

#### **IV. OTHER INTER-AMERICAN BODIES**

## INTER-AMERICAN JURIDICAL COMMITTEE

The Inter-American Juridical Committee is one of the organs through which the Organization of American States accomplishes its purposes (Article 53 of the Charter). Chapter XIV of the Charter determines its composition, duties and responsibilities, and functions. Its purpose is to serve the Organization as an advisory body on juridical matters, to promote the progressive development and codification of international law, and to study juridical problems related to the integration of the countries for the Hemisphere's development. The Committee has its headquarters in Rio de Janeiro and is composed of eleven jurists, nationals of the member states and elected by the General Assembly.

In 2001, the Inter-American Juridical Committee held two regular sessions, the first in Ottawa from March 12 through 23, and the second in Rio de Janeiro, July 30 to August 24. The following items appeared on the Juridical Committee's agenda at both sessions: human rights and biomedicine; the Inter-American Specialized Conference on Private International Law (CIDIP); preparations to commemorate the Inter-American Juridical Committee's one hundredth anniversary; the legal dimension of integration and international trade: competition law in the Americas; enforcement of the 1982 United Nations Convention on the Law of the Sea by the States of the hemisphere; freedom of information: access to and protection of personal data and information; legal aspects of hemispheric security; enhancement of the administration of justice in the Americas: access to the courts; abduction of minors by a parent; inter-American cooperation against terrorism; study of the inter-American system for the promotion and protection of human rights; the Statute of the International Criminal Court: its potential and problems; possible measures to be taken in addition to the Inter-American Convention against Corruption (Caracas); arms trafficking, in light of the decisions that the Committee has taken on this subject; preparation of a draft inter-American against racism and all forms of discrimination and intolerance; and a draft inter-American convention for extraterritorial suppression of sex offenses committed against minors.

The Inter-American Juridical Committee approved reports and adopted resolutions on these subjects. It also approved the report titled "*Observations and comments of the Inter-American Juridical Committee on the draft Inter-American Democratic Charter*" (CJI/doc.76/01), which was sent to the Chairman of the Permanent Council by note dated August 16, 2001.

The following were the members of the Inter-American Juridical Committee in 2001: João Grandino Rodas (Chairman), Brynmor Pollard (Vice Chairman), Jonathan T. Fried, Luis Herrera Marcano, Kenneth O. Rattray, Gerardo Trejos Salas, Eduardo Vío Grossi, Sergio González Gálvez, Orlando Rebagliati, Felipe Paolillo and Carlos Manuel Vázquez.

At the regular session that the OAS General Assembly held in Costa Rica, Mr. Luis Herrera Marcano of Venezuela and Mr. Kenneth O. Rattray of Jamaica were re-elected to the Inter-American Juridical Committee. Mrs. Ana Elizabeth Villalta of El Salvador was elected to replace Mr. Gerardo Trejos of Costa Rica. Their terms will begin January 1, 2002, and run to December 31, 2005. At that session of the General Assembly Mr. Pollard introduced the Annual Report on the Committee's work in the year 2000.

The Inter-American Juridical Committee, with the General Secretariat's Department of International Law providing support and coordination, organized the XXVIII Course on International Law. The course was held in Rio de Janeiro, July 30 to August 24, 2001. Its central theme was "The human person in contemporary international law."

## **INTER-AMERICAN COMMISSION ON HUMAN RIGHTS**

The Inter-American Commission on Human Rights (IACHR), one of the organs of the OAS (Article 53 of the Charter), was created by a resolution of the Fifth Meeting of Consultation of Ministers of Foreign Affairs, held in Santiago, Chile, in 1959. It was formally established in 1960 when the then Council of the Organization approved its Statute. Its Rules of Procedure, approved in 1980, were amended several times, the most recent being in 2000. The Commission represents all the member states of the Organization and is made up of seven members, elected in their personal capacity by the General Assembly. The Commission's main function, under Article 115 of the Charter, is to promote the observance and protection of human rights and to serve as consultative organ of the Organization in these matters.

During the period covered in this report, the IACHR held four sessions: the 110th regular session, February 21 to March 9, 2001; the 111th special session, April 4 to 6, 2001; the 112th special session, in June 2001, and the 113th regular session, October 10 to 19, 2001. The hearings for the last of these sessions took place between November 12 and 16, 2001.

At its regular sessions in 2001, the IACHR held working meetings and audiences where it received representatives of the OAS member states, representatives of the petitioners, spokespersons for non-governmental organizations and other persons from civil society to discuss individual cases and the general situation of human rights in their countries.

