



Inter-American Commission on Human Rights

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ANNUAL REPORT OF THE IACHR 2007

CHAPTER I

INTRODUCTION

1. Nearly half a century ago, the Organization of American States decided to establish a human rights system--one that has been a pioneer in strengthening and protecting the human rights of millions of people in the region. Undoubtedly, this system created by the States has been greatly enriched by the current participation of civil society in the Hemisphere. The significant progress made by the inter-American system for the protection and promotion of human rights, primarily as a result of its achievements, now poses new challenges that need to be addressed through open and ongoing dialogue among States, civil society, and the Inter-American Commission and Court.

2. First of all, there has been an increase in the number of petitions submitted to the Commission. Whereas just 10 years ago, the IACHR received an average of 500 petitions a year, in recent years it has received about 1,500 a year. There has also been a rise in the number of cases the Commission refers to the Inter-American Court of Human Rights. In the past two decades, the Commission submitted a total of 114 cases, more than half of which (65) were submitted from 2003 to the present.

3. Another major development in the inter-American system in recent years is the right of victims and their representatives to participate of the proceedings before the Inter-American Court, a procedure that went into effect with the amendment of the Court's Rules of Procedure in 2000 and that has clearly strengthened the rights of victims under international law.

4. Along the same lines, the 2006 amendment of the Commission's Rules of Procedure consolidated the practice of public hearings, thus giving more people access to them. The Commission has not only opened its doors to the public that attends its hearings, but has also broadcast them live through its Internet page. For example, during the Commission's most recent period of sessions, held in October 2007, more than 5,000 persons from different countries of the region went to the Commission's Web page to monitor the hearings.

5. Another related change has been the holding of hearings in the member states. In 2006, the IACHR held hearings away from its headquarters as part of its 125th period of sessions, held in Guatemala. In 2007, the IACHR continued that practice by holding hearings in Paraguay, the venue for its 130th period of sessions. Holding periods of sessions away from headquarters has enabled the Commission to conduct hearings that would have been difficult to hold at its headquarters, given the costs that holding them in Washington entail for both

petitioners and States, which is aggravated by the difficulties of obtaining the necessary migration visas. It should also be mentioned that the Inter-American Court is beginning to hold audiences in various countries of the region, thereby helping to promote the human rights system as a whole.

6. In addition, the Commission has expanded its work in thematic areas, through the establishment, in the last two decades, of a series of mechanisms for providing specialized support and for furthering activities for promotion and protection in thematic areas of special interest. These initiatives have resulted in the creation of thematic rapporteurships, which in some cases emerged from mandates conferred on the IACHR by the OAS political bodies and, in other cases, from the Commission's own initiative, in response to emerging priorities or to requests from civil society. In most cases, these rapporteurships have operated within the context of the IACHR membership, elected by the OAS States. In the case of the Office of the Special Rapporteur for Freedom of Expression, in 1998 the position of Special Rapporteur was established. The Special Rapporteur is selected by the IACHR members to work full-time for the promotion of this thematic area of special interest—freedom of expression in the Americas. The activities of the Commission's various thematic rapporteurships are becoming more and more intense, during its periods of sessions as well as during regular specialized on-site visits and constant day-to-day monitoring of the status of the rights for which the rapporteurships are responsible. This has led to enhanced rights for the indigenous peoples, persons deprived of liberty, persons of African descent, women, children, and migrant workers and their families, and to an increase in the right to freedom of expression.

7. These and other developments have been followed by the system's two main constituencies: the States and the victims, both individually and as represented by civil society organizations. It is with their support that the inter-American system has led to developments, including, among other things, the establishment of internal laws in the countries of the Hemisphere based on international human rights standards in such areas as forced disappearance, the death penalty, and terrorism; the repeal of amnesty laws because of their incompatibility with the American Convention; the repeal of the so-called "desacato laws" because of their incompatibility with freedom of expression; the adoption of laws to protect women who are victims of domestic violence; the implementation of public policy to promote racial equality; the adoption of legislative and administrative measures for creating effective mechanisms for the delimitation, demarcation, and titling of properties of indigenous communities; the progressive adjustment of conditions in prison systems to international standards for the protection of human rights; and the development of judicial mechanisms for combating impunity for human rights violations.

8. However, these changes would not have been possible without increased recognition of the autonomy and independence of the system's organs. The credibility and legitimacy of the inter-American system for protection rests on the fact that its decisions are taken with absolute independence.

9. Likewise, the Commission's administrative independence vis-à-vis the General Secretariat is crucial if the Commission is to be free from the direct or indirect pressure that can come from the OAS political bodies. In this regard, it is important to point out that since 1994 a practice has been in place whereby the various secretaries general have supported the Commission's autonomy.

10. Mindful that the system's legitimacy and its preservation require consensus among each and every one of its actors, the Commission has attached the utmost importance to maintaining ongoing, open, and public debate on the enhancement of the inter-American system, with States, civil society, and the system's organs. Within this dialogue, the Commission has made several efforts recently to increase its efficiency in discharging its mandate to protect the peoples of the Hemisphere more effectively.

11. These efforts are becoming more urgent as the system's legitimacy increases, as

reflected in the steady rise in the number of individuals submitting petitions, the diversity of topics presented and of organizations attending the Commission's hearings, the high level of government and civil society representation at those hearings, increased use of the system's jurisprudence and standards by numerous courts in the region, an increase in the number of mandates handed down to the Commission by the General Assembly, and the important achievements in the protection of human rights thanks to the system. The system's legitimacy is also evident in the actions of the States of the region, through the conclusion of friendly-settlement agreements, the recognition of international responsibility in cases before the Commission and the Court, and open invitations for the Commission to visit countries to monitor their human rights situations.

12. But this reality, together with the challenges facing national justice systems, has meant that an ever greater number of men and women are turning to the Inter-American Commission for answers to their appeals for human rights protection and that the Commission has a larger backlog of cases. Thus, the more relevant the role of the Commission in the protection of human rights, the lower its capacity to respond to the growing diversity of needs and situations in the 35 member states.

13. In the process of identifying tools to enable the Commission to fulfill its mandate and respond to the cases and issues it is apprised of in an effective and timely fashion, the IACHR has taken a number of measures. First, with a view to eliminating the procedural backlog, a diagnostic assessment was made of petitions being reviewed and a work program drawn up for a group of lawyers whose main job will be to get rid of the backlog and, at the same time, to install in the Executive Secretariat of the IACHR ongoing capacity to evaluate and complete the initial processing of 1,500 petitions per year. Parallel to those steps, work began on reorganizing and redistributing tasks related to requests for precautionary measures by establishing a working group in the Executive Secretariat of the IACHR that will be exclusively devoted to evaluating and following up on the approximately 300 requests for precautionary measures received by the Commission each year.

14. Another means by which the IACHR has sought to increase the effectiveness with which it protects and promotes human rights in the Hemisphere has been through amendments to its Rules of Procedure, as a result of ongoing dialogue between the organs of the system and States and civil society. Since its Rules of Procedure were adopted, the Commission has introduced eight amendments of varying magnitude in order to perfect its regulatory provisions in light of the object and purpose of the American Convention.

15. In response to the concerns of States and of civil society, the Commission undertook a comprehensive reform of its Rules of Procedure in 2000, which resulted in—among other things—the distinction between the admissibility and the merits phases and an increase in the number of cases presented to the Inter-American Court. On that occasion, the Commission also reviewed the time allowed for a State to respond to the initial remittance of petitions and it contemplated the possibility of shortening that period, in view of the varying degree of urgency of the complaints processed. The Commission has used great prudence with respect to this shortened initial period, reserving it only for complaints that required expeditious handling.

16. The most recent amendment was adopted on October 27, 2006 at the 126th period of sessions. Its purpose was to introduce the matter of requesting a prompt reply from States in the processing of grave and urgent petitions and cases, along with a definition of the rules governing the granting, calling, and holding of hearings by the Inter-American Commission. The reform adopted in 2006 allows the Commission to request a prompt reply from States in urgent cases at subsequent stages in the proceedings, so that this provision complements the amendment adopted in 2000.

17. The integrity and efficacy of the protection afforded the inhabitants of the Hemisphere by the system depends, first and foremost, on the efforts of member states to

achieve universal application of that system through ratification of the American Convention and the other human rights instruments, together with acceptance of the Court's jurisdiction; on compliance with the obligation to adapt domestic legislation so that it conforms to international obligations and to see to it that it is correctly interpreted and applied by State bodies, especially the judiciary; and on compliance with international commitments and the decisions and orders of the Commission and the Court. Likewise, the States must provide the organs of the human rights system with the resources^[1] they need to fully and properly comply with their functions and the tasks assigned to them.

18. Commitment by the States to the inter-American system is what will enable the Commission and the Court, as subsidiary organs of protection, to contribute with responses to the challenges that States face today, principally in the area of administration of justice. The States created the human rights protection system and have an essential role to play as the collective guarantors of that system, which today is a system owned not just by States but by all the inhabitants of the Americas.

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^[1] The details of the IACHR's budget and its sources of funding are available, since 2007, in its website <http://www.cidh.oas.org/financiro.eng.htm>.



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CHAPTER II

LEGAL BASES AND ACTIVITIES OF THE IACHR DURING 2007

A. Legal bases, functions and powers

1. The Inter-American Commission on Human Rights ("IACHR" or "the Commission") is an autonomous organ of the Organization of American States (OAS), headquartered in Washington, D.C. Its mandate is prescribed in the OAS Charter, the American Convention on Human Rights and the Commission's Statute. The IACHR is one of the two bodies in the inter-American system responsible for the promotion and protection of human rights. The other is the Inter-American Court of Human Rights, whose seat is in San Jose, Costa Rica.

2. The IACHR consists of seven members who carry out their functions independently, without representing any particular country. Its members are elected by the General Assembly of the OAS for a period of four years and may be re-elected only once. The IACHR meets in regular and special sessions several times a year. The Executive Secretariat carries out the tasks delegated to it by the IACHR and provides legal and administrative support to IACHR in carrying out its functions.

3. In April 1948, the OAS adopted in Bogotá, Colombia, the American Declaration of the Rights and Duties of Man ("American Declaration"), the first international instrument on human rights of a general nature. The IACHR was created in 1959 and held its first sessions in 1960.

4. In 1961, the IACHR began a series of visits to several countries to observe on-site the human rights situation. Since then, the Commission has made more than 100 visits to member states. Based in part on these on-site investigations, the Commission has, to date, published 71 country reports and special subject reports.

5. In 1965, the IACHR was expressly authorized to examine complaints or petitions related to specific cases of human rights violations. In 2007, thousands of complaints were received which brought the total number of cases and petitions to over 13,000. The final reports published by the IACHR on these individual cases can be found in the Commission's Annual Reports.

6. The American Convention on Human Rights was adopted in 1969 and it entered into force in 1978. As of December 2007, 24 member states were parties to the Convention: Argentina, Barbados, Bolivia, Brazil, Chile, Colombia, Costa Rica, Dominica, Ecuador, El Salvador, Grenada, Guatemala, Haiti, Honduras, Jamaica, Mexico, Nicaragua, Panama, Paraguay, Peru, Dominican Republic, Suriname, Uruguay and Venezuela. The Convention defined the human rights that the ratifying states had agreed to respect and guarantee. The Convention also

created the Inter-American Court of Human Rights and established the functions and procedures of the Court and of the Commission. In addition to examining complaints of violations of the American Convention committed by states parties to this instrument, IACHR has competence, in accordance with the OAS Charter and with the Commission's Statute, to consider alleged violations of the American Convention by OAS member states that are not yet parties to the American Convention.

7. The principal responsibility of IACHR is to promote the observance and defense of human rights in the Americas. In fulfillment of its mandate, the Commission:

- a) Receives, analyzes and investigates individual petitions alleging human rights violations pursuant to articles 44 to 51 of the Convention, articles 19 and 20 of its statute and articles 22 to 50 of its regulations.
- b) Observes the general human rights situation in member states and, when it deems it appropriate, produces special reports on the existing situation on any member state.
- c) Conducts on-site visits to member States to carry out in-depth analyses of the general situation and /or to investigate a specific situation. In general, these visits lead to the preparation of a report on the human rights situation encountered which is then published and submitted to the Permanent Council and to the General Assembly of the OAS.
- d) Promotes public consciousness with regard to human rights in the Americas. To that end, the Commission prepares and publishes studies on specific subjects such as, the measures that must be adopted to guarantee greater access to justice; the effect of internal armed conflicts on certain groups of citizens; the human rights situation of children, women, migrant workers and their families; the human rights situation of those persons deprived of liberty; the situation of human rights defenders; freedom of speech and the human rights of indigenous peoples, afro-descendants and racial discrimination.
- e) Organizes and carries out visits, conferences, seminars and meetings with representatives from governments, academic institutions, non-governmental organizations and others, to disseminate information and to foster broader understanding of the work carried out by the inter-American system on human rights.
- f) Makes recommendations to OAS member States to adopt measures that contribute to the protection of human rights in the countries of the Hemisphere.
- g) Requests that member States adopt "precautionary measures" in accordance with the provisions of article 25 of its regulations, to prevent irreparable harm to human rights in grave and urgent cases. It can also request that the Inter-American Court order the adoption of "provisional measures" in cases of extreme gravity and urgency to prevent irreparable harm to persons, even if the case has not yet been considered by the Court.
- h) Submits cases to the inter-American Court of Human Rights and appears in court during litigation.
- i) Requests advisory opinions of the Inter-American Court in accordance with the provisions of article 64 of the American Convention.
8. Any person, group of persons, or non-governmental entities, legally recognized in

8. Any person, group of persons, or non governmental entities, legally recognized in one or more of the OAS member States, may petition the Commission with regard to the violation of any right protected by the American Convention, by the American Declaration or by any pertinent instrument in accordance with its provisions, its statute and its regulations. Also, under the provisions of Article 45 of the American Convention, the IACHR may consider communications from a State alleging rights violations by another State. The petitions may be filed in any of the four official languages of the OAS (Spanish, French, English or Portuguese), by the alleged victim of the rights violation or by a third party, and in the case of interstate petitions, by a government.

B. The Commission's Sessions in 2007

9. During the period covered by this report, the Commission met on four occasions: from February 26 to March 9, 2007, in the 127th Regular Session; from July 16 to July 27, 2007, in the 128th Regular Session; from September 5 to September 7, 2007, in the 129th Special Session which took place in Paraguay and from October 8 to October 19, 2007, in the 130th Regular Session.^[1] During 2007 the Commission approved a total of 51 admissibility reports, 14 inadmissibility reports, and 5 friendly settlements, published four merits reports, and held 94 hearings and 80 working meetings.

1. 127th Regular Period of Sessions

10. The Inter-American Commission on Human Rights (IACHR) held its 127th Regular Session from February 26 to March 9, 2007. During this session, the Commission elected its board of officers which is composed as follows: Florentín Meléndez, President; Paolo Carozza, First Vice-President; and Víctor Abramovich, Second Vice-President. Commissioners Sir Clare K. Roberts, Evelio Fernandez Arévalos, Paulo Sérgio Pinheiro and Freddy Gutiérrez are also members of the IACHR. Dr. Santiago A. Canton has been the Executive Secretary of IACHR since August 2001.

11. During this regular session, the Commission approved reports on individual cases and petitions and held 30 working sessions and 48 hearings, some relating to individual cases, petitions or to precautionary measures, and others relating to general or specific human rights situations.

12. Also in this session, the Commission approved its 2006 Annual Report which provides an analysis of the progress made in the area of human rights in the region during the year, as well as an analysis of the challenges ahead. Among the advances, the report highlighted the political will to ensure the full exercise of fundamental freedoms in the Hemisphere. However, the report also pointed out that the region still faced important challenges, among them, public safety, social inequality, access to justice and the consolidation of democracies. The report was submitted to the 37th General Assembly of the Organization of American States (OAS), which was held in Panama, from June 3 to June 5, 2007.

13. The Commission pointed out that the election of new presidents in 12 countries in the Hemisphere in the past two years, was an indication of the consolidation of electoral systems, but, it added, democratic institutions were still weak and profound socio-economic differences persisted. The social marginalization and exclusion that continued to characterize the region, the Commission said, prevented the effective exercise of social, economic and cultural rights by large segments of the population, and prevented the strengthening of democratic institutions. The Commission noted that although inequality continued to be a central element in the analysis of the human rights situation in the region, it was not a subject of primary importance in the public policies of the States.

14. The Commission indicated that it saw a relationship between social exclusion and institutional degradation. Evidence of that relationship could be found in the fact that the majority of the victims of torture come from disadvantaged segments of society, and so did the

majority of the victims of torture came from disadvantaged segments of society, and so did the majority of persons who were subjected to arbitrary detention, beatings and police executions. The alarming collapse of correctional systems and the violent attacks on indigenous peoples, who resisted being pushed out of their lands, were also indicative of that relationship. Furthermore, the Commission added, the actions of police officers, prosecutors and other public servants were often guided by ethnic, racial or gender discrimination.

15. The Commission also said that public insecurity and the fragility of the judicial power in the majority of the countries in the region, combined with attacks against the independence and impartiality of that power in certain countries, represented one of the most difficult barriers OAS member states faced in guaranteeing the full expression of human rights. This translated into unequal access to justice, slow legal procedures, impunity in serious cases of violation of fundamental rights and of violation of due process.

16. The Commission also said that OAS member States must collectively expand good governance in the region and improve the quality of public administration as essential prerequisites to effectively promoting and protecting human rights. The Commission reiterated that the structural weakness of many basic democratic institutions, in addition to crises brought about by special situations that generate political instability, prevented achieving broad and lasting agreements on inclusive public policies that are essential to the respect for and exercise of human rights. The Commission added that in order to make strides toward that goal, it was necessary to expand and strengthen freedom in the Americas; to build societies with the full participation of all its citizens, with independent, impartial and expeditious justice systems, with more transparency in public administration, with full freedom of expression and association, with complete respect for gender equality, and with guarantees for the rights of indigenous peoples, of afro-descendent communities and of other vulnerable groups.

17. During this session, the Commission received a delegation from the African Commission on Human Rights and the People, composed of Commissioner Angela Melo, Rapporteur for the Rights of Women, and Commissioner Sanji Monageng, who were also joined by high-ranking officials of the Executive Secretary's office. On February 6, 2007, the delegation participated in hearings on cases, petitions and the general human rights situation and then met with commissioners and staff from the Commission's Executive Secretariat for the purpose of exchanging information relating to the functioning of the inter-American and of the African human rights systems. The Inter-American Commission on Human Rights stressed the importance of having the commissioners present and expressed its wish to continue the exchange through possible future mechanisms of institutional cooperation.

18. The Commission called on the international community to show solidarity with Bolivia, which was buffeted by natural disasters spawned by the climatic phenomenon known as El Niño at the beginning of 2007. The Commission appealed to the international community to take urgent humanitarian measures to provide assistance to the affected population.

19. The Commission expressed its gratitude to the governments of the following OAS member States for their important financial contributions: Brazil, Chile, Costa Rica, United States, Mexico, the Dominican Republic and Venezuela. The Commission also thanked the Observers which also support the Commission's activities: Denmark, Spain, Finland, France, Ireland, Italy and Sweden. The Inter-American Development Bank, the European Commission, the Open Society Foundation and the Commonwealth Secretariat have also contributed special funds to the Commission. These contributions, the Commission said, helped strengthen the inter-American system and the respect for human rights in the American hemisphere.

2. 128th Regular Period of Sessions

20. The Inter-American Commission on Human Rights (IACHR) held its 128th regular session from July 16 to July 27, 2007. During this session, the Commission held 25 public hearings, receiving valuable information from States, from civil society organizations and from petitioners. The Commission also held 15 working sessions on cases and petitions being processed; had a fruitful meeting with the ambassadors of the Andean region and discussed

and approved 44 reports. The Commission expressed its gratitude to the States and to civil society representatives for their active and valuable participation during the session, which, it said, helped strengthen the inter-American system of protection of human rights.

21. In the same vein, the Commission expressed its gratitude to the governments of the following member States of the Organization of American States (OAS) for their important financial contributions: Brazil, Chile, Colombia, Costa Rica, United States, Mexico, Dominican Republic and Venezuela. The Commission also thanked the Permanent Observers who provide support for the Commission's activities: Korea, Denmark, Spain, Finland, France, Ireland, Italy and Sweden. At the same time, the Commission expressed its gratitude to the Inter-American Development Bank, the European Commission, the Open Society Foundation and to the Commonwealth Secretariat for their valuable contributions. Those contributions, the Commission noted, directly support the strengthening of the inter-American system on human rights in the American continent.

22. Turning to a different subject, during several of the public hearings the IACHR continued to receive alarming information regarding the serious problems brought about by the lack of public safety in most of the countries in the American continent, as well as on the states' responses to them, which were characterized by the absence of prevention policies and by the implementation of, primarily, repressive measures. Specifically, the Commission pointed out the vulnerability of numerous victims of human rights violations who, usually, do not receive the state's protection to which they are entitled to, in addition to lacking access to justice. These problems constitute some of the main obstacles to the full exercise of human rights in the Hemisphere and they also represent some of the most difficult challenges facing the majority of the States in the region.

23. During the hearing on Peru's National Plan on Human Rights, the Commission also received information to the effect that, although it has been almost two years since the plan was adopted, its implementation appeared to be on the preliminary stages. The Commission urged the Peruvian government to take the necessary action to ensure the effective implementation of the plan. The Commission also reiterated its willingness to support the state in whatever measures it adopts now, or will adopt in the future, with regard to the progressive implementation of the plan in accordance with the terms established in the agreement signed in 2005.

24. On another matter, due to information received during the hearing on the implementation of precautionary measures in Honduras, the Commission called on public servants and government officials to refrain from making public statements or comments that could put at risk the safety of the beneficiaries of the precautionary measures.

25. During the hearing on the general human rights situation in Guatemala, representatives of the state informed the Commission that the bill to create the International Commission Against Impunity in Guatemala (CICIG) was awaiting passage by the congress, and that there were obstacles to bringing the bill to a vote. The Commission joined in the call made by the United Nations General Secretariat to the Congress of Guatemala on July 3, 2007, urging the Guatemalan congress to adopt the creation of the CICIG as soon as possible, as an important step in the effort to combat impunity in the country.

26. A hearing on the precautionary measures in place for the detainees at Guantánamo was also held during this session. The President of the Commission sent to the United States Department of State a formal consent request to allow the IACHR to visit the facilities at that detention center. Also during the hearing, the President of the Commission reiterated the call made to the government of the United States in Resolution No. 1/06 issued in July, 2006, whereby the Commission urged the United States government to close that detention center without delay.

27. The IACHR also held a meeting regarding freedom of expression in Mexico. In that regard, the Commission acknowledged the recent advances made with respect to laws and

regulations governing freedom of expression in Mexico. However, the Commission expressed deep concern with the lack of security experienced by journalists and communicators in the country and with the alarming increase in murders, attacks and threats against them in the last few years. The Commission urged the State to investigate and punish those responsible for the crimes and to urgently adopt measures to guarantee the safety of journalists.

3. 129th Extraordinary Period of Sessions

28. The Inter-American Commission on Human Rights held its 129th Special Session in Asuncion, from September 5 to September 7, 2007, at the invitation of the government of Paraguay. Present during the session were: the President of IACHR, Florentín Meléndez, First Vice-President Paolo Carozza, Second Vice-President, Victor Abramovich and Commissioners Evelio Fernandez Arevalos, Sir Clarke K. Roberts and Freddy Gutierrez, as well as Executive Secretary Santiago Canton and Assistant Executive Secretary, Elizabeth Abi-Mershed.

29. The Commission was received by the President of the Republic, Nicanor Duarte Frutos; the Minister of Foreign Affairs, Rubén Ramírez Lezcano; the President of the National Congress, Miguel Abdón Saguier; and by the President of the Supreme Court of Justice, Alicia Pucheta de Correa, among other government authorities. The Commission also held meetings with civil society organizations and with representatives of indigenous peoples.

30. During this session, the Commission held four public hearings. In the course of a hearing on the human rights of migrant workers, refugees and displaced persons in the Americas, the Inter-American Control Observatory on Migrations (OCIM) reported that a migrant dies every three minutes in the Americas due to xenophobia or discrimination. For its part, the Observatory of Indigenous People's Rights submitted information during a hearing on water rights and indigenous peoples in the Andean region. The petitioners indicated that the sale of water rights to primarily mining companies has caused some river beds to dry up and has contaminated others which, according to the information received, leave several indigenous groups with no access to water for irrigation or for human and animal consumption. There was also a hearing held on the follow-up to recommendations made in IACHR Report 29/92, which established the incompatibility of Uruguay's Law of Expiration of the Punitive Power of the State with the American Convention on Human Rights. Uruguay's Institute on Legal and Social Studies (IELSUR), the petitioner in the case, requested that the State provide information on the criteria used to select which cases of human rights violations perpetrated during the military dictatorship (1973-1985) the State opened to investigation and which cases it ordered closed, under the decision-making power accorded to it by article IV of this law, as well as information on whether the State has plans to repeal the law. Lastly, a hearing was held where the Diego Portales University of Chile presented a report on the human rights situation in that country. The IACHR also held working meetings on pending cases from Argentina and Uruguay.

31. The delegation visited the Center for Documentation and Archives for the Defense of Human Rights, also known as the "Terror Files", which holds documents, photographs, recordings and other documentation of human rights violations perpetrated during the dictatorship of General Alfredo Stroessner (1954-1989), and of operations carried out under a plan of repressive actions coordinated by the governments of the Southern Cone known as "Operation Condor." The compilation and organization of this one-of-a-kind repository of

evidence, has immeasurable value in helping to shed light on the truth; it provides elements necessary to assign criminal responsibility and engenders historical awareness in present and future generations. The Commission encourages the State to continue its efforts to provide the archive with the infrastructure and the technical expertise needed to properly conserve its contents.

32. The IACHR also carried out activities designed to promote the inter-American system on human rights in academic and judicial circles. The President of the IACHR, Commissioner Florentín Meléndez, was the keynote speaker at a conference on the inter-American system at the National University of Asuncion School of Law, while Second Vice-President, Commissioner Victor Abramovich, spoke at a conference on the same topic at the

Catholic University School of Law. The Commission also organized a conference for judges, prosecutors and defense attorneys at the Supreme Court of Justice.

33. Before the opening of the special session, the Rapporteur for Paraguay and Rapporteur on the Rights of Indigenous Peoples, Commissioner Paolo Carozza, met for two days with government officials, civil society organizations and indigenous communities and held working meetings on petitions and cases pending.

34. The Commission expressed its gratitude to the government of Paraguay for the invitation to hold the special session in Asuncion and for its cooperation in planning and carrying out the agenda of activities, as well as for making it possible for the Commission to hold every session it expressed an interest in organizing. The Commission also expressed its gratitude to civil society organizations and to the Paraguayan people for their collaboration and hospitality.

4. 130th Regular Period of Sessions

35. The Inter-American Commission on Human Rights (IACHR) held its 130th Regular Session from October 8 to October 19, 2007. During the sessions, the IACHR held hearings and working meetings, it participated in a special session of the OAS Committee on Juridical and Political Affairs, held a working luncheon with the Central American Council of Human Rights (CCPDH) and met with magistrates and public prosecutors organized by the College of the Americas (COLAM), among other activities. The Commission values and appreciates the active participation of the States and of civil society in the sessions which strengthen the inter-American system for the protection of human rights.

36. Twenty-seven hearings were held during this session. The President of IACHR, Dr. Florentín Meléndez, wished to acknowledge as a positive step that representatives of the government of the United States had said that they hoped to continue talks with the IACHR on possible visits by the Commission to immigration detention centers, and that they were awaiting further details on which specific centers the Commission wished to visit. This statement was made during the hearing on the human rights situation of migrant workers, refugee children and other vulnerable groups in the United States. The Commission wishes to make special mention of the hearing held on the situation of descendants of fugitive slaves during the colonial period ("Quilombolas") in Brazil, an example of the focus and close follow-up by the IACHR of the situation of afro-descendants in the region.

37. There were also 28 working meetings held during this session. The President of the IACHR expressed his satisfaction with the information provided by the state government of Oaxaca, Mexico, during a working meeting, regarding the implementation of the recommendations he made during his visit to the state of Oaxaca last August. The President also noted with satisfaction the willingness of the parties to move forward on friendly settlements in all the working meetings held dealing with cases in Mexico: Reyes Penagos Martínez; Cruza Ávila Mondragón; Modesto Patolzin Moicen and Víctor Pineda Henestrosa. On another matter, a working meeting was held on the AMIA case, regarding the investigation into the 1994 attack perpetrated on the Asociación Mutual Israelita Argentina (Argentine-Israeli

Mutual Association). In view of the fact that the State could not report on any concrete measures adopted in the last few months or on any progress made in the investigation, the President of IACHR expressed his disappointment with the lack of progress in the process of seeking a friendly settlement in the case, and encouraged the State to redouble its efforts, specially regarding the investigation and explanation of the facts about the attack.

38. The Commission drew attention to the signing, during this session, of an agreement between the IACHR and the University of Quebec in Montreal, Canada, to establish the Brian Titemore Scholarship to enable a graduate of that university to perform legal support tasks in the IACHR Executive Secretariat, with external funding. Brian Titemore, a Canadian attorney, played an important role as a principal specialist at IACHR, from February 1999 until his death in December 2006. The signing of the agreement coincided with the arrival of the first recipient of the Brian Titemore Scholarship at the IACHR Executive Secretariat

39. On December 31, 2007, the terms of office for Commissioners Evelio Fernández Arévalos and Freddy Gutiérrez Trejo come to an end. The President of IACHR thanked Commissioners Fernández Arévalos y Gutiérrez Trejo for their service during the period 2004-2007. The Commission gave special thanks to Commissioner Fernández Arévalos, who served as president of IACHR in 2006.

C. Visits

40. As for the power to conduct on-site observations in the OAS member States, enshrined in Article 18(g) of the Statute and Article 51 of the Rules of Procedure of the IACHR, on various occasions in 2007, its President, Commission member Florentín Meléndez, called upon the States in the region to extend a “permanent and open invitation” to the Commission to visit the countries of the region. Since such invitations are understood as an expression of willingness on the part of the States to cooperate with the Commission in the fulfillment of its function of promoting the observance and defense of human rights in the region, a function entrusted to it by those same States in the OAS Charter, the President made his initial appeal upon presenting the 2006 Annual Report of the Commission to the OAS General Assembly, that was held in Panama from June 3 to 5, 2007. In response, four States extended permanent and open invitations to the Commission: Honduras, Paraguay, Peru, and Uruguay. The President of the Commission points to, and appreciates, the decision and political will of these four OAS member states. The President of the IACHR also recognized that, in recent years, five other States—Argentina, Brazil, Colombia, Guatemala, and Mexico—have given open approval to the visits for which the IACHR requested permission; and he urged them to formalize this practice in writing. Later, in December 2007, the President of the Commission renewed his appeal in written correspondence to the Ministers of Foreign Affairs of the remaining member States.

41. Recounted below are the visits conducted by IACHR members in the performance of their functions.

Brazil

42. In the context of preparing a special report on juvenile justice in the Americas, intended to identify obstacles and strengths encountered in the national specialized juvenile justice systems, the Rapporteur for Children’s Rights, Paulo Sérgio Pinheiro, organized two working meetings to evaluate the content of a proposed questionnaire for use in preparing that report. These meetings were held in Sao Paulo, Brazil, on August 21 and 22, 2007. On the first day, a meeting was held with regional experts and officials from the United Nations Children’s Fund (UNICEF) on the topic of juvenile justice; and on the second day, Commissioner Pinheiro and the Secretariat’s delegation met with representatives from civil society organizations working in this area.

Chile

43. From September 11 to September 13, 2007, the Rapporteur on the Rights of Women, Víctor Abramovich, made a working visit to Chile for the purpose of gathering information on the various forms of discrimination against women in that country. During the visit, the rapporteurship gained deeper understanding of existing discrimination against women in the family, in political activities and in the workplace. The rapporteurship also gathered information on possible links between discrimination in private and public life.

Colombia

44. The IACHR Rapporteur for Colombia, Víctor Abramovich, the Executive Secretary Santiago Canton and Secretariat staff visited Colombia from January 16 to January 20, 2007. The purpose of the visit was to monitor the process of demobilization of illegal armed groups. During the visit, the IACHR delegation went to the cities of Bogotá and Medellín, holding meetings with government officials in Bogotá, with managers in charge of the MAPP/OAS Mission in Colombia, with members of the international community, and with civil society and

MISSION IN COLOMBIA, WITH MEMBERS OF THE INTERNATIONAL COMMUNITY, AND WITH CIVIL SOCIETY AND inter-governmental organizations working in Colombia. In Medellín, the IACHR delegation also met with prosecutors from the Justice and Peace Unit, with staff from the Medellín Office of the Public Defender (Personería de Medellín), and with human rights organizations.

45. Commissioner Víctor Abramovich as Rapporteur for Colombia and Special Rapporteur on the Rights of Women of the IACHR with a delegation from the Executive Secretariat visited Bogotá from April 10 to April 13, 2007, with the purpose of introducing consultant Luís Augusto Sepúlveda, to monitor the demobilization process in Colombia, and to disseminate the IACHR report titled "Women Confront Violence and Discrimination Stemming from Colombia's Armed Conflict." Also, within the framework of the IACHR follow-up to the demobilization process in Colombia, Commissioner Abramovich met government authorities, the MAPP/OAS Mission in Colombia, the civil society and intergovernmental organizations in order to introduce the consultant who gives technical support to the IACHR in certain legal aspects related to the application of the Peace and Justice Law to the demobilized persons from the AUC.

46. Commissioner Sir Clare K. Roberts, IACHR Rapporteur for Afro-Descendants visited Colombia with a delegation from the Executive Secretariat from May 14 to May 18, 2007. This was the first visit by the Special Rapporteurship on Afro-Descendants and Racial Discrimination, and the purpose was to perform a primary analysis of the socio-economic situation of Afro-Colombians, that would also reflect the implementation of Colombia's Law 70, the registration and protection of communal lands, as well as the situation of displaced Afro-Colombian persons and communities, their rights to education and culture. At the same time, the rapporteur also evaluated the impact the demobilization process and the implementation of the Justice and Peace Law are having on afro-descendent communities.

47. During 2007 and within the framework of the advise that the IACHR provides to the Support Mission to the Peace Process (MAPP/OAS) and follow-up to the demobilization process in Colombia, a delegation from the Executive Secretariat visited the departments of Cundinamarca, Santander, Norte de Santander, Córdoba, Magdalena, Cesar, La Guajira and Antioquia. Since April 2007, the IACHR also followed up on the "free versions" rendered before the National Unit of Prosecutors Offices for Peace and Justice, in its different locations. In this context, the consultant who gives technical support to the IACHR has observed 40 "free versions" and 39 instances of the non-ratification of appointees in Bogota, Medellín, Barranquilla and Cucuta. The consultant also observed six public hearings within the peace and justice process in Barranquilla and Bogota. He also held meetings with different authorities and civil society organizations that are involved in this process. Lastly, from September 16 to September 22, 2007 the consultant observed a "victims' special attention day" in La Gabarra for the victims who take part in this peace and justice process.

48. Commissioner Victor Abramovich and a delegation from the Executive Secretariat visited Bogota and Villavicencio between November 26 to November 30, 2007, within the framework of the IACHR follow-up to the demobilization process in Colombia. Commissioner Abramovich met with government authorities, Prosecutors from the Peace and Justice Unit, the MAPP/OAS Mission in Colombia, the civil society and the representative in Colombia for the United Nations High Commissioner on Human Rights.

Haiti

49. In his role as Rapporteur for Haiti, Commissioner Sir Clare K. Roberts visited the country from April 18 to 22, 2007, focusing on the areas of administration of justice and women's rights.

50. As President of the IACHR and Rapporteur on the Rights of Persons Deprived of Liberty, Commissioner Florentín Meléndez visited Haiti from June 17 to June 20, 2007. The purpose of the visit was to receive information and to observe the situation of persons deprived of liberty in certain detention centers in Port-au-Prince. The rapporteur visited the National Penitentiary, the Delmas Police Station, the Delmas Juvenile Detention Center and the Women's

Prison at Petion-Ville.

51. From September 26 to September 28, 2007, the Executive Secretariat joined the Special Rapporteur on Freedom of Expression in his visit to Haiti. During the visit, the delegation observed the situation regarding the right to freedom of expression and took measure of the progress made with respect to the recommendations of the report published in 2003.

Mexico

52. At the invitation of the Mexican government, and in his role as President of the IACHR and Rapporteur on Mexico, Commissioner Florentín Meléndez, visited Mexico City from April 9 to April 13, 2007, with the purpose of observing and receiving information on the human rights situation in that country and to meet with the new authorities and with Mexican civil society organizations. In conjunction with that visit, the President of the Commission gave an academic lecture on the inter-American human rights system to members of the Military Justice Service and of the National Defense Staff. He also visited the Military Prison attached to Military Region I.

53. Between August 6 and 11, 2007, Florentín Meléndez, President of the IACHR and Rapporteur on the Rights of Persons Deprived of Liberty, visited Mexico with the purpose of monitoring the human rights situation in the state of Oaxaca and to verify the situation of persons deprived of liberty in certain jails in Mexico. The IACHR delegation visited the Federal District from August 6 to August 8 and Oaxaca from August 9 to August 11. During the visit, the delegation met with high level officials in the federal government and in the state government of Oaxaca, including Mexico's President Felipe Calderón and the Governor of Oaxaca, as well as with civil society representatives.

Paraguay

54. The Rapporteur on the Rights of Indigenous Peoples, Paolo Carozza, paid a visit to Paraguay prior to the opening of the 129th session. Among other activities, on September 3, 2007, the Rapporteur visited Yamok Kasek's and Yakye Axa's community in the Paraguayan Chaco. On Tuesday, September 4, the rapporteur held working meetings with government officials in the morning, and in the afternoon, he held working meetings on 5 cases pending before the Commission.

D. Activities of the Rapporteurships^[2]

1. Rapporteurship on the Rights of Indigenous Peoples

55. For the entities of the inter-American system, the respect and protection of the rights of indigenous peoples is a matter of special importance. In 1972, the Commission maintained that for historical reasons, and for moral and humanitarian principles, states had a sacred compromise to provide special protection for indigenous peoples. In 1990, the Commission established the Special Rapporteurship on the Rights of Indigenous Peoples with the purpose of focusing special attention on indigenous peoples in America who are particularly exposed to human rights violations because of their vulnerability, and to strengthen, give impetus and organize the Commission's activities in the area.

56. Since the 1980s, the Commission has systematically spoken on the rights of indigenous peoples in special reports^[3] and through the case system, in admissibility reports, in-depth reports, reports on friendly settlements, the mechanism of precautionary measures, as well as through orders and requests for provisional measures filed with the Inter-American Court.

57. In that sense, the Commission has expressed the need to demand special protection of the right of indigenous peoples to their lands, because the full exercise of that right not only implies the protection of an economic unit, but also the protection of the human

right not only implies the protection of an economic unit, but also the protection of the human rights of a community whose economic, social and cultural development is based on its relationship to the land. In the 1993 Report on the Human Rights Situation in Guatemala, the Commission stated:

From the standpoint of human rights, a small corn field deserves the same respect as the private property of a person that a bank account or a modern factory receives.^[4]

58. During 2007, the Rapporteurship on the Rights of Indigenous Peoples continued to carry out its activities in support of the system of individual petitions and of the study and processing of precautionary measures, cases and communications regarding the rights of indigenous peoples and/or its members. The Rapporteurship also continued to promote and advise OAS member States and participated in the IACHR special session held in Paraguay.

59. The entities of the inter-American system for the promotion and protection of human rights have developed progressive laws that recognize the collective rights of indigenous peoples. The Inter-American Commission on Human Rights reiterates its concern with the difficulties in the implementation of its recommendations, as well as with compliance with judgment and provisional measures ordered by the Inter-American Court of Human Rights in cases where the victims are indigenous peoples. To that end, the Commission encourages the states to redouble their efforts to comply with the decisions of inter-American institutions concerning indigenous peoples. In that way, not only are specific groups of people, recognized, protected and made whole but also a special way of life and the human diversity inherent in societies in the American continent are respected.

60. Likewise, the Rapporteurship specially calls on OAS member States to recognize and respect the right of indigenous peoples to their cultural identity, based on their close relationship to their ancestral lands and to the resources found there, not only because they are their primary means of subsistence but because they also play an integral role in their vision of the cosmos. In that regard, the Rapporteurship acknowledges and appreciates the actions implemented by several States that have legally recognized the traditional lands of indigenous peoples. However, there are still significant weaknesses in the protective measures taken leaving indigenous peoples in vulnerable positions, especially when confronted with the interests of third parties intent on extracting and exploiting the natural resources found in indigenous lands.

61. During 2007, the IACHR granted precautionary measures to protect indigenous peoples in voluntary isolation and to protect ancestral lands and sacred places of indigenous peoples who see their rights threatened. Meanwhile, during the IACHR sessions held in 2007, several reports regarding the rights of indigenous peoples were approved and various hearings were held dealing with subjects such as malnutrition of indigenous children in the Americas. The IACHR continues to receive information regarding the situation of indigenous peoples being affected by the interest of third parties in their ancestral lands. In the context of its visit to Paraguay on September 3 and 4, 2007, the Rapporteurship visited the indigenous communities of Yamok Kasek and Yakye Axa in the Paraguayan Chaco. On September 7, 2007, the Rapporteurship met with several government officials in charge of policies concerning indigenous peoples and held working meetings on petitions and cases where the alleged victims were indigenous communities. The IACHR Rapporteur on the Rights of Indigenous Peoples, Paolo Carozza and the President of the IACHR, Florentín Meléndez, held a meeting with more than 300 indigenous communities from the Oriental and Occidental Regions of Paraguay. In the meeting, representatives from 14 indigenous groups described the grave and urgent situation confronting their communities and called the meeting historic because it was the first time they were able to talk directly to the IACHR without intermediaries.^[5]

62. The Rapporteurship also continued to advise the president of the Working Group to Prepare the Draft American Declaration on the Rights of Indigenous Peoples. In that regard, the Rapporteurship acknowledges the efforts made by OAS member States and by the representatives of indigenous peoples of the continent during negotiations on the project. To

that end, the Commission emphasizes the importance of the adoption of the United Nations Declaration on the Rights of Indigenous Peoples by the United Nations General Assembly on September 13, 2007. In that context, the Commission encouraged OAS member States to maximize their efforts to adopt this American Declaration on the Rights of Indigenous Peoples and urged OAS member States to consider the instrument approved by the UN as the baseline standard in their discussions and reflections on the inter-American draft^[6].

63. Finally, with the goal of strengthening the promotion and defense of the rights of indigenous peoples, the Commission hired attorney Anexa Alfred, a specialist working in the Rapporteurship, for the position of specialist on human rights and indigenous rights law. Likewise, the commission announced the fourth period scholarships for indigenous lawyers, aimed at providing practical experience at IACHR for a year. This time, there were two scholarships offered instead of one as was the case in previous years. In 2007, the two attorneys selected were: Ana Manuela Ochoa, a member of the Kankuamo indigenous people of Colombia, and Tedi Limachi, a member of the Aymara indigenous people of Bolivia.

2. Rapporteurship on the Rights of Women

Introduction

64. During the last three years, the agenda of the Rapporteurship on the Rights of Women has focused on a priority area for the rights of women in the continent; how to ensure full access to justice for women, especially when they have been the victims of violence and discrimination. The importance of this task has been broadly reflected by the Rapporteurship's work on the subject, and by the Commission's case system and country reports. The Rapporteurship's agenda has made prompt access to protection and to effective legal guarantees the starting point in devising a first line of defense for the protection of basic rights. Even so, the Rapporteurship faces the problem that the victims of gender-based violence and discrimination often do not have access to that protection so their rights are left unprotected.

Activities

Report: *Access to Justice for Women Victims of Violence in the Americas*

65. On March 7, 2007, the Commission issued its report, *Access to Justice for Women Victims of Violence in the Americas*, which was prepared by the Rapporteurship to provide an analysis of the main obstacles women face when trying to access legal resources, guarantees and protection to seek reparation for acts of violence, including the problem of impunity, and issues conclusions and recommendations for States to act with due diligence to provide timely and effective legal responses to these incidents. This analysis consists of a compilation of information from a variety of sectors, including the judicial system, public servants and representatives from the government, civil society, academic institutions, and women of different races, ethnic groups and socio-economic backgrounds, carried out by the rapporteurship with financial support from the government of Finland.

66. The report concludes that, despite the formal and legal recognition by the states that violence against women is a challenge that must be given priority, there's a great gap between the incidence and seriousness of the problem and the quality of the legal remedy available. Although the Commission acknowledges the efforts made by the states in adopting legal and political frameworks to deal with the problem of violence against women, there is still an enormous gap between the formal availability of certain resources and their effective implementation. Not only does this situation instill in victims a sense of insecurity, vulnerability and mistrust toward the administration of justice, but this context of impunity perpetuates violence against women as an accepted practice in American societies to the detriment of women's human rights. In this report, the Commission issues conclusions and recommendations in order that States may respond with due diligence in implementing timely and effective legal measures to combat violence against women.

67. Likewise, the Commission presented its report, Access to Justice, on March 7, 2007, in Washington, D.C., with the participation of José Miguel Insulza, Secretary General of the Organization of American States (OAS); Víctor Abramovich, Commissioner, Second Vice-President, and IACHR Rapporteur on the Rights of Women; Teresa Genta-Fons, Senior Counsel for Latin America and the Caribbean in the Legal Division of the World Bank; and Marianne Mollmann, Advocacy Director, Women's Rights Division of Human Rights Watch.

68. Throughout the year, the Rapporteurship organized and participated in additional activities to promote compliance with the recommendations issued by the IACHR in the report Access to Justice. Between April 14 and April 16, 2007, the Rapporteur and Commissioner, Víctor Abramovich, participated in activities planned by the organizations Study for the Defense of Women Rights (DEMUS) and the Association for Human Rights (APRODEH) in order to present the report on access to justice in Lima, Peru. From June 12 to June 15, the Rapporteur attended the international meeting "Challenges and Answers to Violence Against Women: The Role of the State and of Civil Society" organized by CEPIA (Citizenship, Study, Research, Information and Action) and by the Ford Foundation in Rio Janeiro, Brazil. On March 30, 2007, in Washington, D.C., the Rapporteurship and the International Association of Women Judges held a technical meeting with magistrates from Central America, to discuss the implications the conclusions of the report on access to justice could have on the way judges carry out their functions, and to identify strategies to pursue to ensure full compliance with the recommendations.

Report: Women and Violence and Discrimination Stemming from the Armed Conflict in Colombia

69. On April 12 of 2007, in Bogotá, the Rapporteurship presented the report "Women and Violence and Discrimination Stemming from the Armed Conflict in Colombia." During his visit to Colombia, Rapporteur Víctor Abramovich, held meetings with civil society organizations advocating for the defense of women's rights and with legislators from a broad spectrum of Colombia's political sector, to discuss the report's conclusions and recommendations. There was also a panel formed to discuss and reflect on the report's recommendations which included representatives of the government, the justice system and from civil society.

Working Visit to Chile

70. From September 11 to September 14, 2007, the Rapporteurship conducted a working visit to Chile to gain a deeper understanding of the various forms of discrimination against women in that country. The delegation was led by Rapporteur Víctor Abramovich, and met with officials of the Chilean government, with representatives from civil society, from academic institutions and from international organizations. The Rapporteurship gathered information on discrimination against women, especially in the family, in political participation and in the workplace. It also received information on the possible links between discrimination in private life and discrimination in public life. Based on this visit, the Rapporteurship is preparing a report with recommendations for the Chilean state.

71. Likewise, in the context of this visit, on September 12, 2007, the Rapporteurship presented the report Access to Justice for Women Victims of Violence in the Americas, at the Diego Portales University. The event was organized by the Human Rights Center of the Diego Portales University School of Law and by the organization Corporación Humanas – Regional Center for Human Rights and Gender Justice. Rapporteur Abramovich led the discussion panel together with the Minister of the Court of Appeals of San Miguel, Lya Cabello Abdala. International organizations, civil society organizations and representatives from academia also took part in this event.

Additional Activities

72. The Rapporteurship has continued to provide technical support to attorneys in the Executive Secretariat processing individual petitions and precautionary measures. At the

the Executive Secretariat processing individual petitions and precautionary measures. At the present time, the Rapporteurship on the Rights of Women is also preparing two thematic reports as a result of their on-site visits to Guatemala (2004 and 2006) and to Haiti (2006 and 2007), on discrimination and violence against women in those countries and on the challenges that victims and their families face seeking access to effective legal protection when denouncing those actions.

3. Rapporteurship on the Rights of Children

73. During 2007, the Rapporteurship on the Rights of Children, under the leadership of Commissioner Paulo Sergio Pinheiro, continued with the activities described as follows:

74. This Rapporteurship analyzed and evaluated cases, petitions and requests for precautionary measures pending before IACHR. In particular, the Rapporteurship analyzed alleged violations of rights of children and adolescents, especially those relating to personal liberty and integrity; the right to a dignified life; the forced recruiting of children into the armed forces, and the right to health, among others. In the framework of the 129th Special Session held in Paraguay, the Rapporteurship held working meetings regarding cases of child-soldiers in Paraguay.

75. During the hearings held in 2007, Rapporteur Pinheiro also received information on the situation of children deprived of liberty in Argentina; on public policies regarding adolescents in conflict with the law in Brazil; on the malnutrition of indigenous children in the Americas; on the human rights situation of migrant workers, refugee children and other vulnerable groups in the United States; on children and adoption procedures in Guatemala, and on the situation of children in the armed conflict in Colombia.

76. Also, during 2007, the Rapporteurship began to carry out the activities planned under the "Technical Cooperation Agreement on the Protection of the Rights of Children in Latin America: Violence Prevention," signed by IACHR and the Inter-American Development Bank (IDB). In that regard, in April 2007, the Rapporteurship hired Peruvian attorney Cecilia Anicama Campos, as a consultant to implement the activities planned in the agreement. Ms. Anicama was selected in accordance with established guidelines for the selection of experts at the IACHR.

77. Within the framework of the said Technical Agreement, the Rapporteurship is in the process of completing the second edition of the book "Childhood and its rights in the inter-American System of Protection of Human Rights" as well as the elaboration of thematic reports on various issues related to violence against children in the hemisphere. Particular attention has been given to the situation of Children in conflict with the law. Regarding the latter issue, the Rapporteurship has requested information to various civil society organizations of the regarding children in conflict with the law due to their possible participation with the gangs (maras) in Central America.

78. Additionally, and in order to continue with the study and analysis of the situation of children in conflict with the law, on August 21 and 22, 2007 the Rapporteurship organized two working meetings on juvenile justice in the city of São Paulo, Brasil. On the first day, the Rapporteur met with regional experts and officials from the United Nations Children's Fund (UNICEF) on the subject of juvenile justice. On the second day, Commissioner Pinheiro and the delegation from the Executive Secretariat met with representatives of civil society organizations who work in the area of protection of children in conflict with the law. During their activities in Brazil, the Rapporteur and the delegation had the support of UNICEF and of "Save the Children" Sweden. In the context of the activities carried out in Brazil, the delegation visited the Center for the Defense of Children and Adolescent Rights in Interlagos (CEDECA Interlagos) and the National Defense Association (ANCED).

79. The Rapporteur for the Rights of Children and the Secretariat Specialist participated in other activities as it is described next: a meeting with experts of the region and officials of the United Nations Children's Fund (UNICEF) from August 20 through August 24 in the city of São Paulo, Brasil. On November 15 and 16, the Organization of American States

the city of Sao Paulo, Brazil. On November 15 and 16, the Organization of American States sponsored the Sub regional Conference on Culture of Peace and Prevention of the Juvenile Violence that took place in the city of San José, Costa Rica, that was attended by a delegation of the Secretariat. From November 20 until November 21 a delegation of the Executive Secretary took part in the XII Annual Meeting of the Latin-American Federation of Ombudspersons (FIO), which was held in Lima, Peru. On December 5, a delegation of the Executive Secretary participated in a working meeting organized by the Commission of Juridical and Political Affairs of the OAS in relation to the Draft Inter-American Program for Universal Civil Registry and the "Right to Identity".

80. On December 17 a Cooperation Agreement was signed between the IACHR and the non-governmental organization "Save the Children Sweden" with the objective of strengthening the activities of the Rapporteurship in the defense of Children's rights in the Hemisphere.

4. Rapporteurship on the Rights of Persons Deprived of Liberty

81. During visits conducted in 2007, the Rapporteurship continued to carry out field analyses of jails conditions for persons deprived of liberty. In that regard, Commissioner Florentín Meléndez, Rapporteur on the Rights of Persons Deprived of Liberty conducted an observation visit to Haiti from June 17 to June 20, 2007, for the purpose of receiving information and becoming better acquainted with the situation of persons deprived of liberty in certain detention centers in Port-au-Prince. The Rapporteur visited the National Penitentiary, the Delmas Police Station, the Delmas Juvenile Detention Center and the Women's Prison in Pétion-Ville. During his visit, the Rapporteur on the Rights of Persons Deprived of Liberty also organized a conference for government authorities and civil society representatives to promote the inter-American system on human rights and the protection of persons deprived of liberty in the Americas.

82. At the invitation of the government of Mexico and of the state government of the state of Oaxaca, Mexico, the Rapporteur on the Rights of Persons Deprived of Liberty visited Mexico from August 6 to August 11, 2007. The purpose of the visit was to monitor the human rights situation in the state of Oaxaca and to verify the situation of persons deprived of liberty in certain Mexican jails. The Rapporteur visited the Reclusorio Preventivo Varonil Oriente, a men's prison in the Federal District, together with the Human Rights Commission of the Federal District. It is important to highlight that this was the first time that the IACHR Rapporteur on the Rights of Persons Deprived of Liberty had conducted a joint visit with an organization of that kind. He also visited the "Santiaguito" Center for Social Readaptation, with the objective of interviewing persons involved in the events that took place in San Salvador de Atenco in May 2006, and the "Altiplano" Federal Center for Social Readaptation, to interview brothers Flavio and Horacio Sosa Villacencio, leaders of the Popular Assembly of the Peoples of Oaxaca – both in the state of Mexico. In the state of Oaxaca, the Rapporteur visited the Tlaxiaco District Jail and the Ixcotel Penitentiary. In the Federal District, Rapporteur Meléndez delivered a master lecture on the inter-American system on human rights and persons deprived of liberty. At the Benito Juárez Autonomous University in Oaxaca, Commissioner Meléndez spoke at a conference on the inter-American system on human rights.

83. In response to the mandate given the Commission by the OAS General Assembly in its Resolutions AG/RES. 2283 (XXXVII-O/07) of 2007, AG/RES. 2233 (XXXVI-O/06) of 2006, AG/RES. 2125 (XXXV-O/05) of 2005, and AG/RES. 2037 (XXXIV-O/04) of 2004, and in response to penitentiary conditions observed in several countries in the region, the Rapporteurship continued to move forward with the compilation of regional and universal parameters of detention and imprisonment policies in member states through the project "Principles and Best Practices on the Protection of Persons Deprived of Liberty in the Americas." During the 130th Regular Session, the IACHR decided to reopen consultations and request observations on the Principles and Best Practices project for an additional thirty (30) days, starting October 23, 2007.

84. Finally, following up on the Institutional Cooperation Agreement signed with

Argentina's Minister of Justice and Human Rights and with Argentina's Public Defender in the Public Ministry of Defense, Spanish-speaking member states and Brazil were invited to participate in a Latin American seminar on best prison practices. The seminar was held in Buenos Aires from November 12 to November 16, 2007, and was attended by government officials and prison system officials from Argentina, Bolivia, Brazil, Chile, Colombia, Costa Rica, Ecuador, El Salvador, Guatemala, Honduras, Mexico, Panama, Paraguay, Peru, the Dominican Republic, Uruguay, and Venezuela, as well as experts, representatives of the International Committee of the Red Cross (ICRC), universities, and nongovernmental organizations, both local and international. The memoirs of the seminar will be systematized and published, including an ideal proposal for a "system of good penitentiary practices" to be implemented in Latin America. In 2008, the Rapporteur plans to organize a similar event with the English-speaking countries of the Americas.

85. Lastly, the President of the Inter-American Commission on Human Rights, Commission member Florentín Meléndez, met on December 13, 2007, with staff of the Department of Defense and the Department of State of the United States Government. They discussed the Government's response to the Commission's request to visit the Guantánamo Detention Center to assess the detention conditions of hundreds of persons of various nationalities who have been deprived of liberty for several years.

86. The United States Government representatives conveyed to the Commission's President the Government's willingness to permit the Commission to visit the Guantánamo facilities, on the condition that its members could not pose questions to the detainees.

87. The President of the Commission told the Government that such a condition was unacceptable to the IACHR. He declined to conduct the visit, since, under those conditions, the Commission's ability to perform its functions would be curtailed and its mandate as a principal organ of the Organization of American States (OAS), entrusted with the observance and defense of human rights in the Hemisphere, would not be recognized.

5. Special Rapporteurship on the Rights of Afro-Descendants and Against Racial Discrimination

88. The Commission established the Special Rapporteurship on the Rights of Afro-Descendants and Against Racial Discrimination early in 2005. Since then, the duties of the Special Rapporteur have been carried out by Commissioner Clare K. Roberts, member of the Inter-American Commission on Human Rights. The Special Rapporteurship on the Rights of Afro-Descendants and Against Racial Discrimination was charged with stimulating, systematizing, reinforcing and consolidating the actions of the Inter-American Commission in support of the rights of people of African descent and against racial discrimination. The core objectives of the Special Rapporteurship include working with OAS member States to generate awareness of the states' duty to respect the human rights of afro-descendants and on the elimination of all forms of racial discrimination; to analyze current challenges that confront countries of the region in this area; to formulate recommendations designed to overcome those obstacles; to identify and share best practices in the region with respect to this matter, and to provide the technical assistance requested by member States in the implementation of the recommendations in national law and practice.

89. During 2007, the Rapporteurship on the Rights of Afro-Descendants and Against Racial Discrimination continued its advisory role and maintained its activities in the area of promotion and protection of rights of afro descendants.

90. Between May 14 and 18 of 2007, the Rapporteurship on the Rights of Afro-Descendants and against Racial Discrimination made its first visit to Colombia, with a delegation headed by the Rapporteur, Commissioner Sir Clare K. Roberts.^[7] During the visit, the Rapporteur met with representatives of the Colombian government, members of the Afro-Colombian civil society and representatives of the black communities of that country. Promotional activities on the Inter-American system of human rights took place as well. The purpose of the visit was to prepare an initial analysis of the human rights situation of Afro-

purpose of the visit was to prepare an initial analysis of the human rights situation of Afro-Colombians. The issues it examined in its meetings with government authorities and Afro-Colombian representatives included the application of Law 70 on recognition of collective property rights over territories and the ethnic and cultural identity of black communities; the titling and protection of communal lands; the situation of displaced Afro-Colombian individuals and communities; and the extent to which the armed conflict has repercussions on the Afro-Colombian population. The visit also sought to evaluate the impact of the demobilization process and the application of the Justice and Peace Law on Afro-descendent communities. Further, the Rapporteur is expected to continue to monitor and report on the situation of afrodescendents in Colombia during 2008.

91. During the general and thematic hearings and working group sessions of the Commission's regular period of sessions, the Rapporteur was informed about various aspects of racial discrimination in the region. Thematic specific hearings included (1) Racial Discrimination in the Dominican Republic;^[8] (2) Discrimination against Afro-Brazilian women;^[9] and (3) Situation of Discrimination against the Quilombolas Communities in Brazil;^[10] issues which the Rapporteur has continued to monitor during 2007.

92. With respect to its advisory role, the Rapporteurship continued to provide technical support to the Working Group of the Committee on Juridical and Political Affairs of the Permanent Council of the OAS that is working on a Draft American Convention against Racism and All Forms of Discrimination. A first draft was prepared by the Working Group and circulated for comments in May 2007, during which time, comments by the States were provided, including those of Argentina, Brazil, Canada, Chile, Colombia, Costa Rica, Mexico, Peru, and Uruguay. A second (consolidated) draft was prepared and circulated to the member States at the conclusion of 2007.

93. The Rapporteur further held meetings during the year with representatives of the United Nations Office of the High Commissioner for Human Rights (OHCHR) in an effort to maintain close coordination and collaboration between the Rapporteurship and the OHCHR on common themes and events taking place in the region.

- 94. On October 25, 2007, the Rapporteur received a visiting delegation led by the Minister at the Special Secretariat on the Policies of Promotion of Racial Equality in Brazil, Ms. Matilde Ribeiro, to discuss opportunities for collaboration on common themes and objectives.

- 95. Finally, the Rapporteurship would like to thank the governments of Brazil, Colombia and the European Commission for their financial contributions which have allowed the Rapporteurship to carry out its functions during 2007.

6. Rapporteurship on the Rights of Migrant Workers and their Families

96. During 2007, the Rapporteurship on the Rights of Migrant Workers and their Families continued with its promotional and advisory activities. Commissioner Freddy Gutiérrez performed the duties of Rapporteur in that area until July 2007, when the IACHR designated Commissioner Florentín Meléndez to take over that responsibility.

97. In February 2007, Commissioner Gutiérrez took part in the annual meeting on the implementation of the inter-American program for the promotion and protection of the human rights of migrants, including migrant workers and their families. The meeting was organized by the Committee on Juridical and Political Affairs of the Permanent Council of the OAS, and was held at OAS Headquarters in Washington, D.C. The Executive Secretary of IACHR, Santiago A. Canton, represented the Commission in the special session of the Permanent Council of the OAS on "Migrant Populations and Migratory Flows in the Americas", which took place on May 2, 2007, at OAS Headquarters.

98. For his part, in July 2007, the President of the Commission, member Florentín Meléndez, formally requested permission from the Department of State to visit the migrant detention centers in the United States. In December 2007, he met with the United States

Representative to the OAS, who reaffirmed the State's willingness to cooperate in planning the visits. Also, in August 2007, the President requested and obtained permission from the Government of Mexico to visit the migrant detention centers located on the southern border of that country, especially in Tapachula and Chiapas, in 2008. Commissioner Florentín Meléndez also spoke at the VII Andean Regional Human Rights Course held in Lima, Peru, in November 2007, on the human rights of migrant workers in the Andean region.

99. In the area of responsibility of the Executive Secretariat, the Special Rapporteurship continues to provide technical support and to study petitions and requests for precautionary measures received by the Commission relating to migratory workers. The Special Rapporteurship has also participated in the process of setting up the Special Committee on Migratory Affairs created by the Permanent Council of the OAS, providing information on the activities of the Rapporteurship in that area.

100. Finally, it should be noted that in November 2006, an important financial contribution was received from the government of the Bolivarian Republic of Venezuela to help finance the activities of the Rapporteurship. In that regard, in 2007 the Commission emphasized the value of that support and urged other states and organizations that have expressed interest in the Rapporteurship's activities to have that interest reflected in more financial contributions.

7. Unit for Human Rights Defenders

101. The defenders of human rights from different sectors of society, and sometimes from government institutions, make contributions that are essential to the viability and strengthening of democratic societies. That is why respect for human rights in a democratic state depends, to a great degree, on adequate and effective guarantees that allow human rights defenders to freely pursue their activities.

102. During 2007, the Unit for Human Rights Defenders continued its activities in support of human rights defenders in the American hemisphere by giving impetus to individual petitions and cases before the IACHR as well as to precautionary measures.

103. In the same manner, the Unit received information on the situation of defenders in the region. Among the troubling situations to note: unannounced searches of various organizations and patterns of harassment and threats to their members; a growing campaign to discredit the work that human rights defenders carry out; the enactment and implementation of new laws and regulations that restrict or penalize the financing of non-governmental organizations for the sole reason that they receive international cooperation funding to carry out their activities, and the increased number of laws that restrict or penalize social protest.

104. During a visit to Mexico from April 9 to April 14 of 2007, the Unit met with human rights defenders and received updated information on their situation in the country. During the same visit, the President of IACHR, Florentín Meléndez, together with government officials and human rights defenders presented the "Report on the situation of human rights defenders in the Americas."

105. The Unit for Human Rights Defenders will continue to receive information regarding the follow-up to the recommendations the "Report on the situation of human rights defenders in the Americas" in compliance with Resolution AG/RES. 2280 (XXXVII-O/07) of the OAS General Assembly titled "Human Rights Defenders: Support for the Individuals, Groups and Organizations of Civil Society Working to Promote and Protect Human Rights in the Americas."

106. Finally, the Commission announced the establishment, for the first time, of a scholarship for attorneys from the Hemisphere to work in a professional capacity for one year in the IACHR Unit for Human Rights Defenders. The person selected for 2007 was attorney Belissa Guerrero Rivas, from El Salvador.

F Other events and activities

Public safety

107. The IACHR carried out a number of activities related to public safety, most of them connected with the project "Initiative on Public Safety and Human Rights in the Americas." In February 2007, a consultant was hired to oversee the process, conduct investigations, and prepare a draft report on the subject. On May 30 and 31, 2007, a meeting was held in Washington, D.C., with international and regional experts on public safety and human rights. The main purpose of the meetings was to present the activities proposed in the project to regional and international public safety experts; discuss the report's aims and approach to the matter; discuss the impact of the report; compile comments, suggestions, and critical assessments for the draft final report; and invite regional and international experts to work with the Commission in preparing the report. After the preliminary meeting in Washington, and the experts' suggestions having been taken into account, certain key questions were included in a questionnaire sent to OAS member States and civil society representatives, together with a letter introducing the project. The topic of public safety and human rights has given rise to various hearings during different sessions of the Inter-American Commission, as reported in the corresponding sections of its Annual Report for 2007.

Inter-American Treaties (Agreements) on Human Rights

108. Regarding the seven inter-American human rights instruments, only one ratification and two deposits were made in 2007. On June 28, 2007, Mexico ratified the Protocol to the American Convention on Human Rights to Abolish the Death Penalty; Mexico deposited its instrument of ratification on August 20, 2007.

109. On February 5, 2007, the Dominican Republic deposited its instrument of ratification of the Inter-American Convention on the Elimination of All Forms of Discrimination against Persons with Disabilities. The Convention had been ratified by the Dominican Republic on December 28, 2006.

110. To promote the universal adoption of the inter-American system, in a note addressed to the Ministers Foreign Affairs of the States of the region, dated December 13, 2007, the President of the Commission, Florentín Meléndez, urged them to ratify all inter-American human rights treaties that were pending ratification. The President recognized and thanked the seven States of the region who had already ratified all the human rights treaties: Costa Rica, Ecuador, Mexico, Paraguay, Peru, Panama, and Venezuela. He also urged the other States to ratify the pending treaties and to remove any obstacles to the fulfillment of this objective.

