
AMERICAS

OBSERVATORY FOR THE PROTECTION OF HUMAN RIGHTS DEFENDERS
ANNUAL REPORT 2010



REGIONAL ANALYSIS AMERICAS

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In 2009, the American continent was shaken by the first coup d'état that has taken place on American soil since the fall of the military dictatorships during the 1980s. Whilst the June 28, 2009 coup in *Honduras* took the entire continent by surprise, it also reminded us that the past is never far enough behind us and that building democracy is a constant challenge. Latin America celebrates two centuries of independence and democratic consolidation efforts and respect for freedoms; this process has cost the lives of tens of millions of victims and the Honduras' coup d'état has revived the shadows of a tragedy that it was thought the continent had overcome. Those who opposed the coup were violently repressed. Furthermore, the coup d'état also reminded us of the fragility of the democracies in the region. In addition, the extreme polarisation of political forces can have serious consequences for civil society and human rights defenders, who, in general and particularly in certain States, are not able to criticise the established power structures without risking to be accused of being "enemies of the Government and democracy". In *Nicaragua*, following the manipulation of the elections to ensure that Mr. Daniel Ortega remained in power, both defenders and journalists have become the object of violence orchestrated by those in power. In several countries, serious hostility between Government supporters and the opposition continued (*Argentina, Bolivia*) and, on numerous occasions, activities related to the defence and promotion of human rights were delegitimised and declared to be partisan, to be acting against State interests, to be corrupt and were even subject to assault by shock troops (*Bolivia, Nicaragua*). Statements were also frequently made by Government officials and supporters of specific political powers that delegitimised human rights activities.

In 2009, historic sentencings were pronounced, that define the before and after of a long history of impunity in the continent. On April 7, 2009, Mr. Alberto Fujimori was sentenced to 25 years in prison in *Peru*; the first time that a democratically elected Latin American Head of State was pronounced guilty of crimes against humanity. Furthermore, in *Guatemala*, Mr. Felipe Cusanero, a military officer, and others were sentenced for the crime of enforced disappearance. Various countries promoted laws to bring an end to the impunity for crimes carried out during the dictator-

ships (*Argentina, Brazil, Guatemala*). Furthermore, on January 16, 2010, *El Salvador* officially recognised the State's international responsibility for crimes committed between 1980 and 1992 and asked the victims of this conflict and their families for forgiveness. *El Salvador* also announced that a commission would be established to evaluate moral, symbolic and material reparation measures for victims and their families. It was disappointing that the referendum to revoke the law known as the "Impunity Law" in *Uruguay* – a civil initiative – did not receive sufficient support for its approval in the 2009 elections, whose first round took place on October 25, 2009. Furthermore, the introduction of a National Truth Commission at the beginning of 2010 to shed light on the crimes of the Brazilian military dictatorship was the subject of numerous debates during 2009. However, levels of impunity continued to be high in the region (*Colombia, Cuba, Guatemala, México, Venezuela*) and it was of concern that, in spite of numerous recommendations, some countries maintained laws that favour impunity (*Argentina, Chile, México*) or questioned international court rulings (*Venezuela*) and, in the case of *Cuba*, simply do not ratify or maintain reservations on international human rights treaties and conventions.

Throughout 2009, protest movements related to land rights, the exploitation of natural resources and protection of the environment continued (*Bolivia, Brazil, Chile, Colombia, El Salvador, Guatemala, Mexico, Peru*). Peasant and indigenous peoples were most affected by the strategic interests in their land shown by certain companies, in particular mining and agro-fuel companies.

Violence kept increasing in several countries (*Brazil, Colombia, El Salvador, Guatemala, Mexico*), related to the activities of groups linked to drug trafficking and other illegal activities. The use of military intervention to fight drug trafficking had serious consequences in terms of human rights violations by the army and the police, which has put defenders who report human rights violations committed in this context at risk (*Brazil, Colombia, Guatemala, Mexico*). In spite of this, the United States signed a military agreement with Colombia that allows military personnel and advisors to use seven military bases in which they would be given impunity on national territory and which generated considerable controversy in neighbouring countries in the region.

The situation of human rights and their defenders in the Americas and the Caribbean remained serious. Human rights defenders who work to protect and promote human rights continued to be subjected to attacks against their freedom of expression in most countries in the region (*Bolivia, Chile, Cuba, Ecuador, Haiti, Mexico, Nicaragua, Venezuela*), freedom

of association (*Cuba, Venezuela*), freedoms of peaceful assembly and of movement (*Cuba*), as well as to defamation and discrediting campaigns (*Argentina, Colombia, Peru, Venezuela*), judicial harassment (*Brazil, Chile, Colombia, Ecuador, Guatemala, México, Nicaragua, Peru, Venezuela*), arbitrary detention (*Argentina, Chile, Cuba, Colombia, Ecuador, Mexico, Venezuela*), threats (*Argentina, Bolivia, Brazil, Colombia, Guatemala, Mexico, Peru*), disappearances (*Colombia*), attacks, ill-treatment and attempts on their lives (*Argentina, Bolivia, Brazil, Colombia, Guatemala, Mexico, Nicaragua*), and ultimately to assassinations (*Brazil, Colombia, El Salvador, Guatemala, Mexico*).

Ongoing threats against human rights defenders who fight against impunity

Whilst some States on the continent showed their willingness to bring to justice those responsible for the crimes committed during the dictatorships, defenders and organisations fighting against impunity continued to be subjected to threats, including death threats that aim to hinder their demands for justice (*Argentina, Chile, Colombia, Guatemala, Honduras, Mexico, Peru*). In *Chile, Colombia* and *Peru*, justice was regularly used to bring proceedings against lawyers and members of the legal profession who fight to shed light on crimes against humanity. In *Colombia*, justice for crimes committed by the paramilitaries should be borne to mind, not only because of its impact on the continent, but also because of the threats against human rights defenders involved in the fight against impunity for crimes often committed by paramilitary groups without an adequate response from the State.

Repression and criminalisation of defenders of the environment and of indigenous and peasant populations

One of the characteristics of the entire Latin American continent is the presence of indigenous communities. The importance of these communities varies according to each State, but they are subject to violations of their land rights and their right to access natural resources in their territories, or are violently expelled from regions that are of economic interest, particularly for the extractive industry. These violations were clearly demonstrated in practices that include the criminalisation of social protest and arbitrary detentions (*Brazil, Chile, Ecuador, Guatemala, Peru*), threats (*Guatemala, Mexico, Peru*), and even ill-treatment and assassinations of defenders and community leaders (*Chile, El Salvador, Guatemala, Mexico, Peru*). The assassination and torture of two defenders from Guerrero State is only one example of the violence suffered by indigenous rights defenders in *Mexico*. In *Chile*, defenders of the Mapuche people continued to be subject to judicial harassment.

Defenders of environmental and land rights also remained victims reprisals (*Brazil, El Salvador, Guatemala, Honduras, Mexico, Peru*), particularly when they directly confronted the economic interests of large multinational companies that exploit natural resources without taking the rights of those who live on the land into account, neither do they respect the environment. Furthermore, in *Brazil*, the Landless Workers' Movement (*Movimiento dos Trabalhadores Rurais Sem Terra – MST*) continued to be in the limelight in spite of a ruling by the Inter-American Court of Human Rights (IACtHR), in August 2009, against the Brazilian State for violations of the right of association and the lack of respect for the private lives of members of the MST. Moreover, in *Peru*, 35 environmental defenders were subjected to judicial harassment, accused of “terrorism”. In *Ecuador*, the repression of environmental defenders became more acute following the adoption of the Law on Mining Activities in January 2009, without consultation or participation of the communities affected by this law. Various protest marches against the law were violently repressed and several defenders were the object of judicial persecution- accused of “terrorism” and “sabotage”. Defenders who work for organisations that, for years, have opposed large scale mining projects by multinational companies and national mining companies whose activities have a negative impact on the environment and on the communities that live there became key targets of this type of repression. On January 5, 2009, Mr. **Vicente Zhunio Samaniego**, President of the Limón Indanza Peasants' Association (*Asociación Campesina de Limón Indanza*), a platform that defends environmental rights in rural areas threatened by Government mining projects, was arrested and assaulted by the police during a police operation. On January 20, he was transferred to the Macas prison and released without charge on February 5, 2009, when a provisional stay of proceedings was ruled in his favour. On the same January 5, Ms. **Yolanda Gutama**, Ms. **Virginia Chuñir** and Ms. **Etelvina Misacango**, leaders of the Pachamama Women Defenders' Front (*Frente de Mujeres Defensoras de la Pachamama*), were arrested before being released the following day. However, the Cuenca Provincial Court overturned their release and issued arrest warrants so that, at the end of 2009, they were fugitives and the proceedings were at a standstill awaiting their arrest or that they give themselves up. Another decision within this context was the order given that the Environmental Action (*Acción Ecológica*) association was to be dissolved by decree on March 2, 2009 for “not having respected the objectives for which it was created”. This decision was finally overruled by the Government after a short time and, as of the end of 2009, the organisation was functioning normally. The mining exploitation carried out in Cabañas, *El Salvador*, also resulted in various incidents against human rights defenders, particularly the death of Mr. **Gustavo Marcelo Rivera**,

co-founder and Director of the Friends Association of San Isidro Cabañas (*Asociación Amigos de San Isidro Cabañas – AISC*), on June 30, 2009. On July 27, 2009, three Radio Victoria journalists, a local community radio station that had reported on the campaign against mining and had called for justice for Mr. Rivera's death, were threatened and had to leave the area. One of them returned to work under police protection. On August 7, 2009, another leader of the campaign against gold mining in the area, Mr. **Ramiro Rivera**, Vice-President of the Cabañas Environmental Committee (*Comité Ambiental de Cabañas – CAC*), was shot eight times. On this occasion, the police caught the culprit. However, on December 20, 2009, Mr. Ramiro Rivera was assassinated. Furthermore, on December 26, 2009, Ms. **Dora Alicia Recinos Sorto**, also a member of CAC, was assassinated when she was coming back from washing clothes in the river in the Trinidad canton, in the town of Sensuntepeque, Cabañas department. In Guatemala, environmental defenders that oppose major economic interests run great risks, as shown by the repression of members of the Resistance Front Against DEOCSA Abuse (*Frente de Resistencia de los Abusos de DEOCSA – Distribuidora de Electricidad de Occidente SA*) in Malacatán, subsidiary of the Spanish multinational Unión FEOSA, which resulted in the assassination of one of them in October 2009.

Ongoing repression of the fight for trade union and workers' rights

In some countries of the American continent, the defence of labour rights remained a very risky business (*Colombia, Guatemala, Honduras, Venezuela*). *Colombia* was once more the most dangerous country in the world to be a trade unionist. According to the United Workers' Federation (*Central Unitaria de Trabajadores – CUT*), 46 trade union leaders were assassinated in 2009. However, assassinations of trade union leaders were not limited to Colombia. The assassination and harassment of trade union leaders also persisted in *Guatemala*, with 84 attacks registered by the Unit for Protection of Human Rights Defenders in Guatemala (*Unidad de Protección a Defensores y Defensoras de Derechos Humanos de Guatemala – UDEFEGUA*) in 2009, to such an extent that it has become a real repression mechanism against social protest. In addition, the assassinations and threats against trade unions were committed with total impunity. In *Honduras*, the coup d'état contributed to the repression of trade union leaders who were opposed to the civil-military coup. In *Venezuela*, a progressive increase in the repression of peaceful protests and the continuity of a State policy aimed at criminalising social protest through the opening of criminal proceedings against protestors was noted. Defenders of labour rights are to be found in the group of human rights defenders at risk in this situation, as they face insecurity, are subject to criminalisation because of their protests and are harassed as a result of the demands they make that rights be respected.

Acts of reprisal against women's and LGBT rights defenders

Women human rights defenders were once more the subject of attacks and threats, particularly those who reported violence against women and worked on demanding respect for sexual and reproductive rights (*Colombia, Guatemala, Mexico, Nicaragua*). Furthermore, in *Nicaragua*, where therapeutic abortion is a criminal offence, women's rights organisations remained subjected to judicial harassment, threats and assaults. A clear example was that of the nine defenders, against whom there was still a complaint pending for various crimes at the end of 2009, and which was lodged in response to their accompaniment of a nine-year-old girl, pregnant after being raped and who they accompanied in the process to have an abortion in order to save her life. Furthermore, during 2009, there continued to be high numbers of cases of violence against women in *Mexico* and *Guatemala*, where crimes of "femicide" continued to be reported and women human rights defenders, particularly those who reported violence against women, have themselves become victims of human rights violations, such as in the case of the organisation Survivors (*Sobrevivientes*) in *Guatemala* and of two female journalists in *Mexico*. In *Colombia*, female displaced women were particularly targeted.

Moreover, defenders of lesbians, gays, bisexuals y transsexuals (LGBT) rights were victims of violence and suffered as the result of the lack of State commitment to guarantee their right to freedom of expression and to ensure their protection, particularly in *Colombia* and *Honduras*.

Obstacles to freedom of expression and reprisals against journalists who denounce human rights violations and corruption

In 2009, the lack of security faced by journalists committed to reporting human rights violations and corruption was of particular concern in some Latin American countries (*Bolivia, Ecuador, Haiti, Mexico, Nicaragua, Venezuela*). In *Nicaragua*, the authorities continued to harass – including at the judicial level – journalists who worked on human rights issues. In *Bolivia*, journalists who covered the violent events throughout the country were subjected to threats, particularly through the use of "black lists". In *Mexico*, journalists were assassinated for reporting on police, abuse of authority, the increasing insecurity and the authorities' response to the situation. Freedom of expression was also a subject of concern in *Venezuela*, where several administrative regulations were implemented to limit radio access to the public airwaves and where various journalists who reported on local corruption and police abuse were assassinated. In *Ecuador*, Mr. Milton Chacaguasay Flores reported on corruption of the judiciary and, after completing a prison sentence for slander, returned to prison on

July 9, 2009 on the same charges¹. In *Haiti*, reporting on corruption in the media carried a high price, as shown by the intimidation of various journalists from Port de Paix, in the north-western department, after they reported on the corruption scandal between the judiciary and the police that came to light on November 12, 2008, during the house search of the alleged drug trafficker Alain Désir².

Ongoing threats against defenders who report abuse by the police, the army and paramilitaries

In an increasingly militarised environment, human rights defenders who denounced arbitrary actions and abuse by the police and the army as well as the existence and actions of illegal security forces remained subject to serious threats (*Brazil, Colombia, Guatemala, Honduras, Mexico*). In 2009, there were two assassination attempts in Brazil against Members of Parliament and a human rights defender in relation to investigations into the increase in the para-police militia and death squads in the country. Moreover, in *Guatemala*, the organisations that work to dismantle clandestine security groups in the country received death threats. In addition, within the context of the armed conflict that is devastating *Colombia*, human rights defenders continued to be threatened by paramilitary groups who frequently declared them to be “military targets” via text messages and emails. It was of particular concern that human rights defenders who denounced violations by the military in *Mexico* were especially vulnerable to threats and assaults, to the point of having to leave their homes for security reasons. It is also important to highlight the particularly serious repression against human rights defenders who denounced human rights violations committed by the police during the demonstrations against the coup d'état in *Honduras*.

Urgent Interventions issued by The Observatory in 2009 on countries of the region for which there is no country fact-sheet

COUNTRY	Names	Violations / Follow-up	Reference	Date of Issuance
ECUADOR	Mr. Vicente Zhunio Samaniego, Ms. Yolanda Gutama, Ms Virginia Chuñir and Ms Etelvina Misacango	Judicial harassment	Urgent Appeal ECU 001/02/09/OBS 028	February 17, 2009
ECUADOR	Environmental Action	Obstacles to freedom of association	Press Release	March 11, 2009

1/ See Reporters Without Borders Press Release, July 16, 2009.

2/ See Lawyer's Committee for the Respect of Individual Freedoms (*Comité des avocats pour le respect des libertés individuelles* - CARLI) Press Release, September 26, 2009.

ARGENTINA

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Political context

During 2009, the conflict that had begun the previous year between the Government and the “Liaison Committee” (*Mesa de Enlace*), comprised of the Rural Society (*Sociedad Rural*), the Argentinean Rural Confederations (*Confederaciones Rurales Argentinas*), the Farming and Agricultural Cooperatives Confederation (*Confederación Intercooperativas Agropecuarias* – CONINAGRO) and the Agricultural Federation (*Federación Agraria*), organisations that bring together the largest rural producers in the country, continued. The dispute began because of an increase to the raw material exports, including soya, which is one of the most important products on the world market and is, therefore, an important source of profit for exporters. This conflict resulted in a increasing polarisation of the society between those who support and those who oppose the Government measures. At the same time, the economic conditions of the poverty stricken sectors of society deteriorated in 2009, resulting in an increase in social protests.

In this context, parliamentary elections took place in June. The defeat of the Government party candidates in the largest cities of the country was perceived as a deterioration of the national Government’s political power. This change in the political forces in Congress could have an impact on the way in which human rights defenders work. There have been warning signs of a lack of institutional capacity while the civil society, regardless of political or social differences, has been increasingly demanding greater transparency and accountability from State bodies.

In spite of the unfavourable scenario, the executive pushed forward a new law to regulate and democratise communication, which revealed a high concentration of media ownership and the lack of consensus on freedom of expression. Furthermore, it caused high levels of tension between those who promoted the law¹ and the media owners. It is important to highlight the fact that the new law replaces the former regulatory framework established by the last military dictatorship. Therefore, 2009 became a benchmark in the process to improve the legal framework for freedom of expression in

1/ The law passed is the product of years of discussion between sectors of civil society, universities, professionals and organisations from various communication associations.

Argentina insofar as, in addition to the Law on Audio-Visual Services, the law that eliminates certain forms of libel and slander that were provided for in the Criminal Code was also passed. This law provides that “in no case statements on matters of public interest or those that are not assertive will be considered to be libellous” and that “the crime of slander will not be considered to be damage to honour when [the expression] is related to an issue of public interest”. In May 2008, the Inter-American Court of Human Rights had urged the Argentinean State to reform these provisions².

The lack of security issue, which was pushed for by various political and social sectors, was once again at the centre of public attention. Discussions regarding the reduction in the age of legal responsibility, the criminalisation of social protest or the strengthening of the powers of the police reemerged. The increase in cases of torture, cruel or degrading treatment in detention centres – police stations and prisons – was also of great concern³. The lack of adequate investigation and administrative and legal sanctions reinforce these practices within a framework of institutional impunity.

It is worth highlighting that, throughout 2009, the Argentinean State continued with the process initiated in 2005 related to the trial of those responsible for crimes against humanity committed during the military dictatorship⁴. In this context, two laws were passed: the first law allows judges instructing cases of minor wrongful appropriations to obtain DNA samples in cases of child kidnapping⁵ “by various means other than body exams, such as from objects that contain cells from the body”. The DNA analyses enable the victims of child kidnapping to reinstate their true identity⁶. The second law allows legally registered human rights organisations

2/ See Inter-American Court of Human Rights, *Caso Kimel Vs. Argentina. Fondo, Reparaciones y Costas. Serie C No.177*. The journalist Eduardo Kimel was found guilty in criminal and civil proceedings by Argentinean justice for having carried out an investigation into a crime committed during the last military dictatorship in Argentina - the assassination of five catholic priests in 1976.

3/ See Document presented by the Legal and Social Studies Centre (*Centro de Estudios Legales y Sociales* - CELS) in the hearing about the Situation of Persons Deprived of their Freedom in Buenos Aires Province, Argentina, March 24, 2009.

4/ For more detailed information about the justice process for the crimes committed during the last dictatorship, see CELS Report, *Informe Anual 2010*, April 2010.

5/ The systematic kidnapping of boys and girls of those detained or disappeared was another practice of the dictatorship.

6/ However, according to the Peace and Justice Service (*Servicio Paz y Justicia* - SERPAJ), this law has some drawbacks, such as the fact that the National Bank for Genetic Information Data (*Banco Nacional de Datos Genéticos*) will only be used for cases related to the dictatorship and it will stop functioning as a public service for the wider population. Furthermore, people whose identity is reinstated will have their identity documents confiscated, forcing them to apply for new ones at their cost. Similarly, they will not have the right to compensation for the disappearance of their parents if the State has already

to act as the complainant in judicial procedures in which crimes against humanity are being investigated. However, although the participation of the organisations is a key element, the legal system does not allow the direct participation of victims. Rather, it obliges them to be represented by a body or a lawyer in order for them to be taken into account during the trial.

Moreover, the witness protection policy is not effective. The failure to investigate threats against witnesses is a factor that favours impunity for the crimes committed during the dictatorship. In addition, Argentinean legislation still does not include a provision for the crime of enforced disappearance.

In December 2009, scarcely 6% of the 1,179 people charged for crimes carried out during the dictatorship had been sentenced (68 sentences and seven acquittals) and only two of these sentences were confirmed⁷. In spite of the fact that there are approximately 330 ongoing cases across the country, justice continues to be excessively slow and with a variable media access, depending on the courts and the regions where they take place. The limited levels of publicity on these trials in some areas of the country – primarily in the federal capital – does not contribute to create a favourable public opinion of the justice process, nor does it contribute to the improvement of the protection of human rights defenders involved in the trials. In addition, the disappearance of surviving witness Julio López three years ago has not been resolved yet⁸. The existence of threats and the level of impunity related to the acts of harassment show that links between the repressive bodies of the dictatorship and the police in a democracy continue to exist.

Intimidation of human rights defenders involved in the judicial proceedings for crimes committed during the last dictatorship

Several of the human rights defenders involved in trials of crimes committed during the last dictatorship were victims of threats this year. Ms. **María Soledad Laruffa**, a member of the Merlo branch of the Argentinean Human Rights League (*Liga Argentina por los Derechos del Hombre* – LADH), received threats because of her activities to support the trial for the assassination of Floreal Avellaneda. These threats were reported to the Moron Federal Court, Buenos Aires province, on March 27. A request to include Ms. Laruffa in the National Programme for the

7/ See CELS Report, *Informe Anual 2010*, April 2010.

8/ Mr. Jorge Julio López disappeared on September 18, 2006 after having testified in one of the first hearings following the reopening of the trial. To date, it is not known what happened.

Protection of Witnesses and Defendants (*Programa Nacional de Protección de Testigos e Imputados*) was also sent to the national Government. The human rights defender Ms. **Laura Figueroa** filed a police report for the threats she received last year and she was therefore accepted onto the National Programme for Protection, Truth and Justice (*Programa Nacional de Protección Verdad y Justicia*). Furthermore, on November 21, 2009, Mr. **Mario Bosch**, complainants' lawyer in cases of crimes against humanity was arrested under the pretext of a speeding control and he was taken to a police station where he was detained for several hours. Mr. Bosch was injured after being handcuffed and he was refused permission to call someone. The police who detained him referred to him as "the human rights lawyer". Mr. Mario Bosch is the complainants' representative in the "Caballero" case in which the activities of the "police gangs" during the dictatorship that operated in the Clandestine Detention and Torture Centre that was part of the Investigations Brigade are investigated. Furthermore, it is important to highlight the fact that his detention took place just before an important phase of the trial of the Margarita Belén's Massacre⁹ began, in which Mr. Mario Bosch is key given that he is the complainants' representative. Mr. Bosch filed a report of the facts before the main police station in Chaco province.

The criminal operation carried out against a member of the Buenos Aires Province Human Rights Department, Ms. **Sara Derotier de Cobacho**, should also be mentioned. On December 30, 2009, two armed men broke in the Buenos Aires Province Human Rights Department. Ms. Sara Derotier de Cobacho and seven other people who were in the office at that time were tied up and threatened with guns. The men stole material related to crimes against humanity committed during the dictatorship and investigative documents carried out by the Department related to crimes in which the provincial police are involved, as well as Ms. Derotier de Cobacho's personal computer, mobile telephones and almost eight thousand pesos. The victims were able to identify one of the intruders, an ex-police officer in Buenos Aires, who was arrested on January 1, 2010 at his home, where the stolen money was found. On January 5, 2010, Ms. Derotier de Cobacho's personal computer that contained information about crimes committed by serving police officers was recovered. However, as of the end of 2009, the material related to the crimes against humanity during the dictatorship had not been found.

9/ In the "Margarita Belén massacre", 22 political prisoners were tortured and executed in the joint Argentinean army and Chaco police operation during the night of December 12-13, 1976, in a place close to Margarita Belén, Chaco province.

Harassment of defenders of economic and social rights

Throughout 2009, members of various organisations that belong to the Children of the Nation National Movement (*Movimiento Nacional Chicos del Pueblo*) continued to be subjected to acts of harassment, which took place within the framework of their campaign “Hunger is a crime. Not a child more” (“*El hambre es un crimen. Ni un pibe menos*”), in which more than 400 non-governmental organisations that belong to the Movement denounced and fought against child malnutrition. It is worth recalling that the Children of the Nation National Movement, together with the Argentinean Workers’ Federation (*Central de Trabajadores Argentinos – CTA*), organised a protest march that brought together approximately 50,000 people in Buenos Aires on December 12, 2008. This protest turned into a national protest against hunger in which claims were made to receive a subsidy for each child in the household in order to put an end to child malnutrition. The kidnapping of activists by groups of individuals with their faces covered and the mistreatment during the time they were held were the methods used to intimidate the members of this movement¹⁰. Specifically, in July 2009, a young teacher¹¹ at the Juan XXIII Home, a 21 year-old who belongs to the Don Orión congregation, and a woman¹² who worked at the Juan Salvador Gaviota Home, part of the “Pelota de Trapo” Foundation (*Fundación Pelota de Trapo*), were subjected to this practice. The organisations where they both work are members of the Movement. All of these events were reported to the relevant authorities but, as of the end of 2009, those responsible had not been identified. Given the situation, the organisations requested protection from the State, which the authorities denied them, alleging a lack of material and technical resources, and providing minimal protection with intermittent guards at the kidnapped activists’ places of work¹³. Furthermore, Ms. **Milagro Sala**, leader of the social organisation Tupac Amaru¹⁴, was a victim of defamation as a result of statements made by the then President of the Radical Civic Union (*Unión Cívica Radical – UCR*), Mr. Gerardo Morales, who had been assaulted on October 16, 2009 by picketers during a conference about the “control of State resources destined for social organisations” that took place in the

10/ Between September 2008 and July 2009, eight kidnappings of members of organisations that belong to the Children of the Nation National Movement were reported.

11/ For security reasons, the name of the teacher cannot be disclosed. He was victim of two further kidnappings on September 26, 2008 and November 27, 2008.

12/ For security reasons, the name of the collaborator cannot be disclosed.

13/ It is worth clarifying the fact that the guards themselves state that they are not prepared for such attacks.

14/ Tupac Amaru is a Jujuy neighbourhood organisation that focuses primarily on the promotion of health, education, housing, employment, and poverty eradication.

Jujuy Accountants Professional School. Mr. Morales accused Ms. Sala of heading up a structure linked to drug and arms trafficking¹⁵.

Finally, the incomplete investigation carried out into the assassination of Mr. **Carlos Fuentealba**, teacher and member of the Association of Neuquén Educational Workers (*Asociación de Trabajadores de la Educación de Neuquén – ATEN*)¹⁶, who was assassinated during a wage strike in Neuquén on April 4, 2007, shows the difficulty of access to justice for those who are victims of criminalisation for their participation in social protests.

Urgent Interventions issued by The Observatory in 2009

Names	Violations / Follow-up	Reference	Date of Issuance
Ms. María Soledad Laruffa	Threats / Harassment / Impunity	Urgent Appeal ARG 001/0309/OBS 053	March 30, 2009
		Urgent Appeal ARG 001/0309/OBS 053.1	April 8, 2009
A teacher from the Juan XXIII Home and a collaborator from the Juan Salvador Gaviota Home; Mr. Alberto Morlachetti ; Members of the “Pelota de Trapo” Foundation and of the Children of the Nation National Movement	Abduction / Release / Threats	Urgent Appeal ARG 002/0709/OBS 111	July 31, 2009
Mr. Carlos Fuentealba	Impunity / Assassination	Urgent Appeal ARG 003/1209/OBS 177	December 2, 2009
Mr. Mario Bosch	Arbitrary arrest	Urgent Appeal ARG 004/1209/OBS 181	December 4, 2009

15/ See CELS Report, *Informe Anual 2010*, April 2010.

16/ The strikes for better pay carried out by Neuquén teachers have been taking place since March 2007, due to the lack of agreement with the Government about the teachers' employment situation. They allege that the pay increase was insufficient and they complain about a lack of a written commitment to resolve the salary and employment situation of the assistants and administrative staff in the Provincial Education Council (*Consejo Provincial de Educación - CPE*).

BOLIVIA

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Political context

Throughout 2009, the central Government continued to make significant progress in terms of structural changes, which began in 2005 when President Evo Morales came to power. Although less virulent, confrontations between those who support the Government and those who do not agree with its policies continued. While those who support the Government are, to a large extent, indigenous groups, peasants, and members of the working class, as well as a growing number of professionals and members of the middle class, those who oppose them are members of the ruling class and live in the so-called “Media Luna”. This area is made up of the eastern departments of Tarija, Santa Cruz, Beni and Pando, where there is much more economic growth and the main energy resources, such as gas and petroleum, are found.

In early 2009, under very hostile circumstances, a referendum¹ was held on whether the new Constitution² should be approved. A large majority endorsed the motion and the new Constitution came into effect on February 7. The new Constitution makes it possible for indigenous communities to have a greater say in Government matters and institutions³ and grants the State control over all of the country’s natural resources, thus establishing a series of measures that favour greater political participation and protect the most vulnerable sectors in society⁴. Furthermore, an important legal framework was established, which forbids discrimination “based on sex, race, age, sexual orientation, gender identity, origin, culture, nationality, citizenship, language, religion, ideology, political or philosophical affiliation, marital status, economic or social status, type of occupation, level of

1/ It is important to clarify that this process to get approval of the new Carta Magna was not free of high social tension, since it was - and is - resisted by the political leaders who hold power in the regions of Santa Cruz, Tarija, Chuquisaca, Beni and Prado.

2/ The new Constitution was passed by the Bolivian National Congress in October 2008.

3/ However, the Electoral Court still demands a military service ID as a prerequisite for voting. Since some indigenous communities do not cut their hair, and this is considered unacceptable for military service, these communities are, in a sense, disqualified from participating in electoral disputes.

4/ It is estimated that between 3.8 and 5 million Bolivians participated in the referendum and that more than 300 international observers from more than 11 countries were summoned - in particular, observers from the Organisation of American States (OAS), the European Union, the Union of South American Nations (UNASUR) and the Carter Centre from the United States were present.

education, disability, pregnancy, or other reasons that strive to or result in the lack of recognition or limited recognition, enjoyment or exercise of the equal rights of all people⁵. The Vice Ministry of Decolonisation, which depends on the Ministry of Culture, announced that it would adopt drastic measures to punish those who commit acts of racism and discrimination in the country⁶. Although this legal framework is very recent, the implications of its implementation can be already seen, since it represents a significant step forwards in terms of human rights. It should also help facilitate and protect the work of human rights defenders in Bolivia⁷.

According to what was stated in the new Constitution, Congress was supposed to approve a new Electoral Code that would allow general elections to be held on December 6, 2009. After the opposition refused to approve the electoral reform, the President gathered a group of 12 peasant union leaders and social leaders and began a hunger strike. Finally, after five days of protest, Congress approved the new law⁸. Despite the tension between Government supporters and the opposition, elections were held on December 6 and the current President, Mr. Evo Morales, received the support of 63% of registered voters.

One can welcome the improvement in terms of accountability in the investigation and explanation of crimes committed during the dictatorship insofar as, at the end of 2009, the Prosecutor General's Office called for the investigations into the deaths of Messrs. Marcelo Quiroga Santa Cruz, Renato Ticona and Juan Carlos Flores, among others, to be reopened so that their deaths may be explained and their remains found⁹. Furthermore,

5/ Article 14, paragraph II of the plurinational Constitution.

6/ See Bolivian Chapter of Human Rights, Democracy and Development and Human Rights Council, *Report of the Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous people, Rodolpho Stavenhagen - Mission to Bolivia*, United Nations Document A/HRC/11/11, February 18, 2009.

7/ It should be noted, however, that certain regions of the country are still polarised between the supporters of Mr. Evo Morales on one side and the opposition on the other. This polarisation places both the work and even the physical well-being of many human rights defenders who work in these areas at risk as soon as they are linked to or identified as Government supporters by opposition groups.

