

## AMERICAS WATCH OVERVIEW

### Human Rights Developments

On October 6, 1993, troops from the Palacé Battalion, under the command of Lt. Col. Luis Felipe Becerra Bohórquez, murdered thirteen peasants in the *vereda* El Bosque, in Riofrío, in the Colombian department of Valle. Lieutenant Colonel once Becerra issued the official report, in which he claimed that his troops had sustained combat with guerrillas of the Ejército de Liberación Nacional (ELN), killing six women and seven men, including the chief of the guerrilla unit. Riofrío peasants filed complaints stating that the victims were not guerrillas but unarmed peasants who were killed in cold blood. The Procuraduría General de la Nación, an independent investigatory body that prosecutes disciplinary offenses committed by Colombian state agents, started an inquiry.

This episode would be sad but routine news in Latin America, except for the fact that this was not the first time Lt. Col. Becerra had been investigated for his role in a major massacre. On March 4, 1988, a group of gunmen arrived at the living quarters of banana workers in the *fincas* called Honduras and La Negra, in the Urabá region of northwestern Colombia. After identifying workers they had dragged away from their beds, the gunmen murdered twenty-three of them, many in front of their families. A Procuraduría investigation produced rare initial results: a startling one was that then-Major Becerra Bohórquez, at the time intelligence chief at the 10th Army Brigade, had used his own credit card to pay for the hotel stay in the region of some of the gunmen brought from other parts of Colombia to commit the murders.

The disciplinary and criminal inquiries dragged on for years, while Becerra remained on active duty. In the meantime, he attended courses in the United States required for aspiring chiefs (*oficiales superiores*). While a warrant for his arrest was pending in the public order courts for his role in Urabá, he was promoted to Lieutenant Colonel and posted as head of the public relations command at army headquarters in Bogotá. Based on the evidence in the Urabá record, the Procuraduría ordered his removal from the force, the most severe disciplinary measure at its disposal. Becerra exhausted his administrative appeals, and the order was confirmed in February 1993. Later, however, the Procuraduría reversed itself: it revoked the dismissal order, found that its own investigation was deficient, and ordered a new inquiry. On April 20, 1993, the Procuraduría's delegate office for the armed forces found that the five-year statute of limitations had expired and closed the Urabá file. Becerra recently told the press that he was willing to "subject himself" to the Procuraduría's investigation into the Riofrío massacre. Impunity for major violations, as exemplified by the inability of Colombian institutions to discipline the likes of Becerra, remains the principal obstacle to improvement in human rights observance in the Americas. Its counterpart, the struggle for truth and justice as the means to achieve accountability, has become the dominant theme of the nongovernmental human rights movement in the

hemisphere. As part of that movement, Americas Watch in 1993 made accountability its focus. Some signal progress was achieved in the course of the year in breaking the cycle of impunity. In March, a Truth Commission set up by the United Nations, as part of the peace agreements in El Salvador, produced a landmark report on the most tragic violations in the twelve-year conflict. The report was important not only because it validated the claims made for years by Salvadoran and international human rights monitors, but also because it was a successful first experiment by the United Nations in establishing the truth about abuses by all sides as part of a peace process. Although the Salvadoran government immediately issued a morally indefensible amnesty for abusers of fundamental rights, the achievement of the Truth Commission was not completely canceled, since its findings remain as the collective memory of the Salvadoran nation and nurture its decision not to let the carnage happen again.

Elsewhere, there were other encouraging steps in the direction of accountability. In Chile, the case against Pinochet's top henchmen for the 1976 murder in Washington of exiled former diplomat and cabinet minister Orlando Letelier and Ronni Moffitt, an American colleague, progressed towards a final decision. There were also a few other cases from those dark years that had a good chance of establishing responsibility for human rights crimes. In Guatemala, a land where impunity had been rampant for decades, some perpetrators of well-known abuses were convicted and others were being prosecuted. Bolivia's Supreme Court finally convicted former dictator Luis García Meza for the egregious violations against opponents of his "cocaine coup" government of the early 1980s.

Even where governments remained an obstacle to accountability, civil society organizations made some successful efforts at breaking the silence. In Honduras, the disappearances that took place between 1981 and 1984 remained unpunished, but the controversy about them was renewed in 1993 as an important issue in the presidential campaign. Leo Valladares, the human rights ombudsman, announced that he would produce a report on the fate of the disappeared at the end of the year; with funding from the international community, he has launched what appeared to be an important effort. Americas Watch made our files available to Valladares, including the documents we used in cases against Honduras before the Inter-American Court of Human Rights and that produced landmark decisions in the *Velásquez* and *Godínez* cases in 1989 and 1990, respectively. In Colombia, despite the many ways in which accountability was officially thwarted, independent human rights organizations produced carefully documented reports that named violators, cribbed from the paper trail left by official inquiries. By these and other examples, Latin American societies made it clear that the victims of gross abuses were not forgotten; the collective will to preserve the memory of these crimes for future generations was an important aspect of accountability.

And yet the task remained daunting, and was made even more arduous by the so-called pragmatism with which the international community regards impunity. In Haiti, encouraging efforts to secure restoration of democracy, spearheaded by skilled United Nations

mediators and supported decisively by the Clinton administration, were marred by a willingness to accommodate the blackmail of the military and their insistence on a blanket amnesty, not only for the offense of deposing Jean-Bertrand Aristide in 1991, but for the numerous ghastly crimes committed against democratic Haitians in the ensuing two years of dictatorship. In October 1993, as the *de facto* rulers reneged on their pledge to allow Aristide's return and held out for further, unacceptable concessions, the folly of a process that rewards political violence and countenances impunity for crimes against humanity became self-evident.

In Peru, deliberate official interference with investigations ensured impunity for the best-documented human rights crime of recent years: the disappearance and murder of nine students and one professor of "La Cantuta" University in July 1992, by a death squad called Colina, under the direction of military intelligence.

A strong body of evidence, including the discovery of clandestine graves and the revelations of well-placed military sources, has yet to break the will of the Fujimori government to guarantee impunity to those who ordered and executed the grisly massacre. In 1993, impunity for Peruvian military also received a boost at an international level: the case for the 1988 massacre of villagers in Cayara, in retaliation for an attack by Sendero Luminoso guerrillas, was dismissed by the Inter-American Court of Human Rights because of serious procedural flaws in the preliminary handling of the case by the Inter-American Commission of Human Rights. The case was then taken to the General Assembly of the Organization of American States, but the region's most powerful political organ declined to take any action.

Impunity is not limited to abuses committed with clear political motivation. The inability of institutions to deal with crimes by police against prison inmates, shantytown dwellers, common crime suspects and spontaneous demonstrators, is the main cause for the repetition of these patterns of abuse and for their increase in many Latin American and Caribbean countries. In Venezuela, the hundreds of murders committed by the military and police during the February 1989 riots known as *el Caracazo* remain almost completely unsolved; only three of the more than sixty corpses of Caracazo victims, found in 1990, have been identified. No progress was made in all of 1993 in the investigation of the murder of several dozen inmates at Retén de Catia prison in November 1992. In Brazil, several years later, there has been scant progress in punishing military policemen for the murder of eighteen inmates in the São Lucas police precinct in São Paulo, in February 1987. The slow pace and the indifference of authorities made it possible for an even worse massacre to take place in October 1992 in the São Paulo Casa de Detenção in Carandiru, where military policemen killed 111 inmates. More than a year later, this case also languished in the intricate, ineffectual proceedings of Brazilian civilian and military courts.

Americas Watch and its parent organization, Human Rights Watch, have made accountability the centerpiece of our efforts to defend and promote human rights. We have insisted, first and foremost, on the right of the victims of egregious abuse to see justice done, a right that the State should have no power to take away,

not even through the decision of a democratic majority. When it comes to crimes against humanity, governments have an effective obligation to investigate, prosecute and punish them, to disclose to the victims and to society all that can be known about them, and to grant the victims moral and material reparations. If effective punishment is not possible, governments nonetheless are bound to promote an official account; to allow and encourage efforts by civil society to document and publicize the violations; and to purge the armed and security forces of those elements who have participated in or tolerated such abuses. We also believe that the United Nations, the Organization of American States and all inter-governmental bodies called upon to promote peaceful solutions and to restore democracy should incorporate accountability as a goal and as a tool of those efforts.

### **The Right to Monitor**

As in recent years, 1993 witnessed the steady growth and diversification of the expanding Latin American human rights movement. Women's organizations particularly succeeded in establishing women's rights as human rights. Americas Watch and the Women's Rights Project contributed to this positive evolution in 1992 by publishing a Portuguese edition of our 1991 report on domestic violence against women in Brazil, and a report on rape and violence against women in the context of the conflict in Peru between security forces and Sendero Luminoso. Elsewhere, community groups, indigenous rights organizations, groups that defend the rights of street children, and many others made their presence known and found new ways of bringing specific human rights problems to the attention of the authorities.

Human rights advocacy continued to be hazardous, however. In Colombia and in Peru, highly respected human rights monitors were threatened with prosecution for their legitimate exercise of free expression. In October 1993 we published a briefing paper on the ways in which six different categories of civil society activists (including human rights monitors) have been objects of intimidation in Mexico, even as that country opened up to international trade and, reluctantly, to domestic and international scrutiny of government practices. Although the high visibility of Latin American human rights workers probably helped improve the conditions under which they worked, attacks still occurred. In Lima, a well-known community leader was almost murdered by Sendero Luminoso in an attack that left several school children wounded. In Guatemala, well-known monitors were harassed indirectly through violence and intimidation against their relatives and associates. In Colombia, a prominent human rights activist and refugee worker was disappeared in April. His whereabouts were still unknown as of November. In other countries, even when monitors were left alone to conduct their work, they incurred the wrath of powerful sectors of society and became the objects of insidious attacks on their reputations through the media.

An organization that contributed in large measure to the prestige and credibility of the Latin American human rights movement officially closed down its operations in December 1992. The

Vicaría de la Solidaridad of the Catholic archdiocese of Santiago, Chile, founded in the early years of the Pinochet regime, declared its job done with the advent of democracy. Many of its services were taken over by other organizations of civil society. In 1993, the legacy of the Vicaría, its insistence on the sacredness of human life, its attention to honest reporting and unfailing commitment to the defense of the most vulnerable in society lived on in the work of hundreds of organizations that strive to follow that sterling example. We include ourselves among the Vicaría's admirers and followers, and we know that its work will continue to inspire human rights monitors in Latin America for many years.

An encouraging development in human rights protection—which can be traced to the Vicaría's legacy—is the success achieved in Medellín by the Catholic archdiocese and by other nongovernmental organizations in sponsoring dialogue and thus reducing the extraordinary levels of violence. In the first half of 1993, as a result of dialogues between the various parties to the violence, homicides in Medellín fell by 36 percent compared to the same period in 1992. It is particularly inspiring to record that success in a city that for years has been besieged by drug trafficking, *sicarios* (hired guns), urban militias, private armies and paramilitary groups, and policemen both on and off duty. It is all the more remarkable that the nongovernmental human rights movement in Medellín has obtained this initial success, because in the 1980s its monitors were singled out for persecution, including our colleague Dr. Héctor Abad Gómez, whose fond memory still inspires our work.

The strength of civil society in our hemisphere spawned another welcome development: the continued improvement of the role of the press as watchdog against government abuse. In many countries—and unlike earlier times when it contributed to official silence—the press has become a trustworthy source of information about human rights violations. Many newspapers and magazines devote increasing efforts to investigative reporting of human rights matters. In Peru, the discovery of the clandestine burials of the "La Cantuta" students and the revelations about the Colina death squad were made possible in large part by the courageous efforts of Peruvian journalists. Their status, nonetheless, continued to be precarious: *Sí* and *Caretas*, the leading Lima weeklies, continued to labor under the twin threats of prosecution and advertisement cuts.

Freedom of the press had its ups and downs in the continent. In Argentina, a long public debate resulted in July in the repeal of the Penal Code clause of *desacato* (contempt) that had been used to prosecute journalists who criticized high public figures. As a result of a case brought by prominent Argentine investigative journalist Horacio Verbitsky, with the assistance of Americas Watch, the Inter-American Commission on Human Rights was asked jointly by Verbitsky and the Argentine government to produce a report on the compatibility of *desacato* statutes with the freedom of expression provisions of the American Convention on Human Rights. Despite this example of the Argentine government's disposition to progress in this area, later in the year Argentine

journalists were subjected to a series of threats and acts of intimidation, in some cases including beatings, by thugs linked to the ruling party. The wave of attacks subsided after parliamentary elections in early October, but the events have not been properly investigated.

The increased role of civil society and the press in most countries resulted during 1993 in a healthy debate about human rights issues. Americas Watch improved its access to larger segments of the population in most countries due to the increased attention that our reports, press releases, letters to officials and other initiatives received in the major media in most countries. Fortunately, our own increased visibility was only part of the larger attention given to the work of our domestic colleagues.

In 1993 Cuba remained a notable exception to this favorable trend toward the strength of civil society and freedom of the press. Though some monitors and other dissidents were released before the expiration of their unjust sentences, others continued to serve time for offenses such as "clandestine printings," "defamation of the head of state," and "enemy propaganda," in violation of Cuba's international obligations. Human rights monitoring remained a dangerous activity in Cuba in 1993, even though the orchestrated acts of "repudiation" dwindled in number and severity compared to previous years. Again, in 1993, Americas Watch was not allowed to visit the island to conduct our research and advocacy work, as we do freely elsewhere in the hemisphere.

### **Accountability and Civil Society**

Accountability and civil society are the marks that we look for in assessing the status of democracy in the continent. Although most countries in the region are governed by regimes arising from elections, Latin Americans have a right to expect more from their fledgling democracies: more participation in decision-making, more transparency in government action, and more responsiveness in state institutions, particularly from those designed to protect citizens' rights. For us, a government cannot credibly call itself democratic unless its agents are accountable for their actions; its courts and prosecutors protect the rights of citizens and redress injustices; it allows and encourages the development of independent organizations of civil society; and social and political conflict is generally resolved through peaceful means.

In 1993 there were new threats against the stability of democracy in Latin America, but the defeats suffered in Haiti in 1991 and in Peru in 1992 were not repeated elsewhere. Venezuela endured both a second 1992 attempted coup (on November 27) by disgruntled members of its military, as well as a serious constitutional crisis resulting from the removal from office of President Carlos Andrés Pérez on corruption charges in May 1993. With its democratic institutions shaken, Venezuela faced new presidential elections in late 1993. President Jorge Serrano of Guatemala attempted his own version of a Fujimori-style, self-inflicted *coup d'etat*, but the firm reaction of Guatemalan society and international opinion forced a reversal. Democracy and human rights both were strengthened when Guatemala resolved the ensuing

constitutional crisis by appointing Ramiro de León Carpio, the country's respected human rights ombudsman, to complete Serrano's term. On the negative side, the effort to restore democracy in Haiti seemed stalled and even floundering in early November, as this report was being drafted; also on the negative side, the authoritarian regime of Alberto Fujimori consolidated itself in 1993. The Fujimori-dominated Congress drafted a new constitution; on October 31, it received about 52 percent of the vote in a plebiscite. The principal features of the new constitution are the possibility of reelecting Fujimori and the expansion of the death penalty, in violation of Peru's international obligations. It is a sad comment on the state of democracy in Peru that popular sentiment in favor of the death penalty was the vehicle by which Fujimori sought a mandate for his own reelection.

The independence and impartiality of the judiciary suffered setbacks in 1993. Americas Watch placed increased attention on the independence and impartiality of the courts and of other institutions designed to protect rights, and believes the international community has not insisted enough on this aspect of democracy. Colombia's "faceless" judges, whose jurisdiction covers important criminal areas of drug trafficking and insurgency, not only failed to afford fair trials to those accused of those crimes, but increasingly seemed to direct their efforts against community and social activists whose nonviolent actions bore no relationship whatsoever to drug trafficking or insurgency.

The same was true, to an even larger extent, of the faceless judges and prosecutors created in Peru in the aftermath of Fujimori's self-coup. In Colombia, serious attacks against the lives of judges and court officials may have prompted a solution that nevertheless went too far in violation of due process and is now being misapplied. In Peru, threats to judges were real but the "remedy" is disproportionate and not reasonably designed to address the dangers. Moreover, the system of administration of justice of the Fujimori era makes no pretense of adherence to a democratic division of powers. In response to international criticism, the Fujimori-controlled Congress created a panel of jurists to review the performance of judges. Their non-binding opinions were then routinely ignored.

Peru also brought back military court jurisdiction to try civilians, which the Constitution of 1979 expressly forbade. Military courts are intrinsically non-independent; Latin American dictatorships have frequently resorted to them to prosecute and punish political opponents without even a semblance of due process. Faceless military courts in Peru have had a record 97 percent conviction rate in the Fujimori era. On the other hand, when their jurisdiction is limited to military defendants accused of human rights violations, military courts in Peru and everywhere else in Latin America enjoy a nearly perfect record of cover-up and impunity. In other countries, even though no special courts or similar schemes were created during 1993, the independence of the courts continued to erode through neglect, shrinking budgets, politicized appointments and steady decline in professional standards. This problem was particularly acute in Argentina. President Carlos Menem appointed fierce loyalists to the highest

court as well as to newly created benches, and unduly protected some of them from impeachment procedures.

Independence and impartiality of the judiciary are fundamental traits of democracy, essential to the structural observance of human rights. An independent adjudicator is the ultimate guarantee for the exercise of rights. Procedural safeguards in criminal proceedings, important as they are in their own right, are meaningless if the judge is biased against the defendant. Access to justice by victims of abuse by state agents is equally illusory if courts are perceived to participate in the effort to cover up abuses. Fundamentally, when independent judges and prosecutors fulfill their duties, they convey a sense of trust and faith in institutions that is generally referred to as the rule of law; without it, majority decisions may be authentically representative of the will of the people, but they are not necessarily democratic.

If courts were more independent in Latin America they could be a powerful instrument in the effort to overcome the gaping inadequacy of many regimes to deal with non-politically-motivated patterns of violations of human rights. In July 1993, the world's conscience was shaken by the slaughter of street children by members of the Rio de Janeiro police. Unfortunately, violence against street children is almost endemic in many Brazilian cities, and it is also a problem in Guatemala City, Bogotá and other major urban areas. Police agents who take justice into their own hands and kill those they suspect to be criminals continue to plague Latin American law enforcement bodies. In the new democratic context in Latin America, Americas Watch documented some progress on this issue when the facts of police killings were publicized, as in Jamaica and Argentina. But in greater Buenos Aires, the effort to curb police killings suffered a new setback in 1993: a young student called Miguel Bru disappeared in August after he filed a complaint against some police officials of the province of Buenos Aires. His fate and whereabouts had not been clarified as of November. There were also instances when the police, accustomed to the impunity of dictatorial years, reacted with tragic excess against violent crime. On October 21, in a Santiago suburb, Chilean *carabineros* trying to thwart the escape of bank robbers alleged to be Lautaro guerrillas, shot indiscriminately against a bus that had been hijacked by the thieves; there were seven dead—three guerrillas, one bank guard and three innocent bystanders—and sixteen wounded.

In most countries, police forces continued to use torture as a routine interrogation technique against detainees. Closer societal scrutiny and court supervision have not made a dent in this practice. With some honorable exceptions, courts continue to foster this practice by admitting evidence obtained through torture and other illegal means. If police are a menace to those suspected of common crime (and almost by definition suspects tend to be young, male and poor), police forces fail miserably in protecting victims of certain abuses, such as women survivors of domestic violence. As in many other regions of the world, women in Latin America can expect little protection from police if they



complain of beatings and threats by their husbands or lovers. A woman who failed to get the protection she requested was murdered by her ex-husband in Uruguay in 1993; a potentially precedent-setting case has been filed before the Inter-American Commission on Human Rights.

Prison conditions continued to deteriorate in the region during the year. For common crime offenders, overcrowding and brutal conditions are a function of neglect; when inevitable riots and escape attempts take place, the response can be unspeakable massacres like the ones in Brazil and Venezuela mentioned above. In Peru, inhumane conditions are deliberately, systematically inflicted upon certain categories of insurgency defendants, held in maximum-security facilities to which Americas Watch was denied access repeatedly in 1993.

Disputes about land tenure continued to generate a heavy toll in violence. Landless peasants and Indian communities are victimized by the power exercised by old and new rural landlords who manipulate local courts and security forces, or use their own "private armies." In Brazil in 1993, Americas Watch once again documented the pervasive practice of some forms of forced labor, as well as the inability of the country's institutions to deal with it.

The increase and spread of these violations that were not directed against a particular political enemy were compounded by the relative lack of interest in the population at large in any effort to correct them, despite the courageous efforts of many Latin Americans. For large segments of the population—the poor, the disenfranchised and the marginalized—democratic regimes that pay no attention to these patterns of violations are failed democracies. The challenge for democracy at the end of the century in Latin America is to extend its benefits to these large categories of victims of human rights violations.

### **Armed Conflict and Human Rights Violations**

Armed conflict continued to wane in the hemisphere in 1993, and that accounted not only for a reduction in general terms in abuses by guerrillas, but more specifically, murders, disappearances and other crimes associated with counterinsurgency. Despite their governments' proclamations of success against their guerrilla enemies, Peru and Colombia experienced continued armed violence, though in both countries some reduction in intensity could be verified. Efforts to generate processes leading to political settlements in either country were unsuccessful during the year. In Guatemala, the defeat of the Serrano self-coup brought hopes of renewed talks, but as of early November there had been no significant progress. The U.N.-brokered peace process in El Salvador took hold in 1993 despite dangers to guerrilla activists who had reentered the political process. In Nicaragua there were some serious acts of violence between government troops and reconstituted former *contra* and former Sandinista forces. The bloody confrontations signaled the weakness of the Nicaraguan democratic process, and resulted from the failure to reach a lasting and comprehensive settlement at the end of the *contra* war.

The remaining insurgency wars revealed an increasing tendency by guerrilla forces to disregard basic standards of the laws of war, together with their growing disinterest in their image in international and domestic public opinion. As a result, insurgency tactics in Colombia and Peru became more and more vicious and less respectful of the neutrality of unarmed civilians. In Colombia, some guerrilla units resorted not only to more kidnappings for ransom, but even to banditry, drug trafficking and lawlessness. In Peru, Sendero Luminoso has never shown any inclination to respect the Geneva Conventions standards, except in demanding prisoner-of-war treatment for their arrested militants. In spite of triumphant announcements by the Peruvian government of the willingness to negotiate by Sendero's jailed leader, Abimael Guzmán, towards the end of the year it appeared that Sendero's ability to wreak deadly havoc was still considerable.

On the side of government forces, "dirty war" tactics in Colombia and Peru were still used in 1993, albeit—in the case of Peru—with a notable reduction in the number of reported cases. As the examples cited earlier show, there was still pervasive impunity for past and new cases of disappearances and massacres, even if the security forces seemed to be more selective in applying those tactics. At the same time, the continuing counterinsurgency wars were the pretext for the governments' resort to emergency measures, and for the unfortunate tolerance of them in some sectors of society. Insurgency and counterinsurgency have generated great dislocation and turmoil in rural communities. It is virtually impossible to estimate the numbers of the displaced, but the phenomenon is widespread and no official effort has been made to provide much needed services. The domestic human rights movement in several Latin American countries is increasingly dedicating efforts to the plight of the internally displaced and of refugees. In 1993, with the support of the U.S. Jesuit Refugee Service, Americas Watch established a program of systematic monitoring of refugee policy, displacement, and repatriation as they affect Haitians and Guatemalans.

Though violations of the laws of war by both sides to the conflict continued in the Andean region, it was heartening to see that organizations of civil society have made a concerted effort to raise awareness in public opinion about the need to demand respect for the fundamental principles of international humanitarian law.

Monitoring violations by guerrillas has become standard practice in many domestic human rights organizations, and major progress has been achieved in focusing attention on the need to protect civilians and noncombatants during counterinsurgency operations. The leadership of guerrilla groups, unfortunately, has remained largely immune to moral and political pressure from human rights groups.

### **The Response of the International Community**

The international community's response to human rights and democracy in Latin America continued in 1993 to lag behind the needs and exigencies of the times. In compliance with its

charter, the United Nations leaves the initial response to crises to the regional body, the Organization of American States (OAS). At the OAS, governments pay lip service to a shared concern for human rights and democracy, but in practical terms misunderstood notions of sovereignty and non-intervention become an obstacle to collective action. Nonetheless, in 1993 the OAS response to attacks on democracy, embodied in the Declaration of Santiago of 1991, fared better than in previous years. Though actions by Guatemalan civil society and by the Clinton administration had more to do with the final outcome, the OAS did take an early and strong stance demanding the reversal of Serrano's dismissal of Congress and the courts.

In December 1992, the OAS requested the assistance of the U.N. in negotiations to bring Jean-Bertrand Aristide back to the presidency in Haiti. The U.N. and the OAS jointly appointed Dante Caputo, former Argentine foreign minister, as mediator. In the first half of the year, the process yielded some encouraging results. Borrowing a page from other successful ventures, the U.N. and OAS secured agreement to deploy a civilian mission with hundreds of human rights monitors. The U.N., especially, approached the planning and staffing of the mission very professionally, and the international monitors provided some important measure of protection for human rights throughout the year. The civilian mission also issued frank and credible reports, despite reported efforts by U.N. diplomats to tone them down in the name of protecting delicate negotiations.

In July, Haiti's *de facto* rulers agreed to the Governors Island Accord, by which Aristide would return on October 30; the leader of the *coup*, Gen. Raoul Cédras, agreed to step down by October 15, so that Aristide's government could appoint a new high command. By September it became clear that the usurpers of power in Haiti would not comply. When thugs prevented the deployment of international military and police advisors, the civilian mission monitors were evacuated. On October 30, Aristide was unable to return and the thugs supporting the military regime celebrated their successful defiance of the international community. The U.N.'s sole answer was to reinstate a targeted economic embargo and to threaten to strengthen it.

In contrast, U.N. involvement in the peace process in El Salvador continued to be perhaps the most successful of its recent ventures in conflict resolution. ONUSAL, the U.N.'s operation there, continued to monitor human rights violations, which were on the increase in anticipation of El Salvador's March 1994 elections. Salvadoran human rights organizations criticized ONUSAL's early periodic reports as too mild, but by the end of the year, ONUSAL was issuing more forceful denunciations of individual human rights cases. As stated earlier, another success of the U.N. effort was the publication in March of the report of the Truth Commission, documenting twelve years of abuses by official forces as well as the guerrillas.

