

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



## INTER-AMERICAN JURIDICAL COMMITTEE

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

In the year 2002, the Inter-American Juridical Committee held two regular sessions, the first from February 25 to March 8, and the second from August 5 through 30. Both were held at the Committee's headquarters in Rio de Janeiro, Brazil.

The following topics figured on the agendas of both sessions: the Inter-American Specialized Conference on Private International Law (CIDIP); preparation of a draft inter-American convention against racism and all forms of discrimination and intolerance; cartels under the law on competition in the Americas; enhancement of the administration of justice in the Americas; access to justice; preparation of the Inter-American Juridical Committee's centennial commemoration; the International Criminal Court and the Fifth Joint Meeting with the Legal Advisors of the Ministries of Foreign Affairs in the OAS member States; possible measures over and above the Inter-American Convention against Corruption (Caracas); the illegal trafficking in arms and the decisions that the Inter-American Juridical Committee has taken on the subject; the legal aspects of hemispheric security; freedom of information: access to and protection of personal information and data; democracy in the inter-American system; inter-American cooperation against terrorism; study of the system for promoting and protecting human rights in the inter-American sphere; the abduction of minors by one of their parents.

The Inter-American Juridical Committee approved reports and adopted resolutions on those topics.

During the period covered in the present report, the members of the Inter-American Juridical Committee were: João Grandino Rodas; Brynmor Pollard; Jonathan T. Fried; Luis Herrera Marcano; Kenneth O. Rattray; Eduardo Vío Grossi; Sergio González Gálvez; Orlando Rebagliati; Felipe Paolillo; Carlos Manuel Vázquez, and Ana Elizabeth Villalta. At the second session, Dr. Brynmor Pollard was elected Chairman, replacing Dr. João Grandino Rodas. Dr. Carlos Manuel Vázquez was elected Vice Chairman, replacing Dr. Brynmor Pollard.

At the thirty-second regular session of the OAS General Assembly (Bridgetown, Barbados, June 2002), Dr. Luis Marchand Stens of Peru and Dr. Alonso Gómez Robledo Verduzco of Mexico were elected to Committee membership. Dr. João Grandino Rodas, of Brazil, was re-elected. Those members will begin their four-year terms on January 1, 2003. The Committee members whose terms ended on December 31, 2002, were Dr. Orlando Rebagliati and Dr. Sergio González Gálvez. Dr. Brynmor Pollard presented the Annual Report on the work accomplished by the Committee in 2001 to the General Assembly.

Representing the General Secretariat, the following provided technical and administrative support to the Inter-American Juridical Committee: Dr. Enrique Lagos, Assistant Secretary for Legal Affairs; Jean-Michel Arrighi, Director of the Department of International Law; Manoel Tolomei Moletta and Dante M. Negro, both officials with the Department of International Law.

In coordination with the Department of International Law, the Inter-American Juridical Committee organized the XXIX Course on International Law, attended by 21 professors from various countries in the Americas and Europe, 28 OAS fellows selected from more than 50 applicants, and 7 students who paid their own fees. The Course's main theme was "Natural resources, energy, environment and international law." On August 5 and 30, the venue of the course was the Rio Business Center, in Rio de Janeiro, Brazil.

## INTER-AMERICAN COMMISSION ON HUMAN RIGHTS

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

### Commission sessions in 2002

During the period to which this report refers, the Commission convened on three occasions: the 114<sup>th</sup> regular session, February 25 through March 15, 2002; the 115<sup>th</sup> special session, September 2 through 6, 2002, and the 116<sup>th</sup> regular session, October 7 through 25, 2002. More details on the Commission's 2002 sessions appear at the Commission's site on the Internet at: <http://www.cidh.org>.

During its regular sessions in 2002, the IACHR held working meetings and hearings where it received representatives of the OAS member States and representatives of the petitioners, spokespersons for nongovernmental organizations and other civilians to discuss individual cases and the general human rights situation in their countries.

In February 2002, the Commission elected its new officers: Juan Méndez, Chairman; Marta Altolaguirre, First Vice Chairman; and José Zalaquett, Second Vice Chairman. The other members of the IACHR in 2002 were: Robert K. Goldman, Julio Prado Vallejo and Susana Villarán.

#### *114<sup>th</sup> regular session*

The Commission elected its new officers at its 114<sup>th</sup> regular session. They were: Juan E. Méndez, Chairman; Lic. Marta Altolaguirre, First Vice Chairman, and José Zalaquett, Second Vice Chairman.