Scholarships and Internships

111. In 2007, the Commission continued its Rómulo Gallegos Scholarship Program. The program offers training on the inter-American system for the promotion and protection of human rights to young lawyers from the Hemisphere who are selected annually on the basis of competition, at which time they must demonstrate their commitment to human rights as well as a solid academic record. During the course of 2007, 20 scholarship recipients worked with the Commission: ten during the first semester of 2007, corresponding to the scholarship period 2006-2007, and ten scholarship recipients who began their activities during the first semester corresponding to the period 2007-2008. The scholarships granted during the period 2007-2008 included two thematic scholarships, one to work in the Special Rapporteurship on the Rights of Indigenous Peoples, and the other to work in the Rapporteurship on the Rights of Women, as well as one scholarship for young professionals from member states in Central America and the Andean Region.

112. In addition to its scholarship program, the Commission continued and expanded its internship program. These internships, which are administered in cooperation with the OAS Student Intern Program, are targeted to university students of both cycles and to graduates, as well as to young professionals, to allow them to work in their field of study. The goal of the

as well as to young professionals, to allow them to work in their field of study. The goal of the internships is to offer law students and recent law school graduates or of other related disciplines, the opportunity to learn about the work of the Commission. It also offers professionals an opportunity to acquire practical training in the human rights area and to work with the attorneys in the Executive Secretariat in the different activities carried out by the IACHR. It is worth noting that during the 130th regular session, the Commission signed an internship agreement with the University of Quebec, Canada, which will provide a scholarship financed by the university to establish an annual internship in honor of the Human Rights Specialist, Attorney Brian Tittlemore. In 2007, the Commission received a total of 21 interns. Additional information on scholarships and internship programs is available on the Commission's website www.cidh.org.

Promotional Activities

113. Throughout 2007, the members of the Commission and of the Secretariat took part in numerous international conferences, seminars and workshops on international protection of human rights and related topics. The areas covered in the events in which the Commission took part include the workings of the inter-American system on human rights; imposition of the death penalty; the protection of human rights in the context of the war on terrorism; guaranteeing human rights in armed conflicts, and contributions of the inter-American system on human rights to the efforts aimed at ending impunity in cases of serious crimes within the framework of international law.

114. In May 2007, the Executive Secretary and Commission attorneys also took part in the Twelfth Inter-American Human Rights Moot Court Competition organized by the Washington School of Law of the American University. The competition has been held annually since 1996, and more than 1,300 students and faculty representing more than 140 universities in, at least, 25 countries in the Hemisphere have taken part.

F. Financial Situation

115. Throughout 2007, the Commission repeated its request to the various organs of the Organization of American States, to continue to search for ways to obtain an effective increase of the economic resources allocated to the IACHR, with the purpose of having adequate financing for this organ in the budget program of the organization. Likewise, the Commission suggested to donors that, to the extent that it was possible, they assign part of their voluntary contributions that have no specific goals to provide IACHR with flexibility in the allocation of resources among its various activities and programs.

116. Also with respect to the financial situation in 2007, the Commission was pleased to point out the significant financial contributions made by the governments of the following member states of the Organization of American States (OAS): Brazil, Chile, Colombia, United States and Mexico, as well as those of the Permanent Observers who support the activities of the Commission: Korea, Denmark, Spain, Finland, France, Ireland, Italy and Sweden. The Commission expressed its gratitude to the Inter-American Development Bank, the European Commission, and to the Open Society Foundation for their financial contributions. The IACHR emphasized that those contributions provide concrete support to the strengthening of the inter-American system on human rights in the American continent.

G. Activities of the Inter-American Commission in connection to the Inter-American Court of Human Rights

117. In 2007, the Commission continued to argue a number of cases before the Inter-American Court of Human Rights.

118. Between January 1 and December 31 of 2007, the Commission presented fourteen (14) cases to the Inter-American Court: *Heliodoro Portugal* (Panama), *Jesús María Valle et al.* (Colombia), *Jorge Castañeda Gutman* (Mexico), *Kimel* (Argentina), *Gabriela Perozo et al.* "Globovisión" (Venezuela), *Luisiana Ríos et al.* "RCTV" (Venezuela), *Juan Carlos Bayarri*

(Argentina), *Maria and Josefa Tiu Tojin* (Guatemala), *Renato Ticona Estrada* (Bolivia), *Santander Tristán Donoso* (Panama), *María Cristina Reverón Trujillo* (Venezuela), *Claudia Ivette González et al. "Campo Algodonero"* (Mexico), *Arley Escher et al., "Interception of the telephone lines of social movements"* (Brazil), and *Setimo Garibaldi* (Brazil).

119. In 2007 the Commission also participated in numerous public hearings before the Court. The Commission participated in hearings at the LXXIV, LXXV, LXXVI, and LXXVII regular sessions and the XXXII special session of the Court, held at its headquarters, and in the XXX and XXXI special sessions, held in Guatemala City, Guatemala, and Bogotá, Colombia. At those sessions, public hearings were conducted in the cases *Cantoral Huamaní et al.* (Peru), *García Prieto Giralt* (El Salvador), *Provisional Measures in favor of the Kankuamo Indigenous People* (Colombia), *Escué Zapata* (Colombia), *La Rochela Massacre* (Colombia), *Bueno Álves* (Argentina), *Saramaka People* (Suriname), *Albán Cornejo et al.* (Ecuador), *Zambrano Vélez et al.* (Ecuador), *Chaparro and Lapo* (Ecuador), *Boyce et al.* (Barbados), *Kímel* (Argentina), and *Salvador Chiriboga* (Ecuador), and private hearings were held to assess compliance with rulings in the cases *Garrido and Baigorria* (Argentina), *Blake* (Guatemala), and *Paniagua Morales et al. "Panel Blanca"* (Guatemala).

120. In this reporting period, the Commission also took note of various rulings issued by the Court on cases submitted to it for consideration. These are the judgments on preliminary exceptions, the merits, reparations, and costs and fees in the cases *La Rochela Massacre* (Colombia), *Bueno Alves* (Argentina), *Escué Zapata* (Colombia), *Zambrano Vélez et al.* (Ecuador), *Cantoral Huamaní et al.* (Peru), *García Prieto Giralt* (El Salvador), *Boyce et al.* (Barbados), *Chaparro and Lapo* (Ecuador), *Albán Cornejo et al.* (Ecuador), and *Saramaka People* (Suriname); and the interpretive judgments in the cases *La Cantuta* (Peru) and *Terminated Congressional Workers* (Peru).

H. Thirty-seventh regular session of the General Assembly of the OAS

121. During the thirty-seventh regular session of the General Assembly of the Organization of American States, held in Panama City, Republic of Panama, from June 3 to June 5, 2007, the Commission was represented by its President, Florentín Meléndez and by its Executive Secretary, Santiago A. Canton. The President of the Commission addressed the General Assembly with regard to the human rights situation in the OAS member states and officially submitted the Commission's Annual Report for 2006. During the regular session the President of the Commission urged the member States, through their respective Foreign Affairs Ministers, to ratify those human rights treaties of the inter-American system which remain pending ratification. In addition, the President encouraged the Ministers to extend an "open and permanent invitation" to the IACHR to visit the countries of the hemisphere. Such an invitation would represent willingness on the States' behalf to cooperate with the IACHR in fulfilling its function of promoting the observance and the defense of human rights in the Hemisphere, a function entrusted by the same States through the OAS Charter.

122. The General Assembly adopted various resolutions with regard to human rights and humanitarian law. These resolutions can be found at the Commission's website at the following address: <http://www.cidh.org>. Given their importance for the observance and defense of human rights in the Americas and the strengthening of the inter-American system, they are listed below.

- AG/RES. 2262 (XXXVII-O/07) PROTOCOL OF SAN SALVADOR: COMPOSITION AND FUNCTIONING OF THE WORKING GROUP TO EXAMINE THE PERIODIC REPORTS OF THE STATES PARTIES
- AG/RES. 2263 (XXXVII-O/07) SUPPORT FOR THE COMMITTEE FOR THE ELIMINATION OF ALL FORMS OF DISCRIMINATION AGAINST PERSONS WITH DISABILITIES
- AG/RES. 2267 (XXXVII-O/07) RIGHT TO THE TRUTH

- AG/RES. 2271 (XXXVII-O/07) PROTECTING HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS WHILE COUNTERING TERRORISM
- AG/RES. 2276 (XXXVII-O/07) DRAFT INTER-AMERICAN CONVENTION AGAINST RACISM AND ALL FORMS OF DISCRIMINATION AND INTOLERANCE
- AG/RES. 2277 (XXXVII-O/07) INTERNALLY DISPLACED PERSONS
- AG/RES. 2279 (XXXVII-O/07) PROMOTION OF THE INTERNATIONAL CRIMINAL COURT
- AG/RES. 2280 (XXXVII-O/07) HUMAN RIGHTS DEFENDERS: SUPPORT FOR THE INDIVIDUALS, GROUPS, AND ORGANIZATIONS OF CIVIL SOCIETY WORKING TO PROMOTE AND PROTECT HUMAN RIGHTS IN THE AMERICAS
- AG/RES. 2283 (XXXVII-O/07) STUDY OF THE RIGHTS AND THE CARE OF PERSONS UNDER ANY FORM OF DETENTION OR IMPRISONMENT
- AG/RES. 2284 (XXXVII-O/07) SITUATION OF THE INTER-AMERICAN INDIAN INSTITUTE
- AG/RES. 2287 (XXXVII-O/07) RIGHT TO FREEDOM OF THOUGHT AND EXPRESSION AND THE IMPORTANCE OF THE MEDIA
- AG/RES. 2289 (XXXVII-O/07) THE HUMAN RIGHTS OF ALL MIGRANT WORKERS AND THEIR FAMILIES
- AG/RES. 2290 (XXXVII-O/07) OBSERVATIONS AND RECOMMENDATIONS ON THE ANNUAL REPORT OF THE INTER-AMERICAN COMMISSION ON HUMAN RIGHTS
- AG/RES. 2291 (XXXVII-O/07) STRENGTHENING OF HUMAN RIGHTS SYSTEMS PURSUANT TO THE MANDATES ARISING FROM THE SUMMITS OF THE AMERICAS
- AG/RES. 2293 (XXXVII-O/07) PROMOTION OF AND RESPECT FOR INTERNATIONAL HUMANITARIAN LAW
- AG/RES. 2294 (XXXVII-O/07) AMERICAN DECLARATION ON THE RIGHTS OF INDIGENOUS PEOPLES
- AG/RES. 2295 (XXXVII-O/07) PERSONS WHO HAVE DISAPPEARED AND ASSISTANCE TO MEMBERS OF THEIR FAMILIES
- AG/RES. 2296 (XXXVII-O/07) PROTECTION OF ASYLUM SEEKERS AND REFUGEES IN THE AMERICAS
- AG/RES. 2345 (XXXVII-O/07) STRENGTHENING OF THE NATIONAL HUMAN RIGHTS SYSTEMS OF THE MEMBER STATES AND SUPPORT FOR THE WORK OF DEFENDERS OF THE PEOPLE, DEFENDERS OF THE POPULATION, AND HUMAN RIGHTS ATTORNEYS OR COMMISSIONERS (OMBUDSMEN)
- AG/RES. 2350 (XXXVII-O/07) OBLIGATION OF THE MEMBER STATES TO RESPECT THE RULES, PRINCIPLES, AND ESSENTIAL PURPOSES CONTAINED IN THE CHARTER OF THE ORGANIZATION OF AMERICAN STATES AND INTERNATIONAL LAW IN ORDER TO PRESERVE AND STRENGTHEN PEACE IN THE HEMISPHERE
- AG/RES. 2351 (XXXVII-O/07) CIVIL SOCIETY ORGANIZATIONS AND THE PROTECTION OF HUMAN RIGHTS AND PROMOTION OF DEMOCRACY

[1] For further details on the sessions held by the Commission in 2007 see IACHR press releases 14/07, 40/07, 49/07 and 54/07 at the Commission's website at www.iachr.org.

[2] The activities of the Special Rapporteurship for Freedom of Expression are included in Volume II of this Annual Report.

[3] See: Justice and Social Inclusion: Challenges to Democracy in Guatemala (2003); Fifth Report on the Human Rights Situation in Guatemala (2001); Third Report on the Human Rights Situation in Paraguay (2001); Second Report on the Human Rights Situation in Peru (2000); Third Report on the Human Rights Situation in Colombia (1999); Report on the Human Rights Situation in Mexico (1998); Report on the Human Rights Situation in Brazil (1997); Report on the Human Rights Situation in Ecuador (1997); Second Report on the Human Rights Situation in Colombia (1993); Fourth Report on the Human Rights Situation in Guatemala (1993); Second Report on the Human Rights Situation in Suriname (1985).

[4] IACHR, *Report on the Human Rights Situation in Guatemala*, 1993.

[5] See Press Release issued by the Coordinating Committee for Indigenous Peoples Self-Determination (CAPI) September 12, 2007.

[6] See IACHR Press Release N° 51/07 of September 18, 2007.

[7] See IACHR Press Release N° 40/07 "IACHR Concludes its 128th Period of Sessions" (August 1, 2007), also available at: <http://www.cidh.org/Comunicados/English/2007/40.07eng.htm>.

[8] See IACHR website, "Public Hearings" available at: <http://www.cidh.org/audiencias/select.aspx>.

[9] *Ibid.*

[10] See IACHR Press Release No. 54/07 "IACHR Concludes its 130th Period of Sessions" (October 19, 2007), also available at: <http://www.cidh.org/Comunicados/English/2007/54.07eng.htm>.



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ANNUAL REPORT OF THE IACHR 2007

CHAPTER III

THE PETITION AND CASE SYSTEM

A. Introduction

1. This chapter describes the work of the Inter-American Commission on Human Rights in 2007 in relation to the petition and case system.

2. Section B includes statistical tables on all the petitions received by the Commission in 2007, indicating the number of petitions received by country, as well as a comparison of the number of petitions received in 2007 in relation to each of the last 10 years. It also includes statistical information on the number of petitions it decided to transmit to the States, and the number of petitions being processed, also by country. The statistical information also shows the number of requests for precautionary requests received by the Commission in 2007, as well as the number of precautionary measures the Commission decided to grant during that same period. The statistics indicate how many reports on admissibility, inadmissibility, friendly settlement, archive, and the merits the Commission published in 2007. The section also includes statistical tables on the Commission's activity before the Inter-American Court. Finally, statistics are included on the number of hearings the Commission held in 2007.

3. Section C has two parts. The first, section C.1, contains an overview of the precautionary measures granted or extended by the IACHR in 2007, in relation to the various member States, under Article 25 of its Rules of Procedure. The precautionary measures are presented in alphabetical order of the States addressed in the requests, indicating the name of the person or persons on whose behalf they were requested, a summary of the information that was the basis for the claim, the rights of the persons exposed to serious and imminent danger, and finally the date of the request and the name of the State referred to, as well as other relevant information.

4. The second part, section C.2, includes all the reports on which the Commission adopted a decision on admissibility, inadmissibility, the merits, or friendly settlement during the period covered by this report. This section contains a total of 74 reports that include 51 cases found admissible; 14 reports on petitions found inadmissible; 5 reports on friendly settlements; and 4 reports on the merits.

5. Section D includes an analysis of compliance by the States with the recommendations contained in the reports on individual cases published in the Annual Reports

for 2000, 2001, 2002, 2003, 2004, 2005, and 2006, in keeping with Article 46 of the Commission's Rules of Procedure.

6. Section E refers to the Inter-American Commission's work litigating before the Inter-American Court of Human Rights. It presents the provisional measures issued by the Court at the request of the Commission in cases of extreme gravity and urgency, under Article 63(2) of the American Convention on Human Rights; a synthesis of the Court's decisions; and a summary of the Commission's pleadings in the contentious cases. The provisional measures are also described in the order in which they were requested, and include the name of the person or persons on whose behalf they were sought, a summary of the facts and the rights involved, the date of the request, the name of the State in question, and the date on which the Court adopted the respective decision.

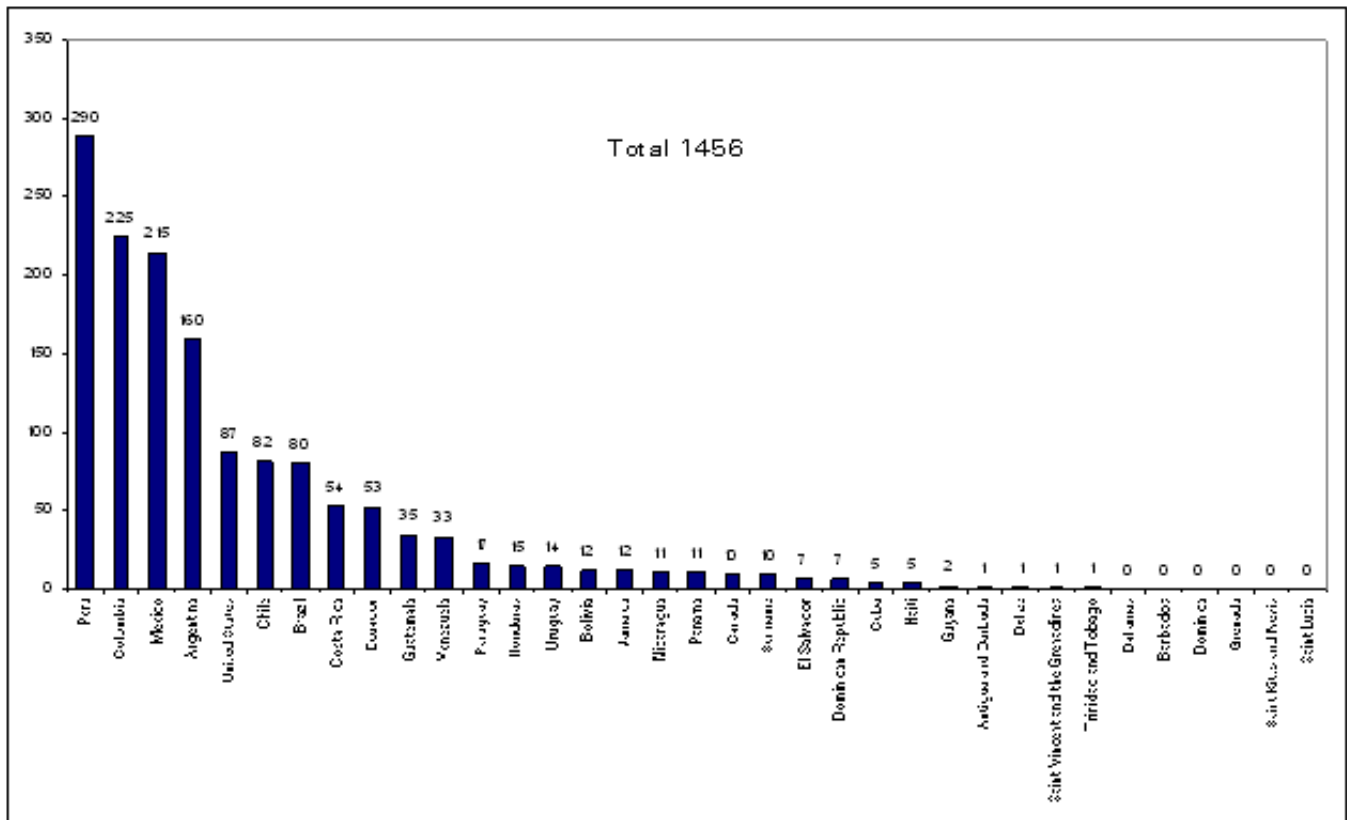
B. STATISTICS

7. This chapter of the 2007 Annual Report contains statistical information to provide a general overview of the different activities carried out by the Inter-American Commission on Human Rights.

8. First it presents data concerning the cases and petitions being processed. These comprise the greater volume of the Commission's work. "Cases" is taken as meaning all those petitions declared admissible by means of a report on admissibility. "Petitions" is taken as meaning all those complaints that have been forwarded to the state involved but in which no report on admissibility has been issued.

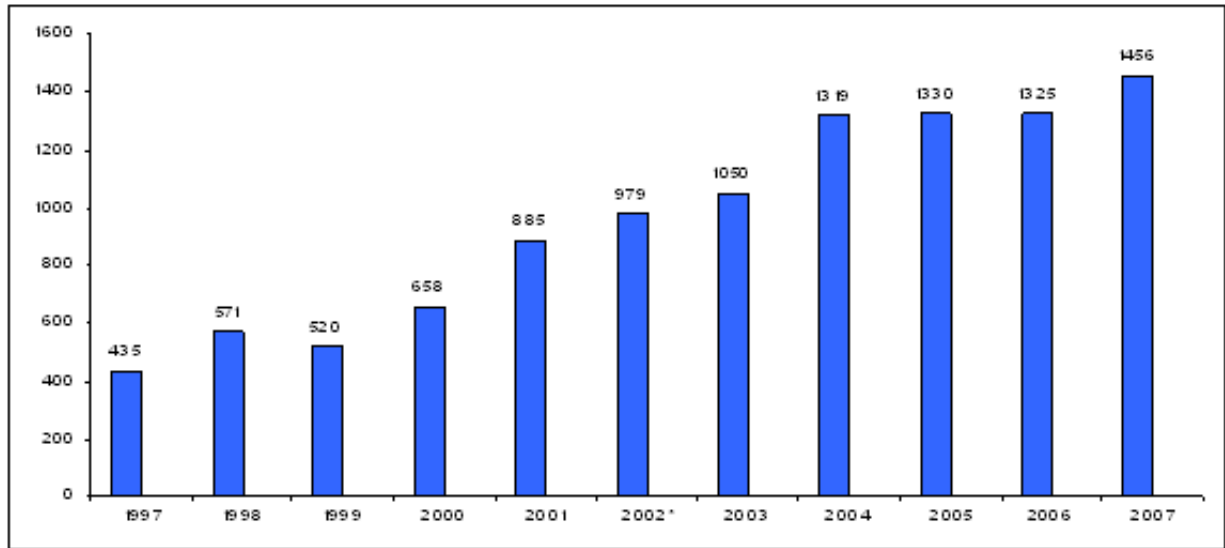
1. Petitions and cases

a. Total number of complaints received by country in the year 2007.



The preceding graph illustrates the total number of complaints received by the IACHR according to the OAS member States in respect of which the complaints were presented.

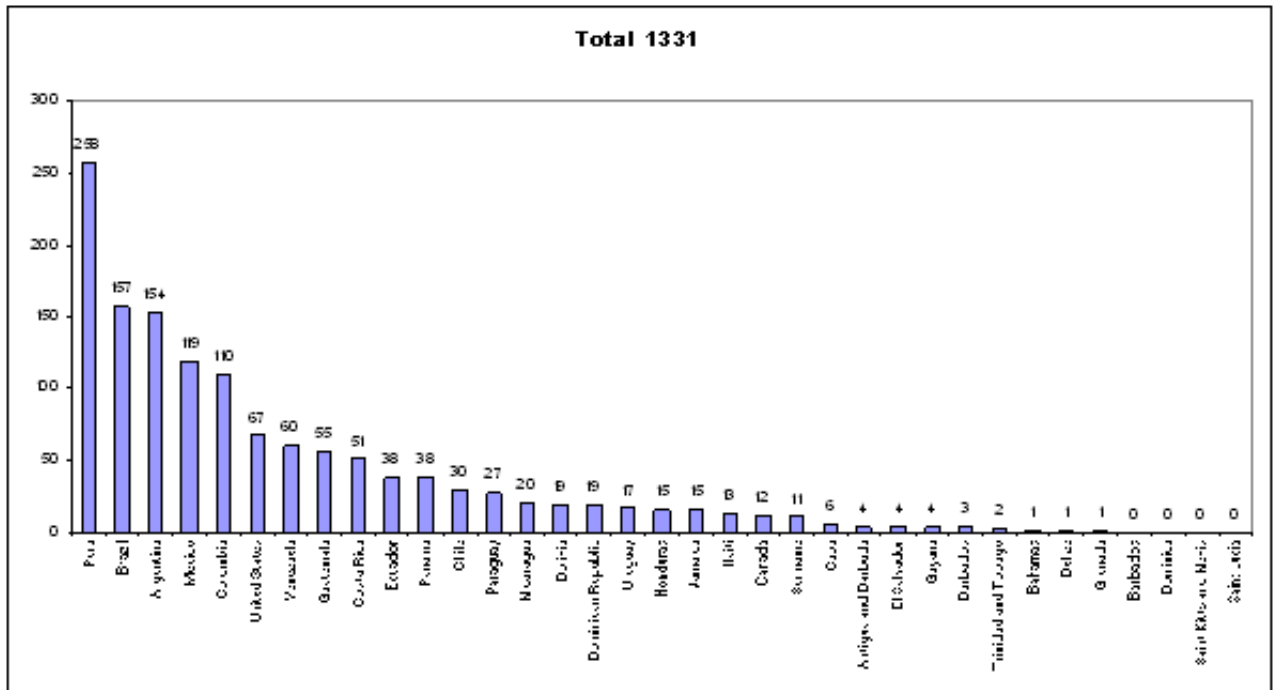
b. Total number of complaints received by year.



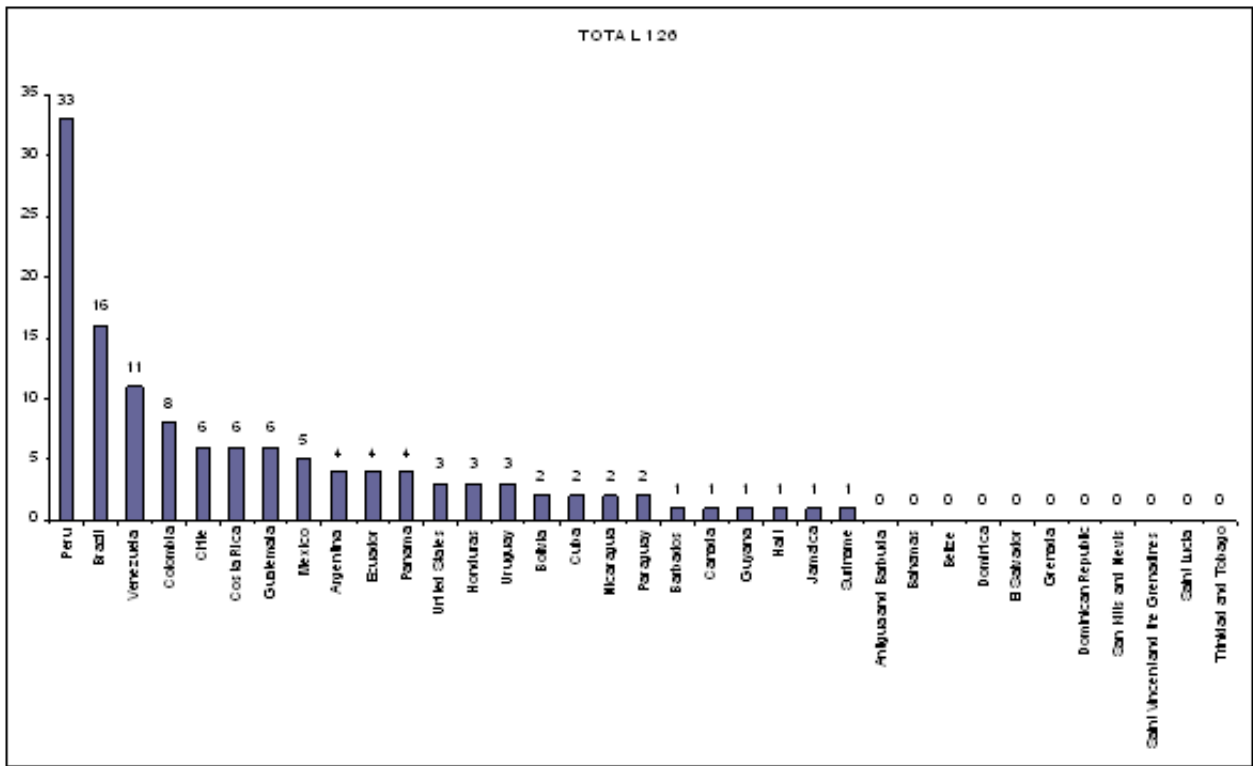
This graph illustrates the total number of complaints received by the Commission during the last eleven years. "Complaints" for the purposes of these statistics includes all complaints, presented in writing, concerning an alleged violation by an OAS member state of the Convention, the Declaration and/or other pertinent instrument.

* In the year 2002, the Commission received 3,783 complaints in addition to those represented in the graph, which refer to the human rights situation of persons affected by various banking measures ("corralito") in Argentina.

c. Total number of complaints evaluated by country during 2007.



d. Total number of petitions transmitted to the States by country during 2007.



This graph illustrates the total petitions transmitted between January 1 and December 31, 2007, according to the OAS member States in respect of which the petitions were presented.

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CHAPTER III - THE PETITION AND CASE SYSTEM (Continuation)

C. Individual petitions and cases before the Inter-American Commission on Human Rights

1. Precautionary measures granted by the IACHR during 2007

9. The mechanism for precautionary measures is established in Article 25 of the Rules of Procedure of the IACHR. This provision states that in serious and urgent cases, and wherever necessary according to the information available, the Commission may, on its own initiative or at the request of a party, request that the State concerned adopt precautionary measures to prevent irreparable harm to persons. If the Commission is not in session, the President, or, in his absence, one of the Vice-Presidents, shall consult with the other members, through the Executive Secretariat, on the application of this provision. If it is not possible to consult within a reasonable period of time under the circumstances, the President shall take the decision in favor of the Commission and shall so inform its members immediately. In accordance with the procedure established, the IACHR may request information from the interested parties related to any aspect of the adoption and observance of the precautionary measures. In any event, the granting of such measures and their adoption by the State shall not constitute on the part of the IACHR a prejudgment in the eventuality of a decision on the merits of the case.

10. Below is a summary of the precautionary measures granted or issued during 2007 in relation to member states. It should be noted that the number of precautionary measures granted does not reflect the number of persons protected by their adoption; as can be seen below, many of the precautionary measures issued by the IACHR protect more than one person and, in certain cases, groups of persons such as communities or indigenous peoples.

Barbados

Tyrone Da Costa Cadogan

11. On January 23, 2007, the IACHR granted precautionary measures in favor of Mr. Tyrone Da Costa Cadogan, who is deprived of liberty awaiting enforcement of the death penalty in a detention center in Barbados. The precautionary measures were issued in the context of a petition on the alleged violation of the right enshrined in Article 8 of the American Convention, which is before the Commission for its consideration. The petition alleges, *inter alia*, flaws in the legal representation of the alleged victim, a refusal to afford him access to psychiatric care, and other violations pertaining to due process. In the context of the

precautionary measures, the Commission asked the State of Barbados to adopt the measures necessary to preserve Mr. Da Costa Cadogan's life and physical integrity, so as to ensure there be no impediment to the processing of his petition before the inter-American system. The Commission continues to monitor the situation of the beneficiary.

Bolivia

Elizabeth Aida Ochoa Mamani

12. On April 24, 2007, the IACHR granted precautionary measures in favor of Ms. Elizabeth Ochoa Mamani, a Peruvian citizen living in Bolivia as a refugee. The request for precautionary measures was presented within a petition, which alleged, *inter alia*, the violation of the rights enshrined in Articles 8(2) and 22(7) of the American Convention. The available information indicates that on October 25, 2006, the Bolivian Supreme Court of Justice issued a detention order for the purpose of extraditing the beneficiary, despite the National Commission on Refugees' (CONARE) having recognized her status as a refugee as of November 30, 1994. In light of the situation, the Commission requested that the Bolivian State adopt the measures necessary to render null the detention order for extradition until such time the merits of the petition linked to the precautionary measures request should be definitively resolved by the organs of the Inter-American Human Rights System. The Commission noted that on October 17, 2007, the Supreme Court of Justice nullified the detention order against the beneficiary and also rejected the extradition request against her, and the precautionary measures were thus deactivated.

Brazil

Adolescents in the Public Prison of Guarujá

13. On October 26, 2007, the IACHR granted precautionary measures in favor of the adolescents confined in the provisional detention center of Guarujá ("Public Prison of Guarujá") in the state of São Paulo. According to the available information, that detention center is for holding adults; nonetheless, adolescents were being held there. In addition, they were overcrowded and held in cells in poor conditions. It was also indicated that the adolescents could not leave the cells to eat or to attend to their physiological needs, and that they had no access to education. In September 2007, the State reported that repairs had concluded at the "Vicente de Carvalho" prison, to which all of the persons held at the provisional detention center of Guarujá would be transferred. In addition, the IACHR was informed that at the Guarujá facility, overcrowding, unsanitary conditions, and insecurity for the adolescents in custody persisted. The Commission was also informed that there had not yet been a final decision on judicial remedies pursued by the Public Ministry in 2002 and 2003 seeking an improvement in the conditions of detention of the persons held at that center. The Commission recommended to the Brazilian State that it adopt the measures necessary to guarantee the life and personal integrity of the adolescents held at the provisional detention center of Guarujá; promptly transfer the beneficiaries to a detention center for adolescents; provide them with immediate medical and psychological care; and prohibit the entry of adolescents to that detention center. The Commission continues to monitor the situation of the beneficiaries.

Colombia

X

14. On May 2, 2007, the IACHR granted precautionary measures in favor of Ms. X, whose identity has been kept under seal at the request of the applicants. The information available indicates that the beneficiary received several death threats by telephone after denouncing that she had been raped by members of the Colombian Army. In view of the information, the Commission asked the Colombian State to adopt the measures necessary to

guarantee the life and physical integrity of the beneficiary, and to report on the actions taken to investigate judicially the facts that gave rise to the precautionary measures. The Commission continues to monitor the situation of the beneficiary.

Corporación Jurídica Libertad

15. On June 14, 2007, the IACHR granted precautionary measures in favor of the members of the Corporación Jurídica Libertad (CJL), based in the city of Medellín. The information provided indicates that members of that organization had been targeted by death threats as a consequence of their activity in the defense of human rights. Allegedly, the beneficiaries were investigated by intelligence agencies of the State and the Office of the Attorney General had issued arrest warrants for some of its members based on information manipulated by those agencies and by members of the armed forces. The Commission asked that the Colombian State adopt the measures necessary to ensure the life and physical integrity of the beneficiaries, and that it report on the actions taken to investigate judicially the facts that gave rise to the precautionary measures. The Commission continues to monitor the beneficiaries' situation.

John Fredy Posso Moreno

16. On July 6, 2007, the IACHR granted precautionary measures in favor of Mr. John Fredy Posso Moreno, a former worker of the Comité de Derechos Humanos (Human Rights Committee) of the city of Tulúa, and his family. The information provided indicates that an illegal armed group known as "AUC Águilas Negras" had declared Mr. Posso Moreno to be a military objective after he denounced the participation of paramilitaries in crimes that occurred in the city of Tulúa. It is also indicated that Mr. Posso Moreno has received death threats because of his activities as a human rights defender, and that his wife, Ms. Cecilia Bohórquez Santiago, has been kidnapped, persecuted, and threatened. The Commission asked the Colombian State to adopt the measures necessary to guarantee the life and physical integrity of Mr. Posso Moreno and his family, and to report on the actions adopted to investigate judicially the facts that gave rise to the precautionary measures. The Commission continues to monitor the situation of the beneficiaries.

Leaders of the COPDICONC

17. On July 24, 2007, the IACHR granted precautionary measures in favor of José Emery Álvarez Patiño, Marlene Cisneros, José Gildardo Ortega, José Arcos, Alfredo Quiñones, Arcediano Pialejo Micolta, Claudio Esterilla Montaña, Gonzalo Caicedo Esterilla, José Rogelio Montaña, Maritza Caicedo Ordoñez, Marianita Montilla Cobo, Fanny Caicedo, and José Pablo Estrada Perlaza, all of them leaders of the Council of Black Communities of the Western Cordillera of Nariño (COPDICONC: Concejo de Comunidades Negras de la Cordillera Occidental de Nariño). The information available indicates that residents of six communities in the department of Nariño, and particularly the leaders of COPDICONC, have been victims of acts of harassment, death threats, and detentions (*retenciones*) by illegal armed groups and government forces. It is also alleged that the leaders of COPDICONC are generally subject to hostile acts by members of both paramilitary and guerrilla groups, who accuse them of cooperating with the opposing force. The Commission asked the Colombian State to adopt the measures necessary to protect the life and physical integrity of the beneficiaries, and to report on the actions taken to investigate judicially the facts that gave rise to the precautionary measures. The Commission continues to monitor the situation of the beneficiaries.

Rigoberto Jiménez and members of the Corporación Jurídica Yira Castro

18. On August 21, 2007, the IACHR granted precautionary measures in favor of Rigoberto Jiménez, president of the National Coordinating Body of Displaced (CND: Coordinación Nacional de Desplazados), and of the members of the Corporación Jurídica Yira Castro, which provides legal assistance to victims of forced displacement in Colombia. The information

available indicates that the beneficiaries have been the target of threats and harassment because of their work as human rights defenders. It is indicated that in July 2007, the CND received an email signed by an illegal armed group calling itself "AUC Águilas Negras de Bosa" that declared the beneficiaries to be an immediate military objective. It is also indicated that on June 22, 2007, unknown persons invaded the headquarters of the Corporación Jurídica Yira Castro, located in the city of Bogotá, and confiscated equipment and documents used in judicial proceedings in which the organization represents victims of forced displacement. The IACHR asked the Colombian State to adopt the measures necessary to guarantee the life and physical integrity of the beneficiaries and to report on the actions taken to judicially clarify the facts that are the subject of the precautionary measures. The Commission continues to monitor the situation of the beneficiaries.

Carlos Mario Gómez Gómez

19. On November 19, 2007, the IACHR granted precautionary measures in favor of Mr. Carlos Mario Gómez Gómez, who is deprived of liberty and in the custody of the State. The information available indicates that Mr. Gómez Gómez was threatened by police agents and that on October 13, 2007, he suffered an attack by firearm in the Bellavista penitentiary, and was seriously injured. It is indicated that on November 1, 2007, the beneficiary was transferred to the Itagüí detention center, where the person allegedly responsible for the attack against him is serving a prison sentence. It is also alleged that despite the injuries suffered by the beneficiary, he was being kept on the floor of a prison cell without the proper sanitary conditions, posing a grave risk to his health. The Commission asked the Colombian State to adopt the measures necessary to guarantee Mr. Gómez Gómez's life and physical integrity, and to report on the actions taken to investigate judicially the facts that gave rise to the precautionary measures. The Commission continues to monitor the situation of the beneficiary.

Cuba

Francisco Pastor Chaviano González

20. On February 28, 2007, the IACHR granted precautionary measures in favor of Mr. Francisco Pastor Chaviano González, the former president of the Consejo Nacional por los Derechos Civiles (National Council for Civil Rights) who was detained as of May 1994 on charges of revealing secrets pertaining to state security. In December 2002, the IACHR had already granted precautionary measures in favor of Mr. Chaviano González due to the conditions of his detention; on that occasion, the Commission asked the Cuban State to provide him with specialized medical care and, if necessary, to transfer him to a hospital. The information available indicates that Mr. Chaviano González had been held in a punishment cell for several months, even though he suffered serious illnesses such as a pulmonary tumor, duodenal ulcer, arthritis, arterial obstruction, and ischemic alterations, which are said to have deteriorated due to the conditions of detention and mistreatment at the hands of prison guards. The Commission asked the Cuban State to adopt the measures necessary to guarantee the beneficiary's life and physical integrity, especially to instruct the competent authorities to evaluate his health conditions and to provide him with adequate medical treatment. On July 20, 2007, during its 129th regular period of sessions, the IACHR held a public hearing on the situation of persons deprived of liberty in Cuba, in which it received information on the beneficiary's health situation and conditions of detention. The Commission has learned that on August 10, 2007, Mr. Pastor Chaviano was released by the Cuban authorities.

Ecuador

Five members of a family and members of a human rights organization in Ecuador

21. On February 28, 2007, the IACHR granted precautionary measures in favor of five members of a family that resides along the Ecuadoran border with Colombia and the

members of a human rights organization active in the same region. The persons who requested the precautionary measures asked that the identity of the persons protected be kept under seal. The information available alleges that members of that organization are subject to constant threats and persecution due to their activities to defend and promote human rights; that the children of the person who founded the organization have been victims of an attempted kidnapping; and that since late 2006 his wife and two siblings have received threats. The Commission asked the Ecuadorian State to adopt the measures necessary to guarantee the life and physical integrity of the beneficiaries and to report on the actions taken to investigate judicially the facts that gave rise to the precautionary measures. In addition, the Commission asked the Ecuadorian State for information on the situation of risk of another three persons. On July 19, 2007, during its 128th regular period of sessions, the IACHR held a working meeting with the members and the State regarding implementation of the precautionary measures. The Commission continues to monitor the beneficiaries' situation.

Guatemala

Carlos Albacete Rosales and Piedad Espinosa Albacete

22. On January 22, 2007, the IACHR issued precautionary measures in favor of Carlos Albacete Rosales and Piedad Espinosa Albacete, co-directors of the environmentalist organization Trópico Verde, devoted to defending the Maya Biosphere Reserve in the Petén region, in northern Guatemala. The information available indicates that on September 12, 2006, the beneficiaries' house was machine-gunned and that since late 2006 they have been subjected to persecution and threats. It is also indicated that after a series of threats, the office of Trópico Verde in the Petén region was forced to close, so that it could reopen in a safer place. On January 10, 2007, four uniformed persons were said to have shot at the beneficiaries when they were traveling in a taxi from the La Aurora National Airport. Finally, it is indicated that Carlos Albacete and Piedad Espinosa had to leave the country due to the threats and attacks directed against them, and that they would attempt to return to Guatemala to resume their activities in defense of the environment. The Commission asked the Guatemalan State to adopt the measures necessary to protect the life and personal integrity of the beneficiaries from the moment they return to Guatemala and to investigate the facts that gave rise to the precautionary measures, so as to identify the persons responsible and impose the respective sanctions on them. On February 28, 2007, the IACHR decided to expand the precautionary measures to include Ms. Rut Delmira Catalán Rangel, who was said to have been the target of threats and harassment because of her work with the organization Trópico Verde. The Commission continues to monitor the beneficiaries' situation.

José Carlos Marroquín and his family

23. On January 29, 2007, the IACHR granted precautionary measures in favor of Mr. José Carlos Marroquín Pérez, his wife, and two daughters. The information available indicates that Mr. José Carlos Marroquín has been the target of a series of threats and attacks and that on November 18, 2006, unknown persons launched bombs and shot firearms at his home. Those attacks were said to have been aimed at pressuring Mr. Marroquín Pérez to renounce his affiliation with a Guatemalan political party. In weighing the request for precautionary measures, the IACHR received information according to which as of early 2007 Guatemala had a context marked by violence and attacks directed against politicians in connection with campaigning in the run-up to the September 2007 elections. The Commission asked the Guatemalan State to adopt the measures needed to guarantee the life and physical integrity of the beneficiaries and to report on the actions taken to investigate judicially the facts that gave rise to the precautionary measures. The Commission continues to monitor the beneficiaries' situation.

Marvin Roberto Contreras Natareno

24. On March 9, 2007, the IACHR granted precautionary measures in favor of Mr.

Marvin Contreras Natareno, who was deprived of liberty at the Centro Preventivo para Hombres in Zone 18 of Guatemala City. The information available indicates that Mr. Contreras Natareno was being held in pre-trial detention in the framework of a criminal indictment involved the assassination of three Salvadoran members of the Central American Parliament (PARLACEN, Parlamento Centroamericano), and the driver who was with them. On February 25, 2007, four others accused of participating in that assassination were executed while being held in pre-trial detention at the "El Boquerón" high-security prison in Guatemala. The Commission asked the Guatemalan State to adopt the measures necessary to ensure the life and physical integrity of the beneficiary and to investigate judicially the facts that gave rise to the precautionary measures. The Commission continues to monitor the beneficiary's situation.

Félix Andrés Mendoza Monterroso and family

25. On March 23, 2007, the IACHR granted precautionary measures in favor of Mr. Félix Andrés Mendoza Monterroso and his family. Mr. Mendoza Monterroso is a member of the National Civilian Police (PNC: Policía Nacional Civil), a witness to the criminal conduct engaged in by agents of that police agency. The information available indicates that in March 2006 his brother, Mr. José Alfredo Mendoza Monterroso, was said to have been tortured for the purpose of getting him to withdraw a complaint he had lodged with the Office of the Ombudsperson for Human Rights (Procuraduría de los Derechos Humanos); that the brothers Mendoza Monterroso were in hiding out of security considerations; that their family members have been threatened; and that in October 2006 Ms. Maria Elena Navas, the wife of José Alfredo Mendoza Monterroso, had been kidnapped and received death threats. The Commission asked the Guatemalan State to adopt the measures necessary for guaranteeing the life and physical integrity of the beneficiaries, and to report on the actions taken to investigate judicially the facts that gave rise to the precautionary measures. The Commission continues to monitor the beneficiaries' situation.

Daniel Joseph Vogt et al.

26. On March 30, 2007, the IACHR granted precautionary measures in favor of Messrs. Daniel Joseph Vogt, Arnoldo Yat Coc, and Juan Antonio Chen Dubon, human rights defenders. The Commission's decision is based on information according to which then beneficiaries have been subjected to threats and intimidation for defending the rights of the Maya Q'eqchi communities in the municipality of El Estor and offering them legal counsel in the dispute over property rights over land claimed by a local mining company. In addition, the IACHR was informed that on February 13, 2007, an unknown person was said to have broken into the Sagrado Corazón de Jesús church in Puerto Barrios, where the beneficiary Vogt is the priest, and to have stolen personal items used in their activities as human rights defenders. The Commission asked the Guatemalan State to adopt the measures necessary to guarantee the life and physical integrity of the beneficiaries, and to report on the actions adopted to investigate judicially the facts that gave rise to the precautionary measures. The Commission continues to monitor the situation of the beneficiaries.

Members of the Instituto de Estudios Comparados en Ciencias Penales of Guatemala

27. On June 8, 2007, the IACHR granted precautionary measures in favor of the members of the Instituto de Estudios Comparados en Ciencias Penales (ICCPG). The information available indicates that the beneficiaries have received death threats, and that despite the requests for protection made to the State authorities, they have not been granted adequate protection. It is indicated that one researcher of the Instituto was kidnapped on April 12, 2007, in Guatemala City, and released along a highway to Chimaltenango after being beaten and warned that the ICCPG should stop lodging complaints. At the same time, the IACHR considered this matter mindful of the increase in threats to and attacks on human rights defenders in Guatemala since early 2007. The Commission asked the Guatemalan State to adopt the measures necessary to guarantee the life and physical integrity of the beneficiaries, and to report on the actions taken to investigate judicially the facts that gave rise to the

precautionary measures. The Commission continues to monitor the beneficiaries' situation.

Project Counseling Service – Regional Office

28. On June 14, 2007, the IACHR granted precautionary measures in favor of Samantha Sams, Gabriela Ispanel, Jorge Campos, Florinda Yax, Vivian Cordón, Evy Meléndez, Flor de María Salvador, Christina Laur, Cristal Barrientos, Dinova López, Tania Palencia, Katrina Monterroso, Miriam Chávez, and Mercedes Vicente, all members of the Project Counseling Service (PCS), known in Spanish as Consejería de Proyectos, Guatemala Regional Office. The information available indicates that on May 7, 2007, one of the members of PCS was said to have been kidnapped, assaulted, and threatened before being released. At the same time, the IACHR considered this matter mindful of the increase in threats and attacks directed against human rights defenders in Guatemala as of early 2007. The Commission asked the Guatemalan State to adopt the measures necessary to ensure the life and physical integrity of the beneficiaries, and to report on the actions taken to investigate judicially the facts that give rise to the precautionary measures. The Commission continues to monitor the beneficiaries' situation.

Eduardo Rafael Vital Peralta et al.

29. On June 18, 2007, the IACHR granted precautionary measures in favor of Messrs. Eduardo Rafael Vital Peralta, Jorge Emilio Minera Morales, René Arturo Xicará Choloján, and Erick Javier Aguilar Alvarado, all leaders of the Centro Universitario de Occidente (CUNOC) of the Universidad de San Carlos, and their family members. The information available indicates that as of late March 2007 members of the organization Grupo de Responsabilidad de Todos (RETO) and their family members have been victims of acts of aggression and threats. Such incidents are said to be in retaliation for the initiative of the CUNOC Directing Council, made up of several members of RETO, that involved combating the illegal collection of monies from merchants established in the vicinity of the Universidad de San Carlos, traditionally done by students and former students of the university during Holy Week to cover the costs of their academic activities. It is noted that after the threats to the members of RETO and their family members were disclosed, Guatemala's National Civilian Police provided individual protection to Mr. Eduardo Rafael Vital, a measure that is said to have proven insufficient. The Commission asked the Guatemalan State to adopt the measures necessary to ensure the life and physical integrity of the beneficiaries, and to report on the actions adopted to investigate judicially the facts that gave rise to the precautionary measures. The Commission continues to monitor on the beneficiaries' situation.

Juana Méndez Rodríguez et al.

30. On June 25, 2007, the IACHR granted precautionary measures in favor of Ms. Juana Méndez Rodríguez, her husband Mónico Reyes, and their children Antonio, Santos Anibal, Amelia Yolanda, Justiniano Froylan, Rodolfo Otoniel, Silvino Rolando, Elmer Rubén, Melvin Marino, María Telma, and Brenda Floridalma, all with the last names Reyes Méndez, as well as PNC agent Lázaro Dubón Cano and his family. The Commission's decision was based on information according to which the beneficiaries received threats after Ms. Méndez Rodríguez filed a complaint alleging sexual abuse by agents of the National Civilian Police (PNC), some of whom were convicted. It is indicated that on April 23, 2007, the attorney who provides judicial assistance to Juana Méndez in the criminal proceeding was intercepted, assaulted, and threatened by hooded men. Agent Dubón Cano is a key witness in the criminal and disciplinary proceedings pending against members of the PNC with respect to the rape of Ms. Méndez Rodríguez. The Commission asked the Guatemalan State to adopt the measures necessary to guarantee the life and physical integrity of the beneficiaries, and to report on the actions taken to investigate judicially the facts that gave rise to the precautionary measures. The Commission continues to monitor the beneficiaries' situation.

Trade unionists at the Empresa Portuaria Quetzal

31. On August 31, 2007, the IACHR granted precautionary measures in favor of Messrs. Lázaro Noe Reys Matta, Eulogio Obispo Monzón Mérida, Arturo Granados Hernández, Miguel Antonio Madrid Hernández, Max Alberto Estrada Linares, and Oscar Giovanni González Dorado, all members of the Sindicato de Trabajadores de la Empresa Portuaria Quetzal (STEPQ, Trade Union of Workers of the Empresa Portuaria Quetzal). The information available indicates that as of January 2007 members of the board of the STEPQ have been subject to intimidation and threats by unknown persons. In January 2007 the then-secretary general of the union, Pedro Zamora Álvarez, was assassinated when taken to his residence accompanied by his children, one of whom suffered a serious injury. It is indicated that the next day the beneficiaries received several phone threats, and that in February 2007 Lázaro Noe Reyes and Eulogio Obispo were intimidated by hooded persons who circulate in a vehicle with polarized glass, and with no rear tags. It was also indicated that in July 2007, one witness to the death of Mr. Zamora Álvarez was assassinated while the STEPQ was taking steps for the witness to be able to give testimony without fearing retaliatory acts. The Commission asked the Guatemalan State to take the measures necessary to guarantee the life and physical integrity of the beneficiaries, and to report on the actions taken to investigate judicially the facts that gave rise to the precautionary measures. The Commission continues to monitor the beneficiaries' situation.

María Juárez

32. On October 26, 2007, the IACHR ordered precautionary measures in favor of Maria Juarez, a functionary of the Survivors Foundation, which is dedicated to bringing juridical and psychological assistance to women victims of violence in Guatemala. The available information indicates that the beneficiary received threats and harassment due to her activities with the Survivors Foundation. The information indicates that such threats occurred more frequently after the organization began investigating the disappearance of children in Chiquimula Department and in the Capital. The applicants alleged that the Public Ministry had not responded to complaints regarding the threats. The Commission requested that the State of Guatemala adopt the measures necessary to guarantee the life and physical integrity of Maria Juarez and report on the measures adopted with the goal of judicially clarifying the facts that justified the adoption of precautionary measures. The Commission continues to follow the beneficiary's situation.

26 children in the process of being adopted

33. On November 21, 2007, the IACHR granted precautionary measures in favor of 26 children in the process of being adopted in Guatemala. The information available indicates that the beneficiaries, all under six months of age, are undergoing the international adoption procedure. The persons requesting the measures allege that the adoption procedures are irregular, and that the children are being housed in private homes without judicial authorization and in violation of the law. It is also indicated that there is no information on the conditions in which the children were separated from their biological parents, and that adoption procedures are being carried out through civil-law notary proceedings without the supervision of the competent authorities. The Commission asked the Guatemalan State to define the conditions and the place where the beneficiaries could be found, and to report on their legal and family status, and on the measures it would be taking to protect them. The Commission continues to monitor the beneficiaries' situation.

Haiti

Marc-Arthur Mésidort and family

34. On January 25, 2007, the IACHR granted precautionary measures in favor of Marc-Arthur Mésidort, president of the *Groupe d'Action pour la Défense des Droits Humains* (GADH) and members of his family. The information available indicates that the beneficiary has

been the target of threats and harassment since January 2005, and that he is impeded from lodging a complaint due to the fact that persons associated with the assailants are said to have influence among the local police and judicial authorities. It is indicated that Mr. Mésidort's wife and children took to sleeping away from his residence due to the threats. The Commission asked the Haitian State to adopt the measures necessary to guarantee the life and physical integrity of the beneficiaries, and to report on actions taken to investigate judicially the facts that gave rise to the precautionary measures. The Commission continues to monitor the beneficiaries' situation.

Honduras

Marcos Bonifacio Castillo, member of the Garifuna Community of Punta Piedras

35. On August 20, 2007 the IACHR granted precautionary in favor of Marcos Bonifacio Castillo, a member of the Garifuna community of Punta Piedras. The information available indicates that members of that community have been subjected to threats and attacks by inhabitants of the community of Río Miel, and that on June 11, 2007, Mr. Félix Ordóñez Suazo was assassinated. The beneficiary was said to have been an eyewitness to that homicide, for which he was said to have received death threats. It is noted that the attacks on members of the Garifuna community of Punta Piedras were reported to the local authorities, who are said not to have intervened to forestall new confrontations. The Commission asked the Honduran State to take the measures needed to guarantee the life and physical integrity of the beneficiary, and to report on the actions taken to investigate judicially the assassination of Mr. Ordóñez Suazo and the death threats received by Mr. Marcos Bonifacio Castillo. The Commission continues to monitor the beneficiary's situation.

Héctor Geovanny García Castellanos and Martín Omar Ramírez

36. On November 1, 2007, the IACHR granted precautionary measures in favor of journalists Héctor Geovanny García Castellanos and Martín Omar Ramírez. The information available indicates that in September 2007, Mr. García Castellanos was the victim of an attack by firearm when traveling in the city of Tegucigalpa in his car, and that Mr. Ramírez received death threats as of September 2007. In both cases, it is indicated that the threats and acts of violence are related to the exercise of journalism. The Commission asked that the Honduran State adopt the measures needed to guarantee the life and physical integrity of the beneficiaries, and report on the actions taken to investigate judicially the facts that gave rise to the precautionary measures. The Commission continues to monitor the beneficiaries' situation.

Mexico

Workers of Radio Calenda

37. On February 16, 2007, the IACHR granted precautionary measures to Esteban Abel Sánchez Campos, Emilio Santiago Ambrosio, Darío Roberto Campos Martínez, Carlos Bourget Aguilar, and Marta Elia Aguilar García, all workers with Radio Calenda in Oaxaca. The information available indicates that the beneficiaries have been threatened and attacked by the local mayor (*presidente del municipio*) where this radio station operates, and persons close to him. On November 26, 2006, Mr. Campos Martínez was said to have been kidnapped as he walked along a street of Oaxaca, and held in a vehicle for approximately one hour; he is said to have been assaulted and intimidated to get Radio Calenda to stop putting out information unfavorable to the mayor. It was indicated that on January 24, 2007, the mayor shot twice, with a firearm, at reporter Sánchez Campos, who was close to the city hall (Palacio Municipal) and was not hit. The same day, an associate of the mayor had thrown a stone at Mr. Santiago Ambrosio, who suffered an eye injury. In view of the situation, the Commission asked the Mexican State to adopt the measures necessary to guarantee the life and physical integrity of the beneficiaries, and to report on the actions taken to investigate judicially the facts that

gave rise to the precautionary measures. The Commission continues to monitor the beneficiaries' situation.

Castulo Benavides and other members of the FLOC

38. On April 19, 2007, the IACHR issued precautionary measures in favor of Messrs. Castulo Benavides Rodríguez, Baldemar Velásquez, Ken Barrer, and Davis Castillo Nuñez, all members of the Foro Laboral Obrero Campesino (FLOC) in Monterrey. The information available indicates that since May 2005, the beneficiaries have been subject to harassment because of their work as defenders of the rights of migrant workers. It is also indicated that in September 2006, the offices of the FLOC were broken into; documents and lists of affiliated workers were taken. On April 9, 2007, the corpse of the coordinator of the offices, Mr. Santiago Rafael Cruz, was found with his hands and feet bound, and with signs of torture. The Commission asked the Mexican State to adopt the measures necessary to guarantee the life and physical integrity of the beneficiaries, to adopt security measures at the offices of the FLOC, and to report on the actions taken to investigate judicially the facts that gave rise to the precautionary measures. The Commission continues to monitor the beneficiaries' situation.

Francisco Velasco Hernández

39. On July 11, 2007, the IACHR issued precautionary measures in favor of Francisco Velasco Hernández in Mexico. The information available indicates that on January 13, 2007, agents of the judicial police (Policía Ministerial) of the state of Oaxaca detained Francisco Velasco in the city of Oaxaca, tortured him, and after taking him to the offices of the Office of the Attorney General for the state of Oaxaca tried to make him confess to stealing a car. It is indicated that on January 23, 2007, the beneficiary filed a criminal complaint and a complaint before the State Human Rights Commission of Oaxaca against four police agents regarding the assaults mentioned above. It is also alleged that since February 2007 the beneficiary has received a series of threats from the police officers who are said to have attacked him, and from other agents of the judicial police of Oaxaca to get him to back down from the complaint filed. The Commission asked the Mexican State to adopt the measures needed to guarantee the life and physical integrity of the beneficiary, and to report on the actions taken to investigate judicially the facts that gave rise to the precautionary measures. The Commission continues to monitor the beneficiary's situation.

Alejandro Noyola et al.

40. On July 26, 2007, the IACHR issued precautionary measures in favor of Alejandro Noyola, Jesús Manuel Grijalva Mejía, Alba Gabriela Cruz Ramos, Alma Delia Gómez Soto, César Grijalva, Flora Gutiérrez, and Jesús Alfredo López García, all attorneys members of the Comité de Liberación 25 de Noviembre, devoted to providing psychological care for and legal assistance to members of the Movimiento Popular of Oaxaca detained in November 2006. The information available indicates that the beneficiaries have been subject to attacks, threats, and harassment because of their work in that organization. It is indicated that from December 2006 to July 2007, the beneficiaries and some of their family members received threats by telephone and were victims of persecution and assaults promoted by private persons and members of the police of the state of Oaxaca. The most serious attacks were said to have taken place on July 16, 2006, in the context of the traditional festivity known as the "Guelaguetza Popular" in the city of Oaxaca. The Commission asked the Mexican State to adopt the measures needed to guarantee the life and physical integrity of the beneficiaries, and to report on the actions taken to investigate judicially the facts that gave rise to the precautionary measures. The Commission continues to monitor the beneficiaries' situation.

Ms. X et al.

41. On September 4, 2007, the IACHR granted precautionary measures in favor of Ms. X, her husband and her children in the State of Guerrero, Mexico. The applicants of the

measures indicated that on March 22, 2002, Ms. X was raped, allegedly by members of the Mexican Army, allegations which are currently under consideration by the Inter-American Commission via a petition connected with the precautionary measures. The petition indicates that the beneficiaries have been victims of aggression, threats and stalking after reporting the rape of Ms. X. Additionally, the petition alleges that on August 8, 2007, the beneficiaries requested personal protection from the General Justice Prosecutor's Office but did not receive a response. In view of above, the Commission requested that the Mexican State adopt the measures necessary to guarantee the life and physical integrity of the beneficiaries and report on the actions adopted with the goal of judicially clarifying the facts that justified the adoption of precautionary measures. The Commission continues to follow the beneficiaries' situation.

Nicaragua

Nubia Geoconda Artola Delgadillo et al.

42. On August 31, 2007, the IACHR granted precautionary measures in favor of Nubia Geoconda, Amparo del Socorro, Wilberto Antonio, Ludys Cruz, William, and Raúl Terencio, all with the last names Artola Delgadillo; Juan Ramón Artola; Victor Manuel and Santos Zeledonio, both with the last names Artola Amador; Sheyla Carolina Artola Aguilar; and Enrique Alexander Artola Artola. The information available indicates that brothers Raúl Terencio Artola Delgadillo and William Artola Delgadillo were tortured by volunteer police after being detained and accused of the crime of cattle-rustling in the municipality of Nueva Guinea. On March 20, 2007, the mother of the accused, Ms. Villanueva Delgadillo Obando, was assassinated by two persons who were hooded and dressed in military uniform as she was headed to the court of Nueva Guinea to attend an oral hearing in the criminal proceeding against the police officers mentioned above. On August 6, 2007, Ms. Delgadillo Obando's husband, Mr. Gilberto Artola, was executed by hooded and uniformed persons who immediately thereafter, according to the information received, raped his daughter and granddaughter, Amparo del Socorro Artola Delgadillo and Sheyla Carolina Artola Aguilar. It is indicated that in August 2007, members of the family were subjected to harassment, and that after reporting these incidents were threatened by police agents to get them to abandon their home. In view of the information, the Commission asked the Nicaraguan State to adopt the measures necessary to guarantee the life and physical integrity of the beneficiaries, and to report on the actions taken to judicially clarify the facts that gave rise to the precautionary measures. The Commission continues to monitor the beneficiaries' situation.

Peru

Indigenous peoples of Mashco Piro, Yora, and Amahuaca in voluntary isolation

43. On March 22, 2007, the IACHR granted precautionary measures in favor of the indigenous peoples of Mashco Piro, Yora, and Amahuaca, living in voluntary isolation, who live in the area of the Las Piedras river, department of Madre de Dios, in Peru. Already in 2006 the Commission had requested information of the Peruvian State with respect to the situation of those indigenous communities, in particular on the implementation of measures to guarantee their life and personal integrity, and to halt illegal logging in their territory. At the same time, the IACHR was informed that illegal logging has continued in territory legally protected and designated to those communities in the department of Madre de Dios, exposing them to the risk of extinction. In view of the situation, the Commission asked the Peruvian State to adopt all measures necessary to guarantee the life and personal integrity of the members of the Mashco Piro, Yora, and Amahuaca indigenous peoples in voluntary isolation, especially the adoption of measures aimed at preventing irreparable harm resulting from the activities of third persons in their territory. On October 12, 2007, during its 130th regular period of sessions, the IACHR held a public hearing in which it received information from the State and the representatives of the beneficiaries on the implementation of the precautionary measures issued. The Commission continues to monitor the beneficiaries' situation.

Marco Arana, Mirtha Vásquez, et al.

44. On April 23, 2007, the Commission granted precautionary measures in favor of priest Marco Arana and attorney Mirtha Vásquez and other members of the organization "Group of Integral Education for Sustainable Development" (GRUFIDES: Grupo de Formación Integral para el Desarrollo Sostenible), an institution devoted to defense of the environment, training, and legal assistance for peasant communities around the city of Cajamarca. The information available indicates that the beneficiaries have been subjected to intimidation and threats by individuals who support mining in the region, and that some persons were assassinated in confrontations between the sectors that support mining and those who protest mining activities. The Commission asked the Peruvian State to adopt the measures necessary to guarantee the life and personal integrity of the beneficiaries, verify the effective implementation of the measures of protection by the competent authorities, provide perimeter surveillance for the headquarters of the NGO GRUFIDES, provide police accompaniment to the GRUFIDES personnel who must travel to the peasant communities, and report on the actions taken to investigate judicially the facts that gave rise to the precautionary measures. The Commission continues to monitor the beneficiaries' situation.

Juan Fidel Zamudio Bocángel et al.

45. On May 30, 2007, the IACHR granted precautionary measures in favor of Juan Fidel Zamudio Bocángel, Sara Mercedes Sánchez Loarte, Giusella Inés Bocángel Gómez, and two minors in his family. The information available indicates that Mr. Zamudio Bocángel has survived an attack and constant acts of harassment and other threats since April 2006. It is also indicated that his family members have received threats since September 2006. The Commission asked the Peruvian State to adopt the measures needed to guarantee the life and personal integrity of the beneficiaries, to verify that the measures referred to are effectively implemented, and to report on the actions taken to investigate judicially the facts that gave rise to the adoption of precautionary measures. The Commission continues to monitor the beneficiaries' situation.

Community of La Oroya

46. On August 31, 2007, the IACHR granted precautionary measures in favor of 65 residents of the city of La Oroya in Peru. The persons requesting precautionary measures asked that the identity of the beneficiaries be kept under seal. The information available indicates that the beneficiaries suffer from a series of health problems stemming from high levels of air, soil, and water pollution in the community of La Oroya, which are a result of metallic particles released by the complex of metallurgical companies established there. From that information it appears that the persons affected by the pollution do not have adequate medical care for diagnosis, treatment, and prevention. In December 2005 and November 2006, the Commission requested information from the State, *inter alia*: what measures were being adopted to protect the health of the population of La Oroya affected by the pollution, in particular in terms of adequate medical care and environmental controls at the smelting plants. In addition, the Commission received information according to which in May 2006, the Constitutional Court of Peru had decided an action alleging failure to act (*acción de incumplimiento*) against the Ministry of Health and the General Bureau for Environmental Health of Peru, requiring the design and implementation of a "public health emergency strategy" for the city of La Oroya within 30 days. The Commission asked the Peruvian State to adopt the appropriate measures for making a specialized medical diagnosis of the beneficiaries, provide specialized and adequate medical treatment for those persons whose diagnosis shows that they are at risk of facing irreparable harm to their personal integrity or life, and coordinate with the persons requesting the measures and the beneficiaries to ensure implementation of the precautionary measures. On March 8, 2006, during its 124th regular period of sessions, the Commission held a working meeting that included the participation of representatives of the State and the persons requesting the measures. The Commission continues to monitor the beneficiaries' situation.

