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### Inter-American System

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## IV INTER-AMERICAN SYSTEM

DIEGO RODRÍGUEZ-PINZÓN

### 1. INTER-AMERICAN COMMISSION ON HUMAN RIGHTS

The Inter-American Commission on Human Rights (IACHR or Commission) has recently released its 2004 Annual Report, and the General Assembly of the Organization of American States (OAS) in Fort Lauderdale, USA, adopted the Report in June 2005. During 2004, the Commission discharged its mandate by reviewing and processing individual cases, closely monitoring the general human rights situation in several States of the region and performing other activities such as on site visits to countries. Below we will highlight some of the most relevant – and not always well-known – activities of the Commission during 2004.

Overall, it is important to indicate that in January 2004, the Commission met for the first time with its four new members, Commissioners Evelio Fernández Arévalos, Freddy Gutiérrez, Florentín Meléndez and Paulo Sérgio Pinheiro, who were elected during the regular session of the General Assembly of the OAS in June 2003 and began their terms on 1 January 2004. These Commissioners joined José Zalaquett, Clare K. Roberts, and Susana Villarán.

The latest development regarding the integration of the seven-member Commission occurred during the OAS General Assembly in June 2005. The Member States of the OAS voted to elect two new members and reelect one more to the Commission. Argentinean Víctor E. Abramovich Cosarín and Paolo Carozza of the United States are the two new members elected to the Commission. Current President, Clare K. Roberts, of Antigua and Barbuda, was re-elected for four more years. Outgoing Commissioners are José Zalaquett and Susana Villarán. The new Commissioners will join this body on 1 January 2005.

#### Special Report and Country Visits

One of the most important and effective powers that the Commission has is the possibility to undertake site visits to countries and to issue Special Reports regarding those visits. Following are the activities in this area during 2004.

On 18 March 2004 the IACHR released its Report on *Venezuela* covering the administration of justice, the role of the armed forces and police, the state of freedom of expression and the consequences of political polarisation in Venezuela. The report was based on a visit to Venezuela in May 2002. It constitutes a very important official account of the current human rights situation in that country.

Among the visits made by the Commission in 2004, we can mention the following:

- In February, Executive Secretary Santiago Cantón, visited *Bolivia* following the request of the Executive Branch that the IACHR assist with the investigation of the events of October 2003 and to prepare the next visit by the Commission.

- From 11 to 17 July, Commissioner Susana Villarán and Mr. Cantón traveled to *Colombia* to gather information about the demobilisation of illegal armed groups and the applicable legal regime. The delegation held meetings with high-level government authorities. It traveled to the city of Medellín where it met with the Mayor, the staff in charge of the programme for demobilisation of the Bloque Cacique Nutibara, the Office of the Special Prosecutor of Medellín and representatives of civil society organisations, and members of the Bloque Cacique Nutibara who have demobilised and received complaints of human rights violations by the AUC. The IACHR released the Report on the Demobilization Process in Colombia.
- In September the IACHR, represented by Clare K. Roberts visited *Haiti*. It was the first Commission's visit since the armed violence in Haiti in early 2004. The IACHR met civil society representatives, judges, lawyers and magistrates, officials of the MINUSTAH and the UNHCHR. The IACHR was concerned about the security situation. There were also concerns about weaknesses in the administration of justice and lack of resources for courts and the police, due process violations and the reports alleging acts of violence against individuals based upon their affiliation with the former President. There were reports of human rights violations perpetrated against women, children and human rights defenders. Extreme poverty, high illiteracy and malnutrition continued to deprive Haitians of fundamental economic, social and cultural rights and exacerbate denials of basic civil and political rights.
- From 12-18 September, the IACHR's Special Rapporteur for the Rights of Women, Commissioner Susana Villarán, visited *Guatemala* concerned at the number of murders and violence against women. The Rapporteur held meetings with Guatemalan authorities, victims, family members of victims, academics, and organizations of civil society in Guatemala City, Escuintla, Villanueva, Palín, and Santa Cruz del Quiché. Ms. Villarán held a workshop on the Inter-American Human Rights System for 40 indigenous women. The objective was to investigate the discrimination and violence against women and particularly indigenous women. Issues to be analysed were the State's obligations; the regulatory, legal and institutional progress; impunity and the cycle of violence; the lack of effective means of protection; the stigmatisation of victims; the anachronistic legislation; and the need for education to change patterns. The report 'Justice and Social Inclusion: The Challenges facing Democracy in Guatemala' was presented.
- On 4 December, the Commission and UNICEF undertook a joint visit to *El Salvador, Guatemala and Honduras*. The delegation was led by the Rapporteur on Children, Paulo Sergio Pinheiro and the Special Rapporteur on the Rights of Detained Persons, Florentín Meléndez. The visit aimed to gather information on adolescents involved in groups known as *maras* or *pandillas* and to study the living conditions of persons deprived of freedom. Despite the insecurity caused by the gangs, the right and the obligation of States to ensure public safety are not incompatible with respect for human rights of children.
- Florentín Meléndez and Executive Secretary Santiago Cantón visited *Argentina* from 12-18 December. The purpose was to follow up on cases pending and to observe the situation of persons detained in the Province of Mendoza.
- The Commission also held a Session in *Mexico* to reflect on the issue of strengthening of the Inter-American Human Rights System.

