

## **AMERICAS WATCH OVERVIEW**

**The trend in Latin America from dictatorial rule to elected government continued in 1990. On March 11, a freely elected government was inaugurated in Chile after more than 16 years of military dictatorship. On December 16, Haiti had its first truly free and fair election ever. And some steps toward fair elections were achieved in Guyana, as the government pledged to institute meaningful reform for elections to be held in 1991. However, a reversal of the trend took place in Suriname in late December, when the military dislodged the elected government that it had allowed to take office two-and-a-half years before. And some countries in the region have made little or no progress toward free and fair elections, notably Mexico and Cuba.**

**Even with this healthy trend toward respect for the will of the people, it would be difficult to say that elections have brought about an end to human rights violations. The largest number of extrajudicial executions and disappearances in the hands of government agents are now taking place in Colombia and Peru, two countries that are otherwise genuine democracies. In Guatemala and El Salvador, despite regular elections, power continues to reside in the hands of the military, and the pattern of human rights violations persists. In many of the countries ruled by elected governments, violations such as torture of common crime suspects, police brutality and subhuman prison conditions have grown worse in recent years.**

**The obvious lesson is that elections, even when free and fair, do not by themselves guarantee human rights. Nonetheless, clear progress on human rights has been made in Latin America, and the progress is related to the expansion of democracy. In most countries, there is now a far more open and vigorous debate in the domestic press than under prior dictatorships; there is also more freedom to associate and organize all forms of institutions of civil society. Latin Americans interested in human rights are taking advantage of these openings, and many countries now enjoy the benefits of strong, diverse and creative nongovernmental organizations dedicated to the promotion of fundamental rights.**

**There is abundant evidence, however, that their work in defense of**

**human rights is still much needed. Democratic governments must be pressed to exercise better control over their armed forces and law-enforcement bodies so that they carry out their duties within the limits established by law. Courts and prosecutors must be prompted to live up to their obligation to protect the rights of all citizens and to ensure that no one is above the law. Parliaments must be pressed to question and examine policies that affect human rights. In addition, international human rights organizations like Americas Watch must continue to exercise moral pressure in support of our colleagues in Latin America, to ensure that governments comply with their international obligations and uphold the rule of law.**

**Several internal armed conflicts still cause severe loss of life in Latin America – notably, in Colombia, El Salvador, Guatemala and Peru. In varying degrees, the insurgent groups in all of these conflicts commit violations of the laws of war by attacking impermissible targets or putting the civilian population needlessly at risk. In response, armed and security forces conduct counterinsurgency campaigns which involve "dirty war" tactics, such as executions, disappearance and torture.**

**US troops were directly involved in only one, short-lived conflict: the December 1989 invasion of Panama. An investigation conducted by Americas Watch a few weeks later revealed that the operations conducted by US troops in highly populated areas violated the obligation to minimize harm to civilians.**

**Civilian governments have shown themselves unwilling or unable to control the counterinsurgency operations of their armed and police forces. In addition, governments all too frequently resort to states of emergency that limit civil liberties in a manner that are disproportionate to the actual threat to peace. In recent years, there has been increased awareness of the need to demand from all forces respect for the standards of international humanitarian law. Local human rights groups in Colombia, El Salvador and Peru have led demands to "humanize" their country's war; they also increasingly monitor and report deviations from those standards by both sides to the conflict. In so doing, domestic groups must overcome serious obstacles to researching these violations, since they occur in remote and highly dangerous places. At the same time, their insistence on performing this task has not only resulted in higher legitimacy for human rights work, but also contributes to a reduction in violations by both sides.**

**There was also increased activity in the search for peace in several internal conflicts. Early in 1990, the armed conflict in Nicaragua, with rebels armed and sponsored by the US government, finally came to an end. The intervention of the United Nations and the Organization of American States was valuable in ensuring compliance with the commitments leading to the end of that war. In turn, they prompted promising initiatives by the United Nations to search for peace in the conflicts in El Salvador and Guatemala. At year's end, the peace talks on El Salvador were offering hope for substantial progress. Also in 1990, the Colombian government successfully finalized protracted and difficult peace discussions with one major guerrilla organization and, in the wake of that agreement, talks began with three other groups. Although the prospects for peace with the two largest rebel organizations remain in doubt, the search for a negotiated peace in Colombia has taken hold. In Peru, on the other hand, there was no sign that the ten-year-old war with *Sendero Luminoso* could be ended through negotiations.**

**Peace talks in all of these countries have an important effect on human rights. In the first place, the mere fact of the talks, and the prospect of peace, make all parties show greater respect on the battlefield for the laws of war, even if no ceasefire is immediately attained. Moreover, respect for human rights often becomes an important issue in the talks, improving the human rights climate and sometimes resulting in agreements to allow verification by impartial sources.**

**Unfortunately, the need for peace also sometimes has a negative effect: the impulse for reconciliation results in sweeping amnesty laws that often cover egregious crimes committed by both parties. In 1990, this occurred when the Nicaraguan Assembly passed an amnesty law between the February election and the April inauguration of Violeta Chamorro. Similar amnesties, under the pretext of peace accords, were enacted in earlier years in El Salvador and Guatemala. In each case, Americas Watch protested vigorously, because the amnesty established impunity for serious crimes by both sides to the conflict as a matter of law.**

**How to address the legacy of massive violations of the recent past continues to be the most difficult problem confronting the emerging democracies in the region. Human rights organizations have led the struggle for full accountability to expose the truth of what happened and to bring gross abusers to justice. Argentina had taken the lead in this effort, but on December 29, 1990, President Carlos Menem completed the retreat from truth and justice by**

**pardoning the few remaining generals who were still serving sentences for their role in the "dirty war." Chile started on its own road of accountability in 1990, when President Patricio Aylwin created a Commission on Truth and Reconciliation, whose report will be published in 1991. Impunity for past abuses in Haiti, long a smoldering issue, instantly came to the forefront when the December 16 elections were won by a candidate committed to punish the crimes of the Duvalier dictatorship and subsequent military governments.**

**Americas Watch continued to focus on accountability for human rights violations, in accordance with the policy positions adopted by Human Rights Watch on the matter. Throughout the year, we criticized the Bush administration's refusal to lend any support to those struggling to uphold the principle that egregious crimes should be punished. Silence on truth and justice issues, which was the norm throughout the Reagan years, has largely continued under the Bush administration. While in isolated cases the administration urged prosecution of those responsible for particular abuses – in Haiti, Guatemala and El Salvador – these have been rare exceptions to a policy of not expressing support for efforts to redress abuses. Nor has the administration protested when pressure from those responsible for abuses led to the enactment of amnesties. Although in the past the White House has expressed strong support for democracy in countries where it has been threatened, in the most recent episodes of military threats to civilian governments (Argentina and Chile, both in December 1990), the Bush administration minimized the dangers to democracy and downplayed the seriousness of military challenges. This is a serious mistake. Military pressures on civilian governments and, more important, the military's perception that it is unaccountable to anyone remain the most serious threats to democracy in Latin America.**

**In 1990, Americas Watch devoted considerable efforts to documenting violence against peasants and advocates on their behalf in the context of land disputes, a problem which affects several countries in the region. Americas Watch takes no position on who should have title to lands in dispute; instead, we concentrate on the violence directed against those who try to defend their claims, when that violence is supported or tolerated by agents of the state. Our report on Mexico, published in June, included some information on rural violence in that country. In mid-year, we sent a team that spent several weeks in different regions of Brazil, and in August we conducted a mission in Paraguay. The reports from those missions will be published in early 1991, and we hope that they will increase attention to the serious problem of violence in rural areas.**

**A major new source of human rights violations is the fight to stop drug trafficking in several countries. In its much-publicized drive to interdict the flow of drugs to the United States, the Bush administration has provided substantial amounts in military aid to Colombia, Peru, Bolivia and Mexico, and has tried to engage other countries in an effort to use military forces to destroy crops, intercept shipments and disrupt trafficking networks. Disappearances, torture, murder of prisoners and even acts of indiscriminate fire in the course of such operations have proliferated in Colombia and Mexico, and they are mostly attributed to special police forces created and funded with US support.**

**In addition, drug-interdiction policies, as planned by the Bush administration, are designed to involve the armed forces of each country in the "war" against drug trafficking. Initially reluctant to accept such a role, the armed forces of several countries are now ready to accept the fresh US aid, so long as they can put it to use for their traditionally higher priority of fighting local insurgencies. In an effort to involve the military in the drug war, US diplomats and advisors have been willing to tolerate this diversion of funds. As a result, US weapons and training are increasingly becoming entangled in the conduct of "dirty" counterinsurgency wars.**

**Initially, the US Congress seemed to go along with and even encourage the administration to pump resources into the "war on drugs," as a means of limiting the flow of drugs to an avid US market. By mid-1990, however, many voices in Congress were raised to question the human rights implications of a policy that emphasizes military solutions to law enforcement problems. In November, Congress enacted several conditions on aid under the International Narcotics Control Act of 1991 which, if taken seriously, could go a long way toward correcting some of the most serious abuses in the Andean countries. However, no similar interest has been shown with regard to Mexico, and the Bush administration strictly refuses to offer any criticism of the Salinas government, either on drug-interdiction policy or any other human rights-related matter, lest that criticism interfere with the development of a major free-trade agreement.**

**Americas Watch continued throughout 1990 to devote attention to efforts to use the regional mechanisms for human-rights protection established by the Organization of American States (OAS). These efforts are an outgrowth of our participation on behalf of relatives of the disappeared in the first adversarial case, against Honduras, heard by the OAS Inter-American Court of Human Rights.**

**In August 1990, the Court issued another ruling in favor of the victims, when it ordered Honduras to pay interest for a one-year delay in paying damages and to adjust the payment to reflect two devaluations of the Honduran currency. The Honduran government has made partial payment of the amounts owed, and we continue to represent the families in this matter. In October, the OAS Inter-American Commission on Human Rights decided to submit a new case to the Court in which Americas Watch is co-counsel along with a Peruvian human rights organization. The case, which will be litigated in 1991, involves the disappearance of inmates from the Peruvian island prison of El Frontón, in the course of the bloody riots of June 1986.**

**Americas Watch is processing more than forty similar cases before the Commission, with the intent of taking some of them to the Court. In all cases we act in conjunction with local human rights groups. The cases present a variety of important issues of fact and the potential to advance significant principles of international law. To serve these needs better, we have entered into an agreement with several human rights groups in Latin America to provide free legal services to victims of abuse who wish to use these protection mechanisms. The program got under way in October 1990.**

**Americas Watch took several new steps in 1990. In addition to continuing to try to cover the region in a balanced and comprehensive manner, without abandoning our concerns in those countries where we have long been involved, we published our first report on Mexico in June, receiving prominent coverage and attention to our concerns, not only from the Mexican press and public but also from the government. Thereafter, we continued to monitor conditions in the country, and in 1991 we will publish a report on prison conditions and a major update to our first report. In addition, Americas Watch strengthened its contacts and sources on Venezuela – a country on which we have not yet reported – and toward the end of the year we contributed to a mission by the Argentine Team for Forensic Anthropology to conduct exhumations of victims of repression during the civil disturbances in Caracas at the beginning of the term of President Carlos Andrés Pérez. We expect to be able to publish our first reports on Venezuela, as well as on Bolivia, in 1991.**

# ARGENTINA

## Human Rights Developments

Official impunity for gross abuses continued to be the leading human rights issue in Argentina. In October 1989, President Carlos Saúl Menem pardoned most military officers who still faced prosecution for violations of human rights in the late 1970s. However, yielding to international and domestic outrage, he exempted the seven men who had been convicted by Argentine courts. They include the five former commanders of the armed forces, among them former Presidents Jorge Videla and Roberto Viola, and the former Police Chiefs of Buenos Aires Province, Gens. Ramón Camps and Pablo O. Ricchieri. Following the initial pardon, President Menem frequently promised to pardon these remaining officers before the end of 1990. On December 29, despite extensive public opposition, he finally pardoned and released all of them, including Carlos Guillermo Suárez Mason, who had been extradicted from the United States to stand trial for his crimes as chief of the Buenos Aires army garrison.

Americas Watch has criticized the presidential pardon of those accused of crimes against humanity during the so-called "dirty war," just as it criticized two laws enacted under former President Raul Alfonsín, known as *Punto Final* (full stop) and *Obediencia Debida* (due obedience), which had the effect of limiting prosecutions for these crimes. Such laws sanction impunity, undermine democratic institutions, especially the judiciary, and do a disservice to the victims of abuses. They also violate the UN Convention Against Torture, signed and ratified by Argentina, which makes punishment of torture obligatory.<sup>31</sup> That opponents of the military government were pardoned for their politically motivated common crimes does not, in our opinion, affect Argentina's obligations to punish those who violate human rights. By the same token, Americas Watch objects to impunity for members of opposition movements who commit such serious crimes as torture, forced disappearance, and kidnapping.

A more recent example of the impunity of Argentine security forces came

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<sup>31</sup> See Americas Watch, *Truth and Partial Justice in Argentina*, 1987.

