

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 2003, the Inter-American Juridical Committee held two regular sessions.

The first was at its headquarters in Rio de Janeiro, March 10 through 21, 2003; the second was also held in Rio de Janeiro, August 4 through 29, 2003. The Committee's agenda at both sessions featured the following topics: applicable law and competency of international jurisdiction in cases involving extra-contractual civil liability; cartels in the context of the laws governing competition in the Americas; Seventh Inter-American Specialized Conference on Private International Law – CIDIP-VII; enhancement of the systems of administration of justice in the Americas; access to justice; preparations for the commemoration of the centennial of the Inter-American Juridical Committee; V Joint Meeting with the Legal Advisors of the Ministries of Foreign Affairs of the OAS member States and the International Criminal Court; legal aspects of inter-American security; application of the Inter-American Democratic Charter; preparation of a draft inter-American convention against racism and all forms of discrimination and intolerance; freedom of information; access to and protection of personal information and data; and legal aspects of compliance within the States with decisions of international courts or tribunals or other international bodies with jurisdictional functions.

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

In 2003, the members of the Inter-American Juridical Committee were as follows: Brynmor Pollard (Chairman), Carlos Manuel Vázquez (Vice-Chairman), João Grandino Rodas, Jonathan T. Fried, Luis Herrera Marcano, Kenneth O. Rattray, Eduardo Vío Grossi, Felipe Paolillo, Ana Elizabteh Villalta, Luis Marchand and Alonso Gómez-Robledo.

At the XXXIII regular session of the OAS General Assembly (Santiago, Chile, June 2003) Dr. Mauricio Herdocia of Nicaragua was elected to membership on the Committee, and Dr. Eduardo Vio Grossi of Chile was re-elected to another term. They will both begin their new four-year terms on January 1, 2004. The member of the Inter-American Juridical Committee whose term ended on December 31, 2003, was Dr. Carlos Manuel Vázquez. Dr. Jonathan Fried also resigned as a member of the Committee in 2003. On December 17, 2003, the Permanent Council elected Ambassador Jean-Paul Hubert of Canada to serve out Dr. Fried's term.

Dr. Brynmor Pollard presented the Committee's Annual Report to the General Assembly, detailing the work it accomplished in 2002.

The following individuals provided technical administrative support to the Inter-American Juridical Committee, on behalf of the OAS General Secretariat: Dr. Enrique Lagos, Assistant Secretary for Legal Affairs; Jean-Michel Arrighi, Director of the Department of International

Law; and Manoel Tolomei Moletta and Dante M. Negro, Principal Attorneys with the Department of International Law.

On August 8, 2003, as part of the LXIII regular session, a ceremony was held to inaugurate the new offices of the Inter-American Juridical Committee in Itamaraty Palace. In attendance were the Minister of Foreign Affairs of Brazil, Ambassador Celso Amorim, Chief of Staff of the Minister of Foreign Affairs, Ambassador Mauro Vieira and, representing the OAS General Secretariat, the Assistant Secretary General, Ambassador Luigi Einaudi. Also present were other officials, the members of the Inter-American Juridical Committee, various members of the staff of the General Secretariat and students in the International Law Course. The facilities were turned over upon signature of the agreement titled "*Termo de Cessão de uso de parte de imóvel situado no Palácio Itamaraty no Rio de Janeiro, que entre si celebram o Governo da República Federativa do Brasil e a Secretaria-Geral da Organização dos Estados Americanos com a finalidade de reinstalação da Comissão Jurídica Interamericana,*" [Terms of the Grant for Use of Part of the Space Located in Itamaraty Palace in Rio de Janeiro, an agreement between the Government of the Federative Republic of Brazil and the General Secretariat of the Organization of American States, for relocation of the Inter-American Juridical Committee] dated October 21, 2002.