The Commission also examined numerous individual petitions on human rights violations wherein it was alleged that OAS member States had incurred international responsibility. It approved 49 reports on individual petitions and cases and held 24 hearings on individual cases, the general human rights situation in specific countries of the hemisphere, precautionary measures, follow-up on recommendations and other matters within its purview. It also held a number of hearings and working meetings with petitioners and representatives of OAS member states with a view to reaching a friendly settlement of certain complaints. In that week of hearings, the Commission also held plenary hearings on the human rights situation in Colombia, Haiti and Venezuela.

One of the public plenary hearings the Commission held was on the question of terrorism and human rights. There, the Commission received written and oral opinions from Drs. Joan Fitzpatrick, David Martin, Aryeh Neier, Jorge Santistevan and Ruth Wedgwood, all experts on the subject. This hearing was held in furtherance of the Commission's December 12, 2001 resolution wherein it decided to conduct a study on terrorism and human rights, in order to assist the OAS member States in adopting laws and regulations that were in conformity with international law.

At this session the Commission also met with representatives of other human rights bodies, among them Maria Francisca Ize-Charrin and Dr. Roberto Garretón, Chief of the Support Services Branch and Advisor on Latin American, respectively, of the Office of the United Nations High Commissioner for Refugees, and Dr. Rodolfo Stavenhagen, United Nations Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous peoples. The Commission also had an opportunity to meet with a number of other authorities and with representatives from other institutions devoted to the protection of human rights, namely: Dr. Paulo Sergio Pinheiro, Brazil's Secretary of State for Human Rights, and Dr. Soffa Macher and Dr. Carlos Iván De Gregori, members of Peru's Truth Commission.

The Commission's Special Rapporteurs continued to keep the IACHR informed. At this session it received a report from its Rapporteur on the Rights of Women, Commission member Marta Altolaguirre, concerning her on-site visit on February 12 and 13, 2002, to evaluate the human rights situation of women in Juárez, Mexico. It also received a report from the IACHR Rapporteur on Migrant Workers and Their Families, Commission member Juan Méndez, and its Rapporteur on the Rights of Children, Commission member Susana Villarán, concerning their activities and work programs. The Commission continued the process of selecting a new Special Rapporteur for Freedom of Expression and received updated information from Dean Claudio Grossman, an observer in the proceedings that Argentina is conducting into the bombing of the headquarters of the Asociación Mutual Israelita Argentina (AMIA).

#### *115<sup>th</sup> special session*

At the invitation of the Government of Costa Rica, the Commission held its 115<sup>th</sup> special session in San José. There, the Commission examined various matters related to the human rights situation in the Americas, including and in particular the ongoing study and analysis of the Commission's draft report on terrorism and human rights.

At that session, the Commission also had a joint meeting with the Inter-American Court of Human Rights, to examine and discuss procedural matters and other issues of mutual interest to both bodies. The Commission also met with representatives of the Government of Costa Rica, the Standing Canadian Senate Human Rights Committee, the Office of the United Nations High Commissioner for Refugees and Prison Reform International.

#### *116<sup>th</sup> regular session*

At its 116<sup>th</sup> regular session, the Commission continued to examine numerous individual communications alleging violations of human rights protected by the American Convention and the American Declaration. It approved 38 reports. The Commission also examined the preparation of its 2002 Annual Report, which has to be presented to the OAS General Assembly at its thirty-third regular session, which will be in Chile in 2003.

During its 116<sup>th</sup> regular session, the Commission held 61 hearings in the week of October 14 through 18, 2002. These were hearings on individual petitions and cases that the Commission is processing, as well as general hearings on the human rights situation in specific member States and on special topics, such as pending death penalty bills in Barbados and Belize and the administration of justice in Argentina and Colombia. The Commission also received general information about the situation of certain persons and groups in the Hemisphere, including women, children, indigenous peoples, and refugees, from institutions like the United Nations Children's Fund, the Inter-American Children's Institute and the Office of the United Nations High Commissioner for Refugees. In addition to those hearings, the Commission held more than 50 working meetings with the parties to petitions and cases involving a number of countries and issues. It also examined the progress made in efforts to arrive at friendly settlements.

The Commission also completed its examination of its Report on Terrorism and Human Rights and approved it. Once the final translation was completed and the report corrected, it was released to the member States and to the public in December 2002. As stated in the Report's Preface, the Report was prepared "in the hope that it will assist member states of the Organization of American States and other interested actors in the inter-American system in ensuring that anti-terrorism initiatives comply fully with fundamental human rights and freedoms and thereby achieve one of the crucial components for a successful campaign against terrorist violence."