United States

Humberto Leal García

47. On January 30, 2007, the IACHR granted precautionary measures in favor of Mexican citizen Humberto Leal García, who was deprived of liberty in a detention center in the state of Texas, waiting for a date to be set for carrying out the death penalty. The precautionary measures were submitted in the context of a petition alleging violation of the rights enshrined in Articles I, XXV, XXVI, and XVIII of the American Declaration, which is being processed before the Commission. The petition alleges, *inter alia*, violations of due process, that Mr. Leal García was not informed of the right to consular assistance, and that he was subjected to inhuman conditions of detention. The petition also alleges that lethal injection is a method of execution that causes extreme and unnecessary suffering, and that the pardon procedure provided for in the state of Texas is incompatible with Article XXVI of the American Declaration. The Commission asked the United States to adopt the measures necessary to preserve the life and physical integrity of Mr. Leal García, so as not to impede the processing of his claim before the inter-American system. By a communication of March 29, 2007, the United States reported having transmitted the IACHR's request to the Governor, Attorney General, and the Texas Pardon and Parole Board. The Commission continues to monitor the beneficiary's situation.

Rubén Ramírez Cárdenas

48. On January 30, 2007, the IACHR granted precautionary measures in favor of Mexican citizen Rubén Ramírez Cárdenas, who is deprived of liberty at a detention center in the state of Texas, waiting for a date to be set for execution of the death penalty. The precautionary measures were submitted in the context of a petition alleging violation of the rights enshrined in Articles I, XXV, XXVI, and XVIII of the American Declaration, which is being processed before the Commission. The petition alleges, *inter alia*, violations of the right to due process, that Mr. Ramírez Cárdenas was not informed of the right to consular assistance, and that he was subjected to inhuman conditions of detention. The petition also alleges that the use of lethal injection as the method of execution causes extreme and unnecessary suffering, and that the pardon procedure provided for in the state of Texas is incompatible with Article XXVI of the American Declaration. The Commission asked the United States to adopt the measures necessary to protect the life and physical integrity of the beneficiary, so as not to impede the processing of his claim before the inter-American system. The Commission continues to monitor the beneficiary's situation.

Frank Igwebuike Enwonwu

49. On March 28, 2007, the IACHR issued precautionary measures in favor of Nigerian citizen Frank Igwebuike Enwonwu, who is deprived of liberty at a detention center in the state of Massachusetts, awaiting execution of an order for deportation to the country of his nationality. That order was said to have been issued in December 2006 and appealed by the beneficiary. The information available indicates that Mr. Igwebuike Enwonwu's due process guarantees were not protected, and that the execution of the deportation order could result in acts of torture to his detriment. In addition, it is alleged that there were flaws in the beneficiary's legal representation. In view of these considerations, the Commission asked the United States to refrain from deporting Mr. Igwebuike Enwonwu until a motion for review filed by him has been decided upon, and to report to the Commission on the measures adopted in this regard. The Commission continues to monitor the beneficiary's situation.

Heriberto Chi Aceituno

50. On September 28, 2007, the Commission granted precautionary measures in favor of Honduran citizen Heriberto Chi Aceituno, who is deprived of liberty at a detention

center in the state of Texas, awaiting implementation of the death penalty. The request for precautionary measures was presented in the context of a petition on the alleged violation of the rights enshrined in Articles I, XXVI, and XVIII of the American Declaration, which is being processed before the Commission. The petition alleges, *inter alia*, violations of due process, in particular, that Mr. Chi Aceituno was not informed of the right to consular assistance throughout the proceeding that culminated in his being sentenced to death. The Commission asked the United States to adopt the measures necessary for preserving the life and physical integrity of the beneficiary, so as not to impede the processing of his claim before the inter-American system. The Commission has taken note that the execution of the death penalty, set for October 3, 2007, was suspended by a resolution of the Texas Court of Criminal Appeals, considering that another case raising the constitutionality of lethal injection is pending before the United States Supreme Court. The Commission continues to monitor the beneficiary's situation.

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ANNUAL REPORT OF THE IACHR 2007

CHAPTER III - THE PETITION AND CASE SYSTEM (Continuation)

D. Status of compliance with the recommendations of the IACHR

51. Complete compliance with the decisions of the Inter-American Commission is essential for ensuring that human rights have full force in the OAS member states, and for helping strengthen the Inter-American system for the protection of human rights. With that in mind, the IACHR, in this section, analyzes the status of compliance with the recommendations in the reports adopted by the Commission in the last six years.

52. In this regard, the OAS General Assembly, in its resolution AG/RES. 2227 (XXXVI-O/06), "Observations and Recommendations on the Annual Report of the Inter-American Commission on Human Rights," urged the member states to follow up on the recommendations of the Inter-American Commission on Human Rights (operative paragraph 3.b) and to continue to take appropriate action in connection with the annual reports of the Commission, in the context of the Permanent Council and the General Assembly of the Organization (operative paragraph 3.c). Likewise, in its resolution AG/RES. 2220 (XXXVI-O/06), "Strengthening of Human Rights Systems pursuant to the Plan of Action of the Third Summit of the Americas," it reaffirmed the intent of the OAS to continue taking concrete measures aimed at implementing the mandates of the Third Summit of the Americas, including follow-up of the recommendations of the Inter-American Commission on Human Rights (operative paragraph 2.b), and instructed the Permanent Council to hold a meeting of the Committee on Juridical and Political Affairs to consider means of promoting follow-up on the recommendations of the Commission by the Organization's member states (operative paragraph 3.e).

53. Both the Convention (Article 41) and the Statute of the Commission (Article 18) explicitly grant the IACHR the authority to request information from the member states and to produce such reports and recommendations as it considers advisable. Specifically, Article 46 of the IACHR Rules of Procedure, which took effect on May 1, 2001, provides the following:

1. Once the Commission has published a report on a friendly settlement or on the merits in which it has made recommendations, it may adopt the follow-up measures it deems appropriate, such as requesting information from the parties and holding hearings in order to verify compliance with friendly settlement agreements and its recommendations.

2. The Commission shall report on progress in complying with those agreements and recommendations as it deems appropriate.

54. In compliance with its powers under the Convention and the Statute and with

the above-cited resolutions, and pursuant to Article 46 of its Rules of Procedure, the IACHR requested information from the States on compliance with the recommendations made in the reports published on individual cases included in its annual reports from 2000 through 2006. The Commission also decided to include on its web page (www.cidh.org) a copy of the responses from the member states in cases where they expressly requested that this be done.

55. The table the Commission is presenting includes the status of compliance with the recommendations made by the IACHR in the cases that have been decided and published in the last seven years. The IACHR notes that compliance with different recommendations is meant to be successive and not immediate and that some recommendations require a reasonable time to be fully implemented. The table, therefore, presents the current status of compliance, which the Commission acknowledges as being a dynamic process that may evolve continuously. From that perspective, the Commission evaluates whether or not compliance with its recommendations is complete and not whether it has been started.

56. The three categories included in the table are the following:

- total compliance (those cases in which the state has fully complied with all the recommendations made by the IACHR. Having regard to the principles of effectiveness and fully observed those recommendations where the state has begun and satisfactorily completed the procedures for compliance);
- partial compliance (those cases in which the state has partially observed the recommendations made by the IACHR either by having complied with only one or some of them or through incomplete compliance with all of them);
- compliance pending (those cases in which the IACHR considers that there has been no compliance with the recommendations because no steps have been taken in that direction; because the state has explicitly indicated that it will not comply with the recommendations made; or because the state has not reported to the IACHR and the Commission has no information from other sources that would suggest otherwise).

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Chapter III

E. Petitions and cases before the Inter-American Court of Human Rights

1. Provisional measures

642. Article 63(2) of the American Convention on Human Rights provides that in cases of extreme gravity and urgency, and when necessary to avoid irreparable damage to persons, the Court shall adopt such provisional measures as it deems pertinent in matters it has under consideration. With respect to a case not yet submitted to the Court, it may act at the request of the Commission.

643. Below is a summary of the 47 provisional measures in force during the period covered by this report, arranged by country. The number of measures sought from the States is not the same as the number of persons protected by those measures.

a. Argentina

Millacura Llaipén *et al.*

644. On June 20, 2006, the Commission requested the Inter-American Court for provisional measures designed to have the State protect the lives and physical integrity of María Leontina Millacura Llaipén, her children Marcos and Valeria Torres, her son-in-law Juan Pablo Caba, Gerardo Colín, Patricio Oliva, Tamara Bolívar, Walter Mansilla, Silvia de los Santos, Verónica Heredia, Miguel Ángel Sánchez, and Viviana and Sonia Hayes. Mrs. Millacura Llaipén is a petitioner before the Commission and, in connection with the incidents reported in her petition and with her quest for justice, she, her family, and her lawyers have been subjected to intimidation and attacks.

645. In an order dated June 21, 2006, the President of the Court instructed the State, *inter alia*, to immediately take all steps necessary to protect the right to life and physical integrity of the beneficiaries identified by the Commission. On that same occasion, the President of the Court also summoned the parties to a public hearing on the matter, which was held on July 6, 2006, and was attended by the Commission, the beneficiaries' representatives, and the State. That same day, the Court issued an order fully confirming the terms of the President's resolution. Over the course of the year, the Commission presented information and observations on these provisional measures, as ordered by the Court. The full text of this resolution may be found at http://www.corteidh.or.cr/docs/medidas/millacura_se_01.doc.

Prisons in Mendoza

646. During 2007, the Commission presented information and observations related to the provisional measures ordered by the Court on November 22, 2004, the primary purpose of which is to protect the lives and physical integrity of all inmates at the Provincial Penitentiary of Mendoza and the Gustavo André facility in Lavalle, as well as all persons within those facilities.

647. On November 27, 2007, the Court issued an order rejecting a request for the provisional measures to be expanded to protect the lives and physical integrity of inmates at the new Almafuerite prison in Campo Cacheuta, Mendoza, that had been made by the beneficiaries' representatives at the start of the year. The full text of that order can be seen at: http://www.corteidh.or.cr/docs/medidas/penitenciariamendoza_se_05.doc.

b. Barbados

Boyce and Joseph

648. These measures were ordered by the Court at the request of the Commission in order to stay the execution of death penalties imposed by the courts of Barbados on Lennox Boyce, Jeffrey Joseph, Frederick Atkins, and Michael Huggins, until such time as the organs of the Inter-American System rule on their allegations of violations of the American Convention.

649. The measures remained in force while the case was being argued before the Inter-American Court of Human Rights. On November 20, 2007, the Court rendered its judgment in the related case (see "Contentious Cases," below) and, deeming that their purpose had been served, ordered that the provisional measures be lifted. The Court took into account the fact that Mr. Atkins had died in 2005, that the death sentences handed down to Messrs. Boyce and Joseph had been commuted to life terms in prison, and that the Court's judgment ordered that Mr. Huggins sentence be formally commuted within the following six months.

c. Brazil

Urso Branco Prison

650. During 2007 the Commission presented information and observations on the provisional measures ordered on June 18, 2002, in favor of inmates at the José Mario Alves Detention Center – known as the "Urso Branco Prison" – to "prevent further deaths of inmates" at that facility.

651. In particular, the Commission insisted on the need to hold a public hearing on this matter, enabling the parties to present arguments or information with respect to the hitherto deficient implementation of the measures.

Febem's Tatuapé Complex

652. During 2007, the Commission filed regular observations on the State's reports concerning these measures, which were ordered by the Court at the Commission's request in order to protect the lives and physical integrity of all the children and adolescents at FEBEM's Tatuapé Complex, as well as all persons within that facility as of November 17, 2005.

653. On July 3, 2007, the Court adopted an order confirming the State's obligations in regard to those provisional measures, with the exception of the obligation of conducting an investigation, deeming that to be a matter better addressed through a possible future contentious procedure.

654. The order in question may be consulted at: http://www.corteidh.or.cr/docs/medidas/febem_se_04.doc.

Araraquara Penitentiary

655. During 2007, the Commission regularly submitted to the Court its observations on the Brazilian State's reports concerning these measures, which were ordered by the Court at the Commission's request in order to protect the lives and physical integrity of the persons in whose benefit the adoption of protective measures was ordered on July 28, 2006, while they were being held at the Araraquara Penitentiary. The text of the corresponding order can be found at: http://www.corteidh.or.cr/docs/medidas/araraquara_se_031.pdf.

d. Colombia

19 Merchants

656. During 2007, the Commission periodically submitted comments on the State's reports concerning these measures, which were ordered by the Court at the request of the Commission to protect the life and physical integrity of Mrs. Sandra Belinda Montero (a relative of two victims in the case; see "Contentious Cases," below) and her family on September 3, 2004.

657. On February 6, 2007, the President of the Court issued an urgent measures order reiterating to the State the need for implementing, maintaining, and expanding the protective measures first ordered in 2004. On May 12, 2007, the Court confirmed the President's decision and ordered the Colombian State to maintain the measures ordered on behalf of Mrs. Montero and her family and on behalf of Messrs. Salomón Flórez Contreras and Luis José Pundor Quintero, Mrs. Ana Diva Quintero Quintero de Pundor, and their families. The Court also ordered the State to immediately adopt the measures necessary to protect the right to life and physical integrity of Wilmar Rodríguez Quintero and Yimmy Efraín Rodríguez Quintero, together with their families. The corresponding orders can be seen at: http://www.corteidh.or.cr/docs/medidas/comerciantes_se_04.doc and http://www.corteidh.or.cr/docs/medidas/comerciantes_se_05.doc.

Álvarez et al.

658. During 2007, the Commission periodically presented the Court with its comments on the Colombian State's reports concerning these measures, which were first ordered by the Court at the Commission's request on July 22, 1997, to protect the physical integrity of the members of the Association of Relatives of Detainees and Disappeared Persons of Colombia.

659. On December 18, 2007, the Court called for a public hearing to receive up-to-date information from the parties about the implementation of the measures, to be held in the city of San José, Costa Rica, on February 4, 2008, and to be attended by the Commission, the beneficiaries' representatives, and the Colombian State.

Caballero Delgado and Santana

660. During 2007, the Commission periodically presented the Court with its comments on the Colombian State's reports about these measures, which were ordered by the Court at the request of the Commission on December 7, 1994, to protect the physical integrity of certain witnesses who testified about the responsibility of State agents during the adversarial proceedings in this case before the Court (see below).

661. According to the Court's most recent order of July 4, 2006, the Colombian State must adopt and maintain the measures necessary to protect the lives and physical integrity of María Nodelia Parra and Gonzalo Arias Alturo. The text of that order can be seen at: http://www.corteidh.or.cr/docs/medidas/caballero_se_06.doc.

662. On December 10, 2007, the Court convened a hearing to receive updated information from the parties on the process of implementing these measures. The hearing will be held in San José, Costa Rica, on February 4, 2008, and attended by the Commission, the representatives of the beneficiaries, and the Colombian State.

San José de Apartadó Peace Community

663. These measures were ordered by the President of the Court, at the Commission's request, on October 9, 2000, to protect the physical integrity of the members of the San José de Apartadó Peace Community and other persons providing it services. During 2007, the Commission presented the Court with its comments on the reports of the Colombian State and of the beneficiaries' representative regarding the measures.

664. On December 17, 2007, the President of the Court issued an order resolving to convene a public hearing on this matter, to be held on February 4, 2008, at the Court's headquarters.

Community Councils of Jiguamiandó and Curbaradó

665. The Court ordered these measures on March 6, 2003, at the Commission's request, to protect the right to life and the right to remain in their territory of members of the Community Council of Jiguamiandó and the Curbaradó families. During 2007, the Commission presented the Court with periodical comments on the reports submitted by the Colombian State and by the beneficiaries' representatives.

666. On December 17, 2007, the President of the Court issued an order resolving to convene a public hearing on this matter, to be held on February 5, 2008, at the Court's headquarters.

Giraldo Cardona

667. The measures in the case of Giraldo Cardona were ordered by the Court at the request of the Commission on October 28, 1996. They are intended to protect the life, physical integrity, and continuity of the work of members of the Civic Committee for Human Rights of the Department of Meta, who had been threatened, harassed, and persecuted. On November 29, 2006, the Court issued an order reiterating the currency of the provisional measures extended to the beneficiaries. That order may be found at: http://www.corteidh.or.cr/docs/medidas/giraldo_se_09.doc.

668. During 2007, the Commission periodically submitted comments on the State's reports concerning these measures.

Gutiérrez Soler

669. During 2007, the Commission periodically submitted comments on the State's reports concerning the measures ordered by the Court on March 11, 2005. These measures are intended to: (a) protect the lives, physical integrity, and personal liberty of Mr. Ricardo Gutiérrez Soler and his family (namely: his mother, Mrs. María Elena Soler de Gutiérrez; his children, Luisa Fernanda Gutiérrez Reyes, Paula Camila Gutiérrez Reyes, Leonardo Gutiérrez Rubiano, Leydi Caterin Gutiérrez Peña, Sulma Tatiana Gutiérrez Rubiano, Ricardo Alberto Gutiérrez Rubiano, and Carlos Andrés Gutiérrez Rubiano; and Mrs. Yaqueline Reyes); and (b) to protect the lives, physical integrity, and personal liberty of Mr. Wilson Gutiérrez Soler and his son Kevin Daniel Gutiérrez Niño, should they return to Colombia. See "Contentious Cases," below.

670. On November 27, 2007, the Inter-American Court issued an order requiring that these provisional measures be upheld and confirming the State's obligations in that regard. The

full text of that order can be found at:
http://www.corteidh.or.cr/docs/medidas/gutierrez_se_02.doc.

Mapiripán Massacre

671. During 2007, the Commission periodically submitted comments on the State's reports concerning the measures that were originally ordered by the President of the Court on February 4, 2005, in order for the State to adopt the measures necessary to protect the lives and physical integrity of Carmen Johana Jaramillo Giraldo, Esther Pinzón López, Sara Paola Pinzón López, María Teresa Pinzón López, Yur Mary Herrera Contreras, Zully Herrera Contreras, Maryuri Caicedo Contreras, Nadia Marina Valencia Sanmiguel, Yinda Adriana Valencia Sanmiguel, Johana Marina Valencia Sanmiguel, Gustavo Caicedo Contreras, Rusbel Asdrúbal Martínez Contreras, Roland Andrés Valencia Sanmiguel, Ronald Mayiber Valencia Sanmiguel, Luis Guillermo Pérez, Nory Giraldo de Jaramillo, Marina San Miguel Duarte, Viviana Barrera Cruz, Luz Mery Pinzón López, and Mariela Contreras Cruz. See "Contentious Cases," below.

Mery Naranjo *et al.*

672. By means of an order dated July 5, 2006, the Court ordered the State, *inter alia*, to adopt the measures necessary to protect the right to life and physical integrity of Mery Naranjo Jiménez and her family and to investigate the acts perpetrated against her and Mrs. María del Socorro Mosquera Londoño. Mrs. Naranjo and Mrs. Mosquera are human rights defenders and community leaders in the city of Medellín. Because of their work, they have been subjected to intimidation and attacks by State agents and civilians identified with paramilitary groups. Over the course of 2007, the Commission presented information and observations on these provisional measures, as ordered by the Court.

Kankuamo Indigenous People

673. During 2007, the Commission periodically presented comments on the State's reports concerning the measures ordered on July 5, 2004, in favor of the members of the Kankuamo indigenous people, in order to protect their life, physical integrity, cultural identity, and special connection to their ancestral lands.

674. On January 26, 2007, the Court held a hearing at which it heard the parties' claims about the implementation of the provisional measures ordered in this case. On January 30, 2007, the Court issued an order reiterating the currency of the provisional measures extended to the beneficiaries. The Commission subsequently presented the Court with its comments on the reports lodged by the Colombian State and by the beneficiaries' representatives. The text of the corresponding order may be found at: <http://www.corteidh.or.cr/medidas.cfm>.

e. Ecuador

Sarayaku Indigenous Community

675. During 2007, the Commission submitted comments on the State's reports concerning the measures ordered by the Court on June 6, 2004, on behalf of the members of the Kichwa people of Sarayaku, intended to protect their lives and physical integrity, their right to freedom of movement, and their special connection to their ancestral lands. Specifically, the Commission stated in its comments that the situation that justified the adoption of the provisional measures still exists, particularly as regards the need to withdraw explosive materials from the indigenous people's lands.

676. The measures were confirmed on June 17, 2005, following a public hearing held with the parties on May 11, 2005, in Asunción, Paraguay. The relevant orders can be found at: http://www.corteidh.or.cr/docs/medidas/sarayaku_se_02.doc

and http://www.corteidh.or.cr/docs/medidas/sarayaku_se_01.doc.

f. El Salvador

Gloria Giralt de García Prieto *et al.*

677. During 2007, the Commission periodically presented the Court with comments on the Salvadoran State's reports concerning the measures ordered by the Court, at the Commission's request, on September 26, 2006, to protect the lives and physical integrity of certain relatives of Mr. Ramón Mauricio García Prieto Giralt and of some of his legal advisors and members of the Human Rights Institute of the Central American University. These measures have to do with a case litigated at the Court and decided by it by judgment of November 20, 2007 (see "Contentious Cases," below). The text of the provisional measures in question may be seen at: http://www.corteidh.or.cr/docs/medidas/giralt_se_01.doc.

Major Meléndez Quijano *et al.*

678. On March 21, 2007, the Commission asked the Inter-American Court to adopt provisional measures whereby the Republic of El Salvador would protect the lives and physical integrity of Major Adrián Meléndez Quijano, his family, and their legal representatives. The Court ordered the measures on May 12, 2007. The text of the provisional measures in question may be seen at: http://www.corteidh.or.cr/docs/medidas/melendez_se_02.pdf.

679. In its comments to the Court, the Commission has noted that the State is extending protective measures to the legal representatives of Maj. Meléndez and his family, and it took note of the steps taken to put protective measures in place on behalf of the latter. However, the Commission maintains that the State must proceed to implement concrete protective measures on behalf of Maj. Meléndez and the members of his family in accordance with the Court's order, which to date has not taken place.

g. Guatemala

Bámaca Velásquez

680. During 2007, the Commission submitted information and comments regarding the provisional measures originally ordered on June 30, 1998, and intended to protect the lives and physical integrity of the following individuals: Santiago Cabrera López, Alfonso Cabrera Viagres, María Victoria López, Blanca Cabrera, Carmenlinda Cabrera, Teresa Aguilar Cabrera, Olga Maldonado, Carlos Alfonso Cabrera, José León Bámaca Hernández, Egidia Gebia Bámaca Velásquez, Josefina Bámaca Velásquez, Alberta Velásquez, Rudy López Velásquez, and other members of the Bámaca Velásquez family who are permanent residents of Guatemala; Emerita Mendoza, Wendy Pérez Álvarez, Sulni Madeli Pérez Álvarez, José Oswaldo Pérez Álvarez, Jacobo Álvarez, José Pioquinto Álvarez, Alez Javier Álvarez, Germán Aníbal de la Roca Mendoza, Kevin Otoniel de la Roca Mendoza, Blanca Noelia Meléndez, Aron Álvarez Mendoza and his family, and other members of the Mr. Otoniel de la Roca Mendoza's family who are permanent residents of Guatemala, under the terms of the Court's most recent order, issued on March 11, 2005, confirming that the measures remain in effect. See "Contentious Cases," below.

Carpio Nicolle

681. During 2007, the Commission submitted information and comments regarding these provisional measures, which were ordered on July 4, 1995, in order to, *inter alia*, protect the lives and physical integrity of Mrs. Martha Arrivillaga de Carpio and Mrs. Karen Fischer and of Messrs. Jorge and Rodrigo Carpio Arrivillaga, Abraham Méndez García and his wife and children, and of the adolescents Rodrigo and Daniela Carpio Fischer, should they return to Guatemala. See "Contentious Cases," below.

Colotenango

682. During their currency, the Commission periodically submitted comments on the State's reports concerning these provisional measures, which were adopted on June 22, 1994, to protect the lives and physical integrity of witnesses in the Colotenango Case, who were at risk as a result of the escape of several former civilian patrol members.

683. In an order dated July 12, 2007, the Court resolved to lift the measures ordered on behalf of the beneficiaries, while clarifying that the lifting did not mean that the State had fully met its obligations under the Convention specified in the Inter-American Commission's Report No. 19-97, or that the State was released from its obligation of pursuing its domestic investigations to identify and, when appropriate, punish the guilty. The text of that order may be found at: http://www.corteidh.or.cr/docs/medidas/colotenango_se_13.doc.

Guatemalan Forensic Anthropology Foundation

684. On July 4, 2006, at the Commission's request, the Court ordered provisional measures to protect the lives and physical integrity of the members of the Guatemalan Forensic Anthropology Foundation and of the family of its Executive Director, Mr. Fredy Armando Peccerelli Monterroso. Subsequently, the Commission submitted comments on the information presented. The text of the order of July 4 can be seen at: http://www.corteidh.or.cr/docs/medidas/antropo_se_02.doc.

685. On August 21, 2007, at the request of the beneficiary Fernando Arturo López Antillón, the President of the Court resolved to lift the provisional measures extended on his behalf; the text of the corresponding order may be found at: http://www.corteidh.or.cr/docs/medidas/antropo_se_03.doc.

686. During 2007, the Commission periodically submitted comments on the State's reports concerning these measures.

Helen Mack *et al.*

687. During 2007, the Commission periodically submitted comments regarding the State's reports on the provisional measures ordered on August 26, 2002, to protect the lives and physical integrity of the family of Mrs. Myrna Mack Chang and the members of the Myrna Mack Foundation, of Mrs. Iduvina Hernández, Mr. Jorge Guillermo Lemus Alvarado, and their families. See "Contentious Cases," below.

Plan de Sánchez Massacre (Community Studies and Psychosocial Action Team "ECAP")

688. During 2007, the Commission presented its comments on the State's reports concerning these measures, which are related to the petition lodged on October 15, 2006, by the Human Rights Legal Action Center, asking the Court to adopt provisional measures to ensure Guatemala's protection of the lives and physical integrity of the members of the NGO "Community Studies and Psychosocial Action Team" (ECAP) working to support the process of providing redress for the victims and survivors in the Plan de Sánchez Massacre Case (see "Contentious Cases," below). On November 25, 2006, the Court issued an order fully upholding the President of the Court's order of October 20, 2006, that granted the requested measures. The text of the orders can be found at: http://www.corteidh.or.cr/docs/medidas/plandesanchez_se_04.doc and http://www.corteidh.or.cr/docs/medidas/plandesanchez_se_05.doc.

Raxcacó *et al.*

689. During 2007, the Commission continued periodically submitting its observations

on the State's reports concerning these measures, which were ordered on August 30, 2004, to protect the lives and physical integrity of Ronald Ernesto Raxcacó Reyes, Hugo Humberto Ruiz Fuentes, Bernardino Rodríguez Lara, and Pablo Arturo Ruiz Almonger, who were condemned to death by Guatemala in proceedings that violated the Convention, and in order to avoid hindering the processing of their cases by the Inter-American system.

690. On November 21, 2007, the Inter-American Court issued an order lifting the provisional measures with respect to Mr. Pablo Arturo Ruiz Almengor and confirming them as regards all other aspects. The full text of that order can be seen at: http://www.corteidh.or.cr/docs/medidas/Raxcaco_se_05.doc.

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ANNUAL REPORT OF THE IACHR 2007

CHAPTER IV

HUMAN RIGHTS DEVELOPMENTS IN THE REGION

INTRODUCTION

1. The Inter-American Commission on Human Rights continues its practice of including in its Annual Report to the General Assembly of the Organization of American States a chapter on the situation of human rights in member countries of the Organization, based on the competence assigned to it by the OAS Charter, the American Convention on Human Rights, and the Commission's Statute and Rules of Procedure. This practice has served the purpose of providing the OAS updated information on the human rights situation in those countries that had been the subject of the Commission's special attention; and in some cases, to report on a particular event that had taken place or was emerging or developing at the close of its reporting cycle.

CRITERIA

2. The Annual Report of the IACHR for 1997 set forth five criteria pre-established by the Commission to identify the member states of the OAS whose human rights practices merited special attention and which consequently should be included in its Chapter IV.

3. The first criterion encompasses those states ruled by governments that have not come to power through popular elections, by secret, genuine, periodic, and free suffrage, according to internationally accepted standards and principles. The Commission has repeatedly pointed out that representative democracy and its mechanisms are essential for achieving the rule of law and respect for human rights. As for those states that do not observe the political rights enshrined in the American Declaration and the American Convention, the Commission fulfills its duty to inform the other OAS members states as to the human rights situation of the population.

4. The second criterion concerns states where the free exercise of the rights set forth in the American Convention or American Declaration have been, in effect, suspended totally or in part, by virtue of the imposition of exceptional measures, such as state of emergency, state of siege, suspension of guarantees, or exceptional security measures, and the like.

5. The third criterion to justify the inclusion in this chapter of a particular state is when there is clear and convincing evidence that a state commits massive and grave

violations of the human rights guaranteed in the American Convention, the American Declaration, and all other applicable human rights instruments. In so doing, the Commission highlights the fundamental rights that cannot be suspended; thus it is especially concerned about violations such as extrajudicial executions, torture, and forced disappearances. Thus, when the Commission receives credible communications denouncing such violations by a particular state which are attested to or corroborated by the reports or findings of other governmental or intergovernmental bodies and/or of respected national and international human rights organizations, the Commission believes that it has a duty to bring such situations to the attention of the Organization and its member states.

6. The fourth criterion concerns those states that are in a process of transition from any of the above three situations.

7. The fifth criterion regards temporary or structural situations that may appear in member states confronted, for various reasons, with situations that seriously affect the enjoyment of fundamental rights enshrined in the American Convention or the American Declaration. This criterion includes, for example: grave situations of violations that prevent the proper application of the rule of law; serious institutional crises; processes of institutional change which have negative consequences for human rights; or grave omissions in the adoption of the provisions necessary for the effective exercise of fundamental rights.

8. On the basis of the criteria set forth above, the Commission has decided to include four member states: Colombia, Cuba, Haiti, and Venezuela.

COLOMBIA

9. As in previous years, the situation in the Republic of Colombia in 2007 fits the criteria established in the introduction to Chapter IV of the Annual Report of the Inter-American Commission on Human Rights (IACHR). In the case of Colombia, these criteria that are particularly relevant is the one that concerns the persistence of temporary or structural situations that seriously affect the enjoyment of fundamental rights enshrined in the American Convention. The Commission has therefore adopted the following observations on the matter, following the procedure established in Article 57(1)(h) of its Rules of Procedure,^[1] for inclusion in its Annual Report.

10. The IACHR is keenly aware of the complex situation that Colombia is facing, the influence exerted by elements involved in drug trafficking, the toll that the violence practiced by those involved in the conflict takes on the civilian population, and the efforts the State has made to pacify the situation.

11. First, the Colombian State is to be recognized for its efforts initiated to pacify the situation. The Commission wants to encourage measures to ensure that the judicial proceedings conducted under the Justice and Peace Law are as transparent and open as possible.

12. The Commission has learned of the adoption of Decree 3570 (2007), which establishes the so-called "Victim and Witness Protection Program of Law 975 (2005)," the purpose of which is to "safeguard the lives, safety, liberty and security of those being threatened or at risk as a direct consequence of being a victim or witness in a Justice and Peace case."^[2] The adoption of this law is an important step toward the State's compliance with its obligation to protect the physical integrity of victims of the armed conflict and safeguard their involvement in the quest for the truth, justice and reparations.

13. It is also to highlight the continuation of the "Protection Program for Human Rights Defenders, Trade Unionists, Journalists, and Social Leaders"^[3] which, as the Commission has observed on previous occasions, protects many beneficiaries of precautionary and

provisional measures ordered by the Commission and the Inter-American Court of Human Rights, respectively. Once again, the Commission points out the need to continue to strengthen the protection mechanisms established under these programs.

14. The Commission notes, however, that notwithstanding the programs such as those cited above, undertaken to promote human rights, the effects of the armed conflict continue to exact their harshest toll on the most vulnerable sectors of the civilian population. Violence continues to persist, amid efforts to demobilize armed outlaw groups and to administer justice. These efforts have to produce results in terms of effectiveness, comprehensive redress, and eliminating the causes and elements of violence.

15. Therefore, based on the *in loco* observations conducted in various regions of Colombia^[4] and on information received both from the State and civil society, during the Commission's hearings and in written observations sent to the Commission, the IACHR has prepared a number of observations on the situation of human rights in the Republic of Colombia in 2007. The observations will particularly address the progress made and obstacles faced in the process of demobilizing armed elements and in developing and enforcing its laws, the persistence of violations of the rights to life and to personal integrity, the situation of ethnic groups, and the situation of human rights defenders and social leaders.

I. THE DEMOBILIZATION PROCESS AND THE DEVELOPMENT AND ENFORCEMENT OF COLOMBIAN LAW

16. Around mid 2006, Colombia completed the first phase of the process of demobilizing the United Self Defense Forces of Colombia (hereinafter "the AUC"),^[5] an armed outlaw group involved in the commission of crime during the armed conflict.^[6] In this first phase, weapons were surrendered by 31,671 persons identified as members of the 34 units of the AUC and other armed outlaw groups^[7] concentrated in temporary location areas, with international verification by the OAS Mission to Support the Peace Process in Colombia (hereinafter the "MAPP/OAS Mission"). With this phase completed, in 2007 the process began of establishing the responsibilities of demobilized persons involved in the commission of crimes and of securing reparations for victims, in application of Law 975 (2005) or the "Justice and Peace Law".^[8] This law establishes a number of procedural benefits and sentence reduction for those who -having been involved in the commission of crimes- participate in the demobilization.^[9]

17. The Commission has monitored the process since 2004, a function that it regards as a vital part of its advisory role vis-à-vis the OAS member States, the General Secretariat of the Organization and the MAPP/OAS Mission.^[10] As part of this monitoring, in October 2007 the Commission made public its "Report on the Implementation of the Justice and Peace Law: Initial Stages in the Demobilization of the AUC and First Judicial Proceedings."^[11]

18. Concerning the administration of justice in the case of the demobilized, the Commission notes that those cases that went through the demobilization judicial circuits set up as part of the collective demobilization process benefited by the issuance of resolutions waiving prosecution when they admitted to the crime of "criminal conspiracy",^[12] which term was later changed to "sedition" based merely on their participation in the activities of illegal armed groups.^[13] In addition to the issuance of decisions waiving prosecution for sedition, the demobilization judicial circuits were a good way to gather information to establish whether demobilized members of outlaw armed groups were involved in crimes that might be punishable offenses under the Justice and Peace Law, and also to gather information about crimes of against humanity and corpses' location.

19. However, 90% of those who went through the demobilization circuit (some

28,000 people) provided no significant information on illegal acts or crimes committed by the paramilitary units to which they belonged. As a result, the voluntary depositions taken in the demobilization circuits constituted a lost opportunity for gathering information on the units, their members, and the socioeconomic dynamics that kept them in existence and in operation.

20. That information is crucial today for the work of prosecutors in the Justice and Peace Unit and for representatives of the victims when it comes to enforcing that Law and verifying that the armed structures have been dismantled. It is the Commission's understanding that during the taking of voluntary depositions, candidates must declare under oath their commitment to comply with the prescribed eligibility requirements.^[14] In any event, the validity of the statements must be considered in light of the obligation of the judicial authorities and other State agencies to collaborate in verifying that the requirements to make the applicant eligible for the reduced sentences allowed under Article 975 have been met. As the IACHR understands it, the demobilization oath in no way relieves the authorities of their duty to verify the requirements for claiming the benefits of reduced penalties.

21. Of the 31,651 persons who demobilized between November 2003 and mid 2006, only 2,695 expressed an interest in applying for the benefits of the Justice and Peace Law.^[15] However, the Attorney General's Office verified that only a much smaller number could be duly located and summoned to give a statement. The remainder, although on the list, could not be located because their address, telephone number or true identity was unknown. In this regard, the High Council for Social Reintegration (ACR) had developed strategies to fill information gaps.^[16] The State also indicated that the Prosecutors for the Justice and Peace Unit had taken important steps to locate those demobilized persons.^[17]

22. By the end of 2006, the Attorney General's Office issued the first notices^[18] to attend initial depositions from candidates for the benefits under the Justice and Peace Law, aimed at persons claiming a right to participate in the different processes as victims of crimes committed by the AUC (hereinafter "the victims"). Thanks to the publication of 1,728 notices in newspapers with nationwide circulation, broadcasts by local radios and dissemination by national, regional and local public entities, 12,354 victims had been contacted as of August 2007.^[19] The State had also devoted 84 days to attending to victims in territories in which demobilized illegal groups had acted.^[20] The Commission observes, however, that the only newspaper with nationwide circulation is *El Tiempo*, which is not distributed in many of the small towns and villages of various departmental areas. Some of these regions do not even have television or Internet service. It is precisely in those regions where the greatest numbers of victims are to be found, who require access to information on their rights and how to claim them. Therefore, the notices should have been given via local radio stations, regional newspapers, public defenders or representatives and, in general, through instruments that serve as links between this uninformed population and the State.

23. In January 2007, thanks to the initiative taken by the Government's and the Attorney General's Office to broadcast the statements taken from the demobilized persons, the National Television Company (CNTV) arranged for the transmission of the hearings of members of the demobilized paramilitary groups via the channel known as *Señal Colombia Institucional*.^[21] In February 2007, the Attorney General's Office issued resolution 0387^[22] authorizing each delegate prosecutor to order preparation of a technical recording of the voluntary depositions to be made public, once this proceeding is over and the work of verification and investigation is completed.^[23]

24. The Commission notes the need to strengthen the presence of the regional and national media in this new stage of the demobilization process in order to guarantee transparency. The present stage of the AUC demobilization process demands transparency and

this can only be guaranteed by allowing victims access to both of the voluntary deposition sessions, and by ensuring that in the second session there is a real possibility to question the candidates and get at the truth.

25. As for the role of the Attorney General's Office, the assigned prosecutors are responsible for taking the voluntary depositions, for investigations in the areas of influence of each demobilized unit, and for interviewing victims in those areas. On this point, the Commission is concerned about two specific aspects: first, the Justice and Peace Unit is investigating a total of 34 units. Consequently, each prosecutor must investigate, on average, the activities of two or three AUC units.^[24] The second concern is the lack of security for prosecutors as they discharge their functions. They have to venture into remote areas in order to corroborate information, collect evidence, attend judicial proceedings, and compile records without the means of transportation or security systems to enable them to perform these functions efficiently. On this point, the Commission would like to underscore the need to strengthen the support provided to the Justice and Peace Unit of the Attorney General's Office. The varied nature of the demands that the Law places upon it requires an enormous capacity for work as well as strong logistical support that will enable the prosecutors to perform their work in safety.

26. As for the participation of victims in the process, Decree 315 (2007)^[25] regulates the participation of victims and provides that they have the right to be present, either personally or through their attorney, for the taking of the depositions, indictment and other proceedings conducted under Law 975 and that pertain to the events that caused the damage.^[26] It has been observed that victims spare no effort to attend the depositions, even though they may not have the funds to pay the expenses involved.

27. Victims have nonetheless encountered a number of obstacles in the way of their participation. First, in the various phases of the deposition, victims are unable to question, either personally or through their representatives, those who are trying to claim the benefits granted under Law 975 with regard to matters that are of interest to those victims. Questioning by victims is reserved for the second phase of the deposition, but is done indirectly, since the suggested questions are entered on a form that is handed to members of the CTI, who in turn hand it over to the Prosecutor. This indirect mechanism seriously limits any chance the victim has of interrogation for the purpose of getting at the truth. What is more, the Prosecutor's Office loses an invaluable means of comparing the depositions and verifying compliance with the legal requirements to qualify for the benefits. Victims also have difficulty securing legal counsel and representation in judicial proceedings.

28. Third, the activities of criminal gangs, non-demobilized members of the AUC, new armed groups and existing ones that have become stronger, deter victims from appearing in court and asserting their rights. During its *in loco* visits the Inter-American Commission has received information regarding numerous victims of the conflict who are living in areas where the demobilized units are active. These victims are still being threatened and are subjected to acts of violence, intimidation and territorial control. The IACHR has made public statements about a number of acts of violence committed during 2007 against persons who had taken the initiative to participate, as victims, in the enforcement of the Justice and Peace Law.

29. The Inter-American Commission on Human Rights has expressed its condemnation of the murder of Mrs. Yolanda Izquierdo, who appeared as a victim of the armed conflict in Colombia at the deposition hearings of paramilitary leader Salvatore Mancuso, in accordance with the procedure established in the Justice and Peace Law.^[27] Mrs. Izquierdo was shot and killed on January 31, 2007, at the entrance to her home in a district of the city of Montería. She had taken the lead in the complaints lodged by hundreds of *campesinos* over the seizure of their lands by members of the AUC in the department of Córdoba and –having received death threats since December 2006– had repeatedly asked judicial authorities to

provide her with protection, but received no response. The IACHR called upon the Colombian State to conduct a judicial investigation into this crime and to urgently adopt the measures required to afford proper protection to victims of the conflict and their representatives as they exercise their fundamental rights.^[28] In response, the State reported that three arrest warrants had been issued, presumably for persons suspected in the murder.^[29]

30. The IACHR also condemned the killing of Judith Vergara Correa on April 23, 2007, as she was traveling on a public bus, on the *Circular Coonatra* route, on her way home from work.^[30] Mrs. Vergara Correa was President of the Community Action Board in the El Pesebre district, Comuna 13 of Medellín, was a member of various peace and social development organizations -*Corporación para la Paz y el Desarrollo Social (CORPADES)*, the *Asociación de Madres de la Candelaria* and REDEPAZ— and was following the depositions proceedings conducted in Medellín pursuant to the Justice and Peace Law.

31. The IACHR learned that on February 7, 2007, Mrs. Carmen Cecilia Santana Romaña was killed in the municipality of Apartadó, in the department of Antioquia. At the time she was leading and promoting participation by victims of the conflict in efforts to recover lands lost by displaced *campesinos*, and in helping victims to take advantage of the mechanisms provided for in the Justice and Peace Law.^[31]

32. The real threat to victims who try to participate in the process is such that the State must take measures. The Attorney General's office believes that the potential beneficiaries of the victim and witness protection program should be persons with formal links to a judicial proceeding. Given the context in which the Justice and Peace Law is being applied, this concept should include not only victims formally linked to the process, but also those persons who want to participate in order to contribute information that will help get at the truth.^[32] As noted earlier, the IACHR recognizes the adoption of Decree 3570 (2007) establishing the so-called Victim and Witness Protection Program for Law 975 (2005)"^[33] and hopes that it constitutes a positive step toward the State's fulfillment of its obligation to safeguard the physical integrity of the victims of the armed conflict and to protect their participation in the quest to seek truth, justice and reparations.

33. Another issue of special concern with regard to the victims is the so-called motion for reparation (*incidente de reparación*). The Commission notes that the motion, and even the requirement that the victim attend the reparation proceeding with the perpetrator, could pose an additional risk for the victim. This issue is one where the problem of protecting the victim is posed by the fact that the only way victims can seek reparation under the Justice and Peace Law is through the courts.

34. The IACHR again expresses its concern that under the Justice and Peace Law and its regulating decrees, the perpetrators –and eventually the units to which they belong– are the only parties that can be required to pay reparations.^[34] Consequently, the criminal justice system becomes the only avenue to obtain financial damages, which will undoubtedly mean that many victims –simply because of the difficulty in getting access to the courts in Colombia, the evidentiary problems and the strict criteria regarding responsibility in criminal proceedings– will ultimately be denied redress.^[35] This could also cause serious problems in terms of equal opportunity in claiming reparations, to the detriment of the victims who are in the most vulnerable sectors of Colombian society. It could undermine the credibility and effectiveness of the process as a genuine mechanism of reconciliation and for restoring peaceful coexistence in the areas hardest hit by the violence.

35. The IACHR has further indicated that in addition to the avenue available in the criminal justice system, the State should establish a policy of reparations designed to redress the damages caused by paramilitary violence insofar as its budgetary resources allow and based

on the standards of the international law of human rights, establishing expeditious and low-cost avenues by which to apply for and get into economic reparations programs. This without prejudice to the other forms of non-pecuniary reparations, collective reparations, and social programs and services that can be established for the population affected by the conflict.^[36] It is the Commission's understanding that the National Reparations and Reconciliation Commission is already devising a proposed National Reparations Program, which would be comprehensive and include individual and collective measures of reparation, symbolic measures, and tangible measures.^[37] Nonetheless, the Government of Colombia sent the IACHR a request for advice in the process of implementation of an administrative reparations program in Colombia within the framework of Article 18 (e) of the IACHR's Statute.^[38] The IACHR, on its part, will provide the requested advice and appreciates that its recommendation had been taken into account by the Government. In this regard, the IACHR will continue with the follow-up to the implementation of the administrative reparations program.

36. As for the dismantling of the paramilitary structures, the IACHR has received complaints that some of the old groups are rearming and new groups are being formed, thus perpetuating the violence. The Eighth Quarterly Report from the Secretary General of the Organization of American States to its Permanent Council –and the two previous reports– confirm that incidents of violence have occurred since the demobilization, according to the information compiled on the ground by the MAPP/OAS Mission. According to these reports, a number of factors are to blame: (1) demobilized members are regrouping into criminal gangs that control specific communities and illicit economies; (2) some persons are holdouts who have not yet demobilized; and (3) new armed players have emerged and/or existing ones have become stronger in areas already abandoned by the demobilized groups.^[39]

37. The MAPP/OAS Mission found that elements were rearming in the departments of Guajira, Cesar, Atlántico, Norte de Santander, Bolívar, Córdoba, Tolima, Casanare, Caquetá and Nariño. It also warned that elements may be rearming in Cesar, Magdalena, Sucre, Antioquia, Meta, Nariño, and Putumayo. The Mission has pointed out that other armed groups are emerging as a self-styled “new generation of paramilitaries”, especially in the area of influence of the now demobilized Bloque Norte, which was under the command of “Jorge 40”. The Mission has also expressed concern over the situation in southern Cesar and has indicated that in areas like Magdalena, Guajira, Atlántico and Cesar the AUCs are still very much an influence and, it is feared, may have infiltrated some government institutions. It also points out that in Putumayo, Arauca, Nariño, el Urabá in Chocó, Norte de Santander, the Pacific coast of Valluna and southern Cesar, the people are not seeing any improvement in security and State institutions still have very little presence, which means that outlaw armed groups, illegal structures and illicit economies are able to remain entrenched.^[40]

38. The Colombian Government has recognized this situation and has warned that if the demobilized take up arms again they will no longer qualify for the benefits offered under Law 975 (2005). It has also reported the creation of a search squad to hunt for the gang of criminals known as “Águilas Negras.”^[41] The Government's warning about the loss of benefits if demobilized revert to lawlessness is significant.^[42] At the same time, there is still uncertainty as to whether all AUC members actually joined the demobilization process. Therefore, there is no information available on a significant number of members of these units.

39. Lastly, in 2007 the Colombian State continued its efforts to get other armed outlaw groups to agree to demobilize, thereby demonstrating its commitment to pacification.

[1] Article 57 of the Commission's Rules of Procedure provides that: "1. The Annual Report presented by the Commission to the General Assembly of the OAS shall include the following: [...] h. any general or special report the Commission considers necessary with regard to the situation of human rights in the Member States, and, as the case may be, follow-up reports noting the progress achieved and the difficulties that have existed with respect to the effective observance of human rights; [...] 2. For the preparation and adoption of the reports provided for in paragraph 1.h of this article, the Commission shall gather information from all the sources it deems necessary for the protection of human rights. Prior to its publication in the Annual Report, the Commission shall provide a copy of said report to the respective State. That State may send the Commission the views it deems pertinent within a maximum time period of one month from the date of transmission. The contents of the report and the decision to publish it shall be within the exclusive discretion of the Commission." *Rules of Procedure of the Inter-American Commission on Human Rights* (approved by the Commission at its 109th special session, held December 4-8, 2000, amended at its 116th regular session, held October 7 through 25, 2002, and at its 118th regular session, held October 6 through 24, 2003).

[2] Ministry of the Interior and Justice. Decree 3570, September 18, 2007, Article 1. Text sent to the Commission by note 1158 from the Permanent Mission of Colombia to the Organization of American States, dated October 4, 2007.

[3] Created in 1997, this Protection Program was a partnership of government and civil society, to protect certain sectors of the population at particular risk from the actions of the armed outlaw groups as regards their rights to life, integrity, freedom, and personal security. The objectives of the Program are: (1) to strengthen government agencies at the national, regional, and local levels so as to enable them to undertake joint, coordinated, integrated and permanent measures to prevent human rights violations and to protect the rights of inhabitants of targeted at-risk communities; (2) to strengthen the traditional organizational structures, traditional authorities, and social organizations of the targeted at-risk communities so that they can develop initiatives, make proposals, coordinate with public authorities, and become involved in the implementation, follow-up, and oversight of measures aimed at preventing violations and protecting human rights and international humanitarian law; and (3) to re-establish or improve the relationship between the State and the community for the purpose of coordinating, developing, monitoring, and evaluating the preventive and protective measures proposed in the action plans.

[4] The Rapporteur of the Commission for Colombia, Víctor Abramovich, accompanied by members of the Executive Secretariat, visited Bogotá and Medellín from January 16 to 20, 2007; Bogotá from April 9 to 13, 2007; and Bogotá and Meta from November 26 to December 30, 2007. The Special Rapporteur on the Rights of People of African Descent, Racism and Racial Discrimination, Sir Clare Kamau Roberts, accompanied by members of the Executive Secretariat, headed a visit to Bogotá from May 14 to 18, 2007. Between October 29 and November 2, 2007, members of the Executive Secretariat also visited the departments of Magdalena, Santander, Bolívar, La Guajira, and Cesar. In addition, the IACHR monitored the Justice and Peace process *in situ* as well as the voluntary depositions before the National Unit of Prosecutors for Justice and Peace, at its various offices.

[5] In 2003, the Administration of President Alvaro Uribe reached an agreement with the leaders of the AUC to demobilize the units of this paramilitary group in various areas of the country, in exchange for a resolution from the Attorney General's Office to refrain from prosecuting the demobilized simply for membership in an outlaw armed group and a promise to establish alternative penalties for those who had committed crimes that went beyond mere membership in those groups. See the "Agreement of Santa Fe de Ralito" to contribute to peace in Colombia, dated July 15, 2003. The text of that agreement is available at the website of the Office of the High Commissioner for Peace: www.altocomisionadoparalapaz.gov.co/acuerdos/index.htm. See also Law 975 (2005).

[6] Over the past fifteen years, the parties involved in the armed internal conflict – in particular, the United Self-Defense Forces of Colombia (AUC) and the FARC-EP – have used massacres as strategies against members of the most vulnerable sectors of the civilian population, such as indigenous peoples, the Afro-Colombian communities and the displaced; they have used selective assassination and forced disappearance as a strategy against human rights defenders, officers of the court, union and social leaders, journalists and candidates for elective office, who have repeatedly been singled out as military targets, mainly by the AUC. The armed dissident groups – chiefly the FARC-EP – have also used indiscriminate attacks with explosives and kidnappings, in violation of the most fundamental principles of international humanitarian law. Those attacks have claimed many victims among the civilian population.

[7] Information provided to the IACHR on December 20, 2007 by the Permanent Mission of Colombia to the Organization of American States.

[8] For more than a year and a half, the demobilization, surrender of weapons and re-assimilation into civilian life proceeded under the system for individual and collective demobilization instituted by Decree 128 of 2003, which contained regulations for implementing Law 418 of 1997, extended and amended by Law 584 of 1999 and Law 782 of 2002 on reincorporation into civil society. On June 22, 2005, the Congress of the Republic passed Law 975 (2005), which entered into force once the president signed it on July 22, 2005. On December 30, 2005, Decree No. 4760 of the Ministry of the Interior and Justice was issued, which regulates certain aspects of Law 975 related to the deadlines for investigating those seeking to avail themselves of the benefits of the law – Article 4- and introducing the principle of timeliness for third parties involved with the possession, holding, transfer, and, in general, ownership of illicit goods handed over to make redress to victims – Article 13. On September 29, 2006, Decree No. 3391 was published, which partially regulated Law 975 (2005), Ministry of the Interior and Justice, Decree No. 3391 (2006), September 29, 2006, "Partially regulating Law 975 (2005)."

[9] When the constitutionality of Law 975 was challenged in a case before the Constitutional Court, the latter ruled that Law 975 was in general terms constitutional and spelled out conditions for making certain that its provisions were compatible with the Constitution. Among the parameters for interpretation established by the Constitutional Court were rules to protect victims' participation in the process and to give them access to full reparations. The judgment also clarifies the obligation to enforce the reduced prison sentence stipulated therein and to introduce legal consequences, such as loss of benefits, if demobilized personnel claiming benefits under the law should withhold information from the judicial authorities. The judgment also made clear that paramilitary activity is a common crime. In short, demobilized personnel who committed crimes during the armed conflict and who apply for the benefits of Law 975 will have to cooperate with justice so that the victims' rights to the truth, to justice, to reparations, and to non-repetition can be realized. Constitutional Court, Case D-6032, Judgment C-370/06, made public on July 13, 2006.

[10] OAS Permanent Council, Resolution CP/RES. 859 (1397/04) "Support to the Peace Process in Colombia," operative paragraph 3; See IACHR, *Third Report on the Situation of Human Rights in Colombia*, OEA/Ser.L/V/II.102 Doc. 9 rev. 1, February 26, 2004; *Report on the Demobilization Process in Colombia*, OEA/Ser.L/V/II.120 Doc. 60, December 13, 2004; *Statement of the Inter-American Commission on Human Rights on the Application and Scope of the Justice and Peace Law in Colombia, 2006*. OEA/Ser.L/V/II. 125 Doc. 15, 1 August 2006. See also Chapter IV of the annual reports of the IACHR for 1995, 1996, 1999, 2000, 2001, 2002, 2003, 2004, 2005 and 2006.

[11] See IACHR, *Report on the Implementation of the Justice and Peace Law: Initial Stages in the Demobilization of the AUC and First Judicial Proceedings*. OEA/Ser.L/V/II.129 Doc. 6, October 2, 2007.

[12] See Criminal Code (Law 100 of 1980), Title V, Crimes against Public Security. Chapter 1: Conspiracy, Terrorism and Instigation. Article 186 - Conspiracy to commit crime (amended by Law 365 of 1997, Article 8): "When several persons conspire to commit crimes, each of them shall be punished for that fact alone, with prison sentences of three to six years. If they were active in the field or with weapons, the penalty shall be three to nine years. When the conspiracy is to commit crimes of terrorism, drug trafficking, kidnapping, extortion, or the formation of death squads, private vigilante groups, or assassination squads, the prison penalty shall be 10 to 15 years, plus a fine of 2000 to 50,000 times the legal minimum monthly wage. The penalty shall be doubled or tripled for those who organize, encourage, promote, direct, lead, constitute or finance conspiracies to commit crime".

[13] It should be noted that by a decision adopted on July 11, 2007, the Criminal Chamber of the Supreme Court of Colombia dismissed the equivalence between these two legal conducts by establishing the incompatibility of Article 71 of Law 975 (2005) with the Constitution, precisely because of the similar treatment afforded to common crimes and political crimes.

[14] Ministry of the Interior and Justice, Decree Number 423 of February 16, 2007, "Regulating Articles 10 and 11 of Law 975 of 2005 on Justice and Peace. See article 6. Oath of compliance with eligibility requirements.

[15] In December 2006, the list of 2,695 persons who applied for the benefits of the Justice and Peace Law divided up as follows: 761 candidates with arrest warrants, incarceration pending trial or prison orders against them and 1,934 free candidates with no criminal record, as well as 23 representatives. Information supplied by the Office of the Attorney General to the Commission during its visit to Colombia in January 2007.

[16] The "brigades of documentation and reference" conducted in 2007 with the support of the DAS, the Army, the Attorney General's Office and the Registry Office had issued 20,280 identification documents (military cards, judicial certificates, identity cards); information on situations and whereabouts was updated. Observations of the Republic of Colombia on the "Report of the Inter-American Commission on Human Rights on the implementation of the Justice and Peace Law: initial stages in demobilization of the AUC and first judicial proceedings." Note DDH No. 45284/2465/07 from the Office of Human Rights and International Humanitarian Law of the Ministry of Foreign Affairs, September 4, 2007, p. 10.

[17] Information provided by the Permanent Mission of Colombia to the Organization of American States, on December 20, 2007.

[18] The notices set a 20-day deadline, from the date of publication, for the victims to appear in the respective proceedings. In the case of unnamed or absent victims, the Public Prosecutor's Office is to designate a representative on their behalf until their appearance. Information available at the website of the Office of the Attorney General: www.fiscalia.gov.co/justiciapaz/index.html. See, for example, www.fiscalia.gov.co/justiciapaz/edictos/maribel%20galvis.html

[19] Observations of the Republic of Colombia on the "Report of the Inter-American Commission on Human Rights on the implementation of the Justice and Peace Law: initial stages in the demobilization of the AUC and first judicial proceedings." Note DDH No. 45284/2465/07 from the Office of Human Rights and International Humanitarian Law of the Ministry of Foreign Affairs, September 4, 2007, p. 19.

[20] Information provided by the Permanent Mission of Colombia to the Organization of American States on December 20, 2007.

[21] Office of the President of the Republic of Colombia. Press Secretary's Office, January 24, 2007, *CNTV reglamenta transmisiones de audiencias de paramilitares desmovilizados*. Information available at the following Internet portal: www.presidencia.gov.co.

[22] Office of the Attorney General, Resolution 0-0387 of February 12, 2007, "Establishing guidelines for broadcasting the taking of voluntary depositions on matters within the jurisdiction of the National Prosecutors' Unit for Justice and Peace, pursuant to Law 975 (2005) and its regulatory decrees 4760 (2005), 2898 and 3391 (2006) and 315 (2007).

[23] *Ibid.* Article three. Clarification or supplementary information in the technical records of the voluntary depositions. The resolution also provides that in order to assure victims their right to justice, the taking of the statements will be transmitted directly to the chamber arranged for them. Moreover, the resolution opened the possibility for the responsible prosecutor to impose restrictions on transmitting the deposition whenever the candidate's statements might pose a threat to the victims or other persons; to the interests of justice or of the investigation, or to the collection of proof, evidence or information legally obtained, the privacy, honor and good name of individuals; and national defense and sovereignty; and also when the victims are juveniles or have suffered sexual violence.

[24] Given the number of prosecutors and the number of armed groups investigated, on average each prosecutor must investigate the activities of three or four groups, or else a single group that has many members. From this one can infer that each prosecutor would be responsible for approximately 100 cases. As well, the IACHR received information indicating that the prosecutors might be investigating as many as 2,000 deeds per group. Visit of the IACHR to Colombia, January 2007.

[25] Ministry of the Interior and Justice, Decree Number 315 of February 7, 2007, "Regulating victims' participation in the investigation stage of Justice and Peace Proceedings under Law 975 (2005)."

[26] *Ibid.* Article 1.

[27] IACHR, Press Release No. 4/07 "IACHR Expresses Its Condemnation of the Murder of a Victim Seeking Reparation under the Justice and Peace Law in Colombia," Washington, D.C., February 2, 2007.

[28] *Ibid.*

[29] The State mentions the apprehension of Alvaro Murillo Montes, a demobilized member of the northern unit of the AUC; Sor Teresa Gómez Alvarez and Víctor Alfonso Rojas Valencia. Note 552 from the Permanent Mission of Colombia to the OAS, May 2, 2007. The State made also reference to the indictment resolution issued against Alvaro Augusto Murillo Montes, alias "Suero", as alleged co-author of aggravated homicide and conspiracy to commit crime and to form or promote illegal armed groups. Information sent by the Permanent Mission of Colombia to the Organization of American States, December 20, 2007.

[30] IACHR, Press Release No. 25/07, "IACHR expresses its condemnation of the murder of Judith Vergara Correa", Washington, D.C., April 30, 2007.

[31] Information received by the Commission during its visit to Colombia in April 2007.

[32] On its April 2007 visit to Colombia, the IACHR raised the issue of the definition of victim with the Office of the Attorney General in connection with the case of Yolanda Izquierdo. The Attorney General's Office expressed its willingness to broaden the concept of victim and to seek funding to expand the protection program to include all victims.

[33] Ministry of the Interior and Justice, Decree 3570 of September 18, 2007, Article 1. Text sent to the Commission by note 1158 from the Permanent Mission of Colombia to the Organization of American States, October 4, 2007.

[34] Payment of reparations will be effected via the Reparations Fund administered by the Presidential Agency for Social Action and Cooperation and the State will take on the obligation to make reparation jointly and severally pursuant to Law 975 of 2005 and its enabling regulations issued in decrees.

[35] It should be noted that the National Reparation and Reconciliation Commission - CNRR- has recommended that judicial authorities use the following criteria to assess whether a victim's participation in the judicial proceedings is properly guaranteed: i) access by the victim or his relatives to the various proceedings conducted; ii) the victim's access to the case file or files related to his case; iii) access to information related to the events under investigation; iv) the opportunity to be effectively heard by the judicial authority; and v) the real possibility of offering evidence in connection with the events and the damages suffered. Observations of the Republic of Colombia to the "Report of the Inter-American Commission on Human Rights on the Implementation of the Justice and Peace Law: initial stages in the Demobilization of the AUC and First Judicial Proceedings." Note DDH No. 45284/2465/07 from the Office of Human Rights and International Humanitarian Law of the Ministry of Foreign Affairs, September 4, 2007, p. 25.

[36] *Pronouncement by the Inter-American Commission on Human Rights on the application and scope of the Justice and Peace Act in the Republic of Colombia.* OEA/Ser/L/V/II. 125 Doc. 15, August 1, 2006, paragraph 99.

[37] Observations of the Republic of Colombia to the "Report of the Inter-American Commission on Human Rights on the Implementation of the Justice and Peace Law: initial stages in the Demobilization of the AUC and First Judicial Proceedings." Note DDH No. 45284/2465/07 from the Office of Human Rights and International Humanitarian Law of the Ministry of Foreign Affairs, September 4, 2007, p. 32.

[38] Note DM/VAM/DDH 63682/3408 from the Ministry of Foreign Affairs of Colombia, dated December 7,

2007.

[39] See Sixth Quarterly Report of the Secretary General to the Permanent Council on the Mission to Support the Peace Process in Colombia (MAPP/OAS). OEA/Ser. G/CP/doc. 4075/06, February 16, 2006. See also the Seventh Quarterly Report of the Secretary General to the Permanent Council on the Mission to Support the Peace Process in Colombia (MAPP-OAS). See OEA/Ser.G/CP/doc. 4148/06, August 30, 2006; the Eighth Quarterly Report of the Secretary General to the Permanent Council on the Mission to Support the Peace Process in Colombia (MAPP/OAS). OEA/Ser.G. CP/doc. 4176/07, February 14, 2007; the Ninth Quarterly Report of the Secretary General to the Permanent Council on the Mission to Support the Peace Process in Colombia (MAPP/OAS), July 3, 2007; and the Tenth Quarterly Report of the Secretary General to the Permanent Council on the Mission to Support the Peace Process in Colombia (MAPP/OAS) of October 31, 2007.

[40] Eighth Quarterly Report of the Secretary General to the Permanent Council on the Mission to Support the Peace Process in Colombia (MAPP/OAS). OEA/Ser.G. CP/doc. 4176/07, February 14, 2007, p. 6.

[41] Information sent to the IACHR by the Permanent Mission of Colombia to the Organization of American States by Note No. 079, dated January 23, 2007. That squad is composed of police, Army, the Administrative Security Department (DAS) and the Technical investigations Corps (CTI) of the Office of the Attorney General and will be assisted by the Gaula Group (Anti-kidnapping and Anti-extortion) and the Mobile Squad of *Carabineros* (EMCAR), which, together with units from the Thirtieth Brigade, will be in charge of conducting operations. Furthermore, the State reported that, based on intelligence reports and because it was considered that they continued to commit crimes following demobilization, the Government ordered the withdrawal of claims to the legal benefits of Law 975 of 2005 by Messrs. Ever Veloza, alias "HH," and Carlos Mario Jiménez, alias "Macaco," who were demobilized members of the AUC. It indicated that, in accordance with the jurisprudence of the Criminal Chamber of the Supreme Court of Justice, the judicial proceedings against those two individuals would continue until their eligibility requirements had been evaluated, but that, as far as the Government was concerned, they were excluded from the peace process. Information provided by the Permanent Mission of Colombia to the Organization of American States on December 20, 2007.

[42] Forfeiture of the benefits accruing to a demobilized person who commits a crime is also contemplated in Article 63 of Law 418 of 1997, extended by Article 1 of Law 782 of 2002 and 1106 of 2006. Information sent to the IACHR by the Permanent Mission of Colombia to the Organization of American States on December 20, 2007.



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ANNUAL REPORT OF THE IACHR 2007

CHAPTER IV CUBA

I. COMPETENCE FOR OBSERVING AND EVALUATING THE HUMAN RIGHTS SITUATION IN CUBA

84. The authority of the Inter-American Commission on Human Rights to observe the human rights situation in Cuba derives from the provisions of the OAS Charter, from the Commission's own Statute, and from its Rules of Procedure. Under the Charter, all member states undertake to respect fundamental individual rights, which, in the case of states not parties to the Convention, are those rights established in the American Declaration of the Rights and Duties of Man (hereinafter, "the American Declaration"), which is a source of binding international obligations.^[101] The Statute charges the Commission with paying particular attention to the observance of the human rights recognized in Articles I (right to life, to liberty, to security and humane treatment), II (right to equality before the law), III (right to religious freedom and worship), IV (right to freedom of investigation, opinion, expression and dissemination), XVIII (right to a fair trial), XXV (right of protection from arbitrary arrest), and XXVI (right to due process of law) of the American Declaration when exercising its jurisdiction vis-à-vis countries that are not parties to the Convention.^[102]

85. On November 21st, 2007, the Commission sent this report to the State of Cuba and asked for its observations. On December 10th, 2006, the Commission received a communication from the Chief of the Section of Cuban Interests in Washington D.C., in which he expressed that "[t]he Inter-American Commission on Human Rights does not have competence, nor does the OAS have moral authority to analyze this or any other issue regarding Cuba".

