During meetings with U.S. Special Envoy Tony Lake in December 2000, Aristide committed to undertaking a series of steps to address the country's serious problems. The reforms he promised—which included remedying the results of the May 2000 elections, professionalizing the police and judiciary, and strengthening democratic institutions—were urgently needed. Unfortunately, over the course of the year, Aristide showed little inclination to follow through on his promises.

Despite many millions in international aid hanging in the balance, progress toward resolving Haiti's political crisis was painfully slow. As of late November, no agreement had yet been reached between Fanmi Lavalas, the party of President Aristide, and the Democratic Convergence, the main opposition coalition. Talks in October brokered by OAS envoy Luigi Einaudi, the latest in a long series of negotiations, broke down almost immediately. Although the two sides had tentatively agreed to hold new legislative elections in November 2002, they were unable to resolve other areas of disagreement.

The country's polarization raised the spectre of political violence. In early January, a month before Aristide's inauguration, leaders of so-called popular organizations that supported Fanmi Lavalas made violent threats against a number of opposition figures. Speaking at a press conference at the church of Saint Jean Bosco, Aristide's former parish, Paul Raymond and René Civil referred to a list of opposition leaders, religious figures, journalists, and others who they said were opposed to Aristide's inauguration. They warned the people on the list to change their position within three days or face violent retaliation.

With Aristide's inauguration and the opposition's declaration of a "parallel government," political instability continued. There were several outbreaks of violent unrest over the course of the year. In mid-March, angry mobs staged street demon-

strations and erected burning barricades in parts of Port-au-Prince to protest opposition claims that the government lacked legitimacy. The office of the main opposition coalition was firebombed, as pro-government demonstrators called for the arrest of the opposition's self-styled "president," Gerard Gourgue.

At the end of the March wave of violence, which spread to other Haitian cities as well, at least four people had been killed and many more injured. Police inaction in the face of violent demonstrations by armed gangs raised doubts about the government's interest in quelling the unrest.

A chain of attacks on police stations on July 28, characterized by the government as a coup attempt, led to a crackdown on the opposition. Although the motives and circumstances of the attacks were unclear, it was undisputed that armed men clad in the uniform of Haiti's disbanded army seized the national police academy for several hours and later tried to take over several police stations in central Haiti. Seven people were killed, including five police. At least forty people were arrested in the wake of the attacks, including many members of the Democratic Convergence. A number of the arrests were made without a judicial warrant, leading a coalition of local human rights groups to complain that the arrestees' prolonged detention was "arbitrary and illegal."

Earlier in the year, several hundred former army officers had held demonstrations to demand the restoration of the army, which was dissolved by President Aristide in 1995. Many believed that the July attacks were carried out by such former officers.

In mid-November, large scale rioting broke out in Cap Haitien, Haiti's second largest city, following a call by the main opposition coalition for a two-day general strike to pressure President Aristide and his political allies to relinquish power. The previous week, smaller demonstrations were held in Petit-Goave and Gonaives, coastal towns west of the capital.

Although in the first half of the year there were encouraging signs of progress in the investigation into the April 2000 killings of journalist Jean Dominique and security guard Jean Claude Louissant, by November the case appeared stalled. Investigating Judge Claudy Gassant, citing safety concerns, announced that he would not accept the renewal of his appointment to the case, set to expire in January 2002. Earlier, in June, Judge Gassant had resigned from the case because of security threats and a lack of government protection. He fled to the United States at that time but returned after a few weeks, when the minister of justice promised to provide armed bodyguards and other security guarantees. Gassant faced death threats and intimidation because of his work.

Stymied by a lack of cooperation from police and other officials, Gassant was unable even to question some of his top suspects. Arrest warrants issued against Paul Raymond, René Civil, Richard Solomon, and Franck Joseph had no effect, with the suspects moving freely about the capital. Another leading suspect, Senator Dany Toussaint, benefited from parliamentary immunity. As of November, more than three months after receiving Judge Gassant's request that Toussaint's immunity be lifted, the Senate had yet to make any decision on the question. Indeed, the parliamentary commission charged with examining the request did not even meet until five weeks after the request was made.

In early November, one of Dominique's suspected killers was lynched by an angry mob in Léogane, a town southwest of the capital. He was the second suspect in the case to die before being questioned. The killing, which police apparently allowed to take place, further hindered the investigation of the case. Judge Gassant, who witnessed the murder, announced two days later his decision to leave the case.

Ivorian journalist Abdoulaye Guedeouengue—who was abducted, beaten, and robbed in May—had been investigating the Dominique murder at the time of his capture. He was reportedly warned by the kidnappers to stop looking into the case.

As the Guedeouengue case indicated, the media came under increasing pressure to limit its reporting. On October 12, Jean Robert Delciné, a journalist with Radio Haiti Inter, was hit by police while investigating a police killing in Cite Soleil. Other Radio Haiti Inter journalists also reported threats and harassment over the course of the year, in some instances by men believed to be police. On October 2, members of a so-called popular organization close to Fanmi Lavalas threatened radio journalist Jean-Marie Mayard, telling him that he would be a “dead man” if his reporting did not favor the Aristide government. According to Reporters without Borders, a France-based international press freedom organization, ten journalists were threatened or attacked by people connected to Fanmi Lavalas during the first ten months of the year.

The justice system remained largely dysfunctional, with many crimes going unpunished. In June, in a speech to police, President Aristide announced a “zero tolerance” crime policy, stating that it was not necessary to bring criminals to court. His words were widely interpreted by Haitians as an invitation to vigilante justice and police violence. Human rights groups reported that in the months following the speech, dozens of suspected thieves were killed by mobs.

The increasing politicization of the Haitian National Police (HNP) raised additional concerns. The reluctance of police to intervene in certain situations to prevent political violence, typically when opposition supporters were in danger, was frequently in evidence. In an open letter to the police leadership sent in October, the nongovernmental National Coalition for Haitian Rights (NCHR) deplored the HNP's lack of political neutrality. The letter drew attention to the failure of the police to arrest certain criminal suspects pursuant to valid arrest orders and, in contrast, the willingness of the police to arbitrarily arrest others. It also claimed that several police officers, previously dismissed for involvement in serious human rights violations, had been reintegrated into the force.

Accountability for past abuses remained elusive. Although the success of the Raboteau trial in 2000 raised hopes of further such prosecutions, the prospect of achieving justice for many other notorious crimes seemed remote. In a letter sent on August 28, the seventh anniversary of the assassination of Father Jean Marie Vincent, NCHR criticized what it called the “systematisation of impunity.”