8/ The law confirmed general elections on December 6, 2009, a regional referendum in the provinces of Gran Chaco, La Paz, Oruro, Potosí, Cochabamba and Chuquisaca. Congress also approved the elaboration of new voter registration with biometric registration and overseas voting (so that for the first time in Bolivian history, emigrants will be able to vote). Furthermore, it should be noted that Law 4021 of the Temporary Voting System negated important indigenous rights that are established in the Constitution.

9/ See Bolivian Chapter of Human Rights, Democracy and Development. Mr. Marcelo Quiroga Santa Cruz was a journalist and writer linked to the Bolivian Workers' Centre (*Central Obrera Boliviana* - COB); Mr. Juan Carlos Flores Bedregal was a national representative of the Revolutionary Workers' Party (*Partido Obrero Revolucionario* - POR); and Mr. Renato Ticono Estrado was a teacher and university student. The three disappeared during Meza's dictatorship in 1980.

the Ministry of National Defence approved a resolution that states that the army must grant access of its archives to the family members of those who disappeared during the military dictatorships¹⁰.

Nevertheless, at the end of 2009, some leaders of indigenous groups, mainly the Aymara and Quechua, as well as NGOs that defend the rights of indigenous peoples, were still being politically persecuted, discouraged and threatened by opposition groups, mainly in departments of the “Media Luna”, the setting of political debate prior to the presidential elections on December 6. Because of their support for the so-called “process of change” public policies, various leaders suffered acts of intimidation, slander and libel that were diffused through private channels of communication. These people were targeted for being associated with the party in power, the Movement for Socialism (*Movimiento al Socialismo* – MAS), even though they are not actually supporters of the party¹¹.

In addition, the existence of “blacklists” in these areas of the country came to the public light. These lists are written by groups with ties to the opposition and include the names of activists, defenders and journalists whose work upsets these groups. Although the Government publicly condemned such acts, real investigations were not carried and protection was not provided for the victims.

Threats against human rights defenders

In 2009, there was no significant change and attacks against human rights defenders considered “followers” of President Morales continued. Those who defend the rights of vulnerable groups, mainly indigenous ones, were publicly discredited because their independent work is understood as part of Mr. Morales’s campaign for the common good. A clear example of this was the attempted assassination of Mr. **Miguel Gonzáles**, the Regional Head of the Centre for Legal Studies and Social Research (*Centro de Estudios Jurídicos e Investigación Social* – CEJIS)¹², in Trinidad, the capital of Beni. On February 27, 2009, Mr. Gonzáles was the victim of a firearm attack as he was driving in one of the organisation’s vehicles. Strangers fired at him from a motorcycle just a few blocks away from the CEJIS regional office in Trinidad, but the bullet did not hit him. The next day, the incident was reported to the Prosecutor’s Office in Trinidad. The victim’s vehicle remained in police custody so that the gunshots could

10/ See Bolivian Chapter of Human Rights, Democracy and Development.

11/ See Permanent Assembly for Human Rights in Bolivia (APDHB).

12/ The CEJIS works in the field of human rights from a social-legal perspective, in favour of democracy and justice. It is currently working mainly with indigenous people and peasants.

be examined, but an examination was never carried out and the car was returned to the CEJIS. The investigation into the attack was not taken seriously and the police concluded that it was a marble that had hit the car window. In late 2009, the police had yet to identify a suspect in the attack and the case was filed away because of a lack of evidence, according to the Public Ministry. On March 10, 2010, the Inter-American Commission on Human Rights (IACHR) received a request to extend the precautionary measures in favour of the CEJIS members at the office in Riberalta who were threatened and attacked in 2006¹³, and to expand these measures to the members at the office in Trinidad. The IACHR granted the requested extension so that the Bolivian State would protect those who worked for the organisation. Afterwards, members of the CEJIS held meetings with the Police Chief of Department, the Commander of the Special Forces in the Fight Against Crime (*Fuerza Especial de la Lucha Contra el Crimen* – FELCC) and the Chief of Citizen Security at the Prefecture in Beni. However, the public servants said that it would be impossible to provide effective protection for lack of personnel and financial resources, which would be needed to hire a bodyguard for Mr. Gonzáles. They indicated that the CEJIS would have to cover these costs itself¹⁴. Furthermore, Mr. **Tito Pérez**, the lawyer who brought the case of Guarani lawyer Ramiro Valle¹⁵ to court, reported that on September 13, 2009, he was identified and pointed at by groups of landowners, cattle farmers, civic and municipal authorities during his stay in the city of Camiri. Fearing that he would be followed, Mr. Pérez fled to the main square and hid amongst the crowd. The next day, Mr. Pérez reported the incident; however, the police did not pay any attention to him¹⁶. The defenders who fight against impunity in the massacre of peasants that occurred on September 11, 2008 in Porvenir, Pando department, were also victims of persecution and harassment. For example, members of the Steering Committee for the Trial Against Mr. Leopoldo Fernández (*Comité Impulsor para el Juicio contra el Sr. Leopoldo Fernández*)¹⁷, which consists of the Permanent Assembly for Human Rights in Bolivia (*Asamblea Permanente de Derechos Humanos de Bolivia* – APDHB), the Association for Relatives of the Detained-Disappeared (*Asociación de Familiares de Detenidos-Desaparecidos* –

13/ There were attacks on members of the CEJIS in 2006, after which the Organisation of American States (OAS) IACHR granted precautionary measures so that the Bolivian State would protect CEJIS workers.

14/ See CEJIS.

15/ Mr. Ramiro Valle was one of the victims who was kidnapped and tortured on April 13, 2008 by a violent group of landowners, cattle farmers, and civic and municipal authorities from the town of Cuevo in Chaco Cruceño.

16/ See CEJIS.

17/ Mr. Leopoldo Fernández was the Prefect of Pando when the massacre occurred. He is currently being detained and was charged with the murder of at least 13 people.

ASOFAM) and the Bolivian Chapter of Human Rights, Democracy and Development (*Capítulo Boliviano de Derechos Humanos, Democracia y Desarrollo – CBDHDD*) were constantly harassed in 2009 for investigating and compiling information from witnesses of the massacre¹⁸.

Threats against journalists

Journalists dedicated to investigating and reporting on the various violent incidents that have kept occurring in Bolivia were also persecuted in 2009. The method of intimidation was usually through the use of threats. For example, one of the ways in which the press was harassed was through “blacklists”, which include the names of the journalists whose work bothers certain sectors of society. The threat to the physical well-being and even the lives of the people whose names appear on these lists constitutes in itself a serious restriction to the freedom of the press. A clear example of this was the resignation of Mr. **Andrés Rojas** from his job as Editor-in-Chief of *Channel 57 Virgen de Copacabana* after his name appeared on one of these “blacklists”. The addition of his name was motivated by his journalistic work on the massacre that occurred at the hands of the army in October 2003, under Mr. Gonzalo Sánchez de Losada’s Government, in the area around the city of El Alto. It should be noted that Mr. Rojas had made statements that indicate that, even though the Government authorities expressed their solidarity, there were no efforts to uncover those responsible for the threats¹⁹. In 2009, there were also repeated deaths threats against the Editor-in-Chief of the newspaper *La Prensa*, Mr. **Carlos Morales**, and his publisher, Mr. **Rafael Ramírez**, through calls to their mobile and home phone numbers from strangers who warned them to stop “publishing lies” because they knew where they lived and were going to kill them. These threats occurred following the publication of an article that denounced the alleged link between a member of the Bolivian Government and “organised gangs” in Pando²⁰.

Urgent Intervention issued by The Observatory in 2009

Names	Violations / Follow-up	Reference	Date of Issuance
Mr. Miguel Gonzáles / Centre for Legal Studies and Social Research (CEJIS)	Assassination attempt	Urgent Appeal BOL 001/0309/OBS 035	March 4, 2009

18/ See APDHB.

19/ See Reporters Without Borders (RSF) Press Release, April 16, 2009.

20/ *Idem*.

BRAZIL

OBSERVATORY FOR THE PROTECTION OF HUMAN RIGHTS DEFENDERS
ANNUAL REPORT 2010

Political context

Brazil is one of the most socially unequal societies in Latin America¹. Since 2002, one of the main objectives of President Luiz Inácio Lula da Silva Government has been to change this situation. The extensive land mass in Brazil means that vulnerable groups differ according to the regions. Broadly speaking, the most vulnerable groups are the rural workers, the “quilombola” communities, the indigenous people and those who work in “slavery”². In spite of the regional differences, the struggle for land rights is common across all Brazilian States.

Brazil is marked by an intense, violent police and parapolice context; the militia are seen to be the main problem. These groups, comprised of private and official security agents, have the political and economic support to act without fear of being brought to justice. Another serious problem of the violence in Brazil is generated by death squads, in which the police also take part, as well as hired assassins, who are contracted by gangs, economic groups, landowners or corrupt politicians to carry out assassinations. These death squads are also responsible for assassinations of landless workers and indigenous people in the context of the fight for land rights. Following his visit to Brazil, the United Nations Special Rapporteur for Extrajudicial Executions stated in his report that Brazil has the highest homicide rate in the world³.

However, it is worth mentioning that, in December 2009, the executive developed a bill to create a National Truth Commission (*Comissão Nacional da Verdade*) to investigate human rights violations committed during the military dictatorship. This body aims to recover the files that

1/ The Gini Index for Brazil in 2009 was 55, ahead of Honduras (55.3), Bolivia (58.2), Colombia (58.5) and Haiti (59.5). See United Nations Development Programme (UNDP), *Human Development Report*, 2009.

2/ The concept of slavery is related to the idea of labour exploitation by coercion and deprivation of liberty.

3/ See Human Rights Council, *Report of the Special Rapporteur on extrajudicial, summary or arbitrary executions, Philip Alston*, United Nations Document A/HRC/11/2/Add.2, March 23, 2009. For the São Paulo executions, see the report produced by various civil society organisations, *Mapas do extermínio: execuções extrajudiciais e mortes pela omissão do Estado de São Paulo*, November 25, 2009.

are still held by the military and that are essential to throw light on the crimes committed during the *de facto* regime⁴.

With regard to freedom of expression, two events related to freedom of the press stand out in 2009. Although the Press Law 5.250/67 – passed in 1967 during the last military dictatorship and which regulated the press and allowed journalists to be imprisoned as a result of their publications – was rescinded in April, in July, a federal judge banned the publication in the *Estado de São Paulo* newspaper of an investigation of alleged corruption involving Mr. Fernando Sarney, the son of Senate President José Sarney. This prior censorship was justified by the Federal High Court as being a protection of constitutional guarantees⁵.

The work of the National Protection Programme for Human Rights Defenders (*Programa Nacional de Proteção aos Defensores de Direitos Humanos* – PPDDH), created five years ago by the Federal Government, continued during 2009. However, civil society pointed out that there continues to be a need to develop and strengthen this programme, both at the Federal and State levels, for reasons that include a lack of continuity in the implementation of the agreements, bureaucracy and the lack of coordination between the actors involved, in order to achieve effective protection of the defenders⁶.

Violence against and judicial harassment of land rights defenders

2009 was a symbolic year as it was the 25th anniversary of the Landless Rural Workers' Movement (*Movimento dos Trabalhadores Rurais Sem Terra* – MST) and was marked by a worsening in the tendency to stigmatise and criminalise members of social organisations and movements in Brazil. The MST and defenders that work with them were one of the main targets of this campaign carried out by sectors of the mass media, landowners and legislators with interests in the agricultural business⁷. This practice of criminalisation of social movements is characterised by

4/ Furthermore, on March 26, 2009, a petition was presented to the Inter-American Court on Human Rights (IACtHR) on crimes committed during the Brazilian dictatorship (Case No. 11.552, *Julia Gomes Lund y otros*), that will oblige the Brazilian State to adopt a position related to the amnesty laws in the country. See Inter-American Commission on Human Rights (IACHR) Press Release No 16/09, April 8, 2009.

5/ See Observatory of the Right to Communication (*Observatório do Direito à Comunicação*) Press Release, December 11, 2009.

6/ See Letter to the authorities of the Brazilian Committee of Human Rights Defenders (*Comitê Brasileiro de Defensores e Defensoras de Direitos Humanos*), together with 15 other NGOs, including Global Justice (Justiça Global), Never Again Torture Group (*Grupo Tortura Nunca Más*) and the National Human Rights Movement (*Movimento Nacional de Direitos Humanos*), November 13, 2009.

7/ See Never Again Torture Group and Global Justice.

an attempt to convert the activities of these movements into illegal actions and thereby delegitimize them so that they lose their political power when they are considered to be “criminals” and “agitators”. One of the most common strategies is the creation of parliamentary investigation commissions against agricultural movements with the aim of investigating possible embezzlement of funds or other types of financial problems. In 2009, the Rural Bench (*Bancada Ruralista*) pushed through the creation of a Mixed Parliamentary Investigation Commission (*Comissão Parlamentar Mista de Inquérito – CPMI*) – with the participation of Members of Parliament and Senators – in order to “investigate the MST”. In spite of the wider objective of the CPMI – determination of the causes, conditions and responsibilities related to the deviation of funds and irregularities in the agreements and contracts of the agrarian reform and development organisations or bodies; investigation into the clandestine funding and deviation of funds for land invasions; analysis and assessment of the structure of Brazilian agriculture, specifically the promotion and application of the agrarian reform – the latter was named and called the “MST CPMI” by the mass media in an obvious attempt to stigmatise the movement. During 2009, more than 20 bills were presented with the aim – either direct or indirect – to criminalise agrarian movements or prevent the development of agricultural policies⁸.

The economic incentives provided to agricultural businesses (including biodiesel, soya, cattle rearing and eucalyptus) encourage a lack of planning and control of the expansion of land use in areas that are protected because of their natural resources or because they are indigenous territories. Irregular security companies have spread across these regions where they act as illegal militia at the service of landowners. Brazilian rural workers and social movements continue to be victims of repression by these companies, as shown by the violent evictions ordered by landowners and the militarised police across Brazilian States, often carried out with the collusion of local politicians and judiciary. On August 6, 2009, the Inter-American Court of Human Rights (IACtHR) condemned the Brazilian State for political persecution of the MST; the sentence was backed by the Presidential Human Rights Department. The IACtHR condemned the police officer from the Paraná State for violating the right to organise and the right to privacy of the MST leaders⁹. The proceedings before the IACtHR were handled by the NGO Global Justice (Justiça Global), following telephone tapping carried out by the police in 1999 of a cooperative and a rural workers organisation linked to MST. In addition to the statement made by the National Human Rights Department, at the end

8/ See Land Pastoral Commission (CPT) 2009 Report, *Conflitos No Campo Brasil 2009*, April 2010.

9/ See Global Justice.

of 2009, it was still not clear whether the Brazilian State would implement any measures. The IACtHR ruling against the Brazilian State was good news in a hostile context for rural small holders and organisations fighting for land rights given that State sectors try to criminalise and stigmatise them using means such as a report presented by the Public Ministry in 2008 against members of MST in which it was claimed that they were a threat to the political system and the creation of the CPMI to inspect the transfer of funds to MST from NGOs¹⁰. However, this ruling did not prevent acts of harassment being carried out against MST in 2009.

In this context, since June 2008, Mr. **José Batista Gonçalves Afonso**, a member of the Land Pastoral Commission (*Comissão Pastoral de Terra – CPT*) for Marabá, Pará State, one of the most violent States in Brazil¹¹, has had a two year and five month prison sentence hanging over him for the crime of “kidnapping”. Although an appeal was lodged on January 21, 2009, the Attorney General ruled in favour of the sentence. Following this, Mr. Batista Gonçalves Afonso presented an appeal before the Brasília Federal Judge. However, as of the end of 2009, the result of the appeal was unknown and Mr. Batista Gonçalves Afonso remained free pending trial.

Harassment and threats against environmental defenders

Environmental defenders continued to be subject to threats and assassinations in 2009. For example, the French biologist **Pierre Edward Jauffret** was severely beaten when he was at home in the San Antonio de Tauá reserve, Pará State. He died two weeks later, on December 14, 2009, as the result of a blow to the head during the assault. His son, who shared his father’s struggle, said that they had both been threatened for over a year

10 / *Idem*.

11 / Mr. Batista Gonçalves Afonso is also one of the national coordinators of the National Network of Popular Lawyers (*Rede Nacional de Advogados e Advogadas Populares - RENAP*) and belongs to the Human Rights Commission of the Brazilian Lawyers’ Order (*Orden dos Advogados do Brasil*), Pará section. The conflict began in March 1999 when rural workers from the Federation of Agricultural Workers (*Federação dos Trabalhadores na Agricultura - FETAGRI*) and MST of south and southeast of Pará State camped outside the headquarters of the National Institute of Colonisation and Agrarian Reform (*Instituto Nacional de Colonização e Reforma Agrária - INCRA*) in the Marabá municipality, Pará, to show their disagreement with the slow pace INCRA is solving the problem of settlement of thousands of landless families that were camping out and the precariousness of the existing settlements. On April 4, 1999, representatives of the Federal Government and the Pará State Government met at INCRA with workers and 120 leaders of associations and trade unions to negotiate. Towards 10 pm, given that there was no response to their demands, the workers went into the offices and refused to allow the negotiation team to leave that night and the morning of the following day. Mr. José Batista Gonçalves Afonso, who was advising MST and FETAGRI at that time, tried to mediate the conflict between INCRA and the workers. However, he was subsequently accused by the Federal General Prosecutor’s Office of having prevented the INCRA representatives from leaving the building.

because of their denunciations of deforestation in the area. The victim's family reported that there were attempts to show that what happened was the result of a fight between the biologist and local drunks¹². Likewise, in 2009, a representative of Rio de Janeiro artisanal fishermen decided not to make any more reports about the setting up of industrial fishing companies that destroy the environment, following more than a year of death threats against him and his family. The latest threat he received was from a known assassin from the region who is a member of the militia. For security reasons, his name and whereabouts are not being disclosed¹³.

Reprisals against defenders who denounce police and parapolic violence

Human rights defenders face a wide range of repressive measures from demoralisation and defamation to threats, harassment and even assassinations¹⁴. State security policies expose them to arbitrary action by the police and parapolic. On January 24, 2009, Mr. **Manoel Bezerra de Mattos**, a human rights defender, lawyer and Councillor of Itamé city, Paraíba, was assassinated. He had been benefiting from Inter-American Commission of Human Rights (IACHR) precautionary measures since 2002, even though Brazil had not implemented them. Mr. Bezerra de Mattos had publicly denounced the actions of extermination groups in Paraíba and Pernambuco States in north-eastern Brazil. Mr. Bezerra de Mattos' statements contributed to the work of the Parliamentary Investigative Committee (*Comissão Parlamentar de Inquérito* – CPI) about gunmen in Brazil. His assassination was condemned by the IACHR¹⁵. On June 24, 2009, a request was made to Federal Justice to transfer the investigation and trial for the assassination of Mr. Manoel Bezerra de Mattos given that the Paraíba Governor himself, the members of the Pernambuco Government and the State Human Rights Council publicly recognised that the Federal States did not have the capacity to handle the case. In August 2009, the Attorney General of the Republic accepted the transfer request and, as of the end of 2009, the decision on the case was depending on the Supreme Court of Justice. In the meantime, of the five accused, only three were still imprisoned at the end of 2009 and it is expected that a public hearing will be held in 2010

12/ See Legal Project (*Projeto Legal*), Action by Christians for the Abolition of Torture - Brazil (ACAT-Brazil) and CPT Press Release, December 16, 2009.

13/ See National Association of Human Rights, Teaching and Postgraduates (*Associação Nacional de Direitos Humanos Ensino e Pós-Graduação* - ANDHEP), *National Assessment of the Situation of Human Rights Defenders for the National and Special Human Rights Department of the Human Rights Defenders Protection Programme*, November 2009.

14/ *Idem*.

15/ See IACHR Press Release No. 04/09, February 6, 2009.

to discuss the federalisation of the investigations related to Mr. Manoel Bezerra de Mattos' assassination¹⁶.

The parapolice violence also affected Rio de Janeiro Members of Parliament. For instance, Mr. **Marcelo Freixo** and his advisor, Mr. **Vinicius George**, received death threats in May 2009 following Mr. Freixo's nomination as President of the Investigative Parliamentary Commission related to the increase in militia presence. The information provided by a witness enabled the plans against the lives of the functionaries to be foiled. Since the denouncement, both of them have special protection¹⁷.

Urgent Intervention issued by The Observatory in 2009

Names	Violations / Follow-up	Reference	Date of Issuance
Mr. José Batista Gonçalves Afonso	Judicial harassment	Open Letter to the authorities	February 10, 2009

16 / See "Direitos Humanos" Press Release, January 25, 2009 and Global Justice.

17 / See Global Justice.

CHILE

OBSERVATORY FOR THE PROTECTION OF HUMAN RIGHTS DEFENDERS
ANNUAL REPORT 2010

Political context

In December 2009, presidential elections were held in Chile, in which Mr. Sebastián Piñera, the candidate from the opposition alliance, and Mr. Eduardo Frei, the candidate from the ruling political party, went on to the second round of elections that took place in January 2010¹. Meetings between the opposition leader and eventual winner, Mr. Piñera, and individuals linked to the military dictatorship were worrisome, as were some of the ambiguous statements that Mr. Piñera made, including an announcement that he might apply the statute of limitations to try members of the military involved in the repression of the last military Government.

Before ending her term in office, President Michele Bachelet promulgated the Law for the implementation of the National Institute for Human Rights² and inaugurated the National Museum of Memory. During its first Universal Periodic Review before the UN Human Rights Council, the Chilean Government emphasised the need to prosecute the crimes against humanity that were committed during the 17-year military dictatorship, as well as reparations for the victims³. Although the report was valued, the Human Rights Council found in its more than 75 recommendations deficiencies that still exist in Chile's current institutions, such as the lack of an Ombudsman as well as a more democratic electoral system. Furthermore, the Council brought attention to the situation of indigenous peoples, as well as to the situation of women, children, and migrants' rights⁴.

1/ In January 2010, Mr. Sebastián Piñera, a businessman and the representative of the Chilean right, was elected President in the second round of elections. The new President did not announce any human rights programme to implement during his presidency.

2/ The Institute seeks to promote and defend human rights and will be able to appear as a plaintiff when these rights are violated.

3/ According to Chile's report before the Council, there are 338 cases that are investigating for the military's involvement in repression, covering a total of 1,128 victims. Chile also reported that there are approximately 750 former members of the armed forces among the prosecuted and convicted. See Human Rights Council Working Group on the Universal Periodic Review, *National Report presented by Chile*, United Nations Document A/HRC/WG.6/5/CHL/1, February 16, 2009.

4/ See Human Rights Council, *Report of the Working Group on the Universal Periodic Review - Chile*, United Nations Document A/HRC/12/10, June 4, 2009.

In 2009, Chile was also reviewed by the UN Committee Against Torture, which reiterated measures it had already demanded, such as the repeal of the Amnesty Decree-Law, the modification of the Code of Military Justice (which allows civilians to be prosecuted) and the creation of a new commission to investigate crimes committed during the dictatorship. The Committee also urged the Chilean State to end the current statute of limitations for the crime of torture⁵.

Furthermore, although the International Labour Organisation (ILO) Convention No. 169 concerning indigenous and tribal peoples was ratified in September 2008 and came into effect in September 2009, policemen continued to use violence against the Mapuche people, who claim their ancestral lands and oppose investment programmes that threaten their scarce lands⁶. The “Mapuche conflict” is often alluded to in Chile, as a result of the Mapuche community’s land claims and demands for the respect for their human rights. Since these demands first began, only indigenous people have reported fatalities, injuries, torture and other violations of their rights. Policemen and landowners rarely suffer any consequences, which are always minor and usually involve property. Activists and members of the Mapuche community often end up being detained, injured or even dead in confrontations with the police⁷. A serious assault occurred in October 2009 when police (*carabineros*) brutally attacked Mapuche children, some of whom were wounded by gunshot⁸. The UN Committee on the Elimination of Racial Discrimination has addressed the conflict between the State and the Mapuche communities in its assessment of the report on Chile⁹,

5/ See Committee Against Torture, *Final Observations of the Committee Against Torture - Chile*, United Nations Document CAT/C/CHL/CO/5, May 14, 2009.

6/ Reports from civil society organisations have recorded more than 25 police operations in Mapuche territory, mostly in rural communities. Cases of torture, cruel, inhuman and degrading treatment against 55 Mapuche were reported. See Citizens’ Observatory (*Observatorio Ciudadano*).

7/ During one of these confrontations in August 2009, Mr. Jaime Mendoza Collio, a young Mapuche from the Requém Pillán community, was killed when he was shot by uniformed policemen who were evicting people from a lot that had been claimed by his community in the town of Ercilla (Araucanía region). See Corporation for the Promotion and the Defence of the Rights of People (*Corporación de Promoción y Defensa de los Derechos del Pueblo* - CODEPU) and Citizens’ Observatory.

8/ Álvaro Huentecol and Felipe Marillán, minors from the Temuicui community, were shot, leaving both with serious injuries. Another minor, Francisco Painevilo, was brutally assaulted by policemen who wounded him with gunshots, beat him, and placed him in a helicopter, threatening to throw him out into the abyss if he did not provide them with information on his community. The cases appeared in civil courts, which declared themselves incapable of trying acts committed by policemen and thus referred the cases to military courts. See CODEPU and Citizens’ Observatory.

9/ See Committee on the Elimination of Racial Discrimination, *Final Observations of the Committee on the Elimination of Racial Discrimination, Chile*, United Nations Document CERD/C/CHL/CO/15-18, September 7, 2009.

as did the UN Special Rapporteur on the Situation of Human Rights and Fundamental Freedoms of Indigenous People¹⁰. However, Chilean authorities did not properly implement the recommendations made by international human rights organisations and President Bachelet's special policy of "Re-cognition" did not generate the desired dialogue¹¹.

Moreover, part of the problem is that Chilean authorities invoke the Anti-Terrorism Act in order to justify prosecuting people who defend the rights of the Mapuche communities¹². At the end of 2009, there was a total of 47 Mapuche and their sympathisers in prison, most of whom were on remand and accused with committing crimes under the Anti-Terrorism Act¹³. There is a stark contrast between the State's criminal prosecution of the Mapuche and the impunity enjoyed by policemen who have committed crimes against indigenous people. It should also be noted that, in its Final Observations from May 14, 2009, the UN Committee Against Torture noted with concern the abuse committed against Mapuche communities¹⁴.

10 / The UN Special Rapporteur on the Situation of the Rights and Fundamental Freedoms of the Indigenous People visited Chile from April 5 to 9, 2009 in order to carry out consultations on the constitutional reform at the suggestion of Ms. Bachelet's Government. See Human Rights Council, *Report of the Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous people, James Anaya, The situation of indigenous peoples in Chile*, United Nations Document A/HRC/12/34/Add.6, October 5, 2009.

11 / In 2008, under the slogan "Re-cognition: A Social Pact for Multi-Culturality", President Bachelet proposed creating guidelines for her Government in relation to indigenous peoples during the second half of her term. Besides looking at legal changes for the recognition of indigenous rights in the Constitution and strengthening legislation, it committed to acquiring lands for 115 Mapuche communities that were prioritised by the Council of the National Corporation for Indigenous Development (*Corporación Nacional del Desarrollo Indígena* - CONADI). At the end of 2009, they still had not been granted constitutional recognition and only 47 communities had acquired lands through the Lands Fund (*Fondo de Tierras*).

12 / The Anti-Terrorism Act was put in place during General Pinochet's dictatorship. It sought to criminalise certain forms of expression and opposition to the de facto Government. The law was not revoked with the advent of democracy and is still in effect. It is important to note that the spirit of the law did not change even though it was subjected to minor modifications. See Committee on the Elimination of Racial Discrimination, *Final Observations of the Committee on the Elimination of Racial Discrimination, Chile*, United Nations Document CERD/C/CHL/CO/15-17, September 7, 2009, and Human Rights Council, *Report of the Working Group on the Universal Periodic Review, Chile*, United Nations Document A/HRC/12/10, June 4, 2009.

13 / See CODEPU and Citizens' Observatory.

14 / See Committee Against Torture, *Final Observations of the Committee Against Torture*, United Nations Document CAT/C/CHL/CO/5, May 14, 2009.

Harassment of defenders of the rights of indigenous communities

In 2009, repression against defenders of the rights of indigenous communities were carried out through attacks. Ms. **Juana Calfunao Paillalef**, *lonko* (traditional authority) of the Juan Paillalef Mapuche community, remained detained in the Temuco Women's Penitentiary, where she has been held since November 16, 2006. Ms. Calfunao Paillalef was accused of committing minor offences, such as "attacking an authority", "threatening policemen on duty" and "public disorder". The latter offence was committed on her own private property in her community. While detained in 2006, Ms. Calfunao Paillalef was tortured and harassed by police personnel and other inmates. This incident was reported to the Public Ministry, courts and supervisory courts, but there have been no investigations into the case even though Ms. Calfunao Paillalef is still subjected to abuse. Similarly, Ms. **Patricia Roxana Troncoso Robles** and Mr. **José Huenchunao**, Mapuche leaders who have been imprisoned since 2004, remained detained at the Angol Study and Work Centre (*Centro de Estudio y Trabajo – CET*)¹⁵. Furthermore, although Messrs. **Jaime Marileo Saravia** and **Juan Patricio Marileo Saravia**, Mapuche leaders who were detained at the same time as Ms. Troncoso Robles and Mr. Huenchunao, were set free during the day, they still had to spend their nights at the prison in Collipulle¹⁶.

People who are somehow linked to indigenous groups were also detained and imprisoned, as illustrated by the detention of Mr. **Marcelo Garay Vergara**, a journalist, and Ms. **Elena Varela**, a documentary maker. On May 17, 2009, Mr. Garay Vergara was accused of "trespassing on private property" and arrested by a policeman (*carabiniero*) while he was working in the autonomous community of Juan Quintremil, a commune in Padre las Casas. Although he was released after just a few hours, his photographic equipment and cell phone were confiscated. After being released, the journalist reported being followed, harassed and photographed by plain-clothes policemen. As for Ms. Varela, she was working on a documentary about the Mapuche people when she was arrested on May 7, 2008 and accused of having planned two violent armed robberies and belonging to an illegal crime organisation. After spending almost a hundred days on remand, Ms. Varela was finally released. Yet, as of the end of 2009, charges remained pending against Ms. Varela and the trial against her had been postponed several times. Besides being arrested and charged, she was not able to

15/ In July 2009, Mr. Huenchunao was moved from the prison in Angol to the CET in Angol, and was allowed to leave for seven days every three months.

16/ On August 21, 2004, the four were sentenced to ten years and one day in prison for "terrorist arson", a crime under the Anti-Terrorism Law No. 18.314, on land owned by the Mininco lumber company, on December 19, 2001.

recover her film, which included 200 tapes, and which could be damaged¹⁷. It should also be emphasised that during the Universal Periodic Review of Chile in May 2009, the UN Human Rights Council expressed concern about Ms. Varela's situation and asked the Chilean Government to "fully investigate the alleged cases of arrest and deportation of journalists and filmmakers depicting the problems of the Mapuche people"¹⁸.

Moreover, another method of intimidation involved breaking into the offices of defenders when they were not present, as shown by the attacks on the offices of Messrs. **José Lincoqueo** and **Richard Caifal**, both Mapuche lawyers. In October 2009, Mr. Lincoqueo's office was rifled through, important documents (about 350 files on land claim proceedings) and his professional diploma were stolen, and a typewriter and computers were destroyed. Both the Temuco Public Prosecutor as well as Temuco Supervisory Tribunal denounced this act, although no investigation was ever conducted into the matter. The lawyer filed a civil suit before a Santiago tribunal, requesting compensation for damages but, as of the end of 2009, the lawsuit was still being processed. Similarly, on November 2, 2009, a group of strangers entered into the private office of Mr. Caifal, forcing the door, and searching through copies of legal files, many of which were related to defending the Mapuche and their communities. This event was reported to the Public Prosecutor, but no investigation was ever conducted.

Criminalising social protest

Indigenous communities were not the only victims of the criminalisation of social protest in 2009. Student protests in 2008 exposed police violence in repressing demonstrations. There was also abuse and legal harassment of groups of people with housing debts in 2009. Various wood and construction workers who had mobilised in the capital in November 2009 were repressed – some were arrested and four were injured¹⁹. The actions of groups linked to environmental issues were constantly being criminalised. For example, in October 2009, a group of 14 people who were participating in cultural activities in the street, protesting against the

17/ See Citizens' Observatory, *Boletín N° 8*, first semester 2009.