**in the aftermath of the January 23, 1989 attack on a military barracks in the Buenos Aires suburb of La Tablada by members of an armed opposition group. After a fact-finding mission to Argentina, Americas Watch urged President Alfonsín to guarantee a full investigation into the possible execution of five guerrillas after they had surrendered: Díaz, Provenzano, Ramos, Ruiz and Samojedny. Several survivors say that Provenzano and Samojedny surrendered with them and were taken away by military officers. Díaz and Ruiz were last seen on live television as they were being taken away by officers who had captured them. Ramos bore a striking resemblance to a young man shown in a published photograph in the act of surrendering. The burnt bodies of Provenzano and Ramos were identified, and the government claimed that they were killed in combat. The bodies of Díaz, Ruiz and Samojedny remained unaccounted for, although at least six corpses could not be identified.**

**Americas Watch expressed concern that the judicial investigation into these apparent murders was frozen. In April and May 1989, military officials provided the names of the officers that had taken Díaz and Ruiz into custody upon their surrender. The officers' efforts to exonerate themselves in statements to the court – they said that they had handed off custody of the two men to a noncommissioned officer who died in combat – though unconvincing, did not lead to charges against them. Since then, Judge Gustavo Larrambebere, who was conducting the investigation, complained that his court's overcrowded docket impeded his progress in the investigation. Military authorities provided unpersuasive explanations for the lack of clarity as to how these men died and generally refused to cooperate with the judicial inquiry. Nor did the Alfonsín and Menem administrations display any interest in such cooperation.**

**In the view of Americas Watch, President Menem's insistence during 1990 on expanding the number of Supreme Court judges from five to nine contributed to the destruction of an independent judiciary and thus decreased the likelihood that suspected official abuse of this sort would be scrutinized and punished. In a move designed to have a similar effect, the Secretary of Justice ordered federal prosecutors to abstain from legal challenges to the constitutionality of the presidential pardon of members of the military who were being tried for crimes against humanity. Two prosecutors, Hugo Cañón in Bahía Blanca and Aníbal Ibarra in Buenos Aires, disobeyed those instructions. In Bahía Blanca, the Federal Court agreed with Cañón's position and struck down the pardon. The case was pending before the Supreme Court at year's end. The Secretary of Justice initiated disciplinary proceedings against both prosecutors.**



Ibarra and another Buenos Aires prosecutor, Mariano Ciafardini, were also subjected to a disciplinary inquiry arising out of their investigation into the whereabouts of children who had disappeared with their parents during the so-called "dirty war." The disciplinary proceedings were pending for over a year at the end of 1990. While Americas Watch recognizes the Secretary of Justice's right to sanction prosecutors for misconduct, these sanctions reflected official efforts to avoid a broad and democratic debate over these important human rights issues.

Following the detention in the United States of Carlos Suárez Mason, former commander of the First Army Zone headquarters in Buenos Aires, Americas Watch represented several victims suing the general for damages under the Alien Torts Claims Act (Title 28, US Code, Section 1350). After his extradition to Argentina in late 1988, a public trial was finally scheduled for August 1990 by the Federal Court of Appeals for Buenos Aires. In July 1990, however, the Supreme Court unexpectedly requested all the case documentation, making it impossible for the Court of Appeals to hold the planned trial. President Menem's year-end pardon mooted the issue. Americas Watch had viewed the Suárez Mason trial as extremely important, given that the former general was the only leader of the "dirty war" whose case had still been pending. The Supreme Court intervention was a further indication of the judiciary's compromised independence and its susceptibility to political manipulation.

On February 26, President Menem promulgated a decree authorizing the intervention of the armed forces in situations of social unrest. Americas Watch viewed the decree as a step backward in the struggle to keep the military in their barracks and to consolidate civilian control over the armed forces. Argentina's recent past shows that allowing the military to undertake internal police duties is an invitation to massive violations of fundamental rights.

In October, Vice President Eduardo Duhalde (acting for the President during a trip abroad by Menem) vetoed an act of Congress which exempted from military service sons and brothers of persons officially recognized as "disappeared" during the last military government. Americas Watch considered the veto to be in open contradiction with the argument that President Menem has used to justify the military pardons -- that they are necessary for "national reconciliation." Far from accomplishing that goal, the veto showed an unwillingness to make amends to the families of the victims of disappearances for their suffering. The vetoed legislation was to be reconsidered by both Houses

of Congress during the special session which began in November. Menem endorsed Duhalde's veto by arguing that to uphold the law would be "to establish a privileged status in the Republic of Argentina." This was a surprising statement. Menem obviously believed that exempting young men from the draft whose families had suffered in the hands of those who would be their superiors was an unconscionable "privilege." But he evidently did not think that exempting proven criminals from any punishment created a privileged class of defendants.

Police violence became a front-page issue in the Argentine press in the latter half of 1990. For the most part, the violence took the form of the police shooting suspects in the streets and in poor neighborhoods, torturing suspected criminals in police stations, and covering up their actions. In September, Luis Patti, the deputy police chief of the city of Pilar, 60 miles north of Buenos Aires, was arrested under charges of having tortured two prisoners with electric shocks. In the following weeks, several community marches were organized to support Patti, who many believed had brought security to Pilar. The conservative media focused on the population's fear of the rising crime rate, tacitly justifying the use of torture in police investigations.

Judge Alberto Borrino had ordered Patti's arrest after a medical examination confirmed signs of torture on the bodies of the two prisoners who were pressing charges. For weeks he was subjected to death threats, and was forced to send his young daughters out of the province. President Menem, the Governor of Buenos Aires and the Mayor of Pilar expressed support for Patti as an "efficient policeman," while adding weak statements about letting justice take its course. Americas Watch viewed these ambiguous statements by high officials as a serious effort to interfere with the independence of the judiciary. In this context, it came as no surprise when a court of appeals ordered the case taken away from Judge Borrino on the grounds that he had prejudged it. The new judge assigned to the case promptly released Patti, ruling that the testimony of the two victims was insufficient evidence to warrant preventive detention. The Supreme Court of the Province of Buenos Aires issued an unusual resolution (*acordada*) supporting Judge Borrino in no uncertain terms, but since the case was not before the Court, the actions of the lower courts stood.

Judge Borrino's actions had heightened expectations that the judiciary would take action against torturers. The statements of public authorities and the decision of the Court of Appeals will undoubtedly be interpreted by other torturers as a legitimization of the practice.

**On September 28, shortly after the Patti episode, Andres Alberto Núñez disappeared from his home. Núñez was picked up by men who showed family members police identification from the Investigations Brigade of La Plata, Buenos Aires. Núñez was reportedly last seen in the Brigade jail by another prisoner and was complaining of pain from a beating he had received. The Investigations Brigade denied having detained him. Americas Watch urged the provincial and national government to ensure that a full investigation was carried out into the disappearance, and that the judge who was investigating the case was provided with the necessary protection.**

## **US Policy**

**The Bush administration maintained the same posture as its predecessor toward the issue of impunity for human rights abuses. It never expressed support for Argentine society's efforts to come to grips with its painful history. Both President Bush and President Reagan did express support for constitutional rule when it was challenged by rebellious factions of the Argentine army, most recently on December 3, 1990, two days before a scheduled visit to Buenos Aires by President Bush. Even then, however, the US government refused to comment on the pardons issue. This attitude, combined with the noticeable US refusal to offer any support when the trials of human rights violators were under way, conveyed the image that the US government was content to allow egregious violators to escape punishment, even when they achieved that result by threatening and weakening democracy.**

**This US posture was reaffirmed during President Bush's visit to Argentina in early December. Speaking before the Argentine Congress, Bush proclaimed that "the day of the dictator" was over, but found nothing to say about the impending pardons, issued under pressure from the military that had imposed Argentina's last dictatorship.**

## **The Work of Americas Watch**

**During the course of 1990, Americas Watch was in regular contact with the Argentine ambassador to the United States, Guido Di Tella, and with the Human Rights Department of the Argentine Foreign Ministry, to express concern over the issues mentioned above. Two Americas Watch representatives also met with President Menem during his visit to Washington in early October. An Americas Watch researcher in Argentina continued this dialogue by meeting in Buenos Aires with Ambassador María Regazzoli, Director of Human Rights at the Foreign Ministry, and with Judge Gustavo Larrambehere to request information on the Tablada investigation.**

**Considerable press attention in Argentina was given to the meeting with President Menem, in which Americas Watch expressed opposition to the pardon of military officers, as well as its concerns about the lack of progress in the Tablada investigation and the stalled trial of Suárez Mason. Americas Watch again appeared in the Buenos Aires newspapers in November as a result of two letters sent to President Menem setting forth its position on the pardon and expressing concern over the handling of the Patti case.**

**On several occasions, Americas Watch urged members of the US Congress to convey concern to the Argentine government on these subjects. Many Congressmen wrote to and met with President Menem to register the widespread impression in the United States that his pardons for human rights abuses undermined the rule of law and constituted a retreat from the principle that democratic societies must redress those crimes by restoring truth and justice.**

# **BRAZIL**

## **Human Rights Developments**

Violence continued in Brazil in 1990 at the same rate as in the past several years, despite the inauguration of the first president elected by direct popular participation in more than a generation.<sup>32</sup> While imprisonment for political reasons has subsided since the transition to civilian rule in 1985, the incidence of torture and killing remains high. Much of the violence is related to the distribution of land in Brazil, with ownership restricted to a small privileged class, leaving millions of Brazilians without the means to subsist. Those who cannot find land or work flee to overcrowded cities or to remote rural areas.

In the cities, high unemployment contributes to a staggering rate of violent crime, which has met a lawless police response -- extrajudicial executions of suspected criminals, including children, and torture. In general, the military police, a uniformed patrol force, are responsible for summary executions, while the civil police, in charge of investigations, are responsible for torture. Summary executions are also committed by off-duty policemen organized as death squads.

The estimated seven million children who live and work on Brazilian streets<sup>33</sup> comprise a significant percentage of the victims. Driven to criminal activities to survive, many children are regularly detained and tortured by the police and hundreds have been assassinated by police death squads.

The Rio de Janeiro police department has admitted that half the city's identified death squad members are policemen. Nonetheless, Brazilian officials have failed to take action to stop these death squads and punish those

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<sup>32</sup> José Sarney, President between 1985 and 1990, was the Vice President who succeeded President Tancredo Neves, who died shortly after his indirect election. In 1990, Fernando Collor de Mello won the first direct presidential election since the 1964 military coup.

<sup>33</sup> See Amnesty International, *Torture and Extrajudicial Execution in Urban Brazil*, June 1990.

**responsible for such abuses.**

**Americas Watch also remains concerned about the appalling prison conditions in Brazil. In many prisons, detainees are crammed into small, dark, filthy, damp and smelly cells, intended for half, a third, or even fewer occupants than are confined there. Violence by both guards and inmates is rampant. Inmates assault and rape other inmates, and as a form of protest against prison conditions, sometimes murder them. Torture to obtain confessions is common, and corruption and other abuses are also reported. Because of inaccurate record-keeping, some inmates are imprisoned beyond their sentences.**

**Human rights abuses in rural Brazil are related to the struggle for land. Many landless Brazilians have organized themselves into rural unions and taken to squatting or homesteading on unused land. Their goals are to pressure the government to fulfill its promise of agrarian reform and to claim unproductive land. Prominent rural activists and their supporters have met violent opposition from both the police and private gunmen hired by landowners. The police, with or without a court order of eviction, have used excessive force on numerous occasions, shooting into crowds of farm families, beating them and burning their homes to force them off the land. Sometimes the police are accompanied by gunmen hired by landowners.**

**This situation is exacerbated by problems of judicial procedure. Court orders of eviction are issued at hearings for which squatters are often given no notice, a practice which is legal in Brazil but fraught with the possibility of injustice.**

**Private gunmen hired by landowners commit targeted acts of violence and assassinations. Operating anonymously in hit-and-run fashion, they are rarely caught, although they are frequently identified by the local population or the press. This death-squad style violence regularly goes uninvestigated by police or judges. In fact, almost none of the violence directed at the rural workers' movement is investigated or punished. Of the 1,566 assassinations of rural workers, Indians, lawyers and other professionals involved in the struggle for land between 1964 and 1989, as tabulated by the Pastoral Land Commission, only 17 trials and eight convictions resulted through 1989. The convictions occurred when the victims were members of the professional classes (lawyers or priests) or had special international connections (Indians).**

**Such impunity only encourages those who are guilty of violence. In the northern state of Pará, four men associated with the rural workers union's struggle for land in Rio Maria were assassinated in two separate incidents in April 1990. The same assailants who killed the first pair of activists, feeling no heat from the police, committed the second pair of murders only a few weeks later.**

**The principal cause of this impunity is a lack of will on the part of the government to pursue these cases. Police investigations are often grossly negligent. Many times there is no investigation at all.**

**In similar fashion, the police routinely fail to provide protection for rural activists who have been threatened. The December 1988 murder of activist Francisco Alves Mendes Filho, known as Chico Mendes, brought international attention to the plight of the rubber tappers' movement in Brazil. Despite countless reports of death threats and appeals to authorities for protection -- including a petition to the President -- his pleas were largely ignored.<sup>34</sup>**

**On December 15, Darcy Alves da Silva and his son, Darcy Alves Pereira, were convicted for Mendes's murder after a four-day jury trial. Both men received 19-year sentences. However, given the enormous pressure generated by the international environmental movement, the conviction is not indicative of an improvement in Brazil's justice system. Rubber tappers continue to receive frequent death threats, and violence against lesser known activists is still not investigated or prosecuted.**

**Government failure to halt the use of forced labor by large landowners presents another serious human rights problem in Brazil. The practice is found primarily in the inaccessible forests of the northern and western frontier states, where large landowners cut and burn enormous tracts of land to turn the forest into cattle pasture, a practice actively opposed by environmentalists. Poor laborers are brought to estates by deceptive means, held against their will through threats and acts of violence, and compelled to live and work in deplorable conditions. Uncooperative workers are beaten or threatened with death by small private armies of gunmen hired to enforce the appalling wages and working conditions. In several cases, workers have been killed for trying to escape or for**

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<sup>34</sup> Bodyguards were assigned to him, but without functioning weapons; they fled at the time of the assassination.

