



/ AMERICAS

OBSERVATORY FOR THE PROTECTION OF HUMAN RIGHTS DEFENDERS
ANNUAL REPORT 2009

/ REGIONAL ANALYSIS AMERICAS

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Even though the election on November 5, 2008 of Mr. Barack Hussein Obama as President of the *United States of America* and the adoption of new constitutions in *Ecuador* at the end of 2008 and *Bolivia* at the beginning of 2009 gave rise to great hope for change throughout the region, the situation in 2008 remained much the same as in previous years. In *Colombia*, where internal armed conflict continued, the situation of defenders, union members, indigenous peoples and journalists remained the greatest concern in the region. In 2008, the conflict also had disastrous consequences for the civil population, especially the forced displacement of more than 250,000 persons, in an environment in which a negotiated solution to the conflict seemed distant. Furthermore, *Guatemala* continued to suffer from profound democratic and institutional fragility. In 2008, various diplomatic crises erupted, the most serious being between *Colombia*, *Ecuador*, *Venezuela* and *Nicaragua*, following the bombing of Ecuadorian territory by *Colombia*.

The States were also confronted by the people's dissatisfaction with their Governments' handling of important social issues such as health, education or work (*Honduras*), sometimes despite a favourable economic climate (*Peru*). *Bolivia* was affected by a profound political and social crisis, racial violence and attempts to destabilise constitutional order, against a background of opposition and attempts by the governors of the wealthy region of Media Luna to de-construct the country. In *Venezuela*, the Government was also faced in 2008 with domestic challenges to the central authorities. Finally, in *Nicaragua*, the current Government was at the origin of the polarisation of the population, especially with municipal elections that were marked by irregularities, pressure and acts of intimidation.

There were a great many social protest movements in 2008, mainly motivated by conflicts relating to land control, environmental protection

and the exploitation of natural resources (*Bolivia, Brazil, Chile, Colombia, Cuba, Guatemala, Mexico, Nicaragua, Peru*). In many cases, these conflicts relate to the ancestral lands of indigenous peoples, exploited by various stakeholders, often violating their fundamental rights (*Chile, Colombia, Guatemala, Peru*). These peoples also continued to be marginalised and to be subject to discrimination and repression in several of the continent's countries (*Bolivia, Chile, Colombia, Ecuador, Guatemala*). In this context, demonstrations organised to call for the respect of rights were frequently repressed (*Chile, Colombia, Guatemala, Peru*). In addition, many peasant farmers were *de facto* forced out from their lands so that they could be exploited by agro-industrial transnational companies, or by paramilitary groups, as occurred in *Colombia*. It is to be feared that this situation will deteriorate if the production of agro-fuels becomes widespread.

Despite progress made in the fight against impunity, of which the trial of former Peruvian President Alberto Fujimori for crimes against humanity is the most symbolic, and to which should be added the adoption of laws aimed at classifying certain violations committed during military dictatorships as crimes against humanity, including forced disappearances and genocide (*Argentina, Chile*), or again the mission of especially established bodies to fight against impunity (*Guatemala*), the latter remained the norm with regard to proceedings against the authors of violations committed against human rights defenders.

This climate of impunity also promoted violence, especially against women. In 2008, many women continued to be victims of violence, especially sexual violence and even murders, in several of the region's countries. The expression "femicide", in common use in the last few years in *Mexico* and *Guatemala*, illustrates the scale of the phenomenon.

The scale of violence became excessive in some States in 2008 (*Guatemala, Mexico*), particularly in the context of conflict between Governments and drug traffickers and those who practice organised crime. While several Governments used the fight against drug trafficking and organised crime to justify the adoption of harsh policies (*Mexico, Peru*), the continued implementation of policies to combat these phenomena, such as "Plan Colombia" or the "Mérida Initiative" (*Iniciativa Mérida*), promoted by the *United States of America* and

agreed between the *United States of America, Mexico* and the Central American countries (*Belize, Costa Rica, El Salvador, Honduras, Nicaragua, Panama*), aiming to strengthen cooperation between these States on the issue, contributed to serious human rights abuses.

The obsession with security was also the reason for the adoption of laws and measures to control people's acts and deeds, more particularly in the framework of social movements (*Brazil*). It was also typical of constitutional reforms of the criminal justice system, certain elements of which are in contradiction with international human rights norms (*Mexico*), or the adoption of security laws that restrict constitutional guarantees such as the freedoms of movement, assembly, expression, or the freedom to protest (*Guatemala, Peru*).

Methods used to hinder human rights activities

In many countries, defenders have had to face growing hostility on the part of the authorities, which in 2008 made particular use of Government-orchestrated defamation and smear campaigns, as well as statements by political officials against human rights organisations and their members. In *Colombia*, civil society organisations and defenders were on many occasions the subject of slanderous statements made by President Uribe and his Government to damage the legitimacy of all human rights activities by accusing them of being members or sympathisers of the guerrillas. In *Peru*, in August 2008, the Agriculture Minister, Mr. Ismael Benavides, termed NGOs the “vultures of the 21st century”, accusing them of wanting to receive “more funding from abroad”. Defenders were additionally described, amongst other things, as “terrorists” (*Cuba, Peru*), “prostitutes”, “murderers” and “mercenaries” (*Cuba*), or again “oligarchs”, “traitors to the country” and “imperialist puppets” (*Nicaragua, Venezuela*). In *Venezuela* and *Nicaragua*, the authorities on several occasions accused human rights NGOs of receiving funds from the United States and of being relays for the opposition. Finally, in *Cuba, Nicaragua* and *Peru*, partisans of the Governments in office used “acts of repudiation” to put pressure on defenders, in the course of which State agents grouped in front of defenders' homes or organisations' offices to insult or even physically attack them.

In addition, in several of the region's countries, the authorities frequently tried to place human rights organisations under surveillance, with activities ranging from the interruption of telephone lines to

attempts to destroy their premises (*Colombia, Cuba, Peru*), searches of premises and the seizing of material and documents (*Chile, Colombia, Ecuador, Honduras, Mexico, Nicaragua, Peru*). As part of the fight against terrorism in the *United States*, the Bush administration reportedly drew up blacklists of people who were a potential danger to the security of the country, including human rights organisations such as the World Organisation for Human Rights USA, which would have been wiretapped.

Some States tried to investigate the funding of civil society organisations (*Brazil, Nicaragua*). Moreover, *Nicaragua* and *Peru* announced their wish to increase surveillance of NGO activities, revising the legal framework in which they operate or granting new competencies to already existing State bodies, in order to exercise greater control of their sources of funding and their activities and so restrict their independence and freedom to act.

Finally, States increasingly had recourse to using the judicial system to punish the work of defenders who had been subject to prosecution, arrest or detention generally on the basis of evidence that had been cobbled together (*Brazil, Chile, Colombia, Cuba, Ecuador, Guatemala, Honduras, Mexico, Nicaragua, Venezuela*). In *Mexico*, defenders of migrants' rights and environmental rights were particular targets.

Continued repression of defenders fighting against impunity

In 2008, human rights defenders engaged in the fight against impunity were again the target of acts of harassment, threats and even murder attempts (*Argentina, Brazil, Colombia, Ecuador, El Salvador, Guatemala, Honduras, Mexico, Peru*). In *Colombia*, the Government tried to discredit civil society organisations and human rights defenders who took part on March 6, 2008 in the march of homage to the victims of the paramilitary and of State crimes, stating in particular that the march had been organised by the Revolutionary Armed Forces of Colombia (FARC). These accusations were followed by a wave of killings and death threats against defenders. In *Peru*, throughout the year 2008, defenders and civil society organisations that fight for justice and truth in the Fujimori case were the target of attacks and intimidation by the former President's support groups. In *Argentina*, NGO members, lawyers, trial witnesses and officials of the judicial system who fought against impunity for human rights violations committed during the

dictatorship were also targeted. In *El Salvador*, the Director of the El Salvador Human Rights Commission (*Comisión de Derechos Humanos de El Salvador* - CDHES) received threats after his organisation held an international seminar on the fight against impunity and the international Criminal Court, during which he had in particular dealt with the issue of impunity for crimes committed in El Salvador between 1980 and 1991.

Repression of defenders of trade union freedom and workers' rights

In 2008, many defenders again paid dearly, sometimes with their lives, for their fight for workers' rights and for trade union freedoms. Today, *Colombia* remains the country in which the greatest number of trade union members in the world were murdered. In 2008, the United Confederation of Workers of Colombia (*Central Unitaria de Trabajadores de Colombia* - CUT) denounced the killing of 49 trade union members and leaders, a figure that had increased by 25% compared with 2007. Similarly, in *Guatemala*, an unprecedented number of 47 attacks against union members were recorded during the year and three union leaders were killed. In *Honduras*, trade union members were also the subject of death threats, attacks and were even killed. In *El Salvador*, public sector employees who defended their labour rights were subjected to harassment and criminalisation of their activities. Finally, in *Chile*, trade union members who called for improved working conditions were arrested and subjected to ill-treatment by the police force.

Criminalisation of social protest and repression of defenders of land rights and of indigenous communities

In 2008, the Americas region was particularly marked by the criminalisation of social protest, mainly relating to conflicts regarding the issue of the ownership and abusive exploitation of lands and their resources without prior consultation of the population concerned, in particular by multinational corporations, very often affecting the rights of indigenous peoples (*Colombia, Guatemala, Mexico, Peru*), in violation of Convention No. 169 of the International Labour Organisation (ILO) concerning Indigenous and Tribal Peoples of June 27, 1989,

which, as of the end of 2008, had been ratified by most States in the region¹.

Furthermore, the women and men who tried to defend indigenous communities were often subjected to threats, acts of harassment, sometimes at the judicial level, and defamation campaigns by both the national and local public authorities, in order to discredit them and hinder their activities. In *Bolivia*, journalists affiliated to an association for the defence of indigenous communities were attacked, threatened with death and detained for several days. In *Colombia*, leaders of indigenous communities were again the victims of particularly serious reprisals that threatened their physical integrity and their right to life, as was sadly illustrated by the killing of the husband of an indigenous leader after she had promoted the day of community, social and popular unity (*Minga Nacional de Resistencia Indígena y Popular*) in October 2008 and taken part in the Universal Periodic Review on Colombia. In *Chile*, people defending the rights of the Mapuche people were victims of searches, whilst the leaders of this community were subjected to arbitrary detention. In February 2008 in *Ecuador*, the wife of the President of the Confederation of Indigenous Nationalities of Ecuador (*Confederación de Nacionalidades Indígenas del Ecuador - CONAIE*) was kidnapped by three individuals who interrogated her concerning her international contacts and her plans for mobilisation in support of the indigenous cause. In *Mexico*, two journalists, who were preparing a report on an indigenous community in the State of Oaxaca, were killed in an ambush.

Defenders of the right to the environment and the right to land also found themselves in the firing line of repression, especially when they denounced excessive exploitation of natural resources by multinational corporations that damages the environment and harms the inhabitants' way of life. Defenders of the right to the environment were subjected to attacks, death threats, act of judicial harassment, arbitrary detention and assassination attempts in *Ecuador, Guatemala, Honduras, Mexico* and *Peru*. In *Brazil*, the Landless Workers' Movement (*Movimiento dos Trabalhadores Rurais Sem Terra - MST*) was a particular target

1./ *Argentina, Bolivia, Brazil, Chile, Colombia, Costa Rica, Dominican Republic, Ecuador, Guatemala, Honduras, Mexico, Paraguay, Peru, and Venezuela.*

and eight of its members were the subject of a complaint for “taking part in assemblies to overthrow the rule of law”.

Repression of defenders of women’s rights

The women and men who defended women’s rights and tried to obtain compensation and justice for the victims of sexual violence and their families were also the target of many acts of repression in several of the region’s countries. In *Mexico*, defenders of women’s rights were vulnerable to arrest and arbitrary judicial proceedings and were also the target of threats, including death threats, when they denounced the prevailing impunity for the murder of women, particularly in the context of the femicide occurring in Ciudad Juárez. In *Colombia*, one of the main women’s rights organisations was subjected to repeated threats throughout the year 2008. In addition, an NGO Director and certain members of her family were killed shortly after the release of a book on violence against women in times of war. In *Nicaragua*, acts of harassment against the leaders and members of feminist organisations that denounce cases of violence and sexual abuse against women remained also frequent, especially when they defended therapeutic abortion. In *Argentina*, a defender who denounced the existence of a prostitution network in Buenos Aires and the abuse committed against prostitutes by certain police officers and political officials was the target of judicial harassment. Finally, in the *United States*, defenders of women’s rights, especially those who fight for the right to abortion, also continued to be subjected to threats and attacks by people who disagree with these practices. During the 133rd session of the Inter-American Commission on Human Rights (IACHR), in October 2008, women defenders from the United States talked about their situation and stated that they did not feel they were given sufficient protection either by the police or by the judicial system.

Mixed results of the implementation of protection measures for defenders

Although, in many of the region’s countries, protection measures granted by certain Governments has permitted an improvement of the situation of many people, in certain cases they have turned out to be ineffective or insufficient to protect defenders who are threatened because of their human rights activities. They have even sometimes been used as a reason for not tackling the real causes of violence against defenders or the crucial problem of the fight against impunity.

Furthermore, in a number of countries, protection measures granted by the IACHR or the Inter-American Court of Human Rights for human rights defenders were often implemented along with all kinds of restrictions and as a result were generally ineffective. While in *Guatemala* and *Nicaragua* there was a regrettable lack of political will on the part of the authorities regarding their application, defenders in *Colombia* or *Venezuela* complained that they had been attacked by the people responsible for their protection. In *Colombia*, many defenders who benefited from protection measures provided on the initiative of the Government or the IACHR were killed. In *Ecuador*, judicial proceedings were opened against a human rights defender who benefited from IACHR protection measures. In *Honduras*, a prosecutor who fought against corruption was the victim of an assassination attempt although he benefited from IACHR protection measures. In *Guatemala*, *Nicaragua* and *Peru*, the system of protection for defenders was made unequal by the insufficient protection granted by the authorities with regard to people who benefited from measures accorded by IACHR or the Inter-American Court of Human Rights. Finally, the authorities often not only failed in their duty to protect human rights defenders but also misappropriated measures of protection by turning them into a tool to control and repress their supposed beneficiaries (*Colombia*, *Venezuela*).

Urgent Interventions issued by The Observatory in 2008 for countries of the region for which there is no Country Fact-sheet²

Countries	Names of human rights defenders / NGOs	Violations	Intervention Reference	Date of Issuance
ECUADOR	Messrs. Alexis Ponce and Fernando Cordero and Ms. Miriam Cisneros	Attacks / Harassment	Urgent Appeal ECU 001/0308/ OBS 033	March 5, 2008
ECUADOR	Ms. María Espinosa	Arbitrary detention / Judicial proceedings	Urgent Appeal ECU 002/0608/ OBS 103	June 17, 2008

2./ See the Compilation of cases in the CD-Rom attached to this report.

COUNTRIES	Names of human rights defenders / NGOs	Violations	Intervention Reference	Date of Issuance
EL SALVADOR	Mr. Miguel Rogel Montenegro	Threats	Urgent Appeal SLV 001/0508/ OBS 081	May 15, 2008
UNITED STATES OF AMERICA	Mr. Athemay Sterling	Arbitrary detention / Obstacles to freedom of movement	Urgent Appeal USA 001/0708/ OBS 116	July 9, 2008

/ TESTIMONIAL

OBSERVATORY FOR THE PROTECTION OF HUMAN RIGHTS DEFENDERS
ANNUAL REPORT 2009



AÍDA QUILCUÉ

Chief Council of the Cauca Regional
Indigenous Council (CRIC), Colombia

For us, indigenous peoples, being human rights defenders entails that collective and individual rights are inseparable from the balance between mankind and nature, and fulfilment of mankind in harmony with nature. Therefore, life and dignity prevail over all other interests.

Unity, Land, Culture and Autonomy are the pillars on which lies the indigenous movement. These principles are the framework for the defence of the collective and individual rights of indigenous peoples. Therefore my work begins at the grassroots level, and aims at strengthening local organisations that defend our rights. Through this process, I bear witness in a privileged manner to the various situations we Colombian citizens are all faced with, and in particular situations experienced by indigenous peoples.

First of all, the plundering of the land led to forced displacements of the populations, selective assassinations, abusive judicial proceedings and other violations of human rights and international humanitarian law.

Furthermore, the indigenous movement has been putting forward, throughout the years, concrete peace proposals aimed at solving overall structural problems faced by the indigenous communities and social problems of the country. However, in our view, the policies designed by the Colombian are in line with a strategy intended to follow by the book economic development policies imposed by the globalisation process. These policies have led to the dismantling of the rights though they are enshrined in the Constitution, thereby generating new standards that violate fundamental rights. Likewise, it is worth underlining that the so-called “democratic security” policy, allegedly aimed at fighting

guerrillas and drug-trafficking, ultimately targets civilians. In addition, Government armed forces are responsible for these crimes, as in the case of my husband's death, José Edwin Legarda¹. His assassination, which was carried out as another case of the so-called "false positives"², orchestrated by the authorities to demonstrate to the national and international public opinion that terrorists had infiltrated the National "Minga" for Social and Community Resistance (*Minga Nacional de Resistencia Social y Comunitaria*), as President Uribe had stated on various occasions. Another example is the behaviour of the police force following my husband's death or again the orders given to buy false denunciations from members of our communities. Reward for informing on us³, indigenous leaders, who are involved in process to claim our rights.

In Colombia, it is very complicated to obtain justice since the system is often in the Government's pay. It is about time that, for unsolved crimes, alternative mechanisms are found in order to bring justice, as in the case of my husband Edwin Legarda. As of now, this case was not yet brought before a court because, allegedly, the process for the collection of evidence has not come to an end, and the authors have not yet stood trial.

To conclude, being a human rights defender involves being part of the people's collective strength, reflecting the experiences and feelings of all those who, due to impunity and the law of silence, cannot speak out. This means accepting all risks of persecution, including giving one's own life.

The solidarity expressed by human rights bodies and their denunciation of acts undertaken against the indigenous movement have been and remain essential insofar as they provide us with true support

1./ Assassinated on December 16, 2008.

2./ The expression "false positives" is used to describe a specific case of extrajudicial execution in Colombia: members of the armed forces assassinate peasants or civilians in marginalised areas and dress them up as guerrilla members in order to present them to the public opinion as terrorists killed by the armed forces.

3./ The Colombian Government resorts to compensation as a means to encourage guerrilla members to denounce and hand over drug trafficking leaders. The mechanism of reward is often manipulated and leads to bear false witness.

when the indigenous movement was faced with critical situations. Their action is indeed a way to put pressure upon the Colombian Government to respect peoples' rights. This objective may have not been fully reached yet but it helped to reduce the risks the indigenous movement are facing. This is why we are calling for a permanent vigilance of those human rights bodies regarding future developments in Colombia so that they can make all they can to prevent the possible extermination of peoples.

It is my responsibility to seek justice for the death of my husband and of all the others. Although I had to pay a high price in my fight for justice, i.e. the life of a loved one and being persecuted, I am still strong. I know that we have to go all the way in the most difficult situations to bring light eventually. With your help and that of many others in the world, including that of the indigenous communities and leaders, we shall be able to keep our civil resistance going.

This is also why we call for the need to further build upon existing links between nations and peoples convinced that the future will bring change and positive benefits for our children.

/ ARGENTINA

OBSERVATORY FOR THE PROTECTION OF HUMAN RIGHTS DEFENDERS
ANNUAL REPORT 2009



Political context

In 2008, Argentina got a new Government, led by Ms. Cristina Fernández de Kirchner, elected on October 28, 2007. The country went through a political crisis between March and July, during which groups of rural producers protested against Government measures tending to increase withholdings (export taxes) with an aim of improving income distribution. The demonstrations shook the country and led to the resignation of the Minister of the Economy, Mr. Martín LoustEAU.

Judicial proceedings within the “Truth Trials” (*Juicios por la Verdad*) have been initiated by victims or their families since 2005, and continued in 2008. Since the Supreme Court annulled the amnesty laws in 2005, about 340 judicial proceedings for crimes against humanity committed under the military dictatorship (1976-1983) have been opened and remain pending. As of the end of 2008, eight oral and public trials had been held, leading to the sentencing of key State terrorism figures. Despite this progress, however, only one sentence had been confirmed by the Supreme Court at the end of 2008, and 74% of the cases were only at a preliminary stage. This lack of speed in the proceedings led the Supreme Court to order several detainees to be released in December 2008, after the limit for pre-trial detention was overstepped. In this case, however, this decision “should not be implemented immediately”. It must also be added that more than 190 of the accused are already dead¹.

In connection with the trials related to the dictatorship, human rights organisations have on several occasions underlined central issues that the Government needs to address urgently, and that are important to the advancement towards truth and justice: the unjustified delays in the trials and the officials’ indolence. Also, the new push to the truth and

1./ See Centre for Legal and Social Studies (*Centro de Estudios Legales y Sociales* - CELS).

justice trials was accompanied by numerous threats and acts of harassment against witnesses and victims linked with the trials, who cannot trust police protection. This situation results from various factors: victims and witnesses are deeply involved in identifying the responsible persons as the latter carry the burden of proof; the State witness and victim protection programme has flaws; and acts of harassment and intimidation lack efficient investigation. For instance, Mr. Jorge Julio López, one of the key witnesses in the trial against Mr. Miguel Etchecolatz, remains disappeared since September 2006. Similarly, Mr. Juan Evarista Puthod, a detainee and a victim of enforced disappearance under the military dictatorship and a witness for the prosecution in various trials, in particular against former Superintendent Luis Abelardo Patti, was kidnapped for 24 hours on April 29, 2008 as he was preparing a homage to Mr. Pereyra Rossi and Mr. Cambiasso, detained by former Superintendent Patti and missing during the dictatorship. Mr. Puthod later said that he had been threatened and abused during his detention. He had also received threats before. As of the end of 2008, however, the investigation into his harassment had not yielded concrete results.

Acts of intimidation against defenders fighting against impunity

Defenders who fought the impunity of human rights violations committed during the dictatorship, especially NGO members, lawyers, witnesses and judges, continued to be subjected to acts of harassment and intimidation in 2008. For instance, on April 25, 2008, Ms. **María del Carmen Verdú**, a lawyer and member of the Coordinating Committee Against Police and Institutional Repression (*Coordinadora contra la Represión Policial e Institucional* - CORREPI), was threatened by two men on a motorcycle as she was leaving a demonstration organised by CORREPI in commemoration of the 17th anniversary of the assassination of Mr. Walter David Bulacio². No progress had been made in the investigation into those events as of the end of 2008.

2./ Mr. Walter David Bulacio was a young Argentinean who was murdered by officers from the Argentinean federal police in 1991, and whose death became a symbolic case of police brutality. In 2003, the Argentinean State was sentenced by the Inter-American Human Rights Court (*Corte Inter-Americana de Derechos Humanos* - CoIDH) for these events. However, Argentina has still not implemented the sentence and the responsible police officers have not been sanctioned. See Committee of Judicial Action (*Comité de Acción Jurídica* - CAJ).

Furthermore, Ms. **Viviana Beigel**, a lawyer for the Ecumenical Movement for Human Rights (*Movimiento Ecueménico por los Derechos Humanos* - MEDH) in Mendoza, received several anonymous telephone threats in November, after she opposed the presence in the provincial Government of a person responsible for human rights violations during the dictatorship and who was not convicted. In addition, a woman looking like her was raped in front of her own house in April 2008. Moreover, Ms. **Alicia Morales**, the President of the Permanent Assembly for Human Rights (*Asamblea Permanente por los Derechos Humanos* - APDH) in San Rafael, Mendoza, was threatened with red ribbons on the railing in front of her house on November 13, 2008³. Likewise, since 2002, Ms. **Laura Figueroa**, a lawyer and human rights defender in the Tucumán province⁴, was subjected to threats and various acts of harassment, in connection with hearings against persons responsible for human rights violations in Tucumán during the dictatorship. In August 2008 for instance, two former police superintendents who had escaped custody and who should have been in prison for crimes against humanity threatened Ms. Figueroa as she left court. On the morning of November 20, 2008, the same men made serious threats and insults during a radio interview, urging the population to support them in their resistance to their arrest warrant.

3./ Ms. Alicia Morales is a survivor of the clandestine detention centre that existed under the Department of Police Intelligence (D2) in Mendoza. The D2 was created by Law No. 3677 in 1970, and included divisions of information collection and investigation. Its main goal, however, was to gather data on activists, organisations, institutions and anyone else who was suspected of having political activities. Ms. Morales stated before the court that she recognised the retired Superintendent Carlos Rico Tejeiro, currently Deputy Security Secretary in Mendoza, in the camp. Mr. Rico Tejeiro remains in his position despite complaints by human rights organisations and the national Government. See Permanent Assembly for Human Rights (APDH).

4./ Ms. Laura Figueroa is one of the few lawyers in Tucumán still appearing in cases related to human rights violations committed during the dictatorship. She was a plaintiff in the so-called “Pozo de Vargas case”, related to enforced disappearances in Tucumán during the dictatorship. Witnesses asserted that the army dumped dozens of corpses of disappeared detainees at Pozo de Vargas, which lies 20 minutes from the Tucumán provincial capital, from 1975 to 1977. Judge Terán opened an investigation, in the framework of which excavations are made by Tucumán University technicians and experts. Moreover, the Federal Prosecutor in charge of the investigation, Mr. **Emilio Ferrer**, was also threatened, albeit less intensively.

Repression of defenders of economic and social rights

In a still very fragile economic environment, defenders of economic and social rights were once again victims of harassment. For example, students and teachers from the Don Orión de Wilde school, as well as other activists from the “People’s Children” organisation (*Chicos del Pueblo*), were subjected to threats, acts of intimidation, attacks and kidnappings, in connection with the “Hunger is a Crime” Campaign (*El hambre es un crimen*), which condemns malnutrition among children in Argentina. Indeed, some young persons who were taking part in the campaign were kidnapped and threatened so that they put an end to their demands. On July 24, 2008, a boy from the Don Orión charity’s John XXIII orphanage (*Hogar Juan XXIII*), in Gerli, was kidnapped, taken into a car and threatened by a group of heavily armed masked men. In the night of September 26, 2008, a teacher from the John XXIII orphanage was kidnapped and brutally beaten by a group of hooded people believed to be parapolice, and who demanded that he stop taking part in the above-mentioned campaign. Later, on October 3, 2008, an activist and teacher from the same orphanage was threatened in the street with the same message. Even though the victims were released after each of these incidents, these actions obviously aimed at intimidating a group whose slogan clearly questions the system of capital accumulation⁵. The Avellaneda Prosecutor’s Office is currently investigating the attacks linked with the campaign, which the Congress has declared of national interest⁶. However, the movement claims that although the prosecution is doing all it can, this kind of incidents can never be investigated efficiently unless the intelligence apparatus is restructured.