Former Gen. Prosper Avril, who headed the country's government for two years after a 1988 coup, was arrested on May 28 on charges of assault, torture and illegal arrest. Avril's rule was characterized by egregious human rights abuses. Although efforts to prosecute such crimes were all too rare in Haiti, the circumstances and timing of Avril's arrest suggested that it was politically motivated. The arrest was made on the basis of a 1996 warrant that had been ignored for years; it was acted

upon only after Avril attended a highly-publicized meeting of the main opposition coalition. A number of political figures who were tortured under Avril's government, but had since joined the current opposition, were unwilling to testify against Avril regarding past abuses. In June, a court of appeals judge ordered that Avril be freed, but the head of the public prosecutor's office refused to sign the release form, blocking the defendant's release.

Prison conditions remained dire, with the country's desperately overcrowded prisons and jails being largely filled with pretrial detainees. Detention facilities lacked the necessary infrastructure and many failed to provide medical care, sufficient food, or even potable water. A study of the prison system published by the Vera Institute for Justice found "a serious problem of malnutrition." In mid-November, five prisoners were killed by police who were putting down a riot at the National Penitentiary in Port-au-Prince.

Of all Latin American and Caribbean countries, Haiti continued to have the highest prevalence of HIV/AIDS, although treatment was largely unavailable. According to UNICEF, some 74,000 Haitian children were orphaned because of the AIDS pandemic. Many of the orphans were themselves HIV-positive.

Determined to escape Haiti's dire conditions, thousands of Haitians tried to leave the country in overcrowded and rickety boats. Many of them, hoping to reach the United States, were intercepted by U.S. coast guard cutters and immediately repatriated, while an unknown number died at sea.

## **DEFENDING HUMAN RIGHTS**

Human rights defenders came under increasing pressure in 2001, with several receiving death threats. In October, both NCHR and the Platform for Haitian Human Rights Organizations (POHDH) were threatened following the publication of a strongly-worded letter from NCHR to the police leadership.

Pierre Espérance, the director of NCHR in Haiti, also received several menacing calls in August. The different callers warned him that if NCHR continued to press for justice in the Jean Dominique case, he would be eliminated. Espérance had reason to take such threats seriously, having suffered an assassination attempt in 1999.

## **THE ROLE OF THE INTERNATIONAL COMMUNITY**

At this writing, some U.S. \$500 million in international aid remained frozen, reflecting donor governments' impatience with Haiti's inability to resolve the political crisis.

### **United Nations**

In November 2000, U.N. Secretary-General Kofi Annan recommended against renewing the mandate of the United Nations International Civilian Support Mission in Haiti (MICAH). In an usually critical report to the General Assembly, he

noted that over the previous several months, “Haiti’s political and electoral crisis has deepened, polarising its political class and civil society.” In light of such conditions he concluded that MICAH’s ability to function successfully was limited. MICAH’s mandate ended on February 6, the day before President Aristide entered office.

In July, Secretary-General Annan reiterated that the resolution of the political crisis was a prerequisite for the resumption of aid to Haiti.

Adama Dieng, the United Nations independent expert on the human rights situation in Haiti, issued his last report on conditions in Haiti in January. In it, he drew attention to the deterioration of the system of justice, noting the “politicization of the police, arbitrary arrests, prolonged detention without trial, the climate of violence and also the deplorable health conditions in the prisons.” Dieng, who resigned from his post to work for the Rwanda war crimes tribunal, had not been replaced as of November.

The U.N. Commission on Human Rights, issuing a chairperson’s statement in April, called upon the Haitian government to thoroughly investigate politically motivated crimes, including the murder of journalist Jean Dominique; to prosecute the perpetrators of such crimes; to institute legal proceedings against perpetrators of human rights violations identified by the National Commission for Truth and Justice; and to ensure the neutrality of the police.

### **Organization of American States (OAS)**

As in 1999, Luigi Einaudi, assistant secretary-general of the Organization of American States (OAS), carried out intensive efforts to break Haiti’s political deadlock. He made a number of trips to Haiti, including in February, April, May, June, and October. In May and June, Einaudi visited Haiti in the company of OAS Secretary General Cesar Gaviria. Their efforts to mediate the crisis did not, however, bear fruit.

In early October, the OAS established a new “Group of Friends on Haiti”—made up of Canada, Argentina, the Bahamas, Belize, Chile, Guatemala, Mexico, the Dominican Republic, United States, and Venezuela—in hopes of restarting the stalled negotiations.

### **United States**

In September, on the tenth anniversary of the military coup that drove him from power, President Aristide announced that the United States had returned thousands of pages of documents gathered from the offices of the Haitian military and the paramilitary Revolutionary Front for the Advancement and Progress of Haiti (FRAPH). The documents, which detailed paramilitary abuses after the 1991 coup, had been seized by U.S. forces in September 1994. It was believed, however, that the names of U.S. citizens had been excised from the returned documents, a condition that previous Haitian administrations had publicly rejected.

The failure of the United States to extradite Emmanuel “Toto” Constant, former FRAPH leader, continued to thwart Haitians’ hopes for justice for past abuses. Con-

stant, previously an informer for the Central Intelligence Agency, remained in Queens, New York, having been extended protection from deportation. Other members of the coup-era high command were also resident in the United States.

### **European Union**

Finding that “respect for democratic principles has not yet been re-established in Haiti,” in January the European Union (E.U.) terminated consultations with Haiti that had been initiated under the Cotonou Agreement, an aid pact linking the E.U. with African, Caribbean, and Pacific states. As a result, all direct budget aid to Haiti was suspended.

## **MEXICO**

### **HUMAN RIGHTS DEVELOPMENTS**

By ending seven decades of one-party rule in Mexico, the election of President Vicente Fox in 2000 created an historic opportunity to tackle the country’s long-standing human rights problems. In his inaugural address, President Fox promised to seize this opportunity and, in the following months, his administration took encouraging steps toward that end. However, by November, significant progress was still needed in a variety of areas.

President Fox appointed several people known for their promotion of human rights to his cabinet, including Foreign Minister Jorge G. Castañeda and National Security Adviser Adolfo Aguilar Zinser. He also created a new post, the special ambassador for human rights and democracy, to which he appointed Mariclaire Acosta, for years one of the country’s most outspoken human rights advocates. (In September, the position was reconfigured as deputy minister for Human Rights and Democracy within the Ministry of Foreign Relations.)

The Fox administration made a crucial break with Mexico’s past by opening the country to international scrutiny by human rights monitors. In December, Fox announced that he would eliminate visa restrictions that had made it difficult for foreign monitors to gain access to the country on short notice. In March, addressing the U.N. Commission on Human Rights, Foreign Minister Castañeda extended “a permanent invitation to the representatives of international human rights mechanisms to visit Mexico.” In May, the Foreign Ministry co-sponsored a seminar with the office of the United Nations High Commissioner on Human Rights on procedures for investigating torture. In July, it invited the president of the Inter-American Commission on Human Rights to visit Mexico to examine the government’s compliance with past commission recommendations.

