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OBSERVATORY FOR THE PROTECTION OF HUMAN RIGHTS DEFENDERS  
ANNUAL REPORT 2007

# / ARGENTINA

OBSERVATORY FOR THE PROTECTION OF HUMAN RIGHTS DEFENDERS  
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## Political context

In 2007, in a context of deepening of democracy, repression against the social protest movements that followed the 2001 economic crisis has however continued to intensify. The vast majority of the demonstrations ended with a disproportionate use of force by the police and/or security forces. In numerous cases firearms were used, and physical violence even went to the extent of using knives on demonstrators. There were also arbitrary detentions without any prior judicial decision, and persons were held in custody for longer than allowed by the law.

In 2006, progress had been made, with the first sentences against the authors of crimes against humanity committed during the military dictatorship (1976 – 1983) – after the Supreme Court in 2005 had cancelled the laws prohibiting investigations and trials relating to crimes committed during this period<sup>1</sup> – and pronounced at the same time as the completion of the reforms of the National Supreme Court of Justice, thus enabling the advent of a genuine justice to deal with human rights violations committed during the dictatorship. Nevertheless, despite the progress made and in view of the large number of trials initiated, serious obstacles appeared, in particular to the principle that the authors of the violations should be judged in a reasonable lapse of time. In fact, out of the 222 trials opened since 2005, only 17 persons had been sentenced at the end of 2007.

In addition, Mr. Jorge Julio Lopez, a key witness in the trial of the former Director of the Buenos Aires police, Mr. Miguel Etchecolatz, accused of crimes against humanity committed during the military dictatorship, disappeared on September 17, 2006, and is still missing;

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1./ The “Full Stop” Law (1986) and the “Due Obedience” Law (1987), which exempted the security forces from any legal proceedings, were cancelled in June 2005.

this shows the absence of a suitable policy for the protection of persons linked to trials: families, witnesses and human rights defenders.

### **Threats, aggressions, breaking and entering, intrusions: a variety of obstacles in the fight against impunity and corruption**

During 2007, a certain number of human rights defenders and witnesses engaged in the fight against impunity received threats of various kinds, including against their families, and were subjected to verbal and physical acts of aggression. On April 9, 2007 for instance, Mr. **Pablo Gabriel Salinas**, a human rights lawyer, received an anonymous letter containing threats and insults aimed at himself and his family. Mr. Salinas regularly condemns bad conditions of detention, torture and ill-treatment in the prisons of the Mendoza province. He also defends victims of police brutality, extrajudicial killings and other human rights violations committed by members of the security forces.

The climate of insecurity is accompanied by equally disturbing incidents, such as breaking into the offices of several organisations and the theft of equipment (computers, fax machines, archives, etc.), in order to remove information on human rights violations. On June 26, 2007, two armed persons broke into the offices of the Committee for the Defence of Health, Professional Ethics and Human Rights (*Comité de Defensa de la Salud, la Ética Profesional y los Derechos Humanos - CODESEDH*) in Buenos Aires. A computer containing evidence and archives relating to several ongoing trials against the dictatorship were stolen, as well as a videotape.

Journalists denouncing the corruption of the authorities were not spared either. On September 3, 2007, Mr. **Sergio Poma**, owner of *Radio FM Noticias* and of a local press agency, was found guilty of “insults” towards the Governor of Salta (northwest), whom he had accused of embezzlement, and was sentenced to one year’s imprisonment. Likewise, an independent journalist, Ms. **Claudia Acuña**, was subjected in July 2007 to police and judicial harassment after having revealed, in the press and in a book, the existence of a prostitution

network in Buenos Aires operating under the control and the threats of certain authorities<sup>2</sup>.

### **Freedom of association endangered by an amendment to the Criminal Code**

Despite the progress made in 2006 with the improvement in the working conditions of human rights defenders, the approval by the national Senate, on June 6, 2007, of an amendment to the Criminal Code proposed by the Government, referring to a category of “illicit associations” whose characteristics would easily fit any organisation according to needs or circumstances, is very disquieting.

According to Article 213 ter, a sentence of 5 to 20 years’ imprisonment would apply to any person participating in an illicit association whose aim, by committing an offence, was to terrorise the population or to oblige a Government or an international organisation to undertake an action or to refrain from doing so. According to the same text, the illicit association in question would be characterised by having “a plan of action for propagating ethnic, religious or political hatred”, by being “organised in international operational networks”, or by having at its disposal “arms of war, explosives, chemical or bacteriological agents or any other appropriate means of endangering the life or integrity of an indeterminate number of persons”. This means that under the above – mentioned Article 213 ter, it is possible that participants in a protest, or the organisers, or their organisations be prosecuted in the future for acts of terrorism.

It is therefore very much to be feared that the new law will soon become the main argument for repression invoked by security forces for sanctioning any criticism of a Government policy by defenders, although at the end of 2007 it had not yet been used for that purpose.

### **Continuation of the criminalisation of social protest**

In 2007, the trend towards the criminalisation of social protest in Argentina was confirmed. In 2007, around 5,000 trials were under way against trade union leaders and defenders of economic and social rights, like for example the trial opened against the leaders of the Association

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2./ See Reporters Without Borders (RSF).

of State Workers (*Asociación de Trabajadores del Estado - ATE*), prosecuted for having organised demonstrations in support of workers and the unemployed.

In certain regions, the disproportionate use of violence was added to the criminalisation, as shown by the murder by police officers, on April 4, 2007, of Mr. **Carlos Fuentealba**, a member of the Neuquén Association of Teachers (*Asociación de Trabajadores de la Educación de Neuquén - ATEN*), during a strike for better wages in Neuquén.

Also, several organisations have denounced attempts by members of the police and military security and intelligence forces to infiltrate demonstrations or protests, in order to identify the leaders of the organisations, and also to provoke incidents liable to justify repressive measures and arrests of activists or leaders.

# / BOLIVIA

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## Political context

Since Mr. Evo Morales, the first indigenous President of the country, came to power in January 2006, the Government has worked for the adoption and implementation at both national and local level of a number of reforms to improve economic, social and cultural rights (especially the collective rights of indigenous peoples and peasant communities), to reinforce the fight against corruption, etc. This process was marked by the draft of a new Constitution to be put to a vote by referendum in 2008.

But there have also been strong reactions to these reforms and in 2007 several strikes and other forms of protest followed one after another over a period of months with almost no interruption<sup>1</sup>. The work of the Constituent Assembly, set up in August 2006 to draft a new Constitution, exacerbated tensions between President Morales and his conservative opponents (often members of the traditionalist oligarchy), who claimed greater independence for the regions they governed. Thus, in Cochabamba in January 2007, supporters of Mr. Evo Morales started a movement to obtain the resignation of Mr. Manfredo Reyes Villa, Governor of the Cochabamba region and an opposition member who called for greater independence from central Government. These demonstrations resulted in violence, with dozens of people injured<sup>2</sup>. At the beginning of 2007, the opposition also launched a campaign calling on the Assembly to consider transferring the national Government and

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1./ The Observatory for Human Rights and Social Policies (*Observatorio de Derechos Humanos y Políticas Sociales*) noted 300 such demonstrations in 2007 (See *Los derechos humanos en la Bolivia del 2007. Documento trabajo*, January 2008).

2./ These acts were condemned by the Presidency of the European Union (EU), in a statement made on January 16, 2007 which called on "all parties to resolve their differences in a spirit of tolerance and dialogue while fully respecting human rights, democratic principles and institutions, and to refrain from acts of violence".

Congress headquarters, currently in La Paz, the presidential stronghold, to Sucre, in Chuquisaca department.

As of August 2007, one year after the Constituent Assembly was set up, no text had yet been approved. A law was therefore adopted to allow its work to continue until December 14, 2007 and the debate on the transfer of the capital was temporarily set aside so that progress could be made. This decision led to violent opposition in Sucre and sessions had to be suspended. A new protest movement took place in Sucre on November 24 and 25, 2007 with violent clashes between demonstrators and police, resulting in the death of three people<sup>3</sup>.

On December 9, 2007, the Constituent Assembly at last approved the final version of the new Bolivian Constitution, despite opposition from four provinces led by traditional elite groups (Santa Cruz, Tarija, Beni and Pando), who held referenda on their regions' autonomy, in contravention of the Constitution.

It is to be noted that Bolivian justice continues to be confronted by a true institutional crisis, in particular due to the lack of possibility of recourse and its lack of independence from the political authorities.

Finally, although 60% of the population is indigenous, the native and peasant communities continue to be victims of discrimination, servitude and forced labour<sup>4</sup>, in an environment in which land distribution is marred by corruption, irregular practices and institutional weakness.

### **A framework for human rights defence that is favourable but in need of improvement**

The Bolivian legislative framework promotes freedom of association, since Bolivia has accepted, either through ratification or adherence, the principal regional and international legal human rights mechanisms and

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3./ The EU Presidency deplored "the tragic events [...] in Sucre", and expressed the wish that "Bolivia can find a path of unity and consensus in the framework of the Constituent Assembly" (See EU Presidency Statement on the Current Situation in Bolivia, November 26, 2007).

4./ At least 600 Guaraní families would reportedly be affected by servitude or forced labour. See Report of the Inter-American Commission on Human Rights (IACHR), *Access to Justice and Social Inclusion: the Road towards Strengthening Democracy in Bolivia*, Document OEA/Ser.L/V/II, Doc. 34, June 28, 2007.

the basic texts established by the International Labour Organisation, including those that respectively relate to the freedom of association and protection of the right to organise (Convention n° 87, 1948) and the right to organisation and collective bargaining (Convention n° 98, 1949).

However, beyond the favourable attitude of the Government to social movements of all kinds, it is not rare for organisations to be hindered in their activities by organisations set up in parallel by the authorities or by regional and municipal Governments. They encounter obstacles such as refusal or restriction of access to public information, delays in administrative procedures, prolonged postponement of proceedings related to claims on the defence of fundamental rights and freedoms, etc.

### **Acts of repression and attacks on defenders of the rights of indigenous peoples and peasant communities**

In Bolivia, defenders of the right to land and those who support the claims of indigenous peoples and peasant communities are the principal targets of acts of reprisal carried out mainly by the people or groups they oppose, i.e. the land-owners. In this respect, the Pro-Santa Cruz Civic Committee (*Comité Cívico Pro Santa Cruz*) distinguished itself on several occasions by racist acts against the indigenous population. An extreme right-wing citizens' obedience movement bringing together rich landowners in particular, the Committee supports the regional Governors' policy of autonomy, which aims to concentrate control of the resources of the regions concerned in the hands of a corrupt elite group.

The Pro-Santa Cruz Civic Committee opposed the adoption by the Constituent Assembly of a simple majority voting system, as opposed to a two-thirds majority vote. At the end of 2006, after the strike that followed the announcement of the decision, the group carried out several acts of reprisal against people and organisations that had not supported the movement, including the Permanent Assembly for Human Rights in Bolivia (*Asamblea Permanente de Derechos Humanos de Bolivia* - APDHB). On January 16, 2007, Mr. **Adalberto Rojas**, APDHB President, went to the Santa Cruz law courts to report acts of reprisal and was threatened and insulted. On January 21, 2007, Ms. **Fabiana Aguilar**, Secretary of the APDHB in Santa Cruz, was insulted and threatened by members of the Pro-Santa Cruz Civic Committee who went to the organisation's offices and announced that they would sell the premises.



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## Political context

Since the beginning of the 1990s, Brazilian legislation has undergone progressive changes in favour of various fundamental freedoms. Criteria for the protection of human rights have been embodied in the 1988 Federal Constitution (Article 5): *inter alia* the freedom of expression (Chapter IX), the right to respect for private property (Chapter XI), freedom of peaceful assembly (Chapter XVI), freedom of association (Chapter XVII). More recently, under President Lula's Government, social advances have also been made, such as a scholarship system to enable children to go to school or the adoption of a law against domestic violence, in 2006.

However Brazil is still strongly marked by violence, accompanied by corruption and omnipresent impunity. Human rights violations by the police are frequent, especially against the most deprived populations, particularly in Rio de Janeiro and São Paulo. The members of these security units, placed under the supervision of the Federated States, are untrained, and commit exactions that include acts of torture and extrajudicial killings, in a context in which paramilitary militias control the "favelas". In addition, there is a tendency to suppress social protest movements, and the existence of death squads (armed militia linked to organised crime, and composed in particular of acting and former police officers) that impose their "rule", with total impunity.

Another crucial problem in Brazil is linked to land. There are still many landless peasants, and around 8,000 people continue to work in conditions of servitude, as Congress had still not, at the end of 2007, taken a decision on a draft constitutional reform providing for the confiscation of land when servile working conditions are shown to exist. It should however be stressed that a major step forward was taken in 2007, with the release of 5,974 persons subjected to servile working conditions, notably following action by the Ministry of Labour and

Employment<sup>1</sup>. On the other hand, expulsions continue, and entities linked to the main economic actors, such as transnational corporations, promoters of agricultural trade, large landowners or consortia for the construction of large infrastructure projects multiply abuses and illegal practices in the name of regional development. According to the Indigenous Missionary Council (*Conselho Indigenista Missionário - CIMI*), 76 indigenous persons were killed in 2007 – as against 40 in 2006 – in conflicts mostly related to land ownership or the exploitation of natural resources.

In this context, and despite the introduction by the Government in October 2004 of a National Programme for the Protection of Human Rights Defenders, which was an important step in the right direction but which has not led to a concrete improvement in their protection, defenders continue to be subjected to attacks and acts of harassment, even if there is no formal obstruction to their work. Furthermore, although protective measures for defenders were to have been introduced initially in the three States of Pará, Espírito Santo and Pernambuco, at the end of 2007 no real progress in terms of procedures or methods for granting protection, or strategies for increasing public awareness of the defender's problem had been observed<sup>2</sup>. In a more general way, the protection measures granted by the Inter-American Commission for Human Rights (IACHR) were rarely implemented, because on the one hand they are not a priority for the Government, and secondly because no specific institution is clearly singled out for having authority to act in the matter. The national police, for instance, which should be the best placed for protecting human rights and their defenders, and for investigating cases of violations, do not meet the requirement. Therefore the persons who should benefit from precautionary measures, as defined by the IACHR, remain unprotected.