Several human rights defenders were also convicted in 2008 after taking part in demonstrations in favour of economic and social rights. This trend was especially observed in the city of Buenos Aires and its suburbs, where union leaders of the Argentinean Workers’ Confederation (*Central de Trabajadores de la Argentina - CTA*), including the Institutional Relations Secretary, Mr. **Víctor de Gennaro**, the Deputy Secretary, Mr. **Pablo Micheli**, and the Secretary General, Mr. **Hugo Yasky**, were

5./ See Service for Peace and Justice (Servicio Paz y Justicia - SERPAJ).

6./ See Grandmothers of Plaza de Mayo (Abuelas de Plaza de Mayo), SERPAJ and the “Pelota de Trapo” Foundation (Fundación Pelota de Trapo).

prosecuted. At the end of 2008, their trial for “road obstruction” was being prepared, in connection with a demonstration that took place in October 2008 against the policies of the Buenos Aires city and the national Government on wage, unemployment and precarious work⁷. As of the end of 2008, no date had been set for the trial. On October 4, 2008, twelve workers and union leaders from the National Institute of Industrial Technology (*Instituto Nacional de Tecnología Industrial - INTI*), who had organised a union assembly in front of the Institute in October 2007 in connection with a wage conflict, were acquitted of charges of “road obstruction” by the Criminal Court No. 26. However, the Prosecutor appealed the verdict, and requested 15 days’ imprisonment as well as great limitations to the individuals’ trade union rights. At the end of 2008, the charges remained pending⁸.

Urgent Intervention issued by The Observatory in 2008⁹

Names of human rights defenders / NGOs	Violations	Intervention Reference	Date of Issuance
Ms. Viviana Laura Beigel, Ms. Laura Figueroa and Ms. Alicia Noli	Threats / Fear for safety / Harassment	Urgent Appeal ARG 001/1208/OBS 204	December 3, 2008

7/ The demonstration took place in front of the Argentinean National Institute of Statistics and Census (*Instituto Nacional de Estadística y Censos - INDEC*) in support of INDEC’s union delegates, who were being persecuted for demanding clarity in statistics that the Government manipulated, which was condemned by the media and all other sectors, including the business sector.

8./ See CAJ.

9./ See the Compilation of cases in the CD-Rom attached to this report.

/ BOLIVIA

OBSERVATORY FOR THE PROTECTION OF HUMAN RIGHTS DEFENDERS
ANNUAL REPORT 2009



/ AMERICAS

Political context

In 2008, Bolivia was characterised by strong contrasts and tensions between, on the one hand, the working class, indigenous peoples and farmers, who are in majority in the Andean part of the country, in the west, and, on the other hand, the population that are mostly of mixed race living in the so-called “Media Luna”, consisting of the wealthiest departments, Santa Cruz, Beni, Pando and Tarija, where powerful groups are present. These tensions led to a widespread racist discrimination against the indigenous peoples – although they constitute the majority of Bolivia’s inhabitants – and against the populations in the west. Although these tensions are historical, it became more obvious after the election in December 2005 of President Evo Morales Ayma, candidate for the Movement for Socialism (*Movimiento al Socialismo* – MAS), the country’s first indigenous President and a coca growers’ union leader.

Since then, the elites’ trend to retreat at the regional level has grown even stronger, and they have been trying to block, at all cost, every measure undertaken by the Government, in particular the Constituent Assembly and the land registration by the National Agrarian Reform Institute (*Instituto Nacional de Reforma Agraria* - INRA)¹ – although they were being implemented according to laws that were passed before President Morales came into power, and are in accordance with Bolivia’s regional and international commitments², such as the recommendations of the Inter-American Commission on Human Rights (IACHR),

1./ This is because many landowners do not necessarily comply with the constitutional requirements of the economic and social function of land and not all properties have been legally registered.

2./ The cleaning-up process is required, *inter alia*, through the United Nations Declaration on Indigenous Peoples’ Rights, which was adopted by the General Assembly on September 13, 2007 and made into a law by Congress in October 2008, and which grants indigenous peoples the right to land.

which also condemned the existence of servitude and slavery in parts of the country³.

In addition, the opposition Governors (the “Media Luna” Governors), strengthened by their new legitimacy⁴ and together with their allies in Chuquisaca and, until the August 10, 2008 recall referendum⁵, the Cochabamba Governor, took local measures that are on the fringes of the law, such as organising autonomy referendums in May 2008⁶. The attitude of the Governors threw the country into a deep political crisis during which acts of racism and discrimination burst in violently: the opposition, led by the Santa Cruz Governor, Mr. Rubén Costas, promoted separatism and ethnically and socially based hatred through the Civic Committees (*Comités Cívicos*)⁷, in particular the Pro-Santa Cruz Civic Committee and the Santa Cruz Youth Union (*Unión Juvenil Cruceñista* - UJC), the Committee’s armed wing.

The year 2008 particularly witnessed important incidents: the humiliation of indigenous peoples in Sucre on May 24, 2008⁸, the Pando massacre on September 11, 2008, the occupation of public institutions on September 9 and demonstrations of force to impede the registration of land in April. In addition to the racism and severe discrimination of some parts of the population, these events illustrate the current Government’s inability to respond and to control the entire

3./ See IACHR Press Release No. 26/08, June 13, 2008.

4./ In December 2005, Governors were for the first time elected rather than being appointed by the President. In addition, their election coincided with the presidential election.

5./ On August 10, 2008, a national recall referendum (*referéndum revocatorio*) was held for the President, the Vice-President and eight of the nine Governors. Mr. Evo Morales remained in power with 67.41 % of the votes, but so did his most ardent adversaries, the Santa Cruz, Beni and Tarija Governors, and the tension therefore did not diminish.

6./ It should be emphasised that Santa Cruz’ autonomous status, in addition to being unconstitutional and to go beyond of the decisions of the National Electoral Court (*Corte Nacional Electoral*), has “a racist character (...), which would be highly harmful for the indigenous peoples of the department”, particularly in its Article 161, as underlined by the UN Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous peoples, Mr. Rodolfo Stavenhagen, in his Press Release dated April 10, 2008.

7./ The Civic Committees are citizen’s groups.

8./ See Bolivia Office of the United Nations High Commissioner on Human Rights Press Release, May 26, 2008.

national territory⁹. The Pando massacre in September was without doubt the most serious incident since Mr. Morales came into power. On September 11, 2008, farmers on their way to a regional rally in Cobija organised by the Unique Trade Union Federation of Rural Workers' of Pando (*Federación Sindical Única de Trabajadores Campesinos de Pando*) were ambushed by opponents to Mr. Morales' Government in Tres Barracas and Porvenir, among them Pando Government civil servants. The incident was characterised by a "disproportionate use of non conventional firearms in view of the farmers' defencelessness", as well as the subsequent repression of the persons who had escaped¹⁰. At least 19 persons were killed and 53 were injured in the attack, and several dozen, mostly farmers, disappeared.

In the first days of September, after the President announced his intention of holding a referendum to approve the Constitution in December, the opposition, which was already discontent with the redistribution under the direct oil and gas tax (*Impuesto Directo a los Hidrocarburos* - IDH), proceeded to carry out violent takeovers of State institutions in Santa Cruz, Cobija, Tarija and Trinidad. More serious still, the vandalism and takeovers led to attacks on military personnel and threats by the opposition to take over army prisons. On September 21, 2008, the Bolivian National Congress approved the new project of constitution as well as the holding of a referendum so that the people might approve it on January 25, 2009¹¹.

The new Constitution would provide better protection of and respect for human rights. Also, it reflects the State's willingness to be a "unitary, pluralistic and multi-ethnic State", and gives greater importance to economic, social and cultural rights, acknowledging these rights as

9./ See Permanent Assembly for Human Rights (*Asamblea Permanente de los Derechos Humanos* - APDHB).

10./ See Ombudsman (*Defensor del Pueblo*), *Informe Defensorial de los hechos de violencia suscitados en el mes de septiembre de 2008 en el departamento de Pando*, November 27, 2008. A commission of the Union of South American Nations (*Unión de Naciones Suramericanas* - UNASUR) also made a report after an investigation confirming the events, which was handed to the President on December 3.

11./ Mediators and observers from the UN, the Organisation of American States, the UNASUR and the EU, as well as the Catholic and Protestant Churches of Bolivia, welcomed this progress. See, *inter alia*, Statement of the UN Secretary-General's Spokesperson, October 21, 2008.

fundamental. It includes several provisions aimed at ensuring equality, social justice and protection for indigenous peoples and the poor population. The conditions for human rights defenders would hopefully also be improved if they are able to work within a legal framework with more well-defined rights. Moreover, in December 2008, the President promulgated the National Human Rights Action Plan (*Plan Nacional de Acción de Derechos Humanos*). Promoted by the Vice-Ministry of Justice and Human Rights, it was elaborated in cooperation with human rights organisations, and could also contribute to improving the conditions for defenders, as it includes a chapter dedicated to supporting, protecting and facilitating their work, with an earmarked budget.

Attacks on defenders assimilated with political opponents, especially defenders of indigenous peoples' rights

In this context, human rights defenders were threatened and harassed by opponents to President Morales' Government. This is partly because the opposition considers everyone who belongs to or supports indigenous or farmer communities as de facto followers of Mr. Morales and his party, MAS. Therefore, human rights defenders who fight for these communities' rights, which is the case of almost every NGO in Bolivia, as they work for the majority of the population, but at the same time the most vulnerable one, were assimilated with MAS by the opposition and were victims of numerous attacks.

On April 13, 2008 for instance, Guaraní lawyer **Ramiro Valle Mandepora**, Counsellor to the Assembly of the Guaraní People (*Asamblea del Pueblo Guaraní - APG*), Ms. **Tanimbu Guiraendy Estremadoiro Quiroz** and Mr. **Fernando Alexis Cola**, both journalists working for the APG, who were making a documentary about the cleaning-up of Guaraní land and the living conditions of Guaraní captive communities for the Centre for Legal Studies and Social Research (*Centro de Estudios Jurídicos e Investigación Social - CEJIS*) and the International Work Group for Indigenous Affairs (IWGIA), were brutally assaulted. The van they were driving in was ambushed by hundreds of persons who attacked them, pulled them out of the vehicle, beat them and took their equipment, including their accreditation documents. Although Mr. Cola was able to escape, Ms. Estremadoiro was taken to various places, threatened, insulted, mistreated and tied to a pole in the rain. A man also tried to rape her. She was released the following day and handed over to the military, which protected her. According

to the reports, the Cuevo municipal authorities themselves took part in these attacks and arrests¹².

Likewise, on September 11, 2008, in the Santa Cruz department, the offices of the Indigenous Confederation of Eastern Bolivia (*Confederación Indígena del Oriente Boliviano* - CIDOB) and the Coordinating Committee of Ethnic Peoples of Santa Cruz (*Coordinadora de Pueblos Étnicos de Santa Cruz* - CPESC) were attacked and destroyed¹³. On September 16, 2008, Mr. Mario Aguilera B., a civic leader, and Mr. Marcos Jáuregui, Vice-President of the Riberalta Regional Civic Committee (*Comité Cívico Regional de Riberalta*), accused the northern branch of the Centre for Research and Training of Peasant Farmers (*Centro de Investigación y Promoción del Campesinado* - CIPCA), the Riberalta branch of the CEJIS and the Institute for Man, Agriculture and Ecology (*Instituto Para el Hombre, Agricultura y Ecología* - IPHAE) of having provided financial support to farmers and crop workers (*zafros*) who had travelled from Riberalta to Pando in order to demonstrate and of having provoked the September 11 incident. In addition, they warned them that they should leave Riberalta within 24 hours, saying that the Civic Committee President could not guarantee what would happen if they failed to do so.

Urgent Intervention issued by The Observatory in 2008¹⁴

Names of human rights defenders / NGOs	Violations	Intervention Reference	Date of Issuance
Members of the Centre for Legal Studies and Social Research (CEJIS), Centre for Research and Training of Peasant Farmers (CIPCA) and Institute for Man, Agriculture and Ecology (IPHAE)	Threats / Defamation / Harassment	Urgent Appeal BOL 001/0908/OBS 152	September 18, 2008

12./ See APDHB.

13./ *Idem*.

14./ See the Compilation of cases in the CD-Rom attached to this report.

/ BRAZIL

OBSERVATORY FOR THE PROTECTION OF HUMAN RIGHTS DEFENDERS
ANNUAL REPORT 2009



Political context

In 2008, Brazil continued to be characterised by large socioeconomic inequalities. The socioeconomic polarisation of the Brazilian population was somewhat reduced thanks to reforms carried out under the Government of Mr. Luiz Inacio Lula da Silva, who was first elected in 2003 and re-elected in 2006. These led to a reduction in poverty and a more even distribution of income¹. Despite this evolution, Brazil still has one of the largest disparities in income distribution in the world².

Nevertheless, one of the greatest problems Brazil faced during 2008 was the conflict about land management and environmental issues in general. In May 2008, Ms. Marina Silva resigned from her post as Minister for the Environment, due, amongst others, to her strong disagreement with the Government and with powerful lobbies privileging exploitation for agriculture, livestock or biofuel at the expense of preserving the Amazon forest. Ms. Silva's successor as Minister for the Environment, Mr. Carlos Minc, declared a "zero deforestation" policy. However, in 2008 deforestation continued, due to biofuel projects involving national and international capital, and the increased share of public funds dedicated to such projects. As a consequence, funds destined for local agricultural producers shrank drastically.

In addition, the Agrarian Reform³ remained at a standstill. During 2008, a low number of landless families were relocated, representing

1./ See "Justiça Global".

2./ According to the State Institute of Applied Economic Research (*Instituto de Pesquisa Econômica Aplicada* - IPEA), the poverty rate, which was of 35% in 2003 and showed a downwards tendency in the following years, should be about 24.1% in 2008. Nevertheless, in 2008, a mere 10% of the population controlled 75.4% of the country's wealth. See IPEA, www.ipea.gov.br, 2008.

3./ The Government must adopt a number of measures in order to increase the number of family farms and improving the distribution of land in Brazil.

only 20 per cent of the families relocated in 2007. Furthermore, the situation in north-eastern Brazil was critical. In some areas, factories indeed contributed to a constant degradation of the environment through, amongst others, deforestation and pollution of rivers. These practices strongly affected local workers and communities, who received no compensation. In this context, hundreds of families continued to be evicted due to the interests of powerful landowners, and groups or individuals who dare to defend the right to land were repressed.

Stigmatisation and criminalisation of the defenders of the right to land

In 2008, in the framework of land management in Amazonia, defenders of the right to land were increasingly criminalised, and significant defenders who have been active for many years were increasingly stigmatised by the Government. Following the conclusions of an investigation carried out by the Superior Council of the Rio Grande do Sul State Public Ministry and led on the grounds that the Landless Rural Workers' Movement (*Movimento dos Trabalhadores Rurais Sem Terra* - MST) could constitute a threat to national security⁴, the Public Ministry lodged a complaint on March 11, 2008 against eight suspected members of the MST for "constituting a group aiming at changing the rule of law and the established order in Brazil, and which committed crimes of political nonconformity". The National Security Law that served as the basis for the complaint was promulgated under the military dictatorship and then tacitly revoked under the new constitutional and democratic order⁵. As of the end of 2008, the charges against the MST members remained pending.

June 2008 saw an increase in the number of obstacles against MST activities, such as investigations and judicial proceedings, prohibition of marches and demonstrations, closing of MST schools in Rio Grande do Sul State and evictions from MST camps through the use of force by

4./ In December 2007, the Superior Council decided, *inter alia*, to promote the registration of complaints aimed at dissolving the MST and declaring the movement illegal, to launch judicial proceedings to prohibit MST marches and other activities and to carry out investigations about its members living in camps as well as its leaders for organised crime and mismanagement of public funds.

5./ The provisions of Brazil's Constitution, which was promulgated in 1988, rendered the National Security Law incompatible with the new constitutional and democratic order.

the police. For instance, on June 16, 2008, two employees of the Public Ministry ordered, on the basis of a complaint⁶, the evacuation of two camps, claiming that they were “operational bases for criminal activities” that “caused great damage to landowners and society”. The following day, several hundred families of landless workers were therefore evicted by force from the two camps in the Coqueiros do Sul municipality by a military squad. Houses, crops, farms, the health clinic and school built by the landless workers were destroyed, and the landowners were threatened for “supporting the MST”. At the end of 2008, the families were still taking refuge on an area near the road, without minimum food or health conditions.

It is worth mentioning in this context that the military squad of the Rio Grande do Sul State operates under Notice of Operational Instructions No. 006 EMBM/2007, under which regional police commanders have orders to keep an up-to-date registry of all rural and urban areas that could be occupied, and which shall include information about the leaders or units present in each area. The instructions can be applied to “social movements in general as well as specific protest occupations”, and the police thus have to register and identify the “invaders” and arrest them when necessary. In September 2008, the Council for the Defence of the Rights of the Human Person (*Conselho de Defesa dos Direitos da Pessoa Humana - CDDPH*) visited the Rio Grande do Sul State to assess the situation in the area, on the ground that the Notice, which is specific to the State, is unconstitutional, and in the light of the human rights violations that took place in the area⁷. Subsequently, on September 11, 2008, the CDDPH made a request to the Public Ministry that Notice No. 006 be declared unconstitutional⁸. The request was rejected by the Public Ministry on October 31, but

6./ The complaint was based on an investigation conducted by the Public Ministry, but also on two previous reports - one that called the MST a revolutionary movement threatening public order, and another from June 2006, according to which the camps were supported by public funds, international aid and the Revolutionary Armed Forces of Colombia (*Fuerzas Armadas Revolucionarias de Colombia - FARC*), which would influence the MST in a strategic plan for creating a State without authorities, a “free State”.

7./ The reason for the CDDPH’s visit was the harassment and persecution to which the MST was subjected.

8./ It was suggested to the Public Ministry that it presents a case for unconstitutionality before the Supreme Federal Court, which has the power to declare laws unconstitutional.

the Superior Council accepted that the representative of the Prosecutor General submits a new case calling for the annulment of the Notice. However, as of the end of 2008, the Notice remained in force.

Furthermore, on May 20, 2008, Mr. **Jaime Amorim**, leader and member of the MST National Coordination, in the Pernambuco State, was sentenced to four months in “open prison”⁹ by the Criminal Court of First Instance for the Enforcement of Sentences. Mr. Amorim had taken part in a peaceful demonstration on November 5, 2005 in front of the United States embassy, for which he was arrested on August 21, 2006 for “incitement to commit a crime”. The sentence was the result of a nearly two-year process that lacked impartiality, as several witnesses were not heard. Moreover, on June 12, 2008, Mr. **José Batista Gonçalves Afonso**, lawyer for the Pastoral Land Commission (*Comissão Pastoral da Terra - CPT*), was sentenced to two years and five months’ imprisonment by the Federal Justice of Marabá for “kidnapping”. The sentence was motivated by the fact that Mr. Afonso acted as an advisor to the MST and the Federation of Agricultural Workers (*Federação dos Trabalhadores na Agricultura no Estado de Mato Grosso - FETAGRI*) in April 1999 in their negotiations with the National Institute of Agrarian Colonisation and Reform (*Instituto Nacional de Colonização e Reforma Agraria - INCRA*). At a moment of dissatisfaction with the slow and inefficient negotiations, the workers had prevented the participants in the negotiations from leaving INCRA’s official building, and Mr. José Batista Gonçalves Afonso was accused of taking part in this action.

Threats against defenders fighting against impunity

In 2008, defenders who dared to denounce the perpetrators of human rights violations and the resulting impunity continued to receive threats. On May 6, 2008 for instance, Mr. **Erwin Krautler**, Bishop of Xingu, Mr. **José Luiz Azcona Hermoso de Marajó** and Mr. **Flávio Giovenale**, Bishop of Abaetetuba, filed a complaint before the CDDPH about repeated death threats they had received because of their human rights

9./ This implies having to spend the night in prison but being free during the day.

activities¹⁰. At the end of 2008, the threats against Mr. Krautler continued. The common cause of the three men is the fight against child exploitation. In addition, Bishop Giovenale had denounced the year before the imprisonment of a teenage girl in the same cell as several men in Abaetetuba. As a result, she was ultimately released and the police officers who were responsible were suspended. Messrs. Krautler and Azcona also defend community rights against powerful landowners in the land conflict. In addition, Mr. Krautler has been under 24-hour police protection since 2007, due to the numerous threats he received in connection with the complaint he filed about the impunity in the murder of Sister **Dorothy Mae Stang**, a missionary representing the CPT and an activist in the National Movement for Human Rights (*Movimento Nacional de Direitos Humanos - MNDH*), who was shot dead in 2005¹¹.

In the Dorothy Stang case, 2008 represented a step backwards in terms of impunity. Indeed, on May 6, 2008, Mr. Vitalmiro Bastos de Moura, one of the suspected masterminds behind the murder, was acquitted in appeal. In addition, Mr. Regivaldo Pereira Galvão, the fifth suspect, who admitted, at an INCRA meeting, to be the owner of the property where the murder took place (which he had previously denied), remained free and had not been prosecuted as of late 2008 for lack of evidence. He was initially arrested for fraud and unlawful appropriation of land, but it was then known that he was also involved in the murder. The other four suspects were sentenced, except for Mr. Vitalmiro Bastos de Moura, whose sentence the Public Ministry appealed, claiming that the decision had been contrary to the facts the

10./ See Resolution No. 102 of the Special Secretariat for Human Rights of the Presidency of the Republic (*Secretaria Especial dos Direitos Humanos da Presidência da República - SEDH/PR*), CDDPH, April 23, 2008.

11./ Sister Dorothy Mae Stang was murdered on February 12, 2005 because of her support to rural workers in settlement projects that would preserve the Amazon forest in Pará State. On April 26, 2006, Mr. Amair Feijóli da Cunha, alias "Tato", was sentenced to 18 years in prison for "complicity" in Sister Dorothy Mae Stang's murder. His two accomplices, Messrs. Rayfran das Neves Sales and Clodaldo Carlos Batista, had been sentenced by the Court of Belém in Pará State to 25 and 17 years in prison respectively, on December 9 and 10, 2005. The three men are supposed to have acted on the orders of Mr. Regivaldo Galvão and Mr. Vitalmiro Bastos de Moura, two landowners, who were put in pre-trial detention in 2005.

evidence showed and requesting a new trial. As of the end of 2008, the appeal still had to be heard by the Pará State Court of Justice.

Urgent Interventions issued by The Observatory in 2008¹²

Names of human rights defenders / NGOs	Violations	Intervention Reference	Date of Issuance
Mr. Eli Dallemole	Assassination	Urgent Appeal BRA 001/0408/OBS 046	April 3, 2008
Ms. Dorothy Mae Stang	Impunity	Press Release	May 7, 2008
Mr. Jaime Amorim	Sentencing	Urgent Appeal BRA 003/0806/OBS 101.5	June 11, 2008
Landless Workers' Movement (MST)	Stigmatisation	Press Release	July 8, 2008

12./ See the Compilation of cases in the CD-Rom attached to this report.

/ CHILE

OBSERVATORY FOR THE PROTECTION OF HUMAN RIGHTS DEFENDERS
ANNUAL REPORT 2009



Political context

The year 2008 marked the 18th anniversary for the restoration of democracy in Chile. However, this democracy still suffers from shortcomings, for instance in the electoral system, since the Constitution promulgated by General Pinochet in 1980 remains in force. Although it has undergone reforms, it lacks social legitimacy, and the need for a new constitution is growing.

The work of the judiciary in connection with human rights violations committed under ex-President Augusto Pinochet's dictatorship continued to advance gradually, but with some serious contradictions. First, most judges working exclusively on cases of enforced disappearances or extrajudicial killings have chosen to respect international human rights standards, which exclude granting amnesty or prescription for such crimes, and have consequently given the perpetrators sentences that are relatively well proportionate to the gravity of their crimes. However, when the cases were brought before the court of last instance, i.e. the Supreme Court, the latter has sometimes considerably reduced the sentences, granting *de facto* impunity for the perpetrators of these serious crimes. Chile still has serious flaws, as it has not yet adapted its legislation to the Convention Against Torture, which the country has ratified, and the military courts still have much power over the civilians. The Parliament still poses a problem when it comes to approving other international instruments and establishing human rights institutions, such as the bills on a Human Rights Institute and Ombudsman (*Defensor del Pueblo*). In June 2008, a bill was presented in the Senate, which interprets Article 93 of the Criminal Code as to exclude genocide, crimes against humanity or war crimes – which are the subject of the international treaties Chile has ratified –, from periods of limitation for penal responsibility by way of amnesties, pardons or prescription. A similar bill was presented by the executive branch on August 28,

2008¹. However, at the end of 2008, these bills were still under consideration². In addition, the victims' right to reparation is largely insufficient: even though almost 30,000 victims were registered by the truth commissions, several thousand persons were left out due to the commissions' reduced capacities.

Furthermore, in 2008, a great challenge for the Chilean State was the lack of respect for indigenous peoples, mostly Mapuche, who continued to be subjected to severe discrimination and a lack of acknowledgment of their culture and rights, despite the International Labour Organisation's (ILO) Convention No. 169 concerning Indigenous and Tribal Peoples being ratified and entering into force on September 15, 2008, after being debated in Parliament for over 17 years. This is nevertheless an important milestone in the acknowledgment of these peoples. However, the areas that the indigenous peoples claim as their ancestral land continued to be plundered and occupied by large companies exploiting natural resources. These areas were also conflict zones where large armed police forces protected the interests of transnational companies, and during which assaults, arrests and arbitrary detentions took place. The confrontations even led to the death of a young Mapuche student: on January 3, 2008, Mr. Matías Catrilevo Quezada was shot by *carabineros* (uniformed police belonging to the armed forces) while he and twenty other persons were taking part in a demonstration reclaiming the ancestral land of Vilcún's Llepucu community in the Araucanía region³. In addition, in 2008, the indigenous communities in the Bío Bío and Araucanía regions were victims of house raids and other serious acts of harassment, while perpetrators did not distinguish between adults and children⁴. Some of these violent acts attributable to the *carabineros* and the investigation division of the police constituted acts of torture under the Convention Against Torture. Four cases of

1./ Not only could this bill have contributed to specifying the legal framework and improving the efficiency of proceedings to try the persons responsible for such crimes during the dictatorship, but it could also have given Chile the right to claim in the future its competence to try such crimes recognised at the international level within its territory.