### **International Mechanisms**

The international protection mechanisms within the OAS to provide relief to victims of violations continued a precarious existence

in 1993. The procedure before the Inter-American Commission on Human Rights (IACHR) was mired in uncertainty and frequently hampered by bureaucratic mishandling. An important defeat for the cause of human rights took place in early 1993 when the court declined jurisdiction in the case against Peru for the massacre of Cayara, citing the IACHR's violation of its own procedural regulations. Neither the complainants nor the families of the victims of Cayara were responsible for the error, which was at least in part caused by demands of the Peruvian representatives; yet the Cayara families were the most prejudiced by the result. The court also issued an advisory opinion, acting on a request by Argentina and Uruguay—supported by Mexico—that, if successful, would have seriously curtailed the ability of the IACHR to rule on violations committed by democratic governments through legislation or court decisions. Americas Watch and other nongovernmental organizations (NGOs) were allowed a major role as *amici curiae* in the debate. The opinion vindicated the position adopted by the IACHR and the NGOs. Efforts to bring the IACHR under the control of the political organs of the OAS continued, however, under the pretense of "strengthening" the protection scheme. An effort to amend the American Convention on Human Rights to enlarge the commission (thereby allowing more political control of its members) was tabled at the 1993 OAS General Assembly. Government representatives continued to dilute a draft convention on disappearances originally prepared by the IACHR. Some governments, including the United States, attempted to eliminate a clause that establishes that the practice of disappearances is a crime against humanity. This would signify an important retreat from positions already adopted by the general assemblies of the OAS and the U.N. The representatives of Chile, Costa Rica and Argentina have stood fast in defense of the "crime against humanity" clause; Americas Watch and other nongovernmental organizations supported its retention. Despite the difficulties of a system so obviously dominated by diplomatic and political considerations, Americas Watch and other nongovernmental organizations continued to dedicate serious efforts to strengthening it by using it on behalf of victims. In association with the Center for Justice and International Law (CEJIL), we continued to bring cases before the IACHR and the Inter-American Court. In July we presented evidence on the merits of a case against Peru for the massacre of prisoners on the island of El Frontón in 1986; a decision was expected in early 1994. CEJIL, Americas Watch, and the Andean Commission of Jurists - Colombia Section represented the widow of a disappeared teacher in the first Inter-American Court case against Colombia.

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

Early Clinton administration appointments at the State Department and other offices responsible for human rights and for policy towards the hemisphere were encouraging. In almost every case, experienced foreign policy professionals or persons with a solid record of concern for human rights and democracy were entrusted with positions of responsibility. Nonetheless, there were also

hesitations and errors in judgment with detrimental effects for human rights. The first one took place even before the inauguration, when President-elect Clinton reneged on his campaign promises and decided to continue the policy of returning Haitian refugees found in the high seas, established by President Bush through the infamous "Kennebunkport order" of 1992. Later in 1993, the Supreme Court affirmed this policy, even though it flew in the face of fundamental principles of international law with regard to refugees and violated the spirit, if not the letter, of clear treaty obligations of the United States.

After that disturbing start, the policy towards Haiti took a positive turn when the Clinton administration lent considerable assistance and dynamic support to the efforts of the U.N. and OAS to obtain the return of President Aristide. One fatal flaw of that policy, however, attributable to mediator Dante Caputo but also to President Clinton's special envoy, Amb. Lawrence Pezzullo, was to put pressure on Aristide to give in to demands for a blanket amnesty for all crimes committed by the *de facto* regime since Aristide's ouster. Such a demand was immoral and illegal. Significantly, favoring such an amnesty proved in the end to have been bad political judgment: as the final implementation of the Governors Island Accord drew near, Cédras and his accomplices insisted once more on a blanket amnesty. They were emboldened to ignore the Governors Island pledges by the hesitation of the international community on this point. The international community's role was further weakened by President Clinton's unilateral decision to pull back the ship carrying American military observers and trainers, after a small number of thugs took over the Port-au-Prince harbor and prevented their landing. The deployment of military and police trainers had been agreed to by Haiti's *de facto* rulers at Governors Island in July; for that reason, it was meant from the start to be a consensual armed presence. But shooting their way into Port-au-Prince was not the only alternative to a unilateral withdrawal; the *U.S.S. Harlan County* should have remained at harbor to signal the fact that Cédras was reneging on his solemn undertaking, and to put pressure on him and his cohorts to comply. As it happened, President Clinton's decision handed a gratuitous victory to the thugs, forced the retreat of other officers already there, caused the evacuation of the civilian mission, and threw the U.N. plan into disarray.

As of November, Haiti remained under Cédras's control, human rights violations were rampant, and U.S. Coast Guard vessels still returned fleeing Haitians to a country the international community designated as a "failed state," and where massive, systematic human rights violations prevailed. The forcible return of fleeing Haitians, without affording them any opportunity to state a claim for asylum, was not only politically damaging to the effort to restore democracy in Haiti; it was also heartless, cruel and inhumane.

With respect to Peru, the administration had an early opportunity to show its concern for human rights, and used it to great benefit. In February, Peru needed the U.S. to convene the Support Group of countries to help Peru clear its arrears with

international financial institutions. The Clinton administration told the Peruvian government that it should make some immediate human rights concessions or the support group would not be convened. The Fujimori government promptly agreed to five demands, although some of them were implemented only in words, not in deed. Later, the administration sent Peru mixed signals with respect to renewing direct economic assistance. With respect to a program to aid in the administration of justice, the State Department conditioned its approval on the report of a mission by four prestigious jurists from the United States, Italy and Argentina. The mission, chaired by Prof. Robert K. Goldman, of American University, visited Peru in September; its report was awaited in November, but was already having positive results as Peru announced (but did not immediately implement) some positive changes in criminal procedures.

A major objective of the administration during the year was to secure approval in Congress of the North American Free Trade Agreement (NAFTA), a tripartite comprehensive trade pact with Canada and Mexico, originally negotiated by the Bush administration. During his campaign, Clinton had announced that he would seek side agreements to secure protections for labor rights and the environment. The side agreements were signed in August 1993. Neither NAFTA nor the side agreements, however, included any mention of mechanisms to protect human rights. The environmental protections were stricter than those contemplated for complaints about labor rights. Americas Watch deplored that the discussions surrounding NAFTA and the side agreements were not used by the United States government to put human rights on the table in Mexico and to encourage the Salinas government to take a more serious approach to long-term solutions to human rights violations.

In 1993, Americas Watch conducted research in several communities along the Southwest border of the United States, and published a second report on continuing violations of human rights by the U.S. Border Patrol and customs agents against persons suspected of illegal immigration. The acting commissioner of the Immigration and Naturalization Service (INS) wrote back a detailed letter and otherwise had an encouraging reaction: the acting commissioner sent a memorandum to all district offices of the INS with the recommendation that the abuses contained in our report be avoided.

We then entered into a dialogue with the INS in hopes of producing structural changes in the way the agency behaves on the border. Since many of the victims of these crimes are Mexican nationals, we expressed our hope that the NAFTA negotiations could be the occasion for high-level discussions about human rights in the United States as well.

Policy towards Latin America, as exemplified by the steps taken so far, seemed to be still under formulation in the Clinton administration as of November. It was encouraging to notice shifts in the approach toward drug interdiction. The "war on drugs" under previous administrations was the occasion to overlook abuses by police and military partners and to introduce military and police assistance without human rights conditions or with only lip-service to those conditions. The Clinton administration has

announced that human rights and the promotion of democracy will be central to its overall foreign policy in the post-Cold War world.

The details of such an ambitious program had not been spelled out as of this writing. Americas Watch supports the idea that human rights and democracy, properly conceived, should be the guiding light for policies of cooperation with foreign governments. We hope, however, that the simplistic mistake of the Reagan and Bush administrations—of seeing progress in human rights where there were only elections and good words with no deeds—will be avoided.

United States foreign policy must promote the content and not simply the form of democracy and human rights.

## BRAZIL

### Human Rights Developments

Three notorious massacres in Brazil in 1993 exemplified the serious human rights problems that continued to plague the nation.

On July 23, a group of men shot and killed eight teenagers who were sleeping on the streets of downtown Rio de Janeiro, near the well-known Candelária church. Several weeks later, in early August, sixteen Yanomami Indians were murdered near Brazil's remote and forested border with Venezuela. Then, on August 29, a group of hooded gunmen killed twenty-one people in the Rio de Janeiro *favela* (shantytown) of Vigário Geral.

The three incidents were not aberrations but the most dramatic examples of violence against street children, violence against Brazil's indigenous population, and killings by off-duty police. Subsequent investigations revealed that off-duty police were involved in the Candelária and Vigário Geral killings; the Yanomami Indians were killed by Brazilian *garimpeiros* (gold miners). But these examples did not exhaust the forms of abuse against Brazil's civilian population, including rural violence often targeting the leaders of rural unions, the use of forced labor in agriculture, miserable prison conditions, inadequate investigations and prosecutions of violence against women, and torture and killings of suspected criminals by the police. Despite attempts by federal and state authorities to remedy Brazil's poor human rights record, many cases were characterized by official impunity.

Behind the phenomenon of violence against street children lay the extreme poverty of the majority of Brazil's population, domestic violence, and substance abuse. Although precise figures did not exist, estimates were that between seven and ten million children and adolescents were living and working on the streets of Brazilian cities. These children did what they could to supplement their families' incomes or ensure their own survival: sell candy and food, wash and "guard" cars, shine shoes, beg, steal, deal drugs, and engage in prostitution.

Because they were sometimes involved in crime—usually petty assaults and robbery—shopkeepers, the police, and at times the general public viewed these children as a threat to public safety.

The perception overlapped with a general feeling that the justice system was corrupt and inefficient and that juvenile offenders, who could not be tried as adults, were never punished for their crimes. As a result, small businessmen sometimes hired private "security firms" to deal with children who stole from them or inconvenienced their clients. These groups, which engaged in death-squad activities, were frequently composed of off-duty policemen, who often became involved in organized crime themselves.

The majority of victims of the killing of street children were male teenagers, and a disproportionate share were black. According to statistics from the federal Procurador Geral (Attorney General), 5,644 children between the ages of five and seventeen were victims of violent deaths in the period between 1988 and 1991. Though more recent statistics were incomplete, it appeared that in 1992 and 1993, at least in the state of Rio de Janeiro, the killing of minors was increasing. In 1992, 424 children under the age of eighteen were victims of homicide in the state. In the first six months of 1993, 298 children were killed, a significant increase from the same period the previous year. Investigations into the killing of children and adolescents were frequently inadequate, most often because of the involvement of off-duty policemen and because of witnesses' fear. Those fears were warranted; witnesses were frequently intimidated and sometimes killed.

Prosecutions of those engaged in the killing of street children were extremely rare, as the victims usually did not have family members who could maintain pressure on the authorities. The witnesses to these homicides were often other street children, who were easily intimidated or who, because of their unstable living situation, were not able to follow the case for the length of time necessary. As a result, it was rare for the killers of minors to be arrested, and even more uncommon for them to be convicted.

The Brazilian authorities took initial steps during 1993 to put an end to impunity, though the success of their efforts could not immediately be evaluated. In the Candelária killing of eight teenagers, four men, including three military policemen, were arrested and indicted for homicide in early August. The commander of the military police battalion in which the men served was dismissed. Prior to the shooting, the Rio de Janeiro state government had already established a special hotline for anonymous denunciations of death squad activity, which it claimed had resulted in the arrest of 250 people, including many policemen.

Shortly after the Candelária killings, twenty-one residents of a Rio de Janeiro slum were killed during an organized invasion of the favela by a group of hooded men carrying heavy-caliber weapons. The massacre occurred the day after four military policemen were murdered in the same neighborhood by drug traffickers. The governor of the state quickly stated that the killing "presented characteristics of an inadmissible operation of revenge" and dismissed the commander of the Ninth Battalion of the military police, responsible for patrolling the area. A subsequent investigation into the killing revealed a network of organized crime within the police force and resulted in the arrest



and indictment of thirty-three men—twenty-eight of them military policemen—accused of being part of a death squad. As of October, it appeared that several top figures in the civil police would be indicted on charges of corruption and organized crime.

At the national level, the federal government instituted several important reforms, including establishing commissions to follow the most important cases and calling upon the federal police to set up a special unit to investigate police involvement in death squads. In one extreme case, the army assumed control over the military police in the state of Alagoas, after it was widely reported that the force was involved in political assassinations and organized crime.

The involvement of police in off-duty death squads was intimately related to another major human rights problem in Brazil, violence committed by on-duty policemen. Executions of civilians by the military police (responsible for patrolling and responding to crimes in progress) and torture by the civil police (responsible for investigating crimes) were the worst manifestations of police violence. In 1992, for example, the São Paulo military police killed 1470 civilians, including 111 inmates at the Casa de Detenção prison. While the authorities claimed that many of the killings occurred in shoot-outs, the high number of civilians killed compared to the relatively low number wounded, and the low number of police deaths, undermined that assertion.

In the aftermath of the 1992 Casa de Detenção killings it appeared that killings by on-duty military police in São Paulo had decreased. In the first eight months of 1993, the São Paulo authorities stated that the military police killed 257 civilians, a significant decrease from 1992 though still an exceedingly high figure. The decrease in the number of killings showed that the military police could, however, curb their abusive practices when sufficiently pressured.

Despite the notable decrease in the number of killings by on-duty military police in São Paulo, the underlying situation which allowed this practice to continue remained unchanged: military policemen who committed crimes against civilians were judged in special military courts, which rarely convicted policemen for violent crimes. In numerous cases reviewed by Americas Watch, the military justice system either failed to convict abusive policemen, accepting their argument that violent acts occurred as a result of legitimate self-defense, or was so lethargic that it did not serve as an adequate curb on abusive behavior.

In February 1993, for example, state prosecutors with the military justice system recommended the indictment of 120 policemen for the Casa de Detenção killings, including ninety-eight for homicide. Those indicted included the commander of the operation, Col. Ubiratan Guimarães, and several other high-ranking officers. No one has been arrested or fired from the force, however. And in June 1993, three police officers who had participated in the attack on the prison were actually promoted, two of them for "merit." In a ground-breaking decision, on the other hand, a civil policeman was found guilty of participating in a notorious prison massacre in February 1989 in which eighteen inmates were

killed in a jail in São Paulo. This was the first time that a policeman had been found guilty in a prison killing.

A positive step in 1993 to redress the problem of impunity for violent military policemen was the introduction of legislation to extend civil court jurisdiction in cases involving crimes against civilians committed by the military police. The legislation was passed by the lower house, the Câmara dos Deputados, in diluted form and as of November was now pending before the Senate.

Though there were no prison killings in 1993 comparable to those the previous year, prison conditions continued to be substandard and overcrowded, and beatings and mistreatment of inmates were common. In one notorious episode, as many as seventy-five boys at a São Paulo juvenile detention facility were beaten with sticks, truncheons and metal bars by prison officials and military police in the aftermath of a March 30 riot. Medical treatment was withheld and delayed. As a result of the poor conditions at the juvenile detention unit, the juvenile section of the state prosecutor's office filed a suit against the state government, asking for an investigation into the beatings, mistreatment, and overcrowding at the facilities.

Violence against Brazil's indigenous population also grabbed international headlines in 1993, following the killing of sixteen Yanomami Indians by Brazilian garimpeiros near the community of Hwaximëú (Haximu), some fifteen kilometers across the border into Venezuelan territory. In one of several attacks in late July, it is thought that the garimpeiros shot, hacked, and beat to death four women, a man, three adolescents, and six children. Because of the difficulties of traveling in the area and due to the Yanomami practice of cremating their dead, it was unlikely that the total number of victims and the exact circumstances of the events would ever be known.

The authorities could have prevented the attacks had they heeded the warnings of indigenous rights organizations that Brazilian garimpeiros were invading the Yanomami reservation and crossing into Yanomami territory in Venezuela. Following the killings, the federal police arrested two men, and twenty-three garimpeiros were indicted on charges of genocide. President Itamar Franco appointed a new minister for the Amazon and announced that a federal police station would be opened in Surucucu, inside the Yanomami reservation. The office of the Procurador Geral was also particularly energetic in pressing for additional protection for the Yanomami. Some political and military authorities, however, minimized Brazil's responsibility for the killings and called for a reduction in the size of the Yanomami reservation.

Violence against Brazil's indigenous community, most frequently committed by garimpeiros, loggers or large landowners, has long been met with impunity. In 1992, it was estimated that twenty-four Indians were murdered, with none of those cases resulting in the punishment of the aggressors. By far the largest number of deaths among Brazil's indigenous community, though, were due to disease, with 165 Indians dying from malaria, measles or cholera in 1992. Despite a constitutional deadline of October 5, 1993, the federal government failed to demarcate Indian reservations, a step urgently needed to protect indigenous communities from

violence and disease. By the deadline, only 266 of 510 areas traditionally occupied by indigenous people had been officially demarcated.

Rural violence also appeared to escalate in 1993. In order to resolve conflicts over land tenure with small farmers and settlers, large landowners frequently hired gunmen to target leaders of rural unions, peasant organizers, squatters, and others who campaigned for agrarian reform. As of November 1993, at least forty-three peasants and agrarian reform activist had been killed. Very rarely were arrests made in those cases or the persons responsible brought to trial. Violence against peasants and small farmers also occurred when they were evicted from their farms, either by hired gunmen or by police sometimes acting without the necessary court orders.

The year saw a marked increase in targeted assassinations of rural activists, with at least eleven being killed by November. On March 16, the body of Mozarniel Patrício Pessoa was found on the banks of a stream in the state of Tocantins, with his skull shattered. He was the vice-president of the state Sindicato de Trabalhadores Rurais (Union of Rural Workers, or STR) in the town of Araguaina and the president of the local chapter of the Partido Comunista do Brasil (Brazilian Communist Party, or PC do B). Shortly after this murder, another rural union activist was killed in the neighboring state of Pará. Arnaldo Delcidio Ferreira, the president of the STR in Eldorado do Carajás, in southern Pará, was shot and killed on May 2. Ferreira had been repeatedly threatened with death, but local authorities had taken few steps to protect him. Then on June 29, unionist Raimundo Reis was shot and killed in the municipality of Turiaru, Maranhão. Reis had long been a leader in the struggle for agrarian reform in the area and had been living under threat for many years. The local rural union stated that after the killing neither the police chief nor the prosecutor was found in the area, and several weeks after the killing no investigation had been opened.

Killings of rural activists occurred in 1993 even in cases where the individuals had fairly high profiles. For example, on April 29, Paulo Vinha, a biologist and environmental activist, was shot and killed in the state of Espírito Santo. Vinha had been investigating environmental problems in the state and was also assisting local indigenous communities in their struggle to recover land that they claimed was taken from them by the Aracruz paper pulp company. As of November 1993, no one had been arrested for Vinha's murder, despite the fact that two suspects were quickly identified.

Impunity also prevailed in those cases which received prolonged international attention. In a major setback, the long-awaited trial of the killers of Expedito Ribeiro da Souza was indefinitely postponed in June 1993, only days before it was due to begin. Expedito, the president of the local STR and a vice-president of the PC do B, had been assassinated on February 2, 1991. At the time, he was the fifth person associated with the STR union who had been killed in the Rio Maria area of Pará in a period of ten months.

In an equally troubling case involving the murder of

internationally recognized environmental activist Chico Mendes, two men found guilty of the 1988 murder escaped from prison. It was suspected that the police and prison authorities in the state of Acre were paid to allow the killers to escape. Environmental and human rights activists had long warned about the precarious security in the Rio Branco prison, where the two men were held. In the wake of the escapes, the federal police said that President Franco ordered them to make a man-hunt for the fugitives their "number one priority." However, the fruitless search was suspended after thirty days and not renewed.

Brazilian authorities also failed to take steps to curb the use of forced labor in rural areas. This practice was carried out by labor contractors who recruited workers from impoverished towns with false promises of high wages and good work conditions. Once the workers arrived at the job—often hundreds of miles away from their homes—they were told that the wages were lower than promised and that they owed money for transportation, food, shelter and tools. The workers were not allowed to leave until they paid their "debts," and were sometimes guarded by armed men. Noncompliant workers were often beaten and in some cases killed.

In 1992, the Comissão Pastoral da Terra (CPT), a Catholic church-based group that monitors human rights, registered eighteen cases of forced labor involving 16,442 workers, a substantial increase in the number of victims from the previous year. As of November 1993, the organization had registered fifteen cases involving at least 5,540 workers. Despite the prevalence of this abuse, there was not a single conviction of labor recruiters, gunmen or landowners for involvement in forced labor.

Americas Watch also remained concerned about inadequate investigations and prosecutions of those responsible for violence against women. In June 1993, human rights organizations and local politicians reported that girls were being recruited and auctioned to brothels near gold mining areas in the Amazonian states of Acre and Rondônia. Many of these girls were recruited with false promises of well-paying jobs. Once they arrived at the gold mining areas, however, they were told that they must work as prostitutes. Some girls were beaten and killed if they refused to have sex. In prior cases local police authorities had refused to intervene and had even collaborated with brothel owners, and the federal police had to intervene to free the girls.

In a positive development, the federal Congress created a special investigation commission to look into child prostitution throughout the country. An initial report stated that there were approximately 500,000 girl prostitutes in Brazil.

### **The Right to Monitor**

The Brazilian government imposed no formal obstacles to human rights monitoring, and there were many local organizations that actively promoted the rights of the rural and urban poor, street children, women, indigenous communities, prison inmates and other victims of human rights abuse. Many international organizations, including Americas Watch, conducted investigatory missions to Brazil without interference or obstruction by the government.

However, local organizations and individual human rights activists were sometimes threatened and harassed. Most frequently these threats could not be directly linked to the government. However, activists who worked with children on the streets of Brazil's cities reported to Americas Watch that they were frequently harassed and sometimes physically assaulted by the police. In one of the more prominent cases, on April 13, Pedro Horácio Caballero, a Catholic priest working with street children in downtown São Paulo, was beaten and harassed by military policemen after he tried to get the police to stop beating two twelve-year-old boys. Others who criticized the police or investigated crimes involving police were threatened. Federal congressman Hélio Bicudo, who proposed legislation seeking to change the military justice system, was also threatened with death.

In some cases the courts also were used in an attempt to silence human rights activists. São Paulo authorities filed a suit for slander against Frei Betto, a Dominican priest, theologian and writer, after he published an article in the *Estado de São Paulo* newspaper referring to police violence and the impunity that the São Paulo military police enjoyed. The charges against Frei Betto were later dropped. In a similar case, Darci Frigo, an activist with the CPT in the state of Paraná, had been convicted in 1992 on charges of slander resulting from statements that the CPT made linking a local politician to the practice of forced labor; in an important decision in April 1993, the state appeals court voted to reverse Frigo's conviction.

Lawyers who work with the human rights organization Gabinete de Apoio Jurídico às Organizações Populares (Legal Support Group for Popular Organizations, or GAJOP) were threatened with death several times. On July 23, unknown men shot at Jayme Benvenuto de Lima Júnior as he was driving home; he escaped injury. GAJOP was threatened because the organization had made public denunciations concerning corruption in the Pernambuco state judiciary. After the son of a local judge publicly stated that if he encountered any human rights lawyers he would shoot them, two GAJOP lawyers, Valdênia Brito and Kátia Costa Pereira, requested protection.

Activists who worked with indigenous people were also threatened in 1993. Sister Elsa Rosa Zotti, a Franciscan nun working with indigenous people in the state of Mato Grosso do Sul was threatened with death. According to the Conselho Indigenista Missionario (CIMI), Sister Zotti and several other nuns were threatened because they worked with the Rikbaktsa Indians, who were trying to secure the demarcation of their territory. The Catholic bishop of the state of Roraima, Dom Aldo Mongiano, also received a public death threat in February. On a live radio show, a man who identified himself as a "professional" offered to kill the bishop and leave his head in the town's main square. Dom Aldo had attracted the hostility of some of the state's population after farmers were expelled from land that was part of a Wapixana Indian reservation. Some accused Dom Aldo of helping the Wapixana to secure assistance from the federal police.

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

Despite close economic ties, the United States failed to use its

considerable leverage to press for improvements in Brazil's human rights record during 1993. With the exception of the generally accurate chapter on Brazil in the State Department's Country Reports on Human Rights Practices for 1992, the U.S. government issued few public statement on human rights violations in Brazil.

The State Department assured Americas Watch that human rights issues were frequently brought up in private conversations with Brazilian officials. However, in light of the high-profile massacres in 1993, the absence of public U.S. comment was particularly glaring.

Direct U.S. assistance to Brazil was low, compared with other countries in the region. In 1993 Brazil received approximately \$1.3 million in anti-narcotics assistance, \$250,000 for the International Military Education and Training Program (IMET) and some \$13.8 million in development assistance. In its request for 1994 anti-narcotics and IMET assistance, the Defense Department emphasized Brazil's commitment to nuclear non-proliferation.

According to the State Department, anti-narcotics funding went to assist the federal police with law enforcement programs, and was used for training and non-lethal technical equipment.

Despite the lack of public statements, officials at the U.S. Embassy in Brasília actively followed human rights issues. Shortly after the news broke concerning the killing of the Yanomami, the embassy's political officer attempted to visit the Yanomami reservation but, along with several other diplomats, was turned back by military officials who claimed that she did not have the proper authorization to visit the area.

The private and cautious nature of U.S. policy stands in contrast to the public activism shown by the European Community. On September 16, the European Parliament approved a resolution condemning human rights violations by the Brazilian military police and the impunity that they enjoy. The resolution called for the punishment of those responsible.

Echoing world-wide concern about the Yanomami, the U.S. Congress also held hearings on indigenous rights in Brazil, on July 7, 1993. The hearing before the Western Hemisphere subcommittee of the House Foreign Affairs Committee included representatives of the Brazilian Congress and of the Kayapó Indian nation, and discussed the demarcation of reservations as well as steps to protect Brazil's indigenous population from violence.

Another new development in 1993 was the granting of political asylum to Marcelo Tenório, a gay Brazilian, by U.S. immigration authorities. Tenório claimed, and in a precedent-setting decision judge Philip Leadbetter agreed, that as a gay person he was a member of a persecuted social group in Brazil. Tenório stated that in 1989 he was beaten in front of a gay disco in Rio de Janeiro, and that in a different incident he was taunted and attacked by the police.

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

In a press conference in São Paulo on May 31, Americas Watch released "Urban Police Violence in Brazil: Torture and Police Killings in São Paulo and Rio de Janeiro After Five Years," a newsletter issued jointly with the Núcleo de Estudos da Violência

(NEV) of the University of São Paulo. After the release, Americas Watch participated in a roundtable discussion with representatives of the São Paulo section of the Ordem dos Advogados do Brasil (Brazilian Bar Association) and local human rights groups. On June 2, Americas Watch and the NEV also held a press conference and roundtable discussion on this newsletter at the federal Congress in Brasília, hosted by deputy Hélio Bicudo. These press conferences yielded widespread television, newspaper and radio coverage.

In June and July, Americas Watch conducted two missions to Brazil, investigating homicides of minors in the states of Rio de Janeiro, São Paulo, Pernambuco, and Espírito Santo, and forced labor in the states of Pará and Paraná. An Americas Watch representative was present during a raid on a forced labor site in the state of Mato Grosso. Along with the CPT, Americas Watch participated in a press conference in Pará, to protest the postponement of the trial of those accused of murdering Expedito Ribeiro de Souza, resulting in front-page news in state capital's major newspaper. A newsletter about the forced labor investigations and a report about homicides of minors were scheduled for publication near the end of the year.

In September, after the killing of twenty-one people in the Rio de Janeiro slum of Vigário Geral, the vice-chair of Americas Watch met with state and federal authorities in Brazil and voiced Americas Watch's concerns about police violence. A newsletter about this mission, titled "The Killings at Candelária and Vigário Geral: The Urgent Need to Police the Brazilian Police," was issued in October. The newsletter called for urgent reforms at the state and federal level, including joint federal and state investigations into police violence, improved administrative discipline, greater attention to the protection of witnesses, and expansion of the civilian courts to try crimes committed by the military police. The newsletter also proposed that the Brazilian government create a federal crime to punish police abuses, thereby allowing for federal prosecution should state efforts prove ineffective.

