

## AMERICAS WATCH OVERVIEW

### Human Rights Developments

The Western Hemisphere's steady advance toward democracy since the mid-1980s suffered some serious reversals in 1992—setbacks that shook confidence that the path to democracy in the region is assured and that the rule of law is taking hold. The ouster of Haiti's first freely elected president on September 30, 1991 has not been reversed, and that nation continues to be ruled by military thugs. In February 1992, a bloody uprising by a faction of the Venezuelan armed forces almost brought down the government of Carlos Andrés Pérez, and its aftermath continues to threaten one of Latin America's longest-running democracies. On April 5, 1992, President Alberto Fujimori of Peru dissolved the Congress, destroyed the independence of the judicial branch, suspended the Constitution, and assumed dictatorial powers.

Not by coincidence, those countries also experienced a serious deterioration in the human rights situation, as their rulers deliberately eliminated important safeguards, either to perpetuate and expand their power or to respond to the genuine threats against democracy. After the tragic experiences with absolute power in Latin America in the 1970s, it is disappointing to see that, with honorable exceptions, the political, military and social elites continue to combat challenges to democratic rule, not by strengthening democratic institutions, but by restricting their role in the protection of rights.

To be sure, democracy and the rule of law are in trouble not only in Haiti, Peru and Venezuela. Elsewhere in the region, periodic elections and transfers of power have not automatically led to an improvement in the quality of democracy experienced on a daily basis by the majority of citizens. Impunity for serious human rights violations committed by state agents is still appallingly pervasive; for the most part, military and police forces are accountable to courts and to civilian authority on paper only. The courts fail miserably in providing citizens with a fair and impartial forum for the resolution of private disputes, and even more miserably in protecting them from abuse at the hands of the state, or in redressing those abuses. Growing social problems and the perception of accelerating urban crime exacerbate authoritarian tendencies in important segments of public opinion, which in turn handicaps civil society in its efforts to devise solutions to these challenges. At times, even political leaders with solid democratic credentials have shown themselves intolerant of dissent and all too ready to impose curbs on freedom of information and expression.

Still, that most Latin American countries continued to live under democratic rule in 1992 has undoubtedly facilitated the identification and correction of human rights violations. Freedom of expression is vigorously exercised in most countries today and some independent journalists and media have been willing to use and test the limits of existing political space to investigate and criticize official actions. In many countries, the press has

thereby increased its credibility with the public. More important for our concerns, the press has been more willing to cover human rights matters, often sparking debate about human rights violations and what to do about them. In democratic societies, such a debate is essential before governments can be expected to adopt corrective structural reforms. However, journalists and the press were attacked many times in 1992, generally for trying to cover human rights matters or for revealing corruption in government circles. Americas Watch intervened repeatedly on behalf of persecuted journalists, and in the process advocated reform of press laws to provide greater protection for artists, journalists and opinion writers. In the case of Horacio Verbitsky, for instance, Argentina's best known investigative journalist, we objected to the use of contempt laws (*desacato*) to punish him for publications considered disrespectful. With the assistance of Americas Watch, Verbitsky pursued a case before the Inter-American Commission on Human Rights of the Organization of American States. At the first appearance before that body, the Argentine government agreed to repeal the *desacato* statute.

Democracy in the region has also seen the flourishing of civil society—independent political organizations whose members promote public policies through genuinely pluralistic discourse. Particularly encouraging has been the continued growth in Latin America of a rich, dynamic, multi-faceted human rights movement. As this report shows, monitoring human rights violations is still a dangerous activity in some countries, and an often misunderstood calling in others. Nonetheless, we are pleased to report that human rights monitoring and advocacy in Latin America are ever more sophisticated, effective and credible, and play a role of growing significance in the region's progress on human rights. For the same reason, the work of our colleagues throughout the region continues to be the single best hope for justice for the architects of the severe abuses that plagued the region in the past.

In many Latin American countries where the rule of law is weak despite the existence of elected governments, human rights violations persist, often in the form of ghastly prison conditions, police brutality, and rural violence. In 1992, Americas Watch conducted studies in Brazil and Argentina of police violence directed against suspected common criminals, or often simply against young males living in poor, crime-ridden neighborhoods. Police agents responsible for killing these victims in supposed "confrontations" are almost never investigated, much less disciplined or prosecuted. Police investigators still resort almost routinely to torture as an interrogation technique. Unlike the strong public condemnation that often attends the torture of a political opponent, torture and even murder by the police of young slum dwellers frequently yields only public indifference—or even outright support for the police—which vastly complicates efforts to mobilize corrective pressure.

In Paraguay and Venezuela, Americas Watch focused attention on discriminatory conscription of young men into military service. Americas Watch believes that international law does not prevent

states from instituting a universal draft, provided that recruitment procedures are clearly spelled out in the law and are implemented in a non-discriminatory manner. In Paraguay and Venezuela, and possibly also in other countries, the draft as implemented violates those standards, because it is carried out in an arbitrary fashion. Typically, young people from poor families are rounded up, often violently; they are not given a fair opportunity to show why they should be exempted from military service; they frequently are forced to serve longer terms than required by law; and they are arbitrarily deprived of contact with their families. In Paraguay in recent months, the problem has reached scandalous proportions, with draftees reportedly being forced to work for the private gain of military leaders.

Prison conditions in most Latin American countries continued to deteriorate in 1992. In Peru and Brazil, major prison riots were put down by the authorities with excessive force and, evidence suggests, the deliberate, brutal killing of some inmates. Americas Watch investigated both massacres in the course of fact-finding trips and as part of its continuing interest in fostering worldwide debate about prison conditions. These killings highlighted a problem found in all countries where we have investigated police violence and prison conditions: that internal control mechanisms are woefully inadequate. Throughout Latin America, police and security forces are permitted to police themselves, without civilian authority or community input; courts and prosecutors have been unwilling to investigate and punish criminal actions when committed by agents of the state. The problem of official violence and the role of civilian review in its control is not unique to Latin America. Indeed, a report published by Americas Watch in August 1992 noted the lack of independent review of the behavior of agents of the United States Border Patrol—an important factor in the impunity enjoyed by those agents for many serious acts of unjustified violence against suspected undocumented immigrants.

In some Latin American countries, disputes over land use and tenure continue to be resolved by violent, often deadly means. Most of the murders are committed by private armies and hired guns, although often the perpetrators are off-duty members of the security forces. Even when they are not, complicity between powerful landowners and local or regional authorities, and the failure of courts to provide redress, give rise to governmental responsibility for these abuses. Rural violence often occurs when landless peasants occupy lands in the expectation that agrarian reform laws will be implemented, and then are evicted by force and without due process. Rural workers are also sometimes subjected to forced labor through deceit and violence. In 1992 Americas Watch continued to monitor different forms of rural violence and forced labor, particularly in Brazil; as in the past, we have made it clear that we take no position on the issue of title to the land, but insist that states have a responsibility to ensure that land conflicts are resolved peacefully and with full guarantees of due process.

The most severe human rights violations in Latin America

continue to take place in the context of armed conflict. For that reason, the cease-fire agreement that put an end to the long, bloody conflict in El Salvador represented a breakthrough for human rights in the region, even if the accord is yet to be fully implemented. Unfortunately, attempts at negotiations in Guatemala and Colombia failed to produce concrete results, and civil wars continued to rage there as well as in Peru. In all three countries, Americas Watch monitored violations of the laws of war committed by both sides to the conflict. As in the past, we continued to apply the standards developed in the Geneva Conventions of 1949, which create clear obligations for government forces as well as for insurgents to protect the civilian population and to respect the life and physical and moral integrity of the enemy who has been placed *hors de combat* by his surrender or capture.

As described in the later chapters of this report, insurgent forces in Peru, Colombia and Guatemala commit violations of international obligations by carrying out indiscriminate attacks, failing to exercise due care to minimize harm to civilians and selectively assassinating political adversaries. For their part, security forces in counterinsurgency operations frequently carry out indiscriminate bombing and aerial and ground attacks, retaliatory attacks on civilians, forced disappearance of persons suspected of collaboration with guerrillas, and forced displacement of the rural population. In reporting on these practices, Americas Watch hopes to promote greater observance of the basic principles of international humanitarian law, which in turn will facilitate peace negotiations. These rules, which Americas Watch has applied consistently since 1983, bind insurgent groups while explicitly conferring on them no legal recognition.

Accountability for violations perpetrated in counterinsurgency settings is made more complex by the increased use of paramilitary forces, self-defense groups and civil patrols. Some governments and armed forces actively promote and encourage the creation of these forces, frequently blurring any distinction between voluntary and forced participation. These groups actively take part in intelligence gathering and arrests, and in the process apply "dirty war" tactics, such as murder, torture and disappearance. The security forces then deny responsibility for crimes committed by groups outside the chain of command, even though these groups are sponsored, encouraged and protected by the government.

In addition, the existence of active insurgencies provides the excuse for emergency legislation that destroys the fundamental principles of fair trial and due process. "Faceless" judges and prosecutors, diminished access to counsel, the use of secret witnesses and other evidence, and the renewed insistence on using military courts to try civilians, have continued to feature prominently in the arsenal of devices created by governments to deal with politically motivated crimes. In turn, these special courts and procedures destroy basic tenets of democracy such as the independence and impartiality of the judiciary. In Colombia, where members of the judiciary have faced relentless attack for attempting to prosecute drug-related cases, the government has

ceded to the temptation to use special courts also to try a broad range of dissidents engaged in nonviolent protests. In striving for an elusive "efficiency" in defeating insurgencies, Latin American governments lose sight of the need to preserve, strengthen and expand democracy as the most effective way to protect it.

In recent years, the growth of the illicit drug trade has occasioned violence the cruelty and scope of which rivals that of the continent's most intractable insurgencies. Powerful criminal enterprises have been formed to organize the complex business of growing coca and heroin, to process the leaves in clandestine laboratories and to transport the illicit drugs to markets in the United States and Europe. The illegal nature of the trade prompts the actors to settle all their disputes by violent means. As a result, the trade generates powerful private armies, death squads and hired guns. In Colombia, the drug cartels have not only directed this violence against each other, but they have also engaged in political violence, alternately siding with powerful business concerns in rural and mining areas, or attacking the state and murdering well known political figures who they perceive threaten their interests. The Colombian cartels exercise their influence in other countries in Latin America, either because those countries have extensive coca-growing fields, or because they are increasingly used as transit points to final markets or as money-laundering centers. For this reason, the violence and corruption associated with the drug trade has experienced a steady growth in many Latin American countries.

The response to this criminal phenomenon has itself created serious problems for human rights in the region. In rural areas, programs promoted by the Bush administration to interdict drug transshipments or to eradicate crops are designed and implemented as military rather than law-enforcement endeavors. The U.S.-driven policies take on the characteristics of military occupation and counterinsurgency operations. In the Upper Huallaga Valley of Peru, where most of the world's coca is grown, growers and traffickers coexist alongside Sendero Luminoso guerrillas. This coexistence contributes to the additional blurring of any distinction between drug interdiction and counterinsurgency, serving further the impetus to employ "dirty war" tactics. In other countries, pressure for results in interdiction operations, in both urban and rural areas, have resulted in an increase in the torture and murder of those suspected of involvement in drug trafficking. Latin American governments have also felt pressure to create special judicial procedures to avoid corruption or intimidation of the courts by drug traffickers.

The Bush administration has offered large sums in military and police assistance to Latin American security forces to promote this "war on drugs." Eager to maintain this military approach, the administration has downplayed or misrepresented the human rights violations committed by the armies and police of recipient countries, and has temporarily suspended aid only when the U.S. Congress has insisted. One notable exception was Peru after President Alberto Fujimori's April "coup," when the administration itself suspended aid as a protest. The State Department has also

pushed a large Administration of Justice program, ostensibly to improve the performance of courts and prosecutors. While judges and witnesses in the volatile and dangerous fields of drug trafficking and counterinsurgency must be protected, Americas Watch does not accept that defendants be deprived of anything resembling a fair trial, especially when U.S.-supported courts in Colombia and Peru more often target political enemies involved in legitimate, peaceful dissent.

This unfortunate abdication of leadership by the United States in the realm of justice was compounded in 1992 by the outrageous Supreme Court decision in *Alvarez Machain*. In that landmark case, the highest U.S. court affirmed the legality of the U.S. Drug Enforcement Administration's (DEA) abduction of a Mexican doctor from his home in Mexico and his transport to California to stand trial for the murder of an American DEA agent who was investigating drug cartels in Mexico. The decision caused an unprecedented wave of protest throughout Latin America, especially among judges and democratic leaders who have been pressing their institutions to live up to their role in a democratic society, and who had for years looked toward American precedents to expand protections for the physical integrity and due process rights of criminal defendants. The open flouting of international law standards in the majority opinion in *Alvarez Machain* convinced many Latin Americans that the United States is not serious about promoting the rule of law.

In other matters, U.S. policies toward Latin America have been much more constructive. As illustrated in the following chapters, there were many occasions in 1992 in which U.S. diplomats cooperated with human rights monitors, including Americas Watch, and either privately or publicly expressed their concern over important human rights developments. The end of the cold war derailed anti-communism as the sole engine of Washington's Latin American policy and has undoubtedly contributed to a more multi-faceted view of regions such as Central America. For the same reason, the U.S. government has been more willing to take up forceful positions in defense of democracy when the stability of elected governments has been at stake. In so doing, the Bush administration has made important contributions to preserving democracy through its pronouncements on Haiti, Peru and Venezuela. The administration also apparently offered important support to the government of President Alfredo Cristiani of El Salvador in the face of military resistance to the peace process.

Unfortunately, some of the Bush administration's most effective statements made on the occasion of Alberto Fujimori's *auto-golpe* or self-inflicted coup on April 5 were later negated by the acceptance of token gestures toward restoration of democracy, such as the administration's apparent acceptance of the nominal elections convened by Fujimori for a Constitutional Congress in November as significant progress toward democracy, even though they raised important issues of fairness as described in the following chapter on Peru.

Likewise, in Haiti the administration's initially strong opposition to the 1991 military coup gave way to competing interests. First, yielding to pressure from U.S. manufacturing

interests who use cheap Haitian labor, the administration unilaterally softened the embargo on Haitian trade that had been imposed by the Organization of American States—a move with symbolic consequences well beyond its economic effect. Later, when the flow of "boat people" from Haiti continued to grow in the face of persistent repression, President Bush ordered their forcible return to Haiti without first screening to exempt those who qualified as refugees, in blatant violation of U.S. obligations not to return refugees to face persecution.

Overall, in the late 1980s and early 1990s, the U.S. government has stood firmly on the side of representative democracy in the hemisphere, and made it clear to potential coup plotters that the days of Washington's support for anti-democratic adventures are over. This welcome development, which marks a distinct departure from the policies of the 1970s, was reinforced in 1992, and it is now clear to most Latin American political actors that respect for popular will expressed in elections is encouraged from Washington. On the other hand, there have been few signs that the Bush administration insists on the substantive content of democracy in addition to the holding of elections. For example, Washington was again silent in 1992 on the important question of accountability for gross human rights abuses of the past, an issue that defines the kind of democracy that Latin Americans are building. There has been no opposition to amnesties and pardons that have the effect of leaving egregious crimes unpunished, and precious little has been said about the need to investigate, prosecute and punish ongoing human rights violations as a means of preventing their repetition. The U.S. government has tended to blame only structural weaknesses in the administration of justice for the impunity enjoyed by human rights abusers rather than also placing responsibility for human rights violations where it belongs: on the governments and military leaders who lack the political will to punish violators.

The U.S. government has adopted a similar attitude toward non-politically motivated abuses, refraining from criticism because it considers them "internal affairs" of allied governments, or because discussion of them complicates pursuit of other U.S. interests. For example, United States Trade Representative (USTR) Carla Hills has consistently refused to suspend trade benefits to countries that do not meet labor rights standards mandated by law. In fact, Hills has often refused even to review serious labor rights violations when it has been petitioned by labor and human rights groups, including Americas Watch. For instance, Americas Watch was forced to file petitions calling for a review of Salvadoran labor rights practices for four years before its petition was finally accepted for review in 1990; the outcome of that review is still pending. In one petition that was accepted—filed by Americas Watch seeking review of the Dominican government's use of forced labor on its sugarcane plantations—Hills in 1990 cited nonpublic embassy material to dismiss extensive documentation of continued use of forced labor to find that the Dominican Republic was "taking steps to afford their workers internationally recognized worker rights," allowing

trade benefits to continue uninterrupted. In one positive development in 1992, the labor rights petition submitted by several human rights and trade union organizations on Guatemala was accepted for review.

The Bush administration has also been slow to condemn violations of freedom of expression, including official harassment of journalists and the failure of governments to protect dissidents from threats and physical attacks, even though freedom of expression is a cornerstone of any substantive definition of democracy.

The growing threats to democracy in 1992 presented a serious challenge to the Organization of American States (OAS) which was founded on the premise that collective action was needed to protect democracy and human rights in the hemisphere. In Nicaragua, the OAS's Commission on International Verification and Support (CIAV) continued to provide a mechanism for conflict resolution and to provide critical assistance and support to demobilized *contra* rebels.

For the most part, however, despite renewed rhetorical expressions of support for democracy, the OAS failed miserably to make democracy more secure in the region. At the General Assembly held in Santiago, Chile in 1991, the countries of the OAS solemnly pledged to take collective action to prevent any step away from representative government. Within the next year, the Santiago Declaration was tested in Haiti and Peru, and in each case the OAS showed itself to be helpless in the face of anti-democratic forces. OAS initiatives to restore elected President Jean-Bertrand Aristide have proven particularly futile. Most recently, the Unit for the Promotion of Democracy, a little known office of the OAS, sent a small team of functionaries with no experience in human rights to monitor violations on the ground. They have not left Port-au-Prince. Negotiations brokered by OAS Secretary General João Baena Soares between Aristide and the *de facto* regime in Port-au-Prince are going nowhere.

The OAS Council of Ministers went to work immediately after the April 5 coup in Peru. After several diplomatic missions by Secretary General Baena Soares and Uruguayan Foreign Minister Héctor Gros Espiell, the OAS initiative to restore democracy in Peru, through dialogue between President Fujimori and the opposition, has reached a dead end. The most that has been achieved is a unilateral call by President Fujimori for November elections for a Constitutional Congress, under terms and conditions designed to create a body that Fujimori can control; the election was boycotted by a majority of the opposition forces. Fujimori has also destroyed the independence of the judiciary, and has continued to trample on the courts, a matter apparently ignored by the OAS diplomatic team. This almost complete failure, sufficiently troublesome in itself, is compounded by the OAS's declaration of success. On both Haiti and Peru, the diplomacy of the United States supported these self-delusional policies by the OAS majority.

The OAS has also failed to strengthen existing mechanisms for the protection of human rights in the hemisphere. The Inter-American Commission and Court on Human Rights offer promising fora



for the treatment of violations through judicial and quasi-judicial proceedings in a non-political, non-ideological setting. Unfortunately, many governments in the region find these mechanisms threatening, and have taken steps to undermine the work of both bodies. In two consecutive General Assemblies, for example, the Court has been unable to obtain support from the supreme political organ of the OAS to induce Honduras to comply fully with the judgment issued in the Court's landmark decisions on disappearances, *Velásquez* and *Godínez*. As a result, Honduras has felt free to refuse to pay more than two-thirds of the damages owed to the two families, and has sought ways to discredit the Court.

In September, a pathetic covert operation designed to create the impression that the two disappeared persons addressed by the judgment were in fact alive reached a bizarre and nearly fatal end. Orlando Ordóñez Betancourt, a Honduran citizen with a criminal record who had been paid substantial sums by the Honduran government, claimed to have information establishing that Godínez and Velásquez were in fact still alive. If true, the revelation would have vindicated the Honduran military and discredited the Inter-American Court and Commission. Ordóñez managed to deceive several high ranking officials of the Honduran and Costa Rican governments who were obviously more interested in disproving the disappearance of Velásquez and Godínez than in verifying Ordóñez's wild reports. More shameful was the involvement of the Honduran military, which despite its responsibility for the disappearance of the two men and their full knowledge of their fate, supported a common criminal in spreading a baseless story. At a meeting with the Costa Rican Minister of Government and Security, the head of the Honduran military intelligence, a Honduran bishop and the Mexican ambassador in Costa Rica, Ordóñez kidnapped all four and eventually secured his safe transportation to Mexico in exchange for the lives of his hostages. Honduras did not demand his extradition.

The incident created a major scandal in the three countries, and especially in Costa Rica, where the government had been one of the Court's staunchest supporters in the region. (The Court is based in San José, Costa Rica). But the incident also called attention to the need for the political organs of the OAS to support the Court more vigorously, especially by insisting on compliance with its decisions.

The other organ of protection in the region, the Inter-American Commission on Human Rights, fared even worse in 1992. The Commission was subjected to a persistent attack by several governments, as well as attempts to limit its access to the agenda of the OAS General Assembly, to which it must turn to obtain compliance with its rulings. The Commission was deliberately excluded from any significant role in the Haiti and Peru crises, despite the existence in both cases of significant human rights issues in which the Commission's expertise would have proven valuable. At the 1992 General Assembly in Nassau, Bahamas, representatives of several democratic governments launched an unprecedented series of verbal attacks on the Commission. Argentina and Uruguay, irritated by a Commission ruling that

amnesty laws by those governments in the 1980s (as well as President Carlos Saúl Menem's pardon of those who conducted the infamous "dirty war") were inconsistent with the obligations under the American Convention on Human Rights, sought the Court's help in discrediting the Commission. These two governments have submitted a request for an advisory opinion to the Court, seeking a ruling that would limit the Commission's jurisdiction to *de facto* violations, thus precluding it from commenting on laws and judicial decisions.

Although such a position is patently unfounded as a matter of international law, that Argentina and Uruguay would raise such a claim is indicative of the pressures that the Commission faces. The Permanent Council of the OAS is entertaining attempts to rewrite the American Convention, also presumably with the intent of undermining the Commission and the Court. Diplomatic missions to the OAS frequently pressure the General Secretariat hierarchy to prevent the Commission from acting on cases against their governments. In October, another blow was dealt to the Inter-American system of human rights when Peru threatened to rescind its adherence to the American Convention.

To its credit, the U.S. mission to the OAS is one of the most supportive of the Commission and the Court. However, the United States is seriously handicapped by its failure to ratify the American Convention on Human Rights, the treaty that gives life to both bodies. Given the diplomatic and political pressures, the Commission has sometimes allowed itself to be bullied into inaction. However, in its most recent session in September 1992, the Commission showed signs of a renewed will to withstand pressure and act according to its mandate as a body of legal experts on human rights. Against the wishes of some governments, the Commission received controversial witnesses at hearings, and issued precedent-setting decisions in important cases. Despite woefully inadequate funding, the Commission also demonstrated willingness to put in motion the mechanisms contemplated in the Convention, such as the "friendly settlement" procedure and the submission of new cases to the Inter-American Court.

In the face of a complex human rights picture on the continent, Americas Watch continued in 1992 to promote greater respect for fundamental freedoms through investigative missions, publications, and communications with governments. In many countries, we benefitted from ample coverage of our initiatives in the local press. Our increased name recognition and credibility has allowed us to foster and participate in a debate about human rights problems that often results in heightened awareness. This media presence also opened doors for us to discuss our concerns with governments. In general, we have found greater disposition in official circles to listen to us and to engage us in a serious debate about our findings and recommendations. There are, of course, exceptions to this generally positive trend: Cuba still refuses to allow Americas Watch to visit for research purposes or to observe trials; and President Fujimori of Peru falsely accuses us of a pro-Sendero bias, as he does all international and domestic human rights monitors.

In 1992 we conducted missions to Venezuela and Bolivia,

countries that we had not covered until now. Reports on both missions will be published by early 1993. We also endeavored to maintain an intense level of scrutiny in countries where we have had a presence for many years, and to bring their human rights problems to the attention of international public opinion. We have offered testimony to the U.S. Congress on Cuba and on acts of violence by the U.S. Border Patrol against undocumented immigrants. In 1992, Americas Watch published two reports on violations for which authorities in the United States were responsible. The first, entitled *Brutality Unchecked: Human Rights Abuses Along the U.S. Border With Mexico*, was published in May. The second, *Dangerous Dialogue: Attacks on Freedom of Expression in Miami's Exile Community*, was published in August jointly with the Fund for Free Expression. These reports, in addition to work conducted by Human Rights Watch on prisons in the United States, our publicly stated positions against the Bush administration policies on Haitian refugees, and our participation as *amicus curiae* in the *Alvarez Machain* case, have enhanced the reputation of Americas Watch throughout the continent as an impartial, independent critic of human rights abuses wherever they occur.

Americas Watch has continued to devote considerable effort to the use of mechanisms in international law for the protection of human rights. In close cooperation with the Center for Justice and International Law (CEJIL), Americas Watch continued to litigate cases before the Inter-American Commission and Court on Human Rights. In all these cases, CEJIL and Americas Watch act as co-counsel with domestic human rights organizations from several Latin American countries. In 1992 we appeared before the Court in preliminary hearings about two major cases against Peru: one concerning the 1988 massacre in the Andean village of Cayara, and the other involving the disappearance of inmates from El Frontón prison in Callao, during the bloody riots of 1986. In October 1992, the Commission decided to submit its first case against Colombia to the Court, for the 1989 disappearance of a rural teacher and labor leader in the war-torn Magdalena Medio region. CEJIL, Americas Watch and the Andean Commission of Jurists-Colombian Section will act as counsel for the relatives in the case.

Also in October, Americas Watch obtained a landmark victory in the struggle against impunity for known human rights abuses. After five years of litigation, the Inter-American Commission ruled that the laws passed by Uruguay (*Ley de Caducidad*) and Argentina (*Punto Final* and *Obediencia Debida*) and the Argentine presidential pardon, all of which had the effect of preventing prosecutions for crimes against humanity committed by the military, were inconsistent with those countries' obligations under the American Convention. The cases had been brought by domestic groups from those two countries, and litigated with our assistance. The Commission's decision marks the first time that an expert body on international law directly addressed in its holding the issue of impunity and recognized the legal obligation of states to seek truth and justice about gross abuses.

An important focus of our work continues to be the quest for

accountability for gross human rights violations. In October, Americas Watch published a report on the conviction by a Paraguayan court of several of General Alfredo Stroessner's highest-ranking police authorities for the torture and murder of a political opponent in 1977. In the same month, we sent an observer to the final stages of the trial in Bolivia of former General Luis García Meza, who was responsible for atrocities after seizing power by force in 1981. In the Southern Cone countries, we have continued to monitor implementation of the governments' duty to investigate state crimes, to disclose the truth regarding these crimes to the families and the public, and to offer reparations to the victims.

We have had occasion to review the relationship between human rights and peace as we monitored efforts to find negotiated solutions to long-standing armed conflicts in El Salvador, Guatemala and Colombia. In all three cases, the issue of human rights has become an integral part of the search for solutions, as the mediators and the warring parties have realized that a lasting peace cannot be achieved until violations that fuel the conflict are brought under control. However, continued vigilance is still necessary so the peace process does not bury the matter of accountability for crimes against humanity under the rug of "national reconciliation." True reconciliation, we have insisted, can come only after truth and justice. For example, in Nicaragua, where our objections to blanket amnesties went unheeded in 1990 when the war came to an end the acts of violence between former *contras* and Sandinistas that continue to plague the country can be traced in some measure to the lack of resolution of accountability issues. The peace process in El Salvador has provided new fertile ground to test these principles, as we discuss in the chapter on that country. El Salvador has also given us the opportunity to monitor the way in which the United Nations has begun to carry out new roles and functions assigned to it by the international community in the aftermath of the Cold War.

Americas Watch increased its efforts to document non-politically motivated violence, to analyze the structural reasons for its persistence, and to recommend policies to put a stop to it. Inevitably, we have had to comment on the sad state of the administration of justice in many democratic countries, and the inability of the courts to provide redress to victims of abuse. This breakdown in the institutional response to violence applies to a wide variety of violations, including domestic violence against women, prison conditions, police killings and torture, rural violence in disputes over land, and abuses against ethnic minorities. We believe that this violence is indicative of an official failure to address the content of democracy and not simply its forms. Fortunately, our work in this area finds receptive ears, particularly among our colleagues in the human rights movement, who have in many cases shifted focus to address such violations and to insist on citizen participation to curb them. But we have also found that public opinion and some governments have come to pay closer attention to these problems as well, which makes us hopeful that in a democratic setting solutions can be found.