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1./ See "Justiça Global" and 2007 Report of the Pastoral Land Commission (*Comissão Pastoral da Terra - CPT*).

2./ There is still no specific training for police officers called upon to escort defenders under threat (and the defenders are reluctant to accept protection offered by the local police, because they do not feel safe), nor a budgetary policy for funding the three States mentioned above, nor even a consensus on which body should be responsible for the implementation of the National Protection Programme.

## Defenders of the right to land: the main target of attacks and criminalisation

Defenders acting in favour of a more equitable distribution of land, and who are thereby up against the large agricultural producers who have no hesitation in recruiting private security organisations for defending their interests, and also groups who engage in illegal logging, are regularly subjected to threats and acts of intimidation on the part of these armed groups, which enjoy total impunity. In addition, it is not unusual for security firms, which operate like armed militia, to offer a reward for the elimination of persons who play an active role in the defence of human rights and land rights. On October 21, 2007, Mr. **Valmir Mota de Oliveira**, a member of the Landless Land Workers Movement (*Movimento dos Trabalhadores Rurais Sem Terra - MST*) and of “Via Campesina”, two movements active in the promotion of agrarian reform and the right to land, was killed during the peaceful occupation by Via Campesina of an estate owned by a multinational corporation, Syngenta, in Santa Terasa do Oeste, in the State of Paraná, which used it for transgenic cultivation tests<sup>3</sup>. Since the beginning of the year, the MST leaders had been subjected to death threats and acts of intimidation. Likewise, in October 2007, three men were reportedly recruited by the landowners of the State of Pará to kill Brother **Henri de Rosiers**, lawyer of the Pastoral Land Commission (*Comissão Pastoral da Terra - CPT*) in Xinguara, in exchange for a sum estimated at 50,000 Brazilian reals (around 20,000 Euros)<sup>4</sup>.

## Acts of reprisal against defenders fighting impunity and corruption

Defenders fighting against the impunity enjoyed by the authors of exactions or who denounce corruption and other illegal activities on the part of the authorities are not spared either. In December 2006, Mr. **Erwin Krautler**, Bishop of the Xingu region, human rights activist in the State of Pará and President of the CIMI, received telephone death

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3./ Such a practice is challenged because the land concerned has been identified as possible land for establishing landless land workers in the framework of the agrarian reform. The estate had already been occupied for over a year by the same group, as a means to accelerate the process initiated by the State Government designed to ensure that the land be used in the framework of the agrarian reform, and be the object of measures for the protection of the environment. From the ecological point of view, the land is important, because it is close to the Iguaçu National Park.

4./ See Pastoral Land Commission (CPT).

threats. This was after Mr. Krautler had made several denunciations concerning authors of sexual abuses, child prostitution in the region, and the impunity of the authors of the murder of Sister **Dorothy Stang**, a missionary representing CPT and an activist in the National Human Rights Movement (*Movimento Nacional de Direitos Humanos* - MNDH). Indeed, at the end of 2007, no date had been fixed for the trial of Mr. Regivaldo Gavao, presumed author of the assassination of Sister Stang, who had been released in June 2006, despite the fact that the other presumed author has been sentenced on May 15, 2007 to 30 years' imprisonment.

The authors of these attacks are usually linked to organised crime, and often benefit from the complicity of police officers or corrupt politicians. On May 5, 2007, Mr. **Luiz Carlos Barbon Filho**, a columnist with the weekly *Jornal do Porto* and the daily *JC Regional*, was assassinated after having, in one of his articles, accused four company directors and five civil servants from Porto Ferreira (State of São Paulo) of sexual abuse of teenagers, in 2003. Members of the Porto Ferreira military police were reportedly involved in the assassination. On May 25, 2007, Mr. Koïchiro Matsuura, Director General of the United Nations Organisation for Education, Science and Culture (UNESCO), condemned the assassination<sup>5</sup>. Lastly, on November 22, 2007 an unknown man fired on Mr. **João Alckmin**, host of the "Show Time" programme on *Rádio Piratininga*, in São José dos Campos (State of São Paulo), wounding him in the neck, the arm and the back. Mr. Alckmin regularly denounces trafficking in slot-machines in the region, and the complicity between the Mafia and certain police officers.

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5./ See <http://www.un.org/apps/news/story.asp?NewsID=22688&Cr=unesco&Cr1=journalist>, May 25, 2007.

# / CHILE

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## Political context

Ten years after the departure of General Pinochet, Chile today has a modern democratic system under the presidency of Ms. Michelle Bachelet, the country's first woman President. Deep scars remain, however: very few officials of the military regime have been tried for the crimes against humanity committed during the quarter of a century of dictatorship, and the antiterrorist law adopted under the regime of General Pinochet is still in force, despite its non-compliance with international and regional human rights standards. In addition, by the end of 2007, Chile was one of the few Latin American countries not to have ratified the status of the International Criminal Court.

One of the major challenges facing the State of Chile today is that of the rights of the indigenous populations opposed to despoilment of their lands to the benefit of the State and the major corporations that exploit natural resources. The indigenous populations claim ownership of their ancestral lands and condemn the land boundaries imposed by privatisation, as well as the over-exploitation (especially of forests) and the industrialisation that threatens the way of life of their communities.

The indigenous communities are amongst the poorest and the most marginalised in the country. All the ethnic groups together represent a little less than 5% of the population of Chile, of which the largest community is the Mapuche people. Yet, despite the existence of Law n° 19.253, signed in 1993, which deals specifically with the rights of indigenous peoples (*Ley indígena n° 19.253*), the Constitution of Chile has not yet been modified to take this into account and Chile has still not ratified the International Labour Organisation (ILO) 1989 Convention n° 169 on Indigenous and Tribal Peoples. In practice, lands that are claimed are under constant surveillance by security guards who are often guilty of abusing the indigenous communities, and a process of criminalisation of Mapuche land claims activities may be witnessed.

Finally, the year 2007 in Chile was marked by severe police repression of student demonstrations in May, June and October 2007 that called for changes in the educational system. These demonstrations led to violent clashes with the police and the arrest of hundreds of demonstrators for a short period.

### **The criminalisation of social protest: defenders of the rights of indigenous peoples as particular targets**

In Chile, social and political protests and demands are often subject to repression and their instigators are the target of harassment, legal proceedings, arrests, arbitrary detentions and ill treatment in detention. In recent years, there has been a rise in social conflicts involving representatives of indigenous communities, essentially the Mapuche community, which hold public demonstrations during which communication routes are generally blocked or the lands which are claimed are occupied. This is the background to the continued imprisonment in 2007 of several Mapuche leaders who were sentenced in 2006 under the anti-terrorist law, including Ms. **Patricia Troncoso Robles** and Mr. **Florencio Jaime Marileo Saravia**<sup>1</sup>, who went on hunger strike for 100 days from October 10, 2007 after the non-respect of commitments made by the Government in 2006 to reform the anti-terrorist law.

In addition, at the end of 2007, Ms. **Juana Calfunao Paillalef**, *lonko* (a traditional position of authority) in the “Juan Paillalef” Mapuche community (in Cunco commune, Temuco), was waiting for a decision from the Constitutional Court regarding incidents that had taken place in the Temuco Court in November 2006<sup>2</sup>. She faced a 15-year prison sentence. Furthermore, between August 7 and October 9, 2007, Ms.

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1./ See Observatory Annual Report 2006.

2./ On November 15, 2006, the Temuco Court of Appeal had confirmed the guilt of Ms. Juana Calfunao Paillalef for “public disorder” after her run-in with the police in January 2006. When the verdict was announced, several indignant members of the “Juan Paillalef” Mapuche community had started to protest noisily. The police then physically attacked Ms. Juana Calfunao in the court, provoking a violent confrontation between the police and the Mapuche, some of whom physically attacked court representatives. Ms. Calfunao had then been placed in detention on charges of “threats against the authorities, unknown damage, slight injury and the theft of one of the enquiry files” [relating to the confrontation between Ms. Calfunao and the police in January 2006]. Ms. Juana Calfunao Paillalef had additionally been accused of “threats” against one of the Prosecutors. On November 20, 2006, the Oral Criminal Court in Temuco had sentenced Ms. Juana Calfunao to 150 days in detention for “public disorder” (See Observatory Annual Report 2006).

Juana Calfunao Paillalef and her sister, Ms. **Luisa Ana Calfunao**, went on hunger strike to draw attention to the rights of the Mapuche people and to demand the ratification of ILO Convention n° 169 by Chile.

# / COLOMBIA

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## Political context

In 2007, the internal armed conflict that has lasted for more than 40 years continued, with multiple acts of violence committed by all parties to the conflict, whether the security forces, the paramilitary forces operating with the support of the army or the guerrilla groups, in particular the Revolutionary Armed Forces of Colombia (*Fuerzas Armadas Revolucionarias de Colombia* - FARC) and the National Liberation Army (*Ejército de Liberación Nacional* - ELN). The civil population continued to be the main victim of the conflict, with thousands of civilians subjected to constant violations of international humanitarian law (armed attacks, extrajudicial killings, enforced disappearances, torture, threats, forced displacements, hostage-taking, etc.), all carried out with the greatest impunity. Colombia has the highest number of internally displaced persons in the world<sup>1</sup>, particularly from the indigenous and Afro-Colombian populations from the various regions of the country.

In addition, in 2007 the “para-politics” scandal resulted in the trial and imprisonment of 21 politicians linked to the paramilitary. Since most of these politicians belonged to the presidential party, the President tried to destabilise the Supreme Court in October 2007 by accusing its members of corruption.

Although President Álvaro Uribe Vélez was re-elected in 2006 on the strength of a promise to remedy insecurity and reinforce State authority, Colombia nevertheless remains mired in an internal armed conflict that opposes the State and the main guerrilla organisations, whilst the army continues to develop paramilitary structures, even though the latter are

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1./ Three million displaced people according to the United Nations (See Report by Mr. Walter Kälin, Representative of the Secretary-General on the human rights of internally displaced persons; document A/HRC/4/38/Add.3, January 24, 2007).



undergoing a process of “demobilisation”. In reality, this process has led to a de facto amnesty for most of the members of the paramilitary groups that have either agreed to negotiate or accepted a show trial of leaders of these groups under the umbrella of the Justice and Peace Law<sup>2</sup>. Thus, “demobilised” members of the paramilitary continue to threaten small farmers, indigenous peoples, union members and human rights defenders.

Colombia is also one of the countries where the greatest number of human rights defenders are murdered. According to the Colombian Commission of Jurists (*Comisión Colombiana de Juristas - CCJ*), 44 defenders were killed in 2007, including 39 trade union members. Although in 1997 the Interior Minister had established a “protection programme for human rights defenders, trade union members, journalists and leaders of social organisations”, especially for defenders who are victims of threats, created with the support of the United States Government, it is regarded with suspicion by most of the people it is designed to benefit. Indeed, these protection measures in the main consist of supplying armed escorts, generally agents of the Security Administration Department (*Departamento Administrativo de Seguridad - DAS*), who are sometimes accomplices in intimidating the people they are supposed to protect. Therefore, many human rights defenders feel protected more by the pressure and support of the international community than by the measures put in place by the Government<sup>3</sup>.

### **Stigmatisation of human rights activities**

Whilst the great majority of the acts of violence committed against defenders (threats, attacks, harassment, even killings or enforced di-

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2./ Many members of paramilitary groups supported by the army and other illegal armed groups have been “demobilised” under Law 975 of 2005 (known as the Justice and Peace Law), which was approved by the Colombian Congress on June 21, 2005 and ratified by the Government in July 2005. This law guarantees de facto impunity and that crimes committed by the paramilitary and members of other illegal armed forces during the civil war in the country would be forgotten.

3./ In its Conclusions of November 19, 2007, the Council of the European Union noted “the additional means that have been made available by the Colombian government to protect human rights defenders, witnesses, journalists, trade unionists and other persons at risk. Nevertheless, attacks against such individuals continue. Therefore, the Council urges the Colombian Government to continue adopting concrete measures to protect those people at risk and to put an end to impunity. Protection of human rights defenders should be given special attention”.

sappearances) remain unpunished<sup>4</sup>, in 2007 the authorities continued to speak of defenders often in aggressive terms – especially of those who condemn the violence committed by armed protagonists – and to discredit their activities, accusing them of having links with the guerrillas. On October 17, 2007, President Álvaro Uribe Vélez declared to magistrates of the Inter-American Court of Human Rights during its 31<sup>st</sup> Extraordinary Session, which took place in Bogotá from 17 to 20 October, that “every time members of the guerrilla and their followers feel that they can be defeated, they resort to appeals against human rights violations”. These declarations, in addition to accusations made at Tierralta (Department of Córdoba), on February 3, 2007, comparing human rights defenders to “terrorists dressed in civilian clothes”, were the origin of a considerable increase in threats by the paramilitary against dozens of civil society organisations<sup>5</sup>. For instance, in February 2007, the FARC threatened several human rights organisations that they would become “military targets” if they did not support “the popular movement for the resignation of Uribe, which would open the way for the formation of a new Government”<sup>6</sup>. Judicial proceedings were also regularly instituted against human rights defenders who were accused of “rebellion”, as was the case with Mr. **Andrés Gil**, Mr. **Oscar Duque**, Mr. **Evaristo Mena** and Mr. **Mario Martínez**, members of the Cimitarra River Valley Peasants’ Association (*Asociación Campesina del Valle del Río Cimitarra - ACVC*) in Barrancabermeja, who were arrested on September 29, 2007 by military officers and DAS agents.

### **Defenders who fight against impunity targeted by parties to the conflict**

The violence unleashed against defenders is most frequently the result of the stand they take against the armed conflict and the illegal and arbitrary actions taken by whether civil, military or police authorities, and the abuses committed by armed groups. While President Uribe

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4./ See Observatory International Fact-Finding Mission Report, *Colombia: Las tinieblas de la impunidad: muerte y persecución a los defensores de derechos humanos*, July 2007.

5./ See National Association for Solidarity Assistance (*Asociación Nacional de Ayuda Solidaria - ANDAS*), February 2007.