## **COLOMBIA**

### **Human Rights Developments**

A "macabre democratization" of violence is how Colombia's presidential human rights counselor Carlos Vicente de Roux described the predominant trend of 1993, referring to the appalling contempt for human life demonstrated by state forces, guerrilla groups, and drug mafias. In the first six months of 1993, an average of eleven people a day were killed or disappeared for political reasons: three in armed conflict, six in acts of outright repression, and one in "social cleansing." An average of one disappearance occurred every day, putting Colombia third in the world for disappearances.

Victims were a cross-section of Colombian society: peasants living in combat zones, leftists, trade unionists, human rights

activists, ex-guerrillas who had laid down their weapons, prostitutes and other "social undesirables," soldiers, police, and combatants themselves. Human rights groups estimated that since the mid-1980s at least 300,000 Colombians had become internal refugees, forced to flee because of political violence. The refusal of both sides to respect the neutrality of the civilian population exacerbated suffering.

Yet the role of state agents and the paramilitary groups allied with them stood out. According to the Andean Commission of Jurists-Colombian Section (CAJ-SC), of the political murders in which a perpetrator could be identified in 1993, approximately 56 percent were committed by state agents, 12 percent by paramilitary groups allied with them, 25 percent by guerrillas, and 7 percent by private individuals and groups linked to drug-trafficking. Monitors noted an upswing in "social cleansing killings," particularly threats against street children. For instance, between May and September, twelve youths participating in a gang rehabilitation project sponsored by the Cali mayor's office were killed in circumstances that suggested the participation of the police.

This grim picture was challenged by a report issued in June by the Procuraduría, the oversight branch of government, which minimized abuses committed by the state in 1992. Although containing important information and a critical analysis of violations and impunity, the report tended to absolve the military high command, arguing that abuses were committed by middle-level officers acting independently. This claim was difficult to defend given the military's structure and mode of operation. Fifty-eight percent of the approximately 2,600 complaints involved the police. Of those, 60 percent resulted in punitive action. Of the 191 cases involving members of the military, however, only twenty-four resulted in disciplinary action. The Procuraduría attributed this to the "deep-rooted sense of [protecting] the institution... which results in a notable lack of solidarity with the investigator, unable to gather information quickly and in confidence because of cover-ups, complicity, or simply the silence of fellow officers."

Specialized army counterinsurgency units continued to commit massive human rights violations, including indiscriminate attacks, bombings, murder, torture, the destruction of property, and arbitrary detention and incarceration. For example, soldiers from Mobile Brigade II detained peasants Armando Pérez Arévalo and José Rodrigo Caro in Los Canelos, Bolívar, on July 2, accusing them of buying supplies for guerrillas. The next day, townspeople saw the pair in military custody, hooded, and dressed in fatigues. Two days later, a military helicopter brought their bodies to a nearby base; the military claimed they were "guerrillas killed in action."

Mobile brigades were also deployed against civilians engaged in peaceful protest. On September 14, Mobile Brigade II detained approximately 240 Segovia, Antioquia, residents participating in a civic strike, ostensibly to "prevent a disturbance." Held overnight with no shelter from rain, 238 were later released. Community leaders Héctor Múnera López and Joaquín Guillermo Vidales remained in incommunicado detention for several days.



Ties between the army and paramilitary groups remained strong. In November 1992, the Procuraduría issued formal charges against seven senior military officers for their illicit involvement with paramilitary groups in the Santander department. The highest-ranking officer indicted was Brig. Gen. Carlos Gil Colorado, former head of the Fifth Brigade and currently head of intelligence for the army general command.

Public complaints about police abuses reached a peak after a nine-year-old girl was raped and killed inside a Bogotá police station in February. (She was visiting her father, himself a police agent.) That month, the Procuraduría issued indictments against 150 members of the elite Anti-Kidnapping and Extortion Unit (UNASE), including eight police and four army officers, for kidnapping, torture, and disappearance. The Colombian press reported that kidnappers apprehended by UNASE were tortured to reveal the whereabouts of their victims. The kidnappers were then "disappeared" while the UNASE unit collected the ransom. In 1993 a governmental commission was formed to look into charges that members of UNASE, investigating the kidnapping of journalist Jaime Ardila, released in May, were involved with the army in the murder of Gregorio Nieves, an Arsario Indian, and the disappearance of eight others in April.

Three groups that looked into police abuses concluded that major reform was necessary. Perhaps most critical was the report submitted jointly by the Attorney General, Human Rights Ombudsman, Procuraduría and General Comptroller's office (Controlaría General), which called for "demilitarization," an end to the concept of "due obedience" which allows subordinates to claim innocence on the grounds that they were acting on superior orders, and a review of the constitutional provision that police be judged by military courts. Although the police were reorganized in 1993, change fell far short of the kind that would stem the worst abuses.

For their part, guerrillas continued to commit egregious violations of the laws of war, including murder, kidnapping, and attacks on civilian targets like media outlets and public transportation. In July a dissident faction of the Popular Liberation Army (EPL) murdered seventy-year-old priest Javier Cirujano ostensibly in retribution for his role in negotiating an EPL demobilization in 1991. The dissident faction of the EPL continued to target former associates who accepted a government amnesty, particularly in the banana-growing region of Urabá. Guerrillas also killed police captives after disarming and torturing them, as in the case of five Department of Administrative Security officers captured near Tuluá, Cauca, in April. Among the most prominent victims of the guerrilla offensive known as "Black September" was former Conservative senator Faisal Mustafá, shot by the National Liberation Army (ELN) at a political rally in Sucre, Santander, on September 12. Through imprisoned spokesman Francisco Galán, held in a Bogotá jail, the ELN vowed to continue threatening and attacking politicians opposed to renewed peace talks.

Although guerrilla bombings of oil pipelines reportedly dropped

significantly compared to 1992—from twenty-four in the first six months of that year to three in the same period in 1993—ecological damage was severe in areas where crude oil spilled into wetlands and rivers.

Impunity remained the principal obstacle to long-term improvement in human rights protection. Despite sometimes vigorous investigative and disciplinary activity by governmental authorities, those who committed abuses were rarely apprehended and punished. Americas Watch knew of few cases in which military courts had sentenced officers or soldiers for human rights abuses, and even fewer for which the punishment was commensurate with the crime. To the contrary, 1993 saw several setbacks for accountability. In April, three Procuraduría delegates, reviewing a case connecting three members of the Army's 10th Airborne Brigade to the 1988 massacre of twenty banana workers on the Honduras and La Negra plantations in Antioquia department, ordered a new inquiry, claiming that the initial investigation—which had resulted in dismissal orders—was poorly conducted and lacked rigorous evidence. Later, the Procuraduría declared the case closed on statute of limitations grounds. One of the officers, Lt. Col. Luis Felipe Becerra Bóhorquez, was implicated during 1993 in the October massacre of thirteen people in Riofrío, Valle, by soldiers under his command. According to an eyewitness, hooded soldiers burst into the Ladino family home, beat family members, raped young women, and then executed them.

In the Urabá case, as in others, Americas Watch noted many instances where the "lack of evidence" rationale was used by the military to clear its members. "Lack of evidence" was also cited in the 1993 acquittal of police and army officers implicated in the disappearance, torture, and murder of twenty-six people from the town of Trujillo, Valle, during 1990, in circumstances that suggested cooperation with local landowners and paramilitaries.

Although the Procuraduría issued charges against two police officers for the 1991 massacre of twenty Páez Indians at El Nilo, Cauca, in July 1993 the two policemen were acquitted, prompting a protest from Colombia's human rights ombudsman. Meanwhile, a parallel investigation by civilian authorities was marred by delays and laxity, including the release of a principal civilian suspect and allegations by court officials that denunciations of the massacre were a guerrilla "show" to defame police.

The record of the Procuraduría's Delegate office for the armed forces was particularly poor in 1993. Repeatedly, cases were shelved or resulted in the acquittal of the soldiers involved. Often decisions were based on cursory investigations, which failed to take into account the testimony of victims or eyewitnesses. When such testimony was included, it was frequently disregarded. Procuraduría delegate César Uribe Botero defended military court jurisdiction to European Community representatives by claiming that without it, "the decisions of ordinary judges could become a tool that destroys the bulwark of democracy, which is the military forces...The enemies of the Colombian democratic system will say that there have to be daily dismissals, in order to weaken the army and our pluralistic democracy."

Meanwhile, thousands of other Colombians were charged with terrorism and drug trafficking and brought before "public order" courts in circumstances that violated basic due process rights. These courts, created to protect members of the judiciary from murderous attacks by drug traffickers and insurgents, involved "faceless" judges whose identities had been concealed, as well as secret witnesses and evidence. There was mounting evidence, however, that the public order jurisdiction was being used to suppress nonviolent social protest and to imprison peasants living in areas where the guerrillas were active. Among the most serious misapplications of the public order jurisdiction in 1993 involved thirteen members of the state telecommunications union (Telecom), imprisoned for participating in a 1992 strike. Although the workers were originally charged with sabotage amounting to "terrorism," the case was transferred to the ordinary justice system later in the year and the workers provisionally released in early November. The Telecom case had been the subject of broad national and international protest.

A study by the CAJ-SC found that many other cases referred to the public order courts were based on unsubstantiated and unsigned "intelligence reports" provided by the security forces, or evidence that had been falsified; because evidence was kept secret, the defense could not object to its use in court. Often the very poor were being tried without legal representation. Americas Watch received numerous reports indicating that defendants often underwent brutal treatment at the hands of their captors, including prolonged incommunicado detention, torture, and death threats. Despite obvious injustices, the Constitutional Court upheld the public order jurisdiction in March.

In a ruling criticized by the Gaviria administration, the Constitutional Court declared on August 3 that detainees held for "public order" crimes could not be deprived of conditional liberty for more than six months. Rather than permit a release of the 1,600 to 2,000 prisoners affected, however, President César Gaviria issued an emergency decree giving judges an additional period of time to rule on the charges. A law subsequently passed by Congress limited the period of investigation to six months.

The "state of internal commotion" invoked by President Gaviria in November 1992, ostensibly to combat Colombia's approximately 7,000 guerrillas, was renewed three times at ninety-day intervals during 1993 and remained in effect through November. While a number of the approximately forty emergency measures imposed by the executive were overturned by the Constitutional Court, others, including the executive's power to suspend local officials who hold unauthorized talks with the guerrillas and a prohibition on live broadcasts of guerrilla actions or interviews with the insurgents, were upheld.

In 1993, the Gaviria government re-submitted to the Congress a bill to regulate states of exception, criticized strongly by human rights groups and the human rights ombudsman, who termed it a "veiled prolongation of the situation of juridical abnormality." Although the congress removed some objectionable provisions, others were allowed, among them the security forces' right to carry out searches, detentions, and interceptions of

communications without judicial warrant. Limitations on individual freedom and enhanced powers to a military establishment already renowned for brutality posed dangerous threats to Colombian democracy.

In addition, Congress upheld restrictions on the media and granted the President the power to modify definitions of crimes and penalties, used in April to double the maximum sentence for terrorism from thirty to sixty years. Concentrating extraordinary powers in the executive, this provision could allow the President to redefine crimes such as "rebellion" to cover not only armed revolt but also a broad range of activities considered "subversive" by the government.

The climate of war made it difficult to renew peace negotiations with guerrillas, strongly opposed by leading military commanders. Tirso Vélez, a poet and mayor of Tibú, Norte de Santander, was investigated for possible ties with guerrillas at the behest of the army after publishing a poem calling for peace and understanding between insurgents and soldiers. A fitful dialogue between the government and the Socialist Renovation Current (CRS), a dissident faction of the ELN, was abruptly suspended in late September following the murder of two CRS spokespersons in circumstances that suggested official complicity.

Drug kingpin Pablo Escobar remained a fugitive despite repeated claims by the government that his capture was imminent. In an effort to intimidate his pursuers, Escobar apparently ordered the killings of scores of policemen and random bombings in urban areas, one of which took fifteen lives in Bogotá in April. In response, a group known as "People Persecuted by Pablo Escobar" (Pepes) claimed credit for the murder of several Escobar henchmen and five former Escobar lawyers. Police in Medellín were also accused of carrying out random vengeance killings of young men in the city's poor slums, where the drug mafias recruited their irregular troops.

### **The Right to Monitor**

Verbal and physical attacks on human rights monitors continued in 1993, born of the military's conviction that human rights advocacy equals subversion and the complete impunity for previous attacks on human rights activists. This attitude was encapsulated by a statement by Gen. Ramón Emilio Gil Bermúdez, Commander of the Military Forces, who described the activities of one Colombian human rights monitor in exile as part of an international campaign waged by guerrillas. General Harold Bedoya, commander of the army's Second Division, brought a charge of slander against the Permanent Committee for Human Rights and fifty other prominent human rights figures after the publication of an August communiqué calling for the release of trade unionists.

Four days before an April peace seminar he helped organize was scheduled to begin in Villavicencio, Meta, Delio Vargas, a human rights activist and coordinator of an association of internal refugees, was disappeared in circumstances that suggested the involvement of the security forces. The Regional Committee for the Defense of Human Rights (Credhos) in Barrancabermeja, Santander, continued to be the object of threats and harassment by the army's

Nueva Granada Battalion.

Lawyers who prosecuted high-profile human rights cases or represented clients before the public order courts were also threatened. Rafael Barrios Mendivil, president of the "José Alvear Restrepo" Lawyers' Collective, was harassed and followed by members of the police, army, and state security agents and received numerous telephone death threats; he was counsel in the 1991 Los Uvos case involving the massacre of seventeen civilians, and in the El Nilo case involving the murder of twenty Páez Indians in December 1991. Dr. Eduardo Umaña Mendoza also received numerous telephone death threats after assuming the defense of the thirteen Telecom workers.

Guerrillas staged several attacks against journalists in 1993 for articles critical of guerrilla actions. In March, the ELN took responsibility for the murder of journalist and newspaper editor Eustorgio Colmenares, who had written about the guerrillas in the Cúcuta-based *La Opinión* newspaper. According to the newsweekly *Semana*, Colmenares was the hundredth journalist killed in four years of political violence and the first murdered by guerrillas. Journalist Jaime Ardila of *El Espacio* was kidnapped by guerrillas in April and remained in captivity for over a month.

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

Apart from the State Department's annual *Country Reports on Human Rights Practices*, no public statements were made during 1993 by U.S. Embassy officials concerning human rights. Although the Colombia chapter of the *Country Reports* issued in January did affirm that the security forces were responsible, in 1992, "for significant numbers of abuses," the main culprits were said to be guerrillas and drug traffickers. In addition, the Colombia chapter claimed that drug traffickers disseminated "false information about official human rights abuses," a claim that, while possibly true, did nothing to acknowledge or explain the high number of abuses by official forces documented by respected human rights groups.

The drug war continued to be the prime focus of U.S. policy, although the Clinton administration's strategy for narcotics control remained murky throughout the year. In what may mark a significant shift, the Defense Department's *Congressional Presentation for Security Assistance Programs* for fiscal year 1994 listed support for "counter-insurgency/counter-narcotics efforts" as the principal U.S. military assistance objective. Previously, the U.S. government had redirected resources away from the Colombian army to the police because the army was seen as uninterested in narcotics control efforts. Pentagon officials explained to Americas Watch that U.S. assistance programs were still dedicated to counter-narcotics purposes and not counterinsurgency. But the distinction may not be relevant given the Pentagon's assessment that Colombia's two largest guerrilla groups have "evolved into criminal organizations, heavily involved in narcotics trafficking."

Although it represented a decrease compared to 1992, Colombia received an estimated \$28.2 million in grants and loans under the Foreign Military Financing (FMF) and International Military

Education and Training (Imet) programs in fiscal year 1993, more than any other Latin American country. Colombia also continued to head the list of numbers of students trained under Imet, a distinction it had held since fiscal year 1984. In fiscal year 1994, Colombia was again slated to receive more military aid than any other Latin nation, \$32 million in FMF and Imet, or about half of proposed U.S. military aid to all of Latin America. An additional \$25 million was requested for narcotics control programs run by the State Department. According to the department, approximately three-fourths of the fiscal year 1993 and 1994 aid was destined for the police.

Human rights controls over the disbursement of aid continued to be lax or nonexistent. According to a U.S. Government Accounting Office (GAO) report in August, U.S. officials had not developed procedures to determine whether U.S. aid went to Colombian units involved in human rights abuses, and end-use monitoring of equipment was inadequate. Moreover, GAO investigators found two instances in which Colombian security force officers who had allegedly committed human rights abuses came from units that received U.S. aid.

The Agency for International Development, funding a six-year, \$36-million program for judicial reform, pointed repeatedly to the high conviction rate of the public order courts as a sign of improvement in civilian control of drug trafficking and terrorism, downplaying or ignoring the serious violations of due process inherent in their operation as well as the misuse of the public order jurisdiction. In interviews with Americas Watch early in the year, U.S. Embassy officials insisted that public order courts were better on due process issues than ordinary courts, and defended the extension of their jurisdiction to cases such as that of the Telecom workers.

Out of growing concern for the human rights situation in Colombia, the U.S. Congress for the first time placed Colombia on the list of countries subject to special conditions for the disbursement of aid. Upon adopting conditionality, the Senate referred to a record "tarnished by continuing human rights abuses on a large scale" and expressed concern for the lack of access of the International Committee of the Red Cross to military and police detention facilities.

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

Americas Watch expanded its focus on violations of the laws of war in Colombia, in view of the breakdown of the peace talks between the government and the insurgents and the sharp escalation of the war effort. A report on human rights violations committed by the Mobile Brigades, specialized counterinsurgency units, was due to be published in December, focusing on abuses by both the army and guerrillas. Research for this report led to a discovery of new cases of abuse in Colombia's public order court jurisdiction, which continued to be a central focus of investigation and advocacy. A Spanish translation of our 1992 report was released in March 1993, and rose to a place on Colombia's best-seller list. Americas Watch registered frequent protests with Colombian government officials about the flood of human rights violations

throughout the year. Together with the CAJ-SC and the Center for Justice and International Law (CEJIL), Americas Watch continued to represent past victims of abuses by pressing cases before the Inter-American Commission on Human Rights. One such case, the 1989 disappearance of rural teacher Isidro Caballero, came before the Inter-American Court of Human Rights during 1993, the first adversarial case against Colombia to be heard by that Court. Americas Watch representatives made two visits to Colombia during the year, meeting with Colombian and U.S. officials, human rights groups, and political and community leaders. In Washington, Americas Watch representatives focused on bringing Colombia's serious human rights situation to the attention of the U.S. Congress and pressed for human rights conditionally on U.S. aid. Americas Watch also participated in an ongoing dialogue with the Clinton administration and other human rights groups about U.S. funding for the public order courts. Americas Watch invited Sister Nohemy Palencia, of the Civic Committee for Human Rights, in Meta, to be honored by Human Rights Watch at its observance of Human Rights Day, December 10.

## **CUBA**

### **Human Rights Developments**

In 1993, the Cuban government made a few important human rights gestures. It released a number of political prisoners before the end of their terms, in advance of the World Human Rights Conference in Vienna in June. It also slightly relaxed the travel restrictions on some former political prisoners and other dissidents. At least two were allowed to travel to the U.S. and return to Cuba, and others were permitted to leave permanently. Travel limits for the population as a whole also were reduced. There were fewer reports of mobs beating dissidents and vandalizing their homes in state-directed attacks; and while individual government critics continued to be fired from their jobs, there were fewer reports of mass expulsions. Still, the thirty-five-year-old government of Fidel Castro only modified some of its behavior, without altering the laws that legalized and provided impunity for rights abuses. The authorities continued to take legal and extra-legal reprisals against their opponents and critics, especially lesser-known human rights monitors and peaceful pro-democracy activists. Many peaceful dissenters continue to languish in prison serving some of the stiffest prison sentences for thought crimes in the last ten years. Cubans still must request permission from their government to leave their own country temporarily or permanently. Cuba continued to lack the laws and institutions that would protect civil and political rights on a permanent basis. There was no free press. The state continued to own all media. Speech was curbed by laws banning "enemy propaganda" and "clandestine printing." Dissidents were imprisoned on charges as serious as "rebellion."

For offending the President, Cubans could be jailed for three years.

There were no legally recognized civic or political organizations independent of the government or Communist Party. Human rights and pro-democracy groups were denied official recognition. Free association and assembly were punished under laws prohibiting "illegal association" and "public disorder." There were no free and fair elections.

Cuban courts remained subordinate to the executive, and Cuban law dictated that judges must demonstrate their "active revolutionary integration." Due process was flouted, and defendants, especially in political cases, were almost always convicted.

Prison inmates—both political and common prisoners—reported that nonviolent protests such as hunger strikes spawned retaliation in the form of beatings, confinement in harsh punishment cells, denial of medical attention and relocation to prisons far from their families. Prisoners complained of inadequate food, unsanitary conditions, overcrowding, and insufficient or lack of time outdoors.

Violation of the right to privacy was systematic. Tight political control was maintained through extensive monitoring of Cubans' daily lives, conducted by state-security police who often coerced or blackmailed people into becoming informants, as well as by state-sponsored "mass organizations" such as the Committees for the Defense of the Revolution (CDRs), which operated in neighborhoods and workplaces.

Mass organizations, together with state-security police, staged protests against "counter-revolutionaries" in ostensibly spontaneous "acts of repudiation." Mobs typically chanted slogans and often assaulted dissidents, defacing or destroying their homes. "Rapid-action brigades"—state-organized gangs of vigilantes—were deployed to crush forcibly any signs of popular discontent.

The loss of trade and subsidies from the former Soviet Bloc in combined with the long-term U.S. blockade, had plunged Cuba into its most severe economic crisis since the 1959 revolution. Food rationing was tightened during 1993; transportation was drastically curtailed by a severe fuel shortage; electricity blackouts occurred regularly.

Extreme shortages and blackouts gave rise to unrest, including stone- or bottle-throwing anti-government protests, and increased crime. In response, in 1993 the government called on the population, including the brutal rapid-action brigades, to participate in its anti-crime campaign. According to the Communist Party daily, *Granma*, "delinquents and anti-social elements who try to create disorder and an atmosphere of mistrust and impunity in our society will receive a crushing reply from the people," as reported by Reuters on September 8.

Rights monitors reported the increased invocation of the "dangerousness" provision of the penal code in the context of the anti-crime campaign. Cuban law provided for the application of preventive measures, including imprisonment, against those who conducted themselves in a manner that contradicted "socialist



morality," even without having committed a crime. Some fourteen anti-government activists were said to have been arrested in mid-to late-1993; some of them were held under the "dangerousness" provision, while others were charged with offenses that on their face violated internationally recognized standards of freedom of expression and association.

While the Cuban government considerably reduced travel limitations for the population in general, significant restrictions that ran contrary to international norms on freedom of movement remained. The extralegal harassment that once accompanied procedural requirements to leave the country by those who were stigmatized as "disaffected," reportedly diminished significantly. The growing number of *lancheros*, or boat people, who fled to the U.S.—more than 1,100 by mid-year—was caused less by Cuban restrictions than by the difficulty of obtaining U.S. visas. Still, Cubans were required to seek permission from their government to leave and return to their country—an inherent limitation—and those who wished to travel had to be age twenty-years-old and over. Those caught attempting to leave the country in makeshift vessels could expect to be detained for a period of time by state security police. Repeat offenders were likely to serve one year in prison. In addition, the Cuban government continued to deny permission to travel to those with whom it might have a political quarrel. For example, Yara Silva Urquiza Bustamante, the thirteen-year-old daughter of Lissette Bustamante, a prominent journalist who defected to Spain in 1992, was refused permission to leave Cuba. In October 1993, prize-winning writer Norberto Fuentes was arrested for trying to leave the country illegally by boat after repeatedly being denied permission to travel.

Several shooting incidents were reported in mid-1993 involving people fleeing the country. On July 1, Cuban Coast Guards shot and killed three Cubans at the coastal town of Cojimar after they boarded a speedboat that had come from Florida to collect them. This was one of at least three incidents in which Cuban exiles in the U.S. attempted to bring back family members in boats and were captured by Cuban authorities for entering Cuban waters illegally. Around the same time, the U.S. State Department reported shooting and grenade-throwing by Cuban border guards against Cubans swimming to the U.S. naval base at Guantánamo to seek asylum. According to the U.S. government, four Cubans were killed in two incidents at the end of June.

In a welcome development, in 1993 the Cuban government released several well-known political prisoners, including María Elena Cruz Varela, a prominent poet arrested in 1991 and sentenced to two years in prison for "illegal association" and "defamation of state institutions;" José Luis Pujol, a dissident arrested in 1992 and sentenced to a three-year prison term on charges of offending the government; and Marco Antonio Abad and Jorge Crespo, who were arrested in 1991 and sentenced to two-year prison terms for offending the president and spreading "enemy propaganda" in a film they made.

Despite having released some political prisoners, Cuban authorities continue to harass, arrest and imprison its critics

and opponents. Rafael Gutiérrez Santos, an independent labor activist, was detained for six months in the first half of the year by state security police for alleged crimes against the security of the state. His arrest followed an announcement of the formation of the National Commission of Independent Unions. Other members of this group reportedly received official warnings from the police not to pursue their activities.

Guillermo Fernández Donate, of the Socialist Democratic Current, reportedly was arrested by state security police in mid-year for possessing "enemy propaganda." Over the last year, Fernández, also a member of the Cuban Committee for Human Rights, and his wife, Eurídice Sotolongo Losada, lost their jobs in a state architecture firm because of his opposition activities.

Domiciano Torres of the Democratic Civic Party, a pro-democracy group, was detained in August by state security police who beat him severely at the time of his arrest. Torres, a professor of architecture who lost his job in 1992 because of his dissident activities, reportedly faced charges of spreading "enemy propaganda." After being held for forty-two days by State Security, he was reportedly transferred to the Havana Psychiatric Hospital, a form of harassment commonly inflicted on jailed dissidents.

Rolando Roque Malherbe of the Cuban Civic Current, a pro-democracy group, was summoned for questioning by the police and the local CDR on September 23, the day before a party at his home in Havana, to which he had invited dissidents and diplomats. On September 24, plainclothes police surrounded Roque's home and prevented his guests from entering. Roque remained in detention until September 27. A prominent physicist, Roque lost his job in 1992 after signing an open letter to the participants in that year's Iberoamerican Summit in Spain calling on them to press the Cuban government to respect human rights.

Félix Bonne Carcasés of the Cuban Civic Current was held for three weeks in October by the Department of Technical Investigations in Havana. His arrest followed a search by state-security police, who confiscated some documents. Bonne, an electrical engineer, had also lost his job after signing the letter to the Iberoamerican Summit.

Pro-democracy advocates who continued to languish in prison included Yndamiro Restano of the Harmony Movement (MAR), who was arrested in Havana in 1991 and convicted with María Elena Aparicio, another MAR member, on charges of rebellion. They were serving terms of ten and seven years, respectively. Omar del Pozo, of the non-governmental group National Civic Union, was tried in a military court in Havana in August 1992 along with three others including one state security agent. He was convicted of spreading "enemy propaganda" reportedly because he received information from the state security officer, and was sentenced to fifteen years in jail.