As in previous years, we have dedicated important efforts to strengthening our relations with our colleagues in the hemisphere. This has helped us understand the evolution of human rights problems in the Americas, and it has made our research and analysis more rigorous. We have also had occasion to note that human rights monitoring remains an extremely hazardous activity in several Latin American countries. In relevant sections of this report we discuss in detail attacks and threats against our colleagues, and actions we have taken in an attempt to provide some protection for their courageous work. When monitors have been publicly and unfairly attacked, we have not hesitated to defend their reputation and their right to monitor. On occasions, we have taken urgent steps to ensure their safety, by intervening directly with governments to provide protection, by applying for protective measures before international bodies, and by seeking similar intervention from U.S. embassies and members of the U.S. Congress.

In 1992, the Latin American human rights movement suffered two tragic losses through causes unrelated to persecution. In February, Augusto Conte took his own life in Buenos Aires. The father of a young *desaparecido* in the 1970s, Conte was the founder and vice chair of the *Centro de Estudios Legales y Sociales* (CELS), a pioneering human rights organization. In 1983 he was elected to the Argentine Congress on a human rights platform. In October 1992, a helicopter accident in Brazil claimed the lives of Severo Gomes and his wife, along with democratic leader Ulysses Guimarães and his wife. A former cabinet member and senator, and at his death a member of the Council of the Republic, Gomes had lent his considerable influence and prestige to the promotion of human rights causes as the head of *Ação pela Cidadania*.

Americas Watch owes a great debt of gratitude to Augusto Conte and Severo Gomes, not only for helping us understand the problems of Argentina and Brazil, but also for their leadership and ideas that have helped to shape the human rights movement. As we face the still daunting challenges to human rights in the region, we, like our colleagues in Latin America, will sorely miss them.

## **BRAZIL**

### **Human Rights Developments**

Despite weathering one of the most serious political crises in the country's recent history and successfully beginning impeachment proceedings against President Fernando Collor de Mello, Brazil remained a nation in which gross violations of human rights by police, unofficial death squads and hired gunmen persist on a large scale. In 1992, the most serious human rights problems were: police violence against suspected criminals; grossly substandard prison conditions; the killing of street children by death squads that include former and off-duty police officers; state tolerance of forced prostitution of young girls; inadequate investigation and prosecution of crimes against women; an increase in the registered incidents of forced labor; and impunity for those responsible for grave violations of human rights.

For a country that only recently emerged from a quarter century of military rule, the impeachment proceedings provided a powerful example of how a mobilized public and a free press can enforce popular demands for integrity and accountability in government. Unfortunately, this impressive demonstration of the strength of Brazil's democratic institutions has not coincided with an improvement in the country's dismal human rights record. Illustrative was October 2, the day both that Vice President Itamar Franco temporarily assumed the presidency, and that the São Paulo state military police committed the largest massacre of prisoners ever recorded in the country's history, killing at least 111 inmates at the Casa de Detenção prison.

According to witnesses interviewed by Americas Watch during a visit to the prison shortly after the massacre, the state military police fired randomly into cells in Pavilion Nine of the prison after a disturbance in that section. Although Americas Watch found no evidence that the prisoners posed a threat to the lives of themselves or others, the police responded with grossly excessive force, killing prisoners who were offering no resistance, including prisoners who had complied with orders to strip naked. After retaking the prison, the police forced several inmates to walk, run or crawl through a gauntlet of armed police officers who struck the inmates with sticks. Some prisoners were forced to carry the bodies of the dead, and some of these inmates were in turn executed.

Typical of the impunity that prevails in Brazil, the authorities have shown no willingness to conduct a serious investigation or to take steps to preclude future killings. No one had been arrested for the slaughter through early December.

Although the Casa de Detenção massacre is unique in its magnitude, it was not the only time in 1992 that the police responded to prison uprisings with deadly force. In July, the military police in Rio de Janeiro responded to a rebellion at a jail in São João de Meriti, in which inmates had taken two guards hostage, by killing 12 inmates. One guard was also killed in the incident.

These prison killings demonstrate the dangers posed by the degrading conditions that persist in most Brazilian prisons and jails. At the time of the Casa de Detenção massacre, 7000 prisoners were crowded into a facility designed to house half that number. The overcrowding creates a volatile atmosphere conducive to revolts, and fuels the callous indifference that characterizes official attitudes toward prisoners.

Official contempt for criminal suspects is not limited to detention centers. In the state and city of São Paulo, in particular, police violence has assumed staggering proportions. In 1991, according to official statistics, the São Paulo military police killed 1,140 criminal suspects, while 78 military policemen were killed. As of October 2, 1,264 suspected criminals had been killed in 1992; the number of police deaths in that time was unavailable.

A closer look at the statistics helps reveal the nature of the killings. According to statistics from the military police, in the first half of 1992, the São Paulo military police's *Tropa de*

*Choque* (Shock Troop), which includes the infamous *Rondas Ostensivas Tobias de Aguiar* (ROTA) battalion, killed 170 civilians and wounded only six. During the same six-month period, no policemen from these battalions were killed and only eight were wounded. The pattern repeats itself in the same period in the greater São Paulo area. At least 660 suspects were killed and 89 wounded in this six-month interval, while only one police officer was killed and 38 wounded.

The extraordinarily high ratios of civilians killed to civilians injured, and of civilians killed to police killed are evidence that the São Paulo police are deliberately assassinating suspects. If shoot-outs were the cause of the deaths, the number of suspects wounded would ordinarily exceed those killed, while a less substantial discrepancy would exist between suspects and police killed. This pattern of deliberate assassination of criminal suspects is reinforced by the impunity enjoyed by the police. In the vast majority of cases of homicide committed by the military police, the cases are dismissed, the officers are found innocent, or the matter is so protracted that the case is effectively buried in the military justice system, which is the only court responsible for trying military police officers.

The torture of criminal suspects in police stations also continues to be a problem. Although deaths in pre-trial detention in police precincts appear to have diminished and extensive torture—such as the use of the "parrot's perch"—is less common than in prior years, beatings and other forms of torture continue. Several human rights observers believe that beatings, especially of poor suspects or those with prior criminal records, are so common that the victims themselves do not bother to file complaints.

Though authorities appear to be making some progress in eliminating torture, *SOS Criança*, a branch of the São Paulo government that deals with children, registered 21 complaints of torture involving minors between June and September 1992. In Rio de Janeiro, the director of the human rights branch of the state Attorney General's office told Americas Watch that he receives as many as thirty torture complaints a month, most of which he believes are true. In a recent positive development, the Rio state government established a special police station to investigate torture complaints.

The killings of children and adolescents, often committed by private death squads, is also a major problem in many of Brazil's cities. Although accurate statistics are impossible to compile, between 7 and 10 million children are estimated to live permanently on the streets of Brazil's largest cities. They survive by various means: selling candy and newspapers, "guarding" parked cars, begging, engaging in prostitution and petty theft, and serving as lookouts and messengers for drug dealers.

Because of Brazil's soaring crime rate (fueled by economic recession, severe unemployment, poverty, and drastic inequalities in wealth) shop-owners and other citizens who feel threatened by crime have arranged to "take the law into their own hands" by hiring private security firms—death squads—to "clean up" their

neighborhoods.

Children and adolescents are often the victims of these death squads, whose ostensible purpose is to "eliminate" criminals, although the groups themselves are often also involved in criminal activity. Many children and adolescents who live and work on the streets of Brazil's cities are automatically perceived as real or potential criminals, and thus become subject to these efforts to eliminate criminals. Children and adolescents are also often the victims of fights between drug gangs, or are killed by organized criminals who perceive the children as "nuisances" that might draw attention to their actions.

Although the total number of deaths of minors is difficult to calculate, a variety of studies give an idea of the scope and nature of the killings. A federal congressional commission that concluded a nine-month investigation into the killings in March 1992 found that 4,611 children, mostly males between ages 15 and 17, were murdered between 1988 and 1990, an average of four killings a day. The investigation also found a racial bias in the figures, noting that 82 percent of the victims were black. The Rio de Janeiro state government has stated that 306 children were killed in the state in 1991. In the state of São Paulo, according to official statistics, 674 minors were killed in 1991, and 306 children and adolescents were killed in the first half of 1992 alone.

The same pattern of impunity can be found in the official response to the death squads. Investigations are wholly inadequate, in part because of the active participation of off-duty policemen and also because witnesses fear reprisals for testifying against death squad members. An investigation conducted by a Rio de Janeiro state congressional commission characterized as "rare" the death squad that "does not include members of the police in its formation." According to a report by the Brazil Network, of 118 individuals identified by name by the federal congressional commission as having been involved in the murder of street children, fewer than 30 have been apprehended or tried.

In the most serious attempt to combat the problem, the Rio de Janeiro state government has set up a special telephone "hot line" to receive anonymous denunciations of death squad activities and to mount special criminal investigations. Representatives of the Rio government claim that this hot line has led to a significant decrease in the number of death squad killings, but one Brazilian human rights organization has disputed the official statistics.

A lack of criminal prosecution is also a critical factor in the persistence of acts of violence directed against landless peasants, leaders of rural unions and those who campaign for agrarian reform. Large landowners often come into conflict with peasant farmers who occupy unused land claimed by the landowners, or with the rural landless and their supporters who press for the expropriation of unused land. Conflicts often end in violence, committed largely by private gunmen (known as *pistoleiros*) hired by landowners. Peasant farmers and settlers are also frequently victims of violence when they are evicted from land that they are farming; evictions are often carried out with excessive force by *pistoleiros* acting without a court order, or by the military



police.

According to the Catholic Church-linked Comissão Pastoral da Terra (CPT, or Pastoral Land Commission), from January 1, 1964 to January 31, 1992, there were 1,681 murders. Only 26 of these killings yielded criminal trials, and only 15 ended in convictions of the assailants. Despite repeated attention to this problem by Americas Watch and other human rights organizations, violent acts against peasants and rural activists continue. As of September, 20 landless peasants, rural activists and small farmers had been assassinated in 1992. These rural killings continue to be characterized by unsatisfactory investigations and prosecutions, and the failure of government authorities to take death threats seriously or to provide adequate protection to those threatened for political reasons.

Impunity for those behind this rural violence persists even when there has been a high degree of national and international attention, as in the case of multiple killings in the violence-plagued town of Rio Maria, in the southern part of the state of Pará. Despite continued attention to these murders by Americas Watch, the CPT and the Comitê Rio Maria (Rio Maria Committee), there has been little progress in bringing to trial those responsible for a series of murders of leaders of the *Sindicato dos Trabalhadores Rurais* (STR, or the Rural Workers' Union), some of which occurred as long as 12 years ago. In the case of the murder of Expedito Ribeiro de Sousa, which occurred on February 2, 1991, one day after the release of an Americas Watch report urging his protection, the scheduled trial of those accused of the crime has been moved from Rio Maria to the state capital at Belém, where it is hoped that pressure against witnesses will be less intense. In the case of a March 1991 assassination attempt against Carlos Cabral Pereira, Ribeiro de Sousa's successor as the STR's president, the judge has yet to take the case to trial despite the confession of the gunman. In two other related cases from 1990, including the killing of two sons of murdered STR president João Canuto, trials have yet to occur and some of the gunmen responsible have escaped from prison in suspicious circumstances. In fact, only one defendant remains in custody in all of these cases. Nevertheless, in late October 1992 it was announced that the Federal Police were considering dropping police protection for Carlos Cabral and several other rural activists in Rio Maria.

The year 1992 also saw a reversal of the conviction of the man responsible for ordering the assassination of Chico Mendes, the internationally recognized union and environmental leader. On February 28, 1992, an appeals court, claiming lack of sufficient proof, reversed the conviction of Darly Alves da Silva, who had been found guilty of ordering the 1990 assassination. This case was previously held up as an example of how international attention can yield criminal convictions of the killers of rural activists. Lawyers for Mendes's family are appealing the decision.

There has also been little progress in curtailing the use of forced labor. Offending enterprises typically send labor contractors to poverty-stricken towns where they offer workers good wages for work on far-away *fazendas* (ranches or plantations). Once the workers arrive at the site, they are told that they owe

money for their transportation, tools, shelter and food, and are threatened with death if they attempt to leave before paying their "debt." Uncompliant workers are often beaten by gunmen hired by the *fazenda* owners, and in some cases are killed.

According to figures compiled by the CPT, there has been a dramatic increase in reported cases of forced labor. In 1990, the CPT registered 12 cases affecting 1599 workers. In 1991, the number of victims rose to 4,883. As of September, the CPT has recorded 10,736 workers on seven *fazendas* who have been subjected to forced labor in 1992. Dr. José de Sousa Martins, a prominent sociologist at the University of São Paulo, estimates that there may be as many as 60,000 workers who annually become victims of forced labor practices. Despite considerable public attention to the problem, including a complaint filed with the Inter-American Commission on Human Rights of the Organization of American States and a report by the International Labor Office, there has yet to be a single conviction of a *fazenda* owner, labor contractor, or gunman for involvement in the use of forced labor.

A series of investigative reports in the *Folha de São Paulo* newspaper and a subsequent book by journalist Gilberto Dimenstein brought to Brazil's attention another gruesome facet of the forced labor problem: the forced prostitution of young girls. After investigating for six months, Dimenstein determined that hundreds of young girls, some as young as nine years old, are enticed into prostitution and kept in virtual slavery by promises of well-paying jobs in restaurants or bars in remote locations surrounding gold-mines in the Amazon. Once they arrive at the work site, often hundreds of miles from their homes, the girls are told that they owe money for transportation and that they have to pay off their debt by working as prostitutes in local bars. Girls who refuse are beaten and threatened with death.

Dimenstein not only detailed the extensive practice of forced prostitution, but also documented the collaboration of local police. At the gold-mining town of Cuiú-Cuiú, in the state of Pará, Dimenstein found that local bars and brothels each paid the police four thousand cruzeiros a week (roughly one or two dollars) to keep quiet. The chief of police confirmed that he knew that there were at least 65 prostitutes in the town, many of them girls held involuntarily, but stated that they could not leave until they had paid their debts. Although Dimenstein's revelations eventually led to a raid by the Federal Police who freed 22 girls and arrested 10 bar owners, no police were arrested.

Americas Watch also continues to be concerned about inadequate investigations and prosecutions of those responsible for other forms of violence against women. Few instances of violence are investigated by the police, and even when prosecutions and convictions occur, sentences are light. However, there has been some increased training for police forces on how to respond to violence against women.

In a move that could potentially protect Brazil's indigenous communities against violence, on May 25, 1992, President Collor signed a decree ratifying the demarcation of 9.6 million hectares inhabited by the Yanomami. This action, which came after much delay and strong opposition from the military and logging and

mining interests, followed the earlier ratification, in October 1992, of 71 other indigenous areas. Because Brazil's Indian communities are often victims of violence committed by miners and loggers who invade their traditional lands, it was hoped that the demarcation of reservations would assist in removing outsiders from indigenous areas and prevent further violence. Unfortunately, despite the ratification of the demarcation of the reservations, the actual demarcation process has been hampered by a lack of funding. According to the official Indian agency, only 16 percent of indigenous lands are free of outsiders. Indigenous rights organizations report that large numbers of gold miners have once again entered the Yanomami area.

Violent attacks against indigenous communities have long been met with official indifference and impunity. According to the Catholic Church-based Conselho Indigenista Missionário (CIMI), which monitors indigenous rights, 166 Indians were assassinated between 1988 and 1991; of these 27 were killed in 1991. Of the killings in 1991, CIMI knew of only eleven cases in which any investigation was conducted, and suspects were arrested in only two of the killings. According to CIMI, at least 26 Indians have been assassinated in 1992.

In November, a former sergeant with the army's intelligence service became the first military officer publicly to reveal details of human rights abuses committed during the 1960s and 1970s. In a lengthy magazine interview, Marival Dias Chaves do Canto provided detailed testimony about the torture, killing and dismemberment of political prisoners, particularly the torture and killing of eight members of the Brazilian Communist Party. Chaves stated that their bodies were tied to concrete blocks and dumped in a river on the outskirts of São Paulo.

The Brazilian government quickly opened an investigation into Chaves's allegations, promised him police protection, and stated that if the allegations were true it would pay reparations to the relatives of the victims. However, spokesmen for the military and the government have stated that they anticipate no prosecutions due to an amnesty law enacted in August 1979.

### **The Right to Monitor**

The Brazilian government imposes no formal obstacles to human rights monitoring, and many local and national organizations actively seek to defend the rights of rural workers, the urban poor, women, children, indigenous communities, and other victims of human rights abuses. International human rights organizations, including Americas Watch, have conducted missions to the country without interference or obstruction by the government.

However, local groups that defend the rights of disadvantaged populations, especially the rural and urban poor, are sometimes intimidated and harassed. Rural activists, in particular, are frequently threatened with death by privately hired gunmen. For example, Father Ricardo Rezende, an outspoken champion of human rights with the CPT in Pará, has been repeatedly threatened and has had his house shot at. In 1992, human rights activists received telephone and in-person threats, were fired on, beaten, and arbitrarily arrested.

Several incidents implicated the police, not only in their failure adequately to investigate private attacks on human rights monitors, but also in the outright mistreatment of monitors. For example, on September 24, two workers with the Center for the Defense of Human Rights in the city of Manaus were beaten and arrested after they protested the police beating of a fellow bus passenger. In another case, writer and journalist Caco Barcellos was repeatedly threatened and harassed by members of the São Paulo military police after he published a book detailing the history of the abusive ROTA police battalion.

Illustrative of private attacks was the case of Nivaldo Vieira do Nascimento, a CPT activist in Conceição do Araguaia in the state of Pará, who was shot at twice in his backyard. According to Vieira, two bullets barely missed him, one of them lodging in a wall several centimeters above his head. The day before the assassination attempt, Vieira had been threatened by a local *fazenda* owner, Francisco da Silva Rabelo. During a phone conversation Rabelo told Vieira three times, "I'm going to kill you, boy." Although Rabelo was arrested on August 16, the local judge released him from custody less than two weeks later, despite a request for his continued detention by the police officer who oversaw the investigation.

A particularly troubling infringement of the right to monitor was the slander prosecution of a rural human rights activist this year. On September 3, 1992, the coordinator of the Paraná state branch of CPT, Darci Frigo, was convicted of slander. The conviction arose from statements made by CPT accusing a local politician, Lucianno Pizzatto, of using forced labor in 1984. A group of boys had been taken without their knowledge or consent to a piece of land owned by a company that Pizzatto owned and managed, where they were forced to work against their will under threat of death by armed guards. The boys were eventually found by a local human rights group which reported their treatment to the local police. However, no investigation was ever completed. In 1986, Pizzatto ran for election as a state deputy, and Frigo, on behalf of the CPT, held a press conference to publicize Pizzatto's use of forced labor. Pizzatto responded by bringing a slander suit against Frigo. Frigo's lawyers plan to appeal the conviction, on the grounds that the boys' allegations were never disproved. Frigo's conviction for denouncing forced labor is particularly disturbing in light of the lack of any convictions for those responsible for subjecting over 10,000 workers to forced labor in 1992.

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

Despite close economic and political ties with Brazil, the U.S. government has failed to use its significant influence to pressure Brazilian leaders on human rights issues. As of November, the State Department was unable to inform Americas Watch of any public protests issued about human rights violations in Brazil, with the exception of the State Department's annual *Country Report on Human Rights Practices*. Although direct U.S. aid to Brazil is low compared with other countries in the region, the United States is Brazil's largest trading partner, purchasing \$13 billion in

Brazilian exports. Direct U.S. investment in Brazil reportedly totaled \$15.5 billion in 1990. Direct U.S. aid has consisted almost entirely of anti-narcotics assistance, which totaled an estimated \$3.5 million in fiscal year 1992.

Unfortunately the United States has missed several opportunities to publicly criticize Brazil's human rights record. In February 1992, U.S. Defense Secretary Richard Cheney met with President Collor during the Secretary's ten-day tour through Latin America. In a meeting described by the Brazilian government as "very cordial," Cheney praised the Collor government's promise not to develop nuclear weapons or export advanced missile technology. The State Department was unable to inform Americas Watch whether human rights concerns were discussed at the meeting. Similarly, when President George Bush visited Rio de Janeiro during the 1992 United Nations conference on the environment, he made no public mention of the human rights situation in Brazil.

Although the State Department could not cite any public criticism of Brazil's human rights record, officials told Americas Watch that human rights are frequently brought up in private meetings with Brazilian officials. In addition, in March 1992, a political officer from the U.S. embassy in Brasília traveled to the violence-plagued area of southern Pará, where he met with human rights monitors, trade unionists and victims of assassination attempts, and local officials. Similarly, after the October prison massacre in São Paulo, an official at the U.S. consulate in that city interviewed relatives of the victims. Americas Watch believes that while private pressure is important, the failure to make unequivocal public statements, especially in the wake of dramatic abuses such as the October prison massacre, limits the effectiveness of U.S. pressure and signals to Brazilian officials that human right concerns are not a priority for the United States.

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

In May 1992, on the eve of the United Nations Conference on the Environment and Development (UNCED), held in Rio de Janeiro, Americas Watch released *The Struggle for Land in Brazil: Rural Violence Continues*. The report, based on a mission to Brazil in November and December 1991, updated Americas Watch's 1991 report, *Rural Violence in Brazil*, and focused on forced labor and violent abuses in the states of Pará, Paraná, Maranhão, and Mato Grosso do Sul. The report also discusses how unchecked violence at the hands of wealthy landowners contributes to both human rights abuses and environmental devastation.

In August 1992, in São Paulo, Americas Watch and the Women's Rights Project of Human Rights Watch released *Injustiça Criminal: Violência Contra a Mulher no Brasil*, the Portuguese translation of the 1991 report *Criminal Injustice: Violence Against Women in Brazil*. The release was accompanied by a round-table discussion at the São Paulo offices of the Brazilian Bar Association and yielded widespread newspaper and television coverage.

For ten days during August and September, Americas Watch investigators traveled to Rio de Janeiro to investigate police abuses. The information gathered during the trip, together with

extensive information collected during two months spent in São Paulo, will form the basis of a report to be issued jointly with the Núcleo de Estudos da Violência of the University of São Paulo, comparing police violence in Rio de Janeiro and São Paulo.

On September 23, Americas Watch, together with Father Ricardo Rezende of the CPT, and the Center for Justice and International Law (CEJIL), appeared at a hearing and filed two complaints before the Inter-American Commission on Human Rights of the Organization of American States. The complaints charged Brazilian authorities with failing to investigate adequately and punish those responsible for the killing of rural activist João Canuto in 1985, and with failing to investigate forced labor at two *fazendas* in the southern part of Pará. In a positive development, two days after the petitions were filed, Brazil became a party to the American Convention on Human Rights, thus enhancing the role of the Inter-American Commission in the oversight of Brazilian human rights practices.

In October 1992, just days after the massacre of at least 111 inmates at the Casa de Detenção Prison in São Paulo, Americas Watch, together with the Prison Project of Human Rights Watch, sent an investigator to São Paulo. The investigator met with local human rights organizations and representatives of the state government, and spent four hours interviewing inmates and observing conditions at the Casa de Detenção.

On October 21, Americas Watch issued a newsletter, in English and Portuguese, condemning the São Paulo authorities for the use of excessive and brutal force at the prison, as well as for its failure to investigate adequately those responsible for the massacre. Americas Watch, along with the Comissão Teotônio Vilela and CEJIL, also filed a petition regarding the massacre with the Inter-American Commission on Human Rights on October 21. Both the petition and the newsletter garnered significant media attention in Brazil's major daily newspapers and main television networks.

## COLOMBIA

### Human Rights Developments

Peace talks between the government and leftist guerrillas floundered in May amid mutual accusations of bad faith. In their wake, military operations increased throughout the country. President César Gaviria has increased funding to the armed forces and police by levying a special "war tax" in an effort to destroy the guerrillas militarily. Far from retreating, however, guerrillas mounted two nationwide offensives in late May and October. Abuses by both sides have led to a dramatic worsening of an already serious human rights situation, among the worst in the hemisphere.

On November 8, President César Gaviria declared a "state of internal commotion" after guerrillas from the Revolutionary Armed Forces of Colombia (FARC), Colombia's largest guerrilla organization, killed 26 policemen guarding an oil pumping station near Orito, Putumayo and staged a wave of bombing attacks in several cities, including Bogotá. The Colombian constitution

allows the president to invoke emergency powers in case of foreign attack or serious threat to public order, but in neither case does it permit the suspension of any right established in the constitution. Such a prohibition notwithstanding, President Gaviria announced several new executive decrees that do restrict certain civil rights. One prohibits broadcast journalists from disseminating any information received from the guerrillas. The executive decrees also authorize military intelligence to investigate suspects and present evidence against civilians in court, a responsibility previously reserved for the Judicial Technical Police.

Although the emergency measures were taken to strengthen counterinsurgency efforts, Colombian human rights groups noted the extreme dangers inherent in giving the Army the power to investigate and bring cases before the courts. Army involvement in investigations is highly suspect; on repeated occasions, the Army has detained, murdered and disappeared civilians they suspected of guerrilla sympathies, and has later presented the victims as "guerrillas killed in action." Human rights groups also fear for their work, especially since the Army has frequently accused them of being "guerrilla fronts" and now has additional powers to investigate and bring cases against them.

Although the government asserts that human rights violations decreased in 1992, local human rights groups recorded noticeable increases over 1991. In the first eight months of 1992, there were 91 massacres carried out by state security forces, guerrillas and paramilitary groups, causing 477 deaths, the majority peasants, youths and workers, according to the Permanent Committee in Defense of Human Rights. This figure represents a 20 percent increase over 1991. The total number of victims of political violence threatens to increase in 1992, surpassing last year's record of over 10 victims per day. By September, the number of unresolved disappearances had climbed to 75.

Overall, the Andean Commission of Jurists-Colombian Section found that 40 per cent of the cases of political killings reported by September were attributable to state agents, 30 per cent to paramilitary groups acting in collusion with the security forces, 27.5 per cent to guerrillas, and the remaining 2.5 per cent to others including drug traffickers. In addition to its substantial role in committing these murders, the government remains unable to investigate crimes and punish perpetrators satisfactorily. Despite apparently good intentions and a stated willingness to introduce reforms, little has so far been accomplished.

To the contrary, Colombia's new constitution put the military and police, the leading agent of human rights violations, further from civilian control by reaffirming the jurisdiction of military courts over crimes committed by members of the armed forces and extending that jurisdiction to the National Police. The new constitution also permits officers to employ the defense of obedience to superior orders to avoid responsibility for their abusive acts. Military courts have yet to produce credible inquiries or fair trials. Instead, abusers remain in their posts and impede other investigations in a twisted example of *esprit de corps*.

As part of the peace accord in 1991 with the Popular Liberation Army (EPL), the Revolutionary Workers' Party (PRT) and the Quintín Lame guerrillas, the government funded a Commission on Ways to Overcome Violence, composed of respected academics, human rights monitors and former officials. In its massive report, the commission concluded that because violence has different origins and manifestations in different parts of Colombia, efforts to overcome it must be applied according to each region's particular history and social landscape. While valuable and representing the best efforts of civil society to come to grips with political violence, the commission's report threatens to be forgotten in a new militarization of Colombian society. Other structural reforms may in the long-term produce improvements, but have yet significantly to alter a tragic record; these include the appointments, for the first time ever, of civilians as Minister of Defense and head of the Administrative Department of Security (DAS), a law enforcement and intelligence body under the president's control.

Americas Watch continues to be concerned about governmental measures that restrict basic freedoms. For instance, in 1992 the Gaviria administration proposed to Congress a law to regulate states of exception that was justifiably criticized by Colombian human rights groups. The bill would allow local police chiefs to order the administrative detention of any person for up to 36 hours; this in effect does away with the requirement that no one be arrested without a judicial warrant unless caught in the act of committing a crime. The proposed law also gives the executive branch extraordinary powers to restrict freedom of speech, movement, and assembly, and to ban strikes.

The victims of political violence are a cross-section of Colombian society, including members of leftist political parties, suspected guerrilla sympathizers, civilians caught in conflict zones, teachers and members of the judiciary, and those killed in "social cleansing" campaigns. "Social cleansing" murders of the homeless, drug addicts, petty thieves, and homosexuals can properly be classified as political violence because they are widely believed to be carried out by police agents acting as death squads or by gunmen who enjoy protection from the police. The Center for Investigation and Popular Education (CINEP) estimates that there were 338 victims of "social cleansing" killings between January and September 1992.