86. Cuba has been a member state of the Organization of American States since July 16, 1952, when it deposited its instrument of ratification of the OAS Charter. The Commission has maintained that the Cuban State "is juridically answerable to the Inter-American Commission in matters that concern human rights" since it is "party to the first international instruments established in the American Hemisphere to protect human rights" and because Resolution VI of the Eighth Meeting of Consultation^[103] "excluded the Government of Cuba, not the State, from participating in the intra-American system."^[104] In this regard, the IACHR has said that:

The Commission's consistent position has been that when it excluded the Cuban Government from the inter-American system, it was not the intention of the

Organization of American States to leave the Cuban people without protection. That Government's exclusion from the regional system in no way means that it is no longer bound by its international human rights obligations.^[105]

II. SITUATION OF HUMAN RIGHTS IN CUBA

87. In the exercise of its authority, the IACHR has observed and evaluated the human rights situation in Cuba in special reports,^[106] in the fourth chapters of its Annual Reports,^[107] and by means of the case system.^[108] The IACHR has also, on various occasions, asked the State of Cuba to adopt precautionary measures in order to protect the lives and personal integrity of Cuban citizens.^[109]

88. In accordance with the criteria established by the IACHR in 1997 to identify those states whose human rights practices deserve special attention, the first and the fifth criteria are applicable to the human rights situation in Cuba, inasmuch as the political rights enshrined in the American Declaration are not observed and structural conditions that seriously and gravely affect the enjoyment and practice of the fundamental rights established in the American Declaration persist.

89. During 2007 the Commission has received information regarding the general human rights situation in Cuba from international agencies, civil society, and the Cuban Government through the official web page of the Ministry of Foreign Affairs of Cuba. In addition, at public hearings held at its 128th and 130th regular periods of sessions, it received information about the conditions facing prison inmates,^[110] on the situation of imprisoned union members,^[111] and on compliance with the recommendations issued in Case 12.476 (Oscar Elías Biscet *et al.*).^[112]

90. Restrictions on political rights, freedom of expression, and dissemination of ideas have created, over a period of decades, a situation of permanent and systematic violations of the fundamental rights of Cuban citizens, which is made notably worse by the lack of independence of the judiciary.

91. Regarding the restriction of political rights, the State of Cuba has said that:

The restrictions for some political rights in Cuba, that have been set out by law, have been the bare minimum needed to guarantee the protection of the right to free determination, peace and life of all the people, as an answer to the growing anti-Cuban aggressiveness of the empire.^[113]

92. Similarly, regarding the right of free expression, it maintains that:

The Cuban people only restrict the "freedom" of opinion and expression of those few who would sell their services as mercenaries to the policy of hostility, aggression and genocidal blockade of the United States government against Cuba. By applying such restrictions, Cuba is acting by virtue of not just its national legislation, but also the numerous international human rights instruments and successive resolutions passed by the United Nations General Assembly which have demanded respect for the free determination of peoples and the cease of the economic, commercial and financial blockade being applied by the government of the United States against Cuba.^[114]

93. The Commission finds it necessary to reiterate that the absence of free and fair elections based on universal secret suffrage as the expression of the people's sovereignty^[115] violates the right to political participation established in Article XX of the American Declaration of the Rights and Duties of Man, which provides:

Every person having legal capacity is entitled to participate in the government of his

country, directly or through his representatives, and to take part in popular elections, which shall be by secret ballot, and shall be honest, periodic and free.

94. Similarly, Article 3 of the Democratic Charter signed in Lima, Peru, on September 11, 2001, defines the elements that make up a democratic system of government:

Essential elements of representative democracy include, *inter alia*, respect for human rights and fundamental freedoms, access to and the exercise of power in accordance with the rule of law, the holding of periodic, free, and fair elections based on secret balloting and universal suffrage as an expression of the sovereignty of the people, the pluralistic system of political parties and organizations, and the separation of powers and independence of the branches of government.

95. During 2007, the IACHR has observed and evaluated the situation of human rights in the State of Cuba and has decided to include, in this chapter of its Annual Report, the following considerations, which chiefly deal with guarantees of due legal process and the independence of the judiciary; the detention conditions in which political dissidents are held, and harassment of dissidents; restrictions on freedom of expression, and harassment targeting independent journalists; and the situation faced by human rights defenders and trade union leaders. It also includes comments on the economic and commercial sanctions imposed on the Government of Cuba, and it again states that they must be lifted inasmuch as they tend to aggravate restrictions on the effective exercise of economic, social, and cultural rights by the Cuban people.

96. In assessing the human rights situation, the Commission again notes that it applauds the major progress made by Cuba in reducing infant mortality, in providing access to drinking water, and in the areas of housing, health care, and the foodstuffs sector.

Cuba is a middle-income country, belonging to the group of countries with high human development (ranking 50 out of 177). According to national reports, three of the eight Millennium Development Goals have already been achieved: universal primary education; gender equality; and reduction of infant mortality.

...
Drinking water is available to 95.6 per cent of the population. However, differences from one area to another can still be observed, water supply can be unstable, and the grid suffers from technical problems.

...
In the area of housing, a national programme of construction, conservation and rehabilitation (Programa Constructivo de Viviendas) was adopted by the National Assembly of People's Power in September 2005.

...
Health plays an important role in Cuba's development strategy. Some noteworthy developments are: measures to reduce infant mortality, leading to the lowest rates in Latin America; immunization of boys and girls against infectious diseases; elimination of preventable diseases through vaccination campaigns, and reduction of the maternal mortality rate. The prevalence of HIV/AIDS is low and a system of ongoing epidemiological monitoring has been set up, taking into account the country's geographical location in the Caribbean, one of the areas with the highest prevalence in the world.

...
In the food sector, availability and consumption of foodstuffs has been increased by the adoption of various modes of marketing and social programmes. An equitable system of rationing with subsidized prices has been introduced and special diets for vulnerable groups are provided for. Less than 2 per cent of the population is at risk of malnutrition.[\[116\]](#)

III. GUARANTEES OF DUE LEGAL PROCESS AND INDEPENDENCE OF THE JUDICIARY

97. Every person is entitled to recourse before the courts,[\[117\]](#) to protection from

arbitrary arrest,^[118] and to due process of law.^[119] Those rights are a part of what are known as the guarantees of due legal process and represent the minimum guarantees recognized with respect to all individuals in judicial proceedings of all kinds.

98. The American Declaration provides that every human being has the right to liberty^[120] and that no persons may be deprived of their liberty except in the cases and according to the procedures established by pre-existing law.^[121] Furthermore, under the American Declaration, every individual who has been deprived of liberty has the right to have the legality of that detention ascertained without delay by a court, and the right to be tried without undue delay or, otherwise, to be released.^[122] In addition, every person accused of an offense has the right to be given an impartial and public hearing, and to be tried by courts previously established in accordance with pre-existing laws, and not to receive cruel, infamous, or unusual punishment.^[123]

99. During the period covered by this report, the IACHR continued to receive information indicating that the Cuban courts persist in judging cases in accordance with political and ideological criteria in contravention of Cuba's international human rights obligations.^[124]

100. The Commission therefore urges Cuba to bring its procedures into line with international standards of due process, to ensure that individuals who have recourse to the courts in order to determine their rights and responsibilities enjoy minimum legal guarantees in exercising their defense. The Commission believes that the existing legal framework does not comply with Cuba's international obligations in this regard. The full currency of the judicial guarantees enshrined in the American Declaration depends on the existence of an independent and autonomous judiciary. The Commission has repeatedly said that there is no separation of powers in Cuba; consequently, there is no guarantee of justice free of interference from the other branches of government.

101. In connection with this, Article 121 of the Constitution of Cuba provides that: "The courts constitute a system of state bodies, established with functional independence from all other systems, and subordinated only to the National Assembly of People's Power and the Council of State." The Commission notes that the subordination of the courts to the Council of State, chaired by the head of state, means that the judiciary is directly dependent on instructions handed down by the executive branch of government. Cuba's courts of law do not have the independence required for the performance of their duties and, consequently, individuals are guaranteed neither due legal process nor the right of recourse to the courts for obtaining a fair trial, particularly in cases of a political nature.

IV. DETENTION CONDITIONS OF POLITICAL DISSIDENTS^[125]

102. In 2007, the Commission continued to observe the detention conditions of political dissidents in Cuba and to receive information on degrading treatment by prison authorities against political opponents.^[126]

103. On October 21, 2006, the Commission resolved to convey to the State and to the petitioners' representatives,^[127] to publish, and to include in its Annual Report to the OAS General Assembly, its Report on Merits Nº 67/06, in Case 12.476 (Oscar Elías Biscet *et al.*), which deals with 78 political dissidents who were arrested and tried in extremely summary proceedings during 2003 under Article 91^[128] of the Cuban Criminal Code and Law 88 (Law on the Protection of Cuba's National Independence and Economy), for actions related to the exercise of such basic freedoms as freedom of thought, conscience, belief, and speech and the right of peaceful assembly and free association. The sentences ranged from 6 months to 28 years in prison.

104. In Report Nº 67/06, the IACHR concluded:

1. That the State is responsible for violations of Articles I, II, IV, VI, XX, XXI, XXII, XXV and XXVI of the American Declaration, to the detriment of Nelson Alberto Aguiar Ramírez, Osvaldo Alfonso Valdés, Pedro Pablo Álvarez Ramo, Pedro Argüelles Morán, Víctor Rolando Arroyo Carmona Mijail Bárzaga Lugo, Oscar Elías Biscet González, Margarito Broche Espinosa, Marcelo Cano Rodríguez, Juan Roberto de Miranda Hernández, Carmelo Agustín Díaz Fernández, Eduardo Díaz Fleitas, Antonio Ramón Díaz Sánchez, Alfredo Rodolfo Domínguez Batista, Oscar Manuel Espinosa Chepe Alfredo Felipe Fuentes, Efrén Fernández Fernández, Juan Adolfo Fernández Saínz, José Daniel Ferrer García, Luis Enrique Ferrer García, Orlando Fundora Álvarez, Próspero Gaínza Agüero, Miguel Galbán Gutiérrez, Julio César Gálvez Rodríguez, Edel José García Díaz, José Luis García Paneque, Ricardo Severino González Alfonso, Diosdado González Marrero, Léster González Pentón, Alejandro González Raga, Jorge Luis González Tanquero, Leonel Grave de Peralta, Iván Hernández Carrillo, Normando Hernández González, Juan Carlos Herrera Acosta, Regis Iglesias Ramírez, José Ubaldo Izquierdo Hernández, Reynaldo Miguel Labrada Peña, Librado Ricardo Linares García, Marcelo Manuel López Bañobre, José Miguel Martínez Hernández, Héctor Maseda Gutiérrez, Mario Enrique Mayo Hernández, Luis Milán Fernández, Rafael Millet Leyva, Nelson Moline Espino, Ángel Moya Acosta, Jesús Mustafá Felipe, Félix Navarro Rodríguez, Jorge Olivera Castillo, Pablo Pacheco Ávila, Héctor Palacios Ruiz, Arturo Pérez de Alejo Rodríguez, Omar Pernet Hernández, Horacio Julio Piña Borrego, Fabio Prieto Llorente, Alfredo Manuel Pulido López, José Gabriel Ramón Castillo, Arnaldo Ramos Lauzurique, Blas Giraldo Reyes Rodríguez, Raúl Ramón Rivero Castañeda, Alexis Rodríguez Fernández, Omar Rodríguez Saludes, Martha Beatriz Roque Cabello, Omar Moisés Ruiz Hernández, Claro Sánchez Altarriba, Ariel Sigler Amaya, Guido Sigler Amaya, Miguel Sigler Amaya, Ricardo Enrique Silva Gual, Fidel Suárez Cruz, Manuel Ubals González, Julio Antonio Valdés Guevara, Miguel Valdés Tamayo, Héctor Raúl Valle Hernández, Manuel Vázquez Portal, Antonio Augusto Villareal Acosta, and Orlando Zapata Tamayo.

2. That the State violated Article V of the American Declaration, to the detriment of Nelson Alberto Aguiar Ramírez, Martha Beatriz Roque Cabello, José Luis García Paneque Miguel Sigler Amaya, Guido Sigler Amaya, Ariel Sigler Amaya, Julio Antonio Valdés Guevara, and Miguel Valdés Tamayo.

3. That the State violated Article X of the American Declaration, to the detriment of Marcelo Cano Rodríguez, Efrén Fernández Fernández, Galbán Gutiérrez, Miguel Normando Hernández González, José Ubaldo Izquierdo Hernández, Librado Ricardo Linares García, Luis Milán Fernández, Fabio Prieto Llorente, Félix Navarro Rodríguez, Blas Giraldo Reyes Rodríguez, Omar Rodríguez Saludes, Omar Moisés Ruiz Hernández, Claro Sánchez Altarriba, and Héctor Raúl Valle Hernández.

4. That the State violated Article XVIII of the American Declaration, to the detriment of Nelson Alberto Aguiar Ramírez, Osvaldo Alfonso Valdés, Pedro Pablo Álvarez Ramo, Pedro Argüelles Morán, Víctor Rolando Arroyo Carmona Mijail Bárzaga Lugo, Oscar Elías Biscet González, Margarito Broche Espinosa, Marcelo Cano Rodríguez, Juan Roberto de Miranda Hernández, Carmelo Agustín Díaz Fernández, Eduardo Díaz Fleitas, Antonio Ramón Díaz Sánchez, Alfredo Rodolfo Domínguez Batista, Oscar Manuel Espinosa Chepe Alfredo Felipe Fuentes, Efrén Fernández Fernández, Juan Adolfo Fernández Saínz, José Daniel Ferrer García, Luis Enrique Ferrer García, Orlando Fundora Álvarez, Próspero Gaínza Agüero, Miguel Galbán Gutiérrez, Julio César Gálvez Rodríguez, Edel José García Díaz, José Luis García Paneque, Ricardo Severino González Alfonso, Diosdado González Marrero, Léster González Pentón, Alejandro González Raga, Jorge Luis González Tanquero, Leonel Grave de Peralta, Iván Hernández Carrillo, Normando Hernández González, Juan Carlos Herrera Acosta, Regis Iglesias Ramírez, José Ubaldo Izquierdo Hernández, Reynaldo Miguel Labrada Peña, Librado Ricardo Linares García, Marcelo Manuel López Bañobre, José Miguel Martínez Hernández, Héctor Maseda Gutiérrez, Mario Enrique Mayo Hernández, Luis Milán Fernández, Nelson Moline Espino, Ángel Moya Acosta, Jesús Mustafá Felipe, Félix Navarro Rodríguez, Jorge Olivera Castillo, Pablo Pacheco Ávila, Héctor Palacios Ruiz, Arturo Pérez de Alejo Rodríguez, Omar Pernet Hernández, Horacio Julio Piña Borrego, Fabio Prieto Llorente, Alfredo Manuel Pulido

López, José Gabriel Ramón Castillo, Arnaldo Ramos Lauzurique, Blas Giraldo Reyes Rodríguez, Raúl Ramón Rivero Castañeda, Alexis Rodríguez Fernández, Omar Rodríguez Saludes, Martha Beatriz Roque Cabello, Omar Moisés Ruiz Hernández, Claro Sánchez Altarriba, Ariel Sigler Amaya, Guido Sigler Amaya, Miguel Sigler Amaya, Ricardo Enrique Silva Gual, Fidel Suárez Cruz, Manuel Ubals González, Julio Antonio Valdés Guevara, Miguel Valdés Tamayo, Héctor Raúl Valle Hernández, Manuel Vázquez Portal, Antonio Augusto Villareal Acosta, and Orlando Zapata Tamayo.

5. That the State did not violate Articles IX, XI and XVII of the American Declaration.^[129]

105. In addition, the IACHR recommended that the State of Cuba:

1. Order the immediate and unconditional release of the victims in this case, while overturning their convictions inasmuch as they were based on laws that impose unlawful restrictions on their human rights.

2. Adopt the measures necessary to adapt its laws, procedures and practices to international human rights laws. In particular, the Commission is recommending to the Cuban State that it repeal Law No. 88 and Article 91 of its Criminal Code, and that it initiate a process to amend its Constitution to ensure the independence of the judicial branch of government and the right to participate in government.

3. Redress the victims and their next of kin for the pecuniary and non-pecuniary damages suffered as a result of the violations of the American Declaration herein established.

4. Adopt the measures necessary to prevent a recurrence of similar acts, in keeping with the State's duty to respect and ensure human rights.^[130]

106. According to information received by the IACHR, 16^[131] individuals were released from prison on parole under the "extrapenal license" mechanism^[132] on the grounds that they were seriously ill,^[133] and Rafael Millet Leyva was released on December 19, 2006. The IACHR was also informed about the restrictions of labor rights encountered by persons released from prison on extrapenal license.^[134]

107. The remaining victims in Case 12.476 are still in prison.

108. Under the American Declaration of the Rights and Duties of Man, all individuals have the right to humane treatment during the time they are in custody.^[135] In several of its reports, the Commission has addressed the topic of detention conditions in Cuba.^[136] The Commission is of the view that the State's responsibility with regard to the humane treatment of persons held in its custody is not confined to the negative obligation to refrain from practicing torture or mistreating such persons. Since prisons are places where the state has total control over the life of the prisoners, its obligations towards them include the control and security measures required to preserve the life and protect the integrity of persons deprived of liberty.

109. According to the information received by the IACHR,^[137] the prison authorities – either directly or with the assistance of other convicts – continue to mistreat political prisoners: they are subjected to beatings and attacks, kept in isolation for long periods, and not provided with the medical assistance needed for the illnesses they suffer. In addition, they are held at prisons far away from their home towns in order to make visiting difficult; family visits are denied or restricted; foodstuffs or medicines sent by their relatives are restricted or denied; and they are kept from meeting with officials from international human rights bodies. This leads to a serious deterioration in the physical and/or mental health of imprisoned

dissidents.[\[138\]](#)

110. Various of the victims of Case 12.476 have health problems that have emerged or been aggravated during their detention, without the provision of adequate medical care.[\[139\]](#) With regard to health conditions, the Commission has previously expressed its concern regarding the large number of convicts who suffer from chronic visual, renal, cardiac, and pulmonary ailments and are not given appropriate medical attention; this group includes several prisoners of advanced years. Moreover, the IACHR has been told that prison authorities prevent the relatives of imprisoned political dissidents from supplying them with drugs needed to treat their illnesses that are not provided by the State. Thus, the State has not observed the principles established in the United Nations' Standard Minimum Rules for the Treatment of Prisoners.[\[140\]](#)

111. During 2007, as a part of its duties in monitoring compliance with the recommendations[\[141\]](#) set out in Report on Merits N° 67/06, Case 12.476, the IACHR again reiterated to the State of Cuba its recommendation for the immediate release of the victims in the case and, in particular, it requested information on the current health of Normando Hernández González and Jorge Luis García Paneque and on the medical attention being provided to them.

112. On June 11, 2007, the IACHR received information indicating that Normando Hernández González was suffering from a series of intestinal illnesses.[\[142\]](#) On June 18, 2007, the IACHR asked the State to release him and to adopt protective measures until such time as he was released. On August 31, 2007, the IACHR repeated its request of June 18. According to press reports, on September 14, 2007, Normando Hernández González was transferred from Kilo 7 prison in Camagüey to the Carlos J. Finlay military hospital in the city of La Havana.

113. On June 28, 2007, the IACHR received information indicating that Jorge Luis García Paneque's body weight had fallen 36 kg after developing, while in prison, malabsorption syndrome of the intestine, a disease that causes chronic attacks of diarrhea and bleeding colitis. The Commission was also told that since being sent to prison in March 2003, Mr. García Paneque's health had constantly worsened, due to the inhuman conditions he was exposed to in the detention center. On June 29, 2007, the IACHR asked the State to release him and to adopt protective measures until such time as he was released.[\[143\]](#)

114. Similarly, José Gabriel Ramón Castillo,[\[144\]](#) after being confined to a punishment cell for 15 months at the Villa Clara Juvenile Prison, suffered damage to his central nervous system and other pathologies, and because of this his existing ailments worsened.[\[145\]](#)

115. With regard to the use of isolation cells, the IACHR has ruled that:

Isolation is an exceptional measure designed to prevent obstacles to an investigation into the facts. After examining the material facts of this case, it has been deduced that isolation was not used as an exceptional measure, but in several cases it was used instead as additional punishment of an indefinite nature, which is contrary to the United Nations' Minimum Standard Rules for the Treatment of Prisoners.[\[146\]](#)[\[147\]](#)

116. The IACHR was also told about the grave prison conditions facing seven of the nine[\[148\]](#) trade unionists convicted in 2003 for their involvement in independent workers' organizations; in some of those cases, the conditions constitute inhumane treatment. The information describes the grave health conditions of the imprisoned unionists, claims that the State does not provide the medical attention they need, and, in particular, reports on the very delicate health of Pedro Pablo Álvarez.

117. In addition, with reference to prisoners of conscience not included in the group of 78 dissidents, on February 28, 2007, the Commission granted precautionary measures to protect the life and person of Mr. Francisco Pastor Chaviano, who suffered serious injuries to his face and head as a result of beatings meted out by prison guards.^[149] At the public hearing on the "Situation of persons in jail in Cuba,"^[150] held on July 20, 2007, during the IACHR's 128th regular session, one of Francisco Pastor Chaviano's daughters gave testimony on her father's condition. On August 10, 2007, the Commission was told that Francisco Pastor Chaviano had been released from prison.

118. The IACHR appreciated the decision by the Cuban Government to release Francisco Pastor Chaviano. Nonetheless, the Commission notes that the recourse of release of prisoners for humanitarian reasons continues to be implemented on a discretionary basis, without following clear, objective, egalitarian criteria imposed by independent judges.

119. At the same time, the IACHR notes that Mr. Jorge Luis García Pérez-Antúnez, imprisoned in 1990, was released from jail on April 22, 2007, upon completion of his entire prison sentence. The IACHR was told that Mr. García Pérez-Antúnez suffered frequent beatings at the hands of other inmates and that the authorities had threatened that he would never leave prison alive; for that reason, on November 21, 2006, it granted precautionary measures on his behalf.^[151]

120. At the same time, the Commission has noted its concern at what are known as "acts of repudiation" carried out against political dissidents paroled from jail under extrajudicial licenses. These acts of repudiation involve harassment and intimidation carried out by members of groups of government supporters, among them the Committees for the Defense of the Revolution and the People's Rapid Response Brigades, against people they consider "counter-revolutionaries."^[152]

121. These acts of repudiation carried out against political dissidents, involving participants with ties to the Government of Cuba, ignore the human dignity and liberty owed to all persons, irrespective of their political ideas, and they are in breach of the American Declaration of the Rights and Duties of Man.

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^[101] I/A Court H. R., *Interpretation of the American Declaration of the Rights and Duties of Man Within the Framework of Article 64 of the American Convention on Human Rights*, Advisory Opinion OC-10/89, July 14, 1989, Series A Nº 10, paragraphs 43-46.

^[102] Statute of the IACHR, Article 20(a).

^[103] The complete text of Resolution VI may be found in "Eighth Meeting of Consultation of Ministers of Foreign Affairs acting as Organ of Consultation in application of the Inter-American Treaty of Reciprocal Assistance, Punta del Este, Uruguay, January 22-31, 1962, Documents of the Meeting," Organization of American States, OEA/Ser.F/II.8, doc. 68, pp. 17-19.

^[104] IACHR, *Annual Report 2002*, Chapter IV, Cuba, paragraphs 3-7. See also: IACHR, *Annual Report 2001*, Chapter IV, Cuba, paragraphs 3-7; IACHR, *Report on the Situation of Human Rights in Cuba*, Seventh Report, 1983, paragraphs 16-46.

^[105] IACHR, *Annual Report 2002*, Chapter IV, Cuba, paragraph 7.a.

^[106] See: IACHR, Special Reports for the following years: 1962, 1963, 1967, 1970, 1976, 1979, and 1983.

^[107] See: IACHR, Chapter IV of the Annual Reports for the following years: 1990-91, 1991, 1992-1993, 1993, 1994, 1996, 1997, 1998, 1999, 2000, 2001, 2002, 2003, 2004, 2005, and 2006.

^[108] See: IACHR, Report on Merits Nº 47/96, Case 11.436, *Tugboat 13 de Marzo*, October 16, 1996;

IACHR, Report on Merits Nº 86/99, Case 11.589, Armando Alejandro Jr., Carlos Costa, Mario de la Peña, and Pablo Morales, September 29, 1999; IACHR, Report on Admissibility Nº 56/04, [Petition 12.127](#), Vladimiro Roca Antúnez *et al.*, October 14, 2004; IACHR, Report on Admissibility Nº 57/04, [Petitions 771/03 and 841/03](#), Oscar Elías Biscet *et al.*, October 14, 2004; IACHR, Report on Admissibility Nº 58/04, [Petition 844/03](#), Lorenzo Enrique Copello Castillo *et al.*, October 14, 2004; IACHR, Report on the Merits Nº 67/06, [Case 12.476](#), Oscar Elías Biscet *et al.*, October 21, 2006; IACHR, Report on the Merits Nº 68/06, [Case 12.477](#), Lorenzo Enrique Copello Castillo *et al.*, October 21, 2006.

[109] When informed of an IACHR decision, either the State of Cuba does not reply or it sends a note stating that the Inter-American Commission on Human Rights has no jurisdiction, and the Organization of American States no moral authority, to examine matters involving Cuba.

[110] See: Video of public hearing on "Situation of persons in jail in Cuba," held on July 20, 2007, at: <http://www.cidh.org/audiencias/seleccionar.aspx>.

[111] See: Video of public hearing on "Situation of the union members deprived of liberty in Cuba," held on July 20, 2007, at: <http://www.cidh.org/audiencias/seleccionar.aspx>.

[112] See: Video of public hearing on "Case 12.476: Oscar Elías Biscet *et al.*, Cuba (Follow-up of recommendations)," held on October 10, 2007, at: <http://www.cidh.org/audiencias/seleccionar.aspx>.

[113] In Chapter 9, "White Book 2007," English version, published on the official web page of the Ministry of Foreign Affairs of Cuba, at: http://www.cubaminrex.cu/CDH/62cdh/Ingles/White_Book_2007/index.htm.

[114] See: Chapter 9, "White Book 2007," English version, published on the official web page of the Ministry of Foreign Affairs of Cuba, cited above.

[115] Article 3 of the Inter-American Democratic Charter states that one of the essential elements of representative democracy is the holding of periodic, free, and fair elections based on secret balloting and universal suffrage as an expression of the sovereignty of the people, together with the pluralistic system of political parties and organizations.

[116] See: UNDP, Country Programme Document for Cuba (2008-2012), general distribution, July 30, 2007, at: <http://www.undp.org/latinamerica/countryprogramme.shtml>.

[117] American Declaration, Article XVIII.

[118] American Declaration, Article XXV.

[119] American Declaration, Article XXVI.

[120] American Declaration, Article I.

[121] American Declaration, Article XXV.

[122] American Declaration, Article XXV.

[123] American Declaration, Article XXVI.

[124] Chapter 7 of the "White Book 2007," published on the official web page of Ministry of Foreign Affairs of Cuba, cited above, says that: "Our country has ratified a significant number of international human rights instruments. Cuba is a State party to 16 fundamental treaties on this issue." A later paragraph reads: "Cuba reiterates its commitment with the principles enshrined in the International Covenants on Civil and Political Rights, and of Economic, Social and Cultural Rights. Such commitment was entered into since the adoption of both texts by the UN General Assembly. Cuba's Constitution and legal system uphold for all citizens the rights protected under such instruments. The State has implemented a number of programs and policies specially aimed at protecting and promoting these rights for all Cubans."

[125] The Government of Cuba rejects the label "dissidents" for the victims in Case 12.476. The report titled "White Book 2007," published on the official web page of the Cuban Ministry of Foreign Affairs, states that: "This slanderous campaign – still going on today with the cynical, complicit and active help of several client governments of the Empire – has resorted to sophisticated disinformation techniques developed by the Nazi-Fascists services, unjustifiably and repeatedly depicting the justly convicted mercenaries by giving the false epithets of 'dissidents,' 'peaceful political opponents,' 'human rights defenders,' 'independent journalists, librarians or unionists.' The idea is to make people believe that the mercenaries were 'arbitrarily and unjustly' convicted simply for 'peacefully exercising the right to freedom of speech, opinion and association'." See "White Book 2007," Chapter 5, cited above.

[126] See: Video of public hearing on "Situation of persons in jail in Cuba," held on July 20, 2007 and Video of public hearing on "Case 12.476: Oscar Elías Biscet *et al.*, Cuba (Follow-up of recommendations)," held on October 10, 2007, cited above.

[127] Report on Merits Nº 67/06 was forwarded to the State of Cuba and to the petitioners' representatives on November 1, 2006. See: IACHR, Press Release Nº 40/06, "IACHR announces two reports on

human rights violations in Cuba," November 1, 2006.

[128] Article 91 of the Criminal Code of Cuba: "Anyone who, in the interests of a foreign state, commits an act with the intent of harming the independence of the Cuban State or the integrity of its territory shall be punished with imprisonment for a period of ten to twenty years or death."

[129] See: Complete report at: <http://www.cidh.org>.

[130] See: Complete report at: <http://www.cidh.org>.

[131] In 2004, the following persons were granted medical parole: Osvaldo Alfonso, Margarito Broche Espinosa, Carmelo Díaz Fernández, Oscar Espinosa Chepe, Orlando Fundadora Álvarez, Edel José García Díaz, Marcelo López Bañobre, Roberto de Miranda, Jorge Olivera Castillo, Raúl Rivero Castañeda, Martha Beatriz Roque Cabello, Julio Valdés Guevara, Miguel Valdés Tamayo (died January 10, 2007), and Manuel Vásquez Portal. In 2005, Mario Enrique Mayo Hernández and Héctor Palacio Ruiz were granted medical parole.

[132] The Criminal Code of Cuba provides: "Article 31.2: The sentencing court may grant persons sentenced to prison extrapenal license for the duration deemed necessary, when there is good reason and subject to the filing of an application. It may also be granted by the Ministry of the Interior, in extraordinary cases, provided notice is given to the President of the People's Supreme Court." "Article 31.4: The duration of extrapenal licenses and of permits for egress from the detention facility shall accrue to the duration of the prison sentence provided that the recipient of the benefit, during the time the license or permit is in force, displays good behavior. The reductions of sentence granted to the convict during his or her service of the sentence shall also accrue to its duration."

[133] See: Video of public hearing on Case 12.476, held on October 10, 2007, cited above. According to the State of Cuba, for "strictly humanitarian" reasons, 16 persons were granted extrapenal license. See: Chapter 5, "White Book 2007," English version, published on the official web page of the Cuban Ministry of Foreign Affairs, cited above.

[134] See: IACHR, Press Release Nº 40/07, "IACHR concludes its 128th period of sessions," August 1, 2007.

[135] American Declaration, Article XXV.

[136] IACHR, *Annual Report 1995*, Chapter V, paragraph 71; IACHR, *Annual Report 1994*, Chapter IV, page 168; IACHR, *Annual Report 2004*, Chapter IV, paragraphs 59-66; IACHR, *Annual Report 2005*, Chapter IV, paragraphs 76-81; IACHR, *Annual Report 2006*, Chapter IV, paragraphs 65-70.

[137] See: Video of public hearing on "Situation of persons in jail in Cuba," held on July 20, 2007 and Video of public hearing on "Case 12.476: Oscar Elías Biscet *et al.*, Cuba (Follow-up of recommendations)," held on October 10, 2007, cited above.

[138] See: Video of public hearing on "Situation of persons in jail in Cuba," held on July 20, 2007 and Video of public hearing on "Case 12.476: Oscar Elías Biscet *et al.*, Cuba (Follow-up of recommendations)," held on October 10, 2007, cited above.

[139] IACHR, Case 12.476: Oscar Elías Biscet *et al.*, Cuba, Report Nº 67/06, November 21, 2006, paragraph 157.

[140] The Inter-American Commission has repeatedly indicated that the United Nations' Standard Minimum Rules for the Treatment of Prisoners should be understood as a suitable international reference for standard minimum rules for the humane treatment of prisoners, including basic rules relating to cell and sanitary conditions, medical attention, and physical exercise. See IACHR, Report Nº 27/01, Case 12.183, Jamaica, paragraph 133; Report Nº 47/01, Case 12.028, Grenada, paragraph 127; Report Nº 48/01, Case 12.067, Bahamas, paragraph 195; Report Nº 38/00, Case 11.743, Grenada, paragraph 136.

[141] On December 6, 2006, the IACHR received a request for precautionary measures lodged on behalf of Librado Ricardo Linares García. According to the request, Mr. Linares García continues to face poor conditions in prison, constant stress, poor nutrition, attacks from other inmates, restrictions of his religious freedom, and interference with his right to receive family visits. On December 15, 2006, the IACHR asked the State to release him and to adopt the necessary protection measures until such time as he was released.

[142] These included erythematous gastritis in the lower stomach, jejunitis, atrophy in the intestinal cilia, giardiasis parasites on the intestine walls, intestinal leaks, deficiencies of folic acid and vitamin B-12, and malabsorption syndrome in the intestine.

[143] The World Organisation Against Torture (WOAT) said that: "It calls the Cuban authorities' attention to this case and reminds them that the conditions in which Dr. José Luis García Paneque has been detained, the cause of his current grave health situation, violate the United Nations Standard Minimum Rules for the Treatment of Prisoners and constitute a form of cruel, inhuman, and degrading treatment in breach of the terms of the Convention against Torture." World Organisation Against Torture, "Fears for the personal integrity of Dr. José Luis García Paneque," Case CUB 090806.1, July 3, 2007.

[\[144\]](#) On November 7, 2006, the IACHR received a request for precautionary measures lodged on behalf of José Gabriel Ramón Castillo, claiming that he was in immediate danger, was not being given food, and was not receiving medical attention. The information also added that he was physically mistreated and denied the medicine brought by his family for treating his ailments. On November 22, 2006, the IACHR asked the State to release him and to adopt the necessary protective measures until such time as he was released.

[\[145\]](#) IACHR, *Annual Report 2006*, Chapter IV, paragraph 67.

⁴⁶ Minimum standard rules for the treatment of prisoners. Adopted by the First United Nations Congress on Crime Prevention and Treatment of Criminals, held in Geneva in 1955, and approved by the Economic and Social Council in its Resolutions 663C (XXIV) of July 31, 1957 and 2076 (LXII) of May 13, 1977, Articles 31 and 32.1.

[\[146\]](#) IACHR, Case 12.476: Oscar Elías Biscet *et al.*, Cuba, Report Nº 67/06, November 21, 2006, paragraph 154.

[\[147\]](#) IACHR, Case 12.476: Oscar Elías Biscet *et al.*, Cuba, Report Nº 67/06, November 21, 2006, paragraph 154.

[\[148\]](#) The trade unionists tried and convicted in 2003 were Pedro Pablo Álvarez Ramos, Horacio Julio Piña Borrego, Víctor Rolando Arroyo Carmona, Adolfo Fernández Sainz, Alfredo Felipe Fuentes, Luis Milán Fernández, Blas Giraldo Reyes Rodríguez, Carmelo Díaz Fernández, and Oscar Espinosa Chepe. The last two have been released on extrajudicial license. See: Video of public hearing on "Situation of the union members deprived of liberty in Cuba," held on July 20, 2007, cited above.

[\[149\]](#) Precautionary measures Nº 19-07, on behalf of Francisco Pastor Chaviano, were granted by the IACHR on February 28, 2007. According to the information received by the IACHR, the beneficiary suffered serious injuries to his face and head as a result of beatings at the hands of prison guards. The IACHR was also told that Mr. Chaviano suffers from a duodenal ulcer, arthritis, and respiratory problems, as a direct result of the detention conditions in which he is being held. In addition, in February 2007, the beneficiary's wife announced that he had been diagnosed with a 70% obstruction of the arteries and ischemia which, if not addressed through surgery could, in conjunction with his aggressive pulmonary tumor, lead to his death in prison.

[\[150\]](#) See: Video of public hearing on "Situation of the union members deprived of liberty in Cuba," held on July 20, 2007, cited above.

[\[151\]](#) Precautionary measures Nº 306-06, on behalf of Jorge Luis García Pérez-Antúnez, were granted by the IACHR on November 21, 2006.

[\[152\]](#) The Committees for the Defense of the Revolution and the People's Rapid Response Brigades are intended to guard against activities considered counter-revolutionary and confront any suspected indication of opposition to the government.



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ANNUAL REPORT OF THE IACHR 2007

CHAPTER IV

HAITI

I. INTRODUCTION

158. The Inter-American Commission on Human Rights (IACHR or “the Commission”) has decided to include in the present Chapter consideration dealing with the Republic of Haiti, a member state of the OAS whose human rights practices merit special attention because is in a situation covered by the fifth criteria provided for in the Annual Report of the IACHR for 1997 and mentioned above, i.e. a

Temporary or structural situation that may appear in member states confronted, for various reasons, with situations that seriously affect the enjoyment of fundamental rights enshrined in the American Convention or the American Declaration. The criterion includes, for example: grave situations of violations that prevent the proper application of the rule of law; serious institutional crises; processes of institutional change which have negative consequences for human rights; or grave omissions in the adoption of the provisions necessary for the effective exercise of fundamental rights.

159. The Commission has prepared this section of Chapter IV of its Annual Report in accordance with Article 57(1)(h) of its Rules of Procedure and has based its analysis on information obtained during its on-site visits and general hearings described below as well as on other reliable publicly available sources. On November 27, 2007, the IACHR transmitted to the State a copy of a draft of the present section of Chapter IV of its Annual Report for 2007, in accordance with the aforementioned Article, and asked the Government of the Republic of Haiti to submit its observations on the section within thirty days. The State submitted observations within that time limit.

160. In its recent reports on Haiti,^[186] the Commission examined the human rights situation in the country and, more particularly, developments in the political situation, public security, administration of justice, impunity, vulnerable groups and socioeconomic conditions. During this period (2003-2006) the Commission consistently expressed its concern for the grave situation of human rights in the country, namely, the loss of civilian life due to armed confrontations and related violence by armed gangs, the inability of the State to guarantee public security, the lack of accountability for perpetrators or assurances of a legal remedy for victims, excessive periods of prolonged pretrial detention, poor prison conditions and the incapacity of the State to provide basic social services to the majority of the population. Further, the Commission consistently emphasized the impact of such conditions on vulnerable groups, especially women and children, human rights defenders and journalists.

161. The year 2007 marked the second year of the Rene Preval Administration after the conclusion of a 2-year interim transitional government in Haiti (2004-2006) following an armed rebellion in February 2004, which led to the ousting of former President Aristide and the disruption in constitutional order. In comparison with previous years, the Commission observed a notable improvement in the situation in Haiti, specifically with regard to the reduction in deadly violence and kidnappings of civilians. Further, the Commission recognizes a series of initiatives by the State to address key challenges to achieving sustainable peace and security. In particular, the Commission notes a concerted effort by the State, with support of the international community, to strengthen institutions in the administration of justice, including the introduction of a specialized response to the problem of prolonged pretrial detention, legislative measures in the area of judicial independence and the reinforcement of the national police force. As such, the year 2007 was characterized by signs of progress. In this connection, the Commission encourages the Haitian State to maintain its commitment and efforts to achieving its stated goals and priorities, especially to reinforce the rule of law and institutions charged with the administration of justice and to promote national economic and social development. In spite of the signs of progress during the year, the situation in Haiti remains largely precarious and state institutions remain weak, deficient and in need of structural reforms and significant immediate and long-term assistance. Further, Haiti's social and economic situation remains extremely fragile for the majority of Haitians, creating a serious risk to citizen social and economic security, and further obstructing Haitians' access to legal remedies.

162. As such, the Commission remains concerned with deficiencies in the following key areas, the administration of justice and citizen security, namely public security and the state's capacity to guarantee access to basic social services for the population. Accordingly, the Commission finds that relevant state programs and initiatives must be encouraged, while additional resources and sustained financial and technical assistance must be allocated to these sectors to ensure effective protection of fundamental rights of Haitians. Given the essential role of the justice system in ensuring respect for fundamental rights as well as the full realization of democracy and the rule of law,^[187] the Commission continues to conduct follow-up observations, as contained herein, with respect to its amplifying findings and recommendations in its 2006 report on this topic and reiterates the importance of the state's capacity to administer justice effectively and promptly with due judicial guarantees in order to ensure the respect for human rights in Haiti.

163. During the year 2007 the Commission continued to closely monitor the human rights situation and paid particular attention to the State's efforts to provide adequate public security for its inhabitants and related measures to strengthen and reform the Haitian National Police, and closely observed developments in the design and implementation of plans to promote strengthening and/or reform of state entities and institutions charged with the administration of justice and the rule of law. The Commission's primary sources of information for its assessment include two on-site visits by the Commission, including one visit in April 2007^[188] by the Rapporteur on Haiti, Sir Clare K. Roberts, and one visit in June 2007^[189] by the Special Rapporteur on Persons Deprived of Liberty and President of the Commission, Mr. Florentin Melendez, as well as several working visits by members of the Executive Secretariat to conduct training seminars and meetings with government entities and civil society members. Further, the Commission held several hearings on Haiti during its 127th, 128th and 130th regular periods of sessions where advocates and representatives of the state shared information about the current conditions and developments in the country.

II. SUMMARY OF KEY EVENTS IN HAITI DURING 2007 RELATIVE TO HUMAN RIGHTS

164. As a context for its discussion of the human rights situation in Haiti during 2007, the Commission will provide a brief overview of the major events during the year that affected

human rights.

165. Haiti held municipal elections in December 2006 and completed a second round in April 2007. On October 10, 2007 the government spokesperson, Joseph Jasmin, announced a decision to dissolve the Provisional Electoral Council (CEP) due to allegations of corruption within the CEP. This body was given the temporary mandate to organize presidential and legislative elections (in two phases), which were organized in February and April 2006, respectively. However, as prescribed, the second phase of the legislative election is expected to be scheduled at the end of 2007, and for which the government has yet to determine the mechanism that will be responsible to organize this election. With respect to this pending decision, the President of the Republic announced that a meeting with political parties would be convened to decide how prospective legislative elections will be carried out, given the termination of the CEP's mandate and the lack of a permanent electoral mechanism to organize this second phase of the legislative election in Haiti.

166. The Government of President Rene Preval identified a number of priorities for the country, including peace and stability, national development and economic growth and the specific need to adopt measures to improve the social and economic conditions of the Haitian people. In this connection, Mr. Preval also noted the main challenges to achieving these objectives, which are the illicit drug trade and organized crime, thereby fueling corruption and violent crime in the country and attracting the involvement of the many unemployed and poor youth. In this respect, the Haitian government has exerted efforts to address the problem at the national and regional level, namely by organizing a regional conference in the Dominican Republic in March 2007 to discuss strategies to address the problem, and at the national level, by strengthening the Haitian National Police and taking steps towards creating a functional and equipped coast guard. In this connection, the government has also adopted initiatives to fight against corruption in state institutions.

167. The Commission notes that during Haiti's previous transitional government, conditions in Haiti were extremely fragile and efforts by the government and the international community largely focused on the organization of elections and public security. As a result, the situation in Haiti, namely the social and economic conditions and the rule of law significantly deteriorated in recent years, with very little resources or attention placed on these aspects. Thus, in 2007, while international assistance was renewed and development projects re-launched, much of the observed conditions in Haiti from previous years (as noted in past annual reports of the Commission)^[190] largely persisted, especially the precarious living conditions of Haitians which considerably worsened due to the political and public security crisis.

168. Overall, the security and human rights situation in 2007, improved in comparison to previous years. This year witnessed fewer cases of kidnappings, acts of rape or murder and abuse treatment by gangs than in previous years, although a number of serious cases were registered, which confirms that the situation, although improved, remains a concern for the Commission and therefore merits close monitoring and evaluation.^[191] While the Haitian National Police, with the support of the United Nations Stabilization Mission in Haiti (MINUSTAH) force, adopted a more aggressive approach to dismantling violent criminal gangs and apprehending key members in early 2007, the judiciary was not able to respond as effectively or swiftly due to lack of resources, support and sufficient planning on how to handle to the influx of persons in the criminal justice system. Due to the frequent joint interventions conducted by the Haitian National Police (HNP) and MINUSTAH, the crime rate appeared to notably diminish by mid-2007, from daily accounts of multiple kidnapping to a couple per week, which provided some reprieve for residents of Port-au-Prince and allowed them to resume their daily activities without constant fear for their personal safety. While ongoing measures to strengthen the HNP are necessary, the sustainability of the security situation will also depend on the judiciary's ability to respond effectively.

169. Over the past year, developments at the national level have also been

accompanied by the presence of the MINUSTAH, which was initially authorized for six months beginning on June 1, 2004, and has since been extended on numerous occasions, including most recently on October 15, 2007 with an extension to October 15, 2008.^[192] Most recently, the UN Resolution called for the re-adjustment of MINUSTAH's composition and to realignment of its activities to reflect the changing circumstances and priorities on the ground. This should include maintaining support to the Haitian National Police, building institutional capacity generally and providing specialized assistance to key ministries, and to provide continuing support to the reform of rule of law institutions. Further, the resolution called for MINUSTAH forces to consist of a military component of up to 7,060 troops of all ranks and of a police component of a total of 2,091 police. According to public activity reports, MINUSTAH has engaged in a variety of initiatives to implement its mandate. In addition, several visits to the country to assess the situation of peace and security were conducted by various United Nations officials, including the Independent Expert on Haiti, Mr. Louis Joinet, who also presented his report on the situation in Haiti to the United Nations Secretary General at the beginning of 2007, and in September 2007 the Human Rights Council decided to renew the mandate of the Independent Expert on Haiti for an additional year.^[193]

170. With respect to Haiti's participation in CARICOM, and following the 2006 decision by the organization to renew Haiti's membership, a CARICOM Representational Office (CRO) was reopened on October 19, 2007, three years after having been closed. The CRO will be charged with the task of promoting the full integration of Haiti into CARICOM, especially the Single Market and Economy, to identify and mobilize domestic, financial and other resources, and to promote relations with the media and undertake public education campaigns. Further, from October 15-19, 2007, Haiti hosted the 15th Meeting of Ministers of CARIFORUM the Caribbean Forum of African, Caribbean and Pacific (ACP) States to discuss ongoing trade negotiations between the regional organization and the European Union. Finally, a statement by CARICOM in early October emphasized the importance of maintaining international assistance to Haiti, and the UN peacekeeping force specifically, in order to ensure stability and peace in Haiti and the region.

171. For its part, the General Assembly of the Organization of American States (OAS) adopted Resolution AG.RES.2306 (XXXVII)-O/07,^[194] during its thirty-sixth regular session convened from June 4 to 6, 2007 in Panama City, Panama. Therein, the General Assembly announced the organization's commitment to support the professionalization of the Haitian National Police, to continuing to promote the disarmament process, and called on Member States to maintain support and cooperation for the development of Haiti, notably in the areas of poverty reduction, economic and social development and the consolidation of democratic institutions.^[195] The Resolution marked the conclusion of the OAS Special Mission for Strengthening Democracy in Haiti and conferred OAS representation in the country to the OAS Country Office in Haiti, "given the positive evolution in Haiti and the need to contribute to social and economic development". Finally, the Resolution recognized the efforts of the Haiti Task Force within the General Secretariat, which is charged with the coordination of the work of the OAS in Haiti and with enhancing cooperation between the OAS and other regional and international institutions. Numerous initiatives throughout the year have been undertaken by the organs and institutions of the OAS to implement the terms of the General Assembly's Resolution.

172. The Interim Cooperation Framework (ICF) established to ensure coherence and coordination of international assistance provided during the Transitional Government of Haiti (2004-2006) was extended until September 2007 while new initiatives have been undertaken to support the authorities in the Preval government in order to ensure a smooth transition from the ICF to a new mechanism of coordination and support to the Haitian government. The National Growth and Poverty Reduction Strategy process is expected to result in a National Growth and Poverty Reduction Strategy Paper, which will be the principal mechanism to outline national development goals and strategic policies in the economic, governance and social sectors. The

preparation of the Strategy Paper bears significance for the future of Haiti's development and for ensuring that adequate financial assistance is channeled accordingly.^[196] In this connection, important bilateral contributions were made to Haiti by the Governments of the United States of America, the European Union, and Canada, and is also expected to receive support from international financial institutions once the National Growth and Poverty Reduction Strategy Paper is finalized.^[197]

173. In conclusion, signs of progress in the country have been visible over the past year, notably the public security situation and the government's recognition of and efforts to address longstanding weaknesses. In this connection, the Commission encourages the support of the international community to the government of Haiti's expression of commitment to achieve progress and national development, promote human rights and tackle longstanding weaknesses in state institutions. However the Commission reiterates the importance of maintaining and enhancing state-sponsored efforts to ensure long-term peace and stability in the country, an effective judiciary and the accessibility of judicial remedies and basic social services. Against this backdrop, the Commission will provide an update on the overall situation of human rights in Haiti, which was described in last year's annual report.^[198]

III. COMMISSION'S ACTIVITIES CONCERNING HAITI IN 2007

174. During 2007, the Commission continued to closely monitor the human rights situation and to emphasize the importance of the role of the state in addressing longstanding weaknesses in the area of administration of justice, public security and the respect for social and economic rights. Further, the situation of vulnerable groups, including women, children, and human rights defenders was also the object of the Commission's monitoring, analysis and reporting. As such, the Commission conducted a number of visits to Haiti, organized several training seminars for government entities and members of civil society, and received information about the human rights situation in its general hearings during its three annual regular periods of sessions.

175. From April 16-20, 2007, the Rapporteur on Haiti, Sir Clare K. Roberts conducted an on-site visit to Haiti to observe developments in the situation of human rights in the country since the inauguration of the Preval government in 2006. The objectives of the visit included meeting the new members of the Preval administration and being informed about government priorities for the six year term as well as conducting a follow-up assessment of the situation of the administration of justice in Haiti after the release of its 2006 report on that subject, and finally, receiving information about the situation of human rights in the country, with an emphasis on the situation of women and girls. To this end, the Commission met with representatives of the Haitian government and members of civil society as well as representatives of international organizations. The Rapporteur also met with victims of human rights abuses and victims' groups. As part of its efforts to follow-up on its findings and recommendations in its 2006 administration of justice report, a roundtable on the situation of the administration and the reform of the justice system was organized during the visit to encourage dialogue between the various sectors and to further identify potential areas for reform that would render the Haitian justice system more efficient in its capacity to deliver justice.

176. From June 17-20, 2007, the Special Rapporteur on the Rights of Persons deprived of Liberty and President of the Commission, Mr. Florentin Melendez, conducted an on-site visit to Haiti to observe and receive information concerning the situation of persons deprived of liberty in select detention centers of Port-au-Prince, which was analyzed in its 2006 study on the administration of justice in Haiti, and to conduct follow-up observations regarding the Commission's recommendations on the subject of persons deprived of liberty.^[199] To this end, the Special Rapporteur met with State representatives, members of civil society and international organizations, and conducted visits to the following detention centers: the National Penitentiary in Port-au-Prince, the Petionville prison for Women and Girls, the Delmas

prison for boys and detention cells within the Delmas police station.

177. From September 26-28, 2007, the Office of the Special Rapporteur on Freedom of Expression conducted an onsite visit to Haiti to examine developments and receive information on the current situation of freedom of expression in the country.^[200] During the visit, the Special Rapporteur met with State representatives, members of the recently constituted *Commission Indépendante d'appui aux Enquêtes relatives aux Assassinats des Journalistes* (Commission to Support the Investigation of Assassinated Journalists), members of civil society, media associations and the media.

178. In an effort to maintain an active engagement in Haiti, to further promote the IACHR system and to enhance human rights protection, the Commission continued to organize working visits and meetings with members of the Haitian government and to conduct training seminars for government officials and civil society organizations. As such, four human rights training seminars were organized during 2007, namely in April (training for government officials on the IACHR petition process), June (training on the rights of persons deprived of liberty and the IACHR system), August (training for civil society organizations on the IACHR petition process) and December of 2007 (training for government officials and civil society organizations on the universal and regional human rights mechanisms). In this connection, public events were organized during the visit of the Rapporteur on Haiti and the visit of the Special Rapporteur on the Rights of Persons deprived of Liberty. In an effort to conduct a follow-up assessment on the findings and recommendations contained in the Commission's 2006 report on the administration of justice, in April the Rapporteur on Haiti organized a roundtable on the reform and administration of justice in Haiti with members of the Supreme Court, the Secretary of State for Justice and a representative of the NGO justice reform advocacy network, *Forum de Citoyen*. Following the roundtable, in June, the Special Rapporteur on the Rights of Persons deprived of Liberty made a public presentation on international human rights principles and standards regarding persons deprived of liberty, conditions of persons deprived of liberty in Haiti and the region and the mandate and functions of the Special Rapporteurship.

179. The Commission considered the situation in Haiti during its 127th, 128th and 130th regular periods of sessions in February, July and October 2007, respectively. At the conclusion of two of the three sessions, the Commission issued press releases including a specific section on the situation in Haiti.^[201]

180. Based upon its visits and other activities relating to Haiti during 2007 and noting the Commission's observations on the human rights situation in Haiti in previous years, the Commission continued to monitor key areas of concern including public security, the administration of justice and rule of law, impunity, rights of vulnerable persons and social and economic conditions, which bear direct consequences for the enjoyment of the fundamental rights of Haitians. It is important to note that many of these problems are long-standing and deep seated, stemming from structural deficiencies and institutional weaknesses resulting from a history of political crisis, authoritarian regimes and corrupt institutions, and which have since resulted in the widespread and systematic violation of fundamental human rights of Haitians. Accordingly, state institutions would benefit from serious evaluation, strategic and long-term planning, and structural reforms in order to reduce the number and nature of human rights violations occurring daily in the country. As such, these continue to be the main issues of concern, analysis and monitoring by the Commission. While these issues have been the subject of discussion in previous Commission reports and press releases, this chapter serves as a means of providing an updated assessment and evaluation of developments in these areas.^[202]

I. COMMISSION'S OBSERVATIONS ON THE SITUATION OF HUMAN RIGHTS IN HAITI DURING 2007

181. During 2007, the Commission observed initial signs of progress in the country following the presidential and legislative elections and the subsequent inauguration of a

constitutional government in early 2006. In this connection, the Commission noted the commitment by the international community to support Haiti in its post-transition process and corresponding contributions of certain international donors to the Haitian state to promote social and economic development and reconstruction. Most notably, the government's response to the rise in violent crime resulted in advances in the dismantling of armed gangs, the arrest and detention of criminal suspects and the reduction in violent crime by mid-year. Further, Haiti's head of state also acknowledged several challenges to national and economic development, and announced that his government would address the development of a state response to the illicit drug trade and the related dilemma of poor border control, and the tackling of corruption in state institutions and reinforcement of Haiti's rule of law institutions. Amongst the positive developments figure an improvement in public security from previous years, and a number of state-led initiatives including the creation of a special commission to address cases of prolonged pretrial detention, the organization of more frequent criminal trials, the presentation and adoption of draft laws on the judiciary, the creation of a special commission to investigate the deaths of journalists, and the elaboration of reform plans and other initiatives to eradicate corruption, drug trafficking and arms proliferation. Additionally, Haiti ratified a number of international treaties.

182. With regard to public security, during the first three months of 2007 the Haitian National Police and the UN forces proceeded to conduct a series of aggressive interventions in Cité Soleil to apprehend gang leaders suspected to have been involved in the wave of kidnappings in the city. On one hand, these interventions led to the arrest of a number of suspects and the eventual prosecution and conviction of some, which many observers have indicated was rarely observed and to which many attribute the reduction in violent crime in Haiti since these interventions took place. On the other hand, immediate consequences of the armed HNP-MINUSTAH interventions reportedly resulted in mass arrests of suspected criminals without warrants, and were reportedly conducted with the use of excessive force against civilians and causing a number of casualties.^[203] At the same time, these events appear to have produced a chain of effects causing a number of human rights concerns that will be explained below. The mass arrests themselves resulted in a record number of individuals entering the criminal justice system in a short period, a system already overburdened and not equipped to process or investigate the numbers of cases it received. This situation resulted in a number of irregularities, such as illegal arrests, mass arrests and the failure to submit evidence by the relevant and competent authorities. For example, during the first three months of 2007, police reportedly proceeded to conduct mass arrests of 30-40 persons on a weekly basis. This practice resulted in increased cases of persons in arbitrary detention or prolonged pretrial detention in extremely poor conditions and/or in facilities (police station holding cells) not equipped to hold persons for prolonged periods. Further, the mass arrests of suspects and their subsequent detention also resulted in extreme overcrowding of detention facilities, the incarceration of men, women and adolescents in the same police holding cells, presenting additional risks to the personal safety of the prison population (health risks due to lack of adequate sanitation, food and water) and public security threats to the national population due to a combination of factors, including the poor security and construction of facilities, lack of capacity of facilities, and facilities are often located in densely populated areas.

183. In this connection, due to the imbalance in the allocation of resources, financial support, technical assistance and training between the national police and the judiciary (national police receiving the majority of the budget under the Ministry of Justice and Public Security), the judiciary has not had the adequate capacity or resources to respond as promptly or effectively, resulting in the backlog of cases and the unprecedented numbers of persons in detention in Haiti's prison facilities, the majority of whom have been detained arbitrarily and for excessive periods. In this respect, the Commission is concerned with the immediate human rights implications of the armed security operations by the HNP and MINUSTAH and recommends that judicial guarantees are ensured for those subject to arrest and detention. The Commission further recommends that additional resources, equipment and adequate infrastructure be provided to the judiciary in order for the judiciary to function adequately and for criminal cases to be handled promptly and effectively.

184. With respect to the general human rights situation in Haiti, the Commission finds that the weaknesses in the administration of justice, impunity for human rights violations and extremely poor social and economic conditions continue to constitute primary concerns. Moreover, there remain significant challenges for the government to ensure conditions of peace and security in the country for the long term. According to the President of the Republic, Rene Preval, the combination of the drug trade in Haiti, corruption in state institutions and poor social and economic conditions are primary elements that lead to and maintain high levels of criminality and impunity.^[204] As such, the current government has prioritized these issues in its public policies and developed state programs to address each one respectively. One aspect of this is to evaluate the variety of factors fueling violence in Haiti and develop appropriate measures to prevent acts of violence from recurring. The Commission is encouraged by the state's actions to tackle these issues and emphasizes the necessity to allocate resources to the planning and implementation of necessary state policies, legislation and mechanisms in these areas. In this connection, the Commission encourages relevant state institutions and the international organizations working in Haiti, notably MINUSTAH and related UN agencies, to maintain their efforts to reinforce the Haitian National Police and the judiciary, and especially, to develop a comprehensive and holistic approach to ensuring sustainable peace and security, including domestic job creation and development of national industries.

185. Over the many years that the Commission has monitored the developments in Haiti, the Commission has observed the uniquely complex and challenging nature of the human rights situation in the country characterized by repeated periods of political crisis and some of the Hemisphere's most worrisome social and economic conditions. Such conditions have been accompanied by extreme deficiencies in Haiti's state institutions and longstanding problems in the areas of social, economic, civil and political rights. Consequently, such matters, which continue to prevent the country from making significant progress in its development, can not be fully resolved with short-term solutions, but will require long-term institutional reforms and sustained international assistance to address a number of central problems identified in this chapter and noted in the Commission's previous statements and reports on the situation in Haiti.

A. Security and Disarmament

186. Among the Commission's principal concerns, especially since 2004, has been the security situation in Haiti. In particular, the Commission has consistently expressed concern with the acute deterioration in public security, due to widespread violence by armed gangs and the ineffective control over certain sectors of Port-au-Prince and the provinces. Acts of kidnapping, rape, murder, beatings and mass destruction of property became common occurrences in recent years leading to record numbers of civilian casualties in 2005, with a further increase in violent crime recorded in 2006. During the transitional period, the ability of the police force to respond to the crime wave proved ineffective and the security vacuum was quickly filled by the proliferation of armed groups acting with impunity, organized criminal rings, and the ongoing drug trade that resulted in better equipped and organized armed groups employing force and intimidation to secure control over parts of Port-au-Prince. Consequently, although democratic governance was restored to Haiti in early 2006 and initial steps to curb violent crime adopted, Haitian authorities and the international community will still need to take appropriate preventative measures to ensure long-term peace and stability through the adoption of a public security policy, strategy and plan that aim to address the key factors contributing to the persistence of violent crime in Haiti.

187. As noted above, in 2007 the Commission observed a visible improvement in the situation of public security in Haiti in comparison to previous years. The Commission received information that numerous arrests were made during January through April of suspected criminals for their involvement in the wave of kidnappings and other violent crimes. During its visit to Haiti in April and later in June, the Commission observed police patrols and posts around the city. Further, government sources reported and members of the population

confirmed that the police presence in Port-au-Prince had notably increased since the beginning of 2007 and that the police had adopted renewed efforts to apprehend suspected criminals.

188. However, while the armed interventions are said to have contributed to the recent reduction in violent crime in the capitol city, reports by human rights observers, the media and residents of Cite Soleil indicated that the operations conducted in that densely populated neighborhood included cases of irregular searches of private residences without judicial guarantees, and caused collateral damage, namely civilian by-standers wounded or dead by the exchange of gunfire and aggressive tactics used by security forces on residents. In cases where MINUSTAH soldiers were involved, reports of abuse of force and illegal arrest have caused distrust and animosity by the population. Finally, human rights observers criticize the strategy by security forces to conduct muscled interventions, finding them to be short-sighted and producing only temporary results. Observers emphasize that long term and comprehensive measures must be adopted to ensure the sustainability of the recent situation of calm, including the reinforcement of the judiciary and the need to render it operational and effective, and the promotion of social justice and the creation of economic opportunities for the Haitian people.^[205] In response to alleged acts of abuse of force or illegal arrest by security forces, the Commission recalls that the duty to provide public security should be coupled with the duty to protect the life and physical integrity of persons at all times and to respect the judicial guarantees during arrests and the subsequent detention of individuals.

189. During the IACHR's on-site visit to Haiti in April, the President of the Republic of Haiti acknowledged that the public security issue is dependent on the State's ability to respond to the illegal arms and drug trade, the State's capacity to address organized crime through the building of a robust police force and equally functional justice system to ensure criminal accountability, and the provision of economic opportunities, job creation and the development of national industries to provide the population with constructive economic alternatives. In this regard, the Commission notes the State's initiative in March 2007 to organize a regional conference in the Dominican Republic, involving the participation of representatives of the governments from the region, and the release of the Santo Domingo Declaration committing states to adopt measures to combat the illicit drug trade. The Commission hopes that this initiative marks the beginning of a relationship of close collaboration and coordination to develop an appropriate and multi-faceted approach to this regional problem.

190. More precisely, an essential aspect to guaranteeing security is the need to reinforce the Haitian National Police force, and equally to provide sufficient resources, training and equipment to the judiciary in order for it to respond as effectively. During 2007, the HNP showed positive signs of progress and growth, while receiving outside financial and technical assistance. Most notably, the HNP initiative to develop an anti-kidnapping unit has reportedly produced positive results in terms of investigation, and the arrest and prosecution of suspects. Further, the police academy, having integrated a human rights component into its training, produced at least two graduating classes of new recruits and the vetting program of officers continued with the technical support of MINUSTAH. The vetting program is especially important to tackle corruption in the force, given that police sources confirm the involvement of a significant percentage of the force in criminal activity, which prevents it from fulfilling its mandated role of law enforcement and further damages the integrity and credibility of the police as an institution.

191. The other critical aspect to ensuring public security and preventing recurring crime is the ability of the justice system to function effectively and to ensure criminal accountability for perpetrators. In this regard, given the increased number of arrests, the subsequent numbers of individuals awaiting a hearing and the excessive overcrowding of the national prison in Port-au-Prince, the Commission has found that the court of first instance in Port-au-Prince, and the courts of first instance in other cities across Haiti, exerted special efforts to hold more hearings on a daily basis and more frequent criminal hearings (without jury) during 2007, in order to address the backlog of cases in the criminal justice system. These efforts, however, have been undertaken without significant support, or the commitment of

financial, technical assistance. Thus the system remains weak, under-resourced, ill-equipped and under-staffed, as noted in the Commission's report on the administration of justice released in March 2006.^[206] In this connection, the Commission continues to be concerned with the lack of resources committed to the judiciary in order to implement programs to improve the administration of justice and access to justice, including reconstruction and reorganization of the courts, the allocation of material and equipment, and ongoing training, while at the same time, addressing labor conditions for members of the judiciary.

192. Finally, the Commission acknowledges that the United Nations Stabilization Mission in Haiti has demonstrated strong commitment to ensuring conditions of peace and security in the country since the creation of its mandate in 2004, and has undertaken efforts to improve the public security situation by supporting the HNP in its efforts to prevent crime, and by placing greater emphasis on institution strengthening and reform of the police and the judiciary. Such efforts complement more long term programs carried out by the UN agencies, such as the United Nations Development Program, in the area of the rule of law and support to the prison administration. In effect, MINUSTAH retains a robust presence in the country and continues to provide support to Haiti's disarmament program.

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^[186] See Chapter IV on Haiti, IACHR Annual Report 2006; see also Chapter IV on Haiti, IACHR Annual Report 2005.

^[187] See IACHR Report "Haiti: Failed Justice or the Rule of Law? Challenges Ahead for Haiti and the International Community" OEA/Ser/L/V/II.123 doc.6 rev 1 (26 October 2005) para. 9.

^[188] See IACHR Press Release N° 22/07 "IACHR To Conduct On-Site Visit to Haiti" (April 13, 2007); See also IACHR Press Release N° 24/07 "IACHR Encouraged by Efforts to Improve the Human Rights Situation in Haiti" (April 20, 2007) Also available at: <http://www.cidh.org/Comunicados/English/2007/24.07eng.htm>.

^[189] See IACHR Press Release N° 31/07 "Rapporteur on the Rights of Persons Deprived of Liberty To Conduct Onsite Visit to Haiti" (June 15, 2007); See also IACHR Press Release N° 32/07 "Rapporteur on the Rights of Persons Deprived of Liberty Concludes Visit to Haiti" (June 21, 2007) Also available at: <http://www.cidh.org/Comunicados/English/2007/32.07eng.htm>.

^[190] See, e.g., Annual Report of the IACHR 2005, Chapter IV, available at <http://www.cidh.org/annualrep/2005eng/chap.4.htm>; Annual Report of the IACHR 2004, Chapter IV, available at <http://www.cidh.org/annualrep/2004eng/chap.4.htm>.

^[191] See IACHR Press Release N° 40/07 "IACHR Concludes its 128th Regular Sessions" (August 1, 2007), also available at: <http://www.cidh.org/Comunicados/English/2007/40.07eng.htm>; see also, IACHR Press Release N° 54/07 "IACHR Concludes its 130th Regular Sessions" (October 19, 2007), also available at: <http://www.cidh.org/Comunicados/English/2007/54.07eng.htm>.

^[192] See UN Security Council Resolution 1780 (2007), UN Doc. S/RES/1780 (2007) (15 October 2007).

^[193] See Report of the Independent Expert on Haiti to the United Nations Secretary General "Advisory Services and Technical Cooperation in the Field of Human Rights: Situation of Human Rights in Haiti", E/CN.4/2006/115, 62nd session UNCHR (January 26, 2006) also available at <http://daccessdds.un.org/doc/UNDOC/GEN/G06/104/54/PDF/G0610454.pdf?OpenElement>.