2./ See the Citizens' Observatory (*Observatorio Ciudadano*) and the Centre for Mental Health and Human Rights (*Centro de Salud Mental y Derechos Humanos - CINTRAS*).

3./ See Citizens' Observatory.

4./ *Idem*.

torture were registered in 2008⁵. The majority of the acts of repression were committed against the Mapuche, who claim their ancestral lands. Those who have been imprisoned were subjected to degrading treatments, and racist insults were common⁶. Although Ms. Bachelet's Government committed to no longer employing the Anti-Terrorism Law in the conflict between the Mapuche and the State, on October 30, 2008, two students from Temuco Catholic University, Mr. Fénix Delgado Ahumada and Mr. Jonathan Vega Gajardo, were accused of throwing an incendiary bomb against the police during a street demonstration on the outskirts of the city. They were both arrested under the Anti-Terrorism Law⁷.

Repression of indigenous leaders and defenders of the rights of indigenous peoples

General repression by the police of indigenous peoples and their leaders continued in 2008. They were frequently victims of arbitrary detention, harassment, threats, violent acts and judicial proceedings. On April 22, 2008 for instance, the *Lonko* (traditional authority) of the Pascual Coña community, Mr. **Avelino Meñaco**, was released for lack of evidence after four months in detention for allegedly committing arson during a hunger strike carried out by Mapuche political prisoners on October 12, 2007. Only one week later, however, on April 30, 2008, the Special Prosecutor for Mapuche cases, Mr. Mario Elgueta Salinas, revoked the release authorised by the Cañete Court before the Concepción Court of Justice. A new order was thereby issued for Mr. Meñaco's arrest, based on alleged new evidence. Mr. Meñaco was finally released on January 2, 2009 after lengthy judicial proceedings⁸.

5./ See Report presented by the Citizens' Observatory at the fifth session of the Universal Periodic Review (May 4-15, 2009), also signed by the following NGOs: the American Association of Jurists (*Asociación Americana de Juristas - AAJ*), the Corporation for the Promotion and Defence of the Rights of the People (*Corporación de Promoción y Defensa de los Derechos del Pueblo - CODEPU*), the Corporation OPCIÓN, the Ethical Commission Against Torture (*Comisión Ética contra la Tortura*), CINTRAS, the Coordinating Committee of Human Rights of Professional Schools in Chile (*Coordinador de Derechos Humanos de los Colegios Profesionales de Chile*) and the Chilean Network of NGOs for Childhood and Youth (*Red de ONG Infancia y Juventud Chile*).

6./ *Idem*.

7./ *Idem*.

8./ Including an acquittal on November 3, 2008, followed by a request for annulment by the Prosecutors Ángel Velásquez and Mario Elgueta, and an appeal lodged by the defence against this request. See CINTRAS.

Moreover, on July 28, 2008, the leader of the Yeupeko Mapuche community, Mr. **Mauricio Huaiquilao Huaiquilao**, was approached by two policemen on his way home. The officers brought him to the police station, accusing him of being drugged and drunk. After interrogating him, they confiscated several of his belongings, including money, before they undressed him, beat him and threatened to kill him. Mr. Huaiquilao Huaiquilao was released at around 6 am on the next day without further notice⁹. At the end of 2008, the *Lonko* of the Juan Paillalef Mapuche community in the Cunco commune in Temuco, Ms. **Juana Calfunao Paillalef**, was still being detained and in very poor health condition. Ms. **Patricia Troncoso Robles**, Mr. **José Huenchunao** and Mr. **Jaime Marileo Saravia**, as well as other Mapuche leaders, also remained detained at the end of 2008. It must be stressed out that Mapuche prisoners, like all other prisoners, are being held under extremely poor conditions, which constitute mistreatment under international law.

Defenders of the rights of indigenous peoples had to work in a complex environment. They were subjected to threats and acts of harassment, including undergoing rough identity checks when entering conflict zones, receiving degrading treatments when visiting political prisoners and being subjected to unjustified interrogations and house raids. For instance, Ms. **Yénive Cavieres Sepúlveda**, a lawyer and member of the Chilean branch of the American Association of Jurists (*Asociación Americana de Juristas - AAJ*), who has defended Mapuche leaders in several trials, was arrested by *carabineros* while she was taking part in a peaceful demonstration protesting for the death of Mr. Matías Castrileo Quezada. A witness of the arrest of Ms. Orielle Núñez, Ms. Berna Castro and others demonstrators, Ms. Cavieres Sepúlveda tried to plead with the *carabineros* in her capacity as a lawyer, in order to defend the right to freedoms of expression and peaceful assembly. The police violently repressed the demonstration, and arrested Mr. **José Pallial**, a Mapuche leader, as well as his 11-year old son and 14 other Mapuche. Likewise, on May 7, 2008, Ms. **Elena Varela**, a documentary film maker, was detained and harassed by the police, who also confis-

9./ See Report to the Government by the Campaign "Stop! No More Police Violence" (*Alto ahí! Basta de violencia policial*), September 9, 2008, written by several NGOs: Citizens' Observatory, Amnesty International, AAJ, CODEPU, Corporation OPCIÓN, Ethical Commission Against Torture, CINTRAS and the Chilean Network of NGOs for Childhood and Youth.

cated all her film material. Ms. Varela was shooting the documentary “Newen Mapuche” about Mapuche communities affected by increased activity by logging companies in Araucanía and the severe repression by the police of the protests, as well as how Mapuche are subjected to judicial harassment under the Anti-Terrorism Law. Ms. Varela was released in wait of her sentence after almost ten days remand imprisonment for “constituting a danger to society”, and has not retrieved her film material, despite the Government’s commitment to help her in this regard¹⁰. In addition, on December 9, 2008, an unjustified house raid was carried out against the home of Mr. **Lorenzo Morales Cortés**, a lawyer who has defended several members and leaders of the Mapuche community. During the raid, which was ordered by the Judge of the Seventh Court of Guarantee (*Séptimo Juzgado de Garantía*), Mr. Morales Cortés’ computer was confiscated, along with important documents pertaining to trials he was working on¹¹, and his documents and files were photographed.

Criminalisation of social protest

Social protest movements were persistently criminalised in 2008. A highly worrying issue in this connection was the repression of students who took part in demonstrations. Indeed, in various demonstrations against measures adopted by the Government, such as the General Education Law (*Ley General de Educación - LGE*), students were arbitrarily and randomly detained, such as in the case of the student leader **María Jesús Sanhueza**. In other cases, students were victims of brutal police actions during which they were beaten and gas was employed against them, as in the case of Ms. **Carolina Angulo**¹². It is

10./ *Idem*.

11./ Including his entire defence for the December 15 trial at the San Miguel Appeals Court in Santiago, where he had planned to protest against the request for annulment of the acquittal of Mr. Avelino Meñaco for his arson charges.

12./ One of the most dramatic events occurred on June 16, 2008, providing evidence for the police’s use of gas and water mixed with chemicals in their water cannons, which was testified to by a number of complaints and images from the protests that appeared in the media. At 2 pm on this day, a water cannon vehicle (*guanaco*) dispersed a student demonstration. Fleeing from the smell of the liquid, Ms. Carolina Angulo suffered a cardiac arrest. Students complained that the police did not pay sufficient attention to the girl lying on the ground and that the water cannon vehicle passed by the spot where she laid, firing liquid with toxic gases. This was corroborated by a video recorded at the time. See Report to the Government by the Campaign “Stop! No More Police Violence”, September 9, 2008.

worth noting that, in the framework of the student mobilisations in 2008, the national authorities repeated that unauthorised demonstrations would not be tolerated, that students should be in class, not in the streets, and that violence was linked to the peaceful takeovers of educational institutions. Even though there was some violence, and in some cases damage, these cases were much fewer in relation to the number of students participating in demonstrations over the past two years. At the same time, the authorities urged educational institutions to apply internal sanctions and to resort to courts to empty occupied buildings.

Similarly, various workers' demonstrations were organised throughout 2008, during which workers and several trade union leaders were brutally assaulted by the police. On January 24, 2008 for instance, Ms. **Claudia Álvarez**, leader of the Copiapó Temporary Agricultural Workers' Union (*Sindicato de Trabajadores Eventuales y Transitorios del Sector Agrícola de Copiapó*), and Mr. **Javier Castillo**, leader of the Workers' United Confederation in Chile (*Central Unitaria de Trabajadores - CUT*), were arrested and accused of "encouraging the violence" when 500 armed special force policemen intervened in a demonstration organised by a group of temporary workers who demanded higher wages and better working conditions in Los Loros in the Tercera region. In addition, on August 20, 2008, Mr. **Leonel Báez Orellana**, leader of the National Union of the San Felipe Ltd Construction Company Workers (*Sindicato Nacional de Trabajadores de la Empresa Constructora San Felipe S.A.*), was brutally beaten and detained along with other union members during a peaceful demonstration in Tocopilla, which was interrupted by heavily armed policemen. On the following day, Mr. Baéz had to undergo surgery for the severe injuries he sustained during the police action¹³.

13./ See Report to the Government by the Campaign "Stop! No More Police Violence", September 9, 2008.

Urgent Interventions issued by The Observatory in 2008¹⁴

Names of human rights defenders	Violations	Intervention Reference	Date of Issuance
Ms. Yénive Cavieres Sepúlveda and Mr. José Pallial	Arbitrary detention	Press Release	January 11, 2008
Ms. Juana Calfunao Paillalef	Worrying health condition / Arbitrary detention	Urgent Appeal CHL 001/0705/OBS 056.9	June 18, 2008
Mr. Lorenzo Morales Cortés	House raid / Harassment / Fear for safety	Urgent Appeal CHL 001/1208/OBS 214	December 16, 2008

14./ See the Compilation of cases in the CD-Rom attached to this report.



/ COLOMBIA

OBSERVATORY FOR THE PROTECTION OF HUMAN RIGHTS DEFENDERS
ANNUAL REPORT 2009

/ AMERICAS

Political context

In 2008, the Colombian population continued to suffer the consequences of the internal armed conflict that has ravaged the country for the last 40 years. The different actors in the conflict, the regular forces (army and police), paramilitary groups and the guerrilla groups committed violations against human rights and international humanitarian law in the form of, *inter alia*, extrajudicial executions, disappearances and forced displacements, torture and kidnapping against the civilian population. In this context, at the end of September 2008, a scandal was unveiled concerning the extrajudicial execution by the police of poor young people, who were later described by the army as guerrilla fighters killed in combat¹. This practice, commonly known as “false positives”, falls under the “democratic security” policy promoted by President Uribe in the fight against the guerrilla. It includes a reward system for soldiers, depending on the number of deaths of alleged guerrilla fighters. As a result of these events, an investigation was opened at the end of 2008 and up to forty soldiers were dismissed² but very few were prosecuted. In a Press Release on October 29, 2008, the United Nations High Commissioner for Human Rights repeated its recommendation, formulated in her 2007 Annual Report handed over to the Government and to the armed forces commanders, to continue with their efforts to eradicate extrajudicial executions, adopt measures to prevent, investigate, sanction such acts, and make them public.

The guerrilla of the Revolutionary Armed Forces of Colombia (*Fuerzas Armadas Revolucionarias de Colombia* - FARC) continued to carry out numerous violations of international humanitarian law, although

1./ The Colombian Commission of Jurists (*Comisión Colombiana de Juristas* - CCJ) recorded 1,205 cases of extrajudicial executions directly attributed to the police force between July 2002 and June 2008.

2./ See Colombia-Europe-United States Coordination (*Coordinación Colombia-Europa-Estados Unidos*), September bulletin 2008.

they seem to have been weakened by the Government's operations in 2008, which resulted in the capture and execution of various important members. On March 2, 2008, the Colombian army executed the second in command of the FARC, Mr. Raúl Reyes, during an operation in Ecuadorian territory, which created political tensions with Ecuador and Venezuela. In addition, on different occasions in 2008, 27 hostages held by the FARC were freed, both in the framework of unilateral releases or releases resulting from Government operations. For instance, in Operation "Jaque" on July 2, 2008, 15 people were released³.

There were a few advances in the Colombian judicial system regarding the fight against impunity, such as the detention and the opening of trials against more than 70 members of the Congress of the Republic, linked to investigations into alleged connections with paramilitary groups, carried out by the Supreme Court of Justice. This laudable work by the Court was nonetheless discredited by President Alvaro Uribe Vélez.

At the beginning of 2008, President Uribe had lodged a complaint against the President of the Supreme Court, Mr. César Julio Valencia Copete, for "libel and slander" in the framework of an investigation and a trial held by the Supreme Court of Justice to dismantle the paramilitary structures infiltrated in the Colombian State⁴. On this occasion, President Uribe also accused the Supreme Court of Justice of organising a "conspiracy" against him and on June 26, 2008, he reproached judges for "applying selective justice" and "falling into the trap of agonising terrorism"⁵. Then, at the end of June 2008, the Minister for Social Protection and the Commissioner for Peace demanded that the Accusation Committee of the Chamber of Representatives investigate the magistrates of the Supreme Court in connection with drug trafficking and for false charges.

3./ Following the liberation of these 15 hostages, the EU Presidency expressed its satisfaction with this happy outcome, whilst reasserting its determination to continue mobilising its resources until the liberation of all hostages. See Declaration of the EU Presidency, July 2, 2008.

4./ See José Alvear Restrepo Lawyers' Collective (*Colectivo de Abogados José Alvear Restrepo - CCAJAR*).

5./ See President of the Republic's Press Release, June 26, 2008. For the Supreme Court's reply, see *La Tercera* (Chile) July 1, 2008.

On May 13, 2008, the Government authorised the extradition of thirteen paramilitary group leaders and one drug dealer to the United States, where they face charges of drug trafficking. In total, 17 paramilitary group leaders were extradited in 2008. These individuals were extradited after they had begun to confess their participation in serious human rights violations, in the framework of the implementation of the Justice and Peace Law. This thwarted the course of these trials and promoted the impunity for these violations, preventing the victims from having access to their right to truth, justice and reparation. The Inter-American Commission of Human Rights (IACHR)⁶ and the United Nations High Commissioner for Human Rights expressed their concern regarding these extraditions⁷.

Along with the Afro-Colombian population, indigenous peoples make up the majority of those displaced within Colombia. This is one of the country's main problems, which greatly contributes to the lack of respect of their rights and the failure to recognise their communities. Towards the end of 2008, the Colombian Government recorded more than 2,8 million internally displaced persons in the country. NGOs such as the Consultancy on Human Rights and Displacement (*Consultoria para los Derechos Humanos y el Desplazamiento* - CODHES) consider that the figure is much higher, exceeding four million persons displaced by the internal armed conflict since the mid 1980s⁸. In a recent report, CODHES stated that forced displacement increased by 24.47% in comparison with 2007. According to the same report, at least 76,172 family groups were compelled to leave their homes in 2008⁹.

Colombia was considered under the United Nations Universal Periodic Review on December 10, 2008. During the review, various subjects requiring special attention from the Colombian Government were highlighted by other countries. These included impunity for human rights violations, human rights violations by public forces, para-

6./ See CIDH Press Release No. 21/08, May 14, 2008

7./ See Press Release of the Office of the High Commissioner for Human Rights (OHCHR) in Colombia, May 13, 2008.

8./ See United Nations High Commissioner for Refugees (UNHCR), <http://www.acnur.org/crisis/colombia/desplazamiento.htm>. According to UNHCR, in 2008 Colombia was the second country, after Sudan, in terms of the number of displaced persons.

9./ See CODHES, *Boletín Informativo N° 75*, April 22, 2008.

military groups and guerrilla groups, the worrying situation of human rights defenders, the need to take complementary steps to reinforce internal legislation on enforced disappearances, and the need to adopt necessary measures to reduce the number of displaced persons within the country¹⁰.

Wave of repression and threats against defenders following the March 6, 2008 rally

As a result of the rally that was organised on March 6, 2008 by various organisations to pay tribute to victims of paramilitarism and State crimes, high-ranking Government officials publicly declared that it had been organised by the FARC. Furthermore, the rally led to a strong wave of repression through threats, attacks and even the murder of human rights defenders and union leaders between February and April 2008, for having organised the rally¹¹. As a result of these accusations, four people were murdered¹². Human rights violations against defenders were encouraged, *inter alia*, by public declarations such as the ones made by Mr. José Obdulio Gaviria, principal advisor to President Uribe, in an interview to *Caracol Radio*, on 10 February 2008, in which he claimed that the rally had been organised by the FARC. In this context, Ms. **Adriana González Correa**, Executive Secretary of the section of the Permanent Committee for the Defence of Human Rights (*Comité Permanente por la Defensa de los Derechos Humanos* - CPDH) in the department of Risaralda, was the victim of an assassination attempt on February 29, 2008. On the same day, Mr. **Guillermo Castaño Arcila**, President of the CPDH in Risalda, Mr. **Mauricio Cubides**, member of the Agricultural Worker's Union (*Federación Sindical de Trabajadores Agrícolas* - FENSUAGRO), and Mr. **Diego Macías**, member of the Peasants' Corporation for Sustainable Development (*Corporación Campesina para el Desarrollo Sustentable* - CORPOCAM), received threats that designated them as military targets. Moreover, Mr. **Iván Cepeda Castro**, the representative of the National Movement for Victims of State Crimes (*Movimiento*

10./ See Human Rights Council, *Report of the Working Group on the Universal Periodic Review, Colombia*, United Nations Document A/HRC/10/82, January 9, 2009.

11./ The IACHR, in its Press Release No. 15/08 dated April 10, 2008, expressed its concern about these threats and urged the Colombian State "to investigate, prosecute, and punish those responsible for these threats and to guarantee the security of human rights defenders and social leaders".

12./ See Press Release of the OHCHR Office in Colombia, May 13, 2008.

Nacional de Víctimas de Crímenes de Estado), was criticised and discredited following his rejection of the allegations of the presidential advisor Mr. José Obdulio Gaviria on *Caracol Radio* on February 10, 2008, and his restatement that the members of his movement and the organisers of the rally were against all illegal armed group, “whether they be FARC or paramilitary groups”. He also explained that the date of March 6 was chosen since it coincided with the opening of the Fourth National Gathering of Victims of Crimes against Humanity, Genocide and Human Rights Violations, to be held in Bogotá. On February 11, 2008, the National Movement of Demobilised Self-Defence Groups (*Movimiento Nacional de Autodefensas Desmovilizadas*) criticised the rally planned for March 6 in a statement that discredited Mr. Cepeda Castro and suggested that there were links between the March 6 rally organisers and FARC.

Threats and harassment against defenders from paramilitary groups

In 2008, human rights defenders continued to be subjected to threats and acts of harassment, particularly from paramilitary groups. For instance, on April 10, 2008, a threat was sent to various email addresses signed by the paramilitary group “Black Eagles, northern block of Colombia” (*Águilas Negras, Bloque Norte de Colombia*), in which it declared that members of the Farmers and Mining Federation of Southern Bolívar (*Federación Agrominera del Sur de Bolívar - FEDEAGROMISBOL*), the Corporation Sembrar, the Programme for Development and Peace in Magdalena Medio (*Programa de Desarrollo y Paz del Magdalena Medio*), as well as the priests of Regidor and Tiquisio were declared as military targets. In all threats, it was stated that “their names are on the national Government’s list of undesired persons who must be eliminated” and it designated them as helpers or members of guerrilla groups. Those defenders and organisations were not only threatened, but also followed in the municipalities of Tiquisio, Arenal, Morales, Aguachicha, La Gloria and Regidor.

Human rights defenders and organisations working in the Nariño region were often the victims of threats and their activities declared illegitimate on several occasions. On February 12, 2008, the Indigenous Unity for the Awa People (*Unidad Indígena del Pueblo Awá - UNIPA*) organisation, in the department of Nariño, which belongs to the National Indigenous Organisation of Colombia (*Organización*

Nacional Indígena de Colombia - ONIC), along with 13 other social organisations in Nariño, received threats via email from the paramilitary group “New Generation” (Nueva Generación). In addition, on October 23, 2008, various organisations such as the CPDH, the Nariño branch of the National Movement of Victims and the Judicial Corporation Humanity in Force (*Corporación Jurídica Humanidad Vigente*), as well as organisations for the defence of indigenous rights, received a statement via email from the paramilitary group “Gaitanist Self-Defence Forces of Colombia” (*Autodefensas Gaitanistas de Colombia*), which accused them of having connections “with the guerrilla terrorist groups operating in the Nariño region”. For this reason, the paramilitary group felt obliged to continue with what they called “the anti-subversive fight in defence of the States’ interests”. They also urged “all persons, communities and other so-called human rights organisations in Nariño to begin an internal purge to end their connections with guerrilla terrorist groups for once and for all...”. On another occasion, on November 11, 2008, the aforementioned human rights organisations and the Foundation for Development and Peace (*Fundación Desarrollo y Paz* - FUNDEPAZ), the Nariño section of the CPDH, UNIPA and the Judicial Corporation Humanity in Force received telephone threats in which they were warned that they had 30 days to leave the region. Although the authors of these threats remained unidentified, the threatened human rights organisations believe that they were linked to the threats received on October 23, 2008. Likewise, on November 11, 2008, various human rights defenders received threats. These people included Ms. **Jahel Quiroga**, Director of the Corporation for the Defence and Promotion of the Human Rights (*Corporación para la Defensa y la Promoción de los Derechos Humanos* - REINICIAR), Mr. **Fernando Escobar**, Spokesperson for the municipality of Soacha, Mr. **Gustavo Petro**, Senator of the Republic, Mr. **Jorge Rojas**, Director of CODHES, and Mr. Iván Cepeda, who had all reported the forced recruitment and subsequent extrajudicial execution of 11 young men from Soacha, who had been identified by the Colombian army as “guerrilla fighters killed in combat” (in the case of above-mentioned “false positives”).

Defamation by the authorities and criminalisation of the activities of defenders fighting against impunity and denouncing human rights violations

Throughout 2008, civil society organisations and human rights defenders were subjected on numerous occasions to slanderous declarations by the Colombian Government, coming from both the President of the Republic and his presidential advisers and ministers. Apart from the incendiary declarations made by Mr. José Obdulio Gaviria after the March 6, 2008 rally, on May 6, 2008 whilst in the city of Montería, President Uribe totally discredited human rights activities, thereby putting defenders and human rights organisations at risk. The President stated that “there are people in Colombia, like Dr. Iván Cepeda, who hide behind and thrive on the protection of victims to lead NGOs in order to ask funds from the international community. They use the protection of victims to instigate human rights violations against the people that do not share their ideas. And nothing happens to them. They make use of the protection of victims to travel abroad and discredit the Colombian Government and institutions...”. In the afternoon of the same day, whilst repeating some of the statements made in Montería, President Uribe again referred to and criticised human rights activities during the commemoration of the 99th anniversary of the Superior School of War in Bogotá. Similarly, on September 9, 2008, on National Human Rights Day, the Defence Minister, Mr. Juan Manuel Santos, used his speech to discredit both the report of the International Observation Mission on Extrajudicial Executions (*Misión Internacional de Observación sobre las Ejecuciones Extrajudiciales*) and the Colombia-Europe-United States Coordination in front of the media and the commanders of all ranks of the armed forces. The Minister proceeded to make dubious allegations about a report that had not yet been made public and he announced its future publication, raising questions about the way in which the Defence Ministry obtains or uncovers information pertaining to NGOs and social organisations. A few days before, information was circulated amongst different communication channels that claimed that intelligence units had established that people linked to the PC3¹³, the FARC political organisation, were “behind the Final Report of the International Observation Mission on Extrajudicial Executions and

13./ The PC3 is the Clandestine Communist Party (*Partido Comunista Clandestino*).

Impunity in Colombia”. On November 1, 2008, during a community council in Envigado (Antioquia), the President referred to the work carried out by Amnesty International and Human Rights Watch, and particularly to the Director for the Americas of the latter, Mr. **José Miguel Vivanco**, by saying “I simply want to tell Mr. Vivanco and Amnesty International fellows that they do not need to teach us about human rights, Christian values or democratic convictions...I would like to remind Mr. Vivanco that he is not our human rights teacher, we do not accept him as such, and here we have lost all respect for him a long time ago”¹⁴.

Human rights defenders saw also the criminalisation of their activities and were subjected to judicial harassment and arbitrary detentions. On November 4, 2008 for instance, national police and district units of the Prosecutor’s office carried out massive arrests in the municipality of Arauquita, in the Arauca department. Mr. **Martin Sandoval**, President of the CPDH for that department, was arrested along with thirteen social leaders of the region, and charged with rebellion. They had all reported numerous human rights violations committed against the population during the implementation of the “democratic security” policy. At the end of 2008, Mr. Sandoval remained under arrest and his trial for “rebellion” was awaiting further elements for the investigation.

Murders, serious acts of repression and attacks against defenders of trade union rights and worker’s rights

In Colombia, trade unionists are amongst the activists who suffer most repression and, for many years, they have been subjected to repeated threats, acts of harassment, as well as murders. In 2008, the situation did not improve: murder statistics showed an increase in comparison with 2007. According to the Central Workers Union of Colombia (*Central Unitaria de Trabajadores de Colombia* - CUT)¹⁵, there were 49 murders of trade union members and leaders, which represents a 25 % increase compared with the figures recorded in 2007 (which

14./ See CCJ.

15./ See CUT Press Release, February 26, 2009. The CCJ, which only counts cases targeting trade union leaders and not militants, reported 14 cases of assassinations or disappearance of defenders, whilst the National Trade Union College (*Escuela Sindical Nacional* - ESN) registered 49 assassinations of trade unionists in 2008.

amounted to 39). At the end of 2008, the total number of murdered trade unionists in the last 23 years was estimated around 2,694. In this context of strong intimidation, Messrs. **Domingo Flórez, Luis Javier Correa Suárez** and **Luis Eduardo García**, leaders of the National Union of Food Industry Workers (*Sindicato Nacional de Trabajadores de la Industrias de Alimentos - SINALTRAINAL*), received death threats on February 12, 2008, signed by the Black Eagles paramilitary group.