Particularly hard hit was the Patriotic Union (UP), a legally authorized political party that is loosely linked to the FARC. According to the UP, over 2200 party members have been killed since 1985, 28 of them in the first nine months of 1992. A strongly worded report by the office of the *Defensor del Pueblo* (ombudsman) released in October revealed that, of over 700 killings of UP members investigated by the courts, convictions resulted in only ten cases.

As counterinsurgency operations have increased in the wake of failed political dialogue, the brunt of the government offensive has been led by Army Mobile Brigades, elite counterinsurgency units made up of professional soldiers. The Mobile Brigade operates by isolating an area where guerrillas are active,



"softening up" suspected bases by bombardment and strafing from the air, and then sending in units for ground pursuit. Mobile Brigade soldiers are known by the population as *carapintadas* (painted faces) or *bolsillones* (deep pockets, since they carry money to buy information).

In practice, however, the Mobile Brigade strategy has meant terror for the civilian population. While guerrilla units withstand or evade the siege, civilians are trapped in a hellish war zone, subject to attacks, detention as "suspected subversives," torture, rape and on-the-spot executions. In the department of Meta, for example, a campaign by Mobile Brigade I against the FARC resulted in a flood of human rights abuses. One letter from the local authorities of La Uribe listed nine separate acts over a 14-day period in February, including the torture and disappearance of two men from El Tigre village; the sacking of a peasant house in Las Gaviotas village; and bombardment and strafing of five separate villages. On May 13, an 11-year-old girl was shot and killed by soldiers in Santander village. Press reports indicate that a large number of women were among the injured during the May campaign, shot as they fled the cross fire. That month, an official commission investigating Brigade abuses in Meta was led by a delegate from the *Procuraduría*, an independent investigatory body that prosecutes disciplinary actions against state agents. The commission was fired upon by an Army helicopter, although no one was injured.

Civilians have been forced to act as guides, to wear Army uniforms, and to walk in front of soldiers to detonate mines planted by guerrillas. Often, civilians are prevented from leaving the area or transporting more than a day's worth of food for their families. In Dabeiba, Antioquia, the press reported that five young civilian men detained by soldiers were later found dead, claimed by military authorities to have been "guerrillas killed in action."

Mobile Brigade actions cause massive internal displacement. Peasants hide in the hills until they can flee to larger city centers. For instance, in the Magdalena Medio, 1,700 people fled San Vicente de Chucurí on February 10 after intense air bombardment by Mobile Brigade II in a campaign against the National Liberation Army (ELN). Although military authorities claim peasants are free to report abuses to local authorities for investigation, witnesses in practice are threatened, caused to disappear and killed.

In their wake, Mobile Brigades leave increased violence and fortified "self-defense," or paramilitary, organizations, even though such organizations were supposedly outlawed in 1989. Paramilitary agents, directed and paid by large landowners and drug traffickers and acting with the collusion of the police and Army, attack community activists, union leaders, human rights monitors, peasant and indigenous leaders, and people linked to leftist political parties, particularly the Patriotic Union and the Communist Party. Despite government assertions that such organizations are on the wane, many serious cases involving paramilitaries were reported in 1992, suggesting that in some areas, particularly Meta and the Magdalena Medio, this activity is

on the increase. For example, a preliminary investigation by the Procuraduría in late 1992 found that an Army general and six other officers had promoted and supported paramilitary groups in Santander department.

In addition, on June 3, a paramilitary band ambushed and killed five UP members—including the former mayor, the current mayor, and three municipal officials—and their driver near El Castillo, Meta. Witnesses later reported that the attackers wore Army clothing and used fragmentation grenades. Human rights monitors believe this killing and many others were orchestrated by Victor Carranza, an emerald dealer and large landowner who is said to boast of maintaining the largest private contingent of armed men in the country. In 1989, Camilo Zamora Guzmán, one of his hired killers, testified to a judge that Carranza had ordered the killings of UP members, suspected guerrillas, and community leaders; these were then carried out in cooperation with the police, Army officers and police and military intelligence agents. In addition, in October, Carranza reportedly offered a bounty of 8 million pesos, about \$12,000, for the murders of three leading members of the UP in Meta. Nevertheless, Carranza is not currently charged with any crime.

According to the Regional Committee for the Defense of Human Rights (CREDHOS), which covers the Magdalena Medio, the paramilitary group known as MAS (*Muerte a Secuestradores*, Death to Kidnappers) is gaining in power, and now controls towns like El Carmen de Chucurí. MAS members, or "Masetos," charge monthly "war taxes" and force peasants to patrol under threat of death. Despite decrees cracking down on paramilitary groups, the MAS has continued to enjoy open support from the police and military, which supplies them with weapons, munitions and uniforms.

In one revealing incident, an official delegation led by judicial officials and protected by elite police units flew to El Carmen de Chucurí on March 29 to arrest 27 paramilitary agents implicated in 183 murders over a five-year period. Far from assisting the commission, the Army and police based there actively hampered their search and roused the population to attack them. Commission members were finally forced to flee for their safety with only one detainee.

Peasants who flee the Magdalena Medio often must pay handsomely. One family told the Intercongregational Commission for Peace and Justice that the Masetos charged 200,000 pesos, about \$300, for "permission" to abandon their farms. Such payments are levied at paramilitary checkpoints, set up with the consent and often protection of the military and police. Some families that have attempt to return discover that members of paramilitary groups have taken over their homes and farms. Since opening in 1988, a CREDHOS-sponsored shelter for the displaced in nearby Barrancabermeja received over 2,000 people, but the shelter had to be closed in June 1992 because of frequent threats, harassment and unauthorized searches. Violence does not stop in the countryside. In Barrancabermeja, there were 273 violent deaths in the first six months of 1992, more than one a day in a city of only 158,000 inhabitants.

Only rarely do paramilitary agents or their handlers in the security forces face justice. For instance, in August, the Procuraduría released the results of an investigation linking an Army colonel, officer and non-commissioned officer to the paramilitary murder of 20 peasants on March 4, 1988 at the La Negra and Honduras ranches in Urabá. Public Order Court 103, presided over by a "faceless" judge, had already convicted 13 civilians of carrying out the massacre, including Henry de Jesús Pérez, the president of the Association of Cattlemen and Agricultural Producers of the Middle Magdalena (ACDEGAM), a notorious paramilitary group, and Fidel Castaño, alias "Rambo," a paramilitary leader from Córdoba. However, neither Pérez nor Castaño was detained. Pérez was later murdered in circumstances that suggest an internal feud within ACDEGAM. Castaño, who is also wanted in relation to other massacres, remains at large and is reportedly protected by Army officers on active duty.

Originally, the Public Order Court also indicted Major Luis Felipe Becerra Bohórquez and two junior officers attached to the Voltígeros Battalion in the Urabá massacre. However, in 1991 a military tribunal assumed jurisdiction, on the grounds that the soldiers were duty-bound to prevent the massacre and thus could be tried for "dereliction of duty." Even though Major Becerra was supposed to be under arrest, he was promoted to Lieutenant Colonel, traveled to the United States to attend a training course, and at last report was serving in the Department of Public Relations (E-5) at the General Command of the Army.

Another case, involving the 1988 massacre of 43 peasants in Segovia, Antioquia by paramilitary groups in league with soldiers assigned to the Bomboná Battalion, resulted in a similarly mild reaction from the Procuraduría's Delegate for the Armed Forces: a 30-day suspension from active duty for two officers who had printed and distributed flyers threatening the population and announcing the imminent arrival of a paramilitary group that would kill "guerrilla sympathizers." Lieutenant Colonel Hernando Navas Rubio, the Army brigade intelligence commander at the time of the Segovia massacre, was subsequently named to head Colombia's prison system. A warrant for his arrest was issued on October 24 in connection with the escape from prison of drug king-pin Pablo Escobar.

Other well-known cases that remain unpunished include the 1987 murder of Alvaro Garcés Parra, the mayor of Sabana de Torres, Santander; the murder of journalist Sylvia Duzán Sáenz and three peasant leaders in 1990; and the massacre of at least 20 Páez Indians in 1991.

Guerrillas committed frequent atrocities and serious violations of the laws of war, including summary executions, kidnappings, indiscriminate bombings, attacks on the press and the levying of exorbitant "war taxes." According to the police, guerrillas were responsible for 165 kidnappings in the first five months of 1992; Colombian human rights groups have reported a far lower figure, approximately 90 for the first nine months of the year. For example, units of the FARC reportedly kidnapped Japanese businessman Koji Nakagawa in early 1992, releasing him only after receiving what police said was a ransom of \$500,000. A dissident

faction of the EPL, some of whose members accepted a government amnesty and formed a political party in 1991, continues to murder former colleagues. At least 90 ex-combatants who belong to the Hope, Peace and Liberty party have been killed since the amnesty, by paramilitaries, members of the FARC and dissident EPL members. In addition, guerrillas continue to carry out killings of civilians who they claim are Army informants or paramilitary supporters.

From January to September 1992, the ELN attacked the Caño Limón-Coveñas pipeline more than 30 times, causing deaths and serious injuries to workers and other civilian non-combatants. Repairmen have been attacked and killed, while others have been blinded and maimed by "foot-breaker" mines (*quiebrapatras*) left by guerrillas. In February, an ELN bomb killed two children and injured one in San Vicente de Chucurí, Santander. In May and June, the ELN kidnapped at least seven police officers, disarmed them, and then killed them, a clear violation of the laws of war protecting those who are *hors de combat*.

Continuing political violence by both sides took place in the context of rampant criminal violence, much of it linked to drug trafficking. Despite the intensity of political violence, politically motivated killings probably represent only 13 percent of murders nationwide. In Colombia, there are roughly seven murders a year for every 10,000 people, as compared to the U.S. rate of one murder for every 11,000 people.

The surrender of Escobar and 14 associates on June 19, 1991 was at first billed as a victory of President Gaviria's policy of negotiating with rather than threatening traffickers with extradition to the United States. But Escobar's escape with nine associates on July 22 revealed that in fact it was he, not his supposed captors, who ran the specially built prison. An investigation of the escape revealed that it had been arranged with the collusion of guards and some of the more than 400 soldiers stationed outside the prison walls. Investigations resulted in the resignations and dismissals of at least 40 officials, including the deputy justice minister, four senior military officers, two wardens, and eleven soldiers and prison guards. Although most of Escobar's colleagues had surrendered a second time by the time by the end of November, he remained at large.

After Escobar escaped, the press reported that throughout his incarceration, Escobar maintained control of his cocaine empire; he even ordered the kidnapping of rivals for hearings in a makeshift prison "court," then ordered their murders. After his escape, a stepped-up campaign by the Medellín cartel against police cost the lives of 19 police detectives in September alone. In apparent retaliation, local human rights groups noted that agents described as off-duty police officers would fire into groups of young men gathered on street corners in the poor neighborhoods, or *comunas*, where the cartel recruits young hired killers known as *sicarios*. These attacks and counterattacks are not new. Between November 1991 and March 1992, one Medellín-based human rights group documented 184 killings linked to the Judicial Technical and National Police.

The generally grim human rights picture in Colombia does have some encouraging aspects. For instance, the new Code of Criminal Procedures categorically prohibits incommunicado detention, typically the time when torture and disappearance occur. The International Committee of the Red Cross had access to military and police detention centers for the first time; previously, it could only visit prisons run by the Ministry of Justice. The Procuraduría set up regional offices in Bogotá and Medellín to respond to human rights charges within these cities. A proposal to create a similar office in Barrancabermeja, pooling resources from several state agencies, has been approved, but has yet to be implemented.

In departments like Putumayo, violence has receded after concerted local action, including initiatives by mayors, city councils, the Catholic Church and neighborhood communal action groups. Local residents told the Andean Commission of Jurists that 1,000 people were murdered in the Putumayo region in 1990 and 1991, the equivalent of one murder for every 500 people; although not all of these deaths were political killings, the state made no effort to investigate or put a stop to them. Through nonviolent grassroots protests and marches against the MAS and their military handlers, the community mounted a successful effort to expel the most notorious hired killers this year. By June, the number of murders had fallen by over two-thirds. In October, community leaders met in a departmental forum to find ways to continue to solidify a respect for human rights. But the fragile peace disappeared in November after new clashes between the government and the guerrillas, demonstrating the futility of local efforts to combat violence in the absence of national political will.

To its credit, the Gaviria administration has attempted to protect judges investigating controversial cases. Despite these measures, however, the Colombian judicial system continues to be undermined by attacks on those who dare probe cases involving drug-traffickers and human rights abusers. After his escape, Pablo Escobar unleashed a new wave of attacks against rivals, police and the "faceless judges" responsible for prosecuting him and his band. On September 18, men allegedly hired by Escobar killed "faceless" judge Miriam Rocío Vélez Pérez and her two DAS bodyguards. Judge Vélez was responsible for the case linking Escobar to the 1986 murder of journalist Guillermo Cano. One previous judge assigned to the case was murdered while two were forced to leave the country after receiving threats.

### **The Right to Monitor**

Agents of the state and paramilitary forces in 1992 continued their relentless persecution of human rights monitors. The Middle Magdalena and Meta Department continue to be the most dangerous areas for human rights advocates. In 1992, two CREDHOS members—Blanca Cecilia Valero de Durán and Julio César Berrío—were murdered in circumstances suggesting official involvement. Two weeks after Valero's murder, General Roberto Emilio Cifuentes, commander of the Fifth Army Brigade, charged that CREDHOS was used by guerrillas to "slander" and undermine the

Armed Forces. Dr. Jorge Gómez Lizarazo, director of CREDHOS, was attacked numerous times; although he was assigned seven DAS bodyguards, he was forced to leave the area temporarily for his safety. Another noted defender of human rights, Dr. Eduardo Umaña Mendoza, was forced to leave the country temporarily after receiving threats for his work on the case of the killing of five members of the Palacios family and two other men in Fusagasugá in 1991.

The above-described case of El Carmen de Chucurí is of special concern because of its implications for the human rights community at the national level. In June, after the failed attempt to arrest alleged paramilitary members, two national newspapers, *El Tiempo* and *La Prensa*, published articles claiming that the official commission had actually been arranged by the ELN to target innocent people. *El Tiempo* went on to suggest that human rights groups—including the Intercongregational Committee for Justice and Peace, CINEP, the Human Rights Commission, the Solidarity Committee with Political Prisoners, and various associations of the detained and disappeared—were "guerrilla sympathizers."

In an unpublished rebuttal sent to *El Tiempo*, Father Javier Giraldo of Justice and Peace accused the journalists of publishing uncorroborated information from the military, an opinion widely shared by Colombian human rights groups. Several monitors felt so threatened by being labelled guerrilla sympathizers that they left the country.

In Meta, citizens who support the Civic Committee for Human Rights were systematically harassed and threatened by paramilitary agents controlled by Víctor Carranza and members of the B-2, Army intelligence. Some human rights monitors are wary of asking for police bodyguards, because they fear that the guards, rather than protect them, will gather intelligence on their movements for a future attack. Such suspicions are not unfounded. For instance, on the day the five El Castillo officials were killed, their one police bodyguard had mysteriously not shown up for work.

There have been important developments in the case of Alirio Pedraza, a human rights lawyer who disappeared after his arrest by security forces in Bogotá on July 4, 1990. After an investigation by the Procuraduría, two detectives in the Judicial Technical Police were arrested and charged with the abduction. Their superior, a former DAS officer who most recently was Chief of Investigations in the Attorney General's office (the *Fiscalía*), has been dismissed from his job but not yet criminally charged.

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

During 1992, Colombia's human rights record largely avoided scrutiny by the Bush administration due to its strong support for Colombia's anti-narcotics efforts. With the exception of loud complaints over the escape of Pablo Escobar and the official opposition to extradition, the U.S. government has generally submergged human rights criticisms in the name of fighting the drug war.

During fiscal year 1992, \$50 million in Economic Support

Funds were obligated for Colombia, with a similar amount planned for fiscal year 1993. In fiscal year 1992, \$47 million in Foreign Military Financing (FMF) were obligated for Colombia, with \$58 million requested for 1993—more than any other Latin American country. Colombia also receives approximately \$2.5 million in International Military and Education Training assistance each year. In addition to FMF, the bulk of which goes to the National Police and Air Force, the police also receive International Narcotics Control assistance for training. In fiscal year 1992, that assistance amounted to \$23.4 million; \$22 million has been requested for fiscal year 1993.

During the fall debate over the International Narcotics Control Act (INCA) of 1992, the Bush administration opposed conditioning aid to Colombia on respect for human rights by threatening to veto the bill if conditions were included, as they had been in the 1990 INCA. Congress capitulated and human rights conditions were not included.

The U.S. government continued to fund the six-year, \$36 million Administration of Justice, Justice Sector Reform Project during fiscal year 1992, with \$12.5 million obligated for the program. The project's stated goal is to improve the effectiveness of the Colombian judicial system so that narcotics traffickers can be brought to justice without extradition to the United States. While Americas Watch understands the severe security constraints faced by members of the Colombian judiciary, we remain concerned that the special courts supported by this program, with so-called "faceless" judges, violate due process norms. For instance, in these Public Order courts, the prosecution can present evidence and witnesses that are kept secret from defense lawyers, who cannot cross-examine. According to the respected Colombian human rights group CINEP, however, the Colombian government has used the Public Order courts in a wide variety of circumstances having little to do with terrorism or drug trafficking, including to punish those who have engaged in or organized nonviolent protests such as strikes, work stoppages, and demonstrations.

On the first day of the Drug Summit held in late February 1992 in San Antonio, Texas, Colombia proclaimed that only the National Police, not the Army, would receive U.S. anti-narcotics security assistance. The announced change was reportedly agreed to by the U.S. government and Colombian officials because of the Army's unwillingness to participate in counter-narcotics activities or to meet the human rights and other requirements attached to that aid the previous year. As John Walters, deputy director of the Office of National Drug Control Policy, noted at a congressional hearing in July, "there were some questions about whether the resources provided to the Colombian Army initially were adequately dedicated to counternarcotics, given other concerns the Colombians had." Americas Watch supported the announced termination of assistance to the Colombian Army in light of its history of human rights violations during counterinsurgency operations.

Even though U.S. officials directed anti-narcotics aid away from the military, press reports in 1992 consistently stated that

Mobile Brigades were equipped with many of the type of weapons donated and sold to the Colombian military. And, although both the Colombian military and U.S. officials deny that U.S. war materiel, including A-37 airplanes and Blackhawk and Iroquois helicopters with M-60 artillery, are being used against leftist insurgents, the monitoring of the ultimate user of U.S. security assistance to Colombia remains woefully deficient. In addition, the Colombian military has repeatedly stated that, despite U.S. restrictions on the use of anti-narcotics aid, their main mission remains combatting guerrillas.

It is revealing that the only public statements made by the U.S. Embassy in Bogotá on human rights during 1992, apart from the State Department's *Country Reports on Human Rights Practices in 1991*, issued in January 1992, were standard human rights paragraphs included in weapons contracts signed with the Army. Beginning with the *Country Reports* and continuing throughout the year, the State Department repeatedly mischaracterized the sources of human rights violations in Colombia. For example, when responding to a question about the human rights situation in Colombia during a March congressional hearing, Assistant Secretary of State for Human Rights and Humanitarian Affairs Richard Schifter replied that the problem is "presented by, number one, the insurgencies, and number two, by narcotics traffickers." Secretary Schifter failed to mention any abuses by government forces.

The State Department's *Country Reports* also de-emphasized the security forces' responsibility for violations, but did contrast starkly with Secretary Schifter's refusal to acknowledge official violations. The report noted that "members and units of the army and the police participated in a number of human rights violations. Particularly in areas of guerrilla violence and little civilian government presence, members of the armed forces committed various abuses, including massacres, 'disappearances' and torture."

One important exception to U.S. disinterest in human rights violations has been the attention shown to the threats against CREDHOS. Embassy officials met with leaders of CREDHOS and assured them that they would discuss their plight with Colombian officials.

Pablo Escobar's escape from prison never appeared to threaten seriously Bush administration support for continued security assistance for Colombia, but it did evoke harsh criticism from administration and congressional officials. In the days following the escape, the U.S. government sent electronic surveillance gear and six Air Force and DEA intelligence-gathering aircraft to Colombia to help search for Escobar, but emphasized they would honor the Colombian constitution and had no plans to abduct Escobar for trial in the United States. Despite outrage from Colombians over the violation of sovereignty, the U.S. continued air surveillance through at least through November.

Despite Colombia's shocking record of human rights abuse and the impunity enjoyed by those responsible, both the United Nations Commission on Human Rights and the Inter-American Commission on Human Rights of the Organization of American States have been slow



to act in bringing the Colombian government to task for violations by state agents. In 1989, Americas Watch, the Andean Commission of Jurists-Colombian Section and CREDHOS filed a joint complaint before the Inter-American Commission on Human Rights (IACHR) about the disappearance at the hands of soldiers of rural teachers Isidro Caballero and María del Carmen Santana near San Alberto, César. In October 1992, the IACHR finally determined that the Colombian government had violated the rights to life, personal security, and due process, and submitted the case to the Inter-American Court of Human Rights—the first Colombian case to be heard by the Court. The Commission has not acted on several other Colombian cases, including the 1990 disappearance of Alirio Pedraza, discussed above. In addition, despite two recent visits to Colombia, the Commission has yet to prepare a comprehensive report on the human rights situation there.

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

In April, Americas Watch published *Political Murder and Reform in Colombia: The Violence Continues*, a comprehensive overview of the status of human rights, the peace process, the drug war, institutional reforms, and U.S. policy. Americas Watch registered frequent protests with Colombian government officials about innumerable human rights cases in 1992. Together with the Andean Commission of Jurists Colombian Section and the Center for Justice and International Law, Americas Watch continued to represent past victims of abuse by pressing cases before the Inter-American Commission on Human Rights. Americas Watch representatives made four trips to Colombia during the year, meeting with Colombian and U.S. Embassy officials, human rights groups, and political and community leaders.

## **CUBA**

### **Human Rights Developments**

The human rights situation in Cuba, where civil and political rights are systematically violated in law and in practice, was punctuated in 1992 by reprisals against dissidents, particularly human rights monitors and peaceful pro-democracy activists. Trials staged in courts that lack independence ended in convictions and prison sentences that rank among the stiffest for thought crimes in the last ten years. Mobs organized by government agents beat dissidents and vandalized their homes. Critics of the government were fired from their jobs, and state-security police arrested, harassed and intimidated activists and their families.

Cuba lacks the laws and institutions that would protect basic civil and political rights. There is no free press; only state-owned media may operate legally. Free speech is curbed by laws that prohibit "enemy propaganda," "clandestine printing," and "defamation of public institutions." Peaceful dissenters are imprisoned on charges as serious as "incitement" and "rebellion." For insulting President Fidel Castro, Cubans are imprisoned for up to three years. Foreign journalists who interview political

dissidents are frequently expelled from the country.

As in the past, Cuba does not extend legal recognition to civic or political organizations—such as labor unions or political parties—that are independent of the government or the Communist Party. Free association and assembly are punished under laws that prohibit "illegal association." Although the national legislative election system was reformed in 1992, there is no indication that the National Assembly will emerge as anything other than the rubber-stamp body that it has been, so long as political challenges to the Communist Party continue to be suppressed severely. There are no free and fair presidential elections.

Cuban courts are subordinate to the executive, and Cuban judges are required to demonstrate their "active revolutionary integration." Once brought to trial, defendants, especially in political cases, are almost always convicted.

The violation of the right to privacy is systematic and pervasive. Tight political control in Cuba is maintained through extensive monitoring of Cubans' daily lives. The monitoring is conducted by state-security police who commonly coerce or blackmail people into becoming informants; and by government-sponsored "mass organizations" such as the Committees for the Defense of the Revolution, which operate in the neighborhood and workplace. The failure to report criminal activity, including political "crimes," is punishable under Cuban law. Mass organizations, working together with state security police, stage protests by mobs that gather in front of the homes of supposed "counter-revolutionaries" in ostensibly spontaneous "acts of repudiation." The mobs typically yell insults, chant slogans, and frequently assault the dissidents and their supporters.

Prison inmates—both political prisoners and prisoners convicted of common-law crimes—reported that nonviolent protests in their cells, such as hunger strikes, spawned retaliation in the form of beatings, confinement in harsh punishment or isolation cells, denial of medical attention and confinement in prisons far from their families. There were frequent complaints of overcrowding, poor hygiene, sub-standard diet, and insufficient time outdoors.

The loss of trade and subsidies from the former Soviet Bloc has plunged Cuba into what the government acknowledges is its most dire economic crisis since the 1959 revolution that brought Castro to power. Tighter food rationing has forced Cubans to turn to the illegal but thriving black market; transportation has been drastically reduced by a severe fuel shortage; basic hygiene products are virtually unavailable. The ever-increasing difficulty of daily life has given rise to groups advocating democratic and other reforms. These, in turn, have elicited from the government only ideological retrenchment and greater control and repression.

Widespread anxiety about the economy was exacerbated by the U.S. government's adoption in October of the "Cuban Democracy Act of 1992," which expanded the U.S. economic embargo against Cuba. This heightened U.S. hostility has provided the Cuban government with a pretext to tighten internal security controls against

"anti-social behavior." According to the official press, the government has organized gangs of vigilantes into "rapid response brigades," not only to suppress any signs of discontent, but also to monitor possible paramilitary exile incursions from Miami. The Cuban press also reports that Cuba has trained and organized six million civilians—more than half the population—into militia units, and armed many of them. It has also built underground "civil defense" tunnels where Cubans can seek refuge in the case of a U.S. invasion.

In a positive development in 1992, the Cuban government released a number of political prisoners after Manuel Fraga Iribarne, the president of the Spanish autonomous region of Galicia, interceded on their behalf. At least nine of the 19 prisoners whose cases were raised by the Galician president have been released since his September 1991 visit to Cuba. Most have been released on the condition that they leave the country.

At the same time, however, the authorities continue to harass, arrest and imprison its opponents:

- Nine professors, a researcher and a secretary at the José Antonio Echevarría Superior Polytechnic Institute of Havana were fired from their jobs in January and February 1992, after signing a letter calling for academic freedom, the release of political prisoners, and democratic reform. Five others affiliated with the Institute were fired when they endorsed the letter. Three other signers—two professors at the Superior Pedagogical Institute Enrique José Varona and a graduate of the school—were also fired.
- In a similar case, three drafters of the "Socialist Democratic Project," a document calling for democratic change and constitutional reform, were fired from their jobs after submitting the proposal to the Communist Party Central Committee. They are Nestor Baguer, a journalist; Manuel Díaz Martínez, a poet; and Vladimiro Roca, an international affairs expert. An act of repudiation was subsequently held at Roca's Havana home. Reprisals were taken against two other signers: Enrique Julio Paterson was summoned to state security police headquarters for questioning, and a group of officially sponsored thugs physically assaulted Rolando Prats. Dimas Cecilio Castellanos, a professor at the Superior Institute of Agricultural Sciences, was fired from his job in April for possession of a tape recording of the document.

- In February in Santiago, police arrested Eduardo Vidal, Jorge Vázquez and Rigoberto Carcelles, three members of the pro-democracy group, Liberación, a Christian Democratic movement that advocates reform of the Cuban Constitution. In June, they were sentenced on charges of "enemy propaganda" to prison terms of five and six years.
- Yndamiro Restano, head of the social-democratic, pro-democracy Harmony Movement (MAR), was arrested in Havana in December 1991 and tried in May 1992 along with María Elena Aparicio, another MAR member. They were convicted of rebellion for their peaceful advocacy of democracy, and sentenced to prison terms of ten and seven years, respectively—among the harshest sentences imposed on peaceful activists in the last decade.
- Marco Antonio Abad and Jorge Crespo, artists and filmmakers, who were arrested at the end of 1991, were tried in October on charges of offending Fidel Castro ("contempt") and "enemy propaganda." Each faces eight years in prison for making an independent film that is deemed by the authorities to be "damaging to the honor and dignity of our Head of State."

### **The Right to Monitor**

Human rights monitoring is illegal in Cuba. Despite numerous petitions for official recognition submitted to the Ministry of Justice by the various human rights monitoring groups currently attempting to function in Cuba, none has gained legal status. Laws restricting free expression and association, combined with near-constant surveillance by the state-security police, ensure that human rights monitoring is frequently punished.

