

Human Rights Watch

Discrimination, Detention, and Deportation: Immigration & Refugees

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Annual reports

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Human Rights Watch World Report 1998

AMERICAS

On September 25, in a ceremony at the Organization of American States (OAS) headquarters in Washington, D.C., the OAS amended its charter to allow the hemisphere's governments to ostracize from the group any government coming to power by coup. This welcome step underlined the growing consensus in the region that maintaining constitutional, democratic governments is in each nation's best interests. And indeed, with scant exceptions, the region comprising Latin America and the Caribbean stood out as one of the few parts of the world where elected civilian government seemed firmly ensconced.

The history of the area makes clear that elected governments have offered the greatest possibility for enjoyment of human rights; in the past, the rupture of constitutional order in every case brought serious and systematic human rights violations. In this sense, the 1997 congressional and municipal elections in Mexico, the first in which opposition parties could compete with the long-governing Party of the Institutionalized Revolution (Partido de la Revolucin Institucionalizada, PRI) on a level playing field, marked a significant step forward for democracy in the region. Cuba—where an unelected government completed thirty-eight years in power—remained the exception to the trend toward greater political space.

But while elected government may be a precondition for human rights to be respected, the region's dismal record shows that it is by no means sufficient. Massive and serious human rights violations plagued the region in 1997, regardless of the regular alternation in power of elected governments. Indeed, the lack of respect for human rights in countries as diverse as Colombia, Peru, Venezuela, Brazil, Argentina, and the Dominican Republic showed that elections are only the first step toward genuine democracy. Massacres, extrajudicial executions, disappearances, torture and other forms of police brutality, along with inhumane prison conditions stubbornly continued.

Many of the region's elected governments accepted legitimate criticism of their abusive human rights practices, abandoning the defensive reactions of the past. Many realized they stood only to benefit from opening communication with human rights monitors. The exceptions remained the governments of Fidel Castro in Cuba, which continued to deny international human rights groups access to the island while harassing and prosecuting those attempting to monitor rights domestically; the government of Alberto Fujimori in Peru, which denounced human rights groups' motives even as it adopted some of their recommendations; and the Ernesto Zedillo government in Mexico, which admitted to shortcomings in police behavior but expelled international human rights monitors and categorically rejected their findings. Indeed, the only governments in the region which continued to violate human rights as part of central government policy were Cuba and Peru.

Even governments that accepted international criticism failed to make human rights protection a priority by designing programs and dedicating resources to the eradication of torture, police brutality, arbitrary detention, and other widespread abuses, as well as the impunity with which these acts were committed.

Human Rights Developments

In Colombia, thirty-five massacres claimed the lives of 272 individuals in the first eight months of the year, and some 450 more died in individual political assassinations during the same period. The bulk of the carnage was attributable to paramilitary groups, usually working with military acquiescence and in some cases with military support; according to the Colombian Commission of Jurists (CCJ), a respected human rights organization, 76 percent of the human rights violations recorded in 1997 were the work of paramilitaries, 17 percent were the work of guerrillas, and 7 percent were the work of state agents. In Peru, torture remained a common practice employed by police against both accused terrorists and common criminal suspects, and even against a member of the army intelligence service accused of leaking information to the press. In Mexico, political violence in rural areas—in some cases with official involvement or acquiescence—remained acute, and the justice system showed a marked tendency to be lenient with the government's supporters and severe with its opponents. In Brazil, amateur videotapes capturing random police brutality shocked a nation seemingly inured to the fate of criminal suspects. In Venezuela, security forces resorted to systematic abuses, including torture, extrajudicial executions, and the disproportionate use of lethal force in their efforts to control crime in urban areas.

President Fujimori's government in Peru demonstrated its lack of respect for the rule of law by a dizzying series of maneuvers including the sacking of three of the seven members of the Constitutional Court after they ruled against a third presidential term for Fujimori. The judges' removal effectively put the court out of business for settling constitutional conflicts.

Prison conditions in many parts of the region were so bad as to constitute serious human rights violations, and a majority of those held had not been convicted of any crime; indeed, some detainees were held for years in preventive detention, in violation of the presumption of innocence. Some 90 percent of Honduran, Paraguayan, and Uruguayan inmates were unsentenced, while in the Dominican Republic, Panama, Haiti, El Salvador, Peru, and Venezuela, the proportion of unsentenced inmates ranged from 65 to 85 percent. In the Dominican Republic, we found one prisoner who had been held for ten years without trial.