**protesting their treatment. Although forced labor is used most commonly in the most remote parts of the country, cases have also been reported in the more developed and accessible states of São Paulo and Rio de Janeiro.**

**Despite Brazilian law forbidding maintenance of private jails and reduction of a person to a "condition analogous to slavery," the police appear almost never to prosecute cases of forced labor, even after the state police have raided offending estates to free workers. Such raids are infrequent, however; most complaints yield no police action.**

## **US Policy**

**The Bush administration has been conspicuously silent on human rights abuses in Brazil throughout 1990. The President squandered an important opportunity to raise human rights concerns during his visit to Brazil in early December. Instead, he lauded the consolidation of democracy and promoted his plan to create a hemispheric free-trade zone.**

**State Department officials in Washington claimed that human rights concerns are raised as part of the "regular dialogue" with Brazilian officials, but could not provide a single example of when that had occurred in 1990.**

**The United States is Brazil's largest trading partner, investor and creditor. But the Bush administration has made no use of this tremendous economic clout to ensure that commercial relations are not built on a foundation of human rights abuse.**

## **The Work of Americas Watch**

**An Americas Watch delegation spent several weeks in Brazil in June and July. It visited states in the north (Pará), northeast (Maranhão and Paraíba), west (Acre), south (Rio Grande do Sul) and southeast (São Paulo and Rio de Janeiro) to investigate government complicity in rural violence, forced labor and related human rights violations. In December, Americas Watch issued two newsletters:**



**one on the status of the Chico Mendes case prior to the trial, and another on forced labor practices. A full report on rural violence in Brazil is scheduled for publication in early 1991.**

**In conjunction with Physicians for Human Rights (PHR) and the American Association for the Advancement of Science (AAAS), Americas Watch organized a mid-October 1990 mission to the municipality of Perus on the outskirts of São Paulo where a team of Brazilian scientists exhumed a mass grave in the Don Bosco Cemetery. Among the 1,500 remains uncovered, at least 25 were those of persons disappeared during the 1970s. In an effort to facilitate determination of responsibility for past human rights abuses in Brazil, the Americas Watch group lent both visibility and technical support to efforts to identify the remains. The delegation was hosted by Brazilian human rights organizations and the Center for the Study of Violence at the University of São Paulo. A report on their findings will be published jointly with PHR and AAAS, again in early 1991.**

# **CHILE**

## **Human Rights Developments**

**On March 11, 1990, Chile returned to democracy with the inauguration of elected President Patricio Aylwin. The celebration of that event ended nearly 17 years of military rule and completed a transitional process that began in October 1988, when Gen. Augusto Pinochet lost a plebiscite on whether he should continue as President. Human rights had been a major issue in the platform of the multiparty coalition headed by Aylwin in the 1988 plebiscite and in the December 1989 Presidential and parliamentary elections. The new government pledged to address the abuses of the past, to achieve truth and justice concerning those abuses, and to create the foundations for ongoing respect for human rights.**

**However, the government's ability to pursue legal and political reforms was hindered by the military-designed Constitution. Gen. Pinochet retained the right to continue as commander-in-chief of the army. In Congress, the government faced a right-wing opposition bloc that, due to Pinochet's constitutional right to appoint nine senators as well as the unique electoral system devised by the military, enjoyed far greater representation than its percentage of the vote in the 1989 elections. As a result, the parliamentary opposition succeeded in distorting, then delaying, and finally diluting the legislative proposal to pass to civilian courts the pending cases of more than 200 security-related and political prisoners detained or prosecuted under Pinochet. The opposition also negotiated to dilute other legal reforms in return for minimal cooperation.**

**The new government's good intentions were also frustrated by other hold-over problems from the military regime, such as a Supreme Court historically sympathetic to the military, continuing military prosecutions of journalists for crimes of opinion and expression, lack of access to security-personnel records in the hands of the military, and Pinochet's reluctance to accept civilian authority. The need to establish civilian authority, in particular over the army, was seen in some government quarters as conflicting with the policy of speaking out on human rights abuses of the past.**

**The government made numerous important gestures toward victims of**

**the military regime. An office to assist returning exiles was established within the Justice Ministry, and a special commission, described below, was appointed to expose past abuses. In addition, victims and their relatives had access to high-level officials to discuss their concerns; a monument to the disappeared was planned; President Aylwin spoke at the belated funeral of former President Salvador Allende – on the 17th anniversary of his death – whose remains were finally transferred to a family mausoleum in September; and members of the Cabinet attended funerals for those victims whose remains were discovered in clandestine or unmarked graves. State television aired special programs on exiles and on the discoveries of unmarked mass graves. President Aylwin himself stressed human rights in many speeches.**

**Not all customs changed so quickly, however. The occasionally brutal force used by the police (*carabineros*) against peaceful demonstrators was a matter of concern and suggested the continuation of abusive attitudes among some members of the security forces, despite the apparent good intentions of the police leadership. There were also a dozen denunciations of torture at the hands of the police and the detective force (*Investigaciones*); these are now before the criminal courts. Such abuse did not appear to represent government policy, but drew attention to the abusive legacy of the previous regime. Some denunciations of torture related to police investigations into terrorist actions by armed, extreme left-wing groups. The new government took a firm position against such terrorism while publicly advocating respect for the rights of detainees.**

**In addition to resolving the prisoner issue and the scope of military jurisdiction, and seeking to reform the practices of the security forces, the Aylwin government, in the first of its four years, faced the challenge of exposing past abuses, which include summary executions, disappearances, torture, exile and internal exile, violation of labor rights, arbitrary individual and mass arrests, violation of the right to free expression, and other abuses of civil and political rights. The discoveries of several clandestine mass graves, starting in March, underscored the need for a full accounting of human rights violations and prosecutions of those responsible. Victims, human rights groups, and members of the governing coalition pressed for such an accounting, and the issue of past abuses was regularly covered by newspapers and television.**

**In April, President Aylwin created a nine-member Commission on Truth and Reconciliation to document killings and disappearances by the military regime and fatal actions by armed leftist groups opposed to the regime. The commission gathered testimony on more than 3,000 cases from victims and**

witnesses throughout Chile, and received extensive documentation from Chile's human rights organizations. Its report, due to be published in early 1991, was expected to provide a detailed portrait of the apparatus of repression and its methods in various periods of the dictatorship, to list and briefly describe cases, and to recommend preventive measures and forms of reparation. Because it may not infringe on the authority of the courts, the commission was not expected to name the individual military or secret-police officials responsible for specific cases of murder, torture resulting in death, or disappearance.

At the same time, the Supreme Court consistently reaffirmed military jurisdiction in cases in which military personnel were implicated, including the major new cases launched with the discovery of clandestine graves, such that no effective prosecutions were expected. Similarly, in a landmark case, the Supreme Court once again upheld a 1978 amnesty decreed by the military regime; thus, domestic legal remedies for disappearances that occurred between 1973 and 1978 were exhausted. Prospects for justice in cases of past abuse were therefore remote.

The government's watchword in regard to past abuses was "reconciliation," a concept which took shape over the year to mean a process of truth-telling and vindication of the victims, followed by some form of forgiveness. As noted above, however, justice was not generally expected. By the end of 1990, it was not clear what form the forgiveness would take, although there was speculation about the prospect of a partial amnesty covering the post-1978 period. In the meantime, the President was expected to pardon some security-related prisoners while others would face trial after years of confinement.

## **US Policy**

One case which defied categorization was that of Orlando Letelier and Ronni Moffitt, the former Chilean Defense Minister and his colleague from the United States who were assassinated in Washington in September 1976 on orders from the Chilean secret police DINA, which in turn received its orders from Gen. Pinochet. Although the murders took place during the period covered by the 1978 amnesty, they were specifically excepted from the amnesty. And although military

personnel at high levels were implicated, the case or part of it may pass to civilian court. An essential reason for the case's special status is that the US Congress has long required progress in its prosecution as a condition for the renewal of economic and military aid to Chile. Indeed, during the early Reagan years, the Letelier-case conditions were the most important obstacle to renewal of US aid to Pinochet.

In 1990, the US relationship with Chile remained complicated by the Letelier-Moffitt case. The Aylwin government, arguing that its hands were tied and that democracy requires support, resented US insistence on legal progress on the case as a prelude to aid, although it was attempting to achieve the necessary legal reform. Americas Watch supports the Aylwin government's efforts to develop democratic institutions; at the same time, we believe that progress on the Letelier-Moffitt case has not been sufficient to warrant renewal of aid. Thus, when as a prelude to President Bush's visit to Chile on December 7 the US restrictions related to the Letelier-Moffitt case were lifted on November 30, and Chile's military once again became eligible to receive US aid, Americas Watch requested clarification from the Bush administration and members of Congress as to the exact basis on which they considered this change justified. It had received no response by the end of the year.

The United States also renewed certain corollary forms of economic cooperation with Chile, as a signal of support for democracy. On November 28, US Trade Representative Carla Hills recommended that President Bush restore trade benefits for Chile under the Generalized System of Preferences (GSP), in recognition of progress on respect for labor rights. As an adjunct to that change, the US also granted Overseas Private Investment Corporation (OPIC) insurance to Chile.

## **The Work of Americas Watch**

Americas Watch continued its close monitoring of human rights conditions in Chile during 1990, through the work of a representative based in Santiago. Given the dramatic improvement, the organization did not have occasion to launch campaigns of public protest against government policies. But in Santiago, Washington and New York, consultations were held with Chilean

**officials in regard to both internal and external human rights policy; work continued with the US Congress on conditions for the renewal of aid and on cases of military-court harassment of journalists; and information was gathered for publication, in 1991, of an assessment of the Aylwin government's record.**

**Americas Watch is concerned in particular with the legal obstacles to prosecutions, which impede a full accounting of past abuses, and with speculations in Chile about a possible new amnesty. The Supreme Court's continuing acquiescence in the legal manipulations of the military regime has deprived victims of redress and society of information on the individual perpetrators of gross abuses -- despite the incorporation of international human rights norms into Chile's Constitution by a constitutional-reform plebiscite held in 1989. While Americas Watch does not hold the new government responsible for the actions of a Supreme Court that it did not appoint, the organization would hold the government responsible for any new measure that would close off future possibilities of prosecution.**

**Consistent with its position on similar transitions from dictatorial to civilian rule, Americas Watch believes that victims of abuse have a right to seek redress before courts of law for the crimes committed against them; that governments have an obligation to facilitate that redress and to promote it through vigorous and impartial investigations; and that those found guilty of crimes against humanity must be punished. The Chilean experience on these issues is being watched closely around the world by those who followed the tragedy of the abuses committed by the military regime. This experience will probably be completed in 1991. While Americas Watch awaits the final outcome of this process, it is encouraged by the firm commitment demonstrated in 1990 by President Aylwin, by democratic sectors in Chilean society, and by Chile's human rights movement, to investigate thoroughly and tell the truth about past abuses.**

# **COLOMBIA**

## **Human Rights Developments**

**The human rights situation in Colombia took a turn for the worse in late 1989 and the first half of 1990. Contributing to the deterioration were the "war on drug trafficking" launched by President Virgilio Barco in September 1989 with enthusiastic support from the Bush administration, and the political passions aroused by the elections held in March and May 1990.**

**The specialized police units that conduct operations against the Medellín drug cartel engaged in serious human rights violations. In poor neighborhoods surrounding Medellín, they attacked the civilian population indiscriminately and kidnapped and murdered young people on mere suspicion of involvement in the drug trade. Suspects apprehended on drug trafficking charges or for extradition to the United States were frequently tortured and at times, according to credible allegations, disappeared.**

**The operations against the drug cartel were met with a systematic campaign of terror launched against uniformed policemen, the press and certain high-ranking government officials. The drug traffickers were also responsible for indiscriminate terrorist attacks against airplanes and public places and they stepped up their attacks on judges and public prosecutors.**

**The campaign against drug trafficking overshadowed other forms of political violence that continued to plague Colombia. To a large degree, this other violence was neglected because the Barco government deliberately presented the problems of violence in Colombia as the sole responsibility of the Medellín cartel. Although the cartel played a substantial role in this violence, the government's exclusive focus on it ignored the significant role played by agents of the state in political violence.**

**The Colombian army stepped up counterinsurgency operations in many rural areas. In the conduct of aerial and ground sweeps, the military frequently fired indiscriminately against civilians and attacked suspected guerrilla**

**positions in complete disregard for the attacker's obligation to minimize collateral harm to civilians. The armed forces also occupied areas and forced the displacement of peasant families without meeting their obligation to receive the war displaced in good care; displacement caused by war has become an increasingly volatile social problem in many areas of Colombia.**

**Violence by so-called paramilitary groups continued to be the country's most serious human rights problem. These gangs of armed civilians recruited by powerful economic interests were responsible for the largest number of both targeted and multiple killings. Some of the paramilitary squads evolved from "civil defense patrols" organized by the army since 1968. Although President Barco finally outlawed civil defense patrols in 1989, the army continued to organize them in war-stricken areas of the countryside, and force civilians to join them under penalty of being considered "subversive." Whether or not they call themselves "civil self-defense organizations," paramilitary groups are in effect the tool of landowners and other powerful interests in each region. In recent years, prominent members of the Medellín cartel have become the main financial supporters of some of the most active paramilitary gangs. Drug traffickers provided money, recruits, weapons and farms for use as training camps.**