Cuban rights activists are routinely harassed, questioned, intimidated and threatened by the state-security police, and frequently arrested. Since 1989 Cuban authorities have made more than 230 arrests of human rights monitors and pro-human rights political activists. At least 50 rights monitors and political dissidents are currently believed to be serving prison terms of up to ten years for their peaceful advocacy. Scores of others have been subjected to acts of repudiation or beatings by thugs.

State-security police frequently search the homes of human rights monitors, confiscating possessions such as typewriters, tape recorders and documents. Many human rights monitors have been fired from their jobs. At various times they have been either prevented from leaving the country or pressured to flee. Members of human rights groups are officially denounced as "counter-revolutionaries."

- On January 15, state security police arrested Gustavo Arcos Bergnes, his brother Sebastian Arcos Bergnes, and Jesús Yanes Pelletier, leaders of the Cuban Committee for Human Rights, one of Cuba's two main human rights groups. A mob reportedly held an act of repudiation at the Havana home of Gustavo Arcos shortly before his arrest. The protest was reportedly staged in an ostensibly spontaneous reaction to a televised segment of the trial of three exiles who had been caught at the end of December 1991 entering the country illegally with arms and explosives. In that segment, the defendants read the names and addresses of the three activists, whom they testified they were instructed to contact if they ran into trouble. Gustavo Arcos and Jesús Yanes were released without charge a day later. Sebastian Arcos was kept in detention and tried in October on charges of spreading "enemy propaganda." He was sentenced to four years and eight months in prison.
- On January 16, an act of repudiation that lasted more than 24 hours was staged at the Havana home of Elizardo and Gerardo Sánchez of the Cuban Commission for Human Rights and National Reconciliation (CCDHRN), Cuba's other leading human rights group. Human rights activist María Celina Rodríguez was badly beaten by members of the mob, forced into a police car and held for several hours, for trying to reach Sánchez's home.
- On January 31, a mob staged an act of repudiation at the home of detained activist Luis Alberto Pita Santos of the Association of Defenders of Political Rights. His home was ransacked and family members were detained by state security police for several hours. Pita, who had been imprisoned since October 1991, was tried in March 1992 on charges of offending the head of state, "clandestine printing," and "illegal association." He was sentenced to five years in prison.
- On March 4, Elizardo Sánchez was beaten by a rapid-action brigade as he and another rights activist, Lázaro Loreto, went to visit their colleague, political dissident José Luis

Pujol. The mob, which was staging an act of repudiation at Pujol's home, forcibly brought Sánchez to a police station, while Loreto and Pujol were arrested by police. Sánchez and Loreto were released the next day. Pujol was kept in detention and later tried and sentenced in July to three years in prison on charges of "contempt" for offending the president.

- Other human rights activists who were subjected to acts of repudiation, briefly detained, summoned for questioning by the police or harassed at their homes by members of mass organizations included Francisco Chaviano González, Gladys González, Rodolfo González, Lázaro Linares Echevarría, and Aida Valdés.
- Bienvenida Cúcalo Santana, of the Cuban Humanitarian Women's Movement, was arrested in December 1991, reportedly tried in September 1992, and sentenced to three years in prison for spreading "enemy propaganda."
- Juan José Moreno of CCDHRN was arrested on September 21 by state security police in Holguín province. He was one of some 15 people who were detained in the provincial prison and accused of spreading "enemy propaganda."
- Police again arrested Elizardo Sánchez of CCDHRN on October 9. While Sánchez was taken into detention, police searched his home—which doubles as the office of the Cuban Commission—and confiscated typewriters, tape recorders, and a camera. Meanwhile, an act of repudiation was staged outside. Sánchez, who was released without charge on October 12, is thought to have been detained to prevent him from attending two social functions—a party at his home to celebrate the fifth anniversary of the CCDHRN, to which a number of diplomats were invited, and a reception at the Spanish embassy to which he was invited.

International human rights monitoring has been severely curtailed since a brief opening in 1988. Despite repeated requests, Americas Watch has yet to receive permission from the Cuban government to conduct the kind of open investigation it

undertakes routinely elsewhere in the region. Over the years, members of the Americas Watch board and staff have been allowed access to Cuba only under the auspices of other organizations.

The Cuban government refused to cooperate with the resolution adopted in March 1992 by the U.N. Commission on Human Rights, which authorized the appointment of a special rapporteur for Cuba to investigate human rights conditions and report his findings to the next commission session. The Cuban government's 1988 agreement with the International Committee of the Red Cross granting access to Cuban prisons and political prisoners remains suspended after being broken by the Cuban government in 1990.

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

In 1992, relations between the United States and Cuba focused on the debate over the "Cuban Democracy Act of 1992," which broadened the trade embargo against Cuba in an attempt to speed the collapse of the Castro government and establish democracy in Cuba. The explicit intent of the law is to foster democracy by punishing the Castro government while rewarding the Cuban people. It extends the current embargo by prohibiting foreign-based subsidiaries of U.S. companies from trading with Cuba. This extra-territorial effect of the law could translate into a loss of hundreds of millions of dollars for the Cuban government. At the same time, the law allows food to be donated to nongovernmental organizations—such as the Catholic and Protestant churches—and individuals. Medicines and medical supplies may be exported as long as the Cuban government allows on-site inspection to ensure that the supplies "benefit ... the Cuban people" and are not sold for re-export. The law also allows the U.S. government to provide "assistance, through appropriate nongovernmental organizations, for the support of individuals and organizations to promote nonviolent democratic change in Cuba."

While Americas Watch commends efforts to pressure the Cuban government to improve its human rights practices, it has objected to provisions of the law, as well as the pre-existing embargo, that continue to impede human contacts by maintaining restrictions on travel by U.S. citizens and on telephone communications. Under the 1975 Helsinki Final Act and successive accords reached by the Conference on Security and Cooperation in Europe (CSCE), the United States agreed to lift restrictions limiting "human contacts," including bans on travel and telephone communications. The principles set forth in the instruments would clearly favor the removal of any barrier to such contacts raised by a CSCE government in its relations with other nations.

Although the embargo allows U.S. citizens to travel to Cuba, they are prohibited from spending any money there without the permission of the U.S. Treasury Department. If citizens defy this restriction, they can be prosecuted for "trading with the enemy," imprisoned for up to 12 years and fined up to \$250,000; corporations are subject to \$500,000 fines. Further, the Treasury Department may now impose a civil penalty of up to \$50,000 against violators of the "Cuban Democracy Act."

Exceptions are made for only four categories of visitors to

Cuba: U.S. or foreign government officials or officials of any intergovernmental organization of which the U.S. is a member; family members with relatives in Cuba; academics and researchers with Cuba-specific expertise; and news media personnel. No other American can travel to Cuba, except as a guest of the Cuban government. The travel ban also applies to Americans who since 1988 have been permitted to import "informational materials" from Cuba—books, films, records and, since April 1991, art. Would-be importers may not travel to Cuba to arrange for these materials to be sent to the United States. The "Cuban Democracy Act" does not affect this ban. The embargo also impedes telephone communications between Cubans and Americans by blocking payment of revenue due to Cuba for completing calls. The Cuban Democracy Act does not alter this arrangement. On November 24, the U.N. General Assembly adopted a non-binding resolution, by a vote of 59 to 3, with 71 abstentions, calling on the U.S. to discontinue the embargo against Cuba.

The United States continues to fund TV-Martí, the U.S. Information Agency's (USIA) television broadcasts to Cuba, even though its transmissions have been successfully blocked by Havana and cannot be seen in Cuba. The Cuban government has retaliated by attempting to block the USIA's widely listened-to Radio Martí broadcasts, which Cubans can now receive only by short-wave radio.

On three occasions in the last year, Cuban exile groups based in Miami entered Cuban waters with the intent to commit acts of violence in Cuba. In at least one case, the target was a civilian hotel—a wholly inappropriate target even in the midst of an armed conflict.

In one case in December 1991, three men on a small boat, in possession of weapons and explosives, were captured by Cuban authorities. They confessed to belonging to a U.S.-based exile terrorist organization and to undertaking a mission to commit acts of sabotage in public places in Cuba. They were convicted and sentenced to death by a Cuban court in January 1992. Within three weeks of their capture, one was executed by firing squad, while the two others had their sentences commuted to 30 years in prison. Americas Watch opposed the death sentences, particularly in light of the absence of a trial before an independent judiciary. An anti-Castro exile group, Comandos L, claimed responsibility for the mission.

In another incident, on July 4, 1992 four men entered Cuban waters but were picked up by the U.S. Coast Guard after their boat stalled. The men, who were found by the Coast Guard to be in possession of weapons, were members of Comandos L. In the third incursion, in October, the Melia Varadero beach hotel on the northern coast of Cuba was strafed by machine-gun fire coming from a speedboat. Comandos L claimed responsibility for the attack.

The U.S. Federal Bureau of Investigation is investigating the cases, and one of the men implicated in the second incident has been arrested. Vigorous prosecutions and public condemnations would send an important signal that the United States is not only uninvolved in these activities—a frequent accusation by the Cuban government—but that it will not tolerate such acts, particularly



against civilians.

The State Department, in conjunction with the U.S. Interests Section in Havana, has been producing consistently reliable human rights reports on Cuba since 1989. The State Department's *Country Reports on Human Rights Practices for 1991*, issued in January 1992, provides an accurate account of human rights violations in Cuba. The State Department also regularly issues statements condemning the arrests and unfair trials of human rights and pro-democracy activists.

### **The U.N. Response**

The U.S. delegation again led the campaign to censure Cuba before the United Nations Human Rights Commission in Geneva in February and March. Headed by Ambassador Kenneth Blackwell, the U.S. effort lacked the selective, highly ideological rhetoric that characterized the campaigns waged by the previous U.S. Ambassador, Armando Valladares, a former long-term Cuban prisoner. The U.S. delegation also balanced its initiative on Cuba with forceful efforts against other violator countries.

At the previous Commission session in 1991, Rafael Rivas Posada of Colombia was appointed special representative to Cuba. Ambassador Rivas was the Latin America representative in a 1988 visit to Cuba by a Commission delegation. Although the Cuban government did not permit the special representative to travel to Cuba, he produced a substantive report detailing 128 cases of abuse, based on information available from nongovernmental sources. Ambassador Rivas met in October 1991 with a broad spectrum of human rights monitors who follow developments in Cuba, including Americas Watch.

The Commission's 1992 resolution on Cuba raised the pressure on Cuba by upgrading the special representative to a special rapporteur. Cuba was also sharply criticized in a resolution that passed by a vote of 23 to 8, with 21 abstentions, and one commission member absent. As with the special representative, the Cuban delegation immediately announced that Cuba would not cooperate with the special rapporteur.

Ambassador Rivas was offered but declined the position of special rapporteur. Carl Johan Groth of Sweden, an Ambassador to Cuba from 1969 to 1971, was named rapporteur by U.N. Secretary General Boutros Boutros-Ghali. Mr. Groth was expected to produce an interim human rights report to the General Assembly in late November and a full report to the Commission in 1993. Americas Watch has met with him and provided him information on human rights conditions in Cuba.

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

Americas Watch was not permitted by the Cuban government to visit Cuba in 1992. In April, Americas Watch requested permission to observe the trials of Yndamiro Restano, the pro-democracy activist, and Sebastian Arcos, the human rights monitor, but never received a response from the Cuban authorities.

In February, Americas Watch published a lengthy newsletter on Cuba, "Tightening the Grip, Human Rights Abuses in Cuba," which covered the period from August 1991 to February 1992. The release

of the newsletter was timed to coincide with the meeting of the U.N. Commission on Human Rights in Geneva.

On August 12, Americas Watch testified on human rights violations in Cuba before the Senate Foreign Relations Committee in hearings on the "Cuban Democracy Act."

Americas Watch continued to campaign on behalf of individual political prisoners. In 1992, imprisoned poet María Elena Cruz Varela, serving a two-year term on charges of "illegal association" and "defamation of state institutions," received the Hellman-Hammett Award for persecuted writers from the Fund for Free Expression, a division of Human Rights Watch.

## **DOMINICAN REPUBLIC**

### **Human Rights Developments**

The human rights situation in the Dominican Republic in 1992 continued to be dominated by official mistreatment of Haitian migrants who crossed the border into the Dominican Republic. The Dominican government's continued reliance on forced labor by Haitian workers on its state-owned sugarcane plantations was shaped by two events in 1991. The first was the government's summary deportation of as many as 6,000 Haitians and Dominicans of Haitian origin, and the flight to Haiti of tens of thousands of others who sought to avoid forced deportation, between June and September 1991. The second was the bloody September 30, 1991 military coup in Haiti, which ousted the first democratically elected Haitian president, Jean-Bertrand Aristide. The military takeover led thousands to cross the border, some returning to the country that only months earlier had grievously mistreated them. Some voluntarily took up work on the government's sugarcane plantations, diminishing but not eliminating the government's need for forced labor. The shortfall continued to be made up by compelling Haitians to cut sugarcane.

The mass deportation of Haitians and Dominicans of Haitian origin was the Dominican government's response to heightened pressure from international human rights groups. The forced "repatriations" began abruptly in June 1991 after the forced labor practices became the focus of a report by "Primetime Live," the U.S. television news program. The exposé led later to U.S. congressional hearings.

Bands of soldiers, often abusive and corrupt, raided Haitian communities throughout the Dominican Republic and rounded up anyone deemed to "look" Haitian, including Dominicans of Haitian origin ("Dominico-Haitians"). Victims were separated from their families, belongings were stolen, and personal documents were confiscated or destroyed. The victims were taken to makeshift immigration detention centers and, within days, transported by bus across the border to Haiti, with little or no attempt to determine their citizenship or immigration status. Domestic laws on the right to a fair hearing before deportation were openly and systematically flouted.

At the same time, tens of thousands (estimates range as high as 50-60,000) of Haitians and Dominico-Haitians fled to Haiti, a

foreign country to many who spoke Spanish as a first language or had few if any remaining relatives there. Many Haitians left "voluntarily" to avoid the arbitrary and abusive nature of the round-ups. The forced deportations and concurrent exodus to Haiti ended only with the coup in Port-au-Prince.

Although the Dominican Republic may promulgate nondiscriminatory immigration laws, it cannot escape responsibility for its long-term active encouragement of Haitian migration into the Dominican Republic. The Dominican government and its State Sugar Council (CEA) did not require Haitian workers to obtain visas or immigration permits before hiring them to engage in the arduous work of harvesting sugarcane which Dominicans refused to perform. Nonetheless, it now alleges the lack of such documentation as a basis for their summary deportation.

During the 1992 harvest, most of the CEA's recruits traveled from Haiti to the border "voluntarily," some because they had no hope of earning a living in Haiti after the coup, and others to flee the persecution and violence unleashed by the Haitian army. Thus, unlike past years when the CEA sent recruiters to Haiti, where they used force and deceit to secure a sufficient number of workers to supplement those willing to work on CEA sugar plantations, recruitment in Haiti this year was unnecessary.

Nevertheless, many Haitians arriving on Dominican territory were subject to the same abusive treatment at the hands of CEA employees and the Dominican army that has persisted for years. Upon crossing the border, the Haitians were often taken into the custody of Dominican border guards and held in military posts or makeshift detention areas until there were enough people to fill buses that transported them to plantations. Some Haitians and Dominico-Haitians were arrested by soldiers and armed CEA guards while traveling on roads in the Dominican Republic and brought to government plantations. Once on the plantations, the recruits were forcibly confined to the plantations for the duration of the seven-month harvest. Restrictions on internal travel, arbitrary detention, and confiscation of belongings were regularly used as methods of confinement. Thus confined, they were forced to work to earn enough to feed themselves.

The use of forced labor persists in the Dominican Republic because of the government's failure to enforce its own decrees and laws prohibiting the practice. Offenders—whether soldiers, plantation security guards or CEA employees—continue to profit from the labor trade with impunity. Victims have no recourse.

Despite ongoing abuses, the Dominican government did implement some meaningful reforms in its sugar industry in 1991 and 1992. It legalized sugarcane-cutter labor unions made up predominantly of Haitians and Dominico-Haitians, who it had long argued were not covered by existing labor laws. The new Labor Secretary, Rafael Alburquerque, began discussions with numerous newly recognized cane-cutter unions to consider additional reforms of the CEA's labor practices, such as more frequent cash payment of workers to reduce their dependence on the usurious plantation stores. The government also distributed one-year renewable work

permits to some Haitians, thus establishing their immigration status.

Forced labor by Haitian children, a recurrent problem in the past, was largely eliminated in 1992. An Americas Watch delegation in February-March 1992 neither found nor was told of any cases of forced child labor by local monitors. Although a few children could be seen picking up cane in the fields to help their families, efforts by the authorities to curb the hard labor of cane cutting by children seemed largely to have succeeded.

Some improvements were made with respect to living conditions. Small, dark rooms in run-down, concrete or wooden barracks-style housing continued to be the norm. However, the CEA, together with private and foreign governmental development agencies, has undertaken projects to build latrines, modernize water systems, and improve access to health care and family planning. Cane cutters' wages were raised from eighteen pesos per ton (about U.S. \$1.44 at the exchange rate in 1991) to twenty-five pesos per ton (about U.S. \$2.00). Still, it is barely enough to buy one meal of rice and beans a day.

The draconian repression of the press in Haiti since the coup also spilled over into the Dominican Republic when the Dominican government barred a Catholic radio station from broadcasting news in Creole, the language of its Haitian listeners on both sides of the border. In February, the Dominican State Telecommunications Director, Leopoldo Nuñez Santos, suspended the Creole-language programming of Radio Enriquillo, a popular Dominican station based in the southwest, near the Haitian border. Radio Enriquillo had been a main source of information for Haitians on developments in their own country, including its regular reports of human rights abuses by the army. By seeking to silence Radio Enriquillo's Creole broadcasts, Dominican authorities assisted the Haitian military's efforts to impose a blackout on all independent sources of information reaching the Haitian people.

President Joaquín Balaguer, in a press conference the following week, stated that the ban had been imposed after his government received complaints from "the Haitian authorities" that the radio station was broadcasting "subversive slogans that were creating a certain uneasiness among the Haitian population." Neither the telecommunications director nor the President offered any evidence of the "subversive" nature of Radio Enriquillo's reporting.

The banning of the Creole program also marked the beginning of a crackdown on local Dominican popular organizations that sought peacefully to demonstrate their support for Radio Enriquillo. After the ban on the radio station, local groups that previously had been allowed to hold similar peaceful marches in protest against the Haitian coup and in solidarity with the Haitian people were subjected to heavy-handed police intervention, including gunfire, beatings, tear gas, arrests and intimidation. A bystander, Bienvenido Moquete Ramírez, was shot and killed by the police during one such protest in February.

Following the suspension order, the director of Radio Enriquillo was told by the national telecommunications director that Haitian music would not be banned. Radio Enriquillo

announcers then began to sing the news in Creole. Each song was also summarized in Spanish for Dominican listeners.

On July 14, the national telecommunications director himself traveled to Tamayo, where the station is based, accompanied by several soldiers, and submitted another order to suspend "any type of program in the Creole language," including music. After that, the station developed a new program called News Without Frontiers which provided news stories that were read very slowly in "Creolized Spanish" that Haitian listeners could understand.

Radio Enriquillo finally had to suspend News Without Frontiers on October 29 under continuing pressure from the authorities. A month earlier, it had transmitted President Aristide's speech before the United Nations General Assembly, in which, among other things, he had criticized the Vatican for being alone in the world in recognizing the Haitian military junta. This transmission reportedly elicited complaints from the Apostolic Nuncio in Santo Domingo and the Haitian Church hierarchy—which does not actively oppose the de facto Haitian regime—as well as from the Haitian junta itself. The station also learned that four of its staff members, including the director, were considered "dangerous" by the authorities and would be closely watched. Fearing reprisals such as losing its powerful frequency, Radio Enriquillo was forced to suspend all of its Creole programming.

Torture in police custody, believed by local human rights monitors to be widespread, received national attention in 1992 after several cases were reported in the press. For example, Professor Felipe de Jesús Medrano García, the director of the Cultural Promotion Department at the Santo Domingo Autonomous University, was arrested on January 16 at his home by agents of the National Police in connection with an investigation into a United States currency counterfeiting case. He was detained in police headquarters in Santo Domingo following a warrantless search of his home.

On the first day of his detention, he was forced by a police lieutenant to lie face down on the floor with his wrists handcuffed behind his back. He was then repeatedly beaten with a wooden bat on the buttocks and lower vertebral column. A medical examination after his release revealed severe trauma to his lower back and to the third finger of his left hand.

Medrano was finally released on January 24, as the police investigation found that "he had nothing to do with the case." He was never brought before a judge; there was no official explanation for his arrest; and he was never charged.

After Medrano filed a complaint, the two officers who beat him were subject to charges before an internal police court, although one was promoted to captain a month later. The proceedings now await a definitive medical evaluation to determine whether Medrano's injuries are treatable or permanent. He is currently being treated for a herniated disk. Doctors at the public hospital where he initially sought treatment were reportedly pressured by the police to drop his case.

## **The Right to Monitor**

Dominicans generally enjoy the right to monitor human rights in their country. For years, there has been great public attention in the Dominican Republic to the issue of forced labor, and discussion about the deportations has been widely aired in the press. However, many domestic human rights advocates have traditionally proceeded with discretion, fearing legal and extra-legal reprisals from the authorities.

A young human rights lawyer was killed by plainclothes police in Santo Domingo on September 20. Rafael Efraín Ortiz died of gunshot wounds that he sustained during a peaceful demonstration against the official commemoration of the 500th anniversary of the arrival of Columbus. According to human rights and press accounts, the police, posing as journalists, began shooting into the crowd when demonstrators discovered they were armed police and confronted them. Ten police officers implicated in the incident were dismissed from the police force and will be prosecuted by civilian courts.

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

The United States is by far the Dominican Republic's largest trading partner, purchasing approximately 67 percent of Dominican exports annually. In fiscal year 1991, the U.S. imported \$2.02 billion worth of products, including \$548.9 million under the Generalized System of Preferences (GSP) and the Caribbean Basin Initiative (CBI). The Dominican Republic continues to be allotted the largest segment, 17.6 percent, of the U.S. sugar import quota, or 232,555 metric tons of sugar.

In fiscal year 1991, the Dominican Republic received \$1.7 million in military assistance and training and \$18.9 million in humanitarian assistance; in fiscal year 1992, \$2 million in military assistance and training, \$6.7 million in budgetary support known as Economic Support Funds (ESF), \$15.3 million in humanitarian assistance, and a small amount of anti-narcotics assistance was provided; for fiscal year 1993, the Bush administration has requested \$1.2 million in military assistance and training, \$5 million in ESF, and \$32 million in humanitarian assistance.

In 1989, in response to a petition filed by Americas Watch, U.S. Trade Representative Carla Hills began a review of Dominican labor practices pursuant to a law that bars GSP trade benefits to countries that violate labor rights. Americas Watch's petition documented the Dominican government's practice of forcibly recruiting Haitian workers, confining them in poor conditions and physically abusing them.

On April 25, 1991, after a two-year review of Dominican labor rights violations, the Bush administration determined that the Dominican government "[has] taken or [is] taking steps to afford internationally recognized worker rights." As a result, the administration decided to maintain trade benefits to the Dominican Republic despite the persistence of the use of forced labor on state sugarcane plantations. The administration's findings were based at least in part on reports from the U.S. embassy in Santo Domingo that were never made public. The decision put an end to the formal review of Dominican labor rights practices and to a

highly effective mechanism to pressure the Dominican government to improve its treatment of Haitian workers.

The State Department's January 1992 *Country Reports on Human Rights Practices for 1991*—virtually the only administration statement on human rights in the Dominican Republic during 1992—correctly gives credence to reports of continuing abuse and thus contradicts the administration's own justifications for maintaining GSP benefits. The report's section on the "Prohibition of Forced or Compulsory Labor" was less thorough than the previous year's, yet it did summarize the main concerns raised by domestic and international human rights organizations:

There were credible charges in the 1990-91 sugar harvest that the Government and CEA forcibly recruited Haitian seasonal agricultural workers and then restricted them to work on specific sugar plantations. In some cases, workers told of holding facilities under military guard, having personal effects confiscated, and being physically and psychologically abused by CEA employees to restrict them to the plantations. There were also charges that the Government used the military and police to round up Haitians residing in the Dominican Republic and compelled them to work in the cane fields.

Commenting on the 1991 mass deportations of Haitians from the Dominican Republic, the Bush administration initially acted as an apologist for the Dominican government by parroting its denial of allegations of rights abuses. Later, however, the State Department in its *Country Reports* conceded that human rights violations had occurred during the forced repatriations.

The U.S. Congress should follow up on the investigation it began during its June 1991 hearings and express disapproval not only of the continued use of forced labor in the Dominican Republic, but also of the Dominican government's policy of indiscriminate expulsions of Haitians. While the improvements that have taken place over the last year—such as the elimination of child labor and the prompt payment of workers—should be recognized, sustained Congressional attention would assist greatly in keeping the spotlight on continued abuses. In a welcome gesture, Congress withheld \$1 million of the \$5 million in Economic Support Funds for fiscal year 1993 until the U.S. President reports on steps taken by the Dominican Republic to improve respect for labor rights.

Congress should also consider taking steps to ensure that the Dominican Republic is not permitted to export sugar to the United States as long as it employs forced labor to harvest its sugarcane. A threatened reduction in the Dominican Republic's share of sugar imports by the United States could be an appropriate and highly effective source of leverage to pressure the Dominican government to end its use of forced Haitian labor.

**The Work of Americas Watch**

Americas Watch, together with the National Coalition for Haitian Refugees (NCHR), undertook a two-week mission to the Dominican Republic in February-March 1992, during the sugarcane harvest. The delegation conducted interviews with cane cutters at six of the CEA's ten plantations. The delegation also met with human rights monitors, church workers, trade union organizers, and journalists, as well as with the Dominican Secretary of Labor, Rafael Alburquerque, the Director of the CEA, Juan Arturo Biaggi, and the U.S. Ambassador Robert Pastorino. Requests to meet with the Director of Immigration, José Ramón Mota Paulino, were not granted.

In April, Americas Watch and NCHR issued a newsletter, "Dominican Authorities Ban Creole Radio Program and Crack Down on Protesters," on the censoring of Radio Enriquillo. Americas Watch and NCHR had visited the station and met with its staff a month earlier.

In October, the organizations published their fourth joint report on the Dominican Republic, "A Troubled Year: Haitians in the Dominican Republic." The report, which also incorporated findings from an investigative mission in July 1991 to document abuses surrounding the forced deportations, was issued to coincide with the Dominican government's commemoration of the 500th anniversary of the landing of Columbus.

## **EL SALVADOR**

### **Human Rights Developments**

On January 16, 1992, the government of El Salvador and the Farabundo Martí National Liberation Front (FMLN) signed a historic peace accord that ended twelve years of bloody civil conflict. Negotiated under the auspices of the United Nations, the peace accord laid out sweeping reforms to permit the FMLN to participate in political life; to transform the institutions that had accounted for major human rights violations; and to achieve greater equity in the social and economic life of the country. Not surprisingly, the end of the war has occasioned a major improvement in the observance of human rights, even though, by year's end, the implementation of the peace accord was in serious jeopardy and political tensions had dramatically increased.

Numerous aspects of the peace agreement itself stemmed from the recognition that human rights violations committed by agents of the state had stood at the very center of the conflict. The peace accord called for the dissolution of two of the most repressive security forces, the National Guard and Treasury Police, as well as of all five Army rapid-reaction battalions, some of which had been associated with the worst atrocities of the war. The accord specified that a new National Civil Police (PNC) would replace the existing National Police, and be open to a broad range of civilians as well as to former National Policemen and FMLN combatants. The accord also called for a restructuring of the judicial system to make it more independent of political pressures and more professional. Most of these changes have been marked by serious delays or irregularities in compliance.



The Salvadoran government and the FMLN also agreed to the formation of two commissions to help overcome impunity for past human rights violations. An Ad Hoc Commission of three civilians began work in mid-May to review the records of officers of the armed forces, in order to purge those implicated in human rights abuses and those whose professionalism or commitment to democracy and the peace process were in question. A Truth Commission began work in July, charged with investigating "grave acts of violence that [had] occurred since 1980" and issuing recommendations for prosecution.