Also during the LXIII regular session the Inter-American Juridical Committee held the Fifth Joint Meeting with Legal Advisors from the Ministries of Foreign Affairs of the OAS Member States, on Monday, August 25, and Tuesday, August 26. The following matters were discussed: hemispheric security; an examination of the mechanisms to deal with and avoid recurring, egregious violations of international humanitarian law and the international law of human rights, and the role that the International Court plays in this process; the inter-American juridical agenda; and legal aspects of compliance, within the States, with decisions of international courts or tribunals or other international bodies with jurisdictional functions.

Finally, with coordination by the Department of International Law, the Inter-American Juridical Committee organized the XXX International Law Course, held from August 4 through 29, 2003. A total of 24 professors from various countries of the Americas and Europe instructed the 29 OAS fellowship recipients, selected from among over 70 applicants, and another 25 students who paid to attend the course. The main theme was "International law and the maintenance of international peace and security." It was conducted at the *Centro Empresarial Rio*, 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 2003

In the period to which this report refers, the Commission met twice. Its 117th regular session was from February 17 to March 7, 2003, and its 118th regular session was from October 6 through 24, 2003. Additional details about the sessions the Commission held in 2003 are available at the Commission's site on the Internet (www.cidh.org).

During the course of the regular sessions in 2003, the Commission held working meetings and hearings, where it received representatives of the OAS member States, as well as representatives of petitioners, spokespersons for nongovernmental organizations and other nongovernmental persons to discuss individual cases and the general situation of human rights in their countries.

In February 2003, the Commission seated its new officers, as follows: Marta Altolaguirre, President; José Zalaquett, First Vice-President and Clare Roberts, Second Vice-President. The other members of the Commission were as follows: Robert K. Goldman, Julio Prado Vallejo, Juan E. Méndez and Susana Villarán. During the period covered in this report, Commission members Altolaguirre and Méndez tendered their resignations from their positions as members of the IACHR. During the 119th regular session, the Commission elected its new officers, as follows: José Zalaquett, President; Clare Roberts, First Vice-President and Susana Villarán, Second Vice-President. At the most recent session of the General Assembly, the following persons were elected to membership on the Commission: Florentín Meléndez of El Salvador; Evelio Fernández Arévalo of Paraguay; Paulo Sergio Pinheiro of Brazil, and Freddy Gutiérrez of Venezuela. Those members took office on January 1, 2004.

117th regular session

As soon as this regular session began, the IACHR elected its new officers: Marta Altolaguirre, President; José Zalaquett, First Vice-President; and Clare K. Roberts, Second Vice-President. The Inter-American Commission's other members at that session were Robert K. Goldman, Juan E. Méndez, Julio Prado Vallejo, and Susana Villarán.

The Commission continued to study numerous petitions and individual cases alleging violations of human rights protected by the American Convention on Human Rights, the American Declaration of the Rights and Duties of Man, and other inter-American instruments. It adopted 41 reports on those cases and individual petitions. Moreover, pursuant to Article 25 of its Rules of Procedure, the Commission agreed to request precautionary measures in 5 cases.

The Inter-American Commission held 52 hearings in the week of February 24 through 28, 2003. The hearings were about individual cases and petitions and concerned questions of admissibility, merits, friendly settlement and follow-up. Other hearings were held to receive general information on the human rights situation in a given country, or on one or another subject that comes under the purview of the Commission.

During the hearings, general information was received with respect to Argentina, Brazil, Chile, Colombia, Cuba, El Salvador, Guatemala, Haiti, Honduras, Mexico, Nicaragua, Peru, and Venezuela. The IACHR also focused on issues such as the administration of justice in Argentina, El Salvador and Peru. In addition, the IACHR heard from civil society organizations and officials of the Mexican Government who presented information on the violence against women in Ciudad Juárez.

Torture and racial discrimination were matters of special concern addressed in this session. In the context of its cooperation with the United Nations mechanisms, the Inter-American Commission received information from Mr. Theo Van Boven, Special Rapporteur of the Commission on Human Rights on the question of torture, and Mr. Doudou Diene, Special Rapporteur of the Commission on Human Rights on contemporary forms of racism, racial discrimination, xenophobia and related intolerance. The Commission also held hearings in which it received information on torture in Argentina, Brazil, and Chile.

