

## HUMAN RIGHTS WATCH/AMERICAS OVERVIEW

ON SEPTEMBER 25, in a ceremony at the Organization of American States (OAS) headquarters in Washington, D.C., the OAS amended its charter to allow the hemisphere's governments to ostracize from the group any government coming to power by coup. This welcome step underlined the growing consensus in the region that maintaining constitutional, democratic governments is in each nation's best interests. And indeed, with scant exceptions, the region comprising Latin America and the Caribbean stood out as one of the few parts of the world where elected civilian government seemed firmly ensconced.

The history of the area makes clear that elected governments have offered the greatest possibility for enjoyment of human rights: in the past, the rupture of constitutional order in every case brought serious and systematic human rights violations. In this sense, the 1997 congressional and municipal elections in Mexico, the first in which opposition parties could compete with the long-governing party of the Institutionalized Revolution (Partido de la Revolución Institucionalizada, PRI) on a level playing field, marked a significant step forward for democracy in the region. Cuba—where an unelected government completed thirty-eight years in power—remained the exception to the trend toward greater political space.

But while elected government may be a precondition for human rights to be respected, the region's dismal record shows that it is by no means sufficient. Massive and serious human rights violations plagued the region in 1997, regardless of the regular alternation in power of elected governments. Indeed, the lack of respect for human rights in countries as diverse as Colombia, Peru, Venezuela, Brazil, Argentina, and the Dominican Republic showed that elections are only the first step toward genuine democracy. Massacres, extrajudicial executions, disappearances, torture and other forms of police

brutality, along with inhumane prison conditions stubbornly continued.

Many of the region's elected governments accepted legitimate criticism of their abusive human rights practices, abandoning the defensive reactions of the past. Many realized they stood only to benefit from opening communication with human rights monitors. The exceptions remained the governments of Fidel Castro in Cuba, which continued to deny international human rights groups access to the island while harassing and prosecuting those attempting to monitor rights domestically; the government of Alberto Fujimori in Peru, which denounced human rights groups' motives even as it adopted some of their recommendations; and the Ernesto Zedillo government in Mexico, which admitted to shortcomings in police behavior but expelled international human rights monitors and categorically rejected their findings. Indeed, the only governments in the region which continued to violate human rights as part of central government policy were Cuba and Peru.

Even governments that accepted international criticism failed to make human rights protection a priority by designing programs and dedicating resources to the eradication of torture, police brutality, arbitrary detention, and other widespread abuses, as well as the impunity with which these acts were committed.

### Human Rights Developments

In Colombia, thirty-five massacres claimed the lives of 272 individuals in the first eight months of the year, and some 450 more died in individual political assassinations during the same period. The bulk of the carnage was attributable to paramilitary groups, usually working with military acquiescence and in some cases with military support; according to the Colombian Commission of Jurists (CCJ), a respected human rights organization, 76 percent of the human rights violations recorded in 1997 were the work of paramilitaries, 17 percent were the work of guerrillas, and 7 percent were the work of state agents. In Peru, torture remained a common practice employed by police against both accused terrorists and common criminal suspects, and even against a member of the army

intelligence service accused of leaking information to the press. In Mexico, political violence in rural areas—in some cases with official involvement or acquiescence—remained acute, and the justice system showed a marked tendency to be lenient with the government's supporters and severe with its opponents. In Brazil, amateur videotapes capturing random police brutality shocked a nation seemingly inured to the fate of criminal suspects. In Venezuela, security forces resorted to systematic abuses, including torture, extrajudicial executions, and the disproportionate use of lethal force in their efforts to control crime in urban areas.

President Fujimori's government in Peru demonstrated its lack of respect for the rule of law by a dizzying series of maneuvers including the sacking of three of the seven members of the Constitutional Court after they ruled against a third presidential term for Fujimori. The judges' removal effectively put the court out of business for settling constitutional conflicts.

Prison conditions in many parts of the region were so bad as to constitute serious human rights violations, and a majority of those held had not been convicted of any crime; indeed, some detainees were held for years in preventive detention, in violation of the presumption of innocence. Some 90 percent of Honduran, Paraguayan, and Uruguayan inmates were unsentenced, while in the Dominican Republic, Panama, Haiti, El Salvador, Peru, and Venezuela, the proportion of unsentenced inmates ranged from 65 to 95 percent. In the Dominican Republic, we found one prisoner who had been held for ten years without trial.

Meanwhile, in a serious setback to international human rights protection mechanisms, Jamaica announced in late October that it would become the first country in the world to withdraw from the Optional Protocol to the International Covenant on Civil and Political Rights. North Korea renounced the covenant itself in August. The Jamaican move, which will have the effect of preventing individuals whose rights may have been violated by the Jamaican government from appealing to the United Nations Human Rights Committee, was apparently intended to deny death row inmates an opportunity for U.N. review.

While the overall picture in 1997 was of continued serious violations, several positive developments occurred. The signing of a final peace agreement in Guatemala, bringing an end to three decades of armed conflict, contributed to a continuing decline in the number of human rights violations linked to counterinsurgency operations. Peru's government in October suspended the use of "faceless courts" to try terrorist suspects. Those courts had presented numerous and profound due process violations. Persons accused of the aggravated form of terrorism, in Peru termed "treason," will continue to be tried by military courts, although the judges will no longer remain anonymous. The amendment of Brazil's criminal code to codify torture as a crime marked a step forward in an effort to eradicate that practice. And in Colombia, President Ernesto Samper introduced two pieces of important legislation: one, would ensure that gross violations of human rights be prosecuted in civilian, rather than military courts, and a second would make forced disappearance a crime. In Venezuela, the Supreme Court on October 14 knocked down as unconstitutional a 1956 vagrancy law which allowed administrative detention for up to five years of possible delinquents without proof of individual wrongdoing.

Perhaps the most ominous development in 1997 was the persecution in several countries of some of the region's most outstanding reporters and news media. Thin-skinned officials in Panama, Argentina, and Peru lashed out at their critics among the press, demonstrating an intolerance for criticism more characteristic of authoritarian regimes than democratic governments. In Cuba, harassment of the small independent press corps continued unabated.

In Argentina, in January, news photographer José Luis Cabezas was handcuffed, beaten, shot dead and set on fire, in a chilling reminder of the dangers of investigating police corruption. At his writing, three provincial police officers have been detained in connection with the case. On September 11, the only Argentine Navy officer to have voluntarily confessed to serious human rights abuses during the military dictatorships from 1976 to 1983 was abducted by armed men with police credentials. During the two hours he was held, former Capt. Adolfo Scilingo was beaten and threatened, and the initials of journalists to whom he had told his story were carved in his face. His captors threatened to kill Scilingo as well as those journalists: Mariano Grondona, Magdalena Ruiz Guinzá, and

HORACIO VERBITSKY. PRESIDENT CARLOS MENEM'S REACTION TO THIS GANGLAND-STYLE INCIDENT, IN WHICH HE SUGGESTED THAT SCILINGO WAS NOT TO BE BELIEVED, FOLLOWED UNFORTUNATE COMMENTS HE HAD MADE SHORTLY BEFORE THE ATTACK, IN WHICH MENEM APPEARED TO SUGGEST THAT THE LIMITS OF PRESS FREEDOMS COULD BE DETERMINED BY VIOLENCE.

THE GOVERNMENT OF ERNESTO PÉREZ BALLADARES IN PANAMA TOOK STEPS TO SUPPRESS FREEDOM OF EXPRESSION BY SETTING IN MOTION A DEPORTATION ORDER AGAINST PERUVIAN JOURNALIST GUSTAVO GORRITI, ASSOCIATE EDITOR OF THE DAILY *La Prensa*. GORRITI'S ARTICLES COVERING CORRUPTION IN OFFICIAL CIRCLES IRKED THOSE IN POWER, WHO SOUGHT TO OUST THE AWARD-WINNING REPORTER BASED ON SPECIOUS LEGAL GROUNDS. GORRITI'S INVESTIGATIVE UNIT HAD WRITTEN ABOUT DRUG MONEY FLOWING INTO PRESIDENT PÉREZ BALLADARES'S CAMPAIGN AND ALLEGED IRREGULARITIES IN THE ACCUMULATION OF TELEVISION NETWORKS BY THE PRESIDENT'S COUSIN. HOWEVER, IN A SIGNIFICANT VICTORY FOR PRESS FREEDOM, THE GOVERNMENT REVERSED ITSELF IN OCTOBER, ALLOWING *La Prensa* TO RETAIN GORRITI IN A SENIOR POSITION IN PANAMA AND VOWING TO SEEK DEROGATION OF LEGISLATION LIMITING THE ROLE OF FOREIGN NATIONALS IN THE MEDIA.

IN PERU, THE GOVERNMENT LAUNCHED A CAMPAIGN AGAINST THE ISRAELI-BORN MAJORITY SHAREHOLDER IN LIMA'S CHANNEL 2 TELEVISION, BARUCH IVCHER BRONSTEIN. CHANNEL 2 WAS THE FIRST TO BROADCAST AN INTERVIEW WITH LEONOR LA ROSA, AN ARMY INTELLIGENCE AGENT SEVERELY TORTURED BY HER EMPLOYERS ON SUSPICION OF HAVING LEAKED INFORMATION ABOUT PLANNED PERSECUTION OF THE PRESS. AN ESCALATING CAMPAIGN OF HARASSMENT AGAINST IVCHER CULMINATED IN THE JULY 13 REVOCATION OF HIS PERUVIAN NATIONALITY, FOLLOWED BY TAKEOVER OF THE TELEVISION STATION BY THE PRO-GOVERNMENT MINORITY SHAREHOLDERS. OTHER JOURNALISTS FACED SERIOUS HARASSMENT, INCLUDING BLANCA ROSALES, MANAGING EDITOR OF THE DAILY *La República*, WHO WAS ABDUCTED, BEATEN, AND THREATENED BY UNIDENTIFIED ARMED MEN BEFORE BEING RELEASED.

CUBAN AUTHORITIES CONTINUED TO INTIMIDATE JOURNALISTS. AMONG THOSE ARRESTED WERE HÉCTOR PERAZA LINARES, CODIRECTOR OF THE HABANA PRESS NEWS AGENCY, AND RAÚL RIVERO, THE HEAD OF CUBA PRESS. ON FEBRUARY 26, A GROUP OF GOVERNMENT SUPPORTERS GATHERED OUTSIDE THE HOMES OF CUBA PRESS JOURNALISTS TANIA QUINTERO AND ANA LUISA BAEZA, THROWING OBJECTS AND SHOUTING. JOAQUÍN TORRES ALVAREZ, THE DIRECTOR OF HABANA PRESS, WAS BEATEN IN MAY BY SEVERAL ASSAILANTS WHOM HE LATER IDENTIFIED AS MEMBERS OF THE STATE SECURITY FORCES AND REPRESENTATIVES OF HIS NEIGHBORHOOD'S COMMUNIST PARTY OFFICE.

IN MEXICO, GUNMEN MURDERED JESÚS BUENO LEÓN OF THE GUERRERO STATE WEEKLY *7 Días*; BUENO HAD WRITTEN THAT HE BELIEVED STATE OFFICIALS PLANNED TO KILL HIM IN RETALIATION FOR HIS REPORTING. AFTER COVERING POLICE EXCESSES IN MEXICO CITY IN SEPTEMBER, FOUR REPORTERS WERE ABDUCTED AND TORTURED BY UNIDENTIFIED ASSAILANTS.

IN DECEMBER 1996, A NEW SERIES OF TELEVISION REGULATIONS WENT INTO EFFECT IN COLOMBIA, INCLUDING LIMITATIONS ON THE BROADCASTING OF VIOLENT IMAGES WHICH COULD, IF ENFORCED, SERIOUSLY RESTRICT NEWS COVERAGE, AMONG OTHER THINGS, THE MEASURES RESTRICTED AIRING STATEMENTS FROM GUERRILLA OR OTHER CRIMINAL ORGANIZATIONS. ALTHOUGH THE REGULATIONS HAVE NOT PRODUCED ATTEMPTS AT CENSORSHIP AS OF THIS WRITING, THEIR IMPLEMENTATION GRANTED THE GOVERNMENT TREMENDOUS LEeway TO LIMIT TELEVISION COVERAGE. COLOMBIAN CAMERAMAN RICARDO VELEZ FLED THE COUNTRY IN SEPTEMBER AFTER RECEIVING SERIOUS THREATS ON HIS LIFE RELATED TO A SUIT FOR DAMAGES HE FILED AGAINST THE ARMY. SOLDIERS HAD BEATEN VELEZ WHILE HE FILMED REPRESSION OF A PROTEST MARCH IN 1996.

IN JUNE, THE INTER-AMERICAN COMMISSION ON HUMAN RIGHTS PUBLISHED A REPORT FINDING THAT THE GOVERNMENT OF CHILE HAD VIOLATED THE RIGHT TO FREEDOM OF EXPRESSION BY BANNING THE SALE OF A BOOK WRITTEN BY FRANCISCO MARTORELL IN 1993. THE BOOK, *DIPLOMATIC IMPUNITY*, CONCERNED THE CIRCUMSTANCES LEADING UP TO THE DEPARTURE OF THE FORMER AMBASSADOR OF ARGENTINA IN CHILE, OSCAR SPINOSA MELO. THE COMMISSION CALLED ON THE GOVERNMENT OF CHILE TO LIFT THE BAN ON THE BOOK.

MEANWHILE, WHEN PRESIDENT RAFAEL CALDERA OF VENEZUELA RECOMMENDED THAT A NOVEMBER 1997 IBEROAMERICAN SUMMIT IN CARACAS SUGGEST MEASURES TO PROTECT THE "RIGHT TO TRUTHFUL INFORMATION," THIS CONCEPT—SUGGESTING GOVERNMENTAL CONTROL OVER PRESS CONTENT—PROVOKING WELL-DESERVED APPROBRIUM FROM PRESS WATCHDOG GROUPS.

## The Right to Monitor

HUMAN RIGHTS MONITORS CONTINUED TO FACE THREATS, HARASSMENT, AND PHYSICAL VIOLENCE IN SEVERAL COUNTRIES IN THE

region, and in many cases governments failed to take measures to investigate, prosecute, and punish those responsible. In a dangerous continent, Colombia remained the killing field for human rights defenders. Mario Calderón and Elsa Alvarado of the Center for Research and Popular Education (Centro de Investigación y Educación Popular, CINEP) were killed by masked gunmen in their Bogotá apartment, apparently in retaliation for their human rights work. Alvarado's father was also killed and her mother seriously wounded in the same incident. On September 29, authorities arrested five people who may have taken part in the killing. Among the other human rights monitors killed by unidentified gunmen in Colombia in apparent retaliation for their work were Nazareno de Jesús Rivera of the Segovia Human Rights Committee, Margarita Guzmán a former colleague who pressed for an investigation, and Víctor Julio Garzón, a member of the all-but-extinguished Meta Civic Committee for Human Rights.

A third member of the Segovia Human Rights Committee, Jaime Ortiz Londoño, was forcibly disappeared. Several other monitors have been forced to leave the country because of death threats. On October 26, the guerrilla group known as the National Liberation Army (Ejército de Liberación Nacional, ELN) kidnapped two election observers from the Organization of American States in an effort to frustrate municipal elections. The guerrillas freed the observers after more than a week.

In Cuba, where monitoring the human rights policies of the government runs afoul of numerous provisions of the penal code restricting free expression and association, those who attempted to defend human rights faced harassment and prosecution. On July 15, authorities detained human rights lawyer René Gómez Manzano along with three other prominent dissidents. At this writing, the four leaders remain in prison facing possible trial for enemy propaganda.

Human rights advocate Francisco Soberón, head of Peru's Pro-Human Rights Association (Asociación Pro-Derechos Humanos, APRODEH), faced repeated anonymous death threats apparently in retaliation for APRODEH's defense of a respected judge facing arbitrary legal proceedings and a police whistle-blower facing persecution.

In Bolivia, national police agents arrested Waldo Albarracín, president of the Permanent Assembly of Human Rights (Asamblea Permanente de Derechos Humanos, APDH) on January 25 and allegedly tortured him for over three hours. The police agents reportedly beat Albarracín all over his body, including his genitalia, subjected him to death threats and near-asphyxiation. Albarracín was later hospitalized with serious wounds.

Church-related human rights groups in Mexico continued to come under attack. Padre Camilo Daniel, founder of Chihuahua's Commission of Solidarity and Defense of Human Rights (Comisión de Solidaridad y Defensa de los Derechos Humanos, COSYDDHAC), and his secretary were threatened with death in January. On February 15, armed men ambushed a group of investigators from the Fray Bartolomé de las Casas Human Rights Center in the Chiapas town of Sabanilla, wounding José Montero in the arm. Also in Chiapas, assailants tried unsuccessfully to burn the offices of the Coordinating Group of Nongovernmental Organizations for Peace (Coordinadora de Organismos No Gubernamentales por la Paz, CONPAZ).

In Venezuela, members of the Human Rights Office of the vicariate of Puerto Ayacucho, state of Amazonas, came under attack for their work on behalf of the Amazonian Indians. Following inflammatory criticism of the office by local politicians and members of the regional government, two vehicles belonging to the office were damaged by acid.

In November, Human Rights Watch honored Carlos Rodríguez Mejía, a distinguished human rights attorney from the Bogotá-based Colombian Commission of Jurists (Comisión Colombiana de Juristas, CCJ), in our annual celebration of human rights monitors from around the world. Rodríguez is a founding member of the CCJ, one of Colombia's most effective human rights groups. It was largely through Rodríguez's efforts that the U.N. agreed to set up a special office of its High Commissioner for Human Rights in Bogotá to press the government to protect human rights.

## The Role of the International Community

## United Nations

THE PRESENCE OF THE UNITED NATIONS HUMAN RIGHTS MISSION IN GUATEMALA, KNOWN AS MINUGUA, CONTINUED TO CONTRIBUTE TO REDUCED LEVELS OF POLITICALLY MOTIVATED HUMAN RIGHTS VIOLATIONS. NONETHELESS, THE MISSION'S PRESTIGE SUFFERED A BLOW WITH THE DELAY IN PUBLICATION OF ITS INVESTIGATION INTO THE FORCED DISAPPEARANCE OF A GUERRILLA CAPTURED BY THE ARMY IN OCTOBER 1996. TO ITS CREDIT, MINUGUA CONTINUED TO PRESS THE CASE DESPITE STONEWALLING BY THE GOVERNMENT.

THE U.N. HIGH COMMISSIONER FOR HUMAN RIGHTS OPENED A FIELD OFFICE IN COLOMBIA, A LONG-AWAITED MOVE THAT HELD THE PROMISE OF REDUCING VIOLATIONS. IN APRIL, THE U.N. HUMAN RIGHTS COMMITTEE IN NEW YORK LAMENTED THAT "GROSS AND MASSIVE HUMAN RIGHTS VIOLATIONS CONTINUE TO OCCUR IN COLOMBIA." IT EXPRESSED ITS "DEEP CONCERN" OVER EVIDENCE THAT PARAMILITARY GROUPS "RECEIVE SUPPORT FROM MEMBERS OF THE MILITARY" AND THAT "IMPUNITY CONTINUES TO BE A WIDESPREAD PHENOMENON." TORTURE IN MEXICO ALSO RECEIVED WELL-DESERVED SCRUTINY FROM THE U.N. IN ITS CONCLUSIONS REACHED IN APRIL, THE COMMITTEE AGAINST TORTURE PRAISED LEGAL REFORMS BUT STRONGLY FAULTED THE SYSTEMATIC PRACTICE OF TORTURE IN THE COUNTRY. IN AUGUST, NIGEL RODLEY, THE U.N. SPECIAL RAPPORTEUR ON TORTURE, VISITED MEXICO TO DOCUMENT THE NATURE AND EXTENT OF VIOLATIONS.

## United States

THE STATE DEPARTMENT'S ANNUAL *COUNTRY REPORTS ON HUMAN RIGHTS PRACTICES* PROVIDED AN ACCURATE AND DETAILED DESCRIPTION OF THE HUMAN RIGHTS PROBLEMS AND PRACTICES IN THE REGION. IN A DEPARTURE FROM PAST PRACTICE, THE CLINTON ADMINISTRATION IN 1997 ALSO TOOK STEPS TO RAISE HUMAN RIGHTS ISSUES TO A MORE PROMINENT POSITION IN ITS AGENDA WITH THE REGION, ON SOME OCCASIONS ISSUING PUBLIC STATEMENTS IN COUNTRIES WHERE IT HAD PREVIOUSLY BEEN SILENT. IN COLOMBIA, THE U.S. EMBASSY PUBLICLY EXPRESSED ITS CONCERN OVER MILITARY AUTHORITIES' VERBAL ATTACKS ON CIVILIAN INVESTIGATORS WHO LINKED GEN. FAROUK YANINE TO THE PUERTO ARAUJO MASSACRE, THE FIRST TIME IT HAD SPOKEN PUBLICLY ON A HUMAN RIGHTS CASE. AND DESPITE STRONG PRESSURE FROM MEMBERS OF CONGRESS EAGER TO FUND COLOMBIAN ANTI-NARCOTICS CAMPAIGNS REGARDLESS OF HUMAN RIGHTS VIOLATIONS BY THE ARMY, THE CLINTON ADMINISTRATION HELD UP AID TO THE MILITARY UNTIL AUGUST, WHEN THE COLOMBIAN ARMED FORCES AGREED TO HUMAN RIGHTS CONDITIONS. AT THIS WRITING, IT IS UNCLEAR HOW THE CONDITIONS WILL BE IMPLEMENTED AND TO WHAT EXTENT THE U.S., IN MAKING AID DETERMINATIONS, WILL RELY EXCLUSIVELY ON THE COLOMBIAN DEFENSE MINISTRY'S EVALUATION OF ITS OWN TROOPS' HUMAN RIGHTS RECORD.

IN PERU, U.S. OFFICIALS ISSUED STRONG STATEMENTS ON THE SACKING OF THREE MEMBERS OF THE CONSTITUTIONAL COURT AND ON THE REVOCATION OF IVCHER'S CITIZENSHIP. MEANWHILE, PRIVATE PRESSURE FROM THE ADMINISTRATION CONTRIBUTED SIGNIFICANTLY TO CONVINCING THE GOVERNMENT OF PANAMA TO REVERSE ITS PLAN TO DEPORT INVESTIGATIVE JOURNALIST GUSTAVO GORRITI. IN PARTICULAR, THE INFLUENCE EXERTED BY FIRST LADY HILLARY RODHAM CLINTON DURING HER VISIT TO PANAMA IN OCTOBER APPEARED TO HAVE HAD AN IMPORTANT IMPACT. IN MEXICO, SECRETARY OF STATE MADELEINE ALBRIGHT MET WITH LOCAL HUMAN RIGHTS ORGANIZATIONS, A SIGNIFICANT SYMBOLIC ACTION GIVEN THE HOSTILITY THESE GROUPS FACE FROM THE AUTHORITIES.

EFFORTS TO MAKE PUBLIC THE U.S. ROLE IN PAST HUMAN RIGHTS VIOLATIONS IN THE REGION INCHED FORWARD, AS THE CENTRAL INTELLIGENCE AGENCY (CIA) COMPLETED, BUT DID NOT MAKE PUBLIC, AN INTERNAL STUDY OF ITS TIES TO A MILITARY DEATH SQUAD IN HONDURAS. CIA DOCUMENTS RELEASED IN AUGUST CONFIRMED THAT THE AGENCY KNEW ABOUT THE INTERROGATION AND TORTURE OF CIVILIANS BY THAT UNIT IN THE 1980S AND THAT AGENTS VISITED AT LEAST ONE OF ITS CLANDESTINE PRISONERS. DOCUMENTS DECLASSIFIED IN 1997 ABOUT U.S. INVOLVEMENT IN THE COUP THAT OVERTHREW THE ELECTED GOVERNMENT OF JACOBO ARBENZ IN GUATEMALA IN 1954 PROVIDED A CHILLING INSIDE LOOK AT THE METHODS USED AND PROMOTED BY THE AGENCY, INCLUDING TARGETED POLITICAL ASSASSINATION AND MASS MURDER.

MEANWHILE THE CLINTON ADMINISTRATION ACTED TO PROTECT FROM DEPORTATION EMMANUEL "TOTO" CONSTANT, WANTED IN HAITI FOR MASSIVE AND SERIOUS HUMAN RIGHTS VIOLATIONS COMMITTED BY A PARAMILITARY GROUP HE HEADED DURING THE MILITARY DICTATORSHIP. CONSTANT RECEIVED CIA PAYMENTS IN HAITI WHILE DIRECTING THE FRONT FOR THE ADVANCEMENT AND PROGRESS OF HAITI (FRONT POUR L'AVANCEMENT ET PROGRÈS D'HAÏTI, FRAPH). MOREOVER, THE U.S. EMBASSY IN PORT-AU-

PRINCE REFUSED TO RETURN TO THE HAITIAN GOVERNMENT THE APPROXIMATELY 160,000 PAGES OF DOCUMENTS AND OTHER MATERIALS SEIZED FROM FRAPH AND HAITIAN MILITARY HEADQUARTERS IN 1994, DOCUMENTS THAT COULD ASSIST PROSECUTORS' EFFORTS TO PUNISH HUMAN RIGHTS VIOLATORS.

WHILE DISCUSSIONS OF FREE TRADE ISSUES DOMINATED HIS TOUR OF LATIN CAPITALS IN OCTOBER, PRESIDENT CLINTON MADE IMPORTANT STATEMENTS ON BEHALF OF FREEDOM OF EXPRESSION IN ARGENTINA, WHERE ATTACKS ON JOURNALISTS ASCENDED IN 1997 WITH APPARENT GOVERNMENT TOLERANCE. DURING THE PRESIDENT'S TRIP TO MEXICO AND CENTRAL AMERICA IN MAY, CLINTON FAILED TO MENTION HUMAN RIGHTS.

## European Union

IN DECEMBER 1996, THE EUROPEAN UNION COUNCIL OF MINISTERS ADOPTED A NEW, STRONGER POLICY TOWARD CUBA, MAKING FULL ECONOMIC COOPERATION CONDITIONAL ON HUMAN RIGHTS IMPROVEMENTS. UNFORTUNATELY, EUROPEAN INVESTORS IN CUBA, AS WELL AS CANADIANS AND OTHERS, FAILED TO ADOPT EFFECTIVE STRATEGIES TO ENSURE RESPECT FOR LABOR RIGHTS IN THEIR CUBAN WORKPLACES, WHERE GOVERNMENT-DOMINATED PROJECTS DENIED BASIC RIGHTS OF FREE ASSOCIATION AND SPEECH.

AN EFFORT BY MEXICO TO NEGOTIATE A TRADE AND POLITICAL COOPERATION AGREEMENT WITH THE EUROPEAN UNION WITHOUT THE E.U.'S STANDARD HUMAN RIGHTS CLAUSE WAS DEFEATED WHEN THE ZEDILLO GOVERNMENT, IN JULY, AGREED TO THE INSERTION OF THE FULL HUMAN RIGHTS CLAUSE.

IN JULY, THE EUROPEAN PARLIAMENT ISSUED A STRONG RESOLUTION CALLING ON THE FUJIMORI GOVERNMENT TO REINSTATE THE MAGISTRATES OF THE CONSTITUTIONAL COURT WHO HAD BEEN DISMISSED BY THE CONGRESS; TO GUARANTEE FREEDOM OF EXPRESSION; AND TO ABOLISH THE PRACTICE OF TORTURE.

SOME EUROPEAN EMBASSIES AND DIPLOMATS TOOK HIGH-PROFILE ROLES IN ATTEMPTING TO LESSEN POLITICAL VIOLENCE AND THE SUFFERING IT CAUSED IN COLOMBIA. IN APRIL, NETHERLANDS AMB. GYSBERT BOS MADE A THREE-DAY VISIT TO THE MIDDLE MAGDALENA REGION, IN PART TO DRAW ATTENTION TO A RISE IN PARAMILITARY ACTIVITY AND DISPLACEMENT. THE E.U. CONTINUED TO PRESSURE COLOMBIA TO IMPROVE ITS HUMAN RIGHTS RECORD, AND ANNOUNCED IN SEPTEMBER ITS FULL SUPPORT FOR A NEGOTIATED SETTLEMENT TO POLITICAL CONFLICT.

## The Work of Human Rights Watch

IN 1997, WE PUBLISHED BOOK-LENGTH REPORTS IN ENGLISH AND SPANISH ON RURAL VIOLENCE IN MEXICO, PRISON CONDITIONS IN VENEZUELA, AND VIOLATIONS OF CHILDREN'S RIGHTS IN GUATEMALA. OUR REPORT ON POLICE BRUTALITY IN BRAZIL WAS PUBLISHED IN ENGLISH AND PORTUGUESE. HUMAN RIGHTS WATCH RELEASED EACH REPORT IN THE RESPECTIVE NATION'S CAPITAL, FOLLOWED UP WITH A WEEK DISCUSSING OUR CONCLUSIONS AND RECOMMENDATIONS WITH SENIOR GOVERNMENT OFFICIALS, EUROPEAN UNION AND U.S. AMBASSADORS, HUMAN RIGHTS ORGANIZATIONS, AND THE PRESS. AS PART OF THIS AND OTHER IN-COUNTRY ADVOCACY TRIPS, THE DIVISION'S EXECUTIVE DIRECTOR MET IN 1997 WITH THE PRESIDENTS OF BRAZIL, COLOMBIA, AND VENEZUELA TO URGE ATTENTION TO HUMAN RIGHTS VIOLATIONS.

SEVERAL ISSUES WE HAVE PRESSED JOINTLY WITH OTHER HUMAN RIGHTS ORGANIZATIONS FOR YEARS PRODUCED RESULTS IN 1997: IN PERU, THE GOVERNMENT SUSPENDED THE USE OF CIVILIAN FACELESS COURTS USED TO TRY TERRORIST SUSPECTS; IN BRAZIL, LEGISLATION WAS PASSED TO CODIFY TORTURE; AND IN COLOMBIA LEGISLATION WAS INTRODUCED TO TRY HUMAN RIGHTS CASES IN ORDINARY, RATHER THAN MILITARY COURTS. CASES THAT WE HAVE LITIGATED BEFORE THE INTER-AMERICAN COMMISSION ON HUMAN RIGHTS AND THE INTER-AMERICAN COURT OF HUMAN RIGHTS TOGETHER WITH THE CENTER FOR JUSTICE AND INTERNATIONAL LAW (CEJIL) AND LOCAL PARTNERS BORE RESULTS AS WELL: THE COURT FOUND THAT THE GOVERNMENT OF PERU HAD VIOLATED THE AMERICAN CONVENTION ON HUMAN RIGHTS IN THE DETENTION, TORTURE, RAPE, AND PROSECUTION BEFORE FACELESS MILITARY AND CIVILIAN COURTS OF MARIA ELENA LOAYZA TAMAYO AND ORDERED HER RELEASE, A MOVE THE GOVERNMENT COMPLIED WITH SHORTLY THEREAFTER; AND THE COMMISSION MEDIATED A FRIENDLY SETTLEMENT IN THE CASE OF THE EXTRAJUDICIAL EXECUTION OF A HUMAN RIGHTS ACTIVIST AND WOUNDING OF A SECOND IN COLOTFENANGO, GUATEMALA, IN 1993. THE SETTLEMENT REQUIRED THE GOVERNMENT TO PROSECUTE AND PUNISH THOSE RESPONSIBLE AND PROVIDE REPARATIONS TO THE COMMUNITY FOR NUMEROUS ABUSES SUFFERED AT THE HANDS OF MILITARY-SPONSORED CIVIL PATROLS. ALSO IN PERU, THE

GOVERNMENT RELEASED LUIS CANTORAL BENAVIDES, WHOSE CASE WE HAD TAKEN TO THE INTER-AMERICAN COURT OF HUMAN RIGHTS. OUR LEGAL REPRESENTATION OF AUTHOR FRANCISCO MARTORELL AT THE INTER-AMERICAN COMMISSION ALSO BROUGHT A VICTORY WHEN THE COMMISSION IN JUNE RELEASED ITS FINAL REPORT ON THE CASE, FINDING CHILE HAD VIOLATED HIS RIGHT TO FREEDOM OF EXPRESSION BY BANNING THE SALE OF HIS BOOK. IN JULY 1997, THE UNITED STATES NATIONAL ADMINISTRATIVE OFFICE (U.S. NAO), THE BODY CHARGED WITH HEARING CASES OF ALLEGED VIOLATIONS BY CANADA OR MEXICO OF THE NORTH AMERICAN AGREEMENT ON LABOR COOPERATION, COMMONLY REFERRED TO AS THE LABOR RIGHTS SIDE AGREEMENT OF THE NORTH AMERICAN FREE TRADE AGREEMENT, (NAFTA) ACCEPTED FOR REVIEW A PETITION FILED BY HUMAN RIGHTS WATCH AND THE NATIONAL ASSOCIATION OF DEMOCRATIC LAWYERS (ASOCIACIÓN NACIONAL DE ABOGADOS DEMOCRÁTICOS), WHICH CHARGED THE MEXICAN GOVERNMENT WITH FAILURE TO ENFORCE ITS DOMESTIC LABOR CODE OR SET UP EFFECTIVE MECHANISMS TO ADJUDICATE LABOR DISPUTES. THE U.S. NAO WAS EXPECTED TO ISSUE ITS FINDINGS BY THE END OF NOVEMBER 1997.

IN JUNE, A CAMPAIGN WE ORGANIZED INVOLVING PRESS, REGIONAL GOVERNMENTS, AND HUMAN RIGHTS ORGANIZATIONS FROM SEVERAL COUNTRIES SUCCEEDED IN DEFEATING A CANDIDATE PROMOTED BY GUATEMALA TO JOIN THE INTER-AMERICAN COMMISSION ON HUMAN RIGHTS. THE CANDIDATE'S CAREER OF POLITICAL ALLIANCES WITH MILITARY DICTATORS MADE HIM UNSUITABLE FOR THE POST. WE ALSO PROTESTED VIOLATIONS OF FREEDOM OF EXPRESSION ACROSS THE CONTINENT AND PRESSED THE CLINTON ADMINISTRATION TO RAISE THE ISSUE DURING THE PRESIDENT'S OCTOBER TRIP TO LATIN AMERICA.

*FOR A LISTING OF RELEVANT REPORTS AND MISSIONS, SEE PAGE 459 AT THE END OF THIS REPORT. PARTIAL LISTINGS ALSO FOLLOW EACH COUNTRY CHAPTER.*

## BRAZIL

### Human Rights Developments

SEVERAL WELL-PUBLICIZED INCIDENTS OF POLICE BRUTALITY AND CORRUPTION CONSTITUTED THE PRINCIPAL HUMAN RIGHTS DEVELOPMENTS IN 1997 IN BRAZIL. DESPITE ENCOURAGING GOOD FAITH EFFORTS BY MANY AUTHORITIES, INCLUDING AT THE FEDERAL EXECUTIVE LEVEL, HUMAN RIGHTS VIOLATIONS CONTINUED TO BE SEVERE AND VARIED.

ON MARCH 31, BRAZIL'S WIDELY VIEWED TELEVISION NEWS PROGRAM *Jornal Nacional* BROADCAST AN AMATEUR VIDEO SHOWING MILITARY POLICE EXTORTING, BEATING, TORTURING, AND HUMILIATING PERSONS RANDOMLY STOPPED AT A ROADBLOCK IN DIADEMA, A WORKING CLASS SUBURB OF SÃO PAULO. IN ONE SCENE, THE POLICE WITHOUT PROVOCATION SHOT AND KILLED AN UNARMED PASSENGER IN A CAR AFTER A RANDOM STOP. THE EXPLICIT IMAGES, WHICH WERE FILMED ON AT LEAST TWO SEPARATE OCCASIONS, SENT SHOCK WAVES THROUGHOUT BRAZIL AND THE WORLD. THE VIDEOS CONFIRMED WHAT HUMAN RIGHTS GROUPS HAD BEEN REPORTING ABOUT THE FREQUENTLY VIOLENT AND UNPROFESSIONAL NATURE OF MILITARY POLICE IN SÃO PAULO. SUBSEQUENT JOURNALISTIC INVESTIGATIONS REVEALED THAT DOZENS OF COMPLAINTS ABOUT THESE KINDS OF VIOLENCE AND CORRUPTION HAD BEEN LODGED WITH POLICE AUTHORITIES IN DIADEMA IN THE MONTHS PRECEDING THE MARCH TELEVISED INCIDENT, WITHOUT RESULTS.

A WEEK LATER, ON APRIL 7, THE SAME NATIONAL NEWS PROGRAM EXHIBITED ANOTHER AMATEUR VIDEO, THIS TIME DEPICTING EXTORTION, SEVERE BEATINGS, AND HUMILIATIONS INFLICTED BY THE RIO DE JANEIRO MILITARY POLICE IN CIDADE DE DEUS, A POOR COMMUNITY ON THE CITY'S OUTSKIRTS. THE CIDADE DE DEUS VIDEO SHIFTED THE FOCUS OF DEBATE TO THE NATIONAL NATURE OF THE PROBLEM, AS WELL AS TO PROGRAMS OF THE RIO STATE SECRETARIAT OF PUBLIC SECURITY THAT PROMOTED AND PAID BONUSES TO POLICE OFFICERS INVOLVED IN ACTS OF BRAVERY. IN THE DAYS FOLLOWING THE VIDEO'S AIRING, REPORTS SURFACED DEMONSTRATING THAT THREE OF THE SIX POLICEMEN INVOLVED WERE RECEIVING MONTHLY PAY BONUSES FOR BRAVERY. IN THE MIDST OF THIS DEBATE, HUMAN RIGHTS WATCH NOTED, IN A DETAILED REPORT RELEASED AT THIS TIME THAT, IN PRACTICE, "BRAVERY" BONUSES WERE AWARDED TO POLICE OFFICERS THAT HAD KILLED CRIMINAL SUSPECTS, REGARDLESS OF THE CIRCUMSTANCES. HUMAN RIGHTS WATCH'S RESEARCH SHOWED THAT IN A ONE-YEAR PERIOD, FROM MAY 1995 TO APRIL 1996, AT LEAST 179 POLICE OFFICERS WERE PROMOTED IN RIO DE JANEIRO IN CONNECTION WITH INCIDENTS THAT CLAIMED THE LIVES OF SEVENTY-TWO CIVILIANS AND SIX POLICE OFFICERS. THE VICTIMS' AUTOPSY REPORTS SHOWED THAT IN SOME OF THESE CASES, THEY WERE THE VICTIMS OF SUMMARY EXECUTIONS, RATHER THAN SHOOTOUTS, AS THE REPORTS AUTHORIZING BRAVERY REWARDS CONTENDED.