^[194] OAS General Assembly Resolution AG/RES.2215 (XXXVI)-O-06, "Strengthening Democracy and Socioeconomic Development in Haiti" (6 June 2006), available at <http://www.oas.org/main/main.asp?SLang=E&Link=http://www.oas.org/consejo/GENERAL%20ASSEMBLY/default.asp>.

^[195] *Ibid.*

^[196] See Report of the Economic and Social Council Ad Hoc Advisory Group on Haiti; Economic and Social Council of the United Nations (E/2007/78) 13 June 2007, paras. 34-37.

[197] *Ibid* at para. 38.

[198] See, e.g., Annual Report of the IACHR 2006, Chapter IV, available at <http://www.cidh.org/annualrep/2006eng/chap.4.htm>.

[199] See IACHR Press Release N° 31/07 "Rapporteur on the Rights of Persons Deprived of Liberty To Conduct Onsite Visit to Haiti" (June 15, 2007); See also IACHR Press Release N° 32/07 "Rapporteur on the Rights of Persons Deprived of Liberty Concludes Visit to Haiti" (June 21, 2007) Also available at: <http://www.cidh.org/Comunicados/English/2007/32.07eng.htm>.

[200] See Office of the Special Rapporteur on Freedom of Expression Press Release N° 178/07 "See Office of the Special Rapporteur on Freedom of Expression Concludes Visit to Haiti and Makes Recommendations" (October 4, 2007), also available at: <http://www.cidh.oas.org/relatoria/showarticle.asp?artID=711&IID=1>.

[201] See IACHR Press Release N°14/07 "IACHR Concludes its 127th Regular of Period of Session" (March 9, 2007) also available at: <http://www.cidh.org/Comunicados/English/2007/14.07eng.htm>; see also IACHR Press Release N° 40/07 "IACHR Concludes its 128th Regular Sessions" (August 1, 2007), also available at: <http://www.cidh.org/Comunicados/English/2007/40.07eng.htm>; see also, IACHR Press Release N° 54/07 "IACHR Concludes its 130th Regular Sessions" (October 19, 2007), also available at: <http://www.cidh.org/Comunicados/English/2007/54.07eng.htm>.

[202] See, e.g., Annual Report of the IACHR 2005, Chapter IV, available at <http://www.cidh.org/annualrep/2005eng/chap.4.htm>; Annual Report of the IACHR 2004, Chapter IV, available at <http://www.cidh.org/annualrep/2004eng/chap.4.htm>; Annual Report of the IACHR 2003, Chapter IV, available at <http://www.cidh.org/annualrep/2003eng/chap.4.htm>; Annual Report of the IACHR 2002, Chapter IV, available at <http://www.cidh.org/annualrep/2002eng/chap.4d.htm>; IACHR Press Release N° 24/03 (August 22, 2003); IACHR Press Release N° 11/00 (August 25, 2000): See also IACHR Press Release N° 20/05 (June 6, 2005).

[203] Information received from human rights observers and humanitarian workers in Cité Soleil in April 2007; see also, "US Embassy in Haiti Acknowledges Excessive Force by UN," Haiti Action Committee, also available at : <http://haitisolidarity.live.radicaldesigns.org/article.php?id=138>; see also "Haiti, Heavy Fighting Erupts in Cité Soleil. MSF keeps assisting those wounded in the clashes," Reuters Newswire, also available at: <http://www.alertnet.org/thenews/fromthefield/msfbelgium/117015225057.htm>.

[204] See IACHR Press Release N° 22/07 "IACHR To Conduct On-Site Visit to Haiti" (April 13, 2007); See also IACHR Press Release N° 24/07 "IACHR Encouraged by Efforts to Improve the Human Rights Situation in Haiti" (April 20, 2007) Also available at: <http://www.cidh.org/Comunicados/English/2007/24.07eng.htm>, and public statements in the press.

[205] IACHR Press Release N° 54/07 "IACHR Concludes its 130th Regular Sessions" (October 19, 2007), also available at: <http://www.cidh.org/Comunicados/English/2007/54.07eng.htm>.

[206] See IACHR Report, Failed Justice or the Rule of Law? Challenges Ahead for Haiti and the International Community, OEA/Ser/L/V/II.123 doc. 6 rev. 1 (26 October 2005) also available at <http://www.cidh.oas.org/countryrep/HAITI%20ENGLISH7X10%20FINAL.pdf>.



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CHAPTER IV

VENEZUELA

I. INTRODUCTION

221. The Commission prepared this section of Chapter IV of the Annual Report pursuant to Article 57.1.h of its Rules of Procedure. Its analysis is based on the information compiled during its hearings and information available from other public sources. Pursuant to the aforementioned article, on November 21, 2007, the IACHR sent the State a copy of the draft of this section of its 2007 Annual Report and requested that the State forward its observations within one month. On December 21, 2007, the Commission received the State's observations and comments, the pertinent parts of which were introduced into the present report. [\[223\]](#)

222. In its Annual Report for 1997, the Commission set out the five criteria it uses to identify the member states of the OAS whose human rights practices merit special attention. In 2007, the Commission examined the situation of human rights in Venezuela and decided that the hostile environment toward political dissent, the increasing litigiousness of social protest and the accusations against and harassment of nongovernmental organizations or human rights defenders are taking a serious toll on the enjoyment of the rights protected under the American Convention, to which Venezuela has been party since 1977. The Commission therefore considers that the Venezuelan situation fits the fifth criterion of the five mentioned earlier, which concerns

temporary or structural situations that may appear in member states confronted, for various reasons, with situations that seriously affect the enjoyment of fundamental rights enshrined in the American Convention or the American Declaration. This criterion includes, for example: grave situations of violations that prevent the proper application of the rule of law; serious institutional crises; processes of institutional change which have negative consequences for human rights; or grave omissions in the adoption of the provisions necessary for the effective exercise of fundamental rights.

223. Therefore, in this chapter the Commission will devote particular attention to the situations referenced in paragraph 2 and will examine issues related to the administration of justice, extrajudicial executions, citizen security, freedom of expression and the harsh conditions endured by persons deprived of their liberty.

224. The Commission observed with particular attention the constitutional reform process that began on August 15, 2007, when the President of the Republic, Hugo Chávez

Frías, introduced a draft. The National Assembly approved the draft, with changes, on the third round of discussion, to be put to a referendum in keeping with Article 344 of the Venezuelan Constitution. This constitutional reform proposal was rejected through a consultative referendum carried out on December 2, 2007. The IACHR is gratified at the massive, peaceful citizen participation in that referendum. Before the consultative referendum, the Commission had received numerous expressions of concern from various sectors of civil society that were troubled by some of the articles that had been approved by the National Assembly. These will be summarized in the some sections of this chapter.

225. The Commission welcomes the information provided by the Venezuelan State on achievements in the area of economic, cultural, and social rights. The statistics provided include a significant drop in the poverty rate over the past five years (from 29.8% in 2003 to 9.7% in 2007). Similar improvements were reported in unemployment rates (from 20.7% in 2003 to 8.3% in 2007). The population's access to drinking water and the school enrollment rate also showed improvements. As for indicators reflecting the achievements of missions, the Robinson Mission, for example, was reported to have taught 1,539,786 people to read as of July 2007.

226. Finally, during 2007 the Commission learned that the Public Prosecutor's Office and the courts were enforcing the Law on Protection of Victims, Witnesses and Other Parties to Court Proceedings. The Commission welcomes this State initiative as this program could become a significant means of protection in preventing future violations of the human rights of persons whose lives and safety are at risk.

II. PRELIMINARY CONSIDERATIONS

227. During 2007, the Commission dedicated much of its time in trying to materialize a visit to Venezuela. Those efforts have been frustrated by the State's silence on the question of a firm date for the visit. Since the Commission's in loco visit to Venezuela in 2002, the Venezuelan Government has said that it would like the Commission to conduct follow-up activities, or arrange a visit by the Rapporteur for Venezuelan affairs, Dr. Paulo Sérgio Pinheiro, to get a firsthand look at the changes that the State has introduced through the Missions and the Prison System Humanization Plan, among other initiatives. Thus far, however, the Commission has seen no progress on these fronts.

228. Furthermore, in early 2007, the Rapporteur for Venezuelan Affairs drew up a tentative agenda for a visit to Venezuela, which was discussed with the Permanent Representative of the Bolivarian Republic of Venezuela to the Organization of American States (OAS). In addition, several meetings between the President of the Commission and other members of the Commission with the same Ambassador were held in order discuss the achievement of a visit to the country. The President of the IACHR and the Rapporteur for Venezuela met the Minister and Vice-Minister of Foreign Affairs in order to directly discuss the visit, having sent a letter to the Government proposing specific dates for December 2007 to which the Government of Venezuela has not yet responded.

229. In its reply on this chapter, the State maintained that "the seven mandates specifically issued by the States when they signed the American Convention did not include that of conducting on-site visits or on-site observation in any of the countries belonging to the inter-American system. That power was added later, under the Statute of the Inter-American Commission on Human Rights, to the other powers already set forth in Article 44 of the Convention. Moreover, under the Commission's Statute, the State has the power to invite on-site observation, but the Commission cannot invite itself to visit a particular country."

230. The Commission points out that the Venezuelan Government's attitude stands in sharp contrast to that of the majority of the OAS member states, which welcome and facilitate the Commission's visits to their countries. The claims that Venezuela has been making for over five years, conveying its interest in a visit by the Commission and/or thematic

rapporteurs, seem disingenuous. The fact that the visit has never materialized has made it difficult for the Commission to discharge the mandate that the States entrusted to it within the framework of the authorities and functions it is given both by the American Convention and its Statutes, especially those of promoting the observance and defense of human rights by firsthand, in situ knowledge of the various problems and programs related to human rights in Venezuela. Not having been afforded the opportunity to visit the country, it will be that much more difficult for the Commission to develop a close dialogue with State authorities and Venezuelan society.

231. The IACHR reiterates its interest in conducting a visit to Venezuela and its offer to cooperate with the Government of Venezuela and with the whole of Venezuelan society, to help strengthen the defense and protection of human rights in an environment of democracy and institutional legality.

III. HUMAN RIGHTS DEFENDERS

232. Throughout 2007, the Commission continued to receive information regarding the situation of human rights defenders in Venezuela. The following are some of the more alarming developments, which will be described in detail later in this report: i) the increasing number of threats and attempts on the life and physical well-being of human rights defenders; and ii) other obstacles human defenders face, such as public discrediting by officials of the State, accusations to the effect that they are receiving funds from abroad, and the difficulty they have when attempting to get access to information.

A. Threats and attempts on the life and physical well-being of human rights defenders

233. The Commission learned that over the course of 2007 a number of human rights defenders in Venezuela continued to be the target of attacks and threats on their life and physical well-being. Among the cases reported to the Commission was that of Mr. José Luís Urbano, President of the Asociación Civil Pro-Defensa del Derecho a la Educación [Civil Association for the Protection of the Right to Education], who on February 10, 2007 was allegedly attacked by someone wielding a firearm. The attack is said to have occurred in the La Ponderosa district of the state of Anzoátegui. [224] Information was also received concerning an alleged assault on Mrs. Sara Mier y Terán, coordinator of the NGO Vida, Paz y Libertad. The assault, which purportedly occurred on January 27, 2007, was allegedly the work of Aragua police officers. [225] The Commission also received information on a complaint that Mr. Luís Rafael Ugas, President of the Fundación para las Garantías, Prevención y Defensa de los Derechos Humanos [Foundation for the Guarantees, Protection and Defense of Human Rights] filed on April 25, 2007, concerning an alleged abduction followed by torture. [226]

234. The Commission also received reports of continued threats. In one case, the Commission was informed that Mr. Alcides Magallanes, coordinator of the Fundación de los Derechos Humanos de Anzoátegui [Anzoátegui Human Rights Foundation], who had publicly complained about the extrajudicial executions in that state, allegedly received death threats from an officer in the Bolívar Municipal Police. [227] Also, the director of the Observatorio de Prisiones de Venezuela [Venezuelan Prison Monitoring Group], Mr. Humberto Prado, received threatening phone calls in May of 2007 after an interview with him appeared in the newspaper "El Mundo" where he described conditions in a Barinas prison. [228]

235. The Commission is also concerned [229] by the increasing number of union leaders and persons dedicated to the defense of labor rights who have been the victims of attempts on their life and physical well-being. The Commission was told that in 2004 nine acts

of violence allegedly occurred; in 2005, 18 assaults were recorded, whose victims were mainly people in the oil sector and construction sector; in 2006, 49 assaults were recorded; and by the end of May 2007, 27 assaults had already been registered, which means that the numbers continue to increase. [\[230\]](#)

236. According to information reported to the Commission, as of September 2007, some civil society organizations calculated that at least 29 union leaders had been killed. [\[231\]](#) The following are some of the cases singled out by name in the documentation submitted to the Commission: Héctor Francisco Jaramillo, Secretary of Professionals and Technicians in the Sutrabolívar labor confederation; [\[232\]](#) Alexis García, member of the Bolívar Disciplinary Tribunal; [\[233\]](#) Nibardo Antonio Gómez Morales, a leader of a construction workers union; [\[234\]](#) Alexander Irigoyen Villaroel, a member of a petroleum industry union; [\[235\]](#) Robert José Figuera, a member of a petroleum industry cooperative; [\[236\]](#) Héctor Francisco Jaramillo, Secretary of Professionals and Technicians enrolled in the Sutrabolívar labor confederation; [\[237\]](#) Neomar Rodríguez, a SutraBolívar delegate; [\[238\]](#) Robert Rivero, a SutraBolívar delegate; [\[239\]](#) Darwin LaRosa, director of the group of unemployed persons fighting for the right to work; [\[240\]](#) Douglas Ulacio Rojas, a leader of the unemployed petroleum industry workers group; [\[241\]](#) Rochard José Rivas Rodríguez, a member of the Anzoátegui Construction, Wood and Related Materials Workers Union; [\[242\]](#) Yesmer Enrique Gil, a union member from San Félix [\[243\]](#); Néstor Ramón Cequea Jiménez, leader of a construction workers union in Macapaima province in the state of Anzoátegui, [\[244\]](#) and Miguel Frente, an activist and leader of an Alcasa union. [\[245\]](#)

237. According to most of the newspapers accounts of these events, they occurred as a result of “job trafficking” in the sectors in question, particularly the construction sector. [\[246\]](#)

238. The Commission is concerned by the reported increase in the number of union leaders who fall victim to attempts and threats on their lives and physical well-being, and is asking the Venezuelan State to explore and analyze this problem and devise adequate and effective measures to prevent it and to investigate and punish those responsible. This is all the more important given the reports complaining of a lack of statistics as to the number of union leaders whose lives and personal safety have been attacked and in view of the disparity between the figures reported by civil society organizations and those reported by state agencies. [\[247\]](#)

239. Given the obligations undertaken by virtue of the American Convention, the Venezuelan State must take all measures possible to prevent violations of lives and physical well-being of human rights defenders and to diligently investigate events such as those recounted in this section, irrespective of whether those implicated are State agents or private persons.

240. Finally, the Commission applauds the fact that Venezuelan courts have ordered protective measures for some of those named in this section. [\[248\]](#) As noted at paragraph 5 above, the Commission believes that the Law on Protection of Victims, Witnesses and Other Parties to Court Proceedings [\[249\]](#) could be an important means to prevent the continuing violations committed against human rights defenders. In its reply, the State indicated that it was “conducting an in-depth investigation of each of the isolated events” in this chapter. The Commission is compelled to underscore how important it is that the mechanisms devised by the

State to protect human rights defenders should ensure that they are able to carry on their work.

B. Other obstacles that human rights defenders face

241. Apart from the attacks on their lives and physical well-being, in 2007 the Commission continued to receive reports of other ways in which the work of human defenders was obstructed. Although more subtle, these techniques pose serious impediments to their work.

242. The Commission observes that, as has happened in the last few years, State officials continue to publicly belittle human rights defenders in order to discredit the complaints that the defenders present concerning human rights violations.^[250] By way of example, the Commission received information about charges made against NGOs and human rights defenders accusing them of being part of a plan to destabilize the government and to defy “the revolution” because they were receiving funding from organizations and countries abroad.^[251] The Commission was also told of statements made by the Attorney General of the Republic who, when presenting his annual report to the National Assembly in August 2007, stated that certain sectors of the opposition are using the theme of impunity and insecurity as a means to destabilize the government and were clearly politically motivated.^[252]

243. The Commission believes that belittling and discrediting the work done by human rights defenders could pose and/or increase the risk to their lives and personal safety.^[253] The Venezuelan State, like the other states in the region, must “refrain from making statements that stigmatize human rights defenders or that suggest that human rights organizations act improperly or illegally, merely because of engaging in their work to promote and protect human rights.”^[254]

244. Moreover, one of the concerns that some sectors of civil society expressed with regard to the constitutional amendment process has to do with Article 67 of the proposed amendment. That provision would prohibit associations having political purposes other than those pertaining to elections, from receiving funding from foreign governments or foreign public or private agencies. Civil society organizations fear that human rights organizations might be labeled as “associations having political purposes,” as some statements made by government officials and other figures associated with the government would seem to suggest.^[255]

245. In its Press Release 26 of July 19, 2006, the Commission expressed concern over certain provisions of the “Draft Legislation on International Cooperation,” which the National Assembly had under discussion. There the Commission pointed out that “the vague language of certain provisions of the draft legislation and the broad discretion given to the authorities charged with issuing enacting regulations pose the risk that this law will be interpreted in a restrictive manner in order to limit, among other things, the exercise of the rights of association, freedom of expression, political participation, and equality, and could seriously impair the functioning of nongovernmental organizations.” The Commission was also concerned because the interpretation of some of these provisions could obstruct “the activities and funding sources of nongovernmental organizations, whose independent role has been vital in strengthening Venezuelan democracy.”^[256]

246. Yet another impediment to their work reported by some human rights organizations are difficulties with access to information. For example, the Commission was informed that in March 2007, the Health Director of the Ministry of Health refused to provide the PROVEA staff with information about the country’s mental health service and facilities, alleging that, in an interview, the general coordinator of that NGO, Mr. Marino Alvarado, had

compared the government of President Hugo Chávez with that of Rafael Caldera. According to the available information, before he would give PROVEA access to that information, the health director demanded that PROVEA rectify that opinion. The director's contention was that he could not provide the information because he did not know how PROVEA would use it. [\[257\]](#) Here the State indicated that the right of access to information set forth in Articles 51 and 143 of the Constitution of the Republic [\[258\]](#) was exercised daily by all citizens and was a right firmly upheld in Venezuela.

247. The Commission considers important the recognition of this right by the Constitution of the Republic, given the Inter-American Court's statement that, in a democratic society, State authorities must operate by the principle of maximum disclosure, which establishes the presumption that all information is accessible, subject to a limited system of exceptions. When establishing restrictions on access to the information it holds, it is up to the State to show that it has complied with the requirements of legality, necessity and proportionality. [\[259\]](#)

IV. FREEDOM OF EXPRESSION

248. The Commission continued to receive information concerning obstacles to the exercise of the right to freedom of expression in Venezuela. The Commission notes with concern that throughout 2007 events similar to those highlighted in previous years continued to occur, despite the Commission's recommendations. The Office of the Special Rapporteur for Freedom of Expression received information on events in which State agents were allegedly involved. Some of those reports are recounted below:

On February 2, 2007, journalist Miguel Bellorín, with Radio Única, was allegedly attacked by an official from the office of the mayor of the municipality of Piar in Bolívar state, as he was leaving a program that he hosted. The next day, the journalist was allegedly slapped in the face and insulted by another municipal employee while the reporter was conducting interviews. The attacks are presumably motivated by his reports on sanitary conditions in the area. [\[260\]](#)

On May 8, 2007, newspaper reporters Gil Montaña, with the newspaper El Universal, and David Urdaneta from the newspaper El Meridiano, were allegedly attacked by police officers as they were covering an incident provoked by the spectators at a soccer game in Caracas. Three police officers allegedly grabbed Montaña by the back to prevent him from covering the episode. They damaged two camera lenses. Urdaneta was allegedly beaten by another police officer. [\[261\]](#)

Spanish journalist Anuska Buenaluque, with the Peruvian network América Televisión, told a Lima news outlet that Venezuela's National Guard had fired rubber bullets at him during the demonstrations protesting the government's decision not to renew Radio Caracas Televisión's broadcasting license. [\[262\]](#)

249. The Commission also received reports of private individuals physically and verbally assaulting people working in the mass media, including the State-run media, as a result of the country's political polarization. [\[263\]](#) As the Commission has said on previous occasions, most such events occur when the mass media are trying to cover events with special political connotations. Some of these incidents are described below:

On March 15, 2007, shots were fired at the residence of Father José Palmar, a columnist for the newspaper Reporte, in Zulia state. The columnist had allegedly published reports of alleged administrative irregularities at Petróleos de Venezuela S.A. (PDVSA). [\[264\]](#)

On May 20, 2007, four unknowns allegedly assaulted a team of reporters from Venezolana de Televisión as they were covering the United Venezuelan Socialist Party's support of the party in power in San Cristobál, in the state of Táchira. According to the report, the alleged assailants threw rocks at him and shattered the side window glass on his vehicle. [\[265\]](#)

On August 21, 2007, a team of journalists from RCTV Internacional was allegedly attacked by a group of unknowns at the Palace of Justice, as the team was covering a hearing concerning a lawmaker from the state of Miranda.

On September 17, 2007, a group of unknowns allegedly attacked the offices of the newspaper El Panorama, in the state of Zulia, hurling rocks, bottles and other objects and damaging the main entrances. The attack also disrupted the normal business day. The newspaper reported that for a half hour, the journalists and other employees were purportedly unable to do their work. [\[266\]](#)

250. The Commission believes that acts of this type are ways of obstructing exercise of the right to freedom of expression and is urging the Venezuelan State to take all necessary measures to ensure that State agents do not in any way assault people working in the mass media and to prevent, investigate and punish any act of this nature perpetrated by private persons. The Commission welcomes the State's reply that the corresponding institutions "[...] have investigated each of the events [...]" mentioned in this chapter and "[...] adopted the necessary measures to prevent third parties from harming journalists, investigating isolated events that may have occurred, and stationing police to protect journalists and television stations [...]".

251. The Commission also notes that, in its reply on this chapter, the State indicated that the analysis on respect for the right to freedom of expression could not apply only to situations in which the activities of persons were directly linked to journalism but should extend to the right of all human beings. The Commission agrees with this concept and reaffirms what it has said on prior occasions [\[267\]](#) on the obligation of States to guarantee equal opportunity of all persons to receive, seek, and impart information by any means of communication, without discrimination, eliminating any measures that would discriminate against an individual or a group of persons in terms of their equal and full participation in the political, economic, and social affairs of their country [\[268\]](#). This right guarantees all people an informed voice, and this is indispensable for the survival of democracy.

252. Another aspect that the Commission has followed closely in recent years is the use of the courts to silence criticism in the media, especially on matters of particular concern to the public. In 2007, the Commission followed the course of the cases brought in the past against journalists. Particular mention should be made of the case brought against Mr. Miguel Salazar. He is still on trial, charged with aggravated defamation of public officials as a result of having chronicled, in late 2003, a series of issues that could be described as matters of public interest: cases of corruption and human rights violations in the state of Guárico. [\[269\]](#) The Commission has written that laws that criminalize expression on matters of public interest can stifle speech or cause self-censorship, which has a disproportionate effect on freedom of expression. [\[270\]](#) Freedom of expression is the right that enables every individual and community to participate in active, vigorous and challenging debate on every aspect related to the normal and harmonious functioning of society. That speech may end up being critical of and even offensive to those in public office or somehow involved in crafting public policy.

253. One turn of events that is particularly troubling to the Commission is the investigation that the National Assembly's Permanent Commission on Science and Technology and Mass Communications launched against a group of journalists for an "alleged destabilization plan." It all came about as a consequence of a complaint brought by Mrs. Eva Gollinger and Mr.

Mario Silva in which the group was accused of “receiving funding from the U.S. Department of State.” According to the information available, the government-backed newspaper *Veja* ran photographs of the individuals in the group with the message “People, Take A Good Look.”^[271]

254. The Commission received complaints about judicial and administrative proceedings being used in a discriminatory manner, depending upon a media outlet’s editorial line. Here the Commission was told that after Radio Caracas Televisión went off the air in May 2007, the President of the Republic made statements suggesting that Globovisión would be next. The Commission was informed that while the President was making these statements, the Supreme Court allegedly started to reactivate some cases against that channel.

255. The Commission must reiterate the observation it made in its 2006 report concerning the circumstances surrounding the refusal to renew Radio Caracas Televisión’s broadcasting license. Article 13.3 of the American Convention on Human Rights and Principle 13 of the Commission’s Declaration of Principles on Freedom of Expression prohibit direct pressure exerted by the State for the purpose of influencing the reporting of social communicators or attempting to curtail independent exercise of the right to report information. In effect, principle 13 of the Declaration of Principles on Freedom of Expression provides that “[t]he exercise of power and the use of public funds by the state, the granting of customs duty privileges, the arbitrary and discriminatory placement of official advertising and government loans; the concession of radio and television broadcast frequencies, among others, with the intent to put pressure on and punish or reward and provide privileges to social communicators and communications media because of the opinions they express threaten freedom of expression, and must be explicitly prohibited by law.” Once again, the Commission observes that in the bidding for licenses to operate on the radioelectric spectrum, the principle of equality of opportunity dictates that States must strive to use open and transparent procedures, with clear, objective and reasonable criteria to avoid any influence dictated by discriminatory political considerations related to the media outlet’s editorial line.

256. Finally, the Commission took note of the concerns expressed in certain quarters of civil society regarding the constitutional reform proposed by the President, fearing the possibility that access to information could be restricted during states of emergency.^[272] Here it is worth noting that while the right recognized in Article 13 of the American Convention is subject to restrictions, those restrictions must be within the law and be those strictly necessary and proportionate to the end being pursued.^[273] Hence, any restriction on freedom of expression must be examined by that test, to determine whether it is compatible with the international obligations that Venezuela has undertaken.

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^[223] Article 57 of the Rules of Procedure of the IACHR establishes that: “1. The Annual Report presented by the Commission to the General Assembly of the OAS shall include the following: [...] h. any general or special report the Commission considers necessary with regard to the situation of human rights in the Member States, and, as the case may be, follow-up reports noting the progress achieved and the difficulties that have existed with respect to the effective observance of human rights; [...] 2. For the preparation and adoption of the reports provided for in paragraph 1.h of this article, the Commission shall gather information from all the sources it deems necessary for the protection of human rights. Prior to its publication in the Annual Report, the Commission shall provide a copy of said report to the respective State. That State may send the Commission the views it deems pertinent within a maximum time period of one month from the date of transmission. The contents of the report and the decision to publish it shall be within the exclusive discretion of the Commission.” Rules of Procedure of the Inter-American Commission on Human Rights (Adopted by the Commission at its 109th special period of sessions, held from December 4 to 8, 2000, and amended at its 116th regular period of sessions, held from October 7 to 25, 2002, and at its 118th regular period of sessions, held from October 6 to 24, 2003).

^[224] According to the information available, the attack allegedly occurred in the wake of death

threats, after public disparagement by regional authorities and the day after he held a press conference at which he denounced irregularities in the public education system in that state. See: PROVEA. Derechos Humanos y Coyuntura. E-Bulletin No. 191, January 19, 2007 to February 18, 2007; Report on the Situation of Human Rights Defenders in Venezuela. 1997-2007. Caracas Vicarship on Human Rights, p. 42, citing: Communiqué from the Pro-Life Forum. "Pro-Life Forum alarmed by the attack on a human rights defender in Anzoátegui". Caracas, February 16, 2007; Article in El Universal, February 17, 2007; Article in El Nacional, February 17, 2007.

[225] According to the information available, Mrs. Mier y Terán was assaulted after denouncing the warrantless arrest made at the central office of the newspaper El Siglo. Report on human rights defenders (*supra* note 1), pp. 44 and 131, citing an interview that Sara Mier y Teran gave to the Caracas Vicarship of Human Rights, July 7, 2007.

[226] PROVEA. Derechos Humanos y Coyuntura. E-Bulletin No. 184, April 1, 2007 to April 22, 2007.

[227] PROVEA. Derechos Humanos y Coyuntura. E-Bulletin No. 182, February 24 to March 5, 2007; Report on human rights defenders (*supra* note 1), p.132.

[228] Report on human rights defenders (*supra* note 1), p. 133.

[229] On previous occasions, the IACHR has singled out union leaders as one group of human rights defenders that is particularly defenseless and exposed to a variety of job-related pressures. See: IACHR, Report on the Situation of Human Rights Defenders in the Americas, March 7, 2006, paragraphs 209 to 214.

[230] Report on human rights defenders (*supra* note 1), pp. 62 and 63.

[231] PROVEA. Derechos Humanos y Coyuntura. E-bulletin No. 190. August 20 to September 20, 2007. Article: Lorenzo Labrique: "Violencia sindical e indiferencia estatal" [Union Violence and State Indifference].

[232] Report on human rights defenders (*supra* note 1), pp. 67, 68 and 148. citing: Nueva Prensa de Guayana [online], January 30, 2007 edition.

[233] Report on human rights defenders (*supra* note 1), pp. 67, 68 and 148. citing: Nueva Prensa de Guayana [online], January 30, 2007 edition.

[234] Report on human rights defenders (*supra* note 1), pp. 68, 69 and 148; La Verdad [online], January 19, 2007 edition.

[235] Report on human rights defenders (*supra* note 1), p. 148; El Tiempo [online], January 16, 2007 edition.

[236] Report on human rights defenders (*supra* note 1), p. 148; El Tiempo [online], January 20, 2007 edition.

[237] Report on human rights defenders (*supra* note 1), p.148; Nueva Prensa de Guayana [online], January 30, 2007 edition.

[238] Report on human rights defenders (*supra* note 1), p. 149; Correo del Caroní [online], February 1, 2007 edition.

[239] Report on human rights defenders (*supra* note 1), p. 149; Correo del Caroní [online], February 1, 2007 edition.

[240] Report on human rights defenders (*supra* note 1), p. 149; El Tiempo [online], February 12, 2007 edition.

[241] Report on human rights defenders (*supra* note 1), p. 149; El Tiempo [online], February 12, 2007 edition.

[242] Report on human rights defenders (*supra* note 1), p. 149; El Tiempo [online], February 13, 2007 edition.

[243] Report on human rights defenders (*supra* note 1), p. 150; El Universal [online], April 16, 2007 edition.

[244] Report on human rights defenders (*supra* note 1), p. 150; Correo del Caroní [online], April 14, 2007 edition.

[245] Report on human rights defenders (*supra* note 1), p. 150; Correo del Caroní [online], April 20, 2007 edition.

[246] PROVEA. E-Bulletin No. 183. March 6 to March 29, 2007. Citing: article in El Nacional, March 11, 2007. PROVEA. E-Bulletin No. 184, April 1 to 22, 2007, citing article in El Universal, April 12, 2007. Available at: http://noticias.eluniversal.com/2007/04/12/sucqc_art_herido-juven-que-pas_245878.shtml. Website visited on November 9, 2007. Article in Aporrea, available at: <http://www.aporrea.org/trabajadores/n103593.html>. Website visited on November 9, 2007.

[247] PROVEA. Derechos Humanos y Coyuntura. E-Bulletin No. 190, August 20 to September 20, 2007. Article: Lorenzo Labrique: "Violencia sindical e indiferencia estatal"; PROVEA. Derechos Humanos y Coyuntura. E-Bulletin No. 188, July 7 to July 25, 2007.

[248] Mr. Alcides Magallanes, Mr. Humberto Prado Sifontes and Mrs. Sara Mier y Terán.

[249] During the hearing held at the 130th session, the Venezuelan State gave a lengthy presentation concerning this law, describing it as the vehicle for the measures of protection ordered by the Inter-American Commission and the Inter-American Court.

[250] Report on human rights defenders (*supra* note 1), p. 15.

[251] Report on human rights defenders (*supra* note 1), p.15. The Commission was told of a statement made by the Minister of Communication and Information, William Lara, to the effect that "the NGOs are fronts for certain people. Freedom House is financed by the U.S. Agency for International Development and the State Department; the same government agencies are also funding Espacio Público." News article in El Nacional. Friday, May 4, 2007, p. Nación/4.

[252] Speech that the Attorney General delivered before the National Assembly. Six years building a new Public Ministry. The text states the following: "In 2006, certain sectors with opposition ties, perhaps the most conservative elements who are stubbornly resisting social change in Venezuela, with support from certain private sectors in the mass media, have been trying to focus the country's national agenda around two issues: insecurity and impunity. The mere attempt to pull these two issues to the forefront undoubtedly affects the State, its peace, calm, tranquility, harmony, its truce, and obviously its governance. Significant criminological research, done with a discerning approach, has explained how the issues of impunity and insecurity can be built up and blown out of proportions if one's perverse intentions are to destabilize and, out of malice and cruelty, force these two issues –or at least one of them- onto the political agenda. Whether their purposes are explicable or inexplicable, foreseeable or unforeseeable, the calculation is political and the end well thought out."

[253] IACHR, Annual Report 2006. Chapter IV. Venezuela, paragraph 219.

[254] IACHR. Report on the Situation of Human Rights Defenders in the Americas. March 7, 2006. Recommendation 10.

[255] Information obtained during the hearings held during the 130th session of the IACHR.

[256] Press release No. 26, dated July 19, 2006. "Inter-American Commission on Human Rights Concerned over Venezuelan Draft Legislation on International Cooperation."

[257] Report on human rights defenders (*supra* note 1), pp. 50 and 51. Interview that Marino Alvarado gave to the Caracas Vicarship on Human Rights, June 26, 2007..

[258] Articles 51 and 143 of the Constitution of the Bolivarian Republic of Venezuela provide:

Everyone has the right to petition or make representations before any authority or public official concerning matters within their competence, and to obtain a timely and adequate response. Whoever violates this right shall be punished in accordance with law, including the possibility of dismissal from office.

Citizens have the right to be informed by Public Administration, in a timely and truthful manner, of the status of proceedings in which they have a direct interest, and to be apprised of any final decisions adopted in the matter. Likewise, they have access to administrative files and records, without prejudice to the limits acceptable in a democratic society in matters relating to internal and external security, criminal, investigation and the intimacy of private life, in accordance with law regulating the matter of classification of documents with contents which are confidential or secret. No censorship of public officials reporting on matters for which they are responsible shall be permitted.

[259] IACH.R., *Case of Claude Reyes*. Judgment of September 19, 2006. Series C No. 151, paragraphs 92 and 93.

[260] Article in the newspaper *El Progreso*. Assaulted journalist Miguel Bellorín. Article appeared on February 5, 2007. Available at <http://www.diarioelprogreso.com/edi-050207/html/paq44-c.htm>. Website visited on November 5, 2007; Instituto Prensa y Sociedad. Venezuela. Municipal employee assaults radio reporter in the wake of critical reports. Alerta of March 15, 2007. Available at: <http://www.ifex.org/es/content/view/full/81766>. Website visited on November 5, 2007.

[261] Instituto Prensa y Sociedad: Police assault photographers to prevent them from covering an incident at a soccer game." Alerta of May 16, 2007. Available at: http://www.ipys.org.ve/2007/a_CD_DP.htm. Website visited on November 5, 2007.

[262] Report on Political Discrimination in Venezuela (2003 – 2007). Case Studies. Asociación Civil Control Ciudadano para la Seguridad, la Defensa y la Fuerza Armada Nacional. p. 235. Cited in an article that appeared in *El Universal*, May 30, 2007. Available at: http://www.eluniversal.com/2007/05/30/pol_art_periodista-acusa-al_303824.shtml. Website visited on November 5, 2007.

[263] AMNESTY INTERNATIONAL. PRESS RELEASE. Venezuela: Freedom of Expression in Danger. AI Index: AMR 53/003/2007 (Public) News Service No.: 094/07, May 10, 2007, available at: <http://web.amnesty.org/library/Index/ESLAMR530032007>.

[264] Instituto Prensa y Sociedad. Venezuela: They shoot up the house of a columnist in Zulia. Alerta of March 27, 2007, available at: http://www.ipys.org.ve/2007/a_CD_reporte.htm. Website visited on November 5, 2007.

[265] Instituto Prensa y Sociedad: Reporters assaulted in Táchira. Alerta, May 20, 2007. Available at: http://www.ipys.org.ve/2007/a_CD_VTVTACHIRA.htm. Website visited on November 5, 2007.

[266] PROVEA. Derechos Humanos y Coyuntura. E-Bulletin No. 191, September 26 to October 16, 2007. Article available at: http://noticias.eluniversal.com/2007/09/28/pol_art_sip-repudia-agresion_500076.shtml. Website visited on November 5, 2007.

[267] IACHR, Annual Report 2002. Volume II, Report of the Rapporteur on Freedom of Expression: Chapter IV, Freedom of Expression and Poverty, paragraph 7.

[268] See Inter-American Court of Human Rights, Compulsory Membership in an Association Prescribed by Law for the Practice of Journalism, Advisory Opinion OC-5/85 Series A, No. 5, paragraph 70.

[269] Press release. Reporters Without Borders. Available at: http://www.rsf.org/article.php3?id_article=21760. Website visited on October 27, 2007 and November 7, 2007.

[270] IACHR. Report on the Compatibility of Desacato Laws with the American Convention on Human Rights, OEA/Ser.L/V/II/88, Doc. 9 rev., February 17, 1995, 197-212. See also, I/A Court H.R., Case of Canese, Judgment of August 31, 2004, paragraphs 96-98; I/A Court H.R., Case of Herrera Ulloa, paragraphs 121 and 123; see also Eur. Court H. R., Case of *The Sunday Times v. United Kingdom*, par. 59; and Eur. Court H. R., Case of *Barthold v. Germany*, par. 59.

[271] PROVEA. Derechos Humanos y Coyuntura. E-Bulletin No. 189, July 28 to August 18, 2007. Citing: Article in *El Nacional*, August 14, 2007.

[272] Reporters Without Borders For Press Freedoms . National Assembly approves constitutional reform restricting access to information under State of Emergency. October 26, 2007. Available at: http://www.rsf.org/article.php3?id_article=24056.

[\[273\]](#) See Inter-American Court of Human Rights, The Word "Laws" in Article 30 of the American Convention on Human Rights, Advisory Opinion OC-6/86, May 9, 1986, Inter-Am. Ct. H.R. (Ser. A) No. 6.

	AMERICAN CONVENTION ON HUMAN RIGHTS "Pact of San José" Signed at the Inter-American Specialized Conference on Human Rights, San José, Costa Rica held from November 8-22 1969 ENTRY INTO FORCE: July 18, 1978	ACCEPTANCE OF THE JURISDICTION OF THE INTER-AMERICAN COURT OF HUMAN RIGHTS	ADDITIONAL PROTOCOL TO THE AMERICAN CONVENTION ON HUMAN RIGHTS IN THE AREA OF ECONOMIC, SOCIAL AND CULTURAL RIGHTS "PROTOCOL OF SAN SALVADOR" (Adopted at San Salvador, El Salvador on November 17, 1988) ENTRY INTO FORCE: November 16, 1999	PROTOCOL TO THE AMERICAN CONVENTION ON HUMAN RIGHTS TO ABOLISH THE DEATH PENALTY (Adopted at Asunción, Paraguay, on June 8, 1990) ENTRY INTO FORCE: August 28, 1991	INTER-AMERICAN CONVENTION TO PREVENT AND PUNISH TORTURE (Adopted at Cartagena de Indias, Colombia, on December 9, 1985) ENTRY INTO FORCE: February 28, 1987	INTER-AMERICAN CONVENTION ON FORCED DISAPPEARANCE OF PERSONS (Adopted at Belém do Pará, on June 9, 1994) ENTRY INTO FORCE: March 28, 1996	INTER-AMERICAN CONVENTION ON THE PREVENTION, PUNISHMENT, AND ERADICATION OF VIOLENCE AGAINST WOMEN "CONVENTION OF BELÉM DO PARÁ" (Adopted at Belém do Pará, Brazil, on June 9, 1994) ENTRY INTO FORCE: March 5, 1995	INTER-AMERICAN CONVENTION ON THE ELIMINATION OF ALL FORMS OF DISCRIMINATION AGAINST PERSONS WITH DISABILITIES (Adopted at Guatemala City, Guatemala on June 7, 1999) ENTRY INTO FORCE: September 14, 2001
Antigua and Barbuda	-	-	-	-	-	-	AD 11.19.98	-
Argentina ¹	R 09.05.84	A 09.05.84	R 10.23.03	F 12.12.06	R 03.31.89	R 02.28.96	R 07.05.96	R 01.10.01
Bahamas ²	-	-	-	-	-	-	AD 05.16.95	-
Barbados ³	R 11.27.82	A 06.04.00	-	-	-	-	R 05.16.95	-
Belize	-	-	-	-	-	-	AD 11.25.96	-
Bolivia ⁴	AD 07.19.79	A 07.27.93	R 10.05.06	-	R 11.21.06	R 05.05.99	R 12.05.94	R 05.30.03
Brazil ⁵	AD 09.25.92	A 12.10.98	AD 08.21.96	R 08.13.96	R 07.20.89	F 06.10.94	R 11.27.95	R 08.15.01
Canada	-	-	-	-	-	-	-	-
Chile ⁶	R 08.21.90	A 08.21.90	F 06.05.01	F 09.10.01	R 09.30.88	F 06.10.94	R 11.15.96	R 02.26.02
Colombia ⁷	R 07.31.73	A 06.21.85	AD 12.23.97	-	R 01.19.99	R 04.12.05	AD 11.15.96	R 02.11.04
Costa Rica ⁸	R 04.08.70	A 07.02.80	R 11.16.99	R 05.26.98	R 02.08.00	R 06.02.96	R 07.12.95	R 02.08.00
Cuba	-	-	-	-	-	-	-	-
Dominica ⁹	R 06.11.93	-	-	-	-	-	R 06.06.95	F 06.08.99
Dominican Republic ¹⁰	R 04.19.78	A 03.25.99	F 11.17.88	-	R 01.29.87	-	R 03.07.96	R 02.05.07
Ecuador ¹¹	R 12.28.77	A 07.24.84	R 03.25.93	R 04.15.98	R 11.09.99	R 07.27.06	R 09.15.95	R 03.18.04
El Salvador ¹²	R 06.23.78	A 06.06.95	R 06.06.95	-	R 12.05.94	-	R 01.26.96	R 03.08.02
Grenada ¹³	R 07.18.78	-	-	-	-	-	R 02.15.01	-
Guatemala ¹⁴	R 05.25.78	A 03.09.87	R 10.05.00	-	R 01.29.87	R 02.25.00	R 04.04.95	R 01.28.03
Guyana	-	-	-	-	-	-	R 02.28.96	-
Haiti ¹⁵	AD 09.27.77	A 03.20.98	F 11.17.88	-	F 06.13.86	-	R 06.02.97	F 06.08.99
Honduras ¹⁶	R 09.08.77	A 09.09.81	-	-	F 03.11.86	R 07.11.05	R 07.12.95	-
Jamaica ¹⁷	R 08.07.78	-	-	-	-	-	R 12.14.05	F 06.08.99
Mexico ¹⁸	AD 03.24.81	A 12.16.98	R 04.16.96	R 06.28.07	R 06.22.87	R 04.09.02	R 11.12.98	R 01.25.01
Nicaragua ¹⁹	R 09.25.79	A 02.12.91	F 11.17.88	R 11.09.99	F 09.29.87	F 06.10.94	R 12.12.95	R 11.25.02
Panama ²⁰	R 06.22.78	A 05.09.90	R 02.18.93	R 08.28.91	R 08.28.91	R 02.28.96	R 07.12.95	R 02.16.01
Paraguay ²¹	R 08.24.89	A 03.11.93	R 06.03.97	R 12.07.00	R 03.09.90	R 11.26.96	R 10.18.95	R 10.22.02
Peru ²²	R 07.28.78	A 01.21.81	R 06.04.95	-	R 03.28.91	R 02.13.02	R 06.04.96	R 08.30.01
Saint Kitts and Nevis	-	-	-	-	-	-	R 06.12.95	-
Saint Vincent and the Grenadines	-	-	-	-	-	-	R 05.31.96	-
Santa Lucia	-	-	-	-	-	-	R 04.04.95	-
Suriname ²³	AD 11.12.87	A 11.12.87	AD 07.10.90	-	R 11.12.87	-	R 03.08.02	-
Trinidad and Tobago ²⁴	D 05.26.99	D 05.26.99	-	-	-	-	R 05.08.96	-
United States	F	-	-	-	-	-	-	-
Uruguay ²⁵	R 04.19.85	A 04.19.85	R 04.02.96	R 04.04.94	R 11.10.92	R 04.02.96	R 04.02.96	R 07.20.01
Venezuela ²⁶	R 08.09.77	A 06.24.81	F 01.27.89	R 10.06.93	R 08.26.91	01.19.99	R 02.03.95	R 09.28.06

- R Ratification
A Acceptance of the Jurisdiction of the Inter-American Court of Human Rights
S Signature not followed by ratification
D Date of denunciation of the American Convention on Human Rights
AD Accesion

1. Argentina:

(Reservation and interpretative declarations made at the time of ratification)

The instrument of ratification was received at the General Secretariat of the OAS on September 5, 1984, with a reservation and interpretative declarations. The notification procedure of the reservation was taken in conformity with the Vienna Convention on the Law of Treaties signed on May 23, 1969.

The texts of the above-mentioned reservation and of the interpretative declarations are the following:

I. Reservation:

Article 21 is subject to the following reservation: "The Argentine Government establishes that questions relating to the Government's economic policy shall not be subject to review by an international tribunal. Neither shall it consider reviewable anything the national courts may determine to be matters of 'public utility' and 'social interest', nor anything they may understand to be 'fair compensation'."

II. Interpretative Declarations:

Article 5, paragraph 3, shall be interpreted to mean that a punishment shall not be applied to any person other than the criminal, that is, that there shall be no vicarious criminal punishment.

Article 7, paragraph 7, shall be interpreted to mean that the prohibition against "detention for debt" does not involve prohibiting the state from basing punishment on default of certain debts, when the punishment is not imposed for default itself but rather for a prior independent, illegal, punishable act.

Article 10 shall be interpreted to mean that the "miscarriage of justice" has been established by a national court.

Recognition of Competence

In the instrument of ratification dated August 14, 1984, and deposited with the General Secretariat of the OAS on September 5, 1984, the Government of Argentina recognizes the competence of the Inter-American Commission on Human Rights and on the jurisdiction of the Inter-American Court of Human Rights. This recognition is for an indeterminate period and on condition of reciprocity on all cases related to the interpretation or application of the Convention cited, with the partial reservation and bearing in mind the interpretative statements contained in the instrument of ratification.

The instrument of ratification further notes that the obligations undertaken by virtue of the Convention shall only be effective as regards acts that have occurred after the ratification of the above-mentioned instrument.

2. Bahamas:

Inter-American Convention on the Prevention, Punishment, and Eradication of Violence Against Women "Convention Of Belém Do Pará"

(Declaration made at the time of signature)

Article 7(g) of the Convention imports no obligation upon the Government of the Commonwealth of The Bahamas to provide any form of compensation from public funds to any woman who has been subjected to violence in circumstances in which liability would not normally have been incurred under existing Bahamian law.

3. Barbados:

(Reservations made at the time of ratification)

The instrument of ratification was received at the General Secretariat of the OAS on November 5, 1981, with reservations. Notification of the reservations submitted was given in conformity with the Vienna Convention on the Law of Treaties, signed on May 23, 1969. The twelve-month period from the notification of said reservations expired on November 26, 1982, without any objection being raised to the reservations.

The text of the reservations with respect to Articles 4(4), 4(5) and 8(2) (e), is the following:

In respect of 4(4) the criminal code of Barbados provides for death by hanging as a penalty for murder and treason. The Government is at present reviewing the whole matter of the death penalty which is only rarely inflicted but wishes to enter a reservation on this point inasmuch as treason in certain circumstances might be regarded as a political offence and falling within the terms of section 4(4)

In respect of 4(5) while the youth or old age of an offender may be matters which the Privy Council, the highest Court of Appeal, might take into account in considering whether the sentence of death should be carried out, persons of 16 years and over or over 70 years of age may be executed under Barbadian law.

In respect of 8(2)(e) Barbadian law does not provide as a minimum guarantee in criminal proceeding any inalienable right to be assisted by counsel provided by the state. Legal aid is provided for certain scheduled offences such as homicide, and rape.

4. **Bolivia:**

Recognition of competence:

On July 27, 1993 the instrument of recognition of the competence of the Inter-American Court of Human Rights was deposited with the OAS General Secretariat, in accordance with Article 62 of the American Convention on Human Rights, with the following declaration:

I. The Constitutional Government of the Republic, under Article 59, paragraph 12, of the State Constitutional, by Law 1430 of February 11, approved and ratified the American Convention on Human Rights "Pact of San Jose", signed at San Jose, Costa Rica, on November 22, 1969, and recognized the competence of the Inter-American Commission on Human Rights and the Inter-American Court of Human Rights, under Articles 45 and 62 of the Convention.

II. By virtue of the power vested in me under Article 96, paragraph 2, Constitution of the State, I issue this instrument ratifying the American Convention on Human Rights "Pact of San Jose", recognizing the competence of the Inter-American Commission on Human Rights, and recognizing as binding, *ipso facto*, unconditionally and indefinitely the jurisdiction of the Inter-American Court of Human Rights, under Article 62 of the Convention.

The Government of Bolivia in letter OAS/262/93, of July 22, 1993, made an interpretative declaration at the time of deposit of the instrument of recognition of the competence of the Inter-American Court of Human Rights. The text of the declaration is as follows:

"The Government of Bolivia declares that the norms of unconditionally and indeterminacy shall apply with strict observance to the Constitution of Bolivia, especially with respect to the principles of reciprocity, non retroactivity and judicial autonomy."

5. **Brazil:**

(Interpretative declaration made at the time of adhesion)

The Government of Brazil understands that Articles 43 and 48, (D) do not include the automatic right of on site visits and inspections by the Inter-American Commission of Human Rights, which will depend on the express consent of the State.

Recognition of competence:

The Government of the Federative Republic of Brazil declares its recognition as binding, for an indefinite period of time, *ipso jure*, of the jurisdiction of the Inter-American Court of Human Rights on all matters relating to the interpretation or application of the American Convention on Human Rights, according to Article 62 of that Convention, on the condition of reciprocity, and for matters arising after the time of this declaration.

(Date: December 10, 1998)

Protocol to the American Convention on Human Rights to Abolish the Death Penalty

In ratifying the Protocol to Abolish the Death Penalty, adopted in Asunción on June 8, 1990, make hereby, in compliance with constitutional requirements, a reservation under the terms of Article 2 of the said Protocol, which guarantees states parties the right to apply the death penalty in wartime in accordance with international law, for extremely serious crimes of a military nature.

6. **Chile:**

(Declaration made at the time of signature)

The Delegation of Chile signs this Convention, subject to its subsequent parliamentary approval and ratification, in accordance with the constitutional rules in force. Such parliamentary approval was later granted and the instrument of ratification was deposited with the General Secretariat of the OAS.

(Reservations made at the time of ratification)

a) The Government of Chile declares that it recognizes, for an indefinite period of time and on the condition of reciprocity, the competence of the Inter-American Commission on Human Rights to receive and examine communications in which a State Party alleges that another State Party has committed a violation of the human rights established in the American Convention on Human Rights, as provided for in Article 45 of the Convention.

b) The Government of Chile declares that it recognizes as binding, *ipso facto*, the jurisdiction of the Court on all matters relating to the interpretation or application of the Convention in accordance with its Article 62.

In making these declarations, the Government of Chile places on record that this recognition of the competence and jurisdiction of the Commission applies to events subsequent to the date of deposit of this instrument of ratification or, in any case, to events which began subsequent to March 11, 1990. Moreover, in acknowledging the competence and jurisdiction of the Inter-American Commission on Human Rights and the Inter-American Court of Human Rights, the Government of Chile declares that, when these bodies apply the provisions of Article 21.2 of the Convention, they may not make statements concerning the reasons of public utility or social interest taken into account in depriving a person of his property.

Inter-American Convention to Prevent and Punish Torture

(Reservations made at the time of ratification)

a) To Article 4, to the effect that, inasmuch as it alters the principle of "automatic obedience" established in Chile's domestic law, the Government of Chile will enforce the provisions of that international rule in respect of subordinate personnel subject to the jurisdiction of the Code of Military Justice, provided that execution of an order whose obvious intent is the perpetration of the acts stipulated in Article 2, is not demanded by the superior over the subordinate's representation.

b) With regard to the final paragraph of Article 13, because of the discretionary and subjective way in which the rule is drafted.

c) The Government of Chile states that in its relations with the countries of the Americas that are Parties to the present Convention, it will apply this Convention in those cases where there is incompatibility between its provisions and those of the Convention against torture and other Cruel, Inhuman, or Degrading Treatment or Punishment, adopted by the United Nations in 1984.

d) With regard to the third paragraph of Article 8, since a case may only be submitted to the international fora whose competence has been recognized by the State of Chile.

Withdrawal of Reservations:

On August 21, 1990 deposited an instrument dated May 18, 1990, withdrawing the reservations formulated by the Government of Chile to Article 4 and to the final paragraph of Article 13 of the Convention.

7. Colombia

Recognition of Competence:

On 21 June 1985 presented an instrument of acceptance by which recognizes the competence of the Inter-American Commission on Human Rights for an indefinite time, on the condition of strict reciprocity and nonretroactivity, for cases involving the interpretation or application of the Convention, and reserves the right to withdraw its recognition of competence should it deem this advisable. The same instrument recognizes the jurisdiction of the Inter-American Court of Human Rights, for an indefinite time, on the condition of reciprocity and nonretroactivity, for cases involving the interpretation or application of the Convention, and reserves the right to withdraw its recognition of competence should it deem this advisable.

8. Costa Rica

Recognition of Competence:

Deposited on 2 July 1980 at the General Secretariat of the OAS an instrument recognizing the competence of the Inter-American Commission on Human Rights and the jurisdiction of the Inter-American Court of Human Rights, in accordance with Articles 45 and 62 of the Convention.

(Declaration and reservations made at the time of ratification)

- 1) That Costa Rica declares that it recognizes, without conditions and while the American Convention on Human Rights remains in effect, the competence of the Inter-American Commission to receive and examine communications in which a State Party alleges that another State Party has committed a violation of human rights established by the cited Convention.
- 2) That Costa Rica declares that it recognizes, without conditions and while the American Convention on Human Rights remains in effect, the mandatory jurisdiction of the Court, as a matter of law and without a specific convention on the Inter-American Court on Human Rights, on all cases relating to the interpretation or application of such multilateral treaty.

9. Dominica:

(Reservation made at the time of ratification)

On June 3, 1993, the Commonwealth of Dominica ratified the American Convention on Human Rights, with the following reservations:

- 1) Article 5. This should not be read as prohibiting corporal punishment administered in accordance with the Corporal Punishment Act of Dominica or the Juvenile Offenders Punishment Act.
- 2) Article 4.4. Reservation is made in respect of the words "or related common crimes".
- 3) Article 8.2.(e). This Article shall not apply in respect of Dominica.
- 4) Article 21.2. This must be interpreted in the light of the provisions of the Constitution of Dominica and is not to be deemed to extend or limit the rights declared in the Constitution.
- 5) Article 27.1. This must also be read in the light of our Constitution and is not to be deemed to extend or limit the rights declared by the Constitution.
- 6) Article 62. The Commonwealth of Dominica does not recognize the jurisdiction of the Court.

10. Dominican Republic:

(Declaration made at the time of signature)

The Dominican Republic, upon signing the American Convention on Human Rights, aspires that the principle pertaining to the abolition of the death penalty shall become purely and simply that, with general application throughout the states of the American region, and likewise maintains the observations and comments made on the aforementioned Draft Convention which it distributed to the delegations to the Council of the Organization of American States on 20 June 1969.

Recognition of jurisdiction

The Government of the Dominican Republic, by way of this instrument, declares that it recognizes as binding, as a matter of law, and not requiring special agreement, the jurisdiction of the Inter-American Court of Human Rights on all matters relating to the interpretation or application of the American Convention on Human Rights, of November 22, 1969.

Inter-American Convention on the Elimination of All Forms of Discrimination against Persons with Disabilities

On February 5, 2007, the Dominican Republic deposited its instrument of ratification of the Inter-American Convention on the Elimination of All Forms of Discrimination against Persons with Disabilities. The Convention had been ratified by the Dominican Republic on December 28, 2006.

11. Ecuador:

(Declaration made at the time of signature)

The Delegation of Ecuador has the honor of signing the American Convention on Human Rights. It does not believe that it is necessary to make any specific reservation at this time, without prejudice to the general power set forth in the Convention itself that leaves the governments free to ratify it or not.

Recognition of Competence:

On July 24, 1984 recognized the applicability of Articles 45 and 62 of the American Convention on Human Rights, by Decree No. 2768 of July 24, 1984, published in the Registro Oficial No. 795 on July 27 of said month and year.

In addition, the Minister of Foreign Affairs of Ecuador made the following declaration on July 30, 1984, in conformity with Articles 45(4) and 62(2) of the above-mentioned Convention:

In keeping with the provisions of Article 45, paragraph 1, of the American Convention on Human Rights--Pact of San José, Costa Rica-- (ratified by Ecuador on October 21, 1977, and in force since October 27, 1977), the Government of Ecuador recognizes the competence of the Inter-American Commission on Human Rights to receive and examine communications in which a State Party alleges that another State Party has committed a violation of the human rights set forth in the Convention, under the terms provided for in paragraph 2 of that Article.

This recognition of competence is to be valid for an indefinite time and on condition of reciprocity.

As provided in Article 62, paragraph 1, of the Convention in reference, the Government of Ecuador declares that it recognizes as binding, *ipso facto*, and not requiring special agreement, the jurisdiction of the Inter-American Court of Human Rights on all matters relating to the interpretation or application of the Convention.

This recognition of jurisdiction is for an indeterminate period and on condition of reciprocity. The Ecuadorian State reserves the right to withdraw its recognition of this competence and this jurisdiction whenever it may deem it advisable to do so.

12. El Salvador:

(Declaration and reservations made at the time of ratification)

The present Convention is ratified, its provisions being interpreted to mean that the Inter-American Court of Human Rights shall have jurisdiction to hear any case that can be submitted to it, either by the Inter-American Commission on Human Rights or by any state party, provided that the State of El Salvador, as a party to the case, recognizes or has recognized such jurisdiction, by any of the means and under the arrangements indicated in the Convention.

The American Convention on Human Rights, known as the "Pact of San José, Costa Rica", signed at San José, Costa Rica, on 22 November 1969, composed of a preamble and eighty-two articles, approved by the Executive Branch in the Field of Foreign Affairs by Agreement 405, dated June 14 of the current year, is hereby ratified, with the reservation that such ratification is understood without prejudice to those provisions of the Convention that might be in conflict with express precepts of the Political Constitution of the Republic.

The instrument of ratification was received at the General Secretariat of the OAS on 23 June 1978 with a reservation and a declaration. The notification procedure of the reservation was taken in conformity with the Vienna Convention on the Law of Treaties signed on 23 May 1969.

Recognition of Competence deposited on June 6, 1995:

I. The Government of El Salvador recognizes as binding, *ipso facto*, and not requiring special agreement, the jurisdiction of the Inter-American Court of Human Rights, in accordance with Article 62 of the American Convention on Human Rights, "Pact of San José."

II. The Government of El Salvador, in recognizing that competence, expressed that its recognition is for an indefinite period and on condition of reciprocity, and that it retains the right to include exclusively subsequent deeds or juridical acts or deeds or juridical acts began subsequent to the date of deposit of this declaration of acceptance, by reserving the right to withdraw its recognition of competence whenever it may deem it advisable to do so.

III. The Government of El Salvador recognizes the competence of the Court, insofar as this recognition is compatible with the provisions in the constitution of the Republic of El Salvador.

13. Grenada:

By way of an instrument dated July 14, 1978, the Prime Minister and the Minister of Foreign Affairs of this state ratified the American Convention on Human Rights on its behalf.

14. Guatemala:

(Reservation made at the time of ratification)

The Government of the Republic of Guatemala ratifies the American Convention on Human Rights, signed at San José, Costa Rica, on 22 November 1969, with a reservation as to Article 4, paragraph 4 thereof, since the Constitution of the Republic of Guatemala, in its Article 54, only excludes the application of the death penalty to political crimes, but not to common crimes related to political crimes.

The instrument of ratification was received at the General Secretariat of the OAS on 25 May 1978 with a reservation. The notification procedure of the reservation was taken in conformity with the Vienna Convention on the Law of Treaties signed on 23 May 1969.

Withdrawal of Guatemala's reservation:

The Government of Guatemala, by Government Agreement N° 281-86, dated 20 May 1986, has withdrawn the above-mentioned reservation, which was included in its instrument of ratification dated 27 April 1978, considering that it is no longer supported by the Constitution in the light of the new legal system in force. The withdrawal of the reservation will become effective as of 12 August 1986, in conformity with Article 22 of the Vienna Convention on the Law of Treaties of 1969, in application of Article 75 of the American Convention on Human Rights.

Recognition of Competence:

On 9 March 1987, presented at the General Secretariat of the OAS, the Government Agreement N° 123-87, dated 20 February 1987, of the Republic of Guatemala, by which it recognizes the jurisdiction of the Inter-American Court of Human Rights, in the following terms:

"(Article 1) To declare that it recognizes as binding, *ipso facto*, and not requiring special agreement, the jurisdiction of the Inter-American Court of Human Rights on all matters relating to the interpretation or application of the American Convention on Human Rights."

"(Article 2) To accept the competence of the Inter-American Court of Human Rights for an indefinite period of time, such competence being general in nature, under terms of reciprocity and with the reservation that cases in which the competence of the Court is recognized are exclusively those that shall have taken place after the date that this declaration is presented to the Secretary General of the Organization of American States."

Inter-American Convention on Forced Disappearance of Persons

Pursuant to Article XIX of the Convention, the Republic of Guatemala, upon ratifying the Convention, formulates a reservation regarding the application of Article V thereof, since Article 27 of its Political Constitution establishes that "extradition proceedings, for political crimes shall not be instituted against Guatemalans, who shall in no case be handed over to a foreign government, except as provided in treaties and conventions concerning crimes against humanity or against international law," and that for the time being, there is no domestic Guatemalan legislation governing the matter of extradition.

Withdrawal of the reservation regarding the application of article V made at the time of the reservation (September 7, 2001).

Inter-American Convention To Prevent And Punish Torture

(Reservation made at the time of signature)

The Republic of Guatemala does not accept the application nor shall it apply the third paragraph of Article 8, because in conformance with its domestic legal procedures, when the appeals have been exhausted, the decision acquitting a defendant charged with the crime of torture becomes final and may not be submitted to any international fora.

Withdrawal of Reservations: On October 1, 1990, deposited at the General Secretariat, an instrument dated August 6, 1990, withdrawing the reservation made by the Government of Guatemala at the time of signing the Convention and reiterated at the time of ratifying it on December 10, 1986.

15. Haiti:

By way of an instrument dated September 14, 1977, the President of this state, in accordance with Article 93 of its national constitution, ratified the American Convention on Human Rights, promising that it would be strictly observed.

Recognition of Competence:

Having seen the Constitution of the Republic of 1987; and

Having seen the law dated August 18, 1979, whereby the Republic of Haiti ratified the American Convention on Human Rights.

Hereby declare that we recognize as binding, *ipso facto*, and not requiring special agreement, the jurisdiction of the Inter-American Court of Human Rights on all matters relating to the interpretation or application of the Convention. This declaration has been issued for presentation to the General Secretariat of the Organization of American States, which shall transmit copies thereof to the other member states of the Organization and to the Secretary of the Court, pursuant to Article 62 of the Convention.

Attached to the present declaration is the law of August 18, 1979, whereby the Republic of Haiti ratified the American Convention on Human Rights, which was promulgated in the Official Journal of the Republic.

Done in the National Palace, in Port-au-Prince, on March 3, 1998, the 195th year of independence.

16. Honduras:

Recognition of Competence:

On 9 September 1981, presented at the General Secretariat of the OAS, an instrument recognizing the jurisdiction of the Inter-American Court of Human Rights in accordance with Article 62 of the Convention.

17. Jamaica:

Recognition of Competence:

The instrument of ratification, dated July 19, 1978, states, in conformity with Article 45, paragraph 1 of the Convention, that the Government of Jamaica recognizes the competence of the Inter-American Commission on Human Rights to receive and examine communications in which a State Party alleges that another State Party has committed a violation of a human right set forth in this Convention.

18. Mexico:

(Declarations and reservation made at the time of ratification)

The instrument of accession was received at the General Secretariat of the OAS on 24 March 1981, with two interpretative declarations and one reservation. Notification of the reservation submitted was given in conformity with the provisions of the Vienna Convention on the Law of Treaties, signed on 23 May 1969. The twelve-month period from the notification of said reservation expired on 2 April 1982, without any objection being raised to the reservation.

The texts of the interpretative declarations and the reservation are the following:

Interpretive Declarations:

With respect to Article 4, paragraph 1, the Government of Mexico considers that the expression "in general" does not constitute an obligation to adopt, or keep in force, legislation to protect life "from the moment of conception," since this matter falls within the domain reserved to the States.

Furthermore, the Government of Mexico believes that the limitation established by the Mexican Constitution to the effect that all public acts of religious worship must be performed inside places of public worship, conforms to the limitations set forth in Article 12, paragraph 3. This interpretive declaration was withdrawn on April 9, 2002.

Reservation:

The Government of Mexico makes express reservation to Article 23, paragraph 2, since the Mexican Constitution provides, in Article 130, that ministers of denominations shall not have an active or passive vote, nor the right to associate for political purposes.

Declaration for Recognition of the Jurisdiction of the Inter-American Court of Human Rights

1. The United States of Mexico recognizes as binding *ipso facto* the adjudicatory jurisdiction of the Inter-American Court of Human Rights on matters relating to the interpretation or application of the American Convention on Human Rights, in accordance with article 62.1 of the same, with the exception of cases derived from application of article 33 of the Political Constitution of the United States of Mexico

2. Acceptance of the adjudicatory jurisdiction of the Inter-American Court of Human Rights shall only be applicable to facts or juridical acts subsequent to the date of deposit of this declaration, and shall not therefore apply retroactively.

3. Acceptance of the adjudicatory jurisdiction of the Inter-American Court of Human Rights is of a general nature and shall continue in force for one year after the date of which the United States of Mexico gives notice it has denounced it.