18/ See Human Rights Council, *Report of the Working Group on the Universal Periodic Review, Chile*, United Nations Document A/HRC/12/10, June 4, 2009.

19/ The detained were from the National Federation of Workers in Construction, Wood, Services, and Allied Sectors (*Federación Nacional de Sindicatos de Trabajadores de la Construcción, Madera, Áridos, Servicios y Otros* - FETRAMA-Chile). They were detained so that their names could be recorded and

hydroelectric project in Coyhaique, a region of Aysén, were arrested and later released without any charges being pressed²⁰. Similarly, protests held by some indigenous communities and peasants against mining, forestry and electric companies were also the targets of violence. For example, in Mehuín, an area of San José, some members of the Committee for the Defence of the Sea (*Comité de Defensa del Mar*)²¹, who oppose an Angelini national group cellulose factory that is trying to impinge on a community of fisherman and Mapuche, also suffered from constant aggression. For instance, one member of this Committee, Mr. **Estanis Paillan Pacheco**, was constantly threatened and physically assaulted in 2009, most recently during the month of July²².

The Chilean Congress also debated in 2009 various bills that would limit social protest²³. One of these bills, which has been in the second constitutional phase of the Senate of the Republic since December 2008, is intended to criminally punish those who verbally abuse the police. Under another bill, the organisers and promoters of demonstrations would have to provide financial or some sort of community work as a form of compensation for any damages done to public or private property during authorised marches. This bill was in the Chamber of Deputies at the end of 2009²⁴.

Obstacles to human rights defenders involved in the fight against impunity

The defenders who oppose the impunity of crimes committed during the Chilean military dictatorship were also harassed in 2009. Former military official Edwin Dimter Bianchi sued Ms. **Pascale Bonnefoy**, an independent journalist, for libel and slander after she identified him as the so-called “Prince” of Chile Stadium²⁵ in the days following the military coup in 1973. In an article that was partially published in the Chilean newspaper *La Nación*, and published in its entirety in *Estocolmo.se*, *El Mostrador*, *PiensaChile* and *El Siglo* in May 2006, Ms. Bonnefoy revealed the findings of her investigation, confirming that the abusive “Prince” of Chile Stadium was none other than former military official Edwin Dimter Bianchi.

20 / See CODEPU and Citizens' Observatory.

21 / The Committee for the Defence of the Sea was formed in 2006, after the Government announced that a cellulose factory would dump its waste in the sea.

22 / See CODEPU and Citizens' Observatory.

23 / These bills are Bulletins 5969 and 4932. See Diego Portales University Centre for Human Rights (*Centro de Derechos Humanos de la Universidad Diego Portales*), *Informe Anual sobre Derechos Humanos en Chile 2009*, 2009.

24 / See CODEPU and Citizens' Observatory.

25 / Following the coup d'état on September 11, 1973, the sports facility was used as a detention centre, where coup officials held political prisoners.

The trial against Ms. Bonnefoy was supposed to begin on November 4, 2009, but was postponed due to various motions made by the parties: an allegation of implication of a judge, a request for a witness to declare from her office; and the absence of some of the accused, etc²⁶.

26 / On January 14, 15 and 18, 2010, hearings were held before the Seventh Court of Santiago Tribunal, at the end of which Magistrate Freddy Cubillos declared that the journalist did not “intend to slander”. Ms. Bonnefoy was later absolved of libel and slander under Law No. 19.733 on freedom of opinion, information and journalistic practice. The plaintiff lodged a nullity appeal, which was still pending.

COLOMBIA

OBSERVATORY FOR THE PROTECTION OF HUMAN RIGHTS DEFENDERS
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Political context

During 2009, Colombia continued to be subjected to violent confrontations between guerrilla and paramilitary groups and the armed forces as a result of the internal armed conflict and drug trafficking activities. These confrontations affected the civil population either directly or indirectly, thereby violating their fundamental rights. The occurrence of serious human rights violations like extrajudicial executions, known as “false positives”, the links between members of the State and paramilitaries and the lack of investigation of these and other crimes remained issues that have moulded social and political life in the country for many years.

The armed conflict continued to increase the forced displacement figures, a phenomenon that contributes to the lack of social cohesion and an ever increasing lack of socio-economic equality. According to the Consultancy on Human Rights and Displacement (*Consultoría para los Derechos Humanos y el Desplazamiento* – CODHES), 2,412,834 people were displaced between 2002 and 2009, which indicates that of the approximate total number of displaced people in Colombia over the past 25 years, 4,915,579, or 49%, were displaced during President Uribe’s term of Government. In 2009, afro Colombians and indigenous people were once more those most affected by this phenomenon¹.

Indigenous people not only continued to suffer from alarming levels of forced displacement, they were also victims of homicides, lack of food and other serious problems as a result of factors that include the internal armed conflict². The peasants (*campesino*) way of life continued to disappear because of the internal armed conflict and the rural development policy that prioritises single crop cultivation for agro fuels, as well

1/ According to CODHES, 83% of mass displacements that took place in 2009 were of ethnic groups (afro Colombians and indigenous people). See CODHES Newsletter No. 76, *Salto Estratégico o Salto al Vacío?*, January 27, 2010.

2/ In 2009, the Constitutional Court pointed out that numerous indigenous peoples throughout the country were threatened with “cultural and physical extinction” and called for a comprehensive and effective response to these challenges by the Government. See Decree 004/09 of the Colombian Constitutional Court, January 26, 2009.

as mining and oil and coal exploitation³. According to CODHES, forced displacement and forced eviction impact on food sovereignty and increase the vulnerability of displaced peasants.

In the national political context, various Colombian human rights organisations objected to Bill 1354 of 2009, which proposed a constitutional referendum on the reform that would allow for a second presidential re-election in the elections that were due to take place in May 2010. According to these organisations, the continuity of the Democratic Security Policy, established by President Uribe, could further affect the already delicate human rights situation in the country. Furthermore, the ongoing persecution of the Supreme Court judges by President Uribe did not stop; rather it increased further when the judges showed their reluctance to elect a Prosecutor General from the three candidates proposed by President Uribe himself. Another of the issues of concern for civil society organisations was the signing of a military agreement on October 30, 2009 that will facilitate access by United States soldiers and advisors to at least seven Colombian military bases.

At the end of 2009, negotiations to come to an agreement on the National Human Rights and International Humanitarian Law Action Plan remained suspended, whilst the Guarantees Committee process, which was established to debate the vulnerability of Colombian human rights defenders, continued. Throughout this process, new threats against various participating defenders were reported⁴. In its latest 2009 Annual Report, the Office of the United Nations High Commissioner for Human Rights (OHCHR) in Colombia recommended that the Colombian Government implement the commitments provided for in this process⁵.

3/ Between 2005 and 2009, 994,000 peasants left their land for these reasons. See CODHES Newsletter No. 76, *Salto Estratégico o Salto al Vacío?*, January 27, 2010.

4/ The National Guarantees Process began in March 2009 following demands made by the Peace, Human Rights, Democracy and Development Platforms (*Plataformas de Paz, Derechos Humanos, Democracia y Desarrollo*) and social sectors that were participating in meetings with the national Government in order to come to an agreement on the National Human Rights and International Humanitarian Law Action Plan (*Plan Nacional de Acción en Derechos Humanos y Derecho Internacional Humanitario - PNADHDIH*) due to the vulnerable situation of human rights defenders. The process included the confirmation of a national working group and 14 regional hearings with Government and civil society participation and accompanied by the international community. The objective is to broach the issue of the working conditions of human rights defenders, to assess the risk situation, to adopt measures that enable future harassments to be prevented, to protect and guarantee human rights activities and to progress in establishing trust between the two parties to encourage dialogue. See Corporation for the Defence and Promotion of Human Rights (REINICIAR).

5/ See OHCHR, *Annual Report of the United Nations High Commissioner for Human Rights on the Situation of Human Rights in Colombia*, United Nations Document A/HRC/13/72, March 4, 2010.

In addition, torture continued to be high and follow specific patterns that indicate a generalised use of this practice in Colombia. The United Nations Committee Against Torture (CAT), in its observations on the examination of Colombia that took place between November 2 and 20, 2009, expressed serious concerns about what appears to be an increase in the number of torture cases that involve State agents. According to CAT, those who are deprived of their freedom, including defenders and leaders who have been subject to unfounded legal investigations, are detained in extremely vulnerable conditions. Furthermore, the Committee was concerned about the frequent attacks against defenders and the lack of effective protection measures⁶. It was also of particular concern that human rights defenders who report on the situation in prisons were criminalised and harassed⁷.

Human rights defenders, journalists, leaders of trade unions, peasants, afro Colombian, indigenous and social movements, or those who lead student and displaced persons organisations were all subject to different forms of harassment during 2009, including assassinations. This continued to be one of the major problems they faced, as was pointed out by international and regional bodies and organisations that publicly expressed their concern⁸. According to the “We are Defenders” (*Somos Defensores*) programme, 174 human rights defenders were assaulted in 2009; 32 of them were assassinated. Between 2002 and 2009, only in 2003 were there a greater number of assaults⁹.

False accusations and illegal intelligence activities carried out by Government employees and departments

It has become known that the Administrative Security Department (*Departamento Administrativo de Seguridad – DAS*), the Colombian State intelligence agency that reports to the President’s Office, implemented an

6/ The Committee also showed serious concern about the security situation for defenders in Colombia. Its final report highlights the high number of human rights violations and points out the lack of State protection for the activists. Furthermore, the human rights defenders’ community was concerned about the Colombian Government’s announcement of its intention to privatise the Human Rights Defenders Protection Programme run by the Interior and Justice Ministry. See Committee Against Torture, *Concluding Observations of the Committee Against Torture - Colombia*, United Nations Document CAT/C/COL/CO/4, May 4, 2009.

7/ See Colombian Coalition Against Torture (comprised of various Colombian organisations and OMCT) Report, *Informe Alternativo sobre Tortura, Tratos Crueles, Inhumanos o Degradantes Colombia 2003-2009*, November 2009.

8/ See UN Special Rapporteur on the Situation of Human Rights Defenders Press Release, September 18, 2009, and Press Releases No. R67/09 and No. R21/09 of the Special Rapporteur for Freedom of Expression from the Inter-American Commission on Human Rights (IACHR), September 25 and April 29, 2009.

9/ See “We are Defenders” Report, *Informe 2009*, April 30, 2010.

espionage plan against human rights defenders, journalists, members of the opposition, and also judges and members of international organisations. It was reported that special groups based within the DAS carried out telephone tapping, monitoring and surveillance and they even planned threats against human rights defenders. Human rights organisations expressed their concern about these events and fear that some threats and attacks against them may have been carried out using information obtained by these groups¹⁰. Various defenders were victims of illegal surveillance, including Ms. **Ana Teresa Bernal**, a member of the National Network of Initiatives for Peace and Against War (*Red Nacional de Iniciativas por la Paz y contra la Guerra* – REDEPAZ), Mr. **Gustavo Gallón Giraldo**, Director of the Colombian Commission of Jurists (*Comisión Colombiana de Juristas* – CCJ), CODHES, the Research and Popular Education Centre (*Centro de Investigaciones y Educación Popular* – CINEP) and particularly the priest **Javier Giraldo S. J.**, member of CINEP, and the José Alvear Restrepo Lawyer’s Collective (*Colectivo de Abogados “José Alvear Restrepo”* – CCAJAR). In particular, Mr. **Alirio Uribe Muñoz**, the then President of CCAJAR, was one of the main victims of a specific operation called “Transmilenio” that consisted of gathering information about his finances, but also the movements of CCAJAR staff members, the composition of their family and their means of transport. Orders were also given to infiltrate the organisation, to sabotage its work, to threaten daughters who were minors, to invent criminal proof against members of the organisation, to libel them, to influence the organisation’s funding sources, and to pursue them in their travels outside of the country, as well as other actions aiming to “neutralise” or destroy its work. It was also known that the journalist **Hollman Morris** was a victim of surveillance and telephone tapping. Furthermore, the DAS files contained information about Ms. **Jahel Quiroga Carrillo**, Director of the Corporation for the Defence and Protection of Human Rights Reiniciar (*Corporación para la Defensa y Promoción de los Derechos Humanos Reiniciar*), who was also investigated by army intelligence services. The DAS files claim links between her and the Colombian Revolutionary Armed Forces (*Fuerzas Armadas Revolucionarias de Colombia-Ejército del Pueblo* – FARC-EP) and reveal an attempt to build proof against her. Moreover, Supreme Court judges reported harassment, surveillance and telephone tapping over the course of the past few years. Employees of the DAS obtained details about their estate, bank accounts, means of payment for mobile telephone bills

10/ See CCAJAR Statement, May 4, 2009, IACHR Press Releases No. 09/09 and No. 59/09, 26 February and August 13, 2009 and FIDH, *Colombia: Actividades ilegales del DAS*, May 2010.

and about the judges, and their families, lives in general. Telephone and email tapping, as well as personal surveillance of Senators and members of an opposition political party, critical of the current Government's policies were also reported.

As in 2008, statements made by Colombian Government employees about the activities of journalists, human rights leaders and defenders stigmatising their activities and, in many cases, suggesting that their work is linked to the defence of terrorism, were a serious cause for concern at both the national and international levels. In February 2009, Mr. Hollman Morris, who was producing a documentary about the release of three policemen and a soldier by the FARC, was arrested and subjected to interrogation by the army and high-ranking Government officials who demanded that he hand over the material he had collected¹¹. Furthermore, President Uribe publicly accused him of alleged links with the insurgent group. Following this accusation made by the President, the journalist received multiple death threats. Statements of this kind not only represent condemnation of the work of human rights defenders, but also put their life at serious risk¹².

The United Nations Special Rapporteur on the Situation of Human Rights Defenders, one of the four United Nations Special Procedures that visited Colombia during 2009¹³, expressed particular concern both about the illegal intelligence activities and the stigmatisation and branding of human rights defenders, which according to her is a prime reason of their insecurity¹⁴. In this context, various organisations expressed serious reser-

11/ It is of concern that the events described led to the Government opening an investigation against Mr. Hollman Morris "to establish if the crime of illegal obstruction, threat or any other crime had taken place during the events that the soldiers experienced prior to the release". At the end of 2009, the investigation had been filed as the charges were not typified, which means that it could be reopened at any time. Mr. Morris filed several complaints as the victim, in particular following threats he received after the statements of President Uribe in February 2009 and because of persecution by intelligence agents. As of the end of 2009, the investigations into these proceedings were still open.

12/ See Joint Press Release No. R05/09 by the UN and IACHR Special Rapporteurs for Freedom of Expression, February 9, 2009 and UN Special Rapporteur on the Situation of Human Rights Defenders Press Release, September 18, 2009.

13/ In addition, the UN Special Rapporteur for Extrajudicial Executions visited Colombia in June 2009, the UN Special Rapporteur on the Situation of Human Rights and Fundamental Freedoms of Indigenous People in July 2009 and the UN Special Rapporteur on the Independence of Judges and Lawyers in December 2009.

14/ See UN Special Rapporteur on the Situation of Human Rights Defenders Press Release, September 18, 2009.

vations about the Intelligence and Counter-Intelligence Law approved in March 2009¹⁵.

Assassinations, threats and serious assaults against leaders and members of trade union organisations

The situation for trade unionists did not improve in 2009 and they continued to be among the most repressed defenders in Colombia. According to the United Workers' Federation (*Central Unitaria de Trabajadores* – CUT), 46 trade union leaders were assassinated in 2009¹⁶. The following cases clearly show the situation faced by Colombian defenders. Mr. **Leovigildo Mejía**, trade union member of the Santander Agricultural Association (*Asociación Agraria de Santander*), disappeared on January 28, 2009 and was then assassinated. As of the end of 2009, the case was under investigation. Three other leaders were assassinated in February 2009: Mr. **Luis Alberto Arango Crespo**, President of the El Llanito Fishermen and Agricultural Workers' Association (*Asociación de Pescadores y Agricultores de El Llanito*) and leader of the Magdalena Medio Artisan Fishermen's Association (*Asociación de Pescadores Artesanales del Magdalena Medio*) – the case was still open as of the end of 2009 – ; Mr. **Guillermo Antonio Ramírez**, Deputy Director of the Risaralda Teachers' Trade Union (*Sindicato de Educadores de Risaralda*), and Mr. **Leoncio Gutiérrez**, member of the Valle Teachers' Trade Union (*Sindicato Único de Trabajadores de la Educación del Valle*). Mr. **Asdrúbal Sánchez Pérez**, a member of the National Prison Institute Workers' Trade Union (*Asociación Sindical de Empleados del Instituto Nacional Penitenciario y Carcelario*), was also assassinated on April 18, 2009. Mr. **Edgar Martínez**, a member of the Sur de Bolívar Agro-Mining Federation (*Federación Agrominera del Sur de Bolívar*), and Mr. **Víctor Franco Franco**, a member of United Caldas Teachers (*Educadores Unidos de Caldas* – EDUCAL), were both assassinated on April 18 and 22 respectively. The last two cases were also still under investigation as of the end of 2009. Similarly, on May 9, 2009, Ms. **Vilma Cárcamo Blanco**, trade union leader and member of the Board of the Association of Colombian Hospital Workers (*Asociación Nacional de Trabajadores Hospitalarios* – ANTHOC) Magangué, and who worked in the Complaints Commission, was assassinated in the Belisario sector of the Magangué municipality, Bolívar depart-

15/ On March 5, 2010, the Colombian Commission of Jurists (CCJ) and Reiniciar filed an unconstitutionality lawsuit against Law 1288 of 2009 or the Intelligence and Counter-Intelligence Law. The OMCT signed an "amicus curiae" related to this lawsuit. See Reiniciar Report, *La Inteligencia Estatal como Mecanismo de Persecución Política y Sabotaje a la Defensa de los Derechos Humanos: Es Idónea la Ley de Inteligencia para Erradicar Esta Práctica Sistemática?*, September 2009.

16/ See CUT. The International Trade Union Confederation (ITUC) reported 48 trade unionist assassinations. See ITUC, *Annual Survey of Trade Union Rights 2010*, June 9, 2010.

ment. The trade union leader, together with the Board of ANTHOC Magangué, were leading protest days demanding the overdue payment of salaries and the negotiation of the “List of Respectful Requests”, which had been postponed several times. As of the end of 2009, her assassination was being investigated. The armed assault against Mr. **José Jair Valencia Agudelo**, a member of EDUCAL, who was attacked by hired assassins on a motorbike on February 26, 2009 and seriously injured, as well as the assassination of teacher **Milton Blanco Leguizamón** on April 24, 2009 confirm that the education sector is also gravely affected by anti trade union violence. By the end of 2009, the judicial proceedings on this case continued.

In addition to assassinations, trade unionists were also subjected to multiple threats. During the month of November 2009, various trade union leaders received death threats. On November 22, 2009, Mr. **Jairo Méndez** found a death threat against the National Food Workers’ Union (*Sindicato Nacional de Trabajadores de la Industria de Alimentos – SINALTRAINAL*) in his home, in which various leaders and members of this trade union and who work for Nestlé Colombia S.A. and Coca Cola were mentioned. The threat arrived at a time when the union was in conflict with the National Soft Drink Industry Company – Coca Cola – as the latter did not want to sign the work collective agreement, in spite of the fact that they had reached an agreement on the list of requests presented to the company.

Assassinations, threats and serious assaults against indigenous and peasant leaders

The indigenous and peasant leaders who defend their land rights were often victims of serious threats and even assassinations. On February 15, 2009, Ms. **Alba Nelly Murillo**, President of the Community Action Committee (*Junta Acción Comunal*) for the La Esmeralda hamlet, in the El Castillo municipality, Meta department, disappeared. On May 7, 2008, following a meeting with the community in which reports of human rights violations committed by the national army were documented, various soldiers had asked after Ms. Murillo and accused the peasant farmers of having links with the guerrilla. At the end of 2009, Ms. Alba Nelly Murillo remained disappeared and the investigation into her disappearance was still open. The difficult situation experienced by peasant leaders was also illustrated by the assassination of Mr. **Erasmó Cubides**, an outstanding peasant and community leader, who was assassinated on his farm, in the Las Gaviotas hamlet, Arauquita municipality, Arauca department. Shortly before, an armed group had been threatening members of the Departmental Peasant Association (*Asociación Departamental de Usuarios Campesinos – ADUC*), of which Mr. Cubides was a del-

egate, and had declared its members to be military targets. Furthermore, members of the Social and Community Indigenous Resistance Group (*Minga de Resistencia Social y Comunitaria*) were seriously threatened in 2009. On May 11, 2009, the twelve year-old daughter of the indigenous leader Ms. **Aida Quilcué**, Representative of the Cauca Regional Indigenous Council (*Consejo Regional Indígena del Cauca*) and delegate of the National Indigenous Organisation of Colombia (*Organización Nacional Indígena de Colombia* – ONIC), was approached by four men opposite her house who pointed guns at her. The day before, four people, who claimed to belong to the Colombian Welfare Institute (*Instituto Colombiano de Bienestar Familiar* – ICBF), tried to get into the school where the girl studied and would have gone to visit her at her home later that day. Ms. Aida Quilcué had suffered an attack in December 2008, resulting in the death of her husband, Mr. Edwin Legarda. In June 2009, an arrest warrant was issued for Ms. Aida Quilcué and Mr. **Feliciano Valencia**, Spokespersons for the Social and Community Indigenous Resistance Group (*Minga de Resistencia Social y Comunitaria*) as well as for Mr. **Daniel Piñacue**, indigenous Governor, and two members of the local community, Messrs. **José Daniel Ramos Yatacúe** and **Mario Yalanda Tombé**, reportedly two indigenous guards. The four of them were accused of “aggravated kidnapping and causing serious personal injuries” against Mr. Danilo Chaparral Santiago, an Army Captain attached to the 15th Counter-Guerrilla Unit “Libertadores”. This member of the army had infiltrated the Social and Community Indigenous Resistance Group meeting that took place in the María indigenous territory in Piendamó, bringing objects with him that could have been used to discredit the Social and Community Indigenous Resistance Group. Mr. Chaparral was arrested by the indigenous authorities and put on trial according to the customs of the Assembly, in accordance with indigenous jurisdiction within their territories, as recognised by the Colombian Constitution. The indigenous leaders for whom an arrest warrant was issued ensured the principles of due process were abided by in the proceedings against Mr. Chaparral to ensure that his rights were respected. By the end of 2009, the investigation was still open and the issuance of a new arrest warrant could not be ruled out.

Human rights defenders once more victims of paramilitary threats

Violence against human rights defenders by paramilitary groups has taken place for many years, yet is still far from over. The Colombian State

has been incapable of preventing the systematic violence against defenders¹⁷ carried out by the so-called “emerging groups” – armed groups that have appeared following the alleged demobilisation of the paramilitary groups through the implementation of the Justice and Peace Law, an initiative of President Uribe’s Government approved in 2005.

A means of conditioning the work carried out by human rights defenders was intimidation, including through numerous death threats. Throughout 2009, some of the victims of threats were Ms. **Blanca Irene López** and Ms. **Claudia Erazo**, lawyers and members of the Yira Castro Legal Corporation (*Corporación Jurídica Yira Castro* – CJYC), and Mr. **Rigoberto Jiménez**, leader of the National Displaced Persons Organisation (*Coordinación Nacional de Desplazados* – CND)¹⁸, who received death threats via emails on February 4 and March 26 sent by the Black Eagles (*Águilas Negras*) and the United Self-Defence Forces of Colombia – Capital Block (*Bloque Capital de Autodefensa Unidas de Colombia* – AUC). By the end of 2009, the Prosecutor General’s Office had not only filed the case, but had ordered to certify the documents needed in order to begin investigations into the complainants for the alleged crime of false complaints. Another case in which threats were used to intimidate human rights defenders took place in March, when the CCJ received a fax sent on March 2, 2009 by a paramilitary group declaring Ms. **Lina Paola Malagón Díaz**, a lawyer at the Commission¹⁹, to be a “military target”. Another member of the Commission was also threatened in the fax, whose name was not disclosed, and who had to leave the country. By the end of 2009, no progress had been made in the investigation of this threat. Mass emails sent to NGOs were frequently used by these new paramilitary groups. A clear example being the death threats sent by the Bucaramanga metropolitan block called “New Generation Black Eagles” (*Nueva Generación Águilas Negras*) on February 2, 2009 to a large group of

17/ The lack of Government action following protection requests made by human rights defenders is telling. Proof of this is the letter sent by Mr. Jorge Molano Rodríguez, member of the Non-Institutionalised Defenders Network (*Red de Defensores No Institucionalizados*) to the highest national authorities requesting protection for his activities as a human rights lawyer. Whilst there has been a partial response to this protection request, the lawyer’s security situation continues to be precarious because of the cases he represents.

18/ It is important to highlight the ongoing acts of intimidation that have been carried out against members of both organisations since 2007, events that were denounced and received no response from official authorities.

19/ Ms. Malagón Díaz produced a report on the impunity that exists for crimes committed against trade unionists. This report was important in the hearing that took place in the US Congress and during which the situation of Colombian workers’ rights and anti-trade unionist violence was analysed. This event led to statements by the Colombian President who accused participants in the meeting of distorting the truth, motivated by “political hatred”.

human rights organisations, including the Association of Family Members of the Detained and Disappeared (*Asociación de Familiares de Detenidos Desaparecidos de Colombia* – ASFADDES), the Colombian Association for Peace (*Asociación por la Paz de Colombia* – ASOPAZ), the Feminine Popular Organisation (*Organización Femenina Popular* – OFP) and the Foundation Committee for Solidarity with Political Prisoners (*Fundación Comité de Solidaridad con los Presos Políticos* – FCSP). Similarly, another paramilitary group that fits into the same category, known as “Los Rastrojos”, sent a press release to the following organisations on November 3, 2009: CREAR, New Rainbow Corporation (*Corporación Nuevo Arco Iris*), the Departmental Human Rights Committee (Comité Departamental de Derechos Humanos), the Development and Peace Foundation (*Fundación Desarrollo y Paz* – FUNDEPAZ), the National Victims of State Crimes Movement (*Movimiento Nacional de Víctimas de Crímenes de Estado* – MOVICE), the United Nations Development Programme (UNDP), the Pastos School (*Escuela de los Pastos*), Tumaco Pastoral Aid (*Pastoral Social de Tumaco*), the Indigenous Unity for the Awa People (*Unidad Indígena del Pueblo Awá* – UNIPA) and the Ricaurte Elders’ Council (*Cabildo Mayor Awá de Ricaurte* – CAMAWARI) in the Nariño department, declaring them to be a “military target”.

Arbitrary detentions and judicial harassment against defenders fighting for truth, justice and reparation

In addition to the violence carried out by paramilitary groups, human rights defenders fighting for truth, justice and reparation faced judicial harassment, used by the Colombian State as a means of intimidation. Detentions for no reason, on several occasions as the result of tip offs made by paid informants working for the security services, the police or the army, the opening of judicial proceedings or the threat of doing so, constitute serious harassment whose aim is to dissuade those who carry out human rights activities. An example worthy of mention is the reopening of the investigations against the priest Father Javier Giraldo S. J. and Mr. **Elkin Ramírez Jaramillo**, lawyer and Director of the Corporation Judicial Freedom (*Corporación Jurídica Libertad*), ordered by the Bogotá Public Prosecutor’s Office 216 on February 13, 2009 for the crimes of “slander”, “libel” and “false reports”, following allegations made by a member of the Colombian army. By the end of 2009, the investigation of slander and libel had concluded because of lack of evidence. On April 8, 2009, the Public Prosecutor’s Office 188 delegated to Bogotá criminal magistrates courts also took the decision to conclude the investigation of “false reports”. However, after an appeal, on October 22, 2009, the Public Prosecutors Office 11 delegated to the Bogotá Superior Court revoked the decision to conclude the investigation, ordering the Public Prosecutor’s Office

188 to continue the investigation and requesting also a preliminary inquiry of Father Javier Giraldo S.J and in so doing, linking him to the process. By the end of 2009, the investigation remained open, the delays in the criminal proceedings against the human rights defenders resulting in consequences for their work. Furthermore, at the end of 2009, Mr. **Carmelo Agámez Berrío** remained arbitrarily detained in Sincelejo jail, in the Sucre department, since November 15, 2008. Mr. Agámez is a member of the Sucre branch of MOVICE and was accused of “conspiracy to commit a crime” for allegedly participating in a meeting in the Verrugas hamlet, San Onofre municipality, in 2002 and to have presented himself as a candidate in local council elections in the 2003-2007 period, with the support of paramilitary structures. It was reported that this is an entirely false accusation, given that Mr. Agámez has been a member of the opposition and his supporters and support bases were systematically threatened by those same paramilitary structures. On May 13, 2009, Mr. **Martín Sandoval**, President of the Arauca office of the Permanent Committee for the Defence of Human Rights (*Comité Permanente por la Defensa de los Derechos Humanos* – CPDH), who was accused of “rebellion” at the end of 2008, was freed and pronounced innocent by the Saravena Public Prosecutor’s First Office after six months of arbitrary detention. The harassment of human rights defenders was also illustrated by the detention in unclear circumstances of Messrs. **Winston Gallego** and **Jorge Meneses**, members of the Sumapaz Foundation (*Fundación Sumapaz*), in the framework of an investigation against various organisations. The said investigation was founded on intelligence reports produced jointly by the Army Regional Military Intelligence Unit (*Regional de Inteligencia Militar del Ejército* – RIME) and the Prosecutor General’s Office Technical Investigation Unit (*Cuerpo Técnico de Investigaciones* – CTI), which consider the activities carried out by these organisations to be criminal. The accusations were also based on the statements of two witnesses, demobilised members of the paramilitary groups, who as students at Antioquia University carry out intelligence activities for the Fourth Brigade on the university campus. While Mr. Jorge Meneses was subsequently released, as of the end of 2009, Mr. Winston Gallego remained detained in the Doña Juana prison, La Dorada Caldas department²⁰, and the investigation against both of them continued in the Medellín 74th Public Prosecutor’s Office, delegated to the Fourth Brigade. Similarly, on March 2, 2009, Mr. **Gabriel Henao** and Mr. **Narciso Beleño**, respectively Acting President and Treasurer

20 / Mr. Gallego was released pending trial in May 2010. Until that time, Mr. Gallego continued his work as a human rights defender denouncing, together with other social prisoners, human rights violations in the prison, particularly cruel, inhuman and degrading treatment to prisoners by agents of the National Prisons Institute (*Instituto Nacional Penitenciario y Carcelario* - INPEC).

of the Farmers and Mining Federation of Southern Bolívar (*Federación Agrominera del Sur de Bolívar*), and Mr. **Víctor Acuña**, Spokesman for the Southern Bolívar Working Group (*Mesa de Interlocución del Sur de Bolívar*), were arrested without an arrest warrant, a few days after their meeting with high ranking officials of the Colombian Government about the human rights situation and impunity in the southern Bolívar region²¹. The three of them were transferred to the National Intelligence and Legal Investigations Service (*Servicio de Investigaciones Judiciales e Inteligencia Nacional – SIJIN*) in Bucaramanga, where they were interrogated, their fingerprints were taken and they were asked to sign a document confirming that they had been treated well, which they refused to do. They were released the same day, and at no time were they informed as to why they had been detained. The events were reported to the relevant authorities and a right to petition was filed to find out why they had been detained. When the national police failed to respond to the right to petition, a writ for the protection of their rights was filed and the Supreme Court ordered that a response be provided. On July 8, 2009, they were informed that they were detained for reasons including “a response to a telephone call made by a citizen”.

Assassination of a defender of LGBT rights

Defenders of Lesbian, Gay, Bi-sexual and Transgender (LGBT) rights were also victims of threats and repeated attacks during 2009. The assassination of Mr. **Álvaro Miguel Rivera Linares** in his apartment on March 6, 2009 particularly moved the international community²². Like other human rights defenders who were assassinated, Mr. Rivera Linares had received threats on a number of occasions. Furthermore, on April 30, 2009, various computers were stolen from *Radio Diversa*, one of the radio stations that reports on the LGBT community situation in Bogotá since February 2008. Shortly afterwards, on May 5, 2009, a group called “the Organisation” (*La Organización*) sent a threatening email to Mr. **Carlos Serrano**, a Chilean based in Colombia for five years and Director of Radio Diversa, as well as the employees of the radio station. The message announced an alleged attack against the radio station if Mr. Serrano did not leave the country within a week.