## Countries under Chapter IV of the Commission's Report

In 2004 the Commission decided to include reports on the following States in Chapter IV of the Annual Report: Colombia, Cuba, and Haiti. Interestingly enough, the English version of the Commission's Report mentions also Guatemala and Venezuela, but no report was included regarding those two countries. It may just be a typo and/or an opening through which we can perceive the political process behind the selection of countries that are included in this Chapter. Below we include a brief summary of the general reports, as they provide updated official information about the human rights situation in these countries, considered by the IACHR to be among the most difficult in the Americas.

### *Colombia*

Positive advances include the efforts to continue the *Programa de Protección de defensores de derechos humanos, sindicalistas, periodistas y líderes sociales* which covers beneficiaries of precautionary and provisional measures granted by the Commission or the Inter-American Court of Human Rights (Court), respectively; and the *Programa de Protección de Comunidades en Riesgo* to strengthen State offices to protect indigenous, Afro-descendants, and peasants. On 15 July 2003, there was an agreement with the AUC setting out demobilisation targets and a special *zona de ubicación* in Córdoba to establish paramilitary units (bloques). Arrest warrants were suspended for members of the AUC who were in this zone. The process of dialogue advanced but there is an important absence of the definition of procedural benefits for the demobilised, guarantees for the victims and mechanisms of participation. Moreover, there are still violations of the cease of hostilities and the AUC is committing crimes, especially homicides. The negotiations coexist with a different regime of demobilisations under Decree 128 of 2003. According to the State, this Decree prevents those on trial for serious crimes from receiving procedural benefits but there are gaps and ambiguities in this regard that rise serious concerns. Moreover, the IACHR has identified the State's responsibility in some crimes.

There are reports of 43 massacres (January to November 2004) producing 459 victims, 99 deaths attributed to the FARC, 13 to the AUC, 9 to common crime, and 118 to unidentified actors. The government indicates a reduction of 50 percent of victims (since 2003) but this reduction seems to be a change of strategy aiming selective assassinations to reduce political cost. The CINEP shows different data: from January to June 2004 there were 424 executions, 304 of which were by the paramilitary. Government figures showing a decline in the displaced people are different from CODHES' data that show an increase from 2003 figures.

The situation of the *indigenous peoples* is worse as they are victims of massacres, selective executions, forced disappearances, forced displacement from their ancestral territories, forced recruitment, loss or contamination of their food sources, food blockades, accusations, and threats to their autonomy. The UN Special Rapporteur on Indigenous People has indicated that some of these people risk extinction. Pressure is put on indigenous territories because of their strategic value with regard to trafficking, cultivation of drugs and the exploitation of natural resources. The indigenous peoples have rejected any involvement in the conflict and declared themselves to be in community-based resistance. The government alleges a 60 percent decrease in the deaths but massacres have continued. The blockades of food and medical care have caused malnutrition, endemic diseases, illiteracy, and

the failure to provide basic services. Their territory is constantly threatened by deforestation and seedtime of the African palm. The indigenous communities in Sierra Nevada de Santa Marta led to provisional and precautionary measures from the Court. The IACHR has paid special attention to the situation of the Embera-Katio and the Embera-Chamí.

The Commission shows concern about the *Afro-descendant communities* in Urabá region, Chocó, and the Pacific coast region. The AUC Élmer Cárdenas Bloc and the Autodefensas Campesinas de Casanare are not participating in the negotiations. No military action against them has taken place yet.

The threats against *trade union leaders* continued with 37 killed (January to November). Although official figures show a decrease of more than 30 percent in the number of assassinations compared to 2003, the Escuela Nacional Sindical reports a higher number. The IACHR has monitored the precautionary measures granted to ECOPETROL-USO and SINTRAEMSDES; the preventive detention of social leaders; and special attention will be given to the clarification of the death of other beneficiaries of precautionary measures. The IACHR has expressed concern and monitored the situation in the *comunas* of the city of Medellín.