At the end of the 116<sup>th</sup> regular session, the Commission expressed its gratitude for the significant financial contributions made by various governments to help the Commission discharge its functions. Those contributions included funding from the following governments: the United States, to promote and study freedom of expression and women's rights in the Hemisphere; Spain, to help the Commission perform its activities in the area of documents, publication and the IACHR Web page on the Internet; Mexico, to enable the Commission to carry out the promotion and follow-up work associated with the situation of migrant workers and their families, human rights defenders, and the rights of women in the Hemisphere.

### **On-site visits**

#### *Venezuela*

At the invitation of President Hugo Chávez Frias, the Commission conducted an on-site visit to Venezuela from May 6 through 10, 2002, to observe the human rights situation in that country.

During its visit, the Commission met with authorities from the various branches of government, including the President of the Republic, and with nongovernmental human rights organizations, representatives of the Venezuelan Episcopal Conference, political leaders, journalists and representatives of the media, representatives of labor unions, victims and victims' next of kin, and other representatives of civil society at the national and local levels.

To compile information during its visit, the Commission concerned itself with specific aspects of Venezuelan society, such as the new Venezuelan Constitution, the administration of justice, freedom of expression, the armed forces and security forces, the right to create labor unions and to join them, the activities of death squads or *extermination groups* composed of members of State security forces and active in a number of Venezuelan states. The Commission expressed special concern over the attempted coup d'état in Venezuela in April 2002, which left at least 16 people dead. In the Commission's view, that event was the most tragic and serious manifestation of the polarization of Venezuelan society.

In its final observations about the visit, the Commission called for immediate action to strengthen the rule of law in Venezuela, and stressed how important it was that the Venezuelan Government fully comply with the inter-American system's decisions and recommendations. It said that it would continue to follow closely the development of the human rights situation in Venezuela.

#### *Haiti*

At the request of the Government of Haiti and under the terms of OAS Permanent Council resolution CP/RES. 806, adopted 15 January 2002,<sup>1</sup> the Commission conducted two on-site visits to the Republic of Haiti, the first from May 28 through 31, and the second from August 26 through 29, 2002.

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<sup>1</sup> In Resolution CP/RES.806 (1303/02), the OAS Permanent Council resolved "To ask the Inter-American Commission on Human Rights within its area of competence to undertake an on site visit to Haiti to consult with civil society, political parties, and the Government of Haiti in order to analyze and report on current conditions, and the events related to December 17, 2001."

In the course of its visits to Haiti, the Commission met with numerous government officials, including the President of the Republic, Jean Bertrand Aristide, Prime Minister Yvon Neptune, and the Minister of Foreign Affairs, the Minister of Justice and Public Security, the Director General of the Haitian National Police, the Inspector General of the National Police, and the Secretary of State for National Security. The Commission also held meetings with representatives of different sectors of civil society, specifically representatives of nongovernmental organizations, representatives of political parties, of Protestant and other denominations and representatives of the press.

In the course of its inquiries, the Commission expressed particular concern over the dire problems caused by poverty, illiteracy, maternal-infant mortality and malnutrition in Haiti. It noted that observance of human rights is not limited to civil and political rights, but includes economic, social and cultural rights as well. The Commission underscored the fact that this was an important challenge that could not be tackled without broad-based participation, a concrete development plan of the Haitian government, and collaboration with diverse sectors of civil society and the international community. The Commission also expressed concern over the democratic process in Haiti and the problems affecting the judicial system, including the independency of the Judiciary, impunity, citizen safety and security and freedom of expression.

At the end of the second visit to Haiti, in August 2002, the Commission observed that it had not seen any improvements in the problems outlined on the occasion of the May 2002 visit. It noted, in particular, that the lack of dialogue among leading sectors of society was seriously hindering solutions to Haiti's problems and reflected deficiencies in the elements needed to establish the rule of law according to the American Convention and the Inter-American Democratic Charter. During both visits, the Commission expressed its determination to work with the Government and with all Haitian society to strengthen the defense and protection of human rights in a democracy with legal institutions.

### *Argentina*

At the invitation of the President of Argentina, Eduardo Duhalde, the Commission conducted an on-site visit to that country from July 29 through August 6, 2002. During its visit, the Commission met with representatives of diverse sectors of government and civil society organizations. Meetings were held with Dr. Eduardo A. Duhalde, President of Argentina, Dr. Juan José Álvarez, Minister of Security and Justice, Dr. Oscar Luján Fappiano, Secretary of Human Rights, representatives of the Ministry of Economy and the Ministry of Health, members of the Human Rights Committee of the Chamber of Deputies, and various authorities from the governments of the Provinces of Buenos Aires, Salta, Neuquén and Río Negro. Among the nongovernmental organizations with which the Commission met were the Center for Legal and Social Studies, *Abuelas de Plaza de Mayo*, *Madres de Plaza de Mayo*, Relatives of Political Detainees-Disappeared and the Permanent Assembly for Human Rights. As is customary during these visits, the Commission also received complaints from numerous people, either directly or through their representatives, who claim to have been victims of human rights violations.