In addition, the murder of trade union leaders due to their defence of workers' rights continued. In a short succession of days in March 2008, Ms. **Carmen Cecilia Carvajal**, a member of the North Santander Teachers' Association (*Asociación de Institutores Norte Santandereanos - ASINORT*), Mr. **Leonidas Gómez Rozo**, leader of the National Union of Bank Employees (*Unión Nacional de Empleados Bancarios - UNEB*), Mr. **Goldardo Antonio Gómez Alzate**, delegate for the Antioquia Teachers' association (*Asociación de Institutores de Antioqui - ADIDA*), and Mr. **Carlos Burbano**, member of the Board of Directors for the Association of Colombian Hospital Workers (*Asociación Nacional de Trabajadores Hospitalarios - ANTHOC*), were murdered in Bogotá, Ocaña (northern Santander), Medellín and San Vicente del Caguán (Caquetá). Similarly, on March 22, 2008, Mr. **Adolfo González Montes**, leader of the Barrancas section of the Coal Industry Workers' National Union (*Sindicato Nacional de los Trabajadores de la Industria del Carbón - SINTRACARBON*), was tortured and then murdered in his residence in the city of Riohacha, Guajira. In addition, Mr. **Jesús Heberto Caballero Ariza**, substitute attorney for the Atlántico section of the National Apprenticeship Service Trade Union (*Sindicato Nacional del Servicio Nacional de Aprendizaje - SINDESENA*), was found dead on April 17, 2008, his body showing evident signs of torture. Mr. **Guillermo Rivera Fúquene**, President of the Public Servants' Union of Bogotá (*Sindicato de Servidores Públicos de Bogotá - SINSRVPUB*), a member trade-union of the Colombian Workers Confederation (*Confederación de Trabajadores de Colombia - CTC*), who had disappeared on April 22, 2008, was found dead, his body showing signs of torture, two days after his disappearance, in the city

of Ibagué, in the Tolima department. However, his family was not notified until July 15, 2008¹⁶.

Serious acts of repression and assaults against defenders of indigenous peoples' rights

In 2008, the leaders of the indigenous and displaced communities were again victims of particularly serious reprisals, which threatened their integrity and their right to life. Those reprisals came as a result of their defence of the interests and the rights of indigenous peoples. Mr. **Jesús Emilio Tuberquia**, legal representative of the San José de Apartadó Peace Community (*Comunidad de Paz de San José de Apartadó*), was the victim of an attack by two paramilitaries on November 1, 2008. The displaced community and its members have been subjected to threats and other forms of harassment, including murders, for various years. Moreover, on December 16, 2008, Mr. **Edwin Legarda**, the husband of Ms. **Aída Quilcué**, indigenous leader and Chief Council of the Cauca Indigenous Regional Council (*Consejo Regional Indígena del Cauca- CRIC*), who promoted the National Minga of Indigenous and Popular Resistance (*Minga Nacional de Resistencia Indígena y Popular*) on October 12, 2008¹⁷, was murdered by members of the regular army as he was driving a van allocated to his wife. The day before, Ms. Quilcué had returned from Geneva, Switzerland, where she had

16./ Subsequent to the aforementioned assassinations, the Special Representative of the Secretary-General on the situation of human rights defenders, Ms. Hina Jilani, the Special Rapporteur on extrajudicial, summary or arbitrary executions, and Mr. Philip Alston, the Special Rapporteur on the independence of magistrates and lawyers, Mr. Leando Depouy, recalled that in the first months of 2008, 21 trade-unionists and civil society leaders were murdered, and death threats were sent to defenders from all backgrounds. The Special Procedures called on the Colombian Government to take the necessary measures and to acknowledge the importance of their work, as well as to stop the endemic impunity for the crimes and violations committed against human rights defenders in Colombia. See OHCHR Press Release, April 30, 2008.

17./ A National Minga of Indigenous Resistance is a day of community, social and popular unity during which demonstrations and rallies for the respect of the rights of indigenous populations, and in particular their right to land ownership, were carried out. In this case, the Minga was organised by ONIC on the anniversary of the discovery of America, on October 12, with the aim of, *inter alia*, recalling that since 1492 indigenous populations have been systematically exterminated, as well as to demonstrate in favour of the defence of life and territorial, political, environmental and food rights of indigenous populations. Moreover, the Minga was organised to demand the fulfilment of the Government's promises regarding the distribution of land and to reject the repression they have been victims of. Armed forces retaliated by opening fire against demonstrators, claiming that terrorists were infiltrated amongst them.

participated in the United Nations Human Rights Council Universal Periodic Review¹⁸.

Acts of repression against women's rights defenders

In 2008, defenders and organisations who advocate for women's rights continued to be subjected to acts of harassment, threats and even assassinations. For instance, the members of the Women's Popular Organisation (*Organización Feminina Popular - OFP*) received threats throughout the year. On June 21, 2008, hooded men riding a motorbike distributed a pamphlet in various districts of Barrancabermeja, in which they threatened various organisations, including the OFP. In the night of September 24, 2008, during events that took place in the city of Medellín that night, Ms. **Olga Marina Vergara**, leader of the Antioquia section of the NGO Women of the Peaceful Route (*Ruta Pacífica de las Mujeres - RPM*), who was leading the activities of the RPM in the districts of the north-eastern part of Medellín, was murdered in her residence in el Prado, one of the city's central districts. A group of hit men arrived and fired various times at her, her son, her daughter-in-law and five-year old grandson. These crimes took place at the same time as the RPM was launching in Bogotá its book *Las violencias contra las mujeres en una sociedad en guerra*. This organisation also fights against the recruitment of young people by illegal armed groups and armed forces, using the slogan "We don't give birth for war" (*no parimos hijos para la guerra*).

18./ See EU Presidency Declaration after the violent death of Mr. Edwin Legarda, December 19, 2008.

Urgent Interventions issued by The Observatory in 2008¹⁹

Name of human rights defenders / NGOs	Violations	Intervention Reference	Date of Issuance
Mr. Armando Montañez and Mr. Jutínico Gomez	Murder / Harassment	Urgent Appeal COL 001/0108/ OBS 010	January 25, 2008
Mr. José Domingo, Mr. Luis Javier Correa Suarez and Mr. Luis Eduardo García	Death threats	Urgent Appeal COL 023/1207/OBS 166.1	February 19, 2008
Mr. Iván Cepeda Castro, Indigenous Unity for the Awa People (UNIPA), National Indigenous Organisation of Colombia (ONIC) and 11 NGOs in Nariño	Defamation campaign / Threats	Press Release	February 20, 2008
Mr. Iván Cepeda Castro	Acts of harassment and intimidation / Fear for personal integrity	Urgent Appeal COL 010/0508/ OBS 078	May 15, 2008
Mr. David Ravelo Crespo	Death threats / Serious harassment	Urgent Appeal COL 002/0208/ OBS 025	February 26, 2008
Ms. Adriana González Correa, Mr. Guillermo Castaño Arcila, Mr. Mauricio Cubides and Mr. Diego Macías	Death threats	Urgent Appeal COL 003/0308/ OBS 034	May 5, 2008
Mr. Leonidas Gómez Rojo and Mr. Rafael Boada	Murder / Grave attack / Serious harassment	Urgent Appeal COL 004/0308/ OBS 037	March 13, 2008

19./ See the Compilation of cases in the CD-Rom attached to this report.

Name of human rights defenders / NGOs	Violations	Intervention Reference	Date of Issuance
<p>Ms. Ana Maria Rodríguez, Ms. Luz Helena Ramírez, Ms. Diana Marcela Gomez Correal Diana Sanchez, Ms. Jahel Quiroga, Mr. Albeiro Betancourt, Lizarazo, Mr. Luis Sandoval, Ms. Viviana Ortiz, Ms. Diana Gomez, Mr. Francisco Bustamante, Ms. Nancy Carvajal, Ms. Luz Estella Aponte, Mr. Pablo Arenales, Ms. Yulieth Tombe, Mr. Juan Pineda, Ms. Virgelina Chara, Ms. Nubia, Ms. Ester Marina Gallego, Ms. Nancy Fiallo, Mr. Omar Hernandez, Ms. Diana Marcela Caicedo, Ms. Sislsa Arias, Mr. Jorge Ramirez, Ms. Nelly Vellandia, Ms. Blanca Sarmiento, Mr. Libardo Pedrozo, Mr. Alfonso Silva, ONIC, Women of the Pacific Route, Civil Society Permanent Assembly for Peace, the National Movement of Victims (MOVICE), the Association for Alternative Social Promotion (MINGA), the Corporation for the Defence and Promotion of the Human Rights REINICIAR, FUNDIP, ASOPRON, National Association for Solidarity Support (ANDAS), ASDEGO, the National Federation of Agrarian Cooperatives (FENACOA), the Association for the Development and Integrity of Women, Youth and Children (ASOMUJER), The Advisory for Human Rights and Displacement (CODHES) and the Colombian Central Union for Workers (CUT)</p>	<p>Death threats / Serious harassment</p>	<p>Urgent Appeal COL 005/0308/OBS 038</p>	<p>March 17, 2008</p>

Name of human rights defenders / NGOs	Violations	Intervention Reference	Date of Issuance
Ms. Carmen Cecilia Carvajal, Mr. Leonidas Gómez Rojo, Mr. Rafael Boada, Mr. Gildardo Antonion Gómez Alzate, Mr. Carlos Burbano	Murder	Press Release	March 19, 2008
Mr. Darío Tote, Ms. Ingrid Vergara Chávez, Mr. Pedro Geney	Threats	Press Release	March 19, 2008
Mr. Adolfo Gonzalez Montes	Murder	Urgent Appeal COL 006/0408/ OBS 043	April 1, 2008
Ms. Ingrid Vergara	Death threats / Harassment	Urgent Appeal COL 007/0408/ OBS 052	April 10, 2008
The Farmers and Mining Federation of Southern Bolívar (FEDEAGROMISBOL), Corporation for Professional Community Services SEMBRAR, Magdalena Medio Peace and Development Programme and priests of Regidor and Tiquisio	Death threats / Harassment	Press Release	April 14, 2008
Mr. Jesús Heberto Caballero Heriza	Murder / Torture	Urgent Appeal COL 008/0408/ OBS 062	April 23, 2008
Mr. Jorge Enrique Gambo Caballero, Ms. Carolina Rubio, Mr. Principe Gabriel Gonzalez, Mr. David Florez, Mr. Javier Correa, Mr. Alfredo Valdivieso, Mr. Juan Jaimes, Mr. Rafael Ovalle, Ms. Martha Díaz, Mr. Miguier Conde, Mr. Mauricio Martínez, Ms. Norma, Mr. José Bautista, Ms. Maria Cardona, Mr. Nicanor Arciniegas, Mr. Pablo Vargas, Mr. Fernando Porras, Ms. Teresa Baez, Ms. María Cedeño, Mr. Nicolás Castro, Mr. José Humberto Torres and Mr. Jesús Tovar	Attempted murder / Death threats	Open Letter to the authorities	April 28, 2008

Name of human rights defenders / NGOs	Violations	Intervention Reference	Date of Issuance
Mr. Guillermo Rivera Fúquene	Alleged enforced disappearance	Urgent Appeal COL 009/0408/ OBS 067	April 28, 2008
	Death / Torture	Urgent Appeal COL 009/0408/ OBS 067.1	July 29, 2008
Mr. Andrés Gil, Mr. Oscar Duque, Mr. Mario Martínez, Mr. Evaristo Mena, Mr. Ramiro Ortega, Mr. Miguel Angel González Huepa	Release / Judicial harassment / Arbitrary detention	Urgent Appeal COL 019/1007/OBS 122.1	May 20, 2008
Mr. César Tamayo, Mr. David Florez, Mr. Javier Correa, Mr. Cesar Plazas, Ms. Martha Diaz, Mr. Fernando Porras, Mr. William Rivera, Mr. Gustavo Mendoza, Ms. Carolina Rubio, Ms. Nohora Villamizar, Ms. Belcy Rincón	Threats	Open Letter to the authorities	June 24, 2008
Mr. Guillermo Castaño Arcila, Mr. Mauricio Cubides, Mr. Diego Macías	Death threats	Urgent Appeal COL 011/0608/ OBS 110	June 26, 2008
The Feminine Popular Organisation (OFP), the Regional Corporation for the Defence of Human Rights (CREDHOS), the Peace and Development Programmes (PDP), the Workers' Union (USO), the National Trade Union of Workers of Petroleum, Petrochemical and Related Contractors, Services Subcontractors and Activities (SINDISPETROL), the Trade union of the company Colombian Fertilisers (FERTICOL)	New threats	Urgent Appeal COL 012/0708/ OBS 123	June 23, 2008

Name of human rights defenders / NGOs	Violations	Intervention Reference	Date of Issuance
Ms. Elizabeth Gómez, Ms. Luz Marina Arroyabe, Ms. Senaida Parra, Ms. Andrea Abello, Ms. Tania Halle, Ms. Yimmi Jansasoy, Mr. Fabio Ariza, Mr. Carlos Torres and Mr. Eduard Mina	Death threats / Harassment	Urgent Appeal COL 013/0808/ OBS 143	August 26, 2008
Mr. Luis Mayusa Prada, Mr. Manuel Erminso Gamboa Meléndez, Mr. José Omar Galeano Martínez and Mr. Alexander Blanco Rodríguez	Ongoing assassinations	Open Letter to the authorities	September 2, 2008
Mr. Yimmi Jansasoy, Mr. Abilio Peña, Mr. Danilo Rueda, Ms. Elizabeth Gómez, Mr. Eduard Mina, Mr. Fabio Ariza, Ms. Luz Marina Arroyabe, Ms. Andrea Abello and Mr. Carlos Torres	Increase in death threats / Harassment	Open Letter to the authorities	September 5, 2008
Ms. Dora Lucy Arias and Mr. Juan Carlos Valencia	Death threats / Harassment	Urgent Appeal COL 014/0908/ OBS 154	September 19, 2008
Domingo Tovar Arrieta, Rodolfo Vecino Acevedo, Nelso Berrio, Rafael Cabarcas, Lenin Fernández, Angel Salas, Juan Mendoza, Miguel Bobadilla, Eberto Díaz, Luis Sandoval, Omar Hernández, Viviana Ortiz, Albeiro Betancourt, Álvaro Londoño, Yesid Camacho, Gilberto Martínez, Ever González y Hernando Hernández, as well as CUT, Corporation Reiniciar, Association for Alternative Social Promotion Minga, USO, ANDAS, FENACOA, National Association of Hospital Workers (ANTHOC), José Alvear Restrepo Lawyers' Collective (CCAJAR) and the Foundation Committee for Solidarity with Political Prisoners (FCSP)	Death threats / Harassment / Murder	Open Letter to the authorities	September 24, 2008

Name of human rights defenders / NGOs	Violations	Intervention Reference	Date of Issuance
Ms. Olga Marina Vergara	Murder	Urgent Appeal COL 015/1008/ OBS 159	October 1, 2008
Mr. Walberto Hoyos Rivas	Murder	Urgent Appeal COL 016/1008/ OBS 167	October 21, 2008
Mr. Jesús Emilio Tuberquia	Attempted murder / Harassment	Urgent Appeal COL 017/1108/ OBS 179	November 4, 2008
Mr. Martín Sandoval, Mr. Olegario Araque, Mr. Santiago Gómez, Mr. Gonzalo Losada, Mr. Carlos Botero, Mr. Guillermo Díaz and Mr. José Santos Ortiz and the Permanent Committee for the Defence of Human Rights (CPDH), the Movement of Victims and the Judicial Corporation Humanity in Force	Arbitrary detentions / Ongoing death threats	Urgent Appeal COL 018/1108/ OBS 181	November 4, 2008
Development and Peace Foundation (FUNDEPAZ), UNIPA and MOVICE	Death threats	Urgent Appeal COL 018/1108/OBS 181.1	November 12, 2008
Ms. Diana Nocua Caro	Death threats / Intimidation	Urgent Appeal COL 019/1108/ OBS 184	November 7, 2008
Mr. Fernando Escobar, Mr. Jahel Quiroga Carrillo, Mr. Gustavo Petro, Mr. Iván Cepeda, Mr. Jorge Rojas	Death threats / Serious harassment	Urgent Appeal COL 020/1108/ OBS 186	November 11, 2008
Mr. Carmelo Agamez Berrio	Arbitrary detention / Judicial proceedings	Urgent Appeal COL 021/1108/ OBS 202	November 26, 2008
Mr. Edwin Legarda, Ms. Aida Quilcué, Mr. Joel Pérez Cárdenas	Murder	Press Release	December 17, 2008

/ CUBA

OBSERVATORY FOR THE PROTECTION OF HUMAN RIGHTS DEFENDERS
ANNUAL REPORT 2009



Political context

On February 24, 2008, Mr. Fidel Castro was officially replaced by his brother Raúl Castro as President of the Council of State and therefore as the Head of State, following a vote by the National Assembly. This took place 19 months after all political and institutional functions had been delegated to him. In order to ease the dialogue, the European Union decided to definitively lift sanctions in June 2008. Nevertheless, as of the end of 2008, the drastic embargo imposed by the United States for the last 46 years remained in force. The latter has serious repercussions on Cuban fundamental rights, such as the rights to food and health.

The change in political leader coincided with the signing of the International Covenant on Economic, Social and Cultural Rights and the International Covenant on Civil and Political Rights on February 28, 2008. This marked an important step towards a greater respect for human rights. However, in spite of what had been officially announced, at the end of 2008 neither of the covenants had been ratified or published at the national level. Moreover, human rights defenders and citizens who had petitioned the Government to make these covenants known to the population were victims of repression. Such repression took the form of arbitrary detentions, threats and harassment against the activists and their families, and in some cases prison sentences¹. In 2008, Cuba had a eight and ten years backlog respectively regarding the submission of reports to the Committee Against Torture and the Committee on the Rights of the Child². Whilst these human rights

1./ See Cuban Democratic Directory (*Directorio Democrático Cubano*).

2./ See Human Rights Council, *Compilation prepared by the Office of the High Commissioner for Human Rights, in accordance with paragraph 15(b) of the Annex to Human Rights Council Resolution 5/1 - Cuba*, UN Document A/HRC/WG.6/4/CUB/2, December 18, 2008.

commitments with the international community could contribute to a greater respect for human rights, in the run-up to the 50th anniversary of the Cuban Revolution in 2008 acts of repression continued against political dissidents, independent journalists and human rights activists.

Furthermore, according to the Cuban Commission for Human Rights and National Reconciliation (*Comisión Cubana de Derechos Humanos de Reconciliación Nacional* - CCDHRN), at the end of January 2009, Cuban prisons were housing 205 political prisoners, including 66 prisoners of conscience, compared to the 234 at the beginning of 2008³. These imprisonments were characterised by conditions that contravened, amongst others, the right to dignified treatment and personal dignity and the right to private and family life. The following violations were indeed denounced: over-crowding, poor food quality, acts of harassment and torture⁴, violence, internment in punishment cells, transfers to penitentiary centres often far from the prisoner's family residence, deprivation of religious assistance, interruptions of family visits and deprivation of medical treatment. Moreover, prisoners of conscience and other political prisoners were forced to share their cells with common criminals, who were utilised by the authorities in order to harass the political prisoners⁵. In February 2008, in a positive move, the Government authorised four prisoners to leave the territory due to their critical health condition, so that they could travel to Spain, on the condition however that they be considered as being into exile. In 2008, few prisoners were granted releases or suspended sentences for health reasons. Nonetheless, in 2008 the CCDHRN reported that around 100 prisoners had died following suicide, neglect of prison authorities or crimes committed by common prisoners. In addition to these long-term sentences and detentions, one could note an increasing trend in political and social repression through hundreds of short-term arbitrary detentions: in 2008, over 1,500 cases were registered throughout the country⁶.

3./ See Cuban Commission for Human Rights and National Reconciliation (CCDHRN), *Cuba en el año 2009: La situación de derechos civiles, políticos y económicos*, February 2, 2009.

4./ See Cuban Democratic Directory.

5./ *Idem*.

6./ See Council of Human Rights Rapporteurs of Cuba (*Consejo de Relatores de Derechos Humanos de Cuba*).

In 2008, repression against dissidents and human rights defenders in Cuba continued to be a matter of concern and their harassment proved to be continuous. In addition, the legislative framework does not allow for the creation of independent organisations and associations as it is required that a State representative must participate in all meetings and the State must also be notified prior to any publication. Moreover, Article 208 of the Criminal Code provides for sentences of one to nine months' imprisonment for members of unauthorised organisations. Participation in radio and television programmes or the publication of documents that are considered to be in favour of the United States policy are also sanctioned with up to five years' imprisonment, which could sometimes lead to arbitrary detentions.

Systematic harassment of human right defenders

Individuals committed to fighting for human rights, in particular for the freedoms of association and expression, free access to information, the right to a fair trial and for a safer and more respectful prison system, continued to be subjected to acts of harassment by Government agents. Thus, threats, physical violence, constant surveillance through the telephone lines being tapped and interrupted, and systematic attempts to damage the infrastructure of human rights organisations were common practices. "Acts of repudiation" (*actos de repudio*) also became a common Government tool against civil society members, which consist in gathering Government officers as well as sympathisers of the regime in front of defenders' homes to insult and sometimes physically attack them. For example, Mr. **Juan Carlos González Leiva**, President of the Cuban Foundation for Human Rights (*Fundación Cubana de Derechos Humanos*) and Executive Secretary of the Council of Human Rights Rapporteurs (*Consejo de Relatores de Derechos Humanos*), was subjected to various acts of repudiation and harassment in the past few years. In 2008, his telephone line was suspended from the beginning of February till the end of March⁷. In addition, on November 1, 2008, the members of the Council of Human Rights Rapporteurs were thrown out of the building in which they had based their offices for the previous 16 months, following pressure put on the owner by State security. The telephone line in the building that they subsequently used was suspended for a

⁷/ See Council of Human Rights Rapporteurs, *Informe del Primer Semestre de 2008*, July 22, 2008.

few weeks and the owner of the premises also received serious threats from State security⁸. Furthermore, Ms. **Laura Pollán Toledo**, leader of the Ladies in White (*Damas de Blanco*)⁹, a movement that has suffered from harassment since its establishment in 2003, reported that she had been followed by State agents on July 1, 2008. They would also have set up a security camera near her residence, which also housed the movement's official headquarters.

Arbitrary detentions of human rights defenders

In 2008, one of the most serious and common forms of harassment against human rights defenders was that of arbitrary detention, following sentences pronounced by a judicial system that is completely lacking independence. One of the charges used against them was that of being “socially dangerous with a disposition to commit a crime” (*peligrosidad social pre-delictiva*), which is liable to a sentence of up to four years in prison (Articles 72 to 85 of the Criminal Code)¹⁰.

At the end of 2008, 55 of the 75 defenders and independent journalists who were arrested in March 2003 during a wave of repression against members of civil society remained detained in appalling conditions, including Mr. **Normando Hernández González**, Director of the Camagüey College of Independent Journalists (*Colegio de Periodistas Independientes de Camagüey - CPIC*), who is serving a sentence of 25 years' imprisonment. On May 7, 2008, after he was discharged from hospital, he was transferred to a punishment cell in Camagüey's Kilo 7 prison despite his precarious health condition. At the end of 2008, Mr. **Oscar Elías Biscet**, Founder and President of the Lawton Foundation, also remained detained, serving a 25-year prison term in a high-security facility.

Another case was that of Mr. **Juan Bermúdez Toranzo**, National Vice-President of the Cuban Foundation for Human Rights, who was

8./ See Council of Human Rights Rapporteurs, *Informe Anual 2008*, January 13, 2009.

9./ Ladies in White emerged spontaneously in April 2003, when a group of brave and worthy women suffered the unjust imprisonment of their relatives during a period known as the Black Spring of 2003. Today, the group gathers women with different creeds and ideologies from all around Cuba, united by the steady aim of achieving the release of their relatives.

10./ There are no exact figures but, according to the CCDHRN, it is alleged that several thousands Cubans are imprisoned under this charge, including human rights defenders.

sentenced on May 4, 2008 to four and a half years' imprisonment for three attack offences and one offence of damage to property, in a trial carried out under "extreme police security measures" and following three and a half months of "detention on remand", since November 21, 2007. In addition, on April 16, 2008, Mr. Bermúdez was pressured by prison authorities to make him take part in political activities that went against his own opinions. On August 7, 2008, he was beaten up in his punishment cell by a soldier, causing him serious side-effects. At the end of 2008, he was detained in the "El Pre de Santa Clara" prison, to which he had been transferred on August 12, 2008. Furthermore, on January 11, 2008, Messrs. **José Luis Rodríguez Chávez** and **Jesús Rosales Ceagraña**, respectively Vice-President and member of the Cuban Foundation for Human Rights in La Habana, were arrested and subsequently released. On February 4, 2008, Mr. José Luis Rodríguez Chávez was again arrested, along with Mr. **Leodán Mangana López**. On February 11, 2008, the Municipal Tribunal of San Miguel del Padrón, in the city of Havana, sentenced them both to four years' imprisonment for being "socially dangerous with a disposition to commit a crime", in a summary trial held in camera and in the absence of their relatives. Mr. Rodríguez Chávez' wife was subsequently arrested for having protested before the authorities against her husband's arbitrary arrest. Although she was pregnant, she was transferred to the eleventh unit of the local police, and kept in jail for five days, without water and in inhuman conditions. On May 6, 2008, she was sentenced to a year's deprivation of liberty for alleged "disrespect"¹¹. At the end of 2008, Mr. Rodríguez Chávez remained detained in the forced labour camp of the city of Havana, while Mr. Mangana López was detained in the Calderon forced labour camp, in the Alquizar municipality, in the province of La Habana.