From August 2002 to 2004, 33 *human rights defenders* were assassinated. There are complaints regarding the use of 'judicial set-ups' aimed at harming defenders who are involved in documenting the human rights situation or providing judicial defense. Moreover, State agents make hostile statements against human rights defenders including the President of Colombia who accused them of being accomplices of terrorism and accused the Peace Brigades International of obstructing justice. There are also accusations against Colectivo de Abogados *José Alvear Restrepo*. There are reports about massive detentions of social leaders and human rights defenders for the crime of rebellion and terrorism. Often the detentions are based on the testimony of informants who receive monetary compensation. *Journalists* continued to be the targets of violence with regard to the conflict and corruption. The IACHR has received complaints on kidnappings, detentions, threats and 4 assassinations of journalists.

The State has the right to protect the population but also an obligation to respect human rights. The government has advocated laws that may be negative for, *inter alia*, the right to personal liberty, the inviolability of private communications and of the home, immediate access to judicial remedies, and the use of members of the armed forces, the Departamento Administrativo de Seguridad (DAS), or the National Police in activities that should be limited to judicial police officials. The Congress adopted the Anti-Terrorist Statute. The IACHR communicated its concerns to the government. The Constitutional Court *en banc* proffered a judgement declaring unconstitutional Legislative Act No. 2 and the Executive branch expressed a need to limit the jurisdiction of the Constitutional Court in states of emergency. In 2004 there was no significant progress in investigations involving human rights violations. The IACHR recommends a legal framework establishing clear conditions for the demobilisation of illegal armed groups in accordance with international obligations. It must establish mechanisms for genuine participation of the victims.

### *Cuba*

The Commission considers that the Cuban State is legally bound under the American Declaration, because the exclusion of the Cuban government from the

Inter-American system was not meant to leave the Cuban people without protection. Regarding the human rights situation in that country, the IACHR indicates that the lack of periodical, fair and free elections contravenes the right to political participation. Positive aspects in Cuba are the high quality of the sanitation system, the reduction of infant mortality, life expectancy rates, low illiteracy rates and the 49 percent in the number of women employed in the public sector.

People deprived of liberty are subjected to abusive conditions and confined to overpopulated cells. Human Rights Watch has reported that prisoners often lose weight as a result of inadequate nourishment and lack medical care. There is physical and sexual abuse by security guards and by other prisoners. Political prisoners who denounce prison rules are punished with long periods of solitary confinement. All convicted generally suffer solitary confinement in cells with little or no ventilation, lighting, or beds. The IACHR received information about a group of 75 dissidents who were in prisons very distant from their residence. They were subjected to mistreatment and solitary confinement. Relatives of the prisoners were also harassed. Many prisoners are over 60 years old and suffer from chronic illnesses. Several of them were granted extra-prison status. The Rapporteur on Freedom of Expression informed on acts of repression and censorship. Cuba is the only country on the continent where freedom of expression does not exist. There is mistreatment of imprisoned journalists, pre-publication censorship, acts of intimidation, *etc.* There are reports on the mistreatment of jailed journalists who were detained and their houses searched. The government requested that Etecsa detect and impede access to the Internet by unauthorized individuals.

In labour union matters, freedom of association consists basically of the ability to constitute labour union organisations, and to set activities, and action programme, without any intervention by the public authorities. The IACHR received information on labour leaders, including the situation of seven trade unionists harassed, arrested and convicted. There is only one trade union central recognised officially despite the principles of the International Labor Organization, of which Cuba is a signatory that include 'recognition of the principle of freedom of association' as an essential condition for 'universal peace and harmony'. The unemployment rate in Cuba is a very positive 3.3 percent.

Cuba has a legal framework to protect the human rights of women. The Family Code guarantees men and women equal rights during marriage and divorce and improves maternity rights and protections for women workers. There is a national HIV-AIDS response incorporating care and prevention. Cuba has been a party to the CEDAW since July 1980. The Criminal Code penalises sexual abuse, rape, and sexual harassment, but Cuba is still not a party to the Inter-American Convention on the Prevention, Punishment, and Eradication of Violence against Women. The country lacks laws addressing the specific issue of violence against women and there is a lack of statistics. There is information about women considered dissidents like journalists who risk imprisonment, persecution, detention, removal from their jobs.