21/ At the same time, lawyer **Leonardo Jaimes Marín**, a member of the Foundation Committee for Solidarity with Political Prisoners (FCSPP), was threatened by the police when he tried to intervene to ensure that the rights of arrested leaders were respected.

152 22/ The assassination of Mr. Linares was included in IACHR Press Release No. 11/09, March 12, 2009.

Threats against women's rights defenders

Throughout 2009, there were frequent threats, harassments against and even assassinations of women human rights defenders, including those who defend women's rights²³. For example, on June 13, 2009, a number of suspicious looking men watched the Centre for Comprehensive Promotion for Women and Families "Open Workshop" (*Centro de Promoción Integral para la Mujer y la Familia "Taller Abierto"*)²⁴ in Jamundí municipality, Valle del Cauca, where a community workshop was being held for women leaders²⁵. This was not the first incident of harassment of the Open Workshop leaders and, as previously, the situation was reported to the Prosecutor General's Office, but no progress was made in the investigation. Women's human rights organisations were also victims of threats sent via email by paramilitary groups. On October 29, 2009, the Soacha Dialogue and Management Group (*Mesa de Interlocución y Gestión de Soacha*) and the National Support Group for Displaced Persons Organisations (*Mesa Nacional de Fortalecimiento a Organizaciones de Población Desplazada*) received a pamphlet in their inboxes entitled "Fifth Black Eagles Bulletin", in which various displaced women were declared a target of this paramilitary group, all of them leaders in Bogotá and Cundinamarca municipalities. Furthermore, the message contained both death threats against the women and against leaders of the displaced persons organisations that comprise the Soacha Dialogue and Management Group and the National Support Group for Displaced Persons Organisations and the announcement of an "extermination plan" of those who run these organisations²⁶. They also received text message along the same lines. For example, on November 21, 2009, Ms. Yolanda Guzmán, Ms. Clara Feijoo and Ms. Nidia Isaza, three displaced population leaders in Cundinamarca working with the Human Rights Observatory for Displaced Women in Colombia "in armed conflict situations, women also have rights" (*Observatorio de Derechos Humanos de las Mujeres en Colombia "en situaciones de conflicto armado las mujeres también tienen derechos"*) initiative, which works on training, advocacy and monitoring processes of the human rights situation of displaced women,

23/ According to the Women and Conflict Committee (*Mesa de Mujer y Conflicto*), from July 1996 to May 2009, at least 40 human rights defenders were victims of violations of the right to life. Of them, six were victims of enforced disappearance. In one of the cases of enforced disappearance, the victim was freed. See Women and Conflict Committee Report, *IX Informe sobre Violencia Sociopolítica Contra Mujeres, Jóvenes y Niñas en Colombia*, December 2009.

24/ Since it was founded, the Centre for Comprehensive Promotion for Women and Families "Open Workshop" has focused on promoting empowerment, rights promotion and defence processes, the prevention of HIV/AIDS, the promotion of self-organisation and civil participation of women, particularly displaced women, young people and indigenous communities in the Valle and Cauca departments.

25/ See Sisma Mujer Corporation (*Corporación Sisma Mujer*).

26/ See CCJ and Sisma Mujer Corporation and Human Rights Observatory for Displaced Women in Colombia "in armed conflict situations, women also have rights" Press Release, November 17, 2009.

received a threatening text message that was also sent to two women who are not members of the Observatory²⁷. Previously, the three same leaders had been victims of threats against their lives, which were reported to the authorities. Investigations were carried out by the Prosecutor General's Office, although there was no concrete result by the end of 2009.

Urgent Interventions issued by The Observatory in 2009

Names	Violations / Follow-up	Reference	Date of Issuance
Mr. Carmelo Agámez Berrío	Arbitrary detention / Fear for personal security and integrity	Urgent Appeal COL 021/1108/OBS 202.1	January 8, 2009
	Arbitrary detention / Judicial proceedings / Threats	Urgent Appeal COL 021/1108/OBS 202.2	November 19, 2009
Mr. Yuri Neira	Harassment / House raid / Attack / Fear for security	Urgent Appeal COL 001/0109/OBS 014	January 23, 2009
Yira Castro Legal Corporation (CJYC) / Ms. Blanca Irene López, Ms. Claudia Erazo and Mr. Rigoberto Jiménez	Threats / Harassment / Intimidation	Urgent Appeal COL 003/0209/OBS 030	February 18, 2009
	New threats	Urgent Appeal COL 003/0209/OBS 030.1	March 30, 2009
Mr. Martín Sandoval	Arbitrary detention / Judicial harassment	Open Letter to the authorities	February 18, 2009
Mr. Hollman Morris	Death threats / Harassment	Urgent Appeal COL 004/0209/OBS 031	February 19, 2009
Association of Family Members of the Detained and Disappeared (ASFADDES), Association for Peace in Colombia (ASOPAZ), Feminine Popular Organisation (OFP), Worker's Union (USO), Foundation Committee for Solidarity with Political Prisoners (FCSP) and United Worker's Federation (CUT)	Death threats / Harassment	Urgent Appeal COL 005/0209/OBS 032	February 19, 2009
Ms. Alba Nelly Murillo	Presumed enforced disappearance	Urgent Appeal COL 006/0209/OBS 034	February 27, 2009
Ms. Lina Paola Malagón Díaz and Mr. José Luciano Sanín Vásquez	Death threats	Urgent Appeal COL 007/0309/OBS 036	March 4, 2009

27/ See Sisma Mujer Corporation. The Human Rights Observatory for Displaced Women in Colombia "in armed conflict situations, women also have rights" is an initiative in which training, advocacy and monitoring processes related to the situation of displaced women are being developed. 600 displaced women and 60 leaders are currently members of the Observatory. They belong to approximately 75 displaced persons organisations (mixed and women) in six regions of the country.

Names	Violations / Follow-up	Reference	Date of Issuance
Messrs. Leovigildo Mejía, Luis Alberto Arango Crespo, Guillermo Antonio Ramírez Ramírez, Leoncio Gutiérrez and José Jair Valencia Agudelo	Assassinations / Attempted assassination	Urgent Appeal COL 008/0309/OBS 039	March 4, 2009
Messrs. Gabriel Henao, Narciso Beleño, Víctor Acuña and Leonardo Jaimes Marín	Arbitrary detention / Judicial harassment	Urgent Appeal COL 009/0309/OBS 041	March 5, 2009
Mr. Álvaro Miguel Rivera Linares	Assassination	Urgent Appeal COL 010/0309/OBS 046	March 10, 2009
Father Javier Giraldo S.J and Mr. Elkin Ramírez Jaramillo	Judicial harassment	Urgent Appeal COL 011/0309/OBS 048	March 13, 2009
Mr. Edgar Martínez	Assassination	Urgent Appeal COL 012/0409/OBS 066	April 27, 2009
Ms. Ana Teresa Bernal, National Network of Initiatives for Peace and Against War (REDEPAZ), Mr. Gustavo Gallón, Mr. Hollman Morris and Mr. Alirio Uribe, Colombian Commission of Jurists (CCJ), Consultancy on Human Rights and Displacement (CODHES), Research and Popular Education Centre (CINEP) and José Alvear Restrepo Lawyer's Collective (CCAJAR)	Espionage / Harassment	Open Letter to the authorities	May 4, 2009
Ms. Aída Quilcué	Death threats / Harassment	Urgent Appeal COL 013/0509/OBS 076	May 14, 2009
Mr. Asdrúbal Sánchez Pérez, Mr. Edgar Martínez, Mr. Víctor Franco Franco, Mr. Milton Blanco Leguizamón and Ms. Vilma Cárcamo Blanco	Assassinations	Open Letter to the authorities	May 14, 2009
Ms. Aida Quilcué and Mr. Feliciano Valencia, Mr. Daniel Piñacue, Mr. José Daniel Ramos Yatacue and Mr. Mario Yalanda Tombé	Judicial harassment	Urgent Appeal COL 014/0609/OBS 083	June 16, 2009
CCAJAR / Ms. Ana Teresa Bernal, Mr. Gustavo Gallón, Ms. Shirin Ebadi, Mr. Sidiki Kaba, Mr. Antoine Bernard, Father Javier Giraldo and Mr. Alirio Uribe	Surveillance / Espionage / Harassment	Press Release	June 23, 2009
Mr. Winston Gallego Pamplona and Mr. Jorge Meneses	Arbitrary detention / harassment	Urgent Appeal COL 015/0609/OBS 089	June 24, 2009
	Ongoing arbitrary detention / Arbitrary transfer / Judicial harassment	Urgent Appeal COL 015/0609/OBS 089.1	December 17, 2009

Names	Violations / Follow-up	Reference	Date of Issuance
Mr. Erasmo Cubides	Assassination	Urgent Appeal COL 016/0909/OBS 138	September 23, 2009
Mr. Augusto León Lugo	Attempted assassination	Urgent Appeal COL 017/1009/OBS 148	October 14, 2009
CREAR, New Rainbow Organisation, the Departmental Human Rights Committee, the Development and Peace Foundation (FUNDEPAZ), the National Victims Movement (MOVICE), the United Nations Development Programme (UNDP), the Pastos School, Tumaco Pastoral Aid, the Indigenous Unity for the Awa People (UNIPA) and the Ricaurte Elders Council (CAMAWARI)	Death threats	Urgent Appeal COL 018/1109/OBS 160	November 5, 2009
Mr. John Smith Porras Bernal	Death threats / Harassment	Urgent Appeal COL 019/1109/OBS 168	November 17, 2009
Ms. Ingrid Vergara	Death threats / Harassment	Urgent Appeal COL 019/1109/OBS 169	November 18, 2009
Mr. Jorge Eliécer Molano Rodríguez	Harassment / Intimidation	Urgent Appeal COL 020/1209/OBS 180	December 4, 2009
Ms. Nubia Patricia Acosta, Mr. Jhon Jairo Betancour, Ms. Luz Marina Arroyabe, Father Javier Giraldo S.J., Mr. Abilio Peña, Mr. Danilo Rueda, Mr. Rodrigo Montoya and Ms. Marcela Montoya / Inter-Church Justice and Peace Commission	Threats / Defamation / Intimidation	Urgent Appeal COL 021/1209/OBS 188	December 14, 2009
National Union of Food Industry Workers (SINALTRAINAL) / Messrs. Luis Javier Correa Suárez, Luis Eduardo García, Jairo Méndez, David Flores, Cesar Plazas, José García Pedro Nel Taguado, Luis Sánchez Pedro Zorrilla, Hebert Arredondo, Edgar Paez and El Mono Olaya	Death threats / Intimidation	Urgent Appeal COL 022/1209/OBS 190	December 15, 2009

CUBA

OBSERVATORY FOR THE PROTECTION OF HUMAN RIGHTS DEFENDERS
ANNUAL REPORT 2010

Political context

Two years have passed since Mr. Fidel Castro stepped down from power and yet the situation in Cuba has not changed very much. At the international level, with the election of a new American President came the hope that the US-Cuban relations might improve, but no changes were seen in 2009. As such, the economic embargo that has been in place since 1962, with very serious consequences on access to food and health in Cuba, remained in force. On October 28, 2009, the UN General Assembly condemned the United States for not ending the economic embargo against Cuba¹, which continued to be basic pretext for political repression and for limiting fundamental freedoms on the island.

As a member of the UN Human Rights Council², Cuba was subjected to the Universal Periodic Review in February 2009. This review led to more than 80 recommendations, 60 of which Cuba accepted³. These recommendations, including those on the ratification of the International Covenant on Economic, Social and Cultural Rights, the International Covenant on Civil and Political Rights and other treaties related to the prohibition of torture, still had to be implemented. Furthermore, Cuba also still had to follow up on recommendations to invite all UN Special Rapporteurs to the island, especially those on human rights defenders and freedom of expression.

At the regional level, on June 3, 2009, the Organisation of American States (OAS) adopted Resolution AG/RES. 2438 (XXXIX-O/09), which rendered null and void the 1962 Resolution to exclude the Cuban Government from participating in the inter-American system.

At the national level, serious violations of civil and political rights persisted. Cuba continued to harass human rights defenders and disregard the

1/ See Resolution A/RES/64/6 from October 28, 2009. This resolution was supported by the 187 countries that voted against the embargo. In December 2009, the States present at the XIX Ibero-American Summit also demanded that the US Government ends its economic, commercial and financial blockade against Cuba, as well as stops applying the Helms-Burton Law.

2/ On May 12, 2009, Cuba was re-elected as a member of the Human Rights Council for another three-year term.

3/ See Human Rights Council, *Report of the Working Group on the Universal Periodic Review - Cuba*, United Nations Document A/HRC/11/22, May 29, 2009.

legitimacy of their activities, to repress political dissidents, and to hinder freedoms of movement, association, expression and peaceful assembly. In 2009, the number of prisoners of conscience remained high, reaching a total of 201 cases documented by the Cuban Commission for Human Rights and National Reconciliation (*Comisión Cubana de Derechos Humanos y Reconciliación Nacional* – CCDHRN)⁴. The majority of detainees were accused of terrorism or other acts against State security, including attack, contempt, slander of institutions and organisations of heroes and martyrs, public disorder, being “socially dangerous with a disposition to commit a crime” (*peligrosidad social pre-delictiva*), insubordination, disgraceful conduct, illegally exiting the country, espionage and pirating. Among the people detained for these crimes are also independent journalists⁵. Prisoners of conscience suffer from deplorable prison conditions that affect their physical integrity. The case of Mr. Orlando Zapata Tamayo, a member of the Alternative Republican Movement (*Movimiento Alternativa Republicana*) and the National Civic Resistance Committee (*Consejo Nacional de Resistencia Cívica*), who began a hunger strike on December 3, 2009 to protest against his arbitrary detention and poor treatment in prison, is very telling of the situation⁶.

When it was announced that the UN Special Rapporteur on Torture would be visiting the country, Cuba began to make a series of changes to its prison policy. Facilities were altered, some prison rules were changed⁷, some inmates were transferred to lower security detention centres, while others were transferred to closed labour camps in the mountains, “where they can enjoy the air and sun, but are subjected to rigorous agricultural labour all

4/ See CCDHRN Report, *Cuba a Inicios del 2010: Continúa Empeorando la Situación de Derechos Humanos*, January 19, 2010. The 201 documented cases show a similar level to that of 2008, when 205 cases were recorded.

5/ The work of journalists is constrained by the “Law for the Protection of National Independence and the Economy of Cuba” under which people can be detained for up to 20 years for making commentaries that the State believes will help the “enemy”. Similarly, under the “Enemy Propaganda Law”, a person can serve up to 15 years in prison for spoken or written propaganda. In addition, access to the Internet is limited in Cuba, thus being one more obstacle to freedom of expression.

6/ Mr. Orlando Zapata Tamayo died on February 23, 2010 at the “Hermanos Ameijeiras” hospital in Havana, as a result of the various types of mistreatment and abuse that he suffered while in detention. The effects of this mistreatment worsened during his hunger strike and, according to reports, did so because of a lack of proper medical attention.

7/ According to the Cuban Council of Human Rights Rapporteurs (CRDHC), some of the changes to prison regulations include allowing prisoners to wear watches and rings, etc. Furthermore, in some cases, officials distributed certain goods to prisoners, such as a pair of underpants per prisoner, toilet paper, a toothbrush and a disposable razor, among other things.

day long and are paid meagre wages. This allowed the authorities to clear out the penitentiaries, eliminating overcrowding and other deficiencies”⁸.

Moreover, it should be noted that some NGOs in Cuba were still not recognised by the Government, although they tried to register themselves as stipulated by the law. The CCDHRN, for example, has sought this recognition since 1987 in accordance with the Law on Association, but in vain. The State does not respond to certain requests so that these organisations remain “illegal” and so that the Criminal Code can be used against their members⁹. Likewise, the crime of being “socially dangerous with a disposition to commit a crime”¹⁰, used to harass defenders, remained in effect.

“Ongoing and low profile” repression

The policy of “ongoing and low profile” repression of human rights defenders is based on constant harassment and monitoring, systematic arrests that last either a few hours or a few days, threats, and short but abusive interrogations. Human rights defenders were threatened with having to leave Havana, being sentenced up to twenty years in prison or facing restrictions to their freedom of movement, among other things.

For instance, the Ladies in White (*Las Damas de Blanco*) continued to suffer from constant monitoring, harassment and threats from agents from the Department of State Security (*Departamento de la Seguridad del Estado – DSE*) and Committees for the Defence of the Revolution (*Comités de Defensa de la Revolución*)¹¹. For example, on December 9 and 10, 2009, the Ladies in White were visited by State Security agents, threatened and then brutally beaten in the streets of Havana as they were organising a peaceful demonstration to celebrate Human Rights Day¹².

The members of the Cuban Council of Human Rights Rapporteurs (*Consejo de Relatores de Derechos Humanos de Cuba – CRDHC*) as well as the people who work with them were also victims of the

8 / See CRDHC Bulletin, March 2009.

9 / See Cuban Democratic Directory.

10 / Articles 72 to 84 of the Criminal Code. There are no exact figures but, according to the CCDHRN, several thousands of Cubans are imprisoned for this crime, including human rights defenders.

11 / The Ladies in White have suffered various acts of harassment because of their fight for the release of their family members, spouses, fathers, brothers, sons, nephews, and even friends, who were arrested during a period known as the Black Spring of 2003. Between March 18 and 20, 2003, 75 Cuban opponents were detained and, a few weeks later, were charged with “attacking the State’s independence” and given long sentences. The majority of these people are considered prisoners of conscience because they did not commit any crime, but are being punished for having peacefully exercised their fundamental freedoms.

12 / See Cuban Democratic Directory.

State's approach to permanent, low profile repression. In January 2009, Mr. **Sergio Díaz Larrastegui**, a visually impaired English professor, was fired from the Copextel company for hosting the CRDHC in his home as well as receiving Mr. **Juan Carlos González Leiva**, Secretary General of the CRDHC, and Ms. **Tania Maceda Guerra**, an independent journalist from the CRDHC. On May 8, 2009, Mr. Díaz Larrastegui was detained for the entire afternoon at the police station in Luyanó, Havana. Although he is blind, deaf and diabetic, he was placed in an isolated cell, where he was subjected to a long, severe interrogation and was mistreated by State Security officials. Members of the DSE pressured him to cooperate with them, allowing them to put microphones and cameras in his home, and to inform them of the people passing through his house. They also told him that the people he was hosting in his house were counterrevolutionaries and should therefore leave. On May 13, 2009, Mr. Sergio Díaz Larrastegui, Mr. Juan Carlos González Leiva and Ms. Tania Maceda Guerra were summoned to appear before a DSE and national police official at the police station. There they received a fine of 4,500 pesos and were told to leave Mr. Díaz Larrastegui's house and return to their native province of Ciego de Ávila. On August 14, 2009, Ms. **Doralis Álvarez Soto** and Ms. **Yudelmis Fonseca Rondón**, reporters for the CRDHC Information Centre, were summoned and arrested by DSE agents, who subjected them to cold temperatures for four hours¹³. Both were threatened with prison time and exile from Havana. Furthermore, on August 14, 2009, Cuban Military Intelligence Services cut the Information Centre's phone line for five days. Two weeks earlier, their email address had been disabled. This harassment of the Council of Human Rights Rapporteurs continued throughout 2009.

In addition, the policy of rejecting visas to leave the country remained in effect. For instance, Mr. **Oscar Mario González Pérez**, an independent journalist from the CRDHC, was not granted a visa to leave the country in order to visit his daughter in Sweden. He has been denied this visa for more than ten years, which prevents him from leaving the country¹⁴.

Obstacles to freedom of assembly

The legal framework is not the only obstacle to legalising human rights organisations – their members were also subjected to threats and constant harassment, thus impeding their freedom of assembly. For example, the Ladies in White received threats that prevented them from holding meetings. On February 10, 2009, a DSE agent came to Ms. **Ariana Montoya**

13/ Confinement to a cell or office with air conditioning placed on full blast is a systematic method of mistreatment used by Cuban State security in prisons.

Aguilar's house and strictly forbade her from going to Saint Rita of Cascia Church, one of the places where the Ladies in White often gather. On March 8, 2009, the authorities tried to prevent various Ladies in White from participating in an International Women's Day event in Havana. Ms. **Maritza Castro**, Ms. **Ivonne Mayeza Galonne** and Ms. **Neris Castillo**, were arrested before being released three hours later, while other Ladies, whose names were not disclosed, were prevented from leaving their houses to attend the event.

The peaceful demonstrations that were organised in honour of the International Human Rights Day were also repressed by the State. Thus, the CCDHRN published an incomplete list of the names of 73 people who were either detained by the police or kept in their houses without any warrant on December 10, 2009¹⁵.

In terms of independent journalists, on November 6, 2009, Ms. **Yoani Sánchez**, a well-known blogger, and Mr. **Orlando Luis Pardo Lazo**, a writer, were detained and beaten in the middle of Havana to prevent them from attending an anti-violence event organised by independent artists. The event involved a march down a central avenue of the Cuban capital in protest of all forms of violence in Cuban society, including State violence. The participants were going to carry signs that read the slogan "Join in and say no to violence". Other bloggers, such as Ms. **Claudia Cadelo**, were also detained to prevent them from participating in the march. The detainees were forced to get into State Security vehicles with unusual license plates and were released a few hours later¹⁶.

Ongoing arbitrary detention of several human rights defenders

In 2009, the Cuban Government continued to arbitrarily detain and prosecute human rights defenders¹⁷. For instance, Mr. **Darsi Ferrer Ramírez**, Director of the "Juan Bruno Zayas" Health and Human Rights Centre (*Centro de Salud y Derechos Humanos*), was arrested on July 21, 2009 and accused of having bought illegal materials for his house. A few days earlier, he and his wife had been arrested for a few hours in order to prevent them from attending a peaceful march for freedom of expression in Havana. While under arrest, both were interrogated and Mr. Ferrer Ramírez was handcuffed and beaten by eight policemen. At the end of 2009, Mr. Ferrer Ramírez remained detained in a high security prison

15 / A complete list is available at www.miscelaneasdecuba.net/web/article.asp?artID=24808.

16 / See Cuban Democratic Directory.

17 / See CRDHC Report, *Informe Sobre la Situación de Derechos Humanos en Cuba: enero a diciembre de 2009*, January 26, 2010.

for inmates convicted of violent crimes¹⁸. The prevalence of this sort of detention represents a step backwards for human rights defenders in Cuba.

Similarly, the human rights defenders and independent journalists who were arrested in March 2003 remained imprisoned at the end of 2009, including Messrs. **Normando Hernández González**, Director of Camagüey's College of Journalists (*Colegio de Periodistas de Camagüey*), and **Oscar Elías Biscet**, Founder and President of the Lawton Foundation (*Fundación Lawton*). In addition, Messrs. **Juan Bermúdez Toranzo** and **José Luis Rodríguez Chávez**, respectively National Vice-President and Vice-President of the Cuban Foundation for Human Rights (*Fundación Cubana de Derechos Humanos*), as well as Mr. **Julián Antonio Monés Borrero**, President of the "Miguel Valdés Tamayo" Cuban Movement for Human Rights (*Movimiento Cubano por los Derechos Humanos "Miguel Valdés Tamayo"*), remained in prison as of the end of 2009 after being arrested in 2008. Likewise, Mr. **Ramón Velázquez Toranzo**, a journalist for the independent agency *Libertad*, was still being held at "La Piedra" forced labour camp, after being arrested on January 16, 2007 for peacefully demonstrating for freedom of expression on December 10, 2006¹⁹. Mr. **Leodán Mangana López**, Municipal Delegate of the Cuban Foundation for Human Rights, was released from prison in 2009 after he served part of his sentence, on the basis of the Cuban law, which makes provision for the crime of being "socially dangerous with a disposition to commit a crime".

Urgent Interventions issued by The Observatory in 2009

Names	Violations / Follow-up	Reference	Date of Issuance
Ladies in White / Ms. Maritza Castro, Ms. Ivonne Mayesa Galano, Ms. Neris Castillo and Ms. Ariana Montoya Aguilar	Threats / Harassment	Urgent Appeal CUB 001/0308/OBS 042.2	March 10, 2009
Mr. Juan Carlos González Leiva, Mr. Sergio Díaz Larrastegui and Ms. Tania Maceda Guerra	Threats / Harassment	Urgent Appeal CUB 001/0509/OBS 073	May 14, 2009
Cuban Council of Human Rights Rapporteurs Information Centre / Ms. Doralis Álvarez Soto, Ms. Yudelmis Fonseca Rondón, Ms. Tania Maceda Guerra, Mr. Juan Carlos González Leiva and Mr. Virgilio Mantilla Arango	Threats / Harassment / Detention	Urgent Appeal CUB 002/0809/OBS 124	August 25, 2009

18/ See CCDHRN Report, August 2009.

19/ Mr. Ramón Velázquez Toranzo was released from prison on January 19, 2010.

GUATEMALA

OBSERVATORY FOR THE PROTECTION OF HUMAN RIGHTS DEFENDERS
ANNUAL REPORT 2010

Political context

In 2009, Guatemala continued to experience alarming levels of violence and assassinations¹, with a level of impunity that reached 98 per cent². According to the Guatemala Human Rights Attorney General, this year was the bloodiest in the country's history with 6,498 murders³. This increased violence seriously affected human rights defenders. The Unit for Protection of Human Rights Defenders in Guatemala (*Unidad de Protección a Defensores y Defensoras de Derechos Humanos de Guatemala* – UDEFEGUA) registered 353 acts of aggression, the highest levels of violence over the decade⁴.

The serious problems related to the administration of justice resulted in impunity remaining intact as well as corruption and the existence of illegal groups and clandestine security structures⁵ embedded in the official machinery, generating a vicious circle of violence. To resolve this situation, the International Commission Against Impunity in Guatemala (*Comisión Internacional Contra la Impunidad en Guatemala* – CICIG) was established in 2007 and its mandate was renewed in 2009. By the end of 2009, the work of the CICIG had resulted in the following laws being passed: the Law on Arms and Munitions (April 2009), the Law on the Strengthening of Criminal Prosecution (April 2009) and the Law on Criminal Competence in High Risk Proceedings (November 2009). However, both the implementation of these laws and advances in the investigation and criminal prosecution of the cases taken on by the CICIG

1/ See Human Rights Council, *Report of the Special Representative of the Secretary General on the situation of human rights defenders, Hina Jilani - Addendum - Mission to Guatemala*, United Nations Document A/HRC/10/12/Add.3, February 16, 2009.

2/ See Human Rights Council, *Report of the Special Rapporteur on extrajudicial, summary or arbitrary executions, Philip Alston follow up to country recommendations - Guatemala*, United Nations Document A/HRC/11/2/Add.7, May 4, 2009.

3/ During the bloodiest years of the Guatemalan conflict, from 1982 to 1983, 3,629 people were assassinated. See Guatemalan Human Rights Commission (*Comisión de Derechos Humanos de Guatemala* - CDHG).

4/ See UDEFEGUA Report, *Violencia, respuesta a 10 años de lucha: Informe sobre situación de Defensores y Defensoras de Derechos Humanos Enero-Diciembre de 2009*, February 2010.

5/ See International Commission Against Impunity in Guatemala (CICIG) Report, *Informe de dos años de actividades, 2007 a 2009 a la Comisión Interamericana de Derechos Humanos*, November 2009.

remain to be seen, as well as whether the authorities take its recommendations into account.

Moreover, following various Government decisions, the country was once more becoming militarised. In 2009, the Government significantly increased the military budget, increasing the number of soldiers by 5,000. It is also of concern that the current Government is the first to form military detachments since the Peace Agreements in 1996, primarily in the areas where the internal conflict is most intense⁶, where, surprisingly, the crime levels are low compared to the rest of the country but, at the same time, there are strong economic interests and substantial social resistance in these areas⁷, which could mean greater risks for human rights defenders. Community, peasant farmers and indigenous leaders in these departments could face increased repression by the military when they carry out protests. Furthermore, the tendency to criminalise social protest could become more acute.

The Human Rights Prosecutor's Office responsible for carrying out investigations into the crimes committed during the armed conflict, particularly the genocide and enforced and involuntary disappearances that took place between 1960 and 1996, does not have sufficient material or human resources⁸. In spite of this, the complainants and the Prosecutor in the genocide case were able to convince the judge to order the declassification of four military plans. The army handed over two of the four documents to the judge in charge of the case.

Yet, this year, Guatemala condemned Army Commissioner Felipe Cusanero Coj, who was sentenced to 150 years in prison for the disappearance of six people⁹. On December 3, 2009, this sentence was followed by that of retired Colonel Marco Antonio Sánchez Samayoa and three ex-Army Commissioners Mr. José Domingo Ríos, Mr. Gabriel Álvarez Ramos and Mr. Salomón Maldonado Ríos who were all sentenced to 40 years in prison for the crime of enforced disappearance and to 13 years and four months for the crime of illegal detention of eight people in the village of El Jute, Chiquimula¹⁰. However, the justice and peace process was accompanied by threats against victims and witnesses and particularly against

6/ Playa Grande, El Quiché, Sacapulas, Joyabaj, San Marcos, Puerto Barrios, Izabal, Fray Bartolomé de Las Casas, Alta Verapaz, Santa Bárbara, San Juan Cotzal, Quiché, Rabinal, Baja Verapaz.

7/ See UDEFEGUA.

8/ See Inter-American Commission on Human Rights (IACHR) Press Release No. 35/09, July 12, 2009.

9/ See UDEFEGUA, *Informe mensual julio-agosto 2009*, September 2009. The Mutual Support Group (*Grupo de Apoyo Mutuo - GAM*) reported on the Jute case proceedings in November 2009.

10/ See UDEFEGUA.

defenders. In this context, human rights defenders working on the search for truth were the most threatened in the country¹¹.

Furthermore, Guatemala experienced high levels of social exclusion that affect the indigenous people most seriously¹², who are also victims of evictions and expropriation of their lands to guarantee low land costs for the exploitation of natural resources by large companies, thereby increasing the loss of land and conditions of poverty. This situation made the defenders of these communities vulnerable and they suffered from threats and violence. Trade unionists, particularly those who work on the rights of peasant communities and workers themselves, also continued to be victims of serious human rights violations.

Moreover, in spite of the fact the Law Against Femicide and Other Forms of Violence Against Women was passed in 2008, there continued to be high numbers of cases of violence against women in 2009. According to the Attorney General's Office, there were 708 "femicides" over the murders committed during the year¹³. In addition, the Government did not implement measures to prevent these assassinations nor were they investigated by the justice system.

Finally, it is important to point out that Guatemala does not have the means to analyse the patterns of violence and assaults that would enable more efficient investigation of the complaints in order to confront the harassment and threats faced by human rights defenders¹⁴. In terms of criminal prosecution, the Instance for the Analysis of Attacks Against Human Rights Defenders (*Instancia de Análisis de Ataques contra Defensores de Derechos Humanos*), which is a mixed Government-civil society body, has received support from the Public Ministry since 2008. This instance, which analyses patterns in order to support the investigations carried out by the Public Ministry and the national police force has made progress in the analysis and substantiation of 33 cases. However, by the end of 2009, not a single case had been resolved¹⁵.

11/ See UDEFEGUA Report, *Violencia, respuesta a 10 años de lucha: Informe sobre la situación de Defensores y Defensoras de Derechos Humanos Enero-Diciembre de 2009*, February 2010.

12/ The IACHR Rapporteur for Guatemala and on the Rights of Indigenous Peoples was informed that the Guatemalan State had granted approximately 88 concessions for dams to be built on indigenous territories without prior consultation of those affected. See IACHR Press Release No. 35/09, June 12, 2009.

13/ See Article of the Survivors Foundation (*Fundación Sobrevivientes*), December 31, 2009.

14/ See IACHR Press Release No. 35/09, June 12, 2009.

15/ See UDEFEGUA Report, *Estado de los Casos denunciados por defensoras y defensores de derechos humanos*, October 2009.