Inter-American Convention on Forced Disappearance of Persons

Reservation made when depositing the instrument of ratification (April 9, 2002)

"The Government of the United Mexican States, upon ratifying the Inter-American Convention on the Forced Disappearance of Persons adopted in Belem, Brazil on June 9, 1994 makes express reservation to Article IX, inasmuch as the Political Constitution recognizes military jurisdiction when a member of the armed forces commits an illicit act while on duty. Military jurisdiction does not constitute a special jurisdiction in the sense of the Convention given that according to Article 14 of the Mexican Constitution nobody may be deprived of his life, liberty, property, possessions, or rights except as a result of a trial before previously established courts in which due process is observed in accordance with laws promulgated prior to the fact."

Interpretative declaration made when depositing the instrument of ratification (April 9, 2002)

"Based on Article 14 of the Political Constitution of the United Mexican States, the Government of Mexico declares, upon ratifying the Inter-American Convention on the Forced Disappearance of Persons adopted in Belem, Brazil on June 9, 1994, that it shall be understood that the provisions of said Convention shall apply to acts constituting the forced disappearance of persons ordered, executed, or committed after the entry into force of this Convention."

Protocol to the American Convention on Human Rights to Abolish the Death Penalty

On June 28, 2007, Mexico ratified the Protocol to the American Convention on Human Rights to Abolish the Death Penalty; Mexico deposited its instrument of ratification on August 20, 2007.

19. Nicaragua:

Recognition of Competence:

On February 12, 1991, presented at the General Secretariat of the OAS, an instrument dated January 15, 1991, by which the Government of Nicaragua declares:

I. The Government of Nicaragua recognizes as binding as of right with no special convention the competence of the Inter-American Court of Human Rights in all cases involving interpretation and application of the Inter-American Convention on Human Rights, "Pact of San Jose, Costa Rica," by virtue of Article 62(1) thereof.

II. The foregoing notwithstanding, the Government of Nicaragua states for the record that its acceptance of the competence of the Inter-American Court of Human Rights is given for an indefinite period, is general in character and grounded in reciprocity, and is subject to the reservation that this recognition of competence applies only to cases arising solely out of events subsequent to, and out of acts which began to be committed after, the date of deposit of this declaration with the Secretary General of the Organization of American States.

On February 6, 2006, Nicaragua delivered a note to the General Secretariat in which it reported that the Government of the Republic of Nicaragua had added a third paragraph to the Declaration No. 49 of January 15, 1991 regarding the American Convention on Human Rights, in which it declares that it recognizes the competence of the Inter-American Commission on Human Rights to receive and examine communications in which a State Party alleges that another State Party has committed a violation of a human right set forth in the Convention, as provided in Article 45 thereof.

20. Panama:

Recognition of Competence:

On May 9, 1990, presented at the General Secretariat of the OAS, an instrument, dated February 20, 1990, by which it declares that the Government of the Republic of Panama recognizes as binding, *ipso facto*, the jurisdiction of the Court on all matters relating to the interpretation or application of the American Convention on Human Rights.

21. Paraguay:

Recognition of Competence:

On March 11, 1993, Paraguay presented to the General Secretariat of the OAS an instrument recognizing the jurisdiction of the Inter-American Court of Human Rights, "for an indefinite period of time and which should be interpreted in accordance with the principles of International Law in the sense that this recognition refers expressly to acts that occurred after the deposit of this instrument and only for cases in which there exists reciprocity."

22. Peru:Recognition of Competence and Jurisdiction

On January 21, 1981, an instrument issued by the Ministry of Foreign Affairs of the Republic of Peru, dated October 20, 1980, was presented to the OAS General Secretariat. The instrument states: "...As stipulated in paragraph 1 of Article 45 of the American Convention on Human Rights, or Pact of San José, Costa Rica (ratified by Peru on September 9, 1980), the Government of Peru recognizes the competence of the Inter-American Commission on Human Rights to receive and examine communications in which a state party alleges that another state party has committed a violation of a human right set forth in that Convention, as provided in paragraph 2 of that article. This recognition of competence is valid for an indefinite time and under the condition of reciprocity. As stipulated in paragraph 1 of Article 62 of the aforementioned Convention, the Government of Peru declares that its recognizes as binding, as a matter of law, and not requiring special agreement, the jurisdiction of the Inter-American Court of Human Rights on all matters relating to the interpretation or application of the Convention. This recognition of jurisdiction is valid for an indefinite time and under the condition of reciprocity"

Withdrawal of recognition of the contentious jurisdiction of the Inter-American Court of Human Rights

The Government of Peru, on July 8, 1999, declares:

In accordance with the American Convention on Human Rights, the Republic of Peru withdraws the declaration of recognition of the contentious jurisdiction of the Inter-American Court of Human Rights previously issued by the Peruvian Government under the optional clause pertaining to such recognition.

This withdrawal of recognition of the contentious jurisdiction of the Inter-American Court takes effect immediately and applies to all cases in which Peru has not replied to a complaint lodged with the Court.

Withdrawal of recognition of the contentious jurisdiction of the Court

The Government of Peru, on January 29, 2001, declares:

The recognition of the contentious jurisdiction of the Inter-American Court of Human Rights issued by Peru on October 20, 1980, is in full effect and is binding in all legal respects on the Peruvian state. Such effect should be understood as having been uninterrupted since the deposit of the declaration with the General Secretariat of the Organization of American States on January 21, 1981.

The Government of the Republic of Peru withdraws the declaration deposited on July 9, 1999, the intent of which was to withdraw the declaration of recognition of the contentious jurisdiction of the Inter-American Court of Human Rights under the optional clause pertaining to such recognition.

23. Suriname:

Accession.

Recognition of Competence:

On 12 November 1987, presented at the General Secretariat of the OAS, an instrument recognizing the jurisdiction of the Inter-American Court of Human Rights in accordance with Article 62 of the Convention.

24. Trinidad and Tobago:

(Reservations made at the time of accession)

1. As regards Article 4(5) of the Convention the Government of The Republic of Trinidad and Tobago makes reservation in that under the laws of Trinidad and Tobago there is no prohibition against the carrying out a sentence of death on a person over seventy (70) years of age.

2. As regards Article 62 of the Convention, the Government of the Republic of Trinidad and Tobago recognizes the compulsory jurisdiction of the Inter-American Court of Human Rights as stated in said article only to such extent that recognition is consistent with the relevant sections of the Constitution of the Republic of Trinidad and Tobago; and provided that any judgment of the Court does not infringe, create or abolish any existing rights or duties of any private citizen.

On May 26, 1998, the Republic of Trinidad and Tobago notified the Secretary General of the OAS of its denunciation of the American Convention. In accordance with Article 78(1) of the American Convention, the denunciation came into effect one year from the date of notification.

25. Uruguay:

(Reservation made at the time of signature)

Article 80.2 of the Constitution of Uruguay provides that a person's citizenship is suspended if the person is "under indictment on a criminal charge which may result in a penitentiary sentence." Such a restriction on the exercise of the rights recognized in Article 23 of the Convention is not envisaged among the circumstances provided for in Article 23, paragraph 2, for which reason the Delegation of Uruguay expresses a reservation on this matter.

(Reservation made at the time of ratification)

With the reservation made at the time of signature. Notification of this reservation was given in conformity with the Vienna Convention on the Law of Treaties, signed on May 23, 1969.

Recognition of Competence:

In the instrument of ratification dated March 26, 1985 and deposited with the General Secretariat of the OAS on April 19, 1985, the Government of the Oriental Republic of Uruguay declares that it recognizes the competence of the Inter-American Commission on Human Rights for an indefinite period and of the Inter-American Court of Human Rights on all matters relating to the interpretation or application of this Convention, on the condition of reciprocity, in accordance with Articles 45.3 and 62.2 of the Convention.

26. Venezuela:

(Reservation and declaration made at the time of ratification)

Article 60, paragraph 5 of the Constitution of the Republic of Venezuela establishes that: No one may be convicted in a criminal trial without first having been personally notified of the charges and heard in the manner prescribed by law. Persons accused of an offense against the *res publica* may be tried *in absentia*, with the guarantees and in the manner prescribed by law. Such a possibility is not provided for in Article 8, paragraph 1 of the Convention, and for this reason Venezuela formulates the corresponding reservations, and,

DECLARES: That, in accordance with the provisions of Article 45, paragraph 1 of the Convention, the Government of the Republic of Venezuela recognizes the competence of the Inter-American Commission on Human Rights to receive and examine communications in which a State Party alleges that another State Party has committed violations of human rights set forth in that Convention, in the terms stipulated in paragraph 2 of that article. This recognition of competence is made for an indefinite period of time.

The instrument of ratification was received at the General Secretariat of the OAS on 9 August 1977 with a reservation and a declaration. The notification procedure of the reservation was taken in conformity with the Vienna Convention on the Law of Treaties signed on 23 May 1969.

Recognition of Competence:

On 9 August 1977 recognized the competence of the Inter-American Commission on Human Rights and on 24 June 1981 recognized the jurisdiction of the Inter-American Court of Human Rights, in accordance with Articles 45 and 62 of the Convention, respectively.



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PRESS RELEASES 2007

63/07 - [IACHR Publishes Report on Access to Justice as a Guarantee of Economic, Social and Cultural Rights. Washington, D.C., December 26, 2007.](#)

62/07 - IACHR President urges States to ratify human rights treaties. Washington, D.C., December 18, 2007.

61/07 - IACHR President urges States to extend standing invitation to IACHR. Washington, D.C., December 18, 2007.

60/07 - IACHR Executive Secretary speaks at the Norman Manley Law School in Kingston. Washington, D.C., December 17, 2007.

59/07 - IACHR takes cases to the Inter-American Court. Washington, D.C., December 10, 2007.

58/07 - IACHR announces 131st period of sessions. Washington, D.C., December 5, 2007.

57/07 - Latin American Seminar on "Best Prison Practices" concludes. Buenos Aires, November 19, 2007.

56/07 - IACHR sponsors Latin American Seminar on "Best Prison Practices". Washington, D.C./Buenos Aires, November 12, 2007.

55/07 - Rapporteurship on Persons Deprived of Liberty in the Americas calls for investigation into deaths in Argentine prison. Washington, D.C., November 6, 2007.

54/07 - IACHR concludes its 130th regular period of sessions. Washington, D.C., October 19, 2007.

53/07 - IACHR Publishes Report on Implementation of Justice and Peace Law in Colombia. Washington, D.C., October 11, 2007.

52/07 - IACHR announces calendar of public hearings of the 130th period of sessions. Washington, D.C., September 27, 2007.

51/07 - IACHR Rapporteurship applauds approval of UN Declaration on Rights of Indigenous Peoples. Washington, D.C., September 18, 2007.

50/07 - IACHR Rapporteurship on the Rights of Women concludes visit to Chile. Washington, D.C., September 17, 2007.

49/07 - 129th IACHR Special Sessions come to a close. Asuncion, September 7, 2007.

48/07 - IACHR Special Rapporteur on Rights of Women visits Chile. Washington, D.C., September 4, 2007.

47/07 - IACHR expresses deep concern over electoral violence in Guatemala. Washington, D.C., August 31, 2007.

46/07 - IACHR announces public hearings for its 129th special sessions. Washington, D.C., August 29, 2007.

45/07 - IACHR President urges investigation into acts of violence in Oaxaca. Washington, D.C., August 16, 2007.

44/07 - IACHR Rapporteur urges respect for indigenous peoples' identity and territories. Washington, D.C., August 9, 2007.

43/07 - IACHR President meets with President of Mexico. Washington, D.C., August 8, 2007.

42/07 - IACHR releases report on visit to Bolivia. Washington, D.C., August 7, 2007.

41/07 - IACHR President visits Mexico city and Oaxaca. Washington, D.C., August 3, 2007.

40/07 - IACHR concludes its 128th regular period of sessions. Washington, D.C., August 1, 2007.

Text of **Resolution 03/07**, approved on July 17, 2007, during the 128 period of sessions of the IACHR

39/07 - IACHR cancels press conference. Washington, D.C., July 26, 2007.

38/07 - Press conference about the IACHR'S 128th period of sessions. Washington, D.C., July 23, 2007.

37/07 - IACHR announces regular sessions. Washington, D.C., July 23, 2007.

36/07 - IACHR deeply concerned over violence in Oaxaca. Washington, D.C., July 20, 2007.

35/07 - IACHR expresses its repudiation of the deaths of eleven legislators held as hostages by the FARC in Colombia. Washington, D.C., July 3, 2007.

34/07 - IACHR announces calendar of public hearings of the 128th period of sessions, webcast and posting of audio recordings. Washington, D.C., July 3, 2007.

33/07 - Invitation to Media to a briefing on the 128th period of sessions of the IACHR.

Washington, D.C., July 2, 2007.

32/07 - Rapporteur on the Rights of Persons Deprived of Liberty concludes visit to the Republic of Haiti. Port-au-Prince, June 21, 2007.

31/07 - The Rapporteur on the Rights of Persons deprived of Liberty will conduct on-site visit to the Republic of Haiti. Washington, D.C., June 15, 2007.

30/07 - IACHR urges States to follow its recommendations in the presentation of its 2006 Annual Report before the OAS General Assembly. Panama City, June 5, 2007.

29/07 - IACHR concerned about freedom of expression in Venezuela. Washington, D.C., May 25, 2007.

28/07 - IACHR announces regular period of sessions. Washington, D.C., May 17, 2007.

27/07 - IACHR signs Institutional Cooperation Agreement with the Ministry of Justice and Human Rights and the Public Defense Ministry of the Argentine Republic. Washington, D.C., May 11, 2007.

26/07 - IACHR Rapporteur on the Rights of Persons of African Descent and Against Racial Discrimination visits Colombia. Washington, D.C., May 11, 2007.

25/07 - IACHR condemns the murder of Judith Vergara Correa. Washington, D.C., April 30, 2007.

24/07 - IACHR encouraged by efforts to improve the human rights situation in Haiti. Port-au-Prince, April 20, 2007.

23/07 - IACHR presents a report on the impact of the armed conflict on Colombian women. Washington, D.C., April 13, 2007.

22/07 - IACHR to conduct on-site visit to Haiti. Washington, D.C., April 13, 2007.

21/07 - IACHR thanks Colombia's financial contribution. Washington, D.C., April 10, 2007.

20/07 - IACHR to visit Mexico. Washington, D.C., April 3, 2007.

19/07 - IACHR presents its 2006 Annual Report. Washington, D.C., March 29, 2007.

18/07 - The Rapporteurship on the Rights of Persons of African Descent and against Racial Discrimination calls to renew commitments to overcome the tragic legacies of slavery in the Americas. Washington, D.C., March 26, 2007.

17/07 - IACHR expresses its concern for insecurity of citizens and human rights violations in Guatemala. Washington, D.C., March 21, 2007.

16/07 - IACHR calls upon States to reflect on the importance of public security. Washington, D.C., March 15, 2007.

15/07 - President of the IACHR clarifies his expressions regarding Ecuador. Washington, D.C. March 9, 2007.

- 14/07** - IACHR ends its 127th regular period of sessions. Washington, D.C., March 9, 2007.
- 13/07** - IACHR appeals to be allowed to visit Venezuela. Washington, D.C., March 9, 2007.
- 12/07** - IACHR presents report about access to justice for women victims of violence in the Americas. Washington, D.C., March 8, 2007.
- 11/07** - Justice fails in defending women victims of violence: there is a pattern of impunity and discrimination. Washington, D.C. March 6, 2007.
- 10/07** - Invitation to media and announcement of webcast of the press conference on the IACHR's 127th period of sessions. Washington, D.C., March 6, 2007.
- 9/07** - The IACHR'S contributions in the promotion of human rights emphasized during the inauguration of the 127th period of sessions. Washington, D.C., February 26, 2007.
- 8/07** - IACHR announces webcast of public hearings. Washington, D.C., February 26, 2007.
- 7/07** - The IACHR elects officers and begins its regular session. Washington, D.C., february 26, 2007.
- 6/07** - IACHR starts 127th regular period of sessions. Washington, D.C., February 21, 2007.
- 5/07** - Invitation to journalists for a briefing on the 127th. regular period of sessions. Washington, D.C., February 15, 2007.
- 4/07** - IACHR expresses its condemnation for the murder of victim seeking reparation under the Justice and Peace Law in Colombia. Washington, D.C., February 2, 2007.
- 3/07** - IACHR condemns murder of union leader Pedro Zamora in Guatemala. Washington, D.C., January 19, 2007.
- 2/07** - The IACHR expresses its concern over violent deaths in a prison in El Salvador. Washington, D.C., January 9, 2007.
- 1/07** - The IACHR expresses concern over violence in Venezuelan prisons. Washington, D.C., January 5, 2007.



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ANNUAL REPORT OF THE IACHR 2007

ANNEX 3 - SPEECHES DELIVERED BY THE PRESIDENT OF THE IACHR

PRESENTATION OF THE 2006 ANNUAL REPORT OF THE INTER-AMERICAN COMMISSION ON HUMAN RIGHTS BY IACHR PRESIDENT FLORENTÍN MELÉNDEZ

Thursday, March 29, 2007
Washington, D.C.

President of the Committee on Juridical and Political Affairs, Distinguished Representatives of the Member States, and Observers of the Organization, Ladies and Gentlemen,

As President of the Inter-American Commission on Human Rights, I am honored to present the Commission's 2006 Annual Report to the Permanent Council's Committee on Juridical and Political Affairs. I am accompanied on this occasion by the Executive Secretary and the professional staff of the Secretariat.

The report I present to you today was approved by the Inter-American Commission during its 127th ordinary period of sessions that took place between February 26 and March 9 of this year. The report was prepared in accordance with the guidelines of Resolution AG/RES. 331 (VIII-0/78) of the General Assembly, pursuant to Article 57 of the IACHR Rules of Procedure. The report reflects the general activities of the IACHR under the presidency of Commissioner Evelio Fernández Arévalos.

Structure of the 2006 Annual Report

As in previous years, the Annual Report is divided into three volumes: the first two refer to the work of the Inter-American Commission on Human Rights and the third contains the report from the Commission's Special Rapporteur for Freedom of Expression.

In addition, following the practice initiated in 1999, Chapter I of the 2006 Annual Report is dedicated to assessing the human rights situation in the Hemisphere as well as the obstacles to the enjoyment of these rights.

Chapter II provides a brief introduction to the origins and legal bases of the Commission and describes the primary activities carried out during 2006, including those carried out during its three periods of sessions. Chapter II also describes visits as well as other activities developed by the Commission during the year and activities of the Commission related to the Inter-American Court of Human Rights.

The longest chapter in the report, Chapter III, contains the decisions of the Commission with respect to petitions and individual cases concerning human rights violations in the Organization's Member States. This chapter also includes statistics on the work of the Commission, summaries of precautionary measures adopted or expanded during 2006, and a general overview of the follow-up on the recommendations on decisions published since 2001.

Chapter IV of the 2006 Annual Report contains the analysis of the human rights situation in those OAS Member States whose practices in the area of human rights call for special attention. Accordingly, this report analyzes the human rights situation in Colombia, Cuba, Haiti and Venezuela.

General Human Rights Situation in 2006

Since its last annual report, the IACHR has seen significant progress in the area of human rights, attesting to the political will of the Member States to ensure the full effect of human rights and fundamental freedoms in the Hemisphere. In particular, the Commission applauds the statements made by the President of Chile to the effect that Chile will comply with the decision of the Inter-American Court of Human Rights on the inapplicability of the Amnesty Law in cases of human rights violations committed under the military dictatorship. Similarly, the Commission underscores the ruling of the Supreme Court of Justice of Argentina on compliance with the provisional measures issued by the Inter-American Court of Human Rights, based on recognition of a critical situation in a provincial penitentiary system critical.

It should be emphasized that when making their decisions national judicial authorities increasingly take into account the recommendations and standards emerging from the human rights bodies of the inter-American system. An example of this is the resolution of the Constitutional Court of Ecuador that, following a recommendation from the IACHR, declared unconstitutional the practice known as "*detención en firme*" used to extend pre-trial detention beyond the limit allowed by the Ecuadorian Constitution and international standards in this area. At the same time, the Ecuadorian Constitutional Court recommended that the National Congress urgently modify the Criminal Procedures Code in keeping with the finding of the Constitutional Court. Another example is Brazil's efforts to bring its domestic legislation in line with international human rights standards by enacting the Law on Domestic and Family Violence against Women, known as the "Maria da Penha Law." This law was adopted pursuant to recommendations made by the IACHR in the case with the same name and substantially improves the mechanisms providing protection for women who are the victims of violence in Brazil.

The Inter-American Commission also commends Bolivia for its ratification of the Additional Protocol to the American Convention on Human Rights in the Area of Economic, Social and Cultural Rights. The commission also notes significant improvement in the situation of prisoners in the Dominican Republic with the installation of new prisons employing civilian personnel supported by a penitentiary school.

Unfortunately, various challenges remain to be faced. The weakness of the rule of law in various countries in the region continues to affect the full observance of human rights. The insecurity of citizens, social inequity, the lack of access to justice, and the slow process of democratic consolidation and the rule of law are only some of the areas that require major attention from the States in the area of human rights. In particular, the weakness of the judicial branch in most countries in the region and in some cases attacks on the independence and impartiality of judges represent significant problems States in the Americas face in ensuring the full enjoyment of human rights. This fragility is reflected in impediments to equal access to justice, in slow judicial proceedings, and basically in impunity in cases of serious human rights violations.

There is no doubt that all of us here are aware that marginalization and social exclusion continue to be characteristic of the region and not only obstruct the effective exercise of

economic, social and cultural rights by the large majority of the Hemisphere's population but also impede the strengthening of democratic institutions. The Commission notes in its report close links between exclusion and institutional degradation as expressed in acts of torture; cruel, inhuman and degrading treatment; violent deaths; the collapse of prison systems; illegal and arbitrary detentions; beatings and executions by police of young men in working class neighborhoods; excessive and disproportionate use of police power; the abuse of imprisonment without trial as a mechanism for controlling excluded sectors; the violent repression of indigenous peoples who resist being evicted from their lands; and ethnic and racial discrimination practiced by authorities of the State.

Although inequality continues to be a key factor in the diagnostic assessment of the observance of human rights in the region, it is not given priority in the public policies of governments. The situation prevailing in the Hemisphere is one of *de facto* and *de jure* inequality that affects women and street children as well as groups traditionally targeted by discrimination such as indigenous peoples, rural farmers, Afro-descendant people, migrants, the disabled, and homosexuals. To this we must add that millions of people in the Hemisphere are excluded due to problems of structural unemployment, social marginalization and lack of access to basic social services.

The Commission continues to be particularly concerned by the growing insecurity of citizens in the region and the lack of an inter-institutional response by government that is compatible with the principles of a democratic society and respect for human rights and the rule of law. In this respect, the Commission again underscores the urgent need for public discussion regarding the undeniable obligation of States to ensure the security of their citizens in the face of any type of violence, crime, and aggression, in the context of full respect for fundamental human freedoms and guarantees. On this subject, the Commission has started to prepare a hemispheric study on the relationship between citizen security and human rights to help the Member States effectively confront the challenge of preventing and eradicating criminal violence while fully respecting human rights.

I wish to emphasize here the continued growth in the acceptance and legitimacy of the inter-American human rights system, evidenced by the consistent increase in the number of people presenting petitions, the diversity of issues presented and of the organizations attending the hearings, the high level of state and civil society representation at these hearings, the increased use of the system's jurisprudence by many courts in our region, and significant results achieved in defense of human rights thanks to appropriate use of the system. Particular emphasis should be placed on the good faith and political will of some States in the region as manifest in friendly settlement agreements reached, the recognition of international responsibility in cases before the Commission and the Court, compliance with recommendations, as well as open invitations extended by countries for the Commission to conduct visits to observe the human rights situation therein. In this way, the Commission represents a particularly important regional forum for discussing the challenges OAS Member States face in meeting their obligation to ensure the observance of human rights in their territories. This shows that progress has been made in understanding that the bodies of the system and the proceedings conducted therein are only contributions to the primary function of States as guarantors of human rights and fundamental freedoms, so that fulfilling the mandates entrusted to the IACHR requires that we work with governments rather than against them. For this reason, I am honored to be here as the Commission's representative and to engage in dialogue with the OAS Member States.

Activities of the Inter-American Commission during 2006

During 2006, the Inter-American Commission held three periods of sessions: the 124th ordinary period of sessions that took place between February 27 and March 17 of 2006; the 125th special period of sessions that was held July 17-20, 2006 in Guatemala City at the invitation of the Government of Guatemala; and the 126th ordinary period of sessions that was

held October 16-27, 2006.

In internal working sessions held during 2006, the Commission gave special attention to studying and reviewing petitions and cases involving different States in the Hemisphere, as well as to analyzing priority situations in the area of human rights. During these sessions, the Commission approved a total of 144 reports and held 120 hearings relating to individual cases and petitions, preventive measures, and general human rights situations in the various States and subregions of the Americas.

In 2006, the Commission also continued with litigation before the Inter-American Court of Human Rights and filed 14 new cases.

In addition, exercising its authority to prepare studies and reports and to make recommendations to the States to foster due respect for human rights, the Inter-American Commission discussed and approved the "Report on the Situation of Human Rights Defenders in the Americas," which emphasizes the legitimacy of the human rights promotion and protection activities carried out by human rights defenders that, coinciding with an essential obligation of the States, generates in those States a special obligation to protect those who are dedicated to promoting and protecting those rights. In March 2006, the Commission also published a study on the administration of justice in Haiti that analyzed systematic failures to protect the fundamental rights of the Haitian people. The study is called "Haiti: Failed Justice or the Rule of Law? Challenges Ahead for Haiti and the International Community." The IACHR also published a thematic report on the impact of the armed conflict on Colombian women, addressing the main manifestations of violence against women that are aggravated by the armed conflict, such as: physical, psychological and sexual violence; forced displacement; forced and voluntary recruitment; the imposition of social control measures by illegal armed groups on the populations or territories under their control; and the particularly critical situation of indigenous and Afro-Colombian women. The report is called "Violence and Discrimination against Women in the Armed Conflict in Colombia."

Throughout 2006, the Commission and its various Rapporteurs conducted various working visits to the region. Thus, the Commission visited Haiti in May to carry out promotional activities and in December to collect information on the various forms of violence against women and children, the justice system's response to these acts, and the problem of impunity.

The Commission also made various visits to Colombia. In February, a delegation from the IACHR traveled to Bogota to follow up the demobilization process in Colombia. In March, there was another monitoring visit to Valledupar to observe the judicial circuit session held prior to the formal demobilization of the *Bloque Norte de las Autodefensas Unidas de Colombia*. In April, a delegation from the Commission visited the city of Apartadó to observe the second phase in the demobilization of the *Bloque Élmer Cárdenas*. Finally, there was another observation visit to Colombia in May during which meetings were held with national government authorities, with the staff running the office of the MAPP/OAS in Colombia, and with members of the international community, civil society organizations, and inter-governmental organizations.

In April 2006, the Rapporteur on Children visited Paraguay in response to an invitation from that country to gather information on the situation of street children in Ciudad del Este. During his visit, the Rapporteur met with street children, with human rights organizations working on issues related to the rights of children and adolescents, as well as with local and national senior authorities.

At the invitation of the Government of Bolivia, the IACHR conducted a visit from November 12 to 17, 2006 to observe the general human rights situation in that country. During the visit, the Commission held meetings with senior government officials and various civil society organizations. In addition, in my capacity as country Rapporteur and Rapporteur on the Rights of Persons Deprived of Liberty, I participated in several working meetings and friendly settlements regarding individual cases submitted to the Commission and visited various

penitentiaries in La Paz and El Alto, including a women's prison.

Again as country Rapporteur and thematic Rapporteur, I also visited the Dominican Republic at the invitation of that government from August 7 to 13, 2006. The purpose of the visit was to verify the situation of persons deprived of liberty in the country's nine prisons, including youth centers and women's centers, to carry out promotional activities on the inter-American human rights system and to hold meetings with government officials and non-governmental organizations.

In my capacity as thematic Rapporteur, I also visited Brazil from September 20 to 22 to verify the situation of persons deprived of liberty in the State of São Paulo who are the beneficiaries of provisional measures ordered by the Inter-American Court of Human Rights.

From December 1 to 9, I led a working visit to Argentina as country Rapporteur and thematic Rapporteur, during which I visited various detention centers, including police precincts, a women's detention center, and a psychiatric hospital. I had working meetings with officials from the federal and provincial penitentiary services, as well as with members of civil society organizations working on the issue of detention centers in Buenos Aires Province. I was also able to conduct promotional activities on the inter-American system at universities in that country. In addition, I met with senior officials in the Argentine Chancellery, the Ministry of Justice and the National Ombudsman Office to coordinate efforts regarding a 2007 regional conference on good penitentiary practices, which we plan to hold in November 2007 in Buenos Aires, with the participation of governments in the region.

Finally, from December 11 to 14, the Rapporteur on matters relating to Peru conducted a working visit to Lima accompanied by staff from the Executive Secretariat, during which they had interviews with President Alan García and other senior officials of the Peruvian government as well as with a number of civil society organizations, organizations of Afro-descendants, and indigenous organizations and communities.

The Commission wishes to express its appreciation to the various Member States that invited the IACHR to visit them, since such visits allow the Commission to fulfill its mandate to monitor human rights in the Hemisphere. On this subject, the Commission is concerned about the difficulties it faces with the government of Venezuela when carrying out the mandate entrusted to it by the Member States. In this respect, one of the aspects to which the Commission dedicated a portion of its work during the year 2006 was the attempt to conduct a visit to that country, an effort that was seriously frustrated given the Venezuelan government's failure to respond by proposing a specific date for the visit of the country Rapporteur. The Commission feels that the inability to visit a Member State due to the absence of government consent or invitation contradicts the very spirit that led the States to create the bodies of the human rights protection system. Accordingly, in its 2006 Annual Report, the Commission reiterates its interest in conducting an official visit to the country in the near future in order to contribute to the development and strengthening of human rights in Venezuela, as it does regularly with many Member States.

During 2006, the various IACHR Rapporteurships continued their support activities in the system of individual cases and have also continued their promotion and advisory activities for the OAS Member States.

The Rapporteurship for the Rights of Indigenous Peoples continued to advise the Chairman of the working group charged with preparing the Draft American Declaration on the Rights of Indigenous Peoples. Through this advisory work, the IACHR has been witness to the efforts of the OAS Member States and the representatives of the continent's indigenous peoples in the process of negotiating the draft.

The Rapporteurship on the Rights of Women continued to give priority in 2006 to the issue of how to ensure women's effective access to justice, particularly when they have been

the victims of violence and discrimination. The results of these efforts have been reflected, for example, in the issuance of the report on "Access to Justice for Women Victims of Violence in the Americas," presented during the IACHR's last period of sessions, thanks to support from the government of Finland.

The Rapporteurship on the Rights of Children also continued its activities on behalf of the rights of children in the Hemisphere. It should be noted that the IACHR has signed an agreement with the Inter-American Development Bank to strengthen the activities of this Rapporteurship, which will continue to be executed during 2007 and will allow the Rapporteurship to engage in activities in addition to those it has been carrying out to date.

The Rapporteurship on the Rights of Persons Deprived of Their Liberty, under my leadership, participated in numerous promotional activities and on-site observation and advisory visits to the Member States, as described above. The Rapporteurship has closely followed repeated incidents affecting the life, dignity and integrity of persons deprived of liberty in the Americas. Finally, I should mention that the Rapporteurship over which I presided made significant progress in preparing the Draft Declaration of Principles on the Protection of Persons Deprived of Their Liberty in the Americas, through which the IACHR seeks to promote the use of principles recognized in the various international instruments to protect the rights of persons deprived of their liberty, as well as principles on the subject emerging from the jurisprudence of the inter-American system of human rights. The IACHR opened up a broad process of regional consultation involving various governments, NGOs, universities and experts on the subject, whose participation and contributions have helped to enhance the text of the Declaration of Principles, which is expected to be approved by the Commission in 2007 and also represents a contribution from the IACHR to the preparation of the Inter-American Declaration on the subject already initiated by the States at the urging of the General Assembly.

The Rapporteurship on the Rights of Afrodescendants and against Racial Discrimination continued carrying out various activities to increase popular awareness that racism and discrimination are tools used to exclude political minorities and impede their access to the full exercise of citizenship in the Americas. The Rapporteur attended the International Conference of African and Diaspora Intellectuals in Salvador, Bahía, Brazil. In addition, the Rapporteurship participated in the Regional Conference of the Americas held in Brasilia on the accomplishments and challenges of the program of action against racism, racial discrimination, xenophobia, and related forms of intolerance. Both meetings represented important opportunities for discussion on ways to combat racism and develop strategies to help implement public policies to reduce the social inequities that result from racism.

During 2006, the Rapporteurship on Migrant Workers and their Families continued its promotional and advisory activities. It is noteworthy that from August 2005 to the end of 2006 this Rapporteurship did not have any additional funds for developing its activities and thus its work dwindled. In November 2006, a sizeable donation was received from the Bolivarian Republic of Venezuela, whose support is highly valuable to the Commission. At the same time, the Commission hopes that the interest expressed by other States and organizations will result in other financial contributions that will allow the Rapporteurship to continue fulfilling its mandate.

In addition, the Special Rapporteur for Freedom of Expression prepared his 2005 report on the subject; it is Volume III of the IACHR Annual Report. As mandated by the Commission, the report covers the subjects and activities that were given priority by the Rapporteurship during the year, including the evaluation of the status of freedom of expression in the Hemisphere. The report also includes a section on the jurisprudence and doctrine of the Inter-American Court of Human Rights, the European Court of Human Rights and the United Nations Commission on Human Rights.

Finally, the Human Rights Defenders Unit of the IACHR Executive Secretariat dedicated its work to publishing the Report on the Situation of Human Rights Defenders in the Americas as well as on distributing it in various States in the Americas. The unit also continued to monitor

the situation of human rights defenders in the Hemisphere and the Member States' compliance with the recommendations contained in the report.

In conclusion, it should be said that the Commission has fulfilled the mandates established in the American Convention on Human Rights as well as the mandates given to it by the General Assembly and the Summit of the Americas. However, several of these activities were carried out by the Commission through voluntary contributions and external funding sources due to shortfalls in the regular budget of the Commission. In this regard, I must again emphasize the need for Member States to meet their commitment to increase the Commission's regular budget so that it can continue to effectively fulfill its growing responsibilities and mandates.

Decisions of the Inter-American Commission with Respect to Petitions, Cases, and Precautionary Measures

During the period under review, the Commission decided on a total of 148 reports, including 56 reports on the admissibility of petitions, 14 reports on the inadmissibility of petitions, 10 reports on friendly settlement, 27 reports to be archived, 8 reports on publications, and 33 reports on the merits. During the same period, the Commission granted a total of 37 precautionary measures in accordance with Article 25 of its Rules of Procedure in order to prevent irreparable harm to persons.

In addition, during 2006 the Commission received a total of 1,325 individual petitions and initiated the processing of 147 petitions, for a total of 1,237 individual cases and petitions processed before the Commission during 2006.

All of this was achieved thanks to the tireless efforts of the small group of Executive Secretariat staff and the members of the Commission. These circumstances put considerable pressure on the Executive Secretariat in its attempt to handle this increasing case load and increased mandates from the Commission in other areas, with a budget that remains unchanged or even subject to cuts in real terms.

Finally, I want to emphasize that the strength of the inter-American human rights protection system depends on compliance with recommendations made by the Commission, the decisions of the Court, and emergency protective measures. As seen in the table on the Status of Compliance with the Recommendations of the IACHR (page 1,145 of the report), several States have carried out the recommendations totally or partially. In contrast, there are many cases in which the States involved have yet to implement the recommendations made. In this regard, it is important to reiterate the obligation of the Member States to do everything possible to carry out the Commission's recommendations in good faith.

Development of Human Rights in the Region: The Situation in Colombia, Cuba, Haiti and Venezuela

The Inter-American Commission continues its practice of including a chapter in its Annual Report to the General Assembly of the Organization of American States on the human rights situation in those states that have received special attention from the Commission. Based on the criteria pre-established by the Commission (included in its 1997 Annual Report), the Commission decided to include four Member States in this report: Colombia, Cuba, Haiti and Venezuela.

Regarding **Colombia**, the Commission is keenly aware of the complex situation in Colombia, of the impact on the civilian population of the violence perpetrated by participants in the conflict, and of the State's pacification efforts. In this context, the efforts of the Colombian government in promoting measures intended to uphold human rights should be applauded. In particular, the IACHR would like to note the "Protection Program for Human Rights Defenders, Trade-Unionists, Journalists and Social Leaders," which protects numerous

beneficiaries of precautionary and provisional measures granted by the Commission and the Inter-American Court, respectively. In addition, the IACHR reiterates the need to continue strengthening the protective mechanisms created by those programs.

However, despite initiatives to promote human rights undertaken by the Colombian Government and the decline in the figures for some human rights violations, the effects of the armed conflict continue to be felt by the most vulnerable sectors of the civilian population. Manifestations of violence continue alongside efforts being made to demobilize the outlawed armed groups and to administer justice, which have yet to produce results in terms of effectiveness, comprehensive reparation and the elimination of violent actors.

During 2006, the Commission noted various obstacles to the process of demobilizing armed participants and developing and enforcing the applicable legal framework, persistent patterns of violation of the right to life and personal safety, the situation of vulnerable groups, and continued threats against human rights defenders and social leaders. In addition, the IACHR continues to be concerned about the lack of judicial clarification regarding most massacres, targeted killings and forced disappearances committed by parties to the internal armed conflict as strategies against the civilian population.

The Commission continued to receive information on the violent situation that plagues vulnerable groups in Colombia, particularly indigenous peoples and Afro-descendent community councils and communities, particularly in some regions of the country where members of these groups are individually and collectively targeted, threatening their autonomy and their territorial and cultural rights.

The Inter-American Commission has closely followed the process of demobilization of paramilitary groups in Colombia, particularly those aspects of the process related to the State's observance of its human rights obligations. During 2006, the IACHR received with concern information about the continued commission of crimes against the civilian population by fighters who had regrouped or continued to operate after the demobilization, in violation of the commitments assumed. These crimes translate into violations of the rights to life, humane treatment, and freedom, and lead to the continued existence of the internal displacement phenomenon. The year 2006 marks the culmination of the demobilization phase of the United Self-Defense Forces of Colombia (AUC) and Colombia now faces the challenge of showing concrete results in undoing the armed structures of paramilitarism and implementing the legal framework adopted for adjudicating the crimes committed by the AUC.

The IACHR once again emphasizes the need to employ effective negotiation mechanisms in order to eliminate the violence that has been affecting Colombia's inhabitants for four decades and reiterates that respect for the right to truth, justice and comprehensive reparation for victims of the armed conflict is crucial for achieving a lasting peace and strengthening the administration of justice in Colombia, ensuring that serious human rights violations are not repeated.

With respect to **Cuba**, the Commission continued to observe and evaluate the human rights situation of Cuba's inhabitants. During the period covered by this report, the Commission received information on violations of freedom of expression; the precarious detention conditions of persons deprived of liberty because they are political dissidents; the systematic practice of actions to repudiate political opponents; and the violation of labor and labor union rights, situations that are particularly exacerbated by the judicial branch's lack of independence. The Commission feels it must insist that the peaceful expression of opinions different from those of the Cuban government cannot be criminalized.

Restrictions on political rights and freedom of expression and dissemination of ideas have amounted for decades to a permanent and systematic violation of the fundamental rights of Cuban citizens, a situation that is also made particularly worse by the judicial branch's lack of independence. Similarly, the Commission feels it necessary to reiterate that the absence of

free and fair elections based on universal secret suffrage as the sovereign expression of the people violates the right to political participation established in Article XX of the American Declaration on the Rights and Duties of Man.

In its 2006 Annual Report, the Commission once again points to the negative impact of economic sanctions on the fundamental rights of the Cuban population and reiterates the need to put an immediate end to the economic, commercial and financial embargo imposed on Cuba for more than 40 years.

With respect to **Haiti**, the Commission continues to be concerned about the lack of protection and guarantees against serious human rights violations that affect the population, particularly women, children, human rights defenders, and journalists. The Commission notes persistent high levels of violence in Port-au-Prince, which have claimed hundreds of lives and victims of kidnappings due to the marked deterioration of the security situation in Haiti. The Commission is alarmed by the persistence of such conditions in the absence of a strategy and effective measures to control and prevent these acts of violence and the fact that unstable conditions caused by confrontations of armed bands and the intimidation of civilians continue to take root in Haiti.

While the level of violence diminished during the electoral period in early 2006 and a new National Commission on Disarmament was created, since mid-2006 Haiti has seen a re-escalation of violence. To a large extent this situation reflects the proliferation of armed groups and the consolidation of the activities of organized crime exercising exclusive control over various parts of the country, in conjunction with the inability of the police to effectively and adequately respond to the situation. The Commission is concerned about the increase in systematic kidnapping, the use of children by armed groups, the physical and sexual exploitation of women in criminal activities, and the State's failure to respond adequately to bring those responsible for these crimes to justice. In this respect, while underscoring the importance of preventing crime and capturing dangerous criminals in order to provide greater safety for the population, the Commission again emphasizes the prohibition on arbitrary arrests and detentions established in Article 7 of the American Convention.

In its report, the Commission reiterates that achieving a durable peace in Haiti requires the State, in cooperation with the Haitian population and with support from the international community, to take decisive measures to effectively disarm all those who possess illegal weapons, to engage in constructive dialogue to bring about reconciliation among the various sectors in order to promote social and political consensus, to take firm steps to end impunity for human rights abuses, and to support the national economy so as to provide greater employment options and self-sustainability for Haitians.

Regarding **Venezuela**, the Commission continues to be concerned about the administration of justice, the impunity surrounding reports of extrajudicial executions at the hands of agents of the state, the precarious situation of persons deprived of liberty, and the climate of political pressure reportedly imposed on various sectors of civil society.

On the subject of the administration of justice, the Commission is concerned about the lack of guarantees of impartiality and independence on the part of those in the judicial branch and impunity for human rights violations, particularly the right to life. Citizen security in Venezuela is an aspect of particular concern to the Commission given the high level of impunity with regard to extrajudicial executions committed by agents of the state in the context of the phenomenon known as *ajusticiamiento* of alleged criminals, specifically within the framework of the supposed "protection of citizen security." In addition, the Commission has learned of alarming figures on assassinations committed through *sicariato* [paid killings] and has received information on the slow pace of the investigations into these killings.

Another cause for the Commission's concern are acts of violence committed against those deprived of liberty in Venezuela in 342006, leading to loss of life and serious physical

injury for hundreds of persons held in penitentiaries.

The Commission's Annual Report also includes some observations and recommendations regarding the Draft International Cooperation Law that could have implications with respect to the exercise of the right to freedom of association in general and in particular the work of organizations of human rights defenders that receive external financing for their activities.

During 2006, the Commission has also become aware of numerous situations affecting the normal exercise of the right to freedom of expression in Venezuela, including the murder of two journalists, acts of aggression and threats directed at other journalists, an increase in the number of criminal proceedings against social communicators, and acts that could constitute forms of indirect restriction on the exercise of this fundamental democratic freedom. In particular, the Commission received information that some government authorities reportedly announced a review of the licenses of some communications media for reasons that could include the reporting of those media. In this regard, the Commission recognizes the government's power to manage the radio spectrum, to establish in advance the duration of licenses, and to decide whether to renew those licenses when they expire. However, the State should exercise that power while giving equal consideration to its international obligations, including its obligation to ensure the right to express ideas and thoughts of any kind without indirect restrictions on the exercise of the right to freedom of expression based on the editorial views of the communications media.

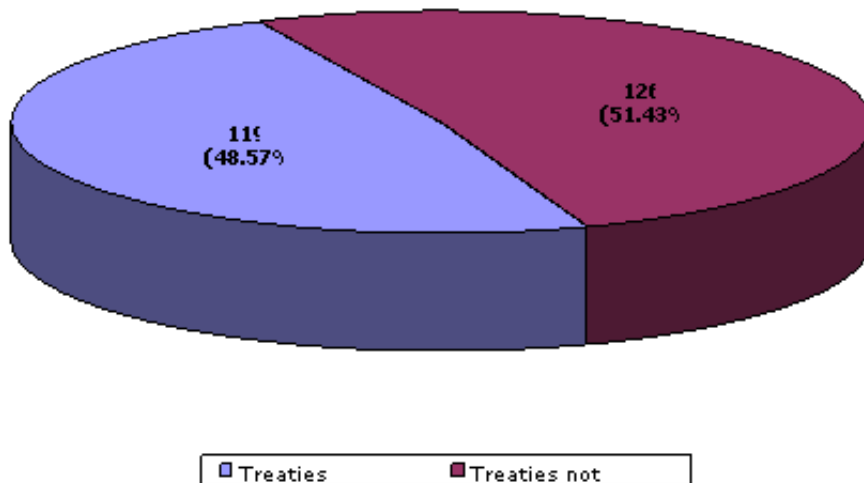
The annexes to the Annual Report include additional information on the current ratification status of human rights treaties in the inter-American system as well as press releases issued by the Commission during 2006 and speeches delivered on behalf of the Commission during the same period.

Regarding the current ratification status of human rights treaties, I wish to emphasize that, as shown in the following graphs, one of the great challenges remaining for the observance of the human rights of the inhabitants of the Americas is to achieve full universalization of the instruments of human rights in the Hemisphere.

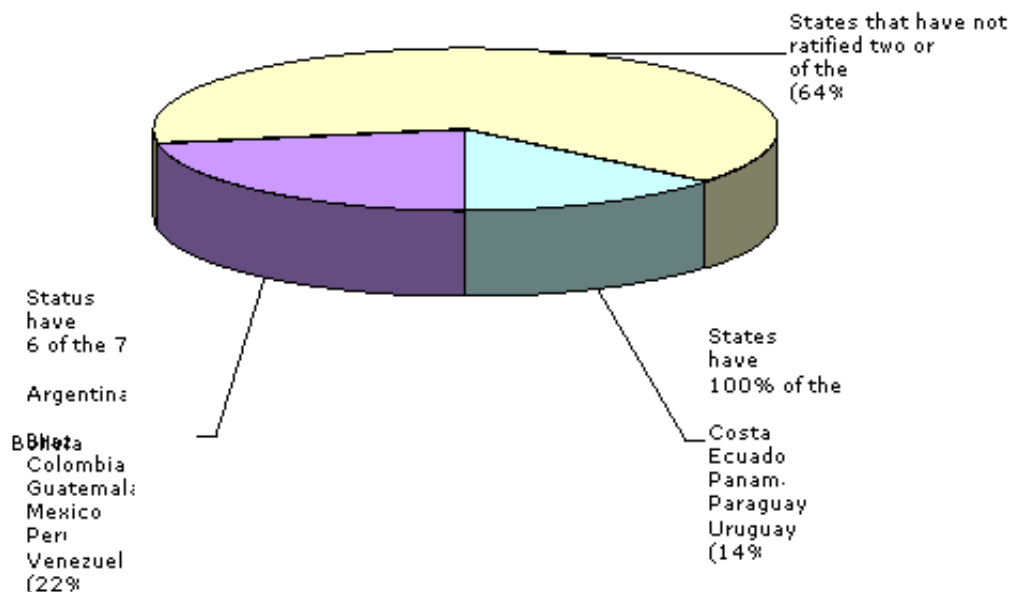
**RATIFICATION STATUS OF THE
TREATIES OF THE INTER-**

Ratification status of the 7 human rights
the 35 OAS Member States between 1969 and

Total: 245 Ratification



RATIFICATION STATUS OF THE TREATIES OF THE INTER-



Conclusion

Mr. President, Representatives, Observers, Esteemed Colleagues, Ladies and Gentlemen,

I do not wish to conclude without emphasizing that the support of the Member States and their collaboration in the work of the Inter-American Commission on Human Rights are crucial to ensuring that the inter-American system for the protection of human rights is truly effective.

The Commission and the Court are, in accordance with the purpose of the Member States, means for aiding the development of "a regimen of individual freedoms and social justice" in the region, which is the final objective established in the preamble to the American Convention on Human Rights. Accordingly, the Commission renews its commitment to work with the Member States in complying with their mandate to defend human dignity above all by fully exercising their mandate to protect and promote human rights.

On behalf of the Inter-American Commission on Human Rights, I wish to express our appreciation for the cooperation that the Member States have given the Commission so that it can continue to honor that common commitment to safeguard respect for the human rights of all those living in our Hemisphere. I also wish to thank Secretary General José Miguel Insulza for his constant support of our work, for effectively recognizing the independence of the Commission within the Organization of American States, for urging the Member States to comply with the Commission's recommendations, and for supporting measures to increase its budget, which is so important to the full performance of our mandate.

Despite these efforts, the amounts provided in the Organization's annual program-budget do not reflect the real needs of the Inter-American Commission on Human Rights. The IACHR has enthusiastically accepted the mandates entrusted to it by the General Assembly as well as by the Summits of the Americas, in that they demonstrate the increasing legitimacy of the system and the Member States' recognition of its important role within the Organization. However, the capacity of the Inter-American Commission to fulfill its broad and diverse mandate requires an equivalent commitment in terms of the allocation of financial and human resources.

The total budget for the Commission provided for 2007 is US\$3,677,700, which

represents 4.5% of the overall budget of the Organization (US\$81.500.000). In this regard, I wish to express my appreciation for the commitment and financial support provided by the governments of the following Member Countries: Brazil, Chile, Colombia, Costa Rica, the United States, Mexico, the Dominican Republic and Venezuela, whose contributions made the Commission's work possible during 2006. In addition, on behalf of the Commission, I wish to urge all the Member States to express their support by allocating greater resources for the appropriate and regular operations of the human rights bodies of the inter-American system.

The current budgetary situation requires the Commission to cover many of its expenses through specific funds. I must, therefore, take this opportunity to express my gratitude for the contributions received from Denmark, Spain, Finland, France, Ireland, Italy, Switzerland, the Inter-American Development Bank, the European Commission, the Open Society Foundation, and the Commonwealth Secretariat, which made it possible to carry out many activities vital to the work of protecting and promoting human rights in the region.

Finally, I would like to express my particular appreciation and recognition for the sense of responsibility, professionalism, solidarity, and dedication demonstrated in the tireless efforts of the Executive Secretariat and its administrative and professional staff, which have a fundamental impact on the Commission's efforts to protect and promote human rights in the Hemisphere.

**SPEECH BY PRESIDENT OF
THE INTER-AMERICAN COMMISSION ON HUMAN RIGHTS
FLORENTÍN MELÉNDEZ
ON THE HUMAN RIGHTS SITUATION IN THE HEMISPHERE
TO THE GENERAL ASSEMBLY OF THE OAS
Panama City, June 5, 2007**

Mr. President, Heads of Delegation, Secretary General, Assistant Secretary General, ladies and gentlemen. I am honored to address you to present the annual report of the Inter-American Commission for 2006. I will now refer to the human rights situation in the Hemisphere, the most important activities of the Commission, and the accomplishments and challenges pending in the region.

General human rights situation in 2006

The Commission found gains in human rights in the region. For example, I could cite the commitment expressed by the President of Chile to comply with the judgment of the Inter-American Court of Human Rights ordering that the Amnesty Law not be applied to violations committed during the military dictatorship; the approval of the Law on Domestic and Family Violence against Women in Brazil, adopted heeding the Commission's recommendations; the ratification of human rights treaties of the inter-American system by Argentina, Bolivia, Ecuador, the Dominican Republic, and Venezuela; and the application of inter-American case law by the courts in several countries, including the Supreme Court of Justice of Argentina, and the Constitutional Courts of Colombia, Ecuador, and Peru, among other major gains.

Nonetheless, during that period grave human rights violations persisted that came to our attention, and which were mainly expressed in citizen insecurity and the lack of protection for victims; the fragility of the judicial systems and lack of effective access to justice; the lack of independence and impartiality of the courts; impunity; inequity and social exclusion; and the slow process of consolidation of democracy and the rule of law. The IACHR received information on cases of torture; cruel, inhuman and degrading treatment; violence and overcrowding in prisons; the excessive and disproportionate use of government forces; discrimination on ethnic and racial grounds; and inequality in access to economic and social rights, the hardest hit being women and children, indigenous peoples, Afrodescendants, migrants, and persons with disabilities.

Activities of the Inter-American Commission

In 2006 the Commission held three sessions, two at headquarters, and the third in Guatemala City, at the invitation of the Guatemalan Government.

The Commission provided technical cooperation to the States. For example, it continued supporting the process of preparing drafts of the Inter-American Convention against Racism and All Forms of Discrimination and Intolerance, and the American Declaration on the Rights of Indigenous Peoples. In addition, it concluded the regional consultation for preparing the draft "Declaration of Principles on the Protection of Persons Deprived of Liberty in the Americas"; and it participated in several regional events against racism, racial discrimination, xenophobia, and prisons, among other activities involving advisory services and cooperation.

It prepared and published the following reports: "Report on the Situation of Human Rights Defenders in the Americas"; "Haiti: Failed Justice or the Rule of Law? Challenges ahead for Haiti and the International Community"; and the report "Women and Discrimination Against Women in the Armed Conflict in Colombia".

The Commission approved some reforms to the working procedures in order to attain greater efficiency, transparency, and publicity of their activities. In effect, it adopted a Directive for the selection of the thematic rapporteurs; and for the first time in its history, the hearings were transmitted by Internet at the OAS's web page. In addition, and taking into account the experiences of the last six years, since the 2001 amendments to the Rules of Procedure, the Commission made certain adjustments to those Rules of Procedure so as to make them more expeditious in processing those cases which by their nature so require, always respecting the principle of equality of arms, while at the same time seeing to it that its procedures are more widely disseminated and more transparent, and guaranteeing, as a general principle, public hearings. The Commission will always be receptive to the opinions and recommendations of the states and civil society when it comes to improving its procedures and activities.

In addition, I wish to emphasize that thanks to external cooperation, the IACHR has put in place an internal mechanism to resolve the delays in the processing of petitions.

The Commission also made working visits to Argentina, Bolivia, Brazil, Colombia, Guatemala, Haiti, Paraguay, Peru, and the Dominican Republic, thus we are grateful for the invitations from the governments and for the cooperation provided during those visits. In this context, I take this opportunity to ask you, in the context of this General Assembly, to express the political will of your illustrious governments to allow the Commission to visit your countries; therefore, I ask that you make an open and permanent invitation to the Inter-American Commission to be able to make visits without conditions, be it through the thematic rapporteurs or country rapporteurs, or through on-site visits of the Commission, as have been allowed, to date, by Mexico, Brazil, Argentina, Colombia, and Guatemala, whose governments we thank for their open invitation and for their cooperation.

Decisions of the Inter-American Commission

In 2006, the Commission received 1,325 individual complaints; it approved 148 reports on individual petitions; it heard and decided on the first interstate petition, applying the procedures in effect; it facilitated many efforts that culminated in friendly settlements; it granted 37 precautionary measures and requested nine provisional measures; and it referred 14 applications to and continued its international litigation before the Inter-American Court. I wish to recall that the strength of the inter-American system depends on the effective enforcement of the Commission's recommendations, the judgments of the Court, and the urgent measures of protection, which are legally, politically, and morally binding. It should be noted that several States have carried out the recommendations of the Commission in full or in part, but there are many recommendations that have not been carried out, constituting a priority challenge in the region that would be overcome if the States, creatively and with political will, adopt legal mechanisms or procedures that facilitate compliance with the recommendations and judgments

of the inter-American system, whether having to do with the enforcement of justice, reparation for victims, or respect for measures to ensure the non-repetition of human rights violations.

Status of ratification of human rights treaties

Attaining universal ratification of the human rights treaties is a pending challenge. At the end of 2006, there had been 119 acts of ratification, of 245 that full universalization would entail, which means that 126 acts of ratification are still pending, equivalent to 51%. Several States have not implemented any of the human rights treaties, which is worrisome as it indicates that after decades, they have not been able to or have not wanted to remove the obstacles that may exist to make it feasible to bring them into force. As of 2006, only five States had ratified 100% of the treaties (Costa Rica, Panama, Ecuador, Paraguay, and Uruguay); whereas eight States had ratified six of the seven treaties (Argentina, Bolivia, Brazil, Colombia, Guatemala, Mexico, Peru, and Venezuela). I state here our recognition of these States for their contribution to the process of universal ratification.

Budget of the IACHR

In order for the Commission to respond effectively to its mandate, it is urgent that its regular budget be increased such that the amounts allocated correspond to the real needs of the Commission. The legitimacy of the system and the recognition of its important role translate into an increased number of complaints, mandates, and functions. Nonetheless, the capacity of the Commission to carry out its obligations requires an equivalent commitment by the States to guarantee, among other things, an increase in the staff of the Executive Secretariat, and a greater presence of the Commissioners at headquarters and on the ground. Until now the Commission has responded to the growing demand thanks to the cooperation of international agencies and several governments from Europe and the region, to whom we are deeply grateful. Nonetheless, we consider that the OAS should cover the regular costs of the Commission, not external cooperation.

Human Rights Developments

The Commission decided to include in its Annual Report a chapter on the human rights situation in those Member States that have been the subject of special attention in 2006. It decided to include Colombia, Cuba, Haiti, and Venezuela in that chapter.

Colombia. The Commission, aware of the complex situation that faces Colombia and the consequences of the armed conflict for the civilian population, recognized the efforts of the State and society to achieve peace and diminish the number of human rights violations. Nonetheless, it observed obstacles in the process of demobilizing the armed actors and in applying its legal framework. The Commission stated its concern over the failure to clear up the facts in most of the massacres, disappearances, and threats to human rights defenders and social leaders. The year 2006 marks the culmination of the phase of demobilizing the Autodefensas Unidas de Colombia (AUC), and the challenge is being faced of achieving specific results in dismantling paramilitarism, and in bringing to trial the perpetrators of the crimes. The Commission highlighted the need to use effective negotiating mechanisms to end the violence, and recalled that respect for the rights to the truth, justice, and full reparation for the victims is crucial for attaining a lasting peace.

Cuba. The Commission received information on the precarious conditions of persons deprived of liberty for being government dissidents, and on acts to repudiate political opponents, situations that were aggravated by the lack of judicial independence. The restrictions on political rights and the freedom of expression have for decades constituted a situation of systematic violation of fundamental freedoms. The IACHR reiterated that the lack of free, democratic, and pluralistic elections, based on universal suffrage and secret ballot, undercuts democratic political participation. At the same time, it noted once again the negative impact on the economic sanctions imposed on the population; it reiterated the need to put an immediate end to the

economic, trade, and financial embargo that has been imposed on Cuba for more than 40 years; and it recognized that despite these serious limitations, there were major gains in the areas of human development, universal primary education, gender equality, and health for the population.

Haiti. The Commission recognized the efforts of the State to create a favorable climate in the elections held in early 2006. At the same time, the IACHR lamented, in its report, the lack of protection and fundamental guarantees for the population observed during the year, which had an especially negative impact on women, children, human rights defenders, and journalists. It expressed its concern over the deterioration of the security situation and the high levels of violence, aggravated since mid-2006 by the proliferation of organized armed bands in several parts of the territory, together with the incapacity of the police forces to respond to this phenomenon, and the climate of impunity that prevails in the country. The Commission reiterated that attaining a lasting peace requires that the State, in conjunction with the population and with the backing of the international community, foster a constructive dialogue to reach a national consensus; adopt firm and effective measures for disarmament and to put an end to impunity; and strengthen, accordingly, the institutions that investigate crime and administer justice. The Commission values the initiatives that the current authorities are taking to seek solutions to the existing problems.

Venezuela. In 2006, the Commission noted the significant and peaceful participation of the Venezuelan citizenry in the presidential elections in 2006. Likewise, it expressed its concern over the repeated refusal of the Government of Venezuela to allow visits from the Commission to carry out its functions and its mandate. In addition, it continued to be concerned about citizen insecurity; the lack of judicial independence; the precarious situation of persons deprived of liberty; and the high levels of violence in the prisons. The Commission was informed of incidents that affected the freedom of expression, which included murders, assaults, the increased number of criminal proceedings against journalists, and actions that could constitute indirect restrictions on the freedom of expression, according to which governmental authorities announced the review of the concessions of media outlets for reasons that may include their editorial line.

To conclude, I wish to emphasize that the cooperation and compliance of the States is crucial for ensuring the legitimacy and effectiveness of the inter-American system, thus we consider it necessary to deepen the dialogue with the States, but also with civil society, so as to enable us, together, to strengthen the system, and with it, democracy and the rule of law. I therefore wish to express our gratitude for the cooperation of the States and the non-governmental organizations, and the trust they deposited in us, in 2006; and I take this opportunity to vehemently call on the States to make every possible effort to faithfully carry out the commitments and obligations to respect human rights that they have taken on in the framework of the Organization; to strengthen the constructive dialogue with the Commission and to ensure the participation of civil society in its activities.

Finally, I wish to thank the Executive Secretariat staff for their valuable work; and Secretary General José Miguel Insulza, for recognizing the Commission's autonomy and independence; for asking the States to carry out our recommendations; and for supporting the initiative to secure a budgetary increase. All of this is necessary to carry out our mandate effectively, a mandate that clearly favors victims who have turned to the Commission seeking international justice for violations of their rights. This is the *raison d'être* of the inter-American human rights system, to provide protection to those who have not found justice in their own countries. For this reason, we are committed and willing to work together with the States and civil society to ensure full respect for human dignity and fundamental rights and freedoms, and to attain justice in the Americas.

Thank you very much.

**ADDRESS BY THE PRESIDENT OF THE INTER-AMERICAN COMMISSION ON HUMAN RIGHTS,
FLORENTIN MELENDEZ, AT THE OPENING OF THE 130TH REGULAR SESSION**

**Washington, DC
October 9, 2007**

Mr. President of the OAS Permanent Council, Ambassador Rodolfo Hugo Gil; Mr. Secretary General of the OAS, Don José Miguel Insulza; Mr. Assistant Secretary of the OAS, Ambassador Albert Ramdim; distinguished representatives of Member States of the Organization, and observers, representatives of civil society organizations, esteemed colleagues of the IACHR, and of the General Secretariat, ladies and gentlemen:

It is an honor for me to address you as President of the Inter-American Commission on Human Rights at this inaugural ceremony of the Commission's 130th regular session. It is a pleasure to be here together with my colleagues Paolo Carozza, First Vice President; Víctor Abramovich, Second Vice President; and Commissioners Paulo Sérgio Pinheiro, Evelio Fernández Arévalos, Clare Kamau Roberts, and Freddy Gutiérrez. We also have with us Mr. Santiago Canton, Executive Secretary of the Commission, and staff members of the Executive Secretariat.

We are now beginning the fourth regular session of the IACHR for 2007, and I want to take this opportunity to report to you on our activities since the 127th regular session that was held in February and March of this year.

IACHR activities between the 127th and 130th regular sessions

General Secretariat

As President of the IACHR, I met with the Secretary General in March to discuss a number of issues of interest to the Commission. I thanked the Secretary General for his support to the Commission, and in particular for calling upon member States to comply with the decisions of the inter-American system and to move forward in the process of universalizing the system's standards. I also spoke of the need to increase the Commission's regular budget so that the Executive Secretariat could hire more lawyers and give the Commissioners a greater presence both at headquarters in Washington and in the field. I mentioned the interest in deepening our constructive dialogue with States, and in pursuing cooperative relations, and I asked for his support in this area. I also asked him to continue to urge member States to comply with the Commission's decisions, to make the system more universal, in particular with regard to those States that have not yet ratified the American Convention on Human Rights, to increase the Commission's regular budget significantly, and to encourage States to issue an open and permanent invitation to the Commission to make field visits.

The Executive Board of the Commission also held very useful working meetings with the Secretary General during the course of the year in Washington.

General Assembly

On June 5, 2007, as President of the IACHR, I presented the Commission's annual report for 2006 to the OAS General Assembly meeting in Panama. At that time several States demonstrated their interest through various interventions, and the Commission was given more time than in the past to present its annual report.

I want to mention that the General assembly approved some important resolutions on various human rights issues in the hemisphere. The Commission welcomes the mandates given it by the General assembly, demonstrating the confidence that the political bodies of the OAS have in its work of protecting human rights, and it is committed to fulfilling those mandates to the limit of its human and material resources. I want to make special mention of resolution AG 2354

(XXXVII-O/07), which extended the budgetary authorization to cover payments to the Commission's members for special services as of 2008.

I am grateful for the confidence that member States have shown by reelecting me at the last General Assembly, along with my colleague Paulo Sérgio Pinheiro (Brazil), for a further term in the IACHR. I also want to congratulate the new members of the IACHR elected by the General Assembly, who will take up their mandates in January 2008. They are Felipe González (Chile), and Luz Patricia Mejía (Venezuela).

Finally, I am gratified at the receptivity shown by several States during the General Assembly to my request for governments to issue an "open and permanent invitation" to the Commission to visit their territory. This is an activity that began when I assumed the presidency of the IACHR, and it received a positive reaction during the General Assembly from Honduras, Paraguay, Peru and Uruguay, which have now joined other States that have allowed the Commission the freedom to make visits, including Argentina, Brazil, Colombia, Guatemala and Mexico. As President of the IACHR, I recognize the political will shown by those States, and I reiterate my request that member States should issue "open and permanent invitations" for the IACHR to visit their territory and to fulfill its mandate and its functions. This is indeed a necessary step in order to confirm the transparency, the democratic political will, and the commitment of member States to respect human rights in the Americas.

Visits to States

Mexico. As Rapporteur for Mexico, I visited that country from April 9 to 13, 2007 to gather information on the situation of human rights, and to establish initial contact with the new government authorities. The visit was also the occasion for several working meetings relating to petitions and precautionary measures, and included a visit to a military detention center, as well as various promotional activities.

Colombia. Commissioner Victor Abramovich, Rapporteur for Colombia, visited that country from April 10 to 13, 2007 at the invitation of the government to monitor the demobilization process jointly with the MAPP/OAS Mission.

Haiti. The Commission visited Haiti from April 16 to 20, 2007 in follow-up to the 2005 report entitled: "Haiti: failed justice or the rule of law? Challenges ahead for Haiti and the international community", and to look into the issue of discrimination and violence against women in that country.

Argentina. As Rapporteur for Argentina and President of the IACHR, I visited the country from May 9 to 11 in order to sign a cooperation agreement with the Ministry of Justice and with the Office of the Public Defender in preparation for the Seminar on Good Penitentiary Practices to be held in Buenos Aires in November of this year, with representatives of the penitentiary systems of 19 Latin American countries, international agencies, nongovernmental organizations and experts. I took advantage of the visit to participate in a promotional event at the Penitentiary School of the Province of La Plata. A similar seminar for English-speaking countries will be held in the Caribbean next year, provided financing can be obtained for it.