**The crimes of paramilitary groups could not be committed without the support of well placed members of the Colombian army in the regions where they operate. High-ranking officers provided intelligence for the selection of targets, as well as protection from investigations and prosecution. Those officers often allowed the killers safe passage through heavily militarized areas and provided credentials and weapons permits to some of their members.**

**As political violence continued to mount, some segments in the Colombian government, including the three most recent Presidents, tried to put a stop to it. But efforts to investigate paramilitary crimes have been successful in only a handful of cases, and then only insofar as those brought to justice were civilians and not members of the military. When inquiries into violent crimes led to evidence of complicity by army officers, the wheels of justice stopped under pressures from the army high command. While the Barco government's outlawing of self-defense association was an attempt to break this link between the army and paramilitary violence, the government preferred to ignore the vital aid provided directly to paramilitary groups by well placed army officers.**

**By insisting on blaming the Medellín cartel for all of the country's evils,**



**the government also hurt its own campaign against political violence. Although the government had some temporary success in keeping the cartel leaders on the run, paramilitary violence -- increasingly controlled and directed by powerful interests with attenuated links to drug trafficking -- resumed.**

**Several guerrilla groups have committed systematic violations of the laws of war. Typical violations included the taking of hostages, generally to collect "war taxes" through their ransom, and the murder of civilians suspected of spying or membership in paramilitary groups. In 1990, the government succeeded in reaching a comprehensive peace agreement with the *Movimiento 19 de Abril* (M-19) in which this former guerrilla group abandoned armed struggle and joined the political process as a new party. The initial success of the M-19 in 1990, beginning with a respectable placement in the congressional and mayoral elections in March and ending with a strong showing in the elections for an assembly to draft a new Constitution in December, has opened new opportunities for the government to negotiate peace agreements with the three larger guerrilla organizations.**

**There is also considerable support in Colombia for the proposition that, while fighting goes on, all sides must make strong commitments to respect fundamental rules of international humanitarian law. An important first step in this direction would be to expand the small role allowed the International Committee of the Red Cross (ICRC). In particular, the government should give the ICRC access to all places of detention, including police precincts and military installations, as well as daily lists of those apprehended on security-related grounds. It should also allow the ICRC to develop a large relief program in war-torn areas of the countryside.**

**After the inauguration of César Gaviria as President in August, the level of violence seemed to decrease. Around that time, the drug kingpins, using their collective name "The Extraditables," offered a unilateral truce in their campaign of terror. In exchange, they requested an amnesty and assurances against extradition. The Gaviria administration vowed not to negotiate with the cartels, but it temporarily suspended extraditions and enacted a decree that grants reduced sentences and immunity from extradition to those who surrender voluntarily and provide evidence against their colleagues. In November, the Extraditables admitted holding several prominent journalists abducted in August and September, and offered to release them in exchange for further assurances for those kingpins who surrendered.**

**Guerrilla operations were also less numerous beginning in August, following gestures made by the various guerrilla organizations in support of peace negotiations with the new government. The expectations raised by the prospect of the Constituent Assembly that was elected on December 9 to draft a new Constitution also contributed to an atmosphere of reduced violence. For these reasons, the second half of 1990 through the December elections was marked by an important reduction in the number of serious incidents, at least in the major cities. In some rural areas, however, serious human rights violations against peasant communities continued to take place.**

**This lull in the fighting was broken with a major government offensive beginning at the time of the December 9 elections against the headquarters of the largest guerrilla group, the Revolutionary Armed Forces of Colombia (FARC). The army offensive overran the FARC jungle headquarters in Casa Verde, but the guerrillas retreated with their command structure intact. In response, FARC staged a series of bomb and gunfire attacks on police and army targets in several Colombian cities.**

**At the end of the year, a government spokesman once again declared that the door was open for FARC and another major guerrilla group, the National Liberation Army (ELN), to join the peace process.**

## **US Policy**

**The United States has not contributed to solving the human rights problems in Colombia. In fact, its public support for a "war" on the drug trade, as opposed to approaching it as a law enforcement problem, objectively contributed to the deterioration of the human rights situation. Drug-interdiction operations and arrests for extradition are perceived in Colombia as spurred by a keen US interest in curbing the flow of drugs. This fact, when coupled with the Bush administration's unwillingness to speak out against human rights violations by government forces in Colombia, means that the US government must share in the responsibility for the escalation of abuses that has taken place in the context of drug interdiction.**

**The "Andean Initiative" announced by President Bush on September 5, 1989 was the dominant feature of US policy toward Colombia in 1990. Although one of the three stated goals of the initiative was the promotion of human rights in the Andean region, the focus of the initiative in 1990 was entirely on military solutions to the "drug war."**

**A survey of military assistance to Colombia in 1989 and 1990 reveals the extraordinary military commitment that the United States made to that country. In 1989, Colombia received \$7.1 million in military assistance and \$65 million in military equipment drawn from US Defense Department stocks. In 1990, Colombia received \$71.2 million in military assistance (including \$500,000 in military training) and an additional \$15 million in military equipment from Defense Department stocks.**

**For future years, the Andean Initiative proposes large amounts in economic and development aid, but through the end of 1990 the emphasis was exclusively on military solutions. Indeed, Bush administration officials let it be known that economic aid to the Andean countries will be conditioned on "achieving results" in the interdiction program; it is clear, therefore, that Colombia, Peru and Bolivia can aspire to economic aid only if they follow the military prescription preferred by the US government.**

**The administration reluctantly accepted conditions set by Congress on the military and police aid flowing to Colombia as part of the International Narcotics Control Act (INCA) of 1989. Those conditions simply referred to the long-standing requirements of Section 502B of the Foreign Assistance Act of 1961, which prohibit military aid to be given to countries which engage in a gross and consistent pattern of human rights violations. However, the 1990 INCA contained stronger and more specific human rights language, including a call for significant progress in protecting internationally recognized human rights, particularly in:**

**ensuring that torture, cruel, inhuman, or degrading treatment or punishment, incommunicado detention or detention without charges and trial, disappearances, and other flagrant denials of the right to life, liberty, or security of the person, are not practiced; permitting an unimpeded investigation of alleged violations of internationally recognized human rights, including providing access to places of detention, by appropriate international organizations (including**

**nongovernmental organizations such as the International Committee of the Red Cross) or groups acting under the authority of the United Nations or the Organization of American States...**

**The President must also make a written determination that "the government of that country has effective control over police and military operations related to counternarcotics and counterinsurgency activities." While the human rights conditions are not as strong as originally proposed by Rep. Ted Weiss, they will help human rights monitors and interested Members of Congress pursue these human rights concerns.**

**Unfortunately, the Bush administration has taken the position that the government of Colombia is not responsible for violations, and thus that it is eligible for this aid. US officials have been quick to repeat the Colombian government's line that blames all political violence on the Medellín cartel or the guerrillas.**

**As noted, however, the Colombian armed forces are engaged in a consistent pattern of abuse, through the complicity of many high-ranking officers in paramilitary crimes, through the direct commission of numerous acts of abuse against civilians in the course of counterinsurgency operations, and through the involvement of some uniformed agents in arbitrary arrest, torture, disappearances and murder of suspects. The army high command has done nothing to investigate and punish these deeds, and has obstructed the work of those who try to do so. The civilian authorities may be innocent of such crimes, but they have failed to break the circle of impunity erected by army generals. For that reason, Colombian armed and police forces should be ineligible for US military aid.**

**The argument is sometimes made that, to make those forces more responsible, the US needs to be actively engaged in their operations, that they need the incentive of US military training, weapons and assistance to respect human rights. In the view of Americas Watch, this argument misreads the clear letter and intent of the human rights legislation. As a condition of providing this aid, the administration must first show that Colombian security forces are not violating human rights, a standard that would be impossible to meet under current conditions. In addition, if the Bush administration has been using the massive influx of aid to do anything to nudge the Colombian military toward greater respect for human rights, no results were visible through the end of 1990.**

**The result was not surprising since, whatever efforts at "quiet diplomacy" were being undertaken were being undercut by the administration's public stance of ignoring army abuses and blaming human rights violations on everyone else.**

**The administration has a duty to implement the clear human rights conditions set forth in the International Narcotics Control Acts of 1989 and 1990. Since it apparently intends to ignore those conditions, the appropriate committees of Congress should exercise oversight and demand information from the administration on how Colombia is meeting the minimal human rights standards set forth in US law. At the very least, Congress should require the administration to certify in detail how the Colombian government is working to end the human rights abuses by its forces. In addition, certain specific steps should be required, such as effective prosecutions of military personnel involved in paramilitary violence, access by the ICRC to timely information about arrests with immediate opportunities to conduct confidential interviews with those detained, and a full accounting on the fate and whereabouts of all disappeared persons.**

**The Bush administration has publicly pressed for military solutions to the drug trafficking problem even though the Colombian military made clear that it intended to use US aid for their preferred objective of combatting guerrillas. The administration was so interested in bringing the army into the fight that it was willing to overlook this misuse of funds. The result was that US funds were being used to wage a counterinsurgency war which for decades has been fought as a "dirty war."**

**A report by the House Government Operations Committee harshly criticized the US Drug Enforcement Administration for its failure to reduce coca cultivation and processing in Peru and Bolivia. The report praised Colombia as the only country in which some encouraging results had been obtained from interdiction, and pointed out that the success had been despite the absence of "Operation Snowcap"<sup>35</sup> DEA agents in Colombia. The report also noted that the Colombia National Police were responsible for 90 percent of all drug seizures in Colombia, although it received only 16 percent of the initial \$65 million in US**

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<sup>35</sup> "Operation Snowcap" is a program to eradicate coca crops and cocaine-processing facilities in Peru and Bolivia.

military and police aid dispatched in September 1989.<sup>36</sup> While Americas Watch has long objected to US funding of police forces with their own entrenched history of abuse, the House Committee report shows the futility of pumping million of dollars of aid to an army that is more intent on pursuing its abusive counterinsurgency efforts than in curbing drug trafficking.

The Colombian government has publicly urged the Bush administration to do its part in the war against drug trafficking, beyond pushing for military solutions on foreign soil. For example, Colombian authorities are interested in closer controls of banks that launder drug profits, controls on the export of chemicals used in the production of cocaine, and a ban on the export of automatic and assault weapons from the United States, which the drug cartels buy to arm their hit squads and paramilitary groups. President Bush gave some assurances along these lines at the "drug summit" held in Cartagena in December 1989, but no such steps had been taken by the end of 1990. Americas Watch supports the need for export controls on automatic and semi-automatic weapons, because the unhindered flow of arms from the US market to the drug cartels is having a devastating effect on the human rights situation in Colombia.

## **The Work of Americas Watch**

In 1990, Americas Watch conducted two investigative missions to Colombia, one in May and one in October. In the course of the second visit, Americas Watch released its report, *The "Drug War" in Colombia: The Neglected Tragedy of Political Violence*. The report received considerable coverage in the Colombian press, including a lively debate about its findings and recommendations. During the May visit, an Americas Watch researcher traveled to the Magdalena Medio region, which is the site of intense counterinsurgency and paramilitary activity. In the city of Barrancabermeja, in Magdalena Medio, Americas Watch received direct testimony from witnesses and victims of violations by the army and paramilitary groups. Americas Watch also visited

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<sup>36</sup> *Stopping the Flood of Cocaine with Operation Snowcap: Is it Working?* Thirteenth Report by the House Committee on Government Operations (together with Additional Views), Washington, D.C., August 1990.