Under Fox’s leadership, Mexico became more active in promoting the concept of the universality of human rights principles, a notion that was anathema to pre-

vious Mexican governments. In February, the foreign minister authorized the extradition of former Argentine navy officer Ricardo Miguel Cavallo to face charges in Spain for atrocities committed during Argentina's "dirty war." Cavallo filed a judicial appeal challenging the constitutionality of the foreign minister's ruling, and at this writing a ruling on the appeal was pending.

In October, the Foreign Ministry began working with congressional leaders to secure the ratification of the Rome Statute for the International Criminal Court, together with a reform of the Mexican constitution that would allow international tribunals, in some instances, to exercise jurisdiction over Mexican citizens. The Foreign Ministry also sought the ratification of several other international human rights treaties, including the Inter-American Convention on Forced Disappearance of Persons; the Convention on the Non-Applicability of Statutory Limitations to War Crimes and Crimes Against Humanity; the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution, and child pornography; and the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflicts. Finally, the ministry sought ratification of a treaty recognizing the competence of the U.N. Human Rights Committee to hear individual communications.

In addition to assuming new international human rights obligations, the government promised to promote respect for human rights abroad—in particular, the rights of Mexican citizens residing in the United States. President Fox's February meeting with U.S. President George W. Bush led to the creation of a working group consisting of top officials of both governments with the aim of achieving safe, legal, and humane migration. In October, the Presidential Office for Mexicans Abroad announced that it had reached an agreement with municipal health authorities in U.S. cities to ensure that Mexicans would receive medical attention regardless of their residency status. The National Human Rights Commission (Comisión Nacional de Derechos Humanos, CNDH), the government's autonomous human rights ombudsman, also made migrants' rights a priority.

Unfortunately, the strides made in Mexican foreign policy were not matched on the domestic front, where President Fox promised to intervene in several high profile human rights cases. One was that of General José Francisco Gallardo, who was jailed in 1993 after he openly called for the creation of a military human rights ombudsman's office. In 1997, the Inter-American Commission on Human Rights (IACHR) called for Gallardo's immediate release; yet, as of late 2001, Gallardo remained in jail. In February, his family petitioned the Supreme Court to order the president to comply with the IACHR's recommendation. A court ruling was pending at this writing.

A second case involved peasant environmentalists Teodoro Cabrera García and Rodolfo Montiel Flores, who were illegally detained and apparently tortured by soldiers in May 1999 and then convicted of drug and weapons crimes in August 2000 on the basis of evidence that was planted on them at the time of their detention. In January, President Fox promised that his government would conduct a thorough investigation of the case. The Foreign Ministry's human rights office provided legal advice to the lawyers handling a judicial appeal on behalf of Montiel and Cabrera. In July, a federal appeals court upheld the conviction of Cabrera and Montiel and

they remained in prison until November, when President Fox issued an order for their release as a demonstration of his government's commitment to human rights norms. The investigation of the torture allegations was left to the military prosecutor's office, which had an extremely poor record of probing abuses by the military.

Little progress was made in addressing the underlying problems of the justice system that gave rise to cases like these. Judicial oversight of police practices was seriously inadequate. Judges cited legal precedents that vitiated human rights guarantees by accepting the use of evidence obtained through violations. The lenient sentences given to convicted torturers served to reinforce the climate of impunity.

Soldiers involved in counternarcotics operations also committed abuses against civilians. In January, soldiers on patrol near the town of Lindavista in Guerrero state shot at two unarmed civilians, killing fourteen-year-old Esteban Martínez Nazario. In August, the Baja California state human rights prosecutor's office reported that soldiers had been caught carrying out illegal detentions without arrest warrants. In October, the Center for Border Studies and Promotion of Human Rights reported complaints of illegal detentions carried out by soldiers in the Tamaulipas.

Under Mexican law, cases involving army abuses were subject to military rather than civilian jurisdiction. The military justice system, however, did not adequately investigate and prosecute alleged abuses by the army. Its operations generally lacked transparency and accountability. Following the January killing in Lindavista, however, military authorities did arrest and begin proceedings against five soldiers and an army officer. But this was exceptional and it occurred only after local people took the extraordinary measure of surrounding the army camp and refusing to allow anyone to leave until the killing was investigated. After a day-long siege, army and state government officials arrived and signed an agreement to investigate the shooting and punish those responsible. According to Lindavista residents, the boy who died was the seventh member of the community to be killed by soldiers in recent years, but his was the first case to be investigated. However, residents who organized the protest afterwards reported receiving threats from military personnel.

There was considerable debate within the Fox government over how to address past human rights violations, such as the 1968 massacre of student protestors in Mexico City, and the 1997 massacre of villagers in Acteal, Chiapas. In his inaugural address in December 2000, the president promised to establish a truth commission to investigate violations committed under previous governments. In the months that followed, however, his administration sent mixed signals about whether it would pursue the plan, with Secretary of Government Santiago Creel Miranda openly opposing the idea.

Another area requiring attention was the protection of labor rights. Mexico failed to guarantee free and fair union elections, despite the previous government's May 2000 pledge "to promote the use of eligible voter lists and secret ballot elections" as a step toward this. For example, at the Duro Bag Manufacturing Corporation in Río Bravo, union elections in March were conducted by open ballot, with workers required to vote aloud in front of company management and representatives of the company-favored Revolutionary Confederation of Workers and Peasants (CROC).

Legitimate labor organizing activity continued to be obstructed by collective

bargaining agreements negotiated between management and pro-business, non-independent unions. These agreements frequently failed to provide worker benefits beyond the minimum standards mandated by Mexican legislation, and workers often only learned of the agreements when they grew discontented and attempted to organize independent unions. However, when workers sought to displace non-independent unions, they often suffered anti-union discrimination. In early January 2001, for example, five workers at the Kukdong International México S.A. de C.V. (“Kukdong”) apparel factory in Puebla were discharged, allegedly for asserting workplace grievances and attempting to organize an independent union to replace the CROC. A week later, a majority of the Kukdong workforce began a work stoppage in solidarity with the fired workers. When the stoppage ended, many of the workers who had participated were denied reinstatement by Kukdong and CROC representatives. A concerted campaign on behalf of the workers was mounted by labor and nongovernmental organizations (NGOs) in the United States and Mexico, and largely in response to this effort, multinational corporate buyers began to exert pressure on Kukdong management to address the situation. From mid-February, most workers were allowed to return to the factory, and by September, workers had established an independent union and signed a collective agreement with the company (which had changed its name to Mex Mode).