Cuba refuses to recognise the right of its citizens to leave the country and return at will. Cuban citizens require authorisation from the Ministry of the Interior to travel abroad. Cuban migration authorities continue to deny visas for political reasons or they delay processing of such requests indefinitely.

Cuba continues to conduct trials under the 'extremely summary' proceedings outlined in the Law of Criminal Procedure. The IACHR has expressed that summary proceedings that concluded with the imposition of the death penalty did not

guarantee any of the requirements of due process. Cuba lacks a separation of powers as there is subordination of the courts to the Council of State, presided over by the Chief of State. This system does not guarantee the rights of the accused. The IACHR approved admissibility reports alleging the prosecution and sentencing of more than 75 dissidents and opposition figures arrested in March and April 2003, as well as the extremely summary trial and death sentences without legal due process guarantees. The IACHR considers that the adverse effects of the economic sanctions and other unilateral measures aimed at isolating the Cuban regime constitute an obstacle to creating conditions for progress in the country. The sanctions have affected the people's standard of living.

### *Haiti*

The IACHR conducted a visit from 1-3 September. The year 2004 witnessed dramatic changes which included the departure of former President Aristide, the installation of a transitional government and the arrival of a new UN Mission, MINUSTAH. Although there were hopes that the State could move forward there has been lack of progress. The lack of security remains an urgent problem. Illegal armed groups have retained control over security in many parts of Haiti, particularly in the northern region. The deadline established for the disarmament of illegal armed groups has not been met. The lack of disarmament has exacerbated the situation of violence in Haiti and the homicide rate rose in 2004. The failure to implement disarmament initiatives only encouraged more illegal groups. MINUSTAH has not operated at full capacity in 2004, but has been able to improve security, deliver humanitarian aid and remove former soldiers. The lack of progress on security is the result of insufficiently staffed and trained national police. There are deficiencies in the administration of justice with due process violations and a shortage of judges, magistrates, courts, and police officers. The police force is comprised of 2,000 to 4,000 members who are responsible for over 8 million. The police have also been the victims of violence with 19 officers killed since September. Unlawful killings are also attributable to the police and there is violence against inmates in prisons. There are initiatives to transfer authority to appoint, promote and discipline judges from the Ministry of Justice to an independent body, and to increase salaries of judges. There is a plan to increase the police force, by adding an additional 1,500 officers. The process disqualifies candidates who may be linked to past human rights abuses, and human rights education has been included as a key component in police training.

A motive of concern remains regarding the state of impunity for past human rights abuses. The IACHR received criticisms of the treatment of individuals within the State's judicial system. There is violence against individuals based upon their affiliation, or perceived affiliation, with the former President and his political party, as well as other incidents of violence allegedly attributable to the supporters of the former government, including an episode in August 2004 in which the Secretary of State for Foreign Affairs of France was attacked while visiting a hospital. The problem of the rape of women has worsened as former paramilitaries have continued to use rape as a political weapon. The problem of sexual violence is exacerbated by the issue of discrimination: 6.7 percent of young women are living with HIV/AIDS. The Minister of Women's Affairs is advocating for law reforms and the development of women's groups. The Council of Ministers has adopted a decree defining rape as a criminal offense. Children are victims of child labour, kidnappings and they are detained with adults in prisons. UNICEF has reported

that the 2,000 street children on Port-au-Prince and 120,000 girls who work as domestic servants across the country have especially suffer violence: children have been murdered and recruited into gangs, and child rapes have increased. There are threats and violence against human rights defenders and journalists.

There are fundamental problems of extreme poverty, high illiteracy and malnutrition, which deprive Haitians of fundamental economic, social and cultural rights. A report by UNDP and the government entitled: 'A Common Vision of Sustainable Development' indicates that 76 percent of Haitians live on less than USD 2 per day while 55 percent live on less than USD 1 per day. Malnutrition and mortality rates are severe for children, where 42 percent of those below age 5 are malnourished and 1 out of every 3 deaths in Haiti is a child. The ratio of women dying from childbirth is the second cause of death for Haitian women. An estimated 10.5 percent of the population will be infected with HIV/AIDS by 2015. The health system in Haiti is in a desperate state. More than 21 percent of children ages 6-9 do not go to school at all.

The IACHR emphasises the importance of the elections in 2005 which must involve all parties including Fanmi Lavalas, the party in the opposition. MINUSTAH should be provided with the resources established in Security Council Resolution 1542 (2004) to regain control and security in the country.