**those who had been displaced from neighboring rural areas because of the conflict.**

**During the year, Americas Watch sought to inject its findings on Colombian human rights conditions into the debates in the US Congress on military and police aid to Colombia. In April, Americas Watch initiated a Congressional cable protesting the murder of Presidential candidate Bernardo Jaramillo, as well as the alarming increase in the number of attacks against members of his party, the Patriotic Union.**

**During the Congressional debate about drug policy, Americas Watch also pressed for the need to respect legislative conditions on the delivery of military and police aid. Americas Watch outlined specific steps that the Andean countries should take to show that they were in compliance with human rights conditions in US law and thus eligible to receive aid under INCA. Some of those steps were included as explicit conditions in the 1990 INCA, signed into law by President Bush on November 21.**

**On June 1, Americas Watch filed a formal complaint about persecution of labor unionists in Colombia with US Trade Representative (USTR) Carla Hills, urging her to investigate labor rights in Colombia to determine whether it remained eligible for trade benefits under the Generalized System of Preferences (GSP). After a cursory examination, the USTR decided not to take up the petition for review.**

**Americas Watch also maintained close contact with Colombian authorities charged with carrying out human rights policy for Presidents Barco and Gaviria, in addition to engaging them in open debate in the Colombian press. As in other countries, Americas Watch made a special point of defending the right of Colombian human rights monitors to conduct their work free of harassment and persecution. On July 4, Alirio Pedraza, a lawyer with the Committee in Solidarity with Political Prisoners, was abducted from the streets of Bogotá in front of many witnesses. Uniformed policemen who tried at first to intervene stopped after his captors showed them some official credentials. Pedraza has not been seen since, and Colombian authorities have denied holding him. Americas Watch is cooperating with the Andean Commission of Jurists-Colombian Section in pursuing this and several other cases before the Inter-American Commission on Human Rights of the Organization of American States.**

# **CUBA**

## **Human Rights Developments**

**The Cuban government continued to systematically deny its citizens the right to exercise their fundamental freedoms, including freedom of expression, association and assembly, the right to privacy and due process, and the right to travel. The guarantees written into Cuba's laws do more to hinder than to protect those rights. And in any event, Cuba lacks institutions independent of the government and the governing Communist Party that could ensure respect for basic rights. Although all Cubans are affected by the institutionalized suppression of civil and political rights by the 32-year-old military government of Fidel Castro, the target increasingly has been the fragile "civil society" that began to emerge in 1988 when international scrutiny of Cuba's human rights practices was at its height.**

**There is no free press in Cuba. All media are state-owned or state-controlled. Nothing is permitted to be published on government-controlled printing presses that is not "in keeping with the objectives of socialist society." Attempts by human rights and other independent activists to distribute newsletters, type-written and reproduced on carbon paper, have been relentlessly suppressed under the law against "clandestine printing."**

**Cuba is a one-party state. Opposition political parties and independent civic groups are illegal. Cubans are permitted to belong only to officially controlled "mass organizations," which serve as little more than a medium for them to demonstrate their "revolutionary integration." Rights advocacy groups have been repeatedly denied official recognition. Members of such groups are imprisoned for "illegal association."**

**Freedom of movement is restricted. Only Cubans over a certain age -- 40 for women and 45 for men (recently reduced from 50 and 55) -- are free to travel abroad and return to Cuba. Cubans apply to emigrate at the risk of losing their jobs, belongings, and homes. Those who try and fail to flee illegally by crossing the Florida straits on a boat or raft are imprisoned.**



**Cuba is also a police state that denies its citizens' right to privacy. Committees for the Defense of the Revolution (CDRs), neighborhood surveillance groups, monitor and report on Cubans at home, at work and at school. The CDRs were created, according to the Cuban press, "with the sacred mission of defending the revolution and blocking the political action of its enemies." As part of this mission, they twice in 1990 organized huge mobs of people to gather at the homes of human rights monitors where meetings were being held, to chant slogans, yell insults and assault those who dared to leave, in a demonstration of their ostensibly spontaneous "repudiation" of "counterrevolutionaries." Cuba lacks an independent judiciary. The judicial branch is subordinate to the executive. In the courts, Cubans are defended by lawyers whose loyalty is to the state, not to their client. Judges upholding "socialist legality" enforce the will of the government. In addition, there is no independent legislature, and no legally recognized independent labor unions or other civic organizations.**

**Despite these serious constraints on fundamental freedoms, a number of fledgling human rights advocacy and monitoring associations and pro-democracy groups continued to operate during all or part of 1990, even at the risk of persecution and imprisonment. Unofficial groups such as the Cuban Committee for Human Rights, the Cuban Commission for Human Rights and National Reconciliation, the Cuban Human Rights Party, the Association for Free Art, the Movement for Democratic Integration, and the Sendero Verde ecology and peace movement have met, produced newsletters, held press conferences with foreign journalists and made contacts with diplomats. For such activities, the Cuban national and state security police arrested a total of more than 100 members and supporters of those groups in 1989 and 1990, and some 30 were still in custody at the end of 1990 – serving prison sentences, detained without trial or under house arrest. These detentions had effectively decimated several of the independent groups cited above.**

**The government's campaign against the independent activists in 1990 was marked by especially draconian reprisals, such as the day-long "acts of repudiation" noted above, at the homes of Gustavo and Sebastian Arcos of the Cuban Committee for Human Rights; prison sentences as high as seven years for purely peaceful dissent, as in the case of Esteban González, one of six imprisoned members of the Movement for Democratic Integration; and attempts to discredit prominent activists by linking them with alleged terrorist groups, as was feared in the case of Samuel Martínez Lara of the Cuban Human Rights Party, who was in his ninth month of state-security detention without trial at the end of 1990.**

## **US Policy**

**The value of the increasingly reliable human rights reporting being done by the US Interests Section in Havana and the State Department in Washington continued to be undermined by the Bush administration's single-minded campaign against the Cuban government at the UN Commission on Human Rights (UNCHR). Although Cuba is fully deserving of UN criticism for its unyielding human rights repression – and has shown considerable responsiveness to such criticism in the recent past – the US-led campaign to condemn Cuba was marred by the administration's widely perceived failure to devote similar energy to comparably abusive US friends. Although the US generally voted in favor of resolutions critical of abusive governments with which it maintains closer relations, it failed to devote anywhere near comparable energies to the behind-the-scenes lobbying that is frequently needed to enact critical resolutions. The result was continuing support for the view that the campaign to condemn Cuba was driven more by ideological than human rights concerns, and a correspondingly reduced inclination on the part of many nations to endorse the sort of firm condemnation that the Cuban government deserved. A weak, though still critical, resolution thus emerged in 1990.**

**Vice President Dan Quayle even became involved in the lobbying effort at the United Nations. According to the Vice President, in December 1989 he asked UN Secretary General Javier Pérez de Cuéllar to produce a report on his contacts with the Cuban government on human rights matters and to submit it to the UNCHR during the 1990 session, and the Secretary General promised to do so. However, in January 1990, as the administration geared up for the UNCHR annual meeting in Geneva, the Secretary General wrote to the Vice President to inform him that he would submit a report to the UNCHR only if the commission formally and specifically requested it. Quayle then publicly protested to Pérez de Cuéllar for allegedly going back on his word. The resolution adopted by the UNCHR in March 1990, unlike the vaguely worded 1989 resolution, now explicitly calls on the Secretary General to report on his contacts with the Cuban government during the 1991 UNCHR session.**

**Much of the blame for the one-dimensional focus of the US delegation to**

**the UNCHR lay on Ambassador Armando Valladares, the former long-term prisoner of the Castro government, whose concern with human rights seemed rarely to extend beyond his native island and virtually never reached US friends. In June, Ambassador Valladares reinforced his image as an ideologically driven advocate of human rights by attacking an initiative by a leading Cuban human rights activist simply because it reflected a method of promoting Cuban human rights that was not premised on the overthrow of the Castro government. Gustavo Arcos Bergnes, a former political prisoner who is head of the independent Havana-based Cuban Committee for Human Rights, had released a statement calling for dialogue among Cubans -- including the Cuban government and the Cuban exile community -- about the future of Cuba. "Compatriots," he said, "the Cuban Committee for Human Rights once again and despite the abuses and harassment to which we are subjected...reiterates its willingness to debate."**

**To this appeal, Ambassador Valladares responded, "the statements of the Committee [for Human Rights], made by its leader Gustavo Arcos Bergnes and supported by its representatives in exile, are based on false suppositions and alterations of Cuban reality that benefit the dictatorship of Fidel Castro, and constitute *treason* to those who struggled, died and still remain for almost thirty years in prison" [emphasis added]. Ambassador Valladares concluded by stating, "with the same enthusiasm that I offered support to these groups when I considered it useful to the cause, I now withdraw it totally for considering the contrary." The comments caused an uproar among Cubans in the United States and shocked the beleaguered human rights community in Cuba, much of which had considered Valladares its principal defender abroad.**

**Ambassador Valladares's comments came at a time when the Cuban government was intensifying its repression of human rights and other independent activities. Only three months earlier, Gustavo Arcos and his brother Sebastian had been subjected to the above-mentioned "acts of repudiation" which were staged, ironically and undoubtedly intentionally, during the week of March 5, precisely the time when Ambassador Valladares was at the UNCHR in Geneva campaigning for a resolution on human rights in Cuba.**

**This was not the first time that Ambassador Valladares had criticized Cuban activists. As he noted in his statement against Arcos, "already on one occasion I had to publicly discredit the statements of the head of the Movement of National Reconciliation," referring to his criticism of Elizardo Sánchez, head of the Cuban Commission for Human Rights and National Reconciliation. In one instance**

**in January 1989, Ambassador Valladares estimated the number of political prisoners in Cuba to be close to 10,000. He used this figure to refute a statement by Sánchez that the number of political prisoners, including those convicted of attempting to leave the country illegally and conscientious objectors, was 600 or 700. Sánchez's estimate was in fact more closely supported by the most reliable figure of 395 (which does not include conscientious objectors) reported in 1988 by the ICRC, at a time when it had access to Cuba's prisons. Sánchez was arrested in August 1989 and is now serving a two-year prison sentence for "dissemination of false news."**

**Armando Valladares languished in Cuban jails for 22 years and, understandably, must hold great personal resentment for the Castro government. However, he did a disservice to efforts to promote human rights in Cuba when, as an appointed and highly visible spokesman for the US government on human rights issues, he gave vent to personal feelings on matters that were perceived to be within his official competence. The comments on Arcos, if taken as a statement of US policy, suggested that Arcos was no longer of concern to the US government, and thus encouraged Cuban authorities to impose on him the same fate as his imprisoned colleagues. Fortunately, the State Department took steps publicly to distance itself from Valladares's comment. It issued a statement on June 15 noting that Valladares acted as US ambassador to the UNCHR only during its annual six-week session, and was free to express his personal opinions at all other times. But this fine distinction was understandably lost on many, particularly since Ambassador Valladares has been used as an official spokesman on other occasions, as in his September 20, 1989 testimony on human rights in Cuba before the House Foreign Affairs Subcommittee on the Western Hemisphere, and on July 12, 1990 before the Congressional Human Rights Caucus.**

**More important, the State Department's statement made no specific reference to Arcos. To blunt the potential danger emanating from the Valladares attack, the State Department at minimum should have publicly recognized the importance of the work being done by Arcos and the Cuban Human Rights Committee.**

**Valladares put an end to the dispute over his statement by resigning in late December, despite administration urgings that he stay on. The resignation provides an ideal opportunity for the administration to launch a more balanced campaign at the UN, matching the effort on Cuba with a similar effort against a comparably abusive US friend.**

**Just as the Cuban government curtails the right of Cubans to travel freely, the US government also restricts the right of its citizens to travel. As a signatory of the 1975 Helsinki Final Act, the United States vowed to "facilitate wider travel." However, the US continues to limit travel to a number of countries, including Cuba, for ideological reasons. The limits on travel to Cuba -- justified under the economic embargo imposed by the US in 1962 -- are the strictest of these restrictions. Only certain categories of travelers are authorized by the US Treasury Department to visit and spend money in Cuba: US or foreign government officials or officials of any intergovernmental organization of which the US is a member; those with family members in Cuba; academics and researchers with Cuba-specific expertise; and news media personnel. Ordinary Americans who wish to visit Cuba as tourists, and others, are not permitted to do so. These restrictions, of concern in their own right, also impose a significant cost on efforts to monitor human rights in Cuba by significantly limiting the number of visitors to the country.**

**The 1988 trade bill which lifted embargo restrictions on the importation of informational materials, such as Cuban books, films and records, was an important step in the campaign for free trade in ideas. Unfortunately, the Treasury Department under the Bush administration has excluded travel from its interpretation of the law, even though the legislation's sponsor, Rep. Howard Berman, maintains that Congress had acted the law "with the understanding that travel would in many instances be essential to arranging such trade" in informational materials.**

## **The Work of Americas Watch**

**Two Americas Watch representatives traveled to Havana in September to attend for the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders. While in Cuba, they met with members of the beleaguered human rights community and collected information on human rights conditions. Their requests for meetings with Cuban government officials went unanswered. In May, Americas Watch also spent several days in Miami interviewing former political prisoners who had recently been released from prison.**

**In addition to several press releases on human rights in Cuba in 1990, Americas Watch issued two newsletters: "Jailing the Human Rights Movement, August 1989 - March 1990," and "Pro-Democracy Activists to Stand Trial, June 1990." Americas Watch plans to issue a follow-up newsletter on the continuing imprisonment of Cuban dissidents, to be published in January 1991, in time for the UNCHR meetings in Geneva.**

**On March 13, Americas Watch testified at joint hearings held by two House Foreign Affairs subcommittees on US-imposed restrictions on Americans' right to travel to certain countries, including Cuba. On July 12, Americas Watch testified on human rights in Cuba before the Congressional Human Rights Caucus. And on October 2, Americas Watch testified on the same subject before the Inter-American Commission on Human Rights of the Organization of American States.**

**Early in 1990, Americas Watch's 1989 report, *The Need to Sustain the Pressure*, was published in Spanish translation.**

# **DOMINICAN REPUBLIC**

## **Human Rights Developments**

**The Dominican Republic continued to rely on forced labor by Haitians to sustain its state-run sugar industry during the 1990 harvest. With the cooperation of the Dominican military, the State Sugar Council (CEA) operated an abusive system combining unfair recruitment practices and restrictions on freedom of movement to compel Haitians to cut sugarcane for the duration of the harvest season.**

**The Dominican state sugar industry is entirely dependent on Haitian field labor. Because living conditions for cane cutters are so poor, and pay for the arduous work is so low, Dominicans refuse to cut cane; those employed by the sugar industry insist on working in mills or in oversight and managerial jobs on the plantations. To supplement the part of the Haitian workforce that willingly cuts Dominican cane season after season, the CEA each year must secure thousands of additional cane cutters to harvest the crop before it spoils. Since the pay that it offers is not enough to attract and maintain a sufficiently large force of voluntary labor, the CEA resorts to forced labor.**

**Usually, the CEA hires recruiters to lure Haitians from their villages and towns in Haiti with false promises of high pay and easy work. Recruiters are paid by the head – as much as \$15 to \$30 – for each Haitian delivered. The CEA then seizes the recruits at the Haitian-Dominican border with the help of armed Dominican border guards, and holds them until they are transported under guard to CEA plantations.**

**There are some variations on this pattern. In a few cases, Haitians are effectively kidnapped in Haiti by armed, CEA-employed recruiters and brought forcibly to the border. Some local Haitian authorities – such as section chiefs and border guards – have at times played a role in this forcible recruitment, either by demanding protection payment from recruiters or by conducting their own round-ups of Haitians for transport to Dominican plantations. In other cases, Haitians in Haiti are offered and given less arduous work, such as clearing beanfields, on the Dominican side of border; they are then arrested on the job by Dominican soldiers**

and brought forcibly to CEA plantations to cut cane.