Defenders fighting against impunity of crimes committed during the Guatemalan armed conflict were once more the object of threats and violence

Defenders who fight against impunity of the crimes committed during the 1960-1996 conflict in Guatemala continued to be victims of repeated threats and violence. In 2009, UDEFEGUA registered 92 cases of violence against defenders who work on the search for truth. For example, the Guatemalan Forensic Anthropology Foundation (*Fundación de Antropología Forense de Guatemala* – FAFG)¹⁶ and its members, particularly Mr. **Fredy Peccerely**, FAFG Executive Director, and Mr. **Omar Bertoni Girón**, Head of the laboratory at the Foundation, once more received death threats against them and their families between January and May 2009. Likewise, on August 6, 2009, Mr. **Raúl Figueroa Sarti**, Head of F&G Editores, the publisher responsible for printing the *Guatemala Memoria del Silencio* Report by the Commission for Historical Clarification (*Comisión para el Esclarecimiento Histórico* – CEH), and the publication of three books about the human rights situation in Guatemala that include specific chapters about the CEH report, was sentenced by the Seventh Criminal, Drug Trafficking and Crimes Against the Environment Court to a year in prison deferred on payment of a fine of 25 quetzals (2.12 euros) a day, plus payment of 50,000 quetzals (4,266 euros) for legal costs. The investigation and sentence against Mr. Figueroa Sarti was solely based on a complaint presented by Mr. Mardo Arturo Escobar, Commissioner of the Fourth Criminal Court of the Judicial Body in August 2007, accusing Mr. Raúl Figueroa Sarti of crimes of violation of copyright and associated rights for publishing photos of the complainant. During the trial, Mr. Escobar admitted that Mr. Raúl Figueroa Sarti had not stolen his photos. However, the Court rejected this claim and sentenced Mr. Figueroa Sarti. Furthermore, the sentence passed contains a series of contradictions such as the date on which Mr. Mardo Escobar went to the publisher. Mr. Figueroa and his wife were victims of threats and harassment throughout the trial to the extent that his wife went into exile. It is also worth mentioning that the environment is so tense that each publication issued by Mr. Figueroa Sarti's publisher has brought with it incidents and threats against him.

16/ FAFG is an NGO, founded in 1992, that recovers human remains through anthropological research, makes efforts to establish identities, tries to establish the cause of death and furthermore, through research into the fundamental right to life and in cases of unsolved murders, contributes evidence and expert witnesses to support the administration of justice.

Ongoing serious violations against trade union leaders

The murder and harassment of trade union leaders persisted in Guatemala with 84 assaults recorded by UDEFEGUA in 2009, to such an extent that this has become a real repression mechanism against social protest. In addition, murders and threats against trade unionists continued in total impunity. For example, Mr. **Amado Corazón Monzón** was murdered on January 12, 2009 by a group of hired killers that shot him three times in the head. Mr. Monzón was an independent lawyer and advisor to the United Peasants' Committee (*Comité de Unidad Campesina*) and to the Streets of Coatepeque United Traders' Movement (*Movimiento de Comerciantes Unidos de las Calles de Coatepeque*), and had led the protest movement against the project that aimed to move the Coatepeque traditional businesses to the new wholesale centre. The traders were opposed to his move as it would affect their work places. Furthermore, the new site was polluted, which put the worker's health at risk. Prior to this, on December 23, 2008, Mr. **Armando Donald Sánchez Betancurt**, leader of the Streets of Coatepeque United Traders' Movement, was murdered with four gunshots by hired killers, following the failed negotiation between the traders' movement and the municipality, and two days after the Mayor threatened them stating on two local radio stations that the "traders will have a lovely surprise on the 23rd or 24th"¹⁷. By the end of 2009, an investigation into the events was still open and those responsible had not been identified. In October and November 2009, two leaders and members of the Guatemalan Trade Union, Indigenous and Peasants' Movement (*Movimiento Sindical, Indígena y Campesino Guatemalteco* – MSICG) were assassinated: on October 13, 2009, Mr. **Miguel Chacaj Jax** died from the consequences of a gunshot wound on October 6, 2009, allegedly fired by State security forces in an eviction attempt. He was a founding member of the Coatepeque Trade Workers' Union (*Sindicato de Trabajadores del Comercio de Coatepeque*), affiliated to the General Central Confederation of Guatemalan Workers (*Confederación Central General de Trabajadores de Guatemala* – CGTG) and MSICG. On November 29, 2009, Mr. **Pedro Ramírez de la Cruz**, a member of the Board of the Verapaces Indigenous Peoples Ombudsman as well as of the National Indigenous, Peasants' and Popular Council (*Consejo Nacional Indígena, Campesino y Popular* – CNAICP) and MSICG, was also assassinated. At the end of 2009, the investigation into the murder of Mr. Pedro Ramírez was continuing.

17/ The conflict related to the future location of the municipal market goes back to 1993 and will affect more than 5,000 traders. By the end of 2009, various eviction orders had been issued and the traders had responded with numerous appeals.

Furthermore, Ms. **Irma Judith Montes**, Secretary General of the Coatepeque Municipality Workers' Union (*Sindicato de Trabajadores de la Municipalidad de Coatepeque*), Quetzaltenango department, began to be harassed and receive death threats when she began to defend the demands of the workers in this municipality¹⁸. On one occasion, the threats were made by an unidentified person with a gun. This man had been previously reported, as for instance in the case of Mr. Armando Donaldo Sánchez Betancurt's assassination. By the end of 2009, the investigation had not produced any results. Mr. **Leocadio Juracan Jalomé**, trade union leader and human rights defender of peasant communities, also received threats on February 26, 2009. Mr. Leocadio Juracan Jalomé is the Coordinator of the High Plain Peasants' Committee (*Comité Campesino del Altiplano – CCDA*)¹⁹ and is a member of MSICG political council. As such, he has carried out actions related to labour and peasant rights and demands. By the end of 2009, no progress had been made in the investigation into these threats.

Assassinations and judicial harassment of defenders of indigenous communities, environmental defenders and defenders of economic, social and cultural rights in relation to large companies

In 2009, defenders of the indigenous communities and environmental rights within the framework of the conflict related to ownership and exploitation of land were once more victims of judicial harassment, threats and assassinations, in retaliation to their activities. This was clearly illustrated in the case of persecution of Reverend **José Pilar Álvarez Cabrera**, a Pastor in the Guatemalan Lutheran Church (*Iglesia Luterana de Guatemala – ILGUA*) and a supporter of the Association for the Defence and Protection of the Las Granadillas Mountain (*Asociación para la Defensa y Protección de la Montaña Las Granadillas*)²⁰, and against Mr. **Rubén de Jesús Aldana Guzmán**, Treasurer of the Association for the Defence and Protection of the Las Granadillas Mountain, and Mr. **Eduardo Álvarez Cabrera**, the Reverend's brother and member of the same association, based in

18/ By the end of 2009, the municipal authorities had not paid the workers' contributions, which constitutes a violation of the labour and human rights of those affected. Furthermore, on January 16, 2009, 66 workers were fired by the municipal authorities. The Coatepeque municipality had drafted three statements against Ms. Judith Montes, each one coinciding with the timing of her meetings with workers on union issues, and that were later sent to the Inspections Department.

19/ The CCDA works on matters related to rural development and support for the work of Guatemalan peasant farmers.

20/ The Association for the Defence and Protection of the Las Granadillas Mountain comprises 22 communities that live close to the mountain and are responsible for its protection and conservation as a water source. The communities have been working on reforestation projects in recent years, as well as on a dialogue to prevent tree felling, which puts the water from the Granadillas at risk; this is the source of water for the town of Zacapa and the surrounding areas.

Zacapa. On January 25, 2009, plain-clothes agents from the National Police Crime Investigation Division (*División de Investigación contra el Crimen* – DINC) and the Public Ministry armed with an arrest warrant for the crime of “disturbance of private property” arrested Reverend José Pilar Álvarez Cabrera. The same arrest warrant included Messrs. **Rubén de Jesús Aldana Guzmán** and **Eduardo Álvarez Cabrera** who, in order to avoid reprisals, hid whilst a lawyer arranged for the arrest warrant to be lifted. This warrant was linked to the land occupation carried out by inhabitants of Zapaca to protect the Granadillas mountain range. Previously, on January 3, 2009, the communities in the area had protested about their situation. During this protest, the Reverend and his brother were threatened by Mr. Víctor Hugo Salguero, Peace Judge in Chiquimula, accompanied by armed men and a prosecutor from Zacapa. On February 6, 2009, the Judge freed Reverend José Pilar Álvarez Cabrera and, as requested by their defence, declared that the accusations against the three men were not merited.

In addition to defenders of indigenous communities, defenders of economic, social and cultural rights in general were victims of repression when they took a position against the interests of large companies. In some cases, the reprisals included murder of defenders of the communities, such as the assassination of Mr. **Adolfo Ich Chamán**, President of the La Unión Neighbourhood Committee (*Comité del Barrio La Unión*), leader of Las Nubes community, and defender of the rights of his community and school teacher. On September 28, 2009, Mr. Adolfo Ich Chamán was assassinated by security guards from the Guatemalan Nickel Company (*Compañía Guatemalteca de Níquel* – CGN). According to witnesses, whilst members of Las Nubes community were coming down to El Estor to meet with the community group from La Unión and El Chupón, the Wholers brothers, Oscar, Gustavo and Hugo²¹, stayed behind the members of the community and shot and killed two cows so that they could later tell the owner that the community was responsible for this crime and request the support of the company to repress them. The CGN security guards arrived and started to shoot, killing Mr. Ich Chamán. These events took place in the midst of a series of harassments of members of the Las Nubes community who live there, in spite of the fact that the ownership of the land has not been proven and the community maintains its claim to the historical ownership of the land. The Human Rights Attorney General took note of the events of September 28, 2009. At the beginning of 2010, the investigation into the events concluded that the chief of security at CGN should be

21/ The group named “Pro Defensa del Estor” is run by Messrs. Oscar, Gustavo and Hugo Wholers and acts as a paramilitary group in the region. There are various charges against them.

arrested, alleging his responsibility for Mr. Adolfo Ich Chamán's murder. The assassination of Mr. **Víctor Gálvez Pérez**, a member of the Resistance Front Against DEOCSA Abuse (*Frente de Resistencia de los Abusos de DEOCSA – Distribuidora de Electricidad de Occidente SA*) in Malacatán, a subsidiary of the Spanish multinational Unión FENOSA²², also fits the pattern of reprisals carried out against defenders of economic, social and cultural rights against the interests of large companies that are exploiting natural resources in this area. In the morning of October 24, 2009, Mr. Víctor Gálvez Pérez was murdered on leaving a meeting where he presented his analysis of the situation in the region, more specifically, on the presence of DEOCSA and the consequences of its activities for those who live in the region. Representatives of the national police force and the Public Ministry arrived on the scene of the crime, but did not carry out any forensic investigation. The intervention of the National Police Criminal Investigation Specialist Division Human Rights Unit (*Unidad de Derechos Humanos de la División Especializada de Investigaciones Criminales – DEIC*) in investigating the events was requested. However, no investigation was initiated; the reason given was that it was not possible to travel to where the events had taken place because they had no petrol. As a consequence, those responsible had still not been identified by the end of 2009. Previously, Mr. Víctor Gálvez Pérez had been the victim of threats and intimidation because of his activities in defence of the rights of Malacatán inhabitants affected by the activities of DEOCSA. At the beginning of 2010, a police investigation was being carried out, although a request had been made for the case to be investigated by the CICIG given that there is evidence that actors linked to local authorities, Congress and drug trafficking were involved.

Threats against human rights defenders who denounced corruption and parallel security structures

Human rights defenders who reported corruption of the authorities and the existence and operation of illegal groups and clandestine security structures that have infiltrated the official machinery received strong threats against their lives in 2009. On April 1, 2009, on leaving work at the San Benito hospital, Mr. **Edgar Neftaly Aldana Valencia**, Secretary General of the San Benito chapter, El Petén, of the Guatemalan Healthworkers' Union (*Sindicato de Trabajadores de la Salud de Guatemala*), realised that two men were following him on a red motorbike, so he changed direction

22/ For some years now, DEOCSA increased its prices in the Malacatán region, which caused thousands of complaints to be lodged by consumers about the quality of the service and the high costs. Given the numbers of complaints, the Resistance Front Against DEOCSA Abuse was set up and a complaints office was opened where consumers can go to be assessed by electricians.

and was able to escape. Minutes later his wife, Ms. **Karen Lucrecia Archila Lara**, a member of the same union, called him to warn him not to come home because two men on a red motorbike had fired nine times at their house. Fortunately, Ms. Archila Lara and their daughter were not injured. Mr. Aldana went to the Santa Elena Health Centre where he hid in one of the clinics. Later, Mr. Aldana received a telephone call from an unidentified man who threatened him. He also received four text messages within five minutes with clear threats against him and his wife. At the beginning of 2010, Mr. Edgar Neftaly Aldana Valencia was being protected by two policemen and was able to work normally. The El Petén Healthworkers' Union (*Union Sindicato de Trabajadores de la Salud en el Petén*) was legally registered in 2008 and since its creation has been fighting against corruption and human rights violations within the institution. Numerous complaints alleging corruption were lodged against some of its employees including the ex-Director, Mr. Jacinto Castellanos. Also in El Peten, Mr. **Herber Isai Mendez Diaz**, a local journalist, received on July 31, 2009 a text message that said: "You son of a bitch your family will die for getting involved with your boss and if you say anything tomorrow... and I forgot, the boss says that he knows you have a wife and that he won't do anything to her, but that he will take her for himself with or without her consent, be prepared for the surprise the boss has for you". This threat can be added to those received by other journalist colleagues who had also received telephone calls and messages threatening their families. These threats appear to be aimed at silencing the investigative journalism carried out to report on the misuse of funds by departmental authorities. By the end of 2009, the case had been transferred to the Unit for Crimes Committed Against Journalists and Trade Unionists in the Human Rights Section of the Prosecutor General's Office and was still waiting for concrete results²³. Furthermore, between April 30 and May 5, 2009, representatives of the Association for the Study and Promotion of Security in a Democracy (*Asociación para el Estudio y la Promoción de la Seguridad en Democracia* – SEDEM) and UDEFEGUA received more than 40 slanderous text messages and threatening them with death. SEDEM has been involved in a case related to access to military files, the digitalization of the Presidential files and access to information in general for victims of the armed conflict. UDEFEGUA is an organisation that plays a role in the verification of attacks against human rights defenders. Given the characteristics of these events, it may be assumed that those responsible are part of a clandestine security operation with high levels of intelligence and with interest in past trials. At the end of 2009, the judicial proceedings were at a standstill.

23/ See UDEFEGUA.

Harassment of women's rights defenders

Harassment of women's rights defenders was noted in 2009. On July 6, 2009 for instance, Ms. **Juana Bacá Velasco**, Coordinator of the Ixhiles Women's Network (*Red de Mujeres Ixhiles*), an organisation that supports women victims of violence and that advocates for participation and the granting of power to women in Nebaj municipality, received an anonymous phone call from a man who informed her that he had been hired by people from the Nebaj municipality to kill her. On July 3, 2009, a municipal car from the Mayor's office drove towards Ms. Bacá Velasco's home when she was outside talking to friends. The car shone its lights on her face and shots were fired five times in the air. Ms. Bacá Velasco had already been the target of harassment and attacks. On March 30, 2009, she was attacked within the Nebaj municipality building, and was then hospitalised for two days and two nights. In spite of benefitting from precautionary measures from the Inter-American Court of Human Rights (IACtHR), she continues to be subject to threats and intimidation, as well as other members of the Ixhiles Womens' Network. Likewise, the Survivors organisation (*Sobrevivientes*) was subjected to death threats in 2009 because of its work on a case of rape of a 13 year-old girl²⁴.

Urgent Interventions issued by The Observatory in 2009

Names	Violations / Follow-up	Reference	Date of Issuance
Mr. Fredy Peccerely, Mr. Omar Bertoni Girón, Mr. Gianni Peccerely and Ms. Bianka Peccerely	Death threats / Harassment	Urgent Appeal GTM 007/0507/OBS 055.3	January 14, 2009
Mr. Pedro Zamora	Arrest of alleged murderer	Urgent Appeal GTM 001/0107/OBS 004.1	January 19, 2009
Mr. Armando Donaldo Mr. Sánchez Betancurt and Mr. Amado Corazón Monzón	Assassination	Urgent Appeal GTM 001/0109/OBS 009	January 19, 2009
Mr. Jorge Luis López Sologaitoa	Judicial harassment	Urgent Appeal GTM 002/0109/OBS 013	January 22, 2009
		Urgent Appeal GTM 002/0109/OBS 013.1	January 26, 2009
	Charges dropped	Urgent Appeal GTM 002/0109/OBS 013.2	September 30, 2009
Reverend José Pilar Álvarez Cabrera Mr. Rubén de Jesús Aldana Guzmán and Mr. Eduardo Álvarez Cabrera	Judicial harassment / Intimidation / threats	Urgent Appeal GTM 003/0109/OBS 019	January 29, 2009
	Release	Urgent Appeal GTM 003/0109/OBS 019.1	February 10, 2009

Names	Violations / Follow-up	Reference	Date of Issuance
Ms. Irma Judith Montes	Death threats	Urgent Appeal GTM 004/0109/OBS 020	January 29, 2009
Mr. Leocadio Juracan Jalomé	Threats	Urgent Appeal GTM 006/0309/OBS 040	March 4, 2009
Ms. Gladys Monterroso, Dr. Sergio Morales and Mr. Luis Roberto Romero / Human Rights Attorney General's Office	Kidnapping / Torture / Death threats / Harassment / Assault	Press Release	March 27, 2009
Mr. Edgar Neftaly Aldana Valencia and Ms. Karen Lucrecia Archila Lara	Assassination attempt / Death threats / Harassment	Urgent Appeal GTM 007/0409/OBS 063	April 21, 2009
Members of the Association for the Study and Promotion of Security in a Democracy (SEDEM) and UDEFEGUA / Ms. Claudia Samayoa and Ms. Iduvina Estalinova Hernández Batres	Death threats / Harassment	Urgent Appeal GTM 008/0509/OBS 068	May 7, 2009
Ms. Juana Bacá Velasco	Attack / Death threats	Urgent Appeal GTM 009/0709/OBS 105	July 15, 2009
Mr. Raúl Figueroa Sarti	Threats / Judicial harassment	Urgent Appeal GTM 010/0809/OBS 129	August 27, 2009
Mr. Adolfo Ich Chamán	Assassination / Assault	Urgent Appeal GTM 011/1009/OBS 143	October 7, 2009
Mr. Víctor Gálvez Pérez	Assassination	Urgent Appeal GTM 012/1009/OBS 157	October 30, 2009
Guatemalan Trade Union, Indigenous and Peasant Farmers' Movement (MSICG) / Ms. Olga Marina Ramírez Sansé, Mr. Pedro Ramírez de la Cruz and Mr. Miguel Chacaj Jax	Assassinations	Open Letter to the authorities	December 14, 2009

HONDURAS

OBSERVATORY FOR THE PROTECTION OF HUMAN RIGHTS DEFENDERS
ANNUAL REPORT 2010

Political context

In 2009, Honduras suffered from the first coup d'état in Latin America since the fall of the military dictatorships at the end of the 1980s. In the early morning of June 28, members of the armed forces kidnapped the constitutional President Manuel Zelaya Rosales and forced him into exile in Costa Rica. The President of Congress, Mr. Roberto Micheletti, participated in the coup and assumed Government control with complicity of the Supreme Court of Justice and the Attorney General. The coup took place to avoid a non-binding referendum that should have taken place the same day in order to ask citizens their opinion about the possibility of installing a fourth ballot box in the November 29 elections to vote on the feasibility of convening a Constitutional Assembly to reform the Constitution of the Republic of Honduras¹.

A few hours after the attack on President Zelaya's house, various media organisations across the country that had reported extensively about the referendum and had invited the population to participate had their offices closed and placed under military surveillance². On June, 30 2009, the *de facto* Government restricted constitutional rights through Executive Decree 011-2009, establishing a curfew and suspending the right to personal freedom, freedoms of association and assembly as well as the freedom to travel, leave, enter and remain in Honduran territory. On September 26,

1/ Initiative known as the "fourth ballot box" (*la cuarta urna*). On May 26, 2009, via Executive Decree No. PCM-020-2009 and based on the Honduras Citizen Participation Law, President Zelaya agreed to commission the Honduras National Statistics Institute (*Instituto Nacional de Estadística de Honduras*) to carry out a "National Opinion Survey" about the convening of the National Constitutional Assembly.

2/ Those affected were *Canal 8*, *Canal 36*, *Maya TV* and *Radio Globo*. *Canal 8* reopened a few days later with new programmes and personnel; *Canal 36* reopened on July 6, 2009 and was closed again on September 28, 2009 for not accepting the conditions of the regime. It reopened again on October 19.

the *de facto* Government issued Decree PCM-M-016-2009 increasing these limitations³.

Serious human rights violations were registered as a result of this civil-military coup d'état, including in particular the violation of the right to peaceful protest, the disproportionate and excessive use of force by the police and the military to repress legitimate and peaceful demonstrations, as well as gender-based violence against women demonstrators, the violation of the rights to life, integrity and personal freedom⁴, as well as of freedoms of expression and movement. At the end of its on-site visit, the Inter-American Commission on Human Rights (IAHCR) "confirmed a pattern of disproportionate use of public force, arbitrary detentions, and the control of information aimed at limiting political participation by a sector of the citizenry"⁵. In a climate of acute political polarisation, brought about in part by the mass media, the majority of which demonstrated openly repressive positions inciting violence against supporters of the overthrown Government, the freedom of the press was subject to serious limitations and journalists critical of the *de facto* Government faced repeated acts of intimidation and harassment.

The legal administration, led at the highest levels by those responsible for the coup, as well as the National Human Rights Commissioner who justified it, left the civil population defenceless against the crimes perpetrated by those responsible for the coup d'état.

In the midst of this highly conflictive situation, lengthy negotiations took place between the various regional and international bodies, the leaders of the *de facto* Government, the deposed President and the countries in the region in order to try and reinstate the President in his legitimate role. On October 30, 2009, the efforts made by the various negotiators culminated in the signing of the Tegucigalpa / San José agreement that was neither respected by the *de facto* Government nor by the political forces behind

3/ Executive Decree No. PCM-016-2009 authorises the National Telecommunications Commission (*Comisión Nacional de Telecomunicaciones* - CONATEL), the army and the police to immediately interrupt the transmission of any radio station, television or cable channel that in its opinion "offends human dignity, public servants or attack the law and Government resolutions". Therefore, on September 28, 2009, military personnel closed *Canal 36* and *Radio Globo* for their position against the *de facto* Government. See Inter-American Commission on Human Rights (IACHR) Press Release No. R71/09, September 29, 2009. Furthermore, the Executive Decree 124-2009 that came into effect on October 7, 2009 authorises CONATEL to cancel the use of the licences granted to radio stations and TV channels. Invoking the decree, radio stations proceeded to cancel contracts with social organisations.

4/ According to the Committee of Relatives of Disappeared and Detainees in Honduras (COFADEH), between June 26 and October 15, 2009 there were more than 3,000 illegal arrests.

5/ See IACHR, *Preliminary Observations on the IACHR Visit to Honduras*, August 21, 2009.

the coup d'état. On November 29, 2009, the *de facto* Government carried out presidential elections, in which Mr. Porfirio Lobo Soza was elected, with no observation carried out either by the Organisation of American States (OAS) or the United Nations. Subsequently, on January 26, 2010, the political forces that carried out the coup d'état, of which the elected President forms part, passed an amnesty law that would exclude criminal responsibility of those responsible for the coup.

The violence suffered in the country as a result of the coup d'état has made for a delicate situation for human rights defenders. Although situations already existed in which they were at risk, the breaking with constitutional order and the subsequent unfolding of the repression against the whole of civil society had an immediate effect on the individuals and organisations that are fighting for the respect of human rights for the population of Honduras⁶.

Serious situation of human rights defenders and organisations after the coup d'état

The long list of precautionary measures granted by the IACHR since June 29, 2009 shows the magnitude of the repression suffered by all those who opposed the coup d'état, particularly human rights defenders⁷. Most of the organisations that were receiving threats before the coup d'état continued to be threatened. However, the reform of the legal framework with the implementation of martial law and curfews further violated their rights and protection. The organisations that have reported being at risk include: the Committee for the Defence of Human Rights in Honduras (*Comité de Defensa de los Derechos Humanos de Honduras – CODEH*), the Prevention, Treatment, Rehabilitation Centre of Torture Victims and their Families (*Centro de Prevención, Tratamiento, Rehabilitación de las Víctimas de Tortura y sus Familiares – CPTRT*), the Arco Iris Association (*Asociación Arco Iris*), the Centre for Women's Studies (*Centro de Estudios de la Mujer – CEM-H*), the Committee of Relatives of Disappeared and Detainees in Honduras (*Comité de Familiares de Detenidos y Desaparecidos*

6/ As a result of the coup d'état, the IACHR received information that indicated that numerous human rights defenders were at risk. Furthermore, some human rights organisations denounced to the IACHR the use of State means to harass defenders, including the initiation of police and judicial investigations, arbitrary detentions, attacks, intimidation, surveillance and monitoring. Reports were also received that some organisations had had their electricity cut off in their offices, their communication lines had been severed and their emails had been intercepted. Some headquarters were shot at from heavily armed men, and bombs were thrown, and others were searched. See IACHR Report, *Honduras: Human rights and the coup d'état*, December 30, 2009.

7/ See IACHR, *Precautionary measures granted by the IACHR during 2009*, at www.cidh.org/medidas/2009.sp.htm.

de Honduras – COFADEH), the Centre for Research and Promotion of Human Rights (*Centro de Investigación y Promoción de los Derechos Humanos* – CIPRODEH), the organisation “Vía Campesina”⁸, the *Kukulcan Association* (Asociación Kukulcán)⁹, the Committee for Freedom of Expression (*Comité por la Libre Expresión* – C-Libre)¹⁰, the Honduras Women’s Collective (*Colectivo de Mujeres de Honduras* – CODEMUH)¹¹ and workers organisations including the Trade Union for Workers at the National Children’s Council (*Sindicato de Trabajadores del Patronato Nacional de la Infancia* – SITRAPANI), the Industrial Drinks and Similar Workers’ Trade Union (*Sindicato de Trabajadores de la Industria, Bebidas y Similares* – STIBYS) and the National Agricultural Institute Workers’ Trade Union (*Sindicato de Trabajadores del Instituto Nacional Agrario* – SITRAINA). When the group of those who resisted the coup d’état was being formed, the *de facto* Government increased its repression against them: the offices of various media companies and social organisations were attacked with grenades and machine guns and received threats of attacks. For example, COFADEH was the victim of an attack on September 22, 2009 when officers from the preventive police threw two tear gas bombs at the COFADEH offices at a time when 170 people were seeking refuge there after the State security forces repressed the protestors in front of the Brazilian Embassy where President Manuel Zelaya was at the time¹². On September 22, a verbal complaint was lodged with the Human Rights Public Prosecutor in the COFADEH offices and he was able to see evidence of the bombs thrown. By the end of 2009, no report on this situation had been received. Likewise, in the night of August 11, one hour after the curfew had started, unknown persons fired against the offices of the Via Campesina organisation¹³. Also, the STIBYS trade union¹⁴ was victim of an explosive artefact on July 26, 2009 at 10.30 am. A National Front of Resistance Against the Coup d’Etat (*Frente Nacional*

8/ Vía Campesina is an organisation that works on peasants’ rights.

9/ The Kukulcán Association works on the defence of Lesbians, Gays, Bisexuals and Transgender (LGBT) rights.

10/ C-Libre is an organisation that monitors and reports attacks on freedom of the press in Honduras.

11/ CODEMUH stands out for their fight against labour exploitation of women in the factories in the north of the country.

12/ See COFADEH Report, *Segundo Informe de Violaciones a Derechos Humanos en el Marco del Golpe de Estado en Honduras*, October 2009. At that moment, children and injured people were providing statements and receiving medical assistance, along with young beneficiaries of the Violence Prevention Programme. According to COFADEH, the action was motivated by the fact that it had been impossible to arrest those who were in the doorway of the institution.

13/ See COFADEH Report, *Segundo Informe de Violaciones a Derechos Humanos en el Marco del Golpe de Estado en Honduras*, October 2009.

14/ STIBYS is one of the founding and leading organisations of the Popular Block that opposed the coup d’état and forms part of the National Front of Resistance Against the Coup d’Etat.

de Resistencia Contra el Golpe de Estado) meeting was taking place that day, prior to the funeral of Pedro Magdiel Muñoz¹⁵. Similarly, on September 12, 2009, an explosive artefact was thrown at the offices of *Canal 36*. The explosive contained a propaganda leaflet to draw their attention to the General Álvarez Martínez National Armed Front (*Frente Armado Nacional General Álvarez Martínez*) and a list of names of various social leaders, who were warned of being under surveillance and threatened with death¹⁶. The owner-manager of the channel lodged a complaint with the Public Ministry, and the Human Rights Public Prosecutor recorded the facts. By the end of 2009, security measures for the owner and the channel had only been partially implemented, in spite of the fact that they have benefited from IACHR precautionary measures of protection since July 2009.

Furthermore, the offices of human rights organisations like Arcos Iris, CIPRODEH, CEM-H and CODEH were under permanent surveillance by police patrol and military officers¹⁷. CPTRT and six of its members, including its Director, Mr. **Juan Almendares**, were also victims of acts of intimidation, including threatening telephone calls, monitoring and surveillance of their homes¹⁸. Moreover, in the weekend of September 5 and 6, 2009, unknown individuals entered and searched the offices of the Committee for Freedom of Expression, forcing the locks of three desks¹⁹. On the whole, the ban on meetings for the opponents of the coup d'état resulted in violent harassment of human rights defenders.

Criminalisation of and violent repression during public protests

Peaceful protests took place in a violent climate that served as a pretext to carry out mass arbitrary arrests, acts of harassments and be aggressive with the protestors. On July 30, 2009, the *de facto* regime announced and publicly threatened that it would take a series of measures including forced eviction of protesters who cause problems and the application of Article 331 of the Criminal Code to those who participate in protests, meet-

15/ During the protest that took place on the border with Nicaragua when Mr. Zelaya tried to enter Honduras on July 25, 2009, Mr. Pedro Magdiel Salvador Muñoz, 24 years old and a member of the Front of Resistance Against the Coup d'Etat, was found assassinated near Beneficio Agrícola in the exit from Paraíso to Alauca. His body showed clear signs of torture when examined by the forensic doctors and 42 knife wounds. Eye witnesses confirmed that he was arrested by an army official whilst he was smoking in the shade of a tree at the end of the afternoon.

16/ See COFADEH Report, *Segundo Informe de Violaciones a Derechos Humanos en el Marco del Golpe de Estado en Honduras*, October 2009.

17/ See CIPRODEH Report, *Amenazas y Obstáculos a Defensores de Derechos Humanos Post Golpe de Estado en Honduras*, September 5, 2009.

18/ See CPTRT Report, *Informe Preliminar sobre Violaciones a los Derechos Humanos*, July 2009.

19/ See CIPRODEH Report, *Amenazas y Obstáculos a Defensores de Derechos Humanos Post Golpe de Estado en Honduras*, September 5, 2009.

ings and public parades that cause public disorders²⁰. On July 31, 2009, Mr. **Carlos H. Reyes**, leader of STIBYS, of the National Popular Resistance Coordination (*Coordinadora Nacional de Resistencia Popular*) and of the National Front of Resistance Against the Coup d'Etat, was injured by members of the preventive police whilst he was participating in a protest against the coup d'état in the El Durazno area of the town of Tegucigalpa. The police officers shouted at him: “this is how we wanted to get you son of a bitch”, they pushed him and hit him with a baton, making him fall over, fracturing his right arm. As of the end of 2009, Mr. Reyes had not been called to give a victim statement²¹. Furthermore, hundreds of people were detained in the police headquarters in July, August and September for having participated in protests against the coup. In addition, the judges who were diligent in granting the appeals for legal protection (*recurso de amparo*) and habeas corpus in favour of the protestors were the subject of police threats²². For instance, in the case of the repression in San Pedro Sula, on August 3, 2009, the Judge who granted the habeas corpus, Mr. **Osman Fajardo Morel**, was assaulted by the police and the Inspector of the police station No. 1, where he was going to verify the arrests of 37 people following the repression of a meeting of the National Front of Resistance²³. Human rights defenders were also prosecuted for their participation in the marches and for defending dissidents victims of violent acts of repression. For example, Ms. **Gloria Guadalupe Oqueli**, a lawyer, was subjected to judicial harassment, accused of crimes of “libel and slander amounting to defamation in public demonstrations”²⁴. Within the same context, on July 14, 2009, the National Feminist Network in Resistance (*Red de Feministas en Resistencia*) organised a peaceful protest in the National Women's Institute (*Instituto Nacional de la Mujer – INAM*). Two women members of CEM-H were badly beaten by police officers who were not wearing identification. Furthermore, they were verbally abused and intimidated. The same day, in the afternoon, one of the women was beaten and was victim of surveillance²⁵. The women filed a complaint with the Public Ministry and, as they received no response, they took their complaint to the IACHR.