### 3. INDIVIDUAL PETITION SYSTEM

The individual petition system of the Commission continues to gain importance. We considered it essential to highlight two particularly important aspects of the work of the IACHR when processing individual complaints: precautionary measures and referral of cases to the Court.

During 2004, the Commission took up numerous individual petitions and issued a total of 61 reports:

- 45 cases were declared admissible;
- 9 petitions were deemed inadmissible;
- 3 friendly settlements;
- 4 reports on merits.

#### **Precautionary Measures in 2004**

A very important function of the Commission is to issue interim measures of protection in 'serious and urgent' cases to 'prevent irreparable harm to persons', technically called 'precautionary measures'. This function has gained importance in the work of the Commission recently. The following summary is a good description of the type of cases that benefited of precautionary measures and the Commission's country focus when issuing these measures during 2004.

#### *Argentina*

On 3 August 2004, the IACHR granted precautionary measures in favour of the inmates in the Penitentiary of the Province of Mendoza and its offices after receiving information about 11 deaths. The incidents of violence and the conditions of confinement have not been clarified. Despite the precautionary measures there

were four more deaths and the Commission requested the Court to adopt provisional measures.

#### *Barbados*

On 17 September 2004, the IACHR granted precautionary measures in favour of Frederick Atkins, Michael Huggins, Lennox Boyce and Jeffrey Joseph in the context of petition P829-04, which alleged violations of the alleged victims' rights under Articles 2, 4, 5, and 8 of the American Convention in connection with mandatory death sentences that had been imposed as well as the use of hanging as a method of execution and the conditions of confinement. The Commission requested the government to suspend the execution pending the investigation and requested the Court to adopt provisional measures.

#### *Brazil*

On 6 December 2004, the Commission granted precautionary measures in favour of the indigenous peoples of Ingaricó, Macuxi, Wapichana, Patamona, and Taurepang in Raposa Serra do Sol, in the state of Roraima, because their lives, personal safety, and territorial occupation were in imminent danger by the process of delimiting lands. An armed group had attacked them resulting in one death, one missing person, and the destruction of 34 homes, one school, and the local health clinic. On 21 December 2004, the IACHR granted precautionary measures in favour of the children confined in the State Foundation for the Well-Being of Children (FEBEM Tatuapé). The lives and personal safety of the children are in imminent danger from the action of the officials and its deplorable sanitary and building conditions.

#### *Colombia*

On 20 February the IACHR granted precautionary measures in favour of Nelly Barreto Reyes and her eight children, Rosa Solano, Amalia Mendoza, José Abelardo Villa, and José Antonio García in the Department of Cesar. Ms. Nelly Barreto Reyes and her family have been the target of death threats by the AUC in retaliation for the report of the murder of Héctor Arturo López and Héctor López Solano – son and husband. On 5 March the IACHR granted precautionary measures in favour of 63 children and more than 50 adults in the municipality of Bello, Antioquia. The beneficiaries – victims of intra-city displacement – were evicted by force by the Municipal Government of Bello and the Police Force under conditions that jeopardised their health and personal safety. On 25 August based on a series of agreements the Commission decided to lift the precautionary measures. On 18 March the IACHR granted precautionary measures in favour of 108 inmates in the Maximum Security Prison in Palo Gordo, Department of Santander. The members of armed groups and common prisoners are forced to live together leading to situations of violence. The Commission requested the Government to separate the prison population. On 19 May the IACHR granted precautionary measures in favour of 15 syndicalists (Álvaro Vélez Carriazo, José Luis Páez Romero, Manuel Hernández Sibaja, Rubén Álvarez Soto, Rosario Figueroa Mendoza, members of the Board of Directors of SINTRAUNICOL, Córdoba Subdirectoriate; Jesús Emel Amaranto Cantillo, Jesús Ballesteros Correa, Concepción Elena Amador Ahumada, Regina Josefa Cogollo Jiménez, José Gabriel Flórez Barrera, Manuel de Jesús Cortina Núñez, and Álvaro Antonio Sánchez Carballo, members of the Board of Directors of ASPU, Córdoba Section), after the AUC declared them military