Finally, the President of the Cuban Human Rights Movement "Miguel Valdés Tamayo" (*Movimiento Cubano por los Derechos Humanos "Miguel Valdés Tamayo"*), Mr. **Julian Antonio Monés Borrero**, was arbitrarily arrested on September 30, 2008, after having been physically attacked three days before by a plain-clothes recruit,

11./ See Council of Human Rights Rapporteurs.

who beat him up for wearing a white pull-over with the words “Change” printed on it. On his first day in prison, he began a 43-day hunger strike to demand his release. On November 26, 2008, he was sentenced to three years of deprivation of liberty for “outrage to authority” by the Municipal Tribunal of Baracoa, in the Guantanamo province, although it was demonstrated that the testimony used against him was false. On December 12, 2008, the sentence was confirmed on appeal. Both trials led to strong repressive measures from the authorities, which carried out a series of operations to prevent human rights activists from attending the trials. Several activists were arrested or placed under house arrest. At the end of 2008, Mr. Monés Borrero was detained in the Boniato provincial prison in Santiago de Cuba¹².

Obstacles to the freedom of peaceful assembly

In 2008, defenders that dared to meet and demonstrate in favour of the defence of human rights were discredited and saw their activities being hindered, not only by State security agents, some of which were dressed in plain clothes, but also by the Cuban civil population. For instance, the crowd branded the Ladies in White as “terrorists”, “prostitutes”, “murderers”, “mercenaries” and “bastards” during a peaceful rally held on March 15, 2008. On April 21, 2008, a group of about 100 people, including civilians and policemen, assaulted Ms. **Laura Pollán Toledo**, Ms. **Alejandrina Garcia de la Riva**, Ms. **Dolia Leal**, Ms. **Berta Soler** and Ms. **Noelia Pedraza**, members of the Ladies in White, who were accompanied by women from the Martha Abreu Feminine Movement (*Movimiento Femenino Martha Abreu*) and the Peace, Love and Freedom Movement (*Movimiento Paz, Amor y Libertad*), from Villa Clara and Matanzas¹³. They were violently thrown out of the Square of the Revolution, where they were peacefully demonstrating in order to hand over a letter to the Ministry of Interior, Mr. Abelardo Colomé Ibarra, and request a meeting with him to discuss the release of their imprisoned husbands. Besides, on May 25, 2008, during a dem-

12./ See Cuban Democratic Directory.

13./ See Coalition of Cuban-American Women (*Coalición de Mujeres Cubano-Americanas*).

onstration in Placetras in honour of Pedro Luis Boitel¹⁴, demonstrators were attacked and arrested by the police¹⁵, including Messrs. Ángel Raúl Pérez Gavilán, Ricardo Pupo Sierra, Alejandro Tur Valladares and Marte Antonio Valdes Ibagollín¹⁶, members of the Council of Human Rights Rapporteurs. They were released the following day.

Obstacles to the freedom of movement

Obstacles to the freedom of movement continued to be common practice in 2008, in particular through the requirement of a “white card”, a type of visa or permit for anyone leaving or re-entering Cuba. The implementation of this measure meant that various human rights defenders were unable to leave their country when invited by foreign Governments or international NGOs. For instance, Mr. **Elizardo Sánchez**, a founding member of the CCDHRN, has not been able to leave Cuba for the past seven years. Cuban authorities prevented him from leaving again in June 2008, while he had been invited to partici-

14./ Disappointed by the turn the Cuban Revolution was taking, the student leader Pedro Luis Boitel created the underground organisation “Movement to Recover the Revolution” (*Movimiento para Recuperar la Revolución* - MMR), for which he was arrested in 1961 and accused of conspiring against the State. He died in prison in 1972 after carrying out an hunger strike for 53 days as well as undergoing several years of ill-treatments and torture. Despite the four requests the Inter-American Commission on Human Rights made between 1966 and 1972 to put an end to the violation of his human rights, the Cuban Government never reacted. Today, Mr. Boitel is considered as the emblem of peaceful resistance against the oppression of the Castro regime.

15./ On May 25, 2008, the following human rights activists were arrested in several cities in the framework of commemorative acts in memory of Pedro Luis Boitel: Mr. Jorge Luis García Pérez Antúnez, Ms. Nitzza Rivas Hernández, Ms. Ana Margarita Perdigón Brito, Mr. Bienvenido Perdigón Pacheco, Mr. Jorge Toledo Figueroa, Mr. Alejandro Tur Valladares, Mr. Ricardo Pupo Sierra, Mr. Guillermo Pérez Yera, Mr. Benito Ortega Suarez, Mr. Ernesto Mederos Arozarena, Mr. Jesús Raúl Figueroa Castro, Mr. Ángel Raúl Pérez Gavilán, Ms. Donaida Pérez Paseiro, Mr. Fernando Díaz Hernández, Mr. Freddy Yoel Martín Fraga, Mr. Fidel Rodríguez García, Mr. Luis Sarriá Hernández, Mr. Lenin Córdova García, Mr. Alejandro Gabriel Martínez Martínez, Mr. Loreto Hernández García, Mr. Marte Antonio Valdés Ibagollín, Mr. Blas Fortún Martínez, Mr. Amado Ruiz Moreno, Ms. Idania Yánes Contreras, Ms. Yesmi Elena Mena Zurbano, Mr. Yuniesky García López, Mr. Jorge Luis Artilles Montiel, Mr. Lázaro de Armas, Mr. Carlos Michael Morales Rodríguez, Mr. Ángel Luis Gallardo Mena, Mr. José Abreu Álvarez, Mr. Luís Silvano Agüero Hernández and Ms. Olga Lidia Dârias Barroso. Subsequent to these arrests, the State security sent Government related groups to the house of Mr. Jorge Luis García Pérez “Antúnez” to commit a “repudiation act” against his wife and other activists who were gathered there. All detained activists were released on the following day. See Cuban Democratic Directory.

16./ See Council of Human Rights Rapporteurs, *Informe Anual 2008*, January 13, 2009.

pate in a seminar on migration organised by FIDH on June 16, 17 and 18 in Mexico, although Mexico had granted him a visa.

Urgent Interventions issued by The Observatory in 2008¹⁷

Names of human rights defenders / NGOs	Violations	Intervention Reference	Date of Issuance
Ladies in White	Harassment / Acts of repudiation	Urgent Appeal CUB 001/0308/OBS042	March 25, 2008
Ladies in White / Ms. Laura Pollán Toledo	Harassment	Urgent Appeal CUB 001/0308/OBS	July 4, 2008
Mr. Juan Bermúdez Toranzo	Arbitrary detention / Harassment / Lack of medical attention	Urgent Appeal CUB 002/1107/OBS	April 22, 2008

17/ See the Compilation of cases in the CD-Rom attached to this report.



/ GUATEMALA

OBSERVATORY FOR THE PROTECTION OF HUMAN RIGHTS DEFENDERS
ANNUAL REPORT 2009

Political context

Since he was elected on November 4, 2007, President Álvaro Colom Caballeros has faced complex and tangible challenges, such as violence of all kinds, impunity and challenges in relation to environmental issues and land ownership. Progress were made through Government reforms and signs of a willingness to solve these problems, as demonstrated by the ratification of the Optional Protocol to the United Nations Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment on June 9, 2008. However, the positive effects of such actions remain to be seen.

President Colom also launched the “100-Day Plan” (*Plan Cien Días*), which was implemented from January 15 to April 24, 2008 and aimed at the country’s poorest municipalities – consisting mostly of indigenous peoples – chosen on the basis of indicators of extreme poverty. The plan’s objective was to create 700,000 jobs and build 200,000 houses. The initiative turned out to be overly ambitious and, at the end of the 100 days, the expected outcomes had not been achieved. The initiative was also criticised by some for being designed with excessive optimism. The reforms also concerned the national civilian police, with the aim of identifying and dismissing corrupt officers, but the expected effects were not witnessed in this area either¹.

The genocide that took place in Guatemala between 1960 and 1996 continued to have after-effects, due to the widespread impunity that prevails in the country. As of the end of 2008, the crimes committed

1./ See Group of Mutual Support (*Grupo de Apoyo Mutua - GAM*), *Informe No 12 sobre la Situación de Derechos Humanos y Hechos de Violencia al Mes de Diciembre 2008*, December 2008.

during the genocide indeed remained unpunished². This impunity for past crimes not only violates the victims' rights to know the truth and to receive justice and reparation, but also impedes a "purge" of State bodies and institutions, in particular the armed forces, as well as punishment of persons responsible for grave human rights violations (genocide, crimes against humanity and torture). This led to a wave of extreme violence that has continued to increase, with the crimes committed nowadays also enjoying an almost total impunity, a situation condemned by, among others, several United Nations institutions³.

The Government took measures to fight impunity for current crimes, but the results remain to be seen. The International Commission Against Impunity in Guatemala (*Comisión Internacional Contra la Impunidad en Guatemala - CICIG*)⁴, established in August 2007, continued its mission of fighting and investigating impunity and corruption⁵ in close and strengthened cooperation with various State institutions. The Commission's work could contribute to significant progress in investigations, as long as the Public Ministry cooperates in the criminal investigations and prosecutions, and the Congress adopts the necessary reforms for the Commission to function efficiently⁶.

2./ In January 2008, the Spanish National Court (*Audiencia Nacional*) decided to continue its investigation into crimes such as genocide, torture, assassinations and unlawful imprisonment against Guatemalan civilians. In addition, on March 10, 2008, the first trial for enforced disappearance began against a former military superintendent for events that took place between 1982 and 1984.

3./ For instance, after a visit to Guatemala in February 2008, the UN Special Representative of the Secretary-General on Human Rights Defenders stressed the high degree of violence in the country, commenting that 98% of offenses remained unpunished. See United Nations Press Release, February 20, 2008.

4./ The Commission was created with the aim of investigating and dismantling criminal organisations responsible not only for committing organised crime in Guatemala, but also for paralysing the judiciary system through its infiltration of State institutions. The CICIG has a renewable mandate of two years, and is also charged with reinforcing the penal system and giving recommendations on the development of policies aiming at countering criminal organisations.

5./ See International Commission against Impunity in Guatemala (CICIG), *Informe: un Año Después*, September 2008.

6./ The CICIG presented two specific reform proposals. The first one relates to the Law on Arms and Ammunition, the Law on the Action of "Amparo", the Law on the Privilege of "Antejucio", the Criminal Procedure Code and the Law Against Organised Crime, as well as regulations reforms. The second proposal, which should be presented in early 2009, suggests reforms of the disciplinary system of the Public Ministry, the national civilian police and the judiciary, as well as reforms to prevent trafficking of migrants and help prosecute corrupted civil servants.

The level of violence in Guatemala nevertheless remained high in 2008, especially from August⁷. The violence mainly stemmed from organised crime, clandestine security groups and juvenile gangs of Central American origin coming from the United States (the so-called “maras”)⁸. Violence against women also remained at a very high level. According to the Unit for Protection of Human Rights Defenders in Guatemala (*Unidad de Defensores y Defensoras de Derechos Humanos de Guatemala* - UDEFEGUA-Guatemala), 6,228 cases of various types of assaults on women were registered in 2008, making the use of the term “femicide” widespread⁹.

Criminalisation of social protest worsened in 2008¹⁰. On several occasions, the Government actually declared “states of prevention” (*estados de prevención*) – situations governed by the Law on Public Order (*Ley de Orden Público*)¹¹. The rights of union members and workers were gravely violated without those violations being investigated. In this context, some multinational fruit companies have been employing for

7./ This coincided with the appointment by the Ministry of Interior (*Ministerio de Gobernación*) of a person who promoted democratic security policy and tried to purge the Ministry of Interior and the national civilian police, which provoked reactions from organised crime. According to GAM, the total number of violent homicide victims in 2008 was 3,305, representing little change from 2007, when it was 3,319. See GAM, *Sin Cumplimiento de las Palabras de Álvaro Colom, Informe sobre la Situación de los Derechos Humanos y Hechos de Violencia al Mes de Diciembre 2008*, December 2008.

8./ Institutional impunity is considered as a mechanism of tolerance of many of these manifestations of violence, especially of some clandestine security groups and organised crime groups. These two types of groups have infiltrated the Supreme Court, the Public Ministry and State institutions and can work from within these, making it difficult to investigate them. At the beginning of the 1980s, the prominent gangs “Mara Salvatrucha” and “18” were formed in Los Angeles, California, by a large number of young Central American immigrants. They were subsequently displaced and are now fighting in Central America.

9./ On May 15, 2008, the Law Against Femicide and Other Forms of Violence against Women came into force, after being approved by Guatemala’s Congress on April 9. The efficient implementation of the law would help fight impunity of violence against women in Guatemala and consequently lead to a decrease in such violence.

10./ This is exemplified, among others, by the increase in assaults on union members in 2008.

11./ See Article 138 of the 1985 Constitution of the Republic of Guatemala. The state of prevention limits constitutional rights by suspending the articles related to freedom of action, arrest, interrogation of detainees and prisoners, freedom of movement, freedom of assembly, freedom of thought, the right to carry arms and the regulation of strike among State employees. After being ordered by the President, the state of prevention must be approved by the Congress in order to be valid.

several years local firms to cultivate their plantations. However, these local companies often resort to anti-union practices, leading to an increase in violence against union members in Guatemala¹². Some of these social protests were related to problems of land ownership and abusive exploitation by multinational companies, which often affected the rights of indigenous peoples. The indigenous populations were on several occasions the victims of violent police raids as well as of criminal proceedings. The Government organised national negotiations in April between peasants and the authorities in order to deal with this situation. At the end of 2008, the negotiations were moving forward, but without the participation of the municipalities affected by violence.

After visiting Guatemala in February 2008, the UN Special Representative of the Secretary-General on Human Rights Defenders called attention to human rights defenders' low level of protection and to the high degree of repression against defenders of economic, social and cultural rights in particular¹³. One month prior to the visit, in January 2008, the Ministry of the Interior, in cooperation with the Prosecutor General's Office, had created the Institute for the Analysis of Attacks Against Human Rights Defenders (*Instancia de Análisis de Ataques contra Defensores de Derechos Humanos*), which processes complaints of attacks against human rights defenders. The Institute has been at the origin of some coordination and confidence, which has led to certain results. Although these results remained weak insofar as the Public Ministry did not prosecute the perpetrators, they were strong in the sense that they constituted a step towards better protection for human rights defenders under attack.

Assassinations and harassment of trade union leaders

2008 was yet another period of serious violations against trade unionists in Guatemala. According to UDEFEGUA, 47 attacks against union members were recorded, the highest number of attacks ever on this category of defenders in the country. In addition, three union leaders defending workers' rights were assassinated. On March 2, 2008, Mr. Miguel Ángel Ramírez Enríquez, Co-founder of the Union of

12./ See International Trade Union Confederation (ITUC) Report, *Guatemala: los Sindicatos Impulsan la Lucha contra la Impunidad*, March 2008.

13./ See United Nations Press Release, February 20, 2008.

Banana Workers of the South (*Sindicato de Trabajadores Bananeros del Sur - SITRABAN*), was assassinated in the department of Escuintla, on the Olga María plantation, which is owned by the multinational Chiquita Brands. Eight months earlier, a group of workers had decided to form the union, which was legally registered. However, through its security service, the company began a series of harassment and intimidation acts against the workers and their families, including detaining several members and 12 trade union leaders and forcing them to quit their jobs. At the end of 2008, the assassination had still not been investigated. On May 13, 2008, Mr. **Sergio Miguel García**, the National Health Workers' Union (*Sindicato Nacional de Trabajadores de la Salud de Guatemala - SNTSG*) Coordinator for malaria eradication, was assassinated by unknown assailants in the department of Izabal. Five months earlier, his predecessor in the same position had died in similar circumstances. A first investigation was conducted after the assassination, but the Public Prosecutor's Office did not take any action on that case. Moreover, on September 21, 2008, Mr. **Israel Romero Ixtacuy**, Secretary General of the Union of the Retalhuleu Municipal Electricity Company Workers (*Sindicato de Trabajadores de la Empresa Eléctrica del Municipio de Retalhuleu*), was shot in the head at a meeting with other union leaders. The investigation into Mr. Ixtacuy's murder was conducted with support from the Special Prosecutor for the CICIG. At the end of 2008, however, those responsible had still not been identified.

Serious violations against defenders of the environment and of the rights of indigenous peoples in relation to the conflict on land ownership and exploitation

In 2008, six cases of attacks on defenders of the environment and five cases of attacks on defenders of the rights of indigenous peoples were recorded. On March 31, 2008, a nun from the San Marcos diocese was threatened by persons who told her to convey a death threat to Monsignor **Álvaro Ramazzini**, Bishop of the diocese. Monsignor Ramazzini is a prominent figure in the fight for indigenous peoples' rights as well as for the protection of their land and the environment¹⁴. In January 2008, he expressed his content with the result of the

14./ Monsignor Ramazzini is known for supporting community referendums in the San Marcos region, denouncing the negative effects of extractive industries, defending the rights of indigenous peoples and peasants, and participating in the debate about reforms to the Law on Energy and Mining.

September 2007 municipal election, which was won by the Sipakapense Civic Committee (*Comité Cívico Sipakapense - CCS*), an organisation advocating peaceful defence of the land and environment from mining. At the end of January 2005, Monsignor Ramazzini had already been victim of an assassination attempt due to his support in favour of peasants in the region in their fight against mining development. Furthermore, on August 1, 2008, an attempt was made on the life of Mr. Amilcar de Jesús Pop, a lawyer, notary and President of the Association of Mayan Lawyers and Notaries (*Asociación de Abogados y Notarios Mayas*). Mr. **Amilcar de Jesús Pop** supports 60 community leaders in San Juan Sacatepéquez in their fight for protection of natural resources from the projects of a large cement company. Worse still, on August 7, 2008, Mr. **Antonio Morales López**, a member of the Farmers' Unity Committee (*Comité de Unidad Campesina - CUC*) and leader of the defence of indigenous peoples' rights, was assassinated in the Huehuetenango department. Mr. Morales López was a notorious defender of indigenous peoples' rights and the environment, and was particularly opposed to open-pit mining projects in the department.

Human rights defenders who tried to mediate in conflicts were often accused of defending criminals, supporting terrorism and inciting violence. The accusations were made by farms owners and companies (especially mining companies) and sometimes civil servants of the judiciary system, and put the defenders' lives at risk. Most of those defenders are community defenders who fight for their rights against large companies and transnational corporations. To that extent, the case of Mr. **Carmelino López** and Mr. **Eswin Ranferí López** is worth mentioning. Both are members of the Nueva Florencia Farm Workers' Union (*Sindicato de Trabajadores de Finca Nueva Florencia*) who were unlawfully dismissed in 1997 along with other workers after forming a union. On January 5, 2008, Mr. Carmelino López and Mr. Eswin Ranferí López were arrested by four armed and hooded security guards of the Nueva Florencia farm, allegedly for bringing a cow to the farm and thereby violating the orders of the owner, who had forbidden peasants to own livestock. They were released the following day at 4 pm, but the Nueva Florencia farm administrator, Mr. Patricio Tunchez Ocampo, has been constantly harassing them in order to make them withdraw the complaint they lodged with the Public Ministry against him and

the owner of the farm. The case was reported to the Public Ministry, but the latter did not take any action¹⁵.

Ongoing threats against defenders who fight against impunity

Persons who dared to fight against impunity and advocate justice, either within organisations or by virtue of positions in the judiciary system, received continuous threats throughout 2008. Thirty-nine cases of attacks against human rights defenders fighting against impunity were recorded. On May 19, 2008 for instance, members of the Guatemalan Forensic Anthropology Foundation (*Fundación de Antropología Forense de Guatemala* - FAFG) received death threats via email. Among the members were Mr. **Fredy Peccerely**, Executive Director, Mr. **José Suassnavar**, Deputy Director, Mr. **Omar Bertoni Girón**, Head of the Forensic Anthropology Laboratory, and Ms. **Bianka Peccerely**, the Director's sister and the Laboratory Coordinator's wife. The threats came after a photo of an exhumation carried out by FAFG in Plan de Sánchez was published, in connection with an article in the *Prensa Libre* about the investigation led by Judge Cojolún, which was about to send testimonies to Spain. Judge **Eduardo Cojolún**, who has been compiling the testimonies of victims and experts in accordance with a Letter Rogatory issued by Judge Santiago Pedraz of the Spanish National Court (*Audiencia Nacional Española*)¹⁶, also received death threats, in particular on May 20 and June 12, 2008. In addition, on June 12, 2008, the Judge's two bodyguards were relieved from their duties, officially because they needed "a holiday". They were replaced following Mr. Cojolún's protests.

15./ See UDEFEGUA, *Informe sobre la Criminalización del Movimiento Social*, July 7, 2008.

16./ On January 16, 2008, the Spanish National Court issued an order stating that it had decided to proceed with the investigation of crimes such as genocide, torture, assassinations and unlawful arrests against Guatemalan civilians, mostly Mayans. The decision was made after the Constitutional Court of the Republic of Guatemala rejected on December 14, 2007 the extradition of Mr. Ángel Aníbal Guevara Rodríguez, former Defence Minister, and Mr. Pedro García Arredondo, former Head of the police, to Spain.

Urgent Interventions issued by The Observatory in 2008¹⁷

Name of human rights defenders / NGOs	Violations	Intervention Reference	Date of Issuance
Mr. Carlos Enrique Mancilla García	Acts of intimidation / Assault	Urgent Appeal GTM 001/0108/OBS 002	January 10, 2008
Mr. Miguel Ángel Ramírez Enríquez	Assassination / Threats	Urgent Appeal GTM 002/0308/OBS 035	March 7, 2008
Monsignor Álvaro Ramazzini	Death threats / Harassment	Urgent Appeal GTM 003/0408/OBS 045	April 3, 2008
Mr. Carlos Enrique Cruz Hernandez	Assassination	Urgent Appeal GTM 004/0508/OBS 072	May 2, 2008
Mr. Danilo Méndez	Harassment	Urgent Appeal GTM 004/0508/OBS 072	May 2, 2008
Mr. Sergio Miguel García	Assassination	Urgent Appeal GTM 005/0508/OBS 083	May 16, 2008
Mr. Jorge de Jesús Mérida Pérez	Assassination	Urgent Appeal GTM 006/0508/OBS 087	May 21, 2008
Mr. Fredy Peccerely, Mr. José Suassnavar, Mr. Leonel Paíz, Mr. Omar Bertoni Girón and Ms. Bianka Peccerely	Death threats / Harassment	Urgent Appeal GTM 007/0507/OBS 055.1	May 22, 2008
		Urgent Appeal GTM 007/0507/OBS 055.2	July 31, 2008
Sons and Daughters for Identity and Justice Against Oblivion and Silence (<i>Hijos y Hijas por la Identidad y la Justicia y en contra del Olvidio y el Silencio - HIJOS</i>)	Death threats / Harassment	Urgent Appeal GTM 007/0608/OBS 109	June 25, 2008
Mr. Eduardo Cojolún	Threats / Fear for the safety	Open Letter to the authorities	June 26, 2008

17/ See the Compilation of cases in the CD-Rom attached to this report.

Name of human rights defenders / NGOs	Violations	Intervention Reference	Date of Issuance
Ms. María Marti Domingo, Ms. Fabiana Ortiz Sales, Mr. Aparicio Pérez and Mr. Rafael González	Arbitrary detention / Death threats	Urgent Appeal GTM 008/0708/OBS 114	July 4, 2008
Mr. Amilcar de Jesús Pop	Assassination attempt / Death threats / Harassment	Urgent Appeal GTM 009/0808/OBS 134	August 13, 2008
Mr. Antonio Morales López	Assassination / Harassment	Urgent Appeal GTM 009/0808/OBS 142	August 25, 2008
Mr. Yuri Melini	Assassination attempt	Urgent Appeal GTM 011/0908/OBS 148	September 8, 2008
Mr. José Israel Romero Ixtacuy	Assassination	Urgent Appeal GTM 012/1008/OBS 162	October 9, 2008
Mr. Miguel Arturo Albizures Pedrosa	Assassination attempt / Harassment	Urgent Appeal GTM 013/1108/OBS 183	November 7, 2008
Ms. Ruth del Valle Cobar and Mr. Miguel Ángel Albizures	Search / Harassment	Urgent Appeal GTM 014/1108/OBS 191	November 14, 2008

/ HONDURAS

OBSERVATORY FOR THE PROTECTION OF HUMAN RIGHTS DEFENDERS
ANNUAL REPORT 2009



Political context

After three years in power, the Government led by Mr. Manuel Zelaya Rosales has not been able to carry out the reforms it promised as regards healthcare, education, energy and security, contrary to what it announced at the beginning of its term¹. The existing deficits in these areas led to significant discontent and social protests, as well as complaints linked to problems such as the protection of the environment, the negative social, health and economic impact of mining and forestry activities, the consequences of crime, rising unemployment, corruption and the energy crisis. This situation led to occasional verbal “skirmishes” between the political institutions in charge, giving rise to prejudice and leading above all to the restructuring of the ruling party as well as the opposition, before the November 2009 general election.

Impunity remained a challenging issue, both in relation to crimes of the past and recent cases, including corruption. This situation endured as law enforcement bodies are still undermined by crime and corruption among their own personnel, and are therefore not very efficient, or not efficient at all, in dealing with the exponential increase in, among others, organised crime (including the so-called “maras”), drug trafficking, human trafficking and common crime. Moreover, Honduras was a dangerous place for certain politicians. Mr. Mario Fernando Hernández, one of the three Congress Vice-Presidents and candidate to be re-elected to Congress, and Mr. Marcos Collier, a candidate for a congressional seat travelling with him, were shot dead in the street on November 22, 2008, one week before primary elections to choose candidates for the functions of President, Vice-President, mayors and deputies. At the end of 2008, the perpetrators of these assassinations

1./ His term will end on January 10, 2010, and the general election is scheduled for November 2009.

had not been arrested. These events illustrate the level of political violence as well as the impunity in the country.

In 2008, the indigenous Garífuna populations continued to suffer from discrimination and a lack of attention from the Government. A series of violations against them were reported in connection with the exercise of their community rights, and at least two members of the community were killed by the members of the Honduran navy. In addition, repression was intensified by the European and South American reality TV shows shot in Cayo Paloma². In relation to environmental issues in general, the Government of Honduras spurred foreign investment and activities by large multinationals, which led to the overexploitation of natural resources, and the authors failed to be held accountable.