Once paid for and in military custody, the Haitians are no longer free to return to Haiti, to choose their place of work in the Dominican Republic, or to select the type of labor they would perform, until the end of the harvest. On the CEA plantations, they are told by their supervisors that if they try to leave, they will be picked up by the military and returned to the plantation. On at least one plantation in 1990, CEA supervisors took away the clothing and personal belonging of the Haitians as a method of confining them to the plantation. Once compelled to stay on the plantations, the Haitians are obliged to work to make enough money to feed themselves. The only work available to them is cutting cane.

Typical conditions on the portions of CEA plantations where Haitians are forced to live – the *bateys* – include no running water, no latrines, no electricity, no kitchen facilities and no medical facilities. First-time Haitian cane cutters live in barracks-style concrete housing, with four to six men in a dark, bare room no larger than eight by ten feet. They sleep on two-inch foam mats, on the floor or on thin metal cots or bunkbeds.

The work day can last from 5:00 a.m. to 7:00 p.m. or longer. Wages are extremely low, leaving most cane cutters unable to save more than \$25 to \$50 at the end of eight months of work. Pay is determined on the basis of the amount of cane cut. A new recruit who is unaccustomed to cutting cane cannot cut enough to maintain himself, since one pound of beans bought from the CEA stores on the *bateys* can cost a full day's earnings; such newcomers are dependent on the charity of more experienced workers to survive.

No protective gear is offered for the back-breaking and dangerous work. Medical attention is often unavailable for the frequent, work-related injuries. Time-off is dictated by the necessities of the cane harvest rather than by the needs of the workers. Child labor is widespread.

This exploitive system is deeply entrenched. Successive Dominican governments have lacked the will to protect Haitian sugar-industry workers. Despite numerous investigations and reports of abuse by a variety of sources over the years – including the International Labor Organization (ILO), and a devastating study commissioned by the CEA itself – the CEA has disregarded domestic and international pressure to increase wages and improve working and living



conditions, preferring to depend on the less expensive use of deceptive and forced recruitment and coerced labor. President Balaguer has treated the issue as a public relations problem, claiming that reports of human rights violations constitute "unjust propaganda,"<sup>37</sup> and are merely part of a campaign by enemies of the Dominican government. The government's typical response to reports of abuse has been to deny summarily that violations exist, and to cite laws that it claims to uphold but does not.

On October 15, 1990, however, the Balaguer government announced a major policy shift aimed at improving the employment conditions of Haitian cane cutters on CEA plantations. The announcement was the first time in recent years that the Dominican government acknowledged any abuses in the sugar industry – if only implicitly – and promised to take steps to mitigate them.

President Balaguer instructed the state labor department to implement individual employment contracts containing specific terms of employment for the cane cutters, including the right to leave and change employment. He also directed the labor department to promote respect for the human rights of Haitian workers, and to monitor and report to him and to the ILO on its progress. In addition, President Balaguer vowed that his government and particularly the CEA would take steps to improve living conditions on the bateys. The Dominican President also promised that the immigration status of seasonal or temporary Haitian workers, especially cane cutters, would be legalized.

The announcement was an important first step, which should be implemented. However, it stopped short of directly acknowledging the foundation of the abuses on CEA plantations – the use of force to compel Haitians to cut cane. Specifically, it failed to acknowledge the Dominican military's involvement in guarding and transporting the cane cutters, and conducting arbitrary arrests and round-ups of Haitians. It also did not explain why the Dominican government had refused to allow an ILO mission to investigate worker rights in early October 1990, particularly since the government has now pledged to report to the ILO.

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<sup>37</sup> Geraldino González, "Califica injusta denuncia haitianos," *Listin Diario*, November 10, 1989.

## **US Policy**

**As the Dominican Republic's largest trading partner and the largest consumer of Dominican sugar, the United States is in a position to exert significant pressure on the Dominican government to respect worker rights in its state-run sugar industry. In 1990, some important preliminary steps were taken to use this leverage to put an end to the use of forced labor.**

**Sugar is the main Dominican export to the United States, which continues to allocate the largest segment of its sugar quota to the Dominican Republic. The US sugar quota for the Dominican Republic, which is set by the US Department of Agriculture, was increased on September 12, 1989 from 185,328 tons for the twelve months of 1989 to 333,035 tons for the 21 months from January 1, 1989 to September 30, 1990, a 2.7 per cent increase. It was increased again on April 25, 1990 to 460,997 tons for the same 21-month period ending September 30, 1990, or a 38 per cent increase. This share represents 16 per cent of the total US sugar quota.<sup>38</sup>**

**In addition, the United States purchases approximately 75 per cent of Dominican exports, having granted the Dominican Republic trade benefits not only under the Generalized System of Preferences, but also under the Caribbean Basin Initiative and the so-called 9802 program (formerly the Sections 806-807 program). The Bush administration also requested from Congress some \$53 million in bilateral aid for fiscal year 1991; about \$2 million of this was military aid, \$12 million was Economic Support Funds, \$11 million was development assistance, \$23 million was a food grant under PL480, and the remainder was for the Peace Corps.**

**Despite its substantial interest in the Dominican sugar industry, and its considerable economic leverage over the Dominican government, the US government took little interest in the plight of Haitians forced to work on Dominican sugar plantations until quite recently. Only in the summer of 1989, in response to a petition filed by Americas Watch challenging Dominican use of**

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<sup>38</sup> The next largest portion of the US sugar quota, 412,850 tons, or 14.5% of the quota, is allocated to the Philippines, followed by Brazil at 379,798 tons (13.5%) and Australia at 217,401 tons (7.5%).

**forced labor, did US Trade Representative (USTR) Carla Hills begin a review of Dominican labor practices, pursuant to a law that bars trade benefits under the Generalized System of Preferences (GSP) to nations that violate internationally recognized labor rights.**

**The results of this review were published in April 1990. For 15 pages, the USTR listed a series of unrefuted reports of extremely serious violations of workers rights, including a submission from the ILO expressing "extreme concern over the situation of Haitian workers"; a quote from a 1984 book by President Balaguer describing the "new form of denigrating slavery which is practiced at the present time in the Dominican sugar *ingenios*"; as well as reports from Americas Watch and Dominican groups such as the National Union of Dominican-Haitian Workers and Immigrants.**

**Despite this compelling evidence of forced labor, the USTR avoided reaching the logical conclusion that GSP benefits should be denied. Instead, she decided to postpone for another year any decision on the suspension of trade benefits and to continue a further review of Dominican labor practices during that period. The USTR's excuse for not denying GSP benefits was that she had investigated only the sugar industry without examining labor practices in other Dominican industries. The USTR never explained how practices in other industries, where comparable abuses are not alleged, could absolve her of the duty to deny GSP trade benefits to the Dominican Republic until coercive practices in the sugar industry ceased. There is nothing in US law to support the USTR's approach,<sup>39</sup> and it is all the more inappropriate in light of the Dominican government's dominance of the sugar industry. Nevertheless, even the decision to extend formal review for another year, with the threat of a GSP cutoff at the end, maintained considerable pressure on the Dominican government to address its use of forced labor.**

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<sup>39</sup> *See* Section 502(b)(8) of the Trade Act. It is worth noting that the legislative history of Section 502 (b)(8) indicates that Congress intended that countries must be taking steps to afford all five of the internationally recognized labor rights cited in the Trade Act: the right of association, the right to organize and bargain collectively, the right to be free of any form of forced or compulsory labor, the right not to be sent to work before a minimum age, and the right to acceptable conditions of work with respect to minimum wages, hours of work and occupational safety and health. In other words, meeting one or even four of the labor rights criteria is not enough to prevent a suspension of benefits if at least one of the five standards is not met.

Further pressure came from Congress. In June 1990, the US House of Representatives gave serious consideration to legislation sponsored by Rep. Joe Moakley which would have linked the Dominican Republic's sugar quota to the government's good faith efforts to upgrade working conditions of Haitian cane cutters, end the use of force in their recruitment, and respect freedom of movement and association. Rep. Moakley withdrew the bill from consideration after he received specific assurances from the Dominican Ambassador to the United States, the former head of the CEA, that the Dominican government would respond to his concerns. Rep. Moakley assured the human rights community that he would revisit the question in 1991 if considerable progress had not been made.

The State Department added somewhat to this pressure. Improving on its traditional neglect or understatement of the problem of forced labor in the chapter on the Dominican Republic in its annual *Country Reports on Human Rights Practices*, the State Department, in its report covering 1989 (published in February 1990), devoted greater attention to the issue, frequently citing a report issued in 1989 by Americas Watch, the National Coalition for Haitian Refugees, and Caribbean Rights. Still, however, the State Department had little to say in its own voice to confirm that violations were being committed.

Apart from the country report, the Bush administration issued no public statements on Dominican rights abuses in 1990. A US embassy official in Santo Domingo justified this silence by claiming that it would be inappropriate to comment publicly while Dominican labor practices are under review by the USTR. In the view of Americas Watch, however, a country with sufficiently abusive labor rights practices to warrant formal USTR review should hardly win an exemption from critical public comment once that review is under way.

In mid-August, then Secretary of Labor Elizabeth Dole, who attended the inauguration of President Balaguer as the Bush administration's representative, visited Batey La Mula on the CEA's Boca Chica sugar plantation, just outside Santo Domingo. According to one Dominican press account, Secretary Dole, accompanied by US Ambassador Paul Taylor, spoke with cane cutters and their families about working conditions and child labor. She also encountered a *guarda campestre* -- a CEA-employed guard armed with a rifle -- and asked how many cane cutters were on the *batey*. The visit was an important symbol of concern over conditions on CEA plantations. Again, however, its significance would have been enhanced if Secretary Dole or the US embassy had reinforced the message with a

**public statement.**

**At the end of August, Ambassador Taylor met with the newly appointed Dominican Labor Secretary, Washington de Peña. Although at least one Dominican newspaper reported that Ambassador Taylor used the meeting to express US concern over reports of abuses in the Dominican sugar industry, the embassy maintained that the meeting was simply a courtesy visit.**

**Despite the shortcomings in many of these steps, the cumulative effect may have played a role in prompting President Balaguer's October 1990 announcement of a program to ameliorate conditions for Haitian cane cutters. The apparent cause and effect -- the announcement came just before the opening of the first harvest season following these actions, and coincided with a Dominican submission to the USTR -- highlights the considerable potential that the US government has to encourage respect for workers rights in the Dominican Republic. Particularly important in this regard, in light of the futility of past efforts simply to condemn Dominican labor practices, is the potential denial of GSP or other trade benefits, and the potential reduction of the US sugar quota, if the use of forced labor continues.**

## **The Work of Americas Watch**

**As part of its ongoing efforts to monitor conditions on the CEA sugar cane plantations, Americas Watch, the National Coalition for Haitian Refugees and Caribbean Rights, sent an investigative mission to the Dominican Republic in February 1990. The researchers interviewed dozens of Haitian cane cutters, primarily those who were in the Dominican Republic for the first time and thus had most recently experienced Dominican recruitment practices. These Haitians provided first-hand accounts of the forced and dishonest recruitment methods used by the CEA, the restrictions on the Haitians' freedom to leave the plantations, and the subhuman working and living conditions. Interviews were conducted on the *bateys* at five of the ten sugar mills run by the CEA, in three different regions: Ingenios Consuelo, Porvenir and Santa Fe in San Pedro de Macoris; Central Barahona in Barahona; and Central Río Haina near Santo Domingo. For contrast, the researchers also briefly visited the privately owned Central Romana in La Romana, where comparable abuses have not been reported.**

**The preliminary findings of the mission were reported to the USTR on March 1 and these findings were reiterated in testimony before the USTR on September 27. The preliminary findings were also submitted to the UN Human Rights Committee, which held hearings on March 29 and 30 to assess the Dominican Republic's compliance with the International Covenant on Civil and Political Rights. In April and May, several major US newspaper published articles about Haitian cane cutters in the Dominican Republic, based in part on the mission's research. On May 14, a mission participant also published in *The Nation*, "A Bitter Harvest for Haitians". In June, the findings of the mission were included in the three organizations' second published report on the Dominican Republic, *Harvesting Oppression: Forced Haitian Labor in the Dominican Sugar Industry*.**

# **EL SALVADOR**

## **Human Rights Developments**

The year 1990 ended much as it began in El Salvador -- with a great deal of uncertainty about the country's prospects for peace after more than a decade of violence and bloodshed. On November 20, the guerrillas of the Farabundo Martí National Liberation Front (FMLN) launched a series of attacks against military and strategic targets throughout El Salvador. The FMLN, which termed the attacks a "limited military operation," claimed that it launched the operation to "punish" the Salvadoran military and "accelerate" the peace negotiations, which had bogged down principally over the issue of military reform. At least in the short run, however, the assault, which the FMLN declared on December 31, may have weakened the prospects for peace.