### **The Right to Monitor**

Human rights monitoring continued to be illegal in Cuba. Despite numerous petitions for official recognition submitted to the Ministry of Justice by the various groups currently attempting to

function in Cuba, none gained legal status. Laws restricting free expression and association, combined with near-constant surveillance by the state-security police, ensured that human rights monitoring was frequently punished.

Cuban rights activists were routinely harassed, questioned, and threatened by the security police, and often arrested. Since 1989, Cuban authorities have made hundreds of arrests of human rights monitors and pro-human rights political activists. During 1993 dozens were believed to be serving prison terms of up to fifteen years for their peaceful advocacy. Scores of others had been subjected to government-sponsored acts of repudiation and beatings by plainclothes state agents.

Security police frequently searched the homes of human rights monitors, confiscating typewriters, tape recorders and documents. Many activists had been fired from their jobs. They had been prevented from or pressured into leaving the country.

Rodolfo González González, a leading member of the Cuban Committee for Human Rights, was arrested at home by security police during the December 10 Human Rights Day crackdown on activists in 1992. He was being held in Guanajay prison in Havana and, after ten months, continued to await trial.

Amador Blanco Hernández of the José Martí National Commission on Human Rights was arrested at his home in Caibarién, Villa Clara province, also on December 10, 1992. Another member of the group, Joel Mesa Morales, was arrested in January 1993. Blanco and Mesa were tried in September 1993 on charges of spreading "enemy propaganda" and were sentenced to prison terms of eight and seven years, respectively.

On May 1, 1993, May Day, after attending mass at a Havana church, some fifty activists were attacked by scores of plainclothes police and "rapid response brigades" as they marched silently down the street carrying a Cuban flag. The marchers were beaten with pipes and clubs. César Guerra Pérez, Armando Sánchez and at least six others were reported to have been bloodied in the attack. The night before the attack, police arrested two organizers of the march, Paula Valiente and Juan Guarino. On May 17, they were each sentenced to a two-year suspended sentence on charges of inciting crime. Valiente was reportedly briefly detained on July 8 for planning another peaceful procession. Guarino was reportedly rearrested in September.

Others continued in prison, such as Sebastián Arcos, a leading member of the Cuban Committee for Human Rights who was arrested by state security police in January 1992 and sentenced (for spreading "enemy propaganda") to a prison term of four years and eight months. Luis Alberto Pita Santos, head of the Association of Defenders of Political Rights, who had been imprisoned since October 1991, was convicted on charges of offending the head of state, "clandestine printing," and "illegal association." He was sentenced to a five-year term. After reportedly spending seven months in an isolation cell in Boniato prison in Santiago de Cuba, Pita was moved to Kilo-8 prison in Camagüey, where he was said to have been beaten and, during the day, chained at the ankles for protesting his continued incarceration.

Pablo Reyes Martínez of the National Civic Union was arrested in

1992 and convicted of spreading "enemy propaganda." He was sentenced to eight years in prison for reporting on human rights abuses by phone for an exile radio station in the U.S.

### **The Right to Monitor**

International human rights monitoring was severely curtailed after a brief opening in 1988 when Cuba was under international pressure to allow prison inspections by international organizations. Despite repeated requests, Americas Watch still did not 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 U.S. organizations.

For the second consecutive year, the Cuban government refused to cooperate with the resolutions adopted by the U.N. Commission on Human Rights, which provided for a special rapporteur to investigate human rights conditions in Cuba and report his findings to the commission. The Cuban government's 1988 agreement with the International Committee of the Red Cross granting access to Cuban prisons and political prisoners remained suspended, having been broken by the Cuban government in 1990.

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

The United States imposed a trade embargo against the government of Fidel Castro at the height of the Cold War, more than three decades ago. In 1992, three years after the demise of the Soviet Bloc, President Bush signed into law the Cuban Democracy Act, which expanded the embargo with the intent to speed the collapse of the Castro government and foster democracy.

While some saw the hostile U.S. posture towards Cuba as a way to pressure the Cuban government to initiate democratic reform, others considered it an excuse for the Cuban government to crack down on internal democracy advocates and deny civil and political rights. Americas Watch objected to aspects of U.S. policy that impeded 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 U.S. vowed to lift limits on "human contacts," including bans on travel and telephone communications. The principles set forth in the instruments clearly favored the removal of any barrier on such contacts raised by a CSCE government in its relations with other nations.

During 1993, the embargo allowed U.S. citizens to travel to Cuba, but prohibited them from spending money without permission from the U.S. Treasury Department. For defying the embargo, a U.S. citizen could be prosecuted for trading with the enemy, jailed for up to twelve years and fined up to \$500,000 for corporations, and \$250,000 for individuals. The Treasury Department was authorized to impose a civil penalty of up to \$50,000 on violators of the Cuban Democracy Act.

Fines could not be levied against four categories of visitors to Cuba: U.S. government officials; family members with relatives in

Cuba; academics, researchers with Cuba-specific expertise, and religious groups; and journalists. All other Americans traveling to Cuba were required to be guests of the Cuban government.

The Clinton administration embraced the Cuban Democracy Act but began to interpret its provisions in a way that, despite the restrictions enshrined in the law, would allow it slightly to increase human contacts. Since 1988, Americans who have been permitted to import books, films, records and art from Cuba, have been barred from traveling there to conduct business. In 1993, the administration allowed an American poster-art importer to spend money on travel to Cuba after years of repeated Treasury Department denials. However, the administration refused permission to a group of U.S. mathematicians to participate in an internationally sponsored conference in Havana in September 1993.

The embargo impeded telephone communications between Cubans and Americans by blocking payment of monies owed to Cuba that had been held in escrow for three decades. In 1993, the Cuban government announced that it was reducing the number of phone calls it would complete to and from the U.S. to a tiny fraction of normal demand. This may have been an effort to force U.S. callers to connect with Cuba via Canada, where phone companies paid Cuba its share of revenues. In response, while the U.S. banned the re-selling of calls through Canada in July, it issued new guidelines that could increase direct links to Cuba.

The administration lifted the limits on circuits between the U.S. and Cuba, and permitted U.S. long-distance companies to offer Cuba 50 percent of revenues for completing calls—most of which were billed in the U.S. However, it refused to allow Cuba access to the approximately \$80 million that remained in a blocked account. The Cuban government rejected the U.S. offer.

The U.S. continued to fund TV-Martí, the U.S. Information Agency's (USIA) television broadcast to Cuba, even though its transmissions had been successfully blocked by Havana and could not be seen in Cuba. The Cuban government retaliated by blocking the USIA's medium-wave radio broadcasts to Cuba, the widely-heard Radio Martí, which thereafter could be heard mainly on short-wave only. In 1993, the U.S. House of Representatives voted to stop funding both TV- and Radio Martí; the Senate voted to renew funding for both. As of early November, the matter was still undecided.

To its credit, the Bush administration's State Department once again produced a solid human rights report on Cuba. Its *Country Reports on Human Rights Practices for 1992* provided a largely accurate account of violations in Cuba, and was notable for the abundance of cases and issued it addresses in detail.

The U.S. delegation again led the campaign to censure Cuba at the United Nations Human Rights Commission (UNHRC) meetings in Geneva during the spring of 1993. Headed by Richard Schifter, the U.S. delegation balanced its initiative on Cuba with forceful efforts against other violator countries and avoided the ideologically-charged confrontations of past sessions. The 1993 UNHRC resolution on Cuba extended the mandate of the special rapporteur for another year. Again, the Cuban government quickly announced that Cuba would not cooperate with the rapporteur.

Mr. Carl Johan Groth of Sweden, named rapporteur by U.N. Secretary General Boutros Boutros-Ghali in 1992, accepted the post for another year. Despite the fact that Mr. Groth had been denied permission to visit Cuba in 1992, he presented a report to the commission in February 1993 that reflected the broad range of concerns of Cuban human rights monitors while being thorough and balanced.

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

Americas Watch published a lengthy newsletter on Cuba in February, "Perfecting the System of Control, Human Rights Violations in Castro's 34th Year," which covered the period January 1992 to February 1993. The release of the newsletter was timed to coincide with the meeting of the U.N. Commission on Human Rights in Geneva. In September 1993, Americas Watch met with the U.N. special rapporteur on Cuba.

### **EL SALVADOR**

#### **Human Rights Developments**

The human rights situation deteriorated markedly in the second year since the signing of the January 1992 peace accord. By the end of 1993, politically motivated extralegal executions and death threats were on the rise and what the United Nations Observer Mission for El Salvador (ONUSAL) called "irregular groups" resembling death squads were once again responsible for violent murders.

The month of October alone witnessed the murder of four former combatants of the Farabundo Martí National Liberation Front (FMLN), two of them high-ranking. On October 25, FMLN leader Francisco Velis Castellanos was shot in San Salvador as he left his young daughter at a day-care center. Velis, an alternate candidate for the Legislative Assembly, was the highest-ranking FMLN leader killed since the advent of formal peace. Eight days later, former senior guerrilla leader Eleno Hernán Castro, a member of the FMLN's land commission, was murdered in San Vicente province. According to the Catholic church, two other ex-combatants, a married couple, were murdered in late October. In early November, local FMLN leader Gabriel Quintanilla was shot at close range in San Miguel and critically wounded, and the body of another ex-combatant was found stuffed in a garbage can in San Salvador.

The quickened pace of political murder posed a threat to the legitimacy of March 1994 presidential, legislative, and municipal elections, the first in which the FMLN was due to participate as a political force. In addition, the refusal of the government to undertake structural reforms to improve the administration of justice, so that crimes would be investigated and punished, became all the more critical in light of ONUSAL's plan to depart from El Salvador following the 1994 elections.

Continuing abuses, some of them serious and systematic, reflected

the historical failure of El Salvador's judicial system to prosecute those responsible for human rights crimes. In 1993, however, there were dramatic attempts to challenge impunity. The United Nations-brokered peace accord established two commissions, one (the Truth Commission) to investigate past acts of violence and make recommendations for the future and another (the Ad Hoc Commission) to review the records of military officers in order to purge those involved in corruption and wanton violence. The findings of both commissions made human rights in El Salvador the subject of broad national and international debate. They also underscored the resistance of key Salvadoran military officers and civilian elites to making structural changes that would help institutionalize improvements in the respect for human rights. In mid-March, the Truth Commission issued *From Madness to Hope: The Twelve-Year War in El Salvador*. The report examined assassinations, disappearances, and massacres attributed to official forces and death squads, and murders and kidnappings attributed to the FMLN. Renowned cases such as the 1980 murder of Archbishop Oscar Romero, the 1981 army massacre at El Mozote, and the rebel kidnapping and murder of municipal officials in the mid-1980s were examined in great detail alongside several other major cases that had never been publicized. A full 85 percent of the cases denounced to the Truth Commission were ascribed to state agents, paramilitary groups, or death squads allied with official forces. Five percent of the cases were attributed to the FMLN. The commission's report also identified by name over forty military officers and eleven members of the FMLN responsible for ordering, carrying out, or covering up abuses and suggested that those named be banned from holding public office for ten years. (In mid-October, U.N. Secretary-General Boutros Boutros-Ghali reported that eight military officers, two judges, and one forensic doctor named by the commission still retained their posts.) The commission also made detailed recommendations for judicial reform, and cited the "tremendous responsibility" of the judicial branch for impunity in calling for the resignation of the entire Supreme Court. In perhaps its most spectacular finding, the Truth Commission named Minister of Defense René Emilio Ponce as having ordered the 1989 murders of six Jesuit priests, their housekeeper and her daughter. Previous investigations had involved Ponce and other officers in the planning of the Jesuit murders, but had not traced the direct order to the defense minister himself. Military officers, conservative politicians, and government officials vehemently repudiated the report, a reaction stemming principally from its thoroughness in documenting official abuses. In an attempt to limit the impact of the report and prevent a full reckoning with its findings, President Alfredo Cristiani asked for an "immediate, general, and total amnesty" on the eve of the report's release. Within days, the Salvadoran Legislative Assembly, over the objections of the FMLN and opposition parties, passed a "broad, absolute, and unconditional amnesty" for political as well as most common crimes. As a result, those jailed in even the most notorious cases, including the Jesuit murders and the 1991 FMLN murders of two wounded U.S. servicemen,

went free. The amnesty and its guarantee of impunity emboldened would-be killers to continue their murderous campaigns.

The Truth Commission was instrumental, however, in furthering the government's compliance with the recommendations of the Ad Hoc Commission for a purge of 103 officers, including the minister and vice-minister of Defense. President Cristiani failed to carry out the purge in late December 1992, transferring rather than dismissing seven senior officers and allowing another eight, including Ponce, to retain their posts. U.N. Secretary-General Boutros-Ghali stated in early January 1993 that the government's actions were "not in compliance" with the peace accord.

Once the findings of the Truth Commission regarding Ponce's involvement in the Jesuit murders were known, however, pressures mounted for his removal. Ponce publicly offered his resignation several days before the Truth Commission report's release. Not until July 1993 did he and several others step down from their posts.

Other aspects of the peace accord touching on human rights issues presented a similarly mixed picture in 1993. New units of the National Civilian Police (PNC) had replaced the National Police in five of El Salvador's fourteen departments by early November. But the U.N. noted on several occasions that the ranks of the existing National Police "increased significantly" rather than being reduced. Particularly troubling was the incorporation into the National Police of former personnel from the National Guard and Treasury Police, two security forces that were abolished because of their notorious involvement in human rights abuses. Members of the army's dissolved rapid reaction battalions, whose human rights record was similarly tarnished, were also incorporated into the National Police. These transfers represented a flagrant violation of the peace accord. The new PNC, meanwhile, continued to suffer from inadequate domestic and international funding, even while the Salvadoran government continued to direct new resources to the existing National Police. The appointment of a former military officer to the second-ranking post at the PNC also had the potential to undercut the peace accord's intention that it function as an entirely new security body.

In addition, President Cristiani announced in July his decision to deploy 3,000 army soldiers along the highways for an indefinite period of time, supposedly to fight common crime. Opinion polls showed that the Salvadoran public perceived there to be an increase in crime, and that fears for personal security ranked at the top of citizens' concerns. ONUSAL reported in May that a review of crime statistics "[does] not indicate a dramatic increase in common crime" even though figures for later in the year did show a rise.

Regardless of common crime, the deployment of the army for internal security functions contradicted provisions of the peace accord separating the military from the police and limiting the army's role strictly to matters of external defense. Americas Watch was also concerned that the government's dwelling on the issue of delinquency was intended to play on public fears, thereby generating support for a continued military role in strictly police matters. Moreover, we shared the fear expressed by ONUSAL



as well as opposition forces that generalized violence could "become a front behind which serious violations of human rights, such as political murders, masquerade as ordinary crimes."

While government compliance with human rights provisions of the peace accord left numerous gaps, the FMLN also undercut the accord in ways that potentially jeopardized its full political participation. In May 1993 an arms cache in Managua, Nicaragua accidentally exploded. A subsequent investigation revealed that it belonged to the Fuerzas Populares de Liberación (FPL), one of the five groups composing the FMLN. Over the next several months, all five of the FMLN's constituent groups admitted to having over 114 other arms caches in and outside El Salvador. The existence of the weapons depots demonstrated that the FMLN had lied to the United Nations when it claimed to have fully disarmed late last year and to have turned over its arsenals for destruction.

The U.N. Security Council called the existence of the arms caches "the most serious violation to date" of the peace accord, and inside El Salvador there were calls for the FMLN's cancellation or suspension as a political party. A second process of verification and destruction of weapons belonging to the FMLN was completed in mid-August, but not after a serious breach of trust in the FMLN's commitment to peaceful political participation.

The climate for the 1994 elections was further marred by the government's failure to expedite the issuing of voter registration cards for 27 percent of El Salvador's potential voters, approximately 786,000 people. (The Supreme Electoral Tribunal was dominated by the right-wing ruling party.) Following an August freeze of \$70 million in U.S. Economic Support Funds by the chairman of a congressional subcommittee, the pace of registration picked up. In October, members of ONUSAL's elections division expressed optimism that 90 percent of potential voters could be registered by the deadline of November 20. It remained to be seen whether that goal would be met, or whether the 1994 elections would fall short of their intended role as the culmination of the peace process.

The consolidation of democracy and the expansion of political participation were also undermined by the quickening pace of human rights violations as the year drew to a close. ONUSAL's eighth report issued in November, as well as reports by the newly-created office of the human rights ombudsman (Procuraduría para la Defensa de los Derechos Humanos), noted an increase in violations of the right to life, including outright assassinations and death threats. ONUSAL said in November that admissible denunciations of "deaths as a result of the violation of judicial guarantees and arbitrary or extralegal executions" had increased by 30 percent over the previous three-month reporting period. It noted as a positive development that there had been no forced disappearances during a thirteen-month period beginning in mid-1992 but also indicated an increase in arbitrary executions, not all of them political, as well as a handful of cases of torture. The ombudsman's office likewise signaled in October that "organized violence in the political arena" was worsening the situation of public security.

In July, ONUSAL engaged in a public dispute with Salvadoran human

rights groups over the number of killings that could be attributed to death squads. ONUSAL's human rights division stated that several cases denounced by the archdiocese of San Salvador's human rights office, Tutela Legal, as having been committed by death squads were, in fact, common crimes without political motivation.

At the same time, ONUSAL verified that certain homicides "involv[ed] methods and procedures similar to those which, in the past, were used by the death squads."

ONUSAL underscored that drawing the line between criminal and political acts was difficult when the government failed to investigate violent deaths. In fact, throughout 1993 the government failed to launch an investigation of death squad violence as recommended by the Truth Commission. By its October report, ONUSAL became less circumspect regarding death squad responsibility for murders, saying that it could not "rule out that former members of irregular groups like those who operated in the 1980s" were involved in violent deaths of unidentified individuals. ONUSAL also issued more frequent and prompt denunciations of individual cases, a positive development that helped generate pressure to resolve them.

The reports of ONUSAL's human rights division, issued at more frequent intervals than in the past, highlighted the persistence of:

- acts of "organized violence" carried out by ex-members of the armed forces and National Police;
- military personnel involvement in ordinary crime, in which some of the victims were members of the FMLN;
- abductions carried out by "irregular groups organized for that purpose" possibly involving security forces personnel;
- severe beatings and mistreatment of prisoners at the hands of the security forces, even though torture was not practiced on a systematic or massive scale;
- former FMLN combatants' participation in organized criminal bands;
- the murder of several former members of military intelligence, including those who had begun to share information with human rights groups.

It was difficult to see how these problems might be contained or eliminated as long as impunity remained the norm, and as long as the judicial system continued to fail at every level in the investigation and prosecution of crimes.

Given the history of political killings in El Salvador, and in light of the upcoming elections, Americas Watch was especially alarmed by several targeted attacks during the year. On May 20, 1993, the National Police opened fire on a peaceful demonstration by disabled veterans from both the armed forces and the FMLN, killing José Santos Martínez Pérez, a nineteen-year-old amputee. An investigating judge ordered the detention of police agent Alberto Ponce Zúñiga, but as of November, the leadership of the National Police had not turned him over to judicial authorities.

Moreover, in May, Gregorio Mejía Espinoza, secretary of the social-democratic Popular Social Christian Movement (MPSC), was abducted, tortured, and interrogated about the activities of the opposition Democratic Convergence, of which the MPSC is a member. (The Democratic Convergence was running a joint presidential ticket with the FMLN.) Mejía saved himself from execution when he jumped out of a vehicle into a ravine, thereby eluding his captors. He had previously received death threats. In June, Héctor Silva, another leading member of the Democratic Convergence, was attacked by a gunman who fired at him and his daughter as they were jogging in a Santa Tecla neighborhood. In early September, First Criminal Court Judge Francisco Pléitez Lemus, who was responsible for investigating a prior attack on Silva's daughter, was murdered in front of his home. According to a family member, the judge had also previously received death threats.

Moreover, Oscar Grimaldi, a member of the FMLN, was murdered in the early morning hours of August 19 in San Salvador. His death was the subject of a rare immediate public statement by ONUSAL decrying a disturbing pattern of attacks with apparent political motivation; the main suspect in the case was killed in late October before he could be arrested. During the year, ONUSAL verified several other arbitrary executions of FMLN members, including Juan García Panameño who worked for the Committee of Mothers of the Disappeared (COMADRES).

Although the office of the human rights ombudsman increasingly made public pronouncements on human rights cases, it was faced with the need to improve dramatically its capacity to investigate and respond to cases if it was fully to assume its responsibilities by the time of ONUSAL's scheduled departure in early 1994.

### **The Right to Monitor**

A number of nongovernmental organizations as well as ONUSAL actively monitored human rights in El Salvador during 1993; but attacks and threats against them were never investigated, let alone prosecuted. In March, lawyer José Eduardo Pineda Valenzuela died of injuries sustained in a violent attack in July 1992. At the time of the attack, Pineda Valenzuela was working for the newly-created office of the human rights ombudsman. Previously, he had been the leading government prosecutor in the Jesuit case, securing the 1991 conviction of two military officers. No one had been arrested in connection with the attack on Pineda Valenzuela as of November.

In December 1992, following publication of a series of ads denouncing human rights abuses by the military, Defense Minister René Emilio Ponce and Vice-minister Juan Orlando Zepeda filed a complaint against three members of the nongovernmental Human Rights Commission (CDHES) and six members of the National Union of Salvadoran Workers (UNTS) for defamation. The attorney general's office filed charges on December 9, 1992 and a San Salvador judge opened an investigation which proceeded slowly in early 1993. The army's attempt to prosecute members of the CDHES was only the latest manifestation of hostility. A number of CDHES workers were

killed during the 1980s, most of them presumably by official forces.

While ONUSAL's human rights division continued to operate largely without restriction, it was the subject of renewed anonymous threats following the release of the Truth Commission report. In the wake of that report, the government also summarily canceled a scheduled visit of the Inter-American Commission on Human Rights (IACHR) of the Organization of American States. The IACHR denounced the government's cancellation as a "failure to comply with a previously-made commitment." In October, the IACHR said that the Salvadoran government had expressed renewed interest in a visit.

Americas Watch was also concerned about violent attacks and threats against other human rights monitors which, even if they might prove not to involve official responsibility, were not investigated by the authorities. In January, attorney Mirna Perla de Anaya, widow of murdered CDHES activist Herbert Anaya, was attacked along with her children on the road between San Salvador and Suchitoto as they returned from visiting a community of resettled refugees. In September, a law professor and member of the National Council on the Judiciary, René Madecadel Perla Jiménez, received several telephone death threats, including one from individuals identifying themselves as the Maximiliano Hernández Martínez Brigade, a notorious death squad. Dr. Perla Jiménez is Mirna Perla de Anaya's brother.

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

Given the billions of dollars in U.S. military and economic aid to El Salvador during the war, the report of the U.N. Truth Commission became a U.S. as well as a Salvadoran affair. The Truth Commission's acknowledgment and confirmation that U.S.-supported forces had engaged in massive and systematic human rights abuses led to congressional demands for an examination of past policy. In March, seventeen members of Congress asked President Clinton to declassify documents pertaining to cases examined by the Truth Commission. The President responded positively in June, promising that an initial review by the State and Defense Departments would be concluded by September. Over 12,000 documents were released in early November, identifying several current ARENA leaders as linked to death squad activities, and confirming that the U.S. government knew much more about the death squads than it had admitted to Congress or the public.

Secretary of State Warren Christopher, saying that he was "deeply shocked" by the Truth Commission report, also appointed a panel of retired foreign service officers and academic experts to review actions and statements by State Department officials regarding human rights. The report, issued on July 15, was a searing disappointment that some in Congress labeled a "whitewash". Despite years of U.S. official denial that Salvadoran government forces were responsible for systematic abuses, and despite prolonged efforts by past administrations to discredit human rights and humanitarian organizations working in El Salvador, the State Department panel found overall that foreign service personnel had "performed creditably" in advancing human rights.

It faulted officials of the Reagan administration for issuing false statements regarding the 1980 murder of four U.S. churchwomen and the December 1981 El Mozote massacre by the Salvadoran army. But the panel found such episodes to be the exception. Overall, according to the report, the State Department provided Congress with "factual and straightforward" information and officials acted, at times courageously, to advance human rights. These judgments were grossly distorted, as U.S. officials had routinely falsified the Salvadoran government's human rights record in order to maintain a steady stream of military aid to fight the insurgency.

After the publication of the reports of the Truth Commission and the State Department's El Salvador panel, congressional interest in El Salvador faded, although the House Foreign Operations Subcommittee did protest the Salvadoran government's failure to register eligible voters by holding up release of Economic Support Funds for El Salvador in August.

Earlier in 1993, the Clinton administration exerted helpful pressure on the Salvadoran military to comply with the recommendations of the Ad Hoc Commission. The State Department quietly suspended \$11 million in U.S. military aid in February, after the army high command refused to implement the purge mandated by the peace accord. The funds were released later in September. The department and U.S. Embassy also issued strongly-worded condemnations of the October murder of FMLN party leader Francisco Velis Castellanos and agreed to provide investigative support, along with Spain and Great Britain, to bring the killers to justice.

The Department of Defense requested \$2.7 million in new military aid for El Salvador for fiscal year 1994 and an additional \$1.1 million for training, although the actual amounts were likely to be smaller. Apparently to offset the effect of this massive reduction in aid and to show continuing support for the Salvadoran armed forces, U.S. Southern Command chief Gen. George Joulwan traveled to El Salvador in early September to inaugurate the Fuertes Caminos (Strong Paths) joint military exercises. While the purpose of the exercises was to build infrastructure such as schools and wells, we were concerned that the maneuvers involved the armed forces in pursuits more appropriately undertaken by the civilian administration. This further weakened civilian control of the military—and thereby accountability—precisely when both needed to be enhanced.

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

Through its representatives based in Washington and San Salvador, Americas Watch continued to play a widely-recognized central role in shaping the debate over accountability for human rights violations in El Salvador. Americas Watch staff continued to provide information and support to the Truth Commission during its final months in existence. Americas Watch representatives also figured prominently in the U.S. media before and after the release of the Truth Commission report, and worked closely with congressional offices and the Clinton administration in exploring

possible U.S. policy responses. A representative of Americas Watch testified before the El Salvador panel established by Secretary of State Warren Christopher and provided the panel with additional background documentation.

In August, Americas Watch released "Accountability and Human Rights: The Report of the United Nations Commission on the Truth for El Salvador," evaluating the work of the Truth Commission and issuing specific recommendations for the Cristiani government and the Clinton administration. The report explored the origins of the Truth Commission in order to suggest ways that accountability might become part of future peace processes in other countries.

## **GUATEMALA**

### **Human Rights Developments**

This past year was one of breathtaking political changes in Guatemala, with important implications for the human rights situation. Dramatic events of May and June 1993 propelled a human rights advocate into the presidency and produced some positive steps, although in other areas, the new government failed to take strong action in defense of rights, apparently for fear of confronting the army.