THROUGHOUT 1997, RIO DE JANEIRO AUTHORITIES CONTINUED TO PROMOTE AND PAY BONUSES TO POLICE INVOLVED IN ACTS OF BRAVERY. IN APRIL, THE BAR ASSOCIATION OF RIO DE JANEIRO, CITING THE HUMAN RIGHTS WATCH REPORT, FILED AN UNSUCCESSFUL CHALLENGE TO THE CONSTITUTIONALITY OF THE BRAVERY MEASURES IN STATE COURT. FOLLOWING REPORTS IN SEPTEMBER IN RIO DAILIES TO THE EFFECT THAT FOURTEEN RANKING MILITARY POLICE OFFICERS INDICTED FOR THEIR INVOLVEMENT IN A GAMBLING RACKET HAD RECEIVED PAY RAISES AND PROMOTIONS FOR BRAVERY, STATE REPRESENTATIVE CARLOS MINE INTRODUCED LEGISLATION INTO THE RIO STATE LEGISLATIVE ASSEMBLY SEEKING TO LIMIT THE BONUSES AND PROMOTIONS TO POLICE NOT FACING INDICTMENT FOR SERIOUS CRIMES. IN OCTOBER, THE SUPERIOR INSTITUTE OF RELIGIOUS STUDIES (INSTITUTO SUPERIOR DE ESTUDOS RELIGIOSOS, ISER) A LEADING NONGOVERNMENTAL ORGANIZATION (NGO), RELEASED A REPORT DEMONSTRATING THAT THE RIO POLICE HAD KILLED AT LEAST 942 CIVILIANS IN THE PERIOD FROM JANUARY 1, 1993 THROUGH JULY 31, 1996. THE ISER STUDY INCLUDED ANALYSIS OF THE AUTOPSY REPORTS DEMONSTRATING THAT AT LEAST FORTY OF THESE 942 CIVILIANS HAD BEEN SHOT AT POINT-BLANK RANGE. FIGURES REGARDING THE HIGH INCIDENCE OF BULLETS TO VICTIMS' HEADS AND CHESTS AND THE PERCENTAGE OF SHOTS FROM BEHIND SUGGESTED THAT THE NUMBER OF SUMMARY EXECUTIONS MAY WELL HAVE BEEN SUBSTANTIALLY HIGHER. THE STUDY ALSO DEMONSTRATED THAT THE NUMBER OF PERSONS KILLED BY THE POLICE IN THE CITY OF RIO ROSE FROM SIXTEEN PER MONTH PRIOR TO MAY 1995, WHEN THE CURRENT PUBLIC SECURITY SECRETARY, GEN. NILTON CERQUEIRA, ASSUMED CONTROL OF RIO POLICE FORCES, TO THIRTY-TWO PER MONTH AFTERWARDS. IN THIS SAME PERIOD, THE RIO POLICE KILLED 3.4 TIMES AS MANY CIVILIANS AS THEY WOUNDED.

DESPITE ATTENTION FOCUSED ON THE SÃO PAULO MILITARY POLICE DUE TO THE DIADEMA INCIDENT, OFFICIAL FIGURES SHOWED THAT IN 1997 MILITARY POLICE KILLINGS OF CIVILIANS IN THE STATE CONTINUED TO DECLINE. IN THE FIRST EIGHT MONTHS OF 1997, MILITARY POLICE IN THE SÃO PAULO METROPOLITAN AREA KILLED EIGHTY-SIX CIVILIANS WHILE ON DUTY AND FIFTY-ONE MORE WHILE OFF DUTY. IN THOSE SAME EIGHT MONTHS, THE MILITARY POLICE SUFFERED EIGHT FATALITIES ON DUTY AND TWENTY-FOUR OFF-DUTY DEATHS. IN 1996, THE NUMBER OF CIVILIANS KILLED BY MILITARY POLICE IN SÃO PAULO, BOTH ON AND OFF DUTY HAD FALLEN TO 183, THE LOWEST FULL-YEAR TOTAL IN A DECADE. TWENTY-SEVEN POLICE (TWENTY-ONE WHILE OFF DUTY) WERE KILLED DURING THIS SAME PERIOD. BY CONTRAST, FOUR YEARS EARLIER, IN 1992, THE MILITARY POLICE KILLED 1,190 CIVILIANS IN SÃO PAULO WHILE SUFFERING FIFTY-FIVE FATALITIES. THESE REDUCTIONS WERE WIDELY BELIEVED TO BE RELATED TO THE CREATION AND CONTINUED OPERATION OF THE OFFICE OF THE OMBUDSMAN FOR THE POLICE, AS WELL AS A STATE PROGRAM (PROGRAMA DE ACOMPANHAMENTO DE POLICIAIS ENVOLVIDOS EM OCORRÊNCIAS DE ALTO RISCO-PROAR) THAT REQUIRED POLICE OFFICERS TO BE REMOVED FROM STREET DUTY, AT LEAST TEMPORARILY, WHEN INVOLVED IN FATAL SHOOTINGS. IN DECEMBER 1995, THE STATE SECRETARIAT OF PUBLIC SECURITY HAD EXTENDED THE PROAR PROGRAM TO INCLUDE POLICE OFFICERS INVOLVED IN KILLINGS WHILE OFF DUTY.

NONETHELESS, THROUGHOUT 1997, SÃO PAULO POLICE VIOLATED BASIC HUMAN RIGHTS. ON MAY 20, MILITARY POLICE STORMED THE FAZENDA DA JUTA HOUSING COMPLEX, WHICH HAD BEEN OCCUPIED BY SQUATTERS FOR SEVERAL MONTHS. WHEN THE SQUATTERS RESISTED EVICTION BY THROWING ROCKS AND STICKS, THE POLICE, NOT SPECIALLY TRAINED FOR SUCH OPERATIONS AND WITHOUT ADEQUATE EQUIPMENT SUCH AS SHIELDS AND HELMETS, FIRED AT THE SQUATTERS, KILLING THREE. ONE OF THE VICTIMS WAS KILLED BY A SINGLE BULLET TO THE BACK OF THE HEAD, SUGGESTING A SUMMARY EXECUTION. ANOTHER SQUATTER WAS KILLED BY BULLETS TO THE CHEST, WHICH A POLICE OFFICER CONTENDED HE FIRED IN SELF-DEFENSE AFTER BEING KNOCKED TO THE GROUND. THE CORONER'S REPORT, HOWEVER, INDICATED THE VICTIM HAD BEEN SHOT TWICE THROUGH THE CHEST IN A STRAIGHT LINE, CASTING DOUBT ON THE POLICE OFFICER'S VERSION OF EVENTS.

IN SEPTEMBER, THE INVOLVEMENT OF TWO SÃO PAULO MILITARY POLICE OFFICERS IN THE KIDNAPPING AND MURDER OF AN EIGHT-YEAR-OLD BOY PROMPTED THE STATE SECRETARY OF PUBLIC SECURITY TO FIRE THE COMMANDER OF THE STATE MILITARY POLICE. DURING THE SAME WEEK, IN BRASÍLIA, MILITARY POLICE OFFICERS ORCHESTRATED THE KIDNAPPING OF THE YOUNG DAUGHTER OF A FEDERAL CONGRESSMAN, WHO WAS RELEASED AFTER A RESCUE OPERATION. THESE TWO INCIDENTS ONCE AGAIN PROMPTED INTENSE DEBATE ON THE ISSUE OF POLICE VIOLENCE AND CORRUPTION.

IN APRIL AND MAY, SHORTLY AFTER THE IMAGES IN DIADEMA AND CIDADE DE DEUS AIRED ON TELEVISION, A SPECIAL STATE PARLIAMENTARY INQUIRY IN MINAS GERAIS STATE GATHERED EVIDENCE OF THE WIDESPREAD PRACTICE OF TORTURE IN POLICE PRECINCTS IN BELO HORIZONTE. MEMBERS OF THE STATE PARLIAMENTARY INQUIRY COMMISSION APPEARED IN ONE INFAMOUS PRECINCT WITH A VIDEO CAMERA AND FILMED A ROOM THAT DETAINEES HAD DESCRIBED AS A TORTURE CENTER. THE VIDEO



CORROBORATED THE STATEMENTS GIVEN TO THE PARLIAMENTARY COMMISSION BOTH IN TERMS OF THE LOCATION OF THE TORTURE CENTER AND ITS CHARACTERISTICS: THE ROOM INCLUDED RIVETS TO HANG A "PARROT'S PERCH," A BAR ON WHICH PRISONERS ARE EXTENDED DURING TORTURE SESSIONS, AND A WATER FAUCET AND TWO EXPOSED WIRES, PRESUMABLY USED FOR ELECTRIC SHOCK TORTURE. DESPITE THIS AND OTHER EVIDENCE, MINAS GERAIS GOV. EDUARDO AZEREDO DENIED THAT THE POLICE IN MINAS GERAIS PRACTICED TORTURE AND REFUSED TO ORDER A FULL INVESTIGATION.

TWO MONTHS LATER, THE MINAS GERAIS MILITARY POLICE ORGANIZED A MASSIVE STRIKE. DEMANDING HIGHER WAGES—MILITARY POLICE IN MINAS GERAIS RECEIVED A STARTING WAGE OF ROUGHLY U.S.\$400 PER MONTH—THE POLICE ORGANIZED A STRIKE THAT PARALYZED THE STATE FOR TWO WEEKS IN JUNE. BY THE END OF THE MONTH, THE GOVERNOR CEDED TO THE STRIKING POLICE OFFICERS' DEMANDS, AUTHORIZING A 50 PERCENT BASE SALARY HIKE. THE MINAS GERAIS DISPUTE TOUCHED OFF SIMILAR PROTESTS OR WAGE DEMANDS IN MORE THAN A DOZEN OTHER BRAZILIAN STATES IN JULY AND AUGUST.

PROMPTED BY THIS POLICE UNREST AS WELL AS INCREASING POPULAR AND MEDIA ATTENTION TO THE SEVERE PROBLEM OF POLICE CORRUPTION AND VIOLENCE, A NATIONAL WORKING GROUP LED BY NEWLY APPOINTED NATIONAL SECRETARY FOR HUMAN RIGHTS JOSÉ GREGORI STUDIED NEEDED CHANGES TO IMPROVE PUBLIC SECURITY THROUGHOUT BRAZIL. IN SEPTEMBER, AS A RESULT OF THE WORK OF THESE GROUPS, PRESIDENT FERNANDO HENRIQUE CARDOSO PROPOSED A SERIES OF LEGISLATIVE AND CONSTITUTIONAL MODIFICATIONS IN POLICE STRUCTURE, INCLUDING AN AMENDMENT TO ELIMINATE MILITARY COURTS ENTIRELY, TO AUTHORIZE THE STATES TO UNIFY THE CIVIL AND MILITARY POLICE SHOULD THEY SO CHOOSE, AND TO PROTECT WITNESSES TO INCIDENTS OF POLICE ABUSE. IF IMPLEMENTED, THESE MEASURES COULD SIGNIFICANTLY REDUCE THE INCIDENCE OF GROSS HUMAN RIGHTS VIOLATIONS COMMITTED BY STATE AGENTS. HOWEVER, IT WAS UNCLEAR WHETHER THESE REFORMS WOULD BE GIVEN PRIORITY BY BRAZIL'S CONGRESS, WHOSE RECORD FOR ENACTING HUMAN RIGHTS MEASURES CONTINUED TO BE POOR IN 1997. AT THIS WRITING, THE LEGISLATIVE PACKAGE IS STILL PENDING IN CONGRESS. SO, TOO, ARE DOZENS OF OTHER IMPORTANT PROPOSALS INCLUDED IN THE NATIONAL HUMAN RIGHTS PLAN, RELEASED ON MAY 13, 1996. SINCE THEN, THE BRAZILIAN CONGRESS MANAGED TO APPROVE ONLY A HANDFUL OF MEASURES. APART FROM A LAW CRIMINALIZING TORTURE PASSED IN THE WAKE OF THE DIADEMA INCIDENT, THE ONLY OTHER PUBLIC SECURITY REFORM PASSED BY CONGRESS SINCE THE PLAN'S RELEASE WAS LAW 9.437, WHICH CRIMINALIZED ILLEGAL WEAPONS POSSESSIONS, SIGNED INTO LAW ON FEBRUARY 20.

PRISON CONDITIONS THROUGHOUT BRAZIL CONTINUED TO VIOLATE INTERNATIONAL STANDARDS IN 1997. THE PRIMARY VIOLATIONS INVOLVED OFFICIAL VIOLENCE DIRECTED AGAINST DETAINEES OR COMPLICITY IN PRISONER-AGAINST-PRISONER VIOLENCE; OVERCROWDING; UNSANITARY CONDITIONS; AND LACK OF ACCESS TO RECREATION, EDUCATION AND OTHER BENEFITS. SUBSTANDARD CONDITIONS WERE EXACERBATED IN POLICE PRECINCTS' DETENTION CENTERS, WHERE PRISONERS WERE HELD FOR MONTHS AND EVEN YEARS. IN SÃO PAULO, NEARLY 30,000 DETAINEES WERE HELD IN PRECINCTS, WHICH ACCORDING TO THE MOST GENEROUS OFFICIAL ESTIMATES, HAD CAPACITY FOR FEWER THAN 16,000. THE SÃO PAULO DAILY *FOLHA DE S. PAULO* REPORTED EIGHTY REBELLIONS IN PRECINCTS AND ELEVEN MORE IN PENITENTIARIES IN THE STATE IN THE FIRST SIX MONTHS OF 1997, UP FROM SEVENTY-ONE REBELLIONS IN PRECINCTS AND EIGHT IN PENITENTIARIES IN ALL OF 1996. BY EARLY OCTOBER THE NUMBER OF REVOLTS IN PENITENTIARIES ROSE TO FIFTEEN. IN SEPTEMBER, SÃO PAULO AUTHORITIES ANNOUNCED THE SIGNING OF CONTRACTS TO BUILD SEVEN PRISONS WITH A TOTAL CAPACITY FOR 5,544 DETAINEES. IF COMPLETED ON SCHEDULE, ALONG WITH THE PLANNED CONSTRUCTION OF FOURTEEN MORE PRISONS, THESE CENTERS OF DETENTION WOULD PROVIDE SPACE FOR AN ADDITIONAL 17,520 PRISONERS BY THE END OF 1999.

TO THEIR CREDIT, SÃO PAULO AUTHORITIES RARELY USED DEADLY FORCE TO CONTROL PRISON AND PRECINCT REBELLIONS. THIS WAS NOT ALWAYS THE CASE, HOWEVER, IN ALL OF BRAZIL IN 1997. ON JULY 29, MILITARY POLICE ENTERED THE RÓGER PENITENTIARY IN JOÃO PESSOA, PARÁIBA, TO END A PRISON RIOT IN WHICH A GROUP OF PRISONERS HAD SEIZED THE WARDEN, THREE GUARDS, AND TWO FELLOW PRISONERS AS HOSTAGES. SUBSEQUENT MEDICAL EXAMINATIONS DEMONSTRATED THAT SEVEN OF THE EIGHT PRISONERS KILLED HAD BEEN SEVERELY BEATEN AND LIKELY TORTURED AND THEN SUMMARILY EXECUTED, A CONCLUSION THAT THE STATE GOVERNOR HIMSELF ACCEPTED. TWO MONTHS LATER, MILITARY POLICE RESPONDED TO ANOTHER REBELLION IN THE SAME FACILITY KILLING ONE DETAINEE. INVESTIGATIONS BY THE JOÃO PESSOA MUNICIPAL HUMAN RIGHTS COMMISSION SHOWED THAT THE PRISONERS WERE ARMED WITH STICKS AND THAT THE POLICE RESPONSE WAS, AT A MINIMUM, DISPROPORTIONATE. IN OCTOBER, TWO MORE PRISONERS WERE KILLED DURING AN ESCAPE ATTEMPT.

THE PROBLEM OF PRISON AND PRECINCT OVERCROWDING WAS EXACERBATED IN 1997 BY THE EXISTENCE OF PRISONERS HELD

in these detention facilities beyond the terms of their sentences. In September, ad hoc investigatory commissions composed of members of the State Bar Association, the State Attorney General's Office and representatives of the State Legislative Assembly documented irregularities observed during surprise visits in the state of São Paulo.

For example, the ad hoc commissions found several detainees held beyond the terms of their sentences, scores of others eligible for parole or early or day release programs, as well as one case of a detainee held for more than two years based on a provision which allows thirty-day renewable detention periods.

In 1997, rural conflicts continued to seize headlines as the Movement of Landless Rural Workers (Movimento dos Trabalhadores Rurais Sem Terra, MST) intensified its efforts to force the government to take land reform measures.

In numerous incidents throughout 1997, land occupations by the MST and other groups of landless resulted in armed conflicts. According to the Pastoral Land Commission (Comissão Pastoral da Terra, CPT), through mid-October 1997 twenty-five civilians had been killed in these land conflicts. While in 1996, the military police were responsible for most of those killed in land conflicts (including nineteen squatters in a single incident in El Dorado do Carajás on April 17, 1996), in 1997, according to the CPT, hired gunmen killed a much greater proportion of the victims in land disputes.

Figures for 1996 and partial figures for 1997 demonstrated an increase in both the number of land disputes and the violence practiced in their resolution. In 1996, forty-six individuals were killed in land conflicts, an increase from the thirty-nine deaths in conflicts registered in 1995. The CPT also registered a significant rise in the number of conflicts in 1996 (653) compared to 1995 (440), as well as the number of persons involved, which rose from 319,458 in 1995 to 491,490 in 1997. Although figures for 1997 were not available, the CPT reported that throughout the year, this trend of escalating land conflict and increasingly violent resolution continued in 1997.

A positive development in the campaign against rural violence and impunity was the June 27-29 jury trial and conviction in Imperatriz, Maranhão state, of three landowners for ordering the 1986 targeted assassination of Father Josimo Moraes Tavares, regional director of the Pastoral Land Commission. Landowners Guiomar Teodoro da Silva, Adailson Gomes Vieira and Geraldo Paulo Vieira, arrested in 1994 and held in pre-trial detention since then, were sentenced to fourteen, eighteen and nineteen years' imprisonment, respectively. The conviction of the crime's intellectual authors in this case was exceptional: according to the CPT, of 976 land-related killings and 891 cases of attempted homicide registered from 1995 through the beginning of 1997, only fifty-six cases had gone to trial. In only fourteen of the trials, those who ordered the killings were prosecuted, with seven cases resulting in convictions.

In an unfortunate use of the criminal justice system against land reform activists, a trial court in Pedro Canário, in the eastern state of Espírito Santo, convicted landless leader José Rainha on June 10 for the 1989 murders of landowner José Machado Neto and military police officer Sérgio Narciso. Despite overwhelming evidence that José Rainha was hundreds of miles away when the killings occurred, the jury convicted, and the presiding judge sentenced him to twenty-six-and-a-half years in prison, on the grounds that he organized the land occupation and helped the peasants leave after the murder. Witnesses on Rainha's behalf included a military police colonel from Ceará, the former agriculture secretary for Ceará (now a federal congressman), and other elected officials from Ceará, all of whom testified that Rainha was in Ceará and not Espírito Santo during the time of the land conflict. The trial was tainted by other irregularities, including the presence of several persons on the jury with ties to one of the victims. At this writing, no date has been set for Rainha's second trial, guaranteed to him under Brazilian law.

Forced labor, the practice whereby laborers are recruited with false promises of high wages and then maintained against their will in work camps, continued to occur in 1997, although at rates believed lower than prior years. The CPT's figures for 1996 showed a significant decline in the number of victims involved in forced

LABOR COMPARED WITH 1995. WHILE THE NUMBER OF CASES OF FORCED LABOR FELL ONLY SLIGHTLY FROM TWENTY-ONE TO NINETEEN, THE NUMBER OF VICTIMS PLUMMETED FROM 26,047 TO 2,497. THIS DRAMATIC DECREASE WAS WIDELY BELIEVED TO BE THE RESULT OF JOINT PROGRAMS OF CIVIL SOCIETY, PRINCIPALLY THE CPT AND RURAL LABOR UNIONS, AND THE FEDERAL GOVERNMENT'S MINISTRY OF LABOR, PARTICULARLY IN THE STATE OF MATO GROSSO DO SUL. IN THAT STATE, IN WHICH THOUSANDS HAD BEEN HELD CAPTIVE IN COAL PITS IN PRIOR YEARS, EFFORTS TO ELIMINATE FORCED LABOR PROVED SUCCESSFUL. IN MINAS GERAIS, THE WORK OF A PARLIAMENTARY COMMISSION OF INVESTIGATION HELPED REDUCE THE NUMBER OF VICTIMS OF FORCED LABOR FROM 10,040 IN 1995 TO 790 IN 1996.

IN SEPTEMBER, FEDERAL AUTHORITIES ANNOUNCED PLANS TO EXPROPRIATE LANDS USED FOR FORCED LABOR. THE MINISTER OF LAND AFFAIRS ANNOUNCED THAT THOSE WORKERS WHO HAD BEEN FORCED INTO DEBT BONDAGE AT THE FLOR DA MATA ESTATE IN SÃO FÉLIX DO YINGU, SOUTHERN PARÁ STATE IN THE AMAZON REGION, WOULD BE SETTLED ON THE ESTATE AND THAT THE GOVERNMENT WOULD FOLLOW THIS NEW POLICY WITH OTHER AREAS IN WHICH FORCED LABOR IS PRACTICED. LEGAL EXPERTS, HOWEVER, ARGUED THAT SUCH EXPROPRIATION WAS BEYOND THE AUTHORITY OF THE FEDERAL GOVERNMENT AND REQUIRED THE ENACTMENT OF LEGISLATION SPECIFICALLY AUTHORIZING SUCH EXPROPRIATIONS. AT THIS WRITING, LEGISLATION THAT WOULD EMPOWER THE FEDERAL GOVERNMENT TO EXPROPRIATE LAND USED FOR FORCED LABOR OPERATIONS IS PENDING IN CONGRESS.

AFTER CONVICTIONS IN APRIL AND NOVEMBER 1996 IN THE FIRST TWO TRIALS OF MILITARY POLICE OFFICERS INVOLVED IN THE JULY 1993 MURDER OF EIGHT SLEEPING CHILDREN AND ADOLESCENTS IN THE CANDELÁRIA PLAZA IN DOWNTOWN RIO, PROSECUTION EFFORTS SUFFERED SERIOUS SETBACKS IN LATE 1996 AND 1997. FIRST, IN DECEMBER 1996, TWO POLICE OFFICERS AND ONE CIVILIAN WERE ACQUITTED AFTER THE PROSECUTION FAILED TO PRESS THE CASE AGAINST THE DEFENDANTS DESPITE STRONG EVIDENCE, INCLUDING WITNESS STATEMENTS, ATTESTING TO THE INVOLVEMENT OF TWO OF THE MEN. THEN, IN APRIL 1997, FORMER POLICE OFFICER NELSON CUNHA, WHO HAD BEEN CONVICTED IN NOVEMBER 1996 AND SENTENCED TO 261 YEARS IN PRISON, WAS ACQUITTED OF ALL HOMICIDE CHARGES BY A SECOND JURY. THIS, DESPITE CUNHA'S CONFESSION THAT HE WAS IN THE CAR WITH THE KILLERS AND THAT HE PERSONALLY SHOT AND INJURED SURVIVOR AND KEY WITNESS WAGNER DOS SANTOS IN THE HEAD. CUNHA, WHO ADMITTED POINTING THE GUN AT THE YOUTH'S HEAD, CLAIMED THE GUN WENT OFF ACCIDENTALLY AS THE CAR WAS MOVING. CUNHA CONTINUED TO SERVE A SEPARATE SENTENCE OF EIGHTEEN YEARS FOR ATTEMPTED MURDER BASED ON HIS INITIAL CONVICTION.

FOR OTHER HIGH-PROFILE MASSACRES, IMPUNITY CONTINUED TO BE THE RULE. MORE THAN FIVE YEARS AFTER THE 1992 MASSACRE AT CARANDIRU PRISON, WHERE 111 PRISONERS WERE KILLED, NO ONE WAS BROUGHT TO TRIAL, ALTHOUGH THE CASE HAD BEEN TRANSFERRED FROM THE MILITARY TO THE ORDINARY COURTS. THE PROSECUTION OF POLICE RESPONSIBLE FOR THE AUGUST 1993 MASSACRE OF TWENTY-ONE RESIDENTS OF THE VIGÁRIO GERAL FAVELA IN RIO DE JANEIRO INCHED FORWARD IN 1997. IN APRIL, A JURY IN RIO CONVICTED FORMER MILITARY POLICE OFFICER PAULO ALVARENGA, THE FIRST OF MORE THAN FIFTY DEFENDANTS TO BE TRIED, TO MORE THAN 400 YEARS IN PRISON, OF WHICH HE WILL HAVE TO SERVE THIRTY.

IN THE EARLY MORNING HOURS OF APRIL 20, 1997, FOUR YOUNG MEN AND ONE TEENAGER DOUSED PATAXÓ INDIAN GALDINO JESUS DOS SANTOS, ASLEEP ON A BENCH IN BRASÍLIA, WITH GASOLINE AND THEN SET HIM AFIRE, PRODUCING SEVERE BURNS WHICH CAUSED HIS DEATH AT A LOCAL HOSPITAL A FEW HOURS LATER. DOS SANTOS WAS ATTENDING A CONFERENCE ON INDIGENOUS RIGHTS IN CELEBRATION OF THE NATIONAL INDIAN DAY. HE RETURNED TO THE HOSTEL WHERE HE WAS STAYING SHORTLY AFTER CLOSING AND WAS FORCED TO SLEEP OUTSIDE. SUBSEQUENT INVESTIGATIONS ESTABLISHED THAT THE BOYS HAD SEEN DOS SANTOS ASLEEP, PROCEEDED TO A GAS STATION, AND THEN RETURNED TO SET HIM AFIRE. DESPITE THIS AND OTHER EVIDENCE, JUDGE SANDRA DE SANTIS MELLO REDUCED CHARGES AGAINST THE DEFENDANTS FROM MURDER TO ASSAULT AND BATTERY FOLLOWED BY DEATH, ACCEPTING THEIR POSITION THAT THEY LACKED ANY INTENT TO KILL OR SERIOUSLY HARM DOS SANTOS. BOTH THE INITIAL INCIDENT AND THE SUBSEQUENT JUDICIAL DECISION TOUCHED OFF PROTESTS AND CALLS FOR GREATER GOVERNMENTAL EFFORTS TO PROTECT THE RIGHTS OF INDIGENOUS PEOPLES. AT THIS WRITING, THE DEFENDANTS STILL FACE PROSECUTION.

ONE ENCOURAGING TREND DURING 1997 WAS THE INCREASED COOPERATION BETWEEN GOVERNMENTAL AUTHORITIES AND CIVIL SOCIETY IN THE AREA OF HUMAN RIGHTS. IN THE NORTHEASTERN STATE OF PERNAMBUCO, THE STATE GOVERNMENT CONTINUED TO FINANCE A WITNESS PROTECTION PROGRAM RUN BY AN NGO. IN 1997, THE MINISTRY OF JUSTICE TOOK STEPS IN CONJUNCTION WITH LOCAL GOVERNMENTAL AUTHORITIES TO TRANSPLANT THIS PROGRAM TO FIVE OTHER STATES. IN JUNE, THE FEDERAL

GOVERNMENT CREATED THE NATIONAL SECRETARIAT FOR HUMAN RIGHTS WITHIN THE MINISTRY OF JUSTICE, WHICH WORKED CLOSELY WITH NGOs TO DEVELOP PROGRAMS JOINTLY AND TO PRESS FOR THE IMPLEMENTATION OF MEASURES INCLUDED IN THE NATIONAL HUMAN RIGHTS PLAN. IN SÃO PAULO, THE OMBUDSMAN'S OFFICE FOR POLICE CONTINUED ITS ENERGETIC OVERSIGHT OF POLICE ABUSE THAT CONTRIBUTED TO SIGNIFICANT REDUCTIONS IN POLICE VIOLENCE AGAINST CIVILIANS. THE HUMAN RIGHTS COMMISSION OF THE FEDERAL CHAMBER OF DEPUTIES CONTINUED TO DENOUNCE HUMAN RIGHTS VIOLATIONS THROUGHOUT BRAZIL, HOLDING NUMEROUS HEARINGS IN SEVERAL LOCATIONS TO EXPOSE LOCAL ABUSES AND PROVIDE FORA FOR LOCAL ACTIVISTS AND ALSO PRESSED THE CHAMBER AND THE SENATE TO PASS SORELY NEEDED HUMAN RIGHTS LEGISLATION. IN RIO GRANDE DO SUL, THE STATE LEGISLATIVE ASSEMBLY'S HUMAN RIGHTS COMMISSION PUBLISHED ITS THIRD ANNUAL "BLUE REPORT," THE MOST THOROUGH CATALOGUE OF HUMAN RIGHTS VIOLATIONS IN THE STATE. ACROSS THE COUNTRY, STATE LEGISLATIVE ASSEMBLIES EITHER FORMED HUMAN RIGHTS COMMISSIONS OR STRENGTHENED THOSE THAT ALREADY EXISTED; THIS SAME PHENOMENON OCCURRED AT THE MUNICIPAL LEVEL AS WELL. THROUGH THESE MEASURES, GOVERNMENT AGENTS STRENGTHENED THEIR RELATIONSHIPS WITH THEIR NONGOVERNMENTAL COUNTERPARTS WHILE ASSUMING RESPONSIBILITY FOR VITAL OVERSIGHT OF CITIZENS' RIGHTS.

THE BRAZILIAN GOVERNMENT PARTICIPATED IN THE OSLO NEGOTIATIONS TO DRAFT THE LANDMINES TREATY. THE MINISTRY OF FOREIGN AFFAIRS EXPRESSED ITS INTENT TO ATTEND THE DECEMBER CONFERENCE IN OTTAWA AND TO SIGN THE LANDMINES TREATY AT THAT TIME. IN MARCH, BRAZIL TOOK AN INITIAL STEP TOWARD RECOGNIZING THE ILLEGITIMACY OF THE OCCUPATION OF EAST TIMOR BY SENDING ITS FIRST OFFICIAL DELEGATION TO THE FORMER PORTUGUESE COLONY SINCE THE 1975 INDONESIAN INVASION. BRAZIL ALSO RECEIVED A SEPTEMBER VISIT BY NOBEL LAUREATE JOSÉ RAMOS HORTA. DURING HIS PREVIOUS VISIT TO BRAZIL IN NOVEMBER 1996, RAMOS HORTA WAS RECEIVED BY PRESIDENT CARDOSO.

### **The Right to Monitor**

THE BRAZILIAN GOVERNMENT IMPOSED NO FORMAL OBSTACLES TO HUMAN RIGHTS MONITORING, AND BRAZIL CONTINUED TO MAINTAIN AN ACTIVE CIVIL SOCIETY INCLUDING HUMAN RIGHTS ORGANIZATIONS, RELIGIOUS GROUPS, CIVIC ASSOCIATIONS, AND UNIONS. IN ADDITION, IN 1997 A NUMBER OF STATE LEGISLATURES AND CITY COUNCILS FORMED HUMAN RIGHTS COMMISSIONS WHICH PLAYED AN INCREASINGLY IMPORTANT ROLE, ALONGSIDE THOSE GOVERNMENTAL COMMISSIONS THAT ALREADY EXISTED, IN THIS WATCHDOG CAPACITY. IN MAY, THE SÃO PAULO STATE LEGISLATURE ESTABLISHED AN OMBUDSMAN FOR THE POLICE, A POSITION PREVIOUSLY CREATED BY GUBERNATORIAL DECREE. IN SEPTEMBER, THE STATE LEGISLATURE IN MINAS GERAIS CREATED AN OMBUDSMAN'S OFFICE BASED ON THE SÃO PAULO MODEL.

UNFORTUNATELY, THIS TREND WAS NOT UNIVERSAL. IN MANY PARTS OF BRAZIL, AUTHORITIES CONTINUED TO BE ANTAGONISTIC TOWARDS HUMAN RIGHTS MONITORS. HUMAN RIGHTS ACTIVISTS IN THE NORTHEASTERN STATE OF RIO GRANDE DO NORTE FACED BOTH DEATH THREATS AND LAW SUITS FOR THEIR COURAGEOUS EFFORTS TO RID THE POLICE OF VIOLENT OFFICERS. THE DEATH THREATS RARELY TRIGGERED SERIOUS INVESTIGATIONS ON THE PART OF THE APPROPRIATE AUTHORITIES. A LIST OF TEN ACTIVISTS WHO PROMOTE INVESTIGATIONS OF CORRUPT AND VIOLENT POLICE IN RIO GRANDE DO NORTE BEGAN TO CIRCULATE AT THE END OF 1996.

THE FIRST PERSON ON THAT LIST, ATTORNEY GILSON NOGUEIRA, WAS MURDERED ON OCTOBER 20, 1996, AND IN MAY 1997, DESPITE SIGNIFICANT EVIDENCE OF POLICE INVOLVEMENT IN HIS KILLING, FEDERAL PROSECUTORS ENDED THEIR INVESTIGATION INTO THE MATTER WITH NO INDICTMENTS.

THROUGHOUT 1997, RIO DE JANEIRO AUTHORITIES RESPONDED TO LEGITIMATE CRITICISM OF POLICE VIOLENCE BY ATTACKING THE SOURCES. THIS AGGRESSIVENESS APPLIED TO HUMAN RIGHTS WATCH, AFTER OUR REPORT ON POLICE BRUTALITY, AS WELL AS TO LOCAL AND NATIONAL CRITICS.

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

#### **European Union**

THE EUROPEAN UNION (E.U.) FINANCED NUMEROUS NGOs DEDICATED TO THE DEFENSE OF HUMAN RIGHTS IN BRAZIL IN 1997. MEMBER STATES OF THE EUROPEAN UNION ENCOURAGED BRAZIL TO COMPLY WITH INTERNATIONAL HUMAN RIGHTS NORMS THROUGH REGULAR MEETINGS WITH FEDERAL OFFICIALS BOTH IN BRAZIL AND ON OFFICIAL GOVERNMENT TRIPS TO EUROPE. AT YEAR'S END,

SEVERAL GOVERNMENTS EXPRESSED INTEREST IN PROVIDING INSTRUCTORS AND FINANCING A PROGRAM DIRECTED BY THE INTERNATIONAL COMMITTEE OF THE RED CROSS (ICRC), TO TRAIN BRAZILIAN POLICE IN METHODS THAT RESPECT FUNDAMENTAL HUMAN RIGHTS. THIS ICRC TRAINING PROGRAM WOULD BUILD ON TWO COURSES WHICH IT LED IN 1997 FOR REPRESENTATIVES OF THE MILITARY POLICE FORCES OF EACH OF BRAZIL'S TWENTY-SIX STATES AND FEDERAL DISTRICT. NATIONAL HUMAN RIGHTS SECRETARY JOSÉ GREGORI SOUGHT FINANCIAL SUPPORT FROM E.U. GOVERNMENTS FOR POLICE TRAINING IN HUMAN RIGHTS DURING SEVERAL VISITS TO EUROPE IN 1997. AT THIS WRITING, HOWEVER, PLANS FOR SUCH FINANCING HAVE NOT BEEN COMPLETED.

## United States

IN 1997, THE U.S. GAVE RELATIVELY LITTLE DIRECT ASSISTANCE TO BRAZIL. FOR FISCAL YEAR 1998 THE U.S. ADMINISTRATION REQUESTED U.S. \$225,000 FOR TRAINING THROUGH THE INTERNATIONAL MILITARY EDUCATION AND TRAINING PROGRAM (IMET) AND U.S. \$1 MILLION IN ANTI-NARCOTICS ASSISTANCE, AS WELL AS U.S.\$600,000 TARGETED TO POLICE FORCES IN BRAZIL. THE U.S. GOVERNMENT FINALIZED PLANS TO OPEN AN FEDERAL BUREAU OF INVESTIGATION OFFICE IN BRASÍLIA TO COMBAT DRUG TRAFFICKING DURING FISCAL YEAR 1998, ALTHOUGH ACCORDING TO THE U.S. EMBASSY, NO CLEAR TIMETABLE FOR ITS OPERATION HAS BEEN ESTABLISHED AT THIS WRITING.

DURING THE YEAR, THE U.S. GOVERNMENT SPONSORED NUMEROUS VISITS FOR HUMAN RIGHTS ACTIVISTS, JUDGES, AND PROSECUTORS TO THE UNITED STATES THROUGH THE ADMINISTRATION OF JUSTICE AND UNITED STATES INFORMATION SERVICES PROGRAMS, AS WELL AS VISITS TO BRAZIL BY EXPERTS ON ALTERNATIVE SENTENCING AND THE FEDERALIZATION OF HUMAN RIGHTS CRIMES, BOTH ISSUES CONTEMPLATED BY THE BRAZILIAN NATIONAL HUMAN RIGHTS PROGRAM. THE STATE DEPARTMENT'S CHAPTER ON BRAZIL IN ITS *COUNTRY REPORTS ON HUMAN RIGHTS PRACTICES FOR 1996* ACCURATELY PORTRAYED THE VARIED HUMAN RIGHTS PROBLEMS THAT BRAZIL FACES, AS WELL AS THE ADVANCES AND SETBACKS PROVOKED BY GOVERNMENTAL POLICIES.

IN OCTOBER, PRESIDENT BILL CLINTON VISITED BRASÍLIA, SÃO PAULO AND RIO DE JANEIRO. IN BRASÍLIA, CLINTON MET WITH HIS COUNTERPART FERNANDO HENRIQUE CARDOSO, AS WELL AS THE PRESIDENTS OF THE CHAMBER OF DEPUTIES AND THE SENATE. UNFORTUNATELY, PRESIDENT CLINTON FAILED TO ADDRESS THE ISSUE OF HUMAN RIGHTS PUBLICLY DURING THE TRIP.

## Relevant Human Rights Watch report:

*POLICE BRUTALITY IN URBAN BRAZIL, 4/97*

## COLOMBIA

### Human Rights Developments

EVEN AS THE ADMINISTRATION OF PRESIDENT ERNESTO SAMPER TOOK LIMITED STEPS TO CURB VIOLENCE AND ADDRESS IMPUNITY, THE HUMAN RIGHTS SITUATION IN COLOMBIA DETERIORATED. POLITICAL VIOLENCE WAS PARTICULARLY INTENSE IN AREAS CONTESTED BY GUERRILLAS AND BY PARAMILITARIES OPERATING WITH THE ACQUIESCENCE AND IN SOME CASES THE SUPPORT OF THE ARMY. ALL PARTIES ROUTINELY ATTACKED PERCEIVED ENEMIES WITHIN THE CIVILIAN POPULATION, MEANING THAT NONCOMBATANTS—AMONG THEM FARMERS, ELECTED OFFICIALS, TEACHERS, BANANA WORKERS, MERCHANTS, AND CHILDREN—REMAINED COLOMBIA'S MOST FREQUENT VICTIMS OF POLITICAL VIOLENCE. THOUSANDS OF COLOMBIANS FLED VIOLENCE TO JOIN THE RAPIDLY GROWING RANKS OF THE FORCIBLY DISPLACED. MEANWHILE, POOR CONDITIONS IN COLOMBIA'S JAILS LED TO A SERIES OF PROTESTS, SEVERAL OF WHICH BECAME VIOLENT AND RESULTED IN CASUALTIES AMONG GUARDS AND PRISONERS.

ALTHOUGH EXACT FIGURES REMAINED DIFFICULT TO CONFIRM AND MANY CASES WENT UNREPORTED OR UNINVESTIGATED, IT WAS CLEAR THAT POLITICAL VIOLENCE INCREASED, ESPECIALLY AS OCTOBER 1997 MUNICIPAL ELECTIONS NEARED. ACCORDING TO OUR RECORDS, THERE WERE AT LEAST THIRTY-FIVE MASSACRES IN THE FIRST EIGHT MONTHS OF 1997—TWENTY-SEVEN COMMITTED BY PRESUMED PARAMILITARIES AND EIGHT COMMITTED BY PRESUMED MEMBERS OF THE REVOLUTIONARY ARMED FORCES OF COLOMBIA (FUERZAS ARMADAS REVOLUCIONARIAS DE COLOMBIA, FARC), THE COUNTRY'S LARGEST GUERRILLA GROUP. IN ALL, THESE MASSACRES CLAIMED 272 LIVES. MORE THAN 450 COLOMBIANS ALSO DIED IN TARGETED ASSASSINATIONS, WITH THE LARGEST IDENTIFIED GROUP BEING PEASANTS.