After a three-month review, the Ad Hoc Commission issued its report to President Alfredo Cristiani and to the Secretary General of the United Nations in late September. According to press reports, the list of over 100 officers included Minister of Defense General René Emilio Ponce and the Deputy Defense Minister General Juan Orlando Zepeda. The reaction in the military and the extreme right was predictable. A death squad communique issued in late October called the purge "intolerable," while senior officers maneuvered to avoid dismissal or transfer, jeopardizing the entire peace accord.

The Truth Commission took direct testimonies from victims and survivors of abuse in rural areas. It also received denunciations in its San Salvador office for a period of several months ending in late October. Like the Ad Hoc Commission, it also received documentation from a variety of nongovernmental organizations as well as from the Salvadoran government. The Truth Commission, with only six months to complete its investigation, will issue a public report in early 1993.

The work of both commissions was complicated by the Salvadoran Assembly's adoption on January 23, 1992 of an amnesty law covering most political crimes. Exempted from the Law of National Reconciliation were only the handful of cases decided by jury trial (the Jesuit case, the U.S. churchwomen's case, and the Zona Rosa massacre, for example), cases of kidnapping, and cases in which the Truth Commission might recommend prosecution. However, the law specified that the Assembly could "adopt the resolutions it considers appropriate" six months after the Truth Commission issued its findings, either extending the amnesty to all cases or preserving certain exemptions. If the Assembly adopts a blanket amnesty, it will not only undermine the principle of accountability but also ensure impunity in the handful of cases—including the Jesuit murders—in which members of the military have been prosecuted for human rights crimes.

One positive step toward coming to terms with the record of atrocities during the war involved the exhumation of remains of the victims of the 1981 El Mozote massacre in which an estimated 794 civilians were killed by the Salvadoran Army. After resisting the exhumation for months, the government ceded to domestic and international pressure, including that of the Truth Commission, and allowed a team of Argentine and U.S. forensic anthropologists, together with the Salvadoran Institute for Legal Medicine, to go forward in October. The initial discoveries included a large number of skeletons of small children, confirming eyewitness

accounts of the massacre and graphically revealing that U.S. denials of the early 1980s that a massacre had taken place were patently false.

Since the beginning of the cease-fire on February 1, 1992, the number of human rights violations in El Salvador greatly diminished. Combat-related violations and violations of the laws of war, including attacks on the civilian population, forced recruitment, restrictions on freedom of movement, and detentions for suspected collaboration with the guerrillas, were reduced or eliminated altogether. Nonetheless, politically motivated killings, death threats, mistreatment of prisoners by government forces, and attacks aimed at opposition trade unions, popular organizations, and media continued, albeit at much-reduced levels. Late in 1992, as compliance with the peace accord began to cut deeply into the power of the armed forces, clandestine groups stepped up threats against members of the FMLN. The near-complete and ongoing paralysis of the judicial system continued to ensure that the Salvadoran state, if not guilty of direct involvement in abuses, was complicit by failing to investigate or to take preventive action.

While the end of the war accounted for some of the improvement in the human rights situation, part of the reduction in violations was clearly attributable to the presence of the United Nations Observer Mission in El Salvador (ONUSAL). ONUSAL began operations in El Salvador in July 1991 as the result of a human rights accord between the Salvadoran government and the FMLN signed the previous year. It was empowered to "take any steps it deems appropriate" to defend human rights and, perhaps most significantly, was granted the power to visit any military installation or detention center without prior notice. With the signing of the peace accord, ONUSAL expanded to include large military and police divisions responsible for overseeing the implementation of the peace accord, yet ONUSAL's Human Rights Division continued to play what its own officials described as a "dissuasive" and "preventive" role with respect to abuses.

ONUSAL's unique position within the country and its unparalleled access to the government and security bodies allowed it to comment with authority on numerous aspects of the human rights situation. The fifth report of the Human Rights Division was issued in August 1992, a year after ONUSAL began operations. For the period since the cease-fire, ONUSAL observed:

- In the eastern and central parts of the country, active duty soldiers were responsible for "a disturbing number of cases" of violations of the right to life, most of which "bore the hallmarks of common crimes." In the western and central parts of El Salvador, the Army's territorial service of military escorts was frequently cited in complaints of summary executions or deaths. Arrests by members of the civil defense or the territorial service were "in open

violation of the law and of the Peace Agreement."

- Complaints of death threats went up dramatically following the signing of the peace accord, in some cases directed against religious, political, and trade union organizations, and in some cases made by members of the armed forces, security forces, and civil defense against private individuals. The Salvadoran government failed to follow ONUSAL's recommendation that the state provide special protection when threats emanated from organized clandestine groups, such as the Salvadoran Anti-Communist Front or the Secret Army of National Salvation. Moreover, in some murder cases, death threats "were designed to deter witnesses or members of the victim's family" from coming forward with information relevant to prosecution.
- Although ONUSAL could not establish that the practice of torture was systematic, "cruel, inhuman or degrading treatment or punishment," including beatings and a disproportionate use of force, was "a systematic practice." Complaints of mistreatment were often lodged against the Municipal Police, a security force under the direct control of local mayors, which was responsible for the beating death of a youth in Soyapango and whose troops "systematically make arrests in a manner which rarely meets the minimum legal guarantees." Reform of the Municipal Police was not touched on in the peace accord.
- Even in those areas in which there had been improvement, such as reductions in cases of disappearance, torture or kidnapping, there was no corresponding consolidation of the rule of law. ONUSAL called for profound reforms of criminal law and procedure and in the judicial system, without which improvements in human rights practices may well be ephemeral.

While many of the complaints received by ONUSAL, particularly of summary executions, turned out to have been common crimes (that is, without an explicit political motivation), there were a number of cases in which political motives appeared more clear-cut. In none of the following cases was there an adequate investigation, let alone punishment of those guilty. This failure suggests state

involvement by omission, if not direct commission.

For example, immediately after the signing of the peace accord, a bomb destroyed the vehicle of the Reuters correspondent in San Salvador and damaged a vehicle belonging to *The New York Times*. Three foreign journalists received death threats from the Salvadoran Anti-Communist Front (FAS), the same group that had threatened ONUSAL, United Nations, and other international personnel when ONUSAL began operations in July 1991. On January 6, the clandestine Secret Army of National Salvation issued a death threat against nine pastors and lay persons of the Protestant National Council of Churches (CNI); two of those threatened had been previously arrested and interrogated by the National Guard, and the wife of a third CNI member was abducted on January 22, blindfolded, and interrogated about CNI activities. She was subsequently released.

In a February report, ONUSAL concluded that "there may be a link" between the threats against CNI and the prior arrests by the National Guard, and deemed the case "so serious" that the authorities should clear it up "fully and expeditiously." A month later, however, members of the military-dominated Special Investigation Unit (SIU) still had not spoken with the National Guard. No suspect has ever been identified.

In the most prominent political murder since the cease-fire, Nazario de Jesús Gracias of the Federation of Independent Associations and Unions of El Salvador (FEASIES) was brutally hacked to death on March 2, at union headquarters where he worked as a night watchman. Gracias had been arrested the previous year by the Army's First Brigade for "conspiracy to subvert" (he was reportedly returning from a labor demonstration), had been turned over to the National Police, and was released after several days. He later received death threats which he denounced to ONUSAL.

Following Gracias's death, his fellow unionists briefly detained a suspicious individual loitering outside the union headquarters who carried a card identifying himself as a member of the Army's Territorial Service. Despite this important lead suggesting state involvement in the murder, the SIU told Americas Watch that it was unable to locate that individual. It also failed to follow leads publicly indicated by ONUSAL, which repeatedly called on the government "to take decisive and firm measures" to prevent and investigate murders and death threats. Such recommendations have fallen on deaf ears.

A disturbing pattern of attacks and threats against those engaged in opposition political activity has continued into the time of formal peace, and accelerated in the second half of 1992. In early August, five members of the executive council of the Salvadoran Association of Telecommunications Workers (ASTEL) received death threats following a labor conflict. Adrián Esquino Lisco, who achieved international prominence earlier in the decade for his advocacy on behalf of the victims of a massacre at Las Hojas cooperative, received death threats in Sonsonate in September. A number of workers from grassroots organizations reported receiving death threats, as did members of FMLN political communities in the countryside. In some cases, violent deaths of political and trade union activists may have been the result of

common crime, but former members of the army and security forces have been implicated in criminal attacks and have continued to go unpunished. In addition, a disturbing number of attacks on FMLN leaders have been carried out; although the perpetrators have not been formally identified, the identity of the target raises deep suspicions of a political motive. The government's ongoing failure to investigate violent crimes—unless specifically pressured to do so by ONUSAL—contributes to the climate of polarization and mistrust.

Tensions came to a boiling point in late October, just prior to the deadline for the full demobilization of the FMLN and the date for carrying out the purge of the Army as specified by the Ad Hoc Commission. On October 22, one of the most notorious death squads from the early 1980s, the Maximiliano Hernández Martínez brigade, announced an "all or nothing" struggle to defend El Salvador from communism and "sentenced to death" virtually the entire leadership of the FMLN. The communique also threatened ONUSAL and the foreign press, as well as Salvadoran "front organizations" and "political traitors." While a backlash from the extreme right had widely been feared since the signing of the peace accord, the communique marked the first instance of an explicit, across-the-board death threat against FMLN commanders.

The vast promise of structural reform in the peace accord has not been fulfilled in practice. Both the FMLN and the government have failed to live up to commitments. The FMLN, for example, is widely believed to have underreported its weapons inventory and to have cached arms. The government, however, has the primary responsibility for institutional reforms that have fallen short; it, and especially the military, have resisted thoroughly implementing many of the reforms until pressured to do so by ONUSAL and the political opposition.

In March, for example, rather than "suppress" the National Guard and Treasury Police as specified by the accord, the government secured hasty passage of legislation that failed to abolish the two forces. While this issue was ultimately resolved (ONUSAL stated bluntly that "the law, as adopted, does not comply with the agreement"), a more explicit violation of the accord lay in the transfer of over 1,000 members of the National Guard and Treasury Police to the National Police. According to ONUSAL, reassigning former members of security bodies to be abolished to law and order functions elsewhere ran "directly counter" to the provisions in the peace agreement calling for the creation of a totally new civilian police force.

The government also devoted few resources to the creation of the new National Public Security Academy, which will train all members of the new National Civil Police. The military refused to provide the existing Public Security Academy facility or the centrally located headquarters of the Atlacatl battalion (due to be disbanded) as the site for the new school; rather, the armed forces insisted on keeping the facilities for themselves, even though the military's size and role in society is to be vastly reduced. Moreover, before military personnel vacated the site that was ultimately agreed on, "they stripped it of anything usable,

including beds, door jams, windows, lockers, and light bulbs," according to the U.S. General Accounting Office (GAO) in a September report. In addition, according to the GAO, "the government of El Salvador has not pledged any funding" for the new police force itself.

Because of these and other delays, the first class of police cadets only started training in late August, some four months later than originally specified in the accords. By October, moreover, it became known that the director of the new public security academy had accepted former members of the National Guard and Treasury Police, as well as members of the army, in the training program for the new officer corps of the PNC. This was an explicit violation of the peace accord.

In addition to these irregularities, serious delays in the resolution of the land issue led the FMLN to justify its refusal to finish the disarmament of its forces by the October 31 deadline. The government, in turn, appeared to cite the FMLN's failure to demobilize to justify its non-compliance with the recommendations of the Ad Hoc Commission to cleanse the armed forces of abusive commanders. Senior U.N. officials worked round-the-clock in October and November to "readjust" the schedule of compliance, appearing to come to agreement on the final demobilization of the FMLN to be completed by the end of the year and the purge of the armed forces to be completed in early 1993..

### **The Right to Monitor**

In the most serious assault on a human rights monitor in 1992, gunmen in July attacked José Eduardo Pineda Valenzuela, a lawyer with the Salvadoran government's new office of the Human Rights Ombudsman (*Procuraduría para la Defensa de los Derechos Humanos*). Pineda Valenzuela, who was left paralyzed from the neck down, had long worked for the Attorney General's office. He had been the lead prosecutor in the Jesuit case and had worked on the case of the U.S. servicemen executed by the FMLN in January 1991. Several weeks after the attack, gunmen returned to Pineda Valenzuela's house and threatened his wife if she cooperated with investigators. The shooting of Pineda Valenzuela was a severe blow to the newly created Ombudsman's office, set up under the peace accord.

Although ONUSAL had unprecedented access to government officials and institutions in order to carry out its human rights work, the government on several occasions attempted to interfere with its activities. For months the government attempted to force ONUSAL to fire Argentine legal adviser Rodolfo Matarollo, who had given legal assistance in the Jesuit case. The government denied him a visa and members of the ruling ARENA party kept him from addressing a human rights seminar paid for by the U.S. Agency for International Development. The United Nations did not renew Matarollo's contract when it expired in August 1992.

In addition, ONUSAL on occasion was refused access to court files by judges hostile to the U.N. presence. On other occasions, ONUSAL officials were denied access to Municipal Police facilities. ONUSAL officials told Americas Watch that government pressures and threats by clandestine groups in 1991, while not insurmountable

obstacles, "complicated" the work of the mission.

The Salvadoran Army also continued to express extreme hostility to the work of human rights monitors in El Salvador. In a communique in September, the armed forces called the nongovernmental Human Rights Commission (CDHES) the "chorus and mouthpiece" of leftist organizations and accused it of carrying out a "well-planned propaganda and disinformation campaign." Given previous arrests and killings of CDHES workers, such statements by the military contribute to a climate of hostility that could prompt further attacks.

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

While repeatedly declaring its support for the peace process, the Bush administration appeared unable to let go of a policy of seeking support for the Salvadoran armed forces. However, with some members of Congress opposing any military aid in the wake of the peace accord, the administration was forced to compromise.

On April 1, for example, in approving the second installment of foreign aid for fiscal year 1992, Congress directed most of the administration's request for \$85 million in military aid to a fund for the demobilization, retraining and reemployment of former combatants from both sides. Congress restricted the remaining \$21.3 million in military aid to non-lethal items.

Congress adopted similar cuts in the administration's \$40 million request for fiscal year 1993. In late October, Congress approved \$11 million in non-lethal military assistance, and devoted the remaining \$29 million to the demobilization fund. Congress also specified that, of \$1.4 million in military training funds, 75 percent was to be used to help create an effective military judicial system and code of conduct and to conduct training in the observance of internationally recognized human rights.

Of the assistance approved for 1992 and 1993, Congress and the administration pledged \$20 million to the new Salvadoran Public Security Academy and new police force. As such, the U.S. was one of two international donors to contribute to the U.N.-supervised endeavor. The Department of Justice's International Criminal Investigative Training Assistance Program (ICITAP) is administering the effort. While supporting the formation of the new civilian police force is a worthy enterprise, the U.S. administration has remained silent about the Salvadoran military's sacking of the designated site for the training academy, and has not criticized either the Salvadoran government or the Army for its failure to devote the necessary resources to the new police force.

The Bush administration also provided cover for the armed forces by refusing to release important information from its files to the Ad Hoc and Truth Commissions. The administration's limited cooperation with both commissions revealed the shallowness of its commitment to reform of the armed forces, and its ongoing aversion to truth about the human rights situation, especially as it reflects upon the last decade of U.S. policy.

In a singular display of callousness, the administration in late October extradited to El Salvador alleged death squad

participant César Vielman Joya Martínez. After fleeing El Salvador in 1989, Joya Martínez detailed the activities of what he said was a death squad acting out of the Army's First Brigade, including by naming his superiors. Americas Watch was able to corroborate important elements of Joya Martínez's story, including a murder that had not previously been reported publicly. In agreeing to extradite Joya Martínez, the administration ignored evidence that other members of the military with information about the crimes of their superiors had been killed in prison or in suspicious circumstances. The United States thereby assumes responsibility for the fate of Joya Martínez while he awaits trial in El Salvador.

To its credit, the Bush administration heeded requests by President Cristiani and others not to deport Salvadorans living in the United States. In May, the administration indicated that it would allow Salvadorans to remain for at least a year after June 30, when a temporary amnesty was due to expire.

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

Americas Watch continued to devote considerable resources to El Salvador in 1992, providing information to congressional offices, journalists, attorneys and activists through its staff in Washington, D.C. and San Salvador. In March, Americas Watch published "The Massacre at El Mozote: The Need to Remember," a detailed account of the largest massacre of the war and of the U.S. government's attempt to cover it up. Americas Watch contacted the Salvadoran government on numerous occasions in 1992 requesting that permission be granted to foreign forensic specialists to begin exhumations at the site. The exhumations began in mid-October.

In September, Americas Watch released "Peace and Human Rights: Successes and Shortcomings of the United Nations Observer Mission in El Salvador (ONUSAL)," a review of the work of the ONUSAL Human Rights Division. Both the ONUSAL report and the report on El Mozote received considerable coverage in the U.S. and Salvadoran press, and contributed to a constructive debate on these issues within El Salvador.

Americas Watch provided extensive documentation to the Ad Hoc and Truth Commissions, pulling together information on numerous human rights cases from its files and previously published reports. Americas Watch also publicly called on the U.S. government to declassify information in its files regarding military officers and human rights cases. In January, Americas Watch had a productive exchange with the Salvadoran government, the FMLN, and the United Nations regarding the proposed amnesty law.

Americas Watch continued to oppose the extradition of death squad defector César Vielman Joya Martínez, calling on the State Department to deny extradition on human rights grounds. Joya Martínez was sent back to El Salvador from a jail in Texas in October.

## **GUATEMALA**



## **Human Rights Developments**

The human rights situation remained bleak in Guatemala in 1992, with selective assassinations, disappearances, and torture by the security forces casting a shadow of fear over the population. Anonymous death threats against trade unionists, human rights monitors, members of the university community, journalists and others reinforced the message that those who challenge the status quo do so at great personal risk. Army-organized civil patrols continue to act as agents of repression in many rural areas, intimidating those who refuse to patrol, join human rights groups, or seek to investigate or prosecute the abuses committed by the patrols. Forced patrolling continues in conflictive areas, despite valiant efforts by human rights groups to free communities from this unconstitutional burden. Impunity remains the rule for those who violate human rights, although the government has initiated criminal prosecutions in many cases and has won convictions of low-level soldiers in a few token cases.

Statistics on the violence compiled by the office of the Human Rights Ombudsman, an official elected by the Congress, and the Archbishop of Guatemala's Human Rights Office suggest a decrease in the number of extrajudicial executions and disappearances in the first half of 1992, compared with the same period one year earlier. While there may indeed be a decline in these human rights abuses, the figures undoubtedly understate the true number of violations, because fear prevents many victims and witnesses from reporting abuses. Moreover, the climate of intimidation that for decades prevented the formation of domestic human rights groups in Guatemala continues to obstruct the work of these groups, which are unable to investigate the vast majority of violations which occur.

Investigation by Americas Watch into violations of the laws of war by guerrillas uncovered several cases of summary executions of military commissioners in the departments of Chimaltenango, Sololá and the Petén in the years 1989 to 1991. Guerrillas may also have been responsible for the January 24, 1992 murder of military commissioner Regino Paniagua and his brother Genaro Paniagua Yol in the village of Rincón Chiquito, in Chimaltenango.

Peace talks pursued intermittently throughout the year deadlocked over human rights issues, although a partial accord was reached on the civil patrols. The agreement calls on the Human Rights Ombudsman to verify on a case-by-case basis whether patrollers are serving voluntarily. New patrols will be formed only after village authorities hold a public meeting, attended by a representative of the Ombudsman, to determine whether villagers freely want to form a patrol.

Meanwhile, the government and representatives of more than 40,000 refugees who have lived in camps in Mexico for the past decade reached an agreement on conditions for the refugees' return. Among the key points agreed upon, the refugees will return to their areas of origin, they will be given land and identification papers, they will be exempt from military service for three years, and they will not be obliged to form civil patrols. The agreement also calls for an as-yet-undefined

mechanism to monitor the human rights situation in the regions where the refugees return. Optimism over the agreement has been tempered by the murder, apparently by the army, of Lucas Pérez Tadeo, a peasant in the hamlet of Guaxacaná, municipality of Nentón, in Huehuetenango. Pérez Tadeo disappeared on August 31, and his body was found on September 3. The crime occurred in the area where the first massive repatriation of some 5,000 refugees was scheduled to begin a few months later. Villagers told church investigators that if another army killing occurred in their village, they would all flee to Mexico.

Civilian control over the police—a priority for both curbing and seriously investigating human rights abuses—remains a myth, disguising continuing army dominance. Although the elected government of President Jorge Serrano has paid lip service to the goal of civilian law enforcement, its actions have enhanced military authority.

One facet of this militarization was the inauguration in March of the "Hunapú Task Force," a combined military and police patrol aimed at combatting urban crime. Hunapú bears a close resemblance to an earlier military-police task force, the Civilian Protection System (SIPROCI), created in October 1988 in response to military pressure to reverse the efforts of the Vinicio Cerezo government to wean the police from army control. While SIPROCI combined patrols of the National Police, Treasury Police and Mobile Military Police, Hunapú includes these three units *plus* soldiers from the Justo Rufino Barrios military barracks. Hunapú units operate under army command. The United Nations Independent Expert, Christian Tomuschat, in his January 21, 1992 report, called for the immediate abolition of SIPROCI so military and law enforcement functions would be strictly separated. Although SIPROCI was never officially disbanded, the authorities have resurrected it with another name: Hunapú.

The Hunapú Task Force has been involved in a series of violent abuses in 1992, including the unprovoked shooting death of university student Julio Cu Quim and the wounding of six others on April 10. Several Hunapú agents have been detained and face prosecution—soldiers in military courts and police in civilian courts—for the murder of Cu Quim. Hunapú agents have also been involved in brutal beatings of street children on numerous occasions.

Another facet of this militarization is the new drive to recruit former military personnel into the National Police. According to one former police official, as many as 100 members of the military, mostly from the feared military intelligence branch, had joined the ranks of the police by late August. With military intelligence representatives looking over their shoulders, police are less likely than ever to investigate cases of human rights abuses in which the trail of responsibility leads to the army's door. Another former police official, in sworn testimony given to the Archbishop's Human Rights Office, said that since the naming of a new police director in May, the National Police has effectively been taken over by the army, which has placed military officers in charge of each section of the police. The civilian

police director carries out purely administrative functions, according to this source. In a November 1992 interview with Americas Watch, the director of military intelligence, Colonel Otto Pérez, confirmed that six army officers had been transferred to the different departments of the police. He asserted that they act only as advisors.

Riot police used excessive force and illegal tactics such as pre-dawn raids in repressing a series of demonstrations, marches and land invasions launched by the urban and rural poor in 1992. The most disturbing incident occurred on July 21 in Guatemala City, when hundreds of riot police violently dispersed about 500 peasants who were peacefully demonstrating in the central plaza. Although the march was legally authorized, the police threw tear gas and beat demonstrators, leaving at least ten wounded. Several police agents have been charged with abuse of authority in connection with this action.

The university community—a cauldron of radical views that has long been the subject of army repression—suffered a wave of attacks in 1992. Powerful explosions damaged the offices of the University Students' Association (AEU) of the public University of San Carlos (USAC) in January and October, and student leaders received death threats on several occasions. On February 10, gunmen dressed in civilian clothes shot dead university professor Manuel Estuardo Peña. Peña was known for his leftist views and had received anonymous telephone death threats prior to his death. The judicial investigation into his death had produced no suspects by early December. Three other professors connected with the USAC and several students were murdered in 1992 under circumstances that remain unclear.

The continued use by the army of clandestine detention centers for individuals suspected of ties with leftist guerrillas was reaffirmed in 1992 by two cases investigated by Americas Watch. Details of one of these cases cannot be made public, because of an explicit threat by the army of retaliation against the victim's family. A similar threat was made in the case of Maritza Urrutia, but she has decided to make her story public nonetheless.

Maritza Urrutia was kidnapped by three men driving a white vehicle with smoked glass windows after she dropped her son off at day care on July 23, at about 8:25 A.M., in Guatemala City's Zone 13. The men covered her head with a jacket and drove her to what appeared to be a military base, possibly in Guatemala City's Zone 6. She spent most of her eight-day unacknowledged detention handcuffed and blindfolded. On the rare occasions in which the blindfold was removed, she caught glimpses of olive green knapsacks and military weapons; and although her captors kept a loud radio playing in her cell night and day, she could hear the sounds of drums most days over the radio's blare. At one point, her captors bought her new clothes whose label indicated they were purchased from a store in Zone 6. One of her captors assured her she was in the hands of the army. (Americas Watch has previously received credible reports that a clandestine torture and detention center is maintained next to the installations of the Mobile

Military Police in Zone 6.)

Over the course of five days, her captors made her videotape a scripted statement in which she declared that she had not been kidnapped, but had gone into hiding in order to leave the guerrilla movement. The taping sessions were repeated for six or seven hours a day in an effort to make her statement appear spontaneous and natural. She was told that she, her family, and the family of her former common-law husband would face violent reprisals if she later contradicted the falsified version of events she was forced to declare on camera.

The video was dropped off at Guatemalan television news stations, which promptly aired it on July 29. Urrutia was released on July 30 with express instructions to apply for an amnesty for supposed subversive activities, and to hold a press conference in the Attorney General's office repeating what she had been forced to say on the video. She was also instructed to remain inside the country and to meet her captors at a prearranged date, time and place. Instead, Urrutia, with the help of the Archbishop's Human Rights Office, left early on the morning of August 3 for the United States, where she publicly contradicted the official story and filed a complaint at the Inter-American Commission of Human Rights against the Guatemalan government for her temporary disappearance.

This case reflects badly not only on the army, which carried out the illegal detention and later covered it up, but also on civilian officials, who insisted that there had been no kidnapping, even though witnesses had seen Urrutia forced into the white car on July 23. Bernardo Neumann, president of a cabinet-level executive branch human rights commission, unquestioningly accepted and repeated that the kidnapping had not occurred. Worse still, in letters to President Serrano which were widely distributed in Washington by Guatemala's lobbying firm, Neumann and Attorney General Acisclo Valladares suggested that the Archbishop's Human Rights Office had acted improperly in offering Urrutia the church's protection, when it most likely was responsible for saving her life. President Serrano later repeated these accusations, suggesting that an attorney for the office was responsible for covering up a crime. The president's public relations secretary also accused Human Rights Ombudsman Ramiro de León Carpio of covering up a crime because, although Urrutia had told him of her kidnapping before she fled the country, he abided by her request to keep the information confidential until she felt secure enough to go public. These accusations reflect bad-faith efforts to smear de León Carpio and the Archbishop's Human Rights Office for having assisted Urrutia.

Impunity for those who violate human rights remains the rule in Guatemala, although the government, much to the credit of Attorney General Valladares, has shown itself more willing to initiate criminal prosecutions in human rights cases than its predecessors. However, Guatemala's extremely weak and ineffective judicial system is no match for the security forces, as the meager results of the government's prosecutorial efforts attest. Only two cases in 1992 yielded convictions of soldiers for murder:

- The military justice system convicted two soldiers and sentenced them to death for the January 17, 1992 massacre of a displaced indigenous family in Ciudad Peronia, a squatter settlement on the outskirts of Guatemala City. To the government's embarrassment, the two soldiers later escaped from the army's general barracks in Guatemala City; one of them has since been captured. The Constitutional Court has ordered the Supreme Court to form a panel of three magistrates and two military officers to hear a final appeal in the case.
- A military tribunal sentenced five soldiers to 30-year terms for the June 1990 murder of U.S. citizen Michael Devine. However, the only officer under indictment, Captain Hugo Contreras, was acquitted of murder. Charges of covering up the crime are still pending.

Other cases suffered notorious setbacks:

- Members of the Pacific Naval Base charged in a military court with the 1991 massacre of ten men and one woman whose bodies were found on the road between Taxisco and Escuintla were acquitted in September 1992, despite President Serrano's testimony for the prosecution. That decision is under appeal.
- Civil patrol leaders Manuel Perebal Ajtzalam III and Manuel León Lares, accused of double murder and causing serious injury to human rights activists near the village of Chunimá in the highland El Quiché department, were also acquitted of all charges. The decision flies in the face of eyewitness testimony identifying them as among the six killers, as well as a long history of Perebal Ajtzalam III and León Lares threatening to kill the victims. (Charges against Perebal Ajtzalam III for the October 6, 1991 kidnapping and murder of human rights activist Sebastián Velásquez Mejía were dropped without explanation). The Attorney General has appealed the acquittal. The case gained notoriety in 1991 as Perebal Ajtzalam III and León Lares remained at large, threatening and harassing human rights monitors in Chunimá for seven months after warrants were issued for their arrest. They were finally detained on July 30, 1991, as the Inter-American Court

of Human Rights prepared to hold a hearing on the case.