targets. On 5 May, a Congressional public debate on crimes perpetrated by the AUC in the Department of Córdoba increased the risk for the leaders threatened. On 2 August, the IACHR adopted precautionary measures in favour of Guillermo Rodríguez Moreno, John Jairo Iglesias Salazar, Carmen Elisa Rodríguez Hernández, and Héctor Mendoza Pareja in the Municipality of Cajamarca, Tolima, area affected by the presence of gunmen. On 6 August, the IACHR issued precautionary measures in favor of Esperanza Delgado Motoa, President of the Cali Subdirectorate of ASONAL Judicial, and her family. They have been the targets of death threats and harassment because of the trade union work of Dr. Delgado Motoa. On 17 August, the IACHR granted precautionary measures to guarantee the life and physical integrity and to provide to humanitarian assistance to 35 families living in the districts of La Reliquia, La Nohora, Ciudad Porfia, Antonio Pinilla, El Rodeo and Playa Rica of Villavicencio, who have been victims of murder, disappearance, stigmatisation, miserable conditions of living and threats after their displacement from the municipality of Castillo in the region of Ariari. On 23 September, the IACHR granted precautionary measures to guarantee the life and physical integrity of Mariana Epinayú, Carmen Cuadrado Fincé, Débora Barros, and Karmen Ramírez, women leaders of the Wayúu people in La Guajira who have suffered acts of violence by paramilitary with acquiescence of State agents. On 16 November, the IACHR extended the precautionary measures to Roland Fince Uriana, Ana Julia Fince Uriana, Telemina Barros Cuadrado, José Miguel Barros Fince, and Katty Fince Uriana. On 14 October, the IACHR granted precautionary measures to guarantee the life and physical integrity of Holmes Enrique Fernández, Jorge Salazar, and other members of the Cauca Association of Displaced Persons of Naya (ASOCAIDENA), which brought together 70 families of displaced persons of African descent, indigenous people, and colonizers who survived the massacre perpetrated on 12 April 2001 in Alto Naya. On 22 October, the IACHR adopted precautionary measures to guarantee the life and physical integrity of Mery Naranjo Jiménez and her family and Socorro Mosquera Londoño, members of the Community Action Board of the Independencias III district of Commune 13 of the city of Medellín. On 7 October, Mery Naranjo witnessed the murder of Ana Teresa Yarce, prosecutor of the same Community Action Board after which she had to leave her home for security reasons. On 29 October, the Commission granted precautionary measures to guarantee the life and physical integrity of Francisco Eladio Ramírez Cuellar, Chairman of SINTRAMINERCOL and a prominent attorney known for his defense of the rights of workers and indigenous communities, rural workers, and Afro-Colombians. On 10 October, Mr. Ramírez was the victim of an assault in Bogotá which he survived.

#### *Ecuador*

On 27 February 2004, the IACHR granted precautionary measures in favour of the life and physical integrity of Mr. Leonidas Iza, President of the Confederation of Indigenous Nations of Ecuador (CONAIE) and his family. Mr. Iza and members of his family were injured in an armed assault at CONAIE headquarters. On 19 October, the IACHR granted precautionary measures to protect the life, safety, personal freedom, right to due process and determine the whereabouts of Luis Alberto Sabando Véliz who disappeared in September in Quevedo, while he was in the custody of four police officers.

*Guatemala*

On 29 January, the IACHR granted precautionary measures to protect the life and personal security of Antonio Gómez Castaño and his wife Clelean Marilú Izaguirre Pinula de Gómez. Mr. Gómez Castaño and his family have been the targets of persecution, threats and intimidation for his contributions to the files of the dissolved Presidential Military Staff. On 9 February 2004, the IACHR granted precautionary measures to suspend the execution of Fermín Ramírez in the context of Case No. 12,403 as a result of the decision of 6 March 1998 of the Court of Criminal Sentencing, Narcotic Activities and Crimes whereby Mr. Ramírez was sentenced to death. The Constitutional Court had allowed an appeal without ordering the provisional suspension of the execution. The case was referred to the Court that adopted provisional measures. On 17 February, the IACHR granted precautionary measures in favour of the life and personal security of Orlando Blanco Lapola, director for the National Human Rights Coordinator of Guatemala who is threatened for his role in the Commission for the Investigation of Clandestine Security Corps and Devices (SICIACS). On 27 February 2004, the IACHR granted precautionary measures in favour of Rafael Castillo Gándara and his attorney, Walter Robles. Mr. Gándara has suffered persecution and death threats by members of the Attorney General's Office. Although the Presidential Military Staff and the Human Rights Prosecutor arranged for perimeter security measures the situation has not changed. On 26 May, the IACHR granted precautionary measures in favor of Héctor Ramírez Rubio, Jorge Vinicio Ramírez Rubio, Byron Alejandro Ramírez Rubio, Carol Stephanie Gudiel Morales, Blanca Estela Gudiel Morales, Ronald Estuardo Gudiel Morales, Mynor Iván Gudiel Morales, Carmen Roxana Morales de Gudiel, and Ronald Gudiel Morales. They have suffered death threats and intimidation, in retaliation for a complaint filed against Efraín Ríos Montt involved in the death of a journalist. On 17 September, the IACHR granted precautionary measures in favour of Ana Luz Chuga Tathuite, Magda Elena Chuga Tathuite and their families. The beneficiaries have been the target of death threats after they reported injuries to Ms. Chuga Tathuite, who was attacked by three men. No measures have been taken to determine the juridical status of those responsible. On 18 October, the IACHR granted precautionary measures in favour of Alexander Toro, Legal Aid of the Department Prosecutor's Office of Retaluelo, and his family who have been the target of death threats after being the mediator between the occupants, owners, and authorities in the occupation of the Nueva Linda Farm that was taken over by 1,800 campesinos in October 2003. On 29 October, the IACHR granted precautionary measures in favor of Edgard Orlando Acajabón Morales, Luis Mario Morales Mejía, Marvin Guillén, Fredy Rodas, Julio Rodas, Mynor Toj, Luis Romero, and Gerardo Montenegro, journalists associated with *Nuestro Diario* and *Cable DX*, who were threatened after they witnessed the eviction from the Nueva Linda Farm. On 24 November, the IACHR granted precautionary measures in favour of 62 children held in the Juvenile Center of Provisional Confinement based on observations made by the Commission's Rapporteurs for Children and Detained Persons.