Human Rights Watch recorded a reduction in the number of cases attributed to the security forces, either acting alone or with paramilitary groups, while guerrilla violations increased. In the past, the army openly backed paramilitaries. Human rights organizations in Colombia called on the government to take concerted action against paramilitaries to demonstrate that they were not supported or tolerated by the armed forces. It was significant, therefore, that even as the police and military incorporated human rights into their public statements and held meetings with human rights groups, words did not translate into consistent action against paramilitaries, who operated freely in heavily militarized areas and significantly expanded their operations. The state's failure to arrest paramilitary leaders or pursue their units constituted tacit approval for their violations and meant that paramilitaries waged an unhindered campaign of terror throughout most of the country.

According to the Colombian Commission of Jurists (CCJ), a respected human rights organization, 76 percent of the violations recorded were the work of paramilitaries, 17 percent were the work of guerrillas, and 7 percent were the work of state agents. Human Rights Watch recorded twenty-four cases of extrajudicial executions and eight forced disappearances attributable to the army during the first six months of 1997. On January 10, for example, 19th Brigade soldiers apparently executed three youths detained in a Saravena, Arauca, slum, beating and shooting them in front of witnesses. In addition, in regions like the Middle Magdalena and southern Cesar Department, army units patrolled openly with groups of armed civilians, killing and threatening supposed guerrilla supporters.

When abuses were investigated, the military continued to use its tribunals to cover them up, most notably in the case involving Gen. (ret.) Farouk Yanine Díaz, charged with ordering the 1997 massacre of nineteen men near Puerto Araujo, Santander. On June 23, then-army commander Gen. Manuel Bonett, appointed the investigative judge on the case, announced he would close further investigation of Yanine's involvement. He did so despite solid evidence implicating Yanine. The case had been prepared by the Attorney General's Human Rights Unit, which continued to do credible investigations. Similar evidence collected by the Human Rights Unit had served to convict the civilian paramilitaries accused of carrying out the Puerto Araujo massacre.

In a welcome decision, the Constitutional Court ruled in August that unresolved cases involving extrajudicial executions, torture, forced disappearances, and rape by the security forces must be tried in civilian court, not military tribunals. Writing for the majority, magistrate Eduardo Cifuentes Muñoz held that human rights crimes "have absolutely no connection to the role of state agents according to the constitution. [A]ny order to commit such a crime merits no obedience whatsoever."

However, as of this writing, no pending cases, including that of General Yanine, have been transferred to civilian courts for trial. In an effort to ignore the ruling, military tribunals continued to hear cases involving serious human rights violations, including the December 1991 massacre by police and local paramilitaries of twenty Páez Indians, among them five children, near Caloto, Cauca. On September 23, a military tribunal declared that the massacre constituted an act of service meant to "help (the victims) coexist peacefully" and released the anti-narcotics police captain found to have planned and helped carry out the killings. Although the Samper administration presented a bill to Congress that would reform the military penal code to reflect the Constitutional Court decision, as of this writing it was unclear what its fate will be.

Overall, the paramilitary group known as the Peasant Self-Defense Group of Córdoba and Urabá (Autodefensas Campesinas de Córdoba and Urabá, ACCU) amassed the worst record, committing at least twenty-two of the massacres reported in the first eight months of 1997. In July, over one hundred ACCU members arrived in Mapiripán, Meta, by air, then killed and beheaded at least seven men in the local slaughterhouse. Part of the group's much-publicized plan to form a national alliance of paramilitary groups and reach areas formerly considered guerrilla strongholds, the Mapiripán attack lasted for five days without any reaction by police or military forces based in the area, despite pleas from the local judge. Residents told journalists that as many as thirty more people may have been killed, beheaded, and thrown into the Guaviare river. Most of the residents fled after the attack. In a press interview published after the massacre, ACCU leader Carlos Castaño vowed that in the future, there would be

"MANY MORE CASES LIKE MAPIRIPÁN."

ELSEWHERE, THE ACCU EXPANDED ITS INFLUENCE, MOVING SOUTH FROM THE CARIBBEAN COAST INTO THE DEPARTMENTS OF BOLÍVAR, MAGDALENA, SANTANDER, SUCRE, AND CÉSAR, WITH MASSACRES, KILLINGS, DEATH THREATS, AND FORCED DISPLACEMENT MARKING ITS ADVANCE. SINCE OCTOBER 1996, THE ACCU HAS REPEATEDLY ENTERED PANAMA, WHERE IT HAS KILLED AND THREATENED LOCAL VILLAGERS IT ACCUSES OF PROVIDING GUERRILLAS WITH FOOD AND MEDICINE.

DESPITE THE ANNOUNCEMENT OF A U.S. \$1 MILLION REWARD FOR INFORMATION LEADING TO THE CAPTURE OF ACCU LEADER CASTAÑO, NOTHING WAS DONE TO CAPTURE HIM OR HIS FORCES. AFTER HIGHLY DECORATED ARMY COL. CARLOS VELÁSQUEZ REPORTED IN 1996 THAT HIS SUPERIORS AT URABÁ'S 17TH BRIGADE HAD FAILED TO PURSUE THE ACCU, RATHER THAN INVESTIGATE HIS INFORMATION FULLY, THE MILITARY CASHIERED HIM. NEAR SAN JOSÉ DE APARTADÓ, FOR INSTANCE, A COMBINED FORCE OF PARAMILITARIES AND ARMY SOLDIERS REPORTEDLY EXECUTED JOSÉ MACARIO DAVID GÓEZ, A MENTALLY RETARDED MAN, ON MARCH 27.

AFTERWARD, SOLDIERS APPARENTLY DRESSED DAVID'S BODY IN A MILITARY UNIFORM AND PRESENTED HIM TO THE PRESS AS A GUERRILLA KILLED IN COMBAT.

OTHER PARAMILITARIES ALSO OPERATED IN COLOMBIA VIRTUALLY UNIMPEDED BY THE AUTHORITIES, AMONG THEM THE NORTHEAST SELF-DEFENSE GROUP (GRUPO DE AUTODEFENSA DEL NORDESTE, GAN) AROUND SEGOVIA AND REMEDIOS IN ANTIOQUIA. SINCE THE 1980S, WHEN PARAMILITARIES ALLIED WITH THE ARMY'S BOMBONÁ BATTALION CARRIED OUT A SERIES OF MASSACRES, THIS REGION HAS BEEN TORMENTED WITH POLITICAL KILLINGS. AFTER THE KILLINGS OF THREE HUMAN RIGHTS WORKERS IN MARCH (SEE THE RIGHT TO MONITOR, BELOW), AUTHORITIES CONVENED A "SECURITY MEETING" TO DISCUSS WAYS TO PREVENT FURTHER ATTACKS. NEVERTHELESS, ON AUGUST 2, THE GAN REPORTEDLY TOOK SEVEN PEOPLE FROM THEIR HOMES IN REMEDIOS, INCLUDING FORMER MAYOR AND PATRIOTIC UNION MEMBER CARLOS ROJO URIBE, THEN EXECUTED FIVE OF THEM ON THE ROAD TO SEGOVIA. ROJO AND TEACHER LUIS ALBERTO MUNERA, ALSO A MEMBER OF THE SEGOVIA HUMAN RIGHTS COMMITTEE, WERE TAKEN TO SEGOVIA, WHERE THEY WERE SHOT. IN SEPTEMBER, SOME ALLEGED GAN MEMBERS WERE ARRESTED.

DURING THE YEAR, SEVERAL PEACE INITIATIVES WERE BEGUN, BUT, AS WAS OBVIOUS FROM BEHAVIOR OF THE PARTIES TO THE CONFLICT, THERE WAS NO REAL COMMITMENT TO NEGOTIATING AN END TO THE FIGHTING. AS OCTOBER 26 ELECTIONS NEARED, ELECTED OFFICIALS AND CANDIDATES THROUGHOUT COLOMBIA CAME UNDER INCREASING ATTACK. BOTH THE NATIONAL LIBERATION ARMY (EJÉRCITO DE LIBERACIÓN NACIONAL, ELN) AND FARC VOWED TO STOP ELECTIONS IN A DOZEN DEPARTMENTS. THE ACCU AND ITS ALLIES IN THE UNITED SELF-DEFENSE GROUPS OF COLOMBIA (AUTODEFENSAS UNIDAS DE COLOMBIA, AUC) COALITION ANNOUNCED IN MAY THAT THEY WOULD PREVENT PRO-GUERRILLA "PROSELYTIZING" IN AREAS OF CONFLICT, WHICH CANDIDATES CONSIDERED A THREAT AGAINST THOSE WHO FAILED TO EMBRACE THEIR VIEWS.

WITHIN A MONTH AFTER ASPIRANTS HAD TO SUBMIT THEIR NAMES TO THE NATIONAL ELECTORAL REGISTRY, AUTHORITIES REPORTED THAT OVER 900 HAD CANCELLED THEIR CANDIDACIES DUE TO THREATS. WHILE SIMILAR ELECTIONS IN 1994 WERE SUSPENDED IN NINE MUNICIPALITIES, AS OF MID-SEPTEMBER, THERE WERE FIFTEEN MUNICIPALITIES WITHOUT MAYORAL CANDIDATES. IN THE WORDS OF ONE CANDIDATE WHO WITHDREW, "TO BE A CANDIDATE FOR MAYOR OR EVEN TOWN COUNCIL IN MANY RURAL AREAS. . . IS TO SEARCH OUT A DEATH FORETOLD."

IN THE FIRST EIGHT MONTHS OF 1997, GOVERNMENT AUTHORITIES REPORTED THAT TEN MAYORS HAD BEEN MURDERED, REPRESENTING TOWNS IN EIGHT DEPARTMENTS. IN ADDITION, THIRTY-SIX TOWN COUNCIL MEMBERS WERE KILLED. EVEN CANDIDATES' FAMILY MEMBERS WERE THE FREQUENT TARGETS OF DEATH THREATS AND KIDNAPING. COLOMBIA REMAINED THE WORLD'S LEADER IN REPORTED KIDNAPPINGS, CLOSE TO HALF OF WHICH WERE CARRIED OUT BY REBELS. ACCORDING TO GOVERNMENT AUTHORITIES, BETWEEN NOVEMBER 1996 AND AUGUST 1997, FORTY-ONE MAYORS WERE KIDNAPED.

BOTH PARAMILITARIES AND GUERRILLAS ALSO THREATENED JOURNALISTS. AMONG THEM WAS ALFREDO MOLANO, WHO REPORTED THAT IN AUGUST HE RECEIVED A PARAMILITARY THREAT SUGGESTING THAT HE WAS A "SUBVERSIVE ENCYSTED" IN THE GOVERNMENT BECAUSE OF HIS WORK FOR THE GOVERNMENT'S HIGH COMMISSIONER FOR PEACE. IN TURN, THE FARC ANNOUNCED IN JUNE THAT IT WOULD CONSIDER JOURNALISTS WHO WROTE WHAT THEY CONSIDERED "APOLOGY FOR MILITARISM" LEGITIMATE MILITARY TARGETS.

FAR FROM PROTECTING THREATENED MAYORS, THE SECURITY FORCES APPEARED LARGELY POWERLESS OR UNWILLING TO PURSUE THEIR ATTACKERS. TO THE CONTRARY, MAYORS THEMSELVES BECAME THE TARGETS OF ARMY INVESTIGATIONS FOR SUPPOSED TIES TO GUERRILLAS. AN ARMY INTELLIGENCE REPORT LEAKED TO THE NEWSWEEKLY *SEMANA* IN MAY ALLEGED THAT 650 MUNICIPAL

GOVERNMENTS—MORE THAN HALF OF THOSE IN COLOMBIA—HAD EITHER DIRECT TIES WITH GUERRILLAS OR COLLABORATED WITH THEM. DOZENS OF MAYORS PROTESTED, SAYING THE INFORMATION WAS TANTAMOUNT “TO PUTTING A GRAVESTONE OVER OUR HEADS.” THE MAYOR OF SOGAMOSO, BOYACÁ, A CATHOLIC PRIEST, FILED FORMAL CHARGES AGAINST THE GOVERNMENT FOR DEFAMATION, AND THE ARMY LATER DISAVOWED ITS REPORT.

INSTEAD OF MOVING AGGRESSIVELY TO PROTECT THE CIVILIAN POPULATION AND ENSURE ITS NEUTRAL STATUS, THE GOVERNMENT PROMOTED RURAL WATCH COOPERATIVES COOPERATIVAS DE VIGILANCIA Y SEGURIDAD RURAL, (CONVIVIR), MADE UP OF CIVILIANS AUTHORIZED TO GATHER INTELLIGENCE FOR THE SECURITY FORCES, JOIN MANEUVERS, AND USE WEAPONS BANNED FOR PRIVATE OWNERSHIP, INCLUDING MACHINE GUNS, MORTARS, GRENADES, AND ASSAULT RIFLES. ALTHOUGH CONVIVIRS RECEIVE A GOVERNMENT LICENSE, THE IDENTITIES OF THEIR MEMBERS REMAIN ANONYMOUS EVEN TO LOCAL AUTHORITIES.

IN 1997, WE RECEIVED CREDIBLE REPORTS THAT CONVIVIRS IN THE MIDDLE MAGDALENA AND SOUTHERN CESAR REGIONS WERE LED BY KNOWN PARAMILITARIES AND HAD THREATENED AND KILLED COLOMBIANS DEEMED SYMPATHETIC TO GUERRILLAS OR WHO REFUSED TO JOIN. ON FEBRUARY 3, A CONVIVIR PATROLLING WITH THE ARMY'S FOURTEENTH BRIGADE NEAR THE VILLAGE OF SAN FRANCISCO, IN SANTANDER, APPARENTLY EXECUTED NORBERTO GALEANO, REYNALDO RÍOS, AND A SEVENTY-YEAR-OLD MAN, THEN DISMEMBERED THEIR BODIES. TWO MONTHS EARLIER, THE SAME GROUP HAD BEEN LINKED TO THE MASSACRE OF AT LEAST SEVEN PEOPLE IN THE NEARBY VILLAGES OF LA CONGOJA AND PUERTO NUEVO, PROMPTING THE MASS DISPLACEMENT OF OVER 700 VILLAGERS.

ALONG WITH THE CCJ, FOURTEEN HUMAN RIGHTS GROUPS FILED A SUIT WITH THE CONSTITUTIONAL COURT CALLING FOR DECREE 356, WHICH REGULATES CONVIVIR, TO BE DECLARED UNCONSTITUTIONAL. IN ITS BRIEF, THE CCJ ARGUED THAT THROUGH CONVIVIR, THE SAMPER ADMINISTRATION WAS ARMING CIVILIANS IN VIOLATION OF THE CONSTITUTION. GIVEN COLOMBIA'S TRAGIC HISTORY OF PARAMILITARY VIOLENCE, EXECUTIVE DIRECTOR GUSTAVO GALLÓN NOTED IN AN AUGUST 26 HEARING BEFORE THE COURT, A DECREE THAT “PERMITS THE ORGANIZATION AND DEVELOPMENT OF PARAMILITARY GROUPS. . . IS CONTRARY TO THE ESSENCE OF THE STATE'S RULE OF LAW.”

DOZENS OF GOVERNMENT OFFICIALS, MAYORS, AND RELIGIOUS LEADERS ALSO OBJECTED TO CONVIVIR, AMONG THEM ATTORNEY GENERAL ALFONSO GÓMEZ MÉNDEZ, WHO ARGUED THAT CONVIVIR INVOLVED CIVILIANS IN THE ARMED CONFLICT, THUS EXCLUDING THEM FROM THE HUMANITARIAN PROTECTIONS GRANTED BY PROTOCOL II ADDITIONAL TO THE GENEVA CONVENTIONS. “WITH THE ORGANIZATION OF CONVIVIR,” GÓMEZ NOTED, “THE COLOMBIAN STATE ONCE AGAIN HAS FALLEN INTO THE ERROR OF PROMOTING THE CREATION OF ‘ARMED INDIVIDUALS,’ WHO INTENSIFY PROBLEMS OF ILLEGAL REPRESSION AND WAR WITHOUT QUARTER.”

IN AUGUST, EVEN PRESIDENT SAMPER ADMITTED THAT SOME CONVIVIRS “HAVE TRANSGRESSED THEIR LEGAL BOUNDARIES TO ASSUME COMBAT ROLES.” SUBSEQUENTLY, THE GOVERNMENT ANNOUNCED THAT IT WOULD SUSPEND THE CREATION OF NEW CONVIVIRS.

GUERRILLAS ALSO COMMITTED SERIOUS ABUSES DURING 1997, AMONG THEM MASSACRES. ON MARCH 9, PRESUMED MEMBERS OF THE FARC'S 34TH FRONT OPENED FIRE ON AN ICE CREAM PARLOR IN CURRULAO, ANTIOQUIA, KILLING NINE PEOPLE, INCLUDING PARLOR OWNER DANILO VALENCIA NARANJO.

THE FARC WAS BELIEVED TO HAVE SENT THE APRIL BOOK BOMB THAT KILLED PEDRO AGUDELO, THE SEVENTEEN-YEAR-OLD SON OF HOPE, PEACE AND LIBERTY PARTY (ESPERANZA, PAZ Y LIBERTAD) LEADER MARIO AGUDELO.

THE FARC MADE A PRACTICE OF ATTACKING CIVILIAN TARGETS, PUTTING THE LIVES OF NONCOMBATANTS AT SERIOUS RISK. IN JANUARY, GUERRILLAS APPARENTLY ACTIVATED A BOMB IN FRONT OF A MEDELLÍN SKYSCRAPER, KILLING FOUR PASSERSBY AND WOUNDING FORTY-ONE OTHERS.

IN SEPTEMBER, ONE OF COLOMBIA'S LARGEST HYDROELECTRIC PLANTS WAS THE TARGET, CAUSING THE GOVERNMENT TO RECOMMEND THAT FAMILIES BEGIN LIMITING THEIR USE OF ELECTRICITY. THE ELN ALSO COMMITTED SERIOUS VIOLATIONS, AMONG THEM TARGETED KILLINGS. ACCORDING TO PRESS REPORTS AND INFORMATION GATHERED BY HUMAN RIGHTS GROUPS, THE ELN WAS RESPONSIBLE FOR AT LEAST FORTY-NINE POLITICAL KILLINGS IN THE FIRST NINE MONTHS OF 1997. AMONG THE VICTIMS WERE FARMERS, MAYORS, AN EMPLOYEE OF THE ATTORNEY GENERAL'S OFFICE, AND CHILDREN. IN ADDITION, THE ELN APPARENTLY KILLED SEVERAL SECURITY FORCE AGENTS *HORS DE COMBAT*, AMONG THEM THREE SOLDIERS CAPTURED AND EXECUTED ON AUGUST 3 NEAR EL PLAYÓN, SANTANDER.

THE ELN STEPPED UP ITS USE OF CAR BOMBS, REGISTERING DOZENS OF ATTACKS IN THE FIRST SIX MONTHS OF 1997. IN AN



attack on March 17, a car bomb in Cúcuta, Norte de Santander, apparently detonated by the "Resistencia Yariguíes" Front of the ELN, killed eighteen-month-old Martha Liliana Riveros and left several others wounded.

Kidnapping remained a common tactic of paramilitaries and guerrillas, who routinely took family members of combatants as hostages. Since 1996, the ACCU kidnapped over a dozen family members of guerrillas, seven of whom were released on March 26 under the auspices of the International Committee of the Red Cross (ICRC).

Several political kidnappings led to deaths. On May 5, the FARC announced that Congressman Rodrigo Turbay Cote, kidnapped in 1995, had died while being transported along the Caguán river in his native department of Caquetá, apparently after falling from a canoe. In retaliation, paramilitaries who had kidnapped two family members of an ELN commander announced that they were executed in May.

Three Americans kidnapped by the FARC in 1993 remained missing as of this writing—Richard Tenenhoff, David Mankins, and Mark Rich. The FARC was also implicated in the execution-style slaying of two kidnap victims, Austrian Johan Kehrer and German Alexander Scheurer, in the Chocó jungle in March.

The forced displacement of civilians continued to be part of the strategy of war used by all sides, particularly paramilitaries. In March, the Consultancy on Human Rights and Displacement (Consultoría para los Derechos Humanos y el Desplazamiento, CODHES), nongovernmental organization (NGO), estimated that between 1995 and 1996, 920,000 people had been displaced by violence, an average of one in every forty Colombians. According to the United Nations Children's Fund (UNICEF) in Colombia, 72 percent of the displaced were children.

The year was marked by forced displacements on a massive scale not seen previously. In March, more than 13,000 people, most from black minority communities, fled their homes along the Riosucio river in the northwest department of Chocó after paramilitaries took control in December 1996 and the army carried out indiscriminate air attacks two months later. After a difficult journey through the jungle during which several people reportedly died, the army blocked the passage of peasants fleeing to the town of Mutatá. The refugees were prohibited from making the journey. There were credible reports that a soldier fired on a group of the displaced attempting to reach Mutatá in April and seriously injured two people, including a girl. A court later found the government, specifically the army, responsible for causing the forced displacement, and ordered authorities to ensure the families' safe return to their homes.

Nevertheless, as of this writing, thousands of displaced from Riosucio continue to live in crowded camps at Pavarandó Grande, without sufficient food, water, or health care. Paramilitaries threatened to enter the camp to kill displaced, and reportedly assassinated several people in nearby towns.

The Samper administration responded to mass displacement by creating the post of "presidential counselor for the displaced" in April, adopting a revised national plan on displacement in May, and promulgating Law 397 in July, which dealt specifically with assistance, protection, and prevention issues. Advocates criticized the government for promoting the return of the displaced to their homes without guaranteeing their safety, highlighting mandatory registration requirements and lack of funds as serious flaws in the new law. The United Nations High Commissioner for Refugees (UNHCR) opened an office in June by invitation of the Colombian government, but no formal agreement about the scope of the agency's activities had been reached at the time of this writing.

Doubts about the government's ability to effectively address the problem of forced displacement were deepened by the case of 290 families violently evicted by paramilitaries from the Bellacruz Ranch in the department of Cesar in February 1996. With twenty-six of at least twenty-eight arrest warrants against the implicated paramilitaries still outstanding, the families were unable to return, and most were resettled on unirrigated land that allowed only a precarious existence. In May, the Constitutional Court issued an injunction protecting the rights of the Bellacruz peasants after the governor of Cundinamarca refused to allow the families, whom she accused of being subversives, to resettle in her jurisdiction.

In April, some 300 Colombians were forcibly repatriated from Panama to Bahía Cupica, Chocó, after the UNHCR was denied access to interview them in Panama. Safe conditions for their return did not exist, and the repatriated

FAMILIES WERE EVACUATED FROM BAHÍA CÚPICA ON AN EMERGENCY BASIS IN SEPTEMBER AFTER PARAMILITARIES CIRCULATED A LIST OF TWELVE PEOPLE THEY INTENDED TO KILL OR KIDNAP.

IN COLOMBIA'S JAILS, PRISONERS CITED SEVERE OVERCROWDING, LACK OF MEDICAL CARE, AND ISOLATION AS THE REASONS BEHIND A SERIES OF COORDINATED PROTESTS THAT BEGAN IN JANUARY AND CONTINUED THROUGH JUNE. A CENSUS BY THE NATIONAL PENITENTIARY INSTITUTE, RESPONSIBLE FOR ADMINISTERING COLOMBIA'S PRISONS, SHOWED THAT ALTHOUGH COLOMBIA HAS THE CAPACITY TO HOUSE 30,000 PRISONERS, AS OF APRIL 1997, IT REPORTED HOLDING 42,000 INMATES, HALF OF WHOM WERE STILL AWAITING TRIAL FOR COMMON CRIMES AND REBELLION. IN THE VALLEDUPAR PRISON, IN CESAR, ARMED INMATES AND IMPRISONED MEMBERS OF THE ELN KILLED FOUR PRISON GUARDS AND TOOK SIXTEEN OTHER PEOPLE HOSTAGE, INCLUDING A FOURTEEN-YEAR-OLD GIRL, IN APRIL BEFORE AGREEING TO SURRENDER TO AUTHORITIES AND RELEASING THE HOSTAGES UNHARMED.

GIVEN THE SERIOUS PROBLEMS OF INTERNAL DISPLACEMENT, HOSTAGE-TAKING, AND VIOLENCE, THE ICRC TOOK AN INCREASINGLY IMPORTANT ROLE IN COLOMBIA, BOOSTING ITS IN-COUNTRY STAFF TO FORTY-THREE PEOPLE AND MAINTAINING NINE OFFICES. THE ORGANIZATION BROKERED PRISONER EXCHANGES, VISITED PRISONERS AND HOSTAGES, AIDED THE WOUNDED AND DISPLACED, AND ASSISTED THREATENED COLOMBIANS TO FLEE THE COUNTRY. ACCORDING TO ICRC ESTIMATES, THEIR OFFICE ASSISTED IN THE RELEASE OF FORTY HOSTAGES BETWEEN AUGUST 1996 AND MARCH 1997. THE ICRC ALSO GAVE PRESENTATIONS ON INTERNATIONAL HUMANITARIAN LAW TO ACCU MEMBERS AND GUERRILLAS.

### The Right to Monitor

HUMAN RIGHTS DEFENDERS CONTINUED TO BE THE TARGETS OF ATTACK AND THREATS. ON MAY 19, MARIO CALDERÓN, AN EMPLOYEE OF THE CENTER FOR RESEARCH AND POPULAR EDUCATION (CENTRO DE INVESTIGACIÓN Y EDUCACIÓN POPULAR, CINEP), ELSA ALVARADO, HIS WIFE AND A FORMER CINEP EMPLOYEE, AND CARLOS ALVARADO, ELSA'S FATHER, WERE KILLED BY MASKED GUNMEN IN THEIR BOGOTÁ APARTMENT, APPARENTLY IN RETALIATION FOR THEIR HUMAN RIGHTS WORK. ALTHOUGH ALVARADO'S MOTHER WAS SERIOUSLY WOUNDED, THE COUPLE'S EIGHTEEN-MONTH-OLD SON WAS UNHARMED. ON SEPTEMBER 28, AUTHORITIES IN MEDELLÍN ARRESTED FIVE PEOPLE WHO MAY HAVE TAKEN PART IN THE KILLING.

IN SEGOVIA, ANTIOQUIA, GAN CONTINUED TO WORK IN CLOSE COORDINATION WITH THE ARMY'S BOMBONÁ BATTALION, AN ALLIANCE CONSIDERED COMPLICIT IN THE MARCH 9 MURDER OF NAZARENO DE JESÚS RIVERA, A SEGOVIA HUMAN RIGHTS COMMITTEE MEMBER. THE SAME DAY, COLLEAGUE JAIME ORTIZ LONDOÑO WAS FORCIBLY DISAPPEARED. ON MARCH 12, THE ARMY'S FOURTEENTH BRIGADE FALSELY DISPLAYED RIVERA'S BODY TO THE PRESS AS "A GUERRILLA KILLED IN ACTION" AND SHOWED REPORTERS ORTIZ'S IDENTITY DOCUMENTS. ON MARCH 23, A FORMER MEMBER OF THE SAME GROUP, MARGARITA GUZMÁN, WAS KILLED IN HER OFFICE, APPARENTLY FOR HER WORK FOR THE AUTHORITIES INVESTIGATING RIVERA'S DEATH AND ORTIZ'S "DISAPPEARANCE."

ALSO ON MARCH 7, VÍCTOR JULIO GARZÓN, THE SECRETARY-GENERAL OF AN AGRARIAN ASSOCIATION AND A WELL-KNOWN HUMAN RIGHTS DEFENDER, WAS KILLED BY UNIDENTIFIED GUNMEN IN HIS BOGOTÁ OFFICE. GARZÓN WAS A MEMBER OF THE META CIVIC COMMITTEE FOR HUMAN RIGHTS, ALL BUT EXTINGUISHED AFTER ITS MEMBERS HAVE BEEN SYSTEMATICALLY KILLED. ALTHOUGH INTERNATIONAL OUTRAGE FOLLOWED THE 1996 MURDER OF JOSUÉ GIRALDO, PRESIDENT OF THE META CIVIC COMMITTEE FOR HUMAN RIGHTS, AT THIS WRITING, NO ARRESTS HAVE BEEN MADE IN HIS CASE, WHICH REMAINED IN PRELIMINARY INVESTIGATION ALONG WITH MOST OTHER INVESTIGATIONS INTO PAST KILLINGS OF HUMAN RIGHTS MONITORS.

COMMUNITY LEADERS WHO SPOKE OUT ABOUT HUMAN RIGHTS CONTINUED TO BE TARGETS. ON OCTOBER 6, FARC MEMBERS, APPARENTLY ANGERED BY THE DECISION OF SAN JOSÉ DE APARTADÓ RESIDENTS NOT TO SUPPLY FOOD, ABDUCTED AND KILLED LUIS HERNÁNDEZ GOES, LUIS FERNÁNDEZ AGUIRRE, AND RAMIRO CORREA. THE THREE WERE MEMBERS OF A CIVIC GROUP WORKING TO MAKE THE TOWN NEUTRAL TERRITORY IN THE BATTLE AMONG GUERRILLAS, PARAMILITARIES, AND THE ARMY. ANOTHER CIVIC LEADER, FRANCISCO TABARQUINO, HAD BEEN KILLED BY PARAMILITARIES ON MAY 17.

GOVERNMENT WORKERS WHO INVESTIGATED CASES INVOLVING LINKS BETWEEN THE SECURITY FORCES AND PARAMILITARIES WERE ALSO KILLED OR FORCED TO LEAVE THE COUNTRY FOR THEIR SAFETY. AMONG THEM, FORMER YUNDÓ, ANTIOQUIA, OMBUDSMAN GUSTAVO NÚÑEZ WAS PULLED FROM A PUBLIC BUS BY PARAMILITARIES NEAR BARRANCABERMEJA AND KILLED ON AUGUST 9.

OTHER HUMAN RIGHTS DEFENDERS WERE THE TARGETS OF THREATS AND SURVEILLANCE BY MEMBERS OF THE SECURITY FORCES. WILSON PATIÑO, A HUMAN RIGHTS ACTIVIST FROM REMEDIOS, ANTIOQUIA, WAS FORCED TO LEAVE THE AREA AFTER ARMED MEN CAME TO HIS HOME ON MARCH 20, APPARENTLY TO KILL HIM. ON MAY 24, NEFTALÍ VANEGAS PEREA, A HUMAN RIGHTS DEFENDER IN

Ocaña, Norte de Santander, narrowly escaped an assassination attempt by armed men believed to be working in league with the security forces.

The offices of the Association of Family Members of the Detained and Disappeared (Asociación de Familiares de Detenidos y Desaparecidos, ASFADDES) were the target of a June 24 bombing that destroyed the group's archives. Subsequently, organization members in Medellín and Riosucio, Chocó, received several threats, including that of a telephone caller who claimed that "the bomb was only a warning, so it would be better if you left the office." Two branch offices were later closed for fear of attacks, and the group's president and her family were forced to leave the country for their safety.

Other human rights workers reported receiving threats related to their work. After a series of massacres in the Middle Magdalena region, five human rights workers associated with the Regional Corporation for the Defense of Human Rights (Corporación Regional para la Defensa de los Derechos Humanos, CREDHOS) were informed that their names appeared on death lists being circulated by paramilitaries. In September, members of the Association for the Promotion of Social Alternatives (Asociación para la Promoción Social Alternativa, MINGA) said that suspicious men were watching their offices and were following the MINGA and ASFADDES members working there.

In response to the killings of human rights defenders, thirty-six human rights groups, unions, religious groups, and indigenous groups petitioned the government in May and again in June for investigations into attacks, the punishment of those responsible, an end to the military's verbal attacks on their work, and guarantees of protection. A key demand was for an aggressive and immediate law enforcement effort to identify, track down, and arrest members of paramilitary groups and their security force patrons, an effort, the groups noted, that should be given equal status with punishing drug traffickers and guerrillas.

In a partial acknowledgment of the seriousness of the situation, President Samper issued a directive honoring the work of human rights defenders and explicitly barring government officials, including the army, from making statements that "falsely accuse or belittle the right to a defense, due process and the honor [of human rights defenders]" on July 16. Subsequently, groups met with the government, and on September 9, Colombia's Human Rights Day, President Samper announced the creation of a Human Rights Council to coordinate actions among the government's multiple human rights offices.

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

### **United Nations**

April 7 marked the official opening of the Bogotá office of the U.N. High Commissioner for Human Rights, led by Amb. Almudena Mazarrasa and staffed by five experts and a deputy director. At this writing, it is too early to judge the effectiveness of the office, but at least one of the objectives in establishing it was achieved: the office pressed the government on issues of concern to the commission, including reforms to the military penal code and CONVIR. Experts traveled throughout the country and held regular meetings with government officials, representatives of human rights groups, and Colombians wishing to deliver complaints.

Nevertheless, the Human Rights Committee continued to lament Colombia's failure to implement its repeated recommendations, and noted that "gross and massive human rights violations continue to occur in Colombia." The committee expressed its "deep concern" over evidence that paramilitary groups "receive support from members of the military" and that "impunity continues to be a widespread phenomenon."

### **European Union**

Some European embassies and diplomats took high-profile roles in attempting to lessen political violence and the suffering it caused. In April, Netherlands Amb. Gysbert Bos made a three-day visit to the Middle Magdalena region,

in part to draw attention to a rise in paramilitary activity and displacement. The visit was seen as especially important given that the Netherlands occupied the presidency of the EU.

For its part, the EU continued to pressure Colombia to improve its human rights record, and announced in September its full support for a negotiated settlement to political conflict.

The European Community Humanitarian Office (ECHO) donated U.S. \$5 million dollars in emergency aid to international NGOs to assist the thousands of people forcibly displaced earlier in the year in Urabá.

## Organization of American States

The Organization of American States agreed to send a team to Colombia to monitor municipal elections in areas where guerrillas and paramilitaries had threatened candidates. Two monitors, a Guatemalan and a Chilean, were kidnapped by the ELN and held for more than a week before being released. For its part, the Inter-American Human Rights Commission continued to hear Colombian cases and took part in several efforts to resolve cases through so-called "friendly negotiation" between victims and the government. However, in several high-profile cases, including the 1990 Trujillo massacre and the 1994 Villatina massacre, this effort had not, at this writing, borne tangible fruit.

In October, two Colombian human rights groups formally presented to the commission the case involving Navy Intelligence Network No. 7 and its involvement in the killings of at least sixty-eight people from 1991 to 1993 in and around Barrancabermeja, Santander. The case was detailed in *Colombia's Killer Networks: The Military-Paramilitary Partnership and the United States*, published by Human Rights Watch in November 1996.

## United States

The United States pursued a contradictory policy in Colombia. On the one hand, the Clinton administration for the first time made human rights an important part of U.S.-Colombia relations. In 1997, the State Department issued its most detailed and critical human rights report ever, concluding that "the [Colombian] armed forces committed numerous, serious human rights abuses." In addition, the report noted, "the Samper administration has not taken action to curb increased abuses committed by paramilitary groups, verging on a policy of tacit acquiescence."

This report was followed by an April letter from Secretary of State Madeline Albright to Sen. Patrick Leahy, co-sponsor of a 1996 amendment that placed human rights conditions on some antinarcotics aid. In the letter, Secretary Albright announced that the spirit of the amendment would be applied to all anti-narcotics aid, including monies suspended after Colombia was "decertified" a second time in a row for failing to meet U.S. goals in fighting drugs. In an unusual move, the U.S. embassy publicly expressed its concern over the tone used by military authorities to attack civilian investigators who linked General Yanine to the Puerto Araujo massacre, the first time it had spoken publicly on a human rights case.

For its principled stand, the administration was harshly criticized by some Republicans in the U.S. Congress, who argued that human rights concerns hampered the drug war. Led by the International Relations Committee and its chair, Rep. Benjamin Gilman, Republicans attempted to remove the Leahy amendment from the 1998 Foreign Operations bill, an initiative that failed.

Although the Clinton administration acknowledged that Colombia's human rights situation continued to be serious, it also pushed hard for aid to the military to fight drugs, arguing that funds would be channeled to units without bad records. After months of tense negotiations, the Colombian and U.S. governments signed an end-use monitoring agreement on August 1, freeing \$70 million of the \$100 million slated to reach Colombia in 1997, much of it for the army and navy. Among the items sent were communications equipment, night vision scopes, and parts for helicopters and river patrol boats. Police continued to receive aid throughout the year, including munitions and weapons. However, the agreement on military aid left monitoring to the Colombian Defense Ministry, not U.S.

OFFICIALS, WHO WERE SEVERELY LIMITED IN THEIR ABILITY TO VERIFY ANY REPORTS.

## CUBA

### Human Rights Developments

CUBA VOICED MUFFLED SUPPORT FOR HUMAN RIGHTS AND REPRESENTATIVE DEMOCRACY IN THE PAST YEAR, AS IT MOVED TOWARD GREATER ECONOMIC ENGAGEMENT WITH EUROPE, CANADA, ASIA, AND LATIN AMERICA. BUT THE GOVERNMENT REVEALED AN INTRANSIGENT RELIANCE ON POLITICAL OPPRESSION TO CRUSH INTERNAL OPPOSITION THROUGH ITS REPRESSIVE MEASURES AGAINST DISSIDENTS, FAILURE TO AMNESTY POLITICAL PRISONERS, CONTINUING BLOCKAGE OF HUMAN RIGHTS MONITORING, CREATION OF NEW LAWS RESTRICTING HUMAN RIGHTS, AND REFUSAL TO DISMANTLE OPPRESSIVE LEGAL STRUCTURES.

IN ONE OF CUBA'S STRONGEST STATEMENTS FAVORING HUMAN RIGHTS, PRESIDENT FIDEL CASTRO RUIZ SIGNED THE VINA DEL MAR DECLARATION, ENDORSING SUPPORT FOR DEMOCRACY AND RESPECT FOR HUMAN RIGHTS, FUNDAMENTAL LIBERTIES, AND THE PRINCIPLES CONSECRATED IN THE UNITED NATIONS CHARTER, AT THE SIXTH IBEROAMERICAN SUMMIT OF LEADERS IN CHILE IN NOVEMBER 1996. ON JANUARY 9, 1997, HOWEVER, CUBA FLAUNTED ITS DISDAIN FOR THE AGREEMENT BY ARRESTING HÉCTOR PALACIOS RUIZ, THE PRESIDENT OF THE DEMOCRATIC SOLIDARITY PARTY (PARTIDO SOLIDARIDAD DEMOCRÁTICA, PSD), CHARGING HIM WITH CONTEMPT FOR THE AUTHORITY OF PRESIDENT CASTRO AND SEIZING HIS COPIES OF THE VINA DEL MAR DECLARATION. PALACIOS RUIZ, WHOM THE CUBAN GOVERNMENT SENTENCED TO EIGHTEEN MONTHS' IMPRISONMENT ON SEPTEMBER 4, HAD CHALLENGED THE GOVERNMENT'S WILLINGNESS TO COMPLY WITH THE DECLARATION IN AN INTERVIEW WITH A GERMAN JOURNALIST.

PALACIOS RUIZ'S TRIAL, AND CUBA'S REFUSAL TO AMNESTY POLITICAL PRISONERS, HIGHLIGHTED THE GOVERNMENT'S RELIANCE ON ITS PRISON SYSTEM AS THE BACKBONE OF ITS REPRESSIVE TACTICS. ONCE AGAIN, IN THE PAST YEAR THE GOVERNMENT FAILED TO REFORM A PENAL CODE THAT CRIMINALIZED THE EXERCISE OF FUNDAMENTAL RIGHTS UNDER PROVISIONS SUCH AS "ENEMY PROPAGANDA," "CONTEMPT FOR AUTHORITY," "ILLICIT ASSOCIATION," "DANGEROUSNESS," AND "ILLEGAL EXIT." CUBAN COURTS ROUTINELY DENIED BASIC DUE PROCESS GUARANTEES, INCLUDING SUFFICIENT AND TIMELY ACCESS TO LAWYERS, THE RIGHT TO PRESENT WITNESSES AND EVIDENCE FOR THE DEFENSE, AND OPEN COURTROOMS FREE OF INTIMIDATION.