The most important reform effort affected the abusive police force, whose corruption and subservience to the army had long crippled its ability to investigate crimes, especially those committed by the military or its agents. Areas where there was no evidence of change included the militarization of the countryside and the power of the civil defense patrols, which continued to commit grave abuses, including murder, death threats, forced displacement, and illegal detentions. Moreover, a kind of psychological war continues against popular organizations, human rights monitors, labor unionists, and independent journalists. The sources of the assaults, kidnappings, and death threats these individuals suffered were in many cases unknown, but the techniques of intimidation were consistent with clandestine methods used by the security forces. The government's response to new evidence of clandestine detention and death squad activity by the army were disappointing as well. And while there were some important prosecutions of members of the civil patrols and police for human rights violations after the new government came into office, impunity remained the norm.

Violations of international humanitarian law by guerrillas in 1993 included the use of child soldiers; in two incidents during the year, children fighting with the guerrillas were captured in combat—one was ten years old and the other thirteen.

On May 25, 1993, Guatemala's elected civilian president, Jorge Serrano Elías, set off a constitutional crisis when he closed down the congress, supreme court, and attorney general's office and suspended a broad range of constitutional rights. Remarkably, his efforts to establish a dictatorship were reversed, thanks to

pressures from Guatemala's emerging civil society, the Clinton administration, some elements of the military, and the previously obscure constitutional court. One week after Serrano seized power, he was forced to resign. Less than one week after that, the nation's respected human rights ombudsman, Ramiro de León Carpio, was elected by the congress to finish out Serrano's term.

Resolution of this crisis through peaceful and legal means marked an important victory for the constitution, the rule of law, and Guatemala's civil society. Moreover, de León Carpio's ascension to the presidency raised hopes for an improvement in the human rights situation and for a civilian president who would finally be willing to challenge the overwhelming power of the armed forces. During his term as human rights ombudsman, de León Carpio had energetically investigated and publicly denounced human rights violations, something no government official had done before in Guatemala.

In the weeks after his sudden assumption of power, de León Carpio sent two successive defense ministers into early retirement because of their behind-the-scenes support for Serrano's coup. A third officer allegedly involved in the coup, Gen. Francisco Ortega Menaldo, was sent into diplomatic exile at the Inter-American Defense Board in Washington, D.C.

The president named individuals known and trusted by the human rights community to the posts of interior minister and head of the National Police. The new police director, Mario René Cifuentes, launched an ambitious program to eliminate military control over the police by removing military "advisors" to police department heads and by disbanding a joint military/police task force known as "Hunapú." Cifuentes announced plans, as part of a broad restructuring of the police, to create a special unit to investigate human rights violations, including extrajudicial executions, disappearances, and torture.

Some positive results of these efforts to reform the police have been the decisive intervention of police agents to save the life of Joaquín Jiménez Bautista, a refugee who returned to his village of Todos Santos, Huehuetenango, only to be captured and beaten by civil patrol members who accused him of committing atrocities as a guerrilla commander in the early 1980s. Jiménez would undoubtedly have been lynched were it not for the intervention of an official of the governmental refugee authority, CEAR, and the police, who ultimately turned him over to the local human rights ombudsman. The police also took decisive action on September 23, when a prison riot resulted in the escape of Noel de Jesús Beteta, the convicted murderer of internationally known anthropologist Myrna Mack. Police captured Beteta and fourteen other convicts out of the thirty-seven who had escaped prison the same day.

Nonetheless, the police have failed to take effective action in other areas such as executing arrest warrants for members of the police and civil patrols accused of human rights violations. According to Casa Alianza, which operates a refuge and legal clinic for street children in Guatemala City, there were more than a dozen outstanding arrest warrants for police agents accused of violence against street children. Nor did the police detain several civil patrol chiefs whose arrest was ordered in July for

the murder of human rights activist Tomás Lares Sipriano (described below).

On August 5, President de León Carpio announced the dissolution of the Presidential Security Directorate, a notorious intelligence unit commonly known as the "Archivos." The Archivos forms part of a large security apparatus operating from the presidency, and has for decades been pinpointed as a source of political repression. The trial and conviction of Beteta, an Archivos specialist, for the murder of Myrna Mack, opened a window into the secretive world of the Archivos and made the unit synonymous with repression in public opinion. This impression was reinforced in March 1993, when a secret office of the Archivos, used to intercept mail, was discovered in the General Post Office in Guatemala City.

Although the Archivos's dissolution was undoubtedly related to its criminal activities, the president never made such a link explicit. When the Myrna Mack Foundation, a human rights group formed by the sister of the slain anthropologist, called for an investigation into the Archivos's repressive activities, its demand went unheeded. Nor was it clear that Archivos activities would stop. They might simply be launched from a different location.

According to the Guatemalan newsweekly *Crónica*, the extensive files the Archivos kept on citizens and used as the basis for composing death lists were transferred to military intelligence (known as G-2 or D-2), despite widespread demand they be made public. Like the Archivos, G-2 had a long history of involvement in political repression. President de León Carpio reportedly sought to allay popular concerns by saying that if there ever were such files, it was "logical to believe" that they had been destroyed; but doubts persisted.

The president failed to take any action to curb the power and abuses of the civil patrols, which appeared responsible for the majority of human rights violations in Guatemala during 1993. Although as human rights ombudsman, de León Carpio had been a strong critic of the patrols' abuses, as president he rejected suggestions that they be dismantled, saying such a move should come only as part of peace negotiations with the guerrillas. Yet in many rural areas, the patrols usurped the functions of government and were a law unto themselves, as in the cases described below.

On April 30, patrols shot dead Tomás Lares Sipriano, a human rights activist from the village of Chorraxá, Quiché. The day before he was killed, Lares had organized a demonstration in the town of Joyabaj protesting military pressure on the area's inhabitants to join the civil patrols, which according to the constitution are strictly voluntary. Patrol leaders in Chorraxá had repeatedly threatened Lares in the past, and although the Quiché branch of the human rights ombudsman's office had ordered police protection for him, it had never been extended.

On May 1, patrollers killed ten alleged thieves outside the patrol-dominated town of San Pedro Jocopilas. Although the army and police claimed the victims died in a shoot-out, evidence collected by human rights monitors indicated that the eight men and two women were slain execution-style, some while tied to



trees. Moreover, although the police reportedly arrived at the abandoned house where the patrollers had captured the ten alive, they left when the patrollers insisted on handling the matter themselves.

On August 3, patrollers fired on peaceful demonstrators in the village of Los Naranjales in Huehuetenango department, killing sixty-four-year-old peasant Juan Chamay Pablo and wounding several others. Although arrest warrants were issued on September 9 for fourteen patrollers, only one had been detained as of mid-November. Responsibility for this failure fell not only on the National Police, whose members were easily intimidated by the army-backed patrols, but also on the Mobile Military Police—the army's own police unit—which failed to respond to orders to detain the patrollers. A Colotenango patrol chief, Efraín Domingo Morales, was murdered on September 15, possibly in retaliation for the August 3 shootings and other patrol abuses, although it is unclear who was responsible. And on September 26, Andrés Godínez Díaz and María Pérez Sanches, his wife, who had participated in the August 3 demonstration, were tortured and killed after receiving numerous death threats from the civil patrols in Colotenango, Huehuetenango.

Some inroads were made into the impunity with which human rights violators had traditionally operated in Guatemala, while other cases suffered setbacks or went nowhere. In July, an appeals court overturned the acquittal of two civil patrol chiefs for the murder of two human rights activists from the village of Chuni-má, Quiché, and sentenced them to thirty years imprisonment. Also in July, a court sentenced the third-in-command of the National Police and four other officers to prison terms for violently breaking up a peaceful demonstration which took place in July 1992 in front of the National Palace. An appeals court toughened to thirty years the sentences imposed on other police officers who murdered a student in April 1992 as well.

On the other hand, although an army captain was convicted in the 1990 murder of U.S. citizen Michael Devine, he promptly escaped from the barracks where he was detained and remains at large. Instead of being punished, the colonel in charge of the barracks, Luis Felipe Miranda, was promoted to general by de León Carpio on October 1. Nor did the government take steps to prosecute cases the president investigated when he was human rights ombudsman, such as the murder of peasant Lucas Pérez Tadeo, whose tortured body was found on September 3, 1992, in Nentón, Huehuetenango. When he was still human rights ombudsman, Ramiro de León Carpio issued a resolution blaming the local Las Palmas military base for the disappearance, torture, and murder of Pérez Tadeo.

### **The Right to Monitor**

Those who sought to defend human rights in Guatemala continued to suffer harassment, intimidation, and physical violence for their work. The change of government in June brought a welcome end to the climate of intense official hostility towards human rights monitors prevalent under the Serrano administration—during which the president himself and his defense minister frequently issued

baseless accusations against human rights monitors for purported links to the guerrillas.

The director, staff, and clients of Casa Alianza, a center for street children in Guatemala City, suffered a steady stream of threats during the year. Collective written death threats were issued to journalists, human rights monitors, development workers, and other activists in March and October.

The staff of the Association for the Advancement of Social Sciences in Guatemala (AVANCSO) were the objects of intimidation and threats culminating in the ransacking of their Guatemala City office on August 31. The harassment appeared to be a response to AVANCSO's calls for prosecution and punishment of the perpetrators of the murder of Myrna Mack, one of AVANCSO's founders. Witnesses and judges involved in the Mack case also received threats during 1993, as did Mack's sister, Helen.

As in past years, the indigenous human rights group known as the Counsel of Ethnic Communities "We Are All Equal" (CERJ), suffered serious persecution. Tomás Lares Sipriano, whose murder by civil patrollers is described above, was an active CERJ member. On May 8, three CERJ members—Pablo Itzep Hernández, Cruz Luz Hernández, and Manuel Batén Hernández—were detained and tortured at the military post in Chiul, Quiché. The officer in charge of the base, Capt. Aníbal Roberto Landaveri Martínez, was convicted of battery by a military court and sentenced to two-and-a-half years in prison. Also on May 8, the Guatemala City office of CERJ was raided by armed assailants and its staff threatened. Finally, CERJ members Juan Ren González and Alberto Calvo were imprisoned on trumped-up charges from October 1992 until their acquittal in June 1993.

Even governmental authorities who attempted to protect human rights faced persecution. On May 21, the local human rights ombudsman for the department of Huehuetenango, attorney Tibaldo Ricardo Gámez López, was detained and threatened by civil patrolmen when he traveled to the village of Llano del Coyote to investigate a case.

The executive secretary of the Guatemala Association of Jurists (AGJ), Fernando René de León Solano, was harassed several times during the month of July, and a trade unionist who had recently visited de León was abducted and questioned about him and others before being released. On September 10, the Guatemala City office of the AGJ was damaged by an explosive placed outside it.

In March in collaboration with the Archbishop's Office of Human Rights, the San Pedro parish in El Estor, Izabal began a program of training human rights monitors in the villages inhabited by Qeqchi Indians. Due to harassment and warnings by local patrol leaders, one-third of the monitors were forced to withdraw from the program.

The Mutual Support Group—which represents relatives of the disappeared and is Guatemala's oldest human rights group—suffered several incidents of harassment. In two office break-ins during

October and November, documents regarding human rights violations and office equipment were stolen. A member of the group, Francisco Guarcas Ciphiano, was reportedly kidnapped by civil patrol members in the Guatemala City bus terminal on October 19.

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

The Clinton administration played an extremely important role in frustrating Serrano's coup by suspending all government-to-government aid and threatening to suspend trade privileges under the Generalized System of Preferences. The State Department also warned that it might oppose loans to Guatemala in international financial institutions if the coup were not reversed. The administration's unequivocal rejection of the coup consolidated opposition in Guatemala and motivated the business community and some sectors of the military to throw their weight against the coup. Washington's diplomacy also contributed to the building of a constitutional outcome to the crisis, instead of what at first appeared destined to be a military solution.

Since her arrival after the coup, the U.S. ambassador to Guatemala, Marilyn McAfee, has used her position creatively to further human rights in Guatemala, speaking out publicly about human rights abuses, visiting victims of human rights violations on several occasions and helping them get access to senior government officials. She told Americas Watch that she maintained a regular dialogue with Defense Minister Mario Enríquez and other senior officials in which she pressed for investigation of human rights violations.

The administration was eager to support de León Carpio's government and discussed expanding its police criminal investigations program and providing support to the police academy. Military training and joint exercises were renewed, after a brief hiatus during the coup, and the administration promised at a donor's meeting sponsored by the World Bank in September to provide \$10 million in economic support funds to help with balance of payments strains. Approximately \$11 million in military aid which had been suspended because of human rights violations since December 1990 remained on hold pending measurable improvements in the human rights situation and reforms in the military.

In August, two senior U.S. military officials visited Guatemala to express support for President de León and for the role of the military during the constitutional crisis. The generals, Army Chief of Staff Gordon Sullivan and George Joulwan, chief of the U.S. Southern Command, announced the resumption of joint civic action projects to be undertaken by the U.S. and Guatemalan militaries. Americas Watch objected to the U.S. promotion of the Guatemalan military's role in development and what it termed "nation building," as areas which should be the clear domain of the civilian government. We urged the Clinton Administration to end its support for military involvement in what should be civilian affairs such as vaccination campaigns and the building of

schools. Regrettably, Generals Joulwan and Sullivan did not use the occasion of their visit to express publicly U.S. concern over the August incident in which civil patrollers shot peaceful demonstrators in Huehuetenango, killing an elderly peasant man and wounding several others. As the number of patrol abuses rose under the new government and the authorities' failure to prosecute and punish those responsible became more apparent, the need for public pressure from the United States became greater. We urge the Clinton administration to press for a dissolution of the patrols which, in addition to being involuntary in many parts of the country, remain the major source of human rights violations in Guatemala.

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

An Americas Watch representative traveled to Guatemala the day of Serrano's coup to emphasize the organization's interest in a peaceful and legal restoration of constitutional government and our concern over the possibility that the coup would give rise to human rights violations and the persecution of monitors. In June, Americas Watch representatives met with government officials and human rights groups, and traveled in the countryside to investigate human rights violations. A report on the new government's human rights record and challenges was scheduled for publication in December.

Before the coup, Americas Watch sought to draw attention to clandestine detentions by the military, publishing a short report in March. Clandestine detention had been practiced for decades, but had been consistently denied by the authorities. Follow-up to the report was pursued through correspondence with the government on individual cases. An Americas Watch consultant specializing in issues of displacement and the repatriation of refugees traveled twice to Guatemala and Mexico to conduct research for a forthcoming report. Together with the Jesuit Refugee Service and other Washington-based groups, Americas Watch organized a series of roundtable discussions among non-governmental organizations to heighten awareness of human rights and humanitarian issues in Guatemala.

## **HAITI**

#### **Human Rights Developments**

In the second full year since a military junta overthrew freely elected President Jean-Bertrand Aristide on September 30, 1991, Haiti descended further into the depths of terror and lawlessness. Held hostage to the personal whims of army commander Gen. Raoul Cédras, police chief Lt. Col. Michel François, and the paramilitary death squads under their command, Haiti was brutalized into submission.

Well over 1,500 people were estimated by Haitian and international human rights monitors to have been killed by soldiers and paramilitary thugs from the 1991 coup through most of 1993. All forms of popular organization, crucial to the survival of those for whom there was no infrastructure in a country that is three-quarters rural, were ruthlessly suppressed by a regime that had no inclination, much less authority, to govern. Students, peasant leaders, the clergy, human rights monitors, journalists, politicians and anyone else associated with Aristide were subject to arbitrary arrest, torture or extrajudicial execution.

The army attempted systematically to eviscerate all civic, popular and professional organizations opposed to its authoritarian rule. The military junta banned meetings throughout Haiti's nine departments. All signs of public protest were swiftly and violently repressed. Wide-scale, short-term detention served successfully to intimidate and subdue. During detention, vicious beatings were the rule rather than the exception. Almost all arrests were warrantless and illegal. In 1993, among the most fiercely repressed popular organizations were the Papaye Peasants Movement and the Perodin Peasants Association.

Section chiefs, the rural military overlords, were reinstated. Soldiers and section chiefs preyed on their victims, demanding payment in exchange for freedom or to avoid torture. Those in hiding were told that they might return to their homes if they paid a fee. At military checkpoints, soldiers extorted from any who dared to travel the roads. For this, the army enjoyed absolute impunity.

With the July 3 signing of the Governors Island Accord between President Aristide and the Haitian armed forces—and accord that was to set in motion the return of Aristide's elected civilian government—generalized violence began to escalate. What is known in Haiti as *insecurité*—ostensibly random violence like shootings and robbery—by heavily-armed thugs increased as the military saw its prerogatives threatened. Labeled variously as *tontons macoutes*, *zenglendos*, and *attachés*, these paramilitary death squads had functioned over the years alternately as agents of political control or destabilization, responsible for a now-familiar pattern of egregious human rights crimes, that have rarely been punished.

As the various parties to the accord negotiated at Governors Island, New York at the end of June, the incidence and ferocity of army repression grew noticeably, with attacks rising exponentially in the months before President Aristide's scheduled October 30 return. This surge in violence was consistently reported by the Organization of American States/United Nations International Civilian Mission of human rights observers deployed since February 1993 to monitor and deter violence throughout the country.

In its press releases, the OAS/U.N. mission documented random and targeted shootings by police and armed civilians in Port-au-Prince on June 24, the day of a national strike called by various labor

unions; beatings and arrests by Haitian troops and armed civilians of participants in a religious commemoration at the church of Notre Dame du Perpétuel Secours, in Port-au-Prince on June 27; and an increase in arrests and torture of nonviolent pro-Aristide demonstrators, grassroots organizers, and journalists in the towns of Gonaïves, Zabricot, Léogâne and Les Cayes.

By mid-August, the OAS/U.N. mission reported that thirty-six arbitrary executions and suspicious deaths had occurred since July 1—the time of the Governors Island negotiations—in Port-au-Prince alone. At the end of August, the civilian mission noted an increasing number of kidnappings and forced disappearances of grassroots activists by armed civilians, reporting ten cases in August alone. At the same time, the number of killings had risen to fifty. The OAS/U.N. mission reported the shooting deaths of at least twelve people in Port-au-Prince in just a two-day period, September 11 and 12.

On September 8, gunmen and machete-wielding thugs attacked well-wishers at the reinvestiture of democratically-elected Port-au-Prince mayor Evans Paul, a close ally of President Aristide. Three people were killed and some thirty wounded. Police agents were present but did nothing to stop the violence.

On September 11, a paramilitary death squad executed in broad daylight Haitian businessman Antoine Izméry as police agents looked on. Izméry, one of the most outspoken and best-known supporters of President Aristide, was murdered at a commemoration service at a Port-au-Prince church for the victims of the 1988 massacre at Father Aristide's St. Jean Bosco church.

On October 5, some thirty gunmen searching for Mayor Evans Paul opened fire on a political meeting being held at a Port-au-Prince hotel. Paul had fled the scene only moments before the attack. Later that day, gunmen fired on the home of Information Minister Hervé Denis.

On October 7, one day after the first foreign troops began to arrive in Haiti under a U.N. mandate (as contemplated in the Governors Island Accord), a newly created Duvalierist organization, the Front for Advancement and Progress of Haiti (FRAPH), announced a general strike. In Port-au-Prince, armed civilians and uniformed Haitian police successfully closed down the city by shooting automatic weapons at street merchants, seriously wounding at least two, according to press reports.

Minister of Justice Guy Malary, a leading attorney, was assassinated along with his driver and a bodyguard on October 14 as they were leaving the minister's office. Justice Minister Malary, a highly respected member of the interim civilian government, was responsible for introducing legislation to separate the police from the army and had worked closely with the OAS/U.N. Civilian Mission.

Throughout the year, Haiti's journalists, in their attempts to document such abuses, were among the most consistently targeted groups. In February, Radio Tropic-FM reporter Colson Dormé was

knocked unconscious and abducted by thugs who accused him of belonging to President Aristide's political movement. When found on the street outside the radio station's offices six days later with his hands and legs tied and his head shaved, Dormé had been badly beaten. In June, the military cracked down on vendors of Libeté, a Creole weekly critical of the *de facto* regime. Only five of the nine radio stations that were attacked and forced to shut down during the 1991 coup resumed broadcasting.

### **The Right to Monitor**

Human rights activists were among the first targets of the military in the early days of the coup. As the year drew to an end, they operated under increasingly menacing conditions.

On February 25, police and paramilitary thugs beat and arrested mourners at a memorial service for the victims of the Neptune ferry disaster, in which about 1,000 people died. The service had turned into an anti-government protest, with people shouting "Aristide or death." Among those who were attacked outside the national cathedral were Bishop Willy Romelus, president of the Catholic church's Justice and Peace Commission, a prominent human rights monitoring group, and human rights advocate Paul Dejean of the Karl Leveque Center and the Platform of Haitian Human Rights Organizations.

Three armed assailants looking for Jean-Claude Bajoux, head of the Ecumenical Center for Human Rights and long-time critic of the Haitian military's human rights record, descended on his home on October 4. Unable to find Mr. Bajoux, the attackers tied up and beat two housekeepers, and shot in the stomach and gravely wounded a neighbor who heard noises and came to check what was happening.

In mid-October, the Haiti office of the U.S.-based National Coalition for Haitian Refugees received a phone threat from a caller who identified himself as being under orders from the commander of the army garrison at St. Marc, a town north of Port-au-Prince. The caller also said he belonged to FRAPH, the newly formed Duvalierist organization.

Individual members of the leading monitoring group, the Platform of Haitian Human Rights Organizations, also received death threats.

The OAS/U.N. Civilian Mission was harassed by the military. Paramilitary attachés and informers for the army often sat in or loitered around the offices of the civilian mission in towns around the country. Haitians who cooperated with the Mission were arrested or threatened, especially in the Plateau Central and the Artibonite. In October, the offices of the civilian mission in Hinche in the Plateau Central were attacked by attachés, and a Haitian cleaning woman working at the offices was beaten.

### **U.S. Policy and Other International Response**

In one of the first major human rights setbacks of the new administration, President Clinton reneged on his campaign promise not to return Haitian boat people forcibly to Haiti. In January,

the incoming and outgoing administrations agreed to blockade the island with U.S. Coast Guard cutters, Navy ships and helicopters in order to prevent refugee flight. In June, the U.S. Supreme Court upheld the Bush and Clinton administrations' interdiction policy. In a decision deservedly criticized by human rights and refugee policy groups, the court found that forcibly returning boat people without allowing them to state their case for asylum was not a violation of U.S. or international law. The Clinton administration then stepped up efforts to press for a negotiated solution to the crisis that had spurred some 40,000 Haitians to flee their country. Nonetheless, even with the support of the Clinton administration, international efforts to mediate a negotiated reversal of the coup—an effort led by the U.N./OAS special envoy to Haiti, former Argentine foreign minister Dante Caputo—were repeatedly frustrated by the Haitian military leaders.

In 1993, as previously, the issue of army accountability was a recurring stumbling block in negotiations to restore President Aristide and democracy in Haiti. While the Clinton administration and the U.N. promised large amounts of economic and military assistance to entice the military, and to a lesser extent President Aristide, to pursue negotiations, the carrot-and-stick approach foundered on the issue of accountability. Aristide was under consistent pressure from U.N. Special Envoy Caputo and from Amb. Lawrence Pezzullo, special envoy for President Clinton, to make concessions on the Haitian army's accountability for its crimes.

Before coming to a settlement, General Cédras required guarantees that President Aristide's opponents would be immune from prosecution and protected from acts of vengeance for participating in the military coup, and that U.N. observers would play a protective role. Cédras demanded amnesty and protection for himself, his family and other members of the high command. The U.S. and U.N. supported these conditions and put Aristide in the position of making or breaking the settlement.

In June, as the *de facto* leaders in Haiti were faced with increasingly harsh sanctions, Cédras agreed to negotiate with Aristide, and Aristide agreed on condition that they negotiate a date that the army and police chiefs would step down and be replaced; a date of his own return; and the nomination of a new prime minister. The U.N.-mediated talks began on June 27 at Governors Island in New York Harbor.

The ill-fated Governors Island Accord was signed on July 3. It called for the resignation of General Cédras shortly before the return of President Aristide to Haiti on October 30. U.N. and OAS economic sanctions would be lifted and more than \$1 billion in international assistance was promised to begin with President Aristide's appointment of a new prime minister. Haiti was to receive technical and military assistance to promote development and administrative, judicial and military reform, namely the



separation of the police from the army. The agreement also called for President Aristide to issue an amnesty in accordance with the Haitian Constitution, which allows amnesty for political crimes but not for common crimes. Aristide interpreted this constitutional norm as allowing an amnesty for the crime of overturning the constitutional order, but not for the murders, disappearances and torture that had taken place since the coup. On July 25, President Aristide named Robert Malval, a politically moderate publisher, as prime minister. After the Haitian parliament confirmed him one month later, the U.N. Security Council lifted its oil and trade embargo against Haiti with the proviso that it would be reimposed if the Haitian military did not comply with the Governors Island Accord.

The Clinton administration also proposed a military assistance package, pending the outcome of negotiations, which included \$1.25 million under the International Military Education and Training Program (IMET) and close to \$1.2 million in Foreign Military Financing (FMF) for military professionalization; \$10 million in Economic Support Funds (ESF) for the U.N./OAS observer mission; \$4 million in ESF for International Criminal Investigations Training Assistance Programs (ICITAP) police professionalization; \$3 million in ESF for the administration of justice program of the U.S. Agency for International Development (USAID); plus developmental assistance and economic stabilization support, for a total of \$37.5 million for fiscal year 1993. For fiscal year 1994, the administration requested \$40 million in developmental assistance; \$15 million in ESF; and \$400,000 in IMET for a total of \$80.8 million. Congress conditioned U.S. aid by prohibiting military assistance or training in which there would be participation by any member of the Haitian military involved in drug trafficking or human rights abuses.

In September, the U.N. Security Council also approved a U.S.-sponsored resolution to send 567 U.N. police monitors and 700 military personnel, including some sixty military trainers. These forces were to include about 500 U.S. troops. After concerns were raised about the lack of adequate screening procedures for trainees, the new U.S. ambassador to Haiti, William Lacy Swing, announced that the U.S. would no longer be training an interim police force. Instead, U.N. police monitors and trainers (not including U.S. participants) would conduct the training and, with the Malval government, would be responsible for screening out human rights abusers. Swing added that the U.S. Embassy, working with the U.N./OAS mission, would screen trainees involved in the IMET program, and vowed to make vetting of human rights abusers from U.S. training and human rights monitoring a priority of his embassy.

Implementation of the Governors Island Accord began to unravel on October 11 when a gang of armed paramilitary "attachés" protesting the arrival of the *U.S.S. Harlan County* prevented the ship from docking in Port-au-Prince. According to the *New York Times*, "the demonstrators, who were allowed into the port area by police

officers rerouting traffic to clear the way, beat on the cars of diplomats and kicked reporters waiting at the gates of the port, screaming, 'We are going to turn this into another Somalia!'. With no mandate to force its way on shore and failing to gain Haitian army guarantees of cooperation, President Clinton ordered the *Harlan County* to retreat. A contingent of Canadian police trainers already in Haiti as part of the accord departed the following day. On October 14, the U.N. Security Council reimposed an oil and arms embargo on Haiti, as well as an international freeze on the financial assets of the *de facto* authorities.