According to initial reports, the FMLN's year-end offensive resulted in hundreds of dead and wounded combatants as well as scores if not hundreds of civilian casualties. Near the start of the offensive, Auxiliary Bishop Gregorio Rosa Chávez stated in a November 25 homily that "both sides did what they could to avoid harming civilians." It, indeed, appeared that international scrutiny following the guerrilla offensive of November 1989, in which both sides engaged in clear violations of the laws of war, as well as a human rights accord signed by the government and the FMLN in July 1990, heightened the sensitivity of both sides to the need to protect civilian lives. However, the number of civilian casualties -- both dead and wounded -- suggested that both sides had put noncombatants into the line of fire.

Prior to the FMLN military operation, the human rights situation in El Salvador during 1990 was characterized by a discouraging increase in death squad killings; continuing setbacks in the investigations of major human rights cases; lingering FMLN abuses including summary executions; and a continuing practice of disappearance following arrest on the part of the armed forces. In addition, in July, the Salvadoran governmental Human Rights Commission protested to the armed forces the "truly alarming frequency" of human rights violations by civil defense units, including murder, assault and rape. Statistics compiled by the Archdiocesan human rights office Tutela Legal through the end of

**September showed that the vast majority of targeted assassinations of civilians continued to be carried out by the army, security forces and death squads associated with them.**

**The marked increase in the number of death squad killings is particularly troubling. Although death squad assassinations declined steadily in early and mid-1989 (following a disturbing upswing in 1988), they climbed sharply throughout 1990, and they were, as of the third quarter of 1990, occurring at a rate approximately double that of the comparable period in 1989. The roller-coaster statistics on death squad murders indicated that little had changed in the structures that permit such abuses to occur.**

**On the positive side, there was a limited, yet hopeful, accord on human rights between the government and the guerrillas signed in July 1990, and a tentative reopening of political space which had all but evaporated following the FMLN's November 1989 offensive.**

**To the government's credit, following the lifting of the state of siege in April 1990, there was greater freedom of expression and association than in the earlier months of the year. Yet, during the year-end offensive, there were increased reports of searches, harassment, and ransacking of humanitarian organizations' offices by the army and security forces. The National Revolutionary Movement also denounced the government for having made accusations on radio and television blaming leftist politicians Guillermo Ungo and Rubén Zamora for the FMLN attacks; the government later privately apologized for the accusations.**

**There were other notable exceptions to the reopening of political space. On July 3, government soldiers raided the San Salvador office of the Social Christian Popular Movement (MPSC) and later blamed the incident on common crime. Two MPSC activists were also detained in Santa Ana, and an activist of the National Democratic Union, a small leftist party, was found murdered. Serious threats were received by leaders of the UNTS (National Unity of Salvadoran Workers) and UNOC (National Union of Workers and Peasants) labor coalitions following their submission of petitions charging labor rights violations to US Trade Representative Carla Hills. Paid advertisements taken out by the ruling ARENA party appeared in Salvadoran newspapers in September labeling the unions' actions traitorous.**

**As in years past, Salvadoran civilians, often repatriates, suffered from indiscriminate attacks by both the Salvadoran air force and the FMLN guerrillas.**



**On February 11, in Corral de Piedra, Chalatenango, two rockets fired from a Salvadoran air force helicopter hit a house in which 21 civilians had taken refuge, killing five and wounding sixteen. Four of the five killed were children under the age of 10; eleven of the wounded were children between four months and twelve years of age. Throughout the year there were reports of indiscriminate army fire in populated areas during or following FMLN attacks; army sources have insisted that their fire was aimed at rebel positions, an assertion contested by local villagers.**

**There were several cases of indiscriminate attacks by the FMLN in 1990 as well. On October 23, the rebels attacked the Defense Ministry compound in San Salvador, launching a homemade explosive which missed its intended target and hit a nearby house, killing two children and wounding two women. (On February 27, 1989, long before this attack, the FMLN had announced the suspension of the use of these devices, which are homemade and unreliable. Americas Watch reiterates its call for the FMLN to abandon the use of such inaccurate devices in civilian areas, a practice which violates the laws of war.)**

**Americas Watch also received reports of indiscriminate FMLN attacks and attacks in which insufficient efforts were made to avoid collateral civilian injuries. Often, these involve FMLN ambushes of soldiers as they entered or left towns, resulting in combat in populated areas which endangers civilians. In one case, the FMLN and Salvadoran armed forces engaged in two hours of fighting around a school where 40 children were trapped. Miraculously, the children suffered no injuries. In a case of apparently indiscriminate fire in September, an eight-year-old girl in San Agustín, Usulután was shot and killed by the guerrillas as she ran toward her home. The mother surmised that the guerrillas killed her daughter because "she looks pretty old, and they might have thought she was armed."**

**The Salvadoran government and FMLN guerrillas participated in seven rounds of United Nations-mediated peace talks beginning in Geneva in April. In late November, it was reported that the UN negotiating team had taken a more active mediating role, preparing a confidential proposal which was submitted to both sides. The plan reportedly called for far-reaching military reforms which the leadership of the armed forces had so far resisted. Among the proposals were the establishment of an independent commission to investigate and dismiss military officers found guilty of human rights abuses, and the dismantling of the armed forces' intelligence branch and two of the country's three security forces. At the**

end of 1990, it appeared unlikely that the two sides would come to a peace agreement soon. Yet one hopeful sign was the absence of calls by either side to withdraw from the peace talks following the FMLN military offensive of mid-November.

In July, in the first concrete achievement of the peace process, the Salvadoran government and the FMLN signed a broad human rights accord. The agreement set out obligations for both sides in the conflict to avoid practices that endanger lives, and provided for the establishment of a UN mission to verify human rights practices following a ceasefire. As movement toward a ceasefire slowed late in the year, the UN nonetheless began preparations for a verification group to start operating before a ceasefire.

Many, if not most, of the obligations assumed under the accord pertain to the Salvadoran government. They cover the rights of detainees, the displaced, and repatriated refugees, as well as guarantees of freedom of expression. Many of these obligations are already contained in the Salvadoran Constitution as well as in international human rights conventions to which El Salvador is a signatory. The accord was thus mainly a broad statement of good intentions, a promising first step in the protection of human rights in El Salvador. Immediately following the accord, both sides appeared to reaffirm their good intentions by reducing violations in some categories. The government also established additional judicial mechanisms to determine the whereabouts of detainees. But by October, prior to the launching of the FMLN year-end offensive, the rate of violations had returned to the pre-accord pace.

The investigation into the November 16, 1989 murder of six Jesuit priests, their housekeeper and her daughter proceeded at a snail's pace during 1990,<sup>40</sup> and was tainted by allegations that the High Command both had prior knowledge of a plot to kill the priests and had conspired to cover up the crime. On January 13, President Alfredo Cristiani ordered the detention of Col. Alfredo Benavides Morales of the Military Academy and eight other soldiers for the murders. (One of the accused is still at large.) Later in the year, Judge Ricardo Zamora ordered the arrests of additional soldiers, including a lieutenant colonel charged with

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<sup>40</sup> For an overview see Lawyers Committee for Human Rights, *The Jesuit Case a Year Later: An Interim Report*, November 15, 1990.

**destruction of evidence.<sup>41</sup>**

**In a judicial system already fraught with problems -- such as the provision of Salvadoran law which prohibits testimony of one co-defendant against another -- Judge Zamora must also overcome obstacles such as the destruction and fabrication of evidence by members of the armed forces and false testimony by Salvadoran soldiers. While recognizing the difficult circumstances in which Judge Zamora must function, Americas Watch is deeply concerned that his intention announced on December 8 to move the case to trial will definitively halt further investigation of the role of other senior officers in the murder conspiracy. We fear that his decision stems from a political imperative felt by Salvadoran, as well as US, officials to get the case behind them as quickly as possible. Jesuit Provincial José María Tojeira said that the judge's decision could lead to a "mockery of justice" by failing to identify the intellectual authors of the crime.**

**Even after widespread international condemnation of the Jesuit massacre, Jesuit priests in El Salvador continued to face harassment from the armed forces. In mid-August, Fathers Jon Cortina and Nicolás Alvarenga were fired upon several times by an army sniper in the northern town where Cortina is pastor. One bullet missed Father Cortina's head by several inches while he was attempting to move a vehicle widely known to belong to the Jesuits; two other shots fell directly in front of him as he attempted to leave his vehicle and deliver a letter to some nuns in the town. Father Cortina reported that before the attack a group of**

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<sup>41</sup> During the November 1990 fighting, army intelligence officer Capt. Carlos Herrera Carranza was reportedly killed by a sniper's bullet. According to court documents, Capt. Herrera Carranza initiated the search of the Jesuit residence three days before the massacre. It has also been reported that Capt. Herrera Carranza entered a senior intelligence meeting early on November 16 to report that Rev. Ignacio Ellacuría, one of the six murdered priests, had been killed. Capt. Herrera Carranza claimed that he had heard the news of the Jesuit massacre on the radio, but it appeared that his announcement came before any station began broadcasting news of the massacre. He was the second captain involved in the Jesuit case to have been killed in 1990.

**soldiers from the Bracamonte Battalion had entered a nearby town, saying that they were going to suck the blood of the priests that work in the zone.**

**The lack of thorough investigation and prosecution in the Jesuit case was not unique in El Salvador. In fact, 1990 was notable for the number of important human rights cases that were dismissed wholly or in part. The cases included the following two in which the United States had pressed hard for an investigation and prosecution of those responsible:**

**San Sebastián: On September 21, 1988, Salvadoran soldiers, commanded by the head of military intelligence of the Fifth Brigade, Maj. Mauricio Beltrán Granados, summarily executed ten captured peasants in the hamlet of San Francisco, San Vicente, staging the executions to look like a guerrilla ambush. The Bush administration, and particularly Ambassador William Walker, made resolution of the case a top US priority. During a trip to El Salvador in February 1989, Vice President Dan Quayle warned Salvadoran officials that US aid would be threatened if the killers were not brought to justice. Following Quayle's visit, nine Salvadoran soldiers were arrested for the crime.**

**In February 1990, however, charges were dismissed against seven of the nine military defendants in the case. The judge ruled that the case should proceed against Maj. Beltrán and Sub-Sgt. Rafael González Villalobos. Then, in May, an appeals court in San Vicente reversed the decision to try Sub-Sgt. González Villalobos, and affirmed the dismissal of charges against the remaining defendants. Only Maj. Beltrán remained in detention.**

**The court reasoned that the principal evidence against González -- his confession and the testimony of another soldier -- was inadmissible because it had been taken by the US-funded Special Investigative Unit (SIU), which El Salvador's criminal procedure code does not designate as an auxiliary organ of the judiciary with power to provide evidence to the courts. At the end of 1990, the case against Maj. Beltrán was scheduled to proceed to jury selection, although many doubted he would ever actually stand trial.**

**Although the Salvadoran judicial system is not based on precedent, it is alarming to contemplate the ramifications of a ruling that SIU-gathered evidence is inadmissible. In future cases, including that of the Jesuits, defendants may invoke the irregularities of Salvadoran criminal procedure to ensure that**

**incriminating evidence gathered by the SIU cannot be considered. The decision also raises serious questions about the wisdom of US funding of the SIU.**

**Kidnapping-For-Profit: Between 1982 and 1985, rightists and members of the armed forces posing as leftist guerrillas kidnapped wealthy Salvadorans and ransomed them for profit. In April 1990, kidnapping and robbery charges were dismissed for lack of evidence against all but two of the eight defendants in the kidnapping-for-profit case. The court also dismissed robbery charges against the two remaining defendants, including National Guard intelligence officer Rodolfo Isidro López Sibrián, who had also been implicated in the 1981 murder of two US agrarian reform advisers and the head of the Salvadoran land reform agency. López Sibrián remained in detention, but his father-in-law, Luis Orlando Llovera Ballete, had been released in March 1989 after a controversial court ruling. To his credit, President Cristiani instructed the Attorney General to appeal the dismissal of charges.**

**In an encouraging move, the Bush administration quietly suspended \$2 million in US aid to the Salvadoran judicial system because of setbacks in the prosecution of the San Sebastián and the kidnapping-for-profit cases.**

**Americas Watch was also disturbed by the lack of serious investigation, either in El Salvador or Guatemala, of the murders of two Social Democratic leaders, Salvadoran Héctor Oqueli Colindres and Guatemalan Gilda Flores. Oqueli was under-secretary general of the National Revolutionary Movement and secretary of the Committee for Latin America and the Caribbean of the Socialist International; Flores was a Guatemalan lawyer and activist of the Social Democratic Party. The two were abducted early in the morning of January 12, 1990 on their way to the Guatemala City airport. Their bodies were found later that day.**

**In July, after undertaking an investigation and producing two reports on the murders, the Guatemalan government charged ARENA leader Roberto D'Aubuisson and two businessmen, Orlando and Fernando de Sola, with masterminding the murders. Two prominent US human rights lawyers asked by the Socialist International to investigate the killings found both Guatemalan reports on the murders seriously flawed. They concurred, however, that the assassinations were most probably carried out on behalf of, if not by, Salvadoran rightists, and added that Guatemalans, including members of the security forces,**

were probably involved as well.<sup>42</sup> Salvadoran President Cristiani denied that any Salvadoran was involved in the murders. The case remained unsolved at year's end.