AMONG THE DISSIDENTS PROSECUTED IN THE LAST YEAR WAS ENRIQUE GARCÍA MOREJÓN, A MEMBER OF THE CHRISTIAN LIBERATION MOVEMENT (MOVIMIENTO CRISTIANO DE LIBERACIÓN, MCL), SENTENCED IN FEBRUARY 1997 TO FOUR YEARS IN PRISON FOR ENEMY PROPAGANDA. THE COURT ALLEGED THAT HE HAD DISTRIBUTED FLYERS SAYING "DOWN WITH FIDEL," BUT REPORTEDLY THE CHARGE AROSE FROM HIS COLLECTING SIGNATURES FOR THE MCL'S UNSUCCESSFUL ATTEMPT TO OBTAIN LEGAL STATUS. IN MAY 1997, CUBAN AUTHORITIES SENTENCED ANA MARÍA AGRAMONTE CRESPO, A MEMBER OF THE NATIONALIST ACTION MOVEMENT (MOVIMIENTO DE ACCIÓN NACIONALISTA), TO EIGHTEEN MONTHS FOR CONTEMPT FOR AUTHORITY AND RESISTANCE TO AUTHORITY. A CUBAN COURT CONDEMNED RICARDO DE ARMAS HERNÁNDEZ, A MEMBER OF THE PSD IN MATANZAS, TO NINE MONTHS FOR DANGEROUSNESS IN MAY. CONFINED IN THE HARSH AGÜICA PRISON, DE ARMAS REPORTEDLY SUFFERED BEATINGS BY PRISONERS HELD FOR COMMON CRIMES IN AUGUST. IN AUGUST 1997, A COURT CONVICTED LUIS MARIO PARED ESTRADA, A LEADER OF THE THIRTIETH OF NOVEMBER PARTY "FRANK PAÍS" (PARTIDO 30 DE NOVIEMBRE "FRANK PAÍS"), OF DANGEROUSNESS AND SENTENCED HIM TO ONE YEAR. IN SEPTEMBER, A HAVANA COURT CONVICTED HIS COLLEAGUE, MARITZA LUGO FERNÁNDEZ OF BRIBERY, FOR ALLEGEDLY TRYING TO PAY A PRISON GUARD TO BRING A PRISONER A TAPE RECORDER.

A CUBAN COURT ALSO CONVICTED NÉSTOR RODRÍGUEZ LOBAÍNA, THE PRESIDENT OF YOUTH FOR DEMOCRACY (JÓVENES POR LA DEMOCRACIA), OF CONTEMPT FOR AUTHORITY AND RESISTING ARREST ON APRIL 10, 1997, SENTENCING HIM TO EIGHTEEN MONTHS.

IN SEPTEMBER, SEVERAL PRISON GUARDS BEAT HIM AFTER HE BEGAN A HUNGER STRIKE TO PROTEST PRISON CONDITIONS. ON JUNE 17, 1997, A COURT SENTENCED RADAMES GARCÍA DE LA VEGA, A VICE-PRESIDENT OF YOUTH FOR DEMOCRACY, TO EIGHTEEN MONTHS FOR CONTEMPT FOR AUTHORITY. IN LATE JULY, THE GOVERNMENT CONVICTED HERIBERTO LEYVA RODRÍGUEZ, A VICE-PRESIDENT OF THE SAME GROUP, OF CONTEMPT FOR AUTHORITY OF THE SANTIAGO COURT, REPORTEDLY BASED ON HIS TESTIMONY AT GARCÍA DE LA VEGA'S APPEAL HEARING EARLIER THAT MONTH.

THE DISSIDENTS CONVICTED OF POLITICAL CRIMES IN 1997 JOINED OVER 900 ADDITIONAL POLITICAL PRISONERS IN CUBA'S EXTENSIVE PRISON SYSTEM. PRISON CONDITIONS REMAINED POOR FOR ALL INMATES, AND DISSIDENTS SUFFERED PARTICULARLY

abusive treatment. Political prisoners often suffered dramatic weight loss due to meager food rations; serious, and sometimes life-threatening, health problems due to insufficient medical attention; and, in some cases, abuses at the hands of guards or common criminals, with whom they routinely were mixed. Prison authorities forced some imprisoned dissidents to spend periods in isolation cells, restricted their visits, or transferred them far from family members. The punitive and intimidatory measures against political prisoners that caused severe pain and suffering violated Cuba's obligations under the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, which it ratified in 1995. Once again, in the past year the government forbade access to its prisons by international human rights monitors and humanitarian groups, including the International Committee of the Red Cross (ICRC).

Guards at the Kilo 9 prison, which is known for its extremely harsh conditions, persisted in their abusive treatment of Jesús Chamber Rodríguez. He suffered deteriorating health due to confinement in punishment cells, insufficient medical attention, poor nutrition, and denial of access to sunlight for weeks at a time. Chamber Rodríguez began serving a ten-year sentence for enemy propaganda in 1992, but Cuban authorities sentenced him to four more years in 1996 for contempt of authority, apparently based on his criticizing prison conditions and shouting "down with Fidel." Jorge Luis García Pérez, known as Antúnez, who began serving seventeen years for enemy propaganda, sabotage, and "evasion" in 1990, also received harsh treatment from prison authorities. Prison guards responded to Antúnez's hunger strikes, in protest of prison conditions, by denying him family visits and medicine. In September, guards at the Guantanamo prison beat Antúnez after he criticized the government.

Cuban failures to provide medical care left many political prisoners in critical condition. Omar Del Pozo Marrero, a doctor who received a fifteen-year sentence in 1992 and was held at the Combinado del Este prison, suffered severe hypertension and malnutrition in 1997, due to insufficient medical care, bars on his access to sunlight for several week periods, and restrictions on family visits. Prison authorities at Kilo 9 did not provide Eduardo Gómez Sánchez, who was sentenced in 1994 to twenty years for illegal exit and rebellion, with appropriate treatment for a liver ailment that turned his skin yellow and caused vomiting, diarrhea, and weight loss.

Cuba's efforts to stifle criticism reached inside prison walls as well, where prisoners protesting inhumane treatment faced retaliatory measures, including beatings, isolation, and criminal prosecution. On January 21, 1997, a Cuban court convicted Víctor Reinaldo Infante Estrada, whom a Cuban military court sentenced to thirteen years in prison in 1992, to one additional year for contempt of authority. The court based Infante Estrada's second sentence on his denouncing abuses at the Acúica prison, where he was held. In May, when he demanded improved medical treatment, the prison authorities punished him again, by confining him to an isolation cell for over one month.

Security forces harassed and arbitrarily detained scores of nonviolent activists in the past year. Government repression touched broad sectors of civil society, including academics, human rights activists, labor organizers, religious leaders, youth groups, and unofficial political parties. Cuban authorities notified many dissidents that they were at risk of criminal prosecutions if they did not abandon their "counter-revolutionary" activities or leave the country. Activists fled Cuba in response to these warnings, including Miguel Ángel Aldana, a leader of the Martiana Civic Association (Asociación Cívica Martiana), who left for the United States in April 1997, after Cuban authorities threatened him with a four-year sentence for dangerousness. Cuba employed diverse methods to control dissident groups: conducting unauthorized searches; firing employees; seizing fax machines and photocopiers; making unsupported allegations of links between activists and terrorists (specifically regarding the eleven bombs that targeted Cuban tourist destinations between April and September); and, denying dissident groups any legal recognition. The government also heightened harassment of homosexuals, raiding several nightclubs known to have gay clientele and allegedly beating and detaining dozens of patrons.

Official intent to silence dissenting voices was glaringly manifest in the July 15, 1997 detentions of four prominent, nonviolent leaders of the Internal Dissidents' Working Group (Grupo de Trabajo de la Disidencia Interna, GTDI): Professor Félix Antonio Bonne Carcasses, economists Marta Beatriz Roque Cabello and Vladimiro Roca Antúnez,

and attorney RENÉ GÓMEZ MANZANO. ON MAY 5, THE GROUP HELD A WELL-ATTENDED PRESS CONFERENCE ENCOURAGING A BOYCOTT OF ELECTIONS PLANNED FOR LATE 1997. IN JUNE, THE GTDI ISSUED A STATEMENT TITLED *THE MOTHERLAND BELONGS TO ALL* (*LA PATRIA ES DE TODOS*), WHICH CHALLENGED CUBA'S EXCLUSIVE RECOGNITION OF ONE POLITICAL PARTY. CUBAN AUTHORITIES CATEGORIZED THE DISSIDENTS' PEACEFUL PROTESTS AS "COUNTER-REVOLUTIONARY CRIMES." AT THIS WRITING, THE FOUR LEADERS REMAIN IN PRISON FACING POSSIBLE TRIAL FOR ENEMY PROPAGANDA AND REVEALING STATE SECRETS, REPORTEDLY ABOUT THE CUBAN ELECTORAL SYSTEM.

CUBA CONTINUED TO EXERCISE STRICT CONTROL OVER LABOR RIGHTS DURING 1997, REFUSING TO ALLOW THE FORMATION OF ANY INDEPENDENT UNIONS. THE FOREIGN INVESTMENT LAW REQUIRED ALL INVESTORS TO HIRE EMPLOYEES THROUGH THE GOVERNMENT-CONTROLLED EMPLOYMENT AGENCY, WHICH APPARENTLY SELECTED SOME WORKERS BASED ON POLITICAL VIEWPOINTS.

INDEPENDENT LABOR ACTIVISTS FACED GOVERNMENT HARASSMENT. STATE SECURITY AGENTS INTERROGATED MANUEL ANTONIO BRITO LÓPEZ, THE SECRETARY GENERAL FOR THE UNION OF INDEPENDENT WORKERS (UNIÓN DE TRABAJADORES INDEPENDIENTES), IN HAVANA ON JULY 12, ADVISING HIM TO RESTRICT HIS MOVEMENT UNTIL AUGUST 6, THE FINAL DAY OF THE INTERNATIONAL WORLD FESTIVAL OF YOUTH AND STUDENTS.

IN PREPARATION FOR THE OCTOBER 1997 FIFTH COMMUNIST PARTY CONGRESS, IN LATE MAY THE GOVERNMENT RELEASED A POSITION PAPER TITLED *THE PARTY OF UNITY, DEMOCRACY, AND HUMAN RIGHTS THAT WE DEFEND*, WHICH PRAISED CUBA'S ALLEGEDLY SPOTLESS HUMAN RIGHTS RECORD. YET, THE DOCUMENT CALLED UPON THE "TRULY FREE" PRESS TO "GUARANTEE THE CONTINUITY OF SOCIALIST, PATRIOTIC, AND ANTI-IMPERIALIST IDEAS AND VALUES, AND THE REVOLUTION ITSELF...." MEANWHILE, THE GOVERNMENT MANIFESTED ITS DISDAIN FOR GENUINE PRESS FREEDOMS THROUGHOUT THE YEAR. IN JULY, CUBAN AUTHORITIES SENTENCED LORENZO PAEZ NÚÑEZ, A JOURNALIST WITH THE HABANA PRESS AGENCY IN PINAR DEL RÍO, TO EIGHTEEN MONTHS FOR CONTEMPT AND DEFAMATION OF THE POLICE, BASED ON HIS HAVING REPORTED ALLEGED POLICE ABUSES.

CUBAN AUTHORITIES RELIED HEAVILY ON BOTH SHORT-AND LONG-TERM DETENTIONS TO INTIMIDATE JOURNALISTS. AUTHORITIES DETAINED HÉCTOR PERAZA LINARES, THE CO-DIRECTOR OF HABANA PRESS, IN PINAR DEL RÍO ON JUNE 23, ONLY RELEASING HIM IN SEPTEMBER. RAÚL RIVERO, THE HEAD OF CUBA PRESS, WAS ARRESTED ON JULY 28 AND AUGUST 12. CUBAN AUTHORITIES FREED CUBA PRESS JOURNALIST EFRÉN MARTÍNEZ PULGARÓN IN MID-SEPTEMBER, WITHOUT CHARGES, FOLLOWING HIS AUGUST 13 DETENTION. CUBA EMPLOYED OTHER DISSUASIVE TACTICS AS WELL. ON FEBRUARY 26, THE AUTHORITIES HARASSED TÁNIA QUINTERO AND HER COLLEAGUE ANA LUISA BAEZA, OF CUBA PRESS, WITH "REPUDIATION MEETINGS" (*MITINES DE REPUDIO*) IN WHICH GROUPS OF UP TO SIXTY GOVERNMENT SYMPATHIZERS GATHERED OUTSIDE THE WOMEN'S HOMES, THROWING OBJECTS AND SHOUTING CRITICISMS. FOLLOWING A FEBRUARY 21 ARREST, JOAQUÍN TORRES ALVAREZ, THE DIRECTOR OF HABANA PRESS, WAS BEATEN IN MAY BY SEVERAL ASSAILANTS WHOM HE LATER IDENTIFIED AS MEMBERS OF THE STATE SECURITY FORCES AND REPRESENTATIVES OF HIS NEIGHBORHOOD'S COMMUNIST PARTY OFFICE.

THE GOVERNMENT PERMITTED A SMALL NUMBER OF PERMANENT INTERNATIONAL NEWS BUREAUS TO OPERATE IN CUBA, INCLUDING, AS OF MARCH 19, THE U.S.-BASED CABLE NEWS NETWORK (CNN). WHILE THE U.S. GOVERNMENT APPROVED LICENSES FOR NINE ADDITIONAL MEDIA TO OPEN CUBA BUREAUS, THE CUBAN GOVERNMENT DID NOT ALLOW THESE COMPANIES TO DO SO. IN FEBRUARY 1997, NEW REGULATIONS GRANTED CUBAN AUTHORITIES THE RIGHT TO REPRIMAND OR WITHDRAW CREDENTIALS FROM FOREIGN REPORTERS WHO HAD FAILED TO DEMONSTRATE "OBJECTIVITY," ACCURATELY REPRESENT THE FACTS, OR COMPLY WITH JOURNALISTIC ETHICS.

ADDITIONAL CUBAN LEGAL INITIATIVES FURTHER NARROWED THE EXERCISE OF FREE EXPRESSION, ASSOCIATION, AND MOVEMENT. IN DECEMBER 1996, CUBA PASSED THE LAW REAFFIRMING CUBAN DIGNITY AND SOVEREIGNTY (*LEY DE REAFIRMACIÓN DE LA DIGNIDAD Y SOBERANÍA CUBANAS*, ALSO KNOWN AS THE GAG LAW). A RESPONSE TO THE HELMS-BURTON LAW, WHICH TIGHTENED THE U.S. EMBARGO, THE LAW CREATED BROAD RESTRICTIONS ON FREE EXPRESSION, CRIMINALIZING EVEN THE APPEARANCE OF SUPPORT FOR U.S. POLICIES. CUBAN AUTHORITIES THEN INSISTED ON PUBLIC MANIFESTATIONS OF SUPPORT FOR THE LAW. IN EARLY 1997, THE GOVERNMENT CIRCULATED A PRO-LAW PETITION, THE DECLARATION OF THE MAMBISES OF THE TWENTIETH CENTURY (*DECLARACIÓN DE LOS MAMBISES DEL SIGLO XX*), THE "MAMBISES" FOUGHT FOR CUBAN INDEPENDENCE), TO MASS ORGANIZATIONS, SCHOOLS, UNIVERSITIES, AND WORKPLACES. ON APRIL 7, CUBAN AUTHORITIES BRIEFLY DETAINED FIDEL EMILIO ABEL TAMAYO, THE FATHER OF ONE OF SEVERAL SCHOOLCHILDREN WHO HAD REFUSED TO SIGN THE DECLARATION IN MARCH.

IN APRIL, CUBA EXTENDED ITS CONTROL OVER CITIZENS' MOVEMENTS WITH THE PASSAGE OF DECREE 217, WHICH DIRECTED

all but "legal" residents to leave Havana. President Castro praised the initiative's potential for minimizing "indiscipline." By late April, the official Cuban press announced that the government had returned more than 1,600 "illegal residents" of Havana to their home provinces "using persuasive methods." Cuba also retained its prohibition on unapproved emigration and continued to prosecute for "illegal exit." In October 1996, Cuban authorities sentenced Abel Denis Ambroise Sanville to fourteen months for illegal exit.

Cuba attempted to weaken United Nations human rights mechanisms. As it had in 1996, Cuba pushed for a narrower mandate for the U.N. Working Group on Arbitrary Detentions, which previously had censured Cuba. At the Human Rights Commission's fifty-third session in Geneva in March and April 1997, Cuba successfully lobbied to restrict the Working Group's scope. Cuba also co-sponsored a resolution urging member states not to employ coercive economic or political measures against countries in response to negative human rights practices.

### **The Right to Monitor**

The government barred international human rights groups' access to the country, as well as access by the ICRC and the U.N. Special Rapporteur. In September 1997 Human Rights Watch requested permission to conduct independent investigation in Cuba, having been denied access since 1995. In October, the request was denied.

Odilia Collazo Valdés, the president of the Pro Human Rights Party (Partido Pro Derechos Humanos, PPDH), suffered repeated arrests during 1997, as did other PPDH members, including Maité Moya Gómez and Jorge Luis Rodríguez. On October 23, a Cuban court in Santa Clara convicted eleven members of the PPDH of "association to commit criminal acts" (asociación para delinquir) and "disobedience," with sentences ranging from one year of house arrest (María Felicia Mata Machado) to one and one-half year in prison or at a prison work camp (José Antonio Alvarado Almeida, Ileana Penalver Duque, Roxana Alina Carpio Mata, Lilian Meneses Martínez, Arélis Fleites Méndez, Marlis Velázquez Aparicio, Iván Lema Romero, Danilo Santos Méndez, Vicente García Ramos, and José Manuel Yera Meneses). The trial occurred after the activists held a hunger strike to protest the government's detention of another PPDH member, Daula Carpio Mata. The judge reportedly allowed the defense attorney less than ten minutes to present testimony from all of the defendants. On October 29, the court sentenced Carpio Mata to sixteen months internment in a work camp for assault, following her outspoken criticisms of an earlier trial.

René Gómez Manzano, an attorney with the Agromontista Current (Corriente Agromontista), a legal defense group, and leader of the Internal Dissidents' Working Group, remains in detention at this writing. After repeated prior denials, Cuba granted Elizardo Sánchez Santacruz, the leader of the Cuban Commission for Human Rights and National Reconciliation (Comisión Cubana para los Derechos Humanos y la Reconciliación Nacional) permission for international travel in early 1997 and did allow him to return to Cuba. On May 30, the Cuban government detained Sánchez's colleague, Moisés Rodríguez Quezada, for seventy-two hours, warning him to abandon his work or leave Cuba.

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

#### **United Nations**

In November 1996, the General Assembly again voted to condemn the U.S. embargo against Cuba. In April 1997, the fifty-third session of the U.N. Human Rights Commission again censured Cuban human rights practices. As in prior years, Cuba dismissed the resolution as slanderous. Cuba's efforts, described above, to weaken U.N. human rights mechanisms met with some success. The government refused to allow the Special Rapporteur on Cuba, Swedish diplomat Carl-Johan Groth, to conduct in-country research, but he nonetheless provided excellent coverage of Cuban human rights developments.

#### **Organization of American States**



IN MARCH, THE INTER-AMERICAN COMMISSION ON HUMAN RIGHTS ISSUED A DETAILED REPORT ON CUBA'S LACK OF COMPLIANCE WITH THE AMERICAN CONVENTION ON HUMAN RIGHTS. ACKNOWLEDGING THAT THE CUBAN GOVERNMENT WAS EXCLUDED FROM THE INTER-AMERICAN SYSTEM IN 1962, THE COMMISSION NONETHELESS STRESSED THAT THE CUBAN STATE RETAINED ITS OBLIGATIONS TO UPHOLD INTERNATIONAL HUMAN RIGHTS STANDARDS FOR ITS POPULATION.

## **European Union**

ON DECEMBER 2, 1996, THE EUROPEAN UNION (E.U.) COUNCIL OF MINISTERS ADOPTED A NEW, STRONGER POLICY TOWARD CUBA, KNOWN AS THE "COMMON POSITION," TO "ENCOURAGE A PROCESS OF TRANSITION TO PLURALIST DEMOCRACY AND RESPECT FOR HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS...." THE POLICY MADE FULL ECONOMIC COOPERATION CONDITIONAL ON HUMAN RIGHTS IMPROVEMENTS, INCLUDING PENAL CODE REFORM, THE RELEASE OF POLITICAL PRISONERS, AN END TO HARASSMENT OF DISSIDENTS, THE RATIFICATION OF INTERNATIONAL HUMAN RIGHTS CONVENTIONS, AND RESPECT FOR THE FREEDOMS OF SPEECH AND ASSOCIATION. WHEN ITS REVIEW OF POLITICAL AND ECONOMIC DEVELOPMENTS IN CUBA REVEALED NO NOTABLE PROGRESS, ON JUNE 26, THE E.U. RENEWED THE COMMON POSITION FOR AN ADDITIONAL SIX MONTHS. UNFORTUNATELY, EUROPEAN INVESTORS IN CUBA, AS WELL AS CANADIANS AND OTHERS, FAILED TO ADOPT EFFECTIVE STRATEGIES TO ENSURE RESPECT FOR LABOR RIGHTS IN THEIR CUBAN WORKPLACES, WHERE GOVERNMENT-DOMINATED PROJECTS DENIED BASIC RIGHTS OF FREE ASSOCIATION AND SPEECH.

## **Canada**

CANADA'S ROLE AS A LEADING FOREIGN INVESTOR IN CUBA PROVIDED IT WITH IMPORTANT LEVERAGE FOR PRESSURING CUBA TO MAKE GENUINE HUMAN RIGHTS REFORMS DURING 1997. YET, CANADA'S MOST SIGNIFICANT HUMAN RIGHTS INITIATIVE, THE JANUARY 1997 JOINT DECLARATION BETWEEN THE CANADIAN AND CUBAN FOREIGN MINISTRIES, INCLUDED NO CONCRETE AGENDA FOR IMPROVEMENTS IN CUBAN HUMAN RIGHTS PRACTICES. RELYING ON THE PRINCIPLE OF "EFFECTIVE INFLUENCE," THE ACCORD, WHICH ALSO ADDRESSED FOREIGN INVESTMENT, TAXATION, BANKING, AND OTHER ISSUES, PROVIDED THAT CUBA AND CANADA WOULD COOPERATE ON HUMAN RIGHTS ISSUES BY HOLDING SEMINARS, TRAINING JUDGES, AND "EXCHANG[ING] EXPERIENCES" RELEVANT TO CUBA'S INTENT TO SUPPORT A CITIZEN'S COMPLAINT COMMISSION. UNFORTUNATELY, THE CUBAN GOVERNMENT, WHICH DETAINED SEVERAL DISSIDENTS DURING THE NEGOTIATIONS, SHOWED LITTLE SIGN OF TAKING THE ACCORD SERIOUSLY. A CUBAN FOREIGN MINISTRY SPOKESMAN STATED THAT "IT IS A BLATANT EXAGGERATION TO SAY THAT THE INCLUSION OF THE ISSUES OF HUMAN RIGHTS IN A BROAD AND DIVERSE JOINT DECLARATION WITH CANADA IMPLIES THE EXISTENCE OF PROBLEMS IN THIS REGARD ON THE ISLAND." AT THIS WRITING, THE JOINT ACCORD HAS RESULTED IN INFORMAL BILATERAL TALKS ON HUMAN RIGHTS IN HAVANA EARLY IN THE YEAR, CLOSED SEMINARS ON CHILDREN'S AND WOMEN'S RIGHTS IN MAY AND JUNE, AND PREPARATORY MEETINGS REGARDING LEGAL REFORMS AND A CUBAN CITIZEN COMPLAINT COMMISSION.

## **United States**

IN THE PAST YEAR, THE U.S. GOVERNMENT COULD NOT POINT TO HUMAN RIGHTS GAINS IN CUBA ARISING FROM ITS ANACHRONISTIC THIRTY-YEAR POLICY OF ISOLATION. PRESIDENT CLINTON ACKNOWLEDGED THAT THE POLICY HAD FAILED IN APRIL, WHEN HE NOTED THAT THE EMBARGO HAD NOT CREATED "AN APPRECIABLE CHANGE IN THE CUBAN REGIME...." THE EMBARGO, WHICH WAS SOLIDIFIED IN 1996 WITH THE PASSAGE OF THE CUBAN LIBERTY AND DEMOCRATIC SOLIDARITY ACT (ALSO KNOWN AS THE HELMS-BURTON LAW), CONTINUED TO RESTRICT THE RIGHTS TO FREE EXPRESSION AND ASSOCIATION AND THE FREEDOM TO TRAVEL BETWEEN THE U.S. AND CUBA, THUS VIOLATING ARTICLE 19 OF THE INTERNATIONAL COVENANT ON CIVIL AND POLITICAL RIGHTS, A TREATY RATIFIED BY THE UNITED STATES. THE GOVERNMENT'S GRANTING OF TEN LICENSES PERMITTING U.S. MEDIA OUTLETS TO OPERATE IN CUBA WAS A POSITIVE STEP, BUT STILL REFLECTED TIGHT GOVERNMENT CONTROL OVER COMMUNICATION BETWEEN THE TWO COUNTRIES.

**DOMINICAN  
REPUBLIC**

**Human Rights Developments**

THE DOMINICAN GOVERNMENT COMMITTED SERIOUS HUMAN RIGHTS ABUSES DURING PRESIDENT LEONEL FERNÁNDEZ REYNA'S FIRST YEAR IN POWER. POLICE AND MEMBERS OF THE MILITARY USED EXCESSIVE FORCE AGAINST CRIMINAL SUSPECTS, PRISONERS, AND INDIVIDUALS PARTICIPATING IN PEACEFUL PUBLIC DEMONSTRATIONS, AND ROUTINELY VIOLATED DUE PROCESS RIGHTS. DOMINICAN PRISONERS, PARTICULARLY MINORS, SUFFERED IN DEPLORABLE CONDITIONS, AND SOME 95 PERCENT OF DETAINEES WERE HELD WITHOUT TRIAL, MANY FOR LONG PERIODS.

ON FEBRUARY 23, POLICE REACTING TO A DISTURBANCE IN THE AZUA PRISON REPORTEDLY KILLED THREE UNARMED BOYS IN COLD BLOOD. TWO POLICE LIEUTENANTS, ONE NAMED MÉNDEZ AND ANOTHER KNOWN AS "GOMERA," REPORTEDLY LINED UP THE SEVENTEEN-YEAR-OLD BOYS, ROBERTO RAFAEL CORPORÁN, JOSÉ IGNACIO PAYANO NÚÑEZ, AND JOSÉ PAREDES GUTIÉRREZ, AGAINST AN INTERIOR WALL OF THE PRISON AND FIRED REPEATEDLY AT THEM WITH SHOTGUNS, KILLING THEM WHILE OTHER INMATES PLEADED FOR THE THREE YOUTHS' LIVES. THE GOVERNMENT OPENED AN INVESTIGATION, INITIALLY CONCLUDING THAT THE THREE BOYS HAD BEEN KILLED WHILE TRYING TO ESCAPE THE PRISON, BUT HAVE NOT RELEASED FINAL RESULTS OF ITS INQUIRY AT THIS WRITING.

ON NOVEMBER 19, 1996, AT LEAST ONE-HUNDRED HEAVILY-ARMED DOMINICAN POLICE ENTERED A SQUATTERS' SETTLEMENT KNOWN AS "EL CAFÉ," ON THE OUTSKIRTS OF SANTO DOMINGO, TO EVICT APPROXIMATELY 600 FAMILIES. THE POLICE FIRED WEAPONS AND TEAR GAS, WOUNDING AT LEAST TEN RESIDENTS. ONE POLICE OFFICER REPORTEDLY FIRED AT ALFREDO D'OLEO ENCARNACIÓN, WHO WAS UNARMED AND STANDING ON HIS PATIO, KILLING HIM. THE GOVERNMENT HAS NOT CONCLUDED ITS INVESTIGATION OF THE EL CAFÉ INCIDENT AT THIS WRITING.

DOMINICAN SECURITY FORCES USING EXCESSIVE FORCE KILLED OVER THIRTY OTHER INDIVIDUALS IN THE PAST YEAR. THE POLICE AND MILITARY INVOLVED IN SHOOTINGS FREQUENTLY INVOKED THE DEFENSE THAT THEY HAD BEEN FIRED UPON BEFORE SHOOTING, BUT WITNESSES OFTEN CONTRADICTED THEIR ACCOUNTS. AMONG THESE CASES, ON MARCH 7, ARMY SGT. ROBERTO REYES FAMILIA WAS RIDING HIS MOTORCYCLE IN SANTO DOMINGO WHEN A VEHICLE SIDE-SWIPED HIM. REYES FAMILIA FIRED AT THE VEHICLE, KILLING ANTONIO SANTOS CARABALLO. ON SEPTEMBER 26, POLICE INVOKED SELF-DEFENSE IN THE DEATHS OF TWO SUSPECTED CRIMINALS IN THE CAPOTILLO REGION OF SANTO DOMINGO, BUT ONLOOKERS ALLEGEDLY SAW POLICE SHOOT THE SUSPECTS AFTER THEY HAD LAID DOWN THEIR WEAPONS. IN MAY, POLICE CONDUCTING A DRUG RAID IN CAPOTILLO ALLEGEDLY SAW JOSÉ RAMÍREZ SWALLOW A PACKAGE OF CRACK COCAINE. AS THE POLICE BEAT HIM WITH THEIR WEAPONS, RAMÍREZ BEGAN TO FOAM AT THE MOUTH AND LOST CONSCIOUSNESS. THE POLICE LEFT RAMÍREZ AT THE SCENE. HE DIED THREE HOURS LATER, AS NEIGHBORS WERE TRANSPORTING HIM TO A HOSPITAL. WHILE THE IMMEDIATE CAUSE OF RAMÍREZ'S DEATH REMAINED UNCERTAIN, POLICE USED EXCESSIVE FORCE IN BEATING HIM AND WERE NEGLIGENT IN FAILING TO PROVIDE HIM WITH MEDICAL ASSISTANCE.

POLICE REPORTEDLY TORTURED SEVERAL DETAINEES IN THE PAST YEAR. ON JANUARY 27, POLICE ARRESTED RAMÓN VIZCAINO AND HIS WIFE ROSIE CUEVAS IN VICENTE NOBLE AND TRANSPORTED THEM TO THE NATIONAL POLICE HEADQUARTERS IN SANTO DOMINGO. ON THREE OCCASIONS OVER TWO DAYS, OFFICERS IN THE ROBBERY DEPARTMENT BEAT VIZCAINO, USING A BASEBALL BAT AND GRABBING HIS TESTICLES, WHILE INSISTING THAT HE ADMIT TO ASSISTING WITH AN ESCAPE PLAN FOR THE MONTE PLATA PRISON. THE POLICE THEN HELD HIM FOR OVER ONE MONTH, WITHOUT PROVIDING HIM WITH MEDICAL TREATMENT FOR INJURIES FROM THE BEATINGS, INCLUDING A HERNIA. POLICE ALSO REPORTEDLY TORTURED SEVERAL SUSPECTS BY HANGING THEM BY HANDCUFFS OR THUMB SCREWS FOR EXTENDED PERIODS AND DENYING THEM FOOD, WATER, AND ACCESS TO TOILETS.

DOMINICAN POLICE ROUTINELY IGNORED DUE PROCESS PROTECTIONS, SUCH AS PROVIDING ACCESS TO LAWYERS AND OBSERVING THE FORTY-EIGHT-HOUR LIMIT ON HOLDING DETAINEES IN POLICE LOCK-UPS. THEY ALSO ARBITRARILY DETAINED CRIMINAL SUSPECTS' FAMILY MEMBERS AS HOSTAGES, TO ENTICE THE SUSPECTS TO TURN THEMSELVES IN. POLICE DETAINED RAMONA POZO, THE SEVENTY-YEAR-OLD MOTHER OF RAMÓN POZO, FOR THREE DAYS IN JULY, UNTIL HER SON SURRENDERED TO POLICE IN HAÏNA.

DOMINICAN AUTHORITIES USED EXCESSIVE FORCE AT SEVERAL PUBLIC DEMONSTRATIONS. ON APRIL 24, A PEACEFUL DEMONSTRATION MARKING THE 1965 U.S. INVASION OF THE DOMINICAN REPUBLIC WAS DISRUPTED BY SHOTS FIRED FROM A NAVY MINIBUS. SAILORS SHOT JOSELIV PERDOMO THROUGH THE BACK OF THE LEG AND WOUNDED SEVERAL OTHER DEMONSTRATORS. POLICE OPENED FIRE ON THE NONVIOLENT CROWD AT A SANTO DOMINGO RALLY AGAINST RISING TELEPHONE RATES IN JUNE, LEAVING ARACELI PENSÓN AND VIRTUDES ALVÁREZ WITH INJURIES FROM SHOTGUN BLASTS AND WOUNDING SEVERAL OTHERS.

LATE IN THE YEAR, POLICE COMMITTED SERIOUS HUMAN RIGHTS VIOLATIONS IN RESPONSE TO NATIONWIDE PROTESTS OF

PERSISTENT power outages. On October 22, police reportedly arrested Damian Edis Paredes, who was demonstrating in Santo Domingo, severely beat him and then executed him with several shots, including one in his mouth. The same day, police apparently employed excessive force when they fired numerous tear gas canisters into a demonstration, leading to the death by asphyxiation of thirteen-year-old Marlene Vargas Santana, who was in her nearby home. Hundreds of Dominican activists were arbitrarily detained in apparent government efforts to get protest organizers off the streets prior to a planned November national strike.

A backlog of criminal cases left the prisons extremely overcrowded: during 1997, 95 percent of the Dominican prison population of approximately 12,000 prisoners had never been tried. Prisoners routinely struggled to find sufficient nutrition and a place to sleep, lived in filthy, dangerous conditions, and received insufficient medical care. The police and military authorities charged with running the country's prisons received no specialized training. The difficult conditions led to several prison riots. On June 5, detainees at the Mao prison rioted in protest of poor conditions and corruption, including the reported selling of infirmary cells to healthy prisoners for up to 3,000 pesos (U.S. \$231). After a few days of negotiations, police stormed the prison, injuring dozens of detainees. Police wounded sixteen-year-old Jorge Santiago Contreras, who was confined to an isolation cell and unarmed, with a shotgun blast. Another youth, seventeen-year-old Edward Moises Si Peña, was shot in the back.

Stunning travesties of justice resulted from the judicial system's weaknesses, prevalent corruption, and transfers of detainees far from their homes, which prohibited most prisoners from genuine access to lawyers and the courts. Scores of detainees spent months and years in Dominican prisons without being tried or found guilty of any crime. Prisoners who had been confined to Dominican prisons for exceptionally long periods without trial included: Zenón Ramírez Ogando, who was detained in 1987 but never sentenced (his trial for homicide remained in the investigation phase); Rafael Sosa Félix, who was detained without trial since April 1991; Marino de la Rosa Beltrén, who was detained in 1991 without charge; and Valentín Almonte y Almonte, who was arrested in March 1994 but whose case file had been lost. Condemned prisoners faced additional impediments. Although a court ordered liberty for Rafael Orlando Caminero Guerrero on April 26, 1991, when he completed his ninety-day sentence in La Victoria for painting a stolen car, authorities had failed to free him as of August 1997. Ramón de la Rosa Peguero was condemned to six months in La Victoria and a 1,500 peso (\$115) fine in March 1995. He completed his time in September 1995 and paid his fine but, at this writing, still awaits a judicial order freeing him.

Dominican authorities failed to provide minors, the prison system's most vulnerable population, with appropriate care. In violation of the United Nations Convention on the Rights of the Child, a treaty ratified by the Dominican Republic, the government confined hundreds of minors, both convicts and those in preventive detention, in adult prisons, and neglected to provide them with sufficient protection, education, or rehabilitation. The government's purported evaluation center for minors, Casa Albergue, was the site of serious abuses, including a November 1996 incident that left Juan Pablo Medina and Ricardo Torres dead when police refused to release the boys from their cells despite a mattress fire in the area. In May 1997, police at the center were angered by an argument with seventeen-year-old Carlos de la Cruz Severino. Six officers beat him with baseball bats, including blows to his genitals and neck. The abuses of detained minors highlighted the government's complete failure, since 1994, to enforce a new minors code.

The Law Against Intrafamilial Violence, which was enacted into law in February, resulted in a handful of convictions late in the year. The law increased sanctions for domestic violence and improved procedural protections for victims of family violence.

Haitians continued to suffer discriminatory treatment by the Dominican government. More than 21,000 Haitians were expelled in 1997. The Dominican military carried out a particularly intense campaign in February and March, during which soldiers in some cases failed to respect the Haitians' due process rights, beat detainees, and would not allow detainees to notify family members of their expulsion. Dominican authorities also deported several Dominicans, after disregarding documents demonstrating their citizenship. On September 23, Dominican soldiers arrested Manuel Antonio Estéban Fermín, a Dominican citizen, in Santo Domingo and expelled him to Malpasse, Haiti.

AN AIR FORCE CAPTAIN LEADING THE OPERATION REPORTEDLY DESTROYED ESTÉBAN FERMIN'S NATIONAL IDENTITY DOCUMENT AND EXPELLED HIM BECAUSE OF THE DARK COLOR OF HIS SKIN. IN DOZENS OF CASES, GOVERNMENT OFFICIALS DENIED THE CONSTITUTIONAL CITIZENSHIP RIGHTS DUE TO CHILDREN BORN OF HAITIAN PARENTS IN THE DOMINICAN REPUBLIC. IN MARCH, TELMA REYES, A CIVIL OFFICIAL IN SABANA GRANDE DE BOYA, JUSTIFIED HER DENIAL OF CITIZENSHIP TO TEN CHILDREN OF HAITIAN DESCENT BY SAYING THAT SHE HAD RECEIVED AN ORDER TO DO SO FROM MIGRATION AUTHORITIES. SHE FURTHER EXPLAINED THAT SHE THOUGHT THAT GRANTING THE CHILDREN CITIZENSHIP WOULD THREATEN THE MOTHERLAND'S PURITY. AT THIS WRITING, THE DOMINICAN GOVERNMENT STILL HAS NOT SUBMITTED ITS REPORT TO THE U.N. COMMITTEE ON THE ELIMINATION OF RACIAL DISCRIMINATION, WHICH WAS DUE IN MARCH, AND THE COMMITTEE CONSIDERED THE REPORT "EXCESSIVELY OVERDUE." THE DOMINICAN GOVERNMENT, WHICH IS OBLIGATED TO SUBMIT REPORTS TO THE COMMITTEE EVERY TWO YEARS, LAST SATISFIED THIS REQUIREMENT IN 1990.