One of the few convictions of security force personnel ever to have been upheld on appeal, the conviction of four police agents for the March 1990 murder of 13-year-old Nahamán Carmona López, illustrates the danger faced by witnesses in human rights cases. A policewoman whose testimony implicated her colleagues in the murder was forced to flee the country because of death threats in 1991. In 1992, members of her family were followed, threatened, kidnapped and assaulted in apparent revenge by individuals acting on behalf of the convicted policemen.

The continuing vicissitudes of the case of anthropologist Myrna Mack, murdered by army intelligence in September 1990, illustrate the reasons why judges, prosecutors, witnesses and police investigators fear confronting the army. Noel de Jesús Beteta, formerly employed by the *Estado Mayor Presidencial*, an elite military intelligence unit, is standing trial for the assassination. But the case has been riddled with irregularities and multiple layers of cover-up, with murder and intimidation the only reward for those who seek to establish the truth. Eleven different judges have had and then relinquished jurisdiction over the case; the police report naming Beteta was initially covered up and, once submitted to the judge, its author, police investigator José Miguel Mérida Escobar, was murdered; military officers have offered contradictory statements; and reporters and court officials working on the case have been threatened. The army has also pursued an elaborate cover-up of its responsibility for the slaying of police investigator Mérida Escobar, by capturing two apparently innocent men and forcing one of them, under threat of death to himself and his family, to videotape a confession to the slaying. Both set-up suspects were acquitted in 1992, and there is no ongoing investigation to determine the real authors of the crime.

### **The Right to Monitor**

As in the past, those who seek to monitor violations of human rights in Guatemala face daunting persecution, including threats, intimidation and murder.

- The staff of Casa Alianza, which defends the rights of street children, suffered numerous threats as well as drive-by shootings at their refuge for street children in Guatemala City's Zone 1.
- Amílcar Méndez, president of the Council of Ethnic Communities "We Are All Equal" (CERJ) suffered repeated death threats, a grenade attack on his house, and a slander campaign by the army. Although in 1991 the Inter-American Court of Human Rights enjoined the government to guarantee the safety of Méndez

and thirteen other individuals threatened in connection with the above described Chunimá case, President Serrano continued to repeat the slander that Méndez was working with the guerrillas, a baseless statement which effectively invites attacks on him.

- At 3:30 A.M. on October 22, CERJ members Alberto Calvo González and Juan Ren González were arrested by police, blindfolded, and interrogated while bound hand and foot. The two men were turned over to a judge at 6:00 P.M. on October 23, in violation of Guatemalan law, which mandates that detainees be placed at the disposition of a court within six hours of their arrest. Alberto Calvo González, who does not speak Spanish proficiently, was not provided an interpreter. Nonetheless, he allegedly implicated CERJ leader Amílcar Méndez in providing him with guerrilla pamphlet bombs. Juan Ren González denies these accusations. Nonetheless, the judge in the case issued a warrant for the arrest of Amílcar Méndez based on this flimsy evidence. Méndez, who was out of the country when the arrest warrant was issued, returned on November 22 in the company of a delegation of U.S. attorneys organized by the Robert F. Kennedy Memorial Center for Human Rights, with participation by Americas Watch. Following his appearance in court on November 22, the judge ordered Méndez released on provisional liberty.
- On May 17, two unidentified men stabbed and seriously wounded José Alberto Nerio Osorio, a representative of the Center for the Investigation, Study, and Promotion of Human Rights (CIEPRODH), in Chiquimula.
- Members of CONAVIGUA, a national widows' group, and villagers who have pressed for exhumations of clandestine cemeteries in which victims of the army's scorched-earth campaign of the last decade are buried have suffered repeated threats and harassment.
- On October 12, the office of the Mutual Support Group (GAM), Guatemala's oldest human rights organization, was seriously damaged by an explosive. The attack marked the second bombing of the group in the past four years.

The GAM works to establish the whereabouts of the disappeared.

- Following a comment published in the magazine *Newsweek* in which forensic anthropologist Clyde Snow compared members of the Guatemalan army who carried out massacres in the early 1980s with serial killers, Guatemalan Defense Minister José García Samayoa threatened to sue international human rights groups for defamation. García Samayoa's crude threats, accompanied by his aggressive assertions that the army has never committed abuses, underscore how little the army has changed under civilian government.
- In early November, Defense Minister García Samayoa and President Serrano accused human rights monitors attending a conference on in Washington, D.C., whose subject was the practice of torture in Guatemala, of doing the work of the guerrillas.

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

The Bush Administration continued to suspend military aid and commercial arms sales to Guatemala, a policy in place since December 1990 because of human rights violations and the impunity granted the perpetrators. Nonetheless, anti-narcotics aid continued to be channeled to the Treasury Police; U.S. national guard "civic action" exercises continued to be held with the Guatemalan military; U.S. training of Guatemalan soldiers and officers resumed; and the administration has continued to provide Economic Support Funds (ESF), which consist of cash aid to the government and are classified as security assistance. In October 1992, the administration notified Congress of its intention to provide \$15 million in fiscal year 1992 ESF funds to Guatemala. As of November, congressional committees had held up the funds because of human rights violations. The administration has requested \$10 million in ESF for fiscal year 1993. These symbolic acts of support for the military and cash assistance to the government are unwarranted and weaken the message of disapproval sent by the continued suspension of military aid.

Congress adopted a tougher position in its fiscal year 1993 foreign aid appropriation to Guatemala. The legislation prohibited military aid outright (thus preventing the administration from unilaterally resuming such aid) and continued a requirement that the relevant congressional committees be notified 15 days before any aid is provided. In addition, the legislation barred an administration plan to use Black Hawk helicopters for drug interdiction in Guatemala, arguing that it would send the wrong signal given the nation's poor human rights record. Unfortunately, the Congress stopped short of banning commercial arms sales to Guatemala, which theoretically could resume in the future,



although the State Department would have to notify congressional committees prior to any arms transfer.

The chapter on Guatemala in the State Department's *Country Reports on Human Rights Practices in 1991*, issued in January 1992, blamed the security forces and civil patrols for "numerous and serious" human rights violations. But the tough message sent by the Report was diluted by the U.S. position at the annual meeting of the United Nations Human Rights Commission in Geneva, where Washington held out for continued gentle treatment of Guatemala through approval of advisory services (advice on improving the human rights record of an ostensibly well-intentioned government) rather than the appointment of a special rapporteur (an act of condemnation coupled with ongoing public reporting of abuses).

The administration in 1992 made several important symbolic gestures of support for human rights in Guatemala, including a statement by Defense Secretary Richard Cheney upon arrival in the country in February highlighting the importance of human rights in bilateral relations. That this message came from the U.S. Defense Secretary was significant in the Guatemalan context. U.S. Ambassador to Guatemala Thomas Stroock attended a memorial service on the second anniversary of the murder of Myrna Mack and made a point of visiting and being photographed with Archbishop Próspero Penados after the government had criticized his office's human rights report. In October, the Assistant Secretary of State for Inter-American Affairs, Bernard Aronson, wrote to the Guatemalan Ambassador in Washington urging the government to address important evidentiary issues in the Mack trial. And in November, Ambassador Stroock made a strong statement in defense of human rights monitors whom President Serrano and his defense minister had denounced as guerrilla supporters. Also in November, Assistant Secretary Aronson telephoned Serrano and Supreme Court President Juan José Rodilo to express U.S. concern over the efforts to prosecute Amílcar Méndez described above. The senior official at the U.S. embassy at the time, chargé d'affaires John Keane, accompanied Méndez and the delegation of attorneys from the time of their arrival at the airport on November 22 until Méndez was granted provisional liberty late that night by a judge in Santa Cruz del Quiché.

Finally, U.S. Trade Representative Carla Hills accepted a petition for review of labor rights practices in Guatemala filed by church, labor and human rights groups—a move the executive branch has resisted for many years. Under U.S. law, Guatemala stands to lose trade benefits under the Generalized System of Preferences if a pattern of labor rights violations is found. A decision on the petition is expected in the spring of 1993.

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

Americas Watch conducted several fact-finding trips to Guatemala in 1992. Americas Watch representatives met frequently with government officials and members of non-governmental human rights groups, and traveled extensively to gather first hand testimony of abuses.

Early in the year, Americas Watch sought through meetings,

correspondence and a press release to encourage the U.S. delegation to the U.N. Human Rights Commission to lobby for designation of a special rapporteur for Guatemala, a designation reserved for the most serious human rights violators worldwide. In February, we wrote two letters to Defense Secretary Cheney: the first suggesting he avoid a planned trip to Guatemala on the grounds that it might be interpreted by the Guatemalan brass as a sign of U.S. approval, and the second, once it became clear the trip would go forward, urging him to raise specific human rights cases in his meetings in Guatemala.

Also in February, we brought human rights activist Amílcar Méndez Urízar and exiled judge Roberto Lemus to Washington to testify before the Inter-American Commission on Human Rights in connection with the above-described Chunimá case. In response, the Commission issued provisional measures calling on the government to protect the lives of Méndez and other human rights monitors involved in the case.

On September 11, Americas Watch again wrote to Defense Secretary Cheney to protest the Pentagon's sponsoring of a visit to Washington by the Guatemalan army spokesman, Captain Alberto Yon Rivera, shortly after he had participated in an army campaign to defame Amílcar Méndez and the human rights group he leads. Americas Watch also met with Captain Yon Rivera to protest the army campaign.

On September 23, Americas Watch joined with Physicians for Human Rights in issuing a press release rejecting the threat by Guatemalan Defense Minister José Domingo García Samayoa to sue for defamation international human rights groups that criticize the Guatemalan army. On November 17, an Americas Watch representative met with the director of military intelligence to protest continued statements by the military linking domestic human rights monitors with guerrillas. And on November 22, Americas Watch Vice Chair Steve Kass joined a delegation accompanying Amílcar Méndez back to Guatemala.

Throughout the year we wrote numerous letters to President Serrano and his newly formed presidential commission for human rights pressing our concerns over cases of extrajudicial execution, disappearances, police brutality, and threats. Often we engaged members of the U.S. Congress in these efforts.

In October, Americas Watch met with a leader of the guerrilla group Guatemalan National Revolutionary Unity to discuss violations of the laws of war by rebel forces. Americas Watch presented the insurgent leader with a list of summary executions attributable to the guerrillas and asked for an investigation into the allegations and discipline for those found responsible.

## **HAITI**

### **Human Rights Developments**

In 1992, the military junta that overthrew freely elected President Jean-Bertrand Aristide on September 30, 1991 continued to rule Haiti through violent repression. Well over 1,000 people are estimated to have been killed by the army since the coup, and

all forms of popular organization have been ruthlessly suppressed. Haitians today are living under the most acute terror since the darkest days of the Duvalier dictatorship.

In a country where only nine months before the coup, 67 percent of voters cast their lot with Father Aristide, the majority of the population is presumed hostile to the military authorities. Seeking to avoid the kind of popular unrest that brought down past military regimes, the army—from the generals heading the governing junta, to the section chiefs wreaking havoc in the most remote country hamlets—has attempted to eviscerate all civic, popular and professional organizations opposed to its authoritarian rule. The military junta has banned meetings throughout Haiti's nine departments. All signs of public protest are swiftly and violently repressed. Widespread, short-term detention serves successfully to intimidate and subdue. During detention, beatings are the rule rather than the exception. Almost all arrests are warrantless.

Section chiefs, the notoriously corrupt and brutal rural military overlords, have been reinstated, reversing the steps that President Aristide had taken to abolish their positions. Soldiers and section chiefs prey on their victims, demanding payment to avoid detention or torture. Those in hiding for fear of army oppression are told that they may return to their homes if they pay a fee. At military checkpoints, soldiers can shake down virtually anyone who dares travel the roads. All of this occurs with absolute impunity.

In 1992, the army targeted prominent critics of the *de facto* regime and well known Aristide supporters. For example:

- Gunmen believed to be members of the Anti-Gang Investigations Service of the Port-au-Prince Police (Anti-Gang), a branch of the army, broke up a political meeting on January 25, and shot and killed Yves Jean-Pierre, the bodyguard of René Theodore, leader of the centrist Haitian Communist Party. Theodore was being considered for the post of prime minister in negotiations brokered by the Organization of American States (OAS) that led to an accord a month later.
- On May 26, Georges Izmary, a businessman and the brother of Antoine Izmary, one of President Aristide's most vocal supporters and his wealthiest financial backer, was killed by unknown assailants. The next week, police attacked the funeral procession, beating mourners who were chanting pro-Aristide slogans and arresting as many as ten.

- Jackson Bien-Aimé, Mayor of Cerca Carvajal in the Central Plateau, was arrested and held in prison overnight in December 1991 and released after the local bishop intervened. Elected on the ticket of the National Front for Change and Democracy (FNCD), President Aristide's movement, Bien-Aimé was arrested again in February 1992 and, after a beating, was released the same day.

If the *de facto* regime has been uninhibited about terrorizing well known Haitian figures, its campaign against the rest of Haiti's civil society, which had grown rapidly following the downfall of the Duvalier regime in 1986, has been systematic and ruthless. On the first day of the coup, ten radio stations were destroyed or shut down. Radio is by far the most important news medium in the country. By the end of 1992, only two of those stations, Radio Lumière and Radio Caraïbes, had resumed broadcasting. The eight that remain closed are Radio Cacique, Radio Tèt Ansanm, Radio Antilles, Radio Haiti Inter, Radio Port-au-Prince, Radio Galaxie, Radio Plus and Radio Voix du Nord. Only 8 of 15 Port-au-Prince radio stations are broadcasting news, and they restrict themselves to topics that are not offensive to the regime. Outside the capital, journalists have been intimidated, arrested and beaten by section chiefs. Few correspondents are still working in the countryside; those who are limit themselves to pro-government or noncontroversial reporting. Journalists who have faced retaliation for their professional activities include the following:

- Sony Estéus, a reporter for Radio Tropic FM, was arrested by plainclothes police while covering a religious ceremony that turned into a pro-Aristide rally in Port-au-Prince on April 12. He was held for five hours in the Anti-Gang detention center, where he was forced to lie on his stomach while he was beaten with sticks on his back and buttocks. He suffered fractures in his left arm and middle finger and sustained head injuries.
- On May 22, Voice of America correspondent Guy Delva was attacked while he covered an anti-government student demonstration in Port-au-Prince. Four men in civilian clothing accused him of advocating the return of Aristide and one of them beat him with a rifle butt.

Military violence has been aimed at pro-Aristide elected officials, rural development or peasant organizations, neighborhood or community associations, trade unions, and literacy, pro-democracy, students' and women's groups. This violence has thwarted the ability of many groups to meet openly or

to meet at all. Leaders and members of these organizations have been hunted down and arrested, tortured or killed by soldiers and section chiefs. For example:

- Members of the *Tèt Kole* (Heads Together) national peasant movement in Beauchamp in the northwest have been viciously and deliberately persecuted. In one gruesome yet not unusual incident, the local section chief in Beauchamp, Jean-Baptiste, filled the mouth of a 70-year-old *Tèt Kole* member with rocks and clapped his hands together on the man's face, knocking out his remaining teeth. The same section chief beat and tortured two other *Tèt Kole* members in his home in the "djak" position, in which the hands are tied together, the knees are pushed up, and a stick is wedged between the arms and legs in a forced fetal position. *Tèt Kole* member Elicier Jean of Beauchamp was badly beaten by several section chiefs and deputies in February, and died a week later of his wounds.
- The Papaye Peasant Movement (MPP), an organization that supports self-help agricultural cooperatives, has virtually ceased all activities. Its headquarters in Papaye in the Central Plateau were looted and destroyed on October 1, 1991, and its members have been targeted since the first days of the coup.
- In May and June 1992, numerous demonstrations by high school and university students in support of deposed President Aristide were violently suppressed by the Haitian army. Prohibited by the military authorities from staging protests in the streets, the students held demonstrations in their classrooms and schoolyards, only to face gunfire, beatings, arrests, and tear gas. In one incident, Professor Camille Chalmers was arrested along with seven or eight students on May 20, when soldiers stormed the Faculty of Human Sciences. He was tortured in the Anti-Gang detention center in Port-au-Prince. Five soldiers repeatedly beat him with the butts of rifles and a metal chair. The soldiers boxed his ears and beat him with fists. The students reportedly were not beaten in detention. They were all released two hours later.

- On July 15, as *de facto* Prime Minister Marc Bazin was being sworn into office, soldiers attacked an anti-regime student demonstration at the medical school, shooting, beating and arresting dozens of students.
- Following a wave of armed attacks on soldiers in the capital in late July, army roadblocks were set up throughout Port-au-Prince. On August 3, Robinson Joseph, a school teacher and former news editor of Radio Lumière, was killed by two bullets to the head by a uniformed police officer at a roadblock, reportedly as he backed his car away to avoid the long line of cars that had formed.

The Catholic Church has come under fierce attack since the coup. Priests and nuns, especially those suspected of being supporters of President Aristide or who are active in peasant organizing, community development or monitoring human rights, have been threatened, arrested and beaten. Protestant churches and groups that have become strongly identified with social activism and development have also been attacked.

A September 1992 human rights report by the Karl Leveque Center lists over 75 religious workers who have been victims of military repression since the coup. Of the 42 priests included in this list, eight were arrested, three were beaten, ten were forced to abandon their parishes due to threats, 14 were pressured or threatened by armed soldiers during mass, and six had their churches searched.

### **The Right to Monitor**

That a number of human rights monitoring groups have been able to continue to function is more a tribute to their courage and persistence than to any tolerance on the part of the junta. At the end of 1991, human rights monitors were among the first victims of the military regime, facing arrests, assaults, threats and intimidation.

Msgr. Willy Romulus, Bishop of Jérémie and President of the Catholic Church's Justice and Peace Commission, had his home searched and ransacked by soldiers on August 17, 1992. On September 20, he was briefly detained at a military roadblock upon returning from a trip abroad, and was verbally assaulted and harassed at military roadblocks over the next several days. On September 24, he was threatened with death by a soldier and four armed, plainclothes men who went looking for him at a parish house in nearby Les Irois where he was spending the night.

Other members of the Justice and Peace Commission were similarly persecuted. On June 6, soldiers arrested Father Gilles Danroc, the Coordinator of the Justice and Peace Commission and a French national. Father Danroc was arrested along with 14 lay persons who were holding a religious meeting in La Chapelle that

the soldiers claimed was "prohibited," even though Father Danroc had previously advised the local magistrate of the meeting. Father Danroc was accused of being a "Lavalas communist" ("Lavalas" is the name of President Aristide's political movement).

Although he wished to remain with the other detainees, Danroc was released under pressure the following day, after being led to believe that the others, including a pregnant woman, would be beaten if he insisted on staying. They were then tortured anyway in the office of the major in charge of the St. Marc military jail. They were forced to lean against the wall on their toes, supported only by their fingers, and beaten with clubs on the back and buttocks. They were also beaten on the soles of their feet. They were released on June 7.

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

The U.S. commitment to the return to power of the Aristide government seemed to soften throughout 1992, while efforts to stem the flow of Haitian boat people intensified. To justify the forcible return of many and ultimately all of the boat people, the Bush administration repeatedly minimized the human rights catastrophe in Haiti. Although the administration formally supported the initiatives of the Organization of American States, including by adopting a trade embargo directed against the military regime, it failed to use its considerable influence in Haiti to back OAS initiatives, to call for an end to the ongoing violent abuses, or to press for the reinstatement of President Aristide.

The Bush administration's treatment of Haitian boat people is by far the most troubling element of its human rights policy toward Haiti. Pursuant to an agreement reached between the Reagan administration and former Haitian dictator Jean-Claude Duvalier, the U.S. Coast Guard continued to interdict Haitian boat people in the aftermath of the coup. In November 1991, a federal court in Miami issued an injunction blocking the further return of Haitian refugees because of deficient screening procedures that had determined only 3 percent of those interviewed to be potential political refugees. Boat people thus were collected at the U.S. naval base at Guantánamo, Cuba, where screening proceeded in a more deliberative atmosphere. The result, coupled with improved training of adjudicators by the U.S. Immigration and Naturalization Service (INS) and a conscious effort to break the State Department's monopoly on the information reaching them, substantially improved the quality of screening interviews. By early January, INS sources indicated that 70 percent of new arrivals at Guantánamo were found to have a "credible fear of persecution" if returned to Haiti. Repatriations of "screened-out" Haitians began again on February 3, 1992 when the Supreme Court lifted the stay that had been imposed by the federal judge in November 1991. Over the next six weeks, nearly 8,000 boat people were returned to Haiti.

When Coast Guard cutters carrying the repatriates reached the dock in Port-au-Prince, they turned over to the Haitian authorities the ships' manifests containing the name, age and hometown of each returnee. Many if not most of the returnees were

fingerprinted and some were photographed by Haitian military officials.

Flight from Haiti continued at high levels during the spring as the Haitian military consolidated its rule. Toward the end of May, the population at Guantánamo reached what the administration said was capacity—12,000 residents. On May 24, President Bush issued Executive Order 12807 which ended all screening of Haitians intercepted on the high seas. Under the new order, all boat people intercepted at sea began to be returned directly to Haiti regardless of claims that they would face persecution, in direct violation of the principle of *nonrefoulement*—the international legal principle that forbids the return of an individual to the country where he or she faces a well-founded fear of persecution. This stood in contrast even to the 1981 executive order that had launched the Haitian interdiction operation, which had guaranteed, if only in writing, that "no person who is a refugee will be returned without his consent." The new order also made explicit the administration's position that U.S. international legal obligations under the U.N. Protocol Relating to the Status of Refugees "do not extend to persons located outside the territory of the United States."

The administration's interpretation of the Protocol's prohibition on forced return of refugees is at odds with the great weight of international legal authority and the opinion of refugee experts—including the United Nations High Commissioner for Refugees—and has been challenged in the U.S. courts by refugee advocates. The issue is now before the U.S. Supreme Court, which has accepted the administration's appeal of a July 29, 1992 decision by the Second Circuit Court of Appeals in New York. The majority in the Second Circuit had found that the "plain language" of the Immigration and Nationality Act indicated that its prohibition on forced return of refugees applied to U.S. agents on the high seas as well as those within the United States.

Since President Bush's May 24 executive order, Haitians seeking refuge in the U.S. have had only one option—to apply to the In-Country Refugee Processing program in Port-au-Prince. Until October 1992, would-be refugees had to apply at the U.S. consulate. Since then, the embassy has contracted the International Organization for Migration, a nongovernmental organization, to undertake the refugee processing in offices outside the consulate, in the Banque National de Paris. The program has established such a high threshold for approval and requires such extensive documentary proof from would-be refugees that few Haitians qualify. Since the program's inception in February through November 13, only 253 of the more than 2,560 who have been adjudicated out of some 6,000 applicants had been conditionally accepted; 97 of these are pending the results of medical examinations. Many if not most have already experienced arrest or beatings by the military. Those who cannot show such actual persecution are routinely turned down. For those in hiding who are reluctant to travel to Port-au-Prince, the consular officials theoretically will consider traveling to them on a case-by-case basis.



Although the U.S. accepts refugees through in-country programs in Cuba, Vietnam and the former Soviet Union, it has never made it the exclusive option for persecuted individuals from these countries. Given the stark contrast in the results of the screening in Port-au-Prince and Guantánamo, the in-country processing does not vitiate the clear violation of the principle of *nonrefoulement* inherent in the summary repatriation ordered by President Bush.

The administration also has tried to justify summary repatriation by claiming that no repatriate has faced persecution. The basis for this claim is State Department and INS surveys conducted of some 2,500 repatriates before screening ended. These surveys were deeply flawed since, whether by design or negligence, they excluded repatriates with the greatest risk of persecution—the class of Haitians who were being "screened in" at Guantánamo at the time the surveys were conducted but thereafter would be summarily returned to Haiti, and those who, having been returned to Haiti after being "screened out," were too fearful to meet with U.S. investigators. Even those who were willing to be included in the surveys were often interviewed publicly, at times in the presence of soldiers, in circumstances that strongly discouraged them from describing the persecution they face.

The conclusions reached by the State Department and the INS notwithstanding, many Haitian refugees have been arrested, imprisoned or otherwise persecuted after being returned to Haiti. Reports of persecution of refugees fall into several categories. Many "double-backers"—Haitians who set to sea a second time after being returned by the Coast Guard—have reported retaliation by Haitian authorities for having fled. INS officials in Guantánamo found some of these stories so persuasive that they admitted such Haitians to the United States.

The best-documented story of persecution of returnees is the case of 154 people who were arrested by Haitian police on August 14, shortly after being repatriated by the U.S. Coast Guard. An Associated Press report said the "roundup took place minutes after the U.S. cutter Confidence dropped off the Haitians at a Port-au-Prince dock." According to the Haitian police, the repatriates were questioned about the reported hijacking of the boat in which they had been attempting to flee. Police the next day said that all but six had been released. An August 25 report noted that one was still in police custody.

Americas Watch believes that arresting entire boatloads of people for questioning amounts to penalizing people for leaving Haiti. By forcibly returning Haitians without screening for possible refugees, the United States becomes complicit in such practices.

Several bills seeking to address the plight of Haitian refugees were introduced in Congress in 1991 and 1992. These ranged from one granting Temporary Protective Status to all Haitians interdicted by the Coast Guard, thus granting them temporary admission to the United States, to another that would have required U.S. officials to show that returnees would not face persecution before forcibly returning them. None has attracted

broad support.

Apparently to avoid contradicting its dubious assertions that summarily returned boat people face no danger in Haiti, the administration has shied away from the strong public criticisms of abuses in Haiti that had characterized its initial response to the coup—until the boat people started fleeing a month later. Still, when army violence has threatened diplomatic efforts to resolve the political crisis in Haiti, the Bush administration has spoken out. Its strongest reaction came at the beginning of 1992 in response to the above-described police attack on a political meeting and the killing of Yves Jean-Pierre, the bodyguard of René Theodore, who was being considered for the post of prime minister in OAS-brokered negotiations. State Department spokesman Joe Snyder read the following statement at a press briefing on January 27:

Those who have taken power in Haiti have claimed that they support a return to democratic rule. However, Saturday's brutal attack on a peaceful political meeting does nothing but impede the restoration of constitutional rule. The regime should know that restoring democracy is the only way to end Haiti's political and economic isolation. In response to this event we will recall our Ambassador to Washington to discuss its implications for U.S. policy. We call on the Haitian army and the *de facto* government to bring to justice those who are responsible for this crime.

The ambassador returned to Haiti in February, as the OAS-brokered negotiations reached an accord.

On August 19, while a high-level OAS delegation was in Haiti, the bullet-riddled bodies of three Aristide supporters were found at a Port-au-Prince hospital morgue. They had been arrested two days earlier for hanging Aristide posters. The U.S. embassy released a statement in response saying that it had received "credible reports of blind killing, harassment, illegal searches, arrests without warrant, unjustified detention, and mistreatment of prisoners....It is the responsibility of Haitian authorities to condemn these assassinations, to act promptly to initiate a thorough investigation, and to bring the guilty to justice."

In the immediate aftermath of the September 1991 coup, the Bush administration reacted swiftly with a number of forceful statements, symbolic gestures, and concrete actions, including the suspension of all government-to-government assistance and trade with Haiti as part of the OAS-imposed hemisphere-wide economic embargo. The administration also froze all Haitian government assets in the United States. Only humanitarian assistance, essential foods and medicines were exempted from the embargo.

The embargo has been a blunt instrument. Since the military was in the best position to control contraband entering Haiti despite the embargo, its members were able to profit from shortages of basic commodities while poorer Haitians faced serious deprivations. The embargo's effectiveness was further undermined

by the failure to prevent shipments of oil—a critical commodity for the army—from arriving in Haiti. Still, President Aristide and many of his supporters endorsed the embargo—and urged its strengthening—as the best available method for pressuring the military, as well as an important symbol of international support for Aristide's return to office. However, on February 4, the State Department announced that the U.S. would allow case-by-case exemptions to the embargo for assembly factories, many owned by American businessmen, that use cheap Haitian labor to assemble garments and electronic goods for export to the U.S. The administration justified this action as an effort to revive jobs for the tens of thousands of Haitians who had become unemployed as a result of the embargo and who, the administration feared, would seek to flee to the U.S. Despite its apparent humanitarian intent, the softening of the embargo was troubling because the *de facto* rulers of Haiti interpreted it as a sign that the U.S. government was less than serious in its support for a return to democracy. The administration offered no alternative sanction to rectify this perception.