6./ In a Press Release issued on February 8, 2007, the Office of the United Nations High Commissioner for Human Rights (OHCHR) in Colombia and the International Labour Organisation’s Permanent Representation in Colombia strongly condemned threats made to 70 NGOs, unions and social organisations.

continues to give priority to the demobilisation of tens of thousands of members of the paramilitary group United Self-Defence Forces of Colombia (*Autodefensas Unidas de Colombia* - AUC), in line with the Justice and Peace Law, human rights defenders continued to be targeted by groups involved in the conflict, including the demobilised paramilitary groups, which reorganised themselves under different names. Many NGOs received threats from “new” paramilitary groups: for example, in March and June 2007, several organisations in the department of Nariño received e-mail threats from the paramilitary group New Generation Black Eagles (*Nueva Generación Águilas Negras*), accusing them of being “terrorists shielding behind human rights” and declaring them as military targets<sup>7</sup>. Similarly, on May 25, 2007, members of the Liberty Legal Corporation (*Corporación Jurídica Libertad* - CJL), in Medellín, were threatened with being declared to be “military targets” if they did not give up their activities in support of the fight against impunity.

It is also extremely frequent for organisations and defenders who file complaints against the violence committed by the military to be victims of reprisals. For example, on January 22, 2007, the Bogotá headquarters of the Permanent Assembly of Civil Society for Peace was violently attacked by unknown persons who stole the main computer containing the organisation’s archives, in particular complaints filed against paramilitary groups and documents appealing for compensation for victims. Even more serious is the fact that many such defenders have paid with their lives in their search for justice and truth, as was the case of Ms. **Yolanda Izquierdo Berrío**, leader of the People’s Housing Organisation (*Organización Popular de Vivienda* - OPV), who was killed on January 31, 2007 after becoming the Head of a group of victims

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7/ In a Press Release published on March 23, 2007, the Office of the OHCHR in Colombia once more expressed its concern “regarding death threats made by members of the [paramilitary group] New Generation against human rights defenders in Nariño department” (Unofficial translation).

of the paramilitary<sup>8</sup>. In addition, on March 30, 2007, Ms. **Jahel Quiroga Carillo**, Director of the Corporation for the Defence and Promotion of Human Rights “REINICIAR” (*Corporación para la Defensa y Promoción de los Derechos Humanos “REINICIAR”*), was informed of a plot to kill her. On November 26, 2007, three unknown persons fired three times at the building where she lives.

## **Defenders of economic, social and cultural rights particularly targeted by a violent repression**

Acts of violence also target defenders of union rights, women, the poor, persons displaced during armed conflict and ethnic minorities.

### **Peasant and trade-union leaders**

In June 2006 the Tripartite Agreement on Freedom of Association and Democracy was signed under the auspices of the International Labour Organisation (ILO), providing for the permanent presence of the latter in the country from January 2007 in order to monitor the Government’s commitment to the implementation of freedom of association and to assess the progress made in the investigations into killings of union members. Despite the signature of this Agreement, the situation of union leaders remained of considerable concern in 2007, as they continued to be victims of serious acts of harassment, from persecution and threats to extrajudicial killings. According to a report by several NGOs, 2,515 union members have been killed in Colombia, since 1986, 20% of whom were union leaders. These crimes remain unpunished

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8./ In a Press Release issued on February 1, 2007, the Office of the OHCHR in Colombia condemned the “violent death of Yolanda Izquierdo Berrío” although she had “alerted the competent regional authorities of threats against her” (Unofficial translation).

Likewise, the IACHR expressed its “repudiation of the murder of Ms. Yolanda Izquierdo, who had appeared as a victim of the armed conflict in Colombia at the open hearings in the case of the paramilitary leader Salvatore Mancuso, in accordance with the [...] ‘Law of Justice and Peace’. [...] Mrs. Izquierdo was a leader of the complaints lodged by hundreds of small farmers against the seizure of their land by members of the AUC in the department of Córdoba [...]”. The IACHR added that “having received death threats since December 2006, [she] had repeatedly requested protection from the authorities, who ignored those requests” (See Press Release 4/07, February 2, 2007).

in 95.6 % of cases<sup>9</sup>. In 2007, the United Confederation of Workers (*Central Unitaria de Trabajadores de Colombia* - CUT) recorded 32 killings of union members between January 1 and November 13, 2007. The National Union School of Colombia (*Escuela Nacional Sindical* - ENS) recorded 38 killings between January 1 and December 1, 2007.

Many trade-union leaders continued to be murdered because of their activities, as was the case with Mr. **Leonidas Silva Castro**, murdered on November 2, 2007 in the town of Villacaro (Norte de Santander); Mr. **Jairo Giraldo Rey**, murdered on November 3, 2007 in the town of Toro (Valle del Cauca); Ms. **Mercedes Consuelo Restrepo Campo**, killed on November 7, 2007 in Cartago (Valle del Cauca); and Mr. **José Jesús Marín Vargas**, a member of the National Union of Food Industries Workers (*Sindicato Nacional de Trabajadores de las Industrias de Alimentos* - SINALTRAINAL), murdered on November 22, 2007, in the town of Dosquebradas (Risaralda). Union leaders also continued to receive death threats: for example, Mr. **Domingo Flórez**, Mr. **Nelson Pérez**, Mr. **Luis Eduardo García** and Mr. **Luis Javier Correa Suárez**, four leaders of SINALTRAINAL in Bucaramanga, received death threats on several occasions in 2007, especially from the Black Eagles.

Associations of peasants and their leaders were also targets of reprisals, especially by the paramilitary and members of the FARC: thus, on May 14, 2007, Mr. **Francisco Puerta**, a peasant leader, was murdered in Antioquia.

### **Women's' rights organisations**

Organisations that work to defend women's rights, in particular the League of Displaced Women and the Women's Popular Organisation (*Organización Femenina Popular* - OFP), were not safe from attacks

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9./ See United Confederation of Workers (*Central Unitaria de Trabajadores* - CUT), General Confederation of Labour (*Confederación General del Trabajo* - CGT), Confederation of Workers of Colombia (*Confederación de Trabajadores de Colombia* - CTC), Confederation of Pensioners of Colombia (*Confederación de Pensionados de Colombia* - CPC), with the cooperation and support of the National Union School (ENS) and the Colombian Commission of Jurists (CCJ), "*Evaluación de la aplicación del Acuerdo Tripartito: mandato, estructura, funcionamiento y financiación de la presencia permanente de la OIT en Colombia*", presented at the 96<sup>th</sup> International Labour Conference, May 2007.

carried out by any of the groups that participate in the conflict. After receiving threats in December 2006, in which the authors stated that they would attack their relatives, the sister of an OFP member was kidnapped in February 2007 and detained for over a month. Likewise, on November 4, 2007, two men entered the home of OFP leader Ms. **Yolanda Becerra Vega** in Barrancabermeja, physically attacked her and threatened to kill her, ordering her to leave Colombia within 48 hours<sup>10</sup>.

### **Defenders of the rights of indigenous peoples**

Leaders of indigenous and Afro-Colombian communities also remained targets of reprisals motivated by the explicit desire of the paramilitary to destroy these communities' structures. Several legal cases were brought against Mr. **Armando Pérez Araújo**, a lawyer specialising in defending the rights of populations affected by the mining industry such as peasant and indigenous Afro-Colombian groups in the region of La Guajira. Leaders of the San José de Apartadó Peace Community also continued to be subject to intimidation on a regular basis.

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10./ The Office of the OHCHR in Colombia condemned "the attack and the death threats against Ms. Yolanda Becerra", recalling that "for several years the OFP has benefited from protection measures granted by the Inter-American Commission of Human Rights", "which did not prevent it from receiving continual and frequent threats due to its work for the promotion and defence of women's rights" (See Press Release of November 6, 2007. Unofficial translation).

# / CUBA

OBSERVATORY FOR THE PROTECTION OF HUMAN RIGHTS DEFENDERS  
ANNUAL REPORT 2007



/ AMERICAS

## Political context

Despite the transmission of power from Fidel Castro to his brother Raul in July 2006, and the latter's election to the Presidency on February 24, 2008, the human rights situation on the island of Cuba has not undergone much change. Some notable improvements must be mentioned, however, such as the release of prisoners of conscience, and a rapprochement with Spain in 2007. Nevertheless, Cuba remains a dictatorial and centralised regime, which has not signed the Human Rights Charter<sup>1</sup>, and where the freedoms of expression, association and movement are practically inexistent.

The Cubans are still victims of the consequences of the United States' embargo on the island, although the European Union lifted its sanctions in 2005. In addition, in June 2007, the United Nations Human Rights Council decided not to renew the mandate of the Personal Representative of the United Nations High Commissioner for Human Rights on the situation of human rights in Cuba.

Furthermore, in Cuba, the men and women who dare defy the authorities and denounce human rights violations were still, in 2007, subjected to multiple acts of harassment, and their freedoms of association, expression, peaceful assembly and movement were restricted in a

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1./ However, in February 2008 the authorities committed to sign at the latest in April 2008 the two International Covenants on economic, social and cultural rights, and civil and political rights (See 2<sup>nd</sup> session on human rights matters in the framework of the bilateral consultations with Spain, February 12, 2008).

variety of ways<sup>2</sup>. Numerous political dissidents, independent journalists and human rights defenders continued to be imprisoned, suspected in particular of “counter-revolutionary activities” or of “presupposed social dangerousness” (*estado peligroso*), a provision of the Criminal Code often used against dissidents and that allows the authorities to arrest and imprison them on the grounds of the “potential risk” they could represent for society. At the end of 2007, there were at least 55 prisoners of conscience in Cuban prisons.

### **No freedom of association in practice**

Promotion and protection of human rights is still not recognised as a legitimate activity, and is still considered to be a threat to the proper functioning of the State. Although freedom of association is embodied in the Constitution, the Labour Code and the Law on Associations (Law 54, December 27, 1985), in practice the independent human rights organisations still have no legal status.

### **Multiple acts of harassment against human rights defenders**

In 2007, defenders continued to be subjected to systematic acts of harassment: threats, arrests, and/or arbitrary detentions, physical assaults, systematic surveillance, wire-tapping of their telephone conversations, etc. The offices of NGOs, and the private homes of their members, were regularly broken into and searched, and their equipment was usually confiscated. The authorities also frequently had recourse to “acts of repudiation”, acts of repression and intimidation by para-police elements, which consists mainly in the formation of groups of persons led by Government agents taking up a position in front of the defenders’ homes, shouting insults, even attacking them physically. This is mostly at the instigation of the authorities and their “Civilian Rapid Action Brigades” (*Brigadas de Respuesta Rápida*).

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2./ To that extent, the European Parliament, considering that “dozens of independent journalists, peaceful dissidents and defenders of human Rights [...] are still being held in jail, some of them seriously ill [...]”, “regret[ted] the failure to respond to the call of Parliament and the Council for the immediate release of all political prisoners and prisoners of conscience”, “demand[ed] that the Cuban authorities permit members of the political opposition, human rights activists and all citizens to travel abroad freely and return freely to Cuba” (See Resolution P6\_TA(2007)0288 adopted by the European Parliament on June 21, 2007).



Members of the “Ladies in White” organisation (*Damas de Blanco*), an association of women and wives of Cuban political prisoners that campaigns for the release of political prisoners and prisoners of conscience, are regularly subjected to acts of harassment and intimidation, and even physical assaults. The members of the Cuban Human Rights Foundation (*Fundación Cubana de Derechos Humanos*) are also specially targeted. For instance, its President, Mr. **Juan Carlos González Leiva**, is still under strict surveillance, particularly with regard to his telephone communications and the visits he receives. In addition, on August 26, 2007, Mr. González Leiva was arrested and beaten by several soldiers at the “Amalia Simoni” hospital in Camagüey, and also by members of the State security force, as he had come to interview the adopted son of a political prisoner. Likewise, on November 21, 2007, Mr. **Juan Bermúdez Toranzo**, National Vice-President of the Foundation, was arrested at his home, where several members of the Cuban Foundation for Human Rights were on a hunger strike to demand the release of all Cuban political prisoners. Messrs. **Osmar Osmani Balmán del Pino**, Delegate of the Foundation in the San Miguel del Padrón municipality, **José Luis Rodríguez Chávez**, Vice-President of the Foundation in Havana, and **William Cepero**, President of the Foundation in Habana Vieja, were also arrested. Later, all the persons arrested were released, except Mr. Bermúdez Toranzo, who was still in detention in Havana at the end of 2007.

It should also be recalled that while, in 2007, several defenders were released, like Mr. **Francisco Chaviano González**, President of the National Council for Civil Rights in Cuba (*Consejo Nacional por los Derechos Civiles en Cuba - CNDCC*)<sup>3</sup>, this does not seem to reflect an improvement in their situation, as most of them had already served their full sentence, or almost, or were released for medical reasons. Many defenders and journalists who were arrested in March 2003, during an unprecedented wave of repression against the civil society, were still detained at the end of 2007, some of them serving prison

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3./ This organisation collects information on disappearances of Cubans at sea, when they try to leave the country. Mr. Chaviano had been arrested in Havana in May 1994, and accused of “revealing secrets related to State security” and of falsifying public documents. He was released on bail on August 10, 2007, after having served thirteen years and three months of his sentence (see Coalition of Cuban-American Women – *Coalición de Mujeres Cubano-Americanas*).

sentences of over 20 years<sup>4</sup> – including Mr. **Oscar Elías Biscet**, founder and President of the Lawton Foundation, an independent human rights organisation in Cuba, and Mr. **Normando Hernández González**, Director of the Camagüey College of Independent Journalists (*Colegio de Periodistas Independientes de Camagüey* - CPIC) – in most cases in extremely bad conditions. Some of the prisoners have serious health problems.

### **Very limited access to information and repression against independent journalists.**

Access to information remains extremely limited, as the whole of the written press, radio and television remain under State control, and use of the Internet is severely regulated to prevent it from being used for “counter-revolutionary” purposes.