IMPUNITY FOR HUMAN RIGHTS VIOLATIONS PERSISTED IN THE PAST YEAR. WHILE THE DOMINICAN POLICE FIRED MORE THAN ONE-HUNDRED OFFICERS FOR CRIMES AND HUMAN RIGHTS ABUSES IN AUGUST AND SEPTEMBER 1997, IN AN EFFORT TO PURGE THE INSTITUTION, DOMINICAN COURTS BROUGHT FEW HUMAN RIGHTS VIOLATORS TO TRIAL. THE 1994 "DISAPPEARANCE" CASE OF UNIVERSITY PROFESSOR DR. NARCISO GONZÁLEZ MEDINA REMAINED OPEN, BUT THE GOVERNMENT FAILED TO CLARIFY RESPONSIBILITY FOR THE CASE AND DID NOT DETAIN A SINGLE SUSPECT. AT THIS WRITING, THE CASE IS PENDING BEFORE THE INTER-AMERICAN COMMISSION ON HUMAN RIGHTS. ON A POSITIVE NOTE, THE GOVERNMENT DENIED A PETITION TO TRY GEN. (RET.) SALVADOR LLUBERAS MONTÁS, ALSO KNOWN AS "CHININO," IN MILITARY, RATHER THAN CIVILIAN, COURT FOR THE 1975 MURDER OF JOURNALIST ORLANDO MARTÍNEZ.

A TRANSPARENT SELECTION PROCESS FOR SUPREME COURT JUDGES CULMINATED IN AUGUST, WITH THE SWEARING-IN OF A NEW COURT AMIDST HOPES THAT IT WOULD SET A NEW, PROFESSIONAL TONE FOR THE DECREPIT LEGAL SYSTEM. BUT THIS POSITIVE STEP WAS COUNTERED BY THE PRESIDENT'S SEPTEMBER FIRING OF GUILLERMO MORENO, THE WELL-RESPECTED ATTORNEY GENERAL FOR SANTO DOMINGO, WHO HAD TAKEN A FIRM STANCE AGAINST HUMAN RIGHTS VIOLATORS.

## **The Right to Monitor**

UNDER THE GOVERNMENT OF PRESIDENT FERNÁNDEZ, DOMINICAN HUMAN RIGHTS ACTIVISTS WORKED WITH GREATER FREEDOM THAN THEY HAD UNDER THE PREVIOUS ADMINISTRATION, WHEN POLICE INTIMIDATION AND ANONYMOUS TELEPHONE THREATS WERE THE NORM. HOWEVER, SEVERAL HUMAN RIGHTS ACTIVISTS COMPLAINED OF CLOSE POLICE SURVEILLANCE IN OCTOBER AND NOVEMBER, PRIOR TO A PLANNED NATIONAL STRIKE. IN EARLY NOVEMBER, DANILO DE LA CRUZ, A MEMBER OF THE DOMINICAN COMMITTEE FOR HUMAN RIGHTS (COMITÉ DOMINICANO DE DERECHOS HUMANOS, CDDH) WHO POLICE HAD FIRED ON IN 1996, REPORTED THAT POLICE OFFICERS WERE FOLLOWING HIM. VIRGILIO ALMÁNIZAR, THE PRESIDENT OF THE CDDH, ALSO WAS UNDER POLICE SURVEILLANCE. HIS FIVE AND NINE-YEAR-OLD SONS WERE FOLLOWED TO SCHOOL BY TWO POLICE OFFICERS ON NOVEMBER 3, 1997. WHILE THE GOVERNMENT PROVIDED SOME ACCESS TO ITS PRISONS AND DETENTION CENTERS FOR MINORS, THAT ACCESS WAS, ON OCCASION, UNDUPLY RESTRICTED. THE DOMINICAN GOVERNMENT COOPERATED FULLY WITH THE VISIT OF REPRESENTATIVES OF THE INTER-AMERICAN COMMISSION ON HUMAN RIGHTS.

## **The Role of the Organization of American States**

A DELEGATION FROM THE INTER-AMERICAN COMMISSION ON HUMAN RIGHTS (IACHR) OF THE ORGANIZATION OF AMERICAN STATES CONDUCTED A FOUR-DAY HUMAN RIGHTS INVESTIGATION IN THE DOMINICAN REPUBLIC IN JUNE. THE IACHR DELEGATION EXPLORED BROAD HUMAN RIGHTS CONCERNS AND CONCLUDED ITS MISSION WITH THE ISSUANCE OF A DETAILED PRESS RELEASE THAT POINTED TO HUMAN RIGHTS DEFICIENCIES AND PROPOSED CONCRETE STEPS FOR IMPROVEMENT. THE COMMISSION MEMBERS HAVE NOT CONCLUDED THE FINAL REPORT OF THEIR VISIT AT THIS WRITING.

FOLLOWING AN OCTOBER HEARING, THE "DISAPPEARANCE" CASE OF NARCISO GONZÁLEZ REMAINED BEFORE THE IACHR AT YEAR'S END.

## GUATEMALA

### Human Rights Developments

EMERGING FROM MORE THAN THREE DECADES OF INTERNAL WARFARE, Guatemala in 1997 faced soaring criminal violence, an incomplete police reform, continued impunity for human rights violations as well as common crimes and profound uncertainty over the post-conflict role of the military. The signing of a final peace accord in December 1996, capped a steady decline in recent years in the most egregious politically motivated human rights violations. Most notable was the decline in "disappearances," which since the late 1960s had become a regular practice of the Guatemalan military. Security forces carried out one case of forced disappearance in late 1996, which did not come to light until 1997. The Mission of the United Nations in Guatemala (Misión de las Naciones Unidas en Guatemala, MINUGUA) was investigating two additional cases at this writing. Other abuses did not diminish as evidently. MINUGUA confirmed nineteen extrajudicial executions in the first six months of 1997—compared with twenty-two confirmed cases in the previous semester—as well as several cases of ill-treatment, arbitrary detention, and excessive use of force, mostly by the police. Whereas in the past the victims tended to be those perceived by the security forces as ideological opponents—such as journalists, human rights advocates, trade unionists, or peasant organizers—the victims of recent abuses were predominantly poor suspects in cases of common crime.

ALTHOUGH political repression sharply declined, Guatemala remained awash in violence as common crime soared, including car thefts and kidnappings carried out by rings in which members of the security forces were reportedly involved. Efforts by the government in 1996 to prosecute officials and other organized-crime figures languished in 1997, reflecting the overall weakness of the judiciary and law-enforcement bodies and the government's failure to get its witness protection program off the ground. Indeed, while the continued presence of MINUGUA and the end of the conflict kept politically motivated human rights abuse at an all-time low, citizens had no recourse against lawlessness, an insecurity that prompted dozens of cases of lynchings.

A clandestine military unit's forced disappearance of guerrilla Juan José Cabrera, alias "Mincho," showed that the powerful Presidential General Staff (Estado Mayor Presidencial, EMP) continued to conduct secret and violent operations outside the law. The stubborn insistence of government officials in covering up the guerrilla's "disappearance" and apparent slaying reflected the army's longstanding refusal to accord captured combatants fundamental human rights. The guerrilla leadership also showed an alarming willingness to suppress information on the case, to the extent that the commander of Mincho's rebel force, the Revolutionary Organization of the People in Arms (Organización Revolucionaria del Pueblo en Armas, ORPA) was quoted in the press as denying his militancy in the guerrilla group.

THE EMP'S secret unit known as the Anti-Kidnapping Command (Comando Anti-Secuestros) reportedly captured Mincho, along with Augusto Rafael Baldizón Núñez, alias Commander "Isaías," on October 19, 1996, after the guerrillas had abducted an elderly wealthy woman. The woman's abduction, and her subsequent release in exchange for Commander Isaías, broke down the peace talks and deeply embarrassed both sides. In this context, the "disappearance" of Mincho was kept quiet by both government and guerrillas, and only confirmed by MINUGUA seven months later, after the international and domestic press loudly criticized the observer mission's silence. On May 20, MINUGUA issued a statement holding the EMP responsible for slaying Mincho "at the moment of his capture," without further describing the circumstances of the death. At this writing, Mincho's body has not been found. Noting its secret role in other anti-kidnapping operations, MINUGUA criticized the EMP for "broadly exceeding its duties and following procedures contrary to the law and the rule of law, to the detriment of an effective policy of citizen security."

THE GOVERNMENT OF Alvaro Arzú reacted defensively to MINUGUA's report, denying that a second guerrilla was

captured or killed along with Isaías. Moreover, a public statement by the president's public relations secretary denied that the EMP had been involved in any anti-kidnapping actions and flatly rejected the U.N. mission's request to interview those security force members involved in the operation in which Mincho allegedly perished. The government's open refusal to facilitate MINUGUA's inquiry in the case marked a rare break with this and the previous government's policy of public support for the U.N. mission. While that support may have often masked behind-the-scenes obstinacy, the government's defiant reaction on the Mincho case marked a low point in cooperation with the mission since its establishment.

The EMP—officially charged with providing security for the president—has for decades been implicated in domestic spying and political assassination. Its covert branch has gone through many incarnations and was until recently known as the "Archivos." Although then-president Ramiro de León Carpio announced the dissolution of the Archivos shortly after taking office in 1993, then-EMP head Gen. Otto Pérez Molina told Human Rights Watch a year later that only its operational arm had been suppressed, while intelligence activities continued. The EMP's Anti-Kidnapping Command is widely perceived to be the reincarnation of the operational unit. In 1997, the Anti-Kidnapping Command was reportedly involved in several cases of torture or ill-treatment of kidnapping suspects before turning them over to the national police. Under the peace agreement, the government had promised to suppress all "clandestine security machinery" and to put domestic intelligence-gathering in civilian hands. The EMP's Anti-Kidnapping Command violated that commitment.

Military influence over the police—facilitated by a constitutional provision granting the military a role in internal security—has long obstructed effective investigations of human rights violations and contributed to the creation of an abusive police culture. Efforts spawned by the peace accords to create a new, professional, and purely civilian police force were undercut by several developments, including a delay in the promised passage of a constitutional reform limiting the military's role to external defense. In February, the congress passed a new police law, which fell short of the detailed commitments contained in the peace accords regarding police academy training for the new force. Moreover, the government failed to set up an adequate screening mechanism to avoid reintegrating into the new force agents who had been implicated in human rights violations in the past. As a result, more than a dozen police with records of serious human rights violations were admitted into the academy for training. Many members of the now-disbanded mobile military police were surreptitiously admitted to the academy as well, after the briefest of stints at the Treasury Police allowed them to pass as members of that civilian institution, according to MINUGUA.

Impunity for human rights violations persisted, with some exceptions. A conviction was won in the November 1994 murder at the hands of police of university student Mario Alioto López Sánchez. On July 31, a trial judge sentenced Carlos Venancio Escobar Fernández, formerly the deputy director of the national police fifth precinct, to a thirty-year prison term for the slaying. In addition, then-interior minister Danilo Parinello Blanco, vice minister Mario Mérida González, and national police director Salvador Figueroa were each sentenced to ten years for issuing orders that led to the killing, a judgment subsequently overturned on appeal.

Despite this milestone, impunity for human rights violations remained the most common outcome of judicial proceedings, as the shocking exoneration on May 19 of former military commissioner Cándido Noriega Estrada demonstrated. Noriega's acquittal on charges of thirty-five murders, forty-four kidnappings, eight rapes, and dozens of other crimes followed proceedings in which the mostly indigenous prosecution witnesses suffered intimidation, threats, and sorely deficient translation from their native Quiché into Spanish. The murders occurred on three occasions in 1992, in which Noriega and another military commissioner, Juan Alesio Sanmayor, reportedly led groups of soldiers through the community of Toluché, in the department of El Quiché, identifying villagers as guerrillas for extrajudicial execution by the military.

Noriega's actions were typical of the early 1990s, in which civilian auxiliaries to the army, both military commissioners and civil patrollers, joined together with soldiers in widespread slaughter of perceived guerrilla

SUPPORTERS. SEVERAL INITIATIVES WERE UNDERWAY IN 1997 TO UNCOVER AND RELIABLY DOCUMENT THE ABUSES THAT CHARACTERIZED THE CONFLICT. NONGOVERNMENTAL ORGANIZATIONS, INCLUDING THE HUMAN RIGHTS OFFICE OF THE ARCHBISHOP OF GUATEMALA, LAUNCHED MASSIVE FACT-FINDING PROGRAMS. AND IN JULY THE HISTORICAL CLARIFICATION COMMISSION ESTABLISHED UNDER THE PEACE ACCORDS FORMALLY BEGAN AN OFFICIAL STUDY ON THE SUBJECT. ALTHOUGH THE COMMISSION'S MANDATE BARS IT FROM IDENTIFYING THE INDIVIDUAL PERPETRATORS OF ABUSE OR PROVIDING EVIDENCE FOR PROSECUTIONS, THE NAMING OF RESPECTED GUATEMALAN AND INTERNATIONAL FIGURES TO LEAD THE EFFORT RAISED HOPES THAT ITS CONTRIBUTION COULD BE SIGNIFICANT IN BRINGING TO LIGHT AND TO OFFICIAL ACKNOWLEDGMENT THE IMMENSE SUFFERING INFLICTED ON THE CIVILIAN POPULATION DURING THE ARMED CONFLICT, LARGELY AT THE HANDS OF THE FORCES DESIGNATED BY LAW FOR CITIZENS' PROTECTION.

THESE INITIATIVES ALSO BEGAN TO EXPOSE PREVIOUSLY UNREPORTED LAWS-OF-WAR VIOLATIONS BY THE GUERRILLAS. IN AUGUST, THE ARCHBISHOP OF GUATEMALA'S FORENSIC TEAM BEGAN AN EXHUMATION OF VICTIMS OF A 1982 GUERRILLA MASSACRE THAT REPORTEDLY CLAIMED AS MANY AS 190 CIVILIANS—INCLUDING WOMEN AND CHILDREN—IN CHACALTE, EL QUICHÉ DEPARTMENT.

INDEED, GUATEMALA'S HIGHLANDS WERE LITTERED WITH HUNDREDS OF CLANDESTINE CEMETERIES FROM THE PERIOD, AND ALTHOUGH MANY HAVE BEEN EXHUMED IN THE 1990S, FEW PROSECUTIONS HAVE RESULTED. THE MAIN OBSTACLES TO SUCCESSFUL PROSECUTIONS INCLUDED THE ROUTINE INTIMIDATION OF PROSECUTORS, JUDGES, WITNESSES, AND RELATIVES OF VICTIMS, AS WELL AS NEGLIGENCE AND CORRUPTION ON THE PART OF THE AUTHORITIES. NONETHELESS, IN 1997, SEVERAL MILITARY OFFICERS WERE CHARGED IN CONNECTION WITH THE DECEMBER 1992 MASSACRE OF 162 PEOPLE—AMONG THEM SIXTY-SEVEN CHILDREN UNDER AGE TWELVE—IN A HAMLET KNOWN AS "LAS DOS ERRES" IN THE DEPARTMENT OF PETÉN.

THE SO-CALLED LAW OF NATIONAL RECONCILIATION PASSED IN DECEMBER 1996 RAISED THE POSSIBILITY THAT JUDGES COULD GRANT AMNESTY FOR CRIMES DEEMED TO HAVE OCCURRED IN THE CONTEXT OF COUNTERINSURGENCY. WHILE THE LAW SPECIFICALLY PROHIBITED THE GRANTING OF AMNESTY FOR CRIMES OF "DISAPPEARANCE" OR TORTURE, THE ABSENCE OF A PRECISE PROHIBITION OF AMNESTY FOR EXTRAJUDICIAL EXECUTIONS LEFT ROOM FOR FRIGHTENED JUDGES TO EXONERATE SUSPECTS IN SUCH CASES. AS OF THIS WRITING, JUDGES HAD DENIED EVERY REQUEST FOR AMNESTY MADE BY DEFENDANTS IN HUMAN RIGHTS CASES; INDEED, NO MEMBER OF THE MILITARY HAD BEEN GRANTED AMNESTY. GUERRILLAS RECEIVED AMNESTY FOR CRIMES OF SUBVERSION, BUT NOT FOR VIOLENT ABUSES SUCH AS MURDER.

INITIATIVES THE GOVERNMENT ANNOUNCED IN 1996 TO COMBAT IMPUNITY MET WITH MIXED RESULTS. A WITNESS PROTECTION PROGRAM CREATED BY LAW IN 1996 LACKED RESOURCES AND HAD A NEGLIGIBLE IMPACT ON THE VERY REAL PRACTICE OF INTIMIDATING WITNESSES AND JUDICIAL OFFICIALS. A SPECIAL CRIMES TASK FORCE ESTABLISHED IN 1996 TO HANDLE NEW CASES IN WHICH SECURITY FORCES WERE IMPLICATED, OR IN WHICH JUDICIAL OR POLICE AUTHORITIES, HUMAN RIGHTS MONITORS OR INTERNATIONAL OBSERVERS BECAME VICTIMS, HAD SOME SUCCESSES IN SOLVING COMMON CRIMES UNDER ITS MANDATE.

MEANWHILE, PROGRESS WAS SUSPENDED ON THE TRANSFER TO CIVILIAN COURTS OF HUNDREDS OF CASES OF COMMON CRIMES COMMITTED BY MEMBERS OF THE ARMED FORCES, INCIDENTS THAT HAD COME UNDER MILITARY COURT JURISDICTION. LANDMARK LEGISLATION IN 1996 MANDATED THE SHIFT IN JURISDICTION, BUT, AT THIS WRITING, GUATEMALA'S CONSTITUTIONAL COURT HAD YET TO RULE ON A LEGAL CHALLENGE TO THE LAW.

IN JANUARY, A TEN-YEAR CONVICTION WAS HANDED DOWN AGAINST FORMER MILITARY COMMISSIONER CARLOS MORALES SOSA FOR THE APRIL 1993 MURDER OF STREET YOUTH HENRY YUBANI ALVAREZ BENÍTEZ; THIS CONVICTION FOLLOWED TWO OTHER ENCOURAGING SENTENCES IN LATE 1996 FOR MURDERS BY POLICE AND PRIVATE SECURITY GUARDS OF STREET CHILDREN. IMPUNITY REMAINED INTACT, HOWEVER, FOR ELEVEN MURDERS OF STREET CHILDREN THAT OCCURRED IN 1996; SOME OF THESE CASES APPEARED TO REPRESENT A KIND OF "SOCIAL CLEANSING" AND AT LEAST ONE WAS CARRIED OUT BY A MEMBER OF THE SECURITY FORCES.

CHILDREN'S RIGHTS SUFFERED A SETBACK WHEN THE GOVERNMENT DELAYED IMPLEMENTATION OF A NEW MINORS' CODE SCHEDULED TO TAKE EFFECT IN SEPTEMBER. AS OF THIS WRITING, THE CONGRESS HAD POSTPONED IMPLEMENTATION OF THE CODE UNTIL AT LEAST MARCH 1998. THE CODE REPRESENTED A VAST IMPROVEMENT OVER CURRENT LEGISLATION, EXTENDING IMPORTANT PROCEDURAL PROTECTIONS TO CHILDREN ACCUSED OF CRIMES, INCLUDING THE RIGHT TO A LAWYER AT THE GOVERNMENT'S EXPENSE. IT FORBODE PLACING CHILDREN IN PROTECTIVE CUSTODY IN JUVENILE DETENTION CENTERS OR IMPRISONMENT FOR STATUS OFFENSES, SUCH AS RUNNING AWAY OR BEING HOMELESS. RESEARCH BY HUMAN RIGHTS WATCH DOCUMENTED ONGOING

ABUSES AGAINST STREET CHILDREN AND THOSE HELD IN JUVENILE DETENTION IN GUATEMALA, INCLUDING ARBITRARY DETENTION OF STREET CHILDREN, SOMETIMES MERELY FOR BEING HOMELESS; DUE PROCESS VIOLATIONS DURING ADJUDICATION HEARINGS; AND THE PRACTICE OF HOLDING CHILDREN DEEMED TO NEED THE STATE'S PROTECTION TOGETHER WITH JUVENILE OFFENDERS. THE INVESTIGATION ALSO FOUND CHILDREN VULNERABLE TO SERIOUS MISTREATMENT FROM STAFF MEMBERS AND OTHER DETAINEES, SOMETIMES WITH STAFF ACQUIESCENCE.

DURING 1997, FOR THE FIRST TIME, A MAQUILADORA UNION NEGOTIATED A CONTRACT WITH A COMPANY IN THE EXPORT PROCESSING SECTOR. IN NOVEMBER 1996, THE LABOR MINISTRY FAILED TO DETERMINE WHETHER OR NOT THE UNION HAD MUSTERED SUFFICIENT STRENGTH TO COMPEL THE COMPANY TO BARGAIN UNDER GUATEMALAN LAW. NONETHELESS, AFTER THE CONFLICT BETWEEN THE UNION AND THE PHILLIPS-VAN HEUSEN COMPANY ATTRACTED INTERNATIONAL ATTENTION, THE UNION'S SUFFICIENT BASE OF SUPPORT WAS ESTABLISHED, A PATTERN OF ANTI-UNION ACTIVITY WAS UNCOVERED, AND THE COMPANY VOLUNTARILY ENTERED INTO NEGOTIATIONS WITH THE UNION, PRODUCING THE UNPRECEDENTED CONTRACT.

## The Right to Monitor

HUMAN RIGHTS MONITORS, ESPECIALLY THOSE PRESSING FOR JUSTICE IN CASES OF HUMAN RIGHTS VIOLATIONS, CONTINUED TO FACE DEATH THREATS, SURVEILLANCE, AND INTIMIDATION BY UNIDENTIFIED ASSAILANTS, INCIDENTS THAT THE GOVERNMENT FAILED TO INVESTIGATE. IN THE FIRST MONTHS OF 1997, INDIVIDUALS AFFILIATED WITH THE ASSOCIATION FOR THE ADVANCEMENT OF SOCIAL SCIENCES IN GUATEMALA (ASOCIACIÓN PARA EL AVANCE DE LAS CIENCIAS SOCIALES EN GUATEMALA, AVANCSO) FACED THREATS AND HARASSMENT, APPARENTLY IN RELATION TO THE PROSECUTION UNDERWAY OF THE ALLEGED INTELLECTUAL AUTHORS OF THE 1990 EXTRAJUDICIAL EXECUTION OF AVANCSO CO-FOUNDER MYRNA MACK.

AN ATTEMPT BY THE ARZÚ GOVERNMENT TO PROMOTE THE ELECTION OF AN UNQUALIFIED CANDIDATE TO THE INTER-AMERICAN COMMISSION ON HUMAN RIGHTS OF THE ORGANIZATION OF AMERICAN STATES (OAS) WAS DEFEATED IN JUNE BY A THE CANDIDATE, FRANCISCO VILLAGRÁN KRAMER, SPENT NEARLY THREE YEARS IN OFFICE AS VICE-PRESIDENT UNDER THE REGIME OF GEN. ROMEO LUCAS GARCÍA (1978-1992), DURING WHICH GOVERNMENT DEATH SQUADS ELIMINATED AN ENTIRE GENERATION OF POLITICAL AND GRASSROOTS LEADERS, AND LATER FORMED A POLITICAL ALLIANCE WITH FORMER MILITARY DICTATOR EFRAÍN RÍOS MONTT, WHOSE REGIME REPLACED DEATH SQUAD OPERATIONS WITH THE WIDESPREAD SLAUGHTER OF PEASANTS BY THE ARMY. HUMAN RIGHTS ORGANIZATIONS DEEMED VILLAGRÁN KRAMER UNSUITED FOR LEADERSHIP IN THE HEMISPHERE'S MOST IMPORTANT ORGANIZATION FOR THE PROTECTION AND PROMOTION OF HUMAN RIGHTS.

## The Role of the International Community

### United Nations

THE ROLE OF THE UNITED NATIONS IN MODERATING THE DIFFICULT PEACE PROCESS THAT CULMINATED IN THE DECEMBER 1996 AGREEMENT, COMBINED WITH THE PRESENCE SINCE LATE 1994 OF MORE THAN ONE HUNDRED HUMAN RIGHTS OBSERVERS, HAS BEEN PIVOTAL IN REDUCING POLITICALLY MOTIVATED HUMAN RIGHTS ABUSES. OTHER BRANCHES OF THE WORLD BODY ALSO PLAYED CRITICAL ROLES, SUCH AS THE INDEPENDENT EXPERTS NAMED BY THE U.N. COMMISSION ON HUMAN RIGHTS SINCE 1990, WHO CONSISTENTLY HIGHLIGHTED THE STRUCTURAL FACTORS CONTRIBUTING TO HUMAN RIGHTS ABUSE IN GUATEMALA. A SIGNIFICANT NUMBER OF THE RECOMMENDATIONS CONTAINED IN THE REPORTS OF INDEPENDENT EXPERT CHRISTIAN TOMUSCHAT AND HIS SUCCESSOR, MÓNICA PINTO, HAVE BEEN MET OVER THE LAST FEW YEARS, SUCH AS THE DISSOLUTION OF THE CIVIL PATROLS AND MILITARY COMMISSIONERS, BOTH CIVILIAN GROUPS DEPUTIZED BY THE ARMY WITH GREAT LICENSE TO COMMIT ABUSES. SOME OF THE RECOMMENDATIONS, SUCH AS THE CREATION OF AN INTELLIGENCE SERVICE FITTING FOR A DEMOCRATIC SOCIETY, HAVE BEEN FULFILLED IN NAME ONLY. NONETHELESS, THE HUMAN RIGHTS COMMISSION DID NOT RENEW PINTO'S MANDATE WHEN IT MET IN GENEVA IN MARCH AND APRIL, INSTEAD OFFERING THE GOVERNMENT "ADVISORY SERVICES" ON HUMAN RIGHTS AND COMMITTING THE SECRETARY-GENERAL TO SUBMIT A REPORT ON HUMAN RIGHTS BY THE END OF 1997. ALTHOUGH THE HUMAN RIGHTS SITUATION



HAS UNDENIABLY IMPROVED, THE LACK OF FULL COMPLIANCE WITH THE RECOMMENDATIONS OF THE INDEPENDENT EXPERTS OUGHT TO HAVE BEEN GROUNDS FOR EXTENSION OF THE EXPERT'S MANDATE. IN AUGUST, THE U.N. SUB-COMMISSION ON THE PREVENTION OF DISCRIMINATION AND THE PROTECTION OF MINORITIES, IN AN EFFORT TO AVOID DUPLICATION OF WORK CARRIED OUT BY OTHER U.N. AGENCIES, OFFICIALLY ENDED FIFTEEN YEARS OF EXAMINATION OF THE HUMAN RIGHTS SITUATION IN GUATEMALA AS WELL. THIS REDUCTION OF INTERNATIONAL MECHANISMS CLOSELY WATCHING THE HUMAN RIGHTS SITUATION LEFT GREAT RESPONSIBILITY IN THE HANDS OF MINUGUA BY YEAR'S END. MINUGUA'S PRESTIGE SUFFERED FROM ITS DELAY IN TAKING A POSITION ON THE "DISAPPEARANCE" OF THE GUERRILLA KNOWN AS MINCHO, PROVOKING TENSIONS IN WHAT HAD PREVIOUSLY BEEN EYEMPLARY RELATIONS BETWEEN THE MISSION AND LOCAL HUMAN RIGHTS GROUPS.

## United States

NO LONGER A SUPPLIER OF OVERT MILITARY AID, THE UNITED STATES BECAME A SOURCE OF MODEST FINANCIAL CONTRIBUTIONS TO THE PEACE PROCESS. MILITARY AID THAT HAD BEEN FROZEN SINCE 1990 WAS CONVERTED INTO A FUND TO ASSIST IN THE DEMOBILIZATION OF COMBATANTS. THE ADMINISTRATION ALSO PLEDGED A U.S. \$1 MILLION CONTRIBUTION TO THE HISTORICAL CLARIFICATION COMMISSION. IN SEPTEMBER, THE COMMISSION FORMALLY REQUESTED THE CLINTON ADMINISTRATION TO DECLASSIFY RECORDS CONCERNING HUMAN RIGHTS ABUSES COMMITTED DURING THE ARMED CONFLICT. GUATEMALAN AUTHORITIES IN SEPTEMBER REQUESTED DOCUMENTS PERTAINING TO THE TRIAL UNDERWAY OF THE ALLEGED INTELLECTUAL AUTHORS OF THE 1990 EXTRAJUDICIAL EXECUTION OF GUATEMALAN ANTHROPOLOGIST MYRNA MACK. U.S. GOVERNMENT ARCHIVES, ESPECIALLY THOSE OF INTELLIGENCE AGENCIES THAT HISTORICALLY WORKED IN TANDEM WITH GUATEMALA'S MILITARY INTELLIGENCE, MOST LIKELY CONTAIN A WEALTH OF INFORMATION CRITICAL TO THE TRUTH-SEEKING PROCESS UNDERWAY IN GUATEMALA. IN ADDITION TO ASSISTING INVESTIGATIONS AND PROSECUTIONS INSIDE GUATEMALA, THE RELEASE OF U.S. DOCUMENTS IS LIKELY TO EXPOSE IMPORTANT ASPECTS OF U.S. POLICY THAT CONTRIBUTED TO HUMAN RIGHTS VIOLATIONS IN GUATEMALA.

IN MAY, THE CLINTON ADMINISTRATION RELEASED 1,400 PAGES OF CENTRAL INTELLIGENCE AGENCY (CIA) DOCUMENTS REGARDING ITS COVERT OPERATIONS IN GUATEMALA IN THE 1950S, INCLUDING PLANS TO ASSASSINATE LEADING OFFICIALS OF THE LEFTIST GOVERNMENT OF JACOBO ARBENZ, WHO WAS OVERTHROWN BY A CIA-SPONSORED MILITARY COUP. ALTHOUGH ONLY A FRACTION OF THE CLASSIFIED FILES THE AGENCY MAINTAINS ON THE COUP, THE DOCUMENTS RELEASED PROVIDED A CHILLING INSIDE LOOK AT THE METHODS USED AND PROMOTED BY THE AGENCY, INCLUDING TARGETED POLITICAL ASSASSINATION AND MASS MURDER. THESE DOCUMENTS UNDERSCORED THE NEED FOR A THOROUGH AIRING OF THE U.S. ROLE IN PROMOTING HUMAN RIGHTS VIOLATIONS IN GUATEMALA AND ELSEWHERE.

DOCUMENTS RELEASED AS A RESULT OF A LAWSUIT FILED BY JENNIFER HARBURY, THE WIFE OF DISAPPEARED GUATEMALAN GUERRILLA COMMANDER EFRAIN BĂMACA VELĂSQUEZ, SHOW THAT U.S. AGENCIES HAD INFORMATION ABOUT HER HUSBAND'S FATE WITHIN DAYS OF HIS MARCH 12, 1992 CAPTURE AND CLANDESTINE DETENTION BY THE ARMY. YET THIS INFORMATION WAS DENIED TO HARBURY, A U.S. CITIZEN, FOR MORE THAN TWO YEARS, DURING WHICH TIME SHE ENGAGED IN THREE HUNGER STRIKES DEMANDING INFORMATION REGARDING BĂMACA'S FATE.

## Relevant Human Rights Watch reports:

*GUATEMALA'S FORGOTTEN CHILDREN, 7/97*

*CORPORATIONS AND HUMAN RIGHTS: FREEDOM OF ASSOCIATION IN A MAQUILA IN GUATEMALA, 3/97*

## HAITI

### Human Rights Developments

HAITI'S STRUGGLE TO ESTABLISH A SOLIDLY DEMOCRATIC GOVERNMENT IN THE PAST YEAR WAS MARRIED BY POLITICAL CONFUSION. ELECTIONS IN APRIL WERE DISPUTED, WITH TENTATIVE RESULTS ANNOUNCED ONLY IN AUGUST. CONTROVERSY SURROUNDED THE PROVISIONAL ELECTORAL COUNCIL. PRIME MINISTER ROSNY SMARTH RESIGNED IN JUNE, AND, AT THIS WRITING, THE GOVERNMENT CANNOT AGREE ON HIS SUCCESSOR. NOTING HAITI'S STILL TENTATIVE SECURITY SITUATION, THE UNITED NATIONS EXTENDED THE

mandate of peacekeeping troops and civilian police advisors in the United Nations Transition Mission in Haiti (UNTMIH) for six months, until November 30, 1997.

Despite these upheavals, the public steadily clamored for justice, with demonstrations marking the anniversaries of political assassinations. But the government failed to dedicate needed resources to confront impunity. Only the Haitian National Police (HNP) revealed a willingness to discipline and fire human rights violators within its ranks. As Haitian courts imposed minimal criminal sanctions on abusive police officers or simply dismissed charges against them, HNP human rights violations persisted. Officers beat detainees, killed criminal suspects or others with an excessive use of force, and, albeit in fewer cases than in 1996, committed extrajudicial executions.

On November 4, 1996, HNP agents killed five men in the Delmas area of Port-au-Prince. HNP officers reportedly executed one of the men after having handcuffed him, while apparently killing two with excessive force and two in unclear circumstances. By July 1997, the HNP's inspector general's office (IG), an internal police disciplinary body, had fired seven officers for the incident, who later were tried and acquitted. The U.N./Organization of American States International Civilian Mission in Haiti estimated that the police killed twenty criminal suspects with an excessive use of force from January to August 1997, and reportedly extrajudicially executed three individuals during that period, one of whom died after police beat him severely.

Haitian police frequently beat detainees, both in urban areas, where violent crime contributed to officer frustration and violence, and in the provinces. Seven police beat Chena Pierre Martial, a congressman from Trou-du-Nord, in August, after he reportedly evoked one officer's jealousy at a local dance. The IG later fired the seven agents. In September, police in Cayes arrested Yvon Chéry, the director of a local news station, beating him and detaining him overnight, reportedly because they were angry that Chéry had argued with police about an alleged traffic violation the day before. Police routinely held detainees in lockups beyond the forty-eight-hour maximum period prescribed by law.

Police abused their authority by engaging in violent criminal activity, including murder and drug trafficking. On May 20, HNP agent Antoine Bien Aimée killed his cousin, Eddy Bien Aimée, and wounded another cousin, Luckner Bien Aimée, allegedly over a petty dispute. In late July, several officers from Jérémie, in the department of Grande Anse, were arrested for armed robbery in the Delmas area of Port-au-Prince. The HNP Grande Anse departmental commander, Fritz Jean, who had provided the vehicle used in the robbery, violated police procedures by ordering three of the arrested officers, his apparent co-conspirators, released. At this writing, Jean retains his position and neither he nor any HNP agent has faced trial for the incident. On October 2, off-duty HNP agent Jude Merzy fired into a crowd leaving a soccer match in Grand Goâve, killing one man and wounding several others.

The IG disciplined dozens of officers for human rights and other abuses and sent over thirty cases to the Haitian courts in 1997. By September, the IG had fired over 160 officers for serious violations of police regulations, such as crimes or human rights abuses. The IG's work earned it the ire of fellow police, and inspectors took extra security precautions in the face of frequent threats of violence, some of which were made directly by police charged with abuses, urging them to cease their investigations or withdraw criminal complaints. However, the Haitian courts did not keep pace with the IG's progress; most police abuse criminal cases referred to the courts by the IG, ranging from simple assault to homicide, did not go to trial or were marred by irregularities.

Weaknesses in the judicial system and an apparent lack of governmental will precluded prosecutions for human rights violations that occurred under Haiti's military dictatorships as well. The justice ministry's November 1996 creation of the National Penal Unit (Unité Pénale Nationale, UPENA), to assist with human rights prosecutions, ended in failure by February 1997, when the unfunded unit collapsed. The government set aside no funds for victim reparations for the deaths of family members or serious injuries resulting from military violence. The Special Investigations Unit, a team formed in late 1995 with international support and charged with investigating politically motivated crimes, made few advances. The Haitian government did little to challenge the United States

GOVERNMENT'S REFUSAL TO RETURN THOUSANDS OF INCRIMINATING DOCUMENTS IT HAD SEIZED FROM THE HAITIAN MILITARY AND THE PARAMILITARY GROUP, THE FRONT FOR THE ADVANCEMENT AND PROGRESS OF HAITI (FRONT POUR L'AVANCEMENT ET PROGRÈS D'HAÏTI, FRAPH) IN FRAPH WAS RESPONSIBLE FOR HUMAN RIGHTS ATROCITIES UNDER THE MILITARY GOVERNMENT THAT RULED HAITI FROM 1991 TO 1994 AND REPORTEDLY WAS FOUNDED WITH CENTRAL INTELLIGENCE AGENCY ASSISTANCE. THE INTERNATIONAL LAWYERS' BUREAU, A SPECIAL PROSECUTION TEAM SUPPORTED BY THE JUSTICE MINISTRY AND FOCUSING ON TWO CASES, STOOD OUT FOR HAVING MADE PROGRESS TOWARD SUCCESSFUL HUMAN RIGHTS TRIALS.

THE LAWYERS' BUREAU CONTINUED PREPARATION FOR TRIALS OF THOSE ACCUSED OF THE DECEMBER 1993 MASSACRE OF AT LEAST THIRTY RESIDENTS OF CITÉ SOLEIL AND THE 1994 MASSACRE OF AT LEAST FIFTEEN INDIVIDUALS IN RABOTEAU, NEAR GONAÏVES, BOTH OF WHICH WERE COMMITTED BY HAITIAN SOLDIERS AND FRAPH MEMBERS. OVER TWENTY DEFENDANTS, INCLUDING MILITARY OFFICIALS, WERE IN DETENTION FOR THE RABOTEAU CASE, ALTHOUGH ONE ESCAPED IN MARCH. THE U.S. GOVERNMENT IMPEDED PROGRESS ON THE RABOTEAU AND CITÉ SOLEIL CASES BY FAILING TO PRODUCE DOCUMENTS DETAILING ITS OWN INVESTIGATIONS OF EACH CASE. U.S. AUTHORITIES, INCLUDING AMB. WILLIAM SWING, CONDUCTED THESE INQUIRIES SHORTLY AFTER EACH INCIDENT HAD OCCURRED. IN JUNE, THE U.S. STATE DEPARTMENT DENIED HAITI'S REQUEST FOR EXPEDITED DELIVERY OF THE CITÉ SOLEIL MATERIALS AND IN OCTOBER, THE U.S. REJECTED HAITI'S MARCH REQUEST FOR EXPEDITED DELIVERY OF THE RABOTEAU MATERIALS.

SEVERAL OF THE HUMAN RIGHTS CASES THAT DID GO TO TRIAL WERE MARRIED BY APPARENT CORRUPTION OR PROSECUTORIAL INCOMPETENCE. IN LATE JULY, ADRIEN SAINT JULIEN, THE FORMER MILITARY COMMANDER IN MARCHAND DESSALINES, A COMMUNITY NEAR ST. MARC, WAS TRIED FOR THE MURDERS OF LOUKENS PIERRE AND ANTOINE PAULEUS IN 1992. AT TRIAL, THE PROSECUTOR FAILED TO PRESENT CRITICAL EVIDENCE AND THE JUDGE PERMITTED JURY MEMBERS TO SPEAK TO THE DEFENSE ATTORNEY. ONE JUROR ABANDONED THE TRIAL BEFORE ITS COMPLETION, POTENTIALLY SKEWING THE OUTCOME OF THE TRIAL. NEVERTHELESS, THE JUDGE PERMITTED JURY DELIBERATION AND SAINT JULIEN WAS ACQUITTED. DESPITE THE EXISTENCE OF OTHER CRIMINAL COMPLAINTS AGAINST SAINT JULIEN, AUTHORITIES RELEASED HIM SHORTLY AFTER THE TRIAL. ON SEPTEMBER 15, FORMER SOLDIER THÉLUSMÉ JEAN-GILLES WAS ACQUITTED IN JACMEL FOR THE OCTOBER 1993 MURDER OF MARIE DÉLÈNE NICOLAS, A LOCAL SUPPORTER OF THEN-OUSTED PRESIDENT JEAN-BERTRAND ARISTIDE, AFTER THE PROSECUTION NEGLECTED TO PRESENT ESSENTIAL ELEMENTS OF THE CASE. ON SEPTEMBER 19, IN JACMEL, A FORMER SECTION CHIEF (CHEF DE SECTION, A MILITARY AUXILIARY IN A SMALL TOWN), BAGUIDY CALIXDÉ, WHO WAS ACCUSED OF THE 1994 KILLING OF A REPUTED ARISTIDE SUPPORTER, PACHINO DORD, IN LEOGANE, WAS BROUGHT TO TRIAL DESPITE THE OBSERVANCE OF A NATIONAL DAY OF MOURNING FOR VICTIMS OF A FERRY DISASTER. COURT OFFICIALS FAILED TO NOTIFY THE WITNESSES AND THE VICTIM'S FAMILY THAT THE TRIAL WAS GOING FORWARD. AMID ALLEGATIONS THAT THE DEFENDANT'S FAMILY HAD BRIBED THE JUDGE, THE JUDGE ALLOWED THE TRIAL TO PROCEED. SINCE NO WITNESSES WERE AVAILABLE TO TESTIFY, THE PROSECUTOR ASKED THAT CHARGES BE DROPPED. THE COURT COMPLIED AND RELEASED CALIXDÉ.