Meanwhile, in a serious setback to international human rights protection mechanisms, Jamaica announced in late October that it would become the first country in the world to withdraw from the Optional Protocol to the International Covenant on Civil and Political Rights. North Korea renounced the covenant itself in August. The Jamaican move, which will have the effect of preventing individuals whose rights may have been violated by the Jamaican government from appealing to the United Nations Human Rights Committee, was apparently intended to deny death row inmates an opportunity for U.N. review.

While the overall picture in 1997 was of continued serious violations, several positive developments occurred. The signing of a final peace agreement in Guatemala, bringing an end to three decades of armed conflict, contributed to a continuing decline in the number of human rights violations linked to counterinsurgency operations. Peru's government in October suspended the use of "faceless courts" to try terrorist suspects. Those courts had presented numerous and profound due process violations. Persons accused of the aggravated form of terrorism, in Peru termed "treason," will continue to be tried by military courts, although the judges will no longer remain anonymous. The amendment of Brazil's criminal code to codify torture as a crime marked a step forward in an effort to eradicate that practice. And in Colombia, President Ernesto Samper introduced two pieces of important legislation: one, would ensure that gross violations of human rights be prosecuted in civilian, rather than military courts, and a second would make forced disappearance a crime. In Venezuela, the Supreme Court on October 14 knocked down as unconstitutional a 1956 vagrancy law which allowed administrative detention for up to five years of possible delinquents without proof of individual wrongdoing.

Perhaps the most ominous development in 1997 was the persecution in several countries of some of the region's most outstanding reporters and news media. Thin-skinned

officials in Panama, Argentina, and Peru lashed out at their critics among the press, demonstrating an intolerance for criticism more characteristic of authoritarian regimes than democratic governments. In Cuba, harassment of the small independent press corps continued unabated.

In Argentina, in January, news photographer Jos Luis Cabezas was handcuffed, beaten, shot dead and set on fire, in a chilling reminder of the dangers of investigating police corruption. At this writing, three provincial police officers have been detained in connection with the case. On September 11, the only Argentine Navy officer to have voluntarily confessed to serious human rights abuses during the military dictatorships from 1976 to 1983 was abducted by armed men with police credentials. During the two hours he was held, former Capt. Adolfo Scilingo was beaten and threatened, and the initials of journalists to whom he had told his story were carved in his face. His captors threatened to kill Scilingo as well as those journalists: Mariano Grondona, Magdalena Ruiz Guiáz, and Horacio Verbitsky. President Carlos Menem's reaction to this gangland-style incident, in which he suggested that Scilingo was not to be believed, followed unfortunate comments he had made shortly before the attack, in which Menem appeared to suggest that the limits of press freedoms could be determined by violence.

The government of Ernesto Prez Balladares in Panama took steps to suppress freedom of expression by setting in motion a deportation order against Peruvian journalist Gustavo Gorriti, associate editor of the daily *La Prensa*. Gorriti's articles covering corruption in official circles irked those in power, who sought to oust the award-winning reporter based on specious legal grounds. Gorriti's investigative unit had written about drug money flowing into President Prez Balladares's campaign and alleged irregularities in the accumulation of television networks by the president's cousin. However, in a significant victory for press freedom, the government reversed itself in October, allowing *La Prensa* to retain Gorriti in a senior position in Panama and vowing to seek derogation of legislation limiting the role of foreign nationals in the media.

In Peru, the government launched a campaign against the Israeli-born majority shareholder in Lima's Channel 2 television, Baruch Ivcher Bronstein. Channel 2 was the first to broadcast an interview with Leonor La Rosa, an army intelligence agent severely tortured by her employers on suspicion of having leaked information about planned persecution of the press. An escalating campaign of harassment against Ivcher culminated in the July 13 revocation of his Peruvian nationality, followed by takeover of the television station by the pro-government minority shareholders. Other journalists faced serious harassment, including Blanca Rosales, managing editor of the daily *La Repubblica*, who was abducted, beaten, and threatened by unidentified armed men before being released.

Cuban authorities continued to intimidate journalists. Among those arrested were Hector Peraza Linares, codirector of the Habana Press news agency, and Ral Rivero, the head of Cuba Press. On February 26, a group of government supporters gathered outside the homes of Cuba Press journalists Tania Quintero and Ana Luisa Baeza, throwing objects and shouting. Joaquin Torres Alvarez, the director of Habana Press, was beaten in May by several assailants whom he later identified as members of the State Security forces and representatives of his neighborhood's communist party office.