In February 2001, the Commission convened under its new officers: Claudio Grossman, President; Juan E. Méndez, First Vice-President; Marta Altolaquirre, Second Vice-President. Also present were the other members of the Commission: Helio Bicudo, Robert K. Goldman, Peter Laurie and Julio Prado Vallejo.

The OAS General Assembly elected the following new members of the Commission for the 2002-2006 term: Diego García Sayán of Peru; Clare Kamau Roberts of Antigua and Barbuda; and José Zalaquet Daher of Chile. The terms of Commission members Claudio Grossman, Hélio Bicudo and Peter Laurie ended on December 31, 2001.

On August 1, 2001, Mr. Santiago Cantón became the Commission's new Executive Secretary, replacing Ambassador Jorge Taiana, who had served with the Commission for five years. Mr. Cantón had, since November 1998, been the Commission's Special Rapporteur for Freedom of Expression.

### **Sessions**

At its 110th regular session, the IACHR met with the OAS Secretary General. These meetings, which in recent years have become a tradition, are a good opportunity for the Secretary General's Office and the Commission to confer. Both parties agreed on the need to improve the IACHR's administrative autonomy and to avoid any interference in its functions as principal organ of the OAS for the protection of human rights.

At this same session, the IACHR received the Minister of Justice of Peru and its Permanent Representative to the OAS. They presented a proposal for settling 165 cases, which is more than half the cases the Commission now has that involve Peru.

The IACHR held a ceremony with the Inter-American Press Association (IAPA) wherein that institution endorsed the Inter-American Declaration of Principles on Freedom of Expression. Attending the ceremony were the Secretary General of the OAS, César Gaviria; the President of the IACHR, Claudio Grossman; the Executive Secretary, Jorge E. Taiana; the President of the IAPA, Danilo Arbilla; and the IACHR's Special Rapporteur for Freedom of Expression, Santiago Cantón.

Acting on a request received from several non-governmental organizations, the Commission held a hearing on the situation of human rights defenders in the hemisphere. At the hearing, the Commission was informed of threats, attacks and assaults –in some cases fatal- made against human rights defenders and organizations in a number of member states, all in order to interfere with pro-human rights work.

The IACHR frequently requested precautionary measures, provided for in Article 25 of its Regulations, to protect the life and physical safety of persons working in the human rights cause. The Commission received numerous complaints alleging assassinations and intimidation of human rights defenders in Colombia. In most cases, the allegations were made against paramilitary groups. To this day, these actions have gone unpunished. The Commission also received information on Guatemala, where human rights defenders have been searched, threatened and harassed. Reports were also received concerning Cuba, where Cubans do not enjoy freedom of expression and the right of assembly and are subjected to pressure and incarceration.

During the 110th regular session, the Commission examined many individual communications and adopted 63 reports on cases in which violations of human rights protected by the American Convention and/or the American Declaration were alleged. The Commission held 46 hearings on individual cases, the general human rights situation in various States in the hemisphere, precautionary measures, follow-up of recommendations and other issues within its sphere of competence. It also held working meetings with petitioners and representatives of the governments of Brazil, Chile, the Dominican Republic, Guatemala, Honduras, Paraguay and Peru.

The Commission held its 111th special session in Chile, at the Chilean Government's invitation. There it had working meetings with dignitaries from the three branches of government in Chile. The President of the Republic, the Honorable Ricardo Lagos, received the Commission. Also present for the Commission's visit with the President was Chile's Minister of Foreign Affairs, María Soledad Alvear.

The Rapporteur for Freedom of Expression went with the Commission on its visit and gathered information on the status of legislative bills whose passage would further protect freedom of expression in Chile. The Commission's presence in Chile coincided with a legislative decision to abolish the death penalty in that country.

The Commission shared information with representatives of various sectors of civil society on the entry into force of the new Code of Criminal Procedure and had an opportunity to conduct visits that gave it a better appreciation of this innovation in the Chilean juridical system.

During its working meetings, the Commission examined numerous individual cases, approved reports associated with the admissibility phase and merits phase of those cases, and decided to publish 14 reports. The Commission was particularly attentive to the friendly settlement processes underway in 91 cases currently with the Commission. Moreover, it decided to request precautionary measures in two cases: one involving a person said to be suffering from mental health problems and sentenced to death in the United States; and another involving the President of the Constitutional Court of Guatemala, who has been the target of serious threats and harassment in that country because of her decisions on the bench.