In such a context, independent journalists who try to promote and defend human rights in Cuba are also subjected to repression. For instance, Mr. **Armando Betancourt**, a collaborator of the *Nueva Prensa Cubana* site and founder of the underground magazine *El Camagueyano*, was sentenced on July 3, 2007 to one year and three months’ imprisonment for “breach of the peace”, after having been detained for over a year without being judged. He had been arrested on May 23, 2006 while interviewing families that the police were trying to dislodge from a garbage dump in Camagüey, and who were protesting against the violent methods used. Mr. Betancourt was released on August 20, 2007, after serving his full sentence<sup>5</sup>.

### **Obstacles to the freedom of peaceful assembly**

Any peaceful gathering for the promotion or defence of human rights is also repressed. For instance, on January 16, 2007, Mr. **Ramón Velázquez Toranzo**, a journalist with the independent agency *Libertad*, was arrested for having demonstrated peacefully, on December 10, 2006, for more freedom of expression. On January 19, he was sentenced by the City Court of Las Tunas to three years of supervised parole for

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4./ Most were organisers of the “Varela Project”, which proposed a referendum on the freedoms of expression and association, the possibility of setting up a business, the release of all political prisoners and changes in the electoral law.

5./ See Coalition of Cuban-American Women.

“presupposed social dangerousness”<sup>6</sup>. Because he did not comply to this sentence, Mr. Velázquez Toranso was again arrested on January 23. By the end of 2007 he remained detained at the forced labour camp of La Piedra. Likewise, on September 27, 2007, around thirty persons who were taking part in a demonstration in Havana calling for the immediate and unconditional release of all political prisoners and prisoners of conscience were arrested, before being released the morning after. The organisers of the event, including Ms. **Marta Beatriz Roque Cabello**, President of the Assembly for the Promotion of Civil Society (*Asamblea para la Promoción de la Sociedad Civil* - APSC), were among the persons arrested.

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6./ *Idem.*



## / ECUADOR

OBSERVATORY FOR THE PROTECTION OF HUMAN RIGHTS DEFENDERS  
ANNUAL REPORT 2007

### Political context

The accession of Mr. Rafael Correa to the Presidency of the Republic on January 15, 2007, after winning the presidential election on November 26, 2006, gave rise to the hope that his election might put an end to the great political instability that had reigned in the country since 1997. Indeed, three Presidents were removed from power between 1997 and April 2005 and Ecuador had undergone a dramatic institutional crisis in 2004 and 2005 when, in December 2004, the Parliament decided, under pressure from the Government, to dismiss all the Supreme Court judges and replace them with judges under the influence of the authorities in power. This decision, followed by the irregular annulment of proceedings against the three dismissed former Presidents, was greeted with general indignation. The economic crisis and the increase in poverty due to the frenetic liberalisation of public institutions resulted in a general uprising in April 2005, bringing about the fall of President Gutiérrez in the same month.

The Government was elected under the presidency of M. Rafael Correa on the basis of a programme of constitutional, economic and social reforms and, with this in mind, the people of Ecuador voted on April 15, 2007 in favour of reforming the Constitution and the State institutions, granting full power to the Constituent Assembly. The parliamentary elections held on September 30, 2007 resulted in 70% of the Assembly seats being held by the Government movement. From then on, all decisions would be voted by simple majority and ratified by referendum.

However, in 2007, the indigenous populations remained the main victims of repression and human rights violations, especially in their conflicts with the multinational mining and petroleum companies. The main social conflicts are fuelled by the mining projects (of wood, petrol and minerals) set up in indigenous territories and protected nature

zones without prior consultation with the populations that are affected by these projects.

### **Defamation campaign and reprisals against defenders of the right to the environment**

Once again this year, human rights defenders, community leaders and ecologists who condemn Government policies and the harm done by the mining industries were the targets of threats and acts of intimidation. This was the case in particular of environmental NGOs whose leaders actively participated in protests against the extraction activities (minerals, hydrocarbons, wood, etc.) of national and international private companies, that have a harmful effect on the environment and the inhabitants of the surrounding areas. On December 1, 2007, President Correa publicly stated on a national TV channel that “communities that protest are no more than terrorists”, that “whoever is opposed to the development of the country is a terrorist” and that ecologists are “romantics” who “want to destabilise the Government” and are “the principal enemies of [his] project”. President Correa also announced there would be “zero tolerance for [those people] who want to strike and generate chaos” with the aim of “paralysing the country’s development” and he promised that these people would be punished “with all the severity that is legally permitted”. He also confirmed that the Government was carrying out an investigation into the persons “who were hidden behind [these movements]”. The Government had unofficially hinted that it would investigate the organisation “Ecological Action” (*Acción Ecológica*). However, as at the end of 2007, there was no official knowledge of proceedings against the organisation.

In this context, defenders of the right to the environment were sometimes targets of physical attacks, as was the case of Mr. **Jaime Polivio Pérez Lucero**, leader of a small farmers’ defence association in García Moreno parish, who was threatened on August 4, 2007 after opposing a copper-mining project in the Intag area of Imbabura province. Villagers are particularly concerned about the effects the project might have on the environment of the region, a nature reserve where most inhabitants make a living from agriculture.

## The criminalisation of social protest and legal proceedings against defenders who protest against projects for the exploitation of natural resources

The lack of any prior consultation with peasant and indigenous communities gave rise throughout the year to peaceful protest movements against the impact of mining industries on the environment and the population's means of subsistence. The army and the police systematically used excessive force to repress these demonstrations. On October 4, 2007, the army used violence to disperse a peaceful protest in Tiguino parish in the south of Orellana (Ecuadorian Amazon) calling for compensation from the Petrobell company after the contamination of a nearby river as a result of the company's drilling activities.

Furthermore, at the end of November 2007, communities in Dayuma parish in Orellana province started protests calling for the application of the agreements signed in 2005 by the Government with the State company "Petroproducción"<sup>1</sup> and for compensation for environmental damage caused by petrol leakage that had poisoned the region's soil and water. On November 29, 2007, the Government decided to reinforce the contingent of armed forces already present at the petroleum sites. On the same day, the President of the Republic removed the Executive Director of Petroproducción from office, replacing him with an army officer and declaring a state of emergency in Orellana province, suspending the freedoms of expression, movement, assembly and association. In addition, armed forces were deployed throughout the province and the Law on National Security (*Ley de Seguridad Nacional*) was decreed, permitting the trial by military tribunal of persons arrested. All demonstrations were banned, even peaceful protests. On November 30, 2007, demonstrations were violently broken up by the military, which also arrested around 40 people, including Mr. **Wilmer Armas**, Vice-President of Dayuma parish, who was accused of "terrorism" and transferred to Tena prison. The state of emergency was lifted on December 11, 2007.

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1/ Under this agreement, the Government had undertaken to tarmac all the main roads of the province, including those linking the capital city, Coca, to all the main towns in Dayuma parish. Only 30% of the final project had been carried out.

This was the context in which legal proceedings were taken against many defenders because of their human rights activities, notably on the grounds of “sabotage”, “terrorism” and “rebellion”. Most of these proceedings were instigated by the national and transnational companies that exploit natural resources and consider that social leaders and environmental defenders present obstacles to their activities. As an example, on December 10, 2007, Mr. **Alberto Timbelo** and Mr. **Julio Granado**, members of the “Ángel Shigre” Network of Community Leaders (*Red de Líderes Comunitarios Angel Shingre*), were arrested and accused of “rebellion” after distributing leaflets on International Human Rights Day in defence of the small farmers’ community in Dayuma, in the Orellana region. Similarly, Ms. **Aida Astudillo Durán**, Mr. **Franklín Reinoso Ruíz**, Mr. **Marco Ochoa Durán** and Mr. **Tarquino Cajamarca Mariles**, four members of the Coalition for Life and Nature (*Coordinadora en Defensa de la Vida y la Naturaleza*) in the canton of Limón Indanza, Morona Santiago province, were accused of “sabotage”, “terrorism” and “using explosives” after they took part in a march on March 6, 2007 calling for an end to the Hidrotambo hydroelectric project<sup>2</sup>. The police used violence to break up this march and four warrants were issued for the arrest of these defenders.

In addition, on September 21, 2007, judicial proceedings for “rebellion” were brought against Ms. **Nathalie Weemaels**, a Belgian citizen and Spokeswoman of the Committee for Water Without Arsenic (*Comité pro-Agua Sin Arsénico* - CPASA) of the Tumbaco area of Quito, after reports were sent to city hall and to the drinking water management company (EMAAP-Q) following the discovery of very high levels of arsenic in the drinking water. The Committee called for medical examinations for the population and compensation for the harmful effects of the consumption of water containing high levels of arsenic, and for improvement in water quality. Legal charges against Ms. Weemaels were still pending at the end of 2007.

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2./ This project had been set up without prior consultation with the communities and had serious consequences including the forcible displacement of the population with no compensation and/or any real possibilities of resettlement.

# / EL SALVADOR

OBSERVATORY FOR THE PROTECTION OF HUMAN RIGHTS DEFENDERS  
ANNUAL REPORT 2007



## Political context

Nearly sixteen years after the signature of the peace agreements that put an end to the armed conflict that raged in El Salvador from 1980 to 1991, the enforced disappearances, the arbitrary detentions, the acts of torture and other human rights violations committed during the civil war remain unpunished. El Salvador refuses in addition to ratify the Statute of the International Criminal Court. Investigations have been either inexistent or ineffective, and defenders demanding respect for the right to justice, to truth and to reparation for the victims receive threats. The Government further justifies the lack of investigation by the existence of the 1993 Amnesty Law, which, according to the authorities, is an integral part of the peace process, which made reconciliation possible among the Salvadorian population.

At the same time El Salvador continues to be marked by a very high level of violence, due in particular to the high rate of impunity and corruption, and the presence of gangs of young delinquents, the “maras”, whose emergence is linked to the poverty and inequalities which are still blatant in this small Central American country. The situation has caused mass emigration, which admittedly led to the sending of “remesas” (sums of money the diaspora send to their families), but which has also weakened the family structure. In addition, broad social sectors remain on the fringe of the socio-economic improvements that have taken place. It would also appear that the “death squads” are back.

Furthermore, on October 29, 2007, the Supreme Court ruled that the International Labour Organisation Convention n° 87 on Trade Union Freedoms was unconstitutional, on the grounds that trade union freedom could not apply to civil servants.



## **Criminalisation of human rights activities, in particular through the application of the Special Law to Counter Acts of Terrorism**

In this context, social protest movements are numerous, but the State's response has been repression, in particular through the application of the Special Law to Counter Acts of Terrorism against demonstrators and defenders of economic, social and cultural rights.

The Special Law to Counter Acts of Terrorism, passed in September 2006, provides for exceptionally severe prison sentences for, *inter alia*, "attacks on the security of the State" (Article 1), "attacks on the security of ports, maritime transport, inland waterways, lakes, civil aviation and airports" (Articles 17 to 20), and "attacks against civil servants", "insofar as the acts committed against them are aimed at the office or activity they perform" (Article 5). In addition, causing a disturbance in public services, in traffic on the main highways of the national territory, or in Government buildings is an aggravating circumstance (Article 34 g). Such a broad qualification makes it possible to incriminate persons taking part in a peaceful march, in demonstrations or other activities considered as acts of dissidence, breaches of the peace and threats to national security.

It is in such a context that in 2007 several human rights defenders engaged, *inter alia*, in the fight against water privatisation carried out by rural communities, in pressing for improvements in health care, in the fight against corruption and for trade union freedoms, were subjected to acts of repression on the part of the authorities, with in particular violent interventions carried out systematically by the police during demonstrations. On July 2, 2007, members of the national civil police and of the Unit for the Maintenance of Law and Order (*Unidad de Mantenimiento de Orden - UMO*) used force to disperse a large demonstration organised in Suchitoto by the civil society of the Cuscatlán department, in the north of the country. This was on the occasion of the visit of President Elías Antonio Saca, in protest against the policy to privatise fundamental public services, including water. Several participants, including old persons and children, were beaten or injured by rubber bullets, and others had respiratory problems caused by tear gas. Fourteen members of Salvadorian civil society organisations, including Ms. **Marta Lorena Araujo Martínez**, Ms. **Rosa María Centeno Valle**, Ms. **María Aydee Chicas Sorto** and

Ms. **Sandra Isabel Guatemala**, members of the Association of Rural Communities for the Development of El Salvador (*Asociación de las Comunidades Rurales para el Desarrollo de El Salvador - CRIPDES*), were arrested and accused of “acts of terrorism” and “illegal association”. The 14 persons were released on bail at the end of July 2007, and all were acquitted in February 2008.

Furthermore, on September 4, 2007, Ms. **Noemi Barrientos de Pérez**, Ms. **Elsa Yanira Paniagua**, Ms. **Miriam Ruth Castro Lemus**, Ms. **Ana Luz Ordóñez Castro**, Ms. **Ana Graciela de Carranza** and Messrs. **Nehemias Armando Cantaderio**, **Jorge Emilio Pérez** and **Manuel de Jesús Trejo Artero**, leaders of the Union of Salvadorian Health Employees (*Sindicato de Gremio de Trabajadores/as de Enfermería de El Salvador - SIGEESAL*), were arrested after having organised, in August 2007, a peaceful demonstration in support of the strikes organised in the country’s hospitals, notably the San Vicente hospital, in protest against the increasing insecurity and the privatisation of the health system nationwide, and against corruption in the hospital environment. The eight persons were released on September 9, 2007, but at the end of 2007 they were still charged with “breach of the peace”, with aggravating circumstances. The preliminary hearing had been postponed to February 5, 2008, and on that date, they received sentences preventing them from leaving the country and from carrying out trade union activities for two years.



## / GUATEMALA

OBSERVATORY FOR THE PROTECTION OF HUMAN RIGHTS DEFENDERS  
ANNUAL REPORT 2007

/ AMERICAS

### Political context

The year 2007 was marked by the presidential, legislative and municipal elections on September 9, 2007, followed by the second round of the presidential election on November 4, 2007, won by Mr. Álvaro Colom Caballeros, of the National Unity of Hope (*Unidad Nacional de la Esperanza* - UNE). These elections were characterised by a growing climate of insecurity in Guatemala and were notably preceded by a wave of violence against election candidates and political party members<sup>1</sup>.