After the *Harlan County* withdrawal, General Cédras set new conditions for his resignation by demanding that the Haitian parliament pass legislation on an amnesty for crimes committed in connection with the coup. (President Aristide had already issued a decree in early October in accordance with the Governors Island process providing amnesty only for crimes against the state, not for crimes against human rights.) Although Cédras claimed he merely wanted Aristide's decree reinforced by amnesty legislation, it was understood that he sought a broader amnesty that would cover human rights crimes, or common crimes such as murder and torture; such an amnesty would violate the Haitian Constitution. In response to this new demand, the Clinton administration failed to state clearly that it supported the scope of Aristide's decreed amnesty or to oppose Cédras's demand for total impunity.

In an apparent effort to guarantee their safety in an increasingly hostile situation, the U.N./OAS mission of human rights observers was evacuated to neighboring Dominican Republic on October 15. President Clinton ordered six U.S. warships to patrol the waters off Haiti to step up enforcement of the embargo, with U.N. Security Council authorization forthcoming a day later.

Even though political violence in Haiti had escalated enough to prevent U.S. and Canadian military trainers from landing at the Port-au-Prince dock and to force the withdrawal of U.N./OAS human rights monitors, the U.S. declared its intention to continue to repatriate forcibly any refugees who attempt to flee Haiti. The Clinton administration announced that it would continue to rely upon its in-country processing (ICP) program in Haiti to consider Haitians' applications for political asylum in the U.S. Americas Watch, which denounced the continuation of the forcible repatriation policy, has investigated the ICP program and found that it offers no protection to applicants during the asylum application process; adjudication of cases is inconsistent; standards for asylum and credibility determinations are unfairly applied; and potential asylum seekers who do not feel that they can safely avail themselves of the program are left with no option.

As the U.S. Congress debated U.S. policy in Haiti, a controversy was ignited by a CIA report describing President Aristide as mentally unstable and by reports of human rights violations allegedly committed by Aristide during his presidency. During a briefing organized by Sen. Jesse Helms (R-NC), an intelligence

officer who had reportedly earlier assessed General Cédras as a member of one of "the most promising group of Haitian leaders to emerge since the Duvalier family dictatorship," testified on Aristide's mental health.

As this report was written, the October 30 deadline for President Aristide's return to Haiti had passed, with the Haitian military resisting a resumption of negotiations. Meanwhile, the U.S. government continued to debate what role it should play in restoring democracy to Haiti.

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

Throughout the year, Americas Watch supported the restoration of Aristide to the presidency of Haiti, as the only proper way to respect the exercise of political rights by 67 percent of all Haitians. We urged that all the negotiations include precise human rights conditions so that re-democratization of Haiti results in deep, structural improvements in the protection of citizens' rights. We tried to prevent an outcome in which, in exchange for Aristide's return, the military could get away with total impunity for their crimes.

In our view, a minimal measure of accountability should demand that the armed and security forces of a reconstituted Haiti be purged of abusers of human rights. We also tried, unsuccessfully, to ensure that U.S. policy with respect to fleeing Haitians remained consistent with the U.S.'s obligations under international law.

Americas Watch continued to cooperate closely with the National Coalition for Haitian Refugees (NCHR). In February, we published our fifteenth joint report on Haiti, *Silencing a People, The Destruction of Civil Society in Haiti*. The 136-page report documents the military's systematic decimation of all sectors of civil society in the first year since the coup.

In September 1993, Americas Watch, together with NCHR and the Jesuit Refugee Service/USA, co-published a thirty-seven-page report, "No Port in a Storm: The Misguided Use of In-Country Refugee Processing in Haiti," a critique of a policy which had historically been conceived as an additional avenue of protection for refugees in selected countries, but had become in Haiti the only option for victims of Haiti's repressive military regime.

In an ongoing effort to call attention to the cycle of impunity that has fueled Haitian army violence—an issue that had been deliberately disregarded by international negotiators in the Haiti crisis—Americas Watch and NCHR issued a series of press releases and letters to the U.N./OAS Special Envoy to Haiti, Dante Caputo, and to Clinton administration officials involved in Haitian policy formulation.

Human Rights Watch also worked to inform Congress about the issue of accountability and other human rights issues as in July 17 testimony before the House Subcommittee on Western Hemisphere Affairs. Americas Watch followed up on that effort with letters to

members of Congress urging them to convey to the administration their interest in ensuring accountability, by insisting that any Haitian army and police officers who were scheduled to receive U.S. military training be held responsible for any crimes they may have committed in the past.

## HONDURAS

### Human Rights Developments

This was year of contradictions for human rights in Honduras. Although the government devoted unprecedented attention to fundamental human rights problems and took important steps towards their correction, members of the security forces continued to commit violent human rights violations. Abuse of authority, excessive use of force, and torture in custody were still common practices by the armed forces and the military-controlled police (FUSEP).

While structural problems in the administration of justice and the vast economic and political power of the armed forces continued to shield most military violators of human rights from prosecution, several cracks appeared in the armor during 1993. In July, history was made when civilian Judge María Mendoza de Castro sentenced retired Col. Angel Castillo Madariaga to sixteen years and six months in prison for the 1991 rape and murder of student Riccy Mabel Martínez Sevilla. He received ten years and six months for second-degree murder and six years (three less than the maximum penalty) for rape. Retired Sgt. Santos Eusebio Llovares Fúnez was sentenced to ten years and six months for second-degree murder. The third defendant in the case, Capt. Ovidio Andino Coello, was acquitted. To the best of our knowledge, this was the first time a high-ranking Honduran military officer had been convicted for a human rights violation.

The brutality of the case mobilized public opinion against the military. Students, women's groups, human rights organizations, and unaffiliated citizens joined forces to pressure the government for justice. Seventeen-year-old Martínez's mutilated body was found on July 15, 1991. She had last been seen two days earlier at the Las Tapias military base, seeking the release of her boyfriend who had been forcibly recruited.

U.S. Amb. Cresencio Arcos played a crucial role in the case by publicly demanding that justice be served and providing FBI services for forensic analysis which proved pivotal in the case. On behalf of the Martínez family, lawyer Linda Rivera appealed the case, charging that Castillo and Llovares should have been convicted for first-degree murder, which carries a longer prison term and no chance of pardon.

Accusations of systematic violations of human rights were bolstered in February when former investigative-police agent Josué

Eli Zúñiga Martínez publicly implicated the army and the police in at least seven assassinations, including the January 29, 1993, murder of businessman Eduardo Piña Van Tuyl. Zúñiga alleged that the army's infamous Battalion 3-16 was still in operation in San Pedro Sula, although the military had testified before the Inter-American Court of Human Rights of the Organization of American States that it was dissolved in 1987. Battalion 3-16's role in the disappearance of approximately 150 individuals between 1981 and 1984 was proven in a trial before the Inter-American Court of Human Rights which concluded in 1989. And although the military stated that the battalion had been dismantled, Americas Watch received testimony from a military defector in 1989 alleging that Battalion 3-16 continued to operate out of the 105th Infantry Brigade in San Pedro Sula long after its purported dissolution.

Public outrage provoked by the Piña case and Zúñiga's declarations, combined with significant pressure from the U.S. government, created a momentum against the armed forces difficult for the Rafael Callejas administration to ignore. In March, President Callejas created a high-level "Ad Hoc Commission" composed of representatives from the executive, legislative, and judicial branches of government, the armed forces, the Catholic Church, political parties, and the media. The commission's most important recommendation was the creation of a new Public Ministry as an "independent, autonomous, professional and apolitical" government office to defend citizens' collective rights, headed by a civilian prosecutor elected by Congress. A new investigative police force called the Department of Criminal Investigations (DIC) was and to form part of the new Public Ministry. The DIC was to replace the National Investigations Directorate (DNI), a police investigations unit notorious for egregious human rights violations. A three-member supervisory board, composed of two civilians and one military officer, was created to evaluate DNI personnel and prepare the transition. Americas Watch was concerned, however, that the new DIC would simply recycle the same agents who have been responsible for violent abuses at the DNI. We urged the government to screen the new personnel thoroughly to ensure that those with a history of abuse were not employed in the new police force.

Another concern was the evident reluctance of the armed forces to allow an effective transfer. Americas Watch learned from reliable sources that the military was stripping the DNI of its computers, telephones, and other equipment. This would leave the new DIC with little or no basic infrastructure and would contribute to the fulfillment of the military's prophecy that a civilian body could not function so well as one controlled by the armed forces.

The law to establish the Public Ministry was still on the agenda for debate in Congress as of November. Discussion of the law had been postponed until after the November 28 presidential elections, and there was little hope that Congress would debate the law in December when it was due to reconvene to discuss the

1994 budget. Even though Callejas originally said the office would be in operation by January 1994, it seemed more likely that the next administration, to assume power on January 27, would oversee its implementation.

The Ad Hoc Commission failed to deal directly with the issue of military control over the police force (FUSEP), the fourth branch of the armed forces since 1965. Instead of recommending a transfer into civilian hands, as many hoped the commission would, it created a National Study and Advisory Group to consider the matter. The group was intended to evaluate the police force and design a professionalization program. There were no indications that the group—created in April but unable to produce any findings as of mid-November—had been diligent in fulfilling its mandate.

The commission acknowledged the institutional weakness, inefficiency, and corruption of the criminal justice system as fundamental obstacles to the rule of law in Honduras. An inventory of all pending court cases was recommended to ensure that cases were processed expeditiously, as was the immediate creation of a judicial honor committee to investigate corruption. A new judicial code of ethics, to be binding on all judges, was written and approved by the Supreme Court.

One of the structural reasons why military human rights violators had almost never been punished was the practice by military courts of claiming jurisdiction over all such cases, although the Honduran Constitution seemed to establish that human rights violations, or crimes in which the victim was a civilian, should be the domain of the regular court system. Military courts gave benevolent treatment to members of their own ranks accused of violating citizens' rights. The commission's recommendations on the matter supported the notion that human rights violations should be tried in civilian courts. The commission suggested that the Supreme Court settle all cases of jurisdictional conflict within sixty days. In response to this recommendation, the Supreme Court ruled in favor of civilian jurisdiction after two years of inaction in a case known as the El Astillero massacre. With the transfer of jurisdiction, a colonel arrested and as of November was awaiting trial.

On March 25, Congress reinterpreted Article 90 of the constitution to limit military jurisdiction to prosecutions of "strictly military" crimes committed by armed forces personnel on active duty. It further held that cases where jurisdiction was unclear be automatically turned over to a civilian court. Although many hailed the interpretation as a definitive settlement of the conflict, it provided convenient loopholes for the military to claim jurisdiction in human rights cases by arguing that a soldier or officer was on active duty at the time of the crime and that the crime committed fell under the military code.

One positive development was the activity of the National Human Rights Commission, created by presidential decree in June

1992. While lacking adequate funds and unequivocal government support, the commission played an important role in its first year in providing Hondurans with a place to denounce violations. The commission was established to "work towards the respect for human rights by the State and individuals; give immediate attention and follow-up on any denunciation of human rights violations; elaborate and propose preventive and development programs on human rights, on judicial, education, cultural, and other aspects; and ensure compliance with international conventions and accords ratified by Honduras and promote the adoption of other similar instruments [to protect human rights]."

Human rights issues played an important, albeit polemical, role in the election campaign leading up to the November 28 general elections. Both major parties indulged in mutual accusations of responsibility for the disappearances in the early 1980s in a manner which human rights organizations felt trivialized the issue. In August, the candidates agreed to eliminate the issue from their campaigns in an accord negotiated by Archbishop Oscar Andrés Rodríguez. Although proposals by human rights groups for a Truth Commission to conduct a thorough study of the disappearances were rejected by the President, National Human Rights Commissioner Leo Valladares offered to produce a report on the disappeared by December 31, 1993.

The national security doctrine which governed Honduras throughout the 1980s continued to come under reevaluation. Over 150 leftist exiles had returned to their home since Callejas decreed an amnesty in 1990. Among the exiles returned over the past three years were former members of clandestine armed groups as well as members of the peaceful opposition who fled the repression of the 1980s. Clandestine political organizations and parties, subject to repression throughout the past decade, were seeking to enter mainstream politics.

Contrary to statements in August by U.S. Army Gen. Hugh F. Scruggs—in Honduras for joint U.S.-Honduran army exercises—that there remained a "latent" threat of subversion in Honduras, armed leftist groups had little presence in the country. There were two minuscule groups considered to be still active: the Morazanista Patriotic Front and a radical splinter group of the Cinchoneros. Analysts concurred that these groups had scarce material and human resources and posed virtually no threat to the established regime.

Despite the government's increased rhetorical attention to human rights and the conviction in the Martínez case, security forces continued to commit gross human rights violations with impunity, especially in rural areas. While political violence significantly diminished, the military, including FUSEP, were accustomed to settling economic and personal differences with violence. Abusers were rarely held accountable, "punished" most often with a transfer to another area where they continued to violate citizens' rights.

In one particularly egregious case, José Reina Aguilar was shot to death in the middle of Las Lajas, Comayagua, on January 27 by a patrol composed of fifteen to twenty members of the FUSEP, who later claimed they had orders to disarm him. His son-in-law, Roberto Girón, witnessed the crime. The extrajudicial execution may have been a reprisal; Reina Aguilar was apparently a suspect in the murder of a FUSEP sergeant in 1992. Although the execution was witnessed by many, few were willing to testify for fear of retaliation from the four permanent FUSEP police who, Girón claimed "do whatever they want" in town.

Reports of torture and mistreatment while in police custody continued. José Efraín Orellano García told Americas Watch that he was arrested by two police officers in San Juan Pueblo, Atlántida, for no apparent reason on February 28. He was held in a cell for twenty-four hours, during which time he was beaten, kicked while lying on the ground, doused with water, and released only after paying a 300-lempira (\$50) "fine." Complaints filed with the FUSEP's office of professional responsibility and in the courts led nowhere.

Forced recruitment by the army was often a brutal, discriminatory practice which disproportionately affected the poor in rural areas. Bystanders got caught in violent episodes in which army soldiers used fatal force to recruit young men. On March 6 in La Cumbre de La Masica, José Roberto Romero was having a drink at a street stand when three FUSEP agents apparently attempted to recruit him. When Romero tried to escape, the police shot him in the lower right abdomen. He was in the hospital for six days and was rendered unable to work.

In a case which achieved widespread notoriety, eighteen-year-old Glenda Patricia Solórzano was shot to death on May 21 as she traveled in a bus near La Balsa, Olancho. Soldiers from the 15th Infantry Battalion were attempting forcibly to recruit a young man who had managed to get off the bus. He was running behind the moving bus when the soldiers fired two shots which missed him, shattered the two back windows, and killed Solórzano. Three others were injured. This last incident occurred only days after the armed forces chief, Gen. Luis Alonso Discua Elvir, temporarily suspended recruitment until after the elections, as mandated by law.

### **The Right to Monitor**

Monitors in Honduras were accustomed to phone tapping and occasional vigilance, which were common. In addition, there were sporadic efforts to discredit or threaten human rights groups. In January, a so-called Group of Four, claiming to be the "armed wing" of the human rights organization Codeh, took responsibility for a bomb which destroyed the car belonging to two sons of the former armed forces chief, retired Gen. Humberto Regalado Hernández. At the time of the explosion, the car was parked near Codeh's San Pedro Sula office while the two sons apparently shopped in a nearby store. Codeh president Dr. Ramón Custodio



publicly denied any relationship to the incident or the group. In February, Human Rights Commissioner Valladares received strong verbal pressures from armed forces chief Discua to discontinue his work, which Discua found damaging to the army's prestige.

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

For ten years, successive U.S. administrations provided Honduras with massive military aid designed to mold it into a bulwark against the perceived communist threat in Nicaragua, El Salvador, and Guatemala. Part of that policy was the systematic whitewashing of the Honduran military's human rights record. With the end of the Cold War, the U.S. began to exert more pressure on the Honduran armed forces to end human rights abuses and reduce their quota of power. Ambassador Arcos left in mid-1993 with an impressive record of human rights advocacy from the U.S. Embassy, pressure which was particularly important in the Martínez case. Military aid to Honduras declined after 1990, although foreign military sales by the U.S. government remained relatively high. The U.S. provided an estimated \$1.5 million in military aid to Honduras in fiscal year 1993 and spent \$1.1 million training the army. In addition, the administration provided approximately \$9.7 million in Economic Support Funds (ESF), cash payments to the Callejas government. The Clinton administration requested similar levels of military aid for fiscal year 1994, but only \$7.5 million in ESF. Foreign military sales agreements worth \$10 million were reached in fiscal year 1993 and a similar level was expected to be approved in fiscal year 1994. Americas Watch urged the administration to use its remaining security assistance program, and other sources of influence, as a lever for human rights improvements, including the total separation of the police from the military, and prosecution of those responsible for human rights violations.

The 1992 State Department *Country Report on Human Rights Practices*, for Honduras, although far from exhaustive, directly implicated the armed forces in human rights abuses. The report cited "the tendency of [armed forces] personnel to protect officers accused of abuses; the inability of civilians to levy formal accusations before military courts; ill-trained and poorly equipped judiciary and police forces; and an endemically corrupt and inefficient criminal justice system" as obstacles to overcoming military impunity. The State Department asserted that a fundamental problem was "the failure of the Supreme Court to render decisions about the jurisdiction of the civilian courts over [armed forces] personnel accused of offenses involving civilians."

In July 1993, William Pryce, a Latin America specialist on the National Security Council during the Bush administration, became the new U.S. ambassador in Honduras. Pryce told Americas Watch that human rights were a pivotal aspect of U.S. policy of promoting democracy in Honduras. It was unclear, however, whether the new ambassador would use his position of considerable weight

to pressure the Honduran government as his predecessor did.

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

The unprecedented reform efforts underway in Honduras during 1992 and 1993 warranted new research by Americas Watch to evaluate the evolving human rights situation. Two Americas Watch researchers conducted a fact-finding mission in October 1993, taking testimony from victims and witnesses of human rights violations and holding meetings with the national human rights commissioner, a member of the Ad Hoc Commission, the U.S. ambassador, and human rights organizations.

During the meeting of the General Assembly of the Organization of American States in Managua in June, Americas Watch and the Center for Justice and International Law (CEJIL) publicized Honduras's failure to comply fully with the decision of the Inter-American Court of Human Rights holding the government responsible for the disappearance of Manfredo Angel Velásquez in 1981 and Saúl Godínez Cruz in 1982. Although the court in August 1990 adjusted the amount of damages that Honduras owed to the victims' families to compensate for Honduras's delinquent payment, the Callejas government still failed to compensate the families in accordance with the court's ruling. Americas Watch and CEJIL continued in 1993 to press members of the U.S. Congress to make full compliance with the court's verdict a condition to receive U.S. security assistance.

## **MEXICO**

### **Human Rights Developments**

Despite the Mexican government's efforts, in connection with the North American Free Trade Agreement (NAFTA) debate, to portray its human rights problems in the best possible light, Americas Watch's concerns in 1993 were virtually unchanged from prior years. Torture and police abuse; election-related abuses; and interference with freedom of expression and association of human rights monitors, independent trade unionists, peasant and indigenous rights activists, election observers, and journalists were still pervasive problems. Moreover, notwithstanding legal reforms and personnel changes, impunity for those responsible continued.

In January 1993, President Salinas heightened expectations that he would restrain abuses when he named Dr. Jorge Carpizo as his third attorney general. Carpizo, a distinguished jurist and scholar, had solidified his reputation for integrity and commitment to human rights during his tenure as the first president of the National Human Rights Commission (CNDH). In his new role, one of his principal tasks was to clean up the Federal Judicial Police (FJP), an agency contaminated by ties to drug traffickers, whose agents had tortured and even murdered with impunity.

Attorney General Carpizo announced several rounds of dismissals of FJP agents identified as having connections with drug traffickers.

He also filed criminal charges against Guillermo González Calderoni, a senior FJP Commander under his predecessor, Ignacio Morales Lechuga. González Calderoni had been implicated in human rights abuses, including the 1991 torture and murder of the Quijano brothers, and corruption. Unfortunately, the charges against him did not include torture or homicide.

In spite of Carpizo's efforts, the FJP remained plagued by corruption and human rights abuses. On March 1, 1993, former FJP agent Jesús Rioja Vázquez was arrested after he went on a rampage in Hermosillo, Sonora, during which he machine-gunned to death four people and ran over a fifth with his truck. At the time he was working for the FJP commander in Hermosillo as a *madrina*, or free-lance police agent. Rioja Vázquez had previously been implicated in the January 1990 FJP murders of the Quijano brothers, and a warrant for his arrest had been issued. Although his whereabouts were known, no steps were taken to bring him to justice and thus prevent the massacre. In addition, the investigation into the May 24, 1993 murder of Cardinal Juan Jesús Posadas Ocampo and six other persons in the Guadalajara airport revealed that several FJP agents were involved.

Attorney General Carpizo compromised his reputation as a human rights champion by supporting certain measures that violated fundamental rights. Those measures included a new law that doubled the amount of time prosecutors were permitted to detain criminal suspects involved in organized crime before presenting them to a court (most torture occurs in the period before criminal suspects are brought before a judge). Carpizo also implemented a new federal highway roadblock program to thwart arms and drug trafficking and prevent kidnappings (the move reversed President Salinas' July 1990 decision to eliminate checkpoints on the nation's highways, as these had long been used by police for extortion); he refused to meet face to face with the press and to disclose the names and criminal charges, if any, brought against fired FJP officers. Contrary to his record at the CNDH, as attorney general Carpizo did not prosecute to the fullest extent of the law those officers who engaged in human rights abuses. In September, Carpizo's hand-picked human rights liaison officer, children's rights activist María Guadalupe Andrea Bárcena, resigned complaining that deceit, corruption, and the lack of will to uphold justice in the attorney general's office made her job impossible.

Salinas's most significant human rights reform was the creation, in 1990, of the CNDH, an ombudsman agency authorized to investigate human rights complaints. By 1993, the CNDH had become an enormous, constitutionally mandated government bureaucracy with more than 600 staff members and its own building. It was hampered by mandate limitations that barred it from investigating violations of political and labor rights and from looking into matters that were under consideration by a court. The CNDH's

inability to enforce its recommendations—which all too often were ignored by responsible government agencies—further hindered its effectiveness. Hundreds of recommendations from the CNDH about murder, torture, arbitrary detention, and other abuses were an important step in the direction of ending impunity; nevertheless, they also proved that serious human rights problems persisted.

The CNDH's independence—in fact as well as in law—from all authorities and its support for Mexican nongovernmental human rights organizations needed to be strengthened. For example, in Chiapas, senior military officials accused the Catholic church-affiliated Fray Bartolomé de las Casas Human Rights Center of spreading "odious lies" about the military, "defending criminals," and "obstructing justice." In March 1993, soldiers searching for two fellow officers who had vanished while on patrol illegally, raided homes, confiscated or destroyed property, tortured suspects, and arbitrarily arrested at least seventeen persons. The center denounced the abuses, after which the military charged that the center had coached witnesses into fabricating testimony.

The CNDH investigated the incident and in its recommendation backed the military's assertion. Independent human rights groups, including the Minnesota Advocates for Human Rights, looked into the military's and the CNDH's accusations and found them to be unfounded.

The CNDH also needed to be more responsive to individual victims of human rights violations. During 1993 the CNDH only condemned torture in cases in which there was physical evidence of torture; it failed to consider evidence of psychological torture. Moreover, the CNDH did not recommend compensation for victims. Nor did it complain when persons accused of torture were charged with lesser crimes, such as abuse of authority or administrative infractions, even though, under Mexican law, this could prevent a victim from obtaining redress.

In response to internal pressure and mounting international publicity about electoral fraud during the NAFTA debate, the Salinas administration pushed through the legislature a series of bills to overhaul election procedures. While the new laws addressed campaign financing, the voter registration process, the number and apportionment of seats for members of Congress, electoral observation, and oversight of the ballot count, they carefully avoided any genuine threat to the monopoly on political power enjoyed by the ruling Partido Revolucionario Institucional (PRI). Steps to ensure free and fair elections would include: granting all political parties equal access to campaign financing, the media, and the use of the national colors; permitting professional, independent and impartial election observers to monitor elections and have full access to all election machinery, including computers; barring the military from putting on displays of force on election day that could deter voters from going to the polls; and establishing an independent, impartial electoral commission in which no political party or alliance of parties

would dominate and the Minister of Government would play no role. One measure that appeared progressive was in fact carefully crafted to remove an opposition candidate from contention in the 1994 presidential election. Article 82 of the Mexican Constitution was amended to allow persons born in Mexico whose parents were born outside the country to run for President. But that provision was not due to go into effect until the year 2000, thereby blocking the candidacy of Vicente Fox Quesada, a popular and charismatic Partido de Acción Nacional (PAN) leader whom the government considers a worrisome challenger.

### **The Right to Monitor**

Individuals who publicly challenged the government or the PRI during 1993 faced an array of tactics to bring them into line or immobilize them. Independent human rights activist Víctor Clark Alfaro, director of the Binational Center for Human Rights (CBDH) in Tijuana, was subjected to repeated efforts to silence him. In April 1993, the CBDH published a report on torture and corruption in the Baja California state judicial police that included eighty-four cases of torture, and alleged that drug traffickers were buying police credentials from corrupt officials. Many of the report's findings were independently supported by the state's own human rights commission. Nonetheless, the chief of security for the state attorney general alleged that he had been defamed and slandered, and the public prosecutor filed criminal charges against Clark. An appellate court later dismissed those charges on grounds of insufficient evidence. Meanwhile, Clark's offices were broken into, staff members received telephone death threats, and *madrinas* watched the office. While he continued his work, Clark was preoccupied with the security of his staff and the police informants who provided him with the data for his report. Arturo Solís Gómez, president of the Centro de Estudios Fronterizos y Promoción de los Derechos Humanos, A.C. (CEFPRODHAC) in Tamaulipas, was the focus of similar intimidation by state authorities. Many of those abuses were linked to drug trafficking and the associated corruption of police and prison guards. While in the past many of the cases documented by CEFPRODHAC involved federal judicial police, in 1993 the dominant pattern changed and the most serious cases of torture and abuse reported to CEFPRODHAC involved state police in the border cities of Matamoros, Reynosa, and Río Bravo. At the same time, reported cases of abuse in the state prison persisted at previous levels. According to CEFPRODHAC, this increase in state cases coincided with the inauguration of Gov. Manuel Cavazos Lerma in February 1993. Instead of receiving the cooperation of the new state leadership in combatting these abuses, CEFPRODHAC found itself the object of a public campaign to discredit it. CEFPRODHAC reported that it had been accused by State Attorney General Raúl Morales Cadena and State Director of Prisons Francisco Castellanos de la Garza of protecting criminals. It further claimed that it had been accused by the PRI and two smaller political parties in

Matamoros of spying for foreign interests because it had received funding from the Ford Foundation and other U.S.-based nongovernmental philanthropic institutions. Finally, a CEFPRODHAC bulletin charged that the director of prisons "asked several journalists whose salaries are paid by the state government to accuse the CEFPRODHAC of being financed by drug traffickers and to state that the group charges money to detainees who have brought legal action to win their release from prison."