The Commission's program of activities included investigation of a number of petitions and cases that the Commission was currently processing. It focused on the human rights situation in general and on specific issues such as the administration of justice, the role of public security forces, and the situation of the economic, social and cultural rights. The information compiled by the Commission in part concerned the profound impact that the unprecedented economic and social crisis has had on the human rights situation in Argentina. Both the State authorities and representatives of civil society told the Commission about the chronic public finance problems, the crisis with juridical security and four years of recession, which has brought unemployment, a dramatic surge in poverty and social disenfranchisement. The Commission also noted that large sectors of the Argentine population have been hurt by the freezing of bank accounts, known as the "corralito", and by decrees that suspended certain judicial proceedings or prevented

execution of decisions and judgments ordering precautionary measures, and by the "antigoteo law" or stopper law to prevent execution of precautionary measures and thus ensure the effectiveness of the freezing of bank accounts. In the months leading up to its visit, the Commission had received almost 2,000 petitions about this situation. During its visit it met with the lawyers representing the petitioners and with the affected parties, to compile additional information.

In its preliminary observations once its visit was completed, the Commission noted that in the prevailing circumstances in Argentina, all sectors of society, especially national and local authorities and political leaders, must act with the utmost prudence and with absolute respect for human rights and fundamental freedoms.

### **Special visits and other activities**

In addition to its on-site visits, the Commission made a number of special visits to certain member States and conducted a number of special activities in 2002.

On February 12 and 13, the Commission's Special Rapporteur on Women's Rights, Lic. Marta Altolaguirre, visited Juárez, Mexico, at the invitation of the Government of President Vicente Fox. The visit was made because of concerns previously expressed by various representatives of civil society regarding the human rights situation of the women of Juárez. Specifically, the Commission had received communications indicating that since 1993, more than 200 women had been brutally murdered and that the vast majority of those cases were still unsolved. During her visit, the Special Rapporteur met with numerous government officials and representatives of nongovernmental human rights organizations and representatives of civil society at the local, state and federal level. In her preliminary observations about the visit, the Special Rapporteur expressed over the lack of progress made toward solving the terrible violence being committed against women in Juárez City and reiterated her willingness to continue to work with the authorities and with civil society within the framework of the pertinent instruments, to help reinforce internal and international mechanisms for the protection of women's rights.

On the occasion of International Women's Day on March 8, 2002, the Commission's Special Rapporteur on Women's Rights, Commission member Marta Altolaguirre, attended the first joint meeting with Radhika Coomaraswamy, United Nations Special Rapporteur on violence against women, its causes and consequences, and with Ángela Melo, Special Rapporteur on Women's Rights with the African Commission on Human and Peoples' Rights, organized by Rights and Democracy in Montreal, Canada. The meeting resulted in a joint Declaration which asserted a woman's right to be free of violence and discrimination and condemned the fact that "violence against women and girls is perpetrated in every country in the world." After the meeting, the three rapporteurs expressed their complete satisfaction with the outcome of the meeting and said that would like to continue to meet periodically, so as to call the international community's attention to the principal threats to the free exercise of women's rights. The text of the joint declaration can be found at the Commission's Web site, <http://www.cidh.org>.

A delegation from the Commission visited Guatemala from July 23 through 26, 2002, to evaluate the situation of the human rights defenders in that country. During its visit, the delegation met with government officials and with representatives of various sectors of civil society. It also took part in the Second Regional Consultation on Human Rights Defenders and in the National Seminar on Human Rights Defenders, both of which took place in Guatemala City during that period.

At the invitation of the United States of Mexico, the Rapporteur on the Rights of Migrant Workers and Their Families made a working visit to Mexico from July 24 through August 1, 2002. The purpose of the visit was to hold a number of working meetings for follow-up and friendly settlement of individual cases; to conduct promotional work and to examine the rights of migrant workers and their families in Mexico.

The Rapporteur's delegation visited numerous places pivotal to the situation of migrant workers, including the Ixtapalapa migrant center in the Federal District, and Juárez and Chihuahua, along Mexico's border.