*Haiti*

On 13 January, the IACHR granted precautionary measures in favour of Professor Henri Marge Dorleans, member of the Toussaint Louverture Center, who had been the target of threats and intimidation after his participation in a debate on the

human rights situation in Haiti. He had to seek shelter and for this reason his neighbours were questioned about the activities in the Toussaint Louverture Center.

#### *Honduras*

On 8 June, the IACHR granted precautionary measures in favour of the human rights defender Andrés Pavón Murillo, Executive Director of CODEH. Mr. Pavón has been the target of threats and harassment after there was a public call on television and radio to take his life and the lives of his family.

#### *Mexico*

On 29 October, the IACHR granted precautionary measures in favour of the witness Armando Díaz López and the members of his family – Micaela Torres Gutiérrez, María Consuelo Díaz Torres, Magdalena Díaz Torres, and José Armando Díaz Torres – as well as in favour of Reynaldo Gómez Martínez, Mario Torres, Ricardo Martínez Martínez, Mariano Sánchez Montejo, and Gilberto Jiménez López, members of the Kichán Kichañob organisation of the state of Chiapas. They have been the targets of threats and harassment because of their reports on the activities of the paramilitary group *Paz y Justicia* in Chiapas. On 27 September, the IACHR granted precautionary measures in favour of Raúl Javier Gatica Bautista, member of the Organizational Board of the Ricardo Flores Magón Oaxaca People's Indigenous Council. Mr. Gatica Bautista has been the target of threats and harassment because of his work.

#### *Paraguay*

On 12 October, the IACHR granted precautionary measures in favor of the members of the Kelyenmagategma Indigenous Community of the Enxet People. Some members have allegedly been displaced by force from their ancestral land. The Petitioners allege that these people are living in deplorable conditions and their personal safety is in imminent danger. On 15 November, the IACHR granted precautionary measures in favour of Mr. Felipe Nery Páez Mauro and his family.

#### *Peru*

On 2 August, the IACHR granted precautionary measures in favor of Luis Alberto Ramírez Hinostrroza and his family. Whilst the precautionary measures were in force, Mr. Hinostrroza was shot in the abdomen and the Commission transmitted a communiqué to the Peruvian State expressing concern. On 17 August, the IACHR granted precautionary measures in favour of Oscar González Anchurayco and members of the Community of San Mateo de Huanchor. The living conditions, health, food, farming and livestock of five indigenous rural communities of more than 5,000 families, would be affected by deposits from an open-air mine in the vicinity of the Rimac River.

#### *Suriname*

On 11 November, the IACHR granted precautionary measures in favour of Mr. Luis Miguel Sánchez Aldana, who is imprisoned in the penitentiary *Penitendiaire Invristing*. Mr. Sánchez Aldana suffers from complete occlusion of the aorta and gangrene in the lower limbs, which are jeopardising his life.