The Commission also examined the progress made on the 37 cases being litigated before the Inter-American Court of Human Rights.

At its 112th special session, pursuant to Article 21 of the Commission's Statute, the latter decided to recommend to the OAS Secretary General that Mr. Santiago Cantón be appointed Executive Secretary. It also discussed a number of admissibility reports.

At its 113th regular session, the Commission studied a number of individual communications in which violations of rights protected by the American Convention and/or American Declaration were alleged. It adopted 60 reports on the corresponding cases and individual petitions.

The Commission underscored the adoption of the Inter-American Democratic Charter as another step that reinforces the inextricable link between democracy and human rights. The Commission was of the view that failure to comply with the decisions of the Inter-American Court of Human Rights and the Inter-American Commission on Human Rights would doubtless be an important factor to consider when deciding, in specific cases, whether a democratic system has been altered and whether democratic institutions and processes are at risk. Such a finding would trigger the mechanisms established in the Inter-American Democratic Charter.

The Commission took cognizance of the appointment of Paraguay's Ombudsman in October 2001. This decision of Paraguay's legislature is of enormous importance, as this office, created under Paraguay's 1992 Constitution, had been vacant ever since.

The hearings for the 113th regular session were held at Commission headquarters from November 12 through 16, 2001. A total of 52 hearings were held, where testimony was taken on individual cases, as were statements by representatives of governments and of non-governmental organizations on the general human rights situation in various member states. The IACHR held a separate hearing on the subject of human rights defenders.

The IACHR underscored the fact that the States had to adopt measures to guarantee the physical safety and life of human rights defenders, to enable the latter to conduct their work freely. At these hearings the Commission was very concerned by the reports that in recent years, 68 human rights defenders in Colombia had been killed. The Commission held a hearing on the case of Digna Ochoa, a human rights defender assassinated in Mexico in October 2001. In conducting its proceedings on the Ochoa case, which was initiated in October 1999, the Commission received the petitioners and the representative for Mexico.

The Commission met with the Special Representative of the United Nations Secretary-General for Human Rights Defenders, Mrs. Hina Jilani. In the course of the meeting, the mutual concern for the situation of human rights defenders in the Americas was self-evident. The Commission and the Special Representative shared information on the mechanisms that could be introduced to ensure that human rights defenders would be able to carry on their work. At the end of the hearings session, a roundtable was held where the Commission members whose terms would conclude at the end of 2001, shared some of their experiences during their time with the Commission.

## **Cases and proceedings before the Court**

The Commission complied with a number of the procedures required in the 25 contentious cases and 14 provisional measures proceedings that are pending with the Inter-American Court of Human Rights as of this writing.

In 2001, the IACHR submitted the following cases to the contentious jurisdiction of the Inter-American Court of Human Rights: January 24, 2001, the case of 19 merchants against Colombia; January 24, 2001, case 11,752, Walter David Bulacio against Argentina; July 15, 2001, case 11,703, Juan Humberto Sánchez against Honduras; and June 19, 2001, case 10,636, Myrna Mack Chang against Guatemala.

On March 30, 2001, the Commission requested an advisory opinion from the Court concerning the scope of the special measures of protection required for children under Article 19 of the American Convention on Human Rights, specifically with regard to the judicial guarantees established in that Convention. The Commission participated in several hearings convened by the Court to take up pending cases. It also sought several provisional measures and participated in the proceedings on those requests.

On March 8, 2001, the IACHR held its annual joint meeting with the Inter-American Court of Human Rights. The two bodies discussed the implementation of regulatory reforms that allow for greater legal certainty and give victims and their representatives direct access to the proceedings.

The IACHR and the Court examined the common quest for additional sources of funding for their operations; fulfillment of the Court's judgments and the Commission's recommendations; strengthening of the inter-American system for the protection of human rights; coordination between the two bodies in performing their functions, and institutional cooperation in the protection and defense of human rights.

## **Reports on general human rights situations**

In 2001, the IACHR approved a number of reports on the general situation of human rights in countries of the hemisphere. In March 2001, the Commission approved and published the report on "The Situation of Human Rights in Paraguay." The report was prepared using information and documentation received before, during and after the *in situ* visit that the Commission made to Paraguay from July 28 to 30, 1999, at the invitation of the Paraguayan Government. The report mentions those issues that most affect human rights in Paraguay and the problems of impunity, corruption and poverty in that country. It also cited the failure to appoint someone to the office of ombudsman.