In Mexico, gunmen murdered Jess Bueno Len of the Guerrero state weekly *7 Das*; Bueno had written that he believed state officials planned to kill him in retaliation for his reporting. After covering police excesses in Mexico City in September, four reporters were abducted and tortured by unidentified assailants.

In December 1996, a new series of television regulations went into effect in Colombia, including limitations on the broadcasting of violent images which could, if enforced, seriously restrict news coverage, among other things, the measures restricted airing statements from guerrilla or other criminal organizations. Although the regulations have not produced attempts at censorship as of this writing, their implementation granted the government tremendous leeway to limit television coverage. Colombian cameraman Ricardo Velez fled the country in September after receiving serious threats on his life related to a suit for damages he filed against the army. Soldiers had beaten Velez while he filmed repression of a protest march in 1996.

In June, the Inter-American Commission on Human Rights published a report finding that the government of Chile had violated the right to freedom of expression by banning the sale of a book written by Francisco Martorell in 1993. The book, *Diplomatic Impunity*, concerned the circumstances leading up to the departure of the former ambassador of Argentina in Chile, Oscar Spinosa Melo. The commission called on the government of Chile to lift the ban on the book.

Meanwhile, when President Rafael Caldera of Venezuela recommended that a November 1997 Iberoamerican summit in Caracas suggest measures to protect the "right to truthful information," this concept-suggesting governmental control over press content-provoking well-deserved approbrium from press watchdog groups.

The Right to Monitor

Human rights monitors continued to face threats, harassment, and physical violence in several countries in the region, and in many cases governments failed to take measures to investigate, prosecute, and punish those responsible. In a dangerous continent, Colombia remained the killing field for human rights defenders. Mario Caldern and Elsa Alvarado of the Center for Research and Popular Education (Centro de Investigacin y Educacin Popular, CINEP) were killed by masked gunmen in their Bogot apartment, apparently in retaliation for their human rights work. Alvarado's father was also killed and her mother seriously wounded in the same incident. On September 28, authorities arrested five people who may have taken part in the killing. Among the other human rights monitors killed by unidentified gunmen in Colombia in apparent retaliation for their work were Nazareno de Jess Rivera of the Segovia Human Rights Committee, Margarita Guzmán a former colleague who pressed for an investigation, and Vctor Julio Garzn, a member of the all-but-extinguished Meta Civic Committee for Human Rights. A third member of the Segovia Human Rights Committee, Jaime Ortiz Londoo, was forcibly disappeared. Several other monitors have been forced to leave the country because of death threats. On October 26, the guerrilla group known as the National Liberation Army (Ejrcito de Liberacin Nacional, ELN) kidnapped two election observers from the Organization of American States in an effort to frustrate municipal elections. The guerrillas freed the observers after more than a week.

In Cuba, where monitoring the human rights policies of the government runs afoul of numerous provisions of the penal code restricting free expression and association, those who attempted to defend human rights faced harassment and prosecution. On July 15, authorities detained human rights lawyer Ren Gmez Manzano along with three other prominent dissidents. At this writing, the four leaders remain in prison facing possible trial for enemy propaganda.

Human rights advocate Francisco Sobern, head of Peru's Pro-Human Rights Association (Asociacin Pro-Derechos Humanos, APRODEH), faced repeated anonymous death threats apparently in retaliation for APRODEH's defense of a respected judge facing arbitrary legal proceedings and a police whistle-blower facing persecution.

In Bolivia, National Police agents arrested Waldo Albarracn, president of the Permanent Assembly of Human Rights (Asamblea Permanente de Derechos Humanos, APDH) on January 25 and allegedly tortured him for over three hours. The police agents reportedly beat Albarracn all over his body, including his genitalia, subjected him to death threats and near-asphyxiation. Albarracn was later hospitalized with serious wounds.

Church-related human rights groups in Mexico continued to come under attack. Padre Camilo Daniel, founder of Chihuahua's Commission of Solidarity and Defense of Human Rights (Comisin de Solidaridad y Defensa de los Derechos Humanos, COSYDDHAC), and his secretary were threatened with death in January. On February 15, armed men ambushed a group of investigators from the Fray Bartolom de las Casas Human Rights Center in the Chiapas town of Sabanilla, wounding Jos Montero in the arm. Also in Chiapas, assailants tried unsuccessfully to burn the offices of the Coordinating Group of Nongovernmental Organizations for Peace (Coordinadora de Organismos No Gubernamentales por la Paz, CONPAZ).