20 / See COFADEH Report, *Segundo Informe de Violaciones a Derechos Humanos en el Marco del Golpe de Estado en Honduras*, October 2009.

21 / See COFADEH.

22 / See COFADEH Report, *Segundo Informe de Violaciones a Derechos Humanos en el Marco del Golpe de Estado en Honduras*, October 2009. It is also worth highlighting that members of President Zelaya's cabinet were the subject to trials and arrest warrants.

23 / See COFADEH Report, *Segundo Informe de Violaciones a Derechos Humanos en el Marco del Golpe de Estado en Honduras*, October 2009.

24 / See CPTRT.

25 / See CPTRT Report, *Informe sobre las Violaciones a los Derechos Humanos*, 2009.

Repression of human rights defenders who report violations committed immediately after the coup

Within the context of violent repression of those who oppose the coup d'état, defenders who denounced human rights violations committed during the protests or who tried to help demonstrators were also the victim of aggression. On July 3, 2009, Mr. **Gabriel Fino Noriega**, correspondent for *Radio América*, was assassinated as he was leaving *Radio Estelar* buildings, in San Juan Pueblo, Atlántida department²⁶. Mr. Fino Noriega was disseminating information about the protests against the coup d'état and denouncing those who supported the coup d'état. Various human rights defenders were also assaulted for trying to protect the protestors or for trying to prevent the arbitrary arrests. On August 11, 2009, Mr. **Alex Matamoros**, a member of CIPRODEH, was arrested when he intervened with police officers to avoid the arrest of and aggression against a student from the Francisco Morazón National Teaching University (*Universidad Pedagógica Nacional Francisco Morazán – UPNFM*). Mr. Matamoros was taken to the police headquarters in Manchén and then to the metropolitan police headquarters No. 1, where he was detained without charge until his release at 4 am on August 12²⁷. Ms. **Hedme Fátima Castro Vargas**, Human Rights Prosecutor, member of the Association for Participative Citizenship (*Asociación para una Ciudadanía Participativa – ACI-Participa*) and a collaborator of COFADEH, was subjected to surveillance and received threats by preventive police officers, undercover officers and activists of the National Party (*Partido Nacional*). On October 9, when a police officer was about to throw a tear gas canister at protesters, Ms. Castro asked him to wait until the elderly and children were not in the vicinity. The police officer aggressively questioned her authority to make such a request, at which Ms. Castro Vargas produced her Human Rights Prosecutor identity card. In response, she was hit on the back with a baton, and the identity card was pulled from around her neck. Then she was shoved out of the way. Ms. Castro Vargas has benefited from IACHR precautionary measures since August 21, but the Honduran authorities did not comply with them²⁸.

26/ See Press Release No. R48/09, in which the Special Rapporteur for Freedom of Expression “condemn[ed] the assassination of journalist in Honduras”, July 6, 2009; and Press Release No. R66/09, in which the Special Rapporteur for Freedom of Expression “condemn[ed] restrictions to freedom of expression in Honduras”, September 24, 2009. See also COFADEH Report, *Segundo Informe de Violaciones a Derechos Humanos en el Marco del Golpe de Estado en Honduras*, October 2009 and CIPRODEH Report, *Amenazas y Obstáculos a Defensores de Derechos Humanos Post Golpe de Estado en Honduras*, September 5, 2009.

27/ See COFADEH Report, *Segundo Informe de Violaciones a Derechos Humanos en el Marco del Golpe de Estado en Honduras*, October 2009 and CIPRODEH Report, *Amenazas y Obstáculos a Defensores de Derechos Humanos Post Golpe de Estado en Honduras*, September 5, 2009.

28/ See COFADEH Report, *Segundo Informe de Violaciones a Derechos Humanos en el Marco del Golpe de Estado en Honduras*, October 2009.

As of the end of 2009, the measures granted to Ms. Hedme Fátima Castro Vargas had still not been implemented.

Worsening of the violence against defenders of LGBT rights

The attacks against Lesbian, Gay, Transgender and Bisexual Rights (LGBT) activists have been a reality for some time in Honduras; however, as for other human rights defenders, the coup d'état has placed them in an even more precarious situation. On January 9, 2009, Ms. **Cynthia Nicole** was assassinated. She was an activist for transgender rights and leader of the Violet Collective (*Colectivo Violeta*), which works for the defence of transgender rights. She was shot by three unknown persons from a car. By the end of 2009, no investigation into the case had been open. Similarly, on July 4, 2009 at 12.30, Mr. **Fabio Zamora**, a member of "Renacer"²⁹, was killed with six shots to the head. The LGBT Collective filed a complaint with the Public Ministry, but in spite of the fact that there were witnesses of the assassination, it is unlikely that anyone will testify for fear of reprisals. Furthermore, on December 13, 2009, Mr. **Walter Tróchez**, Secretary of Renacer, was assassinated. He was a member of the LGBT community and an active participant in the Resistance Front. Days before, he had been beaten and threatened with death after being kidnapped by four men. Following his kidnapping, Mr. Walter Tróchez filed reports with COFADEH, CIPRODEH and the Human Rights Attorney General's Office. The only advances made in the case have been the collection of the body and the autopsy carried out by the medical examiner.

Harassment of defenders fighting against impunity of the crimes from the last dictatorship

Before the coup d'état, the harassment against those who were fighting against the impunity of crimes committed between 1980 and 1991 was continuing. On January 28, 2009, Ms. **Bertha Oliva de Nativí**, General Coordinator of COFADEH, received death threats via two text messages, and defamatory leaflets about her were also distributed in Tegucigalpa park, linking her name to guerrilla organisations. Ms. Bertha Oliva de Nativí is carrying out important work in COFADEH related to reconstructing Honduras' memory. It is worth highlighting the fact that the harassment against COFADEH has continued after the coup d'état. As a result of their work in collecting statements about human rights violations and for their opposition to the coup d'état, COFADEH and its members were placed under surveillance and were victims of harassment.

29 / Renacer is an organisation that provides assistance for those who live with HIV-AIDS.

Threats and harassment of defenders of the right to environment and of indigenous peoples' rights

In 2009, the defenders who protested against the exploitation of natural resources that affect environmental rights and the rights of indigenous peoples continued to be the victims of persecution and harassment. For several years now, Father **Andrés Tamayo** and members of his community have suffered persecution as a result of their participation in the Olancho Environmental Movement (*Movimiento Ambientalista de Olancho* – MAO). Furthermore, for denouncing the coup d'état, the *de facto* Government removed his Honduran citizenship – Father Tamayo is originally from El Salvador and has been living in Honduras for the past 26 years. He was deported to El Salvador in November 2009³⁰. Furthermore, on January 6, 2010, the radio station *Faluma Bimetu*, based in Triunfo de la Cruz, on the Atlantic Coast, was looted and set on fire by a group of unidentified men. For more than a decade, the radio station had been denouncing the interests of financial groups that are trying to displace the Garifuna communities from their ancestral lands with the aim of developing tourism in the beaches in the region. Furthermore, the community radio opposed the June 28, 2009 coup d'état, which exposed it to reprisals.

Threats and attacks against social leaders and defenders of workers' rights

Defenders of workers' rights are another vulnerable group in Honduras, as shown by the assassination attempt against Mr. **Fabio Evelio Ochoa Fernández**, who was attacked with firearms on June 23, 2009. Mr. Ochoa Fernández carries out a wide range of activities related to the defence of workers' rights and, at the time of the attack, he was a member of an organisation that supported President Zelaya's referendum initiative. It should be clarified that the attack against Mr. Ochoa Fernández took place in a context where the physical integrity and lives of various social leaders, human rights defenders and members of the opposition were at risk, as a result of threats and attacks carried out by the conservative sectors that opposed the initiative.

However, one should welcome the sentencing of the murderers of Mr. **Dionisio Díaz García** to 21 years of prison on March 19, 2009. Mr. Dionisio Díaz García was a member of the Association for a More Just Society (*Asociación para una Sociedad más Justa* – ASJ) and a lawyer for twelve security guards fired from Honduras Technical Security (*Seguridad*

³⁰ See Committee for Human Rights Defence (*Comité por la Defensa de los Derechos Humanos*) Press Release, November 2009.

Técnica de Honduras – SETECH). He was assassinated on December 4, 2006 in reprisal for his work in defence of the labour rights of the poor and of the twelve guards who lost their jobs. The prisoners' defence lawyer filed an appeal with the High Court, whilst the Human Rights Attorney General's Office also filed an appeal, requesting that the maximum penalty be imposed. At the end of 2009, the decision on both appeals was still pending.

Urgent Interventions issued by The Observatory in 2009

Names	Violations / Follow-up	Reference	Date of Issuance
Ms. Cynthia Nicole (César Noel Moreno)	Assassination	Urgent Appeal HND 001/0109/OBS 007	January 19, 2009
Ms. Bertha Oliva de Nativí	Death threats	Urgent Appeal HND 002/0209/OBS 023	February 5, 2009
Mr. Dionisio Díaz García	Assassination	Press Release	March 20, 2009
Mr. Fabio Evelio Ochoa Fernández	Assassination attempt	Urgent Appeal HND 003/0609/OBS 091	June 26, 2009
Father Andrés Tamayo	Intimidation	Urgent Appeal HDN 004/0709/OBS 104	July 13, 2009
Mr. Walter Tróchez	Assassination	Urgent Appeal HDN 005/1209/OBS 192	December 16, 2009

MEXICO

OBSERVATORY FOR THE PROTECTION OF HUMAN RIGHTS DEFENDERS
ANNUAL REPORT 2010

Political context

In 2009, human rights policy was not a priority in Mexico, and former President Felipe Calderón continued with his strategy of using military forces in the fight against organised crime. This strategy included the participation of the army in operations – instead of the police – against drug trafficking. This generated a real *de facto* State in which the level of human rights violations increased without effective control by any civil body¹. Torture, arbitrary detentions, disappearances, murders and other attacks committed by the security forces were not being investigated by the competent civil authorities and the use of the military justice to judge the abuses committed by the military contributed to maintaining impunity². Furthermore, it is of serious concern that defenders who reported human rights violations were subjected to particularly violent repression, with the assassination of at least seven defenders in 2009. With regard to the abuses carried out by the police force, the Mexican Government has shown a lack of will to prevent the repetition of such abuses by naming Mr. Wilfrido Robledo as new Head of the Ministerial Federal Police, whereas the latter was involved in the planning and implementation of operations that resulted in serious human rights violations in San Salvador Atenco and Texcoco on May 3 and 4, 2006. Furthermore, Mexico continued to fail to accept its responsibility to investigate and punish those responsible for State crimes committed in the so-called “dirty war”, in spite of the Inter-American Court of Human Rights (IACtHR) ruling that

1/ See Report by the Miguel Agustín Pro Juárez Human Rights Centre (*Centro de Derechos Humanos Miguel Agustín Pro Juárez - Centro PRODH*) for the UN Human Rights Committee, *Sin controles, sin castigo: las violaciones del Estado mexicano a los derechos civiles y políticos*, December 21, 2009.

recognised the existence of an environment of systematic human rights abuses at that time³.

The struggle for the rights of indigenous peoples and the exploitation of natural resources remained one of the most important issues on which defenders continued to work in Mexico. The repression of indigenous communities was particularly noticeable in the States of Chiapas, Oaxaca and Guerrero, where the highest levels of poverty were recorded and where a large part of the indigenous population lives. The community defenders were, therefore, one of the groups most affected by the violent repression.

Furthermore, as Mexico is a country of origin, transit and destination for migrants, it does not take an effective approach to the transnational networks of gangs that operate outside of the law, violating the fundamental rights of migrants, in many cases with the collusion of local, municipal, State and federal authorities. It is particularly alarming that, according to figures published by the National Human Rights Commission (*Comisión Nacional de los Derechos Humanos – CNDH*), approximately 18,000 migrants a year are kidnapped in Mexico by organised criminal gangs which the authorities either tolerate or collude with. These crimes take the form of torture, extortion, sexual abuse and in many cases, murders⁴. Impunity of human rights violations committed against migrants was widespread and civil society organisations that report the abuses against migrants were victims of intimidation and attacks⁵.

In February 2009, the Mexican State was examined by the United Nations Human Rights Council within the framework of the Universal

3/ See IACtHR Ruling, *Caso Radilla Pacheco vs. Estados Unidos Mexicanos*, November 23, 2009. The IACtHR condemned the Mexican State for the enforced disappearance of Mr. Rosendo Radilla Pacheco, an outstanding social leader from Guerrero who was illegally detained on August 25, 1974. Thirty-four years later, his whereabouts are still unknown. The ruling also reiterated that military justice does not guarantee impartiality in the investigation and trial of human rights violations committed by members of the military against civilians. As of the end of 2009, compliance with the IACtHR ruling was still pending. Moreover, on March 27, 2009, a Mexican collegial court confirmed a resolution exonerating the Mexican Federal Court that absolved former President Luis Echeverría Álvarez of genocide for the Tlatelolco slaughter, thereby closing the main trial still open for crimes committed during the dirty war. The slaughter occurred on October 2, 1968 when dozens of students died after soldiers and paramilitaries fired on them in the Tres Culturas square in Tlatelolco. At that time, Mr. Echeverría was the Governor's Secretary in President Gustavo Díaz Ordaz's Government.

4/ See National Human Rights Commission for Kidnapping Cases of Migrants (*Comisión Nacional de los Derechos Humanos sobre los Casos de Secuestro de Migrantes*) Report, *Informe Especial sobre los casos de secuestro en contra de migrantes*, June 15, 2009.

5/ See Human Rights Council, *Report of the Special Rapporteur on the Human Rights of Migrants, Jorge Bustamante, Mission to Mexico*, United Nations Document A/HRC/11/7/Add.2, March 24, 2009.

Periodic Review (UPR). The Council made a series of recommendations, including that the State take concrete action to improve the criminal justice system, the levels of torture and inhuman treatment, impunity, excessive use of force, arbitrary detentions, enforced disappearances, criminalisation of social protest, the situation of human rights defenders, Government action to guarantee the correct implementation of international treaties, as well as to evaluate the use of preventive detention (“*arraigo*”). Out of the 91 recommendations presented to the Mexican State, eight were not accepted, which were primarily related to military jurisdiction⁶.

On November 16, 2009, the IACtHR ruled against the Mexican State on the “*Campo Algodonero*” case that refers to the disappearance and murder of the following young people: Claudia Ivette González, Esmeralda Herrera Monreal and Laura Berenice Ramos Monárrez, whose bodies were found in a cotton field in Ciudad Juárez on November 6, 2001. This ruling highlights, among other issues, the failure of the Mexican State to act when faced with violence against women and the phenomenon of femicide in an environment of structural gender-based discrimination⁷.

Ongoing repression of indigenous peoples and peasants’ rights

In Guerrero State, the enforced disappearance and assassination of Messrs. **Raúl Lucas Lucía**, President of the Organisation for the Future of the Mixteco People (*Organización para el Futuro del Pueblo Mixteco – OFPM*)⁸, and **Manuel Ponce Rosas**, OFPM Secretary, marked the beginning of 2009, setting out the violence faced by indigenous rights defenders in Mexico. On February 14, 2009, Messrs. Raúl Lucas Lucía and Manuel Ponce Rosas were arrested in the municipality of Ayutla de los Libres, State of Guerrero, by three individuals who identified themselves as police officers without presenting an arrest warrant. On the night of February 20, 2009, their lifeless bodies were found in las Cazuelas, in the municipality of Tecoaapa, in the coastal region Costa Chica of Guerrero. The victims

6 / See Human Rights Council, *Report of the Working Group on the Universal Periodic Review on Mexico*, United Nations Document A/HRC/11/27, May 29, 2009.

7 / See IACtHR Ruling, *Caso González y otras (“Campo Algodonero”) vs. México*, November 16, 2009.

8 / Mr. Raúl Lucas Lucía worked on the defence of human rights of 32 “Mixteca” indigenous communities in the Costa Chica and Montaña region, Ayutla de los Libres municipality, for more than 10 years, coordinating his work with the “Tlachinollan” Mountain Human Rights Centre. In 1994, Mr. Luca Lucía created, together with Tlapaneco indigenous people, the Mixtecos and Tlapanecos Peoples’ Independent Organisation (*Organización Independiente de Pueblos Mixtecos y Tlapanecos*) through which they started to document and publicly and legally denounce the abuses committed in various communities by members of the Mexican army and police forces. Subsequently, in 2002, the two peoples decided to unite under the name of Organisation for the Development of the Mixteco People (*Organización para el Desarrollo del Pueblo Mixteco - ODPM*) with the aim of promoting the coordination of work in the region in demanding respect for the rights of the Mixteco people.

had reported abuses and rape committed by members of the Mexican army and police forces against indigenous communities in the area. On December 28, 2009, the CNDH issued a recommendation on this case in which the lack of response from the authorities following the request to investigate the disappearance, which resulted in an extrajudicial execution, was clear. At the end of 2009, the Federal Attorney General (*Procuraduría General de la República* – PGR) was continuing with the investigation into the assassination of the two leaders. The disappearance and assassination served to intimidate the other human rights defenders in the region. Furthermore, on March 17, 2009, Ms. **Obtilia Eugenio Manuel**, President of the Me’phaa Indigenous Peoples’ Organisation (*Organización de los Pueblos Indígenas Me’phaa* – OPIM), in the State of Guerrero, received three text messages that said: “what happened to Raúl (Lucas) and Manuel (Ponce) will happen to you”. The threats were also directed towards her husband, Mr. **Cuauhtémoc Ramírez**, a member of OPIM. The couple had to leave the region a few days after the threat. However, the other members of OPIM who remained in their communities continue to be very exposed because of their membership to this organisation. The “Tlachinollan” Mountain Human Rights Centre (*Centro de Derechos Humanos de la Montaña “Tlachinollan”*) had to close its offices in the town of Ayutla de los Libres, in the State of Guerrero, because of the lack of minimal security conditions for their work. In April 2009, the IACtHR had to grant provisional measures to protect the life of 107 human rights defenders in Guerrero⁹. In addition, Mr. **Raúl Hernández Abundio**, also a member of OPIM, remained detained in the Social Rehabilitation Centre in the town of Ayutla de los Libres in spite of the fact that his defence has shown evidence of the inconsistencies and irregularities of his detention as well as sufficient evidence to prove his innocence¹⁰.

In the State of Chiapas, the “Fray Bartolomé de Las Casas, A.C” Human Rights Centre (*Centro de Derechos Humanos “Fray Bartolomé de Las Casas, A.C”* – Frayba) and its members continued to be victims of harassment and attacks. Between June 14 and 20, 2009, Mr. **Diego Cadenas Gordillo**, Director of Frayba, realised that he was being watched by people with their faces covered with hats and with a video camera. Another lawyer at the Frayba Centre, Mr. **Ricardo Lagunes Gasca**, was attacked on September 18, 2009 in the town of Ejido Jotolá, in the municipi-

9/ See IACtHR Resolution, *Asunto Fernández Ortega y otros*, April 30, 2009. The NGOs report that such measures were not effectively implemented by the Mexican State.

10/ Mr. Hernández Abundio was detained on April 17, 2008, following the issue of 15 arrest warrants for OPIM members, accused of assassinating Mr. Alejandro Feliciano García, an army informer, on January 1, 2008 in Ayutla de los Libres.

pality of Chilón, State of Chiapas, by members of the Organisation for the Defence of Indigenous and Peasants' Rights (*Organización para la Defensa de los Derechos Indígenas y Campesinos* – OPDDIC), a group that has been denounced as paramilitary. By the end of 2009, the judicial process was at a standstill and no progress had been made. Mr. Lagunes Gasca was heading towards the lower levels of Tila and he stopped in Ejido Jotolá to report on the judicial proceedings he is working on as the defence lawyer for the “ejidatarios”¹¹. Furthermore, on November 8, 2009, around 20 police officers broke into the house of Mr. **Adolfo Guzmán Ordaz**, a member of the Connection, Communication and Training Organisation (*Organización Enlace, Comunicación y Capacitación, A.C* – Enlace CC)¹², with an arrest warrant for the leaders of four different organisations. The police officers threatened Mr. Guzmán's wife with a gun, whilst Mr. Guzmán Ordaz was questioned about his activities in Enlace CC. The police officers also took photos of the house and recorded a video of the family. Subsequently, Mr. Guzmán and his family had to move house. Mr. Guzmán filed a complaint for the crimes of raid, torture, abuse of authority by the police. However, on December 14, 2009, Mr. Guzmán and his wife decided not to go to the hearing as they had received threats in the days leading up to the hearing. By the end of 2009, the authorities had not carried out the necessary investigations nor had they taken measures to shed light on the events.

Judicial harassment is another reprisal mechanism used against human rights defenders. On September 30, 2009, members of a joint operation carried out by the PGR and the Chiapas State Attorney General's Office (*Procuraduría General de Justicia del Estado de Chiapas* – PGJE) entered the “28 de Junio” community in the municipality of Venustiano Carranza, State of Chiapas, and arrested Mr. **José Manuel Hernández Martínez**, also known as “Don Chema”, a member of the Carranza Region Emiliano Zapata Peasants' Organisation (*Organización Campesina Emiliano Zapata* – OCEZ)¹³ and outstanding social leader in the community. Mr. José Manuel Hernández Martínez was accused by the PGJE of “crimi-

11/ In Mexico, an “ejido” is a rural collective property that has been very important in agricultural life. When the agrarian revolution took place, a lot of land was appropriated from landowners and distributed among the poor; however, they did not have the right to sell them, only to work the lands. Furthermore, they are obliged to pass them on to their descendents. Those who work these lands are called “ejidatarios”.

12/ Connection CC is an organisation that promotes the prominence of popular groups, communities and peasant and indigenous organisations with the aim of developing alternative local development with a regional perspective and to build a more just and mutually supportive society from a gender perspective and by demanding respect for economic, social and cultural rights.

13/ OCEZ is a peasant organisation that fights for peasant land rights in the region. The organisation recently signed a Governance Pact with the Chiapas Government and has been holding discussions with Mr. Nemesio Ponce Sánchez, Deputy Secretary General of the Chiapas Government, in order to find solutions to the social, agricultural and legal demands of the peasants in the region.

nal association”, “aggravated eviction” and “damage”, for events that allegedly took place in 2003 in Venustiano Carranza. He was also accused of other crimes, including “attacks on symbols of the nation” and “conspiracy”. In October 2009, Mr. José Manuel Hernández Martínez was transferred, without notifying his lawyer or his family, by prison guards and with the support of the federal police to the Federal Social Rehabilitation Centre No. 4 (CEFERESO No. 4) in the State of Nayarit. He was released at the end of November following national and international pressure.

Assassinations and harassment of defenders who oppose projects that affect the environment

Environmental defenders, particularly those who oppose projects promoted by big industry or by the Government, were victims of threats, which, in one case resulted in assassination. Mr. **Mariano Abarca Roblero**, a member of the Mexican Network of those Affected by Mining (*Red Mexicana de Afectados por la Minería* – REMA) and who was actively involved in denouncing the environmental effects caused by the Canadian mining company Blackfire Exploration Ltd, was assassinated on November 27, 2009. Mr. **Orlando Velásquez**, an active participant in the meetings organised by REMA, was also injured in the attack. On November 23, 2009, Mr. Mariano Abarca Roblero had presented a report to the Public Ministry in Chicomuselo, Chiapas State, on the threats received by employees of Blackfire. Furthermore, on August 17, 2009, Mr. Abarca Roblero had been arbitrarily detained and put in preventive detention (*arraigado*), accused of “attacks against peace”, “criminal association”, “attacks on roads” and “damage and prejudice” against the Blackfire Exploration Ltd mining company. However, he was released on August 26, 2009 given a lack of information to continue with the judicial proceedings, and due to national and international pressure. At the end of 2009, various people had been arrested for the assassination and Blackfire had denied all responsibility.

Moreover, on July 21, 2009 a paramilitary group called the Army of God (*Ejército de Dios*) ran down a group of “ejidatarios”, members of the Other Campaign (*Otra Campaña*)¹⁴ and opponents to the construction of the road San Cristóbal de las Casas – Palenque, in Chiapas¹⁵. Mr. **Aurelio Díaz Hernández** died in the attack and Mr. **Javier Gomez Heredia** was injured.

14/ The Other Campaign is the name of an independent and political initiative for popular participation, promoted by the Zapatista National Liberation Army (*Ejército Zapatista de Liberación Nacional* - EZLN) and the Zapata Movement (*Movimiento Zapatista*). It aims at listening to the Mexican people, those who are organised and those who are not, in order to make positive change in society, bearing in mind certain anti-capitalist and equality principles.

15/ This road affects 40 hectares in the mountain (including pine and oak forests), ten hectares of fields and two wells.

Furthermore, the same day, Army of God members assaulted Messrs. **José Heredia** and **Fernando Heredia**, who are also opposed to the construction of the road and are members of the Other Campaign. By the end of 2009, only one of the paramilitaries involved had been arrested¹⁶.

Also, environmental defenders too faced judicial harassment, as illustrated by the arrests of Messrs. **Francisco Estrada Castro** and **Luis Gutiérrez Montiel** on August 24, 2009, both leaders of the opposition movement to the rubbish dump situated at the entrance to the village of San Antonio la Isla, Mexico State, as it does not comply with environmental standards¹⁷. Another example of judicial harassment was the arrest warrant issued in November 2009 against Messrs. **Juan Zamora González** and **Porfirio Méndez Martínez**, defenders of the people affected by the construction of the Cerro de Oro dam in the 1980s¹⁸.

Furthermore, it is worth remembering that in June 2009, the Mexican State was taken to the IACtHR regarding the case of arbitrary detention and torture of Mr. **Rodolfo Montiel** and Mr. **Teodoro Cabrera**, environmental farmers, in Guerrero State in 1999 by members of the military¹⁹. Mr. Montiel and Mr. Cabrera who were outstanding defenders of the forest in Petatlán and Coyuca de Catalán, Guerrero State, have still not been able to return to their communities because of the risks and the threats against them. Mr. Montiel went to exile in another country.

Assaults against defenders who denounce abuses committed by the armed forces

Some defenders who denounced human rights violations carried out by the military were also victims of attacks during 2009. For instance, Mr. **Salomón Monárrez Meraz**, Secretary of the Sinaloa Civil Front (*Frente Cívico Sinaloense*) in Culiacán, Sinaloa State, whose work, in recent years, has focused on denouncing abuses committed by the military within the framework of the “operations” against organised crime, was seriously injured when he was shot on August 31, 2009 when unknown

16/ See PRODH Centre Report, *Sociedad amenazada. Violencia e impunidad, rostros del México actual*, February 2010.

17/ The rubbish dump was closed for lack of compliance with environmental standards. However, approximately 1,500 tons of rubbish is dumped there every day, including biological, infectious and industrial waste. See PRODH Centre Report, *Sociedad amenazada. Violencia e impunidad, rostros del México actual*, February 2010.

18/ This dam affects more than 26,000 people. See PRODH Centre Report, *Sociedad amenazada. Violencia e impunidad, rostros del México actual*, February 2010.

19/ See IACtHR, *Demanda ante la Corte Interamericana de Derechos Humanos en el caso de Teodoro Cabrera García y Rodolfo Montiel Flores (Caso 12.449) contra los Estados Unidos Mexicanos*, June 24, 2009.

persons broke into his house²⁰. Similarly, Ms. **Mercedes Murillo Monge**, President of the Sinaloa Civil Front, was subjected to harassment and intimidation acts by more than twenty members of the military who turned up at her home on November 12, 2009. At least five of the military pointed their guns at her; they asked her to prove her identity and asked after members of her family²¹. Both events carried out against members of the Sinaloa Civil Front were reported, but by the end of 2009, no advances had been made in the investigations²². In addition, Mr. **Gustavo de la Rosa Hickerson**, Inspector for Victim Support and Special Projects of the Human Rights State Commission in Chihuahua State, was obliged to move abroad temporarily following threats and the high risk he faced during September 2009, as a result of his work receiving complaints against members of the army in Ciudad Juárez, Chihuahua State.

Acts of harassment against defenders of migrant rights

In 2009, defenders of migrant rights were the subject of harassment and defamation²³. Following the assassination in September 2009 of Ms. Perla Judith Quintero Caballero, allegedly by a young man from Honduras, the media claimed that the organisation “Bethlehem, Resting Place for the Migrant” (*Belén, Posada del Migrante*)²⁴ was responsible for the crime, focusing on the nationality and irregular status of the alleged murderer and arguing that the humanitarian aid provided by the shelter encouraged the presence of migrants with irregular status. In this context, various media channels carried out a smear campaign against Father **Pedro Pantoja Arreola**, founder of the shelter, and his collaborators, questioning the legality of the humanitarian aid activities and the actual existence of the shelter. Furthermore, repeated intimidation of the migrants and the organisation Bethlehem, Resting Place for the Migrant, took place²⁵. This led

20 / See PRODH Centre Report, *Sociedad amenazada. Violencia e impunidad, rostros del México actual*, February 2010.

21 / See PRODH Centre Report, *Sin controles, sin castigo: las violaciones del Estado mexicano a los derechos civiles y políticos*, December 21, 2009.

22 / The Sinaloa Civic Front, together with the PRODH Centre and the Fundar organisation, represent the families of four victims of extrajudicial executions committed by the military that brings into question the fact that this case comes under military jurisdiction. Their demand has reached the Supreme Court of Justice.

23 / See Report on Human Rights Defenders produced by various Mexican civil society organisations for the 61st anniversary of the Universal Human Rights Declaration, December 10, 2009.

24 / Bethlehem, Resting Place for the Migrant is an organisation that has been providing humanitarian assistance and human rights advice to Central American migrants who come through Saltillo, Coahuila.

25 / For example, on October 25, 2009, around 2:30 am, a group of people threw stones against the building of the organisation, breaking some windows, and threatening the members of the organisation, shouting “we don’t want you here”. In addition, on October 28, 2009, two people tried to enter the premises of the organisation by jumping over the barrier, but on being seen, they left. Later, a group of people tried, and failed, to throw stones at the shelter again.

to the Public Security Department accepting the precautionary measures requested by the CNDH, which had still to be implemented effectively as of the end of 2009. Moreover, Father **Alejandro Solalinde**, Director of the shelter “Brothers on the Way” (*Hermanos en el Camino*) in Ixtépéc, Oaxaca State, continued to carry out his humanitarian work with migrants within a very unsafe environment.

Threats against defenders fighting against the impunity of human rights violations

Fighting against impunity also affects the security of human rights defenders. In Oaxaca State, in May 2009, the following defenders received death threats: Ms. **Alba Cruz Ramos**, lawyer at the 25 November Committee (*Comité 25 de Noviembre*), Ms. **Yésica Sánchez Maya**, lawyer at the Parliamentary Dialogue and Equality Consortium (*Consortio para el Diálogo Parlamentario y la Equidad*) in Oaxaca, Ms. **Beatriz Casas Arellanes**, lawyer at the “Bartolomé Carrasco Briseño” Human Rights Centre (*Centro de Derechos Humanos “Bartolomé Carrasco Briseño”*), and Father **Romualdo Francisco Mayrén Peláez**, Coordinator of the Justice and Peace Dioceses Commission (*Comisión Diocesana de Justicia y Paz*), who were defending the case of Mr. Marcelino Coache Verano. The latter was a victim of alleged torture, ill-treatment, threats and arbitrary detention on various occasions for his activism with the People’s Assembly of Oaxaca Peoples (*Asamblea Popular de los Pueblos de Oaxaca – APPO*). Moreover, the defenders or family members of defenders who seek formal justice were exposed to new attacks. For example, on January 14, 2009, in the State of Michoacán, a Prosecutor from the State Attorney General’s Office harassed and threatened Ms. **Janahuy Paredes Lachino**, daughter of Mr. **Francisco Paredes Ruiz**, an activist at the Diego Lucero Foundation (*Fundación Diego Lucero*)²⁶ who was victim of enforced disappearance in September 2007, forcing her to make a statement under pressure, interrogating her about her travels in Mexico and abroad and asking her whether she knew if her father was a sympathiser of subversive groups, particularly the People’s Revolutionary Army (*Ejército Popular Revolucionario – EPR*).