More than ten years after the internal conflict that had bloodied Guatemala between 1960 and 1996, which constituted the greatest genocide in Latin America in the 20<sup>th</sup> century – against indigenous populations, mainly Mayas – the main challenge for the Guatemalan authorities remained that of fighting against impunity for serious violations of human rights committed in the past and more recently. They must also combat violence linked to organised crime, delinquency and to the illegal, clandestine security groups and “social cleansing” gangs, as well as gangs of youths or “maras”. In addition, the security forces are often themselves responsible for violence and accused of corruption and drug trafficking. On February 19, 2007, three Salvadorian members of the Central American Parliament (*Parlamento Centroamericano* - PARLACEN) and their driver were murdered 40 kilometres from Guatemala City. On February 25, four police officers suspected of

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1./ With regard to this, the Inter-American Human Rights Commission (IAHRC) expressed “its deep concern regarding the serious acts of violence that have taken place in the context of the electoral process underway in Guatemala [...] more than 50 politically motivated murders of candidates, political activists and their family members” (See Press Release n° 47/07, August 31, 2007).

committing these murders were killed in the El Boquerón high security prison where they had been jailed four days earlier<sup>2</sup>.

The use of torture is still frequent in Guatemala and conditions of detention remain deplorable, notably due to prison over-population, corruption of prison wardens, abuses by the discipline and order committees, insufficient budget and the increase in the number of conflicts between rival and in “social cleansing” in prisons.

The year 2007 was also marked by the decision of the Guatemala Constitutional Court on December 12, 2007 to refuse to extradite Mr. Angel Anibal Guevara Rodríguez, former Defence Minister, and Mr. Pedro García Arredondo, former police chief, who, together with five other Guatemalan high officials, were wanted in Spain for “genocide”, “torture”, “enforced disappearances” and “extrajudiciary killings” during the conflict. This decision reinforced the impunity already enjoyed by former generals and officials of this period, including General Efraín Ríos Montt.

In this context, a major event was the ratification by the Guatemalan Congress on August 1, 2007 of the agreement signed in December 2006 by the Government with the United Nations establishing the International Commission Against Impunity in Guatemala (*Comisión Internacional Contra la Impunidad en Guatemala - CICIG*). The CICIG was created to investigate and dismantle criminal organisations that were responsible not just for generalised crime in Guatemala, but also for the paralysis of the judiciary system due to its infiltration by State institutions. Further objectives of the CICIG, which, at the Government’s request, has a renewable two-year mandate, are that of

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2./ In relation to these events, the European Parliament noted that “whereas [...] several thousand homicides are committed every year in Guatemala but arrests are made in only 2 % of cases; whereas trade unionists (such as Pedro Zamora in Puerto Quetzal), peasant leaders and their families have also been killed earlier in 2007, and threats, break-ins and burglaries are suffered by witnesses of cases of genocide under investigation, as well as by the legal representatives of genocide victims and by different human rights organisations”, saying that it “expects the Guatemalan government to guarantee full independence, liberty and security to the Guatemalan judicial authorities in their investigation of these crimes” and called on “the Guatemalan Government to adopt measures to protect the judicial agents, the victims of crimes against humanity who are seeking justice, the human rights activists, and the witnesses who can help the trials progress”(See European Parliament Resolution P6\_TA(2007)0084, March 15, 2007).

strengthening the criminal justice system and recommending policies to fight criminal organisations<sup>3</sup>.

In 2007, human rights defenders were again victims of reprisals and attempts to intimidate them in order to dissuade them from continuing their activities. In 2007, the Human Rights Defenders Protection Unit - Guatemala (*Unidad de Protección de Defensoras y Defensores de Derechos Humanos - Guatemala* - UDEFEGUA-Guatemala) recorded 195 cases of threats or attacks against human rights defenders<sup>4</sup>.

### The murder of trade union leaders

The year 2007 saw an increase in violence against trade union leaders, who often lost their life because of their fight for workers' rights. In 2007, UDEFEGUA-Guatemala recorded threats to or attacks against 25 union members. Furthermore, two of the nine defenders murdered in 2007 were union leaders. On January 15, 2007, Mr. **Pedro Zamora**, the Secretary General of the Trade Union of the Workers of Quetzal Port Enterprise (*Sindicato de Trabajadores de la Empresa Portuaria Quetzal - STEPQ*), in Puerto Quetzal, was killed. Mr. Zamora had been particularly active in negotiating the collective bargaining agreement on working conditions as well as in the constant battle for the reinstatement of a group of workers who had been abusively dismissed<sup>5</sup>. Likewise, on September 23, 2007, Mr. **Marco Tulio Ramírez Portela**, a member of the Guatemalan Banana Workers Union of Izabal (*Sindicato de Trabajadores Bananeros de Izabal - SITRABI*), and brother of the SITRABI Secretary General, was murdered in Izabal.

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3/ The Presidency of the European Union welcomed "the decision of the Guatemalan Congress, on August 1<sup>st</sup>, to establish the International Commission Against Impunity in Guatemala, as a matter of urgency, and would like to congratulate the Parliament, Government and the people of Guatemala for this action. [...] [T]he EU also acknowledges the importance of human rights defenders in combating cultures of impunity on violations of human rights and fundamental freedoms" (See EU Presidency Statement, August 3, 2007).

4/ See UDEFEGUA-Guatemala, *Vencendio barreras, Informe sobre Situación de Defensoras y Defensores de Derechos Humanos. Enero a Diciembre del 2007*, January 2008. In 2006, the Unit had recorded 277 cases of threats or attacks against defenders.

5/ On January 19, 2007, the IACHR condemned "the murder of Mr. Pedro Zamora, Secretary General of the *Sindicato de Trabajadores de la Portuaria Quetzal* [...]" and urged "the Guatemalan state to investigate this serious incident and to try and punish those responsible" (See IACHR Press Release n° 3/07, January 19, 2007)

## Reprisals against defenders who fight against impunity

In 2007, all those seeking to defend the right to justice for the victims of violence and to fight against impunity continued to be subjected to attacks and threats. Mr. **Freddy Peccerely**, Mr. **José Suasnavar**, Mr. **Omar Bertoni** and Ms. **Bianka Peccerely**, members of the Guatemalan Forensic Anthropology Foundation (*Fundación de Antropología Forense de Guatemala* - FAFG), an NGO that documents and reports on human rights violations and unsolved murders, received a death threat by e-mail on May 25, 2007. On May 28, 2007, Mr. Peccerely again received an e-mail containing insults and threats. Likewise, on August 13, 2007, Mr. **Sergio Fernando Morales**, the human rights ombudsman, was travelling in an official vehicle when his security staff informed him that his car was on fire. When he arrived at his home, Mr. Morales received a message on his mobile phone in relation to these events, which occurred during the national debate on the adoption of the CICIG by Congress.

## Intimidation of defenders of environmental rights and indigenous peoples

Defenders of environmental rights and indigenous peoples are not safe from threats and harassment, especially when these men and women fight against the consequences of the massive exploitation of energy resources by the country's companies. Furthermore, the authorities have also contributed by encouraging these acts of intimidation. During a press conference on January 10, 2007, Vice President Eduardo Stein indicated that the Government saw organised crime and the environmental movement as the "main sources of ungovernability". He made particular reference to the organisations opposed to the construction of the Xalala and Serchil hydroelectric dams in the Quiché and Alta Verapaz departments.

In January 2007, Mr. **Flaviano Bianchini**, a volunteer with the "Madre Selva" Collective and an environmental rights defender, received telephone death threats on several occasions. In addition, following the publication of the Collective's report, the Vice-Minister of Energy and Mines, Mr. Jorge García, stated that "the study [of the Collective] does not comply with the nationally and internationally recognised protocols for the collection and analysis of samples". He added that he would send a copy of the report to the Public Ministry in order to ascertain whether legal proceedings could be brought against Mr.

Bianchini for having made an “invalid report”. Similarly, on February 2, 2007, Mr. **José Roberto Morales**, Coordinator of the Indigenous People’s Rights department of the Centre for Legal Action on Human Rights (*Centro de Acción Legal en Derechos Humanos - CALDH*), was kidnapped while he was driving home in a CALDH vehicle. His kidnappers threatened him with death but abandoned him a little while later in an area close by.

### Harassment of women defenders

Women who seek to promote and defend the rights of women and the victims of sexual violence were also subjected to multiple acts of harassment and violence, and their aggressors had sometimes no hesitation in attacking their families. In March and April 2007, members of the Institute of Comparative Studies in Criminal Sciences (*Instituto de Estudios Comparados en Ciencia Penales - ICCPG*) received death threats on several occasions, as was the case with Ms. **Paola Barrios**, an ICCPG investigator into the conditions of detention of women and gender violence, and Ms. **Mónica Teleguario Xitay**, a lawyer for the ICCPG, who were both working on the case of the rape of a woman by members of the National Civilian Police. In addition, on June 3, 2007, Mr. **José Corrado Gómez**, the son of Ms. **Edith Corrado Gómez**, a member of the Awareness-Raising Team with the Association of Ixqik Women (*Asociación de Mujeres Ixqik*) in Péten, and the grand son of Ms. **María Cristina Gómez**, in charge of the Pastoral of Women for the Communities of Santa Ana and of Chal, was murdered by two armed men in Chal (Petén Department). One of the murderers then targeted Ms. Edith Corrado and wounded her arm. Ms. María Cristina Gómez was shot as she was trying to protect her daughter. She died immediately. These events occurred on the eve of a meeting between the Association of Ixqik Women and the Office of the Public Prosecutor in order to denounce, in particular, acts of harassment perpetrated against members of the association.

### Increase in searches and burglaries at NGO premises

In 2007, the offices of many NGOs were searched and burgled, apparently in order to hinder and obtain information about their human rights activities. For example, between February 3 and 5, 2007, the offices housing the National Human Rights Movement (*Movimiento Nacional de Derechos Humanos - MNDH*), the Human Rights Defenders Protection Unit (*Unidad de Protección de*

*Defensoras y Defensores de Derechos Humanos* - UPD-MNDH) and the Communication for Art and Peace association (*Comunicación para el Arte y la Paz* - COMUNICARTE) were broken into. Their archives were searched and more than ten computers were stolen, together with video equipment and documents on the work of these organisations. Similarly, on April 5, 2007, the headquarters of the Irish organisation TRÓCAIRE, the Spanish Association for Cooperation with the South (*Asociación para la Cooperación con el Sur* - ACSUR Las Segovias), the Guatemalan Collective for Power and Local Development (*Colectivo Poder y Desarrollo Local* - CPDL) and CARE International, in Guatemala City, were broken into. Computer and video equipment were stolen, containing important information on the work of these four organisations, which filed complaints. No other objects of value disappeared.



## / HAITI

OBSERVATORY FOR THE PROTECTION OF HUMAN RIGHTS DEFENDERS  
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### Political context

In 2007, the Haitian Government took a number of initiatives in line with its stated objective of consolidating the rule of law and democracy following the election in February 2006 of President René Préval, after two successive postponements of elections. The Government has undertaken a programme of judicial reform and has sought to improve the situation of magistrates and to fight against corruption. In this framework, the United Nations Convention Against Corruption was ratified and the President has called on the population to fight against this scourge, declaring the year 2007 as “the year against corruption” during his speech at the National Palace on May 18, 2007. In addition to the establishment of the National Commission on Disarmament, Dismantling and Reintegration (*Commission nationale sur le désarmement, le démantèlement et la réintégration* – CNDDR) in September 2006, which targets various armed gangs operating in the country, the authorities have also continued their policy of training police officers and of increasing police personnel. Some neighbourhoods that were, until 2006, controlled by armed gangs have been pacified, in particular through missions carried out jointly by the Haitian national police and agents of the United Nations Mission for Stabilization in Haiti (*Mission des Nations unies pour la stabilisation en Haïti* - MINUSTAH)<sup>1</sup>. Without minimising the deterioration of Haitian institutions and the impact on the country's public life, it is undeniable that the reform of the security sector has at least helped to depoliticise the police and has put an end to the repression of political opponents and attacks on the freedom of the press, which were regularly practised by the police under the regime of President Aristide (1995-2004).

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1./ In October 2007, the United Nations Security Council voted unanimously to extend the United Nations Stabilization Mission in Haiti until October 2008, and in September 2007 the United Nations Human Rights Council renewed the mandate of the Independent Expert appointed by the Secretary-General on the situation of human rights in Haiti.

However, despite some progress, the situation of human rights has remained extremely precarious in the country. The problem of insecurity is still a major concern and violence remains endemic, particularly by the presence of criminal gangs, which often act with the complicity of the national police. In 2007, the National Network for Human Rights (*Réseau national de défense des droits humains - RNDDH*) counted 246 cases of kidnapping, 352 cases of murder, including 22 police officers, and 467 cases of gender-based violence, including 31 cases of rape reported to the State University of Haiti hospital<sup>2</sup>.

The perpetrators of such abuses are rarely prosecuted, as the courts have only limited resources and the judicial system is characterised by its lack of independence, widespread corruption and failure to comply with procedures<sup>3</sup>. Furthermore, the conditions for detainees have been steadily deteriorating: overcrowding, deterioration of health conditions, violence between prisoners, prolonged pre-trial detention, etc.<sup>4</sup>.

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2./ In the absence of reliable official data, cases identified by NGOs measure the magnitude of violations in Haiti, in particular the level of disturbing crimes with sexual characteristics. The fact remains that the real number of human rights violations in Haiti remains undervalued.

3./ After its visit to Haiti from April 16-20, 2007, the Inter-American Commission on Human Rights (IACHR), while stressing the efforts made by the Government, reported that “the current system and the absence of a state sponsored legal aid service continue to constitute challenges for the respect of human rights and the effective access to justice by the Haitian population” (See Press Release No. 24/07, April 20, 2007).