In Venezuela, members of the Human Rights Office of the Vicariate of Puerto Ayacucho, state of Amazonas, came under attack for their work on behalf of the Amazonian Indians. Following inflammatory criticism of the office by local politicians and members of the regional government, two vehicles belonging to the office were damaged by acid.

In November, Human Rights Watch honored Carlos Rodrguez Meja, a distinguished human rights attorney from the Bogot-based Colombian Commission of Jurists (Comisin Colombiana de Juristas, CCJ), in our annual celebration of human rights monitors from around the world. Rodrguez is a founding member of the CCJ, one of Colombia's most effective human rights groups. It was largely through Rodrguez's efforts that the U.N. agreed to set up a special office of its High Commissioner for Human Rights in Bogot to press the government to protect human rights.

The Role of the International Community

United Nations

The presence of the United Nations human rights mission in Guatemala, known as MINUGUA, continued to contribute to reduced levels of politically motivated human rights violations. Nonetheless, the mission's prestige suffered a blow with the delay in publication of its investigation into the forced disappearance of a guerrilla captured by the army

in October 1996. To its credit, MINUGUA continued to press the case despite stonewalling by the government.

The U.N. High Commissioner for Human Rights opened a field office in Colombia, a long-awaited move that held the promise of reducing violations. In April, the U.N. Human Rights Committee in New York lamented that "gross and massive human rights violations continue to occur in Colombia." It expressed its "deep concern" over evidence that paramilitary groups "receive support from members of the military" and that "impunity continues to be a widespread phenomenon." Torture in Mexico also received well-deserved scrutiny from the U.N. In its conclusions reached in April, the Committee Against Torture praised legal reforms but strongly faulted the systematic practice of torture in the country. In August, Nigel Rodley, the U.N. special rapporteur on torture, visited Mexico to document the nature and extent of violations.

United States

The State Department's annual *Country Reports on Human Rights Practices* provided an accurate and detailed description of the human rights problems and practices in the region. In a departure from past practice, the Clinton administration in 1997 also took steps to raise human rights issues to a more prominent position in its agenda with the region, on some occasions issuing public statements in countries where it had previously been silent. In Colombia, the U.S. embassy publicly expressed its concern over military authorities' verbal attacks on civilian investigators who linked Gen. Farouk Yanine to the Puerto Araujo massacre, the first time it had spoken publicly on a human rights case. And despite strong pressure from members of Congress eager to fund Colombian anti-narcotics campaigns regardless of human rights violations by the army, the Clinton administration held up aid to the military until August, when the Colombian armed forces agreed to human rights conditions. At this writing, it is unclear how the conditions will be implemented and to what extent the U.S., in making aid determinations, will rely exclusively on the Colombian defense ministry's evaluation of its own troops' human rights record.

In Peru, U.S. officials issued strong statements on the sacking of three members of the Constitutional Court and on the revocation of Ivcher's citizenship. Meanwhile, private pressure from the administration contributed significantly to convincing the government of Panama to reverse its plan to deport investigative journalist Gustavo Gorriti. In particular, the influence exerted by First Lady Hillary Rodham Clinton during her visit to Panama in October appeared to have had an important impact. In Mexico, Secretary of State Madeleine Albright met with local human rights organizations, a significant symbolic action given the hostility these groups face from the authorities.

Efforts to make public the U.S. role in past human rights violations in the region inched forward, as the Central Intelligence Agency (CIA) completed, but did not make public, an internal study of its ties to a military death squad in Honduras. CIA documents released in August confirmed that the agency knew about the interrogation and torture of civilians by that unit in the 1980s and that agents visited at least one of its clandestine prisoners. Documents declassified in 1997 about U.S. involvement in the coup that overthrew the elected government of Jacobo Arbenz in Guatemala in 1954 provided a chilling inside look at the methods used and promoted by the agency, including targeted political assassination and mass murder.

Meanwhile the Clinton administration acted to protect from deportation Emmanuel "Toto" Constant, wanted in Haiti for massive and serious human rights violations committed by a paramilitary group he headed during the military dictatorship. Constant received CIA payments in Haiti while directing the Front for the Advancement and Progress of Haiti (Front pour l'Avancement et Progres d'Haiti, FRAPH). Moreover, the U.S. embassy in Port-au-Prince refused to return to the Haitian government the approximately 160,000 pages of documents and other materials seized from FRAPH and Haitian military headquarters in 1994, documents that could assist prosecutors' efforts to punish human rights violators.