Threats against journalists committed to the fight against corruption and for crimes to be investigated

The situation of journalists committed to fighting against corruption and to investigating crimes was also of concern, as they were victims of numerous threats and even assassinations during 2009. For example, Mr. **Eliseo Barrón Hernández**, journalist for the *Opinión de Torreón* newspaper, was

26 / The Diego Lucero A.C. Foundation is a civil organisation that promotes and defends human rights, specialising in the fight for the life of the disappeared in Mexico.

assassinated in Durango on May 26, 2009. He had covered a case of alleged abuse of authority in the Torreón municipal police, which resulted in more than 300 police officers being suspended and five members of the “Zeta Group” being arrested on June 6, 2009²⁷. On May 3, 2009, Mr. **Carlos Ortega Melo Samper**, journalist for the Durango *El Tiempo* newspaper was also assassinated in Durango; he frequently denounced activities of the authorities. Three months before his assassination, persons unknown had fired at his house and set fire to his van. Furthermore, just before his assassination, he had had an argument with the Municipal Mayor, which he publicised stating that he had received threats from the local authorities and had even published a column claiming that he held the Municipal Mayor responsible for any harm that he may come to²⁸. Equally alarming was the assassination of Mr. **Norberto Miranda Madrid “El Gallito”**, Director of the digital newspaper *Radio Visión*, on September 23, 2009 in the municipality of Nuevo Casas Grandes, in Chihuahua²⁹. Mr. Miranda Madrid had written various articles about the growing public insecurity in Casas Grandes, allegedly as a result of fights between gangs of drug traffickers. On September 5, 2009, Mr. Miranda Madrid had written about the capture of four members of the Juárez cartel³⁰. Moreover, it is important to mention the judicial harassment faced by the *Contralínea* magazine, the intimidation suffered by its members and the withdrawal of official (governmental) advertising in reprisal for the reports published by the magazine about the levels of corruption in the Federal Government in relation to the parastatal organisation Mexican Oil (*Petróleos Mexicanos* – PEMEX)³¹.

Threats and harassment acts against women’s rights defenders

Women’s rights defenders, particularly those who denounce violence against women, have themselves become victims of human rights violations. For instance, Ms. **Rosa Isela Pérez Torres**, a well-known journalist who has published numerous reports related to disappearances and assassinations of women in Ciudad Juárez, and an expert witness in the “Campo Algodonero” case, was subjected to serious threats by email and telephone

27/ See Reporters Without Borders (RSF) Press Releases, May 28 and June 16, 2009.

28/ See LIMEDDH.

29/ See CENCOS and Article 19 Press Release, September 25, 2009.

30/ In August 2009, the CNDH issued a general recommendation related to assaults on journalists and the prevailing impunity of these cases. The cases of Messrs. Juan Daniel Martínez Gil, Eliseo Barrón Hernández and Carlos Ortega Melo Samper are included in the CNDH General Recommendation. See CNDH, *Recomendación General 17 sobre los casos de agresiones a periodistas y la impunidad prevaleciente*, August 19, 2009. See also IACHR Press Releases No. 54/09, July 30, 2009, No. 34/09, May 29, 2009, No. 22/09, May 7 2009, and No. 70/09, September 29, 2009.

31/ See PRODH Centre.

that led to provisional measures being granted to her by the IACtHR³². Ms. Pérez Torres has received threats since 2000 and has been subject to constant surveillance and monitoring that has also affected members of her family. This harassment has become pronounced since she covered the events related to the murders of eight women in Campo Algodonero. At the end of 2009, Ms. Pérez Torres had fled the town for security reasons³³. Likewise, Ms. **Lydia Cacho**, a journalist and human rights defender, continued to be subjected to harassment and serious threats. In July 2009, unidentified individuals patrolled and took photographs of Ms. Cacho's home. Shortly afterwards she received death threats. During the same period, members of the Integrated Support Centre for Women (*Centro Integral de Atención a la Mujer* – CIAM), which Ms. Cacho presides, also received death threats. As a result of these events, in August 2009, the IACHR granted precautionary measures to Ms. Cacho, her family and the members of CIAM.

Urgent Interventions issued by The Observatory in 2009

Names	Violations / Follow-up	Reference	Date of Issuance
Mr. Francisco Paredes Ruiz	Threats / Enforced disappearance	Urgent Appeal MEX 001/0109/OBS 012	January 22, 2009
		Press Release / International Fact-Finding Mission Report	February 10, 2009
Mr. Raúl Lucas Lucía and Mr. Manuel Ponce Rosas	Enforced disappearance	Urgent Appeal MEX 002/0209/OBS 029	February 18, 2009
	Assassination	Urgent Appeal MEX 002/0209/OBS 029.1	February 25, 2009
Ms. Lourdes Argelia Rodríguez Lucero and Mr. Prometeo Jorge Rodríguez Lucero	Surveillance / Harassment / Assault / Threats	Urgent Appeal MEX 003/0309/OBS 047	March 13, 2009
Ms. Obtilia Eugenio Manuel and Messrs. Cuauhtémoc Ramírez Rodríguez, Raúl Lucas, Manuel Ponce, Natalio Ortega Cruz, Romualdo Santiago Enedina, Orlando Manzanarez Lorenzo, Manuel Cruz Victoriano, and Raúl Hernández Abundió / Me'phaa Indigenous Peoples' Organisation (OPIM) and the "Tlachinollan" Mountain Human Rights Centre	Threats / Harassment / Arrests / Releases	Urgent Appeal MEX 004/0309/OBS 055	March 30, 2009

32/ See IACtHR Resolution, July 6, 2009.

194 33/ See PRODH Centre.

Names	Violations / Follow-up	Reference	Date of Issuance
OPIM / Messrs. Cuauhtémoc Ramírez Rodríguez, Braulio Manzanares Lorenzo, José Eugenio Cruz, Félix Ortega Dolores, Merced Santiago Lorenzo and Raúl Hernández Abundio	Judicial harassment / Arbitrary detention / Mistreatment	Urgent Appeal MEX 004/0309/OBS 055.1	December 14, 2009
Ms. Alba Cruz Ramos, Ms. Yésica Sánchez Maya, Ms. Beatriz Casas Arellanes and Father Romualdo Francisco Mayrén Peláez	Threats / Harassment	Urgent Appeal MEX 005/0509/OBS 069	May 7, 2009
“Fray Bartolomé de Las Casas, A.C” Human Rights Centre (Frayba) / Messrs. Diego Cadenas Gordillo and Jorge Armando Gómez	Harassment	Urgent Appeal MEX 006/0609/OBS 086	June 23, 2009
Ms. Margarita Martín de las Nieves, Ms. Guadalupe Castro Morales and Mr. Santiago Ponce Lola	Assassination attempt	Urgent Appeal MEX 007/0609/OBS 092	June 26, 2009
Mr. José Emiliano Nandayapa Déciga	Arbitrary arrest / Assault	Urgent Appeal MEX 008/0709/OBS 100	July 7, 2009
Mr. Salomón Monárrez Meraz	Assault	Urgent Appeal MEX 009/0909/OBS 130	September 2, 2009
Mr. Ricardo Lagunes Gasca	Assault / Harassment	Urgent Appeal MEX 009/0909/OBS 139	September 24, 2009
	Risk of impunity / Harassment / Fear for physical and psychological integrity / Serious assault	Urgent Appeal MEX 009/0909/OBS 139.1	November 20, 2009
Mr. José Manuel Hernández Martínez	Detention / Harassment	Urgent Appeal MEX 010/1009/OBS 144	October 9, 2009
	Forced transfer	Urgent Appeal MEX 010/1009/OBS 144.1	October 22, 2009
Messrs. Roselio de la Cruz Gonzáles, José Manuel de la Torre Hernández, José Manuel Hernández Martínez and Ricardo Magdaleno Velasco	Arbitrary detention / Forced transfer / Harassment	Urgent Appeal MEX 010/1009/OBS 144.2	November 2, 2009
Bethlehem, Resting Place for the Migrant / Father Pedro Pantoja Arreola	Harassment / Defamation	Urgent Appeal MEX 011/1009/OBS 146	October 13, 2009
		Urgent Appeal MEX 011/1009/OBS 146.1	November 5, 2009
Mr. Mariano Abarca Roblero	Assassination	Urgent Appeal MEX 012/1209/OBS 182	December 4, 2009
Mr. Adolfo Guzmán Ordaz and his family	Death threats / Harassment / Intimidation / Abuse of authority / House raid	Urgent Appeal MEX 013/1209/OBS 193	December 18, 2009

NICARAGUA

OBSERVATORY FOR THE PROTECTION OF HUMAN RIGHTS DEFENDERS
ANNUAL REPORT 2010

Political context

The violent climate of the municipal elections of November 2008 exposed the growing polarisation of Nicaraguan society prompted by President Daniel Ortega with the Sandinista National Liberation Front (*Frente Sandinista de Liberación Nacional* – FSLN). Furthermore, the FSLN has been taking over the State's institutions and using its power to dominate over other political parties and the opposition. In 2008, the Sandinista Renovation Movement (*Movimiento Renovador Sandinista* – MRS) and the Conservative Party (*Partido Conservador* – PC), political parties of the opposition, were prevented from participating in the municipal elections as their legal status was removed. 2009 ended with the decision of the Constitutional Chamber of the Nicaraguan Supreme Court to allow the re-election of President Ortega and the Sandinista mayors who were elected in November 2008¹. This decision by the Constitutional Chamber as well as the irregularities in the process to constitute the Chamber revealed President Ortega's personal use of institutions². One shall also note the lack of response of the Supreme Electoral Council and of the Supreme Court of Justice to, respectively, the motion for review filed by the PC and the MRS, which prevent these groups from directly participating in the 2010 regional elections.

To a large extent, the deterioration of the situation in terms of civil and political rights results from the current President's desire to stay in power, which sometimes encourages groups close to the Government to violently confront the opposition and the police to remain passive when faced with confrontations between Government supporters and the opposition. It should be noted that there were some progress in terms of economic, social, and cultural rights (especially in terms of food and education), which were neglected for more than a decade under previous governments. It must, however, be reiterated that rights are interdependent and that it is an international obligation to protect them as a whole.

1/ Sentence No. 504 of the Constitutional Chamber of the Nicaraguan Supreme Court, October 19, 2009.

2/ The Court was questioned through President Ortega's appeal for legal protection, which was inappropriate given that none of the President's constitutional rights were being disrespected or threatened: re-election is not considered a fundamental right.

In this context, a real media campaign took place to discredit and harass those who criticised the Government, as illustrated – among other things – by the President’s aggressive language when describing or addressing social organisations and political opponents³; series of acts of harassment and assaults towards independent journalists; an increasing control of means of communication; closure of opposition radio stations⁴; and attacks on demonstrations held by members of civil society and political parties of the opposition. These attacks were carried out by groups close to the Government and the authorities remained passive.

In 2009, the UN Committee Against Torture (CAT) reviewed the situation of human rights in Nicaragua and declared: “The Committee notes with concern the information it has received on alleged cases of systematic harassment and death threats directed at human rights defenders, particularly female defenders of women’s rights. The Committee also notes with concern the criminal investigations instituted against women defending reproductive rights, as well as the de facto constraints that limit the enjoyment of the right to freedom of association by organizations of human rights defenders”. In addition, the CAT urged the State to take the necessary measures to combat the systemic harassment and death threats directed at human rights and women’s rights defenders, and to “[...] combat and prevent acts of violence against members of the political opposition, their sympathizers and representatives of NGOs”⁵.

Harassment of human rights organisations and their leaders

In addition to the slander campaign that targeted the Government’s opponents, human rights organisations and their members were constantly being harassed. For instance, on October 22, 2009, Ms. **Leonor Martínez**, a member of the Nicaragua Youth Coalition (*Coalición de Jóvenes de Nicaragua*)⁶, was violently attacked by government-affiliated groups after

3/ According to the Nicaraguan Centre for Human Rights (CENIDH), during the hearing of the Inter-American Commission on Human Rights (IACHR) on November 2, 2009, “the Government representative qualified civil society organisations as groups that are dissatisfied because their political parties did not receive the people’s support during the elections”. President Ortega referred to civil society organisations and other political parties as the “oligarchy’s scraps” on several occasions.

4/ For example, *Radio Ley* was closed down without any warning on June 19, 2009 under the pretext that it had failed to fulfil some administrative resolutions, which violated journalist Santiago Aburto’s right to be heard and to defend his decision to publicly support the opposition in the municipal elections of 2008.

5/ See Committee Against Torture, *Concluding Observations of the Committee Against Torture*, United Nations Document CAT/C/NIC/CO/1, May 14, 2009.

6/ The Nicaragua Youth Coalition is made up of individuals, representatives of organisations and social movements who believe that young people should reach their full potential and that the rule of law, including the defence of youth rights, should be upheld.

attending a Civil Coordinating Committee (*Coordinadora Civil*)⁷ meeting. Three men on a truck broke her arm, aimed a gun at her and threatened her with a knife, shouting death threats at her and her family and telling her “not to get involved in this”, referring to her work with the Youth Coalition, which has openly opposed the re-election of President Ortega⁸.

It should also be mentioned that the precautionary measures of protection granted by the Inter-American Commission on Human Rights (IACHR) following the various assaults in September and October 2008 on Ms. **Vilma Núñez de Escorcía**, President of the Nicaraguan Centre for Human Rights (*Centro Nicaragüense de Derechos Humanos – CENIDH*), and other CENIDH members, including Mr. **Héctor Calero**, Spokesperson, and Mr. **Norwin Solano**, lawyer, were not agreed with the petitioners until the General Directorate of the national police took the initiative to implement these measures. Furthermore, at the end of 2009, the investigations into the damage done to Ms. Núñez de Escorcía’s home on September 28, 2008 had not yet led to any result⁹.

Finally, the slander campaign and exclusion of civil society organisations continued as illustrated, among others, by the fact that the Nicaraguan authorities did not allow human rights organisations to participate in the General Assembly of the Organisation of American States (OAS), which took place in San Pedro Sula, Honduras, from June 1 to 3, 2009.

Harassment of organisations that defend women’s rights

In 2009, organisations that defend women’s rights remained subjected to acts of judicial harassment, threats and assault. A clear example of this is that of the nine women rights defenders¹⁰ who, at the end of 2009, were still being accused of several crimes, such as “concealment of rape”, “conspiracy to commit a crime” and “incitement to commit a crime”. These charges were laid in October 2007 as a result of their decision to accompany a nine-year-old girl in the process to get an abortion to save

7/ The Civil Coordinating Committee coordinates, arranges and articulates the organised sectors of civil society in Nicaragua, and is made up of individuals and non-profit civil organisations, such as NGOs, trade unions, social movements and cooperatives. The Civil Coordinating Committee works on human rights, among other things.

8/ See CENIDH at the IACHR hearing of November 2, 2009.

9/ See 2009 Annual Report.

10/ Ms. **Ana María Pizarro**, Ms. **Juana Antonia Jiménez**, Ms. **Lorna Norori Gutiérrez**, Ms. **Martha María Blandón**, Ms. **Luisa Molina Argüello**, Ms. **Martha Munguía Alvarado**, Ms. **Mayra Sirias**, Ms. **Yamileth Mejía Palma** and Ms. **Violeta Delgado Sarmiento** are members of the Network of Women Against Violence, the Feminist Movement (*Movimiento Feminista*), the Autonomous Women’s Movement (MAM), the Nicaraguan Children and Teenagers Coordinating Committee (*Coordinadora de la Niñez y Adolescencia en Nicaragua*), and the September 28 Campaign (*Campaña 28 de Septiembre*).

her life. The girl had become pregnant after being raped and her life was at risk¹¹. At the end of 2009, the situation of the nine defenders was still up in the air, with the consequent encumbrance on their legal safety. Moreover, in October 2009, the Director of the Permanent Committee for the Defence of Human Rights (*Comisión Permanente de los Derechos Humanos* – CPDH), Mr. Marcos Carmona, denounced plans to intimidate and attack ten NGOs representatives who were critical of President Daniel Ortega’s Government. Among the targets were Ms. **Azalea Solís**, Ms. **Juanita Jiménez** and Ms. **Sofía Montenegro**, all members of the Autonomous Women’s Movement (*Movimiento Autónomo de Mujeres* – MAM)¹². Members of the FSLN revealed to Mr. Carmona that the plans to intimidate and attack these women involved hiring delinquents from neighbourhoods such as Loma Linda, Acahualinca and Camilo Ortega to follow these NGO representatives 24 hours a day and carry out attacks disguised as common assaults and criminal scuffles in order to intimidate members of civil society who fight for human rights.

Acts of harassment and attacks by shock groups during demonstrations

Since 2007, peaceful demonstrations by members of civil society have often been met with violence. According to CENIDH, the Government itself incites these acts of violence through civil groups that support it, who then attack protesters with clubs, stones, mortars, and even machetes. These attacks are characterised by a lack of a response from the police, both in the heat of the moment and when it comes the time to investigate or sanction those responsible¹³. The CAT expressed “concern at the information it has received regarding the violent suppression by some sectors of society, including civilian patrols allegedly supported by the Government, of collective demonstrations in which the political opposition and representatives of NGOs participated. A failure to punish acts of this sort is an inducement to the repetition of such abuse and would appear to indicate the tacit approval of the authorities”¹⁴.

On August 8, 2009 for example, a demonstration held by the Civil Coordinating Committee was violently repressed, resulting in the injury of more than 21 people. When the members of the Civil Coordinating

11/ Therapeutic abortions were legal in Nicaragua for 169 years until they were prohibited in 2006. Various appeals concerning the unconstitutional nature of the law that penalises therapeutic abortions were brought to the Supreme Court in 2007, but the court has yet to reach a verdict.

12/ See MAM Press Release, October 27, 2009.

13/ See CENIDH at the IACHR hearing of November 2, 2009.

14/ See Committee Against Torture, *Concluding Observations of the Committee Against Torture*, United Nations Document CAT/C/NIC/CO/1, May 14, 2009.

Committee wanted to march towards the cathedral to attend an arts festival that had been organised to conclude their General Assembly, they were attacked by 200 members of the Sandinista Youth (*Juventud Sandinista*), FSLN activists and others who had been hired to carry out the attacks. The aggressors were organised in paramilitary fashion and were armed with shovels and stones. They assaulted the demonstrators, not only trying to disrupt the march, but also trying to humiliate the demonstrators, hitting them, ripping their shirts and spitting on them. When Mr. Mario Sánchez, the public relations representative for the Civil Coordinating Committee, started to take out a camera, he was violently beaten. His aggressors tried to steal his cell phone and camera, and even took his shoes. Faced with violent armed groups and passive policemen, the demonstrators sought refuge in the cathedral, and the attackers finally went away when Vicar Bismarck Conde intervened. The State refused to punish the policemen who were present during the attacks. When consulted, Ms. Aminta Granera, First Commissioner, alleged that this was intended “to protect institutions”¹⁵. The impunity with which this sort of violence is met is of great concern, as is the authorities’ support of violent groups, which is apparent from the presence of public civil servants and members of the Citizens’ Power Council (*Consejo de Poder Ciudadano – CPC*), an organisation headed by the First Lady, in irregular armed groups.

The National Youth Movement (*Movimiento Juvenil Nacional – MJN*) recorded more than 20 public demonstrations held by various youth groups in order to promote the human rights of young people in Nicaragua that have been “prevented, obstructed and even attacked”. The No Group (*Grupo No*), the Bridge Movement (*Movimiento Puente*), the Nicaraguan Democratic Youth (*Juventud Democrática Nicaragüense – JUDENIC*), the Youth Coalition (*Coalición de Jóvenes*), the Nicaraguan Youth Network (*Red de Jóvenes Nicaragüita – RJN*), the Network of Women Against Violence (*Red de Mujeres contra la Violencia*) and the MJN¹⁶ are among some of the groups that organised these protests. On November 9, 2009, pro-Government shock groups began throwing stones at a group of young people who were peacefully protesting in front of the Supreme Electoral Council against the fraud in the municipal elections of November 2008¹⁷. The march for democracy on November 21, 2009 as well as the march for the elimination of violence against women on November 25, 2009 and the march on December 10 organised to celebrate the Universal Declaration

15/ See CENIDH at IACHR hearing of November 2, 2009.

16/ See MJN Report, *Informe sobre violaciones al derecho a manifestación pública, movilización, asociación y libertad de expresión de la juventud nicaragüense durante el periodo 2007-2009*, August 2009.

17/ See CENIDH.

of Human Rights, all had to be protected by policemen in order to avoid confrontations with pro-Government irregular armed groups¹⁸.

Harassment of journalists and obstacles to freedom of expression

In 2009, independent journalists who worked on human rights issued continued to be harassed by the Government, violating their right to freedom of expression. For instance, on August 14, 2009, Ms. **María Acuña**, a journalist, and Mr. **Santos Padilla**, cameraman for *Canal 10*, were assaulted and beaten by police officers under the orders of the Head of District V in the city of Managua, Commissioner Sergio Gutiérrez, while they were covering a peaceful demonstration against an eviction. Besides hitting the journalist and her cameraman, the police destroyed their video camera to prevent them from filming the repression of demonstrators¹⁹.

Furthermore, some journalists ended up in court based on accusations of “defamation and slander”. For example, Ms. **María Mercedes Urbina**, a journalist for *El Nagaroteño*, a local newspaper, was sued by Mr. Leopoldo Ibarra, who works in the Mayor’s Office in Nagarote – and whose Mayor belongs to the Government’s party – after she denounced the municipal authorities for corruption. On September 8, 2009, she was placed under house arrest by Judge Irene Hernández and told that she must appear before the court three times a week. According to Ms. María Mercedes Urbina, the Judge was out of line in ordering measures usually reserved for people accused of committing serious crimes such as murder and not “defamation and slander”. At the end of 2009, faced with the imminent possibility of a fine, the journalist opted for an apology and the charges were dropped²⁰.

Urgent Interventions issued by The Observatory in 2009

Names	Violations / Follow-up	Reference	Date of Issuance
The Civil Coordinating Committee, Mr. Mario Sánchez , Ms. Luisa Molina , Mr. Adolfo Acevedo , Mr. Irving Larios , Mr. Roberto Velásquez , Mr. Guillermo Rodríguez and Ms. Violeta Granera	Attacks / Obstacles to freedom of assembly	Open Letter to the authorities	August 14, 2009
Nicaraguan and Venezuelan NGOs	Obstacles to freedom of association	Press Release	May 29, 2009
Ms. Patricia Orozco , Ms. Lorna Norori and Ms. Ana Eveling	Assault / Harassment	Urgent Appeal NIC 001/1109/OBS 159	November 4, 2009

18 / *Idem*.

19 / See CENIDH at IACHR hearing of November 2, 2009.

20 / *Idem*.

PERU

OBSERVATORY FOR THE PROTECTION OF HUMAN RIGHTS DEFENDERS
ANNUAL REPORT 2010

Political context

The trial and conviction of former President Alberto Fujimori made not only Peruvian history, but world history as well. After a 16-month trial, on April 7, 2009, Mr. Fujimori was sentenced to 25 years in prison, the maximum sentence allowed by the Peruvian Criminal Code for “voluntary manslaughter” and “serious injuries” in the Barrios Altos and La Cantuta cases, and “aggravated kidnapping” in the cases of Mr. Gustavo Gorriti and Mr. Samuel Dyer¹. This was the first time that a democratically elected Latin American Head of State was declared guilty of committing crimes against humanity. It was also the first time that a former President was extradited to his country to face charges for such crimes. The sentence was ratified by the Supreme Court of Justice on December 30, 2009. Mr. Fujimori was also convicted of “corruption” and there are ongoing trials against him and his collaborators for human rights violations².

Peru continued to experience severe social conflicts in 2009³. The most dramatic case was the Bagua conflict⁴. In March 2008, the legislative power granted the executive power the authority to adopt measures related to its development policy and the implementation of the Free Trade Agreement with the United States. The Government approved 101 decrees. Indigenous and peasant communities opposed several of these decrees because they feared that they would violate their right to be consulted on the use of their lands and/or infringe on human rights because of their impact on the environment, which would be in breach

1/ See Association for Human Rights in Peru (APRODEH).

2/ On July 20, 2009, Mr. Alberto Fujimori was sentenced to seven and a half years in prison for serious crimes of corruption committed to the detriment of the country. In October 2009, Mr. Fujimori, Mr. Vladimiro Montesinos Torres and other members of the military were tried for the attack that killed journalist Melissa Alfaro on October 10, 1991. It should be noted that in order to try Mr. Fujimori, the Peruvian State had to make a request to the Chilean Supreme Court since these charges were not included in the Chilean Court's decision on September 21, 2007 to extradite Mr. Fujimori.

3/ See Ombudsman's Office, Division for the Prevention of Social Conflicts and Governance, *71º Reporte de Conflictos sociales, Conflictos sociales conocidos por la Defensoría del Pueblo*, January 31, 2010.

4/ See FIDH Report, *Perú: Bagua. Derramamiento de Sangre en el Contexto del Paro Amazónico. Urge abrir diálogo de buena fe*, October 2009 and APRODEH - FIDH, *Nota de Actualización*, February 22, 2010.

of Peru's international obligations⁵. As such, since April 9, 2009, several indigenous groups, led by the Interethnic Association for the Development of the Peruvian Rainforest (*Asociación Interétnica de Desarrollo de la Selva Peruana* – AIDSESP)⁶ reignited protests that first began in 2008 with peaceful demonstrations, roadblocks, and sieges on the facilities of oil companies⁷. On May 10, 2009, the Peruvian Government declared a State of emergency in the areas where there were protests. Beginning on May 14, on three separate occasions, the Peruvian Congress postponed meetings to discuss the proposals put forward by the indigenous communities. On June 4, the ruling party postponed the debate once again. On June 5 and 6, 2009, there were confrontations between the national police and the Awajun and Wampis indigenous groups at the Petroperú (“Station N 6”) facilities in the cities of Bagua Grande and Bagua Chica in the so-called “Devil’s Bend” (*Curva del Diablo*) area, after the police tried to unblock the Fernando Belaúnde Terry highway. Although the indigenous groups were lifting the roadblock, the national police fired at them from helicopters. That day, ten civilians, including indigenous leaders, and 23 policemen died⁸, and the Head of the National Police, Mr. Felipe Bazán Soles, disappeared. Some 200 people, mostly civilians, were injured. The investigations that followed the confrontation were cause for concern since the guarantees of due process were not always respected, and on certain occasions, the investigations were used to incriminate indigenous leaders. Furthermore, although the judicial proceedings concerning the deaths of the policemen began immediately after the incident, at the end of 2009, the reports on civilian deaths and injuries had still not been formalised⁹, and the Parliamentary and Government commissions had not indicated either the legal or political responsibilities of the helicopter operation. On June 8, 2009, the Bagua Grande radio station *La Voz*, which had reported live on the events in Bagua, was closed. Its closure would silence the other radio stations in the region, according to the Rapporteur from the Organisation

5/ For example, International Labour Organisation (ILO) Convention No. 169 concerning Indigenous and Tribal Peoples, which was ratified by Peru and the United Nations Declaration on Indigenous Peoples, which was supported by Peru when it was adopted. The Government established a Multi-Party Committee “to study and recommend solutions to the problems faced by indigenous peoples with the help of their representatives”. The Ombudsman’s Office and various members of the Multi-Party Committee questioned whether some of the decrees were in conformity with the Constitution. Some decrees were withdrawn, while others are still in effect.

6/ The AIDSESP has existed for more than 30 years and represents approximately 350,000 indigenous Peruvians who live in eight regions of Peru.

7/ Indigenous protests had begun in August 2008 with the first Amazonian strike and ended with the commitment of the then Minister Jorge del Castillo to review the decrees.

8/ See Ombudsman’s Office, *Informe de Adjuntía No. 006-2009-DP/ADHPD*, 2009 and APRODEH.

9/ See APRODEH.

of American States (OAS)¹⁰. The severity of the events that took place in Bagua prompted the United Nations Special Rapporteur on the Situation of Human Rights and Fundamental Freedoms of Indigenous People to make a special visit¹¹.

Threats against and harassment of human rights defenders involved in the fight against impunity, particularly for the crimes committed under Mr. Fujimori's orders

The defenders who fight against impunity for the crimes committed during Peru's armed conflict between 1980 and 2000 were harassed and discredited through a Government's national campaign. One tactic the conservative press used to confuse the population and polarise society was to compare those who oppose impunity for the crimes committed during the fight against terrorist organisations of the "Shining Path" (*Sendero Luminoso*) to the terrorists themselves. For example, on September 26, 2009, the newspaper *La Razón* published an article that likened Ms. **Gisela Ortiz Perea**, a well-known human rights activist and family member in the La Cantuta case, to a terrorist. The articles published in *La Razón*, which discredit both the legal process and the victims, led the Association for Human Rights in Peru (*Asociación Pro Derechos Humanos – APRODEH*) and the relatives of the Barrios Altos and La Cantuta victims to lodge a complaint before the Ethics Tribunal of the Peruvian Press Council (*Consejo de la Prensa Peruana – CPP*). On August 19, 2009, the Tribunal announced its decision, stating that the complaint was well founded and ordering that "this decision be published within eight days of notification". As of the end of 2009, the decision still had not been published.

Defenders, relatives of victims and some members of the judicial power also suffered threats and judicial harassment. For example, on April 6, 2009, the day before the sentencing of former President Fujimori, APRODEH received a call threatening to kill Mr. **Francisco Soberón**, Executive Director of APRODEH, Mr. **Carlos Rivera**, a lawyer from the

10/ See Office of the Special Rapporteur for Freedom of Expression of the Inter-American Commission on Human Rights (IACHR) Press Release No. R41/09, June 26, 2009. The repression in Bagua as well as the situation of human rights and fundamental freedoms of the indigenous people concerned the international community. See IACHR Press Release No. 35/09, June 8, 2009. It should also be noted that the Committee on the Elimination of Racial Discrimination (CERD) concluded that "the Committee is concerned at the racial discrimination directed against indigenous peoples and Afro-Peruvian communities in the media [...]". See CERD, *Concluding Observations of the Committee on the Elimination of Racial Discrimination, Peru*, United Nations Document CERD/C/PER/CO/14-17, August 31, 2009.

11/ See Human Rights Council, *Informe del Relator Especial sobre la situación de los derechos humanos y las libertades fundamentales de los indígenas, S. James Anaya - Adición - Observaciones sobre la Situación de los Pueblos Indígenas de la Amazonía y los Sucesos del 5 de junio y Días Posteriores en las Provincias de Bagua y Utcubamba, Perú*, United Nations Document A/HRC/12/34/Add.8, August 31, 2009.

Legal Defence Institute (*Instituto de Defensa Legal* – IDL), Mr. **Ronald Gamarra**, Executive Secretary of the National Coordinating Committee of Human Rights (*Coordinadora Nacional de Derechos Humanos*), and Ms. **Gloria Cano**, a lawyer from APRODEH, all of whom were lawyers representing the civil party in the trial against Mr. Fujimori. The former President of the Truth and Reconciliation Commission (*Comisión de la Verdad y Reconciliación*), Mr. **Salomón Lerner Febres**, also received death threats on September 23, 2009. He reported the threats to the police and then was visited by agents from the Ministry of the Interior in order to jointly assess the facts and coordinate security measures. Furthermore, the fight against impunity for the crimes committed under Mr. Fujimori’s Government also encountered obstacles from the State itself. For instance, Ms. **Cristina del Pilar Olazábal Ochoa**, the Supraprovincial Criminal Prosecutor for Ayacucho, was tried for investigating and reporting cases of serious human rights violations that occurred between 1980 and 2000. On January 5, 2010, the decision of the National Public Prosecutor’s Office was published in the official newspaper *El Peruano*, stating that the complaint filed by Mr. Alan García Pérez, President of Peru, for the alleged crime of “prevarication”, was founded. In December 2003, Ms. Olazábal Ochoa had been designated Provisional Prosecutor of the Provincial Public Prosecutor’s Office Specialising in Human Rights, Forced Disappearances, Extrajudicial Executions and Exhumation of Clandestine Graves for the department of Ayacucho¹². On January 31, 2005, she had lodged a criminal complaint against Mr. García Pérez for “genocide” and “undue omission of the crime of murder”, as well as against 29 soldiers from the army, who were directly involved in the incidents at Accomarca, for “voluntary manslaughter”. The decision of the National Public Prosecutor’s Office will be sent to the corresponding Prosecutor who will proceed to formalise the complaint. Then it will be up to the Criminal Judge to decide whether or not to open the trial against Ms. Olazábal Ochoa. It should also be noted that, besides potentially being tried, Ms. Olazábal Ochoa might also be relieved of her post as punishment.