The development of economic, social and cultural rights (“ESCR”) is one of the Commission’s priorities. In this regard, it received information on the general situation of ESCR in several countries of the hemisphere, as well as an analysis of the most recent case-law developments in this matter. Also, the IACHR was advised of the situation of persons living with HIV/AIDS in several countries of the Americas.

The hearings on the general human rights situation in the member States addressed various issues under the purview of the IACHR. In particular, information was received on the situation of the right to freedom of expression in various countries. The Commissioners held working sessions with the parties concerned, regarding more than 50 petitions and cases from Argentina, Brazil, Colombia, Guatemala, Mexico, Nicaragua, and Peru. During these working sessions, specific aspects were discussed regarding matters at different procedural stages before the inter-American human rights system. The discussions included progress in compliance with the Commission’s recommendations, as well as the initiation and completion of friendly settlements.

The IACHR renewed its dialogue with representatives of several member governments of the Caribbean Community (CARICOM). During this session Commission President Marta Altolaguirre and Second Vice-president Clare Roberts met with representatives of Antigua and Barbuda, Bahamas, Barbados, Belize, Grenada, Guyana, Haiti, Jamaica, Saint Kitts and Nevis, Saint Lucia, Saint Vincent and the Grenadines, and Suriname. This meeting provided an excellent opportunity for a wide-ranging discussion of issues related to the protection and promotion of human rights in the Caribbean region.

The President of the Inter-American Commission and lawyers of the Executive Secretariat met with members of several non-governmental organizations. In addition, as is customary, the Executive Secretary engaged in an exchange of information on issues of mutual interest with representatives of civil society.

The Inter-American Commission approved its Annual Report for 2002 during this regular session, which concluded on March 7, 2003.

118th regular session

The Inter-American Commission on Human Rights held its 118th regular session from October 6 through 24, 2003. At the start of its proceedings and with the resignations of Lic. Marta Altolaquirre and Dr. Juan E. Méndez owing to incompatibilities, the IACHR elected new members to its board of officers: Dr. José Zalaquett, President; Dr. Clare K. Roberts, First Vice-President, and Dr. Susana Villarán, Second Vice-President.

During the session, the Inter-American Commission adopted 80 reports on individual cases and petitions, 10 reports on friendly settlement, and several specific resolutions. During the week of October 14-20, the Commission held 50 hearings on individual cases and petitions, precautionary measures, and on general and specific situations relating to human rights.

The IACHR expressed its concern over the problems that several petitioners, victims, witnesses and experts encountered in obtaining visas, which forced the cancellation of some hearings. The Commission has made, and will continue to make, representations to the United States government to avoid the repetition of such problems, which have a serious effect on efforts to protect the human rights of users of the system.

The Inter-American Commission received general information on Argentina, Barbados, Bolivia, Brazil, Chile, Colombia, Cuba, El Salvador, Guatemala, Honduras, Mexico, Paraguay, Peru, the United States and Venezuela. It also received a report on the right to freedom of expression, children's rights, the rights of indigenous peoples, women's rights, sexual and reproductive rights, the rights of refugees, and the rights of victims of death squads.

The IACHR also received reports on the promotion of racial equality in Brazil, on the situation of Afro-Colombian communities in Buenaventura, Colombia, on racial discrimination in the United States, on affirmative action in the Americas, and on the situation of persons deprived of their liberty in the hemisphere. As part of its mandate, the Inter-American Commission issued a resolution on the prosecution of international crimes (Resolution No. 1/03). It also received information on the status of freedom of expression in Mexico and Honduras from the Special Rapporteur for Freedom of Expression, who reported on visits to those countries.