At the level of the legal framework, there was an initiative for a Legislative Decree for the Protection of Human Rights Defenders, but it was not brought to the plenary session of the Legislative Assembly for approval. With the same aim of providing protection to defenders, a Special Convention for Institutional Cooperation (*Convenio Especial de Cooperación Institucional*) was drawn up in February 2006, incorporating the following institutions: the Supreme Court of Justice, the Secretary of Interior and Justice (*Secretaría de Gobernación y Justicia*), the General Prosecutor's Office of the Republic, the Secretary of Security, the Secretary for Foreign Affairs and the Public Ministry. Nonetheless, at the end of 2008, the bill appeared to have been abandoned.

Repression of defenders fighting against impunity and corruption

In 2008, individuals and organisations that tried to achieve a greater level of transparency and justice within State institutions were subject to threats, harassment and even assassination attempts, and some defenders even went into exile because their lives were in danger. On April 3, 2008 for instance, Mr. **Luis Gustavo Galeano**

2./ See Committee of Relatives of Disappeared and Detainees in Honduras (*Comité de Familiares de Detenidos Desaparecidos en Honduras* - COFADEH). These programmes have indeed an enormous impact on the vital environment of indigenous peoples, and the lack of respect for their environment increases their anti-Western feelings.

Romero, Coordinator of the Social Audit Programme in the departmental delegation to the National Commissioner for Human Rights (*Comisionado Nacional de los Derechos Humanos* - CONADEH) in Colón, was assassinated. He was in charge of auditing and inspecting municipal corporations in order to ensure transparent management of their funds. At the end of 2008, the investigation into his assassination had not progressed. In July 2008, the offices of the Committee of Relatives of Disappeared and Detainees in Honduras (*Comité de Familiares de Detenidos Desaparecidos en Honduras* - COFADEH) were searched and destroyed, and its General Coordinator, Ms. **Bertha Oliva de Nativí**, was followed and her telephone was tapped for two months. These events could be related to the previous conviction of four police officers who killed two environmentalists and members of the Environmental Movement of Olancho (*Movimiento Ambientalista de Olancho*), Mr. **Heraldo Zúñiga** and Mr. **Roger Iván Cartagena**, in 2006³, and happened a couple of months prior to the discovery of a long list of names of social leaders and human rights organisations in the hands of two police officers in September. At the end of 2008, a discrediting campaign was also launched against Ms. Oliva de Nativí⁴, violating the statement the Inter-American Court of Human Rights⁵ (*Corte Interamericana de Derechos Humanos* - CoIDH) issued in 2007 urging the Government to avoid discrediting human rights defenders.

3./ The four police officers were found guilty and sentenced to forty years in prison for “assassination” on September 18, 2008. In October 2008, three of the officers escaped from a military base in the Olancho department. On November 26, 2008, the officers’ lawyers appealed before the Supreme Court of Justice, which at the end of 2008 had not notified the parties of whether it would consider the appeal.

4./ On December 10, 2008, International Human Rights Day, President Manuel Zelaya Rosales sent to COFADEH an Executive Decree establishing a National Reparation Programme for Victims of Human Rights Violations in the 1980s (*Programa Nacional de Reparaciones para víctimas de violaciones a los derechos humanos de los años ochenta*). The decree also ordered the peaceful resolution of two cases under consideration by the Inter-American Commission of Human Rights (IACHR). On the next day, on December 11, 2008, a campaign to discredit Ms. Bertha Oliva de Nativí began, as well as a campaign promoting hate and violence against her. During several weeks, several newspapers printed material misinforming the population about the content of the decree, claiming that it was excluding and would only benefit Ms. Oliva de Nativí and the lawyer Milton Jiménez Puerto. This material was widely reproduced after December 11, 2008. Apart from serving to discredit Ms. Oliva de Nativí as COFADEH General Coordinator, they also contributed to compromising her safety considerably.

Furthermore, Mr. **Misael Cárcamo**, a social activist who has been working for several years with appointing transparency commissions⁵ in Santa Rosa de Copán, in western Honduras, received a number of telephone threats in 2008⁶, and death threats were also written on his front door⁷. In April and May, several prosecutors working for the Public Ministry went on a 38-day hunger strike, demanding that the Public Ministry start an investigation into acts of corruption among politicians and entrepreneurs. A couple of weeks later, on September 1, 2008, Mr. **Luis Javier Santos**, another defender fighting corruption and a prosecutor at the time, who also took part in the hunger strike, was very nearly killed in an assassination attempt⁸. At the time the attempt on his life was made, Mr. Santos' police guard was not with him, and he subsequently had to go into exile. Persons working closely with the Government were also threatened, persecuted and subjected to arbitrary transfers. This was the case of some members of the Prosecutors' Association (*Asociación de Fiscales*), which fights against corruption within public institutions, therefore implicating persons holding important political and economic positions in the country⁹.

Violent repression of defenders of economic, social and cultural rights

Defenders who protest exploitation of natural resources that affects the rights of indigenous peoples and the right to land

Defenders of the environmental rights continued to be victims of assassinations, judicial harassment, arbitrary detentions and other acts of harassment in 2008, especially for denouncing abusive exploitation of natural resources by companies whose activities threaten both the environment and the way of living of the population that lives or works nearby.

5./ The transparency commissions are part of the Honduran Municipal Transparency Project, of which Mr. Misael Cárcamo is a member.

6./ In particular on September 2 and 4, 2008.

7./ See COFADEH.

8./ IACHR has granted him precautionary measures since August 2007 after he received several threats to his safety and personal integrity due to his investigations into and documentation of various cases of corruption.

9./ See COFADEH.

Several environmentalist groups and individuals were victims of judicial harassment and accused of hindering development projects. Through the Prosecutor's Office, the Public Ministry took legal action against individuals who exercised social rights, but not against persons who violated these rights. In May 2008, the Public Ministry opened a criminal case against 16 defenders of the right to environment who opposed logging and contamination of the few community water sources in the Orica municipality in the Francisco Morazán department. The Judge ordered a provisional stay of proceedings in the case put forward by the Public Ministry¹⁰. At the end of 2008, this decision remained in force. In addition, on February 26, 2008, in the Agua Blanca community, in the Talanga municipality, Francisco Morazán department, eight environmentalists¹¹ were arbitrarily and brutally detained by the special operations police squad (*Comando de Operaciones Especiales*) and subsequently subjected to judicial proceedings¹². At the end of 2008, they were at liberty, but the charges against them remained pending¹³. Likewise, on July 20, 2008, Messrs. **Raymundo Rodríguez, Abel Hernández, Jairo Domingo** and **Franklin Martínez**, members of the Orica and Agalteca Environmental Committee (*Comité Ambientalista de Orico y Agalteca*)¹⁴, in the Francisco Morazán department, were arrested without warrant and taken to the San Francisco police station, in Orica. They were released on August 17, 2008 and the Public Ministry did not press charges or present evidence against them. They subsequently filed a complaint against the police officers who had detained them for "unlawful detention", "abuse of authority" and "failure to carry out official duties". At the end of 2008, the complaint was being investigated by the Public Ministry's Human Rights Prosecutor's Office. Mr. Raymundo Rodríguez had to be hospitalised for several days in Tegucigalpa due to fractured ribs and other injuries he suffered

10./ *Idem*.

11./ Messrs. **Ángel Adrián Turcios, Santos Margarito Gálvez Almendarez, Omar Orlando Gálvez Almendarez, Luis Amílcar Hernández Munguía, Juan Pablo Turcios, Pedro Roberto Turcios, Ms. Nohemí Salgado Gutiérrez** and Ms. **Rosa Maribel Vázquez**.

12./ The environmentalists opposed logging activity that affected their community by blocking a road. Shortly after, the owner of the lumber company arrived, accompanied by the police, who ordered the demonstrators to leave. After they refused, criminal proceedings were initiated against them for causing loss of income and disobeying the authorities.

13./ See COFADEH.

14./ The Environmental Committee defends the environment and natural resources.

in police custody. The COFADEH later lodged a complaint with the Internal Affairs Unit of the Ministry of Security, the Special Human Rights Prosecutor's Office and the Ministry of Security. At the end of 2008, there had been no progress in these investigations¹⁵.

Defenders of the rights of indigenous peoples and the right to land were also victims of physical assaults and even assassinations in 2008. In May 2008, Ms. **Karla Patricia Jiménez**, member of the Committee for the Defence of Human Rights in Honduras (*Comité para la Defensa de los Derechos Humanos en Honduras - CODEH*), was subject to harassment. Ms. Jiménez lives in the Mangos community in the Villa de San Antonio municipality, Comayagua department, and is known for defending community rights affected by the construction of the Canal Seco¹⁶. In addition, on July 10 and November 14, 2008, attacks were made on Ms. Jiménez' home¹⁷. After the last attack, precautionary measures were adopted and she was moved to another community¹⁸. After receiving four threatening phone calls, on May 2, 2008, a man approached her to photograph her and another CODEH member, Mr. **Ricardo Vanegas**. On May 12, 2008, another man approached her and asked where she lived. From this date on, vehicles began to stay at night in front of her house. Furthermore, in a context of strong tensions between exploitation companies and peasants who were defending their lands, several local peasant leaders were assassinated¹⁹ after the Decree 18-2008 came into force on April 29, 2008, allowing the land conflict in connection with the former Regional Military Training Centre (*Centro Regional de Entrenamiento Militar - CREM*) to be resolved²⁰. The statements made by some leaders of the peasant movement provoked

15./ See COFADEH.

16./ The Canal Seco is defined as CA-5 in the framework of the projects derived from the Puebla Panamá Plan and will link the Pacific in El Salvador (Puerto La Unión) with the Atlantic in Honduras (Puerto Cortes). In the community of Puerto Cortes, the construction company PRODECON destroyed a community cemetery, which the population opposed.

17./ During the violent eviction of the populations in connection with the destruction of the cemetery, Ms. Jiménez was hit twice, and consequently had to be admitted to an emergency ward. In addition, she lost the child she was expecting. A complaint was lodged with the Public Ministry, and at the end of 2008 the investigation was still open.

18./ See CODEH Press Release, August 14, 2008.

19./ See COFADEH.

20./ This new land legislation makes it easier to transfer former army property to peasant families that fight for it.

reactions from landowners and breeders, who not only made an appeal for legal protection (*recurso de amparo*) before the Supreme Court of Justice, but also carried out evictions against and threatened principal peasant leaders. On May 23, 2008 for instance, Mr. **Israel García**, the leader of a group affiliated with the National Association of Honduran Peasants (*Asociación Nacional de Campesinos de Honduras - ANACH*), was assassinated by the bodyguards of the entrepreneur of a company who had been claiming the land where these peasants live since 1982²¹. In the same context, on June 11, 2008, Mr. **Irene Ramírez**, a member of the rural workers cooperative “July 14” of the Aguán Peasant Movement (*Movimiento Campesino del Aguán*) of the National Centre for Rural Workers (*Centro Nacional de Trabajadores del Campo - CNTC*), was assassinated in Trujillo, in Colón. At the end of 2008, this crime remained unpunished, and the Prosecutor’s Office had not yet requested an indictment. Likewise, on June 22, 2008, Mr. **Lino Herrera Quiroz**, a peasant leader and President of the ANACH, was assassinated together with his wife by men who shot at them from a car²². The defence of the right to land was reportedly also the reason why three community leaders were assassinated: Messrs. **Fredis Osorto** (on October 2), **Eliás Murcia** (on October 9) and **Ubence Aguilar** (on October 14), in Cofradía, Cortés department. They were organising activities in favour of the recognition of the right to land and filing complaints concerning the delays in the work of the Land Administration Programme’s (*Programa de Administración de Tierras - PATH*) in the region²³.

Repression of trade union leaders

Trade unionists were also targets of criminal acts in 2008 for defending labour and workers’ rights. On April 23, 2008, Ms. **Rosa Altgracia**

21./ See COFADEH. The peasant association and the victims’ families held the company accountable for this murder, since they were subjected for some months to constant threats and evictions, which had been reported to the National Agrarian Institute (*Instituto Nacional Agrario*) but the latter had been unable to solve the conflict.

22./ See COFADEH. The Prosecutor’s Office for Common Crimes in the northern region opened an investigation, but has not yet been able to find any conclusive information about the perpetrators or the masterminds of the crime. ANACH attributed the assassination to a business owner from San Pedro Sula, Mr. Miguel Carrón, who has a long history of land conflict. He bought land from the current Mayor of San Pedro Sula, Mr. Rodolfo Padilla Sunceri, after the peasants had taken the land.

23./ See COFADEH. The Prosecutor’s Office for Common Crimes initiated a summary trial against the perpetrators, but without the awaited results and no subsequent indictment.

Fuentes, Secretary General of the Honduras Workers' Confederation (*Confederación de Trabajadores de Honduras - CTH*) and substitute member of the recently founded Trade Union Confederation of the Americas' (TUCA) Executive Committee, and Ms. **Virginia García de Sánchez**, member of the CTH Executive Committee and leader of the INFOP National Institute for Professional Formation Workers' Union (*Sindicato de Trabajadores del Instituto Nacional de Formación Profesional INFOP - SITRAINFOP*), were assassinated in their car. Ms. Altigracia Fuentes had already been watched for a while. At the end of 2008, Mr. José Rafael Reyes was arrested in the capital of El Salvador. He was wanted in Honduras as a suspect of the double assassination, but still had to be extradited. Moreover, on September 11, 2008, Ms. **Lorna Jackson García** and Ms. **Juana Leticia Maldonado Gutiérrez**, leaders of the Motor Vehicle SITRAFL Workers' Union (*Sindicato de Trabajadores de Vehículos a Motor SITRAFL*), were shot at in an assassination attempt, but escaped unharmed. Furthermore, the six members sitting at the executive committee of the last-mentioned trade union also received constant telephone threats as well as death threats from unknown armed men in the street. The threats began before the assassination attempt and continued afterwards. As a consequence, the victims considered it necessary to leave their homes and move every two weeks during four consecutive months. They lodged a complaint with the Progreso Yoro General Investigation Office, but at the end of 2008 little progress had been made in the investigation²⁴.

Urgent Interventions issued by The Observatory in 2008²⁵

Names of human rights defenders / NGOs	Violations	Intervention Reference	Date of Issuance
Mr. Luis Gustavo Galeano Romero, Ramón Custodio, Mr. Juan Antonio Frañó López, Ms. Elena Judith Marriaga Aranda, Ms. Luz del Carmen Fúnez Osorio, Mr. Rossel Marel Padilla Mejía	Assassination / Fear for safety and personal integrity	Urgent Appeal HND 001/0408/OBS 054	April 11, 2008

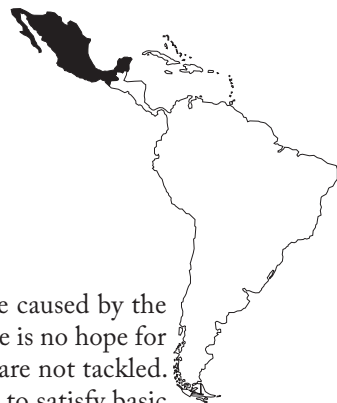
24./ See COFADEH.

25./ See the Compilation of cases in the CD-Rom attached to this report.

Names of human rights defenders / NGOs	Violations	Intervention Reference	Date of Issuance
Ms. Rosa Altagracia Fuentes and Ms. Virginia García de Sánchez	Assassination / Fear for safety and personal integrity	Urgent Appeal HND 002/0408/OBS 070	April 29, 2008
Mr. Iban Guardado	Assassination	Urgent Appeal HND 003/0508/OBS 076	May 14, 2008
Ms. Bertha Oliva de Nativí	Looting / Harassment	Urgent Appeal HND 004/0708/OBS 117	July 11, 2008
Mr. Irene Ramírez	Assassination	Open Letter to the authorities	August 4, 2008
Mr. Luis Javier Santos	Assault / Assassination attempt	Urgent Appeal HND 005/0908/OBS 146	September 5, 2008

/ MEXICO

OBSERVATORY FOR THE PROTECTION OF HUMAN RIGHTS DEFENDERS
ANNUAL REPORT 2009



Political context

2008 was marked by a noticeable increase in violence caused by the war amongst the main drug cartels¹. To that extent, there is no hope for the battle against drug trafficking if social inequalities are not tackled. About 60% of Mexicans live in poverty and are unable to satisfy basic needs, in a context where women make up more than 60% of this population. Over the last few years, many Mexicans were forced to emigrate in order to survive. It is also worth highlighting that some States concentrate the highest levels of social exclusion, repression and violence. These include the States of Oaxaca, Guerrero and Chiapas, where generalised corruption, impunity, extreme poverty, discrimination and the denial of indigenous peoples' rights was combined with conflicting interests vying to exploit natural resources and carry out megaprojects to produce energy. Both of these were carried out without any consideration of local communities' rights. As for the State of Chihuahua, it suffered from a high level of delinquency, crimes, corruption and impunity during the war between drug cartels, which only worsened in 2008. In this context, the crime of femicide did not diminish, particularly in Ciudad Juárez and in the city of Chihuahua, which have registered since 1993 more than 500 murders and an undetermined number of disappeared women and girls, which all remained unsolved as of the end of 2008.

On December 3, 2008, the United States of America and Mexico signed an agreement to launch the Merida Initiative (*Iniciativa Mérida*)², which aims at strengthening the collaboration between the

1./ According to the newspaper *El Universal*, the "narcowar" caused the unprecedented figure of 5,630 victims only for the year 2008. See *El Universal*, article dated January 1, 2009 and published on January 27, 2009.

2./ The aim of the Merida Initiative is to allow Mexico and Central American countries to contribute, jointly with the United States of America, to the fight against organised crime and drug trafficking. This initiative was already passed by the Mexican Executive.

United States, Mexico and the States of Central America in the fight against drug trafficking. This initiative could have negative effects on human rights regarding, for example, the criminalisation of social protest and the treatment of migrants in transit. Mexico is a country with three dimensions with regards to migrants: a country of origin, a hosting country and a country of transit. Despite the possible step backward that the enforcement of the Merida Initiative could have, Mexico amended the General Law of Population (*Ley General de Población - LGP*) in mid 2008, abolishing the articles that criminalised irregular entry into the country³.

The environmental situation also continued to be one of the main problems in 2008. Regions such as Chiapas have significant natural resources that attract large national and international companies, reflected in Mexico's adoptions of various commercial agreements. The last of these is the agricultural chapter of the North American Free Trade Agreement (NAFTA), which came into force on January 1, 2008. This has had a very negative effect on agriculture, the environment and natural resources, but it has also affected the rights of workers and indigenous communities, as well as their lands. The increase in the price of maize has been particularly critical. This measure, which aims at encouraging the production of biofuels, is causing an unprecedented food crisis in the country.

Faced with these complex situations, the Government of President Felipe Calderón continued to use militarisation to fight against organised crime. This included the reinforcement of the armed forces' central role, the militarisation of civil institutions charged with maintaining public order, and the adoption of reforms in the judiciary system. This led to the increasing criminalisation of social protest through use of force and detentions without judicial authorisation, which sometimes resulted in excessive sentences against social actors, including human rights defenders.

In this context, on June 18, 2008, constitutional reforms were passed on the criminal justice system. Although they entail progresses that could contribute to strengthening individual guarantees to a fair trial,

3./ See Without Borders (*Sin Fronteras*).

there are also worrying elements since some regulations contravene international human rights standards. One of the constitutional articles codifies a series of crimes for which preventive detention (*arraigo*) is mandatory. This violates the principle according to which preventive detention should only be used in exceptional cases, considered individually. Preventive detention is a form of detention whereby the Public Ministry, with a judicial warrant, can order the detention of any person for a period of almost three months without them being charged. In the case of alleged organised crime, preventive detention can be extended from forty to eighty days in a detention centre (*centro de arraigo*), and it restricts the guarantees regarding the probative value of the evidence presented in court against the defendant. This provision creates a subsystem of exceptions for people accused of belonging to organised crime, which limits the procedural laws applied in such cases. It is all the more dangerous as the definition of organised crime is very wide⁴ and allows for the accusation of members of social movements, including human rights defenders, of belonging to organised crime. This situation can encourage the use of torture in order to obtain information from the detainee during the period of preventive detention⁵. It should be noted that preventive detention was qualified as an “arbitrary form of

4./ “When three or more people decide to organise or to organise themselves to carry out, either permanently or repeatedly, actions that, separately or in conjunction to others, have the aim or the result of committing one or several crimes relating to [*inter alia*, terrorism, arms stockpiling and trade, trade of undocumented people, organ trading, corruption of minors or slave trade]”, Federal Law Against Organised Crime (*Ley Federal contra la Delincuencia Organizada*), Official Diary of the Federation, November 7, 1996, Article 2.

5./ The most emblematic case of preventive detention (*arraigo*) in 2008 was the following: on September 15, 2008, Mr. Carlos Solís Reina, correspondent for the newspaper *El Bravo Matamoros*, and Mr. Luis Alberto Salas Barajas were arrested by federal police in Matamoros. To begin with, the federal police accused Mr. Solís Reina and Mr. Salas Barajas of having murdered a girl, but witnesses declared that the policemen had shot the girl. The detainees were not sent before the Federal Public Ministry nor in front of the Fifth Agency of the Public Ministry of the city of Matamoros. They were transferred to Mexico City and they appeared before the Deputy Prosecutor General’s Office Specialised in Investigations into Organised Crime. Mr. Solís Reina and Mr. Salas Barajas stated that during the transfer to Mexico City, they were submitted to various acts of torture to force them to make false declarations and to confess that they were guilty. They were transferred to the facilities of the National Preventive Detention Centre (*Centro Nacional de Arraigo*) in Mexico City. Both men remained under preventive detention (i.e. without being given any penal accusation) for 36 days, until October 20, 2008, when they were told that they would be brought before the Sixth District Judge in the State of Tamaulipas, based in Matamoros. They were then transferred to the Third Centre for Social Rehabilitation based in Matamoros, Tamaulipas.

detention” on several occasions by international organisations, such as the United Nations Working Group on Arbitrary Detention⁶.

Violent harassment and murders of environmental defenders

Defenders fighting for the right to land and the environment continued to be the victims of harassment and even assassinations. Besides, the assassination, on May 15, 2007, of Mr. **Aldo Zamora**, an environmental rights activist struggling against illegal deforestation and the son of a community leader, in the State of Mexico, remained unpunished one year later⁷. On March 14, 2008, Mr. **Armando Villarreal Martha**, Head of the National Agrodynamic Organisation (*Organización Agrodinámica Nacional - OAN*), was murdered by an armed commando. Mr. Villarreal was a community leader, recognised both nationally and internationally for his defence of the rights of the farming sector. Over the past few years, he had come to hold a prominent position due to his battle, alongside farmers and producers, for the Government to revise electricity rates, as well as the price of fuel and fertilisers for agricultural consumption. Repression also took other forms. On February 6, 2008, several defamatory and slanderous articles were posted around the work place of Ms. **Yara Fernández Moreno**, a doctor in ecology, a researcher⁸ and an employee of the “Miguel Álvarez del Toro” zoo (ZOOMAT). At the same time, news articles about the deforestation of “El Zapotal”, an ecological reserve in Tuxla Gutierrez, State of Chiapas, which Ms. Fernandez had denounced, were ripped

6./ See Committee Against Torture, *Conclusions and Recommendations*, UN Document CAT/C/MEX/CO/4, February 6, 2007, and Commission on Human Rights, *Report of the Working Group on Arbitrary Detention on its visit to Mexico*, UN Document E/CN.4/2003/8/Add.3, December 17, 2002.

7./ Following those events, the ministerial authorities of the Tenancingo municipality in the State of Mexico opened the corresponding prior investigation. The Judge based in the same municipality then issued an arrest warrant against those allegedly responsible. However, as of the end of 2008, only Mr. Fernando Jacinto Medina and Mr. Silvestre Jacinto Medina had been arrested, whilst both Mr. Luis Encarnación Neri and Mr. Alejo Encarnación Neri continued to be fugitives, despite the commitment made by President Felipe Calderon in 2007 that his Government would collaborate with the local authorities to ensure that justice was carried out in the case of Mr. Aldo Zamora’s murder.

8./ Ms. Yara Fernandez Moreno has been working at the Natural History and Ecology Institute (*Instituto de Historia Natural y Ecología - IHNE*) for nearly 17 years, carrying out investigations in the environmental reserve *El Zapotal*. She wrote works of reference on the issue of urban environmental reserves and denounced the transformation of the aforementioned reserve into a tourist destination, which would cause irreparable ecological damage.

out. In addition, Sister **Consuelo Morales Elizondo**, Director of the organisation Citizens in Support of Human Rights A.C. (*Ciudadanos en Apoyo a los Derechos Humanos A. C.* - CADHAC) in the State of Nuevo León, received phone threats and her house was watched in May 2008. These events took place at a time when the CADHAC was supporting environmental organisations and the social movement that called for the protection of the environmental reserve of Valle de Reyes, on which there are projects to build a high-class residential complex.

Acts of harassment against defenders fighting against impunity and for prisoners' rights

In 2008, defenders fighting against impunity, for prisoners' rights and against the poor conditions in the country's detention facilities continued to be subjected to harassment. On April 24, 2008, Mr. **Francisco**, Ms. **Emiliana** and Mr. **Alejandro Cerezo Contreras**, members of the Cerezo Committee (Comité Cerezo), received threats via email⁹. In addition, Mr. **Elias Sánchez Gomez**, a member of the group of former prisoners "Innocent Voices" (Voces Inocentes)¹⁰, was followed and threatened with death on July 2, 2008, by three members of the Organisation for the Defence of Indigenous and Peasant Rights (*Organización para la Defensa de los Derechos Indígenas y Campesinos* - OPDDIC)¹¹ and from the Busiljá community. Mr. Sánchez and his family had been previously arrested and accused by the OPDDIC of abduction and fire-arms. They were released on March 31, 2008 after a 22-day hunger strike, on condition that they did not return to their community. The residence of Mr. **Abdallán Guzmán Cruz**, an activist for the "Diego Lucero A.C." Foundation (*Fundación "Diego Lucero A. C."*)¹², was raided in July and August 2008. In the first raid, documents

9./ The Cerezo Committee is an organisation that defend the human rights of political prisoners, prisoners of conscience and prisoners wrongly associated with political motives.

10./ The group of former prisoners "Innocent Voices" fights for the release of the prisoners of La Voz de El Amate, La Voz de los Llanos and the Zapatista group and it denounces human rights violations suffered by persons deprived of their liberty.