In addition, the legislative framework allows impunity for State police groups that are responsible for human rights violations¹³. In this context, the lawyers of five women who were sexually abused in Cusco’s “Quenqoro”

12/ Public Prosecutor’s Office created as part of the Peruvian State’s commitment to the IACHR when the investigations into the Accomarca case ended.

13/ For example, Decree-Law 982 modified Article 20 of the Peruvian Criminal Code and established new grounds for not being held criminally liable: “... is exempt from criminal responsibility: The members of the armed forces and national police who cause injury or death while doing their duty and using their weapons in accordance with regulations”.

penitentiary were subjected to intimidation acts. On April 24, 2009, Ms. **Evelyn Ceballos Enríquez**, lawyer and Head of the Legal Division of the Association for Life and Human Dignity (*Asociación por la Vida y la Dignidad Humana* – APORVIDHA), and Mr. **Freddy Rodríguez Olivera**, a lawyer from the same division, were the victims of hostile, verbal attacks from a group of protesters, who appeared to be relatives of the tried penitentiary officials. They reported the incident to the Ombudsman's Office and police authorities but, as of the end of 2009, no investigations had been carried out and the reports were filed away.

Assault, assassination attempts and judicial harassment of environmental activists and defenders of indigenous communities that are affected by the exploitation of large companies

Environmental activists continued to be assaulted for reporting cases of corruption and mismanagement of lands and natural resources by private companies that have Government authorisation. For instance, the President of the Front for the Defence of the Interests of the People of Moquegua (*Frente de Defensa de los Intereses del Pueblo de Moquegua*), Mr. **Zenón Cueva**, was shot in the leg by a stranger who rang the doorbell of his house early in the morning on May 7, 2009. In August 2008, Mr. Cueva had led a protest urging the Government to deliver its promise for better distribution of the “Oil Canon” (“*Canon Minero*”), which was in an agreement that had been signed the previous year¹⁴, and was being tried for coercion, extortion and disturbances, along with 23 other leaders and inhabitants¹⁵. A few days prior to the attack, Mr. Cueva had reported corruption in various Government institutions – including the Regional Government and Provincial Council – in the implementation of the Oil Canon. The person allegedly responsible for shooting Mr. Cueva was identified and, in late 2009, was being held in the Samegua – Moquegua penitentiary, while the trial continued. Moreover, the Prosecutor asked for a 35-year sentence for Mr. Cueva and two of the leaders, and for between

14/ The mining companies pay the State a “tax”, the so-called “canon”, for mining. This money is given to the regions for their own use, in accordance with “equitable” distribution. The inhabitants of the Moquegua region had been asking for a greater share of the canon for years and, in 2007, the Government promised to meet this demand within 60 days. In June 2008, a year after the empty promise was made, the first demonstration took place. Once again, the Government promised that there would be an increase in 30 days. However, when this commitment was not honoured, on October 28, 2008, there were more protests, which ended when Congress approved a new distribution of the canon that favoured Moquegua even more.

15/ The First Provincial Public Prosecutor's Office of Mariscal Nieto asked for a 35-year sentence for Mr. Cueva, as well as for the former regional President, Ms. Cristala Constantinides Rosado, the leader of the Front for the Defence of the Interests of the People (*Frente de Defensa de los Intereses del Pueblo - FEDIP*) of Moquegua, Ms. Katherine Maldonado, and 25 years in prison for lawyer Julio Araoz Anchaize, a FEDIP consultant and Mr. Cueva's lawyer.

10 and 25 years for the others. In 2009, Mr. **Andrés Luna Vargas**, a peasant landowner from Miramar and Vichayal-Paita-Piura, President of the National Convention of Peruvian Agriculture (*Convención Nacional del Agro Peruano* – CONVEAGRO)¹⁶ and President of the Front for the Defence of Water and Natural Resources (*Frente de Defensa del Agua y de los Recursos Naturales*) in the Piura region, continued to be threatened for stating that he was against the Puerto de Paita agreement, because the contract did not meet the requirements for local development. On July 27, 2009, at the Bellavista Government in the province of Piura, Mr. Luna Vargas reported that he had received several death threats on his mobile phone, but at the end of 2009, there had still been no investigations into these phone calls. Mr. **Santiago Manuín Valera**, an Awajun indigenous leader, founder of the SAIPE Jesuit Social Centre and former President of the Aguaruna-Humabista Council (*Consejo Aguaruna-Huambista* – CAH) and the Struggle Committee for the Respect of the Indigenous Peoples of the Province of Condorcanqui, Amazonas (*Comité de Lucha por el Respeto de los Pueblos Indígenas de la Provincia de Condorcanqui – Amazonas*), was seriously injured after being shot by the National Division of Special Operations (*División Nacional de Operaciones Especiales* – DINOES)¹⁷. He was shot as he tried to break up the confrontation between law enforcement officials and indigenous people that occurred in the “Devil’s Bend” on June 5, 2009. In spite of this, on June 13, 2009, the Judge of the First Criminal Court of Utcubamba, Mr. Francisco Miranda Caramutti, ordered a search for Mr. Manuín Valera and asked that he be found, captured and transported because of his involvement in the conflict in Bagua. At the end of 2009, Mr. Valera was being tried, but was released on bail as long as he appeared at his hearings. However, the trial concerning Mr. Valera’s injuries had not begun.

Besides being physically assaulted and threatened, environmental activist and defenders of indigenous communities were also subjected to prosecution. Thirty-five environmental activists were tried for “terrorism” after they opposed the Río Blanco mining project (previously known as the Majaz project) in the town of Piura. Indeed, despite the opposition of local inhabitants, the Peruvian Government insisted on supporting the mineral

16 / CONVEAGRO is a pluralist forum for inspection, technical assessment and democratic agreement, which does not act as an union and is not affiliated with any political party. CONVEAGRO fosters the growth of rural institutions, agricultural unions and associations for farm producers, since these bodies are essential to developing agriculture.

17 / A police contingent that belongs to the elite unit of the Peruvian national police.

exploitation and even went as far as to prosecute environmental activists¹⁸. In northern Peru, environmental activists were arrested after a conflict with a private prawn company called Virazon S.A., which had lodged a complaint against Mr. **Julio Bustamante Soto**, Mr. **Jorge Luís Zapata Ato** and Mr. **José Antonio Torres Carranza**, respectively the President and leaders of “El Bendito” Town Centre Association (*Asociación Centro Poblado “El Bendito”*), Tumbes. All of the activists were released and their trials were filed away. On January 10, 2010, the Prosecutor formalised the criminal report on the alleged crimes that affected the means of transportation, and disturbed or impeded the public services of the Virazon S.A. company and the State. Mr. **Gabino Ángel Dioses Franco**, Mr. **José Miguel Duran Jiménez**, Mr. **José Filomeno Gálvez Sotillo**, Mr. **Jaime Jiménez Páucar** and Ms. **Betty Fernández Naval**, all members of the “El Bendito” Town Centre Association, were accused of crimes against the administration of justice, violence and resistance of authority. The “El Bendito” Town Centre Association is located in the National Tumbes Mangroves Sanctuary, on about 5,000 hectares, more than half of which were declared protected areas by the State. However, the prawn company Virazon S.A. operates in this area and its extractive activities pose a risk to the environment and the way of life of the local inhabitants. The “El Bendito” Town Centre Association had initiated a legal dispute against the prawn company, which, by changing the boundaries of its property, affected the inhabitants of “El Bendito”.

The leaders of AIDSESEP also suffered judicial harassment. In May 2009, Mr. **Alberto Pizango Chota**, President of AIDSESEP, was accused of “rebellion, sedition and conspiracy for rebellion, sedition or mutiny” against tranquillity and public peace, and of making a speech that insulted the Peruvian State¹⁹. Mr. Pizango sought refuge in Nicaragua and at the

18 / Supreme Decree 024, published by the Peruvian Government on December 27, 2008, states that there is a “public need” for the concession of 35 mining claims to the Chinese merger Zijin, owner of the Río Blanco Cooper S.A. mining project. Its presence in Piura is illegal according to the Ombudsman’s Office and the Congress of the Republic, based on the fact that the Constitution prohibits foreigners from having properties or concessions within 50 kilometres of the border.

19 / Five other leaders of Amazonian indigenous communities were also accused of the same crimes: Mr. **Saúl Puerta Peña**, Précis Writer for the AIDSESEP, Mr. **Marcial Mudarra Taki**, Coordinator of the Regional Coordinating Committee of the Indigenous Peoples of San Lorenzo (*Coordinadora Regional de los Pueblos Indígenas de San Lorenzo - COREPI-SL*), Mr. **Cervando Puerta Peña**, President of the Regional Organisation of Amazonian Indigenous Peoples of Northern Peru (*Organización Regional de Pueblos Indígenas Amazónicos del Norte del Perú - ORPIAN-P*), Mr. **Daniel Marzano Campos**, President of the Regional Organisation of Indigenous People of Atlaya (*Organización Regional Indígenas de Atlaya - OIRA*), and Ms. **Teresita Antazú López**, President of the National Unity of Ashaninkas and Yaneshas Communities (*Unidad Nacional de Pueblos Ashaninkas y Yaneshas - UNAY*). The crimes that these

end of 2009, remained in exile. Furthermore, following the events in Bagua, on June 11, 2009, the Ministry of Justice requested the dissolution of AIDSESEP due to its alleged role in these events that were “contrary to public order”. The legal representative for AIDSESEP was summoned to testify on November 5 in the Tenth Civil Provincial Public Prosecutor’s Office in Lima. On November 12, the Government withdrew its attempt to dissolve AIDSESEP. But the case of AIDSESEP was not the only example of judicial retaliation after the events in Bagua. Moreover, in addition to the need and obligation to find the guilty parties in the events, the judicial harassment of indigenous leaders put dialogue that began on June 22, 2009 at risk, as the Special Rapporteur, Mr. James Anaya, warned in his report on his special visit to Peru²⁰.

Urgent Interventions issued by The Observatory in 2009

Names	Violations / Follow-up	Reference	Date of Issuance
35 environmental activists	Judicial harassment	Press Release	January 9, 2009
Mr. Julio Bustamante Soto, Mr. Jorge Luís Zapata Ato, Mr. José Antonio Torres Carranza, Mr. Gabino Ángel Dioses Franco, Mr. José Miguel Duran Jiménez, Mr. José Filomeno Gálvez Sotillo, Mr. Jaime Jiménez Páucar and Ms. Betty Fernández Naval	Arbitrary detention / Judicial harassment	Urgent Appeal PER 001/0109/OBS 017	January 29, 2009
Association for Human Rights in Peru (APRODEH) / Mr. Francisco Soberón, Mr. Carlos Rivera, Mr. Ronald Gamarra and Ms. Gloria Cano	Death threats	Press Release	April 7, 2009
Ms. Evelyn Ceballos Enríquez and Mr. Freddy Rodríguez Olivera	Harassment / Assault	Urgent Appeal PER 002/0509/OBS 072	May 12, 2009
Mr. Zenón Cueva	Assault	Urgent Appeal PER 003/0509/OBS 078	May 15, 2009
Mr. Alberto Pizango Chota, Mr. Saúl Puerta Peña, Mr. Marcial Mudarra Taki, Mr. Cervando Puerta Peña, Mr. Daniel Marzano Campos and Ms. Teresita Antazú López	Judicial harassment	Press Release	June 2, 2009
Mr. Santiago Manuin Valera	Assault / Judicial harassment	Urgent Appeal PER 004/0709/OBS 108	July 21, 2009

20 / See Human Rights Council, *Informe del Relator Especial sobre la situación de los derechos humanos y las libertades fundamentales de los indígenas, S. James Anaya - Adición - Observaciones sobre la Situación de los Pueblos Indígenas de la Amazonía y los Sucesos del 5 de junio y Días Posteriores en las Provincias de Bagua y Utcubamba, Perú*, United Nations Document A/HRC/12/34/Add.8, July 20, 2009.

Names	Violations / Follow-up	Reference	Date of Issuance
Mr. Andrés Luna Vargas	Death threats / Fear for life and physical integrity	Urgent Appeal PER 005/0809/OBS 120	August 21, 2009
Ms. Teresita Antazú López	Judicial harassment	Urgent Appeal PER 006/0809/OBS 127	August 26, 2009
Ms. Daysi Zapata Fasabi	Judicial harassment	Urgent Appeal PER 007/0909/OBS 133	September 3, 2009
Pr. Segundo Jara Montejo	Assassination attempt / Fear for safety and physical and psychological integrity	Urgent Appeal PER 008/0909/OBS 134	September 11, 2009
Dr. Santos Octavio Esparza Villalobos	Judicial harassment	Urgent Appeal PER 009/0909/OBS 135	September 17, 2009
Mr. Salomón Lerner Febres	Threats	Urgent Appeal PER 010/0909/OBS 140	September 29, 2009
Ms. Gisela Ortiz Perea	Slander campaign	Urgent Appeal PER 011/0909/OBS 141	September 29, 2009
Interethnic Association for the Development of the Peruvian Rainforest (AIDSESP)	Obstacles to freedom of association	Press Release	October 29, 2009
AIDSESP and 69 of its members, including Mr. Alberto Pizango Chota and Mr. Bladimiro Tapayuri	Withdrawal of request for dissolution / Judicial harassment	Press Release	November 17, 2009
Mr. Pedro Condori Laurente and Mr. Claudio Boza Huanhuayo	Arbitrary detention / Judicial harassment	Urgent Appeal PER 012/1109/OBS 173	November 27, 2009

VENEZUELA

OBSERVATORY FOR THE PROTECTION OF HUMAN RIGHTS DEFENDERS
ANNUAL REPORT 2010

Political context

Venezuela continued its process of institutional reform, which affects Government bodies that are independent from State's control, particularly through the Executive's progressive co-optation of judicial power, which could threaten the guarantee to uphold and respect fundamental rights¹. The Government and other State institutions' refusal to commit to the international system of human rights protection was also cause for concern, and could have negative repercussions on the work of defenders in a context of increasing violence², criminalisation of social protests and deplorable conditions for prisoners and restrictions on freedom of expression.

On December 18, 2008, the constitutional section of the Supreme Court of Justice of Venezuela declared that a sentence from the Inter-American Court of Human Rights (IACtHR)³ was "inexecutable" because it was "violating the sovereignty of the Venezuelan State"⁴. Furthermore, the Venezuelan State refused to discuss the communication sent by the United Nations Special Rapporteur on the matter⁵, and questioned the impartiality of the Inter-American Commission on Human Rights (IACHR)

1/ See Inter-American Commission on Human Rights (IACHR), *Annual Report 2008*, Document OEA/Ser.L/V/II.134, Doc. 5 rev. 1, February 25, 2009.

2/ In accordance with the official figures from the Office of Penal, Scientific and Criminal Investigations (*Cuerpo de Investigaciones Penales, Científicas y Criminalísticas*), affiliated to the Ministry of the Interior and Justice, 16,094 homicides, excluding extrajudicial executions, were recorded in 2009, while 14,735 and 14,829 homicides were respectively recorded in 2007 and 2008. According to the Public Ministry, during the first 90 days of 2009, 155 people lost their lives at the hands of police agents during alleged confrontations or executions. On June 2, 2009, the Minister of Internal Affairs and Justice, Mr. Tareck El Aissami, acknowledged that 20% of crimes in Venezuela were committed by the police.

3/ This sentence ordered the reappointment of the former Judges of the Administrative Court of First Instance, Ms. Anna María Ruggeri Cova, Mr. Perkins Rocha Contreras and Mr. Juan Carlos Apitz Barbera, who had been arbitrarily dismissed in October 2003, in violation of their right to due process and judicial protection, which are recognised in the American Convention on Human Rights. This sentence also urged the Executive power to denounce this treaty. See Sentence Series C No. 182 of the IACtHR, Apitz Barbera and others Case (*Administrative Court of First Instance*), August 5, 2008.

4/ See Sentence No. 1939, File No. 08-1572 of the Supreme Court of Justice - Constitutional Section of the Bolivarian Republic of Venezuela, December 18, 2008.

5/ See Human Rights Council, *Report of the Special Rapporteur on the Independence of Judges and Lawyers, Leandro Despouy*, United Nations Document A/HRC/11/41/Add.1, May 19, 2009.

in its treatment of various matters featured in its 2008 Annual Report⁶. Moreover, the Government confirmed that it would not allow the IACHR to visit Venezuela “until it corrected its biased view”⁷.

In terms of freedom of expression, on July 3, 2009, the Director of the National Commission for Telecommunications (*Comisión Nacional para las Telecomunicaciones* – CONATEL) announced that 240 AM and FM radio stations would be subjected to administrative proceedings for not having completed their registration⁸. On July 31, 2009, the threat was carried out and the first 32 radio stations and two television channels were immediately closed⁹. Furthermore, in July 2009, the Venezuelan Public Prosecutor’s Office presented a Special Bill on “Media Crime” in order to criminally punish those who attack “social peace, national security and independence, the security of State institutions, the health and public morale of Venezuelans”. Legislators did not approve this bill. However, it adds to Venezuela’s unfavourable situation with respect to freedom of expression. In this context, national organisations reported that some journalists preferred to refrain from providing certain information for fear of retaliation¹⁰.

Furthermore, although violence in prisons presents a challenge for Venezuelan authorities, there was no significant improvement in 2009, with a total of 366 deaths and 635 injuries that year¹¹. The situation was further complicated by the fact that complaints of human rights violations committed in prisons provoked retaliation from the authorities. Besides the high rates of violence, inmates also confronted awful living conditions and overcrowding¹².

6 / Such is the case of the Press Release published on May 9, 2009 by the Venezuelan Ministry of Foreign Affairs, which mentions “the manipulation and lies from bodies of the Inter-American System of Human Rights” and the “inaccurate, malicious and false” nature of the IACHR 2008 Annual Report.

7 / See IACHR, *2008 Annual Report*, Document OEA/Ser.L/V/II.134, Doc. 5 rev. 1, February 25, 2009.

8 / In 2000, an Organic Law on Telecommunications was approved, establishing a two-year period to change the concession of radio stations. There could be a change in ownership if necessary - for example, in the event of the death of the original owner of the concession. Many of the radio stations that underwent these changes and changed ownership did not receive a response for more than 10 years. As such, when filling out the list of updated information, which CONATEL demanded of individuals and corporations with radio broadcasts in May 2009, it became apparent that many radio stations had not been able to complete the process because of inaction on the part of the authorities.

9 / See Public Space organisation (*Espacio Público*).

10 / *Idem*.

11 / See Venezuela Prison Observatory (OVP), *Situación carcelaria en Venezuela, Informe 2009*, 2010.

12 / This led the IACHR to adopt provisional measures in favour of the prisoners at the La Pica, El Rodeo, Uribana and Yare I and II penitentiaries in Venezuela, which remained in effect for three years.

Obstacles to freedom of association

In 2009, the National Assembly continued to debate a new Law on International Cooperation. The law was passed when it was first discussed in the National Assembly on June 13, 2006, at the urging of the Legislative Commission on Foreign Policy, and the President of the National Assembly thought that its final approval should top the agenda in 2009. This bill proposes that the work of non-governmental organisations (NGOs) – including national and international human rights organisations that operate in Venezuela – adapt to the State’s development projects and foreign policy in order to access international cooperation funds¹³. Furthermore, this bill would force the organisations to provide confidential information that would place their beneficiaries and even human rights defenders themselves in danger¹⁴. NGOs complained that this bill was being used to impede their work, in as much as it would become much more difficult for them to receive funding and authorisation to exist as organisations. In early 2010, the President of the National Assembly for External Affairs publicly announced that the adoption of this law was a priority on the legislative agenda for the year¹⁵.

Slander campaigns, threats and harassment of human rights defenders by various State authorities

In its 2008 Annual Report, the IACHR noted that slanderous statements and acts of harassment by Venezuelan State authorities continued. In 2009, civil society organisations complained that this trend against human rights defenders did not subside.

Defenders who spoke out against the conditions in penitentiaries were often the victims of these statements. For example, the Director of the Venezuelan Prison Observatory (*Observatorio Venezolano de Prisiones – OVP*)¹⁶, Mr. **Humberto Prado**, was once again the victim of slanderous statements and harassment¹⁷. On March 17, 2009, on the *Globovisión* news channel, Mr. Gerson Pérez, a militant political leader of the official United Socialist Party of Venezuela (*Partido Socialista Unido de Venezuela – PSUV*) accused Mr. Prado of being behind the protests in the “La Planta”

13/ See Committee of Family Members of the Victims of the events that occurred between February 27 and the first days of March of 1989 (COFAVIC).

14/ *Idem*.

15/ *Idem*.

16/ OVP documents cases of violations of prisoners’ human rights in order to present them before national and international organisations.

17/ Since 2006, Mr. Prado has been the object of slander campaigns, death threats and assaults because of the “La Pica prison” case that was brought before the IACHR, and because of which he was granted provisional protection measures.

prison and of financing strikes in certain penitentiaries. Mr. Pérez insisted that he had proof to support his accusations: “We have the investigation and documents, as well as direct indications from inmates. If these acts continue, we will take matters into our own hands”¹⁸. Furthermore, the Public Ministry requested information about Mr. Prado’s financial accounts throughout the country on various occasions, beginning in February 2007. In addition, on September 30, 2009, during a hearing on the situation of inmates in various Venezuelan prisons before the IACtHR in San José, Costa Rica, Mr. Germán Saltron, State agent for the inter-American system, attacked Mr. Prado’s moral integrity. Mr. Saltron accused Mr. Prado of corruption, taking advantage of prisoners and being responsible for prison violence, among other things¹⁹. On November 24, 2009, the IACtHR recommended that provisional measures be adopted to protect Mr. Prado²⁰, but the Venezuelan State has not done so. The harassment that Mr. Prado suffered also included acts of intimidation such as death threats over the telephone. Similarly, Mr. **Carlos Nieto Palma**, Director of the NGO called “A Window to Freedom” (*“Una Ventana a la Libertad”*), has been the victim of acts of intimidation since 2003. On August 19, 2009, three members of the metropolitan police paid Mr. Nieto a visit at his house and asked him: “Why don’t you just shut your mouth? (...) You should stop taking these things from the Minister”, in reference to his reports on the irregularities in the country’s penitentiaries²¹.

Furthermore, the Venezuelan Programme of Education-Action in Human Rights (*Programa Venezolano de Educación Acción en Derechos Humanos* – PROVEA) and the Committee of Family Members of the Victims of the events that occurred between February 27 and the first days of March of 1989 (*Comité de Familiares de Víctimas de los sucesos ocurridos entre el 27 de febrero y los primeros días de marzo de 1989* – COFAVIC) reported being the victims of slander campaigns because of their work. They were accused of working against the revolution because, for example, they receive funding from other countries. For instance, COFAVIC reported that 20 years after the Caracazo events²², some Government officials and

18/ See COFAVIC.

19/ See Archdiocese of Caracas Episcopal Vicariate of Human Rights (*Vicaría Episcopal de Derechos Humanos de la Arquidiócesis de Caracas*).

20/ See IACtHR Resolution, *Provisional Measures with Respect to the Bolivarian Republic of Venezuela*, November 24, 2009.

21/ See Venezuelan Programme of Education-Action in Human Rights (PROVEA) and COFAVIC.

22/ The Caracazo was a revolt that broke out on February 27, 1989 against the neoliberal economic policies of the Government of former President Carlos Andrés Pérez. The revolt culminated the next day with a massacre in the city of Caracas when the metropolitan police’s security forces, the army and

journalists discredited their work. On February 26, 2009, television host Mr. Mario Silva claimed that COFAVIC was part of a conspiracy that was plotting to break up the civil-military union. He also accused Ms. **Liliana Ortega**, President of COFAVIC, of wanting to steal indemnities to the victims of the Caracazo. On June 9, 2009, the IACtHR decided to lift the provisional measures in favour of Ms. Ortega and COFAVIC, a decision that was appealed by the organisation since human rights defenders in Venezuela were still being persecuted²³.

Even more serious was the attempted assassination of Mr. **José Urbano**, President of the NGO called Pro-defence of the Right to Education (*Pro-defensa del Derecho a la Educación*), who was attacked on August 27, 2009 when driving a motorcycle on a motorway in the city of Barcelona, in the State of Anzoátegui. Two male strangers riding a motorcycle blocked him and one of them shot at Mr. Urbano, who got down off his motorcycle and fled to a nearby wooded area. The hit men also fled, taking Mr. Urbano's motorcycle with them. Mr. Urbano had already been the victim of an assault in February 2007 and received a bullet wound. There was never any investigation into the attack, nor was there one for his attempted murder in 2009. Furthermore, Mr. Urbano was not provided with any measure of protection. The attacks on him seem to be related to his public criticism of the quality of education that Venezuelan minors who lack financial resources receive, as well as his denouncement of corruption²⁴.

Obstacles and retaliation against defenders who participate in the international human rights system

In 2009, the Venezuelan Government retaliated against those who had followed recommendations from international human rights bodies. Such was the case of Judge **María Lourdes Afiuni**, who was arrested by police intelligence agents on December 10, 2009, not long after having ordered the conditional release of Mr. Eligio Cedeño, based on the assessment and recommendations of the United Nations Working Group on Arbitrary Detention²⁵. Judge Afiuni was still being detained as of the end of 2009

23 / See COFAVIC.

24 / *Idem*.

25 / Mr. Eligio Cedeño is a Venezuelan businessman accused of financial fraud, whose arrest was declared arbitrary by the UN Working Group on September 1, 2009. On December 10, 2009, the team of defence lawyers for Mr. Cedeño presented the opinion of the UN experts in a hearing before Judge Afiuni, and Mr. Cedeño was released after spending almost three years in prison awaiting trial. Mr. Cedeño is currently in the United States seeking political asylum.

and prosecuted for her alleged participation in the release and eventual flight of Mr. Cedeño²⁶.

Furthermore, Venezuela, along with Nicaragua, tried to impede the participation of civil society organisations in the Organisation of American States (OAS) meeting that was held in San Pedro Sula, Honduras, in June 2009. Over the past three years, it has also managed to prevent an organisation called Transparency Venezuela (*Transparencia Venezuela*) from participating in the dialogue between civil society and the Government that was established by the Inter-American Convention Against Corruption, because it receives funding from the organisation Transparency International.

Criminalisation of protests of labour rights defenders

In 2009, there was a gradual increase in the criminalisation of peaceful demonstrations through criminal trials against demonstrators, especially labour rights defenders²⁷. For example, on April 20, 2009, Messrs. **José Solano, Asdrúbal Solórzano, Federy Radosky, Pedro Pérez and Ronald Marcano**, workers from the PDVSA contractor, Vincler Sodinsa Consortium, staged a peaceful siege of the offices of the Ministry of People's Power for Labour and Social Security in order to protest the Minister's decision to revoke the administrative decision of the Anaco Office of Labour Inspection. Metropolitan police officers broke up the protest using tear gas and kicking the workers. Messrs. Solano, Solórzano, Radosky, Pérez and Marcano were accused of being caught in the act of a misdeed by the Public Ministry and were imprisoned at the La Planta penitentiary until May 19, 2009, following the ruling of the Tenth Court of First Instance in Penal Affairs Acting as a Review for the Judicial Criminal Circuit in the Metropolitan Area of Caracas²⁸. Likewise, in May 2009, eleven workers from a contracting company of State-owned Venezuela Petroleum (*Petróleos de Venezuela*) were imprisoned after holding a peaceful protest in the headquarters of the Ministry of People's Power for Labour because they had been laid off. The Public Ministry charged them with "aggravated damage to public property", "illegitimate deprivation of liberty", "aggravated resistance to authority", "active obstruction to the functioning of legally-established institutions", "insulting a public servant", "incitement to commit a crime", "intentionally aggravated

26/ The arrest of the Judge received the support of the Venezuelan President. See Chairperson-Rapporteur of the Working Group on Arbitrary Detention, Special Rapporteur on the Independence of Judges and Lawyers and Special Rapporteur on the Situation of Human Rights Defenders Joint Press Release, December 16, 2009.

27/ See PROVEA and Public Space Report, *Manifestaciones públicas: enero - diciembre 2009*, March 2010.

28/ See Archdiocese of Caracas Episcopal Vicariate of Human Rights Report, *Informe sobre la Situación de los Defensores y Defensoras de Derechos Humanos en Venezuela*, 2009.

personal injuries”, “use of children to commit a crime”, “provision of supplies” and “concurrency of crimes”²⁹. Furthermore, on September 24, 2009, Mr. **Rubén González**, Secretary General of the Orinoco Iron Ore Workers’ Union (*Sindicato de Trabajadores de Ferrominera Orinoco*), was arrested during a strike that was held in August 2009 at the Orinoco Iron Ore plant in Piar city in order to demand the fulfilment of a collective bargaining agreement. Mr. González was accused of “provision of supplies”, “damage to public patrimony”, “restricted access to a work site” and “closure of public roads”. As of the end of 2009, he was still being detained for these crimes³⁰. Labour rights defenders were also harassed through laying-off trade union leaders. According to PROVEA, between October 2008 and September 2009, 473 people were laid off for having participated in union activities or for belonging to a union-related organisation³¹.

Obstacles to freedom of expression for independent journalists

Freedom of expression, on which the work of independent journalists depends, was an area of concern throughout 2009, a year that began and ended with the murder of independent journalists or activists involved in divulging information. On January 16, 2009, journalist **Orel Sambrano**, Director of the weekly newspaper *ABC de la semana* and of *Radio América*, was murdered in the city of Valencia by an unknown person³². The journalist died as a result of a bullet wound to the back of the neck. In his journalistic work, the reporter systematically reported on events related to drug trafficking and local corruption. At the end of 2009, the Office of Scientific, Penal and Criminal Investigations and the prosecutors assigned to lead the investigation had been able to identify several people involved in the crime, but only two had been arrested. On November 26, 2009, Mr. **Mijail Martínez**, a human rights defender and member of the Committee of Victims Against Impunity (*Comité de Víctimas contra la Impunidad – CVCI*), an organisation that publicly denounced alleged cases of serious human rights violations in the State of Lara in which public servants and leaders of State security bodies are directly and criminally involved, was killed. Mr. Martínez was an audiovisual producer and was working on a documentary that told the stories of victims of human rights violations at the hands of police agents from the State of Lara, and

29 / See COFAVIC.

30 / See PROVEA Report, *Informe Anual 2009 - Situación de los Derechos Humanos en Venezuela, Informe Anual octubre 2008 / Septiembre 2009*, December 9, 2009, and Public Space.

31 / See PROVEA Report, *Informe Anual 2009 - Situación de los Derechos Humanos en Venezuela, Informe Anual octubre 2008 / Septiembre 2009*, December 9, 2009.

32 / See Public Space. The IACHR Office of the Special Rapporteur for Freedom of Expression “deplore[d] the murder of Orel Sambrano [...] and] urge[d] Venezuelan authorities to investigate this crime promptly and effectively, and to duly prosecute those responsible”.

on numerous occasions had reported cases of mass executions, torture, enforced disappearances and other serious crimes to the Public Ministry and the media. A few days after his murder, a young man named Jairo José Ollavez confessed that he had been hired to kill Mr. Martínez. After lengthy judicial deliberation, Mr. Ollavez was released on probation, and at the end of 2009, was a fugitive³³. In late 2009, there were no leads in the investigation and there was a request to transfer the case to the National Public Prosecutor's Office so that an impartial, quick, exhaustive and transparent investigation could be conducted at a national level.

Urgent Interventions issued by The Observatory in 2009

Names	Violations / Follow-up	Reference	Date of Issuance
Nicaraguan and Venezuelan NGOs	Obstacles to freedom of association	Press Release	May 29, 2009
Mr. Mijail Martínez	Assassination	Urgent Appeal VEN 001/1209/OBS 195	December 21, 2009