Certain sections of the population were more vulnerable to rights violations. Among the most vulnerable groups, according to CNDH President José Luis Soberanes, were migrants and indigenous people. Gays and lesbians were also targeted for abuse. In August, for instance, gay activist César Salazar Gongora was kidnapped in the city of Merida, Yucatan, by three young men who raped him, beat him with a stone, cut his ear with a knife and then abandoned him in a nearby village. Salazar Gongora submitted a complaint to local prosecutors. In the days that followed he received dozens of phone calls threatening him with death for reporting the crime. An investigation was launched, but according to local rights advocates, it made no headway until Salazar Gongora, his lawyer and two gay rights advocates met with the state’s attorney general and obtained from him a promise to replace the investigator attached to the case.

## **DEFENDING HUMAN RIGHTS**

In October 2001, human rights lawyer Digna Ochoa was found shot to death in her Mexico City office. A note left by her side warned members of the Miguel Agustín Pro Juárez Human Rights Center, where Ochoa had worked for several years, that the same could happen to them. Ochoa had been subject to repeated threats in recent years because of her work on high profile human rights cases. (Among the people she had defended were alleged guerrillas jailed during the 1990s, and environmental activists Rodolfo Montiel and Teodoro Cabrera Garcia.) She was abducted twice in 1999 and, on the second occasion, interrogated by her assailants. The Zedillo government had failed to conduct thorough investigations of these incidents.

In 1999, the Inter-American Court of Human Rights had ordered the Mexican

government to take special measures to protect the lives of Ochoa and her colleagues. Ochoa received police protection until she left the country in 2000 to work in the United States, but the protection lapsed upon her return to Mexico in April 2001. The Fox government promised to take all possible steps to bring those responsible to justice.

In addition to showing increased openness to international human rights monitors, the Fox government was more willing than its predecessors to consult its critics at home. In March, the Foreign Ministry's human rights office arranged a meeting between the commission that coordinates the human rights agendas of distinct government ministries and a wide range of human rights organizations. It then developed a proposal, based largely on the recommendations of the NGOs, for a "Dialogue Mechanism" that would allow NGOs to contribute to the design and implementation of Mexican human rights policy. At this writing, the proposal had not been implemented.

## **THE ROLE OF THE INTERNATIONAL COMMUNITY**

### **United Nations**

In May, U.N. special rapporteur on the independence of judges and lawyers Param Cumaraswamy visited Mexico to assess the justice system. He met the attorney general, the presidents of the CNDH and the Supreme Court, and other senior officials, as well as NGO representatives. He reported that impunity remained a serious problem within the Mexican judicial system.

### **Organization of American States (OAS)**

In July, the IACHR president Claudio Grossman visited Mexico to assess the new government's compliance with past commission recommendations. Working with the Foreign Ministry's human rights office, the IACHR obtained amicable resolutions in several pending cases. It also issued two new case reports on Mexico and accepted a further case for consideration.

### **United States**

In January, in its annual human rights report, the U.S. Department of State criticized "widespread impunity" that "continues to be a serious problem among the security forces" and noted that the government's efforts to improve human rights "continued to meet with limited success." Despite these criticisms, however, in its relations with Mexico, the U.S. focused less on strong bilateral action to promote human rights than on issues such as economic relations, immigration control, and narcotics.

In April, the U.S. National Administrative Office (NAO)—one of the three national agencies established under the labor side agreement of the North American Free Trade Agreement (NAFTA) to investigate charges of labor rights violation

in member countries—released a report in which it confirmed allegations made by workers in two auto parts factories in Tamaulipas of chemical exposure and injuries from poor ergonomic conditions. The report found that the Mexican government had failed to fulfill its obligations under NAFTA's labor side accord to ensure safe working conditions. Specifically, the Mexican authorities had failed to conduct meaningful workplace inspections, to respond to workers who filed complaints with government agencies, and to provide proper compensation to workers for work-related injuries and illnesses. The NAO recommended ministerial consultations between the U.S and Mexican governments to discuss Mexico's failure to meet its obligations. If these consultations failed to resolve the matter, a panel could be convened to determine appropriate actions, including economic sanctions against the Mexican government. Under the labor side accord, economic sanctions could only be applied if a government was found to have persistently failed to enforce its domestic labor laws in three areas: occupational safety and health, child labor, and minimum wage.

Most of the other twenty-three cases submitted since NAFTA went into effect involved primarily the right to freedom of association, which can lead, at most, to an NAO request for intergovernmental consultation. In the absence of a more effective enforcement mechanism, the labor side accord had a limited impact on workers rights in Mexico.

### **Relevant Human Rights Watch Reports:**

*Military Injustice: Mexico's Failure to Punish Army Abuses*, 12/01

*Trading Away Rights: The Unfulfilled Promise of NAFTA's Labor Side Agreement*, 4/01

## **PERU**

### **HUMAN RIGHTS DEVELOPMENTS**

In a series of dramatic developments in late 2000, the repressive and discredited government of President Alberto Fujimori disintegrated, generating new hope for democracy and human rights. Although Peru was faced with the legacy of a decade of authoritarian rule, both the interim administration of Valentín Paniagua and the new government of President Alejandro Toledo took important steps in 2001 to strengthen democratic institutions and the rule of law, while starting to address long neglected human rights problems.

In November 2000, after Fujimori had gained a third consecutive term of office in widely discredited elections held the previous May, his government collapsed in the midst of a major political corruption scandal. Fujimori fled to Japan, his parents' native country, from where he submitted his resignation by fax. The Peruvian

Congress declared Fujimori morally unfit for office and appointed its president, Valentín Paniagua, to head a caretaker government. Paniagua's eight-month transitional government achieved notable advances for human rights. It leveled the playing field for new presidential elections, held in April 2001. A special prosecutor, whom Fujimori had appointed in his final month in office, began to unravel a vast web of corruption spun by Fujimori's former advisor Vladimiro Montesinos. Paniagua formed a truth commission to investigate responsibility for the systematic human rights violations and guerrilla abuses committed during Peru's twenty-year counter-insurgency war, beginning in 1980. His government also took steps to improve prison conditions, and speeded up the release of people falsely convicted or charged with crimes of terrorism by Fujimori's widely condemned anti-terrorism courts.

On July 28, 2001, President Alejandro Toledo was sworn in after narrowly defeating Alán García's bid for a second mandate in a run-off vote in June (García had been president from 1985-1990). Toledo, who had led the opposition against Fujimori for two years, said that his government was committed to fully reestablishing human rights, accountability, and the rule of law, and he appointed former members of Peru's nongovernmental human rights community to his cabinet.