AS PUBLIC CONFIDENCE IN THE POLICE AND THE JUDICIAL SYSTEM CRUMBLLED, VIGILANTE VIOLENCE CONTINUED IN HAITI, WITH A HANDFUL OF DEATHS EACH MONTH OF SUSPECTED CRIMINALS AT THE HANDS OF ANGRY MOBS. IN MID-SEPTEMBER, RESIDENTS OF THE RURAL COMMUNITY OF SEVRIN IN THE SOUTH-WEST KILLED LOVINOR JEAN-LOUIS AND HIS WIFE, VESTA JEUNE, WITH MACHETE BLOWS, AFTER ACCUSING THEM OF ENGAGING IN SORCERY THAT CONTRIBUTED TO AN INFANT'S DEATH.

JUDICIAL FAILURES TO RESPECT DUE PROCESS AND TO TRY OLD CASES RESULTED IN OVER 90 PERCENT OF HAITI'S PRISON POPULATION BEING HELD IN PREVENTIVE DETENTION, OFTEN FOR EXCESSIVE PERIODS. AS OF AUGUST 1997, SEVERAL WOMEN AT THE FORT NATIONAL PRISON AND MEN AT THE NATIONAL PENITENTIARY HAD BEEN HELD WITHOUT TRIAL FOR OVER TWO YEARS, WHILE OVER TWO DOZEN BOYS HAD SPENT OVER SIXTEEN MONTHS AT FORT NATIONAL WITHOUT TRIAL. IN MID-AUGUST, HAITIAN COURTS ORDERED SEVERAL SUPPORTERS OF THE MOBILIZATION FOR NATIONAL DEVELOPMENT (MOBILISATION POUR LE DÉVELOPPEMENT NATIONAL, MDN) RELEASED FOR INSUFFICIENT EVIDENCE. THEY HAD BEEN DETAINED IN 1996 FOR ALLEGEDLY THREATENING STATE SECURITY. A HANDFUL OF PRISONERS REMAINED IN DETENTION ON CHARGES OF FAILING TO PAY DEBTS, IN VIOLATION OF THE INTERNATIONAL COVENANT ON CIVIL AND POLITICAL RIGHTS, A TREATY RATIFIED BY HAITI.

THE NATIONAL PENITENTIARY ADMINISTRATION (ADMINISTRATION PÉNITENTIAIRE NATIONALE, APENA) IMPROVED PRISON CONDITIONS SOMEWHAT, PROVIDING CLEANER FACILITIES AND BETTER NUTRITION FOR PRISONERS. HOWEVER, GENERAL CONDITIONS IN HAITI'S OVERCROWDED PRISONS REMAINED DISMAL. A FEW COMPLAINTS SURFACED OF BEATINGS BY APENA GUARDS, BUT THESE

WERE NOT ADDRESSED DUE TO THE ABSENCE OF CLEAR PROCEDURES FOR DISCIPLINING APENA STAFF. OVERCROWDING PREVENTED THE NECESSARY SEGREGATION OF PRISONERS ACCORDING TO AGE AND LEGAL STATUS. OF GREATEST CONCERN, THE CONCENTRATION OF OVER SEVENTY MALE MINORS, BOTH CONVICTS AND PREVENTIVE DETAINEES, IN TWO CELLS AT FORT NATIONAL CONTRIBUTED TO MULTIPLE RAPES OF YOUNGER, WEAKER PRISONERS BY OLDER OR STRONGER FELLOW INMATES. PRISON AUTHORITIES ADMITTED THAT THEY LACKED OTHER HOLDING FACILITIES THAT WOULD ALLOW THEM TO ISOLATE VICTIMS FROM THEIR ATTACKERS. IN PROVINCIAL PRISONS, FEW MINORS WERE HELD WITH ADULTS.

ON OCTOBER 6, THREE OFF-DUTY APENA GUARDS REPORTEDLY GUNNED DOWN LOUIS EMILIO PASSE, A CONGRESSIONAL DEPUTY FROM DAME MARIE. HE DIED SEVERAL DAYS LATER. AT THIS WRITING, ONE APENA GUARD IS UNDER ARREST, WHILE TWO REMAIN AT LARGE.

### **The Right to Monitor**

HAITI DID NOT IMPEDE INDEPENDENT HUMAN RIGHTS MONITORING IN 1997. THE OFFICE OF CITIZEN PROTECTION (OFFICE DE LA PROTECTION DU CITOYEN, A HUMAN RIGHTS OMBUDSMAN) RECEIVED START-UP FUNDS EARLY IN THE YEAR, BUT AT THIS WRITING, THE GOVERNMENT HAS NOT ALLOCATED IT OPERATING FUNDS. THE INTER-AMERICAN COMMISSION ON HUMAN RIGHTS BRIEFLY VISITED HAITI IN AUGUST TO INVESTIGATE THE SHOOTING OF ONE OF ITS MEMBERS, FORMER HAITIAN JUSTICE MINISTER JEAN-JOSEPH EXUMÉ. THE COMMISSIONER APPARENTLY WAS THE VICTIM OF A CARJACKING.

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

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

THE U.N. MAINTAINED A PEACEKEEPING PRESENCE IN HAITI IN THE PAST YEAR, WITH UNTMIH'S FIFTY MILITARY AND 250 CIVILIAN POLICE PERSONNEL. IN LIGHT OF PLANNED WITHDRAWALS OF U.N. FORCES, CANADA PLEDGED TO MAINTAIN 700 TROOPS IN HAITI UNTIL THE END OF THE YEAR AND THE U.S. SUPPORT GROUP MISSION OF APPROXIMATELY 500 TROOPS REMAINS IN HAITI AT THIS WRITING. THE REDUCED STAFF OF THE U.N./OAS INTERNATIONAL CIVILIAN MISSION, WHO BRIEFLY SERVED AS ELECTORAL MONITORS IN APRIL, PLANNED TO CONTINUE THEIR LOW-PROFILE HUMAN RIGHTS OBSERVATION AND TRAINING FOR LOCAL GROUPS UNTIL YEAR'S END.

#### **United States**

THE U.S. GOVERNMENT REFUSED AGAIN TO RETURN TO THE HAITIAN GOVERNMENT THE APPROXIMATELY 160,000 PAGES OF DOCUMENTS AND OTHER MATERIALS SEIZED FROM FRAPH AND HAITIAN MILITARY HEADQUARTERS IN 1994. THE U.S. CONTINUED TO INSIST THAT THE DOCUMENTS ONLY WOULD BE RETURNED AFTER U.S. CITIZENS' NAMES HAD BEEN EXCISED, APPARENTLY FOR THE ILLEGITIMATE PURPOSE OF COVERING UP U.S. COMPLICITY IN POLITICAL MURDER AND OTHER ABUSES, PARTICULARLY THE ROLE OF U.S. INTELLIGENCE ASSETS WITH THE MILITARY GOVERNMENT AND FRAPH. AMBASSADOR SWING STATED THAT HIS GOVERNMENT ALREADY HAD REMOVED INFORMATION IDENTIFYING U.S. CITIZENS FROM 113 PAGES OF THE MATERIALS. THE REFUSAL TO RETURN HAITIAN PROPERTY TO HAITIAN PROSECUTORS, IN CONJUNCTION WITH THE U.S. GOVERNMENT'S FAILURE TO PROVIDE DETAILS OF ITS OWN INVESTIGATIONS OF THE CITÉ SOLEIL AND ROBOTEAU MASSACRES, OBSTRUCTED JUSTICE FOR HAITIAN HUMAN RIGHTS VICTIMS.

IN AUGUST, THE STATE DEPARTMENT ACTED TO PREVENT THE DEPORTATION OF FRAPH LEADER EMMANUEL CONSTANT, WHO HAD RECEIVED REGULAR CIA PAYMENTS WHILE DIRECTING THE PARAMILITARY ORGANIZATION. ARGUING THAT CONSTANT'S RETURN TO HAITI MIGHT CAUSE INSTABILITY AND BURDEN THE JUDICIAL SYSTEM, THE STATE DEPARTMENT ALLOWED HIM TO REMAIN IN NEW YORK WITH A WORK PERMIT. THIS KEPT CONSTANT BEYOND THE REACH OF HAITIAN PROSECUTORS, DESPITE HIGH-RANKING HAITIAN OFFICIALS' ASSURANCES THAT HE COULD RECEIVE A FAIR TRIAL.

ITS REFUSAL TO COOPERATE WITH HAITI'S STRUGGLE AGAINST IMPUNITY SERIOUSLY DAMAGED U.S. CREDIBILITY. MORE POSITIVELY, THE U.S.-BACKED LEGAL ASSISTANCE PROGRAM PROVIDED REPRESENTATION TO HAITIAN PRISONERS, REPORTEDLY RESULTING IN 3,000 RELEASES.

IN JUNE, THE SENATE PASSED THE DEWINE AMENDMENT, WHICH WOULD DENY U.S. VISAS TO THOSE WHO HAD BEEN "CREDIBLY

alleged" to have committed or ordered political killings in Haiti. If passed into law, the bill, which remains in conference at this writing, would require the State Department to report each year to Congress on compliance with the provision.

## Relevant Human Rights Watch report:

*Human Rights Record of The Haitian National Police, 1/97*

## MEXICO

### Human Rights Developments

ALTHOUGH THE MEXICAN GOVERNMENT CONTINUED TO PAY RHETORICAL ATTENTION TO HUMAN RIGHTS, SERIOUS VIOLATIONS AND IMPUNITY REMAINED THE NORM DURING 1997. AUTHORITIES FAILED TO ADDRESS HUMAN RIGHTS VIOLATIONS STEMMING FROM ACUTE RURAL TENSIONS, THE ARMY'S CONFRONTATION WITH LEFTIST GUERRILLAS, AND A MUCH-NEEDED BUT ILL-DESIGNED CAMPAIGN TO FIGHT ORGANIZED AND COMMON CRIME. IN CASE AFTER CASE, MEXICAN OFFICIALS REFUSED TO ENGAGE IN CONSTRUCTIVE DIALOGUE WITH MEXICAN AND INTERNATIONAL HUMAN RIGHTS ORGANIZATIONS, PREFERRING TO OBFUSCATE OR IGNORE HUMAN RIGHTS ISSUES RATHER THAN OFFER WORKABLE SOLUTIONS TO WELL-DOCUMENTED PROBLEMS. AT THE HEART OF MANY ABUSES LAY MEXICO'S POLICE AND JUSTICE SYSTEMS, WHICH OFTEN FUNCTIONED AT THE EXPENSE OF, RATHER THAN IN SUPPORT OF, HUMAN RIGHTS.

DESPITE THE SERIOUS HUMAN RIGHTS VIOLATIONS THAT TOOK PLACE DURING THE YEAR, THE COUNTRY MADE IMPORTANT STRIDES IN EXPANDING POLITICAL RIGHTS. ON JULY 6, MEXICANS VOTED IN MID-TERM ELECTIONS, CASTING BALLOTS IN A POLL HISTORIC IN BOTH PROCEDURE AND OUTCOME. THE ELECTIONS REPRESENTED AN IMPORTANT CONSOLIDATION OF THE RIGHT OF MEXICANS TO EXERCISE THEIR POLITICAL FREEDOMS. MEXICAN AND INTERNATIONAL OBSERVERS AGREED THAT PROCEDURAL IRREGULARITIES WERE MINIMAL, IN CONTRAST TO PREVIOUS ELECTIONS. ELECTORAL REFORMS INSTITUTED OVER RECENT YEARS PERMITTED MUCH FREER BALLOTING; FOR THE FIRST TIME EVER, FOR INSTANCE, THE FEDERAL ELECTORAL INSTITUTE (INSTITUTO FEDERAL ELECTORAL, IFE) OPERATED INDEPENDENTLY FROM THE GOVERNMENT, AND IFE OFFICIALS ADMINISTERED THE ELECTIONS FAIRLY IN MOST PARTS OF THE COUNTRY. CONTRARY TO THE TREND IN THE REST OF MEXICO, HOWEVER, SERIOUS IRREGULARITIES DID TAKE PLACE IN CHIAPAS. THERE, ACCORDING TO CIVIC ALLIANCE CHIAPAS (ALIANZA CIVICA CHIAPAS, ACC), A LOCAL BRANCH OF THE NATIONAL GOOD-GOVERNANCE GROUP, MORE THAN 150 VOTING BOOTHS WERE BURNED OR ROBBED. SUPPORTERS OF THE LEFTIST ZAPATISTA ARMY OF NATIONAL LIBERATION (EJÉRCITO ZAPATISTA DE LIBERACIÓN NACIONAL, EZLN), WHICH LAUNCHED AN ARMED UPRISING IN JANUARY 1994, AND PARTISANS OF THE RULING INSTITUTIONAL REVOLUTIONARY PARTY (PARTIDO REVOLUCIONARIO INSTITUCIONAL, PRI), WHO ORGANIZED INTO ARMED GROUPS IN NORTHERN CHIAPAS, CARRIED OUT THE ATTACKS.

THE OUTCOME OF THE VOTE SENT A SHOCK WAVE THROUGH MEXICAN POLITICS, AS THE PRI LOST CONTROL OF THE CHAMBER OF DEPUTIES, MEXICO'S LOWER HOUSE OF CONGRESS, FOR THE FIRST TIME SINCE THE PARTY WAS FORMED SEVEN DECADES AGO. THE ELECTIONS ALSO RESULTED IN OPPOSITION LEADERS ASSUMING PIVOTAL POSITIONS THAT HAD ALWAYS BEFORE BEEN OCCUPIED BY MEMBERS OF THE PRI, SUCH AS SPEAKER OF THE CHAMBER OF DEPUTIES AND MAYOR OF MEXICO CITY.

THOUGH HISTORIC, THE VOTE OFFERED LITTLE HOPE OF IMMEDIATE IMPROVEMENTS IN THE HUMAN RIGHTS SITUATION, AN OUTCOME THAT WOULD REQUIRE THE NEW CONGRESS TO ACT AS A COUNTERBALANCE TO THE ARBITRARY ACTIONS OF THE TRADITIONALLY AUTHORITARIAN EXECUTIVE BRANCH OF GOVERNMENT. CONGRESS COULD, FOR INSTANCE, PRESS STATE GOVERNORS TO END IMPUNITY FOR HUMAN RIGHTS VIOLATIONS, HOLD AUTHORITIES ACCOUNTABLE FOR ABUSES DOCUMENTED BY THE GOVERNMENT'S NATIONAL HUMAN RIGHTS COMMISSION (COMISIÓN NACIONAL DE DERECHOS HUMANOS, CNDH), AND REQUIRE THE EXECUTIVE TO TAKE MEANINGFUL ACTION TO END HUMAN RIGHTS VIOLATIONS AND ENSURE THAT VIOLATORS FACED JUSTICE. AT THIS WRITING, IT IS TOO SOON TO KNOW IF CONGRESS WOULD ASSUME SUCH A ROLE.

IN ADDITION TO THE ADVANCE CONSTITUTED BY THE ELECTIONS, MEXICO DESERVED CREDIT FOR THE IMPORTANT ROLE IT PLAYED AS ONE OF EIGHT COUNTRIES LEADING A DIPLOMATIC EFFORT TO DRAFT A CONVENTION BANNING ANTI-PERSONNEL LANDMINES. BEGUN IN OCTOBER 1996, THE NEGOTIATIONS, WHICH EVENTUALLY CAME TO INCLUDE EIGHTY-NINE COUNTRIES, RESULTED IN SEPTEMBER IN THE SIGNING OF A CONVENTION ON THE TOTAL PROHIBITION OF ANTI-PERSONNEL LANDMINES.

ON THE DOMESTIC FRONT, HOWEVER, MEXICAN OFFICIALS TOOK MUCH LESS SERIOUSLY THE NUMEROUS AND SERIOUS HUMAN RIGHTS PROBLEMS THAT NEEDED URGENT ATTENTION. IN RURAL MEXICO, VIOLENCE CONTINUED UNABATED. IN APRIL, HUMAN RIGHTS WATCH ISSUED FINDINGS COVERING CHIAPAS, SINALOA, GUERRERO, AND OAXACA STATES. A COMMON FEATURE OF MUCH RURAL VIOLENCE WAS THE MISUSE OF THE STRUCTURES OF GOVERNMENT—PROSECUTORS' OFFICES, THE POLICE, AND COURTS—to HARASS REAL OR PERCEIVED OPPONENTS OF THE RULING PARTY, REINFORCING VICTIMS' ASSUMPTION THAT THE JUSTICE SYSTEM COULD NOT EFFECTIVELY AND IMPARTIALLY MEDIATE COMMUNITY CONFLICTS STEMMING FROM POLITICAL DIFFERENCES, ECONOMIC RIVALRIES, OR RELIGIOUS DISCORD. IN CHIAPAS, FOR EXAMPLE, HUMAN RIGHTS WATCH REPORTED THAT WHILE MANY OF THE ASSASSINATIONS, ABDUCTIONS, THREATS, AND EXPULSIONS IN RURAL MEXICO WERE CARRIED OUT BY PRIVATE INDIVIDUALS, GOVERNMENT AGENTS OFTEN FACILITATED SUCH ABUSIVE ACTS, FAILED TO PROSECUTE THE PERPETRATORS, OR APPEARED TO USE THE JUDICIAL SYSTEM TO ACHIEVE PARTISAN GOALS. MOREOVER, IN MANY CASES, OFFICIALS PARTICIPATED DIRECTLY IN ABUSES.

THOSE PROBLEMS REMAINED SERIOUS THROUGHOUT THE YEAR. IN NORTHERN CHIAPAS, COMMUNITY CONFLICT CONTINUED TO LEAD TO EXPULSIONS AND MURDER. FOR INSTANCE, JUAN LÓPEZ JIMÉNEZ, A LEADER OF THE PRO-PRI ARMED GROUP CALLED PEACE AND JUSTICE, WAS ASSASSINATED ON JUNE 15 IN SABANILLA MUNICIPALITY. IN WHAT APPEARED TO BE A REPRISAL, FOUR MEMBERS OF THE OPPOSITION PARTY OF THE DEMOCRATIC REVOLUTION (PARTIDO DE LA REVOLUCIÓN DEMOCRÁTICA, PRD) WERE KILLED ON JUNE 22 AND 23.

AS THIS INCIDENT MADE CLEAR, VIOLENCE IN THE REGION WAS NOT ONE-SIDED. A PATTERN EMERGED, HOWEVER, IN WHICH PROSECUTORS AND POLICE FREQUENTLY TURNED A BLIND EYE TOWARD ABUSES COMMITTED BY GOVERNMENT SUPPORTERS BUT FIERCELY PROSECUTED ALLEGED ACTS OF VIOLENCE COMMITTED BY REAL OR PERCEIVED GOVERNMENT OPPONENTS. IN A POSITIVE MOVE, STARTING IN MAY CHIAPAS STATE OFFICIALS RELEASED AT LEAST TWELVE PEOPLE WHO HAD BEEN WRONGLY JAILED IN SUCH CIRCUMSTANCES. THE DETAINEES HAD GONE ON HUNGER STRIKE IN NOVEMBER 1996 TO FORCE GOVERNMENT REVIEW OF THEIR CASES. AT THIS WRITING, OTHERS CLAIMING TO BE WRONGLY DETAINED ARE STILL IN JAIL.

SERIOUS HUMAN RIGHTS VIOLATIONS ALSO CONTINUED TO TAKE PLACE IN THE CONTEXT OF THE GOVERNMENT'S FIGHT AGAINST THE LEFTIST POPULAR REVOLUTIONARY ARMY (EJÉRCITO POPULAR REVOLUCIONARIO, EPR), WHICH FIRST APPEARED IN JUNE 1996. IN GUERRERO STATE, MEXICAN HUMAN RIGHTS GROUPS DOCUMENTED A SERIES OF ABUSES COMMITTED BY THE ARMY AND POLICE IN THEIR ZEAL TO COMBAT THE GUERRILLAS. A JULY 1997 REPORT BY THE MIGUEL AGUSTÍN PRO JUÁREZ HUMAN RIGHTS CENTER (CENTRO DE DERECHOS HUMANOS "MIGUEL AGUSTÍN PRO JUÁREZ," PRODH) FOUND A PATTERN OF ARMY ABUSES CONSISTING OF "ILLEGAL SEARCHES, ARBITRARY DETENTIONS, PHYSICAL TORTURE, DETENTIONS BEYOND LEGALLY ALLOWED LIMITS, DEATH THREATS, INCOMMUNICADO DETENTION IN MILITARY BARRACKS, AND PSYCHOLOGICAL TORTURE THAT INCLUDE SIMULATED EXECUTIONS." DETAINEES WERE TYPICALLY BLINDFOLDED, HELD INCOMMUNICADO FOR PERIODS OF BETWEEN SEVERAL HOURS AND SEVERAL DAYS, TORTURED, AND INTERROGATED ABOUT THE EPR, THEN RELEASED OR TURNED OVER TO THE PUBLIC PROSECUTOR'S OFFICE. FOR INSTANCE, UNIDENTIFIED MEN TOOK MAGENCIO ABAD ZEFERINO DOMÍNGUEZ, FROM OLINALÁ MUNICIPALITY, FROM HIS HOME ON DECEMBER 27, 1996, AND QUESTIONED HIM ABOUT THE EPR. ACCORDING TO A REPORT PREPARED BY THE TLACHINOLLÁN HUMAN RIGHTS CENTER OF THE MOUNTAIN (CENTRO DE DERECHOS HUMANOS DE LA MONTAÑA TLACHINOLLÁN), ZEFERINO WAS KEPT BLINDFOLDED DURING HIS ENTIRE DETENTION AND SUFFERED TORTURE CONSISTING OF NEAR-DROWNING AND ELECTRIC SHOCKS. HIS ABDUCTORS MOVED HIM TO SEVERAL LOCATIONS. IN ONE OF THE DETENTION CENTERS WHERE ZEFERINO WAS HELD, HE ENCOUNTERED LUIS GONZAGA LARA, ANOTHER MAN FROM OLINALÁ MUNICIPALITY WHO HAD BEEN ABDUCTED ON DECEMBER 27 AND QUESTIONED ABOUT THE EPR. THE UNIDENTIFIED MEN WHO INTERROGATED GONZAGA TOLD HIM, "SEE, WHY DIDN'T YOU WANT TO SAY WHO HAD PAINTED THE LETTERS?"—A REFERENCE TO AN INCIDENT A WEEK EARLIER IN WHICH SOLDIERS ARBITRARILY DETAINED HIM AND QUESTIONED HIM ABOUT A POLITICAL SLOGAN PAINTED ON THE WALL OF HIS HOUSE. IT APPEARED, THEREFORE, THAT THE DECEMBER 27 ABDUCTIONS OF GONZAGA AND ZEFERINO WERE CARRIED OUT BY SECURITY FORCES. EVENTUALLY, BOTH MEN WERE RELEASED.

SUCH ABUSES ALSO TOOK PLACE IN OAXACA STATE, ANOTHER REGION WHERE THE EPR WAS ACTIVE. IN LOYICHAS, MEXICAN HUMAN RIGHTS GROUPS TALLIED SCORES OF ARBITRARY DETENTIONS, TEMPORARY "DISAPPEARANCES," AND INCIDENTS OF TORTURE CARRIED OUT IN OPERATIONS COORDINATED BY THE POLICE AND MILITARY. THE CRACKDOWN BEGAN IN AUGUST 1996, FOLLOWING AN EPR ATTACK IN THE REGION THAT WAS PART OF A COORDINATED ASSAULT BY THE GUERRILLA GROUP IN SEVERAL STATES, AND CONTINUES AS OF THIS WRITING. ON AUGUST 4, FOR INSTANCE, OAXACA STATE POLICE DETAINED AND BLINDFOLDED JUANARIO CRISPÍN ALMARÁZ SILVA, FROM SAN AGUSTÍN LOYICHA. ACCORDING TO THE FRAJ FRANCISCO VITORIA HUMAN RIGHTS CENTER

(CENTRO DE DERECHOS HUMANOS "FRAY FRANCISCO VITORIA"), HE WAS BEATEN SEVERELY AND INTERROGATED ABOUT THE EPR, THEN TRANSPORTED TO A MEXICO CITY PRISON. THE FOLLOWING DAY, HE WAS RELEASED WITHOUT CHARGE. CELERINO JIMÉNEZ ALMARAZ HAD NOT BEEN SO LUCKY. POLICE WOUNDED HIM AFTER BREAKING INTO HIS HOME IN SAN MATEO RÍO HONDO ON APRIL 24. ACCORDING TO HIS WIFE, JIMÉNEZ TRIED TO FLEE, EVEN THOUGH HE HAD BEEN WOUNDED IN THE LEG. HIS BODY WAS FOUND TWO DAYS LATER; POLICE SAID HE DIED IN AN ARMED CONFRONTATION.

GOVERNMENT OFFICIALS ALSO ENGAGED IN SERIOUS ABUSES UNDER THE GUISE OF PROMOTING THE GOVERNMENT'S FIGHT AGAINST ILLEGAL DRUGS. IN MAY OFFICIALS DID SO AFTER SOMEONE STOLE HALF A TON OF COCAINE FROM THE SAN LUIS RÍO COLORADO, SONORA STATE, OFFICE OF THE FEDERAL ATTORNEY GENERAL (PROCURADURÍA GENERAL DE LA REPÚBLICA, PGR). THE DRUG HAD BEEN CONFISCATED FROM TRAFFICKERS. AGENTS OF THE SPECIAL ANTI-DRUG UNIT OF THE POLICE DETAINED ALBERTO GÓMEZ GARCÍA, ONE OF THE ROBBERY SUSPECTS, ON MAY 27, HELD HIM INCOMMUNICADO, AND MOVED HIM FROM LOCATION TO LOCATION IN MEXICO, TORTURING HIM BY METHODS INCLUDING NEAR-SUFFOCATION AND ELECTRIC SHOCKS. ON JUNE 3, FEDERAL PROSECUTORS ANNOUNCED THAT THEY HAD BEEN HOLDING GÓMEZ UNDER A TYPE OF ARREST KNOWN AS "ARRAIGO," IN WHICH THE DETAINEE IS NOT HELD IN JAIL BUT CANNOT MOVE FROM A DESIGNATED AREA. EVENTUALLY, ON JUNE 22, GÓMEZ'S FAMILY WAS PERMITTED TO SEE HIM WHILE HE WAS HELD UNDER ARRAIGO IN MEXICO CITY'S HOTEL EDISON. THE PGR INFORMED HUMAN RIGHTS WATCH IN SEPTEMBER THAT THE TORTURE ALLEGATIONS AND COMPLAINTS OF PROCEDURAL IRREGULARITIES WERE BEING INVESTIGATED BY THE PGR'S INTERNAL CRIMINAL INVESTIGATIONS UNIT (VISITADURÍA GENERAL) AND INTERNAL ADMINISTRATIVE INVESTIGATIONS UNIT (CONTRALORÍA INTERNA).

MEXICAN HUMAN RIGHTS GROUPS HAVE ALSO DOCUMENTED A GROWING PROBLEM OF "DISAPPEARANCES" IN NORTHERN MEXICO, APPARENTLY RELATED TO DRUG TRAFFICKING. PRODH CHRONICLED AT LEAST SIXTEEN BETWEEN JUNE 1996 AND AUGUST 1997 IN SINALOA STATE. IN MANY CASES IT WAS NOT CLEAR IF THE VICTIMS WERE DETAINED BY POLICE OR SOLDIERS, OR, IF SUCH OFFICIALS WERE RESPONSIBLE, IF THE AUTHORITIES WERE WORKING WITH THE GOAL OF FIGHTING DRUG TRAFFICKING IN GENERAL OR WERE IN THE EMPLOY OF A DRUG TRAFFICKER LOOKING TO WEAKEN A RIVAL GANG. RÓMULO RICO URREA, FOR INSTANCE, REMAINS MISSING SINCE SEPTEMBER 1996. A REPORT BY THE NEW YORK TIMES IN MARCH DESCRIBED EVIDENCE OF LINKS BETWEEN THE ABDUCTORS AND GEN. JESÚS GUTIÉRREZ REBOLLO, WHO WAS NAMED IN DECEMBER 1996 TO HEAD MEXICO'S ANTI-DRUG EFFORTS, THEN REMOVED AND JAILED ON ALLEGATIONS THAT HE WAS IN THE EMPLOY OF DRUG TRAFFICKERS. IN OCTOBER, THE SAME NEWSPAPER REPORTED THAT MORE THAN FIFTY PEOPLE HAVE BEEN REPORTED "DISAPPEARED" IN CHIHUAHUA, MOST OF THEM AFTER BEING DETAINED BY POLICE.

TORTURE IN MEXICO REMAINED A SERIOUS PROBLEM IN THE CASES OF SUSPECTED GUERRILLAS AND IN DETENTIONS RELATED TO COMMON CRIME. IN ITS THIRD PERIODIC REPORT SUBMITTED TO THE UNITED NATIONS COMMITTEE AGAINST TORTURE (CAT), THE MEXICAN GOVERNMENT PROVIDED AN EXCESSIVELY FORMAL DESCRIPTION OF THE TORTURE PROBLEM IN MEXICO, FOCUSING ON LEGAL REFORMS AND PROVISIONS DESIGNED TO COMBAT TORTURE WHILE IGNORING THE INEFFECTIVENESS OF THESE MEASURES. IN ITS CONCLUSIONS REACHED IN APRIL, THE CAT NOTED THE POSITIVE NATURE OF SOME OF THE LEGAL REFORMS AND EDUCATION INITIATIVES UNDERTAKEN BY THE GOVERNMENT BUT STRONGLY FAULTED THE "PROFOUND DICHOTOMY" BETWEEN LEGAL AND ADMINISTRATIVE STRUCTURES AND THE CONTINUING SYSTEMATIC PRACTICE OF TORTURE IN THE COUNTRY. MEXICAN HUMAN RIGHTS GROUPS PREPARED DETAILED DOCUMENTATION ON TORTURE IN ANTICIPATION OF THE AUGUST VISIT OF NIGEL RODLEY, THE U.N. SPECIAL RAPPORTEUR ON TORTURE. RODLEY'S VISIT TO MEXICO WAS HIS FIRST TO MEXICO IN HIS U.N. POST AND FOLLOWED YEARS OF REQUESTS TO THE MEXICAN GOVERNMENT FOR PERMISSION TO MAKE THE TRIP.

DURING 1997, PUBLIC SECURITY CONTINUED TO DEMAND ATTENTION FROM MEXICAN POLICY MAKERS, AS COMMON AND ORGANIZED CRIME GREW IN MAGNITUDE. PRESIDENT ERNESTO ZEDILLO NOTED IN HIS STATE-OF-THE-UNION ADDRESS IN SEPTEMBER THAT "PUBLIC INSECURITY IN THE STREETS IS THE MOST SERIOUS CONCERN FACING MEXICANS." HE LAMENTED, TOO, THAT MUCH OF THAT INSECURITY CAME FROM THE FACT THAT MEXICANS CONTINUE "FEARING BOTH THOSE WHO COMMIT CRIME AND THOSE WHO SHOULD FIGHT IT, BECAUSE FREQUENTLY [THOSE WHO SHOULD BE FIGHTING CRIME] COVER IT UP OR TOLERATE ILLEGAL ACTS." NOWHERE WERE PUBLIC SECURITY CONCERNS—AND HUMAN RIGHTS VIOLATIONS STEMMING FROM POLICE OPERATIONS—MORE CLEAR THAN IN MEXICO CITY, WHERE TECHNIQUES DEVELOPED TO COMBAT CRIME HINGED UPON THE VIOLATION OF CIVIL LIBERTIES, INCLUDING FREEDOM OF MOVEMENT AND DUE PROCESS. POLICE CORDONED OFF STREETS OR ENTIRE NEIGHBORHOODS, DETAINED ALL PRESENT, AND ONLY LATER RELEASED DETAINEES NOT DEEMED SUSPICIOUS. THE ABUSES STEMMING FROM THIS ANTI-CRIME

strategy reached tragic proportions on September 9, when, after responding to a reported robbery in the Buenos Aires district, a police officer was killed in an apparent shoot-out with the suspects. Three people reported by witnesses to have been detained by police were found murdered the next day. Three other people detained by men in plain clothes and missing since September 9, were found dead on September 30. In October, police arrested at least two dozen police officers, one of whom was accused of aggravated homicide. After the incident, authorities dissolved the "Jaguars" Special Dissuasive Group (Grupo Especial Disuasivo "Jaguares"), the Mexico City police force from whose ranks came the officer accused of aggravated homicide. At this writing it was not clear how far up the chain of command the investigation would reach.

As police took ever-stronger actions to fight crime, journalists covering crime increasingly faced harassment, physical attacks, and even death. Gunmen killed at least two journalists during the year, Jesús Bueno León of the Guerrero state weekly *7 Días* and Benjamín Flores Guerrero, with the Sonora state daily *La Prensa*. Prior to his murder, Bueno had written that he believed state officials planned to kill him in retaliation for his reporting. In the Flores Guerrero case, state authorities arrested two men they accused of carrying out the assassination at the behest of a man believed to be a drug trafficker.

Other physical attacks against journalists also took place during the year. In separate incidents in September, for instance, unidentified assailants kidnapped two reporters with the daily *Reforma*. On September 5, after interviewing family members of PGR agents accused of drug trafficking, Daniel Lizárraga was driven around in a taxi by men who interrogated him about the interviews and threatened him to stop covering the subject. Before releasing Lizárraga, the assailants stole materials related to the story, including his interview notes. Just days before, on August 25, assailants kidnaped, beat, and threatened *Reforma* reporter David Vicenteño, who was covering the "disappearance" of a Mexico City police agent. Then, on September 13, men dressed in civilian clothing kidnaped René Solorio, a reporter with the *Hechos* news program on TV Azteca. The assailants tortured the journalist by placing a plastic bag over his head and threatening to execute him. They warned him and his boss, anchor Javier Alatorre, to drop stories critical of police operations in Mexico City. The station had recently broadcast a news story with footage showing armed robbers talking with police officers after committing robberies. The following day, *Hechos* reporter Ernesto Madrid suffered a similar attack. On September 17, a reporter from the daily *El Universal* who had covered the same story broadcast on "Hechos" was beaten.

Mexican journalists and foreign correspondents in the country also continued to face the harassment of criminal libel suits, which, according to the New York-based Committee to Protect Journalists (CPJ), carried with them the threat of a maximum of eleven months in prison. Among those facing defamation charges were Ninfa Deandar, editor of Tamaulipas state daily *El Manana de Nuevo Laredo*, who has suffered death threats, and Sam Dillon and Craig Pyles of the *New York Times*. Other journalists were threatened with court action if they did not submit to prosecutors' questioning regarding information published in their newspapers.

In the area of labor rights, Mexicans continued to suffer violations stemming from lax government enforcement of labor standards and legal structures that impeded the organization of independent unions. For instance, Human Rights Watch documented the government's failure to enforce anti-discrimination law in export-processing factories known as maquiladoras and pro-government bias within federal labor tribunals. In 1996 and 1997, Human Rights Watch filed complaints about these problems before the United States National Administrative Office (U.S. NAO) (see *The Role of the International Community*). The U.S. NAO was created by the North American Agreement on Labor Cooperation (NAALC), commonly referred to as the labor rights side agreement of the North American Free Trade Agreement (NAFTA), to handle such matters. Union activists also faced threats, physical attacks, and reprisals for union organizing.

An important appeals-court decision in June offered hope that certain longstanding legal restrictions on union freedoms in Mexico would be eliminated. Based on a challenge made by the Single Union of Workers of the Fishing Ministry (Sindicato Unico de Trabajadores de la Secretaría de Pesca, SUTSP)—the union on whose behalf Human Rights Watch filed one of the U.S. NAO cases mentioned above—a court ruled unconstitutional provisions of a



FEDERAL LABOR LAW THAT PROHIBITED MORE THAN ONE UNION FROM ORGANIZING IN ANY SINGLE GOVERNMENT ENTITY, SUCH AS A MINISTRY. WHILE THE DECISION CONSTITUTED AN IMPORTANT SUCCESS FOR FREEDOM OF ASSOCIATION ADVOCATES, IT WAS NOT CLEAR WHAT IMPACT THE DECISION WOULD HAVE, SINCE FEDERAL LABOR LAW DID NOT DEFINE THE RIGHTS OF SECOND, MINORITY UNIONS IN THE FEDERAL WORKPLACE AND THE JUNE LEGAL DECISION DID NOTHING TO FILL THE LEGAL VOID. UNTIL MEXICAN LAW SPECIFIED THE RIGHTS OF SECOND UNIONS—including their ability to receive union dues and have time off for official union activities—the formation of more than one union in federal workplaces would prove meaningless. INDEED, THOUGH THE COURT DECISION GAVE SUTSP THE RIGHT TO EXIST ALONG WITH A PRO-GOVERNMENT UNION WITHIN THE MINISTRY OF THE ENVIRONMENT, NATURAL RESOURCES AND FISHING (SECRETARÍA DEL MEDIO AMBIENTE, RECURSOS NATURALES Y PESCA, SEMARNAP), SUTSP WAS NOT ABLE TO WORK AS A UNION. AT THIS WRITING, SUTSP IS WORKING THROUGH THE COURTS TO HAVE ITS RIGHTS DEFINED.

## The Right to Monitor

THE MEXICAN GOVERNMENT CONTINUED TO REACT VEHEMENTLY AGAINST INTERNATIONAL HUMAN RIGHTS PRESSURE, DISMISSING WELL-DOCUMENTED HUMAN RIGHTS REPORTS AND EVEN EXPELLING FOREIGN HUMAN RIGHTS MONITORS. AS IN PAST YEARS, MEXICAN HUMAN RIGHTS GROUPS FACED SERIOUS THREATS AND ATTACKS DURING 1997.

CHURCH-RELATED HUMAN RIGHTS GROUPS CONTINUED TO COME UNDER ATTACK THROUGHOUT MEXICO. IN MEXICO CITY, A SERIES OF DEATH THREATS RECEIVED BY MEMBERS AND COLLABORATORS OF PRODH TAPERED OFF BY THE END OF THE 1996, BUT ARMED MEN APPEARED OUTSIDE THE GROUP'S MEXICO CITY OFFICES IN MAY AFTER THE GROUP GAVE ASSISTANCE TO FOREIGNERS THREATENED WITH EXPULSION. AFTER KEEPING WATCH ON THE OFFICES FOR A WEEK, THE MEN DISAPPEARED. FOLLOWING A SERIES OF DEATH THREATS AGAINST PRODH IN 1996, SOME OF WHICH WERE DELIVERED IN WRITING AND BY HAND TO THE GROUP'S MEXICO CITY ADDRESS, AUTHORITIES INSTALLED A CLOSED-CIRCUIT VIDEO CAMERA OUTSIDE PRODH'S OFFICES AND INSTRUCTED POLICE TO PATROL THE AREA NEAR THE BUILDING WHERE THE GROUP WORKED. JUDICIAL INVESTIGATIONS INTO THE THREATS, HOWEVER, LED NOWHERE, AS AUTHORITIES FAILED TO FOLLOW UP LEADS PROVIDED BY PRODH.