4./ Following his visit to Haiti from June 17-20, 2007, Mr. Florentín Meléndez, President of the IACHR and Rapporteur on the rights of persons deprived of liberty in the Americas, “observ[ed] with extreme concern the persistent high numbers of persons in prolonged pretrial detention, who in many cases are detained for periods longer than the possible sentences for the crimes of which they are accused. According to the latest statistics of the Direction of the Prison Administration, the month of June 2007, 84% of the prison population had not been judged or formally charged. In this regard, it is important to stress that in the cases observed by the Commission in Port-au-Prince, the percentage of persons in detention without having been convicted is estimated at 98% for children in the Prison for Minors in Delmas; 95% in the case of women deprived of liberty in Petion-ville; and 96% in the case of persons deprived of liberty in the National Penitentiary” (See Press Release No. 32/07, June 21, 2007). Similarly, the IACHR reported that it is “seriously concerned with the conditions in Haiti’s National Penitentiary and police station holding cells. The National Penitentiary, built to hold no more than 800 people, is currently holding more than 2,500 detainees, some 2418 of which are still awaiting trial” (See Press Release No. 24/07, April 20, 2007).

The year 2007 has not seen progress in the enjoyment of economic, social and cultural rights: in 2007, 70% of the population was unemployed and prices of commodities steadily increased (at the end of 2007, prices of staple commodities had increased by 20 to 50%).

### **Acts of retaliation and serious threats against defenders struggling against impunity**

In 2007, human rights defenders in Haiti were often subjected to reprisals when they sought to denounce human rights violations and fight against the widespread impunity in the country. Human rights defenders have also been the target of criticism from some parliamentarians because of their opposition to the possible return of the death penalty in Haiti.

Several members of the Savanette Human Rights Committee (*Comité des droits humains de Savanette*), including Mr. **Dérilus Mérilus**, have received death threats after the Committee obtained the re-incarceration of an alleged rapist on October 5, 2007. On October 16, 2007, the Public Prosecutor decided to release the accused. In addition, in November 2007, Mr. **Joseph Guylor C. Delva**, President of the Independent Commission in Support of the Investigation of Murders of Journalists (*Commission indépendante d'appui aux enquêtes relatives aux assassinats de journalistes - CIAPEAJ*), introduced in August 2007 by the President, was followed by unknown persons while he was travelling by car in Port-au-Prince. He then had to leave the country temporarily. Since his return on November 25, 2007, he has continued to receive threats.



## / HONDURAS

OBSERVATORY FOR THE PROTECTION OF HUMAN RIGHTS DEFENDERS  
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### Political context

In 2007, the Government of Mr. Manuel Zelaya adopted several texts which, among other things, aim to emphasise the fight against corruption, guarantee free access to information, and strengthen law enforcement and security. Initiatives have also been taken to reduce poverty and improve access to education and medical care.

Despite these efforts, demonstrations have continued throughout the years to protest, in particular against the Government's policy regarding mining (damage to health and the environment due to open mining; disregard of ancestral rights of indigenous communities, particularly the Garifuna communities, etc.). The authorities have generally responded by violence to these demonstrations.

In addition, the country faced a surprising rise in violence and crime linked in part to petty crimes but also to organised crime, drug traffickers and gangs (*maras*), activities in which police were very often involved (illegal trafficking, kidnappings for ransom, etc). In this regard, it should be noted that a special bill relative to the national police (*Ley Especial de Policía Nacional*) was submitted in early May 2007 to Parliament, primarily to instil a sense of security within the population. However, at present, this bill, which has not been submitted to the people, does not guarantee the full control of the penitentiary institution and of the general direction of investigation by civilian bodies instead of the military or the police. It considerably weakens the position of the National Security Council (*Consejo Nacional de Seguridad*) and thus citizen participation in monitoring and evaluating public security issues. Lastly, the project further criminalises freedom of expression

within the national police to deter staff from denouncing internal acts of corruption<sup>1</sup>.

Regarding freedom of expression, a Law on Transparency and Access to Public Information (*Ley de Transparencia y Acceso a la Información Pública*), which was approved by Congress in November 2006, entered into force on January 19, 2007, but its implementation has been postponed for one year to allow the institutions concerned to comply with it. The law aims to establish mechanisms to guarantee the right of citizens to take part in the management of public affairs, to render effective the transparent management of the State and its relations with individuals, and to combat corruption. The National Institute for Access to Public Information (*Instituto Nacional de Acceso a la Información Pública* - IAIP), whose creation was provided by law, was also introduced in August 2007. This independent body is responsible for handling requests for information on the Government and for overseeing the implementation of the law.

Finally, it is regrettable that the precautionary measures of protection granted by the Inter-American Commission on Human Rights (IACHR) for people at risk, including human rights defenders, are only very rarely implemented by Honduran authorities.

### **Acts of retaliation against defenders fighting impunity and corruption**

In 2007, defenders who denounced the corruption within State institutions and fought against impunity found themselves on the front line of repression. On June 20, 2007, the Centre for the Prevention, Treatment and Rehabilitation of Victims and Families of Victims of Torture (*Centro para la Prevención, Tratamiento y la Rehabilitación de víctimas de Tortura y sus familiares* - CPTRT) received death threats targeting several human rights defenders, lawyers and journalists, accusing them of being a “social nuisance”. These threats were probably linked to the struggle waged by these human rights NGOs against corruption within the General Directorate of Criminal Investigation

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1./ See Letter to the authorities from the Committee of Families of Prisoners and Disappeared in Honduras (*Comité de Familiares de Detenidos-Desaparecidos en Honduras* - COFADEH), April 23, 2007.

and the prison system. Many cases of corruption were also revealed by the press, which has also suffered reprisals against its journalists. Mr. **Martín Omar Ramírez**, a journalist for *La Tribuna*, received threats after publishing, on September 7, 2007, an article on “maras” members and their possible links to the police, and following an investigation into alleged corruption within the Honduran Institute of Social Security (IHSS). Some journalists have had to flee the country following threats<sup>2</sup>. For example, on November 23, 2007, Mr. **Geovanny García**, a journalist for the television channel *Canal 13*, had to leave the country after receiving death threats. He had already been forced to flee Honduras in October, following an assassination attempt against him, after publishing an investigation into alleged corruption by senior officials of the Ministry of Public Works in connection with the tarring of streets<sup>3</sup>.

Several journalists have also been the target of criminal prosecutions for “offences against honour.” As pointed out by Special Rapporteur Mr. Ambeyi Ligabo, “offences against good reputation” continue to be considered as offences in the Honduran Criminal Code. This prompts journalists to exercise self-censorship for fear of prosecution if they denounce human rights violations or acts of corruption by authorities<sup>4</sup>. Legal proceedings were initiated on September 28, 2007 by the Director of the public telecommunications company Hondutel against Mr. **Renato Álvarez** and Ms. **Rossana Guevara**, from the television channel *Televisión Centro*, Ms. **Melissa Amaya** and Mr. **Juan Carlos Funes**, of *Radio Cadena Voces*, Mr. **Carlos Mauricio Flores**, Editor-in-chief of *El Heraldo*, and Mr. **Nelson Fernández**, Editor-in-chief of *La Prensa*, after they rebroadcasted information alleging serious acts of corruption by Hondutel<sup>5</sup>. On October 4, 2007, several Honduran courts

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2./ Following his visit to Honduras, which took place from November 26-30, 2007, Mr. Ambeyi Ligabo, United Nations Special Rapporteur on the right to freedom of opinion and expression, “strongly condemn[ed] the assassination of a journalist, Mr. **Carlos Salgado**, and the voluntary exile of two other journalists, Mr. Geovanny García and Mr. **Dagoberto Rodríguez**, who ran away for fear of being assassinated”, stressing the “impact of organized crime in the exercise of the right to freedom of opinion and expression”. The Special Rapporteur also said he was “concerned by the impunity of the perpetrators of these acts” (See Press Release of the UN, December 6, 2007).

3./ See Joint Press Release by PROBIDAD and the International Freedom of Expression Exchange (IFEX), December 10, 2007.

4./ See United Nations Press Release, December 6, 2007.

5./ See IFEX Press Release, October 1, 2007.

unanimously concluded that the complaints filed against Mr. Alvarez, Mr. Funes, Mr. Mauricio, Ms. Guevara and Ms. Amaya were inadmissible.

### **Attempts to intimidate defenders of the rights of indigenous and peasant communities, particularly in connection with the protest against the exploitation of natural resources**

In 2007, indigenous leaders continued to be subjected to harassment. Indigenous communities, like the Garifuna community, of African origin, have been fighting for several years for the respect of their rights to the lands they occupy, in part because the natural resources present on the territory, particularly timber, are exploited by national and international corporations. Members of the Garifuna community have been the target of multiple threats and intimidation that appear to be linked to their struggle to retain their rights over these lands. For example, on April 14, 2007, Ms. **Joselyn Lizet Rivas**, daughter of Ms. **Jessica García**, a leader of the Garifuna community, was attacked by unidentified assailants who fired on the taxi in which she was riding<sup>6</sup>. In 2006, Ms. Jessica García was the target of a campaign of harassment and received death threats<sup>7</sup>. Additionally, on October 4, 2007, officials from the Department of Homeland Security arrested Mr. **Wilfredo Guerrero**, a member of the Garifuna community in San Juan Tela particularly active in defending the rights of his community, even though Mr. Guerrero had been granted precautionary measures of protection (*medidas cautelares*) by the IACHR in July 2006<sup>8</sup>. After a few hours of detention, Mr. Guerrero was released without charges.

Because claims relating to indigenous rights are generally linked to requests for environmentally friendly exploitations of natural resources, defenders who expose abuses of national and international corporations in the use of these resources are often targeted. Aboriginal communities and environmental groups have organised large-scale demonstrations to protest against governmental policy regarding mining, which, according to them, led to an absence of real consultation and constituted a threat to the environment and health of people living

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6./ See the Organisation for Black Honduran Fraternity (*Organización Fraternal Negra Hondureña - OFRANEH*).

7./ See Annual Report 2006 of the Observatory.

8./ See OFRANEH Press Release, October 4, 2007.

near mining sites. Thus, on July 17, 2007, demonstrations were held across the country to protest against open mining and to require the adoption of a new law governing mining. These demonstrations were violently repressed by police in certain areas, particularly in Quarter 6 of Mayo, in Macuelizo, in the department of Santa Bárbara, and in Siguatepeque, in the department of Comayagua. These incidents resulted in the arbitrary detention of some 50 to 70 people, including Messrs. **Justo Sorto** and **Pablo Munguía**, journalists at *Radio La Voz Lenca* and *Radio Progreso*, and members of the general coordination of the Civic Council of Indigenous Organisations (*Consejo Cívico de Organizaciones Indígenas Populares* - COPINH), who were arrested and physically abused in Siguatepeque while covering the event<sup>9</sup>. In August, during a press conference, the Civic Alliance for Democracy (*Alianza Cívica por la Democracia* - ACD) and the Committee of Families of Prisoners and Disappeared in Honduras (COFADEH) denounced the threats and harassment against members of the ACD, as well as the existence of a campaign to discredit the Most Reverend **Luis Alfonso Santos**, Bishop of Copan, a figurehead of the popular movement against mining in the western region<sup>10</sup>.

### Discrimination against defenders of LGBT rights

In Honduras, defenders of the rights of lesbians, gays, bisexuals and transgenders (LGBT) continued to be subjected to discrimination and harassment because of their activities. On March 18, 2007, Mr. **Donny Reyes**, Treasurer of the Rainbow Association (*Asociación Arcoiris*), an organisation for LGBT rights, was arbitrarily arrested by police in Comayagüela. He was beaten by the police and then taken to a police station. They left him more than six hours in a cell where other detainees beat and raped him repeatedly, apparently with the encouragement of a policeman<sup>11</sup>. On April 20, 2007, one of his colleagues, Mr. **Josef Fabio Estrada** (*alias* Debora), coordinator of a group in the association devoted to transgenders, was attacked in Tegucigalpa by a group of five men. Police officers who were nearby encouraged the attackers to beat him and arrested him on the grounds of creating a “public scandal” and

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9./ See Press Release of COPINH, July 17, 2007, and Joint Press Release of the COFADEH and the Civic Alliance for Democracy (ACD), July 25, 2007.

10./ See COFADEH.

11./ See Arcoiris.



“breach of security”. He was released after eight months of detention. In May 2007, the association was forced to move because of the magnitude of police harassment to which it was subjected.



## / MEXICO

OBSERVATORY FOR THE PROTECTION OF HUMAN RIGHTS DEFENDERS  
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### Political context

After his appointment as President in 2006, following a disputed election with multiple charges of fraud, Mr. Felipe de Jesus Calderón Hinojosa, from the National Action Party (*Partido Acción Nacional - PAN*), and his Government took a hard-line approach in 2007, with a strong propensity to repress any form of protest. Moreover, contrary to the National Programme for Human Rights, developed in 2005 in consultation with civil society and the United Nations High Commissioner for Human Rights, the new Programme was introduced in 2007 without providing NGOs with a real opportunity to give input, and the High Commissioner was excluded from its elaboration.

Some legislative progress was made, such as the adoption of texts on the sexual exploitation of children, a law to prevent, punish and eradicate violence against women, and a law on the prevention and sanctioning of trafficking in persons. There have been mixed results regarding freedom of expression: on April 12, 2007, President Felipe Calderón promulgated the decriminalisation of “slander,” “offence” and “defamation” at the federal level, which requires the Mexican States to amend their legislation accordingly. However, a stronger trend of repression against journalists was witnessed.

In March 2007, President Felipe Calderón submitted a draft constitutional reform that is particularly repressive with regard to criminal justice, insofar as it establishes an exceptional regime for the fight against organised crime and expands the powers of the Public Ministry. This draft allows in particular the Ministry to monitor telephone communications, conduct searches, and impose house arrest without a warrant. However, it should be noted that the reform also provides for the establishment of an accusatory criminal procedure that is oral, adversarial and public, the creation of judges responsible for supervising the legality of processes within the Public Prosecutor’s Office, a strengthening of the rights of the defence, and the consecration of the constitutional rights

of the defence, including the right to the presumption of innocence, to an adequate defence and to remain silent. In late 2007, the project had still not been adopted.

While torture remains a common practice in Mexico, the judicial system too often fails to provide justice for the victims of human rights violations and violent crimes. In addition, many prisoners remain detained without being sentenced, usually waiting for years before trial, which has led to overcrowding.

Throughout the country, the presence of the army has been strengthened under the guise of the fight against organised crime, in violation of international and regional human rights law. For example, in the State of Chiapas, the security forces' mandate was enlarged to cover claims of indigenous peoples, creating tension in the region.