11./ The Organisation for the Defence of Indigenous and Peasant Rights is a paramilitary-style organisation, established by the ex-MP for the Institutional Revolutionary Party (*Partido Revolucionario Institucional*), Mr. Pedro Chulín Jiménez, which aims at harassing and threatening members and autonomous communities linked with the Zapatista National Liberation Movement (*Movimiento Zapatista de Liberación Nacional*).

12./ The "Diego Lucero A.C." Foundation is a human rights organisation that campaigns so that disappeared detainees in Mexico be found alive.

and important information that had been gathered over many years of investigation into five detainees who have disappeared since 1974 were stolen. In the second raid, six armed soldiers who claimed to be carrying out a routine inspection came to interrogate Mr. Guzmán and his wife without providing a search warrant.

Serious acts of harassment against women human rights defenders

In a country in which women's safety can be very low in certain areas, the security of people fighting for women's rights continued to be extremely precarious. On February 7, 2008, Ms. **Dora María Avila Betancourt**, a member of the Centre for Women's Rights Nääxwiin, A.C. (*Centro para los Derechos de la mujer Nääxwiin, A.C.*), in the State of Oaxaca, where she is in charge of the administrative counselling and training for indigenous women who are victims of domestic violence as well as of a sexual and reproductive health youth programme, was followed and arrested for eight hours because the car she was driving had allegedly been reported as stolen. She was released after long negotiations but, on February 17, 2008, the Judge issued a formal order of imprisonment against Ms. Avila on these charges¹³. At the end of 2008, the Second Unitary Tribunal acquitted her of all the charges.

Furthermore, in the region of Chihuahua, and especially in the cities of Ciudad Juárez and Chihuahua, women continued to be subjected to kidnappings, crimes and torture. In this context, those campaigning against impunity and for an effective judiciary system were victims of threats and severe harassment. For example, Ms. **Luz Estela Castro**, Director of the Centre for Women's Human Rights, A.C. (*Centro de Derechos Humanos de la Mujeres A.C.*) and lawyer for the organisation "Justice for Our Daughters" (*Justicia para Nuestras Hijas*), in the State of Chihuahua, received two death threats on May 14, 2008, via her mobile phone. Since that date and until the end of 2008, Ms. Castro continued to receive threats despite being escorted by two security guards. Three members of the organisation "May Our Daughters Go Home" (*Nuestras Hijas de Regreso a Casa*), Ms. **Marisela Ortiz Rivera**,

13./ An order of formal imprisonment is a judicial decision that means that the detainee has to go into preventive detention while waiting the beginning of his or her trial for the crime he or she is being prosecuted, and/or which will require the person to remain at the courts disposal.

Ms. **María Luisa Andrade** and Ms. **Norma Andrade** received continuous death threats aimed at themselves and at their children in the framework of the first screening of the film “Bajo Juárez”, a documentary on the murders in the State of Chihuahua, which denounced the powerful city’s gangs and hinted at the authorities’ negligence and possible tolerance towards the cruel murders of women.

Repression against defenders of indigenous peoples’ rights

In 2008, repression against defenders of indigenous peoples’ rights was very severe, as shown by the registered cases of arbitrary detentions and murders. On April 7 for instance, Ms. **Felicita Martínez Sánchez** and Ms. **Teresa Bautista Merino**, two journalists working for *La Voz que Rompe el Silencio* radio, were ambushed and assassinated whilst they were working on a report on the Triqui indigenous community in the State of Oaxaca. Moreover, several members of the Me’Phaa Indigenous People’s Organisation (*Organización del Pueblo Indígena Me’Phaa* - OPIM), in the State of Guerrero, were subjected to judicial proceedings and one of them was murdered. Mr. **Lorenzo Fernández Ortega**, one of the OPIM leaders, was kidnapped on February 9, 2008. His lifeless body was found the next day with evident signs of torture. On various occasions, Mr. Fernández had denounced the forced sterilisation of 30 indigenous women in 1998. As of the end of 2008, the investigation into his murder had made no progress. In addition, on April 17, 2008, Messrs. **Raúl Hernández**, **Manuel Cruz**, **Orlando Manzanarez**, **Natalio Ortega** and **Romualdo Santiago**, all members of OPIM, were arrested and accused on January 1, 2008 of the murder of Mr. Alejandro Feliciano García, an army informer, in the community of El Camalote, in Guerrero State¹⁴. Due to the irregularities in the trial, one may fear that the accusation was staged in order to frighten other OPIM members and to weaken their activities. At the end of 2008, the five defenders were still under arrest in the Centre for Social Rehabilitation in Ayutla de los Libres¹⁵.

14./ Charges would also have been pressed against at least ten other indigenous persons, including various members of the OPIM, although their names were not known.

15./ On October 20, 2008, a federal judge granted them protection (*amparo*) and ordered the release of four of them, Messrs. Manuel Cruz Victoriano, Orlando Manzanarez Lorenzo, Natalio Ortega Cruz and Romualdo Santiago Enequina, when he established that the evidence presented did not concern them. However, they were not released since the Prosecutor General of the Republic appealed against the decision of protection.

Acts of harassment against defenders of migrant rights

In 2008, following the clamp down on migration policy in Mexico, defenders of migrant rights found themselves in a very vulnerable position, being subjected to acts of harassment within shelters or communities. For instance, Mr. **Ireneo Mújica Arzate**, a well-known human rights defender and community organiser for the Migrant Civil Rights Centre (*Centro de Derechos Civiles para los Migrantes*) in Arriaga, in the State of Chiapas, was arrested along with some migrants following an operation to stop Central-American immigrants who were trying to cross the border. Before being arrested, he was stripped of all his belongings. He was subsequently transferred to a detention centre for immigrants, even though he is a Mexican national. State agents insulted him, calling him a “*pollero*”¹⁶, before releasing him after five hours. Furthermore, the catholic priest **Alejandro Solalinde Guerra**, who has repeatedly denounced attacks by federal and local authorities against illegal migrants, in both national and international forums, was visited by about 40 people led by the municipal Mayor, Mr. Gabino Guzmán Palomec, the Secretary of Municipal Public Security and around 14 municipal policemen. His visitors arrived at the shelter “*Brothers in the Way*” (*Hermanos en el Camino*) in Oaxaca, for which he is responsible, and threatened him with setting fire to the centre if he did not close it down within 48 hours, alleging that delinquency and insecurity had increased since the arrival of migrants.

Urgent Interventions issued by The Observatory in 2008¹⁷

Names of human rights defenders / NGOs	Violations	Intervention Reference	Date of Issuance
Ms. Yara Fernández Moreno	Harassment / Defamation campaign	Urgent Appeal MEX 001/0208/OBS 022	February 20, 2008
Ms. Dora María Ávila Betancourt	Harassment / Defamation campaign	Urgent Appeal MEX 002/0208/OBS 029	March 4, 2008

16./ The words “pollero”, “coyote” and “pateros” are used for people who are specialised in the illegal transfer of undocumented migrants, in exchange for large sums of money. These people are also often responsible for attacks, theft and other crimes against migrants.

17./ See the Compilation of cases in the CD-Rom attached to this report.

Names of human rights defenders / NGOs	Violations	Intervention Reference	Date of Issuance
Mr. Armando Villarreal Martha	Assassination	Urgent Appeal MEX 003/0408/OBS 044	April 1, 2008
Mr. Irineo Mújica Arzate	Threats / Arrest / Harassment / Fear for safety	Urgent Appeal MEX 004/0408/OBS 065	April 23, 2008
Mr. Aldo Zamora and Mr. Ildefonso Zamora	Impunity / Harassment	Press Release	May 16, 2008
Ms. Luz Estela Castro	Death threats / Harassment	Urgent Appeal MEX 005/0508/OBS 088, issued as MEX 004/0508/OBS 088	May 21, 2008
Ms. Consuelo Morales Eliozondo	Threats / Harassment	Urgent Appeal MEX 006/0608/OBS 093, issued as MEX 005/0608/OBS 093	June 4, 2008
Mr. Martin Amaru Barrios Hernández and Ms. Reyna Ramírez	Threats / Judicial proceedings / Attacks	Urgent Appeal MEX 001/0106/OBS 002.2	June 18, 2008
Mr. Alejandro Solalinde	Harassment / Intimidation	Urgent Appeal MEX 007/0708/OBS 113, issued as MEX 003/0708/OBS 113	July 3, 2008
Mr. Elías Sánchez Gómez	Harassment / Attacks	Urgent Appeal MEX 008/0708/OBS 115, issued as MEX 004/0708/OBS 115	July 8, 2008
Mr. Abdallán Guzmán Cruz	Searches / Harassment	Urgent Appeal MEX 009/0708/OBS 121	July 16, 2008
		Urgent Appeal MEX 009/0708/OBS 121.1	September 3, 2008
Ms. María Luisa Andrade, Ms. Marisela Ortiz Rivera and Ms. Norma Andrade	Serious threats / Harassment	Urgent Appeal MEX 010/1108/OBS 188	November 12, 2008



/ NICARAGUA

OBSERVATORY FOR THE PROTECTION OF HUMAN RIGHTS DEFENDERS
ANNUAL REPORT 2009

Political context

Since Mr. Daniel Ortega, the candidate for the Sandinista National Liberation Front (*Frente Sandinista de Liberación Nacional* - FSLN), became President on January 10, 2007, there has been a marked increase in the trend to subordinate State institutions to the interests of the FSLN and the Constitutionalist Liberal Party (*Partido Liberal Constitucional* - PLC), as well as an increased lack of a clear separation between the State and the political party, as illustrated for instance by the decision made by the President of the Republic to direct Government business from the FSLN secretariat.

Moreover, political pluralism was severely restricted during the November 2008 municipal elections due to a two-party system that left no room for other parties criticising the agreement made between the FSLN and the PLC, such as the Conservative Party (*Partido Conservador* - PC) and the Sandinista Renovation Movement (*Movimiento Renovador Sandinista* - MRS). The FSLN and the PLC shared out power quotas between themselves and so harnessed all the State institutions. This is how the legal representative of the PLC, Mr. Carlos Wilfredo Navarro Moreira, was able to call for the cancellation of opposition parties' legal personality on May 20, 2008 and, as a result, on June 11, 2008, the Supreme Electoral Council (*Consejo Supremo Electoral* - CSE) proceeded to cancel the legal personality of the MRS. It also declared that, despite its 100 years of existence, the PC had not met with the prior qualifying requirements to participate in the municipal elections. Both parties were therefore not able to participate in the November municipal elections¹.

1./ Mr. Carlos Wilfredo Navarro declared that the registration of the candidates for the Nicaraguan Liberal Alliance (*Alianza Liberal Nicaraguense* - ALN), the MRS, the Nicaraguan Resistance Party (*Partido Resistencia Nicaraguense* - PRN) and the PC was invalid since they had not fulfilled the Electoral Law requirements. As a consequence, he asked for the cancellation of the parties' legal personality, which was duly carried out by the Supreme Electoral Council for the MRS and the PC, but on different legal grounds.

The municipal elections of November 9, 2008 were carried out in the absence of independent and impartial electoral observers as the Government refused to accredit national non-governmental electoral observers such as Ethics and Transparency (*Ética y Transparencia*) and the Institute for Development and Democracy (*Instituto para el Desarrollo y la Democracia* - IPADE). This was also due to the unprecedented failure of the CSE to invite some of the international observers that had traditionally monitored the elections over the past 15 years, including the European Union, the Organisation of American States and the Carter Centre. This provoked criticism from the Presidency of the Council of the European Union, which deplored “the denial of accreditation to the national and international observers whose absence makes it difficult to evaluate the regularity of elections”². Following the publication of the results, according to which the FSLN won 105 of the 153 municipalities, the opposition decided to demonstrate on November 18 to show their rejection of the results, which they considered to have been obtained through irregularities and fraud. Demonstrators were physically assaulted by FSLN supporters and Government employees, in particular by health workers and civil servants from the General Income Directorate (*Dirección General de Ingresos* - DGI)³. On the same day, the buildings of *Radio Dario*, *Radio Metro Stereo* and *Radio Caricias* in the city of León were raided and ransacked by about forty armed and hooded people. Throughout November, as the electoral process continued, at least twenty communication professionals were assaulted and injured⁴.

2./ See Declaration of the Presidency of the Council of the European Union on the Municipal Elections in Nicaragua, November 12, 2008.

3./ See Nicaraguan Centre for Human Rights (*Centro Nicaragüense de Derechos Humanos* - CENIDH), *Derechos Humanos en Nicaragua, Informe 2008*, February 2009.

4./ See CENIDH. In this matter, the European Parliament “regret[ed] deeply the way in which the local elections of November 9, 2008 were conducted, and believe[d] that the results lack all democratic legitimacy”, “the fact that the climate of suspected fraud in some municipalities has provoked demonstrations and clashes between supporters of different parties, leaving a number of people injured and aggravating an already profound political crisis” and “that two political parties were unable to take part in the local elections, and expresses its concern regarding the progress of democratic consolidation and governance in Nicaragua, especially with respect to the processes of inclusion and active participation”. See Resolution P6_TA-PROV(2008)0641 of the European Parliament, December 18, 2008.

Worse still, in the context of these events, the Government reactivated anti-subversive groups resorting to violence (made up of FSLN militants, Government supporters and citizens with criminal records) both in the capital and in the regions. President Ortega also replaced various high-ranking civil servants in the police department who were close to the First Commissioner of the national police, Ms. Aminta Granera, Director General of the national police. In total, in 2008, 13 senior commissioners were forced into retirement, constituting an unprecedented event⁵. This trend is worrying in the long-run since it could have negative repercussions on the defence of human rights.

Furthermore, President Ortega's Government tried to silence dissident voices and criticisms of Government policies through members of the Government who verbally assaulted demonstrators and human rights defenders as well as the Citizens' Councils (*Consejos de Poder Ciudadano* - CPC)⁶ who hampered the NGOs activities and physically assaulted defenders. In this context, 2008 saw numerous attacks against human rights defenders and attempts to obstruct their activities. In addition, the exclusion of human rights defenders from places and buildings devoted to the citizens' participation became common place. Many inter-institutional buildings used by civil servants, representatives of NGOs and social movements to discuss social problems were closed down and some were taken over by members of the CPC⁷.

At the international level, during its 94th session, held from October 13-31, 2008, the United Nations Human Rights Council noted "with concern a growing number of reports alleging systematic persecution and death threats against human rights defenders by individuals,

5./ See CENIDH, *Derechos Humanos en Nicaragua, Informe 2008*, February 2009.

6./ The CPC are a presidential initiative resulting from Decree 003-97. This type of organisation is nothing other than the new form of the FSLN's partisan organisation, faking citizen's participation but with a strong influence within public institutions. It is an influential organisation due to its privileged access to Government resources, and its role as a vehicle to benefit from Government programmes. This proves the establishment of a Party-State, to the detriment of the country's institutionalism. The CPC have also been used to weaken citizen participation forums, which were previously crucial in influencing Government plans and actions, and they attempt to act as a link between the Government and the citizens. The President's wife, Mrs. Rosario Murillo, is responsible for the CPC at national, regional and local levels.

7./ See CENIDH, *Derechos Humanos en Nicaragua, Informe 2008*, February 2009.

political groupings and bodies connected to the State authorities” and expressed its concern “at the de facto restrictions on the exercise by human rights organisations of their right to freedom of [association]”. To that extent, the Committee recommended that “the State party should guarantee organisations of human rights defenders the right to freedom of expression and association in the conduct of their activities”⁸. Likewise, on December 18, 2008, the European Parliament called “on the Government of Nicaragua to take urgent measures to pacify the situation created, and ask[ed] the Nicaraguan authorities to respect the work of the human rights organisations”⁹.

Attempts to discredit and control human rights organisations

In 2008, the authorities continued their verbal attacks against any human rights organisation or defender who dared to criticise the policies of President Ortega or his Government. These attacks were systematically and continuously taken up by the official or pro-Government media such as *Canal 4*, *Radio Ya* and *Semanario El 19*, which exacerbated the attitudes of Government supporters and put the lives of human rights defenders at risk. Defenders were described as “puppets of imperialism”, “oligarchs”, “traitors to the country” and “devils”. Such was the case of the members of the Nicaraguan Centre for Human Rights (*Centro Nicaraguense de Derechos Humanos - CENIDH*), who were labelled as “agents of imperialism” and “defenders of oligarchy” by television and radio programmes as well as by media close to the ruling party¹⁰.

In addition, the authorities took several measures to obstruct the work of human rights organisations and silence all criticisms. In September 2008, the Ministry of the Interior (*Ministerio de Gobernación*) ordered an investigation against 17 NGOs, including Oxfam Great Britain, the Investigation Centre for Communication (*Centro de Investigación de la Comunicación - CINCO*)¹¹ and the Independent Movement for

8./ See Human Rights Committee, *Concluding Observations of the Human Rights Committee*, United Nations Document CCPR/C/NIC/CO/3, December 12, 2008.

9./ See European Parliament Resolution P6_TA-PROV (2008)0641, December 18, 2008.

10./ See CENIDH, *Derechos Humanos en Nicaragua*, Informe 2008, February 2009.

11./ CINCO is an institution that specialises in the communication, culture, democracy and public opinion studies. In 2007, it issued a report about an alleged corruption scandal that involved the Supreme Court of Justice and the Secretariat General of the FSLN, from which President Ortega works.

Women (*Movimiento Autonomo de Mujeres - MAM*) for “money laundering” and “triangulating funds”¹². During the penal investigation that followed the Deputy Minister of the Interior’s complaint, the Deputy Public Prosecutor asked the NGOs to provide all their accounting documents linked to the use of donation funds from 2003 to 2008, while no complaint was lodged by donors. Moreover, on October 10 and 11, 2008, illegal searches were made on the premises of the CINCO and MAM organisations. Indeed, the warrant for the searches did not state what was being reproached to MAM representatives. The search of the MAM was ordered by Prosecutor José Abraham Rojas, whilst Prosecutor Douglas Vargas was responsible for the search of the CINCO. Both searches resulted in the confiscation of documents and IT material. The MAM search lasted 11 hours, after which the police took away three computer units in which the organisation stored all its financial and work-related information. In addition, 140 important documents for the NGO activities were confiscated. The computer units and the accounts documents were not returned to CINCO until January 27, 2009, i.e. more than three months later, and the items confiscated from MAM were not returned until January 28. It is worth mentioning that following the investigations, the Ministry of Interior called on representatives of the organisations to appear before the Public Prosecutor: Mr. **Carlos Fernando Chamorro**, Head of CINCO, Ms. **Juana Jimenez**, Head of MAM, and Ms. **Sofia Montenegro**, Director of CINCO and a member of MAM¹³, were indeed summoned, under threats of incarceration if they did not appear¹⁴. On January 26, 2009, the Public Prosecutor announced that the charges were dismissed since they were result offences and the donors had not filed a complaint as the aggrieved party – therefore the offences were

12./ “Triangulation of funds” entails the “illegal” use of cooperation funds received from foreign Governments and organisations, which are sent to other civil society organisations in the country. In fact, organisations with administrative capacities tend to support organisations that lack a legal personality, so that they can carry out their human rights activities. This is not illegal since the right of association is recognised by Article 49 of the Constitution.

13./ Ms. Montenegro supported Ms. Zoilamérica Narváez, who accused her step-father Daniel Ortega of rape ten years ago.

14./ On October 22, 2008, the EU Presidency expressed its “concern for the acts of harassment to which several NGOs and, through them, several personalities of the civil society were subjected” and wondered “about the real aims of these intimidation manoeuvres targeting NGOs and those members of the civil society”. See French EU Presidency Press Release, October 22, 2008 (Unofficial translation).

not constituted. However, the Public Prosecutor's decision left the way open for a future court case against these organisations, thus undermining their legal security.

Another action taken against human rights defenders during 2008 was the auditing of organisations exercising their legitimate right to freedom of association. On October 1, 2008, the Deputy Minister for Foreign Cooperation, Mr. Valdrack Jaentschke, announced publicly that a revision would be carried out on conventions agreed with international NGOs and the legal framework governing national and international NGOs. He also announced the creation of a mechanism of "joint audit" of all the funding received by NGOs. Most of the organisations he mentioned had criticised President Ortega's administration, such as the Civil Coordinating Committee (*Coordinadora Civil*), which mobilised thousands of people in 2008 to protest against poverty and to defend democracy. In addition, in September 2008, the Government opened an investigation into the management of 4,500 NGOs that are registered in Nicaragua, of which 700 were being investigated under allegations that they were not fulfilling legal requirements. On the same day, Deputy Minister Jaentschke announced on *Canal 4's* "En Vivo" programme that he will not allow NGOs to "adulterate" or receive funds from abroad (in particular from international cooperation) for "political activities": according to Mr. Jaentschke, demonstrations, the hiring of buses and the price of blankets for demonstrators were "illegal", and did not fall under any of the organisations' "operational plans". He declared that no NGO had the right to "triangulate" funds for political purposes. During his speech, he made direct reference to various NGOs such as Oxfam Great Britain and the CINCO Centre. He also called for the Ministry of the Interior to be particularly vigilant in that respect and he showed his support for the inclusion of a specific clause into conventions agreed with NGO related to "non-intervention in political affairs" in Nicaragua.

Acts of violence against human rights defenders

The authorities' behaviour led to and exacerbated violence against human rights defenders. For instance, a demonstration organised at the

initiative of various organisations¹⁵ on September 20, 2008 to protest against the Government's policies had to be suspended due to acts of violence from FSLN supporters and members of the CPC. Likewise, in the afternoon of October 16, 2008, members of the CPC physically and verbally assaulted CENIDH members while accompanying members of the Civil Coordinating Committee who were going to appear before the Public Ministry for alleged illegal activities. The CENIDH also indicated that they had received several threatening emails from anonymous addresses. These attacks particularly targeted Ms. **Vilma Nuñez de Escorcía**, CENIDH President and FIDH Vice-President. In the early morning of September 26, 2008, individuals driving a car stopped outside Ms. Nuñez' residence in León and threw 16 paint-filled light bulbs at the front of the house, covering it with black and red paint, evoking the death threats used during the Somocista dictatorship. As a consequence, on November 11, 2008, the Inter-American Commission on Human Rights (IACHR) granted precautionary measures for Ms. Nuñez and CENIDH members. However, the Government did not manage to reach an agreement with the beneficiaries as to the form these measures would take, which therefore were limited to the presence of one to three members of the national police at the CENIDH headquarters.

Human rights defenders were also subjected to acts of intimidation in the framework of the 60th anniversary of the Universal Declaration of Human Rights and the 10th anniversary of the UN Declaration on Human Rights Defenders. On December 10, 2008, the CENIDH organised a peaceful march to commemorate the adoption of these two texts, in which took part human rights activists from the "Padre César Jerez" Network (*Red Padre César Jerez*) who had come from different parts of the country, members of the Civil Coordinating Committee, the Permanent Human Rights Commission (*Comisión Permanente de Derechos Humanos - CPDH*), the Network of Women Against Violence (*Red de Mujeres contra la Violencia*), the Nicaraguan Coordinating Committee of the Federation of NGOs that work with Children and

15./ The organisations that organised the demonstration included the Western Democratic Coalition (*Coalición Democrática de Occidente*), the Citizen's Coalition for Democracy (*Unión Ciudadana por la Democracia*) and the Civil Coordinating Committee, a body that gathers hundred of NGOs and social networks.

Teenagers (*Federación Coodinadora Nicaragüense de Organismos No Gubernamentales que trabaja con la Niñez y la Adolescencia* - CODENI), MAM and other organisations. The Government did everything in its power to prevent the demonstration by sending its supporters, headed by the Human Rights Prosecutor, Mr. Omar Cabezas, joined by other officers from the same institution, as well as members of the Workers' National Front (*Frente Nacional de los Trabajadores* - FTN) and the CPC, to verbally and physically assault the participants to the peaceful commemoration of such important dates. Prosecutor Omar Cabezas took the opportunity to reiterate his criticisms of the CENIDH, claiming that "it was an organisation financed by the United States embassy in order to destabilise the current Government"¹⁶.

Constant repression of women's rights defenders

2008 was characterised by continuous and systematic acts of harassment against the leaders of social and women's organisations that reported cases of violence against women and sexual abuse. Women's rights defenders were victims of repression on two grounds, firstly for working for NGOs that criticised the Government policy, and secondly for defending, *inter alia*, the importance of therapeutic abortion¹⁷. Indeed, although therapeutic abortion had been authorised for 169 years, it was unconstitutionally penalised by the National Assembly, through Law 603 it voted in 2006. This penalisation is also reflected in Article 143 of the Criminal Code. In 2007, more than 67 appeals were lodged for unconstitutionality before the Supreme Court of Justice by various organisations of the civil society. Despite protests at national and international levels, the Court did not pronounce itself. This only confirms the lack of commitment from the ruling party, which controls the Supreme Court of Justice, regarding a decision that is of so much importance, in particular for poor women, as they are the ones who have to resort to clandestine abortions when either their life or health is in danger.

Amongst the arguments put forward to discredit the activities of NGOs that defend women's rights, the weekly *Semanario El 19*,

16./ See CENIDH, *Derechos Humanos en Nicaragua, Informe 2008*, February 2009.

17./ Therapeutic abortion is generally used for women who have been the victims of rape, incest or whose pregnancy puts their life at risk.

regarded as the Government mouthpiece, accused in its edition published in the week of September 18, 2008 the MAM and CINCO of making a profit out of the debate on therapeutic abortion. Likewise, on October 1, 2008, following a press conference organised by CENIDH, two *Canal 4* journalists publicly accused Ms. Nuñez of defending “oligarchs” and asked her three times about her position regarding abortion, when this had nothing to do with the subject that was being discussed.

In addition, the judiciary was used against women defenders: in 2008, the criminal proceedings initiated in October 2007 against Ms. **Ana María Pizarro**, Ms. **Juana Antonia Jiménez**, Ms. **Lorna Norori Gutiérrez**, Ms. **Martha María Blandón**, Ms. **Luisa Molina Argüello**, Ms. **Martha Munguía Alvarado**, Ms. **Mayra Sirias**, Ms. **Yamileth Mejía Palma** and Ms. **Violeta Delgado Sarmiento**, nine leaders of women’s rights organisations¹⁸, remained pending for various crimes, including “rape concealment”, “illegal association with intent to commit an offence” and “apology of crime”. This came as a result of their support in favour of “Rosita”, a girl who was raped by her step-father, and whom they helped to abort in order to save her life, at a time when therapeutic abortion was still legally permitted¹⁹. Eighteen months after the accusation was made, the Public Ministry has still not come to a decision, therefore undermining the women’s rights organisations legal security and by doing so trying to intimidate women’s rights defenders.