CHIHUAHUA'S COMMISSION OF SOLIDARITY AND DEFENSE OF HUMAN RIGHTS (COMISIÓN DE SOLIDARIDAD Y DEFENSA DE LOS DERECHOS HUMANOS, COSYDDHAC) CAME UNDER RENEWED THREAT IN JANUARY, WHEN THE ORGANIZATION'S SECRETARY AND FOUNDER WERE TOLD TO LEAVE OR THEY WOULD BE KILLED. COSYDDHAC HAD RECEIVED SIMILAR THREATS DURING 1996. ON FEBRUARY 15, FOLLOWING INCREASING PRESSURE AGAINST MEMBERS OF THE FRAY BARTOLOMÉ DE LAS CASAS HUMAN RIGHTS CENTER (CENTRO DE DERECHOS HUMANOS "FRAY BARTOLOMÉ DE LAS CASAS"), A GROUP OF INVESTIGATORS FROM THE CENTER WERE ATTACKED IN SABANILLA, AMBUSHED AS THEY TRIED TO LEAVE THE MUNICIPAL CENTER. THOUGH THEY HAD TRAVELED TO THE TROUBLED MUNICIPALITY TO GATHER INFORMATION, THEY DECIDED TO LEAVE AFTER FINDING POLICE UNWILLING TO HELP THEM; AS THEY LEFT THE COMMUNITY, ARMED MEN STOPPED THEM ON THE ROAD AND OPENED FIRE WHEN THE GROUP TRIED TO REVERSE ITS VEHICLES. JOSÉ MONTERO FROM THE CENTER WAS WOUNDED IN THE ARM.

ALSO IN CHIAPAS, THE COORDINATING GROUP OF NONGOVERNMENTAL ORGANIZATIONS FOR PEACE (COORDINADORA DE ORGANISMOS NO GUBERNAMENTALES POR LA PAZ, CONPAZ) CAME UNDER RENEWED ATTACK. ON OCTOBER 7 AND NOVEMBER 4, 1996, AND FEBRUARY 9, 1997, UNIDENTIFIED ASSAILANTS TRIED UNSUCCESSFULLY TO BURN THE GROUP'S OFFICES. ON NOVEMBER 7, 1997, A CONPAZ MEMBER GROUP, CHILTAK, RECEIVED ANONYMOUS DEATH THREATS NAMING SEVERAL PEOPLE WHO WOULD BE KILLED. THEN, ON MAY 7, THE GROUP'S DIRECTOR, GERARDO GONZÁLEZ, RECEIVED DEATH THREATS BY TELEPHONE.

THE GOVERNMENT SHOWED DISDAIN FOR INTERNATIONAL HUMAN RIGHTS REPORTING BY REJECTING INFORMATION AND REPORTS BY INTERNATIONAL HUMAN RIGHTS ORGANIZATIONS, INCLUDING HUMAN RIGHTS WATCH AND AMNESTY INTERNATIONAL. THE DAY THAT HUMAN RIGHTS WATCH PUBLISHED ITS REPORT ON RURAL VIOLENCE, FOR INSTANCE, THE FOREIGN MINISTRY ISSUED A STATEMENT ASSERTING THAT THE GOVERNMENT WAS CONCERNED ABOUT HUMAN RIGHTS PROTECTION BUT ACCUSING HUMAN RIGHTS WATCH OF "TRYING WITH ITS PARTIAL AND UNOBJECTIVE REPORT TO DISTORT THE REAL HUMAN RIGHTS SITUATION IN CHIAPAS, GUERRERO, OAXACA, AND SINALOA." THE STATEMENT, TYPICAL OF THE GOVERNMENT'S HOLLOW HUMAN RIGHTS RHETORIC, DISMISSED THE REPORT AS DEALING WITH "PRESUMED VIOLATIONS THAT HAVE BEEN RESOLVED OR ARE IN THE PROCESS OF BEING RESOLVED."

WHEN HUMAN RIGHTS WATCH CHALLENGED THE ACCUSATIONS, THE FOREIGN MINISTRY POINTED OUT THREE CASES THAT IT CONSIDERED RESOLVED OR IN PROCESS OF BEING CONCLUDED. IN THE REPORT ON RURAL VIOLENCE, HUMAN RIGHTS WATCH HAD

NOTED THE ARREST OF THE AGGRESSORS IN TWO OF THE CASES INDICATED BY THE GOVERNMENT. OF DOZENS OF OTHER CASES DETAILED IN THE REPORT, HOWEVER, THE FOREIGN MINISTRY FAILED TO INDICATE ANY ONE IN WHICH A GOVERNMENT OFFICIAL HAD BEEN PROSECUTED FOR HAVING COMMITTED A HUMAN RIGHTS VIOLATION.

THE GOVERNMENT'S UNWILLINGNESS TO ENGAGE IN SERIOUS DIALOGUE ON HUMAN RIGHTS ISSUES WAS REITERATED IN SEPTEMBER, WHEN HIGH-LEVEL GOVERNMENT OFFICIALS REFUSED TO MEET WITH A DELEGATION HEADED BY AMNESTY INTERNATIONAL SECRETARY GENERAL PIERRE SANÉ. FOLLOWING THIS INCIDENT AND A SIMILARLY EMBARRASSING CONFRONTATION WITH FRENCH HUMAN RIGHTS ORGANIZATIONS, THE GOVERNMENT ANNOUNCED THE CREATION OF THE INTER-MINISTERIAL COMMISSION ON MEXICO'S INTERNATIONAL HUMAN RIGHTS OBLIGATIONS. AT THIS WRITING, THE COMMISSION HAS YET TO BEGIN ITS WORK OF COORDINATING ACTIONS DESIGNED TO ENSURE THAT MEXICO LIVES UP TO THESE OBLIGATIONS.

MEXICAN AUTHORITIES, HOWEVER, DID MORE TO LIMIT HUMAN RIGHTS MONITORING THAN JUST ISSUE VACUOUS PRESS RELEASES AND CLOSE THE DOOR TO DIALOGUE. IN APRIL, THE GOVERNMENT EXPELLED VILMA NÚÑEZ AND BENJAMÍN CUÉLLAR FROM THE PARIS-BASED INTERNATIONAL FEDERATION OF HUMAN RIGHTS (FEDERATION INTERNATIONALE DES LIGUES DES DROITS DE L'HOMME, FIDH) AND GEORGEANNE POTTER OF THE BOSTON-BASED UNITARIAN UNIVERSALIST SERVICE COMMITTEE. AUTHORITIES LATER APOLOGIZED TO POTTER AND TOLD HER SHE WOULD BE PERMITTED BACK INTO THE COUNTRY. ALSO IN APRIL, OFFICIALS PRESSED TWELVE EUROPEAN PEACE ACTIVISTS TO LEAVE THE COUNTRY BECAUSE THEY PARTICIPATED IN A PROTEST MARCH IN CHIAPAS. THE MEXICAN FOREIGN MINISTRY ALSO SOUGHT TO LIMIT THE ACCESS OF HUMAN RIGHTS GROUPS TO THE INTER-AMERICAN COMMISSION ON HUMAN RIGHTS. UNDER THE GUISE OF IMPROVING THE COMMISSION'S PROCEDURES, MEXICO PUSHED FOR CHANGES THAT WOULD HAVE Eviscerated the commission. UNDER THE MEXICAN PROPOSALS, THE OFFICES OF GOVERNMENT OMBUDSMEN—RATHER THAN NONGOVERNMENTAL ORGANIZATIONS—WOULD BE THE PRINCIPAL CONDUIT FOR CASES TO COME BEFORE THE COMMISSION, THE COMMISSION'S REPORTS WOULD BE CONFIDENTIAL, AND, ACCORDING TO THE LEGAL ADVISOR TO MEXICO'S FOREIGN MINISTRY, THOSE WHO PRESENTED CASES TO THE COMMISSION WOULD NOT BE PERMITTED TO BE FROM "A THIRD COUNTRY OR INTERNATIONAL ORGANIZATION FAR FROM THE HISTORICAL AND CULTURAL REALITY OF MEXICO." THE GOVERNMENT'S PROPOSALS WERE NOT ADOPTED.

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

### **European Union**

MEXICO AND THE EUROPEAN UNION (E.U.) AGREED IN OCTOBER 1996 TO BEGIN FORMAL TALKS ON A TRADE, POLITICAL, AND COOPERATION AGREEMENT. IN JUNE, MEXICO AND THE EUROPEAN COMMISSION, WHICH NEGOTIATES THE TERMS OF AGREEMENTS WITH NON-MEMBER STATES, REACHED AGREEMENT ON AN INTERIM ACCORD, BUT THE PACT WAS REJECTED BY THE E.U.'S COUNCIL OF MINISTERS ON THE GROUNDS THAT THE INTERIM AGREEMENT DID NOT INCLUDE THE EU'S STANDARD HUMAN RIGHTS CLAUSE. MEXICO HAD SUCCEEDED IN STRIPPING FROM THE CLAUSE REFERENCE TO ITS INTERNAL HUMAN RIGHTS POLICIES. IN JULY, MEXICO AGREED TO THE INSERTION OF THE FULL HUMAN RIGHTS CLAUSE.

THOUGH ULTIMATELY UNSUCCESSFUL AT WEAKENING THE EUROPEAN UNION'S HUMAN RIGHTS CLAUSE, IN JULY MEXICO DID MANAGE TO BLOCK U.S. \$340,000 IN E.U. AID FOR THE MEXICAN ACADEMY OF HUMAN RIGHTS (ACADEMIA MEXICANA DE DERECHOS HUMANOS, AMDH) FOR MONITORING ELECTIONS IN MEXICO CITY. THE GOVERNMENT OF MEXICO ARGUED THAT THE EUROPEANS HAD NO STANDING TO GIVE MONEY TO A NONGOVERNMENTAL GROUP WITHOUT THE GOVERNMENT'S CONSENT AND ARGUED THAT THE EUROPEANS SHOULD NOT INTERFERE WITH INTERNAL ELECTORAL PROCEDURES. IN APRIL, A RULING PARTY LEGISLATIVE INITIATIVE IN THE CHAMBER OF DEPUTIES WOULD HAVE MADE IT ILLEGAL FOR MEXICAN ELECTION MONITORS TO FINANCE THEIR WORK WITH FOREIGN MONEY. FACED WITH WIDESPREAD CRITICISM, THE PROPOSAL WAS FINALLY WITHDRAWN.

### **United States**

CONTINUING A TREND BEGUN SEVERAL YEARS AGO, THE UNITED STATES INCREASED ITS PUBLIC SUPPORT FOR MEXICAN HUMAN RIGHTS ORGANIZATIONS, AN IMPORTANT AND POSITIVE CONTRIBUTION TO THE LOCAL HUMAN RIGHTS COMMUNITY. SECRETARY OF STATE MADELEINE ALBRIGHT MET WITH REPRESENTATIVES OF MEXICAN HUMAN RIGHTS GROUPS DURING A VISIT TO MEXICO IN MAY, AND THE U.S. EMBASSY IN MEXICO CITY MAINTAINED CLOSE CONTACT WITH SUCH GROUPS. IN ANOTHER POSITIVE MOVE, THE U.S.

GOVERNMENT SENT AN UNPRECEDENTED STATE DEPARTMENT MISSION TO MEXICO TO FOCUS EXCLUSIVELY ON HUMAN RIGHTS ISSUES. HEADED BY DEPUTY ASSISTANT SECRETARY OF STATE STEVEN COFFEY, THE MISSION RESULTED FROM THE MEXICAN GOVERNMENT'S OBJECTION TO THE STATE DEPARTMENT'S ANNUAL HUMAN RIGHTS REPORT, RELEASED IN FEBRUARY. THE HARD-HITTING STATE DEPARTMENT REPORT COVERED THE MAIN PROBLEMS IN MEXICO WELL, FINDING, "MAJOR ABUSES INCLUDED EXTRAJUDICIAL KILLINGS, TORTURE, ILLEGAL ARRESTS, ARBITRARY DETENTION, POOR PRISON CONDITIONS, ILLEGAL SEARCHES, VIOLENCE AGAINST WOMEN, DISCRIMINATION AGAINST WOMEN AND INDIGENOUS PERSONS, SOME LIMITS ON WORKER RIGHTS, AND EXTENSIVE CHILD LABOR IN AGRICULTURE AND IN THE INFORMAL ECONOMY."

ALTHOUGH THE HUMAN RIGHTS REPORT LEFT NO DOUBT ABOUT MEXICO'S RIGHTS PROBLEMS, AND THE STATE DEPARTMENT SHOWED VIGOR IN SUPPORTING THE MEXICAN HUMAN RIGHTS COMMUNITY, THIS DID NOT MEAN THAT THE U.S. GOVERNMENT WAS WILLING TO PRESS MEXICO FOR HUMAN RIGHTS IMPROVEMENTS. IN THIS CRITICAL AREA, U.S. POLICY TOWARD MEXICO APPEARED CONSISTENT WITH PRIOR YEARS: TENSE BILATERAL ISSUES INVOLVING TRADE AND THE ECONOMY, DRUGS, AND IMMIGRATION ELBOWED ASIDE HUMAN RIGHTS CONCERNS.

THE U.S. LABOR DEPARTMENT CONTINUED TO EXAMINE TWO LABOR RIGHTS CASES SUBMITTED UNDER THE NAALC. ON JANUARY 27, THE DEPARTMENT'S U.S. NAO ISSUED A REPORT ON A CASE INVOLVING SUTSP, WHICH HAD BEEN SUBMITTED IN JUNE 1996 BY HUMAN RIGHTS WATCH, THE INTERNATIONAL LABOR RIGHTS FUND (ILRF), AND MEXICO'S NATIONAL ASSOCIATION OF DEMOCRATIC LAWYERS (ASOCIACIÓN NACIONAL DE ABOGADOS DEMOCRÁTICOS, ANAD). THE PETITION SHOWED THAT SUTSP HAD BEEN UNABLE TO EXERCISE ITS RIGHT TO FREEDOM OF ASSOCIATION SINCE EARLY 1995 AND THAT NO MEXICAN GOVERNMENT AGENCY EFFECTIVELY ENFORCED FREEDOM OF ASSOCIATION LAWS. EVEN WHEN SUTSP RECEIVED LEGAL RECOGNITION OF ITS UNION STATUS, OFFICIALS IN SEMARNAP—THE ENVIRONMENT MINISTRY, WHERE SUTSP WAS ORGANIZED—REFUSED TO RECOGNIZE THE UNION. THE PROBLEM REMAINS AS OF THIS WRITING.

THE PETITIONERS IN THE SUTSP CASE ALSO ARGUED THAT CERTAIN PORTIONS OF MEXICO'S FEDERAL LABOR LAW VIOLATED FREEDOM OF ASSOCIATION STANDARDS, AND THEREBY THE NAALC, BY ESTABLISHING THAT ONLY ONE UNION COULD EXIST IN ANY FEDERAL GOVERNMENT AGENCY, SUCH AS A MINISTRY, AND THAT MEXICO'S FEDERAL CONCILIATION AND ARBITRATION TRIBUNAL (TRIBUNAL FEDERAL DE CONCILIACIÓN Y ARBITRAJE, TFCA) WAS NOT IMPARTIAL, AS REQUIRED BY THE NAALC. PETITIONERS URGED THE U.S. NAO TO REVIEW MEXICAN COMPLIANCE WITH ITS LABOR LAW IN LIGHT OF BOTH DOMESTIC AND INTERNATIONAL STANDARDS.

IN ITS JANUARY 1997 REPORT, THE U.S. NAO REQUESTED THAT THE U.S. LABOR DEPARTMENT ANALYZE JOINTLY WITH ITS MEXICAN COUNTERPART THE ISSUE OF HOW MEXICAN LABOR STANDARDS RELATED TO INTERNATIONAL LABOR STANDARDS, BUT DID NOT REQUEST THAT ACTION BE TAKEN ON ANY ISSUE DIRECTLY RELATED TO THE SUTSP CASE. THROUGH A MECHANISM TERMED "MINISTERIAL CONSULTATIONS," THE TWO COUNTRIES DECIDED TO HOLD A CONFERENCE CALLED SEMINAR ON INTERNATIONAL TREATIES AND CONSTITUTIONAL SYSTEMS OF THE UNITED STATES, MEXICO, AND CANADA. THE LONG AND DETAIL-ORIENTED INFORMATION-GATHERING PROCESS UNDERTAKEN BY THE U.S. NAO IN THE SUTSP CASE, INCLUDING DECEMBER 1996 PUBLIC HEARINGS, PROVED AN IMPORTANT METHOD OF SHINING PUBLIC LIGHT ON SERIOUS MEXICAN LABOR RIGHTS PROBLEMS. AT THIS WRITING, HOWEVER, IT HAS NOT RESULTED IN ANY SPECIFIC ACTIONS DESIGNED TO SOLVE THOSE PROBLEMS. IN FACT, THE JANUARY U.S. NAO REPORT FAILED TO INCLUDE IN ITS ANALYSIS MUCH OF THE WELL-DOCUMENTED INFORMATION PRESENTED BY THE PETITIONERS. FOR INSTANCE, THE U.S. NAO CITED SUTSP APPEALS COURT VICTORIES TO CONCLUDE THAT NO FREEDOM OF ASSOCIATION VIOLATION HAD TAKEN PLACE, ARGUING THAT COURTS HAD RESTORED FREEDOM OF ASSOCIATION RIGHTS TO THE UNION. HOWEVER, THE U.S. NAO DID NOT FACTOR INTO ITS DECISION EVIDENCE THAT, DESPITE THE COURT VICTORIES, THE UNION MEMBERS WERE NEVER ABLE TO EXERCISE THEIR RIGHTS, SINCE NO GOVERNMENT OFFICIAL ALLOWED THEM TO DO SO. SIMILARLY, THE U.S. NAO FOUND NO LABOR TRIBUNAL BIAS IN THE SUTSP CASE BUT DID NOT DIRECTLY ADDRESS THE PETITIONERS' COMPLAINTS. FOR INSTANCE, TO DETERMINE THAT NO BIAS EXISTED IN THE TRIBUNAL, THE U.S. NAO POINTED TO SUTSP VICTORIES WHEN IT APPEALED LABOR TRIBUNAL DECISIONS, EVEN THOUGH THE ABILITY TO APPEAL A DECISION SHED NO LIGHT ON THE WORKINGS OF THE TRIBUNAL WHOSE DECISION WAS APPEALED. FURTHER, THE U.S. NAO FOUND THAT, GIVEN ITS STRUCTURE, THE TRIBUNAL WOULD APPEAR TO BE BIASED IN SOME CASES THAT CAME BEFORE IT, BUT, EVEN GIVEN THIS FINDING, DECIDED THAT NO FURTHER ACTION NEEDED TO BE TAKEN ON THE BIAS ISSUE, EVEN THOUGH THE NAALC REQUIRED LABOR TRIBUNALS TO BE COMPLETELY FREE OF BIAS.

IN THE SECOND CASE PROCESSED BY THE U.S. NAO DURING 1997, HUMAN RIGHTS WATCH, ILRF, AND ANAD ACCUSED THE

MEXICAN GOVERNMENT OF FAILING TO ENFORCE ANTI-DISCRIMINATION LAWS BY PERMITTING MANDATORY, HIRING-RELATED PREGNANCY TESTING OF FEMALE JOB APPLICANTS IN MAQUILADORAS. THE COMPLAINT ALSO ALLEGED THAT VICTIMS OF THIS DISCRIMINATION DID NOT HAVE EFFECTIVE ACCESS TO LABOR TRIBUNALS TO RESOLVE THE ISSUE. SUBMITTED IN MAY, THE NAO DECIDED TO ACCEPT THE CASE FOR REVIEW AND BEGAN A MONTHS-LONG PROCESS OF GATHERING INFORMATION ON THE ISSUES RAISED. THE MEXICAN GOVERNMENT RESPONDED TO THE CASE BY ASSERTING THAT PREGNANCY TESTING VIOLATED NEITHER MEXICAN NOR INTERNATIONAL LAW. AT THIS WRITING, THE U.S. NAO IS STILL GATHERING INFORMATION ON THE ISSUES RAISED BY PETITIONERS. IN OCTOBER, THE U.S. NAO ANNOUNCED THAT IT WOULD HOLD PUBLIC HEARINGS ON THE CASE ON NOVEMBER 19.

A THIRD CASE WAS BRIEFLY REVIEWED BY THE U.S. NAO BUT LATER WITHDRAWN BY THE PETITIONERS.

## **Relevant Human Rights Watch report:**

*STATE RESPONSIBILITY FOR RURAL VIOLENCE IN MEXICO, 4/97*

## **PERU**

### **Human Rights Developments**

DURING 1997 A SERIES OF ATTACKS ON THE AUTONOMY OF BODIES ESTABLISHED TO PROTECT CONSTITUTIONAL RIGHTS, ON THE INDEPENDENCE OF THE JUDICIARY, AND ON FREEDOM OF THE PRESS REVEALED THE AUTHORITARIAN STYLE OF THE GOVERNMENT OF PRESIDENT ALBERTO FUJIMORI WITH INCREASING CLARITY. IN MAY, THE PRO-FUJIMORI MAJORITY IN CONGRESS CRIPPLED THE RECENTLY ELECTED CONSTITUTIONAL COURT BY DISMISSING THREE OF ITS MEMBERS, AN ACTION WHICH PROMPTED THE COURT'S PRESIDENT TO RESIGN IN PROTEST. THE CONGRESSIONAL ACTION WAS IN RESPONSE TO THE COURT'S ISSUING OF A RULING CHALLENGING FUJIMORI'S CONSTITUTIONAL RIGHT TO STAND FOR ELECTION FOR A THIRD CONSECUTIVE TERM. THE GOVERNMENT ARBITRARILY DEPRIVED AN ISRAELI-BORN MEDIA OWNER OF HIS PERUVIAN NATIONALITY AND EXPROPRIATED HIS SHARES IN HIS TELEVISION STATION AFTER HE BROADCAST AN INTERVIEW WITH AN ARMY INTELLIGENCE AGENT WHO HAD BEEN DETAINED AND TORTURED BY HER SUPERIOR OFFICERS. PERU'S SHADY NATIONAL INTELLIGENCE SERVICE (SERVICIO NACIONAL DE INTELIGENCIA, SIN), WHOSE DE FACTO HEAD VLADIMIRO MONTESINOS IS A CLOSE ADVISER OF THE PRESIDENT, WAS WIDELY SUSPECTED OF ORDERING A SERIES OF VIOLENT ATTACKS ON JOURNALISTS AND PROMINENT POLITICIANS, AS WELL AS WIDESPREAD SURVEILLANCE AND ILLEGAL PHONE TAPPING OF PUBLIC PERSONALITIES SUCH AS GOVERNMENT MINISTERS AND A FORMER PRESIDENTIAL CANDIDATE. EVIDENCE EMERGED THAT MEMBERS OF THE LA COLINA ARMY DEATH SQUAD, WHOSE MEMBERS WERE RELEASED FROM PRISON UNDER AN AMNESTY LAW PASSED IN JUNE 1995, WERE STILL REGULAR VISITORS AT ARMY HEADQUARTERS IN LIMA.

PERU'S ANTI-TERRORIST POLICE CONTINUED TO ENGAGE IN TORTURE, AND GRAVE ABUSES WERE ATTRIBUTED TO SOLDIERS STATIONED IN ZONES WHERE ARMED ANTI-GOVERNMENT GROUPS OPERATED. NO ADVANCES WERE MADE IN PASSING BADLY NEEDED LEGISLATION TO PREVENT AND PUNISH TORTURE, ALTHOUGH SEVERAL BILLS HAD BEEN BEFORE CONGRESS SINCE MARCH 1996. CONDITIONS IN SPECIAL PRISONS RESERVED FOR THOSE ACCUSED OR CONVICTED OF TERRORIST CRIMES CONTINUED TO VIOLATE INTERNATIONAL NORMS. HUNDREDS OF INNOCENT PRISONERS WHO HAD FALLEN FOUL OF THE SO-CALLED "FACELESS" ANTI-TERRORIST COURTS, WHICH VIOLATED RIGHTS TO A DEFENSE AND A FAIR TRIAL, REMAINED IN PRISON. BY NOVEMBER 1, PRESIDENT FUJIMORI HAD RELEASED 227 INNOCENT PRISONERS CONVICTED OR UNDER TRIAL BY THESE COURTS AFTER THE SPECIAL AD-HOC COMMISSION APPOINTED IN 1996 TO REVIEW SUCH CASES RECOMMENDED THEIR PARDON. FINALLY RESPONDING TO INTENSE CRITICISM OF THE COURTS BY DOMESTIC AND INTERNATIONAL HUMAN RIGHTS ORGANIZATIONS, THE GOVERNMENT DID NOT RENEW THEIR MANDATE WHEN IT EXPIRED IN MID-OCTOBER; HENCEFORWARD THOSE ACCUSED OF TERRORISM WOULD BE TRIED BY ORDINARY JUDGES. THOSE ACCUSED OF THE MORE SERIOUS CRIME OF TREASON WOULD CONTINUE TO BE TRIED BY MILITARY COURTS, BUT THE IDENTITY OF THE JUDGES WOULD CEASE TO BE SECRET.

ARMED OPPOSITION GROUPS, THE SHINING PATH (SENDERO LUMINOSO) AND THE TUPAC AMARU REVOLUTIONARY MOVEMENT (MOVIMIENTO REVOLUCIONARIO TUPAC AMARU, MRTA), CONTINUED TO VIOLATE INTERNATIONAL HUMANITARIAN LAW, ALTHOUGH THE SCALE OF ABUSES BY BOTH ORGANIZATIONS DECLINED WITH THE LEVEL OF ARMED ACTIVITY. THE MRTA'S SPECTACULAR SEIZURE ON

DECEMBER 17, 1996, OF HUNDREDS OF HOSTAGES AT THE RESIDENCE OF THE JAPANESE AMBASSADOR IN LIMA FLAGRANTLY VIOLATED THE PROHIBITION ON HOSTAGE-TAKING CONTAINED IN THE GENEVA CONVENTIONS. AFTER RELEASING HUNDREDS OF THE HOSTAGES, THE MRTA CONTINUED TO HOLD SEVENTY-TWO—AMONG THEM GOVERNMENT MINISTERS, JUDGES, AND DIPLOMATS—FOR MORE THAN FOUR MONTHS, UNTIL THE ARMY AND POLICE STORMED THE RESIDENCE, SECURING THEIR RELEASE ON APRIL 22, 1997.

TWO MEMBERS OF THE SECURITY FORCES AND A SUPREME COURT JUDGE, CARLOS GIUSTI ACUÑA, DIED DURING THE RESCUE. SOLDIERS AND POLICE KILLED ALL FOURTEEN GUERRILLAS FOUND IN THE BUILDING. THE GOVERNMENT REFUSED TO INVESTIGATE THE CIRCUMSTANCES OF THE HOSTAGE-TAKERS' DEATHS TO DETERMINE WHETHER THEY WERE PRODUCED BY A LEGITIMATE USE OF FORCE OR WHETHER SOME MAY HAVE BEEN KILLED AFTER THEIR SURRENDER OR CAPTURE.

NO SIGNIFICANT NEW ACTIVITY BY THE MRTA WAS REPORTED DURING THE YEAR. ACTIVITY BY THE SHINING PATH APPEARED TO DECREASE DURING THE HOSTAGE CRISIS, BUT THE ORGANIZATION REMAINED ACTIVE, PARTICULARLY IN LIMA AND IN REMOTE PARTS OF THE DEPARTMENTS OF SAN MARTÍN, UCAYALI, CUSCO, AYACUCHO, AND HUÁNUCO. THERE WAS NO SIGN OF ANY CHANGE IN ITS TACTICS, WHICH CONTINUED TO VIOLATE BASIC PRINCIPLES OF INTERNATIONAL HUMANITARIAN LAW. ACCORDING TO PERUVIAN HUMAN RIGHTS GROUPS, BETWEEN JANUARY AND AUGUST THE ORGANIZATION SELECTIVELY KILLED EIGHTY-SEVEN PEOPLE, OF WHOM SIXTY-NINE WERE CIVILIANS. ON MAY 15, THE SEVENTEENTH ANNIVERSARY OF THE BEGINNING OF ITS ARMED CAMPAIGN, THE SHINING PATH EXPLODED A CAR BOMB OUTSIDE A POLICE STATION IN THE WORKING-CLASS AREA OF ATE VITARTE, IN LIMA, WOUNDING SEVERAL PEOPLE.

FOR THE FIRST TIME IN MANY YEARS, PERUVIAN HUMAN RIGHTS ORGANIZATIONS HAD NOT RECORDED ANY CASES OF EXTRAJUDICIAL EXECUTION OR "DISAPPEARANCE" BY THE ARMED FORCES OR THE POLICE BY THE END OF OCTOBER. GOVERNMENT FORCES, HOWEVER, CONTINUED TO RESORT TO TORTURE WHEN INTERROGATING GUERRILLA SUSPECTS. ONE MONTH BEFORE THE END OF THE HOSTAGE CRISIS, THE 31ST DIVISION OF THE PERUVIAN ARMY DETAINED MORE THAN FORTY PEASANTS IN ALTO YURINAKI AND OTHER REMOTE VILLAGES OF THE PROVINCE OF CHANCHAMAYO, JUNÍN DEPARTMENT, WHERE THEY BELIEVED AN MRTA GUERRILLA COLUMN HAD ORIGINATED. THE ARRESTS FOLLOWED THE TELEVISION SCREENING OF A NEWSCLIP WHICH SHOWED YOUTHS WEARING MRTA BANDANAS TRAINING IN A JUNGLE CAMP IN THE AREA. AN ARMY COMMUNIQUÉ ACCUSED THE PEASANTS, IDENTIFIED IN THE PRESS BY THEIR NAMES, MUGSHOTS, AND SUPPOSED ALIASES, OF BELONGING TO AN MRTA COLUMN WHICH HAD PLANNED TO ATTACK THE VILLA RICA ARMY COUNTERINSURGENCY BASE WITH THE HELP OF CONSCRIPTS WHO HAD INFILTRATED THE BASE. BETWEEN FEBRUARY 24 AND MARCH 12 THE SUPPOSED INFILTRATORS, WHO HAD THEMSELVES BEEN DETAINED AND TORTURED, ACCOMPANIED SOLDIERS ROUND THE AREA IDENTIFYING VILLAGERS, WHO WERE THEN ARRESTED, TORTURED, AND FORCED TO IDENTIFY OTHERS.

DURING THE ALTO YURINAKI OPERATION, SEVENTEEN-YEAR-OLD EMERSON WISTRACHER CÁNENA WAS DETAINED AT ABOUT 4:00 P.M. ON MARCH 9. HE WAS BEATEN, HUNG BY THE FEET, KICKED IN THE STOMACH AND PLUNGED HEAD FIRST INTO A TANK FULL OF WATER LACED WITH DETERGENT. THIS TREATMENT WENT ON FOR SEVERAL DAYS, WHILE SOLDIERS FORCED HIM TO ACCOMPANY THEM TO LOOK FOR A SUPPOSED WEAPONS CACHE. THE WEAPONS ALLEGEDLY FOUND WERE PREVIOUSLY BURIED BY THE ARMY IN A HOLE IN THE GROUND, ACCORDING TO LOCAL RESIDENTS. ON MARCH 21 A CHANNEL 15 TELEVISION INTERVIEW SHOWED WISTRACHER AFTER HIS RELEASE, STILL WITH UGLY WOUNDS ON HIS WRISTS CAUSED BY THE ELECTRIC CABLES USED TO TIE THEM. THE FOOTAGE ALSO SHOWED THE BACK ROOM OF A SMALL GROCERY STORE WHERE THE SOLDIERS HAD TORTURED WISTRACHER, COMPLETE WITH A CAR BATTERY USED FOR GIVING ELECTRIC SHOCKS AND A RECEPTACLE STILL CONTAINING WATER AND DETERGENT. THE ANTI-TERRORIST POLICE RELEASED MOST OF THE DETAINEES AFTER FINDING NO EVIDENCE TO CHARGE THEM, DESPITE THE ADVANCE PUBLICITY GIVEN BY THE ARMY TO THEIR PRESUMED GUILT. IN A TELEVISION INTERVIEW ON MARCH 30, PRESIDENT FUJIMORI PROMISED TO INVESTIGATE THE ALLEGATIONS OF TORTURE, BUT TO OUR KNOWLEDGE, THE MINISTRY OF DEFENSE DID NOT CARRY OUT ANY INVESTIGATION, NOR WERE THOSE RESPONSIBLE FOR THE TORTURE DETAINED OR CHARGED.

ARMY INTELLIGENCE AGENTS ALSO TORTURED ONE OF THEIR OWN SUBORDINATES WHOM THEY HAD ARRESTED ON SUSPICION OF LEAKING INFORMATION TO THE MEDIA ABOUT SECRET ARMY PLANS TO INTIMIDATE MEMBERS OF THE OPPOSITION PRESS. ON APRIL 6, "CONTRAPUNTO," A CHANNEL 2 TELEVISION PROGRAM, FEATURED A SHOCKING INTERVIEW WITH THIRTY-SIX-YEAR-OLD LEONOR LA ROSA BUSTAMANTE, WHICH HAD BEEN SECRETLY FILMED AT HER BEDSIDE IN LIMA'S MILITARY HOSPITAL. THE CAMERA SHOWED SEVERE BURNS AND SCARRING ON THE FINGERNAILS OF HER RIGHT HAND, AND SHE COULD WALK ONLY WITH ASSISTANCE. LA ROSA, HERSELF AN ACTIVE AGENT OF THE ARMY INTELLIGENCE SERVICE (SERVICIO DE INTELIGENCIA DEL EJÉRCITO, SIE, A DEPARTMENT

of the SIN), said that the SIE held her for five days in January in the basement of the General Command (Comandancia General) of the Peruvian Army, known as the "Little Pentagon" (Pentagonito), and SIE agents beat her and tortured her with electricity. La Rosa was admitted to the Military Hospital with head injuries. On her discharge she was given fifteen days convalescence leave. When she returned to work on February 11, her superior officers again arrested her and took her back to the basement, where they interrogated her under torture for a further week. On February 19, after hemorrhaging as a result of the beatings, she was re-admitted to the military hospital, where she suffered respiratory failure. She told Channel 2 reporters and congressmen who visited her bedside that her interrogators suspected her of leaking information to the press on secret army intelligence plans to blow up a television station and intimidate well-known journalists and human rights defenders, including television personality César Hildebrandt and lawyer Heriberto Benítez.

On May 9 a military court convicted the head of the SIE, Carlos Sánchez Noriega, and three of his subordinates for the torture of La Rosa, and sentenced them to eight years imprisonment. The proceedings were conducted according to summary military procedures and held in secret, making it impossible for outsiders to assess the evidence or whether higher officials may have ordered or acquiesced in the torture. In August the Supreme Court resolved in favor of the military a dispute over jurisdiction with the civilian court that was also investigating the case, and which had issued an order for an inspection of the SIE's detention facilities. The ruling preempted the inspection and the possibility of public access to the investigation.

The link between the targets of the SIE's intimidation campaign appeared to be their role in denouncing army human rights abuses. Benítez, a prominent human rights lawyer, represented former Gen. Rodolfo Robles Espinoza, who was forced into early retirement when he publicly revealed the involvement of an army death squad, known as the Colina Group, in extrajudicial executions and "disappearances" in 1992. The members of the death squad were jailed for human rights crimes but released under a government amnesty promulgated in June 1995. Since his return from exile in Argentina, Robles had received repeated anonymous threats. On November 26, 1996 army intelligence agents beat and abducted him in retaliation for his denouncing the Colina Group's role in a bomb attack the previous October against the Puno transmitter of Global Television, which had been critical of the government. The army released Robles in early December after domestic and international protest forced the government to approve an amnesty for him. However, harassment of Robles and his family continued. On March 26, 1997, four unidentified assailants tried to abduct Robles's son, Jaime Robles Montoya, who was driving his father's car at the time. Leonor La Rosa testified that she had seen members of the Colina Group frequenting army headquarters, providing more evidence that the main beneficiaries of the 1995 amnesty were still on active service.

Included in Channel 2's feature on Leonor La Rosa was an investigation into the "disappearance" of Mariella Lucy Barreto Riofano, also a SIE agent and a friend of La Rosa. The program revealed that a dismembered corpse found in plastic bags on a roadside north of Lima on March 23 belonged to Barreto, and that she had been the mistress of Capt. Martín Santiago Rivas, former head of the Colina Group. The newspaper *La República* had reported in February that Barreto was also under investigation by the SIE in relation to leaked information about intelligence activities. At this writing those responsible for her murder remain at large.

Other attacks against journalists and opposition politicians were also attributed by human rights groups to the SIN, although the government insisted they were the work of ordinary criminals. On March 19 in Lima, unidentified gunmen kidnapped and beat three occupants of a jeep owned by Javier Diez Canseco, a congressman of the United Left (Izquierda Unida), who is known in Peru for his campaigning on human rights issues and the object of death threats and attacks in the past. In the vehicle, apart from the driver, were Patricia Valdez, an Argentine human rights advocate, and Diez Canseco's bodyguard, who was shot in the leg. The three were beaten and threatened and eventually dropped off; the car was found later a burned-out wreck by the roadside. On April 1, four heavily armed men abducted Blanca Rosales, general editor of *La República* shortly after midnight close to the paper's offices in central Lima while she was driving home with a colleague, Juan de la Puente. The men beat and threatened Rosales but, like the occupants of Diez Canseco's jeep, later allowed her to escape. *La República*,

a left-of-center opposition newspaper, has campaigned for years against the SIN and the Colina Group. In June, César Hildebrandt, presenter of the television program *En Persona*, demanded that the Interior Ministry guarantee his family's safety after the program aired revelations by La Rosa about a plan in December 1996 by the SIE to kill him; he also received a telephone call threatening the safety of his son. Within days after the revelations became public, an *En Persona* film crew was attacked by three armed men of military appearance who broke into a house where they were about to film an interview. A week later, three armed men assaulted and beat up journalist Luis Angeles Laynes, political editor of the popular newspaper *Ojo*, in a Lima street; *Ojo* staffers had earlier received threatening phone calls.

While these attacks remained anonymous and the government disclaimed responsibility, it openly denounced other journalists and media proprietors who published unwelcome disclosures, and opened selective prosecutions against them for alleged tax debts. The main target was Baruch Ivcher Bronstein, an Israeli-born magnate and majority shareholder in Channel 2 television, the station which aired the explosive La Rosa interview. In the days following that broadcast, helicopters circled over the station, and police investigators arrived there to gather information about alleged import tax evasion. Captain Julio Salas, a police officer placed in charge of the customs investigation, later stated that a superior had told him the investigation was ordered by the SIN. When the intended harassment received adverse publicity, the government halted the investigation and publicly denied it had ever begun. Salas, who refused to comply with instructions to deny his role in the investigation, was threatened and intimidated by his superiors, and on two occasions, unknown assailants attacked his wife in the street. On May 23, the army issued a communiqué denouncing Ivcher, who had taken refuge in Miami, for allegedly trying to damage the armed forces' prestige. This was followed by a warrant for his arrest by the military justice authorities. The government then introduced an unexpected change in the immigration rules, warning naturalized Peruvians that they risked losing their citizenship if they engaged in treasonous behavior. On July 13 it revoked Ivcher's Peruvian nationality, citing alleged irregularities in his application for citizenship, which had been granted thirteen years before and never previously questioned. This action violated Peru's constitution (Article 2:21), which holds that no one may be stripped of his or her nationality, as well as international treaties ratified by Peru.