Both the interim administration and the Toledo government took important steps to bring members of the Fujimori government to justice for human rights violations and corruption. On June 23, Vladimiro Montesinos, the disgraced former *de facto* chief of the National Intelligence Service (Servicio de Inteligencia Nacional, SIN) and virtual co-ruler of Peru with President Fujimori, was arrested in Caracas, Venezuela, after eight months on the run. After an unsuccessful attempt to obtain asylum in Panama in September 2000, Montesinos had returned clandestinely to Peru in October, evaded capture, and escaped by yacht to Venezuela. Venezuela deported Montesinos to Peru, where he was imprisoned pending trial on charges of corruption and human rights violations.

In May, special prosecutor José Ugaz reported that seventy-four former government officials, judges, legislators and businessmen were being held on a wide range of corruption charges, and that U.S. \$153 million held in foreign bank accounts by Montesinos and his cronies had been frozen. By November, more than 1,000 people were under investigation for corruption, according to a senior judicial official. Many were exposed by the discovery and exhibition in Congress of secret videos filmed by Montesinos at the SIN's Lima headquarters, showing them accepting bribes from the former intelligence chief. Those detained included former army commanders Gen. Nicolás de Bari Hermoza Ríos and Gen. José Villanueva Ruesta, during whose command the army had come under Montesinos' indirect control. Altogether, more than thirty senior military officers were accused of corruption, drug trafficking, wiretapping of government opponents, extrajudicial executions, and other crimes. Nineteen of them were in detention or under house arrest in October 2001.

On August 27, Congress voted unanimously to remove Fujimori's immunity from prosecution as head of state. On September 5, Attorney General Nelly Calderón filed charges against him of murder, causing grave injuries, and "disappearances." Fujimori was accused of being co-author, along with Montesinos, of the

extrajudicial execution in 1991 of fifteen people, including an eight-year-old child, at a fund-raising party in a poor tenement in Lima's Barrios Altos district, and the "disappearance" in 1992 of nine students and a professor from La Cantuta University. Both crimes were attributed to the Colina Group, a paramilitary death squad answering to Montesinos as *de facto* head of the SIN, for which Fujimori exercised ultimate responsibility. By June, nineteen alleged Colina Group members were already facing charges for the Barrios Altos massacre, including several who had been released in 1995 under two sweeping amnesty laws approved by the Fujimori-controlled Congress. On September 13, Supreme Court justice José Luis Lecaros issued an international warrant to Interpol for Fujimori's arrest, pending the submission to Japan of a formal extradition request. The Japanese government, which had swiftly recognized Fujimori's claim to Japanese nationality, stated repeatedly that its laws prohibited the extradition of its citizens.

The truth commission established by interim President Paniagua in June got off to a slow start due to initial disagreements over its composition. Human rights groups criticized the Paniagua cabinet's decision to include a former pro-Fujimori congresswoman, Beatriz Alva Hart, in the seven-person commission, headed by the rector of the Catholic University, Salomón Lerner. After taking office, President Toledo finally confirmed Hart in her post, and he himself appointed five extra members, including a retired army general. The commission was mandated to investigate violations of the collective rights of Peru's Andean and native communities as well as violations of individual rights such as extrajudicial executions, torture, and "disappearances." It was also empowered to hold public hearings, and to name those it found responsible for abuses and human rights violations. Although government officials were required by law to provide support to and cooperate with the commission, it was not given powers to subpoena them to testify. The commission had plans to establish regional offices to collect information in the rural zones most affected by the armed conflict.

Abuses by guerrilla groups continued. Although states of emergency were no longer in force in any part of the country, isolated pockets of armed guerrilla activity were still reported. In the Alta Huallaga region in Huánuco and San Martín departments, Shining Path (Sendero Luminoso) guerrillas murdered fourteen civilian non-combatants in separate incidents in March. The victims were alleged to have been former guerrillas or sympathizers who their captors accused of collaborating with the government. Remnants of the Shining Path also continued to operate, reportedly in alliance with cocaine traffickers, in the jungle regions of Junín and Ucayali. Concerns continued that Asháninka Indians were being forcibly recruited and forced to work for the guerrillas. On August 7, four policemen on a mission to intercept a Shining Path column were killed after being ambushed by guerrillas in the jungle near Satipo. The Shining Path was reported to have kidnapped fifteen Asháninkas, whose names were not given for fear of reprisals. Incidents like these confronted the new government with the challenge of mounting an effective response to terrorism while avoiding the human rights abuses of earlier years.

There was steady progress in securing the release of scores of prisoners falsely accused or unjustly convicted of terrorism under the anti-terrorism laws intro-

duced by the Fujimori government in 1992. Between November 2000 and mid-July, the government issued 144 pardons and commuted fifty-two sentences on the recommendations of an ad-hoc commission appointed by Fujimori to vet petitions for a presidential pardon. Nongovernmental human rights groups, which had themselves forwarded applications for pardons, however, urged the government to approve releases more quickly. By early August, more than one hundred cases presented by human rights organizations and the churches still awaited government approval. The situation of hundreds of peasants still affected by terrorism arrest warrants dating back for years was somewhat eased by a law passed in June permitting judges to suspend the investigation, or to allow prisoners to testify voluntarily without being detained.

By October, the government had not announced any plans to review the sentences and trials of more than 2,000 prisoners who had been convicted of terrorism or treason by anti-terrorism courts. These courts' procedures systematically violated due process and had been internationally condemned. In May, however, the Supreme Council of Military Justice, Peru's highest military court, announced that four Chilean members of the Tupac Amaru Revolutionary Movement (Movimiento Revolucionario Tupac Amaru, MRTA), who had been sentenced to life imprisonment for treason in 1994 by a "faceless" military court, would receive a new trial in a civilian court. The decision promised to put into effect a 1999 ruling by the Inter-American Court of Human Rights, which Fujimori had cited as a pretext for withdrawing Peru from the court's jurisdiction. In June, a civilian anti-terrorism court presided over by Judge Marcos Ibazeta re-tried U.S. citizen Lori Berenson, who had been sentenced in 1996 by a faceless military court to life imprisonment for treason. Berenson had been found guilty of participating in a foiled plot to take members of Congress hostage in order to obtain the release of MRTA prisoners. After a three-month trial in open court, at which her defense counsel was permitted to cross-examine witnesses, Berenson received a twenty-year sentence for collaborating with the group.