### *United States*

On 31 March, the IACHR granted precautionary measures in favour of Gregory Thompson in a case which alleged a violation of Mr. Thompson's rights under Articles I, XVII, XVIII and XXVI of the American Declaration. Mr. Thompson was sentenced to death in 1985 and his case was brought before the Commission because he is allegedly mentally ill and, allegedly, there were irregularities in the proceedings. The IACHR asked the US to suspend the execution pending the IACHR's investigations. In cases of death sentences there were precautionary measures in favour of Marlin Gray, Robert Karl Hicks Troy, Albert Kunkle, Warren Wesley Summerlin, Jeffery Timothy, Landrigan and Richard Michael Rossi.

### *Venezuela*

On 11 March, the IACHR granted precautionary measures in favour of the president of the community broadcasting station Máxima 104.3 FM, Víctor López Yépez and Adda Pérez. People belonging to the *Gente de Petróleo* assaulted the journalists Víctor López Yépez and Adda Pérez. On 22 June, the IACHR granted precautionary measures in favor of Ms. Eloisa Barrios and her family who suffer constant threats and intimidation because of their reports of the assassination of their relative, Narciso Barrios. After the violent death of one of the beneficiaries of the precautionary measures, the Commission requested the Inter-American Court to adopt provisional measures.

## **Cases referred to the Inter-American Court on Human Rights in 2004**

One of the Commission's functions that has suffered a profound transformation is its power to send cases to the Inter-American Court of Human Rights. The new Rules of the Commission indicate that, in principle, all cases will be submitted to the Court, unless exceptional circumstances occur. This is reflected in the increased number of cases being filed before the Court.

On 1 October the IACHR submitted to the Court the application in Case No. 12,237, *Damião Ximenes Lopes vs Brazil*, on the following grounds: the inhumane and degrading conditions of the hospitalisation of Damião Ximenes Lopes, a person with mental disabilities, in a medical centre known as Casa de Repouso Guararapes; the beatings and attacks by employees of the Rest Home; his death while he was undergoing psychiatric treatment; and, the failure to conduct an investigation.

On 30 July, the IACHR submitted to the Court an application in Cases 12,050 and 12,266 against Colombia, *La Granja and El Aro Case*, for its responsibility in the events of June 1996 and October 1997 in the Municipality of Ituango (Antioquia) with regard to the violation of the right to life of 16 persons, the right to life and personal liberty of 1 person, the right to life, humane treatment, and liberty of 2 persons, and the right to property of 6 persons; and violations of the duty to ensure due protection and the right to a fair trial and the rights of the child, all of which are in conjunction with Article 1(1).

On 23 March, the IACHR submitted an application in Case 11,748, *Pueblo Bello vs Colombia*, for torture and the forced disappearance of 37 persons and for the torture and extrajudicial execution of 6 more persons by paramilitary groups, with the

acquiescence of State agents in Antioquia and Córdoba. The State submitted its answer with preliminary objections to the jurisdiction of the Court.

On 26 March, the IACHR submitted to the Court an application in Case 12,291, *Wilson Gutierrez Soler vs Colombia*, for the illegal detention of Wilson Gutiérrez Soler on 24 August 1994 in Bogotá for subjecting him to torture and cruel, inhuman, and degrading treatment and for violation of his right to a fair trial, as well as for the total impunity persisting with respect to these acts.

On 13 May, the IACHR filed an application with the Court in Case 11,571, *Humberto Antonio Palamara Iribarne vs Chile*, for having seized the copies and the master of the book *Ética y Servicios de Inteligencia* [Ethics and Intelligence Services], for having deleted the book from the hard drive of Mr. Palamara's personal computer, for having prohibited publication of the book, and for having convicted Humberto Antonio Palamara for the crime of *desacato* [contempt, or insulting a public official]. On these grounds, the IACHR requested the Court to determine a violation of Articles 13 (freedom of expression) and 21 (right to property) of the American Convention. The State submitted its answer to the application and to the written requests, arguments, and evidence submitted by the representatives. In 2004, the case was in the intermediate stage of processing by the Court.

On 25 June 2003, the Commission presented to the Court the case of *Rigoberto Acosta Calderón*, to obtain the Court's opinion on the international responsibility of the Republic of Ecuador for violation of Articles 7(3) and (5), 8(1), 8(2), 8(2)(d) and (e), 24, and 25 of the Convention, in conjunction with obligations in Articles 1(1) and 2. The case is in the intermediate stage of proceedings.

On 12 September, the IACHR sent an application in Case No. 12,403, *Fermin Ramirez vs Guatemala* for its responsibility in violating Articles 4 (right to life), 8 (right to a fair trial), 25 (right to effective judicial protection), and 1(1) (obligation of respecting rights) by sentencing Mr. Fermín Ramírez to the death penalty without giving him the opportunity to exercise his right of defense.