During this session, the IACHR continued to analyze trends affecting the stability of democratic institutions in the hemisphere, finding examples both of progress and of inadequacies. Among the former, the IACHR notes the existence of freer and more open societies, with a multiplicity of private players and organizations that have established international linkages, thereby strengthening the legitimacy of democracy and human rights. Nevertheless, some serious problems persist: underdeveloped institutions (as is the case with the judiciary in several countries) and poorly trained security forces (which have been unable to articulate properly the inherent relationship between respect for human rights and public security). The Commission is seriously concerned with problems of discrimination and violence that affect the majority of women in the hemisphere. Indigenous people, communities of African descent, children and persons with disabilities have still not achieved de facto equality in terms of their full and free development, and in some countries they do not even have legal equality. As well, the Commission noted with concern that our region was the most unequal in the world in economic and social terms. The recognition of economic, social and cultural rights remains a distant goal for broad sectors of our society.

In loco visits

Guatemala

At the invitation of the Government of President Alfonso Portillo, the Commission made an *in loco* visit to Guatemala, March 24 to March 29, 2003. Its purpose was to observe the human rights situation in that country.

The IACHR had complete freedom to meet with whomever it wanted, and to move anywhere it wanted to go in the country. Guatemalan government officials gave the Commission their full cooperation and assistance to help it carry out its program. During its visit, the IACHR met with authorities in all branches of government, including the Vice President of the Republic, who was acting President at the time, with the Minister of Foreign Affairs, the Minister of Governance, the Minister of Defense, members of the Security Staff, Social Welfare Secretariat, the Peace Secretariat, the Secretary of Communications, the Secretary of the Indigenous Fund, the Director of the National Civilian Police, members of the Presidential Commission against Discrimination and Racism, the Ombudswoman for Indigenous Women and the President of COPREDEH. The Commission also met with members of the Supreme Court and with a magistrate on the Constitutionality Court. It spoke with nongovernmental human rights organizations, representatives of indigenous rights organizations, organizations defending children's rights, pro-women's rights organizations, representatives of the Church, representatives of *campesino* organizations, organizations devoted to strengthening the administration of justice, journalists, organized labor leaders and representatives of the business sector. The IACHR also received testimony from victims of human rights violations. The IACHR also contacted international organizations, including MINUGUA and UNICEF. The Commission also received information and testimony on the situation in all regions of the country and a Commission delegation traveled to Nebaj.

During its visit, the Commission paid special attention to the following issues: the administration of justice; the effort to end impunity; citizen security (and the threat represented by the illegal bodies and clandestine security apparatuses); the situation of human rights defenders; discrimination against and social exclusion of indigenous peoples, women, and children; and freedom of expression. The Commission considers that these issues are of fundamental importance for achieving the effective observance of the rule of law in a democratic society.

Haiti

The Commission visited Haiti from August 18 to 22, 2003 at the invitation of the State and in accordance with its mandate under the OAS Charter and the American Convention on Human Rights and with OAS Resolutions CP/RES. 806 and AG/RES. 1841. The IACHR traveled to the cities of Port-au Prince, Cap Haitien and Gonaïves to observe the situation of human rights. On this visit, the Commission focused more particularly on the issues of administration of justice, rule of law and impunity. The Commission's delegation was composed of Marta Altolaguirre, President of the Commission, Clare K. Roberts, Vice-President of the IACHR and Rapporteur for Haiti, Mr. Mario López Garelli, Attorney and Senior Human Rights Specialist, and Mr. Bernard Duhaime, Human Rights Specialist.

During its visit, the delegation met with officials from the Haitian government as well as representatives of civil society, of political organizations and of human rights organizations. The delegation met the Prime Minister, Mr. Yvon Neptune, the Minister of Foreign Affairs, the Minister of Justice and Public Security, the Director General of the National Police of Haiti, the Inspector General of the National Police, the President of the Supreme Court, the President of the Appeals Court, the Attorney General and the Chief Sitting Judge of the Lower Court of Port-au-Prince, Cap-Haitien and Gonaïves, as well as the Departmental Delegate and Chief of Police of Cap-Haitien and Gonaïves. The delegation also met with the Human Rights Ombudsman and representatives from the School of Magistrates. In all three cities, it met with representatives from a number of nongovernmental human rights organizations, bar associations, associations of magistrates and certain political parties.