18./ These nine leaders belong to different networks such as the Network of Women Against Violence, the Feminist Movement (*Movimiento Feminista*), MAM, the Nicaraguan Coordinating Committee of the Federation of NGOs that work with Children and Teenagers, and the September 28 Campaign (*Campaña 28 de Septiembre*).

19./ During its 94th session, the UN Human Rights Committee “note[d] with concern the criminal investigations mounted against defenders of reproductive rights, including the criminal charges pending against the nine women defenders of women’s rights involved in the interruption of an abortion conducted on an under-age girl who had been raped, which occurred at a time when therapeutic abortion was still legally permitted”, and “recommend[ed] that the State party take the necessary action to put a stop to alleged instances of systematic persecution and death threats, particularly against the defenders of women’s rights mentioned above, and ensure that those responsible are duly punished”. See Human Rights Committee, *Concluding Observations of the Human Rights Committee*, United Nations Document CCPR/C/NIC/CO/3, December 12, 2008.

Urgent Interventions issued by The Observatory in 2008²⁰

Names of human rights defenders / NGOs	Violations	Intervention Reference	Date of Issuance
Mr. Ernesto Cardenal	Judicial harassment	Press Release	September 9, 2008
Ms. Vilma Nuñez de Escorcía	Threats / Harassment	Urgent Appeal NIC 001/1008/OBS 160	October 1, 2008
Feminist and human rights organisations	Harassment and threats	Open Letter to the authorities	October 16, 2008

20./ See the Compilation of cases in the CD-Rom attached to this report.

/ PERU

OBSERVATORY FOR THE PROTECTION OF HUMAN RIGHTS DEFENDERS
ANNUAL REPORT 2009



Political context

The year 2008 was characterised by little progress in terms of human rights, as no ad hoc public policies were promoted and the advances in democratisation recommended by the Truth and Reconciliation Commission (*Comisión de Verdad y Reconciliación* - CVR) came to a standstill. In addition, an eagerly awaited Law on Human Rights Defenders did not come up for debate in Congress¹. Equally worrying were the conflicts related to the environment and the land of farmers and indigenous peoples, as well as the small and slow advances in the process of truth, justice and reconciliation².

Over the past years, the Government has abandoned dialogue in order to tackle the large number of social demands, and has adopted a confrontational stance based on a series of measures that only serve to criminalise social protest. In addition, the Government privileged the interests of large economic groups to the detriment of those of the population, as evidenced by bills benefiting extractive industries, as well as by the Government's defence and promotion of mining and oil projects in areas where they could affect the population's health and land ownership relations. The so-called "Forest Law" (*Ley de la Selva*)³,

1./ On November 12, 2008, the National Human Rights Coordinating Committee (*Coordinadora Nacional de Derechos Humanos* - CNDDHH) presented Prime Minister Yehude Simon with a Bill for the Protection of Human Rights Defenders that would provide them with a legal framework for the protection they would enjoy while exercising their activities.

2./ See CNDDHH, Informe Anual 2008, *El Difícil Camino Hacia la Ciudadanía*, March 2009.

3./ Through Law No. 29157, the Congress of Republic granted the executive branch the authority to issue legislative decrees. In this context, the executive branch promulgated Legislative Decrees No. 1015, 1073 and 1079, which stimulated private investment in land belonging to indigenous and farmer communities, and enabled the communities to decide to sell the land with a 50 per cent plus one approval, rather than requiring their general assemblies to agree (by two thirds in Peru's forest and mountain regions). The decrees, which called into question the rights of indigenous peoples, e.g. those protected under the ILO Convention No. 169, by which Governments are obliged to consult interested indigenous peoples, were revoked by the Plenary Session of Peruvian Congress on August 22, 2008.

which consists of various legislative decrees issued by the Government, is considered by farmers and indigenous communities as contrary to their interests. They united in order to protest against the destruction of the Amazon and dangerous mining and oil and gas extraction. The law was revoked in August 2008 after large demonstrations by indigenous peoples. Moreover, State officials did not follow the procedure of prior and informed consultation of populations on whose land and subsoil they authorised mining by, mostly, Chinese, Canadian or American companies.

In the fight against impunity of human rights violations committed during the internal armed conflict, the extradition of Mr. Fujimori and the judicial proceedings against him, which began on December 10, 2007, represent important and highly symbolic advances⁴. Nevertheless, in order to hinder the judicial proceedings related to the Fujimori period, clandestine groups supporting former President Fujimori frequently harassed and threatened relatives, witnesses and lawyers involved in these cases, as exemplified by the threats against retired General Rodolfo Robles and his family as well as against Dr. Avelino Guillén, Prosecutor in the Fujimori case. Another serious matter in this respect concerns the Bill No. 02848/2008-CR, proposed before the Congress on November 6, 2008 by the President of the Defence Commission in Congress, Mr. Edgar Núñez. The bill, which would grant amnesty to members of the military accused or convicted for human rights abuses committed during the internal armed conflict, received the support of several members of Congress, and must be approved by Parliament. It is a clear threat to the fight against impunity and it contravenes international law, which prohibits such amnesty in relation to human rights violations. Indeed, in its 2001 decision in the “Barrios Altos” case and 2006 decision in the “La Cantuta” case, the Inter-American Court of Human Rights (*Corte Interamericana de Derechos Humanos* - CoIDH) had already denounced an amnesty law approved in 1995, which was declared void by the CoIDH resolution.

4./ At the end of 2008, Mr. Fujimori was being prosecuted for his alleged responsibility in the extrajudicial execution of 15 persons in Lima’s Barrios Altos district in November 1991, as well as in the enforced disappearance and death of nine students and one teacher from La Cantuta University in July 1992.

At the international level, Peru was examined through the UN Universal Periodic Review (UPR) on May 6, 2008. During the review, UPR Member States highlighted the following issues that the Government needs to attend to: the worrying situation of human rights defenders (despite the concern already expressed by the Special Representative of the UN Secretary General on Human Rights Defenders in 2006), the high incidence of child labour, the fact that one third of the population does not have identity documents and that marginalised communities do not have access to healthcare, the extremely poor conditions of detention in prisons, including overcrowding, the reopening of discussions about the death penalty in Parliament in 2007 and the removal of the National Human Rights Coordinating Committee (*Coordinadora Nacional de Derechos Humanos* - CNDDHH), the Episcopal Commission for Social Action (*Comisión Episcopal de Acción Social* - CEAS) and the National Evangelical Council (*Concilio Nacional Evangélico* - CONEP) from the National Human Rights Council (*Consejo Nacional de Derechos Humanos* - CNDH), of which they had been observers since 1986⁵.

Acts of harassment against defenders fighting against impunity, particularly in the Fujimori case

In 2008, defenders and civil society organisations fighting for justice and truth in the Fujimori case continued to face continuous attacks and threats carried out by pro-Fujimori groups. According to the CNDDHH, about ten cases of harassment of defenders in relation to the Fujimori trial were registered over the year⁶. Members of the Association for Human Rights in Peru (*Asociación Pro Derechos Humanos* - APRODEH) were subjected to threats and several defamation campaigns carried out by Government members. Its offices were attacked by large groups on three occasions. For instance, on May 8, 2008, 80 activists from a pro-Fujimori group gathered in front of the NGO headquarters. On June 10, 2008, a demonstration with 400 participants

5./ See Human Rights Council, *Report of the Working Group on the Universal Periodic Review: Peru*, United Nations Document A/HRC/8/37, May 28, 2008. The Peruvian National Human Rights Council consists of 67 associations and NGOs, including the Catholic Church, the Protestant Church and the CNDDHH.

6./ See CNDDHH, *Informe Anual 2008, El Difícil Camino Hacia la Ciudadanía*, March 2009. In 2008, the CNDDHH recorded 73 cases of incidents against defenders. In 2007, it had recorded 53 cases. This represents a 30 % increase in only one year.

carrying anti-APRODEH banners took place⁷. Subsequently, the APRODEH and its Director, Dr. **Francisco Soberón**, were the victims of a serious media campaign of defamation. In addition, Mr. Francisco Soberón was accused of praising terrorism and committing treason by several members of the Government. First Vice-President Luis Giampietri even described Mr. Soberón as a “prominent agitator of the masses, who will one day be held accountable by the Peruvian State”. The association had responded to a request by several members of the European Parliament concerning the existence of the Túpac Amaru Revolutionary Movement (*Movimiento Revolucionario Túpac Amaru* - MRTA), to which APRODEH had replied that “this organisation has not been active since April 1996, and to overestimate its presence could lead to the criminalisation of social protest”.

Officers of justice also received threats in relation to the opening of Mr. Fujimori’s trial. For instance, Mr. **Avelino Guillén**, Supreme State Prosecutor, who had requested a 30-year sentence for Mr. Fujimori for supposedly masterminding the crimes committed by the “Colina Group” (*Grupo Colina*), received telephone death threats on December 9, 2008 as well as on the previous days. Furthermore, on August 28, 2008, the memorial “The Crying Eye” (*El Ojo que Llora*), erected to raise awareness and spur reflection about the years of the armed internal conflict, was attacked by unknown persons during a ceremony in connection with the fifth anniversary of the CVR report.

On April 28, 2008, the Peruvian Executive took another step limiting dialogue with civil society, through a decree signed by the Ministry of Justice and which removed 67 NGOs that were members of the CNDDHH from the CNDH, which is a body under the Ministry of Justice charged with promoting and monitoring the defence and guarantee of human rights. This brutally cut back the mechanism that had allowed these NGOs to participate in the national human rights debate. The exclusion of NGOs was justified on the basis of a confidentiality clause that in reality NGO members do not have to respect. In addition, there was an attempt during 2008 to enlarge the oversight power of the Peruvian International Cooperation Agency (*Agencia Peruana de Cooperación Internacional* - APCI), so that this institution

⁷/ See APRODEH.

might exercise more control over NGOs, by reducing their autonomy and freedom of action. In this context, it is worth recalling that on September 3, 2008, Mr. Carlos Pando, the Head of APCI, declared it necessary to carry out a new “integrated” audit⁸ of the Legal Defence Institute (*Instituto de Defensa Legal* - IDL), a human rights organisation working especially on impunity and corruption, even though the APCI audited the IDL twice in 2007, with good results. This reflects the constant harassment on the part of the APCI. After its powers were increased, the agency has indeed become a tool for persecution and harassment in the context of the significant above-mentioned media campaign against organisations like the IDL. It should be highlighted that the situation of human rights defenders was also affected throughout 2008 by the inefficient protection programme the State provides for witnesses, victims and defenders, as well as by the lack of State protection for persons who benefit from provisional measures of protection granted by CoIDH⁹.

Reprisals against defenders of the environment and of communities affected by exploitation projects of big extraction companies

The year 2008 provided a generally adverse context for human rights defenders and organisations working in favour of the protection of the environment. According to the CNDDHH, 44 cases of harassment against defenders of the environment were recorded in 2008¹⁰. Besides, some newspapers supporting Mr. Fujimori and his advisor Mr. Vladimiro Montesinos continued their campaign trying to discredit and defame several human rights NGOs and organisations working on environment protection.

Reprisals continued in 2008 against defenders who opposed private extraction projects that affect the environment as well as local communities of farmers and indigenous peoples. The Government stamped these persons as terrorists and troublemakers, and a stigmatisation campaign

8./ This is a difficult and onerous process for an organisation. The APCI normally selects certain NGOs to be controlled each year, but the IDL was picked three times in only two years.

9./ See CNDDHH, *Informe sobre Derechos Humanos en el Perú - Examen Periódico Universal*, May 2008.

10./ See CNDDHH, *Informe Anual 2008, El Difícil Camino Hacia la Ciudadanía*, March 2009.

was launched against them¹¹. On February 25, 2008, a discrediting campaign was launched against the priest **Marco Arana**, leader of the Training and Intervention Group for Sustainable Development (*Grupo de Formación y Intervención para el Desarrollo Sostenible - GRUFIDES*) and a mediator between the Government and mining companies, in which he was accused of resisting development and called an “anti-miner” and a “terrorist”¹². Also, on March 24, 2008, a complaint was filed against 24 leaders and mayors who organised a local referendum near the mining company Río Blanco Copper SA, in the Sugunda and Cajas community in the Ayabaca province. The complaint for “terrorism and other crimes” was filed by the Civil Association Unity Front of the Peasant Community of Segunda and Cajas (*Asociación Civil Frente de Unidad de la Comunidad Campesina de Segunda y Cajas*), an organisation that supports the mining industry and was previously sanctioned for actions against local farmer communities and environmental damages. As of the end of 2008, the charges remained pending against the 24 defenders. In connection with the protests in the “Selva”, the priest **Francisco Muguir**, Vicar of Jaén, was accused on August 20, 2008 on the webpage of the national police of inciting protest in the Amazon through the regional Catholic radio station *Radio Maratón*. Subsequent to several reactions in favour of the priest, the accusations were withdrawn¹³.

Furthermore, some NGOs that had supported indigenous communities opposed to the “Forest Law” were also victims of harassment. In this climate of hostility towards NGOs, the Minister of Agriculture, Mr. Ismael Benavides, referred to NGOs as “the vultures of the 21st century” in an interview with RPP Noticias on August 21, 2008. He accused them of wanting to keep indigenous communities in poverty in order to “receive more international funding”. On August 28, 2008, Messrs. **Humberto Paredes Vargas**, Regional Coordinator of the “Selva Central del Bloque Amazónico”, **Francisco Solano Cantoral Huamani**, Secretary of the Chanchamayo Defence Front (*Frente de Defensa de*

11./ See Association for Life and Human Dignity (*Asociación por la Vida y la Dignidad Humana - APORVIDHA*).

12./ See APRODEH and the Centre for Studies and Action for Peace (*Centro de Estudios y Acción para la Paz - CEAPAZ*).

13./ See APRODEH and CEAPAZ.

Chanchamayo), and **Fredy Palomino Ñahuero**, President of the Civic Front of Defence and Development of Farmers and Native Communities of Pichanaki (*Frente Cívico de Defensa y Desarrollo de los Agricultores y Comunidades Nativas de Pichanaki*), were accused along with eight other persons of “threatening national heritage, security and law and order”. In addition, a warrant for arrest was issued against them. At the end of 2008, the judicial proceedings against them remained pending, although they were free, with an obligation to appear in court (*condición de comparecencia*). This followed the demonstration organised by the Pichanaki Defence Front (*Frente de Defensa de Pichanaki*) on March 17, 2008 in the Pichanaki district in the Junín department, Chanchamayo province, against the “Forest Law”. The demonstration led to a confrontation between protesters and police, and several persons sustained gunshot wounds. Likewise, the Interethnic Association for the Development of the Peruvian Forest (*Asociación Inter-étnica de Desarrollo de la Selva Peruana - AIDSESP*) was also subjected to harassment on two occasions in 2008. On August 18, unidentified persons attacked the association’s premises and stole 10,000 soles and on September 2, three APCI officials came to audit the organisation, due only to its actions against the “Forest Law”. The APCI investigation showed that everything was in order. As for the investigation of the robbery, the case had not been solved as of the end of 2008.

Urgent Interventions issued by The Observatory in 2008¹⁴

Names of human rights defenders / NGOs	Violations	Intervention Reference	Date of Issuance
Messrs. Javier Jahncke Benavente, Juan Aste Daffós, Nicanor Alvarado, Carlos Martínez Solano, Humberto Marchena, Euler Jave Díaz, Práxedes Llagsahuanca, Fidel Torres Guevara, Edward Gómez Paredes, Quique Rodríguez Rodríguez, Wilson Ibáñez Ibáñez, Servando Aponte Guerrero, Cenesio Jiménez Peña, Alfonso Meléndez Clemente, Eusebio Guerrero, Alfonso Huayama Guerrero, Pascual Rosales, Edilberto Neyra Alberca, Mario Tabra, Manuel Campos Ojeda, Edgardo Adrianzén Ojeda, Miguel Palacín Quispe, Ms. Julia Cuadros Falla and Ms. Deyber Flóres Calle	Judicial proceedings	Press Release	April 3, 2008
Association for Human Rights in Peru (APRODEH) and Dr. Francisco Soberón	Defamation campaign	Open Letter to the authorities	April 30, 2008
		Joint Open Letter to the authorities	May 6, 2008
NGOs	Defamation campaign	Press Release	August 26, 2008
Legal Defence Institute (IDL)	Harassment	Press Release	September 8, 2008
Messrs. Humberto Paredes Vargas, Francisco Solano Cantoral Huamani and Fredy Palomino Ñahuelero	Arbitrary detention / Accusations	Urgent Appeal PER 001/0908/ OBS 156	September 24, 2008
Mr. Avelino Guillén	Threats / Harassment / Fear for safety	Urgent Appeal PER 002/1208/ OBS 213	December 16, 2008

14./ See the Compilation of cases in the CD-Rom attached to this report.

/ VENEZUELA

OBSERVATORY FOR THE PROTECTION OF HUMAN RIGHTS DEFENDERS
ANNUAL REPORT 2009



Political context

2008 marked ten years since Mr. Hugo Chávez Frías took on the Presidency of the Republic of Venezuela. His Government has been characterised by the so-called “Bolivarian Revolution”, with an announced willingness to promote the “21st century socialism”, which was accompanied by a strong political polarisation in the country. In terms of economic, social and cultural rights, President Chávez undertook a programme of generalised nationalisations in various sectors, such as the oil industry and telecommunications, as well as various social programmes. According to the Office of the United Nations Development Programme (UNDP) in Venezuela, regarding the Millennium Development Goals (MDG), these massive social programmes (known as missions) that were implemented from 2003 “have led to considerable progress in achieving fair and widely based policies, including those sectors that were for years denied access to their social rights”¹. However, the opposition kept on denouncing the undermining of civil and political rights, and criticising the Head of State for concentrating all power, manipulating State institutions and lacking pluralist policies. The opposition also continued to denounce that trade unions have lost their capacity of action due to the strict control they are submitted to². As for the Government, it continued to stigmatise the political opposition, particularly after the failed coup of April 2002.

1./ See Office of the UNDP in Venezuela, *Situación de los Objetivos de Desarrollo del Milenio en Venezuela, 2009*, available on UNDP website (Unofficial translation).

2./ To this extent, the International Trade Union Confederation (ITUC) declared that “there was a progressive weakening of collective bargaining rights and the right to strike, which were arbitrarily denied based on political bias and other reasons. The criminalisation of strikes and demonstrations and the undermining of trade union autonomy through the interference of the National Electoral Council (*Consejo Nacional Electoral - CNE*) in trade union elections are compounding these problems”. See ITUC, *Annual Survey of Violations of Trade Union Rights, 2008*.

Moreover, one of the State's greatest challenges remained the situation in the penitentiary system. Prisons are faced with problems of overcrowding and poor conditions for inmates, leading to violence within prisons. Indeed, in 2008, 422 inmates died from violence and another 854 were injured³, particularly due to the weakness of security and the corruption of the guards, which allow armed gangs to control the prisons. Overcrowding and the deterioration of detention facilities were also causes for violence.

Defamation campaign against human rights organisations

The polarisation of the political scene had repercussions on the work of human rights defenders, who were accused by the Government of receiving funds from the United States and of only aiming at encouraging opposition to the ruling power. Accordingly, the Government orchestrated campaigns of harassment against organisations that it considered as the voices of the opposition. Indeed, in 2008, defamation campaigns continued, which were carried out by Government representatives through defamatory declarations on official media. Human rights organisations were often accused of being partial, of collaborating with the opposition parties and of having links with the United States, a country that is openly criticised by President Chávez. Thus, on February 28, 2008, accusations were posted on the website of the pro-Government organisation "People's Revolutionary Assembly of the Bolivarian Republic of Venezuela" (*Asamblea Popular Revolucionaria República Bolivariana de Venezuela*) against the Committee of the Relatives of the Victims of the events that occurred between February 27 and early March 1989 (*Comité de Familiares de Víctimas de los sucesos ocurridos entre el 27 de febrero y los primeros días de marzo de 1989* - COFAVIC) for taking advantage of the suffering of the poor to run its "business". Between 2002 and 2008, 42 articles were published that criticised COFAVIC and its Executive Director, Ms. **Liliana Ortega**⁴. Moreover, on November 15, 2008, Ms. Eva Golinger, a renowned American-Venezuelan lawyer, declared during the International Conference "Revolution and Intervention in Latin America" (*Revolución e Intervención en América Latina*), which was

3./ See Venezuelan Prison Observatory (*Observatorio Venezolano de Prisiones - OVP*), *Situación Sistema Penitenciario Venezolano, Informe 2008*, January 2009.

4./ See COFAVIC.

broadcast by the television channel Telesur, that the NGO SINERGIA, an observatory on guarantees and the exercise of rights to participation to public life and association in Venezuela, was financed by US agencies and that it belonged to a subversive movement aiming at rejecting the constitutional reform agreed upon in 2007⁵. Lastly, the Annual Report of the Venezuelan Programme of Education-Action in Human Rights (*Programa Venezolano de Educación-Acción en Derechos Humanos - PROVEA*) on the situation of human rights in Venezuela, published on December 10, 2008, was subjected to strong criticisms from various important figures. Among others, on December 10, 2008, the Minister of People's Power for Health, Mr. Jesús Mantilla, declared that "the figures provided by this NGO are false (...), [PROVEA] does not represent the interests of an organisation supposedly fighting for human rights and freedom (...). It hasn't made any reports on human rights violations committed by the American army during the war in Iraq (...)" and, on December 16, 2008, the Minister of People's Power for Interior and Justice, Mr. Tarek El-Aissami, declared that: "in the eyes of the people, the PROVEA report is ridiculous (...); they deserve that shoes be sent at them for lying" [in reference to the incident in Iraq on December 14, 2008, when a journalist threw a shoe at President Bush]⁶.

This hostile environment did not only affect activists working for organisations based in Venezuela, but also foreigners working for the international NGO Human Rights Watch. Thus, on September 18, 2008, Mr. **José Miguel Vivanco**, Director of the Americas division of this NGO, along with his Deputy, Mr. **Daniel Wilkinson**, were expelled from the country on the orders of the Minister of People's Power for Foreign Affairs, a day after they had presented the report *A Decade Under Chávez: Political Intolerance and Lost Opportunities for Advancing Human Rights in Venezuela*. This report denounced the lack of independence of the judiciary, the Government's intimidation of human rights defenders and NGOs, and the use of discriminatory measures to limit the right of expression, the right of association and the freedom for civil society to promote human rights in the country.

5./ *Idem*.

6./ See COFAVIC and PROVEA.

Harassment of defenders who address the Inter-American human rights system

2008 saw an increase in the harassment by the authorities of defenders who addressed the Inter-American human rights system, which was linked to an increase in the cases of human rights violations in Venezuela denounced before this system, in particular before the Inter-American Court of Human Rights (*Corte Interamericana de Derechos Humanos* - CoIDH) and the Inter-American Commission on Human Rights (IACHR)⁷. Accordingly, on various occasions, the authorities discredited the work of defenders who collaborated with these regional institutions. On April 23, 2008 for instance, Mr. **Humberto Prado**, Director of the Venezuelan Prison Observatory (*Observatorio Venezolano de Prisiones* - OVP), was accused by a Member of Parliament from the United Socialist Party of Venezuela (*Partido Socialista Unido de Venezuela* - PSUV), President Chávez's party, of benefiting economically from the country's penitentiary situation and of receiving funds from the opposition party⁸. These declarations coincided with the prison crisis in Venezuela, Mr. Prado's participation in audiences within the IACHR and the publication of reports on the prison situation. Moreover, on May 8 and 9, 2008, the State channel *Venezolana de Televisión* (VTV) repeatedly broadcast spots in which Mr. **Carlos Ayala Corao**, former President of the IACHR and current President of the Andean Commission of Jurists (*Comisión Andina de Juristas*), of having been involved in the coup in 2002 and of being financed by the United States Government to direct a conspiracy against Venezuela. These accusations coincided with Mr. Ayala's participation as a representative of the victims in a case handled by the CoIDH regarding alleged attacks suffered by employees of the private television channel *Globovisión*⁹.

In addition to these acts of defamation, not only did the authorities not always respect their duty to protect human rights defenders, even when they were granted provisional measures of protection by the CoIDH, but in some cases, the implementation of these protection

7/ See COFAVIC

8./ Mr. Humberto Prado was accused of "organising prison strikes", "benefiting economically from the inmates' problems", "being financed by the opposition" and "serving the interests of the United States".

9./ See COFAVIC.

measures turned into a new form of repression against their beneficiaries. On December 12, 2008, Mr. **Carlos Nieto Palma**, Director of the NGO “A Window to Freedom” (*Una Ventana a la Libertad*), reported that he had been verbally attacked in his own residence by three metropolitan police officials charged with his protection. Mr. Nieto Palma was benefiting from provisional measures of protection granted by the CoIDH. He reproached the agents for not being present to protect him on some days. Officials from the same police body also falsified 52 minutes of interviews with him during the period he was under protection, in order to prove that they had provided him with adequate protection¹⁰. Moreover, on September 29, 2008, the Control Tribunal 33 in Caracas rejected all complaints lodged following acts of harassment and threats against COFAVIC members, upon the orders of the Public Ministry¹¹, without even granting the victims the right to be heard, even though the latter had been given provisional measures of protection by the CoIDH¹².

Urgent Interventions issued by The Observatory in 2008¹³

Names of human rights defenders / NGOs	Violations	Intervention Reference	Date of Issuance
Venezuelan Prison Observatory (OVP)	Judicial harassment / Acts of intimidation / Defamation campaigns	Urgent Appeal VEN 001/0508/OBS 079	May 15, 2008
Messrs. José Miguel Vivanco and Daniel Wilkinson	Expulsion / Harassment	Press Release	September 22, 2008

10./ See COFAVIC, PROVEA and OVP.

11./ Part of the Governments responsibility in implementing provisional measures is to investigate the events and sanction those responsible for the attacks against the beneficiaries of these measures.

12./ See COFAVIC.

13./ See the Compilation of cases in the CD-Rom attached to this report.