Colombia. Commissioner Clare K. Roberts, Rapporteur for the Rights of Persons of African Descent and against Racial Discrimination, visited Colombia from May 14 to 18, 2007 to prepare an initial assessment of the socioeconomic situation of Afro Colombians, a report that will also cover application of Law 70, the recognition and protection of communal lands, and the status of Afro Colombian communities and individuals who have been displaced. It will assess as well the impact that demobilization and application of the Justice and Peace Law are having on Afro-descendent communities.

Haiti. As Rapporteur on the Rights of Persons Deprived of Liberty, I visited Haiti from June 17 to 20, 2007 to gather information on the status of prisoners held in detention centers for adults,

women and children. I met with officials of MINUSTAH and the ICRC, and I also held working meetings with government authorities and with civil society organizations, and took part in activities to promote the system.

Mexico. As Rapporteur for Mexico and Rapporteur on the Rights of Persons Deprived of Liberty, I visited Mexico from August 6 to 11, 2007 to follow the situation of human rights in the State of Oaxaca, and to verify the status of inmates in certain Mexican prisons. During the visit I held meetings with senior authorities of the federal government and of the government of Oaxaca, including the President of Mexico, Mr. Felipe Calderon, and the Governor of Oaxaca, Mr. Ulises Ruiz Ortiz, and also with many representatives of civil society. As well I visited prisons in the State of Mexico and in the State of Oaxaca.

Paraguay. The Rapporteur for Paraguay and Rapporteur on the Rights of Indigenous Peoples, Commissioner Paula Carozza, visited Paraguay on September 3 and 4, 2007, prior to the Commission's special session in Asunción. Her activities included a visit to the Xákmok Kásek and Yakye Axa communities in the Paraguayan Chaco, and working meetings with government authorities, as well as meetings on a number of cases and petitions pending before the Commission.

Chile. The Rapporteur on the Rights of Women, Commissioner Victor Abramovich, visited Chile from September 11 to 13 to gather information on discrimination against women in its various manifestations.

The Special Rapporteur for Freedom of Expression, Dr. Ignacio Alvarez, also visited several countries, including Haiti, Bolivia, Colombia, Chile, El Salvador, Guatemala, Honduras, Mexico, Paraguay, Peru and Uruguay.

On behalf of the Commission, I want to thank member States for their invitations and for the support and the cooperation they have shown the IACHR during these field visits, and I extend my thanks as well to the NGOs that cooperated and participated in activities during those visits.

The Commission is still awaiting the response of the Government of Venezuela in order to finalize a visit by the Rapporteur for that country, Commissioner Paulo Sergio Pinheiro, which the IACHR has proposed for December 2007. The Commission is also awaiting the response of the United States government to a request I submitted as President of the IACHR to the US State Department in July 2007 to visit the prison at Guantánamo, and the detention centers for immigrants in the State of Texas.

Country reports and thematic reports

On June 28, 2007 the IACHR approved its report on "Access to justice and social inclusion: the road to strengthening democracy in Bolivia", relating to the investigation conducted during the on-site visit to Bolivia in November 2006 by Commissioners Evelio Fernandez Arevalos, Victor Abramovich and myself, as Rapporteur for Bolivia. That report was recently published and contains some important recommendations that the IACHR hopes will be useful for institutional strengthening and for protecting human rights in Bolivia.

The Commission moved forward in its report on observations during the visit to Haiti in April 2007, in follow-up to the Report on the Administration of Justice in that country, published in 2006. It is also preparing a report on discrimination and violence against women in Haiti, on the basis of that visit.

The Commission began preparatory work for a study on the situation of public security, intended as a contribution to the hemispheric debate sponsored by the OAS at a meeting of experts on public security held in Washington on May 30 and 31, 2007.

The Commission continued dissemination of its reports published in 2006. In this connection, the report on "Violence and Discrimination against Women in the Armed Conflict in Colombia" was launched in Bogotá on April 12, 2007, the report on "Access to Justice for Women Victims of Violence in the Americas" was publicized in Peru and Chile, and the report on "The Situation of Human Rights Defenders in the Americas" was presented in Mexico in June 2007. The Commission is now wrapping up a second edition of its book on children and their rights in the inter-American system.

The Commission approved a study, to be published shortly, on the standards established by the inter-American human rights system on access to justice as a guarantee of economic, social and cultural rights. Pursuant to a mandate from the General Assembly, the IACHR is also in the final stage of approving guidelines for preparing indicators of progress in economic, social and cultural rights.

The IACHR recently approved a report on Colombia, "Report on the implementation of the Justice and Peace Law: initial stages of the demobilization of the AUC and first judicial proceedings".

The IACHR is currently preparing a report on the visits it made in 2007 to Mexico, and its visit to prisons in Haiti.

Activities in relation to the Inter-American Court of Human Rights

The Commission participated in the following public hearings before the Inter-American Court: *Doce Clanes Saramaka v. Suriname* (May 9 and 10), where the Commission was represented by Commissioner Paolo Carozza; *Zambrano Vélez et al. v. Ecuador* (May 15); *Cornejo et al. v. Ecuador* (May 16); and *Chaparro y Lapo v. Ecuador* (May 17), with Commissioner Evelio Fernández Arévalos representing the IACHR; and *Boyce et al. v. Barbados* (July 11), where Commissioner Clare Roberts represented the IACHR.

The IACHR presented eight submissions to the Inter-American Court, relating to the following cases: *Castañeda Gutman v. México*; *Eduardo Kimel v. Argentina*; *Gabriela Perozo et al. (Globovisión) v. Venezuela*; *Luisiana Ríos et al. (RCTV) v. Venezuela*; *Juan Carlos Bayarri v. Argentina*; *María and Josefa Tiú Tojín v. Guatemala*; *Renato Ticona Estrada v. Bolivia*; and *Santander Tristán Donoso v. Panama*. It also submitted to the Court an application for provisional measures for a human rights defender in Venezuela.

I should also mention the working meetings I held with the President and Vice President of the Inter-American Court of Human Rights on issues of common interest, with a view to coordinating activities and Court-Commission working meetings, and strengthening the inter-American system.

Cooperation with national human rights institutions (ombudsmen)

The Commission has held various meetings with ombudsmen throughout the hemisphere to exchange views on possible cooperation with national human rights institutions, in order to strengthen the Inter-American system and in particular to enforce the decisions of the Court and the Commission itself. The prospects for cooperating in joint activities were also discussed. In August of this year I made a visit jointly with the President of the State Commission of Human Rights of Mexico, Federal District, to a penitentiary in Mexico City, and this first experiment with joint work turned out to be very positive.

International cooperation

As President of the IACHR I have held discussions with international organizations about the possibility of establishing agreements for cooperation in human rights issues. There have been several contacts with the International Committee of the Red Cross (ICRC), with the United

Nations Subcommittee (pursuant to the Optional Protocol to the Convention against Torture), and with the Office of the United Nations High Commissioner for Human Rights. (UNHCHR).

Records group

As member States are aware, procedural delays in the handling of cases and petitions presented to the IACHR have frequently been cited as a source of concern, both to the Commission and to the outside parties involved. In response to this concern, an externally funded Records Group was established within the Executive Secretariat, effective June 1, 2007, with a mandate to eliminate procedural delays and to give the Commission greater capacity for initial evaluation and processing so that it can respond promptly to petitions and ensure their expeditious processing.

Annual sessions

In 2007, for the first time, the Commission held a total of four meetings, three regular sessions at headquarters in Washington, and a special session that was conducted in Paraguay, thanks to the invitation and cooperation of the government of that country. On that occasion, the IACHR met with the President of the Republic, Mr. Nicanor Duarte Frutos, and with other senior government authorities, as well as with organizations of civil society and representatives of indigenous peoples. It held public hearings and conducted promotional activities for the inter-American system of human rights with academic and judicial circles.

This is the second consecutive year we have held special sessions away from headquarters. They have enabled the Commission to establish closer links with government institutions, NGOs, petitioners and persons interested in the inter-American system, and to publicize the system in the region.

With respect to the reports that need to be approved during the session opening today, in 2007 the Commission approved 56 reports of admissibility; 15 reports of inadmissibility; 15 Article 50 reports, and 5 Article 51 reports; 31 file closure reports; and 5 reports on friendly settlement. In several cases, these figures exceed the number of reports approved in the two previous years, when fewer regular sessions were held. We also held a considerable number of working meetings with States and petitioners, as well as many hearings, which as of this year are public and are announced at the OAS webpage. I may note as well that the annual IACHR budget and its sources of financing are now being published for the first time.

The foregoing denotes the importance of holding a greater number of sessions, and the need to continue the pattern of rotating special sessions in each subregion of the Americas. To meet these needs, the Commission's ordinary budget will have to be reinforced, and governments will have to extend their invitation and cooperation so that the Commission can hold sessions in each of the subregions. I must recognize that holding a greater number of regular and special sessions places a heavy workload on the executive Secretariat and on the Commissioners and I want to pay tribute to the work of all the Secretariat's staff and the effort that the Commissioners have made for the four sessions held in 2007.

In the lead-up to the regular session that begins today and will end on October 19, the Commission received 130 requests for hearings. It will hold 27 hearings as well as 29 working meetings on individual cases, petitions, precautionary measures, the general situation of human rights, and various issues of importance in the inter-American context.

During the 130th session, the IACHR will also examine and consider reports on individual petitions in cases relating to various countries, and it will continue to examine the text of the proposed "Principles on the Protection of Persons Deprived of Liberty", a topic for which I am the rapporteur. We will hold working meetings with the Government of Canada; with the human rights prosecutors in Central America, with magistrates and judges of various countries of the region, and with the OAS Committee on Juridical and Political Affairs, among other activities. We

will also have information meetings with the new Commissioners elected by the General Assembly last June.

Final considerations

Finally, I want to reiterate our commitment to continue working objectively and impartially for the observance and defense of human rights in the region, in the hope that member States of the OAS will commit themselves ever more decisively to respect the human rights of those most disadvantaged by the justice system in the Americas.

I would take this opportunity once again to urge member States of the OAS that have not yet ratified the American Convention on Human Rights and the other treaties adopted by the system, to do so, and to recognize the contentious jurisdiction of the Inter-American Court and the competence of the Commission for inter-State complaints.

I also want to urge all member States to comply fully with the decisions of the Court and the Commission, which are legally, politically and morally binding on States. I must reiterate, as I did at the General Assembly, that this is indeed the main challenge for States vis-à-vis the inter-American system of human rights, and that they should make all possible efforts to carry out in good faith the human rights commitments they have acquired, and take various measures, including those of a legislative nature, as necessary to facilitate the enforcement of those decisions.

I also want to express our gratitude to member States and to European States and international agencies for their cooperation and financial support to the Commission.

In closing I want to thank all the men and women of the IACHR Executive Secretariat and all the interns and trainees for their dedicated work and their firm commitment to protecting and promoting human rights in the Americas.

With that, I now declare open the 130th regular session of the Inter-American Commission on Human Rights.

Thank you very much.

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ANNEX 4 OAS GENERAL ASSEMBLY RESOLUTIONS

AG/RES. 2262 (XXXVII-O/07)

PROTOCOL OF SAN SALVADOR:
COMPOSITION AND FUNCTIONING OF THE WORKING GROUP
TO EXAMINE THE PERIODIC REPORTS OF THE STATES PARTIES

(Adopted at the fourth plenary session, held on June 5, 2007)

THE GENERAL ASSEMBLY,

HAVING SEEN the Annual Report of the Permanent Council to the General Assembly (AG/doc.4698/07 corr. 1) and resolutions AG/RES. 2074 (XXXV-O/05) and AG/RES. 2178 (XXXVI-O/06);

CONSIDERING the provisions of the American Convention on Human Rights, Chapter III of which refers to economic, social, and cultural rights;

UNDERSCORING the entry into force, in November 1999, of the Additional Protocol to the American Convention on Human Rights in the Area of Economic, Social and Cultural Rights, "Protocol of San Salvador," and its ratification by 14 member states of the Organization of American States (OAS);

RECALLING that both the American Convention and the Protocol of San Salvador recognize that the essential rights of an individual are not derived from one's being a national of a certain state, but are based upon attributes of the human person;

RECALLING ALSO that, in Article 19 of the Protocol of San Salvador, the states parties undertake to submit, pursuant to the provisions of that article and the corresponding rules to be formulated for that purpose by the OAS General Assembly, periodic reports on the progressive measures they have taken to ensure due respect for the rights set forth in said Protocol;

TAKING INTO ACCOUNT that resolution AG/RES. 2074 (XXXV-O/05) adopted the "Standards for the Preparation of Periodic Reports pursuant to Article 19 of the Protocol of San Salvador," and that AG/RES. 2178 (XXXVI-O/06) instructed the Permanent Council to make proposals as soon as possible, through the Committee on Juridical and Political Affairs, on the composition and functioning of the working group established to examine the national reports in accordance with the Standards;

BEARING IN MIND that the states parties to the Protocol presented a "Proposal for the Composition and Functioning of the Working Group," which was considered by the political organs of the Organization; and

RECOGNIZING that the Plan of Action of the Fourth Summit of the Americas (Mar del Plata, Argentina, 2005) urged the member states to consider signing and ratifying, or acceding to, as the case may be, the Protocol of San Salvador, and to collaborate in the development of progress indicators in the area of economic, social, and cultural rights,
RESOLVES:

1. To adopt the document "Composition and Functioning of the Working Group to Examine the National Reports Envisioned in the Protocol of San Salvador," which is attached hereto.

2. To reiterate its request to the Inter-American Commission on Human Rights to continue its work with a view to proposing to the Permanent Council for possible adoption, no later than the third quarter of 2007, the progress indicators to be used for each group of protected rights on which information is to be provided, taking into account, *inter alia*, the contributions of the Inter-American Institute of Human Rights.

3. To reiterate that the request set forth in operative paragraph 2 of this resolution must be fulfilled before the time periods for submission of the national progress reports to be presented by the states parties to the Protocol of San Salvador begin to run.

4. To urge member states to consider signing and ratifying, ratifying, or acceding to, as the case may be, the Additional Protocol to the American Convention on Human Rights in the Area of Economic, Social and Cultural Rights, "Protocol of San Salvador."

5. To request the Permanent Council to report to the General Assembly at its thirty-eighth regular session on the implementation of this resolution, which will be carried out within the resources allocated in the program-budget of the Organization and other resources.

APPENDIX

COMPOSITION AND FUNCTIONING OF THE WORKING GROUP TO EXAMINE THE NATIONAL REPORTS ENVISIONED IN THE PROTOCOL OF SAN SALVADOR

1. COMPOSITION OF THE WORKING GROUP

The Working Group to Examine the Progress Reports of the States Parties to the Protocol of San Salvador shall be composed of:

- a. Three government experts elected by the states parties during the session of the General Assembly of the Organization of American States (OAS) from a list of candidates nominated by the states parties, taking into account equitable geographic distribution and rotation. Additionally, an alternate government expert.
- b. One independent expert, who shall be a highly qualified professional with recognized experience in the field, appointed during the OAS General Assembly session by the Secretary General of the Organization from among a list of candidates nominated by the states parties, each country being restricted to one candidate. The candidates shall be academics, members of civil society organizations of the respective country, or members of civil society organizations registered with the OAS; at the time of selection, they may not hold government posts or serve in any branch of government. Additionally, an alternate independent expert.
- c. One member of the Inter-American Commission on Human Rights (IACHR). In addition, one alternate member.

2. GENERAL RULES

- a. The General Secretariat, through the Office of International Law of the Department of International Legal Affairs, shall serve as Technical Secretariat of the Working Group.
- b. Both the government experts and the independent expert shall serve for a three-year term, with the exception of the first term, in which, for the sake of continuity, one of the elected government experts shall be drawn by lot to serve a two-year term, along with the independent expert. In no case may experts be reelected.
- c. No national of the state party whose report is to be examined may participate in the review.
- d. To carry out its mandate, the Working Group may meet for five days every six months at OAS headquarters. When the Group is not in session, it shall conduct its work by electronic or other means.
- e. The states parties' reports and the Working Group's analysis shall be submitted to the Inter-American Council for Integral Development (CIDI), as provided in Article 19 of the Protocol of San Salvador. Each year, the Working Group shall present a report to CIDI for presentation to the OAS General Assembly, with a copy to the Permanent Council, transmitted through the Committee on Juridical and Political Affairs (CAJP).

AG/RES. 2263 (XXXVII-O/07)

SUPPORT FOR THE COMMITTEE FOR THE ELIMINATION OF ALL FORMS OF DISCRIMINATION AGAINST PERSONS WITH DISABILITIES

(Adopted at the fourth plenary session, held on June 5, 2007)

THE GENERAL ASSEMBLY,

BEARING IN MIND:

The Inter-American Convention on the Elimination of All Forms of Discrimination against Persons with Disabilities, adopted in Guatemala on June 7, 1999, which entered into force on September 14, 2001, and has been ratified by 17 member states;

Resolution AG/RES. 2167 (XXXVI-O/06), "Establishment of the Committee Provided for in the Inter-American Convention on the Elimination of All Forms of Discrimination against Persons with Disabilities," in which the Secretary General is requested to convene, in accordance with Article VI of that Convention, the first meeting of that Committee; and

Resolution CP/RES. 913 (1577/07), "Committee for the Elimination of All Forms of Discrimination against Persons with Disabilities," in which the offer by the Republic of Panama to host the first meeting of the Committee was accepted;

CONSIDERING that the First Meeting of the Committee for the Elimination of All Forms of Discrimination against Persons with Disabilities was held on February 28 and March 1, 2007, in Panama City, Republic of Panama; and

HAVING SEEN the report on the First Meeting of the Committee (CEDDIS/doc.28/07),

RESOLVES:

1. To express its satisfaction at the installation of the Committee for the Elimination of All Forms of Discrimination against Persons with Disabilities and the adoption of its

rules of procedure and of the general guidelines on the content of the reports of the states parties to the Convention; and to encourage the Committee to continue its work of monitoring implementation of the Convention, according to its approved work calendar.

2. To thank the people and Government of the Republic of Panama for their generous hospitality and their decisive and effective support in making the first meeting of the Committee a success.

3. To create a specific fund of voluntary contributions, entitled "Specific Fund for the Committee for the Elimination of All Forms of Discrimination against Persons with Disabilities," to be administered by the General Secretariat, in order to supplement financing for the activities of the Committee and its Technical Secretariat and to allow for the participation of representatives appointed by those states parties that, owing to special circumstances, cannot finance such participation.

4. To request the Secretary General to continue, through the Office of International Law, which serves as the Technical Secretariat of the Committee, supporting the tasks assigned to the Committee.

5. To instruct the Permanent Council to follow up on this resolution, which will be carried out within the resources allocated in the program-budget of the Organization and other resources, and to present a report on its implementation to the General Assembly at its thirty-eighth regular session.

AG/RES. 2267 (XXXVII-O/07)

RIGHT TO THE TRUTH^[1]

(Adopted at the fourth plenary session, held on June 5, 2007)

THE GENERAL ASSEMBLY,

HAVING SEEN its resolution AG/RES. 2175 (XXXVI-O/06), "Right to the Truth";

CONSIDERING the American Declaration of the Rights and Duties of Man, the American Convention on Human Rights, or "Pact of San José, Costa Rica," the Inter-American Convention to Prevent and Punish Torture, and the Inter-American Convention on Forced Disappearance of Persons;

CONSIDERING IN PARTICULAR Articles 25, 8, 13, and 1.1 of the American Convention on Human Rights, related, respectively, to the right to judicial protection, the right to due process and judicial guarantees, the right to freedom of expression, and the duty of states to respect and guarantee human rights;

CONSIDERING ALSO the provisions of the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights, the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, the Geneva Conventions of 1949 and the 1977 Additional Protocols thereto, the 2006 International Convention for the Protection of All Persons from Enforced Disappearance, and other relevant instruments of international human rights law and international humanitarian law, as well as the Vienna Declaration and Programme of Action;

NOTING the universality, interdependence, indivisibility, and interrelatedness of civil, political, economic, social, and cultural rights;

TAKING NOTE of Articles 32 and 33 of Additional Protocol I, adopted on June 8, 1977, to the Geneva Conventions of August 12, 1949, and relating to the Protection of Victims of International Armed Conflicts, which recognize the right of families, as soon as circumstances permit, to know the fate of persons who have disappeared in armed conflicts;

STRESSING that adequate steps to identify victims should also be taken in situations not amounting to armed conflict, especially in cases of severe or systematic violations of human rights;

RECALLING resolution 2005/66 of the United Nations Commission on Human Rights, on the right to the truth, and decision 2/105 of the United Nations Human Rights Council;

RECALLING ALSO its resolution AG/RES. 445 (IX-O/79), on the promotion of human rights, and its resolutions AG/RES. 510 (X-O/80), AG/RES. 618 (XII-O/82), AG/RES. 666 (XIII-O/83), and AG/RES. 742 (XIV-O/84), on forced disappearance;

TAKING INTO ACCOUNT its resolution AG/RES. 2134 (XXXV-O/05), on persons who have disappeared, and its resolution AG/RES. 2231 (XXXVI-O/06), on persons who have disappeared and assistance to members of their families;

NOTING that the General Assembly has received reports from the Inter-American Commission on Human Rights on the human rights situation in certain countries of the region, which refer to the right to the truth and recognize that the disappearance of persons causes suffering and hardship, especially to relatives and any other person having a legitimate interest, who are uncertain about their fate and unable to provide them with legal, moral, and material assistance;

NOTING ALSO that the Inter-American Commission on Human Rights and the Inter-American Court of Human Rights have recognized the right to the truth in their respective recommendations and judgments in various individual cases of human rights violations;

MINDFUL that the right to the truth may be characterized differently in some legal systems as the right to know or the right to be informed or as freedom of information;

TAKING NOTE of the conclusions of the regional seminar "Memory, Truth, and Justice: Our Recent Past." held in the context of the Meeting of Competent High Authorities on Human

Rights and Foreign Ministries of MERCOSUR and Associated States, in November 2005, which recognize the collective dimension of the right to the truth;

STRESSING that the regional community should make a commitment to recognize the right of victims of gross violations of human rights and serious violations of international humanitarian law, and their families and society as a whole, to know the truth regarding such violations to the fullest extent practicable, in particular the identity of the perpetrators, the causes and facts of such violations, and the circumstances under which they occurred;

STRESSING ALSO that it is important for states to provide effective mechanisms for society as a whole and, in particular, for relatives of the victims, to learn the truth regarding gross violations of human rights and serious violations of international humanitarian law; and

CONVINCED that states, within the framework of their own internal legal systems, should preserve records and other evidence concerning gross violations of human rights and serious violations of international humanitarian law, in order to facilitate knowledge of such violations, investigate allegations, and provide victims with access to an effective remedy in accordance with international law, in order to prevent these violations from occurring again in the future, among other reasons,

RESOLVES:

1. To recognize the importance of respecting and ensuring the right to the truth so as to contribute to ending impunity and to promoting and protecting human rights.

2. To welcome the establishment in several states of specific judicial mechanisms, as well as other non-judicial or ad hoc mechanisms, such as truth and reconciliation commissions, that complement the justice system, to contribute to the investigation of violations of human rights and of international humanitarian law; and to express appreciation for the preparation and publication of the reports and decisions of these bodies.

3. To encourage the states concerned to disseminate and implement the recommendations of national non-judicial or ad hoc mechanisms, such as truth and reconciliation commissions, to monitor the implementation of said recommendations at the domestic level, and to report on compliance with the decisions of judicial mechanisms.

4. To encourage other states to consider the possibility of establishing specific judicial mechanisms and, where appropriate, truth commissions or other similar bodies to complement the justice system, to contribute to the investigation and punishment of gross violations of human rights and serious violations of international humanitarian law.

5. To encourage states and the Inter-American Commission on Human Rights (IACHR), within its sphere of competence, to provide the states that so request with necessary and appropriate assistance concerning the right to the truth, through, *inter alia*, technical cooperation and information exchange on national administrative, legislative, and judicial measures applied, as well as experiences and best practices geared toward the protection, promotion, and implementation of this right.

6. To request the IACHR to continue to prepare a report, for presentation to the Permanent Council, on the evolution of the right to the truth in the Hemisphere, which report shall include national mechanisms and experiences in this regard.

7. To encourage all states to take appropriate measures to establish mechanisms or institutions for disclosing information on human rights violations, and to ensure that citizens have appropriate access to said information, in order to further the exercise of the right to the truth, prevent future human rights violations, and establish accountability in this area.

8. To request the Permanent Council to follow up on this resolution, which will be implemented within the resources allocated in the program-budget of the Organization and other resources, and to present a report on its implementation to the General Assembly at its thirty-eighth regular session.

AG/RES. 2271 (XXXVII-O/07)

PROTECTING HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS
WHILE COUNTERING TERRORISM

(Adopted at the fourth plenary session, held on June 5, 2007)

THE GENERAL ASSEMBLY,

RECALLING its resolutions AG/RES. 1840 (XXXII-O/02), AG/RES. 1906 (XXXII-O/02), AG/RES. 1931 (XXXIII-O/03), AG/RES. 2035 (XXXIV-O/04), AG/RES. 2143 (XXXV-O/05), and AG/RES. 2238 (XXXVI-O/06), and the Report on Terrorism and Human Rights, prepared by the Inter-American Commission on Human Rights (IACHR) (OEA/Ser.L/V/II.116 - Doc.5 rev. 1);

REAFFIRMING the principles and purposes of the Charter of the Organization of American States and the Charter of the United Nations;

EMPHASIZING that all persons are born free and are entitled to the human rights and fundamental freedoms recognized in the Universal Declaration of Human Rights, without distinction of any kind as to race, color, sex, language, religion, political or other opinion, national or social origin, economic status, birth, or other status, and that this applies in all circumstances, in accordance with international law;

REITERATING that all persons are equal before the law and have the rights and duties established in the American Declaration of the Rights and Duties of Man, without distinction as to race, sex, language, creed, or any other factor;

REAFFIRMING that states are under the obligation to protect all human rights and fundamental freedoms of all persons;

RECOGNIZING that respect for all human rights, respect for democracy, and respect for the rule of law are interrelated and mutually reinforcing;

CONSIDERING that terrorism poses a serious threat to the security, the institutions, and the democratic values of states and to the well-being of our peoples, and that it impairs the full enjoyment and exercise of human rights;

REAFFIRMING that acts, methods, and practices of terrorism in all its forms and manifestations are activities aimed at the destruction of human rights, fundamental freedoms, and democracy, threatening the territorial integrity and security of states and destabilizing legitimately constituted governments, and that the international community should take the necessary steps to enhance cooperation to prevent and combat terrorism;

REAFFIRMING ALSO its unequivocal condemnation of all acts, methods, and practices of terrorism in all its forms and manifestations, wherever and by whomsoever committed, regardless of their motivation, as criminal and unjustifiable; and renewing its commitment to strengthen international cooperation to prevent and combat terrorism;

TAKING INTO ACCOUNT:

That, in the Declaration of San Carlos on Hemispheric Cooperation for Comprehensive Action to Fight Terrorism, adopted on March 24, 2006, and the Declaration of Panama on the Protection of Critical Infrastructure in the Hemisphere in the Face of Terrorism, adopted on March 1, 2007, the member states reaffirmed that terrorism in all its forms and manifestations, whatever its origin or motivation, has no justification whatsoever, affects the full enjoyment and exercise of human rights, and constitutes a grave threat to international peace and security, the institutions and values of democracy, and the stability and prosperity of the countries of the region;

That, in the Declaration on Security in the Americas, the states of the Hemisphere renewed their commitment, reiterated in the Declaration of San Carlos and Declaration of Panama, to fight terrorism and its financing, with full respect for the rule of law and international law, including international humanitarian law, international human rights law, and international refugee law, the Inter-American Convention against Terrorism, and United Nations Security Council resolution 1373 (2001);^[2] and

That, in the Declaration of Mar del Plata of the Fourth Summit of the Americas and the Declaration of Nuevo León of the Special Summit of the Americas, the Heads of State and Government agreed to take all necessary steps to prevent and counter terrorism and its financing, in full compliance with their obligations under international law, including international human rights law, international refugee law, and international humanitarian law;

WELCOMING the fact that the Inter-American Convention against Terrorism came into force on July 10, 2003; and that to date 22 countries have ratified it;

CONSIDERING the report of the Meeting of Government Experts to Exchange, from a Human Rights Perspective, Best Practices and National Experiences in Adopting Antiterrorism Measures, held on February 12 and 13, 2004 (CP/CAJP-2140/04);

HAVING RECEIVED the document entitled "Recommendations for the Protection of Human Rights by OAS Member States in the Fight against Terrorism" (CP/doc.4117/06), prepared by the Inter-American Commission on Human Rights, which complements the IACHR's Report on Terrorism and Human Rights, dated October 22, 2002 (OEA Ser.L/V/II.116. Doc. 5 rev. 1);

REAFFIRMING:

That, in the fight against terrorism, any detained person presumed to be involved in a terrorist act will enjoy the rights and guarantees provided by applicable international law, in particular international human rights law and international humanitarian law;

That the means the state can use to protect its security or that of its citizens in the fight against terrorism should, under all circumstances, be consistent with applicable international law, in particular international human rights law, international humanitarian law, and international refugee law; and

That terrorism cannot and should not be associated with any religion, nationality, civilization, or ethnic group;

RECALLING that, under Article 27 of the American Convention on Human Rights and Article 4 of the International Covenant on Civil and Political Rights, it is recognized that some rights are non-derogable under any circumstances, and that, with respect to rights that may be subject to derogation, states may take measures derogating from their obligations under these Conventions to the extent and, with respect to the American Convention, for the period of time strictly required by the exigencies of the situation, provided that such measures are not inconsistent with the other rights and obligations prescribed under international law; and emphasizing that, in the inter-American system, the protection of non-derogable rights includes essential judicial guarantees for their protection; and

DEEPLY DEPLORING the occurrence of violations of human rights and fundamental freedoms in the context of the fight against terrorism, as well as violations of international refugee law and international humanitarian law,

RESOLVES:

1. To reaffirm that the fight against terrorism must be waged with full respect for the law, including compliance with due process and human rights comprised of civil, political, economic, social, and cultural rights, as well as for democratic institutions, so as to preserve the rule of law and democratic freedoms and values in the Hemisphere.

2. To reaffirm that all member states have a duty to ensure that all measures adopted to combat terrorism are in compliance with their obligations under international law, in

particular international human rights law, international refugee law, and international humanitarian law.

3. To urge all member states, with a view to fulfilling the commitments undertaken in this resolution, to consider signing and ratifying, ratifying, or acceding to, as the case may be and as soon as possible, the Inter-American Convention against Terrorism and the American Convention on Human Rights; and to urge the states parties to take appropriate steps to implement the provisions of those treaties.

4. To request the Inter-American Commission on Human Rights (IACHR) to continue promoting respect for and the defense of human rights and facilitating efforts by member states to comply appropriately with their international human rights commitments when developing and executing counterterrorist measures, including the rights of persons who might be at a disadvantage, subject to discrimination, or at risk as a result of terrorist violence or counterterrorist initiatives, and to report to the Permanent Council on the advisability of conducting a follow-up study.

5. To request that the Permanent Council, having received the document entitled "Recommendations for the Protection of Human Rights by OAS Member States in the Fight against Terrorism" (CP/doc.4117/06), prepared by the IACHR, hold consultations with the Inter-American Committee against Terrorism (CICTE) and with member states, so as to conclude the process provided for in resolution AG/RES. 2143 (XXXV-O/05), operative paragraph 5, for preparing recommendations.

6. On the basis of the Recommendations for the Protection of Human Rights by OAS Member States in the Fight against Terrorism, prepared by the IACHR, and the outcome of the consultations with CICTE and the member states, the Permanent Council may consider preparing draft common terms of reference for the protection of human rights and fundamental freedoms in the fight against terrorism, that would compile current international standards based on applicable international law, as well as best practices, for consideration by the General Assembly.

7. To reiterate the importance of intensifying dialogue among CICTE, the IACHR, and other pertinent areas of the Organization, with a view to improving and strengthening their ongoing collaboration on the issue of protecting human rights and fundamental freedoms while countering terrorism.

8. To urge member states to respect, in accordance with their obligations, the human rights of all persons deprived of their liberty in high-security detention centers, particularly observance of due process.

9. To reaffirm that it is imperative that all states work to uphold and protect the dignity of individuals and their fundamental freedoms, as well as democratic practices and the rule of law, while countering terrorism.

To request the Permanent Council to present a report to the General Assembly at its thirty-eighth regular session on the implementation of this resolution, which will be carried out within the resources allocated in the program-budget of the Organization and other resources.

AG/RES. 2276 (XXXVII-O/07)

DRAFT INTER-AMERICAN CONVENTION AGAINST RACISM
AND ALL FORMS OF DISCRIMINATION AND INTOLERANCE

(Adopted at the fourth plenary session, held on June 5, 2007)

THE GENERAL ASSEMBLY,

HAVING SEEN the Annual Report of the Permanent Council to the General Assembly (AG/doc.4698/07 corr. 1);

REAFFIRMING the content of its resolution AG/RES. 2168 (XXXVI-O/06) and all prior resolutions on the subject; and

HAVING SEEN document CP/CAJP-2357/06 rev. 7, "Preliminary Draft Inter-American Convention against Racism and All Forms of Discrimination and Intolerance,"

RESOLVES:

1. To take note of the progress achieved by the Working Group to Prepare a Draft Inter-American Convention against Racism and All Forms of Discrimination and Intolerance.

2. To instruct the Working Group to continue negotiations on that Draft Convention, taking into account the progress set forth in document CP/CAJP-2357/06 rev. 7, "Preliminary Draft Inter-American Convention against Racism and All Forms of Discrimination and Intolerance," and in keeping with the work plan and working procedure to be adopted by the Group as it begins its activities.

3. To request that the Working Group continue promoting contributions from member states; organs, agencies, and entities of the Organization of American States; the United Nations; and regional organizations; and to urge those bodies to continue sending their written contributions to the Working Group for consideration; and, bearing in mind the Guidelines for Participation by Civil Society Organizations in OAS Activities, contained in Permanent Council resolution CP/RES. 759 (1217/99), dated December 15, 1999, that it also continue to receive contributions from representatives of indigenous peoples, entrepreneurs and labor groups, and civil society organizations.

4. To renew the mandates to the Justice Studies Center of the Americas (JSCA) and the Inter-American Commission on Human Rights (IACHR), as set forth in paragraphs 5, 7, and 8 of its resolution AG/RES. 2168 (XXXVI-O/06).

5. To request the General Secretariat to continue to provide the broadest possible support, through the Executive Secretariat of the IACHR and the Office of International Law of the Department of International Legal Affairs, to the Working Group's activities.

6. To instruct the Permanent Council to follow up on this resolution, which will be implemented within the resources allocated in the program-budget of the Organization and other resources, and to present a report on its implementation to the General Assembly at its thirty-eighth regular session.

AG/RES. 2277 (XXXVII-O/07)

INTERNALLY DISPLACED PERSONS

(Adopted at the fourth plenary session, held on June 5, 2007)

THE GENERAL ASSEMBLY,

RECALLING its resolutions AG/RES. 1971 (XXXIII-O/03), "The Protection of Refugees, Returnees, and Stateless and Internally Displaced Persons in the Americas," AG/RES. 774 (XV-O/85), AG/RES. 838 (XVI-O/86), AG/RES. 951 (XVIII-O/88), AG/RES. 1021 (XIX-O/89), AG/RES. 1039 (XX-O/90), AG/RES. 1040 (XX-O/90), AG/RES. 1103 (XXI-O/91), AG/RES. 1170 (XXII-O/92), AG/RES. 1214 (XXIII-O/93), AG/RES. 1273 (XXIV-O/94), AG/RES. 1336 (XXV-O/95), AG/RES. 1416 (XXVI-O/96), AG/RES. 1504 (XXVII-O/97), AG/RES. 1602 (XXVIII-O/98), AG/RES. 1892 (XXXII-O/02), AG/RES. 2055 (XXXIV-O/04), AG/RES. 2140 (XXXV-O/05), and, especially, resolution AG/RES. 2229 (XXXVI-O/06), "Internally Displaced Persons";

REITERATING the principles established in the Charter of the Organization of American States (OAS) and in the Inter-American Democratic Charter, especially those referred to in its Chapter III, "Democracy, Integral Development, and Combating Poverty";

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RECALLING the pertinent rules of international human rights, humanitarian, and refugee law; and recognizing that the protection of internally displaced persons has been reinforced by the definition and consolidation of specific protection standards, in particular the Guiding Principles on Internal Displacement, prepared by the Special Representative of the United Nations Secretary-General on Internally Displaced Persons;

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RECALLING ALSO that, according to those guiding principles, internally displaced persons are "persons or groups of persons who have been forced or obliged to flee or to leave their homes or places of habitual residence, in particular as a result of or in order to avoid the effects of armed conflict, situations of generalized violence, violations of human rights or natural or human-made disasters, and who have not crossed an internationally recognized State border";

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EMPHASIZING that the states have the primary responsibility to provide protection and assistance to internally displaced persons within their jurisdiction, as well as to address, as appropriate, the causes of the internal displacement problem and to do so, when so required, in cooperation with the international community;

NOTING that several countries in the Hemisphere are using the Guiding Principles on Internal Displacement and including them in the development of national policies and strategies;

TAKING INTO ACCOUNT that the problem of internally displaced persons is of significant proportions and that their needs, particularly with regard to protection and assistance, require immediate attention;

EMPHASIZING the importance of implementing effective policies for preventing and averting forced internal displacement and for protecting and assisting displaced persons during displacement and during return or resettlement and reintegration; and

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UNDERSCORING that to promote enhanced protection for internally displaced persons, comprehensive strategies and lasting solutions are needed, which include, among other aspects, the safe, dignified, and voluntary return of internally displaced persons, promotion and protection of their human rights, and their resettlement and reintegration, either in their place of origin or in the receiving community; and, in this context, reaffirming the importance of international cooperation,

RESOLVES:

1. To urge member states to include, as appropriate, in their sectoral plans, policies, and programs, the special needs of internally displaced persons, especially in the preparation of programs to foster development and fight poverty.

2. To urge member states to consider using the Guiding Principles on Internal Displacement, prepared by the Special Representative of the United Nations Secretary-General on Internally Displaced Persons, as a basis for their plans, policies, and programs in support of such persons, and, in accordance with international law, in support of, *inter alia*, indigenous communities and communities of African descent, and the specific needs of children, women, the elderly, and persons with disabilities.

3. To urge member states to consider adopting and implementing in their domestic law the Guiding Principles on Internal Displacement, which reflect certain aspects of international human rights law and international humanitarian law.

4. In order to avert the internal displacement of persons, to encourage member states to address the factors that cause it and to establish preventive policies, such as early warning, bearing in mind that dialogue with all the actors involved is essential to the achievement of lasting solutions.

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5. To urge member states, in keeping with their responsibility to internally displaced persons, based on comprehensive strategies and from a human rights perspective, to commit to providing them with protection and assistance during displacement, through

competent national institutions; and to invite member states to commit to seeking lasting solutions, including the safe and voluntary return of internally displaced persons and their resettlement and reintegration, whether in their place of origin or in the receiving community.

6. To call upon states to protect the rights of internally displaced persons in natural and man-made disasters and to employ an approach to disaster relief and reconstruction, consistent with international human rights law and domestic law, taking into account the Guiding Principles on Internal Displacement and best practices.

7. To appeal to the appropriate agencies of the United Nations and the inter-American system, and to other humanitarian organizations and the international community, to provide support and/or assistance, as requested by states, in addressing the various factors that cause internal displacement, and in assisting persons affected by internal displacement at all stages, where account should be taken of the Guiding Principles on strengthening of the coordination of humanitarian emergency assistance (United Nations General Assembly resolution 46/182).

8. To instruct the Permanent Council to follow up on this resolution as it sees fit.

AG/RES. 2279 (XXXVII-O/07)

PROMOTION OF THE INTERNATIONAL CRIMINAL COURT^[3]

(Adopted at the fourth plenary session, held on June 5, 2007)

THE GENERAL ASSEMBLY,

RECALLING its resolutions AG/RES. 1619 (XXIX-O/99), AG/RES. 1706 (XXX-O/00), AG/RES. 1709 (XXX-O/00), AG/RES. 1770 (XXXI-O/01), AG/RES. 1771 (XXXI-O/01), AG/RES. 1900 (XXXII-O/02), AG/RES. 1929 (XXXIII-O/03), AG/RES. 2039 (XXXIV-O/04), AG/RES. 2072 (XXXV-O/05), and AG/RES. 2176 (XXXVI-O/06);

RECALLING ALSO the recommendation of the Inter-American Commission on Human Rights (OEA/Ser.L/V/II.102, Doc. 6 rev., April 16, 1999, Chapter VII, 21.3.B), as well as its resolution No. 1/03, on the prosecution of international crimes, and the document "Framework for OAS Action on the International Criminal Court" (AG/INF.248/00);

RECOGNIZING that the adoption of the Statute of the International Criminal Court, on July 17, 1998, in Rome, is a milestone in efforts to combat impunity, and that the Court is a component of the international criminal justice system and an effective instrument for consolidating international justice and peace;

NOTING WITH CONCERN the continuation in some parts of the world of persistent violations of international humanitarian law and international human rights law; and reaffirming that all states have the primary duty to investigate, prosecute, and punish those violations so as to prevent their recurrence and avoid the impunity of the perpetrators of those crimes;

CONVINCED of the importance of preserving the effectiveness and legal integrity of the Rome Statute, including the jurisdiction of the International Criminal Court; and recognizing the essential role of the Vienna Convention on the Law of Treaties and the firm resolve of the states parties to preserve them;

WELCOMING the entry into force of the Rome Statute of the International Criminal Court on July 1, 2002, because as of that date the Court became the judicial body complementing the efforts of national jurisdictions to prosecute the perpetrators of the most serious international crimes, such as genocide, crimes against humanity, and war crimes;

MINDFUL of the importance of effective cooperation from the states and from international and regional organizations, and of support from civil society, to the effective functioning of the International Criminal Court;

NOTING in this respect that Article 87.6 of the Rome Statute recognizes the role intergovernmental organizations can play in providing cooperation to the Court and that, in its resolution ICC-ASP/5/Res. 3, contained in ICC publication ICC-ASP/5/32, the Assembly of States Parties, at its fifth session, decided to invite other relevant regional organizations to consider concluding such agreements with the Court;

WELCOMING that 104 states have now ratified or acceded to the Rome Statute, among them 23 members of the Organization of American States—Saint Kitts and Nevis being the state in the Hemisphere most recently to do so—and that 139 states have signed it, including 27 members of the Organization;

NOTING WITH GRATIFICATION that 10 member states of the Organization have ratified or acceded to the Agreement on Privileges and Immunities of the International Criminal Court, among them Uruguay, Bolivia, and Ecuador in 2006, and Argentina in early 2007; and that others are in the process of doing so;

NOTING the outcome of the fifth session of the Assembly of States Parties to the Rome Statute, held from November 23 to December 3, 2006, and from January 29 to February 1, 2007;

EXPRESSING ITS SATISFACTION with the progress made by the International Criminal Court in developing into a fully operational judicial body, and that the confirmation of charges in the case *The Prosecutor v. Thomas Lubanga Dyilo*, on January 29, 2007, marks the beginning of a new phase for the Court;

RECOGNIZING the important work of the Coalition for the International Criminal Court with member states in promoting and defending the Rome Statute;

HAVING SEEN the report of the Inter-American Juridical Committee presented pursuant to resolution AG/RES. 2276 (XXXVI-O/06), provided in document CP/doc.4194/07:

EXPRESSING ITS SATISFACTION with the holding, at the Organization's headquarters, on February 2, 2007, of the Working Meeting on appropriate measures that states should take to cooperate with the International Criminal Court in the investigation, prosecution, and punishment of the perpetrators of war crimes, crimes against humanity, genocide, and crimes against the administration of justice of the International Criminal Court, within the framework of the Committee on Juridical and Political Affairs and with support from the Office of International Law, in which representatives of the International Criminal Court, international organizations, and civil society organizations participated; and taking note of the results of that meeting, contained in the Rapporteur's report (CP/CAJP-2457/07 rev. 1); and

TAKING NOTE of the Annual Report of the Permanent Council to the General Assembly (AG/doc.4698/07 corr. 1),

RESOLVES:

1. To renew its appeal to those member states of the Organization that have not already done so to consider ratifying or acceding to, as the case may be, the 1998 Rome Statute of the International Criminal Court.

2. To urge member states of the Organization that are parties or signatories to the Rome Statute to promote and respect its intent and its purpose, in order to preserve its effectiveness and integrity and bring about its universal adoption.

3. To remind the member states of the Organization that are parties to the Rome Statute that it is important to adapt or amend their domestic law, as necessary, with a view to the full and effective implementation of the Statute, including the relevant adaptations in accordance with such instruments of international human rights law or international humanitarian law as may be applicable to them.

4. To urge the member states of the Organization to cooperate to the greatest extent possible among themselves and, as appropriate, with the International Criminal Court, so as to avoid the impunity of the perpetrators of the most serious international crimes, such as war crimes, crimes against humanity, and genocide, ensuring that their national legislation facilitates said cooperation and applies to crimes within the jurisdiction of the International Criminal Court.

5. To urge the member states of the Organization to consider ratifying or acceding to, as the case may be, the Agreement on Privileges and Immunities of the International Criminal Court and, in the case of those states that are already party to that Agreement, to take the necessary measures for its full and effective implementation at the national level.

6. To encourage states to contribute to the trust fund established by the Assembly of States Parties to the Rome Statute for the benefit of victims of crimes within the jurisdiction of the International Criminal Court, and of the families of such victims, as well as to the fund for the participation of least developed countries.

7. To invite member states to participate actively in the work of the Assembly of States Parties, as states parties or observers, where appropriate, with the purpose, among others, of stepping up discussions on the review conference planned for 2009 and ensuring the integrity of the Rome Statute.

8. To request the Inter-American Juridical Committee, on the basis of the information received from and updated by the member states, the recommendations contained in report CP/doc.4194/07, and existing cooperation law, to prepare model law on cooperation between states and the International Criminal Court, taking into account the Hemisphere's different legal systems, and to submit it to the General Assembly at its thirty-eighth regular session.

9. To invite the General Secretariat to designate a point of contact to consider entering into a cooperation agreement with the International Criminal Court and to report to the member states on progress in that regard before the thirty-eighth regular session of the General Assembly.

10. To request the Permanent Council to hold a working meeting, with support from the Office of International Law, on appropriate measures that states should take to cooperate with the International Criminal Court, which should include a high-level dialogue in which member states discuss the recommendations contained in report CP/doc.4194/07. The International Criminal Court, international organizations, and nongovernmental organizations will be invited to cooperate and participate in this working meeting.

11. To request the Permanent Council to include the topic of the implementation of the Rome Statute and of the Agreement on Privileges and Immunities on the agenda of the Committee on Juridical and Political Affairs.

12. To request the Secretary General to present to the General Assembly at its thirty-eighth regular session a report on the implementation of this resolution, which will be carried out within the resources allocated in the Organization's program-budget and other resources.

AG/RES. 2280 (XXXVII-O/07)

HUMAN RIGHTS DEFENDERS: SUPPORT FOR THE INDIVIDUALS, GROUPS, AND ORGANIZATIONS
OF CIVIL SOCIETY WORKING TO PROMOTE AND PROTECT
HUMAN RIGHTS IN THE AMERICAS

(Adopted at the fourth plenary session, held on June 5, 2007)

THE GENERAL ASSEMBLY,

HAVING SEEN the Annual Report of the Permanent Council to the General Assembly (AG/doc.4698/07 corr. 1) as it pertains to this topic, and resolution AG/RES. 2177 (XXXVI-O/06), "Human Rights Defenders: Support for the Individuals, Groups, and Organizations of Civil Society Working to Promote and Protect Human Rights in the Americas";

RECALLING the United Nations Declaration on the Rights and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms;

REITERATING that "[e]veryone has the right, individually and in association with others, to solicit, receive and utilize resources for the express purpose of promoting and protecting human rights and fundamental freedoms through peaceful means" in accordance with domestic law consistent with the Charter of the United Nations and other international obligations of the state in the field of human rights and fundamental freedoms;

CONCERNED that situations persist in the Americas that directly or indirectly prevent or hamper the work of individuals, groups, or organizations working to promote and protect human rights and fundamental freedoms;

BEARING IN MIND that, in resolution 60/161 of the United Nations General Assembly and resolution 2005/67 of the United Nations Commission on Human Rights, the member states of the United Nations noted "with deep concern that, in many countries, persons and organizations engaged in promoting and defending human rights and fundamental freedoms are facing threats, harassment and insecurity as a result of those activities";

CONSIDERING that the member states of the Organization of American States support the work carried out by human rights defenders and recognize their valuable contribution to the promotion, observance, and protection of human rights and fundamental freedoms in the Americas, and to the representation and defense of individuals, minorities, and other groups of persons whose rights are threatened or violated;

NOTING that the decisions of the Inter-American Court of Human Rights granting provisional measures, and the "Report on the Situation of Human Rights Defenders in the Americas," prepared by the Inter-American Commission on Human Rights, have highlighted the importance of the work of human rights defenders to the development of democracies in the Americas;

URGING the Unit for Human Rights Defenders of the Inter-American Commission on Human Rights to continue its work;

EMPHASIZING that the protection and promotion of human rights is legitimate work and that, in the exercise of their duties, human rights defenders contribute decisively to strengthening democratic institutions and improving national human rights systems; and

EMPHASIZING ALSO the importance of the role of human rights defenders in promoting dialogue, openness, participation, and justice to contribute to the prevention of violence and promote sustainable peace and security, and the affirmation that, to be effective, international strategies in this area must pay special attention to protecting human rights defenders,

RESOLVES:

1. To reiterate its support for the work carried out, at both the national and regional levels, by human rights defenders; and to recognize their valuable contribution to the promotion, observance, and protection of human rights and fundamental freedoms in the Hemisphere.
2. To recognize that, in view of their specific role and needs, women human rights defenders should be accorded special attention to ensure that they are fully protected and effective in carrying out their important activities.
3. To condemn actions that directly or indirectly prevent or hamper the work of human rights defenders in the Americas.
4. To encourage human rights defenders to continue their selfless work and their contributions to the enhancement of national human rights systems for the strengthening of democracy, in accordance with the principles contained in the United Nations Declaration on the Rights and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms.
5. To encourage member states to continue or begin, as the case may be, activities to educate and disseminate information to government officials, society at large, and the media, both public and private, so as to make them aware of the importance and validity of the work of human rights defenders and their organizations.
6. To urge member states to continue stepping up their efforts to adopt necessary measures to safeguard the lives, freedom, and personal safety of human rights defenders and their relatives, including effective emergency protection measures in the case of imminent threat or danger, and to ensure that thorough and impartial investigations and proceedings are carried out, and appropriate punishments are applied, in all cases of violations against human rights defenders.
7. To request the Inter-American Commission on Human Rights to:
 - a. Continue to give due consideration to this matter;
 - b. Continue intensifying its dialogue and cooperation with the United Nations Special Representative of the Secretary-General on Human Rights Defenders; and
 - c. Include in its annual report a section on the work of the Unit for Human Rights Defenders of the Inter-American Commission on Human Rights.

8. To encourage member states to ensure that national regulations—including registration where applicable under national law—concerning human rights defenders and their organizations, allow their work to be carried out in a free, transparent, and open political environment and in a manner consistent with applicable international human rights and humanitarian law.

9. To invite member states to promote the dissemination and enforcement of the instruments of the inter-American system and the decisions of its bodies on this matter, as well as the United Nations Declaration on the Rights and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms.

10. To invite member states to consider the preparation and implementation of national plans to apply the principles contained in the United Nations Declaration mentioned in the preceding paragraph, for which purpose they may also request the advisory services of the Inter-American Commission on Human Rights.

11. To invite member states to inform the Inter-American Commission on Human Rights of measures adopted to follow up on the recommendations contained in the "Report on the Situation of Human Rights Defenders in the Americas," prepared in 2006 by the Unit for Human Rights Defenders of the Inter-American Commission on Human Rights.

12. To request the Permanent Council to report to the General Assembly at its thirty-eighth regular session on the implementation of this resolution, which will be carried out within the resources allocated in the program-budget of the Organization and other resources.

AG/RES. 2283 (XXXVII-O/07)

STUDY OF THE RIGHTS AND THE CARE OF PERSONS
UNDER ANY FORM OF DETENTION OR IMPRISONMENT

(Adopted at the fourth plenary session, held on June 5, 2007)

THE GENERAL ASSEMBLY,

HAVING SEEN the Annual Report of the Permanent Council to the General Assembly (AG/doc.4698/07 corr. 1) as it pertains to this topic, as well as resolutions AG/RES. 1816 (XXXI-O/01), AG/RES. 1897 (XXXII-O/02), AG/RES. 1927 (XXXIII-O/03), AG/RES. 2037 (XXXIV-O/04), AG/RES. 2125 (XXXV-O/05), and AG/RES. 2233 (XXXVI-O/06);

TAKING INTO ACCOUNT:

That in the inter-American system the member states of the Organization of American States (OAS) undertake to respect and protect the human rights of persons who have been deprived of freedom, including all applicable rights established in the American Declaration of the Rights and Duties of Man and those established in all other human rights instruments to which they are party;

That consultations with the member states on this subject have continued within the Committee on Juridical and Political Affairs (CAJP) and that a number of them have replied to the questionnaire prepared for that purpose (CP/CAJP-1853/01 rev. 1);

The conclusions and recommendations of the Fifth Meeting of Ministers of Justice or of Ministers or Attorneys General of the Americas (REMJA-V), contained in its Final Report (REMJA-V/doc.9/04), and, in particular, the recommendation that the states promote "modernization of prison infrastructure and extend the functions of rehabilitation and social integration of the individual, by improving conditions of detention and studying new penitentiary standards";

The conclusions and recommendations of the Sixth Meeting of Ministers of Justice or of Ministers or Attorneys General of the Americas (REMJA-VI), including those on a possible inter-American declaration on the rights, duties, and care of persons under any form of detention or imprisonment and those on the feasibility of preparing a hemispheric manual on penitentiary rights, taking as a basis the United Nations Standard Minimum Rules for the Treatment of Prisoners (REMJA-VI/doc.21/06 rev. 1, paragraphs 4.d and b);

The Recommendations of the First Meeting of Officials Responsible for the Penitentiary and Prison Policies of the OAS Member States (GAPECA/doc.04/03), held in Washington, D.C., on October 16 and 17, 2003;

That the Special Rapporteur on the Rights of Persons Deprived of Freedom in the Americas of the Inter-American Commission on Human Rights is preparing a draft "Declaration of Principles on the Protection of Persons Deprived of Freedom in the Americas"; and

OBSERVING WITH CONCERN the critical situation of violence and overcrowding in places of deprivation of freedom in the Americas, and stressing the need to take concrete measures to prevent this situation and to ensure the exercise of the human rights of persons deprived of freedom,

RESOLVES:

1. To urge member states to comply, under all circumstances, with all applicable international obligations to respect the human rights of persons under any form of detention or imprisonment, including the rights established in the American Declaration of the Rights and Duties of Man and those established in all other human rights instruments to which they are party.

2. To instruct the Permanent Council to continue studying the question of the rights and the care of persons under any form of detention or imprisonment, in cooperation with the competent organs and entities of the inter-American system and taking into account the Conclusions and Recommendations of the Sixth Meeting of Ministers of Justice or of Ministers or Attorneys General of the Americas, contained in the Final Report of that meeting (REMJA-

VI/doc.24/06 rev. 1), including the report of the First Meeting of Officials Responsible for the Penitentiary and Prison Policies of the OAS Member States (GAPECA/doc.04/03).

3. To request the Inter-American Commission on Human Rights (IACHR) to continue reporting on the situation of persons under any form of detention or imprisonment in the Hemisphere and, using as a basis its work on the subject, to proceed with the compilation of the regional and global standards for detention and imprisonment policies in the member states, making reference to any problems and good practices observed.

4. To congratulate and acknowledge those member states that have invited the Special Rapporteur on the Rights of Persons Deprived of Freedom in the Americas of the Inter-American Commission on Human Rights (IACHR) to visit their countries, including their detention centers; and to encourage all member states to facilitate such visits.

5. To call upon member states to consider allocating more funds to the IACHR to enable it to support the effective fulfillment of the mandate assigned to its Special Rapporteurship on the Rights of Persons Deprived of Freedom in the Americas.

6. To reiterate to the Permanent Council that, on the basis of the results of the discussions and studies conducted, including the inputs of the IACHR, and of the work of the Special Rapporteur on the Rights of Persons Deprived of Freedom in the Americas of the Inter-American Commission on Human Rights and the results of the Second Meeting of Officials Responsible for Penitentiary and Prison Policies, to be held pursuant to the REMJA-VI decision, indicating the need for it to be held as soon as possible, it should consider the possibility of drafting an inter-American declaration on the rights, duties, and care of persons under any form of detention or imprisonment, with a view to strengthening existing international standards on these topics, and the feasibility of preparing a hemispheric manual on penitentiary rights, taking as a basis the United Nations Standard Minimum Rules for the Treatment of Prisoners.^[4]

7. To request the Permanent Council to report to the General Assembly at its thirty-eighth regular session on the implementation of this resolution, which will be carried out within the resources allocated in the program-budget of the Organization and other resources.

AG/RES. 2284 (XXXVII-O/07)

SITUATION OF THE INTER-AMERICAN INDIAN INSTITUTE

(Adopted at the fourth plenary session, held on June 5, 2007)

THE GENERAL ASSEMBLY,

RECALLING its resolutions AG/RES. 1718 (XXX-O/00), "Reform of the Inter-American Indian Institute"; AG/RES. 1933 (XXXIII-O/03) and AG/RES. 2046 (XXXIV-O/04), "Support for the Restructuring of the Inter-American Indian Institute"; and AG/RES. 2131 (XXXV-O/05), "Situation of the Inter-American Indian Institute";

TAKING INTO ACCOUNT the observations and recommendations on the annual reports of the organs, agencies, and entities of the Organization of American States (OAS), in particular the annual report of the Inter-American Indian Institute (III) (CP/doc.4175/07);

RECOGNIZING that the Inter-American Indian Institute was established in 1940, with the signing of the Pátzcuaro Convention, for the main purpose of fostering collaboration in the coordination of indigenous policies of the member states; of requesting, compiling, organizing, and distributing scientific research, legislation, historical archives, and other documents related to the indigenous peoples of the Americas; and of carrying out publication and dissemination activities to bring about an increased awareness of indigenous peoples [AG/RES. 2046 (XXXIV-O/04)];

RECOGNIZING ALSO that, in 1953, the Institute became an inter-American specialized organization of the OAS, whose status was the subject of the Agreement between the Organization and the Institute dated October 28, 1985, and that it currently coordinates necessary research to foster a better understanding of the present situation of indigenous peoples of the region and provides technical assistance for the establishment of development programs for said indigenous peoples;

CONCERNED over the difficult financial situation that the III has endured for a considerable period of time, which significantly hampers its capacity to carry out the plans and achieve the objectives that led to its establishment;

TAKING INTO ACCOUNT the decision taken by the Governing Board of the III on October 2, 2001, whereby the commitment was renewed to support the Institute and preserve its historical and documentary heritage;

RECOGNIZING the urgency of examining the future of the Institute; and

BEARING IN MIND the need to continue reaffirming and broadening the commitment of states to promote the integral development of indigenous peoples,

RESOLVES:

1. To recognize the important historical work of the Inter-American Indian Institute (III) and the value of its historical and documentary heritage.

2. To request the Permanent Council to call, within the framework of the Committee on Juridical and Political Affairs (CAJP), for the establishment of a working group consisting of the III member countries and of other member states wishing to participate to:

a. Study the situation of the Inter-American Indian Institute in order to present recommendations on its future, taking into account the proposals of its Director General, as well as inputs transmitted in writing by

representatives of the indigenous peoples, experts, other entities interested in the matter, and civil society organizations pursuant to the Guidelines for Participation by Civil Society Organizations in OAS Activities;

- b. Consider the protection and overall development of the important historical and documentary resources of the Institute; and
- c. Report its findings to the CAJP in the second half of 2007, to enable the Permanent Council to adopt the corresponding decisions.

3. To request the Permanent Council to report to the General Assembly at its thirty-eighth regular session on the results of this resolution, which will be implemented within the resources allocated in the program-budget of the Organization and other resources.

AG/RES. 2287 (XXXVII-O/07)

RIGHT TO FREEDOM OF THOUGHT AND EXPRESSION
AND THE IMPORTANCE OF THE MEDIA

(Adopted at the fourth plenary session, held on June 5, 2007)

THE GENERAL ASSEMBLY,

HAVING SEEN the Annual Report of the Permanent Council to the General Assembly (AG/doc.4698/07 corr. 1);

TAKING INTO ACCOUNT resolution AG/RES. 2237 (XXXVI-O/06), "Right to Freedom of Thought and Expression and the Importance of the Media";

UNDERSCORING the Declaration of Santo Domingo: Good Governance and Development in the Knowledge-Based Society [AG/DEC. 46 (XXXVI-O/06)], adopted on June 6, 2006;

RECALLING that the right to freedom of thought and expression, which includes the freedom to seek, receive, and impart information and ideas of all kinds, is recognized in Article IV of the American Declaration of the Rights and Duties of Man, Article 13 of the American Convention on Human Rights, the Inter-American Democratic Charter (including Article 4), the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights, and other international instruments and national constitutions, as well as United Nations General Assembly resolution 59 (I) and resolution 104 of the General Conference of the United Nations Educational, Scientific and Cultural Organization (UNESCO);

RECALLING ALSO that Article IV of the American Declaration of the Rights and Duties of Man states that "[e]very person has the right to freedom of investigation, of opinion, and of the expression and dissemination of ideas, by any medium whatsoever";

RECALLING FURTHER that Article 13 of the American Convention on Human Rights states that:

1. Everyone has the right to freedom of thought and expression. This right includes freedom to seek, receive, and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing, in print, in the form of art, or through any other medium of one's choice;
2. The exercise of the right provided for in the foregoing paragraph shall not be subject to prior censorship but shall be subject to subsequent imposition of liability, which shall be expressly established by law to the extent necessary to ensure:
 - a. Respect for the rights or reputations of others; or
 - b. The protection of national security, public order, or public health or morals.
3. The right of expression may not be restricted by indirect methods or means, such as the abuse of government or private controls over newsprint, radio broadcasting frequencies, or equipment used in the dissemination of information, or by any other means tending to impede the communication and circulation of ideas and opinions.
4. Notwithstanding the provisions of paragraph 2 above, public entertainments may be subject by law to prior censorship for the sole purpose of regulating access to them for the moral protection of childhood and adolescence.
5. Any propaganda for war and any advocacy of national, racial, or religious hatred that constitute incitements to lawless violence or to any other similar action against any person or group of persons on any grounds including those of race, color, religion, language, or national origin shall be considered as offenses punishable by law;

BEARING IN MIND principles 10 and 11 of the Declaration of Principles on Freedom of Expression of the Inter-American Commission on Human Rights (IACHR), of 2000, which refer to the decriminalization of "*desacato*" (offensive expressions directed at public officials);

RECALLING the relevant volumes of the Annual Reports of the IACHR for 2004, 2005, and 2006 on freedom of expression, as well as the comments by member states during meetings at which said reports were presented;

TAKING INTO ACCOUNT resolutions 2004/42 and 2005/38, "The Right to Freedom of Opinion and Expression," of the United Nations Commission on Human Rights; and

RECALLING the significance of the studies and contributions approved by UNESCO

recognize the significance of the studies and contributions approved by CESAC regarding the contribution of the media to strengthening peace, tolerance, and international understanding, to the promotion of human rights, and to countering racism and incitement to war,

RESOLVES:

1. To reaffirm the right to freedom of expression and to call upon member states to respect and ensure respect for this right, in accordance with the international human rights instruments to which they are party, such as the American Convention on Human Rights and the International Covenant on Civil and Political Rights, *inter alia*.

2. To reaffirm that freedom of expression and dissemination of ideas are fundamental for the exercise of democracy.

3. To urge member states to safeguard, within the framework of the international instruments to which they are party, respect for freedom of expression in the media, including radio and television, and, in particular, respect for the editorial independence and freedom of the media.

4. To urge those member states that have not yet done so to consider signing and ratifying, ratifying, or acceding to, as the case may be, the American Convention on Human Rights.

5. To reaffirm that free and independent media are fundamental for democracy and for the promotion of pluralism, tolerance, and freedom of thought and expression; and to facilitate dialogue and debate, free and open to all segments of society, without discrimination of any kind.

6. To urge member states to promote a pluralistic approach to information and multiple points of view by fostering full exercise of freedom of expression and thought, access to media, and diversity in the ownership of media outlets and sources of information, through, *inter alia*, transparent licensing systems and, as appropriate, effective regulations to prevent the undue concentration of media ownership.

7. To urge member states to consider the importance of including, in their domestic legal systems, rules about the establishment of alternative or community media and safeguards to ensure that they are able to operate independently, so as to broaden the dissemination of information and opinions, thereby strengthening freedom of expression.

8. To call upon member states to adopt all necessary measures to prevent violations of the right to freedom of thought and expression and to create the necessary conditions for that purpose, including ensuring that relevant national legislation complies with their international human rights obligations and is effectively implemented.

9. To urge member states to review their procedures, practices, and legislation, as necessary, to ensure that any limitations on the right to freedom of opinion and expression are only such as are provided by law and are necessary for respect of the rights or reputations of others or for the protection of national security, public order (*ordre public*), or public health or morals.

10. To recognize the valuable contribution of information and communication technologies, such as the Internet, to the exercise of the right to freedom of expression and to the ability of persons to seek, receive, and impart information, as well the contributions they can make to the fight against racism, racial discrimination, xenophobia, and related and contemporary forms of intolerance, and to the prevention of human rights abuses.

11. To request the Inter-American Commission on Human Rights once again to follow up on and deepen its study of the issues addressed in the relevant volumes of its 2004, 2005, and 2006 Annual Reports on freedom of expression, on the basis, *inter alia*, of the inputs on the subject that it receives from member states.

12. To invite member states to consider the recommendations concerning defamation made by the Office of the Special Rapporteur for Freedom of Expression of the IACHR, namely by repealing or amending laws that criminalize *desacato*, defamation, slander, and libel, and, in this regard, to regulate these conducts exclusively in the area of civil law.

13. To reiterate to the Permanent Council that, through its Committee on Juridical and Political Affairs, it is to hold a special two-day meeting to delve further into the existing international jurisprudence on the subject covered in Article 13 of the American Convention on Human Rights and include the following items on the agenda of that meeting:

- a. Public demonstrations as exercise of the right to freedom of expression; and
- b. The subject of Article 11 of the American Convention on Human Rights.