Finally, in the State of Oaxaca, social conflict which began in June 2006 with calls for improved working conditions and the resignation of the Governor continued, as did arbitrary arrests, threats, violence and acts of intimidation against supporters of the People's Assembly of the Peoples of Oaxaca (*Asamblea Popular de los Pueblos de Oaxaca* - APPO)<sup>1</sup>.

### **Acts of intimidation against defenders denouncing arbitrary detention and abuse by law enforcement officers**

In 2007, those who sought to expose arbitrary detentions, abuses and atrocities committed by the security forces were victims of multiple reprisals. For example, on May 28, 2007, Ms. **Pilar Mayem Arellanes Cano**, a lawyer and member of the Liberation Committee of November 25, which provides legal support to prisoners, and who also served for the Collective of Lawyers Victims or Representing Victims of Arbitrary Detention (*Colectivo de Abogados y Abogadas Víctimas y de Víctimas de Representantes Detenciones Arbitrarias*), was harassed and threatened with death several times by six unknown persons. Mr. **Alejandro Cerezo Contreras**, Mr. **Francisco Cerezo Contreras** and Ms. **Emiliana Cerezo Contreras**, founding members of the Cerezo Committee, an organisation working to defend the rights of political

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1/ See Annual Report 2006 of the Observatory.

prisoners and prisoners of conscience in Mexico, also received death threats on several occasions in 2007. These threats were made following the denunciation by the Cerezo Committee of the arrest and disappearance of two activists of the Democratic People's Revolutionary Party (*Partido Popular Revolucionario Democrático* - PDPR) during demonstrations that took place in the city of Oaxaca in May 2007.

On September 6, 2007, the body of M. **Ricardo Murillo Monge**, an activist for the Civic Front of Sinaloa (*Frente Cívico Sinaloense*), an NGO known for denouncing cases related to public safety and conditions of detention in prison in the golden triangle conflict zone, was found near the Prosecutor's office of the State of Sinaloa. Mr. Murillo Monge investigated cases of abuse committed by security forces in operations carried out against organised crime.

In addition, journalists who denounced police officers suspected of corruption and implication in organised crime also paid with their lives for their investigative work<sup>2</sup>. On April 6, 2007, Mr. **Amado Ramírez Dillanes**, a journalist at *Radiorama*, was murdered in Acapulco (State of Guerrero). Mr. Ramirez was known for his investigations into alleged links between the police and drug traffickers. Similarly, Mr. **Saúl Martínez Ortega**, Director of the magazine *Interdiario* and journalist from the daily *Diario de Agua Prieta* (State of Sonora), was found dead on April 23, 2007, in the State of Chihuahua. Mr. Saúl Martínez Ortega, who was abducted on April 16, was investigating the kidnapping and murder, on March 13, 2007, of one of his sources of information, a former city police officer from Agua Prieta.

## **Reprisals against defenders of the right to environment and the rights of indigenous communities**

Defenders who have sought to defend the right to environment and the rights of indigenous communities, rights which are often in opposition with powerful economic interests, have been subjected to multiple acts of harassment, threats, physical assaults, prosecution, etc. On May 15, 2007, Messrs. **Aldo Zamora** and **Misael Zamora**, both sons of Mr.

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2./ In this regard, the Inter-American Commission on Human Rights (IACHR) held a meeting on the freedom of expression in Mexico during its 128<sup>th</sup> session (July 16-27, 2007), and expressed its concern for the lack of security for journalists and for the alarming rise in murders, attacks and threats in the last several years (See Press Release n° 40/07, August 1, 2007).

**Ildefonso Zamora** and activists against the illegal logging of National Park lagoons in Zempoala, were victims of an armed attack in Santa Lucia, Department of Ocuilán, State of Mexico. Mr. Aldo Zamora died and his brother Misael was very seriously injured. Two of the suspected assailants were known to be involved in the illegal logging of trees. Similarly, on July 4, 2007, Mr. **Santiago Perez Alvarado**, a lawyer and community leader of the Mazahuas, was arrested and severely beaten by four men in civilian clothes. Mr. Perez Alvarado, who supports the peasants and indigenous peoples from the Toluca Valley and from the south-east of Mexico State in their fight against various water and development projects, was taken to prison, where he was released the next day due to insufficient evidence. However, he was arrested once again in relation to another case pending in the Temascaltepec district, where he was then transferred.

### **Acts of harassment against defenders of the rights of workers, peasants and migrants**

Defenders of the rights of workers, peasants and migrants have not been spared from repression. On April 9, 2007, the lifeless body of Mr. **Santiago Rafael Cruz**, organiser of the Peasant Worker Forum (*Foro Laboral del Obrero Campesino AC - FLOC*), an organisation defending the rights of workers based in the United States, was found in FLOC offices in Monterrey (State of Nuevo León). Additionally, on several occasions, members of the organisation Without Borders (*Sin Fronteras*), which provides support for migrants and actively participates in the creation of adequate policies on migration, were harassed by members of the National Migration Institute (*Instituto Nacional de Migración - INM*). The INM thus produced a report denigrating the work of Without Borders after the organisation lodged a complaint against the Institute because of limitations on access to lawyers at the Mexico DF immigration centre. On May 20, 2007, an assistant of the NGO was subjected to an identity check at the Mexico City airport while she was boarding a flight to Tapachula to conduct a survey on security conditions and the situation of teenagers in selected immigration centres in this city.

### **Acts of harassment against women human rights defenders**

Mexican women who fight for women's rights and their right to justice have also experienced numerous acts of intimidation to discourage them from pursuing their activities. Members of the association "May

Our Girls Go Home” (*Nuestras Hijas de Regreso a Casa*), an organisation which campaigns for justice for women abducted and murdered in Ciudad Juarez (Chihuahua), have been subjected to insults, threats and harassment because of their activities. For example, on June 10, 2007, Ms. **Maria Luisa Garcia Andrade** and Ms. **Marisela Ortiz Rivera**, members of the association, received threats and insults by e-mail. On 22 June, Ms. Ortiz received death threats once again<sup>3</sup>. Likewise, on May 7, 2007, Ms. **Lydia Cacho Ribeiro**, President of the Crisis Centre for Victims – Centre for Full Attention to Women (*Centro de Crisis para Víctimas – Centro Integral de Atención a las Mujeres - CIAM*) in Cancún (State of Quintana Roo), was the victim of an assassination attempt. On May 2, 2007, Ms. Cacho had testified at the trial of a contractor sued for child prostitution and trafficking of children. The contractor had threatened her at the hearing.

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3./ See “Nuestras Hijas de Regreso a Casa”.



# / NICARAGUA

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## Political context

On January 10, 2007, Mr. Daniel José Ortega Saavedra, leader of the Sandinista National Liberation Front (*Frente Sandinista de Liberación Nacional* - FSLN), became President of the Republic after a controversial election. Mr. Ortega was elected on November 5, 2006 with only 38% of the votes, as provided by a pact made in 2000 with the leader of the Liberal Constitutional Party (*Partido Liberal Constitucionalista* - PLC), which, *inter alia*, lowered the majority required in the first run of the ballot.

A real concentration of power was then witnessed. The President's wife, Mrs. Rosario Murillo, in addition to coordinating communication at the Presidency of the Republic, is also Executive Secretary of the National Council for Economic and Social Planning (*Consejo Nacional de Planificación Económica Social* - CONPES), and is in charge at national, departmental and local level of the new Citizens' Power Councils (*Consejos del Poder Ciudadano* - CPC), which aim is to establish a link between State institutions and the people.

In 2007, the Government also took certain normative and institutional measures, some of which aimed at greater transparency in the public administration and more effective control of corruption, mainly through better access for citizens to information about the management of State institutions and agencies. Measures were also taken to improve access to primary education, medical care, and to combat poverty.

Poverty however is still the rule among the people: the richest 10% of the population absorbs 30% of the national income, while the poorest 40% only gets 10% of the income. Criminality remains at a high level, particularly in connection with drug trafficking networks, and the police are guilty of exactions, notably during detention. In addition, the families of victims get no protection: Ms. Villanueva Delgado Obando, for example, was killed on March 20, 2007 on her way to the

Nueva Guinea Court in order to support her sons, who were tortured during detention. The prison population increased by 14% compared to 2006, and is detained in decrepit and insalubrious prisons. At the end of October 2007, according to the Nicaraguan Centre for Human Rights (*Centro Nicaragüense de Derechos Humanos - CENIDH*), there were 6,701 persons detained in the country's eight penitentiary centres, of which 1,290 were in preventive detention and 5,411 were serving their sentence.

The judicial system is still in the hands of the political parties (FSLN and PLC in particular) and influential economic and religious sectors. Such a climate, which encourages influence peddling and vote-catching, does nothing to guarantee fundamental rights such as the principle of equality before the law, and fosters corruption of the judicial system.

Concerning the freedom of information, on May 16, 2007 the Parliament of Nicaragua passed Law 621 on Access to Public Information (*Ley de Acceso a la Información Pública*), which came into force on December 20, 2007. Although the law is a real step forward, in practice it does not seem to reflect an opening on the part of the Government, despite its enthusiastic reception. Information within the Government appears to be increasingly controlled and centralised, as evidenced by the role of the President's wife, who is in charge of communication for all the ministries and the main Government initiatives, which are carried out with the utmost discretion.

### **Smear campaigns against human rights defenders**

In 2007, human rights defenders were exposed to considerable criticism on the part of Government officials, to the extent of discrediting their work. Early in 2007, for instance, the judicial authorities waged a smear and defamation campaign against CENIDH. The Human Rights Prosecutor in particular, Mr. Omar Cabezas Lacavo, stated publicly that the action of the organisation "disgusted" him, and asserted that organisations such as CENIDH "set themselves up in districts and towns only in order to attract journalists". And on July 21, 2007, during the closing ceremony of the São Paulo Forum, President Ortega accused the civil society organisations of paying people to take part in demonstrations calling for better social conditions and more respect for human rights. Such accusations were in particular aimed at the "Civil Coordination" (*Coordinadora Civil*), which plays a central role



in the fight for democratisation, fair redistribution of wealth, citizen participation, reduction of poverty and against corruption. In addition the organisations, including CENIDH, were accused of “defending delinquents” and of “having joined the opposition”.

### **Acts of intimidation against defenders of women’s rights**

In 2007, defenders of women’s rights, in particular the right to therapeutic abortion, were subjected to acts of intimidation designed to deter them from taking action. Following the adoption in 2006 by the National Assembly of Law 603 criminalising therapeutic abortions, as an exemption from an existing article of the Criminal Code, various civil society organisations fighting against the exemption lodged an appeal on January 8, 2007 on the grounds that the law was contrary to the Constitution. In addition, a number of organisations, including the Women against Violence Network, the Women’s Autonomous Movement, the Feminist Movement and CENIDH, waged in 2007 a campaign against the new Law through demonstrations, sit-ins and television announcements. The Law was nevertheless ratified on September 13, 2007 and written into the new Criminal Code.

As a result, the members of these organisations were subjected to acts of reprisal, judicial proceedings in particular, as was the case for nine leaders of women’s and childhood defence organisations<sup>1</sup>; two complaints were lodged against them in October 2007 with the Public Prosecutor by the Executive Director of the Nicaraguan Association for Human Rights (*Asociación Nicaragüense Pro Derechos Humanos - ANPDH*)<sup>2</sup>, for “offences against the administration of justice”, “dissimulation of the crime of rape”, “criminal conspiracy” and “apology of crime”.

### **Reprisals against defenders fighting corruption and exactions committed by security forces and the authorities**

In 2007, defenders attempting to denounce the corruption prevailing in Government bodies were subjected to acts of intimidation and harassment. Mr. Gerardo Miranda, for instance, former FSLN MP,

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1./ Ms. Ana María Pizarro, Ms. Juana Antonia Jiménez, Ms. Lorna Norori Gutiérrez, Ms. Martha María Blandón, Ms. Luisa Molina Arguello, Ms. Martha Munguía Alvarado, Ms. Mayra Sirias, Ms. Yamileth Mejía Palma and Ms. Violeta Delgado Sarmiento.

2./ ANPDH is an organisation chaired by Bishop Abelardo Matta, head of the Catholic Church and leader of the anti-abortion movement in Nicaragua.

lodged a complaint for “defamation”, and the General Prosecutor of the Republic threatened to launch legal proceedings against Mr. **Carlos Fernando Chamorro**, a journalist who, on May 27, 2007, had broadcast in his television programme *Esta Semana* a report denouncing acts of corruption supposedly committed by Mr. Miranda and other FSLN leaders. In addition, the official media waged a smear campaign against the journalist, calling him for instance “a Mafia stealer of land”.

Furthermore, the men and women who fought impunity and denounced exactions committed by the police and the authorities were also subjected to acts of reprisal. For instance, Mr. **Marcos Carmona**, Executive Secretary of the Permanent Commission for Human Rights (*Comisión Permanente de Derechos Humanos - CPDH*), has constantly received death threats since June 2006, when CPDH lodged a complaint with the General Prosecutor of the Republic against the leaders of the Sandinista Government of the 1980s, accusing them of being the presumed authors of crimes against humanity committed against the Miskita communities. In February and March 2007, Mr. Carmona received several death threats by telephone and e-mail.

### **Acts of harassment against defenders of environmental rights**

In 2007, defenders of environmental rights were also subjected to repression. Mr. **Pablo Antonio Centeno Madrigal**, a member of the CENIDH “Padre César Jérez” Human Rights Promotion Network (*Red de Promotores de Derechos Humanos del CENIDH “Padre Cesar Jerez”*), and of the “Yes to Life” Environmentalist Movement in the city of León (*Movimiento Ambientalista “Si a la Vida”*), as well as a leader of the Sutiava indigenous community, was twice arrested, in January and July 2007, and prosecuted for “setting fire to the San Antonio sugar cane company”, in connection with facts dating back to January 23, 2007. Mr. Centeno is known for his activities in favour of the right to the environment, and in particular for having denounced the damage caused to the environment and public health by the San Antonio company. Mr. Centeno was finally acquitted on August 13, 2007.