In May 2001, the Commission approved and published the *Fifth Report on the Situation of Human Rights in Guatemala*. That report was put together using information and documents received before, during and after the *in situ* visit that the Commission made to Guatemala at that Government's invitation. The report focuses on the primary challenge of creating a judicial system that effectively protects the people's rights, as the judicial system is essential for true defense of individual rights and freedoms. The report points out the persistence of impunity in many cases of human rights violations, past and present. Impunity is contrary to the State's obligations under domestic and international law, negates the principles upon which the peace accords are based, and weakens the legal order.

## **Activities to promote human rights**

The Commission organized and participated in several activities to promote human rights in the hemisphere, specifically in Grenada, Belize, and the Dominican Republic. Those events were in the form of conferences, training workshops and seminars.

### ***In situ* visits**

From June 5 to 8, 2001, the Commission made an *in situ* visit to Panama to observe the overall human rights situation there. During the visit, the Commission met with Panamanian dignitaries, including its President, as well as members of non-governmental organizations and representatives of indigenous communities.

In December 2001, the Commission conducted an *in situ* visit to Colombia to analyze the human rights situation there. It met with high-ranking government authorities, including the President, as well as members of civil society. The IACHR visited the cities of Bogota, Barrancabermeja and Medellín.

At the Peruvian Government's invitation, the Commission also made a protocolary visit to that country between June 22 and 24, 2001. The Commission's President visited Mexico in July 2001, to follow up on individual cases.

In 2001, the Commission received an invitation from the Government of the Dominican Republic inviting it to visit that country. The Commission also considered more of the details related to the invitations it received to visit Ecuador and Venezuela.

## **Entry into force of the new Rules of Procedure**

Approved by the Commission in December 2000, its new Rules of Procedure entered into force on May 1, 2001. It embodies numerous advances in human rights in the Hemisphere and gives victims greater access to the international proceedings, and the parties greater legal certainty.

## **Signature and ratification of inter-American instruments**

On January 8, 2001, the Permanent Representative of Peru to the Organization of American States signed the instrument of ratification of the Inter-American Convention on Forced Disappearance of Persons. On January 31, 2001, the Permanent Representative of Peru to the OAS delivered to the Secretary General a document in which Peru reinstates its acceptance of the binding jurisdiction of the Inter-American Court of Human Rights. It also stated that it would honor the judgments of the Court that had declared inadmissible Peru's unilateral withdrawal of its recognition of the Court's binding jurisdiction based on a legislative decision of July 7, 1999.

On May 4, 2001, Mexico signed the Inter-American Convention on the Forced Disappearance of Persons. On June 5, 2001, Chile signed the Additional Protocol to the American Convention on Human Rights in the area of Economic, Social and Cultural Rights "Protocol of San Salvador." On September 10, 2001, Chile also signed the Protocol to the American Convention on Human Rights to Abolish the Death Penalty.

The following states ratified the Inter-American Convention for the Elimination of All Forms of Discrimination against Persons with Disabilities: Brazil (August 15, 2001), Peru (August 30, 2001) and Uruguay (July 20, 2001).

### **The Office of the Special Rapporteur for Freedom of Expression**

The Office of the Special Rapporteur for Freedom of Expression lobbied for the need to effectively respect and guarantee the right to freedom of expression as one of the essential elements of democracy. In 2001, the Rapporteur's Office worked with the Commission to prepare reports on cases and petitions that involved the right to freedom of expression and advised the Commission on cases involving provisional and precautionary measures. Through seminars, workshops and lectures, the Office of the Special Rapporteur worked actively to promote the right of freedom of expression.

The Office of the Special Rapporteur continued to press the issue of freedom of expression with a number of countries in the hemisphere, seeking solutions to problems in this area. Accordingly, the Special Rapporteur accompanied the Commission on the *in situ* visits made to Panama and Colombia. During those visits, he met with various government authorities and with representatives and members of civil society.

The Office of the Special Rapporteur presented its *Report on Freedom of Expression in the Americas* to the IACHR. The latter approved the report unanimously and make it part of its Annual Report. The Special Rapporteur's report also featured discussions of topics related to freedom of expression, such as access to information and journalistic ethics.

In November 2001, the Special Rapporteur met with the United Nations Special Rapporteur for Freedom of Opinion and Expression and the Organization for Security and Co-operation in Europe's Representative for Freedom of the Media. During this meeting, which is an annual event, the three defenders and promoters of freedom of expression signed a joint declaration.