Invitees to the aforementioned meeting will include members of the Inter-American Court of Human Rights, the Inter-American Commission on Human Rights, including the Special Rapporteur for Freedom of Expression, and experts from the member states, all for the purpose of sharing their experiences with these issues.

14. To take into consideration the findings of, and views expressed at, the Special Meeting on Freedom of Thought and Expression, held on October 26 and 27, 2006, in the framework of the Committee on Juridical and Political Affairs; and to request the Special Rapporteur of the IACHR to report on the conclusions and recommendations issued by the experts at that special meeting, in order to follow up on the matter.

15. To request the Permanent Council to report to the General Assembly at its thirty-eighth regular session on the implementation of this resolution, which will be carried out within the resources allocated in the program-budget of the Organization and other resources.

THE HUMAN RIGHTS OF ALL MIGRANT WORKERS AND THEIR FAMILIES

(Adopted at the fourth plenary session, held on June 5, 2007)

THE GENERAL ASSEMBLY,

HAVING SEEN the report on this topic included in the Annual Report of the Permanent Council to the General Assembly (AG/doc.4698/07 corr. 1);

EXPRESSING ITS SATISFACTION with the adoption of the Inter-American Program for the Promotion and Protection of the Human Rights of Migrants, Including Migrant Workers and Their Families, through its resolution AG/RES. 2141 (XXXV-O/05);

NOTING the special meeting of the Committee on Juridical and Political Affairs (CAJP) of the Permanent Council of the Organization of American States (OAS), held on February 13, 2007, on the implementation of the Inter-American Program and proposals for new optional activities by the states, as well as the presentations of the organs, agencies, and entities of the OAS;

REAFFIRMING that the American Declaration of the Rights and Duties of Man proclaims that all persons are equal before the law and have the rights and duties established therein, without distinction as to race, sex, language, creed, or any other factor;

EMPHASIZING that the American Convention on Human Rights recognizes that the essential rights of the human individual are not derived from the fact that a person is a national of a certain state, but are based upon attributes of the human personality;

REAFFIRMING that the principles and standards set forth in the American Declaration of the Rights and Duties of Man and in the American Convention on Human Rights take on particular relevance with respect to protection of the human rights of migrant workers and their families;

TAKING INTO ACCOUNT:

Its resolutions AG/RES. 1717 (XXX-O/00), AG/RES. 1775 (XXXI-O/01), AG/RES. 1898 (XXXII-O/02), AG/RES. 1928 (XXXIII-O/03), AG/RES. 2027 (XXXIV-O/04), AG/RES. 2130 (XXXV-O/05), and AG/RES. 2224 (XXXVI-O/06); and

The Annual Report of the Inter-American Commission on Human Rights to the General Assembly, especially the chapter on the situation of migrant workers and members of their families in the Hemisphere (CP/doc.4188/07 Vol. I);

CONSIDERING:

That the Heads of State and Government gathered at the Third Summit of the Americas recognized the cultural and economic contributions made by migrants to receiving societies as well as to their communities of origin and committed to ensuring dignified, humane treatment with applicable legal protections and to strengthening mechanisms for hemispheric cooperation to address their legitimate needs;

That in the Declaration of Nuevo León of the Special Summit of the Americas, the Heads of State and Government highlighted the importance of cooperation among countries of origin, countries of transit, and receiving countries to ensure full protection of the human rights of all migrants, including migrant workers and their families, the defense of human rights, and safe and healthy labor conditions for migrants, and to adopt effective measures against trafficking in persons;

That the Heads of State and Government gathered at the Fourth Summit of the Americas adopted the Declaration of Mar del Plata, "Creating Jobs to Confront Poverty and Strengthen Democratic Governance," and its Plan of Action, in which they reaffirmed, *inter alia*, important commitments related to the human rights of migrant workers;

That practically all the countries in the Hemisphere are countries of origin, countries of transit, and receiving countries for migrants and have the authority to regulate the immigration of persons into their territories, in accordance with applicable international law, including international human rights law, international humanitarian law, and international refugee law;

The migrant programs adopted by some countries, which permit the integration of migrants into the receiving countries, facilitate family reunification, and promote a climate of harmony, tolerance, and respect;

The positive contributions often made by migrants, both to their countries of origin and to the transit or receiving countries, and their gradual incorporation into the receiving societies; as well as the efforts made by some transit or receiving countries to attend both to the needs of migrants and to those of the receiving or local community;

The entry into force of the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, on July 1, 2003; the installation and initiation of work of the United Nations Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families; and the entry into force of the Protocol against the Smuggling of Migrants by Land, Sea and Air, on January 28, 2004, and of the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, on December 25, 2003, which supplement the United Nations Convention against Transnational Organized Crime (Palermo Convention);

Advisory Opinion OC-16/99, "The Right to Information on Consular Assistance in the Framework of the Guarantees of the Due Process of Law," issued by the Inter-American Court of Human Rights on October 1, 1999;

Advisory Opinion OC-18/03, "Juridical Condition and Rights of the Undocumented Migrants," issued by the Inter-American Court of Human Rights on September 17, 2003; and

The judgment issued by the International Court of Justice on March 31, 2004, in the case *Avena and Other Mexican Nationals*;

TAKING INTO ACCOUNT:

That, in the Strategic Plan for Partnership for Development 2002–2005 of the Inter-American Council for Integral Development (CIDI), support for vulnerable groups such as migrant workers was identified as a priority in the implementation of policies and programs to facilitate access to the labor market and to improve working conditions; and

That the Plan of Action of the Third Summit of the Americas provided for the establishment of an inter-American program within the OAS for the promotion and protection of the human rights of migrants, including migrant workers and their families, taking into account the activities of the Inter-American Commission on Human Rights (IACHR) and supporting the work of the IACHR Special Rapporteurship on Migrant Workers and Their Families and of the Special Rapporteur on the Human Rights of Migrants of the United Nations Commission on Human Rights;

CONCERNED over the extremely vulnerable situation in which many migrant workers and their families in the Hemisphere find themselves and over the persistent obstacles that prevent them from fully exercising their human rights;

BEARING IN MIND that policies and initiatives on the issue of migration, including those that refer to the orderly management of migration, should promote holistic approaches that take into account the causes and consequences of the phenomenon, as well as full respect for the human rights and fundamental freedoms of migrants;

BEARING IN MIND ALSO that migrants are often victims of crimes, mistreatment, discrimination, racism, and xenophobia in transit and receiving countries, and that women migrants who are unaccompanied or heads of household are especially vulnerable to gender-based violence and other forms of sexual and labor exploitation, which calls for broad cooperation to address these situations, as well as the potential vulnerability of migrants' families in the countries of origin;

TAKING NOTE of the regional initiatives, activities, and programs of the Regional Conference on Migration (Puebla Process) in North America, the countries of Central America, and the Dominican Republic; the ministerial dialogue among Mesoamerican countries, the Dominican Republic, Ecuador, and Colombia; as well as the South American Conference on Migration and the Specialized Forum on Migration of MERCOSUR; and

BEARING IN MIND that all migrants and their advocates have a duty and obligation to obey all the laws of sending, transit, and receiving countries,

RESOLVES:

1. To strongly condemn manifestations or acts of racism, racial discrimination, xenophobia, and related forms of intolerance against migrants, as well as all forms of racism, racial discrimination, xenophobia, and related forms of intolerance with respect to access to employment, professional training, housing, instruction, health services, social services, and services to the public.

2. To express concern about legislation and measures adopted by some states that may restrict the human rights and fundamental freedoms of migrants; and to reaffirm that, when exercising their sovereign right to enact and implement migratory and border security measures, states have the duty to comply with their obligations under international law, including international human rights law, in order to ensure full respect for the human rights of migrants.

3. To request all states, international organizations, and other relevant stakeholders to take into account in their policies and initiatives on migration issues the global character of the migratory phenomenon and to give due consideration to international, regional, and bilateral cooperation in this field, including by undertaking dialogues on migration that include countries of origin, destination, and transit, as well as civil society, including migrants, with a view to addressing, in a comprehensive manner, *inter alia*, its causes and consequences and the challenge of undocumented or irregular migration, granting priority to the protection of the human rights of migrants.

4. To reaffirm the duty of states parties to the 1963 Vienna Convention on Consular Relations to comply with that Convention, including the right to communication between consular officers and their nationals in cases of detention and the obligation of the states parties in whose territory the detention occurs to inform the foreign national of that right; and, in that connection, to call the attention of states to Advisory Opinion OC-16/99 of the Inter-American Court of Human Rights and to the ruling of the International Court of Justice of March 31, 2004, in the case *Avena and Other Mexican Nationals*, on the obligation to comply with Article 36 of the Vienna Convention.

5. To call the attention of the states to Advisory Opinion OC-18/03 of the Inter-American Court of Human Rights, which holds that "the migratory status of a person cannot constitute a justification to deprive him of the enjoyment and exercise of human rights, including those of a labor-related nature."

6. To encourage member states to consider the adoption of programs aimed at integrating migrants into their societies, in order to promote a climate of harmony, tolerance, and respect.

7. To encourage constructive dialogue and cooperation among member states so as to improve their migration policies and practices with a view to providing adequate protection to all migrants, including migrant workers and their families, and in order to promote

migration processes in keeping with the domestic legal system of each state and applicable international law.

8. To urge member states to consider the signature and ratification of, ratification of, or accession to the inter-American human rights instruments, as the case may be, and to take the necessary measures to guarantee the human rights of all migrants, including migrant workers and their families.

9. To call upon member states to consider the signature and ratification of the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families.

10. To instruct the Permanent Council to continue supporting the work of the Inter-American Commission on Human Rights (IACHR) in this area and to take into account the efforts of other international organizations on behalf of migrant workers and their families, with a view to helping to improve their situation in the Hemisphere and, in particular and where applicable, the efforts of the Special Rapporteur on the Human Rights of Migrants of the United Nations Commission on Human Rights and those of the International Organization for Migration (IOM).

11. To request that, during the 2008-2009 biennium, pursuant to paragraph V.A of the Inter-American Program and in cooperation with the relevant organs, agencies, and entities of the Organization of American States (OAS), the Secretary General follow up on the Work Plan of the Inter-American Program for the Promotion and Protection of the Human Rights of Migrants, Including Migrant Workers and Their Families, which he presented on February 13, 2007 (CP/CAJP-2456/07).

12. To instruct the relevant organs, agencies, and entities of the Organization to support, during the 2008-2009 biennium, the execution of and, when appropriate, to implement the Inter-American Program for the Promotion and Protection of the Human Rights of Migrants, Including Migrant Workers and Their Families.

13. To encourage states to consider, in the design, execution, and evaluation of their migration policies, the optional activities suggested in the Inter-American Program for the Promotion and Protection of the Human Rights of Migrants, Including Migrant Workers and Their Families.

14. To convene, as established in the Inter-American Program, a meeting of the Committee on Juridical and Political Affairs (CAJP) in the first half of 2008 and another one in the first half of 2009, with the participation of government experts and representatives of the organs, agencies, and entities of the inter-American system, other international organizations, and civil society, for the purpose of sharing best practices and activities carried out last year in support of the Program, as well as new proposals that might be incorporated into it.

15. To request the relevant organs, agencies, and entities of the Organization to include, in their annual reports to the General Assembly at its thirty-eighth and thirty-ninth regular sessions, their actions aimed at implementing the activities set out in the Program.

16. To request the CAJP to convene, periodically and as appropriate, the organs, agencies, and entities of the Organization with a view to facilitating free-flowing dialogue with the member states on implementation of the activities assigned to the Organization by the Inter-American Program.

17. To instruct the Permanent Council to constitute a specific fund composed of voluntary contributions, called the "Fund for the Inter-American Program for the Promotion and Protection of the Human Rights of Migrants, Including Migrant Workers and Their Families," to contribute to funding of the activities assigned to the organs, agencies, and entities of the OAS in support of this Program; and to urge member states, permanent observers, regional organizations, international organizations, and civil society organizations to contribute to the Fund.

18. To urge the General Secretariat, working through the Department of International Legal Affairs, to disseminate, *inter alia*, the Inter-American Program for the Promotion and Protection of the Human Rights of Migrants, Including Migrant Workers and Their Families.

19. To request the Inter-American Agency for Cooperation and Development (IACD) to strengthen communication and coordination with the IACHR, the IOM, the International Labour Organization (ILO), and other pertinent organizations, agencies, and entities and, in that context, to follow up in particular on IACD partnership-for-development activities under the Strategic Plan for Partnership for Development 2002-2005, related to the situation of migrant workers and members of their families.

20. To entrust the Inter-American Commission on Human Rights with:

- a. Considering the advisability of participating in joint cooperation projects conducted by the IACD in this area;
- b. Providing its Special Rapporteurship on Migrant Workers and Their Families with the necessary and appropriate means to perform its functions, within the resources allocated in the program-budget of the Organization and other resources; and
- c. Presenting to the Permanent Council a report on the status of the rights of migrant workers and their families, prior to both the thirty-eighth and thirty-ninth regular sessions of the General Assembly.

21. To invite member states, permanent observers, organs, agencies, and entities of the inter-American system, and others to contribute to the Voluntary Fund of the IACHR Special Rapporteurship on Migrant Workers and Their Families.

22. To urge member states to consider inviting the Special Rapporteur on Migrant Workers and Their Families to visit their countries to enable said Rapporteur to perform his or her functions effectively.

23. To request the Permanent Council to report to the General Assembly at its thirty-eighth and its thirty-ninth regular sessions on the implementation of this resolution, which will be carried out within the resources allocated in the program-budget of the Organization and other resources.

AG/RES. 2290 (XXXVII-O/07)

OBSERVATIONS AND RECOMMENDATIONS ON THE ANNUAL REPORT
OF THE INTER-AMERICAN COMMISSION ON HUMAN RIGHTS

(Adopted at the fourth plenary session, held on June 5, 2007)

THE GENERAL ASSEMBLY,

HAVING SEEN the observations and recommendations of the Permanent Council on the Annual Report of the Inter-American Commission on Human Rights (AG/doc.4763/07);

CONSIDERING:

That, in the Charter of the Organization of American States (OAS), the member states have proclaimed, as one of their principles, respect for the fundamental rights of the individual without distinction as to race, nationality, creed, or sex;

That, under the OAS Charter and the American Convention on Human Rights, the principal function of the Inter-American Commission on Human Rights (IACHR) is to promote the observance and protection of human rights;

That in the Declaration and Plan of Action of the Fourth Summit of the Americas (Mar del Plata, Argentina, 2005) the Heads of State and Government recognized that the promotion and protection of human rights, on the basis of the principles of universality, indivisibility, and interdependence, are essential to the functioning of democratic societies, as well as the need to continue the process of strengthening and enhancing the effectiveness of the inter-American human rights system to achieve, among other objectives, greater accession to the legal instruments, effective observance of the decisions of the Inter-American Court of Human Rights, and due consideration of the recommendations of the Inter-American Commission of Human Rights;

THANKING the Governments of Guatemala and Paraguay for the invitations they extended to the IACHR to hold special sessions in those countries, as a means of promoting the inter-American human rights system; and

THANKING ALSO the Governments of Argentina, Brazil, Colombia, Guatemala, and Mexico, which have extended open and permanent invitations to the IACHR to visit those countries,

RESOLVES:

1. To adopt the observations and recommendations of the Permanent Council on the Annual Report of the Inter-American Commission on Human Rights (AG/doc.4763/07) and to forward them to that organ.

2. To reaffirm the essential value of the work carried out by the Inter-American Commission on Human Rights (IACHR) to enhance the protection and promotion of human rights and to reinforce the rule of law in the Hemisphere.

3. To encourage member states to:

- a. Consider signing and ratifying, ratifying, or acceding to, as the case may be, all legal instruments of the inter-American human rights system;
- b. Follow up on the recommendations of the IACHR, including, *inter alia*, precautionary measures; and
- c. Continue to take appropriate action in connection with the annual reports of the IACHR, in the context of the Permanent Council and the General Assembly.

4. To note with satisfaction the decisions taken by governments of member states that have invited the IACHR to visit their respective countries; and to encourage all member states to continue this practice and to consider the requests filed by the IACHR to that end.

5. To encourage member states to continue inviting the IACHR to hold special sessions away from its headquarters.

6. To reiterate its request to the IACHR to present to the member states for their information a detailed report on the special session held in Mexico, with the participation of the Inter-American Court of Human Rights, from July 19 to 23, 2004.

7. To urge the Inter-American Commission on Human Rights, the Inter-American Court of Human Rights, and the Inter-American Institute of Human Rights to continue to hold specialized seminars from time to time for government officials, on the inter-American system for the promotion and protection of human rights.

8. To reiterate the importance of the application of the friendly settlement mechanism among parties concerned, in accordance with the American Convention on Human Rights and the Statute and Rules of Procedure of the Inter-American Commission on Human Rights.

9. To take the following actions with regard to financing of the IACHR:
 - a. Instruct the Permanent Council to continue analyzing ways to achieve an effective increase in the financial resources allocated to the IACHR in the program-budget of the Organization. To that end, thank the Secretary General for his work and urge him to continue his efforts and to present, prior to the thirty-eighth regular session of the General Assembly, additional proposals aimed at achieving adequate financing for the Commission in said program-budget;
 - b. Thank member states, permanent observers, and institutions that have made voluntary contributions to the IACHR; and
 - c. Suggest to donors that, to the extent possible, part of the voluntary contributions that they make not be earmarked for specific purposes, to give the Commission flexibility in allocating resources among its various activities and projects.
10. To invite the IACHR to:
 - a. Continue to take into account the observations and recommendations of the member states on its annual report and to adopt such measures as it considers pertinent based on such observations and recommendations;
 - b. Continue to publish on its Internet page, when member states so request, their observations and recommendations on its annual report to the General Assembly;
 - c. Continue to strengthen, pursuant to Article 15 of its Rules of Procedure, existing rapporteurships and operational units, in the most equitable manner possible, within the limits of its available resources, and in accordance with the procedures in effect for designating special rapporteurs; and
 - d. Continue to participate, through the members of the Commission, in the dialogue with member states, in the context of the Committee on Juridical and Political Affairs (CAJP), so as to follow up on the observations and comments of the states set forth in the reports on the meetings held on October 26, 2004 (CP/CAJP/SA.412/04 corr. 1 and CP/CAJP/INF.17/04), on March 9, 2006 (CP/CAJP-2311/05 add. 2 and 2-a), and on March 30, 2007 (CP/CAJP-2526/07), in particular those on the criteria used when applying its principal mechanisms for the protection of human rights and when applying its Rules of Procedure to the individual case system; and likewise on the role of the IACHR in proceedings before the Inter-American Court of Human Rights.
11. To instruct the CAJP, with a view to implementing operative paragraph 10.d, to:
 - a. Schedule meetings to continue its dialogue with the members of the IACHR; and
 - b. Hold a meeting in the second half of 2007, at which the IACHR would elucidate the amendments to its Rules of Procedure, their application, and their scope. Representatives of civil society will be able to take part in this meeting, in accordance with Permanent Council resolutions CP/RES. 759 (1217/99), "Guidelines for the Participation of Civil Society in OAS Activities," and CP/RES. 840 (1361/03), "Strategies for Increasing and Strengthening Civil Society Participation in OAS Activities."
12. To request the Permanent Council to report to the General Assembly at its thirty-eighth regular session on the implementation of this resolution, which will be carried out within the resources allocated in the program-budget of the Organization and other resources.

AG/RES. 2291 (XXXVII-O/07)

STRENGTHENING OF HUMAN RIGHTS SYSTEMS PURSUANT TO THE MANDATES
ARISING FROM THE SUMMITS OF THE AMERICAS

(Adopted at the fourth plenary session, held on June 5, 2007)

THE GENERAL ASSEMBLY,

HAVING SEEN the Annual Report of the Permanent Council to the General Assembly (AG/doc.4698/07 corr. 1) as it pertains to this topic, as well as resolutions AG/RES. 1828 (XXXI-O/01), AG/RES. 1890 (XXXII-O/02), AG/RES. 1925 (XXXIII-O/03), AG/RES. 2030 (XXXIV-O/04), AG/RES. 2075 (XXXV-O/05), and AG/RES. 2220 (XXXVI-O/06);

REAFFIRMING that universal promotion and protection of human rights, including civil, political, economic, social, and cultural rights, based on the principles of universality, indivisibility, and interdependence, as well as respect for international law, including international humanitarian law, international human rights law, and international refugee law, are essential to the functioning of democratic societies; and stressing the importance of respect for the rule of law, effective and equal access to justice, and participation by all elements of society in public decision-making processes;

REAFFIRMING ALSO the importance of the inter-American human rights system, whose organs have competence to promote the observance of human rights in all member states of the Organization, in accordance with the commitments undertaken by each state, and which operate in a manner subsidiary to national jurisdictional systems;

operate in a manner secondary to national jurisdictional systems;

EXPRESSING that strengthening the autonomy of the Inter-American Commission on Human Rights (IACHR) in the context of the Charter of the Organization of American States, the American Convention on Human Rights, and the Statute and Rules of Procedure of said Commission, will lead to improvements in the inter-American human rights system;

CONSIDERING that the Organization can serve as a forum for contributing to the efforts of member states to develop and strengthen national systems for the promotion and protection of human rights; and

BEARING IN MIND the Declaration and Plan of Action of the Third Summit of the Americas (Quebec City, 2001) and of the Fourth Summit of the Americas (Mar del Plata, Argentina, 2005), in particular, paragraphs 45 and 62 of the Plan of Action of the Fourth Summit, on the development of comprehensive economic and social policies, and on strengthening of the inter-American human rights system, respectively,

RESOLVES:

1. To reaffirm the commitment of member states to continue strengthening and improving the inter-American system for the promotion and protection of human rights and, in that connection, to continue to take the following concrete measures aimed at implementing the respective mandates of the Heads of State and Government arising from the Summits of the Americas, in particular, the Third Summit (Quebec City, 2001) and the Fourth Summit (Mar del Plata, Argentina, 2005):

- a. Universalization of the inter-American human rights system by considering the signature and ratification or ratification of, or accession to, as soon as possible and as the case may be, all universal and inter-American human rights instruments;
- b. Compliance with the judgments of the Inter-American Court of Human Rights and follow-up of the recommendations of the Inter-American Commission on Human Rights;
- c. Improvement of access by victims to the mechanisms of the inter-American human rights system;
- d. Adequate financing of the Inter-American Court of Human Rights and the Inter-American Commission on Human Rights, including the fostering of voluntary contributions, so that they may continue to address their activities and responsibilities; and
- e. Examination of the possibility that the Inter-American Court of Human Rights and the Inter-American Commission on Human Rights may come to operate on a permanent basis, taking into account, among other things, the views of those organs.

2. To recognize the following progress made in the specific areas of the inter-American human rights system, namely:

- a. The broad process of reflection on the inter-American system for the promotion and protection of human rights, within the Committee on Juridical and Political Affairs (CAJP) of the Permanent Council;
- b. The dialogue held on March 30, 2007, within the CAJP, between member states and the organs of the inter-American human rights system (Inter-American Court of Human Rights and Inter-American Commission on Human Rights), as recorded in the report of the meeting (CP/CAJP-2526/07);
- c. The signature by Argentina of the Protocol to the American Convention on Human Rights to Abolish the Death Penalty; the deposit by Bolivia of the instrument of ratification of the Additional Protocol to the American Convention on Human Rights in the Area of Economic, Social and Cultural Rights, "Protocol of San Salvador," and of the Inter-American Convention to Prevent and Punish Torture; the deposit by Ecuador of the instrument of ratification of the Inter-American Convention on Forced Disappearance of Persons; and the ratification by the Dominican Republic and by Venezuela of the Inter-American Convention on the Elimination of All Forms of Discrimination against Persons with Disabilities; and
- d. The voluntary contributions to facilitate the work of the organs of the inter-American human rights system made by Brazil, Chile, Colombia, Costa Rica, the Dominican Republic, Mexico, the United States, and Venezuela; by Denmark, the European Union, Finland, France, Ireland, Italy, Norway, Spain, and Sweden; and also by the Commonwealth Secretariat, the Inter-American Development Bank, the Open Society Foundation, and the Office of the United Nations High Commissioner for Refugees (UNHCR).

3. To instruct the Permanent Council to meet the objectives mentioned in operative paragraph 1 and to complement and consolidate the progress referred to in operative paragraph 2, by:

- a. Continuing the broad process of reflection on the inter-American system for the promotion and protection of human rights, initiated within the CAJP, in consultation with the member states, specialized agencies of the inter-American human rights system, nongovernmental organizations, national human rights institutes, academic institutions, and experts in the field, regarding:
 - i. The major challenges facing the inter-American system for the promotion and protection of human rights in the Hemisphere;

- ii. Possible actions to strengthen and improve the system; and
 - iii. The advisability of convening an inter-American human rights conference;
- b. Continuing to examine, principally through the Committee on Administrative and Budgetary Affairs (CAAP) of the Permanent Council, ways to bring about adequate financing of the organs of the inter-American human rights system in the program-budget of the Organization;
 - c. Supporting any initiatives taken by the Inter-American Court of Human Rights and the Inter-American Commission on Human Rights to request funding from international and regional agencies to further the activities of the organs of the inter-American system for the promotion and protection of human rights;
 - d. Encouraging, in addition, member states to contribute to the Specific Fund for Strengthening the Inter-American System for the Protection and Promotion of Human Rights;
 - e. Continuing to consider ways to promote compliance with the judgments of the Inter-American Court of Human Rights and follow-up of the recommendations of the Inter-American Commission on Human Rights by member states;
 - f. Continuing to analyze the priorities for improvement of the inter-American human rights system, including consideration of the possibility that the Inter-American Court of Human Rights and the Inter-American Commission on Human Rights may come to operate on a permanent basis, taking into account related information provided by the presidents of both organs;
 - g. Holding each year, within the CAJP, the dialogue between the member states and the members of the Inter-American Commission on Human Rights and judges on the Inter-American Court of Human Rights on how the inter-American human rights system operates. The CAJP will establish the agenda for said meeting at least two months in advance; and
 - h. Requesting the Inter-American Court of Human Rights and the Inter-American Commission on Human Rights to:
 - i. Continue to report on the correlation between, on the one hand, their respective Rules of Procedure and the amendments thereto that they adopt, and, on the other, the provisions of their respective Statutes and of the American Convention on Human Rights; and
 - ii. Continue to report on the impact and the meaning in practice of these regulatory reforms for the work of both organs and for the strengthening of the system.
4. To continue to promote the strengthening of national systems for the promotion and protection of human rights in member states; and, to that end, to urge the pertinent organs, agencies, and entities of the Organization to provide, in accordance with their capabilities and resources, cooperation and technical support to the member states that so request, in order to help enhance compliance with their international human rights obligations, and to develop cooperative relations and information exchange with, *inter alia*, the Ibero-American Federation of Ombudsmen, the Caribbean Ombudsmen's Association, the Network of National Human Rights Institutions of the Americas, the Andean Council of Ombudsmen, and the Central American Ombudsman Council.
5. To urge member states to consider signing and ratifying, ratifying, or acceding to, as the case may be, the Additional Protocol to the American Convention on Human Rights in the Area of Economic, Social and Cultural Rights, "Protocol of San Salvador."
6. To request the Permanent Council to follow up on this resolution, which will be implemented within the resources allocated in the program-budget of the Organization and other resources, and to present a report on its implementation to the General Assembly at its thirty-eighth regular session.

AG/RES. 2293 (XXXVII-O/07)

PROMOTION OF AND RESPECT FOR INTERNATIONAL HUMANITARIAN LAW

(Adopted at the fourth plenary session, held on June 5, 2007)

THE GENERAL ASSEMBLY,

RECALLING its resolutions AG/RES. 1270 (XXIV-O/94), AG/RES. 1335 (XXV-O/95), 1408 (XXVI-O/96), AG/RES. 1503 (XXVII-O/97), AG/RES. 1565 (XXVIII-O/98), AG/RES. 1619 (XXIX-O/99), AG/RES. 1706 (XXX-O/00), AG/RES. 1709 (XXX-O/00), AG/RES. 1770 (XXXI-O/01), AG/RES. 1771 (XXXI-O/01), AG/RES. 1904 (XXXII-O/02), AG/RES. 1944 (XXXIII-O/03), AG/RES. 2052 (XXXIV-O/04), AG/RES. 2127 (XXXV-O/05), AG/RES. 2226 (XXXVI-O/06), and AG/RES. 2231 (XXXVI-O/06);

RECALLING ALSO that, under the Charter of the Organization of American States (OAS) and pursuant to all applicable provisions of international humanitarian law and international human rights law within their respective spheres of application, human rights and fundamental freedoms must always be respected, including in situations of armed conflict;

DEEPLY CONCERNED about the persisting violations of international humanitarian law that continue to cause suffering to all victims of armed conflict;

WELCOMING the goals of resolution 61/89 of the United Nations General Assembly; and urging states to consider participation in discussions on the feasibility, scope, and parameters of a broad, legally binding draft instrument on trade in conventional weapons;

RECALLING that it is the obligation of all member states, in all circumstances, to respect and ensure respect for the 1949 Geneva Conventions;

CONSIDERING that international humanitarian law contains provisions that reflect customary international law that states must observe;

EMPHASIZING that in cases of serious violations of international humanitarian law constituting crimes under international law, states have the duty to investigate, and if there is sufficient evidence, the duty to submit to prosecution the person allegedly responsible for the violations, and if said person is found guilty, the duty to punish him/her;

EMPHASIZING ALSO the obligation of states to take all necessary measures, including, when applicable, penal sanctions, for the suppression of other breaches;

UNDERSCORING the need to strengthen the rules of international humanitarian law by means of their universal acceptance, their broader dissemination, and the adoption of national measures for their application;

WELCOMING the universal adoption of the four 1949 Geneva Conventions on the protection of victims of war, to which 194 states are parties to date;

RECALLING that June 8, 2007, will be the 30th anniversary of the adoption of Additional Protocols I and II, of 1977, to which 34 and 33 OAS member states, respectively, are parties;

RECALLING ALSO that 11 member states have issued the declaration envisioned in Article 90 of Additional Protocol I, of 1977, on recognition of the competence of the International Humanitarian Fact-Finding Commission, and that on December 7, 2006, its 15 members were elected, including representatives of Chile, Colombia, and Uruguay;

AWARE of the Hemisphere's rich cultural heritage, which contains cultural assets recognized by the United Nations Educational, Scientific and Cultural Organization (UNESCO) as world heritage, and which could benefit from the systems for the promotion and protection of international humanitarian law;

WELCOMING the entry into force, on January 14, 2007, of the third Additional Protocol to the 1949 Geneva Conventions, on the adoption of the red crystal as a distinctive emblem additional to the red cross and the red crescent, and its ratification by Honduras on December 8, 2006, and by the United States of America on March 8, 2007;

OBSERVING the entry into force, on November 12, 2006, of the 2003 Protocol on explosive remains of war (Protocol V) to the 1980 Convention on Prohibitions or Restrictions on the Use of Certain Conventional Weapons Which May be Deemed to Be Excessively Injurious or to Have Indiscriminate Effects;

RECALLING the adoption, on December 20, 2006, by the United Nations General Assembly, of the International Convention for the Protection of All Persons from Enforced Disappearance;

RECOGNIZING the important advisory work of the national committees or commissions on international humanitarian law in support of the efforts of states in the area of promotion of and respect for that law through the adoption of national enacting measures, and that 17 member states of the Organization have such organizations;

NOTING the Second Universal Meeting of National Committees or Other National Bodies on International Humanitarian Law, on legal measures and mechanisms for preventing the disappearance of persons, elucidating the fate of all persons who have disappeared, and helping their family members, held in Geneva from March 19 to 21, 2007, in which the General Secretariat actively participated, and in which some member states that have national committees or are establishing them also took part;

NOTING ALSO the results achieved at the following meetings in which representatives of member states and OAS officials took part:

- a. United Nations Conference to Review Progress in the Implementation of the Programme of Action to Prevent, Combat and Eradicate the Illicit Trade in Small Arms and Light Weapons in All Its Aspects (New York, June 26–July 7, 2006);
- b. Regional Meeting of Experts on Weapons in International Humanitarian Law (Buenos Aires, August 22–23, 2006);
- c. Third Review Conference of the States Parties to the United Nations Convention on Prohibitions or Restrictions on the Use of Certain Conventional Weapons Which May Be Deemed to Be Excessively Injurious or to Have Indiscriminate Effects (Geneva, November 7–17, 2006);
- d. Sixth Review Conference of the States Parties to the 1972 Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on Their Destruction (Geneva, November 20–December 8, 2006);
- e. Special meeting of the Committee on Hemispheric Security on combating the proliferation of nuclear, chemical, and biological weapons, their delivery systems, and related materials (Washington, D.C., December 11, 2006);

- f. Second Universal Meeting of National Committees or Other National Bodies on International Humanitarian Law (Geneva, March 19–21, 2007);
- g. Regional Seminar of National Committees on International Humanitarian Law for Latin America and the Caribbean (San José, Costa Rica, January 18–19, 2007); and
- h. Oslo Conference on Cluster Munitions (Oslo, February 22–23, 2007);

COMMENDING in that sense the holding on January 31, 2007, of the first specialized course on international humanitarian law for staff of the permanent missions and of the OAS, and of the Special Meeting of the Committee on Juridical and Political Affairs on Current Issues in International Humanitarian Law, on February 1, 2007; and

EMPHASIZING the special role of the International Committee of the Red Cross (ICRC) as a neutral, impartial, and independent institution working to protect and assist the victims of armed conflicts and other situations of armed violence, as well as to promote respect for international humanitarian law and the principles underlying it,

RESOLVES:

1. To urge member states and the parties engaged in armed conflict to honor their obligations under international humanitarian law, including those pertaining to safeguarding the well-being and dignity of protected persons and property, and the proper treatment of prisoners of war.
2. To urge member states that have not yet done so to consider becoming parties to the following treaties:
 - a. The 1954 Hague Convention for the Protection of Cultural Property in the Event of Armed Conflict, and its 1954 and 1999 Protocols, respectively;
 - b. The 1972 Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on Their Destruction (Biological Weapons Convention);
 - c. The 1977 Additional Protocols I and II to the 1949 Geneva Conventions and the 2005 Additional Protocol III, including the declaration envisaged in Article 90 of Additional Protocol I;
 - d. The 1980 Convention on Prohibitions or Restrictions on the Use of Certain Conventional Weapons Which May Be Deemed to Be Excessively Injurious or to Have Indiscriminate Effects, including the amendment to its Article I adopted in 2001 and its five protocols;
 - e. The 1989 Convention on the Rights of the Child, and its 2000 Optional Protocol on the involvement of children in armed conflicts;
 - f. The 1993 Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on Their Destruction (Chemical Weapons Convention);
 - g. The 1997 Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Antipersonnel Mines and on Their Destruction;
 - h. The 1997 Inter-American Convention against the Illicit Manufacturing of and Trafficking in Firearms, Ammunition, Explosives, and Other Related Materials (CIFTA);
 - i. The 1998 Rome Statute of the International Criminal Court;
 - j. The 1999 Inter-American Convention on Transparency in Conventional Weapons Acquisitions;
 - k. The 1994 Convention on the Safety of United Nations and Associated Personnel; and
 - l. Additional Protocol III to the Geneva Conventions of August 12, 1949, relating to the adoption of an additional distinctive emblem, approved on December 8, 2005.
3. To invite member states to bring about the widest possible dissemination of the rules of international humanitarian law, in particular by incorporating them into military doctrine and manuals, so that armed forces will have the means and mechanisms necessary for their effective application; and by making use of the pertinent media so that such law may be familiar to the civilian population.
4. To urge member states to adapt their criminal law in order to meet their legal obligations under the 1949 Geneva Conventions and, in the case of the states parties thereto, the 1977 Additional Protocol I thereto with respect to the definition of war crimes, the complementary universal jurisdiction, and the responsibility of superiors.
5. To invite member states that are parties to the Rome Statute to cooperate fully with the International Criminal Court and to define under their criminal law the crimes that are within its jurisdiction.
6. To call upon member states to enact laws to regulate the use of and to prevent and, when applicable, punish the misuse of the red cross, red crescent, and, where applicable, red crystal emblems, as well as their denominations, as established in relevant treaties.

7. To urge member states, in keeping with their obligations under international law, to adopt effective measures to prevent the disappearance of persons in cases of armed conflict or other situations of armed violence, to determine the fate of those who have disappeared, and to attend to the needs of their family members.

8. To encourage member states to ensure the adoption of the necessary measures and mechanisms to protect cultural property from the effects of armed conflict, in accordance with their international obligations, and in particular to give consideration to the adoption of preventive measures related to the preparation of inventories, the planning of emergency measures, the appointment of competent authorities, and the enactment of laws to ensure respect for such property.

9. To remind those member states that are parties to the 1997 Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-Personnel Mines and on Their Destruction of their obligation to prevent and suppress any activity prohibited therein when it is carried out by persons or in territory under their jurisdiction or control and of the importance of addressing the needs of victims of antipersonnel mines and, where appropriate, victims of explosive remnants of war, considering, as part of those needs, medical care, rehabilitation, and economic and social reintegration of the victims; and to invite member states to participate actively in the eighth meeting of states parties to the Convention, from November 18 to 22, 2007.

10. To urge member states to adopt, in accordance with their constitutional processes, legislative and other measures, including penal legislation, to implement fully the provisions of the 1925 Geneva Protocol, the 1972 Biological Weapons Convention, and the 1993 Chemical Weapons Convention, as well as to consider ways and means to enhance national implementation and regional and subregional cooperation on implementation of the Biological Weapons Convention.

11. To call upon member states to adopt all necessary measures to comply with their respective international legal obligations regarding the recruitment and use of children in armed forces or armed groups and to prevent their participation in hostilities, in accordance with recognized standards of international humanitarian law, international human rights law, and international refugee law.

12. To invite member states to consider adopting the appropriate measures, at the national and international levels, to address the grave humanitarian consequences of the unregulated availability of arms, in particular the enactment of laws aimed at strengthening control over the illicit manufacturing of and trafficking in firearms and other related materials, bearing in mind the pertinent provisions of international humanitarian law as one of the criteria for the manufacturing and transfer of weapons, as well as the Programme of Action adopted at the United Nations Conference on the Illicit Trade in Small Arms and Light Weapons in All Its Aspects (2001) and the results of its 2006 Review Conference.

13. To encourage member states to establish procedures for determining, when studying, developing, acquiring, or adopting a new weapon or new means or methods of warfare, whether using, manufacturing, stockpiling, exporting, or transferring them would be contrary to international humanitarian law, and, in that event, to prohibit their use by the armed forces and their manufacture for such purposes.

14. To appeal to the member states of the Organization of American States (OAS) to address the problems identified in resolution 61/89 of the United Nations General Assembly.

15. To recognize the humanitarian consequences of the use of cluster munitions; and to invite states to participate, in the pertinent forum, in ongoing discussions about how to address these consequences.

16. To invite member states to participate actively in the 30th International Conference of the Red Cross and Red Crescent Societies and to consider presenting pledges concerning the promotion of and respect for international humanitarian law.

17. To invite member states to continue to support the work of national committees or commissions responsible for the dissemination and implementation of international humanitarian law; and to urge states where such bodies do not exist to consider establishing them, as a means of strengthening conflict prevention and the role those bodies play in times of peace.

18. To request the Inter-American Juridical Committee to prepare and propose model laws supporting efforts to implement treaty obligations concerning international humanitarian law, on the basis of priority topics identified in consultation with the member states and the ICRC, and to present a progress report on this matter prior to the thirty-eighth regular session of the General Assembly.

19. To express its satisfaction over the cooperation between the Organization and the International Committee of the Red Cross in promoting respect for international humanitarian law and the principles that govern that law; and to urge the General Secretariat to continue to strengthen such cooperation.

20. To request the General Secretariat to continue organizing, in the context of the Committee on Juridical and Political Affairs, through the Office of International Law of its Department of International Legal Affairs, and in coordination with the ICRC, courses and seminars for staff of the permanent missions of the member states to the Organization of American States and for General Secretariat staff and the general public, in order to promote knowledge of and respect for international humanitarian law and related inter-American conventions, including measures for their effective implementation.

21. To instruct the Permanent Council to hold a special meeting, with support from the Office of International Law of the Department of International Legal Affairs, and in cooperation with the ICRC, on topics of current interest in international humanitarian law, including a high-level dialogue, prior to the thirty-eighth regular session of the General Assembly.

22. To instruct the Permanent Council to follow up on this resolution, which will be implemented within the resources allocated in the program-budget of the Organization and other resources, and to present a report to the General Assembly at its thirty-eighth regular session on the implementation of this resolution.

AG/RES. 2294 (XXXVII-O/07)

AMERICAN DECLARATION ON THE RIGHTS OF INDIGENOUS PEOPLES

(Adopted at the fourth plenary session, held on June 5, 2007)

THE GENERAL ASSEMBLY,

RECALLING its resolutions AG/RES. 1022 (XIX-O/89), AG/RES. 1479 (XXVII-O/97), AG/RES. 1549 (XXVIII-O/98), AG/RES. 1610 (XXIX-O/99), AG/RES. 1708 (XXX-O/00), AG/RES. 1780 (XXXI-O/01), AG/RES. 1851 (XXXII-O/02), AG/RES. 1919 (XXXIII-O/03), AG/RES. 2029 (XXXIV-O/04), AG/RES. 2073 (XXXV-O/05), and AG/RES. 2234 (XXXVI-O/06); and

HAVING SEEN the report of the Chair of the Working Group to Prepare the Draft American Declaration on the Rights of Indigenous Peoples on the activities carried out in 2006 and 2007 (GT/DADIN/doc.307/07 corr. 1) and the holding of the Eighth, Ninth, and Tenth Meetings of Negotiations in the Quest for Points of Consensus,

RESOLVES:

1. To reaffirm that the adoption of the American Declaration on the Rights of Indigenous Peoples remains a priority for the Organization of American States (OAS), emphasizing the importance of full and effective participation by the indigenous peoples in preparing the draft Declaration.

2. To renew the mandate of the Working Group to Prepare the Draft American Declaration on the Rights of Indigenous Peoples to continue holding its meetings of negotiations in the quest for points of consensus, so as to complete the drafting of the Declaration, on the basis of the "Record of the Current Status of the Draft American Declaration on the Rights of Indigenous Peoples" (GT/DADIN/doc.301/07) and taking into account the "Compendium of Proposals of Negotiations in the Quest for Points of Consensus Held by the Working Group" (GT/DADIN/doc.255/06 rev. 2 and add. 1) and other pertinent documents of the Working Group.

3. To request the Permanent Council to instruct the Working Group to:

a. Hold a special two-day meeting at OAS headquarters in September or October 2007 and before scheduling the Eleventh Meeting of Negotiations in the Quest for Points of Consensus, in order to engage in a process of reflection regarding the Draft American Declaration on the Rights of Indigenous Peoples. The outcomes and recommendations of the two-day meeting of the Working Group will be presented the day after that meeting to a special meeting of the Permanent Council by the Chair of the Working Group and the leaders of the Indigenous Peoples' Caucus. The Permanent Council will consider those recommendations on how to strengthen the negotiation process in the presence of representatives of the indigenous peoples;

b. Hold up to three meetings of negotiations of up to five days each, between October 2007 and March 2008, at least one of which shall be held at OAS headquarters;

c. Continue to take the appropriate measures to ensure continuing transparency of, and effective participation by representatives of indigenous peoples in, the negotiation meetings in the quest for points of consensus; and

d. Emphasize the need to reach compromise solutions that are attentive to the most pressing concerns of the indigenous peoples and to the needs of all member states, in the preparation of the Draft Declaration.

4. To request the Selection Board of the Specific Fund to continue to work according to the principles established in resolution CP/RES. 873 (1459/04), "Amendments to the Specific Fund to Support the Preparation of the American Declaration on the Rights of Indigenous Peoples," so as to ensure greater transparency, and to provide more information in its report on the specific reason(s) for choosing each beneficiary, ensuring that the assessments made are detailed and specific.

5. To thank Government and people of Bolivia for the successful organization of the Tenth Meeting of Negotiations in the Quest for Points of Consensus.

6. To request the Inter-American Commission on Human Rights, its Special Rapporteurship on Indigenous Peoples, the Summits Secretariat, the Office of International Law of the Department of International Legal Affairs of the General Secretariat of the Organization, and the Secretary General to continue to lend their valuable support to the process of drafting the American Declaration on the Rights of Indigenous Peoples; and to thank them for their ongoing contributions to that process.

7. To request the Permanent Council to follow up on this resolution, which will be implemented within the resources allocated in the program-budget of the Organization and other resources, and to present a report on its implementation to the General Assembly at its thirty-eighth regular session.

AG/RES. 2295 (XXXVII-O/07)

PERSONS WHO HAVE DISAPPEARED AND ASSISTANCE
TO MEMBERS OF THEIR FAMILIES

(Adopted at the fourth plenary session, held on June 5, 2007)

THE GENERAL ASSEMBLY,

RECALLING resolution AG/RES. 2231 (XXXVI-O/06) and resolutions on this subject from prior years;

TAKING INTO ACCOUNT that the problem of missing persons and assistance to members of their families is addressed in international humanitarian law and international human rights law within their respective spheres of application, their legal frameworks being distinct;

DEEPLY CONCERNED over the suffering caused both by the disappearance of persons as a result of armed conflict or other situations of armed violence and by forced disappearances;

RECOGNIZING the need to alleviate the anxiety and uncertainty suffered by the relatives of persons who are presumed to have disappeared;

MINDFUL of the need to prevent the disappearance of persons, to ascertain the fate of those who have disappeared, and to respond to the needs of members of their families, both in situations of armed conflict or other situations of armed violence and in cases of forced disappearances;

GUIDED by the four Geneva Conventions of 1949 and the two Additional Protocols of 1977 thereto, the American Declaration of the Rights and Duties of Man of 1948, the American Convention on Human Rights of 1969, the Inter-American Convention on Forced Disappearance of Persons of 1994, the International Convention for the Protection of All Persons from Enforced Disappearance of 2006, and applicable international law;

TAKING INTO ACCOUNT resolution 59/189, "Missing persons," adopted by the United Nations General Assembly on December 20, 2004; resolution 2005/66, "Right to the Truth," adopted by the United Nations Commission on Human Rights on April 20, 2005; resolution 2005/26, "Human Rights and Forensic Science," adopted by the United Nations Commission on Human Rights on April 19, 2005; the Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law, adopted by the United Nations General Assembly on December 16, 2005; decision 2/105, "Right to the truth," adopted by the United Nations Human Rights Council in November 2006; and resolution 61/155, "Missing persons," adopted by the United Nations General Assembly on December 19, 2006; and

RECALLING the Declaration and Agenda for Humanitarian Action, adopted by resolution 1 of the 28th International Conference of the Red Cross and Red Crescent, held in Geneva, Switzerland, from December 2 to 6, 2003, which address the question of persons missing as a result of an armed conflict or other situations of armed violence,

RESOLVES:

1. To urge all parties involved in armed conflict and actors in other situations of armed violence to prevent the disappearance of persons, in accordance with applicable international law.

2. To encourage member states to continue moving forward in preventing the forced disappearance of persons by considering, where appropriate, the adoption of laws, regulations, and/or instructions requiring the establishment of official registries in which records will be kept of all detained persons, among other reasons to allow, as appropriate, family members, other interested persons, judicial authorities, and/or bodies that have a recognized mandate to protect detainees to learn, within a short period of time, of any detention that has taken place, all of the foregoing without interfering with appropriate communications between detainees and their families.

3. To urge member states to step up their efforts to shed light on the fate of persons who have disappeared and, to that end, to ensure that authorities and all mechanisms involved coordinate their work, cooperate among themselves, and complement one another's efforts.

4. To urge member states to maintain, in keeping with their legal and administrative organization, complete birth and death records, and also to establish registries to collect and centralize information on persons presumed to have disappeared.

5. To urge member states to ensure that disappearance cases are impartially investigated by the competent authorities, in accordance with their international obligations and domestic legislation, and that the families of persons presumed to have disappeared are systematically involved in the efforts to clarify what has happened to them.

6. To encourage member states to address as fully as possible the psychological, social, legal, and material needs of the families of presumed victims of disappearances through measures including, where appropriate, provision of periodic information to relatives on the efforts to cast light on the fate of the disappeared and on their whereabouts.

7. To encourage member states to consider enacting, as applicable, domestic laws that recognize the situation of the families of disappearance victims, taking into account the specific needs and particular interests of women heads of household and children, including the consequences of disappearances on property management, child custody, parental rights, and marital status, as well as devising adequate compensation programs.

8. To urge member states to ensure that human remains are treated with due respect and in accordance with national and international practices and standards and legal and ethical standards applicable to the collection, exhumation, and management of unidentified remains, in order to assemble all the information needed to identify them and to ascertain the facts that led to that situation.

9. To encourage member states to take appropriate measures to ensure that the collection, exhumation, and management of human remains and other related procedures are carried out by forensic experts, respecting, if applicable, traditional practices.

10. To urge member states to ensure that fully identified human remains are returned to families and that the respective death certificates are issued.

11. To urge member states to punish those found guilty of violating, in armed conflict and other situations of armed violence, provisions of international human rights law and/or international humanitarian law, within their respective spheres of application, that protect persons from disappearances, in particular, forced disappearances.

12. To urge member states to adopt necessary legislative and/or administrative measures to prevent the systematic and deliberate denial of information exchange among families; obstacles to the provision of information on disappearance victims, in particular regarding identification processes; the illicit withholding of accessible information on a death or its cause and the reasons for or circumstances of a death; the destruction of evidence likely to clarify the fate of a person presumed to be missing; and the pillaging, desecration, or mutilation of the deceased.

13. To urge member states to ensure adequate protection of the personal data gathered in connection with disappeared persons, in accordance with the law.

14. To urge member states to cooperate among themselves in addressing the various aspects of the problem of the disappearance of persons, including in the area of support for families, the search for missing persons, collection, exhumation, and identification of human remains, and mutual assistance in criminal proceedings.

15. To encourage member states to request support from international and civil society organizations to address the problem of the disappearance of persons.

16. To invite member states to continue their cooperation with the International Committee of the Red Cross, a recognized humanitarian institution, in its various areas of responsibility, and to facilitate its work.

17. To urge those member states that have not yet done so to consider signing and ratifying, ratifying, or acceding to, as the case may be, the Inter-American Convention on Forced Disappearance of Persons and the International Convention for the Protection of All Persons from Enforced Disappearance.

18. To urge states, as applicable, to endeavor to carry out the mandates set forth in this resolution on an ongoing basis.

19. To instruct the Permanent Council to follow up on this resolution.

AG/RES. 2296 (XXXVII-O/07)

PROTECTION OF ASYLUM SEEKERS
AND REFUGEES IN THE AMERICAS

(Adopted at the fourth plenary session, held on June 5, 2007)

THE GENERAL ASSEMBLY,

RECALLING its resolution AG/RES. 2232 (XXXVI-O/06), "Protection of Asylum Seekers, Refugees, and Returnees in the Americas," and its resolutions AG/RES. 1762 (XXX-O/00), AG/RES. 1832 (XXXI-O/01), AG/RES. 1892 (XXXII-O/02), AG/RES. 1971 (XXXIII-O/03), and AG/RES. 2047 (XXXIV-O/04);

WELCOMING the fact that 28 member states of the Organization of American States (OAS) have acceded to the 1951 Convention Relating to the Status of Refugees and 30 to its 1967 Protocol; that, in 2006, Argentina, Costa Rica, and Uruguay adopted new domestic legal provisions for the protection of refugees; and that Chile, Mexico, and Nicaragua are in the process of adopting new domestic legislation on refugees;

RECOGNIZING the commitment assumed by OAS member states to continue extending protection to asylum seekers and refugees on the basis of the 1951 Convention Relating to the Status of Refugees and its 1967 Protocol, and to seek lasting solutions to their situation;

RECOGNIZING ALSO the efforts that countries of origin are making, with support from the international community, to deal with the circumstances that generate waves of persons seeking asylum, and the importance of persisting in those efforts;

EMPHASIZING the efforts made by some receiving countries of the region, faithful to their generous tradition of asylum even under difficult socioeconomic conditions, to continue extending protection to asylum seekers and refugees;

UNDERSCORING the importance of implementation of the Mexico Plan of Action to Strengthen the International Protection of Refugees in Latin America, adopted by 20 Latin American states on November 16, 2004, in Mexico City, in the framework of the commemoration of the 20th anniversary of the 1984 Cartagena Declaration, which has enabled needs for protection to be addressed and progress to be made in the quest for durable solutions for refugees in the region;

WELCOMING the initiatives taken in accordance with that Plan of Action by Argentina, Brazil, and Chile to establish and implement the Regional Solidarity Resettlement Program, and the recent incorporation of Paraguay and Uruguay into said program; and

RECOGNIZING the responsibility of states to provide international protection to refugees, as well as the need for international technical and financial cooperation to find durable solutions

based on the principles of international solidarity and responsibility-sharing,

RESOLVES:

1. To reaffirm its support for, and emphasize the relevance and fundamental importance of, the 1951 Convention Relating to the Status of Refugees and/or its 1967 Protocol, as the principal universal instruments for the protection of refugees; and to urge the member states that are parties thereto to continue to implement fully and effectively all of their obligations in that regard.

2. To urge those states parties that have not yet done so to consider, as the case may be, signing, ratifying, or acceding to the international instruments in the area of refugees, and to promote the adoption of procedures and institutional mechanisms for their effective application, in accordance with those instruments.

3. To support the Mexico Declaration and Plan of Action to Strengthen the International Protection of Refugees in Latin America; and to continue implementing it fully and effectively, with support from the international community and from the Office of the United Nations High Commissioner for Refugees (UNHCR).

4. To urge member states and the international community to collaborate in and support the strengthening and consolidation of the "Borders of Solidarity," "Cities of Solidarity," and "Resettlement in Solidarity" programs proposed in the Mexico Plan of Action.

5. To call on member states and the international community to increase technical and economic cooperation to the countries of the Hemisphere that receive refugees and that so require, and to work in cooperation with the UNHCR to provide effective protection to asylum seekers and refugees in the region.

6. To recognize the efforts and the progress that the countries of origin have been making; and to encourage them, to the extent of their ability and with support from the UNHCR and the international community, to continue making efforts to deal with the circumstances that generate waves of persons seeking asylum.

7. To recognize the efforts and progress that countries of the Hemisphere that receive refugees have made in implementing protective mechanisms, in accordance with international refugee law and the international principles of refugee protection.

8. To instruct the Permanent Council to organize, through the Committee on Juridical and Political Affairs and with support from the Office of International Law of the General Secretariat and the collaboration of the UNHCR, a special meeting on current topics in international refugee law.

9. To request the Permanent Council to report to the General Assembly at its thirty-eighth regular session on the results of this resolution, which will be implemented within the resources allocated in the program-budget of the Organization and other resources.

AG/RES. 2345 (XXXVII-O/07)

STRENGTHENING OF THE NATIONAL HUMAN RIGHTS SYSTEMS OF THE
MEMBER STATES AND SUPPORT FOR THE WORK OF DEFENDERS OF
THE PEOPLE, DEFENDERS OF THE POPULATION, AND HUMAN RIGHTS
ATTORNEYS OR COMMISSIONERS (OMBUDSMEN)

(Adopted at the fourth plenary session, held on June 5, 2007)

THE GENERAL ASSEMBLY,

TAKING INTO ACCOUNT resolution AG/RES. 2221 (XXXVI-O/06), "Strengthening of the National Human Rights Systems of the Member States and Support for the Work of Defenders of the People, Defenders of the Population, and Human Rights Attorneys or Commissioners (Ombudsmen)," whereby it recognized the importance of national systems for the promotion and protection of human rights in safeguarding the rights of the individual;

HAVING SEEN the Annual Report of the Permanent Council to the General Assembly (AG/doc.4698/07 corr. 1);

TAKING INTO ACCOUNT that in the Charter of the Organization of American States, the American Convention on Human Rights, and the American Declaration of the Rights and Duties of Man, the member states proclaimed the fundamental rights of the individual without distinction as to race, nationality, creed, sex, language, religion, political or other opinion, national or social origin, economic status, birth, or any other social condition;

REAFFIRMING that the member states, through appropriate measures, have recognized the universal, indivisible, and interdependent nature of all human rights and the obligation to respect and protect the rights and fundamental freedoms of the individual;

RECALLING that the Vienna Declaration and Programme of Action of the World Conference on Human Rights reaffirmed, in paragraph 10, the right to development;

TAKING INTO ACCOUNT that the fundamental objective of national systems for the promotion and protection of human rights is to safeguard the rights of the individual;

BEARING IN MIND the Principles relating to the Status of National Institutions, "Paris Principles," adopted by the United Nations General Assembly in its resolution 48/134, of December 20, 1993;

REAFFIRMING the importance of the inter-American human rights system, whose organs have competence to promote the observance of human rights in all member states of the Organization, in accordance with the commitments undertaken by each state, and which operate in a manner subsidiary to national jurisdictional systems;

TAKING INTO ACCOUNT that all member states have the obligation to promote and protect human rights and fundamental freedoms, without distinguishing among the specific national and regional characteristics and the different historical, cultural, and religious backgrounds of all states, regardless of their political, economic, and cultural systems; and recognizing that democracy is a universal value and there is no single model of democracy;

RECALLING resolutions AG/RES. 1505 (XXVII-O/97), AG/RES. 1601 (XXVIII-O/98), and AG/RES. 1670 (XXIX-O/99), in which the General Assembly recognized the work of ombudsmen in the Hemisphere, a concept recognized in the law of member states with names such as defenders of the people, defenders of the population, human rights attorneys, and human rights commissioners;

RECALLING ALSO the message transmitted by the United Nations Commission on Human Rights through resolution 2005/74, "National Institutions for the Promotion and Protection of Human Rights," which, in paragraph 12, "[w]elcomes the continuation of the practice of national institutions convening regional meetings" and encourages national institutions, in cooperation with the Office of United Nations High Commissioner for Human Rights, "to continue to organize similar events with Governments and non-governmental organizations in their own regions";

UNDERSCORING the work done by the Caribbean Ombudsmen's Association, the Network of National Human Rights Institutions of the Americas, the Andean Council of Ombudsmen, the Central American Ombudsman Council, and the Ibero-American Federation of Ombudsmen;

RECALLING the exhortation contained in the aforementioned resolutions that member states of the inter-American system adopt measures to ensure that the defenders of the people, defenders of the population, human rights attorneys, and human rights commissioners enjoy political, administrative, and financial independence; and

TAKING INTO CONSIDERATION the Plan of Action of the Third Summit of the Americas (Quebec City, 2001) as it pertains to strengthening the capacity of national institutions responsible for the promotion and protection of human rights,

RESOLVES:

1. To reaffirm the fundamental importance of national human rights systems for the promotion and protection of human rights in strengthening the rule of law and social justice for the consolidation of democracy.

2. To reiterate its support for the politically, administratively, and financially independent work of the ombudsmen or defenders of the people, defenders of the population, human rights attorneys, and human rights commissioners in the countries of the Hemisphere, in the promotion and protection of human rights.

3. To recommend to member states that do not yet have institutions of the kind to which this resolution refers that they consider the possibility of establishing and operating them within the framework of their legal order.

4. To encourage the governments and organs of the inter-American system to promote the establishment of forums for dialogue between the institutions of the kind to which this resolution refers and the pertinent organs of the inter-American system, in order to strengthen their contribution to the democratic order in the Hemisphere.

5. To reaffirm the support of the Organization of American States for the work of the Caribbean Ombudsmen's Association, the Network of National Human Rights Institutions of the Americas, the Andean Council of Ombudsmen, the Central American Ombudsman Council, and the Ibero-American Federation of Ombudsmen.

6. To reiterate to the Committee on Juridical and Political Affairs of the Permanent Council that it consider inviting the institutions to which this resolution refers to participate in the dialogue to be held among member states on human rights issues, given that their presence is necessary.

7. To request the Permanent Council to report to the General Assembly at its thirty-eighth regular session on the implementation of this resolution, which will be carried out within the resources allocated in the program-budget of the Organization and other resources.

AG/RES. 2350 (XXXVII-O/07)

OBLIGATION OF THE MEMBER STATES TO RESPECT THE RULES, PRINCIPLES, AND ESSENTIAL PURPOSES CONTAINED IN THE CHARTER OF THE ORGANIZATION OF AMERICAN STATES AND INTERNATIONAL LAW, IN ORDER TO PRESERVE AND STRENGTHEN PEACE IN THE HEMISPHERE

(Adopted at the fourth plenary session, held on June 5, 2007)

THE GENERAL ASSEMBLY,

RECALLING that the historical, legal, and political foundations of the Organization of American States (OAS) includes the Pan American Union, which arose from the Amphictyonic Congress of Panama, convened to preserve the independence of the American republics, to promote peace and solidarity, to strengthen sovereignty, and to promote the economic, social, and cultural development of the peoples of the American Hemisphere;

TAKING INTO ACCOUNT resolution AG/RES. 2250 (XXXVI-O/06), "Obligation of Member States to Respect the Rules and Principles of International Law Contained in the Charter of the Organization of American States, in order to Preserve and Strengthen Peace in the Hemisphere," and resolution AG/RES. 2150 (XXXV-O/05);

HAVING SEEN the Annual Report of the Permanent Council to the General Assembly

HAVING SEEN the Annual Report of the Permanent Council to the General Assembly (AG/doc.4698/07 corr. 1);

REAFFIRMING the principles of the Charter of the United Nations;

REAFFIRMING ALSO the following principles of the OAS Charter, which include that international law is the standard of conduct of states in their reciprocal relations, that international order consists essentially of respect for the personality, sovereignty, and independence of states and the faithful fulfillment of obligations derived from treaties and other sources of international law, and that good faith shall govern relations between states;

REAFFIRMING FURTHER the essential purposes set forth in Article 2 of the OAS Charter;

RECOGNIZING that the principles set forth in the OAS Charter and in international law are foundations of the inter-American system;

NOTING Appendix 1 of the report of the special meeting of the Committee on Juridical and Political Affairs on the principles of international law contained in the OAS Charter, held on March 22, 2007 (document CP/CAJP-2479/07), which states that "the principles are, in their interpretation and their application . . . interdependent and complementary, and they interact with each other";

EMPHASIZING the principle of cooperation and that the principle of solidarity among the American states requires the political organization of those states on the basis of the effective exercise of representative democracy; and

EMPHASIZING ALSO that every state has the right to choose, without external interference, its political, economic, and social system and to organize itself in the way best suited to it, and has the duty to abstain from intervening in the affairs of another state. Subject to the foregoing, the American states shall cooperate fully among themselves, independently of the nature of their political, economic, and social systems,

RESOLVES:

1. To appeal to member states to take into account and to observe in their inter-American relations the rules, principles, and essential purposes contained in the Charter of the Organization of American States (OAS) and international law, including other treaties and conventions they may adopt and any to which they are party, in particular those principles regarding the preservation and strengthening of peace in the Hemisphere.

2. To urge member states to continue their efforts to promote and disseminate these rules, principles, and purposes through courses, seminars, and forums.

3. To request that the Permanent Council, through the Committee on Juridical and Political Affairs, keep the topic on its agenda and take into account the report on the special meeting on the principles of international law contained in the OAS Charter (CP/CAJP-2479/07).

4. To request the Secretary General to provide support for the implementation of this resolution and to present a report thereon to the General Assembly at its thirty-eighth regular session.

AG/RES. 2351 (XXXVII-O/07)

CIVIL SOCIETY ORGANIZATIONS AND THE PROTECTION
OF HUMAN RIGHTS AND PROMOTION OF DEMOCRACY

(Adopted at the fourth plenary session, held on June 5, 2007)

THE GENERAL ASSEMBLY,

TAKING INTO ACCOUNT resolutions CP/RES. 759 (1217/99), "Guidelines for the Participation of Civil Society Organizations in OAS Activities," and CP/RES. 840 (1361/03), "Strategies for Increasing and Strengthening Participation by Civil Society Organizations in OAS Activities";

BEARING IN MIND the "Declaration on the Right and Responsibility of Individuals, Groups and Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms," and United Nations General Assembly resolutions 53/144 and 60/161;

RECOGNIZING that civil society organizations, including nongovernmental organizations (NGOs), play a significant role in building free, accountable, democratic, and inclusive societies, and also constitute important actors in the promotion and protection of human rights and fundamental freedoms, including civil, political, economic, social, and cultural rights;

RECOGNIZING ALSO that civil society organizations, including NGOs, contribute to the workings of the bodies and organizations of the inter-American system; and

CONSIDERING the relevant volumes of the annual reports of the Inter-American Commission on Human Rights, including the Report on the Situation of Human Rights Defenders in the Americas,

RESOLVES:

1. To instruct the Permanent Council to prepare and convene a special meeting to discuss best practices among member states that serve to strengthen participation of civil society organizations, including nongovernmental organizations (NGOs), in the areas of human rights and democracy promotion, as well as best practices regarding the participation of civil society organizations in activities of the Organization of American States relating to human rights and democracy promotion. This meeting will include contributions by and participation of the Inter-American Commission on Human Rights and civil society organizations, in accordance with resolution CP/RES. 759 (1217/99).

2. To request the Permanent Council to report to the General Assembly at its thirty-eighth regular session on the implementation of this resolution, which will be carried out within the resources allocated in the program-budget of the Organization and other resources.

[1] The Permanent Mission of El Salvador presented a statement in support of this resolution, provided that its content does not affect the peace and national reconciliation agreements based on amnesties called for and negotiated by the parties to the conflict. Said statement appears in the minutes of the session.

[2] The delegation of the Bolivarian Republic of Venezuela reiterates the reservation it made on adopting the Declaration of Panama, on March 2, 2007, at the Seventh Regular Session of the Inter-American Committee against Terrorism (CICTE).

[3] Reservation by the United States: The United States has long been concerned about the persistent violations of international humanitarian law and international human rights law throughout the world. The United States will continue to be a forceful advocate for the principle of accountability for war crimes, genocide and crimes against humanity, but cannot support the flawed International Criminal Court (ICC). Thus, the United States has not ratified the Rome Statute and has no intention of doing so. In light of this position, the United States cannot join in the consensus on an OAS resolution that promotes the Court, nor support the use of the OAS regular budget to fund cooperation and any other support rendered to the ICC, including under any OAS-ICC cooperation agreement. The United States understands that any such support will result only from specific fund contributions.

[4] The delegation of the United States did not participate in the consensus on operative paragraph 6 of this resolution. The Ministers of Justice and Attorneys General of the Hemisphere, meeting in the Dominican Republic, have requested another meeting, the Second Meeting of Officials Responsible for Penitentiary and Prison Policies, to examine the same matters as those referred to in this paragraph, which asks the Permanent Council to undertake this work. The delegation of the United States considers that this request to the Permanent Council is inappropriate because it would duplicate the mandate.