## / PERU

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### Political context

In 2007, although some progress was made in the judicial proceedings against military personnel responsible for exactions committed (in particular extrajudicial killings and enforced disappearances) during the conflict between the Shining Path Movement and the Peruvian army from 1980 to 2000, President Alan García's Government continues to display a lack of political will to fight against the impunity enjoyed by the authors of such crimes. This was reflected, among others, in the inadequacy of resources allocated to the judiciary and the Public Prosecutor's office, which led to the ineffectiveness of the protection measures provided for the representatives of justice, the victims, the witnesses of exactions, and their families. Impunity thus remains the rule, and enquiries have often been thwarted by the lack of cooperation on the part of the military.

It should however be stressed that the efforts of the Peruvian prosecutors to bring to justice in Peru former President Alberto Fujimori, who was arrested in Chile in November 2005, finally met with success in September 2007, when the Supreme Court of Chile authorised Mr. Fujimori's extradition. The latter is in particular charged in connection with his supposed responsibility in the extrajudicial killing of 15 persons in the Barrios Altos district of Lima in November 1991<sup>1</sup>, and in the enforced disappearance and the murder of nine students and a faculty member in the La Cantuta University in July 1992<sup>2</sup>. Mr.

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1./ On November 3, 1991, fifteen people lost their lives and four others were wounded following the incursion into the Barrios Altos suburb of Lima of a paramilitary squad identified as being the Colina group, composed of members of the Peruvian armed forces. The massacre is symbolic of the human rights violations committed during Fujimori's presidency.

2./ On July 18, 1992, a professor and nine students belonging to the Lima National University, known as "La Cantuta", were the victims of forced disappearance after abduction, committed by a paramilitary group. The incident became notorious for the impunity enjoyed by the authors, and for having been an argument in favour of Mr. Alberto Fujimori's extradition from Japan in 2003.

Fujimori's extradition and the opening of his trial at the end of the year was seen as being highly symbolic of the prospect of success in the fight against impunity, and the establishment of the rule of law and democracy in Peru.

Since Mr. Alan García's election to the Presidency of Peru on June 5, 2006, the Government has made four attempts to reintroduce the death penalty, which was abolished in 1979. In January 2007, Parliament rejected one of the proposals, which was to reintroduce the death penalty for terrorist crimes. Three other projects, one of which concerns persons guilty of having assassinated or raped a minor, were still under discussion in Parliament at the end of 2007.

Furthermore, on July 22, 2007, the President promulgated several decrees (including Decrees n° 982, 983, 988, 989) formalising the criminalisation of social protest, including peaceful demonstrations.

### **Law 28925: obstacles to freedom of association remain, despite some provisions having been declared unconstitutional**

On August 29, 2007, the Lima Constitutional Court ruled that the provisions of Law 28925, modifying Law 27692 establishing the Peruvian Agency for International Cooperation (*Agencia Peruana de Cooperación Internacional* - APCI), a decentralised body supervised by the Ministry of Foreign Affairs, were unconstitutional. The provisions concern the obligation to register international funding of private origin, the penalty for NGOs guilty of "breach of peace, and attacking private or public property" to be struck off the register, and the prohibition for the executives of these organisations to carry out functions related to the implementation of international cooperation projects. Law 28925 had been published in the official journal on December 8, 2006. Law 28875, passed on August 15, 2006, had already paved the way for increased State interference in the affairs and aims of NGOs<sup>3</sup>.

### **Assassinations and threats against journalists fighting corruption**

In 2007, journalists daring to denounce corruption on the part of the authorities and the police paid the price of their commitment.

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3./ For further information, see Observatory Annual Report 2006.

Such was the case of Mr. **Miguel Pérez Julca**, a journalist with *Radio Éxitos*, assassinated on March 16, 2007 in Jaén (Cajamarca province), after he had declared, during one of his broadcasts, that he was going to disclose the names of Jaén police officers who had ties with drug traffickers and who protected criminals. On September 10, 2007, Mr. **Julio César Mendoza Escobar**, a journalist with *Radio Candela*, in Yurimaguas, also received threats and an attempt was made on his life after he had denounced acts of embezzlement involving municipal personnel, including the Mayor of Alto Amazonas.

### Reprisals against defenders fighting impunity

This year again, lawyers and human rights organisations fighting the impunity enjoyed by authors of the massacres committed during the 1980 – 2000 conflict were subjected to numerous acts of harassment and smear campaigns. On March 10, 2007, the lawyers belonging to the National Human Rights Coordinating Committee (*Coordinadora Nacional de Derechos Humanos - CNDDHH*) were qualified as “communists disguised as lawyers”, “fools manipulated by senderism” and “recycled communists” by Mr. Jorge del Castillo, Head of the Government and Chairman of the Special High Level Commission for the implementation of the recommendations of the Truth and Reconciliation Commission.

In addition, several defenders received death threats owing to their search for justice and truth, such as Ms. **Iskra Chávez Loaiza** and Ms. **Evelyn Zevallos Enriquez**, respectively Chairperson and lawyer member of the Association for Life and Human Dignity (*Asociación por la Vida y la Dignidad Humana - APORVIDHA*), in the region of Cusco, who received death threats on March 29, 2007<sup>4</sup>. Likewise, on December 10, 2007, the lawyers and families of the victims of the Barrios Altos and La Cantuta massacres were verbally attacked while they were preparing to attend the first day of the trial of former President Fujimori, charged with human rights violations. The aggressors were reportedly following instructions given to them by a former colonel of the Peruvian army. Furthermore, on December 18, 2007, the Association for Human Rights (*Asociación Pro Derechos Humanos -*

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4./ APORVIDHA is in particular investigating the assassination in 1984 of 34 peasants in Lucmahuayo, the authors of which are said to belong to the army.

APRODEH) received a phone call in which Ms. **Gloria Cano**, a lawyer representing the Barrios Altos and La Cantuta victims, and members of APRODEH were threatened with death.

### **Acts of harassment against defenders of the rights of communities affected by mining and forestry exploitation projects**

In Peru, the members and leaders of indigenous communities regularly confront mining companies on their territory, their main complaint being the harmful effect of mining operations on the environment and their way of life. In return, those leaders and others who defend their rights are subjected to acts of reprisal. On December 14, 2007, for instance, the Baños del Inca Court condemned Mr. **Neptalí Quispe Sánchez**, a lawyer specialising in defending peasant communities affected by mining operations and environmental leaders, to 30 months' imprisonment, a 30-month ban on the practice of his profession, and a deposit of 5,000 new soles for civil reparation, for "fraud" and "falsification". On March 15, 2007, Mr. **Javier Rodolfo Jahncke Benavente**, a member of the Muqui Network (*Red Muqui*), a coalition of 19 organisations defending the rights of rural and indigenous communities affected by mining projects, received death threats. Lastly, certain members of the Inter-ethnic Association for the Development of the Peruvian Forest (*Asociación Interétnica de Desarrollo de la Selva Peruana - AIDSESEP*) also received threats following their action against the depredations of the Amazonian forest. Thus, Mr. **Robert Guimaraes Vásquez**, Vice-President of AIDSESEP, received death threats on several occasions, of which logging companies are thought to be the instigators.



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## Political context

In 2007, President Hugo Chávez, who has been in power since 1999, continued his reforms for a “21<sup>st</sup> century socialism” after being re-elected in December 2006. Although the reforms succeeded in reducing poverty, democracy remains fragile, owing to the existing political and social tensions. In reality, President Chávez mainly sought to reinforce his authority. As soon as he was re-elected, he asked the National Assembly to grant him the right to legislate through the *Ley habilitante*, by which he can issue decrees that have force of law. On February 1, 2007, the law was published in the official bulletin, granting the President the right to legislate for 18 months. The law has nevertheless made some advances possible, and enabled the President to present his plan for the re-nationalisation of certain enterprises responsible for telecommunications, water management and energy.

President Chávez also proposed 69 constitutional amendments that *inter alia* gave him unlimited authority to declare a state of emergency without the prior approval of the Supreme Court of Justice, and to suspend certain constitutional guarantees such as the right to a fair trial or access to information in a state of emergency. One amendment allowed the President to be re-elected several times. On the other hand, some amendments represented social progress: the working day was limited to six hours, the right to citizenship and the multi-ethnic origin of Venezuela were recognised, State financing of electoral campaigns was regulated, etc. These amendments were rejected by 51% of the population in a national referendum held on December 2, 2007.

Some of the corrupt police forces are controlled by the Government, others by the opposition, and they confront each other, which often leads to exactions committed against the population, with extrajudicial executions, while conditions of detention in the prisons are very unsatisfactory. According to the Venezuelan Prison Observatory (*Observatorio Venezolano de Prisiones*), in 2007 498 inmates died a

violent death, and 1,023 were injured<sup>1</sup>. This is due in particular to the lack of security and the corruption of the prison wardens, who allow armed gangs to control the prisons. The origin of the violence is also to be found in the overcrowding and the deterioration of the penitentiary infrastructure.

In 2007, a vigorous debate took place on freedom of expression, on the occasion of the non-renewal of the broadcasting licence of the private audiovisual group *Radio Caracas Televisión* (RCTV), one of the oldest and largest in Venezuela, which expired on May 27, 2007. President Chávez reproached in particular *RCTV* for supporting the 2002 coup. The station now broadcasts over the cable network. In this regard, the IACHR and the European Parliament voiced concerns for freedom of expression<sup>2</sup>.

### Smear campaigns against defenders

In 2007, certain NGOs were criticised in public and attacked by members of the Government and persons close to it, accusing them *inter alia* of “betraying the nation” for having accepted international cooperation funds, in particular from the United States. On May 4, 2007, Messrs. **Carlos Correa** and **Rafael Chavero**, Coordinators of the Public Space Association (*Espacio Público*), were accused in the pro-Government newspaper *Papeles de Mandinga* of “betraying the nation” and of being “scum”, following the presentation of their report on the situation of freedom of expression in Venezuela in 2006. They were in particular reproached for being financed by the United States<sup>3</sup>.

In that respect, while regretting not having been able to visit Venezuela owing to lack of cooperation on the part of the State, IACHR deplored especially “the increasing number of threats and attempts on the life

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1./ See Venezuelan Prison Observatory, *Situación carcelaria en Venezuela, Informe 2007*, January 2008.

2./ The European Parliament (See Resolution P6\_TA(2007)0216 adopted on May 24, 2007), the Presidency of the European Union (See Declaration on May 28, 2007) and the Inter-American Commission on Human Rights (See Press Release n°29/07, May 25, 2007), expressed concern about the freedom of expression in Venezuela.

3./ See Venezuelan Human Rights Education-Action Programme (*Programa Venezolano de Educación-Acción en Derechos Humanos - PROVEA*), *Informe anual, octubre 2006 - septiembre 2007, Situación de los Derechos Humanos en Venezuela*, December 2007.



and physical well-being of human rights defenders” and “the other obstacles human rights defenders face, such as public discrediting by officials of the State [...] and the difficulty they have when attempting to get access to information”<sup>4</sup>.

### **Acts of reprisal against defenders denouncing exactions committed by law enforcement officers**

In 2007, defenders denouncing exactions committed by law enforcement officers, primarily the police, were subjected to various acts of intimidation and harassment. On November 3, 2007 Mr. **Benjamín García**, legal representative of the “Guardians of Justice” Committee (*Comité “Guardianes de la Justicia”*), and his son were assaulted by a policeman belonging to the municipal police in Sucre. The aggression would appear to be linked to a complaint lodged by the Guardians of Justice Committee against two municipal police officers. Likewise, Mr. **Alcides Rafael Magallanes**, Coordinator of the Anzoátegui Human Rights Foundation (*Fundación de los Derechos Humanos de Anzoátegui*), received a death threat on February 27, 2007 from a policeman in Bolívar, after having denounced extrajudicial executions committed by the police in the State of Anzoátegui<sup>5</sup>.

### **Defenders fighting corruption, victims of acts of harassment and attacks on their physical integrity**

Defenders fighting corruption are also subjected to acts of harassment and attacks on their physical integrity. For instance, on February 10, 2007, Mr. **José Luis Urbano**, President of the Civil Association for the Defence of the Right to Education (*Asociación Civil Pro Defensa del Derecho a la Educación*), was fired on and wounded in Barcelona, in the State of Anzoátegui, after having criticised publicly irregularities in the educational system and the quality of education given to deprived children in his State, and denounced cases of alleged corruption. A short time before, Mr. Urbano had received death threats<sup>6</sup>. As for Mr. **Miguel Salazar**, Director of the political weekly *Las Verdades de Miguel*, his trial for “aggravated defamation” opened on April 18, 2007 in Caracas, for having published at the end of 2003 a column on cases of corruption

4./ See IACHR Report for 2007, Chapter IV.

5./ See PROVEA, Electronic Bulletin n°182, February 24 – March 5, 2007.

6./ See PROVEA, Electronic Bulletin n° 181, January 19 – February 18, 2007.

and human rights violations in the State of Guárico (Centre). Under the Criminal Code, Mr. Miguel Salazar could receive a two to four years' prison sentence and a fine of up to 320,000 dollars<sup>7</sup>.

### **Obstacles to the freedom of assembly and repression of demonstrations**

In 2007, the authorities continued to repress, prohibit or disrupt popular demonstrations, in particular those relating to protests against the non-renewal of the *RCTV* broadcasting licence, trade union claims and the right to public services. On August 27, 2007, the police dispersed with force the inhabitants who were demonstrating in front of the Maripa police station for the release of 12 minors under arrest, injuring eight persons with lead bullets. Likewise, on March 13, 2007 a students' demonstration protesting in Caracas against the non-renewal of the *RCTV* licence was violently repressed by the police, who fired lead bullets on the crowd and used tear gas. Lastly, on June 26, 2007, a group of workers who were trying by peaceful means to take over the installations of the "Pío Tamayo" sugar company in order to obtain better working conditions, were repressed by the Iribarren municipal police, injuring six persons with lead bullets and tear gas, and arresting 13 persons<sup>8</sup>.

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7/ See PROVEA, Electronic Bulletin n°184, April 1-22, 2007.

8./ See PROVEA, *Informe anual, octubre 2006 - septiembre 2007, Situación de los Derechos Humanos en Venezuela*, December 2007.