Some positive measures were taken to tackle Peru's inhumane prison conditions, another legacy of years of neglect of basic human rights. Overcrowding was severe, with more than 27,000 prisoners occupying facilities built for a maximum of 20,000. Long sentences and the habit of incarcerating offenders before trial contributed to the problem. The problem of overcrowding was compounded by insufficient food, poor hygiene, and inadequate medical services. More than half the prisons had seriously inadequate infrastructure and facilities. At the beginning of the year, two-thirds of the prisons were controlled by the police rather than by trained prison officers. Extortion and violence by guards was common.

Inmates convicted on serious charges, such as drug trafficking and terrorism, were not entitled to any remission for good conduct. Moreover, for years prisoners convicted of acts of terrorism had been kept locked up all day with minimal access to recreation areas and rights to family visits. In March, the Ministry of Justice introduced new rules allowing prisoners out of their cells between 6:00 am and 6:00 pm, more frequent and longer visits by relatives, and access to defense lawyers in private. Regulations were expected to enter force in September 2001 establishing this as a uniform regime for all inmates. Despite these advances, no action was taken to close down the isolated high-security prison of Challapalca, located at

14,000 feet in the Andes near Puno, whose oxygen-thin air and freezing temperatures made it a serious health hazard. Although some inmates were moved to other facilities, fifty continued to be held there.

Press freedom benefited almost immediately from the collapse of the Fujimori government and the dismantling of the SIN in September 2000. In December 2000, for example, Baruch Ivcher, owner of Channel 2-Frecuencia Latina, who was stripped of his Peruvian nationality in 1997 and deprived of his controlling shares in the station because of its reporting of abuses committed by the SIN, returned from exile and a court later restored his ownership of the company. Several media owners were facing charges, however, for accepting bribes from Montesinos in exchange for favoring the Fujimori government.

In the provinces, journalists continued to face threats and legal action in retaliation for critical coverage of local authorities and politicians. Local radio was particularly vulnerable. Of thirty complaints monitored from January to July by the Press and Society Institute (Instituto Prensa y Sociedad, IPYS), a non-governmental press freedom advocacy group, twenty-eight were received from outside Lima, and twenty-two affected radio stations. In February, the Human Rights Ombudsman presented to Congress a bill to repeal article 374 of the Criminal Code that penalizes defamation of public authorities. The bill was still under consideration at the time of writing.

## **DEFENDING HUMAN RIGHTS**

Both the Paniagua and Toledo governments expressed support and appreciation for the work of human rights monitors. Human rights organizations made a vital contribution to the public debate in the transitional months before Toledo's election. Both governments appointed human rights advocates with long experience in nongovernmental organizations to their cabinets. The organizations grouped together in the widely respected National Human Rights Coordinating Group (Coordinadora Nacional de Derechos Humanos, CNDDHH) successfully advocated that a truth commission be appointed before the elected president took office in July, and it obtained the agreement of both candidates to support the initiative. In September, President Toledo appointed CNDDHH's executive director, Sofia Macher, as a member of the commission.

The Human Rights Ombudsman's office published in November 2000 a comprehensive report on "disappearances" between 1980 and 1996. Basing its data mainly on files from the Attorney General's office, the report documented 4,022 cases of "disappearance" in which the fate of the victims was still unknown. In an update published in November 2001, the ombudsman put the total number at 6,362, including cases recorded by human rights groups but not officially reported.

In November 2000, the offices of two CNDDHH member organizations, Peace and Hope (Paz y Esperanza) and the Human Rights Commission (Comisión de Derechos Humanos, COMISEDH), suffered break-ins and the theft of data storage equipment. The burglaries occurred soon after the CNDDHH filed a criminal complaint against those responsible for the Barrios Altos and La Cantuta massacres.

## **THE ROLE OF THE INTERNATIONAL COMMUNITY**

### **United Nations**

The Human Rights Committee (HRC) criticized abuses in the administration of justice. In its concluding observations on Peru's report under article 40 of the International Covenant on Civil and Political Rights, published in November 2000, the HRC called for the government to "review and repeal the 1995 amnesty laws, which help create an atmosphere of impunity." The committee also recommended that Peru "establish an effective mechanism for the review of all sentences imposed by the military courts for the offences of terrorism and treason," and expressed concern about prison conditions.

### **Organization of American States (OAS)**

The human rights bodies of the Organization of American States (OAS) helped redress some of the abuses of the Fujimori era and promote justice for the victims, while Peru demonstrated a new commitment to comply with the OAS's recommendations. On January 18, Peru's Congress overturned a July 1999 resolution not to recognize the jurisdiction of the Inter-American Court of Human Rights, a resolution that the court had declared to be inadmissible. In February, the court ordered Peru to facilitate the return to Baruch Ivcher of his majority shares in the Channel 2-Frecuencia Latina television network, and pay him damages and compensation totaling U.S. \$70,000. In compliance with recommendations made by the Inter-American Commission on Human Rights in December 1998, Peru reinstated three members of the Constitutional Court who had been dismissed in 1997 for opposing Fujimori's re-election plans.

In a landmark decision in March, the Inter-American Court ruled unanimously that the application of the 1995 amnesty laws to the Barrios Altos case was incompatible with the American Convention on Human Rights and therefore without legal effect. It urged Peru to hold accountable those responsible and to compensate the victims. Within days of the decision, Peruvian police detained several alleged former members of the Colina death squad on murder charges, including two former generals. In September, the Inter-American Court responded to a request by the Peruvian government for clarification of the scope of the Barrios Altos decision, by affirming that application of the amnesty laws to any other case of human rights violation would also violate the American Convention. In October, the Supreme Council of Military Justice annulled its 1995 decision applying the amnesty laws to the Barrios Altos and La Cantuta cases.

### **European Union**

E.U. financial assistance to Peru was suspended in 1999-2000 under the Fujimori government. In 2001, aid programs were reestablished, primarily focusing on institutional and judicial reform, and the fight against poverty.

## United States

Amid scandalous revelations about the criminal activities of Vladimiro Montesinos, the U.S. press published details about Montesinos' long association with the U.S. Central Intelligence Agency (CIA) and his pivotal role in U.S. anti-drug efforts in Peru. In September 2000, the *Washington Post* reported that the CIA defended Montesinos in inter-agency reviews and dismissed as "unproven and irrelevant" reports that he had "orchestrated" human rights violations in the early 1990s. The United States maintained its association with Montesinos well into 2000, according to the newspaper, until evidence emerged that Fujimori's advisor had been involved in the illegal sale of assault rifles to left-wing guerrillas in Colombia. In June, the National Security Archive (NSA), a U.S. non-governmental freedom of information advocacy group, published documents declassified under the Freedom of Information Act about the U.S.'s early links with Montesinos in the 1970s. Other documents showed that the U.S. received reports of Montesinos' growing influence over Fujimori as early as 1990. Apparently following a top-level decision finally to break off ties with Montesinos, the Federal Bureau of Investigation gave Peruvian police vital assistance in apprehending him in Caracas in June.