Independent union leaders and their lawyers were vulnerable to pressure tactics, including misuse of the criminal justice system, designed to convince them to curtail their activities. Agapito González Cavazos, head of the Day Laborers' and Industrial Workers Union in Matamoros, led the fight to win higher wages for workers than allowed by a longstanding pact between the government and the official union. At a critical moment in the negotiations, the seventy-six-year-old González was arrested by the FJP on four-year-old tax evasion charges. Although he was released several months later, the settlement reached with the workers while he was in prison was substantially less than he had been seeking.

According to press reports, Carlos Enrique López Barrios, a lawyer defending Tzotzil Indians in Chiapas, was beaten on April 27, 1993 by three unidentified men who seized the lawyer's appointment book and identification cards. The beating occurred while the group he worked with, Abogados y Asesores Asociados, was defending Tzotzil Indians from San Isidro el Ocotil who had been accused of a recent killing of two soldiers.

Despite steps taken by the Salinas administration in 1992 to modernize relations between the federal government and the media, in 1993 journalists still were subject to pressures to conform. Miguel Angel Granados Chapa, one of Mexico's most respected political columnists, was required by the private radio station for which he worked to submit for prior approval the names of guests he intended to feature on his program. The demand occurred just after Granados Chapa hosted opposition presidential candidate Cuauhtémoc Cárdenas. The radio station's license was under review by government authorities at the time. Granados Chapa resigned rather than comply with the censorship demand. After he went public with his accusations, President Salinas called him to say that the government had nothing to do with his departure and to offer him a program on a government-owned radio station. Manuel Villa, the government official in charge of radio and television licensing, was removed from his post and named to head the newly formed National Institute of Migration.

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

Mexico was a U.S. policy priority in 1993 as a result of the intense debate concerning the North American Free Trade Agreement (NAFTA). Shamefully lacking during both the negotiations and the ratification debate was any genuine concern about Mexico's failure to protect fundamental human rights and to ensure political accountability. Even the supplemental agreements that were

negotiated by the Clinton administration to repair deficiencies in the text it inherited from the Bush administration ignored these issues. While the environmental side agreement established a trilateral commission with the authority to investigate complaints about noncompliance with environmental standards, no similar mechanism was created in the labor side agreement, nor did that agreement affirm the rights of workers to organize and strike. By downplaying rights abuses and serious restrictions on democracy in Mexico, while engaging in the most profound restructuring of economic relations ever between the two countries, the Clinton administration missed an unprecedented opportunity to help Mexico's people achieve badly needed human rights reforms.

The Clinton administration passed up another important opportunity to press Mexico on labor rights concerns when it announced in October that it was refusing to accept for review a petition on worker rights filed by the International Labor Rights Education and Research Fund 1993, pursuant to the mandatory labor rights conditions on the Generalized System of Preferences, a U.S. trade benefits program.

The administration's approach to Mexican human rights was characterized by the testimony of John Shattuck, the assistant secretary of state for human rights, democracy and labor, at an October 19 hearing before the House Foreign Affairs Committee. Secretary Shattuck described abuses frankly, but used the occasion as an opportunity to defend vigorously the NAFTA agreement, and made the claim, debatable at best, that adoption of the trade agreement would enhance human rights in Mexico.

Americas Watch was heartened by Ambassador-Designate to Mexico James R. Jones's testimony during his Senate confirmation hearings in September, in which he promised to promote human rights in Mexico at the Organization of American States (OAS) and U.N. and to "work with the Mexican government to carry out democratic reforms." We also were pleased to see that in the Congressional Presentation for Security Assistance Programs for fiscal year 1994, the department of defense identified as a central program objective the encouragement of "greater support among Mexico's military for democratization and respect for human rights." Unfortunately, the Pentagon did not explain how it planned to encourage support for democracy and respect for human rights in a military force that is absolutely loyal to the President, shielded from the press, and as much a part of the monolithic political system as any other institution in Mexico.

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

In October, Americas Watch released a briefing paper on intimidation of activists in Mexico which examined government interference with core political rights of six categories of governmental critics or opponents: human rights monitors, labor organizers, *campesino* (peasant) and indigenous rights activists, environmentalists, journalists, and election observers.

In November, Americas Watch participated in a conference in Mexico

City sponsored by Mexican nongovernmental organizations and focusing on police abuse in that city. At the conference, Americas Watch released a report on police abuse in Mexico City. In addition, a chapter on prison conditions in Mexico was included in the *Human Rights Watch Global Report on Prisons*. Work continued on the forthcoming Human Rights Watch-Yale University Press book on human rights in Mexico and on a report with the Natural Resource Defense Council on intimidation of environmental activists in Mexico.

## NICARAGUA

### Human Rights Developments

The human rights situation in Nicaragua during 1993, as in recent years, continued to be shaped by a highly polarized political environment, a weak central government (including a feeble judicial system), and violent actions by rearmed groups of ex-contras and former Sandinista army soldiers, including two major hostage-taking episodes in mid-year.

The Popular Sandinista Army (EPS) and police engaged in an excessive and disproportionate use of force in several instances when responding to rearmed groups, striking workers, and peaceful protesters. The general reign of impunity and the inability of the Nicaraguan state to administer justice continued to be the greatest obstacles to an improved human rights situation.

The crisis of governability experienced by the administration of President Violeta Chamorro, which spent most of the year veering from one political crisis to another, was rooted in the government's loss of support by political sectors that had previously constituted its base. The United Nicaraguan Opposition (UNO) that supported the Chamorro candidacy in the 1990 elections formally declared itself in opposition in early 1993. The government consequently relied largely on the bloc of deputies from the Sandinista National Liberation Front (FSLN) in the National Assembly to pass legislation. The FSLN, however, experienced its own divisions over this alliance, and by mid-year had made its support for the Chamorro government conditional. Several half-hearted attempts at national dialogue failed. In addition, a crippling economic recession—government figures placed the unemployment and underemployment rates at 50 percent—exacerbated to social instability.

Because of the polarized political atmosphere and the lack of any effective state mechanism for the investigation and prosecution of violent crimes, the vast majority of deaths and other injuries with apparent political overtones remained the subject of a heated polemic between opposing forces. Both the Sandinista leaders, on the one hand, and the former contras and anti-Sandinista forces on the other, claimed that hundreds of their supporters have been



systematically killed by the other side. State responsibility for this violence added to political polarization, since Sandinista officers still headed the military apparatus and were largely in charge of the police, although there had been substantial turnover among the rank-and-file.

The judiciary continued to be ineffective. The public perception that judges were partial to the Sandinistas lingered despite the fact that some 70 percent of judges had been replaced during Chamorro's term in office. Judicial actions in high-profile murder cases, such as that of former contra leader Enrique Bermúdez (in which Scotland Yard detectives gave some assistance during 1993) and teenager Jean-Paul Genie, also did not progress.

In the Genie case, the government refused a request by the OAS Inter-American Commission on Human Rights to accept the jurisdiction of the Inter-American Court of Justice in Costa Rica.

By mid-November the Nicaraguan Supreme Court had yet to rule on whether the military or civilian courts should have jurisdiction, given that the alleged suspects were bodyguards of Gen. Humberto Ortega. Some analysts believed that progress might occur in this case in 1994, when the terms of four of the five Sandinista appointees on the Supreme Court expired and the Chamorro government replaced them.

The government was also unable to capture and prosecute former EPS lieutenant colonel Frank Ibarra, head of the so-called Fuerzas Punitivas de Izquierda (Leftist Punitive Forces, or FPI), which took credit for the November 23, 1992, murder of property-rights activist Arges Sequeira. With assistance from the Spanish police, the government carried out a credible investigation into Sequeira's murder, identifying Ibarra and several others as the culprits.

The one development that could have contributed to de-politicizing the human rights debate in Nicaragua was the creation of the Tripartite Commission, an investigative body composed of government representatives from the Interior and the Foreign Affairs Ministries, the Verification Commission headed by Cardinal Miguel Obando y Bravo, and the OAS's International Commission of Support and Verification (CIAV), which had monitored the fate of the demobilized contra forces since 1990. The Tripartite Commission was formed in September 1992 to review some 600 cases of abuses against and by former contras. The commission decided to focus on some one hundred cases of political violence -- half involving deaths of former contras, and half in which the victims are presumed to be Sandinistas -- in order to arrive at a consensus position as to who was responsible and to evaluate the role of the judiciary, police, and military in investigating and punishing those responsible.

The initial findings of the commission, which dealt only with homicides of former contras, provided a more complex picture of the security situation of ex-rebels than was normally portrayed by either their supporters or opponents. The first report, presented

to President Chamorro in February, dealt with nine cases of killings of former contras and one case of the killing of a family member of a former contra.

In only three of these cases did the commission find the state directly responsible for the killings: in two cases, the army (EPS) was responsible, and in the third the police were responsible. In all the other cases, civilians were held responsible, while in one case the perpetrator could not be determined. In three of these civilian cases, members of Sandinista cooperatives were cited as responsible in various land disputes. In the one case involving the *recompas*, or re-armed former Sandinista military, there was testimony given to the commission which indicated the direct collaboration of the EPS.

The outstanding common denominator of these cases was the fact that all but one of them were inadequately investigated and punished by police and judicial authorities. The creation of the Tripartite Commission did stimulate the government to carry out investigations for the first time or to reopen cases that it had previously closed. However, in only one of the first ten cases presented had anyone been detained (a policeman), and that only came about, apparently, after the Tripartite Commission began its investigation.

A second report detailing eighteen cases (including forty-two violent deaths of former contras, their family members, and other civilians) was presented to the government in June 1993. Of these eighteen cases, the EPS was found to be responsible in four, although two of these were deemed common crimes. A more serious case was one in which members of the EPS were found to have placed mines on a road that resulted in the deaths of fourteen civilians and former contras in Pita del Carmen, Jinotega, on August 21, 1991. No police investigation was ever carried out.

In four of the eighteen cases, the authors were identified as *recompas*. The commission received evidence of police complicity in one *recompa* action; at the same time, the only case among the eighteen in which someone was detained involved *recompa* responsibility. Civilians were responsible in nine cases (three of these accounted for the only "normal" police investigations), the police in one case, and in one case the author was unidentified. While the state was not predominantly responsible for these killings by civilians, the police and judicial investigations were, as noted in the first report, largely "irregular," "insufficient," "incomplete," or "non-existent."

A third report, due out in late 1993, was to be the first to deal with cases of Sandinista victims. A comparison of the efficacy of police and judicial investigations in such cases with those already studied would allow for a judgment as to whether cases involving Sandinista victims had been taken more seriously by the state. Previous experience by Americas Watch would lead to the conclusion that they have not been. The commission is also expected to make recommendations for the reform of the law governing the Auditoría Militar, the military body which

investigates and sanctions abuses committed by the army and police.

The Tripartite Commission has faced innumerable problems and obstacles in its work. First, the government has pledged to respect the recommendations of the commission (reopen cases, prosecute those responsible, etc.), yet only one of the handful of reopened cases of homicide committed by police or military officers and sent to the Auditoría Militar resulted in a conviction during 1993.

While there generally appeared to have been a good-faith effort by police authorities to carry out administrative sanctions, in one case cited by the Nicaraguan Association Pro-Human Rights (ANPDH), a police officer from Waslala who had supposedly been discharged in accord with the commission's recommendations later killed again while on active duty. The Auditoría Militar found this officer guilty *in absentia*, but he has not been detained. In many cases, the police have been unable to arrest suspects identified by the Tripartite Commission; military officers who have been held responsible by the Commission have also fled before they could be arrested.

In addition, the commission's work progressed more slowly than anticipated, due both to the difficulty of arriving at a consensus position on highly charged cases and to the inability of government representatives (who are also responsible for handling many of the political crises affecting Nicaragua) to attend meetings. The commission's discussion of deaths of Sandinista victims was likely slow the process even further, since these cases had not been investigated by the CIAV and only rarely by human rights organizations.

Finally, there was no publicity given to the findings of the commission inside Nicaragua, an important oversight on the commission's part. The release of information could both generate public pressure for justice in the cases investigated, and at the same time lower the level of polemic around the deaths of former contras.

The most serious obstacle to the work of the Tripartite Commission, however, was the government's promulgation of an amnesty law on August 10 for all "political and related common crimes committed up to August 15" (later extended to August 28). The amnesty exempts crimes against humanity and violations of international humanitarian law, although it remained unclear how the government or individual judges would interpret these provisions. The law would also "not affect the functions and purposes" of the Tripartite Commission with respect to "clarification of the facts" and the "determination of the consequent responsibilities." The law was thus not meant to hinder the commission's investigative work, but did not specifically exempt from the amnesty the cases studied by the commission.

In practice, the issue of who should be covered by the August amnesty will depend on each individual judge. In the Arges

Sequeira case, for example, a judge (with support from the attorney general's office) determined this to be a common crime that occurred outside of a conflictive zone. The judge thus brought Frank Ibarra and others from the FPI to trial *in absentia*, a move which itself raised serious questions of due process. A grave example of the kinds of pressures that can be exerted on judges making decisions on whether or not the amnesty should apply was evident on September 28, when gunmen forced a judge in Estelí to sign release papers for some seventy-two prisoners, some of whom had been sentenced for purely common crimes.

The amnesty was the third one promulgated since Chamorro's election in February 1990. The first was passed by the Sandinista-dominated National Assembly, with opposition support, in March 1990, shortly before the Sandinistas left office; another was decreed by Chamorro's government in December 1991. The National Assembly passed the August 1993 amnesty law by a vote of 45 to 4, with one abstention. The Sandinista bloc voted unanimously in favor of the law, while the UNO deputies walked out before the vote was taken. The Chamorro government had promoted the idea of an amnesty since May as part of an inducement to some 1,400 recontra and recompa forces that eventually disarmed and congregated in security zones. In our view, however, it is one thing to declare an amnesty for the purpose of allowing former combatants to lay down their arms and re-enter civilian life, and something quite different to extend that amnesty to those who have committed serious abuses during or outside a combat situation.

The ineffectiveness of the amnesty as both a deterrent and inducement to groups of *rearmados* to lay down their weapons was vividly demonstrated by a twin hostage-taking crisis in mid-August. A week after the amnesty law was first passed, recontras of the Frente Norte 3-80, headed by José Angel Talavera (alias "El Chacal") kidnapped a delegation of more than three dozen legislators, government officials, and soldiers who had ventured into the northern town of Quilalí to convince them to accept a government amnesty. The following day, a group of former Sandinista military officers calling themselves the National Dignity Command took over the UNO headquarters in Managua and took hostage dozens of opposition politicians, including Vice-President Virgilio Godoy.

After the crisis ended a week later, the recompa kidnapers, along with most other recompa groups, availed themselves of the amnesty.

Meanwhile the recontras under the leadership of "El Chacal" entered into further negotiations with the government. These broke off in mid-October, after which the EPS launched a military campaign against them.

Criminal and political violence continued to plague the Nicaraguan countryside throughout 1993, as groups of former contras and Sandinistas rearmed themselves to press for economic demands (land and credit), political demands (such as recontra demands for the removal of army chief Gen. Humberto Ortega), or simply to commit robberies. The actions of such groups throughout the year left

scores of persons dead and wounded. On May 18 President Chamorro decreed a thirty-day suspension of constitutional guarantees under Article 150 of the Constitution in several northern departments of Nicaragua as part of a program to concentrate and demobilize members of rearmed groups. The decree suspended rights regarding arbitrary detention and searches without warrants. No complaints of abuses emerged about its implementation, and the President restored full civil liberties on June 16. The government also continued its collection of arms through special disarmament brigades; by mid-year, they had retrieved over 120,000 arms. Military tactics brought about a rare consensus among Nicaraguan human rights groups in 1993, which uniformly condemned army practices. The EPS launched an aggressive military campaign at the end of 1992 and the beginning of 1993 against the rearmed groups. But conservative critics of the army denounced not only the military's failure to act forcefully against rearmed Sandinistas; they also accused the EPS of aiding and abetting them.

Perhaps because of this criticism, the EPS responded with no holds barred to the takeover of Estelí on July 21 by recompas of the Workers and Peasants Revolutionary Front (FROC) under the command of a former Sandinista major, Victor Manuel Gallego (alias "Pedrito el Hondureño"). The army reported some forty-five dead and wounded in the fighting, although the Nicaraguan Center for Human Rights (CENIDH), the Permanent Commission for Human Rights (CPDH), and ANPDH said those numbers were inflated. All these groups criticized the armed assault by the recompas, including the incident in which some fifteen armed FROC took up positions in a local hospital, a serious and reckless violation of international humanitarian law. But human rights groups also criticized the ferocity of the army's counter-attack. The ANPDH and CENIDH both singled out the army's counter-attack on the hospital as unnecessarily endangering civilian lives.

Both the CENIDH and the ANPDH also criticized the military's response to the early September takeover of San Ramón, Matagalpa, by rearmed groups. In that instance, two recompas were killed after being taken prisoner, while three civilians were killed and four others wounded.

The National Police reacted more aggressively against striking unionists and ex-army officers (sometimes armed) during 1993, something which occurred in tandem with changes in the police, including replacing older Sandinista figures with younger ones. The replacement of Police Chief René Vivas with Fernando Caldera was seen by some as a positive step, although both the ANPDH and CDPH criticized Caldera's human rights record during the time of the contra war.

CENIDH, for example, reported in 1993 that the police had used excessive force in evicting striking workers from the central customs installations in Managua on June 9, had beaten several workers in jail, and had lodged trumped-up charges against them to justify its behavior. In an earlier episode in September 1992,

students and ex-EPS officers demonstrating peacefully during independence day celebrations (at which President Chamorro was present) were beaten by the police without provocation.

Under international pressure, 1993 also saw renewed (albeit symbolic) efforts by the civilian government of Violeta Chamorro to bring under control the large security apparatus it inherited from eleven years of Sandinista rule. A September 2 announcement by the President that General Ortega would leave his post as head of the EPS in 1994 brought an angry response from the army and the FSLN. However, in early October, the UNO and the FSLN reached an agreement that Ortega would leave once a new military organization law was passed by the National Assembly. Ortega had come under increasing criticism since the May explosion of an arms cache in Managua belonging to the Salvadoran guerrillas and the subsequent suspicion that high-level military authorities must have known about its existence.

In October, President Chamorro created by executive decree a new civilian intelligence agency, called the Office of Intelligence Affairs, to replace the EPS's Defense Information Directorate. (The DID had been headed until then by Col. Lenín Cerna, previously director of State Security in the Ministry of Interior and singled out for numerous human rights violations). Chamorro appointed agronomist Sergio Narváez Sampson, a personal friend with no political party affiliation and no previous experience in intelligence matters. Cerna, meanwhile, was promoted to the post of Inspector General, the third-highest ranking position in the EPS, a move that demonstrated Chamorro's still-tenuous control over military matters.

### **The Right to Monitor**

Human rights groups were largely able to operate within Nicaragua without restrictions. The Permanent Commission on Human Rights (CPDH) worked closely with the Ministry of Government in visiting prisons in 1992 and 1993. The CPDH, the ANPDH, and CENIDH all assisted in the negotiations during the August hostage crisis.

CENIDH reported that Leonel González, a human rights promoter and justice of the peace in Muelle de los Bueyes, Chontales, was killed by unidentified members of a rearmed group on March 26. On August 13, a foreign journalist and two members of the ANPDH were shot at by unidentified gunmen as they were returning from a visit to Jalapa, Nueva Segovia, although there were no injuries.

The International Commission of Support and Verification (CIAV) of the OAS continued to operate in formerly conflictive zones, monitoring rights of the demobilized contras and their families. The CIAV also participated in the Tripartite Commission. In late October, during the military's campaign against the recontras under the command of "El Chacal", the CIAV denounced that several of its vehicles had been denied access to areas in the north, preventing monitors from investigating several denunciations of abuses.

In June, the CIAV's mandate was expanded to include all persons

affected by the war, not just those of the demobilized Nicaraguan Resistance. This widened mandate, a welcome step, had yet to be implemented by late 1993.

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

The Clinton administration continued a policy of support for the fragile Chamorro government, simultaneously seeking to foster political reconciliation among all parties and to prod the government to reform the security apparatus and improve human rights.

On April 2, the State Department announced that it was releasing \$50 million in economic aid held up by the Bush administration. The aid was released as a tentative sign of support for steps that Chamorro had taken in reducing the size of the army and reforming the economy. The State Department took note of the ongoing work of the Tripartite Commission, the suspension of several police officers named in its first report, and the government's request for a broadened and extended mandate for the CIAV.

After media accounts reported in mid-1993 that recontra groups were receiving aid from Cuban-American groups in Miami, the State Department issued a stern warning that such activities were possibly illegal and "particularly repugnant in that they could support violence directed against a friendly government." Assistant Secretary of State for Inter-American Affairs Alexander Watson reiterated in early October that the U.S. stood ready to prosecute those who violated U.S. neutrality or related laws.

The discovery in Managua of several arms caches left by the Salvadoran guerrillas and containing weapons, fake passports and identity cards, and references to an international kidnapping ring, aroused strong suspicions that senior members of the Sandinista security or intelligence apparatus had approved or known of the caches' existence. In late July, the U.S. Senate approved, by a vote of 77 to 23, an amendment offered by Sen. Jesse Helms to ban aid to Nicaragua due to alleged links to international terrorism.

This amendment was subsequently dropped in a House-Senate conference, but the foreign aid appropriations bill for fiscal year 1994 required the State Department to block economic aid until it reported to Congress that the Nicaraguan government had investigated and prosecuted those found to be responsible for the arms caches, and had made "significant and tangible" progress in reforming the security forces and judicial system and in implementing the recommendations of the Tripartite Commission.

Shortly after the passage of the bill, Assistant Secretary Watson told Congress that the U.S. was reasonably assured that the "current Government of Nicaragua is not involved" in international terrorism activities. In public and private, Watson continued to press senior Nicaraguan officials on key human rights cases as well as the need to exert civilian control over the security forces.

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

Americas Watch visited Nicaragua four times from December 1992 through October 1993 as part of an effort to monitor human rights violations in the context of accelerating political violence. Through contacts with Clinton administration officials, local and international human rights groups, Nicaraguan government representatives, and the U.S. Congress, Americas Watch attempted to ensure that human rights issues were included on the broad agenda of political reconciliation. Our public opposition to the government's proposed amnesty in mid-1993 received wide attention in the Nicaraguan press, and, along with the efforts of Nicaraguan human rights and civic groups, may have resulted in several exemptions from the amnesty law.

Americas Watch continued to press the Nicaraguan government on individual human rights cases and due process issues, as part of a broader effort to end impunity. A report on the findings of the Tripartite Commission and efforts to reform the military and police was scheduled for January 1994.

## **PERU**

### **Human Rights Developments**

This was a year of consolidation for Alberto Fujimori, an elected president who seized dictatorial power on April 5, 1992. Although international pressure later forced changes favorable to human rights, President Fujimori marshaled unprecedented power over formerly autonomous institutions like the judiciary, Public Ministry, a newly-elected congress, and the security forces. A new legal apparatus suppressed individual rights while the institutions designed to protect them were weakened or eliminated. For human rights, this meant isolated gains in the context of continuing, serious violations. According to the government's Public Ministry and the nongovernmental National Coordinating Committee for Human Rights (Coordinadora), the number of disappearances reported in the first nine months of 1993 dropped compared with the same period in 1992, from 168 to sixty-one. The number of extrajudicial executions attributed to the security forces also decreased. Violations of the laws of war by Peru's two guerrilla groups—the Communist Party of Peru-Shining Path and the Túpac Amaru Revolutionary Movement (MRTA)—also decreased in number, if not severity.

Yet these figures should not be taken out of context: reporting on human rights violations was complicated by the lack of independence of once-autonomous branches of government, threats against human rights monitors, and the criminalization of such vague offenses as creating "a state of anxiety" or "affecting international relations" (Decree Law 25475). Many officials feared losing their jobs, and ordinary citizens feared imprisonment, if



they supplied information. In the central and southern jungle, where violence was intense, the coup had exacerbated the difficult task of documenting reports of human rights abuse.

And some individuals who in earlier years might have been disappeared or killed by the security forces were arrested in 1993 under special laws promulgated after the coup. Tried secretly inside prison by hooded or "faceless" judges and prosecutors, defendants were prevented from mounting a meaningful defense. Those charged with "treason"—a charge that incorporated such disproportionate offenses as distributing Shining Path propaganda in the classroom and detonating a car bomb—were tried by hooded military judges, who handed down convictions in 97 percent of the cases brought to them in 1992 and most of 1993. Lawyers were not permitted to represent more than one such client at a time; the rights to *habeas corpus*, *amparo*, and provisional liberty were suspended; and defendants could be held in incommunicado police detention for up to thirty days.

Except in rare instances, suspects were unable to present witnesses in their defense or confront the prosecution. Torture, including rape, in police detention remained frequent, and confessions were routinely coerced. Many prominent Peruvians chose exile rather than face judicial procedures stacked against them. Along with admitted guerrillas, the accused included human rights monitors, journalists, environmental activists, doctors who had treated guerrillas under threat of death, and common citizens caught in the wrong place at the wrong time.

In repeated instances, judges based convictions not on evidence but unproved allegations. For instance, Darnilda Pardavé Trujillo was imprisoned from October 1992 through October 1993 because her sister, Yovanka, was a Shining Path leader. In his indictment, the judge concluded that it was "impossible to discard the possibility" that Darnilda knew of her sister's crimes despite the lack of any evidence. On October 29, 1993, she was finally acquitted and released. María de la Cruz Pari, who went voluntarily to the anti-terrorism police to testify on behalf of a family member on January 6, 1993, was herself arrested and raped. Antero Peña Peña, a peasant leader from the department of Piura, was detained on May 27, 1993, by soldiers who claimed to have found a subversive leaflet in his home. Police tortured Peña over the course of four days. Although the public prosecutor found no merit to the case, Peña remained imprisoned as of November.

Peruvian human rights groups believed several hundred individuals being prosecuted for terrorism or treason were innocent. For many, their only hope of freedom lay in a personal appeal to President Fujimori. Thus, justice hinged on the whims of the chief executive, who boasted publicly that he followed certain cases and telephoned the attorney general or justice minister to register his opinion. In March, for instance, President Fujimori visited jailed journalist Danilo Quijano and declared him unjustly accused, even as Quijano's case was before a faceless court.

Quijano was eventually acquitted.

Thirty-three army officers court-martialed for allegedly plotting a coup in November 1992 were also denied fair trial. Among other things, the officers were held incommunicado for ten to twenty days (the Military Code of Justice allows for only five days). Four claimed they were tortured, an allegation that did not receive sufficient investigation. A request by Americas Watch to observe their secret trials was ignored by the government. Fujimori eventually pardoned eleven men.

In response to widespread criticism, President Fujimori announced in June that the attorney general would review cases to prevent the innocent from being unjustly sentenced. The new congress (CCD) formed an honor board to review claims from dozens of judges dismissed arbitrarily after the coup and to evaluate the performance of Fujimori appointees, both judges and prosecutors. However, once issued, the honor board's recommendations appeared to be ignored.

In October, the government submitted a bill to modify aspects of anti-terrorist legislation that violate fundamental rights. The bill would restore *habeas corpus* and *amparo*; lift the restriction barring attorneys from representing more than one defendant at a time; prohibit *in absentia* trials; and allow for a final appeal in terrorism and treason cases before the Supreme Council of Military Justice. This appeal, or "revision," would be used to correct "a flagrant judicial error," according to the Prime Minister. If incorporated, these revisions would represent an improvement. Nonetheless, the system would remain inherently abusive since secret trials, prolonged incommunicado detention, the inability to cross-examine prosecution witnesses, and overly broad definitions of terrorism and treason would survive intact.