Minutes before the decree appeared in the official gazette, Ivcher's television station, Channel 2, broadcast the results of an investigation which purported to show that the SIN had tapped the phones of at least 197 businessmen, politicians, and public personalities, including Foreign Minister Francisco Tudela, as well as former United Nations Secretary-General and opposition presidential candidate, Javier Pérez de Cuellar. President Fujimori, Prime Minister Alberto Pandolfi, and the head of the SIN, Julio Salazar Monroe, all strenuously denied the report. They claimed that private individuals were responsible and could easily obtain the necessary eavesdropping equipment. Communications experts, however, indicated that the sale of electronic eavesdropping equipment was restricted to government agencies, while a television investigation revealed that the government of Peru had updated its electronic surveillance equipment in 1994.

By various legal means Fujimori's party, Change 90-New Majority (Cambio 90-Nueva Mayoría, C90-NM) tried to weaken the critical function of autonomous constitutional bodies set up to safeguard individual rights and the rule of law. In May, C90-NM's parliamentary majority dismissed three members of the Constitutional Court after impeaching them for publishing a ruling that a law passed by Fujimori to enable him to stand for a second re-election in the year 2000 was inapplicable. Article 112 of the constitution does not permit a second re-election, but the impugned law had interpreted the article as excluding terms of office prior to the promulgation of the constitution in 1993. The impeachers argued that the court had no quorum for the ruling, but four of the seven judges on the court disagreed. The firings caused protests across the nation and provoked strong objections from the judiciary, the attorney general, the Office of the People's Defender (Defensor del Pueblo), and the Catholic Church, as well as concern by the Inter-American Commission on Human Rights. Prior to her dismissal, one of the judges, Delia Revoredo, found herself under investigation by a Callao court for the import of a car in a case which

HAD LONG BEEN CLOSED, AND SHE ALLEGED THAT HER HOME HAD BEEN UNDER SURVEILLANCE.

MEASURES PURPORTED TO REFORM THE JUDICIARY, WHICH WAS DRASTICALLY PURGED AFTER FUJIMORI'S COUP IN 1992, CAME UNDER SEVERE QUESTIONING FROM POLITICIANS, THE PUBLIC, AND THE JUDGES THEMSELVES, AS IT BECAME INCREASINGLY CLEAR THE GOAL WAS TO TIGHTEN EXECUTIVE CONTROL OVER THE COURT SYSTEM. A POLL CONDUCTED IN AUGUST REVEALED THAT LESS THAN ONE IN FIVE MEMBERS OF THE LIMA POPULATION HAD ANY CONFIDENCE IN THE JUDICIARY, AND JUDGES THEMSELVES COMPLAINED OF INSECURITY AFTER A WAVE OF FIRINGS BY THE EXECUTIVE COMMISSION OF THE JUDICIARY, WHOSE HEAD, FORMER NAVY CAPT. JOSÉ DELLEPIANE, WAS APPOINTED IN 1996 BY THE GOVERNMENT TO OVERHAUL THE COURTS. FIVE YEARS AFTER FUJIMORI'S DRASTIC INTERVENTION OF THE JUDICIARY, 90 PERCENT OF PERU'S JUDGES STILL HAD ONLY PROVISIONAL STATUS, AND THEIR LACK OF TENURE MADE THEM NOTORIOUSLY VULNERABLE TO PRESSURE FROM THE EXECUTIVE BRANCH. THE DIRECTOR OF THE ACADEMY OF THE NATIONAL MAGISTRATES' COUNCIL (CONSEJO NACIONAL DE LA MAGISTRATURA, CNM), WHICH IS RESPONSIBLE FOR TRAINING JUDGES, ESTIMATED THAT IT WOULD TAKE THREE OR FOUR YEARS FOR THE CNM TO FILL ALL THE VACANT POSTS WITH PERMANENT APPOINTEES. MEANWHILE, THE COMMISSIONS SET UP IN 1996 TO COORDINATE THE RESTRUCTURING OF THE COURTS AND THE PUBLIC MINISTRY WERE CRITICIZED FOR INEFFICIENCY AS WELL AS BEING HEADED BY LOYAL GOVERNMENT APPOINTEES. MEMBERS OF CONGRESS FROM THE GOVERNMENT AS WELL AS THE OPPOSITION MADE NEW PROPOSALS IN AUGUST TO RESTRUCTURE THE REFORM PROCESS, INCLUDING A CONTROVERSIAL PROPOSAL TO REDUCE THE TRAINING REQUIREMENTS OF NEW JUDGES TO SPEED UP NEW APPOINTMENTS. AS A RESULT OF FUJIMORI'S INTERVENTION, THE COURTS' TRADITIONAL INEFFICIENCY HAS BEEN COMPOUNDED BY A GROWING SUBSERVIENT TO THE EXECUTIVE BRANCH.

IN A DISTURBING DEVELOPMENT WHICH ILLUSTRATED THE ABOVE PROBLEMS, CONFLICTS BETWEEN CIVILIAN COURTS AND MILITARY TRIBUNALS OVER THE APPLICABILITY OF CONSTITUTIONAL GUARANTEES SUCH AS WRITS OF HABEAS CORPUS WERE RESOLVED IN FAVOR OF THE MILITARY BY THE SUPREME COURT. WHEN ATTORNEY GENERAL MIGUEL ALJOVIN SWAYNE ORDERED LEGAL ACTION AGAINST THE SUPERIOR COUNCIL OF MILITARY JUSTICE (CONSEJO SUPERIOR DE JUSTICIA MILITAR, CSJM) FOR FAILING TO COMPLY WITH THREE SEPARATE HABEAS CORPUS WRITS ISSUED BY THE CHAMBER OF PUBLIC LAW OF THE LIMA APPEALS COURT, THE CSJM'S PRESIDENT THREATENED TO OPEN IMPEACHMENT PROCEEDINGS AGAINST ALJOVIN. THEN THE CSJM PRESENTED A DISCIPLINARY COMPLAINT AGAINST THE LIMA APPEALS COURT JUDGES WHO HAD GRANTED THE HABEAS CORPUS. IN JUNE, A SUPREME COURT PANEL SUMMARILY RELIEVED JUDGES SERGIO SALAS VILLALOBOS, ELIZABETH ROYANA MACRAE THAYS, AND JUAN CANCIO CASTILLO VELÁSQUEZ OF THEIR DUTIES ON THE APPEALS COURT. ONE OF THE CASES IT HAD BEEN DUE TO HEAR WAS AN APPEAL FOR CONSTITUTIONAL PROTECTION (*amparo*) BY BARUCH IVCHER AGAINST THE DECISION DEPRIVING HIM OF HIS PERUVIAN NATIONALITY.

THE SUPREME COURT ALSO DISMISSED THE ATTORNEY GENERAL'S ACCUSATION AGAINST THE CSJM, ARGUING THAT THE MILITARY JUSTICE AUTHORITIES COULD DISREGARD ANY HABEAS CORPUS WHICH WAS "ILLEGAL." INSTEAD, IT ORDERED THE THREE APPELLATE JUDGES PROSECUTED FOR BREACH OF PUBLIC DUTY (*prevaricato*). THE PANEL WHICH RULED ON THE CASE WAS COMPOSED OF TEMPORARY JUDGES WITHOUT TENURE, AND WHO WERE THEREFORE VULNERABLE TO PRESSURE FROM THE MILITARY AND THE EXECUTIVE. ON SEPTEMBER 4, THE EXECUTIVE COMMISSION OF THE PUBLIC MINISTRY DECIDED NOT TO ORDER THE PROSECUTION OF THE THREE JUDGES.

IN JULY, THEN-MINISTER OF THE INTERIOR CARLOS SAUCEDO ISSUED A SHOCKING ORDER THAT JUDGE ELBA GRETA MINAYA CALLE, OF THE 37TH PENAL COURT OF LIMA, BE PROSECUTED FOR TERRORISM AND OTHER CRIMES FOR GRANTING A HABEAS CORPUS WRIT AGAINST THE NATIONAL POLICE. DUE TO A PUBLIC OUTCRY, THE TERRORISM ACCUSATION WAS DROPPED, BUT DISCIPLINARY PROCEEDINGS AGAINST JUDGE MINAYA—WIDELY RESPECTED FOR HER INDEPENDENCE AND INTEGRITY—REMAIN OPEN AT THIS WRITING.

CONGRESS RENEWED THE MANDATE OF THE ADHOC COMMISSION ESTABLISHED IN 1996 TO REVIEW CASES OF PRISONERS UNJUSTLY ACCUSED OR SENTENCED FOR TERRORISM UNTIL FEBRUARY, 1998. BY NOVEMBER PRESIDENT FUJIMORI HAD RELEASED 227 INNOCENT PRISONERS ON THE RECOMMENDATION OF THE COMMISSION, BUT HUNDREDS MORE REMAINED IN JAIL. AS OF THIS WRITING, THE GOVERNMENT HAS REFUSED TO RENEW ACCESS OF THE INTERNATIONAL COMMITTEE OF THE RED CROSS (ICRC) TO MAXIMUM-SECURITY PRISONS, WHICH IT SUSPENDED DURING THE HOSTAGE CRISIS. VISITS BY THE ICRC, WHICH DOES NOT PUBLISH ITS FINDINGS BUT COMMUNICATES THEM PRIVATELY TO THE GOVERNMENT, HAVE PROVEN EFFECTIVE IN REDUCING THE INCIDENCE OF ILL-TREATMENT, INCLUDING TORTURE AND FORCIBLE DISAPPEARANCE, OF DETAINEES. THE CONTINUED DENIAL OF ICRC ACCESS



UNDERLINED THE GOVERNMENT'S DISREGARD FOR THE RIGHTS OF DETAINEES ACCUSED OF TERRORISM AND TREASON. PRISON CONDITIONS FOR HIGH-SECURITY PRISONERS CONTINUED TO BE EXTREMELY HARSH. IN APRIL AND AUGUST, 161 HIGH-SECURITY PRISONERS JAILED FOR TERRORIST OFFENSES WERE TRANSFERRED TO A NEW PRISON AT CHALLAPALCO, LOCATED AT MORE THAN 14,000 FEET IN THE PERUVIAN ANDES, WHERE TEMPERATURES DROP TO TWENTY DEGREES BELOW ZERO CENTIGRADE (FOUR DEGREES BELOW ZERO FAHRENHEIT). THESE CONDITIONS CONSTITUTED A SERIOUS RISK TO HEALTH, AND THE REMOTENESS OF THE SITE MEANT THAT THE PRISONERS WERE VIRTUALLY CUT OFF FROM THE OUTSIDE WORLD, VIOLATING INTERNATIONAL NORMS.

IN JUNE THE GOVERNMENT INTRODUCED NEW PRISON REGULATIONS FOR PRISONERS ACCUSED OR CONVICTED OF "TERRORIST" CRIMES, WHICH MAY AMELIORATE SOME OF THE WORST FEATURES OF THE PRISON REGIME. PRISONERS WERE TO BE ALLOWED WEEKLY, INSTEAD OF MONTHLY, VISITS FROM THE FAMILIES, AND THEIR CHILDREN WOULD BE ALLOWED TO VISIT THEM EVERY WEEK, INSTEAD OF EVERY THREE MONTHS. PRISON PRIVILEGES WERE TO BE EARNED BY GOOD CONDUCT, BUT NEW PRISONERS, REGARDLESS OF THE NATURE OF THEIR OFFENSE, STILL HAD TO SPEND A YEAR UNDER THE HARSHEST REGIME, LOCKED UP IN THEIR CELLS AND ALLOWED OUT FOR ONLY ONE HOUR A DAY.

### **The Right to Monitor**

THE PRO-HUMAN RIGHTS ASSOCIATION (ASOCIACION PRO-DERECHOS HUMANOS, APRODEH), WHICH PLAYED A PROMINENT ROLE IN BRINGING HUMAN RIGHTS VIOLATIONS TO PUBLIC ATTENTION, SUFFERED HARASSMENT, INCLUDING PERSISTENT SURVEILLANCE AND ANONYMOUS DEATH THREATS. THE THREATS COINCIDED WITH APRODEH'S ASSISTANCE TO THE BELEAGUERED JUDGES AND POLICE CAPTAIN JULIO SALAS. ON AUGUST 14, APRODEH STAFF RECEIVED FIVE THREATENING PHONE CALLS ASKING ABOUT JUDGE MINAYA, INSULTING THEM AND THREATENING TO MAKE THEM "DISAPPEAR". LATER THAT AFTERNOON A BLACK VOLKSWAGEN FOLLOWED MINAYA'S CAR WHEN SHE VISITED APRODEH'S LIMA OFFICE. WHEN APRODEH STAFF QUESTIONED THE DRIVER, HE CONFIRMED THAT HE WAS FOLLOWING THE JUDGE. ON SEPTEMBER 4, A MAN TURNED UP AT THE OFFICE CLAIMING TO BRING A MESSAGE IN AN ENVELOPE FROM JUDGE MINAYA. THE LETTER WAS AN ANONYMOUS WARNING TO APRODEH'S DIRECTOR, FRANCISCO SOBERÓN, NOT TO MEDDLE IN THE CASE OF POLICE CAP. JULIO SALAS AND ACCUSING BOTH SALAS AND SOBERÓN OF ACCEPTING A BRIBE OF \$30,000 FROM BARUCH IVCHER. "STOP MEDDLING IN WHAT DOES NOT CONCERN YOU, YOU HAVE BEEN WARNED, SON OF A BITCH," THE LETTER SAID. THE SAME PERSON LEFT ANOTHER LETTER IN THE HOME OF MARÍA JESÚS GARCÍA SÁNCHEZ, SALAS'S COMPANION, ACCUSING SALAS OF TREACHERY AND THREATENING TO KILL HIM "LIKE A DOG." ON THE FOLLOWING DAY, SOBERÓN, MARÍA JESÚS GARCÍA, SALAS'S LAWYER DR. MIRO TOLEDO, AND SOFÍA MACHER, EXECUTIVE SECRETARY OF PERU'S RESPECTED NONGOVERNMENTAL HUMAN RIGHTS UMBRELLA GROUP, THE NATIONAL COORDINATOR OF HUMAN RIGHTS (COORDINADORA NACIONAL DE DERECHOS HUMANOS, CNDH) HELD A PRESS CONFERENCE TO DENOUNCE THE THREATS. TWO HOURS LATER, EACH OF THEM RECEIVED A THREATENING PHONE CALL FROM A WOMEN WHO ANNOUNCED THAT SHE PERSONALLY WOULD KILL MARÍA JESÚS GARCÍA. THE LATTER RECEIVED THREE MESSAGES ON HER BEEPER FROM A PERSON IMPERSONATING SOBERÓN SUMMONING HER TO AN URGENT MEETING.

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

#### **United States**

THE UNITED STATES AMBASSADOR IN LIMA, DENNIS JETT, ASSUMED A HIGHER PROFILE ON HUMAN RIGHTS AND CIVIL LIBERTIES IN 1997 THAN HAS BEEN EMBASSY PRACTICE IN PREVIOUS YEARS, A GRATIFYING STEP AWAY FROM THE POLICY OF QUIET DIPLOMACY WE HAVE CRITICIZED IN THE PAST. JETT'S TIMELY INTERVENTIONS MAY HAVE HELPED AVOID A DETERIORATING HUMAN RIGHTS SITUATION BECOMING MUCH WORSE. ON AT LEAST SIX OCCASIONS JETT SPOKE OUT ON HUMAN RIGHTS ISSUES, INCLUDING TORTURE, FREEDOM OF THE PRESS, DUE PROCESS IN ANTI-TERRORIST TRIALS, AND JUDICIAL INDEPENDENCE. ON APRIL 9, FOR EXAMPLE, JETT TOLD REPORTERS WHO QUESTIONED HIM ON THE LA ROSA CASE THAT A PROMPT INVESTIGATION OF THE TORTURE COULD IMPROVE PERU'S INTERNATIONAL IMAGE. ONE MONTH LATER, MILITARY JUSTICE OFFICIALS ANNOUNCED THAT FOUR OFFICERS HAD RECEIVED EIGHT-YEAR SENTENCES BY MILITARY COURTS, AN UNPRECEDENTEDLY SWIFT RESPONSE. THE AMBASSADOR DESCRIBED THE DISMISSAL OF THE THREE CONSTITUTIONAL COURT JUDGES AS "DEFINITELY A STEP BACKWARDS IN THE PROCESS OF CONSOLIDATION

of Peruvian democracy.” On the Ivcher case, State Department spokesperson Nicholas Burns accused the government of depriving Ivcher of his Peruvian nationality for political reasons and pointed out that “this action raises fundamental questions about freedom of the press and of expression.”

Though these interventions were poorly received by the Peruvian government, they set an important tone for Peru's relations with the United States, reminding Peruvian authorities that the U.S. would not be silent on human rights in exchange for cooperation in other spheres, such as economic policy and anti-narcotics efforts.

However, the United States' role in Peru was marred by a continuing ambiguity concerning its relationship with Vladimiro Montesinos, de facto head of the SIN. Montesinos, who is reported to have worked for the Central Intelligence Agency, is widely seen in Peru as enjoying Washington's support, a notion that the United States did nothing to dispel. Moreover, Washington reportedly maintains a covert assistance program with the SIN to combat drug trafficking. This apparent liaison with a unit deeply involved in anti-democratic activities undermines the impact of public statements made by Jett and the State Department.

## European Union

The European Parliament issued a strong resolution on July 22 calling on the Fujimori government to reinstate the magistrates of the Constitutional Court who had been dismissed by the Congress; to guarantee freedom of expression; and to abolish the practice of torture.

## VENEZUELA

### Human Rights Developments

As in previous years, human rights violations in 1997 were closely linked to the battle against crime in Venezuela's cities. Facing the difficult challenge of policing the poor and increasingly crime-ridden neighborhoods that surround Caracas and other Venezuelan cities, security forces resorted to systematic abuses, including torture, extrajudicial executions, and the disproportionate use of lethal force. Time-honored methods used to cover up illegal killings, together with an antiquated legal system that obstructed prompt and impartial investigations, ensured that the perpetrators of these abuses tended to go unpunished. Despite efforts by government authorities to improve prison conditions, convicted prisoners and those awaiting trial continued to be held in circumstances that violated international standards.

The pace of police abuses showed no sign of letting up from the prior year, as Venezuelan police forces, including the Technical Judicial Police (Policía Técnica Judicial, PTJ), continued to commit serious human rights violations, including summary executions. In some cases, police executed individuals thought to be dangerous criminals, or sought revenge for the killing of police agents. In other instances, police shot suspects fleeing arrest or the scene of a crime. In still other cases, police committed abuses unrelated to their police work, such as during fights or to settle personal grudges. According to the Network in Support of Justice and Peace (Red de Apoyo por la Justicia y la Paz, Red de Apoyo), police committed at least ninety extrajudicial executions between January and August, a figure that was comparable to the prior year's tally.

In investigating arbitrary killings by the police, Human Rights Watch found that many killings appeared to have been planned beforehand and that the police appeared to follow standard procedures designed to avoid accountability. Officers often wore hoods to protect identification, shepherded onlookers away from the scene beforehand, and fired guns into the air after the killing to simulate a firefight. To cover up abuses, they sometimes removed the corpse before crime-scene investigators arrived, on the pretext of taking the victim to a hospital, planted weapons or drugs on the victim, or removed his or her clothing and personal identification. Officers also intimidated relatives or witnesses to dissuade them from denouncing what they had seen. In several cases, post-mortem medical examinations performed by the Medical Legal Institute, a national forensic agency that is

SUBORDINATE TO THE PTJ, FAILED TO DISCLOSE INFORMATION ON THE NUMBER AND LOCATION OF GUNSHOT WOUNDS.

In a typical execution, PTJ officers killed José Gregorio Rondón on July 4 in his home in the Catia neighborhood of Caracas. The police arrived at 5:00 a.m., forced their way into the house, and overpowered Rondón, who was in bed on the first floor. His sister, Ana Rosa, saw him lying on the floor with a policeman's foot pressed to his head, before the police locked her and her mother into a downstairs room, from where they heard shots fired. After releasing the two women, police told Ana Rosa that Rondón had been shot because he had tried to resist arrest. They removed the body and took it to the morgue. The police arrested Rondón's sister and took her to PTJ headquarters in Carabobo Park, where they threatened her with torture and imprisonment if she did not sign a statement incriminating her brother.

Systematic police abuses were also reported from other states, such as Anzoátegui, on Venezuela's Caribbean coast. At 6:30 p.m. on August 1, agents belonging to the Metropolitan Police (Policía Metropolitana, PM) detained Anibal José Vargas, an eighteen-year-old soccer enthusiast, while he was training for a local team in a poor neighborhood in the city of Barcelona. According to local residents, the police confused him with a criminal, and despite the fact that Vargas showed them identification, one officer ordered another to shoot Vargas: the youth was shot at close range with an explosive bullet, dying almost instantly. The policeman responsible fired additional shots to simulate a gunfight. A police report issued to the press said that the victim had died in an exchange of gunfire.

Although police authorities said that officers accused of committing killings had been detained or suspended pending judicial examinations, such investigations faced almost insuperable obstacles. A legal procedure unique to Venezuela allows cases against police to be sidetracked for long periods of time. Known as an averiguación de nudo hecho—a requirement that public officials undergo a preliminary investigation before an official criminal investigation can take place—these proceedings are intended to be completed within ten days but often languish for months or years. Their effect was to shield those responsible from prosecution, since criminal charges cannot be filed until the preliminary investigation is completed. Meanwhile, the officer can remain in service. Frequently, the police agency accused in abuse cases failed to respond to repeated orders from the courts for the information needed for the case to pass to trial. Moreover, until the official has been arrested and formal charges have been filed, court investigations remain secret. After several years of waiting for a result, relatives of victims of police killings told Human Rights Watch that they still had no access to the court's findings.

In addition to summary executions, torture continued to be used by police routinely in criminal investigations. According to a report issued in December 1996 by United Nations Special Rapporteur on Torture Nigel S. Rodley, security forces "resort frequently to the use of torture as a method of obtaining information or as a punishment, especially among low-income sectors of the population, in a society characterized by high levels of crime." After publication of the special rapporteur's report, the number of reported torture cases has significantly increased. During the first eight months of 1997, the Red de Apoyo documented 767 reports of torture or ill-treatment, an increase of more than 300 over the comparable figure for 1996. The police forces most frequently cited by the special rapporteur were the PM, which operates under the jurisdiction of the governor of Caracas; the PTJ, responsible to the minister of justice; the Directorate of Services of Intelligence and Prevention (Dirección de los Servicios de Inteligencia y Prevención, DISIP), which is subordinate to the interior minister; and the various state police forces, which are responsible to state governors.

Luis Evelio Quintero, a driver for a food company, reported that he was unjustly detained and tortured by PTJ agents to get him to confess to a robbery he did not commit. On February 4, Quintero's truck was hijacked, and he and another man in the truck were dumped on a highway east of Caracas, after which they reported the crime to the PTJ in nearby Guarenas. On February 29, another truck from the same company was robbed. The owner went to the PTJ to denounce the theft, and the PTJ subsequently arrested both Quintero and his driving partner, took them to the PTJ station in El Llanito, Miranda state, and held them in detention for eight days, the maximum permitted by the law. During this time, they were taken in the evenings to a deserted house some thirty minutes from the police

station. They beat Quintero and applied electric shocks all over his body. After handcuffing his wrists behind his body, on several occasions they hoisted him in the air and let him hang for thirty minutes. As a result of the hanging, Quintero's left hand was paralyzed.

José Francisco Palencia Ruiz, a nineteen-year-old former volunteer fireman who worked at a forestry station, was detained on July 9 by members of the Baruta municipal police and tortured to get him to confess to robbing a safe deposit box in the station. Palencia was handcuffed and hung by the cuffs from a beam, while he was beaten and kicked in the stomach. A plastic bag was put over his head several times while the police tried to force him to confess. At one point his torturers beat him repeatedly to get him to confess to having stolen a larger amount of money.

The PTJ could hold suspects for eight days before placing them at the disposal of a judge, an excessively long period that provided ample opportunity for mistreatment. In any case, the time period was often ignored. Human Rights Watch is not aware of a single torturer who has been punished, despite ample documentation on torture cases prepared by Venezuelan and international human rights groups. Among the many factors contributing to impunity was the subordination of the Medical Legal Institute to the PTJ, one of the police agencies most frequently implicated in torture. In addition, cursory and slipshod examinations and the fact that autopsies are secret make evidence of torture difficult to prove. Another factor was the "nudo hecho" procedure; often, the procedure was delayed so long that the crime became subject to a statute of limitations before the preliminary investigation was completed and charges could be filed.

Overcrowded, understaffed, physically deteriorated, plagued by official corruption and abuse, and rife with weapons, guns, and gangs, Venezuela's prisons languished in a seemingly permanent state of crisis. Although the Ministry of Justice, charged with administering the country's prison system, took some steps toward reform, the prisons' overall structural problems were not noticeably eased. The January closure of the violent and overcrowded Retén de Catia prison, although it eliminated a notorious symbol of the country's prison woes, exacerbated overcrowding at the remaining penal facilities in Caracas. Nationally, with over 25,000 inmates crammed into thirty-two penal institutions, the prison population continued to far exceed the available capacity.

Most notable among the prisons' chronic problems was their extreme violence, which remained at the highest levels in the region. According to newspaper accounts, eighty-two prisoners were killed during the first eight months of the year—a number that, while shockingly high, represented a substantial decline from previous years. One of the most violent prisons was Tucuyito, in Valencia, where at least twenty-nine prisoners were killed—many by gunshots—between January and September. In Tucuyito and other prisons, such killings were almost entirely the product of inmate-on-inmate violence. Heavily armed, and supervised by a small number of untrained, underpaid guards, the prisoners themselves effectively controlled the prisons, as even the minister of justice publicly acknowledged.

The year was punctuated by exceptionally brutal outbursts of prison violence. On August 29, a surprise attack of one group against its rivals at El Dorado prison, a remote jungle facility in southeastern Venezuela, resulted in twenty-nine dead and numerous injured. Even prior to the violence, the deplorable conditions of the "Casa Amarilla," the area of the prison where the murders took place, had led the Public Ministry to call for its closure.

The prisons' severe overcrowding and unhygienic conditions, combined with their appalling lack of medical care, encouraged the emergence and spread of disease. Tuberculosis was the most common illness, according to the Public Ministry, which in August reported 1,011 confirmed cases in the prisons. In May, cholera broke out in Sabaneta prison, a densely populated, decaying facility in western Venezuela: eighty-five prisoners reportedly fell ill, while almost 600 others required treatment. Cases of cholera were also reported in La Planta prison in July and in El Rodeo II in September. In a promising effort to stem the spread of disease, the government of Miranda state instituted a pilot project of sending large medical teams into local prisons for short-term sweeps, conducting tests, providing vaccinations, and distributing much-needed medical supplies.

IN THE WAKE OF THE EL DORADO PRISON MASSACRE, THE NEW MINISTER OF JUSTICE, WHO WAS APPOINTED IN MARCH, PROMISED THAT IN LESS THAN A YEAR THE PRISON CRISIS WOULD BE BROUGHT UNDER CONTROL, AND DESCRIBED AN ARRAY OF MEASURES MEANT TO ACCOMPLISH THIS GOAL, INCLUDING THE DEVELOPMENT OF A NEW CORPS OF PRISON GUARDS WHO WOULD BE BETTER PAID AND BETTER TRAINED. GIVEN THE LACKLUSTER HISTORY OF VENEZUELAN PRISON REFORM EFFORTS, HOWEVER, SUCH CLAIMS MUST BE JUDGED ON THE STRENGTH OF THEIR RESULTS RATHER THAN ON THE ENCOURAGING SCOPE OF THEIR AMBITION. THE MINISTRY OF JUSTICE DID, IN JUNE, CONDUCT A DETAILED CENSUS OF THE PRISON POPULATION, A FIRST STEP TOWARD CLASSIFYING PRISONERS TO SEPARATE PRE-TRIAL DETAINEES FROM CONVICTED OFFENDERS, AND FIRST-TIME PETTY CRIMINALS FROM DANGEROUS RECIDIVISTS. IT ALSO ESTABLISHED A NEW PRISON OMBUDSMAN'S OFFICE, A POST WITH GREATER INDEPENDENCE THAN PROVIDED PREVIOUS SUCH MONITORS.

OVER TWO-THIRDS OF THE VENEZUELAN PRISON POPULATION WAS MADE UP OF PRE-TRIAL DETAINEES AND OTHERS AT SOME STAGE IN THE CRIMINAL JUSTICE PROCESS—PEOPLE WHO MIGHT BE INCARCERATED FOR SEVERAL YEARS BEFORE BEING ACQUITTED OF THE CHARGES AGAINST THEM—INDICATING THAT A DURABLE SOLUTION TO VENEZUELA'S PRISON CRISIS REQUIRED ACTION FROM OTHER GOVERNMENT AUTHORITIES AS WELL. IN PARTICULAR, THE COUNTRY'S CRIMINAL JUSTICE SYSTEM WAS IN NEED OF RADICAL REFORM, AN EFFORT IMPLICATING THE LEGISLATURE AND THE JUDICIARY, AMONG OTHERS.

MINISTER OF JUSTICE HILARION CARDOZO ACKNOWLEDGED THE GRAVITY OF THE SITUATION IN THE COUNTRY'S PRISONS AND AGREED TO PROPOSALS ON PRISON REFORM MADE BY THE FORUM FOR LIFE, A CONSORTIUM OF NONGOVERNMENTAL ORGANIZATIONS. HOWEVER, THE GOVERNMENT AGREED TO IMPLEMENT ONLY A FEW OF THE FORUM'S OVERALL RECOMMENDATIONS.

LOCAL HUMAN RIGHTS GROUPS REPORTED INDISCRIMINATE ARRESTS, TORTURE, AND ARBITRARY KILLINGS IN APURE STATE, ALONG VENEZUELA'S BORDER WITH COLOMBIA, WHERE CONSTITUTIONAL GUARANTEES CONTINUED TO BE SUSPENDED DUE TO INCURSIONS BY COLOMBIAN GUERRILLA GROUPS. ON FEBRUARY 6, FOR EXAMPLE, NATIONAL GUARD (GN) TROOPS SHOT DEAD JUAN JOSÉ RODRÍGUEZ BASTIDAS, A TEACHER, AND JESÚS CASTELLANOS VASCO, A THREE-YEAR-OLD COLOMBIAN BOY, WHEN THEY WERE TRAVELING BY BOAT DOWN THE ARAUCA RIVER. THE SHOOTING OCCURRED AN HOUR AFTER AN ARMED CROSS-RIVER CLASH BETWEEN THE GN AND COLOMBIAN GUERRILLAS. AS THE BOAT WENT PAST A GN RIVER CONTROL POST, THE POLICE OPENED FIRE, CLAIMING AFTERWARD THAT THEY HAD BEEN RESPONDING TO SHOTS FIRED FROM THE COLOMBIAN BANK. HOWEVER, ACCORDING TO WITNESSES, NO SHOTS FROM THE COLOMBIAN SIDE PRECEDED THE GN ATTACK, AND THE POLICE GAVE NO WARNING PRIOR TO OPENING FIRE. FOUR OTHER PASSENGERS IN THE BOAT WERE WOUNDED. ON THE SAME DAY, GN TROOPS SHOT DEAD IGNACIO JOSÉ BRICEÑO, A TWENTY-EIGHT-YEAR-OLD CATTLEMAN, WHEN HE FAILED TO HEED AN ORDER TO HALT AT A GN MOBILE CONTROL POST IN EL MOLINO.

HAVING ATTRACTED CONSIDERABLE CRITICISM IN 1996 FOR HUMAN RIGHTS VIOLATIONS, THE VENEZUELAN GOVERNMENT TOOK SOME STEPS IN 1997 TO PUT HUMAN RIGHTS ON ITS POLICY AGENDA. IN CONTRAST TO PRIOR YEARS, THE GOVERNMENT PUBLICLY RECOGNIZED THAT HUMAN RIGHTS VIOLATIONS TOOK PLACE IN THE COUNTRY. PRESIDENT CALDERA OFFICIALLY DUBBED 1997 THE "YEAR OF HUMAN RIGHTS" AND ANNOUNCED THE FORMATION OF A NATIONAL COMMISSION OF HUMAN RIGHTS (COMISIÓN NACIONAL DE DERECHOS HUMANOS, CNDH), COMPOSED OF KEY CABINET MINISTERS AND THE GOVERNOR OF CARACAS. HE INSTRUCTED THE COMMISSION TO FORMULATE A "NATIONAL AGENDA" ON HUMAN RIGHTS. UNLIKE NATIONAL HUMAN RIGHTS COMMISSIONS OR OMBUDSMEN IN OTHER LATIN AMERICAN COUNTRIES, HOWEVER, THE VENEZUELAN CNDH WAS NOT GIVEN POWERS TO INVESTIGATE OR MAKE RECOMMENDATIONS ON INDIVIDUAL CASES OF HUMAN RIGHTS VIOLATIONS. ITS ROLE WAS LIMITED TO COORDINATING INFORMATION BETWEEN MINISTRIES ON HUMAN RIGHTS ISSUES, RESPONDING TO INTERGOVERNMENTAL HUMAN RIGHTS BODIES, AND ACTING AS A LIAISON WITH DOMESTIC MONITORING GROUPS. BY OCTOBER, THE CNDH STILL LACKED A SECRETARIAT, STAFF AND BUDGET, AND HAD MET ONLY ON FIVE OCCASIONS. IN A POSITIVE DEVELOPMENT, THE SUPREME COURT DECLARED UNCONSTITUTIONAL A 1956 LAW, CALLED THE LAW OF VAGRANTS AND UNDESIRABLES, THAT ALLOWED AUTHORITIES TO DETAIN PEOPLE ADMINISTRATIVELY FOR UP TO FIVE YEARS. FREQUENTLY, THE LAW HAD BEEN USED TO DETAIN UNEMPLOYED PEOPLE OR OTHERS DEEMED UNDESIRABLE.

ONE OF THE FIRST MEETINGS OF THE CNDH WAS HELD TO DISCUSS AN OFFICIAL REPLY TO THE U.S. STATE DEPARTMENT'S *COUNTRY REPORTS ON HUMAN RIGHTS PRACTICES FOR 1996*. THE TWENTY-THREE-PAGE VENEZUELAN GOVERNMENT RESPONSE, RELEASED ON FEBRUARY 4, ACCUSED THE UNITED STATES OF SUPPLANTING THE SUPERVISORY COMPETENCE OF THE HUMAN RIGHTS BODIES OF THE UNITED NATIONS AND THE ORGANIZATION OF AMERICAN STATES, AND IMPLIED THAT THE STATE DEPARTMENT REPORT WAS FLAWED BECAUSE IT PRESENTED FACTS OUT OF CONTEXT AND IGNORED THE INSTABILITY OF VENEZUELA'S RECENT

past.

IN ANOTHER INTERNATIONAL ARENA, VENEZUELA'S RESPONSE TO A TREATY BANNING LANDMINES WAS TROUBLING. OF EIGHTY-NINE COUNTRIES THAT TOOK PART IN NEGOTIATIONS TO DRAFT A CONVENTION ON A COMPREHENSIVE BAN ON THE WEAPONS, VENEZUELA WAS ONE OF FOUR THAT INDICATED THAT IT WAS UNLIKELY TO SIGN THE TREATY, WHICH WAS APPROVED IN SEPTEMBER.

### **The Right to Monitor**

MEMBERS OF THE HUMAN RIGHTS OFFICE OF THE VICARIATE OF PUERTO AYACUCHO, STATE OF AMAZONAS, CAME UNDER ATTACK FOR THEIR WORK ON BEHALF OF THE AMAZONIAN INDIANS. DURING THE LAST WEEK OF MAY, LOCAL POLITICIANS AND SOME MEMBERS OF THE REGIONAL GOVERNMENT, WHO WERE TRYING TO FRUSTRATE THE DRAFTING OF A LAW TO PROTECT INDIANS' LAND RIGHTS, LAUNCHED A SERIES OF ATTACKS AGAINST THE VICARIATE IN THE PRESS AND ON THE RADIO, ACCUSING ITS MEMBERS OF PROMOTING DIVISIONS AND VIOLENCE BETWEEN INDIANS AND WHITE SETTLERS. ON MAY 27, A VEHICLE BELONGING TO LUIS JESÚS BELLO, THE GENERAL COORDINATOR OF THE HUMAN RIGHTS OFFICE, AND ANOTHER THAT BELONGED TO A SALESIAN NUN WERE DAMAGED WHEN ACID WAS THROWN ON THEM.

ON JUNE 7, AN UNIDENTIFIED PERSON IN THE STREET INSULTED AND THREATENED AN ENGINEER WORKING FOR THE OFFICE. ON JUNE 9, THE SUPERIOR COURT OF PUERTO AYACUCHO RULED THAT A LAWSUIT FILED BY THE PUBLIC MINISTRY OF AMAZONAS STATE AGAINST THE HUMAN RIGHTS OFFICE FOR "USURPATION OF FUNCTIONS" WAS UNWARRANTED AND ORDERED THAT IT BE DROPPED.

THE GOVERNMENT SOUGHT TO IMPROVE ITS RELATIONS WITH THE COUNTRY'S LARGE NETWORK OF NONGOVERNMENTAL HUMAN RIGHTS ORGANIZATIONS. DURING 1996 AND IN EARLIER YEARS, GOVERNMENT OFFICIALS HAD OFTEN TRIED TO DISCREDIT AND STIGMATIZE THE LOCAL GROUPS. DURING 1997, HOWEVER, THE ORGANIZATIONS WERE INVITED TO PARTICIPATE IN MEETINGS WITH GOVERNMENT OFFICIALS TO CONTRIBUTE TO A LIST OF NEEDED HUMAN RIGHTS REFORM MEASURES. THE FIRST OF THESE MEETINGS TOOK PLACE ON JULY 4, WHEN THE FORUM FOR LIFE MET MINISTERS AND LOWER-RANKING OFFICIALS AND PRESENTED A DETAILED LIST OF RECOMMENDATIONS, AND THE FORUM FOR LIFE WELCOMED THE MEETING AS A FIRST POSITIVE SIGN.

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

THE VENEZUELA SECTION OF THE STATE DEPARTMENT'S *COUNTRY REPORTS ON HUMAN RIGHTS PRACTICES FOR 1996* PAINTED AN ACCURATE PICTURE OF THE SERIOUS HUMAN RIGHTS SITUATION IN VENEZUELA. THE U.S. EMBASSY CHOSE NOT TO INTERVENE IN THE DEBATE CAUSED BY THE PUBLICATION OF THE CNDH'S RESPONSE TO THE STATE DEPARTMENT HUMAN RIGHTS REPORT. HUMAN RIGHTS WATCH LEARNED OF NO PUBLIC PRONOUNCEMENTS MADE BY THE UNITED STATES ON HUMAN RIGHTS ISSUES.

### **Relevant Human Rights Watch report:**

*PUNISHMENT BEFORE TRIAL: PRISON CONDITIONS IN VENEZUELA, 3/97*