From August 18 through 22, 2002, the Commission conducted a working visit to Peru to hold meetings in connection with the Peruvian State's application of the Commission's recommendations, contained in 105 final reports adopted and published by the Commission, and to promote human rights. During its visit, the Commission's delegation met with government authorities, with various sectors of civil society, and with the Inter-institutional Working Group for Follow-up of IACHR Recommendations, which the Peruvian State established in an attempt to find thorough solutions and comply with the Commission's recommendations. During its visit, the Commission's delegation also visited Challapalca prison in the Department of Tacna, because of the many complaints the Commission has received concerning inhuman and degrading conditions there. In its Second Report on the Situation of Human Rights in Peru, the Commission had recommended that Challapalca prison be closed. It repeated that request during its visit in August 2002.

### **Fellowships**

In 2002, the Commission continued its "Rómulo Gallegos Fellowships" training program. The program provides training on the inter-American system for the protection and promotion of human rights for young attorneys from countries in the Hemisphere, selected by competition each year. Attorneys applying for the fellowships must explain their identification with the human rights cause and present solid academic credentials. Over the course of 2002, the Commission received ten Rómulo Gallegos fellows: five in the first half of the year, corresponding to the 2001-2002 period, and five in the second half of the year, corresponding to the 2002-2003 period.

### **Activities to promote human rights**

During 2002, members of the Commission and the Secretariat participated in numerous international conferences, workshops and training courses on the international protection of human rights and related topics. These included activities where the topics of discussion were the functioning of the inter-American system, penal reform in the Americas, the use of capital punishment, the consequences and impact of the Inter-American Demographic Charter, protection of the right to freedom of association under the inter-American system and the rights of refugees.

The members of the IACHR, the Executive Secretary and the attorneys on the Commission's staff participated in the Seventh Annual Moot Court Competition on the inter-American system of human rights, organized by the American University Law School and held in Washington in May. The competition has been held every year since 1996. More than 500 students and professors from 55 universities in over 20 countries of the Hemisphere participated.

From June 17 through 19, the Commission's Special Rapporteur for the Rights of Children, Commission member Susana Villarán, and the staff attorney serving in the Office of the Special Rapporteur, Mary Ana Beloff, conducted a training seminar in Asuncion, Paraguay on the promotion and defense of the rights of children and adolescents under the inter-American system. The seminar was conducted in conjunction with Paraguay's Secretariat for Children and Youth and was attended by officials from the executive branch of government, public defenders, judges, attorneys, representatives of nongovernmental organizations and members of civil society. During the seminar, Commission member Villarán had a number of meetings with representatives of the Government of Paraguay and of nongovernmental organizations engaged in promoting and defending the rights of children and adolescents.

## **Activities related to the Inter-American Court of Human Rights**

The Commission continues to litigate several cases filed with the Inter-American Court of Human Rights. Between January 1 and December 31, 2002, the Commission filed applications with the Inter-American Court in connection with the following litigious cases: the Plan de Sánchez Case (Guatemala); the “Panchito López Juvenile Correctional Facility” Case (Paraguay); the Ricardo Canese Case (Paraguay); the Gómez Paquiyauri Case (Peru); the Lori Berenson Case (Peru); and the Moiwana Case (Suriname). With the filing of these cases, the Commission now has 38 litigious cases pending with the Inter-American Court.

Also in 2002, the Commission participated in a number of public hearings held by the Court. During the Court’s 54<sup>th</sup> regular session, February 18 to March 1, 2002, the Commission participated in a hearing on the merits and eventual reparations in the Hilaire, Constantine, Benjamine *et al.* Case (Trinidad and Tobago). During the Court’s 55<sup>th</sup> regular session, June 6 through 21, 2002, the Commission participated in hearings on provisional measures in the Paz de San José de Apartadó Community Case (Colombia); preliminary objections in the case of the 19 Comerciantes (Colombia); on the merits and eventual reparations in the Cantos Case (Argentina); reparations in the Las Palmeras Case (Colombia); and the public hearing on the request for Advisory Opinion OC-17. During the Court’s 56<sup>th</sup> session, August 26 to September 6, 2002, the Commission took part in the hearing on the merits and eventual reparations in the Five Pensioners Case (Peru).

During the period covered in this Report, the Commission also took note of a number of judgments delivered by the Court on cases before it in 2002, including the judgment on reparations in the Bámaca Velásquez Case, delivered on February 22, 2002; the judgment on reparations in the Trujillo Oroza Case, delivered on February 27, 2002; the judgment on the preliminary objections entered in the Case of the 19 Comerciantes, delivered on June 12, 2002; the judgment on the merits in the Caracazo Case, delivered on August 29, 2002; the judgment on reparations in the Las Palmeras Case, delivered on November 26, 2002; and the judgment on the merits and reparations in the Cantos Case, delivered on November 28, 2002. On August 28, 2002, the Court delivered its Advisory Opinion OC-17/2002 concerning children’s juridical status and human rights.