The Commission also noted the current difficulties facing the Republic of Haiti, more particularly the severe economic hardship and a long-lasting and tense political crisis, as the backdrop to observing the State's performance relating to respect for human rights and in ensuring that all persons under its jurisdiction are free to exercise such rights fully. Nevertheless, the IACHR was very concerned by the situation of human rights in Haiti, more specifically with respect to the right to liberty and security of the person, the right to judicial guarantees and the right to judicial protection, as provided for in the inter-American human rights instruments. The IACHR was also very concerned by reports of the existence in Haiti of armed groups who act unlawfully and with impunity, sometimes terrorizing the population in certain areas. The Commission considered that the State's failure to guarantee the population's security in certain areas of the country and to end impunity and guarantee the right to judicial protection hindered the rule of law.

Special visits and other activities

In addition to its *in loco* visits, the Commission made a number of special visits to certain member States and conducted a number of special activities in 2003.

On January 13, 2003, an international team of experts appointed by the Inter-American Commission on Human Rights undertook a mission to Mexico City, at the request of the Government of that country and the petitioners in case P12,299. The purpose of the mission was to verify the technical evidence obtained in the investigation into the death of attorney and human rights defender Digna Ochoa y Plácido, on October 19, 2001. The team was headed by Dr. Pedro Díaz Romero, a consultant for the IACHR. Also on the mission was Dr. Alan John Voth, an expert with the Royal Canadian Mounted Police, and Dr. María Dolores Morcillo Méndez, a specialist from the National Institute of Legal Medicine and Forensic Sciences of Colombia. These were experts in the areas of criminal investigation, ballistics, and forensic pathology. Pursuant to the terms of reference adopted by the IACHR, the international team of experts

verified whether the technical tests conducted in the areas of forensics, ballistics, and criminal pathology were consistent with international standards in the field. The mission's purpose was not to determine the cause of death of Lic. Digna Ochoa y Plácido nor the identity of those responsible for it.

From June 17 through 27, Professor Robert K. Goldman, rapporteur for matters relating to the Republic of Colombia, conducted a 10-day working visit to that country. Commission member Goldman met with national and local officials, visited the departments of Antioquia, Córdoba and Chocó, and took various statements from individuals, community representatives, and members of civil society organizations. His main objectives were to obtain in-depth information on the situation at Comuna 13 in the city of Medellín and to verify compliance with the precautionary measures granted to the Embera Katío indigenous community and the Afro-Colombian communities resettled in the Cacarica. During its stay, the IACHR delegation was able to visit various neighborhoods within Medellín's Comuna 13 and to take testimony from members of the community on selective murders, forced disappearances, and other acts of violence and intimidation allegedly perpetrated by paramilitary groups despite the presence of law enforcement personnel. The IACHR delegation also traveled to Tierralta, in the Department of Córdoba, to visit the Embera Katío indigenous community. Traditional officials, leaders, and members of the various Embera Katío communities are being threatened and singled out by the FARC and other armed outlaw groups attempting to seize control of their ancestral lands. During the working visit to Tierralta, the IACHR delegation held meetings with traditional authorities and leaders of the Embera Katío people and Isabel Madariaga, attorney with the Office of the IACHR Rapporteur on the Rights of Indigenous Peoples, entered one of their safe havens. In Bogotá, the delegation met with the Vice President of the Nation, Francisco Santos; the Minister of Foreign Relations, Carolina Barco; the Minister of the Interior and Justice, Fernando Londoño; the Vice Minister of Defense, Andrés Peñate Giraldo; and the Attorney General of the Nation, Luis Camilo Osorio. The delegation also had a cordial meeting with the President of the Constitutional Court, Dr. Eduardo Montealegre Lynett, to discuss the latest developments in jurisprudence promoted by the Court and to express its support for the important work of the judges. It also met both with the Defender of the People and with the Director of the Colombian Office of the United Nations High Commissioner for Human Rights, to discuss matters of common interest.