The U.S. and the OAS have had limited success in enforcing the embargo, which has been described by OAS Secretary General João Baena Soares as "leaky." As many have pointed out, the Bush administration has been far more efficient at intercepting refugees on rickety sailboats on the high seas than at stopping oil tankers from docking at Port-au-Prince. *The Washington Post* reported in June that American products, including items such as auto and computer parts, continued to be delivered to Haiti through third countries. According to Government Accounting Office (GAO) reports in May and September 1992, between November 1991 and September 1992, thirteen ships carrying oil reached Haiti, most from the European Community, which has ignored the embargo. President Bush never enlisted European support for the embargo by engaging in the high-level, personal diplomacy that he employed so successfully to build the Gulf war coalition the previous year. Since some Latin American countries have been either direct sources or transshipment points for oil and other commodities that have reached Haiti over the last year, the OAS must share responsibility for the ineffectiveness of its own embargo.

The State Department's *Country Reports on Human Rights Practices in 1991*, issued in January 1992, included a chapter on Haiti that while factually accurate for the most part, was troubling for its omissions. Its criticism of the Aristide administration was thorough and generally well-founded. However, it understated some of President Aristide's most impressive efforts, such as those designed to eliminate the repressive rural section chiefs and to hold military officials accountable for abuses. On the other hand, the sections on military abuses since the coup lacked the detail that those on the Aristide government contained, and failed to convey the extent of army violence and repression that within the first few days had dwarfed the abuses that had taken place during President Aristide's eight months in office. In some cases, the report misrepresented facts and figures that were collected and made available by courageous Haitian human

rights monitors who, at great risk, continued to work. In fact, the report failed even to discuss the fact that human rights monitors had been persecuted after the coup.

### **The OAS Response**

The Organization of American States has led international efforts to mediate a negotiated reversal of the coup. While it deserves credit for its persistent involvement in the Haitian crisis, it has been repeatedly frustrated in its dealings with the various *de facto* authorities in Haiti.

Perhaps the most disappointing diplomatic failure in 1992 was the collapse of the so-called Washington Protocol, brokered by the OAS and signed by President Aristide and leaders of the Haitian Parliament in Washington on February 23. The agreement provided for the reinstatement of Aristide at an unspecified future date, and included a number of specific human rights provisions—such as a commitment to pass laws requiring the separation of the police force from the army and the establishment of a "citizens' protection bureau."

The protocol also offered an amnesty to the leaders of the coup for political crimes but excluded "common criminals." President Aristide made it clear the day after he signed the accord that he considered senior military leaders who had been responsible for the wholesale slaughter of innocent Haitians since the coup to be common criminals. He included in this category General Raoul Cédras, the commander in chief of the army. Despite Aristide's valid reading of the accord, the Bush administration distanced itself from his interpretation and blamed him for the agreement's ultimate demise.

Americas Watch believes that the issue of army accountability for its crimes should play a central role in international negotiations to restore President Aristide and democracy in Haiti. The issue should not be whether murderers in the Haitian army are to be brought to justice, but how this can be done. While military leaders obviously are not eager to turn over power to a government that intends immediately to try them, the periodic surge of lynchings that has marred Haiti's recent history provides army commanders with a powerful incentive to find a lawful, orderly way to placate popular demands for justice.

One way out of the impasse is suggested by the peace process now under way in El Salvador, where the parties understood that a system of accountability for the abuses of the past decade was necessary to resolve the conflict. Rather than haggle over who should face trial, they reached a compromise in which questions of justice were delegated to two independent commissions, one to document the truth about human rights violations and the other to cleanse the army of its most abusive elements.

In Haiti, then-President Joseph Nerette and then-Prime Minister Jean-Jacques Honorat were opposed to any agreement that allowed for Aristide's return. Although the army at first seemed willing to accept the accord, General Cédras soon hinted that he was not prepared to go along with it. A parliamentary session convened to vote on the accord dissolved into a fistfight in which

some legislators drew guns. Finally, when the Haitian Supreme Court (packed with coup supporters) declared the protocol unconstitutional since it was not signed by Haiti's "constitutional" president, Nerette, the OAS accord died.

In early September, the OAS mediated talks between *de facto* Foreign Minister François Benoit and Rev. Antoine Adrien, the Roman Catholic priest who heads Aristide's ten-member negotiation commission. The *de facto* government agreed to allow the OAS to send a civilian mission in an effort to curb political violence. Ultimately, the OAS was permitted to send only 18 unarmed civilian observers in mid-September. The mission's scale is not as far-reaching as many had hoped; it sought to pursue political negotiations with the junta, and to monitor human rights violations and the distribution of humanitarian assistance. One of the members of the delegation was later expelled from Haiti, reportedly because he was considered by the regime to be too close to the Aristide government in exile. As of November, the mission had made little progress.

The OAS assigned the job of establishing a monitoring presence in Haiti to the Unit for the Promotion of Democracy, a small office created less than two years ago. The officials sent to the field have no experience in monitoring human rights violations and most do not speak Haitian creole. The Inter-American Commission on Human Rights (IACHR), which has conducted this kind of work since 1959, was given no role in the implementation of the latest agreement.

On its own, the IACHR, one of two human rights bodies of the OAS, nevertheless monitored human rights violations in Haiti in 1992. The IACHR sent a mission to Haiti in December 1991 and published its findings in its annual report released in February 1992. The Commission plans to send an exploratory mission to Haiti in December 1992 and an on-site visit in January 1993; those fact-finding trips will serve as the basis for a follow-up report. The Commission has sent numerous communications to the government protesting abuses and is opening a case on behalf of the family of Georges Izmerly, the slain businessman whose brother was a key financial backer of President Aristide.

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

Americas Watch continues to cooperate closely with the National Coalition for Haitian Refugees (NCHR) in its work on Haiti. In June, we published our fourteenth joint report on Haiti, "Half the Story: the Skewed U.S. Monitoring of Repatriated Haitian Refugees." The report was released one month after the Bush administration announced that it would forcibly turn back all Haitian boat people on the high seas.

Americas Watch sent a researcher to Haiti from early June to the end of August to document nationwide army attacks against the organizations of civil society—peasant unions, grassroots political groups, student associations, the press and the church. The NCHR participated in a two-week mission with the Americas Watch representative in August. A joint report is expected in December.

Americas Watch in 1992 filed two *amicus curiae* briefs before the Second Circuit Court of Appeals in cases concerning Haitian refugees. In one case, a challenge to the incommunicado detention of "screened-in" Haitians, Americas Watch highlighted the international law prohibition on prolonged incommunicado detention and noted many instances in which the U.S. State Department had condemned similar detention in other countries. In the second case, challenging the administration's executive order on summary repatriation, Americas Watch noted the deficiencies in the State Department and INS surveys used in part to justify the repatriations.

## MEXICO

### Human Rights Developments

In contrast to the political climate of just a few years ago, in which human rights in Mexico provoked little governmental, public or media interest, the topic of human rights pervaded public debate in 1992 and prompted significant nationwide governmental and non-governmental activity. Yet, the human rights landscape in Mexico continued to be marred by cases of torture; election-related violence, including extrajudicial killings; limitations on the right of assembly of workers, peasants and indigenous peoples; attacks on journalists; and impunity for those responsible for all these acts.

According to credible reports received by Americas Watch, serious human rights violations continued to be committed by Mexican police in 1992. For example, on August 2, San Luis Potosí State Judicial Police agents shot Magdaleno Barrón with a high-powered rifle. Barrón was attempting to flee after the police threatened to "let him have it" when he asked them why they were detaining his companion, Juan García. Bystanders who witnessed the shooting were dispersed by gunfire, and the police fled from the scene. Barrón was not arrested; he died in a hospital the following week.

Another serious case involved the torture of 17-year-old Pablo Molinet, from Salamanca, Guanajuato. Molinet was arrested on March 24 by state and federal police after he found his family's maid dead in their kitchen. He was held incommunicado, tortured, and forced to confess to the crime. Immediately following the arrest, police and prosecutors publicly announced that Molinet murdered the woman as part of a satanic cult ritual. The basis for the accusation was that the youth, who was educated in Mexico City, writes poetry and has quotations from Gabriel García Márquez painted on his bedroom wall. Americas Watch is concerned not only about the use of torture to extract a confession, but also about Molinet's right to a fair trial in light of the prejudicial statements made to the press by the authorities.

Partisan violence continued to haunt Mexico's elections. Following the hotly contested July 12 gubernatorial race in Michoacán, a stronghold of the opposition Democratic Revolutionary Party (PRD), four PRD members were machine-gunned to death in an ambush near the town of Tiquicheo. Claiming that the killings were politically motivated, the PRD filed a complaint with the National

Human Rights Commission (CNDH), the governmental human rights agency. According to PRD reports, between July 27 and October 16 five other party activists were killed in Michoacán in election-related incidents, and PRD deputy-elect Wilburth Rosas's house was fired on.

Individuals concerned with the integrity of the electoral process expose themselves to other dangers as well. On September 13, Michoacán-based researcher and election observer Morelos Marx Madrigal Lachino was kidnapped in Mexico City by two armed men wearing caps like those often used by police. The kidnapping occurred as he was heading for the airport to fly to Ecuador to attend a religious conference. Madrigal was held incommunicado, beaten and interrogated for three days about his ties to the PRD and the non-partisan Convergence of Civil Organizations for Democracy, which had coordinated independent election monitoring in Michoacán. He was then dumped, blindfolded, on a Mexico City street.

Another violent election-related incident occurred in the border town of Matamoros following elections in the Tamaulipas state. In those elections, the two major opposition forces, the National Action Party (PAN) and the Party of the Democratic Revolution, supported a single gubernatorial candidate in a rare alliance. On November 11, the evening on which election results were to be released, citizens assembled outside the Electoral Committee office clashed with anti-riot police; during the melee, the Electoral Committee office was set on fire with Molotov cocktails and all the recently cast ballots were burned. Both the PAN and the PRD blamed the government and the ruling PRI party for the incident, arguing that those in power stood to benefit from it more than the opposition. The PRI and the government, for their part, blamed the PAN and the PRD. Authorities detained 30 people allegedly involved in the incident, including Juan Gutiérrez Vázquez, a local PRD activist who claims that he was beaten by police forces. The Federal Attorney General's office requested that the Foreign Relations Ministry seek the extradition of the son of the coalition's gubernatorial candidate and the PAN candidate for mayor of Matamoros, both of whom crossed the border to the United States, for their presumed role in the Electoral Committee incident.

Workers in Mexico continue to risk physical violence when they attempt to exercise their rights of freedom of expression and association during labor disputes. In July and August, workers at the Volkswagen plant in Puebla struck in an attempt to block a reorganization of the work force that would set higher productivity standards. A controversial decision by the government's Conciliation and Arbitration Board supported Volkswagen management by throwing out the collective contract. This move triggered the firing of the plant's 14,000 workers and the rehiring of most workers under terms more favorable to Volkswagen. On August 20, police with trained dogs and billy clubs attacked dissident workers who were demonstrating peacefully near the plant. Twelve protesters were injured.

Similar abuse was visited upon 120 members of the Democratic Peasants Union (UCD) who demonstrated peacefully against layoffs

and inadequate severance payments in the square in front of the governor's palace in Mérida, Yucatán on June 25. As more than 200 police stood in the square, members of the government-supported National Peasant Confederation burst in and broke up the demonstration. The police then arrested nearly 50 demonstrators, all from the UCD, including UCD leader Severino Salazar Castellanos, who was beaten by uniformed state and local police, held incommunicado for four days at the local penitentiary and, according to his wife, tortured. He reports that Yucatán authorities have offered to release him if he would claim responsibility for the violence, but he has refused, and is now being held without bail on multiple charges. Despite a nine-day hunger strike by his wife and an appeal to the National Human Rights Commission, Salazar remains in detention.

Others involved with popular organizations also expose themselves to violence. On October 15, the body of José Luis Rodríguez Morán, a social worker and adviser to the San Juan Copala Handicrafts Cooperative, was found on a median strip near his home in Mexico City. Although the corpse had stab wounds, there was no blood at the site where it was found, suggesting that the body had been brought there after the killing. In the six months prior to his death, Rodríguez Morán had received anonymous telephone calls telling him to "pull out" or be "hurt"—apparently references to his work with the cooperative. Mexico City police detained two suspects, a man and a woman. Reports indicate that the latter was held incommunicado for two days following her arrest. After two days of physical mistreatment and intimidation, she was induced to sign a confession which she subsequently retracted. Both defendants remain jailed.

Indigenous persons encounter violence and unjust treatment when they seek to exercise their rights to freedom of expression and association. For example, on December 26, 1991, three hundred indigenous peasants began a peaceful demonstration at the central square of Palenque, Chiapas, demanding the elimination of corruption in the civil registration process, tax reductions, interpreters in the prosecutor's office, and an end to arbitrary detentions. After two days, 200 agents of the Chiapas Public Security Police and the State Judicial Police forcibly removed the protestors. Some 103 demonstrators were arrested and five were seriously injured as a result of beatings with clubs. Those arrested were held incommunicado without food or water for 30 hours and, they report, threatened with torture if they refused to cooperate. Most were then released. Nine leaders were retained in custody and charged with crimes from Chiapas's new penal code, including sedition and rioting. Eight were released a month later; the ninth was released several months later.

Attacks and intimidation continue to plague journalists in Mexico. On November 13, journalist Ignacio Mendoza Castillo was shot dead as he returned home from a protest gathering of journalists at the Foreign Journalists Club. Mendoza Castillo, publisher of *La Voz del Caribe*, a newspaper in the southeastern state of Quintana Roo, had denounced a pattern of intimidation directed at him by the governor of that state. The threats and



intimidation against Mendoza Castillo were severe enough to prompt him to relocate in Mexico City. Among the assaults was one in which bullets were fired at Mendoza Castillo's sons by unidentified assailants. Mendoza Castillo had denounced these threats to the National Human Rights Commission, and had participated in various activities to bring the plight of journalists in Quintana Roo to national attention. According to Mendoza Castillo, his denunciations to Interior Ministry officials were ignored.

In mid-July 1992, Carlos Menéndez Navarrete, director of the independent *Diario de Yucatán*, was the target of two attacks following his newspaper's critical coverage of the government's handling of the UCD demonstration led by Severino Salazar Castellanos. Early on July 21, unidentified persons pelted Menéndez's house with stones, attempted to force open the front door, and damaged two automobiles. The following week, a bomb was found on the premises of the *Diario de Yucatán*. Police have released no information about the progress of their investigation.

In response to petitions from journalist associations, the federal government's human rights office, CNDH, undertook to investigate 55 attacks on journalists. By late 1992, recommendations were issued in 15 of the cases but, according to the CNDH, none of the recommendations has been implemented in full.

In August, the CNDH issued its first recommendation in a case of media censorship. The grievance was filed by two members of the Mexican Human Rights Academy, Sergio Aguayo Quezada and Oscar Ortiz, who were cut off the air by IMEVISION, a state-owned television station, in August 1991 during a question-and-answer segment of a program about non-partisan election monitoring. The CNDH found the censorship was without legal basis, and recommended that IMEVISION broadcast the complete interview and investigate and discipline the employees who were responsible for interrupting the transmission. In late August, IMEVISION aired the program in full but, according to Ortiz, it still has not investigated or sanctioned the station officials who were responsible for the censorship.

The problems of police abuse, electoral violence, restrictions on the right of assembly, and attacks on journalists are compounded by the impunity which those responsible for these crimes enjoy. This lack of criminal prosecution for abusive officials continues to dominate the human rights panorama and undermines the efforts of governmental and non-governmental groups to advance the protection of fundamental rights.

The government's failure to act in response to the recommendations of the CNDH highlights the problem of impunity. The CNDH, created in June 1990, lacks prosecutorial authority and is thus limited to making nonbinding recommendations to state and federal governmental agencies. In June and again in September 1992, the CNDH blasted numerous state and federal government agencies for failing to comply fully with 113 out of 289 recommendations, including many calls for investigation and prosecution of those responsible for human rights abuses. Fourteen

of these recommendations were in homicide cases—including several multiple murders and the slaying of a Ford Motor Company union activist—and three involved disappearances during the tenure of current President Carlos Salinas de Gortari.

Twenty-five of the unfulfilled recommendations were directed at the Federal Attorney General's office and pertain to agents of the Federal Judicial Police the CNDH found were involved in torture, illegal detention, and other serious abuses. Notorious among them is the March 24, 1992 recommendation calling for the prosecution of more than a dozen people, including 11 members of the Federal Attorney General's staff, alleged to have been involved in the January 1990 murders of Hector Ignacio Quijano Santoyo and his brothers, Jaime Mauro and Erick Dante, as they surrendered to Federal Judicial Police at their home near Mexico City.

Other recommendations were unfulfilled by state authorities. For example, the disappearance of José Ramón García Gómez on December 16, 1988 remains unexplained even though President Salinas personally asked the CNDH to investigate. The CNDH has issued two recommendations in the case, the second of which called on Morelos Governor Antonio Riva Palacio to apprehend the former State Judicial Police director, Antonio Noguera Carvajal, and the former state political investigation chief, and to prosecute two men charged as accomplices in the crime. Noguera fled before he could be arrested. On February 10, 1992, Daniel Estrella Valenzuela, a member of García Gómez's opposition Revolutionary Workers Party, was appointed Special Prosecutor to investigate the case. On March 20, Estrella Valenzuela and other officials took off in a helicopter to try to locate and arrest Noguera Carvajal in a mountainous region of the Guerrero state. The helicopter crashed, reportedly due to a power loss, killing three and injuring Estrella Valenzuela and another. The Revolutionary Workers Party of which Jose Ramon Garcia was a member officially requested that the CNDH investigate the crash, noting that the helicopter's engine was new and that its pilot had received death threats from the Federal Judicial Police.

The official response to the July 1991 slaying of Ciudad Juárez journalist Víctor Manuel Oropeza Contreras was similarly inadequate. The CNDH recommended that Chihuahua state authorities preliminarily investigate officials alleged to be responsible, including department chiefs and agents of the state attorney general's office. To date, no action has been taken.

Despite the often disappointing official response to its work, the CNDH maintained its high profile during 1992. To date, it has issued hard-hitting recommendations in more than 300 cases. In January, Article 102 of the Mexican Constitution was amended to grant the CNDH independence from the Interior Ministry. But at the same time Article 102 shrank the scope of the CNDH's mandate. Before passage of the amendment, the CNDH voluntarily chose not to investigate cases involving labor rights, irregularities during elections, and cases under the jurisdiction of courts; now it is constitutionally prohibited from doing so.

In addition, each of Mexico's 31 states has until January

1993 to set up a state human rights commission to investigate grievances about abuses by state authorities. Once a state establishes such a commission, the CNDH will lose primary jurisdiction to investigate abuses in that state, though it will retain the power to review alleged failures of the state commissions to adequately investigate claims of abuse. As of late October 1992, state commissions were operating in Baja California, Coahuila, Colima, Guerrero, Hidalgo, Morelos, Nayarit, Sonora, Tamaulipas and Veracruz. This diffusion of authority to investigate human rights abuses will make it difficult for watchdog non-governmental groups to monitor state government responses to human rights abuses.

Other human rights initiatives taken by the Mexican government in 1992 include the appointment of former federal deputy and prominent Democratic Revolution Party member Leonel Godoy as special prosecutor to investigate the unresolved 1988 assassinations of Xavier Ovando and Román Gil, coordinators of the election monitoring effort for the 1988 presidential bid of opposition candidate Cuauhtémoc Cárdenas; the efforts of the Federal Attorney General's office (PGR) to professionalize the Federal Judicial Police and Federal Prosecutors offices; and the release from jail of 473 indigenous persons in 12 states.

### **The Right to Monitor**

The activities of both non-governmental and governmental human rights organizations throughout Mexico increased significantly in 1992. Almost 200 independent non-governmental human rights monitoring and advocacy groups now flourish in more than a dozen of Mexico's 31 states, an increase from 65 such groups in 1991. Thirty of these groups have joined together in a national human rights network, "All Rights for All," to defend and publicize urgent cases and to exchange information and resources on issues of civil, political, labor, women's and indigenous rights.

Some of these human rights activists faced threats for their work in Mexico. María Teresa Jardí Alonso, a lawyer and one of Mexico's best known human rights activists, received several written death threats in October. Jardí was responsible for exposing human rights abuses as part of the investigation into the July 1991 murder of Dr. Víctor Manuel Oropeza. At the time she was Attorney General Morales Lechuga's human rights staff officer. In 1989, while working for the Mexican Human Rights Academy, she pressed for the prosecution of Miguel Nazar Haro for his involvement in torture, political disappearance and other human rights abuses committed between 1977 and 1981 while he was chief of the Federal Security Directorate, a secret police force under the Interior Ministry. Jardí's investigation followed Nazar Haro's appointment as head of a new intelligence division of the Mexico City Judicial Police. He resigned shortly thereafter, amid public outcry and following the disclosure that he was involved in wrongdoing in the United States. Her actions with respect to the Nazar Haro case, though, cost Jardí her job at the Mexican Human Rights Academy.

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

Despite strong relations between Mexico and the United States, human rights issues were not the focus of bilateral relations in 1992. The Salinas and Bush administrations worked together to resolve the remaining contentious issues in a North American Free Trade Agreement (NAFTA), which was initialed by the Mexican, U.S. and Canadian governments in October and is awaiting ratification. The agreement contains no provision on human rights, despite the obvious relevance of labor rights in the context of trade negotiations.

As a result of these close relations, each government hesitated to criticize the other about human rights violations. Thus, although the State Department's *Country Reports on Human Rights Practices for 1991*, issued in January 1992, identified numerous serious violations but also praised the Salinas administration's effort to promote human rights. By adopting the position that President Salinas has Mexico's human rights situation under control, the Bush administration failed to seize upon the improved bilateral relations to press for genuine improvements in human rights conditions. Similarly, Mexico failed to capitalize on the improved relations to raise its concerns about U.S. mistreatment of Mexican nationals who illegally enter the U.S. (See the chapter on the United States for a description of the human rights violations committed by the U.S. Immigration and Naturalization Service against undocumented migrants at the U.S.-Mexico border.)

The one serious glitch in bilateral relations occurred in June when the U.S. Supreme Court issued a ruling in *United States v. Alvarez Machain*. The Court held that the extradition treaty between the United States and Mexico did not explicitly bar U.S. government agents from kidnapping a Mexican citizen in Mexico for prosecution in the United States, even though Mexico formally protested his abduction. The Court's ruling, which patently misconstrues international law, legitimized the kidnapping and forced transport of Humberto Alvarez Machain to the United States to stand trial for complicity in the 1985 torture and murder of U.S. Drug Enforcement Administration (DEA) Special Agent Enrique Camarena Salazar.

Mexico vociferously protested the ruling in public but tempered its diplomatic reaction, leaving the impression that its response was intended to quell domestic and Latin American outrage rather than to weaken its ties with the United States. Hours after the ruling it suspended anti-narcotics cooperation with the United States, but provisionally reestablished it the following day. Mexico demanded that the United States renegotiate the extradition treaty, but backed down after President Bush promised that U.S. agents would not carry out future abductions in Mexico. Mexico also required clarification of the role and authority of the 39 DEA agents working in Mexico and announced that it would no longer accept U.S. anti-narcotics law enforcement economic assistance.

However, anti-narcotics cooperation was not interrupted. DEA agents continue to operate in Mexico and, according to the State Department, the termination of U.S. law enforcement assistance had been discussed for a year prior to the cut-off announcement and was a result of Mexico's ability to finance the program itself.

(During fiscal year 1992, Mexico received \$20 million in anti-narcotics law enforcement assistance, but is slated to receive only \$4.5 million in fiscal year 1993. In addition, through transfers and leases, U.S. aircraft will continue to be made available for Mexico's counter-narcotics activities.)

Americas Watch maintains that the bilateral goals of the United States and Mexico to integrate their economies and combat drug trafficking must be pursued with consistent attention to the protection of human rights on both sides of the border. The United States and Mexico should use their close relationship to press actively for human rights improvements on both sides of the border.

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

Americas Watch filed an *amicus curiae* brief with the United States Supreme Court in the *Alvarez-Machain* case in which the Court examined the legitimacy of the kidnapping by U.S. agents of a Mexican national in Mexican territory and his subsequent prosecution in U.S. courts. In the *amicus* brief, Americas Watch urged that the kidnapping be declared illegal because the U.S. action interfered with Mexico's duty to protect the human rights of its citizens in criminal prosecutions.

In November, representatives of Americas Watch met with senior federal government officials and representatives of the CNDH, attended a meeting of the nationwide non-governmental human rights network, All Rights for All, and participated in a press conference organized by the Planeta publishing house to promote the release of the first three Americas Watch reports on Mexico in a Spanish-language edition. Work continued on the forthcoming Human Rights Watch/Yale University Press book on human rights in Mexico, and articles on human rights conditions in Mexico and the human rights implications of the *Alvarez Machain* case are scheduled for publication in upcoming volumes of *Current History* and the *World Policy Journal*.

## **PERU**

### **Human Rights Developments**

A dramatic blow against human rights was struck on April 5, 1992, when President Alberto Fujimori violated Peru's constitution by dissolving the Congress, suspending the judiciary, jailing members of the opposition and assuming dictatorial powers. He defended this self-inflicted coup as necessary to pursue government reforms, combat widespread corruption and bolster the war against the Shining Path (*Sendero Luminoso*) insurgency.

When President Fujimori took office in 1990, he faced one of the most daunting challenges in Latin America. The economy was in ruins, the cocaine trade was expanding and the Maoist Shining Path had made significant gains in its campaign to destroy democracy. Since the Shining Path took up arms in 1980, at least 26,000 Peruvians have fallen victim to political violence by government and insurgent forces, over 210,000 have become internally displaced and several thousand have been forcibly disappeared.

Peru is among the countries that year after year lead the world in reported disappearances, according to the United Nations Working Group on Forced and Involuntary Disappearances.

Although the coup was condemned abroad, most Peruvians, beset by poverty, widespread corruption and violence, supported it as an extraordinary measure to impose order. The new regime moved quickly to curtail civil liberties and silence critics. Immediately after the coup, 21 journalists were detained and kept incommunicado for several days. The elected leaders of the Senate and House of Deputies were temporarily placed under house arrest, and one prominent senator was beaten by police when he tried to attend a protest meeting in Lima. One member of the American Popular Revolutionary Alliance (APRA) political party, Andrés de los Ríos Bernardini, was forcibly disappeared for 22 days, and upon release reported having been mistreated.

Thirteen members of the Supreme Court, the leadership of the Public Ministry, including the Public Prosecutor, and over 100 judges and prosecutors were later fired. New laws prevented fired officials from appealing their dismissal. Among those sacked were a judge who accepted a writ of habeas corpus on behalf of three jailed police generals and two judges who accepted a writ of *amparo* on behalf of other judges protesting their dismissal. Other judges fired included some noted for their willingness to take up human rights cases. Regime supporters were appointed in their place, leading Americas Watch to conclude that firings were made on completely arbitrary or political grounds, rather than the asserted grounds of corruption.

Despite repeated pledges by President Fujimori to strengthen respect for human rights—including a still-unfulfilled promise to create a National Commission of Human Rights—little of practical value has been accomplished. Nor has his administration taken steps to end the impunity enjoyed by military abusers of human rights. A law doubling the punishment for police convicted of crimes, including human rights violations, was welcome, but failed to address the problem of military personnel involved in similar abuses. Meanwhile, five police agents arrested for killing three youths in custody in 1991 remained in pretrial detention while a jurisdictional dispute between civilian and military courts went unresolved. A police official implicated in the murders remains at large despite an outstanding warrant for his arrest.

Two months after abolishing a law penalizing those who forcibly disappear people, President Fujimori signed a decree on July 2 recriminalizing the abuse and establishing a national registry of detainees and disappeared to be maintained by the Public Prosecutor's office. However, no measure to put teeth into the law—like the creation of a force of independent, civilian investigators or the requirement of public access to the registry—was included. The temporary decriminalization of disappearances may well have done irreparable damage: officials who might have been charged for the thousands of disappearances that took place before July 1992 may now be able to invoke the defense of the "most benign penal law" to prevent prosecution and thus ensure continued impunity for those crimes. Emblematic of

impunity's reign is the case of General José Valdivia Dueñas, implicated in the May 1988 massacre in Cayara of at least 28 people, the disappearance of dozens more and the subsequent murder of nine witnesses. General Valdivia was promoted in January 1992 to Chief of the General Staff of the Armed Forces Joint Command, one of the most powerful posts in the country.