In July, Human Rights Watch wrote to President George W. Bush to express concern about the shooting down of a plane during a joint U.S.-Peruvian drug surveillance operation on April 20, causing the deaths of Veronica Bowers, a missionary, and her infant daughter. Human Rights Watch urged that surveillance pilots be issued with clear instructions not to use lethal force in the absence of an imminent threat of violence. A joint U.S.-Peruvian report released by the State Department in August put the blame for the tragedy on lax procedures and the failure of the Peruvian pilot to give proper warning.

## VENEZUELA

**A**s in the past, the most pressing human rights issues facing the government of President Hugo Chávez involved crime and the criminal justice system. High levels of violent crime placed great stress on public institutions, whose level of professionalism was often low. Corruption and violence in the police forces and the prison system remained endemic, while the judiciary—under-funded, inefficient, and often corrupt—was incapable of dispensing justice in an efficient manner.

The extrajudicial execution of criminal suspects by police continued to be a major human rights problem. A disturbing recent development was the emergence in some states of organized death squads, acting with impunity and even publishing their hit lists in local newspapers.

President Chávez's frequent outbursts against his political and media critics,

coupled with his authoritarian style of governance, raised fears of encroachments on civil liberties and free expression. However, as in previous years, Chávez's rhetoric was generally more aggressive than his actions.

## HUMAN RIGHTS DEVELOPMENTS

In the state of Portuguesa, a death squad composed of off-duty members of the state police and National Guard was believed responsible for up to one hundred killings of criminal suspects over the last two years, mainly in the cities of Acarigua and Araure. Calling itself the "extermination group," it selected its victims from lists of wanted criminals openly published in the press. Given the apparent indifference of the state government, police, and judges to the incidents, the killers reportedly took to operating in broad daylight aboard police patrol cars. According to press reports, they extorted large sums of money from those on their hit list and killed them if they were unable to pay up.

In October 2000, members of the group murdered twenty-three-year-old Jimmy Rodríguez, a third year law student, and his friend César Agray Meléndez. Both were well known locally and neither was believed to have criminal connections. In May, Rodríguez' father, José Ramón Rodríguez, who had campaigned publicly to bring his son's killers to justice, was himself gunned down. A few days later, Belmiro Gutiérrez, one of the principal witnesses in the Rodríguez-Agray killings, was also murdered. In July, the government sent two prosecutors and large contingent of police from Caracas to investigate these incidents. Many witnesses received death threats.

Human rights groups accused Rodrigo Pérez Pérez, the chief of public security of the Portuguesa state government, and the former chief of the State Police, Carlos Navarro, of complicity in the activities of the death squad, but neither had been charged by October. At least six state police officers, however, were arrested in connection with the killings. On September 25 a large National Guard and police contingent, acting on the orders of the attorney general, Isaías Rodríguez, raided the state police headquarters. According to the press, they found that four of the six detained officers were not in their cells, which contained liquor and cell phones. The police also reportedly found illegal weapons, drugs, and the registration documents of stolen cars in the building.

In June, Attorney General Isaías Rodríguez announced that the government was also investigating death squad activity in the states of Yaracuy, Miranda, Anzoátegui, and in metropolitan Caracas. The nongovernmental human rights group Venezuelan Program for Education and Action on Human Rights (Programa Venezolano de Educación-Acción en Derechos Humanos, PROVEA) denounced a pattern of extrajudicial killings in the states of Barinas (with thirty-two such deaths between January 2000 and June 2001), and Zulia, where ninety-eight people died in "clashes" with police in 2000, and forty-three in the first four months of 2001. Police often attempted to disguise deliberate killings by claiming that the victims were killed in firefights.

In July, the Supreme Court granted a habeas corpus writ filed on behalf of

Roberto Javier Hernández Paz, who “disappeared” after intelligence agents arrested him in his home in the state of Vargas in December 1999. The court ordered the prosecutor to renew investigations into Hernández’ “disappearance” and bring to justice those responsible. Hernández was one of four people who “disappeared” when intelligence agents and army paratroopers committed serious abuses during efforts to control looting during flooding in Vargas state. In September the public prosecutor brought charges of enforced disappearance against Jose Yañez Casimiro, a DISIP officer implicated in the “disappearance” of Oscar Blanco Romero, and against Justiniano Martínez Carreño for covering up Blanco’s illegal arrest.

The progressive new code of penal procedures, introduced in 1999 under the government of Rafael Caldera, came under fire as the public security crisis worsened. With the code being scapegoated for the weaknesses of law enforcement, calls multiplied for its reform, in particular, to tighten its provisions on parole and pre-trial release, and to eliminate jury trials.

Prison conditions remained inhumane and, because of inter-prisoner violence, often life-threatening. Despite a significant reduction in the numbers of prisoners awaiting trial, levels of inmate violence were extremely high, abetted by insufficient staffing and equipment, widespread corruption among guards, and the unchecked entry into prisons of narcotics and firearms. In March, two prisoners died and forty-one were wounded in a gun battle between rival gangs in the El Rodeo prison in Miranda state. One of the dead, Edgard Alexander Bazán, was killed when he picked up a hand grenade another prisoner had thrown toward him. The prison with the worst record of inmate violence was Yare I, in Miranda state, where at least twenty inmates died in separate incidents from April to August, as gangs competed to control the market in drugs and weapons.

Venezuela’s treatment of refugees from neighboring Colombia raised serious concerns. In October 2000, Venezuelan authorities forcibly returned at least seven asylum seekers who had fled paramilitary violence in their villages, having barred access to the group by the United Nations High Commissioner for Refugees (UNHCR). In February human rights and church groups expressed concern about the plight of hundreds of Colombians who had crossed into Zulia state to escape political violence in Colombia. The refugees, whose presence both the Venezuelan and Colombian governments initially denied, were reported to be undocumented and suffering from malnutrition and disease. In March, the Inter-American Commission on Human Rights issued an urgent appeal to the Venezuelan government not to return the 287 refugees and to guarantee their safety, provide them with humanitarian assistance, and consider their applications for refugee status.

In August, the National Assembly approved an Organic Law on Refugees and Asylum Seekers, drafted with the participation of nongovernmental human rights groups. The new law prohibited the forcible return of asylum seekers and established a National Commission for Refugees to consider asylum applications. According to PROVEA, more than one hundred such applications had been awaiting consideration since July 1999.

President Chávez’s authoritarian tendencies continued to reveal themselves in efforts to undermine civil society institutions such as labor unions and the press.

Yet, even as Chávez threatened severe measures—as in May when he proposed declaring a state of emergency—his actions were rarely as drastic as his more alarmist critics expected.