On October 31, Peruvians narrowly approved a new constitution that expanded the death penalty, previously applied only in cases of treason in an external war, to include the crimes of treason in internal war and terrorism. This violated Peru's obligations under the American Convention on Human Rights, which both prohibits the expansion of the death penalty and bars its use for political or related common crimes. Human Rights Watch opposes the infliction of capital punishment in all circumstances because of its inherent cruelty and because its irreversible nature prevents miscarriages of justice from being corrected. We view this decision with alarm, especially since the judiciary is no longer independent and special courts violate fundamental rights to due process.

Lack of accountability for human rights abuses remained the rule in Peru, contributing to the perpetuation of abuse. As of November, there were 4,200 unresolved disappearances, and the government was making no attempt to review them. New disappearances fared no better. Among the most disturbing were those of at least thirty university students from the University of the Center, in Huancayo, Junín, most of which occurred in the second half of 1992. Subsequently, in Huancayo, ten heavily armed and hooded men, some wearing police uniforms, burst into the home

of Camilo Núñez on June 17, 1993. The detention was witnessed by Núñez's wife and brother, Teófilo, who told authorities that Núñez was taken away in a police vehicle. Two months later, Teófilo was detained in the presence of his wife and father. Soon afterward, his wife discovered his corpse, blindfolded and showing signs of torture, according to the Peruvian human rights group Fundación Ecumenica Para el Desarrollo y la Paz (PEDEPAZ). Police denied detaining him. Camilo Núñez remained disappeared.

As evidence emerged throughout 1993 implicating a government death squad in the disappearance of nine students and a professor from Lima's "Enrique Guzmán y Valle" (La Cantuta) University on July 18, 1992, the Fujimori government engaged in a blatant cover-up, which even included the deployment of tanks in the capital, in April, to intimidate legislators seeking to investigate the crime. The government's evasive tactics also included efforts by the pro-government majority in the CCD, military leaders, and a military tribunal to derail a congressional investigation of the La Cantuta case; the public prosecutor's abdication of responsibility to investigate the crime; the attorney general's failure for six days to seal a site where remains of some of the La Cantuta victims were found; the refusal by the attorney general to accept badly needed international assistance in the exhumation and forensic analysis of the remains; and a propaganda campaign by the police aimed at discrediting the discovery of the remains. Peruvians who investigated the crime—including family members, journalists, members of the congress, and a lawyer representing family members—faced death threats and legal harassment. Finally in late October, President Fujimori announced that four army officers—who were not immediately identified—had been detained in connection with the case, the first official acknowledgment that the military was responsible for the crime. On November 9, a criminal court in Lima convicted several police agents of aggravated homicide for the June 1991 murder of three young men. Three of the policemen were sentenced to eighteen years each; two accomplices were sentenced to five and six years respectively. A major implicated as the intellectual author of the crime was not tried.

After the 1992 coup, the government had attempted to regain control of prison cellblocks taken over by the Shining Path and the MRTA. While recognizing the need to maintain authority in prisons, Americas Watch objected to several measures that violated the U.N. Standard Minimum Rules for the Treatment of Prisoners. Our objections were based on several prison visits in 1992 and an analysis of decrees affecting prisons. However, our ability to monitor prisons was complicated in 1993 when the government denied entry to Americas Watch, for the first time in ten years of work in the country. The denial flew in the face of a promise delivered by the prime minister to the United Nations Human Rights Commission in Geneva, in February, to provide "free access" to prisons for international humanitarian organizations. In March, the government reached an agreement allowing the International

Committee of the Red Cross (ICRC) access to prisons after suspending visits for eight months. Although an important deterrent to abuse, ICRC access does not take the place of visits by organizations that publicly report their findings. As we reported in the *Human Rights Watch Global Report on Prisons*, Peru's prisons remained plagued by multiple problems, including life-threatening shortages of food, medicine, water, and basic supplies; a high incidence of communicable disease; extreme violence between guards and prisoners; rampant corruption; a complete lack of legal assistance for poor and indigent prisoners; frequent reports of torture and abuse by police and guards; and severely restricted access to exercise, family visits, and medical care.

Although the capture of leaders and hundreds of militants severely weakened the Shining Path in 1993, it continued to launch brutal attacks on noncombatants and civilian targets like television stations, schools, and public transportation. On August 18, guerrillas seized twelve Asháninka villages and killed at least sixty-two people, including amerindians and mestizo settlers, in the central jungle province of Satipo, Junín. Many were first mutilated by machetes and axes. Such attacks became a leading cause of forced displacement.

Guerrillas also continued to terrorize candidates for municipal office and other local officials. In the weeks leading up to January municipal elections, Shining Path guerrillas were implicated in twenty-eight murders. Among those killed was candidate Ramón Galindo, a member of the United Left party who had served as vice-mayor in Villa El Salvador, an immense Lima slum neighborhood, after former vice-mayor María Elena Moyano was slain by the Shining Path in February 1992. In June, former Villa El Salvador mayor Michel Azcueta narrowly escaped death when two Shining Path execution squads fired at him as he entered the Fe y Alegría High School, where he taught geography. A bodyguard and four children were seriously wounded. A peace proposal made by imprisoned Shining Path leader Abimall Guzmán to the government from his prison cell in September had little immediate effect. Less than a month later, guerrillas detonated a car bomb outside a Lima hotel, killing three people.

### **The Right To Monitor**

Although the government proved more sophisticated in its human rights rhetoric internationally, at home the attitude remained one of denial, hostility, and thinly-veiled threats against monitors. As a result, it became almost impossible to discuss human rights without being accused of distributing false information, damaging the country's image, or sympathizing with terrorists.

On September 24, human rights activist Lily Maribel Olano Elera was arrested by police outside Pícsi prison in Chiclayo, Lambayeque department. Police told human rights groups that she was being investigated for "terrorism-related" crimes, a charge those groups described as preposterous. Olano was later released.

The interim ministry charged Father José Manuel Miranda, of the Ica Human Rights Commission, with collaboration with guerrillas because of his work in local prisons, an accusation dropped only after international protests.

Journalists critical of the regime or engaged in investigating human rights abuses or corruption by the state were targets as well. According to the Center for Study and Action on Peace (CEAPAZ), fourteen journalists were detained and charged with "apology for terrorism" in 1993. On June 2, police arrested Piura radio journalist Juan Guerra, whose news program ran reports on police brutality. Guerra had declared publicly that police threatened to kill him for his reports. He was later released. Francisco Reyes, a reporter for the national daily, *La República*, was detained and severely beaten by air force soldiers at the airport in Yurimaguas on September 19; he had reported on corruption among the police and air force in the area. Reyes was subsequently turned over to the police and released.

After graves containing the remains of some La Cantuta victims were discovered by Ricardo Uceda, director of the newsweekly *Sí*, the Public Ministry reportedly threatened to charge Uceda with obstructing justice, one of many acts of intimidation against those who have pressed for resolution of that case. Earlier in the year, *Sí* was also the target of a case launched by the Defense Ministry to punish the magazine for suggesting that the military's National Intelligence Service was implicated in the 1991 Barrios Altos massacre. *Caretas* journalist Cecilia Valenzuela was threatened numerous times during 1993, once receiving a package containing a clipping with her photograph smeared with blood and the head of a chicken.

### **U.S. and O.A.S. Policy**

The Clinton administration was creative in pressing for human rights improvements, obtaining some positive results. Nonetheless, those results were matched by the intransigence of the Fujimori government on other, equally important fronts or reversed once pressure subsided. Meanwhile, the Fujimori government's one-step-forward, two-steps-back approach to human rights drew some unwarranted praise from Washington.

After the army tank parade to intimidate parliamentarians investigating the La Cantuta disappearance case, in April, then-Assistant Secretary of State for Inter-American Affairs Bernard Aronson called President Fujimori to protest what the State Department called "an unacceptable attempt to intimidate the legislative branch." That same day, Fujimori publicly defended the legislature's theoretical right to exercise oversight. Yet once U.S. attention was elsewhere, Fujimori supporters in the CCD and army found other ways to cripple the La Cantuta investigation.

Similarly, when the Clinton administration in February set conditions for its participation in the so-called Support Group of donor countries, Lima was quick to comply with the letter (but not the spirit) of most conditions. While the government renewed ICRC

access to prisons, it barred Americas Watch and local human rights groups such access. The government began a dialogue with the Peruvian human rights organization's forming the Coordinadora, but stated that it did so only because Washington insisted.

The Clinton administration later appeared eager to normalize relations with Peru. In a statement at a meeting of bilateral donor countries on June 22, the U.S. lauded Peru's "progress in strengthening democratic institutions and the protection of human rights"—a statement difficult to defend in the wake of Fujimori's blatant manipulation of the judiciary and the military's brash threats against the legislature in the La Cantuta affair. Yet, in a July interview with a Lima daily, U.S. chargé d' affaires Charles Brayshaw expressed satisfaction that a military court was investigating the La Cantuta case, ignoring the question of civilian jurisdiction and the military's near-perfect record of protecting its members implicated in serious crimes.

Military assistance and Economic Support Funds (ESF: cash payments classified as security assistance and totaling \$110 million by the end of the 1993 fiscal year) were suspended to Peru after the 1992 coup and remained so during 1993, while development assistance and anti-narcotics aid to the police, the latter worth \$19 million annually, continued without interruption. During the year, the Clinton administration began to discuss with human rights groups and the U.S. Congress a gradual resumption of the ESF with conditions relating to human rights attached. One of the proposed conditions was the formation of a commission of four distinguished attorneys from Argentina, Italy and the United States to study judicial independence and due process. That commission traveled to Lima in September and was expected to make recommendations to bring Peru into compliance with international standards in a public report by the end of 1993.

Human Rights Watch opposed the resumption of ESF to Peru for so long as it takes the government to restore an independent judiciary and congress; end gross violations of human rights and punish those responsible; repeal or reform the anti-terrorism decrees that created the faceless courts; and review the cases handled by those courts.

The involvement in the La Cantuta case of a death squad run out of the National Intelligence Service (SIN) by Fujimori confidante Vladimiro Montesinos again raised questions about relations between the SIN and the Central Intelligence Agency, publicly acknowledged by Fujimori in November 1992. Americas Watch recommended that any U.S. assistance to the SIN or Vladimiro Montesinos be terminated immediately, and that if any agency of the U.S. government had information on death squads operating under Peruvian intelligence services, the Clinton Administration should disclose such information to the public.

Other governments appeared to be following the U.S. lead in warming up to the Fujimori government. For example, Sweden, once a refuge for persecuted Peruvians, partially closed its doors during

1993, on the grounds that it did not want to give safe haven to Shining Path supporters. As a result of this shift in policy, Mónica Castillo Páez, whose brother Ernesto was disappeared by police in October 1990, was deported from Sweden to Holland in August 1993. Mónica had fled Peru after police several times visited the Castillo home looking for her. In March 1991 the lawyer representing her family, Augusto Zúñiga, received a letter bomb that blew off his arm. Zúñiga remained in exile in Sweden. The Organization of American States continued to maintain a low profile on Peru, facilitating Peru's partial rehabilitation in the eyes of the world community. A trip by the Inter-American Commission on Human Rights (IACHR) in May resulted in a bland press release that the Peruvian government heralded as an important endorsement.

The cause of human rights in Peru received a blow in February when the Inter-American Court of Human Rights threw out the Cayara case, in which the government was to be held responsible for the massacre of at least thirty peasants and the disappearance and murder of witnesses in 1988. The court's decision was based on procedural errors by the IACHR, which acts as a prosecutor before the Inter-American Court. Subsequently, the IACHR completed a report on the Cayara case, which held the government responsible for serious violations of the American Convention, and submitted the report to the OAS General Assembly in June.

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

Through reports, press releases, opinion articles and frequent correspondence with the government and its representatives in Washington, 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 to gather information, meet with government officials and speak with the press. As a result of missions, Americas Watch published two reports and a lengthy newsletter in 1993: *Untold Terror: Violence against Women in Peru's Armed Conflict* (with the Women's Rights Project of Human Rights Watch), *Human Rights in Peru One Year after Fujimori's Coup*, and "Anatomy of a Cover-Up: The Disappearances at La Cantuta". In addition, a section on Peru was contributed to the *Human Rights Watch Global Report on Prisons*.

In cooperation with Peruvian human rights organizations and the Center for Justice and International Law (CEJIL), Americas Watch acted as counsel for the relatives of the victims in two cases: the 1988 Cayara massacre and the disappearance of prisoners following the 1986 prison riot at El Frontón. In the Cayara case, Americas Watch executive director Juan Méndez argued preliminary objections at the Inter-American Court of Human Rights in San José, Costa Rica. He also represented relatives of the El Frontón victims in a trial at the court, which was expected to make a decision in January 1994. In October, Americas Watch and CEJIL presented a petition regarding the expansion of the death penalty,

requesting that the IACHR declare it a violation of the American Convention on Human Rights.

## **VENEZUELA**

### **Human Rights Developments**

In the middle of 1993, President Carlos Andrés Pérez was suspended from office and ordered to stand trial on charges of misappropriating \$17 million in public funds. Ramón J. Velásquez was selected by Congress to assume the presidency and finish out the remainder of Pérez's term until February 1994. The peaceful transfer of presidential power and the country's ability to withstand two military uprisings in 1992, testified to the strength of civilian constitutional traditions. At the same time, the political turmoil during 1993 underscored the challenges to Venezuela's democracy arising from widespread resentment and frustration over corruption, increasing poverty and crime, inadequate public services, and discredited political institutions.

Serious human rights violations also continued to undermine the country's commitment to the rule of law. The past year witnessed arbitrary detentions; torture; extrajudicial executions; the unlawful use of excessive force resulting in physical injury and death; and abhorrent prison conditions. At least fifty-seven inmates were killed during a prison outbreak in November 1992, and numerous abuses were committed during the government's response to a failed military coup attempt that month and the one preceding it in February 1992. The number and nature of these abuses continued to be cause for concern. The government persisted in its traditional failure to curb and redress human rights violations. In addition to the absence of political will, problematic laws and the longstanding critical condition of the courts also contributed to the paucity of cases in which state agents were held accountable for human rights abuses.

Repercussions from the two attempted coups in 1992 continued in 1993. Although the government was able to put down the rebels within a day each time, the attempted coup of November 27 was much more violent than the earlier one in February. Official sources estimated about 230 dead. Among these were at least twenty-six noncombatants killed by security agents, according to Venezuelan human rights monitors. Coup participants charged National Guard and Metropolitan Police forces with executing six rebels—three military men and three civilians—after they had surrendered at a Caracas television station that they had occupied. The rebels were themselves accused of executing a private security guard at the station who had pleaded for his life. Likewise, rebels were accused of killing three surrendered members of an honor guard defending the Miraflores presidential palace. As of November



1993, no judicial proceedings had been initiated in any of these cases.

Eighteen persons detained by the military after the November coup attempt charged that they were tortured by their captors during unlawful incommunicado detention. The Public Ministry, which is charged by law with defending human and constitutional rights and monitoring the conduct of state agents, failed to visit the victims during their detention.

Exercising his constitutional authority, President Pérez suspended a number of constitutional guarantees on November 27, 1992, including the prohibition of arrest without warrant, the inviolability of the home and freedoms of movement, expression and assembly. Most of these liberties were restored by mid-December, and all were again in place on January 18, 1993. During the unnecessarily prolonged suspension of guarantees, however, government forces detained hundreds of dissidents and others perceived as unsympathetic to the government; not one was charged with participating in the coup attempt. Unnecessary violence characterized some raids. For example, while raiding her house on November 28, police threw acid on the leg of Sonia Díaz, a relative of one of the February coup plotters. Americas Watch is aware of only one judicial proceeding initiated into any of the human rights violations associated with the November 27 coup attempt.

Judicial investigations were underway, although dangerously stalled, in the case of the killing of at least fifty-seven inmates of Caracas's Retén de Catia prison during a prison outbreak the day of the November 1992 coup attempt. Under circumstances that remained murky, most of the victims were fatally shot, most at close range and in or about the head. One guard was shot and killed by a prisoner, and another guard was injured. At least forty-five prisoners were injured, either during the retaking of the prison or during their transfer to other prisons. Although lawyers for the Public Ministry earnestly pursued their investigations, the cases languished due to a combination of governmental reluctance and the court's unwillingness or inability to proceed. In that sense, the case neatly fit the pattern of most human rights investigations.

At the time of the prison riot, between 3,400 and 4,200 prisoners were jammed into a facility meant to hold 700 to 900. While conditions at the Retén de Catia in November 1992 were particularly horrible, they were not significantly worse than those in the nation's thirty other facilities. The riot led to increased public attention in 1993 to the national scandal of overcrowded, filthy, and violent prisons and their poorly-paid, abusive and corrupt staff.

Two March 1993 court decisions had a direct bearing on human rights. On March 2, a military court of appeals found fifteen members of a since-disbanded police/military unit (the CEJAP) guilty of intentional homicide in the October 1988 killing of fourteen fishermen in El Amparo and handed down prison sentences

of seven and a half years to each defendant. The court accepted the defendants' claim of having killed the victims in self-defense during an armed confrontation; it nonetheless refused to exonerate them completely because of their excessive use of force. The court's tortured and patently biased handling of the evidence and its weak reasoning supported a decision that was best understood as a political compromise: any decision completely absolving the accused would have caused a furor among those demanding justice, yet the military court evidently heeded the military's insistence for many years that an armed confrontation, not a massacre, had taken place.

The case was presented to the Inter-American Commission on Human Rights (IACHR). In their 1992 petition before the IACHR, the Caracas-based Programa Venezolano de Educación Acción en Derechos Humanos (PROVEA), Americas Watch and the Center for Justice and International Law (CEJIL) challenged the legitimacy of Venezuela's military courts to hear cases of this nature. Venezuela's 1938 military justice code, a vestige of dictatorship, grants extraordinary powers to the President to interfere in military court proceedings at his sole discretion. Because of this interference, the military justice system in Venezuela violates the requirement of the American Convention on Human Rights that judicial review be impartial and independent.

On March 11, the Venezuelan Supreme Court declared unconstitutional the special ad hoc military courts established by President Pérez to try those involved in the November 27 attempted *coup d'etat*. Some 150 civilians and members of the military were tried by these courts and approximately fifty had been convicted at the time of the Supreme Court's ruling. Human rights groups and lawyers for the accused challenged the tribunals' constitutionality, objecting to expedited procedures that rendered impossible an adequate defense; the curtailed right of appeal; and military court jurisdiction over civilians. The Supreme Court ruled that the *ad hoc* courts violated the constitutional guarantees of the right to defense and the right to be tried by one's natural judge, guarantees which had not been among those suspended after the attempted coup. Venezuelan jurists and human rights advocates were troubled by the possibility, raised by the court's language, that the President could have legally suspended such guarantees and by the court's failure to address Venezuela's obligation under international law to grant due process.

The use of violence by police resulting in death and serious physical harm continued in 1993. Police committed human rights violations not only in criminal investigations, but also during control of public demonstrations and street protests. According to PROVEA, police agents were responsible for 128 unjustified killings between October 1992 and June 1993 (not including at least fifty-seven civilian deaths resulting from the suppression of the uprising at the Retén de Catia prison). The number represented an increase over previous years. Security

forces—including the Metropolitan Police, the National Guard, the intelligence force DISIP and the Judicial Technical Police (PTJ), an auxiliary body to the courts operating under the Ministry of Justice—employed such abusive methods as force disproportionate to the circumstances, extrajudicial executions and physical abuse and torture. Police abuse took place at every stage of police contact with citizens, both during and after arrest and detention and in the suppression of civic protest.

For example, on the night of December 16, 1992, Metropolitan Police were dispatched to quell a motorcyclists' party in the Blandín area of Caracas. Police were reported to have arrived shooting. One police officer was shot in the arm. Angered over his injury, he ordered other officers to open fire on a group of detained persons lying prone on the ground. Three individuals were killed. Two more were killed by gunfire as they separately fled the scene on motorcycle. No one was detained for these killings. On April 29, 1993, DISIP agents were seen by witnesses as they arrested a twelve-year-old male street child in the Sabana Grande section of Caracas, took him to a remote area, poured gas on his genitals and abused him physically and verbally. Investigations into this case produced no results. Sergio Rodríguez Yance, a university employee, was fatally shot on September 23, 1993, when government forces fired on a student protest in Caracas.

Security-force agents were rarely indicted or convicted for abuses against civilians. State agents also continued to benefit from the *averiguación de nudo hecho*, a pre-trial procedure designed to protect state agents from frivolous criminal charges. In practice, this investigative procedure delayed criminal proceedings unnecessarily, creating a temporary immunity from prosecution. While state agents responsible for the massacre at El Amparo were convicted—although with shockingly light sentences—not one state agent had been detained or incarcerated, as of November 1993, for the unlawful violence during the mass Caracazo riots of February and March 1989. Thousands were injured and at least 398 persons were killed, most of them shot by the military and police. During 1993 there was no perceptible advance in some 260 judicial investigations into these cases in both civilian courts and the 2nd Military Court of Caracas.

Investigations into the mass burial of more than sixty Caracazo victims in the "La Peste" section of Caracas's General Southern Cemetery continued to be stalled. There was no progress in identifying the victims (only three had been identified, in 1991), although as of June 1993, five additional sets of remains were being examined by government forensic experts. No criminal responsibility was yet assigned for the unlawful manner of burial or the killings themselves.

### **The Right to Monitor**

A number of human rights monitoring and advocacy organizations

operated freely in Venezuela without government restriction or interference. Relations between the human rights community and the government, particularly the Public Ministry and courts, varied from cooperative (as in efforts addressing the prison outbreak at Retén de Catia) to unproductive and even hostile (as in the ongoing efforts to identify those buried in 1989 in mass graves during the Caracazo). Reports by the human rights groups were generally well-received by the Venezuelan press, which provided decent, although inconsistent, coverage of human rights issues.

Americas Watch and other international human rights organizations freely conducted investigative missions. The government did not, however, respond to all requests for information on human rights issues.

Human rights monitors typically did not face physical danger in their work. Sergio Rodríguez, killed when police fired on a student demonstration in September 1993, was a participant in PROVEA's human rights monitor training program. There did not appear to be any connection, however, between his involvement with human rights activities and his death. Some lawyers representing participants in the 1992 coup attempts were threatened by anonymous callers.

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

Venezuela is an important U.S. ally in the hemisphere, given its longstanding civilian government and its role as the second-largest supplier of oil to the United States. The U.S., in turn, is the largest importer of Venezuelan oil, and Venezuela's largest trading partner. With the attempted coups and the country's increased importance as a transshipment point in the flow of drugs from Latin America, the United States in recent years made the preservation and promotion of democracy a chief goal in its relations with Venezuela. The Bush administration condemned the February and November 1992 coup attempts, and stated on the morning of the November attempt that "The United States cannot have normal relations with a country that has abandoned democracy...."

During a September 2, 1993 press conference, conducted while Venezuela's Foreign Minister, Gen. Fernando Ochoa Antich, was in Washington, Secretary of State Warren Christopher noted that the United States "strongly support[s] the democratic process" in Venezuela. He failed, however, to address human rights problems affecting the country. On September 15, 1993, President Clinton, perhaps responding to renewed rumors of military unrest, sent an encouraging note to his Venezuelan counterpart, stressing that "My administration wants to continue working with Venezuela to reinforce your democracy, affirm respect in all sectors for civilian government and constitutional rule and promote honest responsible governance throughout the hemisphere."

In February 1993, the Department of State issued its *Country Reports on Human Rights Practices*, in which Venezuela was strongly

criticized for its human rights practices. The report stated that:

...serious human rights abuses continued in 1992. They included arbitrary and excessively lengthy detentions, abuse of detainees, extrajudicial killings by the police and military, the failure to punish police and security officers accused of abuses, corruption and gross inefficiency in the judicial and law enforcement systems, deplorable prison conditions, and violence and discrimination against women. Police sweeps of poor, crime-ridden neighborhoods resulted in increased incidents of extrajudicial killings and arbitrary arrests.

Notwithstanding human rights violations committed by Venezuelan security forces, Venezuela received U.S. security assistance through the International Narcotics Matters (INM) and International Military Education and Training (IMET) programs, both designed primarily to professionalize security forces and train them to combat drug trafficking.

Venezuela received an estimated \$1 million in INM assistance for fiscal year 1993, which did not include a human rights component.

In addition, \$500,000 was requested for fiscal year 1994. Venezuela received \$175,000 in IMET assistance in fiscal year 1993, with a significantly increased \$475,000 requested for fiscal year 1994. According to the Clinton administration, the expanded IMET program for fiscal year 1994 was to emphasize democratic values, human rights and civilian oversight of the military.

The effectiveness of U.S. assistance to professionalize police and military personnel and to combat drug trafficking was questionable. The three security forces principally responsible for interdicting drugs—the PTJ, National Guard and DISIP—frequently violated fundamental human rights. Moreover, there were persistent charges that members of the armed forces and police were themselves involved in the drug trade. Indeed the *Miami Herald* reported in August 1993 that an arrest warrant was issued against one of Venezuela's former top drug fighters, National Guard Gen. (Ret.) Ramón Guillén Dávila, and four other officers suspected of drug trafficking and related crimes.

After the attempted coup of February 1992, the Bush administration dedicated some \$800,000 to an eighteen-month program (to end in December 1993) arranged by the State Department's Agency for International Development (AID) to train Venezuelan law enforcement officials, including police, prosecutors and judges, to work together more effectively against corruption. In April 1993 interviews with Americas Watch, U.S. government officials criticized the program as little more than a U.S. flag-waving exercise to support the ailing Pérez administration.

On July 20, 1993, Jeffrey Davidow testified before the Senate Foreign Relations Committee as President Clinton's nominee for

ambassador to Venezuela. Although Davidow did not raise human rights in his prepared statement, he acknowledged under questioning that human rights abuse took place in the country and that the State Department's most recent human rights report was "accurate." Davidow stated in a July 27 meeting with Americas Watch that human rights would be a central concern of the U.S. Embassy in Caracas.

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

Americas Watch increased its focus on Venezuela throughout late 1992 and 1993. Not having published reports on Venezuela, we made an effort to conduct research on all the features of human rights violations against a backdrop of social and political tension, which included serious challenges to the stability of democratic institutions. In December 1992 and in May and June 1993, we conducted fact-finding missions to Caracas and met with government officials, victims of abuse, members of the human rights community, journalists, lawyers and the U.S. Embassy.

In October 1993, Americas Watch released its first report on Venezuela, an attempt to draw a comprehensive picture of the human rights situation under a threatened democracy. *Human Rights in Venezuela* documented some of the most serious abuses that have occurred over the past five years and the government's failure to curb and redress them. The report was published during the last months of the presidential election campaign in the hope of contributing to the national dialogue concerning the country's commitment to fundamental human rights and the rule of law.

Americas Watch invited Father Matías Comuñas Marchante, a Spanish priest serving the parish of Petare outside Caracas and long an activist for human rights, to be honored by Human Rights Watch at its observance of Human Rights Day, December 10.