To the best of Americas Watch's knowledge, in 12 years there have been only two cases in which members of the military have been convicted of human rights offenses. One case that merits scrutiny involved the murder of 69 peasants, including six children, in Accomarca on August 14, 1985, by members of four army patrols. Despite evidence and eyewitness testimony linking five officers to the murders, a military tribunal absolved all but one, the most junior, of any crime. In a 1987 decision, the court convicted Sub-Lieutenant Telmo Hurtado Hurtado of "abuse of authority with disobedience" and sentenced him to four years in prison and immediate dismissal from the army. Although Hurtado was sent to the Lima army base where a military prison is located, he was never confined. Indeed, he was never even dismissed from active duty, and was promoted normally.

In a rare move, the General Prosecutor of the Military Supreme Court, General Luis Carnero Debernardi, questioned irregularities in the proceeding and the leniency of the decision and filed an appeal on December 3, 1987. A subsequent army investigation, never made public but leaked to the Lima daily *La República*, found that all five officers and their men engaged in rape, the burning alive of captured peasants, on-the-spot executions, the murder of witnesses and the wanton destruction of houses. Although the case was reopened for investigation in 1988, Hurtado again was the only defendant convicted on the same charges. The others were absolved on the grounds that they were following higher orders. Lieutenant Guillermo Paz Bustamante was absolved of failing to inform his superiors of the deaths of two peasants, on the grounds that the officer "lacked time, was tired and was experiencing a very tense situation." Although the sentence against Hurtado was confirmed and increased to six years in March 1992, the sentence was suspended and the case closed. Hurtado was never dismissed, never served time in prison, and now has the rank of captain.

The second conviction of a military officer in a human rights case was handed down in January 1992, when a military court sentenced retired army major Luis Angel Morillas Céspedes to 15 years in prison for having ordered his subordinates to murder a civilian and hide his body.

Twelve years of counterinsurgency strategy based on granting the military exceptional powers has produced not only the steady growth of insurgency, but also systematic, egregious and continuing human rights abuses coupled with complete impunity for members of the security forces implicated in the abuses. Far from a "soft dictatorship" (*dictablanda*), as supporters have described President Fujimori's rule, this regime is characterized by continued, flagrant abuse of human rights. The Lima-based National Coordinating Committee for Human Rights (*Coordinadora*) has documented 139 unresolved disappearances in the first nine months

of 1992 (the government's special human rights prosecutor recorded an additional 99 cases of forced disappearance during the same period) and 44 extrajudicial executions in the first eight months, all of them attributed to the security forces.

In the department of San Martín, the Catholic Prelate's Office of Social Action registered 125 cases of human rights violations by the army in the first eight months of 1992, including rape, arbitrary detention, disappearance and extrajudicial executions. Human rights groups have also noted an alarming increase in killings that they believe to be carried out by paramilitary groups with ties to the army and intelligence services. In Huancayo, human rights groups believe a paramilitary squad with ties to the army is implicated in the murder of 19 students and the disappearance of at least 12 others since August. Among the hundreds of cases that remain unprosecuted is the paramilitary-style massacre of 15 people in the Barrios Altos district of Lima on November 3, 1991 by plainclothesmen believed to be linked to army intelligence.

The government continues to emphasize the role of civil defense patrols, or *rondas campesinas*, in areas where the Shining Path is active. While some are formed by villagers themselves to protect against guerrilla incursions, others are mandated and controlled by the Army. All have official legal backing, and are authorized to receive defensive weapons. Some patrols have brought relative peace to areas long torn by conflict. However, the use of civilians in counterinsurgency makes them military targets without granting them the protection necessary to prevent retaliation. In rural areas, the highest death tolls are those of patrol members and their families, who often have no access to transportation or medical care for the wounded. In addition, patrols have committed serious human rights violations. In one case, 40 patrollers from the community of Colpar, Junín detained ten peasants in nearby Paccha on February 27 and, according to witnesses, beat them before marching them away. The ten remain disappeared.

In the Apurímac Valley, civil defense patrols have successfully defeated guerrillas, but in their place have permitted a booming trade in cocaine. In some areas, wealthier farmers are funding a paramilitary organization called "The Tigers," which threatens to evolve into a Colombia-style private army and which has been accused of abuses. Farther north, the Army has fostered the expansion of the Asháninka Army, led by indigenous leaders to combat guerrillas. Asháninka units have also been implicated in attacks against peasant families, in an attempt to win back traditional hunting lands.

Immediately after the coup was announced, radio stations, newspapers and magazines were forcibly closed. Television news broadcasts were monitored by military officers who had been stationed in studios under the pretext of providing "protection." One example of increased restrictions on the press was the decision of three post-coup appointees to the Supreme Court to uphold a charge of defamation against Enrique Zileri, publisher of the respected newsweekly *Caretas*, for describing in the magazine a close Fujimori adviser as a "Rasputin." A political candidate for mayor of Lima was similarly charged for calling Fujimori a "cheap



dictator." The court imposed a \$40,000 fine on Zileri as well as restrictions on his movements.

On May 6, Fujimori ordered police to enter the Shining Path women's cellblock in Lima's "Miguel Castro Castro" prison to transfer inmates to another facility. When inmates resisted, a four-day pitched battle ensued, during which prisoners resisted with home-made weapons and guns captured from police. One policeman was reportedly murdered by prisoners after being captured and two more died in uncertain circumstances. Although facts remain unclear, at least 39 prisoners died in circumstances suggesting that excessive force was used. Some may have been killed after surrendering to police. At the very least, the government's refusal to allow independent observers to enter or mediate during the standoff suggests that it did not want witnesses to its actions inside. Americas Watch has called for a public, independent investigation and access to the autopsies of those killed. The Fujimori government has ignored its obligation to provide a serious explanation of the slayings at the prison, and has taken no action to investigate or punish those responsible.

In the weeks after the inmates were transferred, Americas Watch interviewed prisoners in the Chorrillos penitentiary on two separate occasions. Four of the women who survived the clash reported inhumane conditions at Chorrillos beyond the ordinarily appalling ones present in Peruvian detention facilities. Prisoners were prevented from speaking with their lawyers or receiving family visits or packages of clothes, medicine and food. Three weeks after their arrival at the new facility, they had only the clothes they had worn during the confrontation. They were kept two to three to a cell with no opportunity to go outside except to shower briefly once a week. Food was inadequate, and they were prevented from reading, writing, listening to the radio or speaking with national human rights groups. While recognizing the government's obligation to maintain secure prisons, Americas Watch called for humane conditions consistent with security requirements, including family visits, clean clothing, adequate food, medical attention and regular exercise. The appeal has gone unheeded.

The Shining Path attempted to capitalize on the coup by launching a campaign to bring terror to urban Peru, particularly Lima. One independent human rights group noted that there were more guerrilla actions in July, with 293 attacks, than any other month since Fujimori's inauguration in 1990.

According to the Coordinadora, the Shining Path was responsible for at least 482 political assassinations in the first ten months of 1992, with the victims including more than 70 elected and state-appointed officials. Guerrillas continued to target members of shantytown "survival" organizations, like soup kitchens, neighbor associations and mothers' clubs, murdering more than 60 people. In August, the Shining Path killed a Pucallpa reporter and Santiago Jao Gómez, the owner of two radio stations in Barranca, who was also a member of the Popular Christian Party.

Through a network of clandestine and semi-clandestine front organizations, the Shining Path typically seeks to infiltrate

popular organizations, force collaboration and provoke divisions. If organizations resist, the Shining Path attacks installations, executes key leaders, and threatens others. Similarly, when people do not support the Shining Path, guerrillas exact bloody revenge. One victim in 1992 was María Elena Moyano, the 33-year-old vice mayor of Villa El Salvador, a Lima municipality of 300,000. After several months of threats, attacks and murders of women leaders, Moyano led public protests against these terror tactics. On February 15, an assassination squad shot Moyano at a fund-raising barbecue, then blew up her body with dynamite. The Shining Path proudly claimed credit for this crime in its national and international press outlets, on the grounds that Moyano's open activities ran counter to its revolutionary objectives.

On May 22, guerrillas detonated a 660-pound bomb in a banking district, killing one and wounding 15. This was the first of six car or truck bombs of over 600 pounds set off in the capital. Although guerrillas have used car bombs before, the immensity of these explosions marked a horrifying new chapter in the war. All were aimed at civilian targets: an internationally renowned development institution, a television station, a foreign embassy and a school for children of military officers were among the targets. On July 16, a 1,300-pound bomb aimed at two banks killed 22 and left more than 200 wounded in downtown Miraflores, a middle-class Lima municipality.

Far from aberrations, these attacks demonstrate the Shining Path's open contempt for life. As spokesman Luis Arce Borja explained to the German magazine *Der Spiegel* after the bombing:

We know that many innocent people are dying. But history is written with blood. We will never attain power if we are tormented by the deaths. The price is high, but without bloodshed and violence there is no revolution. Our objective is to seize power. Only then will the deaths cease.

True to that vow in October, guerrillas killed 47 people, including 33 women and children, in the Ayacucho village of Huayao, apparently in punishment for forming a civil defense patrol. The insurgents reportedly killed 11 more residents in the neighboring village of Rumi Rumi after President Fujimori visited Huayao in the wake of the massacre.

The size of the "Emergency Zone" placed under military control, with restrictions on movement, assembly and the privacy of the home, diminished in 1992, from nearly half to less than one-quarter of the country. But because those provinces where liberties were restored have such small populations, the number of people affected remained roughly the same, about 50 percent of the country's population.

Yet in important respects, the entire country now lives under "emergency rules." Decree 25475, the anti-terrorist legislation promulgated on May 5, leaves Peruvians virtually unprotected against the abuse of power. Employing a vague definition of terrorism, this law authorizes prosecution of anyone who "provokes anxiety" or "affects international relations" by any means,

including nonviolent ones. The law is written so broadly that journalists and human rights activists could be charged under it because of critical articles or reports, and face prison terms of not less than 20 years. One human rights monitor, José Ramírez García, has been in pretrial detention for three months under terrorism charges because of materials on political violence found in his library. The crime of "apology for terrorism"—an accusation that President Fujimori has leveled frequently at human rights groups—is never defined, but carries a sentence of between six and twelve years imprisonment. Such crimes are to be tried before "faceless judges" in circumstances that seriously violate the right to due process.

A law promulgated on August 13 defined "treason" to include some acts listed in Decree Law 25475, and transferred prosecutions for this offense to secret, military courts. Those convicted in summary courts-martial are subject to life imprisonment and severe restrictions on their subsequent ability to confer with lawyers or receive family visits. The competence and impartiality of military courts is highly suspect. Military judges are not legal professionals but officers drawn from the ranks to serve set terms. According to Peru's military code, they are charged with hearing only cases involving soldiers accused of military-specific crimes, such as negligence or disobeying orders, and thus are ill-prepared to handle their new case load. Other decrees prohibit lawyers from assuming the defense of more than one person charged with either terrorism or treason, a restriction that falls hardest on those living outside urban centers, where there are few lawyers.

In addition, according to Decree Law 25744, police need the permission of only a military court to carry out "preventative detentions" of suspects and hold them incommunicado indefinitely. Since the Treason Law also abolished the right to *amparo* and habeas corpus for those accused of terrorism and treason, citizens can be held for long periods with no legal recourse or access to counsel. Draconian in and of themselves, these restrictions are also alarming because the period of incommunicado detention is typically when detainees are tortured, raped and forcibly disappeared.

If police turn a suspect over to the courts for investigation, the detainee is prohibited from gaining conditional liberty, even when demonstrably innocent. Rather, he or she remains imprisoned while a specially constituted secret trial is held with "faceless" judges and prosecutors. Decree 25728 allows trials for citizens accused of treason or terrorism to be held *in absentia*.

The combined effect of these laws is that anyone can be arrested at any time on charges that no one has a responsibility to make public and held indefinitely. To be arrested under these circumstances means to descend into a legal no-man's land, where the most basic rights vanish.

Ironically, these new severe restrictions on basic rights played no role in the single greatest blow against the Shining Path, the September 12 arrest its leader, Abimael Guzmán, and more

than 50 of his top followers. The arrests were the result of patient, traditional police work by DINCOTE, the specialized anti-terrorism police, not military sweeps or restrictive laws. However, the new restrictions on due process tainted the aftermath of the arrests. The military tribunals used offered no guarantees of independence or impartiality. The proceedings were excessively speedy, with little opportunity for the defendants to put forward a defense or to contradict the prosecution's evidence. The extremely short time to present an appeal—eight hours, on a decision handed to Guzmán's lawyer on a Friday night—made a mockery of the process.

The right of Guzmán and his associates to a fair trial was further compromised by numerous statements made by President Fujimori in favor of conviction and the death penalty before a court decision was announced. The death penalty does not even exist as a punishment under current law except for cases of treason in a foreign war. In addition, President Fujimori threatened to write into law a provision that would allow the state to try convicted leaders for the crimes of alleged followers even after the leaders were incarcerated.

While Americas Watch has consistently and energetically condemned the blatant violations of common Article 3 of the 1949 Geneva Conventions committed by the guerrillas, we have defended the rights of those accused of belonging to the Shining Path to a fair trial.

On June 1, the day after a delegation from the Organization of American States (OAS) led by Uruguayan Foreign Minister Héctor Gros Espiell left Peru, President Fujimori called elections for November 22—more than a month after the October 18 deadline set by the OAS. Although the OAS had resolved that the road back to democracy should be determined through dialogue between Fujimori and the opposition, Fujimori established the date and procedures for the elections unilaterally. As a result, the APRA, Acción Popular, Libertad and the Unified Mariátegui Party—Peru's largest parties—boycotted the elections. New parties and those that received less than five per cent of the vote in the 1990 election were required to collect a minimum of 100,000 signatures in less than two months, placing an undue burden on all but the largest parties. In violation of the Peruvian constitution, Fujimori also postponed municipal elections until January 29, 1993, almost a month after current municipal authorities are scheduled to leave their posts.

Elections were held as scheduled on November 22, with President Fujimori's New Majority-Change 90 coalition winning a slim majority of seats in the congress. As decreed by Fujimori, the Democratic Constituent Congress (DCC) will be unicameral and contain 80 representatives elected to terms ending in July 1995. Its task will be to draft a new constitution and develop a new legislative system. However, Fujimori has decreed that the DCC will have no authority to overturn executive actions implemented since April 5. In summary, the return to popular rule that is supposedly represented by the DCC has occurred without open debate, without the consent of existing political parties, without

full legislative power conferred to the constituent congress, and without any move toward respect for human rights.

### **The Right to Monitor**

Both sides to the Peruvian armed conflict threatened and attacked human rights monitors in 1992. President Fujimori continued to slander domestic and international human rights groups and, in a new and troubling development, initiated criminal proceedings against several human rights monitors under the new anti-terrorist legal norms. Indeed, the use of military courts against human rights monitors does not appear far-fetched in the wake of statements by Fujimori after the capture of Guzmán, when he asserted that Guzmán's campaign of "death and destruction [took place] under the silent, protective cloak of organizations that defend human rights." In addition to being wrong—national and international human rights groups, including Americas Watch, have consistently and energetically denounced abuses committed by armed insurgents—these statements irresponsibly invite violent attacks by the army and its paramilitary allies against monitors. Among the most worrisome cases in 1992 was the forced disappearance of Pedro Yauri Bustamante, a Huaura journalist and town council member known for his defense of human rights. Witnesses indicate that Yauri was detained on June 23 by armed men wearing uniforms who identified themselves as members of DINCOTE. The next morning, neither the local police station nor the office of the Technical Police would accept from Yauri's father a formal complaint denouncing his son's detention. A judge later declared a writ of habeas corpus unfounded. Yauri's whereabouts remain unknown.

As noted above, José Ramírez García, a human rights monitor and writer on political violence from Cusco, has been in pretrial detention since August 17 for photocopying the book *Sendero Luminoso: el movimiento más letal del mundo* (*Shining Path: The Most Lethal Movement in the World*) by Simon Strong. Although the book is fiercely critical of the Shining Path and has not been banned in Peru, the police have charged Ramírez with terrorism based on his photocopying of the book and on his possession of copies of Shining Path literature later found in his home.

Carlos Chipoco, an attorney widely respected for his human rights work, has been charged with apology for terrorism on the basis of a report submitted by the National Intelligence Service (SIN) to a Lima prosecutor which stated that Chipoco had worked for Americas Watch in Washington and was responsible for bringing two cases against Peru to the Inter-American Court of Human Rights, the OAS body whose compulsory jurisdiction Peru has recognized.

The police also made public a list of "suspected Shining Path sympathizers abroad," which included two figures who are well-known for their human rights work: Raquel Martín Castillo de Mejía, currently in political exile in Sweden, who is pursuing a case before the OAS Inter-American Commission on Human Rights for the disappearance of her husband, a human rights lawyer; and Angelica Mendoza de Ascarza, the founder and long-time president of the Ayacucho Association of the Family Members of the Detained

and Disappeared (ANFASEP). Neither woman is known to have connections to guerrillas. Mendoza is said to have "coordinated" Shining Path activities in France, yet she has never lived in that nation. The publication of Castillo de Mejía's and Mendoza de Ascarza's names in this manner constitutes a threat to their lives and the lives of other human rights monitors. In September, the government formally charged both women and ordered their arrest.

Another human rights defender, attorney Tito Guido Gallegos Gallegos, was charged on November 3, 1992, with "collaboration with terrorism"—a crime which carries a penalty of 20 years in prison. Gallegos monitors human rights for the Catholic Church's Vicariate of Solidarity in Puno. In October, he presented a habeas corpus writ on behalf of a 13-year-old boy charged with terrorism. Although the judge accepted the petition and ordered the boy to be freed, he later reversed himself on the grounds that the right to habeas corpus no longer exists for those accused of terrorism. He then instructed the public prosecutor to charge Gallegos with collaboration with terrorism, for allegedly improperly using the habeas remedy. Fortunately, the charge was dropped after protests from Americas Watch and other human rights groups. Nonetheless, the case illustrates the tremendous threat to human rights work posed by President Fujimori's new decrees.

Violent attacks on human rights monitors before 1992 remain unpunished. The investigation into the attack against human rights lawyer Augusto Zúñiga, who lost his left arm after receiving a letter bomb on March 15, 1991, is stalled. At the time of the attack, Dr. Zúñiga was investigating the alleged police-led disappearance of university student Ernesto Castillo Páez on October 21, 1990. In August 1992, a Lima court temporarily shelved the Castillo Páez case claiming that evidence against the police was still lacking.

For its part, the Shining Path continued to attack human rights as "middle-class illusions," even as it called on international human rights organizations to denounce abuses against its members. On October 7, Shining Path detonated explosives that destroyed the office of the Vicariate of Solidarity in Ayaviri, Puno department. The Vicariate of Solidarity carries out peace and human rights activities under the auspices of the Catholic Church.

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

During 1992, the focus of U.S. policy toward Peru shifted from one of preoccupation with anti-narcotics operations to concern over the threat posed by the Shining Path. While the Bush administration reacted swiftly and forcefully to the April 5 presidential coup, its outrage was slowly replaced with anxiety over the Shining Path's growing influence. Some U.S. policymakers became convinced they had to choose between supporting an abusive government and risking Peru falling to the guerrillas. In making this choice, they lost sight of the importance of respect for human rights as a tool for rebuilding the government's legitimacy needed to defeat the Shining Path. The result has been a U.S. administration that has placed its trust, unjustifiably, in

President Fujimori's stated intention to restore some semblance of democracy, despite the evidence that the constituent congress will be powerless to disassemble the authoritarian regime he has been constructing since April 5.

The U.S. government initially responded to the April 5 coup by calling for a speedy return to democracy and respect for human rights. In a speech before the OAS, Secretary of State James Baker called the coup "tragic," and added, "you cannot destroy democracy in order to save it." While in Lima, Assistant Secretary of State for Inter-American Affairs Bernard Aronson canceled an appointment with President Fujimori and instead met with members of the human rights Coordinadora, sending an important message of support for its work.

The Bush administration suspended all new aid and approximately \$25 million in economic aid and \$15 million in military aid that had been appropriated but not disbursed from fiscal year 1991 because members of Congress believed that Peru had not yet complied with the human rights conditions mandated by law for the aid to be delivered. The United States also froze commercial military sales to Peru and pulled out all Green Beret trainers working with Peruvian anti-narcotics police. However, anti-narcotics activities, such as Drug Enforcement Administration programs and police training administered by the State Department, continued uninterrupted, as did all humanitarian assistance. With the exception of Japan, which reinstated a \$53 million credit on July 31, other countries followed the U.S. lead by suspending assistance.

The rapid and firm international response, which apparently surprised President Fujimori, was probably decisive in prompting him to remove troops from the streets and newsrooms and to free political leaders. In later weeks, however, Washington quietly softened its position, siding with the majority in the OAS that advocated a more gentle approach to the Peruvian regime. In June, the United States joined a unanimous World Bank board of directors in approving a \$400 million loan for Peru's financial sector. While the U.S. opposed an Inter-American Development Bank loan of \$221 million just after the April coup, by September the U.S. actively supported the loan, citing progress such as Fujimori's announcement of elections. Approval of the loan enables Peru to refinance its debt with the Inter-American Development Bank and thus to become eligible for additional loans that had previously been delayed. Americas Watch opposes U.S. support for these non-humanitarian loans, since their approval has made it appear, falsely, that President Fujimori has made acceptable progress toward the restoration of democracy and respect for human rights.

In January 1992, the State Department issued its *Country Reports on Human Rights Practices for 1991*, which contained significant omissions in the chapter on Peru. While the report notes "continued...credible reports of summary executions, 'disappearances,' arbitrary detention, torture and rape by the military and police," it adds that the number of unresolved disappearances had fallen. Yet it fails to note that the number of extrajudicial executions had increased, according to local human rights groups. Moreover, although the number of disappearances did

decline in the second half of 1991, the number reported for the year as a whole exceeded that of 1990.

After the November 22, 1992 elections, the State Department was quick to signal its eagerness to restore economic assistance, hailing the elections as "an important first step back toward fully constitutional government," in the words of a senior State Department official who briefed reporters on November 23 on the condition that he not be named.

Efforts to restore significant amounts of assistance may face opposition in the U.S. Congress, regardless of the November 22 elections, since human rights conditions that Congress imposed on anti-narcotics assistance in 1991 have still not been fully complied with. While the International Committee of the Red Cross (ICRC) has been permitted increased access to military and police detention centers, it was denied access to the Miguel Castro Castro prison for more than five weeks following the violence in May.

When Americas Watch visited the ministry responsible for prosecutions in July, the office's central list of detained and disappeared—a list mandated by the U.S. Congress's human rights conditions set forth in 1991—was not yet fully functional. While the Peruvian army had cooperated, for the most part, with the maintenance of the registry, the police had yet to comply. There is legitimate concern that the ministry, since April 5 administered by a Fujimori appointee, may no longer be able to maintain such a list in an independent manner.

Moreover, there has been almost no movement toward resolving any of nine prominent human rights cases which the Congress had chosen to measure progress in prosecution of human rights violators.

In response to the April 5 coup, Congress prohibited new military assistance for Peru for fiscal years 1992 and 1993. (Military assistance was originally appropriated for Peru in fiscal year 1992, but was rescinded after the coup.) A small portion of the \$95 million of Economic Support Funds (ESF) approved for Peru in fiscal year 1992 was disbursed, primarily for the Administration of Justice and miscellaneous narcotics education programs, and Congress has placed a cap of \$50 million on ESF for fiscal year 1993.

The Bush administration opposed conditioning funding under the 1992 International Narcotics Control Act (INCA) on human rights. The human rights conditions attached to the 1990 INCA had led to a bitter debate over human rights in Peru. In 1992, the administration threatened to veto the new INCA if human rights conditions were included. Congress capitulated and withdrew the conditions.

Some members of Congress have looked into reports that the Central Intelligence Agency helped to found a special anti-drug unit allegedly headed by Vladimiro Montesinos within the military intelligence service. Montesinos is a close advisor to President Fujimori who reportedly played a central role in planning and executing the April 5 coup. He is also well known in Peru for his defense of drug traffickers during the 1980s and his participation



in the attempted cover-up following the 1988 Cayara massacre. CIA assistance has also reportedly been used to provide vehicles and training in the United States to Peruvian intelligence agents under Montesinos's command. These vehicles may have been used for the April 5 arbitrary detention of journalist Gustavo Gorriti, the November 1991 Barrios Altos massacre, and other human rights violations. Americas Watch believes that the U.S. should terminate any covert or overt assistance to units, such as the National Intelligence Service allegedly controlled by Montesinos, which engage in gross violations of human rights.

### **OAS Policy**

Efforts sponsored by the Organization of American States to reinstate democracy have been important, yet also contradictory and limited. The OAS responded rapidly to the coup, calling an emergency meeting of foreign ministers and sending representatives to Peru four times between April 20 and May 30. Its intervention probably prevented the situation from worsening further. However, subsequent OAS statements have been less emphatic, thus facilitating the half-measures, deceptions and attempts to shrug off international pressure that have characterized the Peruvian regime's response.

During the May OAS General Assembly in Nassau, Bahamas, discussion of the coup was marred by a storm of criticism over a special report on Peru by the President of the Inter-American Commission on Human Rights, Marco Tulio Bruni Celli. Peru's Minister of Justice, Fernando Vega, charged that the report gave the armed insurgents increased international status, presumably by recounting inmates' testimony regarding the slaying of 39 prisoners by police in May. Meanwhile Uruguayan Foreign Minister Héctor Gros Espiell, chosen to head the OAS efforts on Peru, was quoted in the press asserting that the Commission report, which Americas Watch found accurate and forceful, was filled with "half-truths." Gros Espiell also criticized the Commission for failing to report on abuses committed by insurgents throughout Latin America, echoing comments by Peruvian officials, even though the OAS has never provided the Commission with the resources necessary to address rebel abuses. This dispute diverted attention from the military-backed coup and its effect on human rights. Worse, its apparent purpose was to suggest that the coup and accompanying abuses were justified by the fight against Shining Path—a troubling precedent.

The OAS also failed in its mission to promote a successful dialogue between Fujimori and the democratic opposition. On August 18, the OAS Council of Ministers issued a communiqué stating that "all possible means were exhausted to expand the dialogue," a ridiculous assertion given that Fujimori refused any compromise and insisted on mandating the terms himself. Talks between Fujimori and Gros Espiell became a substitute for dialogue between Fujimori and the democratic opposition. The OAS's acceptance of this substitution served to further entrench Fujimori's authoritarian approach and to confer an aura of legitimacy on the regime.

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

Through reports, press releases, opinion articles and frequent correspondence with the government, Americas Watch continued to condemn human rights violations and violations of the laws of war by both the government and armed insurgents. Several Americas Watch missions visited Peru before and after the April 5 coup to gather information and meet with government officials. One investigation was conducted in conjunction with the Human Rights Watch Women's Rights Project, to prepare a report on women and political violence. Americas Watch also organized and participated in a delegation of human rights activists from several Latin American countries that traveled to Peru in May to raise human rights concerns in the wake of the coup. As a result of those missions, Americas Watch published two brief reports in August: *Peru: Civil Society and Democracy Under Fire* and *El Perú de Fujimori: Golpe a la Democracia y a los Derechos Humanos*. Also during the May visit, members of the Americas Watch delegation spoke with four women who survived the clash at the Miguel Castro Castro prison. With Peruvian journalist Gustavo Gorriti, Americas Watch visited key congressional offices to urge close vigilance of human rights in Peru, especially as the country prepared for new elections. Information provided by Americas Watch was considered by congressional offices that were developing U.S. drug policy in the Andean region.

In cooperation with Peruvian human rights organizations and the Center for Justice and International Law (CEJIL), Americas Watch is acting as counsel for the victims in two important cases currently being litigated before the OAS Inter-American Court of Human Rights. One involves the 1986 prison riots and subsequent massacre at the island prison of El Frontón, and the other concerns the Cayara massacre of 1988 and the subsequent persecution and murder of investigators and witnesses.