At the invitation of the Argentine Republic, a delegation from the Inter-American Commission on Human Rights (IACHR) paid a working visit to Argentina from August 25 to September 1, 2003. The IACHR delegation consisted of Professor Robert K. Goldman, member of the Commission and Rapporteur for Argentina; Dr. Santiago A. Canton, Executive Secretary of the Commission; and Dr. Elizabeth Abi-Mershed, attorney for the Commission. The purpose of the visit was to hold working meetings on specific cases being processed by the Commission, to examine the human rights situation in the country, and to conduct activities aimed at promoting the inter-American human rights system. The program of activities included, in particular, meetings on cases in which the friendly settlement procedure was under way, with the participation of competent authorities and the respective petitioners and family members of victims. During its stay, the IACHR delegation met with government officials and with representatives of different sectors of civil society in Buenos Aires and Santiago del Estero.

Dr. Marta Altolaguirre, President of the Commission and Rapporteur for Peru, conducted a working visit to that country from August 26 to September 1, 2003. The principal purpose of the visit was to hold working meetings regarding implementation of the recommendations that the Inter-American Commission made to the Peruvian State, and to attend the Truth and Reconciliation Commission's presentation of its final report. Dr. Altolaguirre was accompanied during her visit by Dr. Pedro E. Díaz R., IACHR attorney. Dr. Altolaguirre attended the Truth

and Reconciliation Commission's presentation of its final report, given to the President of the Republic, Dr. Alejandro Toledo, on August 28, 2003, at the Government Palace and, on August 29, 2003, in Huamanga, Ayacucho Department. During its visit, the Commission also interviewed government officials and representatives of different sectors of civil society. Among other officials it met were: Dr. Allan Wagner Tizón, Minister of Foreign Affairs; Dr. Fausto Alvarado Doderó, Minister of Justice; Dr. Walter Alban, Ombudsman; and Dr. Nelly Calderón Navarro, Attorney General of Peru. In addition, the IACHR President met with members of the Truth and Reconciliation Commission; Dr. Francisco Soberón, Executive Secretary of the Office for the Coordination of Human Rights in Peru; representatives of other nongovernmental organizations in Peruvian civil society; and victims and their relatives whose cases had been brought before the IACHR.

Fellowships

In 2003, the Commission continued to implement its training program, called the "Romulo Gallegos Fellowships." The program provides training in the inter-American system for the protection and promotion of human rights and is for young lawyers from the countries of the Hemisphere. The recipients are selected annually, by competition. The attorney applicants must demonstrate a professional identification with the human rights cause and a solid academic background. In 2002, the Commission received ten Rómulo Gallegos Fellows: five in the first half of the year, corresponding to the 2002-2003 period, and five in the second half, corresponding to the 2003-2004 period. The Commission also welcomed a fellowship recipient under its training program for indigenous attorneys. This year, the IACHR introduced a special fellowship for attorneys from the English-speaking Caribbean, the first of whom was from Antigua and Barbuda

Working session on observance of human rights

On March 1, 2003, the IACHR held a "Working Session on Implementation of International Human Rights Obligations and Standards in the Inter-American System." That session, made possible thanks to the cooperation of the International Justice Project, was comprised of four panels: an introductory panel that provided a context and overview of issues for the session, and three additional panels focusing on legislative, judicial and intra-governmental mechanisms and initiatives to implement international human rights obligations and standards. During the working session, more than seventy representatives of OAS member States had an opportunity to listen to fifteen independent experts and government authorities on the subject of implementation of human rights obligations. They were also able to ask questions and exchange views with them.