While discussions of free trade issues dominated his tour of Latin capitals in October, President Clinton made important statements on behalf of freedom of expression in Argentina, where attacks on journalists ascended in 1997 with apparent government tolerance. During the president's trip to Mexico and Central America in May, Clinton failed to mention human rights.

European Union

In December 1996, the European Union Council of Ministers adopted a new, stronger policy toward Cuba, making full economic cooperation conditional on human rights improvements. Unfortunately, European investors in Cuba, as well as Canadians and others, failed to adopt effective strategies to ensure respect for labor rights in their Cuban workplaces, where government-dominated projects denied basic rights of free association and speech.

An effort by Mexico to negotiate a trade and political cooperation agreement with the European Union without the E.U.'s standard human rights clause was defeated when the Zedillo government, in July, agreed to the insertion of the full human rights clause.

In July, the European Parliament issued a strong resolution calling on the Fujimori government to reinstate the magistrates of the Constitutional Court who had been dismissed by the Congress; to guarantee freedom of expression; and to abolish the practice of torture.

Some European embassies and diplomats took high-profile roles in attempting to lessen political violence and the suffering it caused in Colombia. In April, Netherlands Amb. Gysbert Bos made a three-day visit to the Middle Magdalena region, in part to draw attention to a rise in paramilitary activity and displacement. The E.U. continued to pressure Colombia to improve its human rights record, and announced in September its full support for a negotiated settlement to political conflict.

The Work of Human Rights Watch

In 1997, we published book-length reports in English and Spanish on rural violence in Mexico, prison conditions in Venezuela, and violations of children's rights in Guatemala. Our report on police brutality in Brazil was published in English and Portuguese. Human Rights Watch released each report in the respective nation's capital, followed up with a week discussing our conclusions and recommendations with senior government officials, European Union and U.S. ambassadors, human rights organizations, and the press. As part of this and other in-country advocacy trips, the division's executive director met in 1997 with the presidents of Brazil, Colombia, and Venezuela to urge attention to human rights violations.

Several issues we have pressed jointly with other human rights organizations for years produced results in 1997: In Peru, the government suspended the use of civilian faceless courts used to try terrorist suspects; in Brazil, legislation was passed to codify torture; and in Colombia legislation was introduced to try human rights cases in ordinary, rather than military courts. Cases that we have litigated before the Inter-American Commission on Human Rights and the Inter-American Court of Human Rights together with the Center for Justice and International Law (CEJIL) and local partners bore results as well: the court found that the government of Peru had violated the American Convention on Human Rights in the detention, torture, rape, and prosecution before faceless military and civilian courts of Mara Elena Loayza Tamayo and ordered her release, a move the government complied with shortly thereafter; and the commission mediated a friendly settlement in the case of the extrajudicial execution of a human rights activist and wounding of a second in Colotenango, Guatemala, in 1993. The settlement required the government to prosecute and punish those responsible and provide reparations to the community for numerous abuses suffered at the hands of military-sponsored civil patrols. Also in Peru, the government released Luis Cantoral Benavides, whose case we had taken to the Inter-American Court of Human Rights. Our legal representation of author Francisco Martorell at the Inter-American Commission also brought a victory when the commission in June released its final report on the case, finding Chile had violated his right to freedom of expression by banning the sale of his book. In July 1997, the United States National Administrative Office (U.S. NAO, the body charged with hearing cases of alleged violations by Canada or Mexico of the North American Agreement on Labor Cooperation, commonly referred to as the labor rights side agreement of the North American Free Trade Agreement, NAFTA) accepted for review a petition filed by Human Rights Watch and the National Association of Democratic Lawyers (Asociación Nacional de Abogados Democráticos), which charged the Mexican government with failure to enforce its domestic labor code or set up effective mechanisms to adjudicate labor disputes. The U.S. NAO was expected to issue its findings by the end of November 1997.

In June, a campaign we organized involving press, regional governments, and human rights organizations from several countries succeeded in defeating a candidate promoted by Guatemala to join the Inter-American Commission on Human Rights. The candidate's career of political alliances with military dictators made him unsuitable for the post. We also protested violations of freedom of expression across the continent and pressed the Clinton administration to raise the issue during the president's October trip to Latin America.

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