## **US Policy**

The Bush administration went on record throughout 1990 in favor of a negotiated settlement in El Salvador, supporting President Cristiani's call for peace talks to end the war. Yet like its predecessor, the Bush administration was unwilling or unable to pressure the Salvadoran armed forces to make necessary reforms, or to admit that the absence of such reform posed the central obstacle to the talks.

In addition, despite months of insistence that a satisfactory investigation of the Jesuit murders was a central objective of US policy, administration officials withheld key evidence from both Salvadoran and US congressional investigators. Administration officials also opposed efforts in Congress to punish the Salvadoran government for its lack of progress in investigating the murders by withholding military aid.

The year began inauspiciously when on January 2, US Ambassador to El Salvador William Walker told Rep. Joe Moakley, head of a House task force on the Jesuit murders, that the priests might have been killed by guerrillas dressed up in military uniforms. That same day, Maj. Eric Buckland, a US adviser in El Salvador, went to a superior with information that a Salvadoran colonel had confessed his role in the crime. The head of the US military group in El Salvador, Col. Milton Menjivar, then took the information to Col. René Emilio Ponce, then head of the Salvadoran High Command. Menjivar named Buckland's source – his counterpart in psychological operations in the Salvadoran army, Col. Carlos Avilés. In the view of the Moakley Task Force, Menjivar's action led to many of the important

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<sup>42</sup> Tom Farer and Robert Goldman, *The Assassination of Lic. Gilda Flores and Dr. Hector Ouelé: An Evaluation of the Investigation and Reports Prepared by the Government of the Republic of Guatemala*, September 1990, pp. 23-25.

breakthroughs in the investigation; but the "burning" of Col. Avilés sent a powerful message that others with knowledge of the crime should not dare to share it with the US embassy.<sup>43</sup>

Buckland was also the source of other explosive information regarding the Jesuits. In a second affidavit given to the FBI in mid-January, he implicated Col Benavides in a plot to kill the Jesuits ten days before the murders were carried out (and before the guerrillas' November 1989 offensive). According to Buckland, whose statement was also videotaped by the FBI, Col. Benavides was threatening to kill the priests; upon learning of Benavides's intentions, Col. Ponce sent Col. Avilés to meet with Benavides to deter him from committing the crime. After providing this information to the FBI, Buckland recanted his affidavit, apparently under intense pressure to do so. According to one account, he was "grilled and grilled" until "finally he cracked," and was an emotional "wreck" following three days of interrogation and polygraph tests. US officials were quoted in the press as saying that the information in Buckland's second affidavit was 100 percent correct.<sup>44</sup>

The information in Buckland's second affidavit was shared with the US embassy in San Salvador and with the State Department. Over a ten-month period, senior US officials withheld Buckland's testimony about the plot to kill the priests from the Salvadoran judge presiding in the case, from the SIU, and from the Moakley Task Force. When the information was finally leaked to Rep. Moakley, he

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<sup>43</sup> Salvadoran retired Col. Sigifredo Ochoa stated on CBS's *60 Minutes* in April that "the American officer [Col. Menjivar] put the informant in a very difficult situation, so dangerous that he [Avilés] could have been killed." Yet Ambassador Walker defended the handling of Avilés and said that, "Unlike, you know, newspapermen, who feel they'd rather die than reveal a source, we're not in that same game." See "Troublesome Priests," *Village Voice*, May 22, 1990.

<sup>44</sup> "Cracking the Major," *Newsweek*, November 19, 1990. Maj. Buckland was the second witness in the Jesuit case to have recanted after being interrogated by the FBI. The first, Lucía Barrera de Cerna, recanted her eyewitness testimony following several days of intensive, incommunicado interrogation at the hands of the FBI and a Salvadoran army officer. She later stated that she felt pressured into recanting by the threatening and intimidating manner in which she was interrogated.

**insisted that the affidavit and videotape be turned over to Salvadoran Judge Ricardo Zamora. By withholding the information, the Bush administration delayed for ten months the investigation of this prior threat against the Jesuits, as well as of Col. Ponce's role in covering up for Col. Benavides after the murders took place.**

**Throughout the winter and early spring, the tone of congressional debate over aid to El Salvador was set by the investigation, or lack thereof, into the Jesuit murders. The Moakley Task Force played the preeminent role in shaping congressional opinion. On April 30, the Task Force released its first report, stating that "the murders of the Jesuits reflect problems within the Salvadoran armed forces that go far beyond the actions of a particular unit on a particular night." The report stated that the investigation and preparations for prosecuting the case were at a "virtual standstill," and noted that investigators had made little effort to determine whether senior military officers other than Col. Benavides, who was detained in January, might have played a role in ordering or covering up the crimes.<sup>45</sup>**

**The release of the Moakley report gave impetus to efforts in Congress to cut military aid to El Salvador. That, in turn, prompted the administration to attempt to get the investigation moving. Ambassador Walker appeared on Salvadoran television on May 1 to complain that the Jesuit case needed more investigation. (Just one week earlier, Ambassador Walker had stated on CBS's *60 Minutes* that the case was solved.) One week after Ambassador Walker's appeal, State Department spokesman Richard Boucher quoted President Cristiani as saying that the SIU had resumed a serious investigation and that the case would come to trial within 90 days. When asked by a reporter when the investigation had concluded so that it could be resumed, Boucher responded: "I think there was something of a lull."**

**On May 22, the House of Representatives voted 250 to 163 to reduce military aid to El Salvador by 50 percent. The amendment was sponsored by Rep. Moakley and another member of the Task Force, Rep. John Murtha, a long-time supporter of aid to El Salvador. Although the underlying piece of legislation containing the Moakley-Murtha amendment was defeated on final passage, the vote on May 22 represented an overwhelming repudiation of administration**

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<sup>45</sup> Speaker's Task Force on El Salvador, *Interim Report*, April 30, 1990, pp. 6-7.



**policy, reflecting widespread revulsion over the Jesuit murders and the Salvadoran government's failure to investigate.**

**In June, the Bush administration intensified its focus on the Senate, which was considering companion legislation offered by Senators Christopher Dodd and Patrick Leahy. The administration offered privately to cut military aid to El Salvador by 15 to 30 percent of the proposed \$85 million. The discussions broke down when senators and administration officials could not agree over the mechanisms for restoring the full amount of aid.**

**Meanwhile, the findings of the Moakley Task Force continued to feed sentiment in Congress for an aid cut. In a statement released on August 15, Rep. Moakley charged that the Salvadoran Army High Command was "engaged in a conspiracy to obstruct justice" in the Jesuits' case. Moakley said that Salvadoran military officers had "withheld evidence, destroyed evidence, falsified evidence and repeatedly perjured themselves in testimony before the judge." He stated that the military's goal "from the beginning" had been "to control the investigation and to limit the number and rank of the officers who will be held responsible for the crimes."**

**As the Senate prepared to vote on its aid-cut legislation in October, Secretary of State James Baker, Deputy Secretary of State Lawrence Eagleburger, and Assistant Secretary of State for Inter-American Affairs Bernard Aronson made a last-minute lobbying effort to get the Senate to water down the Dodd-Leahy legislation. Publicly, administration officials supported a military aid reduction. But behind the scenes, administration officials sent personal letters and made phone calls urging senators to vote against the legislation. Officials complained that the Dodd-Leahy bill would punish the Salvadoran government and favor the FMLN in peace talks. The administration supported an amendment by Senators Bob Graham and John McCain which would have allowed the administration to restore aid to the Salvadoran government if there were no cease-fire within 60 days. Because the UN-sponsored talks envisioned that a ceasefire would grow out of prior political accords between the government and the FMLN, the proposal for a ceasefire in 60 days was simply a way of ensuring a swift restoration of aid as the peace talks remained bogged down.**

**On October 19, Congress finally parted ways with administration policy on El Salvador. The Senate voted 74 to 25 to endorse the earlier House decision to cut military aid to El Salvador by one-half in fiscal year 1991. It also rejected, 58 to**

**39, the Graham-McCain amendment supported by the administration. For the first time in a decade, both Houses of Congress voted in freestanding aid bills that became law to cut military aid to El Salvador on human rights grounds. The waning of the Cold War, and with it fears of Soviet penetration in the hemisphere, surely provided the backdrop for the congressional decision.**

**The final legislation approved by Congress provides half of the original military aid request, \$42.5 million, which can be restored in full if President Bush determines that the FMLN: is not negotiating in good faith; refuses an active mediation role by the UN; refuses to accept a plan by the UN Secretary General for a settlement to the conflict, including a ceasefire; acquires significant lethal arms shipments from outside the country; launches an offensive jeopardizing the survival of the government; or engages in violence against civilian noncombatants.**

***All* military aid is to be terminated if the President determines and reports in writing to Congress that the Salvadoran government: fails to negotiate in good faith; refuses an active mediation role by the UN; refuses to accept a plan by the UN Secretary General for a settlement to the conflict, including a ceasefire; fails to conduct a serious and professional investigation into, and prosecution of, the November 16, 1989 killings of the Jesuits and their associates; fails to actively seek and encourage a law enforcement service from outside El Salvador, such as Scotland Yard or INTERPOL, to accompany and monitor investigators in the Jesuit murders; or if the military or security forces engage in violence directed at civilian targets. On November 5, President Bush signed the fiscal year 1991 foreign aid bill, including the El Salvador restrictions.<sup>46</sup> In response to the late November**

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<sup>46</sup> In fiscal year 1991, the Bush administration requested \$180 million in Economic Support Funds (ESF) and \$85 million in military aid. The law (PL 101-513) halves the military aid, but does not set a specific level for ESF. Up to \$1.5 million of ESF may be made available to assist the Special Investigative Unit, but only after congressional committees receive a report from the Secretary of State transmitting a plan and timetable for the Salvadoran government to transfer the unit from military to civilian control. Ten percent of the withheld military aid may be used to assist in carrying out judicial reform, and \$5 million of military aid may not be made available until all investigative action is concluded in the 1981 murder of two US labor advisors and the head of the Salvadoran agrarian reform agency, and until that case, the 1988 San Sebastián case, the case of the October 1989 bombing of the FENASTRAS (National Federation of Salvadoran Workers) offices and the November 1989

guerrilla offensive, the Bush administration announced on December 6 that it was accelerating delivery of military aid in the pipeline and from the 1991 appropriation.

In an encouraging move, on October 27, Congress passed the Immigration Act of 1990, which includes a provision granting Salvadoran refugees an 18-month stay of deportation. The bill mandates that Temporary Protected Status (TPS) be granted to Salvadorans who were in the US before September 19, 1990. TPS is granted only for a period of 18 months, although it could be renewed by Congress or the Attorney General. The stay of deportation is an important mechanism for ensuring at least temporarily that Salvadorans whose petitions for asylum have been rejected by a deeply biased review system or who have failed even to apply for asylum in light of the near futility of doing so under the current system are not returned to their country to face political persecution. Refugee assistance groups have noted the danger, however, that Salvadorans registering under the new law could provide the INS with information that could lead to deportation and persecution if the 18-month period is not extended.

### **The Work of Americas Watch**

Americas Watch devoted considerable resources to El Salvador in 1990, maintaining (since 1985) an office in San Salvador, producing several studies, and providing information to congressional offices and the press throughout the year. In March, Americas Watch published *A Year of Reckoning: El Salvador A Decade After the Assassination of Archbishop Romero*. The report documented human rights abuses by both the Salvadoran government and the FMLN during 1989, and included a review of a decade of US policy in El Salvador. In May, Americas Watch issued a report on summary executions of several hundred captured civilians carried out by the FMLN since the early 1980s. The study rejected rebel assertions that its executions were carried out following trials which met international standards of due process. In September, Americas Watch released a study of eight major human rights cases in El Salvador, illustrating the impunity still

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Jesuit case are fully prosecuted. In addition, during FY91 and 92, the US and Salvadoran governments shall jointly program \$10 million worth of ESF for retiring the debt owed by the Jesuit-run University of Central America to the Inter-American Development Bank.

enjoyed by military officers and death squad members for their crimes.<sup>47</sup>

**On August 22, Americas Watch presented a brief to the Inter-American Human Rights Commission of the Organization of American States on the Jesuit case, highlighting the Salvadoran military's falsification of testimony, destruction of evidence, and refusal to cooperate with judicial initiatives. Because the Salvadoran government failed to respond to an initial request from the Commission for information concerning the case, Americas Watch requested that the Commission formally accuse the government of violating the right to life and due process (Articles 4 and 8 of the American Convention on Human Rights) and bring the case to trial before the Inter-American Court on Human Rights.**

**In addition, on September 28 and 29, US Trade Representative (USTR) Carla Hills held hearings on labor rights violations in El Salvador at which Americas Watch testified. The hearings were to determine whether El Salvador's labor rights practices precluded it under US law from receiving trade benefits under the Generalized System of Preferences. Representatives of Salvadoran trade unions – the National Union of Workers and Peasants (UNOC) and the National Federation of Salvadoran Workers (FENASTRAS) – and US human rights and labor organizations, including Americas Watch and the AFL-CIO, also submitted petitions earlier in the year about extensive labor rights violations. If the USTR decides that the Salvadoran government is not guaranteeing labor rights, trade benefits must be terminated. A decision is expected on April 1, 1991.**

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<sup>47</sup> News From Americas Watch, "Impunity Prevails in Human Rights Cases," September 1990.