On December 3, 2000, at Chávez's behest, the government held, and won, a national referendum to remove the leadership of the country's discredited trade union federations. The proposal was in breach of treaty obligations mandating that the government respect the autonomy of labor organizations. After repeated postponements, new union elections held under the auspices of the National Electoral Council, a state body, were scheduled for October.

Although press freedom was generally respected, Chávez continued to deliver blistering attacks on his press critics in his weekly television show and other public appearances, as well as in calls placed by him to radio and television networks. Chávez's aversion to criticism was also evident in his June announcement that "foreigners who come here to slander Venezuela will be expelled." His words were believed to be a reaction to comments made during a visit to Venezuela by Peruvian presidential candidate Lourdes Flores, who had compared Chávez's government to that of deposed President Alberto Fujimori of Peru.

Also in June, the Supreme Court issued a decision interpreting a controversial clause in Venezuela's new constitution, a document drafted under Chávez' direction. In a much-criticized ruling, the court found that article 58 of the constitution guaranteeing the right to "timely, truthful, and impartial information" imposed enforceable obligations on the media. The court held that media outlets must avoid "publishing false news or news that is manipulated with half truths; disinformation that denies the opportunity to know the reality of the news; and speculation or biased information to obtain a goal with regard to someone or something." The court also concluded that article 58 required publications to be ideologically pluralistic unless their editorial line was made explicit.

The Supreme Court ruling raised fears that article 58 would be used to gag press critics of the government. Indeed, in October, the National Commission of Telecommunications (Comisión Nacional de Telecomunicaciones, CONATEL) began an investigation into the conduct of the Venezuelan television network Globovisión, for allegedly having broadcast "false, misleading or tendentious information," an offense under Venezuela's Radiocommunications Regulations. In September, the network aired the statement of a taxi driver who claimed that nine colleagues had been killed by criminals, when in fact only one had died. President Chavez urged the station to "reflect before it is too late," and threatened to "apply mechanisms for the defense of the national interest, the truth, and public order." For its error, which it promptly corrected, the station was potentially liable to a fine or the suspension of its broadcasting license.

On January 7, members of the Directorate of Military Intelligence (Dirección de Inteligencia Militar, DIM) detained lawyer and academic Pablo Aure Sánchez in response to a letter he wrote ridiculing the army that was published in a national newspaper. Aure was stripped of his clothes and spent the night in a cramped cell without access to a toilet. Although he was released for health reasons three days later, Aure faced charges under an article 505 of the code of military justice, which mandates a three- to five-year sentence for anyone who "insults, offends or dispar-

ages the armed forces.” Disregarding objections made by the attorney general and the human rights ombudsman, who argued that military jurisdiction over civilians was unconstitutional, the military prosecutor refused to turn the case over to the civilian courts.

On June 24, Venezuelan military intelligence agents arrested Vladimiro Montesinos, the shadowy head of Peru’s National Intelligence Service and the power behind the throne of deposed President Alberto Fujimori, in Caracas. Montesinos was promptly deported to Peru, where he was imprisoned on charges of corruption and human rights abuse. Since Montesinos fled Peru amidst a bribery scandal in October 2000, persistent rumors had circulated that he was hiding in Venezuela with the protection of government officials. The strongest suspicions centered on members of the Directorate of Intelligence and Prevention Services (Dirección de los Servicios de Inteligencia y Prevención, DISIP) and on its director, Eliecer Otaiza, who was fired by Chávez days before Montesinos’ arrest. However, investigations by the Attorney General’s Office and two parliamentary commissions of inquiry failed to clarify questions regarding the government’s involvement.

## **DEFENDING HUMAN RIGHTS**

The year began with positive overtures by the Chávez government toward human rights groups, but little real cooperation resulted. In January, Human Rights Watch was present as an observer at a meeting on public security convened by Minister of the Interior and Justice Luis Alfonso Dávila with representatives of the Venezuelan human rights community, and attended by cabinet ministers, the attorney general, the president of the Supreme Court, and the human rights ombudsman. The participants agreed to form a permanent advisory commission to ensure an ongoing dialogue between the government and human rights groups, particularly on crime control policy. However, by October the proposal had not been implemented.

In January, the press reported that Liliana Ortega, executive director of the respected Committee of Relatives of Victims of the Events of February-March 1989 (Comité de Familiares de los Víctimas de los Sucesos de Febrero-Marzo de 1989, COFAVIC), was on a list of persons under investigation by DISIP for “plotting against the government.” The following month, however, DISIP’s director denied the allegations.

## **THE ROLE OF THE INTERNATIONAL COMMUNITY**

### **United Nations**

In March the Human Rights Committee reviewed Venezuela’s record of compliance with the International Covenant on Civil and Political Rights. In its concluding observations, the committee expressed grave concern at reports of “disappearances” and extrajudicial executions, and regarding the failure of the state

authorities to investigate them and bring those responsible to justice. It also urged Venezuela to pass a law codifying torture as a crime, and expressed concern that the extended reform of the judiciary could threaten its independence. In May, the Committee on Economic, Social and Cultural Rights called on Venezuela to ratify the 1951 Convention on the Status of Refugees and to issue asylum applicants with appropriate documentation. It considered that Venezuela's failure to do so "seriously hinders their enjoyment of economic, social and cultural rights, including the rights to work, health and education."

### **Organization of American States (OAS)**

In its annual report for the year 2000, the Inter-American Commission on Human Rights expressed concern about restrictions on freedom of expression in Venezuela. The special rapporteur on freedom of expression raised the case of Pablo Aure as an example of the continuing problems posed by contempt of authority laws.

In February the Inter-American Commission on Human Rights issued an urgent appeal to the Venezuelan government with regard to criminal defamation proceedings targeting journalist Pablo López Ulacio. The proceedings, brought by a prominent businessman whom Ulacio had accused of corrupt business practices, were flawed by the evident partiality of the judges. Yet the government failed to take the measures requested by the commission, and in July a Caracas judge issued another order for López' arrest.

Venezuela also continued to flout a 1996 ruling of the Inter-American Court on Human Rights. The court had ordered Venezuela to compensate the relatives of fourteen fishermen extrajudicially executed at El Amparo in Apure state in October 1988, and to bring to justice those responsible.

### **United States**

Neither the Clinton nor Bush administrations commented publicly on human rights. The State Department's *Country Reports on Human Rights Practices for 2000* highlighted the problem of extrajudicial executions and "disappearances," noting that the perpetrators acted with "near impunity." High-level Venezuelan officials, including Defense Minister José Vicente Rangel and Foreign Minister Luis Alfonso Dávila, criticized the report.